



Tuesday, April 2, 2024
Commission Room, City 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

- a. Orientation by the City Attorney.

II. MINUTES

- a. Consider approving minutes of the March 5, 2024 meeting.

III. PLANNING COMMISSION

- a. Public Hearing to consider rezoning a tract of land at 1621 North Pennsylvania Avenue from C-2, commercial services district to R-2, single-family dwelling district.
- b. Public Hearing to consider a text amendment to Appendix B - Zoning related to dwellings.
- c. Consider rescheduling the June 4, 2024 meeting to June 11, 2024.
- d. Consider scheduling a joint worksession with the City Commission regarding the draft Community Development/Comprehensive Plan.

IV. DISCUSSION

- a. Consider discussing a request to initiate a moratorium on downtown sign regulations.
- b. Reminder of Community Development/Comprehensive Plan Public Workshop on April 9th from 5 - 7 PM at Memorial Hall.

V. ADJOURNMENT



Planning Commission/ Board of Zoning Appeals Item
CITY OF INDEPENDENCE
April 2, 2024

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Orientation by the City Attorney.

BACKGROUND Orientation by the City Attorney.

SUPPORTING DOCUMENTS

1. PLANNING COMMISSION ORIENTATION
2. 2023 PZ Attendance

PLANNING COMMISSION ORIENTATION

BY CITY ATTORNEY JEFF CHUBB

City Website: www.IndependenceKs.gov

City Code: <http://library.municode.com/index.aspx?clientId=12808>

City Zoning Code:
<http://library.municode.com/HTML/12808/level1/APXBZO.html>

Comprehensive Plan:
<https://www.independencesks.gov/DocumentCenter/View/1380/COMPREHENSIVE-PLAN---FEB-1982>

Agendas and Minutes:
<https://www.independencesks.gov/129/Agendas-Minutes>

OUTLINE FOR MEMBERS OF CITY BOARDS

A. Kansas Open Meetings Act (KOMA)

1. Applies to governmental entities or subordinate groups of governmental entities in general terms.
2. The purpose of KOMA is to require governmental entities, and their subordinate bodies, to conduct their business in the open so the public can observe and see what is going on.
3. For KOMA to apply, there must be a meeting. A meeting is defined as a gathering, a telephone call, or other means of "interactive communication" involving a majority of the board or entity for the purpose of discussing the business or affairs of the entity.
4. There are certain exceptions to KOMA which permit the entity to discuss certain matters in private which are called executive sessions. Executive sessions are permitted for the following subjects:
 - a. Personnel matters of non-elected personnel.
 - b. Consultation with an attorney which would be deemed privileged in the attorney-client relationship.
 - c. Confidential data relating to financial affairs or trade secrets of a company.
 - d. Preliminary discussions relating to acquisition of real estate.

B. Code of Ethics

1. The City Commission recently adopted a Resolution creating a written code of ethics for elected officials and their appointees. You are appointees and are subject to the code of ethics.
2. The provisions of the code of ethics speak for itself. It is designed to ensure fair dealing with the public.
3. The code of ethics sets forth certain situations which, if they arise, would require you to not participate in a vote being taken on a particular subject.

4. The conflict of interest provisions are set out on page 4 regarding acceptance of gifts, financial or business interests with the City, financial interest disclosures, etc.

C. Abstentions:

1. If a member of a board is present when a vote is taken, the member should vote unless the member has a reason under the code of ethics resolution which would require that the member not vote. If a member does not vote, it is considered an abstention.
2. For purposes of the minutes of the meeting, an abstention should be recorded as an abstention.
3. The effect of an abstention is that the member's vote does not count against the majority, but if there is a specific law or ordinance which requires a certain number of votes to have been cast in the affirmative in order to support the action being taken, the abstention cannot be used as an affirmative vote in that situation.

D. Statutory Conflicts of Interest:

1. There is a state statute on conflict of interest which covers appointees to City boards, but does not require appointees to file a statement of substantial interest.
2. Elected officials, on the other hand, must file a statement of substantial interest.
3. A statement of substantial interest is a disclosure statement in which an elected official is required to disclose any business in which he or she, or spouse, has an equitable interest exceeding \$5,000.00 or 5% ownership, or has received income of \$2,000.00 or more from the business in the last year.
4. The statute prohibits participating in the making of a contract with a business in which you have a substantial interest, except if the contract is awarded based upon competitive bidding.

E. Conducting Meetings

1. A quorum of a board is necessary in order to conduct a meeting. What constitutes a quorum is a majority of the board unless there is a specific statute or ordinance specifying otherwise.
2. There are no state statutes, or city ordinances or policies to my knowledge, that require that you adhere to any particular rules of order such as Roberts Rules of Order. Nevertheless, it is general practice for a board to take action by someone making a motion, having a second, and then voting on the motion.
3. The actions of the City Commission can be by motion, by resolution, or by ordinance, with an ordinance being the most formal. An ordinance must be published in the official city newspaper before it can take effect. There is no similar requirement for a motion or resolution unless such requirement exists by virtue of a statute or ordinance.
4. The actions of a board are generally by motion, and possibly by resolution if required. Boards do not have the authority to adopt ordinances.

I. Planning and Zoning Commission/Board of Zoning Appeals (Two Separate and Independent Boards)

A. Planning and Zoning Commission

- 1. Size of Commission - 9 members**
- 2. Composition - 7 members reside in City limits 2 members reside outside City, but within 3 miles**
- 3. Appointments - 3 years**
- 4. Removal of Members:**
 - a) Absence from 3 consecutive meetings at which a vote is taken*
 - b) Miss 4 meetings during any 12 month period*
- 5. Quorum to conduct business – 5 members**
 - a) 5 members' favorable vote for:*
 - (1) Adoption on amendment of Comp Plan
 - (2) Amendment of By-laws
 - (3) Election of officers
 - (4) Set time of regular meeting
 - (5) Zoning ordinance text amendments
 - b) Majority of Quorum - 3 members all other actions:*
 - (1) Plat approval
 - (2) Rezoning recommendations
- 6. Open Meeting Requirements - 5 members cannot discuss business**
- 7. Conflicts of Interest**

8. Abstaining
9. Quasi-judicial capacity on Rezoning
 - a) *Cannot discuss rezoning requests except at public meetings or public hearings with other members or public-may discuss with City staff*
10. Jurisdiction
 - a) *Comprehensive Plan - City and up to 3 miles*
 - b) *Zoning – City limits*
 - c) *Board of Appeals - City limits*
 - d) *Zoning 3 mile area - County Planning Commission*
 - e) *Platting - City limit*
 - f) *Platting 3 miles - Joint Board*
11. Powers and Duties
 - a) *Prepare and amend City Comprehensive Plan*
 - b) *Develop subdivision regulations*
 - c) *Review and approve plats - that conform to subdivision regulations*
 - d) *Adopt recommendations for zoning districts and regulations*
12. Zoning Ordinance vs. Subdivision Regulations
 - a) *Zoning -land use*
 - b) *Subdivision - development standards and dedication of public rights-of-way and easements*
13. Zoning Classification

a) City Ordinance based on "Restrictive Use" vs. "Pyramidal Use"

- (1) Appendix A - Permitted and Conditional use table
- (2) Appendix B - Coding land use activities

b) Zoning Classifications (14)

- (1) 13 classifications - 1 overlay (Flood plan)

c) Other Special Classifications

- (1) Planned Unit Developments
- (2) Conditional Use Permits

d) Regulations

- (1) Height limitations, setbacks, lot area coverage per zoning classifications
- (2) Home Occupations
- (3) Day Care
- (4) Recreation Vehicles
- (5) Off-street parking
- (6) Sign Regulations

e) Non-conforming Uses: Land use and structures

14. Zoning Amendments

a) Public Hearing - Quasi-judicial

b) Criteria for rezoning or conditional use (Sec. 2-101 City Code)

- (1) The character of the neighborhood.
- (2) The zoning and uses of properties nearby.

- (3) The suitability of the subject property for the uses to which it has been restricted.
- (4) The extent to which the proposed use will detrimentally affect nearby property.
- (5) The length of time the subject property has remained vacant as zoned.
- (6) The relative gain to public health, safety, and welfare due to the denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.
- (7) The economic impact on the owner of the subject property and the economic impact on the surrounding properties.
- (8) Recommendation of City's permanent staff.
- (9) Conformance of the requested change to the adopted comprehensive plan being utilized by the City.
- (10) The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include but are not limited to sanitary and storm sewers, water, and electrical service, police and fire protection, schools, parks and recreation facilities, etc.
- (11) The extent to which the proposed use would adversely affect the capacity or safety of that portion of the street network influenced by the use, or present parking problems in the vicinity of the property.
- (12) The environmental impacts the proposed use will generate, including but not limited to storm water runoff: nighttime lighting, or other environmental conditions.

(13) The ability of the applicant to satisfy any requirements (e.g. site plan, etc.) applicable to the specific use imposed pursuant to the zoning district regulations or other applicable ordinances.

c) Tools - Comp Plan, Zoning Ordinance, Stat Reports, Past practices and policies of Planning Commission.

d) Actions Planning Commission may take:

(1) Recommend approval of application – give reasons

(2) Recommend denial of application - give reasons

e) Effect of not following statutory requirements may result in legal challenge and City action may be over-turned.

B. Board of Zoning Appeals

1. Membership – The 7 members of the Planning Commission that live within the City limits shall serve as the Board of Zoning Appeals.

2. Frequency of Meetings -- When application filed for request for variance on appeal.

3. Authority -- Decide appeals or approval of variance subject to challenge in district court.

4. Items Considered:

a) Appeals regarding application of Zoning Ordinance by Zoning Administrator - appeal must be from aggrieved party.

b) Variances - approve exceptions to Zoning Ordinance when following conditions are met and for which Zoning Ordinance allows a variance:

- (1) 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;
- (2) That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents;
- (3) 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;
- (4) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
- (5) That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

II. Recommended Philosophies and Concerns

A. Why have City Planning?

- 1. Establish relationship of land uses within the City that protects property values.**
- 2. Efficient uses of City resources relating to development – traffic safety, infrastructure needs and engineering concerns.**
- 3. Defines community quality of life standards.**

B. Concerns.

- 1. Be consistent in application of standards and codes.**

2. Follow City codes.
3. Common sense - codes and Comp Plan based on common sense on recommended changes.
4. Remember you must consider overall City needs - what is good for the City as a whole.
5. Persons attending public hearings - very small percentage of population - usually opposition attends public hearings and not proponents.
6. Consider long term impacts - described specific use at hearing may not be ultimate use - primarily consider land uses permitted not specific land use presented at hearing.

III. Major Items Being Considered By Planning Commission:

- A. Strategic Plan Implementation
- B. Update of City Comprehensive Plan

IV. Planning Commission Advice, Opinions, or "War Stories"

OUR MISSION: *Excellence in providing municipal services to our residents, visitors and business community to foster a high quality of life.*

OUR MOTTO: *"Delivering Excellence"*

OUR STRATEGIC VISION: *Service Excellence – Continuous Improvement – Teamwork*

WE VALUE:

INTEGRITY – The Power of Honesty

Integrity is the foundation of all we do. It is a constant. Those with whom we work, live and serve can rely on us.

We align our actions with our words and deliver what we promise.

We build and strengthen our reputation through trust.

We do not improperly influence others or let them improperly influence us.

We are respectful and behave in an open and honest manner.

In short, the reputation of the organization reflects the ethical performance of the people who work here.

COMMITMENT – The Power of Responsibility

We embrace our responsibilities. Individually and collectively we make meaningful commitments—first to each other, and then to those with whom we work, live and serve. We understand and focus on the needs of our customers.

We are citizens and responsible members of the community who are dedicated to safety, care for our environment, and manage our operations ethically.

We know it is both our duty and our honor to carry the City of Independence heritage forward.

EXCELLENCE – The Power of Quality

We set and achieve ambitious goals. The quality of our services reflects the power and heritage of the City of Independence—the pride we take in what we do and what we make possible.

