

**CITY OF LEAVENWORTH
PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N. 5th Street
Leavenworth, KS 66048**

**REGULAR SESSION
Monday, June 6, 2022
6:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: May 9, 2022**

OLD BUSINESS:

None

NEW BUSINESS:

- 1. 2022-09 SUB – BALL’S ADDITION (2107 S. 4TH STREET)**
Consider a final plat for Ball’s Addition.

OTHER BUSINESS:

None

ADJOURN

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, May 9, 2022
6:00 PM

CALL TO ORDER:

Commissioners Present

Claude Wiedower
Joe Burks
Bill Waugh
Donald Homan
Sherry Hines Whitson

Commissioners Absent

James Diggs

City Staff Present

Julie Hurley
Michelle Baragary

Chairman Wiedower called the meeting to order at 6:00 p.m. and noted a quorum was present.

APPROVAL OF MINUTES: April 4, 2022

Chairman Wiedower asked for comments or a motion on the minutes presented for approval: April 4, 2022. Commissioner Burks moved to approve the minutes as presented, seconded by Commissioner Whitson and approved by a vote of 5-0.

OLD BUSINESS:

None

NEW BUSINESS:

1. 2022-07 REZ – 1830 S. BROADWAY

Conduct a public hearing for Case No. 2022-07 REZ – 1830 S. Broadway. The applicant is requesting a rezoning of the property located at 1830 S. Broadway from PUD, Planned Unit Development, to R-MX, Residential Mixed Use District.

Chairman Wiedower called for the staff report.

Planning Director Julie Hurley stated the applicant and owner, Baljit Baidwan, is requesting a rezoning of the property located at 1830 S. Broadway Street from PUD, Planned Unit Development, to R-MX, Residential Mixed Use District. The subject property is 9.32 acres in size and is occupied by a single building, which is occupied by the Council on Aging. The Council on Aging is anticipated

to vacate the building and relocate to the former Cushing Memorial Hospital by the end of 2022.

A public hearing was previously held by the Planning Commission for a rezoning on the subject property on March 7, 2022. At that time, the request was to rezone the property from R1-6, High Density Single Family Residential District, to R-MX, Residential Mixed Use District. After the public hearing was held, it came to staff's attention that the zoning designation of R1-6 was incorrect, and that the property had been previously rezoned to PUD, Planned Unit Development, in 2009. The City Attorney advised staff that even though no changes were made to the current proposal, a new application would need to be submitted indicating the correct zoning designation of PUD, with new legal notification sent to property owners within 200' and a new public hearing would need to be conducted.

The rezoning of the property in 2009 to PUD restricted the uses to government storage, temperature controlled storage, governmental uses and office for private entities servicing government needs. This rezoning is being requested to allow the property owner to renovate the building to allow for a mix of office and multifamily residential uses. The owner has indicated that he anticipates approximately 30 residential units to be constructed in the building. The owner has indicated that he has no plans at this time to expand the existing structure or construct additional buildings on the property.

During the previous public hearing held by the Planning Commission on March 7, 2022, the board voted 4-0 to recommend approval of the rezoning request. During the meeting a total of 6 neighbors spoke in opposition to or voicing concerns about the proposed rezoning.

CONDITIONS OF DETERMINATION

Whenever the Planning Commission or City Commission takes action on an application for amendment to these Development Regulations, and such proposed amendment is not a general revision of existing ordinances, but one which will affect specific property, the Planning Commission and City Commission shall consider the following factors:

a) The character of the neighborhood;

The subject property is the site of the Council on Aging facility. The surrounding and adjacent properties are single-family homes, and Saint Casimir church located at the southeast corner of Pennsylvania Street. and S. Broadway Street. The subject property's access entrance is located along Garland Street, the parcel abuts Pennsylvania Street, South Broadway Street, and Rees Street. Garland Street is classified as a local street and designed to handle a low volume of traffic. Based on 2019 Pavement Condition Index (PCI) the current condition of Garland Street is classified as very poor.

b) The zoning and use of properties nearby;

The adjacent properties are zoned R1-6 (High Density Single Family Residential District),, and uses are single-family residential, with St. Casimir Catholic Church to the northeast.

c) The suitability of the subject property for the uses to which it has been restricted;

The subject property was built in 1960 and was previously used as the county infirmary. The nature of the building limits its functionality to primarily office type uses as it exists today. The building has been used as an office space and community center for senior citizens for the Council on Aging. A large portion of the property is open green space.

d) The extent to which removal of the restrictions will detrimentally affect nearby property;

The proposed rezoning has potential to impact the surrounding properties by increasing the vehicular and foot traffic flow in the area. The subject building has been used for office space and community center for senior citizens prior to the current owner.

e) The length of time the subject property has remained vacant as zoned;

The existing building has not been vacated by Council on Aging. Council on Aging is still utilizing office space and holding programs and events at this location.

f) The relative gain to economic development, public health, safety, and welfare by the reduction of the value of the landowner's property as compared to the hardship imposed by such reduction upon the landowner;

The proposed rezoning could have a potential positive effect on the public health, safety and welfare by allowing for the reuse of an existing building that is about to become vacant, and by providing for a mix residential, office and commercial uses.

g) The recommendations of permanent or professional staff;

Staff recommends approval of the rezoning request.

h) The conformance of the requested change to the adopted or recognized Comprehensive Land Use Plan being utilized by the city;

The area is identified as Public/Semi-Public on the Future Land Use map. While the proposed rezoning to R-MX is not specifically a public or semi-public use, the designation of the Public/Semi-Public does take into account the potential for a more intense use of the property than what currently exists. Therefore, staff finds the proposed use to be in conformance with the overall goals of the adopted Comprehensive Plan.

i) Such other factors as may be relevant to a particular proposed amendment. The factors considered in taking action on any proposed amendment shall be included in the minutes or otherwise be made part of the written record.

No other factors.

REZONING ACTION/OPTIONS:

- Recommend approval of the rezoning request of 1830 S. Broadway from PUD to R-MX to the City Commission
- Recommend denial of the rezoning request of 1830 S. Broadway from PUD to R-MX to the City Commission
- Table the issue for additional information/consideration.

Chairman Wiedower called for questions from the commissioners about the staff report.

