



## Agenda

**REGULAR MEETING  
GOVERNING BODY  
CITY OF LENEXA, KANSAS  
17101 W. 87<sup>th</sup> STREET PARKWAY**

**APRIL 18, 2023  
7:00 PM  
COMMUNITY FORUM**

**CALL TO ORDER** Pledge of Allegiance

**ROLL CALL**

**APPROVE MINUTES** April 4, 2023 City Council meeting draft minutes (located in the Appendix)

**MODIFICATION OF  
AGENDA**

**PROCLAMATIONS** Arbor Day - April 28

**PRESENTATIONS** Lenexa Arts Council Annual Report

**CONSENT AGENDA** **Item Numbers 1 through 7**

All matters listed within the Consent Agenda have been distributed to each member of the Governing Body for review, are considered to be routine, and will be enacted by one motion with no separate discussion. If a member of the Governing Body or audience desires separate discussion on an item, that item may be removed from the Consent Agenda and placed on the regular agenda.

1. Award a contract to Superior Bowen for the 2023 Pavement Management Program - Thoroughfare Overlay Project

*This project consists of a 2-inch mill and asphalt overlay with repair of deteriorated curb and gutter, sidewalk panels and replacement of ADA ramps where needed in specific areas along Marshall Drive, Pflumm Road, and Renner Boulevard. Superior Bowen bid \$3,693,981.92 for the contract.*

2. Award a contract to McConnell & Associates for the 2023 Sidewalk Repair and Improvement Program

*Deteriorated sidewalks in the Brookwood and Wyldwood Hills subdivisions*

*will be replaced as part of the 2023 Sidewalk Repair and Improvement Program. McConnell & Associates bid \$248,602.20 for the contract.*

3. Consideration of updated project funding allocation and a change order for the Lenexa Skatepark Rebuild Project

*City staff believes there is adequate budget within the Indian Trails Aquatic Center Project and Parks and Pedestrian Improvement Project budgets to complete them without the allocation of Skatepark Rebuild Project funds. Staff proposes updating the fund allocations for the projects. Also, the final design of the skatepark now includes ADA-accessibility and a sign feature, requiring a change order to the contract with New Line Skateparks, Inc. ("New Line") for \$256,674.*

- a. Approval of updated project funding reallocation
- b. Approval of Change Order #1 to the contract with New Line Skate Parks, Inc. for the Lenexa Skatepark Rebuild Project

*Funding allocations for the project have changed, requiring Governing Body approval. A change order is needed to adjust the contract to include final costs for design and construction services of the skatepark. The additional \$256,674 increases the total contract to \$1,006,674.*

4. Resolution approving the closure of Penrose Lane from eastbound 87th Street Parkway to 88th Street for Friday Night Sound Bites on May 5, 2023

*The Public Market plans to co-host a Cinco de Mayo-themed Friday Night Sound Bites in partnership with Made in KC Marketplace. The road closure will allow the Public Market to obtain a temporary event permit from the Kansas Division of Alcoholic Beverage Control (ABC) to allow both the Market and Made in KC Marketplace to extend their respective licensed/permitted premises onto the street for the duration of the event.*

5. Resolution approving adjustments to the pay ranges contained in the fiscal year 2023 Pay Plan and authorizing the City Manager to implement the updated pay plan

*The City's pay plan is a key component in recruiting and retaining a quality workforce. Staff worked with Lockton Companies, Inc. to review the plan's internal equity and market competitiveness. Staff recommends changes to the pay grades and salary ranges. The estimated cost of annual pay increases and the market pay adjustments is \$2 million.*

6. Resolution authorizing the Mayor to execute an addendum to the Master Services Agreement with ConvergeOne Inc. for networking equipment at the

## Lenexa Justice Center

*This addendum to the Master Services Agreement with ConvergeOne, Inc., is for the purchase of networking equipment. All hardware, licensing, and three years of extended maintenance have a total not-to-exceed cost of \$262,903.49.*

7. Resolution approving and authorizing the Mayor to execute a Communications System and Services Agreement and Maintenance, Support, and Lifecycle Management Addendum with Motorola Solutions, Inc. for dispatching equipment, software, and services to be installed at the Lenexa Justice Center

*Enhancing and upgrading the City's public safety and police department dispatch communications center is needed and with the construction of the Lenexa Justice Center it is logistically the most effective time to upgrade these systems for use in the new facility. The cost of the equipment and one-year warranty is \$1,304,249.*

## END OF CONSENT AGENDA

### BOARD RECOMMENDATIONS

8. Approval of Lenexa Arts Council's 2023 recommendations for public art priority locations

*Annually, the Lenexa Arts Council submits a list of priority locations for public art in the city to the Governing Body for approval.*

9. Approval of a final plan for an office building known as the Kiewit K3 Building, located at the southwest corner of 89th Street & Hampton Street in the CC, Planned City Center Zoning District

*The applicant proposes to construct a 177,551 square foot, six-story office building as part of the Kiewit campus at the southwest corner of 89th Street & Hampton Street in City Center. The building is designed to complement both the recently constructed Kiewit office building and the L-shaped building (formerly Perceptive Software).*

10. Ordinance amending Sections 4-1-B-24, 4-3-B-7, and 4-3-B-24 of the City Code related to regulations for fences, walls, and retaining walls

*Adopted development codes are periodically reviewed by staff to determine if any revisions are necessary and appropriate for the needs of the City. Staff*

*believes revisions to these Sections of the City Code are necessary to address updates to regulations.*

## **PUBLIC HEARINGS**

11. Consideration of establishing Project Plan 3H in the City Center Tax Increment Financing District (Advent Health Phase 1 - Hospital)
  - a. Public Hearing
  - b. Ordinance approving TIF Project Plan 3H by a 2/3 vote of the Governing Body
  - c. Adopt a resolution approving the Disposition and Development Agreement (DDA) with Shawnee Mission Medical Center, Inc.

*Tax Increment Financing (TIF) Project Plan 3H contemplates construction of a 240,000 square foot medical center and a 54,000 square foot medical office building, structured and surface parking, sidewalks, landscaping and associated infrastructure, located in the northwest corner of 86th Street Parkway & Renner Boulevard in the City Center TIF District. After the public hearing, the Governing Body will consider adoption of TIF Project Plan 3H. If passed by a 2/3 vote, the Governing Body will consider adoption of a Disposition and Development Agreement with Shawnee Mission Medical Center, Inc. dba Advent Health setting forth the terms and conditions for reimbursement of TIF eligible costs with TIF revenues generated from the TIF District.*

## **NEW BUSINESS**

12. Acceptance of the Lenexa Old Town Activity Center Public Art Committee's recommendations regarding a mural at the Lenexa Old Town Activity Center

*The Lenexa Old Town Activity Center (LOTAC) is one of the Lenexa Arts Council's priority locations for public art. The committee has identified potential artists, style, and locations for a mural with the goal of adding vibrancy by expressing civic pride and community identity to this area.*

## **COUNCILMEMBER REPORTS**

## **STAFF REPORTS**



**END OF RECORDED SESSION**

**BUSINESS FROM  
FLOOR**

Comments will be accepted from the audience on items not listed on the agenda. Please limit remarks to a maximum of five (5) minutes per person/issue.

**ADJOURN**

**APPENDIX**

13. April 4, 2023 City Council meeting draft minutes
14. Arbor Day Proclamation
15. Lenexa Arts Council Annual Report
16. Item 10 -- Code changes for fences, walls, and retaining walls - Ordinance
17. Item 11 -- Project Plan 3H
18. Item 12 -- Public Art Committee Presentation

Dist. Governing Body; Management Team; Agenda & Minutes Distribution List

IF YOU NEED ANY ACCOMMODATIONS FOR THE MEETING, PLEASE CONTACT THE CITY ADA COORDINATOR, 913/477-7550. KANSAS RELAY SERVICE 800/766-3777. PLEASE GIVE 48 HOURS NOTICE



**CITY COUNCIL  
MEMORANDUM**

**ITEM 1**

**SUBJECT:** Award a contract to Superior Bowen for the 2023 Pavement Management Program - Thoroughfare Overlay Project

**CONTACT:** Nick Arena, Director of Municipal Services

**DATE:** April 18, 2023

**ACTION NEEDED:**

Award a contract to Superior Bowen for the 2023 Pavement Management Program (PMP) - Thoroughfare Overlay Project.

**PROJECT BACKGROUND/DESCRIPTION:**

This contract work is part of the annual PMP. It will consist of a 2-inch mill and asphalt overlay with repair of deteriorated curb and gutter, sidewalk panels, and replacement of ADA ramps where needed in the following locations:

- Marshall Drive - 87th Street Parkway to northern City limits
- Pflumm Road - 103rd Street to College Boulevard
- Renner Boulevard - 95th Street to College Boulevard

A total of 24.06 lane miles will be repaved as part of this project.

Bids were opened on April 5, 2023, with the following results:

Engineers Estimate	\$3,631,114.50
McAnany Construction, Inc.	\$3,765,432.10
Superior Bowen	\$3,693,981.92

Staff has reviewed the bids and has experience working with Superior Bowen who is qualified to perform this work. The bid was higher than the engineers' estimate; however, the engineers' estimate did not account for slightly higher asphalt pricing. Staff feels that it is in the best interest of the City to accept the bid as there are sufficient funds in the PMP budget for this project.

**FINANCIAL IMPLICATIONS/FUNDING SOURCES:**

Funding sources for this project include the annual PMP, which is funded by a portion of the 3/8-cent sales tax, property tax revenue, and the City's share of gas tax revenue (Special Highway Fund).

**STAFF RECOMMENDATION:**

Award the contract.

**VISION / GUIDING PRINCIPLES ALIGNMENT:**

**Vision 2040**

Integrated Infrastructure & Transportation

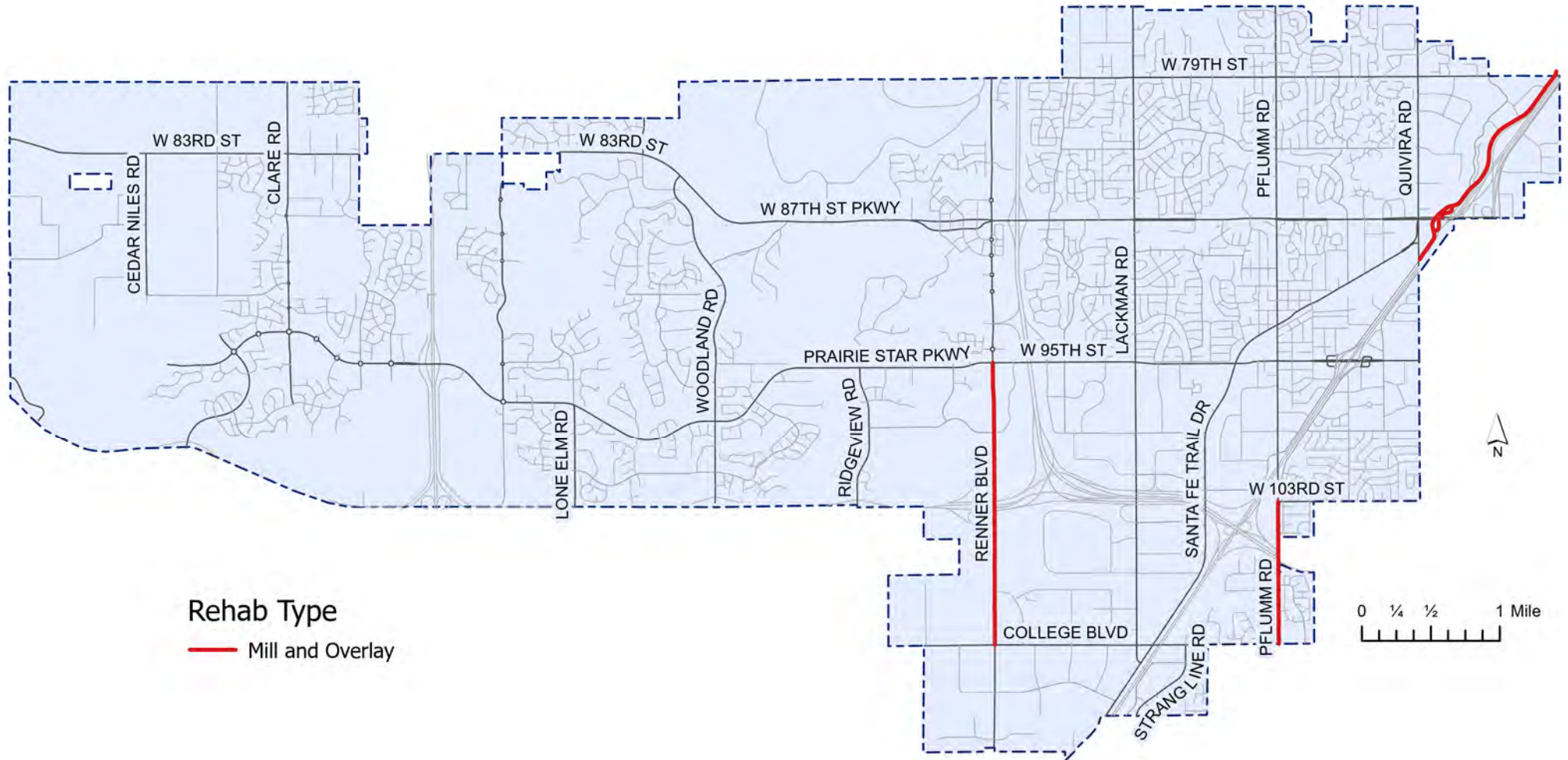
**Guiding Principles**

Superior Quality Services

**ATTACHMENTS**

1. Map

# 2023 PMP Thoroughfare





**CITY COUNCIL  
MEMORANDUM**

**ITEM 2**

**SUBJECT:** Award a contract to McConnell & Associates for the 2023 Sidewalk Repair and Improvement Program

**CONTACT:** Nick Arena, Director of Municipal Services

**DATE:** April 18, 2023

**ACTION NEEDED:**

Award the contract to McConnell & Associates for the 2023 Sidewalk Repair and Improvement Program.

**PROJECT BACKGROUND/DESCRIPTION:**

There are approximately 232 miles of sidewalk in the city. The 2023 Sidewalk Repair and Improvement Program will consist of repairing approximately 6,022 linear feet of sidewalk in the Brookwood and Wyldwood Hills subdivisions.

The work is anticipated to begin this spring and be completed, weather permitting, by late summer 2023.

The results of the bids that were opened on April 12, 2023 follow:

Engineers Estimate	\$301,958.75
McConnell & Associates*	\$248,602.20
Kansas Heavy Construction	\$287,984.65
Phoenix Concrete	\$289,019.00
McAnany Construction	\$373,019.00
Freeman Concrete	\$456,036.15

\*Low bidder

McConnell & Associates has done work in the past with the City on previous projects, and they are qualified to perform this work. Staff has reviewed the bids and feels it is in the best interest of the City to accept the bid.

**FINANCIAL IMPLICATIONS/FUNDING SOURCES:**

The sidewalk repair and improvement program is funded by the Capital Improvement Program with a yearly budget of \$300,000.

**STAFF RECOMMENDATION:**

Award the contract.

## **VISION / GUIDING PRINCIPLES ALIGNMENT:**

### **Vision 2040**

Integrated Infrastructure & Transportation

### **Guiding Principles**

Superior Quality Services

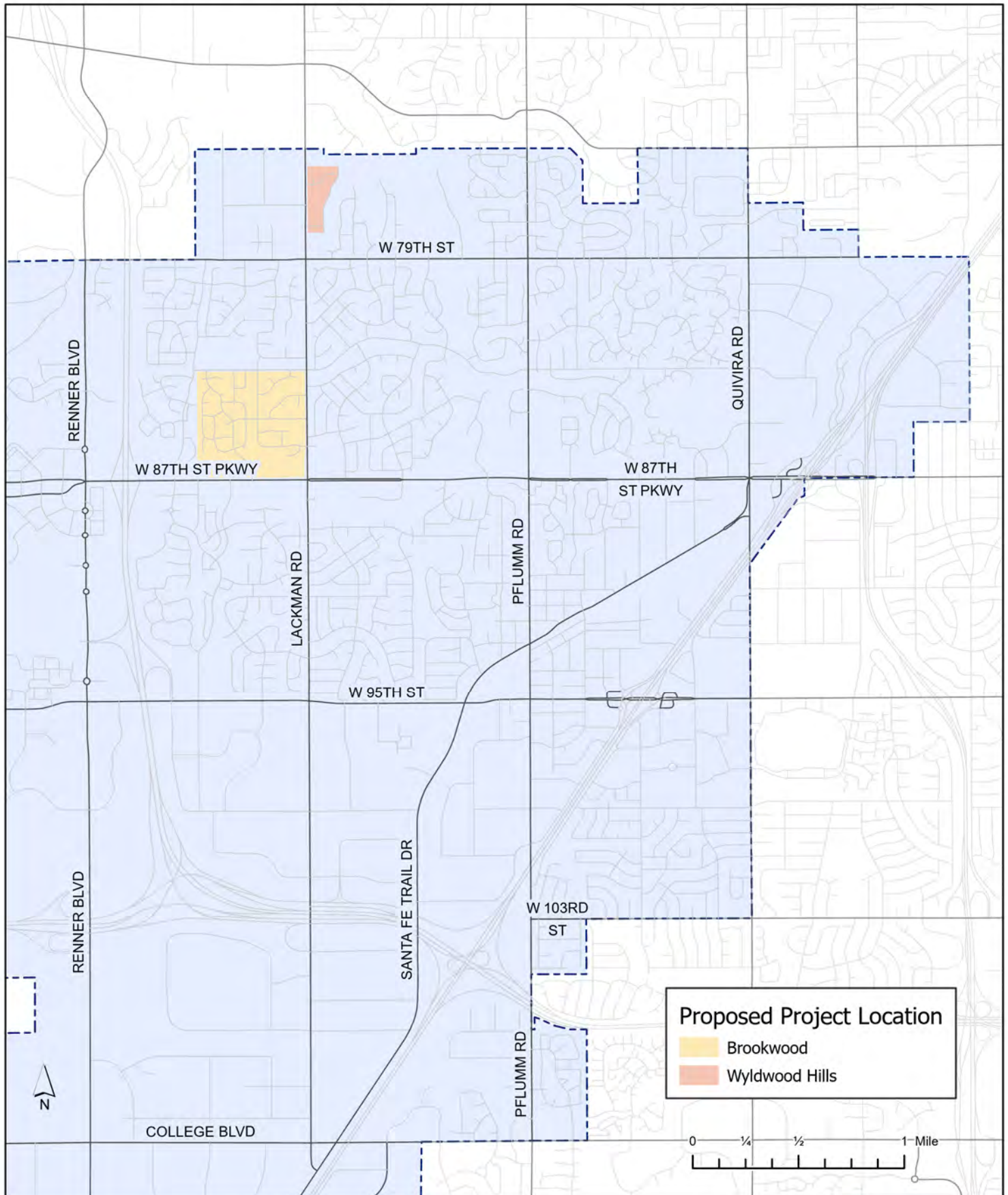
## **ATTACHMENTS**

1. Map



# Sidewalk Program

2023 Proposed Project Locations







**CITY COUNCIL  
MEMORANDUM**

**ITEM 3**

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**SUBJECT:** Consideration of updated project funding allocation and a change order for the Lenexa Skatepark Rebuild Project

**CONTACT:** Logan Wagler, Parks & Recreation Director  
Spencer Throssell, Assistant City Attorney

**DATE:** April 18, 2023

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**ACTION NEEDED:**

- a. Approval of the updated project funding allocation for the Lenexa Skatepark Rebuild Project; and
- b. Approval of Change Order #1 to the New Line Skateparks, Inc.'s ("New Line") contract in the amount of \$256,674.

**PROJECT BACKGROUND/DESCRIPTION:**

Funding Allocation

In December 2021, the City entered into an agreement with McCownGordon ("McCown") to serve as the Construction Manager for the Indian Trails Aquatic Center Project located in Sar-Ko-Par Trails Park ("Agreement"). After entering into the Agreement, the City, McCown, and the project architect worked together to coordinate planning, design, and budget prior to providing a guaranteed maximum price (GMP) for construction of the Indian Trails Aquatic Center Project.

The scope of the Agreement included renovation and new construction of three areas within Sar-Ko-Par Trails Park:

- Renovation of the Indian Trails Aquatic Center;
- New park parking for the Indian Trails Aquatic Center and a new pedestrian sidewalk along Greenway Lane; and
- New parking adjacent to the new skatepark construction.

This combined project was originally to be funded by three separate Capital Improvement Program (CIP) Projects in the 2023-2027 CIP:

1. Indian Trails Aquatic Center Renovation (Project No. 70009),
2. Sar-Ko-Par Trails Park Parking and Pedestrian Improvements (Project No. 70002), and
3. Skatepark Reconstruction and Parking Improvements (Project No. 70007).

In February 2023, the Governing Body approved a GMP contract with McCownGordon for the Indian Trails Aquatic Center Renovation and Sar-Ko-Par Trails Park Parking and Pedestrian Improvements totaling \$15,383,143 ("Project GMP"). On February 7, 2023, \$225,000 was allocated from the Skate Park Rebuild Project (Project No. 70007) to pay for a small portion of improvements within the Project GMP scope. The Governing Body approved this allocation.

Based on current assessments, however, City staff now believes this use of funding from the Skate Park CIP Project is no longer necessary and that there is adequate budget within the Indian Trails Aquatic Center and Parks and Pedestrian Improvement Project budgets to complete those portions of the project without the allocation of Skatepark Project funds. Accordingly, staff requests to keep the \$225,000 allocated within the Skate Park Project for skatepark reconstruction.

#### Change Order

In June of 2022, the Governing Body approved an agreement with New Line for design and construction services of the skatepark. Since that time, a robust community engagement process has been completed. The interest and engagement in this project has been exceptional. The preferences and priorities of the community drove the design and selection of various features included in the final concept. The final concept design was presented at the City Council meeting on January 3, 2023, and it was well received. Additionally, the Governing Body approved the new name "Rolling Magic" for the skatepark in February 2023.

New Line recently completed the formal design process and received final plan approval from the Planning Commission on April 4, 2023. The final design changed very little from the final concepts presented at the City Council meeting in January 2023, but does include fully ADA-accessible routes to both the skate plaza and upper bowl, bicycle parking, and a Rolling Magic sign feature.

This change order adjusts the contract to include the final design costs for all design services and construction services of the 11,200 square foot skatepark, including ADA changes. This change order increases the original contract amount by \$256,674, for a new total of \$1,006,674. The overall contract time will not change.

Pursuant to City policy, on contracts of less than \$1 million, the City Council must approve change orders over \$50,000.

This change order uses the City's standard form and is available in the City Clerk's office for review.

#### **FINANCIAL IMPLICATIONS/FUNDING SOURCES:**

Below is a table showing the original funding allocation shown at the February 7, 2023 City Council meeting:

<b>Project</b>	<b>CIP Approved Total Budget</b>	<b>Amount Originally Allocated to Project GMP</b>	<b>Project Code</b>
Indian Trails Aquatic Renovation	\$15,000,000	\$13,078,143	70009
Sar-Ko-Par Trails Park Parking and Pedestrian Improvements	\$2,080,000	\$2,080,000	70002

Skate Park Reconstruction and Parking Improvement	\$1,100,000	\$225,000	70007
	<b>TOTAL GMP</b>	<b>\$15,383,143</b>	

Below is a table showing the recommended updated allocation of funding between the projects:

<b>Project</b>	<b>CIP Approved Total Budget</b>	<b>Recommended Allocation to Project GMP</b>	<b>Project Code</b>
Indian Trails Aquatic Renovation	\$15,000,000	\$13,303,143	70009
Sar-Ko-Par Trails Park Parking and Pedestrian Improvements	\$2,080,000	\$2,080,000	70002
Skate Park Reconstruction and Parking Improvement	\$1,100,000	\$0	70007
	<b>Total GMP</b>	<b>\$15,383,143</b>	

The \$225,000 designated to be taken from the Skate Park Reconstruction and Parking Improvements Project is to remain within that Project.

The change order increases the contract with New Line to \$1,006,674.

Original Contract:	\$750,000
Change Order No. 1:	\$256,674
New Contract Total:	\$1,006,674

This project is part of the 2023-2027 CIP (Project No. 70007). The Project is funded entirely by the Capital Improvement Fund. The overall cost remains within budget.

#### **STAFF RECOMMENDATION:**

Approval of the reallocation of funds and the change order.

#### **VISION / GUIDING PRINCIPLES ALIGNMENT:**

##### **Vision 2040**

Inviting Places  
Healthy People

##### **Guiding Principles**

Strategic Community Investment

#### **ATTACHMENTS**

1. Change Order
2. Exhibit



## CONSTRUCTION CHANGE ORDER FORM

PO: 2200114

17101 W. 87<sup>TH</sup> STREET PARKWAY · LENEXA, KANSAS 66219 · PH. (913) 477-7500 FAX (913) 477-7730 · WWW.LENEXA.COM

Date: 4/4/2023  
Project Manager: Logan Wagler  
Project Number: 70007  
Project Name and Location: Lenexa Skate Park Rebuild  
Contractor Name: New Line Skateparks, FL, Inc

Change Order Request # 1

**Reason for change order (Check all that apply):**

- |   |  |
|---|--|
| <input type="checkbox"/> Unforeseen Conditions  | <input type="checkbox"/> Utility Conflict                    |
| <input type="checkbox"/> Design Omission  | <input type="checkbox"/> Work to accommodate another project |
| <input checked="" type="checkbox"/> Scope Change (City Initiated) to meet identified scope and desired features | <input type="checkbox"/> Scope Change (Contractor Initiated) |
| <input type="checkbox"/> Other  | <input type="checkbox"/> Quantity Error                      |

**Urgency of Change Order:**

- ☐ Contractor cannot proceed with any project work until change order is approved.
- ☐ Contractor cannot proceed with major project work, but can continue work.
- ☒ Contractor can proceed with all work except the immediate portion affected by the change order.
- ☐ Contractor must proceed with work before the change order can be approved.
- ☐ Change order is desirable, but not absolutely necessary to complete the project.

**Contract Summary:**

The original Contract Sum was:	\$750,000.00
Net change by previously authorized Change Orders:	\$0.00
The Contract Sum prior to this Change Order was:	\$750,000.00
The Contract Sum will be modified by this Change Order in the amount of:	\$256,674.00
The new Contract Sum will be:	\$1,006,674.00
% Increase (decrease) from current contract amount:	34%
The Contract Time will be increased (decreased) by:	0 days

Sufficient budget available to cover the requested change order? ☒ YES ☐ NO**Additional Required Approval:**Governing Body Approval Required: ☒ YES ☐ NO

Contracts \$0 to \$1,000,000: Change Orders greater than or equal to \$50,000

Contracts \$1,000,000 to \$3,000,000: Change Order increases contract by greater than 5%

Contracts greater than \$3,000,000: Change Order greater than or equal to \$150,000

Administrative Team Member Approval Required: ≤ \$20,000 ☐ YES ☒ NO

City Manager Approval Required: None of the above criteria apply

☐ YES

☒ NO

*\*The change order dollar thresholds listed above are non-cumulative*

**Description of work to accomplish the change order:**

(Attach appropriate backup material necessary to document the requested change order)

**ITEM NO. 1 Additional costs for final design**

**\$256,674.00**

This Increase reflects the cost of final design that was driven by community input and user groups for an 11,200 SF State Park. Additional scope includes full ADA accessibility, landscaping, custom sign feature, and integral concrete color.

**TOTAL CHANGE ORDER:**

**\$256,674.00**

Approved:

\_\_\_\_\_  
Logan Wagler  
Director of Parks and Recreation

\_\_\_\_\_  
Date

Approved:

\_\_\_\_\_  
Rebecca A. Yocham  
City Manager

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Sean McLaughlin, City Attorney

Approved:

\_\_\_\_\_  
Michael A. Boehm  
Mayor

\_\_\_\_\_  
Date

Approved:

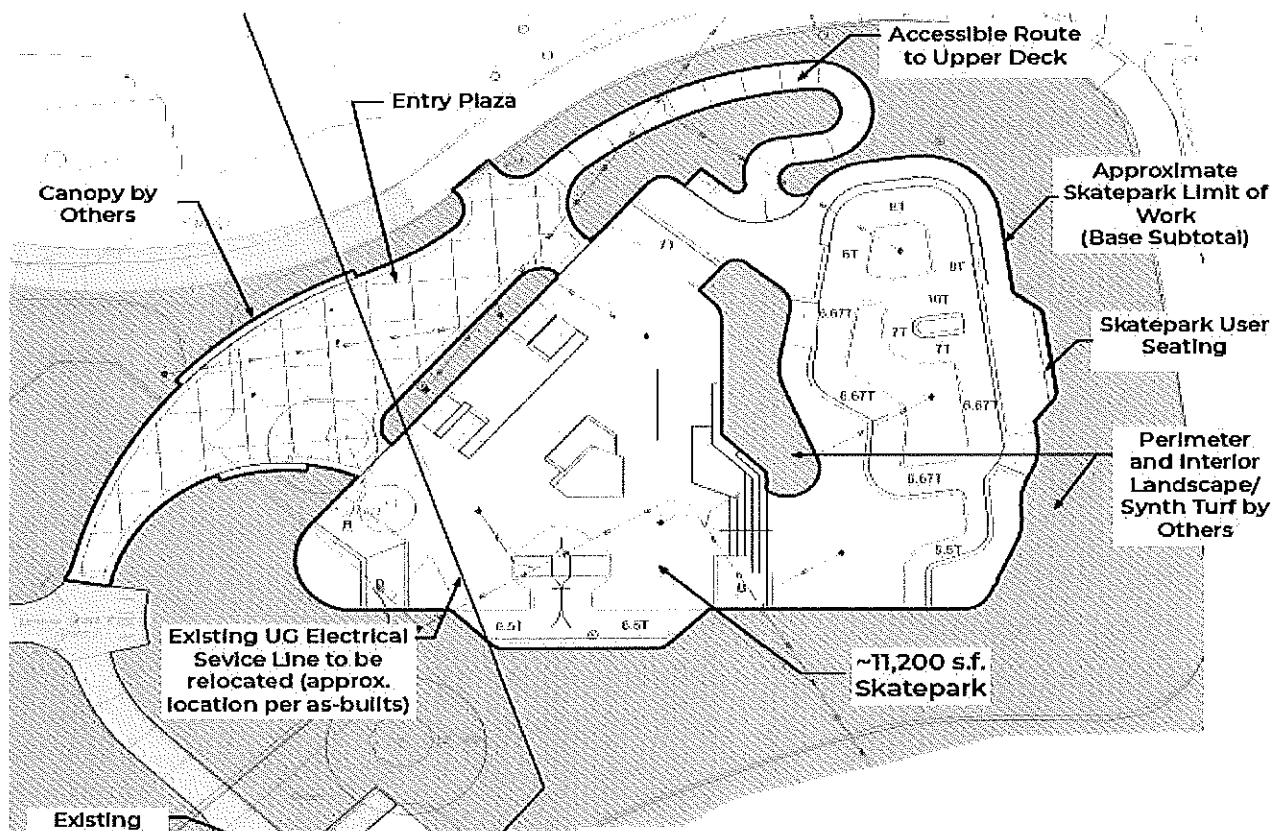
\_\_\_\_\_  
New Line Skateparks, FL, Inc

\_\_\_\_\_  
Date

**Estimated Cost of Construction** | this breakdown for the approximately 11,200 sf all-wheel skatepark construction cost is based on assumed cost information. Due to fluctuating supply cost, pricing is subject to change based on market conditions.

Scope of Work Item	Current Budget	30% Budget (2023-02-15)	Change in Cost
<b>General Conditions</b>			
Mobilization, Accommodation & Shipping	\$ 77,753.00	\$ 77,753.00	\$ -
Project, Site & Environmental	\$ 67,461.00	\$ 67,461.00	\$ -
Tools, Equipment, Vehicles & Rentals	\$ 7,899.00	\$ 7,899.00	\$ -
Security & Fencing	\$ 14,795.00	\$ 14,795.00	\$ -
Materials Testing	\$ 10,169.00	\$ 10,169.00	\$ -
Project Insurance & Bonding	\$ 21,687.00	\$ 21,687.00	\$ -
<b>Civil Works</b>			
Demo & Removals	\$ 7,512.00	\$ 7,512.00	\$ -
Site stripping & Rough Landscape Grading (See note 1)	\$ 20,452.00	By Others	\$ 20,452.00
Site Access & Remediation (See note 1)	\$ 2,346.00	By Others	\$ 2,346.00
Material Import & Bulk Grading (See note 2)	\$ 52,769.00	\$ 111,368.00	\$ (58,599.00)
Skateparks Drainage	\$ 37,664.00	\$ 37,664.00	\$ -
<b>Skatepark</b>			
Walls, Ledges & Footings	\$ 115,619.00	\$ 115,619.00	\$ -
Shotcrete Features	\$ 162,054.00	\$ 162,054.00	\$ -
Stair Features	\$ 8,044.00	\$ 8,044.00	\$ -
Flatwork	\$ 146,980.00	\$ 146,980.00	\$ -
Metals & Coping	\$ 38,220.00	\$ 38,220.00	\$ -
<b>Site Integration</b>			
Custom 'Rolling Magic' Sign	\$ 110,000.00	\$ -	\$ 110,000.00
Skatepark-Integral Concrete Color, Texture, Stenciling	\$ 20,000.00	\$ -	\$ 20,000.00
<b>SKATEPARK + BASE SITE IMPROVEMENTS SUBTOTAL</b>	<b>\$ 921,424.00</b>	<b>\$ 827,225.00</b>	<b>\$ 94,199.00</b>

## Site Plan for All-Wheel Skatepark























**CITY COUNCIL  
MEMORANDUM**

**ITEM 4**

**SUBJECT:** Resolution approving the closure of Penrose Lane from eastbound 87th Street Parkway to 88th Street for Friday Night Sound Bites on May 5, 2023

**CONTACT:** Mike Nolan, Assistant City Manager

**DATE:** April 18, 2023

**ACTION NEEDED:**

Adopt a resolution approving the closure of Penrose Lane from eastbound 87th Street Parkway to 88th Street for Friday Night Sound Bites on May 5, 2023.

**PROJECT BACKGROUND/DESCRIPTION:**

On May 5, 2023, the Public Market plans to co-host a Cinco de Mayo-themed Friday Night Sound Bites in partnership with Made in KC Marketplace ("Made in KC"). In addition to the live music, there will be two companion food trucks and several specialty vendors for patrons to enjoy.

Event plans include closing Penrose Lane from eastbound 87th Street Parkway south to 88th Street to allow for a small performance stage, dancing area, and additional seating. The road closure will allow the Public Market to obtain a temporary event permit from the Kansas Division of Alcoholic Beverage Control (ABC) to extend the possession and consumption of alcohol from the Common Consumption Area onto the street. The permit would also allow Made in KC to extend their licensed premises onto the street. State law requires the governing body of a city to approve the closure of a road to obtain the necessary temporary permit.

The City will apply for and hold the temporary event permit through the Public Market. The road closure is planned from 3 PM to 11 PM, with musical acts scheduled between 4 PM and 10 PM. Staff is working with Made in KC and other Civic Campus neighbors to finalize parking and traffic plans for the event, which will be communicated through the Public Market's social media and newsletter and Made in KC's outlets closer to May 5th. The attached map provides an overview of the layout for the event.

**STAFF RECOMMENDATION:**

Adoption of the resolution.

