

STATE OF KANSAS)
WYANDOTTE COUNTY)) SS
CITY OF KANSAS CITY, KS)

PLANNING AND ZONING
THURSDAY, APRIL 30, 2015

The Unified Government Commission of Wyandotte County/Kansas City, Kansas, met in regular session Thursday, April 30, 2015, with ten members present: Bynum, Commissioner At-Large First District; Walker, Commissioner At-Large Second District; Townsend, Commissioner First District; McKiernan, Commissioner Second District; Johnson, Commissioner Fourth District; Kane, Commissioner Fifth District; Markley, Commissioner Sixth District; Walters, Commissioner Seventh District; Philbrook, Commissioner Eighth District; and Mayor Holland, Mayor/CEO, presiding. Murguia, Commissioner Third District, was absent. The following officials were also in attendance: Doug Bach, County Administrator; Jody Boeding, Chief Counsel; Bridgette Cobbins, Unified Government Clerk; Gordon Criswell, Assistant County Administrator; Joe Connor; Assistant County Administrator; Melissa Mundt, Assistant County Administrator; Ken Moore; Deputy Chief Counsel; Maureen Mahoney, Asst. to the Mayor/Manager; Rob Richardson, Director Urban Planning and Land Use; Bryon Toy, Planner; Jamie Ferris, Planner; Janet Parker Administrative Assistant; and Captain John Turner and Steven Kopp , Sergeant-At-Arms.

MAYOR HOLLAND called the meeting to order.

ROLL CALL: Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane, Holland.

INVOCATION was given by Reverend Michael May, St. Luke's Lutheran Church.

Mayor Holland asked if there were any revisions to the agenda. **Bridgette Cobbins, UG Clerk**, said yes, Mr. Mayor. A blue sheet has been distributed. Under Section 9, Non-Planning Non-Consent Agenda, we have a new item. Item No. 3, a travel request for Commissioner Walters to travel to Wichita, Kansas, to attend the Kansas County Commissioners Association Annual Conference.

Ms. Cobbins asked if any members of the commission wished to disclose contact with proponents or opponents on any item on the agenda. There were none.

Mayor Holland said for the record, I would like to state that the first application of Michael L. Kane is no relation to our commissioner. Therefore, it does not cause a conflict of interest but since it's the same name except for the middle initial, I thought we should clarify that for the record.

Mayor Holland asked does anyone wish to set-aside any items on the Consent Agenda. **Commissioner Walker** said Item C. I need to recuse myself from that vote. I ask that it be set-aside and voted separately.

Action: **Commissioner Kane made a motion, seconded by Commissioner McKiernan to approve the Consent Agenda, excluding the set-aside.** Roll call was taken and there were nine "Ayes," Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

PLANNING AND ZONING CONSENT AGENDA

CHANGE OF ZONE APPLICATION

ITEM NO. 1 – 150081.... CHANGE OF ZONE PETITION #3084 – MICHAEL L. KANE

SYNOPSIS: Change of zone from R-1 Single Family District to A-G Agriculture District for an accessory building at 2947 North 91st Street, submitted by Rob Richardson, Urban Planning & Land Use Director. Mr. Kane plans to make hay out of the overgrown grass on the property. The Planning Commission voted 8 to 0 to recommend approval of Change of Zone Application #3084, subject to:

Urban Planning and Land Use Comments

Staff is typically hesitant to make zoning changes that would be considered "spot zoning" or singling out a small parcel of land for a use classification different from that of the surrounding area for the benefit of the owner. In this case, Mr. Kane's property meets the requirements for agricultural zoning, is across the street from a significant number of agriculturally zoned properties, and would not be antithetical to the Master Plan's designation of low-density residential use.

Public Works Comments

1. Items that require plan revision or additional documentation before engineering can recommend approval: None.
2. Items that are conditions of approval (stipulations): None.

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3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents: None.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Change of Zone Petition Application #3084, subject to the stipulations. Roll call was taken and there were nine "Ayes," Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

SPECIAL USE PERMIT APPLICATIONS

ITEM NO. 1 – 150032... SPECIAL USE PERMIT #SP-2015-2 – JORGE SALAZAR

SYNOPSIS: Special use permit for live entertainment in conjunction with existing restaurant at 151 South 18th Street, submitted by Rob Richardson, Urban Planning and Land Use Director. Mr. Salazar proposes adding live music, DJ, and dancing to the current Mexican restaurant. The Planning Commission voted 8 to 0 to recommend approval of Special Use Permit Application #SP-2015-2, subject to:

Urban Planning and Land Use Comments

1. Please describe security, both on and off-site and how your security plan complies with all relevant city codes. The description should also describe how large crowds leaving at one time will be addressed both in terms of crowd and traffic control.

Applicant Response: The bouncers will coordinate, accordingly, on crowd control and the egress of the customers out during closing.

2. Terms agreed to by the applicant and his neighbor, Mr. Estes:
 - Live music/DJ/dancing on Thursday and Sunday shall be no later than 10:00 p.m.;
 - Live music/DJ/dancing would end no later than 2:00 a.m. on Friday and Saturday;
 - Holidays, such as Cinco de Mayo, that fall during the week can go until 2:00 a.m.;
 - No live music/DJ outside of the premises; and
 - Tapatio will keep their doors (back and front) closed when live music/DJ is being utilized.
3. Approval would be for two years.

Public Works Comments

No comments.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Petition Application #SP-2015-2 for two years, subject to the stipulations. Roll call was taken and there were nine “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

ITEM NO. 2 – 120169... SPECIAL USE PERMIT #SP-2015-10 – ANDREA J. HULSE

SYNOPSIS: Renewal of a special use permit (#SP-2012-28) for a kennel for four dogs at 3322 North 128th Court, submitted by Rob Richardson, Urban Planning and Land Use Director. Ms. Hulse wants to keep four dogs on .79 acres. She owns a Boxer, Dachshund, and two Retriever Mixes. Ms. Hulse is requesting the permit be approved for 3-5 years. The Planning Commission voted 8 to 0 to recommend approval of Special Use Permit Application #SP-2015-10, subject to: Urban Planning and Land Use Comments

If approved, staff recommends the following stipulations:

1. The applicant’s property, specifically where the dogs will be free to roam when outside, is currently fenced. The fence must be properly maintained throughout the extent of the special use permit.
2. The number of dogs living on the premises shall never be over four. The special use permit is for the Boxer, Dachshund, and two Retriever Mixes. Should something happen to any of the dogs, they may not be replaced.
3. The permit shall only be for a five-year approval period.
4. All dogs must be supervised while in the yard.
5. The yard must be cleaned regularly to avoid odor problems.
6. Approval by the homeowners’ association.

Public Works Comments

1. Items that require plan revision or additional documentation before engineering can recommend approval: None.
2. Items that are conditions of approval (stipulations): None.
3. Comments that are not critical to engineering’s recommendations for this specific submittal, but may be helpful in preparing future documents: None.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2015-10 for five years, subject to the stipulations. Roll call was taken and there were nine “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

ITEM NO 3 – 110353...SPECIAL USE PERMIT #SP-2015-11 – CHUCK SCHLITTER WITH DOWNTOWN SHAREHOLDERS

SYNOPSIS: Renewal of a special use permit (#SP-2011-65) for a banner program in the Downtown Improvement District (intersections of 5th, 7th and 18th of Minnesota Avenue; 7th and 8th of State Avenue; 5th and 7th of Armstrong Avenue, 7th and Ann Avenue, 7th and Sandusky Avenue and 7th and Washington Avenue), submitted by Rob Richardson, Urban Planning and Land Use Director. Mr. Schlitter is requesting the replacement and continued hanging of logo banners throughout the Downtown Improvement District, serving as promotional and aesthetic tools. The Planning Commission voted 8 to 0 to recommend approval of Special Use Permit Application #SP-2015-11, subject to:

Urban Planning and Land Use Comments

The original banners were established by a grant; to make the banner program viable long term, Downtown Shareholders now sells space on banners for corporate logos to provide a stream of revenue for the upkeep of the program.

