



# Springfield Planning and Zoning Commission

City Council Chambers

Date: October 2, 2014  
Time: 6:30 p.m.

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Members: Matt Edwards (Chairman), Tom Baird IV (Vice-Chairman), Jim Hansen, Jason Ray, Phil Young, Shelby Lawhon, Gabrielle White, Melissa Cox, David Shuler

## 1. ROLL CALL

## 2. APPROVAL OF MINUTES

### September 4, 2014

Documents: [MINUTES 9-4-2014.PDF](#)

## 3. COMMUNICATIONS

### Review Of City Council Meetings

Documents: [COUNCIL SUMMARY REPORT.PDF](#)

## 4. CONSENT ITEMS

(All items may be approved with a single motion without a public hearing, unless removed from the consent agenda)

### 5. Relinquish Easement 813

3500 S. South Avenue, Gillenwaters Development, Inc.

Documents: [RE 813.PDF](#)

## 11. PUBLIC HEARINGS

### 7. Vacation 773

Holland Avenue, Board of Governors MSU

Documents: [VACATION 773.PDF](#)

### 8. Z-22-2014

1611 N. Campbell, Neil Stenger

Documents: [Z-22-2014.PDF](#)

· **9. Z-23-2014 W/ Conditional Overlay District No. 81**

1300 S Lexington Avenue, Jeff Boyce

Documents: [Z-23-2014 COD 81.PDF](#)

· **10. Z-24-2014**

4901 W. Chestnut Exp., City of Springfield

Documents: [Z-24-2014.PDF](#)

· **11. Planned Development 346**

2915 E. Battlefield Road, KD Concepts, LLC

Documents: [PD 346.PDF](#)

· **12. Conditional Use Permit 412**

1239 E. Cherry Street, RKJ Properties, LLC

Documents: [UP412.PDF](#)

· **13. Text Amendment Temporary Uses/Special Events Amendments**

City-Wide, City of Springfield

Documents: [SPECIAL EVENTS AMENDMENTS.PDF](#)

· **14. Preliminary Plat Kensington Park Phase III**

1300 S. Kansas Expressway, Jeff Boyce

Documents: [KENSINGTONPARKPHASEIII.PDF](#)

· **15. Subdivision Variance 349**

1100 N. Glenstone Avenue, Gillenwaters Development, Inc.

Documents: [SUBVAR349.PDF](#)

## **13. OTHER MATTERS**

## **19. ADJOURN**

For items for which the public may speak, the Commission Chairperson will invite anyone who wishes to speak to an item after staff makes its presentation. **Please fill out a Speaker Card. When you address Commission, please step to the microphone at the podium and state your name and address.** All meetings are televised live and tape recorded. Please limit your remarks to five (5) minutes unless Commission allows a longer time. In accordance with ADA guidelines, if you need special accommodations when attending any City meeting, please notify the City Clerk's Office at 417-864-1443 at least three (3) days prior to the scheduled meeting.

## MINUTES OF THE PLANNING AND ZONING COMMISSION

DATE: Sept. 4, 2014

TIME: 6:30 pm

The regular meeting and public hearing of the Planning and Zoning Commission was held on the above date and time in City Council Chambers, third floor of City Hall with the following members present: Matt Edwards (Chairman), Tom Baird, (Vice-chair), David Shuler, Jim Hansen, Shelby Lawhon, Phil Young, Gabrielle White and Melissa Cox. Staff in attendance: Ralph Rognstad, Director of Planning, Bob Hosmer, Principal Planner; Sarah Kerner, Assistant City Attorney, Rodney Colson, Public Works, Dawne Gardner, Public Works, Sandy Goddard, Administrative Assistant. Absent: Jason Ray.

### ROLL CALL:

APPROVAL OF MINUTES: July 31, 2014

### COMMUNICATIONS:

Mr. Hosmer reviewed City Council action from the meetings of August 4, and August 18<sup>th</sup> meetings.

### FINALIZATION AND APPROVAL OF CONSENT ITEMS:

- |                                                                   |                                         |
|-------------------------------------------------------------------|-----------------------------------------|
| 1. Relinquish Easement 810<br>(248 E. Monastery Street)           | Dave Coryell                            |
| 2. Relinquish Easement 811<br>(2000 block Chesterfield Boulevard) | Chesterfield Square Prop Owner's Assoc. |

Mr. Young motioned to approve the consent agenda items. Mr. Baird seconded the motion. The motion carried as follows: Ayes: Edwards, Baird, Hansen, Young, Lawhon, White, Cox, and Shuler. Nays: None. Abstain: None. Absent: Ray.

### V. PUBLIC HEARINGS:

- |                                                                             |                     |
|-----------------------------------------------------------------------------|---------------------|
| 3. Z-17-2014 w/ Conditional Overlay District No. 80<br>(430 – 444 East Elm) | So El District, LLC |
|-----------------------------------------------------------------------------|---------------------|

Mr. Hosmer stated this is a request to rezone approximately 0.62 acres of property generally located at 430, 438 and 444 East Elm Street from an R-HD, High Density Multi-Family Residential District to a CC, Center City District and establishing Conditional Overlay District No. 80. The applicant intends a mixed-use development with businesses and residential uses. The accompanying Conditional Overlay District will provide for parking requirements for the residential uses, however the number of off-street parking spaces can be reduced up to 20% of the required parking by providing bicycle parking spaces at a rate of two (2) bicycle spaces for each required off-street automobile space. This proposal did not require a Multi-Family Location and Design Guidelines assessment per CC, Center City District regulations. The adjacent alley will have to be constructed to 20 feet of pavement where 20 feet does not currently exist along the property frontage east to Kimbrough and a Traffic Study will have to be completed and approved by Public Works

Traffic Division prior to any development on the subject property. Adjacent property owners were notified and a neighborhood meeting was held on August 7, 2014 with no objections. Staff recommends approval.

Mr. Edwards opened the public hearing.

Mr. Derek Lee, Lee Engineering, 2101 W. Chesterfield Blvd., commented he is representing the owner. Mr. Lee stated at the neighborhood meeting one of the comments that came up is the parking issue. The intent is for this to be a residential development and staff has approved in the past the 80% parking adjacent to Center City areas and they provided that in response in working with the neighborhood and staff.

Mr. Edwards closed the public hearing.

Mr. Lawhon motioned to approve Z-17-2014 w/ Conditional Overlay District No. 80. Mr. Young seconded the motion. The motion carried as follows: Ayes: Edwards, Baird, Hansen, Young, Lawhon, White, Cox, and Shuler. Nays: None. Abstain: None. Absent: Ray.

- 4. Z-18-2014 w/ Conditional Overlay District No. 77  
(3040 East Cherry)
- 8. Preliminary Plat Cherry Street East  
(3040 E. Cherry Street)

Gary Burks

Gary Burks

Mr. Edwards noted both cases would be heard together.

Mr. Baird motioned to amend the agenda to hear the two cases together. Mr. Hansen seconded the motion.

Mr. Hosmer stated the purpose of this request is to rezone approximately 36.22 acres of property generally located at 3040 E. Cherry Street from an R-LD, Low-Density Multi-Family Residential District with Conditional Overlay District No. 20 and GM, General Manufacturing District to an R-LD, Low-Density Multi-Family District, GM, General Manufacturing District and HC, Highway Commercial District; and establishing Conditional Overlay District No. 77. The applicant is proposing self-storage facilities in the GM District, a convenience store with fuel pumps in the HC District and multi-family residential uses in the RLD District. The preliminary plat of Cherry Street East has been submitted to be processed simultaneously with this request. The applicant is requesting a conditional overlay district that will restrict the maximum density to eleven (11) dwelling units per acre on Lot 1. The proposed conditional overlay district will also require Cherry Street to be widened with a turn lane and record the Cherry Street East final plat. The southern half of the subject property is covered by sinkholes and is within a no-build zone as shown on the Preliminary Plat of Cherry Street East. The subject property was zoned GM, General Manufacturing until 2008 when all but two (2) acres were rezoned to R-LD with a Conditional Overlay District No. 20 to restrict the residential intensity to less than seven (7) dwelling units per acre and allow for an apartment complex. The new developer is proposing to leave majority of the property zoned R-LD as shown on Lot 1 of the preliminary plat for Cherry Street East, but increase the residential intensity to eleven (11) dwelling units per acre. They are also requesting to expand the GM zoning an additional acre to the south as shown on Lot 2 to build a self storage facility. The existing telecommunications tower will remain. Lot 3 will be rezoned to HC to allow for a new convenience store with fuel pumps. The proposed rezoning with the conditional overlay district meets the recommendations and intent of the Comprehensive Plan, GM, HC and R-LD Districts. The requirements of the Springfield Zoning Ordinance shall be as modified herein for development within this



district with the following conditions. The maximum residential density for Lot 1 is eleven (11) dwelling units per acre. A traffic study will be required for all lots and any required improvements shall be constructed unless the developer agrees to widen Cherry Street and construct a center left turn lane as approved by the Director of Public Works. A final plat subdividing the subject property into lots as described shall be recorded per the Zoning Ordinance and Subdivision Regulations. The Preliminary Plat is to subdivide approximately 36.22 acres into a three (3) lot subdivision and requesting a subdivision variance for a lot without full frontage on a public street. The Subdivision Regulations requires all lots to abut by their full frontage on a publicly dedicated street. Staff supports the request because Lot 1 will have safe public access onto Cherry Street that will meet City standards despite the configuration.

Mr. Hosmer outlined the three lots for Commission showing the proposed zoning and the location of the sinkhole.

Mr. Edwards opened the public hearing.

Mr. Jim Scott, P. O. Box 35, Ozark, Mo stated he is representing the developer. Mr. Scott stated the project would include a transition zone between all the property on the south and west and between the GM to the North and will be a plus to the City and surrounding property owners. The existing TV Station structure will be demolished. The existing building to the east of the station will be renovated and adapted as a club house as well as rental office for the apartment project. The density will be slightly less than eleven (11) units per acre.

Mr. Hansen clarified that they are including the entire acreage of Lot 1 in the eleven (11) units per acre.

Mr. Scott said yes.

Mr. Edwards closed the public hearing.

Mr. Lawhon motioned to approve Z-18-2014 w/ Conditional Overlay District No. 77. Mr. Baird seconded the motion. The motion carried as follows: Ayes: Edwards, Baird, Hansen, Young, Lawhon, White, Cox, and Shuler. Nays: None. Abstain: None. Absent: Ray.

Mr. Baird motioned to approve Preliminary Plat Cherry Street East. Mr. Hansen seconded the motion. The motion carried as follows: Ayes: Edwards, Baird, Hansen, Young, Lawhon, White, Cox, and Shuler. Nays: None. Abstain: None. Absent: Ray.

5. Z-19-2014 w/ Conditional Overlay District No. 78  
(4833 S. Campbell Avenue)

Ward Branch ETAL TR

Mr. Young recused himself from the hearing.

Mr. Hosmer commented that this is a request to rezone approximately 92.74 acres of property generally located at 4833 South Campbell Avenue from an R-SF, Single-Family Residential District to an O-1, Office District and a GR, General Retail District; and establishing Conditional Overlay District No. 78. This is a request to rezone approximately 40.63 acres to an O-1, Office District on the west side and approximately 52.11 acres to a GR, General Retail District on the east side near Campbell Avenue. This application includes a Conditional Overlay District to prohibit crematoriums as a permitted use within the GR district, to

increase buffering along the west property line of the proposed GR zoned area and to require certain public improvements. The subject property is located in the northwest quadrant of Campbell Avenue, which is classified as an expressway at this location, and Weaver Road, a secondary arterial. The subject property is in close proximity to the Campbell Avenue/James River area which has been identified as an Activity Center. Activity Centers are locations of significant business, institutional and higher density housing development. Upon development of the subject property for retail and office uses, bufferyards will be provided adjacent to the residential development. The applicant had originally proposed a minimum one-hundred (100) foot wide bufferyard adjacent to the residential development within both the proposed O-1 and GR zoned areas. The applicant has modified their application and is now proposing a minimum fifty (50) foot wide bufferyard along the west property line on Wellington Hills Subdivision adjacent to the proposed GR zoned area. The applicant proposes to provide a minimum fifteen (15) foot wide bufferyard with plantings with no fence as required in the O-1 District along the west and south property lines adjacent to the proposed O-1 zoned areas which is Wellington Hills and Quail Creek Subdivisions. Any building constructed within the proposed O-1 zoned area must remain below a forty-five (45) degree bulk plane from any residential district. There is a maximum height of thirty-five (35) feet for all buildings on the office area. Off-street parking lots must be screened from residential uses as well as trash facilities or any mechanical or equipment shall be shielded. A lighting plan shall be designed to reflect light away from adjacent residential uses. There must be a minimum of twenty (20) percent open space. Several public improvements are needed to accommodate of the subject property. The property will need to be subdivided with a major subdivision with a platted street system in accordance to the Major Thoroughfare Plan as adopted in 2001. The subdivision and development of this property will require development of a street system through the subject property and street connections to existing streets to the north, west and south to provide for internal circulation within the development and interconnectivity of the street system. The extension of Lakewood Street and El Camino Alto are required as well as a connection to Buena Vista and either Buckingham Lane or Wellington Drive. When Buena Vista Street was platted as part of Quail Creek subdivision it was designed as a collector street with additional right-of-way width (sixty feet as opposed to fifty feet) and was extended to both the east and west edges of the subdivision with the intent to allow for future connection. In addition, individual driveways are not permitted on Buena Vista Street and all of the homes along the street take access from the local streets that connect to Buena Vista. Street connectivity provides for improved safety, reduces gas consumption, air pollution and traffic volumes (congestion) on major streets and encourages alternative transportation modes such as walking and cycling. The proposed street connections will provide the opportunity for residents in the adjacent neighborhoods to easily access the facilities and services within the proposed development and those already existing to the north without having to access the major street system.

Mr. Hosmer noted that currently Quail Creek Subdivision has only one way in and one way out and that is only through Republic Road. The Parks, Open Space and Greenways Plan Element of the Comprehensive Plan shows the corridor of the Ward Branch Greenway extension through the subject property. Upon subdivision and development of the property, a connection will need to be made from the existing Ward Branch Greenway Trail to The Library Center to accommodate bicycles and pedestrians. There was a neighborhood meeting held on August 8, 2014 and there are sixty-five property owners within 185 feet of the property. Staff has received several phone calls from nearby property owners and has received many letters that are attached in the packet tonight. The Conditional Overlay District will modify the GR District to prohibit crematoriums and require a Type F Bufferyard at least fifty (50) feet wide along the west side of the proposed GR zoned area adjacent to the east side of Wellington Hills subdivision. The Conditional Overlay District will also modify the O-1 and GR District to require the property be subdivided as a major subdivision.

As part of the subdivision, the extension of Lakewood and El Camino Alto are required as well as a connection to Buena Vista Street and either Buckingham Lane or Wellington Drive. The design of the public streets within this development shall utilize bends, round-a-bouts, tee intersections or other design features to discourage cut-through traffic through the residential neighborhoods. Development within this district may be phased as long as the necessary public improvements to support each phase are provided in accordance with an approved phasing plan approved by the Administrative Review Committee. A Traffic Study shall be approved at the time of development by the City Traffic Division and Missouri Department of Transportation (MoDOT) which may require additional public improvements. A bike/pedestrian connection shall be made through the development to connect the existing Ward Branch Greenway Trail to The Library Center. The connection can be by a separate bike path or on-street accommodations. The specific location of the connection shall be approved by the City Traffic Engineer.

Mr. Hansen commented that the report noted that since the Ward Branch is a blue line stream that they must obtain a jurisdictional determination from the US Army Corp of Engineers asking if that has been filed yet.

Mr. Hosmer said he would refer to the Stormwater Engineer, Todd Wagner.

Mr. Wagner stated that would be a question for the developer, however, he doubts that at this point they have. Plans have to be developed far enough along so that they would know if they are going to be encroaching into the stream and whether they do need a permit.

Mr. Edwards asked for clarification on the bufferyard requirement in the zoning and what the applicant has requested.

Mr. Hosmer said the zoning requires a fifteen (15) foot bufferyard around the proposed Office District. The applicant is proposing a (50) foot wide bufferyard along the west property line on Wellington Hills Subdivision adjacent to the proposed GR zoned area.

Mr. Edwards opened the public hearing.

Mr. Jay Wynn, 5051 S. National Avenue, commented he is representing the developer, Curtis Jared. Mr. Wynn stated that at the public meeting he tried to show at the public meeting how and the road system would be laid out within the development to deter the traffic from cutting through Quail Creek; noting that many people at the meeting had issues with that connectivity adding he attempted to show them the Major Thoroughfare Plan requirements of showing the connection. The neighborhood was not happy with the traffic in Quail Creek.

Mr. Baird asked Mr. Wynn to explain the traffic calming measures to cut down on traffic going through Quail Creek.

Mr. Wynn stated that would be by round-a-bouts, turning, and off-setting intersections to prohibit people from having a straight shot into Quail Creek but again, that was an issue for many of the people.

Mr. Hansen asked Mr. Wynn to describe in general terms what they plan to put on this land.

Mr. Wynn stated that at this time they have no idea; they can't get a tenant because they want the zoning. There is interest in the property due to the location of the property, but there is no tenant designated at this time for that property.

Mr. Baird asked about the time line for Buena Vista to be extended to the west to connect with Farm Road 145.

Mr. Hosmer stated no, he is not aware of any timeline.

Fifteen members of the public spoke against the proposed rezoning.

The concerns of the neighborhood were the increased traffic through the neighborhood; devaluation of property; transparency and cooperation; the bufferyard reduction; cut through traffic; flooding issues and erosion; lost of peace and quiet and the safety of the neighborhood with only one way in and one way out; safety of children in neighborhood; increase in crime; disregard for speed limits in the neighborhood; concern for increase in potential traffic accidents and vehicle/pedestrian accidents; narrow streets with lawn mowing companies, service companies, and trash trucks each Monday and Thursday; the intensity of the proposed development; question of using a step-down zoning in this area; extension of Lakewood Street to Buena Vista Street and internal street connections of Buckingham Lane or Wellington Drive;

Mr. Jim Rock, 4610 S. Quail Creek  
Mr. Bill Nicholson, 4697 S. Woodpoint Avenue  
Ms. Sara Brodersen, 4637 S. Turnberry  
Dr. Willis Hoyt, 4624 S. Quail Creek  
Mr. Charles Dischinger, 702 W. Farm Road 178  
Mr. David Cobb, 4651 S. Quail Creek  
Mr. Jeff Gilbert, 786 W. Kingsway  
Dr. Tim Cederblum, 4991 S. Buckingham  
Mr. Tom Rykowski, 4612 S. Woodpoint  
Mr. Tim Bertholdi, 1110 W. Rockhill  
Ms. Aleta Dyer, 4926 S. Wellington Drive  
Mr. Gary Crain, 4320 S. Quail Creek  
Mr. Michael Dailey, 4660 S. Quail Creek  
Mr. David Inman, 4694 S. Quail Creek Avenue  
Mr. Elijah Harr, 4740 S. Woodpoint

Ms. Stephanie Stenger Montgomery spoke in favor of the proposed rezoning on behalf of the property owners to the north; the rezoning is consistent with the adopted land use plans and the City's policies; it compatible and consistent with the character of the nearby property. The existing R-SF is not consistent for the area and the rezoning would not be detrimental to the surrounding properties.

Mr. Hosmer commented the map is the Major Thoroughfare Plan, the generic general layout of what they proposed back in 2001 as far as the connectivity. It was not included it in the packet because it is not part of the rezoning case.

Mr. Hansen asked which direction the water was flowing.

Mr. Hosmer noted that the water is heading south, toward the Ward Branch area.

Mr. Hansen asked about the northern branch of Ward Branch that goes to the north border of the proposed property, going under academy sports and do we have any idea how big a watershed drains through that.

Mr. Wagner asked if Mr. Hansen was speaking of the tributary coming under Sam's Club and under the freeway; estimating around two hundred acres maybe, commercial on Republic and residential north of that; it drains through there.

Mr. Baird asked Mr. Cobb if when he purchased his home if he was aware that Buena Vista was labeled as a collector street and would be connected to areas to the east and west of the neighborhood.

Mr. Cobb said yes.

Mr. Hansen asked Mr. Cobb if the road doesn't go through if the development would be a big objection to him.

Mr. Cobb stated he thought it would stay residential homes and expected the connection to be to residential.

Mr. Hosmer clarified that Quail Creek was platted 1995 and 1996 Phase 5 and Phase 6; the road was platted with a sixty (60) foot right of way for a collector street and the collector street did not matter if it was zoned R-SF or GR, or O-1; it does not matter about the use of the property, it was planned on the Major Thoroughfare Plan and was classified as a collector street for connectivity. This has been in place since 1995. Whether the zoning takes place or not, the street is planned as a collector going through the property.

Mr. Baird asked if it is the City's requirement or the developers desire that this plat of land be connected to Buena Vista.

Mr. Hosmer said yes; they would require it from the subdivision process that it have streets in all directions; in this case Buena Vista having an east and west connection and also having a connection to the north going to Republic Road.

Mr. Baird clarified even though that area has changed significantly in the past twenty five years.

Mr. Hosmer stated the connectivity would still be required. There is only one entrance and should there be an emergency, it is not well served for the public have one access entry into a subdivision.

Mr. Edwards noted to follow up, that is the City's policy on any development that space two roads, and the City requires connectivity on that issue.

Mr. Hosmer said that is correct.

Mr. Edwards noted that the City has not done that in the past, from time to time, is that correct.

Mr. Rognstad stated that there have been roads that have not been connected; mostly they were local

streets. The Major Thoroughfare Plan shows the collector connecting from Farm Road which is Kansas Avenue through Buena Vista and divides and goes over to Campbell. The Major Thoroughfare Plan is a guide of where the streets should be. The exact alignments are determined during the subdivision process. Based on City Policy, the collector street should be continued from one arterial to the other.

Mr. Wagner noted that in the cases Mr. Edwards has referred to in the past where that requirement was waived; those areas had multiple ways in and out already existing. In this case there is not that option.

Mr. Baird asked what would have to happen for Buena Vista to connect to Farm Road 145 to the west; is it this development that would push that connectivity or is it a development to the West of Quail Creek or what has to happen for that requirement to be met.

Mr. Rognstad stated that at this time the City would wait for a development to occur on the west side. There are very few occasions that that the City would go out and purchase the right of way and extend the road.

Mr. Hansen clarified with staff that the extension from Quail Creek to Kansas across what is vacant land now would not happen until that is developed because presumably the developer would be responsible for that.

Mr. Hosmer said the City would require them to build that and plat that when that came through; if that was developed as a single family development we would require that collector to be generally located in that location with a sixty (60) foot right of way.

Mr. Hansen noted that as it is today until some unspecified date in the future the Buena Vista extension would end up being to Quail Creek Street and not on through to whatever. So what we would be doing is connecting Buena Vista to Quail Creek, correct.

Mr. Hosmer said that is correct.

Mr. Hansen stated that would have a negative effect upon Quail Creek until some unspecified day in the future when that other property is developed, then Buena Vista would go straight through.

Mr. Hosmer said yes.

Mr. Rognstad stated it would rearrange the traffic patterns, the questions is how will it rearrange the patterns and how much traffic will you get from outside going through. We believe this will be serving the Quail Creek neighborhood for people accessing the commercial office development to the east that it would not significantly increase the number of people from outside the neighborhood through the area. There is no way to quantify that.

Mr. Baird asked if this is a requirement of the City or the desire of the developer to connect Wellington and or Buckingham since this neighborhood is already connected. This neighborhood has multiple points of access and connectivity.

Mr. Hosmer noted it is a requirement of the City. They don't have connection to the north only to Weaver so that would be up to traffic division.

Mr. Gugel stated from the stand point of not only local traffic but emergency vehicles the idea is to have that connectivity to allow that type of traffic or flow of traffic. They look at each development to tie in all directions and they have options in the design to limit or reduce the amount of cut through traffic. It will never be eliminated completely, but things can be done to discourage it.

Ms. Stephanie Stenger Montgomery spoke in favor of the propose rezoning on behalf of the property owners to the north, adding the rezoning is consistent with the adopted land use plans and is compatible and consistent with the character of the nearby property. The existing R-SF is not consistent for the area. Springfield is not a Community that embraces multi-family housing which is a reality of the market place. The rezoning will not be detrimental to the surrounding properties.

Curtis Jared, 2870 S. Ingram Mill Road, commented he is the developer of the property. Mr. Jared discussed they have to create an onsite water detention so there will be no water dumped into the water ways which is not allowed by the City. Concerning the connector to the neighborhood, they would rather not build them. If it is a requirement they have to build them in order to move the project forward, that's a part of doing business. The topography of the back property is not conducive to residential building; it will be an expensive proposition.

Mr. Baird asked why the change in the bufferyard.

Mr. Jared said to accommodate future parking and tenants' needs. The roads will be wider than what the bufferyard will be and they don't want to limit themselves.

Ms. Cox asked Mr. Jared if he had to get any kind of jurisdictional ruling from the Corp of Engineers on the Ward Branch that moves through the area.

Mr. Jared stated if they alter the property in any way, yes they will have to. Most people they deal with don't want to come into a site not knowing if they can get the zoning and build, so most of them want things prepared and ready to go. This is a first step in determining what can be put on this site.

Mr. Hansen noted that if the neighborhood as well as Commission knew what of kind of development was going to go on the site would make it easier to make a determination and the neighbors are thinking the worse case, what is the most intense use of that land that is possible.

Mr. Jared commented that any tenants they will be negotiating with will be similar to Academy Sports or Freddy's and Sam's Club; the reality of this property is, if you speak with any engineer, if this was a flat piece of ground this would have been developed years ago. It is all over the board and with the Army Corp of Engineers to deal with along with any sort of change of the streams that come through; there is a lot of money in site cost. There are too many unknowns and you won't develop plans for a piece of property till you have it zoned on just an assumption.

Mr. Edwards closed the public hearing.

Mr. Baird commented he can see both sides of the fence in this issue and has serious concerns over dumping office through a residential neighborhood. Mr. Baird asked about the intersection of Bedford, Bowman and Cherokee asking if the City considered that to be connected because Blackman Woods has

only one entrance.

Mr. Rognstad stated the City does not consider that connected. The reason that was put in was there was a large call center and there was a lot of traffic that was using this as a cut through. It's not a collector; it's a smaller local street.

Mr. Gugel commented that was done several years ago for the reason given; one of the reasons why that was used as a cut through had to do with what the situation was on Sunshine as far as signals and ingress/egress off Sunshine. That was put in as a response to that particular activity going on. Since then there have been improvements that have occurred on Sunshine and that goes back to how we look at the traffic study and things that we handle now through design to provide connectivity but discourage the cut through traffic. There is a traffic calming program in place when the neighborhoods contact us about an issue and the City enters into a discussion with them to figure out ways that we can address their traffic concerns with an acceptable amount of inconvenience to the residents.

Mr. Baird asked for examples of traffic calming measures.

Mr. Gugel said traffic calming is a way to lengthen the distance and time it takes to get through an area so as to make it a disadvantage to do so, adding they try not to do that because they are a maintenance issue; the City tries not to go vertical so we look at the use of medians and roundabouts. If you have a neighborhood that has multiple ways in and out, it makes sense to do that, and in this case this would be called a diverter. It would make sense to close off a particular area so that you still have access through the entire development and have multiple ways in and out; you are just taking out the shortest and direct route. The idea is if you lengthen the distance and do things in design through horizontal curvature, narrow the lanes to slow traffic through medians; if you make it a longer route and a slower route people will tend to avoid that.

Mr. Bird asked if Quail Creek and Buena Vista are the same classification of street.

Mr. Gugel stated Buena Vista is a collector and Quail Creek is a local street (correction Quail Creek is a collector too). They are built to different design standards; one thing as far as classification, there is a standard they look at as far as width goes. Unless there is a physical reason to vary from that we usually hold to that. The classification is based on the width; the width is more the result of a classification. The main idea for a collector is it is a street that has no or very limited access so drive ways coming in or out of it to allow traffic to move through different subdivisions whether they are residential or commercial.

Mr. Baird stated that what is being done is taking Quail Creek and putting more traffic on it than what it was designed for, for a given period of time till it develops to the west, is that correct.

Mr. Gugel said he is not sure that is a totally fair statement because classification isn't dependent upon the volumes. Locals don't go very far and that makes them a local. It depends on what is around it.

Mr. Edwards commented that Commission sees a lot of cases like this where they attempt to step down and do what can be done on a piece of property to insulate it and for the most part, he agrees with Mr. Rykowski, that an office development is a good step down overall when you consider what the alternatives could be for such a piece of property that does have commercial viability. It is important to consider balance at this juncture; balance and fairness. Mr. Edwards stated he is a believer of in the broad policy of



connectivity that the City has and there is a good reason for it. From looking at the map and knowing the development of this particular parcel that these neighborhoods were allowed to develop in a manner that did not foresee the connectivity issue, otherwise there would not have been that many densely built houses on there. There are a couple of competing issues here and he would like to find a way to marry these where and work together. Mr. Edwards said the development on a whole merits going forward, but cannot vote for it with the connectivity issues. The neighborhood has made a very compelling case about not wanting commercial traffic to be dumped in and given the uncertainty of the westward connection all they are doing is opening that up. Mr. Edwards stated he believes that there is some life safety issues with the fire and ambulance and the police, however they have developed this way and what Commission hears is that they have a safe neighborhood adding he bets a fire truck could get in there. Mr. Edwards stated he could not support it as it is, but he has support for the development for the office and the general retail and they space they want to put it.

Mr. Lawhon stated he is in favor of the zoning request; it is appropriate for this piece of property. As we often times deal with competing or different interests, the interest of the developer to do something of value with the property; the interest of the adjacent property owners to maintain as much as they can the quality of life that attracted them to where they live right now. Fifteen people spoke in opposition to this and traffic is the number one concern he heard. Mr. Lawhon stated he is in favor of what they want to do. He did not hear the residents of Quail Creek or Wellington say that they don't want this at all. What he did hear is the neighbors realize something is going to happen and they would like to be involved in that process to come up with something that as residents they can live with and will be acceptable to the developer. There was a lot of talk about the Master Plan and connectivity; it is important for a city to have plans about what they want to do. Those are documents, but they are living documents. Mr. Lawhon stated he has big problems with the connectivity issue. He appreciates the City's concern about connectivity and public safety. However, how many times during the last twenty-five years have there been occurrences where public safety was compromised because Quail Creek Avenue is essentially a cul-de-sac, one way in and one way out. If it had really been that big of a public safety issue it would have been solved by now. The fact that there is obviously no public safety issue begs the question of is the connectivity on Buena Vista really that important; does it really need it. Mr. Lawhon stated that for him that's a roadblock on the whole issue. It is naive to assume there will not be cut through traffic. Mr. Lawhon commented that he believes there is a way for all these interests to come together to come up with a solution that can be mutually satisfactory and a consensus that everyone can live with, adding he does not see it on this particular proposal and therefore would not support the rezoning request.

Mr. Hansen said to add to Mr. Lawhon's statement, there is a lot of dissatisfaction in the room with how this proposal was communicated; probably on both sides adding he hopes in the future that the owners and neighbors could have more discussion and come closer together on how this should be developed on the west boundary. Connectivity is a bedrock principal, but in this case Mr. Hansen said he agrees this would go counter to what we are here for, adding he cannot support the request as it is.

Mr. Baird stated that he is not certain the developer should be put on the hot seat for this connectivity issue, because it seems like it is a City Policies and Procedures issue. It doesn't appear the developer is trying to shimmy something through the system or that the neighborhood is trying to stifle development, it seems like they are stuck on a bureaucracy issue and that's not to put down staff because they have to work within the boundaries they have been given.

Mr. Edwards asked staff if they could take out the connectivity of the streets from Commission.

Mr. Rognstad stated the role of Commission is to hear public input and also look at whether the proposal is in conformance with the Comprehensive Plan. The Comprehensive Plan clearly shows there is a connector that goes through the area and supposed to be connectivity. In essence what you are saying is you believe the plan is wrong the plan should be amended to change that.

Mr. Edwards commented for the sake of argument, they don't want to amend the entire plan, but perhaps in this instance Commission doesn't find this to be in conformance with the notion. Mr. Edwards asked if Commission has the option to amend the proposal with approval from the applicant to eliminate the connectivity of those roads or be more appropriate to table the issue with the thought of will that go anywhere.

Mr. Rognstad stated they could make a recommendation to Council or table it to look at the plan and come back with a recommendation on whether or not the plan should be changed. Mr. Rognstad stated staff will not recommend that the zoning go forward without the street connection. Commission can make recommendation for approval of the zoning without the connection and it goes to Council and Council then makes the decision.

Mr. Jared commented he is perfectly fine with not having to connect, if he is not required to.

Ms. Cox asked about the Greenway Connection in conjunction with the Ward Branch. Is there a potential way to think about connectivity in a different way if there has to be connectivity at some level on the Master Plan by utilizing the Greenway to come in.

Mr. Rognstad stated that is connectivity for pedestrians and cyclists for people on the Ward Branch, it's not connectivity for people in Quail Creek. From staff's perspective if the connectivity is not there it is not in conformance with the Master Plan. If staff felt there was a good reason for there not to be connectivity, then they would make that recommendation. The issue to a large degree is revolved around safety and whether or not fire trucks can get in the neighborhood. The staff has to look at all the issues related to connectivity and it's not just safety, its access and benefits of the neighborhood with the greater public good.

Mr. Baird motioned to approve Z-19-2014 w/Conditional Overlay District No. 78 with the recommendation to City Council to strike the connectivity to Quail Creek and Wellington Hills Subdivisions. Mr. Lawhon seconded the motion. The motion carried as follows: Ayes: Edwards, Baird, Lawhon, White, Cox, and Shuler. Nays: Hansen. Abstain: Young. Absent: Ray.

6. Z-20-2014 w/ Conditional Overlay District No. 79  
(2759 East Pythian)

Presbyterian Children's Homes

Mr. Hosmer stated this is a request to rezone approximately 5.86 acres of property generally located at 2737 and 2759 East Pythian Street from a R-SF, Single-Family Residential District and a R-MD, Medium Density Multi-Family District to a R-MD, Medium -Density Multi-Family Residential District; and establishing Conditional Overlay District No. 79. City Council approved the rezoning of the property at 2759 East Pythian Street from an R-1, Single-Family Residential District to an R-3, Multi-Family District on February 16, 1988 by Ordinance #3892. In 1995, the City amended the entire zoning code changing all R-3 Districts to an R-MD, Residential Medium Density Multi-Family District. The Comprehensive plan supports High

Density housing at the intersection of Cedarbrook Ave (a secondary arterial) and Pythian (a collector street). Staff is aware of the Glenwood Village neighborhood concerns which currently have problems with flooding and traffic problems generated from adjacent uses such as athletic functions at Cooper Park and school buses from R-12 transportation facility. This request contains 3.0 acres of property already zoned R-MD. Under current city regulations there could be approximately 87 units built on this property. The requested Conditional Overlay District limits the density of the property at 2737 East Pythian Street and a single-family lot along North Cedarbrook Ave to 11 dwelling units per acre. The property at 2759 East Pythian Street, which is currently zoned R-MD, will have an overlay district requiring a lot combination for all tracts to be combined into one lot. The proposed request did not have to complete a Multi-Family Development Location and Design Guidelines assessment since the density will not exceed 11 dwelling units per acre. The required design standards within the R-MD district regulations will mitigate any potential impact of multi-family development on the surrounding properties. There will be 45 degree bulk plane or a 1:1 ratio building setback when adjacent to an R-SF District and a 15 foot bufferyard is required, however there is no fence. The density will be limited to eleven (11) dwelling units per acre for Lot 6 of Shady Dell Hills Subdivision (Tract 2) and (Tract 1) as described in the property description. There will be Off-site Improvements relating to the intensity of development: Sidewalks will be required to be constructed prior to development along the property frontage of Cedarbrook Ave and a lot combination to combine all tracts into one lot of ownership. Thirteen (13) property owners are within 185 feet of this site and have been notified of this action. There have been a number of calls related to the rezoning of this property. There was a neighborhood meeting held on August 12, 2014. The applicant's meeting summary is attached (Attachment 2). There was a second informal meeting held at the request of City Councilperson Rushefsky on August 19, 2014 which was held at the Cooper Complex. Staff is recommending approval.

Mr. Edwards opened the public hearing.

Mr. King Coltrin, 2826 S. Ingram Mill, commented during the public meeting, two items of concern were traffic and stormwater. The stormwater issues in this area are definitely an issue and the City is aware of this and working at doing future improvements to increase the stormwater retention and try and aid the downstream flooding. The developer contacted Mr. Coltrin after the public meetings with the concerns of the neighborhood relaying to them that whatever the City does in the future, if the City does a regional detention like they are planning, can this site handle its own stormwater, have plenty of green space and not add to the downstream flooding. The benefit to this site is the developer is limiting themselves to fifty-five (55) units. It reduces the stormwater generated, the traffic, and reduces everything that could happen on the property. The stormwater isn't an issue and if or when the City can do the bigger regional detention site, part of that would take off a corner of this property and the developer is willing to donate that to the City. In the immediate future, this project stands alone on its own stormwater and takes care of itself and in the future it works with the larger group to help take care of the larger process. Because of the way the properties are currently zoned today, they can generate altogether combined seventy-two (72) trips in the am peak and ninety (90) trips in the p.m peak. When you switch that zoning and put the limited overlay on here with only fifty-five (55) units in there, that seventy-two (72) drops down to thirty (30) in the morning and the ninety (90) in the evening drops down to thirty-five (35). The overall traffic impact verses what could happen today if those properties develop on their own, verses what would happen with this development if approved is greatly reduced. Pythian is already a three lane road and set to handle the capacity. There are the green spaces and parks to the north and west of us so the facilities are already there in place. It is part of an infill system to build inside the City and not extend out and those issues are also a great concern to the developer and he has spent time and money to make sure that those can be addressed and taken care of with this project. It is a good project and a good use.

Mr. Edwards asked how many units could be put on this site with the Residential Medium Density it is already zoned.

Mr. Coltrin stated it is twenty-eight (28) units per acre so approximately ninety (90) units.

Mr. Edwards clarified that without the change of zoning, the developer could put more units on this site if they wished.

Mr. Coltrin said yes. That is where the larger traffic numbers come. It could develop a lot bigger; this is a smaller development proposed.

There were fourteen (14) members of the public who spoke against the proposed rezoning.

Mr. John Shaw, 841 N. Oak Grove Avenue commented the detention area for Cooper Soccer Fields turns into a lake when it rains because it cannot drain fast enough; seven or more hours after the rain has quit before it drains. Where the bus barn will be, the detention is useless. The retention pond where the Cedarbrook Apartments are is a failure; it doesn't work. Mr. Shaw said the neighbors who live behind there have yards that flood when it rains. The park is a retention area for runoff which drains into Rockhurst and when it rains, there is a river on both sides of the road.

Ms. Michelle Renfro, 803 N. Fairfax commented Glenwood Village is a nice, clean safe neighborhood. Due to developments upstream from the neighborhood, the neighborhood has become the crosshair of all the water runoff. Ms. Renfro provided pictures of her home showing the flooding issues. Ms. Renfro stated that at one point they had fourteen (14) inches of water in their garage. The City has made some decisions or poor choices in the way they have allowed developments to happen which has put the neighborhood in this situation. With the water situation and the low income housing, it is making their homes of no value.

Mr. Baird asked about the comment that the water issues, flooding, have come about in recent years asking if that statement could be qualified of when that started taking place.

Ms. Renfro said she could not speak to that.

Mr. Baird asked staff how the water flows from this property or the topography of the area and will this add to the problem. It is the hope of the City that the developer develops this to the standards at which it will not put more water into the system than what is currently in it.

Mr. Wagner stated the proposal is going to result in a detention area at the northwest corner of the applicants property so low point. That will then drain out of the property there at the northwest corner, pointing out a stream on the display, stating it is dry most of the time, but it is a waterway that is flowing southwesterly. It drains about two hundred (200) acres back toward Division and Highway 65. That will drain southwesterly into the regional basin there in Cooper. The Cooper Basin has a pipe connected, a four (4) foot diameter pipe or three and one half (3 ½) foot diameter pipe connected to that outlet structure that runs west on Pythian and then over to Patterson and then south to the creek at the blue line on the display. When that system is overwhelmed, when the pond is full, and that pipe can no longer carry more water, then that is when they start to see water coming over Pythian down to the neighborhood.

Mr. Baird asked how often that happens.

Mr. Wagner stated they are going by reports of what they are told from the neighborhood; we know that it has happened several times in the last ten (10) years. It is hard to say for certain, on average every two (2) to five (5) years. Some years it won't happen, and other years when it may happen two (2) or more times a year when you get repeated rain. It is on a fairly regular basis.

Mr. Baird asked about the stormwater requirements and when they are updated.

Mr. Wager stated they have had several updates to the ordinances. The original ordinance was 1983, a major in 1994, and added water quality or retention requirements which helps even more; that has gone City wide in approximately 2005 when they began implementing that. They have refined some of the numbers to protect downstream over the years also, but those are the major revisions.

Mr. Edwards asked where this neighborhood and this problem fall.

