



Tuesday, October 1, 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

II. MINUTES

- a. Consider approving minutes of the September 3, 2024 Planning Commission/Board of Zoning Appeals meeting.

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

IV. PLANNING COMMISSION

- a. **Case #: 2024/ZA/09** - Public hearing to consider a text amendment relating to “Communication antenna or communication towers” in Appendix B – Zoning of the City Code.
- b. **Case #: 2024/ZA/10** - Public hearing to consider rezoning recently annexed tract(s) of land at 3130 N. 13th Street from County R-1, Residential - Low Density and County B-2, Business - General to City R-1, Large Lot Single-Family Dwelling District.

V. DISCUSSION

- a. Reminder of the next meeting on Tuesday, November 12, 2024 at 5:30 PM at City Hall.

VI. ADJOURNMENT



**PLANNING COMMISSION ACTION / BOARD OF
ZONING APPEALS MINUTES
CITY OF INDEPENDENCE
October 1, 2024**

Department City Clerk

Prepared By

AGENDA ITEM Consider approving minutes of the September 3, 2024 Planning Commission/Board of Zoning Appeals meeting.

SUMMARY RECOMMENDATION Approve the minutes.

I move to approve the minutes of the September 3, 2024 Planning Commission/Board of Zoning Appeals meeting.

SUPPORTING DOCUMENTS

1. September 3 2024 PZ Minutes

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 3,
2024 Meeting**

I. Regular Session

Present: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum and Rita Ortolani

Absent: Kym Kays

City Staff Present: Kelly Passauer, City Manager/Zoning Administrator; David Cowan, Assistant City Manager; Jeff Chubb, City Attorney; David Schwenker, City Clerk and Maurice Garlet, Building Inspector

Guests: Larry McHugh, Samantha Ringle, Melissa Johnson, Lisa Wilson and Steve Morrison

a. Call to Order

Chairperson Lyons called the meeting to order.

II. Minutes

- a. Consider approving minutes of the July 30, 2024 and August 6, 2024 Planning Commission/Board of Zoning Appeals meetings.

Motion:

On the motion of Tim Haynes, seconded by Gary Hogsett the Commission approved the minutes of the July 30 and August 6, 2024 Planning Commission/Board of Zoning Appeals meetings.

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

Nay: None

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

- a. **Case #: 2024VAR06** - Public hearing to consider a variance request to exceed the size and number of wall signs in the C-3, Central Business District at 325 N. Penn Avenue.

Jim Hayward is submitting a sign permit request for 325 N. Penn Avenue and his new business. The building at 325 N. Penn Avenue contains multiple businesses, and the City has received complaints regarding temporary signage on the building for which the property owner has displayed longer than 30 days. The property

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 3, 2024 Meeting

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 temporary signs were made of hardier material than what was available when the current definition was initiated, therefore the definition of "temporary signs" will be reviewed during the Zoning Code update, which is in process.

It should be noted that the signs inside the window do not count toward the allowable signage.

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 wall sign. Wall signs are defined by code as follows:

Wall sign: Any sign attached to and erected parallel to and within one foot of the face or wall of a building, including signs painted on the walls of buildings.

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 signs on the north-facing wall (two permanent and two temporary), including the new Hayward permanent sign.

Sign	Permanent	Temporary	Total
Jim Hayward	24		24
Midwest Hearing	36		36
One Stop		24	24
Ane Mae's		48	48
Total	60	72	132

The total square footage of the permanent wall signs is approximately 36 square feet without the Jim Hayward sign, and approximately 60 square feet when including the Jim Hayward sign. Considering both the permanent and temporary signs, the total square footage is approximately 108 without the Hayward sign and approximately 132 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 Independence Historic Preservation and Resource Commission (IHPRC) approved a certificate of appropriateness for the Jim Hayward sign on August 28, 2023 (staff report and minutes attached). Since then, one of the permanent wall signs on the north wall, which previously stated "Office and Retail Space," has been removed.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 3,
2024 Meeting**

Maurice Garlet presented the staff report.

Motion:

On the motion of Tim Haynes, seconded by Lisa Richard the Commission approved the variance request for 325 N. Penn Avenue to allow a maximum of four wall signs on the north wall adjoining Chestnut Street, a corner building in the C-3 Central Business District. The total square footage of all wall signs on the north wall shall not exceed 132 square feet. This motion is based on recognizing the unique multi-use nature of the property and the need for adequate signage for business identification.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Butch Holum, Rita Ortolani

Nay: None

- b. **Case #: 2024VAR07** - Public hearing to consider variance requests to exceed the minimum lot area for each dwelling unit and to eliminate the requirement for an elevator for a building more than 2 ½ stories in the C-3, Central Business District at 113 W. Myrtle Street.

Steve Morrison, through his architect Russ Ehnen, is requesting a variance to exceed the minium lot area for each dwelling in order to refurbish his property to an eleven-unit multi-tenant residential building. Currently, for a C-3 High Rise building the requirement is 900 sq ft per unit, the project consists of 11 units, which would require a 9,900 sq ft lot. The project site at 113 W Myrtle is only 3,485 sq ft. Additionally, this historic building does not have an elevator, and there is not any practical way to add one.

511.0. -C-3 Central Business District

511.4 Intensity of use regulations

a. Minimum lot area:

1.Minimum lot area for each dwelling unit:

(a)Low-rise apartments—2,000 SF/DU (walkup buildings with maximum height of 2½ stories).

(b).High-rise apartments—900 SF/DU (elevator buildings more than 2½ stories).

2.Minimum lot area for other uses: No limit.

b. Maximum lot coverage: 100 percent.

The proposed project site is a historical building. Constructed as a hotel in 1901 under very different building standards, it was meant to host approximately the same number of tenants as the proposed project, just in a more transient fashion.

Chapter 5 of the International Building Code does not address lot size as a code requirement. Therefore, it seems reasonable to allow a historic high-rise building to remain the way it was built, just in a new use more suitable for the city's present needs.

As per elevators, the International Building Code only requires elevators for buildings with four or more stories.

1009.2.1 Elevators required.

In buildings where a required accessible floor is four or more stories above or below a level of exit discharge or where an accessible occupiable roof is above a story that is three or more stories above the level of exit discharge, not less than one required accessible means of egress shall include an elevator complying with Section 1009.4.

It's worth mentioning that the current project complies with section 905 of the International Existing Building Code (IEBC), providing two means of egress as well as other safety requirements.

Steve Morrison presented his case.

Maurice Garlet presented the staff report.

Motion:

On the motion of Lisa Richard, seconded by Butch Holum the Commission approved the variance request for 113 W. Myrtle Street in the C-3 Central Business District to allow the lot area per dwelling unit to be less than the required 900 square feet and to eliminate the requirement for an elevator for a building more than 2 ½ stories, acknowledging the building's historic significance, the project's compliance with safety codes, and its continued contribution to the revitalization of downtown Independence.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Butch Holum, Rita Ortolani

Nay: None

IV. Planning Commission

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 3,
2024 Meeting**

- a. **Case #: 2024CUP03** - Public hearing to consider a conditional use permit for a Recreation Center in the C-3, Central Business District located at 106 - 108 E. Main Street.

The applicant, Samantha Ringle, requests a Conditional Use Permit (CUP) for a Recreation Center located at 106-108 E. Main Street. The proposed facility will offer an indoor playroom designed for youth aged 1-11 years and a birthday party venue. The property is located within the C-3 Central Business District.

		Permitted Zoning District												
Land Use Category	Code	A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1	M-2
Recreation centers	7424	C	C	C	C	C	C		P	P	C	P		

Property Description

- **Legal Description: Lots 17-18, Block 43, Original Plat to the City of Independence, Montgomery County, Kansas.**
- **Current Use: Vacant commercial space.**
- **Proposed Use: Recreation Center providing indoor play facilities and hosting birthday parties for young children.**

Samantha Ringle presented her case.

