

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

PLANNING & ZONING AND
REGULAR SESSION
THURSDAY, APRIL 28, 2016

The Unified Government Commission of Wyandotte County/Kansas City, Kansas, met in regular session Thursday, April 28, 2016, with ten members present: Bynum, Commissioner At-Large First District; Walker, Commissioner At-Large Second District; Townsend, Commissioner First District; McKiernan, Commissioner Second District; Murguia, Commissioner Third District; Johnson, Commissioner Fourth District; Markley, Commissioner Sixth District; Walters, Commissioner Seventh District; Philbrook, Commissioner Eighth District; and Holland, Mayor/CEO, presiding. Kane, Commissioner Fifth District was absent. The following officials were also in attendance: Doug Bach, County Administrator; Ken Moore, Chief Legal Counsel; Bridgette Cobbins, Unified Government Clerk; Joe Connor, Assistant County Administrator; Gordon Criswell, Assistant County Administrator; Melissa Mundt, Assistant County Administrator; Rob Richardson, Planning Director; Bryon Toy, Planner; Kathleen VonAchen, Chief Financial Officer; Patrick Waters, Senior Attorney; Emerick Cross, Commission Liaison; and Captain Osvaldo Navarro, Sergeant-At-Arms.

MAYOR HOLLAND called the meeting to order.

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

INVOCATION was given by Reverend Artrell Harris, Roswell Church of Christ.

Mayor Holland said our first order of business; it is my honor to proclaim April 28, 2016 as Mary Ann Flunder Day. We intentionally reserved the first two rows on this side for the family because Ms. Flunder always sat on the third chair in the front row every meeting that she came to just to make sure the Commission didn't get out of line, Amen. If we did, she'd let us know, Amen.

I very much appreciate the family coming today and I will come down and personally present this as the Clerk reads the proclamation for us tonight.

Bridgette Cobbins, UG Clerk, read the proclamation.



Kim Smith-MacPherson, said Momma is still doing Flunder told. I was kind of forced to get up here and say something, I'm not sure exactly. I know that she would appreciate very much this honor that has been bestowed on her. It's still real hard for me and my family. I know that she spent her life working for and with those who had very little, but she always had pride in everyone, I think, that she met and encouraged them to do better.

She was one of those individuals that did not understand the word no. She got you to do things that you never thought you would do and she made a better person out of you as a consequence. I think the family will attest that it was very difficult living with someone who does not understand the word no.

On behalf of the family, I would like to say thank you and God bless. **Mayor Holland** said thank you very much and congratulations. The family will be happy to know that she

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counted me as one of the people that she thought could be a better person and made significant effort in that direction.

Commissioner Murguia said I just want to say I had the chance to get to know Mary Ann Flunder on a very personal basis. I truly have never met anyone that has ever worked harder for her community than Mary Ann did. I hope that her memory is not lost. I hope her community works together to erect something in memory of her.

Mayor Holland said I'll let the family know there is an open invitation to stay for the next 3-4 hours of our meeting. But we did put you first on the Agenda for a reason, just so you could make a choice. Thank you all for being here. It's an honor to honor you all and to honor your mother's legacy.

Mayor Holland said before we move to revisions on the Agenda, I want to ask anyone if you would like to speak on either of two topics. We have multiple topics today, but we have two in which we anticipate a larger than usual turnout. One is on the Woodlands and the other is on 24th & Metropolitan Avenue.

If you would like to speak on either of those two items, we would ask that you please go to the door and sign in so that you can be called in order. We know that when we have a large group that's going to speak, it's helpful for us to have a list. If you think you might speak, I would encourage you to sign up because you can always decline in the moment more easily than you can say, oh I changed my mind I want to speak. I would ask if you are interested to please move quietly to the door and to sign in so that we have your record. The Clerk will call you in the order in which you signed in.

Mayor Holland asked if there were any revisions to the agenda. **Bridgette Cobbins, UG Clerk**, said there are no revisions Mr. Mayor.

Mayor Holland said tonight we have two distinct parts of our meeting. The Planning and Zoning part will be handled, following the regular Commission meeting. I will now ask the Clerk to read the Planning and Zoning statement which is required by law to be read into the record before every Planning and Zoning meeting.

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Ms. Cobbins read the statement.

Ms. Cobbins, UG Clerk, asked if any members of the Commission wished to disclose contact with proponents or opponents on any item on the agenda. **Commissioner Markley** disclosed contact with opponents and proponents of Special Use Permit #SP-2016-32 and Plan Review Application #PR-2016-7. **Commissioner Bynum** disclosed contact with proponents of Change of Zone Application #3106 and proponents and opponents of Special Use Permit #SP-2016-32. **Commissioner Murguia** disclosed contact with Change of Zone Application #3106, Special Use Permit #SP-2016-28, and Vacation Application #R/W-2016-1, and individuals and businesses with Plan Review Application #PR-2016-7 and Special Use Permit #SP-2016-32. **Commissioner Walters** disclosed contact with proponents of Special Use Permit #SP-2016-32. **Commissioner McKiernan** disclosed contact with proponents and opponents of Special Use Permit #SP-2016-32. **Commissioner Townsend** disclosed contact with proponents and opponents of Special Use Permit #SP-2016-32. **Commissioner Walker** disclosed contact with proponents and opponents of Special Use Permit #SP-2016-32 and opponents of Plan Review Application #PR-2016-7. **Commissioner Philbrook** disclosed contact with proponents and opponents of Special Use Permit #SP-2016-32. **Commissioner Johnson** disclosed contact with proponents and opponents of Special Use Permit #SP-2016-32. **Mayor Holland** disclosed contact with proponents and opponents of Special Use Permit #SP-2016-32.

Ms. Cobbins, UG Clerk, read all items on the Planning and Zoning Consent Agenda.

PLANNING AND ZONING CONSENT AGENDA

Mayor Holland asked would any commissioner or anyone in attendance tonight like to step forward and remove any item from the consent agenda. All items not removed will be voted on by a single vote.

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

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CHANGE OF ZONE APPLICATIONS

ITEM NO. 1 – 16548...CHANGE OF ZONE APPLICATION #3101 – FRANKLIN CENTER, INC.

Synopsis: Change of zone from R-1(B) Single Family District to CP-O Planned Non-Retail Business District for a multi-use community center at 1403 Metropolitan Avenue, submitted by Robin H. Richardson, Director of Planning. Applicant is seeking a change of zone in order to redevelop it as a multi-use community center. The Planning Commission voted 10 to 0 to recommend approval of Change of Zone Application #3101, subject to:

Urban Planning and Land Use Comments:

1. As this is a historic building, any physical changes to the exterior are subject to Unified Government and Kansas State Historic landmark review.

2. The current website (franklincenterkc.org) advertises the space as available for event rentals. All event centers in Kansas City, Kansas are subject to a special use permit. A SUP must be obtained before the space may be rented to the public for events.

Applicant Response: An application for SUP has been submitted.

3. What are the proposed changes to the exterior of the building? Please provide plans.

Applicant Response: See attachments.

4. Security will be according to city code.

5. Windows and doors will be closed during use of the event spaces.

6. There will be an employee on-site during all the events.

7. No outside music after 6:00 p.m.

8. All events will end before midnight.

9. The special use permit is for two years.

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): Final Driveway entrance plan shall be submitted to UG for Engineering approval prior to acquisition of Right-of-Way permit required for construction.

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

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

ITEM NO. 2 – 16549...CHANGE OF ZONE APPLICATION #3106 – BYRON RAUSCH II AND KATHY RAUSCH

Synopsis: Change of zone from R-1(B) Single Family District to R-2 Two Family District for continuation of two residences on one lot at 3321 N. 51st Street, submitted by Robin H. Richardson, Director of Planning. Applicants are seeking a change of zone in order to continue to use the two residences on one, 2.89 acre lot. The Planning Commission voted 10 to 0 to recommend approval of Change of Zone Application #3106, subject to:

Urban Planning and Land Use Comments:

1. Subject to approval, a \$50.00 ordinance publication fee shall be submitted to the Urban Planning and Land Use Department so staff can publish the rezoning ordinance.

2. What is the purpose of rezoning the property?

Applicant Response: The purpose of the rezoning is to make the property conforming so we can sell the property.

3. According to the Appraiser’s Office website, one of the structures was built in 1925. There is no other information that staff could find regarding the construction year of the utility building? Do you have any additional information that will assist staff in determining the age of the structure?

Applicant Response: We were told that the house was built in 1924 by someone in zoning.

4. The parcel was annexed into the city in 1966. Our parcel maps, dating back to March 16, 1966 show two structures and a garage on the parcel.

5. Sec. 27-340 *Dwelling* means a building or portion thereof intended for occupancy for residential purposes but not including hotels, motels, rooming houses, nursing homes, temporary shelters, tourist homes, or trailers.

Sec. 27-370 *Dwelling, two-family* means a dwelling containing two dwelling units, a duplex.

After talking to the GeoSpatial Services Department, on February 27, 1961, a building permit was issued for a 1,232 square foot garage. The old garage was removed as part of completing the new garage.

A drawing was submitted with the building permit in 1961 which shows 3321R as a utility building, not a residence. Between 1961 to the present, the utility building was converted to a

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single family home without a building permit. Although labeled a utility building other County records indicate it was a house and two houses were allowed by county zoning after that.

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.

Staff Conclusion

1. In order to rectify this issue, staff recommends the following: Zoning detached units R-2 Two Family District is unconventional as it is a duplex district and these units are not technically a duplex, but due to the unique nature of the property is the best solution.

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

SPECIAL USE PERMIT APPLICATIONS

ITEM NO. 1 – 16551...SPECIAL USE PERMIT #SP-2016-22 – HENRY MENDEZ

Synopsis: Special Use Permit for auto sales and repair shop at 3400 Gibbs Road, submitted by Robin H. Richardson, Director of Planning. Applicant wants to conduct auto sales in conjunction with an existing towing, mechanic and repair shop. The Planning Commission voted 10 to 0 to recommend approval of Special Use Permit Application #SP-2016-22 for two years, subject to:

Urban Planning and Land Use Comments:

1. Per the Business License Department:
 - a. Applicant has filed and maintained the occupation tax already for a repair shop and tow service at this address since July 2010. If approved for auto sales, will need to file application with our office for that business activity. Their office is at 4953 State Avenue, KCK 66102. Their number is (913) 573-8780.
2. In order to calculate the required parking, please provide the square footage of the building. The parking ratio for vehicle repair is four spaces for every 1,000 square feet of building area.
Applicant Response: The building is 1,200 square feet.

Staff Response: Based on the square footage, five spaces are required for customer parking.

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3. Per Sec. 27-593(b)(20)a.

a. Upgrade parking, including striping and/or resurfacing of parking lots, if deemed necessary by staff.

b. Landscaping, screening, and façade improvements to meet commercial design guidelines.

The parking lot needs to be restriped and resurfaced, as the asphalt and concrete lot has become degraded. With that said, on the scaled site plan (drawing), please illustrate where the cars will be parked.

Additionally, the Commercial Design Guidelines requires that trees be planted at least 75 percent greater than the district requirement. The requirement is one tree per 7,000 square feet of site area; therefore four trees are required to be planted. Please indicate on the scaled site plan (drawing) where the trees will be planted.

Applicant Response: We will restripe the parking stalls, reseal the parking lot and plant four Maple trees.

4. Per Sec. 27-593(b)(20)d.1-3.

a. Parking of the automobiles under heavy service repair, or mechanics shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by sections 27-466 through 27-470.

b. Parking shall be upgraded to current standards and regulations including medians, landscaping, and screening.

c. Each automobile shall be in a striped, designated parking space.

Please provide a more detailed drawing that shows the parking allocated for 3400 Gibbs Road. This includes parking spaces for customers, vehicles that are being repaired and those that are for sale.

Applicant Response: Please see the site plan.

5. In order to have legitimate signage, a sign permit must be filed with the Urban Planning and Land Use Department by a licensed and bonded sign company with the Kansas City, Kansas Business Licensing Department.

Applicant Response: The current sign is encased in a cabinet that is posted with cement poles to the ground and welded in place. This sign is not freeflowing and not in the form of a banner.

6. No displays on the sidewalk, this includes signs, pennants, attention-attracting devices, etc.

Applicant Response: Understood.

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 McKiernan made a motion, seconded by Commissioner Walker, to approve Special Use Permit Application #SP-2016-22 for two years, subject to the stipulations. Roll call was taken and there were nine

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“Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 2 – 16552...SPECIAL USE PERMIT #SP-2016-23 – ANN HOINS WITH YOUNG SIGN COMPANY, INC.

Synopsis: Special use permit for an electronic message sign for the Technical Education Center at 6565 State Avenue, submitted by Robin H. Richardson, Director of Planning. Applicant wants to erect an electronic message sign for the Kansas City, Kansas Community College Technical Education Center. The Planning Commission voted 10 to 0 to recommend approval of Special Use Permit Application #SP-2016-23, for two years subject to:

Urban Planning and Land Use Comments:

1. Appearance and Location: Please submit additional drawings and site plans to indicate placement and size of the proposed sign.

Applicant Response: See attached documentation.

2. Approval is for two years.

Action: Commissioner McKiernan made a motion, seconded by Commissioner Walker, to approve Special Use Permit Application #SP-2016-23 for two years and subject to stipulations. Roll call was taken and there were nine “Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 3 – 16553...SPECIAL USE PERMIT #SP-2016-25 – DALLAS WOLFE

Synopsis: Special Use Permit for an auto repair shop and used auto sales at 914 South 12th Street, submitted by Robin H. Richardson. The applicant is wanting to conduct used auto sales at his existing auto repair shop. The Planning Commission voted 10 to 0 to recommend approval of Special Use Permit Application #SP-2016-25 for two years, subject to:

Urban Planning and Land Use Comments:

1. Per the Business License Department:

a. This would appear to be a new application, but we do have existing auto repair service (Alfredo’s Auto Service) having relocated to this location in November 2013. That repair shop renewed for 2015 and is in renewal status for 2016. We have not been advised if they may have closed or vacated. Is this for a new or co-occupying business at this address? If the existing repair shop is adding auto sales, they will need to file an application for the addition with our

office for that business activity. If this is for a new business entity they will need to make application with our office.

Their office is at 4953 State Avenue, KCK 66102. Their number is (913) 573-8780.

Applicant Response: The business operation will continue as a repair shop. It is the intent to add used car sales to the existing business under the existing license.

2. Per Sec. 27-593(b)(20)a.

a. Upgrade parking, including striping and/or resurfacing of parking lots, if deemed necessary by staff.

b. Landscaping, screening, and façade improvements to meet commercial design guidelines.

The parking lot needs to be restriped and resurfaced, as the asphalt and concrete lot has become degraded. With that said, on the scaled site plan (drawing), please illustrate where the cars will be parked. Additionally, the Commercial Design Guidelines requires that trees be planted at least 75 percent greater than the district requirement. The requirement is one tree per 7,000 square feet of site area; therefore three trees are required to be planted. Please indicate on the scaled site plan (drawing) where the trees will be planted.

Applicant Response: Accompanying is a revised site plan meeting the requirements of the comments.

3. Per Sec. 27-593(b)(20)d.1-3.

a. Parking of the automobiles under heavy service repair or mechanics shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a parking lot below that is required by sections 27-466 through 27-470.

b. Parking shall be upgraded to current standards and regulations including medians, landscaping, and screening.

c. Each automobile shall be in a striped, designated parking space.

Please provide a more detailed drawing that shows the parking allocated for 914 South 12th Street. This includes parking spaces for customers, vehicles that are being repaired and those that are for sale.

The “existing pavement” called out on the site plan does not depict any striping or ADA compliance.

Applicant Response: Accompanying is a revised site plan meeting the requirements of the comments.

4. The proposed privacy fence shall be at least 6’ in height, comprised of wood and have masonry columns every 32’ on center.

Applicant Response: Accompanying is a revised site plan meeting the requirements of the comments.

5. Per Sec. 27-593(b)(20)e. Install/repair sidewalks per code. The sidewalk along North 12th Street shall be built that meets City Code.

Applicant Response: Accompanying is a revised site plan meeting the requirements of the comments.

6. In order to have legitimate signage, a sign permit must be filed with the Urban Planning and Land Use Department by a licensed and bonded sign company with the Kansas City, Kansas Business Licensing Department.

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Applicant Response: Understood and will comply.

7. No displays on the sidewalk, this includes signs, pennants, attention attracting devices, etc.

Applicant Response: Understood and agreed.

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 McKiernan made a motion, seconded by Commissioner Walker, to approve Special Use Permit Application #SP-2016-25 for two years, subject to the stipulations. Roll call was taken and there were nine "Ayes," Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 4 – 16554...SPECIAL USE PERMIT #SP-2016-26 – DR. KELLI MATHER WITH USD #500

Synopsis: Renewal of a Special Use Permit (#SP-2013-33) for the temporary use of land for a modular classroom at William White Elementary School at 2600 North 43rd Terrace, submitted by Robin H. Richardson. Applicant is requesting a renewal of a special use permit to continue use of a modular classroom at William A. White Elementary School. The Planning Commission voted 10 to 0 to recommend approval of Special Use Permit Application #SP-2016-26 for two years, subject to:

Urban Planning and Land Use Comments:

1. Please submit current photos of the modular classroom.

Applicant response: See submitted photos.

2. How long is the modular classroom anticipated to be in use?

Applicant response: See submitted response letter.

3. Approval is for two years.

Action: Commissioner McKiernan made a motion, seconded by Commissioner Walker, to approve Special Use Permit Application #SP-2016-26 for two years, subject to the stipulations. Roll call was taken and there were nine

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“Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 5 – 16555...SPECIAL USE PERMIT #SP-2016-28 – FRANKLIN CENTER, INC.

Synopsis: Request for a special use permit for an event hall with live entertainment at 1403 Metropolitan Avenue, submitted by Robin H. Richardson, Director of Planning. Applicant wants a special use permit to hold events at the Franklin Center. The Planning Commission voted 10 to 0 to recommend approval of Special Use Permit #SP-2016-28 for two years subject to:

Urban Planning and Land Use Comments:

1. As this is a historic building any physical changes to the exterior are subject to Unified Government and Kansas State Historic landmark review.

2. The current website (franklincenterkc.org) advertises the space as available for event rentals. All event centers in Kansas City, Kansas are subject to a special use permit. A SUP must be obtained before the space may be rented to the public for events.

Applicant Response: An application for SUP has been submitted.

3. What are the proposed changes to the exterior of the building? Please provide plans.

Applicant Response: See attachments.

4. Security will be according to city code.

5. Windows and doors will be closed during use of the event spaces.

6. There will be an employee on-site during all the events.

7. No outside music after 6:00 p.m.

8. All events will end before midnight.

9. The special use permit is for two years.

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):

a. Final Driveway entrance plan shall be submitted to UG for Engineering approval prior to acquisition of Right-of-Way permit required for construction.

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

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Action: Commissioner McKiernan made a motion, seconded by Commissioner Walker, to approve Special Use Permit Application #SP-2016-28 for two years, subject to the stipulations. Roll call was taken and there were nine “Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 6 – 16556...SPECIAL USE PERMIT #SP-2016-29 – TIM CONRAD WITH PIPER USD #203

Synopsis: Request for a special use permit for the temporary use of land for a modular classroom at Piper Middle School at 4420 North 107th Street, submitted by Robin H. Richardson, Director of Planning. The applicant is requesting a special use permit to place a temporary structure near their building for the purposes of having classrooms for 8th grade students. The Planning Commission voted 10 to 0 to recommend approval of Special Use Permit Application #SP-2016-29 for two years, subject to:

Urban Planning and Land Use Comments:

1. Subject to approval, the special use permit will be valid for two years.
2. Approximately how many students will be utilizing this facility per day?
Applicant Response: 200 8th grade students.
3. How many classrooms will be used in the temporary structure? The plans indicate there will be eight classrooms in the structure; will they all be in use?
Applicant Response: All eight will be used.
4. Is there any indication of the length of time this structure will be necessary?
Applicant Response: At least two years.
5. What are you currently doing to account for the 5th and 8th grade classes? Why is that no longer a viable option?
Applicant Response: The school district has experienced growth that they have been able to keep up with until now. The projected amount of students exceeds the capacity for the facilities.
6. A building permit is required for the temporary modular classroom. Please submit the necessary plans to the Building Inspection Department for review and approval.

Public Works Comments

1. Items that require plan revision or additional documentation before engineering can recommend approval: None.

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Action: Commissioner McKiernan made a motion, seconded by Commissioner Walker, to approve Special Use Permit Application #SP-2016-29 for two years, subject to the stipulations. Roll call was taken and there were nine “Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 7 – 16558...SPECIAL USE PERMIT #SP-2016-34 – PREMIER AUTOMOTIVE KC

Synopsis: Request for a special use permit for a used car dealership at 1 Eaton Street, submitted by Robin H. Richardson, Director of Planning. Applicant wants to operate a used car dealership. The Planning Commission voted 10 to 0 to recommend denial of Special Use Permit Application #SP-2016-34.

