

AGENDA
Independence Planning Commission
Independence Board of Zoning Appeals

Tuesday, May 4, 2021

Civic Center Memorial Hall 5:30 p.m.

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

Call to Order

Minutes

- a. Consider approving minutes of the April 20, 2021 meeting.

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

- b. To receive comments on a variance request to exceed the number and maximum size of signs allowed in an M-1, Light Industrial District and C-4, Highway Commercial District at the following location: 2700 W. Main Street.

Planning Commission

- c. To receive comments on a request to rezone a tract of land from R-3, low density multifamily district to M-1, light industrial district; and for a conditional use permit for supplementary parking at 117 North Wald Avenue
- d. To receive comments on a request for a conditional use permit for “Storage and warehousing of nonhazardous goods” in a C-4, highway commercial district at 2400 West Main Street.
- e. Other discussion.

Adjournment

- a. Consider approving minutes of the April 20, 2021 meeting.**

MINUTES

Independence Planning Commission Independence Board of Zoning Appeals

Tuesday, April 20, 2021

Veterans Room

Memorial Hall

5:30 p.m.

Call to Order

The Planning Commission meeting was called to order by Kendall Neill.

Planning Commissioners Present

Lisa Richard (via phone)

Kendall Neill (in person)

Rachel Lyon (via phone)

Barb Emert (in person)

Michelle Anderson (via phone)

Mary Jo Meier (in person)

Planning Commissioners Absent

Anthony Royse

Brent Littleton

Andy McLenon

Staff Present

Kelly Passauer, City Manager

David Cowan, Assistant City Manager

Jeff Chubb, City Attorney

Lydia Collins, Administrative Aide

Visitors

Doug Stacy, Labette Health

Minutes

- a. Consider approving minutes of the March 2, 2021 meeting.

Kendall Neill made a motion to approve the minutes of the March 2, 2021, meeting, as amended, Mary Jo Meier seconded the motion. The motion carried 6 - 0.

Planning Commission

- b. Public hearing to receive comments to consider text amendments to Appendix B-Zoning of the City code including, but not limited to Appendix A. "Listing of Permitted and Conditional Uses" including, but not limited to "Medical clinics, outpatient services" and "Medical laboratory services."

Labette Health has approached the City concerning the use of the building at 2700 W. Main Street, Suite A, to provide physical therapy and other related rehabilitation services.

Kendall Neill opened the public hearing.

Doug Stacy, representative of Labette Health, stated that they want to continue to provide and add services and they have run out of room. They had been looking for space for occupational and speech therapy and this store by Hugo's opened which is right next door to Labette. This is basically going to be for rehabilitation services.

The following staff report was provided.

City code 1604.2 provides the following regarding text amendments:

1604.1. Recommendations: Upon the conclusion of the public hearing the planning commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the governing body. Said recommendation may be for approval, disapproval or approval in part and reasons for therecommendations shall be included as appropriate.

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 asto 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.

In order to allow their request a text amendment must be approved to modify the permitted and conditional use table to more accurately reflect the use requested. If a text amendment is ultimately approved by the Commission to require a conditional use for "Medical clinics, outpatient services" and "Medical laboratory services" in an M-1 zone, it would still require the applicant to go through the conditional use permit process, which is similar to the rezoning process. The conditional use permit could address any additional concerns.

Kendall Neill move to recommend a text amendment adding "Medical clinics, outpatient services" and "Medical laboratory services" into the permitted and conditional use table as a conditional use in an M-1 zone on the basis that this change is consistent with the intent and purposes of these regulations; the areas most affected are the M-1 zones; and the proposed amendment is not related to changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected. Lisa Richard seconded. Motion carried 6-0.

c. Public hearing to receive comments on a request for a conditional use permit for “Medical clinics, outpatient services” and “Medical laboratory services” in an M-1, Light Industrial District at 2700 West Main Street, Suite A.

Kendall Neill opened the public hearing. There were no public comments and no additional questions for the applicant. The following staff report was provided:

Conditional Use Permit

The zoning ordinance in section 901.1 (page 87) describes the purpose of a conditional use as:

“...those types of uses which are considered by the City to be essentially desirable, necessary or convenient to the community but which by their nature or in their operation have:

- 1) a tendency to generate excessive traffic,*
- 2) a potential for attracting a large number of persons to the area of the use thus creating noise or other pollutants,*
- 3) a detrimental effect on the value of potential development of other properties in the neighborhood, or*
- 4) an extraordinary potential for accidents or danger to the public health or safety.*

Such conditional uses cannot be allowed to locate as a ‘right’ on any parcel of land within certain districts without consideration of existing conditions at the proposed locations and of properties neighboring the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse effects.”

Staff Report

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

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

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

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving

access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:

1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

Action by the Planning Commission

Any recommendations regarding a conditional use permit for the subject properties shall be based on Section 902.2 previously outlined in this report. After considering any public comments the Planning Commission may either approve or deny the requests. If the requests are approved the applicants must be required to meet the conditions the Planning Commission wishes to require to operate the facility.

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

Staff Recommendation

City staff recommends granting the conditional use permit with the following conditions:

1. The conditional use permit is not transferable to another location.
2. The applicant must follow all City codes.

If any of the above conditions are not met, the conditional use permit will no longer be valid. The basis of the staff's recommendation is that granting the conditional use permit is consistent within the criteria of "a through g" of Section 902.2 of the zoning code.

Kendall Neill moved to recommend approving a conditional use permit for "Medical clinics, outpatient services" and "Medical laboratory services" in an M-1, Light Industrial District at 2700 West Main Street, Suite A on the basis that the conditional use permit is consistent with criteria "a" through "g" of Section 902.2 of the zoning code, with the following conditions:

- 1. The conditional use permit is not transferable to another location.***
- 2. The applicant must follow all City codes.***

Mary Jo Meier seconded. Motion carried 6 – 0.

d. Other discussion

Kendall Neill authorized Mary Jo Meier to sign the Minutes of March 2, 2021, in lieu of Rachel Lyon since Rachel was joining the meeting by phone.

City Manager Kelly Passauer advised that Housing Director April Nutt will be bringing more information concerning Tiny Houses at a future meeting.

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

e. None

Adjournment

Kendall Neill moved to adjourn the meeting, with Barb Emert seconding the motion, which passed 6 - 0.

Kendall Neill, Chair

Rachel Lyon, Secretary

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

- b. To receive comments on a variance request to exceed the number and maximum size of signs allowed in an M-1, Light Industrial District and C-4, Highway Commercial District at the following location: 2700 W. Main Street.**

Overview of Variance Requested

The Board of Zoning Appeals has received an application from Labette Health, represented by Doug Stacy, to grant a variance from the sign regulations provided for in the zoning ordinance. M-1 and M-2 districts zoning sign regulations coincide with C-2 and C-4 districts and shall be permitted as provided in district C-2.

Section 802.5 subsection “a” provides for the following:

802.5. District C-2, general business district and District C-4, highway commercial district:

- a. Wall and marquee sign: Each business or commercial establishment shall be permitted not more than three illuminated or non-illuminated wall or marquee signs, not more than one on a facade, the total area of which sign shall not exceed 20 percent of the total area of the facade upon which it is placed. Such signs shall not extend above the average roof level of a one-story building more than five feet and shall not extend above the average level of a two or more story building. Any signs painted directly upon wall surfaces shall not exceed 20 square feet in area.*

802.7. District M-1 and M-2, light and heavy industrial districts:

- a. [Permitted signs:] Signs shall be permitted as provided in district C-2.*
- b. Projecting, marquee, detached and roof signs: In addition, industrial establishments having one or more permanent buildings may provide illuminated or nonilluminated signs, including projecting, marquee, detached or roof types, in any location on the premises or on the building, providing such signs shall not exceed height or yard requirements as set out herein for buildings in that district.*
- c. Billboards: Poster panels and billboards as defined in this ordinance shall be permitted in an industrial district only upon issuance of a conditional use permit.*

Review of Request

The applicant’s request is to place a 4 x 8 sign underneath the Hugo’s sign on West Main Street in front of the property and also to place a 3 x 6 sign underneath the Hugo’s sign on Peter Pan Rd. Their request is to increase the number of signs allowed in an M-1 zone at 2700 W. Main. Tyler Henry, Building Inspector for the City of Independence, has stated that the signs meet the size requirements for detached signs but not the number of signs allowed.

Board of Zoning Appeals Considerations

In considering the providing of a variance we wish to provide the following information:

- a. That the variance requested arises from such condition which is*

unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or the applicant; This business is being located in a former big box store that has been repurposed and broken up into sections. It only has a front façade and a west façade on one side, and it abuts another business on the east.

- b. That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents; It is not believed that this additional signage will create any adverse effects to adjacent property owners.*
- 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; This signage will provide information to the public regarding services provided by the business.*
- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; It does not appear that the variance will affect public health, safety, or general welfare.*
- e. That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations. According to section 801.2 of the zoning code, the intent and purpose of the sign code is: "Regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities in the City of Independence without difficulty and confusion, to encourage the general attractiveness of the community, and to protect property values therein." Since the purpose of this sign is to help the public locate goods, services and facilities within the City of Independence, City staff feels it is not opposed to the general spirit and intent of the zoning regulations.*

Staff Recommendation

Staff recommends approving the variance for a 4 x 8 sign underneath the Hugo's sign on West Main Street in front of the property and 3 x 6 sign to be placed underneath the Hugo's sign on Peter Pan Rd. Staff's recommendation is due to the following factors:

- 1. The signage will assist the public in finding goods and services which meets the spirit and intent of the sign regulations.
- 2. Similar type signage has been allowed in the C-4 zone in the past; i.e. Newton's, Wal-Mart, Hugo's.

Suggested motion:

I move to approve the variance for a 4 x 8 sign underneath the Hugo's sign on West Main Street in front of the property and also to place a 3 x 6 sign underneath the Hugo's sign on Peter Pan Rd.

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, May 4, 2021 at 5:30 p.m.

To receive comments on a variance request to exceed the number and maximum size of signs allowed in an M-1, Light Industrial District and C-4, Highway Commercial District at the following location:

Common Address:

2700 West Main Street

Legal Description:

S26, T32, R15, ACRES 8.7, S 60' N 300' NW4 SW4 SE4 SW4; E/2 SW4 SE4 SW4 EX S 330' OF W 50' & EX S 124' OF E 186'; LESS R/W, City of Independence unplatted, Montgomery County, Kansas. To see the full legal, contact the Zoning Administrator.