Motion:

On the motion of Tim Haynes, seconded by Gary Hogsett the Commission approved the Conditional Use Permit for a Recreation Center located at 106-108 E. Main Street, subject to the conditions as recommended by City staff. This recommendation is based on the finding that the proposed use is consistent with the goals and strategies outlined in the Comprehensive Plan and complies with the criteria set forth in Article IX of the City's zoning ordinance for Conditional Use Permits.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Rita Ortolani

Nay: None

- b. **Case #: 2024CUP04** - Public hearing to consider a conditional use permit for multi-family dwellings (apartments) in a nonresidential structure in the C-3, Central Business District at 113 W. Myrtle Street.

Steve Morrison, through his architect, Russ Ehnen, is requesting a conditional use permit for a project consisting of eleven studio/apartments and one commercial space in his building situated at 113 West Myrtle Street. The aforementioned

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 3, 2024 Meeting

building was originally constructed as a hotel in 1910 with similar occupancy to the proposed project, just of a more transient form.

The building in question is considered historical and therefore exempt from most sections of the IBC. The proposed project has been evaluated by the building inspector and considered within the norms of section 905 of the IEBC. The owner of the building and his architect have expressed their interest in making this building safe for its occupants while maintaining most of the historical features.

Mr. Morrison and Mr. Ehnen had also manifested their willingness and interest in adhering to the standard requirements of the City. Plans that reflect such intent are included with this request.

Motion:

On the motion of Lisa Richard, seconded by Tim Haynes the Commission approved the conditional use permit for 113 West Myrtle Street for a high-rise multifamily dwelling in accordance with the submitted plans and background with the following conditions:

1. Maintaining a storefront, consisting of not less than 50% of the entire first floor.
2. The resident's entry into the building will be separated from the entryway utilized by the storefront.
3. Maintain and preserve the historical features of the building as much as possible.
4. Obtain variances from the C-3 regulations regarding the 900 sq ft lot area requirement per unit and the elevator requirement.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Rita Ortolani

Nay: None

- c. **Case #: 2024ZA08** - Public hearing to consider a text amendment to the zoning code relating to dwellings in the C-3, Central Business District.

On April 5, 2022, the Planning Commission conducted a public hearing to consider a text amendment to the zoning code relating to dwellings in the C-3 Central Business District. The staff recommended modifying the permitted and conditional use table to allow upper story housing as a permitted use in the C-3 District and establishing a definition of "Upper Story Dwelling" as applying to the 2nd-floor story and above, not including the ground floor or basement.

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Currently, the zoning regulations do not allow any type of dwelling in structures located in the C-3, Central Business District, that is not already grandfathered in without a conditional use permit. In response to this, the Planning Commission recommended a 24-month moratorium on the requirement to obtain a conditional use permit for upper story dwellings on the 2nd-floor story and above in the C-3, Central Business District, which expired on May 17, 2024.

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

Motion:

On the motion of Tim Haynes, seconded by Gary Hogsett, the Commission recommend approval of the following text amendments to the zoning code: 1) To allow upper-story dwellings on the 2nd-floor story and above as a permitted use in the C-3 Central Business District while retaining the conditional use permit requirement for dwellings on the ground floor and basement levels; and 2) to remove the elevator requirement in the C-3 district regulations for high-rise apartment buildings more than 2 1/2 stories. The staff analysis and recommendation include the nature and effect of such proposed amendments.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Rita Ortolani

Nay: None

- d. **Case #: 2024ZA09** - Consider initiating a public hearing for October 1, 2024 at 5:30 PM to consider a text amendment relating to "Communication antenna or communication towers" in Appendix B – Zoning of the City Code.

We have received a request from a cellular company to place a communication antenna on Penn Terrace, which is located in the R-5, high-density residential dwelling district. The permitted and conditional use table does not allow "Communication antennas or communication towers" in any residential district. A text amendment would be needed to allow them to apply for a conditional use permit. The Housing Authority is currently negotiating a lease with the company that is contingent upon the conditional use permit being approved.

Motion:

On the motion of Lisa Richard, seconded by Tim Haynes the Commission approved to set a public hearing for October 1, 2024 at 5:30 PM to consider a text amendment relating to "Communication antenna or communication towers" in Appendix B – Zoning of the City Code.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 3,
2024 Meeting**

**Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard,
Gary Hogsett, Butch Holum, Rita Ortolani**

Nay: None

- e. **Case #: 2024ZA10** - Consider initiating a public hearing to rezone the recently annexed property located at 3130 N. 13th Street.

This property was recently annexed into the City and needs to be rezoned. Because the owner plans to construct a house on this lot, it is recommended that the property be rezoned from County R-1, Residential—Low Density District, to City R-1, Large Lot Single-Family Dwelling District.

Motion:

On the motion of Lisa Richard, seconded by Butch Holum, the Commission scheduled a public hearing for October 1, 2024 at 5:30 PM to consider rezoning 3130 North 13th Street from County R-1, Residential—Low Density District, to City R-1, Large Lot Single-Family Dwelling District.

**Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard,
Gary Hogsett, Butch Holum, Rita Ortolani**

Nay: None

- f. Consider rescheduling the November 5, 2024 meeting to November 12, 2024 due to the General Election.

Due to the General Election scheduled for November 5, 2024, it is recommended that the November meeting be rescheduled to November 12, 2024, at 5:30 PM at City Hall. This is recommended because several board members who are also poll workers would not be available for the regular meeting date.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon, the Commission rescheduled the November 5, 2024 Planning Commission/Board of Zoning Appeals meeting to November 12, 2024 due to the General Election.

**Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard,
Gary Hogsett, Butch Holum, Rita Ortolani**

Nay: None

V. Discussion

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 3,
2024 Meeting**

City Manager Passauer informed the Commission that the next meeting is on
October 1st, 2024 at 5:30 pm.

VI. Adjournment

Motion:

**On the motion of Tim Haynes, seconded by Rachel Lyon the Commission
adjourned the meeting.**

**Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard,
Gary Hogsett, Butch Holum, Rita Ortolani**

Nay: None

Rachel Lyon, Chairperson

Lisa Richard, Vice-Chair



REQUEST FOR PLANNING COMMISSION ACTION TEXT AMENDMENT CITY OF INDEPENDENCE OCTOBER 1, 2024

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Case #: 2024/ZA/09 - Public hearing to consider a text amendment relating to “Communication antenna or communication towers” in Appendix B – Zoning of the City Code.

SUMMARY RECOMMENDATION Staff recommends approving the proposed text amendment to allow co-located communication antennas in the R-5 high-density residential district as a conditional use. This will help meet the growing demand for communication services while maintaining appropriate oversight and protections for residential areas.

BACKGROUND The purpose of this report is to recommend a text amendment to Appendix A – Listing of Permitted and Conditional Uses of the City Zoning Code, adding co-located communication antennas as a conditional use in the R-5 high-density multifamily residential district. This amendment would allow communication antennas on existing structures in the R-5 district through a conditional use permit, enhancing telecommunication services in the City.

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
Communication antenna		C							C	C	C	C	
Communication towers		C								C		C	

The City received a request from a cellular company to install a co-located communication antenna on the Penn Terrace building, located in the R-5 high-density residential district. According to the current zoning code, communication antennas are not allowed in residential districts, so a text amendment is needed to accommodate this request. The Housing Authority, which owns the property, is negotiating a lease with the cellular company contingent on the approval of a conditional use permit. Allowing communication antennas in the R-5 district will facilitate improved telecommunication infrastructure while ensuring oversight through the conditional use permit process.

PROPOSED AMENDMENT:

The proposed amendment to Appendix A – Article XVIII will modify the Listing of Permitted and Conditional Uses to allow communication antennas in the R-5 district as a conditional use. This will provide flexibility for future requests while maintaining control over the specific conditions under which such antennas may be installed.

JUSTIFICATION:

The amendment supports the increasing demand for enhanced communication services, especially in high-density residential areas. Co-locating antennas on existing structures minimizes the need for new tower construction and reduces the visual and spatial impact on neighborhoods.

ZONING AMENDMENT PROCEDURE (ARTICLE XVI):

The text amendment follows the procedure outlined in Article XVI of the Zoning Code, which governs amendments to the Zoning Ordinance. This process includes a public hearing, consideration by the Planning Commission, and final approval by the City Commission.

PUBLIC COMMENT:

Notices for the public hearing were issued as required, and the public will have the opportunity to provide comments during the hearing. No written comments have been received as of the date of this report.