Action: Commissioner McKiernan made a motion, seconded by Commissioner Walker, to deny Special Use Permit Application #SP-2016-34. Roll call was taken and there were nine “Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 8 – 16559...SPECIAL USE PERMIT #SP-2016-35 – SHAUNA ADAMS WITH SCOOTER’S ACADEMY

Synopsis: Request for a special use permit for a childcare center at 1416 Freeman Avenue, submitted by Robin H. Richardson, Director of Planning. Applicant wants to operate a childcare center in a vacant building at 1416 Freeman Avenue. The Planning Commission voted 10 to 0 to recommend approval of Special Use Permit Application #SP-2016-35 for two years, subject to:

Urban Planning and Land Use Comments:

1. How many children will be in the center? Additionally, how many staff members will be employed at the center?

Applicant Response: 20-25 children; however, enrollment will gradually increase over a two-year span not exceeding 25 children. Also, number of children enrolled will include before and after school, so there are times less children will be attending at one time.

There will be 3-4 staff members, which includes the Educational Director; however, staff will gradually increase over a two-year span not exceeding four staff members.

2. What are your proposed days and hours of operation?

Applicant Response: The hours are Monday through Friday, 6:00 AM to 6:00 PM, closed on major holidays.

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3. Where will staff and parents park their vehicles?

Applicant Response: Staff will park in front of the building on Freeman Avenue; however, they will not block the front entrance sidewalk because they will park further east in front of the vacant lots. Parents will also park on Freeman Avenue in front of home closer to the location and on the west side of the residence on 15th Street. In addition, there will be a parking pad in the back of the building for handicap access and an additional parking space for parent parking. See attached hand drawing.

4. Please provide a business plan of how the day care center will function on a daily basis.

Applicant Response: See attachment.

5. You will need to comply with any building code related upgrades to the building in order to occupy the structure as a childcare center. Please contact the Building Inspection Department at (913) 573-8620 for assistance.

Applicant Response: I contacted the department and was advised that I will need to contact them again when their services are needed.

6. Signage may not be displayed in the yard for advertising.

Applicant Response: Acknowledged.

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 McKiernan made a motion, seconded by Commissioner Walker, to approve Special Use Permit Application #SP-2016-35 for two years, subject to the stipulations. Roll call was taken and there were nine "Ayes," Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 9 – 16560...SPECIAL USE PERMIT #SP-2016-37 – CARLA DRESCHER WITH THE BLUE DOOR PROJECT

Synopsis: Request for a special use permit for a youth group home at 3535 Wood Avenue, submitted by Robin H. Richardson, Director of Planning. Applicant seeks approval to operate a group home for up to 16 youths, ages 18 and under. The facility would also include up to ten staff members and volunteers for a total of 28 persons on-site. The Planning Commission voted

10 to 0 to recommend approval of Special Use Permit Application #SP-2016-37 for two years, subject to:

Staff Summary

Staff feels that this organization could be a great asset to the community, serving a population of youth that is vulnerable and in need. The applicant seems to have a thorough and well-planned operation proposed, making the necessary upgrades to both the home and the site in general. Staff recommends approval for two years.

Building Inspection Comments

This project will be a change of occupancy; a sprinkler system will be required.

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 McKiernan made a motion, seconded by Commissioner Walker, to approve Special Use Permit Application #SP-2016-37 for two years, subject to the stipulations. Roll call was taken and there were nine "Ayes," Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

VACATION APPLICATION

ITEM NO. 1 – 16569...VACATION APPLICATION #R/W-2016-1 – FRANKLIN CENTER, INC.

Synopsis: Vacation of right-of-way at 1403 Metropolitan Avenue, submitted by Robin H. Richardson, Director of Planning. The applicant wants to vacate a portion of the right of way along Metropolitan Avenue and 14th Street to be used as a portion of their parking area. The Planning Commission voted 10 to 0 to recommend approval of Right-of-Way Vacation Application #R/W-2016-1, subject to:

Urban Planning and Land Use Comments

None

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):

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- a. ROW “Vacation” will leave existing retaining wall in the possession of the current owner.
 - b. Final Driveway entrance plan shall be submitted to UG for Engineering approval prior to acquisition of Right-of-Way permit required for construction.
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 McKiernan made a motion, seconded by Commissioner Walker, to approve Vacation Application #R/W-2016-1, subject to the stipulations.** Roll call was taken and there were nine “Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

MISCELLANEOUS – ORDINANCES

ITEM NO. 1 – 16572...ORDINANCE: REZONE AT 7251 LOCUST AVENUE

Synopsis: An ordinance rezoning property(#3099) located at 7251 Locust Avenue from R-1 Single Family District to A-G Agriculture District, submitted by Robin H. Richardson, Director of Planning.

Action: **ORDINANCE NO. O-19-16,** “An ordinance rezoning property located at approximately 7251 Locust Avenue in Kansas City, Kansas, by changing the same from its present zoning of R-1 Single Family District to A-G Agriculture District.” **Commissioner McKiernan made a motion, seconded by Commissioner Walker, to approve the ordinance.** Roll call was taken and there were nine “Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 2 – 16573...ORDINANCE: REZONE AT 1405 NORTH 98TH STREET

Synopsis: An ordinance rezoning property (#3087) located at 1405 North 98th Street from CP-2 Planned General Business District to B-P Planned Business Park District, submitted by Robin H. Richardson, Director of Planning.

Action: **ORDINANCE NO. O-20-16,** “An ordinance rezoning property located at approximately 1405 North 98th in Kansas City, Kansas, by changing the same from its present zoning of CP-2 Planned General Business District to B-P Planned Business Park District.” **Commissioner McKiernan made a motion, seconded**

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by **Commissioner Walker, to approve the ordinance.** Roll call was taken and there were nine “Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 3 – 16574...ORDINANCE: REZONE AT 3321 NORTH 51ST STREET

Synopsis: An ordinance rezoning property (#3106) located at 3321 North 51st Street from R-1(B) Single Family District to R-2 Two Family District, submitted by Robin H. Richardson, Director of Planning.

Action: **ORDINANCE NO. O-21-16**, “An ordinance rezoning property hereinafter described located at 3321 North 51st Street in Kansas City, Kansas, by changing the same from its present zoning of R-1(B) Single Family District to R-2 Two Family District.” **Commissioner McKiernan made a motion, seconded by Commissioner Walker, to approve the ordinance.** Roll call was taken and there were nine “Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 4 – 16575...ORDINANCE: REZONE 6925 RIVERVIEW AVENUE

Synopsis: An ordinance rezoning property (#3092) located at 6925 Riverview Avenue from R-1 Single Family District to MP-1 Planned Light Industrial and Industrial Park District, submitted by Robin H. Richardson, Director of Planning.

Action: **ORDINANCE NO. O-22-16**, “An ordinance rezoning property hereinafter described located at 6925 Riverview Avenue in Kansas City, Kansas, by changing the same from its present zoning of R-1 Single Family District to MP-1 Planned Light Industrial and Industrial Park District.” **Commissioner McKiernan made a motion, seconded by Commissioner Walker, to approve the ordinance.** Roll call was taken and there were nine “Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

Mayor Holland said before we move on to the Non-Consent Agenda I would like to recognize J.D. Rios who's a Trustee for the Kansas City, Kansas Community College, fellow elected official. Thank you for being here.

Also I would like to recognize Crystal Watson, former member of the District 500 School Board, and former Mayor Carol Marinovich who is here also. We appreciate your being here tonight.

PLANNING AND ZONING NON-CONSENT AGENDA

CHANGE OF ZONE APPLICATION

ITEM NO. 1 – 16550...CHANGE OF ZONE APPLICATION #3107 – PAO Y. HER WITH NEW LIFE FELLOWSHIP CHURCH

Synopsis: Change of zone from R-1 Single Family Residential District to A-G Agriculture District for accessory uses at 8820 Riverview Avenue, submitted by Robin H. Richardson. The applicant is seeking a change of zone from R-1 Single Family to A-G Agriculture in order to build and keep accessory buildings on the property. The Planning Commission voted 6 to 4 to recommend approval of Change of Zone Application #3107.

Urban Planning and Land Use Comments:

1. The reason this case came before us was the unsightly nature of the structures that are currently on the property, particularly the chicken coops. If approved and applicant is allowed to have multiple accessory structures on the property, they must meet all Planning and Building codes.

a. Must be at least 50 feet from property line

2. Based on photos provided, it seems that church services are being held on site. If so, this is not in compliance with assembly building codes, bathrooms and other facilities may be required. Please contact Building Inspection (913-573-8620) on this matter.

3. All future construction on this site must be done with proper building permits.

4. Staff feels that, because the property meets the minimum requirements of AG Agriculture District zoning, we could approve the change of zone. However, there are numerous other issues at this site. Staff could recommend approval of this change of zone but it will not be published. Therefore, the property will not be in compliance with City ordinances until the building permits are obtained, the assembly issues are resolved, and the property is clean and clear of all debris and the chicken coops are in good condition and screened from adjacent properties.

5. There are significant issues on this site. It does not seem appropriate to rezone the site at this time.

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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

Conservation District Comments

In summary, the following limitations and resource concerns were noted for this plat:

1. There are five major soil types that were identified: Gosport-Sogn complex, 7 to 35 percent slopes, Ladoga silt loam, 3 to 8 percent slopes, Sharpsburg silty clay loam, 4 to 8 percent slopes eroded, Armster clay loam, 8 to 12 percent slopes, eroded and Orthents. These soil types are considered highly erodible when the surface is denuded of a protective cover.
2. This site has had some clearing of timber. There may have been some temporary seeding done. It is hard to tell this time of year. A permanent seeding will need to be established if not already seeded.
3. It appears that at least part of the area is going to be used for some agricultural enterprise.
4. Shrink Swell potential has been identified as a limiting factor for the development of dwellings. Shrinking and swelling can cause damage to buildings, roads and other structures and to plant roots. Special design commonly is needed.

Technical assistance is available from our office. Limitation maps, detail soils reports and a conservation plan can also be requested for this site from our office.

The ratings and other information in these reports are based on estimated engineering properties of the soils, on available test data and on field experience. The soil is ordinarily examined to a depth of about 6 feet. At a greater depth, additional geological investigation may be needed. The natural soils and drainage pattern has been changed in this area due to previous urban development. Therefore, the physical composition influencing the structure of the natural soil has already been altered; however, some generalities can still be applied for these soils.

On site investigation is needed for detail planning as some delineation on the maps includes soils that differ from the named soil. Soil lines may not be exact therefore; on site investigation is needed for site specific planning.

Pao Y. Her, Senior Pastor of New Life Fellowship Church, said because English is my second language, probably you might not understand me well so here is my Assistant Pastor. He will be my spokesperson or interpreter.

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Ying Her, Assistant Pastor of New Life Fellowship Church, 3510 N. 51st Street, Kansas City, Kansas said we basically want to change this R-1 property into Agricultural so that our members of the church will be able to raise chickens on the land that is the Church's and also to do some planting and just some garden work there as well.

Mayor Holland asked does staff have any comment on this application. **Mr. Toy** said no.

Mayor Holland opened the public hearing and asked would anyone in attendance tonight like to come forward and speak in favor of Change of Zone #3107. Let the record show no one is coming forward.

Mayor Holland asked would anyone like to speak in opposition to this proposal. Let the record show no one is coming forward.

Mayor Holland closed the public hearing

Action: Commissioner Markley made a motion, seconded by Commissioner Walters, to approve Change of Zone Application #3107 subject to the stipulations.

Commissioner Townsend said I did have one question about a Staff recommendation. I understand that the concern is not the change of zoning so much as the fact that there is non-compliance currently with building permits and some site plan issues. Could I hear more about that? I would like to ask the Reverend what the church's plans are with regard to coming into compliance.

Mayor Holland said I would like to ask the staff to respond first and then we'll ask the applicant to respond as well.

Byron Toy, Planner, said basically what the issue is the fact that there's an accessory building that's built within 50 feet of the property line which is not permitted within the R-1 or A-G District which is what they're seeking. In order to be in compliance, they will have to remove that structure and move it back 50 feet in order to do so. They will have to get a building permit to do that which they currently do not have when they erected that building in the first place.

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Mayor Holland asked the building was initially built without permits. **Mr. Toy** said that's correct. **Mayor Holland** asked does the applicant have anything to say about that.

Mr. Her said originally when the church bought the land, a few of them went to the City to talk about building this shelter. They originally thought that the property started from where the street ended, the road. From there on they built. They measured it out and I believe the structure is about 40 feet away from the street.

They originally thought that was okay because it was, the rule of thumb is 25 feet from the road or from city property. Again, they thought that the church property started right when the road ended. Hence, that's why it was built very close, now that we see it, to the yellow line of our property there.

We do have plans to survey the property. We have written out our little changes within the six months that we're going to be in compliance. We want to be in compliance with all the rules. We do have a little map here of what we plan on doing.

First is to survey the property. Second is to create a site plan. Third here you just mentioned is to bring the shelter structure into compliance in order to obtain a building permit if need be. Fourthly, to restructure and renovate the chicken coops if need to be in compliance.

Mayor Holland asked are you willing to enter into the record those stipulations as part of your application. **Mr. Her** said yes. **Mayor Holland** asked will the person who made the motion and second accept that stipulation as a part of the motion and the second. **Commissioner Markley** said yes. **Commissioner Walters** said yes.

Commissioner McKiernan said I guess the answers to that almost answers what I had. Mr. Toy, it says in staff recommendations if not resolved, the building permit and site plan issues, if not resolved within six months application would be denied by default. Would that happen retroactively, even if it were here approved tonight, if they did not complete these site plan and building permit and clear all those issues up, the special use permit would go away, is that correct. **Mr. Toy** said they're not seeking a special use permit. **Commissioner McKiernan** said the change of zone rather. **Mr. Toy** said we can withhold their publication of their rezoning until they resolve these issues. They resolve the issues, then we publish the rezoning, then the zoning is subsequently changed.

Mayor Holland said the rezoning would be contingent upon the completion of those items. **Mr. Toy** said that's correct. **Mayor Holland** said okay. **Commissioner McKiernan**

said is that the reason the staff recommended holding this over until those are resolved rather than approving tonight? **Mayor Holland** said I think it has the same effect, Commissioner. If it's not completed within six months, it wouldn't be posted formally until those were resolved. It would just be denied and it would not be reposted. Is that right? **Mr. Toy** said the initial reason why the holdover is for them to take care of these issues, then come back before us so they can be in compliance. **Mayor Holland** said so we could approve it tonight and do this. If it doesn't happen then its revoked. **Mr. Toy** said we don't publish the rezoning. **Mayor Holland** said fair enough.

Commissioner Townsend said I think that answered my concern that I understand the stipulation as long as the compliance comes within the six months. If it does not, then what would happen?

Mayor Holland said the item is properly before us with the stipulations as stated. I'll ask our Legal, do the stipulations require an increased number of votes to approve? **Ken Moore, Chief Legal Counsel**, said it is a change in recommendations and would require eight votes.

Action: Roll call was taken on the motion and there were nine "Ayes," Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

SPECIAL USE PERMIT APPLICATIONS

ITEM NO. 1 – 16557... SPECIAL USE PERMIT #SP-2016-32 - R. SCOTT BEELER WITH LATHROP & GAGE LLP

Synopsis: Special use permit for redevelopment and operation of a pari-mutuel racing facility at 9700 Leavenworth Road, submitted by Robin H. Richardson, Director of Planning. The applicant is requesting approval to redevelop the former Woodlands Race Track (dogs and horses) to operate a pari-mutuel racing facility with slot machines. The applicant feels that the proposed use will bring the property back as a functioning and productive property use, benefitting the overall area and complementing the existing development in the western portion of the county. The Planning Commission voted 8 to 2 to recommend approval of Special Use Permit Application #SP-2016-32, subject to:

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1. The term of the special use permit is concurrent with the operation of horse racing and electronic gaming. If there has been no horse racing or gaming for 18 months, then the special use permit will expire.
2. Electronic gaming and horse racing must be initiated by June 30th in the year following approval of amended gaming legislation. If the legislation is not approved by the end of the 2017 legislative session this special use permit is void.
3. The special use permit approval does not include greyhound racing; they would have to come back to amend this special use permit.
4. The maximum number of electronic gaming machines is 750.
5. There will be a horse racing season of a minimum of 60 days each year. The minimum season is 51 days and the maximum season is 69 days (15% above or below the current statute but not to exceed the State law).
6. The facility will be between 85,000 and 100,000 square feet.
7. No public funds will be used for any portion of the facility. No public funds will be used to comply with any of the stipulations of this special use permit.
8. Comply with all previous orders and stipulations concerning lighting, public address system and odor unless revised during the final site plan process.
9. The applicant will request an inspection for compliance of the stipulations by Planning staff prior to opening.
10. There will be a \$70 million dollar minimum investment which includes land and facility purchase.
11. This will be a 24-hour operation for electronic gaming and pari-mutuel racing.
12. The applicant will comply with all Unified Government Codes and Ordinances (and that will cover the stormwater issues).
13. This special use permit is not in effect until a state gaming license is issued.
- 14 .A final plan review is required.
- 15.If a traffic control signal becomes warranted, as measured by common engineering standards, at the main entry of the facility, the applicant shall agree to pay all design and construction costs associated with the new signal. The development team needs to determine if this is necessary (and in place) before the first day of racing.
16. The facility must pay the annual Unified Government Occupation Tax.

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17. The applicant will purchase and install an Outdoor Warning Siren and transfer ownership and operation to the Unified Government after installation and testing.

Doug Bach, County Administrator, said there's been some questions asked about this application as we've been leading up to tonight's vote, so I just wanted to take a moment to clarify exactly what we were looking at. Tonight's item regarding the special use permit for horse racing and slot machines at the Woodlands facility is to consider just that. Is this a proper use for this facility? Does it fit within what the community considers to be an approved use for this location?

I think a lot of the confusion that has come about is when we look back several years ago when we went through the casino process that came to Wyandotte County which ultimately resulted in the Hollywood Casino located by the Speedway, that was a different process. There were a lot of different criteria going on. At that point, we were selected in Wyandotte County to be the location for a casino. It was a very competitive process.

Many different proposals were submitted to this governing body. We went through it. They proposed various things on this as far as the share of how much revenue they would put forth to the community. They looked at charitable contributions, committed to many other building things that they would do at the site, along with going through the Planning and Zoning process.

Tonight's process really just considers one of those factors which were part of many of the factors that went through when we looked at the casino process. We're just looking at the Planning and Zoning items.

In stating this, I guess we'll continue to look, though it is important to note that everyone including the developer; should realize that our community does expect quality development in this area. We've placed a high emphasis on seeing quality development come forward and throughout in looking at development plans that would contemplate not only the single item that was being developed but other property that the developer controlled and owned. The former use of this property was the horse and dog racing facility and it never really contemplated what would happen with the hundreds of acres which surrounded that.

So that it still important to our community. In fact, there were 35 acres out to the south of the property that eventually fell into a delinquent taxation period and the City had to take that property over. It has become a liability for us to take care of.

Tonight our governing body will consider if the proposed use is in keeping with the planned use for the area and evaluate how the project and the surrounding land will be developed to ensure that there will be a future asset to our community and not any kind of liability.

That's just for clarification. I wanted to make sure the Commission was thinking about that from the same page and clearly how this is different from our former casino process.

Mayor Holland said at this time I'll ask the petitioner to step forward to the microphone and present the application. Please state your name and address for the record.

R. Scott Beeler, Lathrop & Gage, 10851 Mastin, Overland Park, Kansas, said I am pleased and very honored this evening to be here representing my client, Ruffin Woodlands, LLC, which is the current owner of the Woodlands racetrack. In beginning my comments, I first would like to say my personal thanks to each and every of the commissioners and Mr. Bach and his staff for taking the time that you all have taken to study this application, look at our information, hear from us, and make the same thank you to Rob Richardson and his staff. Everyone I know has spent a lot of time with this project and that is extremely important to my client and, I believe, to this community, and to the State of Kansas as a whole.

I began my comments before the Planning Commission last time we were here on April 11 by stating a little bit of history. If you'll bear with me I'd like to give you a little bit of it too.

The Woodlands, I like to say, was first. What I mean by that is everything out in western Wyandotte County that is there today was not there when the Woodlands application first was brought forward. I had the privilege of being part of that at that time. I had the privilege of actually having my pen be involved in the writing of the original pari-mutuel racing law, and frankly, what became state owned and operated gaming later on.

I was not involved at the time the Grace family owned the property and the piece that Mr. Bach referred to that came back into the ownership of the Unified Government. I was not involved at that time.

What the Woodlands was in 1989 when it opened its doors was a shining star in the Wyandotte County community. It was the brightest star, in fact, that was in this community at that time. I cannot tell you through all of the meetings that we've had how many people have expressed the wonderful times they had enjoying the Woodlands during it's heyday. I say

heyday because as we all know it did not last forever, although it lasted much longer than a lot of people realized. It started in 1989 and it did not close its doors until 2008.

All through the 1990s it was quite successful. Successful both in the operations with regard to the taxes it paid, with regard to the monies it paid to the State and the monies it paid into local charities through its entity, Track East.

The Woodlands application that is being brought forward to you today is largely similar, but yet still different, than what we were doing back in 1989. When I say it is similar it is in a position on the property that is exactly the same as what is there today, that is the horse facility. I'm here to ask for your permission for an SUP to allow us to operate that horse facility, inside which it will have 750 gaming machines and it will have a very large entertainment destination type facility. I have used the terminology "Gilley's" as an example when I've talked to a lot of you because most people know what the movie, Urban Cowboy, had in it and what that facility was all about: live music, dancing and a draw not only to the very local community, but to the metroplex as a whole. We plan to have that in this facility as well.