We are passionate about people, process, and service excellence.

We are determined to serve our customers through innovation, continuous improvement, an intense focus on customer needs, and a dedication to meet those needs with a sense of urgency.

For us, excellence is not only a value; it is a discipline and a means for making the City a better place.

TEAMWORK – The Power of Working Together

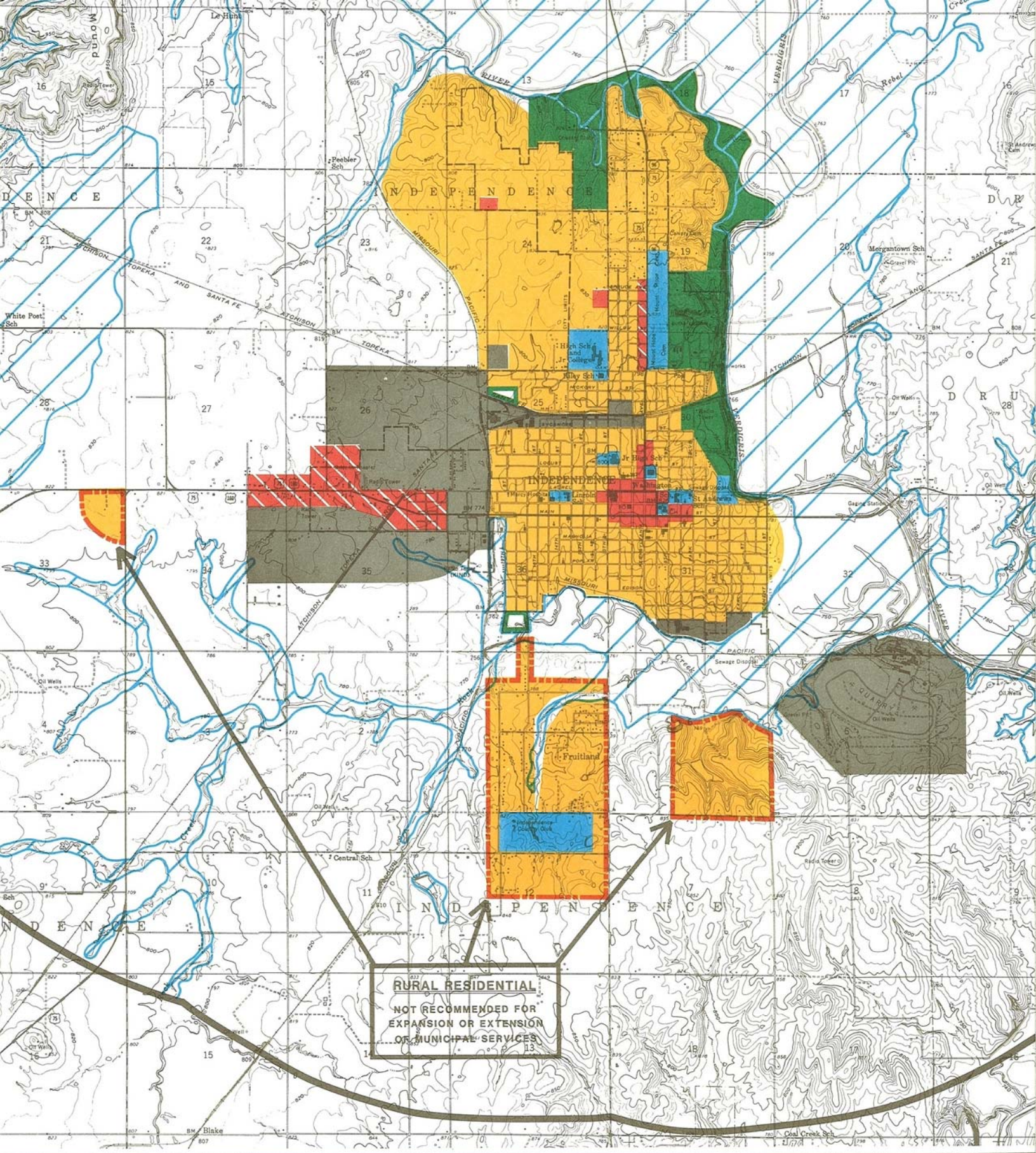
We help each other succeed. We are a team, sharing our unique talents to help those with whom we work, live and serve.

The diverse thinking and decision making of our people strengthens our team.

We respect and value people with different opinions, experiences and backgrounds.

We strive to understand the big picture, and then do our part.

We know that by working together, we can produce better results than any of us can achieve alone.



RURAL RESIDENTIAL
 NOT RECOMMENDED FOR
 EXPANSION OR EXTENSION
 OF MUNICIPAL SERVICES

ENCE

GENERAL DEVELOPMENT PLAN



RESIDENTIAL



RURAL RESIDENTIAL



COMMERCIAL



FUTURE PARKS



PUBLIC & SEMI-PUBLIC

from
Kelly
3-15-02

BY-LAWS OF THE INDEPENDENCE PLANNING AND ZONING COMMISSION AND BOARD OF ZONING APPEALS

The following by-laws are established by the Independence Planning and Zoning Commission and Board of Zoning Appeals.

ARTICLE ONE

Creation of Planning and Zoning Commission and Designation of Board of Zoning Appeals

SECTION ONE: As provided for by State Statute, Section 4, Chapter 56, 1991 Session Laws, the Independence City Commission has created a Planning and Zoning Commission. Furthermore, as provided by Section 20 (g), Chapter 56, 1991 Session Laws, the City Commission has designated the Planning and Zoning Commission as the Board of Zoning Appeals. When the term Planning Commission is used in these By-laws, where applicable, these by laws shall also apply to the Board of Zoning Appeals.

ARTICLE TWO

Purpose

SECTION ONE: By-Laws. The purpose of these By-Laws is to establish rules for the internal organization and procedures of operation of the Planning Commission for compliance with K.S.A. 12-701, et.seq., as amended by the 1991 Kansas Legislature.

SECTION TWO: Commission. The function, powers, and duties of the Planning Commission are as authorized by State Law, K.S.A. 12-701, et.seq., and existing City ordinance. The Planning Commission adopts its own rules and policies for procedure, consistent with its powers.

ARTICLE THREE

Organization

SECTION ONE: Officers. The officers of the Commission shall be a Chairman, Vice Chairman, and Secretary. The Chairman, Vice Chairman, and Secretary shall be elected by the Planning Commission at its regular meeting in January of each year. The term of office shall be one (1) year. Officers may succeed themselves to office.

SECTION TWO: Chairman. The Chairman shall preside at all meetings of the Planning Commission. At his discretion, a Chairman may call special meetings and he may also relinquish the Chair to the Vice Chairman or other specific member. The Chairman may not make or second motions, but he may vote on any and all motions to come before the Commission. The Chairman shall appoint all committees. The Chairman shall perform all the duties assigned to his office by law and by the City Governing Body, and shall have such usual powers of supervision and management as pertain to the office of Chairman. If the Chairmanship becomes vacant for any reason, the Vice Chairman shall succeed to the Chairmanship for the remainder of the term.

SECTION THREE: Vice Chairman. The Vice Chairman shall act as Chairman in the absence of the Chairman or disability of the Chairman. In the event the office of Chairman becomes vacant, the Vice Chairman shall succeed to that office for the unexpired term and the Planning Commission shall select a new Vice Chairman for the unexpired term.

SECTION FOUR: Secretary. The Secretary is responsible for keeping a record of all regular and special meetings of the Planning Commission. The Secretary may be assisted in record keeping and providing notices of all regular and special meetings, and to keep records of all meetings by employees of the City. In the absence of the Chairman and Vice Chairman, the Secretary will serve as Chairman.

SECTION FIVE: Attendance. In the event the Chairman, Vice Chairman or Secretary of the Commission shall be absent or unable to attend to the duties of their offices, the members of the Commission may, at any regular meeting or any special meeting called for that purpose, appoint a Chairman pro-tem or a Secretary pro-tem, as the case may be, who shall attend to all the duties of such officer until such officer shall return or be able to attend to his duties.

ARTICLE FOUR

Meetings

SECTION ONE: Regular Meetings. Regular meetings of the Planning Commission shall be held the first Tuesday of each month. Unless otherwise provided, the regular meetings shall be conducted in the American Legion Room of Memorial Hall and shall begin at 6:30 p.m.

SECTION TWO: Special Meetings. Special meetings of the Planning Commission shall be called by the Chairman, or in his absence, by the Vice Chairman, and held at any time or place fixed in the notice. Only items specified in the notice may be acted upon at the special meeting. Notice may be made by telephone or mail. The Chairman or, in his absence, the Vice Chairman shall call a special meeting of the Commission at the request, in writing, of a majority of the appointed members of the Commission; and if the Chairman or, in his absence, the Vice Chairman shall fail to comply with such request, said members so requesting, may call such meeting provided they all sign the notice. The Planning Commission shall provide at least three (3) days' notice to each member prior to any special meeting unless the notice requirement is waived by all members.

SECTION THREE: Quorum. A majority of the membership of the Planning Commission shall be necessary to constitute a quorum for the transaction of business and taking of official action. A favorable vote of five (5) members shall be necessary for the adoption of:

- a. a Comprehensive Plan or addition of any parts thereof;
- b. any amendments or changes in the By-Laws of the Commission;
- c. the election of officers of the Commission;
- d. to set time and place of regular meetings;
- e. zoning ordinance amendments;

All other action may pass upon a favorable vote of a majority of the quorum.

ARTICLE FIVE

Conduct of Meetings

SECTION ONE: Suggested Order of Business. a) Call to Order, Approval of Minutes, Public Hearing, Action on Items on which Public Hearings were held, Other Items Requiring Planning Commission Action, Reports, Other Concerns of the Commission, and Adjournment. b) The Commission may consider items not on the Agenda if a majority of the Commission members present vote approval to do so.

SECTION THREE: Continuances. Any item may be continued upon request of the applicant or recommendation by staff or a Commission member. The Commission may continue items requiring a public hearing to a date certain. Other items may be tabled and recalled at the request of the applicant, staff, or Commission. A tabled item which fails to be recalled after six (6) months shall be considered withdrawn. The applicant is entitled to one (1) continuance as a matter of right, and subsequent continuances only upon approval of a majority of the Planning Commission. If consent is not given, action must be taken by the Planning Commission or the applicant must withdraw the item.

SECTION FOUR: Appearance Before the Commission. Applicants or their representatives may appear before the Commission to present their views on an agenda item. If required by law, the Commission will hold a public hearing and entertain public comment. At the public hearing and during the regular meeting, the Planning Commission may, at their discretion entertain public comment from members of the community or individuals or their representatives who believe they will be affected by the Commission's action. The Chairman may, at his discretion, prescribe procedures for registration of speakers and require that each person come forth and state:

- a. Name
- b. Address
- c. Person or organization they represent or if they are speaking as an individual.

The Chairman may also reasonably limit the length of all person's presentation or discussion to ensure the orderly conduct of Commission business; however, the decision of the Chairman may be overridden by a majority of the Commission present.

SECTION FIVE: Incomplete Submittals. The Commission will not hear items that fail to meet City ordinance submission requirements. A majority of the commission may waive this requirement.

SECTION SIX: Commission Action. The commission shall take action on each item presented at the conclusion of discussion on the item. Voting shall be by individual voice ballot on each item and shall be tallied by the Recording Secretary. All members, including the Chairman, shall have a vote and shall vote when present except that any member shall automatically disqualify himself from voting on any decision in which he may have a conflict of interest as discussed in Article Six, Section One. If the item upon which the Planning Commission action is taken is remanded for reconsideration to the Commission by the Governing Body, it shall be considered at the next regular meeting of the Planning Commission after notice of the remand is received. If no action is taken on the remanded item at this meeting, the same recommendation will be deemed to have been made and will be sent back to the Governing Body.

