



CITY PLAN COMMISSION STAFF REPORT

City of Kansas City, Missouri

Department of City Planning and Development
Development Management Division

414 E 12th Street, 15th Floor
Kansas City, Missouri 64108
www.kcmo.org/planning

Project

5005 Swope Auto Shop

Hearing Date October 6, 2020

| Item | Case | Request |
|------|--|--------------------------------|
| #5.1 | CD-CPC-2020-00139 | Area Plan Amendment |
| #5.2 | | |
| #5.3 | CD-CPC-2019-00141 CD-SUP-2020-00007 | Rezoning Special Use Permit |

Item Staff Recommendation(s)

| | |
|------|--------|
| #5.1 | Denial |
| #5.2 | Denial |
| #5.3 | Denial |

Applicant

Lawrence Goldblatt
LGADP
East 52nd Terrace
Kansas City, Mo

Owner

Larry Smith
1812 E.58th Street
Kansas City, MO

Location 5005 Swope Parkway
Area On about 0.65 acres
Zoning R-2.5 Residential District
Council District 3rd
County Jackson
School District KCMO

Surrounding Land Uses

North: Undeveloped land zoned R-1.5.

APPROVAL PROCESS

Area Plan Amendment and Rezoning



Special Use Permit



PUBLIC HEARING REQUIRED

Yes

*Common City practices dictate the applicant post a Public Hearing sign on the property. This is a “courtesy notice” under section 88-515-04-C in the Zoning and Development Code and may be waived by the City Plan Commission. Due to the precautionary measures for Coronavirus/Covid-19 City Hall has been closed to the public. Therefore this courtesy notice could not be created nor posted on the property. All other required public hearing notifications were accomplished.

NEIGHBORHOOD AND CIVIC ORGANIZATIONS NOTIFIED

The subject property does not lie within any registered neighborhood or civic organization therefore none were notified.

REQUIRED PUBLIC ENGAGEMENT

Public engagement as required by 88-505-12 applies to this request. Since the last hearing, applicant has submitted documentation regarding compliance with public engagement requirements, attached to this report.

*Common City practices dictate the applicant post a Public Hearing sign on the property. This is a “courtesy notice” under section 88-515-04-C in the Zoning and Development Code and may be waived by the City Plan Commission. Due to the precautionary measures for Coronavirus/Covid-19 City Hall has been closed to the public. Therefore this courtesy notice could not be created nor posted on the property. All other required public hearing notifications were accomplished.

SUMMARY OF REQUEST

Docket Items 5.1, 5.2 & 5.3
Page 1

Applicant is seeking approval of an area plan amendment from Residential Medium High to Commercial, rezoning from R-2.5 to B2-1, and a special use permit.

PURPOSE

The applicant is operating an automotive repair shop on a property housing a former Kansas City fire station at 5005 Swope Pkwy. The subject property is zoned R-2.5, a district which permits fire stations but does not permit the current use of an auto body shop. The applicant has received a notice of violation for operating a use in violation of zoning and is seeking approval of a rezoning of the property to make the current use legal. As the area plan recommends Residential Medium High, an area plan amendment is requested. A special use permit is required for automotive repair uses when they are on property adjacent to and within 150 feet of a parkway as this property is, this a special use permit is also requested.

HISTORY

The owner has been operating a tire shop and automotive repair shop at this location in violation of zoning ordinance. A notice of violation was sent on October 26, 2018. Since shortly after that date, almost two years ago, various staff assigned to this case have had numerous conversations and shared correspondence with the applicant's architect, Larry Goldblatt, regarding the need to file applications for rezoning, special use permit, and area plan amendment.

The application to rezone was not filed until August 2019. Applicant filed the application for special use permit on February 14, 2020. The applicant, however did not complete the public engagement requirements (notification and meeting with all property owners within 300 ft.), so the cases were not docketed. However, because the property owner was operating in violation and a case was pending in Municipal Court, staff determined that the cases should be placed before the City Plan Commission for public hearing and disposition. On June 16, 2020, the CPC considered the applications for rezoning and special use permit. With that report, staff cited the need for the applicant to also file an area plan amendment. This was finally filed on August 25, 2020.

Additionally, the applicant had been instructed (since initial review of the request to rezone in March 2020) to submit a preliminary stream buffer plan. On August 25, applicant submitted information regarding the stream buffer, but has not submitted an acceptable plan in the format required for review by the Land Development Division. Applicant requests a waiver of the requirement to submit a stream buffer plan.

