



PLANNING COMMISSION MEETING AGENDA

Tuesday, May 12, 2026 at 5:30 PM – 400 W Madison Ave, Arkansas City, KS

Microsoft Teams meeting: <https://teams.microsoft.com/meet/222193473492545?p=nIVdwC1Bxr7Krwdf4I>
Meeting ID: 222 193 473 492 545 Passcode: 43Hv23wW

Call to Order

Roll Call

- | | | | |
|--|--|--|--|
| <input type="checkbox"/> Mike Bergagnini | <input type="checkbox"/> Lloyd Colston | <input type="checkbox"/> | <input type="checkbox"/> Chris Johnson |
| <input type="checkbox"/> Travis Pearman | <input type="checkbox"/> Duane Oestman | <input type="checkbox"/> Cody Richardson | <input type="checkbox"/> Dotty Smith |

Declaration

At this time, Planning Commission members are asked to make a declaration of any conflict of interest or of any Ex parte or outside communication that might influence their ability to hear all sides on any item on the agenda so they might come to a fair decision.

Consent Agenda

1. Meeting Minutes, April 14, 2026 meeting.

Public Hearings

2. Hold a public hearing to consider the advisability of rezoning 519 W Skyline Rd from an R-1 (Low Density Residential District) to an A (Agricultural District).

3. Consider the advisability of vacating a 16-foot alley adjacent to Lots 9-14 & 23-28, Block 12, Gooch's Addition to Arkansas City, Kansas.

Other Items

4. Discuss Planning Commission/Board of Zoning Appeals bylaws

Adjournment



PLANNING COMMISSION/BOARD OF ZONING APPEALS MEETING MINUTES

Tuesday, April 14, 2026 at 5:30 PM – 400 W Madison Ave, Arkansas City, KS

Meeting called to order at 5:42 PM

Roll Call

Mike Bergagnini
 Lloyd Colston

 Chris Johnson
 Travis Pearman
 Duane Oestman
 Cody Richardson
 Dotty Smith

Consent Agenda

1. Meeting Minutes, February 10, 2026 meeting and MB made the second.

Lloyd Colston made the motion to approve the meeting minutes from February 10, 2026, meeting and Mike Bergagnini made the second motion. Voice vote carried the motion.

Board of Zoning Appeals

2. Recess the Planning Commission and convene the Board of Zoning Appeals.

Lloyd Colston made the motion to recess the Planning Commission meeting and convene the Board of Zoning Appeals meeting at 5:43 PM and Mike Bergagnini made the second motion. Voice vote carried the motion.

3. Hold a public hearing to consider the advisability of granting a variance for a sign at 1110 E Kansas Ave that exceeds the maximum height by 9 feet and exceeds the maximum area by 23 square feet.

Lloyd Colston made the motion to open the public hearing at 5:44 PM and Mike Bergagnini made the second motion. Voice vote carried the motion. Josh explained to the board the changes of the proposed variance for the sign at 1110 E Kansas Ave. The property owners were present and approached the board and asked for the boards blessing because the signs were smaller and there isn't much lighting. Josh also stated that the property owner across from the roundabout didn't have issues with the proposed changes.

Lloyd made the motion to approve the variance and Mike Bergagnini made the second motion. Roll call vote carried the motion.

4. Adjourn the Board of Zoning Appeals Sine Die and reconvene the Planning Commission

Lloyd Colston made the motion to adjourn the meeting at 5:54 PM and Mike Bergagnini made the second motion. Voice vote carried the motion.

5. Discuss recent amendments to the Zoning Regulations regarding carports and discuss Planning Commission/Board of Zoning Appeals bylaws

Josh discussed regulations of the carports and ADA. Josh stated the ADA doesn't apply to residential structures, but Fair Housing does. The city is required to make accommodations that comply with the Fair Housing Act but reasonable regulations would not be contrary to the law.

Other Items:

Mike Bergagnini introduces a potential new at large board member, Mike Pudden. Mike Bergagnini also stated that he and Dotty Smith felt Mr. Pudden would be a good member. Josh explained what the process would be for him to be a board member.

Lloyd Colston made the statement that in his opinion, regardless of what happens in Washington DC, Topeka or City Hall, if they choose to violate the constitution, he will not. It is the board members' duty to uphold the constitution.

Josh stated that Dotty wanted to discuss the by-laws, but Dotty asked to table that to the May meeting.

Lloyd Colston made the motion to adjourn the meeting at 6:02 PM and Mike Bergagnini made the second motion. Voice vote carried the motion.

DRAFT



Planning Commission Agenda Item

Meeting Date: 5/12/2025
From: Josh White, Community Development Director
Item: 519 W Skyline Rd Rezone

Purpose: Hold a public hearing to consider the advisability of rezoning 519 W Skyline Rd from an R-1 (Low Density Residential District) to an A (Agricultural District).

Background:

The subject property is located at 519 W Skyline Road. The surrounding area is comprised of residential and industrial uses. The property consists of approximately 11.54 acres. The applicant is requesting a rezone from R-1, Low Density Residential District to an A, Agricultural District. The change would allow continued agricultural use on the site.

It is the recommendation of staff that the requested rezoning R-1 to A be approved based on the following conclusions:

- The use of the property has long been agricultural
- The proposed change should not negatively impact the neighborhood.
- The proposed change has an opportunity to have a positive effect on public health.

Action:

Hold a public hearing. After the public hearing is closed, make a motion to recommend the City Commission approve/disapprove the request to rezone 519 W Skyline Rd from an R-1 (Low Density Residential District) to an A (Agricultural District).

Attachments:

Staff report

Presentation Link: <https://arcg.is/u5fPW>



Community Development Division
 Josh White, Director
 118 W Central Ave, Arkansas City, KS 67005

Phone: 620-441-4420 Email: jwhite@arkansascityks.gov Website: www.arkcity.org

CASE NUMBER
 RZ-2025-123

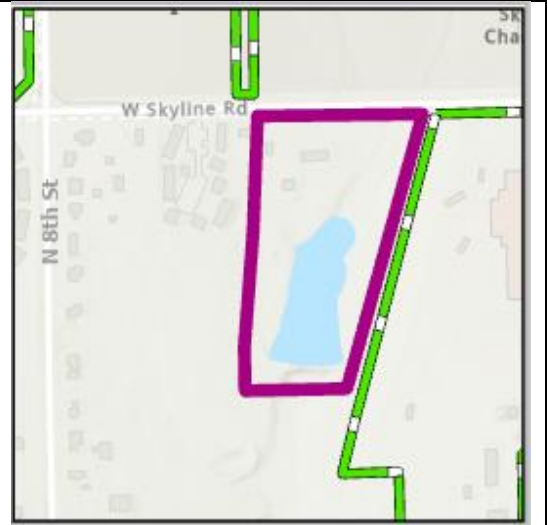
APPLICANT/PROPERTY OWNER
 Lance Rudman

PUBLIC HEARING DATE
 May 12, 2026

PROPERTY ADDRESS/LOCATION
 519 W Skyline Rd

SUMMARY OF REQUEST

The subject property is located at 519 W Skyline Road. The surrounding area is comprised of residential and industrial uses. The property consists of approximately 11.54 acres. The applicant is requesting a rezone from R-1, Low Density Residential District to an A, Agricultural District. The change would allow continued agricultural use on the site. Staff recommend granting the rezone.



