February 9, 2021 Email from Matt Masilionis

Matt Masilionis <matt@pad.studio>

Tue 2/9/2021 5:28 PM

To:
Michael Hall

Cc:
Vernon L. Jarboe <VJarboe@sloanlawfirm.com>
Matt Masilionis <matt@pad.studio>

Mike,

The .pdf documents I completed are attached as well as the word document from John Palma

I hope you will reconsider the staff report recommendation to "deny" knowing the simple fact that the TMC Zoning conflicts remain with the application (between the R1 and PUD Occupancy Uses) and the conflicts I have noted and identified in the TMC have not been addressed or in any way mitigated properly by the applicant or in the staff stipulations:

- Your generic note to add a fence and landscaping does not provide any quality level of detail nor provides any long term comfort for proper maintenance of such (note: I provided details for your meeting with Vernon on 6/3 which are also in my response notes)

- You continue to place trust in general words of your stipulations that do not provide proper detail which places no comfort to the homeowners, which they should be provided by the TMC use violations of the application to the R1. In addition, this lack of controlled detail will only allow the owner/applicant the ability to do what they want (think cheap wood fence that deteriorates in a year or so with landscaping that dies with weeds taken over due to lack of maintenance). The wording to allow them to turn their code violating sign back on and only require them to obtain a permit and meet code IF they replace the sign is not proper at all as you are allowing them to turn on the intensely illuminated sign that turns the Palma’s yard into a Las Vegas strip during dark hours which it completely improper and is illegal to the TMC.

- You have created a truck sizing mechanism (small-medium-large??) that does not meet industry or governmental standards and will only allow the owner to violate the rules. My mother’s 2500# vehicle will not provide any safety when a 25,900# truck that you are allowing bulldozes into her. Further, Kristy informed me last week that she was not going to allow trucks on the private drive and force them to use the south access, which is detailed in the CUP in place. She also noted that she was going to turn the private drive into a one-way to avoid cross traffic; but apparently her notes may not have been completed (?)
The notes above are not all inclusive as there are other serious issues and violations that I have articulated with facts and details such as the on going violations on site, the nonconformance or completion of the CUP in place, the non-complete traffic report (that does not provide any safe access for the homeowners & not properly addressing the traffic now as well as with the intended plan) and the complete lack of the applicant to address any and all prior comments (and details that provided a path to acceptance on 6/3).

It would be helpful if rocks and mountains could stop being placed in front of the homeowners by the Application (and owner) as my mother and aunt/uncle are just trying to maintain the R1 safety they must be provided under the TMC.

MATT
I have reviewed this basic traffic study from a professional viewpoint and surmised the document is incomplete and not accurate based on the following details:

Related to the Traffic Study:
CUP in place.

I also have attached a copy of the Conditional Use Permit in place on the SportsZone Property to this response as we utilized this document during our review

PUD Application.

reference and clarity that the applicant has completely ignored the homeowner’s efforts to help mitigate the long-standing issues discussed and reviewed of the

issues and comments from prior neighborhood meetings and planning commission meetings. Further, Vernon Jarboe also met with the applicant and city staff

parcel with no other changes to the plan (from the prior application). The most recent application site plan has not accommodated or incorporated any neighbors’

We are (and continue to be) adamantly opposed to the PUD application knowing that the most recent application/modification just incorporates/adds the far west

Related to the PUD19-03 Masterplan:
are (and continue to be) adamantly opposed to the PUD application knowing that the most recent application/modification just incorporates/adds the far west

parcels with no other changes to the plan (from the prior application). The most recent application site plan has not accommodated or incorporated any neighbors’

issues and comments from prior neighborhood meetings and planning commission meetings. Further, Vernon Jarboe also met with the applicant and city staff June 3, 2020, to review a preliminary site plan option which clearly articulated a design “path” that would mitigate the issues denoted, but this “olive branch” was completely ignored. I have attached the documentation which was provided and reviewed by Vernon Jarboe on behalf of the homeowners at this meeting for reference and clarity that the applicant has completely ignored the homeowner’s efforts to help mitigate the long-standing issues discussed and reviewed of the PUD Application.

I also have attached a copy of the Conditional Use Permit in place on the SportsZone Property to this response as we utilized this document during our review last night as it relates to the violations of the CUP. I have highlighted and marked up the issues and violations as they are required to be rectified by the existing CUP in place.

Related to the Traffic Study:
I have reviewed this basic traffic study from a professional viewpoint and surmised the document is incomplete and not accurate based on the following details:

1. I have forwarded the Traffic Study Document to Sterling Cramer, PE, senior director of operations and Tom Fulton, technical leader for Traffic & Technology of Olsson. Their preliminary review of the current traffic study indicated that “The study provided appears to be a safety study related to one intersection only and not a “traffic impact analysis study” based on zoning and existing and projected traffic volumes. In addition, Olsson believes that the change in zoning should be supported by a complete traffic study that takes into consideration alternative access points if needed, projected volumes based on any zoning changes, and existing volumes that are modeled during peak times to assure safe access for the current residents.”

2. The traffic study is not sealed by an engineering professional.

3. The traffic study has ignored the requested changes in higher zoning uses and resulting traffic changes (from the existing R1 Zoning) that the associated PUD 19/03 application is requesting (which have been noted as zoning uses that are in direct conflict with existing R1 Zoning per the Topeka Municipal Code).

4. The premise and reasoning for the report is inaccurate and not responsive to the full Neighborhood & Commission discussion and requests.
   a. The Report notes “Recently there have been concerns about the safety at both the main intersection of Sport Zone’s driveway with SW Burlingame Road and the intersection of Sport Zone’s driveway with the frontage road…. Concerns have also been raised regarding frontage road ease of access during Sport Zone events. For these reasons, this study evaluated the level of service of all movements during Sport Zone events”
   b. This statement of reasoning is inaccurate as the report needed to address the prior Neighborhood & Planning Commission meetings discussion and dialog which have been reviewed as:
      i. Over the past 2 years, the homeowners have noted major concerns where the SportsZone owner has removed the CUP required Stop sign at the east of their private drive and replaced with a deteriorated yield sign. Of note, the traffic exiting the SportsZone property has (and is) continually ignoring the signage as documented and discussed in prior meetings.
      ii. The homeowners have noted continual/regular use of Semi-Truck/Trailer & Heavy equipment vehicles on the private drive which are not allowed by the Zoning as well as the design and construction of the Private Drive. It should be noted that the Trucks, which the owner has noted he would not allow them to use this road without any execution of his promise, also continually ignored the traffic sign in place which have caused the homeowners major concerns by placing them in a dangerous situation when they attempt to exit their property onto Burlingame Road.
      iii. The issues are NOT only related to the SportsZone Events, but to the non-compliant Truck Traffic (and Semi’s) traffic accessing and using the site in addition to the increased traffic related to the Church being provided a temporary road access for entry and exit to the church AND the additional vehicle traffic from the non-conforming uses of the CDC and Daycare tenants

5. The report does not incorporate the original design of the public street/drive and associated approved traffic design in front of the homes (including the approvals of all the property owners affected), which provides the home owners the primary and safe access to Burlingame Road (and places the Sportszone Property with secondary access to Burlingame Road via a stop sign at the east side of their private drive).
6. The report ignores the CUP from 2001 which requires a stop sign at the east exit of the private drive of the Sportszone property
   a. Of note, the owner of the Sportszone personally charged to a “yield sign” many years ago even though he was informed by the homeowners that he could not do so. He noted he would change it back in writing but has not done so.

7. The report ignores the approved zoning use on the properties (and by associated reasoning accepts conditions in place as allowed by the city, which is not correct), which does not allow Truck/Semi-Trucks on the site as well as on the private drive.
   a. The Sportszone owners have placed a non-conforming Commercial Truck Driving school into the building which attracts semi-truck clients during normal work days and hours (M-F from 8am-5pm http://whitelinecdl.com).
   b. The Sportszone owner has denied that semis use the private drive, even though the homeowners have provided (and continue to provide) photographic and video evidence to support the ongoing violations (which occur daily).
   c. The approved and existing zoning in place, as well as the physical design of the private drive, precludes Semis and trucks from using this access, which has been ignored by the SportsZone owner thereby placing the homeowners in a higher risk incident probability due to the more intensive and non-conforming vehicles on the private drive.

8. The report does not articulate or provide any detail on the times and days when their associated traffic software ran their traffic counts and types. It is impossible to note the clarity of the data and the quality of the data for understanding the actual daily and weekly traffic (including types of vehicles)
   a. The on-site traffic evaluation noted within the report is inconsequential and does not provide any basis of the real traffic knowing that the on-site observation occurred on single period during a 1-hour period from 5-6PM on a Monday evening on October 26 2020. This extremely short window of time is NOT representative of when any regular nor a high traffic use would occur (it would be a low point based on actual sporting activities and tenants in the building). In addition, there would be no visible opportunity to identify the non-conforming use on the property and its associated traffic as these operations are closed at 5:00 during the weekday. (http://whitelinecdl.com).

9. The traffic study utilizes general state documentation for accident reporting to denote the safety of the existing design, but ignores the approved zoning and actual vehicle traffic conditions in place, which do NOT allow trucks/semi vehicle’s which is non-compliant and provides an increased vehicular risk for harm.

10. The report provides a summary conclusion which only focuses on the SportsZone higher volume traffic by indicating a complete access from the private drive to Burlingame Road and placing a stop control at the south end of the homeowners public street, which not only places the Homeowners at much higher risk for incident (parallel traffic coming from the dangerous left-rear view as well as perpendicular traffic coming from their right view) but precludes them from access to Burlingame Road during periods of high traffic use to/from the SportsZone. This access item is of major concern and must be more thoroughly investigated and analyzed so that a proper means of safe and easy access can be provided by the homeowners to Burlingame Road.

Based on my review and notes above, it would appear that the traffic consultant has not provided the complete details needed to properly analyze the existing AND proposed conditions, in addition to addressing the critical issues identified with the homeowners and staff over the past two years. Respectfully and professionally, I request that that the traffic study be rejected and be formally be requested to be completed properly to address:

1. The original intent and reasoning for the study, which is related to the increased traffic from the Church (via a temporary road to provide the church participants complete access to the private drive adjacent the cemetery and Palma residence at 3905 Burlingame Road) and to study the increased access of the non-conforming Semi-Truck/Trailer traffic to the applicants site and use on the private drive (which is placing the homeowners at risk from the heavy and larger vehicles).
2. The street use layout as originally designed/constructed and approved by the authorities (and owners), including the safe accessway of the homeowners to Burlingame Road.
3. Utilizing legal entitlements in place of the R1 Zoning for the entire site area.
4. Address the zoning violations that are occurring which are increasing the density, size and potential risk of vehicles on site (caused by the non-compliant semi-truck traffic)
5. A more extensive and complete detailed traffic analysis providing an extended period of time study (verses non-descript point in time checks via software)
6. The projected vehicular type and associated impact/change that the PUD19/03 Application and associated Zoning Change (from the existing R1 Zoning) will be. As noted in prior neighborhood meetings and planning commission meetings, the homeowners are very concerned with the higher intensity uses requested by the application and the owner/applicant has done nothing over the past two years to address these concerns by providing any detail or documentation.

Thank you for your continued efforts to address the critical concerns and issues of this application. Please contact me at your convenience with any questions you may have.

Sincerely,

Matt Masilionis
Son and Agent for Margaret Masilionis
10801 West 167th Street
Overland Park, Kansas 66221
816-210-5709 M / matt@pad.studio

Cc: Margaret Masilionis, 3901 Burlingame Road Topeka Kansas 66609 785-266-8658 H ljimasil@cox.net
Vernon L. Jarboe, VJarboe@sloanlawfirm.com
APPROVED CONDITIONAL USE PERMIT IN PLACE ON SPORTSZONE PROPERTY
MASTERPLAN CONCEPT PROVIDED BY HOMEOWNERS & REVIEWED IN PERSON AT A MEETING WITH CITY STAFF & APPLICANT ON JUNE 3, 2020 BY VERON JARBOE, LEGAL COUNCIL OF MARGARET MASILIONIS

preliminary site plan option articulating a design “path” that would mitigate the issues denoted in documentation and responses by homeowners to PUD19-2 Masterplan Application
I composed the 3 truck violation images into a single .pdf document for ease of use

Matt

Vernon

My brother, Bob, just called me and noted to me that he was at the Foster cemetery this morning to address some regular maintenance and saw commercial Trucks parked right behind my Mom’s house (Large box truck starting at 10:30 followed by large Semi at 11). Further, the sign in the foreground of the pictures clearly indicates they are allowing it; even though it is NOT allowed.

Fuel for the fire today as it relates to the ongoing zoning and code violations the applicant noted “were not happening any longer” (at the planning commission meeting)
Subject: Re: from planning this morning

Confirmed with owner reps present

Vernon L. Jarboe
Vernon,

Do you know if this wed. afternoon meeting was confirmed?
Vernon,

Knowing the ongoing and immediate concerns as well as the long-range ramifications of the PUD application to the residents, and if the city does not want to remove the existing CUP in place due to the long-ongoing violations, what I believe is the immediacy items/priority list:

1. Provide an proper PUD application design drawing that meets all PUD requirements (of the TMC) and which incorporates a landscape plan that articulates proper landscape buffering from the R1 zoning to the applicants property and proposed uses (which articulate the proper visual and audible separations from R1 to the PUD and its numerous uses)
   a. I should note that my drawing is a great start to providing the general design intent and masterplan layout for a PUD application.
2. Complete a full and accurate traffic study which incorporates actual full time uses on the property (including the cross access agreement with the church that provides their members to access their site from the Sportszone property.
3. Reinstall City Standard Stop Sign per the CUP requirement from 20 years ago at the east of the private drive (before the public street that the homes utilize) and have the police monitor this intersection regularly for violations (so tickets can be drafted to help enforce the proper traffic use).
4. Install Landscaping from original CUP (nearly 20 years ago) with irrigation plan and provide regular maintenance per the TMC
5. Remove all semi/large truck traffic on private drive by providing clear public way (and city standards) signage and traffic enforcement.
   a. Note: the question will be how to obtain clarity to the detail on the application of how this is done (verses the “traffic engineer will investigate”); we need clarity of the detail of how they recommend this will occur (and they apparently want us to come up with the plan, which seems crazy)
6. Remove all semi/large truck traffic and equipment/trailers from Parcels A & B
   a. Force truck access to south entry ONLY and use to west of parcel B with clear public way signage detailed on the application as well as a commitment from the city to help provide police enforcement of the traffic rules
      i. I should note that the trucks moving and operating to the west of Parcel A and B, and is not part of the application, would continue to be a violation of the zoning as this entire area would continue to remain in an R1 Zone.
   b. Provide/install a low-maintenance 4-6’ high aluminum fence at the south side of Parcel B to restrict any heavy truck access to A & B (refer to images attached)
   c. Provide high posts and crash bar at the point of traffic entry at the point of traffic entry’s to Parcel A & B to restrict any heavy truck (refer to image attached)
   d. Remove all equipment and storage from Parcels A & B (of note, Parcel A has a tremendous amount of this occurring to the north and west of the old Knights of Columbus Building)
7. Change/Modify the Monument Sign at the private drive (and add a new one at the south drive entry) – refer to google maps snapshot attached.
   i. Of critical note, John Palma is very upset about this sign at the private drive which has bright lights on all the time 24/7 and has changing, not static, detail (time/date) which washes into his private bedrooms at night. I would think that the city should check the sign permit and see if they can have this on 24/7 and if the lights are allowed to extend into an adjacent private property (it is usually only allowed to illuminate on the specific property from which it resides and/or to the public way)

8. Provide supporting documentation of the access agreements in place to the south and north parcels so they can be incorporated into the true design study and access discussion

I would agree with you that items on the drawing I presented are not immediate but the plan should provide as clarity to a real PUD application and incorporate a plan of proper access and separation to the R1 USEs (verses the b/s wording that does not provide any proper detail or direction). Those “future items”:
Access drive on Parcel C
- Access drive to the north church parcel
- Providing one-way access on the private drive (which would be great now for the safety of the homeowners as well as providing better traffic flow and control)
- The 61’2” landscape buffer behind the R1 (although I would recommend that this dimension be a controlled zone initially which would be maintained and be free and clear to the extent possible)

Matt
816.210.5709 M
Dear Ms. Driver,

My name is Matt Masilionis and I am Margaret Masilionis son and her representative regarding this planning matter. Margaret resides at 3901 Burlingame Road in addition to owning the adjacent home located at 3903 Burlingame Road. I have reviewed all details indicated on the attached application provided by staff.

