



Tuesday, March 5, 2024

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: 820 754 218#

I. CALL TO ORDER

II. MINUTES

- a. Consider approving minutes of the February 6, 2024 Planning Commission/Board of Zoning Appeals meeting.

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

- a. Public Hearing to consider a variance request for the size and number of detached signs in an R-3, low-density multifamily dwelling district at 215 N. Park Blvd.
- b. Public Hearing to receive comments on a variance request to reduce the setback(s) in a C-2, commercial services district at 1609 N. Pennsylvania Avenue.

IV. PLANNING COMMISSION

- a. Public Hearing to consider a text amendment relating to "Restaurants, drive-in" in the C-3 Central Business District.
- b. Public hearing(s) to receive comments to consider rezoning a tract of land at 408 South 8th Street from R-3, low density multifamily dwelling district to R-5, high density multifamily dwelling district; and to receive comments on a request for a conditional use permit for an "Accessory use not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d.", in an R-3, low density multifamily dwelling district at 408 South 8th Street. The specific accessory use requested is an outbuilding to serve the primary structure located across the alley at 401 South Penn Avenue, which is in an R-5, high density multifamily dwelling district.
- c. Consider a preliminary plat for Jefferson Subdivision.
- d. Consider a final plat for Jefferson Subdivision.
- e. Consider initiating a public hearing for a text amendment relating to "Shipping containers" in the C-4, highway commercial district.

V. DISCUSSION

VI. ADJOURNMENT



**PLANNING COMMISSION ACTION / BOARD OF
ZONING APPEALS MINUTES
CITY OF INDEPENDENCE
March 5, 2024**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Consider approving minutes of the February 6, 2024 Planning Commission/Board of Zoning Appeals meeting.

SUMMARY RECOMMENDATION Approve minutes.

Suggested Motion: I move to approve the minutes of the February 6, 2024 Planning Commission/Board of Zoning Appeals meeting.

SUPPORTING DOCUMENTS

1. 02062024 Planning Commission Board of Zoning Appeals Minutes - Draft

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's February 6, 2024
Meeting**

I. Call to Order

Lisa Richard called the meeting to order at 5:33 p.m. Tim Haynes, Chairperson and Rachel Lyon, Secretary had not yet arrived.

Present: Butch Holum, Rita Ortolani, Lisa Richard, Kym Kays, Gary Hogsett, Michelle Anderson

Absent: Mary Jo Meier

Guests: Tracy Young, Garber Survey

a. Reorganization

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

Lisa Richard nominated Rachel Lyon for Chairperson.

Motion:

On the motion of Lisa Richard, seconded by Butch Holum the Commission voted Rachel Lyon as Chairperson.

Aye: Michelle Anderson, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani

Nay: None

Tim Haynes and Rachel Lyon came in after the election of Chairperson.

Tim Haynes nominated Lisa Richard for Vice-Chairperson

Motion:

On the motion of Tim Haynes, seconded by Gary Hogsett, the Commission voted Lisa Richard as Vice-Chairperson.

Aye: Michelle Anderson, Tim Haynes, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani, Rachel Lyon

Nay: None

Kim Kayes volunteered to be Secretary

Motion:

On the motion of Rachel Lyon, seconded by Butch Holum the Commission voted Kim Kayes as Secretary.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's February 6, 2024
Meeting**

Aye: Michelle Anderson, Tim Haynes, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani, Rachel Lyon
Nay: None

II. Minutes

- a. Consider approving the minutes of the December 12, 2023 Planning Commission/Board of Zoning Appeals meeting.

Motion:

On the motion of Butch Holum, seconded by Kym Kays the Commission approved the December 12, 2023 Planning Commission/Board of Zoning Appeals meeting.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani
Nay: None

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

- a. Public hearing to consider a variance regarding a lot split of City-owned property at 203 - 207 West Laurel Street (City Parking Lot).

Rachel Lyon, Chairperson, opened the hearing

Kelly Passauer explained that Cox had found a location for the utility substation for Cox Communications in a portion of a City parking lot located behind Appletree Inn. Since this is a prior subdivision, the City is requesting a variance to allow the lot split without a replat which City staff does not see any benefit in doing.

Tracy Young from Garber Survey was there to answer any questions.

Rachel Lyon, Chairperson, closed the hearing.

Motion:

On the motion of Tim Haynes, seconded by Butch Holum the Commission approved a variance regarding a lot split of City-owned property at 203-207 W. Laurel Street (City Parking Lot).

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Lisa Richard, Butch Holum, Gary Hogsett Rita Ortolani, Rachel Lyon
Nay: None

IV. Planning Commission

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's February 6, 2024
Meeting**

- a. Public Hearing to receive comments on a request for a conditional use permit for "utility substations not elsewhere listed" in an R-4, medium density multifamily dwelling district at 401 North 10th Street.

Rachel Lyon, Chairperson, opened the hearing.

Cox Communications requested that this Conditional Use Permit request be withdrawn.

Motion:

On the motion of Lisa Richard, seconded by Tim Haynes the Commission authorized Cox Communications' request to withdraw its conditional use permit application for "utility substations not elsewhere listed" in an R-4, medium-density multifamily dwelling district at 401 North 10th Street.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani

Nay: None

V. Discussion

Kelly Passauer said that orientation will be done in April. The board was asked if they want to continue the meetings at City Hall or go back to Memorial Hall. The board decided to keep them at City Hall.

VI. Adjournment

Motion:

On the motion of Rachel Lyon, seconded by Tim Haynes the Commission approved to adjourn the meeting.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani

Nay: None

Rachel Lyon, Chairperson

Kym Kays, Secretary



**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
MARCH 5, 2024**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to consider a variance request for the size and number of detached signs in an R-3, low-density multifamily dwelling district at 215 N. Park Blvd.

SUMMARY RECOMMENDATION Approve variance.

BACKGROUND St Andrew's Catholic School wants to install a new detached sign identifying the school. The church has a detached sign on East Myrtle identifying the church. They are asking for a variance for the size of the sign and for a second sign to be installed on property owned by the Catholic Diocese of Wichita. The church owns the entire block, lots 1-10. The zoning code for this is as follows:

802.2. Residential districts including R-1, R-2, R-3, R-4 and R-5:

- a. *Developed project identification signs:* For any one ownership containing a multifamily use, there shall be permitted only one nonilluminated or illuminated detached sign for each 20,000 square feet of land area, identifying the use and ownership, not more than 20 square feet in area and not more than six feet high overall, and such sign shall be located no closer than ten feet to any property line. Such signs shall bear no advertising.
- b. *Church signs:*
 - (1) One illuminated or nonilluminated detached sign per church, no more than 16 square feet in area, on church premises, indicating activities and services therein provided. Source of illumination shall be so shielded as to not be visible from residential areas.
 - (2) One illuminated or nonilluminated detached sign per church, no more than 40 square feet in area, on church premises abutting United States Highways 160 and 75, indicating activities and services therein provided. Source of illumination shall be so shielded as to not be visible from residential areas.
- c. *Construction signs:* One nonilluminated sign per building, not more than 32 square feet in area, showing names of architects, engineers, builders, or contractors on the premises of a building being constructed, at a minimum distance of ten feet from the property line, provided such sign shall be removed upon completion of the building and provided further that such sign shall carry no other advertising. The mounting of said sign be prohibited on any vehicle or portion of any vehicle.
- d. *For sale/rent signs:* There shall be allowed one nonilluminated temporary "for sale" or "for rent" sign per lot, not to exceed eight square feet in area. (See section 803.3, "Temporary Signs," for additional requirements.)

Churches are allowed one illuminated or nonilluminated detached sign per church, no more than 16 square feet in area. There is an existing sign for the church and they want to add another illuminated sign for the school on church property. They are asking for a variance for another sign and for a variance of the size from 16 square feet to 32 square feet which is double the size allowed.

The higher elevation of the property is the reason they want the sign to be larger. This area has double sidewalks and visual obstructions, such as trees and an ADA switchback.

Other schools in Independence have the following size signs:

Eisenhower - 24.75 sq. ft.

Jefferson - 22.2 sq. ft.

IHS - 25.2 sq. ft.

IMS - 28.04 sq. ft.

Signs for schools are not covered in the code specifically, but churches are. The size of the sign is close to the size of the high school sign and it is off the road far enough that it does not pose a risk to drivers. The sign will be softly backlit with the school's name on it, no other advertising.

BOARD OF ZONING APPEALS CONSIDERATIONS The five considerations that must be considered when reviewing a variance include:

- 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; *The sign will be more difficult to see from the road due to the site obstructions and elevation.*
- b. That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents; *The granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents as the sign will not be obtrusive.*
- 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 school feels the sign would not be seen from the road.*
- 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 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. *Granting the variance will be in keeping with the general spirit and intent of the zoning regulations.*

STAFF RECOMMENDATION City staff recommends approving this variance.

SUGGESTED MOTION I move to approve a variance request to allow a second sign on church property and a variance to allow the school sign to be 32 square feet in size.

SUPPORTING DOCUMENTS

1. 2024VAR02 Public Hearing Notice Size and Number of Signs
2. 215 N Park Blvd Aerial
3. 2024 Variance - 210 N. 4th St. Andrew Church

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, March 5, 2024 at 5:30 p.m.

To receive comments on a variance request for the size and number of detached signs in an R-3 low density multifamily dwelling district.

Common Address:

215 N Park Blvd

Legal Description:

Block 27, Lot 1-5 Orig Plat to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

Catholic Diocese of Wichita

Angela Renfro, St Andrew Catholic School Principal

Case Number:

2024/VAR/02

The hearing will be conducted in the Commission Room, City Hall, 120 North Sixth Street, 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: 820 754 218# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer

Zoning Administrator

120 North Sixth 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



E LAUREL ST

N 4TH ST

N PARK BLVD

E MYRTLE ST

APPLICATION TO BOARD OF ZONING APPEALS

CITY OF INDEPENDENCE, KANSAS

1. Date: February 5, 2024

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

St. Andrew Church
210 N 4th
Independence, KS 67301
620-331-1789

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

Name: Angela Renfro
Address: 215 N Park Blvd
Telephone: Independence, KS 67301
620 331 2870

4. Common Address of Land Involved:

416 E Myrtle
Independence, KS 67301

5. Legal Description of Land Involved:

Block 27, Lots 1-5, original plat, City of Independence

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

Locate a new detached sign to identify St. Andrew Catholic School. This sign will be in addition to the existing detached sign on East Myrtle that identifies the church.

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 school building property is located at a considerably higher elevation than Park Boulevard making it more difficult to see a sign limited to 16 square feet from the street.

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

The new proposed sign is not an LED sign and not a flashing sign. There is backlighting for evening visibility that will create a non-glaring soft glow.

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

The size of the sign at 16 square feet will not be large enough to be visible from the street.

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

The sign will be located far enough away from the street to not be a distraction to motorists.

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

The code allows for only one sign on a church property. The school building is a different use and is located on a different street than the church.

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 site plan indicatse the school building and proposed sign location.

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: _____



Your payment was successfully processed.

