



Tuesday, February 7, 2023
Civic Center, Memorial Hall 5:30 PM

Independence Planning Commission/Board of Zoning Appeals

To join by Conference Call dial:1-785-289-4727 Conference ID: 652-632-373#

I. CALL TO ORDER

II. MINUTES

- a. Consider approving minutes of the January 3, 2023 Planning Commission/Board of Zoning Appeals meeting.

III. BOARD OF ZONING APPEALS (DOES NOT INCLUDE OUTSIDE CITY APPOINTMENTS)

- a. Public Hearing to receive comments on a variance request to reduce the number of parking spaces in a C-4, highway commercial district at 510 North Peter Pan Road.
- b. Public Hearing to receive comments on a variance request to reduce the setback(s) in a C-2 commercial services district at 600, 606, and 610 West Main Street.
- c. Public Hearing to receive comments on a variance request to exceed size and number of signs in a C-3, business district zone at 113 W. Myrtle Street.

IV. PLANNING COMMISSION

- a. Public Hearing to consider a text amendment to modify Appendix B - Zoning of the City Code relating to off-street parking in an industrial area and any additional modifications.
- b. Consider approving a Focus of Study for the Comprehensive Plan Update.
- c. Public Hearing to receive comments on a request for a modified conditional use permit for a "Children's Home" in an R-3, low density multifamily dwelling district at 517 South 4th Street.

V. DISCUSSION

- a. Urban Heat Islands -- Information provided by Lisa Richard.

VI. ADJOURNMENT



**PLANNING COMMISSION ACTION / BOARD OF
ZONING APPEALS MINUTES
CITY OF INDEPENDENCE
February 7, 2023**

Department

Prepared By Lydia Collins

AGENDA ITEM Consider approving minutes of the January 3, 2023 Planning Commission/Board of Zoning Appeals meeting.

SUMMARY RECOMMENDATION Approve January 3, 2023 Planning Commission/Board of Zoning Appeals Minutes.

SUGGESTED MOTION I move to approve the January 3, 2023 Planning Commission/Board of Zoning Appeals Minutes.

SUPPORTING DOCUMENTS

1. January 3, 2023 Planning and Zoning Minutes - Draft

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's January 3, 2023
Meeting**

I. Call to Order

Present: Lisa Richard, Brent Littleton, Rachel Lyon, Mary Jo Meier, Kendall Neill, Andy McLenon, Tim Haynes, Michelle Anderson

Absent: Anthony (Tony) Royse

a. Reorganization

1. Election of Chair
2. Election of Vice Chair
3. Election of Secretary

Election of Chair

Motion:

On the motion of Lisa Richard, seconded by Andy McLenon the Commission elected Tim Haynes Chair.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Mary Jo Meier

Nay: None

Election of Vice Chair

Motion:

On the motion of Andy McLenon, seconded by Lisa Richard the Commission elected Rachel Lyon as Vice Chair.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Mary Jo Meier

Nay: None

Election of Secretary

Motion:

On the motion of Andy McLenon, seconded by Tim Haynes the Commission elected Tony Royse as Secretary.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Mary Jo Meier

Nay: None

b. Orientation by the City Attorney.

Jeff Chubb, City attorney, presented the orientation to the board.

c. Consider setting future meeting dates for 2023.

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's January 3, 2023 Meeting

Motion:

On the motion of Mary Jo Meier, seconded by Andy McLenon the Commission approved to continue meeting the first Tuesday of each month at 5:30 pm with the exception of rescheduling the July 4, 2023 meeting to July 11, 2023 due to the holiday; the August 1, 2023 meeting to August 8, 2023 due to the primary election; and the November 7, 2023 meeting to November 14, 2023 due to the general election.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

II. Minutes

- a. Consider approving minutes of the December 6, 2022 Planning and Zoning Commission/Board of Zoning Appeals meeting.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission approved the minutes of the December 6, 2022 meeting.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

III. Board of Zoning Appeals (Does not include outside City appointments)

- a. Public hearing to receive comments on a variance request to reduce the setback(s) in an R-3, low density multifamily dwelling district at 301 S. 6th St.

Tim Haynes opened the public hearing.

Robert Miller stated that the existing garage was built for a Model T and he wants to make it into a two-car garage that fits modern vehicles and be six feet from the rear property line and six feet from the front yard.

Motion:

On the motion of Tim Haynes, seconded by Kendall Neill the Commission approved a variance to reduce the rear yard setback by 4 feet (from 10 feet to 6 feet) and the front yard setback (because it is a corner lot) by 19 feet (from 25 feet to 6 feet) in an R-3 low density multifamily dwelling district for 301 South 6th Street.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's January 3, 2023
Meeting**

- b. Public hearing to receive comments on a variance request to reduce the setback(s) in an R-2, single-family dwelling district at 517 N. 10th St.

Tim Haynes opened the public hearing.

Andy McLenon asked if traffic would enter the complex off of 10th Street or 11th Street.

David Cowan said that it will be on the corner of 11th & Locust where they can access the circle drive with no direct access to 11th Street.

Tim Haynes asked if this will be located in the field across from the middle school.

David Cowan said yes, it will be in that field in the southwest corner where the entrance is at.

Motion:

On the motion of Kendall Neill, seconded by Lisa Richard the Commission accepted a variance to reduce the front yard setback 19 feet (from 25 feet to 6 feet) in an R-2, single-family dwelling district at 517 North 10th Street, also known as 514 N. 11th Street, for the USD 446 Board of Education.

Aye: Rachel Lyon, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

IV. Planning Commission

- a. Public hearing to receive comments on a request for a conditional use permit for "Schools - preprimary" in an R-2, single-family dwelling district at 517 North 10th Street.

Tim Haynes opened the public hearing.

Motion:

On the motion of Rachel Lyon, seconded by Lisa Richard the Commission approved the request for a conditional use permit for "Schools-preprimary" in an R-2, single-family dwelling district at 517 North 10th Street, also known as 514 N. 11th Street, with the conditions as recommended by City Staff.

- 1. The conditional use permit is not transferable to another location.**
- 2. The applicant must follow all City codes.**
- 3. If any of the above conditions are not met the conditional use permit will**

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's January 3, 2023
Meeting**

no longer be valid.

**Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy
McLenon, Mary Jo Meier, Kendall Neill, Lisa Richard
Nay: None**

- b. Public hearing to receive comments on a request to rezone a tract of land located at 800 N. 21st Street to M-1, light industrial district.

Tim Haynes opened the public hearing.

Motion:

On the motion of Lisa Richard, seconded by Rachel Lyon the Commission approved rezoning a tract of land located at 800 North 21st Street to M-1, light industrial district..

**Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy
McLenon, Mary Jo Meier, Kendall Neill, Lisa Richard
Nay: None**

V. Discussion

Kelly Passauer asked the Commission if they would consider setting a date for a public hearing for a text amendment to modify off-street parking regulations for parking in the rear of a business in industrial zones. The subject of allowing gravel surfacing for employee parking has come up again.

There was discussion as to whether the City Commission would even consider this matter as they have turned it down in the past.

Motion:

On the motion of Tim Haynes, seconded by Lisa Richard the Commission initiated a public hearing for a text amendment to modify off-street parking regulations on February 7, 2023.

**Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy
McLenon, Mary Jo Meier, Kendall Neill, Lisa Richard
Nay: None**

VI. Adjournment

Motion:

On the motion of Lisa Richard, seconded by Brent Littleton the Commission adjourned the meeting..

**Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy
McLenon, Mary Jo Meier, Kendall Neill, Lisa Richard**

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's January 3, 2023
Meeting**

Nay: None

Tim Haynes, Chairperson

Anthony (Tony) Royse, Secretary



REQUEST FOR BOARD OF ZONING APPEALS ACTION VARIANCE CITY OF INDEPENDENCE FEBRUARY 7, 2023

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a variance request to reduce the number of parking spaces in a C-4, highway commercial district at 510 North Peter Pan Road.

SUMMARY RECOMMENDATION Approve a variance request to reduce the number of parking spaces in a C-4, highway commercial district.

BACKGROUND The Labette Health Independence Healthcare Center (IHC) expansion project has been submitted to the Independence Building Department. LHIHC wants to construct fewer parking spaces than what the City code allows.

702.6. Commercial uses:	
Medical clinics or offices	Seven spaces per staff physician plus 2 spaces for each 3 employees, or 1 space for every 120 square feet of gross floor area, whichever is greater.

704.0. - General provisions.

704.1. Determination of required number of spaces:

- Fractional spaces:* When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one parking space.
- Floor area:* Floor area, when used as a measurement for determining the number of parking spaces for office, merchandising or service uses, shall mean the gross floor area used or intended to be used for service to the public as patrons or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for nonpublic purposes such as storage, processing or packaging of merchandise, show windows, or restrooms or utilities, dressing, fitting or alteration rooms.
- Beds:* Bassinets shall not be counted as beds in determining the number of parking spaces based upon the number of beds.
- Places of assembly:* In stadiums, sports areas, churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for determining the number of off-street parking spaces required.
- Mixed uses:* When a building or development contains mixed uses, the off-street parking requirement shall be calculated for each individual use and the total parking requirement shall be the sum of the individual parking requirements.
- Employees:* Employees, when used as a measurement for determining the number of parking spaces for a new or established expanding business, shall be estimated in a manner approved by the governing body.
- Unlisted uses:* Requirements for types of buildings and uses not specifically listed herein shall be determined by the governing body, after a report and recommendation from the planning commission, based upon the requirements of comparable uses listed.

704.2. *Parking for multiple uses:* In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed

separately.

704.3. Joint parking: Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the zoning administrator, in the form of deeds, leases, or contracts, to establish the joint use.

704.4. Use of required parking spaces: Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses and shall not be used for the storage of vehicles, boats, motor homes, campers, mobile homes or materials or for the parking of trucks used in conducting the business or use.

704.5. Location of parking and loading spaces:

a. Off-street parking spaces for dwellings shall be located on the same lot or lots with the dwelling. Other required parking spaces shall be located no farther than 500 feet from the building they are required to serve, measured in a straight line from the building's nearest point to the nearest point of the off-street parking area. Provided, any off-street parking spaces not located on the same lot, as permitted by this ordinance, must be located in the same zone as required for the building or facility it serves.

b. Unless otherwise provided, required parking and loading spaces shall be located in a required front yard, but may be located within a required side or rear yard provided that a four-foot setback be maintained from any property line under separate ownership. (See 705.2, Screening and Buffer Required.)

Exceptions: Parking in conventional residential driveways connecting from the street to private garages or carports may be permitted. Also, short term parking may be permitted on loop driveway located in the front yard of any public school.

Parking in conventional residential areas shall not be permitted on unimproved areas of the front yard, and will only be permitted when meeting the requirements of this ordinance.

c. Parking space provided in an enclosure or semi-enclosed structure shall not project beyond any required building line, except as provided in section 602.6, "Accessory Buildings."

704.6. Plan required: A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:

a. Delineation of individual parking and loading spaces by adequate striping.

b. Circulation area necessary to serve spaces.

c. Access to streets and property to be served.

d. Curb cuts.

e. Dimensions, continuity, and substance of required screening.

f. Grading, drainage, surfacing, and subgrading details.

g. Delineation of obstacles to parking and circulation in finished parking area.

h. Specification as to signs and bumper guards.

i. Other pertinent details.

704.7. Completion time for parking lots: Required parking spaces shall be improved as required, and made available for use before the final inspection is completed by the building inspector.

705.0. - Design requirements.

705.1 Surface material: Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.

Exception: Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.

705.2. Screening and buffer setback required:

a. Except for parking to serve one- or two-family residential uses, parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required.

b. No off-street parking will be permitted within less than four feet of a property line under separate ownership.

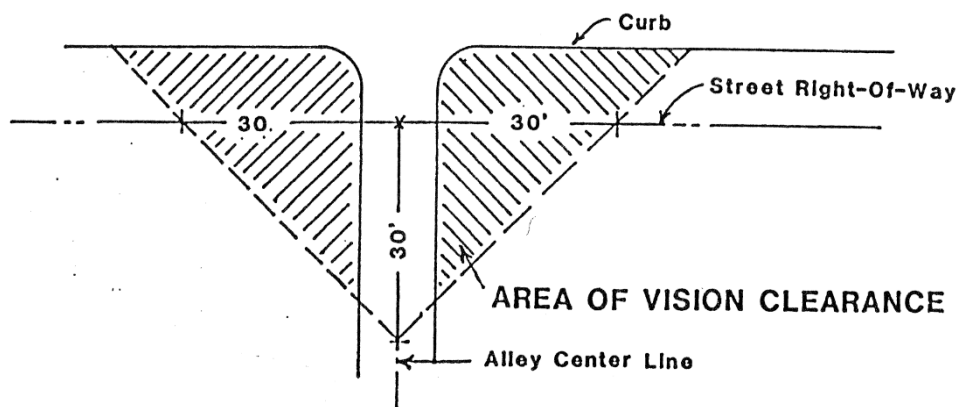
705.3. *Lighting:* Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district or on any adjacent dwelling.

705.4. *Service drives:*

a. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than 30 feet in width, nor less than 25 feet for two-way drives, nor less than 16 feet for one-way drives. In the case of a corner lot, service drives shall be located not closer than 30 feet to the intersecting street line. Service drives shall be located not closer than four feet to a side lot line, except that a common service drive of two adjacent properties with width not exceeding 30 feet may be provided at the common lot line.

Exception: Residential service drives connecting from the street to private garages, carports or parking spaces [shall not exceed 24 feet unless approved by the city engineer].

b. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 30 feet from their intersection.



c. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.

705.5. *Minimum parking space dimensions:*

a. If 90-degree parking space,

stall depth—19' 0"

stall width—9' 0"

aisle width—25' 0"

b. If 60-degree parking space,

stall depth—19' 0"

stall width—9' 0"

aisle width—18' 6"

c. If 45-degree parking space,

stall depth—19' 6"

stall width—9' 0"

aisle width—13' 6"

d. If 30-degree parking space,

stall depth—19' 0"

stall width—9' 0"

aisle width—11' 0"

e. If parallel parking space,

stall depth—8' 0"

curb length—23' 0"

aisle width—12' 0", or if adjacent to angle parking, use largest width

705.6. *Striping required:* Open parking spaces for dwellings (containing three or more dwelling units) shall be delineated by pavement striping and must meet minimal parking stall sizes as described above in section 705.5.

The City code is one parking space per 120 sq ft of building space. This would create 87 new parking spaces and LHIHC only wants to put in 60 new spaces which they feel will be adequate. They would like to reduce the square footage by not counting unoccupied spaces into the total.

BOARD OF ZONING APPEALS CONSIDERATIONS Acceptance of a variance must be based on the following factors:

A) Unique condition to the property in question which is not ordinarily found in the same zone and is not created by any action of the property owner, *The property owner received a variance in 2016 and wants the same type variance for the expansion of their Independence Healthcare Center. Reducing the number of parking spaces in the original Labette Health was sufficient, and adding another 60 spaces will be sufficient for this clinic expansion.*

B) The variance will not adversely affect the rights of adjacent property owner, *It does not appear that the variance will not adversely affect the rights of adjacent property owner(s).*

C) The strict enforcement of the regulations would cause an unnecessary hardship. *The strict enforcement of the regulations would add another 87 parking spaces which is not deemed necessary, and would cost more to put in the 17 spaces that are not needed.*

D) The variance would not adversely affect public health, safety and morals. *The variance does not appear to affect public health, safety and morals.*

E) The variance will be in keeping with the general intent and spirit of the zoning regulations. *The variance will be in keeping with the general intent and spirit of the zoning regulations.*

STAFF RECOMMENDATION City staff recommends approving the variance request to allow Labette Health Independence Healthcare Center to have 60 spaces rather than 87. In 2016 Labette Health received a variance based on occupied spaces in the building and did count the unoccupied spaces. The Code requiring one parking space per 120 SF of building space has not changed. The definition of the floor area allows unoccupied areas not to be counted in the total square footage. City Staff does not oppose Labette's recommendation to construct 60 new parking spaces, based on not counting the unoccupied spaces into the total SF.

SUGGESTED MOTION I move to approve a variance to allow Labette Health Independence Healthcare Center to use the occupied square footage for calculating the number of spaces and then to reduce that number from the required 87 parking spaces by 17 to 60 parking spaces in a C-4, highway commercial district at 510 North Peter Pan Road.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Variance Labette Health parking
2. Variance Application - LH IHC Parking 2022.12.27

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, February 7, 2023 at 5:30 p.m.

To receive comments on a variance request to reduce the required number of parking spaces in a C-4, highway commercial district.

Case Number:
2023/VAR/04

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

APPLICATION TO BOARD OF ZONING APPEALS

CITY OF INDEPENDENCE, KANSAS

1. Date: 27 December 2022

2. Name, Address and Telephone Number of Property Owner:

Labette Health
1902 South US Highway 59
Parsons, KS 67357
620.421.4881 | 800.843.5262

3. I appoint the following person as my agent during consideration of my request:

Name: Chad Mavers, IHC Clinic Manager
Address: 510 North Peter Pan Road, Independence, KS 67301
Telephone: 620-778-6597

4. Common Address of Land Involved:

510 North Peter Pan Road
Independence, KS 67301

5. Legal Description of Land Involved:

See Attached Page

6. Describe what you wish to do which the zoning code prohibits:

See Attached Page

7. The following condition(s), which were not created by the owner's actions, are unique to the property in question and are not commonly found in the same zone or district:

NA

8. The proposed development would not adversely affect the rights of the adjacent property owners or residents because:

Based on several years of experience at the IHC, the proposed # of new parking spaces (60) will be adequate to accommodate peak parking requirements for any day / hour of the week, so there will not be any overflow parking to adjacent properties. Note that there isn't any parking on adjacent properties that is connected / proximate / convenient to the IHC, so overflow parking to an adjacent property is essentially not possible.

9. The literal enforcement of the zoning regulations will result in the following unnecessary hardships:

See Attached Page

10: The proposed development will not be contrary to the public health, safety, morals, or general welfare because:

The proposed # of additional parking spaces (60) will be adequate to accommodate IHC peak parking requirements.

11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

See Attached Page

12: Please attach a site plan showing the dimensions of the lot, the location of building (both existing and proposed), and the location of existing buildings on adjacent property.

Attached:1. ALTA/NPS Site Survey (2021.02.13)2. Proposed site plan (2022.12.22)3. Aerial photo w/ adjacent properties (2022.12.22)

If the space provided is not sufficient, the applicant may attach additional pages. The applicant also may submit any other pertinent information including photographs, drawings, maps, statistics, legal documents, and letters of support.

Signature of Property Owner: *Butt*, *President and CEO*

Case Number: _____

Date Filed: _____

Fee Received: _____

Present Zoning: _____

5. Legal Description of Land Involved:

Tract 1 The South 165' of the North 325' of the Northwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 26, Township 32 South, Range 15 East of the 6th PM, Montgomery County, KS. and The South 335' of the Northwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 26, Township 32 South, Range 15 East of the 6th PM, Montgomery County, KS. Subject to public road.

Tract 2 The North 160' of the Northwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 26, Township 32 South, Range 15 East of the 6th PM, Montgomery County, KS. Subject to public road.

6. Describe what you wish to do which the zoning code prohibits:

Re: the Labette Health (LH) Independence Healthcare Center (IHC) expansion project (which has been submitted to Independence for review & permitting), we would like to construct fewer new parking spaces than required by Independence Code 702.6.

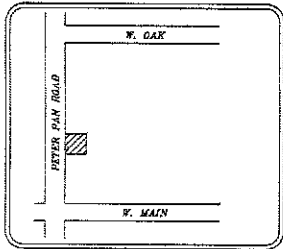
Independence Code 702.6 requires 1 parking space per 120 SF of building space, calculated IAW 704.1.b; this results in 87 new parking spaces, which is 1) significantly higher than industry standards for medical office building (MOB) parking (ref. Institute of Transportation Engineers MOB parking rqrmts study which recommends 4.5 spaces per 1,000 SF of building); 2) is significantly higher than the parking ratio in force when the building was constructed (1 space per 190 SF of building), which has proven to be adequate based on actual experience for several years; and 3) is not economically / functionally achievable due to available site area, adjacent heliport restrictions, functional proximity to the IHC and future development plans for the property. Industry standard 4.5 spaces per 1,000 SF = 57 new spaces; previous Independence standard 1 space per 190 SF of building = 54 new spaces;

we are proposing to construct 60 new parking spaces.

11. The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

The Independence Code in force when the IHC was originally constructed required 1 parking space per 190 SF of building space, a significantly lower ratio than the current 1 parking space per 120 SF of building space requirement. The 190 SF of building space requirement has accommodated IHC peak parking requirements for several years. The planned IHC expansion will not result in a more intensive use of space at the IHC, so a higher parking ratio is not warranted. The proposed approach will adequately accommodate IHC parking requirements on site, without negatively impacting adjacent property owners.

 *Brent Smith*, President and CEO



Vicinity Map
Not To Scale



Utility Information

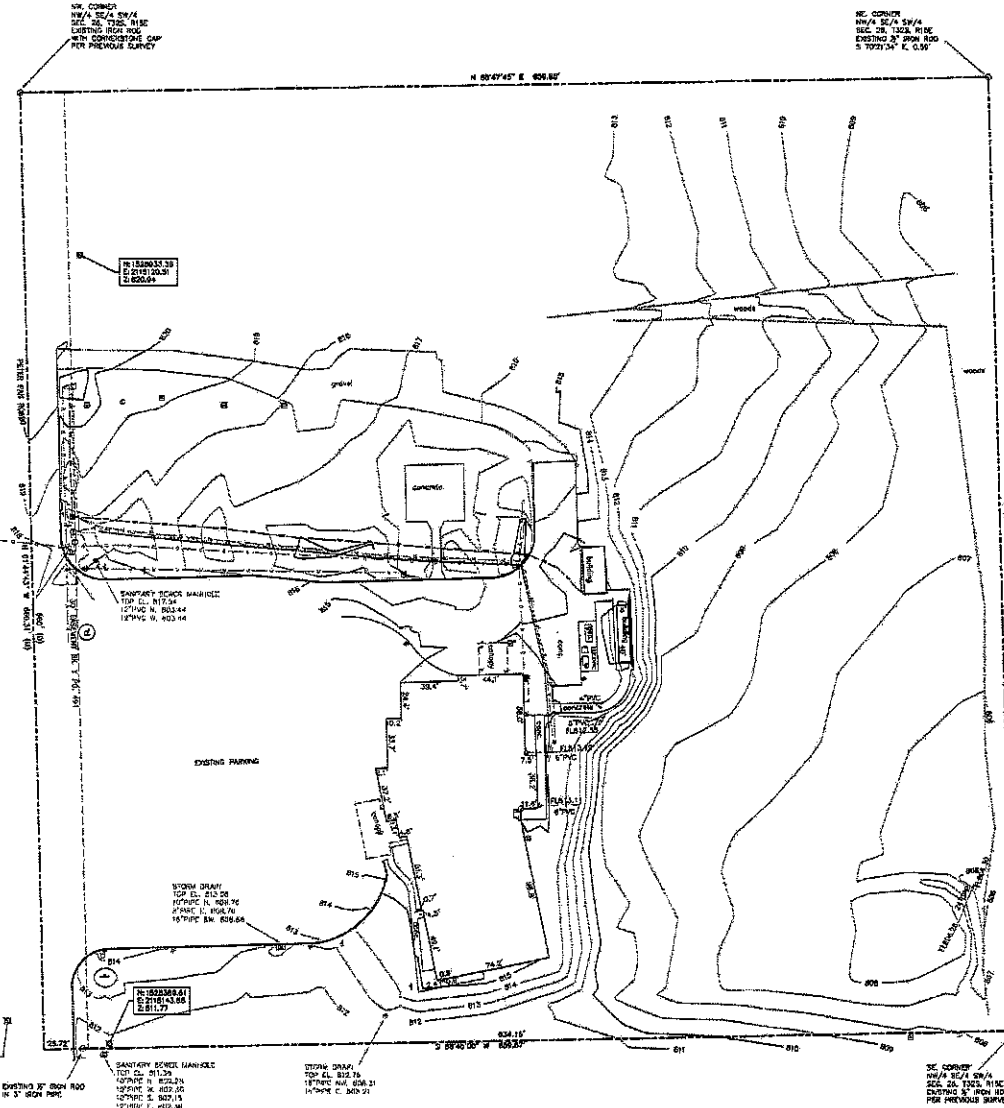
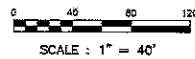
Please Kansas One-Call before digging. 1-800-OG-SAFE.

Flood Note

This property is in Zone X, areas of minimal flooding, according to Flood Insurance Rate Map, Community Number 2012000550, effective date 8-23-2016.

Miscellaneous Notes

- The bearings shown herein are based upon the Kansas State Plane Coordinate System, South Zone.
- This survey does not reflect any easements, rights-of-way or other instruments of record except those shown on the plans mentioned in this Commitment.
- Underground utilities are shown by above ground markings provided by others.
- Benchmark: 7.1' cut on Northeast corner of electric pad set on previous job, 1-0903075-16 Elevation: 807.11
- Boundary was previously surveyed as job number 1005120.



Commitment Legal Description

Old Republic National Title Insurance Company, Commitment NO. MO000046, Effective Date February 16, 2016 at 5:00 P.M.

TRACT 1
The South 165 feet of the North 325 feet of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 26, Township 22 North, Range 13 East of the 6th P.M., Montgomery County, Kansas, and
TRACT 2
The South 225 feet of the Northwest Quarter of the Southwest Quarter of Section 26, Township 22 North, Range 13 East of the 6th P.M., Montgomery County, Kansas, Subject to public road
TRACT 3
The North 165 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 26, Township 22 North, Range 13 East of the 6th P.M., Montgomery County, Kansas, Subject to public road.

Items Corresponding to Schedule B

Old Republic National Title Insurance Company, Commitment NO. MO000046, Effective Date February 16, 2016 at 5:00 P.M.

- 1) Easement to Purchase Right of Way and Right of Way Agreement to Grant Level Type Line Company Ltd. June 22, 1921, in Book V, Page 376, TRACT 1 & 2.
- 2) Easement to Purchase Right of Way and Right of Way Agreement to Grant Level Type Line Company Ltd. June 22, 1921, in Book V, Page 376, TRACT 1 & 2.
- 3) Agreement between J. D. & Lela Kinsler, in County of Montgomery, State of Kansas dated July 4, 1946, in Book V, Page 498, TRACT 1 & 2.

SURVEYOR'S CERTIFICATION

I, William A. Stone, a duly Licensed Land Surveyor in the State of Kansas, do hereby certify that this plan was prepared from the notes of an actual and this standard field survey done by me or under my direct supervision on February 4, 2021 and that the information shown herein is true and correct.

William A. Stone, LS 1049
15-1049-22-21
SIGNATURE

Legend of Symbols & Abbreviations

- | | |
|---------------------------------|-----------------------------|
| ○ Existing Iron Rod | (B) Measured Corner |
| ● Origin Unknown (unless noted) | (D) Dead Dimension |
| ✱ Set 1/2" DIA. Iron Rod/Flag | (P) Post Dimension |
| (unless otherwise noted) | (R) Right of Way |
| △ Station Corner | (C) Concrete |
| Origin Unknown (unless noted) | (M) Metal Marker |
| — Boundary Line | (G) Guy Wire |
| --- Easement Line | (C) Cast Metal |
| — Overhead Electric Line | (V) Vial Head |
| --- Underground Electric Line | (S) Undermined Markers |
| — Water Line | (S) Sanitary Sewer Overhead |
| — Gas Line | (S) Sanitary Sewer Manhole |
| --- Underground Telephone | (S) Sign |
| — Sanitary Sewer Line | (L) Liquid Pole |
| — Storm Drain | (P) Power Pole |
| — Ditch, Trench or Area Inlet | (V) Water Valve |
| — Fire Hydrant | (E) Electric Meter |
| — Electric Cabinet | (F) Flag Chain Marker |
| — Climate Control Unit | (L) Yard Light |
| — Mailbox | (Y) Yard Hydrant |
| — Telephone Manhole | (P) Flag Pole |

TOPOGRAPHIC SURVEY
of a portion of SECTION 26, TOWNSHIP 32 SOUTH,
RANGE 14 EAST of the 6th PRINCIPAL MERIDIAN,
MONTGOMERY COUNTY, KANSAS

PREPARED FOR:
LABETTE HEALTH

CORNERSTONE
Regional Surveying, LLC
Serving Kansas, Missouri & Oklahoma
1921 North Penn, Independence, KS 67301
PH: 866-361-0767

PETER PAN ROAD



LEGAL DESCRIPTION

TRACT 1
The South 165 feet of the North 325 feet of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 28, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, and

TRACT 2
The North 165 feet of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 28, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, subject to public road.

SITE INFORMATION

Total Area: 143,527.3 sq. ft. (3.26 acres)
Disturbed Area: 130,244.4 sq. ft. (2.99 acres)
Impervious Area, pre-constr: 279,173.3 sq. ft. (6.42 acres)
Impervious Area, post-constr: 118,860.8 sq. ft. (2.72 acres)

BENCHMARKS

Site Benchmark - 1
"X" chiseled on top of curb
Elevation = 900.00 (NAVD 83)

Site Benchmark - 2
"X" chiseled on top of curb
Elevation = 900.00 (NAVD 83)

KANSAS ONE CALL

Contractor shall be required to provide notice to Kansas One Call at 322-2470 a minimum of three (3) working days prior to any excavation or work adjacent to utilities.
Kansas One Call 1-800-DIG-SAFE

UTILITY CONTACTS

The Contractor must notify the following in case of an emergency:
Kansas Gas Service (Gas) 1-888-482-4950
Aquila Energy (Gas) 1-800-303-0357
Wentzer Energy (Electric) 1-820-332-7625

UTILITY NOTES

- Existing utilities and their locations, as shown on the plan, represent the best information obtainable for design. Location information has been obtained from the various utility companies and is either from company record drawings or company provided field locations. The Contractor will be required to work around existing utilities which do not conflict with proposed construction.
- Traffic affected by the construction on this project shall be handled in accordance with the latest edition of the Local Manual on Uniform Traffic Control Devices.
- The Contractor shall verify all utility locations prior to construction of this project.
- Refer to Landscape Plan for treatment of disturbed areas.
- The Contractor shall receive written approval from adjacent landowners prior to proceeding with any construction work on landowner's property.
- Gas service line-to-to new meters shall be per service provider standards. These are to be shown around at the meter.
- Utility service connections are to be installed per applicable Local City Code.
- Contractor shall be responsible for coordination and cost of all utility service connections, permits, relocations, abandonments, and removals.

LEGEND

Existing Utilities	
— W —	Water Line
— G —	Gas Line
— S —	Sanitary Sewer Line
— ST —	Storm Sewer Line
— E —	Electric Underground
— E —	Electric Overhead
— F —	Fire Service Line
— T —	Telecommunications (AT&T)
Proposed Utilities	
— W —	Water Line
— G —	Gas Line
— S —	Sanitary Sewer Line
— ST —	Storm Sewer Line
— E —	Electric Underground
— E —	Electric Overhead
— F —	Fire Service Line
— T —	Telecommunications (AT&T)

- 1" Irrigation Main Valve, install below first depth.
- 1" Irrigation Main Valve, install below first depth.
- 1" Backflow Preventer, per local code requirements.
- 1" Irrigation Main Valve, coordinate with irrigation contractor.

SITE UTILITY PLAN
SCALE 20' 0 20'

Copyright © 2020, Pulse Design Group, Inc. All Rights Reserved. NOTE: If this drawing is less than 10" x 14" it is a reduced sized drawing. DO NOT SCALE DRAWINGS.