**VISION / GUIDING PRINCIPLES ALIGNMENT:**

**Vision 2040**

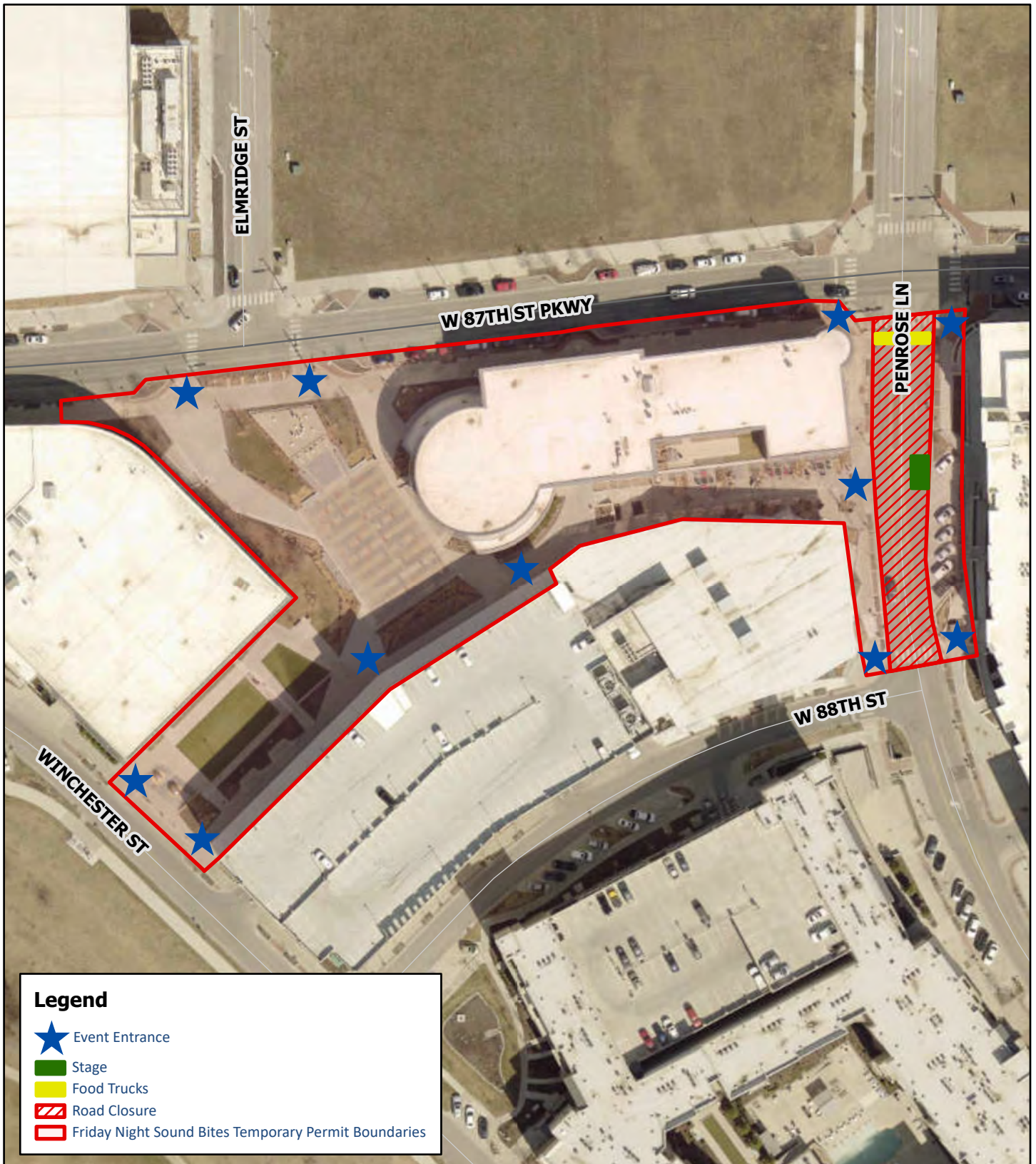
Inviting Places  
Vibrant Neighborhoods

**Guiding Principles**

Extraordinary Community Pride  
Inclusive Community Building

## **ATTACHMENTS**

1. Map
2. Resolution



Data Source: City of Lenexa and Johnson County Kansas  
For further information, please call 913-477-7500

## Friday Night Sound Bites May 5, 2023



0 62.5 125 250 Feet

**RESOLUTION NO. 2023-\_\_\_\_\_**

**A RESOLUTION APPROVING THE CLOSURE OF PENROSE LANE FROM EASTBOUND 87<sup>TH</sup> STREET PARKWAY TO 88<sup>TH</sup> STREET FOR FRIDAY NIGHT SOUND BITES ON MAY 5, 2023.**

WHEREAS, the City intends to co-host a Cinco de Mayo-themed Friday Night Sound Bites event in partnership with Made in KC that will take place Friday, May 5, 2023 at City Center; and

WHEREAS, the City intends for Lenexa Public Market vendors to provide and sell alcohol at the Friday Night Sound Bites event for consumption on the premises, including consumption on certain public streets, roads and sidewalks closed to vehicular traffic; and

WHEREAS, pursuant to K.S.A. 41-719, alcohol may be consumed on public streets, alleys, roads, sidewalks or highways as part of an event, so long as a temporary permit for the sale of alcoholic liquor has been issued by the State and the local governing body has approved the event and authorized the closure of any applicable streets to vehicular traffic during the special event; and

WHEREAS, in accordance with K.S.A. 41-719, the City desires to close a portion of Penrose from 87<sup>th</sup> Street Parkway to 88<sup>th</sup> Street and any associated streets, alleys, roads and sidewalks within the boundaries depicted on Exhibit A, attached hereto and incorporated herein by reference, to vehicular traffic and to allow the consumption of alcohol within said boundaries during the Friday Night Sound Bites event.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LENEXA, KANSAS:**

**SECTION ONE:** In accordance with K.S.A. 41-719, the Governing Body hereby authorizes the consumption of alcoholic liquor on public streets, alleys, roads, sidewalks or highways that are closed to vehicular traffic as part of the Friday Night Sound Bites event.

**SECTION TWO:** The Governing Body hereby authorizes Lenexa Public Market vendors to provide and sell alcohol at the Friday Night Sound Bites event, provided the City first obtains a temporary permit for the sale of alcoholic liquor from the State of Kansas, Division of Alcoholic Beverage Control.

**SECTION THREE:** The Governing Body hereby authorizes the portion of Penrose from 87<sup>th</sup> Street Parkway to 88<sup>th</sup> Street and any associated streets, alleys, roads and sidewalks within the boundaries depicted on Exhibit A, to be closed to vehicular traffic during the Friday Night Sound Bites event.

The street is anticipated to close at 3:00 p.m. on Friday, May 5, 2023 and re-open at 11:00 p.m. on Friday, May 5, 2023.



**SECTION FOUR:** The boundaries of the Friday Night Sound Bites event, within which alcoholic liquor may be possessed or consumed, shall be as designated on the attached Exhibit A. The Community Development Director or designee will mark the boundaries of the approved event area by signs, a posted map, or other means that will reasonably identify the area in which alcoholic liquor may be possessed or consumed.

**ADOPTED** by the Lenexa City Council on April 18, 2023.

**SIGNED** by the Mayor on April 18, 2023.

CITY OF LENEXA, KANSAS

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Michael A. Boehm, Mayor

ATTEST:

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Jennifer Martin, City Clerk

APPROVED AS TO FORM:

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Ashlee M. Tomasic, Assistant City Attorney



**CITY COUNCIL  
MEMORANDUM**

**ITEM 5**

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**SUBJECT:** Resolution approving adjustments to the pay ranges contained in the fiscal year 2023 Pay Plan and authorizing the City Manager to implement the updated pay plan

**CONTACT:** James Bowers, Human Resources Director  
Kristin Crow, Human Resources Manager

**DATE:** April 18, 2023

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**ACTION NEEDED:**

Adopt a resolution approving adjustments to the pay ranges contained in the fiscal year (FY) 2023 Pay Plan and authorizing the City Manager to implement the updated pay plan.

**PROJECT BACKGROUND/DESCRIPTION:**

The City's pay plan is a key component in recruiting and retaining a quality workforce. During FY 2021, staff worked with Lockton Companies, Inc. ("Lockton") to develop an updated pay plan. The updated FY 2022 pay plan was approved and implemented in February 2022.

In February 2022, the Governing Body directed staff to conduct pay studies on an annual basis going forward, in order to avoid falling behind in comparative compensation. In the fall of 2022, staff worked with Lockton to conduct an abbreviated pay study. Based on this study, Lockton and City staff reviewed the internal equity and market competitiveness of the City's pay plan. The following concepts were used to perform this review:

- Ensuring the pay plan is fair to all employees and maintains internal equity between jobs.
- Using comprehensive and relevant data to review the structure of the pay plan, staff gathered pay data from the same local peer organizations (including the Central Jackson County, MO Fire Protection District, Consolidated Fire District No. 2 -- Johnson County, Johnson County and the cities of Lawrence, Leawood, Olathe, Overland Park, Lee's Summit, and Shawnee) used for the 2021 pay plan to do this analysis.
- Structuring changes to the pay plan to remain within the budgetary resources allocated for pay in the FY 2023 Budget. As a result of this review, staff recommends changes to the plan's 21 non-public safety pay grades, (shown as pay grades D - U) and the police and fire pay grades, along with the minimum, mid-point, and maximum annual base pay amounts listed for each pay grade. The plans and proposed pay ranges are attached.

As a result, all full- and part-time benefited employees will receive market pay adjustments based upon the changes to the pay plan described above. Increases will be effective in the first pay period in June 2023. These employees will also receive an annual increase of 3% effective August 1, 2023.

Consistent with past practice, the City Manager, or a designee, will determine 2023 allowance payments

(i.e., car allowances and technology allowances, etc.) for eligible positions. Allowance rates are unchanged from 2022. In accordance with Section 1-4-C-1 of the City Code, Governing Body members will also receive a compensation increase of 3%, effective August 1, 2023.

In future years, staff will continue to review relevant pay data annually and recommend any required adjustments to the pay ranges and amounts for annual pay increases. These efforts will help ensure the City’s pay plan remains competitive with local peer organizations. Any future pay adjustments are contingent upon available budgetary resources.

**FINANCIAL IMPLICATIONS/FUNDING SOURCES:**

The 2023 budget includes \$2 million for market pay adjustments and annual pay increases. The estimated cost of annual pay increases and the market pay adjustments described herein is \$2 million.

**STAFF RECOMMENDATION:**

Adoption of the resolution.

**VISION / GUIDING PRINCIPLES ALIGNMENT:**

**Vision 2040**  
Thriving Economy

**Guiding Principles**  
Values-based Organizational Culture

**ATTACHMENTS**

1. Exhibit
2. Resolution

City of Lenexa, Kansas			
2023 Pay Plan			
<i>Grade</i>	<i>Minimum</i>	<i>Mid-Point</i>	<i>Maximum</i>
D	\$37,712	\$42,445	\$46,381
E	\$39,207	\$44,127	\$49,666
F	\$40,995	\$46,140	\$53,489
G	\$42,506	\$49,276	\$57,124
H	\$46,148	\$53,498	\$62,019
I	\$50,000	\$57,964	\$67,196
J	\$54,303	\$62,952	\$72,979
K	\$59,032	\$68,434	\$79,334
L	\$64,222	\$74,451	\$86,309
M	\$69,956	\$81,099	\$94,016
N	\$76,617	\$88,820	\$102,967
O	\$87,138	\$101,017	\$117,106
P	\$95,607	\$110,834	\$128,487
Q	\$105,502	\$122,306	\$141,786
R	\$113,184	\$131,212	\$152,110
S	\$123,937	\$143,677	\$166,561
T	\$139,358	\$161,554	\$187,285
U	\$154,477	\$179,081	\$207,604
Sworn Fire Pay Grades			
<i>Classification</i>	<i>Minimum</i>	<i>Mid-Point</i>	<i>Maximum</i>
Firefighter	\$53,000	\$61,422	\$71,228
Master Firefighter/Fire Medic	\$63,000	\$73,034	\$84,667
Firefighter Paramedic	\$67,000	\$77,671	\$90,042
Fire Lieutenant	\$72,500	\$84,047	\$94,596
Fire Captain	\$81,000	\$93,901	\$104,643
Battalion Chief	\$102,500	\$118,826	\$134,783
Division Chief	\$112,500	\$130,418	\$146,787
Deputy Chief	\$120,000	\$139,113	\$156,573
Sworn Police Pay Grades			
<i>Classification</i>	<i>Minimum</i>	<i>Mid-Point</i>	<i>Maximum</i>
Police Officer	\$57,700	\$66,891	\$75,286
Master Police Officer	\$67,500	\$78,251	\$88,072
Corporal	\$75,000	\$86,946	\$97,858
Sergeant	\$83,000	\$93,417	\$105,142
Captain	\$105,000	\$118,178	\$133,011
Major	\$115,000	\$129,434	\$145,679
Deputy Chief	\$120,000	\$135,061	\$152,012

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING AND AUTHORIZING THE FISCAL YEAR  
2023 ANNUAL PAY PLAN ADJUSTMENTS.**

WHEREAS, the City of Lenexa (the “City”) takes pride in its outstanding workforce and a comprehensive pay plan is a key component in recruiting and retaining a quality workforce; and

WHEREAS, for the fiscal year 2023 pay plan adjustments, City staff worked with Lockton Companies, Inc. to conduct a pay study and review the City’s existing pay plan, its internal equity, and its market competitiveness; and

WHEREAS, as a result, staff recommends adoption of the fiscal year 2023 pay plan, which includes the following (the “2023 Pay Plan”):

- a. The annual compensation increase will be 3.0% for all eligible employees effective on August 1, 2023;
- b. 2023 pay ranges are established per Exhibit A attached hereto and incorporated by reference. The 2023 pay range changes will be effective for the first pay period in June, 2023;
- c. Market pay plan adjustment increases for eligible employees will be calculated by Human Resources staff working with Lockton Companies, Inc. and approved by the City Manager. Market pay plan adjustment increases will be effective in the first pay period in June, 2023;
- d. Consistent with past practice, the City Manager or her designee will determine 2023 allowance payments (i.e., car allowances and technology allowances, etc.) for eligible positions;
- e. Governing Body members will receive a compensation increase of 3.0% effective on August 1, 2023; and

NOW, THEREFORE, be it resolved by the Governing Body of the City of Lenexa, Kansas that:

SECTION ONE: The proposed 2023 Pay Plan as listed above and shown in Exhibit A is hereby approved and the City Manager is authorized to implement the 2023 Pay Plan.

SECTION TWO: This resolution shall become effective immediately upon adoption.

ADOPTED by the Lenexa City Council this 18<sup>th</sup> day of April, 2023.

SIGNED by the Mayor this 18<sup>th</sup> day of April, 2023.

CITY OF LENEXA, KANSAS

By: \_\_\_\_\_  
Michael A. Boehm, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Martin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Sean McLaughlin, City Attorney



**CITY COUNCIL  
MEMORANDUM**

**ITEM 6**

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**SUBJECT:** Resolution authorizing the Mayor to execute an addendum to the Master Services Agreement with ConvergeOne Inc. for networking equipment at the Lenexa Justice Center

**CONTACT:** Jerry Swingle, Director of Information Technology

**DATE:** April 18, 2023

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**ACTION NEEDED:**

Adopt a resolution authorizing the Mayor to execute an addendum to the Master Services Agreement (MSA) with ConvergeOne Inc. for networking equipment at the Lenexa Justice Center.

**PROJECT BACKGROUND/DESCRIPTION:**

On February 18, 2011, the City and ConvergeOne, Inc. ("ConvergeOne") entered into an MSA to provide networking and technology consulting services. Pursuant to the MSA, the City is able to purchase hardware, software, and support through ConvergeOne.

Collaborating with the building architects, the City has worked to design the network infrastructure for the Lenexa Justice Center. The first equipment order will include infrastructure for the phone system and basic network equipment. This switch infrastructure will provide data connectivity for end user computers, desk phones, audio visual equipment, door access control, etc.

This addendum uses the City's standard form and is available for review in the City Clerk's office.

**FINANCIAL IMPLICATIONS/FUNDING SOURCES:**

The quote includes all hardware, licensing, and three years extended maintenance for a total not-to-exceed cost of \$262,903.49. Pricing for this contract was obtained from ConvergeOne through the cooperative Public Sector Contract.

Funding for the equipment was approved in the FY 2023-2027 Capital Improvement Program as part of the Lenexa Justice Center (Project No. 80020).

**STAFF RECOMMENDATION:**

Adoption of the resolution.

**VISION / GUIDING PRINCIPLES ALIGNMENT:**

**Vision 2040**  
Inviting Places

**Guiding Principles**  
Superior Quality Services  
Strategic Community Investment



## **ATTACHMENTS**

1. Exhibit
2. Resolution

## Solution Summary

### Lenexa Justice Center Cisco Networking

<b>Customer:</b> CITY OF LENEXA	<b>Primary Contact:</b> Anthony Sitzes
<b>Ship To Address:</b> ,	<b>Email:</b> asitzes@lenexa.com
<b>Bill To Address:</b> 17101 W 87TH ST PKWY General Delivery LENEXA, KS 66219	<b>Phone:</b> (913) 980-8578
<b>Customer ID:</b> AOSLENEX001	<b>National Account Manager:</b> Sarah Maner
<b>Customer PO:</b>	<b>Email:</b> smaner@convergeone.com
	<b>Phone:</b> +19524563827

Solution Summary	Billing Frequency	Due	Total Project
Software	One-Time	\$30,083.64	\$30,083.64
Hardware	One-Time	\$206,993.33	\$206,993.33
Maintenance			
CISCO Maintenance	Prepaid	\$25,826.52	\$25,826.52
<b>Project Subtotal</b>			<b>\$262,903.49</b>
Estimated Tax			NOT INCLUDED
Estimated Freight			NOT INCLUDED
<b>Project Total</b>			<b>\$262,903.49</b>

This Solution Summary summarizes the document(s) that are attached hereto and such documents are incorporated herein by reference (collectively, this "Order"). Customer's signature on this Order (or Customer's issuance of a purchase order in connection with this Order) shall represent Customer's agreement with each document in this Order and acknowledgement that such attached document(s) are represented accurately by this Solution Summary.

Unless otherwise specified in this Order, this Order shall be subject to the following terms and conditions (the "Agreement"): (i) the Master Sales Agreement or other applicable master agreement in effect as of the date hereof between ConvergeOne, Inc. and/or its subsidiaries and affiliates (collectively, "C1" or "ConvergeOne" or "Seller") and Customer; or (ii) if no such master agreement is currently in place between C1 and Customer, the Online General Terms and Conditions currently found on the internet at: <https://www.convergeone.com/online-general-terms-and-conditions/>. If Customer's Agreement is a master agreement entered into with one of ConvergeOne, Inc.'s predecessors, affiliates and/or subsidiaries ("Legacy Master Agreement"), the terms and conditions of such Legacy Master Agreement shall apply to this Order, subject to any modifications, located at: <https://www.convergeone.com/online-general-terms-and-conditions/>. In the event of a conflict between the terms and conditions in the Agreement and this Order, the order of precedence shall be as follows: (i) this Order (with the most recent and specific document controlling if there are conflicts between the Solution Summary and any applicable supporting document(s) incorporated into this Order), (ii) Attachment A to the Agreement (if applicable), and (iii) the main body of the Agreement.

This Order may include the sale of any of the following to Customer: (a) any hardware, third party software, and/or Seller software (collectively, "Products"); (b) any installation services, professional services, and/or third party provided support services that are generally associated with the Products and sold to customers by Seller (collectively, "Professional Services"); (c) any Seller-provided vendor management services, software release management services, remote monitoring services and/or, troubleshooting services (collectively, "Managed Services"); and/or (d) any Seller-provided maintenance services ordered by Customer to maintain and service Supported Products or Supported Systems at Supported Sites to ensure that they operate in conformance with their respective documentation and specifications (collectively, "Maintenance Services"). For ease of reference only, Professional Services, Managed Services and Maintenance Services may be referred to collectively as "Services." Unless otherwise defined herein, capitalized terms used herein will have the same meanings as set forth in the Agreement.

Products and/or Services not specifically itemized are not provided hereunder. This Order will be valid for a period of thirty (30) days following the date hereof. Thereafter, this Order will no longer be of any force and effect. Due to rapidly changing prices in the market for third party Products and/or Services, after the expiration of the foregoing 30 day period, Seller reserves the right to adjust offerings and/or prices accordingly prior to issuing any new Order(s).

This Order is a configured order and/or contains software.

#### Special Comment to Solution Summary:

Public Sector Contract C062518

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN ADDENDUM TO THE MASTER SERVICES AGREEMENT (“MSA”) BETWEEN THE CITY AND CONVERGEONE, INC. (FORMERLY ALEXANDER OPEN SYSTEMS, INC.) (“CONVERGEONE”) FOR THE PURCHASE OF CISCO NETWORKING EQUIPMENT FROM CONVERGEONE.**

**WHEREAS**, The City and AOS entered into an MSA on February 18, 2011, which remains in effect; and

**WHEREAS**, in February 2019, ConvergeOne purchased AOS and assumed the rights and performance obligations contained in the MSA between AOS and the City; and

**WHEREAS**, ConvergeOne is an authorized reseller of Cisco hardware, software and support; and

**WHEREAS**, the City desires to purchase Cisco hardware, software, and support for installation at City facilities, specifically the Lenexa Justice Center; and

**WHEREAS**, the parties desire to execute an addendum to the MSA for the purchase of Cisco hardware, software, and support at a price not to exceed \$262,903.49.

**NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LENEXA, KANSAS:**

**SECTION ONE**: The City of Lenexa, Kansas, a municipal corporation, does hereby approve and authorize the Mayor to execute an Addendum to the MSA with ConvergeOne, Inc. to purchase Cisco hardware, software, and support for installation at City facilities, specifically the Lenexa Justice Center. The Addendum is attached hereto as Exhibit A and incorporated herein by reference.

**SECTION TWO**: This Resolution shall become effective upon passage.

ADOPTED by the City Council April 18, 2023.

SIGNED by the Mayor April 18, 2023.

CITY OF LENEXA, KANSAS

\_\_\_\_\_  
Michael A. Boehm, Mayor

ATTEST:

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Jennifer Martin, City Clerk

APPROVED AS TO FORM:

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Spencer L. Throssell, Assistant City Attorney



**CITY COUNCIL  
MEMORANDUM**

**ITEM 7**

**SUBJECT:** Resolution approving and authorizing the Mayor to execute a Communications System and Services Agreement and Maintenance, Support, and Lifecycle Management Addendum with Motorola Solutions, Inc. for dispatching equipment, software, and services to be installed at the Lenexa Justice Center

**CONTACT:** Dawn Layman, Police Chief

**DATE:** April 18, 2023

**ACTION NEEDED:**

Adopt a resolution approving and authorizing the Mayor to execute a Communications System and Services Agreement and a Maintenance, Support, and Lifecycle Management Addendum with Motorola Solutions, Inc. for dispatching equipment, software, and services to be installed at the Lenexa Justice Center.

**PROJECT BACKGROUND/DESCRIPTION:**

In 2008, the City and other municipalities partnered with Johnson County, Kansas ("County") to share in a state-of-the-art dispatch radio system for both Public Safety and Municipal Services. In October 2019, the City purchased new end-user radios, but did not upgrade dispatch equipment or consoles. Since 2008, the City has paid for maintenance and support services from Motorola through the County. The two agreements proposed in this item cover new dispatch equipment and a one-year warranty, and five years of post-warranty maintenance and support.

This project will enhance and upgrade the City's public safety and police department dispatch communications center due to nearing end of life and end of Motorola's continuing support of devices. The dispatch communications systems are the lifeline for public safety employees. Staff utilizes these devices to communicate effectively both within and outside the organization. Successful interoperability amongst all City departments and outside agencies is necessary to ensure safe and efficient means of responding to the needs of employees and citizens.

Logistically, the move to the Lenexa Justice Center is the most effective time to upgrade these systems with minimal disruption to the system. The City can "stand up" the new equipment with a seamless cutover at move in.

This agreement is available for review in the City Clerk's office.

**FINANCIAL IMPLICATIONS/FUNDING SOURCES:**

The City has secured preferential pricing for this equipment and services under a NASPO Value Point Cooperative Contract under the State of Kansas. The contractual cost of the equipment and one-year warranty is \$1,304,249, and is included in the project budget. The cost of the optional five-year post-warranty maintenance services is \$664,668. Staff requests approval of the total contract amount of \$1,968,917 in order to lock in the current pricing benefits. However, the City may not elect to utilize the

direct post-warranty maintenance services and, in that case, would continue to pay for those services through the County. If the City elects to enter into a direct agreement with Motorola for the post-warranty services, staff anticipates that 911 funds will be utilized to pay those costs.

**STAFF RECOMMENDATION:**

Adoption of the resolution.

**VISION / GUIDING PRINCIPLES ALIGNMENT:**

**Vision 2040**  
Healthy People

**Guiding Principles**  
Superior Quality Services

**ATTACHMENTS**

1. Resolution

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A COMMUNICATIONS SYSTEM AND SERVICES AGREEMENT AND MAINTENANCE, SUPPORT AND LIFECYCLE MANAGEMENT ADDENDUM WITH MOTOROLA SOLUTIONS, INC. FOR CITY-WIDE DISPATCHING EQUIPMENT, SOFTWARE AND SERVICES TO BE INSTALLED AT THE LENEXA JUSTICE CENTER.**

**WHEREAS**, since 2008 the City and other municipalities have partnered with Johnson County, Kansas to share in a state of the art dispatch radio system provided by Motorola Solutions, Inc. ("Motorola") for both public safety and municipal services needs; and

WHEREAS, due to nearing end of life and end of continuing support of devices by Motorola, the City needs to upgrade equipment in the near future; and

WHEREAS, logistically, the move to the Lenexa Justice Center is the most effective time to upgrade these systems with the least amount of disruption to the system; and

WHEREAS, Motorola and the City have read and understand the terms and conditions of the Communications Systems and Services Agreement ("Systems Agreement") and the Maintenance, Support and Lifecycle Management Addendum (the "Maintenance Addendum") (the Systems Agreement and Maintenance Addendum, collectively, the "CSSA"), which is attached hereto as Exhibit "A", and made a part hereof by reference, and agree to be bound thereby.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LENEXA, KANSAS:**

**SECTION ONE:** That the Mayor is authorized to execute the CSSA and all attachments thereto, attached hereto and incorporated herein by reference.

**SECTION TWO:** That during the term of the CSSA, the City Manager or her designee is authorized to execute such other documents as may be reasonably necessary to execute the CSSA provided such documents are approved as to form by the City Attorney.

**SECTION THREE:** This Resolution shall become effective upon adoption.

**PASSED** by the Lenexa City Council this 18<sup>th</sup> day of April, 2023.

**SIGNED** by the Mayor this 18<sup>th</sup> day of April, 2023.



**CITY OF LENEXA, KANSAS**

**[SEAL]**

\_\_\_\_\_  
Michael A. Boehm, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Martin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
MacKenzie Harvison, Deputy City Attorney



**CITY COUNCIL  
MEMORANDUM**

**ITEM 8**

**SUBJECT:** Approval of Lenexa Arts Council's 2023 recommendations for public art priority locations  
**CONTACT:** Logan Wagler, Parks & Recreation Director  
**DATE:** April 18, 2023

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**ACTION NEEDED:**

Approve the Lenexa Arts Council's 2023 recommendations for public art priority locations.

**PROJECT BACKGROUND/DESCRIPTION:**

In 2007, the Governing Body approved the City's Public Art Policy, which sets forth the City's approach to acquiring and placing public art in particular locations. One of the requirements of the Public Art Policy is for the Arts Council to review annually and make recommendations to the Governing Body regarding the priority list of locations for public art.

The Arts Council recommends the following priority locations for public art:

- Lenexa Old Town Activity Center, 13420 Oak Street (mural)
- Black Hoof Park, 9053 Monticello Road
- Cedar Station Park (Mize Lake), Shady Bend Road & Canyon Creek Boulevard
- Centennial Park, future park at 91st & Clare Road
- Fire Station 3, 24000 Prairie Star Parkway
- Lenexa Justice Center, Prairie Star Parkway & Britton Street
- Little Mill Creek Park North, 79th Street & Cottonwood Street

**STAFF RECOMMENDATION:**

Approval of the public art priority locations.

**LENEXA ARTS COUNCIL ACTION:**

At its February 21, 2023 meeting, the Arts Council reviewed the locations of existing public art and discussed possible locations for future consideration, particularly in the western part of Zone 2 and in Zone 3. On March 21st, the Arts Council toured parks and other public spaces located in Zone 3 and the

western part of Zone 2 prior to its meeting and then, during its meeting, modified its recommended list of priority locations to include new potential sites in those zones.

Councilmember Dothage moved to recommend **APPROVAL** of the recommendations for public art priority locations and Councilmember Behrmann seconded the motion. Motion passed unanimously.

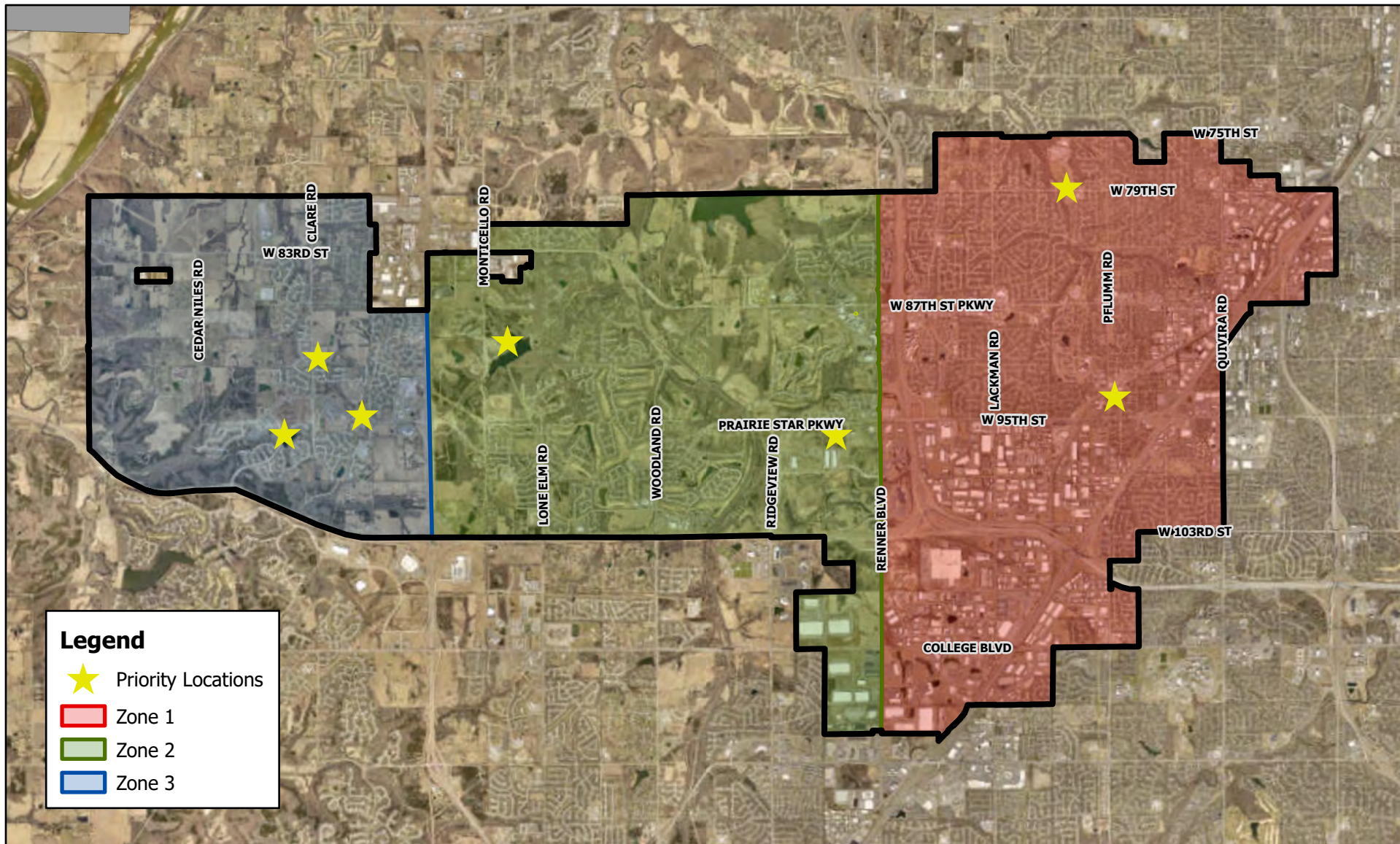
**VISION / GUIDING PRINCIPLES ALIGNMENT:**

**Vision 2040**  
Inviting Places

**Guiding Principles**  
Extraordinary Community Pride  
Strategic Community Investment

**ATTACHMENTS**

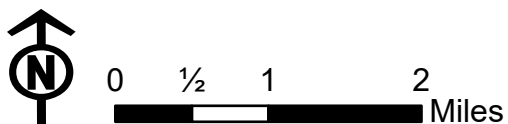
1. Map



Data Source: City of Lenexa and Johnson County Kansas  
For further information, please call 913-477-7500

## Public Art Priority Locations

### Lenexa Arts Council







**CITY COUNCIL  
MEMORANDUM**

**ITEM 9**

**SUBJECT:** Approval of a final plan for an office building known as the Kiewit K3 Building, located at the southwest corner of 89th Street & Hampton Street in the CC, Planned City Center Zoning District

**CONTACT:** Stephanie Kisler, Planning Manager

**DATE:** April 18, 2023

**ACTION NEEDED:**

Approve a final plan for an office building known as the Kiewit K3 Building, located at the southwest corner of 89th Street & Hampton Street in the CC, Planned City Center Zoning District.

**APPLICANT:**

Clint Loumaster, GBA

**OWNER:**

Kiewit

**PROPERTY**

**LOCATION/ADDRESS:**

Southwest corner of 89th Street & Hampton Street

**PROJECT BACKGROUND/DESCRIPTION:**

The final plan is for a new office building on the Kiewit campus, known as the K3 building. The building is 177,551 square feet and six stories tall. The building is of a very similar design to the recently completed Kiewit office building to the west. The building will use the same types of building materials with some details and features to bridge the characteristics of the K1 and K2 (formerly Perceptive Software) buildings with the K4 building.

The plans include expanding the parking structure on the southwestern part of the site and constructing additional surface parking. The campus will provide 1,978 parking stalls when all planned parking is constructed. Parking is provided at a ratio of 3.3 stalls for every 1,000 square feet of building floor area. A typical office building is required to have four stalls for every 1,000 square feet of floor area. The applicant provided a parking study showing that the existing demand for parking is 3.1 stalls per 1,000 square feet of floor area. The total parking for the campus at a rate of less than four stalls per 1,000 square feet is allowed in the City Center Zoning District, provided the applicant submits a study that is approved and accepted by the Planning Commission and the Governing Body. Staff supports the proposed plan with the parking as shown.

A solar array system is proposed to be installed on the top of the expansion to the parking structure. The system will use a steel support structure and black glass solar panels mounted in rows at an angle, which will appear as a unified covered parking structure. The structure is optional and may not be constructed as part of the project. The applicant is requesting consideration of the structure as part of the final plan.

**STAFF RECOMMENDATION:**

Approval of the final plan.

**PLANNING COMMISSION ACTION:**

This item was considered at the April 3, 2023 Planning Commission meeting. Following presentations by the applicant and staff, several Planning Commissioners stated their support for the project. Planning Commissioners asked questions related to the solar array system structure and signs on the building. Staff acknowledged the City's zoning regulations do not have specific requirements for the architectural features of a solar array system for commercial development. Staff acknowledged the number and placement of signs on the building remain a topic of discussion and a sign package for the building is anticipated to be submitted and presented to the Planning Commission at a later date.

Chairman Poss entertained a motion to recommend **APPROVAL** for a final plan for Kiewit K3 Building. Moved by Commissioner Harber, seconded by Commissioner Horine, and carried by a unanimous voice vote.