CONDITIONS FOR FUTURE APPLICATIONS:

Special Provisions Applying to Miscellaneous Conditional Uses, *Section 1014. – Communication antenna or communication towers* provides for specific conditions that must be considered when the conditional use permit is considered. In addition, the conditional use process allows the City to impose additional conditions to ensure that antennas do not negatively impact the character of the surrounding residential areas.

STATEMENT AS TO THE NATURE AND EFFECT OF THE PROPOSED AMENDMENTS:**Nature of the Amendment:**

The proposed amendment will add co-located communication antennas as a conditional use in the R-5 high-density residential district. Currently, communication antennas are not permitted in residential zones, which limits the ability to enhance communication services in such areas. This amendment would allow communication antennas to be installed on existing structures through the conditional use process, ensuring that the installations are reviewed and approved based on specific criteria.

Effect of the Amendment:

The amendment will impact the R-5 district by allowing the installation of communication antennas on existing buildings or structures, subject to the conditional use process. This provides a controlled mechanism to introduce necessary communication infrastructure in high-density residential areas, balancing the need for improved services with neighborhood character preservation.

1. Consistency with the Intent and Purpose of the Regulations:

The proposed amendment aligns with the intent and purpose of the zoning regulations by promoting orderly development while addressing the increasing demand for communication infrastructure. The conditional use process will ensure that antennas are installed in a manner that is compatible with residential surroundings and meets safety standards.

2. Areas Directly Affected by the Change:

The areas most likely to be affected by this change include high-density residential zones (R-5) where there is demand for improved telecommunications services. Properties in these zones will have the potential to support co-located communication antennas, subject to the approval process. The visual and spatial impacts will be minimized by attaching antennas to existing structures rather than constructing new towers.

3. Necessity of the Amendment Due to Changing Conditions:

The amendment is necessary due to evolving social and technological needs. The demand for reliable communication services has grown significantly, particularly in residential areas where people increasingly rely on wireless networks for work and leisure. The amendment addresses this need by enabling infrastructure improvements while maintaining appropriate regulatory oversight to protect neighborhood character.

SUGGESTED MOTION:

I move to recommend approval of the proposed text amendment to Appendix A of the Zoning Code to allow communication antennas as a conditional use in the R-5 high-density residential district, in accordance with the conditions and the statement as to the nature and effect of the proposed amendment, as outlined in the staff report.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Text Amendment-Communication Antenna

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, October 1, 2024 at 5:30 p.m.

To receive comments on a request for a text amendment relating to “Communication antenna or communication towers” in Appendix B – Zoning of the City Code.

Case Number:

2024/ZA/09

The hearing will be conducted in the Commission/Municipal Court Room, City Hall, 120 North 6th Street, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 820 754 218# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
120 N 6th Street
Independence, KS 67301
(620) 332-2506

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

Kelly Passauer, Zoning Administrator



REQUEST FOR PLANNING COMMISSION ACTION REZONING CITY OF INDEPENDENCE OCTOBER 1, 2024

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Case #: 2024/ZA/10 - Public hearing to consider rezoning recently annexed tract(s) of land at 3130 N. 13th Street from County R-1, Residential - Low Density and County B-2, Business - General to City R-1, Large Lot Single-Family Dwelling District.

SUMMARY RECOMMENDATION Staff recommends approval of the rezoning request from County R-1 and B-2 to City R-1. The proposal aligns with the City's Future Land Use Map and supports the orderly development of a single-family dwelling consistent with surrounding land uses.

BACKGROUND Case No.: 2024/ZA/10

Location: 3130 N. 13th Street, Independence, KS

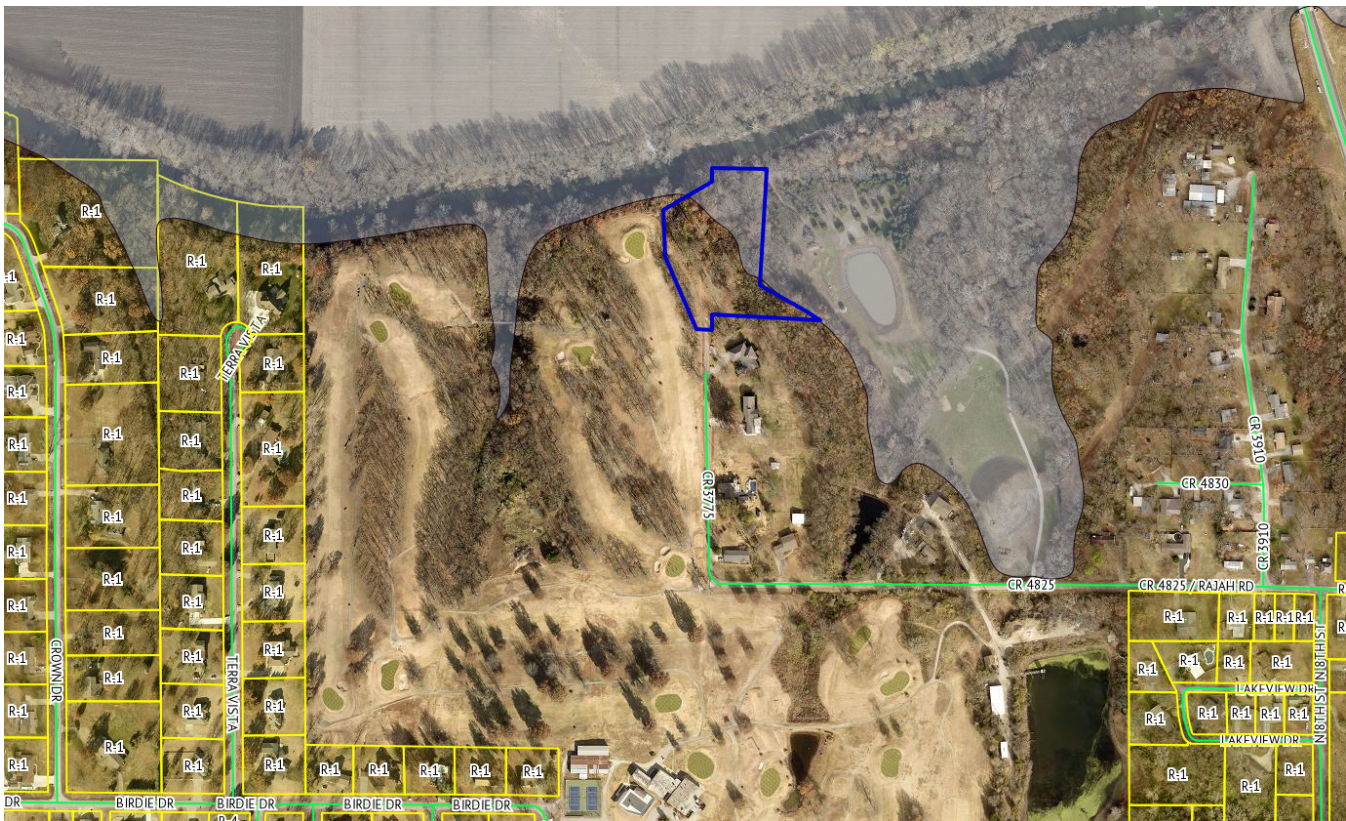
Applicant/Owner: Trevor and Miranda Bruening