Payment Method
*****6604

Variance

620-331-2870

Total \$102.50

Announcement



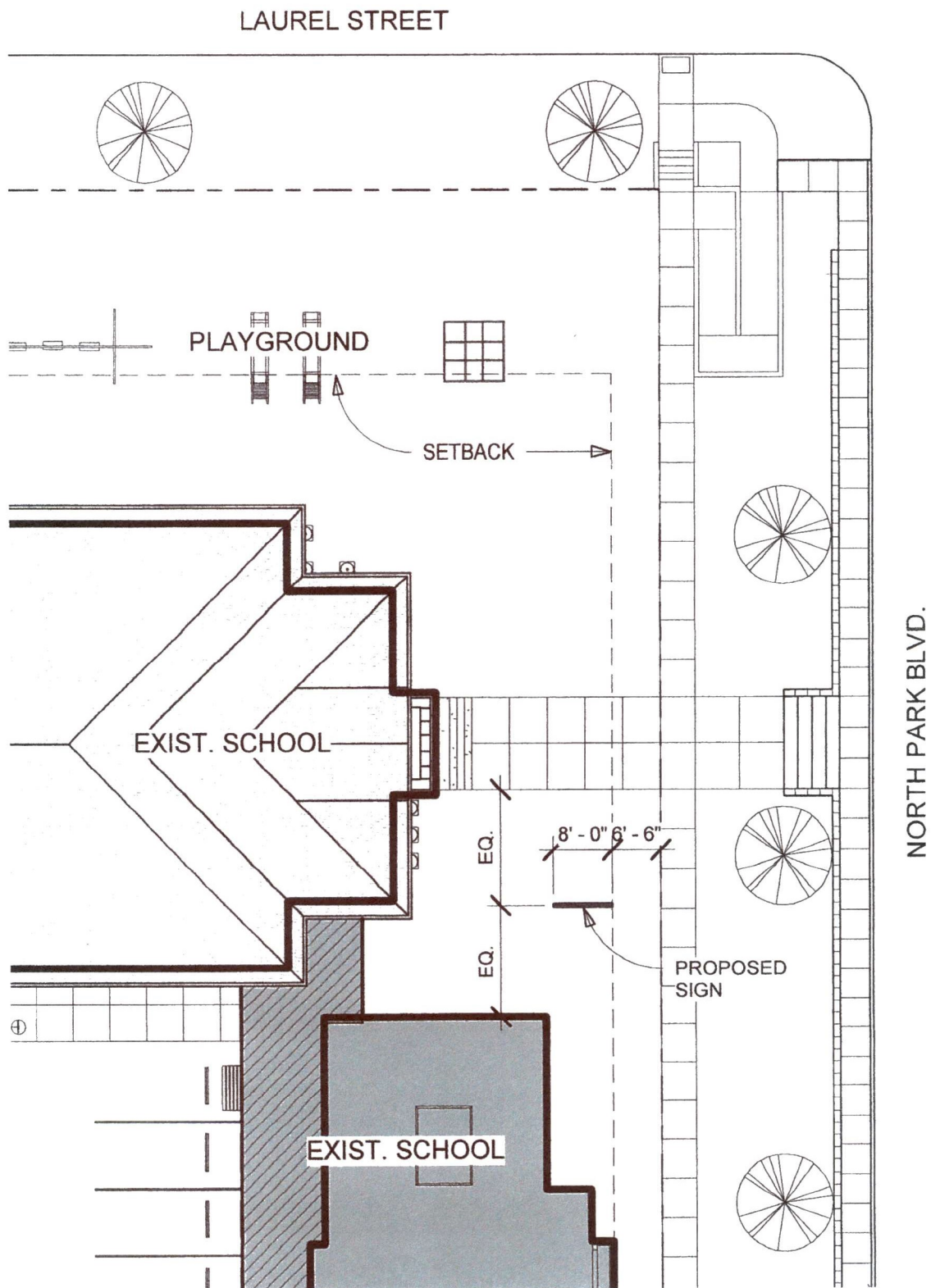
Office Hours are Monday through Thursday from 8am to 4pm and Friday's 8 am to noon.

Contact us



620-332-2500

Contact us



PROPOSED SITE PLAN

HECKMAN & ASSOCIATES, P.A.



Backlit LED panels

Aluminum Frame in Bronze

8'

4'

4'



St. Andrew
Catholic School

www.standrewsindependence.com

Faux Stacked Stone







**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
MARCH 5, 2024**

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 1609 N. Pennsylvania Avenue.

SUMMARY RECOMMENDATION Approve variance.

BACKGROUND Travis and Laura Blankinship want to install a steel building behind the current business structure, Blankinship Electric, LLC, at 1609 N. Penn Avenue. There is an 18 x 18 foot carport behind the building that will be removed prior to the new building going in. This is in a C-2 commercial service district and the code specifies 25 feet from the alley when abutting a residential zone. There is an R-2, single-family dwelling district behind the business, across the alley. The area on either side of the business is C-2 and across the street is Mount Hope Cemetery. They are asking for a 14-foot variance because the building, 30 x 30 feet, would be 11 feet from the alley. They will be pouring new concrete to the south at the entrance to the new building.

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 The five considerations that must be considered when reviewing a variance include:

- 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; *The only place to expand for storage is behind the business, which would put it closer to the alley than is allowed. The rest of the property is for parking and bringing trucks in and out.*
- b. That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents; *Putting the building in would mean the trailers by the alley would be moved and would clean up the area, allowing for inside storage.*
- 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; *There is no other place to expand on the property or for storage.*
- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; *The variance desired will not adversely affect 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. *Granting the variance will not be opposed to the general spirit and intent of the zoning regulations.*

STAFF RECOMMENDATION Staff recommends approving the 14 foot variance off the alley.

SUGGESTED MOTION I move to approve a 14 foot variance off the alley behind 1609 N Pennsylvania Avenue.

SUPPORTING DOCUMENTS

1. 2024VAR03 Public Hearing Notice Setbacks 1609 N Penn Ave
2. Blankenship Variance Receipt
3. 1609 N Penn Blankinship

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, March 5, 2024 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:

1609 North Pennsylvania Avenue

Legal Description:

Block 8, Lot 129-130, Maywood Heights Addition to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

Travis J & Laura B Blankinship

Case Number:

2024/VAR/03

The hearing will be conducted in the Commission Room, City Hall, 120 North Sixth Street, 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: 820 754 218# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
120 North Sixth 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

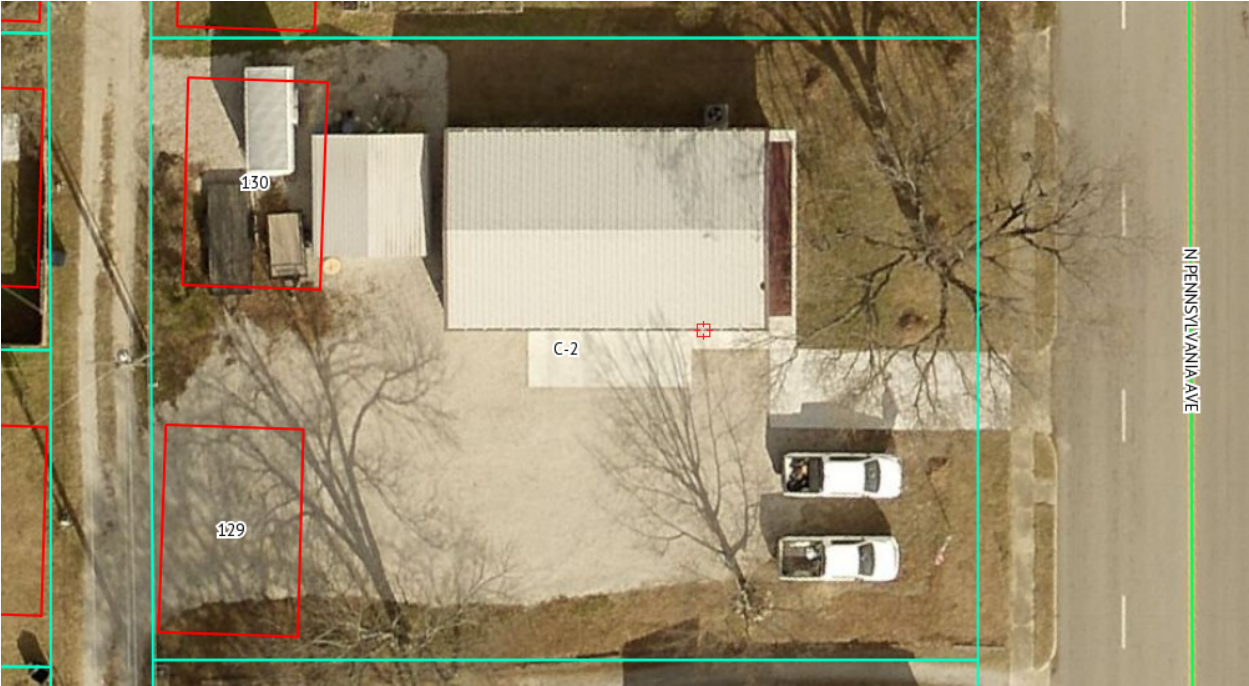
CITY OF INDEPENDENCE

REC#: 01266094 2/14/2024 10:18 AM
OPER: JESS TERM: 001
REF#:

TRAN: 1.9000 PLANNING AND ZONING
TRAVIS & LAURA BLANKINSHIP
VARIANCE 100.00CR

TENDERED: 100.00 CHECK
APPLIED: 100.00-

CHANGE: 0.00





REQUEST FOR BOARD OF ZONING APPEALS ACTION TEXT AMENDMENT. CITY OF INDEPENDENCE MARCH 5, 2024

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to consider a text amendment relating to "Restaurants, drive-in" in the C-3 Central Business District.

SUMMARY RECOMMENDATION Initiate Text Amendment.

BACKGROUND The City Commission initiated a text amendment hearing before the Planning Commission to consider adding a conditional use permit option for "*Restaurants, drive-in*" in the C-3, Central Business District. This would provide the option for further review of this type of use in the downtown area and provide property owners within 200' an opportunity to voice any concerns. We have had a request for a drive-through and possibly a walk-up counter beverage business in the C-3 district. Customers would not enter the building. Since "*refreshments or beverages*" are included in the definition of "Restaurants, drive-in", we have used that definition to review this proposed use.

The Zoning Code defines "*Drive-in establishment*" as follows: "*Any restaurant, financial institution or product-vending enterprise where the patron does not enter and remain within a building during the transaction of his [their] business. Food vending establishments, where the food is not normally consumed within a building or where facilities are provided for eating outside a building, shall be included in this definition.*"

In addition, "*Restaurants, drive-in*" is defined as: "*An establishment whose primary purpose is the sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves, except that this shall not be construed as to include what is commonly called a cafeteria.*"

The Permitted and Conditional Use table provides the following for "Restaurants, drive-in":

		Permitted Zoning District													
Land Use Category	Code	A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1	M-2	
Restaurants	5810								C	P	P	P	P		
Restaurants, drive-in	5810									P		P			

"Restaurants, drive-in" are currently not permitted in the C-3, Central Business District.

However, the Planning Commission should also be aware that one of the Use regulations in the C-3 district states (511.8.b): "*No business establishment shall offer or sell food or beverages for consumption on the premises in parked motor vehicles.*" Therefore, another alternative would be to create a new use specific to *drive-through restaurants* rather than modify the current use for *drive-in restaurants*.