The bottom line is the Kansas law has allowed racetracks to have gaming machines in them. That has been the case. The problem is not here with you all. It's a problem in Topeka in the legislature in terms of the dollars and cents that are paid there and whether or not this project can be economically feasible. Our budget shows that with the addition of 750 electronic gaming machines, and what we believe is a fair and reasonable and optimistic change in the law, we will have the opportunity to bring a viable project.

All things, all projects, especially ones that are complex like this, have an ordering to them, a sensible ordering. The bottom line is the state always looks to the locals to see if the use that's being prescribed is going to be allowed before they will make changes. In other words, they're basically saying why should we go out on a limb statewide, we're not Wyandotte Countians, if the county itself, is not blessing the use that you're prescribing. That's what Mr. Bach was referring to, I think, not to put words in his mouth, is the process we're about tonight. This is not the end step. It's the first step. We want to know that we can re-operate the Woodlands again.

I want to repeat, we had a special use permit for 317 acres. Had it in 1989 and had it until the track closed. The problem is your own Development Code says if you're closed for a significant period of time, your permit essentially lapses and you have to have it re-upped. This is different than what you typically would see where someone comes in, maybe there's a vacant

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piece of property or a piece of property that was used for an entirely different purpose and they're asking you to essentially burden that property with an SUP to do something.

Here, it's already there. We already know what it looks like. We already know how it operates. We already have the infrastructure. The streets are there. All we're asking to do is your permission to take down a building that has been there since 1989 and put a new modernized building up. In the course of doing that, and frankly in an SUP context, you all have heard that old terminology, the golden criteria. That's what you're to apply.

The Planning staff has looked at the golden criteria. We've corresponded with them about it. The bottom line is we meet all the golden criteria and the staff agrees. Based upon that, the staff agreed with our SUP application for its approval with some stipulations, which we have agreed to.

Then you go and look next at what does the neighborhood say. Your regulations say have a neighborhood meeting. We did that. We were delighted to have essentially 100+ people there. Those folks engaged us in about two hours of very intelligent questions, concerns, discussion, exchanges. Ultimately, left that meeting, and it would be my estimation and I don't mind whoever might take issue with me because I think I'm close to right, 99% of those folks left happy and believing in this project and expressing their support for it. Some of those include the School District Superintendent of Piper who was there. There were representatives of Fire and Police there. There were industry representatives there, some of whom I'm sure are here tonight, who spoke to this. All of them very much grassroots support for this project.

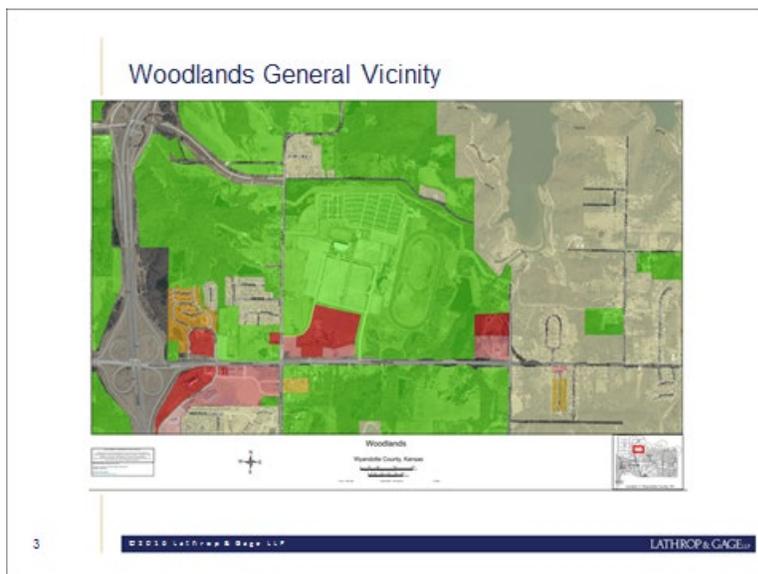
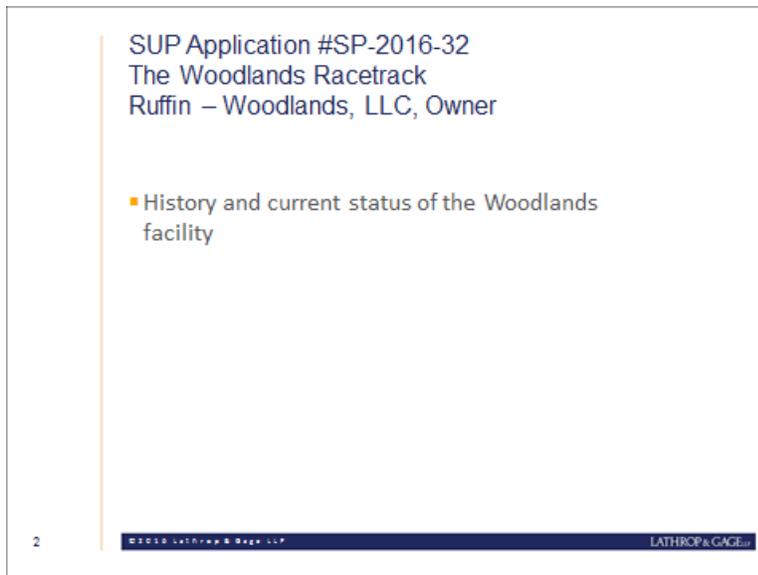
LATHROP
& GAGE^{LLP}

SUP Application #SP-2016-32
The Woodlands Racetrack
Ruffin – Woodlands, LLC, Owner

R. Scott Beeler, Lathrop & Gage LLP

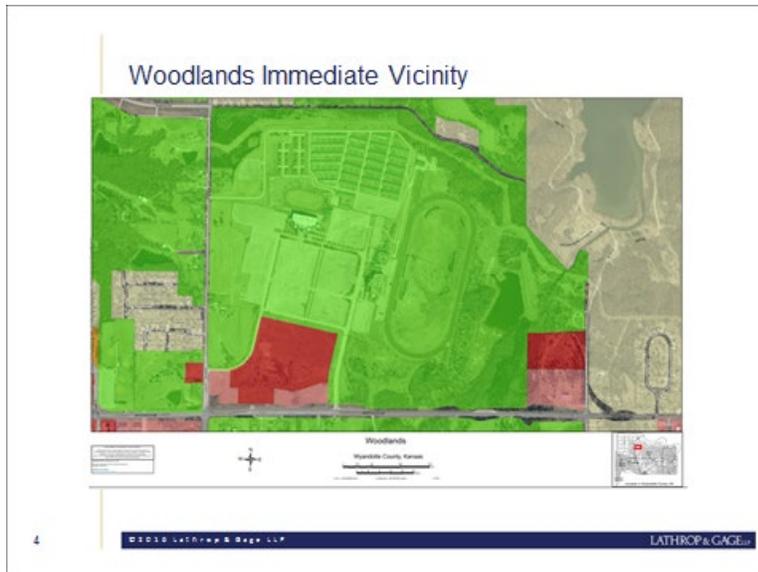
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I've put together a bit of a PowerPoint presentation just to reacquaint everyone with where we are.



This is a somewhat pulled out photograph, if you will, aerial with coloring placed on it. We're the big green piece in the middle. If you look out to the left hand side, that's the I-435 interchange, Leavenworth Road at the bottom, 99th Street on the west, Hurrelbrink on the north and 91st Street on the east.

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This one is pulled in just slightly. You can see it a little bit better and now you can actually see within the green where all of the backside was for the horse track, the track itself, and you can make out the two buildings. The lighter roofed one is at the dog track and the horse track is the little bit darker one in the right hand center.



This one is the same type of photograph, not a photograph this time but rather a parcel plan. The darker line that you see outlined there within the green is our actual special use boundary that we used back in 1989. You can see that in order to assure our surrounding neighbors that we were going to provide them privacy, we pulled back our boundary well over 300 feet, probably 600 feet on the east side, but 300 feet everywhere else at a minimum.

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Our application this time is the same line. I want to address one point on that. In order to, I'm going to call it not upset the apple cart, we attempted to file our application and ask essentially for the exact same boundaries, the exact same thing, and the exact same uses so that folks would know what they were getting because it was already there and they wouldn't have those concerns. What I've learned is that the legal description that we've used for notification purposes goes as we had it in 1989 all the way down essentially to Leavenworth Road and essentially across where the City now owns some property by virtue of the Grace tax sale that Mr. Bach referred to.

Obviously, our intention is not to burden the City's own property with our SUP, so I'm stipulating tonight to pull that legal description, in other words shrink it. We're not expanding it. We've over-noticed is the point here, not under-noticed. We'll pull the legal description back to our own boundary which essentially is the entry road off of 99th Street. It goes up to the southern boundary of the paved parking lot and back down the other direction. So we're going to shrink it back slightly and provide that new legal description. It doesn't require any permit to do that or permission. It's within the discretion of the landowner.



I've indicated to you the three principal uses of the property: horse racing, electronic gaming, and destination entertainment venues.

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SUP Application #SP-2016-32

- Concepts for Development:
 - Minimum development investment of \$70M
 - Current proposal of 2% net electronic gaming machine income paid to the Unified Government of Wyandotte County and Kansas City, Kansas
 - Anticipated additional taxes, with 34% mill levied taxes going to Piper School District

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LATHROP & GAGE, LLP

Now the concepts for the development. In conversations with a number of you and others, and certainly with my own client, we realized that there was some concern about well, what is it you really intend to do. You've told us you're not going to use that horse track, or at least you're not going to use it as it is today. I've said yes, you're right.

We're either going to tear it down completely and rebuild it in the same location or we will tear it down to what I call the bones, use the superstructure steel, and rebuild it from there. We're still working with those proposals.

In any event, I realized that we needed to be sure that we gave a commitment to the Unified Government that we were going to build the type of first class development that Mr. Bach referred to and we are. I did that by reaching an agreement with my own client here to commit to a minimum development investment of \$70M. That includes our land that we purchased and the facility that I'm describing to you.

The facility itself, and it may be on the next slide but I'll state it here, is to be a minimum of 85,000 square feet. I was talking to Mr. Richardson tonight. Right now the stipulation reads the facility will be between 85,000 and 100,000 square feet. I actually said, do we really need the 100,000 on there. We want to do a minimum of 85,000. Well, you can read into that we actually may do it even a little bigger than 100. It could turn out to be 101, 105, but it's going to be a significant facility.

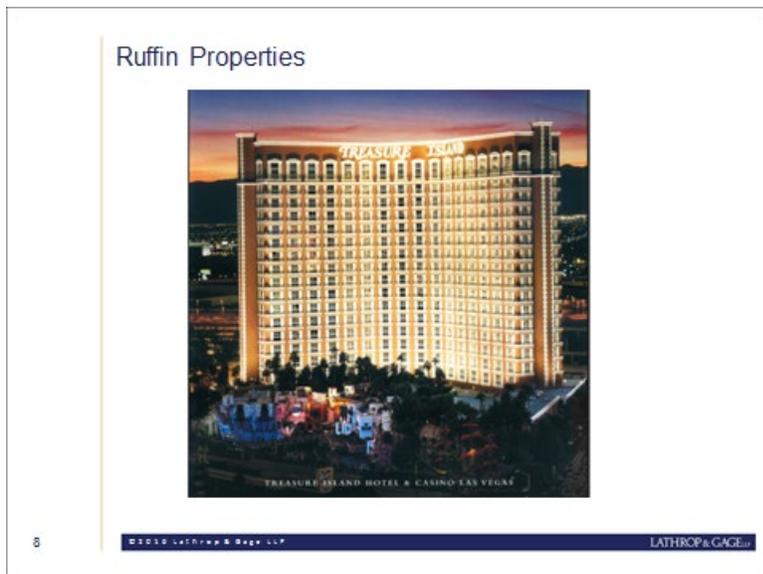
The \$70M is my attempt to provide a fair promise and a fair commitment to you, but one I hope to over perform on. In other words, we are fully expecting our facility to well exceed that number, all in. It is indeed a minimum development investment.

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I indicate there the current proposal also, just so the commissioners are aware, refers to the existing proposed legislation in Topeka which provides for a 2% net electronic gaming machine income to be paid to the Unified Government of Wyandotte County/Kansas City, Kansas. Net electronic gaming machine income, for those of us who don't write necessarily for a living, indicate in the definitions in the statute that it is the machine income. In other words, everything that somebody puts into that machine less the cash that is paid back out to the public and other consideration paid back out. In other words, I think there might have been some confusion among some as to whether or not the racing expenses somehow come out. They don't. Net here means from the electronic gaming machine revenues and income. Nothing else comes out.

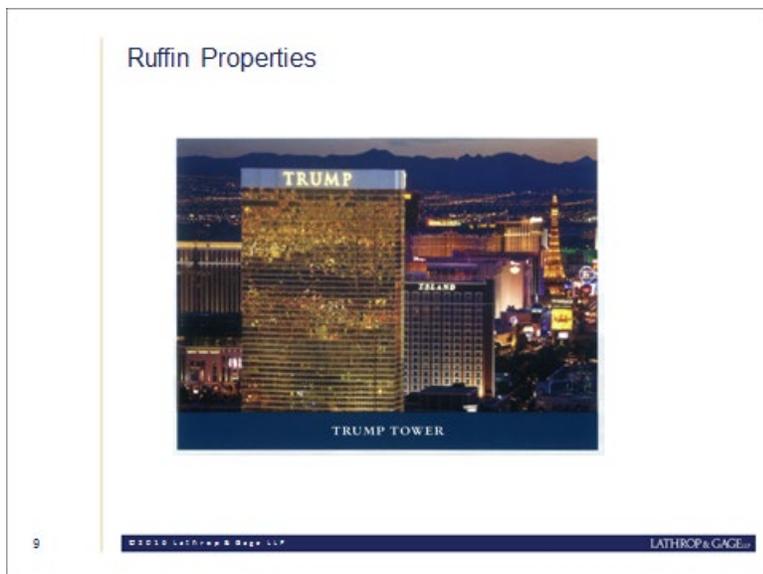
Right now we pay \$187,000 on that white elephant that sits out there in the way of property tax. If you use even a fraction of that \$70M number, and I did this just for easier math, I used a \$40M number. Obviously, it's going to be much higher than that by my commitment. Even at \$40M of valuation, it results in over \$1.8M of property tax on property that is sitting vacant today. We pay \$187,000, again rounding, that's a delta or a difference of \$1.6M that comes into the City.

Of that, Piper School District, pursuant to law with regard to the mill levy, receives 34 cents of every one of those dollars. This is a shot in the arm to Piper School District of over \$.5M per year. Money they would not otherwise receive unless this property was developed at this kind of level, not a housing level or something like that that would be certainly a much lesser value.



Couple of things that I've added to the slides, if you will. I have had some questions about the development experience of my client. I can assure you they are worldwide developers with decades and decades of experience. Most of you have read that they have the ownership of Treasure Island in Las Vegas which they purchased and completely have rehabilitated.

Lot of folks know this, but 20 of 28 of the largest hotels in the world are on the Las Vegas strip and Ruffin Properties is proud to be the owner of one of them in Treasure Island that has 2,800 plus rooms in and of itself.

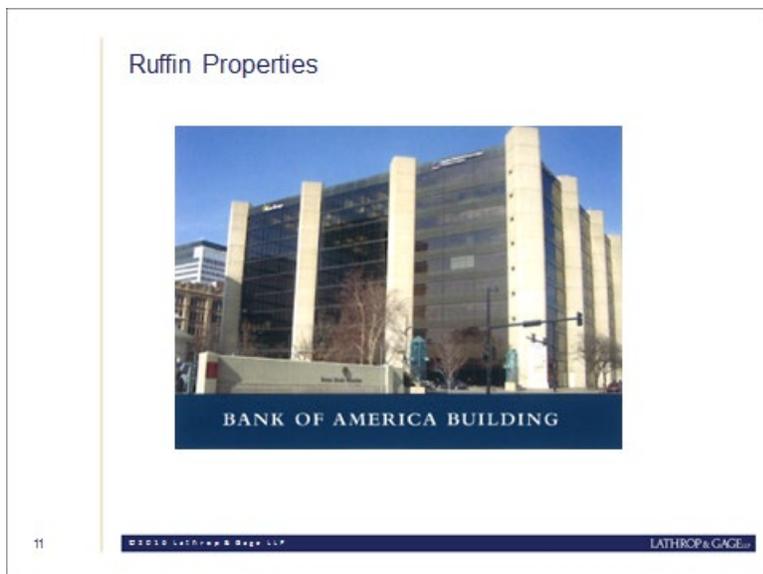


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Some have seen that name in the news a time or two. Mr. Ruffin actually is a partner in Trump Tower and built that building as the developer. Obviously, you can see the size of that and compare it to Treasure Island that I just described a minute ago behind that facility.

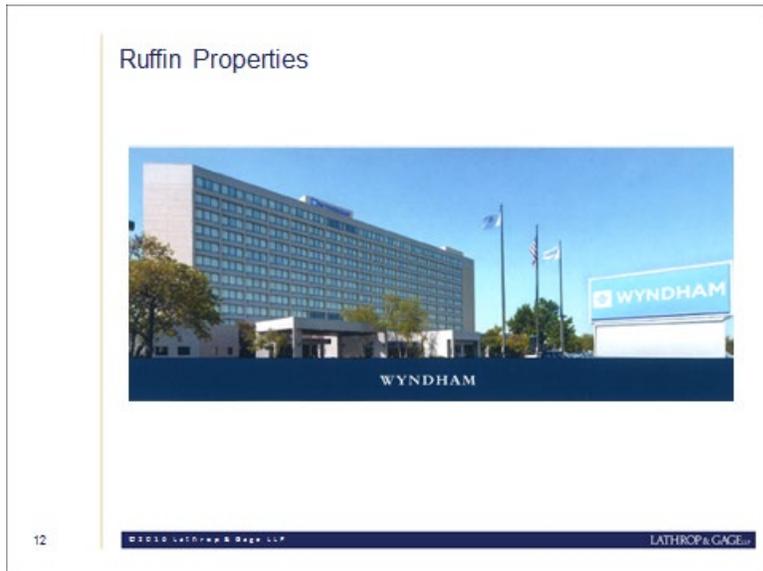


We're also pleased to be in contract with the Marriott Hotel chain. We have built and developed and/or rehabbed hotels in a number of states across the country including Long Beach there in that slide, Long Beach, California.

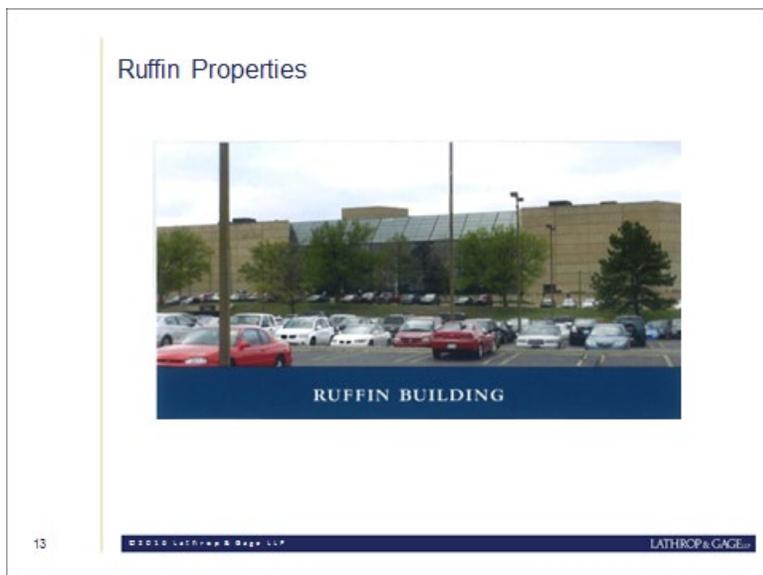


We are not only in hotel business. We've done a lot of the office building business. This is a large Bank of America building that has been rehabilitated by Ruffin.

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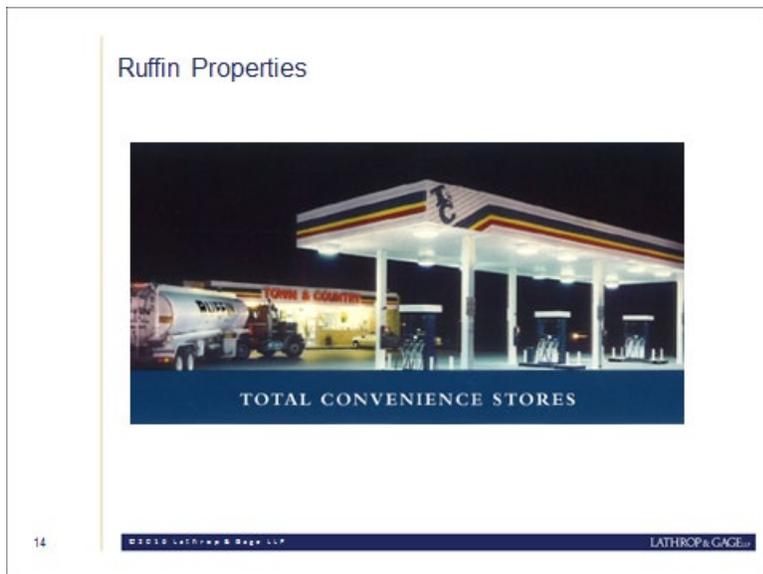


Another hotel, this is the Wyndham chain. We're not solely related to one chain or another. We have a number of business relationships. Again, you can see the size of the development.