PULSE+ DESIGN GROUP
1320 Main St., Suite 145
Lawrence, KS 66044
P: 781-235-5555
F: 781-235-5555



These record drawings have been prepared in part on the basis of information compiled and furnished by others. The architect will not be responsible for any errors or omissions which have been incorporated into the document as a result.

The electronic file of this sheet will demonstrate over time, therefore, the hardcopy shall take precedence over the electronic file. Pulse Design Group does not accept any responsibility for unauthorized changes to the electronic files made by the owner or others.

Labette Health

HEALTHCARE CENTER ADDITIONS
LABETTE HEALTH

310 PETER PAN ROAD
PO BOX 1000
LABETTE, MO 64501

DRAWN: KMH
CHECKED: TJW
DATE: 2022.12.09
PROJECT # 12345

REVISION DATE

C4.0
SITE UTILITY
PLAN



Labette Health
Independence Healthcare Center

(image from www.acrevalue.com)



**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
FEBRUARY 7, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a variance request to reduce the setback(s) in a C-2 commercial services district at 600, 606, and 610 West Main Street.

SUMMARY RECOMMENDATION Approve variance to reduce the setback(s) in a C-2 commercial services district.

BACKGROUND Pete's Corporation is building an automatic carwash at 600, 606 and 610 West Main Street. Pete's will be using North 12th Street for the ingress and egress to the car wash. Pete's is requesting a 15 foot variance from the alley to allow for two automatic car washes and one self-service car wash. This will allow for adequate egress space of 35 feet on the south side of the lot back between the self-service and vacuums to exit on 12th Street.

510.0. - C-2, commercial services district.

510.1. Intent: District C-2 is intended primarily for general trades and commercial services located at specific points on major thoroughfares outside of central or neighborhood business districts. This district is particularly appropriate adjoining a major highway. Such an area draws highway trade uses such as restaurants, service stations, and motels which are not totally compatible with shopping center developments but which may be grouped together quite advantageously as highway service centers.

510.2. Permitted uses: The listing of permitted uses is set out in appendix "A" of these regulations.

510.3. Conditional uses: The listing of conditional uses is set out in appendix "A" of these regulations.

510.4. Intensity of use regulations:

- a. *Maximum lot coverage:* 50 percent.

510.5. Height regulations:

- a. *Maximum structure height:* 35 feet or 2½ stories (whichever is smaller).

510.6. Yard regulations:

- a. *Minimum front yard:* 35 feet measured from property line.
- b. *Minimum side yard:* None.

Exception: Ten feet where abutting a side street; 15 feet where abutting a C-1 or O&P zone; 25 feet where abutting a residential zone.

- c. *Minimum rear yard:* Ten feet.

Exception: 25 feet where abutting a residential zone.

510.7. Parking and loading regulations: See article VII.

510.8. Use limitations:

- a. Gasoline pumps, air and water service and other fixtures used in connection with automobile service stations may be located within the front yard but not less than 12 feet from the front lot line.

- b. No structure shall be used for residential purposes except by the owner, owner's agent or the operator of the business located on the premises, except that accommodations may be offered to transient public by motels and hotels.
 - c. Exterior lighting fixtures shall be shaded where necessary to avoid casting direct light on any property located in a residential district.
- (Ord. No. 3824, 5-12-00; Ord. No. 3845, § 1, 11-27-00)

BOARD OF ZONING APPEALS CONSIDERATIONS Acceptance of a variance must be based on the following factors:

- A) Unique condition to the property in question which is not ordinarily found in the same zone and is not created by any action of the property owner, *This property would have the 10 foot minimum except that it is across the alley from a residential area. Having to be 25 feet from the alley would not leave enough room to build the carwash as the space would be too narrow.*
- B) The variance will not adversely affect the rights of adjacent property owner, *The fence would be placed where the building has sat for many years. There will be no trash at the alley since a fence would be there and an enclosure inside the property would be used for the trash receptacle. This will improve the alley and allow the business to have the room it needs.*
- C) The strict enforcement of the regulations would cause an unnecessary hardship. *By using the North 12th Street entrance and alley exit, there would not be enough room for the automatic car wash to be built if they are not able to use the extra 15 feet.*
- D) The variance would not adversely affect public health, safety and morals. *It does not appear that the variance would adversely affect public health, safety and morals.*
- E) The variance will be in keeping with the general intent and spirit of the zoning regulations. *The variance will be in keeping with the general intent and spirit of the zoning regulations.*

STAFF RECOMMENDATION City staff recommends approving the variance request to reduce the setback next to the alley at 600, 606 and 610 West Main Street from 25 feet to 10 feet.

SUGGESTED MOTION I move to approve a variance to reduce the rear yard setback 15 feet on the north side of the properties next to the alley from 25 feet to 10 feet at 600, 606, and 610 West Main Street.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Setbacks 600 West Main Street Pete's
2. 600 W Main Variance Setback Application and Pmt
3. Layout Updated with Self Serve 2.3.23

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Board of Zoning Appeals will conduct a public hearing on:

Tuesday, February 7, 2023 at 5:30 p.m.

To receive comments on a variance request to reduce the setback(s) in a C-2 commercial services district.

Common Address:

600, 606 and 610 West Main Street

Legal Description:

Lots 16-18, Lots 14 & 15, E 7.5' Lot 10; Lots 11-13 Block 37, Original Plat to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

Pete's Corporation

Case Number:

2023/VAR/03

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

APPLICATION TO BOARD OF ZONING APPEALS

CITY OF INDEPENDENCE, KANSAS

1. Date: 12-15-2022

2. Name, Address and Telephone Number of Property Owner:

Petes Corp
600 West Main
620-496-7417

3. I appoint the following person as my agent during consideration of my request:

Name: Kyle Owens
Address: 708
Telephone: 620-496-7417

4. Common Address of Land Involved:

600 West Main

5. Legal Description of Land Involved:

6. Describe what you wish to do which the zoning code prohibits:

20 ft set back on the north side of
property next to the alley

7. The following condition(s), which were not created by the owner's actions, are unique to the property in question and are not commonly found in the same zone or district:

the flow in & out

8. The proposed development would not adversely affect the rights of the adjacent property owners or residents because:

Can't access highway Egress or Ingress

9. The literal enforcement of the zoning regulations will result in the following unnecessary hardships:

lack of room for cars to turn around

10: The proposed development will not be contrary to the public health, safety, morals, or general welfare because:

NO

11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

NO

12: Please attach a site plan showing the dimensions of the lot, the location of building (both existing and proposed), and the location of existing buildings on adjacent property.

If the space provided is not sufficient, the applicant may attach additional pages. The applicant also may submit any other pertinent information including photographs, drawings, maps, statistics, legal documents, and letters of support.

Signature of Property Owner: _____

Kyle Owen

Case Number: _____
Date Filed: _____
Fee Received: _____
Present Zoning: _____

CITY OF INDEPENDENCE

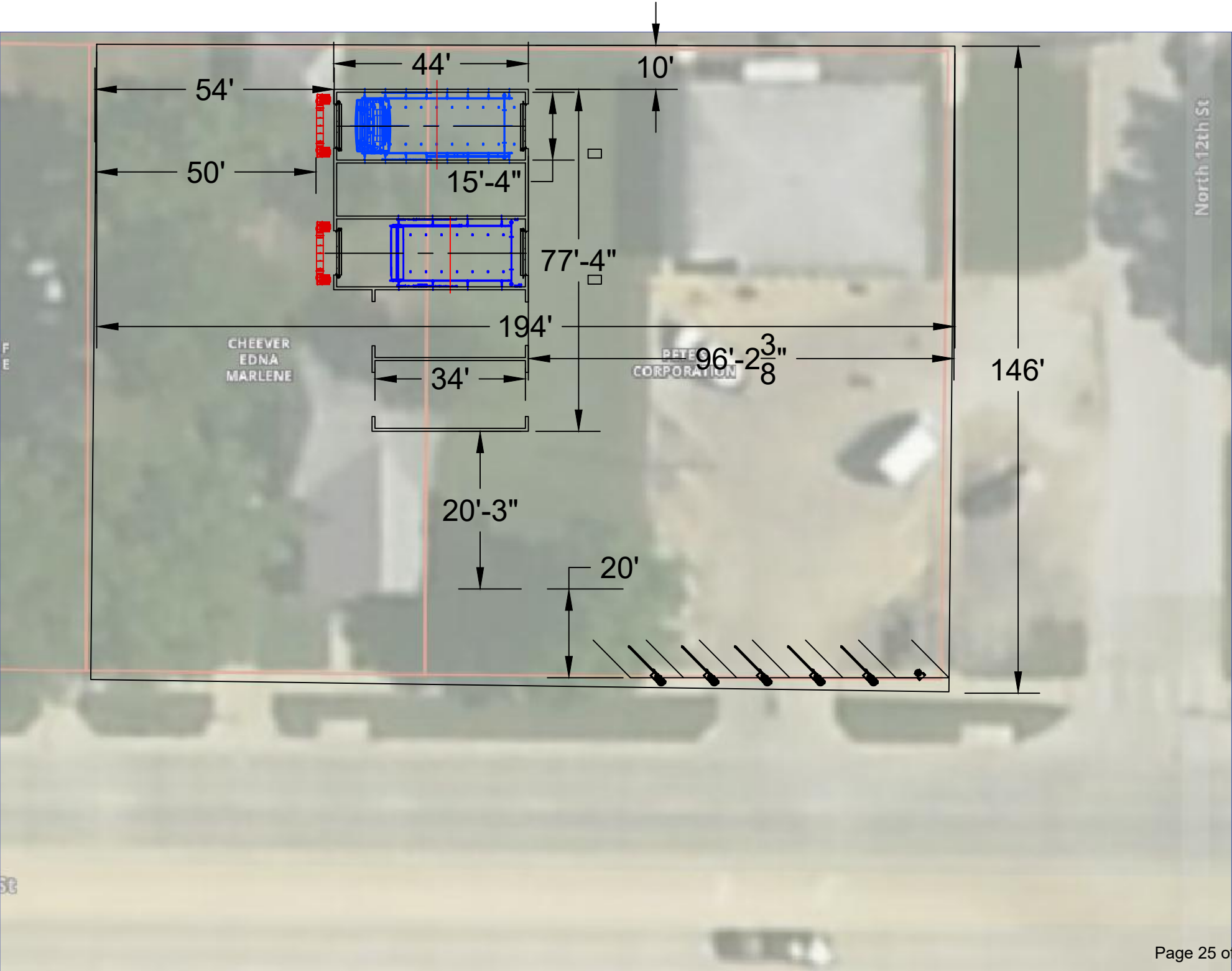
REC#: 01212167 12/16/2022 8:37 AM
OPER: JESS TERM: 001
REF#:

ACCT #: XXXX-XXXX-XXXX-2680
AUTH #: 06624G
TRAN #: 000000006802
TYPE: PURCHASE
ENTRY MODE: MANUAL

TRAN: 1.9000 PLANNING AND ZONING
600 W MAIN
VARIANCE 100.00CR

TENDERED: 100.00 CREDIT CARD
APPLIED: 100.00-

CHANGE: 0.00





**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
FEBRUARY 7, 2023**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Public Hearing to receive comments on a variance request to exceed size and number of signs in a C-3, business district zone at 113 W. Myrtle Street.

SUMMARY RECOMMENDATION Table this request until the March 7, 2023 Planning and Zoning meeting.

BACKGROUND The applicant has requested that this item be adjourned until March.

STAFF RECOMMENDATION City staff recommends adjourning this hearing until the March 7, 2023 meeting.

SUGGESTED MOTION I move to adjourn the public hearing until March 7, 2023 at 5:30 PM.

SUPPORTING DOCUMENTS

1. VFW Variance Application
2. VFW Portrait - 1
3. Public Hearing Notice VAR 06 113 E Myrtle

APPLICATION TO BOARD OF ZONING APPEALS

CITY OF INDEPENDENCE, KANSAS

1. Date: 10/05/22

2. Name, Address and Telephone Number of Property Owner:

Veterans of Foreign Wars Post 1186
113 E. Myrtle St.
Independence, KS. 67301
620-221-6010

3. I appoint the following person as my agent during consideration of my request:

Name: Doug Harlin
Address: 1109 N. 10th St.
Telephone: Independence, KS. 67301
620-221-6010

4. Common Address of Land Involved:

113 E. Myrtle St.
Independence, KS. 67301

5. Legal Description of Land Involved:

ORIG PLAT, S31, T32, R16, W 4.2' LT 2; ALL LT 3 BLK 43; Lot Width: 050.8 Lot Depth: 140.0 Plat

6. Describe what you wish to do which the zoning code prohibits:

We wish to place a professionally painted mural that aligns with our mission and vision on the east side of 113 E. Myrtle. Please see the attached design. We have recently been notified since the mural states VFW it is considered a "sign" verses a mural. The mural will cover approximately a 20 ft X 50 ft area. The current sign regulation is 5% or 50 square feet of the total surface area.

7. The following condition(s), which were not created by the owner's actions, are unique to the property in question and are not commonly found in the same zone or district:

N/A

8. The proposed development would not adversely affect the rights of the adjacent property owners or residents because:

There is no building of a new structure or addition to any existing structures; therefore the project will not encroach on any neighboring building.

9. The literal enforcement of the zoning regulations will result in the following unnecessary hardships:

N/A

10: The proposed development will not be contrary to the public health, safety, morals, or general welfare because:

There is no development.

11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

There is no development.

12: Please attach a site plan showing the dimensions of the lot, the location of building (both existing and proposed), and the location of existing buildings on adjacent property.

N/A

If the space provided is not sufficient, the applicant may attach additional pages. The applicant also may submit any other pertinent information including photographs, drawings, maps, statistics, legal documents, and letters of support.

Signature of Property Owner: _____

Case Number: _____

Date Filed: _____

Fee Received: _____

Present Zoning: _____



City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas Board of Zoning Appeals will conduct a public hearing on:

Tuesday, November 1, 2022 at 5:30 p.m.

To receive comments on a variance request to exceed size and number of signs in a C-3, business district zone.

Common Address:

113 East Myrtle Street

Legal Description:

W 4.2' Lot 2; All Lot 3 Block 43, Original Plat to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

Veterans of Foreign Wars Post 1186

Case Number:

2022/VAR/6

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator



**REQUEST FOR PLANNING COMMISSION ACTION
TEXT AMENDMENT
CITY OF INDEPENDENCE
FEBRUARY 7, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to consider a text amendment to modify Appendix B - Zoning of the City Code relating to off-street parking in an industrial area and any additional modifications.

SUMMARY RECOMMENDATION Approve a text amendment to modify Appendix B - Zoning of the City Code relating to off-street parking in an industrial area.

BACKGROUND We have a new business that would like to construct in an industrial zone who has indicated that the hard surface requirement is creating a detriment to this potential project. Therefore, we are asking the Planning Commission to revisit this issue. The last recommendation of the Planning Commission on December 4, 2018 and action taken by the City Commission on January 24, 2019 are attached.

705. 1 Surface material: Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double- sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.

Exception: Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.

Proposed amendment:

Definitions:

Gravel: Any use of the term gravel shall be defined as crushed stone. AB3, or any other rock that is ADA compliant for the use of off-street parking materials compacted enough to be compliant with ADA guidelines for levelness, materials. and accessibility.

Accessibility of parking and paths: All off-street parking shall have a minimum of two ADA accessible parking stalls. one van accessible and one car accessible; and must have an accessible path leading from the parking stall to the entryway of the facility. The ADA parking stalls must be the closest stalls to the facility.

Add exception:

Exception: Off-street parking for employees of businesses in M-1 or M-2 districts are allowed to utilize different gravel materials for surfacing materials. The gravel must be compliant with ADA guidelines regarding levelness, materials, and accessibility.

Exception: An accessible path must be accompanied from the parking stalls to the entry and are allowed to utilize gravel for surfacing materials.

ARTICLE VII. - OFF-STREET PARKING AND LOADING REGULATIONS

701.0. - Applicability.

At the time of erection of a new structure, or at the time of enlargement to the extent of 25 percent or more, or change in use of an existing structure within any district in the city, off-street parking spaces shall be provided as in this section, unless the city commission deems it in the public interest to waive or modify this requirement. Parking shall be adequate to meet

the demand in all cases. The following guidelines are offered but may be adjusted if sufficient evidence is presented to justify a change.

The C-3 central business district shall be exempt from complying with the following off-street parking and loading requirements.

703.0. - Off-street loading regulations.

703.1. Schools: A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

703.2. Merchandise, materials, or supplies: Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

704.0. - General provisions.

704.1. Determination of required number of spaces:

a. Fractional spaces: When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one parking space.

b. Floor area: Floor area, when used as a measurement for determining the number of parking spaces for office, merchandising or service uses, shall mean the gross floor area used or intended to be used for service to the public as patrons or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for nonpublic purposes such as storage, processing or packaging of merchandise, show windows, or restrooms or utilities, dressing, fitting or alteration rooms.

c. Beds: Bassinets shall not be counted as beds in determining the number of parking spaces based upon the number of beds.

d. Places of assembly: In stadiums, sports areas, churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for determining the number of off-street parking spaces required.

e. Mixed uses: When a building or development contains mixed uses, the off-street parking requirement shall be calculated for each individual use and the total parking requirement shall be the sum of the individual parking requirements.

f. Employees: Employees, when used as a measurement for determining the number of parking spaces for a new or established expanding business, shall be estimated in a manner approved by the governing body.

g. Unlisted uses: Requirements for types of buildings and uses not specifically listed herein shall be determined by the governing body, after a report and recommendation from the planning commission, based upon the requirements of comparable uses listed.

704.2. Parking for multiple uses: In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

704.3. Joint parking: Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the zoning administrator, in the form of deeds, leases, or contracts, to establish the joint use.

704.4. Use of required parking spaces: Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in

operating condition of patrons, occupants, or employees of such uses and shall not be used for the storage of vehicles, boats, motor homes, campers, mobile homes or materials or for the parking of trucks used in conducting the business or use.

704.5. Location of parking and loading spaces:

a. Off-street parking spaces for dwellings shall be located on the same lot or lots with the dwelling. Other required parking spaces shall be located no farther than 500 feet from the building they are required to serve, measured in a straight line from the building's nearest point to the nearest point of the off-street parking area. Provided, any off-street parking spaces not located on the same lot, as permitted by this ordinance, must be located in the same zone as required for the building or facility it serves.

b. Unless otherwise provided, required parking and loading spaces shall be located in a required front yard, but may be located within a required side or rear yard provided that a four-foot setback be maintained from any property line under separate ownership. (See 705.2, Screening and Buffer Required.)

Exceptions: Parking in conventional residential driveways connecting from the street to private garages or carports may be permitted. Also, short term parking may be permitted on loop driveway located in the front yard of any public school.

Parking in conventional residential areas shall not be permitted on unimproved areas of the front yard, and will only be permitted when meeting the requirements of this ordinance.

c. Parking space provided in an enclosure or semi-enclosed structure shall not project beyond any required building line, except as provided in section 602.6, "Accessory Buildings."

704.6. Plan required: A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:

- a. Delineation of individual parking and loading spaces by adequate striping.
- b. Circulation area necessary to serve spaces.
- c. Access to streets and property to be served.
- d. Curb cuts.
- e. Dimensions, continuity, and substance of required screening.
- f. Grading, drainage, surfacing, and subgrading details.
- g. Delineation of obstacles to parking and circulation in finished parking area.
- h. Specification as to signs and bumper guards.
- i. Other pertinent details.

704.7. Completion time for parking lots: Required parking spaces shall be improved as required, and made available for use before the final inspection is completed by the building inspector.

705.0. - Design requirements.

705.1 Surface material: Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.

Exception: Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.

705.2. Screening and buffer setback required:

a. Except for parking to serve one- or two-family residential uses, parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required.

b. No off-street parking will be permitted within less than four feet of a property line under separate ownership.

705.3. Lighting: Artificial lighting which may be provided shall be so deflected as not to shine

or create glare in any residential district or on any adjacent dwelling.

705.4. Service drives:

a. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than 30 feet in width, nor less than 25 feet for two-way drives, nor less than 16 feet for one-way drives. In the case of a corner lot, service drives shall be located not closer than 30 feet to the intersecting street line. Service drives shall be located not closer than four feet to a side lot line, except that a common service drive of two adjacent properties with width not exceeding 30 feet may be provided at the common lot line.

Exception: Residential service drives connecting from the street to private garages, carports or parking spaces [shall not exceed 24 feet unless approved by the city engineer].

b. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 30 feet from their intersection.

c. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.

705.5. Minimum parking space dimensions:

a. If 90-degree parking space,

stall depth—19' 0"

stall width—9' 0"

aisle width—25' 0"

b. If 60-degree parking space,

stall depth—19' 0"

stall width—9' 0"

aisle width—18' 6"

c. If 45-degree parking space,

stall depth—19' 6"

stall width—9' 0"

aisle width—13' 6"

d. If 30-degree parking space,

stall depth—19' 0"

stall width—9' 0"

aisle width—11' 0"

e. If parallel parking space,

stall depth—8' 0"

curb length—23' 0"

aisle width—12' 0", or if adjacent to angle parking, use largest width

705.6. Striping required: Open parking spaces for dwellings (containing three or more dwelling units) shall be delineated by pavement striping and must meet minimal parking stall sizes as described above in section 705.5.

POLICY EXPLANATION

1601.2. Proposal of amendments: Amendments may be initiated by the governing body, the planning commission, or upon application by the owners of the property affected.

1602.3. Disposition of amendment proposals: Upon receipt of proposed amendment from the zoning administrator, the planning commission shall hold a public hearing on the proposed amendment, and forward to the governing body its findings and recommendations with respect to the proposed amendment.

1604.2. Amendments to text: When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items: a. Whether such change is consistent with the intent and purpose of these regulations; b. The areas which are most likely to be directly affected by such change and in what way they will be affected; and c. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts, or other social economic conditions in the areas and zoning districts affected.

STAFF RECOMMENDATION Staff recommends implementing text amendments to the Code of the City of Independence, Kansas, that was previously recommended by the Planning Commission on December 4, 2018 relating to off-street parking requirements. Staff believes this change is consistent with the intent and purpose of the zoning regulations: the areas affected will be the industrial zoned districts (M-1 and M-2); and the proposed amendment is made necessary because of new planning concepts and social economic conditions in the zoning districts affected.

SUGGESTED MOTIONS

1. I move to recommend the City Commission adopt an ordinance implementing text amendments to the Code of the City of Independence, Kansas, specifically Appendix B - Zoning Code relating to Off-street parking requirements as previously recommended by the Planning Commission on December 4, 2018.
2. I move to recommend the City Commission adopt an ordinance implementing text amendments to the Code of the City of Independence, Kansas, specifically Appendix B - Zoning Code relating to Off-street parking requirements as previously recommended by the Planning Commission on December 4, 2018 with the following modifications:
3. I move to adjourn this hearing until March 7, 2023 at 5:30 PM for further discussion.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Text Amendment Off-street parking
2. 01242019-RCA
3. 03 JAN 24 2019 - COMMISSION MINUTES
4. 01152019 Worksession Commission Planning Zoning
5. 12042018 PZ MINUTES
6. 11062018-PZ MINUTES
7. 10022018 PZ MINUTES
8. 07022018 PZ MINUTES

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, February 7, 2023 at 5:30 p.m.

To consider a text amendment to modify Appendix B - Zoning of the City Code relating to Article IV. – Rules and Definitions and Article VII. - Off-Street Parking and Loading Regulations, and any other related zoning code modifications.

Case Number:

2023/ZA/02

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
January 24, 2019

Department Administration

Director Approval Kelly Passauer

AGENDA ITEM Consider modified recommendation from the Planning Commission to adopt an ordinance implementing text amendments to the Code of the City of Independence, Kansas, specifically Appendix B – Zoning Code relating to Off-street parking requirements.

SUMMARY RECOMMENDATION Approve Planning Commission recommendation.

BACKGROUND Regarding the text amendment for off-street parking (gravel in industrial areas) the following timeline has occurred:

- The original public hearing was July 2, 2018 -- The Planning Commission adjourned to October 2, 2018
- On October 2, 2018 the Planning Commission made a recommendation to the City Commission to modify the language, adding additional definitions related to ADA requirements and gravel, and modified the design requirements in the off-street parking regulations to allow gravel meeting certain specifications in M-1 and M-2 (industrial) districts.
- On November 5, 2018 the City Commission tabled action and returned this item back to the Planning Commission for clarification on specific elements of the original recommendation and provided suggestions.
- On December 4, 2018 the Planning Commission reviewed and responded to the feedback from the City Commission and modified their original recommendation. Their responses to the Commission's questions and their modified recommendation is attached.
- December 13, 2018 – The City Commission reviewed the Planning Commission's modified recommendation and tabled action until after a joint Worksession with the Planning Commission.
- January 15, 2019 – The City Commission hosted a joint Worksession with the Planning Commission.

BUDGET IMPACT The future budget impact would consist of the economic benefits of encouraging expansion of our industrial areas by allowing alternatives to hard surfacing.

SUGGESTED MOTION I move to adopt an ordinance implementing text amendments to the Code of the City of Independence, Kansas, specifically Appendix B – Zoning Code relating to Off-street parking requirements as recommended by the Planning Commission; or

I move to send back to the Planning Commission the proposed text amendments to the Code of the City of Independence, Kansas, specifically Appendix B – Zoning Code relating to Off-street parking requirements to further review the following _____.

SUPPORTING DOCUMENTS

1. Correspondence with Chanute and McPherson regarding their off-street parking requirements in industrial zones.
2. Draft January 15, 2019 Minutes
3. December 13, 2018 RCA
 - a. December 4, 2018 Planning Commission responses and recommendation.
 - b. Modified proposed ordinance.

From: [Ryan Follmer](#)
To: [Kelly Passauer](#)
Subject: RE: Surfacing Requirements
Date: Friday, January 18, 2019 9:53:13 AM

Ours says must be an “improved surface” but unfortunately does not define what an “improved surface” is, so without a clear definition one could say that gravel is an “improved surface”. We are lucky enough that this has not become an issue in Chanute, might be a long shot but I would see if the state has regulations on newly constructed parking area’s being a surface that is impervious to oil’s and automotive fluids. Orizon annexed into the city limits.

Thanks,

Ryan Follmer

CITY OF CHANUTE

101 S. Lincoln Ave, Chanute KS 66720

Office: 620-431-5232

Fax: 620-431-5238

rfollmer@chanute.org

From: Kelly Passauer <kellyp@independenceks.gov>
Sent: Thursday, January 17, 2019 10:54 AM
To: Ryan Follmer <RFollmer@Chanute.org>
Subject: Surfacing Requirements

Ryan,

We are looking at updating our surfacing requirements, in particular for industrial areas. What are your surfacing requirements for an industry in an industrial zone? Are they required to hard surface all, or a portion of their parking?

Also, is Orizon in the City limits?

Thanks!

Kelly

Kelly C. Passauer, CPM
Assistant City Manager/Zoning Administrator

From: [VIRGIL LYON](#)
To: [Kelly Passauer](#)
Subject: Re: Surfacing Requirements for Off-Street Parking in Industrial Zones
Date: Thursday, January 17, 2019 2:09:19 PM

Hi Kelly,

Article 5 100-5 of the City Zoning Regs addresses off-street parking. All surfacing is subject to the specifications set by the city engineer (5-1005(B), as stated below. We review site plans on a case-by-case basis and make determinations based on the use of the proposed lot. The paragraph below and referenced in this paragraph addresses dust and maintenance. With regard to drainage, we require a drainage plan with all site plans within the city, unless otherwise directed by the Director of Public Works.

I hope that helps.

Virgil Lyon
Planning and Zoning
City of McPherson

620-245-2548
virgill@MCPCITY.com

>>> Kelly Passauer <kellyp@independencems.gov> 1/17/2019 11:36 AM >>>
Hello,

I am researching surfacing requirements for off-street parking industrial zones and found this statement in your off-street parking requirements:

Surfacing: All open off-street parking spaces, whether required spaces or not, and driveways shall be graded and paved with an asphalt, asphaltic concrete, concrete or other comparable hard-surfaced, all weather, dustless material according to specifications of the City Engineer and shall be maintained in good condition, provided, **however, graveled parking areas are permitted in the industrial districts**. Driveways, parking spaces and display areas for all open sales or rental lots for motor vehicles, trailers, recreational vehicles and manufactured and mobile homes shall be paved or graveled.

Do you have any specific requirements for the graveled parking areas in the industrial district as it relates to dust, drainage, gravel being swept onto the public rights-of-way by heavy rains, etc.?

Thank you for any assistance you can provide us!

Kelly

Kelly C. Passauer, CPM
Assistant City Manager/Zoning Administrator

Minutes of the Independence City Commission's January 15, 2019
Worksession with the Planning Commission

The Independence City Commission met for a special meeting with the Planning Commission on January 15, 2019 at 5:30 P.M. in the Veterans Room at the Memorial Hall. Mayor Louis Ysusi, Commissioner Leonhard Caflisch and Commissioner Gary Hogsett were present. Others present included:

Planning Commission

Mary Jo Meier, Vice Chair
Andy McLenon, Secretary
Jim Hardy
Brian Beecham
Barb Emert
Steve McBride
Philipp Umlauf
Michelle Anderson

City Staff

Craig Whitehead, City Manager
Jeff Chubb, City Attorney
Kelly Passauer, Assistant City Manager/Zoning Administrator
David Schwenker, City Clerk/City Treasurer

Visitors

Ellie Davis
Brent Littleton

I. SPECIAL SESSION

A. Call to Order

Mayor Ysusi called the City Commission meeting to order at 5:30 P.M.

1. Vice Chair Mary Jo Meier called the Planning Commission meeting to order at 5:30 P.M.

The Mayor asked everyone to introduce themselves, which they did.

II. WORKSESSION WITH THE PLANNING COMMISSION

A. Status of previous December 28, 2017 directive by the City Commission to the Planning Commission to review and recommend text amendments relating to the following:

1. Attention-Attracting Devices and Electronic Signs;
2. Downtown Signage;
3. Food Trucks;
4. Gravel parking lots;
5. Recreational vehicles, 5th wheels and travel trailers that are occupied; and
6. Tiny houses.

Assistant City Manager/Zoning Administrator Kelly Passauer reviewed the status of the December 28, 2017 City Commission directive as follows:

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1. Attention-Attracting Devices and Electronic Signs – Completed – This item had to do with a request from some of the churches to have electronic signage that were located in residential or central business district zones that did not allow such signage -- Text amendment recommended, and Ordinance 4269 was adopted by the City Commission on February 22, 2018.
2. Downtown Signage – Completed – This topic was initiated based on complaints received regarding the current downtown sign regulations, including the number of signs -- The Planning Commission requested Main Street (working with downtown businesses) to review the downtown sign ordinance. After their review, Main Street recommended no modifications to the sign code at the April 3, 2018 meeting. They did recommend updating the IHPRC brochure to include downtown style buildings and suggested sign placements, which has been done. Since no text amendments were recommended, this item did not come back to the City Commission for action.
3. Food Trucks – Completed -- Text Amendment recommended and Ordinances 4272, 4273 and 4274 were adopted by City Commission on July 26, 2018.
4. Gravel parking lots – In Process -- Timeline to follow.
5. Recreational vehicles, 5th wheels and travel trailers that are occupied – Not started.
6. Tiny houses – Not started.

- B. Discussion with the Planning Commission regarding the modified recommendation from the Planning Commission to adopt an ordinance implementing text amendments to the Code of the City of Independence, Kansas, specifically Appendix B – Zoning Code relating to Off-street parking requirements tabled from the December 13, 2018 City Commission meeting.