**VISION / GUIDING PRINCIPLES ALIGNMENT:****Vision 2040**

Thriving Economy

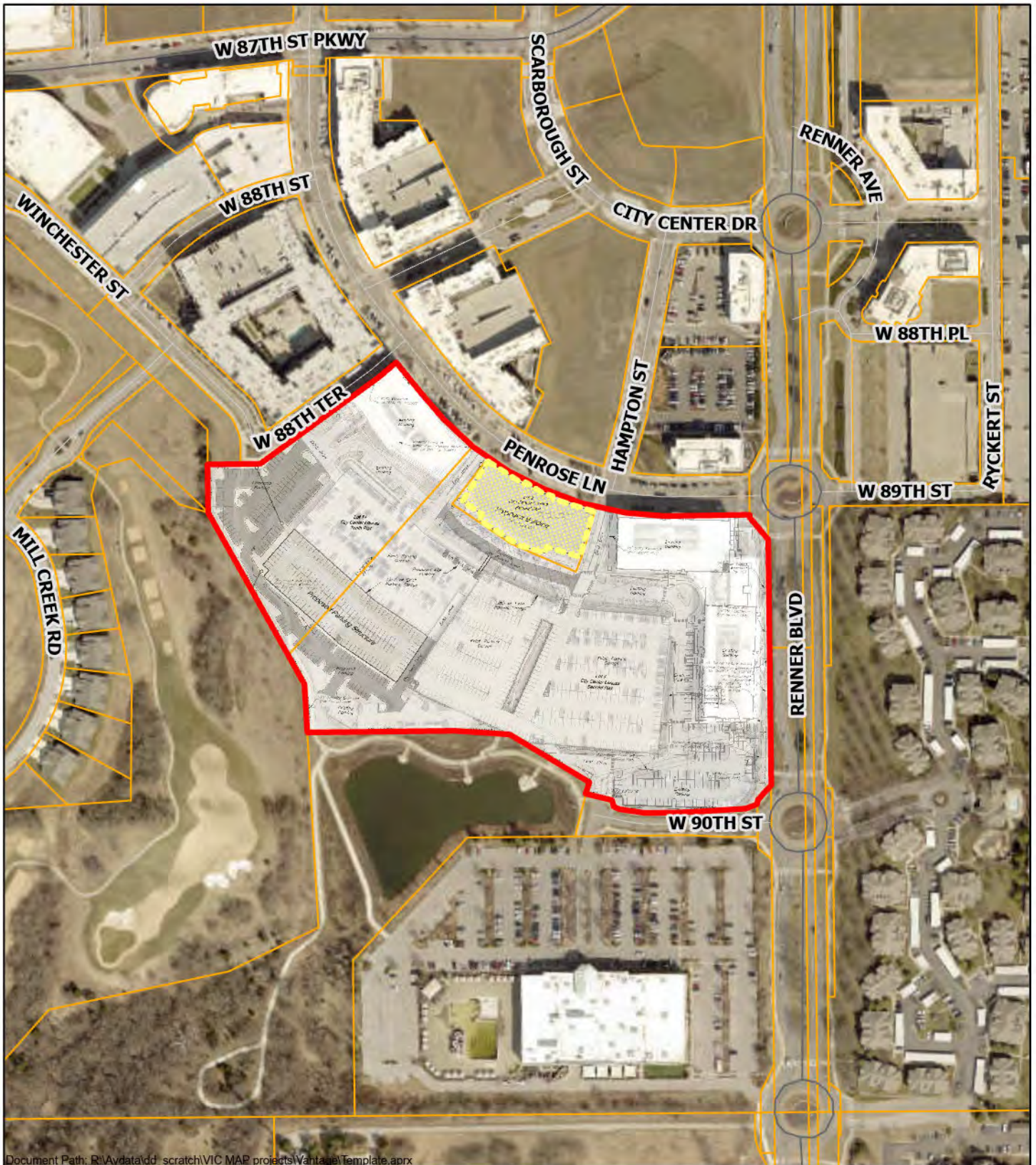
**Guiding Principles**

Responsible Economic Development

**ATTACHMENTS**

1. Map
2. PC Staff Report
3. Exhibits
4. PC Draft Minutes Excerpt





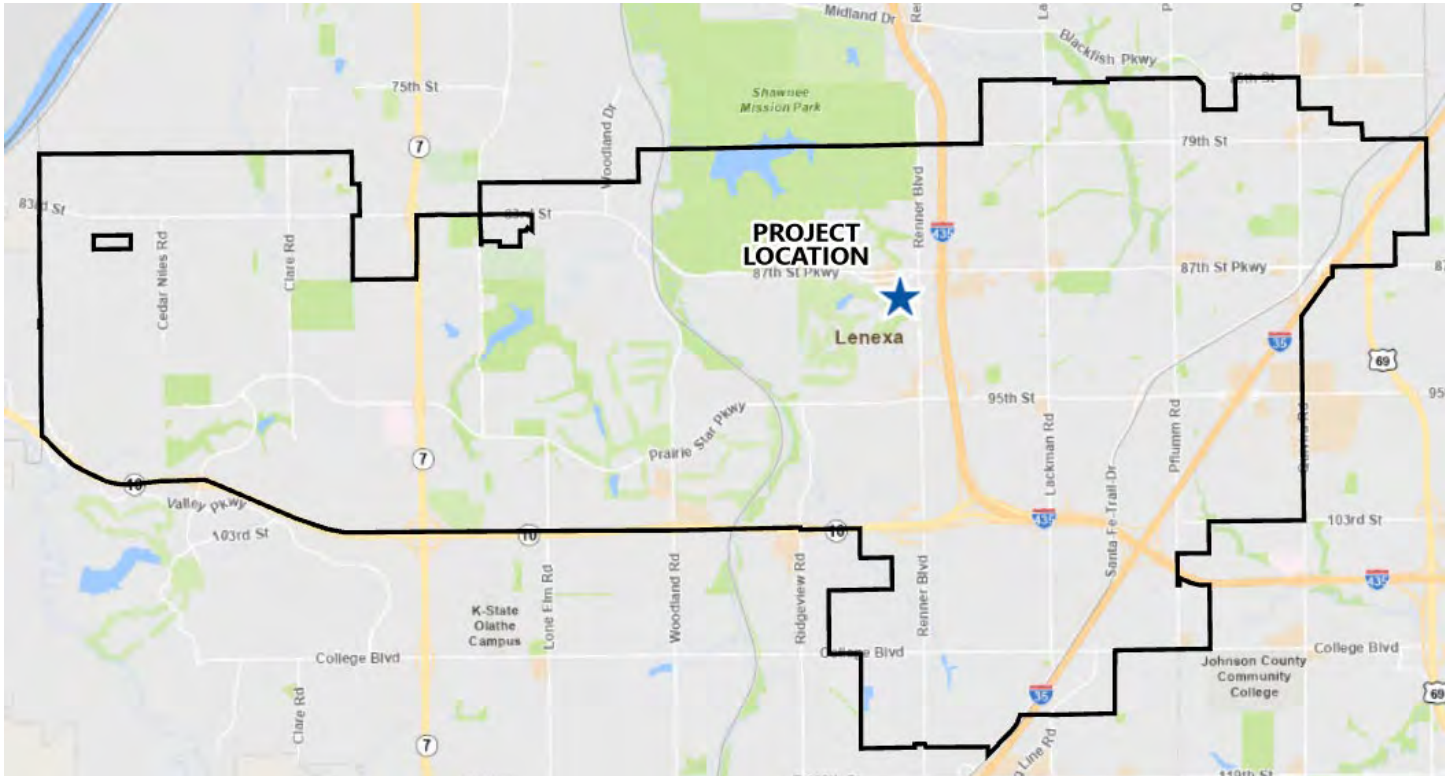
## Kiewit K3 Building PL23-08F





## KIEWIT K3 BUILDING

<b>Project #:</b>	PL23-08F	<b>Location:</b>	SWC of 89 <sup>th</sup> Street and Hampton Street
<b>Applicant:</b>	Clint Loumaster, GBA	<b>Project Type:</b>	Final Plan
<b>Staff Planner:</b>	Dave Dalecky	<b>Proposed Use:</b>	Office building



## PROJECT SUMMARY

The applicant proposes to construct a 177,551 square-foot, six-story office building as part of the Kiewit campus. The site is located at the southwest corner of 89<sup>th</sup> Street and Hampton Street in southeasterly quadrant of City Center. The building is the final building of the Kiewit campus. The building is designed to complement both the recently constructed Kiewit office building and the “L” shaped building constructed prior to Kiewit acquiring the building and developing a multi-building campus.

## STAFF RECOMMENDATION: APPROVAL

## SITE INFORMATION

The Kiewit campus is a group of buildings at the southerly end of the City Center region. The site is at the southwest corner of 89<sup>th</sup> Street and Hampton Street. The campus consists of four buildings referred to numerically as K1 through K4. Buildings K1 and K2 is the “L”-shaped building at the southwest corner of 89<sup>th</sup> Street and Renner Boulevard. This building was originally developed as the Perceptive Software Headquarters building, then was occupied by Lexmark, and is currently occupied by Kiewit. The most recently completed building is K4, a six-story building that began construction in 2018 and was completed in 2020. The proposed building, referred to as K3, is between the K2 and K4.

City Center was initially zoned in 2003. Many different proposals for City Center have been submitted in the 20-year history of the region. A preliminary plan (PL03-13) was established for this part of City Center, south of 87<sup>th</sup> Street and along Renner Boulevard in 2003 for a mixed-use development of office and townhouse buildings. Multiple revised plans have been approved for this area. A revised preliminary plan (PL12-02PR) for Perceptive Software was approved in 2012 to establish the current building pattern for the office building campus. A revised Concept Plan (PL15-01CPR) was most recently approved for several blocks in the southerly part of City Center, including this site, in early 2015.

Each building of the Kiewit campus has minimal setbacks from the street, as directed by the City Center Design Guidelines (CCDG), to create an urban character to the region. Parking for the office buildings is provided by a two-level parking structure on the southerly side of the buildings. The parking structure is a large portion of the campus but is located internally, which reduces the visibility of the parking from the street. Parking is to be effectively screened from view from the surrounding streets and located within parking structures whenever possible to minimize the visual impact of fields of surface parking common in typical suburban development.

LAND AREA (AC)	BUILDING AREA (SF)	CURRENT ZONING	COMP. PLAN
0.89	177,551	CC	City Center Core

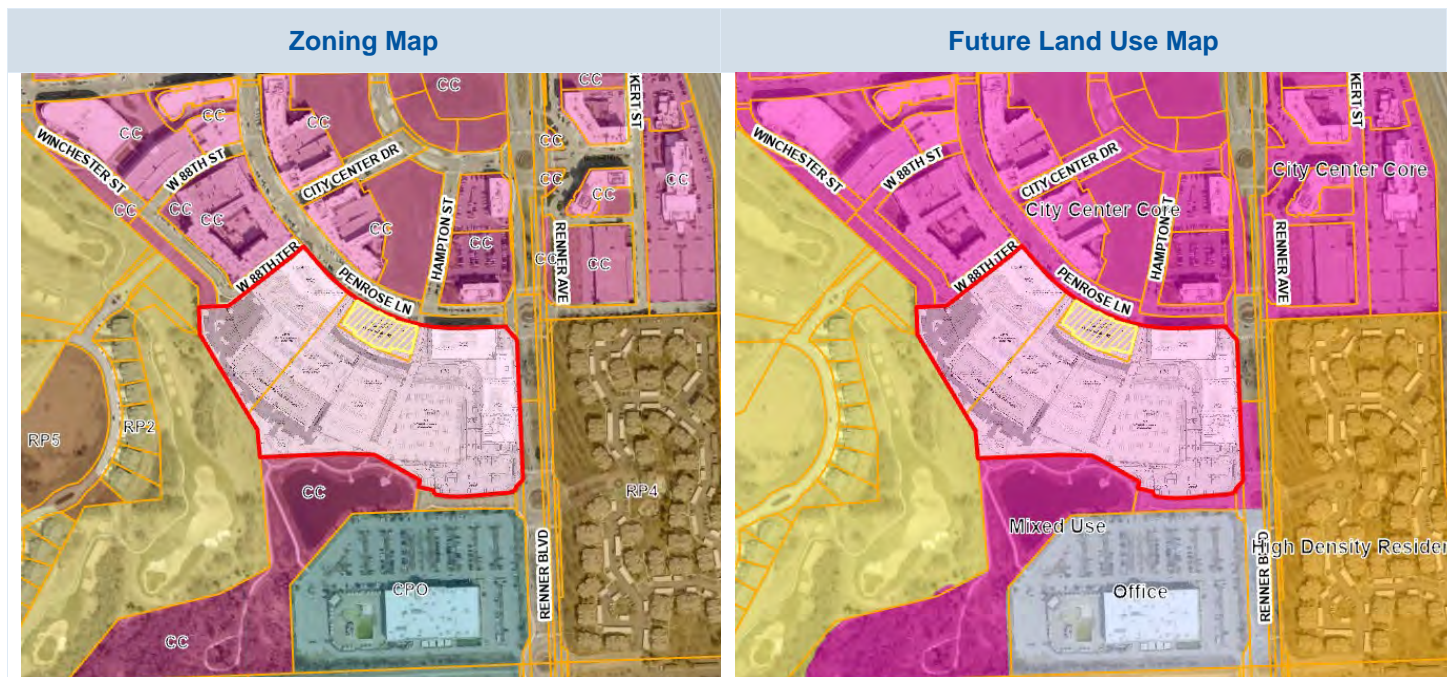


**Exhibit 1: Vicinity Aerial Image of Subject Site (Kiewit Campus Outlined in Red).**



## LAND USE REVIEW

The building is an office building for the Kiewit engineering firm. Office use is permitted in the CC Zoning District. The CCDG encourages development to incorporate a mix of uses to foster an active experience along the streets. All the Kiewit buildings contain only office uses. The Kiewit campus will generate activity by nature of the size and daytime population of the employees. The total floor area of all four buildings is 600,944 square feet. The buildings will not have retail activity at the ground floor but are designed so that the ground level is in clear view of the street with significant area of window openings providing visibility into the office spaces. The buildings will also have access doors for the employees to move from the buildings out to the sidewalks along the street.

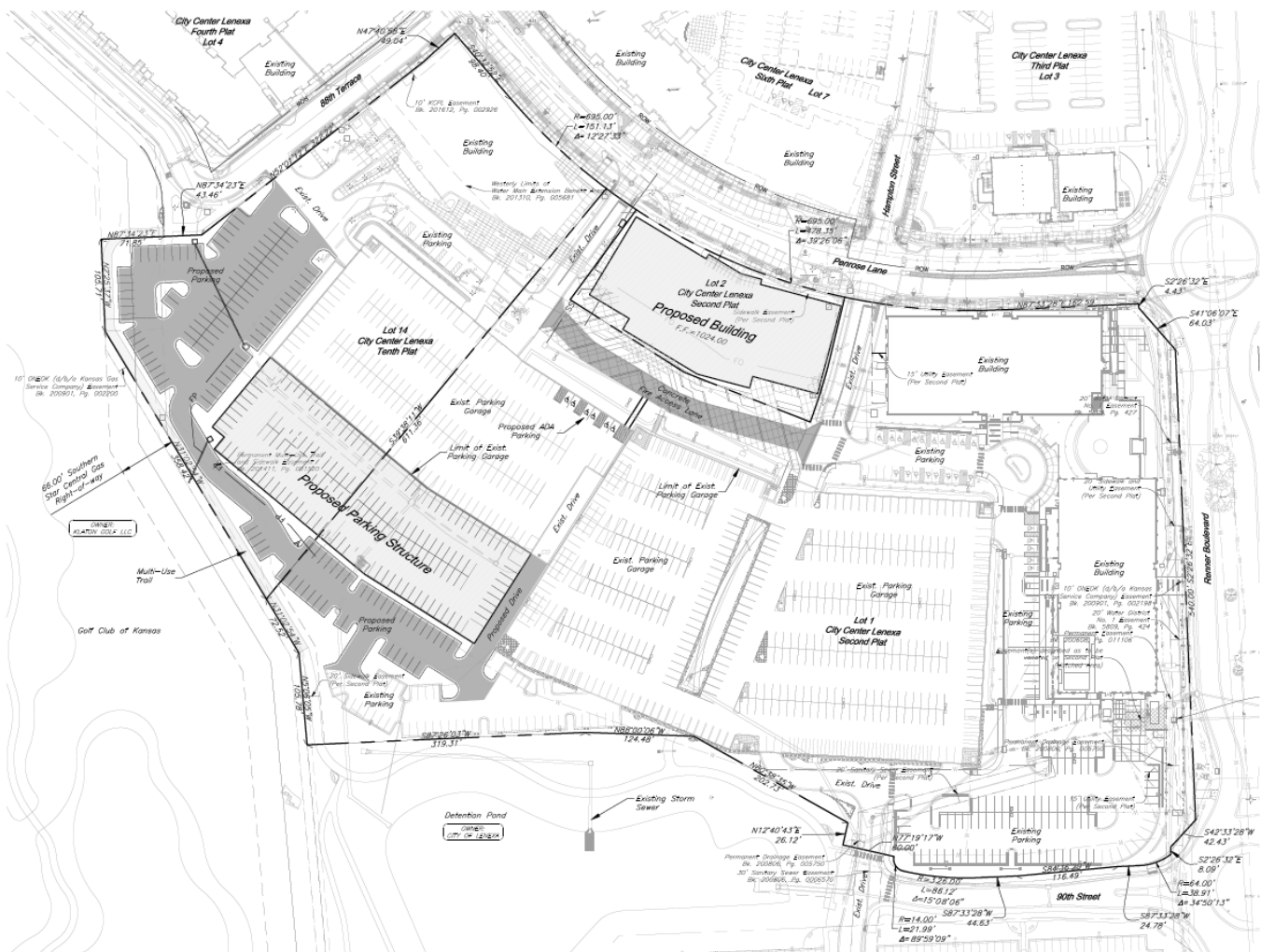


**TABLE 1: COMPARISON OF SURROUNDING PROPERTIES**

Vicinity	Future Land Use Designation	Zoning	Current Use
<b>Subject Property</b>	City Center Core	CC, Planned City Center District	Undeveloped land
<b>North</b>	City Center Core	CC, Planned City Center District	Mixed-Use
<b>South</b>	City Center Core, and Office/Employment Center	CC, Planned City Center District, and CP-O, Planned General Office District	Office and Fitness Center
<b>East</b>	City Center Core	CC, Planned City Center District	Office
<b>West</b>	City Center Core, and Suburban Residential	CC, Planned City Center District, and RP-1 Residential Planned Single-Family District	Office and golf course

## FINAL PLAN REVIEW

The proposed final plan includes a 177,551 square-foot six-story building, a new parking structure, and additional surface parking. The building fronts onto 89<sup>th</sup> Street, a curving street that sweeps to the north becoming Penrose Lane. This is a significant street in City Center with several lots already developed. The six-story building creates a dramatic presence onto the street, similarly as the K4 building does. The design and configuration of the proposed K3 building takes several queues from the K4 building. The space along the street side of the building will include the pedestrian amenity zone (PAZ) with the modular streetscape features, including decorative pavement, scored patterning, and planters, but the primary entrance into the building is on the southerly side of the building facing the parking area. The main entrance is on the parking lot side of the building because most employees and visitors will access the building from this side. Secure access ways are provided on the street side of the building providing a direct route for employees to walk out to the street.



**Exhibit 2: Site Plan.**

This building will have a large plaza space on the side that faces the parking lot. The large plaza space will be used for events and teambuilding activities and for passive enjoyment for the employees. The plaza space will extend under the building at the ground level similar to the K4 building design. A sidewalk is provided on the east and west sides of the building to link the plaza to the sidewalk on the street.

The plaza incorporates a decorative pavement score pattern that will be askew to the wall plane of the building and will provide a slight contrast to the pavement pattern of the K4 plaza area. The two plaza spaces use similar materials and geometric dimensions but will be slightly different creating a unique visual character for this space. The plaza will also provide a fire apparatus access lane for the building in lieu of a vehicle drive aisle. The decorative pavement and appropriate signs identifying this space for emergency vehicles only and will be used to make it obvious that the space is not intended for vehicles to drive onto.

## TRAFFIC, ACCESS, AND PARKING

- The site has multiple points of access from the surrounding streets and from the adjacent parking areas of the Kiewit campus.
- Multiple sidewalks are provided from the building to the parking areas and to the two-level parking structure.
- A pedestrian link is provided on the east side of the K4 building from the street side to the parking lot. This link is an extension of the outdoor plaza spaces which are partially covered by the building. The plaza spaces provide an integrated transition space from the PAZ on the 89<sup>th</sup> Street/Penrose Lane side of the buildings into the internal pedestrian spaces of the Kiewit campus. This building will not have as deliberate of a connecting link from the street to the interior portion of the campus as the K4 building. A second link is not necessary for the group of buildings.
- The overall parking ratio proposed for the four-building campus is 3.3 stalls per 1,000 square feet of floor area. The applicant is requesting approval of the parking ratio that is less than the standard 1 stall for every 250 square feet of floor area (or 4 stalls per 1,000 square feet). The applicant provided a parking study which shows the actual number of vehicles parked relative to the number of employees entering the building. The study shows the actual parking rate for the campus is approximately 3 cars for every 1,000 square feet of floor area. The applicant anticipates this same need for parking as for the completed campus. Staff supports the requested parking ratio for the Kiewit campus.

**TABLE 2: PARKING ANALYSIS**

Land Use	Parking Formula	Required Parking	Proposed Parking	Difference
City Center (Office use)	For City Center the applicant shall provide a parking study (Office use requires 1 stall for every 250 square feet)	Approved by PC and CC (2,404)	1,978	-426

An expansion of the parking structure and additional surface parking will be constructed with this phase of the campus. The parking structure is a “pedestal” type of parking structure which has ground level parking and one raised deck level. The two-level parking structure will expand the existing parking structure to the southwesterly part of the site. To the west of the site is a wooded area of the Canyon Farms Golf Club and to the south is a City-owned parcel that is the southernmost part of City Center.

A section of the trail is proposed to be moved to the edge of the property line which will allow for surface parking to be constructed at this southerly edge of the site. Portions of the sweeping curves of the trail will be straightened and will be directly adjacent to the curb of the parking areas. These sections are relatively short. Additional landscaping will be installed between the trail and the parking lot where adequate space is provided. The trail is close to, or immediately adjacent to, streets and parking in other areas of City Center; therefore, is not a unique condition.



The parking structure is proposed to have a solar array system. The solar array will cover the entire surface of the new section of the parking structure. The structure is an optional feature of the project but shown on the plan for consideration for approval with this final plan. The system is a metal frame structure with dark glass panels mounted onto the top at an angled, or “sail” position. Solar panels are most often installed on the roof portion of a building and are often not visible. The parking structure is reasonably obscured from the street system of City Center but is briefly visible from various vantages and is visible from the pedestrian trails around the site. The solar array will also be visible from those same vantages. Staff is supportive of the proposed solar panel array system on the parking structure.



**Exhibit 3: Solar Array on Parking Structure.**

## **STORMWATER**

The overall stormwater management for this site has been previously constructed; however, some minor additions (an additional proprietary unit) are currently proposed to appropriately accommodate this project.

## **FIRE PREVENTION**

The Fire Department reviewed the plans based on the current adopted fire codes and local amendments. All general planning review comments have been acknowledged or satisfied and there are no outstanding Fire Department planning review items that need to be addressed for this project to move forward. A more detailed fire code review will be conducted based on the adopted codes at the time of the building permit documentation submittal.

## **LIGHTING**

The site will include lighting for pedestrian areas, building-mounted lighting, and parking lot lighting for the parking areas. The site lighting will be a consistent design to the lighting fixtures used for the K4 building. The plaza space and sidewalks between the buildings will be illuminated with light bollards and multi-fixture lights on 15-foot-tall poles. The use of these light fixtures will more ambient lighting than a typical suburban office building setting. This is due to the regular placement of the light fixtures, proximity of the building lighting and the lights along the public street. The lights are an architectural style fixture of an aesthetic appearance and durable construction. The lighting level is expected for an urban area such as City Center.



## LANDSCAPING

Landscaping in City Center is generally more compact spaces with no or minimal lawn spaces. The landscaping typically includes landscaping in the planter areas of the PAZ, landscape areas around the building and in parking areas and in islands whenever possible. This site will include planter spaces on 89<sup>th</sup> Street and spaces for landscaping around the building. The site will also have extensive landscaping in the plaza space on the south side of the building. Additional landscaping will be installed in new parking lot islands of the additional surface parking at the south end of the site and in the spaces between the pedestrian trail and the parking lot. The landscaping along the trail will include lower growing materials and mid-size ornamental trees.

## ARCHITECTURE

The building is designed to transition between the K1 and K2 buildings and the more modern looking K4 building. This building will be more heavily weighted toward the architectural character of the K4 building using the same palette of materials and expressing the same features as the K4 building.

The building does apply the elements of the CCDG while paying less attention to others. This building has a distinctive base-middle-top hierarchy to the overall structure which is directly referenced in the CCDG. The ground level uses precast concrete with a smooth finish to represent a cast stone, extensive amounts of clear glass and metal frame elements positioned at an angle as a dramatic effect to the exposed steel framing. The second through fourth floors of the building incorporate brick into the horizontal and vertical lines of the building and substantial amounts of glass. Steel structural elements are visible behind the glass panels. The steel framing is angled and run parallel to the exposed framing elements of the ground floor. The north façade has an articulated element where a part of the building projects from the predominant wall plane. On either side of this projected element are “wing” features with a metal screen material for an accent. This metal material is also used on the south facing façade at articulated features of the façade.



***Exhibit 4: Northeast and Northwest Perspective Renderings of the Proposed K3 Building.***

To compensate for the main access into the building being on the non-street facing side is the substantial amount of clear glass used on all floors of the building including the ground floor. The Kiewit campus buildings activate the street by having such close visual connectivity of the interior space out to the sidewalk and from the sidewalk into the buildings. The relationship of the main entrance of the K3 building is identical to the recently completed K4 building.



*Exhibit 5: Existing K4 Building.*

The building contains a “hinge-point” at the middle of the building where the building appears like two intersecting planes. This is a repeated element from the K4 building and allows the building to wrap the curve of the alignment of 89<sup>th</sup> Street/Penrose Lane.

The applicant is proposing signs installed on multiple façades of the building and multiple signs on a single façade. City Center does encourage unique signs which are contextually integrated with the building architecture. Staff has typically discouraged multiple signs identifying a building occupant on the same façade. The signs proposed for the building will be further analyzed by Staff and a determination made if the signs would require additional review by the Planning Commission or potentially a sign deviation request. No signs are specifically approved with this final plan application. Separate sign permits are required for each individual sign.

## DEVIATIONS

The applicant is not requesting any deviations.

## REVIEW PROCESS

- This project requires a recommendation from the Planning Commission and final approval by the City Council. Pending a recommendation from the Planning Commission, the project is tentatively scheduled for consideration from the City Council on April 18, 2023.
- The applicant should inquire about additional City requirements, such as permits and development fees.

---

## RECOMMENDATION FROM PROFESSIONAL STAFF

---

★ **Staff recommends approval of the proposed Final Plan for Lenexa Smart Storage.**

- This project is consistent with Lenexa's goals through ***Responsible Economic Development*** to promote ***Vibrant Neighborhoods*** and ***Healthy People***.

### FINAL PLAN

Staff recommends **approval** of the final plan for PL23-08F – **Kiewit K3 Building** at the southwest corner of 89<sup>th</sup> Street and Hampton Street, for an office building.







## TREE SCHEDULE

CALLOUT	SCIENTIFIC NAME	COMMON NAME	INSTALL	SIZE	NOTE
AC	ACER TRUNCATUM	SHWITUNG MAPLE	8 8.6	12" CAL	FULL & WELL FORMED
AG	AMELANCHIER X GRANDIFLORA 'UTAHM BRILLIANCE'	AUTUMN BRILLIANCE SERVICEBERRY	8 8.6	12" CAL	FULL & WELL FORMED
GB	GINKGO BILOBA FASTIGIATA 'BAGIN'	GOLDSPIRE GINKGO	8 8.6	12" CAL	FULL & WELL FORMED
HT	PRINUS PLEURIS VANDERHOFFI 'SPYRAMEZ'	VANDERHOFF'S PYRAMID PINE	8 8.6	18" DBH	FULL & WELL FORMED
PO	PLATANUS OCCIDENTALIS	AMERICAN SYCAMORE	8 8.6	12" CAL	FULL & WELL FORMED
PP	POCA FUNKENS 'FAT ALBERT'	COLORADO BLUE SPRUCE	8 8.6	18" DBH	FULL & WELL FORMED
QB	QUERCUS BICOCA	SWAMP WHITE OAK	8 8.6	12" CAL	FULL & WELL FORMED
QR	QUERCUS ROBUR FASTIGIATA	ENGLISH OAK	8 8.6	12" CAL	FULL & WELL FORMED
TD	TAXODIUM DISTICHUM 'SHAWNEE BRAVE' TM	BALD CYPRESS	8 8.6	12" CAL	FULL & WELL FORMED

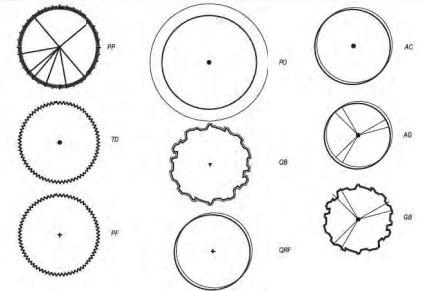
## SHRUB SCHEDULE

CALLOUT	SCIENTIFIC NAME	COMMON NAME	INSTALL	SIZE	NOTE
BO	BUXUS X 'GREEN GEM'	GREEN GEM BOXWOOD	CONT.	1 GAL	FULL & WELL FORMED (12" O.C.)
CS	CORNUS SERICEA 'ARCTIC FIRE'	ARCTIC FIRE DOGWOOD	CONT.	5 GAL	FULL & WELL FORMED (24" O.C.)
IV	ILEX VERTICILLATA 'RED SPRITE'	RED SPRITE WINTERBERRY	CONT.	5 GAL	FULL & WELL FORMED (24" O.C.)
KJ	KERRIA JAPONICA 'PLENIFLORA'	JAPANESE KERRIA	CONT.	5 GAL	FULL & WELL FORMED (24" O.C.)
RA	RHUS ARNICA 'GROLOW'	GROLOW SUMAC	CONT.	5 GAL	FULL & WELL FORMED (24" O.C.)

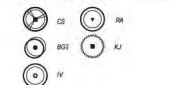
## GRASSES & GROUNDCOVERS SCHEDULE

CALLOUT	SCIENTIFIC NAME	COMMON NAME	INSTALL	SIZE	NOTE
CA	CALAMAGROSTIS X ACUTIFLORA 'KARL FOERSTER'	FEATHER REED GRASS	CONT.	SP4	FULL & WELL FORMED (12" O.C.)
HM	HEUCHERA MICRANTHA V. DIVERSIFOLIA 'PALACE PURPLE'	CORAL BELLS	CONT.	1 GAL	FULL & WELL FORMED (12" O.C.)
LM	LIRIOPE MASCANA 'BIG BLUE'	BIG BLUE LIRIOPE	CONT.	1 GAL	FULL & WELL FORMED (12" O.C.)
PV	PANICUM VIRGATUM 'HOT ROD'	SWITCH GRASS	CONT.	SP4	FULL & WELL FORMED (12" O.C.)
SH	SPOROBOLUS HETEROPHYLLUS	PRAIRIE DROPSEED	CONT.	SP4	FULL & WELL FORMED (12" O.C.)

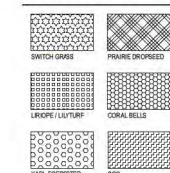
## TREE LEGEND



## SHRUB LEGEND



## GRASSES LEGEND



1 PLANTING PLANS - AREA 1  
1" = 20'-0"



Project  
Kiewit Lenexa Regional  
Headquarters K3  
Lenexa KS

Prepared for  
Kiewit



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No.	Description	Date
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FINAL DEVELOPMENT PLAN 20200527

Project No. 22-000078.00

Sheet No.

PLANTING PLANS

Original & 1/16" Scale with notes and revisions  
Sheet Number

L700



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Project No: 22.70078.00  
Sheet Title:

PV ARRAY - POTENTIAL

Original is 36 x 24. Do not scale contents of the drawing.

Sheet Number

FDP G102



1 2 3 4 5 6 7 7.5 8 9 10 11 11.5 12

A  
A.2  
B.2  
C.2

PV ARRAY ON STEEL FRAME. ARRAY IS OPEN TO BELOW BETWEEN PANELS ALLOWING RAIN AND AIR TO PASS THROUGH

2'  
REF 010

POTENTIAL OPTION - PROVIDE ON SITE SOLAR ARRAY OVER THE GARAGE. THIS IS AN OPTION ONLY AND HAS NOT BEEN APPROVED BY THE OWNER







Project  
**Kiewit Lenexa Regional  
Headquarters K3**  
Project Address  
  
Prepared for  
**Kiewit**  
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No.	Description	Date
1	FINAL DEVELOPMENT PLAN	2023-09-27

Project No: 22-70078-00  
Sheet Title:

**EXTERIOR VIEWS**

Original is Size "A". Do not scale contents of this drawing.  
Sheet Number

**FDP 302**



K3 ENTRY - SOUTH-EAST CORNER

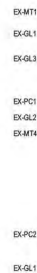
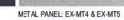


SOUTH ELEVATION VIEW



SOUTHWEST CORNER VIEW

EX-MT1	REINFORCED PAINTED METAL PANEL
EX-MT2	CLEAR ANODIZED ALUMINUM STOREFRONT WITH METAL PANEL INFLR
EX-MT3	METAL ROOF SCREEN - EQUIPMENT ENCLOSURE
EX-MT4	12" CLEAR ANODIZED ALUMINUM PLATE METAL TRIM AT GL2 WINDOWS ONLY
EX-MT5	CLEAR ANODIZED ALUMINUM PAINTED METAL PANEL (TRIM AT GL2 WINDOWS ONLY)
EX-MT6	PERFORATED REINFORCED PAINTED METAL PANEL (BRANDING T.B.D.)
EX-MT7	ARCHITECTURAL METAL, FAILING
EX-GL1	SOLARBAN 700L2 + CLEAR CURTAIN WALL
EX-GL2	SOLARBAN 700L2 + CLEAR ALUMINUM STOREFRONT
EX-GL3	SOLARBAN 700L2 + CLEAR SPANDREL PANEL
EX-GL4	OPERABLE GLASS WALL
EX-PC1	INSULATED PRECAST CONCRETE WITH H SET BRICK
EX-PC2	INSULATED PRECAST CONCRETE BASE WITH LIGHT SAND BLAST
EX-PC3	PRECAST CONCRETE PANEL WITH LIGHT SAND BLAST, MATCH EXISTING GARAGE


**Kiewit**

Prepared for  
**Kiewit**  
Lenexa KS



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Professional Spills

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[illegible]

Project No: 22.70078.00

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Sheet Number

Sheet Number

FDP 303



## REGULAR AGENDA

7. **Kiewit K3** - Consideration of a final plan for an office use for property located at the southwest corner of 89th Street and Hampton Street within the CC, Planned City Center District. PL23-08F

### APPLICANT PRESENTATION:

Alan Lincoln, of Kiewit Companies, presented for the applicant. He gave the history and background of Kiewit and explained its progression in Lenexa. The first two buildings in Lenexa City Center are called K1 and K2. K4 located at 8801 Penrose was constructed in 2020 and the construction of the new building is referenced as K3. Jake Baker, an architect with HOK, presented an overview of the proposed project. In addition to the new building there will be site improvements, expansion of the parking garage for K4, as well as additional surface parking. The new K3 building will be 177,000 square feet and five stories, the same height as the K4 building. They are proposing a central plaza for campus employees with outdoor amenities. The architecture of the building will be a continuation of K1, K2 and K4. Some of the features will have balconies overlooking the golf course, plaza seating and a recessed patio along Penrose. He showed elevation exhibits of the proposed plans and concluded by saying he would take any questions upon the completion of staff's presentation.

### STAFF PRESENTATION:

David Dalecky gave staff's report and showed an aerial of the site and surrounding area. This is the fourth and final building constructed in the Kiewit campus at City Center. Expansion to the parking will include an addition to the two-level parking structure. The parking structure and surface parking areas serve the entire campus. A portion of the City's trail system will be relocated to the property edge that runs on the south side of the Kiewit campus. The applicant will also add additional landscaping. He presented a table of the parking analysis. He explained that parking is proposed at a ratio of 3.3 per 1,000 for the entire campus. They will make parking accommodations with other developments in the area if necessary. He showed the parking structure and explained the solar array that may possibly be installed over the parking addition at final plan stage. He pointed out where all the additional landscaping would be placed and highlighted the plaza and amenity zone. The architecture of the building is proposed to be similar to the K4 building recently constructed using brick, precast concrete and clear glass. Staff is supportive of the building architecture and materials.

### PLANNING COMMISSION DISCUSSION:

Commissioner Katterhenry said he likes the architecture and likes that it blends with the other buildings.

Commissioner Burson asked what the city's code and zoning requirements are for the solar array. David said there is not a specific standard for solar arrays in the city's code. Scott McCullough clarified that there are some residential standards for solar panels but no specific standards for commercial. Commissioner Burson said he is supportive of the solar array because it fits in with the architecture.

Commissioner Horine asked if the signage would be proposed to the Planning Commission at a later date. David Dalecky replied that the applicant will present a sign package for the building later that will be brought to the Planning Commission.

Chairman Poss remarked that he liked the project and is looking forward to it going forth.

### MOTION:

Chairman Poss entertained a motion to recommend **APPROVAL** of a final plan at the southwest corner of 89<sup>th</sup> Street and Hampton Street within the CC, Planned City Center District.



Moved by Commissioner Harber, seconded by Commissioner Horine, and carried by a unanimous voice vote.

DRAFT



**CITY COUNCIL  
MEMORANDUM**

**ITEM 10**

---

**SUBJECT:** Ordinance amending Sections 4-1-B-24, 4-3-B-7, and 4-3-B-24 of the City Code related to regulations for fences, walls, and retaining walls

**CONTACT:** Stephanie Kisler, Planning Manager

**DATE:** April 18, 2023

---

**ACTION NEEDED:**

Pass an ordinance amending Sections 4-1-B-24, 4-3-B-7, and 4-3-B-24 of the City Code related to regulations for fences, walls, and retaining walls.

**PROJECT BACKGROUND/DESCRIPTION:**

Over time, staff has identified several elements of the City's fence standards that staff believes are in need of review. Most notable is the standard related to street-side side yard fences where a high number of nonconforming fences exist in the community and where many owners seeking a fence permit desire to fence in more side yard than the code currently allows. The high demand for reducing this street-side setback led staff to complete a wholesale review of the fence and retaining wall standards to propose amending the Unified Development Code (UDC) related to regulations and definitions for fences, walls, and retaining walls. The packet includes the current applicable codes and definitions, the Planning Commission staff report from April 3, 2023 where the first version of the proposed amendments was presented, a version with the edits redlined that incorporates the Planning Commission's revisions to staff's proposed language, and an ordinance with the clean version of the Planning Commission's recommended language.

The proposed amendments include the following:

- Allowing fences to be located 15 feet from the street-side side yard property line on corner lots where the current code requires a 20-foot setback in most residential zoning districts. Staff would continue to review fence locations for safety concerns with respect to adjacent driveways, sidewalks, and streets where the fence has the potential to create an obscured view that would impact vehicular or pedestrian safety. As noted above, residential property owners consistently request a lesser setback and this revision is likely to reduce variance and deviation requests and bring many nonconforming properties into or closer to compliance with the setback standards.
- New requirements related to the combined height when fences are installed on top of or in close proximity to retaining walls to mitigate the aesthetic related to the scale and massing of retaining wall systems.

- New requirements limiting the height of retaining walls to 10 feet of exposed wall to mitigate the negative aesthetic of very tall walls. The outcome is that retaining walls will need to be tiered if proposed to be taller than 10 feet.
- Added a table consolidating fence and wall requirements to provide staff and applicants a readable and concise method for determining fence and wall requirements, as well as adding graphics that visually depict certain requirements.

#### **STAFF RECOMMENDATION:**

Passage of the ordinance.

#### **PLANNING COMMISSION ACTION:**

This item was considered at the April 3, 2023 Planning Commission meeting. A public hearing was held. One resident that lives on a corner lot spoke at the public hearing and discussed her wish to enclose more of her street-side sideyard within a fence. The Commission discussed fence setbacks in relation to retaining walls, the massing and appropriate design of fencing when used in conjunction with retaining walls, and corner lot fence locations.

Chairman Poss entertained a motion to recommend **APPROVAL** amending the Unified Development Code for regulations related to fences, walls, and retaining walls with the following revisions to staff's proposal:

1. When retaining walls include fences on top of the retaining wall or within close proximity of the retaining wall, the total height of the combined retaining wall and fence shall not be greater than 10 feet.
2. Fences installed along the street-side, sideyard 15-foot setback may be made of opaque materials up to the rear corner of a house in residential instances, but a fence shall be open-style if the fence is in front of the rear corner of the house.

Moved by Commissioner Burson, seconded by Commissioner Handley, and carried by a unanimous voice vote.

#### **VISION / GUIDING PRINCIPLES ALIGNMENT:**

**Vision 2040**  
Vibrant Neighborhoods

**Guiding Principles**  
Superior Quality Services

#### **ATTACHMENTS**

1. PC Staff Report
2. Correspondence
3. PC Draft Minutes Excerpt
4. UDC Amendment - Post-PC Edited Version
5. Ordinance located in the Appendix

## UDC AMENDMENT: FENCES, WALLS, AND RETAINING WALLS

<b>Project #:</b>	UDC23-01	<b>Location:</b>	City-wide
<b>Applicant:</b>	City of Lenexa, Kansas	<b>Project Type:</b>	Text Amendment
<b>Staff Planner:</b>	Stephanie Kisler	<b>Code Sections:</b>	<a href="#">4-1-B-24-F-5</a> , <a href="#">4-3-B-7</a> , <a href="#">4-3-B-24</a>



### PROJECT SUMMARY

Staff proposes an amendment to the Unified Development Code (UDC) related to regulations for fences, walls, and retaining walls. The proposed amendments also include updates to definitions related to fences, walls, and retaining walls. The proposed amendments to 4-1-B-24-F-5 will replace the current section entirely while the amendments to 4-3-B-7 and 4-3-B-24 will revise or delete definitions. Staff will provide a presentation of the draft amendments (page 2-7 of this Staff Report) at the Planning Commission meeting. This project requires a Public Hearing.