AREA PLAN

The current area plan of record is the Swope Park Area Plan. The plan was adopted in September 2, 2014, by Resolution No. 140770. The future land use recommends Residential Medium High. That permits small lot single-family development, townhomes, two-unit houses, and multi-unit houses (3 to 8 dwelling units) up to 17.4 units per acre. This land use classification corresponds with the R-2.5 zoning category.

The proposed rezoning does not conform to the recommended land use from the area plan. The request is not in compliance with the area plan. Staff requested the applicant to file an application to amend the area plan from Residential Medium High to Commercial. As stated, applicant eventually filed this application on August 25.

CONTROLLING CASE

None.

RELATED RELEVANT CASES

Development Compliance Case ZDC-2017-0138, for automotive repair in R-2.5, was opened on September 7, 2018. Applicant was sent notice of violation on October 26, 2018 stating that the applicant was operating "a premises which is being used for general auto repair in a district zoned R-2.5. This use is first permitted in a district zoned B-3 with a Special Use Permit." The case is currently pending before the Municipal Court, awaiting City Plan Commission decision.

EXISTING CONDITIONS

The property is just over half an acre in size and located in an area with institutional, civic and residential uses. The building on the site, which has recently been used for automotive repair, is a former fire station. The rezoning sought, B-2 would allow for limited automotive repair (limited to activities such as tire or oil change services). It is suspected by zoning enforcement officers, however, that general automotive repair work is occurring on the site, which would not be permitted under B-2 zoning. The notice of violation stated that B-3 zoning would be necessary to continue operation.





NEARBY DEVELOPMENTS

- North:** Undeveloped parcels owned by City of KCMO.
- East:** Residential uses owned by the Housing Authority of Kansas City.
- South:** Residential uses owned by the Housing Authority of Kansas City.
- West:** Park/Recreational use.

KEY POINTS

- Rezoning from R-2.5 to B-2
- Zoning Code Enforcement case
- Request does not conform to Area Plan
- Parkway and Boulevard Standards requiring special use permit review

REZONING ANALYSIS

In reviewing and making decisions on proposed zoning map amendments, the city planning and development director, city plan commission, and city council must consider at least the following factors:

88-515-08-A. Conformance with adopted plans and planning policies;

This request is not in compliance with the Swope Area Plan which recommends medium-high density residential. Applicant has filed request to amend the area plan to Commercial. Within a larger area surrounding the subject site, the area plan recommends Open Space Buffer, Residential Medium High, Mixed Use Community, or Office Space. Commercial designation to allow an auto repair shop would not be consistent and could be detrimental to future use of the building or site.



88-515-08-B. Zoning and use of nearby property;

Properties to the north, south, and east are residentially zoned and occupied. Although property across the street to the west is zoned B3-2, the former Satchel Paige Memorial Stadium is owned by the City and has been used as recreational and open space.

88-515-08-C. Physical character of the area in which the subject property is located;

The character of the area is primarily residential and recreational/open space.

88-515-08-D. Whether public facilities (infrastructure) and services will be adequate to serve development allowed by the requested zoning map amendment;

The public facilities exist; it is not known if they would be sufficient to support other uses allowed in proposed B-2 zoning.

88-515-08-E. Suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations;

The current zoning (R-2.5 residential) permits a public/civic use. The former use of this building as fire station was a permitted use. However, limited automotive repair, allowed under B-2 zoning with a Special Use Permit, is a more intensive use. The outdoor storage of tires, disabled vehicles, and other materials that has occurred with use of the building as an auto repair establishment is not desirable in this area, particularly adjacent to the parkway.

88-515-08-F. Length of time the subject property has remained vacant as zoned;

The property is not vacant.

88-515-08-G. The extent to which approving the rezoning will detrimentally affect nearby properties; and

The requested use, which is limited automotive repair, is a significantly higher intensity than the current residential zoning. The noise and visual effects of this type of auto repair are not compatible with residential uses. These nuisances are detrimental to adjacent and nearby properties, this causing the initial complaint to 311 and resulting in citations being issued in 2018 for the zoning violation.

88-515-08-H. The gain, if any, to the public health, safety, and welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

The gain to the public welfare with denial of this application would ensure that the character of the immediate area remains residential and recreational/open space. Quality of life, particularly for residents of the adjacent multi-family development, should be maintained.

Certain staff recalls advising the applicant, prior to his purchase of the property from the City, of the zoning and permitted uses. Applicant proceeded to purchase the former fire station from the City and subsequently began operation of the auto body shop, in violation of zoning.

