



**MEETING OF THE CITY COMMISSION – AGENDA
WEDNESDAY, MAY 18, 2022 AT 11:00 A.M.
CITY COMMISSION CHAMBER**

ORDER OF BUSINESS

CALL MEETING TO ORDER: Mayor Becky Smith

MEMBERS PRESENT

Vice Mayor Giefer
Commissioner Brinkman
Commissioner Harter
Commissioner Sauder

PROCLAMATIONS

WALK, RUN & BIKE WEEK

Presented by Daphne Mertens, Multi-Use Path Planning Board.

PUBLIC FORUM

The public is invited to make comments at this time. Please limit comments to two (2) minutes each. Hate speech, profanity, and defamation are not allowed. Please state your name and address prior to making comments.

NEW BUSINESS

- 1) Ordinance No. 22-23 Rezoning Property Located at 224 E. 6th Avenue from High-Density Residential to General Commercial.**

Presented by Justin Givens, Planning & Zoning Administrator.

Recommended Action: Approve Ordinance

- 2) Ordinance No. 22-20 Rezoning Property Located at 1116 Constitution Street from High-Density Residential to General Commercial.**

Presented by Justin Givens, Planning & Zoning Administrator.

Recommended Action: Approve Ordinance

- 3) Ordinance No. 22-21 Rezoning Property Located At 1104 Burns Street from Low-Density Residential to Medium-Density Residential.**

Presented by Justin Givens, Planning & Zoning Administrator.

Recommended Action: Approve Ordinance

4) Ordinance No. 22-22 Granting A Conditional Use Permit for a Child Care Center Located at 1022 Grand Street.

Presented by Justin Givens, Planning & Zoning Administrator

Recommended Action: Approve Ordinance

5) Appointment of Member to the Community Housing Board/Land Bank.

Presented by Jeff Lynch, Community Development Coordinator

Recommended Action: Approve the Appointment

6) Change Order No. 1 for the 6th Avenue Watermain Improvements Project.

Presented by Jim Ubert, City Engineer

Recommended Action: Approve Change Order.

7) Vote to Reschedule City Commission Meetings for June & July.

Presented by Christina Montgomery, City Attorney

Recommended Action: Approve the Rescheduling of June & July Commission Meetings.

8) Extension of Memorandum of Understanding with Birds Rider, Inc.

Presented by Christina Montgomery, City Attorney

Recommended Action: Approve MOU Extension.

9) Adopt City Commission Strategic Goals.

Presented by John Deardoff & Jim Witt, Strategic Planning Consultants.

Recommended Action: Adopt Strategic Goals.

COMMUNICATIONS

Presented by Trey Cocking, City Manager.

- 1) April Building Permits & Financials.
- 2) April Budget

CONSENT AGENDA

Presented by Trey Cocking, City Manager.

- A. Approve the minutes of the May 4, 2022, City Commission Meeting.
- B. Ratification and Approval of the Payroll Ordinances for the periods ending May 6, 2022.
- C. Approve Compact Excavator Lease.
- D. Ordinance No. 22-24 Authorizing Beer Garden for My Country Concert After Party.
- E. Ordinance No. 22-25 Authorizing Beer Garden for Gravel Cycling Hall of Fame Event.

Recommended Action: Approve the Consent Agenda as presented.

INFORMATIONAL ITEMS

Presented by Trey Cocking, City Manager.

- 1) Agenda Items for all Upcoming Commission Meetings.

GOVERNING BODY COMMENTS

Mayor Becky Smith

Vice Mayor Danny Giefer

Commissioner Erren Harter

Commissioner Susan Brinkman

Commissioner Jamie Sauder

EXECUTIVE SESSION

The City Commission requests an Executive Session to discuss data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships for potential economic development projects. K.S.A. 75-4319(B)(4) is the authority for this recess into Executive Session.

Recommended Action: Recess into Executive Session to discuss proprietary information of third parties for 20 minutes, inviting Garth Heerman, Dominic Eck, County Commissioner Scott Briggs, County Controller Dan Williams, and Special Projects Manager Jim Witt, and stating at which time the open meeting will resume.

ADJOURNMENT



PROCLAMATION

WHEREAS, From May 29, 2022, through June 4, 2022, Emporia will be the focus of two major bicycling and running events; and

WHEREAS, From May 30th to June 4th, Emporia will once again be the host to the Garmin UNBOUND Gravel bike race which is one of North America's premier, annual, ultra-endurance cycling challenges; this year's event will include the rides of 25, 50, 100, 200 & 350 miles and the High School Junior ride as well as the open-air, market-style "All Things Gravel" expo; and

WHEREAS, The UNBOUND Gravel rides will bring in over 4,800 participants from all 50 states, Puerto Rico, and 38 foreign countries. In addition, more than 10,000 friends, family, fans and supporters will visit our community; and

WHEREAS, On June 1st & 2nd, the 40th Annual Law Enforcement Torch Run will enter Lyon County at the Coffey County line, and local law enforcement officers will carry the Torch to El Dorado with an eventual destination at the summer games of the Special Olympics in Wichita; and

WHEREAS, We encourage our community to welcome these guests to our City, as they deserve the recognition for the many countless hours of training they have endured to prepare for these events transpiring in these Flint Hills we call home; and

WHEREAS, the Multi-Use Path Planning Board encourages everyone to walk, run or ride a bicycle to work during the week of these events,

NOW, THEREFORE, I, Becky Smith, Mayor of Emporia, Kansas do proclaim that the week of May 29th through June 4th as

WALK, RUN & BIKE WEEK

in Emporia, Kansas. I encourage the residents of Emporia to follow the example of our running and bicycling visitors and get up, get out and walk, run, or bicycle. Exercise leads to a healthy lifestyle and reduces illnesses related to a sedentary life.

On This 18TH Day of May 2022

ATTEST:

Becky Smith, Mayor

Kerry Sull, City Clerk



Commission Action Report

Title: Ordinance No. 22-23 Rezoning Property Located at 224 E. 6th Avenue within the City of Emporia.

Proposed Agenda Date: May 18, 2022

Presented By: Justin Givens, City Planning & Zoning Administrator

BACKGROUND:

At their April 19, 2022 meeting, the Emporia Metropolitan Planning Commission did recommend denial of a zoning change for the property located at 224 E. 6th Avenue. Attached is an excerpt of minutes from the April meeting including the staff's report to the Planning Commission. Also included is an excerpt of minutes from the March 15, 2022 meeting, the original date of consideration by the Planning Commission.

DISCUSSION:

The rezoning requested by the applicant was necessary to facilitate an indoor storage facility on the property. The applicant desired to create apartments in the front of the property, and use the rear portion of the property as an indoor storage facility. The indoor storage facility use would require a conditional use permit in the proposed C-3 General Commercial Zoning District. At the Public Hearing, originally held on March 15, 2022, multiple people spoke against the proposed rezoning (excerpt of minutes attached) and after hearing from staff, the applicant, and the public, the Planning Commission requested further clarification on items raised during the public hearing. Action on the item was tabled until the April 19 meeting. Staff was able to provide additional information after consultation with the City Attorney and Land Use Consultant, Jim Kaup. Upon receiving the updated report, the Planning Commission discussed the updated information and ultimately voted to deny the application.

FINANCIAL CONSIDERATIONS:

There are no financial considerations for this item.

OTHER CONSIDERATIONS:

The Governing Body, when considering a recommendation of denial from the Planning Commission on a Rezoning Application may; 1) Uphold the Planning Commission's recommendation of denial by a simple majority; 2) Override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission and Approve an Ordinance rezoning the property; 3) Table the request for further study; 4) Return the application to the Planning Commission, giving reasons for doing so.

RECOMMENDED ACTION:

The Planning Commission has recommended the application for rezoning be denied.

ATTACHMENTS:

Rezoning Ordinance

Excerpt of Minutes from March 15 and April 19 Meetings (including staff report)

Aerial Map

Zoning Map

Plan ELC Map

ORDINANCE NO. 22-23

AN ORDINANCE REZONING LAND IN THE CITY OF EMPORIA, KANSAS FROM R-3 HIGH-DENSITY RESIDENTIAL DISTRICT TO C-3 COMMERCIAL ZONING DISTRICT AND AMENDING THE DISTRICT ZONING MAP TO CONFORM WITH SAID ZONING

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The following described properties are hereby rezoned from R-3 High-Density Residential District to C-3 General Commercial District Zoning to wit:

Lots 87, 89, 91, and the South ½ of Lot 93, Original Town, Emporia, Lyon County, Kansas

Generally located: 224 E Sixth Ave., Emporia, KS

Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 18th day of May 2022.

BECKY SMITH, Mayor

ATTEST:

KERRY SULL, City Clerk

EXCERPT OF MINUTES- 3/15/2022

EMPORIA - LYON COUNTY METROPOLITAN AREA PLANNING COMMISSION

The Planning Commission met in a regular session on Tuesday, March 15, 2022, with Chair Thomas presiding. Members Bucklinger, Weaver, Barnes, Duncan, and Colson present.

Member DeWitt was absent.

City staff: Justin Givens, Moriah Keen, Jeff Lynch, and Kory Krause were present.

1. Consider an Application PC 2022-05 Requesting Rezoning of Property Located at 224 E Sixth from R-3 High Density Residential District to C-3 General Commercial District.

Chair Thomas asked if proper notice had been given and if the City had jurisdiction on the item. **Givens** confirmed that proper notice was provided to the newspaper and the property owners within 200ft of the property, and that the City had jurisdiction.

Chair Thomas asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No commissioners needed to recuse themselves due to a conflict of interest and no ex parte communications were reported.

Givens gave the staff report:

Application #: PC 2022-05

Applicants: Eli Fowler

Requested Action: Consider the Approval of Rezoning a property from R-3 High Density Residential to C-3 General Commercial

Purpose: Applicants desire rezoning of the property located at 224 E Sixth for the purpose of converting a house into 4 to 6 apartments.

Address: 224 E Sixth

Legal description: Lots 87, 89, 91, and the South ½ of Lot 93, Original Town, Emporia, Lyon County, Kansas

Lot Size: 25,000 sq. ft. +/-

Existing Zoning: R-3 High Density Residential

Future Zoning in ELC Comp. Plan: Mixed Use

Surrounding Zoning:

North- R-3 High Density Residential

East- C-3 General Commercial / R-3 High Density Residential

South- C-3 General Commercial
West – C-3 General Commercial

Surrounding Actual Uses:

North – Apartment Dwellings / Single-Family Residences
East – Carwash / Single-Family Residences
South- Restaurant / Commercial Property
West- Convenience Store / Single-Family Residence

Analysis: The applicant has requested a zoning change to facilitate the development of 4-6 apartments and approximately 20 indoor storage units. Apartments are an allowed use on upper floors in C-3 General Commercial Zoning. A variance will be required to have apartments on the ground floor as the applicant intends. Indoor storage is an allowed use thru the Conditional Use Permit process and the applicant is applying concurrently for that permit.

The property is on the National Historic Register and as such, any changes to the use or structural alterations are required to be approved by the State Historic Board. Any approvals by the Planning Commission and City Commission would be subject to approval from that agency. The project plan has been submitted and is pending review at the state level. There is no time frame for when an approval or denial may come from the state.

Considerations: 26-108. Factors to be Considered in a Rezoning:

When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines: **Staff Commentary in Bold**

1. Whether the change in classification would be consistent with the intent and purpose of these regulations; **C-3 General Commercial zoning does allow for apartments when not on the ground floor. If approved the applicant will need to receive a variance from the ground floor regulation, but based on the mixed-use classification in the future land use regulating plan, staff feels that the change is consistent with the intent and purpose of the regulations.**
2. The character and condition of the surrounding neighborhood and its effect on the proposed change; **The area is surrounded by a mix of commercial and residential (both single-family and multi-family). The change in zoning classification would have no negative impact on surrounding properties.**
3. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions; **Conditions in the area have been stable with the only change being the loss of the group home at the proposed location for rezoning.**
4. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification; **The change, if approved, would have minimal effect on the**

existing land uses within the area. There is a mix of commercial and multi-family in the area currently.

5. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity; **Based on current zoning within the area being both commercial and high-density residential, the change in classification would be compatible with the surrounding area.**

6. The suitability of the applicant's property for the uses to which it has been restricted; **The applicant is desiring to create a mixed-use development with apartments and indoor storage. The property was previously a group home and has limited prospects for occupation at this time. While some characteristics of the previous use will remain, the change will allow for the highest use of the property.**

7. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as allowing the land to be vacant or undeveloped; **The property has remained vacant for more than a year and based on the size and scope of the property, it could have limited prospects for redevelopment and could continue to sit vacant for some time.**

8. Whether adequate sewer and water facilities, and all other needed public services, including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified; **Adequate public facilities are present at the site and the street system is such that no changes would be necessary to accommodate the project if approved.**

9. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development; **Vacant C-3 property within the downtown corridor is very limited. Conversions of existing properties are part of the comprehensive plan and if approved would not have a negative impact on the limited existing vacant property in the area.**

10. The recommendations of professional staff; **Staff is supportive of the rezoning. It would allow the applicant to create the proposed mixed use development, but would allow more flexibility if plans are needed to be altered which might include office space or other services as opposed to just high-density residential use.**

11. Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan; **The future land use regulating plan shows that this property would be in a mixed use area, and the Comprehensive Plan encourages the development and redevelopment of mixed-use areas especially in the central core of the city. The change in classification would be complementary to the Comprehensive Plan.**

12. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and, **The Planning Commission and City Commission will need to balance the applicants desire to create a mixed-use facility at a historic property that may remain vacant for an undetermined amount of time if the rezoning is not approved. However, the rezoning could**

provide additional uses if the apartment project is abandoned. Historic Preservation is important especially with structures such as this.

13. Such other factors as may be relevant from the facts and evidence presented in the application.

Neighborhood Communications: At the time of writing this report, staff has been in contact with multiple members of the public who have expressed varying opinions on both rumored uses for the property and building as well as based on the actual development plan.

Recommendation: Staff recommends the Planning Commission forward a recommendation to approve the rezoning to the Governing Body based on a finding that;

1. The proposed rezoning is consistent with the Comprehensive Plan and Future Land Use Map;
2. Would not have a negative impact on the public health, safety, and general welfare of the City;
3. Would be consistent and compatible with existing uses within the area.

Attachments: Aerial Map / Current Zoning Map / Future Land Use Map / Concept Layouts

Commissioner **Weaver** clarified with **Givens** that any plan for this property has to be approved by the state. **Givens** said yes, the state approves changes in both uses and building plans.

Commissioner **Weaver** asked **Givens** is there a preferred order for that to happen in? **Givens** said that the state can take a long time for review and we should proceed forward. The rezoning would allow more uses within that property. If the state decides not to allow apartments on this property, C-3 zoning could allow another commercial use that the state would allow.

Commissioner **Weaver** asked **Givens** if there is any covenants or deeds that restricts the use in any way? **Givens** said not that he is aware of.

Commissioner **Bucklinger** asked **Givens** how many allowed uses are found in the C-3 district? **Givens** said quite a few. Commissioner **Bucklinger** asked are there any uses that would not be appropriate for that location? **Givens** said that he is not sure. C-3 is a general commercial zoning, there is a wide range of uses that could be allowed. Commissioner **Bucklinger** stated he is concerned that if the Commission approves C-3, the owner of the property is not obligated to follow the plan that they presented to the Planning Commission. They could do something entirely different because C-3 has a lot of allowable uses. Commissioner **Colson** added there are 68 uses for C-3.

Commissioner **Colson** asked **Givens** is there a reason C-3 was specifically selected for this rezoning. If it was to primarily allow storage, or the flexibility of the uses? **Givens** said it was selected to allow the conditional use for the storage facility, and then a variance for the apartments.

Chair **Thomas** asked if the state vetoes, and they cannot do the storage, does the City Commission have the ability to remove the state's decision if it is in the best interest of the city? **Krause** said yes they do. Chair **Thomas** is concerned that state protections are not absolute. If the city commission were able to overturn a decision from the State's Historical Society, which

would allow the applicant to move forward with the apartment complexes, his concern is how far those protections extend.