The proposed draft incorporates the following:

- Allowing fences beyond the front building line on the street-side side yard on corner lots when no safety issues are present
- New requirements related to fences used in conjunction with retaining walls
- New requirements for tiering tall retaining walls
- Allowing a code deviation process for fences, walls, and retaining walls
- General simplification and clarification of existing regulations
- Codifying best practices

### STAFF RECOMMENDATION: APPROVAL



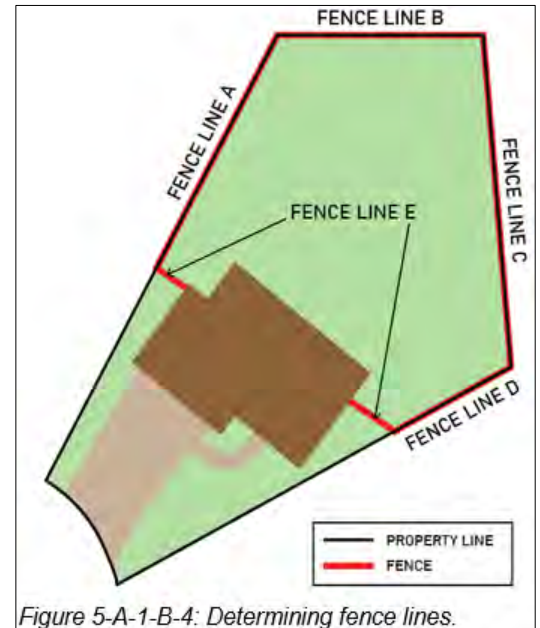
## PROPOSED UDC SECTION 4-1-B-24-F-5

### 5. Fences, Walls, and Retaining Walls

#### a. General

##### 1. Permit Requirements

- a. New or Replacement Fence, Wall, or Retaining Wall: All new and replacement fences, walls, or retaining walls require a permit prior to construction. The permit application shall include a scaled and dimensioned plot plan showing the proposed fence, wall, or retaining wall along with all property lines, easements, setbacks, and structures. The permit application shall also include details about the proposed fence, wall, or retaining wall, including materials, heights, and design. Additional information may be required on a case-by-case basis.
- b. Exceptions to Permit Requirement: A permit is not required in the following instances:
  1. When installing a decorative fence or wall in accordance with Section 4-1-B-24-F-5-b.
  2. When installing an agricultural fence or wall in accordance with Section 4-1-B-24-F-5-b.
  3. When installing a retaining wall 4 feet or less in height in accordance with Section 4-1-B-24-F-5-b.
  4. When replacing less than 50% of a single fence line with the same fence materials, height, and design, in the same location as the fence was previously permitted. See *Figure 5-A-1-B-4*.
  5. Replacing a fence, wall, or retaining wall that was removed in order to complete work within an easement with the same materials, height, and design, in the same location as was previously permitted.
  6. Replacing non-structural components of an existing fence or wall, such as pickets.

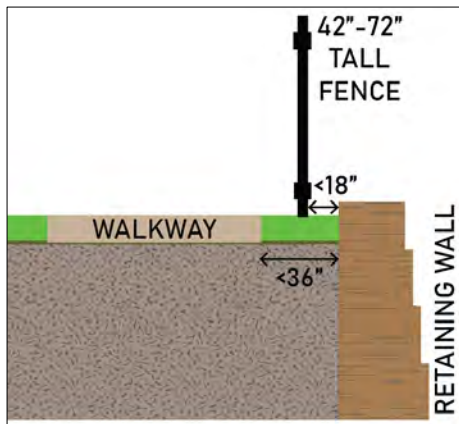


*Figure 5-A-1-B-4: Determining fence lines.*

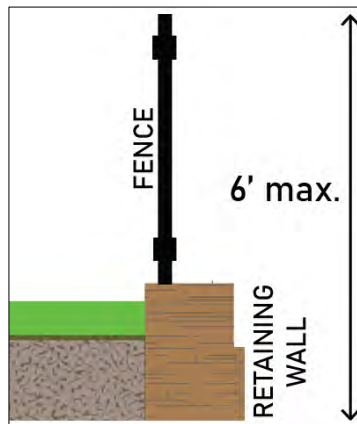
##### 2. Design and Installation Standards

- a. Materials must be durable and suitable for year-round outdoor conditions.
- b. Fence and wall posts shall be set in concrete footings with a minimum depth of 18 inches.
- c. Fences, walls, and retaining walls must be installed with the finished side facing outward and supporting elements on the inside, when applicable.
  1. The Community Development Director shall have the authority to waive the requirement that a fence be constructed with a finished side facing outward from the property in unique situations where the topography, vegetation, or other site conditions screen the fence from the affected neighboring property.
- d. Retaining walls that retain in excess of 48 inches of unbalanced fill shall be designed and installed to ensure stability against overturning, sliding, excessive foundation pressure, rotational failure, and water uplift. Design should provide a minimum safety factor of 1.5 against sliding, overturning, and rotational failure. Retaining walls shall be designed to support lateral loads.

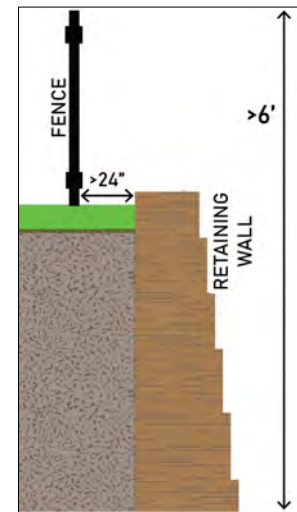
- e. Retaining walls that will be either periodically or permanently inundated with water must be appropriately designed to withstand said inundation.
- f. All fences, walls, and retaining walls shall be constructed to allow for proper surface drainage.
- g. Retaining Walls with Fences on Top:
  1. Retaining walls do not require a fence on top of them unless they are within three feet of a walkway and there is a drop of 30 inches or more. In that case, a fence with a minimum height of 42 inches to a maximum height of 72 inches is required to be installed directly on top of or within 18 inches of the retaining wall. See *Figure 5-A-2-E-1*. The Community Development Director shall have the authority to approve an alternative barrier, such as shrubbery, in certain circumstances.
  2. In cases where a retaining wall is not within three feet of a walkway:
    - i. If the combination of fencing and retaining wall is equal to or less than 6 feet tall when measured on the outside of the retaining wall, then a fence may be installed directly on top of the retaining wall. See *Figure 5-A-2-E-2-I*.
    - ii. If the combination of fencing and retaining wall is greater than 6 feet tall when measured on the outside of the retaining wall, then a fence may be installed if it is at least 24 inches from the top of the retaining wall. See *Figure 5-A-2-E-2-II*.



*Figure 5-A-2-E-1: Requirement for fence when retaining wall is adjacent to walkway.*



*Figure 5-A-2-E-2-I: Requirement for fence location when retaining wall is not adjacent to walkway.*



*Figure 5-A-2-E-2-II: Requirement for fence location when retaining wall is not adjacent to walkway and fence + wall is taller than six feet.*

- h. Easements:
  1. Fences, walls, and retaining walls proposed within any easement require approval from the applicable entity.
  2. Fences, walls, and retaining walls must be installed in a manner that will allow access to dedicated easements. A gate may be required to provide necessary access.
  3. Easements for retaining walls must be of sufficient width to allow for maintenance of said wall to be performed fully within the easement.
  4. If the Community Development Director, or their designee, determines that any fence, wall, or retaining wall is negatively impacting any easement then the Community

Development Director shall have the authority to require the relocation or removal of the fence, wall, or retaining wall.

5. Fences, walls, and retaining walls constructed within City or private easements may be altered or removed to allow access to utilities. The property owner shall be responsible for the reconstruction and replacement of any fences, walls, and retaining walls that are altered or removed.
6. Drainage Easements:
  - i. Walls and retaining walls are prohibited within drainage easements.
  - ii. Fences are generally prohibited within drainage easements; however, fences may be allowed on a case-by-case basis depending on the impact on drainage. Fences allowed within a drainage easement for conveyance must be open-style and have a minimum of 4 inches clearance between the bottom of the fence pickets and grade.
7. Landscape Easements: Fences, walls, and retaining walls proposed within landscape easements are subject to review and may be allowed on a case-by-case basis for the purpose of providing decorative buffering features between private property and public rights-of-way with collector, arterial, and freeway road classifications.
- i. Swimming Pool and Hot Tub Enclosures: Swimming pool and hot tub enclosures shall be installed pursuant to the standards of Section 4-1-B-24-F.



## b. Fence, Wall, and Retaining Wall Requirements

Type	Zoning Districts Allowed	Is a Permit Required?	Maximum Height Allowed	Location Allowed	Materials Allowed
Fence/Non-Retaining Wall on Residential Property	All residential zoning districts and mixed-use districts that include residential uses	Yes	6'	<ul style="list-style-type: none"><li>May be located on the side and rear<sup>1</sup> property lines</li><li>Front yard: Cannot be closer to the front property line(s) than the front of the constructed building</li></ul>	<ul style="list-style-type: none"><li>Wood</li><li>Aluminum</li><li>Steel</li><li>Wrought Iron</li><li>PVC</li><li>Chain-Link</li><li>Masonry</li><li>Stone</li><li>Concrete</li></ul>
Fence/Non-Retaining Wall on Non-Residential Property	All non-residential zoning districts and mixed-use districts that do not include residential uses	Yes	10'	<ul style="list-style-type: none"><li>Corner lots: Along a street-side side property line the fence or wall may encroach up to a setback of 15' from the street-side side property line<sup>2</sup> (See <i>Figure 5-B-1</i>)</li></ul>	
Agricultural Fence/ Non-Retaining Wall	AG for agricultural purposes	No	6'	<ul style="list-style-type: none"><li>May be located anywhere on the property</li></ul>	
Decorative Fence/ Non-Retaining Wall	All zoning districts	No	3'	<ul style="list-style-type: none"><li>≤ 75% of the lot width. Cannot fully enclose the yard</li><li>May be located anywhere on the property</li></ul>	
Recreational Fence/ Non-Retaining Wall	All zoning districts	Yes	6' for private swimming pools; 10' for other uses	<ul style="list-style-type: none"><li>6' fence or wall may be located on side and rear property lines</li><li>&gt;6' fence or wall must be minimum 15' setback from property lines</li><li>Cannot be closer to the front property line than the front of the constructed building</li></ul>	
Underground Electric Fence	All zoning districts	No	n/a	<ul style="list-style-type: none"><li>May be located anywhere on the property</li></ul>	Underground electric fencing
Security Fence (Barbed Wire)	AG for agricultural purposes	No	8'	<ul style="list-style-type: none"><li>May be located anywhere on the property</li></ul>	Barbed Wire
	BP-1, BP-2, BP-S	Yes	18"	<ul style="list-style-type: none"><li>On top of fences with a 6' minimum height</li></ul>	3 Horizontal Strands of Barbed Wire
	All zoning districts	Yes	Per Planning Commission approval in conjunction with a site plan or Special Use Permit		Barbed Wire
Razor Ribbon	Prohibited				
Retaining Wall < 4' Tall <sup>3</sup>	All zoning districts	No	4' of wall from the bottom of the footing to the top of the wall; shall not be > 6" above retained surface	<ul style="list-style-type: none"><li>May be located anywhere on the property with minimum 2' setback from property lines</li></ul>	<ul style="list-style-type: none"><li>Masonry</li><li>Stone</li><li>Concrete</li></ul>
Retaining Wall ≥ 4' Tall <sup>3</sup>	All zoning districts	Yes	10' of exposed wall per tier; shall not be > 6" above retained surface	<ul style="list-style-type: none"><li>May be located anywhere on the property with minimum 2' setback from property lines; however, a greater setback may be required depending on the design of the retaining wall</li><li>Tiers shall be at least 36" deep</li></ul>	

<sup>1</sup> *Rear Setback: Fences constructed within a designated residential fence/wall buffer area or land use buffer area must comply with the location shown on the approved plan. On a double-frontage lot where the rear property line abuts a collector or local street and where a house on adjacent property fronts on that street or where adjacent property has the potential to be subdivided into a lot which fronts on that street, the rear yard fence of the double-frontage lot shall be located no closer to the abutting street than a line established by the platted front building line of the adjacent property or, if unplatted, the distance from the street to the required front building line. However, the Community Development Director shall have the authority to reduce the required rear fence setback for such a double-frontage lot, provided that safe visibility at driveways, the view to the street for the neighboring properties, and the general character of the neighborhood along the street are maintained. This determination shall*

take into consideration the height and opaqueness of the proposed fence, the difference in elevation of the affected properties, and other existing site characteristics.

- <sup>2</sup> Provided that the fence or wall does not impede safe visibility for pedestrians and vehicles as determined by the Community Development Director.
- <sup>3</sup> Retaining Wall Height: Height of a retaining wall is defined as the distance between the bottom of the footer to the top of the wall, regardless of the amount of exposed wall.

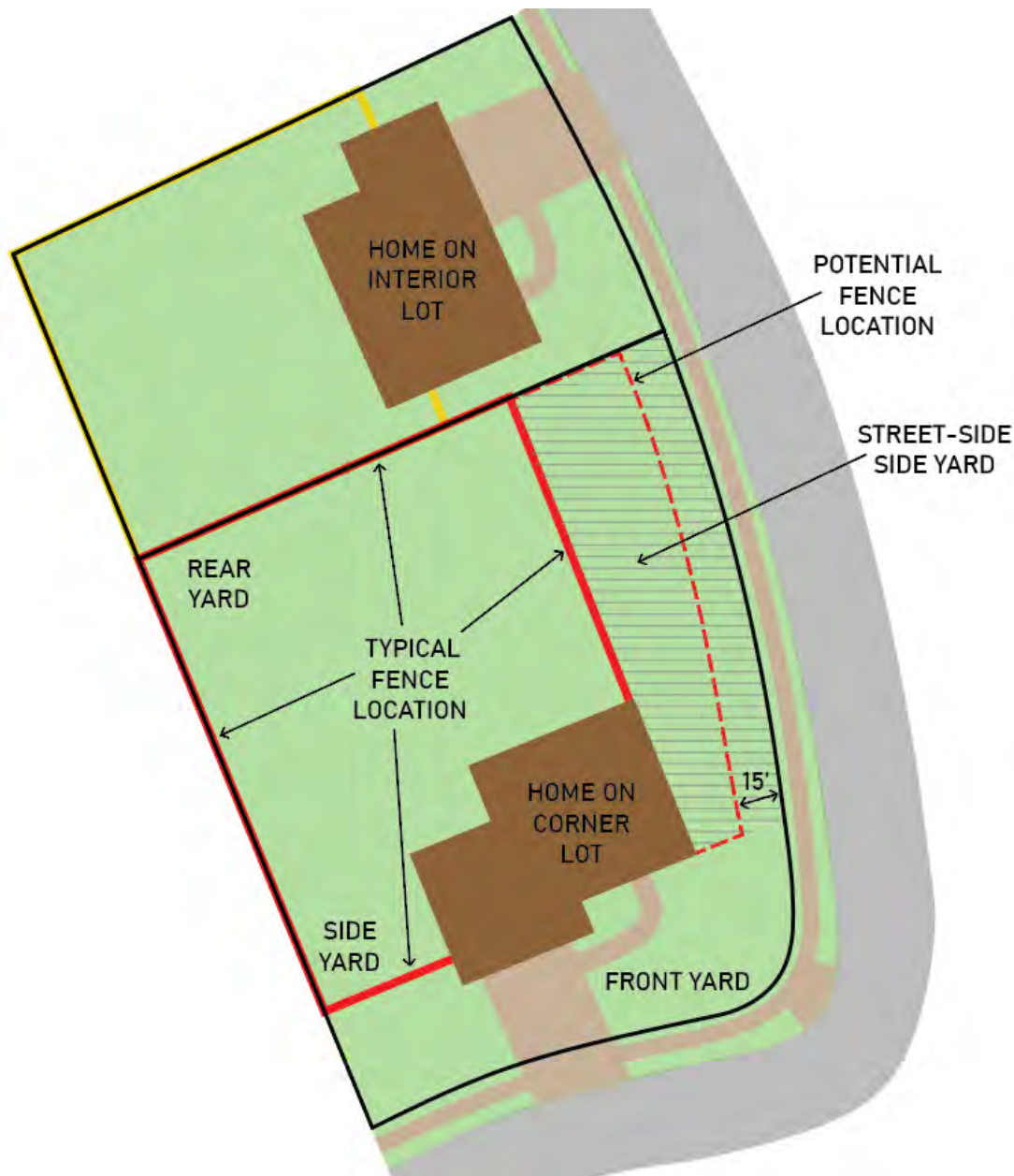


Figure 5-B-1: Corner lot fence location showing street-side side yard.

**c. Deviations from Strict Compliance**

1. Deviation Approval: It is recognized that site conditions vary greatly among sites and that the design, scale, and character of neighborhoods is varied. The Planning Commission shall have the authority to approve deviations from strict compliance with the regulations of this subsection at the time of project review for planned districts and the Community Development Director shall have the same authority for administrative plan and permit approvals, provided that the purpose and intent of this subsection is met. Deviations shall be clearly identified on plans submitted for plan and permit approval. The criteria to be considered by the Planning Commission and Community Development Director shall include, but not be limited to:
  - i. Purpose and intent of the Code.
  - ii. Impact on adjacent properties.
  - iii. Safety.
  - iv. Unique site conditions and constraints.
  - v. Promotion of high quality or unique design.
  - vi. Character of the neighborhood.

## PROPOSED DEFINITIONS WITHIN UDC SECTION 4-3-B-7

**FENCE/WALL**: An above-grade structure or barrier, usually constructed of wooden, metal, masonry, or fiberglass parts, and used to mark a boundary or to define and enclose a specific area for the purposes of protection, privacy, safety, or confinement.

**FENCE/WALL TYPES**:

**AGRICULTURAL**: A fence or wall structure installed for agricultural purposes, such as farming or keeping of livestock. Such fencing includes, but is not limited to split rail, electric fencing, and barbed-wire fencing.

**DECORATIVE**: An open-style fence or wall structure used in a manner which is designed to add to the aesthetics or attractiveness of the lot or tract upon which it is placed, rather than as an enclosure or barrier. Railings along or adjacent to front stoops, porches, steps, landings, culverts, bridges, or sidewalks, shall not be considered as decorative fences.

**RECREATIONAL**: A fence or wall used in conjunction with basketball courts, tennis courts, racquetball courts, softball/baseball fields, school playgrounds, swimming pools, or other similar recreational areas.

**RESIDENTIAL BUFFERS**: A fence or wall placed within a residential fence/buffer.

**SWIMMING POOLS/HOT TUB ENCLOSURES**: A fence or wall used to enclose a swimming pool or hot tub.

**TRANSITION BUFFER**: A wall or fence placed within a transition buffer.

**WALL, RETAINING**: A structure or barrier situated at or below grade, usually constructed of masonry, used to retain earth.

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## PROPOSED DEFINITIONS WITHIN UDC SECTION 4-3-B-24

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**WALL**: See "FENCE/WALL".

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## REVIEW PROCESS

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- This project requires a recommendation from the Planning Commission and final approval by the City Council. Pending a recommendation from the Planning Commission, the project is tentatively scheduled for consideration from the City Council on April 18, 2023.

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## RECOMMENDATION FROM PROFESSIONAL STAFF

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- ★ **Conduct a Public Hearing.**
- ★ **Staff recommends approval of the proposed Text Amendment to Sections 4-1-B-24-F-5, 4-3-B-7, and 4-3-B-24 of the UDC.**
  - The project is consistent with Lenexa's goals by providing ***Superior Quality Services*** and ***Sustainable Policies and Practices*** to create ***Inviting Places***.

## TEXT AMENDMENT

Staff recommends **approval** of a Text Amendment to Sections 4-1-B-24-F-5, 4-3-B-7, and 4-3-B-24 of the Unified Development Code relating to regulations for fences, walls, and retaining walls as drafted within the Staff Report.



Dear Planning Commission,

Last year my husband and I purchased a home in The Reserve Community. You may remember me from appearing before you last July in hopes to have a fence project approved. We have three girls (7,3 and 1) and have just welcomed a baby boy into the family last month. We have enjoyed living in Lenexa especially in our new neighborhood.

As I stated last year, our home is on a corner lot with the backyard sloping downward to a drain easement. Although the backyard slopes downward it was never a concern because we sit on a large corner lot and the side yard is flat along the side of the home.



(Photo from our back patio. The yard slopes downward away from the street and down from our patio into a drain behind the tree just planted on the right side of the photo)

We began the process of hiring a fencing company and submitted our plans to the HOA for approval. The HOA and the builder reviewed our plans and gave their stamp of approval for the fence project.

This is an outline of what was approved by the HOA and Inspired Homes.

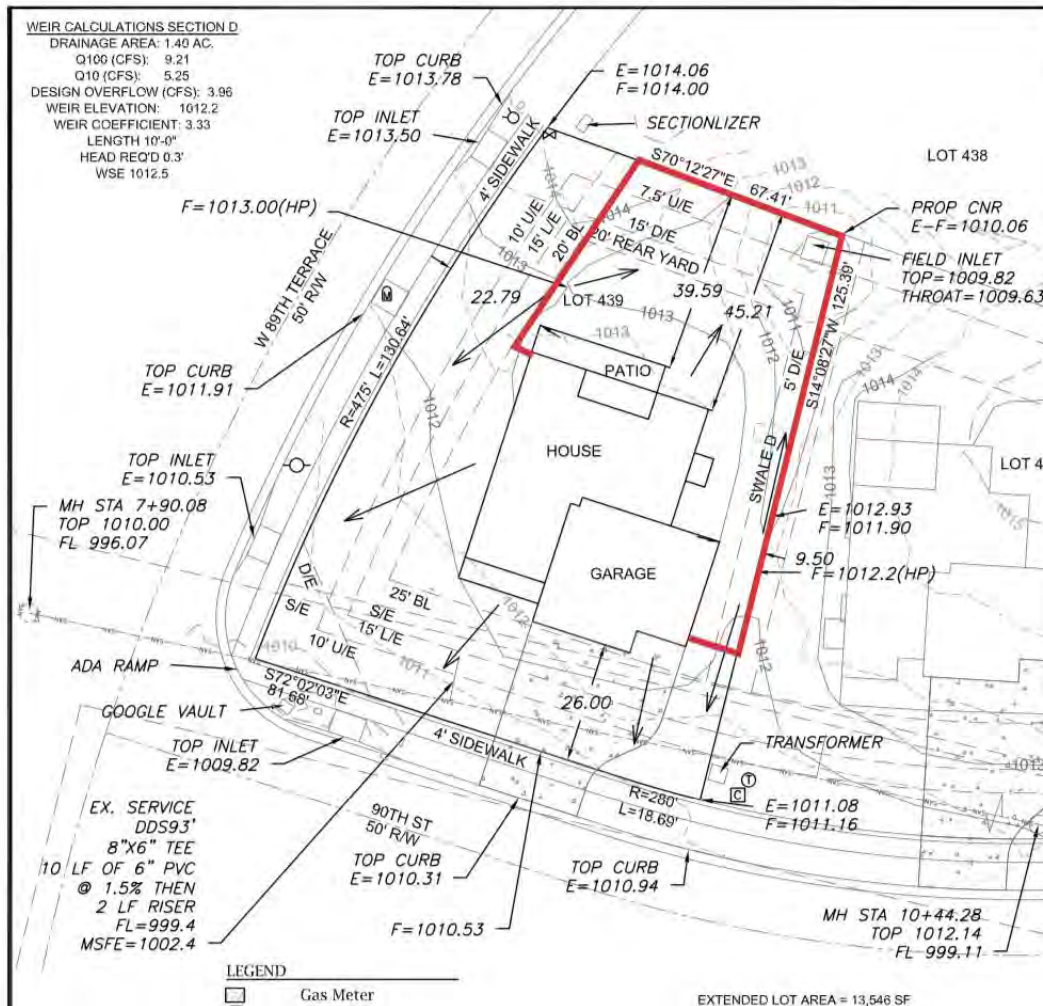


When we went to obtain the permit we were denied and told that this photo below is the only space allowed, per code , to be fenced in.

(41-B-24-F-5-b, "fences and walls shall be located no closer to the side lot line than the side yard setback line of residential corner lots which adjoin interior lots that front or face onto a side street." Your fence plan was denied because it does not meet this standard.)



It is clear the intent of the code is to protect the adjacent properties and for there to be a clear line of sight of the sidewalk, street and driveway for all traffic on the road and driveway, as well as all pedestrian traffic.



As you can see, the biggest difference between the two plans are the top left corner of the backyard and the entire side yard are not included in the approved plan.

As stated in the beginning, the only flat space around the home because of the easement is on the side along the road. With children as young as ours we are hoping to capture as much of our property inside the fence as possible for them to enjoy.

Upon researching the denial further I realize the intent of the code is to protect the adjacent properties. This is understandable but in our situation does not apply.

The material our contractor will be using is 4 ft steel and will visibly not hinder at all. It will look like this fence.





There is only one home behind us that has a driveway close to where the fence would be and their home is up the hill.

See photo below.



In this photo I am standing in their driveway and I have a full view of the street. The proposed project would be 16 ft from the curb and would not obstruct their view.

Photo below is of the view from the corner in front of our home up to neighbors driveway





It is clear that the elevation difference and the distance from the driveway to the proposed fence location could not at any time impede safe pedestrian or automobile travel.

The materials used will be congruent with the other fences near by so will not take away from the overall look of the community.

The large corner lot was one of the selling points for us when we signed on this home. It is truly ideal when you can send your children out to play and know they have room to safely roam. With our home being along one of the busier streets and right next to the community mailbox there is bound to be more traffic than if we were in a different location. We are a homeschooling family which gives us the opportunity to be outside enjoying our yard more than some. However, it is difficult currently not having a fence and would be frustrating to lose half of our space if we went ahead and fenced in what is currently allowed.

After spending the last eight months without a fence I can truly say that this amendment to this code and the approval of this project would be a game changer for our family and I believe many like ours! The difference between what we proposed and what was approved by the city the first time is significant!

We have been patiently waiting hoping for another chance to appear before you and represent the citizens of Lenexa who may also be affected by this change.

We understand that code is written with specific intent and it appears the amendment to this specific code would allow residents to have more freedom over their side yard property. This change would undoubtedly improve the overall quality of the homes on corner lots.

Our fence project, with the side yard included, would provide our children a safe (flat) space to play and would not at all take away from the safety of our neighbors.

Thank you (again) for your consideration,

Amanda Williams

Explanation in video:

 [23600W90th.mov](#)



## 9. Proposed Amendment to the Unified Development Code - Regulations related to fences, walls, and retaining walls

### STAFF PRESENTATION:

Stephanie Kisler presented staff's report and began by providing a summary of the objectives. Because of some of the questions and varying permit requests concerning fences, staff wanted to update the City's code. Staff also wanted to codify best practices for fences, walls, and retaining walls. There are some new requirements for fences, walls and retaining walls both residential and nonresidential. There is also a new deviation process being proposed. She summarized the six reasons of exemption from permit requirement. She stated one of the standards, if replacing less than 50% of the fence line, you do not need a permit, but it will need to be the same materials and height. She pointed out other standards pertaining to fences and retaining walls. She showed three graphics explaining the proposed code requirements. The first example showed dimension requirements for a walkway and retaining wall for the fence and the distance between. The middle graphic showed a height maximum for a fence on top of a retaining wall. The third image showed if a retaining wall is taller than six feet, the fence needs to be more than 24 inches away for safety reasons. Ms. Kisler showed several examples of fencing and retaining walls in Lenexa.

Chairman Poss asked what is driving the 2 foot setback requirement for retaining walls taller than 6-foot. He asked how they would mow that 2-foot strip. Ms. Kisler said it would just be the privacy fence that would require the 2-foot setback from the retaining wall. Mr. McCullough asked Ms. Kisler to go back to her diagrams to discuss the setbacks requirements further. He noted a case that a homeowner wanted privacy for their pool. He said they are trying to balance the appearance of the wall by reducing the overall height, also trying to effect when there must be a fence on top and what the aesthetic looks like. Chairman Poss said the code is geared more towards commercial construction. Mr. McCullough said it deals with the perimeter of the subdivision for residential developments. They discussed possible option requirements for fence setbacks and retaining walls.

Ms. Kisler showed a table to make things more understandable. She pointed out the changes from the current code to what is now being proposed for amendment. Mr. McCullough stated that the big picture is to open things up for the community and also to bring some fences into conformity. Ms. Kisler showed more aerial and street view examples of fences with corner lots, angled properties, cul-de-sacs, parallel lots. She pointed out that when we allow fences to encroach within a typical front yard, it encourages residents to put other objects within that fenced area.

Ms. Kisler provided an example of corner lot fence location from a former fence appeal. She explained to the Commissioners that they could talk about what they would like to have in the code and staff can revise the draft language as needed. Ms. Kisler talked about the process and stated the Planning Commission would review deviation requests at the time of a plan approval, but it would otherwise go through an administrative process by seeking the director's approval. Mr. McCullough stated staff is trying to clarify the issue with deviation and fence appeals that are requested. When a deviation is denied by staff, the applicant may then go through the Board of Zoning Appeals process to acknowledge whether the Staff correctly applied the City's code.

### PUBLIC HEARING:

Chairman Poss **OPENED** the Public Hearing and asked if anyone wished to speak on this item.

Amanda Williams, 23600 West 90<sup>th</sup> Street, said her family wants to make more room in their yard for the four kids to play. She said the issue was the layout of their yard and that the flat space on their property is along the side of their home. The back of their yard is sloped so the kids are unable to fully utilize it as

a play area. She explained the layout of her corner lot home and how the code affects her current situation. She stated her Homeowners Association (HOA) only allows the 4-foot open-style fencing.

Chairman Poss entertained a motion to **CLOSE** the Public Hearing. Moved by Commissioner Horine, seconded by Commissioner Woolf, and carried by a unanimous voice vote.

### PLANNING COMMISSION DISCUSSION:

Commissioner Burson commented that if the amended regulations were made the most stringent, there would always be allowances for conditions. Staff would have the ability to make more decisions that are in-line with what we want as a city without coming before the Planning Commission.

Mr. McCullough suggested the amendment be updated before submittal to the Governing Body for their approval.

Commissioner Horine said he was ok with staff updating the amendment accordingly between the Planning Commission meeting and Governing Body meeting without having the amendment return to the next Planning Commission meeting.

### MOTION:

Chairman Poss entertained a motion to recommend **APPROVAL** amending the Unified Development Code for regulations related to fences, walls, and retaining walls with the following revisions to staff's proposal:

1. When retaining walls include fences on top of the retaining wall or within close proximity of the retaining wall, the total height of the combined retaining wall and fence shall not be greater than ten (10) feet.
2. Fences installed along the street-side side yard 15' setback may be made of opaque materials up to the rear corner of a house in residential instances, but a fence shall be open-style if the fence is in front of the rear corner of the house.

Moved by Commissioner Burson, seconded by Commissioner Handley, and carried by a unanimous voice vote.

## PROPOSED UDC SECTION 4-1-B-24-F-5

### 5. Fences, Walls, and Retaining Walls

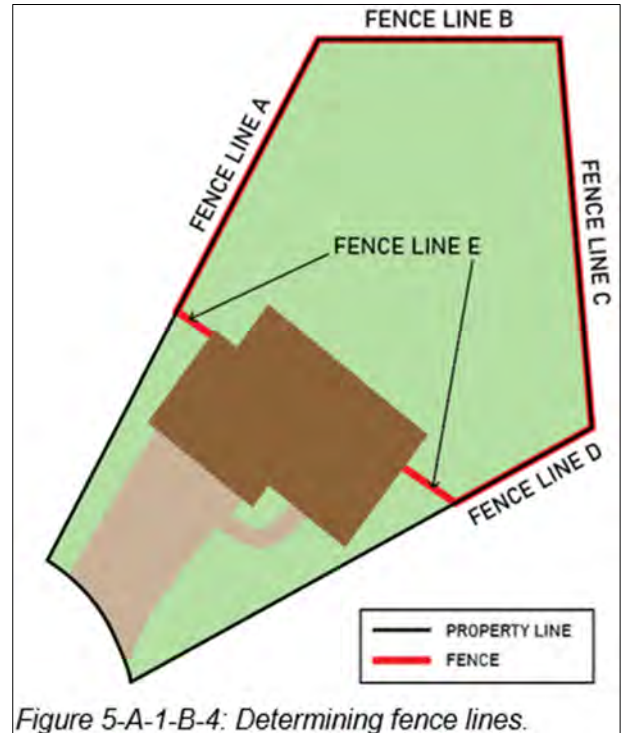
#### a. General

##### 1. Permit Requirements

- a. New or Replacement Fence, Wall, or Retaining Wall: All new and replacement fences, walls, or retaining walls require a permit prior to construction. The permit application shall include a scaled and dimensioned plot plan showing the proposed fence, wall, or retaining wall along with all property lines, easements, setbacks, and structures. The permit application shall also include details about the proposed fence, wall, or retaining wall, including materials, heights, and design. Additional information may be required on a case-by-case basis.

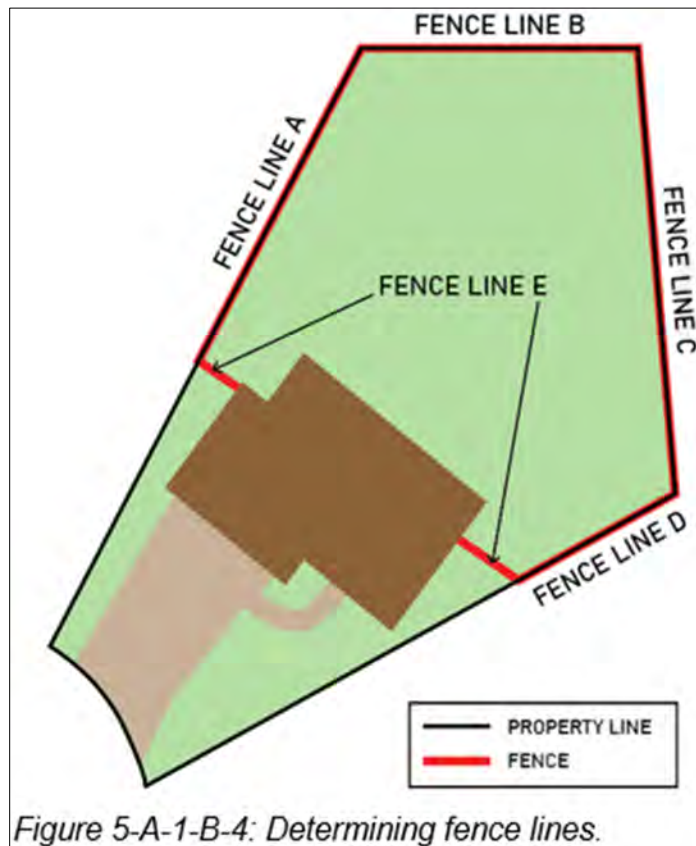
- b. Exceptions to Permit Requirement: A permit is not required in the following instances:

1. When installing a decorative fence or wall in accordance with Section 4-1-B-24-F-5-b.
2. When installing an agricultural fence or wall in accordance with Section 4-1-B-24-F-5-b.
3. When installing a retaining wall ~~4 feet or less~~ than 4 feet in height in accordance with Section 4-1-B-24-F-5-b.
4. When replacing less than 50% of a single fence line with the same fence materials, height, and design, in the same location as the fence was previously permitted. See *Figure 5-A-1-B-4*.
5. Replacing a fence, wall, or retaining wall that was removed in order to complete work within an easement with the same materials, height, and design, in the same location as was previously permitted.
6. Replacing non-structural components of an existing fence or wall, such as pickets.



