Update for Revised Application and February 2021 Public Hearing

May 2020 Planning Commission Meeting and Actions Taken Since: At the May 18, 2020 meeting the Planning Commission voted to continue this item for an indefinite period. Since that time, the Planning & Development Department responded to complaints about truck parking and related storage on Tracts A and B, and about the sign with an electronic message center (EMC) located at the north entrance. The owner took corrective action by removing or relocating trucks to the area west of Tracts A and B. However, neighboring property owners are not satisfied with the owner's efforts to divert truck traffic to the south entrance, claiming that trucks are still using the north entrance. According to the applicant, truck drivers do still use the north entrance because some truck licensing and inspection patrons do not know before their visit to the DMV that they are not supposed to use the north entrance.

At the request of Planning staff, the owner changed the operation of the sign to comply with current operational standards for EMCs. Additionally, staff requested the EMC portion of the sign be turned off every evening at the closing of the facilities. The owner has apparently done so as requested.

Revision to Proposed PUD Master Plan: As became apparent around the time of the May 2020 Planning Commission meeting, relocating trucks to the west of Tract A and B adjacent to the ballfields is one potential solution to the truck traffic and parking problems on Tracts A and B. This area was not a part of the original PUD application. The current proposal includes the 22 acres west of Tracts A and B (Tract D) to provide for temporary truck parking related to the Department of Motor Vehicles (DMV) truck driver licensing and inspection, and White Line truck driver training operations in the building on Tract A.

In addition to Tract D, the current proposed PUD master plan includes the elements in the May 2020 proposal, which are described in the May 18, 2020 report below.

Traffic Safety Study: The focus of the traffic study is the intersection of the north entrance with the frontage road (providing access to the residences and the cemetery) and SW Burlingame Road. The study "evaluated the level of service of all movements during sport Zone events, the crash history of both study intersections, and reviewed alternative intersection control that may help at one or both study intersections. Primarily because of the eastbound traffic volume at the north entrance/exit to the DMV and Sports Zone, the study recommends the yield sign be removed for eastbound traffic from the entrance/exit to/from Tracts A and B, and stop signs be added to the northbound and southbound approaches from the frontage road.

January 28, 2021 Neighborhood Information Meeting: The applicant and staff conducted the meeting via Zoom. The owners of the three residential properties and the cemetery on the east side of the subject property and their representatives participated in the meeting. The participants expressed several concerns, largely the same concerns expressed in previous meetings. These concerns are summarized in the attached letter of January 28, 2021 from Matt Masilionis. Issues and concerns include but are not limited to: 1) truck traffic entering and leaving the site using the north entrance; 2) parking and storage of trucks on Tracts A and B; 3) the brightly illuminated sign at the north entrance; and 4) the addition of uses on Tracts A and B that have evolved since over time since the approval of Sports Zone facility by conditional use permit in 1998. Objectionable uses include the truck driver licensing and inspection as a part of the department of motor vehicles (DMV) on Tract A and the White Line Truck School on Tract B. Included with the January 28 letter (Masilionis) is a sketch of the PUD plan with the neighboring property owner's recommended changes originally submitted to the applicant in June 2020.

The neighboring property owners also object to the recommendations of the City's traffic study. They recommend the owner be required to install a stop sign for traffic exiting the north driveway from Tracts A and B as was required by the conditional use permit for Sports Zone.
The neighboring property owners are requesting the owner make substantial physical changes to the site prior to any new development and request other solutions be implemented before approval of any change in the zoning. It is staff’s opinion, however, that solutions can be most effectively established and enforced after approval of a PUD master plan to establish conditions for continued operation and land use changes.

**Staff Recommendation:** Upon consideration of the proposed PUD master plan and the concerns and recommendations from neighbors, staff is recommending approval of the proposed PUD subject to several conditions. The recommendation and conditions are on page 14 of the staff report.