Commissioner **Weaver** asked **Givens** what are the limited prospects based on? **Givens** said it was based off the information that was provided to him. He was told that the property did not have many inquiries or offers for purchase. It has been vacant for more than a year and did not have much activity on the property.

The public hearing was opened.

Eli Fowler, PO Box 306 Emporia, KS (Applicant): Mr. **Fowler** stated that if the rezoning is approved, his intentions are to repair, restore, maintain, and adaptably reuse the building. His project will provide more housing units, and secure climate control storage for Emporia.

Mr. **Fowler** stated that he has already started working directly with the State's Historical Society to maintain the historical aspects of the building. Keeping the historical aspect of the building is one of his biggest intents. The State Historical Society said the first step to move any of this plan forward is the zoning change. The State Historical Society indicated that they did not have an issue with the storage, because the carriage house is not considered the historical part of the house.

Mickey Edwards, 2200 W. 30th: CEO of United Way and facilitating the Plumb Place Steering Committee. Ms. **Edwards** stated that the Steering Committee is remaining neutral about the change in rezoning. She stated that there is a potential that there are other offers on the home and that if another offer is accepted versus Mr. Fowler's offer, the commission may be required to change zoning again.

Ms. **Edwards** explained that the court has appointed a receiver to sell the house on behalf of Plumb Place Board. The Plumb Place Board does not get to choose the potential buyer. She further stated that when the house was deeded to the community for the use of benefiting women and girls in the community, there was an allowance in the deed. This allowance granted that "a group of community-minded individuals could make a study and determine if the house would be best used for another agency or it could be sold with the proceeds benefiting women and girls". Ms. **Edwards** stated that this is the route the steering committee has recommended to the court, and the route the court is going down.

Commissioner **Barnes** asked how the sale is going to take place. Are there bids that go to this independent third party? **Edwards** said that was correct. There were bids taken through December 15th. From her understanding at least one bid came in after December 15th and they are still entertaining bids to date. The individual who was appointed to sell the house will make a decision not solely on the highest bid. One of the recommendations of the steering committee is that the court has to approve the sale because we are wanting to make sure the house is sold in a responsible manner; in a way that the community can continue to have that historical integrity intact. This is something that the receiver is keeping in mind. The court will approve or disapprove once the contract is written.

Commissioner **Weaver** verified that **Fowler** does not own the property. **Edwards** said correct, it is still owned by Plumb Place. **Givens** asked if Edwards knew when the decision will be made. **Edwards** said she does not know. **Fowler** said that his offer is contingent on the zoning changes being approved.

Ross MacTaggart, owner of 526 Union: Mr. **MacTaggart** stated that he has been restoring the Cross House across the street from Plumb Place since 2014, and one of the reasons he bought the Cross House was because the historical Plumb Place was nearby.

MacTaggart felt that the house was not marketed properly, which resulted in a low number of offers. He stated that the house was never put on multiple listing services or posted on Zillow. He found the Cross House on Zillow, and that there are people across the globe who actively seek properties like the Plumb House or Cross House to redevelop in a superb way, in a way that would benefit the community. If it was not properly listed, how would those type of buyers know the house was even available? **MacTaggart** stated that he was not comfortable with the appearance of some of the issues with the court, the receivership and especially with the relationship to the applicant. **MacTaggart** felt that, “there wasn’t much interest,” on purpose and that it seemed to him the entire process of selling Plumb Place was designed to attract as little attention as possible.

If the zoning change is not approved, the deal may not go forward and he hoped that the blessing of this would be that the house could properly be marketed for the first time. The house has never been available for sale; this is a historic opportunity for the city to manage.

MacTaggart is also concerned with changing the zoning from residential to commercial because the price of the land will keep increasing over time. By keeping this property residential the future of Plumb Place is protected. It is one of the few historical large houses in town. With a zoning change the future of this house cannot be predicted. Even though this property has some protection by being in the Historic District, the protection is not absolute. If it is changed to commercial zoning, it will be a desirable piece of property because of the size. It will endanger one of the most important houses in town, directly threatens the neighbors, diminishes the neighborhood to have the house chopped up into apartments. **MacTaggart** stated that he cannot think of an old house that was converted to apartments that was enhanced after the process. He pondered how the carriage house not historic, it is as old as the house? The interior of the carriage house was altered in 1921, over a century ago; it is historical in its own right.

MacTaggart asked the Commission, please, do not approve of the zoning change because if the state approves, potentially the house could be destroyed. The marketing for this house consisted of only a banner across the front saying “for sale, contact the local real estate agent”. If this is turned down, he hopes that whoever is in charge of marketing this property will actually market the house and added there are grants available for owners to help restore historical properties.

Jarrold and Clarine Hibler, 602 W. 12th ST.: The **Hiblers** stated that they had put an offer in for Plumb Place, and that they wanted to live in the house. They have no business plans that would require rezoning. They stated that this house was built for Preston Plumb, one of the founders of Emporia, and it could end up becoming an undesirable commercial business. They

further stated that if their offer was accepted to give us a year and we can help provide a place for the women and girls in the community. They also stated that they live in Emporia, and that they were unaware of the house being for sale and until someone had told them it was for sale.

Brad Harzman, 525 Exchange St.: Mr. **Harzman** stated that he is against the zoning change for the reasons that have been spoken of already. He would like to see another opportunity for other bids that have intents to keep the property the way it is, and the purpose that it served in our community. He is against the change.

Eli Fowler (applicant) readdressed the Commission. Mr **Fowler** stated that he has no interest in destroying Plumb Place and that installing apartments would simply be shutting doors and redirecting people. He is planning on having 4-6 units depending on how it lays out. He reiterated that he has spoke with the Historical District and understands it is required to maintain the exterior of the house. He is interested in the house because it is historical. He is committed to maintaining the building's historic integrity.

The Public Hearing was closed.

Commissioner **Barnes** wanted to know from Ms. **Edwards** how the home was marketed. **Edwards** said that the steering committee did not handle any marketing. The marketing was handed off to the receiver. From her understanding, the receiver had contact with all local realtors and put up a for sale sign. **Edwards** recently asked the receiver about marketing and she has not received an answer yet. **MacTaggart** added from his understanding, Judge Fowler ruled that the house could, in fact, be sold. He was in the position of authority to decide the future of the building. The judge contacted a banker who was not in Emporia to be put in charge of marketing. The judge recused himself from any consideration because his son made the bid. The funds that were used to buy the house would be given to the Plumb House board so they can continue their original mission of helping women in need. **Edwards** said that **MacTaggart's** statement was mostly accurate. Judge Fowler recused himself, a new judge was appointed immediately. The banker (the receiver) in charge is at Olpe State Bank. Ms. **Edwards** continued that the Plumb House Board has not been appointed yet; they are waiting for the sale of the house for the court to formally appoint the board. We have board members that are beginning to work towards reestablishing programs, but they are not official until the court appoints them. At this point, the only formality is the Plumb Place Steering Committee that was named by the judge to help get everything ready.

Commissioner **Weaver** asked **Edwards** if there was an understanding that this home would be marketed. **Edwards** said that she doesn't remember having conversations about marketing. We just knew it would be in the hands of the receiver that would take care of the sale of the house. Commissioner **Colson** said without the statement of support from the receiver, the Planning Commission is left with the position where we are rezoning that remains contingent because the receiver is not obligated to sell to Fowler if rezoning does occur. We are rezoning with an unknown buyer because the seller is not committed to selling the house to anyone.

Commissioner **Duncan** made a motion to table Application PC 2022-05 and Application PC CUP 2022-04 for the next meeting for the purpose to gather further information. Commissioner **Weaver** seconded.

Commissioner **Colson** asked what all do we need to be prepared for next meeting? **Givens** said that we need to get all of the answers available on the historical and receivership aspects, and the bidding process.

Approved 6-0. Application PC 2022-05 and Application PC CUP 2022-04 will be reconsidered at the April 19th meeting at 6pm.

EXCERPT OF MINUTES- 4/19/2022

EMPORIA - LYON COUNTY METROPOLITAN AREA PLANNING COMMISSION

The Planning Commission met in a regular session on Tuesday, April 19, 2022, with Chair Thomas presiding. Members Bucklinger, Weaver, Barnes, Duncan, Dewitt, and Colson were present.

City staff: Justin Givens and Moriah Keen were present.

Old Business:

2a. Consider Application PC 2022-05 Requesting Rezoning of Property Located at 224 E Sixth from R-3 High Density Residential District to C-3 General Commercial District.

Chair Thomas asked if proper notice had been given and if the City had jurisdiction on the item. **Givens** confirmed that proper notice was provided to the newspaper and the property owners within 200ft of the property for the original public hearing, and that the City had jurisdiction.

Chair Thomas asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No commissioners recused themselves due to a conflict of interest and no ex parte communications were reported.

Givens provided updated information based on questions, comments, and concerns raised at the original public hearing.

Updated Information: Staff, in consultation with the City Attorney and Planning and Zoning Consultant Jim Kaup, are providing the following guidance for further consideration on the Application for Rezoning and Conditional Use Permit.

- 1) The role of the Planning Commission is to consider the applicable zoning regulations, and whether or not the request is consistent with those regulations, and the furtherance of the Comprehensive Plan. While some weight should be given to the public during hearings, the marketing of the property and the issues of the receivership are not within the purview of the Planning Commission to consider.

- 2) The Planning Commission may attach conditions to the request for rezoning that would limit the uses that would be allowed as part of the rezoning. Staff is recommending that the uses allowed be limited to:
 - a. Indoor Storage and Warehousing with No Exterior Storage Allowed;
 - b. 1st and 2nd Floor Multi-Family or Single-Family Residential Uses
 - c. Offices to include Professional, Business, Religious, Public Services
- 3) Regarding the ownership and sale of the property, Staff has been advised that the Receiver is the de-facto owner of the property as appointed by the Court. As the Receiver signed off on the application they have given their approval for the process to go forward. This is no different than when property owners sign applications in conjunction with applicants to have properties rezoned or conditional use permits approved. Many times, the transfer of ownership is contingent upon a property being rezoned or a conditional use permit being approved. If the Planning Commission is concerned about the potential of another purchaser being granted ownership of the property after it has been rezoned, staff suggests, that as part of the recommendation to the City Commission on the Ordinance it states that the ordinance effecting the change not be published until the property has sold to the applicant as opposed to the traditional publication upon approval by the City Commission.

Chair **Thomas** stated that a public hearing was not necessary because the public hearing for Application PC 2022-05 was held during the March 15th Planning Commission Meeting.

The commissioners chose not to receive public comment, as they had no further questions for the public.

Commissioner **Bucklinger** asked what would be the factors if the application were denied.

Givens said it would mean that the Planning Commission does not agree with the staff report and recommendations provided.

Chair **Thomas** said even denying the rezoning to C-3 still allows multi-family use on the property. **Givens** added Plumb House could be used for apartment complexes and a single-family residence because the current zoning is R-3.

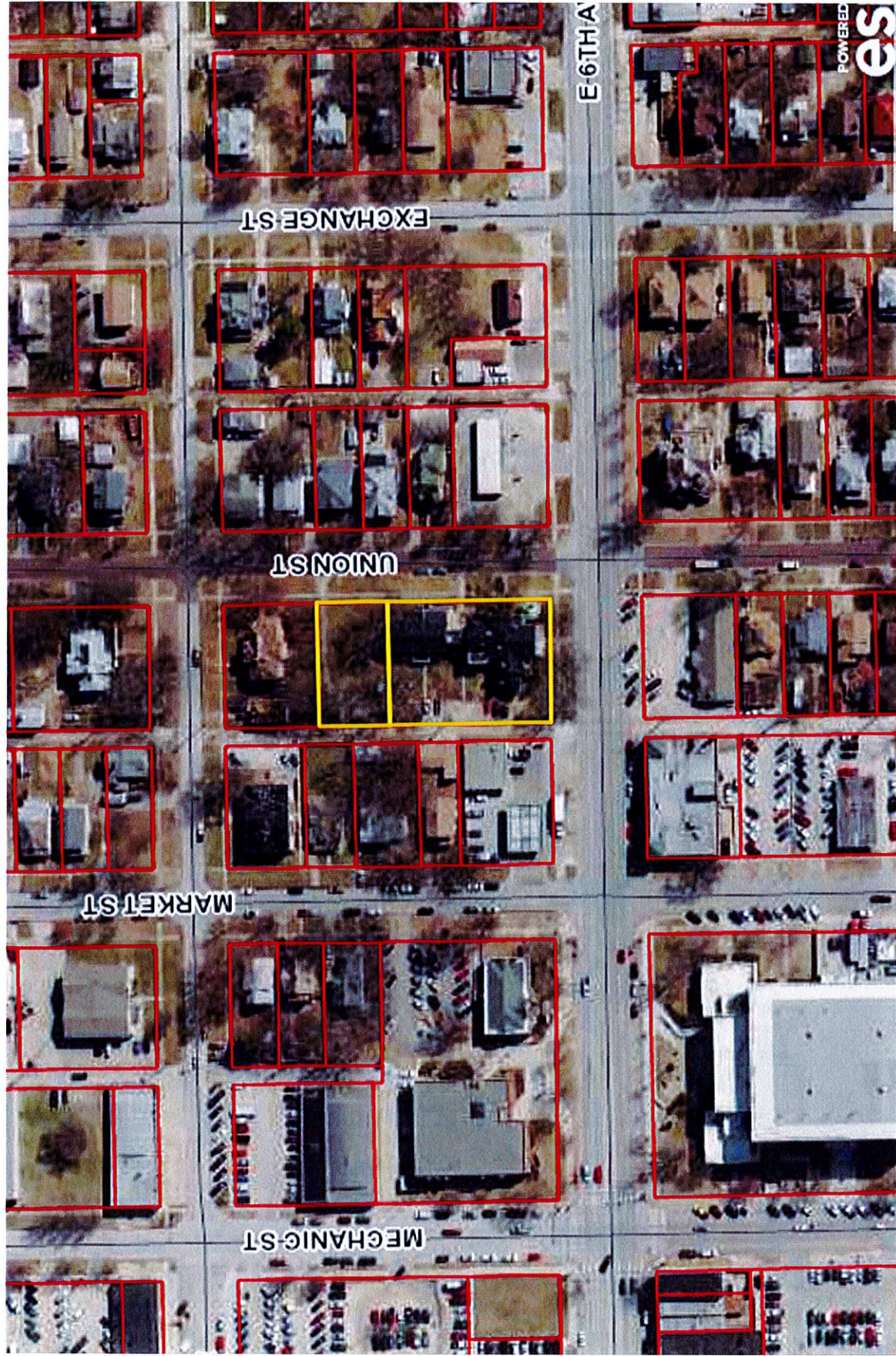
Commissioner **Colson** made a motion to deny Application PC 2022-05 requesting the zoning change from R-3 High Density Residential to C-3 General Commercial.

Chair **Thomas** asked how would the home occupation regulations come into effect in the current zoning for R-3. **Givens** said that a standalone business would not be allowed. Home occupation is limited to the home and can only be a certain percentage of the house that it occupies. A person is not allowed to rent out a second unit for a business.