Map data ©2026 Esri World Topographic map

<p>EXISTING ZONING R-1, Low Density Residential District</p>	<p>EXISTING LAND USE Pasture and residential</p>	<p>SURROUNDING ZONING & LAND USE North: I-2; Industrial South: R-1; Vacant East: Unzoned; Industrial West: R-3; Residential Apartments</p>	<p>SITE IMPROVEMENTS Two homes and accessory buildings</p>	<p>SIZE OF PROPERTY 11.54 acres</p>
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STAFF RECOMMENDATION

APPROVE

APPROVE WITH CONDITIONS

DENY

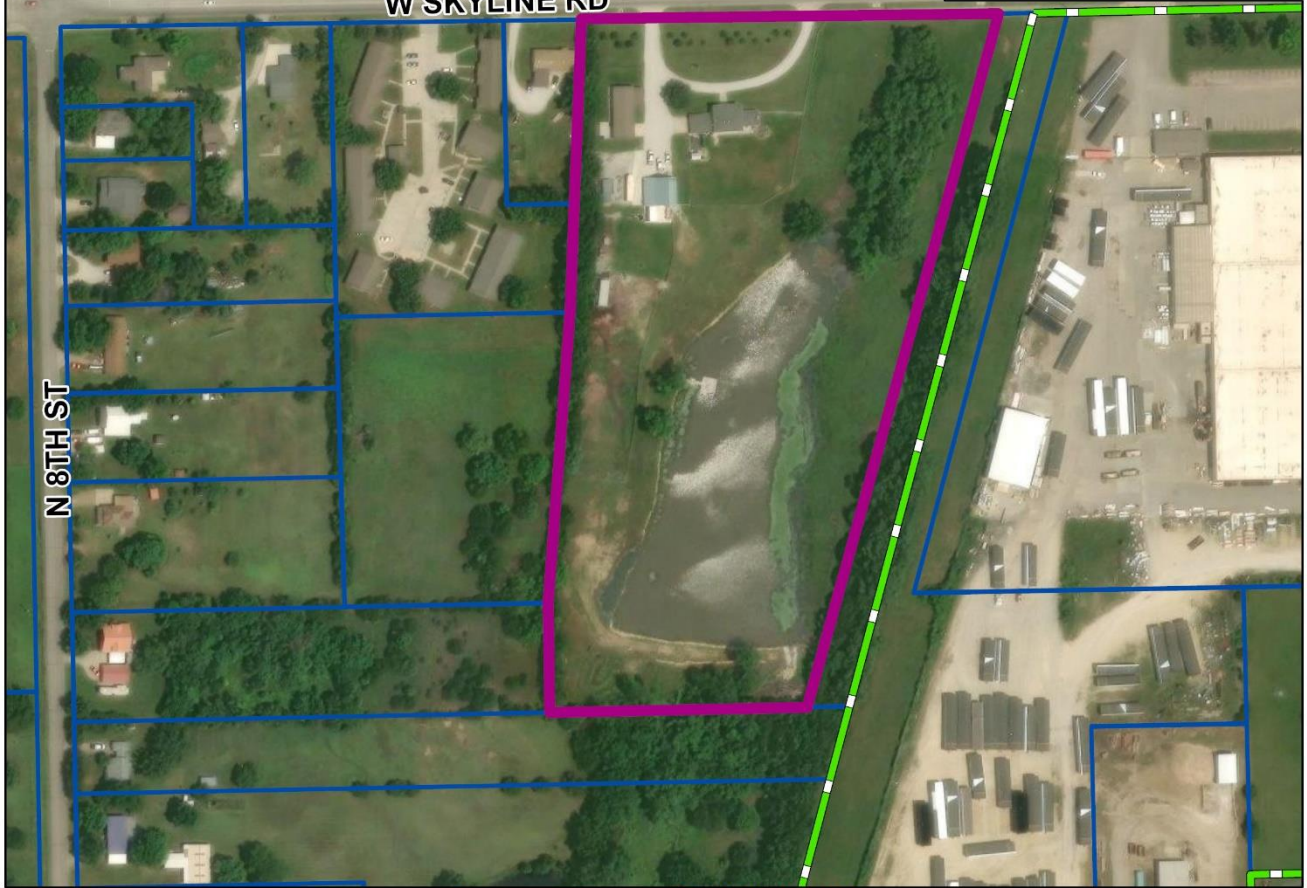
COMPATIBILITY with the COMPREHENSIVE PLAN
 The Future Land Use portion of the Comprehensive Plan designates this property as residential as that was the use in 2014 when the maps were originally drawn. The use remained residential in 2022 when the maps were updated. There is a goal in Chapter 7 of the Comprehensive Plan to "Encourage easy access to healthy foods" and an action relating to promoting urban agricultural as well as produce stands and community gardens. This change doesn't necessarily assist the community with that goal, but the opportunity is there.

PROPERTY HISTORY
 This property was annexed into the city in 1986. In 1987, the property was zoned B-2 (current C-3) for a construction business. In 2014, when the city was rezoned, the property was owned by the current applicant, was not being used as a commercial property, and was classified as R-1.

COMPATIBILITY with the ZONING ORDINANCE

The surrounding area is comprised of residential and industrial uses. It is the intent of the A District to preserve and protect agricultural resources. The district is not intended to serve the homeowner who lives on a small suburban lot but is designed to accommodate agricultural operations on substantial acreage. Uses that might have nuisance characteristics, if intermingled in developed residential areas, are permitted on the basis that they are no more offensive than normal agricultural uses. The change in classification would be consistent with the intent and purpose of these regulations.

Rezone Request



A request to rezone 519 W Skyline Rd from R-1, Low Density Residential District to A, Agricultural District

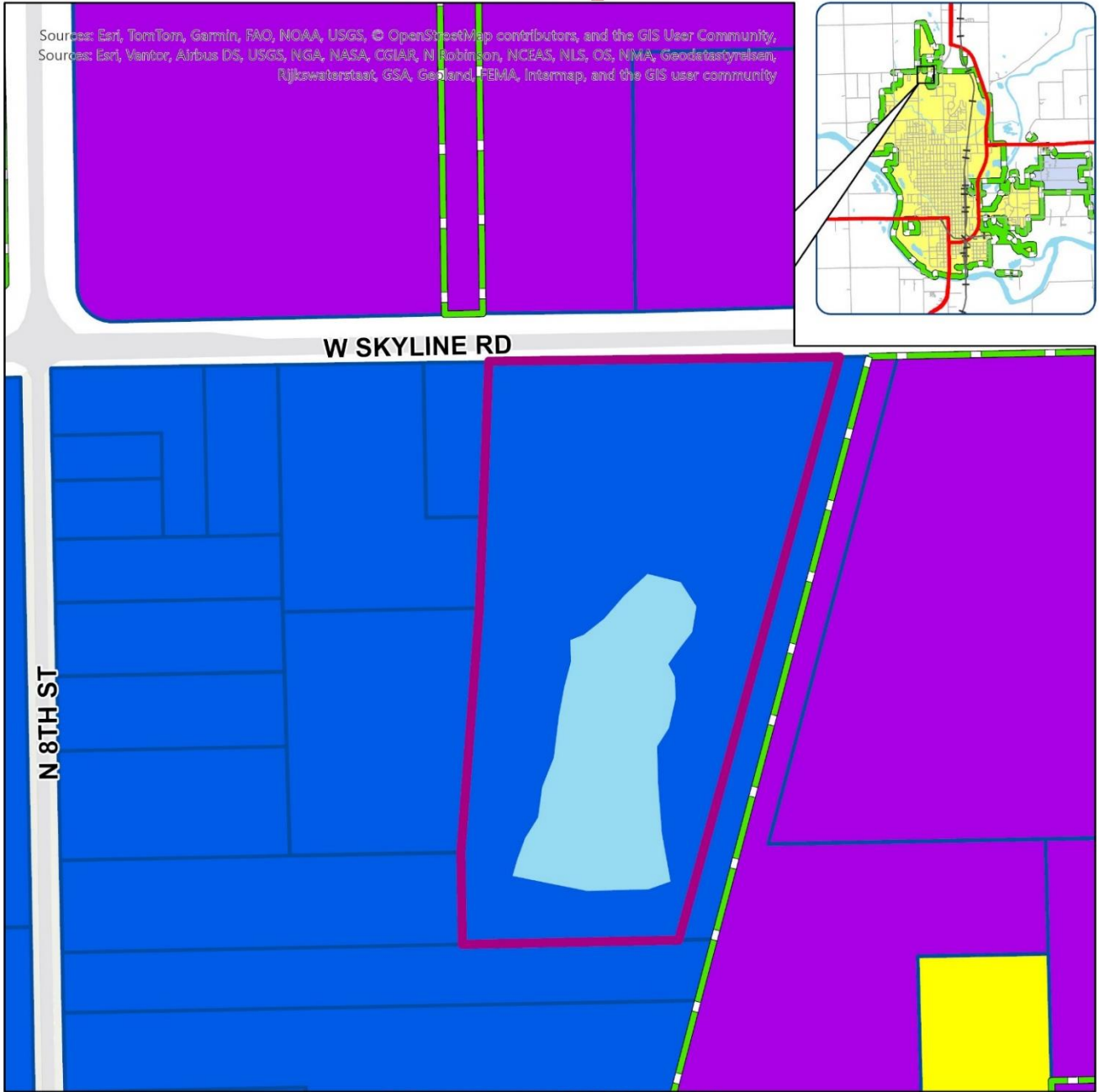
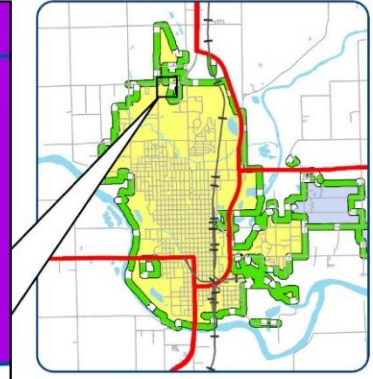
-  Rezone
-  Property Lines