Mr. Wagner stated this is a priority; they have done a few things, which are not as much as they would like to do. For a brief history on this subdivision, it was platted into the county in 1962; there are two hundred (200) acres coming in from the north and four hundred (400) acres coming in from the east. There were no storm water controls. There were existing flooding problems from the time this was built with a total of six hundred (600) acres draining through it. In response to that the Cooper Park Basin and the Glenwood Park Basin were both built in the mid to late 1980's. Those were built in response to flooding problems that they were experiencing. The City built a few regional basins with some sales tax money in the mid 1980's and two were built in this area. Obviously it was problem that was being addressed at the time or trying to. They had limited space. They built what they could at the time with the space they had. Those basins will perform up to about a two (2) to five (5) year level; that is they will over top probably every two (2) to five (5) years on average and maybe a little more depending on the year. In 1992 Rockhurst improvements were done. That was another attempt to lessen the flooding. Again they had limited right of way. They didn't buy out houses they just built the ditches on the side of the road to carry the most water they could with the space they had. Again it did better than it did before, but it still floods on occasion. It was mentioned that the pipe down Pythian and Patterson that diverts water around the neighborhood up to a certain level and then it can no longer take water. In more recent years we have been doing some ditching improvements along Fairfax, down the middle of the subdivision and they are still working on one side of the street. At the request of the neighborhood to give them some relief so it doesn't fix everything but it helps. They also made a modification to the outlet structure on Cooper Park Basin which helps make it run a little bit more efficiently. In the present, the Corp of Engineers study which you may have heard about for Jordan Creek includes five (5) regional detention basins in the upper parts of the Jordan Creek watershed. One of those was identified to be just upstream of the Cooper Park Basin. That is the one you may have seen on the handout where it shows a regional detention basin clipping the northwest corner of this property. That is a project they would like to build, and hoping to get federal funding. They are approved by the Corp of Engineers and by Congress in a recent bill but not the funding, only the project itself. We are still a couple of years away because it takes awhile for that to happen. We don't know if that will happen and they have met with the airport and they are not excited about a detention basin off the end of their runway. That may or may not happen; we feel like it would really improve the flooding coming in from the north tremendously, but it simply may not happen because of cooperation with the property owner and the likely hood of getting federal funding. Mr. Wagner stated they continue to look at other options and even now looking at options with a small amount of money that they have with some things they can do along Pythian to try and help.

We do not have the funding right now available to say we can fix this subdivision up to a hundred year level. It is a priority and will the City will continue to put money into this problem as it becomes available.

Ms. Lisa Goetz, 828 N. Fairfax commented they did not have flooding problems years ago or they would not have considered purchasing a home and living in the area. It doesn't require a large rain to flood the area and it's getting worse. Ms. Goetz stated she has been working with the City and with Mr. Wagner on getting their ditches done and working to address the problem. Ms. Goetz presented letters from the neighbors asking that the area not be rezoned due to flooding issues and traffic.

Mr. Tonny Wolfe, 511 N. Burton, commented he has lived at that address for the last five (5) years. The last changes that were made to the three sided culvert and the retention wall off Cedarbrook helped, but there is still flooding issues. It appears there is not enough outflow off Patterson to get into Jordan Creek. The traffic will be an issue. Mr. Wolfe provided pictures for Commission.

Mr. David Goetz, 828 N. Fairfax, commented last year he spent more than ten thousand (\$10,000) dollars repairing wood damage to the floor joists on one end of his home; the floor caved in and he still has another section of the house to repair. Mr. Goetz said they did not flood when they moved into their home; the flooding began seven (7) years ago starting with only heavy rains and as time has gone on it has become worse with just a lighter rain. Mr. Goetz commented he has a two thousand (2000) gallon pump under his home that he can't run until the water stops so the house fills up completely underneath, sits that way for ten (10) or twelve (12) hours till the water recedes and then he can turn the pump on and pump it out and that is when he is getting the wood damage. Building at the top of the hill will push more water into the area. Mr. Goetz stated if you build a detention basin inside a detention basin, it will not do any good. If the city would address and fix the flooding problems, then build the apartments. The school district is putting in the bus barn at the top of the hill; the school told the neighborhood association that the buses won't come toward their neighborhood; they will be taking everything straight out to Chestnut down Belcrest. Mr. Goetz provided an e-mail from the Director of Transportation for the Springfield Public Schools that states they will go the other directions. Mr. Goetz stated he appreciates the help Mr. Wagner has provided, but their problem is not solved and will not be solved by adding more water.

Mr. Jim Lemaire, 702 N. Oak Grove asked how many more red flags will there be before someone says this is not a good idea. The soccer fields and the tennis courts are good exposure for Springfield and they didn't mind them coming in; good income, good for the children and all around. It did create traffic problems within the neighborhood that need to be addressed and will now create more traffic problems on the other side. Cedarbrook is narrow and dangerous and the traffic issue will be exacerbated by adding more traffic by putting apartments there.

Ms. Mildred Nicholson, 515 N. Burton in Glenwood Village, commented she has been in Glenwood Village since 1968. As the surrounding property developed, the flooding became an issue. Ms. Nicholson stated they were disappointed that they were not made aware of the proposal and feels they did not have adequate time to prepare. Ms. Nicholson commented that since Glenwood Village will be adversely affected by this project, why were they not informed? Is this a subsidized housing project? Were other locations considered that would not adversely affect Glenwood Village? Ms. Nicholson said she wanted Commission to have some idea what having an old timer speak about these things.

Ms. Marilyn Wolfe, 511 N. Burton asked if there would be and adverse affects to school system and the

students in the area.

Mr. Goetz asked if Commission had reviewed the comment information that the airport provided.

Mr. Hosmer said that information was in the staff report.

Ms. Joan Coover, 2626 Pythian, expressed concerns about the flooding under her home and in the area. The detention basin does not help. This development will add to the problem. Ms. Coover asked why consider a project that will dump more water on a neighborhood that has flooding issues.

Mr. Jim Holden, 3582 N. Kossen Lane, commented he owns property on north Cedarbrook. His concern is safety with school buses. They will put an exit from the complex onto Cedarbrook which will be approximately at the top of the hill with which will create an issue of visibility. Mr. Holden stated that during the neighborhood meeting all he heard were idle threats about if you don't approve this zoning they will go ahead and build 120 units on the piece that is already zoned. There is a flooding issue. The airport expressed concern about the detention attracting water fowl.

Ms. Vera Johnson, 2616 E. Pythian expressed concern about flooding and the cleanup of mold after a flood, adding they have resorted to sandbags.

Mr. Joe Carmichael, 2959 E. Normandy, commented he is affiliated with the developer, speaking in favor of the rezoning. Mr. Carmichael stated that of the 5.8 acres, 3.8 are already zoned to provide for eighty-seven (87) units. If Commission approves this proposal, this will reduce what is going to work for this property. They will put on a fifty-five (55) unit apartment complex. The overlay assures the developer and the City that that is what will be there. Mr. Carmichael stated that what they were trying to convince the folks at the public meeting was that this is a step in the right direction in terms of reducing the use of this property; eleven (11) units per acre. You can do seven (7) single family houses on an acre and still be within the City code. The zoning they are proposing here and proposing for this site works for the benefit of the neighborhood. The neighbors have a very real issue when it comes to water, adding he can't argue that they have legitimate concerns and issues with concern to water. Mr. Carmichael stated that the engineers tell them that the detention basin will not add to their problems; that is not the way they do their developments. The neighbors don't believe it's going to work, but assured Commission that it will work adding they will not just do the minimum in terms of detention, but will do the detention that is necessary so their issues are not increased by their developing on this piece of property.

Mr. Hansen asked Mr. Carmichael if he had drawings of the proposed construction.

Mr. Carmichael stated it is a two-story apartment complex similar to Westport.

Mr. Hansen expressed concern about adequate detention asking Mr. Carmichael if he could do more in the detention that would assure the neighborhood that this won't add to the ongoing water problem.

Mr. Carmichael said that is their intention adding they had looked at different ways to approach the detention. The least expensive way to do that is to do it on the shallowest piece of the property. They have looked at doing it on another location so it would drain, so it would drain in a different fashion. That would be a much more expensive option for them; they will approach this from the standpoint that it is not going to add to the neighbors' problems and it won't be simply the minimum that is required.

Mr. Baird noted there was a letter from an adjacent property owner; the organization that operates the downtown airport asking Mr. Carmichael to speak to their concerns as far as putting a detention basin on that property and it attracting water fowl wildlife.

Mr. Carmichael stated he feels they are more focused on this regional detention that the City is proposing and as was said earlier, that is up in the air in terms of funding. That detention would involve part of their land and create a larger area. The way detention is designed, it does not hold water for an extended period of time and so you will not really attract water fowl, but that is their concern. Mr. Carmichael stated that they have indicated to him that they would object to participating in the regional detention. We on the other hand would donate an acre of this land to regional detention basin. We are not counting on that regional detention basin to do what needs to be done on this property.

Mr. Hansen asked if the donated acre is the same corner where they intend to put their detention asking if he had an idea of how much of the property is covered by the impervious surface.

Mr. Carmichael stated initially that is what they thought but they may in fact move it to the north east corner. That has not been sorted out yet. Mr. Carmichael stated he does not have that information; estimating the building itself would cover approximately thirty thousand (30,000) square feet of land, but the parking lot would be in addition to that so he is not certain what you would add to that.

Ms. Kathryn Holden, 3582 N. Kossen Lane, commented they purchased a piece of property at 1109 East Cedarbrook, and stating the water detention would be right in their back yard and they can't image the flooding that will definitely happen there. Ms. Holden asked Commission to think about the people that don't have the income to repair their homes that have flooded and adding they are depending on Commission to make a wise decision.

Chris Bailey, 808 N. Burton Avenue, commented on the flooding, noting he has seen a manhole cover blasted off with water coming out straight into the neighborhood. Detention will not keep water from coming into the area. Mr. Bailey commented he is concerned about the bus barn being moved to that area and the traffic; there are more than thirty (30) buses for the school system and the traffic will be an issue.

Mr. Harold Garrett, 749 N. Fairfax, commented there is one hundred twenty-five school buses the district uses; figure that with all the other traffic going on and that is a major issue, not counting the water problem.

Mr. Paul Mark, 514 North Burton expressed his concerns about the water problem stating that way back when, the engineers assured him that the water issue would be addressed and taken care of.

Mr. Edwards closed the public hearing.

Ms. Cox commented that under the Stormwater Comments it states that full on-site detention and water quality will be required for this. What does full on-site detention mean for this property?

Mr. Wagner stated that there are times when there is a buyout done on part of the detention. This would be full flood control detention; you look at the one (1), ten (10), and one hundred (100) year storms and match pre-existing peaks for those three flood events and then for water quality you look at a one inch rain fall, and you retain that for twenty-four (24) to forty-eight (48) hours and release it very slowly. That is how a



detention basin would function at a minimum and that is the minimum requirement. If they choose to do something more than that, staff will work with them on low impact developments or other things that can be done to reduce runoff even more.

Ms. Cox stated it doesn't appear that since the drainage or the regional detention potentially happening at the northern area, since that is not in the immediate future, is the buyout still an option.

Mr. Wagner said no. The buyout was in coordination with building the regional basin, but if that can't happen then they will have to go on their own and build it on site.

Ms. Cox clarified that they are one hundred (100) percent responsible for the stormwater runoff.

Mr. Wagner stated that is the way it stands at this point unless something changes with the regional.

Mr. Baird asked Mr. Wagner if the City has any recourse if a developer does not build to the standards that are set or above those.

Mr. Wagner stated they will review the calculations and then inspections are done after it is constructed so we would expect it will be built accordingly.

Mr. Baird clarified that the City has the latitude if they determine if it is not built to standards to have them fix it.

Mr. Wagner said yes.

Mr. Hansen asked where the detention would drain to.

Mr. Wagner stated that what they talked about earlier was them building the detention in the northwest corner of the site and draining out the northwest corner; they mentioned moving that to the northeast corner, but it still will flow downhill to the northwest corner. That's the low point. Mr. Wagner stated he has not seen their plans but he assumes it will drain out the northwest corner.

Mr. Hansen stated that either way it will drain into the waterway that goes into the regional.

Mr. Lawhon, said trust; this has a lot to do with trust. Mr. Lawhon stated he believes what the neighbors have said about how bad the water problem is and he has seen the pictures of it. Mr. Lawhon stated he believes what the developer said about what they are going to do, stating he has looked at two (2) other developments that Mr. Carmichael has done and both, in his opinion, are really top notch developments. They haven't been in areas like this and this presents its own peculiar problems. But it comes down to trust and two (2) issues; can this be separated from the already existing problems in the area and he believes that it can. This developer has said it will be no worse than what it is now and that is the best we can ask for. We can't ask that it will improve it, but that it's not going to make it any worse. Mr. Lawhon stated for those reason, he would support the request.

Mr. Edwards stated he is a neighbor to the south and he has literally paddled in his back yard in a canoe, over a fence adding he has a little familiarity with water problems around here and his office has been flooded twice in the last ten (10) years adding he understands how traumatic that can be. Mr. Edwards

commented that we have to separate the existing conditions which are valid, with the photos and the testimony and Commission's general knowledge of the general situation with the stormwater in Springfield it's all very valid. Mr. Carmichael has a proposal here on the table that if Commission turns down, tomorrow he could build a larger facility with a bigger footprint and less water detention. That is the existing law; he doesn't need Commission to tell him yes or no. He can walk out of here tonight if Commission says no and go build that. Mr. Edwards said that in his mind, what he is voting on is Mr. Carmichael's proposal to do something less and he is asking to be allowed to make a smaller development and to put in the proper mitigation restraints for this one development which is by law his only task. Mr. Carmichael doesn't have to solve the flood water problems in Springfield just to build his building. Mr. Edwards said he believes the engineer's that he has working for him understand what the problem is and they will work to do no harm; and Mr. Edwards stated he believes this will not increase the flood water issues or it would get a lot worse if nothing is done adding he will support the request.

Mr. Baird motioned to approve Z-20-2014 with Conditional Overlay District No. 79. Mr. Hansen seconded the motion. The motion carried as follows: Ayes: Edwards, Baird, Hansen, Young, Lawhon, White, Cox, and Shuler. Nays: None. Abstain: None. Absent: Ray.

7. Z-21-2014  
(4000 South Campbell)

Primrose Campbell Property Imp Assoc.

Mr. Young recused himself.

Mr. Hosmer said this is a request to rezone approximately 1.19 acres of property generally located at 4000 South Campbell Avenue from a Planned Development District No. 21 and Planned Development District No. 21 Amended to a GR, General Retail District. The applicant intends to construct a restaurant at this location if the GR zoning is approved. The applicant intends to construct a restaurant at this location if the GR zoning is approved. There are several requirements that will have to be met before the subject property can be developed. This rezoning shall not become effective until the following condition is met: An administrative replat subdividing the subject property from the existing lot is recorded following the Subdivision Regulations. If this condition is not met within two (2) years of City Council's approval, then the rezoning approval is null and void and the subject property will remain zoned Planned Development District No. 21 and Planned Development District No. 21 Amended. Eleven (11) property owners within one hundred eighty-five (185) feet of the subject property were notified by mail of this request. No one has objected to date.

Mr. Baird commented this is close to a sinkhole; how can they build there.

Mr. Hosmer stated they will have to have geotechnical report and a sinkhole study and whether they can fill it in and level it out. That will be part of the subdivision process.

Mr. Wagner commented they have met with the developer and discussed this and thinks there is a plan moving forward on how this will be feasible.

Mr. Jay Wynn, 5051 S. National Avenue, commented they have worked with the City's departments both traffic and public works engineering department to address most issues. They are looking to obtain one access to Campbell Avenue with this development. Mr. Wynn stated they have worked with O'Reilly's to get a cross access easement to use their drive so there is not an additional access on Campbell. Mr. Wynn

said they do understand that at a future date Campbell will be widened and that their access will become right in and right out at that time. Mr. Wynn stated they are only required to take the dirt out of the detention, but are taking out more above the one hundred year flood plain to assure that it is a win/win situation for the City, the client and the detention area. They have done a geotechnical report and will be treating the dirt with lime because it dries it up.

Mr. Edwards closed the public hearing.

Mr. Lawhon motioned to **approve** Z-21-2014. Mr. Baird **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Lawhon, Hansen, White, Cox, and Shuler. Nays: None. Abstain: Young. Absent: Ray.

9. Preliminary Plat Briarcliff Subdivision  
(2720 E. Battlefield Road)

Chester Carson

Mr. Edwards and Ms. White recused themselves.

Mr. Hosmer stated this proposal is to accept the dedication of the public streets and easements as shown on the Preliminary Plat of BRIARCLIFF SUBDIVISION generally located at 2720 East Battlefield Road. The applicant is proposing to subdivide approximately 20.76 acres into a two (2) lot residential subdivision named "BRIARCLIFF SUBDIVISION". The property is currently zoned R-SF, Single-Family Residential District. The applicant is proposing to create Lot 1 which contains their house and five acres and create Lot 2 for potential future development. The applicant is also requesting a subdivision variance for a lot without full frontage on a public street (Lone Pine Ave.)

Mr. Baird opened the public hearing.

Mr. Chester Carson, 2720 East Battlefield, commented that essentially this is a lot split for his home and five (5) acres separated from the 20 acres, which as soon as they make these into tracts of record will become property of his brothers and sisters.

Mr. Baird closed the public hearing.

Mr. Hansen motioned to **approve** Preliminary Plat Briarcliff Subdivision. Mr. Lawhon **seconded** the motion. The motion **carried** as follows: Ayes: Baird, Lawhon, Hansen, Cox, Young, and Shuler. Nays: None. Abstain: Edwards and White. Absent: Ray.

10. East Cherry Flats Redevelopment Plan  
(1235 East Cherry Street)

RJK Properties, LLC

Mr. Matt Schaefer commented this is a request made by RJK Properties, LLC to approve the Redevelopment Plan for the East Cherry Flats Redevelopment Area. RJK Properties, LLC has filed an application requesting approval of a redevelopment plan pursuant to Sections 99.300-99.715, RSMo, and the Land Clearance for Redevelopment Authority Law, for a redevelopment project generally located along the north side of East Cherry Street between South National Avenue and South Kickapoo Avenue (Exhibits I&II). Chapter 99 tax abatement is an economic development incentive used to encourage redevelopment

within blighted areas through partial real property tax abatement. Real Property tax abatement is based on 100% of the assessed value of qualified new construction or rehabilitation for 10 years. The Planning and Zoning Commission is required by Statute to review the proposed Redevelopment Plan (Exhibit III) for conformance with the Springfield-Greene County Comprehensive Plan.

The purpose of the Redevelopment Plan for the East Cherry Flats Redevelopment Area is to remove blight and redevelop the area into a multi-family residential apartment building that will be marketed primarily to Missouri State University students. The Redevelopment Area consists of three parcels, which comprise approximately 0.832 acres. The Redevelopment Area is currently zoned R-HD, High-Density Multi-Family Residential District. It is also located inside the Rountree Urban Conservation District (UCD No. 2, Area E). It is currently occupied by one commercial structure and three single-family residential structures that were built between 1909 and 1931. These structures have since fallen into disrepair and have become a contributing source of blight in the Area. The Plan proposes to demolish the existing structures within the Redevelopment Area and construct a new four story, 24-unit, multi-family residential development that will accommodate up to 96 residents. Mr. Schaefer pointed out that the project could occur without approval of the redevelopment plan. The zoning currently allows the project to occur; if this plan were not to be approved what the developer would be missing out on is the ability to utilize tax abatement. The developer is proposing to reduce the front yard setback to fifteen (15) feet. Doing so would require that there be a conditional use permit in order to do that.

A Conditional Use Permit application has been filed and will be forwarded to Commission at a later meeting. Because it is located in the UCD District there are additional requirements that are imposed on developments that occur within the boundaries. For this particular property, multi-family residential is allowed, however it is required before building permits can be issued that a site plan be reviewed by the Administrative Review Committee (ARC). That would be done at a later date, closer to when the developer is ready to start breaking ground. The proposed redevelopment is consistent with City policy and conforms to the Comprehensive Plan. The *Growth Management and Land Use Element* of the *Springfield-Greene County Comprehensive Plan* designates the land within and surrounding the Redevelopment Area for Medium- or High-Density Residential Housing. The *Growth Management and Land Use Element* of the *Springfield-Greene County Comprehensive Plan* also targets the Missouri State University Campus and surrounding area as a Major Activity Center. One of the Plan's objectives relating to Activity Centers is to promote additional or new employment, intensified retail business, higher density housing and convenient transit service.

Mr. Schafer stated that according to the *Rountree Neighborhood Plan*, the Redevelopment Area is located within the East Cherry Street Corridor, which extends along East Cherry Street from South National Avenue to South Fremont Avenue. The Plan recognizes this area contains a significant amount of multi-family residential development due to its location near Missouri State University and that it is currently zoned for high-density residential development. The Plan suggests multi-family residential as an appropriate use provided that it is developed in a manner that is sensitive to the Neighborhood.

Mr. Edwards clarified that Commission is not voting on a zoning change or anything else; we are simply approving the blight plan.

Mr. Schaefer stated that Commission is simply reviewing the redevelopment plan and making a determination as to whether it conforms to the City's Comprehensive Plan.

Mr. Hansen clarified that the developer is the owner of the property and has owned this property for ten (10) years.

Mr. Schafer stated he has owned it for several years and wishes to redevelop the property.

Mr. Hansen commented that the owner has presided over the blight of this property.

Mr. Schafer stated that is a question to ask the developer or the developer's representative. If you look at the level of deterioration of the structures and what it would take to bring the structures back up to an acceptable level the economics of it become infeasible.

Mr. Young asked for an explanation of the setback request.

Mr. Schaefer stated that currently the R-HD District requires a twenty-five foot front yard setback and the developer is proposing to develop this with a reduced setback of fifteen (15) feet. The Zoning Ordinance does allow for the front yard setback to be reduced provided there is a conditional use permit. A Conditional Use Permit application has been filed and will be forwarded to Commission at a later date. If the conditional use permit is not approved the developer could still develop it's just that the developer would have to adhere to the twenty-five foot front yard setback as opposed to the fifteen (15) feet.

Mr. Baird asked if there is a map overlay of blighted areas.

Mr. Schaefer said he does not have an actual map for display.

Mr. Baird stated that he wondered if the City had an internal city display that showed an overlay. Mr. Baird asked if there are other areas or properties close to this subject property that have been determined to be blighted.

Mr. Schaefer said yes, there have been. They are not immediately adjacent to this area but there are some areas that have been blighted to the west of National Avenue. There are a couple of projects that have developed over on Florence Avenue and Elm Street. There are some larger redevelopment areas to the west as you get closer to downtown. There is also the Jordan Valley Park Tiff that is located just west of this redevelopment area. It encompasses a large portion of University Plaza and Jordan Valley Park, National Avenue, both sides of the street extending from Cherry Street all the way up to Chestnut Expressway. It's blighted pursuant to the Tiff Act. It's a similar definition of blight but it is a different incentive and it operates completely differently. There has been some action taken in the adjacent areas to encourage redevelopment.

Mr. Young asked about the plan with stormwater; it has existing and new stuff on there. Is that a new stormwater retention or detention?

Mr. Schaefer said yes; currently the site does not have any stormwater detention on there and as he understands it if you are increasing the impervious surface on the site it will require some measures be taken to minimize the effects.

Mr. Hansen asked if this would be an opportunity for a buyout on the detention.

Mr. Schaefer said that would be a question for Mr. Wagner.

Mr. Wagner stated he hasn't looked at it that close so he could not say. When you are considering a buyout you look at downstream conditions and see if there are any problems and this is in a part of town that is going to drain back to the alley; could be some conditions where we wouldn't want to see a buyout. Mr. Wagner said that is yet to be determined.

Mr. Edwards noted they are dealing with the legal definition of blight and not the daily definition of blight.

Mr. Schaefer stated deteriorated improvements is one factor that can be used when considering blight; there are really five factors dealing with inadequate street layouts, deterioration of improvements, obsolete platting, conditions that endanger life or property by fire. The applicant has provided a blight report along with this redevelopment plan and it was actually vetted by the Land Clearance for Redevelopment Authority earlier this week. They made a recommendation that will be forwarded to City Council on September 22, 2014 to recommend blighting the property. The Commission's recommendation tonight would also be forwarded as well to City Council.

Mr. Shawn Whitney, 3259 E. Ridgeview, commented he is representing RKJ Properties and feels it is in conformance. Mr. Whitney reviewed the statutory definition of blight to Commission; the predominance of defected or inadequate street layout, insanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting or the existence of conditions which endanger life or property by fire which any combination of such factors hinders the provision of housing accommodations, constitutes an economic or social liability or constitutes a menace to public health. LCRA has already recommended blight. Mr. Whitney said they have made their case and have to convince City Council of that. Mr. Whitney stated his client has owned the property since 2004. The goal when he acquired the properties was to immediately redevelop them. That didn't happen for one reason or another and the owner is here and he can explain why, but it didn't get financed at that time. The recession hit so basically the tap was turned off for five (5) years so he is back now. The owner has a really good track record with 324 units, Southwood Properties. They are all campus housing and all very nice. Mr. Whitney stated the owner has repainted the buildings, reroofed the buildings, electrical and structural work and everything to keep these properties habitable and since 2004 has been attempting to get this property repaired and without the abatement the owner will not be able to get this done.

Mr. Jeff Barber, 746 S. Weller, commented he is a current member at large on the Rountree Neighborhood Association Board. Mr. Barber stated there are several issues adding he understands they are looking at a redevelopment plan but the only way to do that is to look at the central issues. Mr. Barber discussed the conceptual aspect of blight. In Rountree we do have an aging housing stock; our demographic does not qualify them for certain programs as owners in that area. Relative to blight Mr. Barber suggested Commission look at Exhibit C and he would ask about precedent here and remind Commission that recently there have been cases that have gone before City Council where the question was asked if we are reaching beyond what is really considered a blight concept and at the blight declaration of long owned properties along Kimbrough which were held and allowed to degrade and then turn around and reward that situation by offering blight to the same owner. Mr. Barber stated he could understand why it might be a good idea to incentivize a new developers, but to reward an existing owner as new developer he finds to be ridiculous. When is a blight designation a good thing? Parking has become an issue and in this redevelopment plan we are talking about twenty-four units; but let's be specific that's ninety six (96) beds. When we start to determine parking based on bedrooms, four bedroom apartments in a multi-family

housing development has a very different connotation than four bedroom communal dwelling units. The planning and design departments on these campuses or the administration are planning for one car, one student. Parking is a big issue in Rountree; we have to have parking permits issued by the City or the people will get ticketed in this zone. A substantial amount of parking is being pushed out on the street. The Kickapoo cut through is a huge issue. Preserving neighborhood character is a concern. A front yard setback is outside of the lines of what they do in Rountree. In terms of bulk, this really points out the need for the Zoning Code to be amended. Where is the regional basin going to be; Rountree is substantially flooded and this will add to that. There is the issue of the train and congestion on Cherry Street, which this new development will add more vehicles to that congestion.

Ms. Diana Day, 637 S. Fremont, commented the neighborhood is concerned about this proposed development with the issue of traffic and noise and the scale of the development.

Ms. Katie Claxton, 1625 E. Belmont Street, commented the neighborhood was blatantly disregarded in the notification of this proposal. Ms. Claxton discussed potential pedestrian issues, traffic issues as well as the size of the development while giving tax abatement when the owner has let the property deteriorate.

Mr. Baird asked about getting notices to the neighborhood and what triggers the property owners getting a letter that live within 185 feet of a project.

Mr. Schaefer stated the project has been properly notified according to State law, which means there has to be two notices published in the newspaper for two consecutive weeks, the last notice to be published no later than ten (10) day prior to the public hearing before City Council. There are no legal requirements for notification for Planning and Zoning Commission other than the twenty-four (24) hour notice under the Sunshine Law. The Residents are correct that there was no formal notice of this project, but there was a notice that ran today for the Public Hearing to be held on September 22, 2014. Mr. Schaefer stated there is no requirement for notification or letters to be sent to property owners or residents within a radius of the area. Mr. Schaefer stated if it is a zoning case, it would trigger the notification.

Mr. Rognstad stated there are requirement of the Zoning Ordinance for zoning cases, use permits, but there is not one for the determination of whether a redevelopment project conforms to the plan. Mr. Rognstad stated Commission is not looking at the blight; that is made by LCRA. Mr. Rognstad stated the property is already zoned and the applicant can develop the site the way they have shown it except for the fifteen (15) foot setback. Otherwise it conforms to the Zoning Ordinance. What Commission is looking at is whether or not it conforms to the Comprehensive Plan and it's basically the Rountree Neighborhood Plan which shows this as an area for apartments.

Mr. Hansen asked about the bulk plane in relation to a four story building.

Mr. Hosmer stated there is no bulk plane because the property around it is already zoned R-HD.

Mr. Baird asked if there was any consideration given to contacting the Rountree Neighborhood Association.

Mr. Schaefer said no, however staff has required the developer to give notice to his tenants.

Mr. Russ Mack, 5425 Southwood Road, stated he is one of the principals of RKJ Properties. They will be asking for a different setback and there will be a meeting on that on the 15<sup>th</sup> of September at 4:00 to 6:30 at

Panera Bread and letters were sent out today. Mr. Mack said one of the issues discussed was that he bought the property and let it deteriorate. Mr. Mack said he bought the property that way. The original intent was to put a building there similar to this proposal. At the time the property was bought in one section. They have spent years making the property habitable and safe and comfortable for students and elderly people. The problem with this particular piece of property was you couldn't spend enough money to make that property buyable. They did tear one house down because the condition was so bad that you couldn't get insurance on it and was afraid someone would get hurt. Money was spent to make the others habitable and try to recoup their investment. The original plan was to do this when the property was purchased but there were no funds. Mr. Mack said he worked to bring the properties up and the rents up to build enough value in the property to clear that particular piece of mortgages and the intent was to use that as a down payment to improve the property. That took a good four years to do that. The rents weren't conducive for any type of project. The bank wouldn't provide backing at that time and he didn't have investors to do it so he waited and in the process a recession hit. Mr. Mack said he has a good business and takes care of his residents and a responsible citizen of the Rountree area for fourteen (14) years. Mr. Mack stated he needs some tax help to make this happen.

Mr. Hansen asked why they need the variance on the setback on this project.

Mr. Mack stated to make this project viable; they have to have the twenty-four units. Staff stated they need the extra room for emergency access which would take two of the parking spaces away so they need that to get the two parking spaces back so there are not parking issues. A large portion of his tenants are international students and they don't have cars.

Mr. Matt Stevens, 901 S. Pickwick, commented he is head of the Rountree Neighborhood Association. Since blight seems to be what we are dealing with here, he feels they are setting an ugly precedent by blighting this area. Mr. Stevens noted that if you look at this property all along Cherry you will find that on the east side of this set of property all the way down near Pickwick, all of these are also zoned at the moment for high-density residential and they are warming up in the bull pits to see what you do right here tonight. Mr. Stevens stated they are not opposed to this development per se, but it needs to be something that matches the neighborhood and not a four story tall building and sticks out in the middle of nowhere. Parking is an issue in this area.

Ms. Nancy Evans, 1307 E. Delmar, expressed concern about the blighting request and why he needs the tax abatement if he is building a four story building. Ms. Evans commented she does not feel that this is one of those situations where blight is necessary.

Mr. Edwards closed the public hearing.

Mr. Rognstad stated that Council is the one who will determine whether abatement is appropriate; Commission is not determining that. The LCRA is the body that determines whether or not it is blighted and they already made the determination that it is blighted. Commission is to look at whether or not the redevelopment plan is consistent with the Comprehensive Plan. The issues that have been brought up are issues of the plan and zoning and staff is recommending approval because it is consistent with the Rountree Plan which is part of the Comprehensive Plan. It does identify this area for apartments. It is also zoned for high density residential and other than the setback which he will come forward with a use permit; his site plan is in conformance with the Zoning Ordinance.



Mr. Baird asked to be shown the Rountree Association boundaries.

Mr. Young commented they are supposed to be deciding on the development plan; his idea of plan is more than an outline of a footprint of where a building sits, especially for the Rountree area and this doesn't signify what the plan is. This is one of the greatest areas in the community. Mr. Young said there is not enough information to say that it does comply, adding it may but he does not see it especially for this area. Mr. Young said he needs more information to approve this to move forward.

Mr. Edwards said they are not voting on a final plat or the development or the setback, but voting on whether the applicant has done his legal diligence to apply for the tax abatement. Commission is saying we are going to pass it on to Council.

Mr. Schaefer stated that with Commission's recommendation and LCRA recommendation, it will go to City Council for a public hearing on September 22, 2014 and a second and final reading on October 6<sup>th</sup>. If the plan is approved, it is just approved. In order for the developer to develop the property and get tax abatement he would go back and submit an application to the LCRA requesting abatement. Basically he is submitting a project that is within the redevelopment area and has to demonstrate that the project conforms to the approved plan.

Mr. Hansen stated he wanted to make it clear to everyone down the line that we as a panel are constrained to vote whether this particular plan conforms substantially to the Comprehensive Plan. It moves on in the form of a recommendation so we are constrained to vote for this because it conforms in form and substance, but there is no way we can vote for this without seeming to approve the plan. Mr. Hansen is reticent about voting that it conforms because it will be construed that it is his recommendation that this go forward. Mr. Hansen said he can't support this until he has more information.

Mr. Baird said he believes this should move forward because he is a firm believer of development and if a property owner has a piece of property that he ought to be able to develop it in a way that he sees fit also taking in the surrounding area. A developer that has been a part of the neighborhood for so many years is not going to build something that will be inappropriate. Mr. Baird said he would be supporting the request.

Ms. White said this area has always had parking issues, always had housing issues and student tension but as Mr. Baird pointed out, we have an obligation to be responsible land use folks but we can't stand in the way of a developer who wants to do something; the zoning allows it and the plan allows it, we don't know necessarily that it's going to be a negative. Commission has a limited choice to make and is that whether or not it conforms to the zoning and the Comprehensive Plan. Ms. White said we don't have enough knowledge here to know what this is ultimately going to look like but that is outside of Commission's judgment at this point adding she will be supporting this moving forward based on the fact that it does conform.

Mr. Lawhon motioned that Commission finds that the East Cherry Flats Redevelopment Area is in conformance with the Springfield Greene County Comprehensive Plan and be forwarded to City Council for their consideration. Mr. Hansen seconded the motion. The motion carried as follows: Ayes: Edwards, Baird, Lawhon White, Cox, and Shuler. Nays: Hansen and Young. Abstain: None. Absent: Ray.

There being no further business, the meeting was adjourned at approximately 1:10 a.m. Friday, September 5, 2014.

A handwritten signature in dark ink, appearing to read 'Bob Hosmer', written over a horizontal line.

Bob Hosmer, AICP  
Principal Planner

**Springfield City Council Meeting Agenda**  
**September 8, 2014 - 6:30 p.m.**

Second Reading and Final Passage. Citizens have spoken.

**Council Bill 2014-169. (Hosmer) 6136 Approved 7-0**

A general ordinance amending the Springfield Land Development Code, Article I, Zoning Ordinance, Division I, Intent, Purpose, and General Provisions, and Division V, Supplemental District Regulations, to allow the use of utility poles for wireless telecommunications support structures. (Both Planning and Zoning Commission and staff recommend approval.)

**Council Bill 2014-178. (Fishel) 26445 Approved 7-0**

A special ordinance authorizing the issuance of Use Permit 413 to permit a professional office, art gallery, and art studio, as an adaptive use of a non-residential structure, at 1571 East Cherokee Street within an R-SF, Single-Family Residential District on certain conditions. (Planning and Zoning Commission and staff recommend approval.)

**Council Bill 2014-179. (Compton) 6137 Approved 7-0**

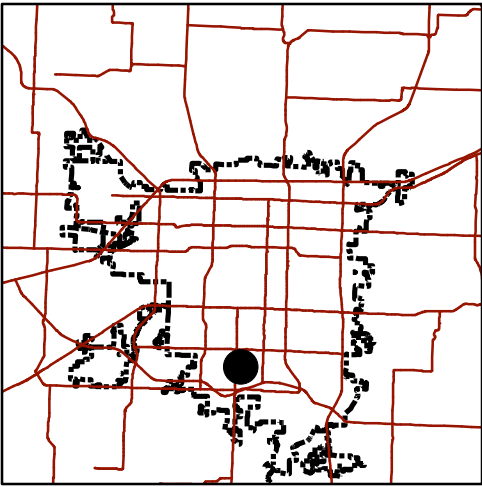
A general ordinance amending the Springfield Land Development Code, Section 1-1600, Zoning Maps, by rezoning approximately 1.30 acres of property, generally located at 211 East Water Street, from an HM, Heavy Manufacturing District to a CC, Center City District. (Planning and Zoning Commission and staff recommend approval.) By: Clan Macquarrie, LLC; 211 East Water Street; Z-16-2014.)

**Council Meeting Agenda**  
**September 22, 2014 - 6:30 p.m.**

COUNCIL BILLS FOR PUBLIC HEARING. Citizens May Speak. Not Anticipated To Be Voted On.

**Council Bill 2014-211. (Compton) (Council voted unanimously to table the Bill, anticipating bringing a substitute bill in two weeks) (16 speakers in favor; 4 in opposition)**

A general ordinance amending the Springfield Land Development Code, Section 1-1600, Zoning Maps, by rezoning approximately 92.74 acres of property, generally located at 4833 South Campbell Avenue, from an R-SF, Single-Family Residential District, to an O-1, Office District, and a GR, General Retail District; and establishing Conditional Overlay District No. 78. (By: Ward Branch Etal Tr, 4833 South Campbell Avenue; Z-19-2014 & Conditional Overlay District No. 78.)



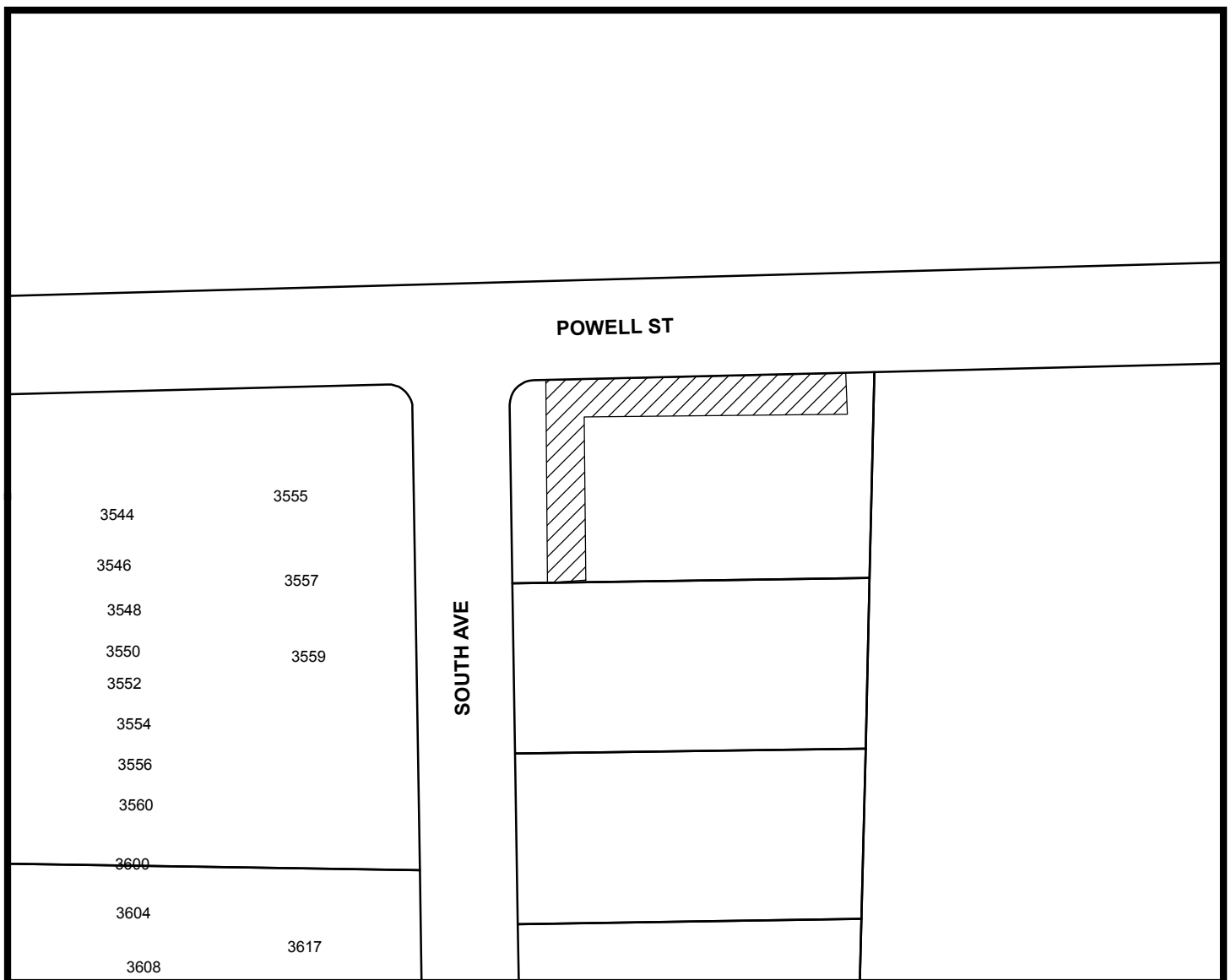
# Zoning & Subdivision Report

*Planning & Development - 417/864-1031  
840 Boonville - Springfield, Missouri 65802*

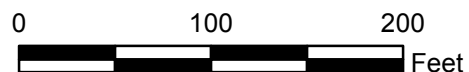
## **Relinquish Easement 813**

Location: 3500 block South Avenue

### LOCATION SKETCH



- Area of Proposal



1 inch = 100 feet

# Zoning & Subdivision Report

*Planning & Development Department ~ 417/864-1611  
840 Boonville Avenue ~ Springfield, Missouri 65801*

## **REQUEST TO RELINQUISH EASEMENT NUMBER 813**

DATE: September 23, 2014

PURPOSE: To relinquish an ingress-egress easement

LOCATION: 3500 block South Avenue east-side

APPLICANT: Gillenwater's Development, Inc.