*Figure 5-A-1-B-4: Determining fence lines.*





## 2. Design and Installation Standards

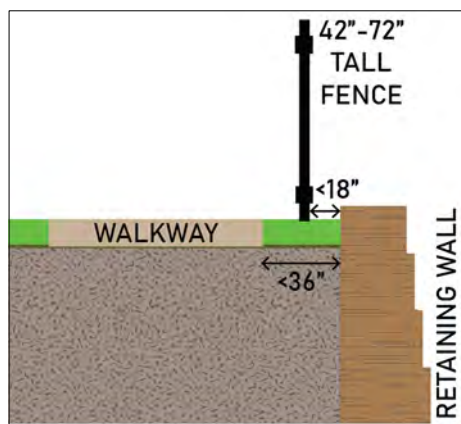
- a. Materials must be durable and suitable for year-round outdoor conditions.
- b. Fence and wall posts shall be set in concrete footings with a minimum depth of 18 inches.
- ~~e.~~ Fences, walls, and retaining walls must be installed with the finished side facing outward and supporting elements on the inside, when applicable.
- ~~4-c.~~ The Community Development Director shall have the authority to waive the requirement that a fence be constructed with a finished side facing outward from the property in unique situations where the topography, vegetation, or other site conditions screen the fence from the affected neighboring property.
- d. Retaining walls that retain in excess of 48 inches of unbalanced fill shall be designed and installed to ensure stability against overturning, sliding, excessive foundation pressure, rotational failure, and water uplift. Design should provide a minimum safety factor of 1.5 against sliding, overturning, and rotational failure. Retaining walls shall be designed to support lateral loads.
- e. Retaining walls that will be either periodically or permanently inundated with water must be appropriately designed to withstand said inundation.
- f. All fences, walls, and retaining walls shall be constructed to allow for proper surface drainage.
- f.g. Fence Requirement with Retaining Wall: A fence with a height between 42 inches and 72 inches is required to be installed directly on top of or within 18 inches of a retaining wall when the retaining wall is within three feet of a walkway and there is a drop of 30 inches or more. The Community Development Director shall have the authority to approve an alternative barrier, such as shrubbery, in certain circumstances.
- g. Retaining Walls with Fences on Top:
  - ~~1. Retaining walls do not require a fence on top of them unless they are within three feet of a walkway and there is a drop of 30 inches or more. In that case, a fence with a~~

~~minimum height of 42 inches to a maximum height of 72 inches is required to be installed directly on top of or within 18 inches of the retaining wall. See Figure 5-A-2-E-1. The Community Development Director shall have the authority to approve an alternative barrier, such as shrubbery, in certain circumstances.~~

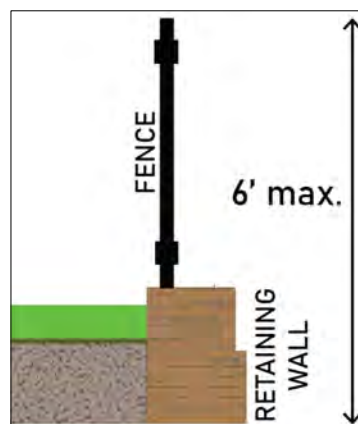
~~2. In cases where a retaining wall is not within three feet of a walkway:~~

~~2. If the combination of fencing and retaining wall is equal to or less than 6 feet tall when measured on the outside of the retaining wall, then a fence may be installed directly on top of the retaining wall. See Figure 5-A-2-E-2-I. If the combination of fencing and retaining wall is equal to or less than 6 feet tall when measured on the outside of the retaining wall, then a fence may be installed directly on top of the retaining wall. See Figure 5-A-2-E-2-I.~~

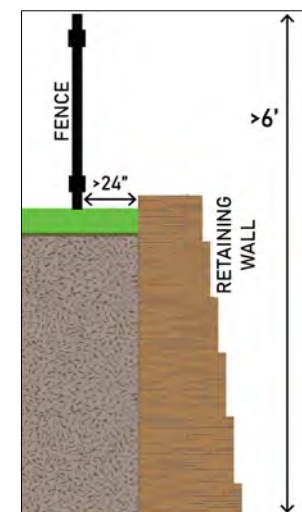
~~3. If the combination of fencing and retaining wall is greater than 6 feet tall when measured on the outside of the retaining wall, then a fence may be installed if it is at least 24 inches from the top of the retaining wall. See Figure 5-A-2-E-2-II.~~



~~Figure 5-A-2-E-1: Requirement for fence when retaining wall is adjacent to walkway.~~



~~Figure 5-A-2-E-2-I: Requirement for fence location when retaining wall is not adjacent to walkway.~~



~~Figure 5-A-2-E-2-II: Requirement for fence location when retaining wall is not adjacent to walkway and fence + wall is taller than six feet.~~

h. Easements:

1. Fences, walls, and retaining walls proposed within any easement require approval from the applicable entity.
2. Fences, walls, and retaining walls must be installed in a manner that will allow access to dedicated easements. A gate may be required to provide necessary access.
3. Easements for retaining walls must be of sufficient width to allow for maintenance of said wall to be performed fully within the easement.
4. If the Community Development Director, or their designee, determines that any fence, wall, or retaining wall is negatively impacting any easement then the Community Development Director shall have the authority to require the relocation or removal of the fence, wall, or retaining wall.
5. Fences, walls, and retaining walls constructed within City or private easements may be altered or removed to allow access to utilities. The property owner shall be

responsible for the reconstruction and replacement of any fences, walls, and retaining walls that are altered or removed.

6. Drainage Easements:

- i. Walls and retaining walls are prohibited within drainage easements.
- ii. Fences are generally prohibited within drainage easements; however, fences may be allowed on a case-by-case basis depending on the impact on drainage. Fences allowed within a drainage easement for conveyance must be open-style and have a minimum of 4 inches clearance between the bottom of the fence pickets and grade.

7. Landscape Easements: Fences, walls, and retaining walls proposed within landscape easements are subject to review and may be allowed on a case-by-case basis for the purpose of providing decorative buffering features between private property and public rights-of-way with collector, arterial, and freeway road classifications.

- i. Swimming Pool and Hot Tub Enclosures: Swimming pool and hot tub enclosures shall be installed pursuant to the standards of Section 4-1-B-24-F.



b. Fence, Wall, and Retaining Wall Requirements by Type

Table 1: Fence, Wall, and Retaining Wall Requirements by Type					
Type	Zoning Districts Allowed	Is a Permit Required?	Maximum Height <sup>4</sup> Allowed	Location Allowed	Materials Allowed
Fence/Non-Retaining Wall on Residential Property	All residential zoning districts and mixed-use districts that include residential uses	Yes	6' <sup>3</sup>	<ul style="list-style-type: none"><li>• May be located on the side and rear <sup>1</sup> property lines</li><li>• Front yard: Cannot be closer to the front property line(s) than the front <u>wall</u> of the constructed building</li></ul>	<ul style="list-style-type: none"><li>• Wood</li><li>• Aluminum</li><li>• Steel</li><li>• Wrought Iron</li><li>• PVC</li><li>• Chain-Link (<u>without slats</u>)</li><li>• Masonry</li><li>• Stone</li><li>• Concrete</li></ul>
Fence/Non-Retaining Wall on Non-Residential Property	All non-residential zoning districts and mixed-use districts that do not include residential uses	Yes	10' <sup>3</sup>	<ul style="list-style-type: none"><li>• Corner lots: Along a street-side side property line the fence or wall <del>may encroach up to a</del> <u>must be setback of minimum 15' setback</u> from the street-side side property line <sup>2</sup>. <del>(See Figure 5-B-1)</del></li></ul>	
Agricultural Fence/ Non-Retaining Wall	AG for agricultural purposes	No	6'	<ul style="list-style-type: none"><li>• May be located anywhere on the property</li></ul>	
Decorative Fence/ Non-Retaining Wall	All zoning districts	No	3'	<ul style="list-style-type: none"><li>• ≤ 75% of the lot width. Cannot fully enclose the yard</li><li>• May be located anywhere on the property</li></ul>	
Recreational Fence/ Non-Retaining Wall	All zoning districts	Yes	6' for private swimming pools; 10' for other uses	<ul style="list-style-type: none"><li>• 6' fence or wall may be located on side and rear property lines</li><li>• &gt;6' fence or wall must be minimum 15' setback from property lines</li><li>• Cannot be closer to the front property line than the front of the constructed building</li></ul>	
Underground Electric Fence	All zoning districts	No	n/a	<ul style="list-style-type: none"><li>• May be located anywhere on the property</li></ul>	<u>•</u> Underground electric fencing
Security Fence (Barbed Wire)	AG for agricultural purposes	No	8'	<ul style="list-style-type: none"><li>• May be located anywhere on the property</li></ul>	<u>•</u> Barbed Wire
	BP-1, BP-2, BP-S	Yes	18"	<ul style="list-style-type: none"><li>• On top of fences with a 6' minimum height</li></ul>	<u>•</u> 3 Horizontal Strands of Barbed Wire
	All zoning districts	Yes	Per Planning Commission approval in conjunction with a site plan or Special Use Permit		<u>•</u> Barbed Wire
Razor <del>Ribbon</del> Wire	Prohibited				
Retaining Wall <4' Tall <sup>4</sup>	All zoning districts	No	<del>≤4' of wall from the bottom of the footing to the top of the wall;</del> shall not be > 6" above retained surface	<ul style="list-style-type: none"><li>• May be located anywhere on the property with minimum 2' setback from property lines</li></ul>	<ul style="list-style-type: none"><li>• Masonry</li><li>• Stone</li><li>• Concrete</li></ul>
Retaining Wall ≥4' Tall <sup>4</sup>	All zoning districts	Yes	10' of exposed wall per tier; shall not be > 6" above retained surface	<ul style="list-style-type: none"><li>• May be located anywhere on the property with minimum 2' setback from property lines; however, a greater setback may be required depending on the design of the retaining wall</li><li>• Tiers shall be <u>separated by</u> at least 3' <del>6" deep</del></li></ul>	

- <sup>1</sup> *Rear Setback: Fences constructed within a designated residential fence/wall buffer area or land use buffer area must comply with the location shown on the approved plan. On a double-frontage lot where the rear property line abuts a collector or local street and where a house on adjacent property fronts on that street or where adjacent property has the potential to be subdivided into a lot which fronts on that street, the rear yard fence of the double-frontage lot shall be located no closer to the abutting street right-of-way than a line established by the platted front building line of the adjacent property or, if unplatted, the distance from the abutting street right-of-way to the required front building line. However, the Community Development Director shall have the authority to reduce the required rear fence setback for such a double-frontage lot, provided that safe visibility at driveways, the view to the street for the neighboring properties, and the general character of the neighborhood along the street are maintained. This determination shall take into consideration the height and opaqueness of the proposed fence, the difference in elevation of the affected properties, and other existing site characteristics.*
- <sup>2</sup> *Provided that the fence or wall does not impede safe visibility for pedestrians and vehicles as determined by the Community Development Director. Fence lines installed along a street-side side yard that connect or end anywhere other than in front of the back corner of the constructed building shall be open-style along that entire fence line. See Figure 5-B-1-A and Figure 5-B-1-B.*
- <sup>3</sup> *~~WO~~ when a fence or wall is located within 3' of or directly on top of a retaining wall, the ~~overall~~ height of the fence/wall plus the height top tier of the retaining wall shall not exceed an overall maximum height of 10'. See Figure 5-B-1-C.*
- <sup>4</sup> *Height Measurements.  
Fence/Wall Height: Fence/wall height is the vertical distance measured from the adjacent grade to the top of the fence posts or panels, whichever is higher.  
Retaining Wall Height: Height of a retaining wall for determining whether engineering is required is defined as the distance between the bottom of the ~~footer~~ footing to the top of the wall, regardless of the amount of exposed wall. Height of a retaining wall to in relation to maximum height allowed in Table 1 above is the vertical distance measured from the adjacent grade to the top of the wall.*



Figure 5-B-1-A

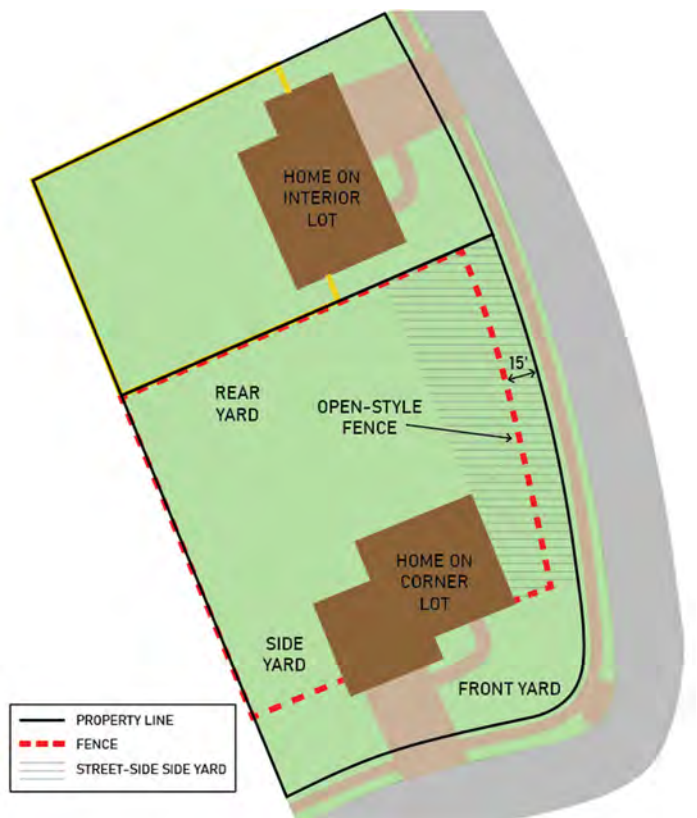


Figure 5-B-1-B

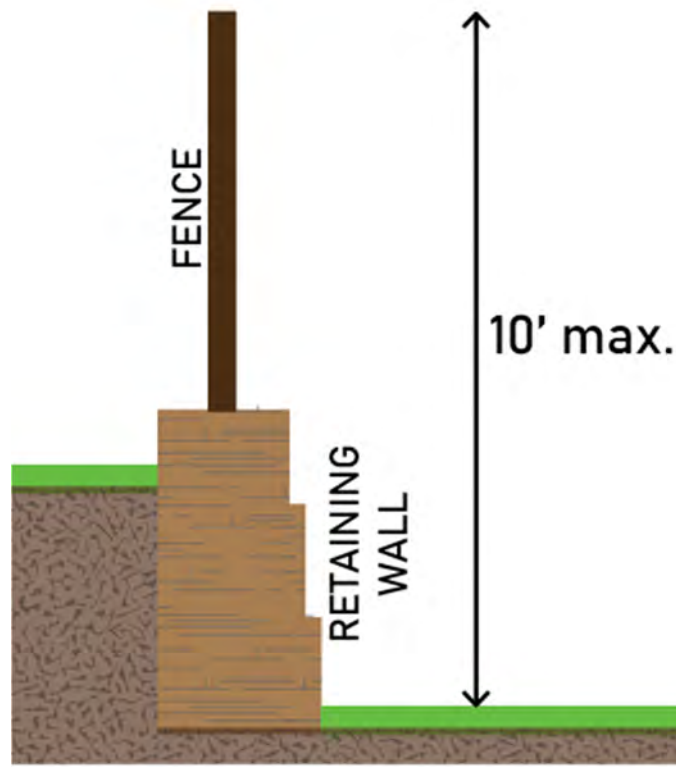


Figure 5-B-1-C



**c. Deviations from Strict Compliance**

1. Deviation Approval: It is recognized that site conditions vary greatly among sites and that the design, scale, and character of neighborhoods is varied. The Planning Commission shall have the authority to approve deviations from strict compliance with the regulations of this subsection at the time of initial project review for planned districts and the Community Development Director shall have the same authority for administrative plan and permit approvals, provided that the purpose and intent of this subsection is met. Deviations shall be clearly identified on plans submitted for plan and permit approval. The criteria to be considered by the Planning Commission and Community Development Director shall include, but not be limited to:
  - i. Purpose and intent of the Code.
  - ii. Impact on adjacent properties.
  - iii. Safety.
  - iv. Unique site conditions and constraints.
  - v. Promotion of high quality or unique design.
  - vi. Character of the neighborhood.

## PROPOSED DEFINITIONS WITHIN UDC SECTION 4-3-B-7

**FENCE/WALL**: An above-grade structure or barrier, usually constructed of wooden, metal, masonry, or fiberglass parts, and used to mark a boundary or to define and enclose a specific area for the purposes of protection, privacy, safety, or confinement.

**FENCE/WALL TYPES**:

**AGRICULTURAL**: A fence or wall structure installed for agricultural purposes, such as farming or keeping of livestock. Such fencing includes, but is not limited to split rail, electric fencing, and barbed-wire fencing.

**DECORATIVE**: An open-style fence or wall structure used in a manner which is designed to add to the aesthetics or attractiveness of the lot or tract upon which it is placed, rather than as an enclosure or barrier. Railings along or adjacent to front stoops, porches, steps, landings, culverts, bridges, or sidewalks, shall not be considered as decorative fences.

**OPEN-STYLE**: A fence, including gates, designed and constructed so that the surface area of any segment of such fence contains at least 50% open space as compared to solid materials.

**PRIVACY/SOLID**: A fence, including gates, designed and constructed so that the surface area of any segment of such fence is greater than 50% opaque.

**RECREATIONAL**: A fence or wall used in conjunction with basketball courts, tennis courts, racquetball courts, softball/baseball fields, school playgrounds, swimming pools, or other similar recreational areas.

**RESIDENTIAL BUFFERS**: A fence or wall placed within a residential fence/buffer.

**SWIMMING POOLS/HOT TUB ENCLOSURES**: A fence or wall used to enclose a swimming pool or hot tub.

**TRANSITION BUFFER**: A wall or fence placed within a transition buffer.

**WALL, RETAINING**: A structure or barrier situated at or below grade, usually constructed of masonry, used to retain earth.

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## **PROPOSED DEFINITIONS WITHIN UDC SECTION 4-3-B-24**

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**WALL**: See “FENCE/WALL”.





**CITY COUNCIL  
MEMORANDUM**

**ITEM 11**

**SUBJECT:** Consideration of establishing Project Plan 3H in the City Center Tax Increment Financing District (Advent Health Phase 1 - Hospital)

**CONTACT:** Sean McLaughlin, City Attorney

**DATE:** April 18, 2023

**ACTION NEEDED:**

- a. Conduct a public hearing;
- b. Pass an ordinance approving TIF Project Plan 3H by a 2/3 vote of the Governing Body; and
- c. Adopt a resolution approving the Disposition and Development Agreement (DDA) with Shawnee Mission Medical Center, Inc by a simple majority.

**PROJECT BACKGROUND/DESCRIPTION:**

After staff's presentation, the City Council will open a public hearing to consider approving Redevelopment (TIF) Project Plan 3H ("Project Plan 3H") located on 13.5 acres in the northwest corner of 86th Street & Renner Boulevard in the City Center TIF District ("District"). The City established the original district on September 11, 2001 and it was subsequently amended on December 20, 2005 to include 424 acres.

Project Plan 3H contemplates the construction of a 240,000 square foot medical center and a 54,000 square foot medical office building including associated site work, utilities, and structured parking facilities ("Private Project Improvements"). The Private Project Improvements will be performed by or on behalf of Shawnee Mission Medical Center, Inc d/b/a Advent Health ("Developer"). The TIF increment generated from the Project will be used to reimburse the Developer for a portion of its TIF eligible costs associated with the Private Project Improvements. The eligible costs, priority, and terms of reimbursement to the Developer for the Private Project Improvements are set forth in the DDA with the Developer.

Pursuant to the DDA, the Developer will receive 100% of the TIF revenues during the TIF term. The DDA also contains a number of performance standards. Some of the key provisions include substantial completion by June 30, 2027. The City is entitled to receive reimbursement of the Annual TIF Administrative Fee and the TIF Project Plan Fee prior to reimbursing 100% of TIF revenue to the Developer. The DDA uses the City's standard terms and is available for review in the City Clerk's office.

**FINANCIAL IMPLICATIONS/FUNDING SOURCES:**

Project Plan 3H identifies a maximum in private reimbursable TIF expenses of \$9,050,000. The feasibility study prepared by City staff conservatively estimates the Project Plan 3H area TIF increment of \$4,451,574 over the 20-year TIF Term. Some elements of the development, including the hospital, will be tax exempt and therefore not generate tax increments. The TIF increment plus other available private revenues and funds are expected to be sufficient to pay for the eligible reimbursable expenses. This is a

pay-as-you-go TIF, so reimbursement is only made to the extent TIF revenues are actually received by the City.

**STAFF RECOMMENDATION:**

Passage of the ordinance and adoption of the resolution.

**VISION / GUIDING PRINCIPLES ALIGNMENT:**

**Vision 2040**

Thriving Economy

**Guiding Principles**

Responsible Economic Development

**ATTACHMENTS**

1. Map
2. Ordinance
3. Resolution
4. Project Plan 3H located in the Appendix



Data Source: City of Lenexa and Johnson County Kansas  
For further information, please call 913-477-7500

## Advent Health Lenexa City Center City Center Project Plan 3H



0 150 300 600 Feet



**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE APPROVING AND ADOPTING REDEVELOPMENT PROJECT PLAN 3H WITHIN A REDEVELOPMENT DISTRICT IN THE CITY OF LENEXA, KANSAS GENERALLY REFERRED TO AS THE CITY CENTER TIF DISTRICT (ADVENT HEALTH PHASE 1 - HOSPITAL PROJECT)**

**WHEREAS**, pursuant to K.S.A. 12-1770 *et seq.*, as amended (the “Act”) cities are authorized to assist in the development and redevelopment of eligible areas located within cities in order to promote, stimulate and develop the general and economic welfare of the state of Kansas and its communities; and

**WHEREAS**, in order to promote, stimulate and develop the general and economic welfare of the city of Lenexa, Kansas (“City”), the Lenexa City Council on September 11, 2001, adopted Ordinance No. 4427 establishing a Redevelopment District (the “Original District”) pursuant to the Act. The Original District was amended on December 20, 2005 by Ordinance No. 4824 to include a total of approximately 424 acres (the “District”) referred to as the City Center TIF District; and

**WHEREAS**, pursuant to the Act and the establishment of the District, the City in cooperation with the Lenexa Planning Commission prepared a Redevelopment Project Plan for an area within the District consisting of approximately 13.5 acres (“Project Plan 3H”) which was found by the Lenexa Planning Commission on March 6, 2023 to be consistent with the intent of the comprehensive plan for the development of the City and such findings are included in Planning Commission Resolution 2023-02; and

**WHEREAS**, the purpose of Project Plan 3H is for Shawnee Mission Medical Center, Inc. (the “Developer”) to construct or cause to be constructed an approximately 240,000 sq. ft. medical center and an approximately 54,000 sq. ft. medical office building including associated site work, utilities and parking facilities (the “Project”); and

**WHEREAS**, Project Plan 3H shall utilize the TIF increment generated from the Project within the Project Plan 3H area and associated appurtenances thereto (the “Project”) to reimburse Developer for various approved TIF eligible expenses associated with the Project, as described in more detail in Project Plan 3H and the associated Disposition & Development Agreement (“DDA”); and

**WHEREAS**, pursuant to Resolution No. 2023-029 adopted March 7, 2023, the City gave notice of its intent to consider Project Plan 3H and conduct a public hearing on the proposed Project Plan 3H at the City Council meeting on April 18, 2023 or as soon thereafter as it may be heard and notice was provided to the

Johnson County, Kansas Board of County Commissioners and the Board of Education of USD 512, all in accordance with the Act; and

**WHEREAS**, a feasibility study has been completed by City staff which indicates the benefits derived from Project Plan 3H are significant. Revenues from Project Plan 3H and other available revenues including private debt and equity are expected to be sufficient to pay for the eligible redevelopment project costs; and

**WHEREAS**, pursuant to the Act, Project Plan 3H, including a copy of the feasibility study and a description and map of the area to be redeveloped, has been on file in the office of the City Clerk and available for viewing during regular office hours; and

**WHEREAS**, Developer understands and agrees that it will be required to execute a DDA setting forth the terms for the implementation of Project Plan 3H. Such agreement shall be in substantially the same form as the City's standard form and address issues involved in the redevelopment project, including but not limited to, the eligible TIF expenses, priority and eligible amount for reimbursement, performance requirements, reimbursement procedures, and remedies upon default.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LENEXA, KANSAS:**

**SECTION ONE:** Redevelopment Project Plan 3H, a copy of which is on file and available for inspection in the office of the City Clerk, is hereby adopted and approved.

**SECTION TWO:** In accordance with the Act, following publication of this Ordinance, the City Clerk is authorized and directed to transmit a copy of the description of the land within the Redevelopment District, a copy of this Ordinance adopting Project Plan 3H and a map indicating the boundaries within the Redevelopment District to the County Clerk, County Assessor, County Treasurer and Board of County Commissioners of Johnson County, Kansas, and the Board of Education of Unified School District No. 512 of Johnson County, Kansas.

**SECTION THREE:** This Ordinance shall be in full force and effect from and after its passage by a 2/3 vote of the Governing Body and publication once in the official newspaper of the City.

**PASSED** by two-thirds vote of the Lenexa Governing Body this 18<sup>th</sup> day of April, 2023.

**SIGNED** by the Mayor this 18<sup>th</sup> day of April, 2023.

**CITY OF LENEXA, KANSAS**

[SEAL]

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Michael A. Boehm, Mayor

**ATTEST:**

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Jennifer Martin, City Clerk

**APPROVED AS TO FORM:**

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Sean McLaughlin, City Attorney



**RESOLUTION NO. 2023 - \_\_\_\_\_**

**A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT WITH SHAWNEE MISSION MEDICAL CENTER, INC. (ADVENT HEALTH PHASE 1 - HOSPITAL PROJECT)**

**WHEREAS**, on September 11, 2001, the City adopted Ordinance No. 4427 establishing a Redevelopment District generally referred to as the City Center TIF District ("Original District") which was amended by Ordinance No. 4824 on December 20, 2005 to incorporate a total area of approximately 424 acres, including all four corners of 87<sup>th</sup> Street Parkway and Renner Boulevard, as well as a tract of land located east of I-435 at 87<sup>th</sup> Street Parkway (the "City Center TIF District"); and

**WHEREAS**, the City identified multiple City Center development project areas located within the City Center TIF District, one area of which is located on the northwest corner of 87<sup>th</sup> Street Parkway and Renner Boulevard and is commonly referred to as "City Center North"; and

**WHEREAS**, pursuant to K.S.A. 12-1772, as amended, the City prepared Redevelopment Project Plan 3H for property located within City Center Lenexa (the "Project Plan"); and

**WHEREAS**, on April 18, 2023, the Governing Body adopted an ordinance approving the Project Plan which was found by the Lenexa Planning Commission on March 6, 2023 to be consistent with the intent of the comprehensive plan for the development of the City; and

**WHEREAS**, the Project Plan contemplates construction of an approximately 240,000 sq. ft. medical center and an approximately 54,000 sq. ft. medical office building including associated site work, utilities and parking facilities (the "Project"); and

**WHEREAS**, the City and Developer desire to enter into a Disposition & Development Agreement ("DDA") regarding the terms for implementation of Project Plan 3H including but not limited to reimbursement of costs associated with approved TIF eligible costs; the description of such eligible improvements/costs; and the procedures for and priority of reimbursement on a "pay as you go" basis, all as set forth in the DDA attached hereto as Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LENEXA, KANSAS:**

**SECTION ONE:** The City Council hereby approves and authorizes the Mayor to execute the Disposition and Development Agreement in substantially the same form as the document attached hereto as Exhibit A.

**SECTION TWO:** The approval granted herein is contingent upon Governing Body adoption of the ordinance approving Project Plan 3H and publication thereof as required by law.

**SECTION THREE:** This Resolution shall be effective upon passage and execution by the Mayor, subject to the conditions set forth in Section Two herein.

**ADOPTED** by the City Council this 18<sup>th</sup> day of April, 2023.

**SIGNED** by the Mayor this 18<sup>th</sup> day of April, 2023.

**CITY OF LENEXA, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Michael A. Boehm, Mayor

**Attest:**

\_\_\_\_\_  
Jennifer Martin, City Clerk

**Approved As To Form:**

\_\_\_\_\_  
Sean McLaughlin, City Attorney



**CITY COUNCIL  
MEMORANDUM**

**ITEM 12**

**SUBJECT:** Acceptance of the Lenexa Old Town Activity Center Public Art Committee's recommendations regarding a mural at the Lenexa Old Town Activity Center

**CONTACT:** Logan Wagler, Parks & Recreation Director

**DATE:** April 18, 2023

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**ACTION NEEDED:**

Accept the Lenexa Old Town Activity Center (LOTAC) Public Art Committee's recommendations regarding a mural at LOTAC.

**PROJECT BACKGROUND/DESCRIPTION:**

At the March 8, 2022 Committee of the Whole meeting, the Arts Council and Governing Body discussed preferences for public art and several members of the Governing Body indicated interest in pursuing the purchase of a mural. Taking the Governing Body's feedback into account, the Arts Council included LOTAC as one of the priority locations for a future mural in its annual recommendation of priority locations for public art. The priority list of locations for public art was approved by the City Council on April 5, 2022.

In June 2022, the City contracted with Public Art & Practice ("PAP") to guide the City in identifying potential artists, recommended motif or style, and a suitable site or sites for a mural(s) in conjunction with LOTAC. The City also established the LOTAC Public Art Committee to work with PAP on preparing the mural recommendations. The committee consists of City Councilmembers Julie Sayers and Melanie Arroyo; Lenexa Arts Councilmembers Emily Behrmann, Jess Collins, Wayne Dothage, Cheryl Kimmi, Anne Lawrence-Cherry, Dale Trott, Judy Tuckness, Jennifer Wampler, and Claire Ward; Multi-Studio Architects Sean Zaudke and Dan Zeller; and City staff members Ben Clark, Mandy Danler, Susanne Neely, and Logan Wagler.

PAP met with the committee to determine criteria/considerations that would be used in selecting muralists and mural locations for recommendation:

- Goal for the mural: In keeping with the City's Vision 2040 document and the New Look at Old Town Study, the committee indicated the mural(s) should add vibrancy to the space by expressing civic pride and community identity and attracting residents and visitors to enjoy the art and space.
- Artist residency: The committee noted that many talented artists reside in the Kansas City region, and they believe that for this project, it would be important to engage an artist from the Kansas City region or artists who went to school or are previously from the Kansas City area.
- Motif/Theme: The committee recommends contemporary/abstract art that embraces the city's identity.



- Location of art: The committee believes that the placement of the art will be key to its success. Several aspects were considered, including visibility, scale, and the ability to interact with the art.

The Committee reviewed the works of 14 qualified artists from the region and narrowed the pool to three candidates who meet the above criteria, and because of their reputation and quality of work, the committee believes they should be considered for the LOTAC mural project. The committee proposes that the City work with the following finalist candidates to develop proposals and concepts for the mural project:

- Alexander Austin
- JT Daniels
- Evan Brown (aka Doodle Dood)

PAP and the committee envision the City paying a stipend to each of the finalist artists to develop a proposal with concepts for the mural. The community will then have the opportunity to meet the artist candidates, view their proposed concepts, and provide input.

The committee also worked closely with staff and the architect when considering potential locations that would be suitable for a mural on the renovated LOTAC. The committee prioritized each location and recommended the following site as the top priority:

- The wall adjacent to the new south entrance (west of the doors), with the mural wrapping around to the west façade. The area for a mural is estimated at 900 square feet. This site is the committee’s top priority because of its visibility and accessibility for community interaction.

If the Governing Body wishes to consider more than one mural at the site, below are the Committee’s recommended second and third priority sites at the LOTAC.

- The north façade facing Santa Fe Trail Drive with an estimated 985 square feet. This was the committee’s second priority because of its high visibility from Santa Fe Trail Drive and the opportunity to express civic pride and community identity.
- An interior space/wall stretching from the south entrance to the new portion of the building being added at the east end of the building. This area is an estimated 500 square feet. This is the committee’s third priority because of its accessibility for community interaction for LOTAC patrons.

#### **FINANCIAL IMPLICATIONS/FUNDING SOURCES:**

The city has adequate funding available to purchase the recommended top priority location and additional murals for all three locations. Funding sources for public art purchases include:

Parks and Recreation Impact Fees (zone specific) - Zone 1	\$36,611.52
Capital Improvement Fund (CIF Dedicated Public Art Fund)	\$205,694.00
Lenexa Foundation - Arts sub-fund	\$62,296.26

The estimated mural costs are:

- for the top priority location (south wall near entrance and turning corner): \$13,500 - \$31,500;
- for the second priority location (north façade): \$14,775-\$35,475; and
- for the third priority location (interior hall): \$7,500-\$17,500.

**STAFF RECOMMENDATION:**

Acceptance of the recommendations.

**VISION / GUIDING PRINCIPLES ALIGNMENT:**

**Vision 2040**

Inviting Places

**Guiding Principles**

Extraordinary Community Pride

**ATTACHMENTS**

1. Presentation located in the Appendix

# APPENDIX



**MINUTES OF THE  
APRIL 4, 2023  
LENEXA CITY COUNCIL MEETING  
COMMUNITY FORUM, 17101 W 87<sup>th</sup> STREET PARKWAY  
LENEXA, KS 66219**

**CALL TO ORDER**

Mayor Boehm called the meeting to order at 7 PM.

**ROLL CALL**

Councilmembers Karlin, Eiterich, Nicks, Nolte, Roh, Arroyo, and Sayers were present with Mayor Boehm presiding. Councilmember Denny was absent.

Staff present included Beccy Yocham, City Manager; Todd Pelham, Deputy City Manager; Mike Nolan, Assistant City Manager; Scott McCullough, Community Development Director; Sean McLaughlin, City Attorney; Jennifer Martin, City Clerk; and other City staff.

**APPROVE MINUTES**

*Councilmember Roh made a motion to approve the March 21, 2023 City Council meeting draft minutes and Councilmember Eiterich seconded the motion. Motion passed unanimously.*

**MODIFICATION OF AGENDA**

There were no modifications to the agenda.

**PROCLAMATIONS**

SevenDays Week  
Fair Housing Month  
National Safe Digging Month  
Volunteer Recognition Month

**RECOGNITION**

Mayor Boehm presented Dianne Conway, Lenexa Volunteer Hall of Fame inductee, with her key to the city and framed certificate. He thanked her for her volunteer efforts to many organizations and congratulated her on being inducted to the hall of fame.

**CONSENT AGENDA**

1. Resolution calling for a public hearing to consider approving Redevelopment Project Plan 1K in the City Center TIF District (Kiewit Penrose Lane Building Project)  
*This resolution is only to provide notice of a public hearing on May 16, 2023, at which time the Governing Body will consider approving Redevelopment (TIF) Project Plan 1K encompassing 0.90 acres located south of 89th Street/Penrose Lane and west of*



*Renner Boulevard in the City Center TIF District.*

2. Resolution approving and authorizing the Mayor to execute an interlocal agreement with the City of Overland Park for road improvements to Quivira Road from 99th Street to 103rd Street  
*Lenexa and Overland Park share Quivira Road from 99th Street to 103rd Street. Maintenance of this portion of road is included in Overland Park's 2023 Pavement Management Program and the cities will share costs. The estimated total cost of the project is \$840,664. Overland Park's share is \$311,332 and Lenexa's share is \$311,332. The remaining balance will be paid with County Assisted Roads Systems (CARS) funding.*

### **END OF CONSENT AGENDA**

*Councilmember Karlin made a motion to approve items 1 through 2 on the consent agenda and Councilmember Sayers seconded the motion. Motion passed unanimously.*

### **NEW BUSINESS**

3. Resolution approving the City of Lenexa, Kansas Governing Body Rules of Procedure  
*The Governing Body adopts rules of procedure to assist them in efficiently conducting the City's business and provide general information on the role and responsibilities of staff. The proposed rules of procedure reorganize the current rules of procedure with the goal of reducing redundancies, addressing new practices, and clarifying current practices.*

Sean McLaughlin, City Attorney, said that the City Council discussed updating the Rules of Procedure at its retreat earlier this year. He pointed out that the packet memo contained a typo; meetings shall not extending beyond 12 AM. He reviewed the updates made to the document regarding use of eelectronics during meetings, video recording City Council meetings, changes to agenda and packet distribution practices, extended length of meetings, and the allowance for the Mayor to suspendd the rules for an emergency declaration.

Councilmember Nolte asked if using electronics to look up maps or other information during a meeting is allowedd and Mr. McLaughlin said that rule is to maintain transparency in open meetings and is to say that councilmembers are not to communicate with each other or the public on electronic devices during a meeting.

*Councilmember Roh made a motion to approve Item 3 and Councilmember Arroyo seconded the motion. Motion passed unanimously.*

### **STUDENT INTRODUCTIONS**

John LeRoy, Water One, and Melissa Montoya, Turner Construction, attended the meeting for Leadership Lenexa.

Jack Groebe and Tori Creason, Shawnee Mission Northwest High School students, attended the meeting for Government class.

## **COUNCILMEMBER REPORTS**

Mayor Boehm said that several Governing Body members and staff attended the National League of Cities Congressional City Conference in Washington D.C. from March 26-28. He said they heard First Lady Biden speak and met with Congresswoman Davis and Senator Moran.

## **STAFF REPORTS**

### **4. City Center Wayfinder Sign Program**

Kyle Glaser, Economic Development Analyst, presented a history of the wayfinder sign program in City Center and explained that the initial program period expired in February. He said the program can be extended by action of the Governing Body if it desires to do so.

Mr. Glaser reviewed the locations of the signs and the number of logos on each.

Mr. Glaser said that staff recommends not extending the program due to fading business interest and travelers' increased use of mapping systems. He explained the process for removing the signs and said the one sign with an active logo would remain until November 2023, when it expires and then it would be removed.

Discussion followed regarding notification of program ending, waning business interest in the program, resources required to maintain the program, sign clutter, keeping one sign on westbound 87th Street Parkway & Renner Boulevard, having only one sign being confusing, these types of signs working best on highways, and the possibility of future City Center construction increasing the need for directional signage.

Beccy Yocham, City Manager, said the intent of the program was to help travelers find new businesses during the first two years with no renewal.

The Governing Body took no action to extend the program.

## **END OF RECORDED SESSION**

## **BUSINESS FROM FLOOR**

Mary Light, 10311 Hauser Street, talked about a recent emergency situation on her property where a utility company hit a gas line. She thanked members of the Lenexa Fire Department and Jeff Mains, Right-of-Way Technician, for helping her get through the situation safely, for saving her dog, and for answering all of her questions. She talked about the importance of the National Safe Digging Proclamation and calling 811 before digging to prevent such dangerous situations.

## **ADJOURN**

*Councilmember Nolte made a motion to adjourn and Councilmember Roh seconded the motion. Motion passed unanimously.*

The meeting adjourned at 7:47 PM.

# Proclamation

**WHEREAS**, in 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

**WHEREAS**, this holiday called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

**WHEREAS**, Arbor Day is now observed throughout the nation and the world; and

**WHEREAS**, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen, and provide habitat for wildlife; and

**WHEREAS**, trees are a renewable resource giving us paper, wood for homes, fuel for our fires, and countless other wood products; and

**WHEREAS**, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

**WHEREAS**, trees, whenever they are planted, are a source of joy and spiritual renewal.

**NOW, THEREFORE**, I, Michael A. Boehm, Mayor of Lenexa, Kansas do hereby proclaim April 28, 2023 in the City of Lenexa to be

## ARBOR DAY

And I encourage all citizens to celebrate Arbor Day by supporting efforts to protect our trees and woodlands, and planting trees for this and future generations.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 18th day of April, 2023.