SECTION SEVEN: Record of Proceedings. The Recording Secretary shall record the minutes of each meeting as a matter of public record and shall present such minutes to the Planning Commission for approval.

SECTION EIGHT: Motions. Following the closing of testimony, a motion may be made to recommend approval or denial of the proposition, to continue the proposition to a later date if a public hearing has occurred, or to table the item. Any stipulations relative to plans, development procedures, etc., should be listed following the motion to approve. Upon receiving a second, the motion may be discussed and, upon the call for question or at the discretion of the Chairman, brought to a vote. A motion to amend, if necessary, must be voted on first. Then the main motion would be voted on in its amended state. Motions shall require an affirmative vote of the majority of the necessary quorum for passage.

SECTION NINE: Abstentions. As discussed in Article Six, Section One, if a Commissioner has a conflict of interest he must vacate his chair and disqualify himself from voting on the item. If after considering an item a Commissioner merely wishes to abstain from voting, his abstention shall be treated as a vote with the majority. If there is a tie vote, an abstention shall be considered a denial.

SECTION TEN: Failure to Recommend. If there is a tie vote of the Planning Commission on any item on which the Commission sits as a recommending body, such as a rezoning or text amendment, such a tie vote is considered a failure to recommend and goes to the Governing Body with no recommendation. If the tie vote occurs on action which the Commission sits as a final decision maker, a tie vote defeats the motion. If no subsequent motion is made and approved after the tie vote, the request is deemed denied.

SECTION ELEVEN: Applicant Not in Attendance. In case an applicant or his agent is not in attendance when his item is called, the item shall be set over to the end of the agenda. If at the time the item is called again the applicant is still not present, the Commission may continue the case, or may approve or deny the proposition as it sees fit.

ARTICLE SIX

Miscellaneous

SECTION ONE: Conflict of Interest. When a member of the Commission feels he may be in conflict of interest on a particular case before the Commission, he may so state for the record and vacate his chair. A member so vacating his chair shall leave the room and should not participate in the hearing or discussion, and shall not vote on the issue. If the vacation of a member due to conflict of interest will eliminate a quorum, then the Planning Commission shall continue the hearing to the next regular meeting.

SECTION TWO: Suspension of Rules. Any of these By-Laws may be suspended for stated reasons by affirmative vote of a majority of these members present at a special or regular meeting with a quorum present.

SECTION THREE: Amendments to By-Laws. The Planning Commission may amend these By-Laws at time following the procedures provided in these By-Laws.

Secs. 2-56—2-65. - Reserved.

DIVISION 4. - PLANNING AND ZONING COMMISSION

Footnotes:

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Cross reference— *Planning, ch. 82; subdivisions, app. A; zoning, app. B; administration of the zoning provisions, app. B, art. XVII.*

State Law reference— *Planning commissions, K.S.A. 12-744 et seq.*

Sec. 2-96. - Established.

There is hereby established a city planning and zoning commission for the city, to be named the Independence Planning and Zoning Commission.

(Code 1977, § 21-101; Ord. No. 3605, § 1, 12-18-91)

Sec. 2-97. - Composition, residence of members.

The planning and zoning commission shall consist of nine members, all of whom shall be residents of the city, except two who shall reside within three miles of the corporate limits of the city.

(Code 1977, § 21-102; Ord. No. 3605, § 2, 12-18-91)

Sec. 2-98. - Appointment, terms of members.

The planning and zoning commission members shall be appointed by the mayor subject to confirmation by the governing body of the city by a majority vote. Members shall serve without compensation for their services. Terms of members of the planning and zoning commission shall be three years and shall begin on January 1 of the year appointed and shall expire on December 31 three years later. Members shall continue to serve until reappointed or a person is appointed to their position. Vacancies shall be filled by the mayor subject to confirmation by a majority vote of the governing body of the city. Any member appointed to fill a vacancy shall serve the unexpired term.

(Code 1977, §§ 21-102, 21-103; Ord. No. 3605, § 3, 12-18-91; Ord. No. 4096, § 1, 6-9-11)

Sec. 2-99. - Removal of members.

The mayor, upon a majority vote of the governing body, may remove any persons appointed by the governing body to any board or commission of the city for non-attendance based upon the following criteria:

- (1) Absence from three consecutive meetings at which a vote can be taken; or
- (2) Absence during any 12-month period of one-third of the total meetings at which votes can be taken.

Editor's note— Ord. No. 4382, § 1, adopted March 10, 2022, repealed the former § 2-99, and enacted a new section as set out herein. The former § 2-99 pertained to the removal of members of the planning committee and derived from Ord. No. 3605, § 5, adopted Dec. 18, 1991.

Sec. 2-100. - Statutory powers, duties.

The planning and zoning commission shall have the powers and duties as authorized by K.S.A. 12-715 et seq.

(Code 1977, § 21-104; Ord. No. 3605, § 6, 12-18-91)

Sec. 2-101. - Criteria for consideration of matters.

The planning and zoning commission and the board of commissioners shall consider the following criteria when considering any application for rezoning or a conditional use permit, to the extent they are pertinent to the particular application. Consideration may also be given to other factors which may be relevant to a specific rezoning or conditional use application.

- (1) The character of the neighborhood.
- (2) The zoning and uses of properties nearby.
- (3) The suitability of the subject property for the uses to which it has been restricted.
- (4) The extent to which the proposed use will detrimentally affect nearby property.
- (5) The length of time the subject property has remained vacant as zoned.
- (6) The relative gain to public health, safety, and welfare due to the denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.
- (7) The economic impact on the owner of the subject property and the economic impact on the surrounding properties.
- (8) Recommendation of city's permanent staff.
- (9) Conformance of the requested change to the adopted comprehensive plan being utilized by the city.
- (10) The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include but are not limited to sanitary and storm sewers, water, and electrical service, police and fire protection, schools, parks and recreation facilities, etc.
- (11) The extent to which the proposed use would adversely affect the capacity or safety of that portion of the street network influenced by the use, or present parking problems in the vicinity of the property.
- (12) The environmental impacts the proposed use will generate, including but not limited to storm water runoff, nighttime lighting, or other environmental conditions.
- (13) The ability of the applicant to satisfy any requirements (e.g. site plan, etc.) applicable to the specific use imposed pursuant to the zoning district regulations or other applicable ordinances.

(Ord. No. 3605, § 7, 12-18-91)

Footnotes:

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Cross reference— *Administration of the zoning provisions, app. B, art. XVII.*

State Law reference— *Board of zoning appeals, K.S.A. 12-759.*

Sec. 2-111. - Established, composition.

There is hereby established a city board of zoning appeals for the city, to be named the Independence Board of Zoning Appeals. The board of zoning appeals shall have seven members. The seven members of the board of zoning appeals shall consist of the seven members of the planning and zoning commission who are residents of the city.

(Ord. No. 3605, § 8, 12-18-91; Ord. No. 4042, § 1, 5-14-09)

Sec. 2-112. - Terms of members.

The term of the members of the board of zoning appeals shall run concurrently with their appointment to the planning and zoning commission.

(Ord. No. 3605, § 9, 12-18-91)

Sec. 2-113. - Officers.

The chairman, vice-chairman and secretary of the planning and zoning commission shall also serve in the same capacity on the board of zoning appeals, and each shall be appointed by the members of the planning and zoning commission and shall be elected annually in January of each year.

(Ord. No. 3605, § 10, 12-18-91)

Sec. 2-114. - General authority.

The board of zoning appeals shall administer the details of appeals from or other matters referred to it regarding the application of the zoning ordinance. The board shall fix a reasonable time for the hearing of an appeal or any other matter referred to it. Notice of the time, place and subject of such hearing shall be published once in the official city newspaper at least 20 days prior to the date fixed for hearing. A copy of the notice shall be mailed to each party to the appeal.

(Ord. No. 3605, § 11, 12-18-91)

Sec. 2-115. - Appeals generally.

Appeals to the board of zoning appeals may be taken by any person aggrieved, or by any officer of the city, or any governmental agency or body affected by any decision of the officer administering the provisions of the zoning ordinance. Such appeal shall be taken within a reasonable time as provided by the rules of the board, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefor. The officer from whom the appeal is taken, when notified by the board or its agent, shall transmit to the board all the papers constituting the record upon which the action appealed from was taken. The board shall have power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning ordinance. In exercising the foregoing powers, the board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may direct the issuance of a permit.

(Ord. No. 3605, § 12, 12-18-91)

Cross reference— Zoning, app. B; administration of the zoning provisions, app. B, art. XVII.

Sec. 2-116. - Variances, exceptions.

When deemed necessary by the board of zoning appeals, the board may grant variances and exceptions from the zoning regulations on the basis and in the following manner:

- (1) To authorize in specific cases a variance from the specific terms of the regulations which will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the regulations, in an individual case, results in unnecessary hardship, and provided that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district. A request for a variance may be granted in such case, upon a finding by the board that all the following conditions have been met:
 - 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;
 - b. That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents;
 - 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;
 - d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
 - e. That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations; and
- (2) To grant exceptions to the provisions of the zoning regulation in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning regulation.

In no event shall exceptions to the provisions of the zoning regulation be granted where the use or exception contemplated is not specifically listed as an exception in the zoning regulation. Under no conditions shall the board of zoning appeals have the power to grant an exception when conditions of this exception, as established in the zoning regulation by the board of commissioners, are not found to be present.

(Ord. No. 3605, § 13, 12-18-91)

Cross reference— Zoning, app. B; zoning district regulations, app. B, art. V; supplementary district regulations, app. B, art. VI; offstreet parking and loading regulations, app. B, art. VII; sign regulations, app. B, art. VIII; satellite dish antennas, app. B, art. XI; swimming pools, app. B, art. XII; planned unit developments, app. B, art. XIV; solar access regulations, app. B, art. XV; zoning amendment procedure, app. B, art. XVI.

Sec. 2-117. - Further appeal.

Any person, official or governmental agency dissatisfied with any order or determination of the board of zoning appeals may bring an action in the district court of the county to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the board.

(Ord. No. 3605, § 14, 12-18-91)

Sec. 2-118. - Meetings.

Meetings of the board of zoning appeals shall be held at the call of the chairperson and at such other times as the board may determine. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decisions of the board and the vote upon each question. Records of all official actions of the board shall be filed in its office and shall be a public record.

(Ord. No. 3605, § 16, 12-18-91)

State Law reference— Open meetings act, K.S.A. 75-4317 et seq.; open records, K.S.A. 45-215 et seq.

Secs. 2-119—2-120. - Reserved.

Independence Planning Commission
Zoning Amendment Hearing Script

1. To protect the rights of all parties involved and in order to create an opportunity for everyone to speak their opinions in an orderly fashion, the Independence Planning Commission follows a specific fact finding procedure. Your attention to this procedure is appreciated.
2. We would like to formally open the hearing regarding case number (insert case number and information from agenda). Have any Planning Commissioners had any outside contacts regarding this case? If so, please indicate who you have spoken with and explain the nature of the conversation.
3. Do any Planning Commissioners have a conflict of interest in this case?
4. Is the applicant or his/her agent in attendance? Please step forward and state your name. You have ten minutes to present your case. Planning Commission members may request clarification at the end of your presentation.
5. We will now hear the staff report.
6. Is there anyone in the audience who would like to comment on this case? You may have five minutes to comment. Please clearly state your name and address before commenting.
7. Does the applicant wish to rebut any statements made?
8. Does anyone in the audience wish to rebut any statements made?
9. Does the Commission have any further questions of the applicant or staff?
10. The public hearing is now closed. 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. The Chair will entertain a motion on this case.
11. A motion to (repeat motion) with the following conditions (repeat conditions) based on (repeat factors) has been made and seconded. Is there any discussion?
12. I will now call the roll. Motion (carries/fails).

Sample Motion

I move that we (accept/deny) the rezoning request from R-2 Single-family Dwelling District to C-1 Neighborhood Business District. This motion is based on the following findings: Conformance with the Comprehensive Plan, Character of the Neighborhood, Zoning and uses of properties nearby, Availability and adequacy of required utilities and services to serve the proposed use, and staff recommendation.

