CITY OF WESTWOOD, KANSAS

PLANNING COMMISSION MEETING

4700 RAINBOW BLVD. WESTWOOD, KS 66205

Monday, July 01, 2024 at 7:00 PM

AGENDA

Welcome to your Westwood City Council meeting. This meeting may be attended remotely via Zoom:

Access Online: https://us02web.zoom.us/j/89009964959

Access by Phone: (312) 626-6799 / **Webinar ID:** 890 0996 4959

[Note: This agenda is subject to changes, additions, or deletions at the discretion of the Governing Body]

REGULAR MEETING AGENDA

I. CALL TO ORDER

II. APPROVAL OF THE AGENDA AND MEETING MINUTES

A. Consider approving the July 1, 2024 Planning Commission meeting agenda

B. Consider approving the June 3, 2024 Planning Commission meeting minutes

III. PUBLIC HEARINGS

A. WE-2024-02: Application of Joanne Scurato for a waiver/exception from Westwood Zoning Ordinance Article No. 4.3.2(D) to allow a primary structure to have less than 60% of its front façade on the front build-to line and 4.3.2(G) to allow an encroachment of a porch greater than 4' into the front yard setback for a proposed new single-family residence on property located at 2524 W. 51st Terrace, Westwood, Kansas 66205

IV. PRESENTATIONS

A. Update from the Plaza District Council (Kate Marshall, Plaza District Council President)

B. Presentation of Rainbow Boulevard Complete Streets Traffic Management Plan final report and recommendations (Leslie Herring, City Administrator)

V. OLD BUSINESS

VI. NEW BUSINESS

A. Consider application for sign permit for Sarah Brown for property zoned C-1 at 4812 Rainbow Blvd.

B. Consider application for sign permit for Thomas Hendrix for property zoned C-1 at 4805 Rainbow Blvd.

C. Review suggested edits to Chapter 16 of the Westwood Municipal Code as part of City Code recodification

VII. ANNOUNCEMENTS/PLANNING COMMISSIONER COMMENTS

VIII. STAFF REPORTS

A. Administrative Report (City Administrator Leslie Herring)

IX. UPCOMING ITEMS

A. August Business Item: Consideration of the City's next five-year CIP being recommended to the Governing Body for adoption

B. August Independent Study Topic Presentation: Street tree requirement for new construction projects (Commissioners Kelman and Prout)

C. September Independent Study Topic Presentation: Pedestrian-friendliness, traffic calming, lowering speed limits (Commissioner Kaiser and Chair Page)

X. ADJOURNMENT

UPCOMING MEETINGS

Regular meetings of the Westwood Planning Commission are held at 7:00 PM on the first Monday of each month. The next regular meeting of the Westwood Planning Commission will be held Monday, August 5, 2024, at 7:00 PM at Westwood City Hall or virtually, depending on current public health protocols in place. The City Calendar may be accessed at www.westwoodks.org. To receive further updates and communications, please see or sign up for the following:

Westwood Buzz Email: https://bit.ly/3wA4DWx

Facebook: City of Westwood Kansas-Government
Westwood, KS Police Department

City of Westwood, Kansas
Planning Commission Meeting
4700 Rainbow Boulevard
June 3, 2024 – 7:00 PM

Commissioners Present:	Kevin Breer, Vice Chair Clay Fulghum Ann Holliday Samantha Kaiser David Kelman Emily Keyser Sarah Page, Chair (attended via Zoom) Matt Prout
Commissioners Absent:	Mark Neibling
Staff Present:	Leslie Herring, City Administrator

Call to Order
Chair Page noted she was not feeling well and that Vice Chair Kevin Breer would run the meeting. Vice Chair Breer called the meeting to order at 7:00 PM on June 3, 2024.

Approval of Agenda and Meeting Minutes
Vice Chair Breer called for modifications or discussion of the June 3, 2024 meeting agenda or April 1, 2024 meeting minutes or a motion for approval. Commissioner Fulghum moved to approve the agenda. Commissioner Kelman seconded. Motion passed unanimously. Commissioner Kelman moved to approve the minutes. Commissioner Fulghum seconded. Motion passed unanimously.

Public Hearings
None.

Presentations
Contain the Rain and Heartland Tree Alliance programs (Bridging the Gap staff)
The Planning Commission received a presentation from Joe Wheelock, Program Manager of the Heartland Tree Alliance at Bridging the Gap. A copy of the presentation is included as an attachment to these meeting minutes.

Water supply and infrastructure continuity planning (WaterOne staff)
The Planning Commission received a presentation from Shaun Pietig, General Manager of WaterOne. Pietig was joined by Assistant General Manager Mandy Cawby.

Old Business
None.

New Business
Election of officers (Chair, Vice-Chair, and Secretary)
Vice Chair Breer asked that City Administrator Herring provide the staff report. City Administrator Herring presented the report included in the meeting packet.

Vice Chair Breer stated that Sarah Page has agreed to be nominated as Chair again. Breer moved to elect Sarah Page as Chair and Leslie Herring as Secretary. Commissioner Kaiser seconded the motion. Breer called for discussion. Commissioner Kelman asked whether there should be discussion about anyone else who might like to be nominated. Breer agreed there should. No other nominations were made. Kelman asked Breer if he would like to be nominated as Vice Chair and Breer assented.

Motion made by Commissioner Kelman to amend the motion to include the election of Commissioner Breer as Vice-Chair. Commissioner Breer seconded. Motion to amend the original motion passed unanimously.

Breer called the question on the motion as amended. Motion passed unanimously.

Annual review of the Planning Commission bylaws, per Article 6 Section 4 of the bylaws
Vice Chair Breer asked that City Administrator Herring provide the staff report. City Administrator Herring presented the report included in the meeting packet.

Motion made by Commissioner Fulghum to approve the Planning Commission Bylaws without amendment. Commissioner Kelman seconded. Motion passed unanimously.

Staff Reports
City Administrator Report – Leslie Herring
Herring shared an update on the following topics:

- Rainbow Blvd. Complete Streets Traffic Management Plan
- Mission Rd. 2025 improvement project
- Community-wide priorities survey
- Status of park planning design team selection
- Redevelopment at 50th & Rainbow Blvd.
- Forthcoming RFQ for redevelopment of 4700 Rainbow Blvd.
- City Building Official Nick Finck's rapid progress in earning certifications through ICC and taking on duties of the Building Official
- Festivities planned for June 8th community-wide celebration of the City's 75th anniversary

Adjournment
Motion by Commissioner Kelman to adjourn the meeting. Second by Commissioner Fulghum. Motion passed unanimously. The meeting adjourned at 8:49 PM.

Upcoming Items
A. July Public Hearing: WE-2024-02 – Application of Joanne Scurato for a waiver/exception from Westwood Zoning Ordinance Article No. 4.3.2(D) to allow a primary structure to have less than 60% of its front façade on the front build-to line and 4.3.2(G) to allow an encroachment of a porch greater than 4' into the front yard setback for a proposed new single-family residence on property located at 2524 W. 51st Terrace, Westwood, Kansas 66205

B. July Guest Presentation: Process and plans for evaluating the future of the Country Club Plaza (Kate Marshall, Plaza District Council President)

DRAFT

C. July Business Item: Review of the Zoning Ordinance draft prepared for recodification as part of the City's greater process to recodify all chapters of the City Code (moving to a searchable, digital version of Code vs. current static pdf format)

D. August Independent Study Topic Presentation: Street tree requirement for new construction projects (Commissioners Kelman and Prout)

E. August Business Item: Consideration of the City's next five-year CIP being recommended to the Governing Body for adoption

APPROVED: _____
Sarah Page, Chair

ATTEST: _____
Leslie Herring, Secretary

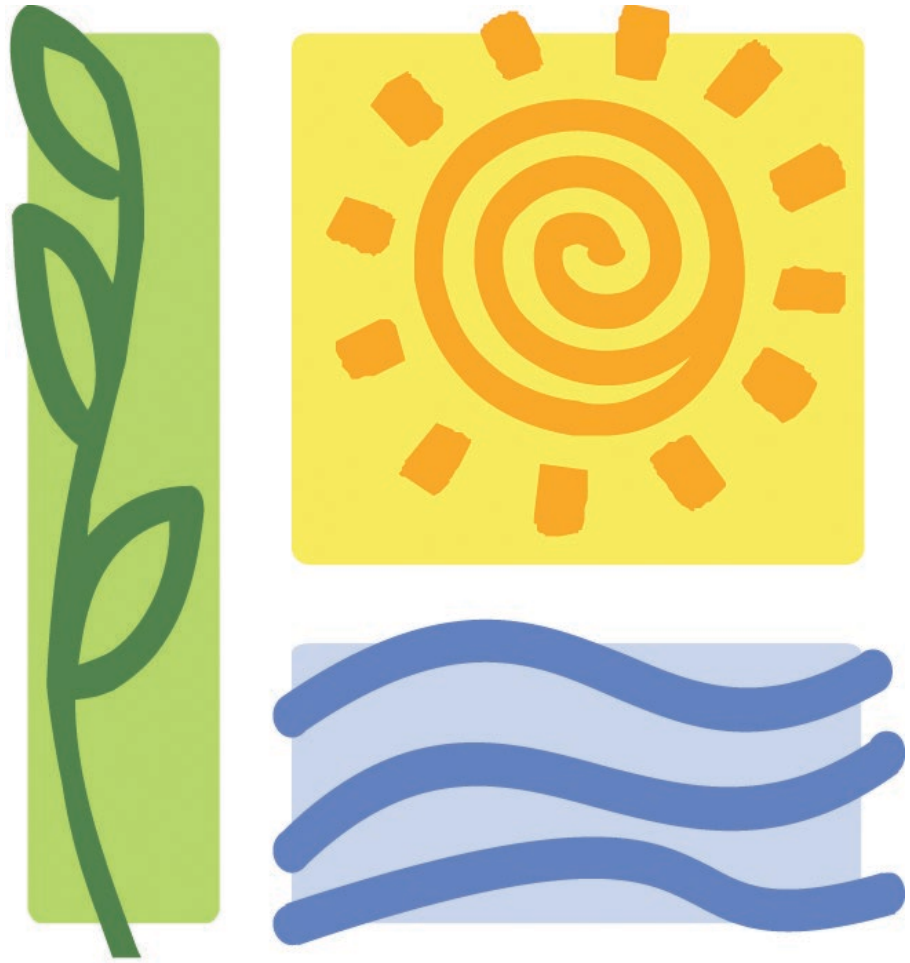
DRAFT

Bridging The Gap

3rd June 2024

Westwood, KS Planning Commission

Joe Wheelock – Program Manager Heartland Tree Alliance



Bridging The Gap

- RECYCLING
- WATER AND ENERGY CONSERVATION
- VOLUNTEERISM
- HEARTLAND TREE ALLIANCE
- KC WILDLANDS
- LITTER ABATEMENT
- WORKFORCE DEVELOPMENT

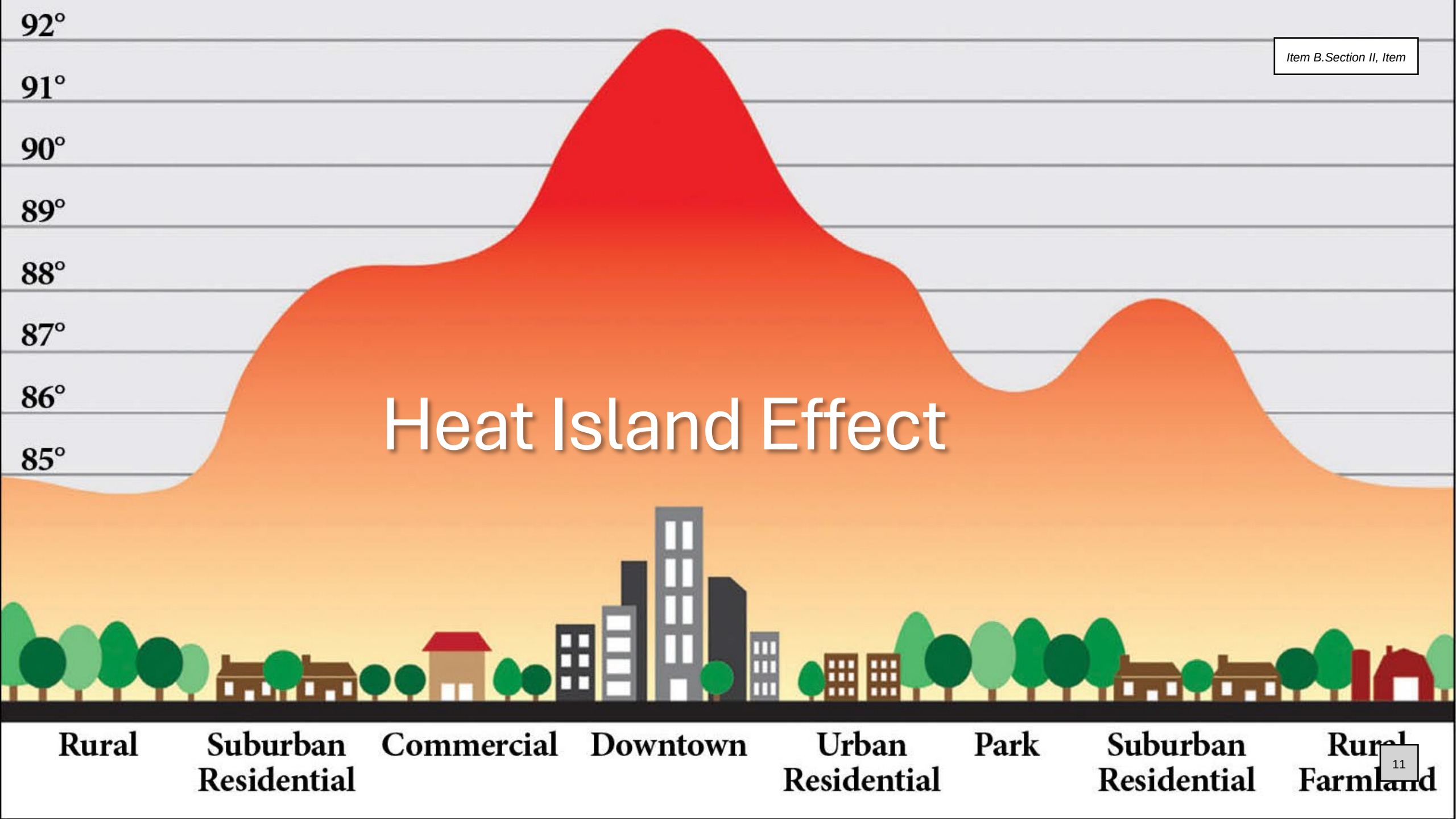
Stronger Communities Through Healthy Trees

The Power of Green!

- Improves our health
- Makes our communities safer
- Improves the Economy
- Improves the environment

All the trees in our parks, along our streets, in our yards, along our streams etc.

Our Urban Forest


92°
91°
90°
89°
88°
87°
86°
85°
Heat Island Effect
Rural
Suburban Residential
Commercial
Downtown
Urban Residential
Park
Suburban Residential
Rural Farmland

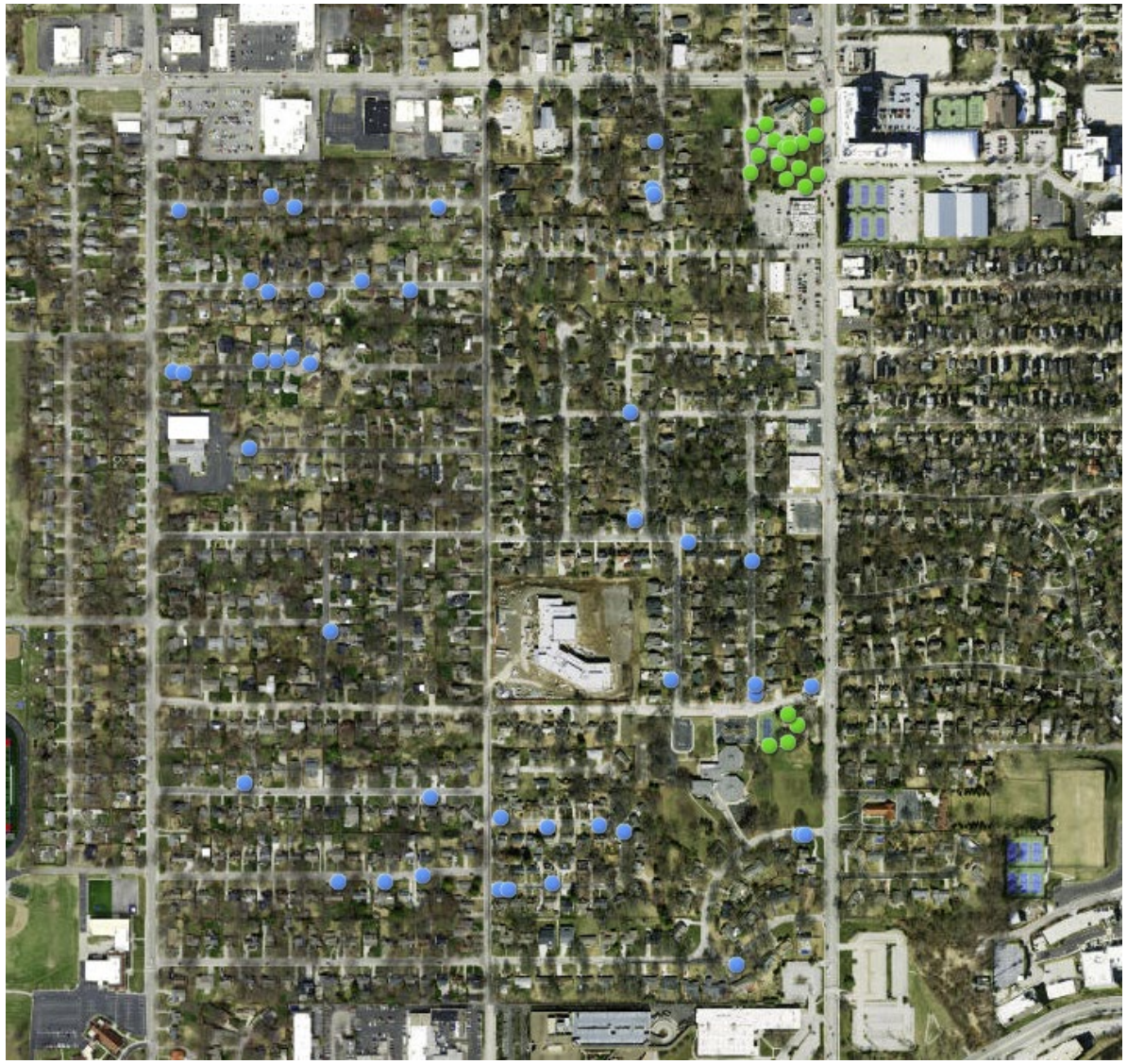
How do I get involved?

- Tree planting, pruning, and mulching workdays
- Educational outreach and awareness
- Pruning for Beginners
- **Tree Keepers**

Tree Planting

Past Partnership

- 70 trees planted
  - 2019/2020
  - Funded by KFS



Our Different Models

RIGHT OF WAY PLANTINGS

PARK PLANTINGS

PRIVATE TREE PLANTINGS

Residential Tree Grant

Merriam residents – get a free tree!

The City of Merriam is partnering with Heartland Tree Alliance and Bridging the Gap to plant 165 new trees throughout the City in 2024.

Trees and planting are free for you! They must be planted in the front yard (or you can choose the side yard if you live on a corner).

Residents may choose from a selection of ornamental or shade trees. Options are first come, first served, and limited to one tree per home.

Contact

Merriam Public Works
913-322-5570
Email

Bridging the Gap
Heartland Tree Alliance
816-561-1087
Email
Website

Related Content

Merriam, KS Tree Grant

Merriam Residential Tree Grant

- Interested in eco-benefits
- i-Tree report made for each tree planted
- Projected benefits for 20 years

Young Tree Pruning

Look familiar?

Why Re-Wild your Lawn

- Use less water
- Require less maintenance once established
- Perennials sequester CO2
- Adapted to our environment
- Food for wildlife
- Slows Storm Water

CONTAIN THE RAIN

HOME | HOW IT WORKS | ABOUT STORMWATER | APPLICATION

Sustainable landscape solutions reimbursement program for JOCO residents

DE SOTO, FAIRWAY, LAKE QUIVIRA, ROELAND PARK, MISSION WOODS, WESTWOOD, WESTWOOD HILLS & UNINCORPORTATED JOHNSON COUNTY ONLY

Native Trees

- $150 reimbursement cap per tree, up to two
- Click here to view/download approved native tree list
- Click here to submit reimbursement form

Rain Barrels

- Rain Barrel $75 per barrel, up to two
- Click Here to submit reimbursement form

Rain Gardens/Native Plant Gardens

- $1000 reimbursement cap
- must capture stormwater
- Click here to view/download approved pollinator/native plant list
- Click here to submit pre-approval form

NATIVE TREES

NATIVE PLANTS

RAIN BARRELS

RAIN GARDENS

Contain the Rain

- Reimbursement program for native tree & plant installation
- Funded on a first come, first served basis

Any Questions?

Joe Wheelock – Program Manager Heartland Tree Alliance

joe.wheelock@bridgingthegap.org

WESTWOOD PLANNING COMMISSION

Staff Report
Meeting Date: July 1, 2024
Staff Contact: Nick Finck, Building Official/Codes Administrator

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WE-2024-02 – Application of Joanne Scurato for a waiver/exception from Westwood Zoning Ordinance Article No. 4.3.2(D) to allow a primary structure to have less than 60% of its front façade on the front build-to line and 4.3.2(G) to allow an encroachment of a porch greater than 4' into the front yard setback for a proposed new single-family residence on property located at 2524 W. 51st Terrace, Westwood, Kansas 66205

OWNER OF RECORD: Wulff Building and Additions LLC

APPLICANT: Joanne Scurato

LOCATION: The property is deeded as KLASSEN PLACE E 50' LT 4 & W 30' LT 5 BLK 1 WWC 284A

ZONING: The property is zoned R-1(D)

PROPOSED PROJECT: Construct a new single-family dwelling

REQUESTED ACTION: A waiver/exception from Article No. 4.3.2(D) of the Westwood Zoning Ordinance requiring primary structures to have at least 60% of the front façade on the front build-to line and 4.3.2(G) prohibiting encroachments beyond 4' into the front yard setback.

ZONING ORDINANCE PROVISIONS: The following zoning ordinance provisions are applicable to this variance request:

4.3.2 Single-Family Primary Structure Requirements

D. Primary structures shall have at least 60% of their front facade on the front yard build-to line.

G. Front setback encroachments for all residences shall be no greater than 4 feet into the front yard setback.

ZONING ORDINANCE WAIVER & EXCEPTION: Pursuant to Ordinance No. 1000 passed by the Westwood Governing Body on March 14, 2019, the Westwood Zoning Code was amended to create a new Section 4.5 - Waivers & Exceptions to establish a new review and approval process as an alternative to consideration of a variance request by the Board of Zoning Appeals.

As provided for by Ordinance No. 1000, and in conformance with the Planning Commission's and Governing Body's intent to provide a process to consider waivers and exceptions from certain sections of Chapter 4 of the Westwood Zoning Ordinance, a waiver from Section 4.3.2(I) would need to be granted to allow the property owner to construct the home as proposed.

APPROVAL CRITERIA: Pursuant to Ordinance No. 1000, a waiver or exception shall not be approved if it is contrary to the public interest or unnecessarily burdens the City. The Approving Authority may approve the waiver or exception if the applicant demonstrates one (1) or more of the following:

1. An alternative higher quality development design is being proposed with no negative impacts to either nearby residential or nonresidential properties.

2. Relief of the development restrictions imposed on the property will ensure low impact land uses, and quality building and site design arrangements in which adjoining residential properties will not be negatively impacted by any deviations from the applicable regulations.

3. The granting of the wavier or exception will not be opposed to the general spirit and intent of the adopted Comprehensive Plan.

The waiver/exception is a condition of the underlying application for approval and has the same effect as any approval of that application. In such instances, findings shall be prepared that:

1. No private rights will be injured or endangered by granting of the waiver or exception.

2. The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.

STAFF ANALYSIS: Staff review of the application submittal concludes that all elements of the proposed single-family dwelling conform to the Westwood Zoning Ordinance except for the proposed 41.7% of the front façade of the primary structure being on the front build-to line and the encroachment of the front porch over the build-to line by 8'.

STAFF RECOMMENDATION: The Planning Commission should review the application materials included in the meeting packet, should consider any public comment received[1], and should consider the applicant's presentation at the meeting to determine whether this application should be approved.

Suggested Motion

I move to approve/deny/conditionally approve a waiver/exception from Westwood Zoning Ordinance Article No. 4.3.2(D) to reduce the required minimum 60% of the front facade to be on the front yard build-to line and 4.3.2(G) to allow for encroachment into the front yard setback beyond 4' for a single-family residence on a property located at 2524 W. 51st Terrace, Westwood, KS 66205.

[1] Per Westwood zoning regulations, this public hearing was published at least 20 days prior and notice of the hearing was mailed to all property owners within 200' of the subject property, as shown in the map on the next page.

51st St
51st Ter
2524
0004B
2510
0033
2508
0032
2506
0031
2504
0030
2502
0029
2501
0012
2503
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2609
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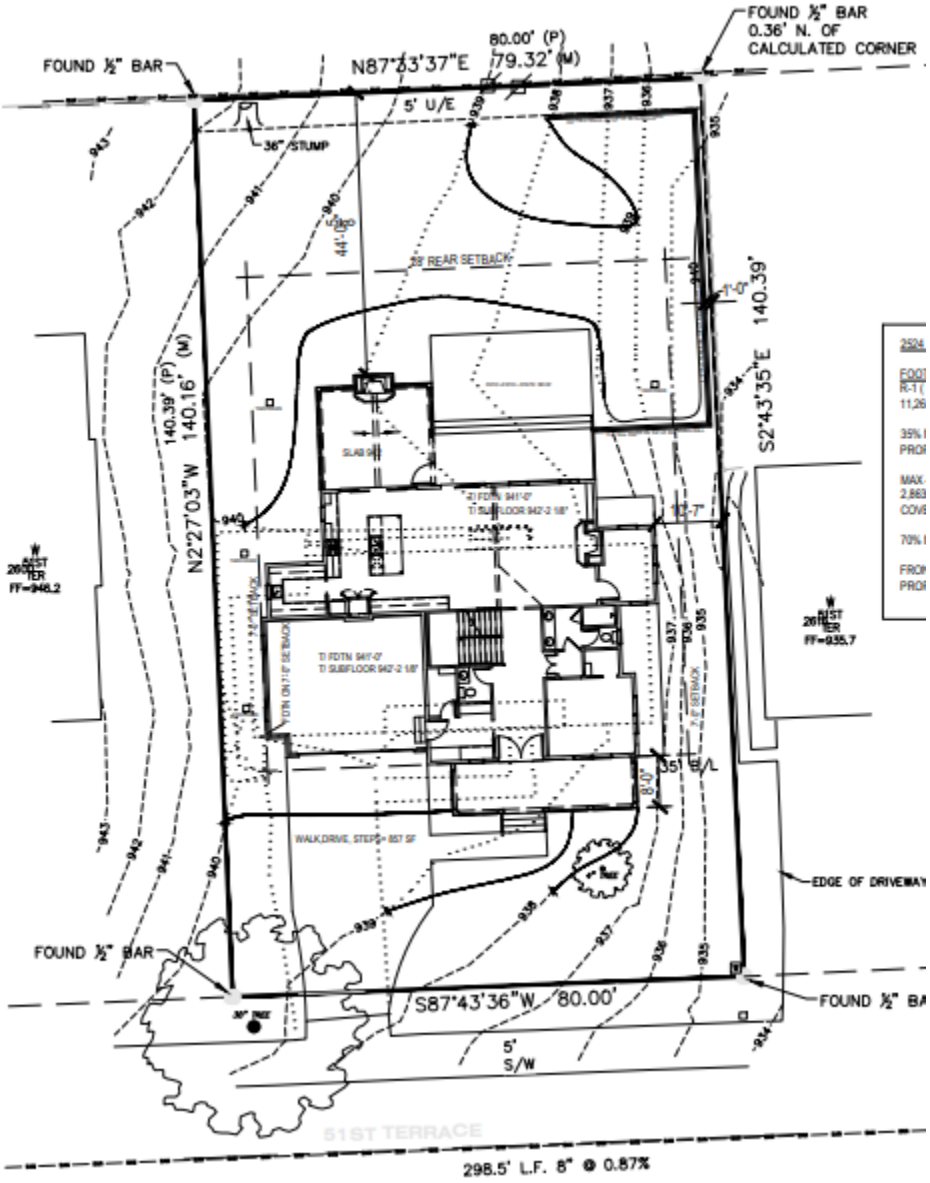
2601
0003B
2525
0004
2517
0005B
2511
0006
2501
0007
0
30
60ft
©2024 Johnson Co. AIMS - aims.jocogov.or


FOUND ½" BAR
0.36' N. OF
CALCULATED CORNER
FOUND ½" BAR
N87°33'37"E
80.00' (P)
79.32' (M)
5' U/E
36" STUMP
25' REAR SETBACK
140.39'
S2°43'35"E
140.39' (P)
140.16' (M)
N2°27'03"W
FOUND ½" BAR
S87°43'36"W 80.00'
5'
S/W
EDGE OF DRIVEWAY
51ST TERRACE
298.5' L.F. 8" @ 0.87%

WEST ELEVATION
1/4" SCALE

SOUTH ELEVATION
1/4" SCALE

EAST ELEVATION
1/4" SCALE

NORTH ELEVATION
1/4" SCALE

Evaluation of Permit Application Conformance with Westwood Zoning Regulations

Review Conducted by: Nick Finck
Owner of Record: Wulff Building+Additions LLC
Applicant: Joanne Scurato
Address: 2524 W 51st Terrace
Residential Zoning District: R-1(D)
Description of Proposed Project: New SFD

Address		
Zoning District		
	Code	*Admin Review*
Height (4.3.2.B & H) Story Def. (2.3.645 – 660)	maximum of 2 stories; 35’	2 story, 31’1-1/4” height
Lot Coverage (4.3.2.C) Definition (2.3.405)	shall not exceed 35% of the area of the lot	25.42% lot coverage
Maximum lot width coverage at front yard setback (4.3.2.J)	Based on zoning district	70% for R-1(D) 46.25%
Build-to Line (4.3.2.D)	at least 60% of front façade must be situated on build-to line	41.7%
Maximum eave height above the first floor (4.3.2.J)	Based on zoning district	20’ 4-1/8” Max 23’
Architectural relief on vertical surfaces (4.3.2.E)	max. 600 sqft. without incorporating architectural relief	Condition met
Front setback encroachments (4.3.2.G)	no greater than 4’	8’ encroachment of open porch
Attached garage setback (4.3.6.F)	entirely behind the front façade of the primary structure	Condition met
Setback – Front yard (4.3.2.J)	Based on zoning district	Condition met except for porch
Setback – Side yard (1st story) (4.3.2.I)	Based on zoning district	Condition met
Setback – Side yard (2nd story) (4.3.2.J)	7’	Condition met
Setback – Back yard (4.3.2.J)	Based on zoning district	Condition met

Waivers & Exceptions Application

City of Westwood
4700 Rainbow Blvd
Westwood, Kansas 66205
913-362-1550
www.westwoodks.org

Requested Waiver For: Front Setback Encroachment

General Location / Address of Subject Property: 2524 W. 51st Terrace

Legal Description: Klassan Place E 50' LT 4 and W 30' LT 5 BLK 1 WWC 284 A

Current Land Use: _____

Zoning District: _____

Property Owner's Name(s): Wulff Building Phone: 816-695-9493

Mailing Address: 8016 Manor, Leawood, KS 66206

E-mail Address: admin@wulffbuilding.com

Applicant / Agent's Name: Joanne Scyrato

Company: SAME Phone: SAME

Mailing Address: _____

E-mail Address: _____

A waiver or exception for the building design or site development standards is allowed from only the following Westwood Zoning Ordinance sections:

4.3.2 Single-Family Primary Structure Requirements;
4.3.6 Garages;
4.3.7 Building Standards;
4.3.8 Building Additions – Special Conditions; and
4.4 New Infill Houses – Special Considerations.

Fee: $90.00

List the specific Zoning Ordinance provisions that a waiver or exception is being requested from:

4.3.2.G and 4.3.2.D

A waiver or exception shall not be approved if it is contrary to the public interest or unnecessarily burdens the City of Westwood. The following provisions are evaluated before a waiver or exception can be granted.

Respond to each of the criteria as it pertains to the request.

A. An alternative higher quality development design in being proposed with no negative impacts to either near-by residential or nonresidential properties.

It will improve the front elevation. A larger front porch will provide increase appeal w/ no negative impacts to either near by residential or nonresidential properties

B. Relief of the development restrictions imposed on the property will ensure low impact land uses, and quality building and site design arrangements in which adjoining residential properties will not be negatively impacted by any deviations from the applicable regulations.

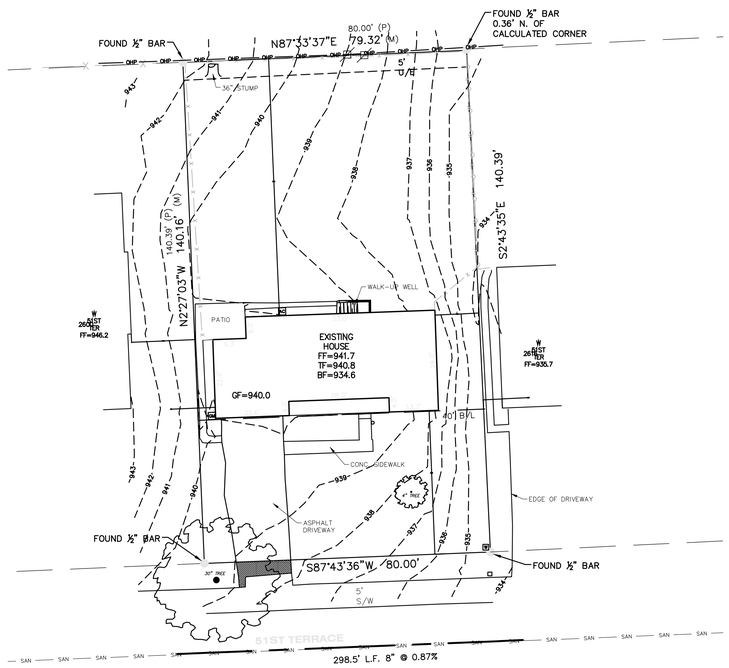
Extending the front porch an additional 4' will have low impact by any deviations from the applicable regulations

C. The granting of the wavier or exception will not be opposed the general spirit and intent of the adopted Comprehensive Plan.

An additional 4' of front porch will only increase appeal and will not be opposed the general spirit & intent of the adopted Comprehensive Plan

Signature of Owner or Agent: Jaime R Santo Date: 5/23/24

Note: Authorization of Agent must accompany any requests made by anyone other than the property owner(s).



NORTH

EXISTING SITE PLAN
1"= 20'-0" SCALE

LEGEND

- BAR FOUND AS DESCRIBED, ORIGIN UNKNOWN UNLESS NOTED
- AIR CONDITIONER
- WATER METER
- POWER POLE
- SANITARY SEWER MANHOLE
- OHP — OVERHEAD POWER LINE
- SAN — SANITARY SEWER LINE
- CHAIN LINK FENCE
- WOOD FENCE
- 950 — EXISTING GRADE CONTOUR
- R/W — RIGHT-OF-WAY
- B/L — BUILDING LINE
- U/E — UTILITY EASEMENT
- (P) — PLATTED DISTANCE
- (M) — MEASURED DISTANCE

DATE: DATE
JOB NUMBER: JOBNUMBER
PREPARED FOR: PREP_FOR

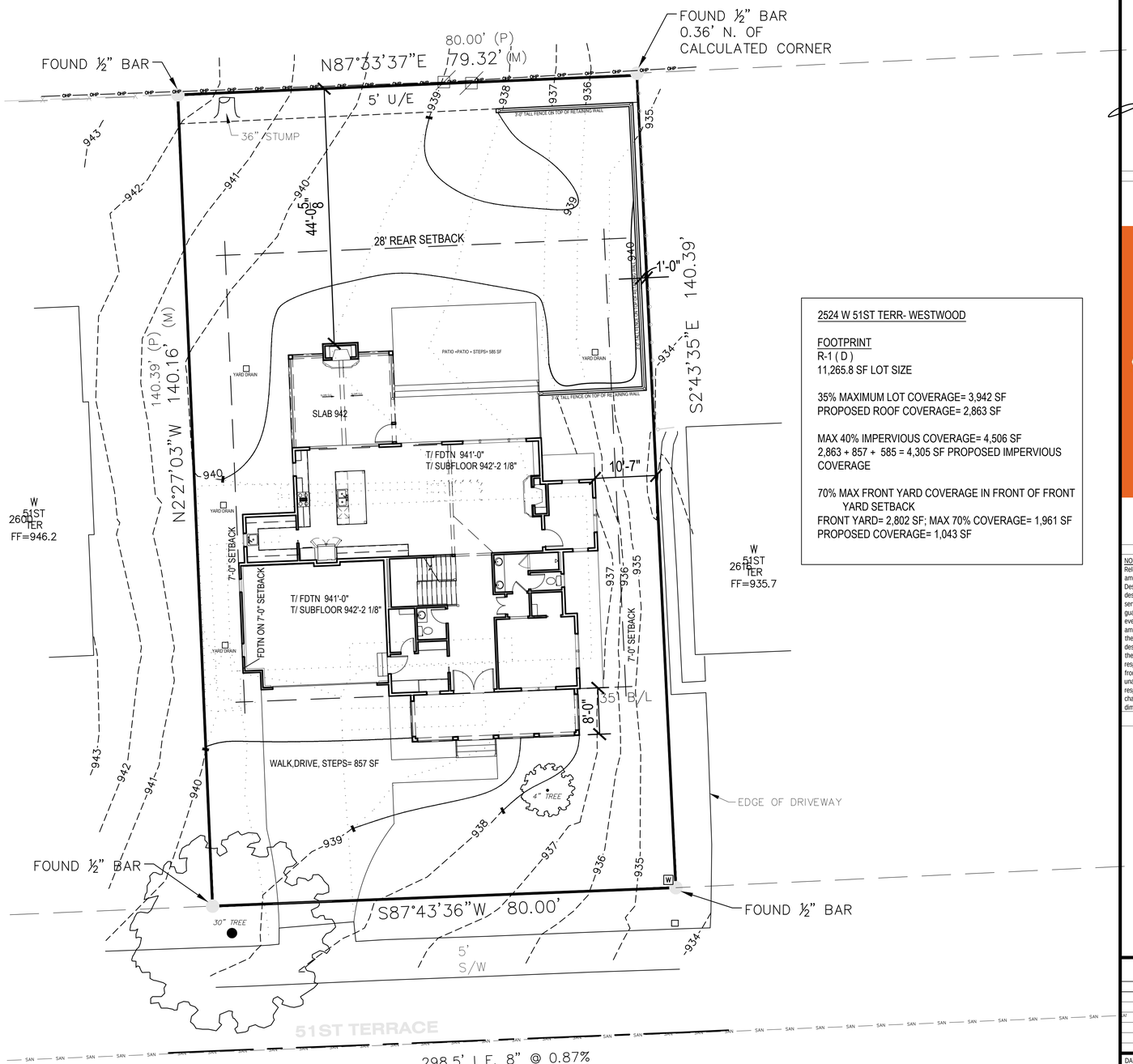
SECTION SECTION TWP. TOWNSHIP RG. RANGE
CO. COUNTY STATE STATE

LEGAL DESCRIPTION
(Per deed recorded in Book 202209, Page 000665):

The East 50 Feet of Lot 4 and the West 30 Feet of Lot 5, Block 1, KLASSEN PLACE, a subdivision in the City of Westwood, Johnson County, Kansas, according to the recorded plat thereof.

Notes:
1. Basis of bearings: Kansas State Plane, North Zone.
2. All distances are platted and measured values unless otherwise noted.
3. No title information was provided as a part of this survey.

CIVIL ENGINEERS
LAND SURVEYORS - LAND PLANNERS
122 N. WATER STREET
OLATHE, KANSAS 66061
PHONE: (913) 764-1056
FAX: (913) 764-8635
14 W. PEORIA
PAOLA, KANSAS 66071
PHONE: (913) 557-1056
FAX: (913) 557-6004



NORTH

ARCHITECTURAL SITE PLAN
1"= 10'-0" SCALE

2524 W 51ST TERR- WESTWOOD

FOOTPRINT
R-1 (D)
11,265.8 SF LOT SIZE

35% MAXIMUM LOT COVERAGE= 3,942 SF
PROPOSED ROOF COVERAGE= 2,863 SF

MAX 40% IMPERVIOUS COVERAGE= 4,506 SF
2,863 + 857 + 585 = 4,305 SF PROPOSED IMPERVIOUS COVERAGE

70% MAX FRONT YARD COVERAGE IN FRONT OF FRONT YARD SETBACK
FRONT YARD= 2,802 SF; MAX 70% COVERAGE= 1,961 SF
PROPOSED COVERAGE= 1,043 SF

SARA CHRISTINE CARLSON
LICENSED
4-8-24
ARCHITECT

WULFF
FINE CUSTOM HOMES
913-226-0595 kirk@wulffbuilding.com

NOTICE DUTY OF COOPERATION
Release of these plans requires further cooperation among the owner, the contractor, and the designer. Design and construction are complex. Although the designer and their consultants have performed their services with due care and diligence, they can not guarantee perfection. Communication is imperfect and every contingency cannot be anticipated. Any ambiguity or discrepancy discovered by the use of these plans shall be reported immediately to the designer. A failure to cooperate by a simple notice to the designer shall relieve the designer form responsibility for all consequences. Changes made from the plan without the consent of the designer are unauthorized, and shall relieve the designer of responsibility for all consequences arriving out of such changes. Contractor shall check and verify all dimensions.

NEW HOME- PRATT
2524 W 51ST TERR
WESTWOOD, KANSAS

REVISIONS

DATE		DESCRIPTION

DATE: April 8, 2024

ARCHITECTURAL SITE PLAN

A1

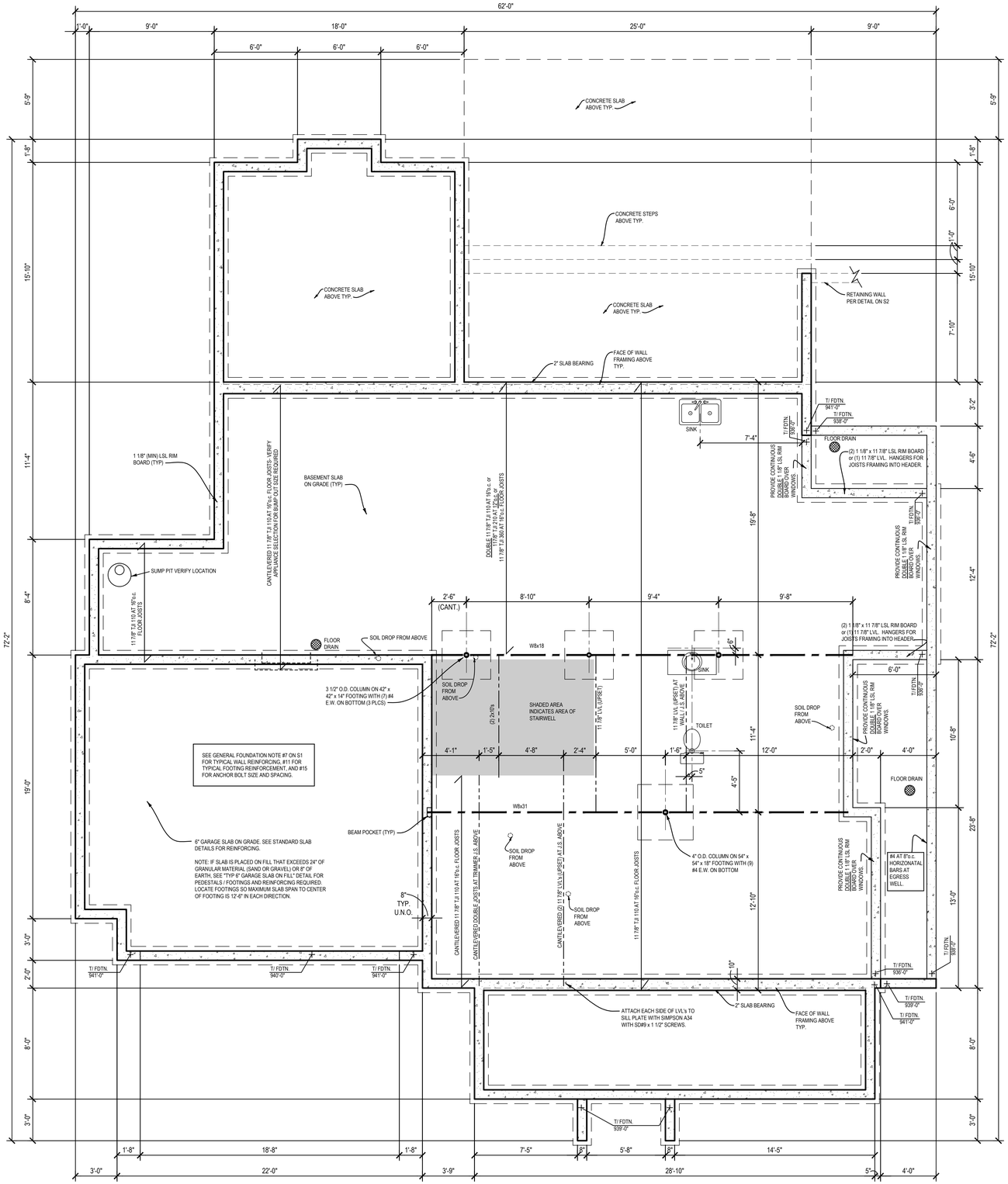
General Notes- as applicable:
All local, state and federal codes and bylaws shall be followed. Refer to code books for more information, general notes below are not all inclusive.
This drawing set is considered to be "builders plans" whereby some aspects of the project's requirements are left to the contractor to understand and implement. As such, it is a requirement that the contractor (builder) be competent in residential construction and have a thorough understanding of the applicable international residential codes (IRC).
The contractor is responsible for meeting the requirements of the building code whether explicitly stated or not. If additional detail or guidance is needed by the contractor or homeowner, a written request for such guidance may be submitted to the engineer.
Refer to the IRC for all requirements not specifically stated in the plans. This includes but is not limited to fire ratings, lighting and ventilation, sanitation, glazing, garages, smoke alarms and carbon monoxide alarms, means of egress, and protection against decay and termites.

Contractor shall:
- Use good quality materials/ equipment per drawings and/ or owner's selection and approval.
- Clarify with Architect and/ or owner any unclear statements or omissions from the drawings prior to construction.
- Contractor to notify Architect and/ or owner if drawings vary from existing conditions.
- Contractor to verify existing conditions in order to align new wall, floor, ceiling and roof planes with existing as indicated on the plans. Verify wall height to provide full bearing for all joists and rafters.
- Be responsible for all work by subcontractors (all references to Contractor are also applicable to all subcontractors working and or providing services or materials for all scopes of construction).
- Be responsible for verifying all subcontractors have proper insurance/ bonds/ licenses.
- Provide and pay for (unless contractor has written agreement otherwise) all materials, labor, equipment, tools, temporary utilities, shipping/ storage, permits, fees, insurance, taxes, demolition, refuse, certificate of occupancy per contractor/ owner written agreement.
- Be compensated by the owner for any changes by the owner (if the change impacts any completed work) and be compensated for added or upgraded items .
- NOT install any material or equipment not approved by owner.
- Refer only to written dimensions; do not scale drawings.
- Call all city utilities to verify placement of their utilities prior to construction.
- Guarantee all work/ material/ equipment free of defects for one year (unless written agreement with owner states otherwise).
- Contractor shall provide and install materials to conform to the IRC.
- The structure is designed to be self-supporting and stable after the building is fully completed. It is solely the contractor's responsibility to execute and determine final erection procedures, sequencing and to insure the safety of the building and its component parts during erection.
- Fabricators and suppliers shall clearly note and highlight changes made in shop drawings, which do not comply with the contract documents.
- Beams, columns, walls and footing centers shall be centered under supporting members (typical unless noted)
- Fabricators and suppliers shall clearly note and highlight changes made in shop drawings, which do not comply with the contract documents.
- Contractor shall ensure that all mechanical, electrical, and plumbing is designed and installed to meet the requirements of the applicable IRC.

Site-work:
Contractor shall be responsible for:
- Presumptive allowable bearing pressure = 1500 psf (per the IRC). All footings and foundations shall bear on native undisturbed soil. Notify engineer if fill or rock (partial or complete) is encountered below any footing bearing locations.
- Erosion control at construction site for duration of construction. Stockpile and protect topsoil from erosion, which shall be used in final grading.
- Removing all vegetation (including large roots/ trunks) from construction area. Protect all vegetation to remain.
- Removing excess excavation materials and obtaining/ placing clean fill material if necessary.
- All fill material to be compacted in 8" layers to a maximum density of 95%. Excavated material free of refuse, organic material or rock shall be suitable for fill under interior and exterior slab and drives
- Excavation and fill to achieve required elevations per drawings.
- Final grading shall be minimum 8" below bottom of siding or stucco and finished grade to slope away from all foundations and shall be sloped away at 5% or 6"min for the first ten feet.
- Installing good sod per owner's choice of grass.
- Initial termite protection at all exterior foundation walls.
- Maximum depth of unbalanced fill is 7'-0" for 8" walls. Do not backfill until first floor framing and flooring installation is complete.
- Surface water shall not be allowed to stand adjacent to or drain towards the foundation under any circumstances. Pavements or graded soils at the perimeter of the building, except as required at exits or as noted, shall be sloped away at 5% or 6" min for the first ten feet.

Thermal and Moisture:
Contractor shall provide and install insulation as follows:
- Vapor retarder on inside face of exterior wall framing, rafters, or ceiling with unconditioned attic above.
- Composition roof shingles per owner's selection.
- Sheet metal flashing (and counter flashing as required) at all roof penetrations, abutting roofs and walls, windows (non-clad), doors (non-clad), fascia board at eaves, rake trim, column caps, trim, transition from lap siding to stone or trim, and roof crickets.
- Standing seam metal roof per owner's selection.
- Continuous soffit vent at eaves and continuous balanced baffled vent at ridge.
- Exhaust fans capable of direct vent to exterior with 5 air changes minimum per hour for each bathroom.
- Fire-damper at fire-resistive walls as required per codes.
- Fire-stop all joints and penetrations per codes.
- Weather- stripping as required at exterior doors.
- Sheet metal cap at dryer exhaust location.
- Approved water-resistive barrier shall be applied over studs or sheathing of all exterior walls per code.
- The building thermal envelope shall be sealed with an air barrier per IRC.
- The building shall be in compliance for water-resistive exterior wall coverings per IRC.

Doors and Windows:
Contractor shall provide/ install:
- Light/ ventilation per IRC.
- Safety glazing per IRC.
- Doors between the garage and living spaces shall be a minimum 1 3/8" solid core or honey combed steel door or a 20 minute fire rated door with self closing hardware and assembly per code.
- Doors, windows and hardware style, option and manufacturer per owner's selection and installed per manufacturer's installation instructions.
- Windows shall have a U factor of .35 or better.
- Garage doors meet Dasma 115 MPH rating.
- All egress windows shall comply with IRC.
- Window sill height for operable windows- minimum 24" where over 6'-0" above grade.
- Window wells comply with IRC.
- Window fall protection requirement per IRC.
- All exterior doors including the door leading from the garage to the dwelling unit shall incorporate the physical security requirements of the local jurisdiction as required.



FOUNDATION PLAN
1/4" SCALE

NORTH

DARIUS D. VIET
LICENSED
24506
KANSAS
PROFESSIONAL ENGINEER
THIS SEAL APPLIES TO STRUCTURAL ITEMS ONLY.

WULFF FINE CUSTOM HOMES
913-226-0595 kirk@wulffbuilding.com

NEW HOME- PRATT
2524 W 51ST TERR
WESTWOOD, KANSAS

REVISIONS

DATE		DESCRIPTION

DATE: April 8, 2024

FOUNDATION PLAN

A2

NOTICE DUTY OF COOPERATION
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Finishes:
Contractor shall provide/install:

- Finish material samples for owner's approval per owners request (contractor and owner to agree on prudent amount of samples to be provided, or contractor to be compensated for more samples).
- Smooth finish ceilings.
- 1/2" gypsum board on all interior faces of exterior walls; both faces of interior wall framing and ceilings. Gypsum shall be orientated perpendicular to ceiling joists, rafters and studs over vapor retarder fastened with 6d cooler nail at 7" O.C. maximum at field and 5" O.C. maximum at edge of panel.
- 1/2" gypsum board on underside of I-joists.
- 5/8" fire rated gypsum board between garage and any living spaces shall be installed per code.
- The garage shall be separated from the dwelling and its unfinished attic areas by a minimum 1/2" gypsum board applied to garage side. Where unfinished attic areas are provide above the garage, the supporting columns and beams shall also be protected with 1/2 inch gypsum board or equivalent.
- Exterior lap siding shall be installed per manufacturer's instructions.
- All exterior trim shall be primed and painted (or stained) per owners selection with continuous metal flashing on all horizontal edges.
- Floor assemblies (manufactured floor joists or trusses) shall have 1/2" gypsum board, 5/8" wood structural panel membrane or equivalent on the underside of the floor framing membrane; taped and mudded. This is not required of crawl spaces with no mechanical appliances or storage.
- Wall coverings shall be water-resistant and comply with IRC.

Equipment:
Contractor shall provide/ install:

- All appliances as selected by owner (unless contractor has written agreement which states otherwise).
- All operating and maintenance (O&M) instructions and warranties of appliances/ fixtures (which the contractor was responsible for providing or installing) to the owner at certificate of occupancy time.
- Smoke alarms per code IRC.
- Sump pit and pump- provide electrical receptacle with GFCI protection. Drain lowest footing to be site located.
- All bathroom to receive exhaust fans- 50 cfm directly to outside. Point of discharge minimum 3'-0" from any openings.
- Carbon monoxide alarms shall be provided in dwelling units where fuel fired appliances are installed or which have attached garages. Alarms shall be provided outside each separate sleeping area in the immediate vicinity of the bedrooms. Alarms shall comply with the UL2034. Install per manufacturer's instructions and shall be in accordance with IRC.
- Whole house ventilation required where under 3 ACH- R303.
- Refrigerant access ports on AC units require locking caps.
- Kitchen exhaust hoods over 400 CFM will require make-up air.

Mechanical:
Contractor to provide/ install:

- Cleanouts as required per code.
- Water supply system of copper type 'M' hot and cold trunk lines (unless contractor has written approval from owner to use other type of piping), ½" branch lines with hammer heads and shut-off valves at each fixture (hot and cold each to have shut-off valve).
- Soil waste lines shall be cast iron , PVC lines below concrete slab (unless contractor has written approval from owner to use other type of piping).
- Vent lines may be of PVC with weather caps per code.
- All fixtures/ appliances/ equipment per manufacturer's installation instructions and codes.
- Frost-proof hose bibs per owners selected locations and codes.
- Pressure reducing valve and thermal expansion tank as required by code.
- Anti-scald on shower/ tubs.
- Backwater valves as required per code and access shall be provided.
- Balance and complete air flow and return systems per code.
- All equipment/ appliances to be tested before certificate of occupancy.
- Gas at range, clothes dryer, and other gas fixtures per code (unless contractor has written approval from owner to omit these lines).
- Ductwork shall have an R-8 minimum.
- Bathroom, kitchen, and dryer exhausts terminations- minimum 3'-0" from all windows and 10'-0" from air intakes.
- Maximum dryer duct length 35'-0".
- Radon mitigation as required.
- A whole house mechanical ventilation system is required if the residence is tested with a blower door test and determined to have an air-infilitration rate of less than 5 air changes per hour.
- A galvanized steel pan for approved use shall be installed where damage would occur from a leak from a storage tank type water heater with discharge to an approved location.
- All ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed per IRC.
- Minimum mechanical efficiency rating for ac equipment is 13 seer as required per IRC.
- Minimum mechanical efficiency rating for forced air furnace is 78% as required per IRC.

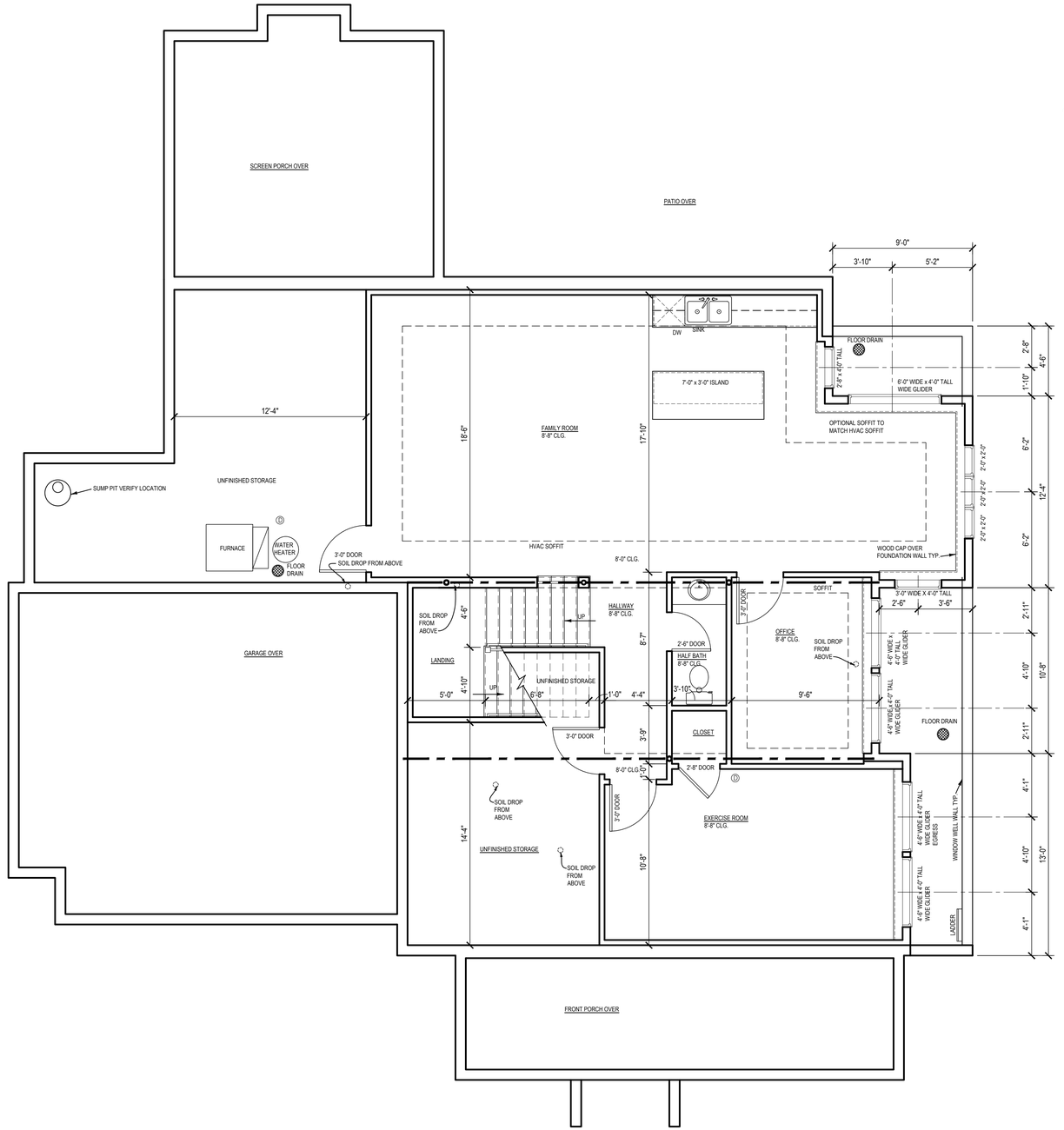
Electrical:
Contractor shall:

- Provide GFCI temporary construction service.
- Provide and install GFCI outlets per codes.
- Provide 4-wire conductors at range and clothes dryer.
- Bury exterior power lines per owner's approval.
- Install/ provide all electrical work/ material per codes.
- Provide/ install smoke alarms per code.
- Multi- wire branch circuits must be separate phases, grouped in panel, and be provided with a means for simultaneous disconnect.
- Outdoor receptacle required at any size deck.
- If foyer is more than 60 sq. ft. an outlets is required for each wall space over 3'-0" in width.
- Tamper resistant receptacles required for all outlets less that 5'-6" above floor.
- Recessed lighting shall be sealed to prevent leakage between conditioned and unconditioned space.

TABLE N1102.1.2 (R402.1.2) INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT									
CLIMATE ZONE	FENESTRATION U-FACTOR	SKYLIGHT U-FACTOR	GLAZED FENESTRATION SHGC b	CEILING R-VALUE	WOOD FRAMED WALL R-VALUE	FLOOR R-VALUE	BASEMENT WALL R-VALUE c	SLAB R-VALUE & DEPTH d	CRAWL SPACE WALL R-VALUE c
4 EXCEPT MARINE	0.32	0.55	0.40	49	20 OR 13+5 h	19	10/13	10, 2 FT	10/13

b. The fenestration U-factor column excludes skylights.
c. 10/13 means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation on the interior of the basement wall. 15/19 means R-15 continuous insulation on the interior or exterior of the home or R-19 cavity insulation on the interior of the basement wall. Alternatively, compliance with 15/19 shall be R-13 cavity insulation on the interior of the basement wall plus r5 continuous insulation on the interior or exterior of the home.
d. R-5 insulation shall be provided under the full slab area of a heated slab in addition to the required slab edge insulation R-value for slabs, as indicated in the table. The slab edge insulation for heated slabs shall not be required to extend below the slab.

PLANS PER IRC 2018



NORTH

LOWER FLOOR PLAN
1/4" SCALE
1,083 FINISHED SF

KARA CHRISTINE CARLSON
LICENSED
PROFESSIONAL
ARCHITECT
4-8-24

WULFF
FINE CUSTOM HOMES
913-226-0595 kirk@wulffbuilding.com

NOTICE DUTY OF COOPERATION
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NEW HOME- PRATT
2524 W 51ST TERR
WESTWOOD, KANSAS

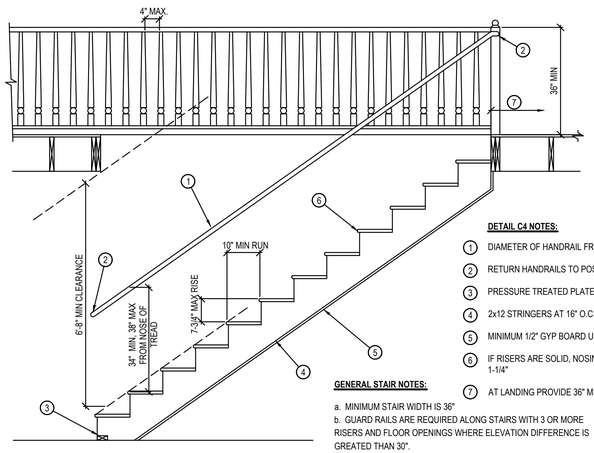
REVISIONS

DATE	⚠	DESCRIPTION

DATE: April 8, 2024

LOWER LEVEL PLAN

A3



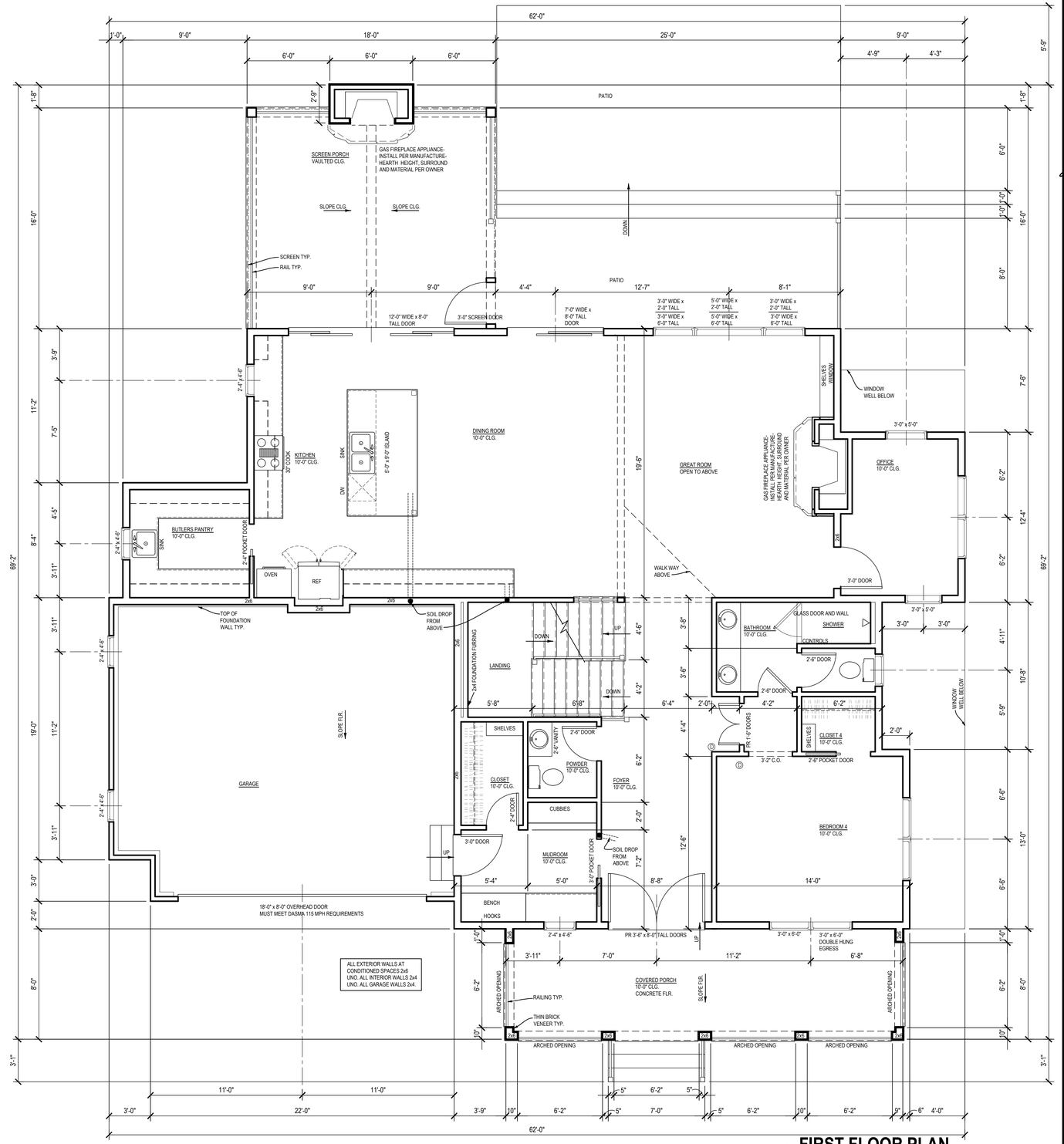
DETAIL C4 NOTES:

1. DIAMETER OF HANDRAIL FROM 1-1/4" TO 2"
2. RETURN HANDRAILS TO POST OR WALL
3. PRESSURE TREATED PLATE
4. 2x12 STRINGERS AT 16" O.C. MAX.
5. MINIMUM 1/2" GYP BOARD UNDER STAIRS
6. IF RISERS ARE SOLID, NOSING IS REQUIRED: 3/4" TO 1-1/4"
7. AT LANDING PROVIDE 36" MINIMUM OF CLEARANCE.

