



Agenda

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

**JUNE 15, 2021
7:00 PM
COMMUNITY FORUM**

CALL TO ORDER Pledge of Allegiance

ROLL CALL

APPROVE MINUTES June 1, 2021 City Council Meeting draft minutes (located in the Appendix)

**MODIFICATION OF
AGENDA**

APPOINTMENT Courtney Eiterich, Council President -
July 1, 2021 through December 31, 2021

PROCLAMATIONS Lenexa Barbeque Month

PRESENTATIONS Johnson County Community College updates -
Dr. Andrew Bowne

CONSENT AGENDA **Item Numbers 1 through 4**

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

1. Authorize the purchase of 6,000 tons of rock salt to be used for the 2021-2022 winter season

This purchase award is through the city of Overland Park cooperative bid for rock salt. The total price for 6,000 tons of rock salt will be \$298,260.

2. Approval of the preliminary plan for CEVA - Long Street CEF (Chick Embryo

Fibroblast cells) Facility, located at 8940 Long Street

The applicant is proposing an 18,500 square-foot building for lab/production on this vacant parcel. The applicant rezoned the subject parcel and received preliminary plan approval in 2015 for a one-story 38,200 square-foot lab/production building, which has since expired requiring the applicant to go back through the preliminary plan approval process. PL21-05P

3. Resolution authorizing the Mayor to execute an agreement with All City Management Services for school crossing guard services

The City has contracted crossing guard services with All City Management Services (ACMS) since 2016 as it is the only provider in this area. Staff would like to contract with ACMS again for the 2021-2022 school year for \$116,474.40.

4. Ordinance authorizing and providing for the acquisition of lands or interests therein by condemnation for the storm sewer reconstruction under the BNSF Railway located west of the intersection of Pflumm Road and Santa Fe Drive

This ordinance authorizes City staff and its acquisition counsel to file a condemnation petition with the district court to acquire the necessary easements and rights-of-way for the storm sewer reconstruction under the BNSF Railway located west of the intersection of Pflumm Road and Santa Fe Drive.

END OF CONSENT AGENDA

BOARD RECOMMENDATIONS

5. Rezoning and companion concept plan and preliminary plat (plan) for Arbor Lake South, located at the northwest corner of Prairie Star Parkway and Shady Bend Road
 - a. Ordinance rezoning property from CP-1 and RP-1 to RP-1
 - b. Concept plan for Arbor Lake South commercial and office lots
 - c. Preliminary plat (plan) for Arbor Lake South

The proposed concept plan includes the NP-O zoned tract and the preserved 2.6-acre CP-1 zoned tract along Shady Bend Road. The

concept plan shows one building and associated parking on each lot. The preliminary plat is for a 45-lot plat on 23 acres, with 43 residential lots and two non-residential lots. The single-family lots are consistent with the previous phases of Arbor Lake. Public right-of-way will be dedicated to the City with the final plat.

OLD BUSINESS

6. Resolution accepting the Lenexa Aquatics Study Phase II Final Report and recommendations #1 and #2

The Aquatics Study Phase II Draft Report was presented at the June 8, 2021 Committee of the Whole meeting. On June 15th, staff will present the Phase II Final Report to the Governing Body for acceptance, acknowledging that the study is complete. In addition, staff recommends that the Governing Body accept Phase II Study recommendations #1 and #2 to be considered in future planning processes.

NEW BUSINESS

7. Ordinance amending the City Code regarding alcoholic liquor and cereal malt beverage licensing, hours of retail sales and consumption and possession on certain public property

In 2021, the Kansas Legislature approved House Bill 2137 eliminating Kansas residency requirements for licensure and expanding the authorized hours for retail sales of alcoholic liquor and cereal malt beverages (CMB). The proposed ordinance amends the City Code to eliminate Kansas residency requirements and expand the authorized hours of retail sales of alcoholic liquor and CMB to 9 AM on Sundays.

BUSINESS FROM FLOOR

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

COUNCILMEMBER REPORTS

STAFF REPORTS

ADJOURN

APPENDIX

8. June 1, 2021 City Council Meeting draft minutes
9. Lenexa Barbeque Month Proclamation
10. Item 3 -- ACMS Agreement
11. Item 7 -- Alcoholic liquor and CMB redline ordinance

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

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



**CITY COUNCIL
MEMORANDUM**

ITEM 1

SUBJECT: Authorize the purchase of 6,000 tons of rock salt to be used for the 2021-2022 winter season

CONTACT: Nick Arena, Director of Municipal Services

DATE: June 15, 2021

ACTION NEEDED:

Approve the purchase of 6,000 tons of rock salt for the 2021-2022 winter season.

PROJECT BACKGROUND/DESCRIPTION:

Crews responded to eight weather events during the 2020-2021 winter season using approximately 4,000 tons of rock salt.

This purchase of 6,000 tons of rock salt will fully restock the inventory for the upcoming 2021-2022 winter season. The salt will be stored in one of the four storage structures throughout the city. Below is a list of storage locations, including capacity for each location.

Location	Tons
Meritex Underground	6,000
Service Center (new fabric structure)	4,000
Freedom Fields (fabric structure)	750
Service Center (fabric structure)	750

The city of Overland Park was the lead agency for the multi-city bid for rock salt in 2020. Other participating agencies included Blue Valley School District, Johnson County, Leawood, Mission, Olathe, Roeland Park, and Shawnee. Two bids were received with Central Salt LLC as the low bidder. The agreement allowed the City the sole option to renew the terms of the contract for two additional one-year periods.

FINANCIAL IMPLICATIONS/FUNDING SOURCES:

Per the agreement, the price per ton in 2020 was \$48.14 per ton and the price in 2021 is \$49.71, a \$1.57 per ton increase, which includes delivery of the salt to any location. The total purchase price is \$298,260 and will be funded through the Snow Operations budget.

STAFF RECOMMENDATION:

Approval of the purchase.

VISION / GUIDING PRINCIPLES ALIGNMENT:

Vision 2040

Integrated Infrastructure & Transportation

Guiding Principles

Superior Quality Services
Prudent Financial Management

ATTACHMENTS

None



**CITY COUNCIL
MEMORANDUM**

ITEM 2

SUBJECT: Approval of the preliminary plan for CEVA - Long Street CEF (Chick Embryo Fibroblast cells) Facility, located at 8940 Long Street

CONTACT: Scott McCullough, Community Development Director
Magi Tilton, Planning & Development Administrator

DATE: June 15, 2021

ACTION NEEDED:

Approve the preliminary plan for CEVA - Long Street CEF (Chick Embryo Fibroblast cells) Facility, located at 8940 Long Street.

APPLICANT:

Kevin Collette, McCown-Gordon

OWNER:

Biomune Company

PROPERTY ADDRESS:

8940 Long Street

PROJECT BACKGROUND/DESCRIPTION:

This request is for a preliminary plan for a new lab/production building along the west side of Long Street. The project will serve as a continuation of the established CEVA campus. Sidewalk connectivity has been provided to Long Street and adequate parking is being provided. With the recently adopted code amendment relative to bicycle parking standards, the applicant has acknowledged the need to add a bicycle rack(s) to provide one bicycle space per 20 required vehicle parking stalls.

The applicant requested three deviations in conjunction with the preliminary plan:

1. A 20-foot deviation to allow for a 30-foot building setback (BP-2 zoning districts require a minimum building setback of 50 feet).
2. A 5-foot deviation to the required 20-foot landscape buffer requirement along Long Street.
3. A 5-foot deviation to the required 20-foot paving setback along Long Street.

The new building will consist of architectural metal panels consistent with the finish material used for the majority of new construction throughout the CEVA campus.

As part of the preliminary plan review, staff found several items missing from the site plan, i.e. sidewalk along Long Street and bicycle parking. Additionally, the applicant's landscape plan needed more information. In order to keep this project moving forward, staff added stipulations to the report listing the items that need to be provided at time of final plan.

Stipulations detailed in the staff report included:

1. At time of final plan submittal, tree diameter and height as well as all the different types of plant species being planted, will need to be provided as part of the landscape plan.
2. Prior to a Certificate of Occupancy being issued for the building, a sidewalk shall be installed along the street frontage of the existing parking lot to the south of the proposed building.
3. At time of final plan submittal, bicycle parking space(s) shall be shown on the site plan in accordance with the requirements of Section 4-1-D-1-R of the Unified Development Code.

STAFF RECOMMENDATION:

Approval of the preliminary plan including deviations and stipulations.

PLANNING COMMISSION ACTION:

This item was considered at the May 24, 2021 Planning Commission meeting. No one spoke at the public hearing for the preliminary plan application. The only item discussed by the Planning Commission was in regards to bicycle parking based on the recently adopted code amendment.

Chairman Poss entertained a motion to recommend **APPROVAL** of the preliminary plan for CEVA - Long Street CEF (Chick Embryo Fibroblast cells) Facility, located at 8940 Long Street with stipulations.

VISION / GUIDING PRINCIPLES ALIGNMENT:

Vision 2040

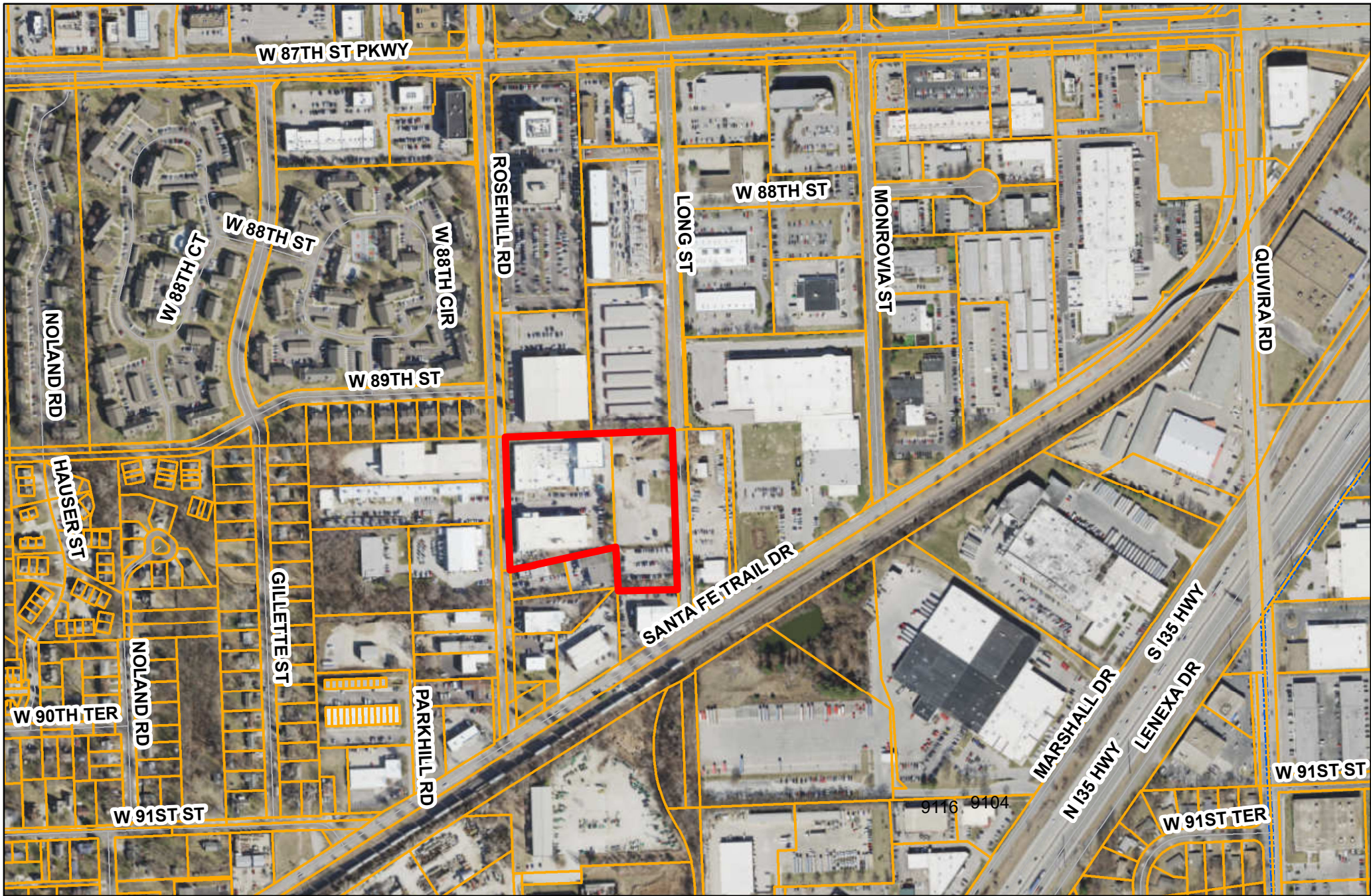
Thriving Economy

Guiding Principles

Responsible Economic Development

ATTACHMENTS

1. Map
2. PC Report and Exhibits
3. PC Minutes Excerpt



**CEVA Long Street CEF Facility
PL21-05P
Vicinity Map**

MEETING DATE: May 24, 2021

REGULAR AGENDA ITEM: 3

PROJECT TITLE: CEVA – Long Street CEF (Chick Embryo Fibroblast cells) Facility

PROJECT # / REQUEST: PL21-05P – Preliminary Plan

APPLICANT/DESIGN PROFESSIONAL:
Kevin Collette, McCown-Gordon

OWNER:
Biomune Company

STAFF PLANNER:
Karen Gable

PROPERTY LOCATION: 8940 Long Street

SUMMARY OF RECOMMENDATION

Staff recommends **APPROVAL** of the preliminary plan for CEVA – Long Street CEF Facility.

PROPOSED PROJECT DESCRIPTION AND BACKGROUND INFORMATION

CEVA received concept plan and rezoning approval for this property in March of 2014. The property was rezoned from RP-3, Planned Residential (Medium High- Density) to BP-2, Planned Manufacturing Zoning District. The applicant then received preliminary plan approval in July of 2015 for a one-story 38,200 square foot lab/production building. An apartment development previously existed on this site.

The preliminary plan for the lab/production building has expired requiring the applicant to go back through the preliminary plan approval process.

CURRENT ZONING:
BP-2, Planned Manufacturing District

CURRENT USE:
Vacant

PROPOSED USE:
Lab/Production

ACREAGE:
6.38

BUILDING SQUARE FOOTAGE:
One-story building - 18,500

COMPREHENSIVE PLAN RECOMMENDATION FOR AREA

Business Park - Developments providing space for uses that may include light assembly and manufacturing, or warehousing and distribution. Settings may range from campus-like business parks to single-use buildings.

VICINITY ZONING PATTERN:

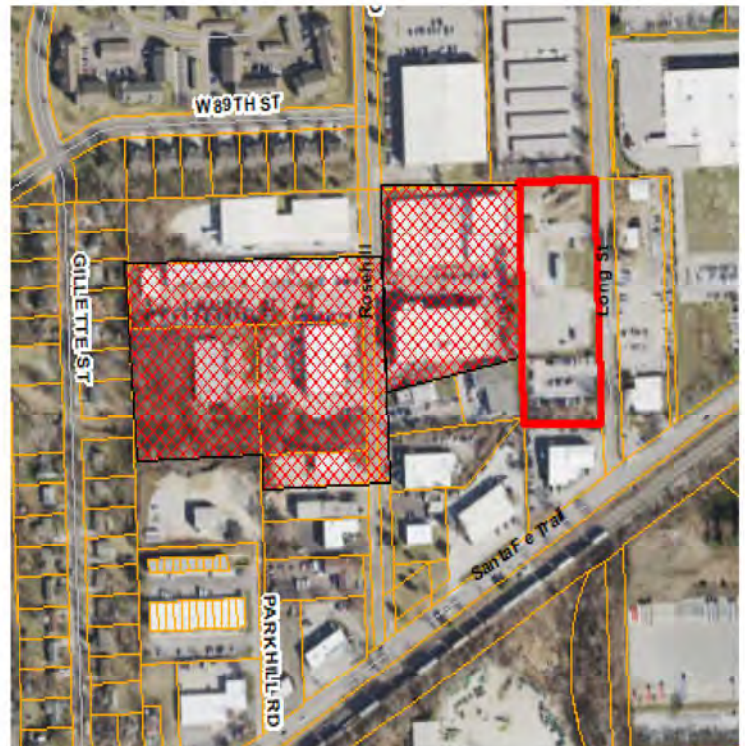
North: BP-2, Planned Manufacturing Zoning District
South: BP-2, Planned Manufacturing Zoning District
East: BP-2, Planned Manufacturing Zoning District
West: BP-2, Planned Manufacturing Zoning District

VICINITY LAND USE PATTERN:

North: Business Park – Self-Storage Warehouse
South: Business Park – Warehouse/Office
East: Agriculture – Wholesale Nursery
West: Office, Research & Development – Lab/Production

PRELIMINARY PLAN ANALYSIS**SITE LAYOUT**

The proposed building is situated along the west side of Long Street, backing up to CEVA's other buildings along Rosehill Road. The project will serve as a continuation of the established CEVA campus. Over the years CEVA has expanded into multiple buildings and has become more of a "campus" like setting. The CEVA-Biomune campus incorporates several parcels on both sides of Rosehill Road and along the west side of Long Street. The predominant development within and adjacent to the site consists of office, warehouse/storage, nursery, research, lab/production and manufacturing uses.

CEVA's entire "campus"**Proposed location of new building**

Changes from the approved 2015 preliminary plan include the following:

	2015 Approved Plan	Proposed
Building Footprint	32,200 square feet	18,500 square feet
Parking for Entire Campus	210	261 (including 24 future spaces)
Stories	1 story	1 story
Open Space	26.16 %	31.21%

Two access drives are proposed from Long Street located on north and south ends of the proposed building connecting to an internal service drive. The internal drive will connect Rosehill Road and Long Street to allow service vehicles to access the buildings as well as the various ground-mounted equipment.

The site plan shows two sidewalks connecting from the site and ultimately connecting to a proposed 5-foot wide sidewalk along the west side of Long Street. As part of this project, a sidewalk will also need to be installed along Long Street, along the frontage of the existing parking lot to the south of the new building.

The subject property is currently a platted lot. The two buildings located to the west, fronting on Rosehill Road are part of the subject lot. Based on a total of three buildings locating on the 6.38 acre lot, 31% open space is being provided which exceeds the minimum 25% open space requirement for the BP-2 zoning district.

The BP-2 zoning district requires a minimum building setback of 50 feet. The applicant is requesting a 20-foot deviation to allow for a 30-foot building setback. Staff is supportive of this deviation request due to the additional plant material they are proposing to install along Long Street and the fact there are other buildings located along Long Street that do not comply with the 50-foot building setback.

In addition to treating CEVA as a campus for purposes of building setbacks and open space, parking for the facility has also been calculated across all of the properties. A Master Parking Analysis for CEVA has been included as an exhibit which reflects a total of 7 buildings for a total requirement of 228 parking spaces. According to the applicant, there are a total of proposed of 237 parking spaces throughout the campus, plus an additional 24 future parking stalls shown on the subject site plan for an ultimate total of 261 parking stalls. Prior to installing the future parking spaces, a final plan will have to be approved.

The applicant has acknowledged the requirement for bicycle parking at a standard of 1 space per 20 required vehicle parking spaces. The design of this area will be finalized during final plan and permit drawings.

LANDSCAPE AND BUFFERS

A 20-foot landscape buffer is required along Long Street. Per Section 4-1-D-2-L of the Unified Development Code (UDC) a mix of trees and shrubs are required for every 100 feet of property frontage. The applicant is proposing a variety of landscaping along the east property line consisting of

large street trees, deciduous shrubs and perennials. In conjunction with the reduced building setback, the applicant is also requesting a 5-foot deviation to the landscape buffer requirement. This reduction of the landscape area will be mitigated by planting additional landscape material. Staff is in support of the requested deviation.

A pedestrian space will to be located to the north end of the building, next to the front entry. The space will include colored/stamped concrete and a bench. All other landscape regulations are properly addressed with the current landscape and buffer plan.

The UDC requires parking lots to be setback at least 20 feet from all external property lines. The parking lot encroaches into the 20-foot required paving setback along Long Street by 5 feet, leaving a 15-foot setback. The additional plant material the applicant is providing to mitigate the paving setback deviation will also help to mitigate this reduction in the parking lot setback. Given the existing parking lot located to the south has a reduced setback and with the additional landscaping material, staff supports a deviation for the requested paving setback.

With the final plan submittal, specific plant materials shall be provided along with the proposed tree diameter and/or height at planting.

ARCHITECTURAL COMPATIBILITY

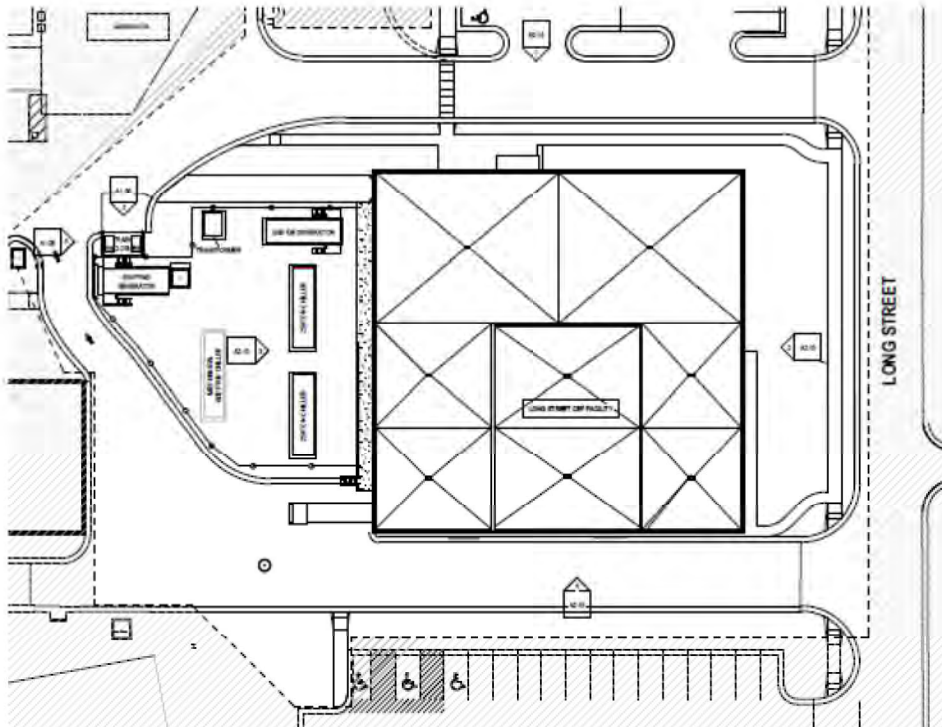
The new building is to be similarly finished on all sides. The building will consist of architectural metal panels consistent with the finish material used for the majority of new construction throughout the CEVA campus. All four elevations will consist of the metal panels, with the panels varying in colors of blue, white, and gray.