With no questions about the staff report, Chairman Wiedower opened the public hearing.

Terry Hundley, 1816 Garland, stated at the March Planning Commission meeting, the property owner said he would maintain the property and keep the grass mowed. The grass and weeds are excessively tall. Mr. Hundley further stated there is a large hole at the entrance to the subject property directly across the street from his property. There is no curb so every time it rains the water runs into his front yard.

Chairman Wiedower stated he does remember the grounds maintenance being a concern during the last Planning Commission meeting. However, this is a rezoning request and maintenance is a separate issue from the rezoning request.

Baljit Baidwan, property owner, stated he has a contractor to mow the property and the contractor has been slow at getting out to the subject property. Mr. Baidwan stated he will look into this concern and will get it taken care of. Mr. Baidwan stated he will need to look into the water issue because he is not sure if that is something he needs to deal with or if it is the City's responsibility.

With no one else wishing to speak, Chairman Wiedower closed the public hearing and called for discussion among the commissioners.

Commissioner Whitson stated she does have a concern about traffic, especially on Garland as that road condition is classified as poor.

Commissioner Burks stated if he knew of the correct rezoning at the March meeting, his vote would not have changed; it's simply a mistake from 2009 in the original zoning of the property, which is now being addressed. However, he does sympathize with the community and does expect the grounds maintenance issue to be addressed by the property owner.

Commissioner Homan asked about the maintenance of the pond on the subject property.

Chairman Wiedower stated maintenance, liability, etc. of the pond was discussed at the March meeting. It is the responsibility and liability of the property owner.

Commissioner Whitson stated the benefit of rezoning the property outweighs her traffic concern.

With no further questions/discussion, Chairman Wiedower called for a motion. Commissioner Whitson moved to recommend for approval to the City Commission the rezoning request from PUD, Planned Unit Development, to R-MX, Residential Mixed Use District for Case No. 2022-07 REZ – 1830 S. Broadway based upon all information presented, seconded by Commissioner Burks and passed by roll call 5-0.

2. 2022-08 APPEAL – 4900 S. 4TH STREET

Review site plan for a proposed development at 4900 S. 4th Street. The applicant, John Kollhoff, is appealing the Development Review Committee's unanimous decision to withhold approval of the site plan for 7 Brew Coffee located at 4900 S. 4th Street.

Chairman Wiedower called for the staff report.

Planning Director Julie Hurley stated the applicant, John Kollhoff with 7 Brew Coffee, submitted a site plan for a proposed development at 4900 S. 4th Street. After review of the proposal and discussion with KDOT, staff requested several revisions to the submitted site plan to address City requirements, as well as a Traffic Impact Study (TIS). The revised site plan as submitted and the TIS do not address all City requirements. Staff notified the applicant on April 7th of the decision to withhold approval of the site plan

The Development Regulations places responsibility for final review and approval or rejection of site plans for specified projects with the Development Review Committee (DRC). The DRC is a staff review committee composed of the following personnel: Director of Planning & Community Development, Chief Building Inspector, City Clerk, City Manager, Assistant City Manager, City Planner, Fire Chief, Parks & Recreation Director, Police Chief, and Public Works Director. Section 2.05 states:

1. *The City Planner shall determine if submitted site plans are in accordance with these regulations and then forward all site plan submissions to the Development Review Committee along with a written opinion on the plan's merits.*
2. *The Development Review Committee is responsible for final review and approval of site plans for multi-family residential, mixed-use, mobile home parks, planned unit developments, commercial or industrial developments which are in accordance with these regulations.*
3. *In its review, the Development Review Committee will consult and consider the recommendation of the various departments and agencies affected by the proposed site plan.*
4. *If the Development Review Committee rejects or withholds approval of the site plan the applicant may appeal the decision to the Planning Commission at its next regular meeting. The Planning Commission may recommend approval, disapproval or approval with conditions to the City Commission.*

ANALYSIS

The subject site is located at 4900 S. 4th Street and is .49 acres in size. It is situated in front of the existing Home Depot store and to the south of the existing U-Haul self-storage facility and Starbucks store. Access to the site is proposed to be directly from 4th Street, which is a State highway and falls under KDOT jurisdiction for approval for access. There is an existing curb cut on the site used for maintenance of the billboard located on the site. This section of 4th Street has a posted speed limit of 45 mph, and handles a high volume of traffic, with multiple existing commercial access points in close proximity to the subject site.

Staff has identified the following primary concerns related to the submitted site plan and TIS:

1. Section 5.05 of the Development Regulations requires a 50' separation between non-residential access driveways. Staff has asked for 50' of "stand up curb" (illustrative diagram attached) between the proposed driveway entrance to the site and the existing commercial driveway to the north. This has not been provided. Should the site plan ultimately be approved, a variance request would need to be submitted to the Board of Zoning Appeals regarding this item.
2. There is an existing driveway servicing U-Haul/Starbucks directly to the north, the turn lane for access to Home Depot beginning directly to the south, an existing commercial driveway directly to the east, and 4 lanes of high volume traffic on 4th Street with a two-way left turn lane. The proposed development introduces numerous additional potential points of conflict in an already congested area of a State highway, causing significant traffic safety concerns.
3. The TIS indicates that the site plan as submitted would require a right turn lane on 4th Street for entrance to the site. The TIS further indicates that variances would be needed from KDOT for both access spacing and the right turn lane, as neither requirement can be accommodated with the site.
4. Based on the predicted peak customer volume indicated in the TIS, it is anticipated that stacking could back up onto 4th Street, posing additional points of conflict with southbound traffic on 4th Street and traffic exiting from the U-Haul site.

5. The existing billboard base on the site is located approximately even with the stop bar indicated on the site for exiting traffic, posing significant sight distance issues for exiting traffic.

Based on the above noted concerns, the Development Review Committee reached the unanimous decision to withhold approval of the site plan.