In addition, because this proposed project is located in the Downtown Historic District it will also require a Certificate of Appropriateness from the Independence Historic Preservation and Resource Commission before a building permit can be issued. In addition, it will also require a waiver from the City Commission as the building regulations in Section 18-3 require construction within the fire limits to have zero lot lines on the front and side, in addition to masonry brick or stone construction.

Modifying the permitted and conditional use table would allow this type of use to be located in the C-3 district with a conditional use permit.

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 the 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 City staff recommends modifying the permitted and conditional use table to add "*Restaurants, drive-through*" as a conditional use in the C-3, central business district, and a permitted use in the C-2 and C-4 districts. In addition, it is recommended to add a definition for "*Restaurants, drive-through*" of: "*An establishment whose primary purpose is the sale, dispensing or serving of food, refreshments, ice, or beverages in automobiles, including those establishments where customers may serve themselves, except that this shall not include offering or selling food or beverages for consumption on the premises in parked motor vehicles.*"

Because this recommendation still requires a public hearing before approving this use in the C-3 district, it is consistent with the intent and purpose of these regulations. The areas that are most likely to be directly affected by such change are the C-3 district, as this potential new use would be allowed if the conditional use is approved, and the C-2 and C-4 districts already allow this type of establishment as a permitted use; and the proposed amendment is made necessary because of new planning concepts and social-economic conditions in the areas and zoning districts affected as constructing a traditional downtown building with zero lot lines would be cost prohibitive for most developers, especially considering the current available vacant space for offices and other uses in the downtown. According to the Cumming Group, the construction cost range for 2023 in South Central US for construction of a single-story office ranges from \$230 - \$330. The construction of a retail fashion center was estimated between \$290 - \$570. Utilizing these estimates, constructing a structure with zero lot lines on a 12,500 square foot lot would cost anywhere from \$2,875,000 to \$7,125,000. Source: [Cumming Group Construction Cost Range by Region, Cost Per Unit 2023](#).

SUGGESTED MOTION Based on the statements included in the staff recommendation, I move to recommend the City Commission modify the permitted and conditional use table to add "*Restaurants, drive-through*" as a conditional use in the C-3 district and a permitted use in the C-2 and C-4 districts, and to add a definition of "*Restaurants, drive-through*" as "*An establishment whose primary purpose is the sale, dispensing or serving of food, refreshments, ice, or beverages in automobiles, including those establishments where customers may serve themselves, except that this shall not include offering or selling food or beverages for consumption on the premises in parked motor vehicles.*"

SUPPORTING DOCUMENTS

1. Public Hearing Notice Text Amendment Restaurants, drive-in

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, March 5, 2024 at 5:30 p.m.

To consider a text amendment to modify the permitted and conditional use table relating to “Restaurants, drive-in” in the C-3, Central Business District.

Case Number:

2024/ZA/01

The hearing will be conducted in the Commission/Municipal Court Room, City Hall, 120 North Sixth Street, 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: 820 754 218# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
120 N 6th 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
REZONING
CITY OF INDEPENDENCE
MARCH 5, 2024**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public hearing(s) to receive comments to consider rezoning a tract of land at 408 South 8th Street from R-3, low density multifamily dwelling district to R-5, high density multifamily dwelling district; and to receive comments on a request for a conditional use permit for an “Accessory use not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d.”, in an R-3, low density multifamily dwelling district at 408 South 8th Street. The specific accessory use requested is an outbuilding to serve the primary structure located across the alley at 401 South Penn Avenue, which is in an R-5, high density multifamily dwelling district.

SUMMARY RECOMMENDATION Approve Rezoning.

BACKGROUND The Independence Housing Authority wants to remove the existing single-family structure and retain the outbuilding for IHA maintenance storage and work space at 408 S. 8th Street. This lot is located directly behind Penn Terrace and is owned by the City of Independence. The lot is R-3, low density multifamily dwelling district and in order for IHA to utilize the outbuilding, the lot must be zoned the same as the lots on Penn Terrace, which is R-5, high density multifamily dwelling district.

**ARTICLE X. SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS
CONDITIONAL USES**

1015.0. Accessory uses not located on the same lot or contiguous lot as the principal building or principal use served per. 607.1.d.

1015.1. Special conditions: Accessory uses not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d shall meet the following provisions when authorized as a conditional use in any district:

- a. Must be located on an adjacent lot to the principal building or principal use served, excluding public rights- of-way.
- b. Must be located in the same zone as required for the principal building or principal use it serves.
- c. Must be under the same ownership as the principal building or principal use served.
- d. Must be located at the rear of the adjacent lot if there is access thereto.

1015.2. Revocation: Accessory uses granted by conditional use permit per Section 1015 will be required to continue to meet all special conditions per 1015.1. If the accessory uses no longer comply with one or more of the special conditions contained in 1015.1, then the conditional use permit will be revoked, and the accessory uses previously allowed will be required to either be removed or otherwise come into compliance with City code.

POLICY EXPLANATION Acceptance of a rezoning request must be based on the

following factors: A) Character of the neighborhood, B) Zoning and uses of properties nearby, C) Suitability of the subject property for the uses to which it has been restricted, D) Extent to which the proposed use will detrimentally affect nearby property, E) Length of time the subject property has remained vacant as zoned, F) Public gain versus private hardship, G) Economic impact on the owner of the subject property and the economic impact on the surrounding properties, H) Recommendation of City's permanent staff, I) Conformance with the comprehensive plan, J) Availability and adequacy of required utilities and services to serve the proposed use, K) Impact on streets and parking, L) Environmental impacts, M) Ability to meet requirements of applicable codes.

LEGAL ADDRESS Lot 16, Block 90, Orig Plat to the City of Independence, Kansas, Montgomery County.

DESCRIPTION OF TRACT(S) Low density multi-family residential

ZONING AND USES OF PROPERTY NEARBY R-3, low density multifamily dwelling district, and R-3 zoning to the north, south and west, R-5, high density multifamily dwelling district to the east.

CHARACTER OF THE NEIGHBORHOOD Low density multi-family residential and High density multi-family residential.

SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED The property is suitable for the use to which it has been restricted. Since the City owns both properties, in order to have the Independence Housing Authority utilize the existing outbuilding structure for Penn Terrace, which is directly across the alley, both properties must be zoned the same.

LENGTH OF TIME THE PROPERTY HAS REMAINED VACANT AS ZONED The property was not previously vacant.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY Removal of the restrictions will not detrimentally affect nearby property as it will be rezoned to high density multifamily dwelling from low density multifamily dwelling and the change made will be to have Independence Housing Authority utilize the existing outbuilding. The lot is also not large enough to develop additional high density multi-family housing so it will remain as an accessory use.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS The outbuilding that will be utilized is already existing. The residential structure will be torn down.

ECONOMIC IMPACT ON THE OWNER OF THE SUBJECT PROPERTY AND THE ECONOMIC IMPACT ON THE SURROUNDING PROPERTIES There will be no economic impact on the owner of the subject property or surrounding properties.

RECOMMENDATION OF CITY'S PERMANENT STAFF City staff recommends approving rezoning 408 South 8th Street from R-3, low density multifamily dwelling district to R-5, high density multifamily dwelling district.

CONFORMANCE WITH THE COMPREHENSIVE PLAN The residential building on

the property is dilapidated. According to the Comprehensive Plan under Housing, the definition of dilapidated is: *Dilapidated - A structure with a substantial structural weakness rendering it not worth rehabilitation. The structure should not be considered as part of the housing stock and should be removed as soon as possible.* Also noted: *Abandoned and unoccupied buildings contribute to vagrancy and are a blight on surrounding residences. Some of the effects of abandoned and vacant residences on the surrounding neighborhood are to lead to a decline in property and housing values, discourage reinvestment in houses, and cause an acceleration of blight.* Removing the dilapidated structure while still maintaining and using the property is in conformance with the Comprehensive Plan. To utilize the garage left on the property, the Independence Housing Authority and the City of Independence need the property to be rezoned.

AVAILABILITY AND ADEQUACY OF REQUIRED UTILITIES AND SERVICES TO SERVE THE PROPOSED USE Water and sewer services are already in place.

IMPACT ON STREETS AND PARKING There will be no impact on streets and parking.

ENVIRONMENTAL IMPACTS There are no environmental impacts due to rezoning.

ABILITY TO MEET REQUIREMENTS OF APPLICABLE CODES All applicable codes will be met.

POLICY EXPLANATION 901.0. - Purpose and authority.

901.1. Purpose: Conditional uses are those types of uses which are considered by the city to be essentially desirable, necessary, or convenient to the community but which by their nature or operation have (1) a tendency to generate excessive traffic, (2) a potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants, (3) a detrimental effect upon the value of or potential development of other properties in the neighborhood, or (4) an extraordinary potential for accidents or danger to the public health or safety. Such conditional uses cannot be allowed to locate as a "right" on any parcel of land within certain districts without consideration of existing conditions at the proposed location and of properties neighboring upon the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse factors.

901.2. Authority to grant permits: The governing body shall have the authority to grant conditional use permits, subject to such conditions of design and operation safeguards and time limitations as it may determine for all conditional uses specified in appendix "A" of this ordinance and for all permitted uses for which the planning and zoning commission has found that by their nature or in their operation have characteristics listed in clauses (1), (2), (3) and (4) of section 901.1 of this article, provided, however, that said conditional use permits for permitted uses shall not establish standards or conditions that are less restrictive than those set out in the district regulations for the district in which said use is located.

(Ord. No. 3863, § 1, 12-20-01)

902.0. - Processing procedure.

902.1. Application of conditional use permit: Application for conditional uses, as designated in appendix "A" of this ordinance shall be on forms obtained from the city clerk's office. The application shall be filed with the zoning administrator at least 30 days prior to the regular city planning and zoning commission meeting at which the proposed conditional use will be considered. As determined by the zoning administrator, the application shall include any or all of the following items deemed relevant by the zoning administrator, plus any other information or materials not listed below which the zoning administrator deems relevant:

- a. Statement of intended use of the property.
- b. Site plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting.
- c. Existing and proposed topography, drawn at appropriate contour intervals as specified by the zoning administrator.
- d. Location of, and proposed connections to, existing water supply and sanitary sewer systems.
- e. Description of architecture and exterior materials to be utilized.
- f. Names of the landowner, developer and firm preparing the plan.
- g. Legal description of the tract.
- h. North point, scale and date.

The Planning Commission has the authority to place additional conditions on the site that they deem necessary to protect the best interests of the City, the surrounding property and to achieve the objectives of the ordinance.

In considering those types of uses which may be desirable, necessary or convenient to the community, the Commission should review and make recommendations based in part on 901.1.

Additionally, the decision of the Planning Commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria (902.2):

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

Any recommendations regarding a conditional use permit for the subject properties shall be based on Section 902.2 previously outlined in this report. After considering any public

comments the Planning Commission may either approve or deny the requests. Following your action, the application and your recommendation will be forwarded to the City Commission at which time they will have 30 days to adopt, modify or deny the Planning Commission's recommendation.

STAFF RECOMMENDATION City staff recommends approving the rezoning from R-3, low density multifamily dwelling district to R-5, high density multifamily dwelling district with a conditional use permit for an accessory use not located on the same lot as requested.

