

Ordinance #

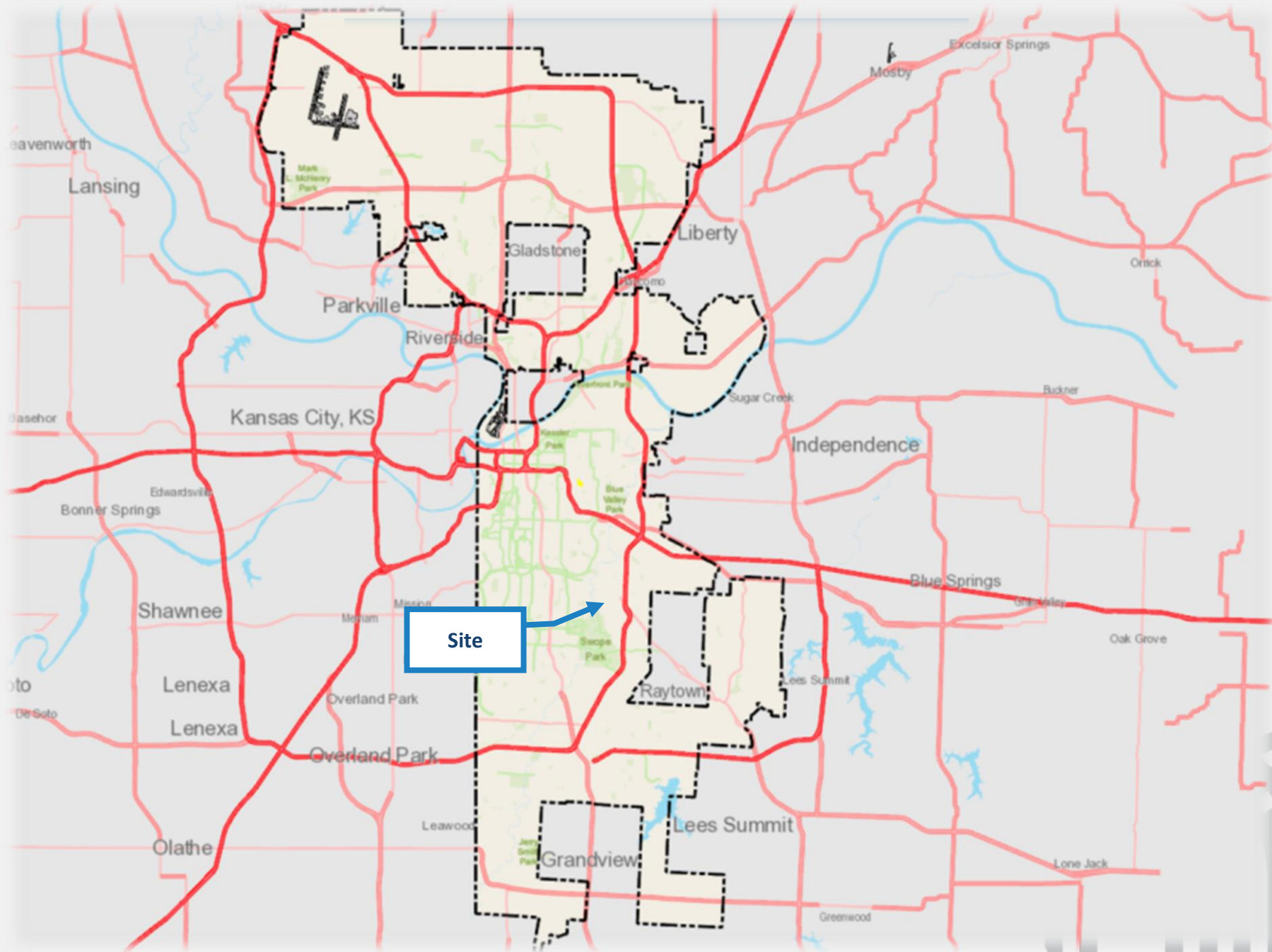
CD-CPC-2024-00088

Location: 5500 Bennington Ave

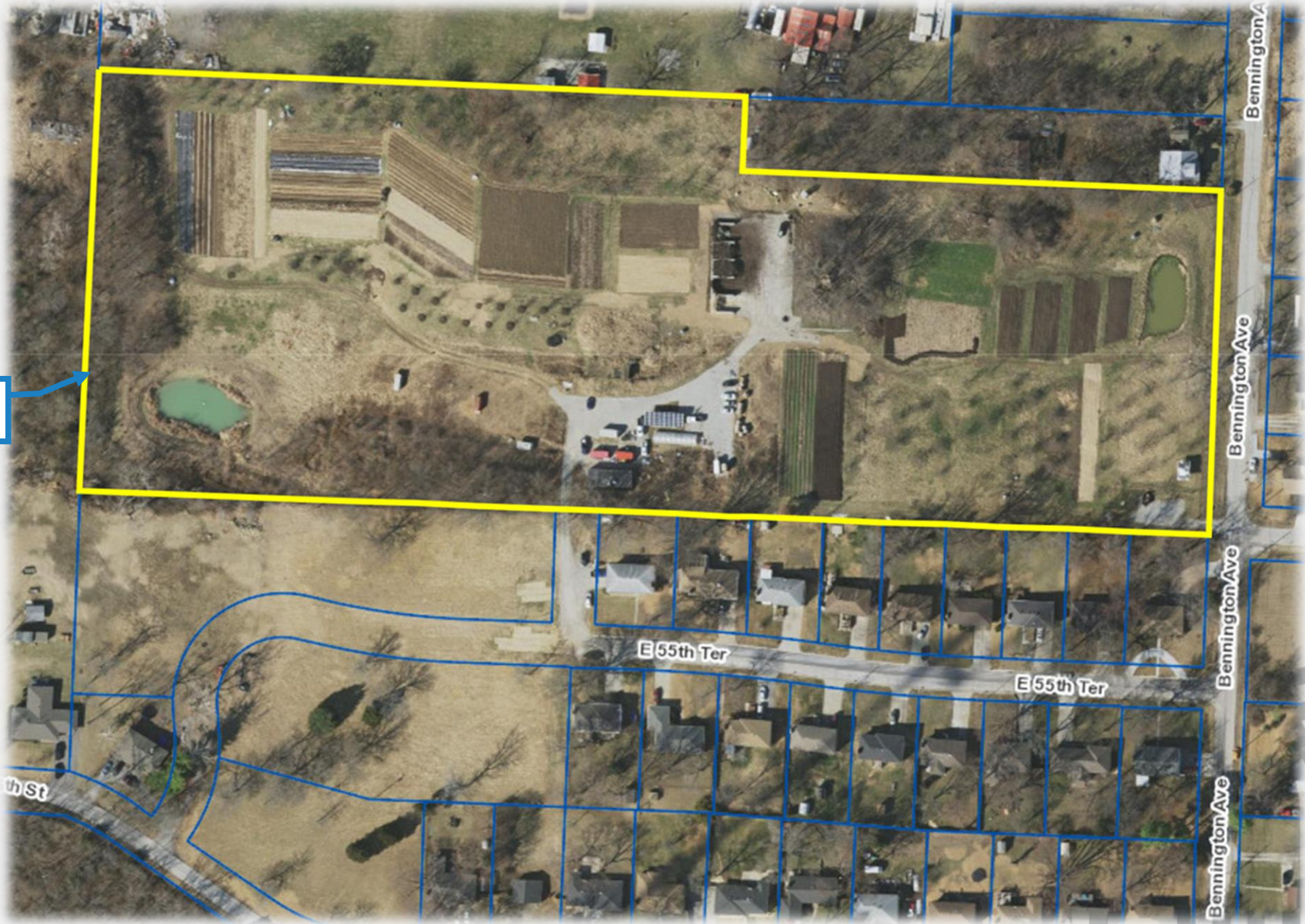
Zoning District: R-80

Summary: The applicants are seeking to rezone the subject site to MPD with associated Development Plan to abate zoning violations and plan for future business growth.





Site





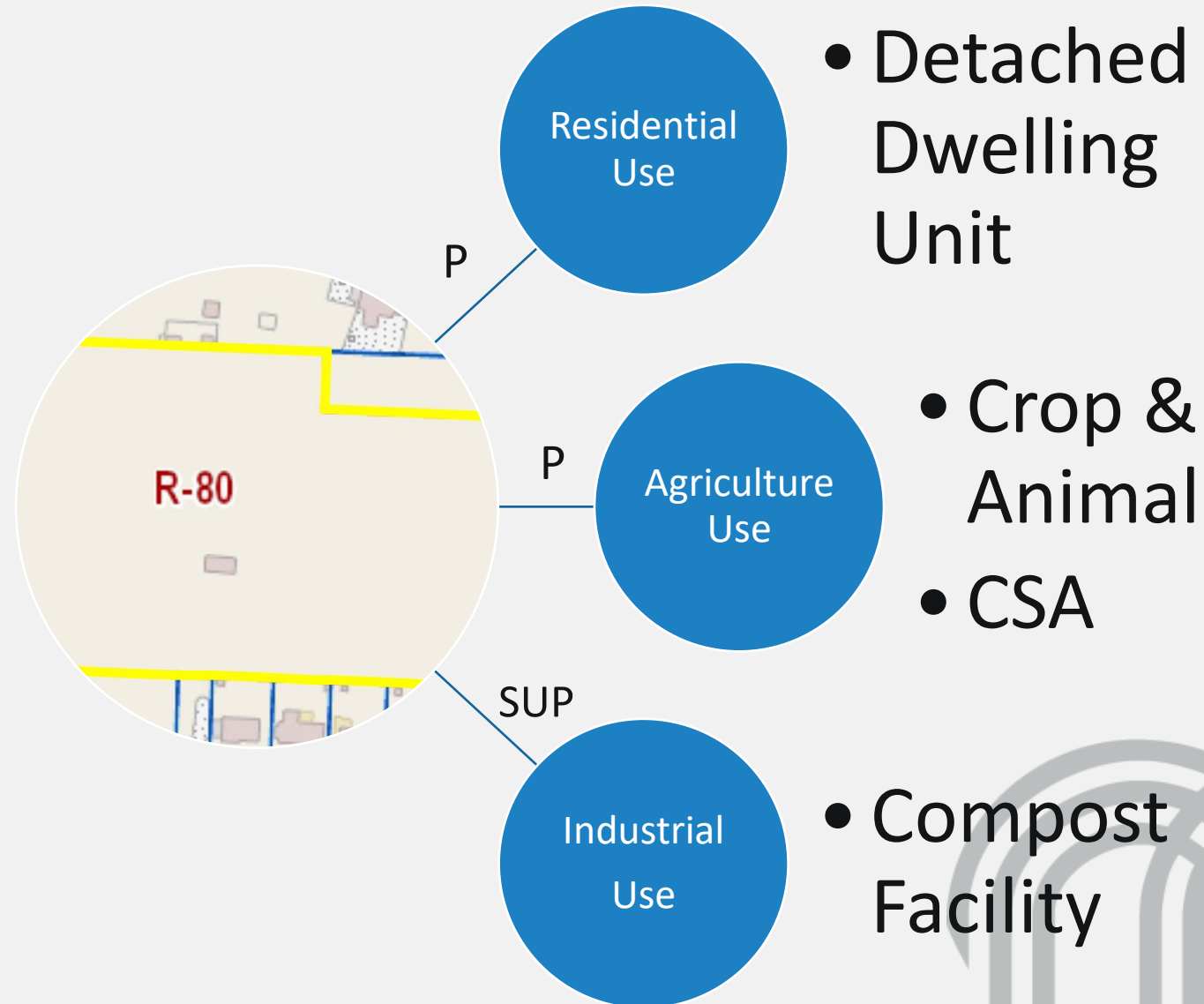
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Use/Site History

- Bad Seed Farm, established in 2007.
- 5500 Bennington Ave was rezoned from R-1a to RA in 2010.
 - RA = R-80
- Bad Seed moved from a site in south Kansas City (zoning violations related to urban agriculture occurred), and rebranded (Urbavore) to 5500 Bennington in ~2012.
- May 2023 zoning violations issued at 5500 Bennington.
- 1/9/2024 BZA hearing, direct the property owner to submit an MPD.