GENERAL STAIR NOTES:

a. MINIMUM STAIR WIDTH IS 36"
b. GUARD RAILS ARE REQUIRED ALONG STAIRS WITH 3 OR MORE RISERS AND FLOOR OPENINGS WHERE ELEVATION DIFFERENCE IS GREATED THAN 30".
C. ALL STAIR CONSTRUCTION SHALL SATISFY IRC REQUIREMENTS.

STAIR DETAIL
1/2" SCALE



NORTH

FIRST FLOOR PLAN
1/4" SCALE
1,805 INTERIOR SF

LORA CHRISTINE PRATT
LICENSED
4-8-24
REGISTERED
ARCHITECT

WULFF
FINE CUSTOM HOMES
913-226-0595 kirk@wulffbuilding.com

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REVISIONS

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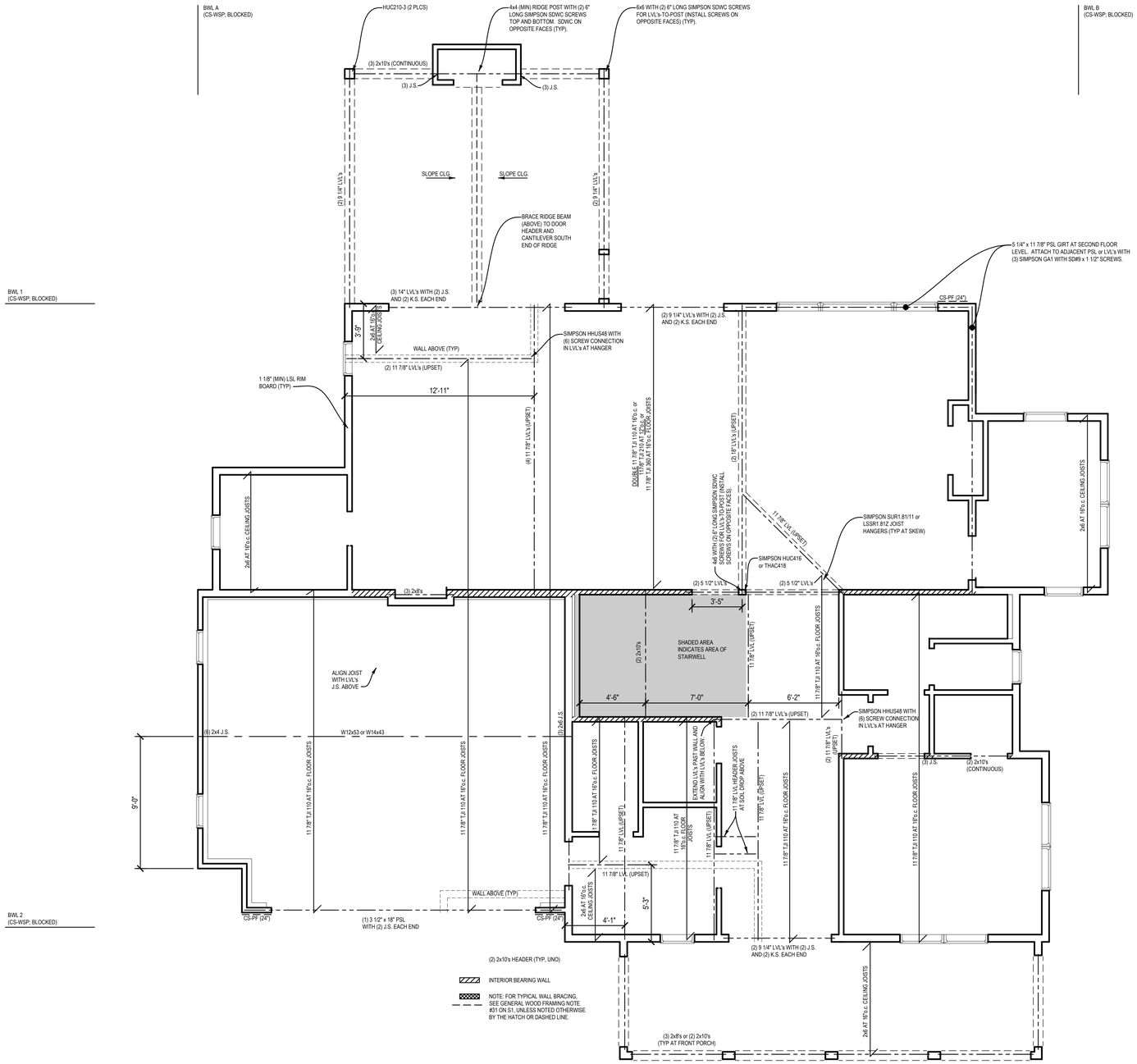
FIRST FLOOR PLAN

A4



NORTH

FIRST FLOOR FRAMING PLAN
1/4" SCALE

DARIUS D. VIET
LICENSED
24506
KANSAS
PROFESSIONAL ENGINEER

THIS SEAL APPLIES TO STRUCTURAL ITEMS ONLY.

WULFF
FINE CUSTOM HOMES
913-226-0595 kirk@wulffbuilding.com

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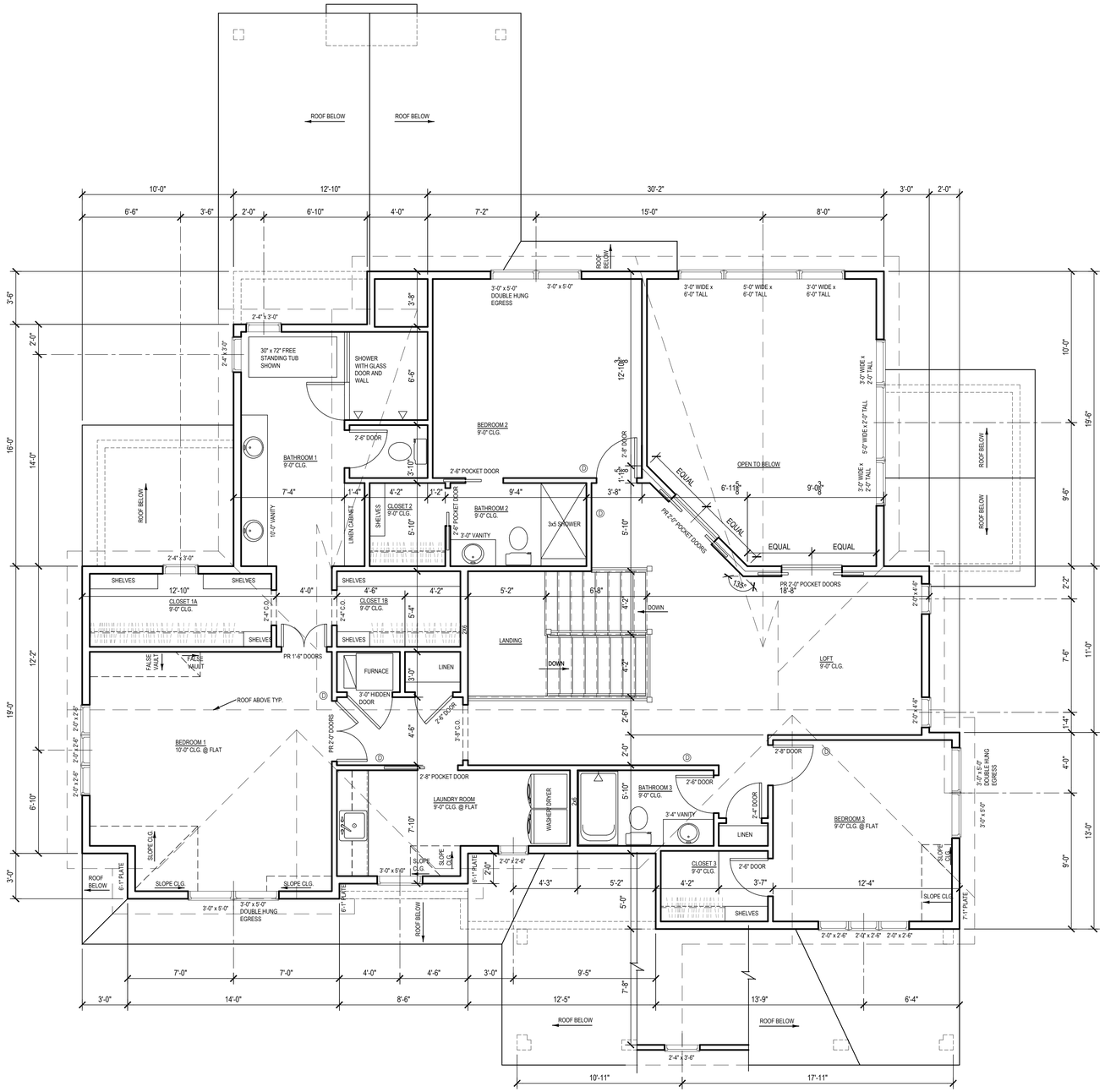
FIRST FLOOR FRAMING PLAN

A5



NORTH

SECOND FLOOR PLAN
1/4" SCALE
1,651 SF

KIRK CHRISTINE DAVIS
LICENSED
ARCHITECT
4-8-24

WULFF
FINE CUSTOM HOMES
913-226-0595 kirk@wulffbuilding.com

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REVISIONS

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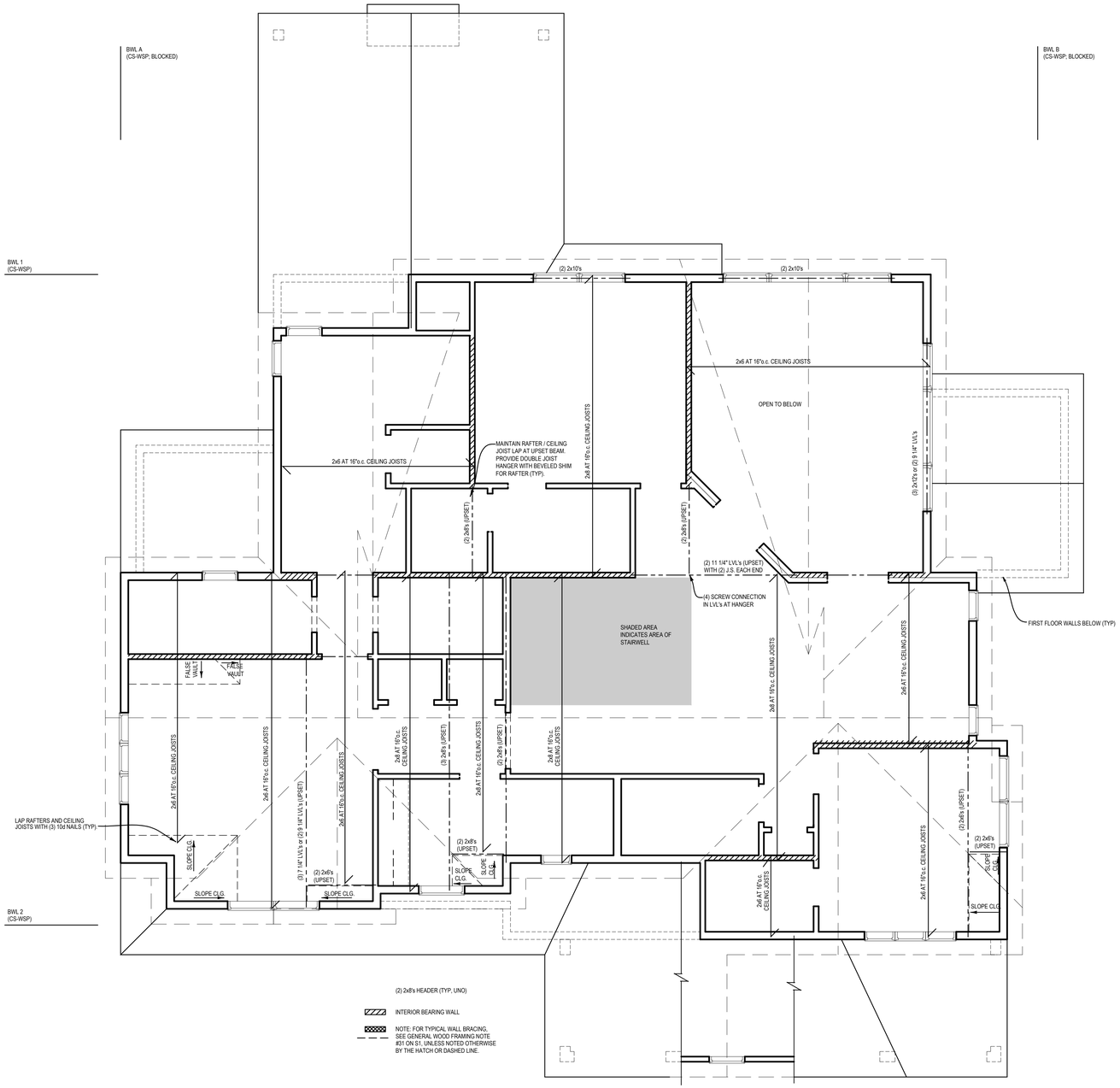
SECOND FLOOR PLAN

A6



NORTH

SECOND FLOOR FRAMING PLAN
1/4" SCALE

DARIUS D. VIET
LICENSED
Darius Viet
24506
07/31/24
KANSAS
PROFESSIONAL ENGINEER

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WULFF
FINE CUSTOM HOMES
913-226-0595 kirk@wulffbuilding.com

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WESTWOOD, KANSAS

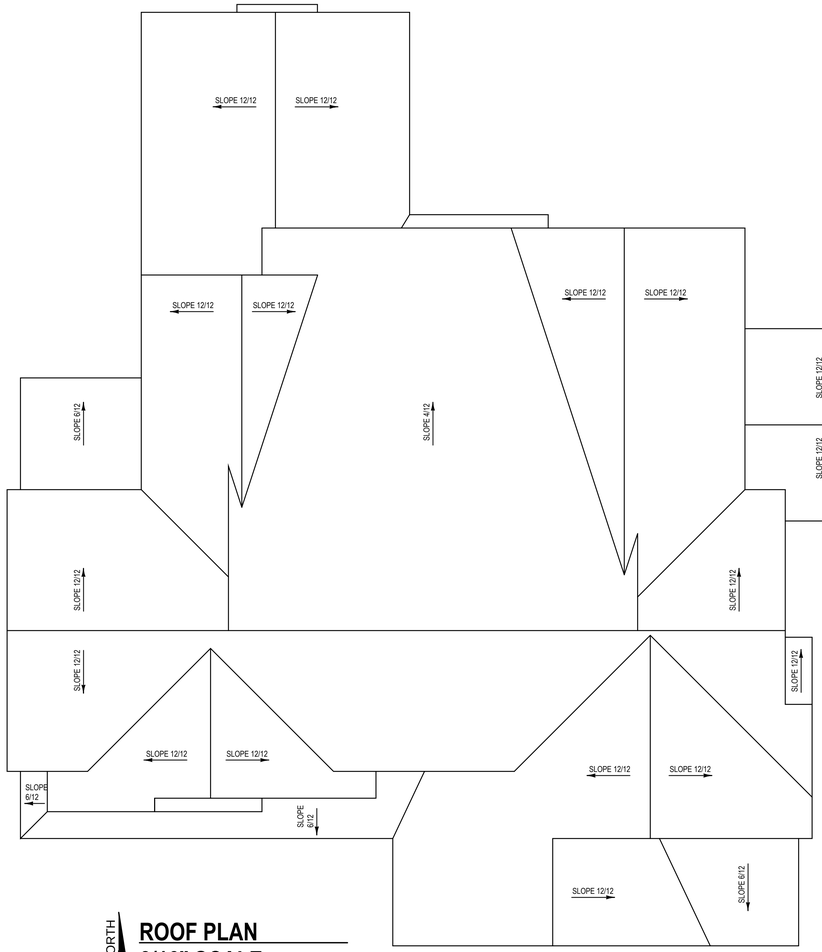
REVISIONS

DATE	⚠	DESCRIPTION

DATE: April 8, 2024

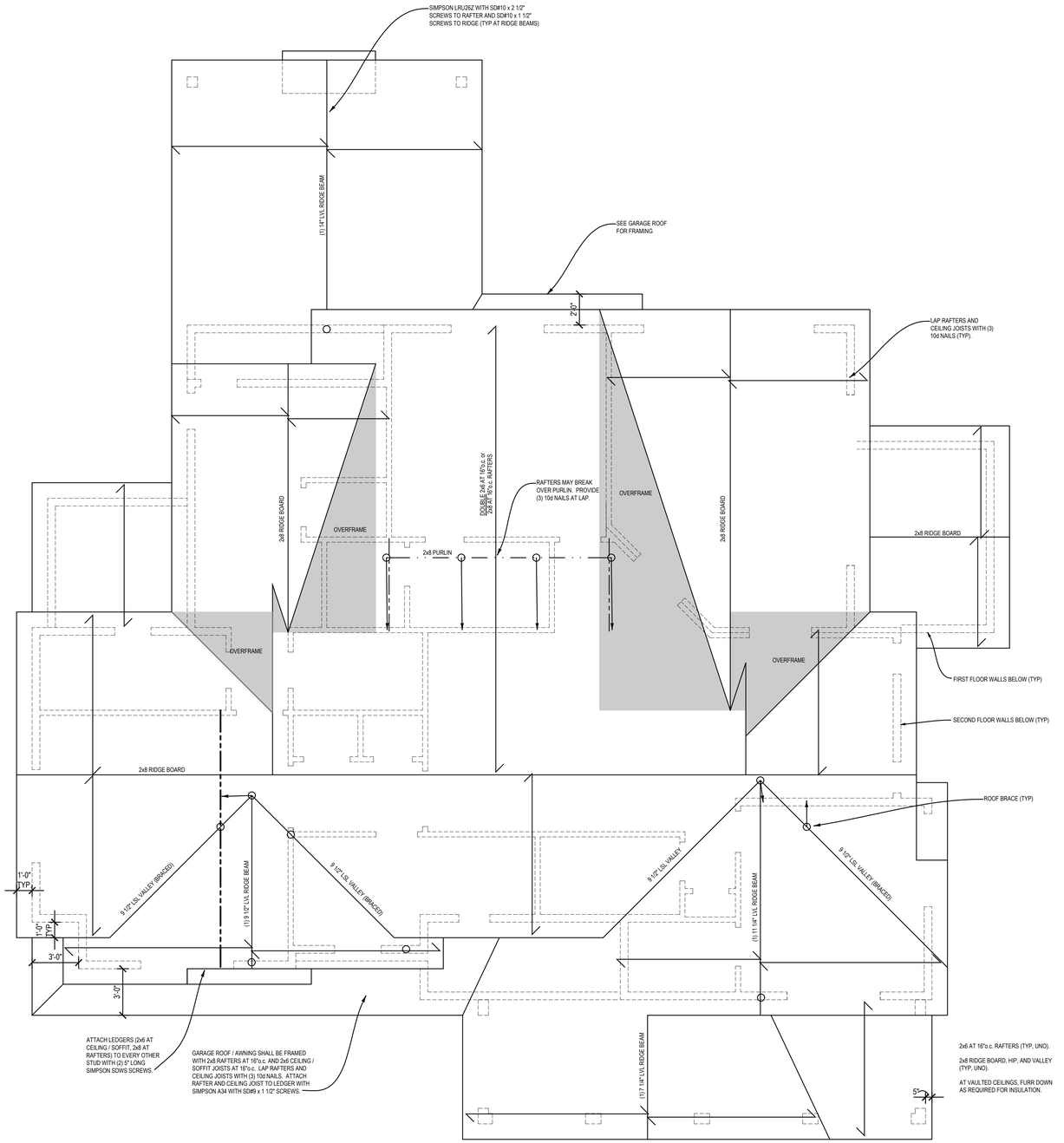
SECOND FLOOR FRAMING PLAN

A7



NORTH

ROOF PLAN
3/16" SCALE



ROOF FRAMING PLAN
1/4" SCALE

NORTH

DARIUS D. VIET
LICENSED
Darius Viet
24506
04/09/24
KANSAS
PROFESSIONAL ENGINEER

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WULFF
FINE CUSTOM HOMES

913-226-0595 kirk@wulffbuilding.com

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DATE	⚠	DESCRIPTION

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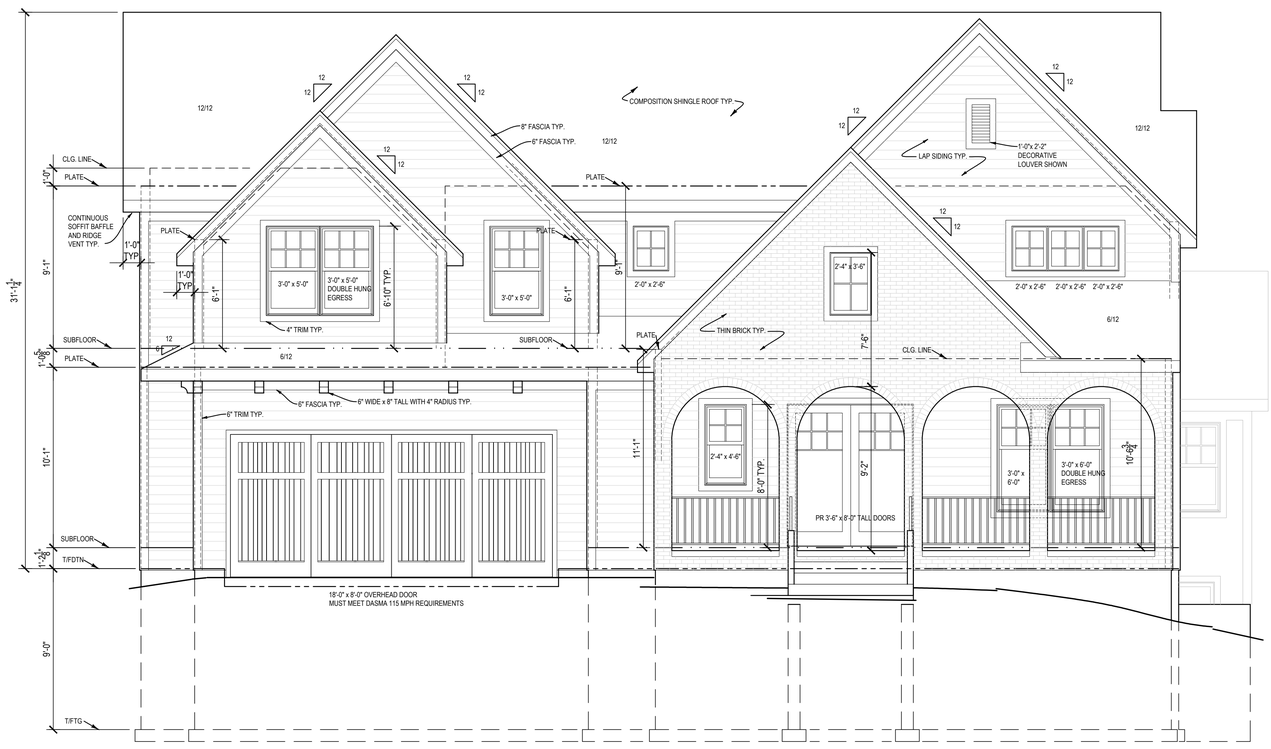
ROOF PLAN

A8

WEST ELEVATION
1/4' SCALE

GUTTERS AND DOWNSPOUTS AS REQUIRED NOT SHOWN TYP.



SOUTH ELEVATION
1/4" SCALE

KIRA CHRISTINE CARLSON
LICENSED
ARCHITECT
4-8-24
KANSAS

WULFF
FINE CUSTOM HOMES
913-226-0595 kirk@wulffbuilding.com

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WESTWOOD, KANSAS

REVISIONS

DATE	⚠	DESCRIPTION

DATE: April 8, 2024

ELEVATIONS

A9

WEST ELEVATION WALL PLANE SF CHECK
1/8" SCALE

NORTH ELEVATION WALL PLANE SF CHECK
1/8" SCALE

EAST ELEVATION
1/4" SCALE

NORTH ELEVATION
1/4" SCALE

WULFF
FINE CUSTOM HOMES
913-226-0595 kirk@wulffbuilding.com

KANSAS CERTIFIED
LICENSED
4-8-24
ARCHITECT

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2524 W 51ST TERR
WESTWOOD, KANSAS

REVISIONS

DATE		DESCRIPTION

DATE: April 8, 2024

ELEVATIONS

A10

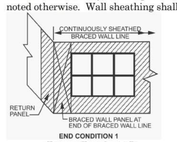
STRUCTURAL NOTES

Building Code
All construction shall comply with the 2018 International Residential Code (IRC) and its appropriate supplements.

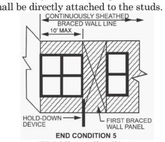
Design Loads
Roof: 10 psf dead load; 20 psf live load
Ceiling: 5 psf dead load; 10 psf live load (non-storage attic)
Floor: 12 psf dead load; 40 psf live load
Wind: 115 mph, Exposure B

Foundation Notes
1. Foundations shall bear on undisturbed soil capable of supporting 1,500 psf without undue settlement or heaving. The soil bearing capacity shall be field-verified by the contractor by means of a qualified testing lab (approved by the owner).
2. If the existing site topography or soil conditions vary from the conditions shown on the drawings, it is the responsibility of the contractor to notify the Engineer so that appropriate modifications can be made to the design.
3. Concrete for foundation walls, porches, steps, and garage floor or exterior slabs shall be air-entrained at 5% to 7% and have a minimum 28-day compressive strength of 3,500 psi. Concrete for footings shall be minimum 3,000 psi, and concrete for basement or interior slabs shall be minimum 2,500 psi.
4. Reinforcing steel shall be ASTM A615, Grade 40 unless noted otherwise on the drawings. Corner bars shall be provided at all footing and wall corners and footing steps. All bars shall be lapped a minimum of 24".
5. Welded wire mesh reinforcing shall be ASTM A1064 cold drawn wire.
6. Standard concrete cover of bars, unless noted otherwise, shall be:
   a. Where earth-formed: 3"
   b. Walls and slabs (not exposed to earth or weather): 3/4"
   c. Walls and slabs (exposed to earth or weather):
      i. #5 and smaller: 1 1/2"
      ii. #6 and larger: 2"
   d. Other: 2"
   e. Minimum coverage for all bars shall be the nominal bar diameter.
7. Concrete foundation walls shall be 8" thick (unless shown otherwise on the drawings) with a maximum height of 9', full height from foundation to floor framing, and reinforced per Johnson County requirements as follows:
   a. #4 at 12"o.c. vertically. Place reinforcement 2" from the inside face of the wall.
   b. #4 at 24"o.c. horizontally, with (1) #4 located within 12" of the top and bottom of the wall.
   c. Walls retaining 6' or less of soil (e.g. garage or walk-out basement) may have #4 at 36"o.c. vertically and horizontally.
   d. Vertical dowels shall be the same size and spacing as the vertical wall reinforcement. Dowels shall extend 6" minimum into the footing and 18" minimum into the wall.
8. Provide no less than (2) #4 bars around all window and door openings. Such bars shall extend at least 24" beyond the corners of openings.
9. All foundation walls shall be placed continuous unless vertical construction joints are provided between separate placements of concrete.
10. Foundation walls should not be backfilled unless the top of the foundation wall is fully supported by the floor framing or other bracing system.
11. Foundation walls shall bear on a 16" wide x 8" thick continuous footing with (2) #4 continuous at 3" clear from bottom.
12. Footings shall be stepped as required to provide minimum 36" frost depth with lapped reinforcement across steps.
13. Foundation drainage shall comply with IRC Section 405.
14. Foundation walls that retain earth and enclose interior spaces and floors below grade shall be damp proofed from the top of the footing to finished grade with a bituminous coating in accordance with R406.1.
15. Unless noted otherwise, all framed walls shall be attached to the foundation with 1/2" diameter, F1554 Grade 55 anchor bolts with a maximum spacing of 36" and minimum embedment of 7" into concrete. The bolts shall be placed within the middle third of the plate, and located no less than 3 1/2" nor more than 12" from the end of each plate member, with a minimum of 2 anchor bolts per plate member. A nut and washer shall be tightened on each anchor bolt. Provide foam barrier between top of concrete wall and sill plate.
16. Connect all horizontal concrete reinforcing bars to existing concrete footings and foundation walls with #4 dowels. Dowels into concrete shall be attached with Simpson SET-3G adhesive. Installation shall be in strict accordance with manufacturer's instructions. Minimum embedment shall be 5".
17. Any fill material installed under the basement or garage floor slabs shall be properly compacted to prevent settlement. At the contractor's option, a properly designed structural slab may be installed over any fill that has not been compacted.
18. Reinforce concrete slabs on grade per Typical Slab Detail.
19. At all interior slab corners, unless such corner is relieved by a construction joint, one #4 bar x 3'-0" long shall be placed diagonally at the mid-depth of the slab.
20. Control joints shall be located in the interior slabs on grade to minimize random cracking. Controlled areas should be approximately square and no greater than 12' long on any side. These joints shall be tooled into the slab or sawcut within 8 hours of placing the slab. Coordinate location of control joints with architect for joints in floor tile or other floor finishes as required.
21. Place slabs on grade on 4" of compacted 1/2" to 3/4" clean graded gravel. Provide a 6 mil polyethylene vapor retarder between slab and compacted gravel (not required at garage slabs).
22. Use 4"x4" steel shims in beam pockets.
23. Provide 30# felt bond break around all steel columns where in contact with the slab on grade.
24. The contractor is responsible for taking the appropriate steps to minimize the effects of expansive soil on the foundation, slabs, and wood framed portions of the house. This includes isolating the floor slab at columns and at the foundation walls. Also, partition walls in the basement should not be constructed tight against the framing above.
25. Surface water should drain away from the foundation walls, and the grade shall fall a minimum of 6" in the first 10 feet. If this requirement cannot be obtained due to lot lines, walls, etc., drains or swales shall be constructed to ensure drainage away from the structure. Note that any impervious surfaces within 10 feet of the foundation shall have a minimum 2% slope away from the house.

Wood Framing Notes
1. Structural steel beams shall be ASTM A992, Grade 50. Miscellaneous structural steel shall be ASTM A36 (Grade 36). Hollow structural steel (HSS) members shall be ASTM A500 (Grade 46). Steel pipe columns shall be ASTM A501 (Grade 36) or ASTM A53, Type E or S, Grade B (Grade 35).
2. All dimensional lumber shall be Douglas Fir Larch #2 or better, unless otherwise noted on the drawings.
3. All wall studs shall be continuous between floor and ceiling/roof diaphragm. Exterior wall studs shall be 2x6 at 16"o.c., and interior wall studs shall be 2x4 at 16"o.c., unless noted otherwise on the drawings. Studs that exceed 10'-0" shall be 2x6 at 16"o.c., unless noted otherwise.
4. All I-joist framing members shall be verified by the manufacturer for the spans, loads, and spacings shown. I-joists shall bear the trademark of the American Plywood Association (APA) and shall be designed and fabricated in accordance with the referenced standards. Minimum 1 1/2" LSL rim board at deck ledgers; minimum 1 1/8" LSL rim board otherwise. Follow manufacturer's recommendations for connections, web stiffeners, backer blocks, etc.
5. Per IRC Section R302.13: the underside of the floor framing members shall be provided with a 1/2" gypsum board membrane or 5/8" wood structural panel membrane, unless the floor framing is constructed of dimensional lumber or structural composite lumber equal to or greater than nominal 2x10 dimension or the framing is located over a crawlspace not intended for storage or for the installation of fuel-fired or electric-powered heating appliances. Fireblocking shall be installed per IRC R302.11 and draftstopping per IRC R302.12.
6. Unless noted otherwise, common nails shall be used:
   a. 8d = 0.131" x 2 1/2"
   b. 10d = 0.148" x 3"
   c. 16d = 0.162" x 3 1/2"
7. Provide jack studs under beams to match (or exceed) width of beam being supported, (2) jack studs minimum, unless otherwise noted on plans. For headers, provide (1) jack stud and (1) king stud minimum, unless otherwise noted on plans (d.S. = jack stud(s); K.S. = king stud(s)).
8. Provide solid blocking ("squash blocking") under all columns and jack and king studs with solid bearing on a foundation wall, sill plate, or beam.
9. Provide rim joist or solid blocking between floor joists at all joist bearing locations. All solid blocking and rim joist material shall be the same size and grade as the joists. Attach rim joist to exterior wall top plates at braced wall panels with 8d toenails at 6" o.c.
10. Floor joists below partition walls running parallel to the joist span, kitchen islands, or bathtubs shall be doubled and nailed together with 10d nails at 12" on center in two rows staggered or per manufacturer's specs.
11. Where joists lap over partition walls and beams face nail with (3) 10d nails. Unless noted otherwise, align parallel roof rafters with ceiling joists and face nail with (3) 10d nails.
12. Sole plate at braced wall panels shall be nailed to joist or blocking with (3) 16d nails at 16"o.c.
13. Toenail all floor joists to sill plate or beam with (3) 10d nails (unless noted otherwise by I-joist manufacturer), staggered to minimize splitting. Toenail all rafters to top plate or beam with (3) 10d nails, staggered to minimize splitting. Additionally, fasten at least one rafter at 4'-0" on center to the top plate or beam with a Simpson H2.5A or 6" Simpson SDWC screw, with a minimum of (2) attachments per sheet of roof sheathing. For the first 4'-0" at a roof edge, fasten each rafter with a Simpson H2.5A or 6" SDWC.
14. Rafter birdsmouth cut shall be limited to 1/4 of the rafter depth with a maximum cantilever of 24", unless noted otherwise.
15. All nailing not indicated on the drawings shall conform to the nailing schedule of the governing building code. Spacing, end distances, and edge distances of nails and spikes shall be such as to avoid the unusual splitting of the wood.
16. All non-loadbearing stud walls in the basement shall be provided with a 1" minimum vertical expansion joint to allow for heave in the floor slab. Walls shall not be tight between the slab and the framing above.
17. All wood framing members exposed to weather or in contact with concrete or masonry and less than 8" from the exposed ground shall be preservative treated (Southern Yellow Pine #2 or better, unless noted otherwise). Floor beams within 12" or floor joists or floor sheathing within 18" of the exposed ground in crawlspaces shall be preservative treated. Wood beams in concrete or masonry beam pockets shall be preservative treated or be provided with a minimum 1/2" air gap on top, sides, and ends. Attachments to treated lumber shall be with galvanized fasteners and/or connectors. Field-cut ends, notches, and drilled holes shall have an AWPA M4 approved preservative (e.g. copper naphthenate) field-applied until the wood no longer absorbs the preservative.
18. Siding shall have a 6" minimum clearance from finished grade.
19. All floor & ceiling joists or rafters that butt into the side of a header, beam, or ledger shall be attached with standard joist hangers, unless noted otherwise.
20. All ridge, hip, and valley members shall be 2x members with a depth not less than the cut end of the rafter, unless noted otherwise. Hip and valley rafters shall be supported at the ridge by a 2x6 "tee" brace to a bearing partition.
21. To resist wind uplift, minimum 1x4 collar ties at maximum 48" or ridge straps (e.g. Simpson CS20 with 12" minimum end lengths) shall be installed in the upper 1/3 of the attic. Rafter and ceiling framing shall comply with sections 802.4 and 802.5 of the IRC.
22. Where ceiling joists are not parallel to rafters, minimum 2x4 rafter ties shall be installed in accordance with the applicable building code, unless a structural ridge is indicated on the drawings.
23. Roof purlins shall be 2x8, continuous, and braced at 4'-0" o.c installed to bearing partitions or beams (as indicated on the plans) at a slope not less than 45 degrees from the horizontal. Maximum length of braces shall be 4'-0" for single 2x4, 5'-0" for single 2x6, 8'-0" for double 2x4 "tees", and 13'-6" for double 2x6 "tees". Brace lengths also apply to hip / valley or ridge braces, where required. Tees shall be fastened together with 10d nails at 6"o.c.
24. All exterior wall headers supporting roof load are double 2x8's unless noted otherwise. All exterior headers supporting floor load are double 2x10's unless noted otherwise.
25. Parallel strand lumber (PSL) members shall have a minimum allowable bending stress of 2,900 psi, a minimum allowable shear stress of 290 psi, and a minimum modulus of elasticity of 2,000 ksi (PSL columns shall have 2,400 psi, 190 psi, and 1,800 ksi, respectively). Laminated strand lumber (LSL) members (1 3/4" ply widths, unless noted otherwise) shall have a minimum allowable bending stress of 2,325 psi, a minimum allowable shear stress of 310 psi, and a minimum modulus of elasticity of 1,550 ksi. Laminated veneer lumber (LVL) members (1 3/4" ply widths, unless noted otherwise) shall have a minimum allowable bending stress of 2,600 psi, a minimum allowable shear stress of 285 psi, and a minimum modulus of elasticity of 2,000 ksi.
26. Glulam shall be DF 24F-V4, unless noted otherwise, shall bear the trademark of the American Plywood Association (APA), and shall be designed and fabricated in accordance with the referenced standards. If unbalanced layup is used, strong laminations shall be installed on the bottom.
27. All wood structural panels shall be identified with the appropriate grade trademark of the American Plywood Association (APA), shall be designed and fabricated in accordance with the referenced standards, and shall meet the requirements of product standard PS-1.
28. Wood structural panels shall be set with face grain perpendicular to supporting members and stagger end joints 4'-0".
29. Floor sheathing shall be minimum 3/4" tongue-and-groove wood structural panel. Glue and nail to floor joists with 8d common nails at 6" o.c. at all panel edges and 12" o.c. at all intermediate framing members (not panel edges).
30. Roof sheathing shall be minimum 7/16" APA rated sheathing with 8d common nails at 6" o.c. at all panel edges and 12" o.c. at all intermediate framing members (not panel edges).
31. The building shall be braced in accordance with IRC section R602.10. Braced wall panels shall be wood structural panel (WSP), continuous structural panel sheathing (CS-WSP), let-in-bracing (LIB), or gypsum board (GB) type as indicated on the plans. All sheathable areas of exterior walls (and interior walls as indicated on plan), including areas above and below openings, shall be sheathed with minimum 7/16" APA rated sheathing with 8d common nails at 6" o.c. at all panel edges and 12" o.c. at all framing members not panel edges. Horizontal joints shall occur over, and be fastened to, common 2x blocking where indicated on the plans. End Condition 1 for CS-WSP, unless otherwise indicated on the plans. LIB shall have Simpson WB installed in an X-brace at each panel location on plan; follow manufacturer's installation instructions. LIB shall also have gypsum board fastened to at least one face with a maximum of 8" o.c. fastener spacing. Sheathing of each GB shall be minimum 1/2" gypsum wall board on both faces of the wall with #6 x 1 1/4" Type W or S screws or 5d cooler (0.086" x 1 5/8", 15/64" head) or wallboard (0.086" x 1 5/8" x 9/32" head) nails at 7" o.c. at edge and field. When Method GB panels are installed horizontally, blocking of horizontal joints is not required, unless noted otherwise. Wall sheathing shall be directly attached to the studs.



END CONDITION 1
(Return Panel = 24")



END CONDITION 5
(Hold Down Per Plan)

Stair Framing Notes
1. Per IRC Section R311: maximum riser height is 7 3/4", minimum tread depth is 10", minimum stair width above handrail is 36", minimum stair width below handrail is 31 1/2" (handrail on one side) or 27" (handrail on both sides), minimum headroom is 6'-8", minimum landing width in the direction of travel is 36", and minimum hallway width is 3'-0".
2. For flights with four or more risers, provide a continuous handrail on at least one side, with the handrail placed 34" to 38" above the stair nosing per IRC Section R311.7.8. Handrail shall be graspable and the size / shape shall comply with IRC Section R311.7.8.5.
3. Nosings shall be between 3/4" and 1 1/4" for stairways with solid risers per IRC Section R311.7.5.3. Open risers shall not permit the passage of a 4" diameter sphere per IRC R311.7.5.1.
4. Provide guardrail along open-sided walking surfaces 30" or more above the adjacent surface. Guardrail shall be 36" high and have intermediate rails that do not allow the passage of a 4" diameter sphere per IRC Section R312. Guardrails shall meet the live load requirements of IRC Section R301.5.
5. For stair widths up to 4'-0" wide, provide (3) 2x12 stringers with maximum stringer span of 9'-0". If required, provide 2x6 column to limit stringer span to 9'-0" maximum. Simpson LSC or LS70 to attach stringer to beam / ledger.
6. Treads shall be (1) 2x12 or (2) 2x6's.
7. Enclosed accessible space under stairs shall have walls, under-stair surface, and any soffits protected on the enclosed side with 1/2" gypsum board per IRC 302.7.

Miscellaneous Notes
1. Construction shall comply with IRC 310 for emergency egress windows.
2. Windows shall have a minimum U factor of 0.32 and shall have fall protection in accordance with IRC 312.2. Glazing shall comply with IRC 308 for safety glazing in hazardous locations.
3. The building shall meet or exceed the minimum requirements of IRC Table N1102.1.2. The building thermal envelope shall be sealed in accordance with IRC N1102.4.1. Ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed in accordance with IRC N1103.2.2.
4. Smoke alarms and carbon monoxide detectors shall be provided in accordance with IRC R314 and R315, respectively.
5. Garage doors and frames shall be designed and installed to meet the 115mph wind load resistance requirements of DASMA 108 and ASTM E 330 in accordance with IRC R609.4.
6. Project shall comply with IRC R703.2 for water resistive exterior wall covering.
7. Door(s) from the garage to the house shall be 1 3/8" minimum thickness solid wood or solid / honey-comb core steel or 20-minute fire-rated, self-closing doors per IRC 302.5.
8. Garage / house fire separation shall be one layer of 5/8" minimum Type X gypsum board installed per IRC R302.6.
9. The contractor shall verify all dimensions and elevations shown on the plans and coordinate them with existing conditions. If errors or discrepancies are found it is the contractor's responsibility to notify the Engineer before proceeding with the work.
10. The contractor shall provide all temporary bracing and shoring required during construction to ensure the safety of all persons involved.
11. The contractor shall follow manufacturer's printed instructions for connection hardware, fasteners, adhesives, pre-fabricated shear walls (e.g. Simpson WSWH), etc.
12. Substitutions of specified connectors / fasteners are not permitted unless the Engineer provides written approval. If a substitution is requested, the contractor shall provide published load data from the manufacturer for the Engineer to review.
13. Viet Engineering, LLC is not liable nor responsible for construction means and methods.
14. Viet Engineering, LLC has designed the structural portion of these plans for the construction of a residence at the address referenced in the plans. Viet Engineering, LLC will not take responsibility for any re-use of any portion of the design, plans or specifications at any other property or address without prior written consent.
15. By my seal I certify that the structural engineering related to the new construction shown on these documents has been designed by me, and I disclaim responsibility for architectural, mechanical, electrical, civil, and all other design aspects of this project.

Darius Viet, P.E.
Viet Engineering, LLC
KS License Number: PE24506
KS Certificate of Authority: E-2801

NAILING SCHEDULE IRC 2018 TABLE R602.3(1)

Item	Description of Building Elements	Number & Type of Fastener [a, b, c]	Spacing of Fasteners
	Roof		
1	Blocking between joists or rafters to top plate, toe nail	3 – 8d (2½" x 0.113")	
2	Ceiling joists to plate, toe nail	3 – 8d (2½" x 0.113")	
3	Ceiling joist not attached to parallel rafter, laps over partitions, face nail	3 – 10d (3" x 0.128")	
4	Collar tie to rafter, face nail, or 1¼" x 20 gage ridge strap	3 – 10d (3" x 0.128")	
5	Rafter or roof truss to plate, toe nail	3 – 16d box nails (3½" x 0.135") or 3 – 10d common nails (3" x 0.148")	2 toe nails on one side and 1 toe nail on opposite side of each rafter or truss [i]
6	Roof rafters to ridge, valley or hip rafters: toe nail face nail	4 – 16d (3½" x 0.135") 3 – 16d (3½" x 0.135")	
	Wall		
7	Built-up studs	10d (3" x 0.128")	24" o.c.
8	Abutting studs at intersecting wall corners, face nail	16d (3 1/2" x 0.135")	12" o.c.
9	Built up header, two pieces with ½" spacer	16d (3½" x 0.135")	16" o.c. along ea. edge
10	Continued header, two pieces	16d (3½" x 0.135")	16" o.c. along ea. edge
11	Continuous header to stud, toe nail	4 – 8d (2½" x 0.113")	
12	Double studs, face nail	10d (3" x 0.128")	24" o.c.
13	Double top plates, face nail	10d (3" x 0.128")	24" o.c.
14	Double top plates, minimum 24" offset of end joints, face nail in lapped area	8 – 16d (3½" x 0.135")	
15	Sole plate to joist or blocking, face nail	16d (3½" x 0.135")	
16	Sole plate to joist or blocking at braced wall panels	3 – 16d (3½" x 0.135")	16" o.c.
17	Stud to sole plate, toe nail	3 – 8d (2½" x 0.113") or 2 – 16d (3½" x 0.135")	
18	Top or sole plate to stud, end nail	2 – 16d (3½" x 0.135")	
19	Top plates, laps at corners and intersections, face nail	2 – 10d (3" x 0.128")	
20	1" brace to each stud and plate, face nail	2 – 8d (2½" x 0.113") 2 staples, 1¾"	
21	1" x 6" sheathing to each bearing, face nail	2 – 8d (2½" x 0.113") 2 staples, 1¾"	
22	1" x 8" sheathing to each bearing, face nail	2 – 8d (2½" x 0.113") 3 staples, 1¾"	
23	Wider than 1" x 8" sheathing to each bearing, face nail	3 – 8d (2½" x 0.113") 4 staples, 1¾"	
	Floor		
24	Joist to sill or girder, toe nail	3 – 8d (2½" x 0.113")	
25	Rim joist to top plate, toe nail (roof applications also)	8d (2½" x 0.113")	6" o.c.
26	Rim joist or blocking to sill plate, toe nail	8d (2½" x 0.113")	6" o.c.
27	1" X 6" subfloor or less to each joist, face nail	2 – 8d (2½" x 0.113") 2 staples, 1¾"	
28	2" subfloor to joist or girder, blind & face nail	2 – 16d (3½" x 0.135")	
29	2" planks (plank & beam – floor & roof)	2 – 16d (3½" x 0.135")	At each bearing

(Continued)

INSULATION AND FENESTRATION REQUIREMENTS – IRC TABLE N1102.1.2

COMPONENT		VALUE (ZONE 4A)
Fenestration [b] / Glazed Fenestration [b, e]		U-0.32 / SHGC-0.40
Skylight [b]		U-0.55
Ceiling – Flat		R-49
Ceiling – Vaulted [j]		R-38
Wood framed wall		R-20 / R-13 + 5
Mass wall [i]		R-8 / R-13
Floor over unheated space		R-19
Floor over outside air		R-30
Ducts outside of the conditioned space	Supply and return	R-8
	In floor and ceiling assembly	R-6
Basement wall [c]		R-10 / R-13
Slab (R-value / depth) [d]		R-10 / 2 FT
Crawlspace wall with floor insulation [c]		R-10 / R-13
Crawlspace wall without floor insulation		R-19

a. R-values are minimums. U-factors and SHGC are maximums. When insulation is installed in a cavity which is less than the label or design thickness of the insulation, the installed R-value of the insulation shall not be less than the R-value specified in the table.
b. The first R-value applies to conventional glazing for the fenestration, the second to framing cavity insulators either insulation meets the requirement.
d. R – 5 shall be added to the required slab edge R-values for heated slabs. Insulation depth shall be the depth of the footing or 2 feet whichever is less in Zones 1 through 3 for heated slabs.
e. There are no SHGC requirements in the Marine Zone.
f. Basement wall insulation is not required in warm-humid locations as defined by Figure N1101.10 and Table 1101.10.
g. Or insulation sufficient to fill the cavity, R-19 minimum.
h. First value is cavity insulation, second is continuous insulation or insulated siding, so "13+5" means R-13 cavity insulation plus R-5 continuous insulation or insulated siding. If structural sheathing covers 40 percent or less of the exterior, continuous insulation R-value shall be permitted to be reduced by no more than R-3 in the locations where structural sheathing is used – to maintain a consistent total sheathing thickness.
i. The second R-value applies when more than half of the insulation is on the interior of the mass wall.
j. May be reduced to R-30 for vaulted ceilings less than 500 square feet or 20 percent of the total insulated ceiling area, whichever is less (per N1102.2.2).

NAILING SCHEDULE IRC 2018 TABLE R602.3(1)

Item	Description of Building Elements	Number & Type of Fastener [a, b, c]	Spacing of Fasteners
	Floor (Continued)		
30	Built-up girders and beams, 2-inch lumber layers	10d (3" x 0.128")	Nail ea. layer as follows: 32" o.c. at top & bott. & staggered. Two nails at ends and at ea. splice
31	Ledger strip supporting joists or rafters	3 – 16d (3½" x 0.135")	At each joist or rafter

Item	Description of Building Materials	Description of Fastener [b, c, e]	Spacing of Fasteners: Edges [i]	Spacing of Fasteners: Intermediate Supports [c, e]
	Wood structural panels, subfloor, roof and wall sheathing to framing, and particleboard wall sheathing to framing			
32	⅜" – ½"	6d common (2"x0.113") nail (subfloor, wall) [f] 8d common (2½" x 0.131") nail (roof) [f]	6"	12" [g]
33	19/32" – 1"	8d common (2½" x 0.131") nail [f]	6"	12" [g]
34	1⅛" – 1¼"	10d common (3" x 0..148") nail or 8d (2½" x 0.131") deformed nail	6"	12"
	Other wall sheathing [h]			
35	½" structural cellulosic fiberboard sheathing	1½" galvanized roofing nail; 8d common (2½" x 0.131") nail; 7/16" or 1" crown staple, 16 ga., 1¼" long	3"	6"
36	25/32" structural cellulosic fiberboard sheathing	1¾" galvanized roofing nail; 8d common (2½" x 0.131") nail; 7/16" or 1" crown staple, 16 ga., 1½" long	3"	6"
37	½" gypsum sheathing [d]	1½" galvanized roofing nail; staple galvanized, 1½" long; 1⅛" screws, Type W or S	7"	7"
38	⅝" gypsum sheathing [d]	1¾" galvanized roofing nail; staple galvanized, 1⅝" long; 1⅝" screws, Type W or S	7"	7"
	Wood structural panels, combination subfloor underlayment to framing			
39	¾" or less	6d deformed (2" x 0.120") nail or 8d common (2½" x 0.131") nail	6"	12"
40	⅞" – 1"	8d common (2½" x 0.131") nail or 8d deformed (2½" x 0.120") nail	6"	12"
41	1⅛" – 1¼"	10d common (3" x 0.148") nail or 8d deformed (2½" x 0.120") nail	6"	12"

a. All nails are smooth-common, box or deformed shanks except where otherwise stated. Nails used for framing and sheathing connections shall have minimum average bending yield strengths as shown: 80 ksi for shank diameter of 0.192 inch (20d common nail), 90 ksi for shank diameters larger than 0.142 inch but not larger than 0.177 inch, and 100 ksi for shank diameters of 0.142 inch or less.
b. Staples are 16 gage wire and have a minimum 7/16-inch on diameter crown width.
c. Nails shall be spaced at not more than 6" on center at all supports where spans are 48 inches or greater.
d. Four-foot-by-8-foot or 4-foot-by-9-foot panels shall be applied vertically.
e. Spacing of fasteners not included in this table shall be based on Table R602.3(2).
f. For regions having basic wind speed of 110 mph or greater, 8d deformed (2½" x 0.120) nails shall be used for attaching plywood and wood structural panel roof sheathing to framing within minimum 48-inch distance from gable end walls, if mean roof height is more than 25 feet, up to 35 feet maximum.
g. For regions having a basic wind speed of 100 mph or less, nails for attaching wood structural panel roof sheathing to gable end wall framing shall be spaced 6 inches on center. When basic wind speed is greater than 100 mph, nails for attaching panel roof sheathing to intermediate supports shall be spaced 6 inches on center for minimum 48-inch distance from ridges, eaves and gable end walls; and 4 inches on center to gable end wall framing.
h. Gypsum sheathing shall conform to ASTM C 1396 and shall be installed in accordance with GA 253. Fiberboard sheathing shall conform to ASTM C 208.
i. Spacing of fasteners on floor sheathing panel edges applies to panel edges supported by framing members and required blocking and at all floor perimeters only. Spacing of fasteners on roof sheathing panel edges applies to panel edges supported by framing members and required blocking. Blocking of roof or floor sheathing panel edges perpendicular to the framing members need not be provided except as required by other provisions of this code. Floor perimeter shall be supported by framing members or solid blocking.
j. Where a rafter is fastened to an adjacent parallel ceiling joist in accordance with this schedule, provide two toe nails on one side of the rafter and toe nails from the ceiling joist to top plate in accordance with this schedule. The toe nail on the opposite side of the rafter shall not be required.

VIET ENGINEERING, LLC
121 BRADFORD LN, #1391
BELTON, MO 64012
816.286.4480
VIETENGINEERING.COM

KS CERTIFICATE # E-2801

PROJECT:
PRATT RESIDENCE
2524 W 51st TER
WESTWOOD, KS 66205

#	DESCRIPTION	DATE

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DARIUS VIET
PROFESSIONAL ENGINEER
KS # PE24506

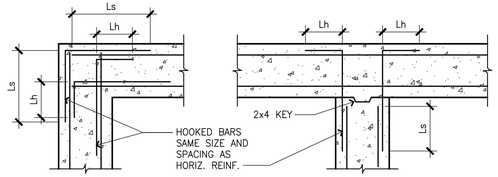
DARIUS D. VIET LICENSED 24506 KANSAS PROFESSIONAL ENGINEER

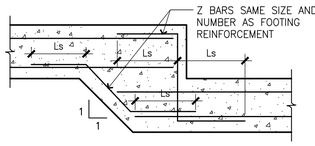
PROJECT NUMBER: 24028

DATE: 03/28/2024

SHEET TITLE: NOTES & SCHEDULES

SHEET NUMBER: **S1**

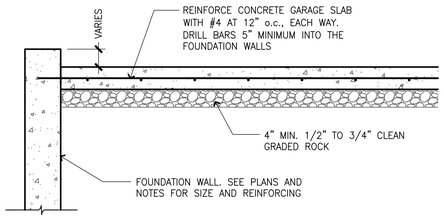




BAR SIZE	Lh	Ld	Ls
3	6"	17"	22"
4	8"	22"	29"
5	10"	28"	36"
6	12"	33"	43"
7	14"	48"	63"
8	16"	54"	72"

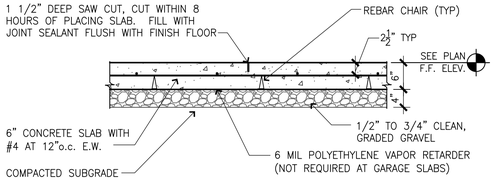
1 TYP WALL AND FOOTING DETAILS

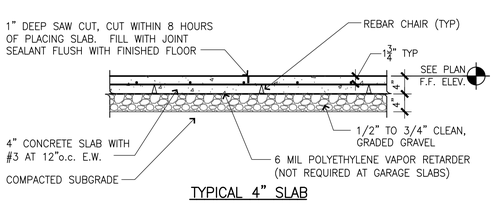
SCALE: 3/4" = 1'-0"



2 GARAGE SLAB / WALL SECTION

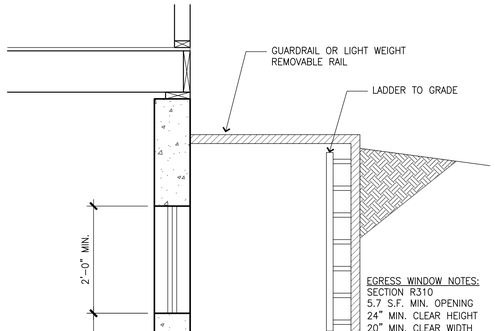
SCALE: 3/4" = 1'-0"





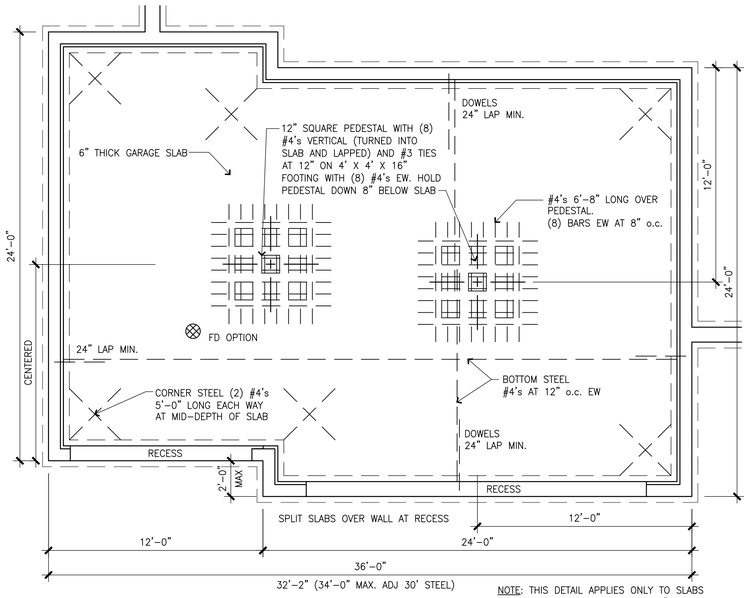
4 TYP SLAB DETAILS

SCALE: 3/4" = 1'-0"



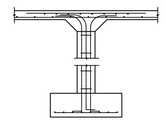
5 EGRESS WINDOW SECTION

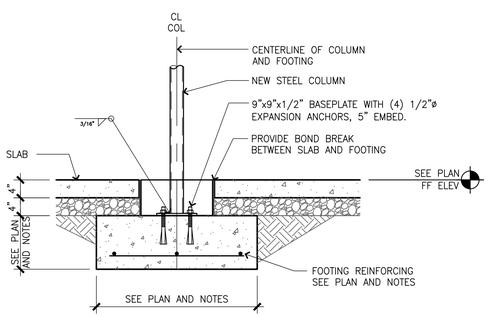
SCALE: 3/4" = 1'-0"



3 TYP 6" GARAGE SLAB ON FILL

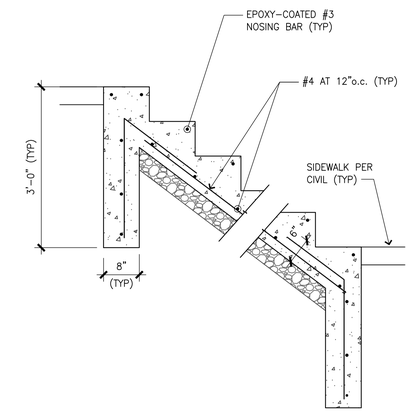
SCALE: NOT TO SCALE





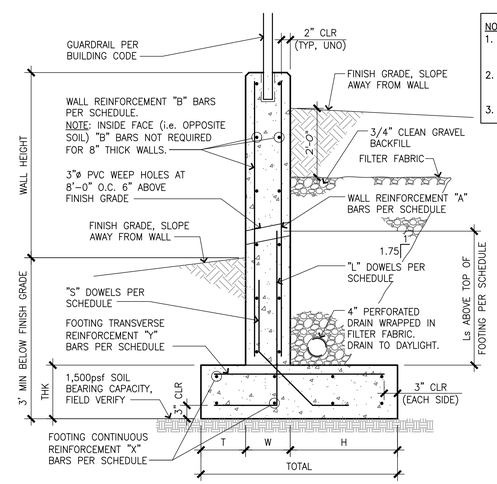
6 TYP COLUMN FOOTING

SCALE: 3/4" = 1'-0"



7 TYP CONCRETE STAIRS

SCALE: 3/4" = 1'-0"



NOTES:
1. WALL IS DESIGNED FOR 45 psf/ft EQUIVALENT SOIL PRESSURE (ACTIVE PRESSURE). SEE IBC TABLE 1610.1 FOR COMPATIBLE BACKFILL SOILS.
2. FOR WALL HEIGHTS FROM 2'-0" TO 8'-0", EVERY OTHER WALL REINFORCEMENT "A" VERTICAL BAR MAY BE TERMINATED AT MID-HEIGHT OF WALL.
3. GRADE 40 REINFORCEMENT, UNO.

RETAINING WALL SCHEDULE

DIMENSIONS						FOOTING REINF		DOWEL REINF		WALL REINF	
WALL HEIGHT	T	W	H	TOTAL	THK	"X" BARS	"Y" BARS	"L" DOWELS	"S" DOWELS	"A" BARS	"B" BARS
2'-0" TO 4'-0"	1'-6"	8"	1'-10"	4'-0"	10"	(4) #4 TOP & BOTTOM	#4 AT 18"o.c.	#4 AT 9"o.c. Ls = 2'-6"	#4x4'-0" AT 18"o.c.	#4 AT 9"o.c. VERTICAL	#4 AT 18"o.c. EA WAY
4'-1" TO 6'-0"	2'-0"	8"	3'-4"	6'-0"	1'-0"	(7) #4 TOP & BOTTOM	#4 AT 12"o.c.	#4 AT 6"o.c. Ls = 2'-6"	#4x4'-0" AT 18"o.c.	#4 AT 6"o.c. VERTICAL	#4 AT 18"o.c. EA WAY

8 TYPICAL RETAINING WALL DETAIL

SCALE: NONE

VIET ENGINEERING, LLC
121 BRADFORD LN, #1391
BELTON, MO 64012
816.286.4480
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KS CERTIFICATE # E-2801

PROJECT:
PRATT RESIDENCE
2524 W 51st TER
WESTWOOD, KS 66205

#	DESCRIPTION	DATE

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DARIUS VIET
PROFESSIONAL ENGINEER

KS # PE24506

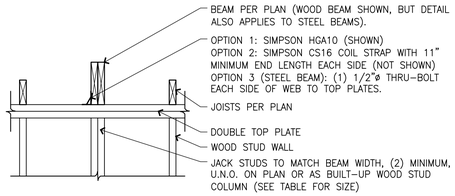
DARIUS D. VIET LICENSED Darius Viet 24506 01/2025 KANSAS PROFESSIONAL ENGINEER

PROJECT NUMBER: 24028

DATE: 03/28/2024

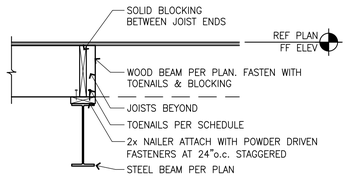
SHEET TITLE: FOUNDATION DETAILS

SHEET NUMBER: **S2**



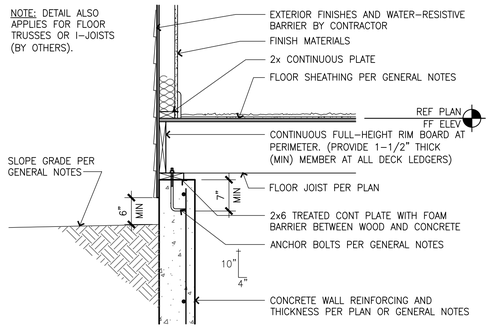
1 BEAM AT WALL

SCALE: 3/4" = 1'-0"



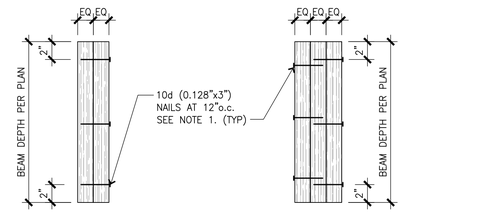
2 WOOD BEAM ON STEEL BEAM

SCALE: 3/4" = 1'-0"



3 JOISTS PERP TO FDN WALL

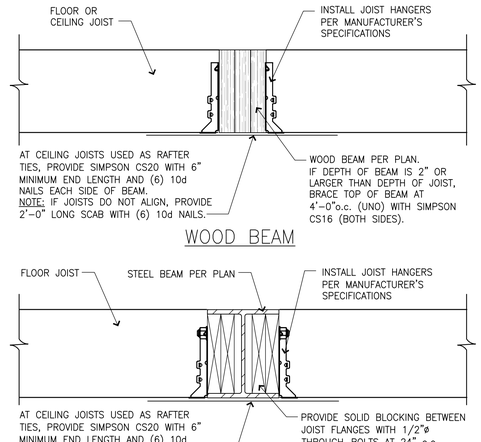
SCALE: 3/4" = 1'-0"



NOTES:
1. ADD AN ADDITIONAL ROW OF NAILS FOR BEAM DEPTHS OF 14" OR GREATER.
2. CONNECTIONS SHOWN FOR LVLs APPLY FOR 2x DIMENSIONAL MEMBERS AS WELL.
3. FOR EXTERIOR APPLICATIONS, USE SIMPSON SDWS22 TIMBER SCREWS (EXTERIOR GRADE).
4. STAGGER FASTENERS ON OPPOSITE FACES SO THEY FALL HALFWAY BETWEEN SPECIFIED SPACING.