ACTION/OPTIONS:

- Recommend approval of the site plan for 7 Brew Coffee located at 4900 S. 4th Street.
- Recommend approval with conditions of the site plan for 7 Brew Coffee located at 4900 S. 4th Street
- Recommend disapproval of the site plan for 7 Brew Coffee located at 4900 S. 4th Street

ATTACHMENTS:

- Site Plan
- Letter to applicant from City staff dated April 7, 2022
- Letter to applicant from KDOT dated April 6, 2022
- Traffic Impact Study – Exclusive of appendices, full TIS available in Planning and Community Development Department
- Diagram of “stand up curb”

Chairman Wiedower stated it appears that withholding the approval from a letter dated April 6, 2022, from the Kansas Department of Transportation (KDOT) dealt with safety issues and turning movements if 7 Brew is permitted to develop at the subject location. Chairman Wiedower asked if the applicant has submitted a completed application to KDOT.

Ms. Hurley responded she is unaware if a completed application has been submitted to KDOT.

Chairman Wiedower asked if the reason KDOT withheld approval was because a completed application had not been submitted plus the safety concerns for development at this location such as traffic volume, turning movements, short spacing between access points, etc.

Ms. Hurley clarified the letter Chairman Wiedower is referring to is a letter from KDOT that was provided to the commissioners for informational purposes. KDOT has their own separate process for approval of access onto state highways, which 4th Street is designated as a state highway. KDOT's requirements have not been met, which are separate from the City's requirements. However, KDOT and the City of Leavenworth share a lot of the same concerns. The City's reasoning for withholding approval is based on the five issues outlined in the policy report based on city staff concern. KDOT shares a lot of the same concerns but their process for approval is completely independent of the City's process for approval.

Chairman Wiedower asked for clarification on the Planning Commission's options.

Ms. Hurley stated the Planning Commission can recommend approval of the site plan as it is, approval with certain conditions or recommend denial. The Planning Commission's recommendation will go to the City Commission on May 24, 2022 to determine final approval from the City's standpoint. The applicant will still need to work through KDOT's process and get approval from KDOT for that access onto 4th Street.

For clarity, Commissioner Whitson asked that the applicant has met all the City's requirements other than the five listed in the policy report.

Ms. Hurley responded the only City stated requirement from they are not meeting is the 50' access spacing. The remaining four issues are not specific requirements but rather serious concerns staff has given the layout of the site.

Commissioner Whitson asked if the 50' access spacing must be approved by KDOT.

Ms. Hurley stated the 50' access spacing is a City requirement. KDOT has their own requirement, which is 300' separation. Therefore, the applicant would not only need a variance for KDOT's requirement, which is independent of the City's, but would also need a variance through the Board of Zoning Appeals for the City's 50' separation requirement.

Chairman Wiedower asked if anyone in the audience would like to speak.

John Kollhoff, franchisee for 7 Brew Coffee, stated they began this process back in October by contacting KDOT. Due to inaction or active interference by the KDOT supervisor and engineer, the applicant reached out to their supervisor in Topeka, KS. During a conference call with the supervisor in Topeka, which many City staff members were a part of, where he indicated a willingness to provide access to this particular site for the purpose of developing 7 Brew Coffee.

Mr. Kollhoff further stated part of KDOT's procedure creates a catch-22. There is constant communication between KDOT and the city on this process; and one of KDOT's requirements is city approval. Therefore, KDOT is not going to approve the site plan if they have a reasonable belief the city is not going to approve it.

Mr. Kollhoff stated 7 Brew is a drive-thru only beverage business. They have a store located in Topeka on Wanamaker Road; and that location had many of the same concerns that are stated for this current site in Leavenworth. There are similar traffic patterns between the two sites, there are two lanes of traffic going in either direction as well as a central turn lane. The location in Topeka has been open since February 21, 2022 and has had no significant traffic issues. Mr. Kollhoff further stated the average wait time for a drink is under 3 minutes; 5 minutes during a rush. Looking to hire 50 people in the community, paying good wages.

Chairman Wiedower asked what it meant to Mr. Kollhoff, when KDOT stated the "willingness to allow access".

Mr. Kollhoff stated the way he understood that statement was that KDOT would be willing to work with them to make sure they could make the site work for their business.

Chairman Wiedower stated the reason he asked this question is because the issue is for us who live in this community, who know the other businesses around the area, who know the traffic in the morning, who know the traffic during peak times, etc. The community knows that access and knows how that area can get jammed up with traffic. If you put a counter there to count cars, you will see a ton of traffic in that area and it will be a traffic issue.

Chairman Wiedower asked what the hours of operation will be.

Mr. Kollhoff stated 7 Brew is open Sunday through Thursday from 5:30 a.m. to 10:00 p.m.; and Friday and Saturday from 5:30 a.m. to 11:00 p.m.

Commissioner Whitson stated it was mentioned that a study was done that drinks are made under 3 minutes. Was an actual study done or was it just someone timing it?

Mr. Kollhoff responded it is important to them to have fast service. At first they had issues in Topeka so they conducted their first traffic study, which showed a 4-1/2 minute service time. The home base for this franchise is in Arkansas. At this location, they put a drone in the air and timed it. The time was significantly less at around 3 minutes service time per vehicle.

Regarding hiring 50 people in the community, Commissioner Burks asked if they have driven down 4th Street to see the now hiring signs spread throughout the community.

Mr. Kollhoff responded he has heard similar concerns from other people but hiring people has not been an issue for 7 Brew Coffee.

Chairman Wiedower asked if it will be two or three shifts a day.

Mr. Kollhoff stated they typically have three shifts.

Commissioner Whitson asked what they plan to do if they do not receive the city's approval.

Mr. Kollhoff responded there is a possibility for a different location within the City of Leavenworth.

Chairman Wiedower asked they did a traffic study using the traffic counter strips to determine how much traffic/movement they expect to go by the proposed site area.

Mr. Kollhoff responded they did a Traffic Impact Study, which provides some of that information; but they are relying on KDOT's traffic counts, which are performed every year or two.

Commissioner Homan stated his concern about customers trying to get into the proposed site area, especially without a deceleration lane.

Mr. Kollhoff does not see this as a problem. If someone is heading south and trying to turn left into 7 Brew, people will just need to stop. Mr. Kollhoff further stated the plan is for one lane going into the site but then it rapidly opens up to two lanes for the drive-thru. There are also two lanes to exit the site allowing customers to turn right or left.

Commissioner Waugh asked if the layout for the Topeka store is similar to the proposed site.