This letter shall serve as our official letter of opposition to PUD19-2 and we officially request denial of the above referenced rezoning request from R1 to the numerous uses identified on the PUD19-2 Application for the three tracts (A, B & C) owned by T&J Land Company. In addition to notes and details below, you shall find attached, documentation supporting denial of this application.

GENERAL SITE HISTORY (Refer to Attachment E)

My ancestors, Perry Foster (my great, great grandfather) and Freeman Foster (my great, great uncle), are among the original pioneer citizens of Shawnee County were involved in the planning and platting of the City of Topeka 1854 (with Freeman also a member of the State Legislature until his death on the Topeka family farm in 1897). Refer to Attachment "E". During the mid-1800 period, Perry T Foster acquired the transfer of ownership of the property in 1860 from James Campbell (who was titled the land due to his US Navy service in the war with Mexico) as documented and recorded on June 15, 1860 from the US Department of Interior Bureau of Land Management (and executed/signature by President James Buchanan). Perry also created a portion of the land to create the Foster Cemetery, located at 3949 SW Burlingame Road, which both are buried, and which my family has been managing as a board members since its creation (with my brother, Robert, currently chairing the board). Perry Foster grandson, Francis Foster who is my grandfather and Margaret's father, was heir to the land was responsible for parceling the land in the late 1950's into the parcels of 3901, 3903, 3905, 3907 and 3909 Burlingame Road. Francis created several parcels for three family homes to reside at 3901, 3903 and 3905 Burlingame Road of which, my mother’s sister, Rosemary (Foster), and husband John Palma, were the first to build and occupy at 3905 Burlingame Road in 1958. My grandparents, Francis and Blanche Foster completed their home at 3903 Burlingame in 1960. My parents, Margaret (Foster) and Leonard Masilionis constructed and occupied our family home at 3901 Burlingame Road in 1962.

In the late 1960’s, my grandfather saw the opportunity to help Knights of Columbus (“Knights”) build a facility which would support their faith based mission in the Topeka area, and offered to sell them a majority of the homestead. As part of the sale process to the Knights, my grandfather assisted the Knights in obtaining the conditional and special uses needed in the R1 zoning to allow for their facility as well as to provide for the proper protection of the families homes. In addition to constructing their community event space facility, the Knights also constructed baseball/softball fields and park gathering spaces near Shunganunga Creek area at the west portion of the property which provided outdoor family gathering opportunities for its members and for the city.

During the 1970’s, the Knights outsourced their food services but found themselves with a vendor who created a severe tax burden after several years which the Knights became responsible for the debt and resulted in requiring the Knights sell the property to help relieve their tax debt. The property was acquired by T&J Land Company LLC.

My grandparents, Francis and Blanche Foster, both passed away in the 1980s however, the remaining “Foster” sister and her husband, Mercedes and John Croughwell acquired the property from the family and moved in immediately following my grandmother's death. In the past three years Mercedes and John moved to an elderly care home with John passing away 2 years ago allowing Margaret to purchase the home from my Mercedes and Johns estate, thereby providing the opportunity for my mother to lease the home to her niece and her new husband (Kayla and Matt Munger) and thereby allowing all three homes to remain “in the family”. Of note, my father, Leonard Masilionis, passed away within a few weeks of John Croughwell after a sudden illness; after which Margaret improved her home to allow for her to reside in her home for my remaining years of her life.

Margaret Masilionis
3901 Burlingame Road, Topeka KS 66609
SUMMARY OF REASONS FOR APPLICATION DENIAL
A detailed letter of opposition to the original application was submitted last September by Margaret Masilionis and based on the minor modifications from the original application that this current application indicates, as Margaret Masilionis’ agent, please accept our summary detail of opposition related to this application. The appropriate attachments provide the supporting documentation for the basis of denial (including Topeka Municipal Code and Future Land Use Map).

1. The applicant has shown complete disregard for the Topeka Municipal Code for many years and these ongoing violations do not warrant a change of use.

   The Sports Zone owner extended their tenancies to three other non-approved zoning uses in the facility, which are of great concern to my mother, as they are not allowed by the City Zoning Uses (Minimasters Learning Academy Day care center; Center State Dance World dance school; White Line CDL Training Driving School). Of greatest concern is the Commercial Truck training school which has added dangerous heavy truck traffic to the entry/exit drive to Burlingame Road and has caused near accidents at the intersection of the street in front of the homes and the intersection of the SportsZone private drive. It is critical to note that the uses which are illegal by the Topeka Municipal Code should be removed immediately to place the parcel back within the existing approved R1 Zoning with its approved conditional and special uses. The semi-trucks remain on site (in addition to maintenance occurring on site) and in clear view at all times, even during non-business hours, which is a violation of the zoning and special conditions in place. Further, the applicant is in violation of R-1 Zoning by allowing storage and parked trucks, trailers, machinery, equipment and miscellaneous trash/debris on site, which is in violation of the Municipal Code. We have addressed these violations with the owner (and staff) during the course of this application process, which began last summer, however, to date no corrective actions have occurred.

   As the owner has not adhered to the Topeka Municipal Codes for an extended period of time, he should not be trusted to address the requirements shown on the application as noted on the redline commentary of the application indicated on “Attachment A”.

   This application (or applicant) should not be considered for any rezoning as the owner has been, and is currently, in violation of existing Topeka Municipal Code.

2. The primary issues addressed by Margaret Masilionis on the original PUD19-2 application remain unaddressed.

   On September 5th, 2019, Margaret Masilionis formally submitted a letter of Opposition to Rezoning of 3907 & 3909 SW Burlingame Road from “R1 TO “PUD” PLANNED USE DEVELOPMENT (“I-1” LIGHT INDUSTRIAL USES) - #PUD 19/2 and identified several major issues with the application, however, these same items remain unresolved even after a subsequent neighborhood meeting in January to review the revised application. Those items noted from the original application on 9/5/19 (with current status shown in bold below each item) are:

   A. Applicants Lack of Compliance with the Neighborhood Meeting Requirements to providing necessary and proper information required for a change in use (no details to provide “what” is planned and no reason “why” they are requesting a change in use and “how” it can properly include current zoning uses).
      - This revised application is nearly identical as the original application with the exception of incorporating O&I-1 while incorporating Industrial “I-1” uses, all of which continue to violate the existing R1 Use per the Topeka Municipal Code in addition to the fact that the revised application does not provide the required details and information for the change in use as required by the Topeka Municipal Code
   B. Applicants Lack of Compliance by violating the current approved zoning (including special and conditional uses) of their property by incorporating non-conforming uses which are a clear violation of city laws and compliance of as well as placing me and my family in harm’s way.
      - The Owner has done nothing to address any of the violations other than the application denotes a minimal landscape buffer from our R1 property to the zoning uses that conflict with our R1 Zoning.
   C. Applicant creating an encroachment of an incompatible use of R1 Zoning which is meant for housing and living purposes free from the encroachment of incompatible uses.
      - The revised application continues to have incompatible uses with the existing R1 zoning.
   D. Applicant proposing a new PUD Zoning which does not include any R1 Uses which create a serious conflict of uses including I-1 uses
      - The revised application continues to have no R1 uses incorporated making the plan incompatible with our existing R1 use.
   E. Applicant’s non-compliance with the Cities Future Land Use Plan.
      - The revised application remains in conflict and non-compliant with the Topeka Future Land Use Plan

   The revised application is nearly identical to the original application from last September and the applicant (and owner) have not addressed any of the major issues identified in Margaret Masilionis’ letter of Opposition on the Revised Application. Refer to the redline comments on the Site Plan application document located in Attachment A herein for further detail.

3. The neighborhood meeting was invalid as the applicant did not providing any details allowing any questions or information to be processed as required by the City of Topeka as part of the Planning process.

   Understanding that one of the three primary goals of the neighborhood meeting is to “resolve concerns before the Planning Commission or Governing Body public hearing”; it is critical to note that the applicant has done nothing to address my concerns nor any of the neighbors’ concerns noted at either of the meetings in September 2019 and January 2020. Not only has the owner not addressed the ongoing storage of equipment, trash/debris on site and non-conforming uses; no details have been answered by the applicant as to specific uses, planned locations and detailed relationship to my properties, nor does the application provide any ability to understand the proposed change to a Planned Unit Development with an O-11 and O-12 (and identified additional industrial uses) and I-1 Light Industrial Use. Section 18.190.050 of the Municipal Code details the that the application must indicate the proposed traffic circulation pattern within the development; the areas to be developed for parking; maximum height and types of business in addition to commercial and industrial use presented in tabular form in comparison to minimum applicable standards and the amount of open space included in the residential, business, commercial, and industrial areas as well as traffic circulation system; all of which are missing on the application. How are we to analyze or respond to the application with anything but to request a denial of their application since there is no real plan nor detail to provide? Refer to details within “Attachment B” which denote the major issues with ownership and this application.

   The improper detail required for the Neighborhood meeting as well as the owner/applicants lack of ability to address concerns or answer questions asked at the Neighborhood Meetings for the rezoning change invalidates the Neighborhood Meeting and the required Planning Process of Topeka.

Margaret Masilionis
3901 Burlingame Road, Topeka KS 66609
4. The application is creating a violation of existing R1 Zoning
The Topeka Municipal Code defines R1 Zoning is “for housing and living purposes free from the encroachment of incompatible uses” as defined in R-1 SINGLE FAMILY DWELLING DISTRICT. The applicant is proposing a PUD Zoning with I1 & I2 uses (in addition to the O-I2) which would create a serious conflict of uses to our homes and its R1 use as defined in the Topeka Municipal Code. Refer to details within “Attachment C” which denote the detailed conflicts of the application with our R1 Zoning.

This application (or applicant) should not be considered for any rezoning as the application is in violation of existing R1 zoning by encroachment of incompatible uses.

5. The I-2 Light Industrial on Track A as well as the identified Industrial uses noted in Track B & C on the application represent an encroachment to the R1 existing zoning (including my homes) and should warrant the application be denied.
I-1 & I-2 zoning uses are not allowed within R1 zoning nor is R1 zoning allowed within I-1 or I-2. Of note, the existing approved R1 Zoning, as detailed on the Topeka Municipal Code, details that the R1 Zoning provides for housing and living purposes free from the encroachment of incompatible uses. Refer to details within “Attachment C” of the Municipal Code Purpose Statements of Zoning Districts which denote the detailed conflicts of the application with our R1 Zoning.

This application should not be under consideration as an encroachment of the existing R1 zoning will occur which is in violation of the Topeka Municipal Code.

6. The requested change from a low density R1 to an O&I2 (and with industrial uses) and I1 are major changes in density and use (from R1) which creates a grave opportunity for future conflicting uses adjacent my home which are in conflict with the Topeka Municipal Code Zoning.
If this application were to be approved for change from the existing low density R1 to the substantial change to O&I2 (and with industrial uses) and I2 the long term result will be a mass influx of conflicting uses which are provided for within the O&I2 and I2 uses as shown on the Municipal Code Zoning documentation shown in “Attachment C”. The “floodgates” for future change will be opened to continue to change the uses of the property, which will severely and negatively, harm the adjacent home(s) which have resided with the protection of the R1 zoning use for over 60 years.
Further, the application details only the current requirement that the “THE NORTHERNMOST DRIVEWAY ENTRANCE IS ONLY FOR PASSENGER VEHICLES AND LIGHT TRUCKS, SEMI-TRACTOR TRAILERS SHALL NOT USE THIS NORTHERN ONTO BURLINGAME ROAD” which is NOT allowed currently however the owners (and their tenants) currently violate on a regular basis causing dangerous conditions and deterioration of our property values and violation of our legal rights.

This application (or applicant) should not be considered for rezoning as the change from R1 use to the numerous, burdensome and conflicting uses will provide a loss to the protection that the R1 use has provided my family for over 60 years.

7. The owner of the property has not maintained the site and existing buildings
The property and building continue to deteriorate and expose users to non-compliant codes issues leaving users to the site and facility open to risk with building facades cracked and crumbling, open wiring in public ways and tremendous amounts of trash/debris in the open parking lot. In addition, they have placed non-compliant uses which utilize heavy trucks and equipment creating dangerous traffic conflicts and deterioration of the traffic lanes which have not been designed for such uses (and they continually violate the access to the site with Semi-Truck traffic on the northern entry). Numerous broken and deteriorating trucks and semi-trailers sit throughout the site amongst the unkempt site. Sadly, it was stated by the applicant during the neighborhood meeting that one of the primary reasons they want to rezone the property is so that the owner can get his long-standing non-conforming uses to be within compliance of zoning laws, which is not proper and would validate the illegal activities which have placed me (and my neighbors) in harm’s way for many years.

This application should not be considered for any rezoning as the owner has not maintained the site and facilities which is creating unsafe and dangerous conditions.

8. The application is in violation of Topeka Future Land Use Map (refer to Attachment “D”)
The Topeka Land Use Map articulates that the primary sites in question (behind my home and including to the west of the Foster Cemetery) have been designated as “Parks, Open Space and Recreation”. The land under review has always been zoned as its current R1 use since its original incorporation into the City of Topeka and Tracks A and B, which are directly behind my home are clearly identified on Topeka’s Future Land Use as “Parks, Open Space and Recreation”. The ability for the applicant to ignore the Current & Future Land Use Map and immediately be allowed to place uses not identified in the Future Land Use Map should not be allowed without the proper process to request change to the Future Land Use Map. In addition, the Topeka Municipal Code Chapter 18.190 PUD PLANNED UNIT DEVELOPMENT DISTRICT, Regulation 18.190.020 denotes A development plan shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, design and location of buildings, the density or intensity of use, the common open space, the public facilities and the development by geographic division of the site as well as with the surrounding or adjacent properties.

This application should not be under consideration it violates the Topeka Future Land Use Map.
SUMMARY

My mother and her family have lived for over 60 years with the protective zoning provided by the R1 use and this application represents a major change to much higher intensive uses (including Industrial Uses) which are improper encroachment of incompatible uses. The owner/applicant of the property have shown a complete lack of care to abiding by the Topeka Municipal Code and its regulations and these legal violations have placed my family in harms way by placing non-compliant and incompatible uses adjacent the homes and should provide clear evidence that the owner/applicant will not, comply by the Topeka Municipal Code details indicated on the application documents.

Further, as defined herein:

- The PUD19-2 application has numerous planning issues and conflicts of uses with the Topeka Municipal Code and Future Land Use.
- The owner/applicant has shown a complete lack of care in abiding by the code or addressing any violations of the code even following formal notifications and discussions which have occurred during this past years application (and revision) process.
- The owner/applicant has/is placing the homes (3901, 3903 and 3905 Burlingame Road) in harm’s way by modifying the northernmost driveway signage and then placing Semi/Heavy Truck traffic on this drive, which is still occurring today.
- The owner/applicant has no articulated design plan or identified users in place for requesting this major change in zoning nor appears to be cognizant of providing any form of proper design separations of our R1 properties to his requested Industrial uses (which the “I” uses are in direct conflict with the existing R1 use).
- The owner has not abided by the codes of Topeka and has done nothing to address the numeros violations in place; yet this application provides immense trust that owner will abide by the codes of Topeka and will not be violating any mandates detailed in the application.

Based on the detail and information contained herein related to this application, I respectively request the City of Topeka Planning Commission to reject the Applicants Rezoning request #PUD 19/2 for 3907 & 3909 SW Burlingame Road and require the owner to return the property into conformance with the Topeka Municipal Code (and approved uses).

Sincerely,

Matt Masilionis
Son and Agent for Margaret Masilionis
10801 West 167th Street
Overland Park, Kansas 66221
816-210-5709 M
matt@rmta.biz

Margaret Masilionis
3901 Burlingame Road
Topeka, Kansas 66609
785-266-8658 H
ljmasil@cox.net

Cc: Robert Masilionis, bmasilionis@cox.net
Vernon L. Jarboe, VJarboe@sloanlawfirm.com
ATTACHMENT “AA”

PUD19-2 SITE PLAN APPLICATION
&
COMMENTARY RESPONSE OF SITE PLAN APPLICATION
NOTES IN RED ITALIC ARE ISSUES WITH APPLICATION (AND OWNERS LACK OF CARE IN CONFORMING TO TOPEKA MUNICIPAL CODE) WHICH ARE ALL DETAIL REASONS FOR DENIAL OF APPLICATION.