### **RECOMMENDATION:**

The request be **approved**.

### **FINDING:**

The request meets the approval criteria listed in Attachment 2.

### **STAFF CONTACT PERSON:**

Michael G. Sparlin  
Assistant Planner

Attachment 1: Background report  
Attachment 2: Approval criteria  
Exhibit A: Legal description  
Exhibit B: Drawing

ATTACHMENT 1  
RELINQUISH EASEMENT NO. 813  
BACKGROUND REPORT

APPLICANT'S PROPOSAL:

The applicant is requesting to relinquish an ingress-egress easement to allow for the development of the property. The relinquishment of this easement will be used as a ten (10) foot perimeter treatment area.

TRAFFIC COMMENTS:

Traffic is not opposed to the relinquishment of this ingress-egress easement.

STAFF COMMENTS:

1. The Planning and Zoning Commission has the authority to relinquish easements if the relinquishment does not affect public utilities.
2. The applicant is requesting to relinquish an ingress-egress easement to allow for the development of the property. The relinquishment of this easement will be used as a ten (10) foot perimeter treatment area. The ingress-egress is no longer needed.
3. No one has objected to this request to date.

ATTACHMENT 2  
RELINQUISH EASEMENT NO. 813  
APPROVAL CRITERIA

In order to approve a relinquishment of a public easement, the Planning and Zoning Commission must make the following findings:

1. No one has objected to the relinquishment of this easement.

STAFF RESPONSE:

No one has objected to relinquishing the easement to date.

2. The appropriate City agency has filed with the Planning and Development Department a statement that the easement is no longer needed to provide service.

STAFF RESPONSE:

All interested City agencies have filed a statement and do not object to the relinquishment of the subject easement.

3. That the retention of the easement no longer serves any useful public purpose.

STAFF RESPONSE:

The retention of the subject easement no longer serves a public purpose.

RELINQUISH EASEMENT NO. 813  
EXHIBIT A

**RELINQUISHMENT DESCRIPTION**

ALL OF THE NORTH 26 FEET INGRESS-EGRESS EASEMENT AND ALL OF THE EAST 26 FEET INGRESS-EGRESS EASEMENT OF THE WEST 47 FEET OF LOT 6 IN TOWN SQUARE SECOND AMENDED FINAL PLAT, A SUBDIVISION IN SPRINGFIELD, GREENE COUNTY, MISSOURI



SOUTH AVE.

POWELL ST.

RELINQUISH  
INGRESS/EGRESS  
EASEMENT  
LOT 6

TOWN SQUARE ADDITION

LOT 7

LOT 6

105.07'

N0°15'26"W  
110.15'

L=23.42'

21'-0"

70'-0"

INGRESS  
EGRESS  
EASEMENT

26'-0"

INGRESS  
EGRESS  
EASEMENT

45'-0"

BUILDING  
SETBACK

210.48' N89°12'23"E

220.27' N89°44'34"E

216.09' N89°44'34"E

20'-0"

DRAINAGE  
EASEMENT

105.15'

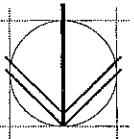
UTILITY  
EASEMENT

S02°01'13"W 127.22'

S I T E P L A N

1"=30'

NORTH



RELINQUISHMENT OF EASEMENT  
LOT 6 TOWN SQUARE ADDITION  
POWELL ST. AT SOUTH AVE.  
SPRINGFIELD, MISSOURI

WILSON SURVEYING CO., INC.  
RICK WILSON  
LAND SURVEYOR #P.L.S.-1970  
2002 S. STEWART AVE.  
SPRINGFIELD, MO 65804

E-MAIL rick.wilson@wilsonsurveyinc.com

PH. 417 522-7870  
FAX 417 522-7874



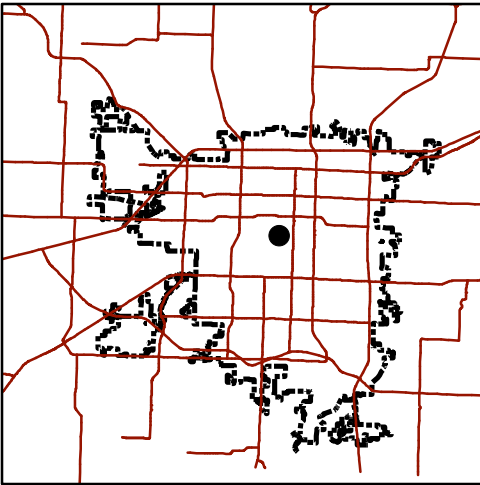
9-2-2014

RICK WILSON  
REGISTERED MISSOURI P.L.S.  
LICENSE NUMBER 1970

DRAWN  
MM  
CHECKED

DATE  
SEPTEMBER 2, 2014  
JOB NO.

SHEET  
**EXHIBIT "A"**



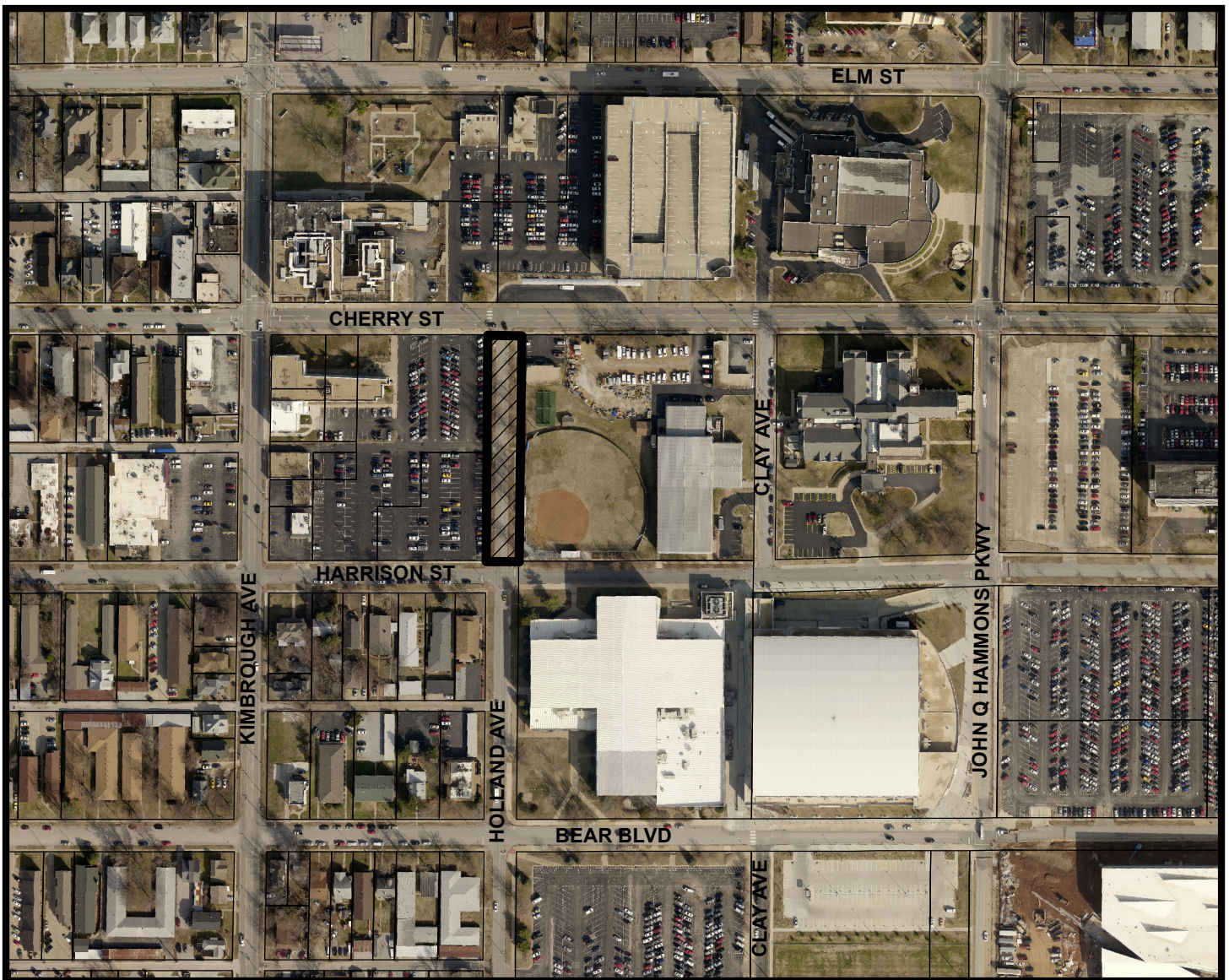
# Zoning & Subdivision Report

Planning & Development - 417/864-1031  
840 Boonville - Springfield, Missouri 65802

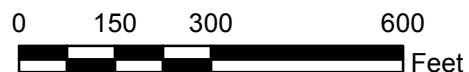
## **Vacation 773**

Location: Holland Avenue between Harrison and Cherry Streets

### LOCATION SKETCH



- Area of Proposal



1 inch = 300 feet

Zoning & Subdivision Report  
*Planning & Development Department ~ 417/864-1031*  
*840 Boonville Avenue ~ Springfield, Missouri*

**VACATION #773**

DATE: September 19, 2014

PURPOSE: To vacate Holland Avenue between Harrison and Cherry Streets.

BACKGROUND:

Missouri State University owns property on both sides of Holland Ave. Holland Avenue does not continue north of Cherry Street.

LOCATION: Holland Street between Harrison and Cherry Streets

APPLICANT: Missouri State University

RECOMMENDATION:

Staff recommends **approval** of this request.

FINDINGS FOR STAFF RECOMMENDATION:

The requested Vacation #773 meets the approval criteria listed in Attachment 2.

STAFF CONTACT PERSON:

Alana D. Owen, AICP  
Senior Planner

ATTACHMENTS:

Attachment 1 – Background Report  
Attachment 2 – Approval Criteria  
Attachment 3 – Legal Description

ATTACHMENT 1  
BACKGROUND REPORT  
VACATION #773

APPLICANT'S PROPOSAL:

The applicant is requesting to vacate Holland Avenue between Harrison and Cherry Streets.

TRAFFIC ENGINEERING COMMENTS:

Traffic does not oppose the vacation.

CITY UTILITIES COMMENTS:

City Utilities does not object to the proposed vacation of Holland Avenue.

AT&T COMMENTS:

Facilities found in right-of-way. Utility easements will have to be provided for current and future facilities in this proposed area.

STORM WATER COMMENTS:

Need to provide drainage easements for the public stormwater facilities in the Holland Avenue right-of-way.

POLICE DEPARTMENT COMMENTS:

The Police Department does not have any issues with the requested vacation.

FIRE DEPARTMENT COMMENTS:

The Holland street vacation must maintain adequate Fire Department access routes (Fire Lanes) where needed to service adjacent buildings including future projects.

SANITARY SERVICE:

1. Need to reserve sewer easements for sewer in the Holland Avenue right-of-way.

BUILDING DEVELOPMENT SERVICES:

Building Development Services does not have any issues with the requested vacation.

#### ADJACENT PROPERTY OWNER COMMENTS:

Thirty-seven (37) property owners are within three hundred (300) feet of this site and have been notified of this action.

#### STAFF COMMENTS:

1. This request is to vacate Holland Avenue between Harrison and Cherry Streets for incorporation into the University footprint. The applicant's original request included the proposed vacation of Normal Street from Dollison Avenue east to the existing MSU parking lot. The applicant has withdrawn the request to vacate Normal Street. Approval of this request will vacate only Holland Avenue as requested.
2. All properties adjacent to Holland Avenue will still have access. In addition, all necessary easements are being retained as part of this vacation.
3. The proposed vacation meets the approval criteria for vacating right-of-way.

ATTACHMENT 2  
APPROVAL CRITERIA  
VACATION #773

In order to approve the vacation of a public street or alley, the Planning and Zoning Commission must make the following findings.

1. All property owners adjacent to the street, alley or public way have access to another street, alley or public way.

STAFF RESPONSE:

All adjacent property has access to other public access ways.

1. The owners of two-thirds of the property adjacent to the street, alley or public way to be vacated have given their consent to the vacation.

STAFF RESPONSE:

All adjacent property owners have signed their consent to the vacation. The adjacent property is owned by Missouri State University.

1. That the retention of the street, alley, public way or subdivision serves no useful purpose.

STAFF RESPONSE:

Vehicular traffic will still be able to be accommodated with the surrounding street system.

1. That the vacation will not affect the ability to use utilities, public or private.

STAFF RESPONSE:

The proposed vacation will not adversely affect the ability to use utilities, public or private. All necessary easements are being retained.



ATTACHMENT 3  
LEGAL DESCRIPTION  
VACATION #773

All that part of Holland Avenue in Southern Addition, in the City of Springfield, Greene County, Missouri, said street running from the south right of way of Cherry Street to the north right of way of Harrison Street described as follows:

Beginning at the Northwest corner of Lot 5 in said Southern Addition; Thence South along the east right of way of Holland Avenue a distance of 220 feet to the Southwest corner of Lot 6 in said Southern Addition; Thence West a distance of 60 feet to the Southeast corner of Lot 65 in said Southern Addition; Thence North along the west right of way of Holland Avenue a distance of 220 feet to the Northeast corner of Lot 66 in said Southern Addition; Thence East a distance of 60 feet to the Point of Beginning, except that area used for utilities, storm and sanitary sewer easements.

**EXPLANATION TO COUNCIL BILL NO: 2014-\_\_\_\_\_**

FILED:

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To rezone approximately 0.44 acres of property generally located at 1611 North Campbell Avenue from a CS, Commercial Service District to a CC, Center City District.

BACKGROUND INFORMATION:

ZONING CASE NUMBER Z-22-2014

The applicant is requesting to rezone the subject property from a CS, Commercial Service District to a CC, Center City District. The applicant intends to have an outdoor patio with outdoor dining uses. Outdoor dining is not permitted in the CS district.

Supports the following Field Guide 2030 goal(s): Chapter 6, Major Goal 4: Develop the community in a sustainable manner. Objectives 4a and 4b

RECOMMENDATIONS:

The Planning and Zoning Commission held a public hearing on October 2, 2014 and recommended , by a vote of to , of the proposed zoning on the tract of land described on the attached sheet (see the attached Record of Proceedings).

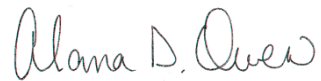
The Planning and Development staff recommends the application be **approved** (see the attached Zoning and Subdivision Report):

FINDINGS FOR STAFF RECOMMENDATION:

1. The requested CC, Center City zoning is consistent with the existing CC zoning to the west, south and east.
2. The Comprehensive Plan recommends more density and intensity in the Center City activity center similar to the land uses within the Center City zoning district.
3. The proposed rezoning will encourage further investment in this existing building.



Submitted by:



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Alana D. Owen, AICP, Senior Planner

Recommended by:

Approved by:

---

Bob Hosmer, AICP, Principal Planner

---

Greg Burris, City Manager

EXHIBITS:

Exhibit A, Record of Proceedings

Exhibit B, Legal Description

Exhibit C, Zoning and Subdivisions Staff Report

ATTACHMENTS:

Attachment 1, Background Report

Attachment 2, Neighborhood Meeting Summary

EXHIBIT A  
RECORD OF PROCEEDINGS  
ZONING CASE Z-22-2014

(The Record of Proceedings will be prepared for the City Council meeting)

EXHIBIT B  
LEGAL DESCRIPTION  
ZONING CASE Z-22-2014

A TRACT OF LAND LYING IN PART OF LOTS 4, 5, AND 6 IN BLOCK 13 OF ORIGINAL PLAT OF NORTH SPRINGFIELD A SUBDIVISION IN THE CITY OF SPRINGFIELD AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 6, THENCE NORTH 89°21'09" WEST ALONG THE SOUTH LINE OF SAID LOT 6, SAID LINE ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF LOCUST STREET, A DISTANCE OF 84.15 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTH LOT LINE NORTH 89°21'09" WEST, A DISTANCE OF 68.11 FEET; THENCE NORTH 00°06'50" EAST, A DISTANCE OF 162.00 FEET; THENCE SOUTH 89°44'44" EAST, A DISTANCE OF 152.25 FEET TO THE EAST LINE OF SAID LOT 4, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF CAMPBELL AVENUE; THENCE SOUTH 00°06'50" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 96.31 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5; THENCE NORTH 89°41'05" WEST ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 84.00 FEET; THENCE SOUTH 00°14'40" WEST, A DISTANCE OF 66.18 FEET TO THE POINT OF BEGINNING, CONTAINING 19,152 SQUARE FEET (0.44 ACRES), ALL LYING IN THE CITY OF SPRINGFIELD, GREENE COUNTY, MISSOURI.

# Zoning & Subdivision Report

Planning & Development - 417/864-1031  
840 Boonville - Springfield, Missouri 65802

## Zoning Case Z-22-2014

Location: 1611 North Campbell Avenue

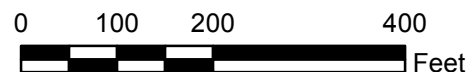
Current Zoning: CS, Commercial Service District

Proposed Zoning: CC, Center City District

### LOCATION SKETCH



- Area of Proposal



1 inch = 200 feet

ATTACHMENT 1  
BACKGROUND REPORT  
ZONING CASE Z-22-2014

DATE: September 18, 2014

LOCATION: 1611 North Campbell Avenue

APPLICANT: Neil Stenger Trust

TRACT SIZE: Approximately 0.44 acres

EXISTING USE: Tavern

PROPOSED USE: Uses permitted in the CC, Center City District

SURROUNDING LAND USES:

| AREA  | ZONING    | LAND USE                                   |
|-------|-----------|--------------------------------------------|
| North | CS        | Commercial and warehousing uses            |
| East  | CC        | Commercial and warehousing uses            |
| South | CS and CC | Bank, parking, church and residential uses |
| West  | CS and CC | Parking, commercial and warehousing uses   |

BUILDING DEVELOPMENT SERVICES COMMENTS:

Building Development Services does not have any issues with rezoning the subject property to CC, Center City District.

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

1. Rezoning to CC automatically triggers a traffic study. The traffic study is not necessary if the use stays the same. If the use changes in the future, a traffic study will be required prior to redevelopment.
2. This portion of Campbell Avenue is classified as a collector which requires 30 feet of right of way from the centerline. Adequate right of way appears to exist.
3. Sidewalk already exists along Campbell Avenue.
4. If the outdoor patio is intended to be on public right of way, the property owner will need to apply for an Encroachment on Public Right of Way and go through the approval process for a license agreement.
5. The driveways are marked as entrance only and exit only. Per municipal code 98-118.7, Entrance and exit signs, one-way drives shall be appropriately marked

"entrance only" or "exit only" on both sides of suitable signs at least 18 inches by 24 inches in size erected at the right-of-way line. If signs do not currently exist, they need to be installed.

#### STORMWATER COMMENTS:

1. There are no Stormwater issues with rezoning this property; however, please note that development (or re-development) of the property will be subject to the following conditions at the time of development:
  - a. Any increase in impervious area from 1985 aerial photo information will require the development to meet current detention and water quality requirements. Impervious surfaces in place prior to 1985 and currently in good condition can be credited as existing impervious surface. Existing gravel surfaces meeting the above definition are only eligible for 50% credit.
  - b. Payment in lieu of construction of detention facilities may be approved on a case by case basis, depending on downstream and other conditions. A Buyout Application must be submitted for full consideration. Cost of downstream improvements may be credited towards the payment in lieu of constructing detention.
  - c. The proposed percent of impervious surfacing must not exceed the maximum impervious surfacing allowed for site by zoning, platting, and/or previous stormwater reports.

#### CLEAN WATER SERVICES COMMENTS:

No objection to rezoning. Public sewer and service lateral currently available.

#### CITY UTILITIES:

No objection. This will not impact City Utilities facilities.

#### ADJACENT PROPERTY OWNER COMMENTS:

Nine (9) property owners within one hundred eighty-five (185) feet of the subject property were notified by mail of this request. No one has objected to date.

#### NEIGHBORHOOD MEETING:

The applicant held a neighborhood meeting on September 4, 2014. A summary of the meeting is attached (Attachment 2).

#### STAFF COMMENTS:

1. The applicant is proposing to rezone the subject property from a CS, Commercial Service District to a CC, Center City District to allow for outdoor dining at this location. The existing use of the building is a tavern. The tenant of the building intends to have an outdoor patio with outdoor dining. Outdoor dining is not permitted in the CS district.
2. The subject property is within the Center City Activity Center as shown in the *Growth Management and Land Use Plan* element of the *Comprehensive Plan*. Activity Centers are identified as areas of significant business and high-density housing. It is intended that additional development be concentrated in and around these activity centers to optimize transportation investments, citizen convenience, investor confidence and a compact growth pattern. Properties within Activity Centers are to be intensively and efficiently used. The subject property would fit within these criteria.
3. Approval of CC zoning on the subject property would be consistent with the existing CC zoning to the west, south and east.

#### FINDINGS FOR STAFF RECOMMENDATION:

1. The requested CC, Center City zoning is consistent with the existing CC zoning to the west, south and east.
2. The Comprehensive Plan recommends more density and intensity in the Center City activity center similar to the land uses within the Center City zoning district.
3. The proposed rezoning will encourage further investment in this existing building.

#### RECOMMENDATION:

Staff recommends **approval** of this request.

#### CITY COUNCIL:

October 27, 2014

#### STAFF CONTACT PERSON:

Alana D. Owen, AICP  
Senior Planner  
864-1831

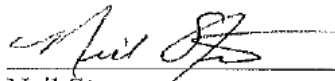
ATTACHMENT 2  
NEIGHBORHOOD MEETING SUMMARY  
ZONING CASE Z-22-2014

Meeting was held at Mid-Town Carnegie Library, 397 E Central on September 4, 2014. Meeting started at 3:45 pm and concluded at 6 pm. Seven (7) people attended the meeting. List of attendees is attached.

Those who attended did not object to zoning change requested ("CS" to "CC"). The concerns voiced at the meeting were:

- 1) Where will outdoor patio be located? Answer: on north side of building near northeast corner of building and Campbell Ave.
- 2) Regarding large events which have been held on property: a) would like to see a better job of cleaning up debris left by patrons after event. b) sometimes noise gets too loud.
- 3) One property owner thought he might get a copy of "CS" zoning and copy of "CC" zoning to compare uses allowed by each classification.

This summary of the meeting was prepared by Neil Stenger, Trustee, of Neil Stenger Trust.

  
\_\_\_\_\_  
Neil Stenger

Date: 9-5-14



Neil Stenger Trust  
PO Box 2027  
Springfield, MO 65801  
August 15, 2014

**NEIGHBORHOOD REZONING MEETING**

Dear

Neil Stenger Trust is requesting rezoning of **1611 N Campbell**. The current zoning is “CS” Commercial Services and the request is to change the zoning to “CC” Center City. The current Tenant has decided to add food service to his business and would like to create a **outside patio eating area**. CS zoning does not allow outside patio eating areas. **You are invited to attend a Neighborhood Rezoning Meeting, Thursday, September 4, 2014, from 4pm to 6 pm at Midtown Carnegie Library, 397 E Central, Springfield, MO. Meeting room is upstairs.**

Neil Stenger will be present to hear your comments and concerns. A summary of the meeting will be submitted to the City of Springfield. If you prefer to leave written comments, those written comments will also be submitted to City of Springfield. Also enclosed is a “Notice” from City staff outlining how they are available to assist you. Should you have any questions prior to the meeting feel free to call Neil Stenger, Murney Associates Realtors, 417-879-7211.

Sincerely,



Neil Stenger

**EXPLANATION TO COUNCIL BILL NO: 2014-\_\_\_\_\_**

FILED:

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To rezone approximately 1.3 acres of property generally located at 1200-1300 block South Lexington Avenue from an R-SF, Single-Family Residential District to an R-LD, Low-Density Multi-Family District; and establishing Conditional Overlay District No. 81.

BACKGROUND INFORMATION:

ZONING CASE NUMBER Z-23-2014/CONDITIONAL OVERLAY DISTRICT NO. 81

The applicant is requesting to rezone this tract from an R-SF, Single-Family Residential District to an R-LD, Low-Density Multi-Family District with a Conditional Overlay District. The developer is proposing multi-family townhouses which will provide a transition between the higher density multi-family uses along Kansas Expressway to the west and low-density single-family residential properties to the east. The proposed Conditional Overlay District will restrict the residential density to 11 dwelling units per acre or less. No portion of a multi-family structure shall be higher than forty-five (45) degree bulk plane where the property adjoins an R-SF District.

Supports the following Field Guide 2030 goal(s): Chapter 6, Major Goal 4: Develop the community in a sustainable manner. Objectives 4a and 4b

RECOMMENDATIONS:

The Planning and Zoning Commission held a public hearing on October 2, 2014, and recommended \_\_\_\_\_, by a vote of \_\_\_ to \_\_, of the proposed zoning on the tract of land described on the attached sheet (see the attached Record of Proceedings).

The Planning and Development staff recommends the application be **approved** with the requirements of Conditional Overlay District No. 81 (see the attached Zoning and Subdivision Report).

FINDINGS FOR STAFF RECOMMENDATION:

1. The request is consistent with the adjacent zoning along Kansas Expressway and Lexington Avenue and the intent of the R-LD district to serve as a transition between lower density and higher density residential districts.
2. This request is consistent with the City's policies to promote infill development and increased intensity where investments have already been made in public services and infrastructure.

3. The proposed conditional overlay district will restrict and lower the residential density similar to the R-TH, Residential Townhouse District.

Submitted by:

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Daniel Neal, Senior Planner

Reviewed by:

Approved by:

---

Bob Hosmer, AICP, Principal Planner

---

Greg Burris, City Manager

EXHIBITS:

Exhibit A, Record of Proceedings

Exhibit B, Legal Description

Exhibit C, Conditional Overlay Provisions

Exhibit D, Zoning and Subdivisions Staff Report

ATTACHMENTS:

Attachment 1, Background Report

Attachment 2, Neighborhood Meeting Summary

EXHIBIT A  
RECORD OF PROCEEDINGS  
ZONING CASE Z-23-2014 & CONDITIONAL OVERLAY DISTRICT NO. 81

(The Record of Proceedings will be prepared for the City Council meeting)

EXHIBIT B  
LEGAL DESCRIPTION  
ZONING CASE Z-23-2014 & CONDITIONAL OVERLAY DISTRICT NO. 81

Description of R-LD area 1.33 acres:

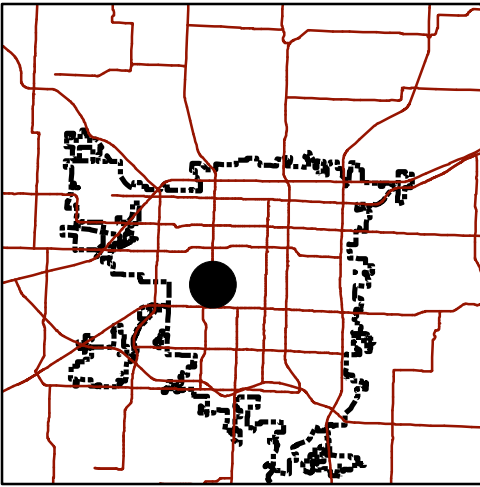
COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP-29-N, RANGE-22-W. THENCE NORTH 02 DEGREES 47 MINUTES 10 SECONDS EAST, A DISTANCE OF 627.74 FEET; THENCE SOUTH 87 DEGREES 58 MINUTES 05 SECONDS WEST, A DISTANCE OF 219.89 FEET FOR A POINT OF BEGINNING; THENCE NORTH 87 DEGREES 58 MINUTES 05 SECONDS WEST A DISTANCE OF 155.66 FEET; THENCE NORTH 02 DEGREES 16 MINUTES 14 SECONDS EAST, A DISTANCE OF 391.16 FEET; THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 89 DEGREES 10 MINUTES 37 SECONDS, A RADIUS OF 59.50 FEET, AN ARC LENGTH OF 92.61 FEET, A CHORD BEARING AND DISTANCE OF NORTH 42 DEGREES 19 MINUTES 05 SECONDS WEST, 83.54 FEET; THENCE SOUTH 86 DEGREES 54 MINUTES 23 SECONDS EAST, A DISTANCE OF 168.78 FEET; THENCE SOUTH 02 DEGREES 57 MINUTES 27 SECONDS WEST, A DISTANCE OF 249.80 FEET; THENCE SOUTH 87 DEGREES 51 MINUTES 59 SECONDS EAST, A DISTANCE OF 45.11 FEET; THENCE SOUTH 02 DEGREES 26 MINUTES 03 SECONDS WEST, A DISTANCE OF 198.01 FEET TO THE POINT OF BEGINNING. ALL BEING IN THE CITY OF SPRINGFIELD, GREENE COUNTY, MISSOURI. CONTAINING 1.33 ACRES MORE OR LESS.

EXHIBIT C  
CONDITIONAL OVERLAY DISTRICT PROVISIONS  
ZONING CASE Z-23-2014 & CONDITIONAL OVERLAY DISTRICT NO. 81

The requirements of *Section 4-1200* of the *Springfield Zoning Ordinance* shall be as modified herein for development within this district.

1. Use Limitations

1. The maximum density for the subject property is eleven (11) dwelling units per acre.



# Zoning & Subdivision Report

Planning & Development - 417/864-1031  
840 Boonville - Springfield, Missouri 65802

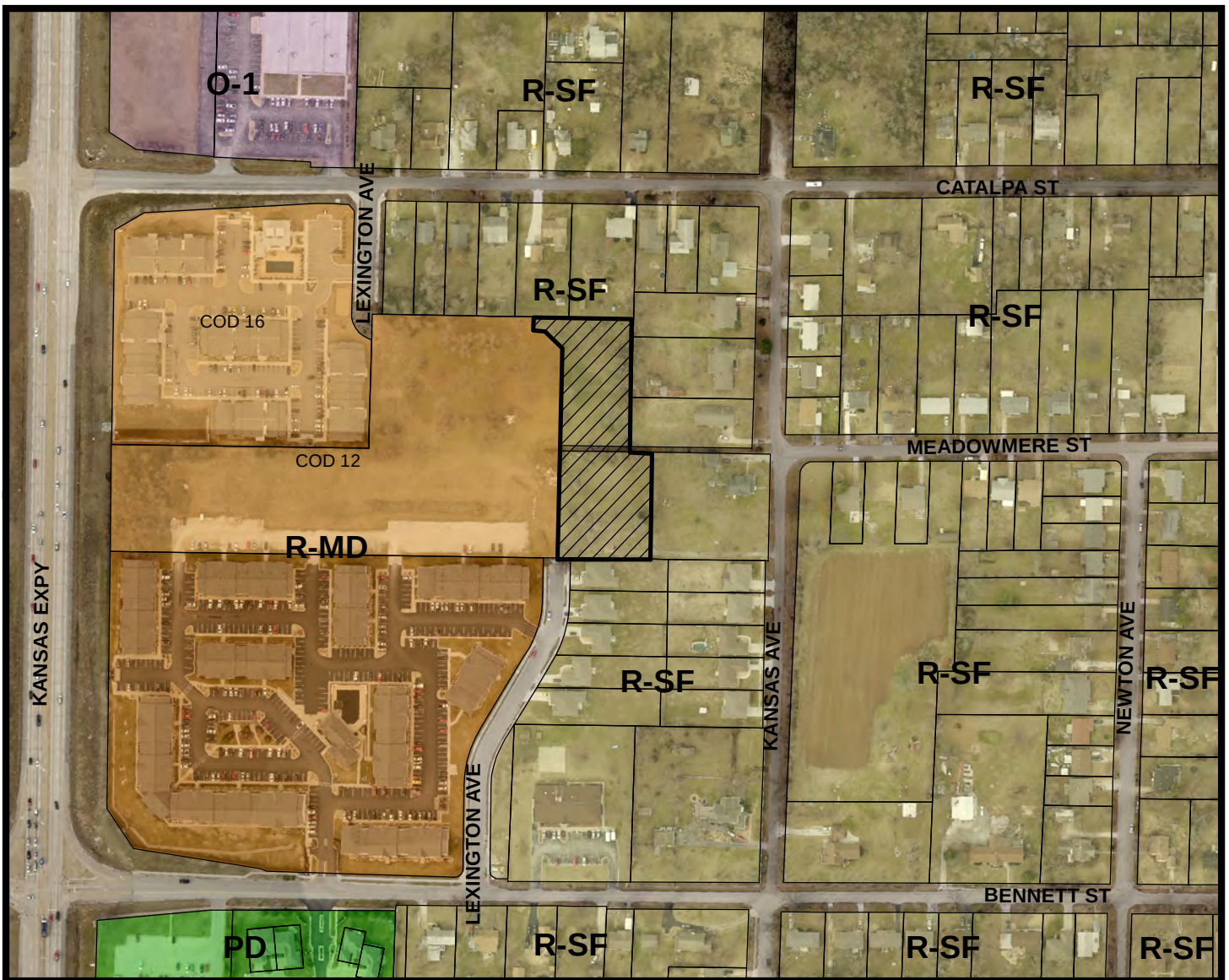
## **Z-23-2014 and Conditional Overlay District #81**

Location: 1200-1300 block S. Lexington Ave.

Current Zoning: R-SF, Single-Family Residential

Proposed Zoning: R-LD, Low-Density Multi-Family Residential  
with COD #81

### LOCATION SKETCH



- Area of Proposal

0 150 300 600 Feet

1 inch = 300 feet

ATTACHMENT 1  
BACKGROUND REPORT  
ZONING CASE Z-23-2014 & CONDITIONAL OVERLAY DISTRICT NO. 81

DATE: September 18, 2014

LOCATION: 1200-1300 block S. Lexington Ave.

APPLICANT: Kensington Park, LLC

TRACT SIZE: Approximately 1.3 acres

EXISTING USE: Vacant/Undeveloped land

PROPOSED USE: Multi-family townhouses

SURROUNDING LAND USES:

| AREA  | ZONING     | LAND USE                 |
|-------|------------|--------------------------|
| North | R-SF       | Single-family residences |
| East  | R-SF       | Single-family residences |
| South | R-SF       | Single-family residents  |
| West  | R-MD w/COD | Vacant/undeveloped land  |

BUILDING DEVELOPMENT SERVICES COMMENTS:

No comments.

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

1. Lexington Avenue must be connected to existing Lexington to the north and south.
2. Public Improvement Plans are required. The final plat cannot be approved until the infrastructure is constructed and approved by the city or funds are escrowed.
3. Sidewalks are required to be constructed along both sides of Lexington Avenue.
4. A traffic study is not required.
5. Meadowmere Street must be vacated to Kansas Avenue before the final plat can be approved.



#### STORMWATER COMMENTS:

1. There are no Stormwater issues with rezoning this property; however, please note that development (or re-development) of the property will be subject to the following conditions at the time of development:
  - a. Any increase in impervious area from 1985 aerial photo information will require the development to meet current detention and water quality requirements. Impervious surfaces in place prior to 1985 and currently in good condition can be credited as existing impervious surface. Existing gravel surfaces meeting the above definition are only eligible for 50% credit.
  - b. Payment in lieu of construction of detention facilities is not an option for this site due to existing downstream flooding problems.
  - c. The proposed percent of impervious surfacing must not exceed the maximum impervious surfacing allowed for site by zoning, platting, and/or previous stormwater reports.
2. Concentrated points of discharge from these improvements will be required to drain into a certified natural surface-water channel, public right-of-way, or a drainage easement.
3. If a subdivision is required by this application, then public improvement plans and drainage easements will be required for any concentrated runoff crossing lot lines, as well as for detention and/or water quality features serving more than one lot. These improvements must be constructed, inspected, approved and operational prior to issuance of a building permit or final plat. Must pay Engineering and Inspection Fees, which are 5% of the public improvement construction costs, prior to final approval of public improvement plans.
4. Drainage easements will be required where concentrated flow drains from one lot to another or from offsite onto the proposed subdivision. Such easement shall be sized for the 100-year peak flow rate.
5. Based upon City contour and sinkhole information, no sinkholes exist on the site and the site is not within a sinkhole watershed.
6. Based upon City data, no significant offsite concentrated stormwater flow exists upstream of the subject property.
7. Must obtain MoDOT approval to discharge stormwater onto MoDOT right of way.

#### CLEAN WATER SERVICES COMMENTS:

No objections to the rezoning.

#### CITY UTILITIES:

The rezoning will not impact CU facilities. There are adequate utilities available to serve the development.

#### ADJACENT PROPERTY OWNER COMMENTS:

Seventeen (17) property owners within one hundred eighty-five (185) feet of the

subject property were notified by mail of this request. No one has objected to date.

#### NEIGHBORHOOD MEETING:

The applicant held a neighborhood meeting on, September 8, 2014 from 4:30 to 6 p.m., regarding the request for R-LD, Low-Density Multi-Family Residential District with Conditional Overlay District No. 81. A summary of the meeting is attached (Attachment 2).

#### STAFF COMMENTS:

1. The applicant is requesting to rezone this tract from an R-SF, Single-Family Residential District to an R-LD, Low-Density Multi-Family District with a Conditional Overlay District No. 81. The proposed use is a multi-family townhouse development. The proposed Conditional Overlay District will restrict the residential density to 11 dwelling units per acre.
2. The Growth Management and Land Use element of the Comprehensive Plan designates the subject property and surrounding area located along the east side of Kansas Expressway between West Catalpa Street and West Bennett Street as Low Density Housing. This land use designation typically recommends single-family residential zoning with densities up to 6 units per acre. The adjacent properties along Kansas Expressway between Catalpa and Bennett Streets were rezoned to R-MD, Medium-Density Multi-Family Residential between 2005 and 2008. The subject property will have access to the new section of Lexington Avenue, a local street, that will be constructed at the time of development and connected to a collector (Bennett Street) a few hundred feet to the south. The R-LD, Low-Density Multi-Family Residential District is intended to serve as a transition between lower density and higher density residential districts. The proposed multi-family residential uses and proposed lower densities are an appropriate transition between the higher density multi-family uses along Kansas Expressway to the west and low-density single-family residential properties to the east. The subject site with the conditional overlay district meets the recommendations and intent of the Comprehensive Plan and R-LD District.
3. The applicant is requesting a conditional overlay district that will restrict the maximum density to eleven (11) dwelling units per acre. This restriction will also reduce the projected traffic impact of the site and will not require a traffic study. The proposed density is comparable to the R-TH District. The Multi-Family Location and Design Guidelines are not required for multi-family developments at eleven (11) dwelling units per acre or less.
4. The preliminary plat of Kensington Park Phase III is being submitted concurrently with this rezoning request. An extension of South Lexington Avenue will be constructed as part of the plat and proposed development. The new street with

sidewalks will connect the two sections of Lexington which are currently stub streets. The proposed and future street improvements will provide improved vehicular and pedestrian circulation for the multi-family development in this area.

5. The bufferyard requirement between the R-LD, Low-Density Multi-Family Residential District and adjacent R-SF, Single-Family Residential District to the north, east and south, is a Bufferyard "B". Bufferyard "B" requires a minimum open space of fifteen (15) feet wide with the following plantings per one hundred (100) linear feet: one (1) canopy tree, one (1) understory tree, one (1) evergreen tree and six (6) shrubs. There are no required structures (i.e. solid fence, wall or hedge) in the Bufferyard "B".
6. The standard development requirements in the R-LD District are otherwise adequate for mitigating potential impacts of the multi-family uses on the adjoining single-family residential properties. No portion of a multi-family structure shall be higher than forty-five (45) degree bulk plane where the property adjoins an R-SF District. The standard requirements for noise, lighting, odor and signage will be covered by the Zoning Ordinance.

#### FINDINGS FOR STAFF RECOMMENDATION:

1. The request is consistent with the adjacent zoning along Kansas Expressway and Lexington Avenue and the intent of the R-LD district to serve as a transition between lower density and higher density residential districts.
2. This request is consistent with the City's policies to promote infill development and increased density where investments have already been made in public services and infrastructure.
3. The proposed conditional overlay district will restrict and lower the residential density similar to the R-TH, Residential Townhouse District.

#### RECOMMENDATION:

Staff recommends **approval** of this request with the requirements of Conditional Overlay District No. 81.

CITY COUNCIL PUBLIC HEARING: October 27, 2014

#### STAFF CONTACT PERSON:

Daniel Neal  
Senior Planner  
864-1036

## EXHIBIT 2: NEIGHBORHOOD MEETING SUMMARY

---

1. Request change to zoning from: R-SF to R-LD with a Conditional Overlay  
(existing zoning) (proposed zoning)
2. Meeting Date & Time: September 9, 2014; 4:30 - 6:00 PM
3. Meeting Location: Kensington Park Apartments, Community Room
4. Number of invitations that were sent: 68
5. How was the mailing list generated: via The City of Springfield Zoning Department
6. Number of neighbors in attendance (attach a sign-in sheet): 6
7. List the verbal comments and how you plan to address any issues:  
(City Council does not expect all of the issues to be resolved to the neighborhood's satisfaction; however, the developer must explain why the issues cannot be resolved.)

Overall, there were no concerns with the townhomes themselves. The following were concerns made with the area.