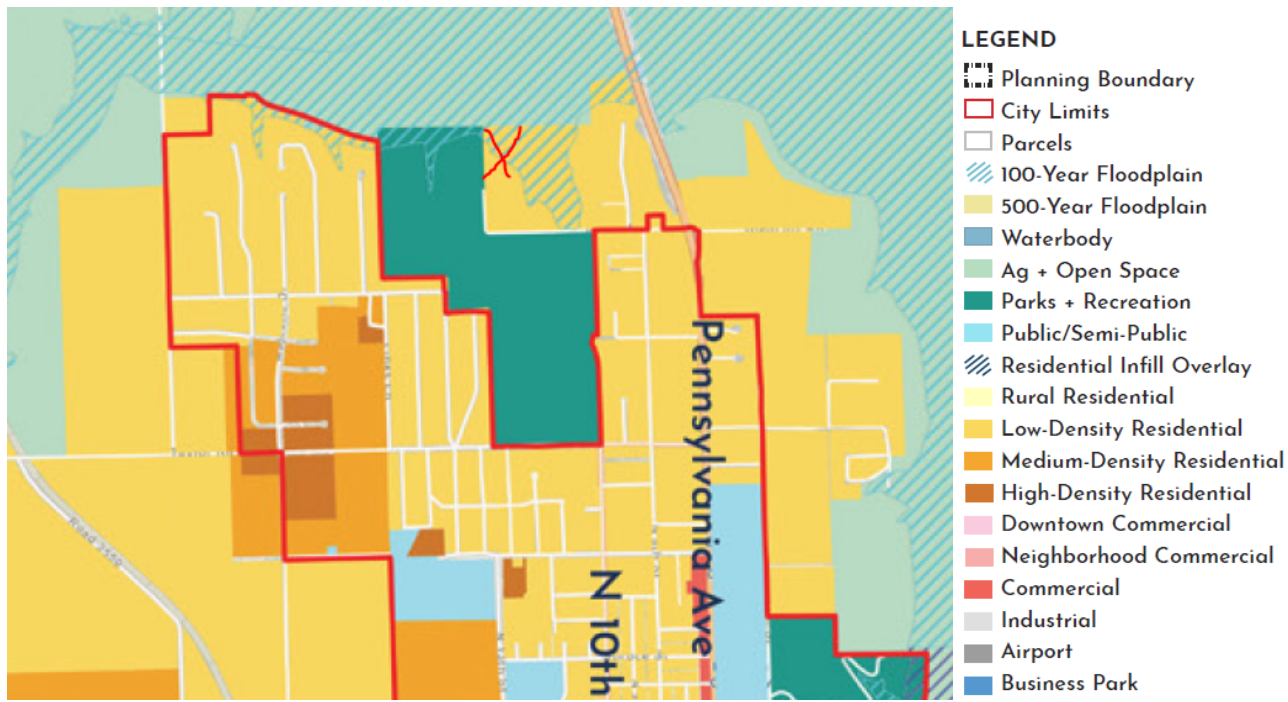


Project Summary

The property at 3130 N. 13th Street was recently annexed into the City of Independence and is currently zoned County R-1 (Residential – Low Density District) and County B-2 (Commercial). The applicant is requesting rezoning to City R-1 (Large Lot Single-Family Dwelling District) to facilitate the construction of a single-family residence. The rezoning is necessary due to the recent annexation, which requires the property to comply with the City’s zoning standards.

A portion of the 1.95-acre property is within the floodplain. The Future Land Use Map in the Comprehensive Plan designates this area as low-density residential. Since City sanitary sewer is not currently available near the site, Montgomery County Environmental Services Director Matt Debo must approve the septic system installation for the residence.





Future Land Use Map (X shows the approximate location of the subject property)

Rezoning Review

Current Zoning: County R-1 (Residential - Low Density District) and County B-2 (Business - General).

Proposed Zoning: City R-1 (Large Lot Single-Family Dwelling District).

Reason for Rezoning: The property was recently annexed into the City of Independence, necessitating rezoning to comply with the City's zoning standards.

Analysis of Key Factors

1. Character of the Neighborhood

The surrounding area is primarily residential and agricultural, with large single-family lots and open spaces. The rezoning to City R-1 is consistent with this low-density residential character.

2. Zoning and Use of Nearby Properties

- **West, Southwest, and South:** An 18-hole private golf course zoned County Commercial B-2.
- **North:** Verdigris River, with a 150-acre agricultural tract zoned County Agricultural, mostly in the floodplain, located across the river.
- **East:** A 27.68-acre rural property with a single-family residence and two large shop buildings, zoned County Agricultural and primarily in the floodplain.
- **South:** Five tracts containing single-family homes zoned County Residential R-1, the same zoning designation as the current zoning of the subject property.

The proposed rezoning to City R-1 is compatible with the zoning and land uses of surrounding properties.

3. Suitability of the Subject Property for Its Current Zoning

The property is currently zoned County R-1, which allows for low-density residential uses. However, annexation into the City requires rezoning to City R-1 to ensure conformity with the City's zoning requirements.

4. Impact on Nearby Property

The development of a single-family residence is not expected to negatively impact nearby properties. The surrounding land uses, which are primarily residential, agricultural, or passive recreational, are compatible with the proposed use.

5. Length of Time the Property Has Remained Vacant as Zoned

The property has remained vacant since its annexation into the City. The rezoning and construction of a single-family residence will bring the property into productive use.

6. Public Health, Safety, and Welfare

Rezoning approval will not negatively impact public health, safety, or welfare. Denial would not provide significant benefits, while approval will allow the landowner to develop a compatible residential use.

7. Staff Recommendation

The City's permanent professional staff recommends approval of the rezoning based on its consistency with the Comprehensive Plan and compatibility with the surrounding area.

8. Conformance with the City's Comprehensive Plan

The development of new single-family residential housing at 3130 N. 13th Street conforms with the Comprehensive Plan, which designates the area for low-density residential use. This aligns with the City's Future Land Use Map and supports the orderly growth of compatible residential development. Introducing new housing also helps meet the City's goals of providing diverse residential options while preserving the low-density character of the neighborhood.

9. Availability of Utilities and Services

The property owner has obtained an easement for connection to City water services. Since City sanitary sewer is not currently available near the property, the septic system will be installed with approval from Montgomery County Environmental Services Director Matt Debo.

10. Impact on the Street Network

The proposed single-family residence will not negatively affect traffic or parking. The property is located on a low-traffic, dead-end County Road.

11. Environmental Impacts

A portion of the property lies within a floodplain. In addition to building and zoning requirements, should the residence or any accessory structures be constructed within the portion of the property located in the floodplain, the property owner must obtain an elevation certificate and comply with all applicable floodplain requirements. This ensures that the development meets safety and regulatory standards while supporting the City's goals for sustainable land use and lessening environmental impacts.

12. Stormwater System Impact

The development will not adversely affect the stormwater system. The applicant will be required to comply with City stormwater regulations.

13. Ability to Satisfy Zoning Requirements

The applicant will submit a site plan that adheres to City R-1 zoning regulations, including lot size, setbacks, and parking.

Suggested Motion

Motion: Staff recommends approval of the rezoning of the property from County R-1 and County B-2 to City R-1, large lot single-family dwelling district for Case #2024/ZA/10 - Rezoning of 3130 N. 13th Street, subject to the following conditions:

1. The property owner must comply with all applicable City zoning and building regulations.
2. The property owner must install the required utilities, including water and a septic system. The water installation must be approved by the City, and the septic system must be approved by Montgomery

County. Should City sanitary sewer services become available adjoining the property, the property owner shall connect to the system at their expense, or the City may cause the connection and assess the cost back to the property as provided in the City Code.

3. In addition to building and zoning requirements, should the residence or any accessory structures be constructed within the portion of the property located in the floodplain, the property owner must obtain an elevation certificate and comply with all applicable floodplain requirements.
4. The property owner must submit a site plan for review and approval by City staff before any construction or development occurs.

This recommendation supports the City's Comprehensive Plan and the orderly development of the area.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Rezoning 3130 N 13th St
2. 3130 N 13th - Notification Area - 1,000 Feet
3. 3130 N 13th - 1,000 Feet County Property Ownership
4. Future Land Use Map
5. 3130 N. 13th St Rezoning Ordinance
6. 09/03/2024 Planning Commission Staff Report - Initiate Rezoning Of Newly Annexed Property

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, October 1, 2024 at 5:30 p.m.

To receive comments to consider rezoning recently annexed tract(s) of land at 3130 N. 13th Street from County R-1, Residential – Low Density District to City R-1, Large Lot Single-Family Dwelling District.