The owner has not shown any level of maintenance of landscape on site other than just semi-regular mowing of the property. Trees, shrubs and landscape plants with substantial deterioration are observed throughout the site.

Further, Owner has allowed illegal Semi-truck traffic which the drive surface was not designed for allowing for further deterioration.

Owner physically removed stop sign and replaced with non-conforming “yield” sign creating a very dangerous and illegal activity.

Owner has shown no trustworthiness for city to believe that owner will abide by Topeka Standards.

Owner has not maintained any access ways which includes proper signage and maintenance of vehicular ways.

Owner has not shown any level of maintenance of landscape on site other than just semi-regular mowing of the property (bushes, trees and landscape plants) which show substantial deterioration throughout the site.

Owner has not shown any level of maintenance of landscape on site other than just semi-regular mowing of the property. Trees, shrubs and landscape plants with substantial deterioration are observed throughout the site.

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Owner has shown no trustworthiness for city to allow this.

Owner has not shown any level of maintenance of landscape on site other than just semi-regular mowing of the property (bushes, trees and landscape plants) which show substantial deterioration throughout the site.

Owner has not shown any level of maintenance of landscape on site other than just semi-regular mowing of the property. Trees, shrubs and landscape plants with substantial deterioration are observed throughout the site.

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Owner has shown no trustworthiness for city to allow this.
ATTACHMENT “A”

NOTICE OF NEIGHBORHOOD MEETING INFORMATION
-- NOTICE OF PUBLIC HEARING --
(Deferred from September 2019)

The City of Topeka Planning Commission
will conduct a Public Hearing
6:00 p.m., Monday, February 17, 2020
in the City Council Chambers,
214 SE 8th Street, 2nd Floor, Topeka, Kansas
in consideration of the following item.

Request for Zoning

Name of Owner/Applicant & Case Info: T&J Land Company LLC
Case # PUD19/02 (Sports Zone Complex PUD)

Location of Property: 3907 and 3909 SW Burlingame Rd
Lot 1, Block A, Saint Sebastian Sports Subdivision & Lot 1, Block A, Knights of Columbus Subdivision

Present Zoning Classification: R-1 Single Family Dwelling District with existing Conditional Use
Permit for *Outdoor Recreation Fields, Retail Sales, and Food Service and existing Special Use
Permits for Private Membership Club with Golf Courses and Community Building with Alcohol
Sales

*Proposed Zoning Classification: PUD Planned Unit Development (O&I-2 uses with limited I-1 uses)

Proposed Land Use: No Change (speculative zoning change)

Case Planner name and telephone number: Annie Driver / 785.368.3728

You have been identified as being a property owner within a 200-foot radius of the property listed above. You will have an opportunity to present any comments you may have to the Planning Commission during the public hearing. You also have the right to file a formal protest of the above noted request within 14-days following the public hearing. Protest forms and instructions are available at the Planning Department.

A vicinity map and site plan identifying the subject property, along with information about the hearing procedures, has been attached for your information. If you have any questions concerning the above noted proposal, do not hesitate to contact the Topeka Planning Department.

*The Planning Commission may recommend a more restrictive (lower) zoning district than advertised according to the Summary of Zoning Districts.
ABOUT THE
TOPEKA PLANNING COMMISSION HEARING

Members of the
Topeka Planning
Commission
Brian Armstrong
Corey Dehn
Marc Fried
Wiley Kannarr
Jim Kaup
Corliss Lawson
Ariane Messina
Katrina Ringler
Matt Werner

Topeka Planning Staff
Bill Fiander, AICP
Director of Planning & Development
Carlton O. Scroggins, AICP
Transportation Planning Mgr.
Dan Warner, AICP
Comprehensive Planning Mgr.
Mike Hall, AICP
Current Planning Mgr.
Tim Paris
Historic Preservation Planner
Annie Driver, AICP
Current Planning
Melissa Fahrenbruch
Current Planning
Taylor Ricketts
Transportation Planner
Bryson Risley
Neighborhood Planner
Kris Wagers
Administrative Officer

Persons addressing the Planning Commission will be limited to four minutes of public address on a particular agenda item. Debate, questions/answer dialogue or discussion between Planning Commission members will not be counted towards the four minute time limitation. The Commission by affirmative vote of at least five members may extend the limitation an additional two minutes. The time limitation does not apply to the applicant's initial presentation.

Planning Commission agendas can be viewed at:
https://www.topeka.org/planning/planning-commission/

All information forwarded to the City Council can be accessed via the internet on Thursday prior to the City Council meeting at:
https://topeka.novusagenda.com/agendapublic/

HEARING PROCEDURES

Your attendance and participation in the Topeka Planning Commission hearing is important and ensures a comprehensive scope of review. Each item appearing on the agenda will be considered by the City of Topeka Planning Commission in the following manner:

1. The Topeka Planning Staff will introduce each agenda item and present the staff report and recommendation. Commission members will then have an opportunity to ask questions of staff.
2. Chairperson will call for a presentation by the applicant followed by questions from the Commission.
3. Chairperson will then call for public comments. Each speaker must come to the podium and state his/her name. At the conclusion of each speaker's comments, the Commission will have the opportunity to ask questions.
4. The applicant will be given an opportunity to respond to the public comments.
5. Chairperson will close the public hearing at which time no further public comments will be received, unless Planning Commission members have specific questions about evidence already presented. Commission members will then discuss the proposal.
6. Chairperson will then call for a motion on the item, which may be cast in the affirmative or negative. Upon a second to the motion, the Chairperson will call for a roll call vote. Commission members will vote yes, no or abstain.

Each item appearing on the agenda represents a potential change in the manner in which land may be used or developed. Significant to this process is public comment. Your cooperation and attention to the above noted hearing procedure will ensure an orderly meeting and afford an opportunity for all to participate. Please Be Respectful! Each person's testimony is important regardless of his or her position. All questions and comments shall be directed to the Chairperson from the podium and not to the applicant, staff or audience.

ADA Notice: For special accommodations for this event, please contact the Planning & Development Department at 785-368-3728 at least three working days in advance.
(Driver)
commercial amusement and recreational activities, or by activities or operations conducted in buildings and structures not completely enclosed.

I-1 LIGHT INDUSTRIAL DISTRICT:
Provides for a wide range of uses except specified uses which are obnoxious or offensive by reason of odor, dust, smoke, gas or noise. The permitted uses are highly intensive. In general, residential dwellings are not permitted in this district, but there are exceptions.

I-2 HEAVY INDUSTRIAL DISTRICT:
Provides for the use and location of all other uses excluded in other districts except for residential dwellings. The intensity and use of land as permitted by this district is intended to facilitate the total range of industrial uses.

Other

DOWNTOWN MIXED USE DISTRICT:
The downtown districts are unique to the downtown Topeka area and are provided to encourage a compatible mixed use activity. The D downtown districts serve to implement the downtown Topeka redevelopment plan, which is part of the city of Topeka's comprehensive metropolitan plan. For details on D-2 and D-3 Districts, see our website at www.topeka.org/ZoningSummary.

D-1 DOWNTOWN MIXED USE DISTRICT:
Facilitates a compatible mixed use activity center within the core area of downtown Topeka. The district is predominately composed of state offices, federal facilities, commercial and retail uses. The district includes compatible residential, office, civic, and commercial retail/service uses which complement and support a high density of activity and facilitate pedestrian usage.

HL HISTORIC LANDMARK OVERLAY DISTRICT:
This district provides for the designation of individual local historic landmarks. “Overlay zoning” means any zoning that functions in addition to the existing land use zoning.

HD HISTORIC OVERLAY DISTRICT:
This district provides for the designation of multiple properties as a historic district. “Overlay zoning” means any zoning that functions in addition to the existing land use zoning.

PUD PLANNED UNIT DEVELOPMENT DISTRICT:
Permits greater flexibility and more creative, innovative and imaginative design for the development of areas that are generally possible under the strict application of the regulations of the other districts. An approved plan exists on file for each specific site zoned PUD and specifies development parameters for each site.

MS-1 MEDICAL SERVICE DISTRICT:
Provides for the location and use of a regional medical center together with related medical facilities and supporting ancillary-service uses, including residential dwellings.

U-1 UNIVERSITY DISTRICT:
Provides for the use of a college or university as a special zoning district.

MIXED USE DISTRICT:
The mixed use districts are unique to traditional neighborhood settings and are provided to encourage a compatible mixed use environment, utilizing the historic character or future character of the area. The X mixed use districts serve to implement land use plans of the Comprehensive Plan.

For details on X-1, X-2, and X-3 Mixed Use Districts, see our website at www.topeka.org/ZoningSummary.

PUBLISHED BY THE CITY OF TOPEKA
PLANNING & DEVELOPMENT DEPARTMENT
View the complete Municipal Code Purpose Statements of Zoning Districts at
https://www.topeka.org/planning/Documents/Applications
or contact Planning & Development at 785-368-3728.
Residential Districts

OS-1 OPEN SPACE DISTRICT:
Intended to preserve and protect existing and potential public park land, open land, greenways, recreational space, floodways, trails and lands that have other physical, aesthetic or cultural characteristics which preclude their inclusion in other less restrictive districts, to provide opportunities for passive and active outdoor recreation, preserve scenic views, and protect sensitive or fragile environmental areas.

RR-1 RESIDENTIAL RESERVE DISTRICT:
Provides for a transitional area between urbanized development with intensive activity areas, and the rural-agricultural areas; and which is expected to become urbanized in subsequent planning periods. The limitations of this district are intended to allow for the gradual development of urban uses and activities, therefore providing for the coexistence with agricultural farmland activities based upon the availability and extension of municipal facilities and services.

R-1 SINGLE FAMILY DWELLING DISTRICT:
Provides for the use of detached single-family dwellings together with specified accessory uses and other uses as may be approved.

R-2 SINGLE FAMILY DWELLING DISTRICT:
Provides for the use of detached single-family dwellings together with specified accessory uses and other uses as may be approved. Maximum lot sizes and setbacks are less than in R-1 District.

R-3 SINGLE FAMILY DWELLING DISTRICT:
Provides for the use of detached single-family dwellings together with specified accessory uses and to provide for an increased density through reduced site area requirements.

R-4 SINGLE FAMILY DWELLING DISTRICT:
Primarily provides for the location and use of detached single-family dwellings and manufactured homes as defined, together with specified accessory and supportive uses; and to provide for housing development at affordable levels in a subdivision setting.

M-1 TWO FAMILY DWELLING DISTRICT:
Provides for the use of two-family and attached single-family dwellings together with specified accessory uses. Provides a transitional use between the single-family detached dwelling districts and other, more intensive districts.

M-1a LIMITED MULTIPLE FAMILY DWELLING DISTRICT:
Provides for the use of two-family dwellings, single-family attached dwellings, and multiple-family dwellings, containing not more than four dwelling units, together with specified accessory uses. Provides a transitional use between the single- and two-family dwelling districts and other, more intensive districts.

M-2 MULTIPLE FAMILY DWELLING DISTRICT:
Provides for the use of attached dwelling units containing three or more dwelling units, designed and intended for individual dwellings, group or community living facilities, congregate living facilities, and including townhouse, condominium or cooperative division of ownership. Provides a transitional use between the districts of lesser and greater intensity.

M-3 MULTIPLE FAMILY DWELLING DISTRICT:
Provides for multiple-family dwelling structures which are in the moderate to high density range and at heights which allow for a high intensity of use and development. The location of this district is intended to complement high activity centers such as the central business district, employment centers or other similar locations.

Office, Commercial, Industrial

O & I - 1 OFFICE AND INSTITUTIONAL:
Provides for a limited range of nonresidential and noncommercial uses such as general purpose office, professional, or administrative operations. The district shall not permit those uses and activities pertaining to retail product display, installation, service, repair, or maintenance unless specifically provided for within the chapter.

C-1 COMMERCIAL DISTRICT:
Provides for limited commercial facilities which serve as convenient services to a residential neighborhood or limited geographic area of the community. Shops in this district should be useful to the majority of the neighborhood residents, should be economically supportable by nearby population, and should not draw community-wide patronage. Gross floor area is limited to 10,000 sq. feet maximum.
TO: Ms. Annie Driver, Planner  
City of Topeka Planning Department  
620 SE Madison Street, 3rd Floor, Unit 11  
Topeka, Kansas 66607  
adriver@topeka.org  
785-368-3728

DATE: 18 February 2020

RE: NEIGHBORHOOD MEETING MINUTES from 1/27/2020 FOR REZONING APPLICATION OF 3907 & 3909 SW BURLINGAME ROAD, TOPEKA, KANSAS – PUD19-2

FROM: R1 WITH CONDITIONAL USE PERMIT FOR “OUTDOOR RECREATION FIELDS, RETAIL SALES AND FOOD SERVICE” AND EXISTING SPECIAL USE PERMITS FOR “PRIVATE MEMBERSHIP CLUB AND GOLF COURSE” AND “COMMUNITY BUILDING WITH ALCOHOL SALES”  
TO: PUD with O-I2 and I1 and Business & Vocational School (Track A)  
PUD with O-I2 and I1 and supplemental light industrial uses (Track B)  
PUD with I1 Light Industrial Uses (Track C)

Dear Ms. Driver,

Knowing the applicant has deferred his application for rezoning of the above mentioned application (from the original February Planning Commission meeting schedule on 17 February 2020) as well as not seeing any documentation to date from the applicant regarding the Neighborhood Meeting, I thought it would be prudent to provide you my meeting minute note details so that this can be incorporated into the public record for this application.

The Neighborhood meeting began at approximately 5:15 PM on January 27th, 2020 in the reception area of the driver license bureau tenant, located at 3907 Burlingame Road.

Attending the meeting:

- Annie Driver, Planner, City of Topeka
- Kristina Erickson, Traffic Engineer, City of Topeka
- Both owners of the property were there for most of the meeting
- John Palma (3905 Burlingame Road) and his Daughter, Julie Ireland
- Margaret Masilionis (3901 & 3903 Burlingame Road) along with sons; Matthew (Margaret’s representative), Daniel and Robert (or Bob)
- Later in the meeting, Michael Hall, Current Planning Manager, joined the meeting (about 30-45 minutes into the meeting)
- Of note, Bob Masilionis is the Foster Cemetery President (and represented the Cemetery Property), Julie Ireland is the Foster Cemetery Secretary

Items Discussed:

1. Ms. Driver noted that all neighbors received an updated Notice of Public hearing document in their mail. She presented a base summary of the zoning change which was referenced by a 24x36 drawing of the submitted change (attached SportsZone PUD Masterplan.pdf). In her summary, she noted:
   a. The applicant adjusted the plan from the original September application to indicate that Track A & B, are now changed to be a PUD with O & I2 use (as well as additional specified I1-Industrial Uses) & Track C would be PUD with I1 use.
   b. She indicated that the modified uses as shown on the document provided in the Notice of Public Hearing (which is also on the attached 20200127 SportsZone PUD 19-2 Revised.pdf)

2. Kevin Holland, the Applicant representative did not add anything else (at this time).

3. John Palma & Julie Ireland, representing 3905 Burlingame Road, asked where the traffic study that was requested at last fall’s planning commission meeting.
   a. Kevin noted that a study was not needed since the uses have not changed and that they could not complete a study of their plan as they did not know what it will be. He noted that Kristina was here to listen to the meeting and assist, if possible with questions.
   i. Kristina did not add any comments, which upset John Palma and Julie Ireland as they noted that is what the Planning Commission requested
   ii. Julie added that the truck traffic, which is not allowed on the property at all and was noted as such last on the original application last September, continues to this day unabated on site and with full access along the road between 3905 Burlingame & Foster Cemetery. No reply comments from Applicant or Annie

4. Robert Masilionis, who is the President of the Board for Foster Cemetery, noted that their remains a large pile of debris, numerous building materials and large caterpillar equipment in the parking lot next to the cemetery which has been there for over a year and sits adjacent the cemetery property which looks horrible and not allowed by Topeka Municipal Code. He inquired why the owner of SportsZone is allowed to violate the codes and why this has not been addressed by the owner even though this was communicated during last fall’s original application.
   a. The owner noted that he thought that the Caterpillar was there for snow removal, perhaps, but was not aware of the other items.
   i. Matt Masilionis corrected him and noted the caterpillar has not moved since last September (when I noted it on site) and that regardless if it was used for snow removal (which it is not) that the equipment is not allowed on the site at all and is in violation of zoning.
   ii. Matt noted that the neighborhood meeting was accepting of the proposed application during the September Neighborhood meeting; which was completely inaccurate as he was at the meeting where he noted that Margaret Masilionis voiced strong objections to the applicant which was also followed up with a letter noting her opposition to the application

5. Robert Masilionis noted that at the planning commission meeting last September when the original application was under review, Ms. Driver presented to the Planning Commission that the neighborhood was accepting of the proposed application during the September Neighborhood meeting; which was completely inaccurate as he was at the meeting where he noted that Margaret Masilionis voiced strong objections to the applicant which was also followed up with a letter noting her opposition to the application
   a. Annie said that she did not believe she had said that, but Robert noted that it was even written that way in the Planning Commission meeting minutes.
   b. Matt Masilionis noted that Annie’s comments at the planning commission about the neighborhood meeting were incorrect and could have misled the commission. Matt noted he was disappointed that this occurred as it appeared staff may have not been listening to the neighborhood meeting comments correctly or had not read the submitted letter of opposition document from my mother, as no mention of the neighbor opposition was noted in the staff report on the original application. Matt noted that this oversight appeared to be disrespectful of Margaret and the Palma family and may have provided an easier path for staff to support the application by an owner who has allowed non-conforming, illegal use activities on the SportsZone property.