1. Concerns that there will be a lot of extra traffic on Lexington Avenue.
2. Complaints of loud music from vehicles. (unrelated to this rezone)

8. List or attach the written comments and how you plan to address any issues:

No written comments were received.



hdesigngroup  
5051 S National Ave Ste 7a  
Springfield, Missouri 65810

sign in sheet

Kensington Park Rezone  
PLN2014-00356

Monday, September 8, 2014  
Kensington Park Apartments = Community Room  
4:30 p.m. - 6:00 p.m.

Please print below; information will be submitted to the City of Springfield.

| name               | address                | phone                   |
|--------------------|------------------------|-------------------------|
| Chester Meyer      | 1744 W. Catalpa office | 417 831 7275            |
| 2 Mayetta Horner   | 1727 W. Catalpa        | 527-1823                |
| 3 Valerie          |                        |                         |
| 1 Lisa C Krueger   | 1412 W Catalpa         | 866-7094                |
| 5 Edna Little      | 1722 W. Catalpa        | <del>874</del> 576-5822 |
| 6 Ann Kistler      | 1621 W. Catalpa        | 838-0487                |
|                    |                        |                         |
|                    |                        |                         |
|                    |                        |                         |
|                    |                        |                         |
|                    |                        |                         |
|                    |                        |                         |
| Owner's Reps       |                        |                         |
| <del>Jeff B.</del> |                        | 840-6287                |
| Julie Boye         |                        | 860-7508                |
| Jeffrey Boye       |                        | 224-4854                |
| Brent Stevens      | hdesign group          | 887-6595                |
| Katrina Effink     | "                      | "                       |
|                    |                        |                         |

**EXPLANATION TO COUNCIL BILL NO: 2014-\_\_\_\_\_**

FILED:

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To rezone approximately 11.89 acres of property generally located on the north side 4900 block West Chestnut Expressway from a Greene County C-2 District to an HC, Highway Commercial District.

BACKGROUND INFORMATION:

ZONING CASE NUMBER Z-24-2014

The proposed rezoning is a translation of County C-2 District zoning to the City's HC, Highway Commercial District as part of an annexation (A-2-14). City Council initiated the annexation and rezoning at their meeting on September 8, 2014. The subject property is proposed to be annexed at the City Council meeting on October 27, 2014. If the property is annexed, then staff proposes the following rezoning request be approved to translate the existing County C-2 zoning district to the City's HC, Highway Commercial District, which is compatible and consistent with the surrounding zoning districts along Chestnut Expressway.

Supports the following Field Guide 2030 goal(s): Chapter 6, Major Goal 4: Develop the community in a sustainable manner. Objectives 4a and 4b

RECOMMENDATIONS:

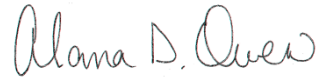
The Planning and Zoning Commission held a public hearing on October 2, 2014 and recommended , by a vote of to , of the proposed zoning on the tract of land described on the attached sheet (see the attached Record of Proceedings).

The Planning and Development staff recommends the application be **approved** (see the attached Zoning and Subdivision Report):

FINDINGS FOR STAFF RECOMMENDATION:

1. The HC, Highway Commercial District is compatible and consistent with the intensity of uses located along Chestnut Expressway in this area.
2. Approval of this request will allow the City to enforce its regulations on this property once it is annexed.

Submitted by:



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Alana D. Owen, AICP, Senior Planner

Recommended by:

Approved by:

---

Bob Hosmer, AICP, Principal Planner

---

Greg Burris, City Manager

EXHIBITS:

Exhibit A, Record of Proceedings

Exhibit B, Legal Description

Exhibit C, Zoning and Subdivisions Staff Report

ATTACHMENTS:

Attachment 1, Background Report

EXHIBIT A  
RECORD OF PROCEEDINGS  
ZONING CASE Z-24-2014

(The Record of Proceedings will be prepared for the City Council meeting)



EXHIBIT B  
LEGAL DESCRIPTION  
ZONING CASE Z-24-2014

All that part of Lots Two (2) through Seven (7) and that part of Lots 33 through 35 of Hi-Way Park Estates, Greene County, Missouri, being more particularly described as follows:  
Commencing at the Southeast corner of Lot 7 of Highway Park Estates, as shown on the recorded plat thereof; thence, North 02°17'30" East, along and with the East line of said Lot 7, a distance of 132.22 feet to an existing iron pin on the current West right-of-way of Broadview Place and the POINT OF BEGINNING; thence, South 22°10'25" West, along and with said West right-of-way line, a distance of 104.18 feet to an existing iron pin on the new North right-of-way line of Chestnut Expressway; thence, North 88°34'15" West, along and with said North line, a distance of 540.99 feet to an existing iron pin; thence, North 77°20'12" West, along and with said North line, a distance of 153.00 feet to an existing iron pin; thence, North 70°07'56" West, a distance of 63.16 feet to an existing iron pin at the intersection of said North line with the East right-of-way line of Interstate "44"; thence, North 25°19'27" East, along and with said East line, a distance of 405.30 feet to an existing iron pin; thence, North 41°58'55" East, along and with said East line, a distance of 920.36 feet to an existing iron pin; thence, South 47°44'56" East, along and with the right-of-way of Interstate "44", a distance of 33.38 feet (record 33.62) to an existing iron pin on the West right-of-way line of Broadview Place; thence, South 02°12'48" West, along and with said West line, a distance of 107.28 feet; thence, North 89°26'41" East, along and with said West line, a distance of 5.08 feet (record 5.00); thence, South 02°17'32" West, along and with said West line, a distance of 745.85 feet; thence, South 88°42'19" East, along and with said West line, a distance of 10.00 feet; thence, South 02°18'32" West, along and with said West line, a distance of 147.58 feet to an existing iron pin and the POINT OF BEGINNING, containing 11.89 acres and being subject to easements, restrictions or rights-of-way, if any.

# Zoning & Subdivision Report

Planning & Development - 417/864-1031  
840 Boonville - Springfield, Missouri 65802

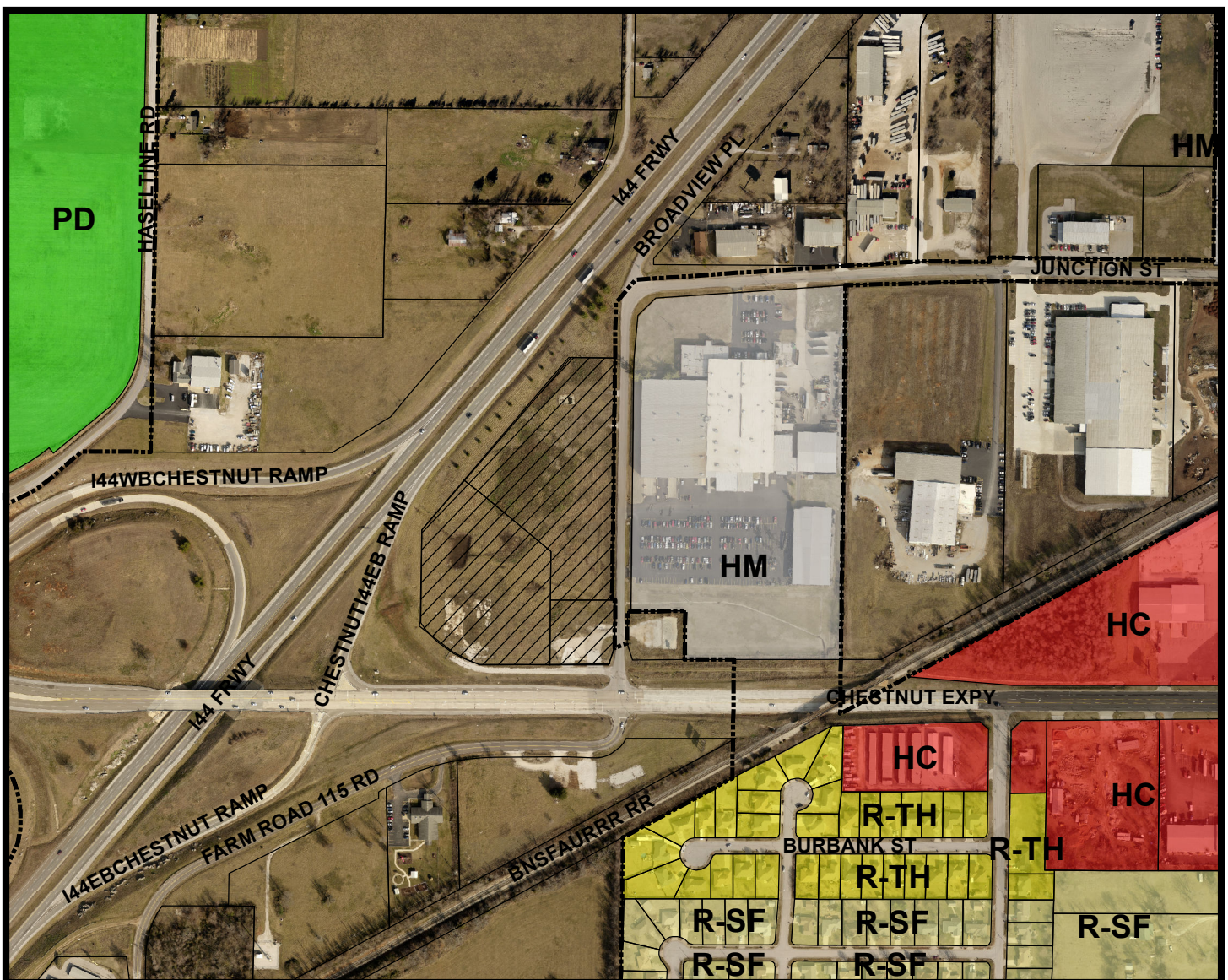
## **Zoning Case Z-24-2014**

Location: North side 4900 block West Chestnut Expressway

Current Zoning: Greene County C-2

Proposed Zoning: HC, Highway Commercial

### LOCATION SKETCH



- Area of Proposal

0 250 500 1,000  
Feet

1 inch = 500 feet

ATTACHMENT 1  
BACKGROUND REPORT  
ZONING CASE Z-24-2014

DATE: September 23, 2014

LOCATION: North side 4900 block West Chestnut Expressway

APPLICANT: Springfield City Council

TRACT SIZE: Approximately 11.89 acres

EXISTING USE: Undeveloped land

PROPOSED USE: Uses permitted in the HC, Highway Commercial District

SURROUNDING LAND USES:

| AREA  | ZONING         | LAND USE                              |
|-------|----------------|---------------------------------------|
| North | County M-1     | Commercial, warehouse, manufacturing  |
| East  | HM, County M-2 | Commercial, warehouse, manufacturing  |
| South | County M-1     | Commercial uses                       |
| West  | County M-1     | I-44, commercial and warehousing uses |

BUILDING DEVELOPMENT SERVICES COMMENTS:

Building Development Services does not have any issues with rezoning the subject property to HC, Highway Commercial District.

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

The Public Works Traffic Division does not have any objections to this proposed rezoning.

STORMWATER COMMENTS:

The Stormwater Services Division does not have any concerns with the proposed rezoning of the subject property to HC, Highway Commercial.

CLEAN WATER SERVICES COMMENTS:

No objection to rezoning.

ADJACENT PROPERTY OWNER COMMENTS:

Two (2) property owners within one hundred eighty-five (185) feet of the subject property were notified by mail of this request. No one has objected to date.

STAFF COMMENTS:

1. The City has initiated an annexation and rezoning request for the subject property at their September 8, 2014 meeting. The subject property is proposed to be annexed at the City Council meeting on October 27, 2014. This request is to translate the existing County C-2 zoning district to the City's HC, Highway Commercial District, which is compatible and consistent with the surrounding zoning districts along Chestnut Expressway.

FINDINGS FOR STAFF RECOMMENDATION:

1. The HC, Highway Commercial District is compatible and consistent with the intensity of uses located along Chestnut Expressway in this area.
2. Approval of this request will allow the City to enforce its regulations on this property once it is annexed.

RECOMMENDATION:

Staff recommends **approval** of this request.

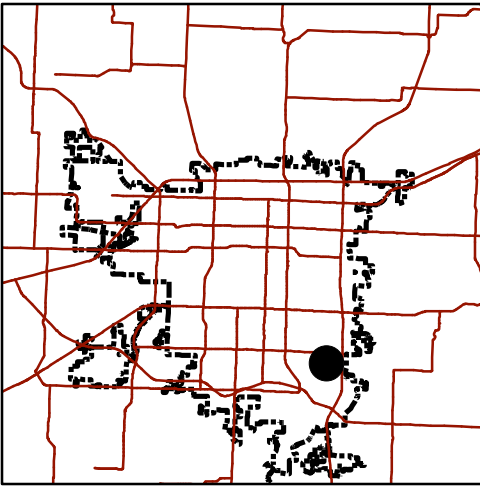
CITY COUNCIL:

October 27, 2014

STAFF CONTACT PERSON:

Alana D. Owen, AICP  
Senior Planner  
864-1831





# Zoning & Subdivision Report

Planning & Development - 417/864-1031  
840 Boonville - Springfield, Missouri 65802

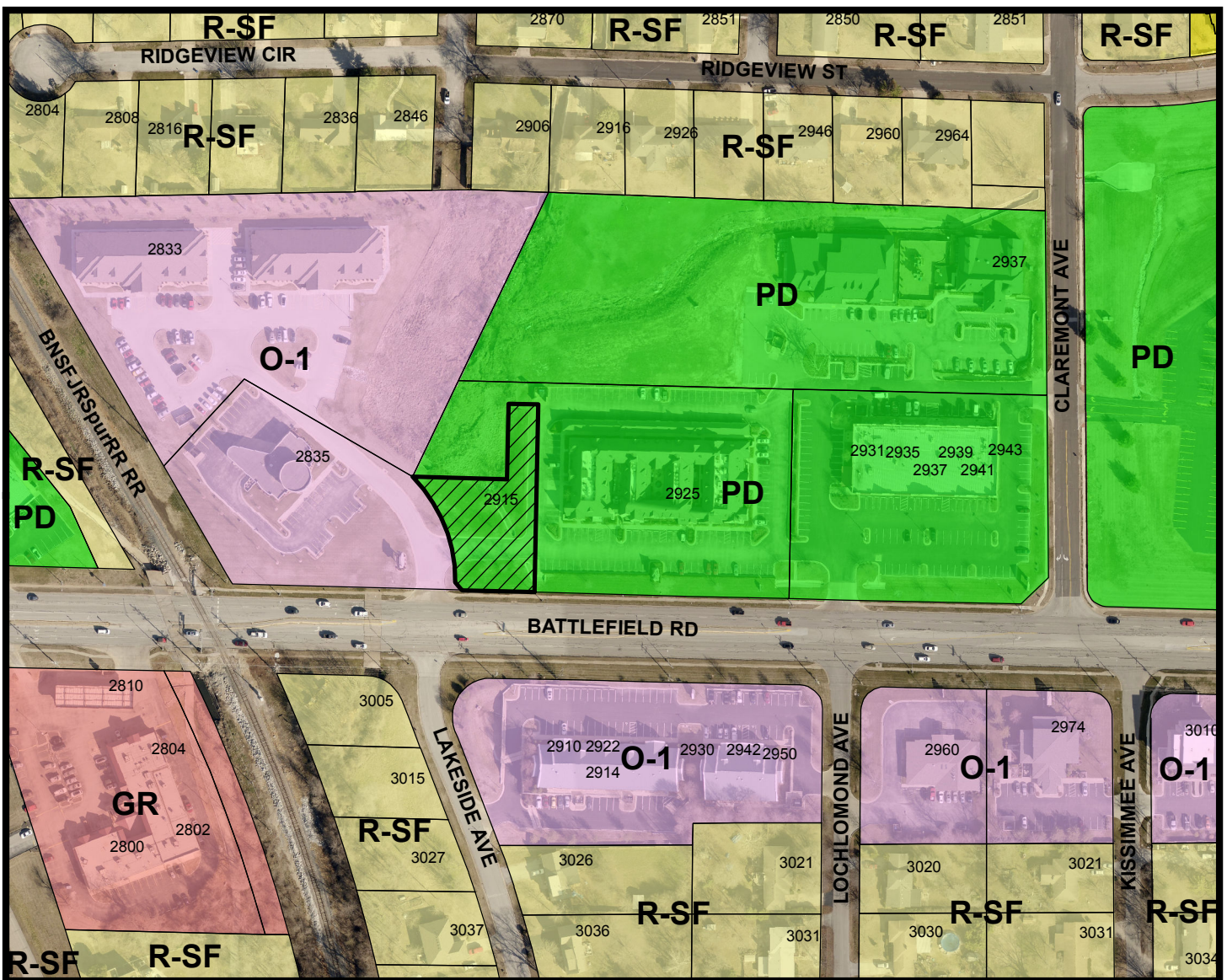
## Planned Development 346

Location: 2915 East Battlefield Rd.

Current Zoning: Planned Development 140 1st Amd

Proposed Zoning: Planned Development 346

### LOCATION SKETCH



- Area of Proposal



1 inch = 210.102792 feet

## EXPLANATION TO COUNCIL BILL NO. 2014 –

FILED: -14

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To rezone approximately 0.49 acres of property generally located at 2915 East Battlefield Road from Planned Development District No. 140 1<sup>st</sup> Amendment to Planned Development District No. 346.

### BACKGROUND INFORMATION:

#### PLANNED DEVELOPMENT DISTRICT NO. 346

The applicant is requesting a Planned Development District No. 346 to allow a drive-thru restaurant. The intent of the Planned Development is to construct a new 6,000 square feet building for a drive-in restaurant with outside seating and for office and retail uses.

Supports the following Field Guide 2030 goal(s): Chapter 6, Major Goal 4: Develop the community in a sustainable manner. Objective 4a

### RECOMMENDATIONS:

The Planning and Zoning Commission held a public hearing on October 2, 2014 and recommended\_\_\_\_, by a vote of \_\_ to \_\_, of the proposed zoning on the tracts of land described on the attached sheet (see the attached Record of Proceedings).

The Planning and Development staff recommends the application be **approved** (see the attached Zoning and Subdivision Report).

### FINDINGS FOR STAFF RECOMMENDATION:

1. Approval of this application will increase intensity where investments have been made in public services and infrastructure and provide for the expansion of the existing development.
2. The proposed development is not expected to have any additional impact on adjacent properties. This request keeps with the intent of the existing planned development by maintaining the setbacks, bufferyard and other requirements.

Approved by:

---

Bob Hosmer, AICP, Principal Planner

---

Greg Burris, City Manager

EXHIBITS:

Exhibit A, Record of Proceedings

Exhibit B, Legal Description

Exhibit C, Zoning and Subdivision Report

Attachment 1, Background Report

Attachment 2, Neighborhood Meeting Summary

PLANNED DEVELOPMENT 346 EXHIBITS:

Exhibit 1, Planned Development Ordinance Text

Exhibit 2, Preliminary Development Plan

EXHIBIT A  
RECORD OF PROCEEDINGS  
PLANNED DEVELOPMENT 346

(The Record of Proceedings will be prepared for the City Council meeting)



EXHIBIT B  
LEGAL DESCRIPTION  
PLANNED DEVELOPMENT 346

All of Lot Two (2), in Ridgeview Heights Subdivision Phase 2.

ATTACHMENT 1  
BACKGROUND REPORT  
PLANNED DEVELOPMENT 346

DATE: September 20, 2014

LOCATION: 2915 East Battlefield Road

APPLICANT: KD Concepts, LLC

TRACT SIZE: Approximately 0.49 acres

EXISTING USE: Vacant and open space

PROPOSED USE: Drive-in restaurant and other retail uses

SURROUNDING LAND USES:

| AREA  | ZONING                 | LAND USE               |
|-------|------------------------|------------------------|
| North | PD 322                 | Office uses            |
| East  | PD 140 1 <sup>st</sup> | Office and retail uses |
| South | O-1                    | Office uses            |
| West  | GR COD55               | Office uses            |

TRAFFIC DIVISION COMMENTS:

1. The traffic study is currently being updated to reflect the current zoning request for Tract 3. No additional improvements are needed to accommodate the changes.
2. Battlefield road is classified as a primary arterial which requires 50 feet of right of way from the centerline. It appears no additional right of way is required.

BUILDING DEVELOPMENT SERVICES COMMENTS:

This request is acceptable to Building Development Services.

STORMWATER COMMENTS:

No stormwater issues with proposed drive-thru restaurant in the PD, However, the following items must be addressed at the time of development:

1. The proposed percent of impervious surfacing must not exceed the maximum impervious surfacing allowed for site by zoning, platting, and/or previous

- stormwater reports. If site is located within a Planned Development District, stormwater requirements in PD language must be met.
2. It must be shown that any new development proposed is in conformance with the original design criteria of the existing regional detention basin. If runoff from the proposed development exceeds the original design, additional detention must be provided, based on the current requirements.
  3. Concentrated points of discharge from these improvements will be required to drain into the regional detention basin.
  4. Based upon City data, there is a significant amount of offsite concentrated stormwater crossing the subject property. Although stormwater detention and water quality do not have to be provided for these flows, public improvement plans will be required to relocate these flows across the subject property and to modify the existing regional detention basin.
  5. Provide topography, with contour intervals not exceeding two (2) feet, showing the locations of any natural features such as watercourses, drainage ways, flood prone areas, sinkholes or other geological features within the site, and contributing off-site drainage areas.
  6. Provide location and size of all existing and proposed stormwater easements within and immediately adjacent to the site. Some of the existing detention and drainage easements will need to be vacated and new easements provided.
  7. Drainage patterns for any runoff currently flowing across the site must not be blocked or altered by any future construction.
  8. Drainage improvements serving only the subject property must be constructed, inspected, approved and operational prior to issuance of building permit.

#### CLEAN WATER SERVICES COMMENTS:

No objections to zoning change as long as the proposed building or other permanent structures do not encroach into the sewer easements.

#### ADJACENT PROPERTY OWNER COMMENTS:

Nine (9) property owners are within 185 feet of the subject property and were notified by mail of this request.

#### NEIGHBORHOOD MEETING:

The applicant held a neighborhood meeting on August 25, 2014. A summary of the meeting is attached (Attachment 2).

#### STAFF COMMENTS:

1. The applicant is requesting to rezone the subject property from Planned Development District No. 140 1<sup>st</sup> Amendment to Planned Development District No. 346 for the purpose of allowing a drive-thru restaurant. The original Planned Development did not allow drive-thru restaurants.

2. The proposed amendment keeps with the intent of the original Planned Development. There will be a fifty (50) foot building setback and a twenty five (25) foot parking lot setback along Battlefield Road. No structure shall exceed the height of two (2) stories above grade. All structures shall be constructed with masonry or acrylic stucco exterior walls and sloped roofs or other materials which are compatible with the residential nature of the area.
3. Approval of this request will provide for more intensity where investments have already been made in public services and infrastructure. The additional uses proposed are not expected to have any additional impact on adjacent properties. The proposed building and parking lot will be setback from the south property line the same distance as the existing building.

RECOMMENDATION:

Staff recommends **approval** of this request.

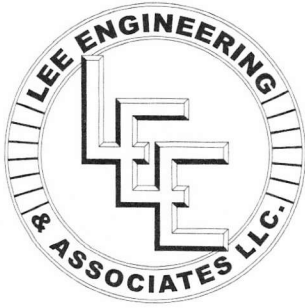
CITY COUNCIL PUBLIC HEARING DATE:

October 27, 2014

STAFF CONTACT PERSON:

Bob Hosmer, AICP  
Principal Planner

## ATTACHMENT 2



### LEE ENGINEERING AND ASSOCIATES, L.L.C. CIVIL ENGINEERING & DESIGN

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2101 W. CHESTERFIELD BLVD., SUITE C202, SPRINGFIELD, MO 65807  
TELEPHONE: (417) 886-9100 • FACSIMILE: (417) 886-9336 • [dlee@leeengineering.biz](mailto:dlee@leeengineering.biz)

August 13, 2014

Re: Proposed Rezone  
2915 E. Battlefield  
Springfield, Missouri

Dear Property Owner:

A neighborhood meeting will be held Monday, August 25, 2014 to discuss a proposed rezone on the property listed above. We would like to amend PD 140 with the following: The PD allows 5,000 square foot of restaurant space on Tract 3. There is already 2,700 square feet of restaurant (Flo Eatery & Wine Bar) on Tract 3. We would like to build a 3,000 square foot restaurant. Therefore, we would need 700 more square feet of restaurant space. The PD does not allow drive thru windows. However, we would like to add one drive thru window to the PD and proposed restaurant.

The neighborhood meeting will be held at The Library Center, 4653 S. Campbell, Springfield, Mo., between 4:00 and 6:30pm in Meeting Room A. The owner's representatives will be present to answer any questions you may have concerning this proposed conditional use permit. Please feel free to come and go between 4:00 and 6:30pm. If you have any questions prior to this meeting, please contact our office at 417-886-9100.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Leslie K. Chrystal', is written over the typed name.

Leslie K. Chrystal  
Office Manager

1. Request change to zoning from: PD 140 - Am 2 to PD 140 - Am 3  
(existing zoning) (proposed zoning)
2. Meeting Date & Time: Monday, August 25, 2014 4-6:30pm
- \* 3. Meeting Location: The Library Center, 4653 S. Campbell, Spfld, Mo.
4. Number of invitations that were sent: 50
5. How was the mailing list generated: City of Springfield
6. Number of neighbors in attendance (attach a sign-in sheet): 4
7. List the verbal comments and how you plan to address any issues:  
(City Council does not expect all of the issues to be resolved to the neighborhood's satisfaction; however, the developer must explain why the issues cannot be resolved.)

All verbal comments were okay with the project.

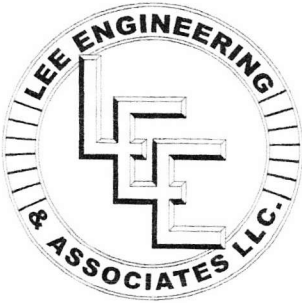
8. List or attach the written comments and how you plan to address any issues:

One couple filled out a comment sheet & stated that they would like to have trees planted.  
The owner is planning on planting trees in the detention basin.

\* #3. We tried to have meeting at the Brentwood Library, which would have been closer to the proposed rezone property. However, it was unavailable for the dates we were wanting & needing.

Derek Lee & Leslie Crystal were in attendance for Lee Engineering representing the owner.

[illegible]



**LEE ENGINEERING AND ASSOCIATES, L.L.C.**  
CIVIL ENGINEERING & DESIGN

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2101 W. CHESTERFIELD BLVD., SUITE C202, SPRINGFIELD, MO 65807  
TELEPHONE: (417) 886-9100 • FACSIMILE: (417) 886-9336 • dlee@leeengineering.biz

**COMMENT SHEET**

Neighborhood Meeting

Monday, August 25, 2014

Re: Proposed Rezone  
2915 E. Battlefield  
Springfield, Missouri

| NAME | ADDRESS               | PHONE |
|------|-----------------------|-------|
|      | 2816 E. Ridgeview Cir |       |

COMMENTS:

We think it will be O.K. Please plant trees.



EXHIBIT 1  
Requirements and Standards Applicable to  
Planned Development District No. 346

**APPLICATION:**

No building or other permits maybe issued for development permitted by this planned development nor can any changes be made to this property until the final development plan has been approved in the manner described at the end of this exhibit.

All requirements of the *Springfield Zoning Ordinance* shall apply unless modified by the requirements and standards that follow.

**DEFINITIONS:** For purposes of this ordinance, the following definitions shall apply:

The definitions contained in the zoning ordinance shall apply to this ordinance.

Floor Area Gross: The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including parking or loading spaces for motor vehicles. The gross floor area shall include public or common areas such as public toilets, corridors, stairwells, elevators, machine and equipment rooms, lobbies or mall areas, whether closed or enclosed and shall include all outdoor areas devoted to retail sales, storage or other activities incidental to the building.

Floor Area Ratio (FAR): The gross floor area of all buildings on a lot divided by the lot area.

$$\text{FAR} = \frac{\text{Gross Floor Area}}{\text{Total Site Area}}$$

**USES PERMITTED:** The following uses shall be permitted on Lot 2 Ridgeview Heights:

1. Administrative and Professional Offices: Offices of firms or organizations providing professional, management or administrative services. Typical uses include abstract services, advertising agencies, data processing services, travel agencies, law offices, architectural and engineering offices, and general business and administrative, corporate offices and artist and photographic studios.
2. Finance, Insurance and Real Estate Services: Establishments primarily engaged in the provision of financial, insurance, real estate, security brokerage and other similar activities. Drive thru facilities designed to expedite customer service are permitted but the square footage devoted to drive-thru for either banks or savings and loan institutions shall be deemed as retail floor area and count towards the total permitted amount of retail floor area. Typical uses include banks, insurance agencies, real estate firms, securities brokerage establishments, savings and loan institutions and other similar uses.

3. Medical Offices and Medical Support Activities such as offices for doctors and dentists and medical laboratories along with incidental administrative activities.
4. Retail Uses: For purposes of this ordinance, the following uses ("Retail Uses") shall be classified as retail:
  - a. Convenience Sales and Personal Services: Establishments primarily engaged in the provision of frequently needed goods and services. Such activities are to be conducted within the confines of an enclosed structure with no permanent outdoor sales or storage. Drive-thru facilities designed to expedite customer service are permitted. Typical uses include barber shops, beauty shops, bakeries, delicatessens, pharmacies, newsstands, repair shops and other similar uses. Convenience stores, liquor stores, dry cleaning and laundry establishments and self-service, coin operated laundries are prohibited.
  - b. Eating and Drinking Establishments: Establishments or places of business primarily engaged in the sale of prepared foods and/or beverages for on-premise consumption. Drive-thru facilities designed to expedite customer services are permitted. Curb service facilities are prohibited. Typical uses include restaurants, cafeterias, and coffee shops. Bars and taverns are prohibited. Outdoor seating of 10 tables or less for the restaurant is allowed and does not count against the maximum restaurant area allowed by this Planned Development.
  - c. Business Support Services: Establishments primarily engaged in the provision of services of a clerical, employment, protective or processing nature to firms and individuals and where the storage of goods or equipment other than as samples or as necessary for daily operation is prohibited. Such activities are to be conducted within the confines of an enclosed structure with no outdoor sales or storage. Typical uses include secretarial services, telephone answering services, copying and blueprint services, drafting services, office supply stores, and computer sales and services.
  - d. Specialty Retail: Small scale retail establishments engaging in the sale of specialty and personal items. Such activities are to be conducted within the confines of an enclosed structure with no permanent outdoor sales or storage. Drive-thru facilities designed to expedite customer service are permitted. Typical uses include book stores, card shops, jewelry shops, gift stores, clothing shops, flower shops, tobacco shops, arts and craft shops, sporting goods shops, art shops and photographic shops.
  - e. Pet shops and animal hospitals where all activities are conducted entirely within enclosed structures. Animal kennels are prohibited.
  - f. Commercial Entertainment and Recreational Activities: Establishments providing entertainment and/or recreational activities open to the general public on a commercial basis. Such activities shall be entirely conducted within an enclosed structure. Typical uses include movie theaters, bowling alleys, skating rinks, indoor tennis and racketball facilities, athletic clubs, health spas and other similar structures. Billiard parlors and dance halls are prohibited.
  - g. Personal service facilities, including salons, day spas, personal training

establishments, and hearing aid and eye-glass shops.

h. Schools and studios for art, dancing, drama, music, photography, interior decorating or similar courses of study.

i. Art galleries.

j. Interior design studios and small-scale retail sales of home decor items, with such activities to be conducted within the confines of an enclosed structure with no permanent outdoor sales or storage.

k. Community Service Facilities such as day care centers.

**INTENSITY OF DEVELOPMENT:** Development shall adhere to the following:

1. The Floor Area Ratio for permitted structures shall not exceed 0.30.
2. The maximum gross floor area that may be occupied for any single Retail Use shall be 5,000 square feet.
3. The maximum aggregate gross floor area that may be occupied for eating and drinking establishment uses shall be 3,000 square feet (which does not include the outdoor seating area of 10 tables or less).
4. Only one (1) drive-thru will be allowed on Lot 2, Ridgeview Heights Subdivision, Phase 2.

**BULK, AREA AND HEIGHT REQUIREMENTS:** Development shall adhere to the following:

1. The following minimum setbacks are required:
  - a. There will be a fifty (50) foot building setback and a twenty five (25) foot parking lot setback along Battlefield Road.
2. No structure shall exceed the height of two (2) stories above grade.
3. The impervious surface ratio shall not exceed 0.80.
4. All structures shall be constructed with masonry or acrylic stucco exterior walls and sloped roofs or other materials which are compatible with the residential nature of the area.

**PUBLIC FACILITIES:** Development shall adhere to the following:

1. All required public and private improvements shall be at the expense of the applicant or subsequent owner(s). Assurances satisfactory to the Director of Public Works, such as executed contracts, escrows, guarantees or letters of credit, guaranteeing that all required public improvements will be constructed in accordance with the "Design Standards for Public Improvements" of the Public Works Department shall be provided to the City prior to building permits being issued to the applicant or subsequent owners. Storm water

drainage management improvements, however, must be constructed prior to the issuance of any building permit. The applicant or subsequent owners shall file with the Director a schedule for completion of public improvements and shall provide assurances that improvements will be constructed within the time schedule. No certificate of occupancy shall be issued for any structure within the District unless the required public improvements are completed prior to occupancy of the structures or unless the Director of Public Works has determined that such public improvements, if not completed, have little or no effect on the occupancy of the facility or conditions beyond the control of the contractor, i.e., strikes, weather, etc. have delayed the completion of the improvements in which case the Director of Building Regulations may permit occupancy under conditions satisfactory to the Director of Public Works that the required public improvements will be completed as required by this ordinance within a reasonable time. Public improvements, as used in this paragraph, shall include private, as well as public, improvements required by the planned development ordinance. Such improvements shall include:

- a. All streets, drives, parking areas, and pedestrian circulation facilities;
- b. Sanitary sewer facilities.

**ACCESS TO PUBLIC THOROUGHFARES:** Access as shown on Exhibit 2.

**OFF-STREET PARKING:** Development shall adhere to the following:

1. The City's off-street parking requirements, off-street loading requirements as well as the off-street parking and loading area design standards, Sections 5-1500, 5-1600 and 6-1300 from the *Springfield Zoning Ordinance* in effect at the time of development shall apply. **Except for the items below:**
  - a. Drive-thru queuing and offsite queuing in the access easement shall conform to Exhibit 2.

**SIGNS:** Development shall adhere to the following:

1. The number and location of freestanding signs shall be governed by the City's sign codes.
2. No billboards are allowed.

**PERIMETER TREATMENT:** Development shall adhere to the following:

1. All canopy trees, and other plantings as designated by the City, whether required by this ordinance or not, shall be planted no closer than twenty five (25) feet, as measured horizontally, from any overhead power line.
2. All other areas which will not be buildings or other form of impervious surface and which are not designated as a bufferyard shall be maintained with a living ground cover.
3. Waste cans, dumpster units, or other forms of litter control and refuse disposal devices shall be placed within the district where they are least visible from a public street or adjoining properties. Screening of these devices, in the form of a sight-proof fence or wall, shall be provided.

4. Screening and fencing, and landscaping requirements for off-street parking and vehicular use areas are required in accordance with Sections 6-1000 and 6-1200 of the *Springfield Zoning Ordinance* in effect at the time of development.
5. The developer(s) shall submit a Landscaping plan per City Standards.

**EXTERIOR LIGHTING:** Development shall adhere to the following:

The purpose of this section is to regulate the spillover and glare on operators of motor vehicles, pedestrian and land uses in the proximity of the light source. With respect to motor vehicles in both the nuisance and hazard aspects of glare are regulated. This section is not intended to apply to public street lighting, signs or seasonal displays.

1. The light source or luminaire for all exterior lighting shall have a cutoff so that the bare light bulb, lamp or light source is completely shielded from the direct view of an observer at ground level at a property line adjacent to a public right-of-way or adjacent property zoned residential or, if a bufferyard is required, at the interior bufferyard line. In addition, all exterior lighting shall be limited in intensity to a maximum of 0.5 footcandle when measured at the planned development district boundaries.
2. No flickering or flashing lights shall be permitted.
3. Light sources or luminaries shall not be located within bufferyard areas except on pedestrian walkways.
4. The developer(s) shall submit a lighting plan with the final development plan demonstrating compliance with this section.

**MAINTENANCE OF COMMON AREAS AND FACILITIES:** Development shall adhere to the following:

1. The maintenance of common areas and facilities within the District shall remain the responsibility of the developer(s) or shall be assumed by a duly constituted property owners association meeting all legal requirements prescribed by the City Attorney.

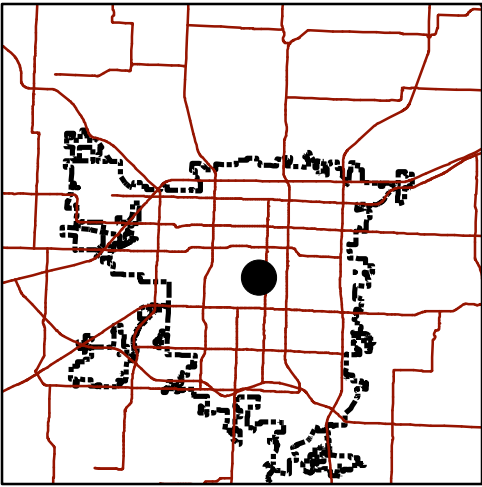
**FINAL DEVELOPMENT PLAN.** A final development plan, showing conformance with the requirements of this exhibit, shall be submitted to the Planning and Development Department and approved in the manner described below prior to the issuance of any building permits or prior to the commencement of any of the permitted uses or improvements permitted or required by this exhibit.

1. The Administrative Review Committee is hereby authorized to, acting jointly, approve the final development plan(s) provided such plan substantially conforms to the provisions of the ordinance.

The Administrative Review Committee is hereby authorized, at its discretion, to approve minor adjustments and modifications to the site plan. Such authority shall not, however, be construed to permit:

- a. Any uses within the district other than those specifically prescribed by the ordinance.
- b. Any increase in the intensity of use permitted within the district.
- c. Any deviation from the height and setback standards prescribed by the ordinance.
- d. Any reduction in the required parking prescribed by the ordinance.

CONCEPTUAL SITE PLAN STUDY FOR A NEW MULT-TENANT / MULTI-STORY BUILDING AT:  
**LOT 2, RIDGEVIEW HEIGHTS SUBDIVISION, PHASE TWO**  
 E. BATTLEFIELD ROAD  
 SPRINGFIELD, MISSOURI



# Zoning & Subdivision Report

Planning & Development - 417/864-1031  
840 Boonville - Springfield, Missouri 65802

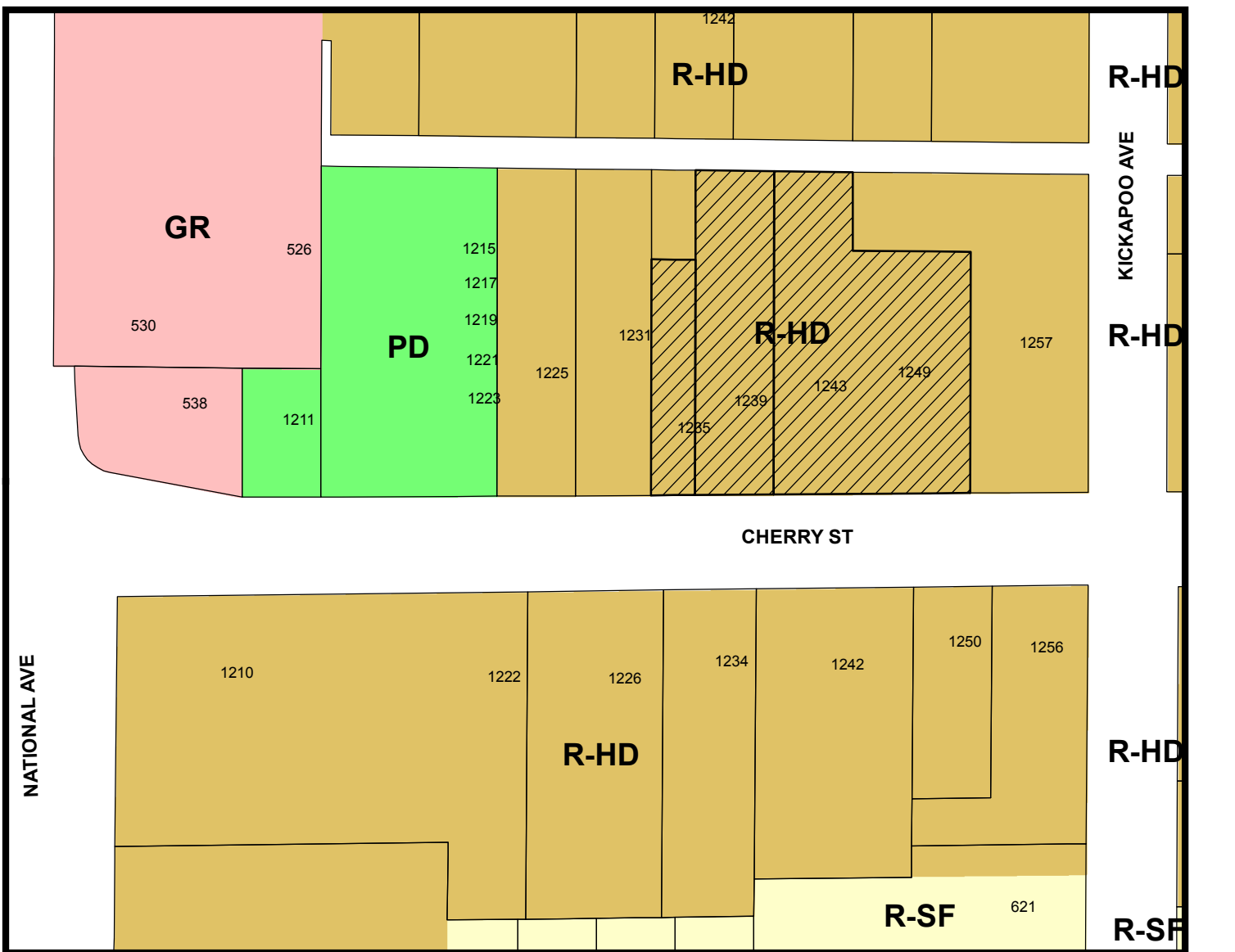
## Conditional Use Permit 412

Location: 1235-1249 East Cherry Street

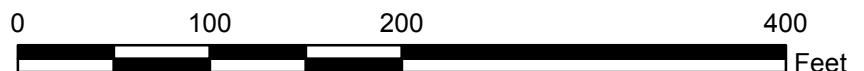
Current Zoning: R-HD, High Density Residential Multi-Family

Proposed Zoning: N/A

### LOCATION SKETCH



- Area of Proposal



1 inch = 100 feet



**EXPLANATION TO COUNCIL BILL NO: 2014-\_\_\_\_\_**

FILED: \_\_\_\_\_

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To approve a Conditional Use Permit to reduced the front yard setback from 25 feet to 15 feet at 1235-1249 East Cherry Street in an R-HD, High Density Multi-Family Residential District in the Rountree Urban Conservation District #2 Area E (Planning and Zoning Commission and Staff recommends \_\_\_\_\_).