**Owner’s Request for Deferral:** Staff received the attached request from the applicant to defer Planning Commission consideration of the application to the March meeting. The proposed rezoning was originally considered by the Planning Commission in September 2019 and again in May 2020. Three neighborhood information meetings have been held. For these reasons Staff is providing the Commission with this report and recommendations to give the Commission the option of taking action at the February meeting.
Update to the Staff Report for the May18, 2020 Public Hearing

The item was first heard by the Planning Commission at its September 16, 2019 public hearing. The Commission deferred the item to a date undetermined to give staff and the applicant time to address issues raised about truck traffic from the KS Department of Revenue- Dept. of Motor Vehicles and White Line truck driver private training school that are using the site. The item was postponed from subsequent meetings at request of the applicant. The applicant held a second meeting with the surrounding property owners on Monday, January 27, 2020. The item was originally re-scheduled for April Planning Commission, but the applicant agreed to postpone due to declaration of emergency of COVID19.

The staff report has been updated and revised to reflect the new information based on knowledge of the DMV commercial truck driver licensing, testing, and the White Line private driver training school using the existing building on Tract A and heightened concerns about the uncertainty of light industrial uses on Tract B that were presented to staff at the neighborhood information meeting in January. Memos provided by the applicant from the DMV and White Line are attached as exhibits.

Following are the key changes that are reflected on the current draft of the PUD Master Plan proposed for consideration:

- **Northern Entrance Driveway** – For current uses, access for semi-tractor trailer trucks to Tract A or Tract B is prohibited by the PUD. The owners have indicated they will work with the City’s traffic engineer to place private signs along Burlingame Rd and at the public frontage road intersection to direct semi-trucks to the south entrance for ingress and egress.

- **Tract A uses**: The owners have agreed to eliminate parking for semi-tractor trailers on Tract A. The private truck driver vocational school and DMV will not use Tract A for on-site testing. (See development/case history on Pg. 6.) Under the proposed zoning, the PUD will allow “O&I-2” Office and Institutional uses on Tract A, which allows the DMV to continue use of the building for an office only. The dance studio and day care will be permitted as “O&I-2” uses. These uses are appropriate since they are complementary with the use of the sports recreation facility on Tract B.

- **Tract B - current uses**: Semi-tractor trailer trucks may only use the south entrance and signs will be installed along Burlingame as indicated. The White Line truck driver school will continue to park and test on Tract B with access only from the south entrance driveway as indicated above.

- **Tract B - future uses**: If a Change of Use or substantial addition is proposed to one of the allowed industrial uses that is noted on the PUD master plan, all use of the north driveway will be restricted for emergency responder access (Fire, ambulance, Police, etc). The applicant will be required and will have to submit a site plan showing a gate and fence that limits access for all normal vehicular traffic in addition to the already prohibited semi-trailers.

- **Tract B future permitted uses**: The PUD primarily limits any future industrial uses to enclosed warehousing/storage, contractor shops (without outside storage of equipment and products), self-storage facilities, and artisan manufacturing (defined in TMC18.55 where products are primarily made by hand with no or very little use of equipment/machinery). Additionally, any outside display and storage of products, equipment, and machinery is prohibited for any of the allowed uses.

- **Tract C future permitted uses**: “I-1” Light Industrial uses and dimensional standards
APPLICATION INFORMATION:

PUD19/02 By: T&J Land Company LLC (Sports Zone PUD)

CASE NO.

REQUESTED ACTION / CURRENT ZONING:
Rezone from “R-1” Single Family Dwelling District with Special Use Permits (SUP) for “Community Building and alcohol sales” and “Private Membership Club and Golf Course” and a Conditional Use Permit (CUP) for “Outdoor Recreational Uses, Retail Sales, and Food Service” ALL TO “PUD” Planned Unit Development Master Plan (O&I-2; plus I-1 uses only as indicated on the PUD Master Plan for Tracts B and C.)

APPLICANT / PROPERTY OWNER:
T&J Land Company LLC – John Ostrowski, Manager Member

APPLICANT REPRESENTATIVE:
Kevin Holland, P.E. - Cook, Flatt, and Strobel Engineers

PROPERTY ADDRESS & PARCEL ID:
3909 / 3907 SW Burlingame Road / PID: 1462301003008000 and 1462301003003010

PARCEL SIZE:
44.5 acres (Previously 23 acres. Tract D is 21.5 acres and was added to the proposed PUD master plan for December 2020 revised application.)