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Michael A. Boehm  
Mayor of Lenexa, Kansas



**2023 ANNUAL REPORT TO THE GOVERNING BODY**  
**LENEXA ARTS COUNCIL**  
**April 18, 2023**

Good evening, Mayor and Members of the City Council. On behalf of the Lenexa Arts Council, I am happy to be here tonight to share a summary of the great arts programming we've been doing as well as some exciting plans for the coming year. Before I get started, I'd like to acknowledge the other Arts Council members joining us this evening: Emily Behrmann, Jess Collins, Wayne Dothage, Cheryl Kimmi, Anne Lawrence-Cherry, Judy Tuckness, Jennifer Wampler, and Claire Ward as well as the Arts Council Liaison, Susanne Neely.

Art is instrumental in making Lenexa such a special place. Art inspires, entertains, adds interest and encourages people to connect with one another. Art also stimulates business and economic growth and drives tourism. For the past few months, the Arts Council has been assisting the Johnson County Arts Council in its efforts to gather local survey data from community members at our programs and events for the Arts & Economic Prosperity 6 national study, organized by Americans for the Arts. Updated data from this study will be important in understanding the value of arts programming in our area.

The Arts Council is a dedicated and passionate group of volunteers with a mission to "provide quality arts programs and events to awaken an appreciation of the arts, to create a special sense of place, and to enhance quality of life for our community members." Collectively, members of the Arts Council bring a tremendous amount of expertise, perspective and connections that enable us to offer outstanding visual and performing arts programs. These programs provide a valuable opportunity for our residents to enjoy concerts, gallery exhibits, theatrical performances, art talks and more as well as for the artists to express themselves, connect with the community, and when appropriate, get compensated for their art.

In 2022, Arts Council members and art gallery volunteers devoted 635 volunteer hours in service to our community. According to IndependentSector.org, the current estimated value of a volunteer hour in the state of Kansas is \$26.87. That amounts to more than \$17,062 in value for the volunteer work and expertise in support of arts programs in Lenexa.

I would like to share a few highlights about the positive impact our work has had on the community this past year as well as some exciting plans for the coming year.

One of our most popular annual programs is the **Outdoor Concert Series**, a series of seven concerts held on Sunday evenings in May, June and September at Sar-Ko-Par Trails Park. Our goal with this program is to provide a variety of styles of music in a

welcoming, family-friendly environment. Hundreds of community members have come to rely on the concerts for enjoyable gatherings, and we hear from community members about how much they look forward to seeing the new lineup each year. We're excited for the 2023 series, which kicks off May 21 with a lineup including The M80s, Trio Aztlan, JJ and the Old School Players, Hard @ Play, Stolen Winnebagos, Back Alley Brass Band and Vigil Annie.

This summer marks the 6<sup>th</sup> anniversary of the **City Hall Art Gallery** here at the civic campus. We work hard to select a variety of 2D and 3D artists for rotating shows. Our volunteer team (including a number of people who are not on the arts council) gathers about one Monday evening a month to take down and install the art exhibits. Artists and community members have told us how impressed they are with the beautiful space as well as the professionalism of the gallery. The gallery attracts a variety of talented artists and hundreds of visitors to view the art or attend receptions. I hope you had the opportunity to check out the current exhibit showcasing artistic quilts from the KC Modern Quilt Guild. Upcoming shows will include Kevin Horvath, a talented graphic lettering artist who formerly worked for Hallmark, followed by mixed-media artist Elnora Nokes and then local photographer Lou Gehring.

Also, we are now accepting applications for the 32<sup>nd</sup> annual Lenexa Artists Show, a popular exhibit that features only Lenexa residents. We hope you will join us for the reception and awards ceremony on August 24.

We are currently recruiting volunteer musicians for our 7<sup>th</sup> season of the **Lenexa Community Orchestra**, and the conductor, Richard Ryan is working on the repertoire for three concerts scheduled in July and August. Our community orchestra serves a special niche as we are the only community orchestra in the area to perform during the summer. This allows people, who otherwise wouldn't be available – such as teachers, students, and people involved in other area orchestras – to participate. The orchestra provides an important opportunity for musicians to connect and create quality music together. We have heard from numerous musicians, who, after moving to this area, searched online for local orchestra groups and were excited to find our program. The orchestra also offers an easy, accessible way for residents, including families with children, to enjoy the high-quality, free concerts.

The value for the city's investment in the orchestra is compounded each year thanks to the many volunteer hours, and contributions from our partners. Last year, our highly skilled volunteer musicians contributed 3,665 hours, practicing on their own, attending rehearsals and performing, resulting in more than \$98,400 of value to our community. We are grateful for partners such as Shawnee Mission Northwest High School who allows us to rehearse in their space, and lends us their percussion instruments, chairs, and stands for concerts, and to Community Covenant Church for providing the venue and support staff for our concerts. These two organizations' support saves the city tens of thousands of dollars. (The cost to rent space for our concerts would be at least \$1,000

per concert, and the cost to purchase our own music stands and chairs would be at least \$8,500. The costs for percussion instruments range widely, but to purchase a few basic instruments, the cost would start around \$20,000. Carts and storage would be additional.) We are also grateful to community partners for grants supporting the orchestra. We just found out earlier this week that Henderson Foundation intends to support the orchestra with a \$3,000 grant.

Another program that is growing in popularity is **City Center Live**, held here in the Community Forum on the second Saturday evenings during the colder weather months. City Center Live offers a wide variety of performances including music, theater, comedy and dance. Most recently, we featured the internationally known harpist Calvin Arsenia. Similar to the community orchestra, City Center Live welcomes all ages and offers families a great way to begin instilling in their children and grandchildren a love of the performing arts.

We are also continuing our partnership with Johnson County Library to bring back the local viewing site for the **Manhattan Short Film Festival** in September. Last year, the event attracted more than 110 people. We heard dozens of comments from attendees who loved the event and hoped we would provide more opportunities in the future. We even had a Nebraska couple plan their trip to Lenexa to visit their kids around our event. This year's event will be on September 28, and the Community Forum will be one of 500 sites worldwide at which the public can view the 10 finalist short films and vote for their favorites.

Last year, we brought back **Theater on the Trail**, a unique opportunity for the community to enjoy live theater and a leisurely paced walk in the beautiful Black Hoof Park. Several community members volunteered as actors in the play – “Twain’s Tails.” The event, which included an opportunity for children and families to create puppets that would be used during the performance, was well received. We are working on plans to offer another play again this October.

Finally, I would like to share a few updates regarding public art. We are very excited about the opportunity to serve on the Lenexa Old Town Activity Center Public Art Committee to provide recommendations for a future mural at the renovated Community & Senior Center. We look forward to discussions later on tonight’s City Council agenda as well as next steps to bring a mural to the community. We believe the mural will add vibrancy, express civic pride and community identity and attract residents and visitors to enjoy the space.

As set out in the city’s public art policy, the arts council is expected, on an annual basis, to review and make a recommendation regarding the priority list of locations for public art as well as provide an update on new public art acquisitions in the previous year. The Arts Council’s recommended update to the priority list of locations for public art will be addressed later on this meeting’s agenda. Also, no new public art was acquired in 2022.

These are just some of the highlights regarding art programming in Lenexa. We are grateful for the Governing Body's and our community's tremendous support and appreciation of the arts. I would be happy to answer any questions.

Submitted by Dale Trott, LAC chair



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

**AN ORDINANCE AMENDING LENEXA CITY CODE SECTIONS 4-1-B-24, 4-3-B-7, 4-3-B-24 REGARDING THE REGULATION OF FENCES, WALLS, AND RETAINING WALLS.**

WHEREAS, City Code Section 4-1-B-24 sets forth accessory use and structure regulations; and

WHEREAS, the City desires to make revisions to City Code Section 4-1-B-24, 4-3-B-7, and 4-3-B-24 to amend the regulations and definitions pertaining to fences, walls, and retaining walls; and

WHEREAS, a public hearing was held by the Lenexa Planning Commission on April 3, 2023, and notice was provided in accordance with K.S.A. 12-757, to hear comments on the suggested changes; and

WHEREAS, the Lenexa Planning Commission recommended approval of the proposed changes to the Lenexa City Code, as reflected in the minute record for said meeting.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LENEXA, KANSAS:

**SECTION ONE:** Section 4-1-B-24 is hereby amended to read as follows:

**Section 4-1-B-24 ACCESSORY USES AND STRUCTURES.**

Principal uses specified as permitted or special uses by the district regulations of this Title shall be deemed to include accessory uses and activities that are necessarily and customarily associated with, and appropriate, incidental, and subordinate to the principal uses allowed in zoning districts. Accessory uses and activities shall be subject to the same regulations as apply to principal uses in each district, except as otherwise provided in these regulations. In no case shall an accessory use, building or structure be established on a lot until the principal use has been established.

- A. **Agricultural Accessory Uses:** In addition to the accessory uses specifically listed in subsection B of this Section, agricultural uses shall include accessory uses and activities customarily associated with agricultural operations, as determined by the Community Development Director.
- B. **Residential And Agricultural Accessory Uses:** Residential and agricultural uses shall include, but not be limited to, the following accessory uses, activities and structures:
1. Accessory apartments (reserved for future adoption);
  2. Accessory buildings and structures, subject to the standards of subsection F2 of this Section;
  3. Animals, (keeping of), subject to the standards of subsection F4 of this Section;
  4. Fences and walls, subject to the standards of subsection F5 of this Section;
  5. Garage, craft and sample sales, subject to the standards of subsection F6 of this Section;
  6. Garages, carports and off-street parking areas, subject to the standards of subsection F2 of this Section;

7. Gates and guardhouses;
8. Hobby activities, subject to the standards of subsection F7 of this Section;
9. Home occupations, subject to the standards of subsection F8 of this Section;
10. Play equipment, cabanas, gazebos and incidental household storage buildings;
11. Radio and television receiving antennas and support structures, subject to the standards of subsection F10 of this Section;
12. Subdivision recreational and play facilities for the use of residents;
13. Satellite dish antennas, subject to the standards of subsection F11 of this Section;
14. Solar energy systems, subject to the standards of subsection F12 of this Section;
15. Swimming pools and hot tubs, subject to the standards of subsection F13 of this Section;
16. Temporary Uses and Structures, subject to the standards of subsection F14 of this Section;
17. Outdoor storage of items, objects, and structures, subject to the standards of subsection F15 of this Section;
18. Storm Protection Area, subject to the standards of subsection F16 of this Section;
19. Other necessary and customary uses determined by the Community Development Director to be appropriate, incidental and subordinate to the principal use on the lot, subject to compliance with any development and performance standards imposed by the Community Development Director as a means of ensuring land-use compatibility; and
20. Small Wind Energy Conservation Systems, subject to the standards of subsection F17 of this Section.

**C. Commercial And Office Accessory Uses:** Commercial and office uses shall include, but not be limited to, the following accessory uses, activities and structures:

1. Accessory buildings and structures, subject to the standards of subsection F2 of this Section;
2. Dwelling units, other than mobile homes, for security or maintenance personnel;
3. Fences and walls, subject to the standards of subsection F5 of this Section;
4. Gates and guardhouses;
5. Parking garages and off-street parking areas;
6. Radio and television receiving antennas and support structures, subject to the standards of subsection F10 of this Section;
7. Recreation areas and facilities for the use of employees;
8. Satellite dish antennas, subject to the standards of subsection F11 of this Section;
9. Solar energy systems, subject to the standards of subsection F12 of this Section;
10. Swimming pools and hot tubs for the use of employees, subject to the standards of subsection F13 of this Section;
11. Soliciting and general fund-raising activities may be conducted on sidewalks and entryways of businesses located in commercial zoning districts, and in limited retail business areas within the BP-1 and BP-2 Zoning Districts with permission from the business owner and the

property owner, and provided such activities do not interfere with pedestrian and vehicular access;

12. Other necessary and customary uses determined by the Community Development Director to be appropriate, incidental and subordinate to the principal use of the lot, subject to compliance with any development and performance standards imposed by the Community Development Director as a means of ensuring land-use compatibility;
13. Small Wind Energy Conservation Systems, subject to the standards of subsection F17 of this Section; and
14. Temporary Uses and Structures, subject to the standards of subsection F14 of this Section.

**D. Industrial And Business Park Accessory Uses:** Industrial uses shall include, but not be limited to, the following accessory uses, activities and structures:

1. Accessory buildings and structures, subject to the standards of subsection F2 of this Section;
2. Dwelling units, other than mobile homes, for security or maintenance personnel;
3. Fences and walls, subject to the standards of subsection F5 of this Section;
4. Gates and guardhouses;
5. Parking garages and off-street parking areas;
6. Radio and television receiving antennas and support structures, subject to the standards of subsection F10 of this Section;
7. Recreation areas and facilities for the use of employees;
8. Satellite dish antennas, subject to the standards of subsection F11 of this Section;
9. Solar energy systems, subject to the standards of subsection F12 of this Section;
10. Swimming pools and hot tubs for the use of employees, subject to the standards of subsection F13 of this Section;
11. Warehouse or inventory reduction sales for individual businesses located within the BP-1 and BP-2 Zoning Districts may be held no more than 4 times per calendar year and the duration of each sale shall not exceed 3 days. The dates and hours of operation shall compliment the schedule of surrounding businesses. One temporary facade sign may be utilized for the event. The size of the sign shall not exceed 5 percent of the facade area upon which it will be placed. The sign must be attached securely to the building so as not to allow movement of the sign by the atmosphere and may be placed on the site no earlier than 1 week prior to the event;
  - a. Adequate off-street parking must be provided for the event. The parking utilized for the event must not create a shortage for any of the businesses for which the parking is required;
  - b. The event must be continually monitored so as to prevent undue traffic congestion and to reduce accident potential;
12. Manufacturer's Or Warehouse Retail Outlets: Any use in the BP-1 and BP-2 Districts may incorporate a retail outlet of up to 10 percent of the floor area of the building, but no greater than 10,000 square feet. Uses located on an arterial or collector road may incorporate a retail outlet of up to 25 percent of the floor area. Retail outlets should be provided with a separate entrance convenient to a designated customer parking area that is segregated from truck loading and maneuvering areas;

13. Other necessary and customary uses determined by the Community Development Director to be appropriate, incidental and subordinate to the principal use on the lot, subject to compliance with any development and performance standards imposed by the Community Development Director as a means of ensuring land-use compatibility;
14. Small Wind Energy Systems, subject to the standards of subsection F17 of this Section; and
15. Temporary Uses and Structures, subject to the standards of subsection F14 of this Section.

**E. Public And Civic Accessory Uses:** Public and civic uses shall include accessory uses and activities customarily associated with the purpose and function of the principal use, including, but not limited to, the following:

1. Accessory buildings and structures, subject to the standards of subsection F2 of this Section;
2. Cafeterias, dining halls and similar food services when operated primarily for the convenience of employees, residents, clients, patients or visitors to the principal use;
3. Fences and walls, subject to the standards of subsection F5 of this Section;
4. Gift shops, newsstands and similar commercial activities operated primarily for the convenience of employees, residents, clients, patients or visitors to the principal use;
5. Recreation areas and facilities for the use of employees;
6. Refreshment stands and food and beverage sales located in uses involving public assembly;
7. Satellite dish antennas, subject to the standards of subsection F11 of this Section;
8. Solar energy systems, subject to the standards of subsection F12 of this Section;
9. Swimming pools and hot tubs for the use of employees, subject to the standards of subsection F13 of this Section;
10. Other necessary and customary uses determined by the Community Development Director to be appropriate, incidental and subordinate to the principal use on the lot, subject to compliance with any development and performance standards imposed by the Community Development Director as a means of ensuring land-use compatibility;
11. Small Wind Energy Systems, subject to the standards of subsection F17 of this Section; and
12. Temporary Uses and Structures, subject to the standards of subsection F14 of this Section.
13. A church or place of worship may operate a Homeless Shelter as an accessory use, subject to the supplementary use regulations of Section 4-1-B-23-AK of this Article

**F. Accessory Use Development And Performance Standards:**

1. **Accessory Apartments:** (Reserved for future adoption)
2. **Accessory Buildings And Structures:**
  - a. **General:**
    1. **Floor Area:** Unless otherwise provided in this Section, the total floor area of any 1 accessory building or structure, with the exception of bonafide agricultural structures, which includes buildings and structures used strictly for the housing of farm equipment, cattle or horse, hay, etc., shall not exceed the total ground floor area of



the dwelling unit, inclusive of any attached garages. The total ground floor area of all accessory buildings and structures shall be in compliance with zoning district open space requirements.

2. **Appearance:** Residential accessory buildings and structures that are larger than 200 square feet in area shall be constructed of quality materials and shall be compatible in design and character with the dwelling unit.
  3. **Height:** Residential accessory buildings and structures shall not exceed 25 feet in height.
  4. **Vision Obstructions At Intersections:** Accessory buildings and structures are subject to the requirements of Section 4-1-B-26 of this Article.
  5. **Double-Frontage Lots:** On a double-frontage lot where the rear property line abuts a collector or local street and where a house on adjacent property fronts on that street or where adjacent property has the potential to be subdivided into a lot which fronts on that street, an accessory building or structure shall be located no closer to the abutting street than a line established by the platted front building line of the adjacent property or, if unplatted, the distance from the street to the required front building line. However, the Planning Commission, at the time of the platting or Community Development Director thereafter shall have the authority to reduce the setback requirement, provided that safe visibility at driveways, the view to the street for the neighboring properties, and the general neighborhood character along the street are maintained. This determination shall take into consideration the height and opaqueness of the proposed accessory building or structure, the difference in elevation of the affected properties, and other existing site characteristics.
  6. **Nonresidential Use In Residential Zoning Districts:** Accessory buildings and structures for permitted or approved nonresidential uses in residential zoning districts shall follow the minimum property development regulations for the NP-O, Planned Neighborhood Office District, except that no accessory building or structure shall exceed 25 feet in height.
  7. **Temporary Portable Storage Containers:** Temporary portable storage containers in residential and agricultural zoning districts shall not be utilized as permanent accessory structures.
- b. **AG, RE And RP-E Zoning Districts:**
1. **Location:** In order to maintain the open space character of these larger lots, accessory structures shall be subject to the zoning district property development regulations of this Chapter with the following exceptions:
    - a. Residential accessory buildings and structures 200 square feet or smaller in area and no more than 10 feet in height shall be permitted within interior side and rear yard areas, provided that they maintain a minimum setback of 10 feet from the property line.
    - b. On parcels which are larger than 1 acre, the Community Development Director may permit residential accessory buildings and carports to be located within the front yard area but behind the required front and side yard setback lines where the principal structures within the established neighborhood generally maintain greater setbacks or other similar design diversity has been established. Such

buildings shall be constructed of quality materials and designed to be architecturally compatible with the dwelling unit.

c. **R-1, RP-1, RP-2 Zoning Districts:**

1. **Location:** Accessory buildings and structures shall be located in the rear yard, subject to the following requirements and exceptions:
  - a. **Side Yard:** Accessory buildings and structures shall be permitted to occupy side yards provided that they comply with the zoning district's setback requirements, are constructed with quality materials and are architecturally compatible with the dwelling unit.
  - b. **Parcels Larger Than 1 Acre:** On parcels which are larger than 1 acre, the Community Development Director may permit residential accessory buildings and structures to be located within the front yard area, but behind the required front and side setback lines, where the principal structures within the established neighborhood generally maintain greater setbacks, or other similar design diversity has been established. Such buildings and structures shall be constructed of quality materials and designed to be architecturally compatible with the dwelling unit.
2. **Floor Area:** The total floor area of any one accessory building or structure, with the exception of bonafide agricultural structures, which includes buildings and structures used strictly for the housing of farm equipment, cattle or horse, hay, etc., shall not exceed the ground floor area of the dwelling unit, inclusive of any attached garages. The total ground floor area of all accessory buildings and structures is subject to the following:
  - a. **Lots Less Than 1 Acre:** The maximum allowed total ground floor area for all accessory buildings and structures shall not exceed 250 square feet in area for each 3,000 square feet of lot area up to a maximum of 1,500 square feet.
  - b. **Lots At Least 1 Acre But Less Than 2 Acres:** The maximum allowed total ground floor area of all accessory buildings and structures shall be 2,000 square feet.
  - c. **Lots At Least 2 Acres But Less Than 5 Acres:** The maximum allowed total ground floor area of all accessory buildings and structures shall increase from 1,500 square feet by 1,000 square feet for each full acre of lot size greater than 1 acre and on a pro rata basis for each fraction of a full acre.
  - d. **Lots 5 Acres or Larger:** The total ground floor coverage for all accessory buildings and structures shall not be limited if the structures comply with the zoning district setback and open space requirements of this Chapter.
3. **Setbacks:**
  - a. Accessory buildings with a ground floor area no larger than 200 square feet and a height no taller than 10 feet shall be set back at least 5 feet from rear and side property lines. If the accessory building is taller than 10 feet, the setback shall be at least equal to the height of the structure, but need not exceed the minimum yard setback requirements for the zoning district in which it is located, unless otherwise required by this Chapter.

- b. All accessory structures, and those accessory buildings with a ground floor area greater than 200 square feet shall comply with the yard setback requirements for the zoning district in which they are located, unless otherwise required by this Chapter.
- 4. **Height:** Residential accessory buildings and structures shall not exceed 25 feet in height.
- 5. **Appearance:** Residential accessory buildings and structures that are larger than 200 square feet in area shall be constructed of quality materials and shall be compatible in character with the dwelling unit.
- d. **All Other Zoning Districts:** Except as noted below, accessory buildings and structures shall be subject to the property and planned development regulations of the zoning district in which they are located.

Incidental buildings that do not exceed 200 square feet in area and 10 feet in height, such as guardhouses and mechanical buildings that require unique locations for functional reasons, may be permitted within required yard areas, provided that such structures shall be constructed with quality materials which are architecturally compatible with adjacent buildings and structures, and provided that they maintain a minimum setback of 10 feet from property lines.

- 3. **Accessory Retail Services In Office Buildings:** The following ancillary commercial activities shall be permitted as accessory office uses in the CP-O District if the conditions set forth below are met: a) retail sale of convenience goods, including, but not limited to, pharmaceuticals, toiletries, tobacco, magazines and flowers; b) general restaurants; and c) barber and beauty care.
  - a. The accessory commercial activities shall be located within the same building as a permitted principal activity and shall serve only the occupants of the building.
  - b. The structure containing the principal activity shall have a minimum of 10,000 square feet of floor space devoted to the principal activity.
  - c. The accessory commercial activities shall occupy no more than 10 percent of the gross floor area within the principal building.
  - d. No signs or other external evidence of ancillary convenience uses shall be visible from a public street or adjacent lot.
  - e. No direct exterior customer access shall be provided to the accessory retail service use.
- 4. **Animals:**
  - a. **Domestic, Nonfarm Animals:** The raising, keeping and breeding of domestic, nonfarm animals for purely noncommercial purposes shall be considered a permitted accessory use in residential zoning districts. Compliance with the animal control regulations of Title 3, Chapter 2 of the City Code shall also be required.
  - b. **Livestock and/or Poultry:** The raising, keeping and breeding of livestock and/or poultry shall be permitted on AG, Agricultural District, zoned lots of at least three (3) acres in size. The raising, keeping and breeding of livestock and/or poultry for purely noncommercial purposes shall be permitted as an accessory use on AG-

zoned lots of less than three (3) acres in size and on nonagriculturally zoned land only in accordance with the provisions of Title 3, Chapter 3-2 of this Code.

- c. **Exotic/Wild Animals:** Except as provided in Article 3-2-I of this Code, the keeping of exotic, wild, or hybrid animals is prohibited in all zoning districts. Compliance with the animal control regulations of Title 3, Chapter 3-2 of the City Code shall also be required.
- d. **Bees:** No bees or beehives shall be kept in any district except the AG, RE or RP-E Zoning Districts. Beekeeping operations shall also be subject to the regulations of Title 3, Chapter 3-2 of the City Code.

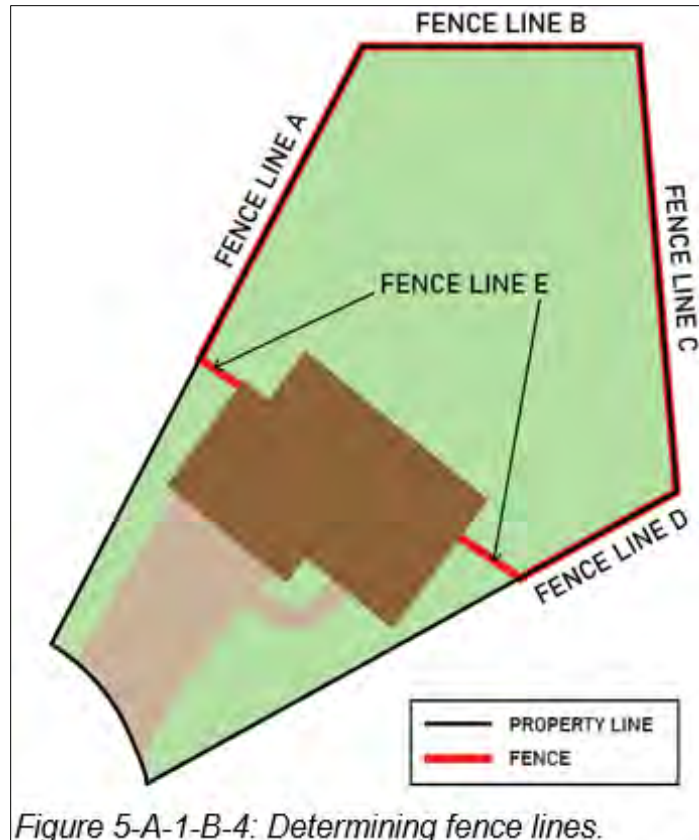
## 5. Fences, Walls, and Retaining Walls

### a. General

#### 1. Permit Requirements

- a. New or Replacement Fence, Wall, or Retaining Wall: All new and replacement fences, walls, or retaining walls require a permit prior to construction. The permit application shall include a scaled and dimensioned plot plan showing the proposed fence, wall, or retaining wall along with all property lines, easements, setbacks, and structures. The permit application shall also include details about the proposed fence, wall, or retaining wall, including materials, heights, and design. Additional information may be required on a case-by-case basis.
- b. Exceptions to Permit Requirement: A permit is not required in the following instances:
  - 1. When installing a decorative fence or wall in accordance with Section 4-1-B-24-F-5-b.
  - 2. When installing an agricultural fence or wall in accordance with Section 4-1-B-24-F-5-b.
  - 3. When installing a retaining wall less than 4 feet in height in accordance with Section 4-1-B-24-F-5-b.
  - 4. When replacing less than 50% of a single fence line with the same fence materials, height, and design, in the same location as the fence was previously permitted. See *Figure 5-A-1-B-4*.
  - 5. Replacing a fence, wall, or retaining wall that was removed in order to complete work within an easement with the same materials, height, and design, in the same location as was previously permitted.
  - 6. Replacing non-structural components of an existing fence or wall, such as pickets.





## 2. Design and Installation Standards

- a. Materials must be durable and suitable for year-round outdoor conditions.
- b. Fence and wall posts shall be set in concrete footings with a minimum depth of 18 inches.
- c. Fences, walls, and retaining walls must be installed with the finished side facing outward and supporting elements on the inside, when applicable. The Community Development Director shall have the authority to waive the requirement that a fence be constructed with a finished side facing outward from the property in unique situations where the topography, vegetation, or other site conditions screen the fence from the affected neighboring property.
- d. Retaining walls that retain in excess of 48 inches of unbalanced fill shall be designed and installed to ensure stability against overturning, sliding, excessive foundation pressure, rotational failure, and water uplift. Design should provide a minimum safety factor of 1.5 against sliding, overturning, and rotational failure. Retaining walls shall be designed to support lateral loads.
- e. Retaining walls that will be either periodically or permanently inundated with water must be appropriately designed to withstand said inundation.
- f. All fences, walls, and retaining walls shall be constructed to allow for proper surface drainage.

- g. Fence Requirement with Retaining Wall: A fence with a height between 42 inches and 72 inches is required to be installed directly on top of or within 18 inches of a retaining wall when the retaining wall is within three feet of a walkway and there is a drop of 30 inches or more. The Community Development Director shall have the authority to approve an alternative barrier, such as shrubbery, in certain circumstances.
- h. Easements:
  - 1. Fences, walls, and retaining walls proposed within any easement require approval from the applicable entity.
  - 2. Fences, walls, and retaining walls must be installed in a manner that will allow access to dedicated easements. A gate may be required to provide necessary access.
  - 3. Easements for retaining walls must be of sufficient width to allow for maintenance of said wall to be performed fully within the easement.
  - 4. If the Community Development Director, or their designee, determines that any fence, wall, or retaining wall is negatively impacting any easement then the Community Development Director shall have the authority to require the relocation or removal of the fence, wall, or retaining wall.
  - 5. Fences, walls, and retaining walls constructed within City or private easements may be altered or removed to allow access to utilities. The property owner shall be responsible for the reconstruction and replacement of any fences, walls, and retaining walls that are altered or removed.
  - 6. Drainage Easements:
    - i. Walls and retaining walls are prohibited within drainage easements.
    - ii. Fences are generally prohibited within drainage easements; however, fences may be allowed on a case-by-case basis depending on the impact on drainage. Fences allowed within a drainage easement for conveyance must be open-style and have a minimum of 4 inches clearance between the bottom of the fence pickets and grade.
  - 7. Landscape Easements: Fences, walls, and retaining walls proposed within landscape easements are subject to review and may be allowed on a case-by-case basis for the purpose of providing decorative buffering features between private property and public rights-of-way with collector, arterial, and freeway road classifications.
  - i. Swimming Pool and Hot Tub Enclosures: Swimming pool and hot tub enclosures shall be installed pursuant to the standards of Section 4-1-B-24-F.

**b. Fence, Wall, and Retaining Wall Requirements by Type**

**Table 1: Fence, Wall, and Retaining Wall Requirements by Type**

Type	Zoning Districts Allowed	Is a Permit Required?	Maximum Height <sup>4</sup> Allowed	Location Allowed	Materials Allowed
<b>Fence/Non-Retaining Wall on Residential Property</b>	All residential zoning districts and mixed-use districts that include residential uses	Yes	6' <sup>3</sup>	<ul style="list-style-type: none"> <li>• May be located on the side and rear <sup>1</sup> property lines</li> <li>• Front yard: Cannot be closer to the front property line(s) than the front wall of the constructed building</li> </ul>	<ul style="list-style-type: none"> <li>• Wood</li> <li>• Aluminum</li> <li>• Steel</li> <li>• Wrought Iron</li> <li>• PVC</li> <li>• Chain-Link (without slats)</li> <li>• Masonry</li> <li>• Stone</li> <li>• Concrete</li> </ul>
<b>Fence/Non-Retaining Wall on Non-Residential Property</b>	All non-residential zoning districts and mixed-use districts that do not include residential uses	Yes	10' <sup>3</sup>	<ul style="list-style-type: none"> <li>• Corner lots: Along a street-side side property line the fence or wall must be minimum 15' setback from the street-side side property line <sup>2</sup>.</li> </ul>	
<b>Agricultural Fence/ Non-Retaining Wall</b>	AG for agricultural purposes	No	6'	<ul style="list-style-type: none"> <li>• May be located anywhere on the property</li> </ul>	
<b>Decorative Fence/ Non-Retaining Wall</b>	All zoning districts	No	3'	<ul style="list-style-type: none"> <li>• ≤ 75% of the lot width. Cannot fully enclose the yard</li> <li>• May be located anywhere on the property</li> </ul>	

Recreation al Fence/ Non- Retaining Wall	All zoning districts	Yes	6' for private swimmi ng pools; 10' for other uses	<ul style="list-style-type: none"><li>• 6' fence or wall may be located on side and rear property lines</li><li>• &gt;6' fence or wall must be minimum 15' setback from property lines</li><li>• Cannot be closer to the front property line than the front of the constructed building</li></ul>	
Undergrou nd Electric Fence	All zoning districts	No	n/a	<ul style="list-style-type: none"><li>• May be located anywhere on the property</li></ul>	<ul style="list-style-type: none"><li>• Under groun d electri c fencin g</li></ul>
Security Fence (Barbed Wire)	AG for agricultu ral purpose s	No	8'	<ul style="list-style-type: none"><li>• May be located anywhere on the property</li></ul>	<ul style="list-style-type: none"><li>• Barbe d Wire</li></ul>
	BP-1, BP-2, BP-S	Yes	18"	<ul style="list-style-type: none"><li>• On top of fences with a 6' minimum height</li></ul>	<ul style="list-style-type: none"><li>• 3 Horizo ntal Strand s of Barbe d Wire</li></ul>
	All zoning districts	Yes	Per Planning Commission approval in conjunction with a site plan or Special Use Permit		<ul style="list-style-type: none"><li>• Barbe d Wire</li></ul>
Razor Wire	Prohibited				
Retaining Wall <4' Tall <sup>4</sup>	All zoning districts	No	<4'; shall not be >6" above retaine d surface	<ul style="list-style-type: none"><li>• May be located anywhere on the property with minimum 2' setback from property lines</li></ul>	<ul style="list-style-type: none"><li>• Mason ry</li><li>• Stone</li><li>• Concr ete</li></ul>



<b>Retaining Wall ≥4' Tall <sup>4</sup></b>	All zoning districts	Yes	10' of exposed wall per tier; shall not be >6" above retained surface	<ul style="list-style-type: none"> <li>• May be located anywhere on the property with minimum 2' setback from property lines; however, a greater setback may be required depending on the design of the retaining wall</li> <li>• Tiers shall be separated by at least 3'</li> </ul>	
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<sup>1</sup> *Rear Setback: Fences constructed within a designated residential fence/wall buffer area or land use buffer area must comply with the location shown on the approved plan. On a double-frontage lot where the rear property line abuts a collector or local street and where a house on adjacent property fronts on that street or where adjacent property has the potential to be subdivided into a lot which fronts on that street, the rear yard fence of the double-frontage lot shall be located no closer to the abutting street right-of-way than a line established by the platted front building line of the adjacent property or, if unplatted, the distance from the abutting street right-of-way to the required front building line. However, the Community Development Director shall have the authority to reduce the required rear fence setback for such a double-frontage lot, provided that safe visibility at driveways, the view to the street for the neighboring properties, and the general character of the neighborhood along the street are maintained. This determination shall take into consideration the height and opaqueness of the proposed fence, the difference in elevation of the affected properties, and other existing site characteristics.*

<sup>2</sup> *Provided that the fence or wall does not impede safe visibility for pedestrians and vehicles as determined by the Community Development Director. Fence lines installed along a street-side side yard that connect or end anywhere in front of the back corner of the constructed building shall be open-style along that entire fence line. See Figure 5-B-1-A and Figure 5-B-1-B.*

<sup>3</sup> *When a fence or wall is located within 3' of or directly on top of a retaining wall, the height of the fence/wall plus the height of the retaining wall shall not exceed 10'. See Figure 5-B-1-C.*

<sup>4</sup> *Height Measurements.*  
*Fence/Wall Height: Fence/wall height is the vertical distance measured from the adjacent grade to the top of the fence posts or panels, whichever is higher.*

*Retaining Wall Height: Height of a retaining wall for determining whether engineering is required is defined as the distance between the bottom of the footing to the top of the wall, regardless of the amount of exposed wall. Height of a retaining wall in relation to maximum height allowed in Table 1 above is the vertical distance measured from the adjacent grade to the top of the wall.*

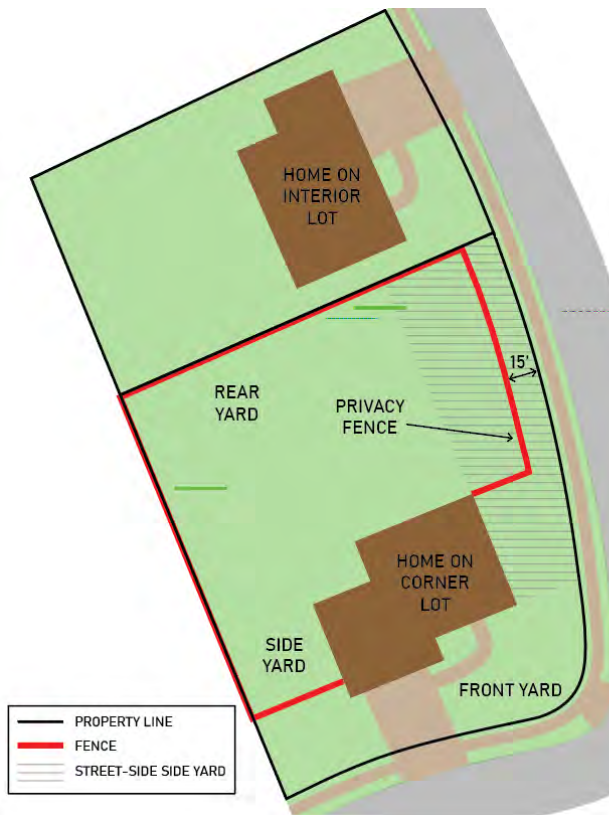


Figure 5-B-1-A

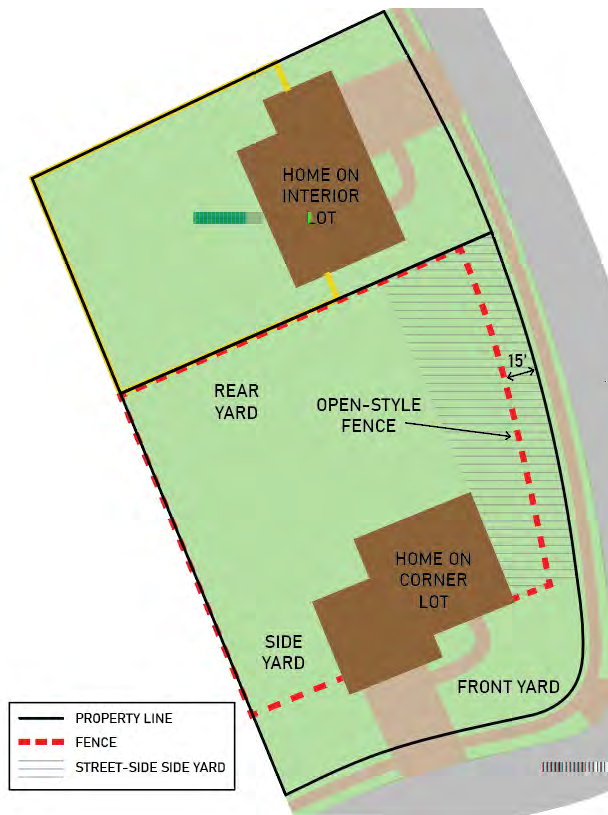


Figure 5-B-1-B

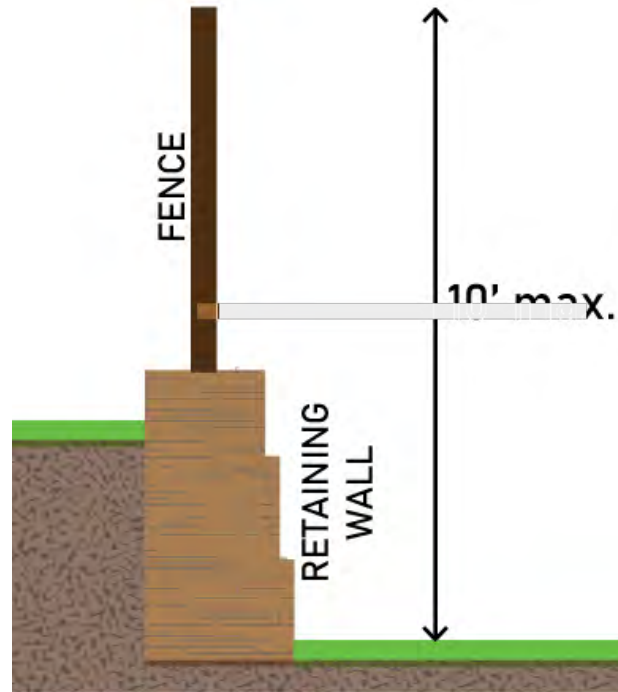


Figure 5-B-1-C

**c. Deviations from Strict Compliance**

1. Deviation Approval: It is recognized that site conditions vary greatly among sites and that the design, scale, and character of neighborhoods is varied. The Planning Commission shall have the authority to approve deviations from strict compliance with the regulations of this subsection at the time of initial project review for planned districts and the Community Development Director shall have the same authority for administrative plan and permit approvals, provided that the purpose and intent of this subsection is met. Deviations shall be clearly identified on plans submitted for plan and permit approval. The criteria to be considered by the Planning Commission and Community Development Director shall include, but not be limited to:
  - i. Purpose and intent of the Code.
  - ii. Impact on adjacent properties.
  - iii. Safety.
  - iv. Unique site conditions and constraints.
  - v. Promotion of high quality or unique design.
  - vi. Character of the neighborhood.
6. **Garage, Craft And Sample Sales:** Garage sales, craft sales and manufacturers' sample sales shall be a permitted accessory use in the residential zoning districts; provided, that:
  - a. No more than 2 sales events shall be conducted on the premises in any calendar year;
  - b. No sales event shall be conducted for longer than 4 days duration;
  - c. Sales events may be conducted during the daylight hours only; and
  - d. The sign regulations set forth in Section 4-1-E-4-N of this Chapter shall be followed.