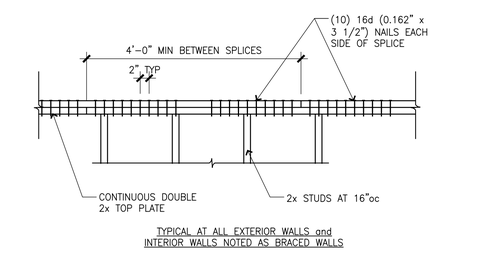
4 TYP MULTI-MEMBER CONN.

SCALE: 1 1/2" = 1'-0"



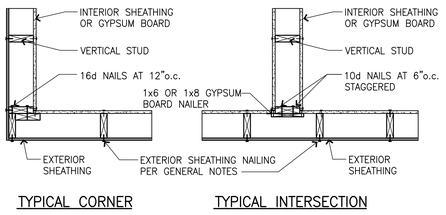
5 TYP UPSET BEAM

SCALE: 1 1/2" = 1'-0"



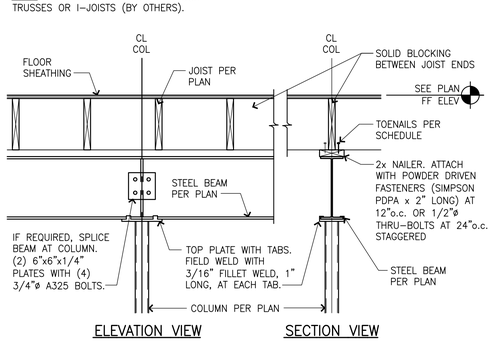
6 TYPICAL TOP PLATE SPLICE

SCALE: 3/4" = 1'-0"



7 TYP WALL FRAMING DETAILS

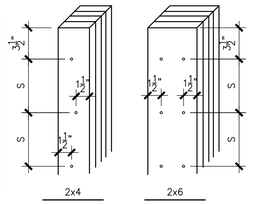
SCALE: 3/4" = 1'-0"



8 STEEL BEAM AT COLUMN

SCALE: 3/4" = 1'-0"

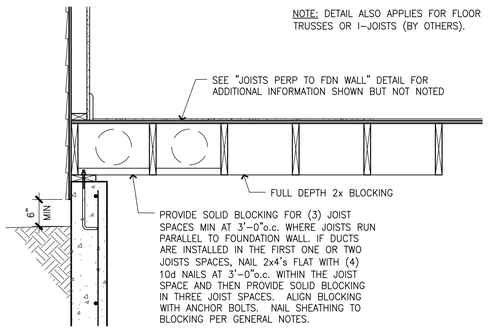
BUILT-UP COLUMN SCHEDULE		
COLUMN ID	BUILT-UP SECTION	FASTENER SPACING, S
BC1	(2) 2x4	6"
BC2	(3) 2x4	8"
BC3	(4) 2x4	6"
BC4	(2) 2x6	6"
BC5	(3) 2x6	8"
BC6	(4) 2x6	8"



NOTES:
1. FASTENERS SHALL BE SIMPSON SDW22 SCREWS (3" LONG FOR 2-PLY; 4 3/8" LONG FOR 3-PLY; 6" LONG FOR 4-PLY) WITH FASTENERS ALL DRIVEN FROM THE SAME SIDE. FOR EXTERIOR APPLICATIONS, USE SIMPSON SDWS22 TIMBER SCREWS (EXTERIOR GRADE).
2. ALL BUILT-UP COLUMNS SHALL EXTEND TO THE BEAM OR TRUSS ABOVE.
3. ALL LAMINATIONS SHALL BE DF #2 (U.N.O.), FULL LENGTH, AND IN CONTACT WITH ADJACENT LAMINATIONS.

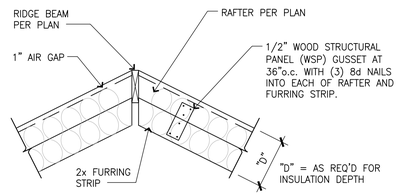
9 BUILT-UP COLUMN SCHEDULE

SCALE: 3/4" = 1'-0"



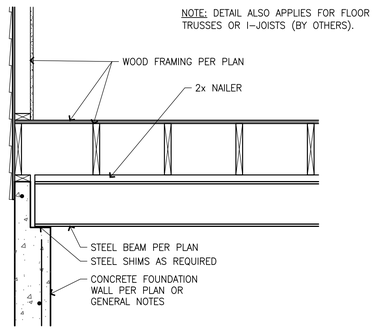
10 JOISTS PARALLEL TO FDN WALL

SCALE: 3/4" = 1'-0"



11 VAULTED RAFTER INSULATION

SCALE: 3/4" = 1'-0"



12 STEEL BEAM ON CONCRETE WALL

SCALE: 3/4" = 1'-0"

Point Load Connector Spacing

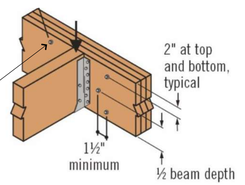
4- or 6-Screw Connection

SIMPSON SDW SCREWS (TYP):
2-PLY LVL MEMBERS: 3 3/8" LONG SCREWS INSTALLED FROM BOTH SIDES.
3-PLY LVL MEMBERS: 5" LONG SCREWS INSTALLED FROM BOTH SIDES.
4-PLY LVL or 2-PLY PSL MEMBERS: 6 3/4" LONG SCREWS INSTALLED FROM BOTH SIDES.

NOTE:
STAGGER FASTENERS ON OPPOSITE SIDE SO THEY FALL HALFWAY BETWEEN FASTENERS ON THIS SIDE.

FOR EXTERIOR APPLICATIONS, USE SIMPSON SDWS TIMBER SCREWS (EXTERIOR GRADE).

L19



(From Weyerhaeuser publication TJ-9000)

13 SCREWS AT BEAM HANGER

SCALE: 3/4" = 1'-0"

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KS CERTIFICATE # E-2801

PROJECT:
PRATT RESIDENCE
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WESTWOOD, KS 66205

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PROFESSIONAL ENGINEER

KS # PE24506

DARIUS D. VIET LICENSED 24506 KANSAS PROFESSIONAL ENGINEER

PROJECT NUMBER: 24028

DATE: 03/28/2024

SHEET TITLE: FRAMING DETAILS

SHEET NUMBER: **S3**

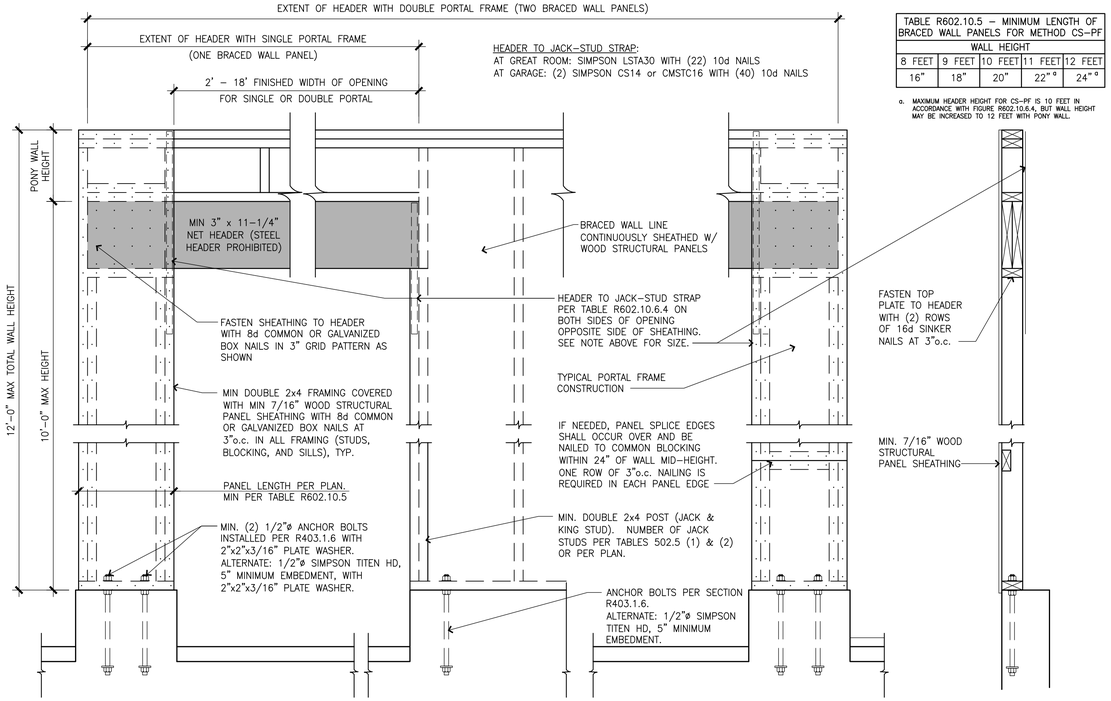
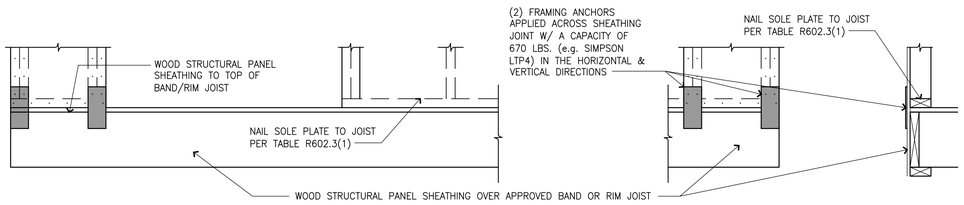


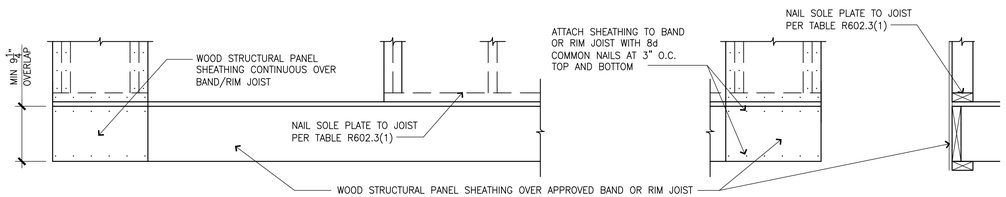
TABLE R602.10.5 – MINIMUM LENGTH OF BRACED WALL PANELS FOR METHOD CS-PF					
	WALL HEIGHT				
8 FEET	9 FEET	10 FEET	11 FEET	12 FEET
16"	18"	20"	22" [a]	24" [a]

a. MAXIMUM HEADER HEIGHT FOR CS-PF IS 10 FEET IN ACCORDANCE WITH FIGURE R602.10.6.4, BUT WALL HEIGHT MAY BE INCREASED TO 12 FEET WITH PONY WALL.

OVER CONCRETE OR MASONRY BLOCK FOUNDATION



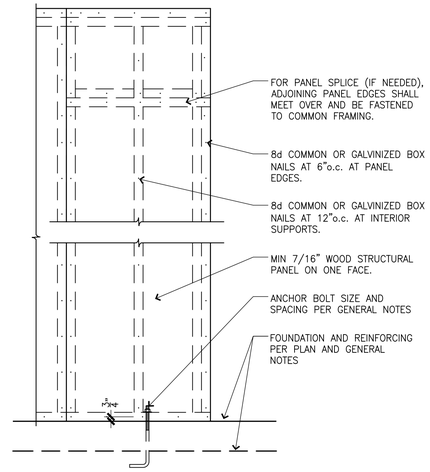
OVER RAISED WOOD FLOOR – FRAMING ANCHOR OPTION
(WHEN PORTAL SHEATHING DOES NOT LAP OVER BAND OR RIM JOIST)



OVER RAISED WOOD FLOOR – OVERLAP OPTION
(WHEN PORTAL SHEATHING LAPS OVER BAND OR RIM JOIST)

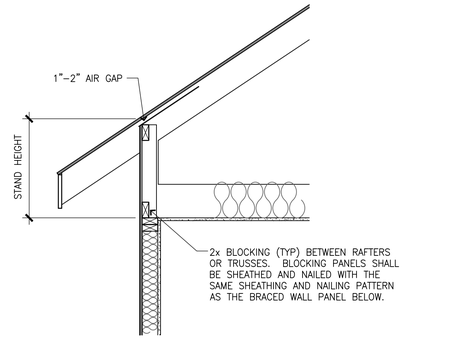
3 CS-PF: CONTINUOUSLY SHEATHED PORTAL FRAME (R602.10.6.4)

SCALE: 1" = 1'-0"

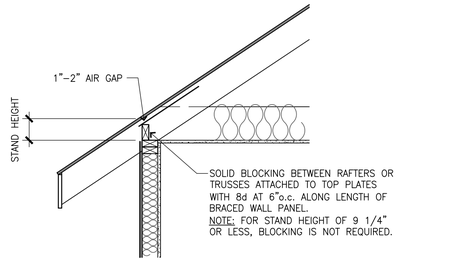


1 TYP EXTERIOR WALL NAILING

SCALE: 1" = 1'-0"



FOR STAND HEIGHTS 15 1/4" TO 48"
FIGURE R602.8.10.2(3)

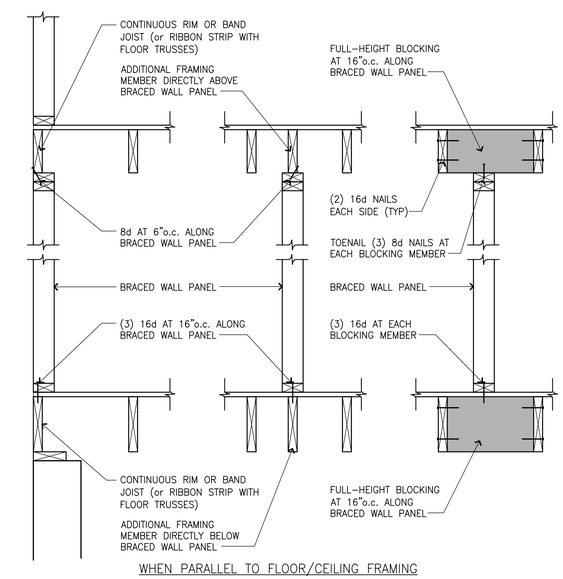


FOR STAND HEIGHTS UP TO 15 1/4"
FIGURE R602.8.10.2(3)

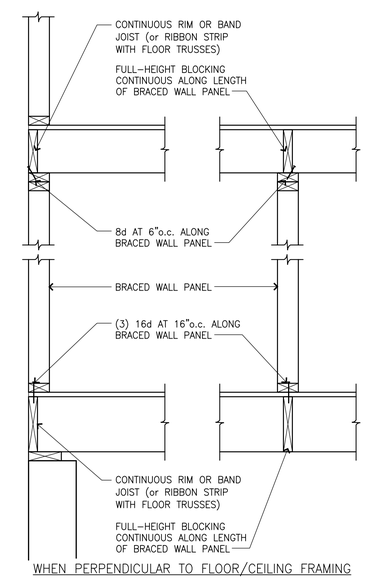
2 BRACED WALL PANEL CONNECTIONS AT ROOF (R602.10.8.2)

SCALE: 1" = 1'-0"

NOTE: CONNECTIONS APPLY TO SHEAR WALLS, UNO.



WHEN PARALLEL TO FLOOR/CEILING FRAMING



WHEN PERPENDICULAR TO FLOOR/CEILING FRAMING

4 BRACED WALL PANEL CONNECTIONS (R602.10.8)

SCALE: 1" = 1'-0"

NOTE: CONNECTIONS APPLY TO SHEAR WALLS, UNO.

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121 BRADFORD LN, #1391
BELTON, MO 64012
816.286.4480
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KS CERTIFICATE # E-2801

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PRATT RESIDENCE
2524 W 51st TER
WESTWOOD, KS 66205

#	DESCRIPTION	DATE

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DARIUS VIET
PROFESSIONAL ENGINEER
KS # PE24506

DARIUS D. VIET LICENSED 24506 KANSAS PROFESSIONAL ENGINEER

PROJECT NUMBER: 24028

DATE: 03/28/2024

SHEET TITLE: FRAMING DETAILS

SHEET NUMBER: **S4**

The Legal Record
1701 E. Cedar St., Ste. 111
Olathe, KS 66062-1775

(913) 780-5790

ATTN: LESLIE HERRING
CITY OF WESTWOOD
4700 RAINBOW BLVD
WESTWOOD KS 66205-1831

First published in The Legal Record, Tuesday, June 11, 2024.

CITY OF WESTWOOD, KANSAS
NOTICE OF PUBLIC HEARING

The Planning Commission of the City of Westwood, Kansas will hold a public hearing on Monday, July 1, 2024, at 7:00 PM at Westwood City Hall located at 4700 Rainbow Boulevard. Details for attending the meeting and speaking during the public hearing can be found at www.westwoodks.org or by calling 913-362-1550. Written comments may also be submitted ahead of the public hearing to info@westwoodks.org. The subject of the public hearing is:

WE-2024-02 – Application of Joanne Scurato for a waiver/exception from Westwood Zoning Ordinance Article No. 4.3.2(D) to allow a primary structure to have less than 60% of its front façade on the front build-to line and 4.3.2(G) to allow an encroachment of a porch greater than 4' into the front yard setback for a proposed new single-family residence on property located at 2524 W. 51st Terrace, Westwood, Kansas 66205

/s/ Nick Finck, Building Official
6/11

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS; Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

HEARING - WE-2024-02-2524 W. 51ST TERRACE
6/11/24

Maureen Gillespie, Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

June 18, 2024

Notary Public

DEBRA VALENTI
Notary Public-State of Kansas
My Appt. Expires Aug. 21, 2027

L18672
Publication Fees: $11.44

June 7th, 2024

Dear neighbor:
As a property owner within 200 feet of the property located at 2524 W. 51st Terrace in Westwood, you are being notified of an application by Joanne Scaruto, for a waiver or exception for a proposed new single-family residence on property located at **2524 W. 51st Terrace, Westwood, Kansas 66205**. The waiver or exception requested is from Westwood Zoning Ordinance Article No. 4.3.2(D) to allow the primary structure to have less than 60% of its front façade on the front build-to line and 4.3.2(G) to allow an encroachment of a porch greater than 4' into the front yard setback. This letter is to inform you that the Westwood Planning Commission will hold a public hearing for consideration of this application where the general public may provide comments on **Monday, July 1st, 2024 at 7:00 PM** at Westwood City Hall, 4700 Rainbow Blvd., Westwood, KS 66205. The meeting will also be accessible virtually on Zoom. In addition to live oral comments, written comments may be submitted ahead of the public hearing to info@westwoodks.org and will be included in the public meeting record.
The meeting may be attended either in person at Westwood City Hall or virtually, by using the following instructions:
Online
https://us02web.zoom.us/j/89009964959

or

by Phone
(312) 626-6799
Webinar ID: 890 0996 4959

Additional information on this application is available at Westwood City Hall, 4700 Rainbow Boulevard or by contacting me, Nick Finck by using the contact information below.

Kind regards,

Nick Finck

City of Westwood, Kansas

4700 Rainbow Boulevard

913-942-2130

Nick.finck@westwoodks.org

Reimagine Rainbow

Rainbow Boulevard Complete Streets and Traffic Management Plan

Study Overview

Project Purpose and Study Area

How can a state highway transform from a barrier to a place of connection? **Reimagine Rainbow** is a planning effort to help guide the future of Rainbow Boulevard to support a vibrant and growing area in the Kansas City region.

The Reimagine Rainbow plan focuses on creating ***Complete Streets*** within the study area by improving mobility, safety, and comfort for everyone that uses Rainbow and adjacent streets. This study examines the existing road design on multiple sections throughout Rainbow Boulevard to understand how geometric changes could improve the safety, accessibility, and attractiveness of using multiple modes of transportation, such as walking, bicycling, and transit, in addition to driving.

The study area, shown in **Figure 2**, is focused on Rainbow Boulevard, running from Southwest Boulevard in Kansas City, Kansas on the north end to Shawnee Mission Parkway on the south end. The broader study area includes an area approximately one half-mile on either side of Rainbow Boulevard and areas as far north as I-35.

Complete Streets: Roadways that are designed for safe and convenient travel by users of all ages and abilities. Pedestrians, bicyclists, motorists, and transit riders must be able to move safely along and across a complete street.

Legend

- Rainbow Boulevard
- Study Area Boundary
- KU Med./Health System Campuses
- 1 KU Med. Main Campus
- 2 Rosedale Middle
- 3 Frank Rushton Elementary
- 4 Westwood City Hall
- 5 Westwood View Elementary
- 6 KU Med. Westwood Campus

Study Team Partners

Mid-America Regional Council
City of Westwood, Kansas
Unified Government of Wyandotte County and Kansas City, KS
City of Westwood Hills, Kansas
City of Mission Woods, Kansas
Rosedale Development Association
The University of Kansas Health System
Kansas Department of Transportation
Kansas City Area Transportation Authority

Steering Committee

Leslie Herring, City of Westwood
John Sullivan, City of Westwood
Alyssa Marcy, Unified Government
Gunnar Hand, AICP, Unified Government
Taylor Cunningham, MARC
Mayor Rosemary Podrebarac, City of Westwood Hills
Councilmember Erica Hartley, City of Mission Woods
Michael Moriarty, KDOT
Erin Stryka, Rosedale Development Association
Jason Glasrud, KU Health System
Sherrie Gayed, KU Health System
Kevin Rowland, KU Med Center
Rachel Russell, KCKPS
AJ Farris, KCATA
Mira Felzein, KCATA
Michael Kelley, BikeWalkKC
Gayle Bergman, Resident
Mark Vranicar, Resident
Annette Rude, Resident
Gil Pintar, Resident
Jake Hodson, Resident
Mike Coffman, Resident

Consultant Team

wsp
vireo

Past Plans and Policy Review

There are many previous plans and recommendations within the study area. Fortunately, several of these recommendations have advanced and been implemented. This planning effort will take into consideration relevant previous plan recommendations and re-evaluate some recommendations that have not yet been implemented.

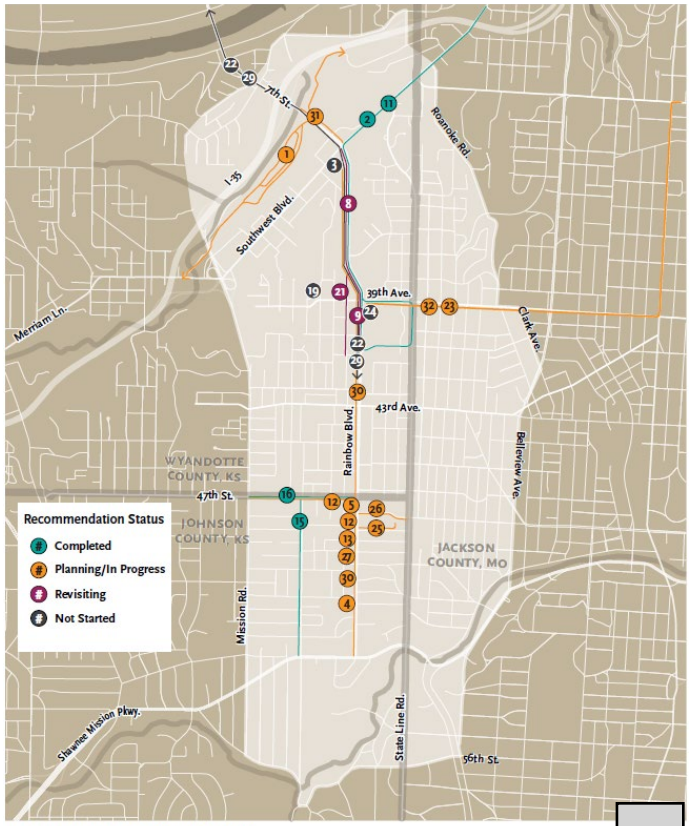


Figure 3. *Location of Key Recommendations*

Public Input

Table 2. *List of Community and Stakeholder Engagement Activities*

	Activity	Date	Location
Round 1 Issues & Opportunities	Project Kickoff Meeting	6/27/2023	Westwood City Hall
	KU Health System Staff	7/21/2023	KU Economic Development Offices
	Unified Government Staff	8/17/2023	KCK City Hall
	Rosedale Development Association staff	8/22/2023	RDA
	Westwood / Mission Woods / Westwood Hills	8/22/2023	Westwood City Hall
	Hanover Heights Neighborhood Association	8/27/2023	Yard of private residence
	Steering Committee Meeting #1	8/31/2023	Westwood City Hall
	Round 1 Online Survey	9/7/2023	Virtual
	Spring Valley Neighborhood Association	9/28/2023	Westwood City Hall
	Popup Meeting - Frank Rushton Elementary	10/4/2023	Frank Rushton Elementary School
	Steering Committee Meeting #2	10/5/2023	Virtual
	Popup Meeting - KU	10/19/2023	KU Hospital Cafeteria
	Popup Meeting - Westwood KC Symphony Event	10/22/2023	Westwood City Hall
	Popup Meeting - Rosedale Middle School	10/25/2023	Rosedale Middle School
Round 2 Exploring Alternatives	Popup Meeting - PlanKCK Summit	10/28/2023	Gloria Willis Middle School
	Round 2 Online Survey	11/2/2023	Virtual
	Steering Committee Meeting #3	1/4/2024	Virtual
Round 3 Preferred Alternative and Refinement	Open House	1/27/2024	Westwood City Hall
	KU Health System Staff	2/6/2024	Virtual
	Round 3 Online Survey	2/8/2024	Virtual
	Westwood Staff	2/13/2024	Westwood City Hall
	KDOT Staff	3/6/2024	Virtual
	Westwood + Unified Government Staff	3/21/2024	Virtual
	KU Health System Staff	3/22/2024	KU Hospital
	Spring Valley Neighborhood Association	3/27/2024	The Knotty Rug
	Steering Committee Meeting #4	4/2/2024	Virtual
	Westwood Staff	4/5/2024	Virtual

The project featured three rounds of engagement, focused on:

- **Issues and Opportunities**: Focused on understanding the challenges people have navigating the study area through multiple modes, as well as specific opportunities and ideas they see.
- **Exploring Alternatives**: Focused on understanding what people value in their transportation system and community (such as safety, comfort, convenience) and how those values are supported by each alternative.
- **Preferred Alternative & Refinement**: Focused on selecting a preferred alternative and refining and developing that concept.

Figure 39. *A Pop-up public meeting (left) and Steering Committee feedback (below)*

Participation Totals:

- 297 pop-up meeting participants at 5 events
- 12 stakeholder meetings
- 23 open house attendees
- 4 steering committee meetings
- 3,285 online views
- 622 online participants
- 2,809 survey responses (3 rounds)
- 936 comments and replies
- 30 eblasts with 40% open rate

Public Input, Cnt'd.

Issues and Opportunities

Most of the feedback around the first phase of engagement centered around feelings of safety while walking, bicycling, or even driving on Rainbow Boulevard. Traffic was described by many respondents as being ***scary***, ***dangerous***, and ***loud***. Respondents said that they hoped that future travel on Rainbow Boulevard would be ***accessible***, ***comfortable***, ***balanced***, ***multimodal***, and ***for everyone***.

Many participants specifically addressed issues surrounding speed, the feeling of safety while walking or crossing the street, and the ability to make turns safely while driving on Rainbow.

Specifically, participants suggested:

- Better crossings and crosswalks
- Easier and protected bicycling
- Consistent sidewalk elevations
- Removal of sidewalk obstacles
- Widening of sidewalks
- Narrower, fewer traffic lanes
- Intersection improvements
- Lower speed limits
- Address turning issues
- Better trail connections

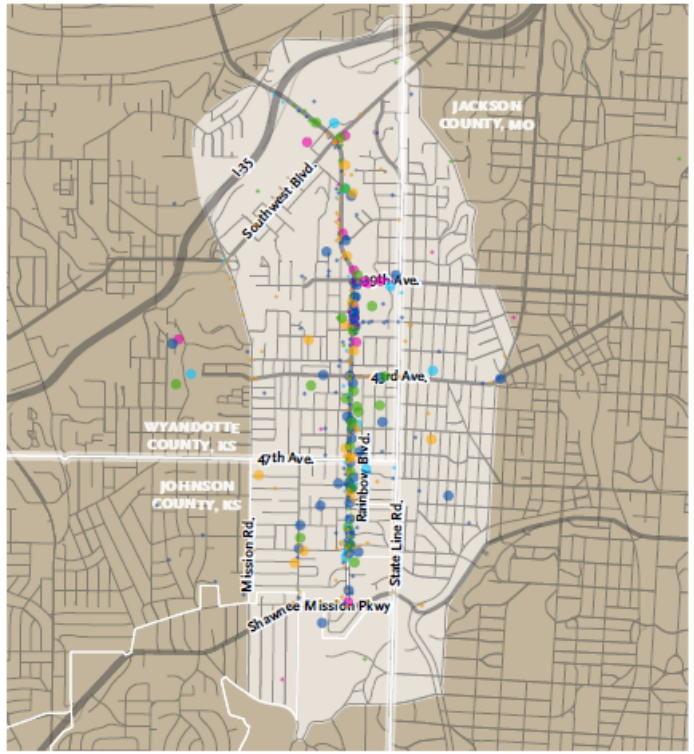


Figure 40. *Map-based feedback identifying Issues and Opportunities on the Rainbow Corridor*

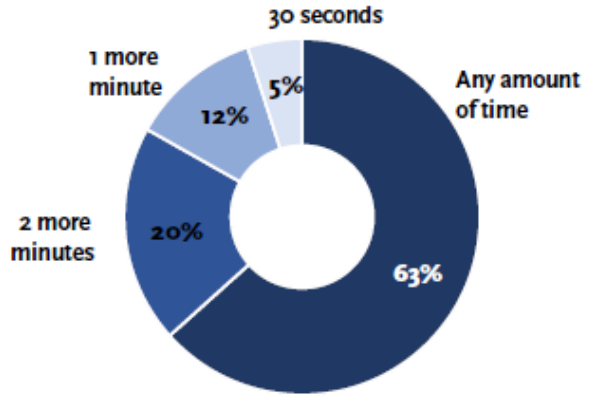


Figure 43. *Travel Time Trade-off Preferences of Online Poll Participants ("How Much Additional Travel Time would you be willing to spend on Rainbow in exchange for improvements?")*

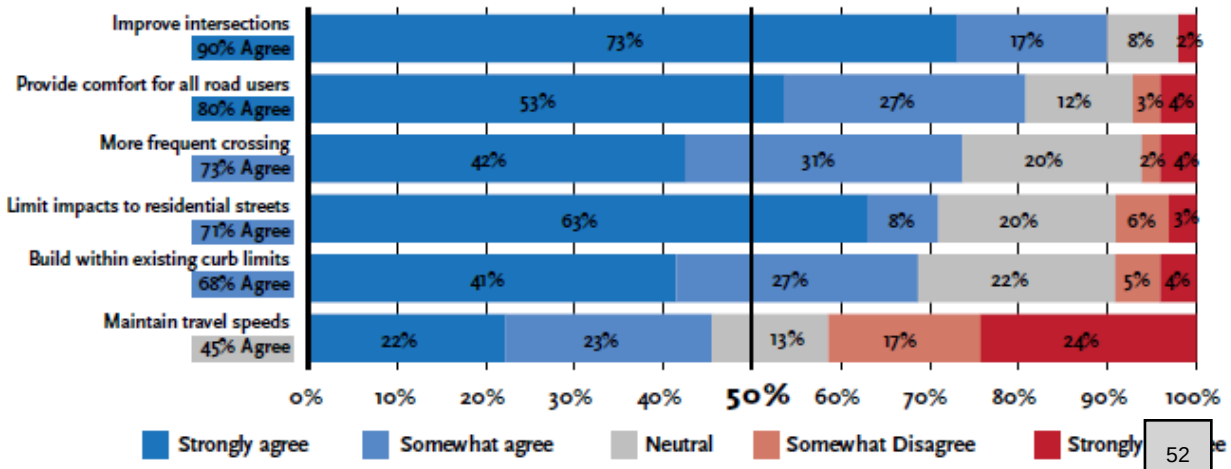


Figure 44. *Design Priorities of Online Poll Participants*

Study Findings

Figure 33. *Average Annual Daily Traffic Volumes for Rainbow Boulevard*

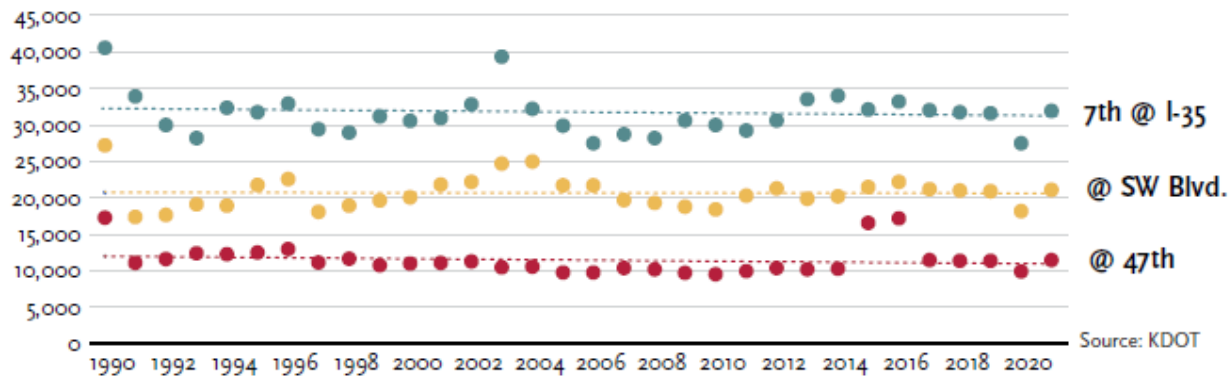
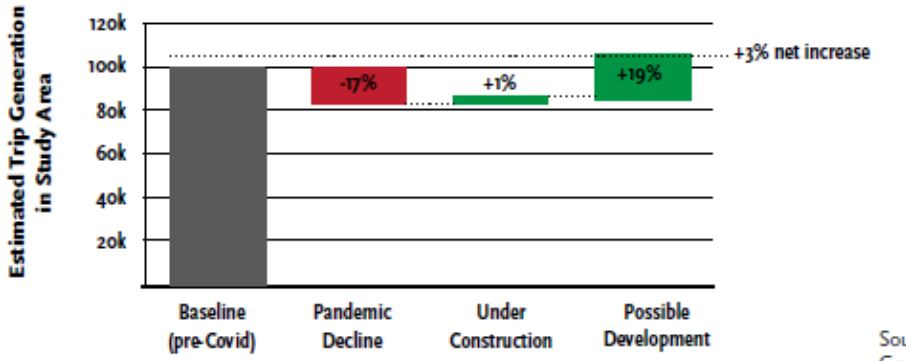


Figure 36. *Long-term traffic trends on Rainbow (or 7th St.) at I-35, Southwest Boulevard, and 47th*



Source: Analysis of Replica and ITE Trip Generation Manual, 11th Ed.

Figure 37. *Reconciling past trends and future growth*

Study Findings, Cnt'd.

Regional Trip Patterns

According to data from ***Replica***, around half of the trips that occur in the study area are under 5 miles. Of these trips, 74% are by car. Approximately 30% of trips are under 2 miles, and 62% of those trips are by car. There is significant potential to increase walking, biking, and transit trips, particularly for shorter trips within the study area. This would also reduce traffic and improve convenience for people that do drive.

Replica: A traffic model and "big data" source that combines information from GPS data, connected vehicles, and many other sources to provide an accurate picture of travel patterns in a particular study area.

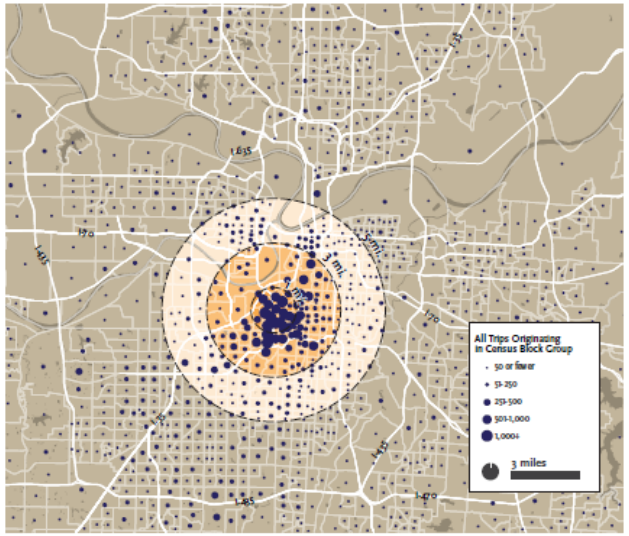


Figure 19. ***Regional Distribution of Trips Destined to the Study Area***

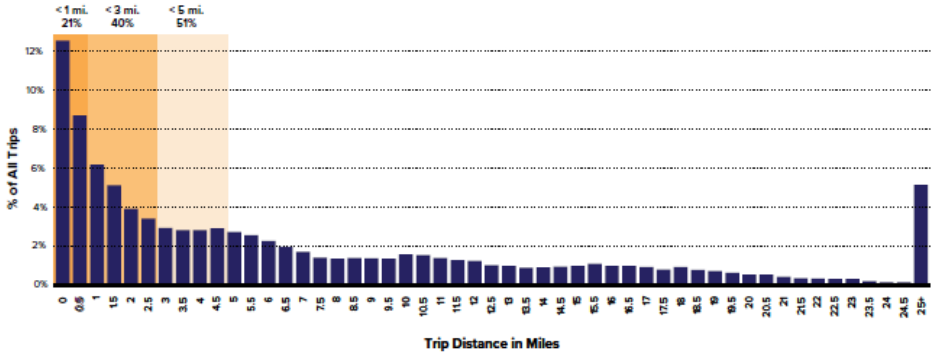


Figure 20. ***Distribution of Trip Distances traveling to the Study Area***

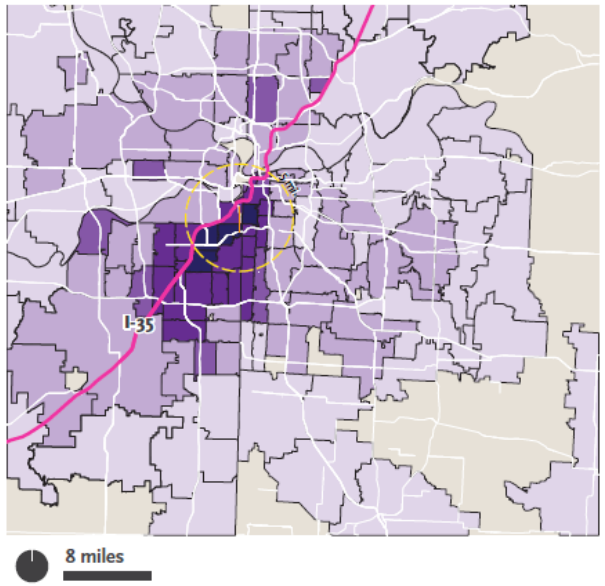


Figure 24. ***Origin of University of Kansas Health System Employees***

This data includes all employees of all health system locations (not just 39th and Rainbow)

Legend
- Rainbow Corridor
- I-35

Employees per Square Mile
- 2 or Fewer
- >2 - 10
- >10-15
- >15-30
- >30

Source: The University of Kansas Health System

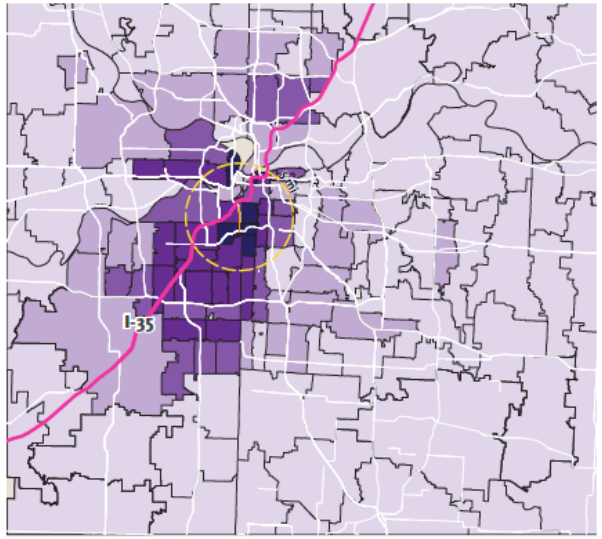


Figure 25. ***Origin of University of Kansas Health System Patients***

This data includes all patients to all health system locations (not just 39th and Rainbow)

Legend
- Rainbow Corridor
- I-35

Patients per Square Mile
- 100 or Fewer
- >100 - 250
- >250-500
- >500-1,000
- >1,000

Source: The University of Kansas Health System

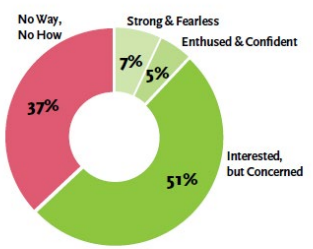


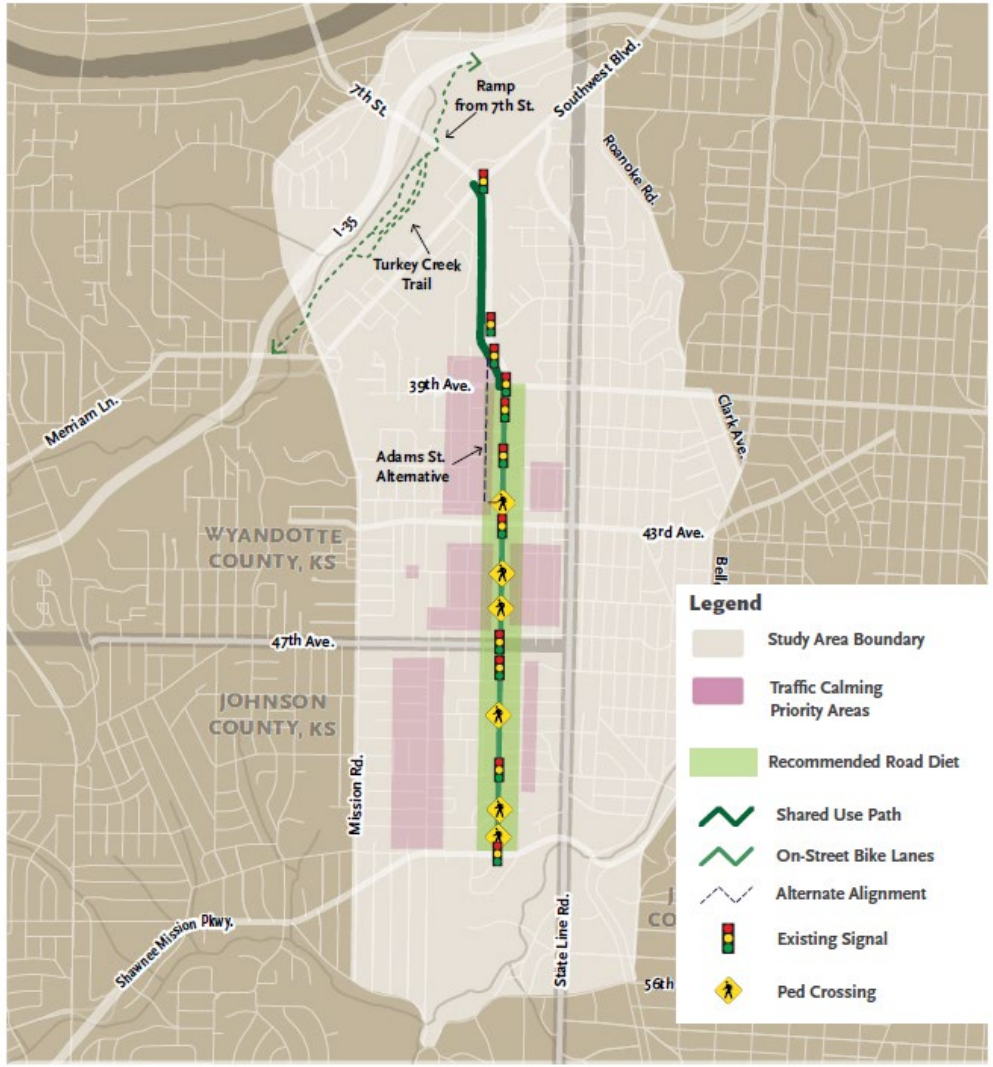
Figure 27. ***Four Types of Cyclists***

Research from Jennifer Dill of Portland State University shows that most people have an interest in bicycling but are concerned about their safety or comfort while bicycling. Read more about the Types of Cyclists by Jennifer Dill.

Figure 28. ***Bicyclists on Rainbow Boulevard***

Two bicyclists at the 39th and Rainbow intersection, despite the lack of dedicated facilities

Professional Recommendations



Recommended Program of Projects

Based on community engagement results, project goals, and technical analysis, the following program of projects is recommended for Rainbow Boulevard:

- Rainbow Road Reconfiguration ("Road Diet")
- Shared Use Path (Southwest Boulevard to Adams St.)
- On-Street Bicycle Facilities (Adams St. to Shawnee Mission Pkwy)
- Olathe Boulevard Realignment
- New Pedestrian Crossings
- Neighborhood Traffic Calming
- Turkey Creek Trail Connection

Figure 57. *On-Street Bicycle Facilities South of 39th Avenue*

Professional Recommendations (JoCo Cities)

Bicycle Facility Recommendations

Why Rainbow?

During the engagement process, some individuals asked whether considering an alternative corridor for bicycle travel would be beneficial. The study area has a handful of north-south alternatives that could be considered for bicycle travel. These corridors include State Line Road and a combination of Rainbow, Adams, Booth, and Belinder.

Our screening found that Rainbow was still the most suitable corridor for bicyclists, based on the following criteria:

- **Removes a Barrier**: Implementing a road diet and adding mid-block crossings to Rainbow would remove a substantial barrier within the study area and make pedestrian traffic more safe, comfortable, and convenient.
- **Direct Connection**: Rainbow connects the most destinations and is the most straightforward north-south route in the study area.
- **Right of Way Width**: Rainbow has sufficient ROW width to accommodate a shared use path or on-street bicycle facilities.
- **Pavement Width**: Rainbow has sufficient pavement width to accommodate dedicated bicycle facilities.
- **Traffic Volumes**: Rainbow's traffic volumes are compatible with a 3-lane road diet section.
- **Low-Stress Bike Facility Potential**: The addition of a bicycle facility on Rainbow would create a lower stress bicycling facility than the existing roadway, or the existing roadway is already low-stress (as is the case with some alternatives to Rainbow).
- **Bike-Friendly Terrain**: Topography on Rainbow is gentler than alternatives like State Line Road.
- **Placemaking**: Rainbow offers the most opportunity to create a unique street that benefits adjacent land uses and future development and supports sustainability and public health.
- **Crash Reduction**: This alternative for Rainbow could result in fewer crashes by implementing a 4-to-3 road diet, which can reduce crashes by up to 47%.

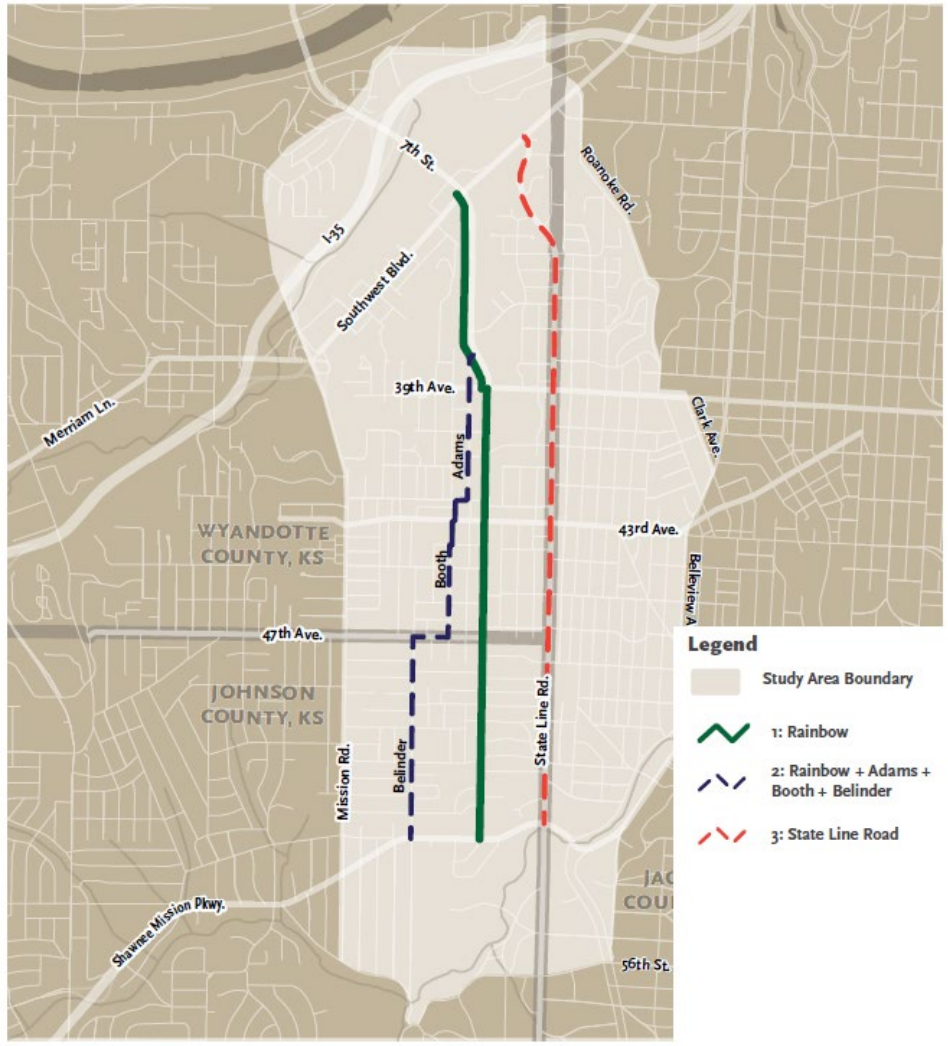


Figure 50. *Alternatives for north-south bicycling corridors on Rainbow Boulevard*

Table 5. *Alternative North-South Corridor Screening Results*

	1: Rainbow Shared Use Path + Road Diet	2: Rainbow Shared Use Path + Adams, Booth, and Belinder	3: State Line Road
Removes Barrier	✓	✗	✗
Direct Connection	✓	–	–
Right of Way Width	✓	–	–
Pavement Width	✓	–	–
Traffic Volume Supports Road Diet	✓	✓	–
Low-Stress Bicycle Facility Potential	✓	✓	–
Bicycle Friendly Terrain	–	–	–
Placemaking	✓	–	✗
Crash Reduction	✓	–	–

Impact of Road Diet on Personal Vehicles

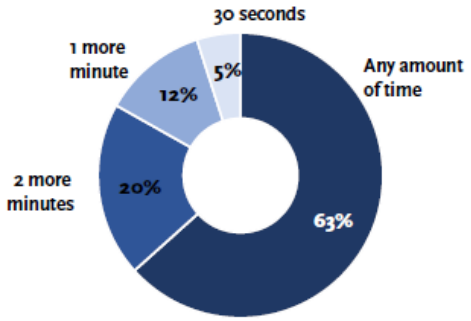


Figure 43. *Travel Time Trade-off Preferences of Online Poll Participants ("How Much Additional Travel Time would you be willing to spend on Rainbow in exchange for improvements?")*

Table 4. *Level of Service Definitions*

Level of Service	Seconds of Delay per Vehicle
A	10 or less
B	>10 -20
C	> 20-35
D	> 35-55
E	> 55-80
F	> 80

Table 3. *Travel Time Changes Due to a Road Diet on Rainbow Boulevard*

Northbound Travel (seconds)

Segment	AM	Noon	PM
Shawnee Mission Parkway	-5.9	-27.6	-37.4
50th St	-0.1	-1.6	-0.2
47th Place	1.2	4.6	-0.6
47th Ave	0.5	5.1	-4.3
43rd Ave	22	-0.5	43.2
Olathe Blvd	5.2	2.3	11.5
Marty Ave	0.3	4.4	-1.3
39th Ave	-0.7	1.4	-3
Adams St	-4.5	-2.2	-0.4
36th Ave	-5.4	9.1	-1.5
	-2.1	-3.1	4.2
Southwest Boulevard	-9.7	-9.4	-12.7
Total Change	**0.8**	**-17.5**	**-2.5**

Southbound Travel (seconds)

Segment	AM	Noon	PM
Southwest Boulevard	-2.5	4.2	-1.9
	-0.4	0.5	0.4
36th Ave	0.2	-2.9	-1.2
Adams St	3.7	21.6	6.9
39th Ave	-1.1	2.5	6.2
Marty Ave	-1.4	0.7	-0.3
Olathe Blvd	-3.0	6.7	25.2
43rd Ave	31.5	-1.9	81.4
47th Ave	-3.3	5.5	1.4
47th Place	-2.2	-0.6	-6.8
50th St	5.7	1.4	-1.5
Shawnee Mission Parkway	-1.7	0.7	-1.0
Total Change	**25.5**	**38.4**	**108.8**

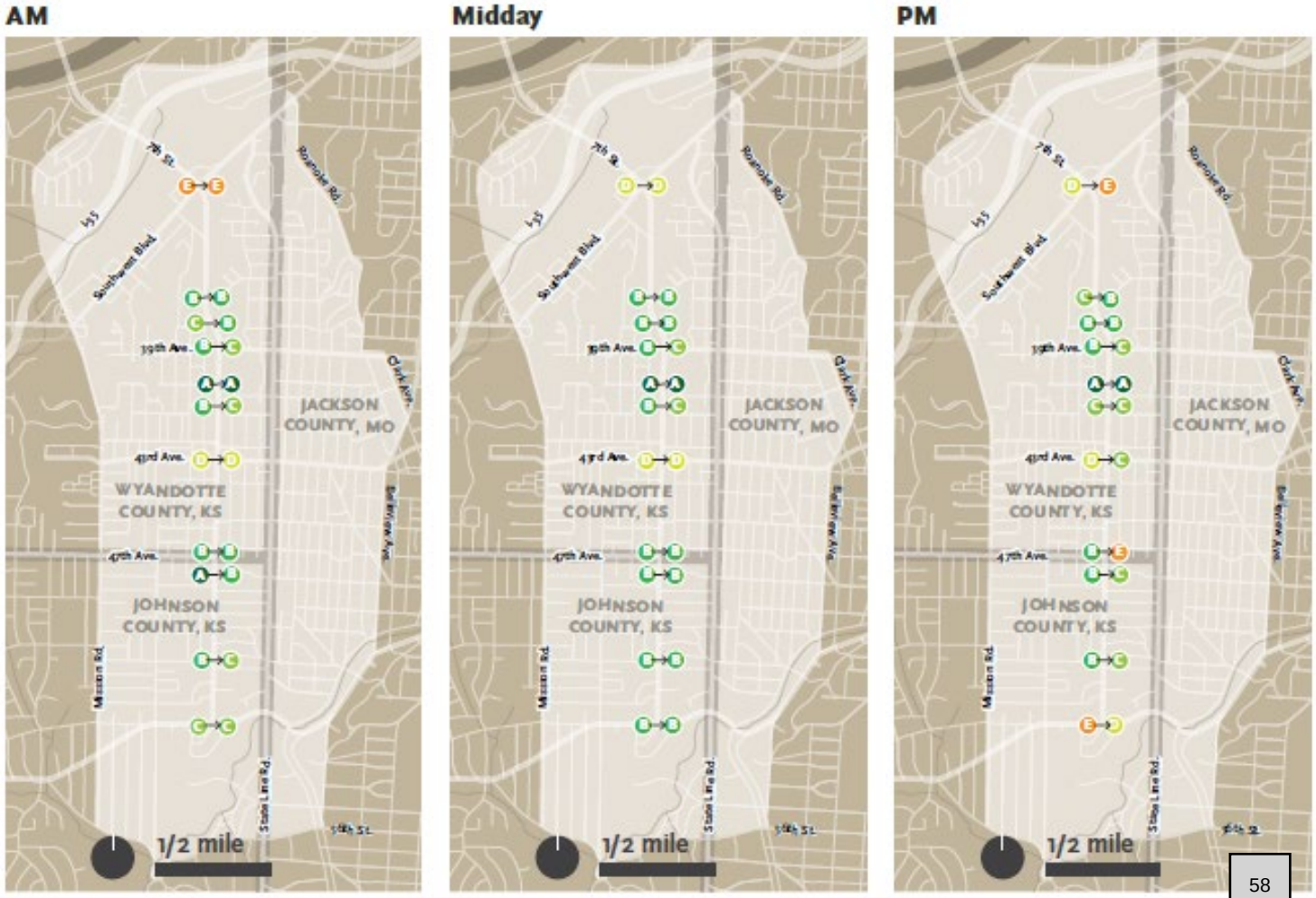


Figure 49. *Change in Level of Service at AM, Midday, and PM Periods Due to a Road Diet on Rainbow Boulevard*

Supporting Recommendations

Speed Limit Reductions

Fast vehicle speeds were a top concern listed by stakeholders. The project team conducted a speed study in three different zones along the corridor and used the ***FHWA USLIMITS2*** tool to understand an appropriate speed limit for these zones. Based on the crash history, number of driveways and access points/driveways, land use context, and existing observed speed data, lower speed limits on the corridor would be justified. According to results from USLIMITS2, the appropriate speed limit on Rainbow Boulevard is 30 mph from Southwest Boulevard to Adams Street and 25 mph from Adams Street to Shawnee Mission Parkway. Speed limit reductions are usually implemented in 5 mph increments to avoid creating excessive enforcement issues. Speed limit reductions are a low-cost safety countermeasure that could be implemented prior to a road diet and revisited with further studies after a road diet is implemented.

USLIMITS2: USLIMITS2 is a free tool from the Federal Highway Administration designed to set appropriate speed limits based on a variety of inputs, including observed speeds.

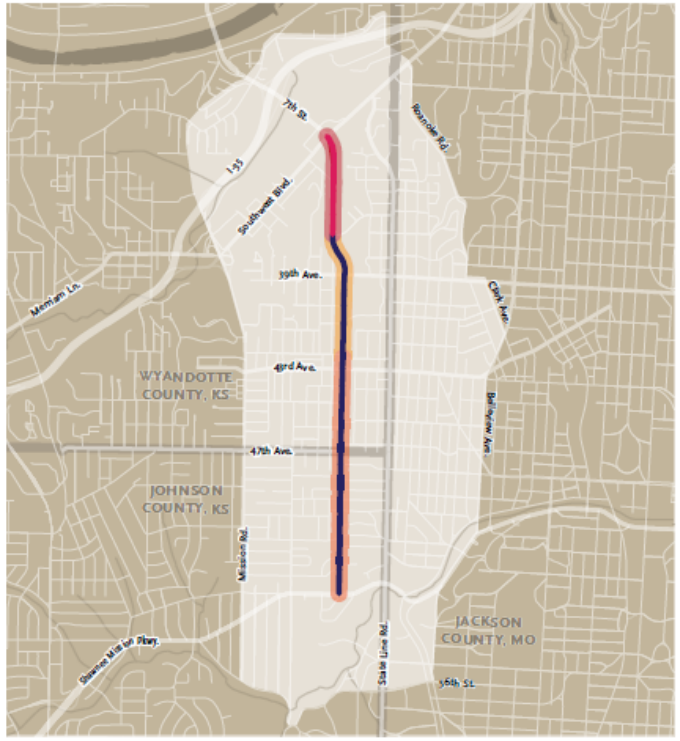


Figure 71. ***Speed Limit Reduction Recommendations on Rainbow Boulevard***

Neighborhood Traffic Calming

Public meeting participants said that reducing impacts to local residential streets should be a top design consideration. Some people expressed concerns about "cut-through" traffic, or traffic that would divert off of Rainbow on to local residential streets. The street network within the study area does not provide many direct paths for automobiles to divert off of Rainbow, and Rainbow would still likely be the quickest route for most motorists. However, this project recommends including traffic calming measures on local residential streets. Traffic circle islands and chicanes are popular traffic calming tools that have been used in the Kansas City region to slow traffic. They also provide opportunities for green infrastructure and stormwater capture. These devices should be deployed after consultation with neighborhood residents after road diet implementation.

Turkey Creek Trail Connection

The US Army Corps of Engineers recently completed improvements to Turkey Creek that will reduce flooding in the area, and a nature trail has been constructed as a part of these improvements. Rainbow Boulevard becomes 7th Street north of Southwest Boulevard, bridging over railroad tracks and Turkey Creek before the I-35 interchange. A switchback bicycle and pedestrian ramp has been proposed to connect this bridge to the Turkey Creek trail. This structure would provide trail access to a major employment and population center in the region.

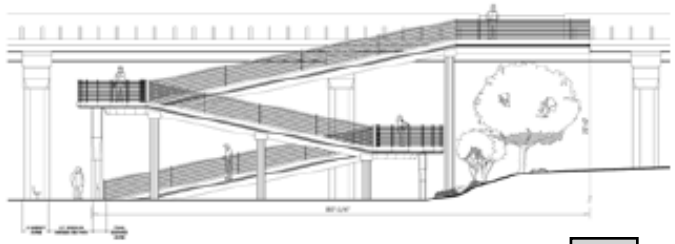


Figure 70. ***Conceptual Drawings for the Turkey Creek Trail Connection at 7th Street***
Images: Turkey Creek Corridor Enhancement Plan

Cost Estimate

Figure 81. *Rainbow Project Locations*

Legend

- Turkey Creek Access
- SW Blvd to 39th Ave
- 39th Ave to 43rd Ave
- 43rd Ave to Shawnee Mission Pkwy
- Potential Demonstration Project (47th to SMP)
- Olathe Blvd Realignment
- Traffic Calming Priority Areas

These estimates assume that construction costs will increase an average of 5% per year, for a total escalation of 22% to 2028 dollar terms. A 25% contingency is also included in these costs. Costs such as utility relocation, stormwater inlets, new driveways, or full-depth pavement replacement are not included in these estimates.

Approximately 77% of these costs are in Wyandotte County, and 23% are in Johnson County. 35% of the costs are in USDOT Disadvantaged Tracts, and 77% are in MARC Environmental Justice tracts.