STAFF:
Annie Driver, AICP, Senior Current Planner

RECOMMENDATION:
Based upon the above findings and analysis Planning Staff recommends APPROVAL subject to conditions stated in the staff report.

RECOMMENDED MOTION:
Based on the findings and analysis in the staff report, I move that the Topeka Planning Commission forward to the Governing Body a recommendation of APPROVAL subject to conditions stated in the staff report.

PHOTOS:

View of front of north building (Knights of Columbus/DMV office building)
View separating houses on east side of the subject property

North entrance drive and public frontage road intersection (Google Maps)

Single Family Residences along public frontage road (Google Maps)
Apartments adjacent to site

Church north of the site

Sports Zone Complex from south side
PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

There are not any proposed projects for the site at this time or are planned. The PUD rezoning is intended to allow the owner to more effectively market portions of the property. Tract A will be used by the Department of Motor Vehicles for office uses without semi-truck parking or driver testing. Tract B will be used for indoor and outdoor recreational uses. Semi-trucks will use and park on Tract B with access from only the south entrance.

The intent of the PUD Master Plan allows the owner to market Tract B and Tract C for light industry (I-1 uses) and provide an office zoning for the existing building on Tract A. The existing building is suitable for an office use. The PUD Master Plan narrowly defines the range of allowed “I-1” uses (i.e. enclosed warehousing, contractor shops) on Tract B due to the location and proximity to single family residential houses. The reason for the PUD rezoning as opposed to straight I-1 zoning is to maintain compatibility with the residential and recreational character of the properties surrounding Tract A and B. Tract C is adjacent to industrial uses on both its north and south boundaries.

The northernmost building is currently used as office/day care/dance studio and is approximately 18,000 sf and the larger Sports Zone complex immediately south of it is approximately 50,000 sf. The adjoining grounds west of the Sports Zone are used as recreational fields and not included in this rezoning.

DEVELOPMENT / CASE HISTORY:

1960 – Annexed and subsequently zoned for single family dwellings

1965 – Special Use Permit for “Private Membership with Golf Course” approved on the site containing the northernmost building that was constructed for use by the Knights of Columbus as a meeting lodge. (Tract A)

1989 – Special Use permit for “Community Building with Alcohol Sales” approved for site containing the Knights building. An addition was added to the existing building. The building was expanded and the ball diamonds were developed after that time. (Tract A)

1998 – Conditional Use Permit for “Outdoor Recreational Fields, Retail Sales, and Food Service” approved. The Sports Zone Building (50,000 sf), indoor sports recreational facility, was constructed on the south side of the Knights of Columbus building. (Tract B)

Land Use/Zoning history – The building on Tract A has been used by the State Department of Motor Vehicles for some time since
2012. The use has expanded over time to accommodate DMV Commercial Truck Vehicle Licensing and testing for commercial truck drivers. The DMV has not had the proper zoning to use this building as an office or truck testing. At the time the DMV began operations, the City Attorney took the position that State uses were not subject to City zoning.

The Planning Department was not aware the property has recently been used by the private White Line Truck Training Academy until the September Planning Commission hearing and also did not have knowledge of the extent of the commercial truck testing by the DMV on that portion of the site until the September meeting.

The building also contains a Day Care Business and Dance Studio, which will be allowed uses under the proposed “O&I-2” zoning for the Tract A. The zoning will allow the DMV to continue to use the building as an office without testing or parking outside. Truck testing, training and parking will be accommodated only on Tract B and access for semi-trailer trucks will be taken only from south entrance on to SW Burlingame.

ZONING AND CHARACTER OF SURROUNDING AREA:

North: PUD (Multiple Family uses) / Church and apartment complex

South: “I-1” Light Industrial / Budweiser warehouse distributor

West: “R-1” Sports Zone recreational fields, flood way and 1% floodplain zone

East: “R-1” Single Family Dwelling District / Residential; Cemetery and “I-1” fueling station

PUD MASTER PLAN ELEMENTS (PROPOSED):

PARKING, CIRCULATION &

PUD Note: The PUD establishes mutual cross access between all tracts. The unapproved access to the north is not permitted under TMC18.230.060 to a more restrictive zoning district from a more intensive use.