Assistant City Manager/Zoning Administrator went through the following timeline:

- July 2, 2018 – Original public hearing was held, Planning Commission adjourned the hearing until October 2, 2018.
- October 2, 2018 -- The Planning Commission made a recommendation to the City Commission to modify the language, adding additional definitions related to ADA requirements and gravel, and modified the design requirements in the off-street parking regulations to allow gravel meeting certain specifications in M-1 and M-2 (industrial) districts.
- November 5, 2018 – The City Commission tabled action and returned this item back to the Planning Commission for clarification on specific elements of the original recommendation and provided suggestions.
- December 4, 2018 -- The Planning Commission reviewed and responded to the feedback from the City Commission and modified their original recommendation.
- December 13, 2018 – The City Commission reviewed the Planning Commission's modified recommendation and tabled action until after a joint Worksession with the Planning Commission.

Assistant City Manager/Zoning Administrator then went through Planning

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Commission's December 4, 2018 responses to the City Commission's November 5, 2018 feedback as follows:

- 11/05/2018 -- The City Commission wants to know the initial intent and purpose of the text amendment.
- 11/05/2018 -- The City Commission wants to know if the text amendment will attract new businesses.
- 12/04/2018 Response from the Planning Commission:
 - To make the City more attractive, to recruit new businesses to the City and to enable flexibility for existing businesses to expand their parking area if need be for growth in alignment with the Economic Development Strategic Directive No 1 of the Community Based Strategic Plan.
- 11/05/2018 -- The City Commission had the following concerns:
 - The appearance of large gravel parking lots.
 - Gravel running off in heavy rains.
 - Ability to adequately mark ADA spots.
- 12/04/2018 Response from the Planning Commission:
 - Non-ADA off-street parking areas shall be graded, paved or otherwise improved with an all-weather, dustless material that is contained in such a manner as to not allow surface material to wash off during heavy rains, and so drained as to avoid flow of water across sidewalks. ADA compliant parking and accessible paths to an entrance to the facility served by off-street parking shall be hard-surfaced.
- 11/05/2018 -- The City Commission provided the following suggestions:
 - Limiting the size of gravel parking lots to a maximum number of spaces.
 - Continue to require new buildings or new industries to hard surface required off-street parking to City code standards but allow existing industries that already have a gravel parking lot that is grandfathered in (a non-conforming use) to expand (enlarge) their existing gravel parking lot.
 - However, if they have an existing hard-surfaced parking lot any expansion (enlargement) would have to be hard surfaced.
- 12/04/2018 Response from the Planning Commission:
 - They unanimously approved a motion to not limit the size of non-hard surface parking lots to a maximum number of spaces, nor require new businesses or industries to hard surface, or business expansions to hard surface.
 - The exceptions to this would be:
 - If the business has an existing hard surface parking area, they cannot remove it and replace it with a non-hard surface material.
 - If a business expands an existing hard surfaced parking area, they may do so with non-hard surface material for a period of up to two years, after that the expanded parking area must be removed or hard surfaced.

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Assistant City Manager/Zoning Administrator Kelly Passauer then went through the detailed December 4, 2018 Recommended Modifications from the Planning Commission, a copy of which was included in the agenda packet.

Mayor Ysusi asked how the City could force compliance if a business expanded their hard parking lot with a non-hard surfaced parking material and did not hard surface it after two years because they decide that they do not have the funds.

City Attorney Jeff Chubb said he believes there is a section in the zoning code that they can be cited into municipal court and fined or a civil injunction could be filed.

Mayor Ysusi then related the situation to nuisance fines, and that it ends up being the City's responsibility to maintain. He then asked, "What if they decide they don't have the funds to comply?"

City Attorney Chubb said if they go through municipal court, they can be fined a certain amount each day, or a separate injunction action. District Court is the same way, if they do not do it by the deadline, the Court can find them in contempt.

Mayor Ysusi reiterated that they would eventually have to either comply or the fines would move them in the direction of compliance.

Commissioner Caflisch stated that he could see if an existing manufacturer has an existing gravel lot and they are increasing their production or the size of the plant within reason or just a few spots, they should be allowed to add limited spaces in gravel and should not be required to come back with the addition and pave the existing lot plus the additional spaces. Further stating, "For a new facility, the only paving surface should be a hard surface for long term. Paving solves a lot of problems not only for them, but for us, with runoff, the gravel displacement. You can control runoff much better with a hard surface. Calcium chloride becomes a continued maintenance factor, increase enforcement responsibility, forcing them to apply it. Calcium chloride draws moisture to keep the particles moist, but it creates other problems with tracking it into vehicles or the facility. For new facilities, a paved surface with asphalt, concrete, even chip and seal does provide a hard surface, but it is lesser quality and lesser performance than the other two, but to allow a gravel open surface parking lot I think that is an area that we don't want to go as a City. You look at the new facilities, the cost of building a facility, it's just another cost factor that should be taken into consideration. I can understand with existing gravel parking lots of some industries not requiring hard surface there, but any new facility we should keep it as we had it in the past, has to be a hard surface asphalt or concrete material. The calcium chloride or dust reducing materials are not really intended for a long-term situation."

Commissioner Hogsett said that he was eager to hear what the Planning Commissioners had to say.

Planning Commissioner Mary Jo Meier stated that the initial intent was to attract new businesses and align with growth, and the Planning Commission was very concerned about asking a new business, that even maybe they would purchase an existing building, that did not have pavement and asking them to start that business and add the cost of paving the parking lot might be something that didn't fall in those two points. She further stated, "We felt like it discouraged businesses, and that we felt like it wouldn't be in line with growth and maybe extending that two years would give them a little bit

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more time.”

Mayor Ysusi stated an existing facility with an existing lot, but a new facility that is being built from the ground up. Enforcing the pavement after 2 years. Are we willing to take the industry to court to force them to pave their parking lot? It is easier to get it done initially then it is to come back later on once the plant is in operation. I could understand grandfathering the parking to encourage reuse of the building, but a total new facility we would want to keep the surfaces paved.

Commissioner Caflisch stated; “I designed a church in Iola and they didn’t pave the parking lot because of cost initially, but they found within a year they were paving the parking lot because of the increased maintenance they had on the building, the gravel, the dirt tracking into the facility. They found it advantageous for them to go ahead, and it provided a lot of other controls of where they parked, the spacing, and those issues were resolved. But I understand your concern with an existing building for somebody to start up a company, usually they are looking at limited funds and I think we should address those cases. But if we’re looking at a brand-new facility coming in ... in those cases they should have a hard surface set up and that’s where ... giving the two year ... when we look at alternates such as calcium chloride to keep down dust it’s just going to be a continued enforcement issue for the City. We probably should eliminate alternate surfaces, or if there is some magic material specify it directly, but anything that still allows the granules and the gravel to be exposed is going to be an enforcement issue for us and cause us other issues.”

Assistant City Manager/Zoning Administrator Kelly Passauer stated that the two years only applies to someone that has an existing hard surface parking lot and they wish to temporarily expand it. Further stating; “So the thought was ... if a refinery has a turn around and they put in some temporary parking for a short period of time and they don’t particularly need it beyond the two years. That was the thought behind that ... the two years only is talking about if they have an existing parking lot that’s hard surface and then they can expand it with a non-hard surface for up to two years if they had a special need for parking that wasn’t going to be long-term ... so the reference to the two years was only for a temporary lot, then they would have to remove it or hard surface it within two years.”

Commissioner Hogsett made a comment about the Planning Commission’s decision to recommend this change was unanimous.

Planning Commissioner Brian Beecham stated that; “One of the other things we considered was trying to come up with an understand of what industries came to Southeast Kansas. Recently, one of the examples that we looked at was Orizon Aerostructures in Chanute. They invested in a 70,000 square foot facility fifteen million dollars. I was fortunate enough to be able to talk to the builder for that project which was Koehn Construction out of Fredonia. It is asphalt in front of the office, but around the facility is gravel. I asked what stipulated that, and it was cost and when they started looking at ways they could cut cost on the project, that is the first thing to go was doing the hard surface around the entire structure. But for deliveries and everything else, the cost was six to eight dollars a square foot so when you start looking at a 70,000 square foot facility and the amount that went around it, you start talking about real numbers. That was part of the reason that Orizon chose Chanute from what Koehn said, as they had leniency on what they were able to do with the hard surface around it. That came up in part of our conversation, and I believe Philipp [Umlauf] talked with one of the

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gentlemen at Orizon about it as well.”

Planning Commissioner Philipp Umlauf stated; “Exactly the same comments, it was almost verbatim.”

Planning Commissioner Brian Beecham stated; “So we used that as a point of reference. I have been in Independence for six years now and I don't know of any industry that has come here in my time. So, are there any examples that anyone can give us?”

Commissioner Caflisch stated; “What you could do is consider it with a variance, maybe that way you are looking at exact use, you're not throwing a blanket but you're allowing the manufacturer to bring in a variance because if you've got a pipe yard there you would want something other than grass to keep your maintenance down and I could see a gravel surface while the drives going through the pipe yard I could see that being gravel too, that you wouldn't want to require it. But when you look at employee parking and other areas, I think that is where we want some controls. So instead of saying a blanket and they determine what they want to do, I think we should say what we expect and require them to come present the alternate for us to approve. That way, you know because the way we have it, you don't have to put it around the building, and you can't really without knowing the use of the facility. You can't create an ordinance that's going to address those, but if you allow a variance, is really the only reason for a variance is to address a hardship of a developer in a case that you're describing there can be hard case conditions that you know you would want to look at areas for their deliveries, short-term parking or material storage yards that wouldn't necessarily have the problem created with a high traffic area but you know a definite parking lot and constant traffic is different we would want to see that. What I would see the variance case, you come talk to us and you know we could address each specific case like the one your describing and how it can be compatible to them.”

Planning Commissioner Brian Beecham said; “That is our intent what you're talking about, and that has been our intent to provide some flexibility not some hard line that ‘Hey, it's just going to be this way with no exceptions’ and to have the ability to try to get in that game and draw some industry here, and I really think, and I'm not trying to speak for everybody, but I think that was part of the intent of what we were trying to do.”

Planning Commissioner Philipp Umlauf stated; “Yeah, I would 100% agree with that, you know, that does increase the amount of variances that we have, and as we get more and more variances at some point in time it makes a case then why do we even have the rule if we're going to give a variance every time. It makes it very difficult, you know, to say you have to have this hard surface, but if you don't want to put it in then come see us and we will back off of that. So, at that point of time, what is even the point of having that ordinance there if we are just going to back off of it every time. If you give them some leeway to do that, that does a couple of things for us, it opens us up to allowing companies to see, ‘Oh, well we're not going to have to spend a third of what we spent on our building to hard surface a lot and that helps us out and we can get into this place and it is a good community, so we want to give them a shot’, rather than ruling us out right off the jump street. Secondly, you know that also allows us to . . . sorry, I lost my train of thought there, but I am going to talk to about something else I have been hanging onto. As far as their building maintenance goes, that is really their call, I mean if they want to save that money up front and they figure out in the future that they want to hard surface that, then more power to them, that is a plus for us.

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However, when you start dictating how their facility needs to look in every aspect and dictating how they have to set up everything, now you are starting to kind of get into how they run their business and now you are opening yourself up for even more possible enforcement issues and just being completely skipped over for those new businesses that want to come to our town. Or, you know part of me wanted to ask the Montgomery County Action Council as to what their thoughts are on this, what are they seeing? Are they seeing the same types of issues attracting businesses to towns that don't have these requirements."

Commissioner Hogsett stated; "I was just thinking the same thing, I wish you were here for this discussion."

Planning Commissioner Philipp Umlauf stated; "That was something I just thought about like an hour ago, otherwise I would have reached out to her."

Commissioner Hogsett stated; "I just met with Trisha this afternoon with Nathan Berg, does anybody know Nathan Berg. So I guess he was born and raised here and started a business in Oklahoma and he wants to come back so he just bought a building south of Dearing where he is going to move his business. And you know he's got the gravel drive, I mean he is in the County so he can get back to Southeast Kansas for a lot less money then if he were building a place in Independence. And I am all for attracting new industry, whatever it takes, and if this is really a legitimate concern, that would keep people from building here I am very interested in changing it. But we also just did a Community Based Strategic Plan and the number one concern of people was "Let's make our City beautiful again, it is not looking so great" and I think this is a little bit of a detraction to that."

Planning Commissioner Philipp Umlauf stated; "In speaking to that, we are talking about strictly M-1 and M-2 . . ."

Commissioner Hogsett stated; "Right".

Planning Commissioner Philipp Umlauf stated; "... We are not talking about residential, you know these are places that are off the beaten tracks, back near behind the Hackney area, down near where Atmos is, out near the airport. These are not intown places where you are going to see this on a daily basis unless you are physically going to these places."

Commissioner Hogsett stated; "Yeah, I agree Philipp. I think it is definitely something to be considered. It's just, my alley, I don't know if you know where I live, but there is only two houses on my block so there are only a few cars that use my alley and it is so bad that you sink up into your axles because of the gravel."

Planning Commissioner Umlauf stated; "I know your neighborhood very well."

Commissioner Hogsett; "Yeah, so it just seems like gravel is not permanent and it is not well taken care of in many cases. Certainly not our alley, or most alleys around town are looking pretty sad right now because of the weather, so I don't know. I guess I would like to see some statistics. Maybe you have others besides the fact that Chanute has been more successful than us, that this will really make a difference in attracting industry."

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Planning Commissioner Umlauf stated; "As far as the permanency and heavy use goes, I worked for Layne Energy for eleven years. They had a gravel parking lot for the entire eleven years, ran a box blade over it once a year and never really had to do much more than that to it, and we are talking heavy equipment in and out of there all day long, trucks in and out of there all day long. It was never an issue. Dart had a facility on the same road, same thing with them, I think it does hold up well as long as it is done correctly. I've traveled lease roads for the last sixteen years of my life and those are roads that are made straight through farmer's fields that were never intended to have a road, but if when they are built right they stay."

Commissioner Hogsett stated; "But those would have very, very low traffic on them, wouldn't they?"

Planning Commissioner Philipp Umlauf stated; "Well a couple of times a day, every single day. And you are not just running a pickup up and down them, there are chemical trucks going up and down them, there are pulling units going up and down them, it is a lot more than people think."

Commissioner Hogsett stated; "Okay, thanks for that."

Planning Commissioner Jim Hardy stated; "I know when we discussed this I was picturing a smaller industry coming in starting up, just employed 50-100, that is what I was picturing, not to compare with a Fortune 500 where the resources wouldn't be a problem for paved or concrete the whole thing, but 50-100, like Philipp said a small business like that would be ideal for Independence but right off the bat a third of that cost would go to that surface where it could be for capital inside, for employees."

Commissioner Hogsett stated; "I was saying to a few of you when I walked into the room that I am going to be repaving a big chunk of our alley behind our building, because we have had to tear it up to replace a drain lines and it is just prohibitively expensive. So I totally get where you are coming from, and that is just 400 square foot."

Planning Commissioner Brian Beecham stated; "I think the number we came up to by asking with people that do it was 6-8 dollars per square foot is the cost."

Commissioner Hogsett stated; "I can't picture how many square foot on the top of my head how much they would typically need to do, but I'm guessing it is a huge number."

Commissioner Brian Beecham stated; "Yeah, I think so."

Commissioner Philipp Umlauf stated; "If you think about it, a 10,000 square foot parking lot is really not that big, when you start putting vehicles in there that the average length of them is 20 feet."

Commissioner Hogsett stated; "So that would be \$60,000 to \$80,000"

Commissioner Philipp Umlauf stated; "You are basically talking about a parking lot that is the size of McDonald's parking lot, that is a huge expense."

Commissioner Caflisch stated; "Well why should M-1 zone be excluded from paving a parking lot, where you've got a small business that is opening an office and you are going to require them to pave a parking lot, so they're start-up cost, you will have a lot

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more businesses coming in to expand so why are you granting an industry that we don't have coming in a gap, but then what we have every day we are going to hold the line or you're going to consider a small industry coming in that we want them to come and they don't have to pave their parking lot, but I'm going to build a new house and I'm going to build a garage and now I've got \$5,000 to \$6,000 for a driveway that has to be paved and it's harder for me to get the \$5,000 or \$6,000 for the driveway than it is for an industry that is selling a product."

Commissioner Hogsett stated; "That is a good comparison, but on the other hand you have to be a good neighbor, you have to match what the neighborhood is doing. I mean if I've got a downtown business, we can't have the next door neighbor have a gravel sidewalk out front, it has got to be consistent."

Commissioner Caflisch stated; "So your 400 square foot of concrete in the alley is justified."

Commissioner Hogsett laughed, and stated; "Touché. I just think in a neighborhood that you know, houses need to sort of match. You can have a dump next door to a nice house, but you would rather not because it is unfair to the person...."

Commissioner Caflisch stated; "When we are looking at businesses, we are looking at the same thing to encourage. Basically, we have to look at the long term use of what we want the City to be. An industrial park setting, what do we see the need for in our industrial park dealing with the gravel run off in our drainage, in our streets, how are we going to control that, are we going to require heavy traffic areas to be hard surfaced or are we going to allow them all to be gravel, if you know..."

Planning Commissioner Philipp Umlauf stated; "Well, to answer your statement, Michael Conway is opening a car shop in the industrial zone, I think he would be greatly appreciative of the fact that he does not have to hard scape all of his potential parking area. I think that would help him dramatically."

Commissioner Caflisch stated; "But his is already under, since he already . . he's not allowed to participate in this is he, since his already...."

Planning Commissioner Philipp Umlauf stated; "He's in a M-1/M-2 zone."

Commissioner Caflisch stated; "But he has already built, he should be required to pave now, not wait."

Planning Commissioner Philipp Umlauf stated; "The point that I am trying to make is would that have made things easier for him, would he have been able to pull that whole thing off in a shorter period of time, would he have been up and running faster. Would it have been a more attractive thing for him to do sooner. That is just one example, but it speaks directly to what you were just saying for a smaller business that comes into our area. If they want to be in that M-1 or M-2 zone, that is their prerogative, if they want to be in our downtown district or in one of our commercial district that has stipulations to go along with it. What we are trying to convey is, manufacturing jobs pay well, employ a lot of people, and the buildings can go up very quickly, they can be put online very quickly and we are afraid that we are not in the running because of the additional costs required to facilitate them bringing their business here. Whether they are publicly looking at us or not, when push comes to shove, is that a consideration? Case in point,

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our Amazon distribution center that yes was out in the county, but they left stating the reasons they were leaving was due to the fact that it was going to cost them more money to refit their facility than it would cost them to build a new one. Would it have been more attractive for them, if we had said 'Hey, come to Independence, put this thing in our industrial zone back here, you don't have to hardscape your parking lot, you can put your new facility here and stay where you are at, instead of moving to Olathe, which is where they are now. In a facility that is actually smaller than the one they were in here. Would that have kept those several hundred jobs here, and those several thousand people that were apart of our countywide community that are now gone. That's a huge hurdle for us to overcome and hind site is 20/20 but these are the type of things that I think about when something like this comes across our table."

Commissioner Hogsett stated; "When Annie and I were looking around at cities deciding where we wanted to move, one of the cities that we were really impressed with was McPherson. They are just booming, they have got industries springing up all over the city, does anyone know if they have requirements regarding this?"

Planning Commissioner Philipp Umlauf stated; "I don't know, I've spent a fair amount of time in McPherson but I don't know any of the requirements."

Commissioner Hogsett asked City Manager Craig Whitehead; "Craig, you have been eight or nine cities, have you seen this issue before?"

City Manager Craig Whitehead stated; "Not really, other than in my last city you had to pave no matter what you were bringing in, even manufacturing. Granted that we didn't have M-1 zones that are industrial, so you just had to pave and they had to take care of the run off of that water, and we started getting into permeable concrete to solve drainage, cheaper for the developers. The other thing we saw in getting business was incentives, and gravel parking lots was not an incentive that I ever ran across. So you could still require a hard surface, but through other financial incentive it might offset. Because right now, if there is an industry coming the City already has incentives in place per job, so much dollar amount, that we will give to an industry as well as some property tax abatement, so I've never seen this specifically affecting a development."

Commissioner Hogsett asked; "Weren't you previously in some fairly small cities, much smaller than American Fork?"

City Manager Whitehead replied; "Yes, my first City Manager job was in a City half this size, a very rural area. I don't remember coming across it, but we didn't have much development either. This was north on the Canadian border so you didn't get a lot of development other than the state. But again, I never faced that. It was other development. My last two cities, some were larger, more urban, and incentives. Talk about why companies locate, why do they move, why do they locate where they locate. Well moving to Olathe was because it was Olathe and Olathe was in that area next to a lot of services, there are lots of reasons companies choose a site selection so you can't, it's hard to tell why a company and sometimes it is where the CEO's wife wants to live. That always plays into it, where they like to shop. And we had industries, we a Gateway Computers that eventually moved their headquarter to San Diego because that's where they wanted to live, not South Dakota. There are a lot of things in site selection, and sometimes maybe the gravel parking lot tips the scales, you never know, but I'm more on the Mayor's side as you can tell."

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Planning Commissioner Brian Beecham stated; "I think one of the things we are looking for is to get the ball rolling and that's why we are trying to come up with ways when we see an opportunity and we see something close by and that was part of their stimulus in doing it, and there was economic assistance in it and that is readily available online as well. Where do we get started?"

Commissioner Caflisch stated; "We have the economic development fund, but we don't have any hard guidelines on how that would be distributed, that could be tied in as an incentive to help out offset some of the initial costs, or like Craig mentioned some other abatements that we have. We just did the West Laurel Street Industrial Park and West Main Revitalization zones.

Assistant City Manager/Zoning Administrator Kelly Passauer replied; "Probably 2015 we redid it."

Commissioner Caflisch asked; "Didn't we split it so that there is West Main and also the industrial park?"

Assistant City Manager/Zoning Administrator Kelly Passauer replied; "Yes"

Commissioner Caflisch stated; "So we have handled some ways that can get tax abatement to an industry, but we still have our economic development money that we could look at distributing other ways to get financial assistance to attract businesses. I think you would use some of those to off-set the paving, but still there are some areas in industrial, plant or development that, pipe yards, material, steel storage yards that I would see exempt from paving but when you look at actual vehicular traffic, I still think..."

Assistant City Manager/Zoning Administrator Kelly Passauer replied; "I think those are already exempt. It's the actual parking area"

Commissioner Caflisch stated; "Yeah, I thought we had something about pipe storage, but the alleys as you mentioned, the graveled alleys are a maintenance problem for us, but you look at the effect in the street how much gravel washes out in every rain out into the street, that becomes our problem and it increases our cost of maintenance and in operations. That is why I am hesitant to allow parking areas to be excluded from hard surface, or to allow a gravel surface."

Planning Commissioner Philipp Umlauf stated; "That was actually one of the requirements in there was to design your lot in such a fashion that it negates that gravel run off into the street, and also having that hardscaped surface service drive is another barrier point to keep that from meeting our streets. I kind of feel like we've hit this impasse and we . . . now we are talking incentives and abatements verses cost savings. But all those incentives and all those abatements are more cost to the City and this is something that could be a cost savings to an industry or a business that has really no cost to the City or the county or state. This is simple economics, as opposed to macroeconomics here."

Planning Commissioner Andy McLenon stated; "So a couple of thoughts are rolling through my head here, based on what I've heard, I appreciate your comments Leonhard on the tax incentives, but I think and I also understand from Craig's point that there is as much art as there is to science on business recruitment and retention. At the end of the

day every City is offering very similar incentives as far as tax incentives, so what are we doing to differentiate ourselves to even be on the map is kind of the thought process too. The other thing I am thinking that we talked about as a group here I believe was although I'd like to be a dreamer and think we could land a Fortune 500 company, I'm also pretty realistic on the model that we have developed whether intentional or unintentional over the last several year of bootstrapping entrepreneurship coming out of the college through the Fab Lab, through returners, so on and so forth, the budgets that I would suspect, the capital outlays that I would suspect that those companies have to start with are in the tune of several hundred thousand dollars to get a business up and running, verses a multimillion dollar backing. Just on the simple math we did earlier on a 10,000 square foot parking lot at \$60,000 if your budget is half of million dollars, 10% of it just goes to parking, that doesn't even go to permitting and structure and hiring and IT and services and all that type of stuff, setting up for a new facility. With our strategy we've employed in the last several years is that we would rather have lots of little eggs, verses one big eggs in a basket. I see this parking lot as giving flexibility to attract more littler eggs, that maybe someday would grow up to be a great big egg for us, and then we could have that conversation. The variance structure, although I like it, and I like the flexibility to it, I'm afraid from a site selection standpoint a company doesn't get through the funnel far enough for a site selection model to even have that opportunity to even offer up that there is a variance. We are probably eliminated before we even know we were on the short list so to speak. So those are some of the thoughts that were coming through in the conversation we had as a group. I think we have reached a consensus that the temporary expansion, if you have a hard surface going to gravel makes a lot of sense, so if Hackney wants to take on some new business, but you know what, it looks like it's a cyclical feature that's going to be around for eighteen months and they need to bring on another dozen people per shift and they don't have parking, throw out the gravel let's get it on and let's get that going, let's get the jobs, let's get the revenue streams that are generated by that because there is the taxation on the backside that would help offset some of these incremental costs that we have been discussing of water runoff and road cleaning for gravel and that kind of stuff. The stance we have taken is that we have had this model in place for a number of years, we have had some victories, but could we get some more victories by adding some additional flexibility. And if it doesn't work we can revisit it and you know in forty-eight months and go back to the old way. So it is, that was some of the conversation we had as well. That is a lot I just puked out there in two minutes but there it is. I totally get from a beautification standpoint and from cleanliness, I get it, I do get it. But I also have seen the feedback from the community, in their survey that we took earlier last year, you know, jobs, jobs, jobs. People want to come back to Independence, we hear it every year at Neewollah, but I don't have anything to do. So here is another opportunity to say come back and start your own gig, we are going to be a low cost solution to start your own business and we are going to try to make it happen. I would much rather tell them that then, 'Yeah, Mercy closed, that sucks. Amazon left, that's too bad', you know, 'Come back and start your own business, we're going to make it a capital friendly as we possibly can, and maybe we have to settle on having a gravel parking lot with chloride on it for awhile, until they get big. Then we have to keep them from moving to San Diego.'

Mayor Ysusi stated; "So that gives a company that's coming in some flexibility, so they are not paying that out on the initial start up cost. Gives them a little time frame to see how this is going to progress, and either it will or it won't in that timeframe, and if it does then at that point they know what the stipulations are and . . ."

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Commissioner Caflisch stated; "There are no, once they build a building or they buy an existing they never have to pave it, only if they are expanding a temporary parking area. If they are expanding an existing"

Mayor Ysusi stated; "Or new."

Commissioner Caflisch stated; "No"

Assistant City Manager/Zoning Administrator stated; "Expanding an existing hard surfaced area temporarily is the two year."

Commissioner Caflisch stated; "That is the two year limit. If they build a new facility, and it goes gravel they never have to pave it. The two year was only on an existing paved, that you have two years to use it as gravel, then you either remove it or pave it."

Mayor stated; "Okay".

Brent Littleton asked if he could say something; "I didn't sign up, but I should have, but this is ironic this is about parking lots."

Commissioner Hogsett stated that he had to come up to the microphone.

Brent Littleton stated; "I think what they are trying to help too, if you think like Murphy Oil out there and the funeral home where they do the sandblasting and stuff, when you go into those businesses there are driveways, and when you want to go into the lobby to plan a funeral it is asphalt, whatever it is. And the same way at Murphy's place. And I don't know if they are out in the county so it doesn't apply to them, but if you think about what they are doing if you go around their buildings it is gravel, you know they pull in and back up and unload tombstones or whatever they are doing. They don't drive on asphalt. As a matter of fact asphalt is a very, when you have big vehicles like US Food Trucks, I know driving on blacktop, man your sealant, and you are fixing cracks and stuff like that all the time, so that is cost prohibitive too unless they can afford concrete. And like Sonic's new concrete, that is \$150,000 probably worth of concrete and I guarantee it is in that neck of the woods. That drive through lane we put around Dairy Queen, I just put a concrete drive through lane around there and it was \$26,000. Because it is cheaper to go ahead and spend it now while the constructions down, then for me to always have to go through there and fix that black top because cars are constantly turning. So I shared this with Kelly the other day, but Lou Holtz one time said, 'It is never a good time to make a bad decision, but it is always a good time to make the right decision.' So whatever you all think the variance needs to be, you all need to put it in place and help them because they can keep answering these questions and keep coming back and forth and this could go on for a year, you know. But just realize if you've got to worry about drainage going to the road, there has to be a driveway there, and if they have a customer entrance it needs to be hard surfaced, but if it's around a building where they are getting deliveries and trucks and some employees are parking back there, there ought to be some variances on that and it ought not to be real complicated. Anyway, that is all I have to say."

The Mayor thanked Brent Littleton for his comments.

City Attorney Jeff Chubb stated; "I don't have a vote. You have required hard surface, not require hard surface, there's probably room to compromise, like Brent said, maybe a

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hard surface where retail customers might be required to park as opposed to employee's parking, or phase in the hard surface over a period of time so that it is not an upfront cost prohibitive thing for new business. There are a lot of areas you could compromise on."

Mayor Ysusi stated; "And still get the desired effect that you want in the long term over a period of time, yeah."

Commissioner Philipp Umlauf stated; "In the spirit of that, you know a visitors/ADA parking area that is hard surfaced is something I wholeheartedly agree with, and some of us argued back on forth about that on that zoning side."

Commissioner Hogsett joked; "Was it Michelle that argued the most? I bet it was."

Planning Commissioner Philipp Umlauf stated; "Not at all. But I see that being something that kind of fits this mold which is if the employee parking is out of site, and the visitor/ADA parking is on the forefront then you have maintained that beautification, reduced cost, that visitor and ADA parking area might be for a small business like Andy was saying that has a half million dollar budget that might be four spots, they might only need two ADA's and two visitors, but still allows them to adhere to some of the beautification requests that we have as well as saying 'alright, all my employees park back here' and ..."

Commissioner Hogsett stated that he agreed and that is very common, stating; "In my job I do consulting for manufacturing firms and whether it is in Kansas City or Salina, you drive in on an asphalt drive and there is parking there for visitors, but you go around the back side, the side of the building and the back is generally not paved, where the heavy equipment is running and all."

Mayor Ysusi agreed, stating that; "All the facilities that he has been involved in the hard surface parking was up front for visitors, customers and ADA, but once you initially go through the initial parking lot everything behind the building was gravel because you've got your heavy trucks unloading poles, pad mount transformers, it was just a gravel surface, and it was a huge area and every facility I've ever visited with Westar that is how it was maintained. They met the letter of the law as far as ADA and the front of the building you want that to look nice when you drive in for the first impression, but once you got past that initial driveway everything behind the building was gravel. And it's just been like that, even at our building out here east of town, with all our heavy trucks, that whole parking lot if concrete and storage area, but when we've had extra equipment brought in that we didn't have room to park on the concrete we have just went out to grassy area and laid rock, laid gravel out so we could put in pole trailers, two or three extra pole trailers that we had accumulated and we didn't put a hard surface there because they are not going to get any traffic, it is just basically to sit a piece of equipment there that is not sitting in grass we have to mow around and it gave us an easy way to drop off equipment like that on a site without it being paved, so even we found a way to work around that. So I'm more inclined to find a way to make a compromise here where we can accommodate what you are bringing to us, and some concerns that we have and we always have the ability down the road, whoever is sitting here, if they want to go back and revisit that and make some changes that does gives us the advantage and ability to do that if that doesn't seem to meet the intended purpose that we want, we can go back and revisit that and then come up with something different. But on this strategic planning, and I hear this all the time, people that would like to come

back and there is not a job here for me, not with my education and my background, there is not a job I could come back to Independence and work. I'm familiar with Chanute and McPherson, some of the advantages they have, they run their own utilities, they have more staffing, they have the ability to do that because they are making money by having their own municipality, they provide their own power. So yeah, they can have a lot more staffing, they can do a lot of things and offer an attractive rate for a business coming in. As a matter of fact, I'm familiar with Chanute they had an abandoned building that was a previous manufacturing tenant that had left, and they worked out a very reasonable fair price with an industry coming in and sold them that building. But I guarantee you they also offered them a pretty sweet deal on their electric rates too. They have other incentives they can offer that gives them a leg up on us that do not have that ability. Monet, Missouri buys wholesale power and they sell it to their commercial, industrial and residential base and they are generating 16-18 million dollars per year, and they are using that to build infrastructure in Monet. They are buying it on the wholesale market and then reselling it, selling it for a price. There are so many different other incentives out there that all these communities have to offer and they all play a hand in this. You know your tax abatements for how many years, all of these things play into that. I think we need to figure out some way to accommodate what you are asking us to do, and some of the concerns that we have and move forward on that. And we can always revisit it down the road, I don't want to be like the federal government where they make a hard-fast rule and you comply, and it always the citizens comply, but the federal government gets to do what they want to do because they are the federal government. So, that's my concerns on this."