The issue is that the banners are technically off-site advertising, thus the need for a special use permit. The program should be administered according to the following rules proposed by DTS:

1. Must be a member in good standing with Downtown Shareholders
2. Must be a business that is either located in KCK Downtown or does business in KCK Downtown
3. Must have a print ready logo that will not exceed 40% of the banner
4. Must fill out an application
5. First come, first serve is the basis, communication is key on location of banner
6. Funding must be in no later than the December 1st; Commitment in written form will hold your space until December 1st.
7. The company that sponsors the Banner Program will receive at the end of the year, the banner with their logo on it, and one that has hung for the year with it (as long as the banners are in good shape).
8. Banner sponsors cannot locate their banner in front of a competitors store front of office location. This is to promote downtown and the businesses within, and that we all work toward improving the quality of life and business in our downtown.

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Additional information

With funding from sponsors, new banners will be purchased and installed throughout downtown. To ensure the banners are a true community project, DTS has partnered with the USD 500 to hang banners at 7th and Minnesota.

Double-sided logo banners will be displayed at eight of downtown's busiest intersections (below) giving your business logo maximum visibility throughout the next year. The remaining banners will display the winning artwork.

5th and Minnesota Avenue
 7th and Minnesota Avenue
 18th and Minnesota Avenue
 18th and State Avenue
 7th and State Avenue
 7th and Armstrong Avenue
 7th and Ann Avenue
 7th and Sandusky Avenue

Full banner sponsorship opportunities are installed and maintained at an annual cost of \$300, \$400 if a specific location is designated.

Public Works Comments

1. Items that require plan revision or additional documentation before engineering can recommend approval: None.
2. Items that are conditions of approval (stipulations): None.
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents: None.

The staff recommends approval for ten years subject to the above stipulations.

Action: **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2015-11 for ten years, subject to the stipulations.** Roll call was taken and there were nine "Ayes," Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

ITEM NO. 4 – 050197...SPECIAL USE PERMIT #SP-2015-12 – HILL TOP SADDLE CLUB

SYNOPSIS: Renewal of a special use permit (#SP-2013-11) for a trailer for monthly meetings and to keep supplies at 5035 Muncie Drive, submitted by Rob Richardson, Urban Planning and

Land Use Director. The members of the club have a ring for riding horses and there is a barn on adjacent property for stabling the horses. The initial special use permit was approved in 1999. The Planning Commission voted 8 to 0 to recommend approval of Special Use Permit Application #SP-2015-12, subject to:

Business Licensing Comments

We do not find that Hilltop Saddle Club has filed any type of application with our office as an entity. They are registered with the Kansas Secretary of State as an exempt entity. They should also file with our office as the type of entity and activity they engage in.

Hilltop Saddle Club is a designated club and thus does not require a business license.

Urban Planning and Land Use Comment

This can only be approved as a temporary use of land for commercial purposes for up to two years. We do not object to such an approval, subject to the continuing approval of the Building Inspection Division. Finally, it must be made clear that an office trailer is not designed for assembly type occupancy, which means that the meetings need to be quite small if this use is to remain safe and appropriate.

Public Works Comments

None

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2015-12 two years, subject to the stipulations. Roll call was taken and there were nine “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

ITEM NO. 5 – 120059... SPECIAL USE PERMIT #SP-2015-15 – CURTIS PETERSON WITH POLSINELLI

SYNOPSIS: Special use permit for signage for Legends Auto Mall at 1930 North 98th Street, submitted by Rob Richardson, Urban Planning and Land Use Director. The applicant is proposing to have special, on-site signage for Legends Auto Plaza in conjunction with Legends Auto Mall (across Parallel Parkway). The applicant is proposing four monument signs within

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the 81-acre development located at 1930 N. 98th St., 10100 Parallel Pkwy. (Legends Toyota), and 10050 Parallel Pkwy. (Legends Honda). The Planning Commission voted 8 to 0 to recommend approval of Special Use Permit Application #SP-2015-15, subject to:

Urban Planning and Land Use Comments

1. In order to have legitimate signage, sign permits for the monument signs must be filed with the Urban Planning and Land Use Department and a building permit for footings and foundation must be filed with the Building Inspection Department.
2. This application was filed under Sec. 27-739 for special on-site signage. That section states:
 - a. Sec. 27-739 (a) This section is established in reference to the special signage needs of major community entertainment and recreational attractions. Under Sec. 27-579(b)(13), a special use permit may be approved that supersedes the provisions of this article to the extent designated and may be more and/or less restrictive than the provisions of this article. Such special on-site signage may be approved for entertainment and/or recreational attractions which have improvements capable of serving at least 1,000 patrons at a time, or entertainment, shopping and/or recreational facilities of regional significance and unique to the community.
 - b. Sec. 27-739(b) In addition to the factors to be considered for all special use permits, the Planning Commission and Unified Government Board of Commissioners shall consider the purposes set out under Section 27-723 as well as the attractiveness, quality, and durability of the proposed signage.
 - c. Sec. 27-739(c) No such request shall be approved until an overall set of sign standards for all exterior signs within the development in question has been submitted. The size, color, material structures, styles of letters, appearance of any logo, type of illumination and locations shall be set out in such standards.

Although some elements of the sign package are debatably necessary, this section of the code allows the Board of Commissioners to make the determination that they see fit.

Applicant Response: Acknowledged.

3. Please explain how these signs meet Sec. 27-739(a). While the staff is not opposed to the use, the application does not have a narrative giving such an explanation.

Applicant Response: The proposed special on-site signage is a key component of the Legends Auto Plaza project, a retail project of regional significance that will be unique in all of Wyandotte County and arguably in the metro area. As supported by the STAR Bond feasibility study and other market studies and data, the Legends Auto Plaza project is

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expected to draw customers from within and outside Wyandotte County, create significant construction and permanent jobs, and have substantial direct and indirect economic impact on the community. The proposed special on-site signage is consistent with that of Village West, another important retail project with regional significance that is unique in the community.

4. Please provide a photometric plan for the three monument signs.

Applicant Response: The developer is working to prepare a photometric plan and will provide such plan to City staff prior to the Board of Commissioners considering this application. In the meantime, the developer assures staff that the lighting will be from LED source behind transparent/translucent lenses to minimize any glare and there will not be any spot lights, shafts of light, or piercing laser beams emanating from the proposed signage.

Staff Response: Staff wants to ensure that drivers along Interstate 435 and internal roadways, France Family Drive and 98th Street are not distracted by a bright LED display. If the lighting will be similar to other monument signage in the Village West area, then there should not be an issue. The description that was provided by Scott Slaggie via Amy Grant with Polsinelli answers staff's comments.

5. Please provide a sight triangle analysis of the proposed monument signs.

Applicant Response: Please see the attached site triangle exhibits.

6. The changes to the exhibits in the staff report submitted at the meeting by the applicant.

Public Works Comments

1. Items that require plan revision or additional documentation before engineering can recommend approval: None.
2. Items that are conditions of approval (stipulations): None.
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents: None.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2015-15 for two years, subject to the stipulations. Roll call was taken and there were nine "Ayes" Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

VACATION APPLICATION

ITEM NO. 1 – 130076...RIGHT-OF-WAY AND ALLEY VACATION PETITION #RW AND #A-2015-2 – ARGENTINE NEIGHBORHOOD DEVELOPMENT ASSOCIATION

SYNOPSIS: Vacation of right-of-way and an alley at 1404 South 37th Street, submitted by Rob Richardson, Urban Planning and Land Use Director. The wants to vacate right-of-way and a portion of the alley in the rear to have more land for parking along South 37th Street and remove a corner of the apartment building (formerly known as Simmons Funeral Home) from the alley. The Planning Commission voted 7 to 0 to recommend approval of Vacation Application #R/W and #A-2015-2, subject to:

Urban Planning and Land Use Comments

These vacation requests are cleaning up property lines as a corner of the building is in the alley and two parking stalls are in the right-of-way.