SPECIAL USE PERMIT ANALYSIS

No special use application may be approved unless the board of zoning adjustment finds that the proposed use in its proposed location:

88-525-09-A. Complies with all applicable standards of this zoning and development code;

This application does not, at present, meet the requirements of the Swope Area Plan. Applicant requests amendment of the area plan.

88-525-09-B. Is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community;

Although there appears to be some support expressed by customers to allow the auto repair shop to continue to operate, the present use, and future uses that could be established under B-2 zoning would have a significant adverse impact on the community in terms of noise, aesthetics and other characteristics of an auto repair facility.

88-525-09-C. Is compatible with the character of the surrounding area in terms of site planning and building scale and project design;

The surrounding area is residential and recreational/open space. Auto repair is not a compatible use.

88-525-09-D. Is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and

Automotive uses typically include significant noise, traffic generation, and general environmental aesthetic qualities that are not compatible with residential areas.

88-525-09-E. Will not have a significant adverse impact on pedestrian safety or comfort.

No plans depicting pedestrian safety have been provided, however automotive repair is not a pedestrian-oriented use.

STAFF ANALYSIS

Citation from 88-323-01 (Boulevard and Parkway Standards) Purpose:

“Considerable public and private investment exists and is expected to occur adjacent to boulevards and parkways within the city. The following standards are intended to promote quality development reflective of the character of the city’s boulevard and parkway system, when on an established, historic boulevard or on a parkway traversing undeveloped areas of the city. “

This provides the justification for the City to carefully consider whether an auto repair shop is an appropriate and compatible use along a boulevard or parkway – in this case, Swope Parkway. Staff's analysis concludes that it is not.

PROFESSIONAL STAFF RECOMMENDATION

City Planning and Development Staff **recommends denial** of Cases CD-CPC-2020-00139, CD-CPC-2019-00141, and CD-SUP-2020-00007.

Respectfully Submitted,
Patricia A. Noll

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ADDENDUM

Should the City Plan Commission vote to recommend approval, staff recommends the following conditions be attached to Cases CD-CPC-2019-00141 (request to rezone) and CD-SUP-2020-00007 (special use permit):

Conditions per Patricia A. Noll, City Planning & Development Department, Development Management Division Patty.Noll@kcmo.org

1. That all disabled vehicles be removed from the property, including behind the building.
2. That the plan be revised to state "There shall be no disabled vehicles stored on the property. There shall be no outdoor storage of automotive equipment or materials or miscellaneous items."
3. The developer shall submit a landscaping plan in compliance with 88-425 Landscaping and Screening.
4. The developer shall submit an affidavit, completed by a landscape architect licensed in the State of Missouri, verifying that all landscaping required of the approved plan has been installed in accordance with the plan and is healthy prior to Certificate of Occupancy.

Conditions per Stacey Lowe, Division Manager, Land Development Division Stacey.Lowe@kcmo.org

5. The developer shall submit a Preliminary Stream Buffer plan prior to approval of the [Special Use /Development/Rezoning] plan in accordance with the Section 88-415 requirements.

Note: applicant requests that this condition be waived.

6. The developer shall submit a final stream buffer plan to the Land Development Division for approval prior to issuance of any building permits and obtain permits for the Stream Buffer prior to removal of any mature riparian species within the buffer zones due to construction activities on the site, in accordance with the Section 88-415 requirements.
7. The developer shall submit an analysis to verify adequate capacity of the existing sewer system as required by the Land Development Division prior to issuance of a building permit to connect private system to the public sewer main and depending on adequacy of the receiving system, make other improvements may be required.
8. The developer must grant a [BMP and/or Surface Drainage Easement] to the City as required by the Land Development Division, prior to recording the plat or issuance of any building permits.
9. The developer must show the limits of the 100-year floodplain on the final plat and show the Minimum Low Opening Elevation (MLOE) of any structure on each lot that abuts a 100-year flood prone area (including detention basins and engineered surface drainage conveyances) on any plat and plan, as required by the Land Development Division.
10. The owner/developer must submit plans for grading, siltation, and erosion control to Land Development Division for review and acceptance, and secure a Site Disturbance permit for any proposed disturbance area equal to one acre or more prior to beginning any construction activities.
11. The developer shall submit a Storm Drainage analysis from a Missouri-licensed civil engineer to the Land Development Division evaluating proposed improvements and impact to drainage conditions. Since this project is within a "Combined Sewer Overflow" (CSO) district, the project shall be designed to retain rainfall of 1.5 inch depth over the entire site to simulate natural runoff conditions and reduce small storm discharge to the combined sewer system. Manage the 10-year storm and 100-year storm per currently adopted APWA standards. The analysis shall be submitted prior to issuance of any building permits, and the developer secure permits to construct any improvements required by the Land Development Division prior to issuance of any certificate of occupancy.