Produced by the City of Arkansas City GIS using the best available data to date. Created: April 14, 2026









Rezone Request

Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community.
Sources: Esri, Vantor, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodetastynelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap, and the GIS user community



A request to rezone 519 W Skyline Rd from R-1, Low Density Residential District to A, Agricultural District

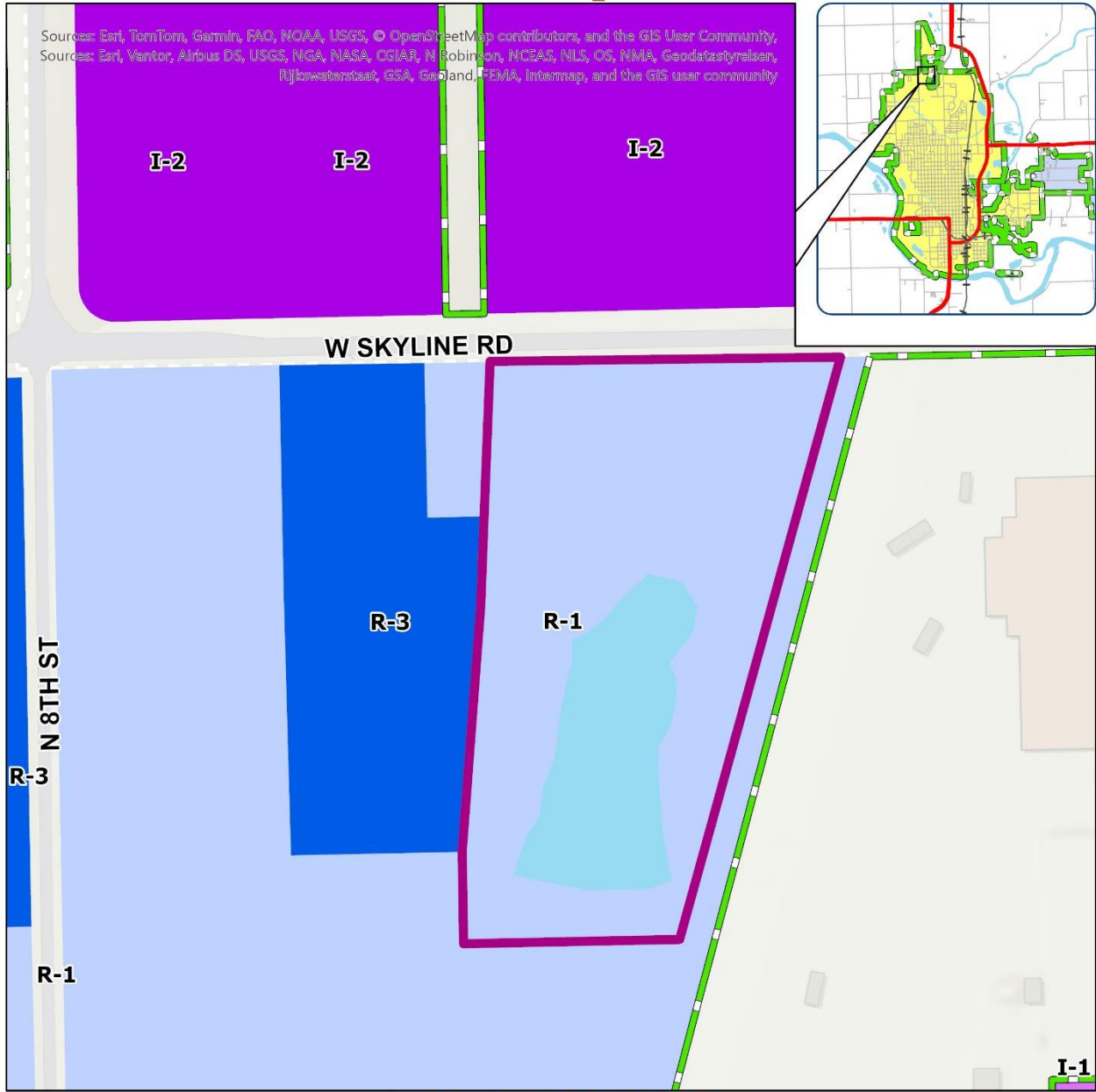
-  Rezone
-  Property Lines
-  Future Land Use
-  Residential
-  Industrial
-  Public

Produced by the City of Arkansas City GIS using the best available data to date. Created: April 17, 2026



Zoning map

Rezone Request



A request to rezone 519 W Skyline Rd
from R-1, Low Density Residential District
to A, Agricultural District

-  Rezone
- Zoning Districts
-  R-1, Low Density Residential District
-  R-3, High Density Residential District
-  I-1, Light Industrial District
-  I-2, Heavy Industrial District

Produced by the
City of Arkansas City GIS
using the best available
data to date.
Created: April 17, 2026



No site plan provided

Findings

When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based, using the following guidelines. Note that all references to agriculture in this report also include associated residential uses.

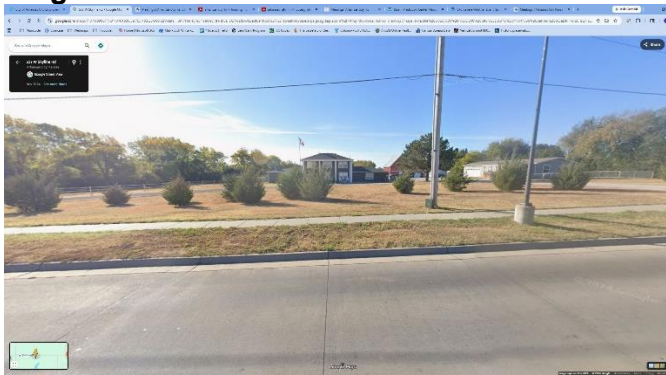
1. Whether the change in classification would be consistent with the intent and purpose of these regulations.

The surrounding area is comprised of residential and industrial uses. It is the intent of the 'A' District to preserve and protect agricultural resources. The district is not intended to serve the homeowner who lives on a small suburban lot but is designed to accommodate agricultural operations on substantial acreage. Uses that might have nuisance characteristics, if intermingled in developed residential areas, are permitted on the basis that they are no more offensive than normal agricultural uses. The change in classification would be consistent with the intent and purpose of these regulations.

2. The character and condition of the surrounding neighborhood and its effect on the proposed change.

The surrounding area is comprised of residential and industrial uses. The change in zoning should not affect the character of the surrounding neighborhood.