Use Clarification



CD-CPC-2024-00088



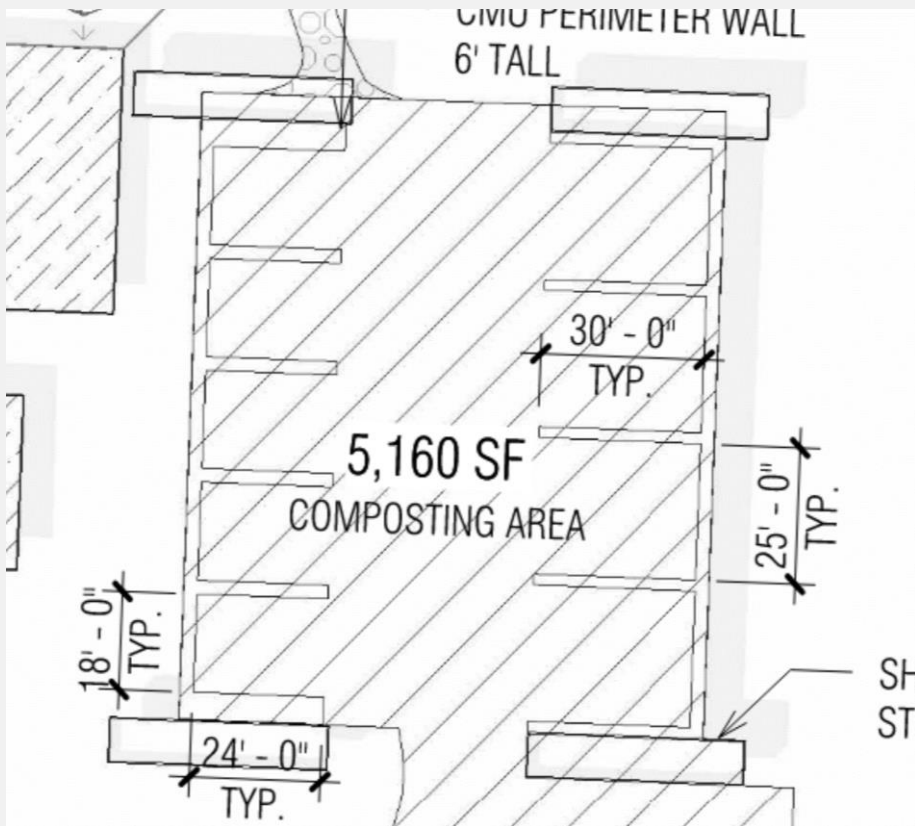
4 = Retail Sales

* Can cover appeal case details if the City Council requests.

CD-CPC-2024-00088

Violation 1

Did own, lease, or maintain a premises in which allows the operation of a Composting Facility in a district zoned R-80. This use is first permitted in a district zoned R-80 with a Special Use Permit.



Note: City Staff did approve an accessory use, composting of mostly materials produced on-site, not selling compost. Expansion would require a Special Use Permit.

CD-CPC-2024-00088

Violation 2

Did own, lease, or maintain a premises which is being used for the storage of temporary storage containers in a district zoned R-80. This use is first allowed in an M-1 zoned district with a Special Use Permit.



CD-CPC-2024-00088

Violation 3

Did own, lease, or maintain a premises in an R-80 zoned district in which the vehicle use area does not meet vehicle use area requirements as set forth in City Ordinance 88-420-12.



CD-CPC-2024-00088

Urbavore Urban Farm
April 27 · Instagram · 🌐

I am such an IDIOT!!! I totally forgot to add @skyviewfarmandcreamery FRESH CHEESE & YOGURT to the online store. Sheri is coming today to deliver gorgeous fresh mozzarella, salty feta, pure silk whole milk yogurt, and decadent fromage blanc!!! I'm leaving the online store live until 1pm so you can scurry over and get your cheese! Link in profile. I apologize dear eaters for my oversight. I'm working long hours and juggling way too many details. But this cheese is well worth the hassle so load up!! I'll have whatever doesn't sell through the store available at this evening's pickup so if you have cash on hand that would be awesome! #freshcheese #eatlocalkc



Robin the Mushroom Lady is back!! She'll be supplying the online store each week with tasty shrooms from [MyCo Planet](#). This week we've got a limited number of Shiitake, Oysters, and Lion's Mane. Get your booties over to the store right now and load up before they are all gone!!



Violation 4

Did own, lease, or maintain a premises which is being used for a retail sales business in a district zoned R-80. This use is first permitted in a district zoned B1-.

Not pictured,
Yoli Tortillias

Marion Milling Fresh Organic Flour
Fair Share Farm Ferments

“Crooked Bar N” Grass-Fed Beef

* More has been advertised on their social media since 1/9/2024

Zoning Violation	Abatement	Entitlement Option
Shipping Container	<p>Remove the shipping container.</p> <p>Build an accessory structure for storage, it may be 8,000 sq ft.</p>	<p>In order to maintain the current shipping container,</p> <ul style="list-style-type: none"> • MPD option described above. <p>Or to build an accessory structure larger than what is permitted in the R-80 zoning district,</p> <ul style="list-style-type: none"> • Variance request.
Retail Sales	<p>Cease in the profit-related composting use (Compost Collective) at 5500 Bennington Ave.</p> <p>Only items grown onsite may be sold onsite.</p>	<p>In order to maintain current operations, or expand the use,</p> <ul style="list-style-type: none"> • MPD option described above. • Special Use Permit to show compliance with 88-328. <p>In order to sell goods not grown onsite,</p> <ul style="list-style-type: none"> • MPD option described above.
Gravel Parking Lot/Drive	<p>Pave the first 25 ft of the gravel driveway and pave the parking lot.</p>	<p>In order to maintain or expand the current gravel drive and parking lot,</p> <ul style="list-style-type: none"> • MPD option described above. • Variance request.
Composting Facility	<p>Reduce the composting facility so it can be considered an accessory use.</p> <ul style="list-style-type: none"> • Remove on-site signage. • Move less than 1,500 cubic yards of compost a year. • Remove the Compost Collective use at 5500 Bennington Ave. 	<p>In order to maintain current operations, or expand the use,</p> <ul style="list-style-type: none"> • MPD option described above. • Special Use Permit to show compliance with 88-328.

CD-CPC-2024-00088

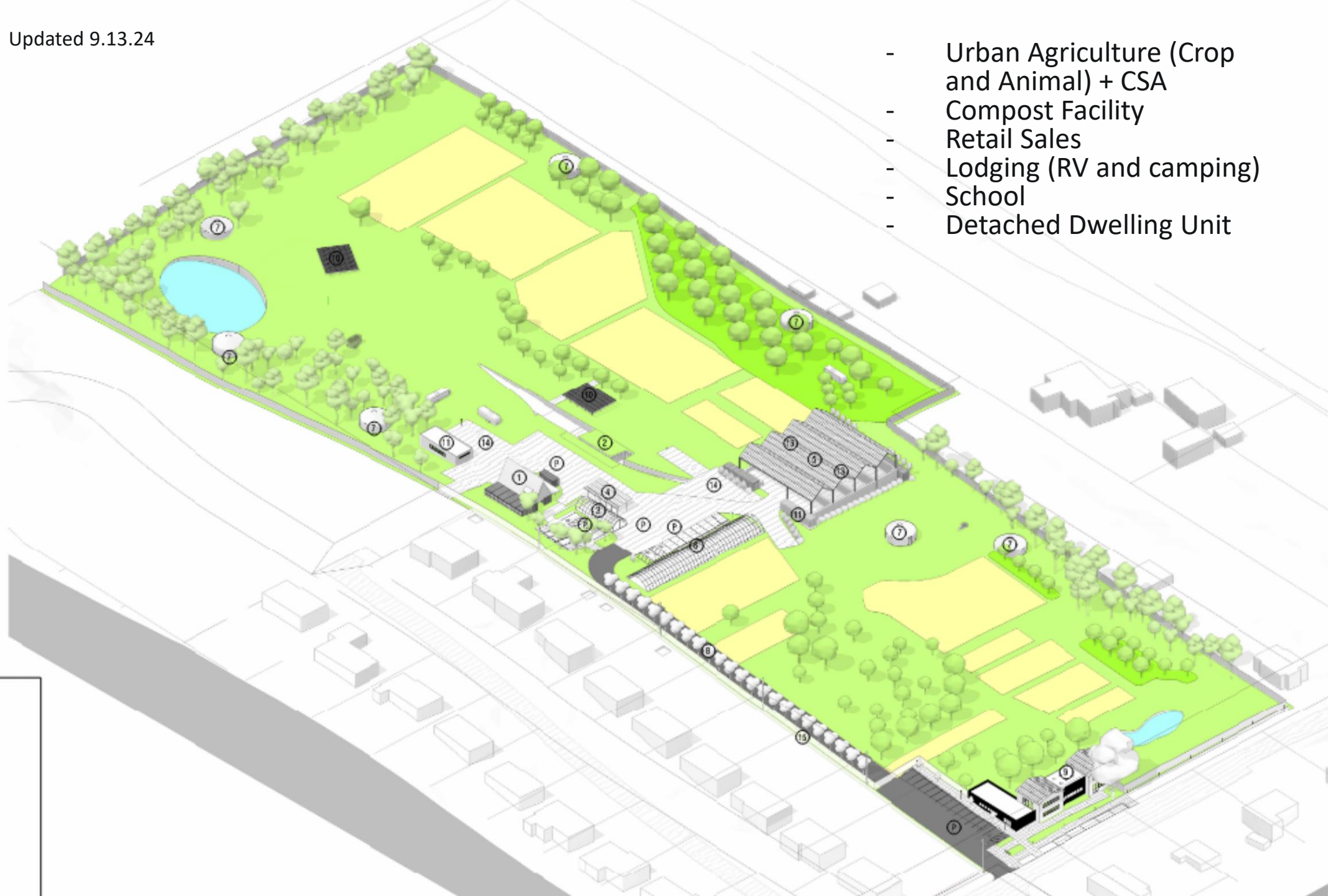
88-280-01-B. SPECIFIC OBJECTIVES

Different types of MPDs will promote different planning goals. In general, however, MPDs are intended to promote the following objectives:

1. flexibility and creativity in responding to changing social, economic, and market conditions and that results in greater public benefits than could be achieved using conventional zoning and development regulations;
2. implementation and consistency with the city's adopted plans and policies;
3. efficient and economical provision of public facilities and services;
4. sustainable, long-term communities that provide economic opportunity and environmental and social equity for residents;
5. variety in housing types and sizes to accommodate households of all ages, sizes, incomes and lifestyle choices;
6. compact, mixed-use development patterns where residential, commercial, civic, and open spaces are located in close proximity to one another;
7. a coordinated transportation systems that includes a inter-connected hierarchy of appropriately designed improvements for pedestrians, bicycles, and vehicles;
8. compatibility of buildings and other improvements as determined by their arrangement, massing, form, character, and landscaping to establish a high-quality livable environment;
9. the incorporation of open space amenities and natural resource features into the development design;
10. low-impact development (LID) practices; and
11. attractive, high-quality landscaping, lighting, architecture, and signage that reflects the unique character of the development.