The recommendation to approve the rezoning is based on the following factors covered previously in the staff report: A) Character of the neighborhood, B) Zoning and uses of properties nearby, C) Suitability of the subject property for the uses to which it has been restricted, D) Extent to which the proposed use will detrimentally affect nearby property, E) Length of time the subject property has remained vacant as zoned, F) Public gain versus private hardship, G) Economic impact on the owner of the subject property and the economic impact on the surrounding properties, H) Recommendation of City's permanent staff, I) Conformance with the comprehensive plan, J) Availability and adequacy of required utilities and services to serve the proposed use, K) Impact on streets and parking, L) Environmental impacts, M) Ability to meet requirements of applicable codes.

The recommendation to approve the proposed conditional use is based on the following criteria (902.2):

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

SUGGESTED MOTION I move to approve the rezoning of 408 S. 8th Street from R-3 to R-5 with a conditional use permit for an "Accessory use not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d. with the following additional provisions:

- a. Must be located on an adjacent lot to the principal building or principal use served, excluding public rights- of-way.
- b. Must be located in the same zone as required for the principal building or principal use it serves.
- c. Must be under the same ownership as the principal building or principal use served.
- d. Must be located at the rear of the adjacent lot if there is access thereto.

SUPPORTING DOCUMENTS

- 1. 352024 CUP S 8th Storage Outbuilding IHA
- 2. Rezoning 408 South 8th
- 3. Conditional Use - City of Independence Housing
- 4. 408 S 8th IHA CUP
- 5. 408 S 8th IHA
- 6. 408 S 8th IHA 200 Foot Notification
- 7. IHA PMT

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, March 5, 2024 at 5:30 p.m.

To receive comments to consider rezoning a tract of land at 408 South 8th Street from R-3, low density multifamily dwelling district to R-5, high density multifamily dwelling district; and to receive comments on a request for a conditional use permit for an “Accessory use not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d.”, in an R-3, low density multifamily dwelling district at 408 South 8th Street. The specific accessory use requested is an outbuilding to serve the primary structure located across the alley at 401 South Penn Avenue, which is in an R-5, high density multifamily dwelling district.

Legal Description:

Block 90, Lot 16, Orig Plat to the City of Independence, Montgomery County, Kansas.

Common Address:

408 South 8th Street

Applicant/Owners:

City of Independence
Independence Housing Authority

Case Number:

2024/ZA/01 and 2024/CUP/01

The hearing will be conducted in the Commission Room, City Hall, 120 N. 6th St, 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: 820 754 218# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
120 N. 6th 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
PLANNING & ZONING
COMMISSION**

**APPLICATION
FOR
REZONING**

1. Case #: _____
 2. Date Filed: _____
 3. Fee Paid: _____
 4. Hearing: _____
 5. Published: _____

To be filled out by applicant

1. Applicant's name: City of Independence, KS Housing Authority
2. Applicant's address: 120 North 6th Independence, KS 67301 Phone: 620.332.2536
3. Address of property proposed for rezoning: 408 South 8th, Independence, KS 67301
4. Present owner's name: City of Independence, KS
5. Present zoning: R-3 Proposed zoning: R-5
6. Legal description of property proposed for rezoning (if more space is required, use back of form):
ORIG PLAT, S31, T32, R16, BLOCK 90, Lot 16; Lot Width: 060.0 Lot Depth: 140.0 Plat Book/Page 1 /6&7
Lot Width: 060.0 Lot Depth: 140.0 Deed Book/Page 496 /293 470 /223 355 /152
7. Present use of property (check one of the following): _____
 (a) Vacant ☐ (b) Residential ☒ (c) Commercial ☐ (d) Industrial ☐
8. Desired use of property: Workshop and Storage
9. Use and zoning of adjacent property:
- North: Use Residential Zoning R-3
- South: Use Residential Zoning R-3
- East: Use Residential Zoning R-5
- West: Use Residential Zoning R-3
10. List reasons for this request:
City of Independence, KS Housing Authority desires to remove the dilapidated house on the lot, yet retain
the outbuilding for maintenance staff to use as a workshop and storage.

Date: February 8, 2024

Signature: April Nutt

Digitally signed by April Nutt
Date: 2024.02.10 00:17:18 -06'00'

Planning Commission Action – do not write in this space

1. Facts found: _____
2. Determination: _____

APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING COMMISSION

DATE FILED _____
\$200 FEE PAID _____

NAME AND ADDRESS OF PERSON MAKING APPLICATION:

City of Independence, KS Housing Authority
120 North 6th, Independence, KS 67301

LEGAL DESCRIPTION OF LAND INVOLVED:

ORIG PLAT, S31, T32, R16, BLOCK 90, Lot 16; Lot Width: 060.0 Lot Depth: 140.0 Plat Book/Page 1 /6&7 Lot Width: (

COMMON ADDRESS OF SAID LAND:

408 South 8th

PRESENT ZONING CLASSIFICATION: R-3 Low Density Multi-family

STATEMENT OF INTENDED USE OF PROPERTY:

Remove existing single-family structure. Retain out building for IHA maintenance storage and work space.

DESCRIPTION OF ARCHITECTURE & EXTERIOR MATERIAL TO BE USED:

N/A

On the reverse side, please provide the following information: (1) Site Plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting; (2) Existing and proposed topography, drawn at appropriate contour intervals as specified by the Zoning Administrator; (3) Location of, and proposed connections to, existing water supply and sanitary sewage system; (4) North point, scale and date; (5) Names of landowner, developer and firm preparing the plan.

2/8/2024
Date

Debra Lutt
Signature of Applicant

I hereby certify that I have personally verified the dimensions as shown on the attached drawing and find them to be a correct representation of the conditions.

Date

Signature of Building Inspector

Action of Planning and Zoning Commission: _____

(Approved, Denied --- Date)

Comments: _____

Chairman

Vice Chairman

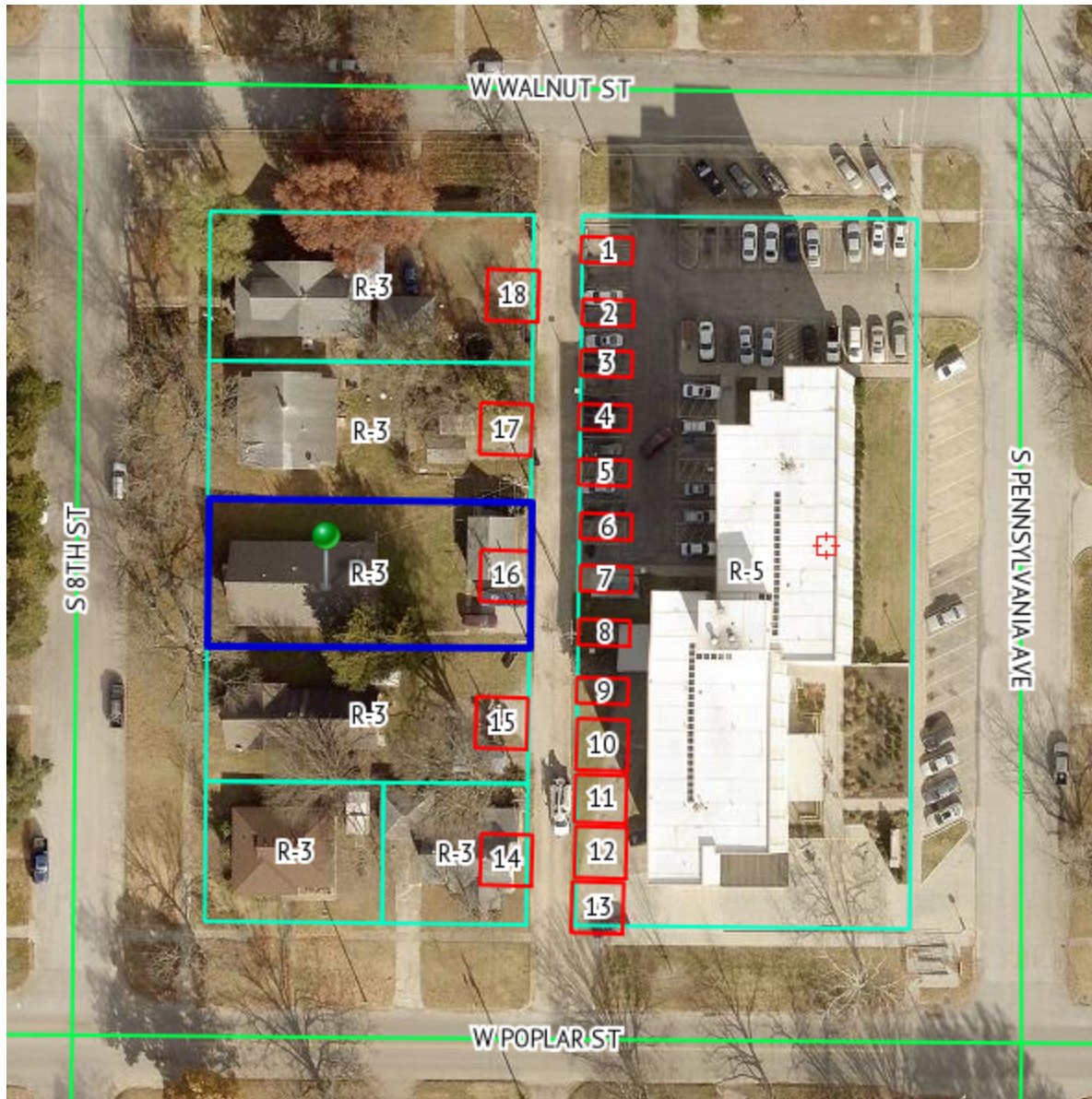
Secretary

408 South 8th



Remove this structure only





Quick Ref	II Situs Address	Owner
R7229	415 S 8TH ST	MAY, BRADLEY PAUL
R7223	401 S 8TH ST	MAY, BRADLEY PAUL & ANNA MARIE
R7234	400 S 8TH ST	DOLLISON, TOMMY L, II
R7232	401 S PENNSYLVANIA AVE	INDEPENDENCE, CITY OF
R7235	404 S 8TH ST	DESMARAIS, SKYLIER
R7228	419 S 8TH ST	MARKWORDT, MELISSA D & EDMUND D
R7238	116 W POPLAR ST	LUPARDUS, CHARLES A & STACIE M
R7239	112 W POPLAR ST	LUPARDUS, CHARLES
R7237	414 S 8TH ST	TUCKER, CHASE HARMON & WENCIE AGOSTO
R7231	405 S 8TH ST	MAY, BRADLEY PAUL & ANNA MARIE
R7230	409 S 8TH ST	SMITH, JOHN D & MARY V
R7236	408 S 8TH ST	INDEPENDENCE CITY OF

Mailing Add 1	Mailing City	Mailing Sta	Mailing Zip
401 S 8TH ST	INDEPENDENCE	KS	67301
401 S 8TH ST	INDEPENDENCE	KS	67301
400 S 8TH ST	INDEPENDENCE	KS	67301
120 N 6th	INDEPENDENCE	KS	67301
1022 N 4TH ST	INDEPENDENCE	KS	67301
419 S 8TH ST	INDEPENDENCE	KS	67301
116 W POPLAR ST	INDEPENDENCE	KS	67301
116 W POPLAR	INDEPENDENCE	KS	67301
1200 N PARK ST	INDEPENDENCE	KS	67301
401 S 8TH ST	INDEPENDENCE	KS	67301
516 N 8TH ST	INDEPENDENCE	KS	67301
120 N 6TH ST	INDEPENDENCE	KS	67301

CITY OF INDEPENDENCE

REC#: 01267629 2/27/2024 8:45 AM
OPER: JESS TERM: 001
REF#:

TRAN: 1.9000 PLANNING AND ZONING
408 S 8TH
REZONING/ CUP/ PLAN FEE
REZONING FEE 250.00CR

TENDERED: 250.00 CHECK
APPLIED: 250.00-

CHANGE: 0.00



**REQUEST FOR PLANNING COMMISSION ACTION
PRELIMINARY PLAT FOR JEFFERSON SUBDIVISION.
CITY OF INDEPENDENCE
MARCH 5, 2024**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Consider a preliminary plat for Jefferson Subdivision.