6. Matt Masilionis articulated the items noted on the letter of major opposition from Margaret which was delivered to Ms. Driver at the end of the meeting:
   a. There is no detailed information provided by the applicant regarding their intended plan, which is required by the change in use and required for the neighborhood meeting. The application documents provide only basic information for the requested zoning change designation from R1 to a Planned Unit Development with O&I-1 and I-1 Industrial Uses on their Tracks A, B and C. The application does not provide any details required by the Municipal code for; exact types of intended uses, location of uses, size of uses, access of
uses to the site, details as to how the plan would be planned with the existing uses and neighborhood. The lack of any detail required by the code and missing on the application does not provide the ability to understand or comment on the application for the proposed change to a Planned Unit Development. As such, the neighborhood meeting does not meet the basis of a proper application which is step one of the planning process and should disallow the application.

b. The owner of the property has non-conforming zoning tenant uses in place, those being a Truck Driving School (which has large semi-tractor trucks regularly visiting and remaining on-site), Day Care Center and Dance School; all of which are in clear violation of zoning uses and laws. The existing uses are completely illegal and need to be removed immediately to place the parcel back within the existing approved R1 Zoning and its approved conditional and special uses. Further, the continued access and storage of trucks and commercial vehicles on its property is in violation Chapter 18.210.020, which indicates storage of truck, truck bodies, trailers, tractors, machinery and commercial vehicles is not allowed. This application (or applicant) should not be considered for any rezoning as the owner is currently in violation of existing zoning.

c. The I-1 Light Industrial use designated in the application represent an encroachment to the R1 existing zoning (including my homes) as I-1 zoning is not allowed within R1 zoning nor is R1 zoning allowed within I-1. Of note, the existing approved R1 Zoning, as detailed on the Topeka Municipal Code, details that the R1 Zoning provides for housing and living purposes free from the encroachment of incompatible uses. This application should not be under consideration as an encroachment of the existing R1 zoning is obvious from applicants intended uses.

d. The application is in violation of Topeka Future Land Use Map, which articulates that the site in question behind my home (and including to the west of the Foster Cemetery) has been designated as “Parks, Open Space and Recreation”. As such, the application should not be under consideration it violates the Topeka Future Land Use Map.

7. Kevin and Annie both asked Matts what should be done to help address the application, which he noted:

a. Have the owner immediately Correct the illegal activities not allowed by Zoning. I noted these items were clearly articulated in writing of these violations on the original application last September and during the Planning Commission meeting (which my mother’s notes were part of the meeting documentation) yet they have done nothing to address. I added that the updated ambiguous application which has wording placing obligations to the owner/applicant that they will comply with the City of Topeka’s requirements, but that the owner has not complied with Municipal Codes in the past and places the adjacent homes in further peril. He noted that the owner’s ignorance of the existing Municipal codes for a long period places them legally liable for their actions and they should not be allowed to move forward with any new application until they conform to the Municipal Code of Topeka.

i. Kevin noted that they are doing something to address the non-compliant uses, which is the revised application will amend the zoning to allow the uses in place.

1. Matt noted that that process is improper and an immoral and that the city should not allow a violator to be accommodated for his illegal actions (current and past)

b. Prepare a proper plan that addresses how my mother (and uncles) existing R1 is not being harmed or encroached by the application (and noted that “I” type occupancies are encroachments per the city code)

i. Kevin asked me how I would design the site to achieve this, which I responded that it is the owner and applicant requirement to meet the Municipal Codes and Processes properly. I noted that it was up to the owner to properly prepare a design that would address the four primary items (indicated Item #6 above), and which had also been identified in last Septembers letter of opposition from Margaret, but has been ignored on this revised application. Matt also noted that the applicant and owners should meet directly with the property owners to obtain their support BEFORE moving forward.

8. Mr. Hall asked what could be done to help make things move forward:

a. Matt noted that he and his mother had reasons to be concerned, as staff recommended approval to the Planning Commission of the original application last fall and also misrepresented the neighbor’s opposition to the original application. Further, it appeared that staff may have overlooked Margaret’s details and facts in her letter of opposition at last fall’s Planning Commission meeting as her questions or details were not addressed in the staff report.

i. Annie noted that she did not believe that she had the documentation from Margaret in time before the Planning Commission, which Margaret noted she hand delivered the package to Annie before the time that Annie required (in addition to Matt emailing the complete documentation to Annie several hours earlier in the day).

1. Matt noted that Ms. Driver’s comment was reason to be concerned for his mother and Aunt/Uncle as Margaret had had digitally and hand delivered her document as directed by Ms. Driver last September.

b. Matt noted that the owner must address the four primary items (indicated Item #6 above), which had also been identified in last Septembers letter of opposition from Margaret and have been completely ignored on this revised application.

b. Matt noted that the applicant and owners should meet directly with the property owners to obtain their support BEFORE moving forward.

9. At about 5:45, the Tenant (driver license bureau) noted they had been to close the office and go home as it was past 5:30 and asked if the meeting could continue somewhere else; which fragmented the meeting and the meeting forum was ended.

My notes above constitute my understanding and details discussed at the Neighborhood Meeting regarding this matter.

Please contact me with any questions.

Matt Masilionis
Son and Agent for Margaret Masilionis
10801 West 167th Street
Overland Park, Kansas  66221
816-210-5709 M
matt@rmta.biz

Margaret Masilionis
3901 Burlingame Road
Topeka, Kansas 66609
785-266-8658 H
lmasl@cox.net

Cc: Robert Masilionis, bmasilionis@cox.net
Vernon L. Jarboe, VJarboe@sloanlawfirm.com
DATE: 27 JANUARY 2020

TO: City of Topeka Planning Department  
Attn: Annie Driver, Planner  
620 SE Madison, 3rd Floor, Unit 11  
Topeka, KS 66607  
785.368.3728  
adriver@topeka.org

REF: NEIGHBORHOOD MEETING OF #PUD19/2 - REQUESTED CHANGE IN ZONING FOR 3907 & 3909 SW BURLINGAME ROAD

FROM: R1 WITH CONDITIONAL USE PERMIT FOR "OUTDOOR RECREATION FIELDS, RETAIL SALES AND FOOD SERVICE" AND EXISTING SPECIAL USE PERMITS FOR "PRIVATE MEMBERSHIP CLUB AND GOLF COURSE" AND "COMMUNITY BUILDING WITH ALCOHOL SALES"

TO: PUD/PLANNED UNIT DEVELOPMENT (#1-LIGHT INDUSTRIAL USES)

Dear Ms. Driver,

This letter shall clarify, in writing, my major objection to the application for rezoning of 3907 & 3909 Burlingame Road. It appears that this current application is the same as the original application from last fall, to which I provided my verbal opposition at the last neighborhood meeting and planning commission meeting as well as providing specific reasons and supporting evidence against the application which includes:

1. There is no plan nor information provided by the applicant regarding their intended plan, other than just a zoning change designation to a Planned Unit Development with an I-1 Light Industrial Use. The applicant has not provided any details of exact types of intended uses, location of uses, size of uses, access of uses to the site as well as providing any detail as to how the plan would be planned with the existing uses and neighborhood. The complete lack of any detail by the applicant does not provide any ability to understand, nor comment, on the application for the proposed change to a Planned Unit Development with an I-1 Light Industrial Use. As the application contains no detail to understand the development, the neighborhood meeting does not meet any basis of a proper application to comment on, nor discuss or address any concerns as no detail is provided by the applicant, step one of the planning process is not being met by the applicant disavowing the application.

2. The owner of the property has non-conforming zoning tenant uses in place, those being a Truck Driving School (which has large semi-tractor trucks regularly visiting and remaining on-site), Day Care Center and Dance School; all of which are in clear violation of zoning uses and laws. The existing uses are completely illegal and need to be removed immediately to place the parcel back within the existing approved R1 Zoning (with its approved conditional and special uses). Further, the continued access and storage of trucks and commercial vehicles on its property is in violation Chapter 18.210.020 (which indicates storage of truck, truck bodies, trailers, tractors, machinery and commercial vehicles is not allowed). This application (or applicant) should not be considered for any rezoning as the owner is currently in violation of existing zoning.

3. The I-1 Light Industrial use designated in the application represent an encroachment to the R1 existing zoning (including my homes) as I-1 zoning is not allowed within R1 zoning nor is R1 zoning allowed within I-1. Of note, the existing approved R1 Zoning, as detailed on the Topeka Municipal Code, details that the R1 Zoning provides for housing and living purposes free from the encroachment of incompatible uses. This application should not be under consideration as an encroachment of the existing R1 zoning is obvious from applicants intended uses.

4. The application is in violation of Topeka Future Land Use Map, which articulates that the site in question behind my home (and including to the west of the Foster Cemetery) has been designated as "Parks, Open Space and Recreation". This application should not be under consideration it violates the Topeka Future Land Use Map.

The items denoted above have been articulated and details with clear evidence from my response to you from the original application to this property last fall; of which, all the major issues and critical problems remain. I respectfully request that the City of Topeka and the planning staff force the owner of the property to correct its existing zoning problems in addition to rejecting the application for the clear regulation and legal issues stated above.

Sincerely,

Margaret Masilionis
3901 & 3903 Burlingame Road  
Topeka, Kansas 66609
ATTACHMENT “B”

Topeka Neighborhood Meeting Requirements Process
City of Topeka
Citizen Participation Process

This process is in addition to any State-mandated public notification procedures for Planning Commission and Governing Body public hearings. For example, all zonings require notifying property owners within 200’ of the subject property, at least 20 days before the public hearing.

GOALS:

• To ensure all property owners, residents, businesses, and organizations potentially affected by a proposed land development have the opportunity to comment on and understand development proposals before the public hearing.

• To allow for ongoing communication between the developer and potentially affected citizens during the early stages of a land development process, and provide the developer with an opportunity to answer questions, gather comments, consider input, and resolve concerns before the Planning Commission or Governing Body public hearing.

• To provide guidelines and expectations to applicants and developers for gathering citizen input on their proposals.

Types of projects required to comply with these procedures: All land development applications requiring approval by the Governing Body; including re-zonings, Conditional Use Permits, Planned Unit Development Plans, major amendments to Planned Unit Development Plans, vacations, and major subdivision plats. Affordable housing tax credit projects that require re-zoning, are on land exempt from zoning, build additional units, or convert existing market-rate units are also required a NIM.

➢ Minimum notification criteria for projects:

• Properties < 3 acres should notify land owners within 300’ and neighborhood organizations within ½ mile of the subject property. A neighborhood information meeting (NIM) is required.

• Properties 3 acres or > should notify land owners within 500’ and neighborhood organizations within ½ mile of the subject property. A neighborhood information meeting (NIM) is required.

*The notification area for properties contiguous to the city limits should extend 1000’. These notification areas may be adjusted for certain actions (e.g. vacations) as determined at the discretion of the Planning Director.
A neighborhood information meeting may be required, but is not intended for actions of a technical or administrative nature (e.g. minor re-zonings, minor PUD amendments, minor plats, site development plans, etc.) not deemed to impact land owners within or beyond the required notification area, as determined by the Planning Director.

Steps in the Citizen Participation Process:

1. **Pre-Application Meeting:** Planning Department staff informs the applicant of the citizen participation process requirements for the requested action and provides direction. The NIM may be held, and in some cases is encouraged, prior to the application submittal.

2. **Citizen Notices:** Applicants may submit information for notices before or at the time of application, but always after a pre-application meeting. The City will create the notice for the applicant prior to, or at the time of, application submittal. The applicant is responsible for mailing meeting notices to those identified, with a copy sent to the Planning Department and City Council representative.

   **A. Notice shall include:**
   - The requested action
   - Neighborhood meeting time, date and place
   - Contact information for owner or developer
   - Subject property location and acreage
   - Existing zoning
   - City Comprehensive Plan designation
   - **Brief scope of the project**
   - City Council representative and district
   - Date of Planning Commission hearing
   - Information for citizens seeking to submit questions in advance, if unable to attend the meeting
   - City staff planner contact information

   **B. Notice should be sent to all property owners in the identified notification area (300’ or 500’ radius).** Planning Department staff will provide the applicant with a list of property owner mailing labels and the notice with a map of the notification area.

   **C. Notify City-registered neighborhood organizations and City Council representative within ½ mile of the subject property.**

   **D. The applicant is not required to but may publish the notice in the newspaper or other media outlets. The Planning Dept will publish the notice on the City website.**

3. **Neighborhood Information Meeting:**
   - The neighborhood information meeting may be held before or after submitting an application, but always after a pre-application meeting with planning staff. The
neighborhood information meeting date, location, and time should be confirmed with the Planning Department at the time of the application submittal. An ADA accessible location is required.

B. Meetings should be held within the neighborhood, desirably, no more than one mile from the property and at a public location accessible to all affected residents (e.g., schools, community centers, churches, public businesses, etc). The meeting may be held on-site if it practical and convenient for the public to do so. The applicant is responsible for scheduling the meeting location provided the location meets the above requirements. Staff will provide assistance in selecting a location at the pre-application meeting.

C. Meetings should be scheduled during early evening hours on weekdays (excluding Friday), and should not conflict with City Council or Planning Commission meetings.

D. The applicant should mail notices at least 15 days before the meeting.

E. The neighborhood meeting should be scheduled no fewer than 20 days before the Planning Commission or Governing Body public hearing, to give the applicant time to address concerns raised at the meeting.

F. The applicant/developer will facilitate the meeting, set-up the facility (i.e. information providing, information gathering/feedback; Q&A, etc.) and will provide all materials and equipment for meeting. The applicant is responsible for taking notes and attendance at the meeting. The applicant should be prepared to adjust their meeting format depending on the number of attendees.

G. City Planning staff will attend the meeting. The City planner will introduce the action requested, explain the process including the ways in which stakeholders may provide input, and will then turn the meeting over to the applicant for a short presentation and to respond to questions. The City planner will be available to answer direct code related questions. The City planner will not address questions concerning the staff recommendation.

4. Citizen Participation Report: This is the developer’s report to the City. It must be submitted to City staff prior to the date the Planning Department mails out its recommendation to the Planning Commission. Staff will review this report and include it with the staff report that is mailed to the Planning Commission.

A. Report must shall include:

- Summary of neighborhood information meetings held, including date, location, meeting notices, sign-in sheets, number of attendees, and results of the meeting.
- Summary of citizen questions, concerns, input, issues, and problems expressed, and how these have been addressed, including any changes to the project. Include concerns the applicant is unable or unwilling to address.
- Copies of all comment letters, petitions, and other pertinent information received from residents and other parties.
B. Summary report must be signed and dated by applicant or their designated representative
**GOALS:**

*For the Applicant:*
- To allow open communication between the developers and neighborhood residents during the early stages of a land development proposal and to give the applicant a chance to answer questions and resolve concerns from residents prior to the Planning Commission public hearing.