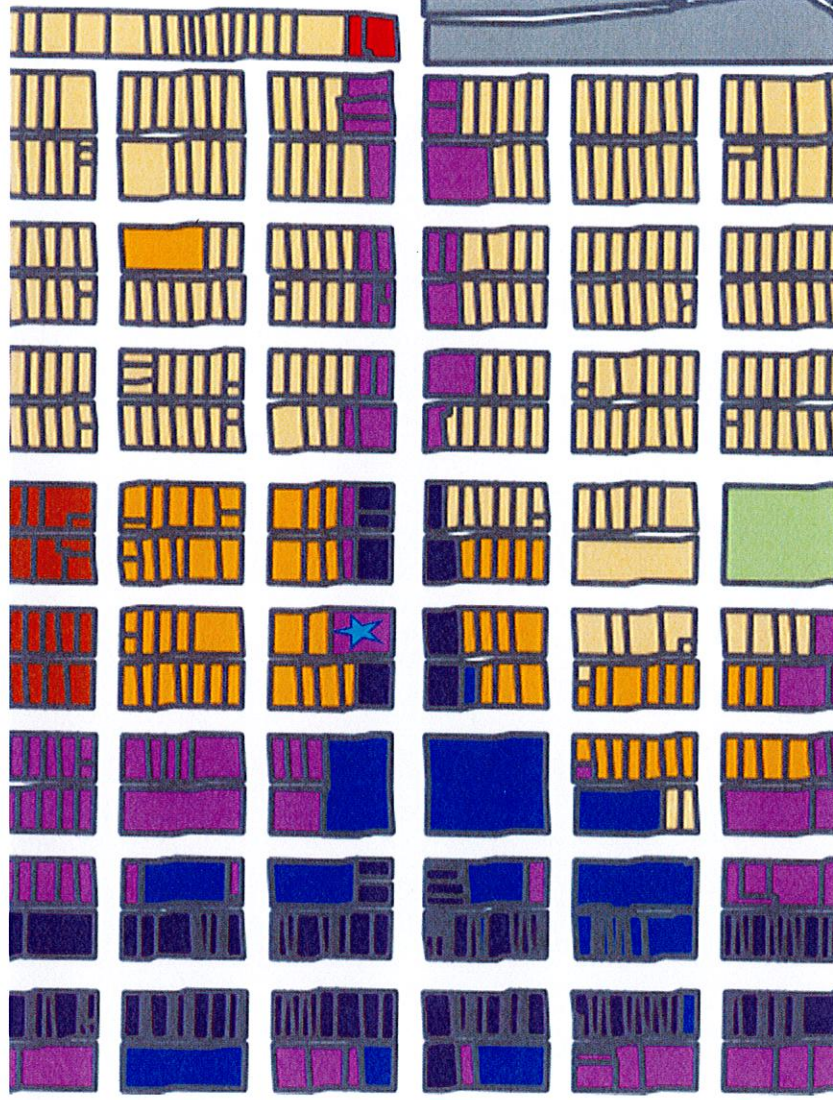
Commissioner **Bucklinger** seconded the motion to deny Application PC 2022-05 on the change from R-3 to C-3. There was no further discussion. **Approved 6-1-1, Barnes opposed, Duncan abstained.**

Givens advised that there is a protest period of 14 days and the applicant can appeal the decision to the City Commission.

PLUMB PLACE CUP AERIAL MAP



PLUMB PLACE CUP FUTURE USE MAP



Legend

- Country Home
- SF Detached
- SF Attached
- Multi-Family
- Commercial
- Flex-Use
- Mixed-Use
- Industrial-Flex
- Light Industrial
- Heavy Industrial
- Civic/Public
- Greenspace/Parks/
- Recreation
- City Limits



Commission Action Report

Title: Ordinance No. 22-20 Rezoning Property located at 1116 Constitution Street within the City of Emporia.

Proposed Agenda Date: May 18, 2022

Presented By: Justin Givens, City Planning & Zoning Administrator

BACKGROUND:

At their April 19, 2022 meeting, the Emporia Metropolitan Planning Commission did recommend approval of a zoning change for the property located at 1116 Constitution Street. Attached is an excerpt of minutes from the March meeting including the staff's report to the Planning Commission.

DISCUSSION:

The proposed rezoning would facilitate the expansion of the existing Kwik Shop located at the corner of 12th Avenue and Merchant Street. The subject property joined with three other parcels, will be re-platted to accommodate the expansion. This lot is the only lot of the four that is not currently zoned C-3.

At the Public Hearing, no person spoke against the proposed zoning change.

FINANCIAL CONSIDERATIONS:

There are no financial considerations for this item.

OTHER CONSIDERATIONS:

The Governing Body, when considering a recommendation from the Planning Commission on a Rezoning Application may; 1) Adopt the ordinance as presented or with conditions that the Governing Body sees fit; 2) Override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) Table the request for further study; 4) Return the application to the Planning Commission, giving reasons for doing so.

RECOMMENDED ACTION:

Staff is recommending the Governing Body adopt the Ordinance rezoning the property to C-3 General Commercial Zoning District.

ATTACHMENTS:

Rezoning Ordinance

Excerpt of Minutes (including staff report)

Aerial Map

Zoning Map

Plan ELC Map

Concept Site Plan

ORDINANCE NO. 22-20

AN ORDINANCE REZONING LAND IN THE CITY OF EMPORIA, KANSAS FROM R-3 HIGH DENSITY RESIDENTIAL DISTRICT TO C-3 COMMERCIAL ZONING DISTRICT AND AMENDING THE DISTRICT ZONING MAP TO CONFORM WITH SAID ZONING

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The following described property is hereby rezoned from R-3 High Density Residential District to C-3 General Commercial District Zoning to wit:

Lot 166 On Constitution Street In The City Of Emporia, Lyon County, Kansas

Generally located: 1116 Constitution St., Emporia, KS

Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 18th day of May 2022.

BECKY SMITH, Mayor

ATTEST:

KERRY SULL, City Clerk

EXCERPT OF MINUTES- 4/19/2022

EMPORIA - LYON COUNTY METROPOLITAN AREA PLANNING COMMISSION

The Planning Commission met in a regular session on Tuesday, April 19, 2022, with Chair Thomas presiding. Members Bucklinger, Weaver, Barnes, Duncan, Dewitt, and Colson were present.

City staff: Justin Givens and Moriah Keen were present.

Chair Thomas called the meeting to order, seven members were present.

New Business:

3a. Consider Application PC 2022-07 Requesting Rezoning of Property Located at 1116 Constitution from R-3 High Density Residential to C-3 General Commercial District.

Chair Thomas asked if proper notice had been given and if the City had jurisdiction on the item. **Givens** confirmed that proper notice was provided to the newspaper and the property owners within 200ft of the property, and that the City had jurisdiction.

Chair Thomas asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No commissioners needed to recuse themselves due to a conflict of interest and no ex parte communications were reported.

Givens gave the staff report:

Application #: PC 2022-07

Applicants: Kwik Shop / PEC (Owner's Agent)

Requested Action: Consider the Approval of Rezoning a property from R-3 High Density Residential to C-3 General Commercial

Purpose: Applicants desire rezoning of the property located at 1116 Constitution to facilitate the redevelopment of the existing convenience store and relocate the gas islands.

Address: 1116 Constitution St.

Legal description: Lot 166 on Constitution Street in the City of Emporia, Lyon County, Kansas

Lot Size: 6,500 sq. ft.

Existing Zoning: R-3 High Density Residential

Future Zoning in ELC Comp. Plan: Mixed Use

Surrounding Zoning:

North- C-3 General Commercial

East- C-3 General Commercial / R-3 High Density Residential

South- R-3 High Density Residential

West – R-3 High Density Residential

Surrounding Actual Uses:

North – Vacant Property / Existing Kwik Shop

East – Multi-Family Units / Existing Kwik Shop

South- Multi-Family Units

West- Multi-Family Units / Single-Family Residential

Analysis: The applicants are proposing to redevelop the existing convenience store and gas islands. This property will be one of two properties that would be used to expand the facility. The other being the men's shelter immediately to the south of the existing building. Kwik Shop plans to expand and remodel the building. They will also relocate, and increase the number of gas pumps.

All properties for this development are within the C-3 zoning district except the lot that is proposed for rezoning. Based on the proposed site plan, this property would be used primarily for parking and drives.

The applicant has presented a preliminary site plan that is being reviewed by staff. Two items of note for this development would be; that the applicants will re-plat the totality of the properties if this rezoning is approved, and in doing so will vacate the alley in between the properties.

Additionally, the applicants have requested that Constitution change from one-way traffic to two-way traffic to better accommodate turning motions and traffic to and from the facility. This request will be reviewed by the traffic impact team and a recommendation will be submitted to the City Commission.

Considerations: 26-108. Factors to be Considered in a Rezoning:

When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines:

1. Whether the change in classification would be consistent with the intent and purpose of these regulations;
2. The character and condition of the surrounding neighborhood and its effect on the proposed change;
3. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;
4. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
5. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
6. The suitability of the applicant's property for the uses to which it has been restricted;

7. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as allowing the land to be vacant or undeveloped;

8. Whether adequate sewer and water facilities, and all other needed public services, including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;

9. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;

10. The recommendations of professional staff;

11. Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;

12. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and,

13. Such other factors as may be relevant from the facts and evidence presented in the application.

Neighborhood Communications: At the time of writing this report, staff has not had any contact with any person in the notification area or public concerning this proposal.

Recommendation: Staff recommends the Planning Commission forward a recommendation to approve the rezoning to the Governing Body based on a finding that;

1. The change in classification is consistent with the intent and purpose of the Zoning Regulations.
2. The proposed rezoning is consistent with the Comprehensive Plan and Future Land Use Map;
3. The change will not have a negative impact on the public health, safety, and generalware of the City;
4. If approved, the rezoning would be consistent and compatable with existing uses within the area.

Commissioner **Duncan** asked what portion of the alley would be vacated. **Givens** explained that when the applicant replats the properties, the only portion of the alley that would be vacated is what is within their plat. The remainder of the alley would remain.

Several Commissioners commented that this request had come before the Planning Commission previously.

The Public Hearing was opened.

Charlie Brown, PEC, 303 S. Topeka, Wichita, KS (Owner's Agent): **Brown** stated the reason why the initial request went forward a few years ago was that Kwik Shop was transitioning to new owners. At the time of the initial request, Kwik Shop was owned by Kroger. During the same time period, Kroger sold the Kwik Shop brand to a company in England, called EG America. EG America bought all of the Kwik Shop properties. The rezoning and expansion was put on hold until EG America determined how they wanted to proceed.

Brown continued that Kwik Shop is wanting to expand the building, move the fuel area to the west, and have a lot more parking. He stated that the lot that is being considered to be rezoned will be parking and some open space. **Brown** confirmed that they had met with the Site Planning Review, and that they will meet all of the screening requirements between commercial and residential districts. He stated that because of the replat, they wanted all of the Kwik Shop property to be zoned the same.

No further comment was provided.

The Public Hearing was closed.

Commissioner **Colson** asked how does public notice work for properties that are rentals. **Givens** said that the City is required to contact the property owners. The notification process is based upon State Statutory requirements, and that the City is required to notify property owners within 200 feet of subject properties in city limits and 1,000 feet outside of city limits. An abstractor provides the list of property owners in the area. **Colson** expressed concerns that renters within the notification area are not provided notice.

Commissioner **Barnes** made a motion to approve Application PC 2022-07. Commissioner **Duncan** seconded. **Approved 6-1, Colson opposed.**

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MERCHANT ST

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Legend

Emporia City Limits

Emporia Metro Planning Area

Historical District

Conditional Zoning

Overlays

Elderly Housing Overlay

Housing Opportunity Overlay

Planned Unit Development

Zoning Districts

A-1 - Agriculture

C-1 - Office and Service Business

C-2 - Restricted Commercial

C-3 - General Commercial

C-4 - Central Business

I-1 - Light Industrial

I-2 - Heavy Industrial

M-P - Mobile Home Park

MH-S - Manufactured Home Subdivision

P - Public Use

R-1 - Low Density Residential

R-2 - Medium Density Residential

W 12TH AVE

W 11TH AVE

CONSTITUTION ST

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105 W 12TH AVE

107 W 12TH AVE

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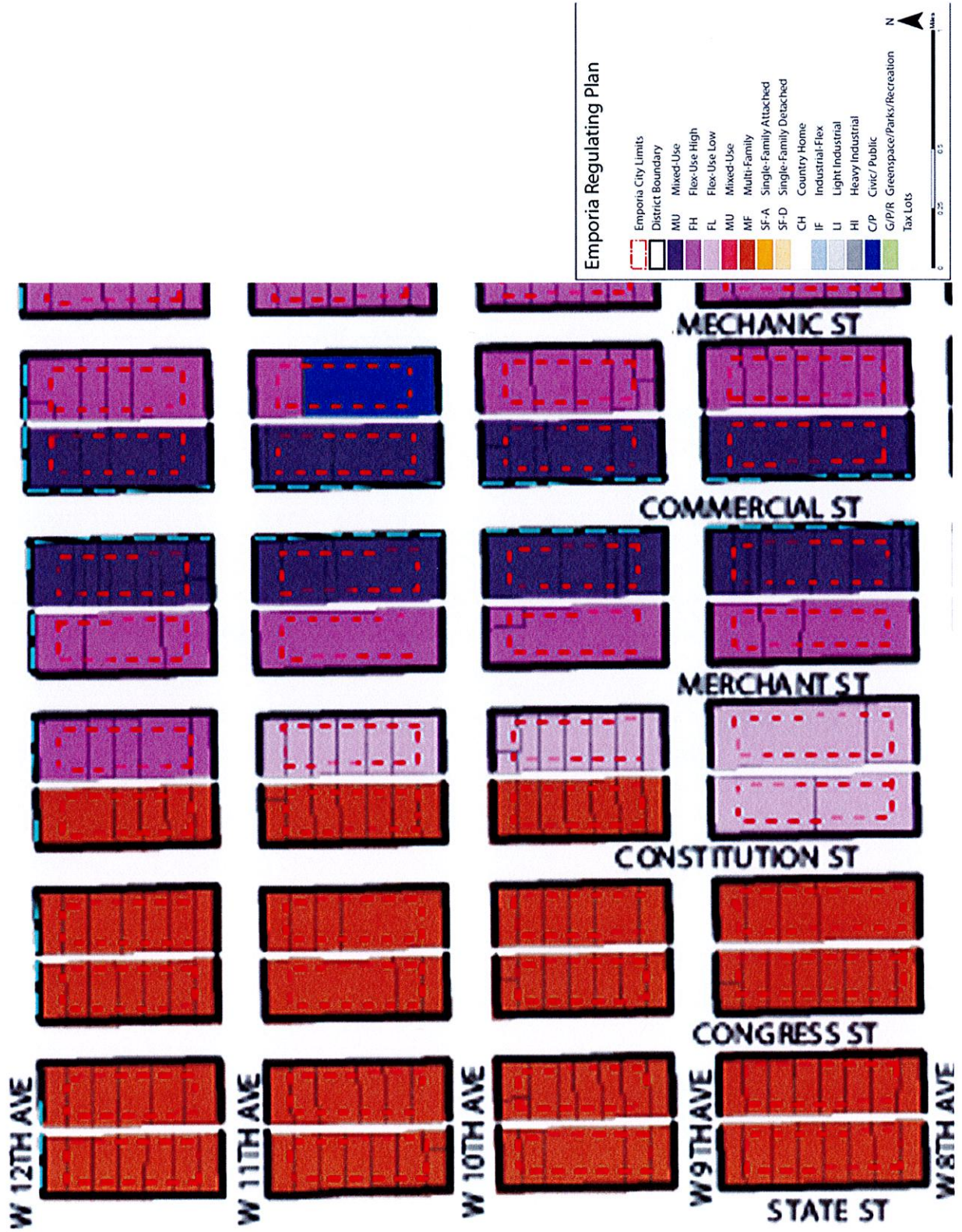
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1116 Constitution
Future Land Use Map



[illegible]

GER

1. TANK SHORING IS TO BE SHOWN CORRESPOND WITH THE TANK SLAB DETAIL. SEE NOTE 20.

REFERENCE SHEETS CFG14.0-
CFG14.8 FOR FUEL ISLANDS.

**AIR COMPRESSOR
REFERENCE GALLOWAY SHEETS.**

TRASH ENCLOSURE
REFERENCE
ARCHITECTURAL
SHEETS.



Commission Action Report

Title: Ordinance No. 22-21 Rezoning Property located at 1104 Burns Street within the City of Emporia.

Proposed Agenda Date: May 18, 2022

Presented By: Justin Givens, City Planning & Zoning Administrator

BACKGROUND:

At their April 19, 2022 meeting, the Emporia Metropolitan Planning Commission did recommend approval of a zoning change for the property located at 1104 Burns St. Attached is an excerpt of minutes from the April meeting including the staff's report to the Planning Commission.

DISCUSSION:

The proposed rezoning would facilitate the development of a single-family attached residence on the property. The applicant has stated the property is in disrepair and would need considerable investment to return it to a habitable structure. The applicant desires to build a single-family attached residence on the property after razing the existing structure.