SUMMARY RECOMMENDATION Approve Preliminary Plat.

BACKGROUND The Independence Housing Authority is submitting a preliminary plat for the Jefferson Subdivision of a portion of Lots 3-6, Block 3 of the Highland Park Addition. The location is on N 13th Street, Acres 7.36 COM POB NW Cor Lot 4 E 297.58' S 624.11' W 595.84' N 442.78' E 265.04' NWLY 67341' N 121.71' To POB Less RW.

The filing fee has been paid and all relevant data in Section 2 is shown on the preliminary plat and the final plat which will be discussed in the next Item.

POLICY EXPLANATION ARTICLE VII. - PRELIMINARY PLATS

Section 1. - Submission of preliminary plat.

After reaching the preliminary conclusions regarding the requirements of the proposed major subdivision, the subdivider shall submit a preliminary plat together with supplementary information to the zoning administrator.

(a) *Filing fee:* A filing fee of \$50.00 shall accompany the filing of each preliminary plat.

(b) *Number of copies:* The subdivider shall submit five print copies and an electronic PDF version of the preliminary plat, and five print copies and an electronic PDF version of a vicinity map if the vicinity map is not on the preliminary plat, showing the location of the proposed subdivision. These documents shall be filed with the zoning administrator at least 20 days prior to the regular planning commission meeting at which the preliminary plat is to be considered.

Section 2. - Data to be shown on the preliminary plat.

(a) The proposed name of the subdivision. The name shall not duplicate or too closely resemble the name or names of any existing subdivision.

(b) The location of the boundary lines of the subdivision and reference to the section or quarter section lines and corners.

(c) The name and address of the developer, and the name of the surveyor or engineer who prepared the plat, both of whom must be licensed by the State of Kansas.

(d) Scale of the plat, one inch equals 100 feet on a 24-inch by 36-inch sheet.

(e) Date of preparation and north point.

(f) Existing conditions:

(1) Location, width, type of construction, and name of platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, and permanent buildings within or adjacent to the proposed subdivision shall be shown on the preliminary plat.

- (2) All existing sewers, water mains, gas mains, culverts, or other underground installations, within the proposed subdivision, or adjacent thereto, with pipe sizes, manholes, grades and locations, shall be shown.
- (3) Names of adjacent subdivisions, together with arrangements of streets and lots, and owners of adjacent parcels of unsubdivided land shall be shown.
- (4) Topography with contour intervals of not more than two feet shall be shown; also, location of watercourses, bridges, wooded areas, lakes, ravines and such other features as may be pertinent to the subdivision shall be shown.
- (5) Information regarding type of soil as available from the soil conservation office.
- (6) Percolation test data as required by the Montgomery County health department shall be submitted for all subdivisions to be served by individual sewage disposal systems.
- (g) The general arrangement of lots and their approximate size.
- (h) Location, width and construction of proposed streets, alleys, pedestrian ways and easements.
- (i) The general plan of sewage disposal and water supply in areas where approved public sewer and/or water systems are proposed to serve the subdivision.
- (j) Location and size of proposed parks, playgrounds, churches, school sites, or other special uses of land to be considered for reservation for public use.
- (k) General layout of adjacent unsubdivided property to show how streets and other public facilities in the proposed subdivision relate to the unsubdivided property.
- (l) Approximate gradients of proposed streets shown by surveyed profiles.
- (m) A statement prepared by a licensed engineer regarding surface drainage with respect to flooding in the proposed subdivision or adjoining properties.

Section 3. - Approval or disapproval of the preliminary plat.

- (a) Action by the planning commission shall be conveyed to the subdivider in writing within ten days after the official planning commission meeting at which the plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the planning commission.
- (b) The planning commission shall submit to the governing body all preliminary plats which it recommends for approval. The governing body shall approve, modify or disapprove the preliminary plat as transmitted by the planning commission within 30 days of each transmittal. The findings of the governing body shall be final and shall be transmitted to the planning commission and the subdivider within the time limit prescribed herein.
- (c) The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat. The approval of the preliminary plat shall only be effective for a period of six months unless an extension is granted by the planning commission. If the final plat has not been submitted for approval within this specified period, and unless an extension of time is applied for by the subdivider and the extension is granted by the planning commission, a preliminary plat must again be submitted to the planning commission for approval.

STAFF RECOMMENDATION City staff recommends approving the Jefferson Subdivision preliminary plat located in a portion of Lots 3, 4, 5 & 6, Block 3 Highland Park Addition.

SUGGESTED MOTION I move to approve the preliminary plat for Jefferson Subdivision.

SUPPORTING DOCUMENTS

1. 2303112Prelim(2-28-24)

Boundary Description

DEED BOOK 872 PAGE 1044-1045

THAT PORTION OF LOTS 3, 4, 5, AND 6 IN BLOCK 3 OF HIGHLAND PARK ADDITION, A SUBDIVISION IN THE CITY OF INDEPENDENCE, COUNTY OF MONTGOMERY, STATE OF KANSAS, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE ON THE NORTH LINE OF SAID LOT 4, S 89°34'38" E 297.58 FEET TO THE NORTHEAST CORNER OF SAID LOT 4; THENCE ON THE EAST LINE OF SAID LOTS 4 AND LOT 5, S 00°00'19" W 624.11 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5; THENCE ON THE SOUTH LINE OF SAID LOTS 5 AND 6, N 89°36'11" W 595.84 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6; THENCE ON THE WEST LINE OF SAID LOTS 6 AND 3, N 00°02'34" E 442.78 FEET; THENCE S 69°42'32" E 265.04 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 40.00 FEET AND A CENTRAL ANGLE OF 114°49'50" AND BEING SUBTENDED BY A CHORD WHICH BEARS N 28°51'28" E 67.41 FEET TO THE WEST LINE OF SAID LOT 4; THENCE ON SAID WEST LINE, N 00°11'31" E 121.71 FEET TO THE POINT OF BEGINNING. CONTAINS 7.34 ACRES MORE OR LESS.

Zoning Information

Subject property is zoned "R-1" Large lot single-family dwelling district, zoning requirements are as follows:

FRONT YARD: 25 FEET
INTERIOR SIDE YARD: 8 FEET
REAR YARD: 10 FEET
MAXIMUM HEIGHT: 35 FEET
MINIMUM LOT AREA: 10,000 SQ. FT.
MINIMUM LOT WIDTH: 80 FEET
MAXIMUM LOT COVERAGE: 30%
PARKING REQUIREMENT: 2 SPACES FOR EACH DWELLING

ALL QUESTIONS CONCERNING ZONING OR SITE RESTRICTION SHOULD BE DIRECTED TO:

KELLY PASSAUER
CITY OF INDEPENDENCE
INDEPENDENCE, KS 67301
620-332-2506 (EXT. 103)

Miscellaneous Notes

- A** The bearings shown hereon are based upon the State Plane Coordinate System, South Zone.
- B** Underground utilities are shown by above ground markings provided by others.
- C** Benchmark: Square cut in NW corner of curb inlet, West side of 13th Street. Elev. 825.17
CONTROL POINTS SET 1/2" IRON RODS
PT. NORTHING EASTING ELEV.
1 1535060.4870 2122794.6290 824.9140
2 1535455.7310 2122776.0700 825.6000
3 1535284.7680 2123464.3570 829.7810

Utility Information

Utilities located by Kansas One-Call. Private lines may not be located.

ATMOS ENERGY 620-331-1547
ATT DISTRIBUTION 866-861-7678
CABLE ONE OF INDEPENDENCE 800-691-3978
CITY OF INDEPENDENCE 620-332-2507
COFFEYVILLE RESOURCES 918-333-4111
CHEROKEE BASIN PIPELINE 620-332-3871
WESTAR ENERGY 888-847-4757
LEVEL 3 COMM 877-366-8344
MAGELLAN MIDSTREAM P 918-574-7098

Engineer's Certificate

This is to certify that the stormwater drainage for the proposed Jefferson Subdivision has been examined and that the proposed improvements will meet applicable City codes and regulations and provide generally acceptable levels of service.

Witness my hand and seal this _____ day of _____, 2024.

Shawn D. Turner, PE

Flood/Drainage Note

This property is not in a Special Flood Hazard Zone according to Flood Insurance Rate Map, Community Number 20125C025D, effective date June 20, 2019.

Engineer's Certificate

I, William A. Booe, a registered Land Surveyor in the State of Kansas, hereby certify that I have made a careful and accurate survey of the foregoing described property, and that the above foregoing plat is a correct representation of said survey.

Witness my hand and seal this _____ day of _____, 2024.