Applicant/Owners:

Labette County Medical Center d/b/a Labette Health
Doug Stacy, Labette Health Representative

Case Number:

2021/VAR/02

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. Due to the COVID Pandemic, participation is encouraged via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 652 632 373#

All interested persons should participate in the meeting via conference and they will be heard. Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

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

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

Kelly Passauer, Zoning Administrator

APPLICATION TO BOARD OF ZONING APPEALS

CITY OF INDEPENDENCE, KANSAS

1. Date: 04/9/2021

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

Hugo's
Attn: Corey Hugo
2700 W Main Street, Independence, KS 67301
620-331-6050

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

Name: Labette Health
Address: Attn: Doug Stacy
Telephone: 510 Peter Pan Rd, Independence, KS 67301
620-870-1300

4. Common Address of Land Involved:

2700 W Main, Independence, KS 67301

5. Legal Description of Land Involved:

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

Signage - Requesting to place a 4 x 8 sign underneath the Hugo's sign on Main Street in front of the property, and requesting to place a 3 x 6 sign underneath the Hugo's sign on Peter Pan Rd.

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

N/A

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

The pole and framework for the signage is already in place. these signs would be underneath the Hugo's signs on Main and Peter Pan.

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

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

The signage is not located in residential areas, and is similar to signage on the other side of Main Street.

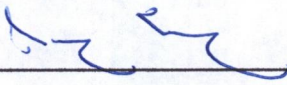
11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

Signage will help identify and direct patients to the correct location for services.

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

Description for the two proposed signs attached.

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

Signature of Property Owner: _____

Case Number: _____

Date Filed: _____

Fee Received: _____

Present Zoning: _____

CITY OF INDEPENDENCE

REC#: 01133025 4/09/2021 9:43 AM
OPER: JESS TERM: 001
REF#:

ACCT #: XXXX-XXXX-XXXX-2107
AUTH #: 009023
TRAN #: 000000000178
TYPE: PURCHASE

TRAN: 1.9000 VARIANCE

DOUG STACY
LABETTE HEALTH
MISC FEES

100.00CR

TENDERED: 100.00 CREDIT CARD
APPLIED: 100.00-

CHANGE: 0.00

Labette Health

Rehabilitation Services



Labette Health

Rehabilitation Services



Labette Health Rehabilitation Services



Labette Health - Independence, KS

Vinyl graphics for entry door transom window

Labette Health

Rehabilitation Services

620-577-7280



Labette Health
Rehabilitation Services
620-577-7280

SIGN Designs
RISING HIGHER

1720 West 7th Street • Joplin, MO 64801
417-624-8688 Phone • 417-624-0933 Fax
www.sign-designs.com

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This drawing is provided for the purpose of illustrating the proposed project. Unauthorized use, copying, scanning or sharing is strictly prohibited and protected by law.

Electrical hookup by others. Electrical requirements: 120V (or as indicated)
All landscaping by others

Customer Approval

Name & Title

Authorization

Date

Proof: 2-5-2021

Rev 1: _____

Rev 2: _____

Rev 3: _____

Rev 4: _____

Rev 5: _____

- c. **Public hearing to receive comments on a request to rezone a tract of land from R-3, low density multifamily district to M-1, light industrial district; and for a conditional use permit for supplementary parking at 117 North Wald Avenue.**

Summary:

The Planning and Zoning Commission received a request from the City of Independence to initiate a rezoning hearing to consider rezoning a tract of land from R-3, low density multifamily district to M-1, light industrial district at 117 N. Wald Avenue. The Planning and Zoning Commission also received an application from Montgomery County for a conditional use permit for supplementary parking at 117 North Wald Avenue.

Background:

- i. The City Commission on February 4, 2010 approved the attached conditional use permit for a supplementary parking lot at the southwest corner of Wald Avenue and Myrtle Street. The original conditional use permit indicated that all the requirements had to be met within one year of approval, or by February 4, 2011.
- ii. On December 8, 2016 the City Commission extended the timeframe to meet the requirements of the conditional use permit originally approved until December 31, 2017.
- iii. On April 27, 2017, the County requested certain conditions of the conditional use permit be waived by the City Commission relating to hard surfacing, screening, lighting, service drives, drainage, approved plan, minimum parking space dimensions, etc. The Commission took no action and tabled this item.
- iv. On December 28, 2017 the City Commission provided the County an additional extension to meet the conditions of a conditional use permit for a supplementary parking lot at the southwest corner of Wald Avenue and Myrtle Street until December 31, 2018.
- v. On January 24, 2019 the City Commission denied text amendments recommended by the Planning Commission that would have modified the off-street parking requirements, leaving the ordinances as they currently exist.
- vi. On May 15, 2019 City staff contacted the County to ask for an update of their intentions and offered the following options:
 1. Ask the Commission to provide another extension.
 2. Ask the Commission to waive the requirements (which was previously tabled).
 3. Ask the Commission to reconsider modifying the code.
 4. Come into compliance with the conditional use permit.
- vii. On June 25, 2019 City staff inquired again, as no response was received from the May 15, 2019 email. Jim Wright indicated that the County was “actively researching our options.”
- viii. On October 29, 2020 City staff contacted Jim Wright at the County for an update, advising them that the Planning Commission was inquiring on the status. Mr. Wright replied that they did not have any additional information, but they would bring it up at the next County

Commission meeting.

- ix. On January 5, 2021 City staff contacted Jim Wright at the County for an update for the Planning Commission meeting that evening, and Mr. Wright indicated he did not have anything new to report.
- x. On January 8, 2021 City staff contacted Jim Wright at the County to ask if someone from the County could be present at the next Planning Commission meeting on February 2, 2021 at the board's request.
- xi. On January 11, 2021 Jim Wright replied and stated that he and Commissioner McManus would be present at the February 2, 2021 Planning Commission meeting.
- xii. On February 2, 2021 Montgomery County Public Works Director Jim Wright and Montgomery County Commissioner Larry McManus appeared at the Planning Commission and presented a document with the changes previously requested in 2017 that were tabled by the City Commission. The Planning Commission asked for a strike-out version.
- xiii. On March 18, 2021 the County requested that the City Commission extend the expired conditional use permit, and consider the changes the County requested in 2017.
- xiv. On March 25, 2021 the City Commission considered the March 18, 2021 request. City staff and the City Attorney reviewed the code, and found section 902.5 that addresses modification to a conditional use permit which states: Action by the governing body: *"Within 30 days of receipt of the report from the planning commission, the governing body shall adopt, modify or deny the planning commission recommendation. The action of the governing body shall be final."* This was interpreted to mean that a conditional use permit may only be modified within 30 days of receipt of the initial Planning Commission report. The Governing Body's action, which would be adopting the resolution issuing the CUP, is final. The City Commission agreed with this analysis and determined the conditional use permit process would need to restart. The City Commission agreed to waive the fees to restart the process.
- xv. On April 5, 2021 the County mailed a letter which requested a waiver of the previous requirements and a copy of the December 9, 2009 application for conditional use permit.
- xvi. On April 8, 2021 the City Commission initiated a public hearing to rezone the tract requested for the parking lot from R-3, low density multifamily district to M-1, light industrial district at 117 North Wald Avenue (Southeast corner of Wald Avenue and Myrtle). Staff's recommendation indicated rezoning the proposed parking area to the same zone as the County's other adjoining properties would provide flexibility in pursuing alternate solutions to the County's parking needs.
- xvii. On April 9, 2021 City staff requested a copy of the site plan for the parking lot.
- xviii. On April 15, 2021 the attached drawing and photos were sent by Montgomery County Public Works Director Jim Wright. It should be noted the site plan provided does not provide all the information

requested in 1013.3 (Approval process for conditional use permit; application). The site plan does not include striping, screening, drainage, etc.

Legal Address:

E 50' Lot 1; County Clks Sub to the City of Independence, Montgomery County, Kansas.

Description of the Tract:

The area requested to be rezoned consists of one 90' x 50' lot.

The lot lies in the eastern portion of the City and is vacant.

Zoning and Uses of Property Nearby:

The property directly north and east is zoned M-1, light industrial district and is utilized primarily for county purposes with residential development to the west and south.

Character of the Neighborhood:

This area is in the East Main Street corridor and consists of a mix of industrial, commercial, and residential uses.

Suitability of the Subject Property for the Uses to which it has been Restricted:

The property in question is currently zoned R-3, multifamily district. The property is suitable for the present residential classification.

Length of Time the Property has Remained vacant as Zoned:

The property is vacant and has been for several years.

Extent to which Removal of Restrictions will Detrimentially affect Nearby Property:

No foreseen negative impacts should occur on adjoining residentially zoned properties as long as proper screening is provided.

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 property is presently zoned for residential use. It is anticipated that permitting the rezoning as requested would have minimal impact on the public health, safety, and welfare. Denial of the proposed rezoning will impact the proposed owner's use of the property as they would like to use the lot without restrictions included in the R-3 zone, such as parking for their facility across the street.

R-3 504.7. Parking regulations:

Off-street parking: Two spaces for each dwelling unit. (See article VII for additional parking requirements.)

M-1 513.7. Parking and loading regulations: See article VII.

1013.0. - Supplementary parking.

[1013.1. Conditional use of off-street parking:] Off-street parking for buildings and facilities used for public assembly, commercial, industrial or institutional purposes may be permitted in any zone as a conditional use. The purpose of providing such off-street parking may be to comply with Ordinance No. 3525 [this appendix], article VII, or to meet supplemental off-street parking needs.

[1013.2. Minimum standards:] All off-street parking lots permitted under the provisions of this ordinance must meet the following minimum standards, unless the city commission deems it in the public good to waive such requirements:

A. All requests for off-street parking to comply with the provisions of article VII of the zoning ordinance shall meet all provisions of article VII.

B. All requests for supplemental off-street parking not required by article VII of the city zoning ordinance shall comply with the following minimum design criteria:

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

2. *Screening and buffer setback required:*

a. Parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required, in lieu of such sight-obscuring fence, shrubs, trees or hedges may be substituted as approved by the conditional use permit.

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

3. *Lighting:* Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district, on any adjacent dwelling, or create glare for oncoming traffic on city streets.

4. *Service drives:*

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

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

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

5. *[Facilities overlapping zones:]* All off-street parking facilities permitted to be located in a zone other than the zone required for the building or facility it serves shall be immediately adjacent or touching such lots on which such building or facility is located, excluding public rights-of-way.