At the Public Hearing, one person spoke against the proposed zoning change, stating they would like to see the property remain a single-family detached housing lot, and one neighboring property owner requested additional information and that the property is maintained in a better condition than its current condition.

FINANCIAL CONSIDERATIONS:

There are no financial considerations for this item.

OTHER CONSIDERATIONS:

The Governing Body, when considering a recommendation from the Planning Commission on a Rezoning Application may; 1) Adopt the ordinance as presented or with conditions that the Governing Body sees fit; 2) Override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) Table the request for further study; 4) Return the application to the Planning Commission, giving reasons for doing so.

RECOMMENDED ACTION:

Staff is recommending the Governing Body adopt the Ordinance rezoning the property to R-2 Medium Density Residential.

ATTACHMENTS:

Rezoning Ordinance

Excerpt of Minutes (including staff report)

Aerial Map

Zoning Map

Plan ELC Map

ORDINANCE NO. 22-21

AN ORDINANCE REZONING LAND IN THE CITY OF EMPORIA, KANSAS FROM R-1 LOW DENSITY RESIDENTIAL DISTRICT TO R-2 MEDIUM DENSITY ZONING DISTRICT AND AMENDING THE DISTRICT ZONING MAP TO CONFORM WITH SAID ZONING

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The following described property is hereby rezoned from R-1 Low Density Residential District to R-2 Medium Density Residential District Zoning to wit:

Legal Description: Lot 4 In Block 2 In Burn's Addition To The City Of Emporia, Lyon County, Kansas;

And generally known as: 1104 Burns St. Emporia, KS

Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 18th day of May 2022.

BECKY SMITH, Mayor

ATTEST:

KERRY SULL, City Clerk

EXCERPT OF MINUTES- 4/19/2022

EMPORIA - LYON COUNTY METROPOLITAN AREA PLANNING COMMISSION

The Planning Commission met in a regular session on Tuesday, April 19, 2022, with Chair Thomas presiding. Members Bucklinger, Weaver, Barnes, Duncan, Dewitt, and Colson were present.

City staff: Justin Givens and Moriah Keen were present.

Chair Thomas called the meeting to order, seven members were present.

3c. Consider Application PC 2022-06 Requesting Rezoning of Property Located at 1104 Burns from R-1 Low-Density Residential to R-2 Medium Density Residential.

Chair Thomas asked if proper notice had been given and if the City had jurisdiction on the item. **Givens** confirmed that proper notice was provided to the newspaper and the property owners within 200ft of the property and that the City had jurisdiction.

Chair Thomas asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No commissioners needed to recuse themselves due to a conflict of interest and no ex parte communications were reported.

Givens gave the staff report:

Application #: PC 2022-06

Applicants: Sutton Place Realty Investments, LLC

Requested Action: Consider the Approval of Rezoning a property from R-1 Low Density Residential to R-2 Medium Density Residential

Purpose: Applicant desires rezoning of the property located at 1104 Burns to facilitate the development of a single-family attached unit.

Address: 1104 Burns St.

Legal description: Lot 4 In Block 2 In Burn's Addition To The City Of Emporia, Lyon County, Kansas

Lot Size: 7,560 sq. ft.

Existing Zoning: R-1 Low Density Residential

Future Zoning in ELC Comp. Plan: Residential

Surrounding Zoning:

North – R-1 Low Density Residential / R-2 Medium Density Residential

East – R-1 Low Density Residential

South – R-1 Low Density Residential

West – R-1 Low Density Residential / Public Use

Surrounding Actual Uses:

North – Single-Family Residences / Single-Family Attached Residences

East – Single-Family Residences

South – Single-Family Residences

West – Single Family Residences / Lyon Co Fairgrounds

Analysis: The applicants are proposing to remove the existing structure located at 1104 Burns, and build a new single-family attached dwelling unit. The current structure was built in 1974, and is graded as below average from the County Appraiser. The applicant states that the property has been used as a single-family home, but has fallen into disrepair. There are structural, as well as, electrical issues that would need to be addressed if the request was denied. The applicant desires to raze the structure, and build a single-family attached home in its place.

The lot, as platted, is a 72'x105' and contains 7560 square feet, which would provide a building envelope of 60'x55' when setbacks are factored in. If the new structure maxed out the buildable area, the lot coverage would be 44%. Maximum lot coverage in the R-2 district is 40%.

Further analysis is provided in the Factors for Consideration below.

Considerations: 26-108. Factors to be Considered in a Rezoning:

When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines: **Staff Commentary in Bold**

1. Whether the change in classification would be consistent with the intent and purpose of these regulations;
2. The character and condition of the surrounding neighborhood and its effect on the proposed change; **Within the 200' notification area, there are 26 properties. Nineteen are owner occupied, and seven are rental properties. There are four properties along 12th Ave. that are zoned R-2 Medium Density. In addition, many of the homes in the area are maxed out on side and front yard setbacks. In staff's opinion, either a single-family attached home, as a single-story or two-story structure would not have a negative effect on the surrounding neighborhood.**
3. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions; **There are no changed or changing conditions within this areas. However, Emporia as a whole is dealing with a housing shortage, and efforts to increase the number of dwelling units in the city have been encouraged.**
4. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification; **The current uses of the neighboring properties are single-family detached dwelling units zoned, R-1 Low Density. The subject property if approved would continue to have residential use, but with two units on the lot as opposed to one.**
5. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity; **The only use allowed**

different in R-2 and R-1 zoning are two-family dwellings. All other uses that are allowed either by right or by conditional use permit are the same.

6. The suitability of the applicant's property for the uses to which it has been restricted; **The property is slightly undersized by district standards, but was platted as such, and the single-family detached homes in the area approach maximum buildable lot allowances. There are multi-story homes within the subject area, and the use of such a type of duplex could maintain the required setbacks for the property.**

7. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as allowing the land to be vacant or undeveloped; **The subject property has not necessarily been vacant for a long period of time. As the applicant stated, it is in disrepair, and would need considerable expenditures before it could be occupied as a single-family home. The cost of those repairs could factor in to how long that the home remained vacant going forward.**

8. Whether adequate sewer and water facilities, and all other needed public services, including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified; **Adequate public facilities are present at the site and the street system is such that no changes would be necessary to accommodate the project if approved.**

9. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development; **There is very limited if any vacant R-2 property within the City. Generally, all property that is zoned R-2 is done so with specific development in mind or infill lots such as this one.**

10. The recommendations of professional staff; **Staff is neutral on the request. While the immediate area is dominated by single-family detached structures, there are two-family dwellings within the neighborhood, and if done properly, the new unit could maintain all required setbacks, and other bulk regulations. Staff would not be supportive of issuing any variances for building setbacks or lot coverage ratios.**

11. Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan; **As the City transitions into a more form based zoning code, these types of request are designed into the new regulations, and the Comprehensive Plan. The plan states that two-family or single-family attached homes are acceptable within this area. If developed properly, the new structure should not have a detrimental impact to on the existing neighborhood.**

12. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and, **As previously stated, if allowed to develop within the required building setbacks, and bulk regulations, there would be no significant impact on the public health, safety, or general welfare.**

13. Such other factors as may be relevant from the facts and evidence presented in the application.

Neighborhood Communications: At the time of writing this report, staff has been in contact with one person who was notified about the proposed rezoning and no support for or against the project was noted.

Recommendation: Staff recommends the Planning Commission forward a recommendation to approve the rezoning to the Governing Body based on a finding that;

1. That the request is consistent with the intent and purposes of the regulations;
2. That the request is consistent with the character and condition of the surrounding neighborhood;
3. That adequate infrastructure exists at the property;
4. That the request is in conformance with and further enhances the Comprehensive Plan.

Commissioner **Colson** asked **Givens** in reference to research done on comparing property values on single-family detached home adjacent to single-family attached homes if he was collecting the data based off when the duplexes were built. **Givens** said that the two main areas that he looked at was on the northwest corner of town. He does not know the historical nature of these duplexes, but he reviewed the County's 5-year property values, and that the value of a single-family detached home located around a single-family attached home goes up consistently as other properties in town. **Colson** expressed concerns that he did not think that comparison was a fair comparison as it was undetermined which type of house was built first.

The Public Hearing was opened.

Vera Sutton-Sellers (Applicant – 8670 NW 74th ST. Kansas City, MO): Ms. **Sutton-Sellers** stated that she would like to rezone this property so that a duplex could be built on the property. She added that the house had fallen into disrepair and would need extensive remodeling and structural repairs before being habitable again. She is planning to rent both units.

Karen Shaddix, 1107 Burns St.: Ms **Shaddix** stated she only wants single-family homes in the area.

Judy Bell, 1101 Harry St.: Ms. **Bell** wanted clarification on the process and the proposal for this property. **Givens** provided Ms. **Bell** with more clarification. Ms. **Bell** stated that she is neutral on this matter and that she wants the house to look nicer.

The public hearing was closed.

Commissioner **Duncan** asked **Givens** if they are covering 40% of the lot right now. **Givens** said that he did not calculate what the current lot coverage is; the 40% is the maximum lot coverage. Staff would not be supportive of the applicant exceeding the maximum lot coverage.

Commissioner **Colson** made a motion to approve Application PC 2022-06 based on staff recommendations. Commissioner **Dewitt** seconded.

Discussion: Commissioner **Barnes** stated that he is going to vote against because he is not interested in having the property be rezoned where the surrounding area is R-1.

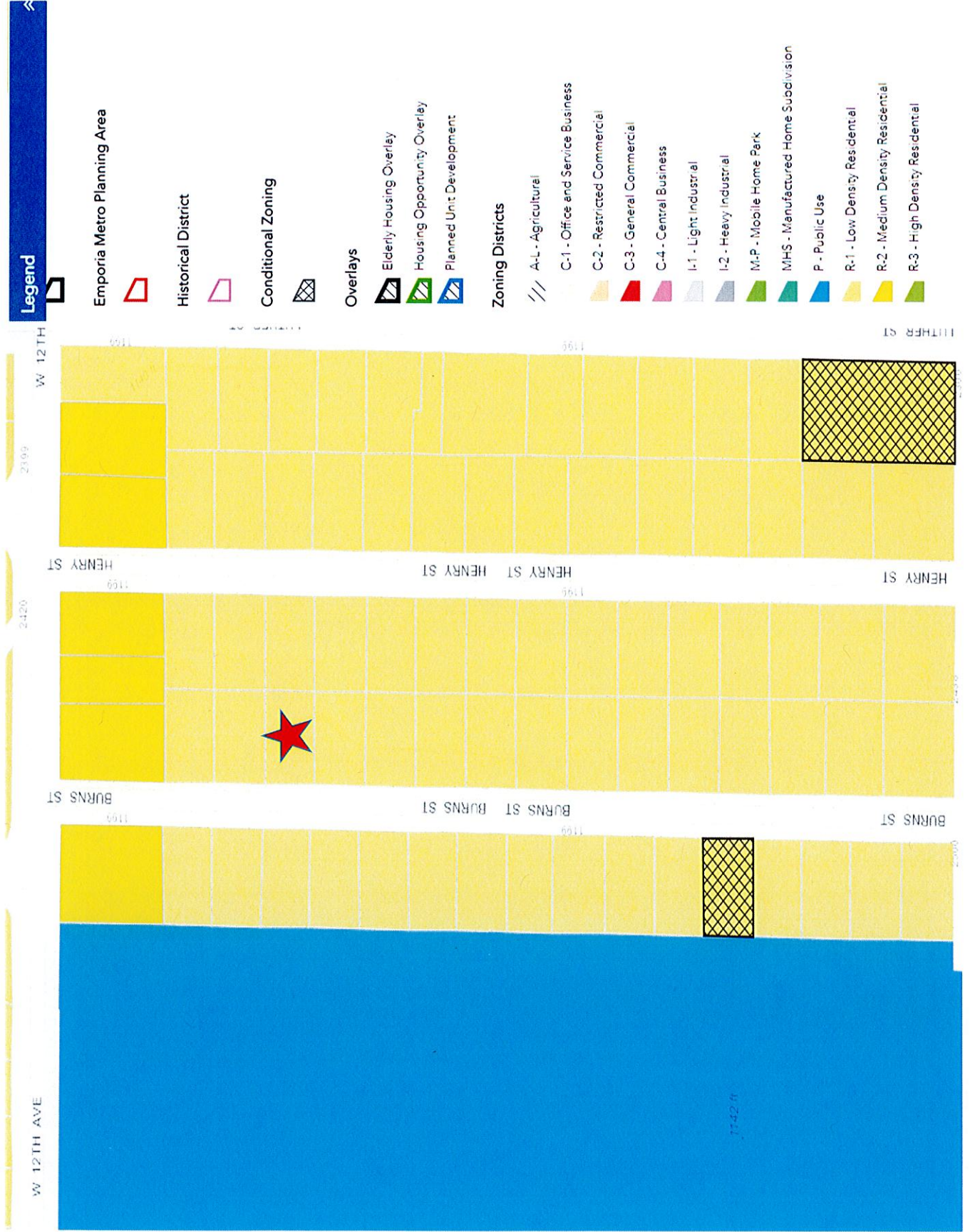
Approved 4-3, Commissioners Barnes, Duncan, and Bucklinger opposed.

Givens advised that there is a 14-day protest period and then the request will go to the City Commission.

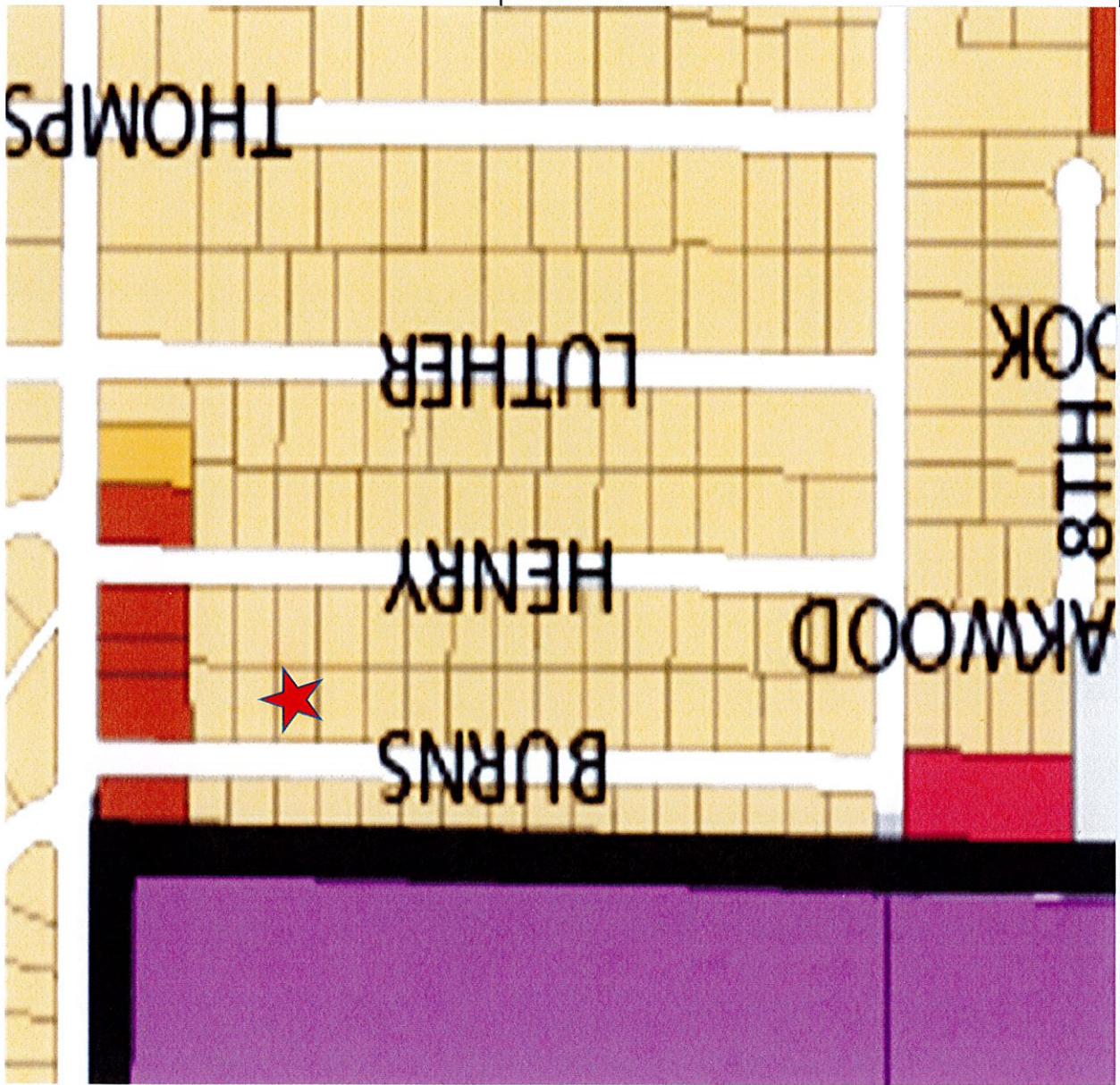
1104 Burns
Aerial Photo



1104 Burns Zoning Map



1104 Burns
Future Land Use Map



Emporia Regulating Plan

- Emporia City Limits
 - District Boundary
 - MU Mixed-Use
 - FH Flex-Use High
 - FL Flex-Use Low
 - MU Mixed-Use
 - MF Multi-Family
 - SF-A Single-Family Attached
 - SF-D Single-Family Detached
 - CH Country Home
 - IF Industrial-Flex
 - LI Light Industrial
 - HI Heavy Industrial
 - C/P Civic/ Public
 - G/P/R Greenspace/Parks/Recreation
 - Tax Lots
- 0 0.25 0.5 1 Miles
- N



Commission Action Report

Title: Ordinance No. 22-22 Issuing a Conditional Use Permit for a Child Care Center is located at 1022 Grand Street.