William A. Booe, LS 1046

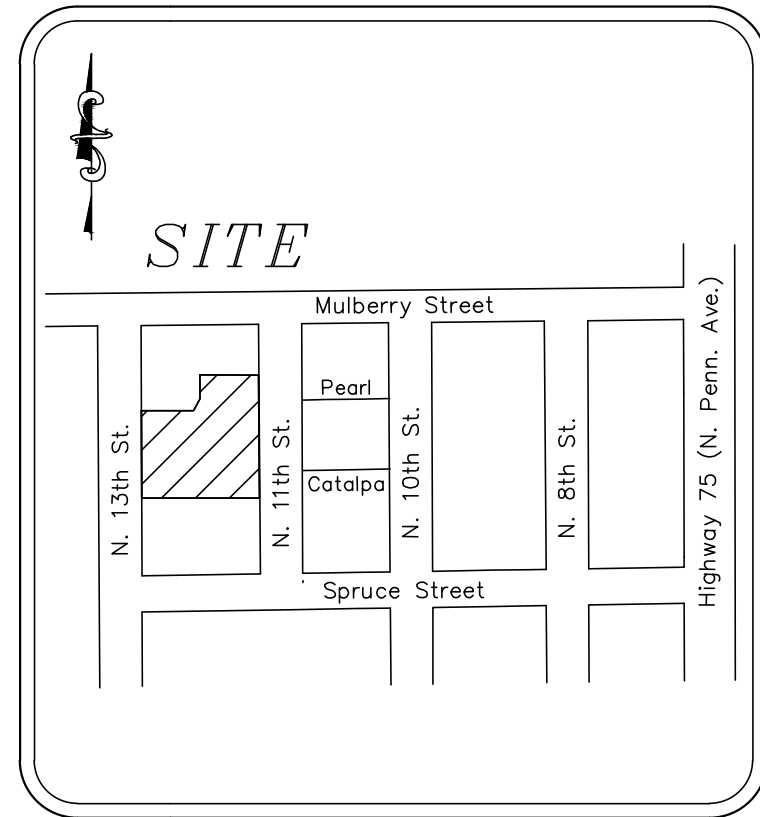
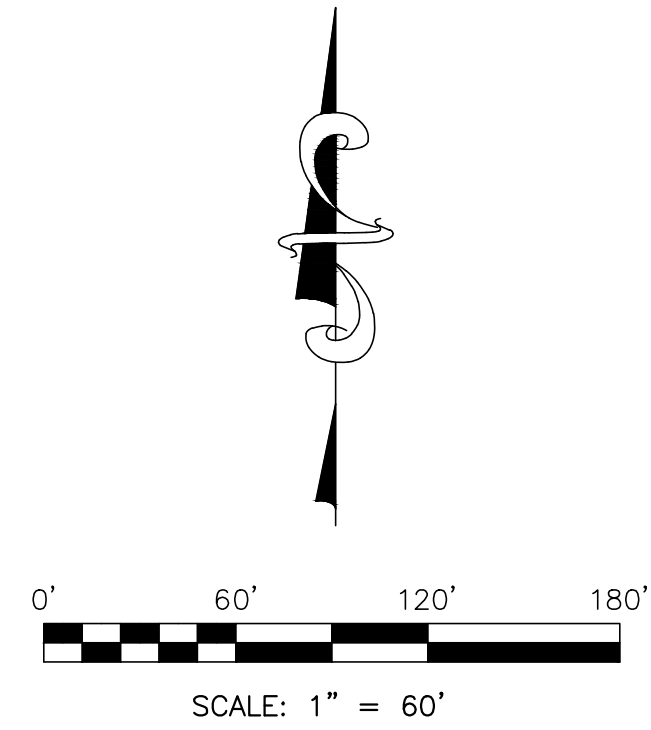
JEFFERSON SUBDIVISION

PRELIMINARY PLAT

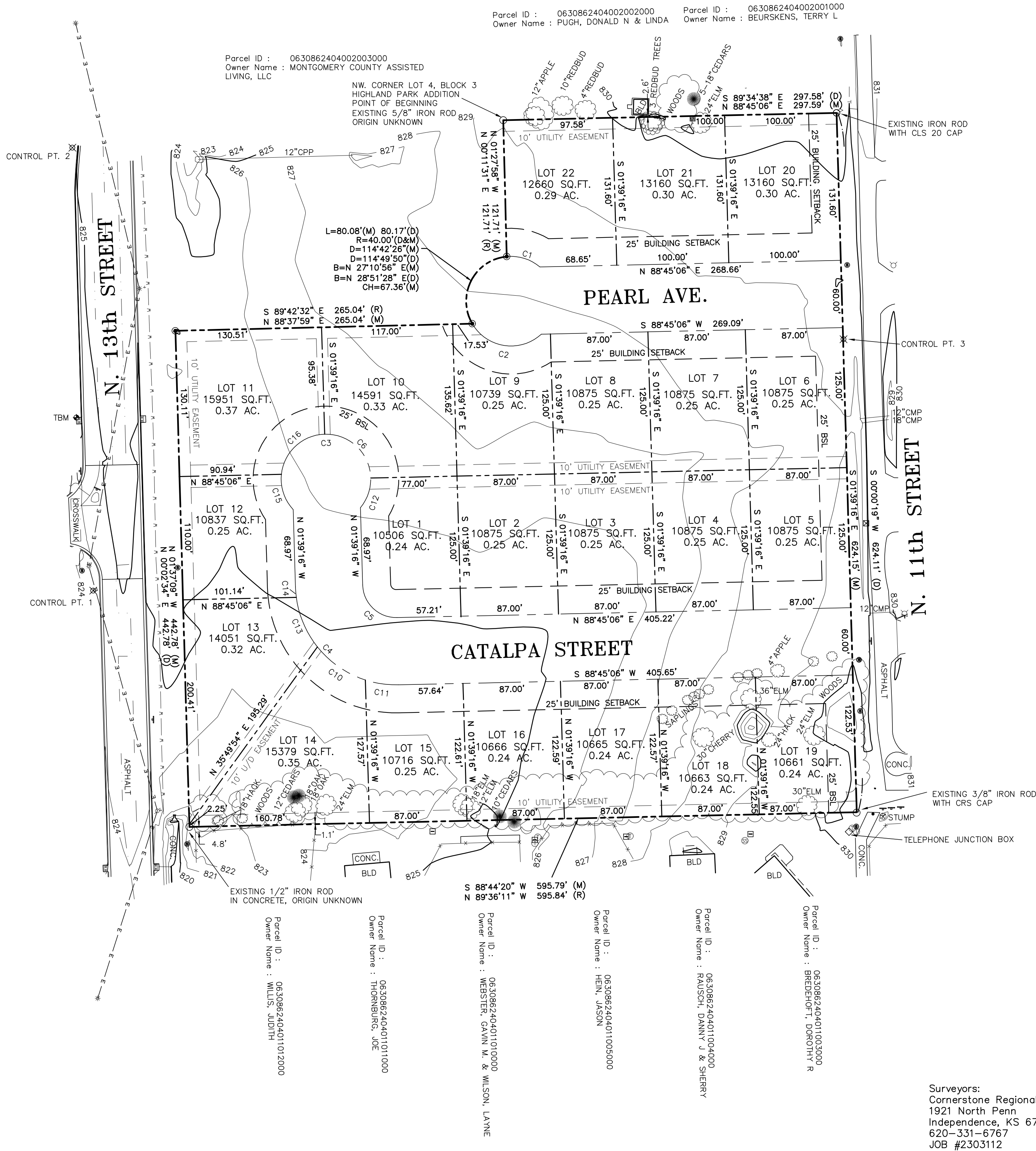
located in a portion of LOTS 3, 4, 5 and 6, BLOCK 3

HIGHLAND PARK ADDITION

Independence, Montgomery County, Kansas



Vicinity Map
Not To Scale



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	40.01'	31.85'	31.02'	S 72°38'58" E	045°37'03"
C2	40.00'	71.55'	62.38'	S 81°24'49" E	102°29'24"
C3	40.00'	183.48'	60.00'	N 88°20'44" E	267°49'08"
C4	90.00'	140.73'	126.83'	S 46°27'05" E	089°35'38"
C5	30.00'	46.91'	42.28'	S 46°27'05" E	089°35'38"
C6	40.00'	63.12'	56.77'	N 46°27'05" W	090°24'22"
C10	90.00'	52.75'	52.00'	S 52°23'33" E	033°34'54"
C11	90.00'	29.95'	29.81'	S 81°42'57" E	019°03'54"
C12	40.00'	28.63'	28.02'	S 19°15'12" W	041°00'12"
C13	90.00'	48.65'	48.06'	N 23°06'53" W	030°58'27"
C14	90.00'	9.38'	9.38'	N 04°38'26" W	005°58'23"
C15	40.00'	34.21'	33.17'	N 18°33'57" W	048°59'47"
C16	40.00'	57.54'	52.70'	N 47°08'20" E	082°24'47"

Legend of Symbols & Abbreviations

- Existing Monument
- Dead Dimension
- △

Set 1/2" x 24" Iron Rod/Cap (unless otherwise noted)
- △

Section Corner
- Origin Unknown (unless noted)
- Boundary Line
- Setback Line
- Fence
- Overhead Electric Line
- Water Line
- Gas Line
- Underground Telephone
- Sanitary Sewer Line
- Bollard
- Curb Inlet or Area Inlet
- Fire Hydrant
- Handicap Parking
- Electric Cabinet

(M)

Measured Dimension

(D)

Dead Dimension

(P)

Plat Dimension

R/W

Right of Way

Conc.

Concrete

⊗

Water Meter

⊗

Guy Wire

⊗

Gas Meter

⊗

Gas Valve

⊗

Telephone Riser Box

⊗

Undetermined Manhole

⊗

Sanitary Sewer Cleanout

⊗

Sanitary Sewer Manhole

⊗

Sign

⊗

Light Pole

⊗

Power Pole

⊗

Water Valve

⊗

Electric Meter

Surveyors:
Cornerstone Regional Surveying, LLC
1921 North Penn
Independence, KS 67301
620-331-6767
JOB #2303112

PRELIMINARY PLAT JEFFERSON SUBDIVISION
of a portion of LOTS 3-6, BLOCK 3
HIGHLAND PARK ADDITION
INDEPENDENCE, MONTGOMERY COUNTY, KANSAS

DRAWN BY: DLB
CHECKED BY: DLB
JOB NO.: 2303112
LATEST REVISION: 8-21-23
PREPARED FOR:
TRANSYSTEMS

CORNERSTONE
Regional Surveying, LLC
Serving Kansas, Missouri & Oklahoma
1921 North Penn, Independence, KS 67301 Ph: 620-331-6767



**REQUEST FOR PLANNING COMMISSION ACTION
FINAL PLAT FOR JEFFERSON SUBDIVISION.
CITY OF INDEPENDENCE
MARCH 5, 2024**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Consider a final plat for Jefferson Subdivision.

SUMMARY RECOMMENDATION Approve the final plat for the Jefferson Subdivision.

BACKGROUND Provided the preliminary plat is approved, the Independence Housing Authority is submitting a final plat for the Jefferson Subdivision of a portion of Lots 3-6, Block 3 of the Highland Park Addition. The location is on N 13th Street, Acres 7.36 COM POB NW Cor Lot 4 E 297.58' S 624.11' W 595.84' N 442.78' E 265.04' NWLY 67341' N 121.71' To POB Less RW.

All fees have been paid.

POLICY EXPLANATION ARTICLE VIII. - FINAL PLAT

Section 1. - Submission requirements.

(a) After approval of the preliminary plat, the subdivider shall submit a final plat for recording purposes to the zoning administrator.

(b) The original (on Mylar), ten print copies and an electronic PDF version thereof shall be submitted to the zoning administrator at least 20 days prior to the planning commission hearing.

(c) The names and signatures of owner or owners of the property duly acknowledged and notarized shall appear on the original copies submitted.

(d) The final plat, prepared for recording purposes, shall be drawn at a scale of one inch equals 100 feet. The size of the sheet on which such final plat is prepared shall be 24 inches by 36 inches.

Section 2. - Filing fee.

A filing fee of \$50.00 shall accompany the final plat.

Section 3. - Information.

A final plat shall show and contain the following information:

(a) Name of subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.

(b) Location of section, township, range, county and state, including the descriptive boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions which must be mathematically close. The allowable error of closing on any portion of the plat shall be one foot in 5,000 feet.

(c) The location of monuments shall be shown and described on the final plat. Location of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including the true angles and distances to such reference points or monuments.

(d) The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet and with the length of radii on all curves and other information necessary to reproduce the plat on the ground. Dimensions from all curves

shall be shown to lot lines.

(e) Lots shall be numbered clearly. Blocks shall be numbered or lettered clearly in the center of the block. All lots, however designated, shall be numbered in progressive numbers or by blocks in which they are situated, and their precise length and width shall be stated on the map or plat.

(f) The exact locations, widths, and names of all streets to be dedicated.