12. The developer must obtain a floodplain certificate from Development Services prior to beginning any construction activities with the floodplain.
13. The developer must obtain the executed and recorded city approved grading, temporary construction, drainage/sewer, or any other necessary easements from the abutting property owner(s) that may be required prior to submitting any public improvements crossing properties not controlled by the developer and include said document(s) within the public improvement applications submitted for permitting
14. The developer must pay impact fees as required by Chapter 39 of the City's Code of ordinances as required by the Land Development Division.

Conditions per Justin Peterson, Parks & Recreation Department Justin.Peterson@kcmo.org

15. No outdoor storage items shall be visible from Swope Parkway, including but not limited to tires/wheels, parts, vehicles, and miscellaneous equipment.
16. The developer shall submit a streetscape plan with street tree planting plan per 88-425-03 for approval and permitting by the Parks & Recreation Department's Forestry Division prior to beginning any work in the public right-of-way.
17. Any modifications to the site or building are subject to the Parkway and Boulevard standards of Section 88-323 of the Zoning and Development Code.

Respectfully Submitted,

Patricia A. Noll

CITY OF FOUNTAINS
HEART OF THE NATION



KANSAS CITY
MISSOURI

City Planning and Development Department
Development Management Division
Development Compliance Branch

414 E. 12th Street
15th Floor, City Hall
Kansas City, Missouri 64106

(816) 513-1500
www.kcmo.gov
Fax (816) 513-1569

Larry Smith
1812 E 58th St
Kansas City, MO 64130

RE: 5005 Swope Pkwy

KCMO 64130

THE LEGAL DESCRIPTION OF WHICH IS ATTACHED AS EXHIBIT-A

You are hereby notified that a violation of the Zoning Ordinance has been determined to exist on the above described property by the City Planning and Development Director because of the conditions as follows:

CONDITIONS: Did own, a premises which is being used for general auto repair in a district zoned R-2.5. This use is first permitted in a district zoned B-3 with a Special Use Permit.

DATE OF VIOLATION: October 26th, 2018

VIOLATION SECTION: 88-120, Table 88-120-1, 88-805-04(X), 88-615

Which conditions are violations of Chapter 88, Code of Ordinances of the City of Kansas City, Missouri.

You are hereby ordered to correct these violations within fifteen (15) days from the date of this order. Failure to correct is a violation of Section 88-615, Code of Ordinances, and will result in prosecution. You have a right to appeal this official notice to the Board of Zoning Adjustment at 816-513-8801, within (15) days from the date of such notice.

Under penalty of perjury I hereby certify that I have caused to be served the foregoing notice by United States Mail.

DATED THIS 30th DAY OF October 2018.

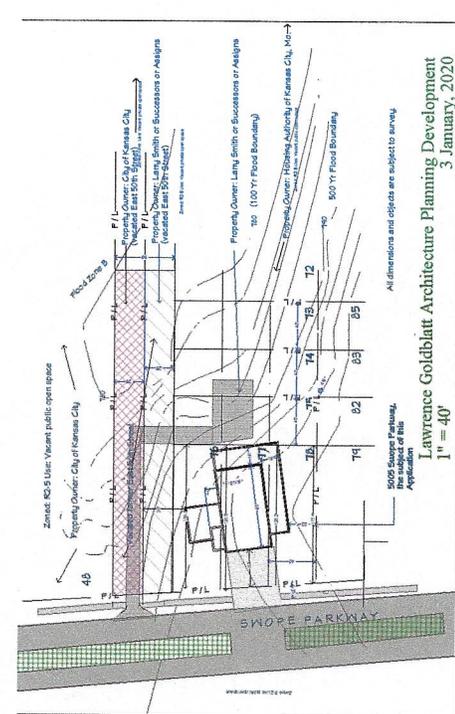
For further information contact this office between 8:00 A.M. and 4:00 P.M. at (816) 513-8813.