Project Costs by Community

#	Project/Item	2028$ Costs	WyCo %	JoCo %	Westwood	Mission Woods	Westwood Hills	Unified Government
A	Turkey Creek Trail Connection*	$ 1,976,000	100%	0%	$ -	$ -	$ -	$ 1,976,000
B	Southwest Blvd to 39th	$ 2,468,000	100%	0%	$ -	$ -	$ -	$ 2,468,000
C	39th to 43rd	$ 1,794,000	100%	0%	$ -	$ -	$ -	$ 1,794,000
D	43rd to Shawnee Mission Parkway	$ 4,086,000	36%	64%	$ 1,639,940.34	$ 509,711	$ 465,388	$ 1,470,960
E	Olathe Boulevard Realignment	$ 1,810,000	100%	0%	$ -	$ -	$ -	$ 1,810,000
	ADA Ramps and Spot Sidewalk Replacement Allowance*	$ 800,000	69%	31%	$ 155,525.42	$ 48,339	$ 44,136	$ 552,000
	Neighborhood Traffic Calming Allowance*	$ 550,000	69%	31%	$ 106,923.73	$ 33,233	$ 30,343	$ 379,500
	Streetlight Allowance*	$ 954,000	69%	31%	$ 185,464.07	$ 57,644	$ 52,632	$ 658,260
	Landscape / Green Infrastructure Allowance*	$ 550,000	69%	31%	$ 106,923.73	$ 33,233	$ 30,343	$ 379,500
	Right-of-Way Allowance*	$ 200,000	69%	31%	$ 38,881.36	$ 12,085	$ 11,034	$ 138,000
	Total ROW + Construction Cost	$ 15,188,000			$ 2,233,658.64	$ 694,245.25	$ 633,876.10	$ 11,626,220.00
	Maximum Federal Share (80%)	$ 12,150,400			$ 1,786,926.92	$ 555,396.20	$ 507,100.88	$ 9,30[illegible]
	Survey, Engineering, and other Soft Costs (15%)	$ 2,279,000			$ 335,048.80	$ 104,136.79	$ 95,081.42	$ 1,74[illegible]
	Non-Federal Match + Survey/Engineering/Soft Costs	**$ 5,316,600**			**$ 781,781**	**$ 242,986**	**$ 221,857**	**$ 4,069,177**

Funding Outlook

This program of projects would be eligible and potentially competitive for several funding sources, including Federal, State, and Local programs.

While Federal funding can sometimes complicate project implementation by adding certain requirements and administrative procedures, a project of this size could easily justify that added effort.

The Mid-America Regional Council (MARC) allocates Federal funding for projects through its committee structure. Although they require an intensive grant application and screening process and are typically highly competitive, Federal discretionary programs such as the RAISE program, Safe Streets and Roads for All, and Reconnecting Communities offer opportunities for major funding.

State and local programs can help provide required matching funds required for Federal projects. Typically, Federal projects can only cover a maximum of 80% of project costs, although there are certain exceptions for projects located within Historically Disadvantaged Census Tracts for certain programs. For this program of projects, a combination of Federal sub-allocated funding, KDOT, and local funding sources could realistically provide sufficient funding for the proposed program of projects.

Table 7. *Potential Funding Sources*

Category	Name	Typical Range / Max Award	Competition / Difficulty
Federal - Suballocated (MARC Programs)	Surface Transportation Block Grant (STBG)	Total $30 M in KS	Moderate
	STBG Set-Aside (Transportation Alternatives)	Max $1.5 M Total $4.5 M in KS	Moderate
	Congestion Mitigation and Air Quality (CMAQ)	Total $5.6 M in KS	Moderate
	Carbon Reduction Program (CRP)	Total $8 M in KS	Moderate
Federal Discretionary	Community Project Funding ("Earmarks")	$500k- $4 M	Moderate
	Rebuilding America's Infrastructure with Sustainability and Equity (RAISE)	Max $25 M	High
	Safe Streets and Roads for All - Demonstration Grant	Max $10 M	Moderate
	Safe Streets and Roads for All - Implementation Grant	Max $25 M	High
	Reconnecting Communities & Neighborhoods	Min $5 M	High
KDOT (or KDOT Allocated)	Connecting Link Improvement Program	Max $1.5 M	Moderate
	Highway Safety Improvement Program - VRU Set Aside (Future)	TBD	Moderate
	Cost Share Program	Max $1 M	Lower
	Build Kansas Fund	TBD	Moderate
Local	Johnson County County Assistance Road System (CARS)	Likely $1-2 M per project	Lower
	Street Maintenance/Preservation Funds	Varies (Unified Government is around ~ $12 M/year citywide)	Lower

Timeline

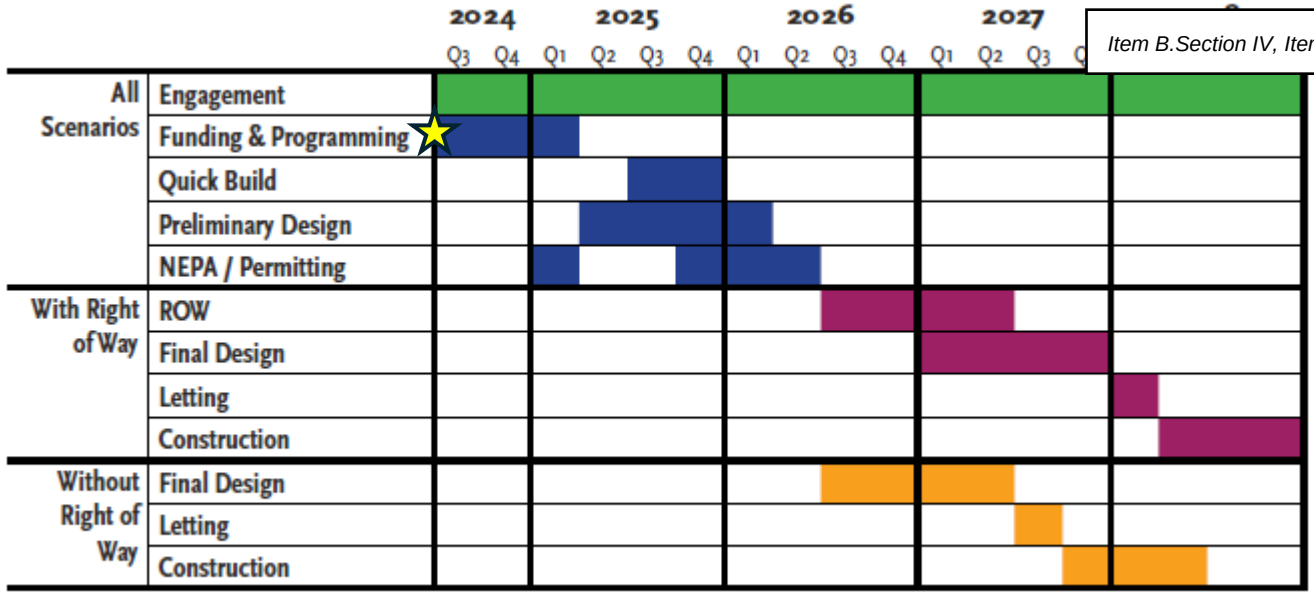
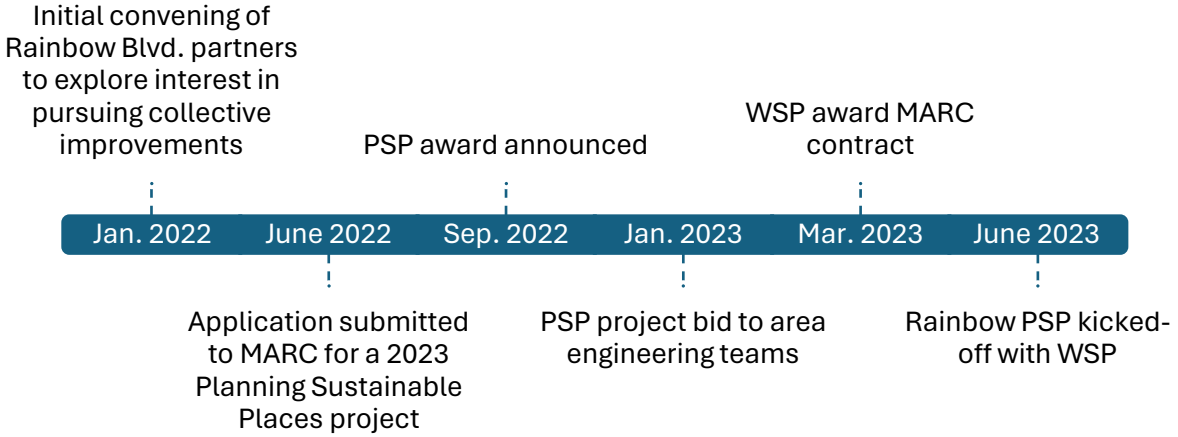


Figure 82. *Example project development scenarios*

Process & Schedule



Next Steps

Funding and Programming: The Federal funding and allocation process administered by the Mid-America Regional Council helps to allocate funding such as STBG, STBG Set-Aside, CMAQ, and CRP funds. As local agencies apply for funding, projects are evaluated, scored, and recommended to various committees that provide recommendations and final approval for project funding. This process typically takes several months. Once that process is complete, project sponsors will have an understanding of the amount of funding allocated to their project(s). This allows project sponsors to understand which projects they can afford, the amount of matching funding required, and the timeline when funds will be available. Once funding is secured, ***Local Public Agencies (LPAs)*** should begin coordinating with KDOT's Bureau of Local Projects to begin the Discovery Phase of the project by submitting a Project Programming Request Form.

Quick-Build Demonstration: Quick-build or demonstration projects are a low-cost way to implement a road diet or roadway reconfiguration in order to prove their effectiveness at calming traffic and improving safety and operations. For example, the City of Westwood and the Unified Government implemented a roadway reconfiguration on 47th Avenue/Street using a quick-build approach. Following a quick build project, the street was upgraded with new, more permanent improvements including pedestrian refuge islands and new curb ramps and sidewalks.

The section of Rainbow from Shawnee Mission Parkway to 47th Avenue would serve as an ideal quick-build project that could be implemented earlier on in the process to serve as a proof of concept for the Rainbow Boulevard Road Diet.

Local Public Agencies (LPA): A public agency (i.e. City, County, or other non-State government entity) sponsoring a Federal-Aid (federally funded) project

The Kansas Department of Transportation's Bureau of Local Projects (KDOT BLP) assists Local Public Agencies (LPAs) in project development for Federally-funded projects. As the owner of Rainbow Boulevard, KDOT will be involved in decisions about the facility as it is designed.

A detailed LPA Project Development Manual can be found on KDOT's Authentication & Resource Tracking (KART) web portal.

Figure 84. *Demonstration Project (Left - photo by Laura Fox) and Permanent Installations on 47th Street/Avenue*

Discovery and Preliminary Design: Once funding is secured, preliminary engineering can begin. Project sponsors should meet with KDOT's Bureau of Local Projects to discuss the project scope, limits, and any complex details. An engineering consultant should be competitively selected in accordance with KDOT rules. An engineering survey is also needed to support design. Discovery and preliminary engineering may dictate further evaluation of the concepts within this study and their safety and operational impacts. Preliminary plans (30%) are followed by field check plans (50-60%), produced prior to right of way plans (if applicable).

Ongoing Engagement

Although this feasibility study has concluded, ongoing community and stakeholder engagement should continue as the corridor advances through project development. Preliminary and final engineering should include continued public engagement opportunities. As more details are decided through preliminary and final engineering, project partners should seek the input of individual property owners and tenants, while still respecting the goals and the will of the general public that were identified through this study.

Environmental Review and Permitting: The National Environmental Policy Act (NEPA) requires Federally-funded projects to adhere to certain standards and processes. KDOT will determine the environmental class of the project, depending on the scale, complexity, and anticipated impacts of the project. Because these projects are mostly within existing developed Right of Way, they are likely to be classified as Categorical Exclusions (CATX). KDOT's Environmental Services Section (ESS) will draft a Preliminary Memo when the project is programmed to begin coordination with various review agencies. Review agencies will provide their review letters to KDOT ESS. KDOT ESS will compile those responses and provide a Final Memo, indicating which permits and actions need to be taken by the LPAs. The LPA is responsible for obtaining permits.

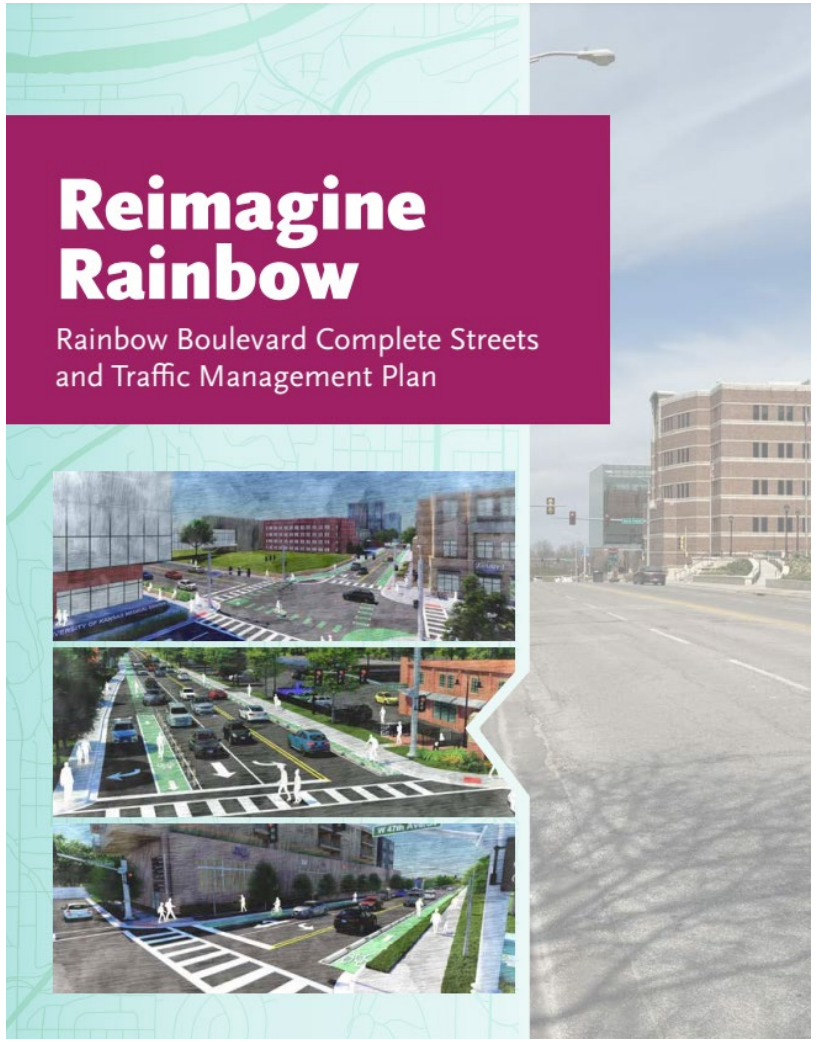
Right of Way: While this project will work mostly within existing right of way, there may be a need to acquire partial tracts of temporary or permanent easements or right of way to complete certain projects, depending on the results of preliminary design. LPAs must follow specific rules when acquiring right of way. Title reports, legal descriptions, right of way plans, and property valuation are required in order to begin negotiation with property owners and acquiring property.

Final Design: The final design stage includes development of a set of office check plans (90% plans), final plans (100% plans), and the final plans, specification, and estimate (PS&E).

Advertising, Letting, and Construction: Once the final PS&E is complete, KDOT will advertise the project for bid on its portal for one month. The contract is awarded to the lowest responsible and responsive bidder. After a contract is executed, a pre-construction meeting is held, and a Notice to Proceed is issued. During construction, the LPA, KDOT, and/or a consultant share responsibilities for construction engineering, inspection, and oversight.

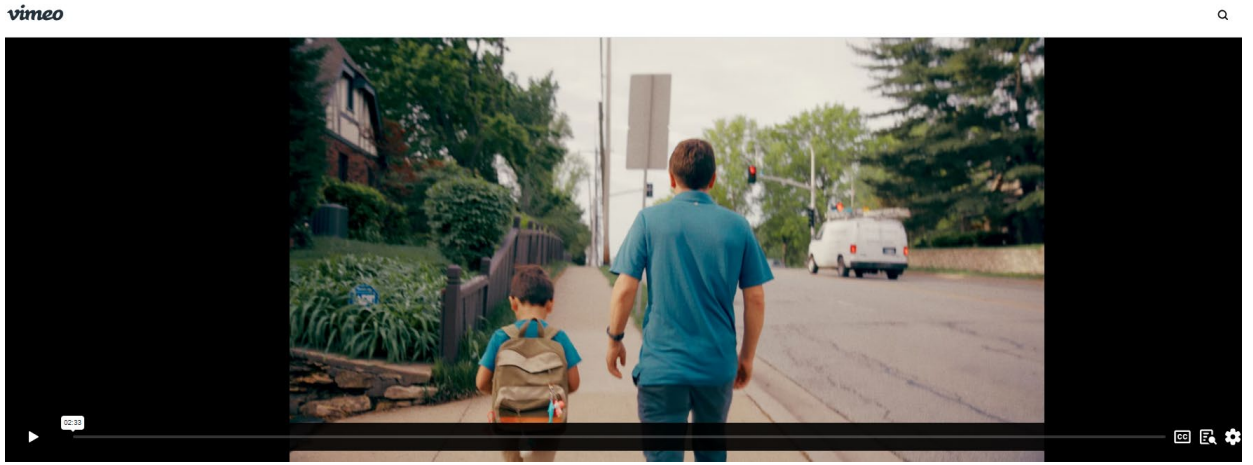
Alternative Delivery: Alternative delivery methods, such as design-build or construction manager at risk, can help save time and costs over design-bid-build delivery. Alternative delivery methods may be appropriate for certain projects in this program. However, further design, definition of the scope of work, and an understanding of environmental and permitting considerations would be required for alternative delivery. There is currently no defined design-build process for KDOT local projects, and additional consultation with KDOT will be needed if project partners desire to pursue alternative delivery. Project sponsors should consider using an owner's representat help manage the process.

Additional Information

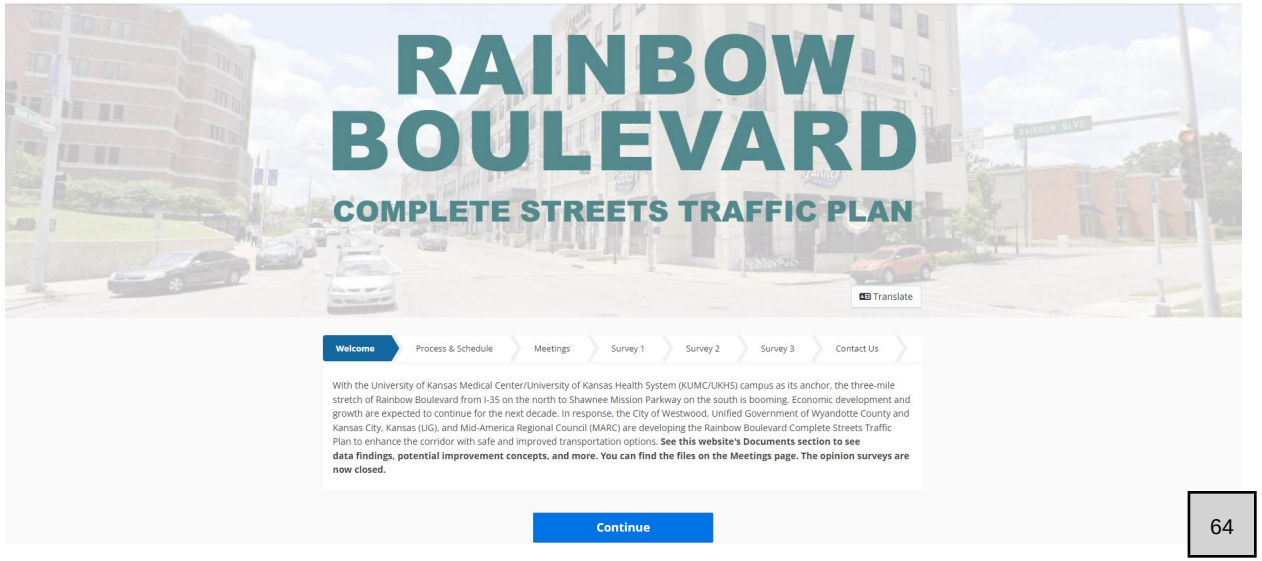


Click on the report to read the full document

Click on the video for a short project narrative



Click on the project website to review all the community engagement



WESTWOOD PLANNING COMMISSION

Staff Report
Meeting Date: July 1, 2024
Staff Contact: Nick Finck, Building Official

Application of Sarah Brown for the posting of a temporary window sign package located at 4812 Rainbow Blvd.

OWNER OF RECORD: IRIS HOLDING COMPANY LLC

APPLICANT: Sarah Brown

LOCATION: 4812 Rainbow Boulevard

ZONING: The property is zoned C-1, COD-2

PROPOSED PROJECT: Posting of "Coming Soon" signs and graphics in the front windows of the business.

REQUESTED ACTION: Approval of the sign detailed in this report.

ZONING ORDINANCE PROVISIONS:

A. 9.1.3 Definitions

Window Sign: any sign which is displayed in, attached to or applied to the exterior or interior of any transparent glass or acrylic plastic surface that could be considered a window.

Wall Sign: any vertical sign attached flat against the surface of a wall, awning, or facade (other than a false roof facade), of a building, but not projecting horizontally from the vertical surface more than twelve inches or above the vertical surface.

B. 9.2.3 Exceptions to Permit Process

The following types of signs are exempt from permit requirements but must be in conformance with all other requirements of this article:

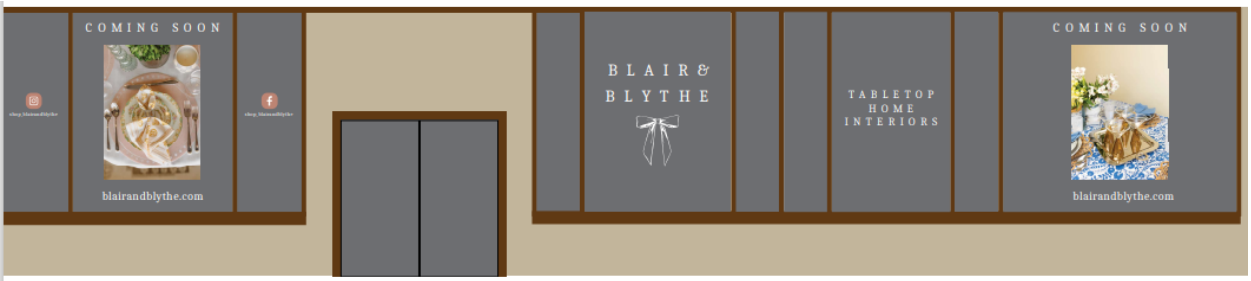
a. Temporary signs;
b. Memorial signs or tablets not in excess of four square feet;
c. Name plate signs for single-family dwellings; and
d. In the district zoned for retail sales, temporary window signs which do not exceed ten percent of the area of the window in which the sign is placed.

C. 9.3.3.C

In addition to the monument sign(s), each business or commercial establishment shall be permitted one non-illuminated, illuminated channel cut letter, or indirectly illuminated wall, projecting, or awning sign. The total area of each sign shall not exceed 10 percent of the area of the business facade on which it is placed, and the facade must be continuous with the tenant's gross leasable floor area. Business establishments having frontage on more than one dedicated public street may have the aforementioned wall or awning sign on each frontage.

APPROVAL CRITERIA: Staff review of the proposed signage package found that, if considered a wall sign, the signage package would conform to the Zoning Ordinance. 4812 Rainbow Blvd. has 1375 square feet of business façade which allows for a maximum sign area of 137.5 square feet. The proposed signage package covers 62.5 square feet of window, exceeding the 10% maximum window area in 9.2.3.D and the 18 square feet limitation established in 9.2.7.B to be exempt from permit.

STAFF ANALYSIS: An image of the proposed sign is provided below.



The proposed sign package has multiple pieces consisting of plain white lettering and two full color images of the types of goods which will be sold there. The sign's total area is calculated as 4.55% of the business façade[1] as defined in the Zoning Ordinance. The maximum allowable area is 10%. The window signage as proposed covers 22% of the total window area on ground level of the Rainbow Blvd. facing façade.

STAFF RECOMMENDATION: The Planning Commission should review the application materials to determine whether this application should be approved.

Staff does not have any objections to the proposed sign.

Suggested Motion
I move to approve the application of Sarah Brown to install signage as presented in the meeting packet at address 4812 Rainbow Blvd., Westwood, Kansas 66205.

[1] As illustrated in the meeting materials.

WESTWOOD PLANNING COMMISSION

Staff Report
Meeting Date: July 1, 2024
Staff Contact: Nick Finck, Building Official

Application of Thomas Hendrix for the posting of a sign at his tattoo business located at 4805 Rainbow Blvd.

OWNER OF RECORD: 4801-05 RAINBOW LLC

APPLICANT: Thomas Hendrix

LOCATION: 4805 Rainbow Boulevard

ZONING: The property is zoned C-1, COD-3

PROPOSED PROJECT: Hanging of a sign from existing eyelets on the awning in the front of the business.

REQUESTED ACTION: Approval of the sign detailed in this report.

ZONING ORDINANCE PROVISIONS:

A. 9.3.3(C) Retail and Business Districts; CP-1, C-1, P-1

> In addition to the monument sign(s), each business or commercial establishment shall be permitted one non-illuminated, illuminated channel cut letter, or indirectly illuminated wall, projecting, or awning sign. The total area of each sign shall not exceed 10 percent of the area of the business facade on which it is placed, and the facade must be continuous with the tenant's gross leasable floor area. Business establishments having frontage on more than one dedicated public street may have the aforementioned wall or awning sign on each frontage.

APPROVAL CRITERIA: Staff review of the proposed signage found that the proposed sign which measures 14"x72" is in conformance with the Westwood city zoning ordinance.

STAFF ANALYSIS: An image of the proposed sign is provided below.

The proposed sign is a total of 7 square feet. The sign's total area is calculated as 3.37% of the business façade as defined in the Zoning Ordinance. The maximum allowable area is 10%.

STAFF RECOMMENDATION: The Planning Commission should review the application materials included to determine whether this application should be approved.

Staff does not have any objections to the proposed sign.

Suggested Motion
I move to approve the application of Thomas Hendrix for a 14"x72" sign at address 4805 Rainbow Blvd., Westwood, Kansas 66205.

WESTWOOD PLANNING COMMISSION
Staff Report
Meeting Date: August 7, 2023
Staff Contact: Leslie Herring, City Administrator

Agenda Item: Review suggested edits to Chapter 16 of the Westwood Municipal Code as part of City Code recodification

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BACKGROUND

Recodification is the process by which all adopted ordinances (and modern, current State and Federal laws, where applicable) are integrated into a City's Codebook so that the Codebook reflects the current and comprehensive laws of the City.

- In January 2023, the City engaged CivicPlus (which acquired Municode) to begin the 12 – 18-month process of recodifying the City Code, which has not been done since 2008.
- In addition to recodification services, this scope of service includes the digitization and integration of the City Code into the City's website for transparency, convenience, and easy updating when new ordinances are approved.
- In January 2024, City staff received back the full Code with legal review notes and embarked on internal review of the documents.
- Over the past several months:
    - the City Administrator, City Clerk, Building Official, Public Works Director, and Police Chief met to review and annotate the Code chapters;
    - the City Attorney and CivicPlus legal counsel conducted a legal review with City staff;
    - the Governing Body reviewed all chapters of the Code in work sessions in March and April; and
    - CivicPlus has incorporated all City revisions and notes to-date.
- Following integration of the Governing Body's input and changes to the Code chapters and Planning Commission's input and changes to the Zoning Ordinance (Chapter 16), City staff will coordinate with CivicPlus to resolve any outstanding questions or issues so that CivicPlus can prepare proofs for staff and Governing Body review prior to creation of the ordinance document for formal adoption.

STAFF COMMENTS:
Recodification isn't a time to make dramatic substantive changes to the City Code; the intent is housekeeping, to ensure consistency and legality of the code provisions and to address any confusion or conflicting elements of the code.

The following is a summary of the notable edits to the Zoning Ordinance include:

a. 4.3.2(K) – clarifying process for applicants who want to build within 5-foot setback.
b. 4.3.2 Table – Cleaning up references to side yard setbacks.
c. 4.3.12 – Cleaning up to be consistent with RV parking regulations in 14-217, which also covers this topic.

Staff recommend revising the Zoning Ordinance to reflect the length of time for RV parking as governed by Chapter 14 – Traffic. This would result in the parking or storage of boats, trailers, commercial and recreational vehicles being allowed to remain in public view for a maximum of 24 hours. It would also

allow for a special permit to be issued by the Police Department to remain in public view for a period not to exceed a total of 14 days in each calendar year.

STAFF RECOMMENDATION: The Planning Commission should review the Zoning Ordinance as presented and annotated in the meeting packet and should discuss any deviations or additional edits requested. Once the Planning Commission is satisfied with the edits, City staff will schedule a public hearing, as applicable, to formally consider the edits and prepare this Chapter for adoption by City Ordinance by the Governing Body.

Suggested Motion:

None necessary.

CHAPTER 16

ZONING

Article One: Purpose, Responsibilities, and Procedures

1.1 ZONING ORDINANCE

~~1.1.1 Zoning Ordinance Incorporated~~ [1]

~~This Ordinance is adopted under the authority of the Kansas Statutes and any amendments thereto and other applicable authority, and is enacted by Ordinance 1024 which incorporates this by reference, together with any amendments to said Ordinance. (Code 2008, ch. 16, § 1.1.1; Ordinance 881; Ord. No. 1024, § 1(1.1.1), 2-10-2022)~~

1.1.2 Title

This Ordinance is officially titled, "The Zoning Ordinance of the City of Westwood, Kansas," and shall be known as the "Zoning Ordinance" or, herein, "this Ordinance". The official map designating the various regulating districts shall be titled, "The City of Westwood Zoning Map," and shall be known as the "Zoning Map."
(Code 2008, ch. 16, § 1.1.2; Ord. No. 1024, § 1(1.1.2), 2-10-2022)

~~1.1.3 Effective Date~~ [2]

~~These regulations shall become effective upon adoption and publication by reference. Upon such date, these regulations shall replace the Westwood Zoning Ordinance 883, adopted February 14, 2008, and any amendments to said Ordinance made after said date. (Code 2008, ch. 16, § 1.1.3; Ord. No. 1024, § 1(1.1.3), 2-10-2022)~~

1.2 ZONING DISTRICT MAP

1.2.1 District Map Incorporated

There is hereby adopted and herein incorporated by reference the City of Westwood Zoning Map, which shall be the official map defining the boundaries of zones and showing the district boundaries and classification of such districts. Said map shall be marked, "Official Map with copies thereof as Incorporated by the Westwood City Code," with modification date. Said map shall be filed with the City Clerk and open for public use at all reasonable business hours. The map, and all subsequent amendments to the map, shall also be on file at the office of the City Clerk and made available to the public.
(Code 2008, ch. 16, § 1.2.1)

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[1] **Legal analysis: 1.1.1 Zoning Ordinance Incorporated.** Delete as not needed.
[2] **Legal analysis: 1.1.3 Effective Date.** Delete as no longer needed.

1.2.2 Zoning District Use Regulations

Except as hereinafter provided, no building or premises shall be used for any purpose other than as permitted in the Zoning District in which said building or premises is located. No lot area shall be so diminished or reduced that the yards or open spaces shall be smaller than prescribed herein, nor shall the lot area for any family dwelling or residence be reduced in any manner except in conformity to area regulations hereby established for the district in which such building is located.
(Code 2008, ch. 16, § 1.2.2)

1.2.3 Zoning District Map Interpretation

The map entitled "Official Zoning District Map of Westwood, Kansas," certified as such by the City Clerk, is hereby declared to be the proper zoning for said districts. ~~as of the effective date of this Ordinance.~~ [3]

For purposes of interpretation of district boundaries as shown on the zoning map, the following rules shall apply:

A. Boundaries indicated as following approximately the centerline of streets, highways, or alleys shall be construed to follow such centerlines.

B. Boundaries indicated as following approximately lot lines shall be construed as following such lot lines.

C. Boundaries indicated as following approximately corporate limits shall be construed as following such corporate limits.

D. Boundaries indicated as parallel to or extensions of features indicated in this Section shall be construed as such. Distances not specifically indicated on the Official Zoning District Map shall be determined by using the scale of the map.

E. Boundaries indicated as following the boundary limits of Westwood shall be construed as following such boundaries.

F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Regulating Map, or in other circumstances not covered by this Section, the Governing Body shall have authority to interpret the district boundaries.
(Code 2008, ch. 16, § 1.2.3)

1.2.4 Zoning District Map

The boundaries of such zoning districts are shown upon the City of Westwood Zoning Map on file in the office of the City Clerk, and made a part of this article. Said map and all of the notations, references, and other features shown thereon shall be incorporated into this

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[3] **Legal analysis: 1.2.3 Zoning District Map Interpretation.** Delete language as no longer needed.

ordinance as if such notations, references, and features set forth on said map are all fully described herein.
(Code 2008, ch. 16, § 1.2.4)

1.3 GENERAL PROVISIONS

1.3.1 Enforcement

The Building Official shall enforce the provisions of this Ordinance.
(Code 2008, ch. 16, § 1.3.1)

1.3.2 Procedure

The Governing Body may adopt additional rules of procedure governing the administration of the Zoning Ordinance herein provided.
(Code 2008, ch. 16, § 1.3.2)

~~1.3.3 Validity~~ [4]

~~Should any section, clause, or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.~~
~~(Code 2008, ch. 16, § 1.3.3; Ord. No. 1024, § 2, 2-10-2022)~~

1.3.4 Jurisdiction

These regulations govern the development and use of all land and structures within the corporate limits of the City of Westwood, Kansas, and any extraterritorial jurisdiction defined by Ordinance and as now or hereafter fixed, said territory being indicated on the Zoning Map as is on file at the Westwood City Hall. This map and its boundaries shall be incorporated and made part of this Ordinance.
(Code 2008, ch. 16, § 1.3.4)

1.3.5 Vesting of Development Rights

A. For the purpose of single-family residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within five years of recording of the plat, the development rights in such shall expire at that time.

B. For all purposes other than single-family developments, the right to use land for a particular purpose shall vest after the issuance of all permits required for such use by the City, county, and/or state and construction has begun and substantial amounts of work have been completed lawfully under a validly issued permit.
(Code 2008, ch. 16, § 1.3.5; Ord. No. 1024, § 3, 2-10-2022)

---

[4] **Legal analysis: 1.3.3 Validity.** Delete as covered by general provisions in Chapter 1.

1.3.6 Building Permit Process

[GRAPHIC]

1.3.7 Penalty

It shall be unlawful for any party to violate the provisions of this Ordinance, and any violation thereof shall be punishable by a fine not to exceed $500, or by imprisonment for not more than six months, or by both, for each offense. Each day's violation shall constitute a separate offense. Nothing in this section shall be construed as to affect any other remedy the City may have to abate such violation, or any other remedy or authority at law or equity.
(Code 2008, ch. 16, § 1.3.7; Ord. No. 1024, § 4, 2-10-2022)

1.4 PLANNING COMMISSION

1.4.1 Commission Created

A Planning Commission for the City of Westwood is hereby created.
(Code 2008, ch. 16, § 1.4.1)

1.4.2 Commission Membership and Appointment

The Planning Commission shall consist of nine members. All nine members shall be appointed by the mayor, with the consent of the Governing Body. The members of the Planning Commission shall be appointed for a term of three years each. Appointments made to fill current vacancies shall be for the balance of the unexpired term only. Members of the Planning Commission shall serve without compensation for their services. Members of the Planning Commission may be removed for cause as provided by law.
(Code 2008, ch. 16, § 1.4.2; Ord. No. 1024, § 5(1.4.2), 2-10-2022)

1.4.3 Planning Commission Bylaws

The Planning Commission shall adopt bylaws for the transaction of business and hearing procedures. Except as otherwise provided in this code, and unless otherwise provided by law, action shall be taken by the Planning Commission by a favorable vote of a majority of the members present. A quorum consisting of a majority of the voting members of the Planning Commission shall be necessary for the Planning Commission to conduct any business.
(Code 2008, ch. 16, § 1.4.3)

1.4.4 Comprehensive Plan Adoption and Amendment

A. The Planning Commission is hereby authorized to make or cause to be made a comprehensive plan for the development of the City.

B. The Planning Commission may recommend adopting and amending the Comprehensive Plan as a whole by a single resolution or by successive resolutions. Such resolution(s) shall identify specifically any written presentations, maps, plats, charts, or

other materials made a part of such plan. In the preparation of such plan, the Planning Commission shall make or cause to be made comprehensive surveys and studies of past and present conditions and trends relating to land use, population and building intensity, public facilities, transportation and transportation facilities, economic conditions, and natural resources, and may include any other element deemed necessary to the Comprehensive Plan. Such a proposed plan shall show the Commission's recommendations for the development or redevelopment of the City, including the following:

1. The general location, extent, and relationship of the use of land for agriculture, residence, business, industry, recreation, education, public buildings and other community facilities, major utility facilities, both public and private, and any other use deemed necessary;

2. The population, building intensity standards, restrictions, and the application of the same;

3. Public facilities, including transportation facilities of all types, whether publicly or privately owned, which relate to the transportation of persons or goods; and

4. Public improvement, based upon a determination of relative urgency.
(Code 2008, ch. 16, § 1.4.5; Ord. No. 1024, § 5(1.4.4), 2-10-2022)

1.4.5 Review of the Comprehensive Plan

At least once each year the Planning Commission shall review or reconsider the Comprehensive Plan or any part thereof and may propose amendments, extensions, or additions to the same. The procedure for the adoption of any such amendment, extension, or addition to the plan or any part thereof shall be the same as that required for the adoption of the original plan or part thereof.
(Code 2008, ch. 16, § 1.4.6; Ord. No. 1024, § 5(1.45.), 2-10-2022)

1.4.6 Recommendations as to Zoning Regulations

The Planning Commission shall recommend the boundaries of City zones and districts to the Governing Body as required by K.S.A. 12-753, et seq. as amended.
(Code 2008, ch. 16, § 1.4.7; Ord. No. 1024, § 5(1.4.6), 2-10-2022)

1.5 PLANS, PLATS, AND LOT SPLITS

1.5.1 Procedures

A. Plats shall be required on any land in the City for which the following is proposed:
   1. The subdivision or merger of tracts into new lots, blocks, tracts or parcels;

   2. The establishment of any street, alley, right-of-way, park, or other property intended for public use.

B. Such plat shall accurately describe the subdivision, lots, tracts, or parcels of land, giving the location and dimensions thereof, and the location and dimensions of all streets,

alleys, parks, or other properties intended to be dedicated to public use or for the use of purchasers or owners of lots, blocks, tracts, or parcels of land fronting thereon or adjacent thereto.

C. All plats shall be verified by the owner(s) thereof. All such plats shall be submitted to the Planning Commission.

D. The Planning Commission shall determine if the plat conforms to the provisions of the Zoning Ordinance. If such determination is not made within sixty days after the first meeting of such Commission following the date of the submission of the plat to the City Clerk, such plat shall be deemed to have been approved, and a certificate shall be issued by the City Clerk upon demand. If the Planning Commission finds that the plat does not conform to the requirements of the Zoning Ordinance, the Planning Commission shall notify the owner(s) of such fact. If the Planning Commission finds that the plat conforms to the requirements of such regulations, the Commission's seal and approval shall be affixed thereto.

E. The Governing Body shall accept or refuse the dedication of land for public purposes within thirty days after the first meeting of the Governing Body following the date of the submission of the plat to the City Clerk. The Governing Body may defer action for an additional thirty days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. If the Governing Body defers or refuses such dedication, it shall advise the Planning Commission of the reasons therefor.

F. The City of Westwood may establish a scale of reasonable fees to be paid to the City by the applicant for approval for each plat filed. The Register of Deeds shall not file any plat until such plat shall bear the approval hereinbefore provided.

G. The Register of Deeds shall not file any plat until such plat shall bear the approval hereinbefore provided and any land dedicated for public purposes shall have been accepted by the Governing Body.

H. Any lot already platted as of the effective date of this Ordinance may be divided into not more than two lots or tracts without having to replat the original lot, provided that the resulting lots or tracts shall not again be divided without replatting, subject to the following conditions and procedures:

1. Each resulting lot or tract must have the minimum frontage required within the zoning district.

2. A certificate of survey for each resulting lot or tract, including the certificate by a registered engineer or surveyor that the details contained on the survey are correct, shall be submitted to the City Clerk and shall contain the following information:

a. the dimension and location of each of the lots or tracts, including a metes and bounds description of each lot or tract on the plat;

b. the location and character of all proposed and existing public utility lines and easements, including sewers (storm and sanitary), water, gas, and power lines;

c. building setback lines with dimensions;

d. the location of proposed or existing streets and driveways providing access to said lots or tracts; and

e. a physical property survey, including topography with contour intervals of not more than two feet and including the location of water courses, ravines, existing significant trees, permanent structures, and proposed drainage structures.

3. Any building or structures existing on the lot or tract at the time of the lot or tract split must remain in compliance with other ordinances of the City after the lot or tract split has been completed.

4. All costs resulting from an application for a lot or tract split shall be paid by the applicant.

5. All applications will be referred to the Planning Commission for a recommendation to the Governing Body.

6. Conveyances by an adjacent property owner of a tract less than fifteen feet in width is exempt from the above approval process, provided that both tracts remain large enough to be built upon lawfully, and, if the tracts are in a residentially zoned area, each tract must remain in the same frontage size category, provided that the resulting lots or tracts shall not be divided without replatting.

I. No lot can be platted or replatted as an R-1(A), R-1(B), or R-1(E) residential category lot.

Plats approved by the Governing Body shall be filed with the County within thirty days of approval by the Governing Body. Failure to file is a violation of this code. No building permit shall be issued before filing is complete.
(Code 2008, ch. 16, § 1.5.1; Ord. No. 1024, § 6, 2-10-2022)

1.5.2 Subdivision Provisions

The following policies shall be used in the design and review of all re-platting within the jurisdiction of this Ordinance:

A. All new subdivisions shall be designed so as to facilitate the most advantageous development of the entire neighboring area by protecting and enhancing the stability, character, and environment of the area.

B. All subdivisions shall be consistent with adopted public plans, such as the Westwood Comprehensive Plan.

C. All residential subdivisions shall provide specialized open space as defined in the Ordinance, which encourages frequent use, attention, and the presence of people through placement and design. Where possible, the natural terrain, drainage, and vegetation of a site shall be preserved.

D. Streets and development sites shall be designed to protect and preserve stands of significant trees from high ground or water.

E. Bike paths and pedestrian paths shall be designed to connect with similar planned or existing local and/or regional facilities as shown on official plans and maps of the City of Westwood, neighboring municipalities, or Johnson County. Streets, pedestrian paths, and bike paths shall contribute to a system of fully connected and interesting routes to all destinations. Their design should encourage pedestrian and bicycle use by being small and spatially defined by buildings, trees, and lighting; and by discouraging high speed traffic.

F. All streets shall be paved to current City standards.

G. All residential streets may have sidewalks on at least one side, and cul de sacs may have a sidewalk around their entire perimeter.

H. Curbs and gutters shall front all lots and shall be built to current City standards.

I. Sidewalks shall be concrete or similar material and ADA compliant.

J. All new subdivisions shall be subject to site plan review.

K. These regulations may provide for the payment of a fee in lieu of dedication of land and may provide that, in lieu of the completion of any work or improvements prior to the final approval of the plat, the Governing Body may accept a corporate surety bond, cashier's check, escrow account, letter of credit, or other like security in an amount to be fixed by the Governing Body and conditioned upon completion of the work or improvements within a specified period, in accordance with these regulations, and the Governing Body may enforce such bond by all legal or equitable remedies.
(Code 2008, ch. 16, § 1.5.2; Ord. No. 1024, § 7, 2-10-2022)

1.5.3 Additional Requirements

A. Dedication of Right-of-way for Abutting Streets

1. Whenever a proposed plat or subdivision abuts a public street, or a proposed public street as indicated on the plat or the Zoning Map, and adequate right-of-way does not exist for such street or proposed street in accordance with the standards set forth by the City or such other right-of-way requirements established by a transportation corridor study, traffic analysis, preliminary engineering study or area plan accepted and/or approved by the City, the subdivider shall dedicate to the City, without charge, such right-of-way as is necessary to provide conformity with such standards up to a total of one half of the indicated right-of- way requirements. New rights-of-way shall have a width of not less than fifty feet.

2. If the street alignment shown in a transportation corridor study, traffic analysis, preliminary engineering study or area plan requires a dedication of more than one-half of the indicated total right-of-way requirements for a particular property, the subdivider shall be required to dedicate the additional right-of- way only if the transportation corridor study, traffic analysis, preliminary engineering study or area plan was the subject of a

public hearing with notice to the abutting property owners prior to its acceptance and approval by the City Council.

3. However, such dedication requirements shall not apply to thoroughfares unless such dedication can be shown to be reasonably related to the development of the proposed plat or subdivision and the cost of such dedication can be shown to be roughly proportional to the traffic impact of the proposed development. Such dedication shall be shown on the preliminary and final plat.

B. Dedication of Green Space

The City may require reasonable dedication of green space.

C. Construction of Required Public Improvements

The subdivider shall be required to construct certain public improvements within the subdivision as hereinafter provided. Such improvements shall not be installed prior to proper recording of the final plat by the City. All improvements installed by the developer shall comply with the specifications and standards of the City as set forth in this Ordinance or elsewhere in the City's ordinances.

D. Required Improvements — Streets

1. Subdivider shall be responsible for the installation of all streets, including curbs and gutters, within the boundaries of the subdivision. No grading or other construction shall take place within a street right-of- way until the construction plans have been approved by the City Engineer. All street construction shall conform to the specifications of the City and compliance therewith shall be confirmed by the City Engineer prior to release of any surety required hereinafter.

2. The subdivider shall perform whatever grading is necessary so that the subdivision grades are compatible with those depicted for any adjacent existing collector or thoroughfare street in street plans available from the City. Preliminary street plans shall be approved by the City and will be kept on file in the office of the City.

E. Required Improvements — Sidewalks

Within the boundaries of a subdivision, sidewalks shall be installed by the subdivider as required by the City. Sidewalks shall be located in the platted street right-of-way, abutting the property line or in any pedestrian easements.

F. Required Improvements — Storm Water and Drainage

1. The subdivider shall install culverts, storm sewers, rip-rap slopes, stabilized ditches, storm water retention and/or detention facilities, including, but not limited to, providing for any necessary off-site improvements, and other improvements necessary to adequately handle storm water. A stormwater study may be required to ensure improvements adequately handle anticipated stormwater runoff resulting from the development.

2. All improvements shall comply with the minimum standards of the City and shall be approved by the City Engineer prior to construction. Where developments are determined by the City Engineer to be in close proximity to unimproved stream channels, an engineering study may be required to determine the stability of the stream banks. The study shall evaluate the likelihood that normal stream bank slippage failure and erosion will endanger structures proposed as a part of the development or the yards of residential lots. Such studies may analyze the impact of full upstream development and include a complete identification and analysis of the soil profile and underlying bedrock upon which the development is to take place. Based on this analysis, engineering plans shall be submitted showing the structural measures to be used to stabilize those banks which are determined to be unstable. The study shall be submitted concurrent with the application for final plat approval and shall be reviewed and approved by the City Engineer prior to recording the plat. Storm drainage easements may be required where necessary to allow on-going maintenance of the stream channel and any stabilization measures.

G. Required Improvements — Underground Utilities

1. Except as otherwise provided in this section, all utilities shall be installed underground within designated easements by the subdivider or utility company prior to the issuance of a certificate of occupancy. For purposes of this section, the term "utilities" shall include, but not be limited to, all pipes, poles, wires, connections, conductors, switchers, line transformers and insulators which supply natural gas, electricity, sewage or water, or which may be used for communications transmission.

2. The subdivider, developer or owner of any such area or portion thereof shall make the necessary arrangements for the installation of underground utilities. Such arrangements shall be made with the utility company. A letter from the utility company confirming that such underground insulation as required by this section has been completed shall be submitted to the Building Official at the time that a certificate of occupancy is requested. A certificate of occupancy shall not be granted absent such confirmation.

3. The provisions of this section shall not apply to any of the following uses:

a. All electrical power lines rated at or above "feeder" line class. For purposes hereof, a "feeder" line is defined as that portion of an electrical circuit which provides power from a power substation and which has a rated capacity of 3,000 KVA or more.

b. All telecable lines rated at or above "trunk" line class. For purposes hereof, a "trunk" line is defined as that portion of a telecable systems line that is .750 inches in diameter.

c. Existing poles, overhead wires, and associated overhead structures, when part of a continuous line, or services to individual properties from such existing overhead lines that are within a subdivision previously approved in accordance and in conformance with existing regulations.

d. Existing poles, overhead wires, and associated overhead structures, when part of a continuous line, or services to individual properties from such existing overhead lines that serve properties adjacent to but not within areas being subdivided.

e. Any communication line which would otherwise be required by this Section to be underground that uses an overhead pole or structure exempted by this Section.

f. Radio and television antennas.

g. Structures on corner lots, in streets and alleys, and on easements adjacent thereto, and in cases where electrical and communication wires cross a street or other district boundary from an area where overhead wires are not prohibited, may be connected to said overhead wires.

h. Overhead lines attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location of the building to another location of the building or to an adjacent building without crossing a property line.

i. Poles used exclusively for street or area lighting or for traffic control facilities.

j. Service terminals, transformers, regulators, meters or other on and above-ground appurtenance normally ~~sued~~ used with and as a part of an underground distribution system. [5]

4. Nothing in this section will prevent the replacement of poles, overhead wires, and associated overhead structures on these lines when necessary for the purpose of maintaining the line or upgrading the capacity thereof, or in the case of single-phase lines, the addition of the necessary facilities to three- phasing of the line.

H. Required Improvements — Sanitary Sewers and Other Utilities

The subdivider shall be responsible for the proper installation of all utilities and sanitary sewers and connection to approved treatment facilities, water supply approved by the Kansas Board of Health, natural gas, electricity and telephone services. Such utility shall be installed according to the specifications and minimum standards of the controlling utility company or public agency except as otherwise provided by this Ordinance.

I. Required Improvements — Street Signs

1. The subdivider shall be responsible for paying the cost of fabrication and installation of street name signs as determined by the Public Works Department at all street intersections within the subdivision.

2. Such signs shall follow the street names designated on the approved final plat.

3. Signs on public property shall be installed by the City.

4. Signs on private property shall be installed by the developer.

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[5] **Legal analysis: 1.5.3 Additional Requirements (G)(3)(j).** Revised "sued" to "used," assuming this was the intended language. If incorrect, please advise.

5. Payment for all signage fabrication and installation charges for work performed by the City shall be made in full prior to approval of construction plans for each phase of development.

J. Required improvements — Street Lighting

Street lighting shall be installed by the subdivider as required by the City.

K. Improvement Bonds

The proper installation of streets, curbs and gutters, sidewalks, storm drainage facilities, pedestrian walkways, street lights, right-of-way and lot grading and other required improvements shall be guaranteed by the subdivider or his agent by furnishing surety in the form of a performance and maintenance bond.

Said bond shall be to the favor of the City and shall be furnished at the time construction plans are submitted for approval. The amount of the bond shall be for the full cost of the improvements and shall remain in effect for two years from the date of completion and acceptance by the City. Said bond shall be properly executed prior to any grading or construction and shall be released upon written approval of the City Engineer.

A building permit shall not be issued for a lot or tract in a subdivision which abuts a street for which a bond has not been furnished.

L. Funds for Improvement of Abutting Thoroughfares and Collectors

In the event any development or subdivision shall necessitate modification to or improvement of any other public infrastructure in the City, the subdivider may be required to pay for some or all of such modification, including, but not limited to, all engineering, planning, legal, design, or construction costs of such modification or improvement. Examples of such improvements may include, but shall not be limited to, paying for enhancements to nearby or adjacent sanitary sewers, storm water drainage, or street facilities.

All such modifications shall be reasonably proportionate to the imprint of the subdivision or development upon the other public infrastructures. If the amount of work required herein will cost, in the professional opinion of the City Engineer, $50,000 or more, the subdivider shall deposit with the City funds equal to the estimated costs of the improvements, either in cash or an irrevocable letter of credit from a financial institution acceptable to the City, such funds to be collectible no later than two years from the date of issuance.
(Code 2008, ch. 16, § 1.5.3; Ord. No. 1024, § 8, 2-10-2022)

1.6 APPLICATIONS AND PROCEDURES

1.6.1 Who May Apply

A. Application for a zoning text amendment may be filed only by the Governing Body or Planning Commission.

B. An application for rezoning to a conventional zoning district may be filed by the Governing Body, the Planning Commission, the landowner, or the landowner's agent.

C. An application for an appeal to the Board of Zoning Appeals may be filed by any person aggrieved, or by any officer of the City or any governmental agency or body affected by any decision of an official administering the provisions of Chapter 16 Westwood Zoning Code.

D. All other applications provided for in this chapter may only be filed by the landowner or the landowner's agent.

E. All applications shall be made on forms prescribed by the City and available by the City Clerk.
(Code 2008, ch. 16, § 1.6.1; Ord. No. 960, § 1(1.6.1), 7-9-2015)

1.6.2 Application Fees

Fees for all applications provided for in this chapter shall be established by the Governing Body by resolution.
(Code 2008, ch. 16, § 1.6.2; Ord. No. 960, § 1(1.6.2), 7-9-2015)

1.6.3 Application – Proof of Ownership and/or Authorization of Agent.

A. Where an application has been filed by, or on behalf of, a landowner, an affidavit of ownership shall be submitted to the City.

B. Where an application has been filed by an agent of a landowner, an affidavit of the landowner establishing the agent's authorization to act on behalf of the landowner shall also be submitted.

C. The affidavits required by this section shall be on forms prescribed by the City or in such form as is acceptable to the City Clerk, and shall be submitted at the time of filing the application.
(Code 2008, ch. 16, § 1.6.3; Ord. No. 960, § 1(1.6.3), 7-9-2015)

1.6.4 Preapplication Conference.

A preapplication conference with City staff may, at the discretion of the Mayor or Building Official, be required prior to submission of any application for a rezoning request, special use permit, preliminary development plan or site plan. The purpose of this conference shall be to: acquaint the applicant with the procedural requirements of this title; provide for an exchange of information regarding the proposed development plan and applicable elements of this title, the City's Comprehensive Plan and other development requirements; advise the applicant of any public sources of information that may aid the application; identify policies and regulations that create opportunities or pose significant restraints for the proposed development; review any proposed concept plans and consider opportunities to increase development benefits and mitigate undesirable project consequences; and permit staff input into the general design of the project. Specific requirements and provisions related to the proposed development, building, and standards for Communication Facilities for Wireless Services are contained within Article

Ten of the Zoning Ordinance.
(Code 2008, ch. 16, § 1.6.4; Ord. No. 960, § 1(1.6.4), 7-9-2015; Ord. No. 984, § 1, 9-21-2017); Ord. No. 1024, § 9, 2-10-2022

1.6.5 Submission of Technical Studies.

A. City staff may require applicants for rezoning requests, special use permits, preliminary development plans, site plans or plats to submit such technical studies as may be necessary to enable the Planning Commission or Governing Body to evaluate the application. The determination of the need and requirement for technical studies shall be made in a reasonable and nondiscriminatory manner. Technical studies reasonably required for applications for communication facilities or applications for special use permits for communication facilities for wireless services shall be subject to the applicable provisions of state and federal law and regulations. Examples of technical studies that may be required shall include, but not be limited to, traffic studies, engineering studies, geologic or hydro-geologic studies, flood studies, environmental impact assessments, noise studies, market studies, or economic impact reports. The persons or firms preparing the studies shall be subject to the approval of City staff. The costs of all studies shall be borne by the applicant. Any decision of City staff to require any such study or to disapprove the persons or firms selected by the applicant to perform the study may be appealed to the Planning Commission. The decision of the Planning Commission on any such appeal shall be final, subject to the applicable provisions of state and federal law and regulations.

B. Notwithstanding the fact that City staff did not require submission of any technical studies in support of the application, either the Planning Commission or the Governing Body may require the submission of such studies prior to taking action on the application. In such case, the persons or firms selected to perform the studies shall be subject to the approval of the entity requesting that the studies be performed. Any decision of the Planning Commission or the Governing Body to require that studies be performed or to disapprove the persons or firms selected by the applicant to perform the studies shall be final.
(Code 2008, ch. 16, § 1.6.5; Ord. No. 960, § 1(1.6.5), 7-9-2015; Ord. No. 984, § 2, 9-21-2017; Ord. No. 1024, § 10, 2-10-2022)

1.6.6 When an Application is Deemed Complete.

No application shall be deemed complete until all items required to be submitted in support of the application have been submitted subject to the provisions of this chapter; provided that, requirements and provisions related to applications for and the definitions, proposed development, and building standards for Communication Facilities for Wireless Services contained within Article Ten of the Zoning Ordinance.
(Code 2008, ch. 16, § 1.6.6; Ord. No. 960, § 1(1.6.6), 7-9-2015; Ord. No. 984, § 3, 9-21-2017)

1.6.7 Application Submission Deadlines.

The Building Official or the Planning Commission may administratively provide for submission deadlines for materials required in support of any application provided for in this chapter. Compliance with such deadlines shall generally be required in order to have

the application placed on an agenda to be heard by the Planning Commission. At the discretion of the Planning Commission Chairman, nonagenda items may be brought before the Planning Commission for consideration, provided that the Planning Commission in its sole discretion may refuse to hear nonagenda items. The Planning Commission may consider items not on the agenda if a majority of the Commission members vote approval to do so.
(Code 2008, ch. 16, § 1.6.7; Ord. No. 960, § 1(1.6.7), 7-9-2015)

1.6.8 Public Hearing Notices.

Unless otherwise specifically provided for in this chapter, all publication notices for public hearings required by this chapter shall be published in one issue of the official City newspaper, and at least 20 days prior to the date set for hearing. The publication notice shall fix the time and place for the public hearing. When the hearing is for consideration of changes in the text of this title, or a general revision of the boundaries of zoning districts, the notice shall contain a statement regarding the proposed changes in this title or in the boundaries of the zone or district. If the hearing is on an application which concerns specific property, the property shall be designated by a general location description and/or general street location.
(Code 2008, ch. 16, § 1.6.8; Ord. No. 960, § 1(1.6.8), 7-9-2015)

1.6.9 Notice to Surrounding Property Owners.

Unless otherwise specifically provided in this chapter, whenever notice to surrounding property owners is required for consideration of an application, such notice shall be given as follows: notices shall be mailed at least 20 days prior to the hearing, thus notifying such property owner of the opportunity to be heard. Notice shall be mailed to all owners of record of land within 200 feet of the property subject to the application. Such mailed notice shall be given by first class mail and shall be in letter form stating the time and place of the hearing, a general description of the proposal, a general street location of the property subject to the proposed change, and a statement explaining that the public may be heard at the public hearing. In cases of applications for which protest petitions may be submitted, the notice shall also contain a statement explaining that property owners required to be notified by this section shall have the opportunity to submit a protest petition, in conformance with this title, to be filed with the office of the City Clerk within 14 days after the conclusion of the public hearing. Mailed notices shall be addressed to the owners of the property, as provided by the applicable County department, and not to mere occupants thereof. When the notice has been properly addressed and deposited in the mail, failure to receive mailed notice shall not invalidate any action taken on the application.
(Code 2008, ch. 16, § 1.6.9; Ord. No. 960, § 1(1.6.9), 7-9-2015)

1.6.10. Posting of Signs for Rezoning Requests and Initial Special Use Permits.

In the case of rezoning requests and initial special use permits, the applicant shall place a sign on the property informing the general public that a public hearing will be held at a specific time and place concerning proposed changes in use. The sign shall be furnished by the City to the applicant, and the applicant shall maintain the sign for at least the 20 days immediately preceding the date of the public hearing. The sign shall be firmly affixed and attached to a wood or metal backing or frame and placed so as to face each of the

streets abutting thereto within five feet of the street right-of-way line in a central position on the lot, tract, or parcel of land so that the sign is free of any visual obstructions surrounding the sign. The applicant shall file an affidavit with the City Clerk at the time of the public hearing verifying that the sign has been maintained and posted as required by this title and applicable resolutions. Failure to submit the affidavit prior to the hearing may result in a continuance of the hearing. The sign may be removed at the conclusion of the public hearing and must be removed at the end of all proceedings on the application or upon withdrawal of the application.
(Code 2008, ch. 16, § 1.6.10; Ord. No. 960, § 1(1.6.10), 7-9-2015)

1.6.11 Public Hearing Process.

A. When the consideration of an application requires a public hearing, the following provisions shall apply:

B. The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application.

C. An accurate written summary of the proceedings shall be made for all public hearings.

D. The Governing Body, Planning Commission, and Board of Zoning Appeals may adopt rules of procedure for public hearings by resolution or bylaws.

E. If an item which is subject to a public hearing is continued or otherwise carried over to a subsequent date and the public hearing has been opened, then the public hearing shall not be deemed concluded until the date on which the hearing is formally closed and the Planning Commission has taken action on the application. No additional notices shall be required once the public hearing is opened.
(Code 2008, ch. 16, § 1.6.11; Ord. No. 960, § 1(1.6.11), 7-9-2015)

1.6.12 Continuances of Applications.

A. Any applicant or authorized agent shall have the right to one continuance of a public hearing before the Planning Commission or Board of Zoning Appeals; provided, that a written request therefor is filed with the Secretary of the Planning Commission or Board of Zoning Appeals at least two business days prior to the date of the scheduled hearing. In any event, the applicant shall cause written notice of the rescheduled public hearing date to be sent to surrounding property owners in the same manner and in accordance with the same time schedule as required for notice of the original hearing.

B. The Planning Commission, Board of Zoning Appeals, or the Governing Body may grant a continuance of an application for good cause shown. The record shall indicate the reason such continuance was made and any stipulations or conditions placed upon the continuance. All motions to grant a continuance shall state the date on which the matter is to be heard. A majority vote of those members of the official body present at the meeting shall be required to grant a continuance. The Planning Commission or Board of Zoning Appeals shall not continue an application for more than six months from the published public hearing date.

(Code 2008, ch. 16, § 1.6.12; Ord. No. 960, § 1(1.6.12), 7-9-2015)

1.6.13 Consideration of Text Amendments, Rezoning Requests, and Special Use Permits – Process.

A. Public Hearing Required. Consideration of zoning text amendments, rezoning requests, and special use permits shall require a public hearing before the Planning Commission following publication notice as provided in Section 1.6.8 through 1.6.11. Applications for communication facilities or applications for special use permits for communication facilities for wireless services shall be processed within the applicable timeframes set forth in Article Ten, Section 10.4.C.

B. Action by Planning Commission. A vote either for or against a zoning text amendment, rezoning request, or special use permit by a majority of all of the Planning Commissioners present and voting shall constitute a recommendation of the Planning Commission. If a motion for or against the zoning text amendment, rezoning request, or special use permit fails to receive a majority vote of the Planning Commission, the Planning Commission may entertain a new motion. A tie vote of the Planning Commission on any motion shall be deemed to be a failure of the Planning Commission to make a recommendation. The Planning Commission's recommendation to approve or disapprove shall be submitted to the Governing Body for action, accompanied by an accurate written summary of the hearing proceedings. A recommendation to approve a zoning text amendment shall be submitted in the form of an ordinance.

C. Governing Body Action upon Planning Commission Recommendation of a Zoning Text Amendment, Rezoning Request, or Special Use Permit. The Governing Body may (1) approve such recommendations by the adoption of the same by ordinance or resolution; (2) override the Planning Commission's recommendation by a two-thirds majority vote of the membership of the Governing Body; or (3) return the same to the Planning Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

D. Applications returned to Planning Commission. Upon receipt of an application returned by the Governing Body, the Planning Commission may resubmit its original recommendation giving the reasons therefor or submit a new or amended recommendation. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after the receipt of the Governing Body's report, the Governing Body may consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

E. Reconsideration by Governing Body. Upon receipt of the Planning Commission's recommendation after reconsideration, the Governing Body, by a simple majority thereof, may take such action as it deems appropriate, including approval, disapproval or amendment of the application and adoption as amended, or the Governing Body may return the same to the Planning Commission for further consideration. Unless the Governing Body returns the application to the Planning Commission for further consideration or continues its consideration of the matter to another date, the Governing Body's action on the application shall constitute a final decision.

F. Notwithstanding the above, applications for special use permits for communication facilities shall follow the process contained in and be subject to the provisions, definitions, time limits and requirements of Article Ten of the Westwood Zoning Ordinance.
(Code 2008, ch. 16, § 1.6.13; Ord. No. 960, § 1(1.6.13), 7-9-2015; Ord. No. 984, § 4, 9-21-2017)

1.6.14 Protest Petition Procedures.

A. A protest against any rezoning request or special use permit shall be filed in the City Clerk's office not later than 4:00 p.m. on the fourteenth day following the date of the conclusion of the Planning Commission's public hearing held pursuant to the publication notice. For the purposes of calculating the 14-day period, weekends and holidays shall be counted. However, if the last day is a nonbusiness day for City offices, then the filing deadline shall be 4:00 p.m. on the next regular business day.

B. In order to be considered a "valid" protest, a protest petition must be timely filed and duly signed and verified by the owners of record of 20 percent of the total area required to be notified, excepting public streets and rights-of-way and the subject property, located within or without the corporate limits of the City, in accordance with Section 1.6.9.

C. Verification of the genuineness and correctness of the signatures on the protest petition, either individually or collectively, shall be made by the City Clerk.