That's the Ruffin Building in Wichita, Kansas. Again, purchased and completely remodeled and rehabilitated by the Ruffin Companies.

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Actually cutting teeth way back when, Mr. Ruffin was one of the original, very successful, builders and developers of gasoline stations and convenience stores in combination. That's an example of one of the many Total convenience stores. Again, I think it's important when I'm showing you this just to reference he is not only an owner, but he was the developer of these and actually built these projects and/or completely rehabilitated them.

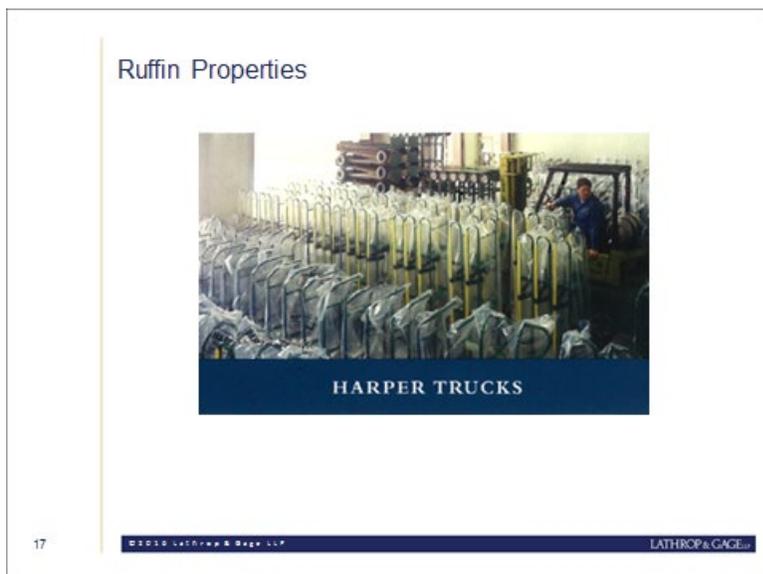


Another hotel chain.

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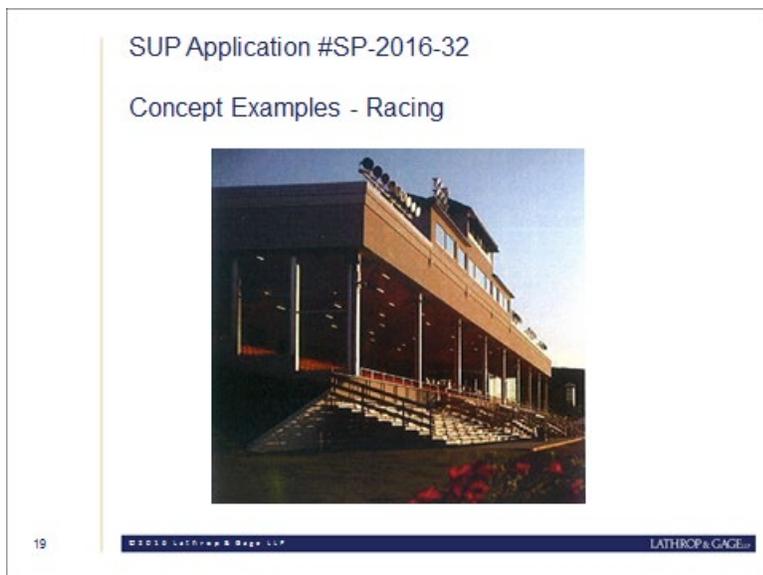
Another big not only office building, but an entire office complex made up of a number of retail and office uses combined, a mixed-use development is the legal term we like to use.



Also own manufacturing buildings. This one is for Harper Hand Trucks, one of the largest hand truck companies in the world and have built the center of development for them.

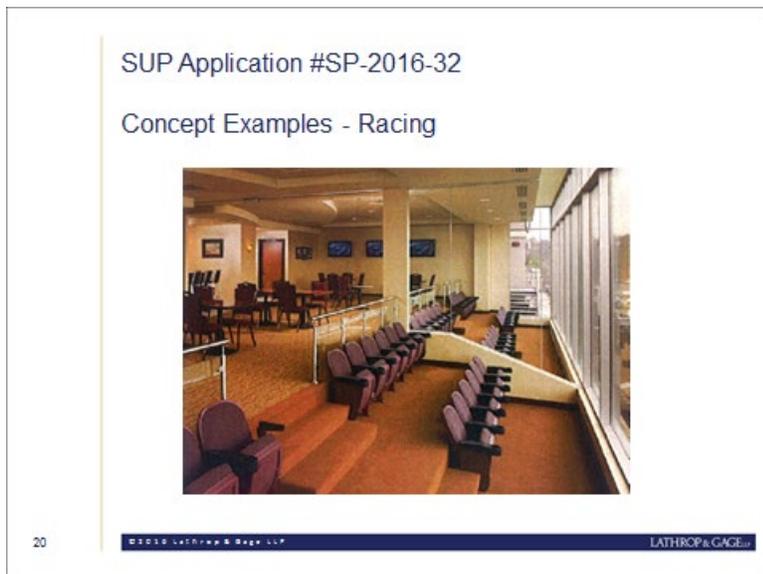


I decided to go ahead and put it in because I like the picture. It's an international developer as well, have about 12,000 acres of development ground in Belize which is awaiting development plans.



These slides have been seen before. Some folks have said well what kinds of things are you looking at. These are facilities that are in place that are racino type facilities as we're describing them, meaning a race track combined with some elements of a casino. These slides are facilities that are in operation in Ohio, Illinois, Maryland.

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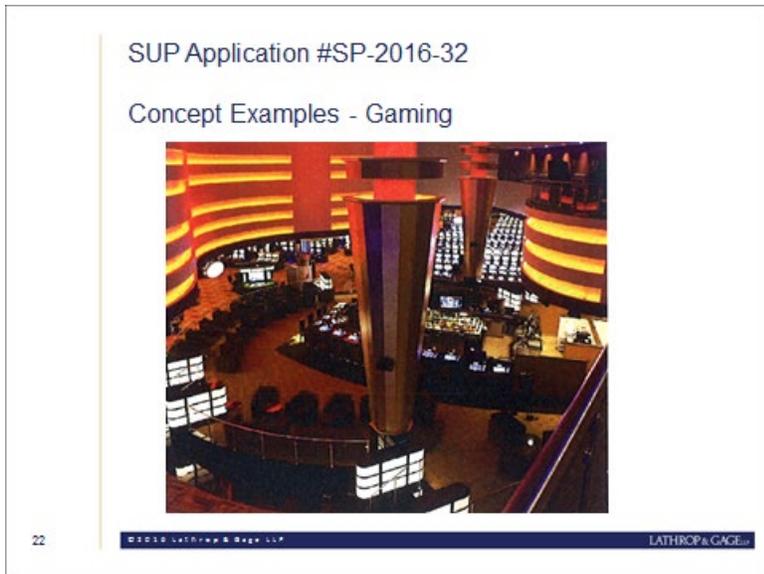


You can see here where some of the theatre seating would be looking out towards the race track.



More of the casino and restaurant floor. This facility, at least in concept, since this says dining and entertainment including the Gilley's, is expected to have three restaurant facilities.

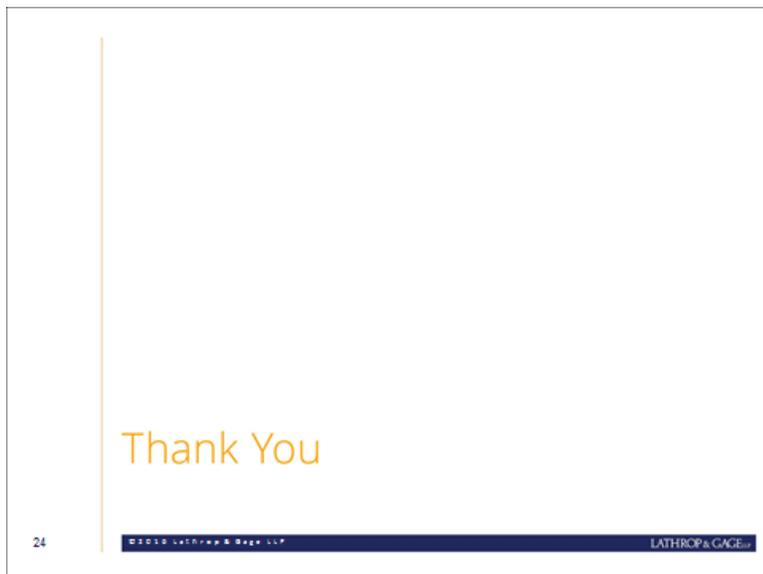
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This one from a second floor level looking down more onto a gaming floor. Again, you can see the quality of what has been constructed here. For those that have said that it could be four aluminum walls and ashtrays, it's hardly that.



Examples of the 750 machines.



Of course, just a thank you at the end.

Again, offering that information to show what we're talking about. Our concepts are based upon bringing a whole new destination facility to Wyandotte County. I have often referred to your tremendous successes at Village West as a mixed use themselves of various destination places whether or not that's the Speedway or Hollywood or Sporting or T-Bones or Cabela's or Nebraska Furniture Mart. They're all draws in and to themselves. They are all draws that are not just from the very near community, but rather the entire metroplex and, of course, many other states as well.

Racing is that. Some folks have said well if it didn't work before, how's it going to work now. I don't have any problem answering that. There is a huge fan base for racing. Much less, there is a huge industry that supports racing. I somewhat jokingly refer to them as the breeders and the feeders. They're Kansas residents, many times many generations deep. When racing stopped at the Woodlands, which was a Class A racing facility as described under the Thoroughbred Association rules, they had to go to other states to race. Those monies all left.

Those people who go and bet those races were not necessarily all casino gamers. They are people who like the racing industry and the quickness of it. That's why racinos have been successful because they combine the 750 machines to take people's time while they are moving through their forms to go from the 25 minutes from one race to the other.

The biggest thing I think I can offer you about this project is it's 500-600 jobs into your community, number one. 200 plus construction jobs into your community. The type of jobs that work at a race track are skilled labor. In other words, whether you're working in simulcast

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racing, i.e. television side of it, whether you're working in the accounting department, or whether you are working on the back side as a skilled person in the industry stabling caring for and training the horses. That's not even to speak to the Jockey Guild that has their career there as well. All of those jobs are fulfilled by reopening the Woodlands.

The problem is that racing by itself in today's modern world wasn't financially feasible. How do we know that? All we have to do is look around the state. We have four facilities for racing that are contemplated under the current law in Kansas. I want to be very clear about that. Our law in Kansas says that you can have four lottery gaming facilities. We're not a lottery, gaming facility. Hollywood is. There's one south of Wichita. There's one in Dodge City and there's been one approved in southeast Kansas.

That same statute says that within each one of those geographic quadrants we are anticipating, and that's what the law essentially says, four pari-mutuel racing facilities. In other words, it is contemplated that there will be one of each in these geographic locations. The competition element was already undertaken and considered by the Legislature.

What we're applying here for is something that has been contemplated. We also now know from the Attorney General of the State of Kansas that the vote that was taken here in Wyandotte County following the passage of the gaming legislation was taken in a timely manner and was overwhelmingly for approval. They voted in favor over 80% to allow the operations of the Woodlands. Those votes have a permanent stay to them, if you will, in terms of this approval.

We have the state legislation in terms of allowing this facility. We have the facility itself and all its infrastructure there. We have the voters clamoring to have it. At that neighborhood meeting telling us that, again, they are clamoring to have this use of this property.

Here's the biggest thing. Of all the things that you all have had success with west of I-435, most every one of them have had a significant handout, whether that's in the way of incentives, abatements, STAR Bonds, CID District, TIF, whatever it may have been. Some people on the nay side of this have published some brochures and put them out on people's cars and sent them without invitation in the mail. They have a picture of my client, Phil Ruffin, standing there with money in his hand as though that's a negative. I said to the Planning Commission, I will say to you, that's Mr. Ruffin's own money. He's trying to invest it in your community, asking for nothing in return, no abatements, none, no STAR Bonds, no incentives. Sounds like the kind of deal that most cities would absolutely fall over backwards to get.

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I will tell you that there are no legal requirements for things such as development agreements, but my client has agreed to put these stipulations on this project to show that he intends to be a good faith partner here. We've most recently talked among ourselves about the possibility of charitable involvement as well. We have already, under the law if we receive your approval, an obligation to deal with charity pursuant to the Parimutuel Racing Act. The other folks in this casino world, unless they're racing, they don't have those obligations. They're doing whatever they're doing. We'll be doing what we do because we're under a different statute.

In addition to that, we are aware that a number of folks in this community who have come into business, whether it would be Hollywood or Schlitterbahn or who it might be, they have contributed to the Unified Government's Grant Fund. We want to do that too.

We're pledging tonight that our agreement going into this, not knowing whether we're going to make dollar one, is to put \$100,000 per year into that fund. It is a starting point for us to be a good community partner.

We do have a bunch of other ground. As I have said to those of you who have been kind enough to hear me, we are going to develop that ground in time. What we're looking to do is determine what are we going to be. If we can't be a race track and a racino, then we're not going to do an agricultural, cowboy theme based conceptual development on 400 acres. Nobody would. No reasonable person should think that.

What we'll be doing if we can't get this SUP is going back to the drawing board to decide what, if anything, are we going to develop out there. It won't be this. Lord knows it won't probably be anything in the equine world. If we get this, then we get to go back and listen to many of the folks who are ringing our phone off the hook saying, could you possibly think about doing this. It relates to your business, whether that's a rodeo or an equine, which I'm telling you we've heard from all different sorts of uses, including something like Gilley's, a cowboy themed something.

The point is we don't know until we have this anchor. We also have been very forthright with you that despite the fact that we don't know we're going forward in Topeka as well as here. We're in lock step. What I want to suggest to you is we've been delayed before. We don't want to be delayed again. The Legislature is a tough place to be. This is a tough place to be. It's a unique issue, but it's one that really has no downside.

I'm suggesting to you that with these stipulations you are thoroughly, fully, and completely protected. In other words, we've agreed to sunset this SUP so we're not permanently

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labelling this property if we're unsuccessful in Topeka. We've agreed to time schedules. We've agreed to size limitations, meaning it won't be less than 85,000 square feet, and we've agreed to minimum investment commitments both in terms of the total project and now even with regard to the charitable side.

We've not asked for anything in return. We're just trying to invest. Needless to say our community needs it. Needless to say our state needs it if we read the headlines. We don't see any reason not to be doing it, especially when it was contemplated from day one.

The only thing that we're asking to be changed has nothing to do with our SUP, nothing to do with you. It's a numbers thing in Topeka to level the playing field in the hopes that we can actually be financially competitive. Someone said to me in one of my meetings, I just don't want to wake up in three years and have this not work. We don't either. We're investing a tremendous amount of money to make this work. We're budgeting for that purpose.

We think we have a good project. We're asking for your approval of our SUP. I want to end with this. We can't turn one shovel of dirt without coming back here to see you. Our plans have to come back. Despite the fact I've committed to the size of the building and the cost, I still have to bring Mr. Richardson those plans and ultimately to you if you want to see them, such that you can approve what this thing really looks like and that those types of slides I showed you are reality.

You're thoroughly, completely protected on any downside. Your delay or your negative vote, it will hurt traumatically if not be a death toll in Topeka because Topeka's looking for your guidance. That's my take on it. They are sitting up there saying we need to know what the local community's thinking about this use. Then we'll go the next step. That will be to get our gaming license. Then we'll go the next step after the legislation passes and we'll be finally back here with plans. Then we'll be shoveling that dirt.

We're not ready for that yet. We couldn't be ready for that yet. We need your approval tonight. I'll stand for any questions Mr. Mayor.

Mayor Holland said I'm actually going to have the commissioners hold off on their questions. I'm going to open the public hearing. We'll go through the public hearing and then afterwards, Mr. Beeler, you will have the opportunity as the applicant to make any summative comments in response to what you hear in the public hearing. After that is closed, then I will turn it over to the Commission to begin the discussion.

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At this time, I will open the public hearing. First, we'll hear from those who are in favor of the special use permit, followed by those who are in opposition. After hearing all public comment, I'll allow the petitioner, obviously, an opportunity to make a summative comment.

I'll remind everyone that your names will be called in order according to the sign-up sheets. The Clerk will announce who's speaking and who's on deck so you can be ready to come forward when your name is called. Please step to the podium and give your name and address for the record. Because this is Planning and Zoning we do require the address which we do not do in other proceedings.

You will be given up to three minutes to state your comments. I remind each group you're not obligated to use all three minutes, but you have up to three minutes. The Clerk will give you a one-minute notice and then she will let you know when your time has expired.

Mayor Holland opened the public hearing and asked would anyone in attendance tonight like to come forward and speak in favor of Special Use Permit #SP-2016-32.

Deniese Davis, 3314 North 53rd Street, said I'm here in support of the Woodlands reopening under new ownership. The facility has been closed far too long. Now we have a businessman who's willing to put in his own money into opening the facility and he's not asking for any of KCK's money. He wants the approval to move forward.

I'm urging all of the Kansas City, Kansas Commissioners and Mayor to be fair, honest, and upfront with the public as to why they're against reopening this business. Please don't let promises made to Hollywood Casino cloud your judgment.

Hollywood made promises too but they have been unkept. The same could be said for Schlitterbahn and Sporting Kansas City, among others. Thank you for your consideration.

Louetta Braswell, 5202 Parkview, said that's as an individual, also as the Director of the Leavenworth Road Association on behalf of our Board. That address is 6100 Leavenworth Road.

We love the progress that has happened out west. There were promises made there and not kept. They had benefit of extra money coming toward them. Mr. Ruffin has come with not his hand out, but his billfold open and his checkbook open. It's time that we listened.

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If we have racers and people that enjoy racing that go out of town, so we know those people are also going to be turning around and coming here that our people go visit. 750 slots is a mere drop in the bucket compared to Hollywood. It's not any true competition. It's just going to be a past time. The main thing is the horse racing.

Hopefully you'll listen and hear us. Hopefully, Mr. Ruffin will become part of us, again, as an individual and as Director of the Leavenworth Road on behalf of the Board.

Bill Murray, 6325 Sloan, said I came tonight to maybe address the Commission about approving Mr. Beeler's ideas for reopening the Woodlands. As you probably know, the Kansas Legislature approved pari-mutuel gaming back in like 1986. The Woodlands opened in, I believe, 1988, I'm not sure exactly, and was doing real well for several years until the Missouri riverboats which turned out to be boats in moats, opened up and had slot machines and kind of took a lot of business away from the Woodlands.

He's not seeming like he's asking for a lot. Just give it a chance to open the place up again and try to redo it. Bring back some tax money, some more excitement, and some expansion out there by I-435.

I think at the time when the Woodlands first opened all the property out there was owned by, little parcels were owned by all different individuals. They were all asking a lot of money for each piece of property. Nothing ever got developed around there. I believe now the City owns most of it, but I'm not sure. I think it'd be a lot easier now, maybe to get some development going from over at the racetrack area, the Speedway, all the way over to the Woodlands, or something maybe.

I'd like to see the Commission approve Mr. Beeler's proposal. I know the Planning and Zoning Commission voted for it. I don't see anything really against it to be honest.

Laurie Torrez, 9828 Donahoo Road, said just around the street corner from the Woodlands. I would like the Woodlands to come back again. I printed off a copy of my taxes. I'm looking at the long-term benefits.

I put a comparison together between what was just approved for the Dairy Farmers of America and what the Woodlands would profit, or we would profit off the Woodlands. The Dairy Farmers of America was just given a ten-year, 75% tax abatement. I'm looking at the Kansas City Speedway. They pay zero taxes. They're exempt for 30 years. There should have

been an addendum in there to look back and have the Kansas City Speedway pay taxes. Somebody is going to have to pay those taxes. It is going to be the homeowners. I'll tell you what my taxes are in just a little bit.

Let's look at the street improvement, \$4.5M for a new street to go in front of the Dairy Farmers of America. Mr. Ruffin is going to have to put in a stoplight and pay for it with his own money, his own funds. Mr. Ruffin is not asking for STAR Bonds. I looked under the EMMA website today, which is, I hope you all know, the Electronic Municipal Market Access. There are over 474 different bonds that UG and the BPU has out. That's a lot of money. We're talking millions, millions and millions.

My taxes have gone up from 2003 to 2015. In 2003 they were \$2,700. They're now \$4,496. Somebody's got to be paying these taxes. You can't keep giving these STAR Bonds out. It's like Oprah Winfrey Christmastime. You get a STAR Bond, you get a STAR Bond, you get a STAR Bond and you get a STAR Bond. We've got a viable business here that wants to pay cash.

I'm a little nervous so my voice is quivering, sorry. I would like to see this come in. I live around the street. I'm getting ready to retire. I need a job. I want to stay in Wyandotte County. I like my house.

Kenneth Zimmerman, 642 Sandusky, said before there was a Hollywood Casino the law had to be changed. The people that wanted the casinos came to the Woodlands crowd and begged us to support it. Everybody said please help us get this through and the Woodlands will benefit. The Woodlands did not get the same percentage the casinos got and the Woodlands went bankrupt.