*For the Neighborhood:*
- To give affected property owners, business owners, and organizations an early opportunity to ask questions and provide input on development proposals. No one knows a neighborhood better than its residents and with continued collaboration there is greater chance of the proposal being welcomed into the area.

*For the City:*
- City staff attend the meeting as observers, take notes, and answer land development code questions. Planning staff will ultimately evaluate the proposal based upon accepted land use planning principles, compliance with the City Comprehensive Zoning Regulations and conformance to the City’s Comprehensive Plan. Staff makes a recommendation on the proposal to the City’s Planning Commission.

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**TYPES OF PROJECTS REQUIRING A MEETING:**

*(The process is in addition to any State-mandated public notification requirements.)*

* Projects that need Governing Body approval, specifically:
  - Rezonings/Conditional Use Permits
  - Planned Unit Development plans
  - Major subdivision plats
  - Affordable Housing Tax Credit Projects
  - Vacations of streets, alleys, easements

**Minimum Notification Area:**

*(may be adjusted for some projects):*

- Properties less than 3 acres require notification of landowners within 300 ft.
- Properties 3 acres or greater require notification of landowners within 500 ft.
- Neighborhood organizations in 1/2 mile

For further information on the Citizen Participation Process and the complete procedures, visit the Planning Department webpage at: http://www.topeka.org/Planning/nim.shtml

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**CITY OF TOPEKA’S Citizen Participation Process:**

*A Guide to Neighborhood Information Meetings for Applicants and Citizens*

Contact:
Topeka Planning Department
Annie Driver, AICP, Planner II
Off: 785.368.3010
Email: adriver@topeka.org
Step 1: Set the meeting

1. Set date and time after completing a pre-application meeting on the project with the Planning Department.

2. Generally, the date should allow at least 15 days notification of the meeting and be scheduled 20 days prior to the Planning Commission hearing. Meetings should be held on weekdays and early evenings, excluding Tuesdays/Fridays.

3. City staff will create notice and provide mailing labels after confirming meeting date, location, and time.

4. The applicant mails notices to all property owners within the designated radius and to all City-registered neighborhood organizations within 1/2 mile.

5. The applicant may publish the notice in media outlets. City staff will post the notice on Planning Department's webpage.

Step 2: Prepare the Meeting

- The meeting is set-up and facilitated by the developer. The meeting should allow for a brief presentation on the project by the applicant and a question/answer period.

- City staff attends the meeting to initially describe the development process and answer any city code related questions.

- Typical neighborhood meetings are 30 minutes to 1 hour, but may be longer depending on the complexity of the specific project. The meeting should continue as long as there are questions to be addressed, but should be no longer than 2 hours.

- The applicant answers questions, keeps attendance and is the primary record taker at the meeting. Meeting notes are intended to capture key questions and ideas, but are not a verbatim record of minutes.

- The applicant and City staff may wrap up the meeting by reviewing meeting notes, and addressing next steps and meeting dates.

Step 3: Report of Meeting

- Address information and issues gathered from the meeting.

- Compile meeting notes and prepare a summary of the meeting to include: citizen questions, concerns, input, problems, issues, and ideas.

- Submit summary report to the City staff at least 15 days before the Planning Commission hearing.

- Meeting summary report to include copies of letters or petitions received from residents.
ATTACHMENT “C”

Topeka Municipal Code Applicable Documentation
**Municipal Code Purpose Statements of Zoning Districts –
City of Topeka, Kansas**

**RESIDENTIAL**

**OS-1 OPEN SPACE DISTRICT:**
The open space district is intended to preserve and protect existing and potential public park land, open land, greenways, recreational space, floodways, trails and lands that have other physical, aesthetic or cultural characteristics which preclude their inclusion in other less restrictive districts. It is intended that these areas provide opportunities for passive and active outdoor recreation, preserve scenic views, and protect sensitive or fragile environmental areas. It is further the intent of this district to protect these areas from urban, non-open space or incompatible development.

**RA-1 RURAL AGRICULTURE DISTRICT:**
Repealed by Ord. 19602

**RR-1 RESIDENTIAL RESERVE DISTRICT:**
This district is established to provide for a transitional area between urbanized development with intensive activity areas, and the rural-agricultural areas; and which is expected to become urbanized in subsequent planning periods. The limitations of this district are intended to allow for the gradual development of urban uses and activities, therefore providing for the coexistence with agricultural farmland activities based upon the availability and extension of municipal facilities and services. Such urban development will be permitted at appropriate intensity-density levels to assure that public improvement expenditures are appropriately planned for in advance of the conversion to urban uses.

**R-1 SINGLE FAMILY DWELLING DISTRICT:**
This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and other uses as may be approved. It is intended that the character and use of this district be for housing and living purposes free from the encroachment of incompatible uses.

**R-2 SINGLE FAMILY DWELLING DISTRICT:**
This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and other uses as may be approved. It is intended that the character and use of this district be for housing and living purposes free from the encroachment of incompatible uses.

**R-3 SINGLE FAMILY DWELLING DISTRICT:**
This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and to provide for an increased density that will promote compact housing development at affordable levels through reduced site area requirements, lot size and optional public improvement design standards. This district shall be established in conjunction with an approved subdivision which provides for the minimum standards set forth in these regulations.

**R-4 SINGLE FAMILY DWELLING DISTRICT:**
The primary purpose for the establishment of this district is to provide for the location and use of detached single-family dwellings and manufactured homes as defined, together with specified accessory and supportive uses; and to provide for housing development at affordable levels in a subdivision setting. This district may be established in conjunction with an approved plat of subdivision for development in accordance with the provisions of the dimensional requirements and general lot requirements established in TMC 18.230.020.

**M-1 TWO FAMILY DWELLING DISTRICT:**
This district is established to provide for the use of two-family and attached single-family dwellings together with specified accessory uses. The purpose of this district is intended to provide for a housing type and arrangement that is distinguished from the single-family detached dwellings and multifamily dwellings provided for elsewhere in these regulations. The location of this district is...
further intended to provide a transitional use between the single-family detached dwelling districts and other districts which are more intensive.

**M-1a LIMITED MULTIPLE FAMILY DWELLING DISTRICT:**
This district is established to provide for the use of two-family dwellings, single-family attached dwellings, and multiple-family dwellings, containing not more than four dwelling units, together with specified accessory uses. This district is intended to provide a transitional use buffer in locations between the single- and two-family dwelling districts and other districts which are more intensive.

**M-2 MULTIPLE FAMILY DWELLING DISTRICT:**
This district is established to provide for the use of attached dwelling units containing three or more dwelling units, designed and intended for individual dwellings, group or community living facilities, congregate living facilities, and including townhouse, condominium or cooperative division of ownership. The location of this district is further intended to provide a transitional use between the districts of lesser and greater intensity.

**M-3 MULTIPLE FAMILY DWELLING DISTRICT:**
It is the purpose of this district to provide for multiple-family dwelling structures which are in the moderate to high density range and at heights which allow for a high intensity of use and development. The location of this district is intended to complement high activity centers such as the central business district, employment centers or other similar locations. Since this district will have high levels of pedestrian activity, special attention must be directed to providing a pleasant, safe and efficient pedestrian environment.

### OFFICE, COMMERCIAL, INDUSTRIAL

**O & I - 1 OFFICE AND INSTITUTIONAL:**
This district is established to provide for a limited range of nonresidential and noncommercial uses such as general purpose office, professional, or administrative operations. The district shall not permit those uses and activities pertaining to retail product display, installation, service, repair, or maintenance unless specifically provided for within the chapter. Among others, an objective of this district is to provide for a transitional buffer between the districts of lesser and greater intensity; and to restrict the intensity of use to a low to moderate range and to encourage a compatible design with the adjacent use and development.

**O & I - 2 OFFICE AND INSTITUTIONAL:**
This district is established to provide for a limited range of nonresidential and noncommercial uses such as general purpose office, professional, or administrative operations. The district shall not permit those uses and activities pertaining to retail product display, installation, service, repair, or maintenance unless specifically provided for within the chapter. Among others, an objective of this district is to provide for a transitional buffer between the districts of lesser and greater intensity; and to restrict the intensity of use to a low to moderate range and to encourage a compatible design with the adjacent use and development.

**O & I - 3 OFFICE AND INSTITUTIONAL:**
This district is established to provide for a wide range of nonresidential and noncommercial uses such as general purpose office, professional and service, or administrative operations, research, testing and development. Among others, an objective of this district is to provide for a high intensity of use of considerable magnitude and located on a sufficient land area to accommodate the factors of employment, transportation and other land use considerations. The district shall permit uses and activities pertaining to product showrooms for the display, demonstration, training, selection and sale of goods not for delivery on the premises. Product installation, service, repair and maintenance is not permitted in the district.
C-1 COMMERCIAL DISTRICT:
This district is established to provide for limited commercial facilities which are to serve as convenient services to a residential neighborhood or limited geographic area of the community. Shops in this district should be useful to the majority of the neighborhood residents, should be economically supportable by nearby population, and should not draw community-wide patronage. The location of this district will be determined based upon the compatibility and design considerations of the limited geographic area affected.

C-2 COMMERCIAL DISTRICT:
This district is established to provide for those commercial activities which serve a major segment of the total community population. In addition to a variety of retail goods and services, these centers may typically feature a number of large traffic generators that require access from major thoroughfares. The extent and range of activities permitted are in the moderate to medium intensity range with a ground floor area limitation.

C-3 COMMERCIAL DISTRICT:
This district is established to provide for those commercial activities which serve a major segment of the total community population. In addition to a variety of retail goods and services, these centers may typically feature a number of large traffic generators that require access from major thoroughfares. The extent and range of activities permitted are in the moderate to medium intensity range.

C-4 COMMERCIAL DISTRICT:
This district is established to provide for commercial uses and activities which are intended to serve as community or regional service areas. Uses and activities permitted are typically characterized by outdoor display, storage and/or sale of merchandise, by repair of motor vehicles, by outdoor commercial amusement and recreational activities, or by activities or operations conducted in buildings and structures not completely enclosed. The extent and range of activities permitted are highly intensive and therefore special attention must be directed toward buffering the negative aspects of these uses upon any residential use.

C-5 COMMERCIAL DISTRICT:
Converted to D-1 downtown district. Ordinance 20062

I-1 LIGHT INDUSTRIAL DISTRICT:
This district is established to provide for a wide range of uses except specified uses which are obnoxious or offensive by reason of odor, dust, smoke, gas or noise. The extent and range of uses are highly intensive. Residential dwellings are not permitted in this district except for on-site caretakers or watchmen or correctional placement residence or facility, limited or general.

I-2 HEAVY INDUSTRIAL DISTRICT:
This district is established to provide for the use and location of all other uses excluded in other districts except for residential dwellings. The intensity and use of land as permitted by this district is intended to facilitate the total range of industrial uses.
Municipal Code Purpose Statements of Zoning Districts –
City of Topeka, Kansas

OTHER

DOWNTOWN MIXED USE DISTRICT:
The downtown districts are unique to the downtown Topeka area and are provided to encourage a compatible mixed use activity. The Downtown districts serve to implement the downtown Topeka redevelopment plan, which is part of the city of Topeka’s comprehensive metropolitan plan.

D-1 DOWNTOWN MIXED USE DISTRICT:
The purpose of this district is to facilitate a compatible mixed use activity center within the core area of downtown Topeka. The district is predominately composed of state offices, as well as local and federal facilities, commercial and retail uses. The district includes compatible residential, office, civic, and commercial retail/service uses which complement and support a high density of activity and facilitate pedestrian usage.

D-2 DOWNTOWN MIXED USE DISTRICT:
The purpose of this district is to integrate a compatible mixed use activity with urban residential neighborhoods. The district includes a balance of compatible residential, office, cultural, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support neighborhood residential areas and pedestrian usage.

D-3 DOWNTOWN MIXED USE DISTRICT:
The purpose of this district is to reestablish the linkage between downtown and the Kansas River through intensive redevelopment of the area north of Crane Street to the Kansas River. The district includes housing, commercial and office uses that emphasize the relationship between downtown and the river, as well as expand cultural opportunities in the general downtown area.

HL HISTORIC LANDMARK OVERLAY DISTRICT:
This district provides for the designation of individual local historic landmarks. The overlay-zoning district does not change the base zoning classification of the subject property, but, attaches preservation responsibilities that are only applicable to the property.

“Overlay zoning” means any zoning that functions in addition to the existing land use zoning, as in the case of local historic landmark or local historic district zoning.

HD HISTORIC OVERLAY DISTRICT:
This district provides for the designation of multiple properties as a historic district. Historic district designation does not change the base zoning of underlying properties, but requires submission and compliance of district preservation design guidelines.

“Overlay zoning” means any zoning that functions in addition to the existing land use zoning, as in the case of local historic landmark or local historic district zoning.

PUD PLANNED UNIT DEVELOPMENT DISTRICT:
This district is established to permit greater flexibility and more creative, innovative and imaginative design for the development of areas that are generally possible under the strict application of the regulations of the other districts. It is further intended to promote more economical and efficient use of the land while providing for a pleasing and harmonious development and environment, including opportunities to provide for a high level of urban amenities, and the preservation of open spaces. The regulations of this district are intended to encourage the use of this district in order to integrate multiple uses into the development; to adapt the proposed use(s) to meet the conditions of the site; and to affect certain economics in public facilities. The requirements contained herein are set forth to provide for such development on other than a lot-by-lot basis.

Due to the nature and implications of a district zone which provides for such a broad spectrum of land use and a more challenging responsibility of the delivery of public services, considerations and quasijudicial deliberations relating to the compatibility of the district to a particular site shall permit greater discretionary review and broad latitude in applying conditions and limitations for a permitted development. The compliance with all standards set forth in this division and the submittal of all specified documents and data shall not entitle an applicant to this district classification.
MS-1 MEDICAL SERVICE DISTRICT:
This district is established to provide for the location and use of a regional medical center together with related medical facilities and supporting ancillary-service uses, including residential dwellings. It is not the purpose nor the intention of this zoning district to preclude the similar use of land or buildings as provided herein from other districts as may be permitted by this division.

U-1 UNIVERSITY DISTRICT:
This district is established to provide for the use of a college or university as a special zoning district. All development, redevelopment or enlargements shall be in accordance with an approved master development plan.

MIXED USE DISTRICT:
The mixed use districts are unique to traditional neighborhood settings and are provided to encourage a compatible mixed use environment, utilizing the historic character or future character of the area. The X mixed use districts serve to implement land use plans of the Comprehensive Plan.

X-1 MIXED USE DISTRICT:
This district facilitates a compatible mixed use activity center within a traditional residential neighborhood. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support dense neighborhood residential areas and pedestrian usage with quality urban design.

X-2 MIXED USE DISTRICT:
This district facilitates a mixed use area that transitions from a higher intensity industrial use area to lower intensity neighborhood-scale residential areas and includes a balance of compatible residential, office, commercial service, and light industrial uses.