LANDSCAPE:

PUD Note: Compliance with TMC 18.235 Landscape Regulations is required for substantial changes of use or new development. The PUD requires a 20’ buffer along the east lines of Tract A and B if a substantial change of use of new development is proposed on either of those tracts. Landscaping for Tract C will be provided as required for new development under TMC 18.235.

BUILDING AND STRUCTURE:

PUD Note: Type C standard in TMC 18.275 Non-Residential Design Standard applies to new construction in Tracts B, and C. Type B standard applies to Tract A for new construction.
Building Setbacks: Setbacks are established on the PUD Master Plan of 30’ for Tract A and B along the front.

SIGNAGE:
PUD Note: Governed by TMC18, Division 2 Signs unless stated otherwise. Tract C is limited “O&I-2” sign standards.

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES: The Master PUD Plan establishes development standards and guidelines, as indicated above.

OTHER FACTORS

SUBDIVISION PLAT:
Platted as Lot 1, Knights of Columbus Subdivision and a part of Lot 1, Saint Sebastian Sports Subdivision.

A replat may be required if there is a sale or change of ownership to areas described by the PUD zoning and creates new parcels that land lock adjacent property or inhibit access to adjacent property.

TRAFFIC/TRANSPORTATION:
SW Burlingame is an arterial roadway. The PUD Master Plan identifies one existing primary public intersection on to Burlingame Road.

The subject property’s northern entrance and public intersection is shared among the three residential properties and the Sports Zone. The subject site also has alternative approved access to Burlingame from the adjacent property at 4201 SW Burlingame by means of private access agreement. There may also be a future access opening on to Burlingame when Tract C develops.

The PUD Master Plan requires that future access on Burlingame be reviewed by Traffic Engineering for consistency to City design specifications if there is a new addition or substantial change of use in order to determine the need for a Traffic Impact Analysis (TIA) for necessary road improvements to public streets or frontage roads.

A question was asked at the NIM as to why a TIA was not required with the zone change? The purpose of a TIA is to scope improvements based on the future need. Overestimating the future need by requiring a TIA in the case of a speculative rezoning, for example, may result in either inadequate improvements being made or an excessive level of improvements. Those needed improvements are better addressed when a specific project is proposed.

The COT Engineering Division has initiated a traffic analysis at the intersection of the Burlingame frontage road and north entrance drive to address the crash history/traffic volume concerns from residents. (That analysis is on-hold until the Sports Zone begins normal operations in either late May or June following the Stay-at-
Home order. The intersection is a public intersection and appropriate signage should be installed under City traffic control standards. The current traffic control “yield” sign is not an approved City sign and was installed by the owner of the Sports Zone without approval by traffic engineering. The applicant will install, at their expense, private signs along Burlingame and at the public intersection as approved by the City Traffic Engineer to better direct semi-trucks to the south entrance and away from the north entrance driveway.

FLOOD HAZARDS, STREAM BUFFERS:

Regulatory Floodway / Development in the FEMA designated floodway is very difficult and costly. A hydrological study is generally required for any development of a floodway and needs to show the development or fill will not increase the Base Flood Elevation (BFE) greater than 1 ft. A City of Topeka Flood Plain Development Permit is required. A Division of Water Resources Permit is required.

HISTORIC PROPERTIES:

Not Applicable

NEIGHBORHOOD MEETING:

The applicant conducted a second Neighborhood Information Meeting on Monday, January 27, 2020 and several neighborhood residents attended the meeting. Planning staff and the City Traffic Engineer attended. The residents expressed major objections. The four main objections are stated in the letter from Matthew Massilionis that is included with this packet. The Planning Department has informed the concerned neighbors via email about the current draft of the PUD Master Plan and how it proposes to address concerns.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

ENGINEERING/STORMWATER: No new development is proposed at the current time. Future plans and permits will be reviewed by Engineering/Utilities for compliance with all applicable stormwater quantity and quality regulations.