[1013.3. Approval process for conditional use permit; application:] The approval process for a conditional use permit allowed for under this section will be processed following the procedures enumerated in article II [IX], sections 901.0—901.2, 902.2—902.7. The application for a conditional use permit shall be filed with the zoning administrator at least 20 days prior to the regular city planning and zoning commission meeting. The application shall include but not be limited to the below information:

- a. A diagram of surrounding land uses, including location of buildings or structures.
- b. A plan drawn to scale showing the following:
 - 1. Delineation of individual parking and loading spaces by adequate striping.
 - 2. Circulation area necessary to serve spaces.
 - 3. Access to streets and property to be served.
 - 4. Curb cuts.
 - 5. Dimensions, continuity, and substance of required screening.
 - 6. Grading, drainage, surfacing and subgrading details.
 - 7. Delineation of obstacles to parking and circulation in finished parking area.
 - 8. Specification as to signs and bumper guards.
 - 9. The nature and extent of landscaping and screening on the site.
- c. Name of the landowner, and firm preparing the plan.
- d. Legal description of the tract.
- e. Zone in which the parking will be located.

(Ord. No. 3546, §§ 1—3, 6-8-88)

Conformance with the Comprehensive Plan:

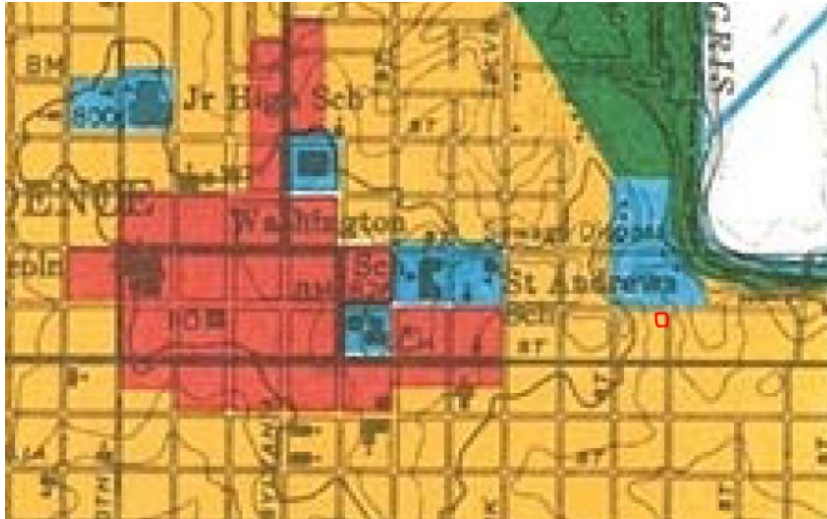
Industrial Goal – To provide opportunities for industrial development locations with suitable access, adequate community facilities, and favorable land use and environmental conditions.

Objectives:

- 1. Target industrial development to locations which maximize efficient usage of public and semi-public facilities and minimize the costs of development.
 - a. Policy 1-11 -- Sufficient areas with public facilities and environmental conditions suitable for industrial use should be reserved for industrial development.
 - b. Policy 1-12 -- Industrial sites shall have access to arterial streets, preferring those leading directly to major highways.

2. Direct industrial activities to locations offering the least negative impact on surrounding land uses and the environment.
 - a. Policy 1-21 -- New industrial uses shall be separated and buffered from surrounding non-industrial uses. Heavy industrial uses shall be located away from existing or projecting residential growth areas and opposite prevailing winds.

The City's General Development Plan Map the area directly north of the proposed lot as public/semi-public (blue) with the lot in question as residential (yellow).



Staff Recommendation

Rezoning this lot to M-1 would fit the character of this mixed neighborhood as properties on the north and east are already zoned M-1.

The intended continued use of the property by the applicant for parking does match the intent of the M-1 district. It would also allow for all the property utilized by Montgomery County to be zoned the same, as their other property is already zoned M-1.

Suggested Motion:

I move to recommend approving a request to rezone a tract of land located at 117 N. Wald Avenue R-3, low density multifamily district to M-1, light industrial district; and for a conditional use permit for supplementary parking with the following restrictions which shall be binding on all future owners, assigns or heirs:

- 1) The applicant must be in compliance with all City Codes and continue to be in compliance with all City codes including:
 - a) Meeting all the requirements set forth in Article VII (Off-Street Parking and Loading Regulations) and Section 1013.0 (Supplementary Parking); unless the City Commission “deems it in the public good to waive such requirements” per Section 1013.2 (Minimum Standards).
 - b) Obtaining any applicable permits if required; such as a demolition

permit, curb cut permit, etc.

- 2) Utility location: The applicant will notify Kansas One-Call and have the utilities located prior to any additional construction.
- 3) Restrictions on use: The lot will be utilized for Montgomery County employee parking only and will not be utilized for storage of materials, equipment or disabled vehicles.
- 4) Sound system: There will be no sound amplification to be placed on the parking lot.
- 5) Landscaping and structures: Any landscaping or structures that are constructed adjoining any other properties will be the responsibility of Montgomery County to maintain and keep in good repair.
- 6) Litter: The applicant shall police the parking lot and adjoining areas to remove any litter.
- 7) Signage: If the applicant wishes to provide signage on this lot, such signage shall be limited to informational signs, i.e. directional signs and exiting and entrance signs. The size, type and placement of such signage shall be approved by the City.
- 8) If the applicant changes the use of the facilities served by the parking lot to any other use, then the continuation of the conditional use permit will require review and approval by the City.
- 9) If the applicant sells the adjoining facilities and the sale does not include the parking lot or if the parking lot is no longer needed to serve the adjoining facilities, then the lot will be cleared of all improvements and returned to an unimproved tract containing grass.
- 10) The Planning Commission may review continuation of this conditional use permit at its discretion for continuation of the conditional use. Such approval shall not be unreasonably withheld.
- 11) The conditional use permit is not transferable to another location.

Any non-conformance with any of the above conditions may result in revocation of the conditional use permit upon reasonable notice and opportunity to cure by applicant.

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, May 4, 2021 at 5:30 p.m.

To receive comments on a request to rezone a tract of land from R-3, low density multifamily district to M-1, light industrial district; and for a conditional use permit for supplementary parking at 117 North Wald Avenue.

Legal Description:

East 50' of Lot 1, County Clerk's Subdivision of Out lot 35, to the City of Independence, Montgomery County, Kansas.

Common Addresses:

117 North Wald Avenue (southwest corner of Wald Avenue and Myrtle Street).

Applicant/Owners:

City of Independence, Kansas, Applicant
Montgomery County, Kansas, Applicant/Owner

Case Number:

2021/ZA03/CUP02

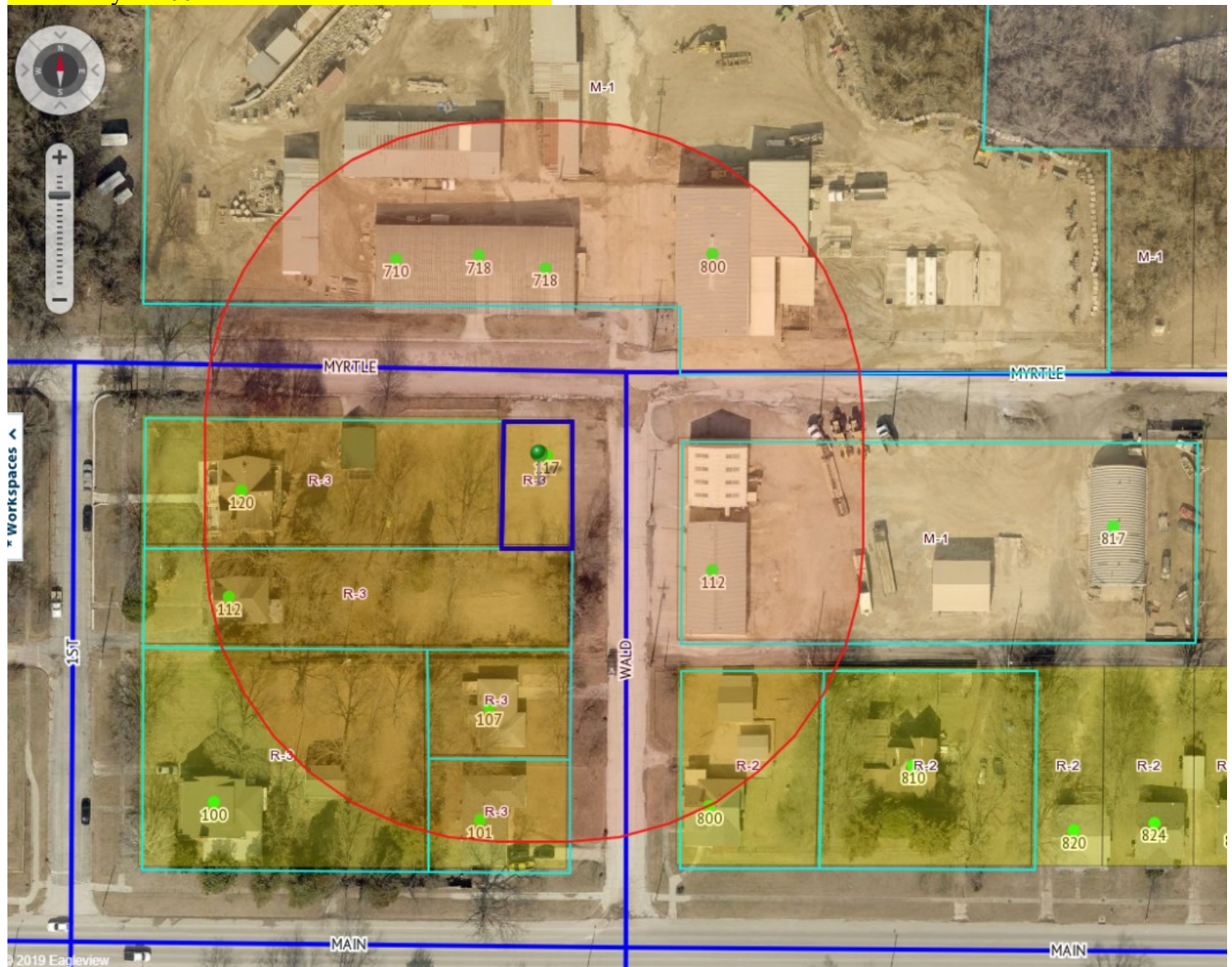
The hearing will be conducted in the Civic Center, Memorial Hall, 410 N. Penn, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: +1 785-289-4727 Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

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

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

Kelly Passauer, Zoning Administrator

Inside City -- 200' Notification Area Shown in Red





COUNTY COMMISSIONERS

Montgomery County
217 East Myrtle
Independence, Kansas 67301

Phone (620) 330-1111 Fax (620) 330-1202

ROBERT BEVER
District No. 1

LARRY G. McMANUS
District No. 2

MIKE CORDRAY
District No. 3

April 5, 2021

Independence City Commission
c/o Kelly Passauer, City Manager
811 West Laurel Street
Independence, KS 67301

Re: Conditional Use Permit for Supplementary Parking
Request for Waiver

Dear Mayor Ysusi, Vice-Mayor Hayse and Commissioner Caflisch:

Montgomery County was issued a Conditional Use Permit for Supplementary Parking at the southeast corner of Wald Avenue and Myrtle Street on February 4, 2010 (Resolution No. 2010-06). Construction and use of the area for parking was delayed until December 2016. Post-construction, it was brought to the County's attention that certain aspects of the parking did not comply with the some of the Permit conditions. A waiver of those conditions was requested but, apparently, never formally approved. Extensions of the Permit were granted, but it appears the extensions have now lapsed.