Public Works Comments

1. Items that require plan revision or additional documentation before engineering can recommend approval: None.
2. Items that are conditions of approval (stipulations): All existing utility easements shall remain with the Unified Government.
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents: None.

Commissioner Walker recused himself from the meeting.

Action: **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Vacation Application #RW and #A-2015-2, subject to the stipulations.** Roll call was taken and there were eight "Ayes," Markley, Walters, Philbrook, Bynum, Townsend, McKiernan, Johnson, Kane.

Commissioner Walker rejoined the meeting.

Mayor Holland recognized Chuck Stites with the Edwardsville City Council.

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PLANNING AND ZONING NON-CONSENT AGENDA

SPECIAL USE PERMIT APPLICATION

ITEM NO. 1 – 120330...SPECIAL USE PERMIT #SP-2015-14 – BEN BARRETH FOR HOMES FOR HACKERS LLC

SYNOPSIS: Renewal of a special use permit (#SP-2012-55) for a hackers house (allows up to five individuals to operate businesses out of the home) at 4428 State Line Road, submitted by Rob Richardson, Urban Planning and Land Use Director. Mr. Barreth wants to allow five individuals to operate businesses out of the home (paying no rent and the owner not living in the home). He has one room available via airbnb.org for rent on a nightly basis. He is also requesting the use of a “Hacker Shed.” The Planning Commission voted 6 to 2 to recommend approval of Special Use Permit Application #SP-2015-14, subject to:

Urban Planning and Land Use Comments

1. What are the hours of operation? When do those working in the house and not living there come and go? When are airbnb visitors allowed to arrive?

Applicant Response: This is a home where people live 24/7 so this question is difficult to answer. If you really need me to specify hours of operation, I could come up with something, but then if you held me to that, it would be inaccurate. Asking when people come and go is like me asking you how you personally come and go from your own house, specifically on days when you're working from home. Typically people do leave the home to go get groceries, lunch, and dinner, hang out with friends. They both live and work there so the majority of the time is spent inside the house. Airbnb guests are currently allowed to arrive anytime, but we prefer before 10 pm with a checkout time of 11 am. There have been a couple of occasions where airbnb guests have had their flights significantly delayed and they haven't arrived at the house until midnight.

2. All businesses must procure business licenses.

Applicant Response: I will encourage the guys in the house to get this. Some of them aren't making any money so this might be tough for them. I'll probably introduce them to Phil in the Biz License department and let him take it from there.

Staff Response: Procurement of a business license should be a requirement of future rental contracts.

3. The staff does not support the hacker shed as it is not an allowed accessory use and will increase the parking demand in the area. Applicant Response: The applicant has withdrawn this request.

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4. The parking area in the rear must conform to city code. It must be less than 40 percent of the rear yard and paved with either asphalt or concrete. The code does not allow expansion of existing drives to be done in gravel.

Applicant Response: Before I put down gravel, I looked up city code Section 27-675 (b)(3) which says:

"For existing single-family dwellings, a driveway ten feet in width or less extending directly from the street or alley to the garage, or from the street or alley to the house if there is no garage, or to the rear yard, can be paved in its entirety, or as continuous concrete wheel paths, or improved in its entirety with a minimum four inch depth of gravel or its equivalent. Any other parking, loading, or maneuvering areas must be paved with a minimum of two inches of asphalt over six inches of compacted gravel or its equivalent, as subject to the provisions of subsection (a) of this section. If the parking, loading or maneuvering area is in the rear yard, it may be improved with a minimum four inch depth of gravel so long as it includes less than 40 percent of the rear yard and less than 1,000 square feet in area." (Emphasis mine) On 03/23/15, Rob Richardson from the Zoning/Planning Department explained to me that this code only applies to improving existing parking areas, not the creation of new parking areas. This was an honest mistake on my part and I feel like the code is really unclear on this. I spoke to several people from the Rental Licensing Department when they questioned me about it and they agreed with me at the time. Anyway, I'll do whatever you guys want here, providing I can afford it.

Staff Response: It is clear that the applicant tried to do the correct thing, but did not read the code related to expansion of driveways which requires pavement. Staff would support giving Mr. Barreth up to 18 months to get the expansion area into conformance with the code.

5. It is now our understanding that the hackers now pay to use the hacker house.

Applicant Response: Correct, as per my previous note, the majority of tenants in the house are now paying, which has made the program self-sustaining.

6. Mr. Barreth wishes to continue to fly the Hacker flag at the home. The flag is a sign of non-residential activity which is normally not allowed by the city code.

Applicant Response: Correct. Let me know if you need any further comment here. This seems self-explanatory to me.

The Kansas City Start up Village has been an interesting occurrence in this neighborhood. The combination of a good idea, a residential area, a couple of fast growing companies, limited

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parking, and general confusion as to city requirements and the nature of the village have led to some conflicts. It will be interesting to see how the neighborhood responds to these renewal requests, but from a staff point of view, there are 6 issues we are working to resolve.

1. The hacker homes must absolutely be maintained at the top level of any home in the neighborhood. This includes the structure and the grounds.
2. The hacker homes must comply with codes as to the maximum number of persons living in a home.
3. The hacker homes must obtain a special use permit if non-family members will be utilizing a home as an office.
4. Businesses must obtain business licenses with the city. Once a hacker seeks grants, has an idea or a product to sell, or wishes to deduct business expenses from state or local income taxes related to the hacker activity, they are a business.
5. We must find a solution to some specific parking issues
6. We must find a solution to the “ballooning” of a start-up that causes various violations and increased parking tensions.

Items 1-4 are the clear responsibility of each homeowner and business owner. KCSV, in conjunction with the City and WYEDC, are working on numbers 5 and 6. I feel like we are now moving forward in a positive manner.

This application is clear that the special use permit is required and that is for the temporary use of land for commercial purposes as on occasion folks use this as an office and not a residence. The maximum term and staff recommendation is a two-year special use permit.

Ben Barreth, Overland Park, KS, said I’m petitioning for a renewal of a special use permit for a house that I own at 4428 State Line Road. We affectionately call it the Hacker House. I would run a program out of there called Homes for Hackers. Two years ago I petitioned to have a special use permit on the house so that we could run this program out of the house. My wife and I own the house.

The purpose of this program is to bring new tech startups to Kansas City. Two years ago we started the program to take advantage of Google Fiber coming to Kansas City and the idea was to offer tech startups, free rent, and Google Fiber if they were willing to attempt to move their startup to Kansas City. That was two years ago. The special use permit has expired and it’s

time to renew it which is why I'm here today. I'd like to continue carrying on the program exactly like it's been done.

Some things that I mentioned two years ago, I don't know that they were part of the official written record at the time, but I do want to make sure they're explicit this time. One of the—it's a free program if you get accepted into the program. You get completely free rent, free utilities, you show up, you move into the house, you just pay for your own food. The way we're able to do that is one of the rooms of the house we rent on airbnb.com, that's a bed and breakfast website. I don't know if you're familiar with that. We rent one of the rooms of the house on there that helps supplement the free ride we give other entrepreneurs. Also, some of the people that return to the house—each startup that comes to the house, they get three months of free rent; it's very limited to three months. After those three months, they often have the option to extend their stay and pay rent or they try to find more kind of formal accommodations elsewhere, but often times they choose to return to the house and pay rent and that also subsidizes the free ride we're giving some individuals.