ENGINEERING/TRAFFIC: No new development is proposed at the current time. Future plans and permits will be reviewed for compliance with traffic engineering requirements.

ENGINEERING/UTILITIES: No new development is proposed at the current time. Future plans and permits will be reviewed for connections to sewer and water.

FIRE: No new development is proposed at the current time. Future plans or permits will be reviewed for fire suppression needs. Additional fire hydrants will be needed for future development of Tract B and C. The northern entrance will remain a permanent entrance for emergencies by gated access.
DEVELOPMENT SERVICES: No new development is proposed at the current time. Permits will be required for Changes of Use/Occupancy to existing buildings or new construction.

METROPOLITAN TOPEKA TRANSIT AUTHORITY (TMTA): None

KEY DATES

SUBMITTAL: July 19, 2019 – The case was heard by the Planning Commission on September 16, 2020 and deferred to a date uncertain to address concerns raised about the CDL White Line driver training school, CDL State DMV licensing and testing, and truck traffic from these uses.

NEIGHBORHOOD INFORMATION MEETING: August 26, 2019 (original meeting); January 27, 2020 (2nd meeting)

LEGAL ADVERTISING: August 23, 2019 (original notice): April 22, 2020 (May hearing)

PROPERTY OWNER NOTICE MAILED: August 21, 2019 (original notice); April 24, 2020 (May hearing)

STAFF ANALYSIS: As this is a zoning case, Planning staff have considered the Golden Factors as described in Topeka Municipal Code Section 18.245 (Donald Golden vs. City of Overland Park, 1978 Kansas Supreme Court). This staff analysis evaluates the proposal based on these factors as indicated below.

CHARACTER OF THE NEIGHBORHOOD: The surrounding area to the west is characterized by large open spaces used for outdoor recreation. The applicant’s remaining property to the west is almost entirely covered by the floodway. The west side of Burlingame Road contains land either undeveloped or in recreational usage and also in the floodway. Other land uses west of Burlingame Road are: a beer distributor, a fueling station, a cemetery, and three single family residences on the lots located along the Burlingame frontage road. The floodway separates residential subdivisions much further to the west from current development along Burlingame Road and, therefore, is a natural barrier for development of the area west of the Sports Zone.

The proposed rezoning to accommodate office & institutional uses on Tract A, and limited light industrial uses on Tract B, as recommended, and intended for enclosed warehousing/storage, contractor offices, and self-storage units is compatible with light industrial to the south. Staff is recommending the PUD Master Plan contain restrictive conditions to ensure vehicular traffic for future industrial uses access through and across Tracts B and C and not through Tract A in order to protect the existing residential properties that are adjacent to Tract A.

ZONING AND USES OF PROPERTY NEARBY: The immediate property to the north is zoned “PUD (M-2 uses)” for multiple family residential land use and contains a church and apartment complex. The surrounding area to the west is zoned “R-1” Single Family Dwelling District with an existing CUP for Outdoor Recreation on that property and contains recreational ball fields. The surrounding area to the immediate east is zoned “R-1” Single Family Dwelling District and...
contains three residences constructed near the 1950s. Property to the immediate south is zoned “I-1” Light Industrial and contains a beer distributor (I-1 use). A propane fueling station zoned “I-1” Light Industrial lies between areas on the PUD Master Plan designated Tract C and Tract B and also provides this site with a secondary access driveway through a private access agreement. The PUD Master Plan proposes landscaping, setbacks, and use/building size restrictions to ensure the future compatibility with the zoning and land uses of property nearby when Tract B and C develop or there is a substantial change of use to Tract B. Staff is recommending a change to the PUD Master Plan to further restrict all truck driving, parking, and training to Tract B and require closure of the northern entrance driveway (fence/gate) for Tract B except as needed for emergency responders for a light industrial use.