Commissioner Caflisch stated; "The hard part is setting up an ordinance or any code that is applicable in every situation, and you've got to look at what the intent of what the requirement is, what was the general, in this case what was perceived as a benefit of paved parking, what were you trying to accomplish with a paved surface. You look at this, we are concerned about a small business, so a small business has a bigger financial impact, but if you start looking at ADA spots, or visitor spots you are down to a smaller area that it might be cheaper just to pave everything, but you know when you are looking at a large manufacturing plant that has 100 cars you have a difference condition, if you've got a business or industry that has high truck traffic coming in that that is mainly their job is distribution with multi-axle vehicles and heavy weight, then you've got different requirements you are generating, different dust conditions and you are limited on how effective the calcium chloride is because of all the traffic that keeps stirring and breaking down the surface, so what you guys and we are doing is not an easy task, any time. Because we are trying to establish something for the betterment of the community to give us direction, and we are trying to look at every case under the sun that we are going to encounter and make one blanket that is going to be applicable for everyone, and we can't do it. That's where variances come in and you know, the best attempt that we can make, and we go with it. Because there is always, I guess from my past I've always had to deal with these conditions. I've always had code restrictions, zoning issues, that it is just part of doing business, so we have to look at investing and the cost and operate within that. So, you know it kind of gives me a different perspective when I look at it, but it is something that is quite difficult, and the Planning and Zoning Commission has a difficult task. I do appreciate all your time that you are trying to look at so much and the list to go through, signage, attention, getting signage, downtown signage, and now you know throwing in tiny houses and recreational vehicles that people that are going to live in, you know this is times of change that we have to consider that. I appreciate each of you, the time that you have put into this and tolerated listening to our opinions, and I appreciate you sharing your opinions too, but you know

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thank you for being willing to sit in that chair and make these decisions.”

Mayor Ysusi stated; “I agree, this is a little different for me because this is the first time I have had to sit in and go through a process like this. Where my background is I’ve always been in a position to where you could sit down and you could hammer something out, and you would come to a compromise that maybe wasn’t, neither side was completely happy with, but it was something that you could both live with. You know, I come from a union side where we would negotiate with the company, there were certain things we would like to see, certain things the company would like to see, and the bottom line was that we would give up something to get something. So for me, this is quite different, because this is not. The process does not always work out that way. So for me this is different and I am really listening to what Gary and Leonhard are saying because they have a lot of experience, he’s worked with regulations being an architect and his design work, and Gary the same way, he’s served on a Commission or Council previously from here. So I am drawing my information listening to these two gentlemen because this is something that is foreign to me, so I’m going to depend on both of you and I will continue on the meetings that we have for you input and what your thinking is on a lot of different issues, because we collectively decide as a unit. It is helping me understand what it is we are trying to do. Anything else?”

Commissioner Caflisch replied; “Yes.”

Assistant City Manager/Zoning Administrator Kelly Passauer stated; “Doing it as a variance can be problematic because, as Philipp mentioned to, they have those people before them, and it’s going to be hard. You’re going to make all these people come before them, it’s going to be hard for them to deny that variance. And the variances before the Board of Zoning Appeals do not come to the Commission, they go to the district court if they are appealed. It’s kind of like, dealing with something on a case by case basis means you have no policy. So, you know you want a policy you can apply consistently to everyone so you don’t have this issue ‘well this guy can do it, but this guy can’t do it’ because you will get into that. And, that is why I think it is better to have clear expectations, whether the front of the building has be paved for visitor or ADA or maybe the back if it is screened can be gravel for employees, or maybe you say if the parking lot is X size it doesn’t have to be, and behind the building if it is larger. I mean there are different things you could look at, but I get a little worried about saying doing the variance thing and then no offense to you Leonhard, I don’t mean that at all, it’s just sitting in those meetings for years where people come for variances. It’s hard for this board to tell somebody ‘No, you can’t do that.’ So it puts them in a bad position, and I think it’s better if you have clear cut regulations or rules that are clear so that that can be applied, and then if that doesn’t work you change the code, not say ‘Oh, just go request a variance.’”

Commissioner Caflisch stated; “Yeah, variances are minimally used unless extreme hardship.”

Assistant City Manager/Zoning Administrator stated; “We get a lot of them on setbacks and things like that.”

Commissioner Caflisch stated; “Yeah, because then you start getting into, because this company is a friend of mine, or this person is a friend, I’m going to give them a variance and it is like, and even the same with rezoning of property that it is not applicable to the area, but it’s a good buy or good gift so we will rezone just because we will want to help

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you out.”

Assistant City Manager/zoning Administrator stated; “Or this company comes in and says, ‘Well if we don’t get this variance we are not coming to your town, so what position does that put them in.’”

Commissioner Caflisch stated; “You can’t be so lax that you have no control.”

Assistant City Manager/ Zoning Administrator stated; “Right, that’s why my opinion as Zoning Administrator it makes it a lot easier for the people sitting on this board and for staff to administer if we have clear cut guidelines that we can follow. And yeah, there could be variance on some things, but usually a variance is when you are going to deviate a small amount, like okay, I’m building this and instead of a ten foot setback, I need to encroach on that reduce that a couple of feet or something and we do that all the time and it’s not. They look at that, but somebody going from not having to follow the hard surface requirement, that is something that is a lot bigger impact and I’m concerns it’s going to put our Board of Zoning Appeals in a bad position.”

Commissioner Caflisch stated; “That’s why you just stay, pave everything.”

Assistant City Manager/ Zoning Administrator stated; “And that is certainly up to you. I will say on the equipment, like you said, of course Westar is not in the City but say that they were, any equipment that is owned all under one ownership of that company currently that is exempt from the hard surface requirement now. So if somebody, if it is their equipment or whatever that they are parking there, it doesn’t have to be hard surfaced, but employee parking is where it comes into, or visitor parking or whatever, but it does not apply to equipment parking now. They do not have to hard surface where they store vehicles all under one ownership, that is already an exception.”

The Mayor stated; “Well, we sure don’t want to put these folks in a bad position, and the variance that would be, wouldn’t be the rules it would be an extreme exception that you would make, it wouldn’t be something you could continually fall back on and then you get to the point that you both have made that now you are picking and choosing who gets one and who doesn’t.”

Assistant City Manager/ Zoning Administrator stated; “Once you make that first one, you have basically set precedence.”

Commissioner Caflisch stated; “And because I can’t afford it isn’t an excuse for a variance.”

Assistant City Manager/ Zoning Administrator stated; “But I will guarantee you that they will say that is the hardship, ‘then we are not coming to your town’, that is what they will tell the board.”

Commissioner Caflisch stated; “But a financial is not a hardship.”

City Attorney Jeff Chubb stated; “That is correct because under the variance City code section 2-116 there are five specific factors that all five must be met before the variance can be granted and the problem is that you go to any board, there is a lot of subjectivity that shouldn’t come into play, but always does, but one of the factors is ‘The situation cannot be created by the action of the property owner or applicant.’ And the decision to

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hard pavement to gravel that is 100% under the control of the applicant.”

Assistant City Manager/ Zoning Administrator stated; “Yes, so they wouldn’t be able to even apply for a variance.”

City Attorney Jeff Chubb stated; “The board may grant it, but then actually the City could appeal and probably get it overturned in district court, so that’s kind of a time waster there. The variance would not be a good way to go”

Mayor Ysusi stated that he had a better understanding after listening to all the comments.

Assistant City Manager/ Zoning Administrator asked the Mayor; “Are you wanting the Planning Commission to go back and revisit this and make another modification and bring it back? I think they need some direction.”

City Attorney Jeff Chubb stated; “As of right now, the way the State statute goes back and forth, it is in their court, and they have taken no action. They can’t take action tonight.”

Assistant City Manager/ Zoning Administrator asked the Mayor; “So put it back on the next Commission agenda and then they can determine if they want to...”

City Attorney Jeff Chubb stated; “...they can make a decision, or they can remand it”

Mayor Ysusi stated to place it on the next agenda, further stating that; “This is just a worksession so there is no decision making during the session, so let’s do that. Thank you for your input, it is a huge learning process for me. And I’m sure it is for some of you that are first time members on Planning and Zoning. Let’s put it on the agenda for the 24th and we will take it up at that time.”

Assistant City Manager/ Zoning Administrator asked the Mayor; “And they are all invited to attend that meeting.”

Commissioner Hogsett stated; “Yeah, they are riveting you will want to be there.”

C. Discussion with the Planning Commission of possible future directives or additional topics for the Planning Commission to review.

Assistant City Manager/ Zoning Administrator stated; “The Planning Commission does recommend, as we review the Comprehensive Plan every year, and every year they have recommended that that be included in future budgets.”

Commissioner Caflisch stated that he just found on his bookcase a Comprehensive Plan and started looking through it. He further stated; “That it might be beneficial to read the Comprehensive Plan and be prepared. There is something interesting under housing it actually said there were I think 36 or 38 that needed immediate condemnation, or being razed, and there was an initial 53 it would be interesting to see if we ever did address those that needed to be razed.

Commissioner Hogsett asked when it was written.

Commissioner Caflisch stated it was written in 1981 and Assistant City Manager/

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Zoning Administrator said it was adopted in 1982.

Commissioner Caflisch stated that it helped me to know what we have got. He further asked who initiated the neighborhood revitalization plan, and Assistant City Manager/ Zoning Administrator stated it was done by City Commission, she further stated that staff will be bringing that to the Commission.

The Mayor asked if there were any other items that needed to be brought up, at which time there was none.

III. ADJOURNMENT

A. Adjournment by the City Commission.

Motion:

Commissioner Caflisch moved to adjourn. Commissioner Hogsett seconded the motion.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

1. Adjournment by the Planning Commission

Motion:

Planning Commissioner Umlauf moved to adjourn. Planning Commissioner Andy McLenon seconded the motion.

**Aye: Meier, McLenon, Hardy, Beecham, Emert, McBride, Umlauf,
Anderson**

Nay: None

Louis Ysusi, Mayor

Leonhard Caflisch, Commissioner

Gary Hogsett, Commissioner

Mary Jo Meier, Planning Commission Vice Chair

Andy McLenon, Planning Commission Secretary

Attest:

Kelly C. Passauer
Assistant City Manager/Zoning Administrator



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
December 13, 2018

Department Administration

Director Approval Kelly Passauer

AGENDA ITEM Consider modified recommendation from the Planning Commission to adopt an ordinance implementing text amendments to the Code of the City of Independence, Kansas, specifically Appendix B – Zoning Code relating to Off-street parking requirements.

SUMMARY RECOMMENDATION Approve Planning Commission recommendation.

BACKGROUND Regarding the text amendment for off-street parking (gravel in industrial areas) the following timeline has occurred:

- The original public hearing was July 2, 2018 -- The Planning Commission adjourned to October 2, 2018
- On October 2, 2018 the Planning Commission made a recommendation to the City Commission to modify the language, adding additional definitions related to ADA requirements and gravel, and modified the design requirements in the off-street parking regulations to allow gravel meeting certain specifications in M-1 and M-2 (industrial) districts.
- On November 5, 2018 the City Commission tabled action and returned this item back to the Planning Commission for clarification on specific elements of the original recommendation and provided suggestions.
- On December 4, 2018 the Planning Commission reviewed and responded to the feedback from the City Commission and modified their original recommendation. Their responses to the Commission's questions and their modified recommendation is attached.

BUDGET IMPACT The future budget impact would consist of the economic benefits of encouraging expansion of our industrial areas by allowing alternatives to hard surfacing.

SUGGESTED MOTION I move to adopt an ordinance implementing text amendments to the Code of the City of Independence, Kansas, specifically Appendix B – Zoning Code relating to Off-street parking requirements as recommended by the Planning Commission.

SUPPORTING DOCUMENTS

1. December 4, 2018 Planning Commission responses and recommendation.
2. Modified proposed ordinance.

Planning Commission Recommendations

Yellow with Black Lettering Indicates Modifications Recommended on October 2, 2018
Yellow with Green Lettering Indicates Modifications Recommended on December 4, 2018

Feedback from November 5, 2018 City Commission Meeting

- They want to know the initial intent and purpose of the text amendment.
- They want to know if it will attract new businesses.
- 12/04/2018 Response from the Planning Commission:
 - To make the City more attractive, to recruit new businesses to the City and to enable flexibility for existing businesses to expand their parking area if need be for growth in alignment with the Economic Development Strategic Directive No 1 of the Community Based Strategic Plan.
- They had the following concerns:
 - The appearance of large gravel parking lots.
 - Gravel running off in heavy rains.
 - Ability to adequately mark ADA spots.
- 12/04/2018 Response from the Planning Commission:
 - Non-ADA off-street parking areas shall be graded, paved or otherwise improved with an all-weather, dustless material that is contained in such a manner as to not allow surface material to wash off during heavy rains, and so drained as to avoid flow of water across sidewalks. ADA compliant parking and accessible paths to an entrance to the facility served by off-street parking shall be hard-surfaced.
- They provided the following suggestions:
 - Limiting the size of gravel parking lots to a maximum number of spaces.
 - Continue to require new buildings or new industries to hard surface required off-street parking to City code standards but allow existing industries that already have a gravel parking lot that is grandfathered in (a non-conforming use) to expand (enlarge) their existing gravel parking lot.
 - However, if they have an existing hard-surfaced parking lot any expansion (enlargement) would have to be hard surfaced.
- 12/04/2018 Response from the Planning Commission:
 - They unanimously approved a motion to not limit the size of non-hard surface parking lots to a maximum number of spaces, nor require new businesses or industries to hard surface, or business expansions to hard surface.
The exceptions to this would be:

Planning Commission Recommendations

Yellow with Black Lettering Indicates Modifications Recommended on October 2, 2018
Yellow with Green Lettering Indicates Modifications Recommended on December 4, 2018

- If the business has an existing hard surface parking area, they cannot remove it and replace it with a non-hard surface material.
- If a business expands an existing hard surfaced parking area, they may do so with non-hard surface material for a period of up to two years, after that the expanded parking area must be removed or hard surfaced.

December 4, 2018 Recommended Modifications from the Planning Commission

• **ARTICLE IV. – RULES AND DEFINITIONS**

○ **403.0. – Definitions.**

- **ADA:** The Americans with Disabilities Act of 1990 and any subsequent revisions and updates as administered by the United States Department of Justice.
- **Gravel:** Any use of the term gravel shall be defined as crushed stone, AB3, or any other rock that is ADA compliant for the use of off-street parking materials compacted enough to be compliant with ADA guidelines for levelness, materials, and accessibility.
- **Parking space, off-street:** A permanently surfaced dust free area (concrete, asphaltic concrete, or other comparable surface), located on property other than a public street, enclosed or unenclosed, to store one automobile, to which an automobile has direct access from a permanently surfaced drive. Such parking space shall meet the minimum "off-street parking standards" contained in article VII of this ordinance. (See also Exceptions to Section 705.1 of the Code, Gravel, and Vehicle storage lots and M-1 and M-2 districts.

• **ARTICLE VII. – OFF-STREET PARKING AND LOADING REGULATIONS**

○ **705.0. - Design requirements.**

- **705.1 Surface material:** Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.
 - **Exceptions:**
 - Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.

Planning Commission Recommendations

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Yellow with Green Lettering Indicates Modifications Recommended on December 4, 2018

- In M-1 and M-2 districts gravel may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for off-street parking and the required accessible path to an entrance to the facility served by such off-street parking. Such gravel shall be compliant with ADA guidelines, including, but not limited to materials, levelness, compaction and accessibility; maintained adequately for all weather use; and so drained as to avoid flow of water across sidewalks. In M-1 and M-2 districts other material may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for non-ADA off-street parking spaces for new parking areas and expansion of non-hard surfaced parking areas that are grandfathered in. If a business currently has a hard-surfaced parking lot, and needs to expand that parking area, they can expand it using a non-hard surfaced parking material for up to 2 years, at which time they will need to hard surface the expanded parking area [meeting the surface material requirements of 705.1] or remove the expanded parking area.
- The exceptions only apply to new or expanded parking areas and do not allow for the removal and replacement of existing concrete, asphalt concrete, or asphalt double-sealed surfaces with other material.
- The exceptions shall meet the following requirements:
 - Non-ADA off-street parking areas shall be graded, paved or otherwise improved with an all-weather, dustless material that is contained in such a manner as to not allow surface material to wash off during heavy rains, and so

Planning Commission Recommendations

Yellow with Black Lettering Indicates Modifications Recommended on October 2, 2018
Yellow with Green Lettering Indicates Modifications Recommended on December 4, 2018

- drained as to avoid flow of water across sidewalks.
 - ADA compliant parking and accessible paths to an entrance to the facility served by off-street parking shall be hard-surfaced.
 - 705.4. *Service drives:*
 - c. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.
 - ~~Exception: In M-1 and M-2 districts gravel may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for service drives and the required accessible path to an entrance to the facility served by such service drive. Such gravel shall be compliant with ADA guidelines, including, but not limited to materials, levelness, compaction and accessibility; maintained adequately for all-weather use; and so drained as to avoid flow of water across sidewalks.~~
 - 705.5. *Minimum parking space dimensions:*
 - a. If 90-degree parking space,
 - stall depth—19' 0"
 - stall width—9' 0"
 - aisle width—25' 0"
 - b. If 60-degree parking space,
 - stall depth—19' 0"
 - stall width—9' 0"
 - aisle width—18' 6"
 - c. If 45-degree parking space,
 - stall depth—19' 6"
 - stall width—9' 0"
 - aisle width—13' 6"
 - d. If 30-degree parking space,
 - stall depth—19' 0"
 - stall width—9' 0"
 - aisle width—11' 0"
 - e. If parallel parking space,

Planning Commission Recommendations

Yellow with Black Lettering Indicates Modifications Recommended on October 2, 2018
Yellow with Green Lettering Indicates Modifications Recommended on December 4, 2018

stall depth—8' 0"

curb length—23' 0"

aisle width—12' 0", or if adjacent to angle parking, use largest width

- f. If 90-degree ADA car accessible space,
 - stall depth—19' 0"
 - stall width —9' 0" with 5' 0" access aisle
 - aisle width—25' 0"
- g. If 90-degree ADA van accessible parking space,
 - stall depth—19' 0"
 - stall width—11' 0" with 5' 0" access aisle
 - Vertical clearance – 8' 2"
 - aisle width—25' 0"

- **705.6. Striping required:** Open parking spaces for dwellings (containing three or more dwelling units) shall be delineated by pavement striping and must meet minimal parking stall sizes as described above in section 705.5.
 - **Exceptions:**
 1. Open parking spaces for one- and two-family dwellings.
 2. Gravel parking lots meeting an exception in 705.1, except for markings and identifying signage for any required ADA accessible stalls.
- **705.7. ADA Accessibility:**
 - a. All off-street parking lots or garages shall meet the minimum number of accessible parking spaces as required by the ADA.
 - b. Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance.
 - c. Accessible parking spaces shall have markings and identifying signage as required by the ADA.
 - Exception: Open parking spaces for one- and two-family dwellings.

ORDINANCE NO. _____

**An Ordinance Implementing
Text Amendments to the Zoning Code
Relating to Off Street Parking Requirements**

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. The following portions of Article IV and Article VII of the Zoning Code are amended to read as set out hereafter. All remaining portions of Article IV and Article VII shall remain as currently stated.

ARTICLE IV. - RULES AND DEFINITIONS

403.0. - Definitions.

ADA: The Americans with Disabilities Act of 1990 and any subsequent revisions and updates as administered by the United States Department of Justice.

Parking space, off-street: A permanently surfaced dust free area (concrete, asphaltic concrete, or other comparable surface), located on property other than a public street, enclosed or unenclosed, to store one automobile, to which an automobile has direct access from a permanently surfaced drive. Such parking space shall meet the minimum "off-street parking standards" contained in article VII of this ordinance. (See also Exceptions to Section 705.1 of the Code, *Vehicle storage lots, and M-1 and M-2 districts*).

ARTICLE VII. - OFF-STREET PARKING AND LOADING REGULATIONS

705.0. - Design requirements.

705.1 Surface material: Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.

Exceptions:

Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.

In M-1 and M-2 districts other material may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for non-ADA off-street parking spaces for new parking areas and expansion of non-hard surfaced parking areas that are grandfathered in. If a business currently has a hard-surfaced parking lot, and needs to expand that parking area, they can expand it using a non-hard surfaced parking material for up to 2 years, at which time they will need to hard surface the expanded parking area [meeting the surface material requirements of 705.1] or remove the expanded parking area.

The exceptions only apply to new or expanded parking areas and do not allow for the removal and replacement of existing concrete, asphalt concrete, or asphalt double-sealed surfaces with other material.

The exceptions shall meet the following requirements:

Non-ADA off-street parking areas shall be graded, paved or otherwise improved with an all-weather, dustless material that is contained in such a manner as to not allow surface material to wash off during heavy rains, and so drained as to avoid flow of water across sidewalks.

ADA compliant parking and accessible paths to an entrance to the facility served by off-street parking shall be hard-surfaced.

705.5. Minimum parking space dimensions:

- f. If 90-degree ADA car accessible space,
stall depth-19' 0"
stall width -9' 0" with 5' 0" access aisle
aisle width-25' 0"
- g. If 90-degree ADA van accessible parking space,
stall depth-19' 0"
stall width-11' 0" with 5' 0" access aisle
Vertical clearance - 8' 2"
aisle width-25' 0"

705.6. Striping required: Parking spaces for dwellings shall be delineated by pavement striping and must meet minimal parking stall sizes as described above in section 705.5.

Exceptions:

Open parking spaces for one- and two-family dwelling units.

Parking lots meeting an exception in 705.1, except for markings and identifying signage for any required ADA accessible stalls.

705.7. ADA Accessibility:

a. All off-street parking lots or garages shall meet the minimum number of accessible parking spaces as required by the ADA.

b. Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance.

c. Accessible parking spaces shall have markings and identifying signage as required by the ADA.

Exception: Open parking spaces for one- and two-family dwelling units.

Section 2. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 13th day of December, 2018.

LEONHARD CAFLISCH, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk

The Independence City Commission met for a regular meeting on January 24, 2019 at 5:30 P.M. in the Veterans Room at the Memorial Hall. Mayor Louis Ysusi, Commissioner Leonhard Caflisch, and Commissioner Gary Hogsett were present. Others present included:

City Staff

Craig Whitehead, City Manager
Jeff Chubb, City Attorney
Kelly Passauer, Assistant City Manager/Zoning Administrator
David Schwenker, City Clerk/City Treasurer
David Cowan, Director of Safety/ADA Coordinator
Shawn Wallis, Fire/EMS Chief
Michael Borovetz, Finance Director
Terry Lybarger, Director of Utilities
Mike Passauer, Public Works Director
Barb Beurskens, Park and Zoo Director
Barry Beurskens, Maintenance
Brian McHugh, Memorial Hall Supervisor
April Nutt, Director of Housing Authority

Visitors

Ellie Davis
Robert Meadows
Jerry Bright
Blake Escritt
Leslie Fox
Rowan Fox
Judy Ysusi
Charlotte Muse
Michelle Anderson
Larry Kaiser
Jake Dye
Michelle Driscoll
Calvin Simmons
Dean Hayse
Brent Littleton
Shawn Turner
Larry McHugh
Drew Demo

I. REGULAR SESSION

- A. Call to Order
Mayor Ysusi called the meeting to order at 5:30 P.M.
- B. Pledge of Allegiance to the United States of America
- C. Adoption of Agenda

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch the Commission adopted the agenda.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

II. APPOINTMENTS

A. Planning Commission

1. Two terms expired (one inside City limits, and one outside City limits within 3 miles)

Motion:

On the motion of Mayor Ysusi, seconded by Commissioner Caflisch the Commission approved the appointment of Brent Littleton for one of two open positions on the Planning Commission/Board of Zoning Appeals.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

B. Tree Board

1. Two existing terms expired
2. Two new terms created due to the board increasing from 5-7 members

Motion:

On the motion of Mayor Ysusi, seconded by Commissioner Hogsett the Commission approved the appointment of Twila Hawthorne for one of two open positions on the Tree Board.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

III. COMMON CONSENT AGENDA

(*Consent* is that class of Commission action that requires no further discussion or which is routine in nature. All items on the Consent Agenda are adopted by a single motion unless removed from the Consent Agenda.) LC/Gary

A. Appropriations

1. A-1831
2. P-1801

B. Consider approving minutes of the December 27, 2018, December 31, 2018 and January 10, 2019 City Commission Meetings.

C. Consider approving corrected minutes of the February 9, 2017 City Commission Meeting.

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett the Commission adopted the consent agenda.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

IV. PUBLIC HEARINGS

- A. Public hearing to consider condemnation of 215 Earl Street as dangerous and unsafe.

The public hearing was opened. Building Inspector Don Cushing stated that he had numerous complaints about the property, and he recommends proceeding with condemnation. The public hearing was closed.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch the Commission condemned the structure located at 215 Earl Street as dangerous and unsafe.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

- B. Public Hearing to consider condemnation of 417 S. 6th Street as dangerous and unsafe.

The public hearing was opened. Building Inspector Don Cushing stated that he has not had any contact with the owner of the property since the last meeting and he recommends proceeding with condemnation. The public hearing was closed.

Mayor Ysusi asked if they previously said they were going to repair it. The Building Inspector said it is his understanding they are purchasing another home.

Commissioner Caflisch asked if the structure has been shored up and secured, that he is hesitant to condemn. The building Inspector said that it is only temporary bracing and not permanently repaired. Commissioner Caflisch said that the temporary shoring should be sufficient to carry the load and that he was hesitant to proceed with condemnation because it is a safe structure. The Building Inspector stated that he had no issues if the Commission wanted to adjourn for 30 to 60 days

Commissioner Hogsett agreed that 30 days would be enough time.

Commissioner Caflisch stated that since the property owner did respond as soon as the problem developed and did satisfactorily support the structure that he did not see the urgency to have it removed.

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett the Commission adjourned the public hearing for 417 S. 6th Street to 5:30 P.M. on February 28, 2019.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

- C. Public Hearing to consider condemnation of 905 W. Sycamore as dangerous and unsafe.

The public hearing was opened. Building Inspector Don Cushing stated that the owner is trying to finalize this structure and he recommends adjourning for 60 days. The public hearing was closed.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch the Commission adjourned the public hearing for 905 W. Sycamore to 5:30 P.M. on March 28, 2019.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

- D. Public Hearing to consider condemnation of 1701 N. 10th Street, Building #4 as dangerous and unsafe.

The public hearing was opened. Building inspector Don Cushing stated that he met with the leaders of the apartment complex and the estimates are with the USDA rural development. Due to the Federal government shutdown that process is now on hold. The Building Inspector recommends adjourning for 60 days. The public hearing was closed.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch the Commission adjourned the public hearing for 1701 N 10th Street, Building #4 to 5:30 P.M. on March 28, 2019.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

V. ITEMS FOR COMMISSION ACTION

- A. Consider modified recommendation from the Planning Commission to adopt an ordinance implementing text amendments to the Code of the City of Independence, Kansas, specifically Appendix B – Zoning Code relating to Off-street parking requirements.

Assistant City Manager went through the following timeline:

- July 2, 2018 – Original public hearing was held, Planning Commission adjourned the hearing until October 2, 2018.
- October 2, 2018 -- The Planning Commission made a recommendation to the City Commission to modify the language, adding additional definitions related to ADA requirements and gravel, and modified the design requirements in the off-street parking regulations to allow gravel meeting certain specifications in M-1 and M-2 (industrial) districts.
- November 5, 2018 – The City Commission tabled action and returned this item back to the Planning Commission for clarification on specific elements of the original recommendation and provided suggestions.
- December 4, 2018 -- The Planning Commission reviewed and responded to the feedback from the City Commission and modified their original recommendation.
- December 13, 2018 – The City Commission reviewed the Planning Commission's modified recommendation and tabled action until after a joint Worksession with the Planning Commission.
- January 15, 2019 – The City Commission hosted a joint Worksession with the Planning Commission.

The Assistant City Manager then went through the discussion between the City Commission and Planning Commission regarding the proposed text amendments at the January 15th worksession as follows:

- No specific issues raised regarding the following modifications (modifications highlighted in yellow):

- **ARTICLE IV. – RULES AND DEFINITIONS**

- **403.0. – Definitions.**

- **ADA:** The Americans with Disabilities Act of 1990 and any subsequent revisions and updates as administered by the United States Department of Justice.
 - **Gravel:** Any use of the term gravel shall be defined as crushed stone, AB3, or any other rock that is ADA compliant for the use of off-street parking materials compacted enough to be compliant with ADA guidelines for levelness, materials, and accessibility.
 - **Parking space, off-street:** A permanently surfaced dust free area (concrete, asphaltic concrete, or other comparable surface), located on property other than a public street, enclosed or unenclosed, to store one automobile, to which an automobile has direct access from a permanently surfaced drive. Such parking space shall meet the minimum "off-street parking standards" contained in article VII of this ordinance. (See also Exceptions to Section 705.1 of the Code, Gravel, and Vehicle storage lots and M-1 and M-2 districts.

- **705.4. Service drives:**

- c. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.
 - **Exception:** In M-1 and M-2 districts gravel may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for service drives and the required accessible path to an entrance to the facility served by such service drive. Such gravel shall be compliant with ADA guidelines, including, but not limited to materials, levelness, compaction and accessibility; maintained adequately for all weather use; and so drained as to avoid flow of water across sidewalks.

- **705.5. Minimum parking space dimensions:**

- f. If 90-degree ADA car accessible space,
 - stall depth—19' 0"
 - stall width —9' 0" with 5' 0" access aisle
 - aisle width—25' 0"
 - g. If 90-degree ADA van accessible parking space,
 - stall depth—19' 0"
 - stall width—11' 0" with 5' 0" access aisle
 - Vertical clearance – 8' 2"
 - aisle width—25' 0"

- **705.6. Striping required:** Open Parking spaces for dwellings (containing three or more dwelling units) shall be delineated by pavement striping and must meet minimal parking stall sizes as described above in section 705.5.

- **Exceptions:**

- 1. Open parking spaces for one- and two-family dwellings.
 - 2. Gravel Parking lots meeting an exception in 705.1, except for

markings and identifying signage for any required ADA accessible stalls.

- 705.7. ADA Accessibility:

- All off-street parking lots or garages shall meet the minimum number of accessible parking spaces as required by the ADA.
- Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance.
- Accessible parking spaces shall have markings and identifying signage as required by the ADA.

Exception: Open parking spaces for one- and two-family dwellings.