Mayor Holland opened the public hearing.

The following appeared in favor:

Jane Vogel, 4411 Cambridge, said I want to thank you all for taking the time to listen to some of my concerns. I also think they are some of the concerns of the majority of the residents in Spring Valley.

The Spring Valley neighborhood is a residential neighborhood with a few commercial areas on its outlining edges or on its perimeters. We are on the east side bounded by State Line, on the west side by Rainbow Blvd., by the north side by 43rd, and by the south by County Line Rd. The vast majority of the homes in Spring Valley are residential and they are zoned residential, all of them. They have been used as homes by people raising families for the past 90 years. We are an old and we are an established neighborhood.

I am in support of the special use permit for the 4428 State Line a home, Ben's house, as we fondly call it. I want to be clear that I'm not in support of any additional special use permits being issued in Spring Valley and that's why this is kind of a yes, I'm in support of Ben, but it has some caveats with it. The reason I am generally supportive of continuing Ben's special use permit is because he has been an active and visible landlord. He has indeed made repairs and improvements of the property. He has shown the capability to listen to his neighbors and I think

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that, in and of itself, deserve a lot of applause. However, I still remain concerned about some might take renewal of his special use permit at 4428 State Line as a precedent. People can say well, that one got it so why can't I buy a house and get a special use permit that allows external business use of a residential home.

The reason I am concerned is because really I don't think most special use permits add or benefit a residential neighborhood. Homes being used for external businesses surely do not increase the quality of my residential life. I think in your packages you may have seen a petition that was started because of a huge concern of special use permit that was being asked for on Cambridge Street within the neighborhood and among the houses on that street. That was in the zoning package and I think it kind of speaks really well all the comments as to why residential life is harmed when you have a situation like that.

The other thing is, I heard it claimed from external investors.

Commissioner Walker made a motion, seconded by Commissioner Kane, to extend her time. Motion carried unanimously.

Ms. Vogel said I've heard it claimed a lot and it dismays me that people buying their houses and using them for external businesses that they've improved our properties. They've bought distressed houses and improved our properties. What they've actually done is they've bought fixer upper houses so quickly that young couples, people that don't have high incomes, they don't even have the opportunity to see these houses because they get purchased so fast and they don't have an opportunity to become a homeowner because these great bargains get swallowed up really fast when usage is not intended to be not residential.

With that I will end. Again, I'd like to reiterate that Ben's situation, in my mind; he is to be applauded for his honesty, his willingness to be a good neighbor even his concept when Google Fiber first came out. I am in favor and I think most of the neighborhood—I know most of my neighbors are indeed in favor of his special use permit being renewed, but I do think there's an overwhelming concern about the special use permit usage being approved for additional homes in the neighborhood. Thank you so much for extending my time. Good to see you all. Hope you can come to some good.

Admir Adondo, Kansas City, KS, said obviously this issue hit the front page of the *Kansas City Star*. I manage the building at 4436 State Line Road. It's an issue that's gotten a lot of

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attention. I just wanted, along with Rob and Jason Banks and others in this city; we've spent and will continue to spend a lot of time to make sure this issue doesn't spiral out of control. We've been working with our neighbors. It was something that kind of got away from us at the beginning and now is obviously very aware of it. Obviously, what Ben is doing has brought a lot of talent to Kansas City, Kansas, and what we're trying to balance is the marriage of bringing jobs and driving the economy with preserving the quality of our neighborhoods. Just wanted to let you know we're actively doing that. We now have a 501c3 that the board is actively responsible and accountable to what happens there and just to let you guys know that we're actively working to keep any of that tension from escalating.

Wil Siggins, 4406 State Line Rd., said I'd like to also speak in favor of Ben and his group and all that they've done for not only bringing individuals in here giving them the opportunity to advance their businesses, but to once again to continue the American dream of starting out and trying to be a Steve Jobs or trying to be Mark Zuckerberg. There are so many different things to this. They've gone out of their way to try to communicate with the neighbors once the information was made known to them to give them a greater understanding of what the problems were.

One of the other problems was parking issues which was actually from a business. It's no longer even there. Much of that parking has been removed as an issue.

The only other thing that may have been kind of an issue and was brought up at the last meeting was about the busing issue that was brought up about buses pulling into the area. These are not and should be understood. This is not a party bus. This is not groups of people coming in to look over things. These are students coming in from different high schools, they're business classes. They are MBAs coming in to actually just look at their homes and their operation to get a better understanding of how to bring about a startup, the kind of things that they do. They're all chaperoned. They have groups with them. They post ahead of time to give everyone a heads up hey, on such and such date between 11:00 and 12:00 we're going to have this group with this many people, this is what they're here for, and just to give everyone an opportunity if they have an issue to speak to them and let them know we don't want them in the area or we want it basically chaperoned and make sure that they're taken care of. It's not as if we just have groups wondering through the area. I just wanted to make sure that was known because that was a problem last time we were here. Thank you.

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Jean Flaherty, 4515 Cambridge, said because of the spread of the Startup Village affiliated businesses on the residential block of Cambridge and because of Ben's request for a digital shed on the property, I was originally opposed to the renewal of his State Line request. However, Ben did listen to neighborhood concerns and he modified his proposal by dropping the digital shed. Also, his house is on a mixed-use block near two commercially zoned KCSV businesses.

I do believe that Ben stayed true to what I understood to be the intent of the hacker house—allowing individuals in the early stages of the business development to live in a collaborative environment with access to high-speed Google Fiber, mentors and business connections, that was also my understanding of the intent of the Startup Village being in our neighborhood, to help individuals get a start while networking with others. However, businesses, not individuals, moved into single-family homes resulting in four Cambridge houses having multiple businesses operating out of them. The most recent addition is an owner-occupied home, but the other three houses have non-resident owners and operated businesses staffed by daytime employees. A 2014 article reported that Nexus HQ business at 4427 Cambridge had six employees and an intern, had been in business three to four years, have 50 clients and was past the startup phase. A three-old business with nine employees, LEPID, moved from commercial property on State Line to a house at 4437 Cambridge. 4462 Cambridge had three daytime businesses operating out of it. This influx of KCSV businesses staffed by non-residents, utilizing a Monday – Friday work model has a negative impact on those of us who actually call Spring Valley home. These houses are clearly not functioning as typical single-family rental homes nor or they typical work-from-home arrangements. Because Google Fiber was first available in our neighborhood and was only offered as a residential service, I understand why these small businesses wanted to be in Spring Valley. However, small business product is now available. I've been informed that the Nexus HQ and LEPID will be moving from the residential houses.

If the property owners continue to be associated with Startup Village, it's my hope that they will follow Ben's example and rent to individuals rather than businesses and do so in full compliance with the rental, zoning and licensing laws of Wyandotte County.

Tonight, I am asking that you consider approving the 4428 State Line special use permit but consider denying any future special use permit requests for established businesses wanting to operate out of single-family homes on the residential streets of Cambridge, Eaton and Francis in the Spring Valley neighborhood. Thank you for your time.

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Meredith Barreth, Overland Park, KS, said I'm Ben's wife and I'd just like to bring this bit of information to your ears. I know I am biased because I am his wife, but although this is a lovely and established neighborhood, before we bought this house, this house sat vacant for two years. That wasn't an uncommon thing to see in this neighborhood. I want that to be brought out.