LENGTH OF TIME THE PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER THE PRESENT CLASSIFICATION: The property has been zoned Single Family Dwelling District since it was annexed in 1960. The property has been zoned under a Special Use Permit (SUP) allowing the Knights of Columbus membership hall (north building) since 1965. A 1989 SUP further broadened this use to allow a community building with alcohol sales in this north building located on Tract A. The building was expanded at that time and ball diamonds were added. The Conditional Use Permit (CUP) approved in 1998 allowed expansion of the property for the indoor sports facility with sales of food and beverage when the 50,000 sf building was constructed on Tract B. The north building is currently used for a KS CDL licensing office, dance studio and a day care business.

This building currently houses the DMV’s Commercial Licensing office for driving tests. The zoning for these state uses has never officially been approved because when the DMV began operation, the City Attorney at the time took a position that the State uses do not require zoning approval. After the majority of the DMV branch office relocated, the use morphed into the DMV Commercial Licensing office with truck testing. Recommendations of staff will remove the truck parking, testing, and training from Tract A and restrict driving tests to Tract B with all truck access taken from the south entrance. Although, Tracts B and C have been and are currently occupied, the owner wants the zoning that provides flexibility for other non-residential uses since the site is not ideal for residential uses.

SUITABILITY OF USES TO WHICH THE PROPERTY HAS BEEN RESTRICTED: The subject property is zoned to allow single family dwellings and uses allowed under the existing Conditional Use Permit/Special Use Permits of an indoor/outdoor sports facility, private membership club and community building. The intent of the original Conditional Use Permit/Special Use Permits limited the scope of uses to recreational due to proximity with residential. However, the site is in an area with access to highways that has evolved over time to contain more light industrial uses and unlikely to develop as zoned “R-1” Single-family residential. Other reasons the site is unlikely to develop for new single family uses are: 1. There are already two commercial buildings and parking located on Tract A and B. 2. The building on Tract A is more suitable for an office use than any residential uses. 3. Tract B is located next to a commercial fueling station and the building on Tract B is industrial in nature. 4. Tract C is next to a vehicle fueling station and beer distributor. 5. The property is close to the interchange of I-470/U.S.75/Kansas Turnpike and has excellent transportation access for industrial uses. 6. The floodway to the west establishes a natural barrier between the urban single-family neighborhoods to the west and industrial areas east of U.S. 75 and Burlingame.

Additionally, the very narrow scope of the existing special permits and conditional use permits makes it difficult for the owner to market the property. The PUD Master Plan will continue to allow indoor and outdoor sports recreation, but broadens the allowed uses on the site to make it more feasible to market existing buildings and undeveloped portions of the property for future use and/or sale in a manner that is consistent with the pattern of land uses and zoning to the north and south. The area to be rezoned is located outside the floodway channel that covers property to the west.

CONFORMANCE TO THE COMPREHENSIVE PLAN: The subject property lies within an area that is designated “Parks/Open Space/Recreation” on the north side and “Industrial” and “Urban Growth Area-Residential” on the south side in the Land Use and Growth Management Plan – 2040 (LUGMP). The LUGMP – 2040 future land use map was not meant to define future land uses on a parcel by parcel basis as a neighborhood plan does, but is more general and a broad categorization of the land uses in an area. One primary reason staff approached this rezoning with discretion is the future land use plan does not provide clear direction for development of this particular property and immediate properties to the north, east, and south. There is a process in the LUGMP-2040 that establishes the procedures for
Comprehensive Plan Amendments. Those amendments are usually done as a package with other map amendments when the plan is reviewed and updated, rather than piecemeal with a specific rezoning case. This is an area that may be reviewed during a future update to the map.

The areas in PUD Master Plan shown as Tract B and C are immediately adjacent to “Industrial” land uses and, for this reason, it was determined that limited light industrial zoning is appropriate for those tracts and not for Tract A. An “O&I-2” use group on Tract A will allow development consistent with the apartments and institutional uses (church) to the north and is appropriate considered the existing building is constructed as an office building and not a residential use. The transition from O&I-2 uses on Tract A to limited industrial uses on Tracts B, and all I-1 uses on Tract C, as recommended, is appropriate based on surrounding land uses and zoning.