- Concerns were raised regarding the following:

- 705.1 Surface material – added exception to:

- Allow materials other than hard surface for non-ADA parking.
- Allow expansion of non-hard surfaced parking areas that are grandfathered in.
 - Concerns were brought up on aesthetics, maintenance and enforcement.
 - Possible solutions were brought up that would require ADA and visitor parking to be paved and would require any areas that were not hard-surfaced to be behind the facility and screened. Also brought up was to consider limiting the size of the non-hardsurfaced parking.
- Allow expansion of hard surfaced parking area with non-hard surface for up to two years, then it must be hard surfaced or removed.
 - Concerns were brought up on how this would be enforced.
 - Possible solution was brought up by the City Attorney regarding daily fines until the parking lot is brought into compliance.
- Non-ADA off-street parking areas shall be *graded*, paved or otherwise improved with an all-weather, *dustless* material that is contained in such a manner as to not allow surface material to wash off during heavy rains, and so drained as to avoid flow of water across sidewalks.
 - Concerns were raised about being able to contain the gravel, and also the chemical utilized to maintain the dustless condition could cause clumped dust to be tracked into the facility and vehicles.
 - Possible solutions were brought up to require the ADA and visitors parking to be hard surfaced, and the employee parking would be screened and contained behind the building and any issues with the dustless requirement would be up to the business to address.

The Assistant City Manager then reviewed research from Chanute and McPherson:

- Chanute – Ryan Follmer – “Ours says must be an ‘improved surface’ but unfortunately does not define what an ‘improved surface’ is, so without a clear definition one could say that gravel is an “improved surface”. We are lucky enough that this has not become an issue in Chanute, might be a long shot but I would see if the state has regulations on newly constructed parking area’s being a surface that is impervious to oil’s and automotive fluids. Orizon annexed into the city limits.”

- McPherson – Code – “Surfacing: All open off-street parking spaces, whether required spaces or not, and driveways shall be graded and paved with an asphalt, asphaltic concrete, concrete or other comparable hard-surfaced, all weather, dustless material according to specifications of the City Engineer and shall be maintained in good condition, provided, however, **graveled parking areas are permitted in the industrial districts**. Driveways, parking spaces and display areas for all open sales or rental lots for motor vehicles, trailers, recreational vehicles and manufactured and mobile homes shall be paved or gravelled.”

The Assistant City Manager stated that she had visited with MCAC Executive Director, Trish Purdon who agreed that allowing non-dust generating porous surface areas for parking was reasonable.

The Assistant City Manager reviewed the following suggested modifications to address the concerns raised at the January 15, 2019 worksession with the Planning Commission (new suggested modifications in blue):

- **ARTICLE VII. – OFF-STREET PARKING AND LOADING REGULATIONS**

- 705.0. - Design requirements.
 - 705.1 *Surface material*: Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.
 - *Exceptions*:
 - Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.
 - In M-1 and M-2 districts gravel may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for off-street parking and the required accessible path to an entrance to the facility served by such off-street parking. Such gravel shall be compliant with ADA guidelines, including, but not limited to materials, levelness, compaction and accessibility; maintained adequately for all weather use; and so drained as to avoid flow of water across sidewalks. In M-1 and M-2 districts other material may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for non-ADA [employee] off-street parking spaces [and loading zones as long as such areas are located behind the facility and are screened from public view] for new parking areas and expansion of non-hard surfaced parking areas that are grandfathered in. If a business currently has

a hard-surfaced parking lot, and needs to expand that parking area, they can expand it using a non-hard surfaced parking material for up to 2 years, at which time they will need to hard surface the expanded parking area [meeting the surface material requirements of 705.1] or remove the expanded parking area.

- **The exceptions do not apply to visitor parking, any required ADA parking, and any other parking or loading zones located in front of the facility.**
- The exceptions only apply to new or expanded parking areas and do not allow for the removal and replacement of existing concrete, asphalt concrete, or asphalt double-sealed surfaces with other material.
- The exceptions shall meet the following requirements:
 - **Non-ADA** off-street parking areas shall be graded, paved or otherwise improved with an all-weather, dustless material that is contained in such a manner as to not allow surface material to wash off during heavy rains, and so drained as to avoid flow of water across sidewalks.
 - **ADA compliant parking and accessible paths to an entrance to the facility served by off-street parking shall be hard-surfaced.**

Commissioner Caflisch stated that he would like to leave the ordinance as it is. Further stating that the hard surfaces will create less headaches in the future. He further stated that you cannot modify every code to make it economically beneficial to soften the cost of development. Further stating that you have costs that affect your construction and long-term paved parking areas cause the City the least amount of problems. He stated that the ADA option does allow gravel, however, it is an inferior surface and causes problems. The minimum standard for that area, which is paved surface, causes no additional hardship. He further stated it is simpler to keep the ordinance with paving required and asked where it would end. He further stated that he thought the best is what we've got when looking at other towns overall. The City Manager confirmed and stated that he thought we should leave the ordinance as it is.

Commissioner Hogsett stated that if you are going to build in Independence, paving is expensive, so businesses locate outside the City to avoid that expense. He further stated that he would like to require paving a drive that connects to the street. He further stated that he liked the idea of paved parking in front, but parking behind that is screened would not have to be paved. He further stated that the Planning Commission had some good points, as he was concerned that we were not seeing any industrial development.

Mayor Ysusi stated that he visited Chanute and it was "hodge podge", as one entire facility had a concrete base parking area, while another had cinders, or their driveway was concrete, and the rest of the parking was gravel. He noted the gravel was washing out into the street. He further state that we have gravel that gets into the street now from temporary repairs. He stated that he agreed with the City Manager's comment at the last meeting when he said that he had been in a lot of areas in the country and hard surfacing was not brought up as a factor as far as businesses relocating in other cities he worked for. He further stated that he was concerned about setting precedence by allowing the exception. He further stated that in addition to Chanute and McPherson, he also looked at Arkansas City and Pittsburg, who have stayed with the hard surface rule. He then spoke about understanding the need to encourage industry, and that there were many factors that played into that. He said one example was that McPherson has their own utility which is an external source of funding and constant revenue, which allows them to have the lowest rates in Kansas for electricity. He further stated that he visited with a previous City Manager about why the current code requires hard surface. He further stated that it seems like we are trying to modify something towards economic development when basically we should be deciding if it is a requirement that benefits the City overall.

Commissioner Caflisch recommended tabling it and taking no action. The City Attorney stated that he thought they had to act.

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett the Commission rejected the text amendments recommended by the Planning Commission, leaving the ordinances as they currently exist.

Aye: Ysusi, Caflisch

Nay: Hogsett

- B. Consider proclaiming April 29, 2018 and April 27, 2019 as Arbor Day.

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett the Commission proclaimed April 29, 2018 and April 27, 2019 as Arbor Day and authorized the Mayor to sign the proclamation.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

- C. Consider authorizing staff to set the date to receive bids for removal of 606 Fountain.

Building Inspector Don Cushing had visited with the owner and the owner sent him an email saying he had cleaned up the yard, he was getting proposals to rehabilitate the house and the plan was to restore the residence for the owner or his son to live in. The owner is requesting deferral of discussion of the property until February 28th, 2019.

Commissioner Caflisch stated that the item shouldn't have been on the agenda

and that no action needs to be taken.

- D. Consider setting the date of March 28, 2019 for a public hearing to consider condemnation of the structures located at 208 North 17th Street as dangerous and unsafe.

Building Inspector Don Cushing stated that there was an electrical fire at this location and recommends setting the date for the public hearing for March 28, 2019.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch the Commission set the date of March 28, 2019 at 5:30 PM for a public hearing to consider the condemnation of the structures located at 208 N. 17th Street.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

- E. Consider awarding the low bid to Jeff Graham Construction, Inc. for 2018 ADA Sidewalk and Ramp Improvement, Phase 4.

David Cowan and Shawn Turner presented the bids received. Commissioner Caflisch asked how many bidders were contacted. Shawn Turner said there were three plan holders and 1 bid received. Shawn has worked with Mr. Graham before

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett the Commission moved to award the bid to Jeff Graham Construction, Inc. in the amount of \$487,199.50.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

- F. Consider modifying the Memorial Hall policy.

Brian McHugh presented the recommended policy changes to the Memorial Hall policy and rental rates

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch the Commission moved to authorize modifications to the Memorial Hall Policy and Rental Rates as recommended by City staff with the City Attorney's modifications.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

- G. Consider First Amendment to the City Manager's Employment Agreement.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch the Commission moved to adopt the First Amendment to the City Manager's Employment Agreement

Aye: Ysusi, Caflisch, Hogsett

Nay: None

VI. REPORTS

A. Peter Pan Road Project Update

Shawn Turner and the Commissioners discussed the update.

B. State Safety Inspection

VII. CITY MANAGER'S COMMENTS

None

VIII. COMMISSIONERS' COMMENTS

Commissioner Caflisch talked about looking at our projects bidding, policies relating to awarding of contracts, bid standards, contracting with consultants, procurement policies, minimum bid standards, that can be adopted into standard practice. City Manager Craig Whitehead informed the Commission that we have a draft procurement policy and will be bringing that before the Commission for their approval.

Commissioner Caflisch and City Staff discussed the ADA transition plans, condemnations, committees and streets.

Mayor Ysusi discussed condemnations and having a spreadsheet to track them. The City Manager stated that there was such a spreadsheet and David Cowan said he would share it. He then asked about plans and specifications for 1916 City Hall Phase I, to which the City Manager said they were online and he would send him a link. He then asked about the leaf project, and the City Manager said that when it snows they have to stop, but they were currently in Area 12, which is the largest area.

IX. PUBLIC CONCERNS

None

X. EXECUTIVE SESSION

A. Acquisition of Property

Motion:

On the motion of Mayor Ysusi, seconded by Commissioner Caflisch the Commission moved to go into executive session for discussion of possible acquisition of real estate for economic development purposes pursuant to the preliminary discussion on acquisition of real estate exception (KSA 75-4319(b)(6)) with the open meeting resuming at 7:45 PM

Aye: Ysusi, Caflisch, Hogsett

Nay: None

The Commission came back into session at 7:45 PM with no action being taken.

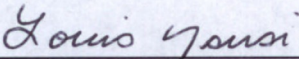
XI. ADJOURNMENT

Motion:

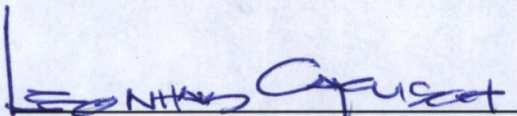
Commissioner Hogsett moved to adjourn. Commissioner Caflisch seconded.

Aye: Ysusi, Caflisch, Hogsett

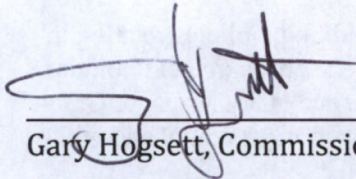
Nay: None



Louis Ysusi, Mayor

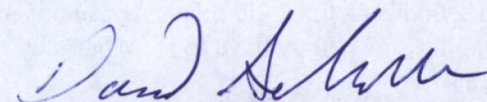


Leonhard Caflisch, Commissioner



Gary Hogsett, Commissioner

Attest:



City Clerk/Treasurer

Minutes of the Independence City Commission's January 15, 2019
Worksession with the Planning Commission

The Independence City Commission met for a special meeting with the Planning Commission on January 15, 2019 at 5:30 P.M. in the Veterans Room at the Memorial Hall. Mayor Louis Ysusi, Commissioner Leonhard Caflisch and Commissioner Gary Hogsett were present. Others present included:

Planning Commission

Mary Jo Meier, Vice Chair
Andy McLenon, Secretary
Jim Hardy
Brian Beecham
Barb Emert
Steve McBride
Philipp Umlauf
Michelle Anderson

City Staff

Craig Whitehead, City Manager
Jeff Chubb, City Attorney
Kelly Passauer, Assistant City Manager/Zoning Administrator
David Schwenker, City Clerk/City Treasurer

Visitors

Ellie Davis
Brent Littleton

I. SPECIAL SESSION

A. Call to Order

Mayor Ysusi called the City Commission meeting to order at 5:30 P.M.

1. Vice Chair Mary Jo Meier called the Planning Commission meeting to order at 5:30 P.M.

The Mayor asked everyone to introduce themselves, which they did.

II. WORKSESSION WITH THE PLANNING COMMISSION

A. Status of previous December 28, 2017 directive by the City Commission to the Planning Commission to review and recommend text amendments relating to the following:

1. Attention-Attracting Devices and Electronic Signs;
2. Downtown Signage;
3. Food Trucks;
4. Gravel parking lots;
5. Recreational vehicles, 5th wheels and travel trailers that are occupied; and
6. Tiny houses.

Assistant City Manager/Zoning Administrator Kelly Passauer reviewed the status of the December 28, 2017 City Commission directive as follows:

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1. Attention-Attracting Devices and Electronic Signs – Completed – This item had to do with a request from some of the churches to have electronic signage that were located in residential or central business district zones that did not allow such signage -- Text amendment recommended, and Ordinance 4269 was adopted by the City Commission on February 22, 2018.
 2. Downtown Signage – Completed – This topic was initiated based on complaints received regarding the current downtown sign regulations, including the number of signs -- The Planning Commission requested Main Street (working with downtown businesses) to review the downtown sign ordinance. After their review, Main Street recommended no modifications to the sign code at the April 3, 2018 meeting. They did recommend updating the IHPRC brochure to include downtown style buildings and suggested sign placements, which has been done. Since no text amendments were recommended, this item did not come back to the City Commission for action.
 3. Food Trucks – Completed -- Text Amendment recommended and Ordinances 4272, 4273 and 4274 were adopted by City Commission on July 26, 2018.
 4. Gravel parking lots – In Process -- Timeline to follow.
 5. Recreational vehicles, 5th wheels and travel trailers that are occupied – Not started.
 6. Tiny houses – Not started.
- B. Discussion with the Planning Commission regarding the modified recommendation from the Planning Commission to adopt an ordinance implementing text amendments to the Code of the City of Independence, Kansas, specifically Appendix B – Zoning Code relating to Off-street parking requirements tabled from the December 13, 2018 City Commission meeting.

Assistant City Manager/Zoning Administrator went through the following timeline:

- July 2, 2018 – Original public hearing was held, Planning Commission adjourned the hearing until October 2, 2018.
- October 2, 2018 -- The Planning Commission made a recommendation to the City Commission to modify the language, adding additional definitions related to ADA requirements and gravel, and modified the design requirements in the off-street parking regulations to allow gravel meeting certain specifications in M-1 and M-2 (industrial) districts.
- November 5, 2018 – The City Commission tabled action and returned this item back to the Planning Commission for clarification on specific elements of the original recommendation and provided suggestions.
- December 4, 2018 -- The Planning Commission reviewed and responded to the feedback from the City Commission and modified their original recommendation.
- December 13, 2018 – The City Commission reviewed the Planning Commission's modified recommendation and tabled action until after a joint Worksession with the Planning Commission.

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Assistant City Manager/Zoning Administrator then went through Planning Commission's December 4, 2018 responses to the City Commission's November 5, 2018 feedback as follows:

- 11/05/2018 -- The City Commission wants to know the initial intent and purpose of the text amendment.
- 11/05/2018 -- The City Commission wants to know if the text amendment will attract new businesses.
- 12/04/2018 Response from the Planning Commission:
 - To make the City more attractive, to recruit new businesses to the City and to enable flexibility for existing businesses to expand their parking area if need be for growth in alignment with the Economic Development Strategic Directive No 1 of the Community Based Strategic Plan.
- 11/05/2018 -- The City Commission had the following concerns:
 - The appearance of large gravel parking lots.
 - Gravel running off in heavy rains.
 - Ability to adequately mark ADA spots.
- 12/04/2018 Response from the Planning Commission:
 - Non-ADA off-street parking areas shall be graded, paved or otherwise improved with an all-weather, dustless material that is contained in such a manner as to not allow surface material to wash off during heavy rains, and so drained as to avoid flow of water across sidewalks. ADA compliant parking and accessible paths to an entrance to the facility served by off-street parking shall be hard-surfaced.
- 11/05/2018 -- The City Commission provided the following suggestions:
 - Limiting the size of gravel parking lots to a maximum number of spaces.
 - Continue to require new buildings or new industries to hard surface required off-street parking to City code standards but allow existing industries that already have a gravel parking lot that is grandfathered in (a non-conforming use) to expand (enlarge) their existing gravel parking lot.
 - However, if they have an existing hard-surfaced parking lot any expansion (enlargement) would have to be hard surfaced.
- 12/04/2018 Response from the Planning Commission:
 - They unanimously approved a motion to not limit the size of non-hard surface parking lots to a maximum number of spaces, nor require new businesses or industries to hard surface, or business expansions to hard surface.
 - The exceptions to this would be:
 - If the business has an existing hard surface parking area, they cannot remove it and replace it with a non-hard surface material.
 - If a business expands an existing hard surfaced parking area, they may do so with non-hard surface material for a period of up to two years, after that the expanded parking area must be removed or hard surfaced.

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Assistant City Manager/Zoning Administrator Kelly Passauer then went through the detailed December 4, 2018 Recommended Modifications from the Planning Commission, a copy of which was included in the agenda packet.

Mayor Ysusi asked how the City could force compliance if a business expanded their hard parking lot with a non-hard surfaced parking material and did not hard surface it after two years because they decide that they do not have the funds.

City Attorney Jeff Chubb said he believes there is a section in the zoning code that they can be cited into municipal court and fined or a civil injunction could be filed.

Mayor Ysusi then related the situation to nuisance fines, and that it ends up being the City's responsibility to maintain. He then asked, "What if they decide they don't have the funds to comply?"

City Attorney Chubb said if they go through municipal court, they can be fined a certain amount each day, or a separate injunction action. District Court is the same way, if they do not do it by the deadline, the Court can find them in contempt.

Mayor Ysusi reiterated that they would eventually have to either comply or the fines would move them in the direction of compliance.

Commissioner Caflisch stated that he could see if an existing manufacturer has an existing gravel lot and they are increasing their production or the size of the plant within reason or just a few spots, they should be allowed to add limited spaces in gravel and should not be required to come back with the addition and pave the existing lot plus the additional spaces. Further stating; "For a new facility, the only paving surface should be a hard surface for long term. Paving solves a lot of problems not only for them, but for us, with runoff, the gravel displacement. You can control runoff much better with a hard surface. Calcium chloride becomes a continued maintenance factor, increase enforcement responsibility, forcing them to apply it. Calcium chloride draws moisture to keep the particles moist, but it creates other problems with tracking it into vehicles or the facility. For new facilities, a paved surface with asphalt, concrete, even chip and seal does provide a hard surface, but it is lesser quality and lesser performance than the other two, but to allow a gravel open surface parking lot I think that is an area that we don't want to go as a City. You look at the new facilities, the cost of building a facility, it's just another cost factor that should be taken into consideration. I can understand with existing gravel parking lots of some industries not requiring hard surface there, but any new facility we should keep it as we had it in the past, has to be a hard surface asphalt or concrete material. The calcium chloride or dust reducing materials are not really intended for a long-term situation."

Commissioner Hogsett said that he was eager to hear what the Planning Commissioners had to say.

Planning Commissioner Mary Jo Meier stated that the initial intent was to attract new businesses and align with growth, and the Planning Commission was very concerned about asking a new business, that even maybe they would purchase an existing building, that did not have pavement and asking them to start that business and add the cost of paving the parking lot might be something that didn't fall in those two points. She further stated; "We felt like it discouraged businesses, and that we felt like it wouldn't be in line with growth and maybe extending that two years would give them a little bit more time."

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Mayor Ysusi stated; "An existing facility with an existing lot, but a new facility that is being built from the ground up, enforcing the pavement after two years. Are we willing to take the industry to court to force them to pave their parking lot? It is easier to get it done initially then it is to come back later on once the plant is in operation. I could understand grandfathering the parking to encourage reuse of the building, but a total new facility we would want to keep the surfaces paved."

Commissioner Caflisch stated; "I designed a church in Iola, and they didn't pave the parking lot because of cost initially, but they found within a year they were paving the parking lot because of the increased maintenance they had on the building, the gravel, the dirt tracking into the facility. They found it advantageous for them to go ahead, and it provided a lot of other controls of where they parked, the spacing, and those issues were resolved. But I understand your concern with an existing building for somebody to start up a company, usually they are looking at limited funds and I think we should address those cases. But if we're looking at a brand-new facility coming in ... in those cases they should have a hard surface set up and that's where ... giving the two year ... when we look at alternates such as calcium chloride to keep down dust it's just going to be a continued enforcement issue for the City. We probably should eliminate alternate surfaces, or if there is some magic material specify it directly, but anything that still allows the granules and the gravel to be exposed is going to be an enforcement issue for us and cause us other issues."

Assistant City Manager/Zoning Administrator Kelly Passauer stated that the two years only applies to someone that has an existing hard surface parking lot and they wish to temporarily expand it. Further stating; "So the thought was ... if a refinery has a turn around and they put in some temporary parking for a short period of time and they don't particularly need it beyond the two years. That was the thought behind that ... the two years only is talking about if they have an existing parking lot that's hard surface and then they can expand it with a non-hard surface for up to two years if they had a special need for parking that wasn't going to be long-term ... so the reference to the two years was only for a temporary lot, then they would have to remove it or hard surface it within two years."

Commissioner Hogsett made a comment about the Planning Commission's decision to recommend this change was unanimous.

Planning Commissioner Brian Beecham stated that; "One of the other things we considered was trying to come up with an understand of what industries came to Southeast Kansas. Recently, one of the examples that we looked at was Orizon Aerostructures in Chanute. They invested in a 70,000 square foot facility fifteen million dollars. I was fortunate enough to be able to talk to the builder for that project which was Koehn Construction out of Fredonia. It is asphalt in front of the office, but around the facility is gravel. I asked what stipulated that, and it was cost and when they started looking at ways they could cut cost on the project, that is the first thing to go was doing the hard surface around the entire structure. But for deliveries and everything else, the cost was six to eight dollars a square foot so when you start looking at a 70,000 square foot facility and the amount that went around it, you start talking about real numbers. That was part of the reason that Orizon chose Chanute from what Koehn said, as they had leniency on what they were able to do with the hard surface around it. That came up in part of our conversation, and I believe Philipp [Umlauf] talked with one of the gentlemen at Orizon about it as well."

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Planning Commissioner Philipp Umlauf stated; "Exactly the same comments, it was almost verbatim."

Planning Commissioner Brian Beecham stated; "So we used that as a point of reference. I have been in Independence for six years now and I don't know of any industry that has come here in my time. So, are there any examples that anyone can give us?"

Commissioner Caflisch stated; "What you could do is consider it with a variance, maybe that way you are looking at exact use, you're not throwing a blanket but you're allowing the manufacturer to bring in a variance because if you've got a pipe yard there you would want something other than grass to keep your maintenance down and I could see a gravel surface while the drives going through the pipe yard I could see that being gravel too, that you wouldn't want to require it. But when you look at employee parking and other areas, I think that is where we want some controls. So instead of saying a blanket and they determine what they want to do, I think we should say what we expect, and require them to come present the alternate for us to approve. That way, you know because the way we have it, you don't have to put it around the building, and you can't really without knowing the use of the facility. You can't create an ordinance that's going to address those, but if you allow a variance, is really the only reason for a variance is to address a hardship of a developer in a case that you're describing there can be hard case conditions that you know you would want to look at areas for their deliveries, short-term parking or material storage yards that wouldn't necessarily have the problem created with a high traffic area but you know a definite parking lot and constant traffic is different we would want to see that. What I would see the variance case, you come talk to us and you know we could address each specific case like the one your describing and how it can be compatible to them."

Planning Commissioner Brian Beecham said; "That is our intent what you're talking about, and that has been our intent to provide some flexibility not some hard line that 'Hey, it's just going to be this way with no exceptions' and to have the ability to try to get in that game and draw some industry here, and I really think, and I'm not trying to speak for everybody, but I think that was part of the intent of what we were trying to do."

Planning Commissioner Philipp Umlauf stated; "Yeah, I would 100% agree with that, you know, that does increase the amount of variances that we have, and as we get more and more variances at some point in time it makes a case then why do we even have the rule if we're going to give a variance every time. It makes it very difficult, you know, to say you have to have this hard surface, but if you don't want to put it in then come see us and we will back off of that. So, at that point of time, what is even the point of having that ordinance there if we are just going to back off of it every time. If you give them some leeway to do that, that does a couple of things for us, it opens us up to allowing companies to see, 'Oh, well we're not going to have to spend a third of what we spent on our building to hard surface a lot and that helps us out and we can get into this place and it is a good community, so we want to give them a shot', rather than ruling us out right off the jump street. Secondly, you know that also allows us to . . . sorry, I lost my train of thought there, but I am going to talk to about something else I have been hanging onto. As far as their building maintenance goes, that is really their call, I mean if they want to save that money up front and they figure out in the future that they want to hard surface that, then more power to them, that is a plus for us. However, when you start dictating how their facility needs to look in every aspect and dictating how they have to set up everything, now you are starting to kind of get into how they run their business and now you are opening yourself up for even more possible

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enforcement issues and just being completely skipped over for those new businesses that want to come to our town. Or, you know part of me wanted to ask the Montgomery County Action Council as to what their thoughts are on this, what are they seeing? Are they seeing the same types of issues attracting businesses to towns that don't have these requirements?"

Commissioner Hogsett stated; "I was just thinking the same thing, I wish they were here for this discussion."

Planning Commissioner Philipp Umlauf stated; "That was something I just thought about like an hour ago, otherwise I would have reached out to her."

Commissioner Hogsett stated; "I just met with Trisha this afternoon with Nathan Berg, does anybody know Nathan Berg? So, I guess he was born and raised here and started a business in Oklahoma and he wants to come back so he just bought a building south of Dearing where he is going to move his business. And you know he's got the gravel drive, I mean he is in the County so he can get back to Southeast Kansas for a lot less money than if he were building a place in Independence. And I am all for attracting new industry, whatever it takes, and if this is really a legitimate concern, that would keep people from building here I am very interested in changing it. But we also just did a Community Based Strategic Plan and the number one concern of people was "Let's make our City beautiful again, it is not looking so great" and I think this is a little bit of a detraction to that."

Planning Commissioner Philipp Umlauf stated; "In speaking to that, we are talking about strictly M-1 and M-2."

Commissioner Hogsett stated; "Right".

Planning Commissioner Philipp Umlauf stated; "... We are not talking about residential, you know these are places that are off the beaten tracks, back near behind the Hackney area, down near where Atmos is, out near the airport. These are not intown places where you are going to see this on a daily basis unless you are physically going to these places."

Commissioner Hogsett stated; "Yeah, I agree Philipp. I think it is definitely something to be considered. It's just, my alley, I don't know if you know where I live, but there are only two houses on my block so there are only a few cars that use my alley and it is so bad that you sink up into your axles because of the gravel."

Planning Commissioner Umlauf stated; "I know your neighborhood very well."

Commissioner Hogsett; "Yeah, so it just seems like gravel is not permanent and it is not well taken care of in many cases. Certainly not our alley, or most alleys around town are looking pretty sad right now because of the weather, so I don't know. I guess I would like to see some statistics. Maybe you have others besides the fact that Chanute has been more successful than us, that this will really make a difference in attracting industry."

Planning Commissioner Umlauf stated; "As far as the permanency and heavy use goes, I worked for Layne Energy for eleven years. They had a gravel parking lot for the entire eleven years, ran a box blade over it once a year and never really had to do much more than that to it, and we are talking heavy equipment in and out of there all day long,

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trucks in and out of there all day long. It was never an issue. Dart had a facility on the same road, same thing with them, I think it does hold up well as long as it is done correctly. I've traveled lease roads for the last sixteen years of my life and those are roads that are made straight through farmer's fields that were never intended to have a road, but if when they are built right, they stay."

Commissioner Hogsett stated; "But those would have very, very low traffic on them, wouldn't they?"

Planning Commissioner Philipp Umlauf stated; "Well a couple of times a day, every single day. And you are not just running a pickup up and down them, there are chemical trucks going up and down them, there are pulling units going up and down them, it is a lot more than people think."

Commissioner Hogsett stated; "Okay, thanks for that."

Planning Commissioner Jim Hardy stated; "I know when we discussed this I was picturing a smaller industry coming in starting up, just employed 50-100, that is what I was picturing, not to compare with a Fortune 500 where the resources wouldn't be a problem for paved or concrete the whole thing, but 50-100, like Philipp said a small business like that would be ideal for Independence but right off the bat a third of that cost would go to that surface, where it could be used for capital inside, for employees."

Commissioner Hogsett stated; "I was saying to a few of you when I walked into the room that I am going to be repaving a big chunk of our alley behind our building, because we have had to tear it up to replace a drain lines and it is just prohibitively expensive. So, I totally get where you are coming from, and that is just 400 square foot."

Planning Commissioner Brian Beecham stated; "I think the number we came up to by asking people that do it was \$6 to \$8 per square foot is the cost."

Commissioner Hogsett stated; "I can't picture how many square feet on the top of my head how much they would typically need to do, but I'm guessing it is a huge number."

Commissioner Brian Beecham stated; "Yeah, I think so."

Commissioner Philipp Umlauf stated; "If you think about it, a 10,000 square foot parking lot is really not that big, when you start putting vehicles in there that the average length of them is 20 feet."

Commissioner Hogsett stated; "So that would be \$60,000 to \$80,000"

Commissioner Philipp Umlauf stated; "You are basically talking about a parking lot that is the size of McDonald's parking lot, that is a huge expense."

Commissioner Caflisch stated; "Well why should M-1 zone be excluded from paving a parking lot, where you've got a small business that is opening an office and you are going to require them to pave a parking lot, so they're start-up cost, you will have a lot more businesses coming in to expand so why are you granting an industry that we don't have coming in a gap, but then what we have every day we are going to hold the line or you're going to consider a small industry coming in that we want them to come and they don't have to pave their parking lot, but I'm going to build a new house and I'm going to

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build a garage and now I've got \$5,000 to \$6,000 for a driveway that has to be paved and it's harder for me to get the \$5,000 or \$6,000 for the driveway than it is for an industry that is selling a product?"

Commissioner Hogsett stated; "That is a good comparison, but on the other hand you have to be a good neighbor, you have to match what the neighborhood is doing. I mean if I've got a downtown business, we can't have the next-door neighbor have a gravel sidewalk out front, it has got to be consistent."

Commissioner Caflisch stated; "So your 400 square foot of concrete in the alley is justified."

Commissioner Hogsett laughed and stated; "Touché. I just think in a neighborhood that, you know, houses need to sort of match. You can have a dump next door to a nice house, but you would rather not because it is unfair to the person...."

Commissioner Caflisch stated; "When we are looking at businesses, we are looking at the same thing to encourage. Basically, we have to look at the long-term use of what we want the City to be. An industrial park setting, what do we see the need for in our industrial park dealing with the gravel run off in our drainage, in our streets, how are we going to control that, are we going to require heavy traffic areas to be hard surfaced or are we going to allow them all to be gravel, if you know..."

Planning Commissioner Philipp Umlauf stated; "Well, to answer your statement, Michael Conway is opening a car shop in the industrial zone, I think he would be greatly appreciative of the fact that he does not have to hard scape all of his potential parking area. I think that would help him dramatically."

Commissioner Caflisch stated; "But his is already under, since he already . . he's not allowed to participate in this is he, since his already...."

Planning Commissioner Philipp Umlauf stated; "He's in a M-1/M-2 zone."

Commissioner Caflisch stated; "But he has already built, he should be required to pave now, not wait."