Proposed Agenda Date: May 18, 2022

Presented By: Justin Givens, City Planning & Zoning Administrator

BACKGROUND:

At their April 19, 2022 meeting, the Emporia Metropolitan Planning Commission did recommend approval of a Conditional Use Permit for a Child Care Center located at 1022 Grand Street. Attached is an excerpt of minutes from the April meeting, which includes the staff's report to the Planning Commission.

DISCUSSION:

The proposed project would allow the applicant to expand their existing home daycare from a maximum of 12 children to 24 children. The applicant is required to meet all regulations set forth by the State Fire Marshall and Kansas Department of Health and Environment, which license child-care centers.

The applicant will also be required to add three additional off-street parking spots at the rear of the property to accommodate additional staff requirements.

At the Public Hearing, no person spoke in opposition to the proposed child-care center.

FINANCIAL CONSIDERATIONS:

There are no financial considerations for this item.

OTHER CONSIDERATIONS:

The Governing Body, when considering a recommendation from the Planning Commission on a Conditional Use Permit may; 1) Adopt the ordinance as presented or with additional conditions that the Governing Body sees fit; 2) Override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) Table the request for further study; 4) Return the application to the Planning Commission, giving reasons for doing so.

RECOMMENDED ACTION:

Staff recommends the Governing Body adopt the Ordinance issuing the Conditional Use Permit.

ATTACHMENTS:

Conditional Use Permit Ordinance
Excerpt of Minutes (including staff report)
Aerial Map
Zoning Map

ORDINANCE NO. 22-22

AN ORDINANCE ISSUING A CONDITIONAL USE PERMIT FOR A CERTAIN DESCRIBED AREA IN THE CITY OF EMPORIA, KANSAS.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. A Conditional Use Permit is hereby granted to allow a Child Care Center in accordance with Section 6-4, and table 6-2, of the Zoning Regulations:

On property commonly known as: 1022 Grand St., Emporia, KS

and legally described as: Lot 42 In Block 5 In College Hills Addition To The City Of Emporia, Lyon County, Kansas

Section 2. Conditional Use Permit granted for: Child Care Center

Section 3. The following additional conditions are imposed upon the Conditional Use Permit:

- 1) The applicant provides three additional off-street parking spaces in the rear of the property;
- 2) The property maintains compliance with all zoning, building, fire, and any other applicable federal, state, or municipal code or regulation.

Section 4. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 18th day of May 2022.

BECKY SMITH, Mayor

ATTEST:

KERRY SULL, City Clerk

EXCERPT OF MINUTES- 4/19/2022

EMPORIA - LYON COUNTY METROPOLITAN AREA PLANNING COMMISSION

The Planning Commission met in a regular session on Tuesday, April 19, 2022, with Chair Thomas presiding. Members Bucklinger, Weaver, Barnes, Duncan, Dewitt, and Colson were present.

City staff: Justin Givens and Moriah Keen were present.

Chair Thomas called the meeting to order, seven members were present.

3b. Consider Application PC CUP 2022-05 Requesting a Conditional Use Permit for a Child Care Center.

Chair Thomas asked if proper notice had been given and if the City had jurisdiction on the item. **Givens** confirmed that proper notice was provided to the newspaper and the property owners within 200ft of the property and that the City had jurisdiction.

Chair Thomas asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No commissioners needed to recuse themselves due to a conflict of interest and no ex parte communications were reported.

Givens gave the staff report:

Application #: PC CUP 2022-05

Applicants: Little People Daycare, LLC / Amy Gaskill

Requested Action: Recommend the Approval of a Conditional Use Permit for a Child Care Center

Purpose: Applicant desires to increase the capacity of children at their present location, which is currently a licensed home day care facility.

Address: 1022 Grand St.

Legal description: Lot 42 In Block 5 In College Hills Addition to the City of Emporia, Lyon County, Kansas

Lot Size: 18,880 +/- sq. ft.

Existing Zoning: R-1 Low Density Residential

Future Zoning in ELC Comp. Plan: Residential

Surrounding Zoning:

North – R-1 Low Density Residential

East – R-1 Low Density Residential

South – R-1 Low Density Residential

West – R-1 Low Density Residential

Surrounding Actual Uses:

North – Single-Family Residences

East – Single-Family Residences

South – Single-Family Residences

West – Single-Family Residences

Analysis: The applicant has requested a Conditional Use Permit to transition from a home day care facility to a childcare center. Little People Daycare has been in their present location going on 23 years. The transition would allow the applicant to increase the number of children that can be at the center from 12 to 24 children. The center will still be required to meet all regulations set by the State Fire Marshall and Kansas Department of Health and Environment who license child-care facilities.

The applicant has stated that 14 home daycares have closed in Lyon County since March 2020, and that child-care is a need within the community. She currently has a lengthy wait list of children needing care.

Additional analysis has been provided in the factors for consideration.

Considerations: 26-109. Factors to be Considered for a Conditional Use Permit:

Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as conditional uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood and the zoning jurisdiction.

In approving a conditional use, the minimum requirements set out in these regulations for the underlying district must be met unless otherwise reduced by specific reference in the approval of the Governing Body. The requirements may be made more stringent if there are potentially injurious effects which may be anticipated upon other property or the neighborhood or which may be contrary to public health, safety or welfare.

The Planning Commission may recommend approval of a Conditional Use that is expressly authorized to be permitted in a particular zoning district, and the Governing Body may approve such Conditional Use, using the following factors as guidelines: **Staff Commentary in Bold**

1. Whether approval of the conditional use would be consistent with the intent and purpose of these regulations; **Child Care Centers in Residential Districts are allowed as Conditional Uses. The Conditional Use process allows neighboring property owners to have some input as to whether the proposed project is a fit in the area, and allows staff, the Planning Commission, and Governing Body, to determine appropriate uses as well as set limitations for Conditional Uses. The childcare center as proposed, and at this location would be consistent with the intent and purposes of the regulations. Ample space is available to minimize any potential impacts that this project could have on the existing neighborhood.**
2. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood; **The property has been a home daycare center for 23 years, and staff is unaware of any issues raised by surrounding neighbors while operating as such.**
3. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities

can be provided; **It would be anticipated that with more children, more traffic to the property would occur. The applicant has proposed to build a parking area at the rear of the property. This would allow additional staff parking as opposed to them parking on the street or in the driveway. The additional parking would free-up space to alleviate some of the increased traffic in the area.**

4. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected; **Emporia as a whole has seen a reduction in childcare facilities, especially at home day care facilities that closed during the pandemic. The lack of childcare is an issue that is affecting efforts to increase the workforce in Emporia and a focus of civic organizations such as Ignite Emporia.**

5. The length of time the subject property has remained vacant or undeveloped as zoned; (the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped); **N/A**

6. Whether the applicant's property is suitable for the proposed conditional use; **The applicant has space for parking at the rear of the property for additional employees. Off-street parking areas for parents as they drop-off and pick-up children are also available. The applicant has ample space for additional children in the existing structure so no exterior changes will be necessary. The applicant has stated they intend to install a privacy fence in the rear property.**

7. The recommendations of professional staff; **Based on information provided at this time, and the conditions that would be applied for this request staff is supportive of the proposed CUP.**

8. Whether the proposed conditional use would be in conformance to and further enhance the implementation of the City's Comprehensive Plan; **Expanding childcare facilities in Emporia enhances economic development, and thus is part of furthering the goals of the Comprehensive Plan.**

9. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed conditional use; **Due to the lack of child care in Emporia, the gain of additional openings would outweigh the hardships that would continue with less child care.**

10. Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected; **By increasing the amount of off-street parking in the rear of the facility, additional parking areas for drop-off and pick-up would be created, and should minimize the impact on neighboring properties.**

11. For uses as solid waste disposal facilities, including sanitary landfills, construction and demolition landfills and transfer stations, whether the proposed conditional use is consistent with the adopted Solid Waste Management Plan of Lyon County, and amendments thereto; and **N/A**

12. Such other factors as may be relevant from the facts and evidence presented in the application.

Neighborhood Communications: Staff has not been in contact with any person within the notification area or the public in general concerning this request.

Recommendation: If the Planning Commission finds that the project is advisable, it may forward a recommendation to approve the Conditional Use Permit to the Governing Body based on the findings that the project is consistent with the intent and purpose of the zoning regulations, will not have an adverse impact on the surrounding area and the use is consistent with neighboring uses and based on the following conditions;

- 1) The project meets all applicable zoning, building, fire, and other applicable code regulations,
- 2) Applicant will provide 3 additional off street parking area in the rear of the property.
- 3) Any additional conditions the Planning Commission or City Commission deem necessary to protect the public health, safety, and general welfare.

Commissioner **Bucklinger** asked **Givens** how many parking spots will there be in the front.

Givens said that they have a big driveway. The applicant would be able to address the question in more detail. One thing that is helping them out is that currently there is a vacant lot across the street from them, which helps with on street parking, though it is not guaranteed that the property will remain vacant forever.

The Public Hearing was opened.

Amy Gaskill (owner and property owner of 1022 Grand St.): Ms. **Gaskill** stated that she has been in the daycare business for 30 years. There is a need for daycare. She would like to utilize her space to accommodate 12 more children for a total of 24 children at the site.

Commissioner **Weaver** asked Ms. **Gaskill** if there would be any structural changes. Ms. **Gaskill** said that there will be some inside walls that will need to be removed. She will also need to add a sprinkler system inside, and hard wire a fire alarm system, but that no exterior changes will be made.

Commissioner **Duncan** asked Ms. **Gaskill** if she lives in the house. Ms. **Gaskill** said she does not live in the house. Right now, her daughter lives in the house, but is planning to move if the Conditional Use is approved to expand the daycare.

Commissioner **Thomas** asked Ms. **Gaskill** about the hours of operation. Ms. **Gaskill** said the daycare is open from 7:30A.M to 5:30P.M, and that she selected these hours for her business.

Erin Wright, 1030 Grand St.: Ms. **Wright** stated that she lives next door and there has never been a problem. She believes that it would be a positive change that will be helping many people. Ms. **Wright** works from home so she is always there and there has never been a problem.

The public hearing was closed.

Commissioner **Barnes** asked if the conditional use stays with the property, even if it is sold. **Givens** said the conditional use stays with the property. If this property is sold, the new owners can continue to use the conditional use of the daycare center at that property. Adding that the Conditional Use Permit can be revoked if the owners become noncompliant with the requirements.

Commissioner **Bucklinger** asked could we approve the application with the condition that the conditional use will go with the owner and not the property. **Givens** said that he would have to consult with the city attorney if the conditional use can go with the owner and not the property.

Commissioner **Weaver** asked what role the city plays in those three parking spots. **Givens** said that they would follow the zoning regulations for parking.

Commissioner **Colson** made a motion to approve Application PC CUP 2022-05. Commissioner **Weaver** seconded. **Approved 7-0.**

Givens advised that there is a 14-day protest period and then the request will go to the City Commission.

1022 Grand CUP
Aerial Photo



Legend

Emporia Metro Planning Area

Historical District

Conditional Zoning

Overlays

Elderly Housing Overlay

Housing Opportunity Overlay

Planned Unit Development

Zoning Districts

A-L - Agricultural

C-1 - Office and Service Business

C-2 - Restricted Commercial

C-3 - General Commercial

C-4 - Central Business

I-1 - Light Industrial

I-2 - Heavy Industrial

M-P - Mobile Home Park

MHS - Manufactured Home Subdivision

P - Public Use

R-1 - Low Density Residential

R-2 - Medium Density Residential

R-3 - High Density Residential



Commission Action Report

Title: Consider the Appointment of a Member to the Community Housing Board/Emporia Land Bank.

Proposed Agenda Date: May 18, 2022

Presented By: Jeff Lynch, Community Development Coordinator

BACKGROUND:

The Community Housing Board/Emporia Land Bank currently has one vacancy on its board. Two applications for this board were received for this position, from Eric Porter and Jermy Hinkle. The candidates were interviewed by the assigned City Commission representatives and City staff on May 6th, 2022.

DISCUSSION:

N/A

FINANCIAL CONSIDERATIONS:

N/A

OTHER CONSIDERATIONS:

The initial term for this appointment would expire in June 1, 2025.

RECOMMENDED ACTION:

Approve the appointment of Jermy Hinkle

ATTACHMENTS:

Board Application

APPLICATION FOR ADVISORY BOARD MEMBERSHIP

RECEIVED
MAY 02 2022
BY:

DATE: 04/29/2022

NAME: Jermy w Hinkle
First Name MI Last Name

ADDRESS: 1808 del oso drive
Street
emporia KS 66801
City State ZIP

Email: hinkljer@gmail.com

PHONE: 6204813806

PLACE OF EMPLOYMENT: Guardian Construction

HOW LONG HAVE YOU BEEN A RESIDENT OF EMPORIA? 17 years

ADVISORY BOARD(S) YOU ARE INTERESTED IN:
COMMUNITY HOUSING BOARD

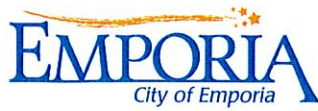
**BRIEFLY DESCRIBE WHY YOU WOULD LIKE TO PARTICIPATE ON
THE**

ADVISORY BOARD(S) MENTIONED ABOVE:

Pursuing a civic duty to move housing forward in Emporia

OTHER ACTIVITIES AND INTERESTS:

Golf and fishing



Commission Action Report

Title: Change Order No. 1 for the 6th Ave Watermain Improvements, Project No. WM2101.

Proposed Agenda Date: May 18th, 2022

Presented By: James Ubert, City Engineer

BACKGROUND:

The 6th Ave Waterline Improvements Project will improve the watermain between Woodland St and Lincoln St along 6th Ave (US Hwy 50) which has a recent history of line breaks, ahead of our KDOT FY2023 CCLIP paving project. The project is funded by the City's Kansas Department of Health and Environment's SRF Loan.

DISCUSSION:

Due to the impact on the 6th Ave business community from the watermain improvements construction, a change order is being proposed to create an incentive for the contractor to complete the project prior to the contract's Substantial Completion date.

FINANCIAL CONSIDERATIONS:

The City of Emporia will consider awarding the Contractor \$1,000 per day incentive (up to \$25,000 maximum) for each day the Contractor is substantially complete prior to the date specified in the contract of June 17th, 2022. The liquidated damages will remain the same from the original contract terms.

There is no change in the contract price or contract times in Change Order No. 1, any cost differences from intensification will be reconciled in later Change order at end of the project.