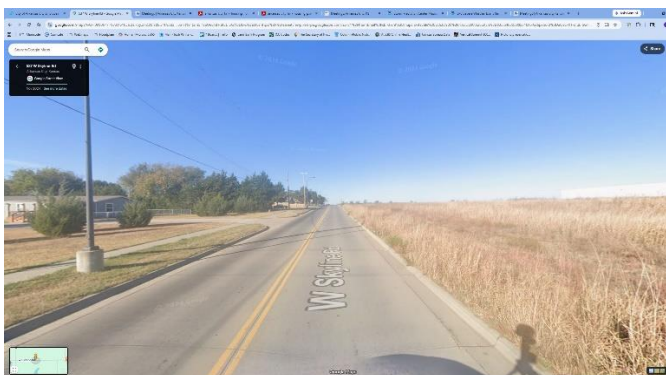
Neighborhood Photos



Subject Property. Google Streetview from November 2024



Looking East along Skyline Rd. Google Streetview from November 2024.



Looking West along Skyline Rd. Google Streetview from November 2024.

3. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions.

The area is not experiencing changing conditions that would make the proposed change necessary.

4. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification.

The properties surrounding the site are residential and industrial. The proposed use is agricultural use which is normally compatible with residential uses. The change in classification would be compatible with the nearby properties.

5. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity.

The proposed change would allow agricultural uses with less restrictions than those of residential districts. This includes the allowance for additional fowl as well as greenhouses, nurseries and stands for the retail sale of agricultural products or commodities raised on the premises.

6. The suitability of the applicant's property for the uses to which it has been restricted.

The property is currently zoned for residential use. The area is suitable for residential use but due the larger size of this lot and its long-term agricultural use, the 'A' district may be more appropriate for the property.

7. The length of time the subject property has remained vacant or undeveloped as zoned.

The subject property is not vacant.

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

Adequate sewer and water facilities are already present at the site, and no enhancements would be needed.

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

There is very little available land with the city limits suitable for agricultural uses.

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

The Future Land Use portion of the Comprehensive Plan designates this property as residential as that was the use in 2014 when the maps were originally drawn. The use remained residential in 2022 when the maps were updated. There is a goal in Chapter 7 of the Comprehensive Plan to "Encourage easy access to healthy foods" and an action relating to promoting urban agricultural as well as produce stands and community gardens. This change doesn't necessarily assist the community with that goal, but the opportunity is there.

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

The proposed project should not affect public health (other than the opportunity as noted in 10) and should not negatively affect the safety or general welfare of the public.

- 12. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.**

- 13. Recommendations of professional staff.**

It is the recommendation of staff that the requested rezoning R-1 to A be approved based on the following conclusions:

- The use of the property has long been agricultural
- The proposed change should not negatively impact the neighborhood
- The proposed change has an opportunity to have a positive effect on public health



Planning Commission Agenda Item

Meeting Date: 5/12/2026
From: Josh White, Principal Planner
Item: 924 S 6th alley vacation

Purpose: Consider the advisability of vacating a 16-foot alley adjacent to Lots 9-14 & 23-28, Block 12, Gooch's Addition to Arkansas City, Kansas.

Background:

Randy Frank has filed a request to vacate the alley adjacent to his property at 924 S 6th Street. The alley has never been developed, and the northern portion of this block has been vacated previously. The Technical Advisory Committee notes that utilities are present in the area and so a utility easement will be necessary. Staff recommend that the area be vacated while reserving the entire area as a utility easement.

Action:

Hold a public hearing, at the close of the hearing make a motion to recommend the City Commission approve/disapprove the request to vacate a 16-foot alley adjacent to Lots 9-14 & 23-28, Block 12, Gooch's Addition to Arkansas City, Kansas reserving a utility easement over the entire area.

Attachments:

Staff Report

Presentation Link: <https://arcg.is/1n1P4a>

CASE NUMBER
 VR-2026-048

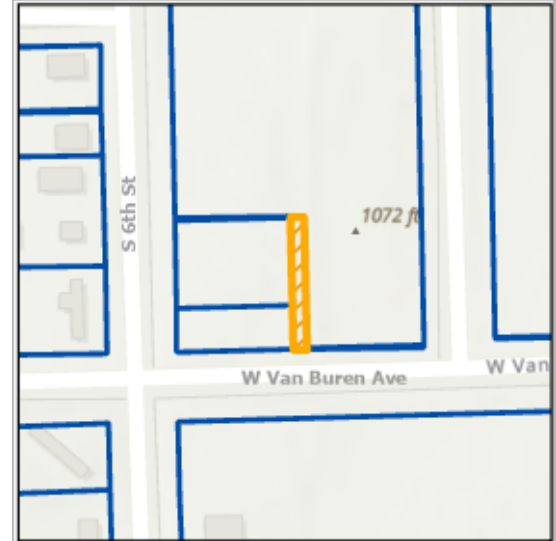
APPLICANT/PROPERTY OWNER
 Randy Frank

PUBLIC HEARING DATE
 May 12, 2026

PROPERTY ADDRESS/LOCATION
 Alley behind 924 S 6th Street

SUMMARY OF REQUEST

Randy Frank has filed a request to vacate the alley adjacent to his property. The alley has never been developed, and the northern portion of this block has been vacated previously. The Technical Advisory Committee notes that utilities are present in the area and so a utility easement will be necessary. Staff recommend that the area be vacated while reserving the entire area as a utility easement.



Map data ©2026 Esri World Topographic Map with overlays

EXISTING ZONING Not applicable	EXISTING LAND USE Platted alley	SURROUNDING ZONING & LAND USE North-R-2; Vacant East-R-2; Vacant South-R-2; Residential West-R-2; Residential	SITE IMPROVEMENTS Utilities only	SIZE OF PROPERTY Approx 0.06 acres/2,400 sq feet
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STAFF RECOMMENDATION

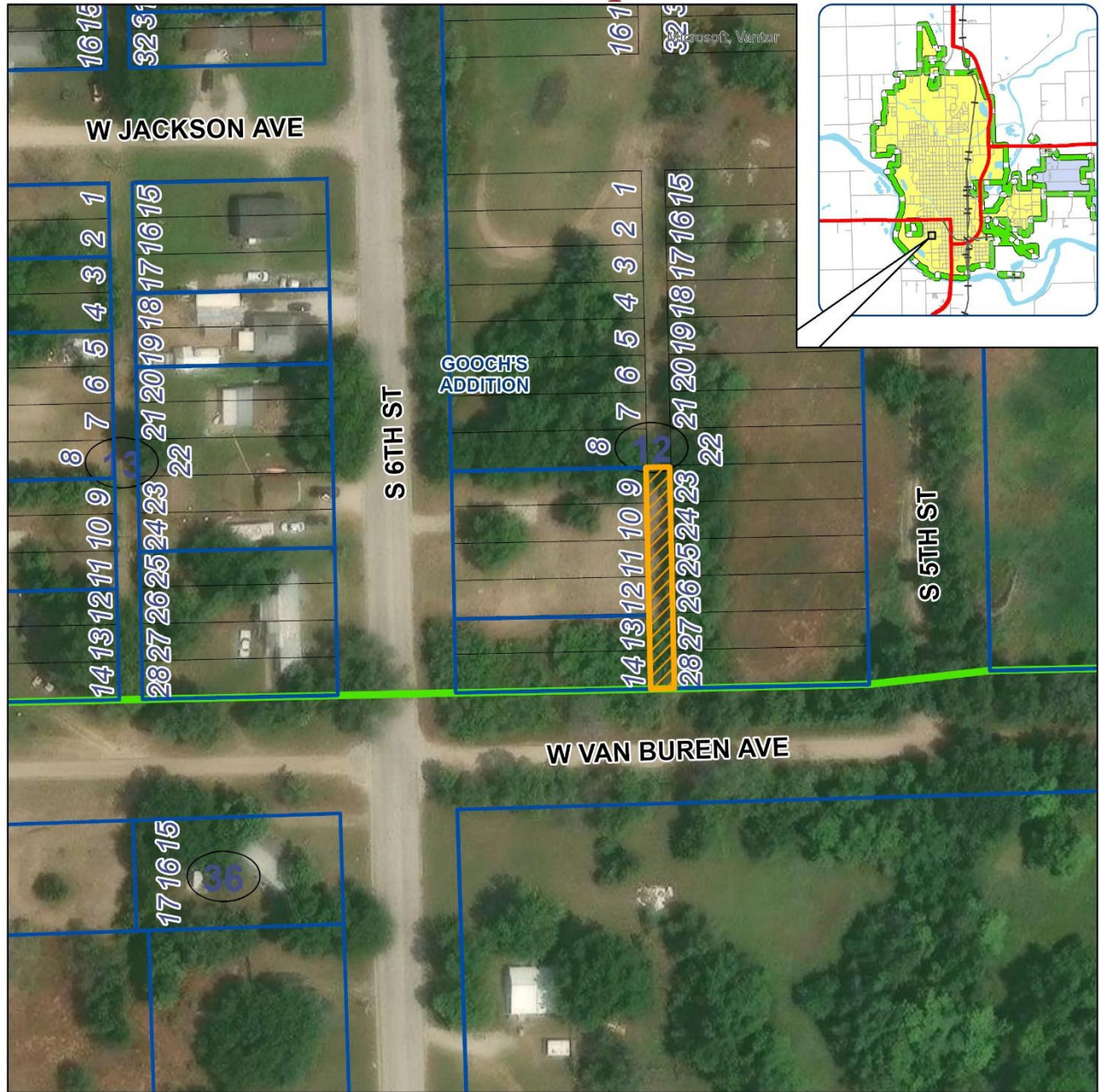
Staff recommend approval of the request but reserve a utility easement over the entire area.