Legal Description:

Tract 1: Being a tract of land located in a portion of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows:

Commencing at the Southwest corner of the NE/4 of the SE/4 of said Section 13, thence N 00°10'54" W along the West line of said NE/4 of the SE/4 a distance of 809.30 to the point of beginning, thence N 00°10'54" W along said West line a distance of 513.22 feet to a point on the North line of said SE/4, thence S 89°49'34" E along said North line a distance of 155.28 feet, thence S 03°01'47" W a distance of 367.12 feet, thence S 61°58'13" E a distance of 172.00 feet, thence S 57°28'13" E a distance of 122.00 feet, thence N 89°57'26" W a distance of 388.94 feet to the point of beginning

Tract 2: A tract of land located in a portion of the NW/4 of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows: Commencing at the Northeast corner of the NW/4 of the SE/4, thence S 00°14'54" E. along the East line of the NW/4 of the SE/4, a distance of 43.22 feet to the point of beginning; thence continuing S 00°14'54" E. along said East line a distance of 470.00 feet, thence S 89°55'26" W, a distance of 50.13 feet; thence N. 23°33'03" W, a distance of 251.00 feet; thence N 03°27'03" W a distance of 150.00 feet; thence N 60°10'27" E, a distance of 181.44 feet to the point of beginning

Common Address:

3130 N. 13th Street

Applicant/Owners:

Trevor and Miranda Bruening

Case Number:

2024/ZA/10

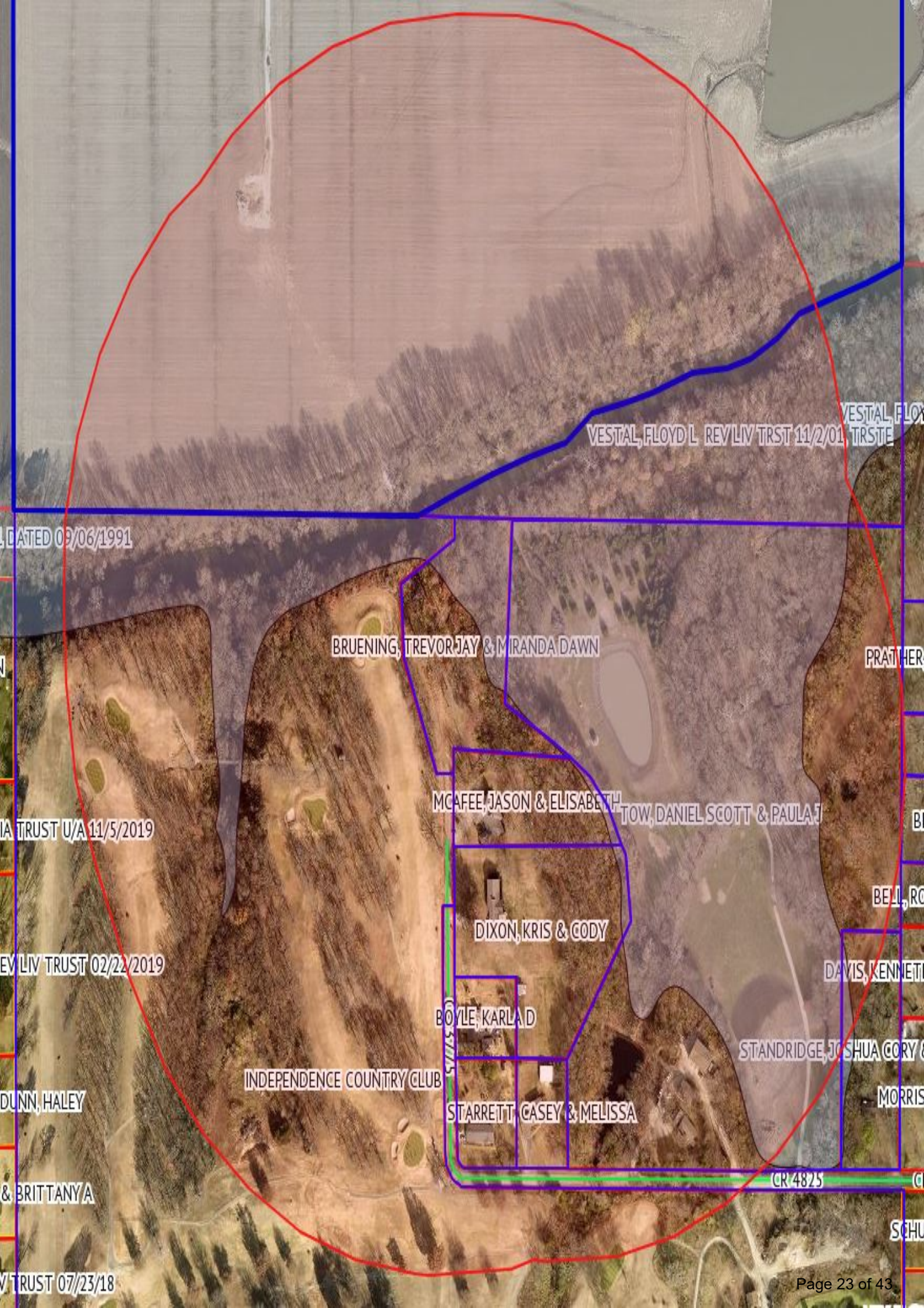
The hearing will be conducted in the Commission/Municipal Court Room, City Hall, 120 North 6th Street, Independence, Kansas, on October 1, 2024 and will begin at 5:30 p.m. All interested

persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](#) 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



VESTAL, FLOYD L REV LIV TRST 11/2/01 TRSTE

DATED 09/06/1991

BRUENING, TREVOR JAY & MIRANDA DAWN

PRATHER

IA TRUST U/A 11/5/2019

MC ALEE, JASON & ELISABETH

TOW, DANIEL SCOTT & PAULA J

BI

EV LIV TRUST 02/22/2019

BELL, RO

DIXON, KRIS & CODY

DAVIS, KENNETH

BOYLE, KARLA D

STANDRIDGE, JOSHUA CORY

INDEPENDENCE COUNTRY CLUB

MORRIS

DUNN, HALEY

STARRETT, CASEY & MELISSA

CR 4825

& BRITTANY A

SCHU

V TRUST 07/23/18

Quick Ref					
ID	Parcel Number	Situs	Function	Owner	Orion Ac
R1953	63086100000000000000000000000000	W 5000 ST, Independence, KS 67301	Agricultural Use	REICHENBERGER LAND, LLC	150.23
R1960	63086100000000000000000000000000	CR 3910, INDEPENDENCE, KS 67301	Vacant	VESTAL, FLOYD L REV LIV TRST 11/2/01, TRSTE	8.66
R4907	63094200000000000000000000000000	4839 CR 3910, INDEPENDENCE, KS 67301	Residential	BERTIE, JASON	1.37
R4906	63094200000000000000000000000000	4841 CR 3910, INDEPENDENCE, KS 67301	Residential	LANDIS, ETHEL M & MILLARD E	0
R4905	63094200000000000000000000000000	4845 CR 3910, INDEPENDENCE, KS 67301	Residential	PRATHER, KEITH E & TERESA J	1.84
R2167	63086100000000000000000000000000	3785 CR 4825, INDEPENDENCE, KS 67301	Residential	TOW, DANIEL SCOTT & PAULA J	27.68
R2169	63086100000000000000000000000000	4826 CR 3775, Independence, KS 67301	Residential	STEPHENS, AMY	0
R2168	63086100000000000000000000000000	3779 CR 4825, INDEPENDENCE, KS 67301	Residential	STARRETT, CASEY & MELISSA	0
R2170	63086100000000000000000000000000	4830 CR 3775, Independence, KS 67301	Residential	BOYLE, KARLA D	0.67
R2171	63086100000000000000000000000000	4834 CR 3775, Independence, KS 67301	Residential	DIXON, KRIS & CODY	3.82
R2156	63086100000000000000000000000000	4838 CR 3775, Independence, KS 67301	Residential	MCAFEE, JASON & ELISABETH	1.84
R2158	63086100000000000000000000000000	2828 COUNTRY CLUB CIR, Independence, KS 67301	Commercial & Industrial	INDEPENDENCE COUNTRY CLUB	98.71
R2157	63086100000000000000000000000000	CR 3775, Independence, KS 67301	Vacant	BRUENING, TREVOR JAY & MIRANDA DAWN	1.95
R2155	63086100000000000000000000000000	3799 CR 4825, INDEPENDENCE, KS 67301	Residential	STANDRIDGE, JOSHUA CORY & AMI SADAI	1.92