Independence Planning Commission
Conditional Use Permit Hearing Script

1. To protect the rights of all parties involved and in order to create an opportunity for everyone to speak their opinions in an orderly fashion, the Independence Planning Commission follows a specific fact finding procedure. Your attention to this procedure is appreciated.
2. We would like to formally open the hearing regarding case number (insert case number and information from agenda). Have any Planning Commissioners had any outside contacts regarding this case? If so, please indicate who you have spoken with and explain the nature of the conversation.
3. Do any Planning Commissioners have a conflict of interest in this case?
4. Is the applicant or his/her agent in attendance? Please step forward and state your name. You have ten minutes to present your case. Planning Commission members may request clarification at the end of your presentation.
5. We will now hear the staff report.
6. Is there anyone in the audience who would like to comment on this case? You may have five minutes to comment. Please clearly state your name and address before commenting.
7. Does the applicant wish to rebut any statements made?
8. Does anyone in the audience wish to rebut any statements made?
9. Does the Commission have any further questions of the applicant or staff?
10. The public hearing is now closed. Acceptance of a Conditional Use Permit must be based on the following factors: A) Ability to comply with all applicable codes and regulations, B) Contribution to and promotion of the welfare or convenience of the public, C) Lack of substantial injury to the value of other property in the neighborhood, D) Proposed use will not dominate the immediate use of the neighboring property, E) Off-street parking and loading areas provided in accordance with code, 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, H) Other. The Chair will entertain a motion on this case.
11. A motion to (repeat motion) with the following conditions (repeat conditions) based on (repeat factors) has been made and seconded. Is there any discussion?
12. I will now call the roll. Motion (carries/fails).

Sample Motion

I move that we (accept/deny) the Conditional Use Permit to allow this use subject to the following conditions: 35 parking spaces must be provided, and 12 trees must be planted along the East boundary. This motion is made based on the following findings: Ability to comply with all applicable codes, Contribution to the welfare or convenience of the public, Adequate infrastructure, Adequate traffic design, and staff recommendation.

Independence Board of Zoning Appeals
Variance Hearing Script

1. To protect the rights of all parties involved and in order to create an opportunity for everyone to speak their opinions in an orderly fashion, the Independence Board of Zoning Appeals follows a specific fact finding procedure. Your attention to this procedure is appreciated.
2. We would like to formally open the hearing regarding case number (insert case number and information from agenda). Have any Board of Zoning Appeals members had any outside contacts regarding this case? If so, please indicate who you have spoken with and explain the nature of the conversation.
3. Do any Board of Zoning Appeals members have a conflict of interest in this case?
4. Is the applicant or his/her agent in attendance? Please step forward and state your name. You have ten minutes to present your case. Board of Zoning Appeals members may request clarification at the end of your presentation.
5. We will now hear the staff report.
6. Is there anyone in the audience who would like to comment on this case? You may have five minutes to comment. Please clearly state your name and address before commenting.
7. Does the applicant wish to rebut any statements made?
8. Does anyone in the audience wish to rebut any statements made?
9. Does the Board of Zoning Appeals have any further questions of the applicant or staff?
10. The public hearing is now closed. 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, B) The variance will not adversely affect the rights of adjacent property owners, C) The strict enforcement of the regulations would cause an unnecessary hardship, D) The variance would not 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 Chair will entertain a motion on this case.
11. A motion to (repeat motion) with the following conditions (repeat conditions) based on (repeat factors) has been made and seconded. Is there any discussion?
12. I will now call the roll. Motion (carries/fails).

Sample Motion

I move that we (approve/deny) the variance request based on the finding that each of five conditions are (found/not found) to be present.

PLANNING & ZONING COMMISSION
(3 year terms -- 9 members)

Members	Term	Expires	Appointed
Mary Jo (Dancer) Meier	2nd term*	January 1, 2025	
Butch Holum	Unexpired	January 1, 2026	January 11, 2024
Kym Kays** Secretary	Unexpired	January 1, 2025	January 11, 2024
Rita Ortolani	Unexpired	January 1, 2025	January 11, 2024
Gary Hogsett**	1st term	January 1, 2027	January 11, 2024
Michelle Avery	2nd term*	January 1, 2027	June 28, 2018 January 11, 2024
Tim Haynes	1st term*	January 1, 2027	February 24, 2022 January 11, 2024
Lisa Richard Vice Chair	2nd term*	January 1, 2026	August 8, 2019 December 19, 2019
Rachel Lyon Chair	2nd term	January 1, 2026	May 14, 2020
*Served an unexpired term.			
**Outside City Appointment. Not on Board of Zoning Appeals.			
Meeting Place: Commission Room, City Hall			
Meeting Date: First Tuesday			
Meeting Time: 5:30 p.m.			

RESOLUTION NO. 2015-010
A RESOLUTION ESTABLISHING A CODE OF ETHICS and
STANDARDS OF CONDUCT FOR ELECTED OFFICIALS OF
THE CITY OF INDEPENDENCE, KANSAS, AND THEIR APPOINTEES

I. PURPOSE

This Code of Ethics for the City of Independence establishes standards of conduct expected of those elected officials, and their appointees, who act for or on behalf of the public in the performance of their governmental duties and responsibilities.

Government service and public sector employment is a public trust, and those who serve the public must perform and discharge their duties consistent with the highest moral principles, serving always the best interests of the City and its citizens.

Representative government is based upon the consent of the governed, under a system whereby every citizen has a right to expect those who govern or serve in the government to act not for themselves but for the governed as a whole. Since government can act only through its officials, it is incumbent upon them to honor the public trust and instill confidence in government by their own integrity and conduct in all official actions.

It is, therefore, the purpose of this Code of Ethics to:

1. Maintain the highest ethical standards in the City government.
2. Increase public confidence in the integrity of the officials of the City.
3. Help officials in determining the proper course of action when facing uncertainty in ethical obligations.

II. APPLICATION

This Code of Ethics for the City shall apply to all persons who are elected as a City Commissioner and to all persons appointed by the City Commission to any position, board, or commission, whether compensated or not, other than independent contractors, who perform services for and on behalf of the City.

The ethical standards, considerations and rules of conduct shall apply and be observed during the person's term of office or service with the City.

III. POLICY STATEMENT

It is the policy of the City that:

- A. All citizens be provided fair treatment and equal access to and from the government, without any appearance or element of discrimination or favor or consideration of any special interest.

B. All official actions taken in the performance of government duties or responsibilities be motivated by service of the public interest and protection of the public trust without any regard for personal achievement, aggrandizement, or personal benefit

C. All persons who act for or represent the interest of the City adhere to the highest standards of ethical conduct in the performance of their duties.

D. The policies and procedures for operation of the City government provide for efficient and cost-effective service, responsive to the public interest, which will preserve and promote confidence in government and the integrity of its members.

IV. ETHICAL STANDARDS.

It shall be the duty of the elected officials (and their appointees) to whom this Code of Ethics applies to observe the highest moral principles in all official actions, whether specifically noted or mandated in this Code, and to refrain from any course of conduct which might result in, or create the appearance of a violation of the following ethical standards. An elected official should:

- STANDARD 101: Endeavor to be loyal to high standards and to the City, above loyalty to persons, department or agency, or political or other interests.
- STANDARD 201: Uphold the constitution, laws and regulations of the United States, the State of Kansas, and the City.
- STANDARD 301: Treat all citizens fairly and equally with courtesy and respect, and never discriminate by dispensing of special favors or privileges, whether for remuneration or not.
- STANDARD 401: Refrain from making any public or private promise the performance of which would require him or her to act beyond the proper scope of the duties of his or her office, or act in a manner which could compromise the integrity of his or her public office.
- STANDARD 501: Never engage in business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his or her governmental duties
- STANDARD 601: Never use any information coming to him or her confidentially in the performance of governmental duties as a means for making a private profit or gaining benefit for himself or herself or others; and never reveal any information made known to him or her through his or her public office which is by law confidential or by custom a protected right of privacy where revealing the information could effect the civil or moral rights of any citizen.

- STANDARD 701: Always safeguard the public trust and never use nor allow the use of government property or funds for private purposes, for purposes other than those authorized or permitted, or for purposes which could mislead the citizens or damage the confidence and reputation of the government.
- STANDARD 801: At all times display the highest level of integrity in performing his or her duties and never knowingly or negligently mislead or allow others to mislead the public or other government officials nor fail to disclose or report to appropriate officials any corruption whenever discovered.
- STANDARD 901: Avoid the appearance of improper influence and refrain from ever receiving, soliciting or accepting gifts, gratuities, favors or anything of value for himself, herself, family, or others, which is intended or has the appearance or effect of influencing the performance of his or her duties; and should never himself or herself lobby nor attempt to influence others in the performance of their duties by any means which are not a part of his or her authorized duties.
- STANDARD 1001: Never allow his or her judgment to be compromised by any personal, family or business interest not a part of his or her government service and never act upon any matter in which he, she, family, or business has or may have any financial or beneficial interest; and always declare and disclose the full nature and extent of any personal, family, or business interest in any matter related to governmental actions or duties.
- STANDARD 1101: Stand as a representative of the City and the public trust and never intentionally act outside the scope of his or her authority in that representation nor allow to be perceived as acting on behalf of the public or government when, in fact they are not.

V. INTERPRETATION AND GUIDELINES

A. GENERAL INTENT AND INTERPRETATION: This Code of Ethics is intended to establish standards to guide the decisions and actions of the public officials in the performance of their official duties and functions. The standards established by the Code are rules of reason and not rules of law, and they do not themselves seek to impose duties or obligations not otherwise required of public officials. Rather, the standards seek to recognize the expectations inherent in government service through public opinion and perception and to define the special responsibilities that arise through the representation and authority of government. Likewise, the Code does not attempt to exhaust the moral and ethical values that must guide government actions, nor does it displace professional knowledge, skill or judgment. Persons in government service must also be guided by personal conscience and the independent ideals of their profession, as well as the legal duties imposed upon them. These standards, therefore, should be interpreted with reference to the purposes of government service and the unique stature of public professionalism.

B. **GUIDELINES FOR APPLICATIONS:** The following guidelines are designed to provide a frame of reference for interpretations of the Ethical Standards. They are not absolutes, but serve as considerations to be applied to specific factual situations.

1. **Gifts and Gratuities.** A gift or gratuity would include any item of value, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, favor, or tangible objects. As a general rule, a public official should not:

- a. solicit a gift or gratuity for any purpose related to their official duties or City business or operations;
- b. accept any gift or gratuity (other than appropriate political contributions for elected officials) or an honor or award presented by a professional or fraternal organization, for the performance of duties;
- c. keep any unsolicited gift or gratuity having a value exceeding \$100; and
- d. accept any gift or gratuity under circumstances that a reasonable person would question or circumstances where the giver would have reason to expect something in return.

2. **Financial or business interests with City Operations.** A financial or business interest includes any that would directly or indirectly provide a monetary or material benefit to the official. As a general rule, an official of the City should refrain from participation in any selection process, contract negotiation, or purchase of goods or services where they, or their family members or business associates, have any beneficial or financial interest in the award, selection, or contract. Further, an elected official or appointee should not engage in or have a financial interest in any business providing goods or services to the City except when the goods or services are provided through the formal competitive bid process under the purchasing policies of the City, and then only upon full disclosure to all appropriate officials of the financial interest.

3. **Financial Interest Disclosures.** A material financial interest would include an interest that provides direct financial remuneration to the elected official or appointee, or to any member of their immediate family, in an aggregate amount of five hundred dollars (\$500) or more in any year, or an ownership interest in any business entity which exceeds ten percent (10%) of the total ownership. An elected official or appointee of the City should always fully and publicly disclose any material financial or other beneficial interest that the official has or may have in any contract, legislative action, formal decision, or governmental ruling or determination whenever the official will or may participate in any manner in the discussion, deliberation, decision, or administration of the matter.