Urban farming and gardening is popular, promotes environmental sustainability, and has positive social and economic impacts on cities.

- Urban Agriculture (Crop and Animal) + CSA
- Compost Facility
- Retail Sales
- Lodging (RV and camping)
- School
- Detached Dwelling Unit



TERS

CD-CPC-2024-00088

88-516-05 - APPROVAL CRITERIA, In order to be approved, a development plan, project plan, or site plan must comply with all of the following criteria:

A. The plan must comply with all standards of this zoning and development code and all other applicable city ordinances and policies.

B. The proposed use must be allowed in the district in which it is located.

C. Vehicular ingress and egress to and from the site, and circulation within the site must provide for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways.

D. The plan must provide for safe, efficient, and convenient non-motorized travel opportunities, being pedestrian and bicycle movement, on the subject site.

E. The plan must provide for adequate utilities based on City standards for the particular development proposed.

~~F. The location, orientation, and architectural features, including design and material, of buildings and other structures on the site must be designed to be compatible with adjacent properties.~~

G. Landscaping, berms, fences and/or walls must be provided to buffer the site from undesirable views, noises, lighting or other off-site negative influences and to buffer adjacent properties from negative influences that may be created by the plan.

H. The design of streets, drives, and parking areas within the project should result in a minimum of area devoted to asphalt or other impervious surfaces consistent with the needs of the project and city code requirements.

~~I. The plan must identify trees to be removed and trees to be preserved during the development of the subject property with the goal of saving trees that are not required to be removed for the development of the property.~~

Does not comply with criteria.

Supports criteria.

Debatable compliance with criteria.

CD-CPC-2024-00088

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H. The design of streets, drives, and parking areas within the project should result in a minimum of area devoted to asphalt or other impervious surfaces consistent with the needs of the project and city code requirements.

- The proposed MPD does not comply with all standards of the Zoning and Development Code. Deviations are requested to provide relief from the Zoning and Development Code to accommodate business operation preferences.
- 6 deviations
 1. A deviation from the accessory building/structure separation zoning standards, permitting accessory buildings/structures to be less than 10 ft from all other accessory and principal buildings on the same lot.
 2. A deviation from 88-328-02-B, the setback requirements for a composting facility, to be setback less than 250 ft from property lines and at least 500 ft from any residential dwelling unit, per the approved site plan.*
 3. A deviation from the temporary portable storage container specific use standards, to permit the use of 5 shipping containers to be used as permanent storage buildings, unless otherwise approved through building permit.*
 4. A deviation to permit gravel, as described on the approved site plan, for vehicular and loading use, on the subject site.*
 5. A deviation to permit a fence along all property lines of 10 ft.
 6. A deviation from on-site pedestrian standards, permitting internal connections inconsistent with 88-450-03-C.2.

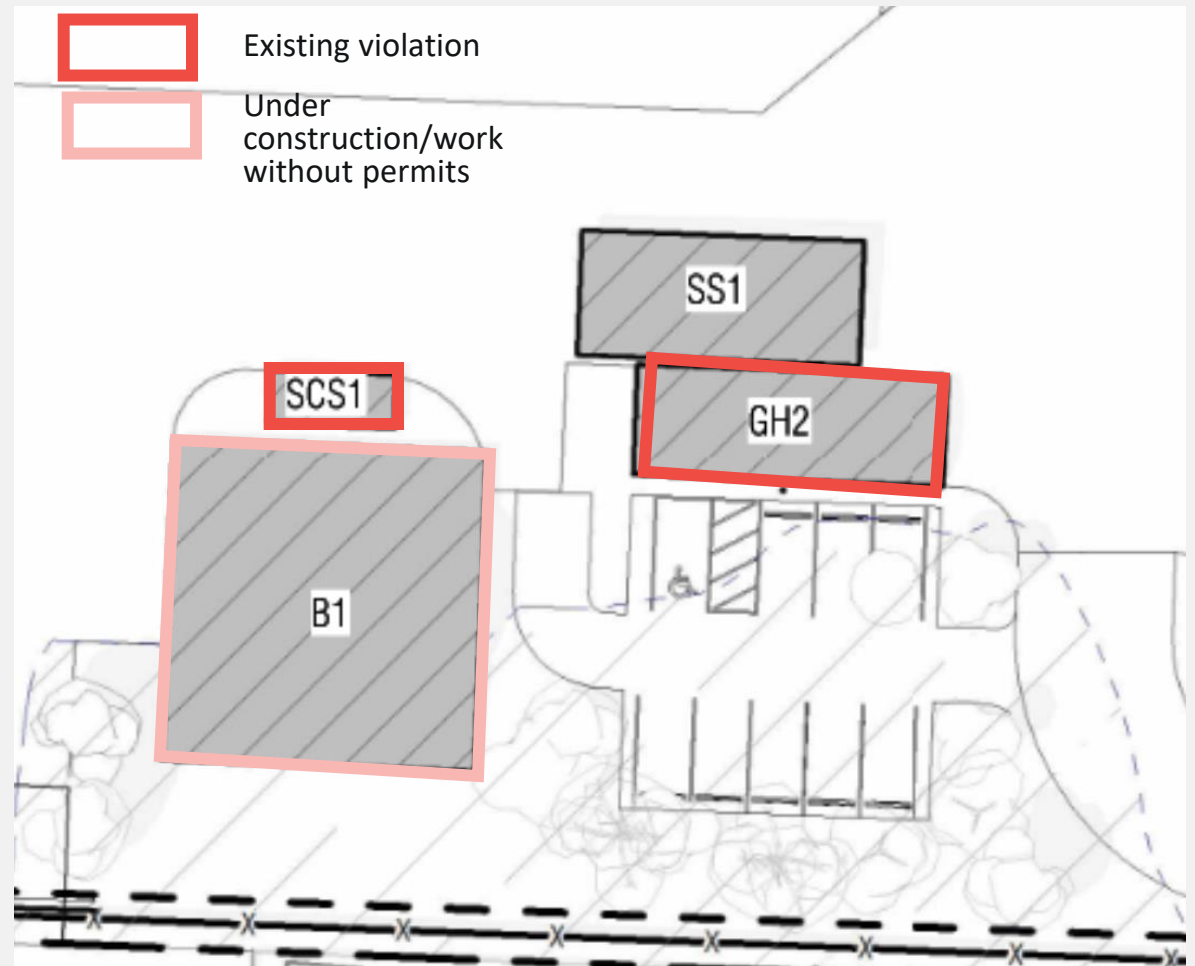
* Related to zoning violation being appealed.

CD-CPC-2024-00088

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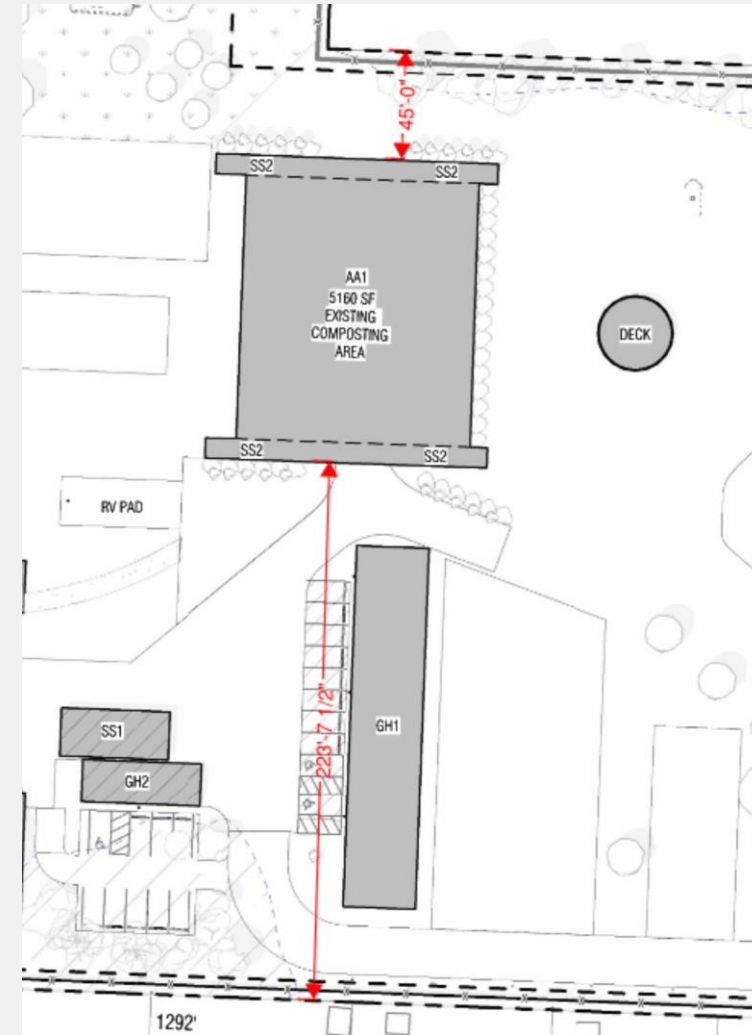
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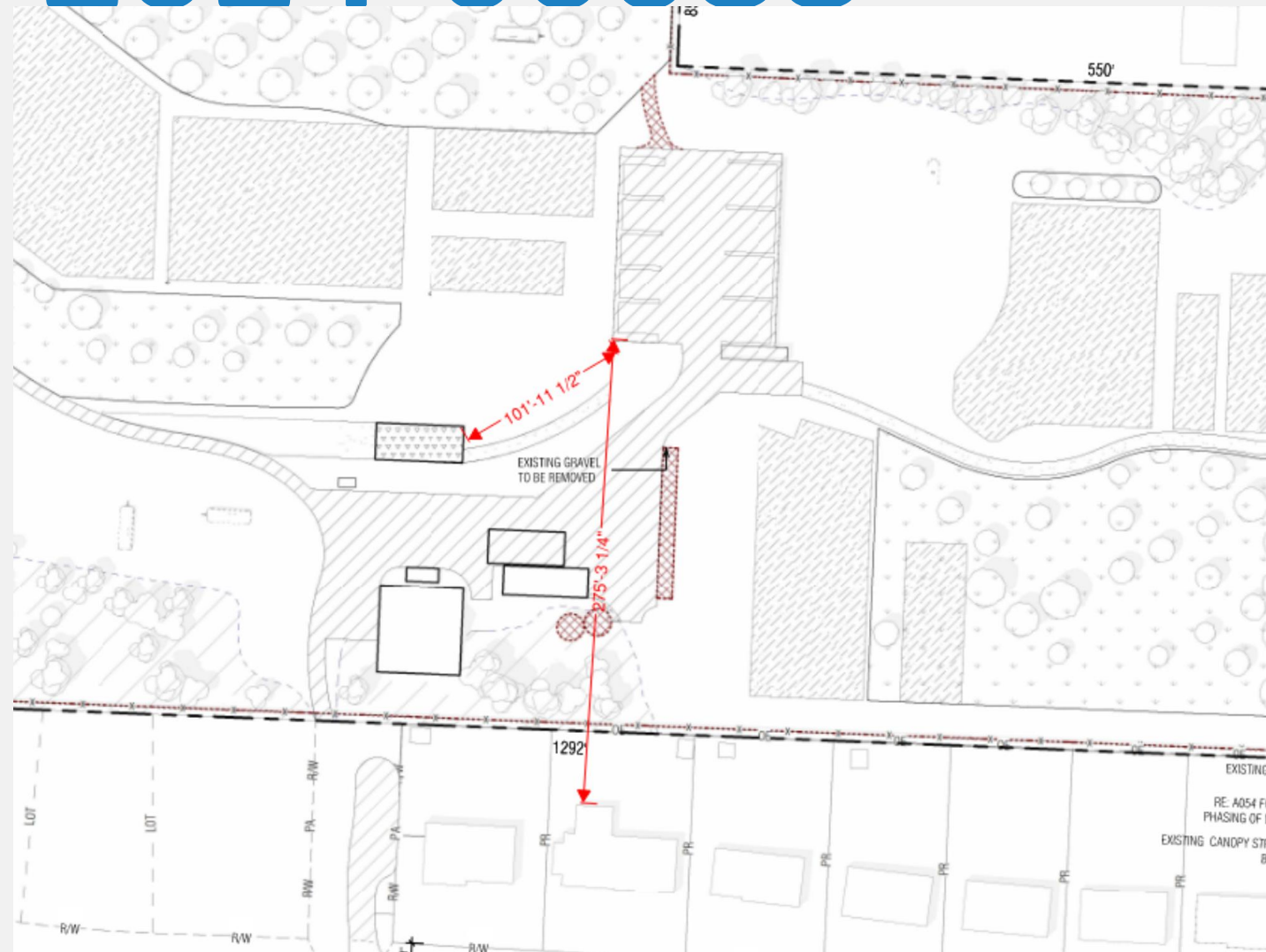
** Change since the City Plan Commission review.



