



# CITY OF WESTWOOD, KANSAS

## PLANNING COMMISSION MEETING

4700 RAINBOW BLVD. WESTWOOD, KS 66205

Monday, April 01, 2024 at 7:00 PM

### AGENDA

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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

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

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#### REGULAR MEETING AGENDA

##### I. CALL TO ORDER

- A. Administer the Affirmation of Office to Kevin Breer

##### II. APPROVAL OF THE AGENDA AND MEETING MINUTES

- A. Consider approving the April 1, 2024 Planning Commission meeting agenda
- B. Consider approving the March 4, 2024 Planning Commission meeting minutes

##### III. PUBLIC HEARINGS

- A. WE-2024-01 – Application of Jim and Peggy Donovan 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 for a proposed new single-family residence on property located at 3018 W. 51st Terrace, Westwood, Kansas 66205

##### IV. PRESENTATIONS

- A. Mid-America Regional Council (MARC) regional efforts on environmental sustainability (Tom Jacobs, Environmental Programs Director)
- B. Legalities Training (Spencer Low, MVP Law)

##### V. OLD BUSINESS

##### VI. NEW BUSINESS

##### VII. ANNOUNCEMENTS/PLANNING COMMISSIONER COMMENTS

##### VIII. STAFF REPORTS

- A. Administrative Report (City Administrator Leslie Herring)
- B. Public Works Report (Public Works Director John Sullivan)

**IX. UPCOMING ITEMS**

- A. May Guest Presentation: Contain the Rain and Heartland Tree Alliance programs (Bridging the Gap staff)
- B. Election of officers (Chair, Vice-Chair, and Secretary) (May)
- C. June Guest Presentation: Water supply and infrastructure continuity planning (WaterOne staff)
- D. Annual review of the Planning Commission bylaws, per Article 6 Section 4 of the bylaws (June)

**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, May 6, 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](http://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  
March 4, 2024 – 7:00 PM**

Commissioners Present: Clay Fulghum  
Ann Holliday  
Emily Keyser  
Mark Neibling  
Sarah Page, Chair  
Matt Prout

Commissioners Absent: Kevin Breer, Vice Chair  
Samantha Kaiser  
David Kelman

Staff Present: Leslie Herring, City Administrator

**Call to Order**

Chair Page called the meeting to order at 7:01 PM on March 4, 2024.

Herring administered the affirmation of office to Mark Neibling and the oath of office to Emily Keyser. Chair Page invited Commissioner Keyser to introduce herself to her fellow Planning Commissioners.

**Approval of Agenda and Meeting Minutes**

Chair Page called for modifications or discussion of the March 4, 2024 meeting agenda or February 5<sup>th</sup> meeting minutes or a motion for approval. Commissioner Niebling moved to approve both the agenda and minutes. Commissioner Fulghum seconded. Motion passed unanimously.

**Public Hearings**

None.

**Presentations**

The Planning Commission received a presentation (included in the meeting packet) from Katie Killen, Housing Program Manager and Josh Akers, Research Manager at the Mid-America Regional Council (MARC).

**Old Business**

None.

**New Business**

None.

**Staff Reports**

*City Administrator Report – Leslie Herring*

Herring shared an update on the Rainbow Blvd. Complete Streets Traffic Management Plan, the Mission Rd. 2025 improvement project, and the forthcoming community-wide priorities survey.

**Adjournment**

Motion by Commissioner Fulghum to adjourn the meeting. Second by Commissioner Prout. Motion passed unanimously. The meeting adjourned at 8:10 PM.

**Upcoming Items**

None.

APPROVED: \_\_\_\_\_  
Sarah Page, Chair

ATTEST: \_\_\_\_\_  
Leslie Herring, Secretary

DRAFT

## WESTWOOD PLANNING COMMISSION

Staff Report

Meeting Date: April 1, 2024

Staff Contact: Leslie Herring, City Administrator

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**WE-2024-01** – Application of Jim Donovan 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 for a proposed new single-family residence on property located at 3018 W. 51st Terrace, Westwood, Kansas 66205

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**OWNER OF RECORD:** Donovan Enterprises, LLC, James P. Donovan

**APPLICANT:** Jim and Peggy Donovan

**LOCATION:** The property is deeded as HOLMESLAND W 70' OF E 231' N 1/2 W 1/2 LT 19 EX S 20' FOR ST WWC

**ZONING:** The property is zoned R-1(C)

**PROPOSED PROJECT:** Construct a new single-family dwelling

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**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.

**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.

**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 31.25% of the front façade of the primary structure being on the front build-to line. Effectively, only the front foyer is on the build-to line.