THE EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:
The reason for the Planned Unit Development zoning designation is to address compatibility concerns arising from proximity to residential zoning and land uses. One purpose of the PUD Regulations is to integrate multiple uses into the development and to adapt the proposed use(s) to meet the conditions of the site. Because of the multiple uses on this site, the mix of uses surrounding the site (single family residential, multiple-family, church, recreational, industrial), and the flood zones involved that limit the development potential of the site, the proposed PUD zoning is appropriate.

Although, neighbors are concerned about the detrimental effects of removing the present restrictions, the proposed PUD Master Plan and conditions recommended by staff mitigate these potential detrimental effects and address concerns from adjacent residents. By doing such, the PUD Master Plan provides a reasonable level of protection for neighboring properties.

The PUD limits uses of Tract A to office and institutional and uses of Tract B to “I-1” Light Industrial for only warehousing/storage, self-storage, and contractor shops. The PUD will also limit truck access through the north entrance and truck parking on Tract A which was a major concern of nearby property owners. As recommended, the PUD will exclude the current on-site truck driver testing from Tract A. The proposed PUD Master Plan will allow a broader range of uses than currently allowed but is effectively written to promote compatibility and prevent conflicts with adjacent residential and institutional uses by limiting access for industrial traffic and limiting industrial uses to Tracts B and C where closer to other industrial uses. In particular, the PUD Master Plan limits Tract A to office and institutional zoning, while allowing for a narrow range of light industrial uses on Tract B, and all light industrial use on Tract C.

A key item on the PUD Master Plan is in the event Tract B changes to an approved industrial use, all vehicular traffic will be prohibited from using the northern entrance. Emergency responders will be provided access through a gate for emergencies. Additionally, upon any substantial change of the use to Tracts A and B, a landscape buffer will be required along the east and north property lines where they abut residential and institutional uses. The PUD establishes 30’ building setbacks and 20’ landscape setbacks for Tracts A and B if new development or a substantial change of use is to occur.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER’S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: Denial of the proposed zoning change imposes a significant hardship on the individual landowner since the current R-1 single family residential zoning significantly limits allowed uses on the property. Economic use of the property under R-1 zoning is difficult at best. The property has never been used for single-family residential use. Additionally, the restrictions in effect under the special use permits issued in 1965 and 1989, and the conditional use permit approved in 1998, are for a narrow range of uses and, therefore, limit the ability of the owner to make improvements and market the property.

The proposed PUD master plan imposes restrictions that are reasonable for the property owner while providing substantial protections to the adjacent property owners and the broader community. The PUD Master Plan limits uses on Tract A and B and establishes standards for new development, including the requirement that industrial and all semi-truck traffic use the entrance 800 feet south of the main entrance and the closest residence. Access across the north
entrance driveway for the existing use on Tract B is allowed under the current CUP that was approved by the Governing Body as long as the building remains in use as a sports recreational facility. Access to Tract B from the north entrance is not allowed when there is a change to one of the industrial uses allowed by the PUD master plan. The traffic and access related requirements separate heavy truck traffic from residential traffic and thus address concerns about traffic safety and livability that arose from the meetings and communications with residents.

**AVAILABILITY OF PUBLIC SERVICES:**
All essential public utilities, services and facilities are presently available to this property with all connections being made at the expense of the developer at the time of site development.

**COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:**
The Master PUD Plan establishes development standards and guidelines as stated herein.

**STAFF RECOMMENDATION**
Based upon the above findings and analysis Planning Staff recommends **APPROVAL** subject to the conditions listed below. Alternatively, if the Planning Commission recommends the elimination of the truck driving school and the DMV’s truck licensing and inspection operations on Tracts A and B, staff recommends condition number 7 be deleted.

1. Use and development of the site in accordance with the **Planned Unit Development Master Plan for Sports Zone** as recorded with the Office of the Shawnee County Register of Deeds.