4. **Conflict of Interest.** A conflict of interest includes any circumstance under which a elected of the City has a direct personal interest, other than the diligent performance of their official duties, in the result or outcome of any governmental action for which the official has, in whole or in part, any discretionary authority or responsibility. It is not limited to financial interests, but may include other interests such as personal friendship, family relations, or other associations with groups or persons. An elected official or appointee of the City should always avoid even the appearance of such conflicts by full, public disclosure of such interests to

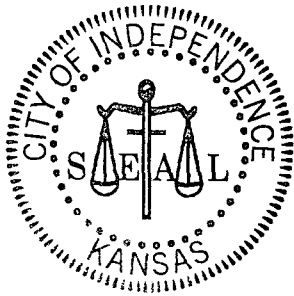
appropriate officials and, where possible, by abstaining from participation in the performance or exercise of the official, discretionary actions. Elected officials (and their appointees) should abstain from voting on issues only if there is a conflict of interest, and should state, in general terms, the nature of the conflict.

Adopted and approved by the Governing Body of the City of Independence, Kansas, on this 19th day of February, 2015.

Attest:

Freeman
Mayor

Anthony D. Payne
Director of Finance / City Clerk





Marilyn Calhoun

Marilyn Calhoun, Register of Deeds

ORDINANCE NO. 4382

An Ordinance Authorizing the Mayor to Remove Members of Boards or Commissions for Non-Attendance

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

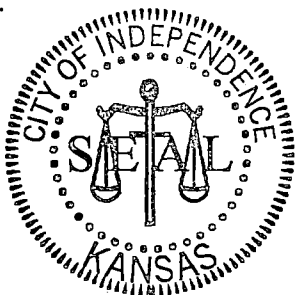
Section 1. ~~City Code Section 2-99 which is specific to members of the planning commission is hereby repealed.~~

Section 2. The Mayor, upon a majority vote of the governing body, may remove any persons appointed by the governing body to any board or commission of the city for non-attendance based upon the following criteria:

- a. Absence from three consecutive meetings at which a vote can be taken; or
- b. Absence during any 12-month period of one-third of the total meetings at which votes can be taken.

Section 3. 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 10th day of March, 2022.



ATTEST:

Dean A. Hayse
DEAN A. HAYSE, Mayor

David W. Schwenker
DAVID W. SCHWENKER, City Clerk



2023 Attendance Records for Planning Commission/Board of Zoning Appeals

Member	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Lisa Richard	P	P	X	P	P	P	P	P	P	X	P	P
Mary Jo Meier	P	A	X	P	P	A	A	P	A	X	P	P
Michelle Avery	P	P	X	P	A	P	P	P	P	X	P	P
Rachel Lyon	P	P	X	P	P	A	P	P	P	X	P	P
Tim Haynes	P	P	X	P	P	P	P	P	P	X	P	P
Kym Kays												
Rita Ortolani												
Butch Holum*												
Gary Hogsett*												

P-Present

A-Absent

X-No meeting

*Outside City (Not on Board of Zoning Appeals)



**PLANNING COMMISSION ACTION / BOARD OF
ZONING APPEALS MINUTES
CITY OF INDEPENDENCE
April 2, 2024**

Department City Clerk

Prepared By

AGENDA ITEM Consider approving minutes of the March 5, 2024 meeting.

SUMMARY RECOMMENDATION I move to approve the minutes of the March 5, 2024 meeting.

SUPPORTING DOCUMENTS

1. March 5, 2024 PZ Minutes - Draft

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's March 5, 2024
Meeting**

I. Call to Order

Lisa Richard, Vice-Chairperson, called the Planning Commission/Board of Zoning Appeals meeting to order. Rachel Lyon came in at 5:45 pm.

Present: Lisa Richard, Kym Kays, Rita Ortolani, Gary Hogsett, Tim Haynes, Michelle Anderson, Mary Jo Meier

Absent: Rachel Lyon, Butch Holum

Guests: April Nutt, Lisa Wilson, Brad May, Scott Smith

II. Minutes

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

Motion:

On the motion of Tim Haynes, seconded by Gary Hogsett the Commission approved the February 6, 2024 Planning Commission/Board of Zoning Appeals meeting minutes.

Aye: Michelle Anderson, Tim Haynes, Mary Jo Meier, Lisa Richard, Gary Hogsett, Kym Kays, Rita Ortolani

Nay: None

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.

Lisa Richard opened the public hearing.

Angela Renfro explained that the church had been given a donation and they wanted to put in a new school sign that is large enough to be seen at the elevation of the schoolyard.

Motion:

On the motion of Rita Ortolani, seconded by Tim Haynes the Commission approved 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.

Aye: Michelle Anderson, Tim Haynes, Mary Jo Meier, Lisa Richard, Rita Ortolani

Nay: None

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's March 5, 2024 Meeting

- 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.

Lisa Richard opened the public hearing.

Brad May asked if the zoning regulations require a wall to be left standing to build in the same footprint on the building premises.

Kelly Passauer stated that if the applicant goes through a variance process for a setback it eliminates the need to do that.

Motion:

On the motion of Tim Haynes, seconded by Lisa Richard the Commission approved a 14-foot variance off the alley behind 1609 N Pennsylvania Avenue.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Meier, Lisa Richard, Rita Ortolani

Nay: None

IV. Planning Commission

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

Rachel Lyon opened the public hearing.

Rachel Lyon let the board members know she is the real estate agent for this property and would be abstaining.

Lisa Richard let the board members know she has been involved in conversations about this issue and that she is a member of the Landbank Committee.

Gary Hogsett let the board members know he is a member of the Landbank Committee.

April Nutt said that the Landbank Committee owns property at 201 E Main Street that does affect this district. The potential intent is to provide a drive-through restaurant that does not serve food. This will include walk-ups.

Kelly Passauer stated that there is currently a definition for a drive-in establishment but not one for a drive-through establishment. A conditional use permit would be required in the C-3 district where any property owners within 200 feet are notified of a public hearing.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's March 5, 2024
Meeting**

Motion:

On the motion of Tim Haynes, seconded by Mary Jo Meier the Commission, based on the statements included in the staff recommendation, recommended 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."

Aye: Michelle Anderson, Tim Haynes, Mary Jo Meier, Lisa Richard, Gary Hogsett, Kym Kays, Rita Ortolani

Nay: None

Abstain: Rachel Lyon

- 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.

Rachel Lyon, Chairperson, opened the public hearing.

Rita Ortolani let the board members know she is a member of the Housing Authority Board.

Brad May stated that his concern is that the Housing Authority would build another low income housing structure.

Kelly Passauer explained that an R-3 district is zoned for single-family, duplexes and triplexes. The lot is not big enough to build an R-5 structure which is a higher density but the same single-family structures as mentioned would still be allowed.

April Nutt said there are currently no plans to build on the lot but it could come up on future plans.

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's March 5, 2024 Meeting

Brad May asked how that could be so with the shed being used in R-5.

Kelly Passauer stated that if there were a house built there the accessory use would have to go back to the house.

Motion:

On the motion of Lisa Richard, seconded by Tim Haynes the Commission approved 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.**

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Meier, Lisa Richard, Gary Hogsett, Kym Kays, Rita Ortolani
Nay: None

- c. Consider a preliminary plat for Jefferson Subdivision.**

Rachel Lyon opened the public hearing.

Rita Ortolani reminded the board members that she is on the housing board.

Tim Haynes and Lisa Richard stated that a sidewalk should be included in the Subdivision. It was noted by the engineer that a sidewalk is included in the plans.

Lisa Richard wants it noted that her vote for approval will only count if the sidewalk stays in the plan.

Motion:

On the motion of Tim Haynes, seconded by Lisa Richard the Commission approved the preliminary plat for Jefferson Subdivision.

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

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's March 5, 2024 Meeting

Richard, Gary Hogsett, Kym Kays, Rita Ortolani

Nay: None

- d. Consider a final plat for Jefferson Subdivision.

Rachel Lyon opened the public hearing.

Rita Ortolani reminded the board members that she is on the housing board.

Lisa Richard wants it noted that her vote for approval will only count if the sidewalk stays in the plan.

Motion:

On the motion of Gary Hogsett, seconded by Tim Haynes the Commission approved the final plat for the Jefferson Subdivision of Highland Park Addition.

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

Richard, Gary Hogsett, Kym Kays, Rita Ortolani

Nay: None

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

Motion:

On the motion of Rita Ortolani, seconded by Rachel Lyon the Commission approved setting 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.

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

Richard, Gary Hogsett, Kym Kays, Rita Ortolani

Nay: None

V. Discussion

Kelly Passauer let the board know that on April 9, 2024, there will be a Comprehensive Plan public forum at 5:00 pm in the Civic Center at Memorial Hall.

City Staff has been asked about having a Moratorium on sign regulations in the downtown until the City code is revised after the Comprehensive Plan has been approved. This will be discussed at the April 2nd meeting.

VI. Adjournment

Motion:

On the motion of Tim Haynes, seconded by Mary Jo Meier the Commission adjourned the meeting.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's March 5, 2024
Meeting**

**Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Meier, Lisa
Richard, Gary Hogsett, Kym Kays, Rita Ortolani
Nay: None**

Rachel Lyon, Chairperson

Kim Kayes, Secretary



REQUEST FOR BOARD OF ZONING APPEALS ACTION REZONING CITY OF INDEPENDENCE APRIL 2, 2024

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to consider rezoning a tract of land at 1621 North Pennsylvania Avenue from C-2, commercial services district to R-2, single-family dwelling district.

SUMMARY RECOMMENDATION Staff recommends you authorize the request to rezone based on the great need for additional housing, which is a primary goal of the City Commission.

BACKGROUND City staff has been approached by a property owner that owns a house in the C-2 zone which adjoins the highway. They would like to demolish the existing house and rebuild another house at this location. The zoning code does not allow single-family detached dwellings in a C-2 zone, so the current house is a non-conforming use. The property owner would like to start constructing this new house as soon as possible. Rezoning one lot adjoining the highway in the middle of a block that is bordered by C-2, commercial services to R-2, single-family would be a spot rezoning, although across the alley there are R-2 zoned properties. Typically, a street or alley serves as a buffer between zones. The owner has completed an application for rezoning.

Land Use Category	Code	Permitted Zoning District											
		A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1
Dwelling, elderly	1100				P	P					C		
Dwelling, in nonresidential structure	1190							C	C		C		
Dwelling, mobile home not on permanent foundation	1151					C	C						
Dwelling, mobile home on permanent foundation	1152					C	C						
Dwelling, multifamily	1130				P	P	P	P			C		
Dwelling, single-family attached	1113				P	P	P	P			C		
Dwelling, single-family detached	1111	C	P	P	P	P	P				C		
Dwelling, two-family	1120				P	P	P				C		

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 132 Block 8 Maywood Hghts Add to the City of Independence, Kansas, Montgomery County.

DESCRIPTION OF TRACT(S) Single family residence (detached).

ZONING AND USES OF PROPERTY NEARBY C-2, commercial services district (residence); North, C-2, commercial services district (business); South, C-2, commercial services district (empty lot); East Highway; West R-2, single-family dwelling district (residences). There are also houses on either side of the house proposed to be reconstructed.

CHARACTER OF THE NEIGHBORHOOD Mix of commercial and residential.

SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED Property was restricted to C-2, commercial services district when the zoning code was approved in 1982. It has had a house (residence) on it since that time.

LENGTH OF TIME THE PROPERTY HAS REMAINED VACANT AS ZONED The property has been actively used as a residence from 1998 to 2021 according to records of water bills. Water records prior to 1998 are not available. The County records indicate this 958 square foot one-story two-bedroom bungalow was built in 1945 and is currently in fair condition.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY Since it was constructed as a residence in 1945, removal of restrictions would not detrimentally affect nearby property.