Planning Commissioner Philipp Umlauf stated; "The point that I am trying to make is would that have made things easier for him, would he have been able to pull that whole thing off in a shorter period of time, would he have been up and running faster. Would it have been a more attractive thing for him to do sooner. That is just one example, but it speaks directly to what you were just saying for a smaller business that comes into our area. If they want to be in that M-1 or M-2 zone, that is their prerogative, if they want to be in our downtown district or in one of our commercial districts that has stipulations to go along with it. What we are trying to convey is, manufacturing jobs pay well, employ a lot of people, and the buildings can go up very quickly, they can be put online very quickly, and we are afraid that we are not in the running because of the additional costs required to facilitate them bringing their business here. Whether they are publicly looking at us or not, when push comes to shove, is that a consideration? Case in point, our Amazon distribution center that yes was out in the county, but they left stating the reasons they were leaving was due to the fact that it was going to cost them more money to refit their facility than it would cost them to build a new one. Would it have been more attractive for them, if we had said 'Hey, come to Independence, put this thing in our industrial zone back here, you don't have to hardscape your parking lot, you can put

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your new facility here and stay where you are at, instead of moving to Olathe, which is where they are now. In a facility that is actually smaller than the one they were in here. Would that have kept those several hundred jobs here, and those several thousand people that were a part of our countywide community that are now gone. That's a huge hurdle for us to overcome and hindsight is 20/20 but these are the type of things that I think about when something like this comes across our table."

Commissioner Hogsett stated; "When Annie and I were looking around at cities deciding where we wanted to move, one of the cities that we were really impressed with was McPherson. They are just booming, they have got industries springing up all over the city, does anyone know if they have requirements regarding this?"

Planning Commissioner Philipp Umlauf stated; "I don't know, I've spent a fair amount of time in McPherson, but I don't know any of the requirements."

Commissioner Hogsett asked City Manager Craig Whitehead; "Craig, you have been in eight or nine cities, have you seen this issue before?"

City Manager Craig Whitehead stated; "Not really, other than in my last city you had to pave no matter what you were bringing in, even manufacturing. Granted that we didn't have M-1 zones that are industrial, so you just had to pave, and they had to take care of the run off of that water, and we started getting into permeable concrete to solve drainage, cheaper for the developers. The other thing we saw in getting business was incentives, and gravel parking lots was not an incentive that I ever ran across. So, you could still require a hard surface, but through other financial incentive it might offset. Because right now, if there is an industry coming the City already has incentives in place per job, so much dollar amount, that we will give to an industry as well as some property tax abatement, so I've never seen this specifically affecting a development."

Commissioner Hogsett asked; "Weren't you previously in some fairly small cities, much smaller than American Fork?"

City Manager Whitehead replied; "Yes, my first City Manager job was in a City half this size, a very rural area. I don't remember coming across it, but we didn't have much development either. This was north on the Canadian border, so you didn't get a lot of development other than the state. But again, I never faced that. It was other development. My last two cities, some were larger, more urban, and incentives. Talk about why companies locate, why do they move, why do they locate where they locate. Well moving to Olathe was because it was Olathe and Olathe was in that area next to a lot of services, there are lots of reasons companies choose a site selection so you can't, it's hard to tell why a company and sometimes it is where the CEO's wife wants to live. That always plays into it, where they like to shop. And we had industries, we had a Gateway Computers that eventually moved their headquarter to San Diego because that's where the CEO's wife wanted to live, not South Dakota. There are a lot of things in site selection, and sometimes maybe the gravel parking lot tips the scales, you never know, but I'm more on the Mayor's side as you can tell."

Planning Commissioner Brian Beecham stated; "I think one of the things we are looking for is to get the ball rolling and that's why we are trying to come up with ways when we see an opportunity and we see something close by and that was part of their stimulus in doing it, and there was economic assistance in it and that is readily available online as well. Where do we get started?"

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Commissioner Caflisch stated; "We have the economic development fund, but we don't have any hard guidelines on how that would be distributed, that could be tied in as an incentive to help out offset some of the initial costs, or like Craig mentioned some other abatements that we have. We just did the West Laurel Street Industrial Park and West Main Revitalization zones.

Assistant City Manager/Zoning Administrator Kelly Passauer replied; "Probably 2015 we redid it."

Commissioner Caflisch asked; "Didn't we split it so that there is West Main and also the industrial park?"

Assistant City Manager/Zoning Administrator Kelly Passauer replied; "Yes"

Commissioner Caflisch stated; "So we have handled some ways that can get tax abatement to an industry, but we still have our economic development money that we could look at distributing other ways to get financial assistance to attract businesses. I think you would use some of those to off-set the paving, but still there are some areas in industrial, plant or development that, pipe yards, material, steel storage yards that I would see exempt from paving but when you look at actual vehicular traffic, I still think..."

Assistant City Manager/Zoning Administrator Kelly Passauer replied; "I think those are already exempt. It's the actual parking area"

Commissioner Caflisch stated; "Yeah, I thought we had something about pipe storage, but the alleys as you mentioned, the graveled alleys are a maintenance problem for us, but you look at the effect in the street how much gravel washes out in every rain out into the street, that becomes our problem and it increases our cost of maintenance and in operations. That is why I am hesitant to allow parking areas to be excluded from hard surface, or to allow a gravel surface."

Planning Commissioner Philipp Umlauf stated; "That was actually one of the requirements in there was to design your lot in such a fashion that it negates that gravel run off into the street, and also having that hardscaped surface service drive is another barrier point to keep that from meeting our streets. I kind of feel like we've hit this impasse and we . . . now we are talking incentives and abatements verses cost savings. But all those incentives and all those abatements are more cost to the City, and this is something that could be a cost savings to an industry or a business that has really no cost to the City or the county or state. This is simple economics, as opposed to macroeconomics here."

Planning Commissioner Andy McLenon stated; "So a couple of thoughts are rolling through my head here, based on what I've heard, I appreciate your comments Leonhard on the tax incentives, but I think, and I also understand from Craig's point that there is as much art as there is to science on business recruitment and retention. At the end of the day every City is offering very similar incentives as far as tax incentives, so what are we doing to differentiate ourselves to even be on the map is kind of the thought process too. The other thing I am thinking that we talked about as a group here I believe was although I'd like to be a dreamer and think we could land a Fortune 500 company, I'm also pretty realistic on the model that we have developed whether intentional or unintentional over the last several year of bootstrapping entrepreneurship coming out of the college through the Fab Lab, through returners, so on and so forth, the budgets that I

would suspect, the capital outlays that I would suspect that those companies have to start with are in the tune of several hundred thousand dollars to get a business up and running, verses a multimillion dollar backing. Just on the simple math we did earlier on a 10,000 square foot parking lot at \$60,000 if your budget is half of million dollars, 10% of it just goes to parking, that doesn't even go to permitting and structure and hiring and IT and services and all that type of stuff, setting up for a new facility. With our strategy we've employed in the last several years is that we would rather have lots of little eggs, verses one big egg in a basket. I see this parking lot as giving flexibility to attract more littler eggs, that maybe someday would grow up to be a great big egg for us, and then we could have that conversation. The variance structure, although I like it, and I like the flexibility to it, I'm afraid from a site selection standpoint a company doesn't get through the funnel far enough for a site selection model to even have that opportunity to even offer up that there is a variance. We are probably eliminated before we even know we were on the short list so to speak. So those are some of the thoughts that were coming through in the conversation we had as a group. I think we have reached a consensus that the temporary expansion, if you have a hard surface going to gravel makes a lot of sense, so if Hackney wants to take on some new business, but you know what, it looks like it's a cyclical feature that's going to be around for eighteen months and they need to bring on another dozen people per shift and they don't have parking, throw out the gravel let's get it on and let's get that going, let's get the jobs, let's get the revenue streams that are generated by that because there is the taxation on the backside that would help offset some of these incremental costs that we have been discussing of water runoff and road cleaning for gravel and that kind of stuff. The stance we have taken is that we have had this model in place for a number of years, we have had some victories, but could we get some more victories by adding some additional flexibility. And if it doesn't work, we can revisit it and you know in forty-eight months and go back to the old way. So, it is, that was some of the conversation we had as well. That is a lot I just puked out there in two minutes but there it is. I totally get from a beautification standpoint and from cleanliness, I get it, I do get it. But I also have seen the feedback from the community, in their survey that we took earlier last year, you know, jobs, jobs, jobs. People want to come back to Independence, we hear it every year at Neewollah, but I don't have anything to do. So here is another opportunity to say come back and start your own gig, we are going to be a low-cost solution to start your own business and we are going to try to make it happen. I would much rather tell them that then, 'Yeah, Mercy closed, that sucks. Amazon left, that's too bad', you know, 'Come back and start your own business, we're going to make it as capital friendly as we possibly can, and maybe we have to settle on having a gravel parking lot with chloride on it for a while, until they get big. Then we have to keep them from moving to San Diego.'

Mayor Ysusi stated; "So that gives a company that's coming in some flexibility, so they are not paying that out on the initial startup cost. Gives them a little time frame to see how this is going to progress, and either it will, or it won't in that timeframe, and if it does then at that point they know what the stipulations are and . . ."

Commissioner Caflisch stated; "There are no, once they build a building or they buy an existing they never have to pave it, only if they are expanding a temporary parking area. If they are expanding an existing"

Mayor Ysusi stated; "Or new."

Commissioner Caflisch stated; "No"

Assistant City Manager/Zoning Administrator stated; "Expanding an existing hard

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surfaced area temporarily is the two year."

Commissioner Caflisch stated; "That is the two-year limit. If they build a new facility, and it goes gravel they never have to pave it. The two year was only on an existing paved, that you have two years to use it as gravel, then you either remove it or pave it."

Mayor stated; "Okay".

Brent Littleton asked if he could say something; "I didn't sign up, but I should have, but this is ironic, this is about parking lots."

Commissioner Hogsett stated that he had to come up to the microphone.

Brent Littleton stated; "I think what they are trying to help too, if you think like Murphy Oil out there and the funeral home where they do the sandblasting and stuff, when you go into those businesses there are driveways, and when you want to go into the lobby to plan a funeral it is asphalt, whatever it is. And the same way at Murphy's place. And I don't know if they are out in the county, so it doesn't apply to them, but if you think about what they are doing if you go around their buildings it is gravel, you know they pull in and back up and unload tombstones or whatever they are doing. They don't drive on asphalt. As a matter of fact, asphalt is a very, when you have big vehicles like US Food Trucks, I know driving on blacktop, man your sealant, and you are fixing cracks and stuff like that all the time, so that is cost prohibitive too unless they can afford concrete. And like Sonic's new concrete, that is \$150,000 probably worth of concrete and I guarantee it is in that neck of the woods. That drive through lane we put around Dairy Queen, I just put a concrete drive through lane around there and it was \$26,000. Because it is cheaper to go ahead and spend it now while the constructions down, then for me to always have to go through there and fix that black top because cars are constantly turning. So, I shared this with Kelly the other day, but Lou Holtz one time said, 'It is never a good time to make a bad decision, but it is always a good time to make the right decision.' So whatever you all think the variance needs to be, you all need to put it in place and help them because they can keep answering these questions and keep coming back and forth and this could go on for a year, you know. But just realize if you've got to worry about drainage going to the road, there has to be a driveway there, and if they have a customer entrance it needs to be hard surfaced, but if it's around a building where they are getting deliveries and trucks and some employees are parking back there, there ought to be some variances on that and it ought not to be real complicated. Anyway, that is all I have to say."

The Mayor thanked Brent Littleton for his comments.

City Attorney Jeff Chubb stated; "I don't have a vote. You have required hard surface, not require hard surface, there's probably room to compromise, like Brent said, maybe a hard surface where retail customers might be required to park as opposed to employee's parking, or phase in the hard surface over a period of time so that it is not an upfront cost prohibitive thing for new business. There are a lot of areas you could compromise on."

Mayor Ysusi stated; "And still get the desired effect that you want in the long term over a period of time, yeah."

Commissioner Philipp Umlauf stated; "In the spirit of that, you know a visitors/ADA parking area that is hard surfaced is something I wholeheartedly agree with, and some of

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us argued back on forth about that on the zoning side.”

Commissioner Hogsett joked; “Was it Michelle that argued the most? I bet it was.”

Planning Commissioner Philipp Umlauf stated; “Not at all. But I see that being something that kind of fits this mold which is if the employee parking is out of site, and the visitor/ADA parking is on the forefront then you have maintained that beautification, reduced cost, that visitor and ADA parking area might be for a small business like Andy was saying that has a half million dollar budget that might be four spots, they might only need two ADA's and two visitors, but still allows them to adhere to some of the beautification requests that we have as well as saying ‘alright, all my employees park back here’ and ...”

Commissioner Hogsett stated that he agreed and that is very common, stating; “In my job I do consulting for manufacturing firms and whether it is in Kansas City or Salina, you drive in on an asphalt drive and there is parking there for visitors, but you go around the back side, the side of the building and the back is generally not paved, where the heavy equipment is running and all.”

Mayor Ysusi agreed, stating that; “All the facilities that he has been involved in the hard surface parking was up front for visitors, customers and ADA, but once you initially go through the initial parking lot everything behind the building was gravel because you've got your heavy trucks unloading poles, pad mount transformers, it was just a gravel surface, and it was a huge area and every facility I've ever visited with Westar that is how it was maintained. They met the letter of the law as far as ADA and the front of the building you want that to look nice when you drive in for the first impression, but once you got past that initial driveway everything behind the building was gravel. And it's just been like that, even at our building out here east of town, with all our heavy trucks, that whole parking lot if concrete and storage area, but when we've had extra equipment brought in that we didn't have room to park on the concrete we have just went out to grassy area and laid rock, laid gravel out so we could put in pole trailers, two or three extra pole trailers that we had accumulated and we didn't put a hard surface there because they are not going to get any traffic, it is just basically to sit a piece of equipment there that is not sitting in grass we have to mow around and it gave us an easy way to drop off equipment like that on a site without it being paved, so even we found a way to work around that. So I'm more inclined to find a way to make a compromise here where we can accommodate what you are bringing to us, and some concerns that we have and we always have the ability down the road, whoever is sitting here, if they want to go back and revisit that and make some changes that does gives us the advantage and ability to do that if that doesn't seem to meet the intended purpose that we want, we can go back and revisit that and then come up with something different. But on this strategic planning, and I hear this all the time, people that would like to come back and there is not a job here for me, not with my education and my background, there is not a job I could come back to Independence and work. I'm familiar with Chanute and McPherson, some of the advantages they have, they run their own utilities, they have more staffing, they have the ability to do that because they are making money by having their own municipality, they provide their own power. So yeah, they can have a lot more staffing, they can do a lot of things and offer an attractive rate for a business coming in. As a matter of fact, I'm familiar with Chanute they had an abandoned building that was a previous manufacturing tenant that had left, and they worked out a very reasonable fair price with an industry coming in and sold them that building. But I guarantee you they also offered them a pretty sweet deal on their electric rates too. They have other incentives they can offer that gives them a leg up on us that do not have that ability.

Monet, Missouri buys wholesale power and they sell it to their commercial, industrial and residential base and they are generating 16-18 million dollars per year, and they are using that to build infrastructure in Monet. They are buying it on the wholesale market and then reselling it, selling it for a price. There are so many different other incentives out there that all these communities have to offer, and they all play a hand in this. You know your tax abatements for how many years, all of these things play into that. I think we need to figure out some way to accommodate what you are asking us to do, and some of the concerns that we have and move forward on that. And we can always revisit it down the road, I don't want to be like the federal government where they make a hard-fast rule and you comply, and it always the citizens comply, but the federal government gets to do what they want to do because they are the federal government. So, that's my concerns on this."

Commissioner Caflisch stated; "The hard part is setting up an ordinance or any code that is applicable in every situation, and you've got to look at what the intent of what the requirement is, what was the general, in this case what was perceived as a benefit of paved parking, what were you trying to accomplish with a paved surface. You look at this, we are concerned about a small business, so a small business has a bigger financial impact, but if you start looking at ADA spots, or visitor spots you are down to a smaller area that it might be cheaper just to pave everything, but you know when you are looking at a large manufacturing plant that has 100 cars you have a difference condition, if you've got a business or industry that has high truck traffic coming in that that is mainly their job is distribution with multi-axle vehicles and heavy weight, then you've got different requirements you are generating, different dust conditions and you are limited on how effective the calcium chloride is because of all the traffic that keeps stirring and breaking down the surface, so what you guys and we are doing is not an easy task, any time. Because we are trying to establish something for the betterment of the community to give us direction, and we are trying to look at every case under the sun that we are going to encounter and make one blanket that is going to be applicable for everyone, and we can't do it. That's where variances come in and you know, the best attempt that we can make, and we go with it. Because there is always, I guess from my past I've always had to deal with these conditions. I've always had code restrictions, zoning issues, that it is just part of doing business, so we have to look at investing and the cost and operate within that. So, you know it kind of gives me a different perspective when I look at it, but it is something that is quite difficult, and the Planning and Zoning Commission has a difficult task. I do appreciate all your time that you are trying to look at so much and the list to go through, signage, attention, getting signage, downtown signage, and now you know throwing in tiny houses and recreational vehicles that people that are going to live in, you know this is times of change that we have to consider that. I appreciate each of you, the time that you have put into this and tolerated listening to our opinions, and I appreciate you sharing your opinions too, but you know thank you for being willing to sit in that chair and make these decisions."

Mayor Ysusi stated; "I agree, this is a little different for me because this is the first time I have had to sit in and go through a process like this. Where my background is I've always been in a position to where you could sit down and you could hammer something out, and you would come to a compromise that maybe wasn't, neither side was completely happy with, but it was something that you could both live with. You know, I come from a union side where we would negotiate with the company, there were certain things we would like to see, certain things the company would like to see, and the bottom line was that we would give up something to get something. So, for me, this is quite different, because this is not. The process does not always work out that way. So, for me this is different, and I am really listening to what Gary and Leonhard are saying

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because they have a lot of experience, he's worked with regulations being an architect and his design work, and Gary the same way, he's served on a Commission or Council previously from here. So I am drawing my information listening to these two gentlemen because this is something that is foreign to me, so I'm going to depend on both of you and I will continue on the meetings that we have for you input and what your thinking is on a lot of different issues, because we collectively decide as a unit. It is helping me understand what it is we are trying to do. Anything else?"

Commissioner Caflisch replied; "Yes."

Assistant City Manager/Zoning Administrator Kelly Passauer stated; "Doing it as a variance can be problematic because, as Philipp mentioned to, they have those people before them, and it's going to be hard. You're going to make all these people come before them, it's going to be hard for them to deny that variance. And the variances before the Board of Zoning Appeals do not come to the Commission, they go to the district court if they are appealed. It's kind of like, dealing with something on a case by case basis means you have no policy. So, you know you want a policy you can apply consistently to everyone so you don't have this issue 'well this guy can do it, but this guy can't do it' because you will get into that. And, that is why I think it is better to have clear expectations, whether the front of the building has be paved for visitor or ADA or maybe the back if it is screened can be gravel for employees, or maybe you say if the parking lot is X size it doesn't have to be, and behind the building if it is larger. I mean there are different things you could look at, but I get a little worried about saying doing the variance thing and then no offense to you Leonhard, I don't mean that at all, it's just sitting in those meetings for years where people come for variances. It's hard for this board to tell somebody 'No, you can't do that.' So, it puts them in a bad position, and I think it's better if you have clear cut regulations or rules that are clear so that that can be applied, and then if that doesn't work you change the code, not say 'Oh, just go request a variance.'

Commissioner Caflisch stated; "Yeah, variances are minimally used unless extreme hardship."

Assistant City Manager/Zoning Administrator stated; "We get a lot of them on setbacks and things like that."

Commissioner Caflisch stated; "Yeah, because then you start getting into, because this company is a friend of mine, or this person is a friend, I'm going to give them a variance and it is like, and even the same with rezoning of property that it is not applicable to the area, but it's a good buy or good gift so we will rezone just because we will want to help you out."

Assistant City Manager/zoning Administrator stated; "Or this company comes in and says, 'Well if we don't get this variance we are not coming to your town, so what position does that put them in?'"

Commissioner Caflisch stated; "You can't be so lax that you have no control."

Assistant City Manager/ Zoning Administrator stated; "Right, that's why my opinion as Zoning Administrator it makes it a lot easier for the people sitting on this board and for staff to administer if we have clear cut guidelines that we can follow. And yeah, there could be variance on some things, but usually a variance is when you are going to deviate a small amount, like okay, I'm building this and instead of a ten foot setback, I

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need to encroach on that reduce that a couple of feet or something and we do that all the time and it's not. They look at that, but somebody going from not having to follow the hard surface requirement, that is something that is a lot bigger impact and I'm concerns it's going to put our Board of Zoning Appeals in a bad position."

Commissioner Caflisch stated; "That's why you just stay, pave everything."

Assistant City Manager/ Zoning Administrator stated; "And that is certainly up to you. I will say on the equipment, like you said, of course Westar is not in the City but say that they were, any equipment that is owned all under one ownership of that company currently that is exempt from the hard surface requirement now. So, if somebody, if it is their equipment or whatever that they are parking there, it doesn't have to be hard surfaced, but employee parking is where it comes into, or visitor parking or whatever, but it does not apply to equipment parking now. They do not have to hard surface where they store vehicles all under one ownership, that is already an exception."

The Mayor stated; "Well, we sure don't want to put these folks in a bad position, and the variance that would be, wouldn't be the rules it would be an extreme exception that you would make, it wouldn't be something you could continually fall back on and then you get to the point that you both have made that now you are picking and choosing who gets one and who doesn't."

Assistant City Manager/ Zoning Administrator stated; "Once you make that first one, you have basically set precedence."

Commissioner Caflisch stated; "And because I can't afford it isn't an excuse for a variance."

Assistant City Manager/ Zoning Administrator stated; "But I will guarantee you that they will say that is the hardship, 'then we are not coming to your town', that is what they will tell the board."

Commissioner Caflisch stated; "But a financial is not a hardship."

City Attorney Jeff Chubb stated; "That is correct because under the variance City code section 2-116 there are five specific factors that all five must be met before the variance can be granted and the problem is that you go to any board, there is a lot of subjectivity that shouldn't come into play, but always does, but one of the factors is 'The situation cannot be created by the action of the property owner or applicant.' And the decision to hard pave or gravel, that is 100% under the control of the applicant."

Assistant City Manager/ Zoning Administrator stated; "Yes, so they wouldn't be able to even apply for a variance."

City Attorney Jeff Chubb stated; "The board may grant it, but then actually the City could appeal and probably get it overturned in district court, so that's kind of a time waster there. The variance would not be a good way to go"

Mayor Ysusi stated that he had a better understanding after listening to all the comments.

Assistant City Manager/ Zoning Administrator asked the Mayor; "Are you wanting the Planning Commission to go back and revisit this and make another modification and

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bring it back? I think they need some direction.”

City Attorney Jeff Chubb stated; “As of right now, the way the State statute goes back and forth, it is in their court, and they have taken no action. They can’t take action tonight.”

Assistant City Manager/ Zoning Administrator asked the Mayor; “So put it back on the next Commission agenda and then they can determine if they want to...”

City Attorney Jeff Chubb stated; “...they can make a decision, or they can remand it”

Mayor Ysusi stated to place it on the next agenda, further stating that; “This is just a worksession so there is no decision making during the session, so let’s do that. Thank you for your input, it is a huge learning process for me. And I’m sure it is for some of you that are first time members on Planning and Zoning. Let’s put it on the agenda for the 24th and we will take it up at that time.”

Assistant City Manager/ Zoning Administrator asked the Mayor; “And they are all invited to attend that meeting.”

Commissioner Hogsett stated; “Yeah, they are riveting, you will want to be there.”

C. Discussion with the Planning Commission of possible future directives or additional topics for the Planning Commission to review.

Assistant City Manager/ Zoning Administrator stated; “The Planning Commission does recommend, as we review the Comprehensive Plan every year, and every year they have recommended that that be included in future budgets.”

Commissioner Caflisch stated that he just found on his bookcase a Comprehensive Plan and started looking through it. He further stated; “That it might be beneficial to read the Comprehensive Plan and be prepared. There is something interesting under housing it actually said there were I think 36 or 38 that needed immediate condemnation, or being razed, and there was an initial 53 it would be interesting to see if we ever did address those that needed to be razed.

Commissioner Hogsett asked when it was written.

Commissioner Caflisch stated it was written in 1981 and Assistant City Manager/ Zoning Administrator said it was adopted in 1982.

Commissioner Caflisch stated that it helped me to know what we have got. He further asked who initiated the neighborhood revitalization plan, and Assistant City Manager/ Zoning Administrator stated it was done by City Commission, she further stated that staff will be bringing that to the Commission.

The Mayor asked if there were any other items that needed to be brought up, at which time there was none.

III. ADJOURNMENT

A. Adjournment by the City Commission.

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Motion:

Commissioner Caflisch moved to adjourn. Commissioner Hogsett seconded the motion.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

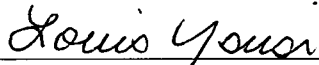
1. Adjournment by the Planning Commission

Motion:

Planning Commissioner Umlauf moved to adjourn. Planning Commissioner Andy McLenon seconded the motion.

**Aye: Meier, McLenon, Hardy, Beecham, Emert, McBride, Umlauf,
Anderson**

Nay: None



Louis Ysusi, Mayor



Leonhard Caflisch, Commissioner



Gary Hogsett, Commissioner



Mary Jo Meier, Planning Commission Vice Chair



Andy McLenon, Planning Commission Secretary

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Attest:

A handwritten signature in black ink, appearing to read "Kelly C. Passauer", written over a horizontal line.

Kelly C. Passauer
Assistant City Manager/Zoning Administrator

MINUTES

Independence Planning Commission

Independence Board of Zoning Appeals

Tuesday, December 4, 2018

Veterans Room

Memorial Hall

5:30 p.m.

Call to Order

Planning Commissioner Present

Steve McBride, Jim Hardy, Andy McLenon (outside), Philipp Umlauf, Brian Beecham, Michelle Anderson, and Andy McLenon (outside)

Planning Commissioners Absent

Barb Emert, Nick McCollam (outside)

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator

Visitors

Henry Williams

Minutes

- a. Consider approving minutes from the November 6, 2018 meeting.

Philipp Umlauf made a motion to approve the minutes of the November 6, 2018 meeting, Andy McLenon seconded the motion. The motion carried 7-0.

Board of Zoning Appeals

- b. Consider a variance request to decrease the setbacks and increase the lot area coverage in a C-2, commercial services zoned district at 410 East Main Street.

The following staff report was provided:

Overview of Variance Requested

The Board of Zoning Appeals has received the attached application from Henry Williams representing Barbara Near requesting a variance from the district regulations. Mr. Williams is planning on constructing 22' X 26' building to house a boxing ring.

Specifically, the variances are from the following sections shown in bold which state:

510.4. Intensity of use regulations:

a. Maximum lot coverage: 50 percent.

510.5. Height regulations:

a. Maximum structure height: 35 feet or 2½ stories (whichever is smaller).

510.6. Yard regulations:

a. Minimum front yard: 35 feet measured from property line.

b. Minimum side yard: None.

Exception: Ten feet where abutting a side street; 15 feet where abutting a C-1 or O&P zone; 25 feet where abutting a residential zone.

c. Minimum rear yard: Ten feet.

Exception: 25 feet where abutting a residential zone.

The district regulations of the City zoning ordinance above state that in a C-2, commercial services district the maximum lot coverage is 50 percent and the minimum rear yard setback shall be 25 feet when abutting any "R" (Residential) district. The applicant is requesting that 50 percent maximum lot coverage be exceeded and the 25' rear yard setback be encroached 15' for a reduced rear yard setback of 10'.

In reviewing the conditions that must be met when considering the variance, we wish to provide the following information:

a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or the applicant; This area was originally developed many years ago prior to the zoning code. It includes buildings that are more typical of a C-3, central business district type development with zero lot lines on the front and both sides. The existing building also exceeds the maximum lot by of 50 percent, as the current lot area coverage before the variance is approximately 67 percent.

b. That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents; City staff does not foresee that approval of these variances will adversely affect the rights of any property owners or residents. It is anticipated that the planned building will contain the activity. There is also an alley easement that is approximately 20' in width that serves as a buffer between the commercial zone and the residential zoned property. In addition, Mr. Williams has advised that he has spoken to the neighbors and they have no objections.

c. *That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;* The applicant has indicated that without the variance they would not have enough space to construct their building.

d. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;* Staff does not foresee this creating any adverse impact on the public health, safety, morals, order, convenience, prosperity, or general welfare.

e. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.* The General Development Plan Map shows this area commercial from Main to Myrtle. Staff does not feel that approval of this variance will be opposed to the general spirit and intent of the zoning regulations.

Staff Recommendation

Staff recommends approving the variance as requested by increasing the maximum 50 percent lot coverage 40 percent, for a maximum lot area coverage of 90 percent; and by reducing the 25' rear yard setback 15' for a reduced rear yard setback of 10'.

Steve McBride made a motion to accept staff's recommendation and approve the variance as requested by increasing the maximum 50 percent lot coverage 40 percent, for a maximum lot area coverage of 90 percent; and by reducing the 25' rear yard setback 15' for a reduced rear yard setback of 10'. The motion was seconded by Andy McLenon and passed 7-0.

Planning Commission

- c. Consider a text amendment to Appendix B – Zoning Code relating to Off-street parking requirements.

The following staff report was provided:

On your November 6, 2018 Planning Commission meeting staff provided an update regarding the feedback from the City Commission at their November 5, 2018 City Commission meeting. Staff advised that we would place this on your next regular agenda (December 4, 2018) for reconsideration. An except of the minutes of your October 2, 2018 meeting regarding this item are attached which include the staff report and the original recommendation of the Planning Commission.

Regarding the text amendment for off-street parking (gravel in industrial areas) the following timeline has occurred:

- The original public hearing was July 2, 2018 -- The Planning Commission adjourned to October 2, 2018
- On October 2, 2018 the Planning Commission made a recommendation to the City Commission to modify the language, adding additional definitions related to ADA requirements and gravel, and modified the design requirements in the off-street parking regulations to allow gravel meeting certain specifications in M-1 and M-2 (industrial) districts.
- On November 5, 2018 the City Commission tabled action and returned this item back to the Planning Commission for reconsideration and provided the following feedback:
 - They want to know the initial intent and purpose of the text amendment.
 - They want to know if it will attract new businesses.
 - They had the following concerns:
 - The appearance of large gravel parking lots.
 - Gravel running off in heavy rains.
 - Ability to adequately mark ADA spots.
 - They provided the following suggestions:
 - Limiting the size of gravel parking lots to a maximum number of spaces.
 - Continue to require new buildings or new industries to hard surface required off-street parking to City code standards but allow existing industries that already have a gravel parking lot that is grandfathered in (a non-conforming use) to expand (enlarge) their existing gravel parking lot.
 - However, if they have an existing hard-surfaced parking lot any expansion (enlargement) would have to be hard surfaced.

In reviewing this item further, staff would also suggest considering the following:

- Whether to require ADA parking spaces and pathways to be hard-surfaced;
- Whether to require some sort of border material to ensure gravel stays in place;
- Whether to require gravel surfaces to be treated and maintained to be dust free; and
- Whether or not to allow a parking lot that is currently hard-surfaced to be removed and replaced with gravel.

Philip Umlauf agreed that the ADA pathways should be hard surfaced, due to marking and not be non-compliance. He stated that the border material ensures the gravel stays in

place. He indicated that we do not need require new buildings or industries to have that hard surface as we want to reduce the cost for new businesses to come to our town and establish it as a place to do business, as opposed to going to Chanute or another town that will let them do a gravel parking lot.