Respectfully,

James W Duddy
City Planning and Development
Development Compliance Branch
City of Kansas City, Missouri

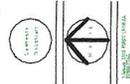
KEY NOTES

- 1. All dimensions are in feet and inches.
- 2. All dimensions are to the center of the object unless otherwise noted.
- 3. All dimensions are to the finished surface unless otherwise noted.
- 4. All dimensions are to the center of the object unless otherwise noted.
- 5. All dimensions are to the finished surface unless otherwise noted.
- 6. All dimensions are to the center of the object unless otherwise noted.
- 7. All dimensions are to the finished surface unless otherwise noted.
- 8. All dimensions are to the center of the object unless otherwise noted.
- 9. All dimensions are to the finished surface unless otherwise noted.
- 10. All dimensions are to the center of the object unless otherwise noted.



Lawrence Goldblatt Architecture Planning Development
3 January, 2020
1" = 40'

REDEVELOPMENT PLAN 5005 Swope Parkway, Kansas City



Scale
1" = 40'

2 of 9
Sheet Number

SITE PLAN
URBAN REDEVELOPMENT PLAN/SPU
5005 Swope Parkway, Kc. Mo.

LAWRENCE GOLDBLATT ARCHITECTURE PLANNING DEVELOPMENT
5811 East 52nd Terrace, Kansas City, Missouri 64129
o: 816. 756. 3633 f: 877. 354. 1420 e: lawrencegoldblatt@nationalarchitectcorporation.com

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PUBLIC ENGAGEMENT PROCESS (Modified)
5005 SWOPE PARKWAY, KANSAS CITY, MISSOURI
In Support of Application for Change of Zoning, Special Use Permit(s)
CD-SUP-2020-0-0007
10 June, 2020

Summary:

From prior to the compelled Applications for Rezoning and Special Use Permits, the property owner Larry Smith, on behalf of himself and his business, Jewel's Services, (5005 Swope Parkway) neighbors and customers have been asking Mr. Smith if they can help his business in any way. He asked that if ever needed, would they sign a Letter supporting that his business could remain and operate at this location?

Attached are those responses. All signers wish that Mr. Smith be granted his Rezoning Request, with Special Use Permits if and as needed.

Facts:

1. THE APPLICATION FOR REZONING, AND SPECIAL USE PERMITS, IS COMPELLED BY THE CITY OF KANSAS CITY, MISSOURI IN LIEU OF ENFORCEMENT OF ITS ZONING ORDINANCE.

If these Applications are not completed exactly as the City staff requires, the Policing authority of the City Planning and Development will move its Citation issued to Larry Smith be moved for a Hearing before the City Municipal Court, a division of the State Civil Court, Division 16, for Enforcement.

2. NO AUTHORITY IS CITED OR EXISTS FOR THE CITY GOVERNMENT TO ENABLE THE ENFORCEMENT OF ITS ZONING ORDINANCE BY THREAT TO A CITIZEN OR ENFORCEMENT TO RESULT IN FINE OR JAIL. Non-voluntary compulsion of Zoning Applications makes the entirety of the demanded actions void. The Property/business owner has the right to a fair hearing before an impartial tribunal where he can be heard as to the facts of the alleged violation.

Once convicted, he may be compelled to apply for various Permits and permissions from

administrative bodies of the City government, should that be what the Court orders.

City Government, acting as the Executive Branch of Local Government, may be barred from exercise of a government function reserved to the Judiciary.

The Applicant offered at the beginning of the Application process to enter into a mutually engaged Memorandum of Understanding whereby the intent of local Ordinances could be fully achieved, and the property rights of the owner and the business, be respected. The fundamental resource to be used is a mutually agreeable timetable.

Lacking any authority to enter into a practical strategy to resolve the City and Property owner's responsibilities, the City has overreached its authority while the property owner has suffered debilitating expenses and stress.

Perhaps the heaviest weight hindering core city real estate development is the utter lack of the private market (unless supplemented or supplanted altogether by government expense) to reach the aggravatingly high cost regulatory hurdles restricting property values already debilitated by weakened demand.

The argument for the ever rising cost of regulatory compliance in real estate development is "just pass the hurdle costs on to your customers"

That argument may be politically supportable in healthy private markets. In minority dominated markets, private initiative is sequestered. In fully segregated minority enclaves, some measure of capitalism does work. In partially integrated but dominant minority markets, regulations cost regressively far more, strangling wealth creation.

The "Modified KCMO Public Engagement Process" (copyright, Lawrence Goldblatt 10 June, 2020) is offered in lieu of the "Public Engagement Process" which is non-functional as adopted by the City of Kansas City.