Because of that deception alone, and the Grace family doesn't own the Woodlands anymore, it's been turned over to somebody else. Because of that deception at the beginning, alone, I would like for you to give Phil Ruffin anything he wants, just reopen that track.

Mark Evans, 3515 N. 115th St., said I'm past president of the Kansas Thoroughbred Association. I've raced throughout the United States: California, Arizona, New Mexico, Minnesota, Iowa and in Canada. But I've never got to race five minutes from my house. I'd like to see the place open.

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There's been an economic study done by Mr. Hall, Arthur Hall, Ph.D. The racetrack in Kansas will create over 4400 jobs and bring in over approximately \$300M new wages yearly for the people of Kansas. Back when the people voted for slots at the Woodlands at the racetrack, it passed 88%. People want the racetrack open. I think the people want the racetrack open.

Adrian Torrez, 9828 Donahoo Rd., said after a recent neighborhood meeting regarding the Woodlands I walked outside and on my car was a mailer. It was a postcard mailer from "Protect the Partnership." I did a little research on the website.

I found this as their mission statement, two lines but they're kind of lengthy: "Protect the Partnership is a coalition of local business and civic leaders and community organizations opposed to the re-opening of the Kansas Expanded Lottery Act and the reduction in gaming taxes at the Woodlands. Changing the laws to provide a tax break to the new Woodlands owner, Phil Ruffin, will hurt education, local charities, community organizations and would send a signal to businesses that Kansas is not a trusted business partner."

Now, when I came out of the meeting I had enjoyed the meeting. I asked quite a few questions, there were quite a few answers. I found it was somewhat subversive to come outside and have this kind of a sleazy ad on my windshield. I think sometimes we get tired of that type of an attitude. So sometimes we do have to stop and think about what's happening.

In that statement it says a coalition of local business. Now keep in mind the second sentence said businesses, so this must imply that this is one business. I thought it can be in the context of a group if you look at the sentence in itself, so what business or businesses? I tried to find out who's behind this. There's no mention of any names, any businesses, people, organizations associated with it. I did the best I could, but I'm not the greatest at it.

The second proponent or opponent were civic leaders. I thought, wait a minute now, what is a civic leader. I thought we have elected civic leaders. We have people who have earned the right to be called civic leaders. Is it someone that we elected that's part of this organization? I didn't think so, but of course you obviously would say if you were or weren't. Now, everyone here is a civic member. Are there stronger voices than the membership themselves? That's a consideration too.

My belief is that civic leaders have an agenda or a platform and we hope that they're altruistic. We hope it's out of a desire to help people that they make these decisions. Sometimes agendas can be tainted because you're representing someone else. I'm wondering, and I'm

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hoping, that we don't fall into protectionism. Rather than say that this is "Protect the Partnership", why don't we consider inviting the Woodlands into this partnership.

Monica Cabrera, 1411 N. 47th St., said I come as an individual member of the community. I would just like to say that I've read several of the articles about this issue and I am for it. I remember as a kid going to the Woodlands and I have very good memories of it. I would like to see it reopened. We own a horse, ourselves, and we have to go out of state to see events or to do racing. I know that like us, there's a lot of people that go out of state and that money could be staying here in Kansas.

I also work for the school district and I've seen on the articles what he was talking about earlier about some of that money going to the school district. I know that they could definitely use it. That's all I wanted to say.

Shirley Carter-Ikerd, 804 S. 89th St., said I live in Commissioner District 6. I am 110% for the Woodlands to open. I see no reason why we think 750 slots is going to damage any casino we have in Wyandotte County. We have two, one at the Woodlands and one across the street. 750 slots will not hurt anything. We need money for schools.

I got a really ugly thing in my mail today. It said the casino is giving School District 500 \$500,000 per year. I called the school district and they said that is not true. I also called to see how much Parks and Recreation was getting because someone said they're getting \$100,000 per year. That is not true. The last two years the \$100,000 went to the Y and this year it's going to the Y. That is not Parks and Recreation.

I take offense to that because we have nothing out west for a swimming pool or anything and you're giving this to the Y downtown. That's offensive.

We need money, like \$300 and some billion for Kansas for our schools that our children are going lacking in. This group is offering to give us some money and we all set there and look like somebody's trying to steal something from us. We need to take whatever we can get. They're not asking for no bread off of the table. We need to let them give us some.

I'm 110% behind this. I will be working very, very hard to get people to vote for it. Thank you and I hope my Commissioner, tonight, will vote for it, and also my At-Large Commissioner.

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Steven Spencer, 2 S. James St., said way down there by Missouri, remember us. I think I'd have to come out and be considerably supportive of the Ruffin group, but I'd like to issue a cautionary statement to you folks.

Many years ago when you gave away the farm and built the Kansas Speedway, you accepted a promise and you didn't follow through on it. It didn't happen. It's not going to happen. The France Corporation was going to build a Phase Two. Anybody remember Phase Two? Didn't think so. Well, there is no Phase Two.

Cautionary here, I think this is a good proposition, but there was supposed to be a secondary racetrack at the Kansas Speedway. Didn't happen. There was supposed to have been a road-racing facility built two years, I believe it was, after the opening of the Speedway. Didn't happen. You folks went to sleep. Don't go to sleep this time.

Hold these guys up. Make them do it. Make it a good thing and don't go to sleep. Thanks. **Mayor Holland** said, sir, I will correct one item. They did build a road-racing track three years ago and it is operational. It's inside. It's inside the bowl.

Your comments are well received.

Gary Durbin, 5220 Miller Lane, said I was a regular out at the Woodlands. I like to go to the Woodlands. Besides the challenge of trying to pick a winning horse, it was a place to socialize, there was a group that we always sat with together. There was always interesting and entertaining conversations going on.

During the baseball season when the Yankees were in town, it was common to see Joe Torre out there with his group. I've seen Tom Watson out there. The late radio personality, Bill Grigsby, was a regular at the Woodlands. There was a Dr. Reed from southern Johnson County. He's an owner of racehorses. One of his horses' names was Perfect Drift who ran third in the 1999 Kentucky Derby. He and his wife were there frequently.

The whole family could go to the Woodlands. You would see kids running around playing on the track aprons. At the live horse meet the kids would be all around the saddling area looking at the racehorses. The outriders that were there, they let the kids pet the horses. There was a playground on the infield of the horse track where the kids could go and play. The dog track had a smaller cave. The young adults I see now, just like this lady said back here, they miss it.

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I guess I should get to the point where I want to make a point to Mr. Beeler because I'm running out of time. I know you said there would not be dog racing, but I would like you to make one exception, bring back the Wiener Dog Nationals.

Gail Radke, 9600 W. 175th Street, Overland Park, KS, said my husband and I have a racing operation and a farm on 160 acres in southern Johnson County. I appreciate the opportunity to provide this group of distinguished individuals with some personal facts and figures on the racing-agri business that we have been involved in for the past 45 years in southern Johnson County. We are one farm and I would like to just briefly give you an idea as to what our economic impact has, both on the state and on the community where the racing takes place.

At one time we raced in Kansas at the Woodlands. It was a wonderful facility. I look at it from the aspect of the backside. The stalls were absolutely fabulous for the horses. The accommodations were wonderful. There were about 1,100 owners, breeders and trainers that participated there. Now we foal and race in Illinois because the breeding incentives there and the program there is much more lucrative. We also race in Kentucky, New Orleans, Iowa, Indiana and Minnesota.

Our revenue leakage, that's how much money we have to pay all our employees and everything, from Kansas into Illinois, is a whopping \$340,000 every year. That could be coming into Kansas but it is not. That's one farm.

At the track it takes four individuals per horse. You have the trainer, but you also have a hot walker, a groom, an exercise rider and a pony boy. As a matter of fact I just got my payroll for this week. I have four grooms, three hot walkers, two exercise riders, a pony boy and the trainer. That doesn't count the shoer, the veterinarian, the guy that brings in the feed or the hay.

Kansas breeding and racing is on the verge of extinction due to fierce competition from already fully developed racing and gaming operations in the surrounding state. The revenue leakage is into the millions. If I might add, the horse racing industry in Kansas is not in competition with Kansas casinos. Kansas racing is in competition with tracks in the surrounding states. The gamers who participate in the casinos are very different from the racing enthusiasts at the track.

In addition to slot machines, casinos have gambling choices in the form of table and poker games. Racing enthusiast, or equitors as I call them, study programs, make choices and

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pick jockeys. Then they pick a horse and they run with it all the way around the track and hope that it wins.

We need to open the Woodlands. You all are losing a lot of money at the revenue stream that's leaking out of state.

Terry Humphrey, 1321 SW Lakeside Drive, Topeka, Kansas, said I'm pleased to be here this evening. I'm a lobbyist that represents Gray2K USA. Gray2K USA is dedicated to phasing out greyhound racing in this country.

While we do not have a position on the Woodlands for or against, we do have a position and we oppose greyhound racing. I'm here tonight to ask you to support the Planning Commission's recommendation to restrict the SUP for the Woodlands to non-greyhound racing activity only.

Christy Dorchak, President of Grey2K, sent you information recently about the significant decline of greyhound racing in the United States and the public's lack of support for it.

Wyandotte County has spent considerable time and energy building wonderful, quality venues in your community. In order to continue to enhance this community, we believe that it is important to restrict greyhound racing to maintain your brand and your hard work.

We hope that you do support the recommendations of the Planning Commission. If you have any questions, I'm here to answer them.

Shelly McCann, 2318 N. 86th Terrace, said reopening the Woodlands is a win-win situation for Kansas City, Kansas. The Woodlands will generate jobs, funding for schools, income for our City and State. How can you say no to someone who is willing to ask for nothing and yet is willing to invest in our community? I encourage you to vote yes for this.

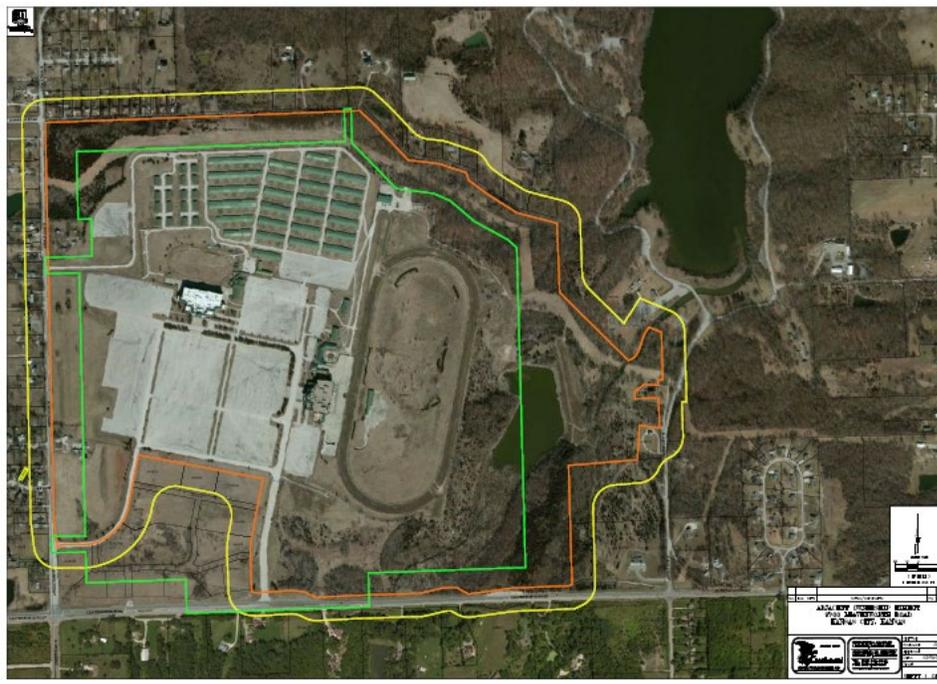
Mayor Holland said we will close the in favor portion and now we will move to those who are opposed. I do offer this. If you are in the audience tonight and you are in favor of it, but you didn't want to speak, I'd ask everyone who's in favor to please stand so the Commission can see who you are.

We'll now open it up to those who are opposed.

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Korb Maxwell, Polsinelli firm, said appearing today on behalf of Kansas Entertainment. I would like to take some time to talk about the substance of the application, but before we get to the substance of the application, I have to bring before the Commission's attention, the serious procedural defects that this application has in front of it.

We made a quick application when we found this all out after 5:00 p.m. this afternoon.



What you see in orange is the outline of the Woodlands property. What you see in yellow is if that was the property that was made for the SUP what should have been noticed. Unfortunately, what you see in green is the application that is before you today and was brought forward by Lathrop & Gage and Mr. Ruffin.

Now, they made a statement that what this was was only just we were trying to follow the boundaries of 1989. We wanted to keep it exactly what it is. That's not what this is at all. This is gerrymandering. This is absolutely, 100% gerrymandering. Do you know what happens when you move in those green lines and you move them 250' off of the boundary of the property. What you do is you take away the notice and protest rights of the people of Wyandotte County. You are trying to go against the Kansas Statutes and the UG Code of providing proper notice, proper procedure, and proper ability to come and protest and comment on this application.

I have never seen anything like this. I don't know what happened in 1989. I don't know why it was done that way, but this is not how we do applications in 2016. Even more to the problem this property now is owned by the Unified Government and this property down here is

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right-of-way. If I would bring forward this type of application on any other private development in this community, Rob would throw me out of the office. I would absolutely not have a chance to present, but here we're doing backflips to try to let them to present.

Why are we doing that? We don't have a site plan. We don't have a traffic plan. We have a 30-year old facility that never had 24 hour operation in it. This is a complete change of circumstances. This violates the golden factors, but why are we doing this? Why do we have to rush this forward? Why do we have to push this? The applicants said it themselves.

This isn't about this Commission. This is public theatre. This is public theatre to get the process started in Topeka and what is that process? That process is to come and cut your taxes. Under current law right now if this facility moved forward they would have to pay you 3%. They want to reactivate the legislature so they can bring down your tax rate to 2% for this Unified Government. They talked about STAR Bonds and other tax abatements and others, this is the single biggest tax abatement that has ever been put in front of this Commission with what they're asking here today.

Robert Felix, 6639 Berry Road, said I'm here in regards to this thing I got today. I don't know how many of you got it. I'm here to demand fairness for the taxpayers. In the last 51 years where we lived at, the taxes in Wyandotte County has went up every year but one. Ever since you started the west side development we've paid out the rear.

Now, I was in the Woodlands building here a while back. He won't have to worry about tearing it down. It's falling down like everything else you guys all approve. The taxpayers are paying the bills for everything and you guys sit here and won't do a darn thing about it.

Get out of here, get in your cars, drive around town, and look at the roads. Look at the streets. We don't even have sidewalks. You annexed us in 1982 or 1983 with all kinds of promises and you ain't did a damn thing since then. We still look the same now as we did then. You come out to patch my road. You throw it down with a shovel and I think you even jump up and down on it with your feet. I'm paying taxes for nothing except for the deals you guys are building out there. You build streets into the Legends and then they dead end. They ain't even nothing on them.

You won't even come out there and clean the ditches out of my house. The water runs right down in our front door. It's messed my garage up. It's messing the house up. Every time I

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say something about it, well we don't know what we can do about it. You swept the streets since I been out there one time.

You don't do nothing but stick your hand out. Well I'm damn tired of putting money in your hand. If I can find somebody dumb enough to buy that and stay in Wyandotte County, they're dumber than I thought they was. I'll sell it to them.

I've got a picture if you want to see it. I've tried to sell it. As soon as they see it is in Wyandotte County, I say yeah. Forget it. You're telling me about how great Wyandotte County is.

When three of the judges told them that they just couldn't just walk in and out of our property out there, and when I said something to Wyandotte County about it, they told me we'll go in and out of your property anytime we want to. I said well come out and try. I'll be home tomorrow. If you walk on my property tomorrow, see what happens. Thanks for nothing.

Kelly Chamberlain, 12636 Leavenworth Road, said I am a Piper resident. I also come to you today as a representative from Great Plains SPCA where I serve as Vice-President and Chief Operating Officer.

I am all for economic development. I am all for more money going into our school district. I am here strictly to get clarification and to hear in the summation comments whether or not greyhound racing will be a part of the Woodlands. I am not in favor of greyhound racing and I want to encourage anyone on this committee to do their research and really understand what happens if that does become a possibility out at the Woodlands race track.

These dogs are bred to race. They are born on a breeding farm. They are usually given anabolic steroids to enhance their performance. A lot of them test positive for prohibitive substances. They live in kennels 20 hours out of the day. They race about 300 days per year. I want you to really make sure that you understand what we would be getting into if you allow greyhound racing to take place at the Woodlands.

Beth Pauley, Great Plains SPCA, 5428 Antioch Drive, said I am also here to explicitly talk about the subject of greyhound racing at the Woodlands. Thank you for allowing me the opportunity to speak this evening. As I said, I'm here on behalf of Great Plains SPCA. We serve 35,000 pets and people each year, including residents here in Wyandotte County.

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I'm also speaking on behalf of the Pet Animal Coalition of Kansas which is a coalition of shelter leaders and industry experts who work together across the State of Kansas to elevate the standard of care for our pets in our communities.

As animal welfare professionals who are in the business to not only protect and improve the lives of animals in our community, but to also rehabilitate animals who come to us sick, injured, neglected, we have serious concerns about the treatment and living conditions dogs are subjected to while being forced to race for the public's entertainment. The last time greyhound racing existed in Kansas, greyhounds routinely suffered serious injuries. In 2007 there were 205 reported greyhound injuries at the Woodlands and Wichita Greyhound Park. In the last six month season at the Woodlands, 80 dogs were injured.

When the dogs are retired from racing, they are likely to be turned over to shelters and rescues or worse, killed, because they are no longer profitable. The consequences of reviving this already failed industry would be felt by greyhounds, non-profit shelters and rescues, and the community as a whole.

I'm respectfully asking the Board of Commissioners to uphold the recommendation of the Wyandotte County Planning Commission to reject the permit to reopen the Woodlands for greyhound dog racing.

Monica Randle, 3409 N. 128th Terrace, said I reside in Piper School District, I'm employed by the School District of Kansas City, Kansas, District 500.

I come to you this evening with a concern that they said 34% mill levy will be granted to Piper schools. I need everyone in the audience to understand they're saying Piper schools. They're not saying Kansas City, Kansas Public Schools. They're not saying Turner. They're not saying Bonner. They're saying Piper. I have a real problem when we have 20,000 students in KCK public schools who will not have access to the money that they are proposing as a mill for Piper. That is a problem for me.

I am employed by that district. I know the needs, the concerns of the students and the families that are supported as a part of our educational process. I think it's very unfair that we're going to have a Woodlands development that is not going to support all of the schools in this county, in this city.

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In addition to that, I understand that when Hollywood came forward their agreement was that they were providing funds for all of the school districts. Again, this one is only for Piper and that is a problem for the children that are in our city.

Let's be very clear. Don't rush it. Our children don't need you to rush it. Our city does need you to be very conscience about what is the efforts to make sure that we have profitable jobs and profitable properties going on in our community. I, too, would love for our taxes to come down. I see that this could be a benefit to assist in that because I do have taxes that are ridiculously high on the western end as I live in Piper.

At the end of the day, I serve students in KCK. My conscience cannot allow for us to spend this kind of money and not consider all of the districts in our city.

Mayor Holland closed the public hearing. We will give the applicant an opportunity to respond. Before we do that, we've been at this for two hours. We're going to take a short break. I can assure you recess isn't what it used to be, but we're going to take about a five to ten minute break. It will be about eight minutes. We'll reconvene at 9:10. We'll be right back here and start off with the applicant.

Mayor Holland called for a ten minute recess at 9:02 p.m.

Mayor Holland reconvened the meeting at 9:14 p.m. All members were present as previously noted.

Mayor Holland said we have heard from 20 individuals who spoke, 15 in favor. I did not ask those in opposition if they would like to stand. I offered that for those in favor. If you are in opposition and you would like to stand so we can see your stance, I would invite you to do that at this time if you would care to do that.

We have heard from the public. We are now closing the public hearing. We will give the applicant an opportunity to make summative comment and then I will turn it over to the Commission for discuss.

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Mr. Beeler said again thank you for your patience this evening. I want to thank all the folks that came out tonight to speak, including the opponents. It's good to have both sides of an issue expressed.

I should know better having been an attorney this year going on 36 years, I made one of my first learned things to do a mistake tonight, and that is I forgot to introduce my own client. I do apologize for that. I have here tonight from the Ruffin Companies, Phil Ruffin, Jr. who is right here. He's the Executive Director of Ruffin Companies and the Director of all the pari-mutuel activities of the company. Also I have William Shea who is the Executive Vice President of Ruffin Holdings, the parent company of all the Ruffin companies.

I will keep my comments brief, Mayor. I think everyone is aware, but I want to repeat here that not only did we receive staff approval and staff's comments with regard to our meeting of the golden criteria, but we received a favorable vote from your Planning Commission of 8-2. Those are no easy votes to obtain. I think they carry, or should carry, great weight with this Commission.