Mr. Kollhoff responded it is very similar. Parking is at the back of the lot but otherwise the flow is very similar. The entry lane is one lane but it is almost two lanes wide.

Commissioner Whitson asked if the difference with dealing with KDOT for the Leavenworth site versus the Topeka site is that they did not have to deal with KDOT over their 300' separation requirement at their Topeka site.

Mr. Kollhoff responded they did not need to deal with that but still had to deal with the City of Topeka.

Randy Jackson, property owner, voiced his support for the project. Believes a coffee shop is an ideal development for this piece of property. If it does not get approved, it would be like the city saying that the highest and best use for this piece of property is a billboard.

Addison Bliss, Veritas Architecture & Design, stated his concern if this is going to be allowed anywhere along 4th Street because these situations are going to be present every time you try to develop along 4th Street.

Mr. Bliss spoke about the five primary concerns staff has identified related to the proposed site plan. Item one regarding the 50' separation, the zoning is not defining what that is, and in our mind it is still reasonable to say that a 50' distance from center line access to center line access is what could be applied for something like this. KDOT measures it from center line to center line 300 feet. KDOT's access separation requirement is not achievable with this site or with many sites along 4th Street. Mr. Bliss further stated by measuring center line to center line of access they are providing 63' of the 50' requirement. Believes the 50' of stand-up curb is a clarification outside of the actual zoning code.

Mr. Bliss stated item two states the proposed development introduces numerous additional potential points of conflict in an already congested area. This will be an issue every time they try to install a 7 Brew unit. The idea behind KDOT approving this wasn't necessarily just because they thought it could; it really was should. Mr. Bliss believes the response was it does have access today so they are not in a position to disallow access from a legal means. It is improving the access and making it larger but disallowing the access to this site where there is existing access is not possible on KDOT's agenda. Mr. Bliss would like this item to be struck from the list.

Mr. Bliss stated item three states the TIS indicates that it would require a right turn lane as well as the access spacing requirements. This should be approved with the condition that KDOT approves it. By item three stating the access spacing and right turn lane cannot be accommodated with this site is saying this parcel of land is undevelopable.

Mr. Bliss moved to item four, which states based on the predicted peak customer volume, it's anticipated that the stacking would back up onto 4th Street. The proposed development plan shows 23 cars on the site, which far exceeds every restaurant venue you're ever going to have offered on a project along 4th Street. Mr. Bliss further stated he received a study this morning showing drinks are being made in 15.4 seconds. Stacking could happen on opening day but will stabilize in a couple of months.

For item five, Mr. Bliss stated the billboard base has a three foot wide post. The existing telephone poles on this site are approximately 18 inches wide and are closer to the street than the billboard. The only reason U-Haul is not having a problem with this currently is that they are old enough that they haven't had to do the site improvements for a sidewalk. Mr. Bliss said they would not have any problems with that if it wasn't adding the sidewalk into the state highway, which is a little disjointed. If the stop bars did not have to be so far away from the street in the way they are drawn, then cars will pull up all the way to the street anyway. The stop bars are only drawn back that far because the sidewalk of the required city improvement is directly at odds with the idea of being far enough up towards the street you would actually be able to see around that. The U-Haul customers are roughly the same distance on their exit lane from it as 7 Brew would be, just on the opposite side of viewing traffic.

Chairman Wiedower stated Mr. Bliss brought up a valid point stating this is a prime location, and any business that develops there will have an impact. There are certain businesses that could develop at this site that would have less impact with traffic than other businesses. Chairman Wiedower further stated the commissioners could look at a SWOT analysis of the strengths, weakness, opportunities and threats of the proposed development at this site. Traffic and safety are big concerns and should be minimized.

Public Works Director Brian Faust stated the city's 50' spacing requirement is less than he would like to see on an arterial road. This was clarified very early in the process that it is 50' of stand-up curb. Typically, on a commercial entrance there is a 25' radius to enter. If this was the case for center line of driveway to center line of driveway, we would never reject any driveway entrance on an arterial roadway. The 50' stand-up curb is important to staff and is a lot less than KDOT requires. Trying to provide that access spacing to help improve the safety for people using the road just to get through as well as people trying to get to this business or other businesses.

Mr. Faust further stated the business to the north, Starbucks, does not have direct access onto 4th Street. Their access is from the U-Haul site. Staff suggested for 7 Brew to look into taking direct access off the U-Haul site as well. It is staff's understanding U-Haul did not give 7 Brew permission for direct access for their site.

Chairman Wiedower asked Mr. Faust if he has concerns with the proposed development plan with safety, traffic, impact to the city that may be negative, etc.

Mr. Faust responded in the affirmative. 7 Brew Coffee would be great to have it is just that the access to that site is tricky, which causes concern.

Commission Whitson asked if there are any other solutions since U-Haul denied direct access to their site.

Mr. Faust stated like the business to the north, the biggest thing is that direct access off the U-Haul site, which would take away staff concerns about that direct access to 4th Street, the proximity to the U-Haul entrance, the turn lane into Home Depot and the access points directly across the street. According to KDOT, this driveway created 19 additional conflict points.

Commission Whitson asked if staff knew the reasoning U-Haul denied access.

Mr. Kollhoff stated they reached out to both Home Depot and U-Haul. Home Depot never responded. Mr. Kollhoff does not know the relationship between U-Haul and Starbucks but U-Haul stated they were not amenable to giving 7 Brew Coffee access. The applicant's civil engineer said it could possibly be done but there is about an 8 foot elevation change from the U-Haul property to the back side of the subject property. So there are some issues that Mr. Kollhoff does not know if they are not insurmountable but right now the biggest issue is that U-Haul has not been willing to give access.

Chairman Wiedower asked Mr. Faust if the traffic flow in that area and vehicles trying to enter the subject property site is a concern.

Mr. Faust responded in the affirmative. It is not necessarily as much of a concern of people entering the site but rather people exiting the site turning right or turning left is a grave concern.

Commissioner Whitson stated what she heard Mr. Bliss saying was that it is a common and present problem. However, Commissioner Whitson said even if it is a common and present problem we are now piggybacking on top of that problem and making it even worse.