(g) Location and width of all easements and alleys to be dedicated.

(h) Boundary lines and description of the boundary lines of any area, other than streets and alleys, which is to be dedicated or reserved for public use.

(i) Building setback lines on the front and side streets with dimensions.

(j) Name and address of the developer and the registered professional engineer or registered land surveyor, both of whom must be licensed by the State of Kansas, who prepared the plat.

(k) Scale of plat (scale to be shown graphically and in feet per inch), date of preparation and north point.

(l) Statement dedicating all easements.

(m) Statement dedicating all streets, alleys, and all other public areas not previously dedicated.

(n) Covenants and restrictions; if not placed on plat, reference shall be placed on the plat indicating the covenants and restrictions have been filed separately.

(o) In addition to the final plat, cross sections and profiles of streets and drainage, showing centerline grades approved by the city engineer, shall be submitted to supplement the plat. The profiles shall be drawn to city standard scales and elevations shall be based on a datum plane approved by the city engineer.

Section 4. - Approval of final plat.

(a) The planning commission shall approve or disapprove the final plat within 45 days of receipt. If the planning commission disapproves, it shall advise the subdivider in writing of the reason for such disapproval. If the planning commission fails to act within 45 days, then the planning commission shall be deemed to have approved same unless the subdivider shall have consented to extend or waive such time limitation.

(b) Before a final plat is recorded, it shall be submitted to the governing body for its approval and acceptance of streets and other public ways, service and utility easements, and land dedicated for public use. If the governing body disapproves the plat, it shall advise the subdivider in writing of the reason for such disapproval.

(c) If the governing body fails to act on the final plat within 60 days of its submittal to the planning commission, the governing body shall be deemed to have approved same unless the subdivider shall have consented to extend or waive such time limitation.

Section 5. - Certifications required on the final plat.

(a) When the final plat is approved, the following certifications, which may be combined when appropriate, shall be made on the final plat:

(1) A certificate signed and acknowledged by all parties having any record, title, or interest in the land subdivided; consenting to the preparation and recording of the said subdivision plat; and dedicating all parcels of land shown on the final plat which are intended for public use as highways, streets, alleys, easements and public grounds.

(2) A certificate signed by the engineer or surveyor responsible for the survey and final plat. The engineer or surveyor shall not sign the plat until he has or has had all monuments, irons, or benchmarks set as required by these regulations. Said signature shall be accompanied by the engineer's or surveyor's seal and shall state the month and year such survey was made.

(3) A certificate stating that all taxes and special assessments due and payable under the respective jurisdiction of the county clerk and the city clerk have been satisfied.

(4) The plat approval and acceptance of dedications by the governing body and the acceptance of dedications by the board of county commissioners.

- (5) Adequate space shall be made available on the plat for the certificate of the Montgomery County register of deeds in the form of a stamp or seal.
- (6) A line on the survey for the review date and signature of the county surveyor beneath a note stating: "Reviewed in compliance with K.S.A. 58-2005."
- (b) Certification of official approval of the final plat shall provide for date and signature as follows:
 - (1) Chair and secretary of the planning commission.
 - (2) City governing body to be signed by the mayor and attested by the city clerk.
 - (3) Space for the recording of the instrument and name of register of deeds.
 - (4) Entry for the date and transfer of record with space for the signature of the county clerk.

STAFF RECOMMENDATION Provided the preliminary plat is approved, City staff recommends approving the final plat which will then be completed and signed by all parties.

SUGGESTED MOTION I move to approve the final plat for the Jefferson Subdivision of Highland Park Addition.

SUPPORTING DOCUMENTS

- 1. 2303112Final(2-28-24)
- 2. AerialJeffersonSubdivisionWithZoning

OWNER'S CERTIFICATE AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS: that The City of Independence, the owners in fee simple of the following described real property to wit:

DEED BOOK 872 PAGE 1044-1045

THAT PORTION OF LOTS 3, 4, 5, AND 6 IN BLOCK 3 OF HIGHLAND PARK ADDITION, A SUBDIVISION IN THE CITY OF INDEPENDENCE, COUNTY OF MONTGOMERY, STATE OF KANSAS, BEING DESCRIBED AS FOLLOWS:
THENCE ON THE NORTH LINE OF SAID LOT 4, S 89°34'38" E 297.58 FEET TO THE NORTHEAST CORNER OF SAID LOT 4; THENCE ON THE EAST LINE OF SAID LOTS 4 AND LOT 5, S 00°00'19" W 624.11 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5; THENCE ON THE SOUTH LINE OF SAID LOTS 5 AND 6, N 89°36'11" W 595.84 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6; THENCE ON THE WEST LINE OF SAID LOTS 6 AND 3, N 00°02'34" E 442.78 FEET; THENCE S 89°42'32" E 265.04 FEET TO A CURVE AND THE BEGINNING OF A NON-TANGENT CURVE; THENCE NORTHWESTERLY 80.17 FEET ON A THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 40.00 FEET AND A CENTRAL ANGLE OF 114°40'50" AND BEING SUBTENDED BY A CHORD WHICH BEARS N 28°51'28" E 67.41 FEET TO THE WEST LINE OF SAID LOT 4; THENCE ON SAID WEST LINE, N 00°11'31" E 121.71 FEET TO THE POINT OF BEGINNING. CONTAINS 7.34 ACRES MORE OR LESS.

Attest: _____ Attest: _____

NOTARY CERTIFICATE

State of Kansas) SS.
County of Montgomery)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024 by _____ as agent for _____.

Notary Public _____

My Commission Expires: _____ My Commission Number: _____

SURVEYOR'S CERTIFICATE

I, William A. Booe, a registered Land Surveyor in the State of Kansas, hereby certify that I have made a careful and accurate survey of the foregoing described property, and that the above foregoing plat is a correct representation of said survey.

Witness my hand and seal this _____ day of _____, 2024.

William A. Booe, LS 1046
State of Kansas) SS.
County of Montgomery)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024 by William A. Booe.

Notary Public _____

My Commission Expires: _____ My Commission Number: _____

COUNTY TREASURER'S CERTIFICATE

I, Nancy Clubine, do hereby certify that I am the duly elected, qualified and acting County Treasurer of Montgomery County, State of Kansas, and that the tax records of the said county show all taxes are paid for the year 2023 and prior years on the land shown on the above foregoing plat located in Montgomery County, Kansas.

In witness whereof, said County Treasurer has caused this instrument to be executed at Independence, Kansas, on this _____ day of _____, 2024.

Nancy Clubine, County Treasurer

CERTIFICATE OF CITY CLERK

I, David Schwenker, City Clerk of the City of Independence, State of Kansas, hereby certify that I have examined the records of the said City and find that all delinquent payments or unreturned installments upon special assessments have been paid in full and there is no special assessment procedure pending against the land shown on the above foregoing plat on this _____ day of _____, 2024.

David Schwenker, City Clerk

ENGINEER'S CERTIFICATE

This is to certify that the stormwater drainage for the proposed Jefferson Subdivision has been examined and that the proposed improvements will meet applicable City codes and regulations and provide generally acceptable levels of service.

Witness my hand and seal this _____ day of _____, 2024.

Shawn D. Turner, PE
State of Kansas) SS.
County of Montgomery)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024 by Shawn D. Turner.

Notary Public _____

My Commission Expires: _____ My Commission Number: _____

CITY PLANNING COMMISSION APPROVAL

I, Kelly Passauer, for the City of Independence, County of Montgomery, State of Kansas, hereby certify that the said Planning Commission duly approved the above foregoing plat on this _____ day of _____, 2024.

ATTEST:

Kelly Passauer, City Manager/Zoning Administrator Chairman Secretary

CERTIFICATE OF THE CITY OF INDEPENDENCE

Be it resolved by the City Commission, City of Independence, Kansas, that the dedications shown on the above foregoing annexed plat are hereby accepted.

Adopted by the City Commission, the City of Independence, Kansas,

this _____ day of _____, 2024.
Approved by the Mayor of the City of Independence, Kansas, this _____ day of _____, 2024.

Louis Ysusi, Mayor

Attested by: _____, City Clerk

CERTIFICATE OF MONTGOMERY COUNTY

The Montgomery County, Kansas Board Of County Commissioners does hereby approve and accept the dedications included as part of this plat.
Dated this _____ day of _____, 2024.

Chairman

Attest: Charlotte Scott-Schmidt, County Clerk

State of Kansas) SS.
County of Montgomery)

This instrument was filed on this _____ am (pm) and duly recorded in Book _____, Page _____ of 2024 A.D. at _____ day of _____, 2024.

Marilyn Calhoun, Register of Deeds

Charlotte Scott-Schmidt, County Clerk

FLOOD NOTE

This property is not in a Special Flood Hazard Zone according to Flood Insurance Rate Map, Community Number 20125C0255D, effective date June 20, 2019.