I said this before the Planning Commission; I want to say it again here tonight. Did you hear a single thing as a reason why an SUP should not be granted on this property? Did you hear a single reason? Did you hear a single neighbor come up and complain that it was changing the character of their neighborhood or the use of this property would be out of line with your Master Plan which essentially calls for it to be developed? I think we all know the answer is zero. You heard nothing of the sort. All of the comments are in favor. That means the overwhelming weight of any evidence that has been submitted to you in a quasi-judicial body capacity has been to favor this proposal.

We heard something again about tax breaks. I know you guys are smarter than what was being said to you. There's nothing operating at the Woodlands. It hasn't for ten years. None of the tracks in the state are operating. Zero is still zero last I checked. What is a tax cut against zero? You get zero still.

We're trying to put something into effect that is economically viable so that this community can reap the benefits of it. We, of course, heard someone ask about the greyhounds. I've not stood here tonight and asked to change any of those stipulations, one of which is that we do not race the greyhounds. The only way we could is if we came back and presented an application to you which would mean a whole other process for folks to be heard. We have no present intention of racing the greyhounds at the Woodlands.

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Taxes is essentially the last thing I'm going to speak to, taxes and various other givings if you will. I know you know this, but for the record, again, we're not in a competitive bidding situation. There is no contractual consideration coming to Ruffin as the result of this application. We're paying for it all on our own. We're not asking for anything back.

Tax wise I've already given you the numbers. I won't repeat them. When we heard the individuals indicate their taxes are going up, we're trying to pay you millions more in taxes than you are receiving today.

Lastly, and I have spoken to the nice lady that referred to the Piper School District. I've just again, for the record, we're just adhering to the mill levy requirements, the 34%. There's another 20 some percent that goes to the County, 20 some percent that goes to the City. You all decide what happens with that money. We don't have anything to say about where taxes go. I just would like that on the record.

Again, a long process, but a well thought out process after many, many meetings with staff and others to try to answer all questions and to stand for all questions and not duck any of them. We need your approval. I said that. Time is of the essence. There's nothing you're waiting on here. There was a number of things said about this or that with legal descriptions. We met all of the legal requirements in the State of Kansas. Your attorneys have reviewed it. Your staff has reviewed it. We have met the requirements of the law. In fact, we've exceeded them.

The requirement is 200 feet. I've already told you not only are we 300 feet back from our own properties, but we built a tall berm there back in the 1980s to further shield those properties. That's why those folks are happy. That's why none of them are here. Let's not be misled by someone complaining about setbacks or legal descriptions on a property they don't have anything to do with. They're five miles down the road or whatever it is. It's just merely an attempt to throw up a roadblock so they can keep a monopoly and keep the community from benefitting from this private investment.

I hope that you will give that short shrift. Again, thank you very much and good evening.

Commissioner Walker said, Mr. Beeler, I have a question for you. **Mr. Beeler** said yes sir. **Commissioner Walker** said first of all as I recall that law, doesn't the law prohibit you from receiving any tax benefits, incentives, inducements? **Mr. Beeler** said no. **Commissioner Walker** asked are you sure of that. **Mr. Beeler** said quite. **Commissioner Walker** said I was

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almost positive that the law prohibited you, the horse tracks and the casinos from receiving any tax breaks to begin with. I could be wrong.

Mr. Beeler said I will not test my thirty year old memory of that law, even though I had something to do with writing it. I think the point here is, we're talking about this whole thing. We're burdening now with taking back some of that land onto ourselves, about 200 and some acres of ground. We're not asking for any benefits on any of it. Whether or not we're talking about the footprint of the horse track or not, if that is where your question was to go, we're not asking for any benefits on any of it.

Commissioner Walker said much was made of the fact that you're asking for nothing. I seem to recall that there was something in the statute that prohibited the request. Anyway, let's move on.

I have another question. We have a phenomena here in Wyandotte County that seems to be, well this addresses the woman's concern or is pointed at her concern. If I build my house for \$250,000, let's make it somewhat modest. The tax man, I know, is going to tax me at least that first year at \$250,000 at the at built cost. You'd probably agree with that proposition. **Mr. Beeler** said I do. **Commissioner Walker** said we have a phenomena here in Wyandotte County that it seems like out west people build things that are \$250M or \$120M and they make these promises in front of us that they're going to pay all these taxes based on that value. Then when it comes time for the tax man to assess them, they come up with some sophisticated legal argument by some silk stocking law firm that.... **Mr. Beeler** said I have cotton. **Commissioner Walker** said okay, you're fine then. That for some unique reason the building, and I could give you an example of one that was built for roughly \$120M.

I think they're paying taxes on a value of about \$35M because I believe their argument went like this. The building was so big that there was nobody in their right mind that would ever buy a building like that except them. You've made these promises that we're going to get this \$70M and all this money is going to go to Piper. I understand the law puts you in the Piper School District.

To the extent that you can commit your client, are we going to have this fight with you the minute this thing gets done that you get assessed at \$70M. That's what you're telling us, maybe that's not the actual number, but let's just say that it is, and we tax you at \$70M. Are you guys going to go to Tax Court right away and tell us that because this is near to Wyandotte County Lake you might flood so nobody else would ever buy it or some other absurdity?

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Virtually every property in Village West protests their taxes every year. **Mr. Beeler** said sure. I think it's certainly a fair statement to say that many commercial building owners do protest over time because the valuation of their building in the real market in terms of what it could buy or sell for either goes up or down depending on circumstances and need, use, whatever you may call it.

When you build specialty buildings, I don't care if it's the T-Bones stadium or Sporting, or what it is, they have specialty values that attach to them. There's not the same market there is for the four cornered store down on the corner. I will just tell you that for that reason, and for that reason primarily, that's why I used a lesser valuation number than the construction cost to even be able to tell you that the taxes would still go up by millions. That's why I did it.

Valuation in the real world, I mean I'm not an appraiser, but I've done enough of this to know that values do change over time. Certainly, no I couldn't commit, Commissioner, that my client would not ask to pay taxes based upon their proper assessed valuation nor would anyone do that. I can tell you, again, that this facility is going to be state of the art. It will be very costly and it will have a high value. How long that value lasts is up to someone else's determination, but tax per the law is paid upon property valuation. I hope I've answered.

Mr. Bach said, Mr. Beeler, just a couple of points I want to clarify in your statements as you came through.

You noted your statements about the 2% net electronic gaming machine income. **Mr. Beeler** said yes sir. **Mr. Bach** said are you committing that to our community that you will pay a minimum of 2% of the net electronic gaming machine income, which I would interpret it per your definition was net gaming revenue, but I'll use your definition that that's what it is. It is the gaming money less the winnings that are paid out. **Mr. Beeler** said it's the term that's in the statute. I understand your question. **Mr. Bach** said we don't know what's going happen in the statute in the end. Is that a commitment you're making back to our community?

Mr. Beeler said I think I need to answer your question straightforward which is no I am not making that commitment. I am stating to you that that is what is proposed in the statute. I will tell you that my clients are supporting the passage of that statute which means we're trying to pay that amount. I don't know what legislators are going to do and that's all I can commit to. I said something to someone earlier today that if it goes down from that number, I need to buy some swamp ground somewhere. That's highly, highly unlikely, but I'm being as straight

forward as I know to be. I'm not committing to something that isn't in the law, but that's what the law is going to be if this legislation passes. Then we will pay it.

Mayor Holland said I have a question about that. If the law passes, and I appreciate your thought that the State is concerned about what the local government wants, I would dispute that with strong evidence that we don't have time to go into. If the law passes---**Mr. Beeler** said I didn't say they'll do what you want. **Mayor Holland** said if the law passes because the one in the Senate right now has zero for the City. The one that's already passed the Senate that's sitting in purgatory in Topeka right now has zero for the City.

If it's zero, then you're committing to pay zero, is that right. **Mr. Beeler** said, Mayor, I think you and I have had this conversation. I'm not aware of any bill that is supported by my client in the Legislature in any committee that is zero for the local government. I'm aware of the 2% bill and I'm trying to stay on the facts. The facts are that's the legislation that's pending. That's the legislation that we're working on in Topeka and we hope to bring out for a vote. It will be a combined 2% for the local government, meaning Wyandotte County and KCK. I don't know about that other thing and we're not supporting it. It's not our bill.

Mayor Holland said I have bills pass all the time that I'm not supporting. I'm just getting clarity that if it passes with a zero, which is a possibility, because it's out of all of our control in this room, then you're committing to paying zero to the local community, is that right? **Mr. Beeler** said I apologize but don't like the words. I am not saying that. What I am is anything is a possibility, Mr. Mayor, but I believe there is no reasonable possibility of that happening.

Mayor Holland said, Mr. Bach, can you differentiate for me, I submitted the letter Mr. Beeler that you gave to me by the Gaming statute, all communications regarding a Planning and Zoning issue are public documents. I've passed that out to the Commission so they can see it as well. **Mr. Beeler** said you're talking about the e-mail I sent? **Mayor Holland** said yes, the e-mail that you sent me.

It says 2% of net electronic gaming income. Mr. Bach, can you explain the difference between revenue and income as it pertains to the casino and the revenue that they pay, and the difference in definition between revenue and net income.

Mr. Bach said the definition we have on the net revenue from the casino today is one that it's the money paid into the casino less any winnings. It is truly on all the gambling money that comes in that they are obligated to. It does not net out any kind of operations and such.

That is the definition that Mr. Beeler used and I would hope would be consistent. That's not necessarily the way you factor net income by many standards, but he did not use that kind of definition. He used the definition that stated more of what you would consider net revenue for most accounting purposes. **Mr. Beeler** said you have the exact language out of the statute? Could you refer to that in comparison, too? **Mr. Bach** said I don't have that in front of me.

Mr. Beeler said it essentially, Mr. Mayor, net electronic gaming machine income is all cash or other consideration utilized to play an electronic gaming machine operated at a gaming facility. So it's all the money going into that machine less cash or other consideration paid out to winning players as prizes. That's the definition.

Mayor Holland asked does it include the cost of custodial, and service, and electricity, and maintenance, and depreciation. **Mr. Beeler** said those things are not paid out to winning players so the answer is it is not deducted. **Mayor Holland** said for clarity, you're talking about net income.

My other question is what about the revenue for other gaming. You mentioned horse racing and you also mentioned simulcast. Why is that excluded in your statement, the income from those? **Mr. Beeler** said I'm again repeating, these are the legal requirements. These aren't my proposals. This is what's in the law. **Mayor Holland** said but you're supporting it? **Mr. Beeler** said we are supporting it. **Mayor Holland** said so why are you supporting excluding racing and simulcast? **Mr. Beeler** said I guess, Mayor, it's not what you say but how you say it, if you will. We're not supporting excluding anything. We're supporting a law that was drafted by other people that provides what the take outs should be.

Racing, itself, I've already told you, is a significant cost expense. Racing is not the bell cow to the success of a racino. Slots are. I've said that over and over. The slot income is such that it is there and has a percentage of it that can be carved away for these benefits. To do it any other way on other things, you may be actually adding to the loss. I described it to one commissioner as like food and beverage operations like in a country club. They're a loss leader. It's something you have to have, but you get it to get people there that spend their money on other things.

Here the slots are the revenue generator. The entertainment is hopefully a revenue generator, all to support that other use of racing which draws the patrons. It's a business proposition. **Mayor Holland** said thank you. I think you've answered my question.

Mr. Bach said my next question is you had pledged \$100,000 to the Unified Government for community grants. Is that a commitment on your end? **Mr. Beeler** said yes it is. **Mr. Bach** said then I just wanted to clarify when you said, because you said this a minute ago, \$70M construction value, is that \$70M construction value or \$70M includes the cost of ground. **Mr. Beeler** said all in, it's cost of ground, as a minimum investment. **Mr. Bach** said so it's more around \$50M value. **Mr. Beeler** said \$55M, \$56M.

Commissioner Townsend said I just have a few questions for clarity's sake. Some of these may be more appropriate for you to respond to or possibly staff.

I'll start with some notes I took on what I believe you that mentioned about the number of jobs that the racino would bring. The number 500 was mentioned. In the material that I read it appears that there would be horse racing no more than 69 days out of the year. My question is with this 500 jobs, what happens on that 70th day with that estimate? Are we talking about 500 jobs for 365 days per year or that number drops to 200 once there's no more racing? **Mr. Beeler** said there is a seasonal aspect to that. However, racing seasons are spread out, typically not consecutively but over a period of time of good weather. As I think I mentioned, if I didn't I should have, the exact number of our racing days while we will have some minimums are subject to approval by the Racing and Gaming Commission. They tell us when we can race and when we can't. It does impact the job situation.

Commissioner Townsend said, again, my question is what is the impact then? If you're saying 500 jobs would be brought in by this, when you're not in the racing season, which according to what I'm reading at this point is no more than 69 days per year, what does that 500 number look like?

Mr. Beeler said all I can speak to is the prior Woodlands experience of many years ago. We had about 800 jobs when both tracks were operating, the Greyhounds and the horses. The jobs would drop about half in the off-season. You do have temporary help. They don't go away, in other words, completely. You have people working their horses, things like that, to where

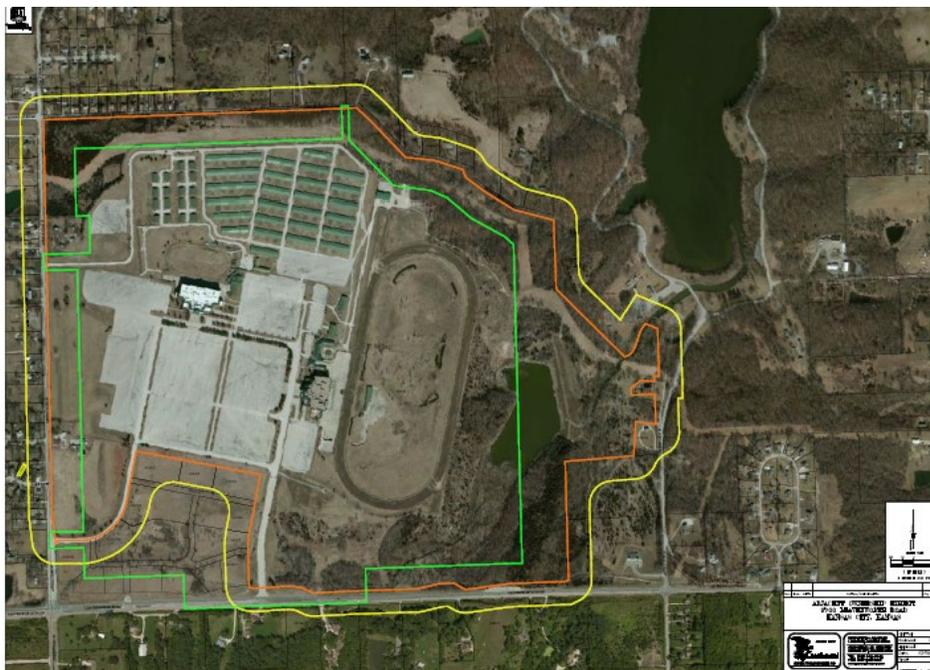
some of those jobs are essentially year-round. Many are not and they're only during race periods. It does drop.

I don't have a specific number for you this evening. I could develop that, but I think that answers your question. **Commissioner Townsend** said but that's a good indication. It's clear to a lot of people listening that there is some impact, it's not 500 jobs for the whole 365 days.

The other question I had is, and this happened before because this brings us here tonight, hope you're successful with the racing. What if you're not and what is in the stipulation, and this is where staff may be helpful. I'm looking at the stipulations that are on pages 22 and 23. Is this racino contingent upon this configuration, contingent upon having racing there all the time, or heaven forbid that something happens and it's not as successful, the racing part. What does that do to the SUP? **Mr. Richardson** said, Commissioner Townsend, the way the stipulation is written is that if either electronic gaming or horseracing discontinues for a period of 18 months, the special use permit would expire. It is contingent upon both of them happening.

For instance, if their last horse race was on December 31, 2016, and they didn't hold another horse race for 18 months, which would get you to July, 2018ish, the permit would expire in July, 2018 because they hadn't held a horse race for 18 months. **Commissioner Townsend** asked by the horse racing, we're meaning actual Secretariat, I can go out there and touch them, see them, not something on the screen. **Mr. Richardson** said that is horse racing.

Commissioner Townsend said my last question, I did have a concern based on Counselor Maxwell's statement, just what are the boundaries we're looking at now for the territory that is being proposed in the SUP? I was a bit confused by that.



Mr. Beeler said, Commissioner, in the lower left hand quadrant you can see the access road coming off of 99th and curving up to the parking lot. Do you see that right there?

Commissioner Townsend said yes. **Mr. Beeler** said there is an orange line running right along that road, up to that parking lot, and then back to the east and then back out to Leavenworth Road. The property that is to the inside towards the track, all the rest of it out to the green line, wherever it is, is the special use permit.

What we are excluding is what is inside that orange line right there. I've just agreed to take that out of it and it stays zoned as it is. It's Unified Government property that quite honestly we hope to own one day in the future, but we are not burdening that with the special use permit so it will just stay as is. We're just dropping it out.

Commissioner Townsend said well let me use the color-coding as counselor did. I understand it a little better. The green boundaries are what is included in this SUP application? **Mr. Beeler** said the green boundary, everything inside the green boundary was a special use legal description that has been in place since 1989. **Commissioner Townsend** asked what about the boundary that is coded yellow, was that part of the territory of the Woodlands in 1989? **Mr. Beeler** said yes. If you go to the green and look, the Woodlands physical property owned by the Woodlands back at the beginning went out to the roadways on all the quadrants, every one of them. We only burdened the special use on property that was over 300 feet set back in. That's

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where I mentioned I built the berms in order to provide separation from the neighborhood and provide for their privacy.

We're not changing that anywhere along 99th all the way around. It still remains that green line. What happened in the interim was when the Grace family owned the property that is now the Unified Government's, they didn't pay their taxes and that property went to tax sale, just that little piece that I described for you inside the access roads, that 35 acres.

The legal description that had been the SUP all those years, it's still there. That hasn't changed. What I'm doing is cleaning that up by saying I'm going to back it up and take that line all the way back to where he has the arrow. In other words, I'm burdening less of this total property. The application began as 317 acres. It will now be roughly 272 acres, something like that. Have I confused you?

Commissioner Townsend said no, I understand, but I wanted to get some clarity on the point that Mr. Maxwell made. **Mr. Beeler** said in other words, we over noticed and we're simply taking it back and backing everything up onto ourselves further. We're even further away from any homeowners. **Commissioner Townsend** said I will say this and then I'll let it go. It appears that there was under notice from what there could have been from those yellow boundaries if that's what the old.

Mr. Richardson said, Mr. Beeler, I might be able to answer that since we provided those notices. Commissioner, when we used our system to calculate the boundary, originally we did that and there was a system error and we left five individuals out. We redid it by hand and we noticed everyone inside of this yellow line with the exception of this property right here that's this little yellow bar that on the 100 scale map is literally the width of a pencil into the notice area. That one property, that if the proper notice boundary had been the orange line, they would have needed to get notice. When the proper notice boundary based on the legal description provided is out here, they weren't in the notice area.

We noticed everybody all the way around here on the yellow line based on the larger boundary except that one property. I feel like the notice complied with the state law, complied with our ordinances. It would have been nice if this one had been in there, but it wasn't. **Mr. Beeler** said if I can just add one thing. Where that little mark is by his arrow from our outer property boundary, that is not the legal place you measure from under the law. That is right at 200 feet.

When you include the green line, which has the big berm all the way running through it, north and south through the middle of that, it's over 500 feet from that residence. The requirement under the law is 200. That's what I mean by we've over noticed. We weren't even required under the law to give legal notice to any of those people, but we did just to be good neighbors and to be sure we had a full neighborhood meeting. **Commissioner Townsend** said I appreciate that explanation.

Point Number 14 on the stipulations, it says a final plan review is required. Again, this may be for Mr. Richardson's staff. Final plan review is required, but what about approval of the plan and by whom? **Mr. Richardson** said, Commissioner, the final plan requirement is, the final acting body on that is the Planning Commission unless three or more members of the Board of Commissioners request that it be heard by them or if the applicant appeals the decision of the Planning Commission to you all. In most cases you do not see a final development plan because nobody has requested it and there's been no appeal to you all. When this comes forward if you all wanted to see it and I've received information from three of you, I would schedule that on your normal agenda as I would any other item.

I suppose you all could say tonight that you want to see it and then we would carry that forward from this evening. **Commissioner Townsend** said I for one would want to see it. Again, is the body's approval required particularly since there's been conversation that we don't know a lot of the specifics. We hope to see Gilley's and all the other things that you're talking about, but those have not been flushed out. **Mr. Richardson** said the final plan review is a requirement. It would be approved by the Planning Commission. Mr. Beeler's testimony at the Planning Commission was that the basic layout of this site, the horse track was going to stay where it was. They would either rebuild the building in place or scrape it and rebuild it in place for the horse track. He did not say what was going to happen to the dog track at that point and time, but that would be clarified at the final plan. I believe that, and I'm taking this from my memory, I didn't just read it out of the minutes, but Mr. Beeler might be able to clarify that for you; the parking is generally going to stay where it is. The entrances are going to stay where it is. Really, in my opinion, what we'll be looking at is enhanced landscaping and the final architecture of the building.

Mayor Holland said I have a quick question, in terms of stipulating, are there three commissioners here tonight that would like to stipulate that you would like to see this final plan back in front of you by a show of hands. All right, we have five. If we can take that record, we

will read that into the record that five commissioners have indicated they would like that to come back to this body. **Mr. Richardson** said we will schedule that, sir.