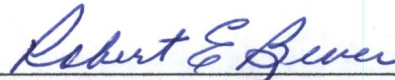
It is the County's understanding that the Commission has requested the County to initiate the process of applying for a new Conditional Use Permit. Further, it is the County's understanding the City has waived the Permit application fee, which is appreciated.

In connection with the County's application for a Permit, the purpose of this letter is to respectfully request an indefinite waiver of some of the Permit conditions per Section 1013.2 of the City's Conditional Use regulations, which authorizes the City Commission to waive the minimum standards for supplementary parking areas when the City Commission deems it in the public's interest to do so.

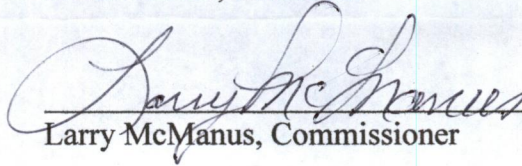
To date, to the County's knowledge, there have been no issues regarding the use of the parking lot and the County respectfully requests that the County be permitted to continue using the lot, as constructed. The County will continue to maintain the parking lot in good condition. In these challenging economic times, the County prefers to save the cost of making more elaborate and expensive improvements, such as a hard surface, screening, and lighting, when it seems the spirit and purpose of the regulations are being fulfilled.

Thank you for your consideration of this request.

Montgomery County Commissioners



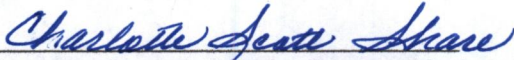
Robert Bever, Chairman



Larry McManus, Commissioner



Mike Cordray, Commissioner



Charlotte Scott Schmidt, County Clerk

APPLICATION FOR CONDITIONAL USE PERMIT

-PLANNING AND ZONING COMMISSION-

Date Filed: December 9, 2009

\$200 Fee Paid _____

NAME AND ADDRESS OF PERSON MAKING APPLICATION:

Montgomery County Public Works PO Box 663 Independence, KS 67301

LEGAL DESCRIPTION OF LAND INVOLVED :

East 50' of Lot 1 County Clerks Subdivision of Outlot 35, City of Independence

Montgomery County Kansas

COMMON ADDRESS OF SAID LAND:

PRESENT ZONING CLASSIFICATION : R3

STATEMENT OF INTENDED USE OF PROPERTY:

Employee Parking Lot

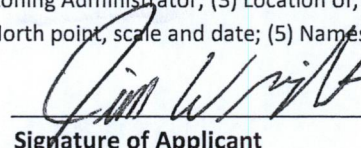
DESCRIPTION OF ARCHITECTURE & EXTERIOR MATERIAL TO BE USED:

N/A

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

December 9, 2009

Date


Signature of Applicant

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

Date

Signature Building Inspector

ACTION OF PLANNING AND ZONING COMMISSION:

(Approved, Denied – Date)

COMMENTS:

Chairman

Vice Chairman

Secretary

Montgomery County

Proposed Gravel
Off-Street Parking

Gravel Parking

Gravel Parking

Gravel Parking

Gravel Parking

Gravel Parking

Gravel Parking

Gravel Parking

Proposed Parking

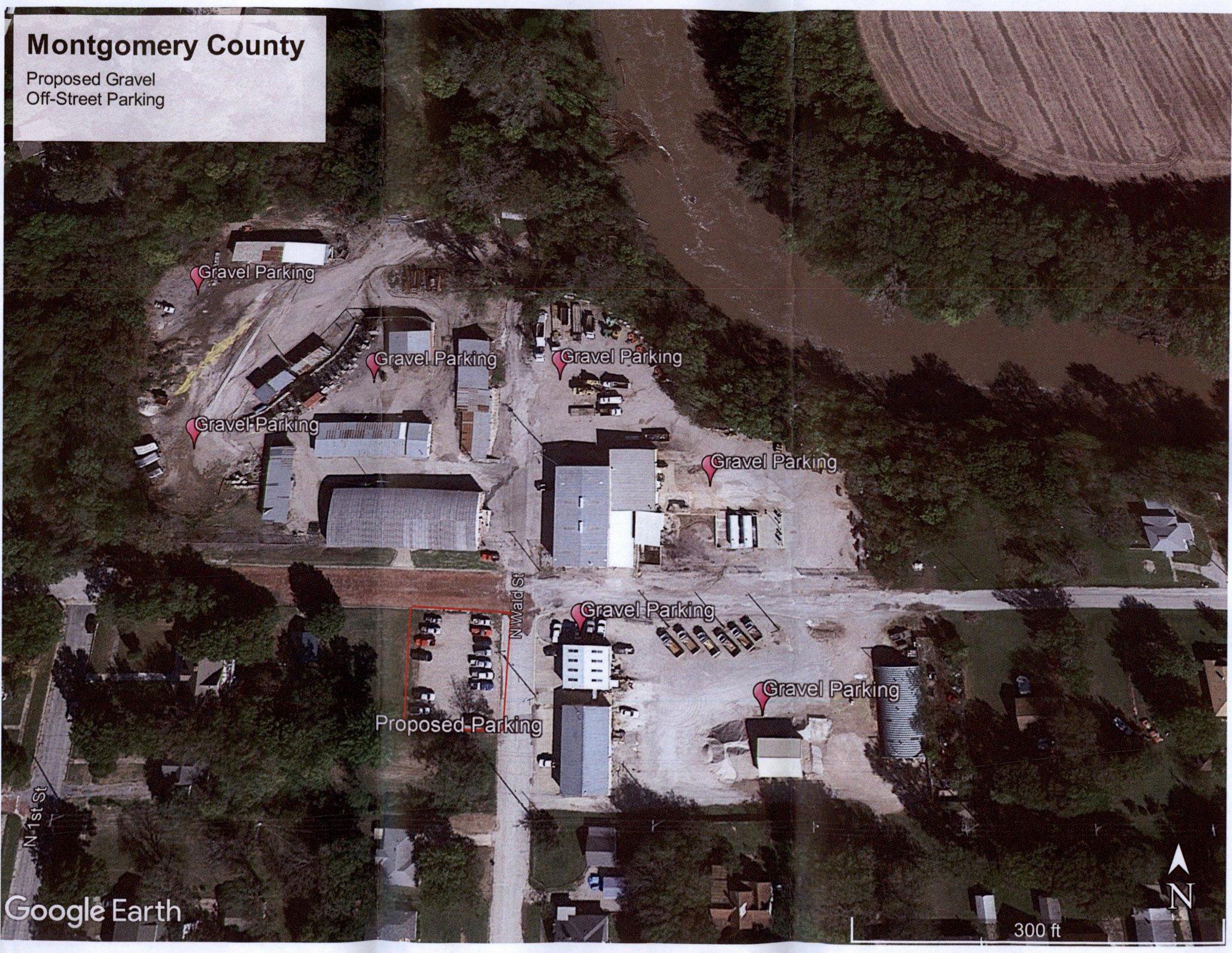
N Wad St

N 1st St

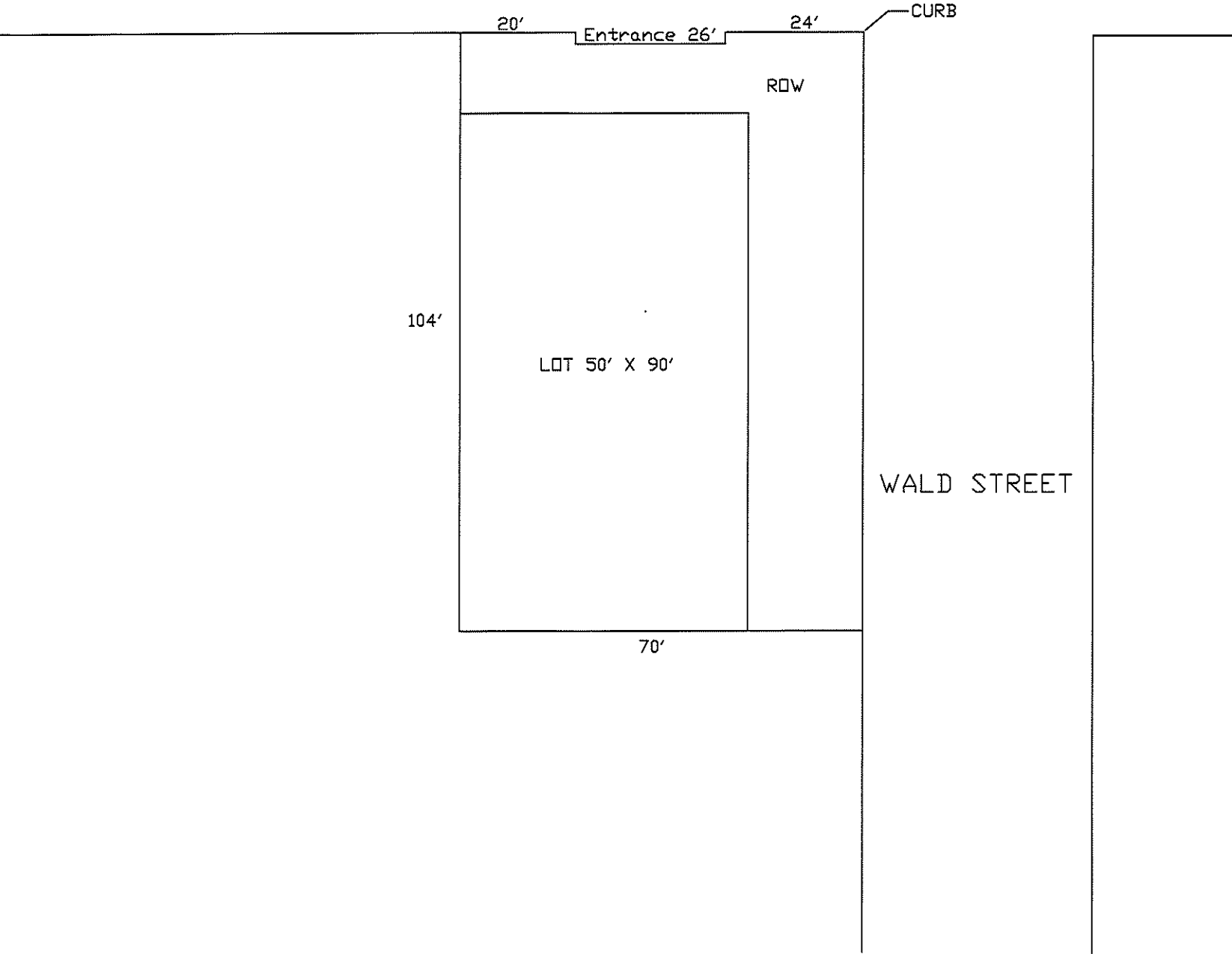


300 ft

Google Earth



MYRTLE STREET



Montgomery County Public Works

Parking Lot at Intersection of Wald Ave & Myrtle St.