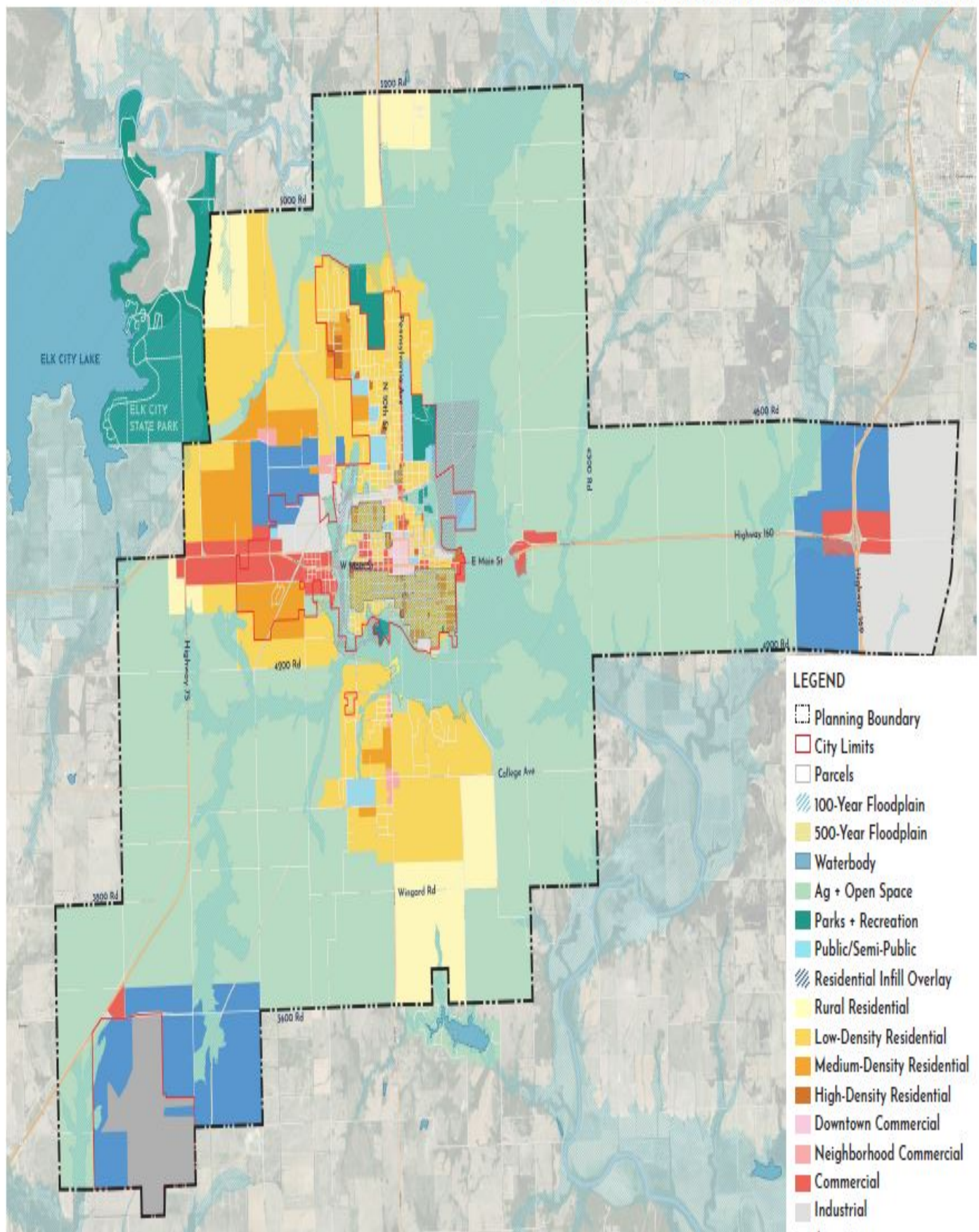


FIGURE 27 // PROPOSED FUTURE LAND USE MAP

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF INDEPENDENCE, KANSAS, REZONING
PROPERTY LOCATED AT 3130 N. 13TH STREET FROM COUNTY R-1
(RESIDENTIAL - LOW DENSITY DISTRICT) AND COUNTY B-2 (BUSINESS -
GENERAL) TO CITY R-1 (LARGE LOT SINGLE-FAMILY DWELLING DISTRICT).**

WHEREAS, Trevor Jay Bruening and Miranda Dawn Bruening, husband and wife, are the owners of the following described real estate located at 3130 N. 13th Street, Independence, Kansas, and recently annexed into the City of Independence;

WHEREAS, the property is currently zoned County R-1 (Residential - Low Density District) and County B-2 (Business - General);

WHEREAS, the property owners have applied for rezoning to City R-1 (Large Lot Single-Family Dwelling District) to bring the property into compliance with the City's zoning regulations;

WHEREAS, the Planning Commission held a public hearing on October 1, 2024, regarding the proposed rezoning and has recommended approval of the rezoning to the City Commission;

WHEREAS, the City Commission finds that the rezoning is necessary and conforms to the City's Comprehensive Plan, which designates this area as suitable for low-density residential development;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS:

Section 1. Rezoning.

The property described below, located at 3130 N. 13th Street, Independence, Kansas, is hereby rezoned from County R-1 (Residential - Low Density District) and County B-2 (Business - General) to City R-1 (Large Lot Single-Family Dwelling District), in compliance with the City's zoning standards:

Legal Description:

Tract 1: Being a tract of land located in a portion of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows:
Commencing at the Southwest corner of the NE/4 of the SE/4 of said Section 13, thence N 00°10'54" W along the West line of said NE/4 of the SE/4 a distance of 809.30 to the point of beginning, thence N 00°10'54" W along said West line a distance of 513.22 feet to a point on the North line of said SE/4, thence S 89°49'34" E along said North line a distance of 155.28 feet, thence S 03°01'47" W a distance of 367.12 feet, thence S 61°58'13" E a distance of 172.00 feet, thence S 57°28'13" E a distance of 122.00 feet, thence N 89°57'26" W a distance of 388.94 feet to the point of beginning

Tract 2: A tract of land located in a portion of the NW/4 of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows: Commencing at the Northeast corner of the NW/4 of the SE/4, thence S 00°14'54" E. along the East line of the NW/4 of the SE/4, a distance of 43.22 feet to the point of beginning; thence continuing S 00°14'54" E. along said East line a distance of 470.00 feet, thence S 89°55'26" W, a distance of 50.13 feet; thence N. 23°33'03" W, a distance of 251.00 feet; thence N 03°27'03" W a distance of 150.00 feet; thence N 60°10'27" E, a distance of 181.44 feet to the point of beginning

Section 2. Conditions of Approval.

The rezoning of the property is subject to the following conditions:

1. **Compliance with City Zoning and Building Regulations.**
The property owner must comply with all applicable City zoning and building regulations.
2. **Installation of Required Utilities.**
The property owner must install the required utilities, including water and a septic system. The water installation must be approved by the City, and the septic system must be approved by Montgomery County. Should City sanitary sewer services become available adjoining the property, the property owner shall connect to the system at their expense, or the City may cause the connection and assess the cost back to the property as provided in the City Code.
3. **Floodplain Development Requirements.**
If any portion of the residence or accessory structures is constructed within the floodplain, the property owner must obtain an elevation certificate and comply with all applicable floodplain regulations.
4. **Submission of a Site Plan.**
The property owner must submit a site plan for review and approval by City staff before any construction or development occurs.

Section 3. Effective Date.

This Ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Adopted by the governing body of the City of Independence, Kansas, on this 23rd day of October, 2024.

Timothy R. Emert, Mayor

ATTEST:

David Schwenker, City Clerk



**REQUEST FOR PLANNING COMMISSION ACTION
INITIATE REZONING OF NEWLY ANNEXED
PROPERTY.
CITY OF INDEPENDENCE
SEPTEMBER 3, 2024**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Case #: 2024ZA10 - Consider initiating a public hearing to rezone the recently annexed property located at 3130 N. 13th Street.