X-3 MIXED USE DISTRICT:
This district facilitates a destination-oriented mixed use district in the area known as the North Crossings area of North Topeka that serves as the northern entertainment/cultural anchor of downtown. The objectives of the district include:

1. Improving the area as a 24-hour destination for urban, cultural, entertainment, community, and residential experiences; and

2. Retention and attraction of businesses, workplaces and residences through adaptive reuse and rehabilitation of existing buildings as a preference; and

3. Redeveloping vacant and under-utilized properties through appropriately scaled in-fill development; and

4. High quality development and urban design standards that maintain a sense of history, human scale, and pedestrian-orientation.
### Residential Use Description

| Use Description                                                                 | 
|---------------------------------------------------------------------------------|---|
| Assisted Living Facility #                                                      | 
| has individual living units where at least 6 persons receive personal/nursing care. Refer to TMC 18.225 Dwelling Units on main floor | 
| Bed & Breakfast Home #                                                          | 
| owner-occupied home with up to 4 guest rooms                                   | 
| Bed & Breakfast Inn #                                                           | 
| single-family dwelling for up to 10 guests                                      | 
| Boarding House #                                                                | 
| dwelling where lodging, with or without food, for 6 to 20 persons is provided  | 
| Caretaker’s Residence                                                           | 
| dwelling operation for short-term residential care for improving living skills | 
| Community Living Facility, Type I #                                            | 
| dwelling operation for residential care providing an intermediate and primary treatment setting | 
| Community Living Facility, Type II #                                           | 
| dwelling operation for residential care | 
| Correctional Placement Residence or Facility General #                          | 
| residential/rehabilitation facility occupied by more than 15 individuals        | 
| Correctional Placement Residence or Facility Limited #                         | 
| residential/rehabilitation facility occupied by 3 to 15 individuals             | 
| Crisis Center, Type I #                                                         | 
| may include meals and merchandise to residents                                 | 
| Crisis Center, Type II #                                                        | 
| facility used for immediate human social service functions including meals, merchandise or shelter | 
| Dwelling, Detached Single-Family #                                              | 
| Dwelling, Attached Single-Family #                                              | 
| Dwelling, Two-Family # (Duplex)                                                 | 
| Dwelling, Three/Four-Family                                                     | 
| Dwelling, Multiple-Family                                                       | 
| structure with at least 5 units                                                 | 
| Dwelling, Accessory #                                                           | 
| secondary to primary dwelling, not exceeding 600 sq. ft.                        | 
| Dwelling Units Above Ground Floor or Basement                                  | 
| other than medical care & community living facility                             | 
| Dwelling Units on main floor                                                    | 
| subordinate to principal non-residential uses. Refer to TMC 18.225             | 
| Group Home #                                                                   | 
| licensed dwelling for up to 8 with disability & 1 or 2 staff                   | 
| Group Residence, General #                                                     | 
| dwelling occupied by 9 to 15 persons and at least 8 with a disability          | 
| Group Residence, Limited #                                                     | 
| dwelling occupied by up to 10 persons, up to 8 with a disability, and up to 2 staff residents | 
| Home Care, type I #                                                            | 
| nonsecure dwelling with residential/nursing care for up to 8 care receivers    | 
| Home Care, type II #                                                           | 
| nonsecure dwelling with residential/nursing care for up to 12 care receivers   | 
| Management/Leasing Facilities                                                   | 
| for managing an entire multi-family community Refer to TMC 18.225               | 

### Approval Levels

- **A** = Allowed Use
- **S** = Allowed per Special Use Requirements under Chapter 18.225
- **S/C** = If unable to meet Special Use Requirements, may apply for CUP.
- **C** = Conditional Use Permit (CUP) approved by Governing Body

# = See Definition in Chapter 18.55 Topeka Municipal Code

See Design Standards for "X" & "D" Districts

City of Topeka Planning Department April 2017

APPROVED BY CITY COUNCIL 4/18/17
<table>
<thead>
<tr>
<th>Use</th>
<th>Description</th>
<th>Approval Levels</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
<td><a href="#">Allowed Use</a></td>
<td></td>
</tr>
<tr>
<td>Medical Care Facility, type I #</td>
<td>Dwelling for the personal nursing care &amp; treatment for up to 2 persons</td>
<td><a href="#">●●●●●●</a></td>
<td>C</td>
</tr>
<tr>
<td>Medical Care Facility, type II #</td>
<td>Dwelling for the personal nursing care &amp; treatment for more than 3 persons</td>
<td><a href="#">●●●●</a></td>
<td>C</td>
</tr>
<tr>
<td>Mobile Home #, Manufactured Home</td>
<td>Residential structure manufactured off-site excluding “residential design manufactured home”</td>
<td><a href="#">S</a></td>
<td></td>
</tr>
<tr>
<td>Residential-Design Manufactured Home #</td>
<td>At least 22’ wide on a permanent foundation, pitched roof, and siding/roofing materials similar to site built homes except in R-4.</td>
<td><a href="#">●●●●●●</a></td>
<td></td>
</tr>
<tr>
<td>Residential Care Facility, Type I #</td>
<td>Nonsecure dwelling in which residential care is provided for children and/or adults on 24-hr basis, up to 4 persons</td>
<td><a href="#">●●●●●●</a></td>
<td>C</td>
</tr>
<tr>
<td>Residential Care Facility, Type II #</td>
<td>Nonsecure dwelling in which residential care is provided for children and/or adults on 24-hr basis, up to 10 persons</td>
<td><a href="#">●●●●●●</a></td>
<td>C</td>
</tr>
<tr>
<td>Residential Care Facility, Type III #</td>
<td>Nonsecure dwelling in which residential care is provided to children and/or adults on a 24-hour basis</td>
<td><a href="#">●●●●●●</a></td>
<td></td>
</tr>
<tr>
<td>Student or Faculty Housing</td>
<td>Refer to TMC 18.225 Dwelling Units on main floor</td>
<td><a href="#">●●●●●●</a></td>
<td>S</td>
</tr>
</tbody>
</table>

# = See Definition in Chapter 18.55 Topeka Municipal Code

See Design Standards for “X” & “D” Districts...
## Commercial/Office Approval Levels

- **●** = Allowed Use
- **S** = Allowed per Special Use Requirements under Chapter 18.225 TMC
- **S/C** = If unable to meet Special Use Requirements, may apply for CUP
- **C** = Conditional Use Permit (CUP) approved by Governing Body

### # = See Definition in Chapter 18.55 TMC

### See Design Standards for X and D Districts

### Use Description

<table>
<thead>
<tr>
<th>Commercial/Office</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal Care and Services, Type I #</td>
<td>C S S S</td>
</tr>
<tr>
<td>for common household pets in an</td>
<td></td>
</tr>
<tr>
<td>enclosed building</td>
<td></td>
</tr>
<tr>
<td>Animal Care and Services, Type II #</td>
<td>C C C S</td>
</tr>
<tr>
<td>services within an enclosed building</td>
<td></td>
</tr>
<tr>
<td>Artisan Manufacturing #</td>
<td>S S S</td>
</tr>
<tr>
<td>refer to Chapter 18.225 TMC</td>
<td></td>
</tr>
<tr>
<td>Auction House</td>
<td>S S</td>
</tr>
<tr>
<td>Automobile or Vehicle Carwash #</td>
<td>S S</td>
</tr>
<tr>
<td>Automotive Rental Establishments</td>
<td>S S</td>
</tr>
<tr>
<td>Auto Service Station, Type I #</td>
<td>C S S</td>
</tr>
<tr>
<td>convenience store with gas sales</td>
<td></td>
</tr>
<tr>
<td>Auto Service Station, Type II #</td>
<td>S S S</td>
</tr>
<tr>
<td>excludes drive-train work</td>
<td></td>
</tr>
<tr>
<td>Auto Service Station, Type III #</td>
<td>C C S</td>
</tr>
<tr>
<td>includes drive-train work</td>
<td></td>
</tr>
<tr>
<td>Automobile Sales and Service</td>
<td>S S S</td>
</tr>
<tr>
<td>excludes heavy-duty vehicles and type III auto services</td>
<td></td>
</tr>
</tbody>
</table>

### Additional uses that can be allowed under I-1 Use

### Existing Allowed Zoning Uses

### Requested Allowed Zoning Uses

### TOPEKA MUNICIPAL CODE 18.60.010

### Commercial/Office Districts

- **C1 Commercial**
- **C2 Commercial**
- **C3 Commercial**
- **C4 Commercial**
- **L1 Light Industrial**
- **L2 Heavy Industrial**
- **U1 University**
- **M1 Medical Service**
- **X1 Mixed Use**
- **X2 Mixed Use**
- **X3 Mixed Use**
- **D1 Downtown Mixed Use**
- **D2 Downtown Mixed Use**
- **D3 Downtown Mixed Use**
- **RR-1 Residential Reserve**
- **OS-1 Open Space**
## Commercial/Office (Continued)

<table>
<thead>
<tr>
<th>Use Description</th>
<th>Approval Levels</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial/Office</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Automobile, Boat, Truck, Heavy and Ag Equipment, Sales/Services</td>
<td>● = Allowed Use</td>
<td>S/C = If unable to meet Special Use Requirements, may apply for CUP</td>
</tr>
<tr>
<td>• Includes heavy-duty trucks, rec. vehicles, trailers and type III service</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Automobile or Vehicle Tow Lot and Body Shop</strong></td>
<td></td>
<td>S = Allowed per Special Use Requirements under Chapter 18.225 TMC</td>
</tr>
<tr>
<td>• Does not include wrecking yards or long-term storage of disabled vehicles</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Bakery (Commercial)</strong></td>
<td></td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>• Including wholesale distribution</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Bank/Financial Institution</strong></td>
<td></td>
<td># = See Definition in Chapter 18.55 TMC</td>
</tr>
<tr>
<td>• Does not include drive-in/drive-through</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Billboard/Panel Poster Sign #</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See TMC 18.25.110)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Off-premises advertising signs</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Billboard, Modified Legal Nonconforming Billboards</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Relocation, remodeling or rebuilding of legal nonconforming billboards</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Body Art Service/Tattooing, Body-Piercing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Excludes ear-piercing only</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Brew Pub #</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Includes a micro-brewery as an accessory use. Micro-brewery limited to 5,000 barrels per year</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Additional uses that can be allowed under I-1 Use

### Existing Allowed Zoning Uses

### Requested Allowed Zoning Uses

---

**Notes:**

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**Design Standards for X and D Districts:**

See Design Standards for X and D Districts.
<table>
<thead>
<tr>
<th>Use Description</th>
<th>Approval Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial/Office</strong></td>
<td><strong>Districts</strong></td>
</tr>
<tr>
<td>Building, Construction, and Mechanical Contractor Office</td>
<td>S/C = If unable to meet Special Use Requirements, may apply for CUP</td>
</tr>
<tr>
<td>Catering</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Check Cashing/Pay-Day Loans/Title Loans</td>
<td># = See Definition in Chapter 18.55 TMC</td>
</tr>
<tr>
<td>Drinking Establishment #</td>
<td>See Design Standards for X and D Districts</td>
</tr>
<tr>
<td>Drive-Through Establishments/Facilities</td>
<td>See Design Standards for X and D Districts</td>
</tr>
<tr>
<td>Funeral Home, Mortuary # without Crematorium</td>
<td>See Design Standards for X and D Districts</td>
</tr>
<tr>
<td>Funeral Home, Mortuary # with Crematorium</td>
<td>See Design Standards for X and D Districts</td>
</tr>
<tr>
<td>Grave Monuments and Markers</td>
<td>See Design Standards for X and D Districts</td>
</tr>
<tr>
<td>Gun Ranges, Indoor</td>
<td>See Design Standards for X and D Districts</td>
</tr>
</tbody>
</table>

**Use Description**
- R-1/R-2/R-3 Single-Family Dwelling
- R-4 Manufactured Homes
- M-1 Two-Family Dwelling
- M-1a Limited Multiple-Family Dwelling
- M-2 Multiple-Family Dwelling
- M-3 Multiple-Family Dwelling
- O&I-1 Office and Institutional
- O&I-2 Office and Institutional
- O&I-3 Office and Institutional
- C-1 Commercial
- C-2 Commercial
- C-3 Commercial
- C-4 Commercial
- C-5 Light Industrial
- C-6 Heavy Industrial
- U-1 University
- MS-1 Medical Service
- X-1 Mixed Use
- X-2 Mixed Use
- X-3 Mixed Use
- D-1 Downtown Mixed Use
- D-2 Downtown Mixed Use
- D-3 Downtown Mixed Use
- RR-1 Residential Reserve
- OS-1 Open Space

**Approval Levels**
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**Existing Allowed Zoning Uses**
- Additional uses that can be allowed under I-1 Use

**Requested Allowed Zoning Uses**
- See Design Standards for X and D Districts
<table>
<thead>
<tr>
<th>Use Description</th>
<th>Approvals</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial/Office</strong></td>
<td></td>
</tr>
<tr>
<td>Health Services #, Clinic #, Health Care Facility #</td>
<td></td>
</tr>
<tr>
<td>may include a pharmacy as part of the facility</td>
<td>S/C</td>
</tr>
<tr>
<td>Home Improvement and Building Supply</td>
<td></td>
</tr>
<tr>
<td>retail merchandise, outdoor display, storage limited to only C-4 and I. Refer to Chapter 18.225 TMC</td>
<td>S</td>
</tr>
<tr>
<td>Labor Pools #</td>
<td></td>
</tr>
<tr>
<td>institution providing inpatient health services, medical or surgical care, and related facilities</td>
<td>C</td>
</tr>
<tr>
<td>Hospital #</td>
<td></td>
</tr>
<tr>
<td>commercial establishment providing sleeping rooms for overnight guests</td>
<td>C</td>
</tr>
<tr>
<td>Hotel #, Motel #</td>
<td></td>
</tr>
<tr>
<td>Lawn/Garden Centers</td>
<td></td>
</tr>
<tr>
<td>Liquor Sales, Packaged Goods</td>
<td></td>
</tr>
<tr>
<td>Manufactured Housing and Accessory Structure Sales</td>
<td></td>
</tr>
</tbody>
</table>

Additional uses that can be allowed under I-1 Use

Existing Allowed Zoning Uses

Requested Allowed Zoning Uses

See Design Standards for X and D Districts
<table>
<thead>
<tr>
<th>Use Description</th>
<th>Approval Levels</th>
</tr>
</thead>
</table>
| Medical Equipment | ● = Allowed Use  
|                 | S = Allowed per Special Use Requirements under Chapter 18.225 TMC  
|                 | S/C = If unable to meet Special Use Requirements, may apply for CUP  
|                 | C = Conditional Use Permit (CUP) approved by Governing Body  
| Mobile Retail Vendors | # = See Definition in Chapter 18.55 TMC  
| Office #, Professional Office | See Design Standards for X and D Districts  
| Parking, Surface Lot, as a Stand Alone Principal Use | See Design Standards for X and D Districts  
| Parking, Surface Lot, in Association with a Principal Use | See Design Standards for X and D Districts  
| Parking Garage (Multi-Level) | See Design Standards for X and D Districts  
| Patio/Garden, Hardware | See Design Standards for X and D Districts  
| Pawn Shops/Second Hand Shops | See Design Standards for X and D Districts  

<table>
<thead>
<tr>
<th>Commercial/Office</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1/R-2/R-3 Single-Family Dwelling</td>
<td>hearing aids, eyeglasses, prosthesis stores, etc.</td>
</tr>
<tr>
<td>M-1 Two-Family Dwelling</td>
<td></td>
</tr>
<tr>
<td>M-1a Limited Multiple-Family Dwelling</td>
<td></td>
</tr>
<tr>
<td>M-2 Multiple-Family Dwelling</td>
<td></td>
</tr>
<tr>
<td>M-3 Multiple-Family Dwelling</td>
<td></td>
</tr>
<tr>
<td>M-1 Light Industrial Office and Institutional</td>
<td></td>
</tr>
<tr>
<td>M-2 Office and Institutional</td>
<td></td>
</tr>
<tr>
<td>O-1 Commercial</td>
<td></td>
</tr>
<tr>
<td>C-1 Commercial</td>
<td></td>
</tr>
<tr>
<td>C-2 Commercial</td>
<td></td>
</tr>
<tr>
<td>C-3 Commercial</td>
<td></td>
</tr>
<tr>
<td>C-4 Commercial</td>
<td></td>
</tr>
<tr>
<td>I-1 Light Industrial</td>
<td></td>
</tr>
<tr>
<td>I-2 Heavy Industrial</td>
<td></td>
</tr>
<tr>
<td>U-1 University</td>
<td></td>
</tr>
<tr>
<td>M-1 Medical Service</td>
<td></td>
</tr>
<tr>
<td>X-1 Mixed Use</td>
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</tr>
<tr>
<td>X-2 Mixed Use</td>
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</tr>
<tr>
<td>X-3 Mixed Use</td>
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</tr>
<tr>
<td>D-1 Downtown Mixed Use</td>
<td></td>
</tr>
<tr>
<td>D-2 Downtown Mixed Use</td>
<td></td>
</tr>
<tr>
<td>D-3 Downtown Mixed Use</td>
<td></td>
</tr>
<tr>
<td>RR-1 Residential Reserve</td>
<td></td>
</tr>
<tr>
<td>OS-1 Open Space</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Commercial/Office Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1/R-2/R-3 Single-Family Dwelling</td>
</tr>
<tr>
<td>M-1 Two-Family Dwelling</td>
</tr>
<tr>
<td>M-1a Limited Multiple-Family Dwelling</td>
</tr>
<tr>
<td>M-2 Multiple-Family Dwelling</td>
</tr>
<tr>
<td>M-3 Multiple-Family Dwelling</td>
</tr>
<tr>
<td>M-1 Light Industrial Office and Institutional</td>
</tr>
<tr>
<td>M-2 Office and Institutional</td>
</tr>
<tr>
<td>O-1 Commercial</td>
</tr>
<tr>
<td>C-1 Commercial</td>
</tr>
<tr>
<td>C-2 Commercial</td>
</tr>
<tr>
<td>C-3 Commercial</td>
</tr>
<tr>
<td>C-4 Commercial</td>
</tr>
<tr>
<td>I-1 Light Industrial</td>
</tr>
<tr>
<td>I-2 Heavy Industrial</td>
</tr>
<tr>
<td>U-1 University</td>
</tr>
<tr>
<td>M-1 Medical Service</td>
</tr>
<tr>
<td>X-1 Mixed Use</td>
</tr>
<tr>
<td>X-2 Mixed Use</td>
</tr>
<tr>
<td>X-3 Mixed Use</td>
</tr>
<tr>
<td>D-1 Downtown Mixed Use</td>
</tr>
<tr>
<td>D-2 Downtown Mixed Use</td>
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<td>RR-1 Residential Reserve</td>
</tr>
<tr>
<td>OS-1 Open Space</td>
</tr>
</tbody>
</table>