The building entrance is located along the north elevation and will be covered with a pre-finished aluminum canopy.

The building varies in height with the tallest point being 29 feet -10 inches inclusive of the parapet wall, which screens the roof mounted mechanical equipment. There are two overhead doors along the west elevation facing the service area, painted a gray color to match the adjacent panel siding.

A trash enclosure will be provided behind the building and is to be screened with a gray painted concrete masonry block (CMU) material with a gray colored steel gate.

All ground mounted equipment such as chillers and generators will be located on the west side of the new building, screened with a black vinyl coated fence with black mesh fabric attached. This is the same type of screening used elsewhere on the CEVA campus.



Lighting is to match existing pole and building mounted fixtures within the CEVA campus. A photometric plan has been provided which complies with the requirements of the UDC relative to exterior lighting.

SIGN PROGRAM

Current plans suggest the placement of a single façade sign to be located on the north side of the building over the primary entry doors. A smaller single façade sign is also proposed on the east elevation.

INFORMATIONAL COMMENTS

The preliminary plan is scheduled to be considered by the Governing Body on June 15, 2021.

STAFF RECOMMENDATION

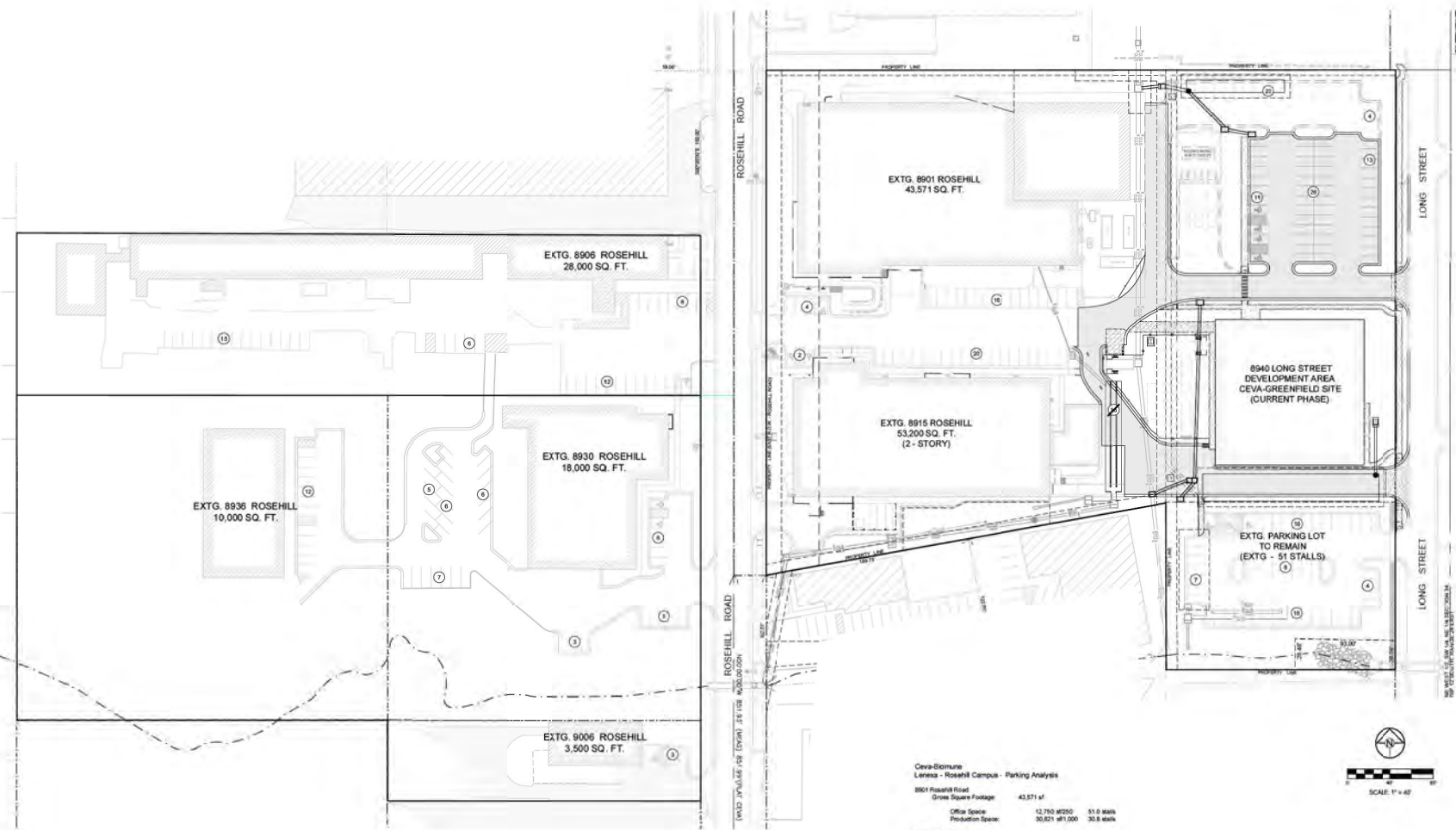
Staff recommends **APPROVAL** of the preliminary plan for CEVA - Long Street CEF Facility located at 8940 Long Street with the requested paving and building setback deviations and the following stipulations:

1. At time of final plan submittal, tree diameter and height as well as all the different types of plant species being planted, will need to be provided as part of the landscape plan.
2. Prior to a Certificate of Occupancy being issued for the building, a sidewalk shall be installed along the street frontage of the existing parking lot to the south of the proposed building.
3. At time of final plan submittal, a bicycle parking space will be required to be added to the site plan.



Entire CEVA Campus Map





1 CEVA CAMPUS - MASTER PARKING ANALYSIS

Ceva-Biomune Lenexa - Rosehill Campus - Parking Analysis

8901 Rosehill Road	Gross Square Footage:	43,571 sf	
	Office Space:	12,760 sq250	51.0 stalls
	Production Space:	30,821 sq1,000	30.8 stalls
8906 Rosehill Road	Gross Square Footage:	28,000 sf	
	Pharm. Production:	28,000 sq1,000	28.0 stalls
8915 Rosehill Road	Gross Square Footage:	55,500 sf	
	Office Space:	2,708 sq250	10.8 stalls
	Pharm. Production:	52,792 sq1,000	52.8 stalls
8930 Rosehill Road	Gross Square Footage:	18,000 sf	
	Distribution/Warehouse:	18,000 sq1,500	12.0 stalls
8936 Rosehill Road	Gross Square Footage:	10,000 sf	
	Q.A./Q.C. Production:	10,000 sq1,000	10.0 stalls
9006 Rosehill Road	Gross Square Footage:	3,500 sf	
	Office Space:	3,500 sq250	14.0 stalls
Current Phase Greenfield Production Facility - 8940 Long Street	Gross Square Footage:	18,500 sf	
	Pharm. Production:	18,500 sq1,500	18.5 stalls
	Total Parking Required:		238 stalls
	Total Parking Proposed:		237 stalls

Ceva-Biomune Lenexa - Rosehill Campus - Parking Summary:

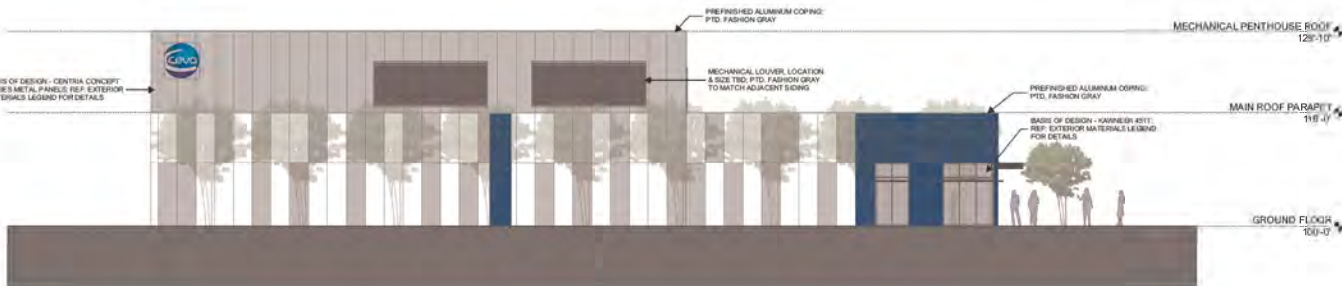
8906 Rosehill Parking	93 STALLS
8930 Rosehill Parking	36 STALLS
8936 Rosehill Parking	12 STALLS
8906 Rosehill Parking	41 STALLS
8901/8915 Rosehill Parking	42 STALLS
Long Street Parking Lot	51 STALLS
8940 Long Street - Current Phase	90 STALLS
8940 Long Street - Future Add Phase	54 STALLS
TOTAL PROPOSED PARKING:	361 STALLS

* - Future Phase of CEVA GREENFIELD Expansion - 8940 Long Street

Ceva - Long Street CEF Facility Preliminary Plan Review
 8940 Long Street
 Lenexa, Kansas 66215
 CE No.: 858-006-20



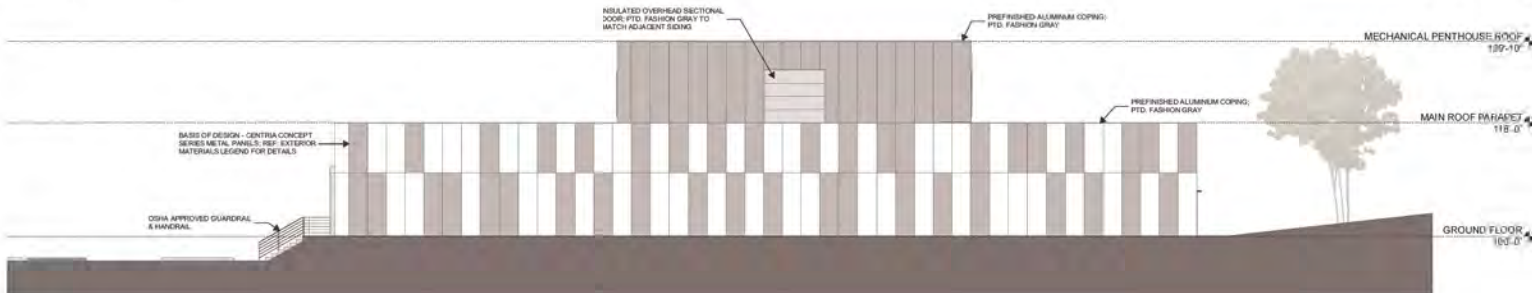
1 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



2 EAST ELEVATION
SCALE: 1/8" = 1'-0"



3 WEST ELEVATION
SCALE: 1/8" = 1'-0"



4 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

EXTERIOR MATERIALS

METAL PANEL PROFILES

CENTRIA CS-630 CENTRIA CS-650



METAL PANEL COLORS



STOREFRONT BASIS OF DESIGN



KAVNEER 451T

**PLANNING COMMISSION
MINUTE EXCERPTS
MAY 24, 2021**

3. Preliminary Plan for **Ceva 8940 Long Street** located at 8940 Long Street, in the BP-2, Planned Manufacturing District. **PL21-05P**

APPLICANT PRESENTATION:

Andrew Borkon, architectural designer from DLR Group, appeared before the Planning Commission on behalf of CEVA. He introduced Neil Lobo, from CEVA, and Cody Showalter, from McCown Gordon. Andrew Borkon apologized and explained the civil engineer would not be in attendance this evening but Jeff Skidmore, from Schlagel Engineering, had a medical emergency last week. He noted, Jeff Skidmore would be available for questions by phone or text message if anyone had any questions.

He stated the application was a preliminary plan for 8940 Long Street. In 2015 a proposal was put forward to develop the subject property. He stated the area is zoned BP-2 and the proposal is for an 18,500 square foot production facility with a mechanical penthouse on the top. Two loading docks are proposed on the west side, the dock on the south end of the building will be elevated and the one on the north end will be at grade. The site is sloping and he pointed out the location of the mechanical yard and an existing generator. He explained the idea is to screen all the mechanical yard from Long Street or Rosehill.

Looking at the site, they will provide 50 new parking spaces, 24 more than what is required by code. There are four ADA parking spaces for people in the facility. There is also a transportation-docking hub proposed for the 8915 building and the proposed 8940 Long Street building. It should keep the truck traffic in that area and away from Long Street. The transportation hub will also keep truck traffic away from pedestrian traffic and keep everything consolidated.

Andrew Borkon stated the intent is to match the vernacular of the buildings that are around the site. There is a lot of metal panel on all the buildings, whether it is across the street on buildings that are not owned by CEVA, or CEVA buildings on campus. The applicants are proposing white, grey, and blue metal panels to accentuate the CEVA blue and make it fit with the surrounding buildings on campus. For the metal panel, they are looking at the Concept Series by Centria as the basis for development and design and Conair 451T Storefront System for the windows. The building will be less than 30 feet high.

STAFF PRESENTATION:

Karen Gable stated the item before them was a preliminary plan for CEVA. She displayed a graphic on the screen identifying the CEVA campus location, just south of 87th Street Parkway, north of Santa Fe Trail Drive, west of Long Street, and on both sides of Rosehill Road. The hatched area in red on her presentation was the sixth existing CEVA building, not a part of the overall project but she wanted the audience to get a feel for the campus. The rectangular box represented the project before them.

She explained the two existing buildings on the east side of Rosehill and the application being reviewed this evening are currently platted as Lot 3. The building in review is facing Long Street, 18,500 square feet in size, and zoned BP-2, Planned Manufacturing District. The property is

**PLANNING COMMISSION
MINUTE EXCERPTS
MAY 24, 2021**

surrounded by BP-2, with a small amount zoned CP-2, Planned Community Commercial District, in the northwest corner.

She pointed out the two access points off Long Street that will come together and connect into the service area. CEVA has previously installed generators with temporary screening around them and they are now ready to install permanent screening. The service yard will be north of the site, and they will place a wall around the existing generators.

In 2015, there was a preliminary plan that was approved. It was a bigger building, one story but 38,200 square feet in area compared to the new proposed building of 18,500 square feet. They will provide 261 parking spaces, which includes future spaces, north of the proposed parking lot and will exceed parking requirements. They are also providing more open space than the previous approved preliminary plan, going from 26% to 31%. She displayed the master parking plan stating it would allow staff to keep track of their parking and assure they would adhere to it.

CEVA is requesting two deviations. The first deviation request is for a building setback. The BP-2 zoning district requires a minimum building setback of 50 feet from the street right-of-way. The applicant is requesting a 30-foot setback, requiring a 20-foot deviation. The second deviation request is for paving. Code requires a 20-foot paving setback from right-of-way, and they are requesting a 15-foot setback. The setback has already been established at 15-foot and staff is comfortable with supporting the deviation. The applicant has gone over and beyond landscaping requirements for this project to mitigate both deviation requests of building and paving setbacks.

Karen Gable displayed images of the elevations, stating the colors are appropriate and blend with all the colors already existing on the campus, the grey, white and blue. The materials have already been discussed by the applicant and she believes it will be an attractive building. Staff approves the preliminary plan for CEVA with three stipulations:

1. At time of final plan submittal, tree diameter and height as well as all the different types of plant species being planted, will need to be provided as part of the landscape plan.
2. Prior to a Certificate of Occupancy being issued for the building, a sidewalk shall be installed along the street frontage of the existing parking lot to the south of the proposed building.
3. At time of final plan submittal, a bicycle parking space will be required to be added to the site plan.

PLANNING COMMISSION DISCUSSION:

Commissioner Horine said the recommendation of staff's stipulation stated, "at the time of final plan, a bicycle parking space will be required," indicating one bicycle parking space. The staff report states, "the applicant is aware that bicycle parking is required at one space per 20 parking spaces." Andrew Borkon responded, there will be three bicycle parking spaces.

Commissioner Horine asked, will bicycle parking be provided at the rate of one per 20 spaces.

Andrew Borkon and Karen Gable both agreed with Commissioner Horine.

**PLANNING COMMISSION
MINUTE EXCERPTS
MAY 24, 2021**

MOTION:

Chairman Poss entertained a motion to recommend **APPROVAL** of the preliminary plan for CEVA - Long Street CEF Facility located at 8940 Long Street with the requested paving and building setback deviations and the following stipulations:

1. At time of final plan submittal, tree diameter and height as well as all the different types of plant species being planted, will need to be provided as part of the landscape plan.
2. Prior to a Certificate of Occupancy being issued for the building, a sidewalk shall be installed along the street frontage of the existing parking lot to the south of the proposed building.
3. At time of final plan submittal, a bicycle parking space will be required to be added to the site plan.

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



**CITY COUNCIL
MEMORANDUM**

ITEM 3

SUBJECT: Resolution authorizing the Mayor to execute an agreement with All City Management Services for school crossing guard services

CONTACT: Brett Rushton, Police Captain
Dawn Layman, Police Chief

DATE: June 15, 2021

ACTION NEEDED:

Adopt a resolution authorizing the Mayor to execute an agreement with All City Management Services (ACMS) for school crossing guard services.

PROJECT BACKGROUND/DESCRIPTION:

The City has utilized ACMS as the school crossing guard service provider since 2016 as it is the only provider of this service in this area. Staff is satisfied with the work they have performed, and desires to contract with ACMS for the upcoming 2021-2022 school year.

Currently, there are a total of fourteen crossing guards at the following locations beginning 30 minutes prior to school start time for 30 minutes, and beginning 5 minutes prior to school dismissal time for 30 minutes, or as otherwise agreed to by the parties for a maximum of one hour/day.

ELEMENTARY SCHOOL	INTERSECTION
Mill Creek	79th & Pflumm
Mill Creek	79th & Cottonwood
Christa McAuliffe	83rd & Tomashaw
Christa McAuliffe	83rd & Maurer
Rising Star	87th & Candlelight
Rising Star	87th & Candlelight
Sunflower	90th & Loiret
Sunflower	90th & Lackman
Lenexa Hills	87th & Haven
Rosehill	99th & Rosehill
Canyon Creek	97th & McCormack

Manchester	98th & Prairie Creek
Manchester	98th Terr & Prairie Creek
Manchester	99th & Prairie Creek

FINANCIAL IMPLICATIONS/FUNDING SOURCES:

The proposed agreement will provide school crossing guard services during the 2021-2022 school year and the cost is estimated to be \$116,474.40, which is based on the total number of days school is in session and the number of crossing guard locations. The budget for the 2020-2021 school year was \$110,728.80; however, due to the pandemic limiting in-person school days, the final estimated cost is \$70,000.

STAFF RECOMMENDATION:

Adoption of the resolution.

VISION / GUIDING PRINCIPLES ALIGNMENT:

Vision 2040
Healthy People

Guiding Principles
Superior Quality Services

ATTACHMENTS

- 1. Resolution
- 2. Agreement located in the Appendix

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH ALL CITY MANAGEMENT SERVICES, INC [“ACMS”] FOR SCHOOL CROSSING GUARD SERVICES.

WHEREAS, the City desires to provide school crossing guard services through a third party; and

WHEREAS, ACMS has provided these services to City since August 1, 2016; and

WHEREAS, the City desires to continue contracting with ACMS for school crossing guard services for the 2021-2022 school year; and

WHEREAS, both parties have read and understand the terms and conditions of said Agreement, which is attached hereto as Exhibit “A”, and made a part hereof by reference.

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

SECTION ONE: The City of Lenexa, Kansas, a municipal corporation, does hereby approve and authorize the Mayor to execute the Agreement for School Crossing Guard Services, attached hereto as Exhibit “A” and incorporated herein by reference.

SECTION TWO: This Resolution shall become effective upon adoption.

ADOPTED by the City Council June 15, 2021.

SIGNED by the Mayor June 15, 2021.

CITY OF LENEXA, KANSAS

[SEAL]

Michael A. Boehm, Mayor

ATTEST:

Jennifer Martin, City Clerk

APPROVED AS TO FORM:

MacKenzie Harvison, Deputy City Attorney



**CITY COUNCIL
MEMORANDUM**

ITEM 4

SUBJECT: Ordinance authorizing and providing for the acquisition of lands or interests therein by condemnation for the storm sewer reconstruction under the BNSF Railway located west of the intersection of Pflumm Road and Santa Fe Drive

CONTACT: Tom Jacobs, Stormwater Engineer
Tim Green, Deputy Community Development Director

DATE: June 15, 2021

ACTION NEEDED:

Pass an ordinance authorizing and providing for the acquisition of lands or interests therein by condemnation for the storm sewer reconstruction under the BNSF Railway located west of the intersection of Pflumm Road and Santa Fe Drive.

PROJECT BACKGROUND/DESCRIPTION:

This project includes replacement of the drainage line that runs under the BNSF Railway between Santa Fe Drive and Pflumm Road ("Project"). This storm sewer system failed and caused extensive flooding along Santa Fe Drive. The project will replace the failed 8-inch pipe with a new 24-inch pipe. The project requires easement acquisitions across approximately two properties.

On June 1, 2021, the City Council passed Resolution 2021-049, which authorized City staff to begin the acquisition process. The resolution authorized the Community Development Director, or a designee, to negotiate and approve offers for the easements and rights-of-way necessary for the Project and to enter into agreements accomplishing such acquisition, whose value does not exceed authorization under the City's purchasing policy; and the City Manager, or a designee, was authorized to enter into all other agreements accomplishing such acquisition, provided there is sufficient funding available in the approved project budget to accomplish the same.

Generally, the City negotiates with property owners to acquire land prior to filing for condemnation, but due to the pipe failure the City is expediting the condemnation process so as to not lose time if negotiations are unsuccessful. The City, however, will continue to negotiate the acquisitions for each of the two tracts during the condemnation process and remove any tracts from the condemnation proceedings as they are acquired.

Should the ordinance pass, the condemnation proceedings will take approximately 90 days. The condemnation proceedings will not affect the timeline for the Project, which is not scheduled to begin until fall 2021.

The City is using Orrick & Erskine as its acquisition counsel.

STAFF RECOMMENDATION:

Passage of the ordinance.

VISION / GUIDING PRINCIPLES ALIGNMENT:

Vision 2040

Integrated Infrastructure & Transportation

Guiding Principles

Strategic Community Investment

ATTACHMENTS

1. Ordinance

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ACQUISITION OF LANDS OR INTERESTS THEREIN BY CONDEMNATION FOR THE CONSTRUCTION OF CERTAIN PUBLIC IMPROVEMENTS ASSOCIATED WITH THE STORM SEWER RECONSTRUCTION PROJECT UNDER THE BNSF RAILWAY LOCATED WEST OF THE INTERSECTION OF PFLUMM ROAD AND SANTA FE DRIVE IN LENEXA, JOHNSON COUNTY, KANSAS.

WHEREAS, the Governing Body of the City of Lenexa, Kansas did by Resolution No. 2021-049, declare the necessity for, and authorize a survey and description of lands or interests therein to be acquired by the City for the following:

The Storm Sewer Reconstruction under the BNSF Railway located west of the intersection of Pflumm Road and Santa Fe Drive.