Commissioner Townsend said well that took care of some clarification from my side. I did just want to make the statement, and it's been alluded to before, we are as the fellow commissioners and myself will have the opportunity this year to allocate \$110,000, each one of us, to different community organizations. That's a powerful tool.

My concern is that while competition is great, that an entity that has been providing that opportunity to the community is not so burdened or taxed that the community loses the benefit and we, as commissioners, lose the benefit to do that without this new entity coming to the table with something similar. I understand the statements made earlier, before. That's not exactly why we're here tonight, for the development deal. But I did want to voice, and on record, that is a concern for me. I won't speak for my other commissioners. I hope you're successful, but I hope Hollywood continues to be because of what they have done and continue to do.

Commissioner Murguia said I'd just like to say I don't have any questions. I'd just like to state for the public record that I have a professional relationship with the counsel for Hollywood Casino, Korb Maxwell. I also have a professional relationship with counsel, Pete Peterson, representing the Woodlands. I've been assured by our Legal Counsel and our Administrator that there is still no issue in me voting tonight as a result of that, but I wanted to make sure that was full disclosure on the record tonight.

Commissioner Bynum said I have a question, Mr. Richardson, starting with you. On page 39 of the packet regarding just this item, we speak to a, excuse me it starts on 38. It says proposed stipulations. I've been looking at that for most of the day to try to understand if it's a part of this agreement. It's very detailed. **Mr. Richardson** said, Commissioner Bynum, this set of proposed stipulations was submitted to the Planning Commission by the opposition as potential stipulations that they requested that the Planning Commission enact verbatim as part of their stipulations. The Planning Commission considered these and came up with the stipulations...**Commissioner Bynum** said that are above. **Mr. Richardson** said that on are pages 20, 22 and 23. **Commissioner Bynum** said it's not marked as such so it was confusing me a great deal. **Mr. Richardson** said my apologies. **Commissioner Bynum** said because it spoke directly to a development agreement.

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I need clarification. I think the Mayor did a show of hands around us looking at a plan review which would not be the same thing as a development agreement, correct? **Mayor Holland** said that is correct. **Commissioner Bynum** said that would be contingent on passing this special use permit and then seeing the rest of the items come forward as the rest of the property is developed, is that correct? **Mayor Holland** said I'll defer this to Mr. Richardson to answer. I believe the plan review, development agreement, SUP are all different and independent of one another, is that right? **Mr. Richardson** said correct except in the fact that the special use permit would require the final plan review. There's a relationship between those two, but otherwise they would be three separate actions. **Mayor Holland** asked theoretically they could have a plan review, many groups build in our community without a development agreement, is that right? **Mr. Richardson** said correct.

Commissioner Bynum said I want to be clear. I try in this role to be as prepared as I possibly can be to deal with these issues and they do get complex. I do have an appreciation for all of the comments that were heard here tonight. We, I think, are tasked with making the best possible decision we can make in these situations. I still need more information.

Mr. Beeler, is it the intention of your client to open only if the legislation that's pending in Topeka passes? In other words, is there any intention of opening under the current gaming law? **Mr. Beeler** said I think it would be fair to say that that would not be economical. **Commissioner Bynum** said that's a no? **Mr. Beeler** said that is a no.

Commissioner Bynum said it was interesting to hear you say twice that our state legislature is looking to this body for guidance. **Mr. Beeler** said that's my opinion. **Commissioner Bynum** said my opinion would be that that is not our experience over the last few years of working or trying to work with our state government. I'll just give you a few examples of how that has not been the case for us.

They changed when we will hold our local elections. They placed a property tax lid on us tying our hands to control our own destiny. Those are just a few of the things. They took away our ability to require prevailing wage on any job going on in our community. I just want to be clear with you that that is not my experience. If they are waiting for us for guidance, I wonder why have we not heard from them in any way, shape or form. I speak only for myself. I did ask several of my fellow commissioners and we've not had any conversation with them asking for

any guidance on this issue. I have to tell you, I'm not agreeing with that statement or that opinion and I don't think anyone up here would.

Mr. Beeler said I perhaps should have chosen a different word. I don't think I said guidance, but if I did, I misspoke. **Commissioner Bynum** said you did. **Mr. Beeler** said because what I know because they've told me so, is that they are looking very hard and very watchfully to see what this body does with the SUP application. **Commissioner Bynum** said I'm sure they're watching. **Mr. Beeler** said I guess I see that as some guidance, but I appreciate very much and am very familiar with the lack of some of those conversations. I will add to it, and indicate to you, that I have voiced my own displeasure with that, and that I was not involved at those times. I am now. I know our lobby team has spoken with legislators about these very issues and am trying to carry the water back and forth, if you will, as best I possibly can.

Commissioner Bynum said I just needed to be very clear on that issue. Again, I think we all here want what is possibly the very best for our community. I personally think that includes a development agreement. I do not know why every item on this agenda prior to this one, even used car dealership special use permits and other items that were way smaller than this, if you scroll through our agenda packet which is a public document, every single item had a site plan, even the smallest items.

Mr. Beeler said we have a site plan. **Commissioner Bynum** said you have what I call a map of your property. **Mr. Beeler** said those site plans are on record with staff back in the 1980s and they reflect that picture right there. **Commissioner Bynum** said I think we'll have to agree to disagree on that point. **Mr. Beeler** said okay. I appreciate that.

Commissioner Bynum said the only other comment for me is I do think that there is an impact to this community. I hope that if the SUP passes and then the legislation passes, that this can be a profitable experience for both you and us. In the meantime, I can't help but be concerned about some of the community impact that could be faced by this community. I think Commissioner Townsend did speak to that to a degree in terms of the contributions that are made by Hollywood Casino to this community.

I get concerned when I hear people speak and I feel like they may not have entirely the correct information. I don't mean you by any long shot, but I heard several proponents of this speak to items that I have no knowledge of. Promises that were supposedly not kept by developers prior to you, but yet I have no idea what that means. I'm not aware of any promise that wasn't kept.

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It gets very confusing, but I think reality is there is an impact on this community of the things that Hollywood has brought forward. If we proceed and we agree to this, I am grateful to the commitment that you've made of the \$100,000 into that same pool. I will tell you that I am grateful for that commitment. Mostly, I just needed you to hear the thoughts that were on my mind as I've spent so much time contemplating what it is we're being asked to support here tonight. I thank you for listening to me.

Commissioner McKiernan said it has been most illustrative to do all the reading that I've done, to listen to all of the testimony and the perspective that we've gotten tonight. Mr. Beeler, I want to thank you in particular for your continued thoughtful and informative answers to all the questions that have been posed to you both tonight and prior to tonight.

It really does frame the decision we have before us when we consider that our job as a Board of Commissioners is to rule, effectively, on the result of the Planning Commission. The Planning Commission voted by a vote of 8 to 2 to approve the special use permit as put forward with the 17 stipulations. You've added an 18th stipulation tonight of charitable giving.

Action: **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to approve Special Use Permit Application #SP-2016-32, as forwarded by the Planning Commission with the additional stipulation offered tonight.**

Mayor Holland said I want to clarify a few things before we vote. Can you put to rest the issue of greyhounds? **Mr. Beeler** said I thought I did. **Mayor Holland** said I think you did too, but I want you to repeat it. **Mr. Beeler** said we have no present interest in greyhound racing at the Woodlands and we have agreed to the stipulation that we would not include that as part of this SUP. Therefore, whether it was us or some other applicant that came to you, they would have to come back through a whole process for that.

Commissioner Walker said by that you mean you'll have to come back and get a new special use permit or amended special use permit before you race a greyhound dog? **Mr. Beeler** said yes sir, absolutely. **Commissioner Walker** said you're not racing greyhounds are you? **Mr. Beeler** said no. **Commissioner Walker** said I don't mean presently. I mean at any time that I'm here or these people are here or probably the people that will follow us. If there's even a

twinkle in somebody's mind about racing dogs, don't bring it here. **Mr. Beeler** said yes sir. **Mayor Holland** said that's been clarified.

Mayor Holland said you mentioned simulcast. **Mr. Beeler** said yes. **Mayor Holland** asked is that a part of your plan. **Mr. Beeler** said yes. **Mayor Holland** asked, Mr. Richardson, is that a part of the special use permit application. **Mr. Richardson** said the application to me said horse racing. I don't know that horse racing to me is watching the live horses. I don't know if there's a legal definition of that that I'm missing. I've heard simulcast for the first time this evening. **Mayor Holland** said my question is, simulcast can be a live race. Does that count as one of your 60 races? **Mr. Beeler** said no. Live racing by definition is actual horses. **Mayor Holland** said live racing with horses, little hooves. **Mr. Beeler** said at the Woodlands. **Mayor Holland** said at the Woodlands. **Mr. Beeler** said the only thing we would be doing as an ancillary use to that is showing on television races that are going on somewhere else. That would be in addition to, as I said, an ancillary use of the facility. I mean no disrespect to Mr. Richardson, but we answered that question at Planning Commission as well.

Mayor Holland said you believe that simulcast is included. **Mr. Beeler** said that's always been part our intention to do that. Once again, I need to add, it's subject to the Kansas Racing and Gaming Commission Authority. We can't do it without asking.

Mayor Holland asked the 750 gaming machines. **Mr. Beeler** said yes sir. **Mayor Holland** asked is that a ceiling or a floor. **Mr. Beeler** said it is, at the present time, a ceiling. **Mayor Holland** said you cannot have more than 750. **Mr. Beeler** said yes. I did call, and I don't want to make a big deal out of this, I typically just don't promise things that I don't control in the future. In other words, I am putting a ceiling on that just like Commissioner Walker asked me. I couldn't put 751 in without coming back and asking.

Mayor Holland said my concern is, my personal opinion is I'm not a big gaming person. I don't bet on horses. I don't bet on anything. I'm not opposed to the Woodlands reopening. I think there are a lot of people in the community that want it. I think there's enough people in the community that want it that would benefit from it that I would support it reopening.

The question about the special use permit that I have is what we have is an unknown economic impact. It is one of the golden rules in terms of the size of the investment. You've

committed \$70M. I believe you paid 20 for the land. **Mr. Beeler** said less. **Mayor Holland** said 15 for the land. **Mr. Beeler** said yes sir. **Mayor Holland** said we're looking at a \$55M investment in the facility, minimum investment in the facility. **Mr. Beeler** said correct.

Mayor Holland said I'm concerned about being able to provide the police and fire services for this application on a 24 hour basis. You were a 14-hour operation before and it would now be a 24-hour operation. Without gaming revenue coming to the City stipulated, I'm concerned that if we lose, and I've seen the KU report which was not neutral. It was funded by you all. **Mr. Beeler** said no sir it was not. **Mayor Holland** said it wasn't funded by us so we don't know where it came from. I do think.... **Mr. Beeler** said I do. It was funded by the horse racing industry in Kansas. **Mayor Holland** said it was not neutral. **Mr. Beeler** said I didn't say it was neutral. We didn't fund it. **Mayor Holland** said it just wasn't funded by you. Fair enough. **Mr. Beeler** said it was not funded by us.

Mayor Holland said we don't have an economic impact. My concern is it is possible that it could grow the gaming industry in the region and it could bring additional revenues. It is also plausible that it could detract from the revenue from the casino. Different from Target and Walmart just going at it with the same level of contribution to the City, it's possible that we could lose contribution from a group that's paying, in addition to their property taxes which I believe they have disputed to your point Mr. Walker. **Commissioner Walker** said every year. **Mayor Holland** said every year.

In addition to losing potential revenue there, we could lose gaming revenue there and they are paying 3% of gaming revenue to the City. It's possible that this could take money away from the one that is paying for the services we provide on a 24-hour basis and shift it to a group that is not paying us, and potentially paying us nothing. I think that's a stipulation outside of the property tax piece.

I do think that is a relevant economic impact. I think I would feel more comfortable in a special use permit if we had an independent study done. Mr. Bach, what would it take to have an independent study done on the economic impact? I don't want to rob Peter to pay Paul, and I don't want to damage the revenues that we have coming into the City now, nor do I want to have a facility open 24 hours that we're not able to provide adequate service to. **Mr. Bach** said when we did the economic studies for the casinos that came in, I believe that ran about \$170,000 which were funded by those casinos that were the applicants as part of their process. I would venture to

guess something like this to analyze the gaming revenues, where they came from, and impact of what could happen from the Woodlands could be a \$30-50,000 type study.

Mayor Holland asked how long would that take. **Mr. Bach** said probably 90 days. **Mayor Holland** said it'd take 90 days. **Mr. Bach** said that's the part of the study. I'd have to go out for an RFP to select someone, so 90-120 days.

Mayor Holland said my concern would be making a decision. I don't feel rushed to make this decision. I do understand that there's a need for you all to take this to Topeka, more for political reasons really than practical reasons because an SUP can be applied for at any time during the process. I understand why you want to bring it forward now.

My concern is I don't think we have adequate information on the total economic impact this would have. If it were delayed it would just push it out of this legislative session into the next one which is next year. I know we have a motion and a second on the table to approve it. I would think we would be better off asking for an independent study, asking the applicant to fund an independent study that we could actually gauge the gaming revenue loss or gain from an independent group that would allow us to make a good decision long term. That's my opinion.

We do have a motion and a second on the table. I'm not seeing any other commissioners desiring to speak. I'll ask our Legal, how many votes does it take to pass. **Mr. Moore** said, Mayor, in looking at this, if you're overriding the Planning Commission's recommendation, it does take eight votes. However, I don't think that the changes that have been made tonight were significant in that they weren't considered by the Planning Commission or that they would really affect the zoning aspects of the vote. Therefore, I think it would take just six votes to approve the application.

Commissioner Philbrook said you're right, I was going to be quiet, but I do have to say a couple of things. That is this seems like a Catch 22 to me. I see what all it could provide for us, but it's kind of like pie in the sky. You guys really do a great job of creating a wonderful picture. I don't know what it's really going to turn out like. We don't know if it's going to pass at the state level. To be cautious, what's the worst thing that's going to happen if we delay this vote or moving you forward by 120 days?

Mr. Beeler said there's a couple of questions in one question there. The first one is any economic study that is paid for by someone is not independent by somebody's definition. We didn't pay for this study. The industry did. Our opponents, of which there is one effectively, has

had all this time to provide any economic information they want. They have done no study to show that there's any support for anything that they have said. As you've indicated, we have provided all that we have plus an independent economic study.

Commissioner Philbrook said I don't want you to think I'm fighting you. I'm not. **Mr. Beeler** said I know that, but I'm passionate about it. I think that, as I said before, if we were to put this off, I fear that legislators who do not want, we have an Attorney General who has said right now Wichita you can't do this. You can't do it, but he said Wyandotte County you can. Crawford County you can.

Any legislature up there that's being asked to vote on this is going to say, why in the world would I put my political voting record on the line for Wyandotte County if Wyandotte County has not even granted the SUP. That's why. It is not pie in the sky. Those are realities that we're dealing with. **Commissioner Philbrook** said that's the reality part, yes. **Mr. Beeler** said it is. 120 days can be as death defying, if you will, as a year or anything else. Especially when we have the very same people, and I'm on the record in the Planning Commission so it's part of the record, in 2011, Hollywood saying on the record in the press, that the Kansas City gambling mix will expand rather than constrict the market. When a new casino comes in, it does tend to expand and grow the market, Sheldon said, that was GM Bob Sheldon at the time. There is certainly enough business to go around.

Those same people, now that there's somebody else in the sandbox, have a whole different tune but provide no evidence, no support. I know I'm a lawyer. I'm an advocate. The fact of the matter is there has to be evidence. There isn't any. There's been some speak and some we might lose, we might this, we might that. Not one study, not one shred of evidence. What we're saying is the evidence that is in those studies say all tides are going to rise and all boats rise with them. That's the evidence. That's the answer to your question of why it would hurt us.

Commissioner Walker said call the question. **Mayor Holland** said Commissioner Johnson did chime in before that. I will honor the call to the question with this last comment.

Commissioner Johnson said the only thing I wanted to ask is what were we expecting from this economic study. What are we going to determine if it doesn't provide the data that we suggest? Are we saying no to this request? **Mayor Holland** said I think we'd have to have that

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information before we'd make a decision. **Commissioner Walker** said we're going to throw another \$170,000 at a study to tell us what common sense ought to tell us already, collectively. You don't need an expert every time to tell us to open the window when it's hot. **Commissioner Johnson** said \$70-92M of investment potentially, no incentives, no subsidies, no abatements, positive impact on our tax rolls of nearly \$2M, maybe more. That shows impact to me and it shows commitment. They're talking about a pledge of another \$100,000 for charitable contributions. I don't know what motivations we have to continue to kind of push this down the road. I think we need to move forward with this.

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

ITEM NO. 2 – 16563...SPECIAL USE PERMIT #SP-2016-38 - JASON STEUBER WITH STEUBER MOTOR GROUP

Synopsis: Special use permit for auto sales at 3017 Merriam Lane, submitted by Robin H. Richardson, Director of Planning. The applicant is requesting approval to use his tenant space within a multi-tenant building to conduct internet auto sales at 3017 Merriam Lane. The Planning Commission voted 9 to 1 to recommend approval of Special Use Permit Application #SP-2016-38, subject to:

Urban Planning and Land Use Comments

1. How large is your tenant space? Please provide a scaled drawing of your floor plan? Also, please provide a site plan that illustrates parking for your business in comparison to the overall site.

a. Is your tenant space in the front along Merriam Lane or in the rear of the building?

Applicant Response: I have included a floor plan and site map. Customers will be allowed to park in the front or the back of the building. Parking in the red square (along Merriam Lane) is available on the weekends and evenings. Parking in the blue (in the rear of the building) is available at all times. A rough outline of my space is outlined in black.

Staff Response: The parking ratio for auto sales is four spaces for every 1,000 square feet of building area. Based on the 2,400 square foot building, 9.6 or ten spaces are required. Ten spaces shall be striped in the parking lot, a combination of the front and rear parking lots are acceptable to meet this requirement.

2. What are your hours of operation?

Applicant Response: Customers will come to the property by appointment. My work hours will be on the weekends, 8:00 AM to 5:00 PM with the occasional weeknight.

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3. Since you will be predominately conducting internet sales, will customers come to the property by appointment only?

Applicant Response: Yes, customers will only come to the property by appointment only.

4. How are you advertising your business? Are you planning on displaying “for sale” signs?

Applicant Response: All advertising will be done through the internet (Craigslist, Auto Trader, eBay, etc.). I will not be posting “For Sale” signs.

5. How many vehicles do you plan on having on the property at any one time?

Applicant Response: I will have no more than two vehicles on the property at a time.

6. All vehicles that are for sale shall be stored inside the building at all times.

Applicant Response: Vehicles will be stored inside. I will only bring a vehicle outside if I need to show a customer.

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.

Jason Steuber, 13005 King, Overland Park, Kansas, said I would like to open a used car dealership at 3017 Merriam Lane. I will be storing the vehicles inside the building. I plan on having no more than two vehicles at a time. People will only be coming to the property by appointment only.

Also, I think I sent Byron an email today, this is kind of an older satellite image. The parking lot has since been resurfaced and parking spots have been added. The painted lines have been added.

Mayor Holland opened the public hearing and asked would anyone in attendance tonight like to come forward and speak in favor of Special Use Permit #SP-2016-38. Let the record show no one is coming forward.

Mayor Holland asked would anyone like to speak in opposition to this proposal. Let the record show no one is coming forward.

Mayor Holland closed the public hearing

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Action: Commissioner Murguia made a motion, seconded by Commissioner Philbrook, to approve Special Use Permit Application #SP-2016-38 for two years, subject to the stipulations. Roll call was taken and there were nine “Ayes,” Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 3 – 16565...SPECIAL USE PERMIT #SP-2016-39 - RAY HENSON WITH CAR CLINIC AUTO SALES

Synopsis: Special use permit for an auto dealership at 1270 Southwest Boulevard, submitted by Robin H. Richardson, Director of Planning. The applicant is requesting approval to sell used automobiles and provide an auto detailing service at 1270 Southwest Boulevard. The Planning Commission voted 9 to 1 to recommend approval of Special Use Permit Application #SP-2016-39, subject to:

Urban Planning and Land Use Comments

1. This building formerly was ServPro, which was a fleet maintenance/repair shop, which went out of business in 2007.

2. Based on the photographs provided by the applicant, it appears that the auto detailing business is open based on the banner sign posted on the roof.

3. How large is the building? Please provide a scaled drawing of your floor plan? Also, please provide a scaled site plan that shows each parking space for your business in comparison to the overall site.

The parking ratio for these uses is four spaces for every 1,000 square feet of building area.

Applicant Response: The building is 3,500 square feet.

4. What are your hours of operation?

Applicant Response: The hours of operation are Monday through Friday, 8:00AM to 6:00 PM and Saturday 8:00 AM to 3:00 PM.

5. How many vehicles do you plan on having on the property at any one time?

Staff Response: Based on the site plan, site and aerial photographs, it appears that only four vehicles could be displayed for sale.

6. Vehicles that are for sale and/or to be detailed shall be parked in a striped, designated parking stall. They may not be double or triple stacked.