CD-CPC-2024-00088

Section C.2

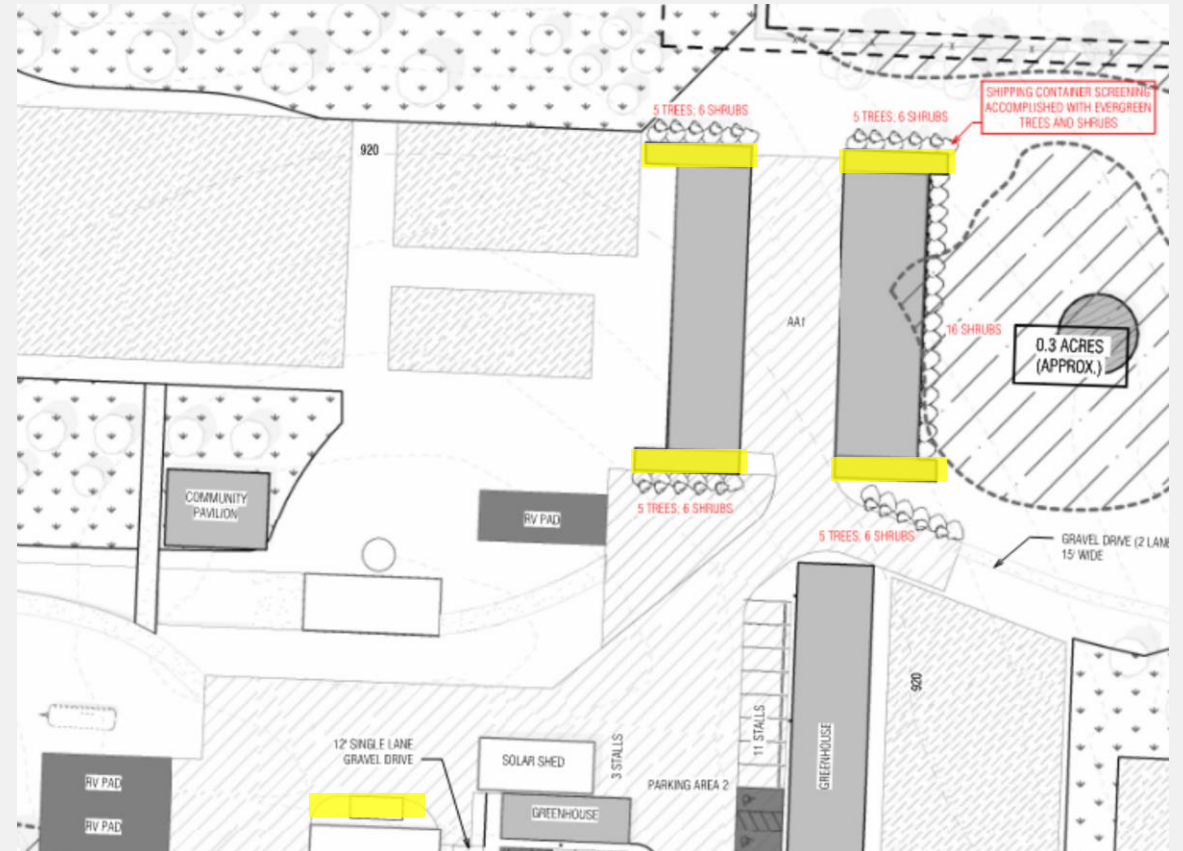
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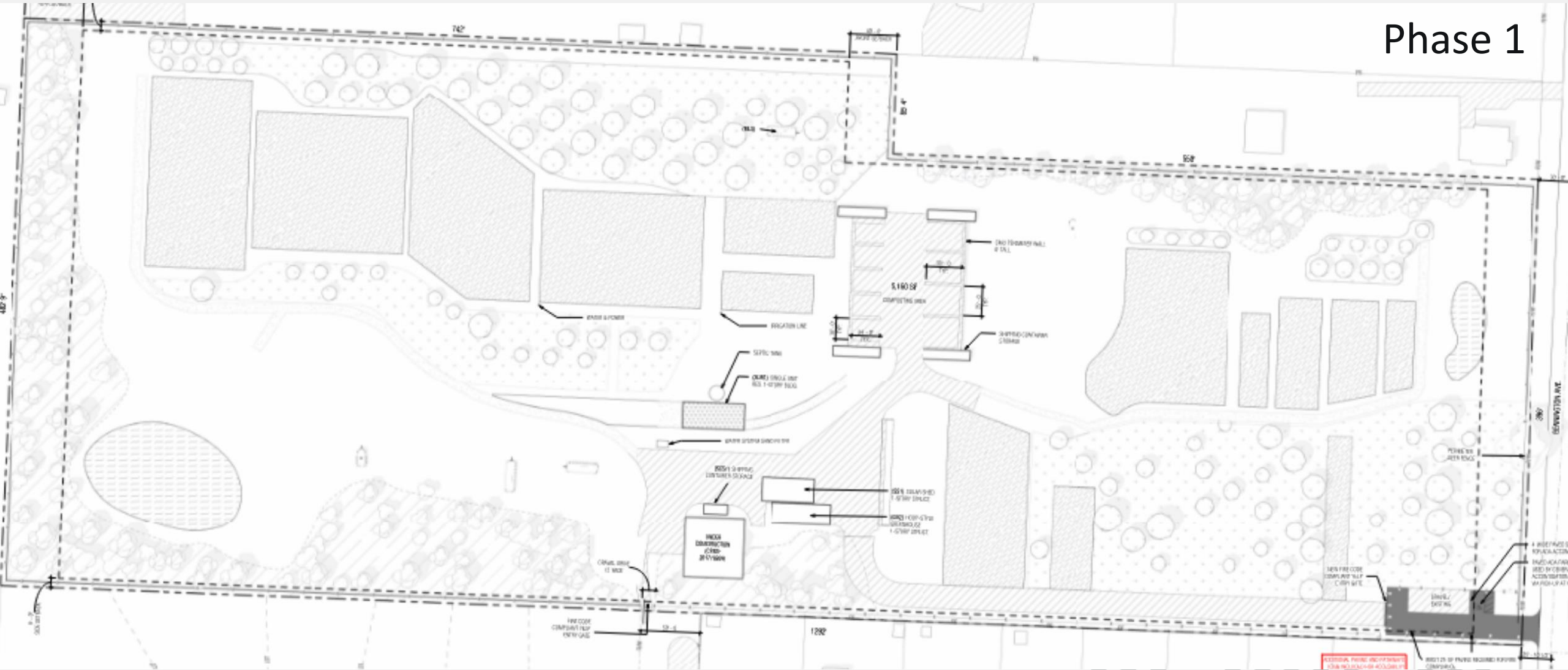
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H. The design of streets, drives, and parking areas within the project should result in a minimum of area devoted to asphalt or other impervious surfaces consistent with the needs of the project and city code requirements.

City staff have issued with the amount of gravel on the site. Especially as it relates to ADA parking stalls and public paths.

Compromise – understanding public versus private and employee space.

Phase 1



RENOVATION AREA
RESULTS OF PERMITS REQUIRED FOR THIS PROJECT

CD-CPC-2024-00088

Phase 1

Phase 2, see conditions report.



CD-CPC-2024-00088

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LIVING FENCE PHOTO EXAMPLES FOR REFERENCE ONLY.



FENCE



CD-CPC-2024-00088

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* Related to zoning violation being appealed.

88-450-03 - STANDARDS

88-450-03-A. PUBLIC SIDEWALKS

The city is authorized to require the installation of public sidewalks subject to the applicability of this section, including with the issuance of a building permit for any platted lot where sidewalks have not been constructed.

88-450-03-B. ON-SITE PEDESTRIAN CIRCULATION

Where practical or as otherwise approved in conjunction with a development plan or site plan, an on-site pedestrian circulation system must be provided in accordance with the following requirements:

1. **Connection to the Street.** The on-site pedestrian circulation system must connect all adjacent public rights-of-way to the main building entrance. The connection must follow a direct route and not involve significant out-of-direction travel for system users.
2. **Connection to Neighboring Areas.** The on-site pedestrian circulation system must provide at least one connection to all adjacent properties. The connections must run to the property line and connect to existing paths or sidewalks on neighboring properties or to the likely location of future paths or sidewalks on those properties. However, when the city planning and development director determines that no paths or sidewalks exist on a neighboring property or it is not possible to determine the likely location of future path or sidewalk connections and that extending a connection would create a safety hazard on either property, no connection is required.
3. **Internal Connections.** The on-site pedestrian circulation system must connect all buildings on the site and provide connections to other areas of the site likely to be used by pedestrians, such as parking areas, bicycle parking, recreational areas, common outdoor areas, and pedestrian amenity features.