Also, the original intent for houses like the one we own is that these are business startups. Startups grow fast sometimes and when that happens, it happens quickly. Truly our intent is, in our home, is to have people who are pre-business or coming up with ideas and doing that at a ground level. These are not established businesses yet, although we hope that they will be and improve the community. The thing that is really beautiful, I think, is that these guys in our house—I can only speak from what I know from our house, is that they really have been members of this community. One of the hackers in the hacker house is very handy. He helped our direct neighbor on one side with cleaning her gutters. I know both neighbors on either side of our home are very positive about the experience they've had. Basically, we've got some smart guys who are talented working on laptops during the day. That's the situation that we've got in our house. Part of them integrating into this includes these residents too. We do want to be a community member and be good neighbors too. I just wanted to bring that forward.

No one appeared in opposition.

Mr. Barreth said there are just two comments that I wanted to make crystal clear for those of you that might not be intimately familiar with the issue at hand. A lot of the comments pertain to the Greater Kansas City Startup Village as a whole of which my house, our house, the Hacker House, is affiliated with I guess you would say. Adam, my friend, mentioned about the 501(C)3, that pertains to the KCSV not Homes for Hackers. I don't think that was made crystal clear so I wanted to make sure that was clear. Also, the Startup Village in general is where a lot of these tour buses with students are coming to visit the area. That's not solely directed at the Hacker House although they do visit the Hacker House on their way around two or three of the locations. It's not like I'm the one organizing the tour buses myself. There's kind of a bigger issue and a smaller issue and I wanted to make sure there was that clarification.

Mayor Holland closed the public hearing.

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Commissioner Kane said we appreciate the neighbors coming out and saying that there were some concerns; the landlord listened. We don't have a lot of that. We have a lot of absentee landlords that they can't listen because they're not here. We appreciate you folks bringing that up. We also appreciate that you're watching the area because each special use permit is different. Just because we grant one for this person doesn't mean we're going to grant one for the next person. I just wanted to point that out.

Commissioner Townsend said I just wanted to take the opportunity to find out what is the difference between the nature of the thing being proposed and an action that was withdrawn, the hacker shed. What is that? What's the difference between that? **Mr. Richardson** said, Commissioner, the Home for Hacker that's before you this evening, it has the airbnb which is bed and breakfast which requires a special use permit on its own. They also have people that might come in to help them during the day so it will be people coming from off-site to on site to work there.

The other special use permit they withdrew because they're going to operate within the definition of family and the business ordinances of the community. They will have up to five people that live there and work by themselves in that home. The Supreme Court says anyone is a family. Five or more unrelated individuals or up to five unrelated individuals can be a family and they will operate under that definition so they would not need a special use permit. That's how they're going to operate that particular home in the future.

Mr. Barreth said the shed portion was an idea I had. Spring Valley neighborhood already has a physical tool shed, like a community tool shed. They are quite popular. There is like a monthly fee for our particular neighborhood tool shed. It's like \$20 and you can go in and swap out tools and stuff. I thought wow, we have Google Fiber. How cool would it be to have a digital tool shed where we have a little shed and it has Google Fiber in there. The Hacker House has a bunch of Ethernet cables, Cat6 cables, probably have 400 feet of Ethernet cable. We have a bunch of old computers, old monitors and stuff and we could have a digital shed that has some monitors and things like that people could check out but also you could have access to Google Fiber right there. It would be an office in the shed. That idea was a little bit too disruptive and I think people thought a lot of people would be visiting the house to come to this shed. I did not think that was the case but after hearing the feedback from the neighbors, I decided to withdraw that portion. I have a shed on the property. It's empty, it's a shed. It's an 8 x 10 shed. It's not a

building or anything. It's a shed, it's from Home Depot; it's a shed. **Mayor Holland** asked it's not a digital shed. **Mr. Barreth** said not yet. I wanted it to be but never got there.

Action: **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2015-14 for two years, subject to the stipulations.**

Mayor Holland said I do want to make a comment before we vote. I feel like the communication between the Startup Village and the Spring Valley Neighborhood Association has been very good. I want to commend all of you for that effort. I don't think Spring Valley had hoped to be a national destination tourist destination. Startup Village has been enormously successful and has received national and international attention for what it's done and that's not been without tension. We very much appreciate the communication that's going on. Jason Banks, in my office, is actively involved in this and Greg Kindle from Economic Development. Our goal is to have these companies when they're ready to move to move to Kansas City, Kansas, and stay and grow in Kansas City, Kansas. We absolutely want that. Commissioner Murguia is engaged in this and myself.

We're going to continue to work on this, continue to pull together people to make sure that we continue to foster a rich startup, entrepreneurial environment in Kanas City, Kansas. We very much don't want to lose the momentum of that.

We also have community members who have a right to the investment that they've made in their personal property that we want to value also. So that balance is tricky but it's worth talking about. I just want to commend all of you for your work together to come to a resolution on this. I trust that this dialogue can be a model for future conversations as well. We're very proud of Startup Village and we're very proud of Spring Valley so we want to make sure that we protect all of those interests there. Thank you again for all of that.

Roll call was taken and there were nine "Ayes," Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

Mayor Holland said that concludes our Planning and Zoning portion of our meeting.

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NON-PLANNING NON-CONSENT AGENDA

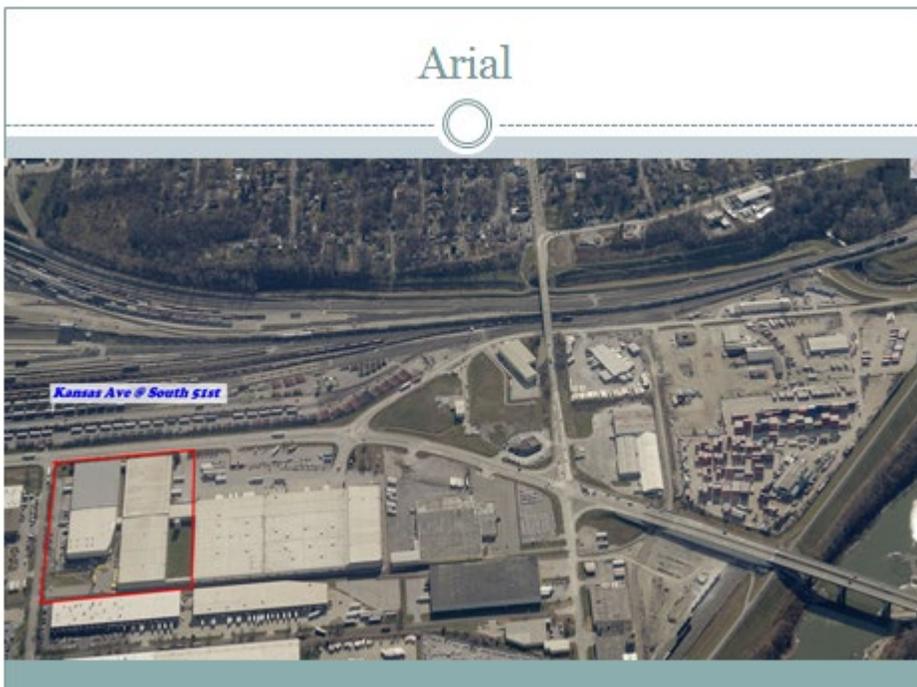
ITEM NO. 1 – 150093...RESOLUTION: INTENT TO ISSUE IRBS FOR NPIF2 KANSAS AVE., LLC

SYNOPSIS: Request to consider a public hearing to consider the UG’s intent to issue \$18M of industrial revenue bonds for the NPIF2 Kansas Avenue, LLC project located at 5100 Kansas Avenue, submitted by Marlon Goff, Economic Development. The project consists of the acquisition, improvement, and equipping of two commercial buildings totaling 369,000 square feet and will result in 50 new jobs. The PILOT is equal to 100% of estimated taxes for this property. This item was presented on April 27, 2015, to the Economic Development and Finance Standing Committee, chaired by Commissioner McKiernan. It was requested, and approved by the Mayor, to fast track this item to the April 30, 2015 full commission meeting.