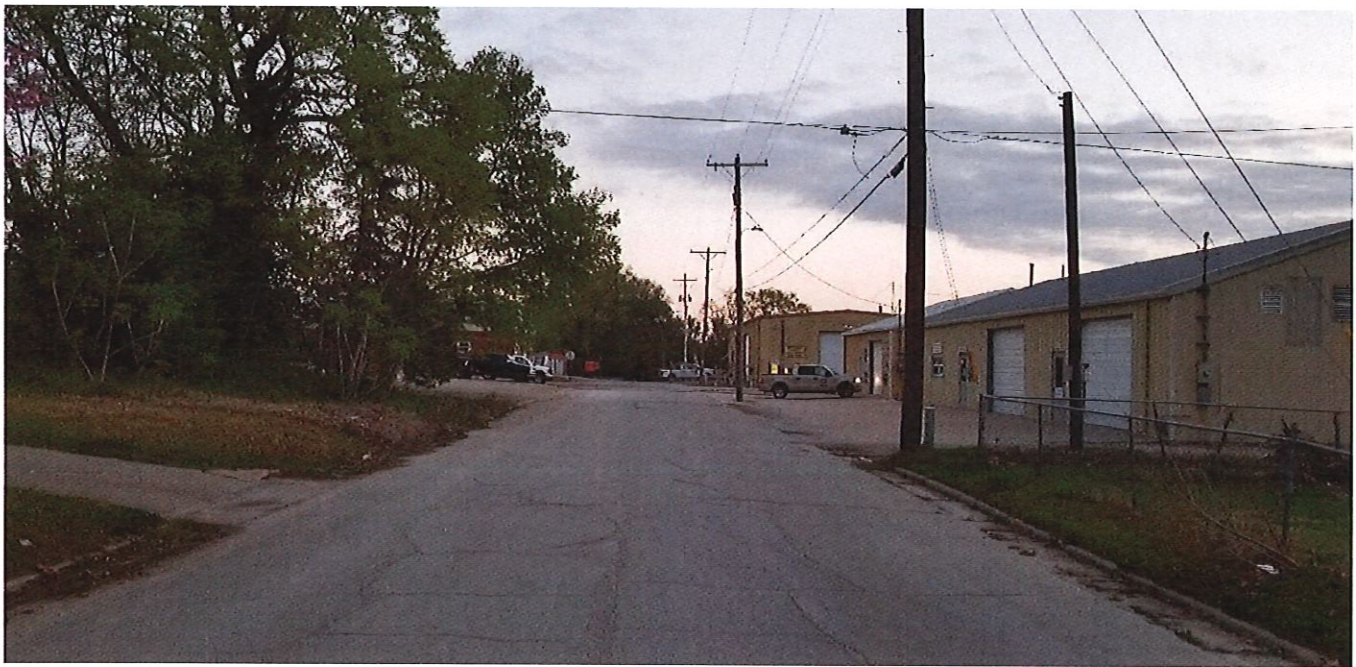
Parking lot entrance viewed from Myrtle St. looking South



Myrtle St. Looking East



Wald Ave Looking North



Wald Ave. Looking Northwest



Myrtle St. Looking West



Parking Lot viewed from Intersection Looking Southwest



Wald Ave. Looking South



4099

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT FOR
SUPPLEMENTARY PARKING AT THE SOUTHWEST CORNER OF WALD AVENUE
& MYRTLE STREET
RESOLUTION NO. 2010-06

WHEREAS, at a public hearing conducted on January 5, 2010, the Independence Planning and Zoning Commission voted to approve a request for a conditional use permit for supplementary parking at the southwest corner of Wald Avenue and Myrtle Street.

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

The recommendation of the Independence Planning & Zoning Commission to issue a conditional use permit for supplementary parking at the southwest corner of Wald Avenue and Myrtle Street, Independence, Kansas, is approved as hereinafter modified.

The property in question has the following legal description:

East 50' of Lot 1, County Clerk's Subdivision of Out lot 35, to the City of Independence, Montgomery County, Kansas

The conditional use permit is subject to the following conditions:

- I. The applicant must meet the conditions set forth in "Section 1013.0 Supplementary Parking" of the Zoning Code, including, but not limited to the following requirements:
 - a. Surface material: Areas used for ~~standing and maneuvering parking~~ of vehicles shall have ~~concrete, asphalt concrete, or asphalt double seal surfaces maintained adequately for a compacted gravel surface and shall be maintained in a dust-free,~~ all-weather use **condition**, and ~~so drained shall be graded and maintained~~ as to avoid flow of water across sidewalks.
 - ~~b. Screening and buffer setback required:~~
 - ~~i. Parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required, in lieu of such sight-obscuring fence, shrubs, trees or hedges may be substituted as approved by City staff.~~
 - ~~ii. No off-street parking will be permitted within less than four feet of the property line under separate ownership.~~

Screening shall not be required so long as the property continues to be used solely for supplementary parking purposes.

- ~~c. Lighting: Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district, on any adjacent dwelling, or create glare for oncoming traffic on City streets.~~

Lighting shall not be required so long as the property continues to be used solely for supplementary parking purposes.

d. Service drives:

- ~~i. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than 30 feet in width, nor less than 25 feet for two-way drives, nor less than 16 feet for one-way drives. In the case of a corner lot, service drives shall be located not closer than 30 feet to the intersecting street line. Service drives shall be located not closer than four feet to a side lot line, except that a common service drive of two adjacent properties with width not exceeding 30 feet may be provided at the common lot line.~~
- ~~ii. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 30 feet from their intersection.~~
- ~~iii. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.~~

Service drives shall be maintained as they currently exist.

- ~~e. Plan: A plan drawn to scale shall be approved by the City prior to developing the proposed parking lot. Such plan shall include the following:~~
- ~~i. Delineation of individual parking and loading spaces by adequate striping.~~
 - ~~ii. Circulation area necessary to serve spaces.~~
 - ~~iii. Access to streets and property to be served.~~
 - ~~iv. Curb cuts.~~
 - ~~v. Dimensions, continuity, and substance of required screening.~~
 - ~~vi. Grading, drainage, surfacing and subgrading details.~~
 - ~~vii. Delineation of obstacles to parking and circulation in finished parking area.~~
 - ~~viii. Specification as to signs and bumper guards.~~
 - ~~ix. The nature and extent of landscaping and screening on the site.~~

2. Drainage plan: **If drainage from the property becomes an issue, the** ~~The~~ applicant shall provide a drainage plan prepared by a licensed engineer and construct those improvements designed to limit and increase in runoff drainage from the property above its current rate **or, in the alternative, applicant may terminate usage of the property for supplementary parking and return the property to grass.**
3. Minimum parking space dimensions: ~~The minimum parking spacedimensions shall be approved by the City prior to development.~~ **There shall be no requirement for minimum parking space dimensions.**
4. Compliance with City Codes: The applicant must be in compliance with all City codes and must continue to be in compliance with all City codes includingthe requirement to obtain any required permits; such as a demolition permit, curb cut permit, etc.
5. Utility location: The applicant will notify Kansas One-Call and have theutilities located prior to **any additional** construction.
6. Restrictions on use: The lot will be utilized for Montgomery County employeeeparking only and will not be utilized for storage of materials, equipment or disabled vehicles.
7. Sound system: There will be no sound amplification to be placed on theparking lot.
8. Landscaping and structures: Any landscaping or structures that are constructed adjoining any other properties will be the responsibility ofMontgomery County to maintain and keep in good repair.
9. Litter: The applicant shall police the parking lot and adjoining areas toremove any litter.
10. Signage: If the applicant wishes to provide signage on this lot, such signage shall be limited to informational signs, i.e. directional signs and exiting and entrance signs. The size, type and placement of such signage shall be approved by the City.
11. ~~Parking lot construction and all requirements of the conditional use permitshall be completed within one year of the approval of the conditional use permit, or the conditional use permit will be void, unless such delay is approved by the City.~~
12. If the applicant changes the use of the facilities served by the parking lot to any other use then the continuation of the conditional use permit will require review and approval by the City.
13. If the applicant sells the adjoining facilities and the sale does not include theparking lot or if the parking lot is no longer needed to serve the adjoining facilities then the lot will be cleared of all improvements and returned to an unimproved tract containing grass.
14. The Planning Commission may review continuation of this conditional use permit at its discretion for continuation of the conditional use. Such approval shall not be unreasonably withheld.

15. The conditional use permit is not transferable to another location.

~~If any of the above conditions are not met the conditional use permit will no longer be valid.~~ **Any non-conformance with any of the above conditions may result in revocation of the conditional use permit upon reasonable notice and opportunity to cure by applicant.**

Adopted and approved by the Governing Body of the City of Independence, Kansas,
on the L/th day of E-
L..rt 20 .

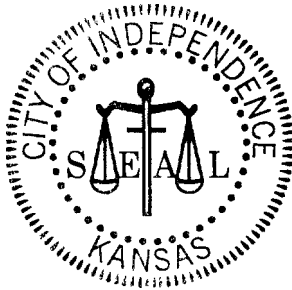
(attest)



Mayor

1/2/J-

Director of Finance / cityClerk.