Andy McLenon stated that the estimated cost is \$8 per square foot to do concrete, asphalt is around \$5.50 - \$6 per square foot and is a timing issue, while gravel is \$4 - \$4.25. He further stated that he talked to a couple of businesses. One originally had gravel, and was required to asphalt it, and their property taxes went up, and then had to concrete it and it went up another 33%. He also talked to other businesses that had asphalt already that would be motivated to rip it up and come back with gravel due to property taxes. He stated that he was pro-gravel because businesses have cycles; "If you have a cycle you need to staff up, and you are out of employee parking spaces, the options are to provide a gravel pad. That cycle may be temporary. To give flexibility to the businesses, we need to have a timebound solution to this. Maybe they come in with a gravel parking lot, but they have a timeframe, going back to the fire station, granted them 24 months. For a new business, gravel gets you in here. For a 10,000 square foot parking lot, you are talking an additional \$35,000 expense to do that. For startups, if you can slash a line item by \$35,000 it is attractive."

Philip Umlauf stated that he agreed but disagreed with allowing existing hard surface parking to be ripped up to reduce their taxable amount.

Andy McLenon stated that he was shocked that you would forgo that expense for a tax bill.

Philipp Umlauf stated that it opens a can of worms, all the sudden if we are going to allow it. If you have hard surface, you must keep and maintain it but can't rip out an existing hard surface because it is counterproductive to the plan for the town.

Steve McBride asked if you have a large area that is hard surfaced that is in bad shape, would you allow them to remove that and put in gravel.

Andy McLenon stated he was thinking about the Matcor parking.

Brian Beecham stated that it's a business cycle. The focus on what the town looks like, there are main areas that people travel through. Certain areas can be addressed. High rent district has different standards. He had a conversation with the Construction Manager for Orizon; stating "They are taking employees from another company in Fredonia. Driving up living conditions. You don't want a hard surface to hold up that type of progress."

Philipp Umlauf stated that he asked the plant manager and he said they went to Chanute because they could have a gravel parking lot; "They were considering around where Sedan Floral. They are building 737 fuselages for Boeing and want to expand. 200-300 jobs that Independence did not get, that are in addition to the existing 300 jobs."

There was discussion of whether or not this business (Orizon) is in the City or County.

Brian Beecham stated; "Even at our last meeting when they are talking about the new buss building, they didn't have it in the budget to hard surface that."

Philipp Umlauf stated that; "Durham is out of here after next year."

Steve McBride stated; "The school district will employ all those people and give those people raises. They will save \$600,000, but that doesn't mean that they can pave it."

Kelly Passauer brought up the County parking lot stating that if they rezoned it to industrial this modification would address that issue.

Philip Umlauf stated that he agreed with the service drives being hard surfaced.

Brian Beecham stated that it needed to be flexible to drive people in.

Mary Jo Meier stated; "There's got to be a bridge, when do they have to be [ADA] compliant?"

David stated as soon as they open.

Philip Umlauf stated that the most cost-effective way to handle that would be when they are pouring their foundation for their building.

Mary Jo Meier stated; "Have to prepare in advance for the ADA, and if that is done in advance they can."

David stated; "The surface must be firm and slip resistant. There is no way for me to determine if something is slip resistance. The surface must be unchanged by forces or other material. ADA says as long as the material is able to be compacted and sufficiently stabilized you can use other material such as screenings, AB3, but it is maintenance issue, you need borders to contain it, it is an acceptable use for ADA parking. We have an ADA complaint at the ballfield. To put in concrete and make the accessible paths for the North Park complex is \$600,000 to do all that work. It is a maintenance requirement, we have a Rec Board. Speaking to what Andy said, it does give them the opportunity to come in and establish their business and improve it later."

Andy McLenon stated "It is the businesses' responsibility to be ADA compliant, but there will be some sort of annual audit for compliance. It could be, they may get creative, they could go with physical structures. When ADA changes in 6 months or 6 years we don't have to revisit it, they just have to be compliant."

Philipp Umlauf stated; "That's why I thought to require those to be hard surface so that they are never a complaint."

Andy McLenon stated; "The smart businesses will do what you said and be done with it."

Philipp Umlauf stated; "My reasoning is to push that direction, this town has a long history of ADA complaints and non-compliance, to say we are not even going to mess around with this."

Mary Jo Meier stated; "That makes an awfully lot of sense."

Philipp Umlauf stated; "We have a bunch of businesses that may have to go back and fix this."

Andy McLenon stated; "Existing business that has an existing parking lot, they need to roll out some AB3 and put in another 50 stalls. Do the temporary stalls have to have ADA?"

David Cowan stated; "It goes off their total number and access to the building. If it is close together it may only cost them one stall."

Philipp Umlauf asked what the ratio was

David Cowan stated that it is a chart. Further stating; "If you look at the stadium, there are 2,000, there aren't that many ADA spaces, maybe eight to ten. I think only six are required. It's not as many as you might think."

Mary Jo Meier stated; "If it is going to cost \$600,000, what would be the cost for that business to upkeep the ADA? If they have gravel and have to upkeep the gravel on their own nickel. It would be nothing compared to hard surfacing."

Andy McLenon stated; "Compliant with all ADA, preferred solution would be hard surface parking for the ADA slots."

Jim Hardy suggested that he can see it both ways.

Andy McLenon is not worried about saving money, just giving latitude to the business.

Philipp Umlauf thinks that unless it is this way, there will be push back from the Commission, and we may be having the same conversation in a month or two.

Mary Jo Meier asked what the penalty was.

David Cowan said the Department of Justice (DOJ) imposes penalties. Stating; "We are not going to issue a building permit or occupancy until it is compliant. But once they are running, we are not the police. That employee will go to the DOJ, and it will be between them and the DOJ. I'm not going to go to Hugo's after they are opened and see if it is maintained. Once they meet the initial requirements of the City it is their responsibility to hold them to task."

In response to the Commission's feedback regarding the initial intent and purpose of the text amendment, and whether it will attract new businesses, a motion was made by Philipp Umlauf that responded; "To make the City more attractive to recruit new businesses to the City to enable flexibility for existing businesses to expand their parking area if need be for growth in alignment with the Economic Development Strategic Directive No 1 of the Strategic Plan, seconded by Andy McLenon. The motion carried 7-0.

Philipp Umlauf stated that they would have to be maintained like someone would maintain their yard, they get notices if they don't mow.

Andy McLenon made a motion to require service drives to be hard surfaced, seconded by Philipp Umlauf. The motion carried 7-0.

Motion to approve the Design requirements as modified, Andy seconded. Motion carried.

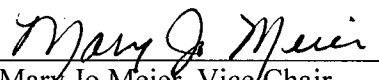
Philipp Umlauf moved to not limit the size of non-hard surface parking lots to a maximum number of spaces, nor require new businesses or industries to hard surface, or business expansions to hard surface. Andy McLenon seconded. The motion carried 7-0.

Steve McBride moved to not allow an existing hard surface parking lot to be removed and replaced with non-hard surface material. Jim Hardy seconded. The motion carried 7-0.

Andy McLenon moved to modify the previous motion in relation to business expansion to the following: If a business currently has a hard surface parking lot, and needs to expand that parking area, they can expand it using a non-hard surface parking material for up to 2 years, at which time they will need to convert that expanded parking area into hard surface or remove the expanded parking area. Michelle Anderson seconded. The motion carried 7-0.

Adjournment

The meeting was adjourned with a motion by Andy McLenon, seconded by Brian Beecham. The motion carried 7-0


Mary Jo Meier, Vice Chair


Andy McLenon, Secretary

- d. Report on Feedback from the November 5, 2018 City Commission meeting regarding the text amendment to the off-street parking requirements.

Staff advised that the Commission had concerns regarding the recommended text amendments relating to the off-street parking requirements that would allow gravel in industrial zones if ADA requirements were met. Some of the feedback from the Commission included:

- They want to know what the initial intent of text amendment was.
- They had the following concerns:
 - The appearance of large gravel parking lots.
 - Gravel running off in heavy rains.
 - Ability to adequately mark ADA spots.
- Suggestions to consider:
 - Limiting the size of gravel parking lots to a maximum number of spaces.
 - Continue to require new buildings or new industries to hard surface required off-street parking but allow existing industries that already have a gravel parking lot that is grandfathered in (a non-conforming use) to expand (enlarge) their existing gravel parking lot.
 - However, if they have an existing hard surfaced parking lot any expansion (enlargement) would have to be hard surfaced.

Staff advised that we can add this item back on the Planning Commission's December 4, 2018 agenda for formal reconsideration.

Jim Hardy asked about the ADA requirements, and Philipp Umlauf suggested requiring a minimum number of ADA spots to be hard-surfaced. Brian Beecham stated that there was a company in Chanute that had hard-surfaced ADA spots, and the rest of the lot was gravel. Philipp Umlauf stated that there are ways to control gravel runoff in heavy rains by providing a larger aggregate of gravel on the edges. Andy McLenon stated that the number one item on the survey for the City's Community-Based Strategic Plan was Economic Development. He further stated that he wasn't sure what the cost was for asphalt verses gravel, however, he doesn't want the City to miss out on an opportunity because a company chooses to locate in Chanute rather than Independence because of this requirement. He further stated; "What the community is telling us, there is a large expense for a company that they can very easily choose another location and forgo that expense. They have to comply with ADA, it is federal law, if they want to keep replacing their gravel every time it rains two inches, I would make it an option for them. The interesting thing is we get to revisit the Fire Department Building. Two years ago that was put up with a gravel parking lot, it would be interesting to see if the City is willing to fund hard surfacing that. I respectfully disagree with the comments from the

MINUTES

Independence Planning Commission Independence Board of Zoning Appeals

Tuesday, October 2, 2018

Veterans Room

Memorial Hall

5:30 p.m.

Call to Order

Planning Commissioner Present

Jim Hardy, Barb Emert, Steve McBride, Nick McCollam (outside), Mary Jo Meier and Michelle Anderson

Planning Commissioners Absent

Andy McLenon (outside), Philipp Umlauf and Brian Beecham

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator

Visitors

Harry Smith, Kate Gladson and Sadee McCollam

Minutes

- a. Consider approving minutes from the September 4, 2018 meeting.

Barb Emert made a motion to approve the minutes of the September 4, 2018 meeting, Mary Jo Meier seconded the motion. The motion carried 6-0.

Planning Commission

- b. Consider a text amendment to Appendix B – Zoning Code relating to Off-street parking requirements.

The following staff report was provided:

This item was tabled from your July 2, 2018 meeting regarding this subject. The following staff report and proposed amendment were previously presented:

Current design requirements for all off-street parking:

Article VII Section 705.0 Design Requirements:

705.1 Surface material: Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.

Exception: Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.

Proposed amendments:

Definitions:

Gravel: Any use of the term gravel shall be defined as crushed stone, AB3, or any other rock that is ADA compliant for the use of off-street parking materials compacted enough to be compliant with ADA guidelines for levelness, materials, and accessibility.

Accessibility of parking and paths: All off-street parking shall have a minimum of two ADA accessible parking stalls, one van accessible and one car accessible, and must have an accessible path leading from the parking stall to the entryway of the facility. The ADA parking stalls must be the closest stalls to the facility.

Add exceptions:

Exception: Off-street parking in M-1 or M-2 districts are allowed to utilize different gravel materials for surfacing materials. The gravel must be compliant with ADA guidelines regarding levelness, materials, and accessibility.

Exception: An accessible path must be accompanied from the parking stalls to the entry and are allowed to utilize gravel for surfacing materials.

Excerpt of 7/2/2018 Planning Commission Minutes

Abbey reviewed the report for the board members. Steve McBride stated that he did not want to stifle business. Andy McLenon suggested including the commercial zones of C-1, C-2 and C-3. Kelly Passauer stated that she wanted the board to understand that would mean that commercial businesses such as restaurants and retail establishments could have gravel parking lots. Andy McLenon stated that he didn't think that would be an issue, as there are other restaurants in the area that have gravel parking lots, such as in Thayer, Kansas, and it doesn't seem to hinder their business. Brian Beecham expressed concern that this amendment might hinder the progress made by the young entrepreneurs in the City. Steve McBride agreed with Brian Beecham on this concern. Some board members expressed concerns that this amendment could bring about backlash with the road troubles at Peter Pan Road. Andy McLenon expressed concern regarding existing driveways in residential zones that are not required to be hard surfaced, while new driveways in residential zones are required to be hard surfaced. Kelly Passauer stated that some of those gravel driveways were grandfathered in. Andy McLenon stated that he felt this created a perception issue. Steve McBride moved to adjourn the public hearing regarding a text amendment relating to off-street parking until October 2, 2018 at 5:30 PM, seconded by Brian Beecham. The motion carried 5-0.

Staff reviewed updated recommended highlighted modifications that was provided in writing at the meeting and also presented on the PowerPoint as follows:

- ARTICLE IV. – RULES AND DEFINITIONS

- 403.0. – Definitions.

- **ADA:** The Americans with Disabilities Act of 1990 and any subsequent revisions and updates as administered by the United States Department of Justice.
 - **Gravel:** Any use of the term gravel shall be defined as crushed stone, AB3, or any other rock that is ADA compliant for the use of off-street parking materials compacted enough to be compliant with ADA guidelines for levelness, materials, and accessibility.
 - **Parking space, off-street:** A permanently surfaced dust free area (concrete, asphaltic concrete, or other comparable surface), located on property other than a public street, enclosed or unenclosed, to store one automobile, to which an automobile has direct access from a permanently surfaced drive. Such parking space shall meet the minimum "off-street parking standards" contained in article VII of this ordinance. (See also Exceptions to Section 705.1 of the Code, Gravel, and Vehicle storage lot).

- ARTICLE VII. – OFF-STREET PARKING AND LOADING REGULATIONS

- 705.0. - Design requirements.

- **705.1 Surface material:** Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.
 - **Exceptions:**
 - Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.
 - In M-1 and M-2 districts gravel may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for off-street parking and the required accessible path to an entrance to the facility served by such off-street parking. Such gravel shall be compliant with ADA guidelines, including, but not limited to materials, levelness, compaction and accessibility; maintained adequately for all weather use; and so drained as to avoid flow of water across sidewalks.
 - **705.4. Service drives:**
 - c. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.
 - **Exception:** In M-1 and M-2 districts gravel may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for service drives and the required accessible path to an entrance to the facility served by such service drive. Such gravel shall be compliant with ADA guidelines, including, but not limited

to materials, levelness, compaction and accessibility; maintained adequately for all weather use; and so drained as to avoid flow of water across sidewalks.

- **705.5. Minimum parking space dimensions:**
 - f. If 90-degree ADA car accessible space,
 - stall depth—19' 0"
 - stall width —9' 0" with 5' 0" access aisle
 - aisle width—25' 0"
 - g. If 90-degree ADA van accessible parking space,
 - stall depth—19' 0"
 - stall width—11' 0" with 5' 0" access aisle
 - Vertical clearance – 8' 2"
 - aisle width—25' 0"
- **705.6. Striping required:** Open parking spaces for dwellings (containing three or more dwelling units) shall be delineated by pavement striping and must meet minimal parking stall sizes as described above in section 705.5.
- **Exceptions:**
 - Open parking spaces for one- and two-family dwellings.
 - Gravel parking lots meeting an exception in 705.1, except for markings and identifying signage for any required ADA accessible stalls.
- **705.7. ADA Accessibility:**
 - a. All off-street parking lots or garages shall meet the minimum number of accessible parking spaces as required by the ADA.
 - b. Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance.
 - c. Accessible parking spaces shall have markings and identifying signage as required by the ADA.
 - **Exception:** Open parking spaces for one- and two-family dwellings.

Staff believes this change is consistent with the intent and purpose of the zoning regulations; the areas affected will be the industrial zoned districts (M-1 and M-2); and the proposed amendment is made necessary because of new planning concepts and social economic conditions in the zoning districts affected.

A motion was made by Mary Jo Meier, seconded by Jim Hardy to recommend accepting staff's recommendation and proposed text amendment modifications; and submitting such recommended modifications to the City Commission for approval. The motion carried 6-0.

Board of Zoning Appeals

- c. Consider a variance request to decrease the setbacks in an R-2 and/or M-1 zoned district(s) at 808-822 South 19th Street.

Staff provided the following report:

Overview of Variance Requested

The Board of Zoning Appeals has received the attached application from Harry Smith and Precision Railway Equipment Company, LLC requesting a variance from the district regulations. Mr. Smith is planning on constructing a building on the parcels included in the variance which have been rezoned to M-1, light industrial.

Specifically, the variances are from the following sections shown in bold which state:

513.4. Intensity of use regulations:

- a. **Minimum lot area: Five acres unless the proposed project abuts an existing industrial or commercial zone.***
- b. **Minimum lot width: No requirement.***
- c. **Maximum lot coverage: 60 percent.***

513.5. Height limitations:

- a. **Maximum height of structure: 45 feet or three stories (whichever is smaller).***

Exception: Grain elevator may exceed height limitation provided in this section as a conditional use (article IX).

513.6. Yard regulations:

- a. **Minimum front yard: 25 feet measured from property line.***
- b. **Minimum side yard: 15 feet for any building or structure.***
Exception: 25 feet when abutting a street; 30 feet when abutting any "R" district.
- c. **Minimum rear yard: Ten feet.***
Exception: 80 feet when abutting any "R" district.

The district regulations of the City zoning ordinance above state that in an M-1, light industrial district the minimum front yard setback shall be 25 feet and the minimum rear yard setback shall be 80 feet when abutting any "R" (Residential) district. The applicant is requesting that the 25' front setback be encroached 5' for a reduced front yard setback of 20' and the 80' rear yard setback be encroached 60' for a reduced rear yard setback of 20'.

In reviewing the conditions that must be met when considering the variance, we wish to provide the following information:

- a. **That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or the applicant; This area was originally platted into lot for residential development, however, many of the residences in the area have been removed. The area is being redeveloped as industrial.***

b. *That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents;* City staff does not foresee that approval of these variances will adversely affect the rights of any property owners or residents. The planned building is a storage building which will not have manufacturing occurring within it. There is also an alley easement that is approximately 20' in width that serves as a buffer between the light industrial and residential zoned property. In addition, there is only one residentially zoned structure on the other half of the block to the east. There is one light industrial zoned structure south of the proposed side yard setback that has been converted to a residence.

c. *That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;* The applicant has indicated that without the variance they would not have enough space to construct their building.

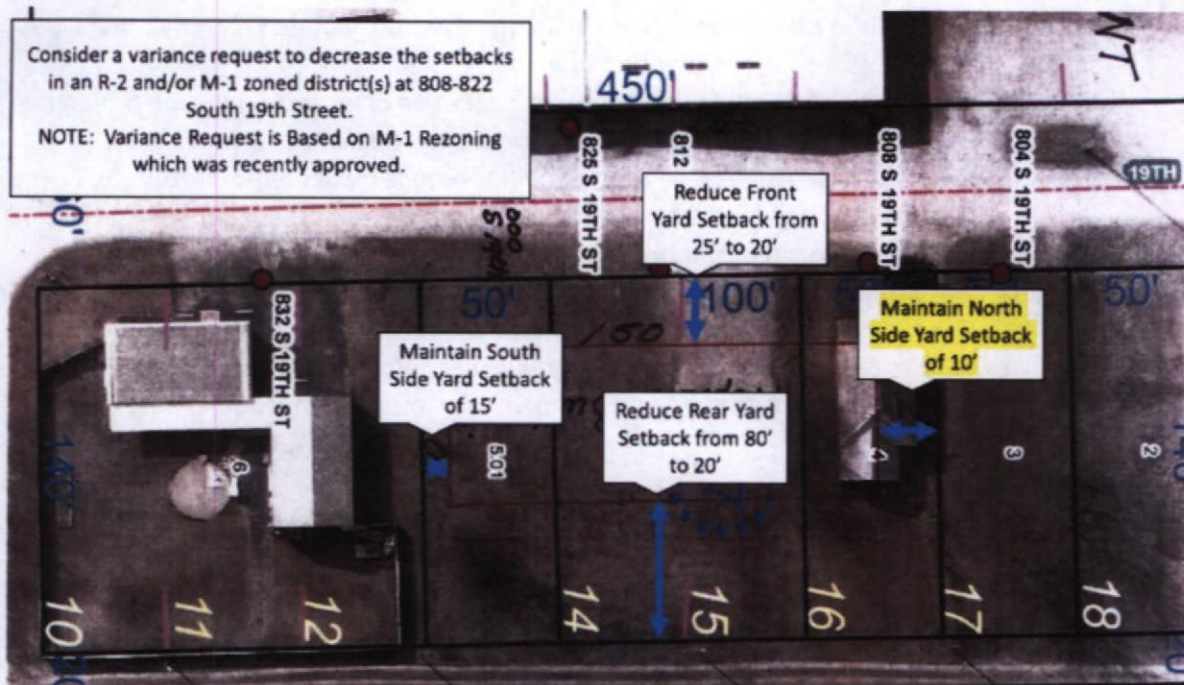
d. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;* Staff does not foresee this creating any adverse impact on the public health, safety, morals, order, convenience, prosperity, or general welfare.

e. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.* The Comprehensive Plan indicates that opportunities for industrial growth should be provided, which includes favorable land use. Considering the unique situation of a new developing industrial use from the previous vacant land, staff does not feel that approval of this variance will be opposed to the general spirit and intent of the zoning regulations.

Staff Recommendation

Staff recommends **approving** the variance as requested by reducing the 25' front yard setback 5' for a reduced front yard setback of 20', and by reducing the 80' rear yard setback 60' for a reduced rear yard setback of 20'.

The applicant, Harry Smith spoke and said he wanted to modify the above requests to also include reducing the north side yard boundary 5' from 15' to 10' as follows (the modification, from variance requests included on the original application, is highlighted):



Staff recommended modifying the variance as requested.

Barb Emert moved to approve the variance as modified by reducing the 25' front yard setback 5' for a reduced front yard setback of 20'; by reducing the 80' rear yard setback 60' for a reduced rear yard setback of 20'; and by reducing the 15' north side yard setback 5' for a reduced north side yard setback of 10'. The motion was seconded by Michelle Anderson. The motion carried 5-0.

- d. Consider a variance request from the size and number of signs in a C-4 zoned district at 121 South Peter Pan Road.

The following staff report was provided:

Overview of Variance Requested

The Board of Zoning Appeals has received an application from Wal-Mart Real Estate Business Trust to grant a variance from the sign regulations provided for in the zoning ordinance. Their request is to exceed the number and size of signs allowed in a C-4 zone at 121 South Peter Pan Road.

Section 802.5 subsection "a" provides for the following:

802.5. District C-2, general business district and District C-4, highway commercial district:

- a. Wall and marquee sign: **Each business or commercial establishment shall be permitted not more than three illuminated or non-illuminated wall or marquee signs, not more than one on a facade, the total area of which sign shall not exceed 20 percent of the total area of the facade upon which it is placed. Such signs shall not extend above the average roof level of a one-story building more than five feet, and shall not extend above**

the average level of a two or more story building. Any signs painted directly upon wall surfaces shall not exceed 20 square feet in area.

- b. *Projecting and detached sign: In lieu of one of the above attached signs, one projecting sign or one detached sign shall be permitted for each establishment, provided such projecting sign shall not exceed the area or height requirements of paragraph "a." above; and such detached sign shall not exceed 30 feet in height, nor shall it exceed 150 square feet in area per face nor more than 300 square feet total of all faces. Such detached and projecting signs shall be located not less than three feet from the property line providing it does not interfere with traffic view or other signs as might be obstructed from view. In the case of a shopping center, only one detached sign shall be allowed for the center, and one detached sign will be allowed for any service station which is part of the center.*
- c. *Electronic sign: Electronic signs consisting of LED/Reader board electronic changeable copy) or electronic display center (video display sign) as defined in this ordinance are permitted and must meet the following requirements:*
 - 1. *Detached sign: The sign must be a detached sign and the electronic portion may not exceed more than 20 percent of the allowable square footage per face of said detached sign.*
 - 2. *Duration: Any portion of the message or image must have a minimum duration of eight seconds.*
 - 3. *Off-premises advertising: All messages displayed shall be directly related to the business for which the sign was constructed.*
 - 4. *Setback: The leading edge of the sign must be a minimum of 100 feet from an abutting residential district boundary.*
 - 5. *LED/Reader board (electronic changeable copy) signs shall have the following additional restrictions:*
 - i. *Limited text: The text of the sign must be limited to ten words to allow passing motorists to read the entire copy with minimal distraction.*
 - 6. *Electronic display center (video display) signs shall have the following additional restrictions:*
 - i. *Brightness: The sign must not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum of 500 nits (candelas per square meter) between dusk and dawn.*
 - ii. *Dimmer control: The sign must have an automatic dimmer control to produce a distinct illumination change as required.*
 - iii. *Audio or pyrotechnics: Audio speakers or any form of pyrotechnics are prohibited.*

Review of Request

The applicant previously received variances for their existing signs. They are now requesting variance to add an additional wall sign that is 2' X 6" or 65.43 square feet.

The sign code for a C-4 district allows a maximum of three (3) signs, which may be a combination of one (1) detached sign and two (2) walls signs with only one (1) wall sign per

façade. They currently have nine (9) signs on the building totaling 501.15 square feet in addition to detached signage. The request for an additional 2' X 6" or 65.43 square foot wall sign which would place their total signage on the building at 566.83 square feet, not counting the detached signage that is not on the building. At this time the applicant has not requested a variance from the maximum of 20% of the total area of the facade upon which it is placed, since after the new signage is installed they will still be at an estimated 4% of the total surface area of the façades.

Board of Zoning Appeals Considerations

In considering the providing of a variance we wish to provide the following information:

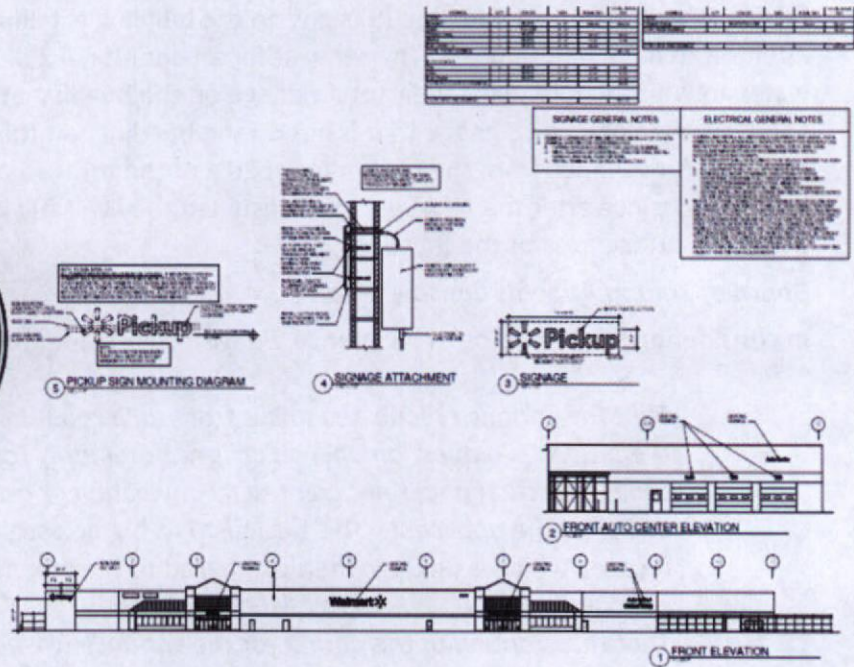
- a. *That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or the applicant; This business is a big box store with very large façades which is unique when compared to the majority of commercial buildings.*
- b. *That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents; The variance request does not appear to create any adverse effects to adjacent property owners since the lot owned by Wal-Mart is very large and there are no other businesses located within several feet of the building.*
- c. *That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application; The sign requested is informational and directional to a service being provided.*
- d. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; It does not appear that the variance will adversely affect public health, safety or general welfare.*
- e. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations. The variance request is not opposed to the zoning regulations.*

Staff Recommendation

1. Staff recommends **approving** the variance to exceed the maximum number and size of signs by allowing for an additional wall sign that is 2' X 6" or 65.43 square feet.

Katie Gladson of BRR Architecture represented the applicant, Wal-Mart. She indicated the additional signage was needed as shown due to a new "Pickup" service Wal-Mart was offering customers.

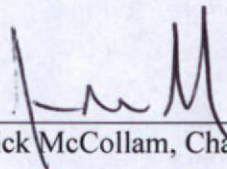
Consider a variance request from the size and number of signs in a C-4 zoned district at 121 South Peter Pan Road.

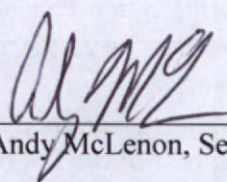


A motion was made by Jim Hardy, seconded by Barb Emert to approve staff's recommendation to grant the variance to exceed the maximum number and size of signs by allowing for an additional wall sign that is 2' X 6" or 65.43 square feet. The motion carried 5-0.

Adjournment

The meeting was adjourned with a motion by Barb Emert, seconded by Jim Hardy. The motion carried 6-0


Nick McCollam, Chair


Andy McLenon, Secretary

Food truck vendor license application:

Applications for food truck licenses shall be submitted to the City Clerk in writing on forms provided by the City Clerk and signed by the applicant and property owner.

- Name, date of birth, and applicant's permanent street address
- Business mailing address
- Name of business, business owner, and driver's license number of owner/operator
- Vehicle information: owner of vehicle, type of vehicle, model, VIN number, and insurance ID
- Kansas sales tax number
- Description of the nature of the business to be conducted and goods to be sold
- Length of stay at that location

Other forms needed:

- 1) Written permission from property owner to use their land for the food truck business
- 2) Copy of health permit from the Kansas Department of Health and Environment
- 3) Copy of fire safety permit from the Fire Department

Abbey reviewed the report for the board. The board members expressed concern over the wording of the proposed ordinance and the definition of a food truck. There were questions regarding produce, consuming the product on the premises and how the business should be set-up. Mary Jo opened the conversation to the public. Lisa Richard made comment on the wording of the ordinance, suggesting we add "parked" to the portion with "...or other mobile unit approved by the Planning Commission, within city limits along streets or in parking lots." Mary Jo closed the comments from the public. Andy McLenon motioned to approve the zones recommended by City staff, Brian Beecham seconded the motion. The motion carried 5-0.

The following staff report was provided:

Sub-item b. Off-street parking

Current design requirements for all off-street parking:

Article VII Section 705.0 Design Requirements:

705.1 Surface material: Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.

Exception: Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.

Proposed amendment:

Definitions:

Gravel: Any use of the term gravel shall be defined as crushed stone, AB3, or any other rock that is ADA compliant for the use of off-street parking materials compacted enough to be compliant with ADA guidelines for levelness, materials, and accessibility.

Accessibility of parking and paths: All off-street parking shall have a minimum of two ADA accessible parking stalls, one van accessible and one car accessible, and must have an accessible path leading from the parking stall to the entryway of the facility. The ADA parking stalls must be the closest stalls to the facility.

Add exception:

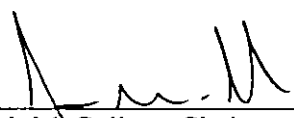
Exception: Off-street parking in M-1 or M-2 districts are allowed to utilize different gravel materials for surfacing materials. The gravel must be compliant with ADA guidelines regarding levelness, materials, and accessibility.

Exception: An accessible path must be accompanied from the parking stalls to the entry and are allowed to utilize gravel for surfacing materials.