D. Once a valid protest petition has been filed with the City, it may not be withdrawn unless every person that signed the original petition signs a verified affidavit which states and fully explains the rights being waived by the withdrawal of the protest petition. Such affidavits of withdrawal must be filed with the City Clerk on or before the last regular business day preceding the Governing Body meeting for which the protest applies.

E. Adoption Where Protest Filed. Where a valid protest petition has been filed, an ordinance approving the rezoning request, conditional use permit, or special use permit shall not be passed except by the affirmative vote of at least three-quarters of the members of the Governing Body.
(Code 2008, ch. 16, § 16.14; Ord. No. 960, § 1(1.6.14), 7-9-2015)

1.6.15 Consideration of Appeals.

A. Appeals from the decision of any official administering the provisions of this Ordinance shall be filed with the City Clerk within 30 days from the date of the decision by the officer whose decision is being appealed. A copy of the notice of appeal shall also be served upon the officer whose decision is being appealed. Thereafter, the officer whose decision is being appealed shall prepare and transmit to the Secretary of the Board of Zoning Appeals a complete record of all proceedings relating to the appeal.

B. Consideration of appeals by the Board of Zoning Appeals shall be at a public hearing, following publication notice as provided by Section 1.6.8.

C. This section shall not apply to any person who avails themselves of the appeal provisions set forth under K.S.A. 66-2019 (h)(6).

(Code 2008, ch. 16, § 1.615; Ord. No. 960, § 1(1.6.15), 7-9-2015; Ord. No. 984, § 5, 9-21-2017; Ord. No. 1024, § 11, 2-10-2022)

1.6.16 Consideration of Variances.

A. The Board of Zoning Appeals may grant a variance from the specific terms of this Ordinance which would not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship for the applicant, and provided that the spirit of this Ordinance shall be observed, the public safety and welfare secured and substantial justice done of the applicant. Provided, however, that the Board shall not have jurisdiction to grant a variance for property zoned under a planned zoning district.

B. Variances shall only be considered after a public hearing has been held, following publication notice and notice to surrounding property owners as provided by Section 1.6.8 through 1.6.9.

C. An application for a variance may only be granted upon a finding by the Board that all the provisions of Section 1.8.4 have been met.
(Code 2008, ch. 16, § 1.6.16; Ord. No. 960, § 1(1.6.16), 7-9-2015; Ord. No. 1024, § 12, 2-10-2022)

1.6.17 Criteria for Considering Applications.

In considering any application for rezoning request, conditional use permit, or special use permit, the Planning Commission and the Governing Body may give consideration to the criteria stated below, to the extent they are pertinent to the particular application; provided that, any denial of an application for communication facilities or an application for a special use permit for communication facilities for wireless services shall not discriminate against the applicant with respect to the placement of communications facilities of other investor-owned utilities, wireless service providers, wireless infrastructure providers, or wireless carriers as defined and required by Article Ten of the Westwood Zoning Ordinance and applicable law. In addition, the Planning Commission and Governing Body may consider other factors which may be relevant to a particular application.

A. The conformance of the proposed use to the City’s Comprehensive Plan and other adopted planning policies;

B. The character of the neighborhood including, but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space, and floor-to-area ratio (commercial and industrial);

C. The zonings and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zonings and uses;

D. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations;

E. The length of time the property has remained vacant as zoned;

F. The extent to which approval of the application would detrimentally affect nearby properties;

G. The extent to which the proposed use would substantially harm the value of nearby properties;

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

I. The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution, or other environmental harm;

J. The economic impact of the proposed use on the community;

K. 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;

L. The recommendation of professional staff.
(Code 2008, ch. 16, § 1.6.17; Ord. No. 960, § 1(1.6.17), 7-9-2015; Ord. No. 984, § 6, 9-21-2017; Ord. No. 1024, § 13, 2-10-2022)

1.6.18 Rezoning Applications – Submission Requirements.

The Planning Commission shall adopt a document outlining submission requirements for rezoning applications. This document shall require a legal description, adequate information to provide notice to surrounding property owners (pursuant to Section 1.6.9), and shall list additional documents and information required to be submitted in support of the application. City staff may also require additional technical studies not listed on the application pursuant to Section 1.6.5. The Building Official shall have the authority to refuse or table incomplete applications until the required information is submitted. Any application that has been tabled for more than 60 days shall be considered to have been withdrawn.
(Code 2008, ch. 16, § 1.6.18; Ord. No. 960, § 1(1.6.18), 7-9-2015)

1.6.19 Special Use Permit Applications – Submission Requirements.

The Planning Commission shall adopt a document outlining submission requirements for special use permit applications. This document shall require a site plan, a legal description, adequate information to provide notice to surrounding property owners, and shall list additional documents and information required to be submitted in support of the application. City staff may also require additional technical studies not listed on the application pursuant to Section 1.6.5. The Building Official shall have the authority to refuse or table incomplete applications until the required information is submitted. Any application that has been tabled for more than 60 days shall be considered to have been withdrawn. Notwithstanding the above, applications for special use permits for communication facilities shall follow the process contained in and be subject to the provisions, definitions, requirements and timeframes set forth in Article Ten of the

Westwood Zoning Ordinance.
(Code 2008, ch. 16, § 1.6.19; Ord. No. 960, § 1(1.6.19), 7-9-2015; Ord. No. 984, § 7, 9-21-2017)

1.6.20 Site Plan Approval.

A site plan is required for property zoned C-0, C-1, P-1, or for non-residential developments within an R-1 zoning district.

A. The purpose and intent of requiring site plan approval is to encourage the compatible arrangement of buildings, off-street parking, lighting, landscaping, pedestrian walkways and sidewalks, ingress and egress, and drainage on the site and from the site, any or all of these, in a manner that will promote safety and convenience for the public and will preserve property values of surrounding properties.

B. ~~After the effective date of the Ordinance codified in this title,~~ no property which has a conventional zoning district classification or which requires approval of a site plan may be developed or significantly redeveloped without a site plan which has been submitted to and approved by the Planning Commission, or the Building Official indicating that site will conform to the current applicable requirements of City code. "Significant redevelopment" means alterations or changes to property in such manner that one or more of the following is applicable: [6]

1. The development results in the construction of a building, structure, or addition that increases the gross square footage of the existing development by more than 10 percent;

2. The estimated construction costs of all improvements to the development exceed 25 percent of the most recent appraised fair market value of the existing property as determined by the County Appraiser;

3. The construction or paving of a parking lot or facility which covers ground previously not used as a parking lot or facility, or the construction or paving of any parking lot or facility which does not conform to City pavement standards;

4. The intensification of property by a change of use which increases off-street parking requirements pursuant to Section 5.4.

C. Approved site plans are valid for two years. The Planning Commission may grant time extensions up to one additional year. The property owner may appeal disapproval or conditions of approval of a site plan by the Planning Commission to the Governing Body by filing a notice of appeal with the City Clerk within 10 days following the Planning Commission's decision. An approved site plan shall be required prior to the issuance of a building permit; provided, that single-family buildings are hereby expressly exempted.

D. Modifications to a valid site plan may be approved administratively by the Building Official if the changes proposed do not significantly deviate from the approved site plan. The following changes are not considered significant changes to the site plan:

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[6] **Legal analysis: 1.6.20 Site Plan Approval.** Delete effective date language as no longer needed.

1. An increase in floor area not exceeding five percent;

2. Substitution of landscape materials; provided, that the new materials are the same general size and type;

3. Minor changes to elevation, building materials, parking lot design, screening fences or walls, building location, etc., that would improve the site or are needed because of circumstances not foreseen at the time the site plan was approved by the Planning Commission.
(Code 2008, ch. 16, § 1.6.20; Ord. No. 960, § 1(1.6.20), 7-9-2015; Ord. No. 1024, § 14, 2-10-2022)

1.6.21 Site Plan Approval Criteria.

The Planning Commission shall review the site plan to determine if it demonstrates a satisfactory quality of design in the individual buildings and in its site, the appropriateness of the building or buildings to the intended use, and the aesthetic integration of the development into its surroundings. Satisfactory design quality and harmony will involve among other things:

A. The site is capable of accommodating the building(s), parking areas and drives with appropriate open space;

B. The plan is consistent with good land planning, good site engineering design principles, and good landscape architectural principles;

C. An appropriate use of quality materials and harmony and proportion of the overall design;

D. The architectural style should be appropriate for the project in question and compatible with the overall character of the neighborhood;

E. The siting of the structure on the property, as compared to the siting of other structures in the immediate neighborhood;

F. The bulk, height and color of the proposed structure as compared to the bulk, height and color of other structures in the immediate neighborhood;

G. Landscaping to City standards shall be required on the site and shall be in keeping with the character or design of the site;

H. Ingress, egress, internal traffic circulation, off-street parking facilities and pedestrian ways shall be so designed as to promote safety and convenience, and shall conform to City standards;

I. The plan represents an overall development pattern that is consistent with the City’s Comprehensive Plan, the official street map, and other adopted planning policies.
(Code 2008, ch. 16, § 1.6.21; Ord. No. 960, § 1(1.6.21), 7-9-2015)

1.6.22 Site Plans and Final Development Plans – Contents and Submission Requirements.

The Planning Commission shall adopt a document outlining submission requirements for a site plan for a conventional zoning district classification, and for final development plan applications for planned zoning districts. This document shall require a specific number of copies of the site plan or final development plan, outline what information must be shown on the plan, and shall list additional documents or information required to be submitted in support of the application. City staff may also require additional technical studies not listed on the application, pursuant to Section 1.6.5. The Building Official shall have the authority to refuse or table incomplete applications until the required information is submitted. Any application that has been tabled for more than 60 days shall be considered to have been withdrawn.
(Code 2008, ch. 16, § 1.6.22; Ord. No. 960, § 1(1.6.22), 7-9-2015)

1.6.23 Preliminary Development Plan – Submission Requirements.

The Planning Commission shall adopt a document outlining submission requirements for preliminary development plan applications. This document shall require a specific number of copies of the preliminary development plan, outline what information must be shown on the plan, require a legal description, require adequate information to provide notice to surrounding property owners (pursuant to Section 1.6.9), and list additional documents or information required to be submitted in support of the application. City staff may also require additional technical studies not listed on the application, pursuant to Section 1.6.5. The Building Official shall have the authority to refuse or table incomplete applications until the required information is submitted. Any application that has been tabled for more than 60 days shall be considered to have been withdrawn.
(Code 2008, ch. 16, § 1.6.23; Ord. No. 960, § 1(1.6.23), 7-9-2015)

1.6.24 Consideration of Preliminary Development Plans.

When property is requested to be rezoned to a planned zoning district, the preliminary development plan shall be considered and approved as part of the rezoning application. In the process of approving preliminary and final plans, the Planning Commission and Governing Body may approve deviations from the standard requirements set forth hereinafter or as set forth in an applicable Commercial Overlay District, provided any approved deviation is in keeping with accepted land planning principles and is clearly set out in the minutes and on the exhibits in the record. When property has been approved for rezoning to a planned zoning district, changes in the preliminary development plan may be made only after approval of a revised preliminary development plan. Changes in the preliminary development plan which are not substantial or significant may be approved by the Building Official, and disapproval of such changes by the Building Official may be appealed to the Planning Commission. Substantial or significant changes in the preliminary development plan may only be approved after rehearing by the Planning Commission and Governing Body; such rehearing shall be subject to the notice and protest provisions set forth in Section 1.6.8 through 1.6.9.
(Code 2008, ch. 16, § 1.6.24; Ord. No. 960, § 1(1.6.24), 7-9-2015)

1.6.25 Substantial Changes.

A. For purposes of this section, "substantial or significant changes" in the preliminary development plan shall mean any of the following:

1. Increases in the density or intensity of residential uses by more than five percent;

2. Increases in the total floor areas of all nonresidential buildings covered by the plan by more than ten (10) percent;

3. Increases of lot coverage by more than five percent;

4. Increases in the height of any buildings by more than ten (10) percent;

5. Changes of architectural style which will make the project less compatible with surrounding uses;

6. Changes in ownership patterns or stages of construction that will lead to a different development concept;

7. Changes in ownership patterns or stages of construction that will impose substantially greater loads on streets and other public facilities;

8. Decreases of any peripheral setbacks by more than 25 percent;

9. Decreases of areas devoted to open space by more than five percent or the substantial relocation of such areas;

10. Changes of traffic circulation patterns that will affect traffic outside of the project boundaries;

11. Modifications or removal of conditions or stipulations to the preliminary development plan approval.

B. The determination of whether a proposed revised preliminary development plan contains "substantial or significant changes" shall be made by the Building Official within five business days following the filing of the application. The determination of the Building Official may be appealed to the Planning Commission, whose decision shall be final.

C. In the event that the application for the revised preliminary development plan is denied, the previously approved preliminary development plan will remain in effect. (Code 2008, ch. 16, § 1.6.25; Ord. No. 960, § 1(1.6.25), 7-9-2015)

1.6.26 Consideration of Final Development Plans.

A. No property which has a planned zoning district classification or which requires approval of a final development plan may be developed or significantly redeveloped without a final development plan having been submitted to and approved by the Planning Commission indicating that the site will conform to the current applicable requirements of City code. Final development plans for planned zoning districts which contain no modifications or additions from the approved preliminary development plan shall be approved by the Planning Commission if the Commission determines that the landscaping

and screening plan is adequate and that all other submission requirements have been satisfied.

B. A final development plan which contains modifications from the approved preliminary development plan, but is in substantial compliance with the preliminary plan, may be approved by the Planning Commission without a public hearing; provided, that the Commission determines that the landscaping and screening plan is adequate and that all other submission requirements have been satisfied. For purposes of this section, lack of "substantial compliance" shall have the same meaning as "substantial or significant changes" as set forth in Section 1.6.25. Any determination made by the Planning Commission under this subsection shall be appealable to the Governing Body by the applicant within 10 days of the date of the Planning Commission determination.

C. In the event of a determination that the proposed final development plan is not in substantial compliance with the approved preliminary development plan, the application may not be considered except at a public hearing, following publication notice and notice to surrounding property owners as provided in Section 1.6.8 through 1.6.9.

D. Revisions to approved final development plans which are insignificant in nature may be approved administratively by the Building Official. In no event may revisions to approved final development plans be approved administratively if the proposed revised final plan contains "substantial or significant changes" as defined in Section 1.6.25.

E. The Building Official may accept final development plans submitted concurrently with the preliminary development plan. The Planning Commission may approve a final development plan prior to the approval of a preliminary development plan by the Governing Body with the conditions on the final development plan approval that it is consistent with the approved preliminary development plan and subject to the preliminary development plan being approved by the Governing Body.
(Code 2008, ch. 16, § 1.6.26; Ord. No. 960, § 1(1.6.26), 7-9-2015)

1.6.27 Abandonment of Final Development Plan.

In the event that a plan or a section thereof is given final approval and thereafter the landowner shall abandon said plan or section thereof and shall so notify the City in writing or the landowner shall fail to commence the planned development within two years after final approval has been granted, then such final approvals shall terminate and shall be deemed null and void unless such time period is extended by the Planning Commission upon written application by the landowner. Whenever a final plan or section thereof has been abandoned as provided in this section, no development shall take place on the property until a new final development plan has been approved.
(Code 2008, ch. 16, § 1.6.27; Ord. No. 960, § 1(1.6.27), 7-9-2015)

1.6.28 Conditional Approvals.

When approving any application, the approving authority may stipulate that the approval is subject to compliance with certain specified conditions including, but not limited to, time of performance requirements, limitation on hours of operation, participation in transportation systems management programs, or participation in improvement districts or other programs for financing public facilities.

(Code 2008, ch. 16, § 1.6.28; Ord. No. 960, § 1(1.6.28), 7-9-2015)

1.6.29 Written Findings.

Unless otherwise specifically provided in this title, written findings are not required for a final decision on any application; provided that, in the event of a denial of an application for communication facilities or an application for a special use permit for communication facilities for wireless services, the City shall notify the applicant in writing of the City's final decision, supported by substantial evidence contained in a written record and issued contemporaneously. However, any decision may be expressly made subject to the subsequent adoption of written findings and, in such cases, the decision shall not be considered final until such findings are adopted. When an appeal of any quasi-judicial decision has been filed in the District Court of Johnson County pursuant of K.S.A. 12-760 or 60-2101(d) in cases where written findings have not been adopted, written findings shall be adopted by the approving authority within 45 days of service of the appeal on the City and thereafter shall be certified to the District Court as part of the administrative record. The 45-day time period for adoption and certification of findings may be extended with the permission of the District Court.
(Code 2008, ch. 16, § 1.6.29; Ord. No. 960, § 1(1.6.29), 7-9-2015; Ord. No. 984, § 8; 9-21-2017)

1.6.30 Final Decision When Ordinance Required.

In the case of approval of a zoning text amendment, rezoning request, special use permit, or other application where adoption of an ordinance is required, the decision approving the application shall not be deemed to be final until the ordinance has been published in an official City newspaper. In all other cases, the decision shall be deemed final as of the date that the approving authority votes to approve or deny the application.
(Code 2008, ch. 16, § 1.6.30; Ord. No. 960, § 1(1.6.30), 7-9-2015)

1.6.31 Revocation of Special Use Permits.

A. Any special use permit granted under the authority of this chapter is subject to revocation for any or all of the following reasons:

1. Noncompliance with any specified applicable performance standard requirements;

2. Noncompliance with any special conditions imposed at the time of approval of the special use permit or conditional use permit;

3. Violation of any provisions of the Code pertaining to the use of the land, construction or uses of buildings or structures, or activities conducted on the premises by the permittee or agents of the permittee;

4. When conditions in the neighborhood have changed to the extent that approval of the permit would be clearly unwarranted if being applied for at the time of revocation;

5. Violation of any other applicable Code provisions or any state or federal laws or regulations by the permittee or agents of the permittee; provided, that such violations relate to the conduct or activity authorized by the permit or the qualifications of the

permittee or its agents to engage in such conduct or activity.

B. Revocation proceedings may be initiated by a majority vote of the Governing Body.

1. The Governing Body shall hold a public hearing to consider the revocation of the special use permit. The City shall give the permittee and landowner notice of the scheduled revocation hearing at least five days prior to the date scheduled for such hearing. If the permittee and landowner are present at the meeting of the Governing Body at which the revocation proceedings are initiated, no further notice shall be required; otherwise, notice shall be given by personal service or certified mail, return receipt requested. If the notice cannot be delivered or is not accepted, notice may be given by publishing a notice of hearing in the official City newspaper and by posting a notice of hearing on the property at least five days prior to the date scheduled for the hearing.

2. No special use permit shall be revoked unless a majority of the Governing Body is satisfied by a preponderance of the evidence that grounds for revocation exist. Any motion for the revocation of a special use permit shall clearly state the grounds for revocation. In addition, when the basis for revocation is "changed conditions," revocation may only occur upon an explicit finding that revocation is necessary for the protection of the public health, safety, and welfare. Adoption of any motion to revoke a special use permit or conditional use permit may be made subject to subsequent adoption of written findings of fact and conclusions of law, at the discretion of the Governing Body.

3. An appeal of any decision of the Governing Body to revoke a special use permit may be filed in the District Court of Johnson County, Kansas, pursuant to K.S.A. 12-760, or amendments thereto. Any appeal taken shall not suspend the order of revocation during the pendency of the appeal unless so ordered by the District Court.
(Code 2008, ch. 16, § 1.6.31; Ord. No. 960, § 1(1.6.31), 7-9-2015)

1.6.32 Appeals of Final Decisions.

Except where this title provides for an appeal to another quasi-judicial or administrative body, any person, official or agency aggrieved by a final decision on an application provided for in this title desiring to appeal said decision shall file the appeal in the District Court of Johnson County within 30 days of the making of the decision; provided that, this section shall not apply to any person who avails themselves of the appeal provisions set forth under K.S.A. 66-2019 (h)(6).
(Code 2008, ch. 16, § 1.6.32; Ord. No. 960, § 1(1.6.32), 7-9-2015; Ord. No. 984, § 9, 9-21-2017)

1.7 RESERVED

(Ord. No. 960, § 2, 7-9-2015)

1.8 BOARD OF ZONING APPEALS

1.8.1 Board of Zoning Appeals Created

A Board of Zoning Appeals for the City of Westwood is hereby created. The members of

the Planning Commission of the City of Westwood shall sit as the Board of Zoning Appeals.
(Code 2008, ch. 16, § 1.8.1)

1.8.2 Meetings

Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. The Board shall annually elect one of its members as chairperson and shall appoint a secretary who may be an officer or employee of the City. The Board shall fix a reasonable time for the hearing of appeals or any other matters referred to it. Notice of the time, place and subject of such hearing shall be published once in the official city newspaper at least twenty days prior to the date fixed for the hearing. A copy of the notice shall be mailed to each party to the appeal and to the City Planning Commission.
(Code 2008, ch. 16, § 1.8.2)

1.8.3 Minutes

The Board shall keep minutes of such proceedings, showing evidence presented, findings of fact by the Board, decisions of the Board, and a vote upon each question. Records of all official actions of the Board shall be filed in the Office of the City Clerk and shall be a public record.
(Code 2008, ch. 16, § 1.8.3)

1.8.4 Appeals, Exceptions, Variances Generally: Procedure

A. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the city, county, or any governmental agency or body affected by any decision of the officer administering the provisions of the Zoning Ordinance or resolution. Such appeal shall be taken within a reasonable time as provided by the rules of the board, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefore. The officer from whom the appeal is taken, when notified by the board or its agent, shall transit to the board all the papers constituting the record upon which the action appealed from was taken. The board shall have power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the Zoning Ordinance or resolution. In exercising the foregoing powers, the board, in conformity with the provisions of this act, 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.

B. Any request for an appeal, variance or exception shall state with specificity the relief sought and all basis or reasons for the relief. All required notices shall state the relief sought with specificity but need not elaborate on the factual or legal bases for the variance, appeal or exception.

C. When deemed necessary by the board of zoning appeals, the board may grant variances and exceptions from the zoning regulations on the basis and in the manner hereinafter provided:

1. To authorize in specific cases a variance from the specific terms of the regulations which will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the regulations, in an individual case, results in unnecessary hardship, and provided that the spirit of the 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 request for a variance may be granted in such case, upon a finding by the board that all of the following conditions have been met:

a. that the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant;

b. that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

c. that the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

d. that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and

e. that granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

2. To grant exceptions to the provisions of the zoning regulation in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning regulation. Further, under no conditions shall the board of zoning appeals have the power to grant an exception when conditions of this exception, as established in the zoning regulation by the Governing Body, are not found to be present.

D. No variance or exception shall be granted except as explicitly provided by law.

E. Any person, official or governmental agency dissatisfied with any order or determination of the Board may bring an action in the Johnson County District Court to determine the reasonableness of any such order or determination. Such appeal shall be filed within thirty days of the final decision of the Board.
(Code 2008, ch. 16, § 1.8.4; Ord. No. 1024, § 15, 2-10-2022)

ARTICLE TWO: DEFINITIONS

2.1 Intent

For the purpose of interpreting this Ordinance, certain terms, words, concepts, and ideas used herein shall be interpreted or defined as follows, unless more specifically described, limited or qualified within a specific Article, Section or standard of this Ordinance.
(Code 2008, ch. 16, § 2.1; Ord. No. 984, § 10, 9-21-2017)

2.2 Interpretation [7]

A. Except as defined herein, all other words used in this Ordinance shall be as defined in the latest edition of Webster's International Dictionary.

~~B. Words used in the present tense include the future tense.~~

~~C. Words used in the singular number include the plural, and words used in the plural number include the singular.~~

~~D. The word "person" includes a firm, association, organization, partnership, corporation, trust, company, or other entity as well as an individual.~~

E. The word "lot" includes the word "plot" or "parcel" or "tract."

~~F. The word "shall" is always mandatory.~~

G. The word "structure" shall include the word "building."

H. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

I. The terms "Zoning Map," and "Westwood Zoning Map," shall mean "The City of Westwood Zoning Map."

~~J. Any word denoting gender should be all inclusive.~~

~~K. The term "Governing Body" shall mean the "Mayor and the City Council of Westwood, Kansas."~~

L. The term "Planning Commission" shall mean the "Planning Commission of Westwood, Kansas."

M. The term "Board of Zoning Appeals" shall mean the "Board of Zoning Appeals of Westwood, Kansas."

N. The term "Building Official" shall mean the "Building Official of Westwood, Kansas, or designee."
(Code 2008, ch. 16, § 2.2; Ord. No. 1024, § 16, 2-10-2022)

2.3 Definitions

2.3.010 Accessory Structure: a structure subordinate in square footage and primary use to the primary structure on a lot. In some instances only in commercial and institutional development, an accessory structure may be larger in square footage than the primary

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[7] Legal analysis: 2.2 Interpretation: (B),(C),(D),(F),(J), and (K). These are covered under the general provisions of Chapter 1. However, if the city may in the future consider removing the zoning ordinance from the general city code, and making it either a separate zoning code, or an appendix to the code, then said terms should be retained.

structure and may serve in an auxiliary capacity to the primary structure's primary use, e.g., the meeting hall of a church.

2.3.015 Accessory Use: a customary use incidental and subordinate to the primary use of a building, and located on the same lot with such primary use or building.

2.3.020 Alteration: any addition, removal, extension, or change in the location of any exterior surface of a primary building or accessory building.

2.3.025 Apartment House: (See Dwelling, Multiple-Family)

2.3.030 Appurtenance: a subordinate or accessory building or structure or portion of a primary structure, the use of which is incidental and customary to that of said primary structure.

2.3.035 APWA: American Public Works Association.

2.3.040 Arcade: any establishment housing 5 or more video games, pinball games, air hockey, or similar coin-operated amusement apparatus.

2.3.045 Assisted Living, Skilled Nursing, Continuing Care Retirement Facilities: a building, or a group of buildings, where for compensation, care is offered or provided for three (3) or more persons suffering from illness, other than a contagious disease, or sociopathic or psychopathic behavior, which is not of sufficient severity to require hospital attention, or for three (3) or more persons requiring further institutional care after being discharged from a hospital.

2.3.050 Automotive Repair: any building, premises, and land in which or upon which the primary use of land is a business which involves the maintenance or servicing of motorized vehicles.

2.3.055 Back Yard: (See Yard, Rear)

2.3.060 Baseline Elevation: the average elevation of a building, calculated by adding the elevations at each building corner, the elevations of a minimum of the quarter points between each corner, and the lowest elevation between corners regardless of location, then dividing the sum by the total number of elevations used in the summation.

2.3.065 Basement: any floor level four feet or more below grade which is beneath the first story in a building.

2.3.070 Board: the City of Westwood Board of Zoning Appeals.

2.3.075 Board of Zoning Appeals: a board appointed by the Westwood Governing Body, which hears and renders decisions regarding appeals and variances arising out of the Zoning Ordinance of the City of Westwood.

2.3.080 Body Shop: any building, premises, and land in which or upon which the primary use of land is a business which involves the painting of vehicles or the repair of exterior damage to vehicles.

2.3.085 Building: a structure having a roof supported by columns or walls, whether or not completely enclosed

2.3.090 Building Height: (See Height)

2.3.095 Building Line: the plane, parallel to the front property line, formed by the majority of the front facades of buildings in a given block.

2.3.100 Building Official: the person authorized by the City of Westwood to interpret and administer the building codes, the Zoning Ordinance and any other related ordinances or regulations of the City or designated by the Governing Body.

2.3.105 Build-Out: the completed construction of all phases of a development as allowed by all ordinances that regulate an area. The scale of build-out can be from a single lot to multiple lots within the City.

2.3.110 Building Permit: written permission issued by the City of Westwood for construction, as required by the adopted codes and ordinances of the City.

2.3.115 Build-To Line: the line, parallel to the front property line, at which construction of a building is to occur on a lot.

2.3.120 Carrying Capacity: the amount of traffic which can be accommodated on a street without reducing the level of service the street provides as defined by the Kansas Department of Transportation or street design standards of the Westwood ordinances or other regulations. Carrying capacity is determined by the amount of traffic per lane per hour.

2.3.125 Certificate of Occupancy: a certificate allowing the occupancy or use of a commercial building and certifying that the structure of use has been constructed or will be used in compliance with this Ordinance and all other applicable codes and regulations.

2.3.130 Child Care Center: a facility which provides care and educational activities for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care; or which provides before and after school care for school-age children. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations set out in K.S.A. Chapter 65 and K.A.R. Chapter 28.

2.3.135 City Clerk: the person authorized by the City of Westwood to perform all the duties of his/her position as prescribed by statutes or ordinances.

2.3.140 Club: Class A or Class B Club.

Class A Club means a premises which is owned or leased by a corporation, partnership, business trust or association, and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club as determined by the Director of Alcoholic Beverage Control of the Kansas Department of Revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates and their families and guests accompanying them.

Class B Club means a premises operated for profit by a corporation, partnership, or individual to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment ~~and less than fifty percent (50%) of the income is generated from the sale of food consumed on the premises, or less than fifty percent (50%) of the income is generated from athletic services provided on the premises~~. [8]

2.3.145 Collector Street: within the City of Westwood, only Belinder Avenue, West 47th Place, and West 50th Street.

2.3.150 Commission: the City of Westwood Planning Commission.

2.3.155 Community Living Facility: any dwelling or building defined as "group living" or "semi-independent living" by the Kansas Department of Social and Rehabilitation Services (see KAR 30-22-31). This category provides residential care and treatment for patients with mental health and substance abuse illnesses. These establishments provide room, board, supervision, and counseling services. Medical services may be provided if they are incidental to the counseling, mental rehabilitation, and support services offered.

2.3.160 Conditional Use: a use subject to specific provisions or which requires the approval of the Board of Zoning Appeals before the issuance of a zoning permit.

2.3.165 Condominium Dwelling Residence: a building containing two or more dwelling units, which dwelling units are separated by a party wall and which dwelling units are designed and intended to be separately owned in fee under the condominium statutes of the state.

2.3.170 Conservatory: a greenhouse or other structure, primarily of glass or other transparent or translucent material, which encloses a pool, patio, or similar space.

2.3.175 Customary Home Occupation: any use conducted for gain entirely within a residence and carried on by the occupants thereof, which use is clearly incidental and subordinate to the residential use and which does not change the character thereof and in connection with which there is no display or signage. When observed from beyond the lot on which it is located, a home occupation shall not give visual, audible, sensory, or physical evidence that the property is used for any nonresidential purpose.

2.3.180 Day Care: the provision of supervision, training, food, lodging or medical services to persons for less than 24 hours a day.

2.3.185 Day Care Home: a structure designed and used as a one or two-family dwelling where day care is provided for a maximum of twelve (12) children, which is regulated under K.S.A. Chapter 65 and K.A.R. Chapter 28.

2.3.190 Deck: a deck is defined as a wooden flat-floored roofless structure, often attached to a building.

2.3.195 Detention: an engineered method or technique to temporarily store storm water

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[8] **Legal analysis: 2.3 Definitions, 2.3.140 (Class B Club).** Conform to K.S.A. 41-2601(f).

on a site and control its rate of runoff.

2.3.200 Detached Building: a building completely surrounded by open space.

2.3.205 Disability, Disabled: ~~physical, mental, or emotional incapacity as defined by State or Federal law.~~ A physical or mental impairment which substantially limits one or more of a person's major life activities. [9]

2.3.210 Disturbed Ground: any area of ground on a site which during construction is broken, dug up, filled, graded, built on or used for storage or parking.

2.3.215 Drinking Establishment - Bar or Night Club: a premises which may be open to the general public, where alcoholic liquor or cereal malt beverage by the individual drink is sold ~~served and less than fifty percent (50%) of the income is generated from the sale of food consumed on the premises, or less than fifty percent (50%) of the income is generated from athletic services provide on the premises.~~ [10]

2.3.220 Dwelling: a building or portion thereof, designed exclusively for residential occupancy, including single-family and multiple-family dwellings, group homes, but not motels, hotels, or mobile homes.

2.3.225 Dwelling, Cottage Court: a group of small detached houses, duplexes, or townhouses centered around a common courtyard. The central courtyard enhances the character of the area through the provision of consolidated open space. A cottage court may be developed on individual lots or with a common form of ownership. This term includes Bungalow Court.

2.3.230 Dwelling, Multi-Family: a residential building containing two or more dwelling units occupying a single building site. This term includes apartments, multiplexes, and condominiums..

2.3.235 Dwelling, Senior Adult Independent Living: a building containing one or more living units which building and units are designed for exclusive occupancy by persons 55 years of age or older who are in generally good health. This type of residence does not contemplate continuous health care services but may include a resident nurse. The properties do not have central commercial kitchen facilities and generally do not provide meals to residents, but may offer community rooms, social activities, and other amenities.

2.3.240 Dwelling, Single-family: a detached dwelling designed for or occupied exclusively by one family, including residential-design manufactured homes.

2.3.245 Dwelling, Townhouse: a dwelling unit that is part of a building that includes at least three dwelling units with such dwelling units being separated by common walls as opposed to one dwelling unit being over another. This term includes rowhouses,

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[9] **Legal analysis: 2.3 Definitions, 2.3.205 Disability.** Conform to K.S.A. 50-676(b), as "disability" and "incapacity" can have very different legal meanings.

[10] **Legal analysis: 2.3 Definitions, 2.3.215 Drinking Establishment.** Conform to K.S.A. 41-2601(h).

townhomes, single family attached units, and attached dwelling development.

2.3.250 Dwelling, Two-Family: a single structure on a single lot containing two dwelling units, each of which is totally separated from the other by a ceiling, unpierced for any purpose including access, communication, or utility connection.

2.3.255 Dwelling Unit: means one or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use by one family and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

2.3.260 Dwelling Unit, Accessory (ADU): a dwelling unit which is an accessory use to a detached single family dwelling unit on one lot. This term includes accessory apartments, garage apartments, and accessory cottage dwellings.

2.3.265 Eave: the overhang of the roof structure of a building beyond its supporting wall, at the point of intersection between the roof and the vertical building wall, typically the lowest part of the roof and where exterior or interior gutters are located.

2.3.270 Encroachment: the part of a structure which intrudes into a defined setback.

2.3.275 Facade: the vertical surface of a building facing any property line.

2.3.280 Family: one or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit, or a group of not more than (3) three, not thusly related, living together by joint agreement and occupying a single housekeeping unit on a non-profit cost sharing basis; plus in either case, usual domestic servants and caregivers.

2.3.285 Fence: a vertical structure, including live material, which may provide privacy, divides or defines a boundary.

2.3.290 Flat Roof: roof lines or silhouettes with a pitch which is 4:12 or less; that is, a pitch which is less than or equal to four units of vertical change for every twelve units of horizontal change.

2.3.295 Floodplain, Flood Hazard Area: any area defined by the Federal Emergency Management Act and shown on its maps to be located in an area subject to flooding.

2.3.300 Footprint: the foundation outline of all buildings or structures.

2.3.305 Fountain-Privately Owned: a receptacle of stone, concrete, metal, or other similar material, designed for the aesthetic dispensing and pooling of water, with a reservoir depth not exceeding twelve inches.

2.3.310 Front Yard: (See Yard, Front)

2.3.315 Frontage: the lot boundary which coincides with a public thoroughfare or open space. The facade of a structure facing the street.

2.3.320 Frontage Build-out: the portion of lot frontage which has a building or wall running parallel to it.

2.3.325 Gable: that portion of a building roof comprised of two sloping roof segments, typically of equal slope, that join together at one end and project to a common point vertically above the exterior building wall. A gable includes that portion of the exterior building wall which is directly beneath the roof, within the slope of the gable.

2.3.330 Garage, Commercial: any building, premises, and land in which or upon which the primary use of land is a business which involves the maintenance or servicing of vehicles but does not involve the painting of vehicles or the repair of exterior damage to vehicles.

2.3.335 Garage, Residential: the building or portions of building that fully encloses space for the storage of one or more vehicles. Garages may be attached or detached from the primary structure.

2.3.340 Gas Station: a retail establishment which sells gasoline and other fuels for motor vehicles and may sell and install other automotive products, such as lubricants, tires, batteries, and similar accessories, and which may perform minor vehicle maintenance and repairs.

2.3.345 Gazebo: a free standing, roofed structure with open sides.

2.3.350 General Commercial Use: business and retail establishments providing services and products.

~~2.3.355 Governing Body: the Mayor and Council of the City of Westwood, Kansas~~.[11]

2.3.360 Grade: the elevation of the land or land level at any given point.

2.3.370 Green Roof: a layer of vegetation planted over a waterproofing system that is installed on top of a flat or slightly–sloped roof. Green roofs are also known as vegetative or eco–roofs.

2.3.375 Group Home: any dwelling, licensed by a regulatory agency of the State of Kansas, which is occupied by no more than ten persons, including no more than eight persons with disabilities who need not be related by blood or marriage, and not more than two staff residents for whom the dwelling is not their primary residence.

2.3.380 Health and Welfare Facilities: all hospitals and institutions specializing in medical treatment, mental health treatment, physical therapy, alcohol and drug treatment, and/or assisted living for all ages.

2.3.385 Height: the vertical distance from the average ground elevation adjacent to a

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[11] **Legal analysis: 2.3 Definitions, 2.3.355 Governing Body.** Delete as covered by general provisions in Chapter 1. Should the city wish to retain definitions in this Chapter, "Governing Body" would also be covered under section 2.2. Interpretation of this chapter.

building or structure grade plane to the average height of the highest roof surface, including, but not limited to, any parapet, roof line, decking of a mansard roof, towers, spires, steeples, and any other roof-top appurtenances, including, but not limited to, mechanical equipment or structures. Height, where not regulated in feet, shall be regulated by stories. A story shall be equal to twelve feet for purposes of measuring structures other than buildings.

2.3.390 Irregularly Shaped Lot: any lot which is not square or rectangular in shape.

2.3.395 Laboratory: a place equipped for experimentation or observation in a field of study, or devoted to the application of scientific principles in testing and analysis. Quantities of biological or hazardous materials used on site shall be limited to those quantities established by the State and Federal Requirements.

2.3.400 Land Use Segregation: the practice of prohibiting mixed-use development or close proximity of residential and non-residential uses. This is accomplished through zoning standards which emphasize the separation of all uses, and the buffering and screening of dissimilar uses from one another.

2.3.405 Lot: a parcel of land, the boundaries of which have been established by some legal instrument such as a recorded deed or a recorded map, and which is recognized as a separate tract or legal unit of ownership for purposes of transfer of title. According to the recorded plat thereof, a lot shall be the parcel of land as presently platted. An interior lot is bounded on two opposite sides by other lots and on one side faces a single public right-of-way. A corner lot is bounded on two adjacent sides by two public rights-of-way.

2.3.410 Lot Coverage: the entire area on a tract or parcel that is covered by a structure, any impermeable surface, or is otherwise built upon, including, but not limited to, the footprint or foundation outline of all buildings and structures. Lot coverage does not include decks which do not have roofs and are less than thirty (30) inches in height from the ground, and driveways, sidewalks, and patios which are flush with the surface of the ground. Decks which are not roofed and are thirty (30) inches or higher from the ground are to be calculated at fifty (50) percent of the area covered. Overhanging conditions above open-air exterior areas, including, but not limited to, building, roof, or balcony overhangs or cantilevers, shading devices, and light shelves are to be calculated at 50% of the covered area. Structures covered by green roofs are to be calculated at 50% of the covered area, up to an area equal to 10% of the total lot area.

2.3.415 Machine Shop: a mechanized workshop which manufactures, sizes or assembles pieces of machinery.

2.3.420 Major addition: any addition or alteration that increases or alters more than 50% of the existing structure.

2.3.425 Manufactured Structure: a residential or commercial building comprised of one or more component parts constructed in a manufacturing plant and transported to a site for final assembly on a permanent foundation. The City building code standards for traditional on-site construction are not strictly enforced for such structures.

2.3.430 Massing: the shapes, proportion and form of a building. The design elements that

may affect the mass of a building may include the following:

A. Building silhouette;

B. Spacing between facades;

C. Setback from property line;

D. Proportion of windows, bays, and doorways;

E. Proportion of primary facade;

F. Location and treatment of entryway;

G. Exterior materials used;

H. Building scale;

I. Geometric shapes offset to create the appearance of less mass.

2.3.435 Mechanical Equipment: heating, ventilation, and air conditioning (HVAC) units.

2.3.440 Mixed Use: the presence of residential and nonresidential uses within the same building or development complex. It may be different categories of nonresidential uses such as institutional, retail, and office within the same complex of buildings.

2.3.445 Mobile Home: a structure that: (1) Is transportable in one or more sections which, in the traveling mode, is eight body feet or more in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and (2) Is not subject to the federal manufactured home construction and safety standards established pursuant to 42 USC 5403.

2.3.450 Modular Home: a dwelling unit, a majority of which is assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation and constructed in compliance with the City's building codes.

2.3.455 Mother's Day Out: a day care program operating more than five (5) consecutive hours or more than one day per week and in which any one child is enrolled for not more than one session per week.

2.3.460 Multi-Family Dwelling: a building in which more than two families or households live independently of each other and cook within their own living quarters. [12]

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[12] **Legal analysis: 2.3 Definitions, 2.3.460 Multi-Family Dwelling.** This term is defined in Section 2.3.230 as "Dwelling, Multi-Family" with a slightly different definition. Please advise whether the city wants to modify and retain only one, or keep both definitions.

2.3.465 Nonconforming Use: any lawful use of any land, building, or structure which later becomes unlawful as a result of legal or regulatory changes in, or amendments to, this Ordinance.

2.3.470 Off-Street Parking: parking which occurs on a lot and not on a street or other public right-of-way.

2.3.475 Office Use: business, professional, service, or governmental occupations within a building or buildings.

2.3.480 Open Space: any area which does not consist of buildings, streets, rights-of-way, pavement, parking, or easements.

2.3.485 Overlay District: a set of regulations, which add an additional layer of building standards to a specific area within a zoning district.

2.3.490 Patio: a paved outdoor area adjoining a house.

2.3.495 Paved: covered by a contiguous, impervious, hard substance such as concrete, asphalt, brick, stone, or other material which is similar in durability, appearance, and permeability.

2.3.500 Parking Area: any portion of land designated for the parking of vehicles.

2.3.505 Pedestrian-Oriented Development: a land use plan which emphasizes the needs of pedestrians in addition to the needs of automotive traffic.

2.3.510 Permitted Uses: uses allowed to occur within a designated zoning district.

2.3.515 Planning Commission: a review board appointed by the Mayor and approved by the Governing Body to make recommendations on zoning issues provided herein (see Article 1.4 Planning Commission).

2.3.520 Platted Lot: a lot surveyed and recorded at the County Office of Records and Tax Administration.

2.3.525 Pool: any constructed, outdoor basin or tank designed to hold water greater than twelve inches in depth.

2.3.530 Porch: a structure, attached to the exterior of a building, which leads to an entrance and may be:

A. Enclosed: roofed, with walls and a second door or doorway;

B. Open: usually roofed, with no walls, which may have columns or other appurtenances to support the roof;

C. Screened: roofed with screened sides and a second door or doorway.

2.3.535 Preschool: a day care facility providing educational experiences and operating in

compliance with the definitions and regulations of the State of Kansas.

2.3.540 Primary Building: the structure on a multi-structured lot in which the majority of activities occur.

2.3.545 Public Safety Station: police, fire and rescue stations.

2.3.550 Public Street: any right-of-way used for vehicular traffic that is permanently maintained by any city, county, or state agency and is open to all traffic.

2.3.555 Public Utility Buildings: outside storage of materials and equipment is an accessory use in buildings used by public utilities provided all storage is screened from view off the premises.

2.3.560 Quadrangle: a rectangular area, such as a courtyard, enclosed by buildings.

2.3.565 Rear Yard (See Yard, Rear)

2.3.570 Residential Street: all streets within the City of Westwood except those designated as collector streets or thoroughfares.

2.3.575 Residential-Design Manufactured Homes: a manufactured dwelling affixed to a permanent foundation which has minimum dimensions of 22 body feet in width, a pitched roof, and siding and roofing materials which are customarily used on site-built homes.

2.3.580 Retention: an engineered method to completely retain a specified amount of stormwater without release except by means of evaporation, infiltration, or pumping.

2.3.585 Ridge Line: the point at which two sides of a roof meet at their highest edges, which is typically the highest point of the primary roof.

2.3.590 Right-Of-Way (R-O-W): an area of public land dedicated to infrastructure such as streets, sewer lines, water lines, electric lines, and gas lines, etc.

2.3.595 Roof Line: the shape of a roof, formed by its slope, pitch, eaves, ends, and projections, such as dormers, which are above the eave line.

2.3.600 Satellite Dish: any circular or semi-circular dish-shaped receiving antenna used to receive signals transmitted from satellites, generally for highly specialized industrial communications or for receiving television signals from a satellite. This definition does not apply to antennas regulated pursuant to Article Ten of the Westwood Zoning Ordinance.

2.3.605 Setbacks: the mandatory distance between a lot line and the face or nearest part of a structure.

2.3.610 Shed Dormer: a dormer with a roof sloping in the same direction as the roof from which the dormer projects.

2.3.615 Shop-Front: a business or retail establishment located on the ground floor of a structure, the facade of which is aligned directly along the frontage line and the entrance

of which is at grade.

2.3.620 Side Yard (See Yard, Street Side and/or Yard, Interior Side.)

2.3.625 Single-family Dwelling: a detached dwelling designed for or occupied exclusively by one family, including residential-design manufactured homes. [13]

2.3.630 Site Plan: the plan of a construction site showing the position and dimensions of the building to be erected and the dimensions and contours of the lot; a map done by a surveyor or design professional accurately depicting the scale distances and measurements of all existing and planned structures on a lot, and the location and dimensions of the lot itself.

2.3.635 Storm Water: storm water runoff, snow melt runoff, surface runoff, and drainage.

2.3.640 Storm Water Runoff: rainwater flowing on the surface of the ground.

2.3.645 Story: that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that habitable portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. An attic, regardless of its interior dimensions, shall not be considered a story provided it remains unconditioned space, is accessible by nothing more substantial than a pull-down stairway or ladder, and contains no dormers with the exception of minimal vent features. Determination of a building's number of stories shall be based on qualifying floor area being situated directly above other qualifying floor area.

2.3.650 Story Above Grade: any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade when the finished surface of the floor above the basement is:

A. More than six feet above grade plane;

B. More than six feet above finished ground level for more than fifty percent of the total building perimeter; or

C. More than twelve feet above the finished ground level at any point.

2.3.655 Story, First: the street level of a building which is less than four feet below grade for no more than fifty percent of the perimeter and no portion of which is more than eight feet below grade.

2.3.660 Story, Half: A partial story located above a full story and underneath a sloping roof, where the roof planes intersect two opposite exterior walls at a height of no more than 2 ft. above the half-story floor level, and window dormers or other projections out

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[13] **Legal analysis: 2.3 Definitions, 2.3.625 Single-family Dwelling.** This term is previously defined in Section 2.3.240 Dwelling, Single-family. Please advise whether the city wishes to retain both definitions.

from this roof plane do not exceed more than 50% of the horizontal length of the roof for a 2 ½ level, or 85% of the horizontal length of the roof for a 1 ½ story level, measured along both opposite roof planes at 2 ft. above the half-story floor level or higher.

[GRAPHIC]

2.3.665 Street: pavement and sub-grade of a City residential, collector, or thoroughfare roadway, excluding curbs, gutters, and portions adjacent to the pavement and sub-grade of a roadway that lie in a right-of-way.

2.3.670 Street Frontage: that portion of a lot that directly faces the public right-of-way along its front property line.

2.3.675 Street Yard: the area of land along the front property line parallel to a street (i.e. front yard) that is reserved for tree planting and landscaping.

2.3.680 Structure: anything constructed or erected, including retaining walls, the use of which demands a permanent location on the soil, or which is attached to something having a permanent location on the soil.

2.3.685 Sustainable: having the ability to accommodate and/or maintain future population growth and economic expansion.

2.3.690 Testing and Research Facilities: primarily office uses or an establishment primarily engaged in commercial research and providing testing services for scientific research. This use can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. This use does not involve the fabrication, mass manufacture, or processing of the products, and does not include general medical or dental laboratory services.

2.3.695 Temporary Structures: buildings placed on a lot for a specific purpose, which are to be removed within a specified time period. Examples of temporary structures are monitoring stations, mobile classrooms or office space, construction trailers or guard houses, manufactured housing placed on a lot for temporary housing while the primary home renovations are done, and produce stands. The duration permitted for a temporary structure is established by this Ordinance.

2.3.700 Temporary Use Permit: a permit issued by the City allowing a specific use for a specific period of time.

2.3.705 Thoroughfare: within the City of Westwood, only Shawnee Mission Parkway, State Line Road, Rainbow Boulevard, West 47th Street, and Mission Road.

2.3.710 Through Lot: a parcel of land that has access to a public right-of-way from both the front and back property line.

2.3.715 Transitional Yard: the area of a property running along the side or rear yard of a non-residential lot when it abuts a residential lot, used as a buffer.

2.3.720 Utility Structure: any cabinet, pedestal, box, building or other structure used for public utility services, public service corporations, or telecommunications providers including any associated equipment such as condensing units and generators. Towers, poles and traffic signal controllers shall not be considered utility structures. Facilities with a footprint smaller than two square feet, or underground facilities that extend no more than six inches above grade are exempt from this definition.

2.3.725 Undercroft: the area underneath any structure that, due to its height above the ground, is exposed to view. Such structure may be a roof or floor.

2.3.730 Vocational Center: a teaching or learning business where classes are held, which may be affiliated with an educational institution.

2.3.735 Yard: the part of the building plot not occupied by structures and open to sky.

2.3.740 Yard, Front: open space across the full width of the lot extending from the front line of the primary structure to the front line of the lot where the street right-of-way begins. On corner lots, the front yard shall be determined by the street address but extends around on the exterior or right-of-way side to the rear corner of the primary structure.

2.3.745 Yard, Interior Side: open space between the side of the primary structure and the adjacent sideline of the lot, and between the front yard and the rear yard.

2.3.750 Yard, Rear: open space between the rear line of the primary structure and the rear lot line or public right-of-way and between the side lot lines. On corner lots, the rear yard adjacent to the public right-of-way ends at the corner of the primary structure nearest the rear yard and the adjacent side yard public right-of-way.

2.3.755 Yard, Street Side: on corner lots, side yards extend along the yard adjacent to the public right-of-way from the rear corner of the primary of the primary structure to the real property line.

[GRAPHIC]

(Code 2008, ch. 16, § 2.3; Ord. No. 960, § 3, 7-9-2015; Ord. No. 984, § 11, 9-21-2017; Ord. No. 1000, §§ 1, 2, 3-14-2019; Ord. No. 1024, § 17, 2-10-2022)

Article Three: General Regulations

3.1 Applicability

The following provisions shall apply throughout the jurisdiction of this Ordinance, regardless of the underlying Zoning District.
(Code 2008, ch. 16, § 3.1)

3.2 Nonconforming Uses

The provisions of this Ordinance shall not apply to existing buildings or structures, ~~nor to the existing use of any buildings or land at the time of the adoption hereof,~~ but shall apply to any alteration of a building or structure to provide for its use for a purpose or in a manner different from the use to which it was put before the alteration. However, nothing

in this article shall prevent the restoration of a building damaged by fire, explosion, act of God or the public enemy, or prevent the continuance of the use of such building, or part thereof, as such use existed at the time of such damage, except that a building which is damaged by more than fifty percent of its fair market value shall not be restored if the use of such building is not in conformance with the regulations herein. A nonconforming use may be changed to a more restricted use, and when so changed, it shall not be changed again to a less restricted use. When a nonconforming use has been discontinued for a period of ninety days, it shall not be reestablished, and any future use shall be in conformity with the provisions of this Ordinance, notwithstanding the purpose for which the premises were erected or used. [14]
(Code 2008, ch. 16, § 3.2; Ord. No. 1024, § 18, 2-10-2022)

3.3 Uses Prohibited

A. Unless a project is subject to a valid building permit, no open excavation, no partially constructed structure, and no building or structure so damaged as to become unfit for use or habitation, shall be permitted, maintained or remain in such condition within the City for a period of more than six months, except by special permission of the Governing Body.

B. No building material, construction equipment, machinery, or refuse shall be stored, maintained, or kept in the open on any lot, tract, or parcel within residential (R-l) district, other than during actual construction operations on said premises or related premises. In unusual cases, the Governing Body may waive this requirement for a limited time.

C. No building or premises ~~now standing~~ in the City, ~~nor any building hereafter erected therein~~, shall be used or occupied for any of the following purposes: [15]

1. junkyard or junk storage ~~room~~ area;[16]

2. tourist cabin or trailer camp;

3. slaughterhouse, commercial poultry dressing or processing establishment where such is primary and not incidental to some authorized use;

4. auto wholesale and retail.

D. No above-ground construction or planting shall be permitted in any public street, sidewalk or right-of-way, except for traffic and public safety signs, plantings less than 24 inches in height, and hydrants or pedestals less than 30 inches in height and having a width or depth not more than 12 inches; provided that, communication facilities for wireless services may be permitted by application and approval subject to the provisions of Article Ten of Westwood Zoning Ordinance, as well as City-sponsored improvement

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[14] **Legal analysis: 3.2 Nonconforming Uses.** Delete time of ordinance adoption language as no longer needed, or if retained, revise to include adoption date.
[15] **Legal analysis: 3.3 Uses Prohibited, (C).** Delete language as no longer needed.
[16] **Legal analysis: 3.3 Uses Prohibited, (C)(1).** Revise for clarity so as not to be confused with an interior room.

projects.

E. No poles, towers, conduits, or lines for any purpose, including for the purpose of transmission of electricity, data, cable television, voice signals, electronic mail, telecommunications, or other purposes shall be permitted or constructed above ground; provided that, communication facilities for wireless services may be permitted by application and approval subject to the provisions of Article Ten of Westwood Zoning Ordinance.

F. Portable storage units, dumpsters, portable toilets, Portable On Demand Storage units ("PODS"), storage trailers, and other impermanent storage or other facilities are prohibited unless a permit is first obtained. Such a permit shall be for a maximum period of 30 days or as may be required pursuant to any valid building permit. Such permit may be renewable upon a showing of reasonable necessity or as set out in any building permit.
(Code 2008, ch. 16, § 3.3; Ord. 920, Sec. 1; Ord. No. 984, § 12, 9-21-2017; Ord. No. 1024, § 19, 2-10-2022)

3.4 Allowed Uses

Uses designated as "permitted uses" and "uses permitted with conditions" are allowed in a district as a matter of right. It is recognized that new types of land use will develop and forms of land use not anticipated may seek to locate in Westwood. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

A. For any use not listed in this Ordinance, the owner has the right to appeal to the Board of Zoning Appeals to determine if said use can be reasonably interpreted to fit into a use category where similar uses are described in this Ordinance and is consistent with the Comprehensive Plan of the City, as provided herein.

B. Certain uses preexisting the adoption of this Ordinance are allowed to remain as nonconforming uses in accordance with Section 3.2 of this Article. Temporary uses are allowed in accordance with Section 3.5.2 of this Article. Unless a use is allowed as "permitted," "permitted with conditions," "conditional," "nonconforming," "temporary," or "special," such use is expressly prohibited in that district. [17]
(Code 2008, ch. 16, § 3.4; Ord. No. 1024, § 20, 2-10-2022)

3.5 Temporary Structures

When in compliance with all applicable provisions of this Ordinance and all other ordinances of the City, temporary structures and uses shall be permitted as hereinafter provided.
(Code 2008, ch. 16, § 3.5)

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[17] **Legal analysis: 3.4 Allowed Uses, (B).** If such allowed nonconforming uses are still in existence, replace language with actual ordinance adoption date. Otherwise, delete as no longer needed.

3.5.1 Construction Trailers, Sanitary Facilities and Roll-Off Dumpsters

Construction trailers and roll-off dumpsters may be used in conjunction with construction projects, provided that the following conditions are met:

A. Construction trailers may be located at a building site where there is a valid permit for the construction project.

B. All construction trailers shall be located at least ten feet off any street right-of-way.

C. Roll-off dumpsters must be utilized during all such projects and shall be located at least ten feet of any street right-of-way, and shall be emptied at least monthly of all debris or when filled above its top rim.

D. Temporary sanitary facilities shall be located at least ten feet away from any street right-of-way, and serviced on a weekly basis or more often, as needed.

E. In addition to construction trailers, at any construction site for a construction project valued at $1,000,000 or more, one or more security guard houses may be installed. Use of such structures may include overnight stay, provided adequate sanitary facilities are provided and the same conditions for construction trailers, listed above, are met.
(Code 2008, ch. 16, § 3.5.1)

3.5.2 Temporary Uses Allowed

Certain uses of a temporary nature which would not otherwise be permitted in a particular zoning district may be issued a temporary permit as provided herein. Upon receipt of an application, the Governing Body may grant a temporary use permit for the following uses:

A. Christmas tree sales;

B. Revivals;

C. Shows for civic and youth organizations; and

D. Markets and art fairs.

The permit shall be valid for a specified time only, not to exceed 45 days in duration.
(Code 2008, ch. 16, § 3.5.2)

3.5.3 Application for Other Uses

All other temporary uses not otherwise listed above may be granted a temporary use permit only after the Governing Body has made the following determinations:

A. The proposed use will not materially endanger the public health, welfare, and safety; and,

B. The proposed use will not have a substantial negative effect on adjoining

properties.

C. In approving such a temporary permit, the Governing Body may authorize conditions regarding the duration of use, hours of operation, signage, lighting, traffic, and other land use and public safety concerns, and such conditions shall be made part of the permit issued. Violations of such conditions shall be considered a violation of this Ordinance.
(Code 2008, ch. 16, § 3.5.4)

3.5.4 Manufactured Homes

Manufactured homes may be allowed on a temporary basis in a zoning district in which such use is not listed as a permitted use, if a disaster destroys an occupied single-family dwelling or renders it uninhabitable (i.e., it receives damage greater than sixty percent of its tax value as indicated on the cost current tax listing). In this instance, a manufactured home may be placed on the lot on which the dwelling was destroyed. The manufactured home is permitted in order to provide living quarters for the residents of the destroyed dwelling while a new dwelling is being constructed or the original dwelling is being repaired. In such instances, the use of a manufactured home is subject to the following conditions:

A. Such manufactured home shall not be placed in the front yard and shall be located a minimum of fifteen feet from the principal residential structures on adjacent lots and a minimum of ten feet from all lot lines.

B. The Building Official has the authority to issue a one-time-only temporary use permit for a period of up to 45 days. Said permit may be renewed on a one-time-only basis for a reasonable amount of time by the Governing Body if it is determined that:

1. construction of the new dwelling unit is proceeding in a diligent manner; and,

2. the granting of such permit will not materially endanger the public health, welfare, or safety; and,

3. the location of the manufactured home on the site does not have a negative effect on adjacent properties.
(Code 2008, ch. 16, § 3.5.4)

3.5.5 Manufactured Structures as a Temporary Conditional Use

A. Manufactured structures may be used for any temporary business space as a temporary conditional use granted by the Governing Body, provided the following conditions are met:

1. The manufactured structures are necessary for temporary needs due to construction.

2. The manufactured housing shall be provided with underpinning, from the bottom of the walls to the ground, made of vinyl, prepainted aluminum material, or other material specifically manufactured for mobile homes.

3. Additional on-site parking for employees or driving patrons must be provided.

B. The Governing Body can impose requirements to protect the public health, welfare, and safety.

C. If the Governing Body finds that the above conditions are met, and construction and planning of permanent facilities are being carried out diligently, the Governing Body may issue a temporary use permit for a maximum of one year.
(Code 2008, ch. 16, § 3.5.5)

3.6 Yard and Garage Sales

Yard, estate sales, auctions, sample sales, garage, and patio sales are permitted as an accessory use on any residentially or institutionally developed lot in any district. Such sales may only be conducted by residents of the City of Westwood or their representatives, and may take place only on the tract on which said resident actually resides or has resided. A no-fee permit is mandatory, and can be obtained from the City Clerk.
(Code 2008, ch. 16, § 3.6)

3.7 Sale of Seasonal Products

Seasonal goods, including, but not limited to, produce, Christmas trees, and pumpkins may not be displayed for sale in any R-1 Zoning District.
(Code 2008, ch. 16, § 3.7)

3.8 General Lot Standards

No building or land shall hereafter be used, and no building or part thereof shall be erected, moved or altered, except in conformity with the regulations herein specified for the district in which it is located.

A. No lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth for the subdistrict in which said lot is located. Lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.[18]

B. Every building ~~hereafter~~ erected, moved, or structurally altered shall be located on a single lot. In no case shall there be more than one principal building and its customary accessory building(s) on any lot, except in appropriate regulated districts which permit more than one commercial or residential structure on a lot.

~~C. Nothing in this Ordinance shall be deemed to require any change in plans, construction, or designed use of any building or structure for which a building permit was secured prior to the adoption of this Ordinance, so long as said building permit remains~~

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[18] **Legal analysis: 3.8 General Lot Standards, (A).** Revise to add actual date of ordinance for reference.

~~valid.~~ [19]
(Code 2008, ch. 16, § 3.8; Ord. No. 1024, § 21, 2-10-2022)

3.9 Storm Water Runoff Provisions

All storm water collection and runoff systems shall conform to the 2003 APWA Standards, Section 5600, as amended.
(Code 2008, ch. 16, § 3.9)

3.10 Off-Street Parking and Loading

For all buildings or structures hereafter erected, constructed, reconstructed, moved, or altered, off-street parking in the form of garages or areas made available exclusively for that purpose shall be provided.

Permanent occupancy shall not be allowed until all provisions for parking have been met.
(Code 2008, ch. 16, § 3.10)

3.11 Solar Collectors

Solar collectors are permitted, provided the following performance standards are met:

A. Roof-mounted solar collectors visible from the front or side of public right-of-way shall not extend above the peak of the roof where it is mounted, and no portion of such solar collectors shall extend more than 24 inches perpendicular to the point on the roof where it is mounted; the support structure shall not be enclosed.

B. Roof-mounted solar collectors located on the rear side of building roofs shall not extend above the peak of the roof where it is mounted, and no portion of such solar collectors shall extend more than 48 inches perpendicular to the point on the roof where it is mounted.

C. Ground-mounted solar collectors shall not exceed six feet in total height and shall be located within the rear yard at least twelve feet inside the property line.

D. All lines serving a ground-mounted solar system shall be located underground.

[GRAPHIC]

(Code 2008, ch. 16, § 3.11)

Article Four: Residential Zoning Districts

4.1 RESIDENTIAL DISTRICTS — GENERAL REQUIREMENTS

4.1.1 Intent

The R-1 Single-Family Residential District is established to promote the health of the

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[19] **Legal analysis: 3.8 General Lot Standards, (C).** Assuming any such projects undertaken prior to the adoption of the ordinance would have already been completed, delete as no longer needed.

City's historical neighborhoods as well as providing for their expansion along the same traditional lines used when they were established.

A. The following is a list of objectives to achieve housing that is compatible within the existing neighborhood:

1. Materials and colors should be used to reduce the apparent bulk of the structure.

2. The building height should be in proportion to the style and size of the house and to the lot area.

3. Higher portions of structure should be set back from the lot lines to reduce the impression of height.

4. Architectural features should be used to reduce the impression of bulk.

5. A combination of vertical and horizontal elements should be used to break up long or tall facade walls.

6. Recessed and projecting spaces should be used to create interest.

7. The completed structure(s) must not overcrowd or overwhelm neighboring residences.

8. The creation of a vertical canyon effect between houses should be minimized. When a two-story house is proposed adjacent to one-story houses, the space between the houses should increase as wall height increases.

9. Similar materials, colors and roof pitch should be used on all sides and on all structures on the site.

10. The use of highly reflective materials should be avoided.

11. Mechanical equipment should be screened.

12. Large, continuous paved areas should be avoided. Paved areas should be broken up by the use of textured or colored materials.

B. Consistent with the City's Comprehensive Plan, the objectives in development of this District are:

1. to promote positive growth in the City's residential areas;

2. to accommodate the renovation and expansion needs of residents;

3. to allow for future redevelopment;

4. to alleviate problems in compatibility with neighboring properties;

5. to provide clear criteria for new infill houses;

6. to allow for flexibility in expansion and remodeling of existing homes.