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

Staff recommends the City Commission approve Change Order No. 1 for the 6th Avenue Watermain Improvements Project.

ATTACHMENTS:

Change Order No. 1

6TH AVENUE WATERLINE IMPROVEMENTS
(Woodland St. to Lincoln St.)
KDHE PROJ. NO. KPWSLF #2968
CITY PROJECT NO. WM2101

CHANGE ORDER NO. 1

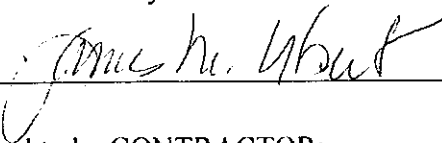
Revise the Agreement C-520: Agreement Between OWNER and CONTRACTOR for Construction Contract (Stipulated Price), Article 4.02A: Liquidated Damages.

- A. Contractor and Owner recognize that time is of the essence and that the Owner (through its 6th Avenue/US-50 Hwy Business Corridor tax receipts) will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.01. plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that OWNER will pay \$1,000 per day incentive to the contract (up to \$25,000 maximum) for each day that the contractor is substantially complete on the project prior to the contract Substantial Completion date of June 17, 2022. Additionally, the liquidated damages of \$1,200 per day if not substantially complete on June 17, 2022 and the liquidated damages of \$2,400 per day after July 22, 2022 will remain in effect per the agreement.

Substantially complete is defined in Article 15.03, C-700 Standard General Conditions of the Construction Contract (...the entire Work is ready for its intended use..., with punchlist items to be completed or corrected).

There is No Change in Contract Price or Contract Times with Change Order No. 1. That will potentially be determined and reconciled in a later Change Order at the end of project.

Recommended by CITY of EMPORIA ENGINEERING:

 Date 5/11/2022

Agreed to by CONTRACTOR:

 Date 5/11/22

Approved by OWNER:

_____ Date _____



Commission Action Report

Title: Vote to Reschedule City Commission Meetings in June and July.

Proposed Agenda Date: May 18, 2022

Presented By: Christina Montgomery, City Attorney

BACKGROUND:

The City Commission schedule provided in Charter Ordinance No. 26 will remain in effect until Charter Ordinance No. 40 goes into effect on July 1, 2022. The City Commission may vote to reschedule action meetings whenever the Commission determines that a conflict exists with the regular scheduled meetings.

DISCUSSION:

At the strategic planning session on April 13, City Commission discussed conducting all action meetings at the same time and holding study sessions immediately following action meetings to improve consistency and efficiency. The action meetings in May were rescheduled to 11:00 a.m. on the first and third Wednesday. Staff recommends voting to reschedule the June and July action meetings to 11:00 a.m. on the first and third Wednesdays of the month. An ordinance setting the ongoing schedule will be presented in July.

FINANCIAL CONSIDERATIONS:

none

OTHER CONSIDERATIONS:

none

RECOMMENDED ACTION:

Vote to reschedule the June and July City Commission action meetings to 11:00 a.m. on the first and third Wednesdays of the month, finding that the existing meeting times conflict with the City Commission goals identified during strategic planning.

ATTACHMENTS:

none



Commission Action Report

Title: Extension of Memorandum of Understanding with Bird Rides, Inc.

Proposed Agenda Date: May 18, 2022

Presented By: Christina Montgomery, City Attorney

BACKGROUND:

The City of Emporia and Bird Rides, Inc. entered into a one-year MOU in 2021 to allow the deployment of Bird Scooters within the City of Emporia. The MOU includes provisions addressing operations, management, safety, parking, and liability of scooter operations. The existing MOU expires in June.

DISCUSSION:

City staff and Bird Rides, Inc. have negotiated a one-year extension of the existing MOU with the addition of a \$0.10 per ride revenue share to the City. At the end of one year, the MOU will automatically renew for successive one-month terms until terminated by either party. All other provisions of the original MOU will remain in effect.

FINANCIAL CONSIDERATIONS:

The addition of a \$0.10 per ride surcharge will provide a small revenue stream to the City around \$1400 per year to aid in offsetting administrative costs and right-of-way maintenance and improvements to support active transportation

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

Approve Extension of Memorandum of Understanding

ATTACHMENTS:

Existing Memorandum of Understanding

Extension Amendment to Memorandum of Understanding

Memorandum of Understanding

This Memorandum of Understanding (MOU) between the City of Emporia, Kansas (hereinafter referred to as "City") and Bird Rides, Inc. delineates the agreement of the parties regarding the circumstances under which the City will permit Bird Rides, Inc. to provide services under the following terms and limitations. This agreement shall remain in effect until June, 2022 unless terminated as set forth below.

AGREEMENT

- 1) **Scope:** This Agreement and its terms apply to any proposed deployment of Stand-up electric scooter sharing systems within Emporia jurisdictional boundaries by Bird Rides, Inc. No employee, agent, franchisee, or other representative or affiliate of Bird Rides, Inc. shall deploy a Stand-up electric scooter sharing system in the City in violation of this Agreement.
- 2) **Stand-up electric scooters** shall be governed by the rules applying to bicycles and are to be ridden on streets, and where available, in bike lanes and bike paths. Stand-up electric scooters are to stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths. Users of Stand-up electric scooters who violate these provisions may be fined by Emporia consistent with fines for cyclists.
- 3) **Bird Rides, Inc.** shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each Stand-up electric scooter for members of the public to make relocation requests or to report other issues with devices.
- 4) **Hours of operation:** Stand-up electric scooters will be made available to rent from 4 a.m. to midnight (local time) to users 18 years of age or older. Such times are subject to change as approved by the Emporia Police Chief (or designee).
- 5) **Bird Rides, Inc.** shall provide a minimum of 50 vehicles at launch.
- 6) **Safety Education:** Bird Rides, Inc. will provide materials, videos, signage to promote safe riding and educate riders on rider responsibilities and encourage safe and courteous riding and parking.
- 7) **Parking Management:** The Emporia Police Chief (or designee) shall have the authority to designate Stand-up electric scooter parking areas. Bird Rides, Inc. will direct and incentivize riders to park in City designated areas. Stand-up electric scooters may be deployed upon final approval of the Emporia Police Chief.
- 8) **Nuisance:** Stand-up electric scooters shall not obstruct any street, alley, sidewalk, or other public way. Stand-up electric scooters shall not be left on private property without consent of the owner or occupier of such property. Any Stand-up electric scooters found to be in violation of this provision may be moved and relocated by City staff or any affected person. Should serious or ongoing nuisance issues occur, Bird Rides, Inc. will work with City staff to prevent future nuisance through directives, incentives, and/or geofencing.
- 7) **Data sharing:** Bird Rides, Inc. will provide data to the City as necessary to assist with monitoring program usage.
- 8) **Indemnification:** Bird Rides, Inc. agrees to indemnify, defend and hold harmless Emporia (and City's employees, agents and affiliates) from and against all actions, damages or claims brought against City arising out of Bird Rides, Inc.'s negligence or willful misconduct, except that

Bird Rides, Inc.'s indemnification obligation shall not extend to claims of City's (or City's employees', agents' or affiliates') negligence or willful misconduct. Bird Rides, Inc.'s indemnification obligations shall survive for a period of two (2) years after expiration of this Agreement. Bird Rides, Inc. shall be released from its indemnification obligations under this section if the loss or damage was caused by the City's negligent construction or maintenance of public infrastructure. Emporia's right to indemnification shall be contingent on City notifying Bird Rides, Inc. promptly following receipt or notice of any claim; Bird Ride, Inc. shall have sole control of any defense; City shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Bird Ride, Inc.

9) Insurance: Bird Rides, Inc. shall provide Emporia with proof of insurance coverage exclusively for the operation of Stand-up electric scooters including: (a) Commercial General Liability insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate; (b) Automobile Insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate; and (c) where Bird Rides, Inc. employs persons within the City, Workers' Compensation coverage of no less than the statutory requirement.

10) Notices: All notices and communications to the City from Bird Rides, Inc. shall be made in writing (includes electronic communications) and sent to the address below.

11) Either party may terminate this agreement at any time and without cause upon (30) days prior written notice.

12) In carrying out their responsibilities, the parties shall remain independent contractors, and nothing herein shall be interpreted or intended to create a partnership, joint venture, employment, agency, franchise or other form of agreement or relationship.

13) The parties acknowledge that Bird Rides, Inc. may utilize independent business logistics providers to facilitate local operations. Bird's use of these logistics providers does not constitute a transfer or assignment of this Agreement, and Bird Rides, Inc. remains responsible for all obligations and requirements under this Agreement.

14) This agreement shall be governed by and construed in accordance with the laws of Kansas.

Emporia, KS

Bird Rides, Inc.

Signed By:

Signature: 
Print Name: ROBERT GILMAN
Title: MAYOR

DocuSigned by:
Signature: Austin Marshburn
Print Name: AUSTIN Marshburn
Title: Head of City & University Partnerships

**Extension Amendment to
Memorandum of Understanding**

This extension amendment (this "Amendment") dated as of May 18th, 2022 is entered into by and between Bird Rides, Inc., located at 406 Broadway, #369, Santa Monica, CA 90401 ("Company"), and the City of Emporia, located at 111 East 6th Avenue, Emporia, KS 66801 ("City"), and amends that certain Memorandum of Understanding by and between Company and City (as further amended, restated, supplemented or modified from time to time prior to the date hereof, the "Agreement").

The Agreement is amended as follows:

1. Term. The term of the Agreement shall hereby continue through December 31st, 2023 and shall automatically renew for successive one month terms thereafter unless terminated by either party.
2. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this Amendment and the Agreement or any earlier amendment, the terms of this amendment will prevail.
3. Unless otherwise stated in this Amendment, defined terms shall be given the meanings attributed to them in the Agreement.
4. Company shall pay City a revenue-share of Ten Cents (\$0.10) per ride to help active transportation improvements. Company shall pay the revenue-share to City on a quarterly basis, in arrears within thirty (30) days from the end of the preceding month.

Company:

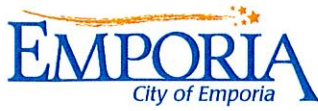
Bird Rides, Inc.

By: _____
Name:
Title:

City:

City of Emporia, Kansas

By: _____
Name:
Title:



Commission Action Report

Title: Adoption of Strategic Goals for 2022-2023

Proposed Agenda Date: May 18, 2022

Presented By: John Deardoff and Jim Witt, Strategic Planning Consultants

BACKGROUND:

The Commission and management staff began this process in early February of 2022. The first step was to interview each of the Commissioners and ascertain what their individual priorities were. After accomplishing this three work sessions were held that specifically dealt with the prioritization of goals. These sessions were held on March 9, April 13, and May 4.

DISCUSSION:

The adoption of the goals will trigger actions by staff and eventually the Commission to move forward in achieving the specified goals. It is recommended that management staff make quarterly reports to the Commission regarding progress towards achieving the adopted goals.

FINANCIAL CONSIDERATIONS:

This action has no immediate impact on City finances and is strictly an administrative action. As the goals move forward some items will impact the allocation of city fiscal resources (spending money).

OTHER CONSIDERATIONS:

If adopted to a final report outlining the process use, the goals adopted, summary and scorecard mechanism will be distributed to the Commission and management staff.

RECOMMENDED ACTION:

Adopt Strategic Goals

ATTACHMENTS:

Goals for Economic Development, Housing Development, Organizational, Financial and Infrastructure.

Economic Development

1. Evaluate city funding to any economic development agency the city provides funding.

Process Objectives

A. Develop a formal Memorandum of Understanding (MOU) with each economic development agency the city provides funding. The MOU should include regular reporting updates and requirements for a city representative to serve on each board or commission. Target July 1, 2022.

B. Annually evaluate the return on investment from each economic development agency receiving city funds. Target April 2023.

2. Recognize and prioritize disc golf and cycling as economic development opportunities.

Process Objectives

A. Prioritize funding for park improvements related to disc golf and cycling activities. Target 2023 Budget.

B. Communicate to community economic development agencies the importance of these two sectors and their potential for growth opportunities. Target 2023 budget process.

ORGANIZATIONAL ISSUES

1. Evaluate the process of integrating the Library and Recreation services within the city organization.

Process Objectives

A. Establish a working task force to include City Commissioner, Library Board, Recreation Commission representation, and a staff member from each agency. Target date of September 1, 2022.

2. Create an engagement plan to effectively recruit citizens to serve on all city boards and commissions with an emphasis on recruiting women and minorities. Target date of January 1, 2023.

3. Re-tool the City website to effectively engage the citizens, business community, visitors, etc. Initiate the project on June 1, 2022.

HOUSING DEVELOPMENT

1. Expand housing opportunities thru a formal housing plan that is adopted and is administratively and fiscally sound.

Process Objectives

- A. Develop a plan for infill housing opportunities. Identify and prioritize large-scale areas where multiple residential units could be developed. Assess acquisition strategies using the PPP alternative. Potential use of summer interns to assist in identifying these areas. Incorporate land bank properties into the process. - Target Date Fall 2022.
- B. Use Resolution #3642, Housing and RHID Policy, Section V to assist in financing new residential development of all types. (See below)

Target Date – Active Policy

V. FINANCIAL ALTERNATIVES

The following is a nonexclusive listing of some financial alternatives available to the City regarding RHID developments and related scenarios to assist in addressing the need for new housing units.

1. Utilize existing policy requiring private financing for all RHID development requests.
2. Issue RHID bonds as permitted under the Kansas Rural Housing Incentive District Statutes in conjunction with local financial institutions.
3. Utilize Kansas Statute 12-6a01-17 to establish a special assessment district and create a Rural Housing Incentive District (RHID). The incremental tax revenue received via the RHID would then be utilized for debt retirement for bonds issued in conjunction with development, reimburse the city account used to fund the initial construction, and reimburse developer/builder eligible expenses.

4. The City may buy a tract of land and finance the acquisition and construction of infrastructure via RHID district. The City can then plan and develop the tract and enter into any private development agreements necessary to meet the housing goals established by the Commission.
5. Provide financial assistance in an amount to be determined to buyers within an RHID with a target price not to exceed \$250,000. Access to state/federal funding may be used to provide this incentive or a portion thereof.

C. Continue to pursue federal/state funds to encourage residential rehabilitation.

Target Date – Active Function

D. Assess the potential of city/county-owned properties for residential development.

*Utilize city staff, Engineering, Planning, Community Development Coordinator, and Building Inspection to compile this assessment.

* After the assessment is completed confer with local residential real estate professionals and developers to prioritize the marketability of sites.

Target Date – March 1, 2023.

FINANCIAL GOALS

1. Provide a competitive salary schedule and plan that is SUSTAINABLE. .

Process Objectives

- A. Develop an RFP/RFQ for the completion of a salary and benefits study to develop a sustainable plan. Input for study parameters to be provided by the Commission and management staff. Management staff shall secure RFP/RFQs and provide Commission with a recommendation on a firm. The commission shall review and have the final decision on the selection of a firm.

*RFP/RFQ process completed - Target date November 2022.

*Selection of firm.

*Study Completed – Target date April 2023.

*Adopt salary policy – Target Date June 2023.

2. Restructure the annual budget and financial documents to be more visually informative.

Process Objectives

- A. Management and finance staff to work on a new format for the 2024 Budget – Target date January 2023.
- B. Develop a budget “at a glance” document to be available in print and e-formats for the budget year 2023 – Target date July 2022.
- C. Develop revised Commission monthly budget reports that provide essential information -Target date September 2022.

INFRASTRUCTURE GOALS

1. Assess Fire Department Facility needs and develop a financially feasible plan to implement identified projects. Integration of County Communication/Dispatch into the plans.

Process Objectives

- A. Make a final decision to move forward and establish a working committee. Suggested composition of City Commissioner, County Commissioner, County Employee, County Comptroller, Fire Chief, and City Manager/Designee. (County involvement dependent on the relocation of Communications Center)-Target date July 2022.

*Issue RFQ/RFP for architectural and engineering services – Target Date October 2022.

* Preliminary site assessment for Station #1.

* Assess need for west side Station #3.

*Begin the Design process for Station #1.

*Committee begins work on the financing structure.