SUMMARY RECOMMENDATION Initiate the rezoning.

BACKGROUND This property was recently annexed into the City and needs to be rezoned. Because the owner plans to construct a house on this lot, it is recommended that the property be rezoned from County R-1, Residential—Low Density District, to City R-1, Large Lot Single-Family Dwelling District.

Suggested Motion: I move to schedule a public hearing for October 1, 2024 at 5:30 PM to consider rezoning 3130 North 13th Street from County R-1, Residential—Low Density District, to City R-1, Large Lot Single-Family Dwelling District.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Rezoning 3130 N 13th St
2. 2024-08-28 - Staff Report to the City Commission

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, October 1, 2024 at 5:30 p.m.

To receive comments to consider rezoning recently annexed tract(s) of land at 3130 N. 13th Street from County R-1, Residential – Low Density District to City R-1, Large Lot Single-Family Dwelling District.

Legal Description:

Tract 1: Being a tract of land located in a portion of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows:

Commencing at the Southwest corner of the NE/4 of the SE/4 of said Section 13, thence N 00°10'54" W along the West line of said NE/4 of the SE/4 a distance of 809.30 to the point of beginning, thence N 00°10'54" W along said West line a distance of 513.22 feet to a point on the North line of said SE/4, thence S 89°49'34" E along said North line a distance of 155.28 feet, thence S 03°01'47" W a distance of 367.12 feet, thence S 61°58'13" E a distance of 172.00 feet, thence S 57°28'13" E a distance of 122.00 feet, thence N 89°57'26" W a distance of 388.94 feet to the point of beginning

Tract 2: A tract of land located in a portion of the NW/4 of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows: Commencing at the Northeast corner of the NW/4 of the SE/4, thence S 00°14'54" E. along the East line of the NW/4 of the SE/4, a distance of 43.22 feet to the point of beginning; thence continuing S 00°14'54" E. along said East line a distance of 470.00 feet, thence S 89°55'26" W, a distance of 50.13 feet; thence N. 23°33'03" W, a distance of 251.00 feet; thence N 03°27'03" W a distance of 150.00 feet; thence N 60°10'27" E, a distance of 181.44 feet to the point of beginning

Common Address:

3130 N. 13th Street

Applicant/Owners:

Trevor and Miranda Bruening

Case Number:

2024/ZA/10

The hearing will be conducted in the Commission/Municipal Court Room, City Hall, 120 North 6th Street, Independence, Kansas, on October 1, 2024 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](#) 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 COMMISSION ACTION
CITY OF INDEPENDENCE
August 8, 2024

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider an ordinance annexing property located on CR 3775, previously known as the 3100 block of North 13th Street.

SUMMARY RECOMMENDATION Adopt the ordinance.

BACKGROUND The County Commission has approved the annexation of the property that was petitioned to be annexed by Trevor and Miranda Bruening. The next step is to adopt an ordinance finalizing the annexation.

FINANCIAL INFORMATION There is no significant financial impact regarding this annexation.

SUGGESTED MOTION I move to adopt Ordinance No. 4459 annexing property located on CR 3775, previously known as the 3100 block of North 13th Street.

SUPPORTING DOCUMENTS

1. Ordinance 4459 - Annexing Property Located on CR 3775 - 3100 N 13th
2. 072524-BrueningAnnexation

ORDINANCE NO. 4459

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

Section 1. Trevor Jay Bruening Miranda Dawn Bruening, husband and wife, have consented in writing to annexation by the City of the hereinafter described real estate owned by them. On July 25, 2024, the governing body adopted Resolution No. 2024-018 requesting the Board of County Commissioners of Montgomery County, Kansas to find and determine that the annexation of the Bruening's property will not hinder or prevent the proper growth and development of the area, and that the annexation be approved. On August 5, 2024, The Board of County Commissioners of Montgomery County, Kansas made the necessary findings and approved the annexation.

Section 2. Having complied with all statutory requirements, the following described real estate is hereby annexed by the City:

Tract 1: Being a tract of land located in a portion of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows:

Commencing at the Southwest corner of the NE/4 of the SE/4 of said Section 13, thence N 00°10'54" W along the West line of said NE/4 of the SE/4 a distance of 809.30 to the point of beginning, thence N 00°10'54" W along said West line a distance of 513.22 feet to a point on the North line of said SE/4, thence S 89°49'34" E along said North line a distance of 155.28 feet, thence S 03°01'47" W a distance of 367.12 feet, thence S 61°58'13" E a distance of 172.00 feet, thence S 57°28'13" E a distance of 122.00 feet, thence N 89°57'26" W a distance of 388.94 feet to the point of beginning

Tract 2: A tract of land located in a portion of the NW/4 of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows: Commencing at the Northeast corner of the NW/4 of the SE/4, thence S 00°14'54" E. along the East line of the NW/4 of the SE/4, a distance of 43.22 feet to the point of beginning; thence continuing S 00°14'54" E. along said East line a distance of 470.00 feet, thence S 89°55'26" W, a distance of 50.13 feet; thence N. 23°33'03" W, a distance of 251.00 feet; thence N 03°27'03" W a distance of 150.00 feet; thence N 60°10'27" E, a distance of 181.44 feet to the point of beginning

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 8th day of August, 2024.

Timothy R. Emert, Mayor

ATTEST:

David Schwenker, City Clerk



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
July 25, 2024

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider revising the ordinance to include an additional parcel as part of a previously approved request from Trevor and Miranda Bruening to annex their property located on CR 3775, previously known as the 3100 block of North 13th Street.

SUMMARY RECOMMENDATION City Staff recommends the Commission approve Resolution 2024-018, amending Resolution 2024-016.

BACKGROUND On June 27, 2024 the City Commission previously approved Resolution 2024-016 to petition Montgomery County to allow the annexation of this property. Upon review by Montgomery County, it was discovered we were missing a parcel. The City Attorney has prepared a new petition including both parcels. The staff is asking the Commission to approve Resolution 2024-018, amending Resolution 2024-016.

The staff has provided the following background from the previous request for the annexation of this property for the Commission's review:

Trevor and Miranda Bruening have requested the City of Independence to annex a property located in the 3100 block of North 13th Street or 3775 CR 4840 area to build a private residence. The property is not adjacent to the City limits and currently lacks access to City utilities as well as water. The area is currently served by a 2" private water line that is at capacity, and neighbors have objected to further access to the line. Trevor and Miranda have obtained an easement and plan to install a private water line that reaches the current City limits by Birdie Drive. Additionally, a City water meter would be installed at that location to serve the residence. Trevor and Miranda would be responsible for any repairs to that private line, and the City does not assume any responsibility for the maintenance.

The City staff has consulted with County officials regarding this annexation, and it has been agreed that any septic system installed at this location would adhere to Montgomery County requirements for permitting and inspection. If the annexation is approved, other City services, including Police, Fire, and Sanitation, will be provided. The approval of the Resolution to annex will allow the City to petition Montgomery County for their approval to allow the City of Independence to annex the property into the City limits.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to approve Resolution 2024-018, which amends Resolution 2024-016 to add a parcel to the petition to Montgomery County to allow the annexation of this property into the City limits of Independence, Kansas, as requested by the property owners.

SUPPORTING DOCUMENTS

1. City-Bruening-res-
2. City-Bruening annex-
3. Resolution 2024-016 - Annexation - Bruening
4. Trevor & Miranda - N. 13th Area
5. Consent to Annex - Bruenings

RESOLUTION NO. 2024-018

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

Section 1. This resolution is made to amend Resolution No. 2024-016 to include additional real estate which was inadvertently omitted.