Commissioner Burks stated he keyed in on existing crash patterns. Does not believe there is enough evidence to cause a huge concern based on the 2021-22 crash pattern data. Commissioner Burks further stated he does not believe the traffic pattern on 4th Street will change just because of the proposed business.

Mr. Faust stated even if there is not increased traffic on 4th Street because of the proposed business, there would be a lot of additional traffic turning in and pulling out in an already congested area.

Commissioner Waugh stated he noticed in the traffic survey they had a level of service of delta in the morning trying to make a left-hand turn and an E in the afternoon, which is worse. Up to 50 seconds weighing every single car. The coffee shop may be able to get customer drinks quickly, but Commissioner Waugh shares the concern with stacking onto 4th Street at certain times of the day. It is not how quickly you get a drink, it is how quickly you can make a left-hand turn with a constant volume of traffic.

Commissioner Burks asked if there is a right-hand turn only option.

Mr. Faust stated in the traffic study the applicant looked into a three-quarters turn.

Mr. Bliss stated they had further conversations with their civil engineer. The three-quarters turn may not be an option because the requirement at the median is 22 or 25 feet for the blockade to happen to keep you from effectively turning left. It is not wide enough to actually affect that and without that being available the three-quarter turn is not a good idea because people will just try to turn left and block a right-hand turn lane.

Police Chief Pat Kitchens stated when the Police Department tries to improve traffic flow and reduce accidents, there are three things they try to do. One of which is education, i.e. do not drink and drive, wear your seatbelt, etc. Another is enforcement, i.e. you need to slow down. The other big area that is often forgot is engineering. When evaluating something, how does the engineering help us to control traffic or does it potentially hurt us. Chief Kitchens stated he feels that maybe it is creating problems that would cause concern.

Chief Kitchens stated he has always had an issue with stacking of traffic on major thoroughfares, such as Metropolitan, 4th Street, etc. When the accident occurs, it is the police officers who are left to deal with it. Very often people get frustrated because they want to know why the police cannot do something about the issue and there is nothing the police can do if we create this problem and there are accidents. So when reviewing a site plan or development, the police are looking at it from the standpoint are we creating a problem with engineering or is engineering helping us resolve an issue and maybe not make it worse.

Chief Kitchens further stated he believes this plan is going to create a self-circulating problem. Based on years of experience and a review of common sense, you will have people waiting to exit onto 4th Street but they cannot exit because people are waiting to enter and they will all be stuck there and it will get progressively worse. It will probably be worse in the morning and again late in the afternoon. In this situation, engineering is not helping us but rather engineering is potentially

hindering us and creating a problem the Police Department will have to deal with. The police will be dealing with accidents or directing traffic; but the officers cannot direct traffic because there is nowhere to direct them to, there is no signal, intersection, or anything that is going to dramatically alter driver behavior, which is oftentimes very frustrating for police officers and the public when drivers do not follow the plan.

Chairman Wiedower asked if the general area around the subject property is already an area of concern for the police with traffic flow and accidents.

Chief Kitchens responded the intersection of 4th Street and Limit, which is just to the south of the subject property, is oftentimes the busiest intersection in the entire county in terms of traffic counts. The intersection near the subject property, at 4th Street and Eisenhower, is in the top two or three in terms of accidents. Introducing another element relatively close to this intersection is likely to cause more accidents.

Mr. Bliss stated in a capitalist work we do not get to choose the most ideal site for this project. The zoning allows this development. It is an existing parcel with an existing access and should be approved because of that.

Chairman Wiedower stated the positive of this site plan is a financial gain for the city, employing people in the community, paying taxes, etc. However, after listening to the concerns from staff, is financial gain greater than safety.

Commissioner Whitson stated she agrees with it coming down to financial gain versus safety.

Commissioner Waugh agrees it comes down to financial versus safety. Also concerned with traffic backing-up on 4th Street and the ability to make a left-hand turn or even an exit.

Commissioner Burks believes we will have the same situation not matter what we do at this location whether it is today, tomorrow or next year. He further stated he has lived here for 13 plus years and has never been in an accident in this area nor has he ever seen an accident on 4th Street. This is an opportunity and betterment for the community.

Commissioner Homan stated without question, the highest and best use of the property is commercial. However, does not believe the highest and best use is for a fast food type business with high traffic flow going in and out of that area. Only one access point is a safety concern.

Chairman Wiedower stated sooner or later a business will develop on the subject property. We are dealing with greater impact and less impact, and to find an ideal business for this location that will be in harmony in that area.

Chairman Wiedower asked staff that if the Planning Commission recommends approval this item will then go to the City Commission for final approval.

Ms. Hurley responded in the affirmative stating the Planning Commission will make a recommendation of yay or nay, which will go to the City Commission at their May 24th meeting. The City Commission will consider all this information again as well as the Planning Commission's recommendation and make a final determination.

Commissioner Burks stated if he were to make a motion, it would be to recommend approval with conditions that it meets all KDOT requirements to include safety for the site plan.

Chairman Wiedower asked how this would alter the safety and traffic flow.

Commissioner Waugh stated it would not change the physical layout of the site plan but the applicant would need to get waivers/variances from KDOT.

Commissioner Burks stated after reading through the policy report, KDOT has a responsibility to make this safe for the community and for that highway.

Chairman Wiedower asked how KDOT could make it safe when the applicant does not have access through Home Depot or U-Haul.

Commissioner Whitson asked if KDOT could contact U-Haul about direct access for the subject property.

Chairman Wiedower stated KDOT would probably not be involved with the business transactions.

Ms. Hurley stated when KDOT give their approval they want to know the city has given approval first. With KDOT approvals there are different levels. There is district approval, which is located in Bonner Springs, Kansas; and there is state level approval. Ms. Hurley believes that if the city's determination is that the city approves this contingent upon KDOT approval that would likely be able to get to a level at KDOT where the applicant could get approval from KDOT.

Chairman Wiedower asked Chief Kitchens if this commission recommends approval contingent upon KDOT's approval, would that make the him feel better about the safety and traffic concerns for this site.

Chief Kitchens responded in the affirmative but further stated he believes it will still be a problem. Additionally, since the applicant is requesting something special based off the engineering design, there are a couple variances they will need to receive from KDOT before KDOT will approve the site plan. It is concerning how many special permissions and conditions the applicant will need to get through in order to have the site plan approved.