7. Overhead doors shall remain closed when vehicles are being detailed.

8. A signage permanently affixed to the building must have an approved sign permit. A licensed and bonded sign company with the KCK Business License Department must file the sign permit application on behalf of the owner.

9. The parking lot must be restriped and comply with the ADA.

10. While staff understands that this site is entirely pavement, this ordinance requires compliance with the Commercial Design Guidelines. The guidelines require that trees be planted at least 75 percent greater than the district requirement. The requirement is one tree per 7,000 square feet of site area; therefore four trees are required to be planted. Please indicate on a scaled site plan (drawing) where the trees will be planted.

Even through the zoning is industrial, commercial uses must comply with the Commercial Design Guidelines and commercial parking requirements. The concrete pavement will need to be cut out in order to plant these trees.

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.

Ray Henson, 2401 North 61st Terrace, Kansas City, Kansas said I've been born and raised here all my life. I'd like to open up a detail shop/car lot. I've been doing business for 18 years in Johnson County now. We've been number one on Angie's List, Groupon, LivingSocial. We're five stars on Facebook. We're just hoping tonight that we can get approved to use our special permit and to keep doing business in Wyandotte.

Mayor Holland opened the public hearing and asked would anyone in attendance tonight like to come forward and speak in favor of Special Use Permit #SP-2016-39. Let the record show no one is coming forward.

Mayor Holland asked would anyone like to speak in opposition to this proposal. Let the record show no one is coming forward.

Mayor Holland closed the public hearing.

Commissioner Murguia said, Mr. Henson, I just want to say I'm glad you live in Wyandotte County. Thank you very much. I love it more that you have a business in my district.

Action: **Commissioner Murguia made a motion, seconded by Commissioner Philbrook, to approve Special Use Permit Application #SP-2016-39 for two years, subject to the stipulations.** Roll call was taken and there were nine "Ayes," Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters.

ITEM NO. 4 – 16571...SPECIAL USE PERMIT #SP-2016-40 - FRANK LAVENDER, JR.

Synopsis: Special use permit for a two day music festival (June 24 and 25, 2016) at 3924 North 49th Drive, submitted by Robin H. Richardson, Director of Planning. **NOTE: This special use permit is only required to be heard by the Board of Commissioners.** The applicant is requesting approval of a short-term special use permit (less than ten days) to host the Kansas City Kansas Street Blues Festival on his 44.1 acre property from Friday, June 24, 2016 – 3:00 p.m. to 8:00 p.m. to Saturday, June 25, 2016 – 12:00 p.m. to 8:00 p.m. at 3924 North 49th Drive.

Urban Planning and Land Use Comments

1. Short-term special use permit applications are rare and only go to the Unified Government Board of Commissioners for approval.
2. Subject to approval, this short-term special use permit shall be valid from Friday, June 24, 2016 – Saturday, June 25, 2016.
3. The applicant has provided a site plan indicating the location of the parking area, stage and audience. Because the audience is north of the stage in a north-south orientation, sound generated from the performers and bands will project towards the power plant and not in the direction of the residences to the south and east.
4. Alcohol will not be sold on the property; people can bring their own.
5. As mentioned in the proposal, on-site security will be provided, shall comply with the Code of Ordinances regarding security staff.
6. Performances shall end by 8:00 PM.

Public Works Comments

1. Items that require plan revision or additional documentation before engineering can recommend approval: None

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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

Frank Lavender, Jr., 2615 North 38th Street, said I own property at 3924 North 49th Drive where I've submitted an application for a special use permit to have a musical festival which has been traditionally known as the Kansas City Blues and Jazz Street Festival. I have donated this land to be used by the Masonic Lodge to host this event. It hasn't been held in seven years. I think 2009 was the last time we had it at 13th & State which was in the streets at 13th & State. I've donated my land to the Masonic Lodge and this organization to host it on my place on private property.

This event would be, it's a two day event. It's Friday from 3:00 in the afternoon to 8:00 at night and on Saturday from noon until 8:00 p.m. It's a daytime event.

Mayor Holland opened the public hearing and asked would anyone in attendance tonight like to come forward and speak in favor of Special Use Permit #SP-2016-40. Let the record show no one is coming forward.

Mayor Holland asked would anyone like to speak in opposition to this proposal. Let the record show no one is coming forward.

Mayor Holland closed the public hearing.

Action: **Commissioner Walker made a motion, seconded by Commissioner Johnson, to approve Special Use Permit Application #SP-2016-40, subject to the stipulations.**

Commissioner Bynum said I just wanted to say that I'm happy to see the KCK Street Blues Festival return after a long absence. I did want to say that in our packet was a letter to us that I never got, so I don't know in what way it was delivered, mailed, emailed, I don't know. I never saw it. I'm happy to support the event.

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Mayor Holland asked I would also like to ask, Mr. Richardson, if you could evaluate for us. This seems to be the kind of request that could be handled on a staff level. I know when we worked on food trucks, we moved that to a staff approval. Parades we moved to a staff approval. If there's a way that we could set some parameters under which we would allow the staff to make these approvals rather than the Commission having to do it, that would be fantastic. **Mr. Richardson** said we have a proposal to rewrite the Zoning Code in the next fiscal year that will be part of your budget considerations. I'd be happy to do that as part of that or otherwise if need be. **Mayor Holland** asked is that a plug for his budget. Noted. That is not a part of the motion, but I do think it needs to be worked out.

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

PLAN REVIEW APPLICATION

ITEM NO. 1 - #PR-2016-7 – KHALID CHEEMA WITH CHEEMA FOOD AND PETROLEUM, INC.

SYNOPSIS: Preliminary Plan Review for a gas station/convenience store and retail space at 2425 Metropolitan Avenue, submitted by Robin H. Richardson, Director of Planning. Mr. Cheema is requesting preliminary plan approval for a gas station, convenience store, and retail tenant spaces at 2425 Metropolitan. This site has been before the Commission before for plan review of a gas station remodel, convenience store, and car wash. Submitted at this time is a change from that previous plan. The Planning Commission voted 6 to 4 to recommend approval of Plan Review Application #PR-2016-7, subject to:

1. The owner attends 80% of the neighborhood meetings of the local neighborhood group each year.
2. The owner offers a substantial quarterly update on the project and what's been going on and what they have been doing for upkeep and reduce crime in the area and specifically on their property to the local neighborhood group.
3. Upkeep of property no matter the owner/lease arrangement.
4. Applicant will be owner/operator.
5. The owner will enforce a "no loud music policy" on the property.

Urban Planning and Land Use Comments

1. Landscape Plan:

- a. At least 75 percent of the length of building foundations facing public streets, the exterior of the development, or common spaces must be planted with ornamental plant material such as ornamental trees, flowering shrubs, perennials, and groundcovers. (Sec. 27-577 d.1)
- b. Landscaping shall exceed the typical code requirements by at least 75% (Sec. 27-577 a.5)
 - i. One tree per 7000 square feet. (Sec. 27-466 g) x 75%
 - ii. Only six trees are shown on the landscape plan; eight trees are required by code.

2. Building Architecture:

In regard to architecture, the east, south, and west facades must meet the following criteria:

- a. (Sec. 27-576 c) In order to break up the monotonous appearance of long facades, a building wall no more than 45 feet in length should be divided into increments of no more than 45 feet through articulation of the facade. This can be achieved through combinations of at least three of the following techniques:
 - b. Divisions or breaks in materials;
 - c. Building offsets (projections, recesses, niches);
 - d. Window bays;
 - e. Separate entrances and entry treatment; or
 - f. Variation in rooflines.
- g.(Sec. 27-576 e) All building facades shall be at least 50 percent masonry. Cementitious siding may be used to meet 50 percent of the total masonry requirement.
- h. *Please provide dimensions and percentages of all materials used*
 - All downspouts must be internalized
 - All roof mounted mechanical equipment must be screened by the parapet.

3. Site upkeep

Staff is pleased that the applicants have had a seemingly productive meeting with neighborhood representatives and residents. Staff feels that if this relationship continues to be a positive and productive one, the proposed improvements could be of benefit to the area.

If approved, applicant must honor the maintenance and upkeep plan submitted in October 2015 (see attachments).

Staff did not receive revised landscape plans or elevations. If approved, applicant must meet all requirements of the Commercial Design Guidelines at the time of the Final Plan Review.

D) Police Calls – Police calls ranging from traffic stops, hold up alarms, theft to building checks (investigation follow up excluded information calls, hang-ups and illness):

2015 – 13

2014 – 6

2013 – 17

2012 – 23

2011 – 8

2010 - 13

Of the 80 calls for service listed above over six years (one per month) most were for burglary and theft. Many were suspicious persons, welfare checks, domestic violence, suicide attempts,

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or civil process. The owners and operators need to be diligent in creating an atmosphere that discourages police calls for service. Prior to submitting a final plan review, the applicant should meet with a KCK Police Department representative that can help them with crime prevention through environmental design. A report of the recommendations must accompany the final plan review application.

Public Works Comments

A) Items that require plan revision or additional documentation before engineering can recommend approval: None

B) Items that are conditions of approval (stipulations): None

C) Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents:

1) Final development plans shall be submitted for Planning Commission approval. Final development plans shall include final engineering drawings and construction plans approved by engineering.

Bill Hutton, 509 Armstrong Avenue, Kansas City, Kansas, said I'm appearing on behalf of Cheema Food and Petroleum, specifically Khalid and Adnan Cheema are both here present this evening. They are the family owners of the property located at 2425 Metropolitan Avenue, Kansas City, Kansas. They also own four other convenience store/gas stations in Kansas City, Kansas.

I'll give you a very brief history on this matter. It previously was before this Commission in October of last year and was referred back to the Planning Commission for suggested revisions to the Preliminary Plan for this property. One of the biggest issues at that time was a one bay car wash and the problems that are incumbent with car washes in residential areas and, frankly, almost anywhere. One of the big issues is being loud music, also loitering, other issues such as that.

The revised plans that were ultimately considered by the Planning Commission in April of this year included a significant change to the use of the property. The car wash is gone. The area where the car wash is located, on that map it would be the building to the right which is a retail building. At one point it was a car wash and it will be all completely converted to retail space. We prepared and had an architect prepare significant plans to revise that entire property. We also had prepared significant plans to take care of the parking issues to ensure that the parking was such that it did not have basically, what I would call for lack of a better term, a drive-through type of attitude. All those matters were taken care of.

We expanded and remodeled the convenience store with the convenience store going 20 feet to the south which enables us to basically have a larger store, have the ability to have better entrance, better access, and those kind of things.

I would tell you that on March 24, a meeting was held at the Joe Amayo Argentine Community Center. That meeting was attended by 19 individuals, including Commissioner Murguia, and including at least one member of the Planning Commission. My position with the Planning Commission was that there was good discourse. There was agreement to disagree. One of the issues that had been discussed at the prior City Commission meeting and the Planning Commission meeting in October, 2015 was some real acrimony between the neighborhood and the owners of this convenience store because of some prior problems that occurred.

I'm not going to sit here and tell you all those problems have been resolved, but I will tell you there has been dialogue. There was open discussion at that meeting. I believe both of my clients answered questions as well did I. I submitted, and you have as part of the record, the minutes that I took from the meeting. They are not verbatim minutes which I'm sure Commissioner Murguia would agree on. I believe they do set out most of the questions that were asked. Many of those people who were concerned from the neighborhood did appear at the Planning Commission meeting. Those included Mr. and Mrs. Escobar who I have talked with. They also included some other neighbors who reside in the immediate area. They're not here this evening, but I am sure they have contacted the commissioners. I am certain that the commissioners have heard the concerns those individuals have.

One of the things, there were numerous stipulations that have been submitted before this Plan could be reviewed and I would tell you that my clients not only stipulated to those at the time of the Planning Commission, but we do likewise this evening.

The first one is a requirement, and this certainly makes good sense, that my clients attend 80% of the neighborhood meetings if this Plan Review is approved. Basically, I had a discussion with Mr. Escobar after the meeting and those, as I understand, are held the third Tuesday of the month at the Argentine Library. My clients have submitted and stipulated they will attend 80% of those meetings.

The second thing that was submitted was that my clients provide a quarterly update on what is going on with the retail part their business as well as the convenience store. Again, I don't think that will be a problem. If they're not able to do that, themselves, then I'm sure that I will be the person who provides that information. My clients have provided the cell phone

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numbers for themselves if there are concerns because right now the convenience store is closed. There is a phone shop operating in the retail space, but the convenience store itself is closed.

We also entered into a maintenance agreement in October of 2015. We are still bound by that agreement and that, again, is attached as part of the information you have with you this evening.

The next stipulation was that my clients would be the owner/operators. As I advised the Planning Commissioners, at minimum my clients are required to own and operate this property for three years under the loan that they have been approved for from the bank. I would tell you my clients have given me authority to further stipulate that they will, as long as they own the property, they will continue to operate it. That does not prevent them from obviously selling the property at some point. As long as they physically own the property they will operate this convenience store, not the other retail portion of it, but they will operate the convenience store just as they currently do the other four properties in Kansas City, Kansas.

The last thing that was requested was a no loud music policy on the property. That absolutely will be enforced. Not only will there be signs on that, but my clients will work with Community Policing to make sure that there is proper citing of the fairly heavy fine, but non-moving violation for loud music on that property.

I believe that sets it out. I know you all have had a long evening. I certainly will answer any questions. This is a Preliminary Plan Review. One of the things brought out by the Planning Department, and specifically Mr. Richardson, is the landscape plan. A landscape plan will be submitted by Craig Luebbert, our architect. We do stipulate to having more than the six trees showed on this, which is eight trees. We will meet the landscaping requirements.

The current building façade information has been submitted and was submitted to the neighborhood group. The plans, and those again, will have to be submitted to Mr. Richardson's office for final approval for the facades. We are not showing this as being, it's not concrete block. It basically is different formats. It's all designed so that the convenience store and the retail establishment have a similar color format. I believe, Mr. Richardson, those were provided to the Planning staff. I don't know that they're available via a slide, but I know that they have been provided.

Mayor Holland opened the public hearing and asked would anyone in attendance tonight like to come forward and speak in favor of Plan Review Application #PR-2016-7. Let the record show no one is coming forward.

Mayor Holland asked would anyone like to speak in opposition to this proposal. Let the record show no one is coming forward.

Mayor Holland closed the public hearing.

Commissioner Murguia said I'll try to keep my comments short. I know it's late. I just want my fellow commissioners to know that the lack of attendance tonight isn't due to the lack of interest in this development deal by my constituents. They have asked me to represent them tonight which I will do as I always do.

They are not in favor of this. It's been very clear to Mr. Hutton and his clients that they are not in favor for a variety of reasons. If our Planning staff could maybe do a front view of the property as it currently exists, could you drag that down there.

While you're showing a front view of this development, it used to be a gas station and a car wash facility. In 2006, prior to me being elected up here as commissioner, the commissioner then which is none of who is up here now, granted them permission to invest thousands of dollars in converting a car wash bay into retail space. As part of that agreement which was unanimously approved, they had to do substantial landscaping and substantial improvements to the structure. None of that agreement was followed.

As you can see the Boost Mobile where simply they slapped a glass front on the front of a car wash bay and rent it out now as retail space. As you can see at the tail end where there's been some glass put in another car wash bay, a stop work order had to be issued on that because they tried to make these improvements without coming in front of us and getting permission to begin with.

The landscaping that they put up consists of those little terra cotta blocks you can buy at Home Depot laying, most of them are laying sideways in the landscaping. The landscaping that they planted were so small that they either died or were chopped off by the lawnmower when they mowed, which by the way was never.

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Since 2007 at least the neighborhood group has taken responsibility for this area. About \$25,000 in charitable funds was raised for that surrounding area. That sidewalk you see coming from one corner down to the other, that was paid for with charitable dollars. Their plan includes overlaying that with asphalt for additional parking.

This is not a plan review on an existing structure. This is converting car wash bays to a strip mall, and not even a good strip mall, with owners that have a terrible history in our community of being slumlords, not to mention this being a haven when its open for drug dealing. We used to refer to it as drive up, buy your crack because it was sealed off in the back and the cops driving by couldn't see what was going on behind the car wash. I personally, in 2006, picked up trash along this fence line where I found a semi-automatic weapon and a wad of cash that I turned over to the Police Department. These owners are the epitome of slumlords. Our county should not tolerate this in my district or in any district in Wyandotte County.

As in relation to the golden factors I would tell you that turning a car wash bay is not a suitable use for this property. That is reason enough by our laws to not approve this Plan Review tonight. What they say and what they do are two different things. Believe me, that's unfortunate. I do not believe that Mr. Hutton's clients will invest \$350,000 in this development. I don't believe they'll invest \$30,000.

Action: Commissioner Murguia made a motion, seconded by Commissioner Walker, to deny Plan Review Application #PR-2016-7.

Commissioner McKiernan said I just have a question. If they don't do anything, they still own the property right? **Mr. Hutton** said yes. **Commissioner McKiernan** said if they own the property and they pay their property taxes, they could have effectively leave it sit just as it is with what recourse would we have? **Mr. Hutton** said basically, I suppose code violations could be charged. My clients could reopen the gas station that's closed in the current setup that it is. **Commissioner Walker** said we have other remedies.

Commissioner McKiernan said that's kind of my question is it seems to me that it can just stay there as it is or they could invest in it with the idea of improving the property and improving their relationship with the neighborhood surrounding it. There is nothing that would preclude them from maintaining that property in its current state as long as they pay their

mortgage and pay their taxes. **Mr. Hutton** said we could operate, the gas station could reopen and, frankly as far as I know, the car wash could reopen.

Commissioner Walker said I think that there would be the potential for the civil remedy of nuisance, depending on what the evidence is that we gather. The continued use of it as a facility that drugs and other illegal activities are committed on also make it subject to criminal nuisance action by the District Attorney.

The question is, with the development that's going on down there, is this what you want next to, by some reckoning, a dilapidated church that some people are trying to hold on as historic, symbolic of the second class citizenship of the Mexican-Americans that were here in the 1950s and 1960s.

I live in that area and long before Mr. Cheema was involved in this, this site has a bad karma. I don't know if it's the proximity to any particular location. It has been a trouble spot in the community since I was 15 years old. I hate to tell you how long ago that was. I've never lived very far from it so I'm pretty familiar with it. I've driven by it thousands of times. It's not a place I would stop, certainly never at night, and only if I was on the absolute bottom of my gas tank would I even consider it.

I agree with Commissioner Murguia. I can't imagine a bank agreeing to put \$350,000 into this. **Mr. Hutton** said which we do have that loan commitment. **Commissioner Walker** said I will accept that as true. It'll be marginally improved for a little while and then it'll deteriorate.

Commissioner McKiernan said I'm still trying to wrap my brain around this. If we deny, then we lock it into its current state and effectively tell the owner you cannot make any improvements. So we effectively lock ourselves into whatever civil, criminal course of action might come from this. Isn't that what we do? **Commissioner Murguia** said no that's not what we do.

We are given these golden factors. These golden factors are our legal right to deny based on these. I just cited one of three I could cite why this is not a suitable re-use of the property. What I would like to say is they absolutely can do things. They can start picking up the trash. They can paint the building. They can put up different signage. There are a variety of things that they can do. The reality is that every time this place, they open it, trash blows all over the community. They don't pick up their trash.

This is the other issue, Commissioner McKiernan. They also said they were going to invest thousands and thousands of dollars in 2006. They never did that. I don't believe they are going to invest \$350,000 here. I think they're going to try to put what they think is a fancy finish, or as they say lipstick on a pig, and it's not going to amount to anything. It's not going to improve the neighborhood. It's ridiculous. So, yes, absolutely, it is better off because there's at least no trash blowing around the neighborhood with nothing being done to it, which I don't believe will last. I don't believe it will last long. I'll leave it at that.

Mayor Holland said we have a motion and a second for denial. I don't see any other comments. We are ready to vote. I will ask our Legal for the number of votes required. **Mr. Moore** said, Mayor, since this is a motion to deny, it is overruling the Planning Commission. It would take eight votes. I guess I'd like to make sure that we're clear that if you vote yes for this motion, your motion is to override the Planning Commission. **Mayor Holland** said that's right. A yes vote means no on the project. That's often confusing so we do need to clarify and it does take eight votes to override. If you want to deny, vote yes.

Action: Roll call was taken and there were eight "Ayes," Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Markley, Walters. Commissioner Philbrook voted "No".

REGULAR SESSION

MAYOR'S AGENDA

No item of business

NON-PLANNING CONSENT AGENDA

Mayor Holland asked if there were any set-asides on the Non-Planning Consent Agenda. There were no set-asides.

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

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ITEM NO. 1 – MINUTES

Synopsis: Minutes from special sessions of March 31 and April 14, 2016.

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

ITEM NO. 2 - WEEKLY BUSINESS MATERIAL

Synopsis: Weekly business material dated April 14 and 21, 2016.

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

PUBLIC HEARING AGENDA

No business items

STANDING COMMITTEES’ AGENDA

No business items

ADMINISTRATOR’S AGENDA

No business items

COMMISSIONERS’ AGENDA

No business items

LAND BANK BOARD OF TRUSTEES’ CONSENT AGENDA

No business items

PUBLIC ANNOUNCEMENTS

No items of business.

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**MAYOR HOLLAND ADJOURNED
THE MEETING AT 10:42 P.M.
April 28, 2016**

Bridgette D. Cobbins
Unified Government Clerk

mls

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