BACKGROUND INFORMATION:

CONDITIONAL USE PERMIT NO. 412

The applicant is requesting approval of a Conditional Use Permit to reduce the front yard setback from 25 feet to 15 feet for a multi-family development at 1235-1249 East Cherry Street within a R-HD, High Density Multi-Family Residential District in the Rountree Urban Conservation District #2 Area E.

No conditional use permit shall be valid for a period longer than eighteen (18) months from the date on which the City Council grants the conditional use permit, unless within such eighteen (18) months period:

- A. A building permit is obtained and the erection or alteration of a structure is started;  
or
- B. An occupancy permit is obtained and the conditional use commenced.

The City Council may grant one (1) additional extension not exceeding eighteen (18) months, upon written application, without notice or hearing. No additional extension shall be granted without complying with the notice and hearing requirements for an initial application for a conditional use permit.

FINDINGS FOR STAFF RECOMMENDATION:

1. The proposed Conditional Use Permit to reduced the front yard setback from 25 feet to 15 feet in an R-HD, High Density Multi-Family Residential District within the Rountree Urban Conservation District #2 Area E will allow more off-street parking than what is required by our Zoning Ordinance.
2. This application meets the approval standards for a Conditional Use Permit and is in conformance with the Comprehensive Plan.

## RECOMMENDATIONS:

The Planning and Zoning Commission held a public hearing on October 2, 2014, and recommended \_\_\_\_\_, by a vote of \_\_ to \_\_, of the proposed conditional use permit on the tract of land described on the attached sheet and if approved, the requirements for conditional use permit Attachment 2 shall govern and control the use and development of the land in Use Permit No. 412 in a manner consistent with Attachment 3 (site plan).

REMARKS: The Planning and Development staff recommends \_\_\_\_\_ of the proposed use permit (see the attached Zoning and Subdivision Report).

Submitted by:

Approved by:

---

Bob Hosmer, AICP, Principal Planner

---

Greg Burris, City Manager

## EXHIBITS:

Exhibit A, Record of Proceeding

Exhibit B, Legal Description

Exhibit C, Zoning and Subdivision Staff Report

## ATTACHMENTS:

Attachment 1, Background Report

Attachment 2, Requirements for Conditional Use Permit

Attachment 3, Site Plan

Attachment 4, Summary of Public Meeting and Sign-in Sheet

Attachment 5, Applicants Response to Standards

EXHIBIT A  
RECORD OF PROCEEDING  
CONDITIONAL USE PERMIT NO. 412

(The Record of Proceedings will be prepared for the City Council meeting)

EXHIBIT B  
LEGAL DESCRIPTION  
CONDITIONAL USE PERMIT NO. 412

A TRACT OF LAND AS BEING A PART OF LOTS 24, 25, 26, 27 AND 28 OF SUMMIT PARK SUBDIVISION AS DESCRIBED IN PLAT BOOK "D", PAGE 84 AS DESCRIBED IN THE GREENE COUNTY, MISSOURI RECORDER'S OFFICE IN BOOK 2004, PAGE 055919-04 AND SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 23 OF SUMMIT PARK SUBDIVISION SAID POINT ALSO LYING AT THE NORTHWEST CORNER OF CHERRY STREET AND KICKAPOO AVENUE; THENCE ALONG THE NORTH RIGHT-OF-WAY OF CHERRY STREET, NORTH 89°07'30" WEST, 74.42 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY, NORTH 89°07'30" WEST, 202.30 FEET; THENCE LEAVING SAID NORTH RIGHT-OF-WAY, NORTH 01°43'14" EAST, 151.73 FEET; THENCE SOUTH 88°29'32" EAST, 26.43 FEET; THENCE NORTH 01°30'28" EAST, 55.51 FEET TO A POINT LYING ON THE SOUTH LINE OF A PLATTED EASEMENT; THENCE ALONG SAID SOUTH LINE, SOUTH 88°04'11" EAST, 100.18 FEET TO THE NORTHEAST CORNER OF LOT 26; THENCE ALONG THE EAST LINE OF LOT 26, SOUTH 01°30'28" WEST, 50.00 FEET; THENCE LEAVING SAID EAST LINE, SOUTH 88°04'11" EAST, 74.76 FEET; THENCE SOUTH 01°22'24" WEST, 153.72 FEET TO THE POINT OF BEGINNING. CONTAINING 0.832 ACRES MORE OR LESS. ALL LYING IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 29 NORTH, RANGE 21 WEST, IN THE CITY OF SPRINGFIELD, GREENE COUNTY, MISSOURI. BEARINGS BASED ON GRID NORTH OF THE MISSOURI COORDINATE SYSTEM OF 1983, CENTRAL ZONE.

ATTACHMENT 1  
BACKGROUND REPORT  
CONDITIONAL USE PERMIT NUMBER 412

DATE: September 20, 2014

LOCATION: 1235-1249 East Cherry

APPLICANT: RKJ Properties

TRACT SIZE: Approximately 0.83 acres

EXISTING USE: Multi-family and vacant property

PROPOSED USE: Multi-family Development

RECOMMENDATION:

Staff recommends the request be **approved** with the condition listed below.

FINDINGS FOR STAFF RECOMMENDATION:

This application meets the approval standards for a Conditional Use Permit and is in conformance with the Comprehensive Plan.

CONDITIONS:

The Requirements for Conditional Use Permit 412 on Attachment 2 shall govern and control the use and development of the land in Use Permit Number 412 in a manner consistent with Attachment 3, except as modified by Attachment 2, and except any changes made by the Planning and Zoning Commission.

FINDINGS TO RECOMMEND DENIAL:

None

STAFF CONTACT PERSON:

Bob Hosmer, AICP  
Principal Planner

#### APPLICANT'S PROPOSAL:

The applicant is requesting approval of a conditional use permit to reduce the front yard setback along Cherry Street in an R-HD, High-Density Multi-Family Residential District in the Rountree UCD#2 Area E to construct a multi-family development.

#### SURROUNDING LAND USES:

| AREA  | ZONING | LAND USE                            |
|-------|--------|-------------------------------------|
| North | R-HD   | Multi-Family uses                   |
| East  | R-HD   | Multi-Family uses                   |
| South | R-HD   | Multi-Family uses                   |
| West  | R-HD   | Multi-Family and Single Family uses |

#### ZONING ORDINANCE REQUIREMENTS:

1. The conditional use permit procedure is designed to provide the Planning and Zoning Commission and the City Council with an opportunity for discretionary review of requests to establish or construct uses or structures which may be necessary or desirable in a zoning district, but which may also have the potential for a deleterious impact upon the health, safety and welfare of the public. In granting a conditional use, the Planning and Zoning Commission may recommend, and the City Council may impose such conditions, safeguards and restrictions upon the premises benefited by the conditional use as may be necessary to comply with the standards set out in the Zoning Ordinance to avoid, or minimize, or mitigate any potentially adverse or injurious effect of such conditional uses upon other property in the neighborhood. The general Standards for Conditional Use Permits are listed in Attachment 5.
2. No conditional use permit shall be valid for a period longer than eighteen months from the date City Council grants the conditional use permit, unless within this eighteen months:
  - a. A building permit is obtained and the erection or alteration of a structure is started; or
  - b. An occupancy permit is obtained and the conditional use is begun.

#### STORMWATER COMMENTS:

1. There are no Stormwater issues with the proposed use permit; however, please note that development (or re-development) of the property will be subject to the

following conditions at the time of development:

- a. Any increase in impervious area from 1985 aerial photo information will require the development to meet current detention and water quality requirements. Impervious surfaces in place prior to 1985 and currently in good condition can be credited as existing impervious surface. Existing gravel surfaces meeting the above definition are only eligible for 50% credit.
  - b. Payment in lieu of construction of detention facilities is not an option for this site due to existing downstream flooding problems.
  - c. The proposed percent of impervious surfacing must not exceed the maximum impervious surfacing allowed for site by zoning, platting, and/or previous stormwater reports.
2. Concentrated points of discharge from these improvements will be required to drain into a certified natural surface-water channel, public right-of-way, or a drainage easement.
  3. Based upon City contour and sinkhole information, no sinkholes exist on the site and the site is not within a sinkhole watershed.
  4. Based upon City data, no significant offsite concentrated stormwater flow exists upstream of the subject property.

#### SANITARY SERVICE COMMENTS:

1. No objections to front yard setback. No impact on public sewer.

#### TRAFFIC ENGINEERING COMMENTS:

1. One driveway approach will be allowed on Cherry Street. All other existing access will need to be closed.

#### FIRE COMMENTS:

1. No issues with the reduced setback

#### CITY UTILITIES:

1. No objections to reduced setback.

#### ADJACENT PROPERTY OWNER COMMENTS:

1. Fifteen (15) property owners are within 185 feet of the subject property and were notified of this request.
2. The applicant held a neighborhood meeting on September 15, 2014 in conformance with City Council's policy. A summary of the meeting is on

#### Attachment 4.

#### STAFF COMMENTS:

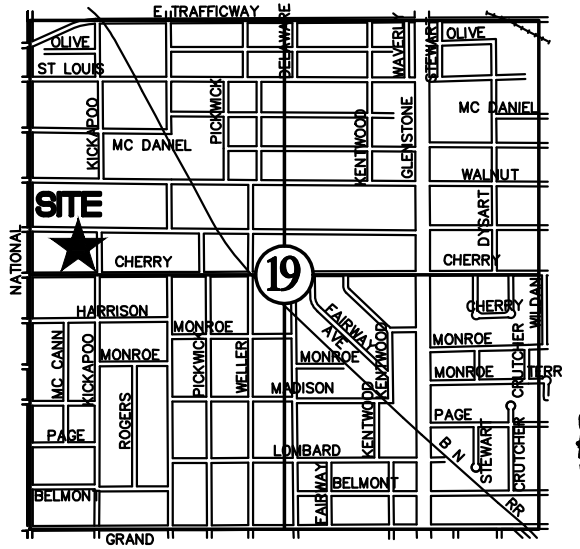
1. In February 2010, City Council passed General Ordinance 5861 to allow a reduction in the front yard setback along collector and higher classification roadways with the approval of a Conditional Use Permit.
2. The applicant is requesting approval of this Use Permit to reduce the front yard setback along Cherry Street from twenty-five (25) feet to a fifteen (15) feet setback in accordance with section 4-1406 B.1.c of the City Zoning Ordinance . The reduced setback along Cherry Street allows the building to be moved closer to the street and will allow for more onsite parking. In addition, placing the building closer to the street brings activity to the street and creates an edge along the sidewalk that promotes pedestrian activity and safety. The reduced setback does not create any sight or safety issues with fire protection or for travelers on the adjacent roadway.
3. This project is within the Rountree Urban Conservation District #2 Area E which is also known as the Cherry Street Corridor. Area E serves as the home to many Missouri State University students and contains a mixture of multi-family and single family housing stock. The Cherry Street Corridor is zoned R-HD on both sides from National Ave to just short of the Pickwick/ Cherry Commercial Area. The development of this site will comply with all of the requirements of the Zoning Ordinance for the R-HD, High-Density Multi-Family Residential District and UCD#2 Area E requirements. All requirements for off-street parking, open space, bufferyards, and height standards will be met with the development of this property.
4. Staff has reviewed the applicant's request for a Conditional Use Permit and has determined that it satisfies the standards for Conditional Use Permits, outlined in Section 3-3310 of the Zoning Ordinance.



## ATTACHMENT 2

### REQUIREMENTS FOR CONDITIONAL USE PERMIT NUMBER 412

1. The front yard setback along the south property line (Cherry Street) may be reduced to fifteen (15) feet.
2. All other standards of the Zoning Ordinance, and other applicable ordinances, shall be adhered to.



**LOCATION SKETCH**  
SEC. 19, T-29-N, R-21-W  
SCALE: 1"=2000'



# USE PERMIT PLAN

REQUESTING A CONDITIONAL USE PERMIT TO ALLOW A 15'  
FRONT YARD SETBACK TO REPLACE THE REQUIRED 25'  
FRONT YARD SETBACK OFF OF CHERRY STREET.



GRAPHIC SCALE



( IN FEET )  
1 inch = 20 ft.

## BENCHMARK

**BENCHMARK**  
TBM IS A SQUARE CUT IN THE TOP CONCRETE STEP AT THE SOUTHEAST CORNER OF SUBJECT PROPERTY  
WITH AN ELEVATION OF 1342.06. VERTICAL DATUM = NAVD 1988.

A TRACT OF LAND AS BEING A PART OF LOTS 24, 25, 26, 27 AND 28 OF SUMMIT PARK SUBDIVISION AS DESCRIBED IN PLAT BOOK "D", PAGE 84 AS DESCRIBED IN THE GREENE COUNTY, MISSOURI RECORDER'S OFFICE IN BOOK 2004, PAGE 055919-04 AND SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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| REVISIONS |             |    |      | DRAWING INFO. |            |
|-----------|-------------|----|------|---------------|------------|
| NO.       | DESCRIPTION | BY | DATE | FIELD BY:     | KP         |
|           |             |    |      | DRAWN BY:     | NSB        |
|           |             |    |      | CHECK BY:     | KLL        |
|           |             |    |      | DATE:         | 09-02-2014 |
|           |             |    |      | FIELD BOOK:   | 563        |
|           |             |    |      | JOB NUMBER:   | 10149-14   |

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**SOUTHWOOD PROPERTIES, LLC**

# USE PERMIT PLAN

**1235, 1239 AND 1243 EAST CHERRY STREET  
SPRINGFIELD, MISSOURI**

**DRAWING NO.**  
**WB 110-148**

**SHEET NUMBER** **1**

**OF**

5

COA # 000062

## LEGEND

|                       |                     |
|-----------------------|---------------------|
| ● CP                  | CONTROL POINT       |
| ● IP                  | FOUND IRON PIN      |
| ○ IP                  | SET IRON PIN        |
| △ RWM                 | RIGHT-OF-WAY MARKER |
| ⊙ GY                  | POWER POLE W/ GUY   |
| ⊙ MH                  | MANHOLE             |
| ⊙ SCO                 | SEWER CLEANOUT      |
| □ GM                  | GAS METER           |
| ☆ LP                  | LIGHT POLE          |
| —                     | SIGN                |
| ⊙ WM                  | WATER METER         |
| ⊙ WV                  | WATER VALVE         |
| ⊙ GV                  | GAS VALVE           |
| ⊙ FH                  | FIRE HYDRANT        |
| ▲ TR                  | TELEPHONE RISER     |
| ●                     | BUMPER POST         |
| ■                     | GRATE INLET         |
| —                     | TREELINE            |
| ⊙                     | BUSH                |
| □ ER                  | ELECTRIC RISER      |
| □ TS                  | TRAFFIC SIGNAL BOX  |
| □ MB                  | MAIL BOX            |
| PROPERTY LINE         |                     |
| SANITARY SEWER        |                     |
| STORM SEWER           |                     |
| TELEPHONE LINE        |                     |
| UNDERGROUND TELEPHONE |                     |
| GAS LINE              |                     |
| WATER LINE            |                     |
| ELECTRIC LINE         |                     |
| UNDERGROUND ELECTRIC  |                     |
| FENCE LINE            |                     |
| RETAINING WALL        |                     |
| LINE LABELS           | MEASURED SIZE       |
|                       | 100' M              |
|                       | 100' M              |

## ZONING DATA

SUBJECT PROPERTY IS ZONED R-HD (HIGH-DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT).

MAXIMUM STRUCTURE HEIGHT:  
1. NONE, EXCEPT NO STRUCTURE SHALL EXCEED 35 FEET PLUS 1 ADDITIONAL FOOT FOR EACH ADDITIONAL 1 FOOT OF SETBACK PROVIDED ON EACH SIDE OF THE STRUCTURE THAT ADJOINS AN R-TH, OR R-MHC DISTRICT.

MINIMUM YARD REQUIREMENTS:  
FRONT YARD: 25 FEET.

SIDE YARD: 6 FEET, PROVIDED THAT NO SIDE YARD IS REQUIRED FOR ANY BUILDING THAT HAS A COMMON WALL ON A LOT LINE.

REAR YARD: TEN PERCENT OF THE LOT DEPTH BUT MAY NOT BE LESS THAN 10 FEET NOR WILL MORE THAN 20 FEET BE REQUIRED..

HOWEVER, IN NO EVENT MAY A STRUCTURE BE ERECTED CLOSER TO THE CENTERLINE OF AN EXISTING OR PLANNED STREET THAN AS PRESCRIBED BELOW.

| <u>STREET CLASSIFICATION</u>       | <u>REQUIRED SETBACK FROM RIGHT-OF-WAY CENTER LINE</u> |
|------------------------------------|-------------------------------------------------------|
| SECONDARY ARTERIAL (CHERRY STREET) | 35 FEET PLUS REQUIRED YARD SETBACK                    |
| RESIDENTIAL LOCAL (KICKAPOO AVE.)  | 25 FEET PLUS REQUIRED YARD SETBACK                    |

**SURVEYORS NOTE:**

**SURVEYOR'S NOTE:**  
WITH THIS SURVEY WE DO NOT GUARANTEE THAT OWNERSHIP IS TO THE SURVEY LINES DEPICTED  
HEREON. THIS SURVEY IS A GRAPHIC REPRESENTATION OF THE OPINION OF THE SURVEYOR AS TO THE  
LOCATION OF THE RECORD DESCRIPTION. NO OPINION AS TO THE VALIDITY OF TITLE IS GIVEN OR  
IMPLIED.

**UTILITY NOTE:**

THE SURVEY REFLECTS ABOVE GROUND INDICATIONS OF UTILITIES AND INFORMATION AVAILABLE FROM UTILITY COMPANIES. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPOSE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. LOCATION NUMBERS 141673185, 141622236, 141622245, 141622254, 141622263, 141622275, 141622329, 141622376 AND 141622452.

**FLOOD NOTE**

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE X OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 2907700334E, WHICH BEARS AN EFFECTIVE DATE OF DECEMBER 17, 2010 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS.

DATE OF FIELD SURVEY JUNE 17, 2014



September 4, 2014

Dear Neighbor:

Re: Neighborhood Meeting

You are invited to a neighborhood meeting concerning a proposed conditional use permit on property located near your property. The meeting is scheduled for 4:00 to 6:30 PM, Monday September 15, 2014, in the private dining room of Panera Bread, 500 S National at the corner of Elm and National (just north and west of the proposed development). The meeting will be open for you to drop by at your convenience during those times.

The property is approximately 0.83 acres located at 1235, 1239, 1243 E Cherry. The property is currently zoned Residential High Density. A request has been made to change the required front yard setback along Cherry Street to 10'.

The developer is requesting this change to allow for more on-site parking to fit on the site.

Enclosed you will find a location map marking the development site and meeting site. The developer and his representatives will all be on hand to provide information and to hear your input.

Sincerely,

ANDERSON ENGINEERING, INC.

by

A handwritten signature in black ink, appearing to read 'Neil S. Brady', is written over a horizontal line.

Neil S. Brady, P.E.  
President

Enclosures

♠ Matt Stevens  
901 S Pickwick

♠ CONNIE SCHNEIDER  
951 S. PICKWICK AVE

♠ Allen & Jennie Manes  
928 S. Fremont

♠ Lore Layton  
1014 S Weller Ave

♠ John Melton  
707 S. Weller

♠ Diana & Corey Day  
~~630~~ 637 S. Fremont

♠ Brent Haselhorst - 433 E GRAND - owner 1235 Cherry

♠ Don Haselhorst 433 E GRAND - owner 1235 Cherry.

BRIAN KUBIK 1435 E. BRADFORD, 100 SPD MO 65804

Rosie Winstead 637 S. Weller Spfd! MO 65802

Laura Key 757 S. Weller Spfd. MO 65802

Kim Burke 631 S. Kookapoo Spfd MO 65804

PAUL L. CHAMBERS 45411 ST Key 413 Marionette MO 65705  
1235 E. Elm Apt B1 - SPRINGFIELD, MO 65802

Nancy Evans 1307 E. Delmar 65804

Ed Fillmer 656 S. Weller 65802

Louise Knauer 944 S. Weller

Jim Brooks 1317 E Harrison



ANGELA BROOKS 1317 E. HARRISON

SPRINGFIELD. MO 65804

MARTY Holder

1334 E. 8th St

Spfld, MO 65802

Charles Johnson

747 S. Weller

Spfld, MO 65802

Peggy Wise

747 S. Fairway

Springfield MO 65802

Mike Brothers

1016 S. Pickwick Ave.

## NOTICE

Enclosed you have received a notice of a “Neighborhood Meeting” submitted by the applicant to discuss a change in land use or zoning in your neighborhood. For all development applications involving an advertised public hearing, City Council requires developers to hold a neighborhood meeting and invite the property owners within 500 feet of the project along with any recognized neighborhood organizations.

A “Neighborhood Meeting” is held early enough to provide adequate time for the developer to negotiate with the neighborhood in order to resolve any issues and provide any proposed changes to City staff to evaluate and include in City staff reports.

If the applicant submits, an application for a change in land use or zoning the property will be posted and there will be public notifications in the newspaper and by mail to the property owners within 185 feet of the project.

### **The Land Use or Zoning Change Process:**

1. Neighborhood Meeting (500 feet notification from subject property)
2. Planning and Zoning Commission Public Hearing (185 feet notification from subject property)
3. 1<sup>st</sup> City Council Public Hearing (185 feet notification from subject property)
4. 2<sup>nd</sup> City Council Meeting to decide either to approve or to deny the change in land use or zoning

City staff is available to meet with you or your neighborhood association representative(s) to discuss the proposed change in land use or zoning and answer questions at 417-864-1611.

Staff submits a report with a recommendation one week prior to the date of the public hearing before the Planning and Zoning Commission. If you desire to submit input for consideration we would request that you do so at your earliest opportunity so your comments can be included in the staff report. You can provide comments in writing by mail or online at [zoning@springfieldmo.gov](mailto:zoning@springfieldmo.gov) . Please include your name, address and telephone number as well as the address of the project in your correspondence.

Bob Hosmer, AICP  
Principal Planner  
City of Springfield

Development Review Office – Zoning and Subdivision

840 Boonville Ave, Springfield Missouri 65801





1239 E Cherry

## EXHIBIT 2: NEIGHBORHOOD MEETING SUMMARY

1. Conditional Use Permit for: \_\_\_\_\_
2. Meeting Date & Time: \_\_\_\_\_
3. Meeting Location: \_\_\_\_\_
4. Number of invitations that were sent: \_\_\_\_\_
5. How was the mailing list generated: \_\_\_\_\_
6. Number of neighbors in attendance (attach a sign-in sheet): \_\_\_\_\_
7. List the verbal comments and how you plan to address any issues:  
(City Council does not expect all of the issues to be resolved to the neighborhood's satisfaction; however, the developer must explain why the issues cannot be resolved.)

8. List or attach the written comments and how you plan to address any issues:



ATTACHMENT 5  
STANDARDS FOR CONDITIONAL USE PERMITS AND APPLICANT RESPONSES  
FOR CONDITIONAL USE PERMIT NUMBER 412

An application for a conditional use permit shall be granted only if evidence is presented which establishes the following:

*1235-1249 E Cherry Conditional Use Permit  
15' Front Yard Setback*

A. State how the proposed conditional use will comply with the applicable standards in Subsection 3-3310 of the Zoning Ordinance.

*See attached.*

B. State how the proposed conditional use is to be designed, arranged and operated in order to ensure that development and use of neighboring property in accordance with the applicable district regulations will not be prevented or made unlikely, and that the value, use and reasonable enjoyment of such property will not be impaired or adversely affected.

*A 15' setback will not impair or adversely affect the neighboring properties which are all zoned R-HD. In fact any redevelopment will likely request the same.*

C. Identify any potentially adverse effects that may be associated with the proposed conditional use, and the means proposed by the applicant to avoid, minimize or mitigate such effects.

*A 15' setback will not adversely affect the neighboring properties which are all zoned R-HD. In fact any redevelopment will likely request the same. All other standards will be met by this development.*

**A. State how the proposed conditional use will comply with the applicable standards in Subsection 3-3310 of the Zoning Ordinance.**

1. The proposed conditional use will be consistent with the adopted policies in the *Springfield Comprehensive Plan*;

*15' setback is consistent with the adopted policies.*

2. The proposed conditional use will not adversely affect the safety of the motoring public and of pedestrians using the facility and the area immediately surrounding the site;

*N/A*

3. The proposed conditional use will adequately provide for safety from fire hazards, and have

effective measures of fire control;

*Will not impact fire hazards or control*

4. The proposed conditional use will not increase the hazard to adjacent property from flood or water damage;

*N/A*

5. The proposed conditional use will not have noise characteristics that exceed the sound levels that are typical of uses permitted as a matter of right in the district;

*N/A*

6. The glare of vehicular and stationary lights will not affect the established character of the neighborhood, and to the extent such lights will be visible from any residential district, measures to shield or direct such lights so as to eliminate or mitigate such glare are proposed;

*N/A*

7. The location, lighting and type of signs and the relationship of signs to traffic control is appropriate for the site;

*N/A*

8. Such signs will not have an adverse effect on any adjacent properties;

*N/A*

9. The street right-of-way and pavement width in the vicinity is or will be adequate for traffic reasonably expected to be generated by the proposed use;

*N/A*

10. The proposed conditional use will not have any substantial or undue adverse effect upon, or will lack amenity or will be incompatible with, the use or enjoyment of adjacent and surrounding property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety and general welfare;

*All the surrounding properties are zoned R-HD as well and will have no adverse impacts. In fact parking will be better because of the reduced setback allowing additional on-site parking spaces to be provided.*

11. The proposed conditional use will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations. In determining whether the

proposed conditional use will so dominate the immediate neighborhood, consideration shall be given to:

- a. The location, nature and height of buildings, structures, walls and fences on the site; and

*All the surrounding properties are zoned R-HD as well and will have no adverse impacts. They will probably request the reduced setback as well when redeveloped.*

- b. The nature and extent of landscaping and screening on the site.

*Landscaping and screening will not be impacted by this request.*

12. The proposed conditional use, as shown by the application, will not destroy, damage, detrimentally modify or interfere with the enjoyment and function of any significant natural topographic or physical features of the site;

*No impact*

13. The proposed conditional use will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance;

*N/A*

14. The proposed conditional use otherwise complies with all applicable regulations of this Article, including lot size requirements, bulk regulations, use limitations and performance standards;

*All other applicable regulations will be met.*

15. The proposed conditional use at the specified location will contribute to or promote the welfare or convenience of the public;

*All the surrounding properties are zoned R-HD as well and will have no adverse impacts. In fact parking will be better because of the reduced setback allowing additional on-site parking spaces to be provided.*

16. Off-street parking and loading areas will be provided in accordance with the standards set out in 5-1500, 5-1600, and 6-1300 of this Article, and such areas will be screened from any adjoining residential uses and located so as to protect such residential uses from any injurious effect;

*The standard will be met.*

17. Adequate access roads or entrance or exit drives will be provided and will be designed so as to prevent traffic hazards and to minimize traffic congestion in public streets and alleys;

*Adequate access will be provided.*

18. The vehicular circulation elements of the proposed application will not create hazards to the safety of vehicular or pedestrian traffic on or off the site, disjointed vehicular or pedestrian circulation paths on or off the site, or undue interference and inconvenience to vehicular and pedestrian travel;

*Setback does not impact circulation.*

19. The proposed use, as shown by the application, will not interfere with any easements, roadways, rail lines, utilities and public or private rights-of-way;

*No interference.*

20. In the case of existing structures proposed to be converted to uses requiring a conditional use permit, the structures meet all fire, health, building, plumbing and electrical requirements of the City of Springfield;

*Existing structures will be demolished.*

21. The proposed conditional use will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.

*No impact by facilities or services.*

**Conditional Use Permit**  
**Rountree Urban Conservation District Areas B, D and E**

Application and Standards Relating to Use Permits. Issuance of a use permit requires action by both the Planning and Zoning Commission and City Council. No use permit shall be issued unless the following conditions have been met or provisions made therefore:

1. The application including site plan is complete and does not contain or reveal violations of the regulations applicable to the Rountree Urban Conservation District.

*No known violations and is complete*

2. No inventory of merchandise is maintained for the purpose of sale at wholesale or retail on said premise unless the use is specifically authorized as an accessory use as part of the special use permit.

*No inventory, use is R-HD*

3. Existing buildings proposed to be converted to uses requiring a "use permit" must meet all fire, health, building, plumbing, and electrical requirements of the City of Springfield.

*N/A*

4. The proposed site plan does not interfere with easements, roadways, rail lines, utilities, and public or private rights-of-way.

*No interference.*

5. The proposed site plan does not destroy, damage, detrimentally modify or interfere with the enjoyment and function of significant natural topographic or physical features of the site.

*No interference.*

6. The proposed site plan is not injurious or detrimental to the use and enjoyment of surrounding property.

*All the surrounding properties are zoned R-HD as well and will have no adverse impacts. They will probably request the reduced setback as well when redeveloped.*

7. The circulation elements of the proposed site plan do not create hazards to safety on or off the site, disjointed vehicular or pedestrian circulation paths on or off the site, or undue interference and inconveniences to vehicular and pedestrian travel.

*Setback does not impact circulation.*

8. The screening of the site provides adequate shielding for nearby uses which may be

incompatible with the proposed use.

*Screening will not be impacted by this request*

9. The proposed structures or landscaping are not lacking amenity in relation to or are not incompatible with nearby structures and uses.

*All structures and/or landscaping will be compatible with the area and use.*

10. The proposed site plan does not create drainage or erosion problems on or off the site.

*No drainage or erosion problems.*

11. The City Council may require such additional conditions as it deems necessary to further the public interest, to achieve the intent of the Urban Conservation District Plan and to assure that the conditions stated above are satisfied.

*N/A*

# Zoning & Subdivision Report

Planning & Development Department ~ 417/864-1611  
840 Boonville Avenue ~ Springfield, Missouri 65802

## ZONING ORDINANCE AMENDMENT: SPECIAL EVENTS AMENDMENTS

**DATE:** September 17, 2014

**PURPOSE:** To amend *Section 2-1100, Definitions, Section 5-1000, Accessory Structures and Uses, 5-1200, Temporary Uses, and 6-1500, Noise Standards* in the *Springfield Zoning Ordinance*.

### STAFF COMMENTS:

City Council approved a Resolution 9899 on August 22, 2011, to initiate amendments to the Zoning Ordinance that would eliminate conflicts with regard to temporary promotional activities, event requirements and temporary vendor requirements.

The Planning and Zoning Commission is only responsible for reviewing amendments to the Zoning Ordinance (Exhibit D). The proposed amendments will not be changing any of the processes or permitted uses in the Accessory Uses and Temporary Uses sections of the Zoning Ordinance. It will only change their location in the City's Code so that the proper department may review, inspect and enforce any Temporary Use or Special Event issues.

The Building Development Services, Planning, Police and Fire Departments have reviewed and support the proposed amendments.

The Development Issues Input Group (DIIG), Urban Districts Alliance (UDA), Environmental Advisory Board (EAB), Commercial Club and all registered neighborhood associations were notified of these amendments and have made no objections to date.

**RECOMMENDATION:** Staff recommends **approval**.

### STAFF CONTACT PERSON:

Daniel Neal  
Senior Planner

One-rdg. \_\_\_\_\_  
P. Hrngs. \_\_\_\_\_  
Pgs. \_\_\_\_\_  
Filed: \_\_\_\_\_

Sponsored by: \_\_\_\_\_

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

COUNCIL BILL NO. 2014-\_\_\_\_\_

GENERAL ORDINANCE NO. \_\_\_\_\_

### AN ORDINANCE

1 AMENDING the Springfield City Code by repealing language contained in Chapter 78  
2 Offenses & Miscellaneous Provisions, Chapter 82 Parks and Recreation,  
3 Chapter 106 Traffic and Vehicles, Chapter 2 Administration, and Chapter  
4 36 Community Development, as identified in Exhibits A, B, C, D, and E;  
5 and enacting in lieu thereof a new Chapter 2 Administration, Article VII  
6 Special Events of the Springfield City Code.  
7 \_\_\_\_\_  
8

9 WHEREAS, the City has experienced an increase in the number of special event  
10 requests, which is positive given that this trend is likely associated with increased civic  
11 engagement; and  
12

13 WHEREAS, City staff initiated amendments to the City Code, including  
14 amendments to the Zoning Ordinance, to create a more efficient and customer-friendly  
15 special events permitting process; and  
16

17 WHEREAS, following proper notice, a public hearing of said amendments was  
18 held before the Planning and Zoning Commission on \_\_\_\_\_, and the  
19 Planning and Zoning Commission made its recommendation with respect to such  
20 amendments; and  
21

22 WHEREAS, each recommendation from the Planning and Zoning Commission is  
23 incorporated below in codified form.  
24

25 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
26 SPRINGFIELD, MISSOURI, as follows, that:  
27

28 Section 1 - The Springfield City Code, Chapter 2 Administration, is hereby  
29 amended by adopting a new Article VII Special Events, Division 1 Generally, which new  
30 Article shall read as follows:  
31

32 Chapter 2. Administration  
33



34 Article VII. Special Events

35  
36 Division 1. – Generally

37  
38 Sec. 2-500. Definitions

39  
40 The following words, terms and phrases, when used in this article, shall have the  
41 meanings ascribed to them in this section, except where the context clearly indicates a  
42 different meaning:

43  
44 *Applicant* means any person who seeks a permit issued pursuant to this section.

45  
46 *Audible* means anything heard or perceived by the human ear.

47  
48 *City* means the City of Springfield, Missouri.

49  
50 *City Manager* means the City Manager of Springfield, Missouri, or his designee.

51  
52 *Controlled intersection* means any meeting of two or more streets where traffic from one  
53 or more directions faces traffic lights, a stop sign, a yield sign or other traffic control  
54 device.

55  
56 *Outdoor* means in the open air, in a tent, under a carport, in a gazebo, or in any area  
57 not fully enclosed from the elements.

58  
59 *Parade* means any parade, fun run, bike-a-thon, walk-a-thon, march, ceremony,  
60 pageant, procession, except a funeral procession, or similar activity involving ten or  
61 more participants who are not competing to complete the route in a short time.

62  
63 *Participant* means any person actively engaged as a member of a parade or race, either  
64 as an individual or as part of a parade unit.

65  
66 *Person* shall mean any natural person, partnership, corporation, association, or  
67 organization.

68  
69 *Race* means any race, run-a-thon, marathon or similar activity involving ten or more  
70 participants who are competing to complete the route in the shortest possible time.

71  
72 *Right-of-way means:*

73 1) when used in relationship to vehicles, the privilege of the immediate use of the  
74 roadway.

75 2) when used in relationship to land, that portion of land owned or controlled by  
76 the City comprised of roadway and parkway.

77  
78 *Route* means the series of streets, sidewalks, grass areas or other surfaces traveled  
79 along or across during the duration of the parade or race.

Special event means:

(a) those events specifically listed in Division 2 of this ordinance, and

(b) any temporary event, gathering or organized activity, on private property or using city-owned property, public right-of-way, public streets, public parks, public buildings or other City facilities, involving fifty (50) or more persons, and which involves one or more of the following activities:

1. Closure of a public street;
2. Blockage or restriction of city-owned property;
3. Sale of merchandise, food or beverages on city-owned property;
4. Erection of a tent equal to or greater than two hundred (200) square feet in area on city-owned property;
5. Installation of a stage, band-shell, trailer, van, portable building, grandstand or bleachers on city-owned property;
6. Placement of portable toilets on city-owned property;
7. Placement of temporary no parking signs in a public right-of-way;
8. Placement of pedestrian boundary markers on city-owned property;
9. Involvement of amplified sound in all zoning classifications except residential;
10. Inclusion of electrical or plumbing hookups to City utility connections;
11. Inclusion of fireworks; or
12. Involvement of food distribution to the public.

Sponsor means the person who provides the main financial, administrative, organizational or other support for a special event and who accepts responsibility for the conduct of the special event. Every special event is required to identify a single point of contact who is serving as the official "sponsor" of the event.

Temporary Promotional Activity means an activity for the purposes of promotion business sales and/or raising funds for community service organizations or for the purpose of promoting any special event, any community educational campaign, any membership drive, or any other similar promotion and which activity is established for a fixed period of time with the intent to discontinue such activity upon the expiration of the time period.

Unit means any float, car, band or other distinct item, person, or group of items or people moving together as a part of the parade.

Sec. 2-501. - Purpose of article.

The provisions of this article are designed to regulate the time, place and manner in which a special event is conducted, as well as coordinate public health and safety concerns, assign responsibility, and assign liability in order to protect the safety and welfare of participants and nonparticipants.

126 Sec. 2-502. – Police Protection.

127  
128 The City Manager shall determine whether and to what extent additional police  
129 protection reasonably will be necessary for the special event for purposes of traffic  
130 control and public safety. The City Manager shall base this decision on the size,  
131 location, duration, time and date of the event, the expected sale or service of alcoholic  
132 beverages, the number of streets and intersections to be blocked, the need to detour or  
133 preempt ordinary citizen travel and use of the streets and sidewalks, and any criteria  
134 that impact liability. The content of the speech or event will not be a factor in  
135 determining the amount of police protection necessary. If police protection for the  
136 special event is deemed necessary by the City Manager, the applicant shall be so  
137 informed and shall then have the duty to secure the additional police protection deemed  
138 necessary by the City Manager at the sole expense of the applicant who shall prepay  
139 the expenses of any such additional protection.

140  
141 Sec. 2-503. – Permit Required.

142  
143 No person shall sponsor, participate in, allow, or conduct any special event without a  
144 permit issued by the City Manager pursuant to this article. Any person who has been  
145 granted a permit shall cause the permit to be publicly displayed at all times during the  
146 special event. Permit fees shall be as established by ordinance from time to time and  
147 on file with the City Clerk.

148  
149 Sec. 2-504. – Application.

150  
151 (a) The application form for a special event permit shall be available online or at the City  
152 offices. Applications requesting a special event permit shall be filed with the City at least  
153 thirty (30) business days prior to the proposed start date of the special event, unless the  
154 thirty (30) business day time period is waived by the City Manager for good cause.

155  
156 (b) The application for an event permit shall include:

157  
158 (1) Name, address, mobile telephone number, facsimile number, and email  
159 address of the applicant, and for any persons acting as sponsors of the special  
160 event who will be responsible for its conduct, staging, presentation or  
161 organization and who will be on site during the event.

162  
163 (2) The purpose or description of the special event, the estimated number of  
164 participants and those attending, and a plan or description for the use of any off-  
165 premises vendors for the event.

166  
167 (3) The date or dates the special event is to be held, and the time it is to  
168 commence and terminate, including set-up and shut down.

169  
170 (4) The location of the special event, including the specific street or streets, or  
171 portions thereof, to be closed, if any, for the special event.

(5) Whether alcoholic beverages will be allowed, provided or sold by vendors during the special event, and the plan or description for such allowance.

(6) A plan or description for the use of lighting, music, loudspeakers, a live band, or sound system, if any, during the special event, and the type and location of speakers and other audio and lighting equipment.

(7) The name, address, and mobile telephone number, of the security company, if any, engaged for the special event, and a description of the duties to be performed.

(8) A plan or description for fire protection for the special event, including a map, specifying the location of 20-foot fire lanes, the water supply for fire control, and the use of any tents.

(9) A plan or description for emergency medical services for the special event.

(10) Whether food will be served during the special event and a plan or description for compliance with applicable health codes of the Health Department.

(11) Whether animals will be used or allowed during or as part of the special event and a plan or description for the use or allowance of animals during or as part of the special event.

(12) A plan for the disposal of sanitary waste and sewage for the special event, including toilet facilities, and the disposal of garbage, trash, and refuse. When possible, the event organizer is encouraged to use appropriate recycling disposal bins.

(13) Compliance with this Code relating to merchant licenses for the special event.