Chairman Wiedower asked the applicant if he foresees any issues with receiving the required variances from KDOT.

Mr. Kollhoff stated it is difficult to respond without knowing what those variances might be. Tonight's meeting is just the first hurdle of this process, and if approved by the City Commission, the applicant is expecting to go back to KDOT to go through their process.

Ms. Hurley stated as a reminder, the applicant will need the variance from the City's Board of Zoning Appeals for the reduced separation between the driveways. The City's variance is separate from KDOT's variances.

With no further questions/discussion, Chairman Wiedower called for a motion to recommend approval, recommend approval with conditions or recommend denial of the site plan for 7 Brew located at 4900 S. 4th Street to the City Commission. Commissioner Burks moved to recommend approval to the City Commission subject to receiving all required variances and approvals from KDOT of the site plan for 7 Brew Coffee located

at 4900 S. 4th Street, seconded by Commissioner Homan and passed by roll call 4-1. Commissioner Waugh voted nay.

Ms. Hurley stated this item will go to the City Commission on Tuesday, May 24, 2022 for final determination.

With no other business, Chairman Wiedower adjourned the meeting at 7:37 p.m.

Minutes taken by Administrative Assistant Michelle Baragary.

DRAFT

PLANNING COMMISSION AGENDA ITEM
2022-09-SUB
BALL'S ADDITION
FINAL PLAT

JUNE 6, 2022

SUBJECT:

A request for a final plat of Ball's Addition

Prepared By:

Julie Hurley
Director of Planning and
Community Development

Reviewed By:

Paul Kramer
City Manager

ANALYSIS:

The subject property is owned by Supermarket Developers, Inc., plat prepared by Renaissance Infrastructure Consulting. The applicant is requesting approval of a 4.11 acre, 1 lot final plat for the Ball's Addition. The property is zoned GBD, General Business District, and is currently occupied by Price Chopper.

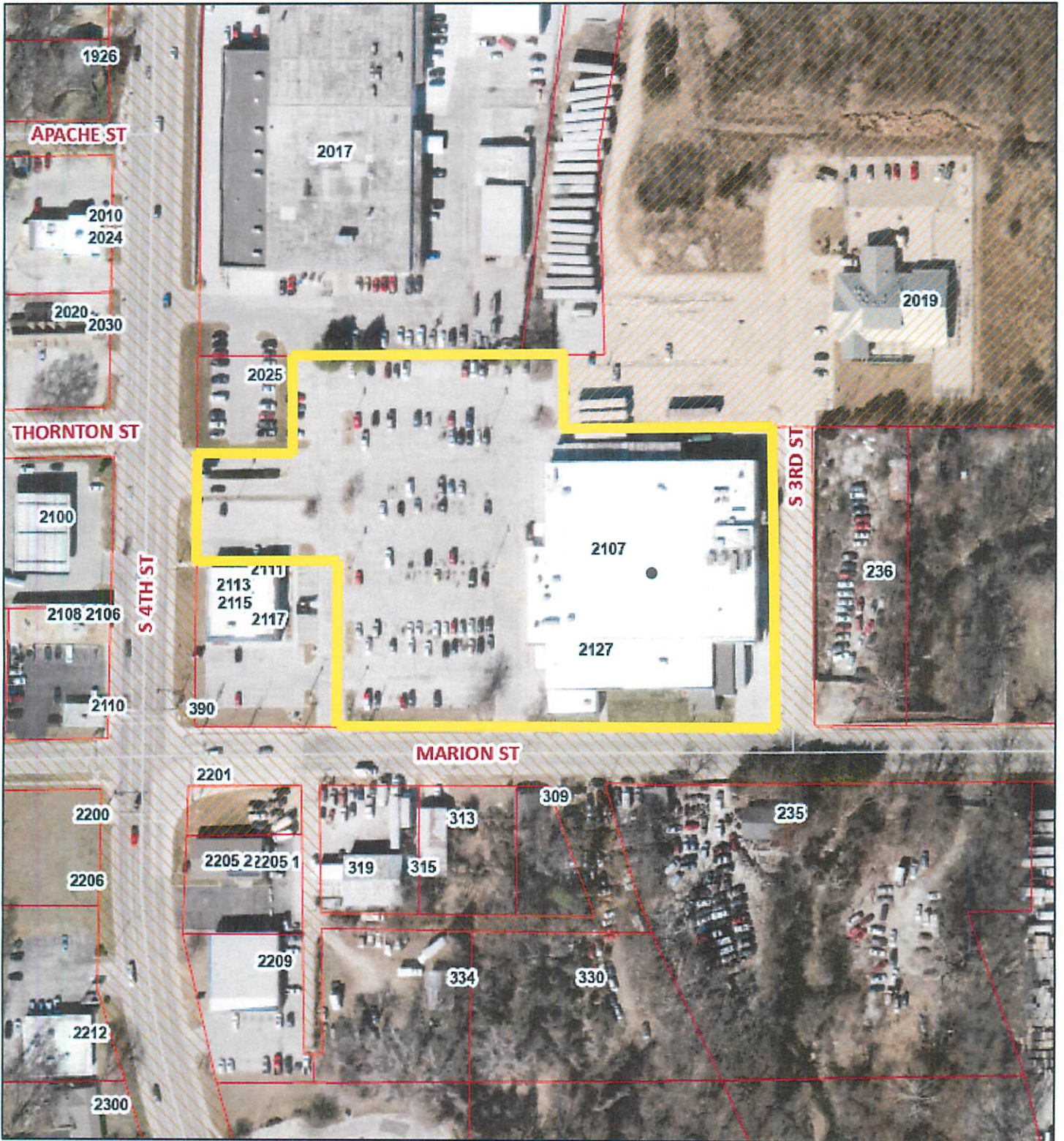
The replat of this property is being done in order to correct existing utility easements and platted setbacks for the Price Chopper building in conjunction with a remodel of the store. The plat was previously reviewed and approved by the Planning Commission in May, 2020. The Development Regulations require that plats be recorded within 18 months of approval or they are deemed void. The plat was never recorded. There have been no changes to the plat since it's review and approval in 2020.