88-450-03-C. DESIGN

1. **Public Sidewalks.** Public sidewalks must be designed and constructed in accordance with the department of public works' Standards, Specifications and Design Criteria.
2. **On-Site Pedestrian Circulation.** Required on-site pedestrian circulation facilities must be designed and constructed in accordance with the following requirements:
 - a. The on-site pedestrian circulation system must be paved and be at least 5 feet in width.
 - b. When the on-site pedestrian circulation system crosses driveways, parking areas or loading areas, it must be clearly marked or distinguished to avoid conflict between pedestrians and traffic through the use of raised pedestrian crossings, change in paving material or embossed striping, bollards, landscaping, or other approved method. Painted striping does not meet this requirement.
 - c. When the on-site pedestrian circulation system is parallel and adjacent to an auto travel lane, it must be a raised path at least 6 inches above the auto travel lane surface or be separated from the auto travel lane by a raised curb, bollards, landscaping or other approved physical barrier. Any raised paths must meet accessibility requirements.

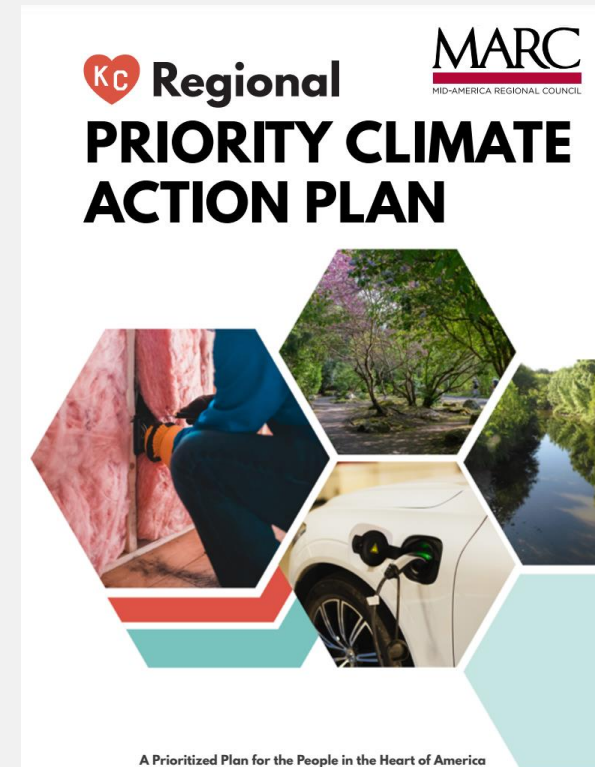
(Ord. No. 150544, § 1, 7-23-2015)



CD-CPC-2024-00088

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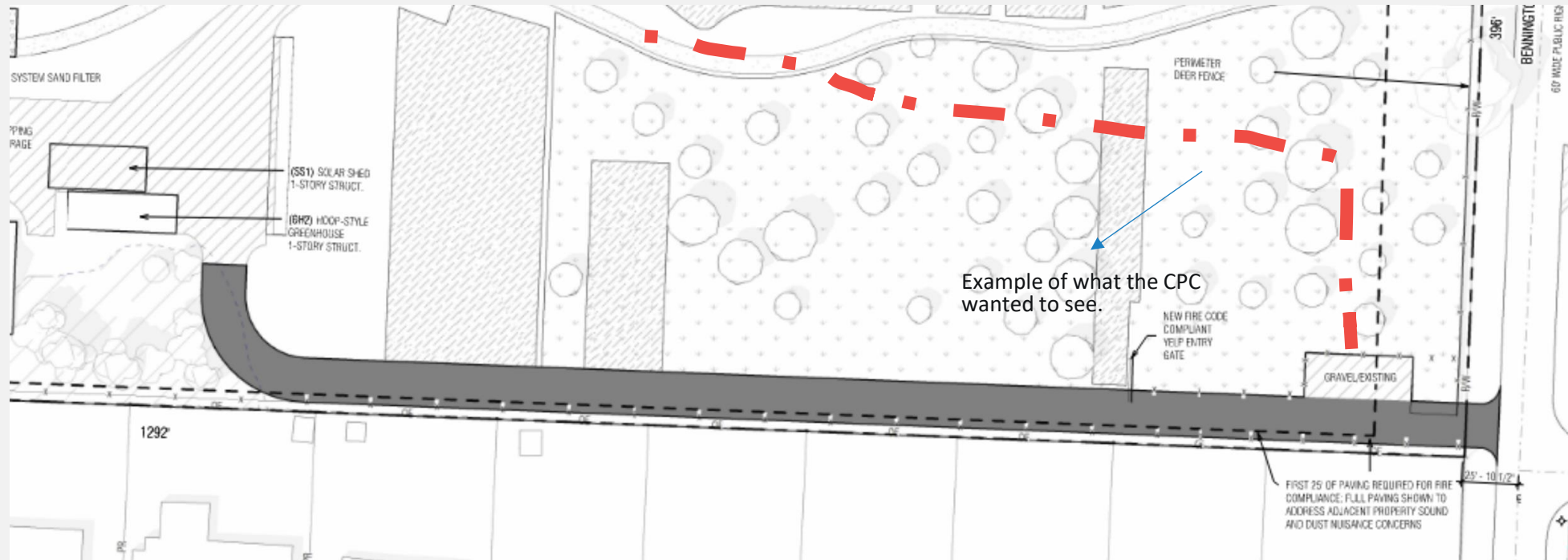
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C. Vehicular ingress and egress to and from the site, and circulation within the site must provide for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways.

Original Submission.

- Phase 1, to be completed within a year of MPD adoption.
- CPC interested in seeing the drive relocated.



Example of what the CPC wanted to see.

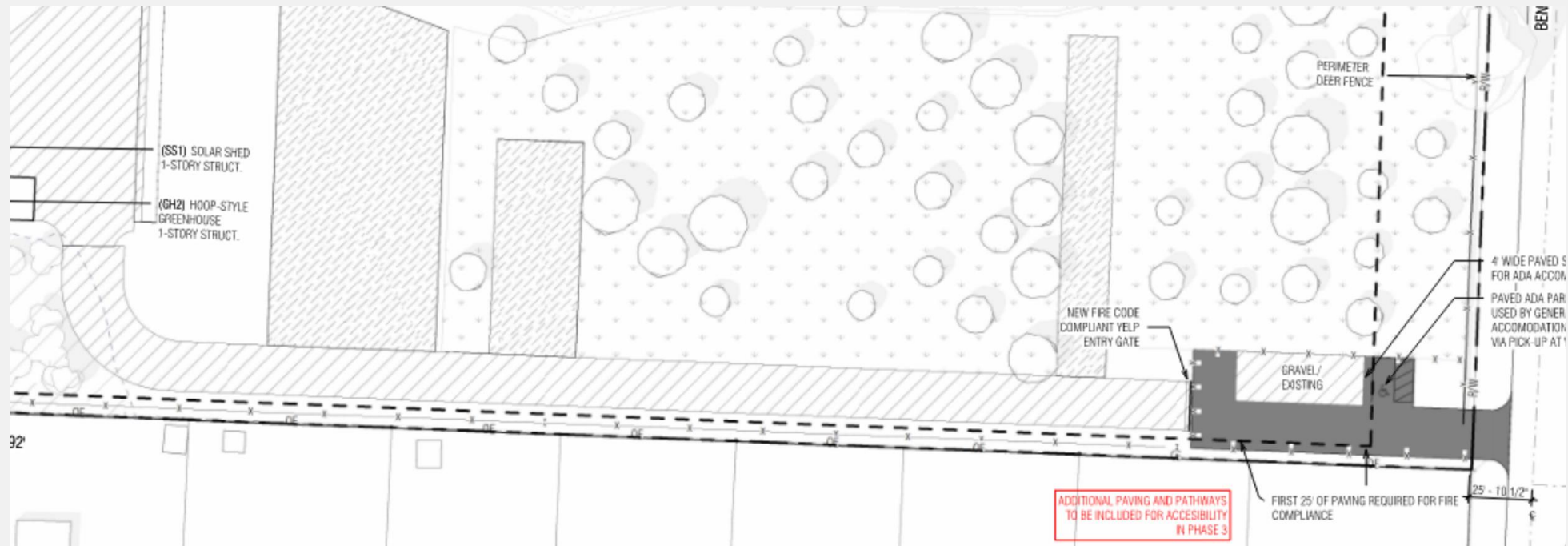
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Revised Submission.

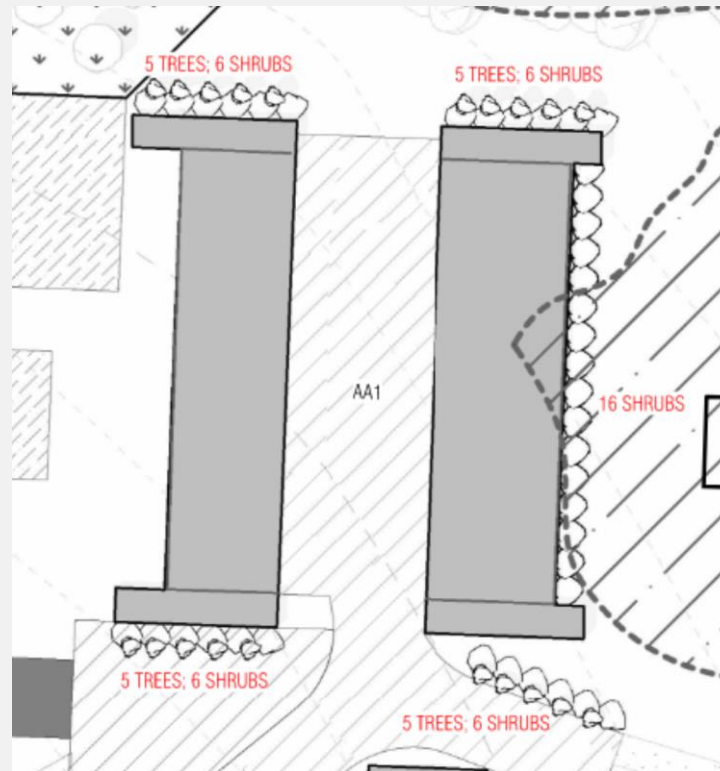
- Removed 72% pavement.
- Shortened the width from <5ft to 10 ft adjacent southern property line.
- See revised plans for updated landscaping.
- Road not relocated because it would cause established crops and orchards to be removed.



CD-CPC-2024-00088

88-516-05 - APPROVAL CRITERIA, In order to be approved, a development plan, project plan, or site plan must comply with all of the following criteria:

G. Landscaping, berms, fences and/or walls must be provided to buffer the site from undesirable views, noises, lighting or other off-site negative influences and to buffer adjacent properties from negative influences that may be created by the plan.



CD-CPC-2024-00088

88-520-03-G. REVIEW CRITERIA

In reviewing and making decisions on proposed MPD rezonings and preliminary development plans, review and decision-making bodies must consider at least the following factors:

1. the preliminary development plan's consistency with any adopted land use plans for the area;
2. the preliminary development plan's consistency with the MPD district provisions of 88-280; and
3. the sufficiency of the terms and conditions proposed to protect the interest of the public and the residents of the MPD in the case of a plan that proposes development over a long period of time.

“Innovative and flexible land-tenure agreements and flexible farming practices, careful siting of larger commercial, and hybrid urban-agriculture operations is important to the success of urban agriculture. Higher-intensity agriculture activities such as large-scale plant or animal production, composting, food preparation and processing, or animal slaughtering may be better suited for commercial or former industrial areas on the urban periphery.” APA

Promoting urban agriculture is in the public interest. The terms and conditions attached to the proposed MPD promote the mixed-use operation characteristics of Urbavore which occupies only 13 acres with the Kansas City Metro.