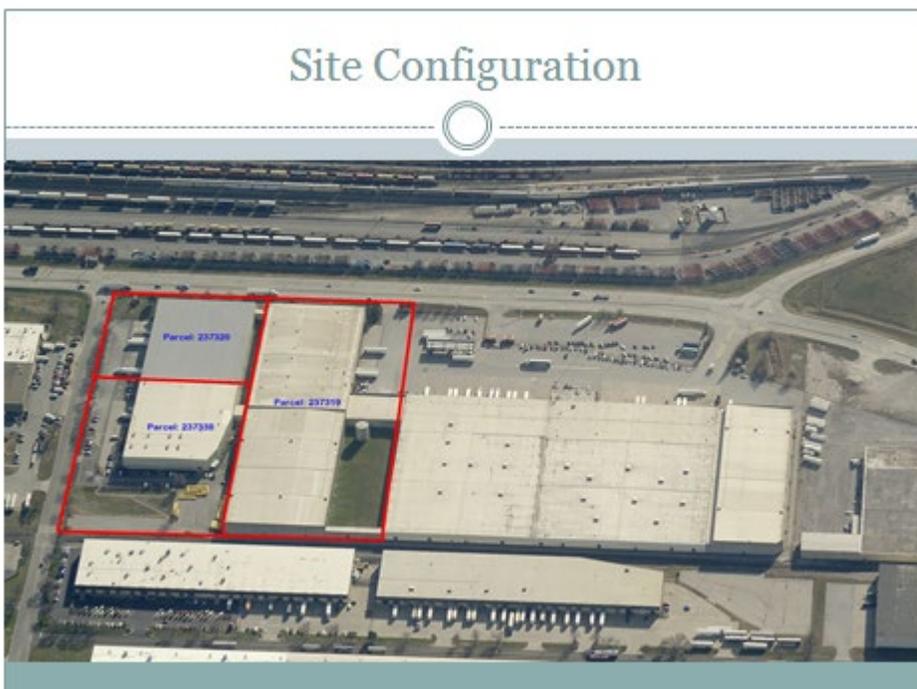


Marlon Goff, Economic Development, said I also want to introduce Brent Miles with NorthPoint Development. Tonight we’re here for two action items, to conduct a public hearing and consider a resolution of intent to issue revenue bonds in association with this project and the fixed PILOT structure.

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Before we dive into the structure of the fixed PILOT, I thought it would be good to orient the members of the audience to the proposed site. In the foreground that you see outlined in red is actually at the intersection of S. 51st St. and Kansas Avenue. You can see just to the south there the rail yard for the Burlington Northern Railroad. The site actually contains three separate parcels. This project will entail the acquisition of those two structures one of which is vacant and it totals approximately 369,000 sq. ft. To the west of the site is Fleming Foods Company.



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So, again, this is just a panned out view of that same site that you just viewed previously.

Project Overview

- **\$18 Million investment**
- **Acquisition of (2) commercial buildings totaling 369,000 sq-ft.**
 - ❖ Equipment accounts for significant portion of investment
 - ❖ Improvements include Installation & replacement of loading docks
 - ❖ Conversion of LED interior lighting
 - ❖ Truck traffic reconfiguration and parking lot improvements
- Lease terms with undisclosed new tenant are pending.
- Projected to result in 50 new jobs w/ average annual salary of \$36k

A quick project overview. This is an acquisition project. Again, \$18M total investment and a substantial portion of this project entails acquisition and improvement of commercial equipment. The company is in negotiations with a potential tenant and this project is proposed to result in 50 new jobs with an average annual salary of \$36,000.

PILOT Structure

- Objective – To consolidate property tax payments for the (3) separate parcels into (1) fixed PILOT payment.
- PILOT represents a 100% payment of property taxes based on the estimated value resulting from the improvements. 10-yr term.
- PILOT also features a 1.5% annual escalator which represents the gradual increase in assessed value typical for a project of this scale and nature.
- Reliable forecast of revenues for taxing entities
- Reliable forecast of tax obligations for property owner.

So as part of the Kansas law requirements for tax abatement, we're required to, again, conduct a public hearing when we're considering a fixed PILOT structure. Our objective, if you noted in the previous slide where we have the three separate parcels, was really to combine that site into one fixed PILOT payment where the developer or the property owner could now incorporate that into this lease rate and kind of know what his annual tax obligation is going to look like. I would note that PILOT payment represents 100% of the taxable value that we anticipate will result from this project. In addition to that, there is an annual escalator component that we've negotiated. We feel like for the taxing entities, it provides a reliable forecast of revenues and, again, for the property owner, hopefully they're making those annual payments not under protest.

Cost Benefit Analysis

- 2014 Property Taxes (3 parcels): **\$187,485**
- PILOT – Year 1: **\$230,026**

Taxing Entity	Benefit to Cost Ratio	Average ROI
City of Kansas City, KS	4.50	14.97%
Wyandotte County	2.15	11.51%
Turner – USD 202	3.22	22.23%
KCK Community College	2.09	10.93%
Wyandotte County Library	2.05	10.54%
Kaw Valley Drainage District	2.02	10.18%
Turner USD Recreation Commission	2.10	10.98%
State of Kansas	2.53	15.30%

Source: Municipal Consulting, LLC.

Again, as part of the statutory requirements, we're required to have a third-party independent cost benefit analysis. The other taxing entities are provided with a public notice for this meeting. This slide here illustrates in year one, based on the current property taxes collected for 2014, in year one this will result in a net taxable increase of approximately \$42,000.

Typically, municipal entities would look to achieve a cost benefit ratio of 1.3 or greater so as you can see in this illustration, each of the taxing entities that will show up on the property tax bill for this site have certainly achieved that benchmark along with some healthy return on investment.

Action Items



4/27/15 – ED&F Standing Committee Presentation

4/30/15 - Public Hearing

- IRB PILOT for the NPIF₂ Kansas Avenue, LLC project.
- Adopt Resolution of Intent to issue IRB and approve the fixed PILOT structure.

With that, again, the action items we have before you tonight is to consider approval of that resolution of intent to issue the bonds and the associated fixed PILOT.

Again, Mr. Miles and myself will certainly be able to stand for any questions or comments, but that will conclude my presentation.

Mayor Holland opened the public hearing.

No one appeared in favor.

No one appeared in opposition.

Mayor Holland closed the public hearing.

Mayor Holland said I'll ask Legal, do we need two motions. **Ms. Boeding** said just one. **Mayor Holland** said just one. I also want to say this has been a policy of this Commission for the last several years. This issue of doing 100% tax abatement and then coming back with a payment in lieu of taxes to capture that full value with an escalator is a great benefit. There have been many times where we've been frustrated with economic development projects that groups have received incentives and then come back and sued us to lower their property value and this

prevents that from happening. This has been an innovative tool that our Commission has been aggressive about. NorthPoint has been an active user of this and we appreciate this.

The other thing that's important, this is a part of our industrial sector that we really need to keep an eye on in this Turner area. This is an area that's been in transition with the inner model moving out and the opportunity to turn these properties and keep them in active use is very important to us. This is another part of our community that needs investment. I'm very excited about this project overall. It's been properly moved and seconded.

Action: **RESOLUTION NO. R-28-15**, “A resolution determining the intent of the Unified Government of Wyandotte County/Kansas City, Kansas, to issue its industrial revenue bonds in the amount of approximately \$18,000,000 to finance the costs of acquiring, constructing, improving and equipping commercial facilities for the benefit of NPIF2 Kansas Avenue, LLC.” **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to adopt the resolution.** Roll call was taken and there were nine “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

ITEM NO. 2 – 150095...RESOLUTION: LEGENDS 14 THEATRE

SYNOPSIS: A resolution authorizing the County Administrator to offer the Legends 14 Theatre for sale under the terms of the Theatre Management Agreement, submitted by Marlon Goff, Economic Development Dept. This item was presented on April 27, 2015, to the Economic Development and Finance Standing Committee, chaired by Commissioner McKiernan. It was requested, and approved by the Mayor, to fast track this item to the April 30, 2015 full commission meeting.