3. STEP 1 OF THE PUBLIC ENGAGEMENT PROCESS: THE APPLICANT PROPERTY OWNER AND BUSINESS ARE LOCATED WITHIN THE TOWN FORK CREEK NEIGHBORHOOD:

The Town Fork Creek Neighborhood Association is the City approved neighborhood association to be responsible for representing the citizens in the area of 5005 Swope Parkway.

The Neighborhood Association head has been asked to set up a meeting via email and phone by Larry Smith, and this Consultant, starting at or around the date these Applications were filed.

The Applicant did not slow up in its outreach to customers of the business and neighbors, which represents the actual citizenry and not a City designated representative of interested persons. As there was no response by email or phone, no notice was sent to

publicengagement@kcmo.org. There was no meeting set up. No notice was required.

The Applicant was unable to “Arrange and Host the Neighborhood Meeting”. In lieu of this requirement, the Applicant made continuous contact beginning in August, 2019, and continuing with signed Petitions in December, 2019. Regarding the efficacy of the two methods (meeting with established neighborhood association, with perhaps 20 attendees, versus (in this demographic) face to face, one on one meetings (though far more costly in time), are also far more effective than the low turnout neighborhood association meetings populated usually by the same earnest folks.

A cursory review of the 306 signatures (to date, exclusive of letters) demonstrates the actual sphere of influence of the business encompasses most of the east and southeast sides of Kansas City. A cursory review of some of the names (1%) demonstrates that some of the community leadership who have signed in favor of granting re-Zoning have person knowledge and support of more than 10,000 core city residents and business owners who follow their endeavors. Who would have thought a small, second generation family owned eastside business would have such widespread support.

The Applicant has been instructed earlier in this Process by Mr. Rexwinkle of the City staff to cease asking email questions of the staff (email available upon request). The Applicant’s method of representing his clients includes a reasonable amount of dialogue with City staff to assure that what we as Applicant need to do to accomplish the Application(s) properly meet with City staff approval, through negotiation if needed. Mr. Rexwinkle’s arbitrary command that this dialogue is unavailable purposefully critically compromised the Agent and Property Owner’s rights.

Therefore, this Public Engagement Process is submitted in its Modified form, without the benefit of a cooperative effort at building an alternative means of Public Engagement, actually equal to or superior than the City dictated practice.

4. STEP TWO: “ARRANGE AND HOST THE NEIGHBORHOOD MEETING”:

4.1 The “Public Meeting Notice form” was not used. Property ownerships within “300 feet” are 100% City of Kansas City, Missouri, or its agencies or affiliates owned.

4.2 This requirement is moot as the City of Kansas City already has review responsibility for this Zoning Application, and cannot claim responsibilities of a property owner when also providing Regulatory services.

4.3 The importance of strict separation of the two roles is that the Applicant/property owner has experienced a representative of a City Agency calling on him to ask “do you want to sell your building?”, for the planned “Grandparents Housing” project east of this parcel. That act may have disqualified the City of Kansas City from having any authority to handle the enforcement of the Zoning ordinance or the processing of these Applications.

Even if a higher authority is somehow found which overcomes this challenge, the City staff's statement to Mr. Smith, "you know you have to rezone this property don't you? Do know we will never grant you the rezoning" shows advanced bias by the Zoning Administration. The City's Authority is moot when it has pre-decided the fate of an Applicant for Re-Zoning.

5. THE COMPLETED SIGN IN SHEET AND MEETING SUMMARY:

5.1 In this demographic, open ended public meetings tend to be populated by well informed, engaged residents and property owners. Anecdotally, these meetings also seem to be low turnout in a community high with retirees, or working families whose evenings or weekends may be taken up by second jobs, or second or generation care giving. Attendance is also suppressed by the pervasive sensation that "they have no voice in anything. Why bother?".

5.2 This requirement is suspended as the City approved neighborhood had no interest in responding. In lieu of this requirement as a result of a "meeting", signatures of support and letters of support are attached as exhibits.

6. TESTIMONY PROVIDED TO THE CITY PLANNING COMMISSION:

6.1 The City Planning Commission will have available to it the signed petitions and support letters.

6.2 There may be some citizens who wish to provide testimony at the hearing (June 16th, 2020, 1 pm). The Applicant is notifying some interested Parties of this opportunity.

6.3 "No sign in sheet" for the neighborhood meeting is to be provided.

7. REQUIRED PRE-DEVELOPMENT MEETING:

None was scheduled or held by the City staff for this Special Use Permit for Boulevard frontage.

The Application for the Appearance before the City Planning Commission for Special Use with Boulevard Frontage was set aside by City planning and Development staff without consultation with the Applicant. The City staff changed this CPC Hearing to be on a Proposed Special Use Permit for Land Use.