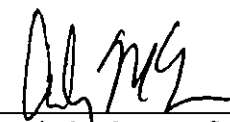
Abbey reviewed the report for the board members. Steve McBride stated that he did not want to stifle business. Andy McLenon suggested including the commercial zones of C-1, C-2 and C-3. Kelly Passauer stated that she wanted the board to understand that would mean that commercial businesses such as restaurants and retail establishments could have gravel parking lots. Andy McLenon stated that he didn't think that would be an issue, as there are other restaurants in the area that have gravel parking lots, such as in Thayer, Kansas, and it doesn't seem to hinder their business. Brian Beecham expressed concern that this amendment might hinder the progress made by the young entrepreneurs in the City. Steve McBride agreed with Brian Beecham on this concern. Some board members expressed concerns that this amendment could bring about backlash with the road troubles at Peter Pan Road. Andy McLenon expressed concern regarding existing driveways in residential zones that are not required to be hard surfaced, while new driveways in residential zones are required to be hard surfaced. Kelly Passauer stated that some of those gravel driveways were grandfathered in. Andy McLenon stated that he felt this created a perception issue. Steve McBride moved to adjourn the public hearing regarding a text amendment relating to off-street parking until October 2, 2018 at 5:30 PM, seconded by Brian Beecham. The motion carried 5-0.

Adjournment

The meeting was adjourned with a motion by Andy McLenon, seconded by Brian Beecham. The motion carried 5-0



Nick McCollam, Chair



Andy McLenon, Secretary



**REQUEST FOR PLANNING COMMISSION ACTION
UPDATE
CITY OF INDEPENDENCE
FEBRUARY 7, 2023**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Consider approving a Focus of Study for the Comprehensive Plan Update.

SUMMARY RECOMMENDATION Consider focus of study for Comprehensive Plan Update.

BACKGROUND The City is working with the County and the cities of Cherryvale and Coffeyville to submit an EDA grant to help fund the cost of the respective Comprehensive Plan Updates for each entity. In order for the grant administrator to have enough information to prepare the grant application, she will need the focus of study from each entity. I previously sent you a spreadsheet with links to several sample RFP's and Comprehensive Plans. We have also had a draft RFP prepared by Anna Krstulic, which is attached.

SUGGESTED MOTION: I move to approve the Focus of Study for the Comprehensive Plan Update [as presented] OR [with the following modifications:].

SUPPORTING DOCUMENTS

1. RFP - Independence, Kansas Comp Plan
2. KSA-12-747



I. INTRODUCTION

The City of Independence, Kansas (the "City") is announcing a request for proposal ("RFP") from professional planning consultants to update the City's Comprehensive Plan.

II. BACKGROUND AND OBJECTIVES

The City is the county seat of Montgomery County with an estimated population of 8,600. Independence is located at the intersection of US-75 and US-160, along the Verdigris River south of its confluence with the Elk River. The City is organized under a Mayor-Council-Manager form of government. Municipal operations include water, wastewater (sewer), police, and fire services.

The existing Comprehensive Plan was adopted in 1982 and thus reflects outdated information. This RFP states the general scope of work to update the Comprehensive Plan, outlines the requirements for potential consultants, and provides guidelines for preparing and submitting the proposal.

The proposal should clearly demonstrate how the firm(s) can best satisfy the City's requirements in this effort. The City shall reserve the right to enter an agreement with the firm(s) presenting the proposal that is most advantageous to the City or to reject all submitted proposals.

III. FOCUS OF STUDY

A major component of the Comprehensive Plan project is to determine the relevance of the existing plan, update it accordingly, and create a new path for the future. The plan shall comply with the requirements found in K.S.A. 12-747.

The project should include assembling and analyzing data regarding all of the existing conditions within the City and utilizing that data to develop policies, strategies, actions, and an implementation plan to guide future development and

decision making within the community with a 20-year time horizon. It is anticipated the new Comprehensive Plan would cover, but is not limited to, the following content:

a. Community Assessment

b. Demographic/Economic Overview

Population, housing, and demographic trends and projections.

c. Employment/Economy

Economic trends and forecasts, actions for an economic development plan.

d. Natural Resources and Stormwater Management

Development should be sustainable. The Comprehensive Plan should ensure the sustainable utilization and management of the City's natural resources.

e. Land Use

Document existing land use, develop future land use plan, with an appropriate balance of commercial and residential uses and potential mixed-use where appropriate. This plan should include policies and action steps for implementation to guide future development and land-use decisions, including proposals and policy for land annexation.

f. Housing

The State of Kansas Office of Rural Prosperity, in conjunction with the Kansas Housing Resources Corporation, recently released a statewide housing assessment. While the statewide assessment may prove helpful, the City wants to ensure the Comprehensive Plan process evaluates the local housing environment in the City.

g. Transportation

Transportation is an important component of community health. The Comprehensive Plan should assess traffic patterns and the City's connectivity both within the City itself and with other communities in the region. Streets should be classified based on traffic patterns.

h. Parks & Recreation

The Comprehensive Plan update should evaluate the City's existing parks, open spaces, and recreational facilities, and provide guidance for future investment to promote citizen involvement and foster a strong sense of community.

i. Building Codes

The City currently utilizes the 2018 Edition of the International Building Code. The Comprehensive Plan should help guide the conversation and direction on building code updates.

j. Downtown

The City wants to ensure the viability and sustainability of downtown businesses and buildings while balancing community safety.

The City considers citizen input essential. The Comprehensive Plan process should be structured to maximize citizen involvement and participation. The consultant is encouraged to propose a process that is both creative and interactive for soliciting input from a diverse citizenry and ensuring an open public dialogue throughout the development of the Plan. Additionally, the selected firm should work with the City to develop an effective communication plan to ensure that citizens can fully participate in and track the process of the Comprehensive Plan project.

IV. DEVELOPMENT OF SCOPE OF SERVICES

Following the selection of the successful firm, a detailed Scope of Services will be developed by the City and consultant to outline the specific purposes, objectives, and tasks of the Comprehensive Plan update.

V. PROPOSAL PROCEDURES

a. Anticipated Proposal Schedule

The following is a timetable for the consultant selection process.

Date	Activity
 , 2023	Advertise RFP
 , 2023	Consultant proposals due
 , 2023	Approval by City Council

b. Inquiries Regarding the RFP

Questions concerning the RFP may be directed via email to: Kelly Passauer, City Manager/Zoning Administrator, kellyp@independence.gov.

c. Submission of Proposals

Proposers shall submit four copies of their proposal. An electronic PDF version of the proposal may be requested after the submittal deadline. Proposals for the City's Comprehensive Plan Update will be received at:

Independence City Hall
811 West Laurel Street
Independence, KS 67301

until 12:00 PM (Local Time) on [REDACTED], 2023. Proposals received after the submission deadline will not be considered. Proposals should be clearly marked by the proposer and addressed as follows:

2023 Comprehensive Plan Update
Attn: Kelly Passauer, City Manager/Zoning Administrator

d. Evaluation and Award Criteria

A Staff Screening and Selection Committee will review the Proposals and develop a ranking list based on the criteria stated below. After the initial screening process, the committee may also conduct interviews with selected firms, providing an opportunity for further clarification of the selected proposals. After this review process, the City Manager will present a recommendation to the City Council for consideration. Criteria that will be considered:

1. Project Approach – Adequacy of the proposal addressing the areas of focus to include project timeline, community engagement strategy, and implementation capacity.
2. Fees for Services – Provide the fee for the proposed services and the fee rate for any related services.
3. Technical Qualifications – Qualifications of the firm's professional personnel to be assigned to the engagement, and qualifications of the firm's management support personnel to be available for technical consultation.

4. Firm Experience – Consultant's past experience and demonstrated success with similar comprehensive planning projects, the firm's creativity and effectiveness in facilitating substantive and successful public participation processes in a diverse rural community, and the ability to provide the necessary professional staff on a timely basis to complete the study.

The successful firm will have a professional planner (AICP preferred) to manage and lead the project and a team of experienced professionals to help address the broad spectrum of issues and facilitate the public process.

e. Terms and Conditions

1. This RFP does not commit the City to award a contract, to defray any costs incurred in the preparation of a response to this request, or to procure or contract for services.
2. The City reserves the right to extend the date by which the submittals are due.
3. The City reserves the right to cancel, in part or in its entirety, this RFP including but not limited to: selection schedule, submittal date, and submittal requirements. If the City cancels or revises the RFP, such action shall be published as an addendum to the RFP.
4. All submittals become the property of the City. Except for the name of firms on the final list, no information contained in proposal submittals shall be made public until after the award and execution of a contract.
5. The City reserves the right to consider the requested options as a whole, in part, or not at all when determining the best product that best serves the City's interests.
6. The City reserves the right to request additional information and/or clarifications from any or all Respondents to this RFP.
7. All proposals must remain in effect for 90 days after the proposal due date.
8. The City is an equal opportunity employer. Minority and women's business enterprises are encouraged to submit proposals.

VI. PROPOSAL REQUIREMENTS

- a. **Cover Letter** – A signed transmittal letter briefly stating the proposer’s understanding of the work to be done, why the firm believes itself to be the best qualified to perform the engagement, and any other information they consider essential to their proposal.
- b. **Project Approach** – The proposal should set forth a general project plan, including an explanation of the methodology to be followed to perform the services required in the request for proposal. Each proposal should detail the strategies to be taken to develop an understanding of the community and nurture citizen engagement.
- c. **Firm Profile** – At a minimum, the proposal should state the size of the firm, the size of the firm’s governmental planning staff, and the location of the office from which the work on this engagement will be performed.
- d. **Project Team Qualifications** – The proposal should describe the qualifications of staff to be assigned to the project. The description should include the composition of the team and prior experience of the individual team members.
- e. **Proposed Fees** – Provide the firm’s all-inclusive maximum fee for the requested work in this proposal. The fee rate for related services should also be included.
- f. **Anticipated Project Schedule** – The proposal should include a general timeline for the project.
- g. **Work Samples & References** – The proposal should describe prior comprehensive planning experience. The experience listing should be limited to the last five (5) years and should include prior experience with municipalities that are similarly-situated to the City.

The proposal should include a maximum of three (3) client references, including contact persons and telephone numbers.

12-747. Same; comprehensive plan; contents; procedure for adoption; annual review of plan. (a) A city planning commission is hereby authorized to make or cause to be made a comprehensive plan for the development of such city and any unincorporated territory lying outside of the city but within the same county in which such city is located, which in the opinion of the planning commission, forms the total community of which the city is a part. The city shall notify the board of county commissioners in writing of its intent to extend the planning area into the county. A county planning commission is authorized to make or cause to be made a comprehensive plan for the coordinated development of the county, including references to planning for cities as deemed appropriate. The provisions of this subsection may be varied through interlocal agreements.

(b) The planning commission may adopt and amend a comprehensive plan as a whole by a single resolution, or by successive resolutions, the planning commission may adopt or amend parts of the plan. Such resolution shall identify specifically any written presentations, maps, plats, charts or other materials made a part of such plan. In the preparation of such plan, the planning commission shall make or cause to be made comprehensive surveys and studies of past and present conditions and trends relating to land use, population and building intensity, public facilities, transportation and transportation facilities, economic conditions, natural resources and may include any other element deemed necessary to the comprehensive plan. Such proposed plan shall show the commission's recommendations for the development or redevelopment of the territory including: (a) The general location, extent and relationship of the use of land for agriculture, residence, business, industry, recreation, education, public buildings and other community facilities, major utility facilities both public and private and any other use deemed necessary; (b) population and building intensity standards and restrictions and the application of the same; (c) public facilities including transportation facilities of all types whether publicly or privately owned which relate to the transportation of persons or goods; (d) public improvement programming based upon a determination of relative urgency; (e) the major sources and expenditure of public revenue including long range financial plans for the financing of public facilities and capital improvements, based upon a projection of the economic and fiscal activity of the community, both public and private; (f) utilization and conservation of natural resources; and (g) any other element deemed necessary to the proper development or redevelopment of the area. Before adopting or amending any such plan or part thereof, the planning commission shall hold a public hearing thereon, notice of which shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county. Such notice shall be published at least 20 days prior to the date of the hearing. Upon the adoption or amendment of any such plan or part thereof by adoption of the appropriate resolution by a majority vote of all members of the planning commission, a certified copy of the plan or part thereof, together with a written summary of the hearing thereon, shall be submitted to the governing body. No comprehensive plan shall be effective unless approved by the governing body as provided by this section. The governing body either may: (1) Approve such recommendations by ordinance in a city or resolution in a county; (2) override the planning commission's recommendations by a $\frac{2}{3}$ majority vote; or (3) may return the same to the planning commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove. If the governing body returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or it need take no further action thereon. If the planning commission fails to deliver its recommendations to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly. The comprehensive plan and any amendments thereto shall become effective upon publication of the respective adopting ordinance or resolution.

(c) An attested copy of the comprehensive plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan. Such plan or part thereof shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the health, safety, morals, order, convenience, prosperity and general welfare as well as wise and efficient expenditure of public funds.

(d) At least once each year, the planning commission shall review or reconsider the plan or any part thereof and may propose amendments, extensions or additions to the same. The procedure for the adoption of any such amendment, extension or addition to any plan or part thereof shall be the same as that required for the adoption of the original plan or part thereof.

History: L. 1991, ch. 56, § 7; L. 1997, ch. 147, § 4; May 1.



**REQUEST FOR PLANNING COMMISSION ACTION
MODIFY CONDITIONAL USE PERMIT
CITY OF INDEPENDENCE
FEBRUARY 7, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a request for a modified conditional use permit for a "Children's Home" in an R-3, low density multifamily dwelling district at 517 South 4th Street.

SUMMARY RECOMMENDATION The City was notified January 31, 2023 by the applicant who wishes to withdraw the application for consideration.

BACKGROUND

SUGGESTED MOTION I move to recommend the City Commission deny the request for a modified conditional use permit for a "Children's Home" in an R-3, low density multifamily dwelling district at 517 South 4th Street because the applicant withdrew the request.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Childrens Home
2. 200 ft Notification Map 517 S. 4th Street
3. CUP Children's Home Receipt

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, February 7, 2023 at 5:30 p.m.

To receive comments on a request for a modified conditional use permit for a “Children’s Home” in an R-3, low density multifamily dwelling district at 517 South 4th Street.

Legal Description:

Lot 3, Wood Bros Subdivision OL 26 to the City of Independence, Montgomery County, Kansas.

Common Address:

517 South 4th Street

Applicant/Owners:

BF Property Investments LLC

Case Number:

2023/CUP/02

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator’s office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator





Independence, KS

This is your payment receipt.

Confirmation Number
5LMF6FVPNW

Payer Contact Info
[REDACTED]

Payment Method
*****5542

Conditional Use

Name Brianne Ford
Property Address 517 S 4th Street, Independence, KS 673021
Phone [REDACTED]

Base Price	\$200.00
Convenience Fee	\$1.25
Municipal Online Payments Fee	\$1.25
Total	\$202.50

[Municipal Online Services](#)

[Login](#)



**OTHER DISCUSSION
CITY OF INDEPENDENCE
February 7, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Urban Heat Islands -- Information provided by Lisa Richard.

BACKGROUND



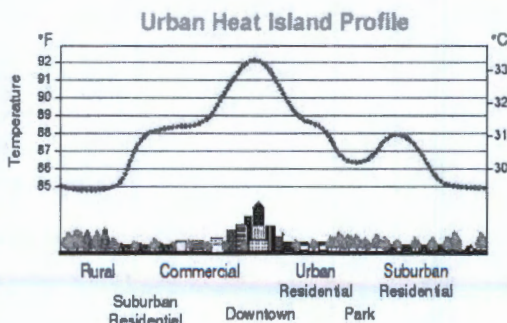
Smart Growth and Urban Heat Islands

Development patterns of the last 50 years have had both positive and negative impacts on communities across the country. One concern has been steadily increasing urban temperatures due to the effects of "urban heat islands." A heat island is an umbrella of air, often over a city or built-up area, that is warmer than the air surrounding it.

The urban heat island profile shown here demonstrates that heat islands are typically most intense over dense urban areas. The profile also shows how parks and other vegetated sections within a downtown area may help to reduce heat islands.

In general, summertime heat islands raise air conditioning demand, air pollution levels (particularly smog), and greenhouse gas emissions. They also increase the incidence of heat-related illness and mortality. In fact, in an average year, approximately 1,100 Americans die from extreme heat -- the leading weather-related killer in the United States. ²

Heat islands augment this public health threat by directly increasing temperature and indirectly raising ground-level ozone concentrations. Those at significant risk from extreme heat and ozone exposure include the elderly, children, and individuals with pre-existing respiratory disease. Residents who live in homes with dark-colored roofs and no air conditioning may also be more vulnerable than the general population.



Source: EPA 1992 ¹

Because urban design plays a large role in heat island formation, smart growth development strategies provide an opportunity to reduce heat islands.

Smart growth is development that enhances both a community's economy and environment through strategies to help citizens make informed decisions about how and where they want to grow.

In addition to mitigating the heat island effect, smart growth provides a framework for increasing regional environmental protection, enhancing community character, and strengthening local economies. Here are four smart growth solutions that can achieve these goals:

- **Reducing off-street parking and using porous paving materials:** Surface parking lots replace natural vegetation with pavements that transfer heat to the surroundings. Providing on-street parking and planning compact, pedestrian-oriented development promotes transportation choices and can minimize the size and number of parking lots.
- **Planting, preserving, and maintaining trees and vegetation:** Trees and vegetation contribute to the beauty, distinctiveness, and material value of communities by incorporating the natural environment into the built environment. In addition, they cool surrounding areas by increasing evapotranspiration -- a natural process that draws heat from the air to convert water in the leaf structure to water vapor. Planted adjacent to homes and buildings, trees provide shade, cool the interior, and reduce air conditioning energy demand. Trees and vegetation planted along medians and sidewalks can decrease evaporative emissions from cars and filter pollution from the air. Rooftop gardens, or green

Everyone wins. Residents get better homes, lower energy bills, and cooler neighborhoods with plenty of green space. Narrower streets and a shorter pipeline means lower installation costs, so the developer gets a subdivision that's cheaper to build. And the City ends up with less streets to maintain and a standard for future development that maintain the community's existing high quality of life.

J.D. Hightower, City Planner for Escalon, CA

Currents -- An Energy Newsletter for Local Governments January/February 1999

roofs, can also mitigate urban heat islands while increasing the energy efficiency and attractiveness of commercial and residential buildings.

- **Promoting infill and higher-density development:**

Development within existing communities can preserve open space and help offset heat islands and their consequences. A 2001 report found that for every acre of brownfield redevelopment, 4.5 acres of open space is preserved. Additional research found that compact development contributes less heat energy to the surrounding air than low-density dispersed growth patterns.³

- **Increasing public education and outreach:**

Heat island mitigation strategies should reflect local variation in the built environment, as well as local preferences and attitudes. Policies should be tailored to meet these needs, based on stakeholder input, and effectively communicated to the public. Committees formed to address urban heat mitigation should include representatives from citizen groups, local government, non-governmental organizations, universities, and others concerned about how the community grows. A lead organization should be appointed to disseminate information to the community, solicit feedback, and incorporate issues and concerns

Case Study

Chicago is a leader in urban forestry and heat island mitigation. The city has adopted an **open space impact fee ordinance** that requires new residential development to contribute a proportionate amount of open space or recreational facilities, or to pay fees that ensure community residents of continued access to greenspace. Chicago also replaced a 10,080 ft² conventionally paved alley with a **light-colored permeable gravel pave system**, which has eliminated chronic flooding without requiring the installation of a sewer system. In addition, between 1991 to 1998 Chicago planted **over 500,000 trees** and achieved a citywide tree count of 4.1 million. Chicago's Bureau of Forestry now plants a minimum of 5,000 new trees per year and plans to install -- in addition to 120 miles of existing median planters -- **280 miles of new median planters by 2005**. In June 2001, Chicago amended its **energy code** to include **requirements for reflective or green roofs**. See: <http://www.cityofchicago.org/Environment/>

into action plans. Working together, communities can address urban heat islands while enhancing the quality and character of their neighborhoods.

Resources

For more information on heat islands, see www.epa.gov/heatisland, www.hotcities.org, and <http://eetd.lbl.gov/HeatIsland>.

For more information on smart growth, see www.smartgrowth.org and www.epa.gov/smartgrowth. Additional information on the relationship between the environment and the built environment can be found in "Our Built and Natural Environments: A Technical Review of the Interactions between Land Use, Transportation, and Environmental Quality." EPA 231-R-01-002.

- ¹ "Cooling Our Communities – A Guidebook On Tree Planting and Light-Colored Surfacing" U.S. Environmental Protection Agency 22P-2001, January 1992.
- ² Kalkstein, LS, 1993. Health and Climate Change: Direct Impacts in Cities. *The Lancet* 342:1397-99.
- ³ Stone, B., and M.O. Rodgers. 2001. "Urban Form and Thermal Efficiency: How the Design of Cities Influences the Urban Heat Island Effect." *Journal of the American Planning Association* 67 (2) 186-198.

To learn more about Smart Growth and the Smart Growth Network, please go to <http://www.smartgrowth.org>.

Office of Air and Radiation (MC 6205J)
Office of the Administrator (MC 1808)
EPA 430-F-03-001

"EPA's mission is to protect public health and the environment. EPA works with state and local decision makers to evaluate, promote, and implement integrated, common-sense strategies that capitalize on public health and air quality improvements, while encouraging economic growth. Studies have demonstrated that mitigating heat islands provide clear environmental and financial benefits including improved local and global air quality, reduced heat-related illness and death, and increased energy savings."

KEEPING YOUR COOL

How Communities Can Reduce the Heat Island Effect

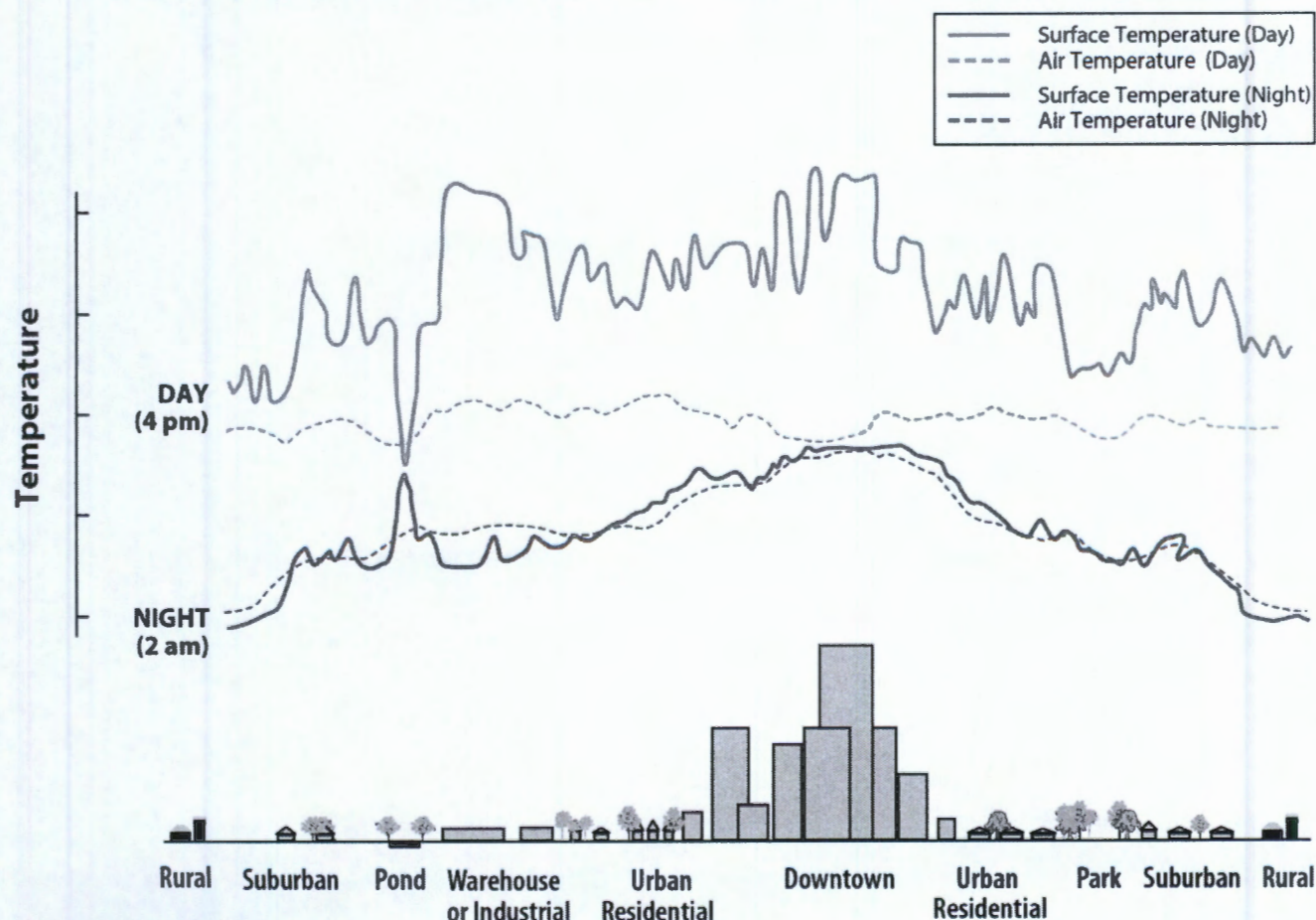
Millions of people living in and around cities experience summertime temperatures that are higher than those in surrounding natural areas. These urban "heat islands" increase energy demand for air conditioning, raise air pollution levels, and can cause heat-related illness and death. As temperatures continue to rise due to climate change, urban areas are more likely to experience more frequent, more intense, and longer heat waves. Fortunately, there are proven actions that communities can take today to keep cool in the future.

The Basics: What Is a Heat Island?

Heat islands are zones of relative warmth created by urban air and surface temperatures that are higher than those of nearby rural areas. Air temperatures in a large city can be 2–22° F (1–12° C) higher than its rural surroundings.

The sketch below shows a hypothetical city's heat island profile at two times during a 24-hour period, demonstrating how temperatures typically rise during both the day and night as you move from rural areas toward dense downtown areas.

Typical Heat Island Temperature Differences Between Urban and Rural Areas



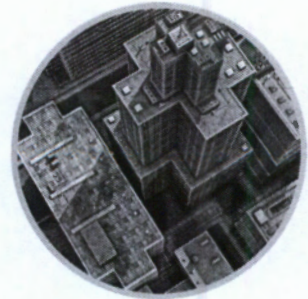


What Causes Heat Islands?

Heat islands form when cities replace natural land cover—trees, grass, wetlands—with pavement and buildings. These changes lead to higher urban temperatures because:

- Removing trees and vegetation eliminates the natural cooling effects of shade and evaporation of water from soil and leaves.
- Pavement, rooftops, and other non-reflective surfaces absorb heat during the day and release it at night, inflating overnight temperatures.
- Tall buildings and narrow streets reduce wind flow and heat air that is trapped between them.
- Waste heat from vehicles, factories, and air conditioners add warmth to the air, further increasing the heat island effect.

Heat islands are also influenced by a city's geography and prevailing weather conditions. For example, strong winds and rain can flush out hot, stagnant air from city centers, while sunny, windless conditions can intensify heat islands.



How Do Heat Islands Affect Us?

Higher temperatures affect people's health, air and water quality, and the amount of energy that we use for summertime cooling.

People's Health: Heat islands can intensify extreme hot weather, which can cause breathing problems, heat cramps, and heat stroke, and may lead to illness or even death—especially in vulnerable populations such as the elderly.

Air Quality: Heat islands raise energy demand to power air conditioning, which in turn can increase utility bills and increase power plant emissions of carbon pollution that causes climate change. Higher temperatures also accelerate the chemical reaction that produces ground-level ozone, or smog.

Water Quality: Hot pavements heat up stormwater runoff, which can hurt aquatic life in local waterways.

Energy Use: Heat islands are responsible for 5–10 percent of summertime electricity demand, leading to higher electricity bills, pressure on the electricity grid, and brownouts and blackouts.



How Can Communities Cool Down?

Communities that want to cool down have options. They include installing reflective **cool roofs**; planting **trees and vegetation**, including **"green" roofs**; and using **cool paving materials** for roads, sidewalks, and parking lots.

"Urban canyon" photo courtesy of Frederick V. Slocum, Minnesota State University



Four Strategies to Reduce Heat Islands

- ① **Green Roofs** replace heat-absorbing traditional roofing materials surfaces with plants, shrubs, and small trees.

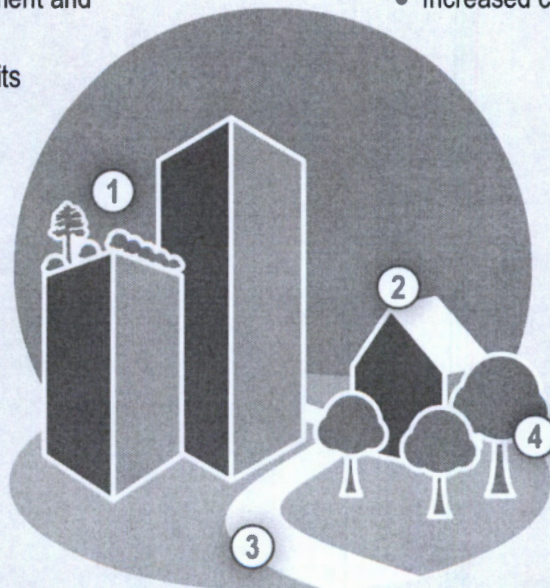
BENEFITS:

- Lower energy bills and energy demand
- Less air pollution
- Better stormwater management and water quality
- Aesthetic and habitat benefits

- ② **Cool Roofs** reflect or release the sun's solar energy rather than retain it, are typically 50–60° F (28–33° C) cooler than traditional roofs.

BENEFITS:

- Lower energy bills and energy demand
- Less air pollution
- Increased comfort of occupants



- ③ **Cool Pavements** store less heat and reflect more solar radiation than conventional pavements. They may be permeable or porous to allow water to percolate and evaporate, cooling the pavement surface and surrounding air.

BENEFITS:

- Reflective pavements can improve nighttime visibility
- Permeable pavements can reduce stormwater runoff and tire noise, and can improve safety during rainstorms

- ④ **Trees and Vegetation** provide shade and cool the air through evapotranspiration.

BENEFITS:

- More green space
- Better stormwater management
- Less air pollution and erosion
- Lower energy bills and energy demand



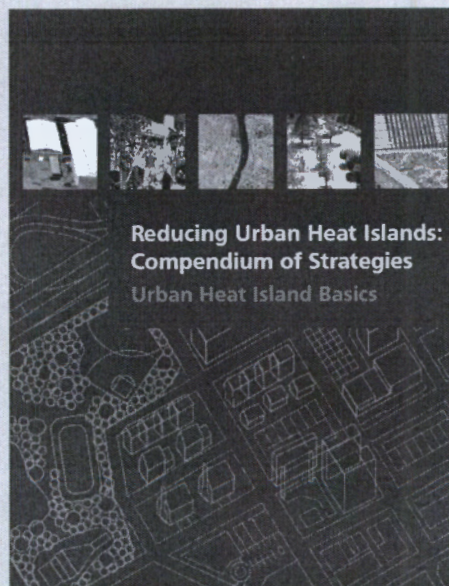
What Are the Benefits of Cooling Down?

Implementing cooling strategies across a community has many benefits, including reducing summertime temperatures, lowering energy use and costs, curbing air pollution, and alleviating heat-related health issues.

By adding these strategies to long-term local and regional planning, communities can also prepare for or adjust to higher temperatures and changing conditions that come with climate change. For instance, planting trees helps prevent flooding while also lowering local temperatures.



Photo courtesy of American Society of Landscape Architects, ENERGY STAR partner, 2014



Learn more about these strategies in EPA's *Reducing Urban Heat Islands: Compendium of Strategies*, available at: <http://epa.gov/heatisland/resources/compendium.htm>.

About EPA's Heat Island Reduction Program

Through its Heat Island Reduction Program, EPA works with local officials, community groups, researchers, and other stakeholders to identify opportunities to implement heat island reduction programs and policies that create comfortable and sustainable communities.



Learn more at:
epa.gov/heatisland

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