4000

STATE OF KANSAS MONTGOMERY COUNTY
FILED FOR RECORD
MARLYN DOLHOUGH REGISTER OF DEEDS
JAN 20 AM 2:30 2010 Receipt No.: 39809
\$4.00

BOOK: 558 PAGE: 575

RESOLUTION NO. 2010-06**A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT FOR
SUPPLEMENTARY PARKING AT THE SOUTHWEST CORNER OF WALD AVENUE
& MYRTLE STREET**

WHEREAS, at a public hearing conducted on January 5, 2010, the Independence Planning and Zoning Commission voted to approve a request for a conditional use permit for supplementary parking at the southwest corner of Wald Avenue and Myrtle Street.

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

The recommendation of the Independence Planning & Zoning Commission to issue a conditional use permit for supplementary parking at the southwest corner of Wald Avenue and Myrtle Street, Independence, Kansas, is approved as hereinafter modified.

The property in question has the following legal description:

East 50' of Lot 1, County Clerk's Subdivision of Out lot 35, to the City of Independence, Montgomery County, Kansas

The conditional use permit is subject to the following conditions:

1. The applicant must meet the conditions set forth in "Section 1013.0 Supplementary Parking" of the Zoning Code, including, but not limited to the following requirements:
 - a. Surface material: Areas used for standing and maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-seal surfaces maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.
 - b. Screening and buffer setback required:
 - i. Parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required, in lieu of such sight-obscuring fence, shrubs, trees or hedges may be substituted as approved by City staff.
 - ii. No off-street parking will be permitted within less than four feet of the property line under separate ownership.

- c. Lighting: Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district, on any adjacent dwelling, or create glare for oncoming traffic on City streets.
- d. Service drives:
 - i. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than 30 feet in width, nor less than 25 feet for two-way drives, nor less than 16 feet for one-way drives. In the case of a corner lot, service drives shall be located not closer than 30 feet to the intersecting street line. Service drives shall be located not closer than four feet to a side lot line, except that a common service drive of two adjacent properties with width not exceeding 30 feet may be provided at the common lot line.
 - ii. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 30 feet from their intersection.
 - iii. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.
- e. Plan: A plan drawn to scale shall be approved by the City prior to developing the proposed parking lot. Such plan shall include the following:
 - i. Delineation of individual parking and loading spaces by adequate striping.
 - ii. Circulation area necessary to serve spaces.
 - iii. Access to streets and property to be served.
 - iv. Curb cuts.
 - v. Dimensions, continuity, and substance of required screening.
 - vi. Grading, drainage, surfacing and subgrading details.
 - vii. Delineation of obstacles to parking and circulation in finished parking area.
 - viii. Specification as to signs and bumper guards.
 - ix. The nature and extent of landscaping and screening on the site.

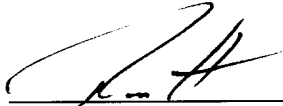
2. Drainage plan: The applicant shall provide a drainage plan prepared by a licensed engineer and construct those improvements designed to limit an increase in runoff drainage from the property above its current rate.
3. Minimum parking space dimensions: The minimum parking space dimensions shall be approved by the City prior to development.
4. Compliance with City Codes: The applicant must be in compliance with all City codes and must continue to be in compliance with all City codes including the requirement to obtain any required permits; such as a demolition permit, curb cut permit, etc.
5. Utility location: The applicant will notify Kansas One-Call and have the utilities located prior to construction.
6. Restrictions on use: The lot will be utilized for Montgomery County employee parking only and will not be utilized for storage of materials, equipment or disabled vehicles.
7. Sound system: There will be no sound amplification to be placed on the parking lot.
8. Landscaping and structures: Any landscaping or structures that are constructed adjoining any other properties will be the responsibility of Montgomery County to maintain and keep in good repair.
9. Litter: The applicant shall police the parking lot and adjoining areas to remove any litter.
10. Signage: If the applicant wishes to provide signage on this lot, such signage shall be limited to informational signs, i.e. directional signs and exiting and entrance signs. The size, type and placement of such signage shall be approved by the City.
11. Parking lot construction and all requirements of the conditional use permit shall be completed within one year of the approval of the conditional use permit, or the conditional use permit will be void, unless such delay is approved by the City.
12. If the applicant changes the use of the facilities served by the parking lot to any other use then the continuation of the conditional use permit will require review and approval by the City.
13. If the applicant sells the adjoining facilities and the sale does not include the parking lot or if the parking lot is no longer needed to serve the adjoining facilities then the lot will be cleared of all improvements and returned to an unimproved tract containing grass.
14. The Planning Commission may review continuation of this conditional use permit at its discretion for continuation of the conditional use. Such approval shall not be unreasonably withheld.

15. The conditional use permit is not transferable to another location.

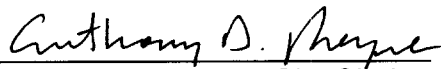
If any of the above conditions are not met the conditional use permit will no longer be valid.

Adopted and approved by the Governing Body of the City of Independence, Kansas, on the 4th day of February 2010.

(attest)



Mayor



Director of Finance / City Clerk



ARTICLE VII. OFF-STREET PARKING AND LOADING REGULATIONS¹

701.0. Applicability.

At the time of erection of a new structure, or at the time of enlargement to the extent of 25 percent or more, or change in use of an existing structure within any district in the city, off-street parking spaces shall be provided as in this section, unless the city commission deems it in the public interest to waive or modify this requirement. Parking shall be adequate to meet the demand in all cases. The following guidelines are offered but may be adjusted if sufficient evidence is presented to justify a change.

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

702.0. Off-street parking spaces required.

702.1. Dwelling and lodging uses:

Use		Parking Spaces Required
Children's homes		One for each 6 beds.
Dormitories		One for each 2 beds plus 1 for each 100 square feet of usable floor area.
Dwellings:		
	One- and two-family dwellings	Two spaces per dwelling unit.
	Multifamily dwellings containing three or more dwelling units	Two spaces per dwelling unit.
	Multifamily dwelling for the elderly	1.5 spaces per dwelling unit.
Fraternity and sorority houses		One for each 2 members or residents.
Mobile home or house trailer		Two for each dwelling unit.

702.2. Commercial residential uses:

Club, lodge	Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.
Motel/hotel	One space per guestroom or suite plus 1 additional space for owner or manager; 1 space for every 2 employees.
Roominghouses	One for each guestroom, but not less than 2 in any case.
Tourist homes and boardinghouses	One for each transient offered tourist accommodation in addition to parking spaces required for permanent residents of the building.

702.3. Institutional uses:

¹Cross reference(s)—Variances granted by the board of zoning appeals, § 2-116Cross reference(s)—; offstreet parking requirements for certain mobile homes, § 66-4Cross reference(s)—.

Convalescent, hospital, nursing home, sanitarium rest home, home for aged	One space per 3 beds for patients or inmates, plus 1 space for every 2 employees.
Hospital	One space per 4 beds, plus 1 space for each staff doctor, plus 1 space for each 3 employees (including nurses), plus adequate area for parking of emergency vehicles.
Welfare or correctional institution	One space per 5 beds for patients or inmates, plus 1 space for every 2 employees.
<i>702.4. Places of public assembly:</i>	
Auditoriums, meeting rooms	One space per 4 seats or 8 feet of bench length.
Church	One space per 4 seats or 8 feet of bench length in the main auditorium.
College, commercial school for adults	One space per 5 students enrolled in school, plus 1 space per 2 faculty members.
Elementary, junior high or middle school	Two spaces per classroom, or 1 space per 5 seats or 8 feet of bench length in auditorium or assembly room, whichever is greater.
High school	Two spaces per classroom, plus 1 space for each 4 students, or 1 space for 4 seats or 8 feet of bench length in auditorium, whichever is greater.
Library, reading room	One space per 400 feet of floor area, plus 1 space for every 2 employees.
Preschool nursery, kindergarten	Two spaces per teacher.
<i>702.5. Commercial recreation:</i>	
Bowling alley	Five spaces per alley, plus 1 space per 2 employees.
Clubs, country, golf or private	One for every 4 members or the requirements of any facility such as a restaurant or nightclub (whichever is greater).
Pool and billiard halls	One for each 100 square feet of usable floor area.
Skating rink	One space per 100 feet of floor area, plus 1 space per 2 employees.
Stadium, arena, outdoor theater	One space per 4 seats or 8 feet of bench length.
<i>702.6. Commercial uses:</i>	
Auction houses	One space per each 2 employees, plus 1 space per 4 seats or 8 feet of bench length, plus 1 space per each 75 square feet of patron standing area provided in the main sales area of the auction house.

Automobile salvage yards	One parking space for each employee, plus 1 parking space for each 10,000 square feet of storage area.
Automobile service station	One for each lubrication stall or area and 1 for each 2 gasoline pumps.
Automobile, truck, recreational vehicle, and mobile home sales lots, and farm equipment sales and service	One parking space for each 3,000 square feet of open sales lot area devoted to the sale, display and rental of said vehicles, plus 1 parking space for each employee.
Auto wash, self-service	Two holding spaces for each car washing stall plus 2 drying spaces for each car washing stall.
Auto wash (mechanical assembly line service)	Ten spaces minimum for customers awaiting service.
Auto repair garage	One for each 500 square feet of floor area; minimum 5 spaces.
Banks or savings and loan office (for drive-in type see "drive-in establishments")	One for each 300 square feet of floor area, plus 1 space per 2 employees.
Barber and beauty shop	Two for each shop operator.
Clubs, night	One for each 75 square feet of floor area.
Dance or music studios	One for each 200 square feet of floor area.
Dancehalls or ballrooms	One for each 100 square feet of floor area used for dancing.
Day care centers	One for each 10 pupils plus 1 for each employee.
Dental clinics or offices	Four spaces per staff dentist plus 2 spaces for each 3 employees, or 1 space for every 190 square feet of gross floor area, whichever is greater.
Drive-in eating place with service to automobile	Twelve plus 1 for each 50 square feet of building floor area.
Drive-in establishment, general	One for each 50 square feet of floor area.
Dry cleaning shops (automatic services)	One for each 2 dry cleaning machines.
Funeral homes	One space for 4 seats or 8 feet of bench length in chapels, plus 1 space for every 2 employees.
Health center	One for each 200 square feet of gross floor area.
Laundromats	One for each 2 washing machines.
Machinery sales, indoor	One for each 500 square feet of floor area, minimum 5 spaces.
Maintenance shops, in building	One for each 400 square feet of floor area.
Medical clinics or offices	Seven spaces per staff physician plus 2 spaces for each 3 employees, or 1 space for every 120 square feet of gross floor area, whichever is greater.
Ministorage area	Service drive requirement 25 feet nonfacing doors, or 30 feet with facing doors.