The City of Kansas City Law Department has only just responded to the Applicant's request initiated in 2019 at or around the initial application date for the City's legal and case support showing how RsMo 89.090, which in legislative language bars the City from using the BZA to modify or alter an Ordinance of the City based on it's land use

Exhibits:

“Public Engagement Process: The Process” 3 pages

Signatures in Support of Rezoning, and Special Use Permits as and If Needed (pdf)

RsMo 89.090 (one page)



CITY OF
KANSAS CITY,
MISSOURI

CITY PLANNING
& DEVELOPMENT

Public Meeting Summary Form

Project Case # CD-SUP-2020-00007 (BLVD.)

Meeting Date: AUGUST 2019 → MAY 2020

Meeting Location: VARIOUS

Meeting Time (include start and end time): THROUGHOUT
BUSINESS HOURS + EARLY EVENINGS

Additional Comments (optional):

CITY APPROVED NEIGHBORHOOD ASSOCIATION
NON RESPONSIVE, SO BUSINESS OWNER MET
PEOPLE ONE-ON-ONE OR THROUGH
NEIGHBORS HELPING.

HIGH PERCENTAGE OF RESIDENTS LACK INTERNET
ACCESS OR ARE COMPUTER LITERATE,
THIS METHOD SUPERCEDES DIGITAL FOR THIS
REASON.

CD- SUP- 2020-0 0007

Public Meeting Notice

DUE TO COVID-19. DUE TO DEFICIENT ACCESS TO MEANS OF ELECTRONIC COMMUNICATIONS IN THIS COMMUNITY SIGNED PETITIONS WERE USED AS ALTERNATIVE TO PUBLIC MEETINGS.
Please join
~~NEIGHBORHOOD ASSOCIATION DID NOT RESPOND TO REQUESTS~~

for a meeting about _____

case number _____

proposed for the following address:

Meeting Date:

Meeting Time:

Meeting Location:

Project Description:

If you have any questions, please contact:

Name:

Phone:

Email:

You are receiving this notice in accordance with city code that requires a public meeting with neighbors for certain types of development projects. You can read more about the process requirements at kcmo.gov/publicengagement

LAWRENCE GOLDBLATT
ARCHITECTURE PLANNING DEVELOPMENT
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Ph: (816) 756 3633 Fax: (877) 354 1420
e: lawrencegoldblatt@nationalarchitectcorporation.com

**COMPLIANCE EVIDENCE FOR SECTION 88-415, STREAM
BUFFER REQUIREMENTS**
5005 SWOPE PARKWAY, KANSAS CITY, MISSOURI
In Support of Application for Change of Zoning, Special Use Permit(s)
CD-CPC-2019 -00141/CD-CPC-2020-00023
14 August, 2020

Summary:

The City Staff requirement, stated in an email 5 August, 2020, referring to Cases “CD-CPC-2019-00141 and CD-SUP-2020-0007”, calls for an Application for Stream Buffer approval of the proposed development.

While this requirement lacks enough standing to be a requirement for Rezoning, or a Special Use Permit, in keeping with the Applicant’s pledge, this submittal is made voluntarily, as if it were a requirement or if it is ruled as a requirement.

The Applicant submits evidence that the Stream Buffer Ordinance requirement is exempt from this project, as the required Pre-Development meeting was not held; the threshold limit of improvements triggering the Ordinance is not met; the requirement is not found as a posted submittal on the City’s COMPASS website; and there may be insufficient current verifiable evidence to allow a submittal to be completed fully.

Facts:

1. THE CITY HAS FAILED TO FOLLOW ITS RULES FOR STIPULATIONS OR REQUIREMENTS FOR AN APPLICATION FOR REZONING OR SPECIAL USE PERMIT:

1.1 The requirement for Stream Ordinance application was not discussed in any required Pre-Development meeting because none were held; or if there was one, it was on the subject of enforcement which was not an agenda item.

- a. No required Pre-Development meetings were held.
- b. Had there been a Pre-Development meeting, City staff would have been able to

understand the project, possibly removing this Requirement as not having a foundation.

1.2 The proposed requirement was made through an email, where City staff have stated emails are not acceptable means for submittals.

1.3 The proposed requirement was not nor has been posted as a requirement as demonstrated on COMPASS. COMPASS is the City's stated only means for filings related to an application.