Additional uses that can be allowed under I-1 Use

Requested Allowed Zoning Uses

Existing Allowed Zoning Uses
## Commercial/Office (Continued)

<table>
<thead>
<tr>
<th>Use Description</th>
<th>Approval Levels</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services #</td>
<td>● = Allowed Use</td>
<td>• = S/C</td>
</tr>
<tr>
<td>Pet Shops</td>
<td>S/C</td>
<td>C</td>
</tr>
<tr>
<td>Pharmacy # and Drugstores</td>
<td>S/C</td>
<td>C</td>
</tr>
<tr>
<td>Printing/Copy Center</td>
<td>S/C</td>
<td>C</td>
</tr>
<tr>
<td>Radio and TV Broadcasting/Recording Studio</td>
<td>S/C</td>
<td>C</td>
</tr>
<tr>
<td>Rental Establishment</td>
<td>S/C</td>
<td>C</td>
</tr>
<tr>
<td>Restaurant, Family Dining, Carry-Out # (Delicatessen)</td>
<td>S/C</td>
<td>C</td>
</tr>
<tr>
<td>Restaurant, Drive-In/Drive-Through #</td>
<td>S/C</td>
<td>C</td>
</tr>
<tr>
<td>Restaurant Fast Food #</td>
<td>S/C</td>
<td>C</td>
</tr>
</tbody>
</table>

Additional uses that can be allowed under I-1 Use

Existing Allowed Zoning Uses

Requested Allowed Zoning Uses

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See Design Standards for X and D Districts
## Commercial/Office Districts

### Approval Levels

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### Use Description

| Commercial/Office Districts | Use Description                                                                 | R-1/R-2/R-3 Single-Family Dwelling | R-4 Manufactured Homes | M-1 Two-Family Dwelling | M-1a Limited Multiple-Family Dwelling | M-2 Multiple-Family Dwelling | M-3 Multiple-Family Dwelling | O&I-1 Office and Institutional | O&I-2 Office and Institutional | O&I-3 Office and Institutional | C-1 Commercial | C-2 Commercial | C-3 Commercial | C-4 Commercial | C-5 Light Industrial | C-6 Heavy Industrial | U-1 University | X-1 Mixed Use | X-2 Mixed Use | X-3 Mixed Use | D-1 Downtown Mixed Use | D-2 Downtown Mixed Use | D-3 Downtown Mixed Use | RR-1 Residential Reserve | OS-1 Open Space |
|-----------------------------|---------------------------------------------------------------------------------|-----------------------------------|------------------------|-------------------------|---------------------------------------|-----------------------------|-------------------------------|--------------------------------|--------------------------------|--------------------------------|-----------------|-----------------|-----------------|-----------------|---------------------|------------------------|------------------|---------------|---------------|---------------|------------------|----------------------|---------------------|
| Retail Merchandise, Outdoor Display | see Chapter 18.225 TMC, retail merchandise outdoor display                        | -                                  | -                      | -                       | -                                    | -                           | -                             | -                              | -                              | -                              | -                             | -                             | -                             | -                             | -                             | -                              | -                             | -                             | -                             | -                             | -                             | -                             |
| Retail Sales/Service # | sale and repair of items having a low intensity                                   | -                                  | -                      | -                       | -                                    | -                           | -                             | -                              | -                              | -                              | -                             | -                             | -                             | -                             | -                             | -                              | -                             | -                             | -                             | -                             | -                             | -                             |
| Gun Sales and Service      |                                                                                  | -                                  | -                      | -                       | -                                    | -                           | -                             | -                              | -                              | -                              | -                             | -                             | -                             | -                             | -                             | -                              | -                             | -                             | -                             | -                             | -                             | -                             |
| Theaters #                  | enclosed structure used for performances for admitted audiences                   | -                                  | -                      | -                       | -                                    | -                           | -                             | -                              | -                              | -                              | -                             | -                             | -                             | -                             | -                             | -                              | -                             | -                             | -                             | -                             | -                             | -                             |
| Tobacco Shop                | includes tobacco and smoke shop/hookah houses/E-cigarettes shop/cigar shops       | -                                  | -                      | -                       | -                                    | -                           | -                             | -                              | -                              | -                              | -                             | -                             | -                             | -                             | -                             | -                              | -                             | -                             | -                             | -                             | -                             | -                             |
| Truck Stop #                |                                                                                  | -                                  | -                      | -                       | -                                    | -                           | -                             | -                              | -                              | -                              | -                             | -                             | -                             | -                             | -                             | -                              | -                             | -                             | -                             | -                             | -                             | -                             |

### Additional uses that can be allowed under I-1 Use

### Existing Allowed Zoning Uses

### Requested Allowed Zoning Uses

---

TOPEKA MUNICIPAL CODE

18.60.10
## Industrial

<table>
<thead>
<tr>
<th>Use Description</th>
<th>Approved Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Industrial</strong></td>
<td><strong>Approval Levels</strong></td>
</tr>
<tr>
<td><strong>R-1/R-2/R-3 Single-Family Dwelling</strong></td>
<td>● = Allowed Use</td>
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<tr>
<td><strong>M-2 Multiple-Family Dwelling</strong></td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td><strong>M-3 Large Multiple-Family Dwelling</strong></td>
<td># = See Definition in Chapter 18.55 TMC</td>
</tr>
<tr>
<td><strong>M-4 Office and Institutional</strong></td>
<td>See Design Standards for X and D Districts</td>
</tr>
<tr>
<td><strong>M-5 Office and Institutional</strong></td>
<td></td>
</tr>
<tr>
<td><strong>C-1 Commercial</strong></td>
<td></td>
</tr>
<tr>
<td><strong>C-2 Commercial</strong></td>
<td></td>
</tr>
<tr>
<td><strong>C-3 Commercial</strong></td>
<td></td>
</tr>
<tr>
<td><strong>C-4 Commercial</strong></td>
<td></td>
</tr>
<tr>
<td><strong>I-1 Light Industrial</strong></td>
<td></td>
</tr>
<tr>
<td><strong>I-2 Heavy Industrial</strong></td>
<td></td>
</tr>
<tr>
<td><strong>U-1 University</strong></td>
<td></td>
</tr>
<tr>
<td><strong>MS-1 Medical Service</strong></td>
<td></td>
</tr>
<tr>
<td><strong>X-1 Mixed Use</strong></td>
<td></td>
</tr>
<tr>
<td><strong>X-2 Mixed Use</strong></td>
<td></td>
</tr>
<tr>
<td><strong>X-3 Mixed Use</strong></td>
<td></td>
</tr>
<tr>
<td><strong>D-1 Downtown Mixed Use</strong></td>
<td></td>
</tr>
<tr>
<td><strong>D-2 Downtown Mixed Use</strong></td>
<td></td>
</tr>
<tr>
<td><strong>D-3 Downtown Mixed Use</strong></td>
<td></td>
</tr>
<tr>
<td><strong>RR-1 Residential Reserve</strong></td>
<td></td>
</tr>
<tr>
<td><strong>OS-1 Open Space</strong></td>
<td></td>
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</tbody>
</table>

### Industrial Districts

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<tr>
<th>Use Description</th>
<th>Approval Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Airport</strong></td>
<td>C</td>
</tr>
<tr>
<td><strong>Agriculture #</strong></td>
<td>-</td>
</tr>
<tr>
<td><strong>Agricultural Product Sales and Storage</strong></td>
<td>-</td>
</tr>
<tr>
<td><strong>Automobile Wrecking and/or Salvage Yards #</strong></td>
<td>-</td>
</tr>
<tr>
<td><strong>Bottling Works</strong></td>
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<tr>
<td><strong>Contractor Yards</strong></td>
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<tr>
<td><strong>Heliport</strong></td>
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<tr>
<td><strong>Landfill, Demolition #</strong></td>
<td>-</td>
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<tr>
<td><strong>Landfill, Sanitary #</strong></td>
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<tr>
<td><strong>Laundry, Commercial #; Dry-Cleaning, Dyeing</strong></td>
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</table>

### Additional uses that can be allowed under I-1 Use

- **Existing Allowed Zoning Uses**
- **Requested Allowed Zoning Uses**
<table>
<thead>
<tr>
<th>Use Description</th>
<th>Approval Levels</th>
</tr>
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<tbody>
<tr>
<td><strong>Machinery and Equipment Repair and Restoration</strong></td>
<td>● = Allowed Use</td>
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<tr>
<td><strong>Manufacturing/Processing, Type I</strong> #</td>
<td>S = Allowed per Special Use Requirements under Chapter 18.225 TMC</td>
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<tr>
<td>Manfacturing/Processing, Type II #</td>
<td>S = Allowed per Special Use Requirements under Chapter 18.225 TMC</td>
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<tr>
<td><strong>Manufacturing/Processing, Type III #</strong></td>
<td>C = If unable to meet Special Use Requirements, may apply for CUP</td>
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<tr>
<td><strong>Micro-Alcohol Production #</strong></td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
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<tr>
<td><strong>Publishing Establishments and Distribution</strong></td>
<td>See Design Standards for X and D Districts</td>
</tr>
<tr>
<td><strong>Raw Material Extraction</strong></td>
<td>See Design Standards for X and D Districts</td>
</tr>
<tr>
<td><strong>Recycling Depot</strong></td>
<td>See Design Standards for X and D Districts</td>
</tr>
<tr>
<td><strong>Research Lab #, Testing or Development Laboratory</strong></td>
<td>See Design Standards for X and D Districts</td>
</tr>
<tr>
<td><strong>Industrial (Continued)</strong></td>
<td>See Design Standards for X and D Districts</td>
</tr>
</tbody>
</table>

### Industrial Districts

- R-1/R-2/R-3 Single-Family Dwelling
- R-4 Mobile Home Park
- M-1 Two-Family Dwelling
- M-1a Limited Multiple-Family Dwelling
- M-2 Multiple-Family Dwelling
- M-3 Multiple-Family Dwelling
- O&I-1 Office and Institutional
- O&I-2 Office and Institutional
- C-1 Commercial
- C-2 Commercial
- C-3 Commercial
- C-4 Commercial
- E-1 Light Industrial
- E-2 Heavy Industrial
- U-1 University
- M-1 Medical Service
- X-1 Mixed Use
- X-2 Mixed Use
- X-3 Mixed Use
- RR-1 Residential Reserve
- OS-1 Open Space

### Use Description

- R-1/R-2/R-3 Single-Family Dwelling
- R-4 Mobile Home Park
- M-1 Two-Family Dwelling
- M-1a Limited Multiple-Family Dwelling
- M-2 Multiple-Family Dwelling
- M-3 Multiple-Family Dwelling
- O&I-1 Office and Institutional
- O&I-2 Office and Institutional
- C-1 Commercial
- C-2 Commercial
- C-3 Commercial
- C-4 Commercial
- E-1 Light Industrial
- E-2 Heavy Industrial
- U-1 University
- M-1 Medical Service
- X-1 Mixed Use
- X-2 Mixed Use
- X-3 Mixed Use
- RR-1 Residential Reserve
- OS-1 Open Space

### Additional uses that can be allowed under I-1 Use

- Existing Allowed Zoning Uses
- Requested Allowed Zoning Uses

### Industrial (Continued)

- Use Description
- Approval Levels

- ● = Allowed Use
- S = Allowed per Special Use Requirements under Chapter 18.225 TMC
- C = If unable to meet Special Use Requirements, may apply for CUP
- C = Conditional Use Permit (CUP) approved by Governing Body

# = See Definition in Chapter 18.55 TMC

See Design Standards for X and D Districts
### Industrial (Continued)

<table>
<thead>
<tr>
<th>Use Description</th>
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<tbody>
<tr>
<td>Railroad Facilities</td>
<td>●</td>
</tr>
<tr>
<td>Self-Storage, Type I # (indoor storage with indoor access)</td>
<td>●</td>
</tr>
<tr>
<td>Self-Storage, Type II (allowing boat/RVs) # (indoor and outdoor)</td>
<td>●</td>
</tr>
<tr>
<td>Small Wind Energy System #  (nonresidential use only)</td>
<td>C/C</td>
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<tr>
<td>Storage of Nonmerchandise, Outdoor #  (See Chapter 18.225 TMC, outdoor storage of nonmerchandise)</td>
<td>S/C/C</td>
</tr>
<tr>
<td>Tower, Communication #, Transmission Tower # (ground-mounted freestanding structure transmitting or receiving TV, radio, and microwave frequencies)</td>
<td>C/C/C</td>
</tr>
<tr>
<td>Small Cell Wireless Facilities #  (Refer to Chapter 18.225 TMC)</td>
<td>S/S/S</td>
</tr>
<tr>
<td>Towers, Receiving and Commercial Broadcasting #  (for radio and television)</td>
<td>S/C/C</td>
</tr>
<tr>
<td>Truck/Freight Terminal #</td>
<td>●</td>
</tr>
<tr>
<td>Bus Terminal #</td>
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# = See Definition in Chapter 18.55 TMC

- **●** = Allowed Use
- **S** = Allowed per Special Use Requirements under Chapter 18.225 TMC
- **C** = Conditional Use Permit (CUP) approved by Governing Body
- **S/C** = If unable to meet Special Use Requirements, may apply for CUP

See Design Standards for X and D Districts

Additional uses that can be allowed under O&I2 & I-1 Use
Industrial (Continued)

<table>
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<td>S = Allowed per Special Use Requirements under Chapter 18.225 TMC</td>
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</tr>
<tr>
<td>S/C = If unable to meet Special Use Requirements, may apply for CUP</td>
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<tr>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
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</tr>
<tr>
<td># = See Definition in Chapter 18.55 TMC</td>
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<table>
<thead>
<tr>
<th>Use Description</th>
<th>Description</th>
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<tbody>
<tr>
<td>Warehouse #, Storage #, Distribution Facilities</td>
<td>Structure for storing goods, wares, and merchandise. For accessory cargo containers refer to TMC 18.210.050, Cargo containers</td>
</tr>
<tr>
<td>Welding, Tinsmithing and Machine Shop</td>
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(Ord. 20222 § 3, 11-19-19.)
ATTACHMENT “D”

Topeka Future Land Use Map
Future Land Use for 3901-3909 & 3949 Burlingame Road is Parks, Open Space & Recreation.
ATTACHMENT “E”

Historical Ancestral Documents
PERRY T. FOSTER.

Perry T. Foster, a pioneer citizen of Shawnee County, whose portrait accompanies this sketch, has a fine farm of 100 acres four miles southwest of Topeka in Topeka township, which his father owned before him. He was born on a farm in Crawford County, Pennsylvania, September 11, 1834, and is a son of Robert and Nancy (Meyler) Foster.