Mayor Holland said I am going to ask for the full presentation on this primarily because I think it's informative for the public. Not everyone is aware of this project in terms of how it's structured. This is good news for our community as well.

Doug Bach, County Administrator, said as I said at standing committee meeting, I think this marks somewhat of a historical occasion for us. Having been part of the project when we first started working on the Village West area in 2001, February, we announced five projects that we were looking to bring into our community as part of that project. They were Cabela's, Nebraska

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Furniture Mart, RED Development which brought in the Legends Shopping Center. We announced an Applebee's coming into the area as well as a new theatre. At the time of those five announcements, all of which came forward, the one for the theater did change and the developer we found that to be one we had working with was no longer able to move forward with this. We found that to be one of the probably most difficult task of finding a way to bring a movie theatre into our community, and as a community, our county of 160,000 people not to have a movie theatre was definitely a priority of our governing body that we would find a way to bring one of these into this new project area.

Through this process, we found a way through the Unified Government's ownership of the theatre and through the use of the STAR bonds that were generated in the project area, particularly in relation to the Cabela's project coming in, we were able to pay for the building of the theatre and its operation within the project area over the years that it's been in operation. It started construction in 2004, I believe, and opened in 2005 and has operated on its own project revenues ever since that time. The Unified Government has not had to subsidize that theatre with any kind of general fund dollars throughout the time period. It's gone through upgrades to keep up with the digital age and such like that.

Now we've reached the point in time where we believe we can move the theatre, which the only way to get it going was our ownership back at the time we started the project into the private sector. I'm going to ask Mr. Goff to come back forward and offer his presentation about a little bit more history on the theatre and the current conditions of it and what we're asking to do.

Marlon Goff, Economic Development, said this time I have some help. Lew Levin is here with our Finance Department and also Todd LaSalla, Counsel with the Stinson Leonard Street Law Firm.

Legends 14 Theatre



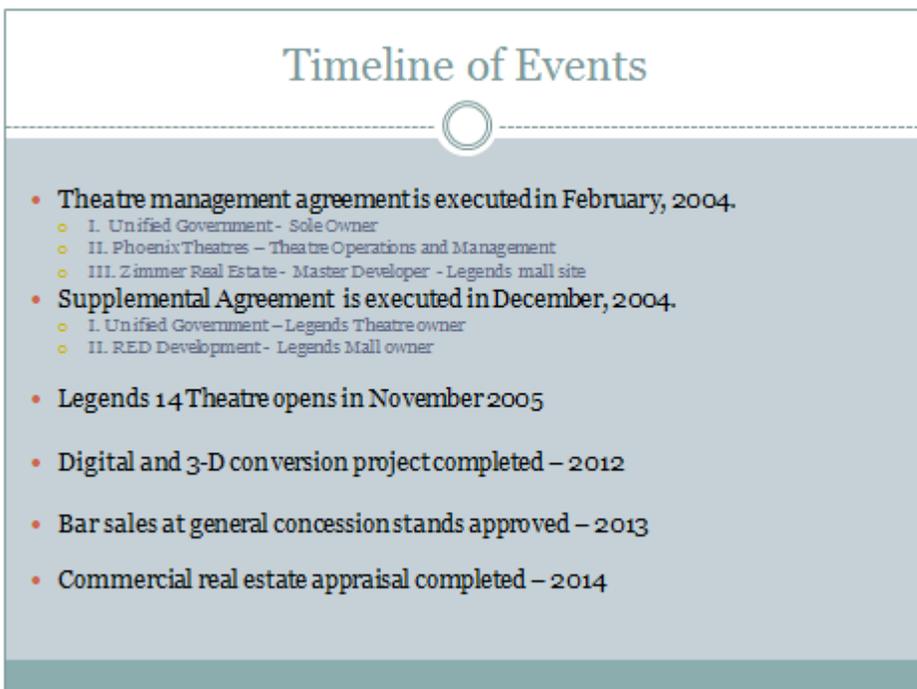
The Legends Theatre—and I'll just piggyback on much of what Doug just outlined—it's 129,000 sq. ft. building, 14 screens, just under 3,000 seats, VIP lounge and also a couple of party rooms that are available for lease.

Theatre Parcel



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This is an outline of the parcel, 8.6 acres. As you can see, the theatre really anchors the Legends mall site. It also kind of gives you a picture of this shared parking concept that kind of goes underway at the Legends. I know we do some really creative things when we have games at Sporting or race weekends but essentially the Unified Government owns the real property, the theatre, all of the screens, equipment, permanent fixtures and furniture and it will be included in the purchase.



A quick snapshot of some milestones that's happened during the ten-year period of our ownership. In particular, the management agreement kind of outlines the parties and how the theater's actually been managed and operated. We'll see some things later with respect to the supplemental agreement and the relationship or essentially some of the options that the owner and operator of the Legends mall, that being RED Development, has as a party to this agreement.

One thing not noted on this slide, I think in July of last year we were able to refinance the bonds associated to take advantage of some interest rate savings, but all of this leading up to this outcome for us to position the theatre for sale.

Theatre Operations

- Box office receipts - Position within the KC theatre market ranges between 6-8th place for Legends 14.
- March 2015 reporting period - 7th place, compared to 6th place in 2014 for the same period.
- Summer months have consistently been among the strongest performing periods industry wide

A quick recap of some operating highlights. As part of the monthly management reports, we evaluate how the theatre is doing in the KC market. On average, the Legends 14 has been position 6 through 8 out of 33 movie houses in the theatre. It's been performing really well especially considering we're approaching the summer season which traditionally has been really good for the industry, a lot of the blockbuster releases. I actually had some correspondence with the general manager this morning as they're gearing up for the new Avengers release on Friday. It's a good time, as Doug mentioned. The theatre is well positioned and we feel it is really marketable.

With that, I'm going to transition and turn the presentation over to Lew. He's prepared this slide to kind of give us an overview of what a potential sale could look like.

<h2>Legends Theater Sale Analysis</h2>	
Revenue	
Theater Sale	\$ 8,800,000
Projected Account Balances (At closing)	\$ 400,000
Sub-total	\$ 9,200,000
Expenses	
Outstanding Debt	
Building	\$ 6,820,000
Equipment	\$ 275,000
Termination Fee to Phoenix	\$ 1,000,000
Net Property Taxes	\$ 300,000
Other Contingency Obligations Est (TBD)	\$ 500,000
Other Closing Costs Est.	\$ 50,000
Sub-total	\$ 8,945,000
Ending Balance	\$ 255,000

Lou Levin, Chief Financial Officer, said certainly a primary objective of selling the theatre is to cover any outstanding obligations that we have associated with the theatre and with that intent, I prepared this analysis. The number we're looking at as a sale price is \$8.8M. That closing we would anticipate occurring in four to five months. We have various operating accounts associated with the theatre. We're estimating at the time of closing we'll have at least \$400,000 in those accounts so our resources are at the \$9.2M level. What we would do with that, what expenses we would have, our outstanding debt on our building loan that we refinanced last year, approximately \$6.8M. We are equipment finance and that was for the digital upgrade and the 3D upgrade occurred in 2011. Our current balance on that loan is \$275,000. Our management agreement that we entered into with Phoenix in 2005 requires if we sell the theatre, a termination fee of \$1M.