*Final Design Station #1 and Financial Plan-Target Date July 2023.

2. Compile and prioritize structural and HVAC issues at Fire Station #2.

Process Objectives

*Develop a prioritized list of issues–Target Date August 2022.

*Determine the need for architectural or engineering assistance.

*Obtain cost estimates for prioritized items.

*Use fund balance in the General Fund to address issues.

*If issues cannot be addressed thru Fund Balances integrate financials into #1 financial plan. (See above)-Target date is May 2023.

3. Preserve Cottonwood River water rights.

Process Objectives

A. Determine availability and amount of acre-feet available.

- *Meet with appropriate state agencies. Target date September 2022.

- * Undertake staff assessment of alternatives to accessing rights. Target date December 2022.

- *Retain engineering firm to provide detailed cost estimates for identified alternatives. Target date is February 2023.

- *Integrate chosen alternative into CIP, if deemed practical.

4. Complete evaluation of water plant capacity and future CIP to maintain quality water supply. Target date Summer 2023.

Water may become the “oil” of municipal vitality. It is essential to maintain a healthy and safe community but can become important in economic development and the maintenance of quality-of-life facilities.



Commission Action Report

Title: April Financials & Building Permits
Proposed Agenda Date: May 18, 2022
Presented By: Trey Cocking, City Manager

BACKGROUND:

This is a time for general information regarding the month of April 2022 to the community.

DISCUSSION:

1) Monthly Local Retail Sales Tax Receipts Update

	2021	2022	
	\$405,028.43	\$433,010.88	Increase of \$27,984.43 for the month, and
YTD	\$ 1,682,955.63	\$ 1,894,773.05	Overall increase of 12.59% from year 2021

2) City Share from County Tax

	2021	2022	
	\$206,929.84	\$216,670.32	Increase of \$9,740.48 for the month, and
YTD	\$ 851,787.29	\$ 970,728.27	Overall increase of 13.96% from year 2021

3) Building Permits issued from 4/1/2022 to 4/30/2022 for new construction, remodeling / repairs, and demolition.

Total number of building permits issued through Code Services:	174
Total of valuations associated with those building permits:	\$20,556,289.00
Total number of dollars collected for Building Permit Fees:	\$ 60,101.25

Construct - single family dwellings	2
Demo - single family dwellings	0

Flint Hills Mall CID for April 2022	\$ 12,018.88
Year to Date Total	\$ 61,218.17

FINANCIAL CONSIDERATIONS:

N/A

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

N/A

ATTACHMENTS:

N/A

COMMISSION MEETING

11:00 A.M.

MAY 4, 2022

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, May 4, 2022, with Mayor Smith presiding and Commissioners Brinkman, Giefer, and Harter present. Commissioner Sauder was absent. Also present were City Manager Cocking, City Clerk Sull and City Attorney Montgomery. Assistant City Manager Massey was absent.

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments.

The public is invited to make comments at this time. Please limit comments to two (2) minutes each. Hate speech, profanity, and defamation are not allowed. Please state your name and address prior to making comments.

Destiny Farr, Lyon/Morris County Human Services Coordinator for ECKAN, was in attendance to accept a proclamation declaring the month of May, 2022, as "Community Action Month" in Emporia. She stated ECKAN has made essential contributions to individuals and families in the City of Emporia by providing them with innovative and cost-effective programs such as emergency rent and utility assistance, transportation assistance, food voucher, food pantry, Senior Farmer's Market Checks and laundry services. Community Action Agencies are needed as major participants in the reform of the welfare system as we know it. She stated individuals and families on limited income continue to need opportunities to improve their lives and their living conditions, ensuring that all citizens are able to live in dignity. She stated the poverty rate in the City of Emporia is 20.51% and Kansas must continue the wage war on poverty by providing support and opportunities for all citizens in need of assistance. She urged all citizens to recognize the hard work and dedication of Kansas Community Action Agencies.

Mayor Smith then presented the proclamation.

Wayne Bell, District Director of Small Business Administration, was in attendance to accept a proclamation declaring the week of May 1 through May 7, 2022, as "National Small Business Week" in Emporia.

He stated from the storefront shops that anchor Main Street to the high-tech startups that keep America on the cutting edge to the small manufacturers driving our competitiveness on the global stage, small businesses are the backbone of our economy and the cornerstones of our nation's promise. When we support small businesses, jobs are created, local communities and preserve their unique culture. He stated the City of Emporia supports and joins in this national effort to help America's small businesses do what they do best - grow their businesses, create jobs and ensure that our local communities remain as vibrant tomorrow as they are today.

Mayor Smith then presented the proclamation.

Dean Grant, Director of Public Works, and Public Works employees, were in attendance to accept a proclamation declaring May 15 through 21, 2022, as "National Public Works Week" in Emporia. He stated public works professionals focus on infrastructure, facilities, emergency management, and services that are of vital importance to sustainable and resilient communities and the public health, high quality of life, and well-being of the people of the City of Emporia. Infrastructures, facilities and services could not be provided without the dedicated efforts of public works professionals. He stated it is in the public interest for the citizens, civic leaders, and children in the City of Emporia to gain knowledge and maintain ongoing interest and understanding of the importance of public works first responders and public works programs in their respective communities. The year 2022 marks the 62nd annual National Public Works Week sponsored by the American Public Works Association. He urged all citizens to join with representative of the American Public Works Association and government agencies in activities, events, and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety and quality of life.

Mayor Smith then presented the proclamation.

Ed Owens, Police Chief, was in attendance to accept a proclamation declaring May 15 through 21, 2022, as "National Police Week" in Emporia. He stated every day our Nation's dedicated law enforcement officers put themselves at risk to keep their fellow Americans safe. Law Enforcement officers deserve our appreciation for the work they do and citizens fulfill an important civic responsibility by supporting their work to protect our communities. He stated on Peace Officers Memorial Day and during Police Week, we honor the heroism of all our law enforcement officers, especially those who have given their lives so that others might live. By joint resolution of the US Congress in 1962, the President of the United States designated May 15th of each year as "Peace Officers Memorial Day" and the week in which it falls as "Police Week" and also directed the flag be flown at half-staff on Peace Officers Memorial Day on May 15th each year. He urged everyone to remember those throughout our Nation who lost their lives while protecting others.

Mayor Smith then presented the proclamation.

**CITY COMMISSION
(Board Appointments)**

Community Housing Board/Emporia Land Bank:

It was moved by Commissioner Brinkman seconded by Commissioner Giefer that Maria Salazar be reappointed to the Community Housing Board/Emporia Land Bank for a term that expires April 20, 2026. The vote follows: Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Harter, aye; and Mayor Smith, aye.

ENGINEERING
(Road 180 Paving Improvements Project No. PV1910)
(KDOT Project No. 56 KA-6154-01)
(Accept Right of Way Easement Acquisitions)
(Evergy - James & Lydia Kostner - Smoots Enterprises II, LLC)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated Road 180 Paving Improvements Project No. PV1910, KDOT Project No. 56 KA-6154-01 consists of roadway and drainage from Americus Road to Road F5. Right of Way purchases are necessary to construct the paving improvements project. He stated easement acquisition purchases will need to be acquired from Evergy Kansas Central Inc., James and Lydia Kostner, and Smoots Enterprises II, LLC.

Commissioner Harter made a motion to accept the Right of Way easement acquisitions from Evergy Kansas Central, Inc., James and Lydia Kostner, and Smoots Enterprises II, LLC. Commissioner Giefer seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; and Mayor Smith, aye.

ENGINEERING
(2023 Sidewalk System Improvement Project)
(KDOT Transportation Alternatives Program)
(Resolution Number 3672)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated at a previous study session, the MUPP Board has proposed two (2) sidewalk projects for submittal for the 2023 Sidewalk System Improvement project to the KDOT TA program. He stated this project will furnish 80% of the total cost for two sidewalk improvement and construction projects. The proposed sidewalks are 24th Avenue from Prairie Street to Lincoln Street and on 12th Avenue from Mr. Goodcents to Burlingame Road and 12th Avenue to Riley Avenue along Burlingame Road. He stated the City will be responsible for 20% of the total estimated contract price, a total cost estimate of \$604,680.00 with the City's responsibility being \$120,936.00. Staff is recommending approval of Transportation Alternative Program resolution

of support and funding of the City's portion of the project if funded by KDOT.

Commissioner Brinkman made a motion to approve Resolution Number 3672, a resolution to submit an application to the Transportation Alternative Program for the 2023 Sidewalk System Improvement Project. Commissioner Giefer seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Harter, aye; and Mayor Smith, aye.

**CITY COMMISSION
(Approve Marking Agreement)
(HomeServe Service line Warranty Program)
(Utility Service Partners Private Label, Inc.)**

Janet Harrouff, Director of Administrative Services, was recognized and addressed the Governing Body. She stated HomeServe made a presentation about the service line warranty program they offer. The program provides a warranty for water and sewer services lines that are the homeowner's responsibility. She stated the program is endorsed by the National League of Cities. The contract has been changed to reflect the city will not be receiving the \$0.50 per subscription per month and this is reflected on the homeowner's monthly fee. There is no cost to the City of Emporia, homeowners pay a subscription fee for the service line warranty program. Staff is recommending approval of the marking agreement with Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America and approve letter that will be sent to residential customers in Emporia.

Commissioner Giefer made a motion to approve the contract and letter that will sent to residential customers in Emporia. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; Mayor Smith, aye.

Consent Agenda

City Manager Cocking removed item e. from the Consent Agenda.

It was moved by Commissioner Brinkman, seconded by Commissioner Harter that the remaining balance of the Consent Agenda listed below be ratified as a whole:

- a. Consider minutes of the Regular Meeting held on April 20, 2022.
- b. Consider ratification of Payroll Ordinances for the period ending on April 25, 2022.
- c. Free Dump Days from May 14 through 22, 2022.
- d. Set Bid Date and Time for 2022 Street Resurfacing Project.
- f. Change Order No. 1 for Funston Street Paving Improvements Project.
- g. Approve Ordinance No. 22-18 Authorizing Beer Garden on June 2, 2022 for Unbound Expo Event.
- h. Approve Ordinance No. 22-19 Authorizing Beer Garden on June 3, 2022 for Unbound Expo Event.

The vote follows: Commissioner Brinkman aye; Commissioner Harter, aye; Commissioner Giefer, aye; and Mayor Smith, aye.

CONSENT AGENDA (Item e.)

- e. Consider Approval of City Surplus Real Property List.

City Manager Cocking stated item e. would be discussed at a future meeting.

CITY COMMISSION (City Manager's Report)

This is a verbal report that announces upcoming events, recognizes employees for outstanding contribution and provides the public information that may be of a general interest. The following information was presented at the meeting:

At the time this Agenda was prepared, the following items were in the works:

Tentative Agenda for May 18th Study Session at 11:00 a.m.

- Proclamation Recognizing May as MUPP Walk, Run and Bike Days in Emporia.
- Approve Lease Agreement for Mini Excavator for Underground Utilities
- Approve Bird Scooter Contract.
- Executive Session

**CITY COMMISSION
(Public Comment)**

This is the time for Mayor and City Commissioners to make comments and reports to the public. No comments were made at this time.

EXECUTIVE SESSION

Commissioner Brinkman made a motion to adjourn into Executive Session to discuss confidential matters of a third party and to invite Chuck Scott, RDA President, from 11:33 a.m. to 11:53 a.m., in the City Commission Meeting Room. Commissioner Giefer seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Harter, aye; and Mayor Smith, aye.

Upon reconvening the meeting in Regular Session at 11:53 a.m., this same date, in the City Commission Meeting Room, Commissioner Giefer made a motion to continue the Executive Session Discussion with Chuck Scott, RDA President, from 11/56 a.m. to 12:06 p.m. Commissioner Harter seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Harter, aye; Commissioner Brinkman, aye; and Mayor Smith, aye.

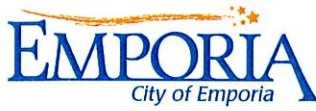
Upon reconvening the meeting in Regular Session at 12:06 p.m., this same date, in the City Commission Meeting Room, Mayor Smith stated they had discussed confidential matter of a third party and no action was taken.

Commissioner Giefer then made a motion to adjourn to Study Session in Conference Room 1AB. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; and Mayor Smith, aye.

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk



Commission Action Report

Title: Compact Excavator Lease

Proposed Agenda Date: May 18, 2022

Presented By: Dean Grant, Director of Public Works

BACKGROUND:

Underground Utilities budgeted \$120,000.00 (split between the Water and Sewer Funds) for the purchase of a new backhoe. Instead, we would like to lease an E42 R2 Series Bobcat Compact Excavator, so that the crews can work more efficiently in the areas that do not have the space that is required for a backhoe to operate. The existing backhoe will continue to be used by Underground Utilities for system maintenance in other areas.

DISCUSSION:

The cost of the E42 R2 Series Bobcat Compact Excavator is \$10,000.00 per year for 5 years. At the end of the 5 years, Bobcat will pick up the machine and, if we elect, bring in a new machine on a new lease. There is no balloon payment, and we will owe nothing more on the machine. We will also need to make a one-time purchase of a trailer to haul the compact excavator. The cost of the trailer will be approximately \$9,000.00

FINANCIAL CONSIDERATIONS:

The cost of the mini excavator is \$50,000.00 over 5 years, plus approximately \$9,000.00 for the one-time purchase of a trailer. The backhoe cost would be approximately \$115,000.00 and would be put into the CIP budget in 5 years to be purchased again.

OTHER CONSIDERATIONS:

RECOMMENDED ACTION:

Approve the lease of an E42 R2 Series Bobcat Compact Excavator.

ATTACHMENTS:

E42 R2 Series Bobcat Compact Excavator Lease Agreement



Bobcat

Product Quotation

Quotation Number: JLK-08004

Date: 2021-12-09 15:41:27

Customer Name/Address:	Bobcat Delivering Dealer	ORDERS TO BE PLACED WITH: Contract Holder/Manufacturer
CITY OF EMPORIA 104 E 5TH ST EMPORIA, KS 66801	White Star Machinery, Topeka, KS 835 NE HWY 24 TOPEKA KS 66608 Phone: (785) 232-7731 Fax: (785) 235-8951	Clark Equipment Company dba Bobcat Company 250 E Beaton Dr West Fargo, ND 58078 Phone: 701-241-8719 Fax: 855-608-0681 Contact: Heather Messmer Heather.Messmer@doosan.com

Description	Part No	Qty	Price Ea.	Total
E42 R2-Series Bobcat Compact Excavator Auto&gt;Idle Auto&gt;Shift, 2&gt;Speed Travel Auxiliary Hydraulics with Selectable Flow - W/ Arm Mounted Flush Face Quick Couplers Canopy - Includes: Cup Holder, Retractable Seat Belt, Vinyl Suspension Seat - Roll Over Protective Structure (ROPS) - Meets Requirements of ISO 12117&gt;2: 2008 - Tip Over Protective Structure (TOPS) - Meets Requirements of ISO 12117: 2000 - Falling Object Protective Structure (FOPS) - Meets Requirements of ISO 10262 Control Console Locks Control Pattern Selector Valve (ISO/STD)	M3315	1		
E66 Extendable Arm Package Extendable Arm Enclosed Cab with Auto HVAC Bobcat 7 inch Touch Display - Radio - Bluetooth - Keyless Start	M3315-P08-E66	1		
	Heated Cloth Suspension Seat Clamp Hydraulic X-Change Second Auxiliary Hydraulics Angle Blade Travel Motion Alarm			
Hose Kit - E60, E42 & E50 R2 All Arms	7175244	1		
24" MX4 XCHG TEETH	7311868	1		
18" MX4 XCHG TEETH	7322082	1		
NB160 Nitrogen Breaker with Nail Point	7234536	1		
--- X-Change Mounting Cap - HB880/HB980/NB150/NB160 and PCF64 plate compactor	7113657	1		
Hydra-Tilt	6728578	1		
Material and Logistics Surcharge	9988228	1		

LEASE OPTION:

5 YEAR LEASE - 500 HOURS PER YEAR

\$10,000 per year / paid annually

Full Warranty included – 5 Year / 2000 hours

Machine not in stock – Would be an order

Customer responsible for standard service intervals (filters, fluids)

**Prices per the Kansas NASPO Construction - SW192*

**Terms Net 60 Days. Credit cards accepted.*

**FOB Origin – Prepay and Add to Quote*

**State Sales Taxes apply. IF Tax Exempt, please include Tax Exempt Certificate with order.*

**TID# 38-0425350*

****Orders Must Be Placed with: Clark Equipment Company dba Bobcat Company, Govt Sales, 250 E Beaton Drive, West Fargo, ND 58078.***

**Quote valid for 30 days*

ORDER ACCEPTED BY:

SIGNATURE

DATE

PRINT NAME AND TITLE

PURCHASE ORDER NUMBER

DELIVERY ADDRESS: _____

BILLING ADDRESS (if different than Ship To): _____

TAX EXEMPT? _____ YES _____ NO

Exempt in the State of _____

Tax Exempt ID:

FEDERAL - _____

STATE - _____

Expiration Date: _____



Commission Action Report

Title: Ordinance No. 22-24 Authorizing Beer Garden for My Country Concert After Party.