(14) Events located upon or requiring the closing or blocking of any street, alley, or road, or the use of any City-owned property or right-of-way areas, shall submit a liability insurance policy in the following amount:

a) Events with expected attendance of one thousand (1,000) people or less shall provide a liability insurance policy in the amount of \$1,000,000.00 for any injury to any person, including death, arising out of one incident; \$1,000,000.00 for any damage to property; and \$1,000,000.00 automobile liability insurance for any injury to any person, including death, arising out of one incident.

218 b) Events with expected attendance of greater than one thousand (1,000)  
219 people shall provide a liability insurance policy in the amount of \$3,000,000 for  
220 any injury to any person, including death, arising out of one incident;  
221 \$3,000,000.00 for any damage to property; and \$3,000,000.00 automobile  
222 liability insurance for any injury to any person, including death, arising out of one  
223 incident.

224  
225 c) Events where alcohol will be provided or sold shall also be required to  
226 provide a liquor liability insurance policy in the amount of \$1,000,000.00 for any  
227 injury to any person, including death, arising out of one incident; and  
228 \$1,000,000.00 for any damage to property.

229  
230 The City shall be an additional insured on a primary basis for each of the above-  
231 referenced policies, and the special event sponsor shall execute a hold harmless  
232 agreement indemnifying the City, including a waiver of subrogation. Any  
233 contractors or vendors hired will be required to maintain the same limits of  
234 insurance as the event sponsor. Additional insurance coverage and increased  
235 limits may be required by the City Manager based on the size and scope of the  
236 event.

237  
238 (15) Any additional information which the City Manager shall find reasonably  
239 necessary for a fair determination as to whether a permit should be issued.

240  
241 Sec. 2-505. – Compliance with zoning and other laws required.

242  
243 (a) No special event permit shall be issued for any use of private property within the City  
244 unless such proposed use is allowed under the Springfield Zoning Ordinance.

245  
246 (b) No special event permit shall be issued for any proposed use of private property  
247 within the City if the proposed use is a violation of other City Ordinances, rules or  
248 regulations.

249  
250 Sec. 2-506. – Denial.

251  
252 (a) The City Manager shall act upon the application for special event permit within  
253 fifteen business days after the date filed. If the City Manager does not approve the  
254 application, he/she shall mail the applicant, within ten business days after the date upon  
255 which the application was filed, a notice of the action stating the reason(s) for the denial  
256 of the permit.

257  
258 (b) Any person aggrieved by the decision of the City Manager shall have the right to  
259 appeal the denial of a special event permit in accordance with the provisions of Section  
260 2-507.

261  
262 Sec. 2-507. – Hearing.

(a) A person who has been denied a permit shall have a right to an administrative hearing to determine whether there was a substantial basis for the denial. The appeal shall be in writing, setting forth fully the grounds upon which the appeal is based, and shall be filed with the City Clerk within thirty (30) calendar days after service of notice of such action on the applicant. The hearing shall be conducted before a hearing officer designated by the City Manager within 10 business days of receipt of a written demand therefore from the person seeking the hearing, unless such person waives the right to a speedy hearing, except the hearing officer may cause the hearing to be continued for good cause by any party for an additional 14 days. Saturdays, Sundays and City holidays are to be excluded from the calculation of the 10-day period. The sole issue before the hearing officer shall be whether there was a substantial basis for the denial. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that the proposed special event is in full compliance with the provisions of this article. The City shall carry the burden of establishing that there was a substantial basis for the denial of the permit. At the conclusion of the hearing, the hearing officer shall prepare a written decision within 45 days from the date of the hearing. A copy of such decision shall be provided to the person demanding the hearing. The decision of the hearing officer is final for purposes of RSMo Ch. 536. Failure of the person requesting the hearing or his agent to request or attend a scheduled hearing as set forth in this section shall be deemed a waiver of the right to such hearing.

(b) The hearing officer shall only determine whether or not there was a substantial basis for the denial of the permit. If the hearing officer determines there was not a substantial basis, the hearing officer shall order the City Manager to immediately issue the special event permit.

#### Sec. 2-508. –Violations; penalty.

Failure to obtain a permit, or violation of any condition of a permit, shall be punishable in accordance with Section 1-7. In addition to any other enforcement proceeding available to the City, including, but not limited to, municipal court prosecution, any permit issued under this section may be revoked at any time for violation of any conditions of the permit, regulations promulgated pursuant to this section, or other provisions of City ordinances or state law. The City Manager may deny the application if the applicant previously violated these regulations.

#### Division 2. – Additional Requirements for Certain Special Events.

##### Sec. 2-509. – Hot air balloon launchings.

A hot air balloon launching shall be considered a special event and shall be permitted consistent with the provisions in this article. A hot air balloon launch site must be

located at least one thousand (1,000) feet from an occupied dwelling that is zoned for residential use by the City.

Sec. 2-510. – Non-Profit fundraising events on residential properties.

A fundraising event on be considered a special event and is required to be permitted consistent with the provisions in this article. Such event is subject to the following restrictions:

(1) No more than one (1) permit shall be issued on the same residentially-zoned property in a thirty-six (36) month period, and the permit shall not exceed a period of twenty-one (21) days exclusive of a reasonable period to prepare the property prior to the event and restore the property after the event is complete. For property that is zoned other than residential, no more than two (2) permits shall be issued on the same property in a twelve (12) month period, and the permit shall not exceed a period of twenty-one (21) days exclusive or a reasonable period to prepare the property prior to the event and restore the property after the event is complete.

(2) Activities related to the event shall be limited to a daily period extending from 9:00 a.m. to 10:00 p.m.

(3) Lighting, activities, noise, or increased traffic associated with an event shall not unreasonably disturb surrounding residential neighborhood.

(4) The applicant shall provide a reasonable plan for traffic control and parking approved by the Traffic Engineer and adequate evidence that said plan will be implemented.

(5) The applicant shall provide a plan for adequately ensuring that during actual operations there will be no adverse environmental impact on adjacent and nearby properties. Said plan shall include provisions for noise abatement, sanitary needs, dust, and litter controls.

Sec. 2-511. Outdoor carnival or circus.

An outdoor carnival shall be considered a special event and is required to be permitted consistent with the provisions in this article. An outdoor carnival is subject to the following restrictions:

(1) No carnival or circus shall be located on a parcel of land less than five (5) acres in size.

(2) No permit shall be issued for a period exceeding fourteen (14) days exclusive of a reasonable period during which the amusement rides, concessions, etc. are erected or removed from the site.

355 (3) No more than two (2) permits for a circus or carnival on the same property  
356 shall be issued for any twelve (12) month period.

357  
358 (4) Every carnival or circus shall provide either paved or dust treated off-street  
359 parking for not less than three- hundred (300) automobiles per acre of area  
360 used for amusement purpose.

361  
362 (5) Lighting, amusement activities, noise, or increased traffic associated  
363 with a carnival or circus shall not unreasonably disturb surrounding  
364 residential neighborhoods.

365  
366 (6) The applicant shall provide a reasonable plan for traffic control approved by  
367 the Traffic Engineer and adequate evidence that said plan will be implemented.

368  
369 (7) No carnival or circus shall be permitted within five- hundred (500) feet of the  
370 lot line of occupied residential property; except, the City Manager may reduce  
371 the distance requirement set forth in this subsection if the City Manager  
372 determines that existing buildings, structures, or uses of land or terrain of the  
373 parcel of land for which application is made or adjacent parcels substantially  
374 reduce potential noise pollution, aesthetic pollution and other types of pollution.

375  
376 (8) The carnival or circus shall limit its hours of operation to a daily period  
377 extending from 9:00 a.m. to 10:00 p.m.

378  
379 (9) The applicant shall provide a plan for adequately ensuring that during actual  
380 carnival or circus operations there will be no adverse environmental impact on  
381 adjacent and nearby properties. Said plan shall include provisions for noise  
382 abatement, sanitary needs, dust, and litter controls.

383  
384 Sec. 2-512. – Street festivals.

385  
386 A street festival is a special event and shall be required to obtain a special event permit  
387 subject to the following restrictions:

388 (1) When a residential district adjoins the street where the festival is to be held,  
389 only one permit shall be issued in a twelve (12) month period. The permit shall  
390 not exceed a period of three (3) days exclusive of a reasonable period to prepare  
391 the street prior to the event and restore the street after the event is complete.  
392 This excludes Walnut Street between National Avenue and Kimbrough Avenue.

393  
394 (2) When none of the properties adjoining the street where the festival is to be  
395 held are zoned residential, only one permit shall be issued in a six (6) month  
396 period. The permit shall not exceed a period of five (5) days exclusive of a  
397 reasonable period to prepare the street prior to the event and restore the street  
398 after the event is complete.



400 (3) Activities related to the event shall be limited to a daily period extending  
401 from 7:00 a.m. to 11:00 p.m.

402  
403 (4) Lighting, activities, noise or increased traffic associated with a festival shall  
404 not unreasonably disturb surrounding residential properties not directly  
405 abutting the street.

406  
407 (5) The applicant shall provide a reasonable plan for traffic control and parking  
408 approved by the Traffic Engineer and adequate evidence that said plan will be  
409 implemented.

410  
411 (6) The applicant shall provide a plan for adequately ensuring that during actual  
412 street festival operations there will be no adverse environmental impact on  
413 adjacent and nearby properties. Said plan shall include provisions for noise  
414 abatement, sanitary needs, dust and litter controls. Any violation of said plan  
415 shall provide grounds for an immediate revocation of a permit granted under the  
416 provisions of this section.

417  
418 Sec. 2-513. – Temporary promotional activities.

419  
420 Temporary promotional activities shall be considered special events and are required to  
421 be permitted pursuant to this article. Temporary promotional activities are subject to the  
422 following restrictions:

423  
424 (1) No permit shall be granted for a period exceeding six (6) days exclusive of a  
425 reasonable period during which the promotional uses are erected or taken down.

426  
427 (2) No more than two (2) permits for a temporary promotional use for the  
428 same applicant shall be issued during any six (6) month period.

429  
430 (3) Temporary promotional uses shall be limited in number to not more than five  
431 (5) carnival rides, amusement rides, or other similar amusements, and no  
432 games, side shows, tents shelters, concessions, or other similar uses shall be  
433 employed or associated therewith. Carnival rides, amusement rides, and other  
434 similar amusements shall not be located within four-hundred (400) feet of the lot  
435 line of occupied residential zoned property except as permitted by (7) below.

436  
437 (4) Retail businesses may display merchandise that is for sale within the building  
438 in the area immediately adjacent to the building subject to the following  
439 conditions:

440  
441 (a) No portion of the display shall be on publicly owned property unless  
442 the applicant shall first have obtained approval for such use from the City  
443 Manager.  
444

445 (b) No food or drink may be displayed outside the building except in  
446 accordance with standards and prior written approval of the Springfield - Greene  
447 County Health Department.

448  
449 (c) These provisions shall in no way be deemed to authorize the outdoor  
450 display or the sale of used furniture, appliances, housewares, or other second-  
451 hand merchandise in those districts which do not otherwise permit such uses.

452  
453 (5) In granting a permit for a temporary promotional use, the City Manager shall  
454 determine that pedestrian and vehicular traffic will not be impaired by such  
455 temporary use. The City Manager must also determine that the applicant has a  
456 reasonable plan for traffic control approved by the Traffic Engineer and has  
457 provided adequate evidence that said plan will be implemented.

458  
459 (6) No permit shall be granted where the lighting, promotional activities,  
460 noise or increased traffic associated therewith will unreasonably disturb the  
461 surrounding residential neighborhoods.

462  
463 (7) No temporary promotional use shall be located within three-hundred (300)  
464 feet of the lot line of residentially zoned property, except for the display of goods  
465 and merchandise where a building is located between the temporary  
466 promotional use and the occupied residential property so that the occupied  
467 residential property is completely shielded from the temporary promotional use.

468  
469 (8) Each temporary promotional use shall cease its daily operation for more  
470 than one-half (1/2) hour after the closing of the associated commercial uses,  
471 except in no event shall the promotional use operate after 10:00 p.m. or prior  
472 to 8:00 a.m.

473  
474 Sec. 2-514. – Permits for outdoor entertainment within the Center City zoning district.

475  
476 (a) Authorized conditions. Notwithstanding any other provision of this Code, the City  
477 Council hereby authorizes the City Manager to issue permits to allow outdoor live or  
478 amplified music and other audible outdoor entertainment within the Center City zoning  
479 district as defined in the City Zoning Ordinance, provided that the applicant for such  
480 permit complies with any regulations promulgated by the City Manager regarding such  
481 permits, did not create any nuisance, or peace disturbances in the downtown Center  
482 City zoning district with or without the use of prior permits, and meets the following  
483 conditions for the applicable permit:

484  
485 (1) No outdoor live or amplified music, or other audible outdoor entertainment  
486 shall be allowed pursuant to such permit other than:

487  
488 a. *Two-day special event permits:* Between the hours of 9:00 a.m.  
489 and 11:00 p.m. except on December 31 which shall be extended to  
490 12:30 a.m.

491  
492 b. Annual amplified entertainment permits:

493 Sundays, Mondays, Tuesdays, and Wednesdays—Between  
494 the hours of 9:00 a.m. and 11:00 p.m.

495 Thursdays—Between 9:00 a.m. and midnight.

496 Fridays and Saturdays—Between 9:00 a.m. and 1:00 a.m.

497  
498 (2) A permit may be issued for the time periods and purposes to the owner of a  
499 licensed establishment or business provided the owner of the property, on which  
500 the live or amplified music or other audible outdoor entertainment is to be played,  
501 consents in writing and an application has been approved by the City Manager.

502  
503 (3) The noise level for amplified or live outdoor music or other audible outdoor  
504 entertainment, in locations other than the downtown mall as defined in section  
505 82-61 and Ozark Jubilee Memorial Park, shall be maintained at a volume so as  
506 to not unreasonably disturb or alarm another person or persons.

507  
508 This noise level shall not apply to temporary emissions of noise from  
509 within a structure occasioned by the opening of a door for ingress and  
510 egress therefrom, but shall include music or other audible noise  
511 emanating from windows or doors or other openings which are left open  
512 for longer than five minutes at any one time.

513  
514 Noise levels where zoning district boundaries change shall be in accordance with  
515 the zoning ordinance section 6-1500 et seq.

516  
517 (b) Length of permit. Provided the applicant, at the time of application and during the  
518 time such permit is in force, is eligible under the requirements of this section and not in  
519 violation of any other City codes related to the business activity taking place within and  
520 about the establishment, an applicant may be issued one of the following permits:

521 (1) A permit may be issued for up to two consecutive days for special events  
522 which are not a part of a licensed business's regular activities to the organizer of  
523 the special event;

524  
525 (2) A permit may be issued for up to 12 months, with all such permits to expire on  
526 January 1<sup>st</sup> of each year, for a business that has received all approvals, licenses,  
527 and permits required by the city for such use.

528  
529 Division 3. – Parades and Races

530  
531 Sec. 2-515. – Permit for parade or race.

532  
533 (a) No parade or race shall be allowed within the City limits without a permit, which  
534 permit shall be conditioned upon compliance with the regulations in this article. The  
535 permit application shall be on a form approved by the City Manager and must specify  
536 the route and provide such other information as required by the City Manager.

537  
538 (b) The use of the streets and provision of police officer protection shall be on a first-  
539 come, first-served basis.

540  
541 Sec. 2-516. - Standards for issuance of permit.

542  
543 The City Manager shall issue a permit for a parade or race when, from a consideration  
544 of the application and from such other information as may otherwise be obtained, he  
545 finds that:

546  
547 (1) The conduct of the parade or race will not substantially interrupt the safe and  
548 orderly movement of other traffic contiguous to its route;

549  
550 (2) The conduct of the parade or race will not require the diversion of so great a  
551 number of police officers of the City to properly police the line of movement and  
552 the areas contiguous thereto as to prevent normal police protection to the City;

553  
554 (3) The concentration of persons, animals and vehicles at assembly points of the  
555 parade or race will not unduly interfere with proper fire and police protection of, or  
556 ambulance service to, areas contiguous to such assembly areas;

557  
558 (4)The conduct of such parade or race will not interfere with the movement of  
559 firefighting equipment en route to a fire;

560  
561 (5) The conduct of the parade or race is not reasonably likely to cause injury to  
562 persons or property, to provoke disorderly conduct or to create a disturbance;

563  
564 (6) The parade or race is scheduled to move from its point of origin to its point of  
565 termination expeditiously and without unreasonable delays en route; and

566  
567 (7) The parade or race is not to be held for the sole purpose of advertising any  
568 product, goods or event, and is not designed to be held purely for private profit.

569  
570 Sec. 2-517. - Safety equipment.

571  
572 (a) A parade or race applicant or sponsor must obtain and use such barricades and  
573 fluorescent safety vests as are determined by the Police Chief to be reasonably  
574 necessary to protect the participants, nonparticipants, and traffic along the route.

575  
576 (b) The police officer supervising the parade or race may cancel the parade or race if  
577 the applicant and sponsor fail to substantially comply with the requirement of providing  
578 safety equipment.

579  
580 Sec. 2-518. - Date and time.

Insofar as possible, all parades and races should be held on a Saturday, Sunday or holiday. Parades and races may be held only between one-half hour before sunrise and one-half hour after sunset, unless an exception is granted by City Council. On Monday through Friday, excepting holidays, no parades or races will typically be allowed between 6:30 a.m. and 9:30 a.m. and 3:30 p.m. and 6:30 p.m.

Sec. 2-519. - Conduct.

(a) *Supervision by police.* The parade or race shall be coordinated with the Community Services Section Commander or his designee, who shall approve a member of the uniform operations bureau to supervise the parade or race. The parade or race participants must obey all lawful orders of the uniformed police officers.

(b) *Motor vehicles.* Any motor vehicle driven as part of a parade or race shall drive as near to the right hand edge of the street as practical and shall follow any foregoing parade or race units or participants as closely as is practical and safe; except this subsection shall not apply when an entire road is blocked for the parade or race.

(c) *Cleanup of debris and damage.* The sponsor of a parade or race agrees to clean up any and all debris and damage which may be done. If such cleanup is not undertaken promptly, the City reserves the right to do the cleaning itself, and to charge the sponsor for the actual time and expense incurred in cleaning. This charge shall be a private debt against the sponsor.

Division 4. – Permitted Use of Public Right-of-way

Sec. 2-520. - Permit for use of public right-of-way.

(a) The Traffic Engineer of the City is hereby authorized to close City streets for special events.

(b) The applicant for a permit for use of the public right-of-way shall provide a reasonable plan for traffic control and parking approved by the Traffic Engineer and adequate evidence that the plan will be implemented. The applicant shall be required to follow all permit regulations imposed by the Traffic Engineer.

Note: Underlined language has been added and ~~stricken~~ language has been deleted.

Section 2 – The Springfield City Code, Chapter 78 Offenses & Miscellaneous Provisions, Article IX Parades and Races, is hereby repealed in its entirety as set forth in “Exhibit A” incorporated herein as though fully set forth.

Section 3 – The Springfield City Code, Chapter 106 Traffic and Vehicles, is hereby repealed as set out in “Exhibit B” incorporated herein as though fully set forth.

Section 4 – The Springfield City Code, Chapter 2 Administration, Article I. In General, Section 2-10, is hereby repealed in its entirety as set forth in “Exhibit C” incorporated herein as though fully set forth.

Section 5 – The Springfield City Code, Chapter 82, Parks and Recreation, Article II Park Central Square, Division 2. Downtown Mall, Section 65 is hereby amended as set out in “Exhibit E” incorporated herein as though fully set forth.

Section 6 – The Springfield Land Development Code, Article I, Zoning Ordinance, Division V, Sections 2-1100, 6-1500, and 5-1200 are hereby amended by repealing subsections as set forth in “Exhibit D” incorporated herein as though fully set forth.

Section 7 – The Springfield Land Development Code, Article I Zoning Ordinance, Division V, Section 5-1003.B, is hereby amended to add seven new accessory uses for all districts, as set forth in “Exhibit D” incorporated herein as though fully set forth.

Section 8 – The section and subsection numbers shown herein shall be used unless the City Clerk or the codifier of the City Code and the Zoning Ordinance assign a different section or subsection number to the language.

Section 9 – Savings Clause. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or causes of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 10 – Severability Clause. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 11 – This ordinance shall be in full force and effect from and after passage.

Passed at meeting: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_, City Clerk

674 Filed as Ordinance: \_\_\_\_\_

675

676 Approved as to form: \_\_\_\_\_, Assistant City Attorney

677

678 Approved for Council action: \_\_\_\_\_, City Manager

679

## **EXPLANATION TO COUNCIL BILL NO: 2014-\_\_\_\_\_**

FILED: \_\_\_\_\_

ORIGINATING DEPARTMENT: City Manager, City Attorney

**PURPOSE:** Amending the Springfield City Code by repealing language contained in Chapter 78 Offenses & Miscellaneous Provisions, Chapter 82 Parks and Recreation, Chapter 106 Traffic and Vehicles, Chapter 2 Administration, and Chapter 36 Community Development, as identified in Exhibits A, B, C, D, and E; and enacting in lieu thereof a new Chapter 2 Administration, Article VII Special Events of the Springfield City Code.

**BACKGROUND INFORMATION:** The City presently issues special event permits for certain events that occur within the city limits. At this time, there is not a general code section that regulates special events in the city. The proposed code language will combine all special events in one section to create a streamlined event application process for the public, provide a clear set of laws for event applicants and city staff, and treat all special events the same.

Over the last several years the City has experienced an increase in the number of special event permit requests. While the increase in the number of events is positive given this trend is likely associated with increased civic engagement, it has become clear that the city code needs to be amended to better accommodate the citizens. City staff initiated amendments to the City Code, including amendments to the Zoning Ordinance, to create a more efficient and customer-friendly special events permitting process.

Due to the wide variety of special events that occur in the city, the code amendments involved many city departments. The City Manager's Office coordinated multiple meetings with the affected departments to discuss how to make the amendments best assist those departments. The affected departments include: Building Developmental Services, Planning, Public Works, Parks, Health, Licensing Division, Fire, Police, and Law. At the conclusion of these meetings, the City Attorney's Office drafted the requested changes in the attached exhibits which are listed below:

Exhibit A: City Code Chapter 78 Offenses and Miscellaneous Provisions, Article IX Parades and Races

Exhibit B: City Code Chapter 106 Traffic and Vehicles, Article I In General

Exhibit C: City Code Chapter 2 Administration, Article I In General, Section 2-10 Permits for Outdoor Entertainment

Exhibit D: City Code Chapter 36 Community Development, Article I Zoning

Exhibit E: City Code Chapter 82 Parks and Recreation, Article II Park Central Square, Division 2 Downtown Mall, Section 82-65 Use of Downtown Mall and Ozark Jubilee Memorial Park

Each exhibit has an "Explanation of Changes" that explains the reason for any amendment to the code language. There is also a chart attached to each exhibit that documents where each existing code section will be located in the proposed code language. This is the first step in a larger goal to provide an online special events permitting process that will best assist the community in scheduling events.



Supports the following Field Guide 2030 goal(s): Civic Engagement and Arts, Culture, and Tourism.

REMARKS: These proposed amendments to the City Code have been sent to DIIG and Planning and Zoning.

Submitted by:

\_\_\_\_\_  
Preparer's Name, Title

Recommended by:

\_\_\_\_\_  
Authorized Dept Head, Title

Approved by:

\_\_\_\_\_  
Greg Burris, City Manager

## **Explanation of Changes Documented in Exhibit A**

### **City Code Chapter 78 Offenses and Miscellaneous Provisions, Article IX Parades and Races**

Existing City Code Sections 78-381 through 78-390 regulate the use of city right-of-way (streets) for parades and races. Anytime an individual or organization desires to hold a parade or race on the city right-of-way it is considered a special event. Therefore, the language was moved to the proposed special event section. There were very few substantive changes made to this section other than moving the existing language to new locations.

- Existing City Code Section 78-381 Purpose was moved to general Section 2-501 Purpose.
- Existing City Code Section 78-382 Definitions was moved to general Section 2-500 Definitions.
- Existing City Code Section 78-383 Violations and Penalty was moved to general Section 2-508 Violations and Penalty
- Existing City Code Sections 78-384 Permit Required (a) and (e) have been made into a new Section 2-515 (a) (b) Permit Required
- Existing City Code Sections 78-384 Permit Required (b)(1) (b2), (c), and (d) have been moved to general Section 2-504 Application.
- Existing City Code Section 78-385 Standards for Issuance has been moved to new Code Section 2-516 Standards for Issuance.
- Existing City Code Section 78-386 Safety Equipment has been moved to new Code Section 2-517 Safety Equipment, and the word “police” has been added preceding the word “chief” to specify that this Section is referring to the Chief of Police.
- Existing City Code Section 78-387 Date and Time has been moved to new Code Section 2-518 and the language “unless an exception is granted by Council” has been added to the end of the new Code language reading: “Parades and races may be held only between one-half hour before sunrise and one-half hour after sunset.”
- Existing City Code Sections 78-388 Conduct (a) (b) and (c) have been moved to new Code Section 2-519 Conduct.
- Existing City Code Section 78-388 Conduct (d) has been moved to new Code Sections 2-504 Application (b)(14)(a) (b) and (c) which is under the general section called Insurance Requirements of the new Code language.
- Existing City Code Section 78-388 Conduct (e) has been moved to general Section 2-504(15).
- Existing City Code Section 78-389 Notice of Denial has been moved to general Section 2-506 Denial.

- Existing City Code Section 78-390 Hearing on Denial of Permit has been moved to general denial Section 2-507 Hearing, and the timing of the hearing was changed from 48 hours to 10 days.

# Exhibit A

## CITY CODE: Part II Code, Chapter 78 Offenses & Miscellaneous Provisions, Article IX Parades and Races

### ~~Sec. 78-381. Purpose of article.~~

~~The provisions of this article are designed to regulate the time, place and manner in which a parade or race is conducted, in order to protect the safety and welfare of participants and nonparticipants, and to minimize interference with the customary flow of pedestrian and vehicular traffic on the streets, sidewalks and other public places. In particular, parades and races shall be limited to times and places which can be provided the necessary level of police protection to allow the parade or race to occur safely.~~

### ~~Sec. 78-382. Definitions.~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Applicant* means any authorized representative of the sponsor who files a request for a parade or race permit.~~

~~*Chief* means the chief of police of the city or his designated representative.~~

~~*Controlled intersection* means any meeting of two or more streets where traffic from one or more directions faces traffic lights, a stop sign, a yield sign or other traffic control device.~~

~~*Parade* means any parade, fun run, bike-a-thon, walk-a-thon, march, ceremony, pageant, procession, except a funeral procession, or similar activity involving ten or more participants who are not competing to complete the route in a short time.~~

~~*Participant* means any person actively engaged as a member of a parade or race, either as an individual or as part of a parade unit.~~

~~*Race* means any race, run-a-thon, marathon or similar activity involving ten or more participants who are competing to complete the route in the shortest possible time.~~

~~*Route* means the series of streets, sidewalks, grass areas or other surfaces traveled along or across during the duration of the parade or race.~~

~~*Sponsor* means the person who provides the main financial, administrative, organizational or other support for a parade or race, and who accepts responsibility for the conduct of the parade or race.~~

~~*Unit* means any float, car, band or other distinct item, person, or group of items or people moving together as a part of the parade.~~

**~~Sec. 78-383. Violations; penalty.~~**

~~Violation of the conditions of a permit issued under this article shall be cause for revocation of the permit. Any parade or race conducted without a permit is in violation of this Code, and anyone responsible for organizing, sponsoring or conducting such a parade or race will be held punishable under section 1-7.~~

**~~Sec. 78-384. Permit required; application.~~**

~~(a) No parade or race shall be allowed within the city limits without a permit, which permit shall be conditioned upon compliance with the regulations in this article. The permit application shall be on a form approved by the chief and must specify the route and provide such other information as required by the chief.~~

~~(b) The following application shall be submitted in writing to the traffic section of the city police department at least 30 days prior to the parade or race:~~

~~(1) An application for a permit to hold a parade having over ten units or which is expected to impede the normal flow of traffic for over 45 minutes.~~

~~(2) An application for a permit to hold a race involving crossing more than four controlled intersections where the route requires or anticipates that the participants shall not obey the traffic control devices.~~

~~(c) All other applications must be submitted in writing to the traffic section of the city police department at least ten days prior to the parade or race.~~

~~(d) The chief shall act upon timely filed applications in writing by three days (72 hours) before the parade or race is scheduled to occur.~~

~~(e) The use of the streets and provision of police officer protection shall be on a first come, first served basis.~~

**~~Sec. 78-385. Standards for issuance of permit.~~**

~~The chief shall issue a permit for a parade or race when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:~~

- ~~(1) The conduct of the parade or race will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;~~
- ~~(2) The conduct of the parade or race will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;~~
- ~~(3) The concentration of persons, animals and vehicles at assembly points of the parade or race will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;~~
- ~~(4) The conduct of such parade or race will not interfere with the movement of firefighting equipment en route to a fire;~~
- ~~(5) The conduct of the parade or race is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance;~~
- ~~(6) The parade or race is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route; and~~
- ~~(7) The parade is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.~~

**~~Sec. 78-386. Safety equipment.~~**

- ~~(a) A parade or race applicant or sponsor must obtain and use such barricades and fluorescent safety vests as are determined by the chief to be reasonably necessary to protect the participants, nonparticipants, and traffic along the route.~~
- ~~(b) The police officer supervising the parade or race may cancel the parade or race if the applicant and sponsor fail to substantially comply with the requirement of providing safety equipment.~~

**~~Sec. 78-387. Date and time.~~**

~~Insofar as possible, all parades and races should be held on a Saturday, Sunday or holiday. Parades and races may be held only between one-half hour before sunrise and one-~~

half hour after sunset. On Monday through Friday, excepting holidays, no parades or races will be allowed between 6:30 a.m. and 9:30 a.m. and 3:30 p.m. and 6:30 p.m.

#### **~~Sec. 78-388. Conduct.~~**

~~(a) *Supervision by police.* The parade or race shall be coordinated with the traffic section commander, who shall approve a member of the uniform division to supervise the parade or race. The parade or race participants must obey all lawful orders of the uniformed police officers.~~

~~(b) *Motor vehicles.* Any motor vehicle driven as part of a parade or race shall drive as near to the righthand edge of the street as practical and shall follow any foregoing parade or race units or participants as closely as is practical and safe; except this subsection shall not apply when an entire road is blocked for the parade or race.~~

~~(c) *Cleanup of debris and damage.* The sponsor of a parade or race agrees to clean up any and all debris and damage which may be done. If such cleanup is not undertaken promptly, the city reserves the right to do the cleaning itself, and to charge the sponsor for the actual time and expense incurred in cleaning. This charge shall be a private debt against the sponsor.~~

~~(d) *Insurance, indemnification contract or bond.* The city manager may require insurance, an indemnification contract and/or a bond in such instances as he deems necessary to protect the public interest.~~

~~(e) *Additional regulations.* The city manager shall have the authority to promulgate rules and regulations under this section, which rules and regulations shall be maintained on file with the city clerk.~~

#### **~~Sec. 78-389. Notice of denial of permit.~~**

~~Whenever a parade permit is denied, notice of the right to a hearing on the question of whether there was a substantial basis for the denial shall be given as soon as practicable by one of the following methods:~~

~~(1) Delivery of the notice to the applicant and/or the sponsor; or~~

~~(2) Mailing of a notice, postage prepaid, to the applicant and/or to the sponsor.~~

#### **~~Sec. 78-390. Hearing on denial of permit.~~**

~~(a) A person who has been denied a parade permit shall have a right to an administrative hearing to determine whether there was a substantial basis for the denial. The hearing shall be conducted before a hearing officer designated by the city manager within 48 hours of receipt of a written demand therefor from the person seeking the hearing unless such person waives the right to a speedy hearing, except the hearing officer may cause the hearing to be continued for good cause by any party for an additional 14 days. Saturdays, Sundays and city holidays are to be excluded from the calculation of the 48-hour period. The sole issue before the hearing officer shall be whether there was a substantial basis for the denial. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that the proposed parade or race is in full compliance with the provisions of this article. The police department shall carry the burden of establishing that there was a substantial basis for the denial of the permit. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing. The decision of the hearing officer is final for purposes of RSMo ch. 536. Failure of the person requesting the hearing or his agent to request or attend a scheduled hearing as set forth in this section shall be deemed a waiver of the right to such hearing.~~

~~(b) The hearing officer shall only determine whether or not there was a substantial basis for the denial of the permit. If the hearing officer determines there was not a substantial basis, the hearing officer shall order the police department to immediately issue the parade or race permit.~~



## **Explanation of Changes Documented in Exhibit B**

### **City Code Chapter 106 Traffic and Vehicles**

City Code Sections 106-42, 106-43, 106-44, 106-45, 106-50, 106-52, 106-54, 106-82 were deleted from the City Code and replaced by Section 2-520 Permits for Use of Public Right-of-Way. The existing code sections give permission for closure of the public streets for specific events such as First Night Celebrations, Festival of Lights, Frisco Days, Cider Days, Arts Fest, etc. The Public Works Department requested that this language be amended to allow the Traffic Engineer authority to close the streets for events such as these. Instead of having multiple city code sections regulating the same general type of event (one that uses the street) the Traffic Engineer can have the authority to approve these events. This change will allow uniformity in how these events are handled and will remove the need to bring a new special event that requires the closure of a city street to council each time it is requested.

## CITY CODE: Part II Code, Chapter 106 Traffic and Vehicles

### ~~Sec. 106-42. Permit for use of right-of-way during First Night celebrations.~~

~~(a) Authority to issue permits. In order to protect the public health, safety and welfare, to promote the economy of the city, and to provide an orderly process for the use of limited city right-of-way, the city council hereby delegates to the Springfield Regional Arts Council the right to license all persons using city rights-of-way during the annual First Night within those areas described in Section 106-49~~

~~(b) Permit required. No person shall organize, produce, direct, conduct, manage, institute or carry on any business or commercial activity or public entertainment on the streets or within the public areas described in Section 106-49 when such streets and public areas are closed for First Night celebrations without a permit first being obtained from the Springfield Regional Arts Council. No person shall participate in any way in any activity for which a permit has not been issued or any activity for which a permit has been suspended or revoked.~~

~~(c) Interference with events. No person shall knowingly join or participate in any activity in violation of any of the terms, conditions or regulations of the permit issued therefor, or knowingly join or participate in any activity without the consent and over the objection of the permittee or in any manner interfere with the orderly conduct of such event. It shall be unlawful to park a motor vehicle in an area that is barricaded to traffic without a permit from the Springfield Regional Arts Council.~~

~~(d) Application for permit. An application on an approved form for a permit shall be filed with the Springfield Regional Arts Council within a reasonable time to be determined by the Springfield Arts Council. Such application shall be signed by the applicant or his authorized agent, and shall be accompanied by a fee to cover administrative costs of First Night. The form for the application shall be approved by the city manager. Applications for permits shall be acted upon within a reasonable time.~~

~~(e) Finality of decision. The refusal of any permit by the Springfield Regional Arts Council shall be final unless a written appeal is filed as provided elsewhere in this section. Failure to file an appeal within ten days after a letter is mailed denying a permit shall constitute a waiver of the right to such appeal.~~

~~(f) Conditions. As a condition to granting such permit, the Springfield Regional Arts Council may impose reasonable terms and regulations concerning the time and place of such specific event; the area and manner of conducting such activity; the maximum number of persons participating therein; the number and type of signs and barricades to be provided by the applicant, if any, together with a plan of their disposition attached to the application; and~~

such other requirements as it may find reasonable and necessary for the protection of persons and property. Any person who has been granted a permit shall cause the permit to be publicly displayed at all times during the First Night event.

~~(g) Grounds for denial. The Springfield Regional Arts Council shall not issue any permit if it finds any of the following:~~

~~(1) The application is not on the form provided or does not contain the required information.~~

~~(2) The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application for a permit.~~

~~(3) The building, structure, equipment or activity does not comply with or fails to meet all of the health, zoning, fire and safety requirements or standards of all of the ordinances of the city applicable thereto.~~

~~(4) The activity or location of the activity is such as to interfere with or unreasonably obstruct the free flow of pedestrian traffic on the sidewalk.~~

~~(5) The conduct of the specific event will unreasonably interfere with the preservation of the public peace, health, safety or welfare.~~

~~(6) The applicant has had a similar specific event permit denied for good cause within one year prior to the application, and can show no material change in circumstances since such denial.~~

~~(7) The applicant refuses to agree to, abide by or comply with all conditions and regulations attendant upon such specific event permit.~~

~~(8) The activity for which the permit is sought is not reasonably calculated to meet the objectives of or further the objectives of the First Night celebration.~~

~~(h) Suspension or revocation. A permit for an activity issued under this section may be suspended or revoked by the Springfield Regional Arts Council at any time, provided notice is given to the permittee setting forth the reason for the suspension or revocation with an opportunity for a hearing on the suspension or revocation, when:~~

~~(1) There is reasonable cause to believe that any of the grounds exist for which the original application for a permit would have been denied; or~~

~~(2) There is reason to believe that the health, safety and welfare of persons or property would be endangered because of real or threatened disaster, public calamity, riot or other emergency.~~

~~(i) Appeal procedure. An appeal from suspension, revocation or denial of a permit by the Springfield Regional Arts Council may be made to an administrative hearing officer appointed by the city manager within ten days after service of notice of such action on the applicant or permittee. Such appeal shall be in writing, setting forth fully the grounds upon which the appeal is based, and shall be filed with the city clerk, who shall forward copies to the city manager and members of the special events committee. If the administrative hearing officer upholds the decision of the Springfield Regional Arts Council, any appeal from such decision must be filed within 30 days in accordance with procedures set forth in RSMo ch. 536.~~

~~(Code 1981, § 22-34.2; G.O. No. 5368, § 1, 4-26-2004)~~

#### **~~Sec. 106-43. Use of right-of-way during Festival of Lights.~~**

~~(a) Authority to issue permits. In order to protect the public health, safety and welfare; promote the economy of the city; and to provide an orderly process for the use of limited city right-of-way, the city council hereby delegates to the Springfield Chamber of Commerce Committee on the Festival of Lights the right to license all persons using city rights-of-way during the annual Festival of Lights within those areas described in section 106-49 and within four (4) other areas designated by the city manager, provided such areas are not zoned as single-family residential areas, are part of the Festival of Lights Master Plan and a copy of such designation is filed by the city manager with the city clerk thirty (30) days prior to use of the area for the Festival of Lights program.~~

~~(b) Requirement of a permit. No person shall organize, produce, direct, conduct, manage, institute or carry on any activity when the streets described in section 106-49 are closed for the Festival of Lights without a permit first being obtained from the Festival of Lights committee. No person shall participate in any way in any activity for which a permit has not been issued, or any activity for which a permit has been suspended or revoked.~~

~~(c) Interference with specific events. No person shall knowingly join or participate in any activity in violation of any of the terms, conditions or regulations of the permit issued therefor, or knowingly join or participate in any activity without the consent and over the objection of the permittee or in any manner interfere with the orderly conduct of such event. It shall be unlawful to park a motor vehicle in an area that is barricaded to traffic without a permit from the Festival of Lights committee.~~

~~(d) Permit—Application.~~ An application on an approved form for a permit shall be filed with the Festival of Lights committee within a reasonable time to be determined by the Festival of Lights committee. Such application shall be signed by the applicant, or his authorized agent, and may be accompanied by a fee if a fee is required to cover administrative costs of the Festival of Lights. The form for the application shall be approved by the city manager. Applications for permits shall be acted upon within a reasonable time.

~~(e) Same—Granting or refusal.~~ The refusal of any permit by the Festival of Lights committee shall be final unless a written appeal is filed as provided elsewhere in this section. Failure to file an appeal within ten (10) days after a letter is mailed denying a permit shall constitute a waiver of the right to such appeal.

~~(f) Same—Granting conditions.~~ As a condition to granting such permit, the Festival of Lights committee may impose reasonable terms and regulations concerning the time and place of such specific event; the area and manner of conducting such activity; the maximum number of persons participating therein; the number and type of signs and barricades to be provided by the applicant, if any, together with a plan of their disposition attached to the application; and such other requirements as it may find reasonable and necessary for the protection of persons and property. Any person who has been granted a permit shall cause the permit to be publicly displayed at all times during the Festival of Lights.