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 individual landowners will not be able to build a new house on this property without changing the zoning. In the destruction of the property a business may or may not go in if the owner(s) decide to sell the property or put in a business themselves.

RECOMMENDATION OF CITY'S PERMANENT STAFF There are portions of the Comprehensive Plan that do not recommend this rezoning, such as the Neighborhood Development Map. However, there are other objectives and policies that do support it. Considering the great need for housing in Independence, staff would be inclined to err on the side of authorizing the rezoning.

CONFORMANCE WITH THE COMPREHENSIVE PLAN Changing the zoning to residential would not be in conformance with the comprehensive plan as it now stands. The current zoning was put in place based on the General Development Plan Map from the 1982 Comprehensive Plan which indicates the area on North Penn from Oak Street to Catalpa Street should be highway commercial. This includes the area in question.

AVAILABILITY AND ADEQUACY OF REQUIRED UTILITIES AND SERVICES TO SERVE THE PROPOSED USE The property already has utilities and services.

IMPACT ON STREETS AND PARKING There would be no impact on parking and streets since it has been used as a residence in recent years.

ENVIRONMENTAL IMPACTS Building a new house would not cause any environmental impacts as a house has stood there for nearly 80 years.

ABILITY TO MEET REQUIREMENTS OF APPLICABLE CODES All codes would have to be met if the property is rezoned to residential and a new house is built.

STAFF RECOMMENDATION The 1982 General Development Plan shows this area as highway commercial. However, the property is currently surrounded by residential structures that are to the north and

south that are also nonconforming uses, and to the west across the alley are several single-family residences which are zoned R-2.

The Housing Goal in the 1982 Comprehensive plan states; "To provide ample opportunity for continued community development within an orderly, efficient and environmentally safe planning framework."

- Objective H-1 of the Comprehensive Plan states; "Maintain or upgrade the condition and particular residential character of existing neighborhoods and residential areas."
- Objective H-2 of the Comprehensive Plan states; "Encourage the development of a wide range of housing choices."
 - Policy H12 states; "Rehabilitation and upgrading of houses shall be encouraged in older areas of the City."
 - Policy H14 states; "Vacant areas within predominately developed residential areas should be encouraged to be developed in a manner that is similar in character to surrounding areas; all new development shall meet minimum housing codes."
 - Policy H16 states; "Buffers, either as intermediate land uses or as sufficient landscaped areas, shall be provided between residential and either commercial or industrial uses. Residential or other uses may sometimes be buffered from each other by placing them back-to-back rather than face-to-face."

The General Development Goal in the 1982 Comprehensive Plan states; "To provide ample opportunity for continued community development within an orderly, efficient and environmentally safe planning framework."

- Objective G1 of the Comprehensive Plan states; "Direct the location and subdivision design of new development in order to minimize initial and future public and private costs."
 - Policy G11 states in part; "New development shall be required to locate in areas where municipal services and public facilities are already present or where service extension can be easily accomplished and to expand in a compact and orderly progression."

The Commercial Goal in the 1982 Comprehensive plan states; "To provide sufficient neighborhood and community-wide shopping facilities efficiently distributed through the community and adequate opportunity for commercial expansion."

- Objective C3 of the Comprehensive plan states; "Provide neighborhood convenience shopping adjacent to residential areas but discourage *"spot commercial"* zoning.
- Objective C4 of the Comprehensive Plan states; "Limit strip commercial development along the major streets to businesses directly serving the motoring public."
 - Policy C42 states; "Strip commercial development shall be limited to major highway entrances to the City and shall be permitted only limited access to major streets via frontage roads. Generally, commercial use shall be confined to the west side of Pennsylvania between Oak and Mulberry, west on U.S. 75 as far as 1/2 mile west of Peter Pan Road."

One of the actions (#17) recommended in the Comprehensive Plan states in part; "Target single-family housing developments in the area lying generally between Oak and Taylor and east of 24th Street Road."

POSSIBLE MOTIONS:

1. I move to recommend the City Commission authorize the rezoning of 1621 N. Penn from C-2 To R-2 based on meeting several Goals, Objectives And Policies of the Comprehensive Plan; or

2. I move To recommend the City Commission deny the rezoning of 1621 N. Penn from C-2 To R-2 based on it not meeting the General Development Plan Map.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Rezone 1621 N Penn in C2 to R2
2. 1621 N Penn Application Rezone C2 to R2
3. 1621 N Penn Ave Notification Letter
4. 1621 N Penn Ave Notification
5. 1609, 1617, 1621, 1625 N Penn
6. 1621 N Penn - County Detail Information

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 receive comments to consider rezoning a tract of land at 1621 North Pennsylvania Avenue from C-2, commercial services district to R-2, single-family dwelling district.

Legal Description:

Block 8, Lot 132 ACRES 0.15; Maywood Hgts Add to the City of Independence, Montgomery County, Kansas.

Common Address:

1621 North Pennsylvania Avenue

Applicant/Owners:

Travis J & Laura B Blankinship

Case Number:

2024/ZA/05

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 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: Travis & Laura Blankinship
2. Applicant's address: PO Box 1129/1609 N. Penn Indep. KS Phone: 620-330-2524
3. Address of property proposed for rezoning: 1621 N. Penn. Indep. KS 67301
4. Present owner's name: Travis & Laura Blankinship
5. Present zoning: C2 Proposed zoning: Residential
6. Legal description of property proposed for rezoning (if more space is required, use back of form): 1621 N. Penn Ave.
Parcel 108- 29250 Owner: TRAVIS J BLANKINSHIP &
CAMA #. 094-19-0-30-14-015-00-0-01 LAURA B BLANKINSHIP
Subdiv. W30 Blk 8 Lots 132 Parcel: 108- 29250
SEC 19 Twn. 32 Rng. 16 CAMA #. 094-19-0-30-14-015-00-0-01
Subdiv. W30 Blk. 8 Lots 132 Sec. 19 Twn. 32 Rng. 16

7. Present use of property (check one of the following):

(a) Vacant ☐ (b) Residential ☒ (c) Commercial ☐ (d) Industrial ☐

8. Desired use of property: Residential

9. Use and zoning of adjacent property:

North: Use Residential Zoning C2

South: Use Residential Zoning C2

East: Use Highway 75 (N. Penn St.) Zoning _____

West: Use Alleyway → Residential Zoning Residential

10. List reasons for this request:

The zone is C2, but currently has a bad structure / unlivable house that needs to be torn down and removed. We would like to build a new residential home in place of it. So, we are requesting the area to be rezoned to residential instead of the current C2.

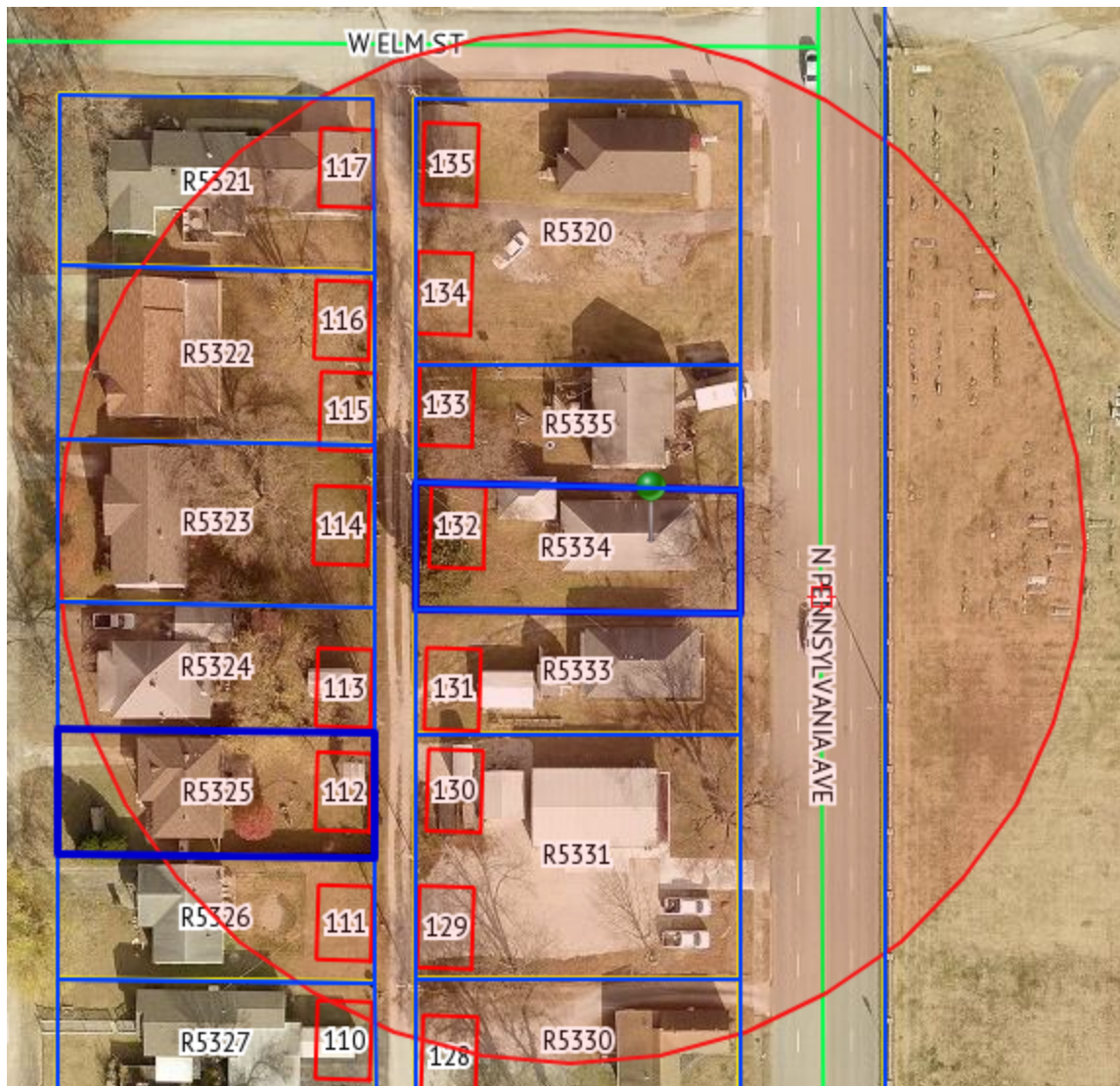
Date: 2-4-24

Signature: [Signature]

Planning Commission Action – do not write in this space

1. Facts found: _____

2. Determination: _____



Quick Ref	II Situs Address	Owner	Mailing Add	Mailing Add 2	Mailing City	Mailing Stat	Mailing Zip
R5152	00000 N PENNSYLVANIA AVE	INDEPENDENCE CITY OF	120 N 6TH ST		INDEPENDENCE	KS	67301
R5325	1612 IRVING ST	DAVIDSON, JEFFREY T	1612 IRVING ST		INDEPENDENCE	KS	67301
R5324	1616 IRVING ST	MELLEN, LOLA & ORA EUGENE	1616 IRVING ST		INDEPENDENCE	KS	67301
R5333	1617 N PENNSYLVANIA AVE	BLANKENSHIP, TRAVIS J & LAURA B	1609 N PENN AVE		INDEPENDENCE	KS	67301
R5335	1625 N PENNSYLVANIA AVE	BLANKINSHIP, TRAVIS J & LAURA B	5148 CR 6000		INDEPENDENCE	KS	67301
R5322	1626 IRVING ST	RODRIGUEZ ORTIZ, VENANCIO	1626 IRVING ST		INDEPENDENCE	KS	67301
R5321	115 W ELM ST	QUAST, KEVIN R. & KAREN	1050 WOODWARD AVE		DETROIT	MI	68226
R5320	1633 N PENNSYLVANIA AVE	BOYLE, KARLA D	4830 CR 3775		INDEPENDENCE	KS	67301
R5327	1604 IRVING ST	READ, LEWIS ALAN & APRIL DIANE	1604 IRVING ST		INDEPENDENCE	KS	67301
R5330	1605 N PENNSYLVANIA AVE	JOHNSON, AMANDA J	1605 N PENN AVE		INDEPENDENCE	KS	67301
R5331	1609 N PENNSYLVANIA AVE	BLANKINSHIP, TRAVIS J & LAURA B	5148 CR 6000		INDEPENDENCE	KS	67301
R5323	1622 IRVING ST	HUFF, GEHRIG L	1622 IRVING ST		INDEPENDENCE	KS	67301
R5334	1621 N PENNSYLVANIA AVE	BLANKENSHIP, TRAVIS J & LAURA B	1609 N PENN AVE		INDEPENDENCE	KS	67301
R5326	1608 IRVING ST	FLIP-N-OUT PROPERTY SOLUTIONS, LLC	536 CENTENNIAL ST		WEBB CITY	MO	64780