JEFFERSON SUBDIVISION FINAL PLAT

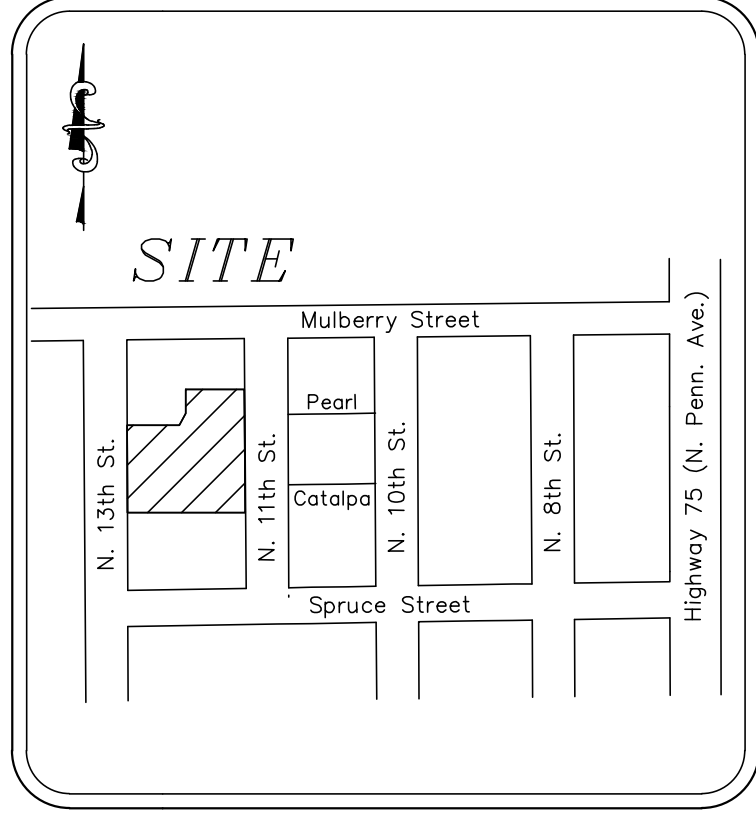
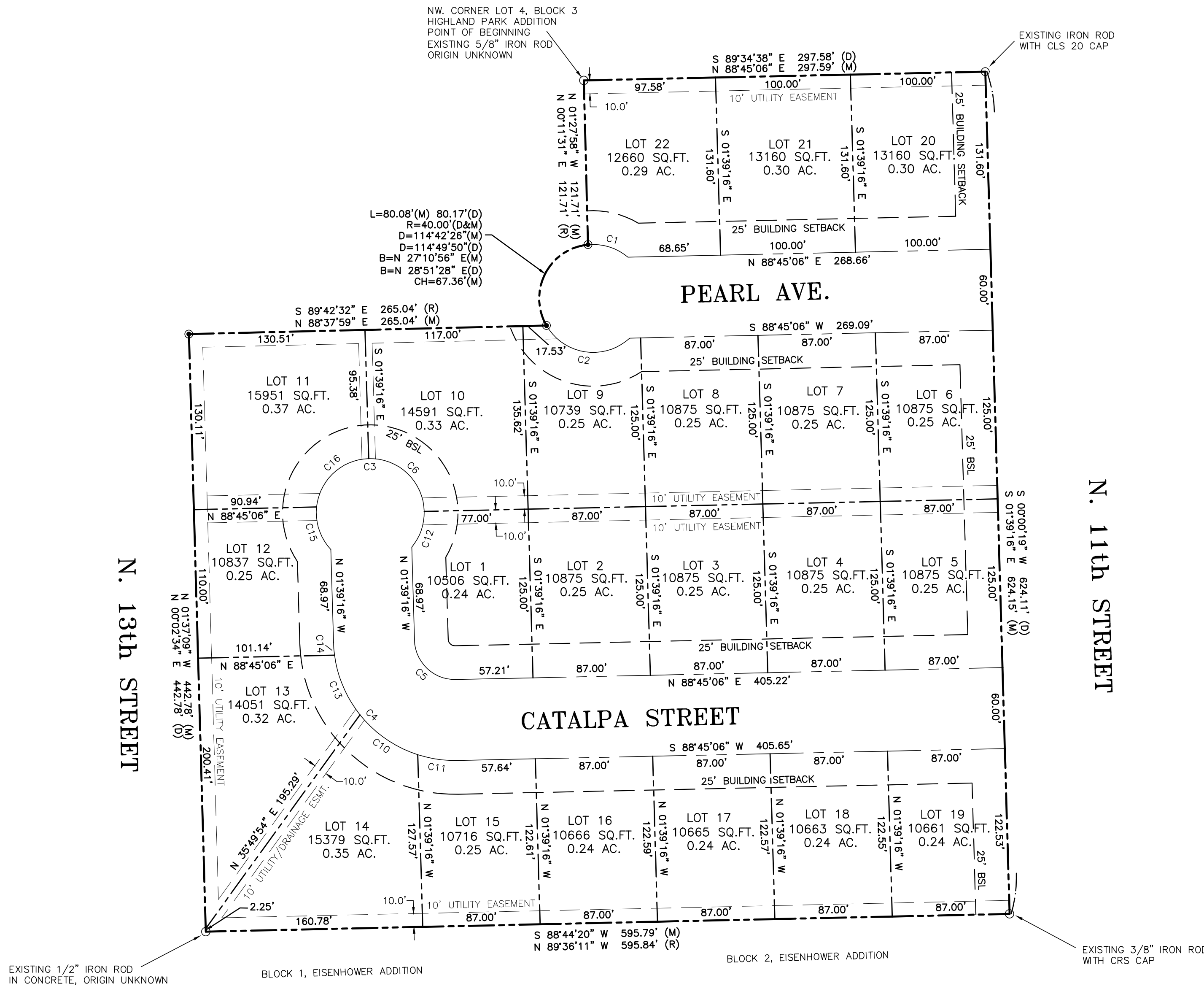
located in a portion of LOTS 3, 4, 5 and 6, BLOCK 3
HIGHLAND PARK ADDITION
Independence, Montgomery County, Kansas

0' 60' 120' 180'

SCALE: 1" = 60'

Legend of Symbols & Abbreviations

- Existing Monument, Origin Unknown (unless noted)
- Set 1/2" Iron Rod/Cap in Concrete
- △ Section Corner
- Boundary Line
- Lot Line
- Setback Line
- Easement Line



Vicinity Map
Not To Scale

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C16	40.00'	57.84'	52.70'	N 47°08'20" E	082°24'47"



JEFFERSON SUBDIVISION
FINAL PLAT
located in a portion of LOTS 3, 4, 5 and 6, BLOCK 3
HIGHLAND PARK ADDITION
Independence, Montgomery County, Kansas



**REQUEST FOR PLANNING COMMISSION ACTION
TEXT AMENDMENT
CITY OF INDEPENDENCE
MARCH 5, 2024**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Consider initiating a public hearing for a text amendment relating to "Shipping containers" in the C-4, highway commercial district.

SUMMARY RECOMMENDATION Initiate public hearing.

BACKGROUND In Ordinance 4436 for shipping containers, C-4, highway commercial district was left out of the list of districts where the shipping containers can be used for storage. Technically, C-4 uses C-2 district rules, but it should also be included in the list of districts. There are two instances where C-4 should be added: Amended Section 607.4.e and 613.3.

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 the 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 C-4, highway commercial district was inadvertently left off the list of districts where the shipping containers can be used. City staff recommends initiating a public hearing for a text amendment to recommend the City Commission modify Ordinance 4436 to include C-4, highway commercial district.

SUGGESTED MOTION I move to set a public hearing at the April 2, 2024 Planning Commission/Board of Zoning Appeals meeting for a text amendment relating to "Shipping Containers" in the C-4, highway commercial district.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Text Amendment Shipping Containers C4
2. Ordinance 4436 - Shipping Containers

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, April 2, 2024 at 5:30 p.m.

To consider a text amendment relating to “Shipping containers” in the C-4, highway commercial district.

Case Number:

2024/ZA/03

The hearing will be conducted in the Commission Room, City Hall, 120 North Sixth Street, 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: 820 754 218# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
120 N 6th 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



State of Kansas, Montgomery County
This instrument was filed for
Record on October 3, 2023 9:21 AM
Recorded in Book 730 Page 213 - 215
Fee: \$0.00 202303261



Marilyn Calhoun

Marilyn Calhoun, Register of Deeds

ORDINANCE NO. 4436

**AN ORDINANCE PERTAINING TO SHIPPING CONTAINERS AMENDING CITY
CODE SECTIONS 403.0, 607.2 AND 607.4, AND ADOPTING NEW CITY CODE
SECTION 613.0.**

Be it ordained by the governing body of the City of Independence, Kansas:

SECTION 1: Existing Section 403.0 of the Zoning Code is hereby amended to add the following definitions to be inserted alphabetically:

403.0. – Definitions.

For the purpose of this zoning ordinance, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Shipping container: A “shipping container” (also, “cargo container,” “MOD,” “POD,” “Conex box,” etc.) is a movable and enclosed structure typically made of durable materials like metal. It is designed for temporary storage of personal, commercial, or industrial goods and possessions. They are secure and weather-resistant, making them versatile for various applications, including relocation, construction sites, and retail storage.

Shipping container, industrial: An “industrial shipping container” is a movable and enclosed structure typically made of durable materials like metal. It is designed for temporary storage of industrial goods and possessions.

SECTION 2. Existing Section 607.2 of the Zoning Code is hereby amended to add the following additional permitted accessory uses:

- t. Shipping containers for use as storage in M-1 and M-2 industrial districts. In these districts, shipping containers are not authorized to be used as dwellings.
- u. Industrial shipping containers for use as storage in M-1 and M-2 industrial districts. Industrial shipping containers are not authorized to be used as dwellings.

SECTION 3. Existing Section 607.4 of the Zone Code is hereby amended to add the following additional accessory uses permitted by conditional use:

- e. Shipping containers as dwellings in R-1, R-2, R-3, R-4, and R-5 residential districts; shipping containers as storage in C-1, C-2, C-3 commercial and business districts; shipping containers as storage in O&P districts; shipping

containers as dwellings in A-1 agricultural districts; and shipping containers as storage in A-1 agricultural districts.

- f. Shipping containers for temporary storage/office on construction sites in all districts.

SECTION 4. There is hereby added to the Zoning Code a new Section 613.0 titled Shipping Containers as follows:

613.0. – Shipping containers.

613.1. Context: A "shipping container" (also, "cargo container," "MOD," "POD," "Conex box," etc.) is a movable and enclosed structure typically made of durable materials like metal. These containers have become a more common addition to cities as homeowners and businesses acquire those containers as accessory buildings and dwellings. These containers have a useful and valid purpose when properly used and situated. The improper use and location of these containers is dangerous and inappropriate.

613.2. Shipping containers as dwellings: Shipping containers may be permitted as dwellings in the R-1, R-2, R-3, R-4, R-5, and A-1 districts with a conditional use permit. All shipping container dwellings shall have:

- a. Minimum area of 400 square feet (if this qualification is not met, see Section 612.0 on tiny homes). Multiple units may be combined to form a larger dwelling.
- b. Siding material shall be wood, masonry, composition board, or finish aluminum lap siding, or other material normally found on site-built homes.
- c. Roof may be a flat or pitch roof design meeting IRC design requirements. A minimum roof pitch of 2.5 inches in height to 12 running inches for a pitched roof.
- c. Roofing materials shall be wood shingles, asphalt shingles, composition shingles, fiberglass shingles, clay or concrete tile, slate, metal, or TPO or rolled roofing.
- d. The dwelling shall be permanently mounted on a foundation or basement that complies with the Independence Building Code.
- e. All other interior *and* exterior conditions must be in compliance with dwelling requirements and the Independence Building Code.
- f. In a construction site, shipping containers may be used as temporary offices, but they must be removed within 30 days after a certificate of occupancy is issued.
- g. Industrial shipping containers are not permitted as dwellings in any district.

613.3. Shipping containers as storage: Shipping containers are permitted as storage in M-1 and M-2 industrial zones. Shipping containers are permitted as storage in C-1, C-2, C-3, O&P, and A-1 districts with a conditional use permit. Shipping containers can be used as permanent *or* temporary storage. All shipping container storage shall have:

- a. Must be used as accessory building to dwelling in A-1 district.
- b. Complies with Section 607.0 regarding accessory buildings.
- c. Must be in compliance with all of Independence City Code regarding storage and storage structures, both permanent *and* temporary.
- d. In a construction site, shipping containers may be used as temporary storage, but they must be removed within 30 days after a certificate of occupancy is issued.
- e. In a construction site, industrial shipping containers may be used as temporary storage, but they must be removed within 30 days after a certificate of occupancy is issued.

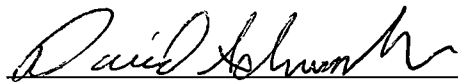
613.4. Shipping containers in general: Shipping containers are not permitted for use as dwellings in commercial and industrial zoned districts or floodplain districts. Shipping containers, whether a permitted or conditional use under these regulations, must be installed and renovated in accordance with the then-current version of all applicable codes as adopted by the City, including those more general codes not mentioned in Section 613.0. The Code provided in Section 613.0 *does not* apply to the use of shipping containers in industrial or operational instances for receiving or exporting cargo; it applies to using shipping containers as structures, such as dwellings, businesses, storage, etc.

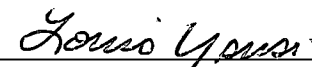
SECTION 5. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the governing body of the City of Independence, Kansas on the 20th day of September, 2023.



ATTEST:


David Schwenker, City Clerk


Louis Ysusi, Mayor