CD-CPC-2024-00088

City Plan Commission Recommendation

Approval, Subject to Conditions



CD-CPC-2024-00088

Animal Agriculture

- 5500 Bennington Ave was rezoned from R-1a to RA in 2010.
- Staff Report states

District RA allows for agricultural uses such as general crop farming, fowl hatcheries, domestic animal kennels, butchering facilities, cellular and radio/television towers as well as single family so long as the lot is a minimum of three acres. District RA also allows for general livestock breeding, however requires a minimum of 20 acres. This rezoning only includes 13.5 acres on two parcels, therefore farming including the raising and breeding of livestock will not be permitted.

CD-CPC-2024-00088

Animal Agriculture

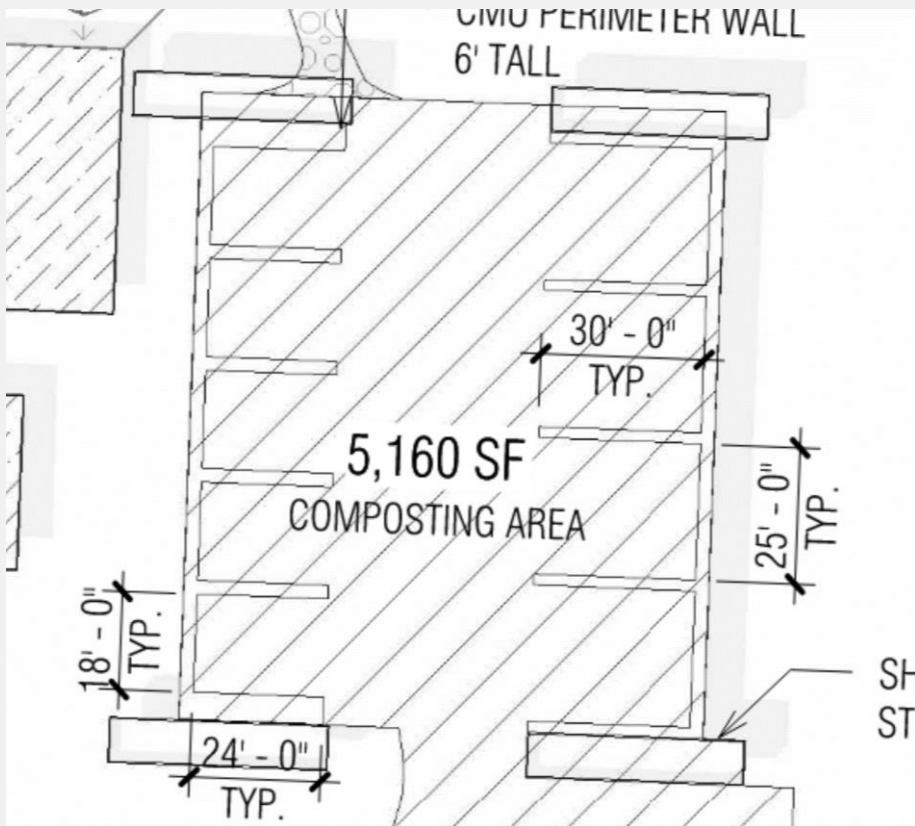
- 2010 RA =

General farming, including the breeding and raising of livestock, riding stables and academies, and polo fields, on a tract, lot or parcel having an area not less than 20 acres; provided that all stables, barns, animal sheds or shelters shall be located not less than 100 feet from any property line; and further provided there shall be no feeding or disposal of garbage, rubbish or offal unless a permit for such operation is issued by the health department, which permit shall be for a stipulated period not to exceed three years.

Animal Agriculture

- RA = R-80
 - Specific use standards removed along with other updates to the Urban Agriculture provisions in the City Code, championed by a prior City Council member because of the previous zoning violations tied to Badseed (Urbavore).

CD-BZA-2023-00049



Violation 1

Did own, lease, or maintain a premises in which allows the operation of a Composting Facility in a district zoned R-80. This use is first permitted in a district zoned R-80 with a Special Use Permit.

Note: City Staff did approve an accessory use, composting of mostly materials produced on-site, not selling compost. Expansion would require a Special Use Permit.

CD-BZA-2023-00049

Violation 1

88-810-365 - COMPOSTING FACILITY

A facility specializing in the composting of more than **40 cubic yards** of one or more organics of a known and consistent composition, other than mixed municipal waste, to produce a marketable product for reuse or as a soil conditioner.

Feedstocks may include, but are not limited to, yard/landscape waste, biosolids, or food waste.

CD-BZA-2023-00049

Violation 1

5 bays (2022 aerial)

= 640 cubic yards

4 bays (2024)


= 889 cubic yards

TOTAL 1529



Image Source: Instagram

What's a Cubic Yard ?



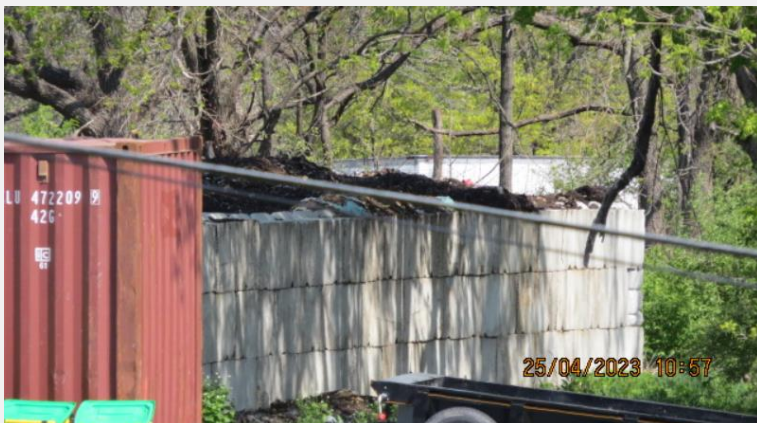
1 cubic yard = 3' high x 3' wide x 3' deep
= 27 cubic feet

1 cubic yard covers approximately:

- 160 square feet at 2" deep
- 100 square feet at 3" deep
- 80 square feet at 4" deep
- 50 square feet at 6" deep

CD-BZA-2023-00049

Violation 1: Investigation Photos

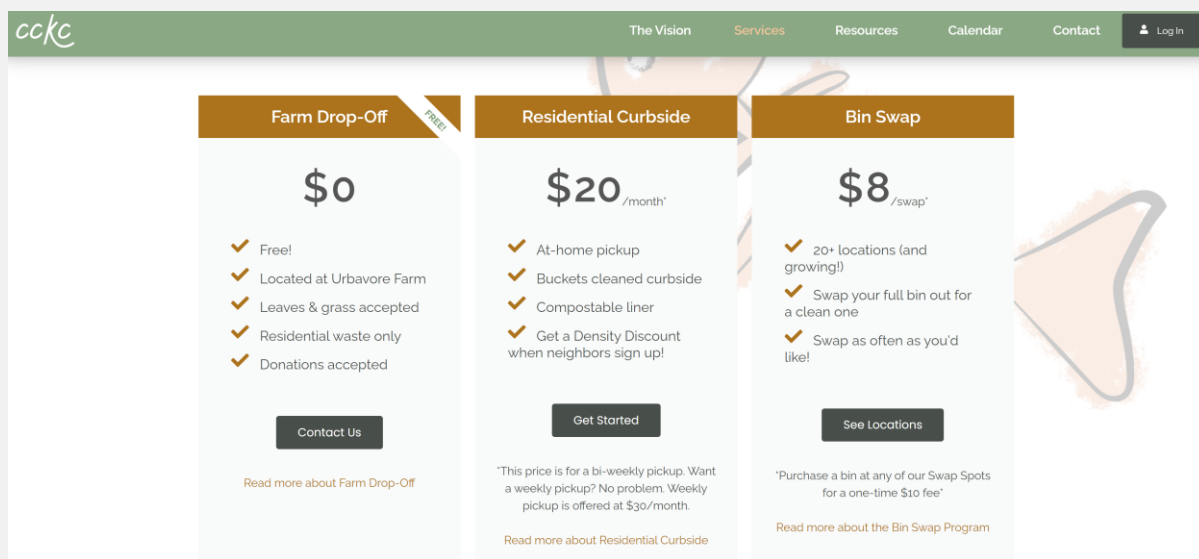




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CD-BZA-2023-00049

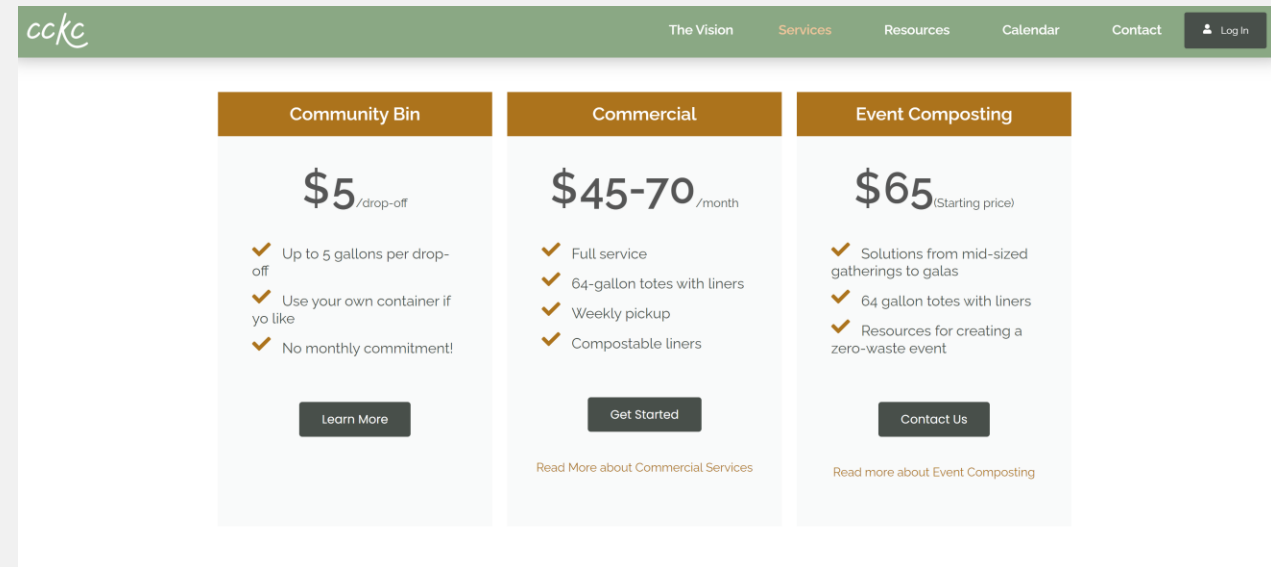
Violation 1: Online Evidence



The screenshot shows the CCKC website with a green navigation bar containing 'The Vision', 'Services', 'Resources', 'Calendar', 'Contact', and 'Log In'. Below the navigation bar, there are three service cards:

- Farm Drop-Off** (FREE): \$0. Features include: Free!, Located at Urbavore Farm, Leaves & grass accepted, Residential waste only, and Donations accepted. A 'Contact Us' button is at the bottom.
- Residential Curbside**: \$20/month*. Features include: At-home pickup, Buckets cleaned curbside, Compostable liner, and Get a Density Discount when neighbors sign up!. A 'Get Started' button is at the bottom.
- Bin Swap**: \$8/swap*. Features include: 20+ locations (and growing!), Swap your full bin out for a clean one, and Swap as often as you'd like!. A 'See Locations' button is at the bottom.