Proposed Agenda Date: May 18, 2022

Presented By: Christina Montgomery, City Attorney

BACKGROUND:

My Town Media and Emporia Granada Theatre are requesting permission to host a beer garden to sell and serve alcohol in connection with the My Country Concert After Party on June 25, 2022.

DISCUSSION:

The request is for a beer garden on 8th Avenue between Merchant Street and Commercial Street on June 25, 2022, between the hours of 10:00 p.m. and 12:00 a.m. The beer garden will be enclosed by city fencing in a location approved by the Chief of Police. The applicant will be required to meet city and state requirements for alcohol sales.

FINANCIAL CONSIDERATIONS:

N/A

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

Approve Ordinance

ATTACHMENTS:

Ordinance and map

ORDINANCE NO. 22-24

AN ORDINANCE EXEMPTING EIGHTH AVENUE BETWEEN MERCHANT STREET AND COMMERCIAL STREET IN THE CITY OF EMPORIA FROM THE PROHIBITION ON THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES FOR THE MY COUNTRY CONCERT AFTER PARTY EVENT JUNE 25, 2022

WHEREAS My Town Media and Emporia Granada Theatre have requested an exemption from the prohibition of sale and consumption of enhanced cereal malt beverages (CMB) and/or alcoholic liquor in connection with the My Country Concert After Party.

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

SECTION 1. Pursuant to K.S.A. 2011 SUPP. 41-719, as amended, the Governing Body temporarily exempts Eighth Avenue between Merchant Street and Commercial Street, with the exact location to be approved by the Chief of Police or designee, from the prohibition on the sale and consumption of enhanced cereal malt beverage (CMB) and alcoholic liquor when it is being sold or consumed in conjunction with the My Country Concert After Party event on June 25, 2022, between the hours of 10:00 p.m. to 12:00 a.m., as authorized by the city manager and subject to any other laws or ordinances regulating the possession, sale and/or consumption of enhanced CMB and alcoholic liquor.

SECTION 2. Sale and consumption shall be allowed within an area delineated by City of Emporia fencing in a manner approved by the Chief of Police or designee which clearly distinguishes the area where alcoholic beverages are permitted. No one under the age of 21 shall possess or consume alcoholic beverages and event sponsors shall be held strictly accountable for any violations. No alcoholic beverages shall be consumed in vehicles while on the street at any special event.

SECTION 3. No person shall remove any alcoholic liquor or CMB from inside the boundaries of the special event as delineated by signs, posted map or other means which reasonably identify the boundaries of the special event.

SECTION 4. Licensees must meet all licensing requirements for sale of alcoholic beverages by the city and the state.

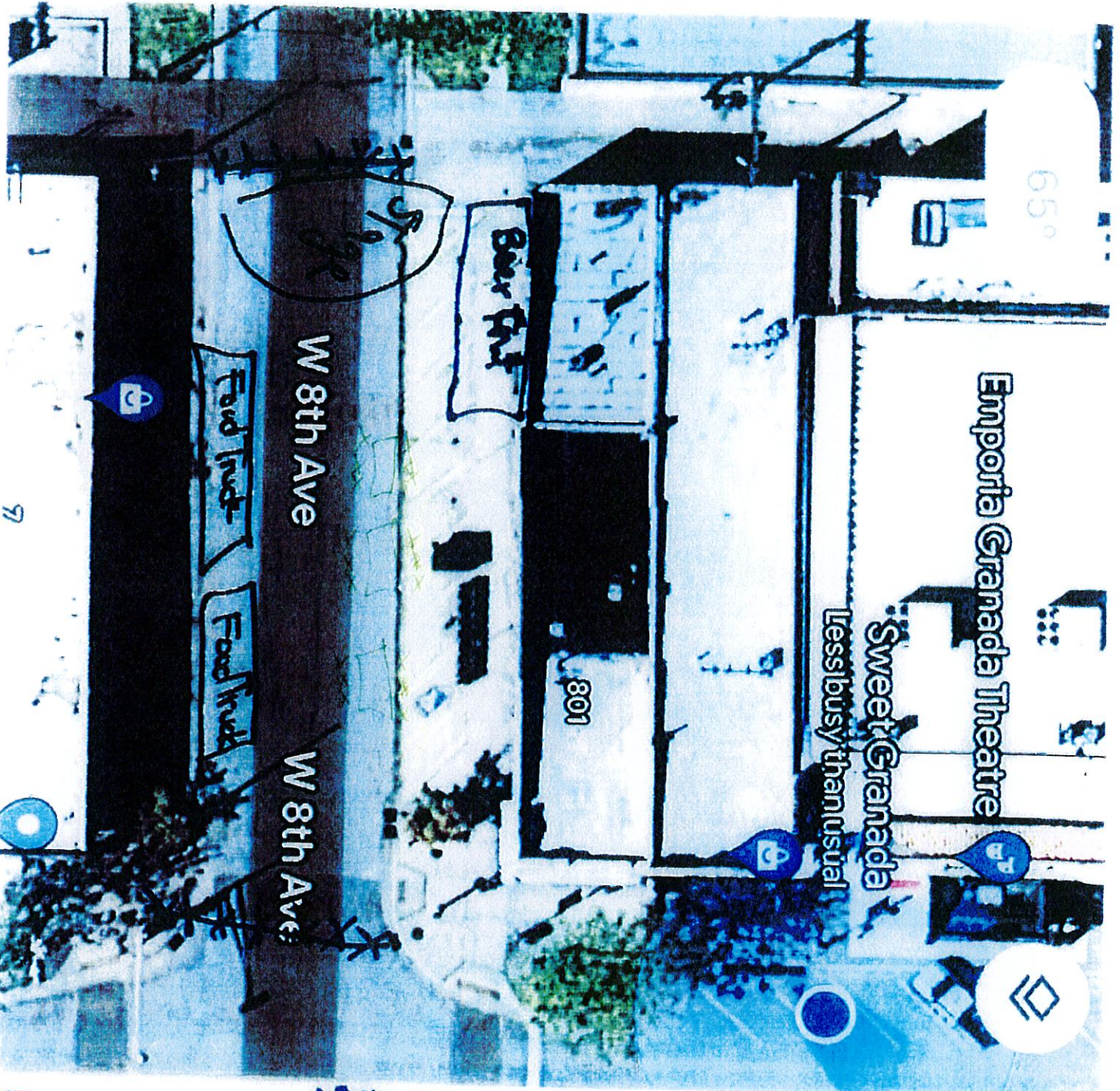
SECTION 5. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 18th day of May 2022.

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk



65°

Emporia Granada Theatre

Sweet Granada

Less busy than usual

801

Beer Pub

W 8th Ave

W 8th Ave

Star-Fencing

Star

Food Trucks

Stage



Commission Action Report

Title: Ordinance No. 22-25 Authorizing Beer Garden for Gravel Cycling Hall of Fame After Party.

Proposed Agenda Date: May 18, 2022

Presented By: Christina Montgomery, City Attorney

BACKGROUND:

Gravel City Adventure and Supply Co. is requesting permission to host a beer garden in connection with the Gravel Cycling Hall of Fame After Party on June 1, 2022. This will be a private event where alcohol is served but not sold.

DISCUSSION:

The request is for a beer garden on the sidewalk and breezeway on the east side of Commercial Street between Seventh Avenue and Eighth Avenue on June 25, 2022 between the hours of 8:00 p.m. and 11:30 p.m. The beer garden will be enclosed by city fencing in a location approved by the Chief of Police. The applicant will be required to meet city and state requirements for serving alcohol.

FINANCIAL CONSIDERATIONS:

N/A

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

Approve Ordinance

ATTACHMENTS:

Ordinance and Map

ORDINANCE NO. 22-25

AN ORDINANCE EXEMPTING THE SIDEWALK AND BREEZEWAY ON THE EAST SIDE OF COMMERCIAL STREET BETWEEN SEVENTH AVENUE AND EIGHTH AVENUE IN THE CITY OF EMPORIA FROM THE PROHIBITION ON THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES FOR THE GRAVEL CYCLING HALL OF FAME AFTER PARTY ON JUNE 1, 2022

WHEREAS Gravel City Adventure & Supply Co. has requested an exemption from the prohibition of possession and consumption of enhanced cereal malt beverages (CMB) and/or alcoholic liquor in connection with the Gravel Cycling Hall of Fame After Party.

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

SECTION 1. Pursuant to K.S.A. 2011 SUPP. 41-719, as amended, the Governing Body temporarily exempts the sidewalk and breezeway on the east side of Commercial Street between Seventh Avenue and Eighth Avenue, with the exact location to be approved by the Chief of Police or designee, from the prohibition on the possession and consumption of enhanced cereal malt beverage (CMB) and alcoholic liquor when it is being consumed in conjunction with the Gravel Cycling Hall of Fame After Party on June 1, 2022, between the hours of 8:00 p.m. to 11:30 p.m., as authorized by the city manager and subject to any other laws or ordinances regulating the possession and consumption of enhanced CMB and alcoholic liquor.

SECTION 2. Possession and consumption shall be allowed within an area delineated by City of Emporia fencing in a manner approved by the Chief of Police or designee which clearly distinguishes the area where alcoholic beverages are permitted. No one under the age of 21 shall possess or consume alcoholic beverages and event sponsors shall be held strictly accountable for any violations. No alcoholic beverages shall be consumed in vehicles while on the street at any special event.

SECTION 3. No person shall remove any alcoholic liquor or CMB from inside the boundaries of the special event as delineated by signs, posted map or other means which reasonably identify the boundaries of the special event.

SECTION 4. Licensees must meet all licensing requirements for service of alcoholic beverages by the city and the state.

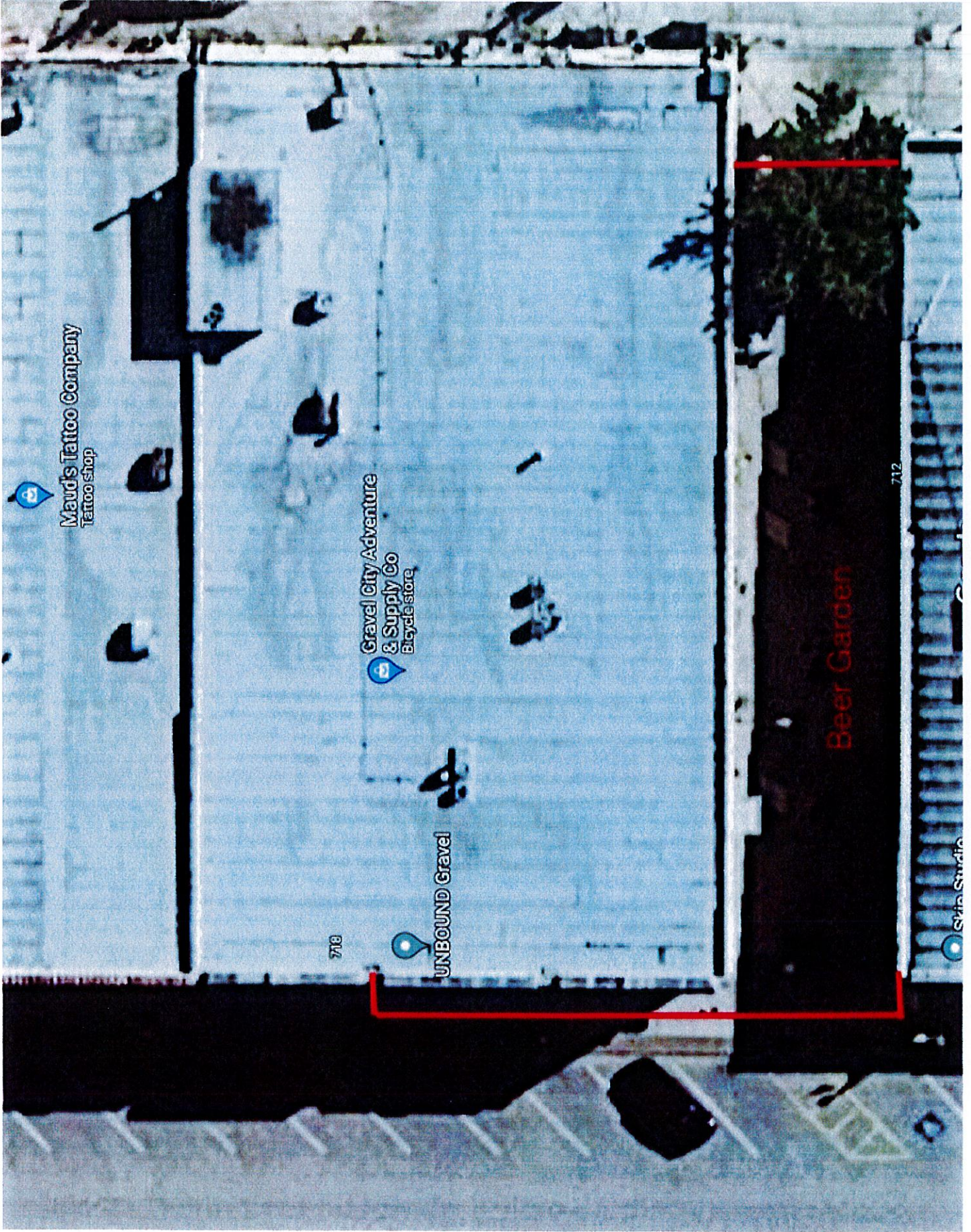
SECTION 5. This ordinance shall become effective upon publication in the official city newspaper.

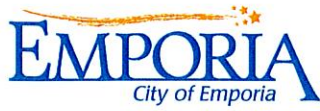
PASSED AND APPROVED this 18th day of May 2022.

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk





Commission Action Report

Title: Informational Items
Proposed Agenda Date: May 18, 2022
Presented By: Trey Cocking, City Manager

BACKGROUND:

This is an opportunity for the City Manager to present information to the public that may not be reported in other news accounts or City activities or to highlight accomplishments of the organization.

DISCUSSION: At the time this Agenda was prepared, the following items were in the works for the tentative Agendas of the June 1, 2022 meetings.

Commission Meeting:

- Proclamation Naming June as "Zoo Month" in Emporia.
- National Teachers Hall of Fame Day Proclamation.
- Proclamation May Massee Day Proclamation.
- Adopt Strategic Goals.
- An Ordinance Amending and Updating the Floodplain Management Regulations.

Study Session:

FINANCIAL CONSIDERATIONS:

N/A

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

N/A

ATTACHMENTS:

N/A



Commission Action Report

Title: Executive Session

Proposed Agenda Date: May 18, 2022

BACKGROUND:

The City Commission requests an Executive Session to discuss data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships for potential economic development projects. K.S.A. 75-4319(B)(4) is the authority for this recess into Executive Session.

DISCUSSION:

N/A

FINANCIAL CONSIDERATIONS:

N/A

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

Recess into Executive Session to discuss proprietary information of third parties for 20 minutes, inviting Garth Heerman, Dominic Eck, County Commissioner Scott Briggs, County Controller Dan Williams, and Special Projects Manager Jim Witt, and stating at which time the open meeting will resume.

ATTACHMENTS:

N/A