The project includes storm water drainage easements and property acquisition for locating, building, constructing, maintaining, and repairing storm water drainage facilities, including grading, together with all necessary appurtenances thereto, together with the rights of ingress and egress for the purpose of construction, maintenance, and repairs of said facilities, together with utility location and relocation, environmental review and mitigation, landscaping, as well as easement and condemnation costs; preliminary and final engineering; survey, staking, grading, and erosion control; appraisal fees; construction supervision/inspection; testing; and other related improvements to be constructed with the main improvement; City administrative costs; legal fees; and costs associated with the bond and interest expense associated with financing the improvement and other necessary appurtenances; and

WHEREAS, said survey and description was prepared and is maintained at the Lenexa City Hall.

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

SECTION ONE: It is hereby authorized and provided that the lands or interests therein, hereafter described, be acquired for the following improvement:

The Storm Sewer Reconstruction under the BNSF Railway located west of the intersection of Pflumm Road and Santa Fe Drive.

The project includes storm water drainage easements and property acquisition for locating, building, constructing, maintaining, and repairing storm water drainage facilities, including grading, together with all necessary appurtenances thereto, together with the rights of ingress and egress for the purpose of construction, maintenance, and repairs of said facilities, together with utility location and relocation, environmental review and mitigation, landscaping, as well as easement and condemnation costs; preliminary and

final engineering; survey, staking, grading, and erosion control; appraisal fees; construction supervision/inspection; testing; and other related improvements to be constructed with the main improvement; City administrative costs; legal fees; and costs associated with the bond and interest expense associated with financing the improvement and other necessary appurtenances.

TRACT 4 – BNSF:

CONDEMNNEES: BNSF Railway Company

SITUS West of intersection of Pflumm Road and Santa Fe Drive
Lenexa, KS 66215

MAILING BNSF Railway Company
ADDRESS: PO Box 961089
Fort Worth, TX 76131

Permanent Drainage Easement

Containing: 5,024 Square Feet more or less.

A Tract of land for the purpose of a permanent drainage easement in the Southeast Quarter of Section 33, Township 12 South, Range 24 East of the Sixth Principal Meridian, in the City of Lenexa, Johnson County, Kansas, said Tract being more particularly described by William C. Anderson, PLS 1527 of BHC, KS CLS 175, by metes and bounds as follows:

(Note: For course orientation the bearings in this description are based on the East Line of the Southeast Quarter of Section 33, Township 12 South, Range 24 East of the Sixth Principal Meridian having a bearing of North 02° 19' 35" West as determined by Global Positioning System observations and referenced to the Kansas State Plane Coordinate System, North Zone, NAD83.)

Commencing at the Southeast Corner of the Southeast Quarter of said Section 33, monumented by a 1-1/2 inch reinforcing rod in a monument box;

Thence North 02° 19' 35" West, 1329.08 feet, on the East line of said Southeast Quarter, to its intersection with the Northeasterly prolongation of the Southeasterly Right-of-Way line of Santa Fe Trail Drive;

Thence South 57° 50' 13" West, 67.60 feet, on said prolongation and said Southeasterly Right-of-Way line, to the POINT OF BEGINNING of said Tract herein described;

Thence departing said Southeasterly Right-of-Way line, South 32° 09' 47" East, 14.40 feet, perpendicular to the last described course;

Thence South 57° 50' 13" West, 106.98 feet, parallel with and 14.40 feet South of said Southeasterly Right-of-Way line;

Thence South 29° 38' 10" East, 85.69 feet, to the Southeasterly Right-of-Way line of BNSF Railway;

Thence South 57° 50' 13" West, 31.54 feet, on said Southeasterly Right-of-Way line;

Thence North 31° 03' 32" West, 85.62 feet;

Thence South 57° 50' 13" West, 14.35 feet, parallel with and 14.40 feet South of the Southeasterly Right-of-Way line of Santa Fe Trail Drive;

Thence North 32° 09' 47" West, 14.40 feet, perpendicular to the last described course, to the Southeasterly Right-of-Way line of Santa Fe Trail Drive;

Thence North 57° 50' 13" East, 155.00 feet, on said Southeasterly Right-of-Way line, to the POINT OF BEGINNING, said Tract containing 5,024 square feet or 0.1153 acres.

TRACT 18 – SMUUCH:

CONDEMNNEES: Shawnee Mission Unitarian Universalist Church

SITUS 9400 Pflumm Rd.
ADDRESS: Lenexa, KS 66215

Parcel ID: IF241233-4001

MAILING Shawnee Mission Unitarian Universalist Church
ADDRESS: 9400 Pflumm Rd.
Lenexa, KS 66215

Permanent Drainage Easement

Containing: 3,031 Square Feet more or less.

A Tract of land for the purpose of a permanent drainage easement in the Southeast Quarter of Section 33, Township 12 South, Range 24 East of the Sixth Principal Meridian, in the City of Lenexa, Johnson County, Kansas, said Tract being more particularly described by William C. Anderson, PLS 1527 of BHC, KS CLS 175, by metes and bounds as follows:

(Note: For course orientation the bearings in this description are based on the East Line of the Southeast Quarter of Section 33, Township 12, South, Range 24 East of the Sixth Principal Meridian having a bearing of North 02° 19' 35" West as determined by Global Positioning System observations and referenced to the Kansas State Plane Coordinate System, North Zone, NAD83.)

Commencing at the Southeast Corner of the Southeast Quarter of said Section 33, monumented by a 1-1/2 inch reinforcing rod in a monument box;

Thence North 02° 19' 35" West, 1213.79 feet, on the East line of said Southeast Quarter, to its intersection with the Northeasterly prolongation of the Northerly line of a Parcel of land described in Kansas Special Warranty Deed recorded in Book 201111, Page 001695, also being the Southeasterly Right-of-Way line of BNSF Railway;

Thence South 57° 50' 13" West, 121.00 feet, on said Northerly line of Book 201111, Page 001695 and said Southeast Right-of-Way line, to the POINT OF BEGINNING of said Tract herein described;

Thence departing said Parcel line, and said Southeasterly Right-of-Way line, South 29° 38' 10" East, 38.31 feet;

Thence South 86° 44' 30" East, 57.65 feet, to a point on the West Right-of-Way line of Pflumm Road;

Thence South 02° 19' 35" East, 20.10 feet, on said West Right-of-Way line;

Thence departing said West Right-of-Way line, North 86° 44' 30" West, 41.88 feet;

Thence South 58° 56' 28" West, 33.96 feet;

Thence North 31° 03' 32" West, 64.21 feet to a point on said Northerly line of Book 201111, Page 001695, also being the Southeasterly Right-of-Way line of BNSF Railway;

Thence North 57° 50' 13" East, 31.54 feet, on said Northerly line and said Southeasterly Right-of-Way line, to the POINT OF BEGINNING, said Tract containing 3,031 square feet or 0.0696 acres.

Temporary Construction Easement

Containing: 13,490 Square Feet more or less.

A Tract of land for the purpose of a temporary construction easement in the Southeast Quarter of Section 33, Township 12 South, Range 24 East of the Sixth Principal Meridian, in the City of Lenexa, Johnson County, Kansas, said Tract being more particularly described by William C. Anderson, PLS 1527 of BHC, KS CLS 175, by metes and bounds as follows:

(Note: For course orientation the bearings in this description are based on the East Line of the Southeast Quarter of Section 33, Township 12, South, Range 24 East of the Sixth Principal Meridian having a bearing of North 02° 19' 35" West as determined by Global Positioning System observations and referenced to the Kansas State Plane Coordinate System, North Zone, NAD83.)

Commencing at the Southeast Corner of the Southeast Quarter of said Section 33, monumented by a 1-1/2 inch reinforcing rod in a monument box;

Thence North 02° 19' 35" West, 1213.79 feet, on the East line of said Southeast Quarter, to its intersection with the Northeasterly prolongation of the Northerly line of a Parcel of land described in Kansas Special Warranty Deed recorded in Book 201111, Page 001695, also being the Southeasterly Right-of-Way line of BNSF Railway;

Thence South 57° 50' 13" West, 34.58 feet, on said prolongation, to the West Right-of-Way line of Pflumm Road, and the POINT OF BEGINNING of said Tract herein described;

Thence South 02° 19' 35" East, 112.78 feet, on said West Right-of-Way line;

Thence departing said West Right-of-Way line, North 86° 44' 30" West, 28.86 feet;

Thence South 60° 06' 42" West, 109.76 feet;

Thence North 31° 52' 03" West, 76.75 feet to a point on said Northerly line of Book 201111, Page 001695, also being the Southeasterly Right-of-Way line of BNSF Railway;

Thence North 57° 50' 13" East, 188.91 feet, on said Northerly line and said Southeasterly Right-of-Way line, to the POINT OF BEGINNING, said Tract containing 13,490 square feet or 0.3097 acres.

SECTION TWO: It is further authorized and provided that, as soon as practicable after the passage of this ordinance, action be initiated to exercise the power of eminent domain in accordance with K.S.A. 26-501, *et seq.*, the Eminent Domain Procedure Act, to condemn all lands and interests therein hereinbefore described.

SECTION THREE: This ordinance shall take effect and be in force from and after its publication by summary in the official City newspaper.

PASSED by the City Council this 15th day of June, 2021.

SIGNED by the Mayor this 15th day of June, 2021.

CITY OF LENEXA, KANSAS

[SEAL]

Michael A. Boehm, Mayor

ATTEST:

Jennifer Martin, City Clerk

APPROVED AS TO FORM:

Sean McLaughlin, City Attorney

ITEM 5

SUBJECT: Rezoning and companion concept plan and preliminary plat (plan) for Arbor Lake South, located at the northwest corner of Prairie Star Parkway and Shady Bend Road

CONTACT: Scott McCullough, Community Development Director
Magi Tilton, Planning & Development Administrator

DATE: June 15, 2021

ACTION NEEDED:

- a. Pass an ordinance rezoning the subject property from CP-1, Planned Neighborhood Commercial and RP-1, Planned Residential (Low-Density) Districts to RP-1, Planned Residential (Low-Density) zoning district.
- b. Approve the companion concept plan for the Arbor Lake South commercial and office lots.
- c. Approve the companion preliminary plat (plan) for Arbor Lake South residential subdivision.

APPLICANT:

David Gamber, Phelps Engineering, Inc.

OWNER:

Arbor Lake L.L.C.

PROPERTY ADDRESS:

Approximately at the northwest corner of Prairie Star Parkway and Shady Bend Road

PROJECT BACKGROUND/DESCRIPTION:

Arbor Lake South is a predominantly single-family residential development consisting of 43 lots with two nonresidential tracts on each side of Shady Bend Road. The area to be rezoned is 19 acres in size. The remaining portion of the area zoned CP-1 is 2.6 acres. A 1.5-acre tract, zoned NP-O, is part of the Arbor Lake South development.

In October 2020, the Planning Commission and City Council denied a request to rezone all of the currently zoned CP-1 area to RP-1. Based on the comprehensive plan and Vision 2040 documents, staff recommended a tract of land remain zoned CP-1 to assemble a node of nonresidential zoning and uses around the intersection of Prairie Star Parkway and Shady Bend Road. Subsequent to the denial, the applicant submitted this new rezoning request to retain part of the CP-1 zoned area for future commercial development.

The applicant is requesting three deviations for the single-family residential lots. The following table shows the requested deviations:

Deviation	UDC Requirement	Requested Alternative
Front yard setback	30 feet	25 feet
Side yard setback	7 feet	6 feet
Parkway setback	50 feet	35 feet

A fourth deviation relates to the remaining commercially zoned area. Rezoning the 19.13-acre site leaves 2.67 acres for the remaining CP-1 zoned part of the site. The remaining area is less than the minimum 3-acre size tract per Section 4-1-B-13-F. The tract size of less than three acres requires a deviation. The concept plan for Arbor Lake South is the appropriate application to consider the request for this deviation. Staff supports all of the deviations.

STAFF RECOMMENDATION:

Passage of the ordinance and approval of the companion concept plan and preliminary plat (plan).

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on May 24, 2021. No one spoke at the public hearing. Several commissioners recalled the previous rezoning request in October 2020. The previous rezoning request from last fall was denied because the plan did not preserve any of the commercially zoned area to establish a node of nonresidential uses at the intersection of Prairie Star Parkway and Shady Bend Road. This rezoning request preserves a tract of land approximately 2.6 acres in size. This tract, combined with the NP-O zoned tract on the east side of Shady Bend Road and commercially zoned tract on the south side of Prairie Star Parkway, will provide opportunities for retail and other services to develop at the intersection.

The Planning Commissioners concluded the rezoning request and modified plan to preserve part of the commercial zoning for future development address the concerns from the previous application.

Chairman Poss entertained a motion to recommend **APPROVAL** of the rezoning for Arbor Lake South, located at the northwest corner of Prairie Star Parkway and Shady Bend Road, from CP-1, Planned Neighborhood Commercial and RP-1, Planned Residential (Low-Density) Districts to RP-1, Planned Residential (Low-Density) zoning district. Moved by Commissioner Handley and seconded by Commissioner Horine and carried by a unanimous voice vote.

Chairman Poss entertained a motion to recommend **APPROVAL** of the concept plan for Arbor Lake South commercial and office lots. Moved by Commissioner Katterhenry and seconded by Commissioner Hoyer, and carried by a unanimous voice vote.

Chairman Poss entertained a motion to recommend **APPROVAL** of the preliminary plat (plan) for Arbor Lake South. Moved by Commissioner Horine and seconded by Commissioner Harber, and carried by a unanimous voice vote.

VISION / GUIDING PRINCIPLES ALIGNMENT:

Vision 2040

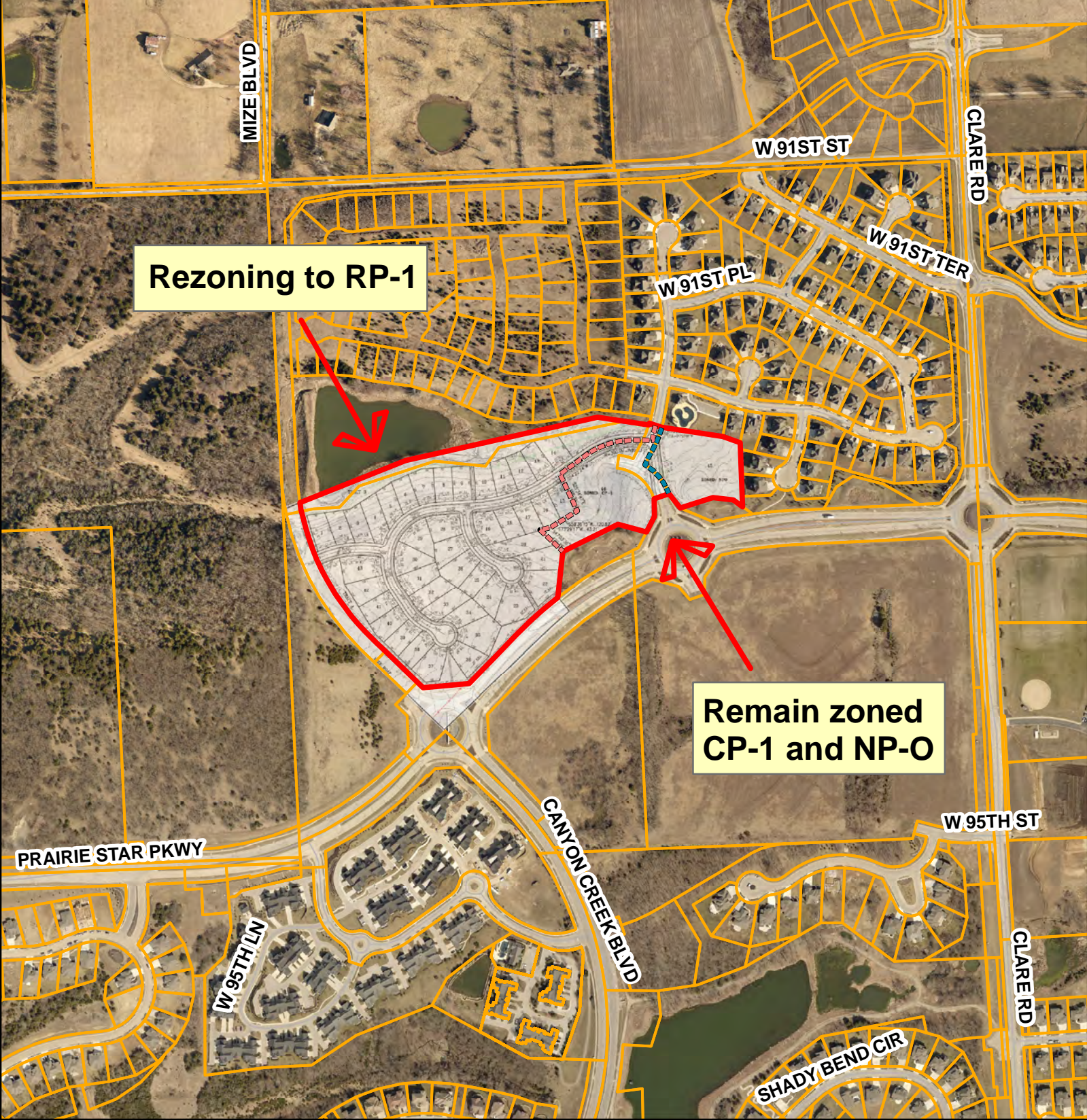
Vibrant Neighborhoods
Inviting Places

Guiding Principles

Sustainable Policies and Practices
Responsible Economic Development

ATTACHMENTS

1. Map
2. PC Report
3. Exhibits
4. PC Minutes Excerpt
5. Ordinance



Arbor Lake Rezoning / RZ21-10

Concept Plan / PL21-08CP

Preliminary Plat / PT21-05P

Vicinity / Aerial Map



MEETING DATE: May 24, 2021- **PUBLIC HEARING REQUIRED**

REGULAR AGENDA ITEM: 1 a, b & c

PROJECT TITLE: Arbor Lake South

PROJECT # / REQUEST: RZ21-10 – Rezoning
PL21-08CP - Concept Plan
PT21-05P - Preliminary Plat

APPLICANT:
David Gamber, Phelps Engineering, Inc.

OWNER:
Arbor Lake L.L.C.

STAFF PLANNER:
David Dalecky

PROPERTY LOCATION: Located approximately at the northwest corner of Shady Bend Road and Prairie Star Parkway

SUMMARY OF RECOMMENDATION

Staff recommends **APPROVAL** of the rezoning request from CP-1, Planned Neighborhood Commercial District and RP-1, Planned Residential (Low-Density) District to RP-1, Planned Residential (Low-Density) District.

Staff recommends **APPROVAL** of the concept plan for Arbor Lake South (non-residential properties).

Staff recommends **APPROVAL** of the preliminary plat for Arbor Lake South.

PROPOSED PROJECT DESCRIPTION AND BACKGROUND INFORMATION

The applicant is requesting to rezone approximately 19 acres of land from the CP-1 zoning district to the RP-1 zoning district. The CP-1 zoned area is now 21.8 acres, originally zoned for a commercial center in 2004 as part of the larger Arbor Lake development.

At the October 5, 2020 Planning Commission meeting the applicant requested to rezone the entire CP-1 zoned area to the RP-1 zoning district. Staff recommended denial of rezoning the entire commercial area to a residential district. Staff encouraged the applicant to preserve three acres of the commercial zoning to establish a node of nonresidential uses at the intersection of Prairie Star Parkway and Shady Bend Road. The Planning Commission recommended denial of the rezoning request and the City Council voted to deny the rezoning request.

This request reduces the area to be rezoned from the CP-1 zoning district to the RP-1 zoning district, resulting in an area approximately 2.6 acres in size for commercial development at the northwest corner of the intersection of Shady Bend Road and Prairie Star Parkway.

CURRENT ZONING:

CP-1, Planned Neighborhood Commercial District and RP-1, Planned Residential (Low-Density) District

CURRENT USE:

Undeveloped land

ACREAGE:

19.13 – Rezoning and Preliminary Plat
(RP-1 zoning district)
4.13 – Concept Plan
(CP-1 and CP-O zoning districts)

PROPOSED ZONING:

RP-1, Planned Residential (Low-Density) District

PROPOSED USE:

Rezoning and preliminary plat: Single-family residential development
Concept plan: Commercial development

DWELLING SIZE:

E

COMPREHENSIVE PLAN RECOMMENDATION FOR AREA

Mixed Use – Mixed use provides the opportunity to incorporate a variety of uses such as retail, office, residential and institutional within a single development or within close proximity to one another. Retail and office uses may be stand alone or may be on the ground floor with residential or office uses on the upper floors. Mixed use developments should include a connected street system, sidewalks, and trails as well as anticipating future transit facilities. Within the residential portions of a mixed use development there may be a mix of densities. It is anticipated that within the mixed use designation the average residential densities correspond to at least the Medium Density residential land use designation.