2. THE CITY'S PARCEL VIEWER MAPPING SHOWS THE PROPERTY AS WITHIN THE STATUTORILY DEFINED FLOOD ZONE:

a. The City claims the "Parcel Viewer Map" is the instrument by which Flood Zone or Stream Ordinance impacts are assessed.

b. The City's Disclaimer warns users of Parcel Viewer "In no event shall the City of Kansas City, Missouri be liable in any way to the users of this data" (See Exhibit 1, following).

c. The City Parcel Map may deviate from the Statutory FEMA FIRMette. City Ordinance states in the event of a conflict between the Parcel Map of the City and FEMA, the FEMA data governs (Sec. 88-5415-02-B).

d. The property itself, as shown by Parcel Viewer, is impacted by the Flood Zone covering only an existing driveway and parking area.

e. The most to be done after the Zoning change is restorative maintenance to the asphalt surfaces.

f. The FEMA FIRM map shows a part of the building is in the edge of the Flood Plane.

g. Improvements to that portion of the building, should they be implemented, are maintenance and repair only (repair roof, interior painting, update the heating and air conditioning, etc. which are not of a cost to reach the City or FEMA required levels.

h. By Ordinance definition, (88-415-03-A, "Streamside Zone") does extend 25 feet landward from the edge of the stream". The nearest stream by FEMA Map ("Town Fork Creek") is more than 700 feet from the flooding corner edge of 5005 Swope Parkway. The Streamside zone extends only 25 feet.

i. The FEMA map, developed by or to Corp of Engineer standards, may have been established prior to the implementation of the Brush Creek/Blue Parkway flood improvements.

j. The Map may not have had an update since the City Ordinance adopted the FEMA data.

k. There may not be Flood Zone that applies to this location as the watershed for a ½ mile area west, north, and east has been altered.

3. FLEXIBILITY SECTION 88-415-04-B. Applies to "residential developments".

a. City staff rejected the Applicant's effort to offer to change the proposed Commercial development to Residential, which is permitted in this Zone.

4. MIDDLE ZONE DEVELOPMENT: Section 88-415-05-B does not allow existing surface parking to be maintained, nor does it allow maintenance to replace hard surface with pervious pavers.

a. The City staff has not transferred its historic records of zoning actions on this site to an affordable, accessible location (Linda hall Library) where the library has an older microfiche reader and printer.

b. As the City developed this property as its prior owner, whether or not it filed a Development Plan with itself, presumably it was approved and built in conformance with the adopted Zoning Ordinance at that time.

c. No activities increasing the developed footprint of the structure are planned.

5. ALL STREAM BUFFER ZONES: Section 88-415-05-D

a. "4. Reconstruction, remodeling , or maintenance of existing structures as long as these activities do not expand into or adversely impact the buffers".

b. Granting the Rezoning will not cause interference with the Stream Buffer Ordinance requirements of the City.

6. STREAM BUFFER PLAN: Section 88-415-07-D Buffer Plan.

a. See the Site Plan exhibit made a part of this Submittal by reference.

7. SUBSTANTIAL IMPROVEMENT TEST: Chapter 28, CPD-DS Floodplain Development Permit, information Bulletin 120 Revised August 10, 2017

a. "Substantial Improvement": "...improvements...over fifty percent of the building market value". That limit will not be approached with this approval.

b. The lowest level of the building is an unexcavated crawl space surrounded by a windowless, doorless poured concrete foundation. The grade level elevation of the only occupied floor is about elevation 798.

Conclusion:

While the Requirement for Stream Ordinance Application did not follow City procedures, (it is not a part of COMPASS listed requirements); despite the Land Development Division's statement via email that the Planning Commission hearing would not be held until this Requirement was met, it was held; the FEMA map may reflect prior storm water conditions, and not post-Brush Creek Flood Improvements; Turkey Creek stream and Flood Zone does not impact this site; and the parcel and its existing building are not getting sufficient maintenance and repair under this Rezoning Application to meet the Stream Ordinance or Floor Plane Ordinance requirements; the Applicant has nonetheless responded voluntarily to the requirement for a Stream Ordinance application ("88-415"). The Conclusion that this requirement may be waived by the City Planning Commission.

_____/s/_____
Lawrence Goldblatt, M.C.P., M.Arch.A.S
Applicant

Exhibits:

1. City of Kansas City Missouri Disclaimer; (1 page pdf)
2. FEMA Flood Map Service Center and Map (3 pages, pdf)
3. Kansas City Floodplain (sp) Map (9/13/16, 1 page, pdf).
4. Storm Water Drainage Map, KC Mo (8/6/2020, 1 page, pdf)