TECHNICAL ADVISORY COMMITTEE COMMENTS There are some utilities in the area but retaining a utility easement will retain appropriate utility access.	PROPERTY HISTORY This area was platted in 1887. The alley was never improved. Staff was unable to determine when the rest of the alley in this block was vacated but maps indicate the area is vacated.
	NOTICE GIVEN Proper notice was published in the newspaper. Notices were sent to the property owners within 200 feet.

PRIVATE RIGHTS /PUBLIC GAIN/LOSS

The alley is undeveloped except for utilities. A utility easement will ensure that access to utilities is retained while allowing additional limited use of the property for the adjacent property owners.

Vacation Request

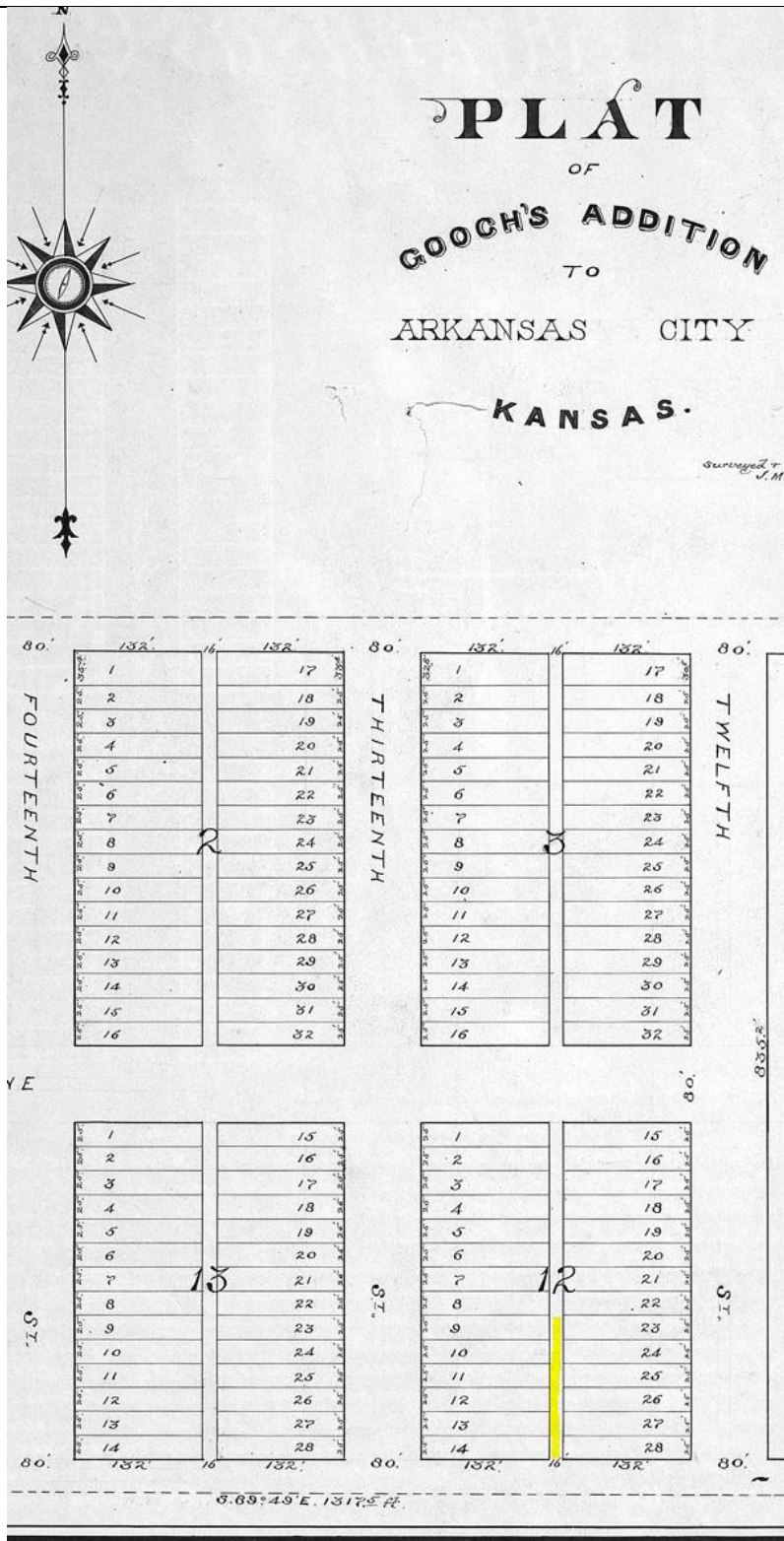


A request to vacate the alley in Block 12 Gooch's Addition

-  Vacation Request
-  Property Lines
-  Subdivision Lots
-  Subdivisions

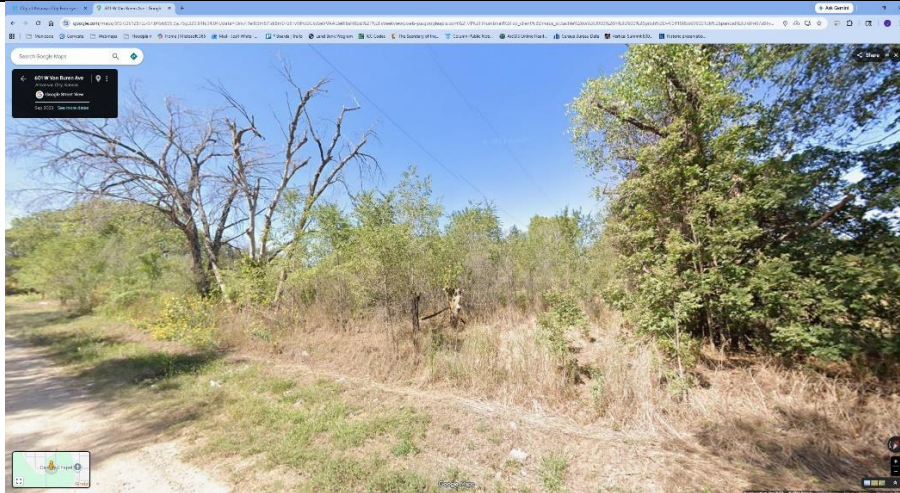
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 City of Arkansas City GIS
 using the best available
 data to date.
 Created: April 02, 2026