The following *Exhibit 1* shows the Future Land Use Map with the proposed rezoning outlined:

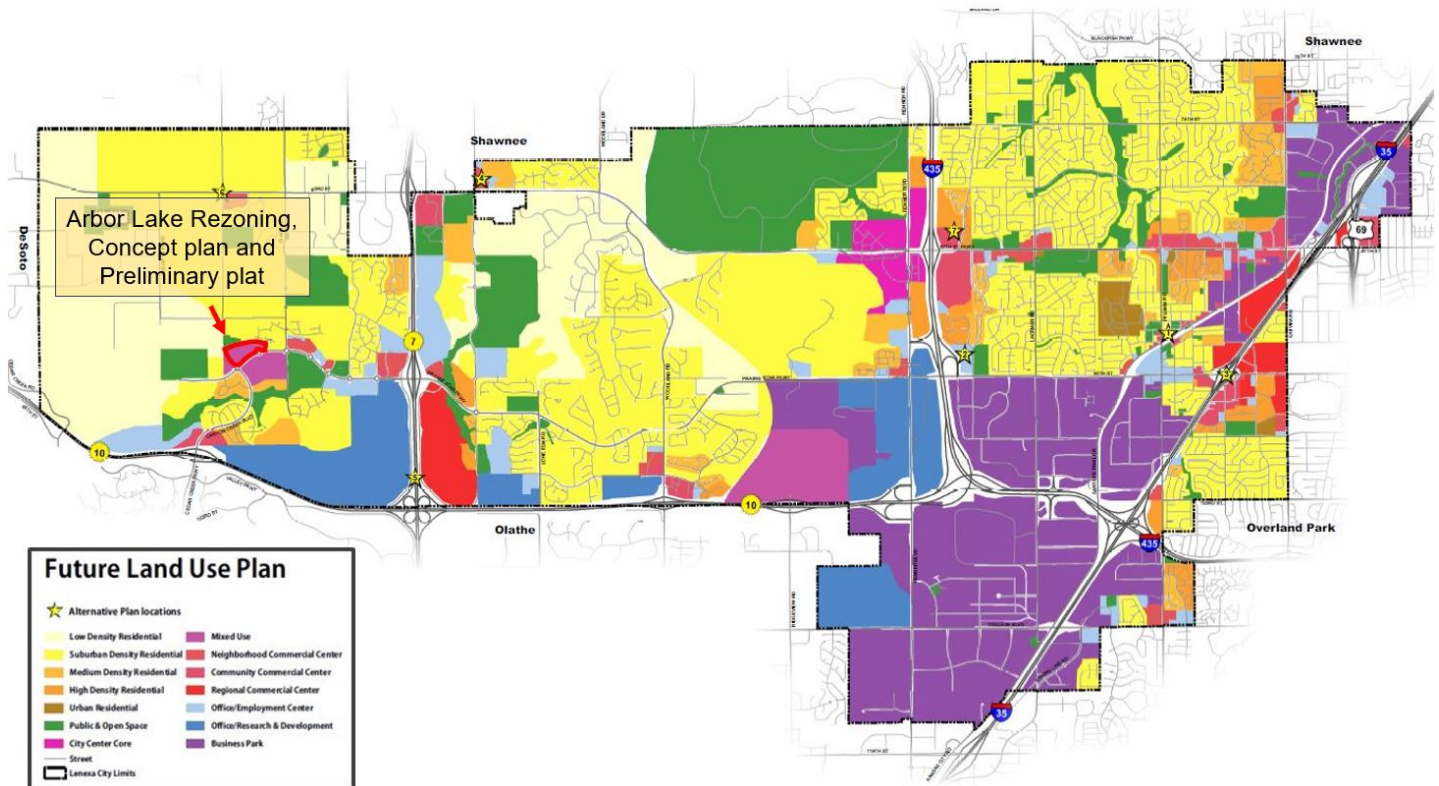


Exhibit 1

REZONING ANALYSIS

With regard to the review criteria contained within [Section 4-1-G-5](#) of the UDC, Staff has the following comments:

1. *The character of the neighborhood.*

This is a continually developing area of the city. Prairie Star Parkway has spurred development in the westerly part of Lenexa, predominantly along this arterial corridor. Over the past 17 years, the region has developed from rural residents on large tracts and farmland to a mixture of single-family, multi-family, educational, public health, and safety uses and a small amount of commercial uses. Development of this area commenced in the early 2000's, but slowed due to the economic downturn between 2007 and 2010. Development activity has rebounded the past decade, and has been primarily residential in nature.

Adjacent development to the subject property includes single-family homes in the Arbor Lake subdivision located to the north and east. Undeveloped land is to the west, across Mize Road. The Mansions at Canyon Creek multi-family development is located to the southwest. Saint James Academy, a private school, is to the southeast.

A project called Mize Hill was recently approved for two-family residential development to the south, across Prairie Star Parkway. Mize Hill was originally proposed to be entirely residential. Staff initially recommend denial of the entire development to be rezoned from nonresidential uses to residential uses. Instead, staff recommended a part of the site remain zoned for commercial uses

with the expectation to develop a node for services and convenience uses for the residents of the area.

Overall, the proposed rezoning from commercial (CP-1) to residential zoning (RP-1) is consistent with the residential character of the neighborhood.

2. *The zoning and use of properties nearby.*

VICINITY ZONING PATTERN:

North: RP-1, Planned Residential (Low-Density) District

South: CP-1, Planned Neighborhood Commercial and
RP-2, Planned Residential (Intermediate-Density) Districts

East: CP-1, Planned Neighborhood Commercial District

West: CP-1, Planned Neighborhood Commercial District

VICINITY LAND USE PATTERN:

North: Undeveloped land, platted as part of the Arbor Lake subdivision

South: Undeveloped land, recently approved for two-family attached and commercial development

East: Undeveloped land

West: Undeveloped land

The following *Exhibit 2* shows the current zoning of properties in the area:

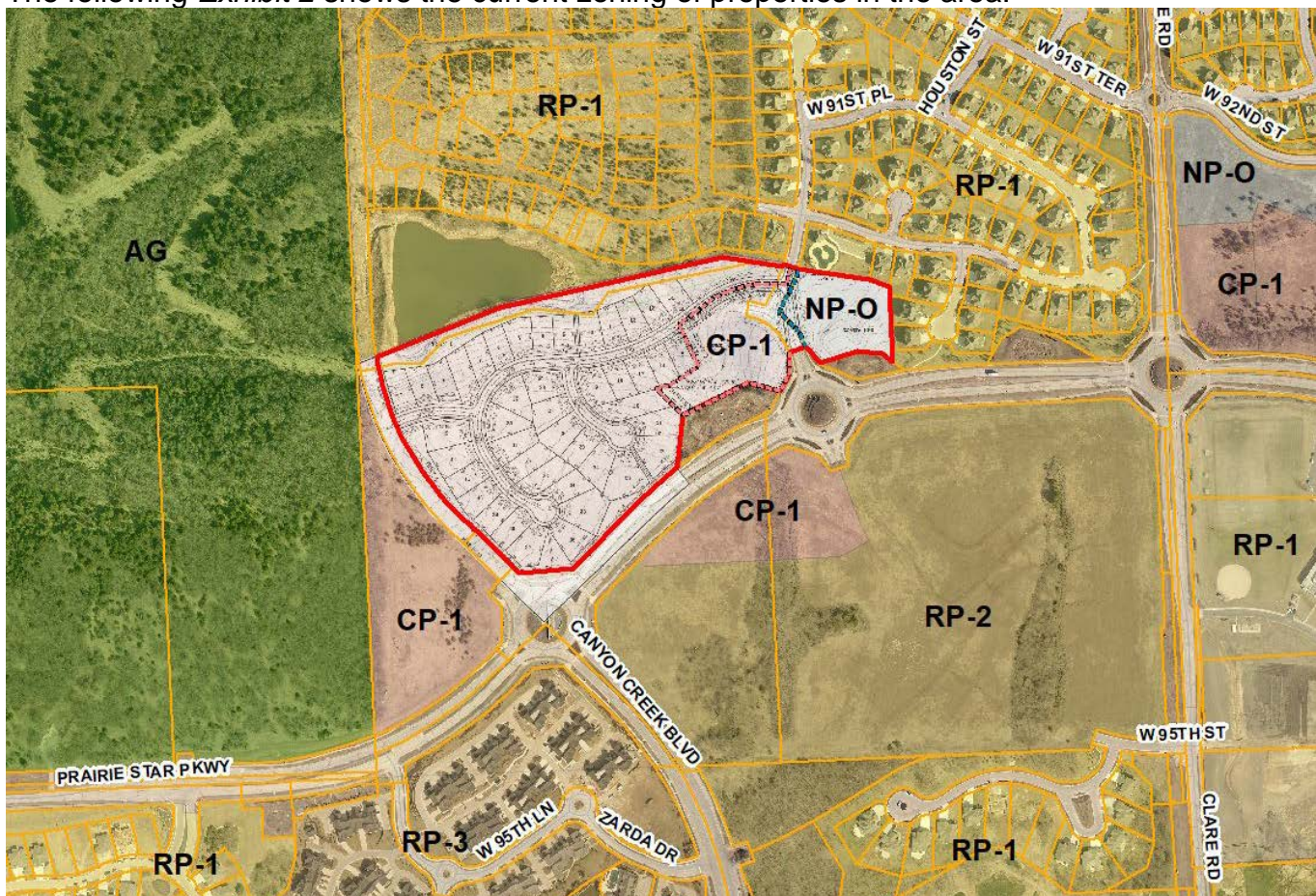


Exhibit 2

3. *The suitability of the subject property for the uses to which it has been restricted.*

The land is currently undeveloped. The site is at the intersection of two arterial streets and vehicle access will be available from three sides when Mize Road is eventually extended northward. The land is suited for a variety of different uses from lesser-intensity uses such as low-density residential to higher intensity uses such as commercial and mixed use.

4. *The extent to which the proposed use will detrimentally affect nearby property.*

Single-family residential development will not detrimentally affect nearby properties.

5. *The length of time the subject property has remained vacant as zoned.*

The property was annexed into the incorporated City limits in 1999. Prior to the construction of Prairie Star Parkway in 2004, the property was used for agricultural uses and was a cultivated field. The property has remained an undeveloped field since 2004.

6. *The relative gain to public health, safety and welfare due to the denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.*

It is staff's opinion the relative gain to the public health, safety and welfare due to denial of the requested rezoning is minimal. Preserving a fraction of the land area for nonresidential uses may benefit surrounding residents by offering a location for convenience goods and services or medical services within walking distance of the nearby homes.

7. *Recommendation of City's permanent professional staff.*

See staff's recommendation.

8. *Conformance of the requested change to the adopted or recognized Master Plan being utilized by the City.*

This site is designated as Mixed Use on the Future Land Use Map of the Comprehensive Plan. The request to rezone approximately 19.13 acres of the 21.8-acre site reserves slightly less than three acres of land for commercial development. The remaining commercial zoning is at the corner of Prairie Star Parkway and Shady Bend Road. This commercial site aggregated with the other nonresidential uses at this intersection create a "neighborhood node" of activity as identified in the Vision 2040 plan. The Vision 2040 plan encourages nodes of activity centers to be accessible to the residents of the neighborhoods within a 10-minute walk. A "neighborhood node" should contain a critical mass of nonresidential uses to provide a mix of different services and uses for the neighborhood. Staff supports the retention of the commercially zoned area as proposed.

The following *Exhibit 3* shows the location of anticipated nodes in the Vision 2040 plan:

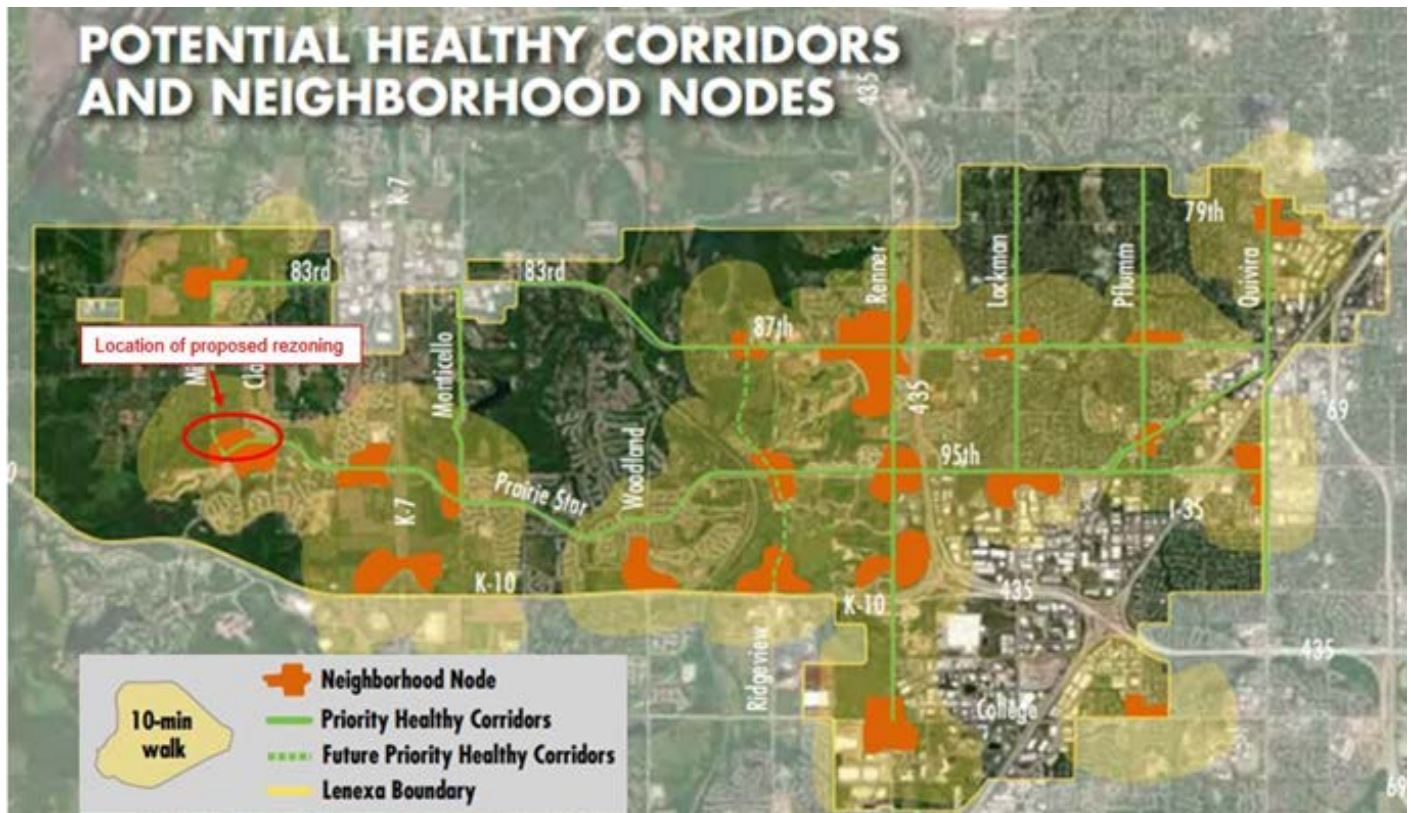


Exhibit 3

9. ***The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include, but are not limited to, sanitary and storm sewers, water and electrical service, police and fire protection, schools, parks and recreation facilities, etc.***

All utilities are available to serve this property. The site is immediately adjacent to a City owned tract of land to provide stormwater management and treatment. Public safety facilities and public and private recreation is in close proximity to this site

10. ***The extent to which the proposed use would adversely affect the capacity or safety of that portion of the street network influenced by the use, or present parking problems in the vicinity of the property.***

The proposed use will not adversely increase vehicle trips on the adjacent public street network beyond what was previously anticipated based on the current zoning. The requested change to the zoning will likely decrease vehicle trip generation. The proposed rezoning will not create a parking problem. The City's regulations require a minimum of two off-street parking spaces for each residential unit.

11. ***The environmental impacts the proposed use will generate including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm.***

It is staff's opinion that the proposed development will not impact the environment to any greater level than development that is consistent with the Future Land Use Plan designations. Development of the site shall meet the City's stormwater requirements regardless of the use of the site.

12. ***The ability of the applicant to satisfy any requirements (e.g. site plan, etc.) applicable to the specific use imposed pursuant to the zoning regulations in this Chapter and other applicable ordinances.***

The applicant is requesting three deviations for the single-family residential lots. The following table shows the requested deviations:

Deviation	UDC requirement	Requested alternative
Front yard setback	30 feet	25 feet
Side yard setback	7 feet	6 feet
Parkway setback	50 feet	35 feet

The applicant is proposing to reduce the front yard setback from 30 feet to 25 feet and reduce the side yard setback from 7 feet to 6 feet for all 43 of the residential lots of the subdivision. The applicant is also requesting a setback reduction of the 50-foot setback from the right-of-way of a parkway. Prairie Star Parkway is subject to the setback requirement in [Section 4-1-B-26-C-1](#) of the UDC. This section establishes specific setbacks for unique street types. The required setback from a parkway is 50 feet. The applicant is requesting the setback be reduced to 35 feet.

Rezoning the 19.13-acre site leaves 2.67 acres for the remaining CP-1 zoned part of the site. The remaining area is less than the minimum three-acre size tract per [Section 4-1-B-13-F](#). The tract size of less than three acres will technically require a deviation. The concept plan for Arbor Lake South is the appropriate application to consider the request for the deviation.

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the rezoning for Arbor Lake located at approximately at the northwest corner of Shady Bend Road and Prairie Star Parkway from CP-1, Planned Neighborhood Commercial District and RP-1, Planned Residential (Low-Density) District to RP-1, Planned residential (Low-Density) district.

CONCEPT PLAN ANALYSIS

The concept plan is for the remaining 2.67 acres of CP-1 zoned part of the site and the 1.8 acres of CP-O zoned sit on the east side of Shady Bend Road. The concept plan shows one building and parking area on each of the two site. The buildings are oriented to create a “gateway” into the Arbor Lake development with parking areas on the internal part of each site. Preliminary and final development plans will need to demonstrate the site will comply with the Land Use Intensity buffer requirements for the portions of the sites that are adjacent to the single-family residential lots. A concept plan does not show this level of detail.

The remaining part of the site zoned CP-1 is less than the three-acre minimum district size per the requirements of the UDC. It is staff’s opinion this is a reasonable deviation to allow. The following table shows the requested deviation:

Deviation	UDC requirement	Requested alternative
Minimum district size	3 acres	2.67 acres

The tract is associated with the NP-O zoned tracts on the east side of Shady Bend Road. The tract is not associated to the nonresidential property to the south across Prairie Star Parkway; yet, the nonresidential tracts create a critical mass of development for small retail uses to provide a mix of goods and services to the surrounding community. The result is the establishment of a node for activity as represented in the Vision 2040 plan.

The requested change to the overall development concept to rezone the neighborhood commercial center for more single-family residential development includes the realignment of Shady Bend Road as this street accesses the larger subdivision from roundabout intersection on Prairie Star Parkway. The street currently curves northwesterly, which would provide direct access into the neighborhood commercial development. The change to the land uses also changes the circulation pattern through this site. Shady Bend Road will be reconstructed to provide direct access to the north with a T-intersection to access the proposed single-family lots. The reconfiguration of Shady Bend Road creates a larger parcel for the remaining CP-1 zoned site and creates an additional deterrent for cut-through movements from the roundabout to Mize Road.

Additional details such as the architectural features of the buildings, signs, and landscaping are not shown on concept plans. Preliminary and final plans will be submitted for these two sites as the actual uses are proposed.

INFORMATIONAL COMMENTS

The City Council will consider the rezoning, concept plan and preliminary plat (plan) on June 15, 2021.

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the concept plan for Arbor Lake located approximately at the northwest corner of Shady Bend Road and Prairie Star Parkway, including the deviation to allow a minimum district size for the CP-1 zoning of 2.67 acres.

PRELIMINARY PLAT ANALYSIS

The preliminary plat contains 43 residential lots, two tracts, and two nonresidential lots. The subdivision will have two points of access, one is from Shady Bend Road and the other will be onto future Mize Boulevard. While the timing for construction of Mize Boulevard is not currently known, as it is based on future development demands, the future Mize Boulevard access is anticipated to be a right-in, right-out condition with a raised median to control vehicular movement.

As previously mentioned with the concept plan analysis, Shady Bend Road is to be realigned with the construction of the subdivision. The change to the street alignment improves the circulation through the residential part of this phase of Arbor Lake by deterring the potential for cut-through traffic from Prairie Star Parkway to Mize Boulevard. The realignment also orients the presence of the nonresidential use to Shady Bend Road.

The area of this proposed preliminary plat was included in the original stormwater master plan for the overall Arbor Lake project, and will be handled in accordance with that master plan in the pond to the north, which was recently brought up to current standards during construction of Arbor Lake 5th Plat.

The subdivision will have signs at the entrances. Tracts for landscaping are provided for the signs. Separate sign permits will be required for the subdivision signs.

The three requested deviations for the front and side yard setback reductions are consistent with the other phases of the Arbor Lake subdivision now under construction. The requested deviation for the reduced setback from Prairie Star Parkway is reasonable. The setback of both residential and nonresidential uses varies along Prairie Star Parkway. The reduced setback applies to four lots at the end of cul-de-sac streets. The lot configuration will not create an adverse condition of the homes appearing as if they are excessively close to the street.

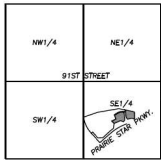
STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the preliminary plat for Arbor Lake South located approximately at the northwest corner of Shady Bend Road and Prairie Star Parkway.

\\VMEBPC-SEB\B\Projects\12000120\CityOrdinary\1st.dwg Layer: Concept Map Map 05/2021 - 2:30pm DATE: 05/2021



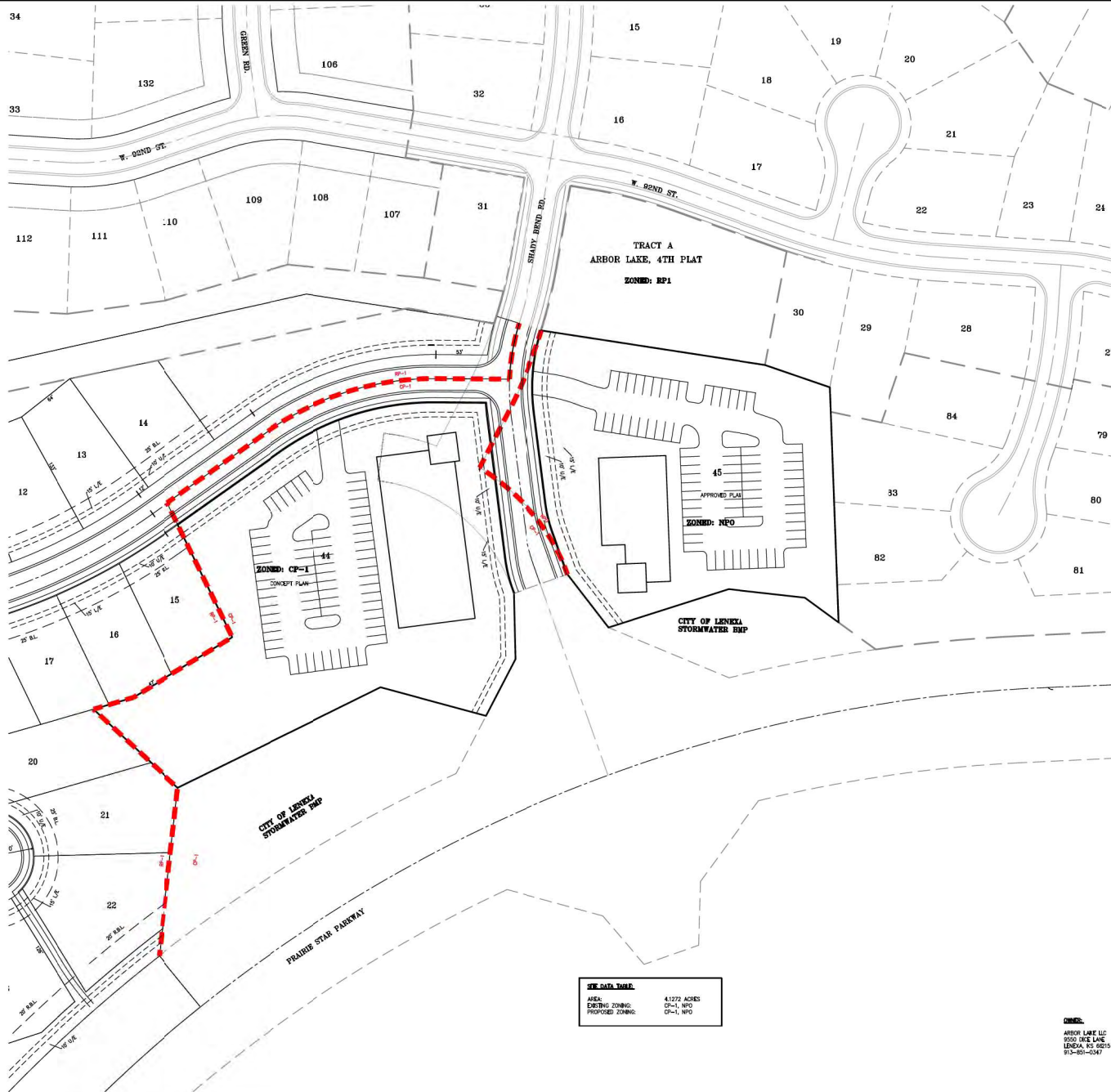
SCALE: 1"=50'
BEARING BASE: RECORDED PLAT OF
"ARBOR LAKE 1ST PLAT"
ZONING LINE



VICINITY MAP
SEC. 32-12-23



SCALE: 1"=2000'



SITE DATA TABLE	
AREA:	4.1272 ACRES
EXISTING ZONING:	CP-1, NPO
PROPOSED ZONING:	CP-1, NPO

AREAS		
PARCEL	AREA (S.F.)	AREA (AC.)
49	101959.46	2.3407
50	77821.87	1.7885

OWNER:
ARBOR LAKE LLC
9505 DICE LAKE
LENEXA, KS 66155
913-881-0347

PHILIPS ENGINEERING, INC.
PLANNING
CLARENCE, KANSAS 66040
(913) 339-1100
1800 DICKINSON
LENEXA, KANSAS 66150
www.philipsengineering.com

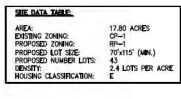


CONCEPT PLAN
ARBOR LAKE SOUTH
CITY OF LENEXA, JOHNSON COUNTY, KANSAS
PARCEL ID NO. IF231232-4010

PROJECT NO.	DATE	BY	CHKD	REVISIONS
12000120	4/12/21			

SHEET
2
OF 2

SCALE:
1"=2000'

[illegible]

SHEET
1
OF 2

**PLANNING COMMISSION
MINUTE EXCERPTS
MAY 24, 2021**

1. a. **PUBLIC HEARING** - Rezoning for **Arbor Lake South** located at approximately the northwest corner of Shady Bend Road and Prairie Star Parkway, from the CP-1, Planned Neighborhood Commercial and RP-1, Planned Residential (Low-Density) Districts to RP-1, Planned Residential (Low-Density) District. **RZ21-10**
- b. Concept Plan for **Arbor Lake South** located at approximately the northwest corner of Shady Bend Road and Prairie Star Parkway, in the CP-1, Planned Neighborhood Commercial District. **PL21-08CP**
- c. Preliminary Plat for **Arbor Lake South** located at approximately the northwest corner of Shady Bend Road and Prairie Star Parkway, in the RP-1, Planned Residential (Low-Density) District. **PT21-05P**

APPLICANT PRESENTATION:

Harold Phelps, with Phelps Engineering, appeared before the Planning Commission on behalf of the applicant, Arbor Lake LLC. He stated he came before the Planning Commission in October requesting a rezoning of the applicant's entire property from commercial to residential. That application was denied at City Council so he worked with staff to create a plan that staff could support, also one that the applicant and staff could agree upon.