C. In addition, the Governing Body recognizes the unique attributes of the area known as the Westport Annex, and finds as follows:

1. Whereas the area known as Westwood East of Rainbow ("WEBO") consists of the area on 47th Terrace and 48th Street between Rainbow Boulevard and State Line Road, and is unique in its construction, platting, and configuration in the City of Westwood; and

2. Whereas WEBO consists of lots nearly all of which were originally platted to have uniform dimensions of 40 feet in width by 110 feet in depth; and

3. Whereas the housing stock in WEBO has a significant percentage of smaller, older homes which present remodeling and redevelopment challenges; and

4. Whereas the construction of many homes in WEBO predate the widespread ownership of automobiles, and thus many homes have little or no garage space; and

5. Whereas the scarcity of garage space contributes to parking congestion which may negatively affect the safety, comfort, and convenience of the citizens; and

6. Whereas creative and distinct efforts may be necessary to create an environment for stable and productive redevelopment in WEBO; and

7. Whereas the Governing Body has received comments from the Planning Commission, residents of WEBO, other citizens, and others, and has studied the challenges posed by the unique characteristics of WEBO, and has concluded that certain rules or requirements may be too restrictive or otherwise interfere with redevelopment or the most productive use of property in WEBO, and that it is appropriate to create certain rules that pertain to WEBO based on the unique and distinct characteristics that predominate in the neighborhood, and the circumstances of WEBO justify the creation of an overlay district or similar special considerations for this area;

8. Therefore, a category R1-E shall be created as further set forth herein.
(Code 2008, ch. 16, § 4.1.1; Ord. No. 1024, § 22, 2-10-2022)

4.1.2 Residential Zoning Districts Described

The single-family residential areas of the City are divided into the following single-family residential zoning districts as further defined and described herein, including, but not limited to, the definitions and descriptions set forth in Section 4.3.2:

R-1 (A) lots which are less than 50 feet in width as measured at the curb along the front property line;

R-1 (B) lots which are less than 65 feet in width but at least 50 feet in width as measured at the curb along the front property line;

R-1 (C) lots which are less than 75 feet in width but at least 65 feet in width as measured at the curb along the front property line;

R-1 (D) lots which are at least 75 feet in width as measured at the curb along the front property line; and

R-1 (E) lots which are less than 50 feet in width as measured at the curb along the front property line, and which are located on 47th Terrace or 48th Street between State Line Road and Rainbow Boulevard, otherwise referred to as WEBO.
(Code 2008, ch. 16, § 4.1.2; Ord. No. 1024, § 23, 2-10-2022)

4.2 USES PERMITTED WITH CONDITIONS

4.2.1 Intent

Certain uses exist which may be constructed, continued and/or expanded, provided they meet certain mitigating conditions specific to their design and/or operation. Such conditions ensure compatibility among other building types so that different uses may be located in proximity to one another without adverse effects to either.

Each use shall be permitted in compliance with all conditions listed for the use in this article. A special use permit may be required as identified in Article 8 of this Ordinance for each use permitted with the following conditions. Applications for communication facilities for wireless services and for special use permits for communication facilities for wireless services shall be subject to and processed pursuant to the provisions, definitions, building and design standards, requirements, timelines, and criteria contained within Article Ten of the Westwood Zoning Ordinance, and the City shall not discriminate against applicants with respect to the placement of communications facilities as to other investor-owned utilities, wireless service providers, wireless infrastructure providers, or wireless carriers.All uses permitted with conditions in a residential district shall comply with Sections 5.1, 5.4, 5.5, and 5.6 of this Article.

(Code 2008, ch. 16, § 4.2.1; Ord. 984, § 13, 9-21-2017; Ord. No. 1024, § 24, 2-10-2022)

4.2.2 Customary Home Occupation

A. Any business operated within a residence shall not change the character of the dwelling.

B. No outside storage associated with the home occupation is permitted.

C. No more than 25% of the home shall be used in connection with the home occupation, except for a day care service.

D. A maximum of one nonresident employee is permitted.

E. No display or advertising on premises is permitted.

F. Only vehicles used primarily as passenger vehicles shall be permitted in connection

with the home occupation.
(Code 2008, ch. 16, § 4.2.2)

4.2.3 Churches and Civic Uses

A. Churches, schools, and governmental uses shall be placed on a lot so as to front on the street.

B. Any building(s) incidental to the primary structure shall be behind a line a minimum of twenty feet from the front facade of the structure and, if more than one, shall be arranged to create secondary gathering spaces within the lot.

C. Parking shall be located toward the interior of the lot. On-street parking may be used to fulfill parking requirements, where permitted. Parking may not occur within a front setback or corner side setback.

D. Site plan review by the Planning Commission and approval by the Governing Body is required.
(Code 2008, ch. 16, § 4.2.3; Ord. No. 1024, § 25, 2-10-2022)

4.2.4 Public Safety Uses

A. All public safety stations shall be similar in architectural design to nearby structures.

B. Parking shall be to the rear of the lot.

C. Site plan review by the Planning Commission and approval by the Governing Body is required.
(Code 2008, ch. 16, § 4.2.4)

4.2.5 Group Homes

A. All group homes shall be residential in architectural design.

B. Minimum lot size shall be 7,000 square feet.

C. Parking shall be to the rear of the home and shall be screened from adjoining properties.

D. Site plan review by the Planning Commission and approval by the Governing Body is required.
(Code 2008, ch. 16, § 4.2.5)

4.2.6 Communication Facilities

A. Communication facilities are subject to the application, review, building, and performance standards of Article Ten of the Westwood Zoning Ordinance.

B. Communication Facilities, limited to the following:

1. Towers and Base Stations, as defined within Article Ten, Section 10.2, designed as an architecturally compatible element to an existing non-residential use such as schools, churches, and the like, and that comply with the same height and setback requirements as other structures in residential districts.

2. Antennas, as defined within Article Ten, Section 10.2, mounted on and designed as an architecturally compatible element to an existing non-residential structure or building.

3. Small Cell and Distributed Antenna Systems, as defined within Article Ten, Section 10.2, mounted or collocated on monopoles, utility poles, or street lights in the public right-of-way.
(Code 2008, ch. 16, § 4.2.6; Ord. 984, § 14, 9-21-2017)

4.2.7 Day Care Center

A. Any business operated within a residence shall not change the character of the dwelling.

B. No display or advertising on premises is permitted.

C. A state license is issued to the day care center.
(Code 2008, ch. 16, § 4.2.7)

4.2.8 Parking Space Requirements for Uses with Conditions

A. The table below includes requirements for employee parking.

B. Employee parking spaces are included in the ratios in the below table.

C. No use shall provide more than one hundred twenty-five (125) percent of the minimum required parking without documented evidence of actual parking demand based on studies of similar uses in similar context.

D. Any parking permitted over one hundred fifteen (115) percent of the minimum shall require mitigating potential impacts of more parking through one or more of the following strategies:

1. Provide shared parking for other uses on the block or adjacent blocks.

2. Use alternative surfaces designed to infiltrate stormwater or otherwise increase permeability without significantly sacrificing stability and durability.

3. Provide additional buffers and site open spaces to screen parking with at least a ten (10) percent increase in the open space or buffers required for the parking, and at least a twenty (20) percent increase in the landscape material amount required for the parking.

4. Design all parking areas over the one hundred fifteen (115) percent maximum as dual-purpose space, such as plazas or courtyards, playgrounds, event areas for regular use of the space during non-peak times.

Institutions of higher learning	1 per 5 students / 1 per two residents
High schools	1.5 per five students
All other schools	1.5 per classroom
Government institutions	1 per 300 sq. ft. / 1 per 4 seats of meeting area
Religious institutions	1 per 4 seats of meeting area
Civic organizations	1 per 300 sq. ft. / 1 per 4 seats
Group homes	1 per three residents
Nursing homes / retirement	1 per three beds
General Health and Welfare Institutions	1.2 per bed
Independent Living Facilities	1.5 per unit
Convention Facilities	1 per 250 sq. ft.
Post Office	1 per 400 sq. ft.

(Code 2008, ch. 16, § 4.2.8; Ord. No. 1024, § 26, 2-10-2022)

4.2.9 Essential Utility Structures

Utility structures may only be installed in a utility easement; provided that, utility structures may be located within the public right-of-way subject to the approval of the Public Works Director and, if applicable, located behind any sidewalk. Other locations for utility structures may be allowed pursuant to the issuance of a special use permit as provided in Westwood Zoning Ordinance Article 8.

A. When placing utility structures, priority will be sought in the following order:

1. Properties with non-residential uses.

2. Thoroughfare easements.

3. Rear yards.

4. Street side yards on a corner lot behind the front yard setback.

B. No newly-constructed above-ground facilities shall be located directly in front of any single-family home (or in front of where a single-family home could be constructed, in the case of a vacant lot), provided that if the Public Works Director deems it necessary or appropriate, such facilities may be located in the front yard, at or along the property line between two adjacent properties.

C. The structure is limited to sixty six (66) inches in height above average grade and shall be limited to a footprint of no larger than twenty (20) square feet in area.

D. Utility structures shall comply with all noise limitations and requirements established by the City.

E. Landscaping shall be provided for all utility structures with a footprint greater than two (2) square feet, where necessary to substantially screen the utility structure from public view and the view of adjacent landowners. Where landscaping is required for screening, a landscaping plan signed by a registered landscape architect shall be submitted with an application for a right-of-way permit, and, if approved, installed as part of the work performed in accordance with the right-of-way permit.

F. Any utility structure that is not operated for a continuous period of six (6) months shall be considered abandoned, and the owner of the utility structure shall remove the structure and return the site to its original condition.
(Code 2008, ch. 16, § 4.2.9; Ord. 984, § 15, 9-21-2017)

4.3 SINGLE-FAMILY RESIDENTIAL

4.3.1 Uses Permitted by Right

In the R-1 District, no building or premises shall be used and no building or structure shall be hereinafter erected or altered unless otherwise provided in this Ordinance, except for the following uses:

A. Single-family dwellings and appurtenances incident thereto;

B. Accessory dwelling unit (ADU)

C. Public parks or playgrounds, churches on lots of one acre or more, public or parochial school, city halls and police stations;

D. Group homes;

E. Accessory uses as provided herein;

F. Essential utility services subject to the limitations provided herein; or,

G. Communication Facilities, limited to the following:

1. Towers and Base Stations, as defined within Article Ten, Section 10.2, designed as an architecturally compatible element to an existing non-residential use such as schools, churches, and the like, and that comply with the same height and setback requirements as other structures in residential districts.

2. Antennas, as defined within Article Ten, Section 10.2, mounted on and designed as an architecturally compatible element to an existing non-residential structure or building.

3. Small Cell and Distributed Antenna Systems, as defined within Article Ten, Section 10.2, mounted or collocated on monopoles, utility poles, or street lights in the public right-of-way.

4. Communication facilities, e.g. Towers, Base Stations and Antennas, are subject to the application, location, and performance standards of Article Ten of the Westwood

Zoning Ordinance.

5. Communication facilities with conditions as provided herein or as otherwise deemed necessary by the approval authority to protect the public health, safety or welfare.

H. Nonresidential development permitted in a residential district shall be in compliance with Section 5.1 (general requirements for commercial development), Section 5.4 and 5.5 (related to parking), and section 5.6 (landscaping).
(Code 2008, ch. 16, § 4.3.1; Ord. 984, § 16, 9-21-2017; Ord. No. 1024, § 27, 2-10-2022)

4.3.2 Single-Family Primary Structure Requirements

A. Residential lots are described and defined in Section 4.1.2 (Residential Zoning Districts Described) and are reaffirmed herein by reference. For lots which have front footage lying on a curve or arc (such as may occur on a lot on a cul de sac) or which otherwise are not rectangular and have a front width which is narrower than the width at the back property line, the width shall be measured along the front building line of the primary structure for purposes of determining the lot category.

B. The primary structure of all residences in R-1(A), R1-(B), R1-(C), and R1-(D) shall be a maximum of two stories in height. Residences in R-1(E) shall be a maximum of 2½ stories.

C. For all residential tracts in R-1(A) and R-1(E), the total lot coverage of all structures, including, but not limited to all primary and accessory structures, shall not exceed 40% of the area of the lot. For R-1(B), R-1(C), and R-1(D) lots, the total lot coverage of all structures, including, but not limited to all primary and accessory structures, shall not exceed 35% of the area of the lot. However, in calculating lot coverage, decks which are at least 30 inches high, measured from the ground, shall be calculated at 50% of the area they encompass. Thus a deck having an area of 100 square feet shall count as 50 square feet for purposes of calculating total lot coverage. Decks lower than 30 inches in height are not counted toward lot coverage.

D. Primary structures shall have at least 60% of their front facade on the front yard build-to line.

E. The vertical surface of any building elevation shall not exceed more than 600 square feet or 25’ measured horizontally without incorporating architectural relief. Architectural relief shall be defined as a building element or elements that break(s) up a wall plane and occurs cumulatively over at least 25% of the wall plane requiring relief.

1. Examples may include dormers, projecting primary entrance features, projections or recessions in the building face (either horizontal or vertical), columns, , chimneys, , arches, eaves, alternating roof pitches, and/or by other architectural means.

2. Windows, doors, and changes of material do not constitute architectural relief.

F. Window openings shall match or exceed the existing percentage of wall-to-window openings of the existing house or the construction of adjacent properties for new homes.

The requirements of this provision, however, shall not apply to the first floor of attached garages.

G. Front setback encroachments for all residences shall be no greater than 4 feet into the front yard setback. See 4.3.3.E

H. The maximum height of the primary structure shall be 35 feet.

I. With respect to lots which have existing primary or accessory structures less than 5 feet from a side property line, such existing primary or accessory structure's existing wall may be extended further along the property line provided that a distance of 10 feet is maintained between the structure and any extension thereof and any structure on any adjacent lot.

J. Notwithstanding the above, any construction within such a 5-foot setback shall require that any future construction of a structure on the adjacent lot be not less than 10 feet away from the new construction. Thus, for example, and not by way of limitation, an extension on one lot that is 4 feet off the side yard property line would necessitate that any later construction on the adjacent lot be at least 6 feet off of its side yard.

K. A permit for construction of a non-conforming primary or accessory structure in the setback will not be granted until the applicant obtains the following in writing signed by the adjacent property owner or owners:

1. a statement advising the adjacent neighbor of the nature of the project or construction under consideration;

2. an acknowledgement by said adjacent neighbor that that property owner or owners may not build any closer than 10 feet to the proposed project or construction in the future;

3. a statement that said adjacent property owner or owners consent to said project or construction; and

4. this writing shall be acknowledged before a notary public and said permit shall be filed with the Johnson County Office of Records and Tax Administration, and proof of said filing provided to the City before any building permit shall issue.[20]

L. Except as set forth in Article 4.3.3, Lot Exceptions below, specific requirements for each residential zoning district are as follows:

1. R-1(A):

a. lots shall be less than 50 feet in width;

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[20] **Legal analysis: 4.3.2 Single-Family Primary Structure Requirements, (K)(4).** Revise to clarify, as the current wording seems to imply there are two separate permits required. Please advise; revise accordingly.

b. minimum setbacks are established at:

1. 20 feet for the front yard,

2. 7 feet for a second-story side yard,

3. 15 feet for the rear yard,

4. 15 feet for the side yard on corner lots,

5. other first-story side yard setbacks as set forth in Article 4.3.2.I above;

c. the maximum lot width coverage at front yard setback shall be 80%;

d. the maximum eave height above the first floor shall not be greater than half the width of the lot as measured at the curb along the front property line;

e. the maximum stories of the primary structure shall be two.

2. R-1(B):

a. lots shall be at least 50 feet and less than 65 feet in width and have a minimum area of 5,500 square feet;

b. minimum setbacks are established at:

1. 35 feet for the front yard,

2. 7 feet for a second-story side yard,

3. 15 feet for the rear yard,

4. 15 feet for the side yard on corner lots,

5. other first-story side yard setbacks as set forth in Article 4.3.2.H above;

c. the maximum lot width coverage at front yard setback shall be 80%;

d. the maximum eave height above the first floor shall not exceed 23 feet;

e. the maximum stories of the primary structure shall be two.

3. R-1(C):

a. lots shall be at least 65 feet and less than 75 feet in width and have a minimum area of 7,020 square feet;

b. minimum setbacks are established at:

1. 35 feet for the front yard,

2. 7 feet for a second-story side yard,

3. The greater of 15 feet or 20% of depth of lot for the rear yard,

4. 15 feet for the side yard on corner lots,

5. other first-story side yard setbacks as set forth in Article 4.3.2.H above;

c. the maximum lot width coverage at front yard setback shall be 70%;

d. the maximum eave height above the first floor shall not exceed 23 feet;

e. the maximum stories of the primary structure shall be two.

4. R-1(D):

a. lots shall be at least 75 feet width and have a minimum area of 9,000 square feet;

b. minimum setbacks are established at:

1. 35 feet for the front yard, 7 feet for a second-story side yard,

2. The greater of 15 feet or 20% of depth of lot for the rear yard,

3. 15 feet for the side yard on corner lots,

4. other first-story side yard setbacks as set forth in Article 4.3.2.H above;

c. the maximum lot width coverage at front yard setback shall be 70%;

d. the maximum eave height above the first floor shall not exceed 23 feet;

e. the maximum height of the primary structure shall be 35 feet;

f. the maximum stories of the primary structure shall be two.

5. R-1(E):

a. lots shall be less than 50 feet in width;

b. minimum setbacks are established at:

1. 20 feet for the front yard,

2. 5 feet for a second-story side yard, 7 feet for the third-story,

3. 15 feet for the rear yard but 5 feet for a detached garage in the rear yard,

4. 15 feet for the side yard on corner lots,

5. other first-story side yard setbacks as set forth in Article 4.3.2.H above;

c. the maximum lot width coverage at front yard setback shall be 70%;

d. the maximum eave height above the first floor shall not exceed 23 feet;

e. the maximum stories of the primary structure shall be two and one-half;

f. the total square footage of the one-half story above the second story shall not exceed 50% of the total square footage of the second story.

J. The chart on the following page is provided to assist property owners for single-family primary structures, however the written paragraphs herein shall prevail in the event of any question of interpretation or ambiguity with respect to said chart.

4.3.2 Single-Family Primary Structure Requirements Charted

Primary Structure Requirements	R-1 (A)	R-1 (B)	R-1 (C)	R-1 (D)	R-1 (E)
Lot Width Minimum		50′	65′	75′	
Lot Width Maximum	< 50′	< 65′	< 75′		< 50′
Lot Size Minimum		5,500 sq. ft.	7,020 sq. ft.	9.000 sq. ft.	
Maximum Lot Coverage Including Accessory Structures (deck calculated @ 50%)	40%	35%			40%
Minimum Setbacks:					
Front Yard Build-to Line (see 4.2.3.D)	20′	35′			20′
First Floor Side Yard	See Article 4.3.2.H				
Corner Lots Side Yard**	15′				15′
Rear Yard	15′		greater of 15′ or 20% of lot depth		15′, detached garage at 5′
Maximum Lot Width Coverage at Front Yard Setback	80%		70%		80%
Front Setback Encroachments:					
Open Stoops, Open Porches & Raised Doorways	4′ into the front yard setback				
Maximum Eave Height above First Floor	< ½ lot width	23′			
Maximum Height of Primary Structure	35′				
Maximum Stories of Primary Structure	2	2			2½ *
Continuous Wall Limits	Not to exceed more than 600 square feet or 25′ horizontally without incorporating architectural relief. See 4.3.2 E.				

Attached Garages	The front wall of front-facing attached garages shall be located entirely behind the front wall of the primary building (2.3.520). Front porches or colonnades shall not constitute the front wall of the dwelling for this review.

* New home builds should see 4.4 New Infill Houses & Major Additions for special considerations.

* The total square feet of the top one-half story shall not exceed 50% of the area of the second story.

** Corner lots side yard diagramed in Section 2 – Definitions

(Code 2008, ch. 16, § 4.3.2; Ord. No. 1024, § 28, 2-10-2022)

4.3.3 Lot Exceptions

A. No new R-1(A) or R-1(B) lots shall be platted ~~after adoption of this Ordinance.~~ [21]

B. A cul de sac lot shall have a minimum width of 30 feet at the front building line.

C. Lot splits of existing platted lots shall be subject to the requirements set forth in Article 1.5, entitled Plans, Plats, and Lot Splits.

D. Setback exceptions are as follows:

1. 47th Street Terrace and 48th Street between Rainbow Boulevard and State Line Road: front yard setback 20 feet;

2. 50th Street Terrace east of Belinder Road: front yard setback 30 feet and rear yard setback 10 feet;

3. 47th Street Terrace between Belinder Road and Rainbow Boulevard: front yard setback 25 feet;

4. Fairway Road between 49th Street and 50th Street: front yard setback 23 feet;

5. Norwood Road between 49th Street and 50th Street: front yard setback 32 feet;

6. Where irregular front yard setbacks exist and specific setbacks are not indicated above, the front yard shall not be less than the primary structure on either side.

E. Encroachment exceptions are as follows:

[21] **Legal analysis: 4.3.3 Lot Exceptions, (A).** Revise to update language.

1. Chimneys, open steps, and medically necessary ramps may encroach on front setbacks;

2. Bay windows may encroach on the front yard to a maximum of 30 inches;

3. All encroaching stoops and porches shall be open with no enclosing screens or windows;

4. All the above encroachments shall be constructed using materials and construction methods similar to those of the existing house.

F. Height exceptions are as follows:

1. Roof equipment;

2. Spires;

3. Chimneys and other roof appurtenances not intended for human occupancy and which are necessary to the structure to which they are attached.
(Code 2008, ch. 16, § 4.3.3)

4.3.4 Accessory Structure Setback and Other Requirements

A. The setback for accessory structures for all residential zoning districts currently established shall be 5 feet for the rear yard and for the side yards, including the interior side lot of corner lots, except as set out in 4.3.2H.

B. On corner lots, the street side yard setback (i.e., the setback for the side yard nearest to the street) for accessory structures shall be equal to the setback of the primary structure, i.e., accessory structures may not encroach on the setback established for the primary structure.

C. The following chart sets forth other requirements pertaining to accessory structures. Parameters which do not relate to setbacks are set forth in related sections below the chart. The written paragraphs herein shall prevail over chart data in the event of any question of interpretation or ambiguity.

Accessory Building Setbacks and Other Requirements (Articles 4.3.4, 4.3.5, 4.3.6)	R-1 (A)	R-1 (B)	R-1 (C)	R-1 (D)	R-1(E)
Interior Lots Side Yard	See Article 4.3.2.H				
Rear Yard	5’				
Corner Lots Interior Side	5’				
Corner Lots Side Yard	equal to primary structure setback				
Maximum Accessory Structures per Dwelling	2				

Maximum Detached Garage Height	35’ or 2 stories				
Detached Garage Roof Pitch	Same roof pitch as primary structure				
All Other Structure Height	16’ and 1 story				
Maximum Footprint of All Accessory Structures	662 sq. ft.	704 sq. ft.	704 sq. ft.	704 sq. ft.	662 sq. ft.
Minimum Garage Size	175 sq. ft.				
Maximum Garage Door Height	9’				
Detached Garage Allowed in Rear Yard	Yes				
Tandem Garage Permitted	Yes				
Adjacent Property Interior Common Wall Garages (see Article 4.3.6.D)	Yes				
Materials and construction	Similar to primary structure				

(Code 2008, ch. 16, § 4.3.4; Ord. No. 1024, § 29, 2-10-2022)

4.3.5 Accessory Structures

A. No more than two accessory structures, including detached garage, shall exist for a single residence.

B. Accessory structures must be clearly incidental to and customarily and commonly associated with the primary structure and must be located in the rear yard. Accessory structures may have plumbing, heating, ventilation, air conditioning, cooking facilities, or other amenities, and may be used for any purpose which is otherwise lawful in the primary structure, including, but not limited to, garages, storage areas, home offices, studios, or workshops, and accessory dwelling units, provided all applicable building, fire safety, and other codes are met.

C. Only one accessory dwelling unit (ADU) is permitted on any single-family residential building site. If the ADU is greater than 500 sq. ft. in size, an additional parking space located behind the front yard setback and at least 20 feet from the street side lot line is required. ADUs that are 500 sq. ft. or smaller that have code compliant parking for the principal structure at the time the principal structure was constructed are not required to have an additional parking space for the ADU.

D. For R-1(A) and R-1(E) tracts, the total coverage of the combined footprints of all accessory structures shall not exceed 662 square feet. For R-1(B), R-1(C), and R-1(D) tracts, the total coverage of the combined footprints of all accessory structures shall not exceed 704 square feet. However, notwithstanding the above, an accessory structure may only be constructed provided that all other zoning, building, and other legal requirements are met.

E. Accessory structures other than garages which are less than 150 square feet in

area and do not have a permanent foundation may be constructed of any permitted residential building wall material and may have a roof pitch different from that of the existing pitch of the roof on the primary structure.

F. No structure may be set in any utility or other easement.

G. No structure may be more than sixteen feet, and one story, in height, except as provided in 4.3.6 Garages.

H. Dog runs must be in the rear yard and must comply with all setback and fence height requirements, and shall be no more than four feet wide and twelve feet long with a paved floor for sanitation purposes. Each lot shall have no more than one dog run. (Code 2008, ch. 16, § 4.3.5; Ord. No. 1024, § 30, 2-10-2022)

4.3.6 Garages

A. Each single-family residence hereinafter constructed within the City limits must have at least a one-car garage.

B. No remodeling or construction shall be permitted which eliminates all garage space for a single-family residence.

C. Basement parking garages in R-1(A) and R-1(E) districts may extend above existing grade a maximum of four feet if the front entrance to the first floor faces the street and no exterior entrance to the garage, other than the garage door(s), faces the street.

D. One detached garage on each of two adjacent lots may be built on the side property line and share a common wall. Such a garage may be built only following a hearing before the Governing Body with notification by certified mail to all property owners who are adjacent, abutting, or opposite the properties upon which the garage is proposed to be built. At the hearing, the Governing Body may approve such a garage provided that the applicants have appropriate easements, party wall agreements, or other documentation and provided further that no existing easements or property rights will be affected by the garage.

E. Any detached garage shall have a permanent foundation, cover an area of at least 175 square feet, and be constructed using materials and construction similar to the primary structure, including the same roof pitch as the existing roof on the primary structure.

F. The front wall of front-facing attached garages shall be located entirely behind the front wall of the primary building (2.3.520). Front porches or colonnades shall not constitute the front wall of the dwelling for this review.

G. Detached garages shall be located entirely behind the rear line of the primary structure.

H. Any three-car garage must have at least two garage doors for vehicle access.

I. No detached garage shall be more than 35 feet and 2 stories in height.

J. No garage door shall be more than 9 feet in height.
(Code 2008, ch. 16, § 4.3.6; Ord. No. 1024, § 31, 2-10-2022)

4.3.7 Building Standards

A. Acceptable materials for all structures in all R-1 districts are as follows:

1. The exterior surfaces of residential building walls shall be stone, brick, finished concrete, precast concrete, copper, plaster stucco, EIFS (Exterior Insulation Finishing System), clear glass, wood (clapboard, shingle, drop siding, primed board, or board and batten), brick, metal (for detailing and awnings), vinyl siding and details (including soffits), aluminum siding, or steel siding. Also, vinyl windows are permitted. All other materials shall be prohibited including, but not limited to, plastic columns or other ornamentation, concrete masonry units, corrugated metal, and mirror or other reflective glass.

2. Residential roofs shall be dressed in wood shingles, slate, asphalt shingles, copper, tern-coat metal, tile, concrete tile, painted metal, or single membrane roof. No person shall construct a green roof prior to first submitting a detailed maintenance plan to the City and obtaining a conditional use permit from the Building Official.

3. Gutters and downspouts shall be made of copper, galvanized metal, painted metal, baked finish aluminum or vinyl.

B. Configurations for all structures in all R-1 districts shall be as follows:

1. The undercroft of buildings shall be enclosed by a lattice or similar enclosure.

2. All rooftop equipment, such as solar panels or turbines, shall be visually compatible with the structure. Roof penetrations, except chimneys and skylights, shall be located on the rear or side so as not to be visible from the street, whenever possible.

3. Window openings shall match or exceed the existing percentage of wall-to-window openings of the existing house or the construction of adjacent properties.
(Code 2008, ch. 16, § 4.3.7; Ord. No. 1024, § 32, 2-10-2022)

4.3.8 Building Additions — Special Conditions

A. For new additions facing the street, roofs shall have the same pitch as one of the existing roofs on the primary structure, and any roof extension facing the street must have the same pitch as the roof from which it extends. For roof additions other than those facing the street, the roof shall have the same pitch as one of the existing roofs on the primary structure with a permitted variation in pitch of up to two feet of vertical drop for twelve feet of horizontal distance in either direction. Dormers can have any roof pitch and can be any size.

1. On corner lots, the front shall be the side with the primary entrance facing the street only.

2. Notwithstanding the above, in the case of the replacement of a portion of an existing home, the replacement roof line may replicate the previously-existing roof line. For example, if a porch has a roof line that differs from that of the roof to which it is attached, and that porch is torn out to be replaced, the previous roof line can be duplicated on the replaced structure. This provision shall not apply to new additions or modifications that deviate from the existing structure.

3. Further, a roof over an open porch or stoop on the front of a house may have a roof pitch that is different from the pitch or pitches of any of the existing roof(s) on the primary structure.

B. The primary eave lines of house additions shall match in height the existing structure's primary eave lines for both the first and second stories.

C. Acceptable building materials are as follows:

1. The building materials on house additions shall match the building materials and construction of the existing house.

2. The building materials on two-story additions may be different above the first-story eave if the material covering the wall of the first story is the heavier in appearance of the two, e.g., stone on the first story and wood siding on the second story.

D. Considering massing of two-story additions, the following shall apply:

1. Structures with the primary roof ridge line parallel to the street frontage must maintain the existing line along two thirds of their street frontage.

2. For one- or one-and-a-half-story structures which have the primary roof's ridge line perpendicular to street frontage, the existing eave line shall be maintained along the full width of street frontage, a distance of at least four feet back from the vertical surface of any building elevation.

3. The primary two-story roof ridge shall run parallel to existing one- or one-and-a-half-story primary roof structure.

4. Within the limits set forth in Subsection 2 above, where the new second-story roof line meets or extends in front of the existing front building wall, the second-story roof line may be perpendicular to the primary existing roof line.

E. Notwithstanding the above restrictions on materials and roof pitch, a sunroom or conservatory added to an existing primary structure may have a roof constructed primarily of Lexan or a similar translucent material and may have a pitch which differs from pitches on existing roofs on the primary structure.
(Code 2008, ch. 16, § 4.3.8; Ord. No. 1024, § 33, 2-10-2022)

4.3.9 Fence and Wall Standards

No fence may be placed upon any public right-of-way except by the City.

No fence or wall detached from or attached to any building shall be erected or constructed upon any lot, plot, tract, or premises without a valid permit specific to said construction project.

A. The requirements for materials and style of construction shall be as follows:

1. The type and design of any fence or wall must be suitable to and in conformity with the improvements on the lot on which it is constructed and shall be compatible with the surrounding neighborhood. Both sides of any fence or wall shall be of equal quality or finish; any fence or wall of post-and-support construction shall be built with the posts facing the interior of the tract. All fences and walls must be kept in good repair and appearance.

2. All fences and walls exceeding four feet in height shall be made of wood and of board-on-board style, or shall be of live material such as bushes or shrubs.

3. All fences and walls constructed of live material must be kept trimmed and of an orderly appearance, may not exceed six feet, and may be situated at any location upon the lot or tract subject to easements and the City's tree ordinance.

B. The requirements for fence and wall height shall be as follows:

1. No fence or wall other than a retaining wall shall exceed six (6) feet in height, except as hereinafter provided.

2. The height requirement established by this section may be exceeded by not more than six inches in situations where additional height is necessary to allow for normal installation.

3. Fences constructed to secure structural, mechanical, electrical, or other devices not customarily found in residential areas, including, but not limited to, electrical substations and churches or schools with electrical equipment, may be up to twelve feet in height in order to ensure public safety.

C. The requirements for placement of fences and walls shall be as follows:

1. No fence or wall shall be closer to the front property line than the front line of the residence.

2. No fence or wall on a vacant lot shall be closer to the property lines than the allowable building lines as set forth in this Ordinance.

3. On a corner lot, no fence or wall shall be closer than ten (10) feet to the street-side property line.

4. No fence or wall shall restrict or obstruct the sight distance triangle, as defined and illustrated in Section 9.1.3, or any traffic control sign.

D. Retaining walls may be erected, constructed and maintained on any lot, provided

any such wall complies with the following requirements:

1. The erection, construction and maintenance of any such wall is reasonably necessary because of the topography of said lot; and

2. Any such wall is located at least two feet back from any street line; and

3. Any such wall shall extend no more than six inches above ground level of the land retained thereby.

E. Fences or walls around pools may be of solid construction, and shall also be no more than six feet in height, and shall be constructed in accordance with the City Code, Chapter 8, Health and Welfare, Sections 8-601 through 8-604, Swimming Pools.

F. Fences or walls which would exceed the height limitation or would fail to comply with any other requirement of this Ordinance may be constructed and maintained, contingent upon the following:

1. Application shall be made to the Governing Body, which shall study said application to determine the following:

a. the fence or wall will not adversely affect the general welfare of the immediate neighborhood in which the fence or wall is to be erected, taking into consideration factors including, but not limited to, the value of the property and the safety of residences in said neighborhood;

b. the appearance, location, and purpose of the proposed fence or wall;

c. the effect on adjoining properties;

d. the size of the area to be enclosed; and

e. the desirability of open views with regard to beauty, value and safety of the neighborhood; and

f. with respect to any fence on a lot adjacent to a street, a variance shall not be granted if the proposed fence would interfere with a safe view of the street for vehicular traffic, or would impair the view from any nearby driveway, or would extend closer to the street than the adjacent front yard setbacks.

2. Said application must be approved by at least four of the five members of the Governing Body.
(Code 2008, ch. 16, § 4.3.9; Ord. No. 1024, § 34, 2-10-2022)

4.3.10 Driveways

A. Each single-family dwelling is limited to one curb-cut or entrance with a corresponding one-lane driveway having a maximum width of twelve feet.

1. However, a single-family residence may have two single-lane curb-cuts, each a

maximum of twelve feet wide, provided:

a. no curb-cut may be located within 30 feet of an intersection;

b. 75 feet of contiguous property is immediately adjacent to the public right-of-way on the subject tract; and

c. there must be at least 36 linear feet of public right-of-way between the driveways, measured at the edge of the right-of-way on the tract.

2. For multiple curb-cut properties, each curb-cut must either:

a. end at a garage; or

b. be configured so that one driveway arcs or circulates in such a fashion that it connects to the other driveway in the front, or front-side yard in the case of a corner lot, while the other driveway ends at a garage.

3. The total impervious area of the yard(s) in which the multiple curb-cuts and corresponding driveways are located, measured from the edge of the rights-of-way, shall not exceed forty percent of the total area of the front, side, or back yards on which any part of said driveway lies. This is derived by dividing the total area of the driveway by the sum of the total areas of any front, side, or rear yard on which any part of the driveway or driveways lie on that property.

4. In the event of an arched, or circular, driveway, the arched driveway must be:

a. no wider than 12 feet from the edge of the right-of-way to where it connects to the other driveway; and

b. arched so that there is at least 17 feet between the inside of the arch and the public right-of-way for at least 18 linear feet, i.e., the inside radius of the arch must be sufficient to maintain at least a 17-foot setback from the nearest right-of-way for a distance of 18 feet along that right-of-way.

B. Any house with a single-car garage may have a driveway that widens to a maximum of 18 feet. This widening is allowed only for the final 18 feet of the driveway closest to the garage. Any such driveway may widen gradually for an additional 9 feet of transitional length in which the driveway widens from one lane to the prescribed maximum width.

C. Any house with a garage built to hold more than one car side-by-side may have a driveway which widens up to the width of the garage or 24 feet, whichever is less. If a house with only one curb-cut has a side-by- side two-car garage with street access from the front, and the garage door face is in line with or in front of the closest adjacent rear corner of the house, that driveway and curb-cut may be a maximum of 24 feet wide, or the width of the garage, whichever is less, from the edge of the right-of-way to the garage.

D. Any house with a side-by-side garage with more than two side-by-side garage

spaces shall be permitted an additional 9 feet of width than that width permitted in the previous section for each additional side-by- side garage space greater than two spaces in the widened area closest to the garage. Widening of the drive to this greater amount adjacent to the garage doors is allowed for the final 24 feet of the driveway closest to the garage, or for a length equal to the width at the garage, whichever is less. Any such widened driveway may widen gradually for an additional 10 feet of transitional length in which the driveway widens from one lane to the prescribed maximum for two-car garages, and another additional 5 feet of transitional length for each additional side-by-side garage space over the two-car configuration.

E. Driveways shall be constructed of pavers, concrete, asphalt, brick, or similar hard surfaces, or hard surfaces interspersed with green space, vegetation, or natural stone or a combination thereof. Driveway approaches shall conform to the current City right-of-way ordinance.

F. Pavement is allowed up to one foot from the side yard property line on all R-1 lots. Notwithstanding, common drives which lie on both sides of a property line to serve both the adjacent properties are allowed.

G. Any house with garage door access on the rear or side of the house but having drive access only from the front, shall also be constructed with driveways having a maximum width of twelve feet from the edge of the right-of-way to the face of the garage, subject to the other rules set forth herein. The path of travel from the back of the house to the garage door shall be by the most direct path, considering turning radius, entry grade, and the geometry of the existing structures and the lot. For garages facing the rear of the property, horseshoe or U-shaped drives are to be used whenever possible, with the distance between the portions going from the street and the reversed portion going into the garage, or ends of the horseshoe, being as narrow as possible; and, the distance of the driveway before reversing, or the depth of the horseshoe, shall be as short as possible. For garages facing either side yard, right-angle or L-shaped driveways are to be built wherever possible. The maximum allowed inside turning radius to accomplish the turn into the garage is thirteen feet. An additional hard surface area of up to 162 square feet is permitted behind the front face of the house to permit the turning of vehicles and to allow vehicular access to the garage.

H. Any house with no garage shall be treated the same as a house with a single car garage, except that:

1. all driveways shall be straight and perpendicular to the curb-cut;

2. all driveways shall be located as close as possible to either side yard property lines; and

3. all driveways may widen for the final eighteen feet farthest from the street, and such driveways may widen gradually for an additional nine feet of transitional length in which the driveways widen from one lane to the prescribed maximum width. Such driveways shall terminate at least five feet from any rear yard property line and shall not be constructed in a fashion which violates the easement rights of other parties.

I. Notwithstanding anything to the contrary herein, the entrance to a driveway may

widen at the street entrance pursuant to the City's ordinances regarding driveway approaches or right-of-way governance. Any measurements hereunder shall be made from the edge of the right-of-way, wherever applicable. Nothing herein shall be deemed to permit any parking or storage of vehicles on any right-of-way or in other areas designated for public use.
(Code 2008, ch. 16, § 4.3.10; Ord. 915, Sec. 1; Ord. No. 1024, § 35, 2-10-2022)

4.3.11 Off-Street Parking

A minimum of two spaces per primary structure must be provided on the site and off the public right-of-way. Additional off-street parking requirements per accessory structure are outlined in Section 4.3.5.
(Code 2008, ch. 16, § 4.3.11; Ord. No. 1024, § 36, 2-10-2022)

4.3.12 Parking or Storage of Boats, Trailers, Commercial and Recreational Vehicles

A. No boats, campers, trailers, motorcycles, or jet skis may remain in public view on any portion of any lot, tract, or parcel of land in the City for more than twelve hours, except as provided below.

B. A special permit to park campers, trailers, motorcycles, or jet skis in public view may be obtained from the police department for two periods of four days each in each calendar year.

C. Repairing and/or mechanical work on any motor vehicle must be done in an enclosed building or garage.

D. All recreational equipment and vehicles such as boats, campers, trailers, motorcycles, or jet skis, must be stored inside an enclosed structure except as provided under Section A above.

E. Any vehicle larger than one-ton pickup truck shall be parked in an enclosed garage.

F. In areas zoned for residential use, vehicles must be parked on driveways or in garages. No part of any vehicle shall be parked on any yard or green space.

G. The above requirements shall not be interpreted to prohibit vehicles from loading and unloading household goods in any Residential District for a period of up to 24 hours.

H. No boat, trailer, commercial or recreational vehicle shall be used as a dwelling unit or for living, sleeping, or housekeeping purposes. The connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes), temporarily or permanently, is prohibited. However, this prohibition shall not apply to manufactured homes and structures approved under Sections 3.5.4 and 3.5.5 of this Ordinance. [22]
(Code 2008, ch. 16, § 4.3.12)

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[22] **Legal analysis: 4.3.12 Parking or Storage of Boats, Trailers, Commercial and Recreational Vehicles, (H).** Add language to clarify and avoid potential internal conflict.

4.3.13 Satellite Dishes

Building- and/or roof-mounted satellite dish antennae are allowed in all residential use districts if the following performance standards are met:

A. No dish antenna shall exceed 24 inches in diameter.

B. Every dish antenna must be attached directly to the primary structure.

C. Every dish antenna shall be located on the rear elevation of the structure, shall not extend above the highest point of the roof, and shall not be visible from the public right-of-way, unless necessary for reception.

D. No more than one satellite dish antenna shall be allowed per residential lot.
(Code 2008, ch. 16, § 4.3.13)

4.4 NEW INFILL HOUSES AND MAJOR ADDITIONS — SPECIAL CONSIDERATIONS

4.4.1 Intent

A. Consistent with the City's Comprehensive Plan, these regulations are designed to allow redevelopment in existing neighborhoods, using the same traditional lines along which each neighborhood was established.

B. All new development shall reflect, complement, and preserve the nature and character of existing adjacent development.

C. All new residential construction shall conform in street orientation and massing to adjacent homes.
(Code 2008, ch. 16, § 4.4.1; Ord. No. 1024, § (37(4.4.1), 2-10-2022)

4.4.2 Tree Preservation

A. A tree protection and removal plan shall be submitted with the site plan. The tree protection and removal plan shall:

1. Show all existing trees, including size and species;

2. Identify trees proposed for removal and those to be retained; and

3. Include locations of protection fences and other protection measures.

B. Tree removal is only permitted if:

1. The tree is dead;

2. The tree is diseased or dying, and constitutes a threat to healthy trees, property, or public safety;

3. The tree has visible structural deficiencies; or

4. Removal of the tree is necessary for construction, development, or redevelopment under the following criteria:

a. All reasonable efforts have been made to avoid removing the tree through comparable alternative design;

b. The presence of the tree places an undue financial burden on the applicant; and

c. No other reasonable accommodations, including adjustments to the otherwise allowable building footprint or site design can be made to preserve the tree.

C. All removed trees shall be replaced. Replacement trees shall:

1. Be at least 2 inches in caliper;

2. Be placed in the front yard if the tree removed was in the front yard;

3. Be placed anywhere on site if the tree removed was not in the front yard;

4. Be outside of the right-of-way; and

5. Be planted once construction is complete.

D. All infill construction properties shall:

1. Contain at least one front yard tree;

2. If no front yard trees exist on the property at the time of construction:

a. A tree of at least 2 inches in caliper should be planted in the front yard of the property;

b. The new tree shall be planted outside of the right-of-way, once construction is complete.
(Ord. No. 1024, § 37(4.4.2), 2-10-2022

4.4.3 Massing

A. All new structures must have enough one-story eaves that a one-story appearance is maintained. Up to one third of any new building structure may be two stories in height without a one-story element in front. The portion of a two-story structure that does not have a one-story structure in front shall have a change in material from the first to the second story, with a line of separation that aligns with the first story eave line.

B. One-story eave lines shall be apparent as described above.
(Code 2008, ch. 16, § 4.4.2; Ord. No. 1024, § 37(4.4.3), 2-10-2022)

4.4.4 Sustainability ("Green") Features

The City recognizes customer demand for sustainable ("green") design and construction practices. These practices offer increased energy efficiency, reduced water consumption, reduced stormwater runoff, resource conservation, and improved indoor air quality. Where a sustainability effort conflicts with the Zoning Ordinance, consideration will be given to granting a waiver or exception.
(Ord. No. 1024, § 37(4.4.4), 2-10-2022)

4.4.5 Plans and Documents

The Building Official may require documentation from any applicant for a new residential infill building permit necessary to determine whether the project complies with all applicable codes and requirements, including, but not limited to, any plans or drawings of any structure to be built, and a sealed survey which accurately depicts any easements, boundaries, dimensions or structures pertinent to the project.
(Code 2008, ch. 16, § 4.4.3; Ord. No. 1024, § 37(4.4.5), 2-10-2022)

4.5 WAIVERS & EXCEPTIONS

4.5.1 Purpose

This section creates a flexible, streamlined process where applicants can seek exceptions from the specific rules in this title where granting the waver or exception would result in superior design, and the consideration of a variance request by the Board of Zoning Appeals is not suitable or proper in the circumstances.
(Ord. No. 1000, § 3, 3-14-2019)

4.5.2 Applicability

This section applies to a request for a waiver or exception from the building design or site development standards of only the following Sections: 4.3.2 Single-Family Primary Structure Requirements; 4.3.5 Accessory Structures; 4.3.6 Garages; 4.3.7 Building Standards; 4.3.8 Building Additions – Special Conditions; and 4.4 New Infill Houses – Special Considerations.
(Ord. No. 1000, § 3, 3-14-2019; Ord. No. 1024, § 38, 2-10-2022)

4.5.3 Initiation

An exception shall be requested at the time of filing a building permit. Consideration of a request for an exception shall require a Public Hearing before the Planning Commission following public notice as provided in Section 1.6.8 through 1.6.11.
(Ord. No. 1000, § 3, 3-14-2019; Ord. No. 1024, § 39, 2-10-2022)

4.5.4 Approval Criteria

A waiver or exception shall not be approved if it is contrary to the public interest or unnecessarily burdens the City. The Approving Authority may approve the waiver or exception if the applicant demonstrates one (1) or more of the following:

A. An alternative higher quality development design in being proposed with no

negative impacts to either near-by residential or nonresidential properties.

B. Relief of the development restrictions imposed on the property will ensure low impact land uses, and quality building and site design arrangements in which adjoining residential properties will not be negatively impacted by any deviations from the applicable regulations.

C. The granting of the wavier or exception will not be opposed the general spirit and intent of the adopted Comprehensive Plan.
(Ord. No. 1000, § 3, 3-14-2019)

4.5.5 Decision

A. The Planning Commission may approve, approve with conditions, or deny any requests for an exception or wavier.

B. The Planning Commission's decision may be appealed by the applicant only, to the Governing Body. In that case, the Governing Body can approve, approve with conditions, or deny the waiver request.
(Ord. No. 1000, § 3, 3-14-2019)

4.5.6 Scope of Approval

The waiver or exception is a condition of the underlying application for approval, and has the same effect as any approval of that application. In such instances, findings shall be prepared that:

A. No private rights will be injured or endangered by granting of the waiver or exception.

B. The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.
(Ord. No. 1000, § 3, 3-14-2019)

4.5.7 Recordkeeping

The Building Official will maintain a record of approved waivers and exceptions.
(Ord. No. 1000, § 3, 3-14-2019)

Article Five: Commercial Zoning Districts

5.1 COMMERCIAL DISTRICTS — GENERAL REQUIREMENTS

5.1.1 Intent

Zoning serves the City in that it maintains property values, stabilizes neighborhoods, provides uniform regulations, provides safe and efficient traffic movement, and promotes aesthetics and architectural harmony. It is the intent of the City to promote high design standards and safety in its land use policies and ordinances.

A. Consistent with the City's Comprehensive Plan, the goals of these Commercial District Ordinances are as follows:

1. to be able to accommodate the types of uses desired by the citizens of Westwood, including, but not limited to, retail, dining, and office services;

2. to improve the overall cohesiveness of the commercial areas of the City;

3. to enable future development to improve the look and character of the City;

4. to accommodate the needs of future expansion and improvements.

B. Several issues are paramount in achieving the goals indicated in the City's Comprehensive Plan, relating to the continued redevelopment of the Commercial districts. They are as follows:

1. creating or improving proper commercial buffering from adjacent residential properties;

2. solving parking and driveway problems to accommodate both vehicles and pedestrians properly;

3. creating consistent sight lines to commercial buildings, thereby strengthening City cohesiveness;

4. providing better access to commercial areas for both pedestrians and vehicles;

5. creating the proper image on the side streets that serve as gateways into the residential neighborhoods adjacent to the commercial corridors; and

6. accommodating a variety of property uses in a small, densely built area.
(Code 2008, ch. 16, § 5.1.1; Ord. 984, § 17, 9-21-2017)

5.1.2 Repealed [23]
(Ord. No. 960, Sec. 7)

5.1.3 Repealed
(Ord. No. 960, Sec. 7)

5.2 C-O COMMERCIAL — OFFICE

5.2.1 Office and Commercial District (C-O) Use Regulations

In the office and professional district, no building, structure, land, or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed,

[23] **Legal analysis: 5.1.2 Repealed.** The introductory language of Ord 960 states that it amends Section 5.1.2, but did not provide any amend language. Section 7 of Ord 960 states that 5.1.2 and 5.1.3 are repealed to the extent inconsistent. Please advise whether 5.1.2 was intended to be repealed in its entirety, or there is some missing language in the ordinance.

moved or altered except for one or more of the following uses:

A. Office buildings to be used only for the administrative function of businesses, companies, corporations, or social or philanthropic organizations or societies.

B. Other offices including, but not limited to, the following:

1. accountants

2. architects

3. banks

4. brokers

5. engineers

6. dentists

7. lawyers

8. insurance offices

9. physicians, osteopaths, chiropractors, psychologists, mental health counselors, or other physical or mental health care professionals

10. real estate

11. advertising, public relations, and graphic arts

12. financial planning, stock brokerage, and securities businesses

13. computer programming, and technology services

14. massage therapists

C. Customary accessory uses; provided that, accessory uses related to Communication Facilities for Wireless Services are subject to the application, location, and performance standards of Article Ten of the Westwood Zoning Ordinance.

D. No merchandise shall be handled or displayed, nor equipment, material, or vehicle used for transportation to and from a building in this district.

E. Communication Facilities limited to the following:

1. Antennas, as defined in Section 10.2, mounted on and designed as an architecturally compatible element to an existing structure or building or affixed to water tower.

2. Small Cell or Distributed Array Facilities, as defined in Section 10.2, on utility poles

or street lights in the public right-of-way.

3. Communication facilities are subject to the application, location, and performance standards of Article Ten of the Westwood Zoning Ordinance.
(Code 2008, ch. 16, § 5.2.1; Ord. 984, § 18, 9-21-2017)

5.3 C-1 COMMERCIAL — MIXED-USE

5.3.1 Intent

A. Consistent with the City's Comprehensive Plan, the C-1 Commercial Mixed-Use District is intended to provide redevelopment or investment opportunities for existing or planned commercial centers within the City. Developments in Commercial Mixed-Use districts are to follow the characteristics of traditional "Main Street" commercial neighborhood developments, and to encourage pedestrian use through connections to adjacent neighborhoods and the construction of mixed-use buildings. The purpose of this District is to allow for the development of fully integrated, mixed-used, pedestrian-oriented neighborhoods.

B. Within the City, the following uses should be so arranged as to service the needs of the resident population in a convenient walking environment by providing open space, civic buildings, single-family residential, multi-family residential, retail/commercial, business/workplace, and parking.

C. The streets and sidewalks are the main pedestrian activity centers in Commercial Mixed-Use Districts. Minimal setbacks bring buildings close to the street and the pedestrians.

D. The typical form of the suburban retail center is oriented entirely to the auto and parking. Smaller shops are dependent on their relationship to the anchor stores when arrival is only by vehicle. The C-1 Commercial Mixed-Use design offers an opportunity for a more diverse patronage, both from the traditional auto/anchor and from the walk-in neighborhood and transit activity. To attract foot traffic to local shops, the configuration of streets, entrances, and parking must provide a comfortable route for pedestrians. Large pass-through parking lots and access roads designed for heavy auto traffic are discouraged. Configurations that provide traditional "Main Street" sidewalk storefronts, in combination with artery-oriented anchors, which provide accessibility for both the pedestrians and auto, are encouraged.

E. The configuration of commercial shops in the C-1 Commercial Mixed-Use District is intended to strike a balance between pedestrian and auto comfort, visibility, and accessibility. While anchor stores may need to orient to an arterial road and parking lots, smaller shops should orient to the main streets that have been made desirable for the pedestrian or to public open space such as plazas. Direct local street pedestrian access from the local neighborhood is required.
(Code 2008, ch. 16, § 5.3.1; Ord. No. 1024, § 40, 2-10-2022)

5.3.2 Building Use and Mixed Use

A. Consistent with the City's Comprehensive Plan, new developments in the C-1

commercial areas are to become mixed-use by providing floors of residential and/or office uses above a ground-floor level with retail shops.

B. Such commercial areas may mix the ground-floor shop-front retail with office and commercial space. Land designated for such shop-front use may contain residential as well as commercial uses. However, residential uses are not permitted on the ground floors of shop-front buildings. All uses shall be conducted within completely enclosed buildings unless otherwise specified.

C. Mixed-use buildings shall maintain the opportunity and flexibility to accommodate a variety of active uses adjacent to sidewalks and plazas.

D. In certain locations, multi-family construction, such as condominiums, may be appropriate, since such a use poses many of the same planning concerns that commercial buildings do, such as traffic, drainage, fire safety, and other concerns.
(Code 2008, ch. 16, § 5.3.2; Ord. 920, Sec. 2)

5.3.3 Uses Permitted by Right

Unless otherwise provided in this article, no buildings or premises shall be used, and no building or structure shall be erected or altered hereafter in C-1 Commercial Mixed-Use Districts, except for the following uses:

A. Retail stores;

B. Retail trade and shops for custom work or the making of articles to be sold at retail on the premises;

C. Manufacturing, clearly incidental or necessary to a retail business, lawfully conducted on the premises, provided that it is not in any way a nuisance or a hazard, and it meets all City ordinances regarding vibration, noise, and odor;

D. The place of business of a baker, barber, beauty shop, caterer, light dry cleaning and dying, confectioner, decorator, dressmaker, electrician, florist, furrier, milliner, theater, public utility station or substation, painter, paperhanger, photographer, plumber, printer, publisher, restaurant, shoe repairer, tailor, upholsterer, small animal veterinarian, health club, aerobics studio or similar facility;

E. Fire and police stations or other public buildings;

F. Any and all uses enumerated in Article 5.2 Commercial / Office;

G. Other general commercial uses up to 30,000 gross square feet. (Exceptions: automotive repair, garages, welding shops, machine shops, outdoor storage or sales, pool halls, game rooms);

H. Other office uses up to 30,000 gross square feet;

I. Hotels and/or convention facilities up to 50 rooms and 30,000 gross square feet of convention floor area;

J. Restaurants (exception: drive-through restaurants); [24]

K. Nursing or assisted living facilities;

L. In addition to multi-family uses in connection with a mixed-use development, free-standing multi-family residential uses which are restricted to individually owned townhouse developments as defined in the Townhouse Ownership Act (K.S.A. 58-3701, et seq.) as amended, and residential condominium units as defined in the Apartment Ownership Act (K.S.A. 58-3101, et seq.) as amended, shall be permitted in C-1 districts. Any requirement or regulation pertaining to C-1 uses shall apply also to such individually owned townhouse developments and residential condominium units. Furthermore, in addition to meeting all plan, development, building code, and other approvals and regulations imposed by the City, or state or federal law, any such multi-family use shall meet the following criteria:

1. Multi-family condominium or townhouse developments may be located only in areas which have adequate street, drainage, and other infrastructure capabilities, and further must be located so that such developments can be adequately buffered from, or transitioned to, surrounding or nearby properties;

2. Multi-family condominiums or townhouse developments can be located only on or at intersections with Rainbow Boulevard, 47th Street, State Line Road, or Shawnee Mission Parkway.

M. Multi-family residential as permitted within an applicable Commercial Overlay District.
(Code 2008, ch. 16, § 5.3.3; Ord. 920, Sec. 3; Ord. No. 1024, § 41, 2-10-2022)

5.3.4 Uses Permitted with Conditions

The following uses are permitted in C-1 Districts:

A. Commercial uses exceeding 30,000 gross square feet

B. Multi-family over 45 feet in height

C. Customary home occupations

D. Commercial child care

E. Hotels and/or convention facilities exceeding 50 rooms and 30,000 gross square feet of convention floor area

F. Office uses exceeding 30,000 gross square feet

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[24] **Legal analysis: 5.3.3 Uses Permitted by Right, (J) Restaurants.** Revise to clarify whether the exception is for restaurants that are drive-through only, or any dine-in restaurant that also has a drive-through.

G. Parking decks

H. Restaurants with outdoor seating

I. Service stations

J. Commercial uses which allow patrons to remain in their automobiles while receiving goods and services.

K. Communication Facilities limited to the following:

1. Antennas, as defined in Section 10.2, mounted on and designed as an architecturally compatible element to an existing structure or building or affixed to water tower.

2. Small Cell or Distributed Array Facilities on utility poles or street lights in the public right-of-way.

3. Communication facilities are subject to the application, location, and performance standards of Article Ten of the Westwood Zoning Ordinance.
(Code 2008, ch. 16, § 5.3.4; Ord. 984, § 19, 9-21-2017; Ord. No. 1024, § 43, 2-10-2022)

5.3.5 Uses Not Permitted

The following uses are not permitted in C-1 Districts:

A. Drive-through restaurants; [25]

B. Chemical manufacturing;

C. Storage or distribution as a primary use;

D. Enameling, painting, or plating, except artists' studios;

E. Outdoor advertising or billboard as a primary use;

F. Carting, moving, or hauling terminal or yard;

G. Prisons and/or detention centers (except for the City's Public Safety prisoner holding cell), or halfway houses;

H. Manufacturing of hazardous materials, or storage or disposal of hazardous materials or hazardous waste materials;

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[25] **Legal analysis: 5.3.5 Uses Not Permitted, (A) Drive-through restaurants.** See previous footnote.

I. Scrap yards;

J. Mobile homes;

K. Sand, gravel, or other mineral extraction;

L. Any use which produces adverse impacts which violate any City ordinance related to vibration, noise, and odor.
(Code 2008, ch. 16, § 5.3.5; Ord. No. 1024, § 43, 2-10-2022)

5.3.6 Lot Coverage

Mixed-use retail / office / residential buildings with ground-level shop fronts shall cover no more than sixty percent of the lot area. ”Business use only” buildings shall not cover more than fifty percent of the lot area.
(Code 2008, ch. 16, § 5.3.6; Ord. 920, Sec. 4)

5.3.7 Street Frontages, Setbacks, Built-to Lines, and Encroachments

A. Unless otherwise indicated in a specific Overlay District, the facade of buildings in the C-1 District shall be constructed directly on the build-to line along at least seventy percent of the length of the building.

B. Exceptions are allowed for pedestrian walkways and any lots for civic use.

C. Parking areas and parking garages shall be recessed or placed to the rear of buildings.

D. Larger setbacks may be permitted for street-side outdoor cafes and patios.

E. Buildings on such C-1 District lots shall have no setback from at least one side lot line.

F. Balconies and awnings, shall be permitted to encroach upon sidewalk areas as follows:

1. Balconies: 3 feet horizontal with 10 feet vertical clearance.

2. Awnings: 6 feet horizontal with 7 feet vertical clearance.

G. All buildings shall be parallel or perpendicular to the street frontage or may face the corner on a corner lot.

H. The required setbacks shall be as indicated in each Overlay District, or, in the absence of such criteria, as follows:

1. front and side setbacks: Ø feet

2. rear setback: 20 feet minimum

Requirements for transitional yards between residential districts shall be as indicated in Section 4.3.7 Building Standards.
(Code 2008, ch. 16, § 5.3.7; Ord. 920, Sec. 5)

5.3.8 Building Height

A. One-, two-, and three-story buildings are permitted in the C-1 Mixed-Use Districts.

B. The maximum height shall be 45 feet, except as provided or restricted in any Overlay District herein, and except as set forth herein.

C. Under certain circumstances, and upon approval of all site and development plans by the City, portions of buildings may reach a maximum of 75 feet in height. Necessary roof-mounted mechanical equipment and its screening may be placed above 75 feet but may not exceed an additional 15 feet in height, for a maximum height of 90 feet. Any building or part thereof with such increased height is also referred to herein as a "mid-rise building." In order for a mid-rise building to be lawfully constructed, the building must conform to all relevant planning and construction requirements, criteria, and regulations, including, but not limited to, the following:

1. Mid-rise buildings shall be on corner lots only. An entire block of mid-rise buildings shall not be permitted;

2. Mid-rise buildings must have a street or open space to the north of the building. In no event shall a mid-rise building be permitted if it will cast a shadow during winter months on any property or, in the discretion of the City, will create a possible hazard by casting a shadow which permits ice and snow to remain on streets and sidewalks or otherwise impairs or hampers the City's removal of snow and ice from streets and sidewalks. A green space or the building's parking area lying to the north of the mid- rise building can be used to provide a buffer space to meet these criteria;

3. Mid-rise buildings must be on lots that are sufficiently large to avoid towering over neighboring properties and to avoid interfering with neighboring properties' access to light and air;

4. Mid-rise buildings must be tiered; only a portion of the building may be the maximum height;

5. Mid-rise buildings are to be located in lower elevations and/or against hillsides, unless the City finds that a mid-rise building which is neither lying in a lower elevation nor against a hillside meets all other criteria established in the zoning and other codes of the City, and further finds that such a building will have no significant negative impact on nearby properties;

6. No mid-rise building shall be approved or constructed unless the City finds that all infrastructure and public safety and welfare needs have been met, including, but not limited to, obtaining appropriate engineering and other studies assuring that traffic, sanitary sewer, surface water drainage, and other infrastructure and public safety and welfare needs which are generated or affected by the project can be properly and safely met;

7. No mid-rise building shall be approved or constructed unless the City finds that all fire safety issues have been addressed, and the City further finds that existing firefighting and other public safety issues will be satisfactorily met by the design of the building and its overall development plans. Included in this fire safety evaluation shall be a consideration by the City and/or the relevant fire safety authority of the firefighting equipment available at the time, and the maximum height accessible by the firefighting authority's equipment, given the proposed design of the building and street or parking access for firefighting equipment.
(Code 2008, ch. 16, § 5.3.8; Ord. 920, Sec. 6)

5.4 OFF-STREET PARKING AND LOADING — ALL COMMERCIAL DISTRICTS

5.4.1 General Design Standards

A. Unless no practical alternative is available, any off-street parking area in any commercial district shall be designed so that vehicles may exit such areas without backing onto a public street.

B. Off-street parking areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments.

C. Every off-street parking area shall be designed so that vehicles cannot extend onto public rights-of-way, sidewalks and shall be designed to prevent damage to any wall, vegetation, or other obstruction.

D. Parking spaces may be located either on the premises or within 300 feet of land zoned for retail business.

E. Circulation areas shall be designed so that vehicles can proceed safely without posing danger to pedestrians and without interfering with parking areas.

F. Storm water shall be collected on site and run underground to the nearest storm sewer. Retention or detention facilities shall be provided if a runoff study so dictates.

G. Lighting used to illuminate the parking area in any district shall be so arranged as to direct the light away from any adjacent premises in a residential district.

H. Curbs and islands are required pursuant to City standards.

I. All drives and parking surfaces shall be constructed of concrete, asphalt, paving stones, masonry, or similar dust-free, non-granular surfaces and shall have curbs that conform to City standards.

J. All disabled parking spaces shall conform to all legal design requirements.
(Code 2008, ch. 16, § 5.4.1)

5.4.2 Parking Space Requirements

A. Mixed-use parking is as indicated in the specific Overlay District.

B. The table below includes requirements for employee parking.

C. Any use not specifically addressed or referred to in this list shall have parking requirements determined by the Planning Commission.

D. All square footage is in leasable square feet.

E. No use shall provide more than one hundred twenty-five (125) percent of the minimum required parking without documented evidence of actual parking demand based on studies of similar uses in similar context.

F. Any parking permitted over one hundred fifteen (115) percent of the minimum shall require mitigating potential impacts of more parking though one or more of the following strategies:

1. Provide shared parking for other uses on the block or adjacent blocks.

2. Use alternative surfaces designed to infiltrate stormwater or otherwise increase permeability without significantly sacrificing stability and durability.

3. Provide additional buffers and site open spaces to screen parking with at least a ten (10) percent increase in the open space or buffers required for the parking, and at least a twenty (20) percent increase in the landscape material amount required for the parking.

4. Design all parking areas over the one hundred fifteen (115) percent maximum as dual-purpose space, such as plazas or courtyards, playgrounds, event areas for regular use of the space during non-peak times.

5.4.2.1 Minimum Parking Spaces Per Use

Offices	1 per 333 sq. ft.
Retail	1 per 250 sq. ft.
Theaters	1 per 3 seats
Night clubs, lounges, bars, restaurants	1 per 75 sq. ft. of patron area
Drive-through (procession lanes)	12 car lengths for first window, 8 lengths per additional window
All other commercial uses	1 per 300 sq. ft.

(Code 2008, ch. 16, § 5.4.2; Ord. No. 1024, § 44, 2-10-2022)

5.4.3 Drive-through Services

Where allowed by this Ordinance, businesses offering drive-through services shall provide stacking lanes in sufficient number and of sufficient length to provide a safe and efficient flow of traffic. Procession lanes shall be of sufficient length to accommodate a minimum of twelve cars for the first service window and a minimum of eight cars for each additional window.
(Code 2008, ch. 16, § 5.4.3)

5.4.4 Parking Space Dimensions

A. In all lots other than single-family dwellings, each parking space (other than those designed for the disabled) shall contain a rectangular area at least 18 feet long and 9 feet wide. Parking space lines may be drawn at various angles in relation to curbs or aisles, provided the parking spaces so created contain the rectangular area required by this Section.

B. In all lots other than for single-family dwellings, wherever parking areas consist of spaces set aside for parallel parking the dimensions of such parking shall not be less than 20 feet long by 8 feet wide.