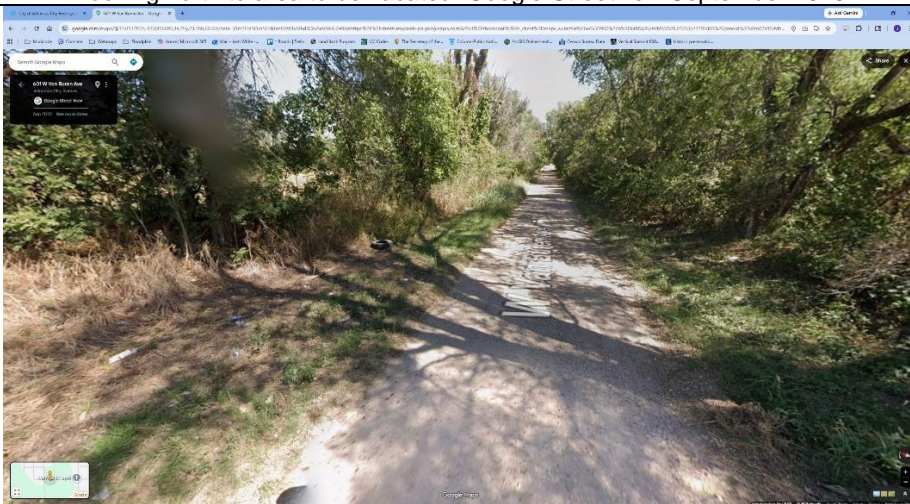


This is a portion of the Gooch's Addition plat filed in 1887. The highlighted area shows the approximate location of the vacation request. Twelfth Avenue is now known as 5th Street and Thirteenth is 6th Street. The current street on the south side of Block 12 is now known as Van Buren Avenue. The Street on the north side was vacated many years ago but would have been Jackson Avenue if the street had been built.

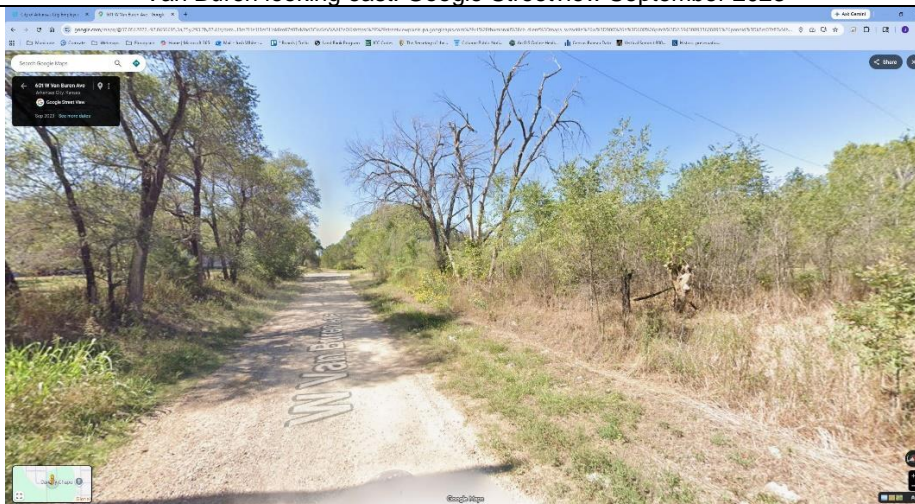
Neighborhood Photos



Looking north to area to be vacated. Google Streetview September 2023



Van Buren looking east. Google Streetview September 2023



Van Buren looking West. Google Streetview September 2023

BYLAWS OF

ARKANSAS CITY PLANNING COMMISSION/BOARD OF ZONING APPEALS

ARTICLE I PURPOSE AND ORGANIZATION

SECTION 1. The purpose of the Arkansas City Planning Commission, hereafter referred to as “Commission” shall be those set forth in Article 25 of the City of Arkansas City Zoning Regulations and those powers and duties delegated to the Planning Commission by K.S.A. 12-741 et seq.

ARTICLE II POWERS AND DUTIES OF THE COMMISSION

SECTION 1. Powers. That said Commission, as herein specified, shall be vested with the following powers and authority, to wit:

The Commission shall have such power and duties as may be prescribed by law from time to time, including but not limited to those responsibilities in K.S.A. 12-741 et seq., as amended, and any local ordinances and resolutions. As a primary function, the Commission shall have the responsibility for the preparation, adoption, recommendation and maintenance of a long-range comprehensive plan, pursuant to K.S.A. 12-747 et seq., as amended. Other duties are outlined in Section 25-102 of the Zoning Regulations.

The Commission is hereby designated also to serve as the Board of Zoning Appeals as provided for by K.S.A. 12-759, as amended and shall hereafter be referred to as the “Board”

SECTION 2. Actions. In all formal matters, said Commission shall act by motion, unless a resolution is required by law or governmental regulations. All notices required by law to be given by publication shall be published in the official City newspaper as designated by the City Commission of Arkansas City.

SECTION 3. Oath. Before entering upon the duties of the office, the members of said Commission shall subscribe to an oath of office, if required by the Governing Body appointing them.

ARTICLE III MEETINGS OF THE COMMISSION

SECTION 1. Regular Meetings. The Commission shall establish its own meeting schedule, and shall designate the time and place of its meetings by majority vote.

SECTION 2. The Secretary or other authorized officer or City staff member shall prepare an agenda of all matters to come before the Commission and timely furnish the same to the Commission members. A copy of the agenda shall be available to the public. Any member of the Commission may cause matters to be placed on the agenda by advising the Secretary no later than 12 o'clock noon on the Tuesday preceding the next regular meeting. The Commission may add agenda items after this deadline with the approval of a majority of the members present.

SECTION 3. Special Meetings. Special meetings may be called by the Chair (or in his or her absence by the Vice Chair) for whatever time and purpose determined. In the event a special meeting is called, notice as to time, date, place and reason for the meeting shall be given to all the members, and all others who have requested such notification, at least 24 hours before the meeting. Announcement of a special meeting at a regular meeting shall constitute notice to those members present. Members not present, and all others, shall be notified by the Secretary.

No matters other than those enumerated in the notice shall be considered at a special meeting.

SECTION 4. Open Meetings. All meetings of the Commission and its Committees shall be open to the public and to attendance by representatives of the news media.

SECTION 5. Recording of Minutes. The Secretary or his or her designee shall keep and maintain complete records of all matters coming before the Commission. The Secretary or his or her designee shall also prepare and maintain permanent minutes which shall be maintained pursuant to the City of Arkansas City document retention schedule.

Copies of the minutes shall be furnished to all persons or bodies making request for same under the Kansas Open Records Act.

SECTION 6. Quorum. A quorum of the Commission shall be required to conduct official business. A quorum shall be defined as the majority of the members of the Commission appointed and qualified at any given time. A quorum of the Board shall be defined in Section 25-201 of the Zoning Regulations. The affirmative vote of a majority of those members present and voting shall be sufficient for the passage of all motions, subject to the provisions of Arkansas City Municipal Code Article III, Boards, Commissions, Committees, Councils, Task Forces.

SECTION 7. Recessed Meetings. Should the business before the Commission not be completed, the Chair may recess the meeting to a specific time, date and place until the matters on the original agenda are resolved.

SECTION 8. Conduct of Meetings. The Chair shall preside at all meetings of the Commission, except in his/her absence, disability or vacancy, the Vice Chair shall preside. In the absence, disability or vacancies of the Chair and Vice Chair, the Secretary shall preside for the purpose of electing an Acting Chairman. The Board shall be governed by its separate officers as provided for in Section 25-201 of the Zoning Regulations.

SECTION 9. Meeting Procedure. All meetings of the Commission and of its committees shall be conducted in accordance with the rules of procedure adopted by the Governing Body of the City of Arkansas City .

- a. The Commission may suspend the rules, provided that the motion to suspend the rules take precedence over other prime motions; provided a motion to suspend the rules shall state the specific purpose and rule to be suspended: provided that no motion to suspend the rules shall be considered approved unless the length of time suspension will be in effect has been specified: provided that the motion to suspend the rules shall

be approved by a majority of the members present; and provided that no suspension of the rules shall be considered permanent.