He pointed out the property area, bordering Prairie Star Parkway, future Mize Road, Clare Road, the entry to the Arbor Lake subdivision and Shady Bend Road. He noted the previous plan had been approved in 2004. He also mentioned the single-family is projected to be completed this year. He displayed a graphic on the screen identifying the commercial area, stating it was south of the existing pond and adjacent to Mize Road and Prairie Star Parkway. He pointed out the area reserved for CP-1 and noted there is a small area zoned NP-O that is located off Shady Bend Road. He said they are proposing a portion of the property be rezoned and developed into 43 single-family lots, primarily meeting the RP-1 zoning criteria. Part of the area would remain CP-1 and a portion would remain NP-O, creating a neighborhood node at that location.

Harold Phelps stated they consider the concept plan as basic, but they have tried to position the buildings closer to the roadway, with parking at the rear of the buildings. Shady Bend is partially constructed with the intent to curve into the commercial area. There are plans to rebuild the road to realign with more of a north/south alignment and make the turn into the new residential area a left turn movement. He concluded by showing a slide of the entire project area and pointed out the neighborhood node, residential area, and proposed landscaping.

STAFF PRESENTATION:

**PLANNING COMMISSION
MINUTE EXCERPTS
MAY 24, 2021**

David Dalecky stated the project was made up of three applications: the rezoning of a majority of the CP-1 area to RP-1, the concept plan for two non-residential parcels, and the preliminary plat. The location of the project is the north side of Prairie Star Parkway, between Mize Boulevard and Clare Road. The project is in a developing part of the city where there are still vacant tracts of land intermixed with ongoing development.

He presented the Future Land Use map and pointed out the location outlined in red as the application being presented this evening. The area is designated as mixed use and was rezoned to CP-1 in 2004. Part of that project included apartments on the second floor of the non-residential buildings. He zoomed in on the Future Land Use map and showed a large portion of mixed use still identified in that area that has recently been approved for the Mize Hill project. Part of the Mize Hill development includes a small amount of land being retained for non-residential development for the purpose of creating a neighborhood node as considered in the Vision 2040 Plan accepted by City Council a couple of years ago. Dave Dalecky continued by stating a result of the Vision 2040 process was the concept of neighborhood nodes at major intersections of arterials and other primary corridors throughout the city. At the intersection of Mize Road or Shady Bend Road a neighborhood node coalesced with the expectation of the non-residential development that was shown on the Future Land Use map. He stated the primary reason the previous rezoning request was not recommended by staff in October was the expectation of a neighborhood node developing in this area along Prairie Star Parkway and the applicant had not addressed it in their proposal. Although a bit more modest than what was shown in the Vision 2040 plan, a neighborhood node is being established by the applicant.

David Dalecky showed the previous plan from 2004, pointing out a large area outlined in red that was currently CP-1 zoning and what would be rezoned to RP-1. He stated in addition to the rezoning, there is a concept plan consisting of two non-residential lots that border either side of Shady Bend Road. The plan shows the buildings pulled up to Shady Bend Road creating a non-residential corridor with the expectation that the two buildings will have a relationship with one another, most likely by using complementary materials. Parking would be on the back side, between the building and adjacent development.

The development includes the realignment of Shady Bend Road. He displayed plans, highlighted in grey, as the streets are now physically existing and continued by stating part of the roadway would be removed and reconstructed so there would be a more direct route into the existing Arbor Lake subdivision and would deter the potential for cut through traffic for someone trying to get out to future Mize Road. With the proposed plans there are now two T-intersections that would need to be traversed before getting on to Mize Road through a cut through movement. Staff sees this as an improved design.

The third element to the Arbor Lake application is the preliminary plat that includes the 43 single-family lots and the two non-residential parcels that are zoned NP-O on the east side of Shady Bend Road and CP-1 on the west of Shady Bend Road. The remaining tract of CP-1 will be 2.67 acres in size, slightly less than the minimum three-acre requirement for CP-1 zoning regulations. David Dalecky stated the applicant is requesting a deviation to allow for the reduction in minimum district size from three to 2.67 acres. It is staff's opinion that is a reasonable deviation, as the size of the lot will provide the potential for one building or even two small buildings on that tract. This CP-1 site, along with the

**PLANNING COMMISSION
MINUTE EXCERPTS
MAY 24, 2021**

NP-O zoned land on the other side of Shady Bend Road, and the commercial on the south side of Prairie Star Parkway will provide a critical mass that is reasonable for the kind of development that would be expected for the suburban context of the site.

David Dalecky stated the application is requesting deviations as part of the preliminary plat for the residential lots which include a front yard setback reduction for all lots to go from a 30-foot minimum setback to a 25-foot setback, and a side yard reduction for all lots to go from a 7-foot setback to a 6-foot setback. The Unified Development Code requires a 50-foot setback from parkways; the applicant is requesting a 40-foot setback, requiring a 10-foot reduction. He referred to a note in the staff report that stated 35-feet, he apologized and said it should have stated 40-feet. He explained that the landscape buffer tract would be 20 feet from the right-of-way line. He pointed out the 20-foot dimension on the screen. Staff is supportive of the setback reduction proposals, and it is a reasonable reduction request. Staff supports all three applications.

PUBLIC HEARING: Chairman Poss opened the public hearing.

Hearing no comments from the public, Chairman Poss entertained a motion to **CLOSE** the public hearing. Moved by Commissioner Handley, seconded by Commissioner Hoye, and carried by a unanimous voice vote.

PLANNING COMMISSION DISCUSSION:

There was no discussion on this item from the Planning Commission.

MOTION:

Chairman Poss entertained a motion to recommend **APPROVAL** of the rezoning for Arbor Lake South located approximately at the northwest corner of Shady Bend Road and Prairie Star Parkway from CP-1, Planned Neighborhood Commercial District and RP-1, Planned Residential (Low-Density) District to RP-1, Planned residential (Low-Density) district. Moved by Commissioner Harber, seconded by Commissioner Katterhenry, and carried by a unanimous voice vote.

Chairman Poss entertained a motion to recommend **APPROVAL** of the concept plan for Arbor Lake South located approximately at the northwest corner of Shady Bend Road and Prairie Star Parkway, including the deviation to allow a minimum district size for the CP-1 zoning of 2.67 acres. Moved by Commissioner Katterhenry, seconded by Commissioner Hoye, and carried by a unanimous voice vote.

Chairman Poss entertained a motion to recommend **APPROVAL** of the preliminary plat for Arbor Lake South located approximately at the northwest corner of Shady Bend Road and Prairie Star Parkway. Moved by Commissioner Horine, seconded by Commissioner Harber, and carried by a unanimous voice vote.

RZ 20-__
ORDINANCE NO. _____

AN ORDINANCE REZONING PROPERTY LOCATED AT APPROXIMATELY THE NORTHWEST CORNER OF PRAIRIE STAR PARKWAY AND SHADY BEND ROAD FROM CP-1, PLANNED NEIGHBORHOOD COMMERCIAL DISTRICT AND RP-1, PLANNED RESIDENTIAL (LOW DENSITY) ZONING DISTRICT TO RP-1, PLANNED RESIDENTIAL (LOW DENSITY) ZONING DISTRICT.

WHEREAS, on April 20, 2021, Harold Phelps of Phelps Engineering, Inc., agent for Arbor Lake, LLC, the owner of record, filed a request to rezone property located at approximately the northwest corner of Prairie Star Parkway and Shady Bend Road, from CP-1, Planned Neighborhood Commercial Zoning District and RP-1, Planned Residential (Low density) Zoning District to RP-1, Planned Residential (Low density) Zoning District; and

WHEREAS, on May 24, 2021, the Lenexa Planning Commission held a public hearing to hear the rezoning request. Notice for the public hearing was provided in accordance with K.S.A. 12-757; and

WHEREAS, on May 24, 2021, the Lenexa Planning Commission recommended approval of said rezoning, as reflected in the minute record for said meeting; and

WHEREAS, on June 15, 2021, the Governing Body considered the rezoning request and Planning Commission recommendation, as reflected in the minute record for that meeting; and

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

SECTION ONE: The real estate described as:

All that part of platted right-of-way of Shady Bend Road, as shown on the recorded plat of ARBOR LAKE, 1ST PLAT, a platted subdivision of land together with all that part of the Southeast Quarter of Section 32, Township 12 South, Range 23 East, in the City of Lenexa, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 32; thence S 2°44'48" E, along the East line of the Southeast Quarter of said Section 32, a distance of 1387.04 feet to the intersection of the East line of the Southeast Quarter of said Section 32 and the centerline of Prairie Star Parkway, as now established; thence S 87°40'38" W, along the centerline of said Prairie Star Parkway, a distance of 687.78 feet; thence Southwesterly along the centerline of said Prairie Star Parkway and on a curve to the left, said curve being tangent to the last described course and having a radius of 1500.00 feet, an arc distance of 960.27 feet to the point of beginning; thence continuing Southwesterly along said curve to the left and along the centerline of said

Prairie Star Parkway, an arc distance of 117.58 feet; thence S 46°04'55" W, along the centerline of said Prairie Star Parkway, a distance of 541.77 feet to the intersection of the centerline of Mize Road, as now established and the centerline of said Prairie Star Parkway; thence N 46°01'25" W, along the centerline of said Mize Road and its Northwesterly extension, a distance of 443.86 feet; thence Northwesterly on a curve to the right, said curve being tangent to the last described course and having a radius of 1000.00 feet, an arc distance of 622.18 feet; thence N 68°16'41" E, a distance of 497.21 feet; thence N 77°21'49" E, a distance of 753.57 feet; thence S 81°13'01" E, a distance of 198.15 feet; thence Northeasterly on a curve to the right, said curve having an initial tangent bearing of N 15°39'14" E and a radius of 250.00 feet, an arc distance of 7.55 feet to a point on the Westerly right-of-way line of said Shady Bend Road, said point also being the Westerly plat line of said ARBOR LAKE, 1ST PLAT; thence S 72°37'00" E, a distance of 25.00 feet to a point on the centerline of said Shady Bend Road; thence Southwesterly and Southerly on a curve to the left, said curve having an initial tangent bearing of S 17°23'00" W and a radius of 225.00 feet, an arc distance of 59.28 feet; thence N 89°33'01" W, a distance of 76.50 feet; thence Westerly and Southwesterly on a curve to the left, said curve being tangent to the last described course and having a radius of 300.00 feet, an arc distance of 188.90 feet; thence S 54°22'24" W, a distance of 125.97 feet; thence S 25°34'47" E, a distance of 155.39 feet; thence S 58°36'15" W, a distance of 120.62 feet; thence S 73°29'17" W, a distance of 43.21 feet; thence S 47°03'36" E, a distance of 120.29 feet; thence S 6°22'12" W, a distance of 176.27 feet to a point on the Northerly right-of-way line of said Prairie Star Parkway; thence S 39°00'09" E, a distance of 68.54 feet to the point of beginning, containing 19.1358 acres, more or less, of which 0.435 acres, more or less of replatted land.

now zoned CP-1, Planned Neighborhood Commercial and RP-1, Planned Residential (Low Density) is hereby rezoned to RP-1, Planned Residential (Low Density) as described above and as reflected in the minute record of the June 15, 2021 Governing Body meeting.

SECTION TWO: The Community Development Director is hereby directed to amend the series of maps entitled "Official Copy Zoning District Map of the City of Lenexa" as adopted by the City via City Code Section 4-1-A-6(A) in accordance with said rezoning.

SECTION THREE: This Ordinance shall be construed as follows:

- A. Liberal Construction. This Ordinance shall be liberally construed to effectively carry out its purposes that are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.
- B. Savings Clause. The repeal of any ordinance or code section, as provided herein, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder, or any action or proceeding commenced under or by virtue of the ordinance or code section repealed. Any ordinance or code section repealed continues in force and effect after the passage, approval, and

publications of this Ordinance for the purposes of such rights, fines, penalties, forfeitures, liabilities and proceedings.

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

SECTION FOUR: This Ordinance shall take effect after publication of an ordinance summary in the City's official newspaper as provided by State law.

PASSED by the Governing Body June 15, 2021.

SIGNED by the Mayor June 15, 2021.

CITY OF LENEXA, KANSAS

Michael A. Boehm, Mayor

ATTEST:

Jennifer Martin, City Clerk

APPROVED AS TO FORM:

David Jack, Assistant City Attorney



**CITY COUNCIL
MEMORANDUM**

ITEM 6

SUBJECT: Resolution accepting the Lenexa Aquatics Study Phase II Final Report and recommendations #1 and #2

CONTACT: Logan Wagler, Parks & Recreation Director

DATE: June 15, 2021

ACTION NEEDED:

Adopt a resolution accepting the Lenexa Aquatics Study Phase II Final Report and recommendations #1 and #2.

PROJECT BACKGROUND/DESCRIPTION:

Discussions regarding the conditions, challenges, and operations of Lenexa's outdoor pool facilities have been ongoing since 2016. In 2018, the City contracted with Water's Edge Aquatic Design, LLC ("Water's Edge") to conduct an aquatics facilities study ("Phase I Study"). During the Phase I Study, Water's Edge evaluated and assessed the current conditions of the City's aquatic programming and facilities to develop strategies to best meet the current and future needs of the entire community. The Phase I Study provided several options to address the City's aquatics needs, explored potential strategies and industry best practices, and provided cost estimates for future budgeting considerations. The Phase I Study was completed and accepted by the Governing Body on July 16, 2019. At that time, the City determined that supplemental public engagement was necessary to aid the City in evaluating and determining strategies for potential investments in the City's aquatic facilities.

In fall 2019, the City engaged Water's Edge to conduct public engagement and further evaluation of the City's aquatic needs ("Phase II Study"). The Phase II Study provided the public with educational information on current program offerings, staffing impacts, facility challenges, and options for future growth. It utilized user group meetings, surveys, an in-person open house, and an online feedback form to further engage the public. In addition, the Phase II Study included a facilities assessment, and recommendations were developed for the future of outdoor aquatics in the city.

The Phase II Study Draft Report was presented on June 8, 2021 at the Committee of the Whole meeting. Based on the presentation, staff has brought the Phase II Study Final Report to the Governing Body for acceptance and acknowledgement of the completion of the Phase II Study. In addition, staff is recommending that the Governing Body accept the Phase II Study recommendations # 1 and #2. Recommendation #1 states that the City will develop a modernized regional aquatic center with the right mix of amenities at the Indian Trails Aquatic Center. Recommendation #2 states that the City will reduce the overall size of its outdoor aquatic facilities by closing Ad Astra Pool and repurposing it into another recreational amenity. Acceptance of these recommendations will enable staff to move forward with the planning necessary to accomplish these recommendations.

A draft timeline of how these recommendations could proceed is attached for your information and will be reviewed in more detail at the June 15th meeting.

STAFF RECOMMENDATION:

Adoption of the resolution.

VISION / GUIDING PRINCIPLES ALIGNMENT:

Vision 2040

Healthy People
Inviting Places

Guiding Principles

Superior Quality Services
Prudent Financial Management
Strategic Community Investment
Sustainable Policies and Practices

ATTACHMENTS

- 1. Exhibit
- 2. Correspondence
- 3. Resolution

Aquatics Study Recommendations and Outdoor Pools Draft Timeline

Recommendations include Indian Trails Pool Renovations and Ad Astra Pool being reimagined into expanded Park amenities

Pools in Operation Timeline

2021	IT, AA, and FRC
2022	IT, AA, and FRC
2023	AA and FRC
2024	IT and FRC (Ad Astra Park Improvements are online)

Master Timeline

- Aquatics Study and Recommendations Acceptance 2021 - June
- Select Design Team (Indian Trails Improvements) 2021 – July / August
- Complete Design and Bid Award (Indian Trails Imp.) 2022 – April / May
- LMC Tunnel Construction Begins 2022 – July
- Indian Trails Pool Closes and construction begins 2022 – Sept (immediately following swim season)
- Ad Astra Park Improvements Design Begins 2022 - November
- LMC Tunnel Complete 2023 – Feb
- 83rd and Lackman Intersection Improvements* 2023 – April
- Ad Astra Park Improvements construction 2023 – Sept (immediately following swim season)
- Ad Astra Park Improvements complete and open 2024 – April / May
- Indian Trails Renovations complete and open 2024 – May (Memorial Weekend)

Detailed Breakdown per area

Indian Trails Renovations

- Selection of consultant (1-2 months) July 2021
- Design Process (8 months) Sept 2021 – April 2022
 - Includes public engagement / input
- Construction (10-15 months) Fall 2022 – Spring 2024 (Lose 2023 season)
- Reopening Summer 2024

Ad Astra Park or Pool Improvements

- | | |
|--|-----------------------------------|
| • Closure of Pool | Fall 2023 (following swim season) |
| • Design process Park Improvements (9 months) <ul style="list-style-type: none">○ Includes public engagement / input | Winter 2022-Spring 2023 |
| • Construction of Park Improvements (8-9 months) | Fall 2023-Spring 2024 |
| • New areas of Park Open | Spring 2024 |

Other Projects improving accessibility from Ad Astra area to Indian Trails Aquatics Center

- | | |
|---|--|
| • Little Mill Creek Tunnel (under 87 th Street) <ul style="list-style-type: none">○ Gas Line and Utility work○ Construction of Tunnel begins○ Tunnel complete and available for use | Fall 2021
Summer 2022
Winter 2022 |
| • 83 rd and Lackman Intersection <ul style="list-style-type: none">○ Study of intersection○ Signalization and pedestrian improvements*<ul style="list-style-type: none">▪ *if warranted per study | Summer 2021
Spring 2023 (no later than) |

From: [Courtney Eiterich](#)
To: [Jennifer Martin](#)
Subject: Fwd: Ad Astra pool
Date: Thursday, June 10, 2021 9:05:42 AM

Begin forwarded message:

From: Kevin McGuire <kevinmac81@gmail.com>
Date: June 9, 2021 at 7:31:42 PM CDT
To: Courtney Eiterich <ceiterich@lenexa.com>, Joe Karlin <jkarlin@lenexa.com>
Cc: Rose <rose9mcguire@gmail.com>
Subject: Ad Astra pool

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Kevin and I live at 15300 W 83rd Terrace, Lenexa, KS 66219 in Brookwood Place. I want to express my opinion before next week's council meeting regarding Ad Astra pool.

My family moved into Lenexa in 2012 and we chose Brookwood for a lot of reasons. One of the reasons high on the list was the proximity to Ad Astra pool. Our sub division does not have a pool and we didn't feel it was an issue since we were within walking distance to Ad Astra pool. Since 2013, my family has grown to a family size of 7. 5 kids and my spouse. We have chosen to stay in Lenexa because of the family friendly community feel.

If the council adopts the studies recommendation which would ultimately close Ad Astra, my sub division would be left without a local pool within a safe walking distance. My kids would need to depend on transportation to cross busy 87th street to go to the pool. This would remove the pool option out of my immediate community.

The promise and "sell" when we moved in was a pool within safe walking distance. A HUGE draw for a large family with many kids. Voting against the adoption of the study would keep large families like mine in Lenexa and draw new families into our community. Lenexa is special for me, for my family, and is where I'd like to finish raising my family. This measurement is something the study did not collect nor depict.

Thank you for your time and your hard work as our council members. This is my voice for you to hear and I think this reflects the opinion of your other constituents.

God Bless

Kevin

From: [Courtney Eiterich](#)
To: [Jennifer Martin](#)
Subject: Fwd: Ad Astra Pool
Date: Thursday, June 10, 2021 9:05:58 AM
Attachments: [image001.png](#)

Begin forwarded message:

From: "Draper, Patricia J" <pdraper@saint-lukes.org>
Date: June 10, 2021 at 9:03:41 AM CDT
To: Courtney Eiterich <ceiterich@lenexa.com>
Subject: Ad Astra Pool

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mrs. Eiterich,

I wanted to reach out to you about the potential closure of the Ad Astra Pool. I recently moved to your district this summer, 8504 Hallet, from Merriam KS in part to benefit from the amazing opportunities for parks, recreation and community amenities. We moved to Merriam in 2005 from Denver Colorado because my husband was transferred for work at the Environmental Protection Agency. We initially loved Merriam and especially loved going to the pool.