Each card has a 'Read more about' link at the bottom.

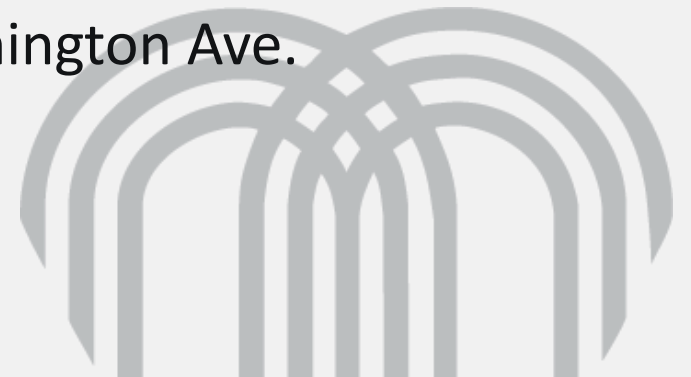


The screenshot shows the CCKC website with a green navigation bar containing 'The Vision', 'Services', 'Resources', 'Calendar', 'Contact', and 'Log In'. Below the navigation bar, there are three service cards:

- Community Bin**: \$5/drop-off. Features include: Up to 5 gallons per drop-off, Use your own container if yo like, and No monthly commitment!. A 'Learn More' button is at the bottom.
- Commercial**: \$45-70/month. Features include: Full service, 64-gallon totes with liners, Weekly pickup, and Compostable liners. A 'Get Started' button is at the bottom.
- Event Composting**: \$65 (Starting price). Features include: Solutions from mid-sized gatherings to galas, 64 gallon totes with liners, and Resources for creating a zero-waste event. A 'Contact Us' button is at the bottom.

Each card has a 'Read more about' link at the bottom.

- All compost, residential or commercial goes to 5500 Bennington Ave.
- Urbavore/Compost Collective sells the compost.



CD-BZA-2023-00049

Violation 1

City Staff did approve an accessory use, mostly composting of materials produced on-site. Expansion would require a Special Use Permit. See Exhibit 12.

Urbavore Farm Composting Compliance

10 messages

Clements, Jared <Jared.Clements@kcmo.org>
To: "dan@urbavorefarm.com" <dan@urbavorefarm.com>
Cc: "Rexwinkle, Joseph" <Joseph.Rexwinkle@kcmo.org>

Fri, Mar 12, 2021 at 2:52

Good Afternoon,

After doing some research Joe and I determined that your compost operation would be characterized as an accessory use, as the principal use of your property is urban agriculture. Further, our code states that accessory uses must be subordinate to the principal use, contribute to the necessity of the principal use, and be customarily found in association with the principal use, which your compost operation is. What this all means is that rather than complying with Section 88-328-02 (which is regarding a composting facility that sells compost), you need only comply with Section 88-305.

Generally speaking you should be good to go on our side in terms of setback requirements. As a rule of thumb, if you do start producing more compost than you are able to use and you want to sell it, we can move forward with the previously mentioned strategies for bringing your property into compliance.

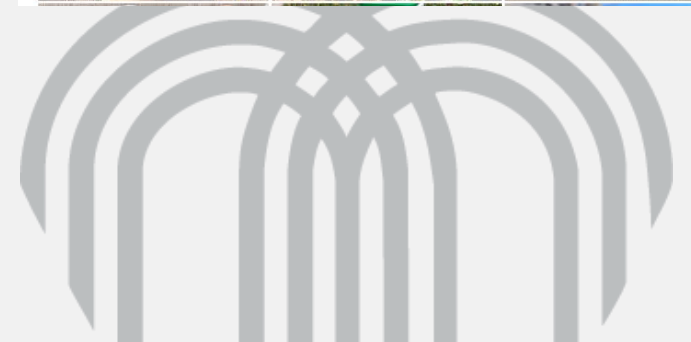
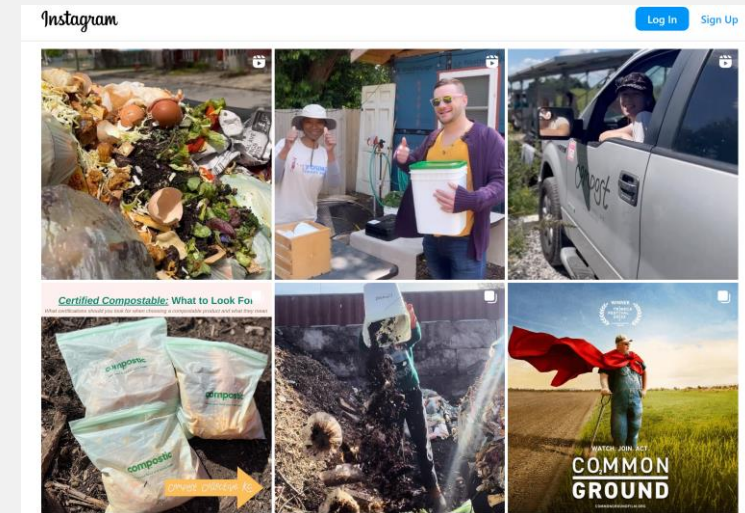
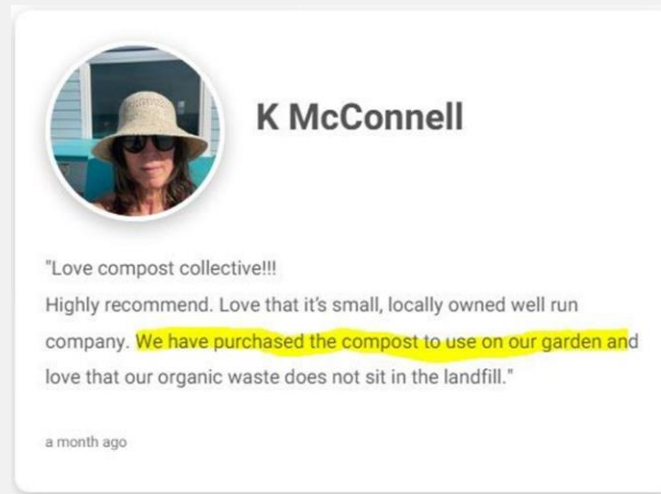
Respectfully,

 Jared Clements

CD-BZA-2023-00049

Violation 1

- Online evidence, complaints which launched code enforcement investigation, and testimony from property owners indicate that the composting facility a major component of the site.



CD-BZA-2023-00049

Violation 1 – Key Points

- Composting use has expanded beyond being accessory.
88-810-1260 - PRINCIPAL USE
An activity or combination of activities of chief importance on the lot. One of the main purposes for which the land, buildings or structures are intended, designed, or ordinarily used.
- There are specific use standards for a composting facility to mitigate negative externalities.

88-328 - COMPOSTING FACILITY



88-328-01 - APPLICABILITY



Composting facilities are subject to the following standards in addition to any standards imposed as part of the special use approval process.

88-328-02 - STANDARDS AND CONDITIONS



88-328-02-A. The lot must have a minimum area of at least 40,000 square feet per 1,000 cubic yards of compost material;

88-328-02-B. Windrows of compost material must be set back at least 250 feet from all property lines and at least 500 feet from any residential dwelling unit;

88-328-02-C. No portion of the facility may be located within any portion of a required stream buffer;

88-328-02-D. As part of the special use permit approval process, the owner must submit a plan of operation, detailing such information as how often the windrows will be turned, the type of machinery that will be used, hours of operation, methods to control litter and odors, and the intended use of the end product.

(Ord. No. 120783, § 1, 10-4-2012)



CD-BZA-2023-00049

Violation 1 – Key Points

- Fix an error in BZA staff report – says that 1,500 cubic yards was approved by staff. Inaccurate city staff statement based off a goal indicated by the property owner in 2021 pre-application meeting.
 - The use has expanded in many ways, not just in the amount of compost it produces/stores on site.

Confirmed: Pre-Application Consultation (VIRTUAL) @ March 12, 2021, 8:30 a.m. ▼

You will receive a separate email from city staff inviting you to the meeting. Please use the information provided in that email to join.

MEETING TYPE

Pre-Application Consultation (VIRTUAL)

MEMBER

Pre-Application Consultation

INFORMATION

Email: dan@urbavorefarm.com

Phone Number: 913-522-3458

First Name: Daniel

Last Name: Heryer

Subject Property Location: [5500 Bennington Ave, Kansas City, MO 64129, USA](#)

Proposal: To expand an existing compost facility located on an urban farm to divert an annual volume of 1,500 cubic yards of compostable materials from the landfill. The proposed facility cannot meet the setback requirements set forth in 88-328. The existing facility should be reviewed to see if "grandfathering" laws apply, as the original composting program was implemented in November of 2010. We have been in contact with MO DNR, and have applications pending for this project.

Topics you'd like to discuss: Zoning, Plan requirements

Prior Staff Contact: Chris Hughey, Zach Nelson

From: Dan@UrbavoreFarm.com <dan@urbavorefarm.com>
Sent: Monday, February 22, 2021 10:26 AM
To: Hughey, Christopher <Christopher.Hughey@kcmo.org>
Subject: Codes and Use Questions for URBAVORE Urban Farm

EXTERNAL: This email originated from outside the kcmo.org organization. Use caution and examine the sender address before replying or clicking links.

Mr. Hughey:

I left you a message this morning, and wanted to follow up with some details. I found your contact through a friend who recently retired from his career with the City, and am seeking your assistance because I have not gotten any answers after attempting to go through the normal channels.

This email is intended to give you as much detail as possible about the past, current and planned uses on our property. Feel free to skip to the Questions section at the end. I just want you to have all of the information you need.

Background

My wife and I own property located at 5500 Bennnington Avenue, KCMO 64129. The property is zoned R-80 for agricultural use. We have been running an urban farm at this location since 2010.

My wife and I were funded by the Missouri Department of Natural Resources over 10 years ago to start a neighborhood-based composting program. Prior to applying for funding, we looked into the codes and ordinances surrounding composting, and determined that we could legally operate. Indeed, we received support letters from KCMO Councilmembers to support our grant application for DNR funding. Most of our neighbors use our current composting program to some extent to dispose of their food scraps or yard waste, and are very supportive of this use.

We currently do not take any payment for the composting program, and the service is entirely free.

New Use

We have been working toward accepting significantly more compostable waste into our program in 2021, and improving our equipment and systems to accommodate this activity. Our goal is to divert more waste from the landfill, to provide additional sources of fertility for our farming activities, and to make the compost program more financially sustainable.

We are in conversation with a business that collects compost curbside for area residents about having that waste dropped at our farm, and are also considering having some tree services drop chipped material there. We would collect payment for this activity, while keeping the free service that we already provide. We estimate that we would take in between 1,000 to 1,500 yards of material annually for the next three years, given the numbers that we received from the compost hauler.



CD-BZA-2023-00049

Violation 1

Quote from Urbavore Newsletter

“With our partner business Compost Collective KC we take in 20,000 pounds of residential food waste every single week!”