7. **Hobby Activities:** Hobby activities shall be permitted as an accessory residential use by the occupant of the premises when conducted purely for personal enjoyment, amusement or recreation and when the activity does not conflict with any City ordinance.
8. **Home Occupations:** A home occupation is an accessory use by the occupant(s) of a dwelling unit in which goods are produced or traded, or services are rendered, as an economic enterprise. Such use shall be clearly incidental or subordinate to the residential use of a dwelling. A home occupation shall be considered an accessory use, subject to the following standards:
  - a. **Intent:** These home occupation standards are intended to permit the establishment of certain incidental and accessory home occupation uses in residential neighborhoods under conditions that will ensure their compatibility with the residential character of the neighborhood. They are intended to permit residents to engage in home occupations that are compatible with residential land uses and to ensure that home occupations do not adversely affect the integrity of residential areas. Use of a dwelling as a “Hotel or Motel” as defined in Section 4-3-C-3 of this Code shall not be allowed as a home occupation. The standards of this section shall not apply to a “Day Care” as defined in Section 4-3-C-2 of this Code.
  - b. **Employees:** No more than 1 other person in addition to members of the family residing on the premises shall be engaged in the home occupation at the place of residence.
  - c. **Size:** A home occupation shall be clearly incidental and subordinate to the residential use of the dwelling unit, and no more than 25 percent of the total floor area of the dwelling including garage and basement space, shall be used for the home occupation. If more than 1 home occupation is operated in the residence, the combined total square footage devoted to the home occupations shall not exceed 25 percent of the total floor area of the dwelling including garage and basement space.
  - d. **Appearance:** There shall be no change in the exterior appearance of the dwelling unit or other visible evidence of the conduct of the home occupation.\*  
\*See Section 4-1-E-4-V (Home Occupation Signs) of this Chapter.\*
  - e. **Landlord Consent:** Any person applying for a business license for a home occupation that will take place within a rental property shall submit written consent signed by the owner of the rental property.
  - f. **Hours Of Operation:** A home occupation may attract business-related vehicular and pedestrian visits only between the hours of 6:00 A.M. and 9:00 P.M.
  - g. **Traffic:** A home occupation shall not generate more than 6 round-trip vehicular trips per day.
  - h. **Parking:** No parking in the public right of way shall occur as a result of the home occupation except for occasional business gatherings as permitted in this subsection.
  - i. **Entrance:** No separate street-side entrance for the exclusive use of the home occupation shall be permitted.
  - j. **Nuisances:** A home occupation shall not create noise, dust, heat, smoke, odor, vibration, electrical interference, glare, light or radio or television transmission interference that exceeds levels normally associated with single-family dwellings. The production, dumping or storage of combustible, toxic or other hazardous substances



shall be expressly prohibited on the site of the home occupation, unless approved by the City in writing.

- k. **Business Gatherings:** The standards of this subsection shall not be interpreted to prohibit occasional group gatherings, such as recitals or demonstrations; provided, that such gatherings occur during the hours of operation specified in this subsection F8, and provided that they do not occur more than twelve times per year.
  - l. **Business License:** A business license shall be required for the operation of a home occupation. The Community Development Director shall have the right to place stipulations and restrictions on the approval of the business licenses for home occupations to ensure the home occupation operates in a manner consistent with the intent of this section as set forth in subsection (a) above.
  - m. **Violations.** Any person found to be in violation of the provisions of this Section relating to home occupations shall be notified in writing by the Community Standards Officer, or his or her designee, by regular U.S. mail, personal service, or publication and posting, in accordance with Section 3-5-H-7. In addition, the enforcement process for home occupation violations shall be executed in accordance with the property use and maintenance code enforcement process set forth in Title 3, Chapter 5-H; provided, however that the City's remedy for a third violation of these home occupation regulations within a twenty-four (24) month period shall be the revocation of permits and licenses in accordance with Section 4-1-B-24-F-8n.
  - n. **Enforcement Process; Multiple Violations; Revocation.** Penalties for violations of this Section shall escalate in severity for each successive violation within the immediately preceding two (2) year period, as follows:
    - 1. **First And Second Violations:** Enforcement actions for the first two (2) violations of this Section period shall be executed in accordance with the property use and maintenance code enforcement process set forth in Title 3, Chapter 5-H.
    - 2. **Third Violation:** Enforcement actions for the third violation of this Section within a twenty-four (24) month period shall implement the notice and hearing components set forth in Title 3, Chapter 5-H. In addition, the business license issued for the home occupation may be revoked and, if revoked, shall not be reissued for a period of at least two (2) years from the date of revocation.
9. **Outdoor Retail Display In Commercial Zoning Districts:**
- a. Retail businesses shall be allowed to maintain outdoor retail displays of organic seasonal products, such as firewood, bedding plants, Christmas trees, pumpkins, and landscape plants. Except as set forth in Section 4-1-B-25-B-1-f, this provision does not allow the outdoor retail display of the following types of seasonal landscape material: mulch, chips, rocks, fertilizer, potting soil, pots, pesticides, etc. Retail businesses shall not be allowed to maintain outdoor retail display for other seasonal products.
  - b. Each business shall be limited to 2 outdoor vending-type machines, such as ice machines, LP gas cylinder exchanges, soft drink dispensers and children's rides. This provision shall not apply to newspaper vending machines
  - c. No outdoor retail display permitted by this subsection shall interfere with pedestrian or vehicular access or parking.

## 10. Radio And Television Antennas:

- a. **Purpose And Intent:** The purpose and intent of this subsection is to provide for the safe and effective installation and operation of amateur radio, citizens band radio and television antenna support structures and the beam antennas installed on those support structures. It is also the purpose and intent of this subsection to provide for a reasonable accommodation of amateur radio communications, in accordance with parts 95 and 97 of chapter 1 of title 47 of the Code of Federal Regulations, while reflecting the City's legitimate interest in protecting and promoting the health, safety, welfare, neighborhood aesthetics and morals of its citizens. The standards in this subsection are intended to place reasonable safety and aesthetic precautions on the installation and erection of such antennas and antenna support structures and to represent the minimum practicable regulation necessary to protect and promote the health, safety and welfare of the public. The regulations are not, however, intended to unduly restrict or preclude amateur radio communications.
- b. **Applicability:** All amateur and citizens band radio and television transmission and receiving antennas, excluding satellite dish antennas, shall be governed by the standards of this subsection.
- c. **Residential Districts:** In the residential districts, all antenna support structures which have a height of more than 35 feet above grade level, including the antenna installed on the support structure, shall be considered a special use requiring review and approval pursuant to the standards of Article 4-1-G of this Chapter. Antenna support structures which have a height of 35 feet or less above grade level, including the antenna installed on the support structure, shall be considered a permitted accessory use.
- d. **Nonresidential Districts:** In the nonresidential districts, all antenna support structures which extend more than 12 feet above the highest point of the principal structure, including the antenna installed on the support structures, shall be considered a special use requiring review and approval pursuant to the standards of Article 4-1-G of this Chapter. Antenna support structures which extend 12 feet or less above the highest point of the principal structure, including the antenna installed on the support structure, shall be considered a permitted accessory use.
- e. **Location:** All antennas and antenna support structures shall comply with these location standards:
  1. **Setbacks:** All antenna support structures and the beam antennas installed on those support structures, including all elements or parts thereof, shall conform to the minimum yard setback standards of the district in which it is to be located.
  2. **Support Structure Location:** In addition to complying with the district setback standards, antenna support structures shall be located on the property so as to provide a minimum distance equal to 50 percent of the height of the tower from aboveground utility power lines other than applicant's service lines or a break point certified by a professional engineer or as evidenced by the manufacturer's specifications. In addition, no antenna support structure shall be located in the front yard.
  3. **Anchor Location:** All antenna support structure supports and peripheral anchors shall be located entirely within the boundaries of the property, and if closer than 5 feet to property under different ownership and if such support or anchor extends

greater than 3 feet above ground, it shall be effectively screened from view from abutting properties and shall extend no greater than 6 feet above ground.

4. **Limitation:** No more than 1 antenna support structure shall be allowed on any residential lot.

11. **Satellite Dish Antennas:** The provisions of this subsection shall apply to the installation, location and screening of satellite dishes and accessories except where the Federal Communications Commission (FCC) has preempted regulation of small antennas, which are defined as Direct Broadcast Satellite (DBS) antennas 1 meter or less in diameter. It is the intent of these requirements to further the community's health, safety, welfare, and aesthetic objectives; to provide for timely installation of satellite dish antennas; and to allow reasonable flexibility in locating and screening the antennas to optimize reception or transmission while maintaining accepted community aesthetic standards. Locational restrictions of accessory structures such as satellite dish antennas are intended to ensure safety and to minimize obstruction of views and open space from adjacent properties. Screening and locational requirements are intended to minimize the visual impact of larger satellite dish antennas and to set aesthetic standards that are comparable to that required for other accessory structures in commercial and industrial zoning districts, such as dumpsters and mechanical equipment, and to be more compatible with the nonobtrusive structures that are commonly found in residential neighborhoods.

a. **General Requirements Applicable To All Satellite Dish Antennas Unless Indicated Otherwise:**

1. **Permanent Installation Required:** Satellite dish antennas shall be permanently installed on a building, in the ground or on a foundation and shall not be installed on a portable or movable structure, such as a trailer.
2. **Location:** Satellite dish antennas shall be located so they do not interfere with safe visibility at street intersections or driveways, do not obstruct movement of vehicles or pedestrians, or block building entries and shall not be located in any manner that interferes with or creates a hazardous condition with utilities or other structures.
3. **Appearance:** To the extent permitted by operational requirements, satellite dish antennas, except those that are 1 meter or less in diameter, shall be of a color that blends with the surroundings. No signs, advertising or business identification other than the manufacturer's labeling shall be permitted on the dish or screening.
4. **Cables:** All cables and lines serving ground-mounted satellite dish antennas shall be located under ground.
5. **Electromagnetic Interference:** Each satellite dish antenna shall be filtered or shielded to prevent the emission of radio-frequency energy that would cause any harmful interference with the radio or television reception or broadcasting on adjacent properties. In the event the interference is detected after installation of the satellite dish antenna, the owner of the unit shall immediately take steps to eliminate the interference.
6. **Construction, Installation And Operation:** The construction, installation and operation of satellite dish antennas shall comply with all Federal, State and local regulations.

7. **Permits Required:** Satellite dish antennas greater than 1 meter in diameter shall require a building permit and payment of the fee adopted by the City Council. Direct Broadcast Satellite dish antennas 1 meter or less in diameter generally do not require a building permit and payment of fees, except as indicated in subsection F11d of this Section. A plot plan drawn to scale and specifications, such as property lines, setbacks, building location, utility easements, accessory structures, fences, trees and proposed screening methods along with detailed information about the proposed dish and method of installation shall be submitted with the permit request. The permit shall be approved, approved with conditions, or denied by the Community Development Director.
  8. **Maintenance Specifications:** Satellite dish antennas shall be properly maintained. Exposed surfaces, including the dish, brackets and any supporting members, shall be kept clean and painted as necessary to achieve a well maintained appearance in keeping with all approvals. The Community Development Director shall have the right to order the repair or removal of any satellite dish antenna that is damaged, deteriorated or no longer in use.
- b. **Residential And Agricultural Districts:** The following additional standards shall only apply to satellite dish antennas that are greater than 1 meter in diameter within the residential and agricultural districts:
1. **Number, Mounting And Height:** One satellite dish antenna greater than 1 meter in diameter shall be permitted per parcel. Satellite dish antennas shall be ground-mounted and shall not exceed a total height of 12 feet.
  2. **Location And Setbacks:** Satellite dish antennas shall be located within the rear yard and shall be set back a distance inside all property lines at least equal to its height, but not less than 5 feet from the property line.
  3. **Screening Of Ground-Mounted Antennas:** A satellite dish antenna shall be screened so as not to be readily visible from surrounding properties or any public rights of way. The screen may consist of structures, fences, plant materials and/or earth berms which are located to conceal at least the sides and rear of the antenna and its support. A solid perimeter fence with a minimum height of 6 feet installed around the yard in which the antenna is located is deemed to satisfy these screening requirements. If plant materials are used to provide screening, the type used shall effectively screen the antenna throughout the year. The plants shall have a minimum height of 5 to 6 feet at the time of initial planting and must be spaced appropriately to achieve the screening.
- c. **Nonresidential Zoning Districts:** The following additional standards shall only apply to satellite dish antennas that are greater than 1 meter in diameter within the nonresidential zoning districts:
1. **Size:** Retail commercial sites may utilize an antenna that does not exceed 12 feet in total height. Broadcasting studios, offices, manufacturing and warehouse uses may utilize larger antennas up to the maximum building height permitted on the site; however, the overall height of roof-mounted antennas shall not exceed 12 feet over the maximum permitted building height on the site.



2. **Number:** Multiple satellite dish antennas may be permitted; however, multiple antennas over 12 feet in total height shall be approved only through final plan review by the Planning Commission.
  3. **Location And Setbacks:** A ground-mounted satellite dish antenna shall be permitted on any portion of the lot, except between any right-of-way line and the corresponding building line. The antenna shall be set back inside any property line a distance at least equal to its height, but not less than 5 feet from the property line.
  4. **Roof-Mounting:** A roof-mounted satellite antenna shall be permitted; provided, that it is in scale with the overall building mass and the specific location at which it is installed. As a guideline to proper scale, the visible height of the antenna should be no more than 25 percent of the height to the top of the underlying building edge or screen, and no more than 25 percent of the width of the underlying building edge or screen. Regardless of scale requirements, the building edge or screening should obscure the lower part of the support structure and all accessory equipment from ground-level views within 1,000 feet of the antenna. The criteria of this subsection may be varied in the case of irregularly shaped buildings or other unique installation locations as long as the overall intent of this subsection is met.
  5. **Ground-Mounted Installation:** A ground-mounted installation shall include installation of fencing, berming or landscaping to accomplish the following:
    - a. Complete screening of all accessory equipment and the lower part of the support structure.
    - b. Screening at the rear and sides of the structure, at an elevation and size equal to the height of the highest portion of the structure, in order to break down the scale of the dish itself.
    - c. Installation of landscape material in the vicinity of the structure so as to, at least, partially obscure the view of the dish from all off-site rights of way and public areas of private property.
  6. **Off-Site Satellite Antenna Locations:** Satellite antennas may be located on a different site from the building they serve, when written permission is granted by the owner of the proposed property where the antenna is to be located.
- d. **Small Satellite Dish Antennas:** In addition to the general requirements of this Section, the following supplementary standards shall apply to satellite dish antennas that are 1 meter or less in diameter within all zoning districts:
1. **Location:** Every effort should be made to install satellite dish antennas that are 1 meter or less in diameter in a location that is not visually obtrusive from neighboring properties or the public right of way.
  2. **Building Permit:** In order to protect public safety, a building permit may be required if any of the following occurs:
    - a. The installation requires electrical service of 110 volts or greater.
    - b. A ground-mounted antenna is to be installed a distance from a property line that is less than the overall mounted height of the dish.
    - c. A roof-mounted antenna will extend more than 12 feet above the surface on which it is mounted.

- e. **Deviations:** Requirements for overall height, location, setback, ground-mounting, and screening of any satellite dish antenna may be modified or waived by the Community Development Director in cases where unique site conditions prevent reasonable reception or transmission and where compliance with these provisions would impair signal reception. In addition, the Community Development Director may modify or waive screening requirements for satellite dish antennas where the antenna's material, color, and placement diminish its visibility to the same extent that other screening elements would. The Community Development Director shall consider the following criteria in acting upon a request for deviation:
    1. The deviation shall be in compliance with the general purpose and intent of the City's satellite dish antenna regulations.
    2. The deviation shall not create a safety hazard.
    3. The placement, color, and screening of the satellite dish antenna shall minimize the visual impact on adjacent properties and minimize obstruction of views and open space from adjacent properties.
    4. The deviation from the satellite dish antenna regulations shall be the least amount necessary to provide reasonable satellite dish antenna reception or transmission.
12. **Solar Energy Systems:** The provisions of this subsection shall apply to the design, construction, installation, alteration, materials, location, repair and removal of solar systems and accessories connected, attached or adjacent to a building or structure. The provisions of this subsection relate to solar energy systems and component requirements similar to those provided in the Building Code.\* Solar energy systems, whether active or passive, shall be designed to be compatible with the surrounding neighborhood and shall comply with the following standards:
- \*See Article 4-8-D of this Title.\*
- a. **Maintenance And Access:** Solar energy system components shall be accessible for required routine maintenance without trespassing on adjoining property or disassembling any major portion of the structure of a building or appurtenance.
  - b. **Location:** Solar energy system components shall not be located so as to interfere with the operation of required doors, windows or other building components. Provision shall be made over pedestrian and vehicular ways to protect those areas from sliding snow or ice. Solar energy systems may be placed in the side or rear yards of any lot; provided, that the required setback distances are observed. In no instance shall solar energy systems be placed any closer to the front lot line than the front of the building or buildings erected upon said lot.
  - c. **Compliance With Building Code:** Solar energy system components shall be constructed or installed in accordance with Article 4-8-D of this Title.
  - d. **Roof-Mounted Equipment:** Solar energy systems, when mounted or placed atop the roof of a structure, shall conform to the following requirements:
    1. **New Construction:**
      - a. **Residential And Agricultural Zoning Districts:** In the residential and agricultural zoning districts (R-1 through RP-5 and AG), solar energy systems shall be incorporated as a building component of the roof of a structure or otherwise integrated into the roof so that the device forms a part of the roof itself.

Placement above or away from the roof line in "standoff" or "rack" mounting arrangements shall not be permitted.

- b. **Commercial And Industrial Zoning Districts:** In the commercial and industrial zoning districts solar collection systems may be mounted upon any roof section of a structure; provided, that the height of the device shall not project more than 3 feet above the height of the corresponding roof line. All mounting arrangements must be screened from the adjacent public right of way.

## 2. Residential Retrofit:

### a. Domestic Hot Water Systems:

- 1. **Collector Surface Area:** The collector surface area for solar energy systems shall be limited to a maximum of 120 square feet for each residential lot.
- 2. **Location And Placement:** The device may be placed on any roof section of a structure; except, that part of the roof which provides the most direct exposure or greatest visibility to the front lot line and the adjacent public street right of way.
- 3. **Height:** The device shall be placed so that its highest point does not exceed the highest elevation of the corresponding roof line of the structure by a distance greater than 3 feet. Where the roof section provides direct exposure or greatest visibility to the front lot line and the adjacent public street right of way, then the following restrictions shall apply:
  - 1. The apparatus shall not project above the ridge line or beyond the hip or gable of the roof when viewed from the front lot line or adjacent public street right of way;
  - 2. All points of the lower edge of the collector shall not extend more than 18 inches above the roof; and
  - 3. For rack-mounted apparatus, the rack only shall be enclosed in such a way as to be architecturally compatible with the existing roof. The enclosure shall in no way interfere with the safety and efficiency of the solar apparatus.
- 4. **Framing Materials:** All framing shall be rust treated or of nonrusting materials.

- b. **Systems With Space Heating Applications:** The installation of solar systems with space heating applications shall be approved in accordance with Article 4-1-H of this Chapter.

- c. **Existing Solar Energy Systems:** Existing solar energy systems shall be permitted to have their existing use continued, provided their use and maintenance is not a hazard to life, health or property. Conditions that endanger life, limb, health or property shall be abated by repair, rehabilitation, demolition or removal in accordance with the provisions of Article 4-8-E of this Title.

- 13. **Swimming Pools And Hot Tubs:** Outdoor swimming pools, hot tubs and spas shall be enclosed by a fence or wall with a self-latching gate. The fence or wall shall have a minimum height of 4 feet. The fence shall be constructed so as not to allow a 4 inch diameter sphere to pass through the fence. Enclosing the entire yard containing the swimming pool, hot tub or spa in accordance with these requirements shall satisfy the intent of this subsection. In addition, rigid hot tub covers, latched in place when not in use, shall be permitted in lieu of required hot tub fencing. Swimming pools, hot tubs and spas shall be set back at least 5

feet from all side and rear lot lines, as measured from the water's edge, and shall not exceed the size of the dwelling unit.

14. **Temporary Uses and Structures:** The following temporary uses and/or structures are subject to the regulations contained within this section, with the exception of temporary banking facilities which are regulated separately under Section 4-1-B-23-AA.

- a. **Temporary Construction Site Office and/or for Storage:** Temporary construction site office(s) and/or storage, including modular offices and trailers are permitted on the same site as a single-family lot, commercial, industrial, or multi-family construction project possessing a valid building permit. Temporary construction office(s) may be occupied for construction office purposes or used for storage of equipment and material used during development of the site. All temporary structures must meet required setbacks for accessory structures. Such temporary structure(s) must be well maintained by the developer, property owner, or contractor or his or her designee. Failure to comply may result in the applicant being ordered to remove or relocate the temporary structure(s). The temporary structure(s) shall be removed within 30 days after issuance of a final Certificate of Occupancy or expiration of the building permit for said project, whichever first occurs. No hazardous materials or wastes of any kind may be stored unless otherwise approved by the Kansas Department of Health and Environment.
- b. **Temporary Sales Office:** A temporary sale offices for a new development shall be permitted for the purpose of selling properties or memberships when located within an approved structure, i.e. model home, apartment, trailer, pursuant to a valid permit for said residential or non-residential development. The temporary structure must meet applicable building and fire code requirements, i.e. anchoring, ADA ramps, access. The temporary sales office structure shall be removed within 30 days after issuance of a temporary Certificate of Occupancy or expiration of the building permit for said project, whichever first occurs.
- c. **Temporary Portable Storage Containers:** Temporary portable storage containers shall be permitted by the property owner or tenant of said residential property for temporary storage, or by commercial/ industrial property owners or tenants for the temporary storage of inventory provided they can meet the following regulations listed below. Portable containers cannot be used as temporary construction site offices, sales offices or by third-parties for storage. Roll-off bins or dumpsters are not considered temporary portable storage containers.
  1. Residential and Agricultural zoned lots developed with a principle structure:
    - a. Temporary portable storage containers are permitted for a period not to exceed a total of 30 days within any calendar year. The Community Development Director is authorized to grant additional time for temporary portable storage containers, when requested in writing.
    - b. Temporary portable storage containers must be located on private property and a paved surface, and may not obstruct any city right-of-way, sidewalks or interfere with the normal operations of the permanent use on the property.
    - c. The maximum allowable size for temporary portable storage containers shall be 160 square feet with an overall length not to exceed 20 feet or height of eight (8) feet.



- d. Rail cars, semi-trailers, or other similar structures may not be used for temporary storage.
  - e. The temporary portable storage containers shall be weather resistant, and made of a high quality/commercial grade material intended for outdoor use and be water tight.
  - f. All temporary portable storage containers shall be delivered and maintained in good condition, free from rodents, insects, or graffiti. It shall be the responsibility of the property owner or tenant and the supplying company to maintain the portable storage containers.
2. Commercial or Industrial zoned lots developed with a principle structure: Temporary portable storage containers shall be allowed for the storage of seasonal merchandise for no more than 60 days within any calendar year and must be located out of street right-of-way and public view.
- d. **Temporary Structures for Elementary and Secondary Schools:** Temporary structures for the use of elementary and secondary schools shall be permitted in any zoning district; provided:
- 1. The temporary structure is placed on an active elementary or secondary school campus where students or members are in attendance.
  - 2. The temporary structure is not located within any required parking or landscape area.
  - 3. A staff approved all weather surface is provided for access to the temporary structure.
  - 4. The applicant provides a parking study demonstrating the existing parking facilities can accommodate the additional classrooms or space, or how additional parking spaces can be provided, per City code.
  - 5. The temporary structure must meet applicable fire and building code requirements, as well as other applicable development regulations.
  - 6. The applicant and City enter into a Development Agreement inclusive of a phasing plan, requirements for maintenance and/or repairs, and duration of the temporary structure.
  - 7. A separate building permit is not required for the temporary structure, but a temporary structure will only be allowed in conjunction with a building permit for improvements and/or expansion to an existing permanent school structure located on the campus property.
  - 8. The temporary structure shall be removed within 2 years of issuance of a building permit or upon expiration of the building permit for said project, whichever first occurs. The Community Development Director is authorized to grant additional time for a temporary structure, when requested in writing.

**15. Outdoor Storage Associated with Residential Uses:**

- a. No property owner or resident shall allow the placement, storage, installation, or construction of any item, object or structure on any property zoned or used for residential purposes, including the RE, RP-E, R-1, RP-1, RP-2, RP-3, RP-4, RP-5, and AG districts, except as specifically permitted by this Section.

- b. An item, object, or structure not specifically permitted by this Section shall be considered to be placed, stored, or installed on the property if it remains on the property and is not properly enclosed or screened for a period in excess of forty-eight (48) hours.
- c. **Outdoor Storage Specifically Permitted:** The following items, objects, or structures are specifically permitted and are exempt from the enclosure and screening requirements set forth in this Section:
  - 1. Any item, object, or structure permitted under the provisions of the applicable zoning district regulations established in Article 4-1-B or the applicable accessory use regulations established in Section 4-1-B-24 of the Code, if in full compliance with the authorizing provision.
  - 2. **Authorized Trash Containers.** An "authorized trash container" is one that has been designed and manufactured specifically for storage of solid waste and is leak proof and waterproof. That container shall be closed at all times except when depositing waste therein or removing the contents thereof. Containers shall be a light weight and of sturdy construction and shall not exceed 90 gallons in capacity.
  - 3. Firewood, neatly stacked and free of insects and vermin; provided, that its storage shall be at least three feet (3') from the property line if it is bounded by a wooden fence on an adjacent property owned by another person, and, furthermore, its storage shall not be at any location on the property that is closer to a street than the nearest primary wall surface of the residence. For the purposes of this Section, "primary wall surface" shall mean any exterior wall surface of the residence that is visible from the street and not perpendicular to the street, but excluding porches, carports and minor building projections such as fireplaces or bay windows.
  - 4. Outdoor play equipment, patio furniture, barbecue grills, dog houses, lawn ornaments, garden hoses and sprinklers; provided, that these items must be specifically manufactured for outdoor use and in working/useable condition.
  - 5. Outdoor building materials for a home/lawn improvement project, not requiring a building permit, may be stored outside in a neat and orderly manner for a period not to exceed thirty (30) days. Examples of such items include, but shall not be limited to, fencing, lumber, masonry, dirt, sand, and gravel. Building materials stored in conjunction with an active building permit must be stored in a neat and orderly manner.
- d. **Screening or Enclosure Required for Other Items Not Specifically Permitted:**
  - 1. Any item, object, or structure not specifically authorized in Section 4-1-B-24-F-15c, above, must be located either within a fully enclosed structure or in the rear yard and substantially screened from view from any adjacent property at ground level by a wall or fence. The Community Development Director may approve mature landscape materials as acceptable substantial screening if he/she determines that it provides the substantial equivalent of approved fence or wall materials. Fence or wall materials shall be of a type, material and quality compatible with the immediate neighborhood, as determined by the Community Development Director. Fencing or walls, adequate to prevent viewing of outdoor items from adjacent properties at ground level, may be used for screening purposes provided they are constructed and maintained in compliance with City Code and comply with primary structure setback requirements for the zoning district. Common examples of items that require screening include, but

shall not be limited to, garden equipment/tools, lawn mowers, edgers, wheelbarrows, saw horses, storm windows, snow removal equipment, and ladders.

2. **Compost Piles:** Residential compost must be stored in a container manufactured or constructed so as to contain all materials and permit turning to aerate the materials. The container and contents must be stored in the rear yard and screened from the view of adjacent properties at ground level. The container and contents must be maintained in a neat and sanitary condition and be free of odor.
  3. Notwithstanding any other applicable provision, permitted items, objects, or structures shall occupy no more than twenty percent (20%) of the allowable outside storage area. In measuring the area occupied by these permitted items, objects, or structures to determine if the twenty percent (20%) outside storage area is exceeded, a rectangle shall be drawn to include all points where any such item, object, or structure is located, and the area shall be calculated to include all that area within the rectangle. This method of calculating area shall not apply to those items specifically authorized in Section 4-1-B-24-F-15c above.
  - e. **Outdoor Storage Expressly Prohibited:** The following items, objects, or structures are expressly prohibited from outdoor storage: appliances, furniture or items not manufactured for outdoor use, any item in disrepair, accumulation of yard waste (except as permitted in Section 4-1-B-24-F-16d2), vehicle parts or tires, business equipment, machinery or supplies (except in an AG district as permitted by Section 4-1-B-4-G-4), and building materials (except as permitted in Section 4-1-B-24-F-16c5).
16. **Storm Protection Area:** Storm protection areas for any new residential development for which a preliminary plan/plat application is approved by the Planning Commission after December 1, 2005, shall be a permitted accessory use when located with such development.
- a. Storm Protection Areas shall comply with Federal Emergency Management Agency - Publication 320 (Taking Shelter From the Storm) or Publication 361 (Design and Construction Guidance for Community Shelters).

#### 17. **Small Wind Energy Conversion Systems (WECS)**

A Small WECS may be located in any zoning district within the city as an accessory use provided all conditions in this section are satisfied.

- a. Location on the Property:
  1. Residential Zoning Districts: The Small WECS may not be located in any required or established front or side yard.
  2. Agricultural, Commercial, and Industrial Zoning Districts: The Small WECS may not be located in any required front or side yard.
- b. Number of Units: One Small WECS may be in addition to any other accessory structure located on the property. With respect to the total number of accessory structures located on a property, the WECS shall be counted as a single accessory structure. More than one Small WECS may be placed on properties zoned other than RE, RP-E, R-1, RP-1, and RP-2 with approval of a Special Use Permit .
- c. Height: All Small WECS, both roof/building mounted and ground mounted, shall comply with the maximum height restrictions for the applicable zoning district. Small WECS

proposed to exceed the maximum height restrictions may be allowed subject to approval of a Special Use Permit. For roof/building mounted Small WECS, the total height of the building and Small WECS shall be considered when measuring the overall height. The highest point of the Small WECS structure, including blades, if applicable shall also be included as part of the overall height. The height for ground mounted Small WECS shall be measured from average grade at the tower base to the highest point of the Small WECS structure, including blades, if applicable.

- d. Blade Design: Only propeller-style Small WECS may be considered as an accessory use. All other blade or collection styles may be allowed subject to approval of a Special Use Permit.
- e. Setback: All Small WECS shall comply with the minimum property line setback requirements for the applicable zoning district or be set back from the property line a distance greater than or equal to the overall height of the Small WEC, including blades, whichever is greater. Setback requirements shall not apply for roof/building mounted Small WECS. The setback of the building shall be considered as satisfying the setback requirement for the Small WECS.
- f. Design and Aesthetics: Small WECS shall be painted a non-reflective, non-obtrusive color or a color that conforms to the environment and architecture of the community.
- g. Tower Design: All tower structures for Small WECS shall be of self-supporting, monopole construction unless attached to a structurally reinforced roof where such support is not warranted. No lattice or guyed monopole structures shall be permitted.
- h. Minimum Blade Clearance: The blade tip clearance for ground-mounted Small WECS shall, at its lowest point, be not less than 30 feet.
- i. Lighting: Small WECS shall be lighted only if required by the Federal Aviation Administration (FAA) or other applicable authority. Lighting of other parts of the Small WECS facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall comply with all other requirements of this chapter.
- j. Noise: The noise emitted from any Small WECS shall not exceed the noise level limits outlined in Section 4-1-C-4.
- k. Vibration: Vibration emitted from any Small WECS shall not exceed the limits outlined in Section 4-1-C-4.
- l. Signage: Any signage proposed in conjunction with a Small WECS shall comply with Article 4-1-E Signs.
- m. Equipment Cabinets and Other Ground-Level Equipment: Ground-level equipment shall either be fully enclosed in a building meeting architectural compatibility standards with surrounding properties, or adequately screened based on site specific location and adjacent land uses. At a minimum, ground-level equipment shall be enclosed with a 3/8" non-climbable, black vinyl, chain link fence with a variety of upright evergreens planted in a staggered spacing necessary to achieve the desired screening. In residential settings or where ground-level equipment is readily visible from public areas of surrounding properties or from any public rights-of-way a solid screen wall, of a height at least equal to the maximum height of the equipment may be required. The screen wall shall be architecturally compatible with adjacent development.



1. Screening of the ground-level equipment may be waived provided that such equipment is screened by other property boundary enclosures or other structures so as not to be visible from surrounding properties or public ways.
- e. Compliance with Building Code: All Small WECS shall require a building permit for installation.
- f. Removal of Inoperable WECS: Any Small WECS that is inoperable for twelve consecutive months shall be considered abandoned, and the owner of such Small WECS shall either restore the Small WECS to operating condition or remove the Small WECS, including all associated support structures and transmission lines, within ninety days of receipt of notice from the governing authority notifying the owner of such abandonment. If, after ninety days, the Small WECS is not removed, the Small WECS and associated structures would be subject to the enforcement provisions as set forth in Article 3-5-H of the Municipal Code. For purposes of this section, inoperable shall be deemed to include, but shall not be limited to, the blades of the Small WECS remaining stationary so that wind resources are not being converted into energy, or the Small WECS is no longer connected to equipment to convert the wind into energy.
- g. Miscellaneous:
  1. The principle use of the Small WECS shall be providing power for the structure(s) on the subject property. Incidental selling of power back to the electric grid shall not constitute a commercial use unless the WECS is part of larger a wind farm.

**SECTION TWO:** Section 4-3-B-7 is hereby amended to read as follows:

**Section 4-3-B-7 GENERAL TERMS - F.**

**FAMILY:**

1. **Family.** In all zoning districts, family shall be defined to mean:

- a. a person living alone, or
- b. two or more persons related by blood, marriage, legal adoption, guardianship, or other legally authorized custodial relationship, or
- c. a group of not more than four (4) persons age eighteen (18) or older who are unrelated by blood, marriage, or legal adoption, living together as a single housekeeping unit in a dwelling unit; provided, that if any one of the adult persons is unrelated to another adult person in the group, the entire group shall be classified as unrelated.

2. **Exemption.** Group Homes, Limited, as defined in Section 4-3-C-2. The burden of proving a facility qualifies as a Group Home, Limited, rests solely with the party exerting or claiming the exemption.