- b. Presentations by the applicant and his/her representative(s) on zoning, subdivision, and vacation items shall be limited to ten minutes at the beginning of the hearing on that item, plus an additional two minutes for rebuttal at the end of the hearing. Presentations by other members of the audience shall be limited to three minutes. The time for presentations may be extended by up to two minutes by the Chair and may be further extended by the Commission by majority vote. Prerecorded audio-visual presentations shall be included in the time limit of each speaker. All written and visual materials (or copies) used as part of a presentation to the Commission at the hearing shall be retained by the Secretary as part of the official record for that item. Debate from the floor (audience) on any matter may be limited at the discretion of the presiding officer when in his/her opinion such debate is repetitious, contains statements impinging the character, integrity or actions of the Commission or any Commissioner without support of such allegations, or when the course of business due to the number of matters to be considered and/or number of people requesting to be heard will not permit further debate. Each member of the Commission may speak to an issue as many times as may be desired.
- c. All votes on matters conducted as a public hearing shall be by roll call. The Chair shall grant permission upon request for any member to refrain from participating in the discussion and voting on an item when said member advises the Chairman of matters arising under the provisions of Section 10.b below pertaining to that item. Such member shall be recorded as abstaining on the vote but shall be counted for the purposes of determining a quorum.

SECTION 10. Conflict of Interest and Ethical Considerations.

- a. Members shall not assist or represent applicants on zoning, subdivision, or vacation applications in the presence of the Commission or Board. Members may appear and speak before the Commission or Board under the provisions of subsection b. where the member owns property or is a prospective purchaser of property included in an application or the member owns property in the statutory notification area of an application.
- b. A member shall not participate or vote on an issue before the Commission or Board if:
 1. the member has a substantial interest on a particular issue as defined by state law;
 2. the member has expressed an individual opinion on the determination of a quasi-judicial matter or otherwise expressed himself or herself in a way that infers an opinion has been formed prior to the Commission's hearing on the matter;
 3. the member owns property or is a prospective purchaser of property included in any application; or

4. the member owns property in the statutory notification area.
- c. Members shall not make presentations to the governing body on a quasi-judicial item prior to the resolution of that item by the governing body, unless the member has abstained from participation on that item or the member has been designated by the Commission to make a presentation.
- d. Prior to any motion on an application (or at the designated declaration time on the agenda), Commissioners shall disclose the nature of any ex parte contacts and of any information obtained through those contacts that may have a bearing on their decisions.

ARTICLE IV ORGANIZATION

SECTION 1. Officers.

Officers of the Commission and Board shall be the Chair, Vice Chair, and Secretary. The Chair and Vice Chair shall be elected at the first meeting of the year and shall serve for a term of one year. The Chair and Vice Chair shall be members of the Commission or Board. The Secretary shall be the Principal Planner or other person designated by the Commission.

The Chair shall conduct all meetings and business, sign resolutions, subdivision plats, and other official papers and documents.

The Vice Chair shall act in the manner and capacity as the Chair in the absence of the Chair.

The Secretary shall conduct all the business for the Commission as directed and set forth by these bylaws. The Secretary is hereby designated to act as the "responsible agent" for the Commission in handling all Federal, State and local contracts and agreements. The Secretary or a designated appointee shall present Commission actions and recommendations to the Governing Body of the City of Arkansas City. The Secretary of the Commission shall, when required by law, authenticate or attest to by the signature of the Secretary, the signature of the Chair.

SECTION 2. Committees.

The Chair, with the consent of the Commission, may appoint committees as may be needed to assist in the business of the Commission. The membership of such Committee(s) may consist of Commissioners or others that are not on the Commission. All such committees shall be provided a formal charge and shall report to the Commission its findings and recommendations, unless otherwise directed.

ARTICLE V AMENDMENTS TO BYLAWS

SECTION 1. The Commission may, by a two thirds majority vote thereof, amend these bylaws or any provisions or sections thereof at any time when the same is not in conflict or in contravention of any of the laws of the State of Kansas or ordinances applicable thereto. Provided, however, that notices of the proposed amendments be furnished by the Secretary to the Commission members not less than five (5) days prior to the meeting at which said

amendments are to be considered. A copy of the bylaws will be filed with the Office of the City Clerk of the City of Arkansas City.

The above and foregoing bylaws are hereby adopted as the bylaws of the Arkansas City Planning Commission and Board of Zoning Appeals.

Adopted this 29th day of October, 2019.

Dr. Scott Rogers
Planning Commission Chair

Mary Benton
Board of Zoning Appeals Chair

ATTEST:

Josh White
Planning Commission/Board of Zoning Appeals Secretary,

Article 25
Planning Commission | Board of Zoning Appeals
Zoning Administrator and Administrative Variances

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SECTION 25-1 PLANNING COMMISSION ORGANIZATION AND PROCEDURE**25-101. Membership and conduct.**

- a. The City of Arkansas City Planning Commission is created in accordance with K.S.A. 12-741 *et seq.* and amendments thereto, and in accordance with Sec. 2-185 *et seq.* of the Arkansas City Municipal Code. The Commission shall consist of nine members. Members shall serve terms of three years.
- b. Membership of the Planning Commission shall at all times include two members who reside outside of the City, but within three (3) miles of the corporate limits of the City. The other seven members shall reside within the corporate limits of the City.
- c. The Commission shall cause a proper record to be kept of its proceedings.
- d. No Planning Commission member shall vote or act on any matter in which the member has a direct or indirect personal or financial interest.

25-102. Powers and duties.

- a. The Planning Commission shall approve plans and maps of the whole or any portion of the City and of any land outside of the City which in its opinion bears relation to the planning of the City, and make changes in such plans or maps when it deems the same advisable. Such plans or maps shall show the Commission's recommendation for new streets, alleys, ways, viaducts, bridges, parks, parkways, playgrounds, or any other public grounds or public improvements, and the removal, relocation, widening or extension of such public works then existing with a view to the systematic planning of the City.
- b. The Commission may make recommendations to the City Commission concerning the location of the streets, transportation and communication facilities, public buildings, and grounds.

25-103. Budget. In compliance with budgeting deadlines set for all city departments, the Planning Commission shall submit to the City Commission a budget of expenditures for the next fiscal year itemizing the expenses, the amount and purpose. The City Commission shall consider the submitted budget, determine an appropriate budget for the Planning Commission and add it to the general budget of the City.

SECTION 25-2 BOARD OF ZONING APPEALS ORGANIZATION AND PROCEDURE

25-201. Membership, officers and meetings.

- a. The Planning Commission is hereby designated also to serve as the Board of Zoning Appeals as provided for by K.S.A. 12-759, as amended, and hereinafter in this Article will be referred to as the "Board."
- b. The Board shall consist of the seven members of the Planning Commission who reside within the corporate limits of the City. The two members of the Commission who do not reside within the corporate limits of the City shall recuse themselves from any Board proceedings. When a quorum is declared present, all actions of the Board shall be made by a motion and decided by a majority vote of the members present and voting.
- c. The officers of the Board may differ from those of the Planning Commission.
- d. Board meetings may be held separately from a Planning Commission meeting or in conjunction with such a meeting, wherein the Commission may recess or adjourn sine die a portion of its meeting to conduct business of the Board and then reconvene to continue the Commission agenda. The Board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the Board, decisions of the Board and the vote upon each question. Records of all official action of the Board shall be filed in its office and shall be a public record kept separately from the Commission records.

SECTION 25-3 APPEALS

25-301. The Board of Zoning Appeals shall have the power to hear and decide appeals when it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.

- a. Appeals to the Board may be taken by the person aggrieved, or by any officer, department or bureau of the government affected by any decision of the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator within thirty (30) days after a ruling has been made by the Zoning Administrator. The Zoning Administrator shall transmit to the chair of the Board all papers constituting the record upon which the action appealed from is taken.
- b. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after the notice of appeal has been filed, that a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property.