Growing up my husband and I were both basically raised at the pool and enjoyed it so much. When the Merriam pool proposal came up, we were all for it. Our next door neighbor at the time was a councilman, David Neal, and as it was initially proposed we were enthusiastic. Overtime we learned that the new pool would in fact be much smaller and much less family friendly than it was initially presented.

I understand that the Ad Astra Pool is proposed to be closed, not renovated, so the two aren't directly parallel scenarios but it does disappoint me to think that a community with so much income from taxes and such a booming development going on in Lenexa would consider closing a community amenity that so many people use and love. Lenexa, to me, really is a family oriented community and there is nothing that says "family summertime activity" to me like spending time at the pool as a family.

I have two small children. Ann is 4 and Tommy is 2, and we very much enjoy going to the pool. They love being able to play in the pool for a while, go have dinner in the Ad Astra park and then play at the park before heading home. I also love this because it exhausts them and as a mother of three yourself, I'm sure you remember those days

and the value of that precious family time.

Thank you so much for taking the time to read this email and to consider what I've said. Please understand that moving to Lenexa to my family meant an increase in opportunities, not a removal of community amenities.

Sincerely,

Patricia Draper, LCSW, CCTSW
Abdominal Transplant Social Worker
4401 Wornall Rd
St. Luke's Hospital
Ph: 816-932-5791
Fax: 816-960-4498



Saint Luke's Health System Confidentiality Notice

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From: [Beccy Yocham](#)
To: [Jennifer Martin](#)
Subject: FW: concerned resident
Date: Friday, June 11, 2021 10:20:14 AM

From: Mike Boehm <mboehm@lenexa.com>
Sent: Thursday, June 10, 2021 10:38 PM
To: Beccy Yocham <byocham@lenexa.com>; Logan Wagler <lwagler@lenexa.com>
Subject: Fwd: concerned resident

Begin forwarded message:

From: Jennie Beck <jbeckmu@hotmail.com>
Date: June 10, 2021 at 4:20:35 PM CDT
To: Joe Karlin <jkarlin@lenexa.com>, Daniel Roh <droh@lenexa.com>, Corey Hunt <chunt@lenexa.com>, Tom Nolte <tnolte@lenexa.com>, Steve Lemons <slemons@lenexa.com>, Bill Nicks <bnicks@lenexa.com>, Mandy Stuke <mstuke@lenexa.com>, Courtney Eiterich <ceiterich@lenexa.com>, Julie Sayers <jsayers@lenexa.com>, Mike Boehm <mboehm@lenexa.com>
Subject: concerned resident

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Dear Lenexa City Council member and Mayor Boehm,

I am writing to you all today with deep concerns over the data from the aquatics study which will directly impact my neighborhood and property value. I realize an extensive amount of work has been done up to this point to gather information, but I believe there are important pieces missing, mis-represented or being ignored. This missing information dramatically skews the results and makes it look like Ad Astra is a barely used resource in our community.

My first concern is with the way in which the number of visits per season have been calculated. Ad Astra pool is being used from 6 am each weekday through 8 pm - 14 hours of use daily. The open swim time is from noon to 8 pm but the Blazers and Lenexa Lazars use it for an additional 6 hours every day through the 7 week swim and dive team season. That is about 2/3 of the time that Ad Astra is open each summer. Our swim and dive team have about 80-90 participants (I am estimating based off of my first hand observations both this year and in the past several years). The Blazers team is at least the size of our swim team. Then you

have the team of coaches and all the parents who are coming to practices. Many of the meets for both swim and dive are held at Ad Astra because it was designed to be a competition pool. So, other neighboring cities, cities you all feel we should emulate by reducing water square footage and deck space, request to have the meets here in Lenexa at Ad Astra. Why? Because there is more space for the teams and spectators and it is a pool specifically geared towards competitions. Let's estimate 150 swimmers and divers using the pool each day and an additional 50 people for parents and coaches. So, 200 people coming to Ad Astra 5 days a week for 7 week means there are 7,000 more people using the pool than are included in the data you were presented (in both phase 1 and 2). This number doesn't include swim and dive meets so you could easily add another 500-1,000 over the course of the summer season.

When visiting with the coaches and my own children who swam pre Covid, during Covid and now post Covid, there are several important points I would like you to consider. Last year when diving at Indian Trails, there is only 1 board and it not a full meter. You all have heard this before. The other issue is that the diving well is back in a corner and the space around it is not only tight but also has a rock wall. So, keeping young divers focused on their techniques was a quite a challenge last year. Amenities and fun attractions are crucial to boosting attendance but the design needs to be mindful of all the ways the parts of the pool will be used at different times of the day and throughout the outdoor swim season. Another issue was when the swim team did dry land conditioning. It was very awkward and tight for those swimmers to complete these tasks and the divers to continue their work. There just is not much space back in that back corner of Indian Trails. My 2 younger kids did swim last summer but there was not really an option for pre -competitive so they had to swim the full length of the pool at Indian Trails. This was very difficult for them and there were some adjustments the coach was able to make, but neither wanted to swim again this summer because last summer's experience at Indian Trails turned them off from swim team.

The information I feel that is being ignored is the 30 pages of written comments from all the people who have completed the different surveys. These comments make it quite apparent and clear that a big, fancy, new water park style of aquatics is NOT what residents are asking the city to build. On my street alone there have been 4 new families move in since last summer. There are only 11 homes on our block and up until recently many were still original owners. The neighborhood is turning over and young families are wanting a nearby pool so their kids can try things like learning to comfortable in the water, giving swim and dive team a try and doing those things at an affordable cost to middle class families. My son would have never tried and found out he enjoyed dive team if

we hadn't had it 1 block from our house.

Closing our competition pool sends a big message not only to residents in Lenexa but across Johnson County that we do not value recreational level swim and dive. Squeezing our teams into a retro-fitted space at Indian Trails shows that this program is an after-thought. The fancy, new district pool is geared more towards advanced swimmers and the Rec Center, quite honestly, is freezing cold. My kids want to only be in the back, heated pool when we have gone and some times they aren't allowed to swim back there.

Please keep the residents' wishes and comments in the survey in the fore front of your mind as you discuss and determine the future of Ad Astra. Making improvements to the bath house, adding a splash area within the pool area for younger kids, and planning fun events like a Food Truck evening or Movie at the Pool will absolutely boost attendance. Just like in the movie, Field of Dreams, "people will come".

Jennie Beck

15929 W. 81st St

Lenexa, KS 66219

913-908-0261

18 year resident of Lenexa (4 years by Flat Rock, 14 years by Ad Astra)

From: [Daniel Roh](#)
To: [Beccy Yocham](#)
Cc: [Corey Hunt](#); [Mike Boehm](#)
Subject: Fwd: Ad Astra Pool
Date: Thursday, June 10, 2021 10:44:29 AM

Beccy - Correspondence to share... thanks - Dan

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From: Mary Calhoun <merrilee517@yahoo.com>
Sent: Thursday, June 10, 2021 9:50 AM
To: Mike Boehm; Daniel Roh; Corey Hunt
Subject: Ad Astra Pool

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Hello,

I live in Ward 3 and am concerned about saving the Ad Astra Pool (in favor of) for the following reasons:

- Lenexa built all three community pools when the population of Lenexa was 3/5 of what it is today. We have not built a new outdoor traditional pool for over 30 years! - The neighborhoods without an HOA pool will be severely hurt by the closure of Ad Astra and eventually Flat Rock. My neighborhood at 7916 Oakview Drive is one of these. - What has made Lenexa special over our history has been our neighborhoods – and the majority of our city is still older neighborhoods that are served by these pools. - To that end, we do not need to match what other cities are doing. The beauty of the almost 20 cities in Johnson County is that every city is different, and what makes Lenexa special is our commitment to community! That very commitment is undermined if we start closing facilities that are important to our community. - We have never asked for large-scale water parks. While they serve a purpose, our kids, our families, they also want a pool they can walk to, that is nearby, and isn't always overwhelmed with large crowds. - The vast majority of the 30 pages of public comments in the public interest survey were in favor of KEEPING Ad Astra Pool. City leaders are called upon to represent their constituents, not simply adhere to studies performed by those who don't have the long-term vested interest in our city, and who specialize in water parks – not community pools. - Over the course of the last 15 years, the city has invested quite a bit of time and money into large-scale amenities – such as Lenexa Rec Center - some of which increased “water surface” in Lenexa that is now decried. If we are going to invest such significant resources in new amenities, we should also invest resources into maintaining existing amenities that mean a tremendous amount to those living near them. We should be able to do both. Specifically, regarding the benefits of keeping Ad Astra: - Ad Astra is within walking distance of many neighborhoods, as well as the many new folks living at Lenexa City Center who deserve a nearby “outdoor” pool option. - Ad Astra is great for swim teams and has a high utilization rate from such teams. Ad Astra is also great for lap swimming and should be marketed as such – many may not realize it exists. - The study cited Ad Astra attendance figures from 2015-2018 as

justification for the recommendation. This is tremendously unfair as it represents a period of time in which key amenities were being removed and the condition of the pool had deteriorated. The figures also do NOT include swim team usage, which we estimate results in at 3600 visits each year. Thus, we disagree with using these figures as they completely misrepresent the interest in the pool. - To this very point, we do believe Ad Astra needs improvement to make it more attractive, such as a new entrance area, and common amenities to attract families and kids, such as a water slide, bringing back the high diving board and "baby pool." - Properly marketed, we believe Ad Astra would have fantastic attendance that would justify retaining it for the long term – not only from Lenexans, but from our friends in neighboring cities who may want a true community pool that is larger than their HOA pool but not a large water park. - We recommend an alternative action of renovating Indian Trails and then, after it is complete, renovating Ad Astra in a way that maintains its swim team/lap swimming usage but also includes upgraded amenities and maintenance to make it attractive to a wider array of people throughout our area.

Thanks for listening.

Mary Calhoun
816-807-8921

From: [Daniel Roh](#)
To: [Beccy Yocham](#)
Cc: [Mike Boehm](#); [Corey Hunt](#)
Subject: Fwd: Keep Ad Astra Pool open
Date: Thursday, June 10, 2021 10:43:43 AM

Beccy - correspondence to share... thank - Dan

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From: Amy Carson <amycarson26@gmail.com>
Sent: Thursday, June 10, 2021 7:36 AM
To: Corey Hunt; Daniel Roh; Mike Boehm
Subject: Keep Ad Astra Pool open

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Hello,

I am writing to you today to ask you to vote to keep Ad Astra pool open. I have loved attending this pool for the past 5 years and it is just what I am looking for in a pool. As an adult wanting to relax and read by the pool and cool off/swim, I am not interested in a big water park or splash pad. I love the zero depth entry and slightly deeper water area for cooling off, and I really love that it is not overcrowded. I am very concerned if this pool is closed and Indian Trails is renovated to be more of an attraction, it will not be the type of pool experience I desire. My neighborhood does not have an HOA/neighborhood pool, so the Lenexa pools are my only option. I want to be able to relax at the pool, and if it is super crowded and busy I will not be able to do that. I know that it is costly to maintain and run pools and you have to weigh the cost/benefit analysis of everything, but I think you need to keep in mind what the people of the community want and we do not want a big water park. I'm also looking forward to having a calm pool to bring my baby and toddler to this summer to play without it being overrun with people. Not all families want the big pool attractions, especially those of us with little kids and those of us who don't have neighborhood pools. We need options of types of pools to attend in the community, not one big busy pool. I really love going to Ad Astra pool and ask you to please vote to not permanently close it.

Thank you,
Amy Carson

Sent from my iPhone

RESOLUTION NO. 2021-

**A RESOLUTION ACCEPTING THE LENEXA AQUATICS STUDY PHASE II AND
ACCEPTING RECOMMENDATIONS #1 AND #2 SET FORTH IN THE LENEXA
AQUATICS STUDY PHASE II**

WHEREAS, in 2018, the City contracted with Water's Edge Aquatic Design, LLC ("Water's Edge") to conduct an aquatics facilities study ("Phase I Study") to evaluate and provide an assessment of the current conditions of the City's aquatic programming and facilities and to develop strategies to best meet the current and future needs of the entire Lenexa community; and

WHEREAS, the Phase I Study was completed and accepted by the Governing Body by Resolution No. 2019-79 on July 16, 2019; and

WHEREAS, while the Phase I Study provided several options to address the City's aquatic needs, the City determined that supplemental public engagement was necessary to aid the City in evaluating and determining strategies for potential investments in the City's aquatic facilities; and

WHEREAS, in fall 2019, the City engaged Water's Edge to conduct public engagement and further evaluation of the City's aquatic needs ("Phase II Study"); and

WHEREAS, the Phase II Study provided the public with educational information on current program offerings, staffing impacts, facility challenges, and options for future growth while engaging the public through user group meetings, surveys, an in-person open house, and an online feedback form; and

WHEREAS, as part of the Phase II Study, a facilities assessment was performed and recommendations were developed for the future of outdoor aquatics in the City; and

WHEREAS, the draft Phase II Study was presented at the June 8, 2021 Committee of the Whole meeting and the final Phase II Study is presented this day to the Governing Body and recommended for acceptance; and

WHEREAS, it is further recommended that the Governing Body specifically accepts Phase II Study Recommendation #1 stating the City will reinvest in Indian Trails Aquatic Center to develop a modernized community aquatic center with an appropriate mix of amenities and Phase II Study Recommendation #2 stating the City will reduce the overall size of its outdoor aquatic facilities by permanently closing Ad Astra Pool and repurposing it into another recreational amenity; and

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

SECTION ONE: The completed Lenexa Aquatics Study - Phase II dated May 2021 and prepared by Water's Edge Aquatic Design is attached hereto as Exhibit A and contains an evaluation and analysis of the City's current facilities, the results of public engagement, and recommendations to address the City's future outdoor aquatics needs.

SECTION TWO: Recognizing the assistance from the community and the consultant, the Lenexa Aquatics Study - Phase II is accepted by the Governing Body to serve as a guide for future growth and development of the City's outdoor aquatic facilities.

SECTION THREE: The Governing Body specifically accepts Lenexa Aquatics Study - Phase II Recommendation #1 stating the City will reinvest in Indian Trails Aquatics Center to develop a modernized community aquatic center with an appropriate mix of amenities and Lenexa Aquatics Study - Phase II Study Recommendation #2 stating the City will reduce the overall size of its outdoor aquatic facilities by permanently closing Ad Astra Pool and repurposing it into another recreational amenity.

SECTION FOUR: This Resolution shall become effective immediately upon adoption.

ADOPTED by the Lenexa City Council this 15th day of June, 2021.

SIGNED by the Mayor this 15th day of June, 2021.

CITY OF LENEXA, KANSAS

[SEAL]

Michael A. Boehm, Mayor

ATTEST:

Jennifer Martin, City Clerk

APPROVED AS TO FORM:

Sean McLaughlin, City Attorney



**CITY COUNCIL
MEMORANDUM**

ITEM 7

SUBJECT: Ordinance amending the City Code regarding alcoholic liquor and cereal malt beverage licensing, hours of retail sales, and consumption and possession on certain public property

CONTACT: Steven Shrout, Assistant City Attorney

DATE: June 15, 2021

ACTION NEEDED:

Pass an ordinance amending the City Code regarding alcoholic liquor and cereal malt beverage (CMB) licensing, hours of retail sales, and consumption and possession on certain public property.

PROJECT BACKGROUND/DESCRIPTION:

In December 2020, the Kansas Attorney General issued Opinion No. 2020-11 regarding residency requirements on persons seeking a license to sell liquor as a retailer or to sell liquor by the drink. The Kansas Attorney General opined that the residency requirements were unconstitutional under the dormant Commerce Clause of the U.S. Constitution and therefore unenforceable. In 2021, the Kansas Legislature approved House Bill 2137 eliminating Kansas residency requirements for licensure and expanding the authorized hours for retail sales of alcoholic liquor and CMB (the "2021 Act"). The 2021 Act removed any Kansas residency requirement to obtain a liquor license or a CMB license. In addition, the 2021 Act authorizes Sunday sales for retail liquor stores and CMB retailers to begin as early as 9 AM.

Pursuant to K.S.A. 41-2911(b)(1)(A), the City must pass an ordinance expanding the hours of sales and such ordinance must be published at least once each week for two consecutive weeks in the official City newspaper. In addition, the ordinance may be passed without an election, but is subject to a 60-day waiting period during which a petition for an election can be filed requesting the ordinance be submitted to a vote of the electors. The petition must be signed by at least 25% of the electors who voted at the last preceding regular city election and filed with the City Clerk. The proposed ordinance amends the City Code to eliminate Kansas residency requirements and expand the authorized hours of retail sales of alcoholic liquor and CMB to 9 AM on Sundays. If passed, the proposed ordinance would be published each week for two consecutive weeks in the official City newspaper. Following publication, the proposed ordinance would take effect on August 30, 2021, unless a sufficient petition for a referendum is filed within the 60-day period, in which case the proposed ordinance shall become effective upon approval by a majority of electors voting on such referendum.

STAFF RECOMMENDATION:

Passage of the ordinance.

VISION / GUIDING PRINCIPLES ALIGNMENT:

Vision 2040

Thriving Economy

Guiding Principles

Responsible Economic Development

ATTACHMENTS

1. Ordinance
2. Redlined ordinance located in the Appendix

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE LENEXA CITY CODE REGARDING ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGE LICENSING, HOURS OF RETAIL SALES, AND CONSUMPTION AND POSSESSION ON CERTAIN PUBLIC PROPERTY.

WHEREAS, in 2021, the Kansas Legislature approved House Bill 2137 eliminating Kansas residency requirements for licensure, expanding the authorized hours for retail sales of alcoholic liquor and cereal malt beverages, and clarifying authority to consume and possess alcoholic liquor and cereal malt beverages on public right-of-way subject to certain conditions (the “2021 Act”); and

WHEREAS, pursuant to K.S.A. 41-2911(b)(1)(A), the City must pass an ordinance to authorize the expanded hours of sales on Sundays; and

WHEREAS, the City desires to amend the Lenexa City Code to ensure City Code is not in conflict with state law and to allow retail sales of alcoholic liquor and cereal malt beverages as early as 9:00 A.M. on Sundays in accordance with the 2021 Act.

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

SECTION ONE: Section 2-6-A-2 is hereby amended to read as follows:

Section 2-6-A-2 APPLICATION FOR LICENSE.

- A. Any person desiring to secure a new or renewal CMB retailer's business license under the provisions of this Article shall make a verified application to the City and accompany the application by the required license fee for the type of license required. The application shall be made upon a form which shall have been approved by the Kansas Attorney General and shall contain all the information requested thereon.

SECTION TWO: Section 2-6-A-4 is hereby amended to read as follows:

Section 2-6-A-4 ISSUANCE OF LICENSE; RESTRICTIONS.

- A. If the application is in proper form, accompanied by the license fee and all other necessary information, and if after examination the applicant appears to be qualified as provided by law, City staff shall place the matter on the next available Governing Body agenda for approval. The Governing Body shall, if the applicant is qualified as provided by law, issue a CMB retailer's business license to such applicant. No license shall be issued to:
 - 1. A person who is not a citizen of the United States.
 - 2. A person who is not of good character and reputation in the community in which he resides.

3. A person who, within two (2) years immediately preceding the date of application approval, has been convicted of, released from incarceration for, or released from probation or parole for, a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.
 4. A partnership, unless all the members of such partnership shall otherwise be qualified to obtain a license.
 5. A corporation, if any manager, officer or director thereof or any stockholder owning in the aggregate more than twenty five percent (25%) of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than twenty five percent (25%) of the stock, of a corporation which: 1) has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or 2) has been convicted of a violation of the Club and Drinking Establishment Act or the cereal malt beverage laws of this State; or 3) would be ineligible to receive a license hereunder for any reason other than the citizenship requirement.
 6. A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses all the qualifications required of the licensee.
 7. A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship or age, except that this subsection shall not apply in determining eligibility for a renewal license.
 8. A person whose spouse has been convicted of a felony or other crime that would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act.
- B. If the applicant is not qualified as provided by law, City staff shall inform the applicant as to the reason for denial, and/or give the applicant the opportunity to correct any omissions in the application. If the applicant is denied, he shall have the right to appeal said decision to the Governing Body as provided in Section 2-6-A-13.

SECTION THREE: Section 2-6-A-6 is hereby amended to read as follows:

Section 2-6-A-6 CONDITIONS OF LICENSE.

- A. License Nontransferable: No license issued hereunder shall be transferable to another person, partnership, or corporation.
- B. Hours Of Operation:
 1. Cereal malt beverages or 6% Beer, except as provided herein, may be sold between the hours of 6:00 A.M. and 12:00 A.M. Monday

through Saturday. Prepackaged Cereal Malt Beverage or 6% Beer may be sold between the hours of 9:00 A.M. and 8:00 P.M. on Sunday. Prepackaged Cereal Malt Beverage or 6% Beers shall not be sold on Easter Sunday, Thanksgiving Day, or Christmas Day within the corporate limits of the City.

2. Except as set forth in subsection 2-4-A-2-B of this Title, any establishment with an on-premises CMB license, as provided in this Article, may sell Cereal Malt Beverages or 6% Beer for consumption on the premises on Sundays between the hours of six o'clock (6:00) A.M. and twelve o'clock (12:00) midnight; provided, that the place of business garners at least thirty percent (30%) of its gross sales in the sale of food as defined by K.S.A. 41-2601(j), as amended, on an annual basis.

The City may require records, audits, verifications, affidavits, or any other information necessary to verify the annual gross sales of food for any applicant or renewal licensee including, upon demand, the right to inspect the record books of said establishment.

3. Cereal malt beverages may also be sold on premises that are licensed pursuant to both the Kansas Cereal Malt Beverage Act (K.S.A. 41-2701 *et seq.*) and the Club and Drinking Establishment Act at any time when Alcoholic Liquor is allowed by law to be served on the premises.

- C. Closed Booths; Private Rooms: No closed booths or private rooms shall be operated in any licensed place of business, but this provision shall not apply if the licensed place of business is also currently licensed as a club pursuant to the Club and Drinking Establishment Act.
- D. Public Facility: The licensed place of business shall be open to the public and to police officers of the City at all times during business hours.
- E. Minors: No licensee shall permit a person under the legal age for consumption of Cereal Malt Beverage or 6% Beer to possess, consume or purchase any Cereal Malt Beverage in or about their place of business, except that a licensee's employee who is not less than eighteen (18) years of age may dispense or sell Cereal Malt Beverage or 6% Beer, if: 1) the business has a valid off-premises CMB license; or 2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501 and amendments thereto, and not less than fifty percent (50%) of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.
- F. Alcoholic Liquor Prohibited: No person shall have any Alcoholic Liquor, except 6% Beer, in his possession while in such place of business. This restriction shall not apply to premises licensed as a club or drinking establishment pursuant to the Club and Drinking Establishment Act.