C. All uses shall be required to provide the number of disabled accessible parking spaces as required by law.
(Code 2008, ch. 16, § 5.4.4)

5.4.5 Aisle and Driveway Widths

A. In all lots other than for single-family dwellings, parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking. In all cases, where an aisle serves two or more angles of parking, the larger minimum width shall prevail.

1. Aisle widths for one-way traffic:		2. Aisle widths for two-way traffic:	
Angle of Parking	Aisle Width 13 feet	Angle of Parking Parallel (Ø degrees) 30 degrees	Aisle Width 19 feet
Parallel (Ø degrees) 30 degrees	13 feet	45 degrees	19 feet
45 degrees	13 feet	60 degrees	20 feet
60 degrees	18 feet	90 degrees	22 feet
90 degrees	20 feet		24 feet

B. Except for a lot containing a single-family dwelling, all uses shall be required to provide driveways which are not less than 10 feet in width for one-way traffic and 18 feet in width for two-way traffic, except that driveways 10 feet in width are permissible for two-way traffic when:

1. the driveway is not longer than 50 feet;

2. it provides access to not more than six spaces; and

3. sufficient turning space is provided so that vehicles need not back into a public street.

C. In no case shall a driveway exceed 30 feet in width, except when required by the Kansas Department of Transportation.
(Code 2008, ch. 16, § 5.4.5)

5.4.6 Cooperative Parking

A. Cooperative provisions for off-street parking may be made by contract between two or more adjacent property owners. The parking area provided on any one lot may be reduced to not less than one half of the number of required parking spaces for the use occupying such lot.

B. To the extent that property owners who wish to make joint use of the same parking spaces operate at different times, up to one half of the parking spaces may be credited to both uses; e.g., one use, such as a church, theater, or assembly hall, has peak hours of attendance at night or on Sundays, and the other use or uses are closed at night or on Sundays. Such contract shall be recorded with the County Register of Deeds.
(Code 2008, ch. 16, § 5.4.6)

5.4.7 Parking Area Uses

Parking and loading areas for non-residential properties shall be used only for access and parking necessary for the use of any business in the building served by said parking lot and loading area(s). Vehicles which are necessary for persons using said building and guests or customers of occupants or tenants of said building are permitted, as are delivery and other commercial vehicles used by or necessary for any business located in such building. However, no vehicles unrelated to the use of the occupants or tenants of any non-residential building shall be parked or stored on any property. Such parking areas also shall not be used for the storage of any vehicles over 24 hours except those vehicles which are operable and necessary to the commercial function of the occupants or tenants or any business located in said building. Such parking areas shall not serve for any other uses.
(Code 2008, ch. 16, § 5.4.7)

5.5 C-O, C-1, P-1 GENERAL DISTRICT PARKING AND LOADING REQUIREMENTS

5.5.1 Location

A. Generally, parking lots shall be located at the rear or side of buildings and shall be screened from the sidewalk by low walls, fences, or hedges.

B. In C-1 Districts, off-street parking of no less than 75% of the parking places shall be to the rear or side of the building.

C. Parking for existing structures, which are not built out to the front build-to line can occur within the front setback. Parking within front setbacks shall be five feet from the right-of-way.

D. Parking can extend to side and rear lot lines only (including corner lots).

E. Parking shall be a minimum of 4 feet from the rear of any building.

F. Parking on or in side yards on corner lots adjacent to the secondary street must not encroach upon the public right-of-way, and maintain a minimum of 4 feet from the side of the building.
(Code 2008, ch. 16, § 5.5.1)

5.5.2 Access

Ingress and/or egress will be reviewed during the site plan review process. Such entries shall be separated by a minimum of twenty feet unless otherwise indicated on a specific Overlay District Development Plan.
(Code 2008, ch. 16, § 5.5.2)

5.5.3 Minimum Commercial Off-street Loading Requirements

The following minimum off-street loading requirements shall apply:

A. Buildings of less than 10,000 square feet: None

B. Buildings of 10,000 – 50,000 square feet: one bays

C. Buildings of over 50,000 square feet: two bays
(Code 2008, ch. 16, § 5.5.3)

5.6 LANDSCAPING FOR ALL COMMERCIAL DISTRICTS

5.6.1 Parking Areas

The following landscaping standards apply to all new development within all Commercial Zoning Districts:

A. Parking areas within 50 feet of the right-of-way shall have a planted screen between the parking perimeter and the front property line.

B. Screening shall be 3 feet high with no gaps greater than 4 feet (excluding driveways).

C. Walls may be substitute for vegetation. Walls may not exceed 4 feet in height.

D. Interior plantings required for new lots include two shade trees per 2,400 square feet of surface area, or one for every eight spaces, whichever is less.
(Code 2008, ch. 16, § 5.6.1)

5.6.2 Utility, Storage, and Loading Areas

Utility, storage, and loading areas shall be screened as follows:

A. screening shall be by walls or fences;

B. one third of the surface area of the wall or fence must be screened from the right-

of-way with plants; and

C. plant screening must be evergreen.
(Code 2008, ch. 16, § 5.6.2)

5.6.3 Transitional Yards and Buffers

Transitional yards are all non-residential properties that abut a residential or mixed-use district.

A. Standards for types of transitional fences, walls, and berms are:

1. Rear yard fences and walls shall be a maximum height of 6 feet.

2. Side yard fences and walls, where permitted, shall be a maximum height of 6 feet.

3. A minimum of one tree per 20 feet of linear fence or wall shall be planted.

4. Plantings must be located between the fence or wall and the adjoining property line.

5. If required landscaping of a transitional yard makes up over twenty percent of a lot, the use of an earth berm may reduce the yard requirement, as recommended by the Planning Commission and approved by the Governing Body.

6. Fences shall be constructed of brick, stucco, stone, wrought iron, and/or wood (excluding farm-type fencing, such as chicken wire, barbed wire, razor wire, or the like). The heavier material shall be below.

7. Chain link may be used only when necessary for security upon review by the Planning Commission and approval by the Governing Body.

The above requirements may be waived by the City upon proof of impossibility of performance.

B. No fence or wall, freestanding or attached to any building, shall be erected or constructed upon any lot, plot, tract, or premises, without a specific, valid permit therefor, issued by the Building Official. Said fence shall be erected or constructed pursuant to the specifications set forth on the permit application.

C. Open parking areas and access drives for commercial, civic, and apartment uses shall be located a minimum of 8 feet from any property line abutting a street or an R-1.
(Code 2008, ch. 16, § 5.6.3)

5.6.4 Satellite Dishes

A. Ground-mounted satellite dish antennae are permitted in Commercial Districts if the following performance standards are met:

1. No satellite dish antenna shall exceed 13 feet in height above the grade where it is

mounted.

2. All satellite dish antennae shall be located behind the required yard setback of each district.

3. All satellite dish antennae must have a detailed site and landscaping plan approved by the Building Official prior to the issuance of any permit. If any antenna is proposed to be located within 300 feet of any property zoned Residential District or Office Commercial District, said plans shall require the screening of the antenna to the fullest extent possible without interfering with the operation of the antenna.

4. All cables and lines serving the satellite dish antenna shall be located underground or concealed inside the building enclosure. No exposed or surface-mounted conduit is allowed.

B. Roof-mounted satellite dish antennae are permitted if the following performance standards are met:

1. Any satellite dish antenna shall be located within the rear yard and shall be located a distance inside the property line at least equal to its height;

2. The top edge of satellite dish antenna shall not exceed 13 feet above the roof surface;

3. Any roof-mounted satellite dish antenna shall be screened from view to the fullest extent possible without interfering with its operation. The permit for such antenna shall be issued only after a final development plan indicating the screening is reviewed by the Planning Commission and approved by the Governing Body;

4. Landscape screening shall be provided which prevents all antennae from being observed from any street or from surrounding properties to the fullest extent possible not to interfere with the operation of the antenna or to impose undue cost or hardship;

5. All cables and lines serving the satellite dish antenna shall be located underground or concealed inside the building enclosure. No exposed or surface-mounted conduit is allowed.

C. All satellite dish antennae shall be required to have a final development plan reviewed by the Planning Commission and approved by the Governing Body prior to issuance of any permit that the antenna is screened from view to the fullest extent possible without interfering with the operation of the antenna or to impose undue cost or hardship.
(Code 2008, ch. 16, § 5.6.4)

5.6.5 Mechanical Equipment Placement and Screening

A. All roof-mounted equipment shall be set back from any edge of the roof upon which it is mounted a distance greater than or equal to the height of the mechanical equipment.

B. Screening walls shall be made of materials that comply with appropriate district

regulations.

C. Screening walls materials shall be consistent with those of the primary structure and shall match or be compatible with the primary structure with regard to color and composition.

D. All rooftop equipment shall be enclosed in building material that matches the structure or is visually compatible with the structure.
(Code 2008, ch. 16, § 5.6.5)

ARTICLE SIX: PLANNED ZONING DISTRICTS

6.1 P-1 PLANNED PARKING DISTRICT

6.1.1 Uses Allowed

In P-1 Parking Districts, no building or structure shall be erected and no land or premises shall be used except for the parking of motor vehicles, for recurrent periods not in excess of 24 consecutive hours. Parking areas shall not be used for permanent or long-term storage of such vehicles, a parking lot for dealerships, privately advertising used vehicles for sale, or other non-parking uses.

Additional zoning regulations which apply to P-1 Districts, including parking, landscaping, fences and walls, transitional yards, and screens, are set forth in Article 5, Sections 4, 5 and 6, of this Zoning Ordinance.
(Code 2008, ch. 16, § 6.1.1)

6.2 PD PLANNED DEVELOPMENT DISTRICT

6.2.1 Intent

The zoning of land in Westwood to one of the planned districts shall be to encourage and require orderly development and redevelopment on a quality level generally equal to or exceeding that which prevails in the City, but shall permit deviations from certain requirements. The use of planned zoning procedure is intended to encourage efficient development and redevelopment of small tracts, innovative and imaginative site planning, conservation of natural resources, and a minimal waste of land. The following are specific objectives of this section:

A. A proposal to rezone land to a planned district shall be subject to the same criteria relative to compliance with the Westwood Comprehensive Plan, land use policies, neighborhood compatibility, adequacy of streets and utilities and other elements, which are established and customary development techniques in the City.

B. The submittal by the developer and the approval by the City of development plans represent a firm commitment by the developers that development will follow the approved plans in such areas as concept, intensity of use, aesthetic levels and quantities of open space.

C. Deviations in yard requirements, setbacks and relationship between buildings, as

set out in Standards of Development in this Ordinance, may be recommended by the Planning Commission and approved by the Governing Body if it is deemed that other amenities or conditions will be gained to the extent that an equal or higher quality of development will be produced.

D. Commercial areas are to be planned and developed so as to result in attractive, viable and safe centers and clusters, as opposed to strip patterns along thoroughfares. Control of vehicular access, circulation, architectural quality, landscaping and signs will be exercised to soften the impact on nearby residential neighborhoods, and to assure minimum adverse effects on the street system and other community services.

E. The developer will be given latitude in using innovative techniques in the development of land not feasible under the strict application of standard zoning requirements.

F. Planned zoning shall not be used as a refuge from the standard requirements of the zoning district as to intensity of land use, amount of open space or other established development criteria.

G. Any building or portion thereof may be owned in condominium.

H. For purposes of this Article, the terms "shopping center," "business park," "office park," or other grouping of buildings shall mean developments that were planned as integrated units or clusters on property under unified control or ownership at the time the zoning was approved by the Governing Body. The sale, subdivision, or other partition of the site after zoning approval does not exempt the project or any portion thereof from complying with development standards that were committed at the time of zoning.

I. Additional zoning regulations which apply to PD-1 Districts, including parking, landscaping, fences and walls, transitional yards, and screens, are set forth in Article 5, Sections 4, 5 and 6, of this Zoning Ordinance.
(Code 2008, ch. 16, § 6.2.1)

6.2.2 Planned Zoning Incorporated

Planned zoning districts and their equivalent districts are as follows:

Planned District	*Equivalent*
PD Planned Development	C-1

(Code 2008, ch. 16, § 6.2.2; Ord. No. 1024, § 47, 2-10-2022)

6.2.3 Repealed

(Ord. No. 960, Sec. 7)

6.2.4 Repealed

(Ord. 920, Sec. 7); (Ord. No. 960, Sec. 7)

6.2.5 Repealed

(Ord. No. 960, Sec. 7)

6.3 PLANNED RESIDENTIAL CLUSTER DEVELOPMENT (PRCD) DISTRICT

6.3.1 Intent

The Planned Residential Cluster Development district ("PRCD") is established to provide for small-scale medium density housing options. The developments can incorporate the Permitted Uses described below, with flexible yard requirements. Projects may be developed on a single lot or parcel of land. Cottage style developments and patio homes, and other cluster subdivision developments that create a higher density single-family residential environment are encouraged.
(Code 2008, ch. 16, § 6.3.1; Ord. No. 960, § 4(6.3.1), 7-9-2015; Ord. No. 1024, § 48, 2-10-2022)

6.3.2 Permitted Uses

No building, structure, land, area or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, remodeled, moved or altered except for one or more of the following uses:

A. Single-Family dwellings

B. Multi-family dwellings limited to the following building types: Two-Family, Townhouse, and Cottage Court

C. Group homes;

D. Accessory structures; or

E. Accessory uses as provided in Sections 4.2.2, 4.2.5, 4.2.6, 4.2.7, 4.3.12, and 4.3.13

F. Communication Facilities as defined in 10.2, limited to:

1. Towers and Base Stations, as defined within Article Ten, Section 10.2, designed as an architecturally compatible element to an existing non-residential use such as schools, churches, and the like, and that comply with the same height and setback requirements as other structures in such districts.

2. Antennas, as defined within Article Ten, Section 10.2, mounted on and designed as an architecturally compatible element to an existing non-residential structure or building.

3. Small Cell and Distributed Antenna Systems, as defined within Article Ten, Section 10.2, mounted or collocated on monopoles, utility poles, or street lights in the public right-of-way.
(Code 2008, ch. 16, § 6.3.2; Ord. No. 960, § 4(6.3.2), 7-9-2015; Ord. 984, § 20, 9-21-

2017; Ord. No. 1024, § 49, 2-10-2022)

6.3.3 Height and Area Regulations

The maximum height of buildings, the minimum dimensions of yard areas, and the minimum lot area per dwelling permitted on any parcel shall be as follows, except as otherwise provided in:

A. Maximum height:

1. Residential structures - 2 ½ stories, not exceeding 35 feet.

2. Detached Garages - 1½ stories, not exceeding 26 feet and not exceeding the height of the main structure.

3. All other accessory structures and uses -- one story, not exceeding 20 feet and not exceeding the height of the main structure.

B. Minimum yard areas / setbacks:

1. Front yards. No principal or accessory structure shall be closer than 10 feet to a public street right-of- way, and 25 feet from back of curb if fronting on a private street

2. The perimeter setback along a public street shall not be less than the average setback for residential uses along the same and facing block faces, and shall not be greater than 15 feet back from the average existing setback.

3. Structure Separation: No portion of any principal structure shall be located less than 10 feet from any other principal structure. Each accessory building shall provide a yard area between the building and the property line of the project, other than a street line, of not less than five (5) feet.

C. Area Regulations

1. The minimum net site area per dwelling unit shall be 3,500 square feet of the project area.

2. The aggregate total lot coverage of all structures, both principal and accessory, shall not exceed 40% of an individual lot for detached principal residences.

3. Maximum total lot coverage of all buildings and hard surface areas shall not exceed 65% of the total project area.
(Code 2008, ch. 16, § 6.3.3; Ord. No. 960, § 4(6.3.3), 7-9-2015; Ord. No. 1024, § 50, 2-10-2022)

6.3.4 Parking Regulations

Two off-street parking spaces shall be provided for each principal dwelling, at least one of which shall be in a garage or carport. To fulfill the off-street parking requirements, the development may develop accessory off- site parking areas within common open space

areas. The off-site parking areas must be accessible to all units for which they are intended. These accessory off-site parking areas shall be indicated on the initial development plan.
(Code 2008, ch. 16, § 6.3.4; Ord. No. 960, § 4(6.3.4), 7-9-2015)

6.3.5 Development and Performance Standards

A. Attached principal dwellings which otherwise comply with the ordinances of the City may be divided at the party wall (or ceiling in the case of two-family dwellings) as to ownership and owned as separate dwelling units by separate owners and such ownership shall not constitute violation of the lot and yard requirements of this chapter.

B. Private gated communities are not encouraged.

C. All driveways shall be at least 20 feet long to accommodate off-street parking,

D. Pedestrian circulation systems (sidewalks, walkways and paths) should be located and designed to provide adequate physical separation from vehicles along all public and private streets and drives and within any parking area.

E. Site drainage patterns shall be designed, graded and constructed to prevent surface drainage from collecting on and flowing across pedestrian paths, walks and sidewalks.

F. Detached accessory buildings including garages and carports shall not be located in any required front or setback area, but may be located in the rear yard area provided that no such building may be closer than five (5) feet to any interior property line, closer than 20 feet from any street right-of-way line, or in front of any building setback line. No more than two (2) detached accessory buildings shall be permitted for each residence.

G. Common open space is encouraged, but not required with this type of planned development. Such common open space shall be perpetually owned and maintained by a homeowners association. The owner(s) shall cause a final plat to be recorded which clearly describes the open space(s), required deed restrictions, and conditions thereof, prior to the issuance of any building permit(s).

H. An orderly transition from adjacent lower-density to higher density developments is encouraged by providing well designed transition area between existing residential parcels and structures, and the proposed project.

I. Prior to issuance of any building permit, final development plan approval shall be obtained as provided for in Section 1.6.21 and 1.6.25.
(Code 2008, ch. 16, § 6.3.5; Ord. No. 960, § 4(6.3.5), 7-9-2015; Ord. No. 1024, § 51, 2-10-2022)

6.4 PLANNED MEDIUM DENSITY RESIDENTIAL (PMDR)

6.4.1 Intent

The Planned Medium Density Residential zoning district (“PMDR”) is established as a planned zoning district to allow attached and/or detached dwelling units, consisting of one

or several buildings designed as a planned unified development in a higher-density setting upon a finding of compatibility with surrounding uses while ensuring that livability, property values, open spaces, high levels of landscaping, safety and the general welfare will be sustained. Projects may be developed on a single lot or parcel of land. Higher density and intensity residential developments are to be located bordering a designated Thoroughfare: Shawnee Mission Parkway, State Line Road, Rainbow Boulevard, West 47th Street, and Mission Road.
(Code 2008, ch. 16, § 6.4.1; Ord. No. 960, § 5(6.4.1), 7-9-2015; Ord. No. 1024, § 53, 2-10-2022)

6.4.2 Permitted Uses

No building, structure, land, or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for one or more of the following uses:

A. Residential buildings containing one to eight dwelling units;

B. Senior Adult Independent Living Dwellings;

C. Community Living Facility;

D. Assisted Living, Skilled Nursing, Continuing Care Retirement Facilities;

E. Accessory structures; or

F. Accessory uses a provide in Section 4.2.2, 4.2.5, 4.2.6, 4.2.7, 4.3.12, and 4.3.13;

G. Communication Facilities as defined in 10.2, limited to:

1. Towers and Base Stations, as defined within Article Ten, Section 10.2, designed as an architecturally compatible element to an existing non-residential use such as schools, churches, and the like, and that comply with the same height and setback requirements as other structures in such districts.

2. Antennas, as defined within Article Ten, Section 10.2, mounted on and designed as an architecturally compatible element to an existing non-residential structure or building.

3. Small Cell and Distributed Antenna Systems, as defined within Article Ten, Section 10.2, mounted or collocated on monopoles, utility poles, or street lights in the public right-of-way.
(Code 2008, ch. 16, § 6.4.2; Ord. No. 960, § 5(6.4.2), 7-9-2015; Ord. 984, § 21, 9-21-2017; Ord. No. 1024, § 54, 2-10-2022)

6.4.3 Height and Area Regulations

The maximum height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per dwelling permitted on any lot shall be as follows, except as otherwise provided in

A. Maximum height:

1. Three-story maximum not exceeding 48 feet.

2. Accessory structures and uses – 1½ stories, not exceeding 26 feet and not exceeding the height of the main structure.

B. Minimum setbacks:

1. All main structures shall be located at least 20 feet from any lot line or street rights-of-way.

2. All accessory structures shall be located at least 5 feet from any interior lot line or structure.

3. All accessory structures shall be at least 20 feet from any lot line which abuts a street or any property zoned R-1.

C. Minimum yard areas/setbacks:

1. Where a lot line abuts a public street, the minimum setback for main structures shall be 10 feet from any street.

2. The perimeter setback along a public street shall not be less than the average setback for residential uses along the same and facing block faces.

3. Structure Separation: No portion of any principal structure shall be located less than 10 feet from any other principal structure. Each accessory building shall provide a yard area between the building and the property line of the project, other than a street line, of not less than five (5) feet.

D. The minimum net site area per dwelling unit shall be 1,500 square feet.
(Code 2008, ch. 16, § 6.4.3; Ord. No. 960, § 5(6.4.3), 7-9-2015)

6.4.4. Parking Regulations

A. Parking spaces shall be provided at the following rates for Multi-Family, Senior Adult, or Elderly Housing dwellings:

Number of Spaces Dwelling Unit	*Required per Unit*
Studio/efficiency	1
1-bedroom	1.25
2-bedroom	1.5
More than 2 bedrooms	2.0

B. Parking spaces shall be provided at the following rates for Assisted Living, Skilled Nursing, and Continuing Care Retirement Facilities:

C. Not less than three off-street parking spaces shall be provided on the premises for every four apartments or congregate living units.

D. One space shall be provided for every five beds, and not less than one space shall be provided for each employee on the premises on the maximum shift.

E. No parking or access drives shall be located within 15 feet from any lot line which abuts a property zoned R-1

F. No parking area shall be located within 15 feet of any public street rights-of-way.

G. Lighting used to illuminate parking areas shall be arranged, located or screened to direct light away from any adjoining or abutting residential district or any street right-of-way.
(Code 2008, ch. 16, § 6.4.4; Ord. No. 960, § 5(6.4.4), 7-9-2015; Ord. No. 1024, § 55, 2-10-2022)

6.4.5 Development and Performance Standards

A. Attached principal dwellings which otherwise comply with the ordinances of the City may be divided at the party wall as to ownership and owned as separate dwelling units by separate owners and such ownership shall not constitute violation of the lot and yard requirements of this chapter.

B. Pedestrian circulation systems (sidewalks, walkways and paths) shall be located and designed to provide adequate physical separation from vehicles along all public and private streets and drives and within any parking area.

C. Site drainage patterns shall be designed, graded and constructed to prevent surface drainage from collecting on and flowing across pedestrian paths, walks and sidewalks.

D. Detached accessory buildings including garages and carports shall not be located in any required front or side yard setback area, but may be located in the rear yard setback area provided that no such building may be closer than five (5) feet to any interior property line, closer than 20 feet from any street right-of- way line, or in front of any building setback line. No more than two (2) detached accessory buildings shall be permitted for each residence.

E. An orderly transition from adjacent lower-density to higher density developments is encouraged by providing well designed transition area between existing residential parcels and structures, and the proposed project.

F. Prior to issuance of any building permit, final site plan approval shall be obtained as provided for in Section 1.6.21 and 1.6.25.
(Code 2008, ch. 16, § 6.4.5; Ord. No. 960, § 5(6.4.5), 7-9-2015; Ord. No. 1024, § 56, 2-10-2022)

ARTICLE SEVEN: COMMERCIAL OVERLAY DISTRICTS

7.1 COMMERCIAL OVERLAY DISTRICTS

7.1.1 Intent

Consistent with the City's Comprehensive Plan, the Overlay Districts herein described have been established to assist in directing the appropriate redevelopment within certain commercial areas of Westwood. These specific areas are as indicated on the following diagrams and are described and guided by the criteria established within each specific Overlay District. In brief, the goals of the City's Comprehensive Plan related to the redevelopment within these Commercial Overlay Districts are as follows:

A. To encourage high quality mixed-use office / retail and/or residential footprint in two- and three-story buildings;

B. To promote consistent clusters of parking behind the buildings;

C. To promote consistent drive lane locations to access parking / buildings;

D. To allow parking / drives to serve as components of buffers and pedestrian access from adjacent neighborhood streets.

Consistent with the overall intent of the C-1 Commercial / Mixed-Use District, general building criteria have been established relating to the following Commercial Overlay Districts.
(Code 2008, ch. 16, § 7.1.1; Ord. 920, Sec. 8)

7.1.2 Building Design

Building facades that are varied and exhibit architectural relief are key to making a place "pedestrian-oriented" as set forth in the City's Comprehensive Plan. Streets with monotonous and unarticulated buildings are not conducive to pedestrian activity and make walking less appealing.

Buildings should differentiate between the building facade at the sidewalk level and the floors above in order to recognize the differences in the character of activities at pedestrian level.

Buildings should incorporate elements at the street level that draw pedestrians and reinforce street activity. Street-side buildings should encourage window shopping, heavy foot traffic in and out of stores, and people watching from outdoor seating areas. Building facades should be varied and articulated to provide visual interest to pedestrians. Street level windows and numerous building entries are required in the core commercial areas. Building materials such as concrete masonry, tile stone, and wood should be encouraged.

Buildings shall be built of materials of Class C or better as defined in Marshall Valuation Service 2006 as amended; however, deviations may be permitted in conjunction with site plan review where there is ample evidence that said deviation will not adversely affect the neighboring properties or constitute the mere granting of a privilege on a project-specific basis.[26]

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[26] **Legal analysis: 7.1.2 Building Design.** Please advise if the city would like to revise this to reflect a newer edition or version of the Swift valuation (currently cites 2006).

Buildings should integrate roof shape, surface materials, colors, mechanical equipment, and other penthouse functions into the total building design. Roof terraces and gardens are permitted.
(Code 2008, ch. 16, § 7.1.2)

7.1.3 Pedestrian Emphasis

The following concepts are encouraged:

A. Reinforce and enhance the pedestrian system: Maintain an attractive access route for pedestrian travel where a public right of way exists or has existed. Recognize the different zones of a sidewalk: curb, street furniture zone, walking zone, and window shopping zone. Where appropriate, develop pedestrian routes through sites and buildings to supplement the public right of way.

B. Provide an attractive, convenient pedestrian access-way to building entrances: Integrate an identification, signage, and lighting system that offer interest, safety, vitality, and diversity to the pedestrian.

C. Protect the pedestrian: Protect the pedestrian environment from bicycle and vehicular movement.

D. Bridge pedestrian obstacles: Bridges across barriers and obstacles by connecting pedestrian pathways with strongly marked crossings and inviting sidewalk design.

E. Provide stopping & viewing places: Increase the pleasure of the community experience by providing safe, comfortable places where people can visit, meet, stop, and rest without conflicting with other street uses.

F. Plazas, parks, and open spaces should be inviting and maximize opportunities for public use: These spaces should be well defined, accommodating, and create a secure environment. Such area should be oriented to receive sunlight, work well with pedestrian circulation patterns, and accommodate special events.

G. Consider sunlight, shadow, glare, reflection, wind, and rain.

H. Consider view opportunities: Create new viewing opportunities through the situation of windows, entrances, and adjacent exterior spaces as they relate to surrounding points of interest and activity.

I. Pedestrian landscape: Where appropriate, enhance the pedestrian way with landscaped setbacks, decorative features, planters, trees, and other devices.

J. Develop or strengthen gateways at locations identified by the Comprehensive Plan.
(Code 2008, ch. 16, § 7.1.3; Ord. No. 1024, § 57, 2-10-2022)

7.1.4 Building Entries

A. All buildings, except accessory structures, shall have their main entrance opening

onto the street or a plaza that faces the street.

B. Secondary entries from the interior of a block (i.e., from rear parking lots) are also permitted.

C. Entries into all shops and offices must face directly onto the street. Each first floor shop or office must have a door facing the street. Buildings with multiple retail tenants should have numerous entries to the street; small single-entry malls are not allowed. Off-street parking should also be located at the rear of buildings with openings leading between the buildings to the street and primary entrances.

D. Retail anchor stores (those over 30,000 square feet), such as grocery stores, may have parking lot access to the primary entry. Anchor tenant retails buildings may have their entries from off-street parking lots; however, on-street entries are also required. Pedestrian access to the entry should be provided from the street and configured so pedestrians are not required to walk through the parking lot to enter the store.

Along walls without entries, building elevations shall include windows and display areas and/or be lined with retail shops.
(Code 2008, ch. 16, § 7.1.4)

7.1.5 Commercial Overlay District Map

The boundaries of such districts are shown upon an Overlay District Map of the City of Westwood on file in the office of the City Clerk and made a part of this article, being designated as the "COD Map," and said map and all of the notations, references, and other things shown thereon shall be as much a part of this Ordinance as if the matters and things set forth by said map are all fully described herein.
(Code 2008, ch. 16, § 7.1.5; Ord. No. 1024, § 58, 2-10-2022)

7.2 COD-1 47TH AND MISSION ROAD AREA OVERLAY DISTRICT

7.2.1 47th and Mission Road Area Design Review Overlay District Purpose and Authority

The 47th and Mission Road Area Design Review Overlay District is established by this Zoning Ordinance, enacted to implement the goals and policies of the 47th and Mission Road Area Concept Plan, adopted by the cities of Westwood, Roeland Park, and the Unified Government of Wyandotte County and Kansas City, Kansas. The 47th and Mission Road Area Concept Plan was drafted pursuant to:

A. the interlocal cooperation acts, K.S.A. 12-2901—12-2909.

B. K.S.A. 12-744(c); and

C. the interlocal agreement between the Cities of Roeland Park, Westwood, and the Unified Government of Wyandotte County/Kansas City, Kansas (collectively "Jurisdictions").

This Ordinance translates the relevant portion of the plan within the boundaries of

Westwood into the Zoning Ordinance, in addition to all current regulations. This Ordinance will accompany a similar ordinance adopted by each jurisdiction to ensure consistent implementation of the 47th and Mission Road Area Concept Plan, as shown in Section 7.2.16 below.
(Code 2008, ch. 16, § 7.2.1; Ord. No. 1024, § 59(7.2.1), 2-10-2022)

7.2.2 Applicability

A. This Ordinance shall apply to all property within Westwood and within the 47th and Mission Road Area Design Review Overlay District. The official zoning map of Westwood is hereby amended to reflect the 47th and Mission Road Area Design Review Overlay District.

B. The standards in this Ordinance shall apply to all property currently or subsequently zoned for commercial or multi-family use.

C. Any property zoned for single-family residential use is included within this overlay to indicate neighborhood areas to be protected by buffers and design enhancements established in this Ordinance for commercial or multi-family use. In addition, to further protect existing neighborhoods, any property currently zoned for single-family residential use which is subsequently rezoned to multi-family or commercial uses must satisfy all design standards in this Ordinance.

D. Any legal nonconforming structure or use cannot increase its level of nonconformity without complying with this Ordinance.
(Code 2008, ch. 16, §§ 7.2.2, 7.2.3; Ord. No. 1024, § 59(7.2.2), 2-10-2022)

7.2.3 Type of Development

These standards shall be applied to new development, redevelopment, or exterior modifications that alters the appearance of a building or site within the overlay district including, but not limited to, building additions, facade improvements, or landscaping improvements. Only those standards required by this Ordinance and directly related to proposed development, redevelopment, or exterior modification shall be applied.
(Code 2008, ch. 16, § 7.2.4; Ord. No. 1024, § 59(7.2.3), 2-10-2022)

7.2.4 Other Regulations

Within the overlay district, all Westwood ordinances, policies, regulations, and plans shall apply. Where conflicts occur regarding development standards in this Ordinance, the standards established in this Ordinance shall supersede those in the conflicting ordinance, policy, regulation, or plan.
(Code 2008, ch. 16, § 7.2.5; Ord. No. 1024, § 59(7.2.4), 2-10-2022)

7.2.5 Definitions

For the purposes of this overlay Ordinance, the following terms and phrases shall have the meaning given in this section. All other terms and phrases shall use definitions given in the Westwood Zoning Ordinance or other codes, unless context indicates that a standard dictionary definition is more appropriate. Terms and phrases not defined in this section or

by any Westwood code shall have the standard dictionary definition.

Adjacent lot: a lot having a common border or endpoint with subject lot, or lots that would have a common border or endpoint in the absence of an existing right of way.

Development: the construction of man-made site elements on an improved or unimproved parcel of land.

Distinctly different hours of operation: uses with hours of operation where 50% or more of one use's hours of operation, including peak hours of operation based on a parking demand study, are mutually exclusive of the hours of operation of the other uses which it proposes to share parking.

Distinctly different peak hours of operation: the peak hours of operation, based on a parking demand study, of uses proposing to share parking are mutually exclusive.

Exterior modification: any maintenance, improvement, construction, or reconstruction of a structure or site, or any portion of a structure or site, that will result in an apparent change visible from the right of way or adjacent property.

Redevelopment: the reconstruction, enlargement, conversion, relocation of a manmade structure.
(Code 2008, ch. 16, § 7.2.6; Ord. No. 1024, § 59(7.2.5), 2-10-2022)

7.2.6 Underlying Zoning Uses

The uses allowed in the 47th and Mission Road Area Design Review Overlay District shall be those uses allowed by the current or any future underlying zoning classification, provided that all future development and redevelopment meets the standards established in this Ordinance. Any future rezoning shall be to a use district consistent with the 47th and Mission Road Area Concept Plan.
(Code 2008, ch. 16, § 7.2.11; Ord. No. 1024, § 59(7.2.6), 2-10-2022)

7.2.7 Overlay Uses

In addition to those uses allowed by the underlying zoning, all property zoned for commercial use within the 47th and Mission Road Area Design Review Overlay District shall be allowed residential uses as a supplemental use, subject to the following:

A. No property with an underlying zone for Commercial use may have residential uses on the ground floor or at street level.

B. No structures with supplemental residential uses may exceed 40 feet in height or 3 ½ stories, whichever is less.

C. All structures with supplemental residential uses, whether new or existing at the time of adoption of this Ordinance, must comply with all other standards established in this Ordinance in order to be eligible for supplemental residential uses.
(Code 2008, ch. 16, § 7.2.12; Ord. No. 1024, § 59(7.2.7), 2-10-2022)

7.2.8 Commercial Site Design Standards

Commercial site design in the 47th and Mission Road Area Design Review Overlay District shall conform to the principles outlined in the 47th and Mission Road Concept Plan. The following design standards implement and shall be interpreted consistent with the Plan. (Code 2008, ch. 16, § 7.2.13; Ord. No. 1024, § 59(7.2.8), 2-10-2022)

7.2.9 Building Placement

Site design in the 47th and Mission Road Area shall conform to the following design standards.

A. The provisions of this section shall apply to new development.

B. Front Setback: All new buildings shall be built to the right of way line unless an additional setback is required to meet the minimum sidewalk width and buffer requirements in the Pedestrian Access requirement in Section 2 titled Site Access.

C. Side Setbacks: The minimum side setbacks shall be:

1. Ø feet;

2. Property abutting residential districts shall have a side setback equivalent to this of the abutting residential district. In this case, the side setback area shall be used to provide a buffer according to Section 5 of this Article.

D. Rear Setback: Minimum rear setbacks shall be as defined by the zoning regulations of the municipality that the property is located in, unless the property is abutting a residential zoned property on its rear yard property line. If abutting a residential zoned property, the setback shall be equal to the residential properties rear yard setback requirements.

E. Continuous Building Frontage: Building facades on the street frontage should be maximized to provide continuous corridors within the overlay district. All lot frontages should be occupied by building frontages except for entrance drives or alleys to rear parking, courtyards or patios, or any side parking. In the case of courtyards and patios, or side parking, the appearance of a continuous building frontage shall be maintained by a 2½- to 4-foot fence or wall constructed out of the same material as the building facade, or by a continuous landscape element.

F. Main Entrance: The main entrance of all buildings shall be oriented to the street. In the case of the corner lots, a building may have one entrance on each street or may have one corner entrance facing the intersection at a 45 degree angle.
(Code 2008, ch. 16, § 7.2.14; Ord. No. 1024, § 59(7.2.9), 2-10-2022)

7.2.10 Site Access

A. Pedestrian Access: All buildings shall have a continuous sidewalk along the frontage of the lot. The sidewalk shall be 7 feet wide. All sidewalks shall be buffered from vehicular traffic with a minimum 3 foot buffer zone that includes landscaping, street trees, street

furniture, pedestrian lighting, bicycle facilities, or other amenities that provide physical separation from vehicular traffic.

1. Alternative. Sidewalks outside the Village Area (as identified in the 47th and Mission Road Area Design Review Overlay District may be a minimum of 5 feet in width, but the 3' buffer zone must be maintained.

2. Alternative: Where unique site characteristics prevent a 7’ sidewalk and 3’ buffer zone from being achievable in the Village Area, sidewalk widths shall be maximized on that site.

B. Vehicle Access: Curb cuts in the 47th and Mission Road area should be minimized. Wherever possible, adjacent properties are encouraged to minimize curb cuts by use of shared parking or shared access to separate parking lots.

C. Connections: Continuous pedestrian connections shall be provided through all parking lots and between parking lots and store-front sidewalks. These pedestrian connections shall primarily be pedestrian-only sidewalks but may include crosswalks across parking lot drive aisles and driveways where necessary. The following design elements shall be used to maintain pedestrian connections and minimize conflicts with vehicles:

1. Alleys, driveways, and parking lot drive aisles shall not exceed 24 feet for two-way access or 12 feet for one-way access.

2. “Bulb outs” for pedestrian-only travel should be used to minimize the distance of pedestrian walkways across driveways, alleys, parking lots, or other vehicle access ways.

3. All pedestrian walkways across driveway, alleys, parking lots, or other vehicle access ways shall be distinguished from the vehicle access way by a visually identifiable path or distinctly textured surface.
(Code 2008, ch. 16, § 7.2.15; Ord. No. 1024, § 59(7.2.10), 2-10-2022)

7.2.11 Parking

A. Required Parking: The parking required for uses in the overlay district shall be established by the applicable standards for the underlying zoning district.

B. Location: Parking shall be provided primarily behind buildings in the Village Area. Parking on commercial lots outside the Village Area should be located primarily behind the building but may be located on the side of the building.

C. Shared Parking: Parking requirements in the overlay district may be met through shared parking according to the following conditions and standards:

1. A written agreement for the joint use of the parking facilities shall be executed by the parties, approved by Westwood and recorded with the register of deeds for any county in which property subject to the agreement is situated. The agreement shall include any necessary cross access easements among property owners. Must meet all other shared parking standards of the said jurisdiction.

2. Parking requirements are cumulative except that parking may be shared based on uses either on the same site or on other sites that meet the requirements of Item C, at the sole discretion of Westwood, according to the following standards:

a. When two or more uses have distinctly different hours of operation (e.g., commercial office and residential, or church and school), 100% of the required parking may be shared. Required parking shall be based on the use that demands the greatest amount of parking per the underlying Ordinance requirement.

b. When two or more uses have distinctly different peak hours of operation (e.g., office and restaurant / entertainment), 50% of the required parking spaces may be shared among the uses.

c. Shared parking shall meet jurisdiction standards. If the parking spaces are more than 800 feet from the main entrance of the building.

3. Direct pedestrian access, meeting the requirements of Section 2.c, is required between any shared parking and the main entrance of any building proposing to share parking.

4. Applicants for shared parking shall submit a statement indicating the ability of the proposed shared parking arrangement to meet the demands of all uses involved. The statement shall include hours of operation, hours of peak operation, forecasted demand, and other data indicating the appropriateness of shared parking.

5. Any change of use or other change causing violation of the shared parking agreement or these standards shall invalidate the shared parking eligibility, and the parking requirements of the underlying Zoning Ordinance shall be met. A plan for meeting the parking requirements of this Ordinance if the shared agreement is invalidated must be submitted with the proposed agreement.

D. On-Street Parking: Any on-street parking, authorized by Westwood and within 300 feet of the lot, may be credited towards the on-site parking requirements. A maximum of 10% of the required parking may be satisfied by on-street parking credits. On-street parking spaces may be counted by more than one user in meeting this requirement.

E. Bicycle Parking: Bicycle parking facilities are required at a rate of one Bicycle for every 15 required vehicle parking spaces, with a minimum of 2 Bicycle parking spaces. Bicycle parking facilities may be counted by more than one property in meeting this requirement, as long as the facility is within 150 feet of the entrance and the total required parking is met for each property.

F. Landscape Elements: Parking lots larger than 20 spaces shall incorporate at least one internal landscape island into the lot design. Landscape islands shall be at least 10% of the parking lot area. Each required landscape island shall be a minimum of 20 square feet and a maximum of 500 square feet. Landscape islands shall maintain a minimum 5-foot width at all times. Landscape islands shall be planted with landscape elements consistent with Section 5 of this Article. Landscape elements along the perimeter of a parking lot shall not count towards the landscape island requirement. Where a parking lot

incorporates internal rows of parking, each row shall be terminated with a landscape element.

G. Lighting: Exterior lighting on commercial properties shall be designed to have minimal light trespass onto adjacent residential properties.

H. All exterior lighting on the building must be full cut-off with non-adjustable heads to direct light 90 degrees downward. No light may cast light or glare off the property or onto the public street.

I. Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residentially zoned property or from public streets. Direct or sky-reflected glare, from floodlights or commercial operations, shall not be directed into any adjoining property. The source of lights shall be full cut-off with non-adjustable heads to direct light 90 degrees downward. Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way.

J. Any light or combination of lights that casts light on a public street shall not exceed one foot-candle (meter reading) as measured from the centerline of the street. Any light or combination of lights that cast light on adjacent residentially zoned property shall not exceed 0.5 foot-candles (meter reading) as measured from that property line.

K. Applicants shall be required to submit a base meter reading as part of their application materials.
(Code 2008, ch. 16, § 7.2.16; Ord. No. 1024, § 59(7.2.11), 2-10-2022)

7.2.12 Architecture Features

A. Enhanced Entrances: All main entrances shall be enhanced by architectural details. Such details may include, but are not limited to, slightly protruding entrances, building material variations, color variations, or artistic elements and other special treatments.

B. Windows: All buildings shall be predominantly transparent at the street level, with a minimum of 40% and a maximum of 80% of the facade occupied by windows. Upper levels may be less transparent, with a minimum of 25% of the facade occupied by windows.

C. Awnings and Canopies: Awnings or canopies are encouraged on facades to provide weather protection and shade to pedestrians, and to add visual appeal to the 47th and Mission Road Area Design Review Overlay District. Awnings and canopies may project into the building setback or right of way provided they are a minimum of seven and one-half (7½) feet above grade. Any awnings provided shall be fabric and shall not be back-lit. Permanent canopies may be constructed if designed as an integral part of the structure. All awnings or canopies on a single block shall be hung at the same height above finished floor elevation of the building it is associated with.

D. Facade Lighting: Facade lighting is encouraged within the overlay district. Facade lighting may be used to highlight architectural features of a building, provide secondary light to the pedestrian zone, or to enhance visibility of signs. Facade lighting shall be shielded so that the light source is applied to the building and does not provide any direct

light or glare on sidewalks or streets.

E. Roof: Flat and pitched roofs are allowed. Flat roofs shall incorporate a roof-screening element, such as a parapet or pediment, as part of the building design. Pitched roofs shall be complementary to the building design. All mechanical equipment shall be screened from view, preferably mounted to the roof and behind a parapet.
(Code 2008, ch. 16, § 7.2.17; Ord. No. 1024, § 59(7.2.12), 2-10-2022)

7.2.13 Landscape Requirements and Screening

A. Residential Buffers: All commercial uses and multi-family residential uses shall provide a landscape buffer from any single-family uses. The landscape buffer shall be of a density to provide an all-season visual screen from the single-family property. Treatments may include any combination of earth berms, walls or fences approved by the jurisdiction having authority, and tree, bush, and shrub plantings. The buffer zone shall be a minimum of ten (10) feet in width.

B. Screening: Specialty equipment, such as antennas, satellite dishes, trash and recycling containers, meter and utility boxes, and HVAC equipment, shall be screened from direct view from streets, sidewalks, and other areas of regular public access. Ground-mounted equipment and trash enclosures shall be screened from view with year-round landscape coverage or masonry wall enclosure consistent with the main building material. Roof- mounted equipment shall be placed far enough from the roof edge, or shall be screened with architectural elements, such as parapets, incorporated into the design of the building, so as not to be seen from the sidewalk across any adjacent street.
(Code 2008, ch. 16, § 7.2.18; Ord. No. 1024, § 59(7.2.13), 2-10-2022)

7.2.14 Signs

The following signs are allowed in the overlay district:

A. Facade Sign: One facade sign shall be allowed per building tenant, identifying the business or tenant. A façade sign shall be allowed on each façade fronting a street utilized for pedestrian or vehicular access, except no such sign should face a local street.

B. Pedestrian Signs: One pedestrian sign shall be allowed per building tenant, identifying the business of the tenant. Pedestrian signs may be suspended from canopies or awnings, or affixed perpendicular to a building. Pedestrian signs shall not be lower than 7 feet, 6 inches from grade level and shall not exceed 10 square feet. Building-affixed pedestrian signs shall not protrude more than 3 feet from the building surface.

C. Murals. Murals are allowed in the overlay district.

i. Definition. A "mural" is a hand produced or machined graphic applied or affixed to the exterior of a building wall through the application of paint, canvas, tile, metal panels, applied sheet graphic or other medium generally so that the wall becomes the background surface or platform for the graphic, generally for the purpose of decoration or artistic expression, including but not limited to, painting, fresco or mosaic.

ii. Standards.

1. Murals are not permitted on the primary façade. A primary façade is defined, for purposes of this section, as a building elevation that faces the adjacent street right-of-way and is the primary customer entrance. Buildings located on a block corner with the primary customer entrance located diagonally at the building corner to both intersecting streets has two primary facades.

2. On lots that share a property line with a residential zoning district, murals are not allowed on building walls that face a residential zoning district.

3. Up to 20 percent of a mural may include text or commercial copy. No more than five items of information may be included in the area used for text or commercial copy. However, murals should not include any textural reference to the associated business or shall be considered a sign.

4. The mural shall be kept in good condition for the life of the mural according to the maintenance schedule and responsibilities approved by the director and incorporated into the sign permit. A mural is in a state of disrepair when 10 percent or more of the display surface area contains peeling, faded or flaking paint, or is otherwise not preserved in the manner in which it was originally created.

5. The display surface shall be kept clean, neatly painted, and free from corrosion.

6. Murals shall be subject to the jurisdiction ordinances and requirements.
(Code 2008, ch. 16, § 7.2.19; Ord. No. 1024, § 59(7.2.14), 2-10-2022)

7.2.15 Multi-Family Public Improvements and Notification

Prior to placement of any public improvements on the Capital Improvements Program, or construction of public improvements within the 47th and Mission Road Area Design Review Overlay District, the City of Westwood shall send notice of the intent to construct public improvements to the each jurisdiction. This notice shall provide the opportunity for the jurisdictions to coordinate for construction of public improvements consistent with the 47th and Mission Road Area Concept Plan and Streetscape Design Concept Plans.

For any proposed development, re-zoning, variance, or other action within the overlay district that would require a public hearing and notification to neighbors, notification will also be sent to the other jurisdictions.
(Code 2008, ch. 16, § 7.2.26; Ord. No. 1024, § 59(7.2.15), 2-10-2022)

7.2.16 Depiction of 47th and Mission Road Area Design Review Overlay District and 47th and Mission Road Area Concept Plan

The 47th and Mission Road Area Design Review Overlay District is hereby amended such that the overlay district shall consist of that are identified below as the "Suggested District Boundary." The Village Area, as used in this overlay district Ordinance, shall mean that area identified below as the "Suggested Village Boundary."
(Ord. No. 1024, § 59(7.2.16), 2-10-2022)

7.3 COD-2 Commercial Overlay District #2 (Rainbow Boulevard — West Side)

Commercial lots west of Rainbow Boulevard bounded by 47th Terrace and 48th Terrace. (Code 2008, ch. 16, § 7.3)

7.3.1 District Requirements

District Requirements	COD-2
Uses Permitted by Right:	Retail and Office Use
Build-to Lines	35’ from street right of way
Corner Lot Build-to Lines	35’ from both street rights of way
Maximum Lot Coverage	35%
Minimum Setback Lines:	
Interior Side Yard	10’
Rear Yard	10’
Maximum Building Height	35’
Maximum Building Stories	2

(Code 2008, ch. 16, § 7.3.1)

7.3.2 Building Standards

Commercial building walls shall be wood clapboard, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, stucco or similar material, and glass. (Code 2008, ch. 16, § 7.3.2)

7.4 COD-3 Commercial Overlay District #3 (Rainbow Boulevard — East Side)

Commercial lots east of Rainbow Boulevard within the WEBO beginning with Lot 1 south to the city limits, including lots 1-2, 31-36, 91-93; provided, however, that COD-3 shall specifically not include any portion of COD-4, as described in Section 7.5.
(Code 2008, ch. 16, § 7.4; Ord. 920, Sec. 9; Ord. No. 1024, § 60, 2-10-2022)

7.4.1 District Requirements

District Requirements	COD-3
Uses Permitted by Right:	
Ground Floor	Retail and Office Use
Second Floor	All permitted commercial & residential uses
Third Floor	All permitted commercial & residential uses
Lot Provisions	Continuous Street Frontage along Rainbow and 47th Place
Build to Lines	35’ from property line
Corner Lot Build to Lines	35’ from both property lines

Maximum Lot Coverage	35%
Minimum Setback Lines:	
Interior Side Yard	10’
Rear Yard	10’
Maximum Building Height	48’
Maximum Building Stories	3
Parking	75% rear parking

(Code 2008, ch. 16, § 7.4.1)

7.4.2 Parking

A. All parking to be provided to the rear of the building.

B. Drives and Driveways: No drives are allowed onto Rainbow Boulevard. Driveway access shall be from adjacent side streets as indicated on the plan diagram above. Provide two-lane drive in north-south direction along rear of parking lot, with buffers as required to adjacent residential lots.
(Code 2008, ch. 16, § 7.4.2)

7.4.3 Building Standards

A. Commercial building walls shall be wood clapboard, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, stucco or similar material, and glass.

B. Two primary siding materials, maximum, and the heavier in appearance being at the bottom.
(Code 2008, ch. 16, § 7.4.3)

7.5 COD-4 Commercial Overlay District #4 (47th Place and Rainbow Boulevard)

The properties located on the east side of Rainbow Boulevard on the south and north side of the intersection of 47th Place, legally described as follows: All of Lot 5, Westport View - and now legally described as: Lots 1 and 2 of WOODSIDE VILLAGE NORTH, a subdivision of land in the City of Westwood, Johnson County, Kansas, and all of Lots 1 and 2, Woodside Club Complex, subdivisions lying in the Northwest Quarter of Section 2, Township 12 South, Range 25 East, in the City of Westwood, County of Johnson, State of Kansas, along with all adjoining rights-of-way, easements, and appurtenances.
(Code 2008, ch. 16, § 7.5; Ord. 920, Sec. 9*; Ord. 969, § 1(7.5), 4-14-2016)

7.5.1 District Requirements

District Requirements	COD-4
Uses Permitted by Right:	
Ground Floor	All permitted commercial uses, multi-family residential (including condominiums and apartments), and fitness

	and health club uses.
Second Floor	All permitted commercial uses within an approved live/work unit, multi- family residential uses (including condominiums and apartments), and fitness and health club uses.
Third Floor	Multi-family residential (including condominiums and apartments).
Fourth Floor	Multi-family residential (including condominiums and apartments).
Fifth Floor	Multi-family residential (including condominiums and apartments) in accordance with the approved final site plan.
Build to Lines	Per approved final site plan.
Corner Lot Build to Lines	In accordance with the approved final site plan.
Maximum Lot Coverage	In accordance with the approved final site plan.
Minimum Setback Lines	In accordance with the approved final site plan.
Front Yard	In accordance with the approved final site plan.
Interior Side Yard	In accordance with the approved final site plan.
Rear Yard	In accordance with the approved final site plan.
Maximum Building Height	In accordance with the approved final site plan.
Maximum Building Stories	5 stories - in accordance with the approved final site plan.
Parking	Set forth in Section 7.5.2 below.

(Code 2008, ch. 16, § 7.5.1; Ord. 920, Sec. 10; Ord. 969, § 1(7.5.1), 4-14-2016)

7.5.2 Building Standards

A. Mechanical equipment and roof appurtenances shall be included in the building height limitations.

B. Commercial building walls shall be wood clapboard, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, stucco, or similar material and glass.

C. Parking: Surface and up to a five-story parking structure at the rear of the lot, subject to and in accordance with approval of a final site plan for the same.
(Code 2008, ch. 16, § 7.5.2; Ord. 920, Sec. 11; Ord. 969, § 1(7.5.2), 4-14-2016)

ARTICLE EIGHT: SPECIAL USE PERMITS

8.1 SPECIAL USE PERMITS

8.1.1 Special Uses

Certain uses of land or buildings may not be appropriate under all circumstances in any zoning district, but may be appropriate where adequate precautions can be taken to assure the compatibility of the use with surrounding uses and protect the public health, safety and welfare. It is the intent of this Chapter to allow for such uses by the granting of a special use permit, subject to the same procedures applicable to a rezoning set forth in Section 1.6. Communication facilities and communication facilities for wireless services are subject to the application, location, building and design standards of Article Ten of the Zoning Ordinance.
(Code 2008, ch. 16, § 8.1.1; Ord. No. 960, § 6(8.1.1), 7-9-2015; Ord. 984, § 22, 9-21-2017)

8.1.2 Special Uses Designated

Any building, structure, land or premises may be used, and any building or structure may be erected, constructed, reconstructed, moved or altered, for one (1) or more of the following special uses, subject to approval of a special use permit by the Governing Body and subject to the development and performance standards set forth in Section 8.1.4:

A. Amusement centers and arcades;

B. Clubs and drinking establishments - bar or night club;

C. Community living facility;

D. Communications facilities and antennas;

E. Daycare homes, group daycare homes, childcare centers, preschools, and Mother's Day Out programs;

F. Hospitals;

G. Off-street parking lots/structures of a temporary or permanent nature

H. Public utility services or public service corporations - buildings, structures, and premises;

I. Radio and television towers;

J. Communication Facilities (Towers, Base Stations, Antennas, and the like);

K. Testing and research facilities, and laboratories;

L. Temporary use of land for commercial or industrial purposes.
(Code 2008, ch. 16, § 8.1.2; Ord. No. 960, § 6(8.1.2), 7-9-2015; Ord. 984, § 23, 9-21-2017)

8.1.3 Special Uses Not Permitted

It shall be presumed that any use listed in Section 8.1.2 shall not be permitted in the City without a special use permit unless that use is also specifically listed as a use permitted by right or as an accessory use in a given zoning district.
(Code 2008, ch. 16, § 8.1.3; Ord. No. 960, § 6(8.1.3), 7-9-2015)

8.1.4 Development and Performance Standards

8.1.4.010 Amusement Centers and Arcades

A. No permit shall be approved unless a determination is made that the impacts of traffic, access and parking, noise and litter will not adversely affect the surrounding neighborhood.

B. The initial special use permit may be granted for a period of up to twelve (12) months, with renewals for a period of up to five (5) years.
(Code 2008, ch. 16, § 8.1.4.010; Ord. No. 960, § 6(8.1.4.010), 7-9-2015)

8.1.4.015 Clubs and Drinking Establishments - Bar or Night Club

A. No permit shall be approved unless a determination is made that the impacts of traffic, access and parking, noise and litter will not adversely affect the surrounding neighborhood.

B. An initial permit may be issued for a maximum time period of two (2) years. Subsequent renewals may be issued for a maximum time period of five (5) years. Provided, however, that establishments within facilities such as convention centers, health clubs, hotels, or similar structures determined not to have traffic, parking, noise, litter or other adverse impacts on surrounding properties, may be issued a special use permit for an indefinite time period.
(Code 2008, ch. 16, § 8.1.4.015; Ord. No. 960, § 6(8.1.4.015), 7-9-2015)

8.1.4.020 Community Living Facility

A. No permit shall be approved unless a determination is made that the impacts of traffic, access and parking, noise and litter will not adversely affect the surrounding neighborhood.

B. An initial permit may be issued for a maximum time period of two (1) year. Subsequent renewals may be issued for a maximum time period of three (3) years.
(Code 2008, ch. 16, § 8.1.4.020; Ord. No. 960, § 6(8.1.4.020), 7-9-2015)

8.1.4.025 Communications Facilities (including Towers, Base Stations and Antennas)

A. Applications for special use permits for communication facilities for wireless services shall be subject to and processed pursuant to the provisions, definitions, building and design standards, requirements, timelines, and criteria contained within Article Ten of the

Zoning Ordinance, and the City shall not discriminate against applicants with respect to the placement of communications facilities as to other investor-owned utilities, wireless service providers, wireless infrastructure providers, or wireless carriers.

B. Each application for a Special Use Permit shall follow the process set forth and submit the information listed in Article Ten, Section 10.5.

C. A Special Use Permit for Communications Facilities shall be subject to the performance standards Article Ten, Section 10.7.

D. A Special Use Permit for Communication Facilities shall be for a term of not less than (10) years.

E. A denial of a Special Use Permit for Communication Facilities shall comply with the provisions and requirements set forth in Article Ten, Section 10.8.
(Code 2008, ch. 16, § 8.1.4.025; Ord. No. 960, § 6(8.1.4.025), 7-9-2015; Ord. 984, § 24, 9-21-2017)

8.1.4.030 Daycare Homes, Group Daycare Homes, Childcare Centers, Preschools, and Mother's Day Out Programs

A. A Special Use Permit is require only on property zoned District R-1 or residentially zoned property, which are not otherwise permitted as an accessory use or as a permitted use.

1. Day care homes shall be allowed subject to the following standards:

a. The day care provider shall be licensed by the State of Kansas and shall reside on the premises.

b. Outside play areas shall be fenced.

c. Only one employee, other than persons residing on the premises, shall be permitted.

2. Child care centers, preschools and Mother's Day Out programs may be allowed as an accessory use only in religious, educational and community buildings.

a. Such programs shall be subject to a general traffic circulation plan being submitted. Such plan shall not permit parking on any adjacent public street, and shall include a drop-off and pick-up site designed to prevent traffic congestion or vehicles stacking up onto the public streets.

b. The day care operation shall be licensed or registered with the State of Kansas.

c. The Planning Commission and Governing Body may, as a part of any special use permit renewal, require that the number of children and/or employees be reduced until, in their judgment, the adjoining properties are not adversely impacted.

d. Where the day care operation is operated from a residential dwelling, the owner or

operator shall occupy the structure as his or her private residence.

e. No signs identifying the daycare operation shall be permitted on the premises.

B. An initial permit may be issued for a maximum time period of two (2) years. Subsequent renewals may be issued for a maximum time period of three (3) years.
(Code 2008, ch. 16, § 8.1.4.030; Ord. No. 960, § 6(8.1.4.030), 7-9-2015)

8.1.4.035 Hospitals

A. The following uses are accessory uses within a hospital where located within the main building and designed to serve hospital personnel, visitors or patients:

1. Florist.

2. Food service and vending machines.

3. Gift shops.

4. Laundry, cleaning and garment services - pickup and delivery.

5. Nursing and personal care facilities.

6. Pharmacies.

7. Residential quarters for staff and employees.

8. Fitness Centers, pools, game rooms

B. An initial permit may be issued for a maximum time period of two (2) years. Subsequent renewals may be issued for a maximum time period of five (5) years.

C. The Planning Commission and Governing Body may, upon a finding that time restrictions on the permit are not required to protect the public health, safety and welfare, approve a special use permit for an indefinite period of time.
(Code 2008, ch. 16, § 8.1.4.035; Ord. No. 960, § 6(8.1.4.035), 7-9-2015)

8.1.4.040 Off-Street Parking Lots/Structures of a Temporary or Permanent Nature

A. No permit shall be approved unless a determination is made that the impacts of traffic, access and parking, noise and litter will not adversely affect the surrounding neighborhood.

B. An initial permit may be issued for a maximum time period of two (1) year. Subsequent renewals may be issued for a maximum time period of three (3) years
(Code 2008, ch. 16, § 8.1.4.040; Ord. No. 960, § 6(8.1.4.040), 7-9-2015)

8.1.4.045 Public Utility Services or Public Service Corporations - Buildings, Structures, and Premises

A. Outside storage of materials and equipment is an accessory use in buildings used by public utilities provided all storage is screened from view off the premises.

B. The initial special use permit may be granted for a period of up to two (2) years, with renewals for a period of up to five (5) years; provided that, a special use permit for Communication Facilities for Wireless services shall be for a term of not less than (10) years.

C. Applications for special use permits for communication facilities for wireless services shall be subject to and processed pursuant to the provisions, definitions, building and design standards, requirements, timelines, and criteria contained within Article Ten of the Zoning Ordinance and Section 8.1.4.025 of this Article, and the City shall not discriminate against applicants with respect to the placement of communications facilities as to other investor-owned utilities, wireless service providers, wireless infrastructure providers, or wireless carriers.

D. The Planning Commission and Governing Body may, upon a finding that time restrictions on the permit are not required to protect the public health, safety and welfare, approve a special use permit for an indefinite period of time.
(Code 2008, ch. 16, § 8.1.4.045; Ord. No. 960, § 6(8.1.4.045), 7-9-2015; Ord. 984, § 25, 9-21-2017)

8.1.4.050 Radio and Television Towers

A. The property owner must provide maintenance and inspection reports for towers and all supporting structures, guys, and attachments. Such reports shall follow the guideline and checklist set forth in TIA-EIA- 222-F, Annex E

B. The property owner shall maintain $1,000,000/$2,000,000 aggregate Commercial General Liability insurance on each tower or in the alternative the applicant shall maintain $2,000,000/$4,000,000 aggregate Commercial General Liability insurance for any casualty occurring with respect to either tower

C. The property owner shall provide a Certificate of Insurance, with a 30-day notice in the event of cancellation, to the City Clerk, evidencing that it has obtained the requisite liability insurance.

D. The initial special use permit may be granted for a period of up to two (2) years, with renewals for a period of up to five (5) years; provided that, a special use permit for Communication Facilities for Wireless services shall be for a term of not less than (10) years.

E. Applications for special use permits for communication facilities for wireless services shall be subject to and processed pursuant to the provisions, definitions, building and design standards, requirements, timelines, and criteria contained within Article Ten of the Zoning Ordinance, and the City shall not discriminate against applicants with respect to the placement of communications facilities as to other investor-owned utilities, wireless service providers, wireless infrastructure providers, or wireless carriers.
(Code 2008, ch. 16, § 8.1.4.050; Ord. No. 960, § 6(8.1.4.050), 7-9-2015; Ord. 984, §

26, 9-21-2017)

8.1.4.055 Testing and Research Facilities, Laboratories

A. No permit shall be approved unless a determination is made that the impacts of traffic, access and parking, noise and litter will not adversely affect the surrounding neighborhood.

B. The initial special use permit may be granted for a period of up to two (2) years, with renewals for a period of up to five (5) years.

C. The Planning Commission and Governing Body may, upon a finding that time restrictions on the permit are not required to protect the public health, safety and welfare, approve a special use permit for an indefinite period of time.
(Code 2008, ch. 16, § 8.1.4.055; Ord. No. 960, § 6(8.1.4.055), 7-9-2015)

8.1.4.060 Temporary Uses of Land for Commercial or Industrial Purposes

A. Special use permits for temporary uses of land for commercial or industrial purposes may be granted for a period not to exceed two (2) years, subject to renewal for one or more periods of time not to exceed a maximum of two (2) years for each renewal.

B. If a building or structure is constructed on said land in connection with the approved temporary use, and such structure is not otherwise permitted in that district, the building or structure shall be temporary and, along with any stored equipment or material, shall be removed on or before the expiration date of the Special Use Permit;

C. This provision shall not be used as a means of seeking approval for occupations which are not permitted as accessory uses in residential districts under Section 4.2.2
(Code 2008, ch. 16, § 8.1.4.055; Ord. No. 960, § 6(8.1.4.060), 7-9-2015)

ARTICLE NINE: SIGNS

9.1 PURPOSE, DEFINITIONS, PROHIBITED SIGNS

9.1.1 General Regulations

Signs shall be permitted in the various districts in accordance with the following regulations, which shall apply to all signs that are visible from beyond the lot line. Signs not authorized by the provisions of this chapter are not authorized.
(Code 2008, ch. 16, § 9.1.1; Ord. No. 991, § 1(9.1.1), 6-14-2018)

9.1.2 Statement of Purposes and Objectives

The Westwood governing body declares that the purpose of this article is to protect, preserve, and promote the health, safety, general welfare, and beauty of the City, by regulating the location, size, placement, physical materials, and illumination of signs. The City further intends to regulate signage in order to promote economic development and protect property values from the effect of visual blight, and to promote the rights of individuals to convey messages through temporary signs, while preventing the

unrestricted proliferation of signs, both permanent and temporary. The City finds that certain signs, by their quantity, size, placement, appearance, or other characteristics, can create a hazard to traffic by blocking the view of and distracting motorists and others, particularly with respect to signs in the rights- of-way of the City. The City further finds that the rights of way of the City are subject to ongoing street, sidewalk, and other infrastructure and utility construction and repair, and are subject to digging, excavation, and other construction activities at any time. The City also finds that the rights of way are widely used for such subsurface purposes as fiber optic lines, natural gas lines, and other structures, and placing signs or other structures in the rights-of-way could interfere with or damage such structures. The City finds that the use of the rights of way is also subject to statutory and other legal rights and interests including, but not limited to, use of the rights of way by certain utilities or other providers of goods or services to the public. The City intends to promote the substantial governmental goals of safety and aesthetics, but not to impair protected Constitutional rights, including freedom of speech.
(Code 2008, ch. 16, § 9.1.2; Ord. No. 991, § 1(9.1.2), 6-14-2018)

9.1.3 Definitions

Animated Sign: any device such as flashing, blinking, rotating, or moving action intended to attract the attention of the public to an establishment or to a sign.