The next few items are just estimates of final costs related to closing. Any outstanding property taxes that we would have to pay. We built in a contingency to cover any transitional cost or operating shortfalls that could occur over the next four to five month period and then specific closing cost related to title work, legal work, we put in an estimate of that. Essentially, what we're showing is that under these assumptions we would cover, we would still have a balance and hopefully that number would be greater depending on what the final contingency costs are, those transitional cost relating to closing. I can answer any questions on this slide. Todd is here just to review the contract that we're looking at.

Executive Summary Notes

- Theatre management agreement details how theatre operations, accounts payable, debt service and tax obligations are funded entirely from box office and operations revenue.
- UG's ability as sole owner to sell the theatre to a 3rd party.
- Minimum sales price necessary to satisfy existing obligations.
- Termination of theatre management agreement and provisions (Phoenix)
- Right of first offer provision in supplemental agreement (RED)

Todd LaSalle, Stinson Leonard Street, said there's an executive summary, I believe, in your packet that highlights the nature of the sale and some of the documents that are relevant. I'll just hit a couple of points at a high level. I would begin by saying the sale of the theatre is fairly unique in that the Unified Government not only owns the land and the building, you also own all of the equipment: the screens, the seats, the projection equipment, it is really an all in sale because you own all of that. It's purely been operated by Phoenix pursuant to a management agreement.

That management agreement was entered into in February 2004 and among other things, it says that you have the right to terminate that management agreement in your sole discretion if you choose to. If we opt to do this and sell the theater to a third party, we will need to terminate the Phoenix management agreement and here's how that works. Phoenix would be entitled to a break-up fee, a termination fee that is equal to a million dollars. You would pay the million dollars. It would be built into the sale price so that you could pay Phoenix to terminate that agreement for convenience. If we do that, it takes 120 days to terminate the agreement. You would give Phoenix notice then they have 30 days to let you know about those transitional costs that Lew was speaking of and after you receive those transitional cost numbers, we have 45 days from that to make a decision about whether we want to and irrevocably comment to terminating that agreement and paying the million bucks. At the end of that 45 days you could chose not to. You could resend the termination and leave Phoenix in place. Your purchase agreement with

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any third party would be carefully coordinated so that at the time you got to that 45 day go/no-go day, you will make sure that your purchaser is fully ready to go and committed and we would also ask that purchaser to put a million dollars in escrow so that you're covered in the event that the sale for some reason falls through. That's sort of how that termination agreement would work.

Additionally, I would point out that it's an as is, where is, sale. You wouldn't make any representations or warranties. You'd give a purchaser a long time to come in, take a look at the property, and then based on their due diligence either buy it or not. The city is not going to guarantee the condition of the property or anything like that.

I believe Marlon and Lew alluded to rights that RED Development has pursuant to a supplemental agreement. As you all know, this sits right in the middle of the Legends Shopping Center. RED cared tremendously about how this thing was positioned. They also have what are called common area maintenance expenses that are shared by all of the various owners within the Legends and the tenants, that's true of the theatre as well. In 2004 when the theatre was ramping up, we went and negotiated with RED to reduce those common area maintenance expenses and even provide for some leniency as the revenue built up. RED was fairly accommodating about that and that's what the supplemental agreement is primarily about. However, in exchange for that, RED really wanted to know that if the theatre would ever sell to anybody other than Phoenix, they wanted to make sure that they had a seat at that table. There are options to purchase that exist in favor of RED Development a right of first offer and rights of first refusal. The point is that if we choose to sell the theatre to anybody but Phoenix, we are really obligated to go to RED Legacy first and offer the theatre to them for sale. We will be required to do that by the supplemental agreement so RED will have the first crack at buying that theatre. I would also stand for any questions if there are any.

Commissioner Walker said, Mr. LaSalle, what are these transitional costs. **Mr. LaSalle** said it's likely to be, you may have to pay to terminate some of the operational contracts with vendors. We don't know a ton about that, but we have talked to Phoenix and it's estimated that it's less than \$100,000, probably in the \$50,000 range. **Commissioner Walker** said alright, thank you.

Commissioner Townsend said I just heard something that I didn't pick up on at the standing committee meeting about this. This body would have a second opportunity after tonight to

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review a proposed sale. I can't recall what the condition was or the circumstance that would trigger that. **Mr. Bach** said I believe if you approve what is set out before you tonight, then this would be a transaction that if I were to go to find a buyer that fulfilled these terms, I would complete this transaction. You would be giving me authority to complete this transaction as it's set forth. Todd, now you started to shake your head a different way. I mean if there is some other part of the transaction, if we change it, do you want to go ahead and speak to that?

Mr. LaSalla said the two next steps I think would be, you're right, we would enter into a purchase agreement pursuant to the terms that we're walking through tonight. I guess the other place that I was thinking of is at some point after you get this transition cost, there is a second decision to be made about whether you're going to terminate Phoenix and go forward. Frankly, we will deal with that in the purchase agreement and assuming that you have a purchaser that you're under contract with that is committed to going forward and is going to put that million dollars in escrow, I think we would proceed.

Mr. Bach said I would say, approval of this tonight you are giving me authority to go out and complete the sale. **Commissioner Townsend** said okay and I'm fine with that. It was just something that I heard tonight that I didn't hear, not that you didn't say it, but appreciate on Monday.

Mr. Bach said I will also comment too that from the standing committee, we have taken to work in deed restriction issues regarding the operation of the theatre and being a movie theatre as was suggested in that meeting by you, Commissioner. I also want to note just for the record that Phoenix has been an outstanding operator for us of this theatre so reaching out to them that was an excellent choice by us. Over the years, they have served our community and served this theatre well. It looks like a brand new theatre after being in operation for ten years. I certainly want to make that note that they have done an excellent job for us. **Commissioner Townsend** said I appreciate the deed restrictions because as you said, that's a major benefit to a community our size so it's good to have some assurance if it continues for some period to remain a theatre.

Action Item

- A resolution, authorizing the county administrator to offer Legends 14 Theatre for sale and execute a purchase agreement under the terms outlined in the supplemental theatre agreement and summarized in the executive summary.

Action: **RESOLUTION NO. R-29-15**, “A resolution that the Unified Government Board of Commissioners hereby approves the sale of the property located at 1841 Village West Parkway, Kansas City, Kansas, by the Unified Government of Wyandotte County/Kansas City, Kansas, to RED Legacy for a sale price of \$8,800,000. That the County Administrator is hereby authorized to negotiate the terms and consolidation of such sale and to execute in the name of the Unified Government of Wyandotte County/Kansas City, Kansas, the Agreement of Purchase Sale, the deed and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this resolution and to take any further action necessary to effectuate the sale, including without limitation, action necessary to exercise the Unified Government’s rights to terminate Theatre Management Agreement.” **Commissioner McKiernan made a motion, seconded by Commissioner Kane, to adopt the resolution.** Roll call was taken and there were nine “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

April 30, 2015

ITEM NO. 3 – 970105...TRAVEL REQUEST: COMMISSIONER WALTERS

SYNOPSIS: Request to travel to Wichita, KS, to attend the Kansas County Commissioners Association Conference, submitted by Commissioner Walters.

Action: **Commissioner McKiernan made a motion, seconded by Commissioner Kane, to approve.** Roll call was taken and there were nine “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Johnson, Kane.

Mayor Holland said that concludes our meeting. We’ll now recess to executive session upstairs. I will entertain a motion for twenty minutes for purposes of labor negotiations and security.

Action: **Commissioner Philbrook made a motion, seconded by Commissioner Markley, to recess the meeting.** Motion carried unanimously.

MAYOR HOLLAND ADJOURNED

THE MEETING AT 8:04 P.M.

April 30, 2015

tk

Bridgette D. Cobbins
Unified Government Clerk

April 30, 2015