Motor vehicle sales, indoors	One for each 400 square feet of usable floor areas of sales room and 1 for each auto service stall in the service area.
Nurseries, open or enclosed retail sales area	One for each 600 square feet of sales area.
Office buildings and offices, general	One for each 300 square feet of floor area exclusive of basement or other interior space used for mechanical services and areas within the building used for parking cars.
Personal service establishments (see also barber and beauty parlors)	One for each 200 square feet of floor area.
Repair shop	One for each 400 square feet of floor area.
Research and testing laboratories	One for each 2 employees computed on the basis of the greatest number of persons employed at any 1 period during the day or night.
Restaurants having less than 4,000 square feet of floor area	One for each 200 square feet of floor area.
Restaurants having more than 4,000 square feet of floor area	Twenty plus 1 for each 100 square feet of floor area in excess of 4,000 square feet.
Retail shops, under 2,000 square feet of floor area	One for each 200 square feet of floor area.
Retail shops, 2,000 square feet of floor area or over	Ten plus 1 for each 400 square feet of floor area in excess of the first 2,000 square feet of floor area.
Shopping centers	5.5 parking spaces for each 1,000 square feet gross leasable floor area.
Theater	One for each 4 seats.
Veterinary clinic	One for each 300 square feet of floor area.
702.7. Industrial uses:	
Storage of: gravel, petroleum products, sand, etc., in open	One for each 2,000 square feet of total site area.
Storage warehouse, manufacturing establishment, air, rail or trucking freight terminal	One space per employee, plus 1 space per 400 square feet of patron serving area.
702.8. Ministorage facilities:	
a. Storage facility—doors not facing	25 feet hard-surfaced service and maneuvering area.
b. Storage facility—doors facing	30 feet hard-surfaced service and maneuvering area.

703.0. Off-street loading regulations.

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

703.2. Merchandise, materials, or supplies: Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated

if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

704.0. General provisions.

704.1. Determination of required number of spaces:

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

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

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

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

704.5. Location of parking and loading spaces:

- a. Off-street parking spaces for dwellings shall be located on the same lot or lots with the dwelling. Other required parking spaces shall be located no farther than 500 feet from the building they are required to

serve, measured in a straight line from the building's nearest point to the nearest point of the off-street parking area. Provided, any off-street parking spaces not located on the same lot, as permitted by this ordinance, must be located in the same zone as required for the building or facility it serves.

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

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

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

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

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

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

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

705.0. Design requirements.

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

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

705.2. Screening and buffer setback required:

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

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

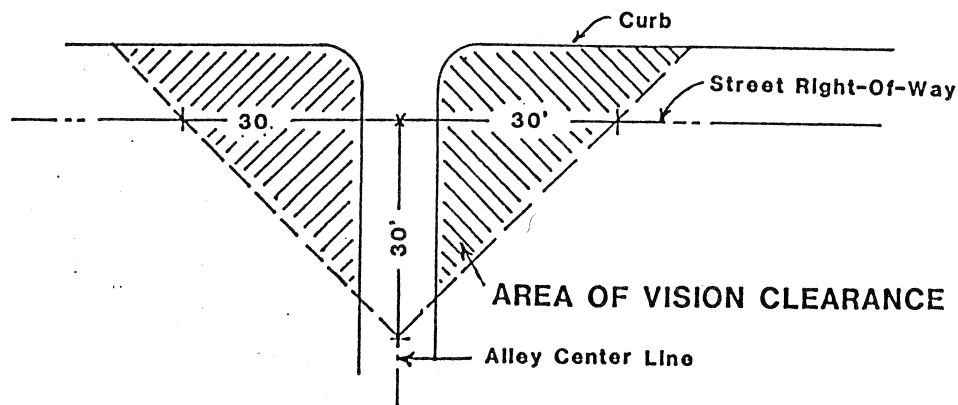
705.3. *Lighting:* Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district or on any adjacent dwelling.

705.4. *Service drives:*

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

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

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



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

705.5. *Minimum parking space dimensions:*

- a. If 90-degree parking space,
 - stall depth—19' 0"
 - stall width—9' 0"
 - aisle width—25' 0"
- b. If 60-degree parking space,
 - stall depth—19' 0"

-
- stall width—9' 0"
 - aisle width—18' 6"
 - c. If 45-degree parking space,
 - stall depth—19' 6"
 - stall width—9' 0"
 - aisle width—13' 6"
 - d. If 30-degree parking space,
 - stall depth—19' 0"
 - stall width—9' 0"
 - aisle width—11' 0"
 - e. If parallel parking space,
 - stall depth—8' 0"
 - curb length—23' 0"
 - aisle width—12' 0", or if adjacent to angle parking, use largest width

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

(Ord. No. 4147, § 3, 5-23-13)

ARTICLE X. SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS CONDITIONAL USES

1001.0. Purpose.

1001.1. Purpose: In granting a conditional use, the city may impose such conditions, safeguards and restrictions upon the premises benefited by the conditional use as may be necessary to reduce or minimize any potentially injurious effect of such conditional uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. Any lessening or subverting of those limitations and requirements constitutes a variance and must be treated accordingly. The following additional conditions shall be a requirement for the approval of the following conditional uses.

[1013.0. Supplementary parking.]

[1013.1. Conditional use of off-street parking:] Off-street parking for buildings and facilities used for public assembly, commercial, industrial or institutional purposes may be permitted in any zone as a conditional use. The purpose of providing such off-street parking may be to comply with Ordinance No. 3525 [this appendix], article VII, or to meet supplemental off-street parking needs.

[1013.2. Minimum standards:] All off-street parking lots permitted under the provisions of this ordinance must meet the following minimum standards, unless the city commission deems it in the public good to waive such requirements:

- A. All requests for off-street parking to comply with the provisions of article VII of the zoning ordinance shall meet all provisions of article VII.
- B. All requests for supplemental off-street parking not required by article VII of the city zoning ordinance shall comply with the following minimum design criteria:
 - 1. *Surface material:* Areas used for standing and maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-seal surfaces maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.
 - 2. *Screening and buffer setback required:*
 - a. Parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required, in lieu of such sight-obscuring fence, shrubs, trees or hedges may be substituted as approved by the conditional use permit.
 - b. No off-street parking will be permitted within less than four feet of the property line under separate ownership.
 - 3. *Lighting:* Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district, on any adjacent dwelling, or create glare for oncoming traffic on city streets.
 - 4. *Service drives:*

-
- a. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than 30 feet in width, nor less than 25 feet for two-way drives, nor less than 16 feet for one-way drives. In the case of a corner lot, service drives shall be located not closer than 30 feet to the intersecting street line. Service drives shall be located not closer than four feet to a side lot line, except that a common service drive of two adjacent properties with width not exceeding 30 feet may be provided at the common lot line.
 - b. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 30 feet from their intersection.
 - c. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.
5. *[Facilities overlapping zones:]* All off-street parking facilities permitted to be located in a zone other than the zone required for the building or facility it serves shall be immediately adjacent or touching such lots on which such building or facility is located, excluding public rights-of-way.

[1013.3. Approval process for conditional use permit; application:] The approval process for a conditional use permit allowed for under this section will be processed following the procedures enumerated in article II [IX], sections 901.0—901.2, 902.2—902.7. The application for a conditional use permit shall be filed with the zoning administrator at least 20 days prior to the regular city planning and zoning commission meeting. The application shall include but not be limited to the below information:

- a. A diagram of surrounding land uses, including location of buildings or structures.
- b. A plan drawn to scale showing the following:
 1. Delineation of individual parking and loading spaces by adequate striping.
 2. Circulation area necessary to serve spaces.
 3. Access to streets and property to be served.
 4. Curb cuts.
 5. Dimensions, continuity, and substance of required screening.
 6. Grading, drainage, surfacing and subgrading details.
 7. Delineation of obstacles to parking and circulation in finished parking area.
 8. Specification as to signs and bumper guards.
 9. The nature and extent of landscaping and screening on the site.
- c. Name of the landowner, and firm preparing the plan.
- d. Legal description of the tract.
- e. Zone in which the parking will be located.

(Ord. No. 3546, §§ 1—3, 6-8-88)

- d. **Public hearing to receive comments on a request for a conditional use permit for “Storage and warehousing of nonhazardous goods” in a C-4, highway commercial district at 2400 West Main Street.**

Overview of the Request

The Planning and Zoning Commission received a request from Miguel Mego representing Saiko Independence who is leasing property from KEP Holdings to issue a conditional use permit for the property located at 2400 West Main Street which is currently zoned C-4, highway commercial district.

The applicant intends to warehouse non-hazardous products related to his food truck business in a shipping container where the former Sonic was located before it was demolished. He plans to eventually develop the shipping container into a restaurant.

The property to the north is zoned M-2 heavy industrial. The property northwest, south and east is zoned C-4, highway commercial district.

Conditional Use Permit

The zoning ordinance in section 901.1 (page 87) describes the purpose of a conditional use as:

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

Appendix A of the zoning ordinance describes those uses in which a conditional use permit may be considered. Warehousing and storage of nonhazardous products is identified as allowable with a conditional use permit in a C-4 zoned district. In addition, packing and crating services are already allowed as a permitted use in this zone.

Requirement for Review of Conditional Use Permit

Article IX of the Zoning Ordinance addresses the purpose and authority regarding the issuance of conditional use permits. 901.1 sites four points that should be considered when determining any impact the proposed use might have on neighboring properties:

1. *The tendency to generate excessive traffic:* At present the site generates minimal traffic since the previous business closed and the building was demolished. The applicant will have a small number of employees and the customer traffic is anticipated to be less than the amount generated by the previous Sonic, therefore it is not anticipated that this will have any significant effect on traffic.
2. *A potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants:* It is not anticipated that this business will attract

more persons to this area than the previous drive-in restaurant. The noise level at this site would be minimal.

3. *A detrimental effect upon the value of or potential development of other properties in the neighborhood:* The property in question is surrounded by commercial and industrial properties. No detrimental impact is anticipated.
4. *An extraordinary potential for accidents or danger to the public health or safety:* It is not anticipated that public health and safety will be impacted.