20,000 pounds per week = 17.7 cubic yards/tons per week (source A)
922 cubic yards/tons per year**

20,000 pounds per week = 19 cubic yards per week (source B)
972 cubic yards per year**

**meets the definition of a Composting Facility in the Zoning and Development Code.

A: Using the EPA “RecycleMania Volume-To-Weight Conversion Chart Formula”
- Food Waste Mixed food waste = 1,500 pounds (cubic yard), 1.33 tons (cubic yards)
B: NH Department of Environmental Services
- Vegetative, Food waste = 1 cubic yard, 1,070 lb

CD-BZA-2023-00049

Violation 2

Did own, lease, or maintain a premises which is being used for the storage of temporary storage containers in a district zoned R-80. This use is first allowed in an M-1 zoned district with a Special Use Permit.



CD-BZA-2023-00049

Violation 2

Temporary portable storage containers are an allowed temporary, accessory use on lots containing a dwelling, subject to all of the following.

88-370-08-A. On lots developed with detached houses:

1. Temporary portable storage containers are permitted for a period not to exceed a total of 30 days within any consecutive 6-month period. However, in cases where a dwelling has been damaged by natural disaster or casualty, the city planning and development director is authorized to allow a temporary portable storage container for a longer period.
2. Temporary portable storage containers may not exceed a cumulative gross floor area of 260 square feet.
3. Temporary portable storage containers may not be located in a setback abutting a street unless located on a driveway or other paved surface.

88-370-08-B. On lots developed with residential buildings other than detached houses:

1. Temporary portable storage containers are permitted for a period not to exceed 72 hours within any consecutive 6-month period. However, in cases where a dwelling has been damaged by natural disaster or casualty, the city planning and development director is authorized to allow a temporary portable storage container for a longer period.
2. Temporary portable storage containers may not exceed a cumulative gross floor area of 130 square feet for each dwelling unit.
3. Temporary portable storage containers may not be located in a setback abutting a street unless located on a driveway or other paved surface.

88-370-08-C. Temporary portable storage containers may not exceed 8.5 feet in height.

88-370-08-D. Temporary portable storage containers may not be located in any required open space, landscaped area, on any sidewalk or trail, or in any location that blocks or interferes with any vehicular and/or pedestrian circulation.

88-370-08-E. Signs on temporary portable storage containers must comply with all applicable sign regulations of this zoning and development code.

88-370-08-F. Rail cars, semi-trailers, and similar structures may not be used for temporary or permanent storage on lots containing a dwelling.



25/04/2023 10:51

CD-BZA-2023-00049

Violation 2 – Key Points

- Shipping containers sites an industrial use on the subject property.
- Warehousing, Wholesaling, Storage, and Freight Movement use group category focuses on storage, wholesale sales, and distribution of materials and equipment. Typical uses include storage of warehouses; moving and storage firms; trucking or cartage operations; truck staging or storage areas (shipping container storage trailers); outdoor storage areas; and wholesale sales of materials and equipment to parties other than the general public (88-805-05-F).
- 88-370-08-F. Rail cars, semi-trailers, and similar structures may not be used for temporary or permanent storage on lots containing a dwelling.
- Permitted accessory structures can be used on the site for storage needs.

CD-BZA-2023-00049

Violation 3

Did own, lease, or maintain a premises in an R-80 zoned district in which the vehicle use area does not meet vehicle use area requirements as set forth in City Ordinance 88-420-12.



CD-BZA-2023-00049

Violation 3: Investigation Photos





25/04/2023 11:12

CD-BZA-2023-00049

Violation 3 – Key Points

- Site is permitted gravel drives.
 - First 25 ft must be paved from the Right-of-Way.
 - Parking spots must be paved.



CD-BZA-2023-00049

Urbavore Urban Farm
April 27 · Instagram · 🌐

I am such an IDIOT!!! I totally forgot to add @skyviewfarmandcreamery FRESH CHEESE & YOGURT to the online store. Sheri is coming today to deliver gorgeous fresh mozzarella, salty feta, pure silk whole milk yogurt, and decadent fromage blanc!!! I'm leaving the online store live until 1pm so you can scurry over and get your cheese! Link in profile. I apologize dear eaters for my oversight. I'm working long hours and juggling way too many details. But this cheese is well worth the hassle so load up!! I'll have whatever doesn't sell through the store available at this evening's pickup so if you have cash on hand that would be awesome! #freshcheese #eatlocalkc



Robin the Mushroom Lady is back!! She'll be supplying the online store each week with tasty shrooms from [MyCo Planet](#). This week we've got a limited number of Shiitake, Oysters, and Lion's Mane. Get your booties over to the store right now and load up before they are all gone!!



Violation 4

Did own, lease, or maintain a premises which is being used for a retail sales business in a district zoned R-80. This use is first permitted in a district zoned B1-.

Not pictured,
Yoli Tortillias

Marion Milling Fresh Organic Flour
Fair Share Farm Ferments

“Crooked Bar N” Grass-Fed Beef

* More has been advertised on their social media since 1/9/2024

CD-BZA-2023-00049

Violation 4: Online Evidence

* More has been advertised on their social media and online store since 1/9/2024



"Jonny Bakes" Organic Sourdough Bread: Tartine Country Loaf (17% Rye) & Toasted Organic Pumpkin Sourdough
\$9.50 - \$10.50



Artisan Kombucha *NEW! (12 oz bottle)
\$3.00



Fair Share Farm Ferments!!
\$9.00 - \$13.00



Skyview Creamery Cave Aged Raw Milk Cheese!
\$6.75 - \$8.25

CD-BZA-2023-00049

CSA/Urban
Farm
Permitted
in R-80,
SUP
required
for other
R- zoned
property.

1. Community Supported Agriculture (CSA) Standards

- (a) Garden and farm-related buildings and structures must comply with the accessory structure requirements that apply in the subject zoning district (See [88-305](#)).
Farmed areas must be set back at least 3 feet from all property lines. The required setback must be covered with ground cover plants, which may include grasses.
- (b) Row crops are not permitted in the front yard of a residentially zoned and occupied property, except property zoned R-80, if whole, uncut fresh food and/or horticultural products grown on the CSA property are donated or sold onsite. "Row crops" shall be defined as grain, fruit or vegetable plants, grown in rows, which are 24 inches or more in height. "Row crops" shall not mean cultivated or attended trees or shrubbery and shall not include grain, fruit or vegetable plants that are part of the front yard's borders, that extend no more than 8 feet from the side property lines or from the front of the principal building.
- (c) Shareholders may pick up food and/or horticultural products grown on the CSA property at the site and may work at the site.
- (d) The site must be designed and maintained so that chemicals will not drain onto adjacent property.
- (e) Tractors, lawnmowers, and other farm-related machinery in R-10 through R-0.3 residential districts must be stored in an enclosed structure.
- (f) Interns and apprentices may be allowed to work on the CSA property.
- (g) All chemicals and fuels shall be stored in an enclosed, locked structure when the site is unattended.
- (h) Synthetic pesticides or herbicides may be applied only in accordance with state and federal regulations.
- (i) Sales and donation of only whole, uncut, fresh food and/or horticultural products grown on the CSA property may be allowed.
- (j) Reasonable conditions for the operation of the CSA may be imposed.
- (k) The permit may be granted for an initial period of one year. Subsequent renewals may be allowed for up to 5 years if the CSA has complied with all of the requirements of the permit for the previous permit period.
- (l) Section 88-10-08-C shall govern any conflict between the provisions of this section and any private homeowner covenants or restrictions.

CD-BZA-2023-00049

Violation 4 – Key Points

- Sales and donations of whole, uncut, fresh food, and/or horticulture products grown on the property is permitted.
- Selling products produced off-site is considered retail sales.
- Retail sales is first permitted in the B1- zoning district.



CD-BZA-2023-00049

Timeline – All Violations

- April 2023, City Staff inspected the site after a complaint was filed.
 - After additional research about use approvals attached to the site, another investigation occurred with Notice of Violations being sent for four uncompliant factors.
- May 2023, a pre-application meeting was held.
- June 2023, BZA continued the appeal case off-docket, to allow the property owner time to file an MPD rezoning + plan.

CD-BZA-2023-00049

5500 Bennington Ave Follow-Up



Nanoski, Ahnna

To dan@urbavorefarm.com



Mon 6/12/2023 4:41 PM

This e-mail is a follow-up to the meeting on 6/9/2023.

The site is currently zoned R-80, the following can help you achieve your goals.

Special Use Permit (SUP)

- You can apply for this application on [CompassKC](#).
- Submit all necessary documents required from the [Director's Minimum Submittal Requirements](#).
- The filing and project calendar can be reviewed on the [City Plan Commission's webpage](#).
- Review the public engagement page on the [City's website](#). Compliance with 88-505-12 is required for a SUP.

Rezoning to MPD w/Development Plan

- You can apply for this application on [CompassKC](#).
- Submit all necessary documents required from the [Director's Minimum Submittal Requirements](#).
- The filing and project calendar can be reviewed on the [City Plan Commission's webpage](#).
- Review the public engagement page on the [City's website](#). Compliance with 88-505-12 is required for a SUP.

These paths can be overwhelming and scary for those who do not engage in government processes every day. If you have any questions or want clarifications on what will or will not occur as you pursue the appeals, SUP, or MPD designation, please let me know.

CD-BZA-2023-00049

Timeline – All Violations

- 8/29/23 – 1/4/24, the Mayor, City Council, and select City Planning and Development Staff have received over ~1,115 emails requesting the Mayor to remove the zoning violations or distribute \$30,000 to Urbavore to create their MPD Plan.
- As of 1/4/24, no MPD rezoning + plan has been submitted.
- Urbavore is now (Jan. 2024) pursuing a design professional to create MPD Plan.
- 12/20/24, Urbavore had another pre-application meeting to discuss MPD submittals.

CD-BZA-2023-00049

Key Points

- City staff presented several solutions to addressing zoning violations.
 - Compliance with code.
 - SUP/Variances.
 - MPD.** staff preferred option.
- Urbavore accepted MPD path versus an appeal public hearing to dispute zoning violations.



Oooh boy. How to wrap this one up...I'm not in the best of moods at this late hour...lol. I guess I'll just say **KEEP THE FAITH FOR US**, cuz we are losing it. We've had a lot of positive interactions with good folks in the City, but at the end of the day, we need Mayor Q and we need a council champion and those folks are nowhere to be found. Keep those letters coming...they can't ignore us forever can they??



WHAT'S HAPPENING? VIOLATIONS TAKE ACTION SUPPORTERS [SEND LETTER](#) [DONATE](#)



And if that doesn't work...we'll make the manicured City Hall lawn our new compost dump site!!! Hehe...



CD-BZA-2023-00049

Key Points

- Written Public Testimony
 - Cover Sheet and full document.
 - 53% from non-KCMO residents.
 - Remember, the MPD (use) conversation is separate from the appeal case.
 - Letters show support for the use (MPD).
- Appeal process is a tool for correcting an error made when applying the code not a method of relief for operating outside of the code.
- 88-575-09, an appeal may be sustained only if the BZA finds that the administrative official erred.
 - Zoning Compliance City Staff did not make an error in applying the code.
 - Expansion of composting use and other zoning violations clearly present.