~~(g) Same—Denial.~~ The Festival of Lights committee shall not issue any permit if it finds any of the following:

- ~~(1) The application is not on the form provided or does not contain the required information;~~
- ~~(2) The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application for a permit;~~
- ~~(3) The building, structure, equipment or activity does not comply with or fails to meet all of the health, zoning, fire and safety requirements or standards of all of the ordinances of the City of Springfield, Missouri, applicable thereto;~~
- ~~(4) The activity or location of the activity is such as to interfere with or unreasonably obstruct the free flow of pedestrian traffic on the sidewalk;~~
- ~~(5) The conduct of the specific event will be contrary to law;~~
- ~~(6) The conduct of the specific event will unreasonably interfere with the preservation of the public peace, health, safety or welfare;~~

~~(7) Applicant has had a similar specific event permit denied for good cause within one (1) year prior to the application, and can show no material change in circumstances since such denial; and~~

~~(8) Applicant refuses to agree to, abide by or comply with all conditions and regulations attendant upon such specific event permit.~~

~~(h) Same — Suspension or revocation. A permit for an activity issued hereunder may be suspended or revoked by the Festival of Lights committee at any time, provided notice is given to the permittee setting forth the reason for the suspension or revocation with an opportunity for a hearing on the suspension or revocation when:~~

~~(1) There is reasonable cause to believe that any of the grounds exist for which the original application for a permit would have been denied; or~~

~~(2) There is reason to believe that the health, safety and welfare of persons or property would be endangered because of real or threatened disaster, public calamity, riot or other emergency.~~

~~(i) Right of appeal. An appeal from suspension, revocation or denial or of a permit by the Festival of Lights committee may be made to an administrative hearing officer appointed by the city manager within ten (10) days after service of notice of such action on the applicant or permittee. Such appeal shall be in writing, setting forth fully the grounds upon which the appeal is based, and shall be filed with the city clerk who shall forward copies to the city manager and members of the specific event committee. If the administrative hearing officer upholds the decision of the Festival of Lights committee, any appeal from such decision must be filed within thirty (30) days in accordance with the procedures set forth in Chapter 536 RSMo.~~

~~(j) Garage sales. Notwithstanding any other provision of the Springfield City Code to the contrary, no person shall conduct a garage sale in those areas described in section 106-49 during the time when the Festival of Lights is being held.~~

~~(Code 1981, § 22-34.3)~~

#### **~~Sec. 106-44. Closing of Commercial Street for Frisco Days.~~**

~~Upon receipt of an application, the traffic engineer of the city is hereby authorized to permit on an annual basis, the closing of Commercial Street between Washington and Lyon Avenues from the hours of 6:00 p.m. on Friday to 9:00 p.m. Sunday on any weekend approved by the traffic engineer for purposes of the Frisco Days celebration in Springfield, Missouri, subject to the following conditions:~~

~~(1) That the applicant requesting closure shall provide insurance to insure the city in an amount established by the law department of the city, sufficient to provide the city with protection against any liability which might arise from the activities in the area to be closed, and the applicant agree to defend and indemnify and hold the city harmless from any liability therefrom.~~

~~(2) That the applicant provide the city with assurances, which may include a bond or cash, that the area will be cleaned up after the activities have concluded.~~

~~(3) That the applicant be required to provide sufficient orange construction type barricades to completely block the streets at each end.~~

~~(4) That activities conducted in the area will be only as described in the application and approved by the traffic engineer.~~

~~(5) That the closure shall be limited to the hours set forth in the ordinance and that the applicant will comply with all requirements of the police, fire, public works and of health departments in order to protect the public health, safety and welfare, including opening any traffic lanes which may be required by the fire chief for emergency vehicles.~~

~~(6) That applicant shall have barricades manned by personnel at all times so as to permit the entry of emergency vehicles, if needed, and to detour traffic around the street closure.~~

~~(7) That applicant shall provide any security necessary for crowd control.~~

~~(8) That applicant shall make arrangements for adequate off-street parking for those attending the event.~~

~~(9) That applicant shall take all steps necessary to insure that noise from the celebration is limited so as not to unduly disturb the peace of the neighborhood.~~

~~(10) That applicant agrees with any and all other conditions which may be required by city utilities and the public works department.~~

*(G.O. No. 4672, § 1, 1-6-1997; G.O. No. 4976, § 1, 4-17-2000)*

#### **~~Sec. 106-45. Closing of streets for Cider Days.~~**

~~The traffic engineer of the city is authorized to annually permit the erection and removal of across the street banners and the closing of streets described in Section 106-49 on a designated Friday, Saturday and Sunday in September or October of each year for a~~

Cider Days event sponsored by the Walnut Street Merchants Association and the Urban Districts Alliance, upon the same terms and conditions as set forth in Section 106-49 and Section 106-50, which are incorporated in this section by reference, except for the references to the Springfield Regional Arts Council appearing therein, which under this section shall mean the Walnut Street Merchants Association and the Urban Districts Alliance, the sponsoring organizations, and any references to Artsfest which are made under those sections shall mean Cider Days.

*(G.O. No. 4804, § 1, 5-26-1998; G.O. No. 5080, § 1, 4-30-2001; G.O. No. 5368, § 2, 4-26-2004)*

**~~Sec. 106-50. Use of city right-of-way during Artsfest.~~**

~~(a) Authority to issue permits. In order to protect the public health, safety and welfare, to promote the economy of the city, and to provide an orderly process for the use of limited city right of way, the city council hereby delegates to the Springfield Regional Arts Council the right to license all persons using city rights-of-way during the annual Artsfest within those areas described in Section 106-49~~

~~(b) Requirement of a permit. No person shall organize, produce, direct, conduct, manage, institute or carry on any activity when the streets described in Section 106-49 are closed for Artsfest without a permit first being obtained from the Springfield Regional Arts Council. No person shall participate in any way in any activity for which a permit has not been issued, or any activity for which a permit has been suspended or revoked.~~

~~(c) Interference with specific events. No person shall knowingly join or participate in any activity in violation of any of the terms, conditions or regulations of the permit issued therefor, or knowingly join or participate in any activity without the consent and over the objection of the permittee or in any manner interfere with the orderly conduct of such event. It shall be unlawful to park a motor vehicle in an area that is barricaded to traffic without a permit from the Springfield Regional Arts Council.~~

~~(d) Permit application. An application on an approved form for a permit shall be filed with the Springfield Regional Arts Council within a reasonable time to be determined by the Springfield Regional Arts Council. Such application shall be signed by the applicant, or his authorized agent, and shall be accompanied by a fee to cover administrative costs of Artsfest. The form for the application shall be approved by the city manager. Applications for permits shall be acted upon within a reasonable time.~~

~~(e) Permit, granting or refusal. The refusal of any permit by the Springfield Regional Arts Council shall be final unless a written appeal is filed as provided elsewhere in this section. Failure to file an appeal within ten days after a letter is mailed denying a permit shall constitute a waiver of the right to such appeal.~~



~~(f) Permit, granting conditions. As condition to granting such permit, the Springfield Regional Arts Council may impose reasonable terms and regulations concerning the time and place of such specific event; the area and manner of conducting such activity; the maximum number of persons participating therein; the number and type of signs and barricades to be provided by the applicant, if any, together with a plan for their disposition attached to the application; and such other requirements as it may find reasonable and necessary for the protection of persons and property. Any person who has been granted a permit shall cause the permit to be publicly displayed at all times during the Artsfest.~~

~~(g) Permit, denial. The Springfield Regional Arts Council shall not issue any permit if it finds any of the following:~~

~~(1) The application is not on the form provided or does not contain the required information;~~

~~(2) The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application for a permit;~~

~~(3) The building, structure, equipment or activity does not comply with or fails to meet all of the health, zoning, fire and safety requirements or standards of all of the ordinances of the city, applicable thereto;~~

~~(4) The activity or location of the activity is such as to interfere with or unreasonably obstruct the free flow of pedestrian traffic on the sidewalk;~~

~~(5) The conduct of the specific event will be contrary to law;~~

~~(6) The conduct of the specific event will unreasonably interfere with the preservation of the public peace, health, safety or welfare;~~

~~7) Applicant has had a similar specific event permit denied for good cause within one year prior to the application, and can show no material change in circumstances since such denial; and~~

~~(8) Applicant refuses to agree to, abide by or comply with all conditions and regulations attendant upon such specific event permit.~~

~~(h) Suspension or revocation of permit. A permit for an activity issued under this section may be suspended or revoked by the Springfield Regional Arts Council at any time, provided notice is given to the permittee setting forth the reason for the suspension or revocation with an opportunity for a hearing on the suspension or revocation when:~~

~~(1) There is reasonable cause to believe that any of the grounds exist for which the original application for permit would have been denied; or~~

~~(2) There is reasonable cause to believe that the health, safety and welfare of persons or property would be endangered because of real or threatened disaster, public calamity, riot or other emergency.~~

~~(i) Right of appeal. An appeal from suspension, revocation or denial of a permit by the Springfield Regional Arts Council may be made to an administrative hearing officer appointed by the city manager within ten days after service of notice of such action on the applicant or permittee. Such appeal shall be in writing, setting forth fully the grounds upon which the appeal is based, and shall be filed with the city clerk, who shall forward copies to the city manager and members of the specific events committee. If the administrative hearing officer upholds the decision of the Springfield Regional Arts Council, any appeal from such decision must be filed within 30 days in accordance with procedures set forth in RSMo ch. 536.~~

~~(j) Garage sales. Notwithstanding any other provisions of Code to the contrary, no person shall conduct a garage sale in those areas described in section 106-49 during the time when Artsfest is being held.~~

~~(Code 1981, § 22-211; G.O. No. 5368, § 5, 4-26-2004)~~

#### **~~Sec. 106-52. Use of Jefferson Avenue Footbridge Plaza.~~**

~~In order to protect the public health, safety and welfare, to promote economy in the city, to encourage the community use of a neighborhood landmark, and to provide for the orderly process for the use of the limited right of way contained within the Jefferson Avenue Footbridge Plaza, the city manager is hereby authorized to issue permits for the use of the Jefferson Avenue Footbridge Plaza as defined in section 106-1, under the same conditions, limitations, rules and regulations as those set out in section 82-65 for the use of the downtown mall and Ozark Jubilee Park.~~

~~(G.O. No. 5199, § 2, 7-1-2002)~~

#### **~~Sec. 106-54. Closing of streets for Queen City Twilight Criterium.~~**

~~Upon receipt of an application, the traffic engineer of the city is hereby authorized to permit on an annual basis, the closing of Commercial Street from Boonville Avenue to Jefferson Avenue, Jefferson Avenue from Commercial Street to Pacific Street, Pacific Street from Jefferson Avenue to Campbell Avenue, Robberson Avenue from Commercial Street to Court Street, Court Street from Robberson Avenue to Campbell Avenue, Campbell Avenue from Court Street to Pacific Street, and Boonville Avenue from Court Street to Commercial Street annually from the hours of 2:00 p.m. to 11:00 p.m. on one Saturday and/or Sunday in~~

the month of July for the purpose of conducting the Queen City Twilight Criterium bicycle race in that area subject to the following conditions:

- (1) That the applicant provide insurance insuring the city in the amount established by the law department of the city sufficient to provide the city with protection against any liability which might arise from the activities in the area to be closed, and that the organizers of the Queen City Twilight Criterium bicycle race agree to defend and indemnify and hold the city harmless from any liability therefrom.
- (2) That the applicant provide the city with assurances which may include a bond or cash that the area will be cleaned up after the activities have concluded.
- (3) That the applicant be required to provide sufficient barricades of an orange and white construction type barricade to completely block the street at each end as well as sufficient barricades and signs to direct traffic in a detour around the area.
- (4) That the applicant limit the activities in the area to those activities which have been requested.
- (5) That the closure of the street shall be limited to the time specified and that the applicant provide at least a 12-foot lane for emergency vehicles in any area designated by the fire chief of the city, and that the applicant further comply with all other requirements of the police, fire, public works and health departments of the city in order to protect the public health, safety and welfare of the citizens resulting from the activities in the closed portions of the streets.
- (6) That the applicant at all times have personnel at each barricade to permit the entry of emergency traffic should the need arise.
- (7) That if applicant feels concern about security or crowd control, then applicant is responsible for the hiring of security personnel for the duration of the closure.
- (8) That the applicants comply with all noise standards established by the director of the health department.
- (9) That the applicants comply with the provisions of section 78-4 and warn those in attendance that the drinking of intoxicating liquor on public streets is prohibited.

*(G.O. No. 5825, § 1, 6-15-2009; G.O. No. 5873, § 1, 5-3-2010)*

#### **Sec. 106-82. Closing of residential streets for neighborhood block parties.**

- (a) The traffic engineer is hereby authorized to close residential streets not over one block in length for a period not to exceed six hours for neighborhood block or benefit parties in which the block to be closed is the main participant in the party, between the hours of 5:00 p.m.

and 10:00 p.m., Monday through Friday, and between 1:00 p.m. and 10:00 p.m., Saturday and Sunday.

~~(b) Requests for street closures shall be made in writing to the traffic engineer at least ten days before the day of the closure, stating the reason for the closure, the description of the block to be closed, the time and date of closure, and other information which may be required by the traffic engineer. If the traffic engineer finds that the public health, safety and welfare will not be impaired by granting the request, that provisions have been made for emergency vehicles and that other conditions stated in this section have been met, he may grant the permit. The traffic engineer may condition the granting of the permit upon the applicant meeting other certain conditions to protect the public health, safety and welfare.~~

~~(c) Any applicant who has been denied a permit by the city traffic engineer may request that the application be submitted to the city council for consideration.~~

~~(Code 1981, § 22-46.1)~~

## **Explanation of Changes Documented in Exhibit C**

### **City Code Chapter 2 Administration, Article I. In General, Section 2-10 Permits for outdoor entertainment.**

The existing City Code Section 2-10 allows for permits to be issued for outdoor entertainment on private property in the Center City Zoning District. These permits are presently handled as a special event and therefore were moved to the special event proposed section. There were very few substantive changes made to existing language as documented below.

One of those changes involved removing a decibel level limit on noise and proposing to limit noise on a peace disturbance standard. Several City Departments voiced concern regarding the existing city code language for noise standards and difficulty with enforcement of those standards. The existing language measures noise standards by decibels. The Building Development Services Department (BDS) and Licensing Division enforce noise standards with a decibel reader. The problem is the typical time that noise complaints occur is at night time and after the city offices are closed. Therefore, if there is a complaint the BDS and the Licensing Division cannot respond to determine the appropriate level of noise by a decibel reader. When this occurs the Police Department will handle the complaint as a peace disturbance pursuant to existing City Code Section 78-114 Peace Disturbance, as explained below. Another issue that was discussed was if the decibel reader is used to enforce the noise regulation, the decibel readings for the event are frequently lower than the ambient noise surrounding the event. This makes it difficult to enforce the decibel levels for the event because the surrounding noise levels were not within the regulated levels.

The proposed solution is to remove the decibel levels as a standard to determine if a noise is too loud and enact language to base a noise level appropriateness on a general peace disturbance standard. By using a peace disturbance standard the above stated issues are resolved. The Police Department already uses this standard under City Code Section 78-114. If a noise complaint is received after city business hours, the Police will respond to the scene, contact the complainant and the suspect. While the officer has discretion to issue a summons immediately to the suspect if the noise levels appear to be leaving the property line where the noise is occurring, the officer usually will issue a warning. If the officer is dispatched to the same suspect for a peace disturbance that day, the officer may issue a summons. If a noise complaint occurs during city business hours an employee of BDS or Licensing can inspect the noise occurring at the event and determine if a peace disturbance is occurring using a similar procedure as the Police Department described immediately above.

- Existing City Code Section 2-10 Permits for outdoor entertainment was moved to Section 2-514 Permits for outdoor entertainment within the Center City Zoning District.
- Existing City Code Section 2-10(a) Definitions was moved to the general Section 2-500 Definitions.
- Existing City Code Section 2-10(b) Authorized Conditions was moved to Section 2-514(a)(1) and (2)
- Existing City Code Section 2-10(b)(3), regarding compliance with city and state laws, was moved to the general Section 2-508 Violation.

- Existing City Code Section 2-10(b)(4), regarding providing security if requested, was moved to the general Section 2-502 Police Protection.
- Existing City Code Section 2-10(b)(5), regarding noise level, was amended to remove the reference to decibels and language was added to change the standards for noise levels to the same as a peace disturbance.
- Existing City Code Section 2-10(b)(6) Cost was moved to the general Section 2-503 Permit Required.
- Existing City Code Section 2-10(d), regarding additional regulations, was moved to the general Section 2-504(b)(15).

## City Code: Part II, Chapter 2 Administration, Article I. In General

### ~~Sec. 2-10. Permits for outdoor entertainment.~~

#### ~~(a) Definitions.~~

~~*Applicant* shall mean any person who seeks a permit issued pursuant to this section.~~

~~*Audible* shall mean anything heard or perceived by the human ear.~~

~~*Outdoor* shall mean in the open air, in a tent, under a carport, in a gazebo, or in any area not~~

~~fully enclosed from the elements.~~

~~*Person* shall mean any natural person, partnership, corporation, association, or organization.~~

~~*Special event* shall mean an outdoor gathering at which music or entertainment is provided by professional or amateur performers or by prerecorded means, which is held outdoors and not within a building or permanently enclosed structure specifically constructed for such purposes, to which members of the public are invited or admitted for a charge or free of charge, and which is not a part of regularly conducted business or activity on the premises where the event is to be held.~~

~~(b) *Authorized conditions.* Notwithstanding any other provision of this Code, the city council hereby authorizes the city manager, or his designee, to issue permits to allow outdoor live or amplified music and other audible outdoor entertainment within the Center City zoning district as defined in article I of the land development code provided that the applicant for such permit complies with any regulations promulgated by the city manager regarding such permits, did not create any nuisance, or peace disturbances in the downtown Center City zoning district with or without the use of prior permits, and meets the following conditions for the applicable permit:~~

~~(1) No outdoor live or amplified music, or other audible outdoor entertainment shall be allowed pursuant to such permit other than:~~

## EXHIBIT C

~~a. Two-day special event permits: Between the hours of 9:00 a.m. and 11:00 p.m. except on December 31 which shall be extended to 12:30 a.m.~~

~~b. Annual amplified entertainment permits:~~

~~Sundays, Mondays, Tuesdays, and Wednesdays—Between the hours of 9:00 a.m. and 11:00 p.m.~~

~~Thursdays—Between 9:00 a.m. and midnight.~~

~~Fridays and Saturdays—Between 9:00 a.m. and 1:00 a.m.~~

~~(2) A permit may be issued for the time periods and purposes to the owner of a licensed establishment or business provided the owner of the property, on which the live or amplified music or other audible outdoor entertainment is to be played, consents in writing and an application has been approved by the city manager or his designee.~~

~~(3) The applicant shall comply with all city and state laws relating to the applicant's activity including health and noise standards.~~

~~(4) If requested, the applicant shall provide security for the area of the event.~~

~~(5) The noise level for amplified or live outdoor music or other audible outdoor entertainment, in locations other than the downtown mall as defined in section 82-61 and Ozark Jubilee Memorial Park, shall not exceed the following decibel levels for audible music or other audible outdoor entertainment:~~

~~a. For two-day special event permits 100 decibels A-weighted (dBA) measured at a distance of 50 feet from the front of the stage for live performances, and from the front of any speaker or amplification device used for live or amplified recorded music; or~~

~~b. For an annual amplified entertainment permit—Music or other audible outdoor entertainment from an amplified or live source shall be no louder than 65 decibels A-weighted (dBA) at a distance of 50 feet. This noise level shall not apply to temporary emissions of noise from within a structure occasioned by the opening of a door for ingress and egress therefrom, but shall include music or other~~



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~~audible noise emanating from windows or doors or other openings which are left open for longer than five minutes at any one time. Noise levels where zoning district boundaries change shall be in accordance with the zoning code and section 6-1500 et seq. The manner of measurement shall be in accordance with the policies in place of the director of public health and welfare.~~

~~(6) Applicants shall pay a permit fee of \$50.00 for the two-day special event permit and \$100.00 for the annual amplified entertainment permit to reimburse the city the costs of processing the permit and enforcement including the purchasing of any equipment and training of employees deemed necessary by the city manager. The annual fee may be prorated based on the number of months left in the calendar year at the time of submission of the first application for each business licensee. The director of finance shall include such fee in the fee study of the city and this fee shall be adjusted in accordance with the city's guidelines for such fees.~~

~~(c) *Length of permit.* Provided the applicant, at the time of application and during the time such permit is in force, is eligible under the requirements of this section and not in violation of any other city codes related to the business activity taking place within and about the establishment, an applicant may be issued one of the following permits:~~

~~(1) A permit may be issued for up to two consecutive days for special events which are not a part of a licensed business's regular activities to the organizer of the special event;~~

~~(2) A permit may be issued for up to 12 months, with all such permits to expire on January 1st of each year, for a business that has received all approvals, licenses and permits required by the city for such use.~~

~~(d) *Additional regulations.* The city manager is hereby authorized to promulgate regulations regarding the issuance and revocation of permits and any activity or conduct to take place under such permit, and to adopt an application process for permits authorized under this section. Such regulations and application form shall be on file with the city clerk and available for inspection by the public. Any permit issued shall be subject to such regulations and application process.~~

~~(e) *Revocation.* Any permit issued under this section may be revoked at any time for violation of any conditions of the permit, regulations promulgated pursuant to~~

## EXHIBIT C

~~this section, or other provisions of city ordinances or state law. A new permit may be denied on the basis of any violations of any conditions of prior permits issued, or ongoing or previous violations of any regulations promulgated pursuant to this section, or other provisions of city ordinances or state law related to the operation of the business or regular activity taking place at the location of such business or activity, by the applicant, or someone affiliated with the applicant, for the same or any other location within the Center City zoning district.~~

~~(f) *Violations.* No person may allow, participate in, or conduct any outdoor live or amplified music or other audible entertainment without a permit issued pursuant to this section. Failure to obtain a permit, or violation of any condition of a permit, shall be punishable in accordance with section 1-7. In addition to any other enforcement proceeding available to the city, including, but not limited to, municipal court prosecution, business license revocation or suspension, or zoning enforcement; the city attorney may institute the appropriate legal proceedings to obtain an injunction to restrain, correct or abate such violation, or to remove or terminate the outdoor live or amplified music or other audible outdoor entertainment or its reoccurrence, and to revoke any and all permits issued by the city under which the activity is conducted, occupancy is permitted, and the right to receive utilities for the premises on which the outdoor live or amplified music or other audible outdoor entertainment is conducted without a permit or in violation of the conditions of the permit.~~

~~(G.O. No. 5792, § 1, 11-24-2008; G.O. No. 5894, § 1, 9-7-2010)~~

~~**Editor's note—**~~

~~G.O. No. 5792, § 1, adopted November 24, 2008, amended § 2-10 in its entirety to read as herein set out, including a sunset provision. G.O. No. 5894, adopted September 7, 2010, readopted the same ordinance, eliminating the sunset provision. Formerly, § 2-10 pertained to permits for outdoor music, and derived from G.O. No. 4825, § 2, adopted August 17, 1998, and G.O. No. 4915, §§ 1, 3, adopted July 19, 1999.~~

## **Explanation of Changes Documented in Exhibit D**

### **City Code Chapter 36, Article I. Zoning Ordinance, Section 2-1100 Definitions, Section 5-1003 Permitted Accessory Structures and Uses, and Section 5-1200 Temporary Uses.**

The City Land Development Code, Article I, Zoning Ordinance was amended by moving the uses shown on the accompanying chart into the proposed Special Events Code Sections in the general city code. The uses regulated in Section 5-1200 are similar to the events that the proposed city code language considers special events.

Section 5-1003, Permitted Accessory Structures and Uses, was amended to include the types of uses removed from Section 5-1200. By moving the uses to Section 5-1003, the uses are allowed but will be regulated by the proposed city code language.

Section 2-1100 Definitions was amended to remove two unnecessary definitions that were a result of the changes made to Section 6-1500.

### **City Code Chapter 36, Article I. Zoning, Section 6-1500 Noise Standards**

Several City Departments voiced concern regarding the existing city code language for noise standards and difficulty with enforcement of those standards. The existing language measures noise standards by decibels. The Building Development Services Department (BDS) and Licensing Division enforce noise standards with a decibel reader. The problem is the typical time that noise complaints occur is at night time and after the city offices are closed. Therefore, if there is a complaint the BDS and the Licensing Division cannot respond to determine the appropriate level of noise by a decibel reader. When this occurs the Police Department will handle the complaint as a peace disturbance pursuant existing City Code Section 78-114 Peace Disturbance, as explained below. Another issue that was discussed was if the decibel reader is used to enforce the noise regulation, the decibel readings for the event are frequently lower than the ambient noise surrounding the event. This makes it difficult to enforce the decibel levels for the event because the surrounding noise levels were not within the regulated levels.

The proposed solution is to remove the decibel levels as a standard to determine if a noise is too loud and enact language to base a noise level appropriateness on a general peace disturbance standard. By using a peace disturbance standard the above stated issues are resolved. The Police Department already uses this standard under City Code Section 78-114. If a noise complaint is received after city business hours, the Police will respond to the scene, contact the complainant and the suspect. While the officer has discretion to issue a summons immediately to the suspect if the noise levels appear to be leaving the property line where the noise is occurring, the officer usually will issue a warning. If the officer is dispatched to the same suspect for a peace disturbance that day, the officer may issue a summons. If a noise complaint occurs during city business hours an employee of BDS or Licensing can inspect the noise occurring at the event and determine if a peace disturbance is occurring using a similar procedure as the Police department described immediately above.

## Section 2-1100. Definitions.

~~Ldn: See Yearly Day Night Average Sound Level~~

~~Yearly Day Night Average Sound Level (Ldn): The 24-hour average sound level in decibels, for the period from midnight to midnight, obtained after the addition of ten decibels to sound levels for the periods between midnight and 7:00 a.m. and between 10:00 p.m. and midnight (local time) as averaged over a span of one year.~~

## Section 5-1000. Accessory Structures and Uses.

- 5-1001. Purpose. This section is designed to collect in one place the regulations with respect to accessory structures and uses and to list those common accessory structures and uses that are specifically allowed.
- 5-1002. Definition. An accessory structure or use serves a principal structure or a principal use by contributing to the comfort, convenience or needs to the occupants, businesses, or industry of the principal structure or use and is located on the same lot as the principal structure or use served.
- 5-1003. Permitted Accessory Structures and Uses.
- A. Accessory structures include, but are not limited to, the following list of examples:
    - 1. Buildings or structures incidental to a principal structure, such as storage buildings, workshops, studios, carports or garages incidental to a permitted use.
    - 2. Children's playhouses.
    - 3. Private swimming pools and bath houses.
    - 4. Guest houses or servant's quarters in any residential district or rooms for guests in an accessory structure provided such facilities:
      - a. are used for the occasional housing of guests or servants of the occupants of the principal structure; and
      - b. are not used as rental units for permanent occupancy as housekeeping units; and
      - c. are on a lot which exceeds ten thousand (10,000) square feet in area.
    - 5. Greenhouses.
    - 6. Guard stations.
    - 7. Food lockers.
  - B. Accessory uses include, but are not limited to, the following list of examples:

1. Storage of boats, boat trailers, camping trailers, small house trailers, and recreational vehicles provided the equipment is not used for living, sleeping or housekeeping purposes when parked or stored.
2. Restaurants, drug stores, gift shops, cocktail lounges, news stands and other similar uses located in a permitted office building provided that the total floor area devoted to accessory uses does not exceed ten (10) percent of the gross floor area on the lot.
3. Employee restaurants and cafeterias when located in a permitted business or manufacturing building.
4. A day care center located in a permitted business or manufacturing building, providing day care for children of employees employed on the premises, and as permitted by *Chapter 36, Article XI, Springfield City Code*.
5. A day care center, hourly care center, preschool, nursery school or kindergarten located on the same lot as a church or school and as permitted by *Chapter 36, Article XI, Springfield City Code*.
6. An apartment or living quarters for a guard, caretaker or other person employed on the premises, and their family, and which is clearly secondary to the commercial or manufacturing use of the property.
7. Automobile service repair when operated as part of a variety, discount, or department store which sells automobile parts and accessories.
8. Home occupation uses as permitted by *Section 5-1100*.
9. Outdoor dining with permitted restaurants in the General Retail zoning district provided the additional required parking for the outdoor dining area is met and the food and drink served outdoors are prepared inside the permitted restaurant.
10. Personal Gardens when accessory to a residential use.
11. On-site storage in storage trailers and storage containers shall be permitted if in compliance with *Subsection 5-1006*. (G.O. 5895, 9/20/10)
12. The keeping of six (6) or fewer chicken hens, but no roosters, in all districts. (G.O. 5900, 10/4/10)
13. Fund raising activities for non-profit organizations.
14. Garage Sales or yard sales as permitted by the City Code.

15. Street festivals.
16. Hot air balloon launchings provided the launch site is at least one thousand (1,000) feet from an occupied dwelling that is zoned for residential use.
17. An outdoor carnival or circus provided there is a dust-free or paved area for off-street parking for not less than three hundred (300) cars.
18. Temporary promotional activities provided such activities receive a permit from the City Manager or his designee.
19. Temporary seasonal outdoor sales and related storage necessary to a permitted use.

C. None of the following shall be permitted as an accessory use:

1. The storage or overnight parking of a commercial truck, van, bus or vehicle, with a gross vehicle weight of more than three-fourths (3/4) ton, in a residential district. Church and school buses are permitted provided they are parked on church or school property.
2. Outdoor storage, except as specifically permitted by the district regulations.
3. Living quarters in any district other than a residential district unless specifically permitted.

## Section 5-1200. Temporary Uses.

- 5-1201. Purpose. This section is designed to gather into one section regulations regarding those land uses and structures which are needed, or are in place, for only short periods of time. Some of such uses are permitted in all zoning districts either because they are useful or necessary or because they do not adversely impact surrounding property. Other temporary uses that may substantially impact nearby properties are permitted only in districts in which they are compatible with the permanent permitted uses. Such temporary uses, except temporary vendors, shall be permitted without requiring additional off-street parking. Temporary vendors shall be permitted only if the required parking for the uses on the subject property, including temporary vendors, is not reduced. (G.O. 5823, 06/15/09)
- 5-1202. Site Plan Review Not Required. Site plan review, under the requirements of *Section 3-3000, Site Plan Review*, is not required for temporary uses regulated by this section because of the temporary nature of such uses.
- 5-1203. Temporary Uses Permitted.

- A. The following temporary uses of land are permitted in any zoning district subject to the specific regulations and time limits which follow, and to the other applicable regulations of the district in which the use is permitted.
1. Contractors office and equipment trailers and sheds (containing no sleeping or cooking accommodations) accessory to a construction project are permitted only during the duration of such project and shall be located on the same property or on property in a district in which the use being constructed is allowed. (G.O. 5019, 10/23/00)
  2. Real estate offices (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing or other development to continue only until the sale or lease of all dwelling units in the development.
  3. ~~Fund-raising activities, such as bazaars, craft sales, and Christmas tree sales, for non-profit organizations such as churches, libraries and museums in districts where the non-profit organization use is permitted provided no more than six (6) events per calendar year shall be permitted and each event shall not exceed a period of five (5) consecutive days.~~
  4. ~~Garage or yard sales as permitted by Chapter 29C, Article III, Springfield City Code provided no more than two (2) garage or yard sales per calendar year shall be permitted and each garage or yard sale shall not exceed a period of three (3) consecutive days. A permit shall also be obtained from the Department of Finance. No fee for the permit is required.~~
  5. ~~Street festivals, subject to the following restrictions.~~
    - a. ~~When a residential district adjoins the street where the festival is to be held, only one permit shall be issued in a twelve (12) month period. The permit shall not exceed a period of three (3) days exclusive of a reasonable period to prepare the street prior to the event and restore the street after the event is complete.~~
    - b. ~~When none of the properties adjoining the street where the festival is to be held are zoned residential, only one permit shall be issued in a six (6) month period. The permit shall not exceed a period of five (5) days exclusive of a reasonable period to prepare the street prior to the event and restore the street after the event is complete.~~
    - c. ~~Activities related to the event shall be limited to a daily period extending from 7:00 a.m. to 11:00 p.m.~~
    - d. ~~Lighting, activities, noise or increased traffic associated with a festival shall not unreasonably disturb surrounding residential properties not directly abutting the street.~~

~~e. The applicant shall provide a reasonable plan for traffic control and parking approved by the Traffic Engineer and adequate evidence that said plan will be implemented.~~

~~f. The applicant shall provide a plan for adequately ensuring that during actual street festival operations there will be no adverse environmental impact on adjacent and nearby properties. Said plan shall include provisions for noise abatement, sanitary needs, dust and litter controls. Any violation of said plan shall provide grounds for an immediate revocation of a permit granted under the provisions of this section.~~

~~g. A permit for the street festival has been issued by the Director of Building Development Services finding that all of the foregoing conditions have been, or will be satisfied.~~

63. Mixing plants for cement, asphalt or paving material, staging areas and materials storage areas subject to the following restrictions.

a. The temporary use is accessory to a project for the construction of streets or other public improvements.

b. The temporary use is located on the same property or right-of-way, or directly adjacent to the same property or right-of-way, as the construction project.

c. The temporary use shall be removed upon completion of the construction project.

d. The applicant shall provide a plan for controlling traffic between the temporary use and the construction project, approved by the Traffic Engineer, and adequate evidence that said plan will be implemented.

e. The applicant shall provide a plan for adequately ensuring that during actual operations there will be no adverse environmental impact on adjacent and nearby properties. Said plan shall include provisions for noise abatement, sanitary needs, dust, and litter controls. Any violation of said plan shall provide grounds for an immediate revocation of a permit granted under the provisions of this section.

f. A permit for such use has been issued by the Director of Building Development Services finding that all of the foregoing conditions have been, or will be, satisfied.

~~7. Hot air balloon launchings provided the launch site is located at least one thousand (1,000) feet from a dwelling in an R-SF, R-TH, R-LD, R-MD, R-HD or R-MHC district.~~

84. Temporary wireless facilities towers for special events provided the temporary tower does not exceed sixty (60) feet in height and a permit



shall not be issued for a period of time exceeding two (2) days preceding and following the special event. Temporary towers may also be located on the same site as an approved permanent tower during the period that the permanent tower is being constructed. (G.O. 5094, 07/09/01)

95. Farmers' Markets, subject to the following restrictions: (G.O. 5880, 7/26/10)
- a. The Farmers' Market may only be located on the same site as a legally established non-residential use(s).
    1. A site plan shall be submitted to, and approved by, the Building Development Services Department showing conformance with the requirements of the Zoning Ordinance, adopted standards, and other City Codes;
    2. All Farmers' Market uses shall be in compliance with all applicable codes and standards of the Springfield City Code; and
    3. A permit for such use has been issued by the Director of Building Development Services finding that all of the standards have been, or will be, satisfied. The Director of Building Development Services is authorized to issue a cease and desist order to any party violating the adopted standards along with any other enforcement measures available to the Director or the City.
  - b. Every Farmers' Market vending site shall be required to have a building or site permit issued by the Director of Building Development Services prior to commencement of operation. The property owner shall apply for the building or site permit.
- B. The following uses of land are permitted in the specific zoning districts listed, subject to the restrictions in this section and the other applicable restrictions in the district or districts in which the temporary use is permitted.
- ~~1. In Residential Districts. Non-profit, fund-raising events on residential properties, such as, the Springfield Symphony Guild's Designer's Showcase, subject to the following restrictions.~~
    - ~~a. No more than one (1) permit shall be issued on the same property in a thirty-six (36) month period, and the permit shall not exceed a period of twenty-one (21) days exclusive of a reasonable period to prepare the property prior to the event and restore the property after the event is complete.~~
    - ~~b. Activities related to the event shall be limited to a daily period extending from 9:00 a.m. to 10:00 p.m.~~

- ~~c. — Lighting, activities, noise, or increased traffic associated with an event shall not unreasonably disturb surrounding residential neighborhood.~~
- ~~d. — The applicant shall provide a reasonable plan for traffic control and parking approved by the Traffic Engineer and adequate evidence that said plan will be implemented.~~
- ~~e. — The applicant shall provide a plan for adequately ensuring that during actual operations there will be no adverse environmental impact on adjacent and nearby properties. Said plan shall include provisions for noise abatement, sanitary needs, dust, and litter controls. Any violation of said plan shall provide grounds for an immediate revocation of a permit granted under the provisions of this section.~~
- ~~f. — A permit for such event has been issued by the Director of Building Development Services finding that all of the foregoing conditions have been, or will be, satisfied.~~

21. Temporary vendors, sites in the GR, HC, CS, GI, subject to the following restrictions: (G.O. 4925, 09/27/99; G.O. 6010, 08/27/12)

- a. A site plan providing the following information shall be submitted to, and approved by, the Building Development Services Department showing conformance with the requirements and standards of the Zoning Ordinance and other City Codes (G.O. 6010, 08/27/12);
  - 1. The legal description of the site.
  - 2. A full site plan showing the proposed location of the temporary vendor site and showing that the site does not encroach into the required setbacks of site triangles.
  - 3. Show that the vendor site location will not encroach into the required parking spaces.
  - 4. Submit a parking schedule indicating the total number of parking spaces for the site, the total spaces required for the permanent business and the use of the permanent business.
  - 5. Show the location of the accessible restroom facilities for each gender. They must be located within five hundred (500) feet of the temporary vendor site and within a permanent structure.
- b. All temporary vendor uses shall be in compliance with all applicable codes and standards of the Springfield City Code. (G.O. 6010, 08/27/12).

32. In the GI, GR, HC, CS, LI, GM, HM, and IC Districts. Christmas tree sales for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the yard and setback requirements of this Article, provided, that no tree shall be displayed within thirty (30) feet of the intersection of the curb line of any two (2) streets or any sight triangle required by *Subsection 5-1306*. (G.O. 5127, 10/29/01) (G.O. 5823, 06/15/09)

a. ~~An outdoor carnival or circus, subject to the following restrictions:~~

- ~~(1) — No carnival or circus shall be located on a parcel of land less than five (5) acres in size.~~
- ~~(2) — No permit shall be issued for a period exceeding fourteen (14) days exclusive of a reasonable period during which the amusement rides, concessions, etc. are erected or removed from the site.~~
- ~~(3) — No more than two (2) permits for a circus or carnival on the same property shall be issued for any twelve (12) month period.~~
- ~~(4) — Every carnival or circus shall provide either paved or dust treated off street parking for not less than three-hundred (300) automobiles per acre of area used for amusement purpose.~~
- ~~(5) — Lighting, amusement activities, noise, or increased traffic associated with a carnival or circus shall not unreasonably disturb surrounding residential neighborhoods.~~
- ~~(6) — The applicant shall provide a reasonable plan for traffic control approved by the Traffic Engineer and adequate evidence that said plan will be implemented.~~
- ~~(7) — No carnival or circus shall be permitted within five-hundred (500) feet of the lot line of occupied residential property; except, the Director of Building Development Services may reduce the distance requirement set forth in this subsection if the Director determines that existing buildings, structures, or uses of land or terrain of the parcel of land for which application is made or adjacent parcels substantially reduce potential noise pollution, aesthetic pollution and other types of pollution.~~
- ~~(8) — The carnival or circus shall limit its hours of operation to a daily period extending from 9:00 a.m. to 10:00 p.m.~~

(9) — The applicant shall provide a performance bond with the City as the named payee, which bond shall guarantee that the premises will be left in a condition that does not produce any adverse environmental impact on adjacent property. The bond shall be submitted to the Director of Building Development Services.

(10) — The applicant shall provide a plan for adequately ensuring that during actual carnival or circus operations there will be no adverse environmental impact on adjacent and nearby properties. Said plan shall include provisions for noise abatement, sanitary needs, dust, and litter controls. Any violation of said plan shall provide grounds for an immediate revocation of a permit granted under the provisions of this section.

(11) — A permit for such circus or carnival has been issued by the Director of Building Development Services finding that all of the foregoing conditions have been, or will be, satisfied.

b. Temporary promotional activities subject to the following restrictions:

(1) — No permit shall be granted for a period exceeding six (6) days exclusive of a reasonable period during which the promotional uses are erected or taken down.

(2) — No more than two (2) permits for a temporary promotional use for the same property shall be issued during any six (6) month period.

(3) — Temporary promotional uses shall be limited in number to not more than five (5) carnival rides, amusement rides, or other similar amusements, and no games, side shows, tents shelters, concessions, or other similar uses shall be employed or associated therewith. Carnival rides, amusement rides, and other similar amusements shall not be located within four hundred (400) feet of the lot line of occupied residential property except as permitted by (8) below.

(4) — Reserved

(5) — Retail businesses may display merchandise that is for sale within the building in the area immediately adjacent to the building subject to the following conditions:

(a) — No portion of the display shall be on publicly

~~owned property unless the applicant shall first have obtained approval for such use from the Director of Building Development Services.~~

~~(b) — No food or drink may be displayed outside the building except in accordance with standards and prior written approval of the Department of Public Health and welfare.~~

~~(c) — These provisions shall in no way be deemed to authorize the outdoor display or the sale of used furniture, appliances, housewares, or other second hand merchandise in those districts which do not otherwise permit such uses.~~

~~(6) — In granting a permit for a temporary promotional use, the Director of Building Development Services shall determine that pedestrian and vehicular traffic will not be impaired by such temporary use. The Director of Building Development Services must also determine that the applicant has a reasonable plan for traffic control approved by the Traffic Engineer and has provided adequate evidence that said plan will be implemented.~~

~~(7) — No permit shall be granted where the lighting, promotional activities, noise or increased traffic associated therewith will unreasonably disturb the surrounding residential neighborhoods.~~

~~(8) — No temporary promotional use shall be located within three hundred (300) feet of the lot line of occupied residential property, except for the display of goods and merchandise where a building is located between the temporary promotional use and the occupied residential property so that the occupied residential property is completely shielded from the temporary promotional use.~~

~~(9) — Each temporary promotional use shall cease its daily operation for more than one half (1/2) hour after the closing of the associated commercial uses, except in no event shall the promotional use operate after 10:00 p.m. or prior to 8:00 a.m.~~

~~(10) — Reserved.~~

~~(11) — A permit for such activity has been issued by the Director of Building Development Services finding that all of the foregoing conditions have been, or will be, satisfied.~~

4. ~~In the GR. District. Temporary seasonal outdoor sales and related storage accessory to a permitted use. (G.O. 5127, 10/29/01)~~

5-1204. Temporary and Mobile Vendor Requirements. All Temporary and Mobile Vendors Must be located on an approved Temporary Vendor Site and shall not occupy an approved vendor site for a period of time greater than one hundred eighty (180) days in a calendar year. (G.O. 6010, 08/27/12)

## Section 6-1500. Noise Standards.

6-1501. Purpose. The purpose of these noise standards is to provide measurable criteria to ensure that noise resulting from an activity does not have an adverse impact on adjoining properties.