The plat has been reviewed by the Public Works Department. All issues identified have been addressed.

Staff recommends approval of the Ball's Addition, Final Plat.

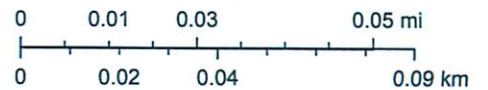
ACTION/OPTIONS:

- Approve the Final Plat
- Deny the Final Plat
- Table the issue for additional information/consideration.



6/2/2022, 10:59:54 AM

1:2,257



Platte County, Missouri Dept. of Conservation, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA



Project No. 2022-09 SUB

**MINOR SUBDIVISION
FINAL PLAT APPLICATION
CITY OF LEAVENWORTH**

OFFICE USE ONLY

Application No. 11239
Fee: pd online
(\$350 plus \$10 per lot over 5 lots)
Date Paid 4-28-22
Received By pd online
PC Meeting 6-6-22

NAME OF SUBDIVISION/PROJECT: Balls Addition

LOCATION OF SUBDIVISION/PROJECT: One Lot 2107 S. 4th St.

NAME OF PROPERTY OWNER: (If Corporation, include name and address of Director or President)

NAME: Super Market Developers, Inc.

STREET ADDRESS: 5000 Kansas Ave.

CITY: Kansas City STATE: Ks ZIP: 66106

PHONE: 913-228-1004 EMAIL: _____

NAME OF DEVELOPER: (If Corporation, include name and address of Director or President)

NAME: _____

STREET ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE: _____ EMAIL: _____

NAME OF ENGINEER PREPARING PLAT:

NAME: Roger Dill

STREET ADDRESS: 207 S. 5th Street

CITY: Leavenworth STATE: Ks. ZIP: 66048

COMPANY: Renaissance Infrastructure Consulting

PHONE: 913-317-9500 EMAIL: rdill@ric-consult.com

PARCEL NO: 1010104002003020 SEC.TWP.RNG. _____

ZONING OF SUBJECT PROPERTY: GBD CURRENT LAND USE: Commercial

TOTAL ACREAGE: 4.11 Acres NUMBER OF LOTS: 1

LEGAL DESCRIPTION: (Attach full recorded legal description provided by the REGISTER OF DEEDS OFFICE)

DATE OF FINAL PLAT APPROVAL, IF REPLAT: _____

I/We, the undersigned, certify that I/we am/are the owner of the property described above and that is subject to this request for review of a subdivision under the rules of the Subdivision Regulations of the City of Leavenworth, Kansas.

SIGNATURE OF OWNER(S) [Signature] Date: April 28, 2022

State of Kansas, County of Wyandotte SS

Signed or attested before me on April 28, 2022 by Stephanie Becker

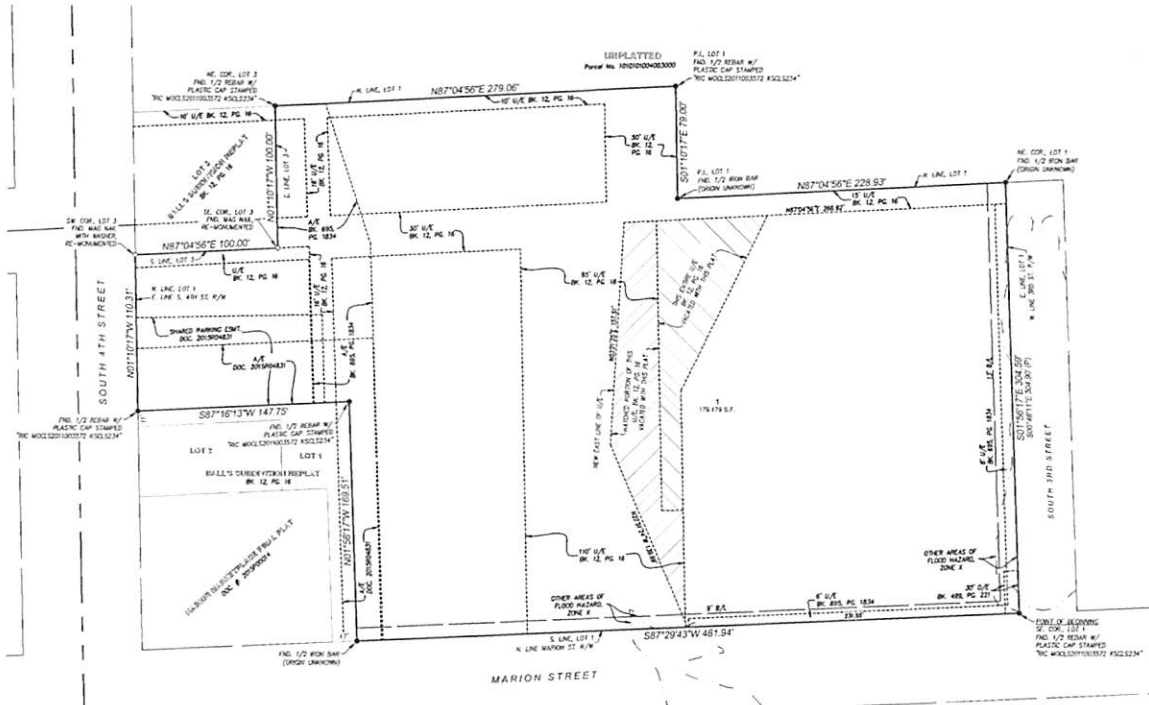
Marilyn Hake May 26, 2022
Notary Appointment Expires

(Seal)

NOTARY PUBLIC - State of Kansas
MARILYN HAKE
My Appt. Exp. May 26, 2022

FINAL PLAT BALL'S ADDITION

A REPLAT OF A PORTION OF LOT 1, BALL'S SUBDIVISION REPLAT, A SUBDIVISION
IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS



- LEGEND:**
- BOUNDARY MONUMENT AS NOTED
 - SET BY 24 REBAR WITH REC. WOODEN 100/972 X36L324 PLATTED
 - ACCESS EASEMENT
 - UTILITY EASEMENT
 - BUILDING SETBACK LINE
 - EASEMENT EASEMENT



NOTES

Base of Bearings: S87°29'43"W along the South line of Lot 1, BALL'S SUBDIVISION REPLAT, as determined by GPS observations, referenced to the Kansas State Plane Coordinate System, North Zone (NAD 83).