The zoning ordinance in section 902.2 (page 89) provides that in considering a conditional use permit the Planning Commission shall base its recommendation on the following criteria:

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation. *The site is currently vacant. The proposed shipping container will be placed at the same location as the former Sonic and will meet all regulations.*
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public. *The food truck at its current location has been successful and is utilized by the public. The current site has been sold and the owner had to find another location.*
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. *City staff does not feel qualified to determine any negative impacts the change in use might have on the adjacent commercial and industrial property.*
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.*There are no structures on this tract currently, and the proposed structure will not dominate the immediate neighborhood. There is no screening on the site.*
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII). *This property was originally developed to meet the off-street parking and loading areas required for a drive-in restaurant, and the concrete is still in place. Therefore there is adequate parking available to accommodate the applicant's use.*
- f. Adequate drainage, and other such necessary facilities will be provided. *Drainage was addressed when the property was originally developed.*

- g. Adequate entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys. *This was addressed when the property was originally developed and the entrance and exit drives are still intact.*

Comprehensive Plan

In reviewing this conditional use request to utilize an existing structure for nonhazardous storage use in an area zoned for commercial purposes City staff believes that it is appropriate to consider the objectives and policies included in the comprehensive plan. Those objectives and policies are as follows:

Conformance with the Comprehensive Plan:

Commercial Goal – To provide sufficient neighborhood and community-wide shopping facilities efficiently distributed throughout the community and adequate opportunity for commercial expansion.

Objective C4 – Limit strip commercial development along the major streets to business directly serving the motoring public.

Policy C41 -- Strip commercial development, single commercial uses stringing out along a street, shall be limited to those uses directly serving the motoring public such as motels, service stations and fast-food restaurants.

Policy C42 -- 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.

Staff Recommendation

In reviewing the policies included in the comprehensive plan and provisions of Section 901 of the zoning ordinance, the Planning Commission must consider whether the intended use of this facility will be compatible with other adjoining uses and code requirements. Furthermore, you should consider if there are any potential negative impacts on environmental concerns; i.e. noise, dust, odors, solid waste. In reviewing environmental impacts the type of activities as described by the applicant should not create any environmental issues.

As part of your deliberations, it is included in the staff report that this property has remained vacant since August 21, 2019, when Sonic moved locations. Finding new retail businesses to purchase large properties appears to be an issue in many communities throughout the country.

If you find that the best use of this property following the guidelines of the comprehensive plan and the impact allowing the conditional use will have on the community then you should approve a conditional use permit. If you determine that the requested use would create a negative impact, then you may wish to deny the conditional use permit.

A final factor could be the continuation of a successful business that could be relocated to this space.

Staff's recommendation is to approve the conditional use permit with the suggested conditions.

Suggested Motion:

I move to recommend approving a conditional use permit for “Storage and warehousing of nonhazardous goods” in a C-4, highway commercial district at 2400 West Main Street with the following restrictions which shall be binding on all future owners, assigns or heirs:

1. The conditional use permit is not transferable to another location.
2. The conditional use permit shall be reviewed for compliance every five years.
3. The primary use of the proposed shipping container will be warehousing and storage of non-hazardous goods related to the food truck business. All such goods will be stored inside the shipping container or food truck.
4. The access road from West Main Street and West Laurel Street will remain accessible to employees and patrons of the business, unless required to be modified by KDOT.
5. The location of solid waste equipment shall be designated by the company and will need to be approved by City staff. All solid waste containers shall be screened from adjoining properties.
6. The parking lot shall be maintained in appearance and shall not be used for overnight storage of vehicles not directly related to the business.
7. Any additional exterior lighting on site will need to be approved by City staff.

d. Other discussion.

April Nutt is hosting a discussion with realtors on May 5, 2021 and one of the topics will be Tiny Houses. She plans to present the results to the Planning Commission at their June 1, 2021 meeting.

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, May 4, 2021 at 5:30 p.m.

To receive comments on a request for a conditional use permit for “Storage and warehousing of nonhazardous goods” in a C-4, highway commercial district at 2400 West Main Street.

Legal Description:

INDEP CITY UNPLATTED, S35, T32, R15, 22472 SQUARE FEET, BEG NW COR NW4 NE4 E 228.7' S TO N R/W LI US HWY 75 NWLY ALG R/W TO PNT 102.5' S OF NW4 COR N TO POB; LESS R/W'. To see the full legal, contact the Zoning Administrator.

Common Addresses:

2400 West Main Street

Applicant/Owners:

Miguel Mego, Applicant

KEP Holdings, LLC, Owner

Case Number:

2021/CUP/03

The hearing will be conducted in the Civic Center, Memorial Hall, 410 N. Penn, 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 Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

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

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

Kelly Passauer, Zoning Administrator

Inside City -- 200' Notification Area Shown in Red



APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING COMMISSION

DATE FILED 4-8-21
\$200 FEE PAID yes
Rec # 01132884

NAME AND ADDRESS OF PERSON MAKING APPLICATION:

Miguel Mego, 13590 Decatur Rd
Fredonia, KS 66736

LEGAL DESCRIPTION OF LAND INVOLVED:

COMMON ADDRESS OF SAID LAND:

2400 Main St.
Independence, KS 67301

PRESENT ZONING CLASSIFICATION:

STATEMENT OF INTENDED USE OF PROPERTY:

Storage and warehousing of nonhazardous
products

DESCRIPTION OF ARCHITECTURE & EXTERIOR MATERIAL TO BE USED:

Container use a storage, will paint and put some light awning,
outside dining table. Attached some pictures of the container will be.

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

4/8/2021

Date

Miguel

Signature of Applicant

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

Date

Signature of Building Inspector

Action of Planning and Zoning Commission:

(Approved, Denied --- Date)

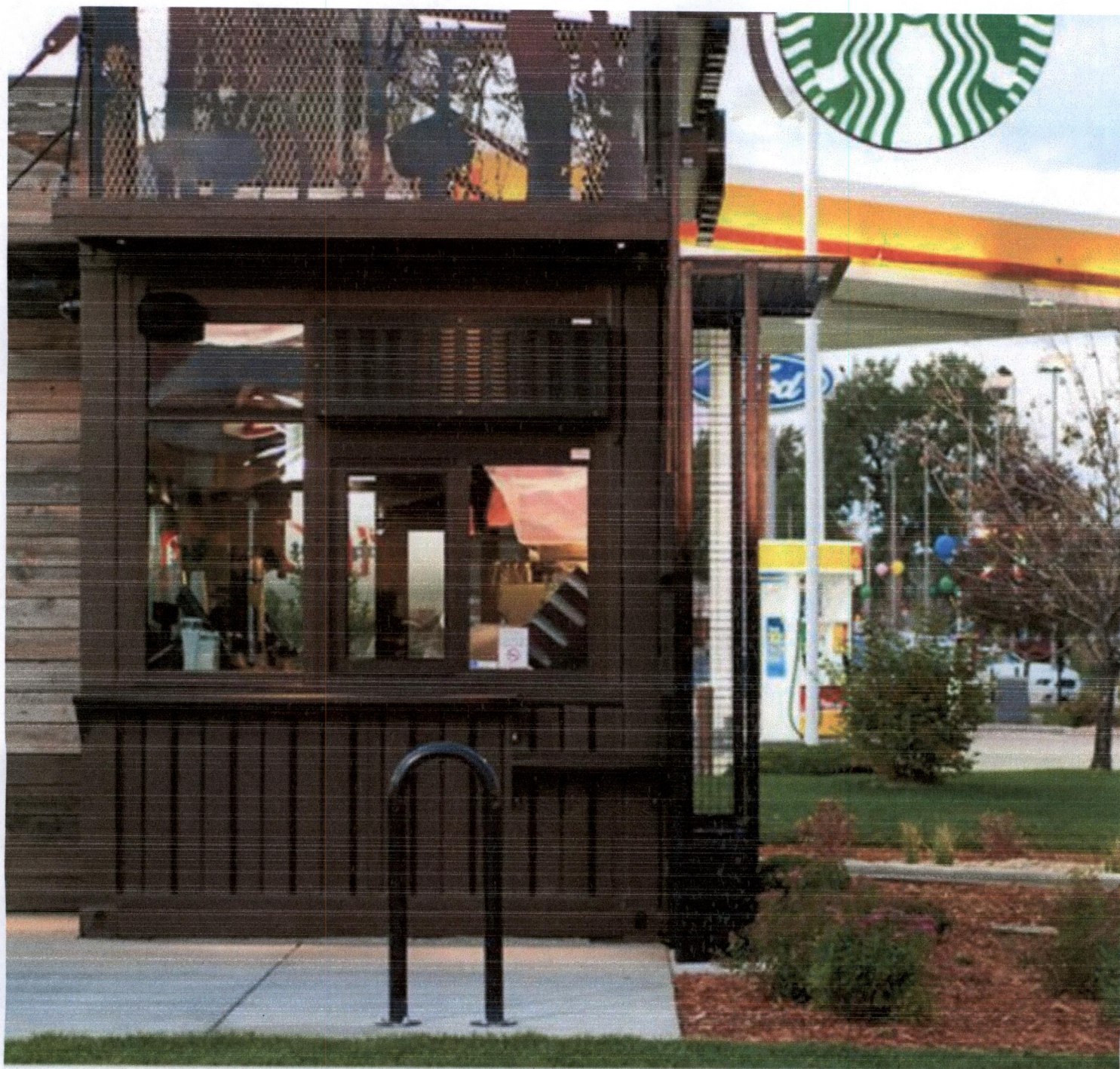
Comments:

Chairman

Vice Chairman

Secretary





Container Cafe, Container Restaurant, C...

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BEFORE



AFTER



CITY OF INDEPENDENCE

REC#: 01132884 4/08/2021 10:22 AM
OPER: JESS TERM: 001
REF#:

TRAN: 1.9000 VARIANCE
CONDITIONAL USE PERMIT
2400 W MAIN
MISC FEES 200.00CR

TENDERED: 200.00 CHECK
APPLIED: 200.00-

CHANGE: 0.00

From: [Jeff Ports](#)
To: [Kelly Passauer](#)
Subject: Former Sonic Property - 2400 W Main
Date: Friday, April 30, 2021 3:05:01 PM

Kelly,

Miguel & Yvonne Mego have my permission to pursue a Conditional Use Permit on my property at 2400 W. Main Street.

Thanks for your assistance,

Jeff Ports, Managing Member
KEP Holdings, LLC
620-431-2030