George Foster, grandfather of our subject, was born in England, and at an early age accompanied his father to the North of Ireland, then in later years came to America alone, settling in Pennsylvania. His foot was crippled by an accident and remained so throughout the remainder of his life. He died in Pennsylvania, leaving the following children: Robert, Thomas, William, James, George, Mary and Isabelle.

Robert Foster, father of our subject, was born in Wyoming County, Pennsylvania, in 1796, and was a farmer and stock-raiser throughout life. He tried three times to enlist in the Union Army during the Civil War, but was rejected because of advanced age. In 1864, he accompanied his son to Kansas and took up the claim in Topeka township, Shawnee County, on which our subject and his son now reside. He lived there the remainder of his days, dying at the age of 70 years, one month and one day. He was married in Pennsylvania to Nancy Meyler, who was born at Utica, New York, and died on the home farm in Shawnee County at the age of 79 years. They reared the following children: Mary, deceased; Jane, deceased; Lovina, deceased; Nancy, of California; Lorinda, of Denver, Colorado; Freeman R.; Perry T., whose name heads this sketch; and Merriman, who was in the 11th Pennsylvania Regiment during the Civil War, serving for two years until discharged by reason of disability. Freeman R. Foster, who served in the same company and regiment as our subject during the Civil War, was a member of the Kansas Legislature two terms. He came to Shawnee County in 1854 and assisted in laying off the city of Topeka, in which he owned some 30 lots. His death resulted from an accident on his farm, caused by a team running away.

Perry T. Foster was reared on the home farm until he was 22 years of age, then came West in 1856, to Jefferson City, Missouri, by rail, thence
by boat to Leavenworth, Kansas, and by team to the southwest quarter of
section 24, township 12, range 15, in Topeka township, Shawnee County,
which adjoins his present home. He built thereon a log house, 11 by 11 feet
in dimensions, fenced the prairie and began its cultivation. There were still
buffaloes in this country and he had the pleasure of a hunt in which he killed
one of a herd. He continued farming and also engaged in the butcher busi-
ness until the outbreak of the Civil War when he returned to his Eastern
home, enlisting August 2, 1862, in Company B, 137th Reg., Pennsylvania
Vol. Inf., under Capt. Dillon Walker and Colonel Bosworth. The regi-
ment was attached to the Army of the Potomac, and Mr. Foster participated
in engagements at South Mountain and Antietam. In the latter engage-
ment while forming in line in double-quick time, he stepped into a dugout
and injured his foot which has been crippled ever since, an injury very like
the one sustained by his grandfather. He was sent home and was honor-
ably discharged in February, 1863. He remained in Pennsylvania until
1864, and then, accompanied by his wife and his parents, he came West to
his Kansas home, living in the cabin until the following winter, when he sold
the property and moved to the claim taken up by his father. This has since
been his home. He has erected a modern house for himself and one for his
son, and has made all the improvements on the place.

In December, 1861, Mr. Foster married Lucinda Thompson, who was
born in Crawford County, Pennsylvania, July 4, 1841, and is a daughter
of John and Betsy (Casler) Thompson, the former a native of Crawford
County and the latter, of Utica, New York. Three children have been born
to them: Robert J., who has four children,—Francis R., Ina, Estella and
Marie; Alice, who married George Robinson, of Wabaunsee County, and
has a daughter,—Myrtle; and Lena P., who married Paul E. Dallas, of
Wabaunsee County, and has a daughter, Mabel, and a son not yet named.
Mr. Foster is one of the substantial men of his community and has many
friends of many years standing.
Freeman R. Foster

Mr. Foster was born on a farm in Crawford County, Pennsylvania, April 1, 1832, and is a son of Robert and Nancy (Myler) Foster, natives of the Keystone state. Robert Foster was a soldier during the War of 1812 and also served three months as a volunteer in the Civil war. He was of Scotch-Irish descent and followed his Son to Topeka, buying the farm adjoining, on which he died in 1865. One of a family of nine children, Freeman R. Foster received his education in the district schools of Pennsylvania in the vicinity of the home farm and in a seminary and was well educated for those days. He was reared to the pursuits of the soil, and when not engaged in his studies helped his father and brothers to cultivate the homestead, remaining thereon until reaching the age of twenty-two years. At that time he was seized with a desire to seek his fortune in the West, at that time a land of unknown promise, and left his home in the Keystone state in a wagon, without any settled idea as to his final destination. His destiny, as it turned out, was to be marked out for him by others, for he came up with a party of other western immigrants, joined them, and finally came with them to Lawrence, Kansas. At that point they came across the information that a number of men intended to start a town on the present site of Topeka, and obeying the instincts of foresight Mr. Foster accompanied these men here. He rendered valuable assistance to these men in their early efforts to start the town, and as a reward for his labors was given a number of lots in different parts of the new hamlet. These, as it turned out, became some of the most valuable land in the city, but with the exception of two lots, situated at Eleventh and Van Buren streets, which Mr. Foster retained to build a home on for his old age, he gave all of this property to the city for its betterment, including the sites of the State Building and of Bethany College.

On first coming to Topeka, Mr. Foster took up a pre-emption claim east of the town, along the Kaw River, but after a short stay became ill and was forced to return to Pennsylvania. He had, however, become imbued with a love for the western prairies, and as soon as he had recovered returned to Kansas, only to find that in his absence someone had jumped his claim. Mr. Foster wasted no time in vain protestation, but promptly pre-empted 160 acres in Topeka Township, where his widow and daughter, Mrs. Doane, and Miss Harriet L. Bowman, now live and where he built a crude log cabin for a home and broke the ground with a team of oxen. His first years were not easy ones, but he had the grit and perseverance to remain and fight out his battle, and after two years he began to see signs of a dawning success.

Deciding to establish a real home in Kansas, Mr. Foster at this time returned to Pennsylvania to claim his bride, Miss Martha Bowman, the daughter of Pitt and Evelyn (Hall) Bowman. The Bowman family has an excellent military record, the brother of Mrs. Foster's grandfather, Capt. Elisha Bowman, having been an aide-de-camp and life guard of Gen. George
Washington in the Revolutionary war; while Joseph Hall Bowman, the only brother of Mrs. Foster, was the first to enlist in Company H, Eighty-third Regiment, Pennsylvania Volunteer Infantry, with which he served throughout the Civil war without receiving a wound sufficiently serious to incapacitate him for duty, although the regiment to which he belonged is believed to have participated in more engagements, except one New England regiment, than any other organization in the Army of the Potomac. Joseph H. Bowman had come to Kansas in 1859, but returned to Pennsylvania, where he enlisted, and he lived in Pennsylvania after the war.

In 1857 Mr. and Mrs. Foster started on the return journey for Topeka, going by railway to St. Louis, and then taking a side-wheeler steamboat to Leavenworth. This stage of the journey was not without its thrills, for during it the old vessel became stuck on a sandbar and it remained there two days and two nights before it could be floated free. From Leavenworth the young couple traveled by stage coach to Topeka and the farm, and at once settled down to life in the little log cabin of one room, built in front of where their house now stands. The first winter was one of suffering, and it must have been particularly hard upon the young wife, who had been taken directly from a comfortable and refined home in the East to the wild and untamed surroundings of a pioneer country, and placed to live in a frontier cabin of the most primitive type. To make things doubly hard, the household furniture had become lost or stolen on the way, and during the first cold season Mr. and Mrs. Foster were compelled to sleep on straw, with but scanty bed clothing to cover them. Mrs. Foster, however, was made of courageous stuff, and she bravely and uncomplainingly took her place beside her husband and assisted him eventually to success.

Mr. Foster was bitterly opposed to slavery, and at the outbreak of the Civil war, as his sentiments were well known and as the country was in a decidedly unsettled condition, he returned to Pennsylvania with his wife, principally for her protection. While in that state he enlisted in Company B, One Hundred and Thirty-seventh Regiment, Pennsylvania Volunteer Infantry, as first sergeant, and with that organization took part in numerous engagements, including the battles of South Mountain, Antietam and Chancellorsville. He was honorably discharged in 1863, and shortly after Quantrell's famous raid on Lawrence, Kansas, he and his wife, much against the will of their parents, returned to the Sunflower state. Mrs. Foster was left alone on the prairie farm, while Mr. Foster, with others, organized the Second Regiment, Kansas State Militia, of which he was elected sergeant-major. The most noted encounter of this regiment was the battle of the Big Blue, October 22, 1864, in which the Kansans defeated the enemy.

Mr. Foster was a man of ability and energy, honest and upright in all his dealings, and in his private undertakings showed the same spirit of courage and fidelity that characterized his military career. Through constant perseverance he won out against the odds of the early days, being always assisted by his faithful and devoted wife, who had the greatest confidence in him, and whose faith often helped him over the rough places. While his own interests kept him busily employed he was never too much occupied to answer the call of his community when it needed strong men to support movements for its welfare. He gave of his time and energies in serving in various offices, being at times township trustee and director of the school board, and from 1874 to 1876 was a member of the Kansas House of Representatives, in which body he worked faithfully and with results in behalf of the interests of his constituents. One of his bills was the Arbor Day bill. Fraternally, he was identified with Topeka Lodge No. 17, Ancient Free and Accepted Masons, as a charter member. Throughout his life Mr. Foster was a student, particularly of the Bible, and he died
in the faith, September 4, 1897, when Topeka lost one of its best, most highly esteemed and most public-spirited citizens. Throughout his career he had been a supporter of the republican party.

Mr. and Mrs. Foster were the parents of five children, of whom two died in infancy, the others being: Charles Freeman, a young man of much promise, who died at the age of twenty-two years; Joe Merriam, a resident of Pueblo, Colorado; and Anna, who is the wife of J. F. Doane, and resides with her aged mother on the Kansas homestead. Mrs. Foster, who is eighty-two years of age, is one of the best known ladies of her locality, is esteemed and held in affection by all who know her, and is a devout member of and worker in the First Congregational Church of Topeka, the first church in the city. J. F. Doane is a native of Kansas and a son of Abner and Sarah (Ward) Doane, his father having been the first man to operate a sawmill in Topeka. He was also one of the best roadmen in the state.

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<th>Kansas</th>
<th>Issue Date:</th>
<th>6/15/1860</th>
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**Names On Document**

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<thead>
<tr>
<th>Name</th>
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<tr>
<td>FOSTER, PERRY T.</td>
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<td>CAMPBELL, JAMES</td>
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**Land Office:**

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**State In Favor Of:**

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**Total Acres:**

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**Survey Information**

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**Land Descriptions**

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<tr>
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<th>Aliquots</th>
<th>Section</th>
<th>Survey #</th>
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<tr>
<td>KS</td>
<td>6th PM</td>
<td>012S - 015E</td>
<td>SW¼</td>
<td>24</td>
<td></td>
<td>Shawnee</td>
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WHEREAS, In pursuance of the Act of Congress, approved March 3, 1855, entitled "An Act in addition to certain Acts granting Bounty Land to certain Officers and Soldiers who have been engaged in the military service of the United States," there has been deposited in the GENERAL LAND OFFICE, Warrant No. 78, 157, for 100 acres, in favor of James Campbell, Seaman, Brig. Purpuse, United States Navy, with Mexico.

with evidence that the same has been duly located upon the South West quarter of Section twenty-four, in Township twelve of Range fifteen, in the District of Kansas subject to Sale at Leavenworth Kansas, containing one hundred and sixty acres.

according to the Official Plat of the Survey of said Lands returned to the GENERAL LAND OFFICE by the Surveyor General. The said warrant having been assigned by the said James Campbell to Perry S. Foster, in whose favor the said tract has been located.

NOW KNOW YE, That there is therefore granted by the UNITED STATES unto the said Perry S. Foster, as assignee of said and to his

heirs.

the tract of Land above described to have and to hold the said tract of Land, with the appurtenances thereof, unto the said Perry S. Foster as assignee of said

and to his

heirs and assigns forever.

In testimony whereof, I,

James Buchanan

PRESIDENT OF THE UNITED STATES OF AMERICA, have caused these Letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the fifteenth day of June in the year of our Lord one thousand eight hundred and fifty, and of the Independence of the United States the Eighty-fourth.

By the President,

James Buchanan

By: F. A. Leonard Secy.

D. Springer Recorder of the General Land Office.
John & Rosemary Palma  
3905 SW Burlingame Road  
Topeka, KS 66609  

February 4, 2021  

City of Topeka  
Planning & Development Department  
620 SE Madison, Unit 11  
Topeka, KS 66607  

Dear Planning and Development Department:  

This letter is in reference to Case # PUD 19/02. We once again, STILL strongly oppose any change in zoning.  

Our property is right by the Sports Zone driveway. The city took our direct entrances to Burlingame and funneled us to the current layout, where we have to battle traffic to get in and out from our property. When we attempt to leave, we have to look down the Sports Zone drive, look at the cemetery, then look both ways on Burlingame Road. You need to have a rubber neck! I brought my own diagram of this impossible situation at a previous meeting, remember? We have repeatedly asked the city to make it easier for us to get in and out of our property, not harder. The intersection control study now wants to make it harder yet, by adding a stop sign for us! You have got to be kidding. As suggested before, give us access to Burlingame Road just for the 3 houses and close our frontage road at the Sport Zone driveway. We will have to turn right and go out of our way, but at least we have a chance of getting out. That makes it safer for all involved. The 3 houses are owned by the eldest members of a very large close-knit family. Margaret Masilionis at 3901 Burlingame has 7 children + spouses, 18 grandchildren and 3 great grandkids, but the great grandkids don’t drive yet. We have 5 children + spouses and 9 grandchildren. That brings the total to about 50 cars - just for our FAMILY! Our greatest fear is that someone dear to us will be injured or killed at the Sport Zone intersection! We have had several really close calls. Giving the 3 houses their own access to Burlingame would solve this danger.  

Another option we have previously suggested is making the entrances only one way. This would cut the traffic in half…with one entrance for all arriving traffic and the other for all exiting traffic. This requires proof of an agreement for the other entrance and some modifications, as it also narrow with a curve and a big drop off to one side. A second entrance was required to build the Sport Zone building years ago why isn’t it used?  

If the owners of the Sport’s Zone complied with current zoning, the intersection would be safer for everyone. That would mean no truck traffic and removing the two businesses for semi-tractor trailers. At a previous neighborhood meeting, the owner of White Line CDL Training told us he had no idea that his trucks were in violation to the zoning.  

We do not understand why it appears the city is catering to the Sport Zone. Like we asked at the most recent neighborhood meeting…Why did the Sport Zone determine the day and time when the study, paid for by the city, was done? Monday is a slow day for Sport Zone. If you look at this week, for example, according to their own website, on Monday they had 10 games and on Saturday they have 43 games. The time, 5 to 6, avoids a lot of non-compliant traffic like 1) Mini Masters Learning – Child Care & Day Care, 2) all day long semi-truck traffic for commercial driver’s school, 3) all day long semi-truck traffic for State of Kansas Commercial Driver’s License Renewals. According to the Kansas Department of Revenue this is the only CDL Skill Testing Office in Topeka.  

At the neighborhood meeting we were told that the city could not force the Sport Zone to make changes until they got their rezoning. What? That is exactly what happened last time. Sport Zone got the zoning they wanted and they did not comply with what was asked of them by the city. Mike, at the neighborhood meeting noted the stop sign for Sport Zone traffic and a specified buffer area were part of the agreement. The sign was removed by John Ostrowski right in front of
me and there is no buffer. This is standard operating procedure; they get the zoning they want and then do not keep their end of the deal. Why would the city make the same mistake twice for this applicant? It is even worse, as they are using “selling the property” to push through the zoning change. That means we could end up starting all over with new people who didn’t agree to any of this. There is no plan just demands by an applicant with a negative track record. How can the city do this again? Why would the city do this again?

Yesterday was a nice day and we had our sliding glass door open for a couple hours. We were disturbed by the sounds of a semi-tractor trailer, a cement truck and a school bus in just that short time. We have lived in this house for 64 years. We have put up with a lot of non-compliance. Look at the videos of the flashing neon sign we have seen from our bedroom window. Please, take a look at the videos.

Any of the three highlighted options would improve safety for everyone. Changing the zoning is a very bad idea. We strongly oppose any change in zoning.

Sincerely,

John and Rosemary Palma
Julie Palma Ireland
John Nicholas Palma
Thomas Vincent Palma
Jeanmarie Palma Lipscomb
Richard Anthony Palma
and all their families