**FEE SIMPLE TITLE:** A clear legal title to a tract of land as further defined in law.

**FENCE/WALL:** An above-grade structure or barrier, usually constructed of wooden, metal, masonry, or fiberglass parts, and used to mark a boundary or to define and enclose a specific area for the purposes of protection, privacy, safety, or confinement.

## **FENCE/WALL TYPES:**

- A. **AGRICULTURAL:** A fence or wall structure installed for agricultural purposes, such as farming or keeping of livestock. Such fencing includes, but is not limited to split rail, electric fencing, and barbed-wire fencing.
- B. **DECORATIVE:** An open-style fence or wall structure used in a manner which is designed to add to the aesthetics or attractiveness of the lot or tract upon which it is placed, rather than as an enclosure or barrier. Railings along or adjacent to front stoops, porches, steps, landings, culverts, bridges, or sidewalks, shall not be considered as decorative fences.
- C. **OPEN-STYLE:** A fence, including gates, designed and constructed so that the surface area of any segment of such fence contains at least 50% open space as compared to solid materials.
- D. **PRIVACY/SOLID:** A fence, including gates, designed and constructed so that the surface area of any segment of such fence is greater than 50% opaque.
- E. **RECREATIONAL:** A fence or wall used in conjunction with basketball courts, tennis courts, racquetball courts, softball/baseball fields, school playgrounds, swimming pools, or other similar recreational areas.
- F. **WALL, RETAINING:** A structure or barrier situated at or below grade, usually constructed of masonry, used to retain earth.

**FREEWAY FRONTAGE:** Property lying adjacent to the right-of-way line of a freeway designated in the City's Major Street Plan, or lying adjacent to a freeway frontage road.

**FREEWAY FRONTAGE ROAD:** A road running parallel to a freeway designated in the City's Major Street Plan, the right-of-way of which lies directly adjacent to the right-of-way of the freeway and its associated ramps.

**SECTION THREE:** Section 4-3-B-24 is hereby amended to read as follows:

### **Section 4-3-B-24 GENERAL TERMS - W.**

**WALL:** See "FENCE/WALL"

**WEIGHTED SOUND LEVEL:** The sound pressure level in decibels read on a sound level meter using the A filter. The A filter attenuates incoming sound to approximate the sensitivity of the human ear.

**WIDTH:** The least horizontal distance between the side lot lines and the building.

**SECTION FOUR:** Interpretation: This ordinance shall be construed as follows:

- A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.
- B. **Savings Clause:** The repeal of any Ordinance or Code Section, as provided herein, shall not revive an Ordinance previously repealed, nor shall the repeal affect any right which accrued, any duty imposed, any penalty incurred or any proceeding

commenced, under or by virtue of the Ordinance repealed. Said Ordinance or Code repealed continues in force and effect after passage, approval, and publication of this Ordinance for the purpose of pursuing such rights, duties, penalties, or proceedings.

- C. Invalidity: If any reason any chapter, article, section, subsection, sentence, portion or part of this Ordinance, or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance, City Code or other ordinances.

**SECTION FIVE:** Repeal: The Existing Code Sections 4-1-B-24, 4-3-B-7, and 4-3-B-24 are hereby repealed.

**SECTION SIX:** Effective Date: This Ordinance shall take effect and be in force from and after publication of an ordinance summary in the City's official newspaper as provided by State law.

**ADOPTED** by the Governing Body this 18<sup>th</sup> day of April, 2023.

**SIGNED** by the Mayor on this 18<sup>th</sup> day of April, 2023.

**CITY OF LENEXA, KANSAS**

[SEAL]

\_\_\_\_\_  
Michael Boehm, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Martin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven D. Shrout, Assistant City Attorney II

## **CITY CENTER REDEVELOPMENT (TIF) PROJECT PLAN 3H CITY CENTER REDEVELOPMENT (TIF) DISTRICT AS AMENDED**

(Advent Health Phase 1 – Hospital)

In accordance with K.S.A. 12-1770 *et seq.*, as amended (the “**Act**”), to promote, stimulate and develop the general and economic welfare of the city of Lenexa, Kansas (“**City**”), the Lenexa City Council adopted Ordinance No. 4427 on September 11, 2001, establishing a Redevelopment (TIF) District (the “**Original District**”). The Original District was amended on December 20, 2005 by Ordinance No. 4824 to include a total of approximately 424 acres (the “**District**,” also referred to as the “**City Center TIF District**”) and legally described in attached **Exhibit A**.

The City has identified multiple City Center development projects located within the City Center TIF District. The area consisting of approximately 67 acres and located on the northwest corner of 87<sup>th</sup> Street Parkway and Renner Boulevard is commonly referred to as “**City Center North Village**” or “**City Center North**”). The Act allows one or more TIF projects to be undertaken by a city within an established district and any such project plan may be implemented in separate development stages. There are currently multiple approved TIF Project Plans within City Center North.

Project Plan 3H (the “**Project Plan 3H**”, also referred to as the “**Project Plan**”) will include approximately 13.5 acres located at the northwest corner of the intersection of Renner Boulevard and 86<sup>th</sup> Street and is legally described on **Exhibit B** (the “**Project Plan 3H Area**”). The improvements anticipated within the Project Plan 3H Area consist of an approximately 240,000 sq. ft. medical center and an approximately 54,000 sq. ft. medical office building including associated site work, utilities and parking facilities and are described in more detail in **Section 5** herein (the “**Project**”). Project Plan 3H shall extend for a period of twenty (20) years from the date the Project Plan is approved by the City (the “**Project Plan Term**”). The Tax Increment (as defined by the Act) generated from the real property in the Project Plan 3H Area during the Project Plan Term is referred to herein as the TIF Revenues (the “**TIF Revenues**”).

### **1. Comprehensive Feasibility Study.**

City Staff prepared a Comprehensive Financial Feasibility Study (“**Feasibility Study**”) for Project Plan 3H. Projections on development in the Project Plan 3H Area were provided by Shawnee Mission Medical Center, Inc., a Kansas corporation (the “**Developer**”). The Feasibility Study incorporates a number of conservative assumptions, including a constant mill levy of 90.733, which excludes 20 mills from the school levy and the 1.5 State mill levy and it assumes a one (1%) annual increase in appraised valuation after substantial completion of each project phase. The Feasibility Study also assumes the Project is substantially complete by December 2025 with an assessed value of \$2,362,500.

It is expected that the Developer will advance funds necessary to construct the improvements described in **Section 5** herein and to pay the estimated TIF eligible private project reimbursable costs set forth on **Exhibit C** attached hereto (the “**Private TIF**”).



**Reimbursable Costs**”), and that Developer will subsequently be reimbursed with TIF Revenues received by the City from the Project Plan 3H Area on a “pay-as-you-go” basis, in accordance with the terms of a Disposition & Development Agreement (the “**DDA**”). The City will not issue full faith and credit tax increment bonds for this Project. Further, the City does not anticipate issuing special obligation tax increment bonds (“**TIF Bonds**”) for the Project, however, upon the future request of Developer, the City shall reasonably consider any such request to issue TIF Bonds if the market can feasibly support such a bond issue and if the TIF Revenues and any other collateral provided for such TIF Bonds provide reasonable assurance that the principal of and interest on the TIF Bonds will be paid on a timely basis. A decision on whether or not a TIF Bond issue is feasible and adequately secured will be the City’s final decision and within the City’s sole discretion. The City is under no obligation to issue TIF Bonds. The Private TIF Reimbursable Costs are generally described on **Exhibit C**, attached hereto.

Developer will enter into a DDA with the City which will describe the Private TIF Reimbursable Costs in more detail and set forth the amount, priority, process and terms for reimbursement. Reimbursement of Private TIF Reimbursable Costs is dependent upon the amount of TIF Revenues and shall be paid in accordance with the amounts and priority set forth in the DDA. In no event will any Private TIF Reimbursable Costs be reimbursed in an amount that exceeds the amount of TIF Revenues available.

Private TIF Reimbursable Costs must (1) be approved by the City; (2) meet the definition of “redevelopment project cost” set out in K.S.A. 12-1770a(o), as amended; (3) be an eligible expense under the City’s adopted TIF Policy and/or Procedures, unless otherwise permitted in the DDA; (4) be authorized in this Project Plan 3H and in the City Center TIF District Plan; (5) be in compliance with the terms for reimbursement and prioritization described with particularity in a subsequent DDA; and (6) not previously reimbursed by any other public source of revenue. The City approval of Private TIF Reimbursable Costs is subject to available TIF Revenues and further subject to the terms and conditions for reimbursement set forth in a DDA.

Based on the current projections and cash flow analysis contained in the Feasibility Study, it is determined that the Project benefits, TIF Revenues and other available sources, including private revenues, exceed the Private TIF Reimbursable Costs, and that the TIF Revenues and other available revenue sources, including private debt and Developer equity, should be sufficient to reimburse Developer for a portion of the Private TIF Reimbursable Costs. For any improvements constructed by Developer in Project Plan 3H, the Developer is responsible for all expenses, including but not limited to Private TIF Reimbursable Costs. The City is under no obligation to provide financial assistance to supplement TIF Revenues actually received, nor to increase the duration or allocation of TIF Revenues for reimbursement.

The City has authorized a maximum reimbursement of \$9,000,000 to the Developer for eligible **Private TIF Reimbursable Costs** as generally described on **Exhibit C** subject to available TIF Revenues and the terms and conditions set forth in a DDA.

The City reserves the right to amend this Project Plan 3H in accordance with state law provided that such amendments shall not, without the consent of Developer, alter or affect the financial terms of this Project Plan 3H benefitting Developer.

In summary, the City conservatively anticipates the ad valorem property tax increment from Project Plan 3H will generate approximately \$4,451,574 over the Project Plan 3H Term. However, changes in mill levies, the phasing of the Private Project, assessed valuations and legislation, in addition to other factors outside the Parties' control may change the amount of available property tax increment. The Developer will be responsible for all expenses of Developer, including costs associated with constructing the Project as well as the Private TIF Reimbursable Costs even if they exceed the TIF Revenue generated from Project Plan 3H. If the TIF Revenues do not meet the estimate, the City shall be under no obligation to provide financial assistance to Developer beyond the TIF Revenues actually generated from the Project Plan 3H Area in accordance with the distribution formula set out in the approved DDA. A summary of the assumptions and anticipated TIF Revenue is included in **Appendix I**.

## **2.     Redevelopment District Plan and Redevelopment (TIF) Project Plan 3H.**

### Redevelopment District Plan (City Center TIF District Plan)

The City Center TIF District area includes land within the City of Lenexa, Kansas as legally described on **Exhibit A**, but generally described as an area of approximately 424 acres located on all four corners of 87<sup>th</sup> Street and Renner Blvd., as well as a tract of land located east of I-435 at 87<sup>th</sup> St Pkwy. The Redevelopment (TIF) District Plan for the City Center TIF District contemplates development of multiple mixed use urban development projects to include office, retail, residential and public uses to be located on all four corners of Renner Boulevard and 87<sup>th</sup> St Pkwy, as well as on a tract located east of I-435 at 87<sup>th</sup> St Pkwy (the "**City Center Project**").

City Center North Village incorporates approximately 67 acres and is located on the northwest corner of Renner Boulevard and 87<sup>th</sup> Street Parkway. The initial project constructed in City Center North Village includes multiple developments such as a multi-family residential development, single family villas, and a public central green/storm water amenity. A hotel has also been constructed and a multi-tenant building is scheduled to commence construction adjacent to the central green soon. City Center Lenexa is one of the largest developments in the City Center Project and is located on the southwest corner of 87<sup>th</sup> Street Parkway and Renner Boulevard. City Center Lenexa is proposed to be developed as a multi-phase, mixed use project pursuant to a development agreement entered into between the City and its master developer. The City constructed a new civic campus in City Center Lenexa which includes a recreation center, structured parking and a City Hall building which incorporates a public market and an area leased to a university tenant. The civic campus is located south of City Center North Village. City Center East is located east of Renner Boulevard and south of 87<sup>th</sup> Street Parkway and includes a four story commercial office/retail building, multi-level parking structure and a hotel/conference center. The remaining undeveloped City Center East property will include additional commercial properties. City Center Northeast, located north of 87<sup>th</sup> Street Parkway and east of Renner Boulevard contains a multi-phase upscale multi-family

residential and commercial/retail project. Additional City Center projects of a smaller scale are anticipated on the other remaining tracts of land in the City Center District.

In accordance with the City Center District Plan, tax increment may be used to pay for eligible project expenses within specific project plan areas for such items including but not limited to public infrastructure; land acquisition; site preparation; street improvements and their appurtenances; sidewalks; storm and sanitary sewers; utility improvements as permitted in the Act; parks; surface and structured parking facilities; landscaping; water mains; storm water detention; sculptures, public art and similar amenities; plazas and open space; reimbursement for special assessments levied pursuant to KSA 12-6a01 *et seq.* for eligible public infrastructure authorized in the District Plan; and other authorized uses set forth in the District Plan and permitted by the Act and the City TIF Policy & Procedures.

### Redevelopment (TIF) Project Plan 3H

Project Plan 3H incorporates approximately 13.5 acres of improvements located in City Center North Village within the City Center TIF District. The Project Plan 3H Area is will include site improvements described in **Section 5** herein (the “**Project**”) and is legally described in Exhibit B.

### **3. Map of Redevelopment Project Plan 3H Area.**

A map of the Project Plan 3H Area is attached as **Exhibit D**.

### **4. Relocation Assistance Plan.**

No relocation will occur as a result of Project Plan 3H and therefore no relocation assistance plan is provided.

### **5. Description of the Buildings and Facilities Proposed to be Constructed or Improved.**

Developer intends to construct an approximately 240,000 s.f., five-story medical facility and an approximately 54,000 s.f. medical office building as well a associated site work, utilities, private streets, and structured and surface parking facilities. The Private TIF Reimbursable Costs incurred as a result of the Project constructed as part of Project Plan 3H include, but are not limited to: land acquisition, architectural and engineering costs not associated with vertical improvements; site development; surface and structured park parking; lighting; landscaping; hardscape; associated utilities in the right of way; amenities; temporary construction interest associated with the Project financing; public improvements; and other eligible costs permitted by the Act, the City TIF Policy & Procedures and the DDA. The Private TIF Reimbursable Costs are described in more detail in **Exhibit C** and in the DDA.

### **6. Other Relevant Information.**

- a. Reimbursement of TIF Reimbursable Costs shall be made with TIF Revenues actually received by the City from the Project Plan 3H Area and deposited into the special fund established by the City in accordance with K.S.A. 12-1778 (the **"City Center Project Plan 3H Fund"**).
- b. If sufficient TIF Revenues are not available to pay all of the Private TIF Reimbursable Costs, the City is under no obligation to reimburse Private TIF Reimbursable Costs from any other public source.
- c. Prior to any reimbursement of Private TIF Reimbursable Costs, each entity receiving reimbursement with TIF Revenues (excluding the City) shall enter into a separate, valid and enforceable DDA with the City. The procedure for distribution, reimbursement and priority of payment of the Private TIF Reimbursable Costs shall be set out in the DDA and consistent with this Project Plan 3H.



## **EXHIBIT A**

### **LEGAL DESCRIPTION OF CITY CENTER REDEVELOPMENT DISTRICT**

Beginning at the Northwest corner of the Northeast Quarter of Section 31, Township 12 South, Range 24 East; thence South along the West line of the Northeast Quarter of said Section 31 to the Southwest corner of the Northeast Quarter of said Section 31; thence East along the South line of the Northeast Quarter of said Section 31 to the Southeast corner of the Northeast Quarter of said Section 31, and continuing East along the South line of the Northwest Quarter of Section 32, Township 12 South, Range 24 East to the Easterly right-of-way line of Renner Boulevard as it now exist; thence North along the Easterly right-of-way line of said Renner Boulevard to the intersection with the South line of the Northwest Quarter of the Northwest Quarter of Said Section 32; thence East along the South line of the Northwest Quarter of the Northwest Quarter of said Section 32, to the intersection with the centerline of Interstate Route 435, as it now exists; thence South along the centerline of said Interstate Route 435 to the South line of the Northwest Quarter of said Section 32; thence East along the South line of the Northwest Quarter of said Section 32, to the Southeast corner of the Northwest Quarter of said Section 32; thence North along the East line of the Northwest Quarter of said Section 32, to the Northeast corner of the Northwest Quarter of said Section 32; thence West along the North line of the Northwest Quarter of said Section 32, to the centerline of Interstate Route 435, as it now exists; thence North along the centerline of said Interstate Route 435 to the North line of the Southwest Quarter of Section 29, Township 12 South, Range 24 East; thence West along the North line of the Southwest Quarter of said Section 29, to the Northwest corner of the Southwest Quarter of said Section 29: thence South along the West line of the Southwest Quarter of said Section 29, to the Northeast corner of the Southeast Quarter of the Southeast Quarter of Section 30, Township 12 South, Range 24 East; thence West along the South line of Stonecreek of Parkhurst 1<sup>st</sup> Plat, Stonecreek of Parkhurst 2<sup>nd</sup> Plat, and Estates of Parkhurst 1<sup>st</sup> Plat, all subdivisions of land in Johnson County, Kansas, to the Northeast corner of Horizons West Re-Plat 3<sup>rd</sup> Plat, a subdivision of land in Johnson County, Kansas; thence South along the East line of said Horizons West Replat 3<sup>rd</sup> Plat, and its extension South, to the South line of the Southeast Quarter of said Section 30; thence West along the South line of the Southeast Quarter of said Section 30 to the Point of Beginning, containing approximately 424 acres.

## **EXHIBIT B**

### **TIF PROJECT PLAN 3H AREA**

All that part of the Southeast Quarter of Section 30, Township 12 South, Range 24 East of the 6th P.M., in the City of Lenexa, Johnson County, Kansas, more particularly described by Roger B. Dill, Kansas PS# 1408, on June 21, 2022, as follows:

Commencing at the Southeast corner of the Southeast Quarter of said Section 30; thence North 02°12'39" West, along the East line of said Southeast Quarter, a distance of 1327.04 feet to the Southeast corner of STONECREEK OF PARKHURST, 1ST PLAT, a platted subdivision in said City; thence South 87°29'00" West, along the South line of said STONECREEK OF PARKHURST, 1ST PLAT, a distance of 256.44 feet to a point on the Westerly right-of-way line of Renner Boulevard, as it now exists, said point being the Point of Beginning; thence along said Westerly right-of-way line, the following six courses; thence South 72°53'48" East a distance of 100.39 feet; thence South 15°53'39" East a distance of 303.02 feet; thence South 02°12'39" East a distance of 137.64 feet; thence South 38°41'54" West a distance of 43.09 feet; thence South 59°13'27" West a distance of 43.70 feet; thence South 01°15'24" West a distance of 77.26 feet to a point of intersection with the Southerly right-of-way line of 86th/ Street, as it now exists; thence North 90°00'00" West, along said Southerly right-of-way line, a distance of 792.19 feet; thence westerly, continuing along said Southerly right-of-way line, on a curve to the left having a radius of 168.00 feet, and a central angle of 16°28'47", an arc length of 48.32 feet to a point on the Easterly right-of-way line of Elmridge Street, as it now exists; thence along said Easterly right-of-way line and Southerly right-of-way line, for the following three courses: thence South 47°27'11" East a distance of 0.04 feet; thence South 42°32'49" West a distance of 60.00 feet; thence North 47°27'11" West a distance of 112.00 feet, to a point on the Northerly right-of-way line of said Elmridge Street; thence North 42°32'49" East, along said Northerly right-of-way line, a distance of 19.07 feet; thence North 49°00'00" West a distance of 70.20; thence North 00°00'00" East a distance of 468.13 feet to a point on the South line of Tract "B", STONECREEK OF PARKHURST, 2ND PLAT, a platted subdivision in said City of Lenexa; thence North 87°29'00" East along the South line of said Tract "B", STONECREEK OF PARKHURST, 2ND PLAT, and Tract "A", said STONECREEK OF PARKHURST, 1<sup>ST</sup> PLAT, a distance of 885.78 to the Point of Beginning, containing 590,425 square feet, or 13.554 acres, more or less.

## EXHIBIT C

### TIF Reimbursable Costs

The following items are estimated costs eligible for reimbursement with TIF Revenues generated from Project Plan 3H. The items are described in more detail in the DDA.

Description of Expenditure	Reimbursement to:	Maximum Reimbursement
<b>TIF Fee</b>	Developer <sup>1</sup>	\$50,000
<b>Itemized Private TIF Reimbursable Costs paid by Developer, including:</b>  Land acquisition within the Project Plan area; site development; A/E (excluding vertical buildings owned or leased by the Developer other than parking structures); water mains; surface and structured parking; landscaping, lighting, sidewalks, benches and similar amenities; utilities; and temporary construction interest.	Developer	\$9,000,000
<b>Annual Administrative TIF Fee:</b> 0.5% of the annual TIF Revenues reimbursed to Developer	City	TBD
<b>Total Maximum Aggregate of Eligible Private TIF Reimbursable Costs</b>	Developer	\$9,050,000
<b>Total Maximum TIF Reimbursable Costs</b>		<b>\$9,050,000</b> <sup>1,2,3,4</sup>

<sup>1</sup> This sum shall be reimbursed to Developer if paid to City by Developer, and if not, it shall be deducted from the first TIF Reimbursable Cost payment (and thereafter until paid in full) and paid to the City. This sum excludes the Annual Administrative TIF Fee as it is TBD based upon eligible TIF Revenues disbursed.

<sup>2</sup> This amount includes sums which may be included in a subsequent Community Improvement District. At the time of certifying its costs to the City, Developer must elect the Project Plan and the incentive source for which it desires reimbursement and it shall not submit those same costs for reimbursement from any other reimbursement source. Further, the total Private TIF Reimbursable Costs may be less depending upon the priority and duration of reimbursement as set forth in a separate DDA.

<sup>3</sup> The Total TIF Reimbursable Costs do not include interest carry costs which are not an eligible expense in this Project Plan. Interest during construction is an eligible cost to the extent permitted by the TIF Act and shall be reimbursed in accordance with the provisions of the DDA. The interest shall be simple interest and shall not be compounded.

<sup>4</sup> The City has only authorized a maximum reimbursement to the Developer of \$9,050,000 for Private TIF Reimbursable Costs. The Developer will be responsible for all expenses of Developer, including costs associated with constructing the Project as well as the Private TIF Reimbursable Costs even if they exceed the TIF Revenue generated from Project Plan 3H.

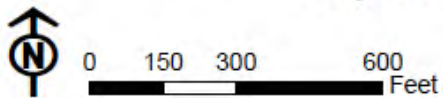
Notwithstanding any other provision of this Plan to the contrary, reimbursable expenditures shall at all times be consistent with the Act, including judicial interpretation of the Act.

## Exhibit D



Data Source: City of Lenexa and Johnson County Kansas  
For further information, please call 913-427-1730

### Advent Health Lenexa City Center City Center Project Plan 3H





## APPENDIX 1 – Feasibility Study

Jan 2023

### City Center TIF District TIF Revenue Projections Advent Health Project Phase 1

Year of TIF (1)	Distribution Year (2)	Total Assessed Value (3)	Base Year Assessed Value (4)	Captured Assessed Value (Column 3 - Column 4) (5)	Projected Property Tax Increment (6)
1	2023	\$784,423	\$13,194	\$771,229	\$34,988
2	2024	\$1,181,250	\$13,194	\$1,168,056	\$105,981
3	2025	\$2,362,500	\$13,194	\$2,349,306	\$213,160
4	2026	\$2,386,125	\$13,194	\$2,372,931	\$215,303
5	2027	\$2,409,986	\$13,194	\$2,396,792	\$217,468
6	2028	\$2,434,086	\$13,194	\$2,420,892	\$219,655
7	2029	\$2,458,427	\$13,194	\$2,445,233	\$221,863
8	2030	\$2,483,011	\$13,194	\$2,469,817	\$224,094
9	2031	\$2,507,841	\$13,194	\$2,494,647	\$226,347
10	2032	\$2,532,919	\$13,194	\$2,519,725	\$228,622
11	2033	\$2,558,248	\$13,194	\$2,545,054	\$230,920
12	2034	\$2,583,830	\$13,194	\$2,570,636	\$233,242
13	2035	\$2,609,668	\$13,194	\$2,596,474	\$235,586
14	2036	\$2,635,765	\$13,194	\$2,622,571	\$237,954
15	2037	\$2,662,123	\$13,194	\$2,648,929	\$240,345
16	2038	\$2,688,744	\$13,194	\$2,675,550	\$242,761
17	2039	\$2,715,631	\$13,194	\$2,702,437	\$245,200
18	2040	\$2,742,787	\$13,194	\$2,729,593	\$247,664
19	2041	\$2,770,215	\$13,194	\$2,757,021	\$250,153
20	2042	\$2,797,917	\$13,194	\$2,784,723	\$252,666
21	2043	\$2,825,896	\$13,194	\$2,812,702	\$127,602
<b>Total Projected Property Tax Increment</b>					<b>\$4,451,574</b>
<b>Net Mill Levy</b>					<b>90.733</b>
<u>Assumptions:</u>					
a)	TIF Mill Levy is 90.733 mills in all years.				
b)	Estimated assessed value upon completion (1/1/2024) is \$2,362,500;				
c)	Base year assessed valuation is \$13,194 for parcels IF241230-4001.				
c)	Assessed value increases by 1% annually after completion.				
d)	Property tax collection rate will be 100%.				
e)	Property tax increment is distributed twice each year.				
f)	Year 1 and Year 21 are half-year distributions				



# Public Art Mural Discussion

April 18, 2023



# Background

- April 5, 2022 – Governing Body accepted the Arts Council's recommendation of priority locations for public art, including the Lenexa Old Town Activity Center (LOTAC) for one or more murals.
- June 2022 – City contracted with Public Art & Practice and formed the LOTAC Public Art Committee to provide recommendations for a mural.



# LOTAC Public Art Committee

- Melanie Arroyo, City Council
- Julie Sayers, City Council
- Emily Behrmann, LAC
- Jess Collins, LAC
- Wayne Dothage, LAC
- Cheryl Kimmi, LAC
- Anne Lawrence-Cherry, LAC
- Dale Trott, LAC
- Judy Tuckness, LAC
- Jennifer Wampler, LAC
- Claire Ward, LAC
- Sean Zaudke, Multi-Studio
- Dan Zeller, Multi-Studio
- Ben Clark, Staff
- Mandy Danler, Staff
- Susanne Neely, Staff
- Logan Wagler, Staff



# Background



# Committee Considerations

- **Goals:** Add vibrancy, express civic pride/community identity and attract residents and visitors

# Phase 1 – Important Questions

Committee worked to answer the following:

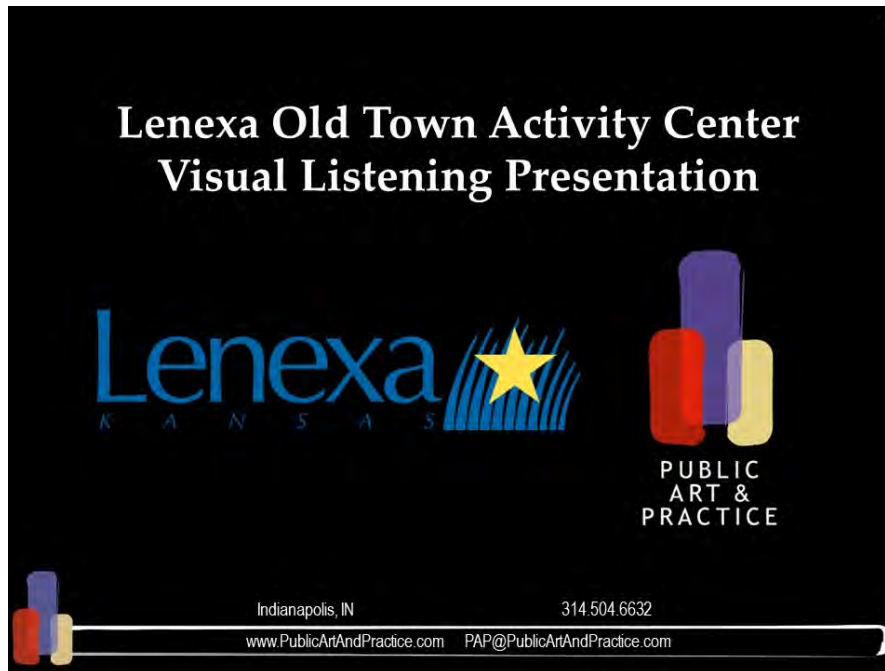
- **Artist residency**: Important to engage an artist from the Kansas City region
- **Motif/Style**: Contemporary/abstract art that embraces the city's identity
- **Location considerations**: Visibility, scale and the public's ability to interact with the art

# Visual Listening Exercise

- 14 qualified artists evaluated and prioritized
- Committee reviewed/rated nearly 100 images
- Result – 3-4 artists emerged to the top of the priority list



# Visual Listening Exercise



# Visual Listening Exercise

2

Alexander Austin

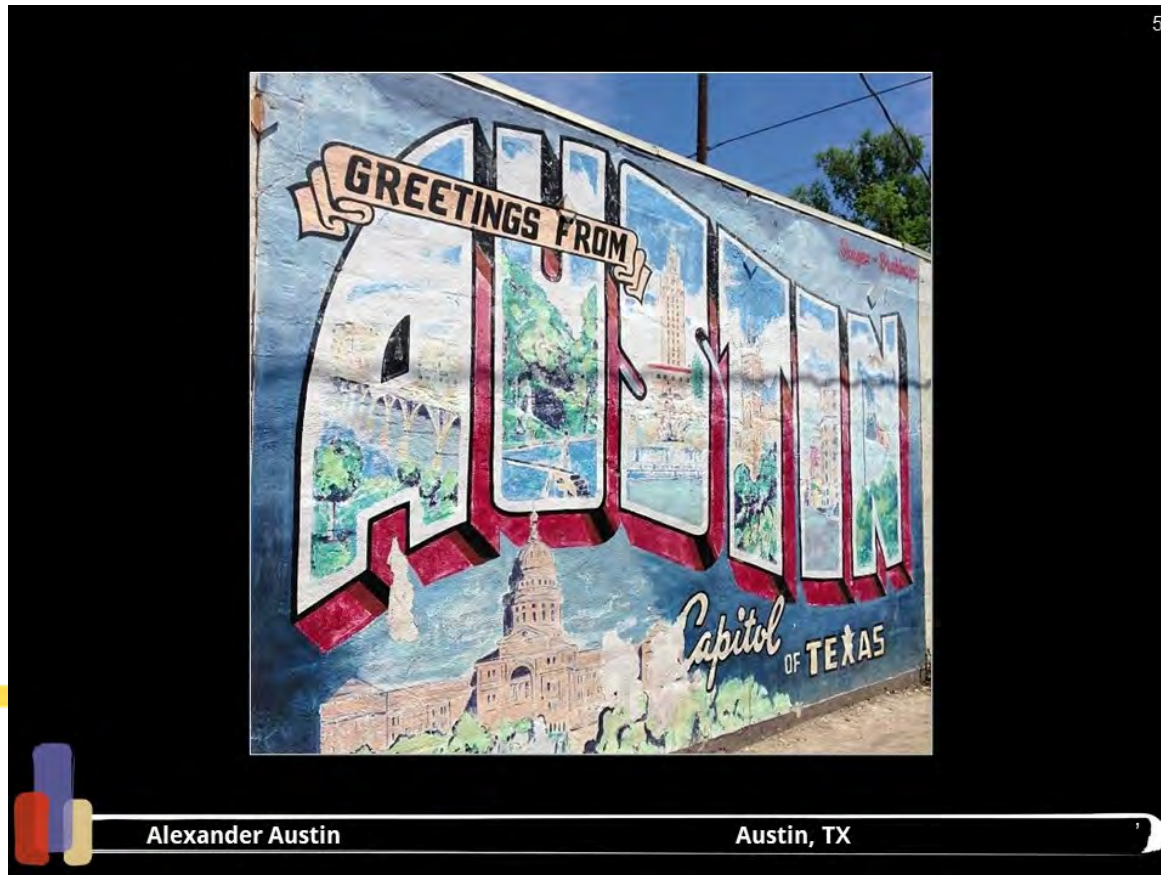


Alexander Austin

18th Street & Vine

Lenexa  
K A N S A S

# Visual Listening Exercise



Alexander Austin

Lenexa  
K A N S A S

# Visual Listening Exercise

JT Daniels



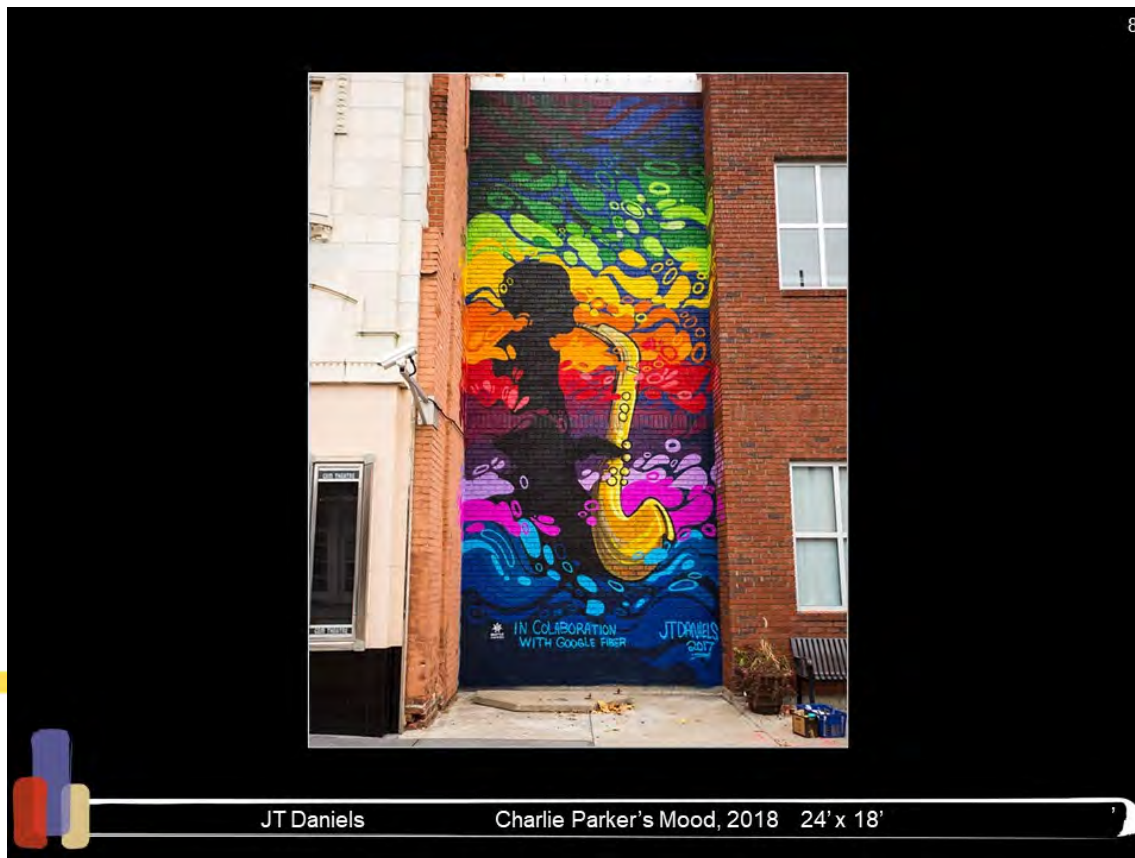
Phil Shafer aka Sike Style and JT Daniels

Lenexa





# Visual Listening Exercise



8

JT Daniels

Lenexa  
K A N S A S

# Visual Listening Exercise



Evan Brown "Doodle Dood"

Evan Brown "Doodle Dood"

# Visual Listening Exercise



Evan Brown “Doodle Dood”



# Visual Listening Exercise

Evan Brown “Doodle Dood”



Evan Brown “Doodle Dood” Facebook Data Center\_32'x12'\_2021\_Omaha, NE

Lenexa  
K A N S A S



# Mural Location Priorities

- Architect team recommended several locations suitable for a mural
- Committee ranked priority locations

# Potential Mural Locations



# Recommended Top Priority Location

South wall adjacent to the new south entrance with the mural wrapping around to the west façade. Approx. 900 SF. Cost estimate ranges from \$13,500 to \$31,500.





# Recommended Second Priority Location

North façade facing  
Santa Fe Trail Drive.  
Approx. 985 SF.  
Cost estimate  
ranges from  
\$14,775 to  
\$34,475.





# Recommended Third Priority Location

Internal wall stretching from the south entrance to new portion of the building. Approx. 500 SF. Cost estimate ranges from \$7,500 to \$17,500.



# Financial Implications

- The city currently has funding available to purchase the top priority mural (max of \$35,000).
- Funding sources include (as of 12/31/2022):
  - City's PRIF (zone 1) \$ 36,611.52
  - CIF dedicated public art funds \$205,694.00
  - Lenexa Foundation (Arts) \$ 62,296.26

# Next Steps

- If plan is approved, city would finalize phase II contract with P.A.P.
- Approved artists would be invited to prepare proposals and concepts for the mural project (spring/summer 2023)
  - Includes a stipend
- Artist proposals ready for community input (Winter/Spring 2024)
- Event for community to meet artists and provide input (Spring 2024)
- **Final recommendation of artist and proposal would be brought back to the Governing Body for approval (late spring, early summer 2024)**
- Artist paints mural (fall 2024)
- Mural completed (late fall 2024)

# Requesting Acceptance of recommendations

## 1) Final recommended artists

- 1) JT Daniels
- 2) Alexander Austin
- 3) Evan Brown (Doodle Dood)

## 2) Location

- 1) Priority #1 – South Wall Wrap

## 3) Process for final recommendations:

- 1) Stipend for final artists
- 2) Public Engagement
- 3) Selection Process



# Questions?