3. Under Signage Notes, add note #6: “IN ADDITION TO THE FREESTANDING SIGNS ALLOWED ON TRACT C (PER NOTE #3) AND AT THE NORTHERNMOST ENTRANCE ON TRACT A (PER NOTE #2) OTHER FREESTANDING INCIDENTAL SIGNS ARE ALLOWED IN ACCORDANCE WITH THE REGULATIONS FOR INCIDENTAL SIGNS PER TOPEKA’S SIGN CODE.”

4. Under Landscaping Notes, In note #1 remove the apostrophe before “IN ADDITION” and the period in the last sentence between “BUFFER” and “IF”.

5. In the **Project Information** section, Under TRACT D, replace notes “a” and “b” with:
   a. **OS-1 OPEN SPACE DISTRICT USES**
   b. **ATHLETIC FIELDS AND OTHER OUTDOOR RECREATION USES CONSIDERED “OUTDOOR RECREATION, TYPE I”**
   c. **TEMPORARY PARKING OF VEHICLES INCLUDING SEMI-TRACTOR TRUCKS AND OTHER HEAVY TRUCKS ON HARD SURFACES OF ROCK, ASPHALT, OR CONCRETE.**
   d. **DIMENSIONAL STANDARDS, HIGHT, AND BUILDING SETBACKS OF R-1 ZONING IN TMC 18.60 APPLY.**
   e. **USES ARE SUBJECT TO THE REGULATIONS FOR FLOOD HAZARDS, INCLUDING FLOODWAYS AND FLOODPLAINS.**

6. Graphically identify the “North Entrance” in the PUD master plan and revise the second to last sentence under Circulation, Parking & Traffic Notes to state: “The north driveway entrance is for passenger vehicles, light
trucks, and medium trucks. Heavy trucks having a gross vehicle weight rating (GVWR) of over 26,000 pounds, including semi-trucks and semi-tractor rigs, are restricted from using the north entrance."

7. Under Landscaping Notes, add: "Within 180 days of PUD recordation or by October 31, 2021, whichever occurs sooner, owner shall install a 6’ high fence and retain or replace shrubs along the north side of north entrance driveway. Owner shall obtain a fence permit prior to fence installation."

8. Under Landscaping Notes, add: "With any change of use to Tract A or B, owner shall add a 30’ wide landscape strip along east side of Tracts A and B with trees and shrubs or fence, or combination of shrubs and fence, providing a 6’ high screen."

9. Under Circulation, Parking & Traffic Notes, add: "With any change of use to Tract B to other than Indoor Recreation Type I or O&I use, owner shall install a fence or equivalent physical barrier preventing large truck access between Tract A and Tract B."

10. Under Signage Notes, add: "Operation of the electronic message center (EMC) on the sign is permitted between the hours of 7am and 8pm. Any reface or alteration of the existing sign at the entrance to Tract A, shall require the sign to comply with the sign standards applicable to O&I-3 zoning."

11. Within 30 days of PUD recordation and no later than April 15, 2021 (whichever occurs first) owner shall install “no trucks” signage at main north entrance per recommendations of December 2020 Sports Zone Traffic Study or as amended by the City Engineer. In addition, owner shall install a “truck entrance” sign further south along Burlingame, directing truck traffic to the south entrance. All other signage installation to address traffic safety at entrances to the property shall be as recommended by the City Engineer.

Exhibits

- Neighboring Property Owner Response – January 28 2021 Masilionis Letter and Exhibits
- Traffic Study by City of Topeka, December 2020
- Proposed PUD Master Plan – Revised December 2020
- Planning Commission Minutes PUD 19-02 May 2020
- Proposed PUD Master Plan – May 2020
- Aerial Map (revised)
- Zoning Map (revised)
- Future Land Use Map
- Proposed PUD Master Plan
- NIM summary and attendance (January 27th) – Holland
- Public Testimony and meeting summary (January 27th) - Massilionis
- Memo from Kevin Fulton, KS Department of Revenue –Dept of Motor Vehicles
- Memo from Justin Lossen, White Line CDL Training School

---

1 BFE- The computed elevation to which floodwater is anticipated to rise during the base flood (FEMA)
2 "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (FEMA)