Section 2. Trevor Jay Bruening and Miranda Dawn Bruening have requested and consented to the annexation of the following described real estate by the City of Independence, Kansas:

Tract 1: Being a tract of land located in a portion of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows:

Commencing at the Southwest corner of the NE/4 of the SE/4 of said Section 13, thence N 00°10'54" W along the West line of said NE/4 of the SE/4 a distance of 809.30 to the point of beginning, thence N 00°10'54" W along said West line a distance of 513.22 feet to a point on the North line of said SE/4, thence S 89°49'34" E along said North line a distance of 155.28 feet, thence S 03°01'47" W a distance of 367.12 feet, thence S 61°58'13" E a distance of 172.00 feet, thence S 57°28'13" E a distance of 122.00 feet, thence N 89°57'26" W a distance of 388.94 feet to the point of beginning

Tract 2: A tract of land located in a portion of the NW/4 of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows: Commencing at the Northeast corner of the NW/4 of the SE/4, thence S 00°14'54" E. along the East line of the NW/4 of the SE/4, a distance of 43.22 feet to the point of beginning; thence continuing S 00°14'54" E. along said East line a distance of 470.00 feet, thence S 89°55'26" W, a distance of 50.13 feet; thence N. 23°33'03" W, a distance of 251.00 feet; thence N 03°27'03" W a distance of 150.00 feet; thence N 60°10'27" E, a distance of 181.44 feet to the point of beginning

Section 3. The Bruening property is not adjacent to the current city boundaries of the City of Independence, Kansas and is considered noncontiguous land which requires the consent of the Board of County Commissioners of Montgomery County, Kansas before annexation can occur.

Section 4. Pursuant to K.S.A. 12-520c, the City of Independence requests that the Board of County Commissioners find and determine that the annexation of the Bruening property will not hinder or prevent the proper growth and development of the area or that of any other incorporated city, and that the annexation be approved.

Section 5. In support of the request for annexation, the following information is provided:

- a. The property is currently vacant and unimproved.
- b. The property owners intend to construct their personal residence on the property.
- c. The property owners are connecting to City water at their own expense and intend to install a septic system at their own expense.
- d. The property is bounded on the north by the Elk River, on the west by the Independence Country Club golf course, on the east by an unimproved area and on the south by a residence.
- e. The property is located on a dead-end road.

Section 6. The City Clerk is directed to file a certified copy of this resolution with the Montgomery County Clerk.

Adopted by the Governing Body of the City of Independence, Kansas, on the 25th day of July, 2024.

Timothy R. Emert, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk

AMENDED CONSENT TO ANNEXATION

Come Now, Trevor Jay Bruening and Miranda Dawn Bruening, husband and wife, and hereby consent to annexation of the following described real estate owned by them by the City of Independence, Kansas:

Tract 1: Being a tract of land located in a portion of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows:

Commencing at the Southwest corner of the NE/4 of the SE/4 of said Section 13, thence N 00°10'54" W along the West line of said NE/4 of the SE/4 a distance of 809.30 to the point of beginning, thence N 00°10'54" W along said West line a distance of 513.22 feet to a point on the North line of said SE/4, thence S 89°49'34" E along said North line a distance of 155.28 feet, thence S 03°01'47" W a distance of 367.12 feet, thence S 61°58'13" E a distance of 172.00 feet, thence S 57°28'13" E a distance of 122.00 feet, thence N 89°57'26" W a distance of 388.94 feet to the point of beginning

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DATE

Trevor Jay Bruening

DATE

Miranda Dawn Bruening

STATE OF KANSAS)
) SS:
COUNTY OF _____)

Be It Remembered that on this ____ day of _____, 2024, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came **Trevor Jay Bruening and Miranda Dawn Bruening**, husband and wife, who are personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same.

In Witness Whereof, I have hereunto set my hand and affixed my seal, the day and year last above written.

My commission expires:

NOTARY PUBLIC



State of Kansas, Montgomery County
This instrument was filed for
Record on June 28, 2024 10:39 AM
Recorded in Book 737 Page 738 - 739
Fee: \$0.00 202402410



Marilyn Calhoun
Marilyn Calhoun, Register of Deeds

RESOLUTION NO. 2024-016

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

Section 1. Trevor Jay Bruening and Miranda Dawn Bruening have requested and consented to the annexation of the following described real estate by the City of Independence, Kansas:

Being a tract of land located in a portion of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows:

Commencing at the Southwest corner of the NE/4 of the SE/4 of said Section 13, thence N 00°10'54" W along the West line of said NE/4 of the SE/4 a distance of 809.30 to the point of beginning, thence N 00°10'54" W along said West line a distance of 513.22 feet to a point on the North line of said SE/4, thence S 89°49'34" E along said North line a distance of 155.28 feet, thence S 03°01'47" W a distance of 367.12 feet, thence S 61°58'13" E a distance of 172.00 feet, thence S 57°28'13" E a distance of 122.00 feet, thence N 89°57'26" W a distance of 388.94 feet to the point of beginning

Section 2. The Bruening property is not adjacent to the current city boundaries of the City of Independence, Kansas and is considered noncontiguous land which requires the consent of the Board of County Commissioners of Montgomery County, Kansas before annexation can occur.

Section 3. Pursuant to K.S.A. 12-520c, the City of Independence requests that the Board of County Commissioners find and determine that the annexation of the Bruening property will not hinder or prevent the proper growth and development of the area or that of any other incorporated city, and that the annexation be approved.

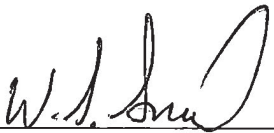
Section 4. In support of the request for annexation, the following information is provided:

- a. The property is currently vacant and unimproved.
- b. The property owners intend to construct their personal residence on the property.
- c. The property owners are connecting to City water at their own expense and intend to install a septic system at their own expense.
- d. The property is bounded on the north by the Elk River, on the west by the Independence Country Club golf course, on the east by an unimproved area and on the south by a residence.
- e. The property is located on a dead-end road.

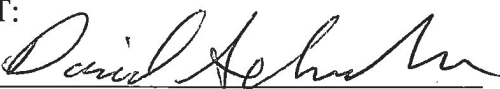
Section 5. The City Clerk is directed to file a certified copy of this resolution with the Montgomery County Clerk.

Adopted by the Governing Body of the City of Independence, Kansas, on the 27th day of June 2024.




W. S. Smith, Vice-Mayor

ATTEST:


DAVID W. SCHWENKER, City Clerk



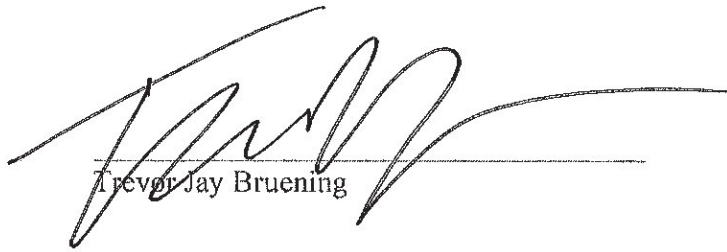
AMENDED CONSENT TO ANNEXATION

Come Now, Trevor Jay Bruening and Miranda Dawn Bruening, husband and wife, and hereby consent to annexation of the following described real estate owned by them by the City of Independence, Kansas:

- Tract 1:** Being a tract of land located in a portion of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows:
Commencing at the Southwest corner of the NE/4 of the SE/4 of said Section 13, thence N 00°10'54" W along the West line of said NE/4 of the SE/4 a distance of 809.30 to the point of beginning, thence N 00°10'54" W along said West line a distance of 513.22 feet to a point on the North line of said SE/4, thence S 89°49'34" E along said North line a distance of 155.28 feet, thence S 03°01'47" W a distance of 367.12 feet, thence S 61°58'13" E a distance of 172.00 feet, thence S 57°28'13" E a distance of 122.00 feet, thence N 89°57'26" W a distance of 388.94 feet to the point of beginning
- Tract 2:** A tract of land located in a portion of the NW/4 of the SE/4 of Section 13, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, being more particularly described as follows: Commencing at the Northeast corner of the NW/4 of the SE/4, thence S 00°14'54" E. along the East line of the NW/4 of the SE/4, a distance of 43.22 feet to the point of beginning; thence continuing S 00°14'54" E. along said East line a distance of 470.00 feet, thence S 89°55'26" W, a distance of 50.13 feet; thence N. 23°33'03" W, a distance of 251.00 feet; thence N 03°27'03" W a distance of 150.00 feet; thence N 60°10'27" E, a distance of 181.44 feet to the point of beginning

7.17.24
DATE

7.16.24
DATE


Trevor Jay Bruening


Miranda Dawn Bruening