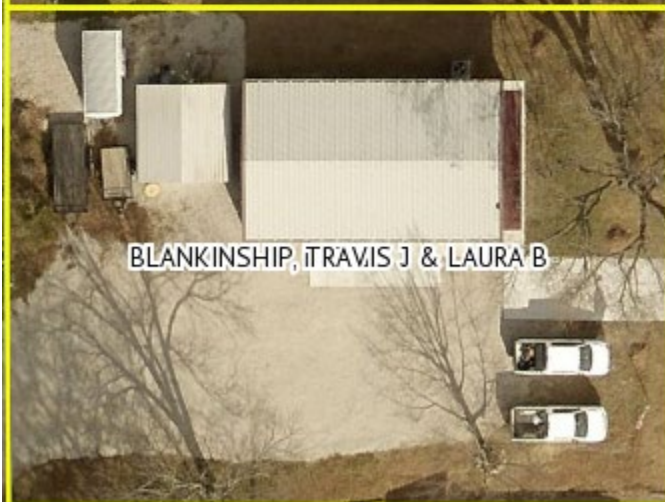
1625 N Penn
Residence



1621 N Penn
Residence



1617 N Penn
Residence



1609 N Penn
Blankinship Electric
Business

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The Parcel Number for this Property is 063-094-19-0-30-14-015.00-0
Quick Ref ID: 5334

Owner Information

Owner Name	BLANKENSHIP, TRAVIS J & LAURA B
Address	1609 N PENN AVE INDEPENDENCE, KS 67301

Property Situs Address

Address	1621 N PENNSYLVANIA AVE, Independence, KS 67301
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Land Based Classification System

Function	Single family residence (detached)
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
Zoning	
Neighborhood	108.A
Tax Unit Group	108

Property Factors

Topography	Level - 1
Utilities	All Public - 1
Access	Paved Road - 1 Alley - 7
Fronting	Residential Street - 4
Location	Neighborhood or Spot - 6
Parking Type	Off Street - 1
Parking Quantity	Adequate - 2
Parking Proximity	On Site - 3
Parking Covered	
Parking Uncovered	

2024 Appraised Value

Class	Land	Building	Total
Residential - R	10,750	34,220	44,970
Total	10,750	34,220	44,970

2023 Appraised Value

Class	Land	Building	Total
Residential - R	10,750	31,670	42,420
Total	10,750	31,670	42,420

Tract Description

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
719	331	717	1158	685	832	666	346

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Acre	Primary Site - 1	0.15										10,750

Dwelling Information

Dwelling Information		Comp Sales Information	
Res Type	Single-family Residence	Arch Style	Bungalow
Quality	FR	Bsmt Type	Crawl - 2
Year Built	1945	Total Rooms	5
Eff Year		Bedrooms	2
MS Style	One Story	Family Rooms	
LBCSStruct	Detached SFR unit	Full Baths	1
No. of Units		Half Baths	
Total Living Area		Garage Cap	
Calculated Area	958	Foundation	Block - 3
Main Floor Living Area	958		
Upper Floor Living Area Pct.			
CDU	FR		
Phys/Func/Econ	FR/ /		
Ovr Pct Gd/RCN	/112,710		
Remodel			
Percent Complete			
Assessment Class			
MU Cls/Pct			

Dwelling Components

Code	Units	Pct	Quality	Year
Enclosed Wood Deck (SF), Solid Wall	98			
Frame, Siding, Vinyl		100		
Composition Shingle		100		
Raised Subfloor (% or SF)		100		
Wall Furnace		100		
Plumbing Fixtures (#)	6			
Plumbing Rough-ins (#)	1			
Automatic Floor Cover Allowance				
Wood Deck (SF) with Roof	168			

Building Improvements

Id	Occupancy	MSCIs	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls	RCN	%Gd	Value
33	Tool Shed	D	1.00	1	1945			294	70	8	21 X 14	1	1	1					4,150	2	80

Building Improvement Components

Id	Code	Units	Pct	Size	Other	Rank	Year
33	Single -Wall-Boards on Wood		100				

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REQUEST FOR PLANNING COMMISSION ACTION INITIATE TEXT AMENDMENT. CITY OF INDEPENDENCE APRIL 2, 2024

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to consider a text amendment to Appendix B - Zoning related to dwellings.

SUMMARY RECOMMENDATION If the rezoning for 1621 N. Penn is approved, then this item is not necessary.

BACKGROUND City staff has been approached by a property owner that owns a house in the C-2 zone which adjoins the highway. They would like to demolish the house and rebuild another house at this location. The zoning code does not allow single-family detached dwellings in a C-2 zone, so the current house is a non-conforming use. The property owner would like to start constructing this new house as soon as possible. You have before you in a previous agenda item a request to consider rezoning the property to R-2. If that rezoning is ultimately approved by the City Commission, then a text amendment will not be needed for this particular project. However, you might wish to go ahead and consider this action in the event the rezoning does not go through or another similar request comes up.

In April of 2022 the Planning Commission added a text amendment to allow dwellings in a C-3, commercial business district, with a conditional use permit, so that apartments for families could be renovated in the upper stories of the downtown.

Approving a text amendment could allow for situations where there is a standing house in a non-conforming use to be demolished and allow another house built in its place to help with the housing situation, but only with a conditional use permit.

Land Use Category	Code	Permitted Zoning District											
		A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1
Dwelling, elderly	1100				P	P					C		
Dwelling, in nonresidential structure	1190							C	C		C		
Dwelling, mobile home not on permanent foundation	1151					C	C						
Dwelling, mobile home on permanent foundation	1152					C	C						
Dwelling, multifamily	1130				P	P	P	P			C		
Dwelling, single-family attached	1113				P	P	P	P			C		
Dwelling, single-family detached	1111	C	P	P	P	P	P				C		
Dwelling, two-family	1120				P	P	P				C		

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 is recommending a text amendment be considered that would allow for multi-family dwellings, single family attached and detached dwellings, and two family dwellings in the C-1 district with a conditional use permit; and single family detached and two family dwellings with a conditional use in the O/P zone. C-1 and O/P zones are more compatible adjoining commercial zones than residential zones are. However, C-1 and O/P zones are also often found adjacent to residential districts. This would create housing opportunities that are supported by the objectives and goals mentioned in the previous agenda item. If the text amendment is approved, the owner would have to reapply for rezoning with a conditional use permit, which would delay their project at least an additional month.

The Planning Commission may also wish to consider allowing dwellings in the C-2 and C-4 zones with a conditional use as well. However, the use limitations for the C-2 district would also have to be amended, as currently they state: "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 the transient public by motels and hotels." This option would also require the owner to apply for a conditional use permit, which would also delay their project at least an additional month.

If the rezoning to R-2 is approved by the City Commission at their April 25, 2024 meeting, then the project can be pursued after that date with no text amendments required.

SUGGESTED MOTION I move to recommend the City Commission approve a text amendment to allow for multi-family dwellings, single family attached and detached dwellings, and two family dwellings in the C-1 district with a conditional use permit; and single family detached and two family dwellings with a conditional use in the O/P zone. The change would affect the O/P and C-1 zones, and is made necessary by new planning concepts to encourage additional housing choices throughout the City.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Text Amendment Dwellings

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 to Appendix B – Zoning relating to dwellings.

Case Number:

2024/ZA/04

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



**REQUEST FOR PLANNING COMMISSION ACTION
RESCHEDULE THE JUNE MEETING.
CITY OF INDEPENDENCE
APRIL 2, 2024**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Consider rescheduling the June 4, 2024 meeting to June 11, 2024.

SUMMARY RECOMMENDATION Reschedule the June 4, 2024 meeting to June 11, 2024.

BACKGROUND The City Manager and Assistant City Manager will be unavailable on June 4, 2024 due to a conference. We are requesting to reschedule this meeting to Tuesday, June 11, 2024.

Suggested Motion: I move to reschedule the June 4, 2024 meeting to June 11, 2024.

SUPPORTING DOCUMENTS



**REQUEST FOR PLANNING COMMISSION ACTION
SCHEDULE A WORKSESSION.
CITY OF INDEPENDENCE
APRIL 2, 2024**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Consider scheduling a joint worksession with the City Commission regarding the draft Community Development/Comprehensive Plan.

SUMMARY RECOMMENDATION Schedule a Worksession.

BACKGROUND Before the adoption of the new Community Development/Comprehensive Plan, we planned to host a joint worksession with the City Commission to review the draft plan. We will review potential dates that will work for the majority, and then recommend a date be set for this joint worksession.

Consider setting a joint worksession with the City Commission on _____ date at _____ time to review the draft Community Development/Comprehensive Plan.

SUPPORTING DOCUMENTS



OTHER DISCUSSION
CITY OF INDEPENDENCE
April 2, 2024

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Consider discussing a request to initiate a moratorium on downtown sign regulations.

BACKGROUND A complaint was made when a sign was erected at 325 N. Penn for Jim Hayward's business. The complaint indicated that the Jim Hayward sign and the temporary signs were in violation of the sign regulations, and the signs were not approved by the IHPRC. Signs located in the Downtown Historic District require a certificate of appropriateness from the IHPRC before a sign permit can be issued. The property owners were notified of the violations on July 31, 2023. The sign permit was applied for by the business owner Jim Hayward, and on August 23, 2023 the IHPRC reviewed and approved the sign. However, the IHPRC noted that they also needed a variance from the Board of Zoning Appeals as the number of wall signs exceeded what was allowed in the C-3 zoning district. A variance application was not received, and on December 4, 2024 City staff met with the business owner, Jim Hayward, who applied and paid for the variance. However, the building owner, Tom Schwarz, came to City Hall while staff was working with the business owner and asked for staff to return Mr. Hayward's money and indicated that he as the building owner would address the issue. Mr. Hayward's payment for the variance was refunded.

The building owner, Tom Schwarz, did meet with City staff and we reviewed the sign code on January 2, 2024. It was discussed that other signs on the building are also not in compliance with current City code and sign permits were not applied for, such as the temporary signs that Mr. Schwarz installed after they purchased the building. City staff advised the building owner to apply for a variance to address exceeding the number of wall signs so that the sign permit could be issued for Mr. Hayward's business. Mr. Schwarz was also advised that the definition of temporary signs could be reviewed during the zoning code update as we discussed that the type of material used was not available when the code was written, and possibly that portion of the code that only allows temporary signs for 30 days could also be amended. Mr. Schwarz requested that enforcement of all sign regulations regarding his building be delayed until the zoning code was reviewed. I asked him to make the request in writing, and he submitted it on February 7, 2024 after the February 6, 2024 Planning Commission meeting. Because the March meeting had several public hearings, I delayed this discussion item until this meeting.

It should be noted that the Jim Hayward sign and the temporary signs were not present when the City managed the building several years ago. The City did not install any additional signs. However, the phone number on one sign was modified.