6-1502. Applicability.

- A. New Uses. All uses hereafter established shall comply with the noise standards of this section.
- B. Existing Conforming Uses. Any existing use which, on the effective date of this Article, complies with the applicable noise standards of this section shall continue to so comply. If, at such time, the operations of any lawful existing use violates the noise standards of the section, such operations shall not be varied or changed in such a way as to increase the degree of violation. The fact that the operations of a lawful existing use violate the noise standards of this section shall not of itself make such use subject to the requirements of *Section 5-1700, Nonconformities*, of this Article relating to non-conformities.
- C. Existing Nonconforming Uses. Any use that is located in a zoning district in which such use is not permitted but which is a lawful nonconforming use and which complies, on the effective date of this Article, with all of the noise standards for the use shall continue to comply. If, at such time, the operations of such lawful nonconforming uses violate such standards, then such operations shall not be varied or changed in such a way as to increase the degree of such violation.

6-1503. Noise Standards.

- A. Maximum Noise Level. No operation or activity shall cause or create noise in excess of the sound levels prescribed below.
- B. Sound Level Standards. The maximum permitted sound level shall be at a volume so as to not unreasonably and knowingly disturb or alarm another person or persons by loud noise.
- ~~B. Method of Measurement. Sound level shall be measured with a sound level meter meeting the standards established by the Director of Health, a copy of which shall be on file with the City Clerk. The instrument shall be set to the Aweighted response scale and the meter to the slow response. Measurements shall be conducted in~~

~~accordance with standards established by the Director of Health, a copy of which shall be on file with the City Clerk. Measurements may be made at points of maximum noise intensity.~~

- C. ~~Sound Level Standards. The maximum permitted sound level shall be as follows, subject only to the variations and exemptions permitted below in paragraph D. (G.O. 5475, 07/11/05)~~

| <u>Source Sound</u>                                                                                                                                                                      | <u>Level</u> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| Noise from any use in an O-1, O-2, GI, LB, GR, HC, CS, CC, RI, LI, or IC District measured at the boundary of any residential district.                                                  | 60dBA        |
| Noise from any use in a GM or HM District, measured at the boundary of any residential district.                                                                                         | 65dBA        |
| Noise from any non-residential use in an established Urban Conservation District measured at the boundary of a lot used for residential purposes within an Urban Conservation District.  | 60dBA        |
| Noise from any non-residential use in an established Urban Conservation District measured at the boundary of any residential district not located within an Urban Conservation District. | 60dBA        |

DC. Variations and Exemptions.

1. ~~Between the hours of 7:00 a.m. and 11:00 p.m. the following variations from the maximum sound level standards are permitted (only one variation is permitted during a one (1) hour period).~~

| <u>Duration</u>                                                                 | <u>Variation</u> |
|---------------------------------------------------------------------------------|------------------|
| Noise source operates less than twenty (20) percent of any one (1) hour period. | +5dBA            |
| Noise source operates less than ten (10) percent of any one (1) hour period.    | +10dBA           |
| Noise source operates less than five (5) percent of any one (1) hour period.    | +15dBA           |

21. The following uses and activities shall be exempt from the sound level standards:
- Noises not directly under the control of the property user;
  - Noises emanating from construction and maintenance activities between 7:00 a.m. and 11:00 p.m.;
  - The noises of safety signals, warning devices, emergency pressure relief valves and emergency electric generators; and

- d. Noises from moving sources such as automobiles and trucks on public rights-of-way, railroad equipment on railroad rights-of-way and railroad spurs on private property, and airplanes.



## **Explanation of Changes Documented in Exhibit E**

### **City Code Chapter 82 Parks and Recreation, Article II. Park Central Square, Division 2. Downtown Mall, Section 82-65 Use of downtown mall and Ozark Jubilee Memorial Park.**

Several City Departments voiced concern regarding the existing city code language for noise standards and difficulty with enforcement of those standards. The existing language measures noise standards by decibels. The Building Development Services Department (BDS) and Licensing Division enforce noise standards with a decibel reader. The problem is the typical time that noise complaints occur is at night time and after the city offices are closed. Therefore, if there is a complaint the BDS and the Licensing Division cannot respond to determine the appropriate level of noise by a decibel reader. When this occurs the Police Department will handle the complaint as a peace disturbance pursuant existing City Code Section 78-114 Peace Disturbance, as explained below. Another issue that was discussed was if the decibel reader is used to enforce the noise regulation, the decibel readings for the event are frequently lower than the ambient noise surrounding the event. This makes it difficult to enforce the decibel levels for the event because the surrounding noise levels were not within the regulated levels.

The proposed solution is to remove the decibel levels as a standard to determine if a noise is too loud and enact language to base a noise level appropriateness on a general peace disturbance standard. By using a peace disturbance standard the above stated issues are resolved. The Police Department already uses this standard under City Code Section 78-114. If a noise complaint is received after city business hours, the Police will respond to the scene, contact the complainant and the suspect. While the officer has discretion to issue a summons immediately to the suspect if the noise levels appear to be leaving the property line where the noise is occurring, the officer usually will issue a warning. If the officer is dispatched to the same suspect for a peace disturbance that day, the officer may issue a summons. If a noise complaint occurs during city business hours an employee of BDS or Licensing can inspect the noise occurring at the event and determine if a peace disturbance is occurring using a similar procedure as the Police department described immediately above.

## **Sec. 82-65. Use of downtown mall and Ozark Jubilee Memorial Park.**

(a) *Generally.* The city manager may authorize the use of the downtown mall, as defined in section 82-61, Ozark Jubilee Memorial Park, and city off-street parking lots identified in section 106-401 subject to the following conditions:

- (1) The applicant shall provide insurance insuring the city in the amount established by the law department of the city sufficient to provide the city with protection against any liability which might arise from the activities in the area to be used, and the applicant shall agree to defend and indemnify and hold the city harmless from any liability therefrom.
- (2) The applicant shall be responsible for cleanup of all paper or debris caused by the applicant's use of the area, and the applicant shall provide the city with assurances, which may include a bond or cash, that the area will be cleaned up after the activities have concluded. If such cleanup is not undertaken promptly, the city reserves the right to do the cleaning itself, and to charge the sponsor for the actual time and expense incurred in cleaning. This charge shall be a private debt against the applicant.
- (3) The applicant shall limit the activities in the area to those activities which have been approved.
- (4) If necessary, the applicant shall provide supervision and security for the activity.
- (5) Equipment, stands, chairs or other physical facilities for the activity shall not be placed in the area until one hour before the activity is to commence and shall be removed within one hour after the activity is finished unless the permit provides otherwise. The applicant shall obtain approval for the location of any item that will be used in the area.
- (6) Musical instruments may be allowed provided any sound from the activity shall be held to a level so as not to disturb the public peace. Failure to limit the level of sound after being requested to limit the sound by the director of public health and welfare of the city or his designee shall constitute cause for revocation of the permit. The city manager may approve use of amplification devices.
- (7) The city manager may approve use of amplification devices between the hours of 7:00 a.m. and 10:00 p.m. when an otherwise authorized activity is to occur, and only for the time that activity is occurring, and then

only at a volume **that shall not unreasonably disturb or alarm another person or persons** ~~of no more than 75 decibels, measured in accordance with procedures to be established by the director of public health and welfare.~~

(8) The applicant shall comply with all other city laws and other conditions that the city manager determines are necessary.

(9) The applicant shall limit the use to noncommercial activities or the activity shall be sponsored by a not-for-profit corporation for a purpose that relates to the objectives of the not-for-profit corporation.

(10) No activity shall be allowed except between the hours of 7:00 a.m. and 10:00 p.m.

(11) The permit may be revoked at any time for failure to comply with the conditions of the permit.

*(b) Use by candidates for public office.* The city manager may authorize the use of the downtown mall, as defined in section 82-61, and Ozark Jubilee Memorial Park, by a candidate for an elected public office or a political party for the purpose of making a political speech or holding a party rally, subject to the following conditions:

(1) Only one rally, speech or appearance on behalf of a candidate before the primary and one afterwards shall be allowed for any one candidate.

(2) No more than two hours shall be allowed for any one activity authorized under subsection (b)(1) of this section.

(3) No more than one partywide rally shall be allowed before and no more than one partywide rally shall be allowed after the primary and before the general election. Individuals who have appeared on the downtown pedestrian mall under subsection (c)(1) of this section will be allowed to appear at the partywide rally without limitation on the number of times they could appear under subsection (c)(1) of this section.

(4) No more than four hours shall be allowed for any one partywide rally.

(5) No political activity on the public square shall result in or be the authorization for the closing of any street or sidewalk upon the Park Central area unless there appears at that activity one of the following:

## Exhibit E

- a. A candidate for president or the President of the United States.
- b. A candidate for vice-president or the Vice-President of the United States.
- c. A candidate for United States Senator from Missouri or a United States senator from Missouri.
- d. A candidate for governor, the governor, or other statewide candidate.
- e. A candidate for the Seventh Congressional District or a United States congressman from the Seventh Congressional District.

(6) There may be, once each year, either before or after the primary, a multiparty activity at which all candidates from all parties may be presented. At this activity, notwithstanding subsection (b)(5) of this section, streets may be closed through the public square.

(7) A multiparty meeting authorized under subsection (b)(6) of this section shall not exceed four hours in length.

(8) No political activity shall be allowed on the public square other than between the hours of 7:00 a.m. and 10:00 p.m. on any given day.

(9) Musical instruments may be allowed provided the activity does not otherwise disturb the public peace. Failure to limit the level of sound after being requested to limit the sound by the director of public health and welfare or his designee shall constitute cause for revocation of the permit.

(10) The city manager may approve use of amplification devices when an otherwise authorized political activity is to occur, and only for the time that activity is occurring, and then only at a volume that shall not unreasonably disturb or alarm another person or persons of no more than 75 decibels, measured in accordance with procedures to be established by the director of public health and welfare.

(11) All equipment, stands, chairs or other physical facilities for the activity shall be erected by the applicant with its crews no more than 24 hours before any authorized political activity, and shall be removed within 24 hours thereafter. No such equipment, stands, chairs or other physical facilities shall be placed or erected on the public square without first

## Exhibit E

providing to the department of building development services such information as it may require which basically shows the nature of the thing to be placed or erected thereon. Such information should show whether the facilities can safely support or withstand the loads and wind loads to be placed thereon, and are otherwise not likely to cause injury or harm to persons or property. No structures shall be erected in the fire lanes except temporary barricades for crowd control, which shall be approved.

(12) The city manager may require insurance, indemnification and/or a bond in such instances as he deems necessary to protect the public interest. The insurance shall insure the city in the amount established by the law department as sufficient to provide the city with protection against any liability which might arise from the activities in the area to be used.

(13) The applicant shall be responsible for cleanup of all paper or debris caused by the applicant's use of the area, and the applicant shall provide the city with assurances, which may include a bond or cash, that the area will be cleaned up after the activities have concluded. If such cleanup is not undertaken promptly, the city reserves the right to do the cleaning itself, and to charge the sponsor for the actual time and expense incurred in cleaning. This charge shall be a private debt against the applicant.

(14) If necessary, the applicant shall provide supervision and security for the activity.

(15) Each person desiring to conduct a political activity on the public square under the terms and conditions proposed in this subsection shall make application to the director of public works at city hall at least 15 days prior to the time it is intended for the activity to occur, setting forth essentially the nature of the activity, if possible, the time when it is to commence, the time it will end, the participants therein, the intention to use loudspeakers, to provide musical instruments, to close streets if authorized, or to erect physical stands and chairs, security to be provided by the applicant, and such other information as the city may deem necessary to process the application. If the application is filed less than 15 days prior to the event, the city may be unable to accommodate the request and may refuse to grant the application.

(16) Use of the square for such an activity shall be granted on a first come, first served basis.

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(17) The rules and regulations adopted by the director of public works dated June 10, 1976, shall apply unless the director of public works otherwise waives such rules and regulations.

**EXPLANATION TO COUNCIL BILL NO: 2014-\_\_\_\_\_**

FILED: \_\_\_\_\_

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To accept the dedication of the public streets and easements as shown on the Preliminary Plat of **KENSINGTON PARK PHASE III** generally located at 1300 block South Kansas Expressway. (Staff recommends that City Council accept the public streets and easements.)

**BACKGROUND INFORMATION:**

- A. See the legal description set forth on the Preliminary Plat of **KENSINGTON PARK PHASE III** dated September 19, 2014, the original of which is on file in the Department of Planning and Development, a reduced version of which is included for general reference in Attachment 2.
- B. The Planning and Zoning Commission held a public hearing on October 2, 2014 and \_\_\_\_\_ the preliminary plat by a vote of \_\_\_ to \_\_, subject to the following conditions:
  - 1. All improvements shall be constructed in accordance with the "Design Standards for Public Improvements" of the Public Works Department and the maintenance and operation of such improvements shall be the responsibility of the developers unless approved by the Director of Public Works. All required sanitary sewer, street, sidewalk and drainage plans shall be prepared in accordance with City standards and specifications and approved by the Director of Public Works.
    - a. Public sanitary sewer must be extended to each lot. Public improvement plans are required. If ROW is to be vacated, the sewer easement will need to extend across it.
  - 2. All required street rights-of-way, drainage and utility easements and limitations of access shall be dedicated on the final plat.
    - a. Lexington Avenue must be connected to existing Lexington to the north and south including sidewalks following the Zoning Ordinance and Subdivision Regulation requirements. Public Improvement Plans are required. The final plat cannot be approved until the infrastructure is constructed and approved by the City or funds are escrowed.
    - b. Meadowmere Street must be vacated to Kansas Avenue before the final plat can be approved.
    - c. Utility easements will be required and sized at the design stage and prior to final plat approval.

3. The developer shall meet all city and state erosion control regulations prior to disturbing the soil.
4. The developer shall be responsible for the relocation costs of any existing utility services and shall be responsible for clearing all utility easements of trees, brush and overhanging tree limbs.
5. All other requirements which are necessary for this subdivision to be in compliance with the Subdivision Regulations.

All required improvements shall be the sole responsibility of the sub-divider. As prescribed by Section No. 300 of the Subdivision Regulations, the improvements shall be made or guaranteed by means of bond or escrow agreement. Release of the final plat for recording shall be withheld until the sub-divider has complied with this section.

Section No. 206 of the Subdivision Regulations requires that a final plat be submitted within two years of City Council's acceptance of the public streets and easements.

Attached for Council information is a sketch showing the location of the plat area, an exhibit showing the proposed plat, and a copy of the Planning and Development Department staff report to the Planning and Zoning Commission.

Submitted by:

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Bob Hosmer, AICP, Principal Planner

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Greg Burris, City Manager

EXHIBITS:

Exhibit A, Record of Proceeding

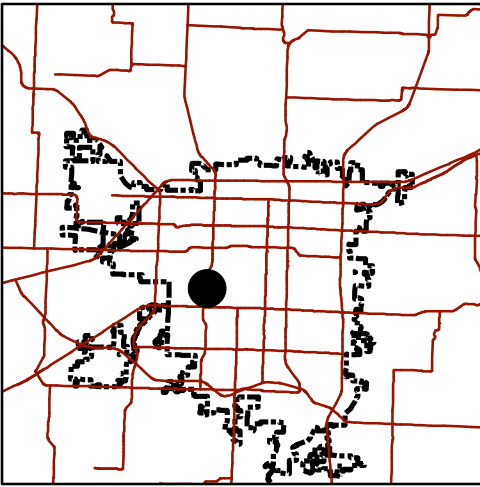
Exhibit B, Zoning and Subdivision Staff Report

ATTACHMENTS:

Attachment 1, Background Report

Attachment 2, Preliminary Plat





# Zoning & Subdivision Report

Planning & Development - 417/864-1031  
840 Boonville - Springfield, Missouri 65802

## **Preliminary Plat - Kensington Park Phase III**

Location: East side of 1300 block S. Kansas Exp.

Current Zoning: R-MD, Medium Density Multi-Family Residential with Conditional Overlay District No. 12 and R-SF

Proposed Zoning: R-MD and R-LD with COD's

### LOCATION SKETCH



- Area of Proposal

0 150 300 600  
Feet

1 inch = 300 feet

# *Zoning & Subdivision Report*

Planning & Development Department ~ 417/864-1611  
840 Boonville Avenue ~ Springfield, Missouri 65802

## **PRELIMINARY PLAT– KENSINGTON PARK PHASE III**

DATE: September 22, 2014

PURPOSE: To approve a preliminary plat to subdivide 7.32 acres into a two (2) lot subdivision.

### **BACKGROUND:**

LOCATION: East side of 1300 block S. Kansas Expressway

APPLICANT: Kensington Park, LLC c/o Jeff Boyce

TRACT SIZE: Approximately 7.32 acres

EXISTING USES: Undeveloped/vacant land

PROPOSED USES: Multi-family apartments

### **RECOMMENDATION:**

The request be **approved**.

### **FINDINGS:**

1. The applicant's proposal, with the conditions listed below, is consistent with the City's Subdivision Regulations.

### **CONDITIONS:**

1. All improvements shall be constructed in accordance with the "Design Standards for Public Improvements" of the Public Works Department and the maintenance and operation of such improvements shall be the responsibility of the developers unless approved by the Director of Public Works. All required sanitary sewer, street, sidewalk and drainage plans shall be prepared in accordance with City standards and specifications and approved by the Director of Public Works.
  - a. Public sanitary sewer must be extended to each lot. Public improvement plans are required. If ROW is to be vacated, the sewer easement will need to extend across it.

2. All required street rights-of-way, drainage and utility easements and limitations of access shall be dedicated on the final plat.
  - a. Lexington Avenue must be connected to existing Lexington to the north and south including sidewalks following the Zoning Ordinance and Subdivision Regulation requirements. Public Improvement Plans are required. The final plat cannot be approved until the infrastructure is constructed and approved by the City or funds are escrowed.
  - b. Meadowmere Street must be vacated to Kansas Avenue before the final plat can be approved.
  - c. Utility easements will be required and sized at the design stage and prior to final plat approval.
3. The developer shall meet all city and state erosion control regulations prior to disturbing the soil.
4. It is determined that the public interest requires assurance concerning adequate maintenance of common space areas and improvements. The restrictive covenants, rules and bylaws creating the common ownership must therefore provide that if the owners of the Property Owners Association shall fail to maintain the common areas or improvements in reasonable order and condition in accordance with the approved plans, the City may, after notice and hearing, maintain the same and assess the costs against the units or lots, per the Common Open Space and Common Improvement Regulations section of the Zoning Ordinance.
5. The developer shall be responsible for the relocation costs of any existing utility services and shall be responsible for clearing all utility easements of trees, brush and overhanging tree limbs.
6. All other requirements which are necessary for this subdivision to be in compliance with the Subdivision Regulations.

If the request is recommended for denial by the Commission and the applicant requests City Council consideration, all the above conditions, plus any amendments made by the Planning and Zoning Commission, shall be included in the Council Bill.

**STAFF CONTACT:**

Daniel Neal  
Senior Planner

ATTACHMENT 1  
BACKGROUND REPORT  
PRELIMINARY PLAT – KENSINGTON PARK PHASE III

APPLICANT'S PROPOSAL:

The applicant proposes to subdivide approximately 7.32 acres into a two (2) lot residential subdivision. The applicant is also requesting to rezone all of Lot 2 from R-SF to R-LD, Low-Density Multi-Family Residential. The rezoning request (Z-23-2014 COD No. 81) accompanies this preliminary plat.

AT&T COMMENTS:

Sixty day notice will have to be provided prior to service request.

BUILDING DEVELOPMENT SERVICES COMMENTS:

There are minor errors that will need to be corrected before final approval.

CITY UTILITIES COMMENTS:

No objection. Water and electric facilities are available on or near the property. A short water main extension will be required to provide domestic and fire services to the property. Any fire protection required for the multi-family development and internal to the lots will be private. Utility easements will be required and sized at the design stage.

CLEAN WATER SERVICES COMMENTS:

1. Plat will require public improvement plans. Submit plans via ProjectDox by completing an online application for public improvements.
2. If ROW is to be vacated, the sewer easement will need to extend across it.

FIRE DEPARTMENT COMMENTS:

Approved with no comments.

TRAFFIC DIVISION COMMENTS:

1. Lexington Avenue must be connected to existing Lexington to the north and south.
2. Public Improvement Plans are required. The final plat cannot be approved until the infrastructure is constructed and approved by the city or funds are escrowed.
3. Meadowmere Street must be vacated to Kansas Avenue before the final plat can be approved.

MODOT COMMENTS:

No access to Route 13 will be allowed.

## STORMWATER COMMENTS:

No Stormwater issues with the preliminary plat. However, the following items will need to be addressed at the time of development:

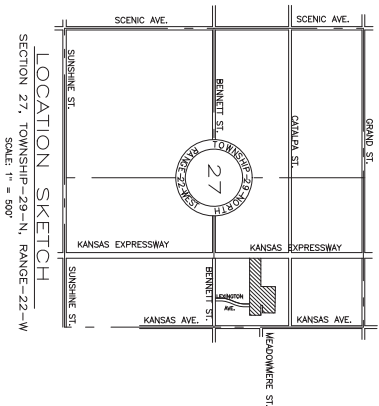
1. Current detention and water quality requirements must be met for all lots within the subdivision. Structures and impervious surface onsite can be credited as existing impervious surface if in place since 1983 and currently in good condition. Existing gravel surfaces meeting the above definition are only eligible for 50% credit.
2. A payment in lieu of construction of detention facilities is not an option for this site due to existing downstream flooding problems.
3. Concentrated points of discharge from these improvements will be required to drain into a certified natural surface-water channel, public right-of-way, or a drainage easement.
4. Public improvement plans and drainage easements will be required for any concentrated runoff crossing lot lines, as well as for detention and/or water quality features serving more than one lot. These improvements must be constructed, inspected, approved and operational prior to issuance of a building permit or final plat. Must pay Engineering and Inspection Fees, which are 5% of the public improvement construction costs, prior to final approval of public improvement plans.
5. Drainage easements will be required where concentrated flow drains from one lot to another or from offsite onto the proposed subdivision. Such easement shall be sized for the 100-year peak flow rate.
6. Based upon City contour and sinkhole information, no sinkholes exist on the site and the site is not within a sinkhole watershed.
7. Based upon City data, no significant offsite concentrated stormwater flow exists upstream of the subject property.
8. Must obtain MoDOT approval to discharge stormwater onto MoDOT right of way.
9. Drainage patterns for any runoff currently flowing across the site must not be blocked or altered by any future construction.

## STAFF COMMENTS:

1. The applicant is proposing to subdivide approximately 7.32 acres into a two (2) lot subdivision named "KENSINGTON PARK PHASE III" (see ATTACHMENT 2).
2. If Planning and Zoning Commission approves the preliminary plat, then the plat will be forwarded to City Council for acceptance of public streets and easements. An approved preliminary plat is active for two (2) years.

OWNER

Kensington Park Apartments, L.L.C.  
Jeff Boyce – Member  
1735 W. Bennett Street  
Springfield, Mo. 65807



## NOTES:

5/8" x 20" ROP NUT WITH QRP L.S.S., 21/63 AS SET AT ALL LOT CORNERS AND POINTS OF CLARE ELEVATION NOTED IN THE LOT CORNER MONUMENTS SHALL BE SET WITHIN ONE YEAR AFTER THE DATE OF RECORDING.

NO STRUCTURES ARE TO BE BUILT BETWEEN RIGHT-OF-WAY LINE AND THE BUILDING SET BACK LINE.

NO PLANNING OR OBSTRUCTIONS OTHER THAN MAIL BOXES OR CAVING WITHIN THE LIMITS OF ANY RIGHT OF WAY.

NO FENCES OR OBSTRUCTIONS ARE TO BE BUILT WITHIN DRAINAGE EASEMENTS WHICH COULD ALTER FLOW OF STORMWATER.

SIDEWALKS SHALL BE CONSTRUCTED ALONG BOTH SIDES OF LEONARD AVENUE.

EXISTENCE OF ANY AREA REFERRED TO, AS DRAINAGE MAINTENANCE OR DAMAGE DETENTION IS THE RESPONSIBILITY OF THE PROPERTY OWNER.

THE AREA SHOW HEREON IS NOT LOCATED IN A STORM DRAINAGE BASIN AND THEREFORE NO STORM DRAINAGE AND MAY BE SUBJECT TO FUTURE ASSESSMENT COSTS IF INCLUDED IN FUTURE STORM WATER DRAINAGE BENEFIT STUDY. THE CITY OF CHICAGO HAS NOT CONDUCTED A SURVEY OF THE PROPOSED LOT AND DUE TO THE FACT THAT THE SURFACE WATER RUNOFF IS PRESENTLY BEING ACCOMMODATED BY STREET AND OPEN DRAINAGE FACILITY.

SOURCE OF TITLE: BOOK 2008, PAGE 24368-08  
CURRENT ZONING: R-MF (RESIDENTIAL, MULTI-FAMILY)  
DATE OF PREPARATION: MAY 18, 2010  
TOTAL AREA: 7.32 ACRES +/-  
LOT 1 ( 5.20 ACRES +/-) LARGEST LOT  
LOT 2 ( 1.33 ACRES +/-) SMALLEST LOT

## DESCRIPTION

[illegible]

## LEGEND

- ( 5/8" IRON PIN CAPPED L.S. 2153  
- EXISTING 5/8" IRON PIN  
7 PERMANENT MONUMENT  
D DEED DISTANCE  
M MEASURED DISTANCE

PREPARED FOR  
Park Apartments, L.L.C.,  
35 W. BENNETT STREET  
CHICAGO, ILLINOIS



Southwest  
Survey  
and  
Land  
Services

SPRINGFIELD, MISSOURI  
65809  
Southwest

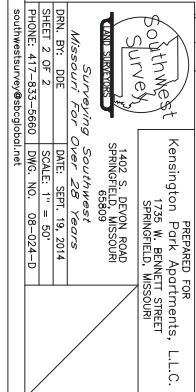
Missouri for Over 28 Years

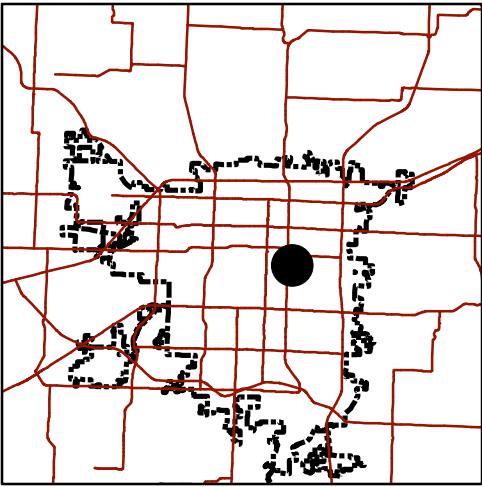
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| ORIN. BT: DUE | DATE: SEPT. 19, 2014 |
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|                     |                 |
|---------------------|-----------------|
| PHONE, 417-933-5660 | DWC NO 08-034-1 |
|---------------------|-----------------|

southwestsurvey@sbcglobal.net







# Zoning & Subdivision Report

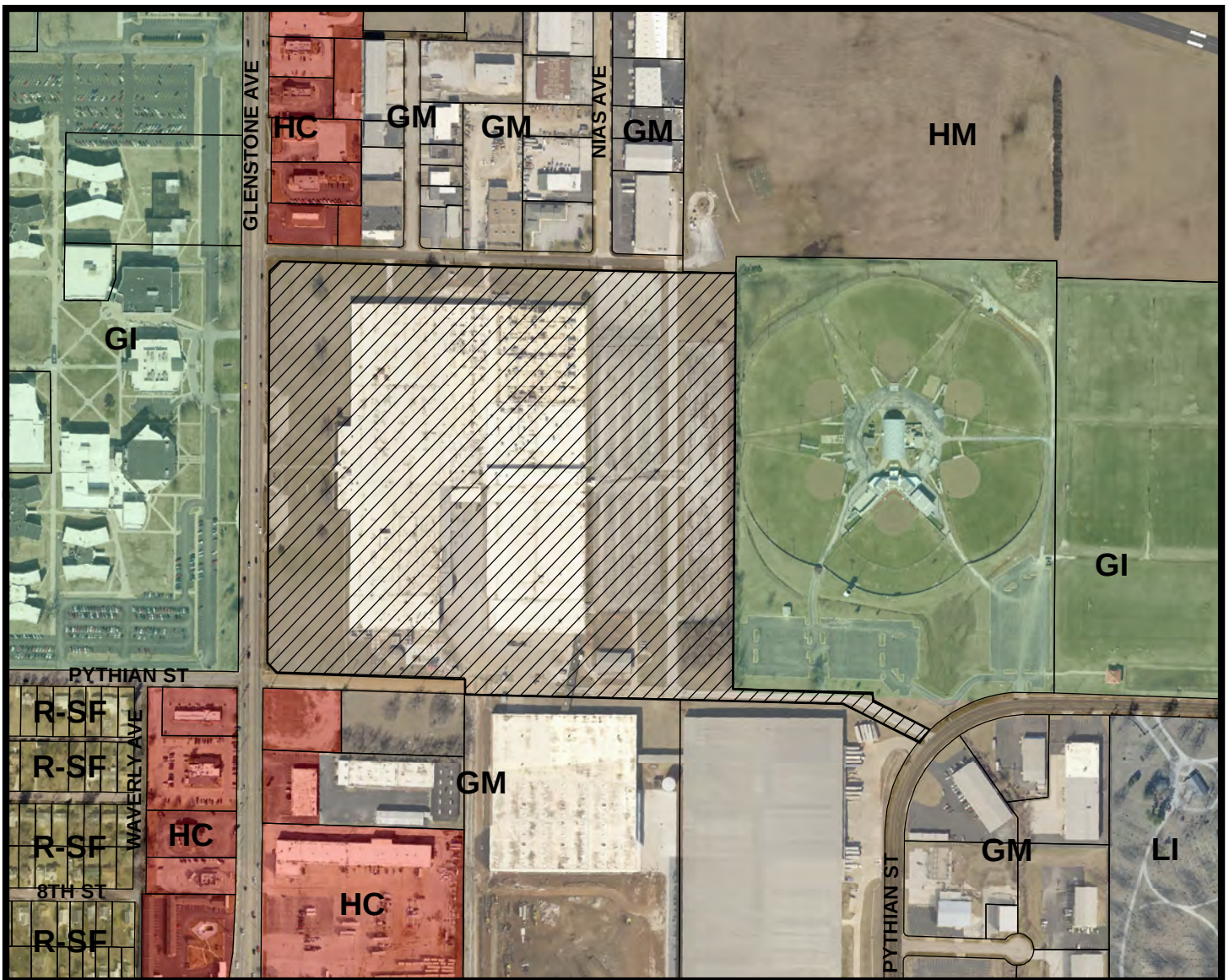
Planning & Development - 417/864-1031  
840 Boonville - Springfield, Missouri 65802

## **Subdivision Variance 349**

Location: 1100 N. Glenstone Ave.

Current Zoning: GM, General Manufacturing District

### LOCATION SKETCH



- Area of Proposal



1 inch = 500 feet



# Zoning & Subdivision Report

*Planning & Development Department ~ 417/864-1031  
840 Boonville Avenue ~ Springfield, Missouri 65802*

## **SUBDIVISION VARIANCE NUMBER 349**

DATE: September 17, 2014

### **PURPOSE:**

The applicant is requesting a variance from Section 407(2) of the Subdivision Regulations, which requires all lots to abut by their full frontage on a publicly dedicated street.

### **BACKGROUND:**

LOCATION: 1100 N. Glenstone Ave.

APPLICANT: Warren Davis Properties, LLC

TRACT SIZE: 3.65 Acres (Approximately)

EXISTING USE: Manufacturing and warehousing uses

PROPOSED USE: Manufacturing and warehousing uses

### **RECOMMENDATION:**

Staff recommends the Subdivision Variance be **approved** to allow the subject property to be subdivided, thus creating lots that abut by less than its full frontage on a publicly dedicated street.

### **FINDINGS:**

1. The requested subdivision variance satisfies the conditions for variance approval outlined in Section 106(3) of the Subdivision Regulations.

### **STAFF CONTACT PERSON:**

Daniel Neal  
Senior Planner  
864-1036

Attachment A – Staff Background Report

Attachment B – Approval Criteria

Exhibit 1 – Proposed Administrative Re-plat of Lot 1 of Davis Industrial Park

ATTACHMENT A  
BACKGROUND REPORT  
SUBDIVISION VARIANCE NUMBER 349

APPLICANT'S PROPOSAL:

The applicant is proposing a subdivision variance that will allow the subdivision of Lot 1 of Davis Industrial Park into three (3) manufacturing lots.

HISTORY:

The final plat of Davis Industrial Park was recorded in 2012 and created two (2) manufacturing lots.

BUILDING DEVELOPMENT SERVICES COMMENTS:

BDS has no issues with respect to the reduced street frontage for either lot.

CLEAN WATER SERVICES COMMENTS:

The variance is approvable. The variance won't affect the requirement to extend public sewer. Public sewer will still be required to be extended to lots 2 and 3.

CITY UTILITIES COMMENTS:

CU has no objection to the variance. Utility extensions/relocations will be required but they are not impacted by the variance request.

FIRE DEPARTMENT COMMENTS:

No comments.

TRAFFIC ENGINEERING COMMENTS:

No issues with the variance as long as there are no further lot splits on either lot without frontage to a public street.

STORMWATER COMMENTS:

No Stormwater issues with subdivision variance. However, the following items will need to be addressed at the time of development (or re-development) of the subject property:

1. The proposed percent of impervious surfacing must not exceed the maximum impervious surfacing allowed for site by zoning, platting, and/or previous stormwater reports.
2. Any increase in impervious surfacing from 1985 aerial photo information will require the development to meet current detention and water quality requirements. Impervious surfaces in place prior to 1985 and currently in good condition can be credited as existing impervious

surface. Existing gravel surfaces meeting the above definition are only eligible for 50% credit.

3. Payment in lieu of construction of detention facilities is not an option for this site due to existing downstream flooding problems.

4. Concentrated points of discharge from any improvements will be required to drain into a certified natural surface-water channel, public right-of-way, or a drainage easement.

5. Drainage easements will be required for any concentrated runoff crossing lot lines, as well as for detention and/or water quality features serving more than one lot. Such easement shall be sized for the 100-year peak flow rate.

6. Drainage patterns for any runoff currently flowing across the site must not be blocked or altered by any future construction.

7. If detention basin/water quality basin was previously constructed to serve the development, it must be shown that any new development proposed is in conformance with the original design criteria of the detention basin. If runoff from the proposed development exceeds the original design of an existing detention basin, additional detention must be provided, based on the current requirements.

8. Any property that contains a detention basin/water quality basin which serves properties other than the property on which it is located, must be located in a dedicated drainage easement or common area.

#### STAFF COMMENTS:

1. The proposed administrative re-plat will allow two additional manufacturing lots to be created. The City vacated most of Pythian Street east of Glenstone in 1962 creating the long narrow strip that has frontage on Pythian. Planning staff supports the request for a lot without full frontage on a public street because there are pre-existing conditions with the existing driveway access, the property will be used industrially and the applicant is dedicating a 26 ft. wide cross-access easement from Pythian Street to Bergman Street to provide emergency access.

ATTACHMENT B  
APPROVAL CRITERIA  
SUBDIVISION VARIANCE NUMBER 349

Section 106 of the Subdivision Regulations states in part:

**Conditions of Variance Approval.** No variance shall be granted unless it is found that:

1. There are special and unusual circumstances affecting said property such that the strict application of the provisions of this Article would deprive the owner of the reasonable use of his land and is not the mere granting of a privilege;

APPLICANT'S RESPONSE:

**The subdivision as proposed will connect from each lot to public ROW. These connections meet the minimum width requirements as specified in the Subdivision Regulations, and these connection points are currently serving the property adequately and will continue to do so should the property be subdivided. Denial of the request would prevent the property owner from fully developing the property to its highest and best use for the community.**

2. The variance is necessary for the preservation and enjoyment of a substantial property right of the owner, and;

APPLICANT'S RESPONSE:

**As proposed, the subdivision will provide property connection to public ROW from all lots while meeting the minimum requirement for property frontage width. Currently the property is being used as a parking area that sees little to no use. It could be argued that as a parking lot alone, the property is negatively impacting the community both environmentally and economically. Environmentally the parking areas increase runoff to the existing storm system with no trade off from the creation of economic benefit to the community, i.e. Jobs.**

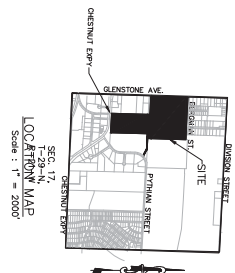
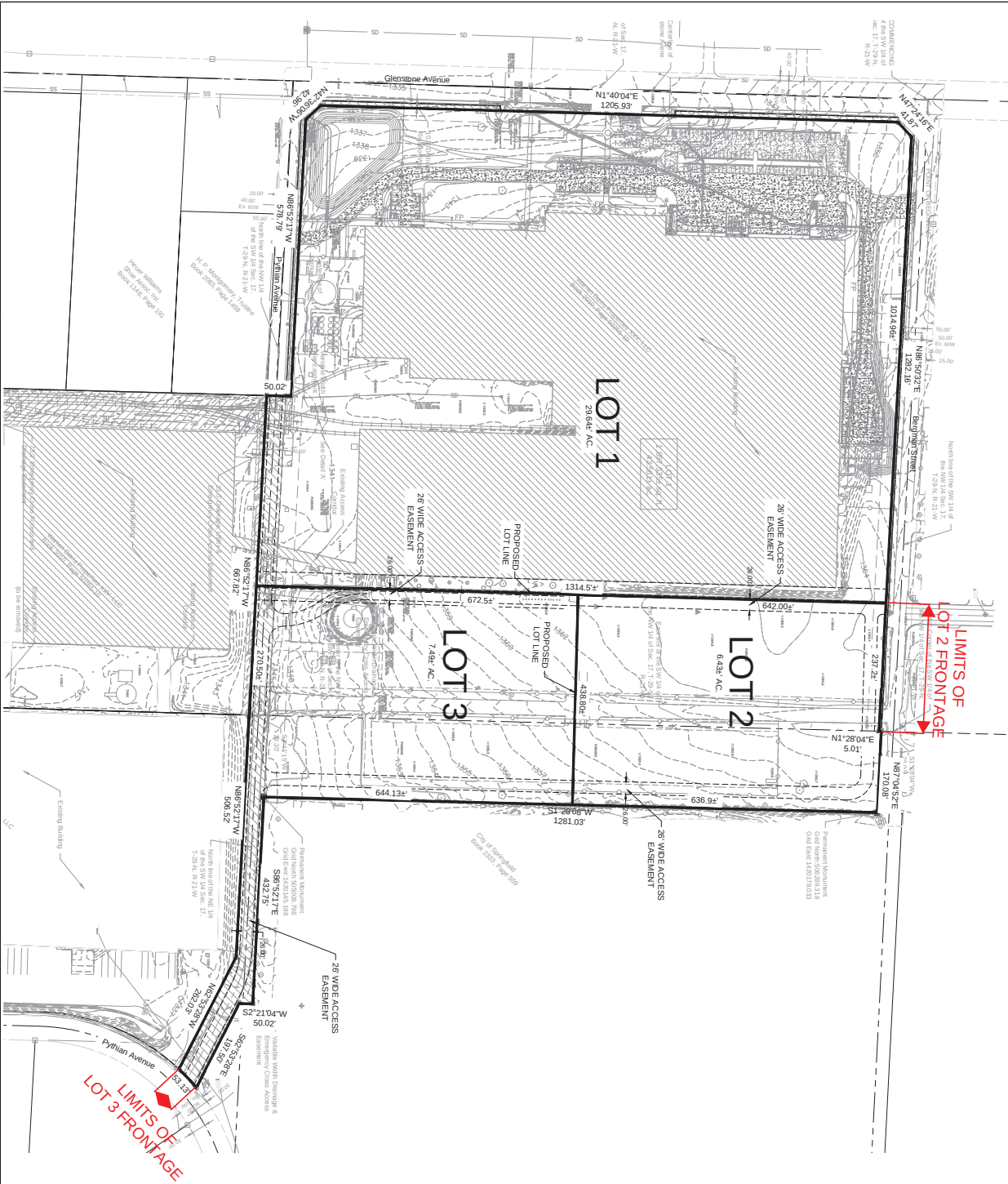
3. The granting of the variance would not be detrimental to the public safety, convenience or welfare or be injurious to other property in the vicinity.

APPLICANT'S RESPONSE:

**Granting the variance will have no impact to the public safety, convenience or welfare or be injurious to other property in the vicinity. The property as currently developed accesses through the same locations as proposed by this subdivision.**

STAFF COMMENTS: The Planning and Zoning Commission must first decide if all of these conditions are met before this variance can be approved.

# SUBDIVISION VARIANCE EXHIBIT DAVIS INDUSTRIAL PARK PHASE II



**LOT AREA:**  
 EXISTING LOT 1 = 43.56 ACRES  
 PROPOSED LOT 1 = 8.84 ACRES  
 EXISTING LOT 2 = 10.00 ACRES  
 PROPOSED LOT 2 = 6.42 ACRES  
 EXISTING LOT 3 = 7.48 ACRES  
 PROPOSED LOT 3 = 7.48 ACRES