CLOSURE CALCULATIONS
Precision, 1 part in 31,629,715
Error distance: 0.006
Error direction: N43°32'41"E
Perimeter: 1087.00

All bearings and distances shown on this plat are plotted and measured unless otherwise noted.

Flood Plain Note: According to the F.E.M.A. Flood Insurance Rate Map Number 2016001410, revised July 16, 2015, this tract geographically lies in:

- OTHER AREAS, ZONE X, defined as areas determined to be outside the 0.2% annual chance floodplain.
- OTHER FLOOD AREAS, ZONE X, defined as areas of 0.2% annual chance flood, areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile, and areas protected by levees from 1% annual chance flood.

DESCRIPTION

A portion of Lot 1, BALL'S SUBDIVISION REPLAT, a subdivision of land in the City of Leavenworth, Leavenworth County, Kansas, being more particularly described by Roger B. Die, Kansas PS-1408 on April 21, 2022, as follows:

BEGINNING at the Southeast Corner of said Lot 1, said point being on the northerly Right-of-Way Line of Marion Street and on the westerly Right-of-Way Line of S. 3rd Street, as such streets now exist, thence South 87°29'43" West, along the South Line of said Lot 1 and also being along said northerly Right-of-Way Line of Marion Street, a distance of 491.34 feet, thence North 01°16'17" West, a distance of 193.23 feet, thence South 87°16'17" West, a distance of 147.75 feet to a point on the West Line of said Lot 1 and also being the westerly Right-of-Way Line of South 4th Street, as now exists, thence North 01°16'17" West, along said West Line of Lot 1 and said westerly Right-of-Way Line of South 4th Street, a distance of 110.31 feet to the Southeast Corner of Lot 3 of said BALL'S SUBDIVISION REPLAT, thence North 87°04'55" East, along the South Line of said Lot 3, a distance of 100.00 feet to the Southeast Corner of said Lot 3, thence North 01°16'17" West, along the East Line of said Lot 3, a distance of 100.00 feet to the Northeast Corner of said Lot 3 and also being on the North Line of said Lot 1, thence North 87°04'55" East, along said North Line of Lot 1, a distance of 279.00 feet, thence South 01°16'17" East, along said North Line of Lot 1, a distance of 79.00 feet, thence North 87°04'55" East, along said North Line of Lot 1, a distance of 220.00 feet to the Northeast Corner of said Lot 1, said point being on said westerly Right-of-Way Line of S. 3rd Street, thence South 01°16'17" East, along the East Line of said Lot 1 and also being along said westerly Right-of-Way Line of S. 3rd Street, a distance of 304.90 feet (204.90 feet plat) to the POINT OF BEGINNING.

Containing 176,170 square feet or 4.113 acres, more or less.

All bearings as described herein are based on the Kansas State Plane Coordinate System, North Zone (NAD 83).

DEDICATION

The undersigned proprietor of the above-described tract of land has caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision and plat shall hereafter be known as:

"BALL'S ADDITION"

The proprietors, successors, and assigns, if properly described on this plat hereby dedicate for public use all land described on this plat as streets or public ways not heretofore dedicated. Acceptance of the dedication of land for public right-of-way purposes described on this plat is for the sole purpose of maintaining right-of-way and does not constitute acceptance of any terms or conditions set forth in any agreement not shown on this plat.

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, sewer pipes, poles, wires, drainage facilities, irrigation systems, ducts and cables, and similar facilities, upon, over and under these areas outlined and depicted on this plat as "Utility Easement" or "UE" is hereby granted to the City of Leavenworth, Kansas with subordinate use of the same by other governmental entities and public utilities as may be authorized by state law to use such easement for said purposes.

EXECUTION

I, IN TESTIMONY WHEREOF, the undersigned proprietor has caused this instrument to be executed this ____ day of _____, 2022.

SUPER MARKET DEVELOPERS, INC.

David Smith, President & CEO

APPROVALS

APPROVED by the Planning Commission of the City of Leavenworth, Leavenworth County, Kansas, on this ____ day of _____, 2022.

Claire Wedower, Planning Commission Chairman

Julie Hurley, Planning Commission Secretary

ATTEST:

Sarah Bodenshoner, City Clerk

BE IT REMEMBERED, that on this ____ day of _____, 2022, before me a Notary Public in and for said County and State, came David Smith, President & CEO of SUPER MARKET DEVELOPERS, INC., who is personally known to me to be the same person who executed the foregoing instrument of writing on behalf of said company, and he fully acknowledged the execution of the same to be the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last written above.

My Appointment Expires _____

Notary Public

Attest:

Sarah Bodenshoner, City Clerk

Brian Faust, Director of Public Works

David Waters, City Attorney

REGISTER OF DEED CERTIFICATE

Filed for Record as Document _____ on this ____ day of _____, 2022 at _____ o'clock _____ in the Office of the Register of Deeds of Leavenworth County, Kansas.

Terrill G. Maibach, Register of Deeds

I hereby certify this plat meets the requirements of K.S.A. 56-2005. The face of this plat was reviewed for compliance with Kansas Minimum Standards for Boundary Surveys, no field verification is implied. This review is for survey information only.

Michael J. Bogard, Kansas LS-1865
Leavenworth County Survey Reviewer

I hereby certify that this Subdivision Plat is based upon an actual survey completed on the ground by me or under my direct supervision during April 2022, and that said survey meets or exceeds the current Kansas Minimum Standards For Boundary Surveys as established by the Kansas Board of Technical Professions, and that said survey is true and correct to the best of my professional knowledge and belief.

Roger B. Die, Kansas PS-1408
rbd@ro-norad.com

BALL'S ADDITION

Prepared For:
Joel Riggs
Associated Wholesale Grocers
5000 Kansas Avenue
Kansas City, Kansas 66106
(913) 228-1004

Date of Preparation: April 2, 2020
Revised: April 21, 2022

132 Abbie Avenue
Kansas City, Kansas 66103
913.317.9500
www.ro-norad.com