City staff did ask the consultant (Confluence) who would be performing the zoning code update about this request, and Abbey Eckberg replied as follows:

I talked with Chris on this and debated the topic some. Here are our thoughts on the matter:

It would be rather irregular and inappropriate for a moratorium to be authorized by the City to permit new signs that do not comply with the current code. What would be the more typical use for a moratorium would be a pause on permits for any new signage until completion of any planned code update. Also, we do not think the Planning Commission/Board of Appeals has the authority to outright waive or even temporarily suspend a code requirement. They can grant a variance if the 5 standards listed in the City's code are met or they can decide the zoning administrator has made an error in applying the zoning code, which obviously you have not made an error.

Regarding the current sign code, the "One sign per face of building not to exceed 50 square feet or five percent of the total area, whichever is smaller." Is very clear and not unusual and there are other sign types still permitted. But some cities do allow for 2 or 3 signs per wall face or even an unlimited number of signs per wall face provided the total sq footage limit is not exceeded. It really comes down to community preference. If you and the council are otherwise happy with this wall sign standard, we see no reason to change it.



Tom Schwarz
To: ☒ Kelly Passauer

Wed 2/7/2024 7:10 AM

Kelly,

Sorry for the delay. I hope it's not too late.

Per your request, I'm requesting via email that we delay our review of signage on the building at 325 N Penn until after a full review and revision of the policies can be done this summer/fall. It seems only fair considering the possible violations being discussed were in place long before we owned the building and even long before the city was responsible for the building. I'll note that during the time the city was responsible for the building, you made no changes to come into compliance.

In addition I would like to request a seat at the full table when the policies are being reviewed. What I am requesting is not just a few minutes to discuss my issues but the chance to be intensely involved in the process. It's time to make some serious changes to the policies.

Tom Schwarz



**REQUEST FOR HISTORIC PRESERVATION RESOURCE
COMMISSION (CERTIFIED LOCAL GOVERNMENT)
ACTION
CITY OF INDEPENDENCE
AUGUST 28, 2023**

Department Admin

Prepared By David Cowan

AGENDA ITEM Consider a Sign Permit for Jim Hayward Fine Art.

SUMMARY RECOMMENDATION City Staff recommends approval of the sign permit.

BACKGROUND Jim Hayward is submitting a sign permit request for 325 N. Penn Ave. and his new business. The building at 325 N. Penn Ave contains multiple businesses, and the City has received several complaints regarding temporary signage on the building, and the property owners have been notified. Temporary signs are defined by code as follows:

Temporary sign: Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames, intended to be displayed for a short period of time, not to exceed 30 days.

The sign proposed by Jim Hayward was purchased from Grass Roots Design Group and meets the requirements of the code to be considered a permanent sign. The code allows in the C-3 District one wall sign per face of the building not to exceed 50 square feet or five percent of the total area, whichever is smaller. There are currently four permanent signs on the north-facing wall not including the new Hayward permanent sign. The total square footage of the permanent signs is 80.8 without the Hayward sign, and 103.81 when including the Hayward sign. Therefore, a variance before the Board of Zoning Appeals will be required to exceed the number and size of wall signs in the C-3 district.

The criteria that must be considered by the IHPRC for signs in the historic district include:

- a. Harmonious with the character of the building in size, scale and design.
- b. Distinctive, creative (with images and graphics) and simple (4-6 words).
- c. Pedestrian-oriented that respects neighboring buildings
- d. Mounted in such a way not to damage, alter or obscure historic architectural features.

SUGGESTED MOTION SUGGESTED MOTION: I move to approve the sign permit for Jim Hayward Fine Art pending approval of the Board of Zoning Appeals.

SUPPORTING DOCUMENTS

- 1. Sign Complaint - 325 N. Penn Ave - IHPRC 08282023 Agenda
- 2. Sign Permit 325 N. Penn Ave 07312023
- 3. C-3 Sign Regulations
- 4. Historical Pamphlet Draft 8. Final (2)

5. Jim Hayward Sign
6. 325 N. Penn Picture



July 31, 2023

TO: Tom Schwarz
Terry Trout
FROM: Building & Zoning – City of Independence
RE: Signage 325 N. Penn Ave

Dear Tom & Terry,

The City of Independence has received a citizen complaint regarding signage at 325 N. Penn Ave and if the proper historical and sign permitting procedures were followed related to the recent sign placed on the north side of the building at 325 N. Penn Ave.

A review of the building and zoning department applications shows no signage applications at 325 N. Penn Ave. On July 24, 2023, the IHPRC committee noted that they still needed to receive a request for signage at the building.

The IHPRC has directed staff to contact the owner at 325 N. Penn Ave and request that a sign application be submitted for their sign and banners on the north side of the building and provide them a copy of the sign regulations. The IHPRC committee will review the sign application at their August 28, 2023, meeting.

- Sign Regulations:
https://library.municode.com/ks/independence/codes/code_of_ordinances?nodeId=APXBZO_ARTVIIISIRE_801.0APAU
- Addition Sign Regulations – Temporary signs
https://library.municode.com/ks/independence/codes/code_of_ordinances?nodeId=APXBZO_ARTVIIISIRE_803.0ADSIRE
- Sign Application:
<http://www.independenceks.gov/DocumentCenter/View/98/Sign-Permit-Application-PDF>

Please apply by August 23, 2023, to make the August 28, 2023, IHPRC meeting. The meeting is at 410 N. Penn Ave, Veteran's Room, at 12:00 PM. Please have your sign company or building representative present for the agenda item and presentation to the IHPRC.

Thanks,
David Cowan

cc: IHPRC
Kelly Passauer
Jeff Chubb

APPLICATION FOR SIGN PERMIT
CITY OF INDEPENDENCE, KS
620-332-2504

BUSINESS JIM HAYWARD FINE ART
ADDRESS 325 N. PENN AVE, INDEPENDENCE, KS 67301
CONTACT NAME [Business Owner] JIM HAYWARD
PHONE 251-509-4294 City License # 4990
SIGN COMPANY GRASS ROOTS DESIGN GROUP
CONTACT NAME AMY TAYLOR
Location of sign or advertising structure, be specific in detail: NORTH SIDE OF ANE MAE'S BUILDING ON CHESNUT ST. IN LINE WITH EXISTING SIGNS ON BUILDING
Color RED, WHITE, BLACK Dimensions 47" h x 71" w 24 sq ft per face
Construction Material VINYL ON SUBSTRATE Lit Internally? Y/N NO
ELECTRICIAN N.A.
COMPANY NAME NA.
PHONE N.A. City License # N.A.

ADDITIONAL INFORMATION & REQUIREMENTS

Does this design fit the guidelines of the historical district?

One set of detailed scale drawings and specifications [dimensions] showing proposed structure, method of construction and attachment to building or ground must accompany this application.

Stress and design calculation [if applicable] showing dead load and wind design must accompany this application.

Evidence that sign will comply with National Electric Code must accompany this application [if applicable].

Application submitted by Jim Hayward

PERMIT APPROVAL

A \$25.00 fee must be paid and permit must be signed before work is started on installation of sign.

Zoning Administration Date _____ Permit Number _____

a. *Permitted signs:*

1. *[Generally:]* Signs permitted in the C-3 district shall be illuminated signs, nonilluminated signs, marquee signs, temporary signs, wall signs and projecting signs with the exception that no sign shall be mounted, painted or affixed to any surface extending above the transom or storefront beam whichever is higher.
2. *Wall signs:* One sign per face of building not to exceed 50 square feet or five percent of the total area, whichever is smaller.
3. *Corner buildings:* One sign equal to standards above for each wall.
4. *Multiuse signs:* Total sign area for all uses not to exceed above standards.
5. *[Signs hanging from awnings or mounted to storefronts:]* Signs hanging from awnings or mounted to storefronts may not exceed five square feet per face.
6. *[Freestanding buildings:]* Freestanding buildings shall be permitted one freestanding sign not to exceed 80 square feet per face or 160 square feet total of all faces in the sign area. The top of the sign shall not be higher than 25 feet above ground level.
7. *Historical restorations or reproductions:* Historically significant or reproduced signs shall be referred to the Main Street Committee for recommendation to the city commission who may authorize such installation.
8. *[Rear wall signs:]* One rear wall mounted sign not to exceed 18 inches by 36 inches for business identification.

b. *[Poster panels and billboards:]* Poster panels and billboards shall not be permitted in the C-3 zone.

c. *Signs on awnings, canopies, and marquees:*

1. There shall not be more than one sign exceeding an aggregate gross surface area of such awning, canopy or marquee of ten percent of the gross area for each principal building.
2. The gross surface area of a sign shall not exceed 50 percent of the gross surface area of the awning, canopy or marquee to which the sign is fixed.

d. *General standards:*

1. Any awning, canopy, marquee or projecting sign shall not be less than seven feet above the surface of the grade of any street or sidewalk.
2. Awnings and canopies shall be no closer than four feet from the public street curb and in no case extend more than 12 feet from the property line.
3. Marquees shall be no closer than two feet from the property line.

SIGNAGE EXAMPLES



STEPS TO GET A SIGN OR AWNING APPROVED

1. Study the Zoning Regulations- the Zoning Administrator must adhere to these restrictions:

- PERMIT** (803.10) No sign can be installed until a sign permit has been issued by the City of Independence.
- WALL SIGNS** (802.6) The sign cannot exceed 5% or 50 square feet of the total surface area, whichever is smaller.
- CORNER BUILDINGS** (802.6) Allowed one sign per wall. Must also follow "Wall Sign" regulations.
- AWNINGS, CANOPIES, AND MARQUEES** (802.6) The sign shall not exceed more than 10% of the total surface area of the awning, canopy or marquee.

2. The Independence Historic Preservation and Resource Commission (IHPRC) must base their decisions on the Secretary of Interior Standards. Consider these suggestions that signs and awnings should be:

- Harmonious with the character of the building in size, scale and design.
- Distinctive, creative (with images and graphics) and simple (4-6 words).
- Pedestrian-oriented that respects neighboring buildings
- Mounted in such a way not to damage, alter or obscure historic architectural features. (Both the Independence Main Street Office and the IHPRC are more than willing to assist with designing appropriate signs and awnings for historic buildings.)

3. With the assistance of a professional, provide a detailed sketch with dimensions, colors and placement of the proposed sign or awning, along with the application, to the City of Independence.

4. Both the Zoning Administrator and the IHPRC must approve the sign or awning. Once approved by both, a permit will be issued. Then go to a company to have the approved sign or awning constructed and installed.

If you have any questions regarding signs and awnings, the application process, or ordinances, please contact:

City of Independence
(620) 332-2500

Independence Main Street Office
(620)331-2300

“Preservation is not about longing for the past or resisting progress. It’s about building on the past toward the future.”

-Sharon Shea Miller
San Antonio Historic Preservation Officer

Need Ideas on Signs?
Check these websites for helpful ideas!

www.pinterest.com

www.thesignchef.com

www.designshack.net

www.fastsigns.com

Look at these cities for examples:

Salt Lake City, Utah

Saratoga Springs, New York

San Antonio, Texas

Iowa City, Iowa



Illustrations: Tom Frost of Frost Hurff Architects

GUIDELINES FOR SIGNS & AWNINGS IN HISTORIC DOWNTOWN

JIM HAYWARD

FINE ART

PAINTING

SCULPTURE

COLLAGE



HOTEL & MOTEL

MIDWEST
HEATING
INC.

Office & Retail Space
714-241-1000

JIM HAYWARD
FINE ART
PAINTING
SCULPTURE
DRAWING



OTHER DISCUSSION
CITY OF INDEPENDENCE
April 2, 2024

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Reminder of Community Development/Comprehensive Plan Public Workshop on April 9th from 5 - 7 PM at Memorial Hall.

BACKGROUND Please join us on Tuesday, April 9th at Memorial Hall for a Public Open House for the Independence Community Development Plan from 5-7 PM! This is a come-and-go event, so join us whenever works best for you! There will be boards around the room that highlight the key components to each chapter and the process we took to get to the drafting phase. If you can't join us in-person, please visit our interactive engagement website on the day-of to view the draft plan in full detail and provide feedback!

[Click here to visit the Engagement Website.](#)