SECTION 25-4 VARIANCES

25-401. The Board of Zoning Appeals shall have the power to authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district.

- a. The applicant must show that his or her property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property which existed at the time of the effective date of the district zoning regulations, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of the property in the manner similar to that of other property in the zoning district where it is located.

- b. Variances from these regulations may be granted in the following instances:
1. To vary from the applicable lot area and width, height, and yard regulations.
 2. To vary from the applicable off-street parking and loading requirements.
- c. In accordance with Section 25-10, a request for a variance may be granted by the Zoning Administrator for variances of 15% or less of the requirement. Requests for variances of greater than 15% of the requirement of the regulation may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record:
1. The variance requested arises from a condition that is unique to the property in question and is not ordinarily found in the same zone or district; and is not created by action of the property owner or applicant.
 2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
 3. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
 4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
 5. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
- d. In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

SECTION 25-5 EXCEPTIONS

25-501. The Board of Zoning Appeals shall have the power to grant exceptions to the provisions of these zoning regulations, when expressly authorized to do so by these regulations in a particular zoning district or districts.

- a. In no event shall exceptions to the provisions of the zoning regulations be granted where the exception contemplated is not specifically listed in the zoning regulations. The Board shall not grant an exception when the conditions established by this section are not found to be present.
- b. The Board shall not grant an exception unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that support conclusions that:
 1. The proposed exception complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.
 2. The proposed exception at the specified location will not be adverse to the welfare or convenience of the public.
 3. The proposed exception will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

25-502. Exceptions Allowed. The following exceptions are expressly allowed to be granted by the Board of Zoning Appeals when such is consistent with Section 25-501:

- a. Where a use district boundary line crosses a lot, a use of either classification on the whole lot.
- b. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises.
- c. Special Yard Exceptions: The following yard exceptions may be approved by the Board:
 - 1. An exception in the yard regulations on a lot where an adjacent lot has a front, side or rear yard that does not conform with such yard regulations.
 - 2. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.
 - 3. An exception in the depth of rear yard on a lot in a block where there are nonconforming rear yard conditions.
 - 4. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building, hereafter constructed or extended, be the required minimum front yard depth.

SECTION 25-6 DETERMINATIONS OF BOARD

25-601. In exercising the foregoing powers, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify any order, requirements, decision or determination, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a zoning certificate.

SECTION 25-7 BOARD HEARINGS

25-701. The Board of Zoning Appeals shall hold a public hearing on each application for an appeal, variance or exception. On all applications, notice of time and place of the public hearing shall be published once in the official City newspaper not less than twenty (20) days prior to the date of such public hearing. In addition, for all applications for a variance or exception all property owners within two hundred feet (200') of the subject property (1,000 feet when the subject property is adjacent to the City limits) shall be notified by mail of such public hearing, and be given an opportunity to attend and be heard regarding such application for a variance or exception.

25-702.

- a. The procedure for requesting a hearing before the Board of Zoning Appeals is as follows:
 - 1. All applications to the Board shall be in writing on forms provided by the Zoning Administrator. Applications shall be completed in their entirety and filed in the office of the Zoning Administrator with all supporting data. The Zoning Administrator may require any legal description submitted as part of an application to be certified by a registered surveyor, and shall determine whether the filed application is complete.
 - 2. The Zoning Administrator may either create the required ownership list or may require an application to be accompanied by an ownership list, certified by a registered abstractor, listing the legal description and the names and addresses of the owners of all property located within two hundred (200) feet of the boundaries of the property included in the application. Whenever any portion of the property that is the subject of the application is within two hundred feet (200') of the City limits, the applicant shall provide such an ownership list for the property within one thousand feet (1,000') of the boundaries of the property included in the application.

3. The Board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in the official City newspaper at least twenty (20) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest and each person on the ownership list fifteen (15) days prior to the hearing.
 4. An application shall be accompanied by the filing fee required by the City Commission. A separate filing fee shall be required for each application.
- b. In addition to the above requirements, certain applications must meet additional requirements as follows:
1. Appeals.
 - (a) An application for an appeal shall be filed within thirty (30) days after a ruling has been made by the Zoning Administrator.
 - (b) A copy shall be submitted of the order, requirement, decision or determination of the Zoning Administrator which the applicant believes to be in error.
 - (c) A clear and accurate written description of the proposed use, work or action in which the appeal is involved, and a statement justifying the applicant's position.
 - (d) Where necessary, a plot plan, drawn to scale, showing existing and proposed plans for the area in question shall be submitted.
 2. Variances.
 - (a) The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining why it is believed that this application will meet each of the five (5) conditions as set out in Section 25-401(c).
 - (b) The applicant shall submit a sketch drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information that would be helpful to the Board in consideration of the application should be included.
 3. Exceptions.
 - (a) The applicant shall submit a statement in writing justifying the exception applied for, and indicating under which article and section of the zoning regulations the Board is believed to have jurisdiction.
 - (b) The applicant shall prepare and submit at the time of filing the application a plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways, and any other information that would be helpful to the Board in consideration of the application.

SECTION 25-8 PERFORMANCE UPON GRANT OF VARIANCE OR EXCEPTION

25-801.

- a. In making any decision varying or modifying any provisions of the zoning regulations or in granting an exception to the district regulations, the Board of Zoning Appeals shall impose such restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.

- b. The Board may specify a time limit for the completion of such required improvements and, in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void.
- c. After the Board has approved an exception or granted a variance, the exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such exception or variance was granted, and the provisions of these regulations shall thereafter govern.

SECTION 25-9 APPEALS FROM BOARD DECISIONS

25-901. In exercising its powers, the Board of Zoning Appeals, in conformity with the provisions of this article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken; may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the Board may bring an action in the District Court of Cowley County, Kansas, to determine the reasonableness of any such order or determination within thirty (30) days of the rendering of the order or determination by the Board, in accordance with state law.

SECTION 25-10 ADMINISTRATIVE VARIANCES

25-1001.

- a. Except where variances are expressly prohibited by these Regulations, any requirement under these Regulations which may be varied from in accordance with the provisions of Section 25-4 may be submitted to the Zoning Administrator with a request for an administrative variance.
- b. No application for an administrative variance may reduce the requirement sought to be varied from by an amount greater than 15%.
- c. The Zoning Administrator may approve, disapprove, modify and approve, or refer directly to the Board of Zoning Appeals an application for administrative variance.
- d. Any final decision by the Zoning Administrator on an application for an administrative variance may be appealed to the Board.

SECTION 25-11 ZONING ADMINISTRATOR; POWERS AND DUTIES

25-11.

- a. The Zoning Administrator is the City's officer responsible for carrying out the duties and responsibilities of administering the City's zoning and subdivision regulations. In general, the Zoning Administrator shall inspect structures and uses of land to determine compliance with the provisions of such regulations and any application made pursuant to those regulations.
- b. The Zoning Administrator shall:
 1. Compile and maintain the official text of the City's zoning and subdivision regulations, and the zoning maps and any amendments thereto.
 2. Receive, file, review, make recommendations on and forward for action all applications for, and appeals of, rezonings, conditional use permits, subdivision plats, and variances. The Zoning Administrator shall have such authority as is necessary to request and acquire from an applicant or appellant information needed for the processing of such applications and appeals, including land surveys.
 3. Maintain zoning and subdivision administration records.

4. Issue permits and review permit applications made pursuant to the City's zoning and subdivision regulations.
5. Approve or disapprove requests for administrative variances in accordance with Section 25-10 of these regulations.
6. Provide such technical and secretarial assistance as is required by the Planning Commission, Board of Zoning Appeals and City Commission, and other boards and commissions in the exercise of their duties relating to these regulations.
7. Advise the Planning Commission and City Commission on the adequacy of the comprehensive plan and zoning and subdivision regulations, and at least annually make recommendations to the Planning Commission concerning the same.
8. Ensure that public notice is provided for proceedings related to applications made pursuant to these regulations.
9. Advise the City Attorney of possible violations of these regulations.