- G. Sanitary And Health Regulations: The licensee, in the operation of such place of business, shall, at all times, comply with the sanitary and health regulations and ordinances of the City, County and State.
- H. Sale On Credit Prohibited: It shall be unlawful for any retailer to sell or furnish Cereal Malt Beverages or 6% Beer at retail to any person on credit or on a passbook or order on a store or in exchange of any goods, wares, or merchandise or for any payment of services rendered. A licensed place of business may sell Cereal Malt Beverages or 6% Beer to a consumer on credit pursuant to a credit card which entitles the user to purchase goods or services from at least one hundred (100) persons not related to the issuer of the credit card.
- I. Change of Location: Upon special application to and approval by the Governing Body, the place of business of any licensee may be changed from one location to another within the City, provided the location change is otherwise permitted by law and the licensee has paid the change of location fee as adopted by ordinance or resolution or as otherwise permitted.

SECTION FOUR: Section 2-6-B-7 is hereby amended to read as follows:

Section 2-6-B-7 PROHIBITED HOURS OF SALE.

Alcoholic liquor may be sold at retail: (1) between the hours of 9:00 A.M. and 11:00 P.M. Monday through Saturday; and (2) on Sunday between the hours of 9:00 A.M. and 8:00 P.M. Alcoholic Liquor shall not be sold at retail on Easter Sunday, Thanksgiving Day, or Christmas Day.

SECTION FIVE: Section 3-9-G-2 is hereby amended to read as follows:

Section 3-9-G-2 ALCOHOLIC LIQUOR.

See Section 2-6-E-1 and Section 2-6-E-2 of this Code for definitions.

A. Drinking In Public Places:

- 1. Prohibited: Except as otherwise provided herein, it shall be unlawful for any person to drink or consume alcoholic liquor, or possess an open container of alcoholic liquor, on any public property including public parks, buildings, parking lots, sidewalks, streets, alleys, roads or highways, or while inside a vehicle on any such public property. For purposes of this Section, "open container" shall mean an open package or container, the seal of which has been broken and the original cap, cork, or other means of closure has been opened or removed.
- 2. Exemptions:
 - a. The provisions of subsection A-1 shall not apply to the possession or consumption of alcoholic liquor upon real property leased by the City to others under the provisions of K.S.A. 12-1740 through 12-1749d, as amended. This provision does not prohibit the Lessee of any such property from establishing its own policies regarding alcoholic liquor.

- b. The City may exempt, by ordinance (pursuant to K.S.A. 41-719, as amended), specified property, title of which is vested in the City, from the provisions of subsection A-1. The City hereby expressly exempts the following described properties, and permits possession or consumption of alcoholic liquor thereon, subject to the listed conditions:
 1. Thompson House, 11180 Lackman Road. This exemption does not prohibit the Lessee of this property from establishing its own policies regarding alcoholic liquor on the premises.
 2. For private events: upon the following City properties with an approved alcoholic liquor permit as provided in subsection A-3 below, and in compliance with all applicable laws, policies, rules and regulations:
 - a. Thompson Barn, 11184 Lackman Road;
 - b. Lenexa Community Center, 13420 Oak Street;
 - c. Lenexa Senior Center, 13425 Walnut Street;
 - d. As Astra Park, 8265 Maurer Road;
 - e. Black Hoof Park, 91st and Monticello;
 - f. Buffalo Meadows Park, Prairie Star Parkway and Lone Elm Road;
 - g. Electric Park, 93rd and Loiret Boulevard;
 - h. Matt Taylor Park, 82nd Terrace and Rosehill Road;
 - i. Sar-Ko-Par Trails Park, 87th and Lackman;
 - j. Lenexa City Hall, 17101 W. 87th St. Pkwy;
 - k. Lenexa Public Market, 8750 Penrose Lane; and
 - l. Lenexa Commons, 87th and Penrose.
 3. For City sponsored/hosted events:
 - a. Upon any City property with the prior approval of the City Manager; and
 - b. The Lenexa Commons and the reserved vendor stalls on the ground floor of the Lenexa civic campus parking garage during Lenexa Farmers Market Events, provided no alcoholic liquor shall be consumed in any vehicle.
 4. During the following City events held on City property: The Great Lenexa Barbeque Battle, Lenexa Chili Challenge, and Lenexa Spinach Festival.
3. Alcoholic Liquor Permit:
 - a. Any person desiring to secure an alcoholic liquor permit pursuant to subsection A-2-b-2 of this Section shall make written application to the City, on a form provided by the City, and pay a non-refundable application fee as adopted by ordinance, resolution, or as otherwise permitted. The application shall include the name, address and phone number of the applicant; the name of any associated group, organization or business; the date, time, duration, location and a brief

description of the proposed function; and any other information required by the City.

- b. Alcoholic liquor permits shall be reviewed and approved in the sole discretion of the City Manager, or designee. In determining whether to issue a permit, the City Manager or designee may consider, but shall not be limited to, the following:
 - 1. Whether the applicant or any associated group, organization or business has previously had a City cereal malt beverage or alcoholic liquor permit for a function, and the activity associated with that function resulted in a violation of the permit, a public offense, damage to City property, or other detrimental result.
 - 2. Whether the function may be contrary to the public health, safety or welfare in any manner, or would interfere with a person's peaceful enjoyment of the park, facility, or surrounding area.
 - c. Any applicant granted an alcoholic liquor permit must remain at the location of the function for which the permit was granted for the full duration thereof, and must have a copy of the permit in his or her possession at all times.
4. Alcoholic Liquor on Public Right-of-Way at Events:
- a. Alcoholic liquor or cereal malt beverage may be consumed on public streets, alleys, roads, sidewalks or highways as part of an event or catered event so long as:
 - 1. A temporary permit for the sale of alcoholic liquor has been issued for such special event pursuant to K.S.A. 41-2703, and amendments thereto, or K.S.A. 41-1201,, and amendments thereto, for such event;
 - 2. A caterer's licensee has provided the required notification for a catered event pursuant to K.S.A. 41-2643, and amendments thereto; or
 - 3. A public venue, hotel, hotel caterer, drinking establishment caterer or drinking establishment licensee has been authorized to extend its licensed premises pursuant to K.S.A. 41-2608, and amendments thereto.
 - b. Consumption of alcoholic liquor or cereal malt beverage on public streets, alleys, roads, sidewalks or highways must be approved by the Governing Body by ordinance or resolution as required by K.S.A. 41-719, and amendments thereto. The Governing Body approval also must include authorization for the closure of any applicable streets, alleys, roads, or highways, upon which alcoholic liquor or cereal malt beverage may be consumed, to motor vehicle traffic during such an event or catered event. The boundaries of any such event shall be clearly designated in any application for an event or catered event and in any approval granted by the Governing Body. The boundaries of any such special event or catered event

shall be clearly marked by signs, a posted map, or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed. Said special event also may require compliance with Section 4-1-B-25 of this Code.

- c. Drinking establishments that are immediately adjacent to, or located within the premises of an event for which a temporary permit has been issued and the consumption of alcoholic liquor or cereal malt beverage on public property has been approved, may request from the state director of alcoholic beverage control that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the event for the duration of the temporary permit issued for such event.
- d. Event Violations.
 - 1. No alcoholic liquor or cereal malt beverage may be consumed inside vehicles while on public streets, alleys, roads or highways at any event or catered event covered by subsection A-4.
 - 2. No person shall remove any alcoholic liquor or cereal malt beverage from inside the boundaries of an event or catered event, so long as the boundaries are clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor or cereal malt beverage may be possessed or consumed at such event.
- B. Sale; State Permit Required: No person shall sell or offer for sale any alcoholic liquor on public property where alcoholic liquor is permitted pursuant to this Section, without first obtaining from the State of Kansas, Division of Alcoholic Beverage Control (ABC) any and all necessary permits or licenses authorizing such sale.
- C. Drinking on Private Property: No person shall drink or consume alcoholic liquor on private property except as follows:
 - 1. on premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act, K.S.A. 41-2601 *et seq.*;
 - 2. upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;
 - 3. in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;
 - 4. in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

5. on the premises of a microbrewery or farm winery, if authorized by state law; or
 6. on the premises of an unlicensed business which has authorized patrons or guests of such business to consume alcoholic liquor on the premises of such business provided:
 - a. such alcoholic liquor is in the personal possession of the patron and is not sold, offered for sale or given away by the owner of such business or any employees thereof;
 - b. possession and consumption of alcoholic liquor shall not be authorized between the hours of 12 a.m. and 9 a.m.;
 - c. the business, or any owner thereof shall not have had a license issued under the Kansas liquor control act or the club and drinking establishment act revoked for any reason; and
 - d. no change of any sort may be made by the business for the privilege of possessing or consuming alcoholic liquor on the premises, or for mere entry onto the premises.
- D. Penalty: Violation of any part of subsection A or C shall constitute a public offense and is punishable by a fine of not less than \$50 and not more than \$200, or imprisonment not exceeding six months, or both. Violation of subsection B shall constitute a public offense and is punishable by a fine of not more than \$500, or imprisonment not exceeding six months, or both. Nothing in this Section shall be deemed to preclude any police officer, City Parks and Recreation staff member, or other authorized person from entering orders to assist in the enforcement of this Section, including but not limited to expulsion from the property and/or disposal or seizure of any cereal malt beverages or alcoholic liquor. Such orders may be in addition to, and not in lieu of, any prosecution under this Code.

SECTION SIX: Penalty: Any violation of the above provisions shall be punishable in accordance with Section 1-1-C-3, unless otherwise specifically set out.

SECTION SEVEN: Interpretation: This Ordinance shall be construed as follows:

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Savings Clause: The repeal of any Ordinance or Code Section, as provided herein, shall not revive an Ordinance previously repealed, nor shall the repeal affect any right which accrued, any duty imposed, any penalty incurred or any proceeding commenced, under or by virtue of the Ordinance repealed. Said Ordinance or Code repealed continues in force and effect after the passage, approval, and publication of this Ordinance for the purpose of pursuing such rights, duties, penalties, or proceedings.

C. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of this Ordinance, or the application thereof to any person or

circumstance, is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance, City Code or other ordinances.

SECTION EIGHT: Repeal: The existing Sections 2-6-A-2, 2-6-A-4, 2-6-A-6, 2-6-B-7 and 3-9-G-2 are hereby repealed.

SECTION NINE: Effective Date: This Ordinance shall be published once each week for two consecutive weeks in the official City newspaper. Following publication, this Ordinance shall take effect on August 30, 2021 unless a sufficient petition for referendum is filed, requiring a referendum to be held on the ordinance as provided in K.S.A. 41-2911, in which case this ordinance shall become effective upon approval by a majority of electors voting thereon.

PASSED BY the City Council June 15, 2021.

SIGNED BY the Mayor June 15, 2021.

CITY OF LENEXA, KANSAS

Michael A. Boehm, Mayor

ATTEST:

Jennifer Martin, City Clerk

APPROVED AS TO FORM:

Steven D. Shrout, Assistant City Attorney



**MINUTES OF THE
JUNE 1, 2021
LENEXA CITY COUNCIL MEETING
COMMUNITY FORUM, 17101 W 87th STREET PARKWAY
LENEXA, KS 66219**

CALL TO ORDER

Mayor Boehm called the meeting to order at 7 PM.

ROLL CALL

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

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

APPROVE MINUTES

Councilmember Roh made a motion to approve the May 18, 2021 City Council Meeting draft minutes and Councilmember Stuke seconded the motion. Motion passed unanimously.

MODIFICATION OF AGENDA

Staff added Item 5 under New Business, a resolution declaring it necessary to appropriate private property for a storm sewer reconstruction project.

PROCLAMATIONS

LGBTQ Pride Month
National Gun Safety Awareness Day – June 4

CONSENT AGENDA

1. Change Order No. 1 for the 2021 Pavement Management Program Thoroughfare Overlay Project
The bridge approach slabs for the Prairie Star Parkway overpass at K-7 Highway need to be replaced. Change Order No. 1 adds this work to the Thoroughfare Overlay Project in the 2021 Pavement Management Program. The total cost of the change order is \$231,795, which is an increase of 13% to the original contract price.
2. Resolution authorizing the Mayor to execute an agreement with IGM Technology Corp. for software used to prepare the budget document and annual financial report
The Finance Department requires software for the preparation of the budget document

and the annual financial report. The Gravity software platform from IGM Technology Corp. has been selected based on ease of use and fees. The implementation fee for the software is \$20,000 and the annual subscription fee is \$21,000 in Year 1 and \$21,630 (3% increase) in Year 2.

3. Ordinance authorizing the Mayor to grant a contract franchise to WANRack, LLC to construct, operate, and maintain a telecommunications system in the city
This ordinance will create a new franchise with WANRack, LLC to construct, operate, and maintain a telecommunications system in the city. The franchise ordinance includes a 5% fee on gross receipts and a two-year term with four automatic renewal terms of two years each for a total of 10 years.
4. Ordinance authorizing and providing for the acquisition of lands or interests therein by condemnation for the construction of the 109th Street to College Boulevard and Pflumm Road Storm Drainage Improvements Project
This ordinance authorizes City staff and its acquisition counsel to file a condemnation petition with the district court to acquire the necessary easements and rights-of-way for the construction of the 109th Street to College Boulevard and Pflumm Road Storm Drainage Improvements Project.

END OF CONSENT AGENDA

Councilmember Nolte made a motion to approve items 1-4 on the consent agenda and Councilmember Karlin seconded the motion. Motion passed unanimously.

NEW BUSINESS

5. Resolution declaring it necessary to appropriate private property for the use of the City of Lenexa, Kansas for the construction of certain public improvements associated with the storm sewer reconstruction project under the BNSF Railway located west of the intersection of Pflumm Road and Santa Fe Drive in Lenexa, Johnson County, Kansas

Sean McLaughlin, City Attorney, said that this is a procedural resolution that would typically be on the consent agenda. He said an 8-inch storm sewer pipe has failed and is causing flooding issues in Old Town along Santa Fe Trail Drive next to the BNSF Railway. He said that staff is working with BNSF and engineers to determine a solution, considering replacement of the failed pipe with a 24-inch pipe.

Mr. McLaughlin said that this item is being added now in case the City needs to go to condemnation to get the easement rights underneath the railroad for project. He said that this resolution authorizes the acquiring of property and starts the timeline to condemnation, should that become necessary.

Mr. McLaughlin said that staff recommends approval.

Councilmember Sayers made a motion to approve item 5 and Councilmember Eiterich seconded the motion. Motion passed unanimously.

BUSINESS FROM FLOOR

None

COUNCILMEMBER REPORTS

Councilmember Sayers said she attended the Arts Council's Peace Pole awards ceremony last week. She said that 30 teams created 37 poles, which are on display in Sar Ko Par Trails Park until September. Mayor Boehm added that the Peace Poles will be sold, and the proceeds will go to Project 1020.

STAFF REPORTS

Mike Nolan, Assistant City Manager, introduced Lucas Peterson as the Management Intern. Mr. Peterson is a Graduate Fellow MPA student at KU and will intern in the City Manager's office for one year.

Mr. Peterson thanked the Governing Body for allowing him this opportunity to learn in Lenexa.

Beccy Yocham, City Manager, said that there will be a Committee of the Whole Meeting next week where the Aquatics Study Phase 2 will be discussed. She said that the draft report was emailed and is also available on the City's website.

ADJOURN

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

The meeting adjourned at 7:20 PM.

Proclamation

WHEREAS, Lenexa held the first Great Lenexa Barbeque Battle in 1982 at the urging of founders Pat Dalton and Alan Uhl; and

WHEREAS, it was designated The State Championship of Kansas by Governor John Carlin on April 27, 1984; and

WHEREAS, the event provides wholesome recreation and competition for barbeque enthusiasts; and

WHEREAS, hundreds of Lenexan's are able to volunteer their talents towards making the contest a success; and

WHEREAS, this has become an important event in the City for the enjoyment of residents and visitors; and

WHEREAS, there are four meat category champions crowned including: beef, pork, ribs, and chicken; and one Grand Champion; and

WHEREAS, the Great Lenexa Barbeque Battle is observing its 39th anniversary in 2021; and

WHEREAS, this event brings to the City significant recognition and identification throughout the metropolitan area, the state of Kansas, and the Nation.

NOW, THEREFORE, I, Michael A. Boehm, Mayor of the City of Lenexa, Kansas do hereby proclaim the month of June 2021 to be

LENEXA BARBEQUE MONTH

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of June, 2021.

AGREEMENT FOR SCHOOL CROSSING GUARD SERVICES

THIS AGREEMENT is entered into by and between the City of Lenexa, Kansas, ("City") and All City Management Services, Inc. ("Company").

For and in consideration of the promises and agreements herein set forth, the City and the Company agree as follows:

1. Purpose

The purpose of this agreement is to provide school crossing guards at certain designated public school locations throughout the City of Lenexa, Kansas.

2. Term

The term of this agreement shall commence on the 1st day of August, 2021, and end on the last school day of the spring semester of 2022, which will be no later than June 30th, 2022, unless otherwise terminated as provided herein.

3. Scope and Description of Services

- A. The Company will provide trained individuals to work at designated locations throughout the City of Lenexa.
- B. The City requires the furnishing of school crossing guards at times and locations designated in "APPENDIX B - CROSSING GUARD LOCATIONS" attached hereto and incorporated herein by reference. (Number of locations may be modified at any time at the sole discretion of the City).
- C. All personnel of the Company assigned as school crossing guards shall be appropriately trained and shall meet the following criteria:
 - Minimum age of eighteen (18) years
 - Good physical and mental health
 - Ability to read and write English
 - Ability to understand and follow directions; and
 - Not be a registered sex offender.
- D. Company agrees to conduct its standard criminal background check on all candidates to be assigned as school crossing guards in City. Company agrees that no candidate will be hired to work in City whose background check reveals that he/she has been convicted of any persons crimes, any crime against children, or any crime involving moral turpitude. Additionally, Company agrees that any drug or other convictions will be individually reviewed by Company to determine the appropriateness of the candidate to work near or with children.
- E. All personnel of the Company assigned as school crossing guards shall be provided with proper equipment and uniforms, and shall, when working, be in uniform and identifiable as a school crossing guard.
- F. Supervisors shall be selected by the Company to supervise all guards. Supervisors shall be responsible for scheduling the crossing guards, visiting and inspecting the guards while they are on duty, and filling in as necessary for open shifts, illness, etc. Supervisors shall ensure that each crossing is covered as required by a trained guard, and that the guards are performing the duties required of them.
- G. A Company staff person shall be assigned to be the project manager. This person shall work with the above-described supervisor(s) and City staff to ensure that the overall goals

of the program are met, to make unannounced periodic visits to the crosswalks to observe the crossing guards' performance while on duty, and to hold regularly scheduled meetings with City staff to review the program and administer any adjustments necessary to maintain an effective, efficient, and well-managed program.

4. Payment for Services

Unless otherwise authorized by the City in writing, the City shall pay to the Company, as full payment for all services to be performed by the Company pursuant to this agreement, as follows:

Fall 2021 & Spring 2022:

Crossing Officers: \$23.11 per hour, max one hour per day

The parties understand that due to COVID-19, weather, or other unforeseen circumstances, the operation of schools may be interrupted and/or altered, possibly multiple times, throughout the term of this Agreement. The parties agree that services shall be performed, and payment made, only for days when school is in session.

Services added, services not actually provided, or services not complying with this agreement, will be added/deducted to/from this amount on an appropriate, prorated basis, reflecting the number of service days in each month. The increase/reduction in cost is a matter of contract and shall not be construed as a liquidation of the City's right to collect damages that result from the Company's failure to complete the requested work.

The Company shall submit invoices for payment on a bi-weekly basis to include all services performed in the previous bi-weekly period. Terms are Net 30 days.

5. Independent Contractor

The Company shall at all times operate as an Independent contractor and shall not at any time be considered an agent or employee of the City.

6. Taxes and Overhead

The Company shall assume full responsibility for workers' compensation, state and federal unemployment taxes, social security, withholding tax deductions, uniforms, training programs, liability insurance, legal liability insurance, and all necessary licenses, administration, inspection, and supervision costs.

7. Compliance with All Laws

The Company shall comply with all applicable statutes, ordinances, and regulations of the United States, the State of Kansas, and the City of Lenexa.

8. Insurance and Indemnification

- A. The Company shall carry and keep in force insurance as required in the attached "APPENDIX A."
- B. The Company agrees to indemnify and hold harmless the City from any claims, damages or liabilities, including legal fees that the City may incur, as a consequence of any negligent act or omission or other actionable fault by the Company, or its agents and employees, in the performance of its obligations under this agreement.
- C. The Company shall not be liable to the City for any alleged negligence attributable to the City.
- D. Nothing in this agreement is intended to be interpreted to expand any liability that the Company may have to any third party.

- E. It is hereby agreed and understood between the Parties that the required insurance policies, coverage forms and/or additional insured designations required by Appendix A are not intended to waive application of the Kansas Tort Claims Act, K.S.A. 75-6101 et seq., to any claim related to or arising out of this Agreement in any way. Specifically, the Parties intend that the liability exemptions set forth in K.S.A. 75-6104 and the liability limits set forth in K.S.A. 75-6105 are not waived by the provisions of Appendix A. Further, to the extent the City and/or Company believe that one or more provisions of the Kansas Tort Claims Act should apply to a claim related to or arising out of this Agreement, and a court determines that it does not, City is entitled to seek indemnification from Vendor up to and including the full limits of insurance required by Appendix A.

9. Termination

In the event the Company fails to adequately meet the requirements of this agreement, the City reserves the right to cancel this agreement at any time.

The City may also cancel this agreement for any or no reason by issuing twenty (20) days written notice to the Company.

10. Successors and Assigns

This agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the parties hereto. Any successor to the Company's rights under this agreement must be approved by the City in writing. Any successor will be required to accede to all of the terms, conditions, and requirements of this agreement as a condition precedent to such succession. Assignment of any portion of the work must be approved in advance, in writing, by the parties thereto.

11. Noncollusion

The Company warrants and represents that it has not paid and agrees not to pay any bonus, commission, fee, or gratuity to any employee or official of the City for the purpose of obtaining this agreement.

12. Nondiscrimination in Employment

In accordance with K.S.A. 44-1030, Company agrees that:

- (1) Company shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present Agreement because of race, religion, color, sex, disability, gender orientation, sexual identity, national origin or ancestry;
- (2) In all solicitations or advertisements for employees, Company shall include the phrase "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");
- (3) If Company fails to comply with the manner in which it reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Company shall be deemed to have breached the present Agreement and it may be cancelled, terminated or suspended, in whole or in part, by the City;
- (4) If Company is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, Company shall be deemed to have breached the present Agreement and it may be cancelled, terminated or suspended, in whole or in part, by the City; and
- (5) Company shall include the provisions of subsections (1) through (4) (immediately above) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

The provisions of this Section shall not apply to Company if:

(1) It employs fewer than four employees during the term of this Agreement; or

(2) This Agreement cumulatively totals \$5,000 or less during the fiscal year of City.