Awning: a temporary shelter, supported entirely from the exterior wall of a building, and composed of a non-rigid material, except for a rigid, stationary supporting framework.

Back-Lighted Sign: a sign with concealed illumination, which provides backlighting that silhouettes the message.

Banner: a temporary sign printed on fabric or other pliant material.

Billboard: an outdoor freestanding panel or advertising structure which stands over three feet above ground or above grade at its base and which advertises a product or service, relays a message to the public, or carries an advertising message.

Building: a roofed and walled structure.

Building, Multi-Tenanted: a building, or a group of two or more attached buildings under unified control or ownership, housing two or more tenants.

Business Facade: the architectural front of a building, relating to a particular business, lying between the ground level of the pedestrian walkway and the lowest level of the roofline.

Complex: a group of two or more buildings with two or more tenants, developed in a related manner and under unified control and ownership.

Detached Sign: any sign located on the ground or on a structure or support located on the ground and not attached to any building.

Directional Sign: any sign directing traffic to a location or event.

Dissolve: a mode of message transition on an EMC accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

Electronic Message Center (EMC): A sign that utilizes computer-generated messages or some other electronic means of changing copy including LED, LCD or similar displays.

Externally Illuminated Sign: any sign which is partially or completely illuminated by a light source which is shielded so that the light source is external to the sign and not visible.

Facade: the principal face or front of a building.

Fade: a mode of message transition on an EMC accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

Flashing Sign: any sign which is internally or externally illuminated by flashing, flowing, alternating or blinking lights.

Ground Sign: a freestanding sign, not more than five feet in height, supported by uprights, braces, columns, poles, or other vertical members which are not attached to the building.

Height of Sign: the vertical distance, measured from the average grade of the sign foundation or point of sign support to the highest point on the sign. The average grade shall be determined by deriving the average elevation of property extending fifteen feet from all sides of the proposed sign location.

Identification Sign: a sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partially devoted to a readily recognizable symbol.

Illuminated Channel Cut Letter Signage: Dimensional lettering with internal illumination.

Internally Illuminated Sign: any sign (other than illuminated channel cut letter signage) illuminated by diffused light through a translucent material so that the light source is not directly discernable.

Memorial Sign or Tablet: a sign cut into a masonry or rock surface that is a part of a building, or a bronze, or similar material, tablet inset into such building.

Monument Sign: a freestanding sign made of brick, natural stone materials, concrete, metal, wood, or plastic, which harmonizes with the architecture of the building or complex it serves, and is constructed of materials consistent with the building. The monument sign copy area must be attached in a continuous fashion to a proportionate base. The proportionate base must be continuous and the width of the base must be at least one half of the width of the widest part of the sign.

Nonconforming Sign: any advertising structure or sign which has been erected and

maintained prior to such time as it came within the purview of this article and any amendments thereto, and which fails to conform to all applicable regulations and restrictions of this article, or a non-conforming sign for which a special use permit has been issued.

Off-Site Sign: any sign which directs the attention of the public to any goods, merchandise, property (real or personal), business, service, entertainment, or amusement conducted, produced, bought, sold, furnished, or offered on any premises other than where the sign is located.

Parcel: a tract of land comprised of one or more lots or portions thereof zoned for a single dwelling or for a single business single business development under common ownership.

Permanent Sign: any wall, monument or other sign that is fixed, lasting, stable, enduring, not subject to change, and generally opposed to temporary, but not always meaning perpetual.

Pole Mounted Banner Sign: A temporary sign printed on fabric or other pliant material, mounted to a street light or utility pole, typically within the City right of way.

Pole Sign: a freestanding sign, more than five feet in height, supported by uprights, columns, poles, or other vertical members which are not attached to a building.

Portable Sign: any sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to an A-frame or sandwich frame sign, balloons or other gas or air-filled objects used as commercial signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Projecting Sign: any sign extending more than one foot from the face of the building to which it is attached.

Public Right-of-way: the area on, below, or above public streets, alleys, bridges, and parkways, and the area immediately adjacent thereto, that is, the dedicated roadway area.

Roof: the cover of a building including roofing and all other materials and construction (such as supporting members) necessary to carry and maintain it on the walls or uprights.

Roof Sign: any sign constructed and maintained partially or wholly upon or over the roof eave of a building, or the eave of a false roof.

Scroll: a mode of message transition on an EMC where the message appears to move across the display surface.

Sight Distance Triangle: the two areas of all corner lots within the triangles formed by a short leg 15 feet in length and a long leg 140 feet in length, both distances measured along the curb line or edge of the pavement.

[GRAPHIC - Sight-Distance Setback Triangle Street or Driveway]

Sign: any posting, board, symbol, or other physical or material device which communicates or functions as an announcement, message, attracting device, declaration, demonstration, display, illustration, identification, description, insignia, symbol, or logo which is used to transmit a message, is used to advertise or promote, or which directs attention to any idea, cause, opinion, business, product, activity, service, place, institution, or person, or which functions as a device for solicitation, or anything on which a message is displayed. A sign includes any supporting structure appurtenant thereto when the same is in public view.

Sign Area Calculation: the entire area within a single continuous perimeter enclosing all elements of a sign that form an integral part of the display including the perimeter border. Signs with more than one face shall be taken as one face only for purposes of determining size area only. Each sign shall have no more than two faces.

Sign Maintenance: the normal care and minor repair necessary to retain a safe, attractive, uniformly lit (if applicable), and finished structure, brackets or surface. Repainting or repairing copy or logo shall be considered maintenance if the information, product or service remains the same and if the sign is to serve the identical establishment using the same business firm name as before the change.

Sign Structure: the supports, uprights, braces and framework of a sign.

Structure: that which is built or constructed; an edifice or building of any kind.

Temporary Sign: any sign that is intended for a temporary period of posting on public or private property, and is typically constructed from nondurable materials, including paper, cardboard, cloth, plastic, and/or wall board, and which may have a plastic, metal, or wooden support, or which does not constitute a structure subject to the City’s Building Code or Zoning provisions.

Tenant: one who holds or possesses a house, building, land or tenement by any right or title, whether in fee, for life, for years, at will, or otherwise.

Transition: a visual effect used on an EMC to change from one message to another.

Travel: a mode of message transition on an EMC where the message appears to move horizontally or vertically across the display surface.

Wall Sign: any vertical sign attached flat against the surface of a wall, awning, or facade (other than a false roof facade), of a building, but not projecting horizontally from the vertical surface more than twelve inches or above the vertical surface.

Window Sign: any sign which is displayed in, attached to or applied to the exterior or interior of any transparent glass or acrylic plastic surface that could be considered a window.
(Code 2008, ch. 16, § 9.1.3; Ord. No. 991, § 1(9.1.3), 6-14-2018; Ord. No. 1024, § 61, 2-10-2022)

9.1.4 Prohibited Signs

All signs not expressly permitted within this Ordinance or exempted herein are prohibited in the City. Such prohibited signs include, but are not limited to:

A. Animated signs.

B. Billboards.

C. Electrically lighted signs that create a nuisance to neighboring property owners and/or the general public. A nuisance is defined as any electrically lighted sign which gives offense to or endangers life or health, causes pollution such as light pollution, obstructs the reasonable and comfortable use and enjoyment of the property of another, interferes with the rights of citizens whether in person, property, or enjoyment of property or comfort, annoys or causes trouble or vexation, is offensive or noxious, or works hurt, inconvenience, or damage. To constitute a nuisance, the interference must be both substantial and unreasonable.

D. Electronic Message Centers (EMC's) with the exception of installations noted in 9.3.1.E

E. Flashing or blinking signs, including excessive change in the color of the illumination.

F. Off-site signs.

G. Pole signs.

H. Portable signs.

I. Roof signs.

J. Any sign attached to a tree, fence, or utility pole except warning signs issued and properly posted by the utility company having ownership or control of said utility pole, and also excepting any signs required by governmental or legal authority.

K. Any illuminated awnings.
(Code 2008, ch. 16, § 9.1.4; Ord 942, Sec 1; Ord. No. 991, § 1(9.1.4), 6-14-2018; Ord. No. 1024, § 62, 2-10-2022)

9.1.5 Severability [27]

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Ordinance and/or any other code provision and/or laws or ordinances are declared invalid or unconstitutional by a judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the validity of any

[27] **Legal analysis: 9.1.5 Severability.** Delete as covered by general provisions in Chapter 1. In the alternative (in case this chapter is ever removed from this code and made into its own zoning code or an appendix), move this to the general provisions of this chapter.

other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Ordinance, including, but not limited to, the prohibitions contained herein, and further including, but not limited to, the prohibition on billboards as contained herein. (Code 2008, ch. 16, § 9.1.5; Ord. No. 991, § 1(9.1.5), 6-14-2018; Ord. No. 1024, § 63, 2-10-2022)

9.2 REGULATIONS APPLICABLE TO ALL DISTRICTS

9.2.1 Sign Permit

A. Except as provided herein, or as may be provided by other ordinances or resolutions of the City, it shall be unlawful for any person to erect, install, alter, move or replace any new or existing sign without first obtaining a permit and making payment of the sign permit fee as established in the City fee schedule on file in the City Clerk's Office. A permit is not required for ordinary maintenance and repair of a sign, nor is a permit or fee required to post temporary signs.

B. Any person desiring to erect a sign for which a permit is required shall submit to the Building Official an application upon a form to be provided by the City that shall contain the following information:

1. Name, address, and telephone number of the applicant;

2. Location of the building, structure, or lot to which or upon which the sign is to be attached or erected;

3. Position of the sign in relation to nearby building or structures, streets and sidewalks;

4. Drawing of the sign, showing elevation or elevations of the sign at a scale of one half inch to the foot, or larger, showing the sign, including structural supports, height to bottom of the sign, as well as material, color, and lighting;

5. Length of time the sign will be displayed;

6. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected; and

7. Such other information as the Building Official shall require showing full compliance with this and all other laws and ordinances of the City.

C. It shall be the duty of the Building Official, upon filing of an application for a sign permit, to review the application and to conduct such other investigation as is necessary to determine the accuracy of the application and reach a decision within fourteen days of the application being completed and filed with the City. If it shall appear that the applicant has provided the information requested in the application, and that the proposed sign will comply with the ordinances of the City, the Building Official shall forward the sign permit to the Planning Commission for a review of the sign. The Building Official shall record and maintain all documents pertaining to sign permits. Notwithstanding the above, signs may be approved as part of a comprehensive site plan review or otherwise as part of a zoning

procedure provided that any such signs meet the criteria set forth herein.

D. If the Building Official determines that the proposed sign is not in compliance with all requirements of this chapter or any other laws or any other ordinances of the City, the Building Official shall not issue the requested permit, and shall notify the applicant of such denial and the reason therefore within fourteen days of the application being completed and filed with the City.

E. If the Building Official finds that a sign meets the criteria herein for approval, and is not a type of sign that requires specific planning commission approval, then the Building Official shall issue a permit.

F. Any applicant aggrieved by a decision of either the Building Official shall be entitled to an appeal to have said decision reviewed by the Governing Body. Said appeal must be taken within thirty days of the decision from which an appeal is taken. The Governing Body shall hear such appeal at the earlier of its next regularly scheduled meeting or the passage of twenty days from the decision from which an appeal is taken.

G. All rights and privileges acquired under the provisions of the chapter, or any amendments thereto, are revocable at any time by the City for cause, and all such permits shall contain this provision.
(Code 2008, ch. 16, § 9.2.1; Ord. No. 991, § 1(9.2.1), 6-14-2018)

9.2.2 Signs Exempt from Permit Requirement

The following signs are exempt from the permit process and are not subject to this Ordinance:

A. Street markers, traffic signs, warning signs, and other appropriate or mandatory signs displayed by the City or other governmental subdivision in the exercise of the police power to assure the public health, safety, and welfare;

B. Any sign required by the City’s Building or Fire Codes or other governmental authority;

C. Official notice by public officers or employees in the performance of their duties; and

D. Signs required or specifically authorized by statute or ordinance, or otherwise required by law.
(Code 2008, ch. 16, § 9.2.2; Ord. No. 991, § 1(9.2.2), 6-14-2018; Ord. No. 1024, § 64, 2-10-2022)

9.2.3 Exceptions to Permit Process

The following types of signs are exempt from permit requirements but must be in conformance with all other requirements of this article:

A. Temporary signs;

B. Memorial signs or tablets not in excess of four square feet;

C. Name plate signs for single-family dwellings; and

D. In the district zoned for retail sales, temporary window signs which do not exceed ten percent of the area of the window in which the sign is placed.
(Code 2008, ch. 16, § 9.2.3; Ord. No. 991, § 1(9.2.3), 6-14-2018)

9.2.4 Traffic Hazards

No sign shall be constructed at the intersection of any street in such a manner as to obstruct the free and clear vision of motorists, or any location where, by reason of the position, shape or color, said sign may interfere with obstruct the view or be confused with any authorized traffic signal or device.
(Code 2008, ch. 16, § 9.2.4; Ord. No. 991, § 1(9.2.4), 6-14-2018)

9.2.5 Maintenance and Inspection

All signs now or hereinafter erected shall at all times be kept in good repair and structurally safe. Any sign which may be at any time deemed to be in disrepair or unsafe by the Building Official shall be removed and costs of the removal paid by the owner.
(Code 2008, ch. 16, § 9.2.5; Ord. No. 991, § 1(9.2.5), 6-14-2018)

9.2.6 Public Rights of Way

With the exception of City of Westwood pole mounted banner signs, no sign, including any part of a sign or sign structure, shall be located within the public right-of-way, except approved directional and traffic control signs, or except as permitted under the regulations herein. No sign, or sign structure, shall be erected or maintained over, across, or upon any sidewalk or street except as provided herein or otherwise as required or permitted by law.
(Code 2008, ch. 16, § 9.2.6; Ord. No. 991, § 1(9.2.6), 6-14-2018)

9.2.7 Temporary Signs

A. The City enacts this Ordinance to establish reasonable regulations for the posting of informational signs on public and private property. Recognizing that temporary signs, left completely unregulated, can become a threat to public safety as a traffic hazard, and a detriment to property values as an aesthetic nuisance, the City intends to:

1. Protect the rights of all individuals to convey their message through temporary signs and at the same time recognize the right of the public to be protected against the unregulated proliferation of signs;

2. further the objectives of the City’s comprehensive plan;

3. protect the health, safety, and welfare;

4. reduce traffic and pedestrian hazards;

5. protect property values by minimizing the possible adverse effects and visual blight caused by signs;

6. promote economic development; and

7. ensure the fair and consistent enforcement of the temporary sign regulations specified hereinafter.

B. Temporary signs may be posted on property in all zoning districts of the City, subject to the following requirements:

1. The total square footage per parcel for temporary signage in any district, in the aggregate, shall not exceed eighteen square feet, with no individual sign exceeding six square feet. The area of a sign is to be calculated as set forth above.

2. Signs shall not exceed three feet in height measured from the average grade at the base of the sign.

3. No sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street furniture, or otherwise create a hazard, including a tripping hazard.

4. No sign shall be illuminated or painted with light reflecting paint.

5. A sign shall only be posted with the consent of the property owner or occupant.

6. A temporary sign may be posted for a period of up to ninety days, at which time the sign shall be removed or replaced.

7. Signs shall not be posted on trees, utility poles, and other similar structures within the rights of way.

C. The removal or replacement of temporary signs shall be governed by the following regulations:

1. The person who posted or directed the posting of the sign is responsible for the removal or replacement of that sign.

2. If the person does not remove or replace the sign in accordance with these regulations, then the property owner or occupant of the building or lot where the sign is posted is responsible for the sign’s removal or replacement.

3. If the Building Official finds that any sign is posted in violation of these regulations on public property, the Building Official is authorized to remove any such signs. If the Building Official finds that any sign is posted in violation of these restrictions on private property, the Building Official shall give written notice to the person who has posted or directed the posting of the sign. If that person fails to remove or replace the sign so as to comply with the standards herein within 72 hours after such notice, such sign may be removed by the Building Official.
(Code 2008, ch. 16, § 9.2.7; Ord. No. 991, § 1(9.2.7), 6-14-2018)

9.2.8 Sign Area Calculations

A. The area for monument signs shall include the sign panel but not the sign base on which it is mounted or the structural elements or frames that form the perimeter of the panel.

B. If a wall sign is contained within a panel, the sign area calculation shall be the area of the panel. If the sign consists of individual letter, symbols, or words, either painted or mounted on the wall, the area shall be the smallest rectangular figure that can encompass all of the letters, words, logos, or symbols.
(Code 2008, ch. 16, § 9.2.8; Ord. No. 991, § 1(9.2.8), 6-14-2018)

9.2.9 Setback

No sign, except approved directional signs, shall be placed within the required sight-distance setback triangle (see diagram in definitions), unless specifically authorized by the Planning Commission.
(Code 2008, ch. 16, § 9.2.9; Ord. No. 991, § 1(9.2.9), 6-14-2018)

9.2.10 Permanent Signs Secured

Permanent signs shall be secured fastened to the ground or to some other substantial supporting structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property. Sign structures may be required to have a building permit, at the discretion of the Building Official.
(Code 2008, ch. 16, § 9.2.10; Ord. No. 991, § 1(9.2.10), 6-14-2018)

9.2.11 Projecting Signs

A. No sign projecting at right angles from a building wall shall extend over a street, alley, sidewalk, or other property, or within eighteen inches of the curb line or automobile parking area, except for signs over privately owned sidewalks. No projecting sign shall be so constructed that the lowest overhanging part thereof is less than nine feet above the level of any private sidewalk.

B. Projecting signs shall be securely attached to the building or structure by bolts, anchors and guys or non-corrosive metals or plated metals.
(Code 2008, ch. 16, § 9.2.11; Ord. No. 991, § 1(9.2.11), 6-14-2018)

9.2.12 Wall Signs

A. Any wall sign:

1. Shall not project or extend more than twelve inches from the face of the wall surface, or eighteen inches above the awning, provided that the awning is at least a minimum of eighteen inches below the parapet.

2. Shall not exceed twenty square feet in area.

3. Shall not extend above, below or beyond the wall surface on which mounted.

4. Must be placed only on flat wall areas where the sign touches the wall surface continuously on all sides.

B. Wall surfaces shall not be leased for outdoor advertising to persons other than the tenant.
(Code 2008, ch. 16, § 9.2.12; Ord. No. 991, § 1(9.2.12), 6-14-2018)

9.2.13 Illuminated Signs

Illuminated signs shall not constitute a traffic hazard. Lighting shall be directed away and shielded from normal traffic view.
(Code 2008, ch. 16, § 9.2.13; Ord. No. 991, § 1(9.2.13), 6-14-2018)

9.2.14 Obscene Materials

Obscene signs, flags, banners, or any sign of any type are prohibited. "Obscene" is defined as any material that:

A. the average person, applying contemporary community standards, would find that, taken as a whole, appeals to the prurient interest; and

B. the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and

C. the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.
(Code 2008, ch. 16, § 9..2.14; Ord. No. 991, § 1(9.2.14), 6-14-2018)

9.2.15 Substitution of Messages

Subject to the landowner's consent, a noncommercial message of any type may be substituted for any duly permitted or allowed commercial message or duly permitted or allowed noncommercial message, provided that the sign or sign structure is legal without consideration of the message content. This substitution of message may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not create a right to increase the total amount of signage on a parcel or land use, nor does it affect the requirement that a sign structure or mounting device be properly permitted. This provision does not allow for the substitution of an offsite commercial message in place of an onsite commercial message.
(Code 2008, ch. 16, § 9.2.15; Ord. No. 991, § 1(9.2.15), 6-14-2018)

9.3 REGULATIONS APPLICABLE TO SPECIFIC DISTRICTS

9.3.1 Residential Districts R-1(A), R-1(B), R-1(C), R-1(D), R-1(E)

The following signs shall be permitted in residential districts:

A. Non-illuminated temporary signs not requiring a permit, as described in Article 9.2.7, Temporary Signs.

B. Building address numbers visible from the public right-of-way, shall not exceed 8 inches in height, and/or numbers painted on the curb not to exceed 4 inches in height.

C. Ground signs for the purpose of guiding pedestrian and vehicular traffic to parking lots shall be permitted, provided that such signs do not identify tenants.

D. Each church, school, and other public building, single or multi-tenanted, allowed in the residential district, shall be allowed one non-illuminated, or externally illuminated sign, not to exceed 5 feet in height, along the frontage of each public street abutting the property. The copy on the sign may be changed from time to time provided that the structure of the sign is not changed from that approved. Signs in such areas shall be subject to review by the Planning Commission as set forth hereinabove.

1. Buildings or complexes with less than 100 feet of street frontage shall be restricted to signs not exceeding 20 square feet in area per face, and be limited to two faces per sign.

2. Buildings with more than 100 feet of street frontage shall not exceed 30 square feet of area per face and be limited to two faces per sign, and one non-illuminated wall sign, not to exceed 15 feet in area.

E. Churches and Schools allowed in the residential district shall be permitted one Electronic Message Center (EMC). EMC's shall be submitted to the planning commission for specific approval. Details, including siting, materials, size, display brightness (measured at 35' and at the property lines), display type, frequency of message transitions, and method of method transition shall be submitted. [28]

1. EMC"s shall be sited, detailed, and programmed so as not to be a nuisance or hazard to pedestrians, motorists, or neighbors.

a. Brightness: Brightness on electronic message boards shall be limited to no more than 0.3 footcandles over ambient lighting conditions when measured at a distance of 35'. EMC's shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions.

b. EMC's shall be limited to 0 footcandles over ambient conditions when measured at the property lines.

2. Permitted EMC's shall be monument signs only. All requirements of monument

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[28] **Legal analysis: 9.3.1 Residential Districts. . .(E).** As the word "churches" here could indicate solely Christian places of worship and thus introduce constitutional questions, consider replacing with a broader term, or adding a definition of "church" to include congregational buildings for any type of religious institution.

signs shall apply. The area of the electronic display shall not exceed 12 square feet per face, and be limited to two faces per sign. The total area of the sign shall not exceed 30 square feet per face, and be limited to two faces per sign.

3. No more than one EMC installation is permitted per property.

4. On all EMC's, only the static display of messages is permitted with at least 15 seconds between changes in display and no more than 1 second for transitions. Messages shall be changed only through dissolving or fading Transition Methods. No scrolling, travelling, flashing, or animated transitions are allowed

5. EMC's shall be placed so that the sign face is perpendicular to the street they are addressing. On corner lots, the applicant shall indicate which street the sign will be addressing.

6. EMC's shall be set back 150 feet from adjacent property lines parallel to the sign face, and 15' feet from the right of way perpendicular to the sign face.
(Code 2008, ch. 16, § 9.3.1; Ord. No. 991, § 1(9.3.1), 6-14-2018)

9.3.2 Office and Professional Districts; C-O

The following signs shall be permitted in office and professional districts:

A. Any sign allowed in the residential districts.

B. Each building or complex, single or multi-tenanted, shall be allowed one non-illuminated or indirectly illuminated monument sign, not to exceed 5 feet in height, along the frontage of each dedicated public street abutting the property. Such sign shall identify only the name of the building or complex and list the tenant(s) housed therein.

1. Buildings or complexes with less than 100 feet of street frontage shall be restricted to signs not exceeding 20 square feet in area per face, and be limited to two faces per sign.

2. Buildings or complexes with more than 100 feet of street frontage shall not exceed 30 square feet area per face and be limited to two faces per sign.

C. In addition to the monument sign(s), each business or commercial establishment shall be permitted one non-illuminated, illuminated channel cut letter, or indirectly illuminated wall, projecting, or awning sign along the frontage of each dedicated public street abutting the property. The total area of each sign shall not exceed 10 percent of the area of the business facade on which it is placed, and the facade must be continuous with the tenant's gross leasable floor area.

D. In addition to the wall, projecting, or awning sign referenced above, each business or commercial establishment shall be permitted window signage, the area of which will be calculated against the gross allowable wall sign area.
(Code 2008, ch. 16, § 9.3.2; Ord. No. 991, § 1(9.3.2), 6-14-2018)

9.3.3 Retail and Business Districts; CP-1, C-1, P-1,

The following signs shall be permitted in retail and business districts:

A. Any sign allowed in the residential districts and the office and residential districts.

B. Each building or complex, single or multi-tenanted, shall be allowed one non-illuminated or indirectly illuminated, monument sign, not to exceed 5 feet in height along the frontage of each dedicated public street abutting the property. Such sign shall identify only the name of the building or complex and list the tenant(s) housed therein.

1. Buildings or complexes with less than 100 feet of street frontage shall be restricted to signs not exceeding 20 square feet in area per face and limited to two faces per sign.

2. For multi-tenanted retail buildings or complexes, with 8 or more storefronts or tenant spaces, the owner may double the allowable area for one street frontage by either doubling the area of the sign, not to exceed 5 feet in height, or by doubling the number of signs on one street frontage.

C. In addition to the monument sign(s), each business or commercial establishment shall be permitted one non-illuminated, illuminated channel cut letter, or indirectly illuminated wall, projecting, or awning sign. The total area of each sign shall not exceed 10 percent of the area of the business facade on which it is placed, and the facade must be continuous with the tenant's gross leasable floor area. Business establishments having frontage on more than one dedicated public street may have the aforementioned wall or awning sign on each frontage.

D. Ground signs specifically for the purpose of guiding and directing vehicular traffic shall be permitted in parking districts.

E. Notwithstanding any other provisions herein, in any district zoned for retail sales, a tenant or property owner may have an additional temporary sign for cumulative periods not to exceed fourteen days in any calendar year, and such sign shall be no larger than 32 square feet. A no-fee permit shall be required for such additional temporary sign.
(Code 2008, ch. 16, § 9.3.3; Ord. No. 991, § 1(9.3.3), 6-14-2018)

9.3.4 Planned Commercial Districts

Signs shown on the approved final development plan or approved amended development plan shall be permitted in planned commercial districts.
(Code 2008, ch. 16, § 9.3.4; Ord. No. 991, § 1(9.3.4), 6-14-2018)

9.4 SIGN STANDARDS APPLICABLE TO NEW AND EXISTING MULTI-TENANTED OFFICE BUILDINGS, MULTI- TENANTED RETAIL BUILDINGS, AND MULTI-TENANTED COMPLEXES

9.4.1 Site Plan Review

Nothing in this Ordinance is intended to supersede the plan review process provided in the City's ordinances and regulations. The development of consistent graphics to avoid confusion, to comply with health and safety concerns, and to avoid visual clutter and pollution may be considered as part of the plan review process. However, nothing in the

plan review shall be construed to override the requirements set forth herein.
(Code 2008, ch. 16, § 9.4.1; Ord. No. 991, § 1(9.4.1), 6-14-2018; Ord. No. 1024, § 65, 2-10-2022)

9.4.2 Compliance

A. The standards shall be within the regulations set out by this Ordinance.

B. Such standards shall run with all leases or sales of portions of the development. The sale, subdivision, or other partition of the site does not exempt the project or portions thereof from complying with these regulations.

C. With respect to projects which require a plan review, sign permits shall not be issued until after approval of the design standards by the Planning Commission as part of the plan review process. A copy of the approved sign standards shall be kept on file in the Office of the City Clerk for reference in the issuance of sign permits.

D. The Planning Commission shall follow the additional criteria set forth herein.
(Code 2008, ch. 16, § 9.4.2; Ord. No. 991, § 1(9.4.2), 6-14-2018)

9.4.3 Nonconforming Signs [29]

All existing non-conforming signs which exist at the time of the adoption of this amendment may remain and further provided that no changes in the basic structure, source of illumination, location of appearance shall be made in such signs and further provided that if the business to which the sign is related should move to another site, which move creates in effect an off-site advertising sign, then such device shall be removed or otherwise brought into full conformance with this title.
(Code 2008, ch. 16, § 9.4.3; Ord. No. 991, § 1(9.4.3), 6-14-2018)

9.4.4 Permit Fees

Sign permit fees are calculated as shown on the appropriate fee schedule at the Office of the City Clerk. If any sign is installed or placed on any property prior to receipt of a sign permit, the specified permit fee shall be doubled. However, payment of the doubled permit fee shall not relieve any person of any other requirements or penalties of this section.
(Code 2008, ch. 16, § 9.4.4; Ord. No. 991, § 1(9.4.4), 6-14-2018)

9.4.5 Appeal

Any person aggrieved by the terms of this section may seek an appeal before the Governing Body within thirty days of the decision by the City Building Official by which the person is aggrieved. The Governing Body shall meet and decide the appeal at the earlier of its next regularly-scheduled meeting or the passage of twenty days from the appeal

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[29] **Legal analysis: 9.4.3 Nonconforming Signs**. Revise to include date of the adoption of the amendment. (This language existed in the original version of the code we received from the city, as well as in the 2018 amendment. Please advise of the intent of the city.)

being filed, unless the applicant shall request or agree to a continuance of the matter. The status quo shall be maintained during any approval or appeal process.
(Code 2008, ch. 16, § 9.4.5; Ord. No. 991, § 1(9.4.5), 6-14-2018)

ARTICLE TEN: COMMUNICATION FACILITIES FOR WIRELESS SERVICES

10.1 Statement of Intent

The Telecommunications Act of 1996 affirmed the City's authority concerning the placement, construction, and Modification of Communications Facilities. The intent of this Article is to ensure the provision of quality Wireless Services within the City limits; establish a fair and efficient process for the review and approval of Communications Facility Applications; assure an integrated, comprehensive review of environmental impacts of Communications Facilities, and promote the public health, safety, security, and general welfare of the City.
(Code 2008, ch. 16, § 10.1; Ord. No. 984, § 27(10.1), 9-21-2017; Ord. No. 1024, § 66, 2-10-2022)

10.2 Definitions

For purpose of this Article, and where consistent with the context of a specific Section or Subsection thereof, the defined terms, phrases, words and abbreviations and their derivations shall have the meanings given in this Article.

Accessory Facility means an accessory facility, building, structure or equipment serving or being used in conjunction with Communications Facilities and generally located on the same Site as the Communications Facilities, including, but not limited to, utility or Transmission Equipment, power supplies, generators, batteries, cables, equipment buildings, storage sheds or cabinets, or similar structures.

Antenna means communications equipment that transmits or receives electromagnetic radio signals used in the provision of Wireless Services.

A. Distributed Antenna System (DAS) means a network that distributes radio frequency signals and consisting of:

1. Remote communications or Antenna nodes deployed throughout a desired coverage area, each including at least one Antenna for transmission and reception;

2. A high capacity signal transport medium that is connected to a central communications hub site; and

3. Radio transceivers located at the hub's site to process or control the communications signals transmitted and received through the Antennas to provide Wireless or mobile Service within a geographic area or structure.

B. Small Cell Facility means a Communications Facility that meets both of the following qualifications:

1. Each Antenna is located inside an enclosure of no more than six (6) cubic feet in

volume, or in the case of an Antenna that has exposed elements, the Antenna and all of the Antenna's exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet; and,

2. Primary equipment enclosures that are no larger than seventeen (17) cubic feet in volume, or facilities comprised of such higher limits as the FCC has excluded from review pursuant to 54 U.S.C. § 306108. Accessory Facilities may be located outside the primary equipment, and if so located, are not to be included in the calculation of equipment volume. Accessory Facilities includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.

C. Small Cell Network means a collection of interrelated Small Cell Facilities designed to deliver Wireless Service.

Applicant means any person or entity that is engaged in the business of providing Wireless Services or the wireless infrastructure required for Wireless Services and that submits an Application pursuant to this Article.

Application means all necessary and appropriate documentation that an Applicant submits in order to receive approval for a Communications Facility.

Approval Authority means the Building Official for all Applications pursuant to Zoning Ordinance 10.4, subsection A, and means the Governing Body for all Applications pursuant to Zoning Ordinance 10.4, subsection B.

Base Station means a station that includes a structure that currently supports or houses an Antenna, transceiver, coaxial cables, power cables or other Accessory Facilities at a specific Site that enables FCC- licensed or authorized Wireless Service to mobile stations, generally consisting of radio transceivers, Antennas, coaxial cables, power supplies and other associated electronics. The term does not mean a Tower or equipment associated with a Tower; and it does not include any structure that, at the time the relevant Application is filed with the City, does not support or house equipment described in this paragraph or that was not previously approved under the applicable zoning or siting process. (A non-tower support structure – for example, a building, church steeple, water tower, sign, street light, utility pole or other non- tower structure that can be used as a support structure for Antennas or the functional equivalent of such.)

Collocation means the mounting or installation of Transmission Equipment on an Eligible Support Structure for the purpose of transmitting and/or receiving radio frequency signals for Wireless Service.

Communications Facility means a structure, facility, or location designed, or intended to be used as, or used to support Antennas or other Transmission Equipment used in Wireless Services. This includes without limit, Towers of all types, and Base Stations, including but not limited to buildings, church steeples, water towers, signs, or other structures that can be used as a support structure for Antennas or the functional equivalent of such. It further includes all related Accessory Facilities associated with the Site. It is a structure and facility intended for transmitting and/or receiving, Wireless

Services, Specialized Mobile Radio (SMR), personal communications services (PCS), commercial satellite services, microwave services, radio, television, and any commercial Wireless Service not licensed by the FCC.

Eligible Facilities Request means any request for Modification of an Existing Tower or Base Station that does not Substantially Change (see definition) the physical dimensions of such Tower or Base Station, involving:

A. Collocation of new Transmission Equipment;

B. Removal of Transmission Equipment; or

C. Replacement of Transmission Equipment.

Eligible Support Structure means any Tower or Base Station, provided that it is Existing at the time the relevant Application is filed.

Existing means the following: a constructed Tower or Base Station is Existing if it has been reviewed and approved under the applicable zoning or siting process, provided that a Tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is Existing for purposes of this definition.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Modification or Modify means the addition, removal or change of any of the physical and noticeably visible components or aspects of a Communications Facility such as Antenna, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any noticeably visible components, vehicular access, parking, upgrade or exchange of equipment for better or more modern equipment. Modification shall not include Replacement of such components in kind. A Collocation which changes the physical configuration of the Existing facility or structure shall be considered a Modification. The Building Official shall determine when changes such as enlarging the ground-mounted equipment area, increasing the screen wall height or installing additional equipment changes the physical and noticeably visible aspects of a Communications Facility.

Replacement means Replacement of an Existing Communications Facility that exists on a previously approved Site, utility easement, or an approved Special Use Permit area, with a new facility of comparable proportions and of comparable height or such other height that would not constitute a Substantial Change to an Existing structure to support Communications Facilities or accommodate Collocation. A Replacement includes any associated removal of the pre-Existing Communications Facilities. A Replacement Tower shall be within fifteen (15) feet, as measured horizontally along the ground, of an Existing Tower, and the Existing Tower shall be removed within thirty (30) days from the installation of the Replacement Tower. The Building Official may approve a separation greater than fifteen (15) feet.

Site means, for Towers other than Towers in the public rights-of-way, the current

boundaries of the leased or owned property surrounding the Tower and any access or utility easements currently related to the Site, and, for other Eligible Support Structures, further restricted to that area in proximity to the structure and to other Transmission Equipment already deployed on the ground.

Stealth or Stealth Technology means using the least visually and physically intrusive facility by minimizing adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding, and generally in the same area as the requested location of a Communications Facility. Specifically, this means ensuring that all Antenna arrays, cables, and other Accessory Facilities used for providing the Wireless Service are not obtrusive or noticeably visible from adjacent properties or adjacent rights-of-way. Any Accessory Facilities mounted onto a Tower or structure shall not project greater than one (1) foot, as measured horizontally, from the surface of the Tower or structure and shall be painted or screened with materials that are a complementary color as the Tower or structure. Cables shall not be allowed to travel along the exterior of a Tower or structure. Understanding that new technologies are anticipated to change the components of Communications Facilities, the Building Official may determine if a Communications Facility or component of a Communications Facility is designed to be Stealth or utilizes Stealth Technology.

Substantial Change means a Modification that substantially changes the physical dimensions of an Eligible Support Structure (Tower or Base Station) by any of the following criteria:

A. Height

1. For Towers not in the public rights-of-way, an increase in the height of the Tower by more than ten percent (10%) or by the height of one additional Antenna array with separation from the nearest Existing Antenna not to exceed twenty (20) feet, whichever is greater.

2. For other Eligible Support Structures (e.g., Towers in the public rights-of-way or Base Stations), an increase in the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater.

3. Changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally (such as on buildings' rooftops); in other circumstances, changes in height are measured from the dimensions of the Tower or Base Station, inclusive of originally approved appurtenances and any Modifications that were approved prior to the passage of the Spectrum Act (Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub.L. 112–96).

B. Width/Girth

1. For Towers not in the public rights-of-way, adding an appurtenance to the body of the Tower that protrudes from the edge of the Tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater.

2. For other Eligible Support Structures (e.g., Towers in the public rights-of-way or

Base Stations), adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet.

C. New equipment cabinets

1. For any Eligible Support Structure, the installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets.

2. For Towers in the public rights-of-way and Base Stations, the installation of any new equipment cabinets on the ground if there are no pre-Existing ground cabinets associated with the structure, or else the installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure.

D. Any excavation or deployment outside the current Site.

E. Defeating the Stealth Technology or concealment elements of the Eligible Support Structure.

F. Not complying with conditions associated with the siting approval of the construction or Modification of the Eligible Support Structure or Base Station equipment, provided that this limitation does not apply to any Modification that is non-compliant only in a manner that would not exceed the thresholds identified in subsections A through D herein.

Transmission Equipment means equipment that facilitates transmission for any FCC-licensed or authorized Wireless Service, including, but not limited to, radio transceivers, Antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with Wireless Services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed Wireless Services and fixed Wireless Services such as microwave backhaul.

Tower means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized Antennas and their Accessory Facilities, including structures that are constructed for Wireless Services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed Wireless Services and fixed Wireless Services such as microwave backhaul, and the associated Site.

A. Monopole means a Tower consisting of a single pole, constructed without guy wires and ground anchors.

B. Lattice Tower means a guyed or self-supporting three or four sided, open, steel frame structure used to support Antennas and Transmission Equipment.

Wireless Services means “personal wireless services” and “personal wireless service facilities” as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through Communications Facilities or any fixed or mobile Wireless Services provided using Communications Facilities.

(Code 2008, ch. 16, § 10.2; Ord. No. 984, § 27(10.2), 9-21-2017; Ord. No. 1024, § 67, 2-10-2022)

10.3 Overall Policy

In order to ensure that the placement, construction, and Modification of Communications Facilities protect the public health, safety, security, and general welfare of the City, the following policies are hereby adopted (subject to applicable state and federal law):

A. Optimize the number of Communications Facilities in the City.

B. Encourage opportunities for user Collocation on Existing Communications Facilities, buildings and other structures and maximize Replacement strategies.

C. Comply fully with established planning guidelines regarding land use and building, design and performance standards.

D. Emphasize the use of Stealth Technology to integrate the appearance of Communications Facilities with many architectural and nature themes throughout the City and to use Existing Communications Facilities instead of building new Communications Facilities.

E. Protect the public interests, where practical and applicable, in a competitively neutral, nondiscriminatory manner.

F. Protect the public health, safety and welfare.
(Code 2008, ch. 16, § 10.3; Ord. No. 984, § 27(10.3), 9-21-2017)

10.4 Application Approval Authority

A. Administrative Approval - The Building Official may approve Applications for Communications Facilities for the following:

1. The Modification of an Existing Tower or Base Station that does not incur a Substantial Change to the Tower or Base Station or that otherwise qualifies as an Eligible Facilities Request. (See C1 for timeframe.)

2. New Small Cell/DAS Facilities on an Existing Tower, utility pole or street light in the public right-of-way. This provision is also applicable when the Existing Tower, utility pole or street light is replaced by a Tower, utility pole or street light that is not a Substantial Change from the original. (See C1 for timeframe.)

3. New Antenna (including Small Cell/DAS Facilities) on an Existing Tower or Base Station that does not incur a Substantial Change to the Tower or Base Station and that: (1) is permitted by right in the underlying zoning district; and (2) meets applicable building, design, and performance standards. (See C1 for timeframe.)

4. New Antenna (including Small Cell/DAS Facilities) on an Existing Tower or Base Station that incurs a Substantial Change to the Tower or Base Station and that: (1) is permitted by right in the underlying zoning district; and (2) meets applicable building,

design, and performance standards. (See C2 for timeframe.)

5. New Tower permitted by right in the underlying zoning district that meets applicable building, design, and performance standards. (See C3 for timeframe.)

6. New Tower or utility pole for Small Cell/DAS Facilities in the public right-of-way, subject to the issuance of a Right-of-Way Permit pursuant to Westwood City Code Chapter 13 – Public Rights-of-Way. (See C3 for timeframe.)

B. Special Use Permit Approval – A Special Use Permit (SUP) reviewed by the Planning Commission and approved by the Governing Body is required for Applications for Communications Facilities for the following:

1. A Substantial Change to an Existing Tower or Base Station that is not permitted by right in the underlying zoning district. (See C2 for timeframe.)

2. Any other Application for placement, installation or construction of Transmission Equipment that does not constitute an Eligible Facilities Request. (See C2 for timeframe.)

3. New Tower that is not permitted by right in the underlying zoning district. (See C3 for timeframe.)

C. Application Timeframe

1. A final decision shall be issued for Applications under subsections A1, A2, and A3 within sixty (60) calendar days.

2. A final decision shall be issued for Applications under subsections A4, B1 and B2 within ninety (90) calendar days.

3. A final decision shall be issued for Applications under subsections A5, A6 or B3 within one hundred fifty (150) calendar days.

4. The timeframes set forth in subsections C1-C3 begin to run when a completed Application is filed following the pre-application conference. The applicable timeframe may be tolled by mutual agreement or in cases where the City determines that the Application is incomplete. To toll the timeframe for incompleteness, the City may provide written notice to the Applicant within thirty (30) days of receipt of the Application, clearly and specifically delineating all missing documents and information. The timeframe begins running again when the Applicant makes a supplemental submission responding to the City's notice. The City then has ten (10) days to notify the Applicant that the supplemental submission did not provide the information identified in the original notice. The timeframe is tolled in the case of second or subsequent notices pursuant to this subsection. Second or subsequent notices may not specify missing documents or information that were not delineated in the original notice of incompleteness.

D. Small Cell and DAS Facilities – Consolidated Application and Exemption

1. Consolidated Application – Pursuant to Kansas Statute, an Applicant may file one consolidated Application for a Small Cell Network up to twenty five (25) individual Small

Cell Facilities of a substantially similar design. Notwithstanding, the City may require a separate Application for any Small Cell Facilities that are not of a substantially similar design.

2. Exemption – No zoning or siting approval is required for the construction, installation or operation of any Small Cell or DAS Facilities located in an interior structure or upon the Site of any campus, stadium or athletic facility; provided, however, this exemption does not exempt any such facility from any applicable building or electrical code provision.
(Code 2008, ch. 16, § 10.4; Ord. No. 984, § 27(10.4), 9-21-2017)

10.5 Application Process and Requirements

A. Pre-Application Conference – A pre-application conference is required before filing an Application for the Replacement or Modification of an Existing Communications Facility or the construction of a new Communications Facility, unless waived by the Building Official. The purpose of the pre-application conference is to ensure the Applicant understands all requirements, to establish a tentative timeline, and to determine the Approval Authority for the Application. The pre-application conference should address issues that will expedite the review and approval process. Pre-application conferences for Small Cell/DAS Facilities in the public right-of-way will be conducted with the City's Director of Public Works.

B. Application Fee – At the time an Application is filed for a Communications Facility, the Applicant will pay a non-refundable Application fee as determined in the current version of the Governing Body resolution establishing applicable fees; provided, the Application fee shall be subject to any applicable statutory maximum. An Application shall not be deemed submitted unless the applicable fee is paid.

C. Application Requirements – An Application for the Replacement or Modification of an Existing Communications Facility or the construction of a new Communications Facility shall include the following information and requirements, unless waived by the Building Official:

1. A site plan or preliminary development plan, and if applicable, any other Special Use Permit submission requirements set forth in Westwood City Code, Chapter 16 – Zoning Ordinance, as amended, and specifically as amended by Ordinance 960, Section 1.6 and the subsections thereto, Section 8.1 and the subsections thereto, or as otherwise required by or provided for within the City's Zoning Ordinance.

2. A descriptive statement of the proposed Communications Facility. For Towers or Base Stations, the statement shall provide the capacity of the structure, including the number and type of Antennas it can accommodate.

3. An affidavit from the Applicant stating that it conducted a thorough analysis of available Collocation opportunities within the applicable search ring.

4. Elevation drawings of the proposed Communications Facilities showing all Towers, Base Stations, Antennas, Transmission Equipment, Accessory Equipment, cabinets, fencing, screening, landscaping, lighting, and other improvements related to the facility.

The Applicant shall note all specific colors and materials to be used.

5. Digital photo simulations of the site providing "before and after" views demonstrating the true visual impact of the proposed Communications Facilities on the surrounding environment. Staff or the Approval Authority may require photo simulations from any specific vantage point.

6. A report from a licensed professional engineer which describes the Communications Facility's structural capacity, including a statement to the effect that the Communications Facility can safely accommodate all Antennas, Transmission Equipment and/or Accessory Equipment. This may include structural calculations, geotechnical foundation studies, and other data as determined by the Building Official, as applicable, and in compliance with all City codes. In the event an Existing Communications Facility is to be used, the report shall describe the condition of the Existing Communications Facility based on a physical inspection and its ability to accommodate any additional Accessory Equipment and/or Antennas.

7. A landscape plan that demonstrates the effective screening of the proposed Communications Facility and any Accessory Facilities as required by Westwood City Code, Chapter 16 – Zoning Ordinance and the City's Manual of Infrastructure Standards. The landscape plan shall be sealed by a professional landscape architect, unless this requirement is waived by the Approval Authority.

8. If lighting is required by the FCC or the FAA, the Applicant shall submit the proposed lighting plan and identify an available lighting alternative. If security lighting is to be used, the Applicant may be required to submit a photometric plan to ensure that lighting is unobtrusive and inoffensive and that no light is directed towards adjacent properties or rights-of-way. All lighting will meet any requirement of the Westwood City Code, Chapter 16 – Zoning Ordinance.

9. If an emergency power system will be utilized, the Applicant will provide: sufficient details showing the location and proposed use of the same; a proposed plan for any intended non-emergency use (e.g., testing); and certification that the system will not violate local health and safety requirements and local noise control ordinances.

10. A statement that the proposed Communications Facility and any Accessory Facilities and/or landscaping shall be maintained within City ordinances, under what arrangement, and by whom. The statement shall provide contact information for the responsible party.

11. An engineer's certification that the proposed Communications Facility and the cumulative effect of all Communications Facilities on the Site comply with all FCC standards, including but not limited to, certifying that all facilities meet all provisions and regulations for radio frequency (RF) emissions or exposure, and that anticipated levels of electromagnetic radiation to be generated by all facilities on the Site, including the effective radiated power (ERP) of the Transmission Equipment, shall be within the guidelines established by the FCC.

12. When applicable, a signed copy of the lease between the Applicant and the landowner or other acceptable documentation signed by the landowner evidencing the landowner's approval for the proposed Communications Facility. The lease or other

documentation shall contain a provision stating that the landowner shall be responsible for the demolition and/or removal of the Communications Facility in the event the lessee fails to remove it upon abandonment of the facilities or the termination of the lease.

13. Applicants for Communications Facilities in the right-of-way shall provide notice by first class mail, postage prepaid, to the owners of record of all property within two hundred (200) feet of the proposed location. The notice shall provide: (1) a City-issued case number (if available); (2) a description of the proposed facility; (3) the location of the proposed facility; (4) a plan sheet showing the proposed location and the facility improvements; and (5) the Applicant's contact information and a statement that the owner shall have twenty (20) days from the date of the notice to provide the City with any input regarding the Application. Each Communications Facility location shall be provided with its own notice; notices for multiple locations, even if under the same City case number, may not be provided in a single letter. No Application will be approved until the Applicant submits an affidavit affirming that the required notice was sent.

14. Any other information to satisfy the performance standards set forth for the applicable zoning district as required by Westwood City Code, Chapter 16 – Zoning Ordinance and the City's Manual of Infrastructure Standards or that, as determined by the Building Official, will assist the review and approval process for Communications Facilities.

D. Independent Third Party Review

1. The Applicant may be required to provide an independent review of the Application as determined by the Building Official.

2. The Building Official will select and approve a list of acceptable consultants to be used for the third party independent review.

3. The scope of the third party review will be determined by the Building Official and may vary with the scope and complexity of the Application; the scope will be determined following the pre- application conference. The independent third party review will generally be focused on the technical review of Wireless Services and verification of the information submitted by the Applicant such as federal RF emissions standards, and other technical requirements to ensure that the modeling parameters and data used in developing these technical requirements are valid and representative of the proposed Communications Facility.
(Code 2008, ch. 16, § 10.5; Ord. No. 984, § 27(10.5), 9-21-2017)

10.6 Location of Communications Facilities

When possible, the City encourages – but does not require – new Communications Facilities to be located on Existing Communications Facilities or on existing structures (for example, commercial buildings, water towers, utility poles and street lights) whereby the new Communications Facilities can be architecturally integrated or otherwise camouflaged in a Stealth manner in order to minimize the intrusion upon the public and adjacent properties. If and when a new Tower or new Base Station is installed for Communications Facilities, said new Tower or new Base Station should be located and designed in a manner to minimize the intrusion upon the public and adjacent properties, and when possible, to be architecturally integrated or camouflaged in a Stealth manner with

surrounding structures.
(Code 2008, ch. 16, § 10.6; Ord. No. 984, § 27(10.6), 9-21-2017)

10.7 Building and Design Standards for Communications Facilities

A. Height

1. Towers – The maximum height which may be approved for a Tower is one hundred fifty (150) feet, which includes any Transmission Equipment on top of the Tower. A lightning rod, ten (10) feet in height or less, shall not be included within the height limitations. While Tower height shall be controlled based on the specific context consistent with the provisions of this Article and the Zoning Ordinance, in no case shall Towers or Antennas exceed the following:

a. One hundred fifty (150) feet in the commercial zoning districts;

b. One hundred thirty (130) feet in the commercial overlay zoning districts;

c. One hundred (100) feet in all residential districts;

d. No more than 20 feet above the top of a building when mounted on the roof or include a stealth on-building design in the commercial or commercial overlay districts.

2. Towers in Right-of-Way – The maximum height which may be approved for a Tower and related Transmission Equipment in the public right-of-way is: fifty (50) feet along an arterial thoroughfare street; forty (40) feet along a collector street; and twenty (20) feet along a local street as defined within Westwood City Code Chapter 13 – Public Rights-of-Way.

3. Base Stations – Base Stations shall comply with any applicable height requirement for its particular type of structure as set forth in the applicable zoning district.

B. Design and Color

1. Towers

a. Design – Towers shall be a Monopole or of some other Stealth or Stealth Technology design unless required by the Approval Authority to be architecturally compatible to the surrounding development. Guy and Lattice Towers are not allowed. Furthermore, Towers must be designed in compliance with all current applicable technical, safety, and safety-related codes adopted by the City or other applicable regulatory authority.

b. Color and Finish – Towers shall have a galvanized finish unless an alternative Stealth or camouflaged finish is approved by the Approval Authority.

2. Base Stations – Base Stations shall comply with any applicable color and design requirement for its particular type of structure as set forth in the applicable zoning district, and shall blend with the surrounding buildings and/or natural environment.

3. Antennas

a. Design on Towers – Antenna bridges and platforms on Towers are not allowed. Antennas on Towers may be:

i. Internal;

ii. A panel of slim-line design mounted parallel with the Tower;

iii. A design deemed by the Approval Authority to be less obtrusive or Stealth than the designs described above; or,

iv. An omni-directional Antenna placed at the top of the Tower when it gives the appearance of being a similarly sized or smaller extension of the Tower. (The latter will be included in the Tower height calculation.)

b. Design on Base Stations – Antennas and visible Accessory Facilities on a Base Station or other building/structure shall be comprised of materials that are consistent with the surrounding elements so as to blend architecturally with said building/structure and to camouflage their appearance in a Stealth manner. Such facilities on rooftops may require screening that is architecturally compatible with the building. As applicable, the following additional requirements apply:

i. Antennas may be installed on any existing building or structure (such as a water Tower but excluding single-family residences and accessory uses) three (3) stories in height or greater but no less than thirty five (35) feet provided that the additional Antennas shall add no more than twenty (20) feet to the height of said existing structure.

ii. Antennas which are architecturally compatible to the building architecture may locate on non-residential buildings less than three (3) stories or thirty five (35) feet in height.

iii. Antennas and/or Accessory Facilities installed or located in a Commercial Overlay District shall comply with the applicable architectural, building, design, screening and similar standards established for the particular Commercial Overlay District.

iv. Attached Antennas on a roof shall be located as close to the center of the roof as possible; and Antennas mounted on a building or structure wall shall be as flush to the wall as technically possible, and shall not project above the top of the wall.

v. Accessory Facilities for Antennas may be permitted on the roof so long as they are screened from view and so long as they are screened, constructed, and colored in conformity with and to otherwise match the structure to which they are attached; provided that, ground mounted Accessory Facilities shall otherwise fully comply with the provisions of this Section.

c. Color and Finish – Antennas and visible Accessory Facilities shall be colored and finished in a manner consistent with the Tower or Base Station and any surrounding elements so as to camouflage their appearance in a Stealth manner. Such facilities shall be of a neutral color that is identical to, or closely compatible with, the color of the Tower

or Base Station so as to make such facilities as visually unobtrusive as possible. Antennas mounted on the side of a building or structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen.

C. Setbacks

1. Communications Facilities in the commercial zoning districts, Commercial Overlay Districts, and Planned Business Districts (CP-1) set forth in the City Zoning Ordinance shall meet the setback requirements for other types of commercial structures of a similar size that are allowed by right in the zoning district(s) in which the facilities are located. In the event the proposed Communications Facilities will exceed the height allowed for other types of commercial structures in the district in which the facilities are located, the Communications Facilities shall meet the greater of the maximum setback requirements for the zoning district or a setback equal to the height of the facility, unless the Approval Authority reasonably finds that a greater setback is required in the interest of the public health, safety and welfare.

2. Communications Facilities in residential zoning districts, Planned Residential Cluster Development zoning districts, and Planned Multi-Family Residential zoning districts shall meet the greater of the maximum setback requirements for the applicable zoning district or a setback equal to the height of the facility, unless the Approval Authority reasonably finds that a greater setback is required in the interest of the public health, safety and welfare.

3. In addition to the above setback requirements set forth in subsection C. 1. of this section regarding commercial and commercial overlay districts, Towers shall have a minimum setback of 200 feet from any surrounding property which is shown as residential, unless such Tower: (1) does not exceed the height requirement for other types of commercial structures in the district in which the Tower is located; (2) is a utility pole or street light or a Monopole similar in size thereof; or (3) is designed as an architecturally compatible element in terms of material, design and height to the Existing or proposed use of the Site.

4. Small Cell/DAS Facilities on utility poles or street lights shall not be subject to the setback requirements in subsections C1-C3 above; provided that, such Small Cell/DAS Facilities on utility poles or street lights placed within the right-of-way shall comply with the City’s requirements and permits for the use of the public right-of-way as set forth with Westwood City Code Chapter 13 – Public Rights- of-Way and in the City’s Manual of Infrastructure Standards.

5. All Towers, Antennas, and Accessory Structures, shall meet the required setbacks of the applicable zoning district. In addition to complying with the district regulations, the Tower and Antenna shall be set back from the property lines a distance equal to the height of the Tower or Antenna; provided that, the City or Approval Authority shall not impose nor shall this provision be interpreted to require a greater setback or fall-zone requirement for a Tower, Antenna, or Communication Facility than for other types of commercial structures of a similar size. A lesser setback may be approved with the Special Use Permit, upon demonstration by a licensed structural engineer registered in the State of Kansas that the fall zone of the Tower, Antenna, or Communication Facility is within the radius of the setback.

D. Accessory Facilities – Accessory Facilities shall include only such structures and facilities necessary for transmission functions for Wireless Services, but shall not include broadcast studios, offices, vehicle storage areas, or other similar uses not necessary for the transmission function. Accessory Facilities shall be constructed of building materials consistent with the primary use of the Site and shall be subject to the applicable approval process. Where there is no primary use other than the Communications Facility, the Accessory Facility and the building materials for the Accessory Facility shall be subject to the review and approval of the applicable Approval Authority.

E. Equipment Storage – Mobile or immobile equipment not used in direct support of a Communications Facility shall not be stored or parked on the Site of the Communications Facility unless repairs to the Communications Facility are being made or pursuant to emergency approval as set forth in Westwood City Code, Chapter 16 – Zoning Ordinance, Article 10, Section 10.9.

F. Parking Areas and Drives – All parking areas and drives associated with a Communications Facility shall comply with Westwood City Code, Chapter 16 – Zoning Ordinance, Article 10, Section 10.9; provided that, the applicable Approval Authority may waive the requirements for curbing and drainage facilities when they are not needed for drainage purposes. All access roads and turn-arounds shall be provided to ensure adequate emergency and service access.

G. Screening – Accessory Facilities located at the base of a Tower or Base Station shall be screened from view with a solid screen wall a minimum of six (6) feet in height. The materials of the wall, including any proposed razor wire or other security wire, shall be of a material designed to match the architecture of the surrounding structures, and shall be subject to the review and approval of the applicable Approval Authority. The landowner or provider shall be responsible for maintenance of the screening. The applicable Approval Authority shall have the ability to waive or reasonably modify this requirement where the design of the Accessory Facility is architecturally compatible to the primary use of the Site or where the Accessory Facility will have no visible impact on the public right-of-way and any other nearby property.

H. Landscaping – A landscape plan shall be required in accordance with the provisions of the Westwood City Code, Chapter 16 – Zoning Ordinance for the applicable zoning district and use. The landscape plan shall be sealed by a professional landscape architect, unless waived by the applicable Approval Authority. A continuous landscaped area shall be provided around the perimeter of the accessory building or screening wall; and utility boxes will comply with any applicable utility box screening requirement. All plant materials are subject to the Westwood City Code, Chapter 16 – Zoning Ordinance for the applicable zoning district and use and shall include a mixture of deciduous and coniferous planting materials. Drought tolerant plant materials are encouraged. The owner or provider shall be responsible for maintenance of all approved landscaping. Where the visual impact of the equipment building would be minimal, the landscaping requirement may be reduced or waived by the applicable Approval Authority.

I. Lighting – Communications Facilities shall only be illuminated as required by the FCC and/or the FAA. If lighting is required, the Approval Authority may review the available lighting alternatives and approve the design that would cause the least

disturbance to the surrounding views. Security lighting around the base of a Tower may be provided if the lighting is shielded so that: no light is directed towards adjacent properties or rights-of-ways; the lighting avoids illuminating the Tower; and the lighting meets any other applicable City requirements.

J. Utilities – All utilities at a Communications Facility Site shall be installed underground and in compliance with applicable codes.

K. Security – All Communications Facilities shall be located, fenced, or otherwise secured in a manner that prevents unauthorized access.

L. Signage – Signage at the Site is limited to non-illuminated warning and equipment identification signs required by the FCC or applicable regulatory body or otherwise approved by the Approval Authority.

M. Building Codes and Inspection

1. Construction and Maintenance Standards – To insure structural integrity, Communications Facilities shall be constructed and maintained in compliance with the standards contained in applicable local building codes and the applicable standards for Communications Facilities published by the Electronic Industries Association, (EIA) or any applicable regulatory authority (as amended from time to time). If upon inspection the City concludes that a Communications Facility fails to comply with such codes and standards and constitutes a danger to persons or property, then the facility owner or landowner shall have thirty (30) days following written notice to bring such facility into compliance. If the facility owner or landowner fails to bring such facility into compliance within this period, the City may order the removal or cause the removal of such facility at the facility owner or landowner's expense. Failure of the City to inspect the facility shall not relieve the facility owner or landowner of their responsibility to comply with this provision.

2. Inspection – Not less than every twenty-four (24) months, the Communications Facility shall be inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of Communications Facilities. At a minimum, this inspection shall be conducted in accordance with the inspection check list provided in the Electronic Industries Association (EIA) Standard 222, Structural Standards for Steel Antenna Towers and Antenna Support Structures (as amended from time to time). A copy of the inspection record shall be provided to the City upon request. The inspection shall be conducted at the facility owner or landowner's expense.

N. Operational Standards

1. Communications Facilities shall meet or exceed all minimum structural, height, radio frequency radiation and other operational standards as established by the FCC, FAA, Environmental Protection Agency, and/or other applicable federal regulatory agencies. If such standards and regulations are changed, then the Communications Facilities shall be brought into compliance with the revised standards and regulations within six (6) months of the effective date of the ordinance or law from which these standards and regulations are derived, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring Communications Facilities into compliance with any

revised standards and regulations shall constitute grounds for the removal of the facility at the owner or provider's expense.

2. It is the responsibility of the Wireless Service provider to promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.

O. Removal of Abandoned Communications Facilities – Any Communications Facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and a nuisance, and the owner of such facility or the landowner shall remove the same within ninety (90) days of a receipt of notice from the City. If such facility is not removed within said ninety (90) days, the City may remove such facility at the facility owner or landowner's expense. If there are two or more users of a single Tower, then this provision shall not become effective until all users cease using the Tower.

P. Unsafe Communications Facilities – Any Communications Facility which is not maintained to a suitable degree of safety and appearance (as determined by the City and any applicable code, statute, ordinance, law, regulations or standard) will be considered a nuisance and will be upgraded or removed at the owner or provider's expense.
(Code 2008, ch. 16, § 10.7; Ord. No. 984, § 27(10.7), 9-21-2017)

10.8 Denial of Application

A. The City may deny an Application for any of the following reasons:

1. Failure to submit any or all required Application documents and information.

2. Conflict with safety and safety-related codes and requirements.

3. Conflict with the historic nature or character of the surrounding area pursuant to federal or state law.

4. The use or construction of a Communications Facility is contrary to the previously stated purpose of a specific zoning or land use designation, fails to comply with the City's Land Development Code, and/or creates an unacceptable risk to the public health, safety, and welfare.

5. The placement and location of the Communications Facility would create an unacceptable risk, or the reasonable probability of such, to residents, the public, businesses, City employees, or employees of the Wireless Service provider.

6. Conflict with a public health, safety and welfare issue, including, but not limited to, violation of noise ordinance, flashing or other light nuisance, and conflict with required sidewalk widths (including ADA accessibility requirements).

7. Conflict with planned future public improvements.

8. Conflict with or violation of any provision contained within this Article or any other applicable City code or with any applicable federal or state law.

B. In the event of a denial, the Approval Authority or the City shall notify the Applicant in writing of the City's final decision, supported by substantial evidence contained in a written record and issued contemporaneously. Such notice shall be made within the applicable timeframe set forth in the Westwood City Code, Chapter 16 – Zoning Ordinance, Article Ten, Section 10.4.

C. Any denial shall not discriminate against the Applicant with respect to the placement of Communications Facilities of other investor-owned utilities, Wireless Service providers, wireless infrastructure providers, or wireless carriers.
(Code 2008, ch. 16, § 10.8; Ord. No. 984, § 27(10.8), 9-21-2017)

10.9 Emergencies and Disasters

In the event of a declared emergency or disaster, the City Administrator, or his or her designee, or the Building Official may authorize any temporary Towers, Base Stations, Transmission Equipment or Accessory Equipment necessary to temporarily restore Wireless Services.
(Code 2008, ch. 16, § 10.9; Ord. No. 984, § 27(10.9), 9-21-2017)

10.10 Interpretation and Severability [30]

The provisions of this Article shall be construed in a manner consistent with all applicable federal, state and local laws and standards regulating Communications Facilities. In the event any federal or state law or standard is mandatory or is more stringent than provisions of this Article, then such provisions shall be revised accordingly. ~~If any section, subsection, clause, phrase or portion of this Article is for any reason held invalid or unenforceable by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.~~
(Code 2008, ch. 16, § 10.10; Ord. No. 984, § 27(10.10), 9-21-2017)

[GRAPHIC - Zoning District Map]

[GRAPHIC - Overlay District Map]

[30] **Legal analysis: 10.10 Interpretation and Severability.** Delete severability language as covered by general provisions in Chapter 1, or general provisions in this chapter should severability be added.