13. Notices

All notices shall be sent to:

CITY:
Lenexa Police Department
Attn: Captain Brett Rushton
12500 W. 87th
Lenexa, KS 66215
E-mail: wborchers@lenexa.com

COMPANY:
John Dotson, Director of Field Operations
All City Management Services, Inc.
10440 Pioneer Blvd. Suite 5
Santa Fe Springs, CA 90670
E-mail: John@thecrossingguardcompany.com

14. Governing Law

This agreement shall be interpreted under and governed solely by the laws of the State of Kansas.

15. Headings

The section headings of this agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this agreement.

16. Authority

The parties represent that the individual executing this Agreement on behalf of the entity has the authority to bind the entity and agree to the terms contained herein.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as recited above.

"CITY" – City of Lenexa

[SEAL]

Michael A. Boehm, Mayor

Date

Attest:

Jennifer Martin, City Clerk

Approved as to form:

MacKenzie Harvison
Deputy City Attorney

"COMPANY" – All City Management Services, Inc.

Demetra Farwell, Corporate Secretary

Date

APPENDIX A: INSURANCE REQUIREMENTS

- A. Company shall procure, and maintain for the duration of this agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services provided hereunder. The cost of such insurance shall be the sole responsibility of Company.
- B. Company shall maintain the following coverage's and minimum limits.
 - 1. Commercial General Liability: [ISO "occurrence" form or its equivalent] \$1,000,000 per occurrence limit and products - completed operations aggregate limit. Any general aggregate limit should be at least \$2 million with a per site/project endorsement. Policy must include contractual liability and independent contractors. ISO form endorsements or other policy provisions which limit contractual liability are not acceptable.
 - 2. Automobile Coverage: Policy shall protect Company against claims for bodily injury and/or property damage arising out of the ownership or use of any auto; or any owned, hired, and non-owned autos. \$1,000,000 per occurrence limit.
 - 3. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the statutes of the state of Kansas and employers liability limits of \$100,000/\$500,000. When workers' compensation insurance policy is applicable, waiver of subrogation and "other states" coverage is required.
 - 4. Coverage Limits. Coverage limits for General and Auto liability exposures may be met by a combination of primary and umbrella policy limits.
 - 5. Exposure Limits: The above are minimum acceptable coverage limits and do not infer or place a limit on the liability of the Company. Any insurance or self-insurance maintained by the City of Lenexa shall be excess and not contribute with the coverage provided by the Company.
- C. Additional Insured. The City of Lenexa shall be listed as an additional insured with respect to any insurance required by this Agreement.
- D. Verification of Coverage.
 - 1. Company shall furnish the City certificates of insurance accompanied by additional insured endorsements (ISO Form CG 2010 or its equivalent) effecting the coverage required by the City. The endorsements and certificate for each insurance policy are to be executed by a person authorized by the insurer to bind coverage on its behalf.
 - 2. The certificate of insurance must contain a statement that the insurance coverages are or are not provided by Kansas admitted insurance companies. Those that are not licensed in Kansas must specifically be approved by City.
 - 3. Any self-insurance or self-insured retentions must be specified on the certificate of insurance. In addition, the name, address, and telephone number of the claims office must be indicated on the certificate or separate attached document. Any and all deductibles or self-insurance in the above described coverages shall be assumed by and be for the account of, and at the sole risk of the Company.
 - 4. If any of the foregoing insurance coverages are required to remain in force after final payment, a current certificate with appropriate endorsements evidencing continuation of such coverage shall be submitted along with the application for final payment.
- E. Cancellation. Each Insurance policy required by this agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits; unless thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
- F. Subcontractors. The Company shall include all subcontractors as additional insureds under its policies or shall furnish to the City separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

APPENDIX B: CROSSING GUARD LOCATIONS 2018-2019

School	Intersection	Shifts
Mill Creek	79 th & Pflumm	(1) Beginning 30 minutes prior to school start time for 30 minutes, and (2) beginning 5 minutes prior to school dismissal time for 30 minutes, or as otherwise agreed to by the parties. Maximum 1 hour/day.
Mill Creek	79 th & Cottonwood	Same as above
Christa McAuliffe	83 rd & Tomashaw	Same as above
Christa McAuliffe	83 rd & Maurer	Same as above
Rising Star	87 th & Candlelight	Same as above
Rising Star	87 th & Candlelight	Same as above
Sunflower	90 th & Loiret	Same as above
Sunflower	90 th & Lackman	Same as above
Lenexa Hills	87 th & Haven	Same as above
Rosehill	99 th & Rosehill	Same as above
Canyon Creek	97 th & McCormack	Same as above
Manchester	98 th & Prairie Creek	Same as above
Manchester	98 th Terr & Prairie Creek	Same as above
Manchester	99 th & Prairie Creek	Same as above

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE LENEXA CITY CODE REGARDING ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGE LICENSING, HOURS OF RETAIL SALES, AND CONSUMPTION AND POSSESSION ON CERTAIN PUBLIC PROPERTY.

WHEREAS, in 2021, the Kansas Legislature approved House Bill 2137 eliminating Kansas residency requirements for licensure, expanding the authorized hours for retail sales of alcoholic liquor and cereal malt beverages, and clarifying authority to consume and possess alcoholic liquor and cereal malt beverages on public right-of-way subject to certain conditions (the "2021 Act"); and

WHEREAS, pursuant to K.S.A. 41-2911(b)(1)(A), the City must pass an ordinance to authorize the expanded hours of sales on Sundays; and

WHEREAS, the City desires to amend the Lenexa City Code to ensure City Code is not in conflict with state law and to allow retail sales of alcoholic liquor and cereal malt beverages as early as 9:00 A.M. on Sundays in accordance with the 2021 Act.

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

SECTION ONE: Section 2-6-A-2 is hereby amended to read as follows:

Section 2-6-A-2 APPLICATION FOR LICENSE.

Any person desiring to secure a new or renewal CMB retailer's business license under the provisions of this Article shall make a verified application to the City and accompany the application by the required license fee for the type of license required. The application shall be made upon a form which shall have been approved by the Kansas Attorney General and shall contain all the information requested thereon.~~and shall contain, at a minimum:~~

- ~~A. The name and residence of the applicant and how long he has resided within the State;~~
- ~~B. The particular place of business for which a license is desired;~~
- ~~C. The name of the owner of the premises upon which the place of business is located; and~~
- ~~D.A. A statement that the applicant is a citizen of the United States and not less than twenty one (21) years of age, and that he has not, within two (2) years immediately preceding the date of making application, been convicted of a felony, any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor, or violation of any other intoxicating liquor law of any city, state or of the United States.~~

SECTION TWO: Section 2-6-A-4 is hereby amended to read as follows:

Section 2-6-A-4 ISSUANCE OF LICENSE; RESTRICTIONS.

A. If the application is in proper form, accompanied by the license fee and all other necessary information, and if after examination the applicant appears to be qualified as provided by law, City staff shall place the matter on the next available Governing Body agenda for approval. The Governing Body shall, if the applicant is qualified as provided by law, issue a CMB retailer's business license to such applicant. No license shall be issued to:

~~1. A person who has not been a resident of Johnson County for at least six (6) months preceding application, and who has not been a resident of Kansas in good faith for at least one (1) year preceding application.~~

~~2.1.~~ A person who is not a citizen of the United States.

~~3.2.~~ A person who is not of good character and reputation in the community in which he resides.

~~4.3.~~ A person who, within two (2) years immediately preceding the date of application approval, has been convicted of, released from incarceration for, or released from probation or parole for, a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.

~~5.4.~~ A partnership, unless all the members of such partnership shall otherwise be qualified to obtain a license.

~~6.5.~~ A corporation, if any manager, officer or director thereof or any stockholder owning in the aggregate more than twenty five percent (25%) of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than twenty five percent (25%) of the stock, of a corporation which: 1) has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or 2) has been convicted of a violation of the Club and Drinking Establishment Act or the cereal malt beverage laws of this State; or 3) would be ineligible to receive a license hereunder for any reason other than the citizenship ~~and residency~~ requirements.

~~7.6.~~ A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses all the qualifications required of the licensee.

~~8.7.~~ A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, ~~residence~~ requirements or age, except that this subsection shall not apply in determining eligibility for a renewal license.

9-8. _____ A person whose spouse has been convicted of a felony or other crime ~~which that~~ would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act.

- B. If the applicant is not qualified as provided by law, City staff shall inform the applicant as to the reason for denial, and/or give the applicant the opportunity to correct any omissions in the application. If the applicant is denied, he shall have the right to appeal said decision to the Governing Body as provided in Section 2-6-A-13.

SECTION THREE: Section 2-6-A-6 is hereby amended to read as follows:

Section 2-6-A-6 CONDITIONS OF LICENSE.

- A. License Nontransferable: No license issued hereunder shall be transferable to another person, partnership, or corporation.

- B. Hours Of Operation:

1. Cereal malt beverages or 6% Beer, except as provided herein, may be sold between the hours of ~~six o'clock (6:00)~~ 6:00 A.M. and ~~twelve o'clock (12:00)~~ 12:00 A.M. ~~midnight~~ Monday through Saturday. Prepackaged Cereal Malt Beverage or 6% Beer may be sold between the hours of 9:00 A.M. ~~twelve o'clock (12:00)~~ noon and 8:00 P.M. ~~eight o'clock (8:00)~~ P.M. on Sunday ~~but not on Easter.~~ Prepackaged Cereal Malt Beverage or 6% Beer shall not be sold on Easter Sunday, Thanksgiving Day, or Christmas Day ~~may be sold on Memorial Day, Independence Day and Labor Day at such times as otherwise permitted, but not Thanksgiving Day or Christmas Day,~~ within the corporate limits of the City.
2. Except as set forth in subsection 2-4-A-2-B of this Title, any establishment with an on-premises CMB license, as provided in this Article, may sell Cereal Malt Beverages or 6% Beer for consumption on the premises on Sundays between the hours of six o'clock (6:00) A.M. and twelve o'clock (12:00) midnight; provided, that the place of business garners at least thirty percent (30%) of its gross sales in the sale of food as defined by K.S.A. 41-2601(j), as amended, on an annual basis.

The City may require records, audits, verifications, affidavits, or any other information necessary to verify the annual gross sales of food for any applicant or renewal licensee including, upon demand, the right to inspect the record books of said establishment.

3. Cereal malt beverages may also be sold on premises ~~which that~~ are licensed pursuant to both the Kansas Cereal Malt Beverage Act (K.S.A. 41-2701 *et seq.*) and the Club and Drinking Establishment

Act at any time when Alcoholic Liquor is allowed by law to be served on the premises.

- C. Closed Booths; Private Rooms: No closed booths or private rooms shall be operated in any licensed place of business, but this provision shall not apply if the licensed place of business is also currently licensed as a club pursuant to the Club and Drinking Establishment Act.
- D. Public Facility: The licensed place of business shall be open to the public and to police officers of the City at all times during business hours.
- E. Minors: No licensee shall permit a person under the legal age for consumption of Cereal Malt Beverage or 6% Beer to possess, consume or purchase any Cereal Malt Beverage in or about their place of business, except that a licensee's employee who is not less than eighteen (18) years of age may dispense or sell Cereal Malt Beverage or 6% Beer, if: 1) the business has a valid off-premises CMB license; or 2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501 and amendments thereto, and not less than fifty percent (50%) of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.
- F. Alcoholic Liquor Prohibited: No person shall have any Alcoholic Liquor, except 6% Beer, in his possession while in such place of business. This restriction shall not apply to premises licensed as a club or drinking establishment pursuant to the Club and Drinking Establishment Act.
- G. Sanitary And Health Regulations: The licensee, in the operation of such place of business, shall, at all times, comply with the sanitary and health regulations and ordinances of the City, County and State.
- H. Sale On Credit Prohibited: It shall be unlawful for any retailer to sell or furnish Cereal Malt Beverages or 6% Beer at retail to any person on credit or on a passbook or order on a store or in exchange of any goods, wares, or merchandise or for any payment of services rendered. A licensed place of business may sell Cereal Malt Beverages or 6% Beer to a consumer on credit pursuant to a credit card which entitles the user to purchase goods or services from at least one hundred (100) persons not related to the issuer of the credit card.
- I. Change of Location: Upon special application to and approval by the Governing Body, the place of business of any licensee may be changed from one location to another within the City, provided the location change is otherwise permitted by law and the licensee has paid the change of location fee as adopted by ordinance or resolution or as otherwise permitted.

SECTION FOUR: Section 2-6-B-7 is hereby amended to read as follows:

Section 2-6-B-7 PROHIBITED HOURS OF SALE.

Alcoholic liquor may be sold at retail: (1) between the hours of 9:00 ~~a.m.~~ A.M. and 11:00 P.M. ~~p.m.~~ Monday through Saturday; and (2) on Sunday between the hours of ~~12:00 noon~~ 9:00 A.M. and 8:00 P.M. ~~p.m. but not on Easter; and (3) on Memorial Day, Independence Day and Labor Day at such times as otherwise permitted, but not on Thanksgiving Day or Christmas Day.~~

Alcoholic Liquor shall not be sold at retail on Easter Sunday, Thanksgiving Day, or Christmas Day.

SECTION FIVE: Section 3-9-G-2 is hereby amended to read as follows:

Section 3-9-G-2 ALCOHOLIC LIQUOR.

See Section 2-6-E-1 and Section 2-6-E-2 of this Code for definitions.

A. Drinking In Public Places:

1. Prohibited: Except as otherwise provided herein, it shall be unlawful for any person to drink or consume alcoholic liquor, or possess an open container of alcoholic liquor, on any public property including public parks, buildings, parking lots, sidewalks, streets, alleys, roads or highways, or while inside a vehicle on any such public property. For purposes of this Section, "open container" shall mean an open package or container, the seal of which has been broken and the original cap, cork, or other means of closure has been opened or removed.
2. Exemptions:
 - a. The provisions of subsection A-1 shall not apply to the possession or consumption of alcoholic liquor upon real property leased by the City to others under the provisions of K.S.A. 12-1740 through 12-1749d, as amended. This provision does not prohibit the Lessee of any such property from establishing its own policies regarding alcoholic liquor.
 - b. The City may exempt, by ordinance (pursuant to K.S.A. 41-719, as amended), specified property, title of which is vested in the City, from the provisions of subsection A-1. The City hereby expressly exempts the following described properties, and permits possession or consumption of alcoholic liquor thereon, subject to the listed conditions:
 1. Thompson House, 11180 Lackman Road. This exemption does not prohibit the Lessee of this property from establishing its own policies regarding alcoholic liquor on the premises.
 2. For private events: upon the following City properties with an approved alcoholic liquor permit as provided in subsection A-

3 below, and in compliance with all applicable laws, policies, rules and regulations:

- a. Thompson Barn, 11184 Lackman Road;
- b. Lenexa Community Center, 13420 Oak Street;
- c. Lenexa Senior Center, 13425 Walnut Street;
- d. As Astra Park, 8265 Maurer Road;
- e. Black Hoof Park, 91st and Monticello;
- f. Buffalo Meadows Park, Prairie Star Parkway and Lone Elm Road;
- g. Electric Park, 93rd and Loiret Boulevard;
- h. Matt Taylor Park, 82nd Terrace and Rosehill Road;
- i. Sar-Ko-Par Trails Park, 87th and Lackman;
- j. Lenexa City Hall, 17101 W. 87th St. Pkwy;
- k. Lenexa Public Market, 8750 Penrose Lane; and
- l. Lenexa Commons, 87th and Penrose.

3. For City sponsored/hosted events:

- a. Upon any City property with the prior approval of the City Manager; and
- b. The Lenexa Commons and the reserved vendor stalls on the ground floor of the Lenexa civic campus parking garage during Lenexa Farmers Market Events, provided no alcoholic liquor shall be consumed in any vehicle.

4. During the following City events held on City property: The Great Lenexa Barbeque Battle, Lenexa Chili Challenge, and Lenexa Spinach Festival.

3. Alcoholic Liquor Permit:

- a. Any person desiring to secure an alcoholic liquor permit pursuant to subsection A-2-b-2 of this Section shall make written application to the City, on a form provided by the City, and pay a non-refundable application fee as adopted by ordinance, resolution, or as otherwise permitted. The application shall include the name, address and phone number of the applicant; the name of any associated group, organization or business; the date, time, duration, location and a brief description of the proposed function; and any other information required by the City.
- b. Alcoholic liquor permits shall be reviewed and approved in the sole discretion of the City Manager, or designee. In determining whether to issue a permit, the City Manager or designee may consider, but shall not be limited to, the following:
 1. Whether the applicant or any associated group, organization or business has previously had a City cereal malt beverage or alcoholic liquor permit for a function, and the activity associated with that function resulted in a violation of the permit, a public offense, damage to City property, or other detrimental result.

2. Whether the function may be contrary to the public health, safety or welfare in any manner, or would interfere with a person's peaceful enjoyment of the park, facility, or surrounding area.
 - c. Any applicant granted an alcoholic liquor permit must remain at the location of the function for which the permit was granted for the full duration thereof, and must have a copy of the permit in his or her possession at all times.
4. Alcoholic Liquor on Public Right-of-Way at Events:
 - a. Alcoholic liquor or cereal malt beverage may be consumed on public streets, alleys, roads, sidewalks or highways as part of an event or catered event so long as:
 1. A temporary permit for the sale of alcoholic liquor has been issued for such special event pursuant to K.S.A. 41-2703, and amendments thereto, or K.S.A. 41-1201, New Section 1, Chapter 57 of the 2019 Session Laws of Kansas, and amendments thereto, for such event;
 2. A caterer's licensee has provided the required notification for a catered event pursuant to K.S.A. 41-2643, and amendments thereto; or
 3. A public venue, hotel, hotel caterer, drinking establishment caterer or drinking establishment licensee has been authorized to extend its licensed premises pursuant to K.S.A. 41-2608, and amendments thereto.
 - b. Consumption of alcoholic liquor or cereal malt beverage on public streets, alleys, roads, sidewalks or highways must be approved by the Governing Body by ordinance or resolution as required by K.S.A. 41-719, and amendments thereto. The Governing Body approval also must include authorization for the closure of any applicable streets, alleys, roads, or highways, upon which alcoholic liquor or cereal malt beverage may be consumed, to motor vehicle traffic during such an event or catered event. The boundaries of any such event shall be clearly designated in any application for an event or catered event and in any approval granted by the Governing Body. The boundaries of any such special event or catered event shall be clearly marked by signs, a posted map, or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed. Said special event also may require compliance with Section 4-1-B-25 of this Code.
 - c. Drinking establishments that are immediately adjacent to, or located within the premises of an event for which a temporary permit has been issued and the consumption of alcoholic liquor or cereal malt beverage on public property has been approved, may request from the state director of alcoholic beverage control that the drinking establishment's licensed premises be extended into and made a part

of the licensed premises of the event for the duration of the temporary permit issued for such event.

d. Event Violations.

1. No alcoholic liquor or cereal malt beverage may be consumed inside vehicles while on public streets, alleys, roads or highways at any event or catered event covered by subsection A-4.
2. No person shall remove any alcoholic liquor or cereal malt beverage from inside the boundaries of an event or catered event, so long as the boundaries are clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor or cereal malt beverage may be possessed or consumed at such event.

B. Sale; State Permit Required: No person shall sell or offer for sale any alcoholic liquor on public property where alcoholic liquor is permitted pursuant to this Section, without first obtaining from the State of Kansas, Division of Alcoholic Beverage Control (ABC) any and all necessary permits or licenses authorizing such sale.

C. Drinking on Private Property: No person shall drink or consume alcoholic liquor on private property except as follows:

1. on premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act, K.S.A. 41-2601 *et seq.*;
2. upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;
3. in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;
4. in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;
5. on the premises of a microbrewery or farm winery, if authorized by state law; or
6. on the premises of an unlicensed business which has authorized patrons or guests of such business to consume alcoholic liquor on the premises of such business provided:
 - a. such alcoholic liquor is in the personal possession of the patron and is not sold, offered for sale or given away by the owner of such business or any employees thereof;
 - b. possession and consumption of alcoholic liquor shall not be authorized between the hours of 12 a.m. and 9 a.m.;

- c. the business, or any owner thereof shall not have had a license issued under the Kansas liquor control act or the club and drinking establishment act revoked for any reason; and
 - d. no change of any sort may be made by the business for the privilege of possessing or consuming alcoholic liquor on the premises, or for mere entry onto the premises.
- D. **Penalty:** Violation of any part of subsection A or C shall constitute a public offense and is punishable by a fine of not less than \$50 and not more than \$200, or imprisonment not exceeding six months, or both. Violation of subsection B shall constitute a public offense and is punishable by a fine of not more than \$500, or imprisonment not exceeding six months, or both. Nothing in this Section shall be deemed to preclude any police officer, City Parks and Recreation staff member, or other authorized person from entering orders to assist in the enforcement of this Section, including but not limited to expulsion from the property and/or disposal or seizure of any cereal malt beverages or alcoholic liquor. Such orders may be in addition to, and not in lieu of, any prosecution under this Code.

SECTION SIX: **Penalty:** Any violation of the above provisions shall be punishable in accordance with Section 1-1-C-3, unless otherwise specifically set out.

SECTION SEVEN: **Interpretation:** This Ordinance shall be construed as follows:

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Savings Clause:** The repeal of any Ordinance or Code Section, as provided herein, shall not revive an Ordinance previously repealed, nor shall the repeal affect any right which accrued, any duty imposed, any penalty incurred or any proceeding commenced, under or by virtue of the Ordinance repealed. Said Ordinance or Code repealed continues in force and effect after the passage, approval, and publication of this Ordinance for the purpose of pursuing such rights, duties, penalties, or proceedings.

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

SECTION EIGHT: **Repeal:** The existing Sections 2-6-A-2, 2-6-A-4, 2-6-A-6, 2-6-B-7 and 3-9-G-2 are hereby repealed.

SECTION NINE: **Effective Date:** This Ordinance shall be published once each week for two consecutive weeks in the official City newspaper. Following publication, this Ordinance shall take effect on August 30, 2021 unless a sufficient petition for referendum is filed, requiring a referendum to be held on the ordinance as provided in K.S.A. 41-2911,

in which case this ordinance shall become effective upon approval by a majority of electors voting thereon.

PASSED BY the City Council June 15, 2021.

SIGNED BY the Mayor June 15, 2021.

CITY OF LENEXA, KANSAS

Michael A. Boehm, Mayor

ATTEST:

Jennifer Martin, City Clerk

APPROVED AS TO FORM:

Steven D. Shrout, Assistant City Attorney