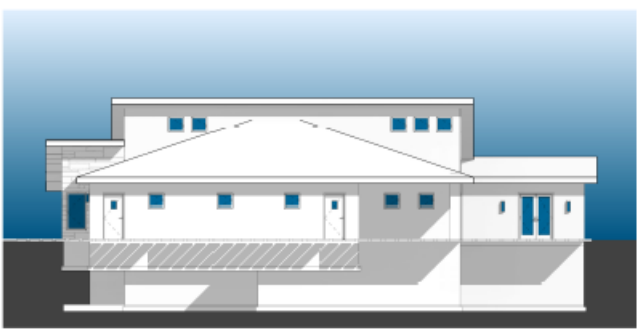
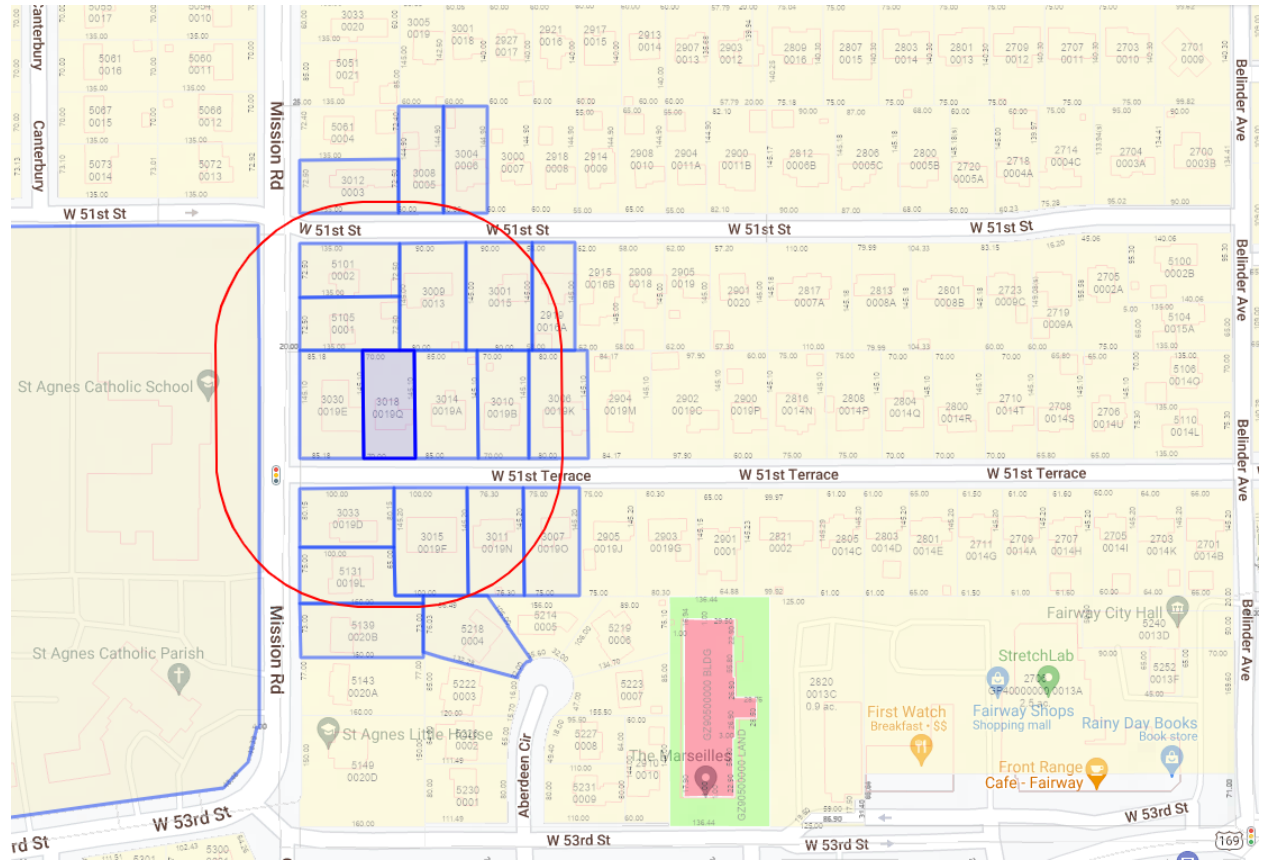
**STAFF RECOMMENDATION:** The Planning Commission should review the application materials included in the meeting packet, should consider any public comment received<sup>1</sup>, and should consider the applicant's presentation at the meeting to determine whether this application should be approved.

### *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 for a single-family residence on a property located at 3018 W. 51<sup>st</sup> Terrace, Westwood, KS 66205.*

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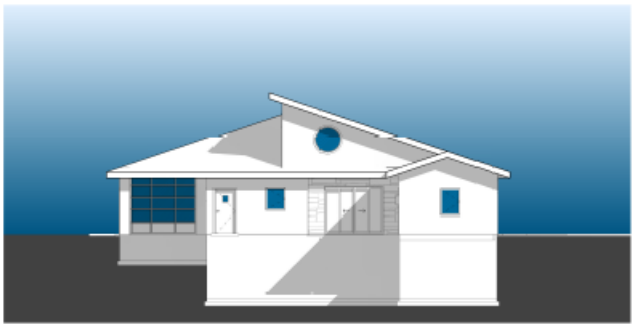
<sup>1</sup> Per Westwood zoning regulations, this public hearing was published at least 20 days prior and notice of the hearing was mailed to all property owners within 200' of the subject property, as shown in the map on the next page.



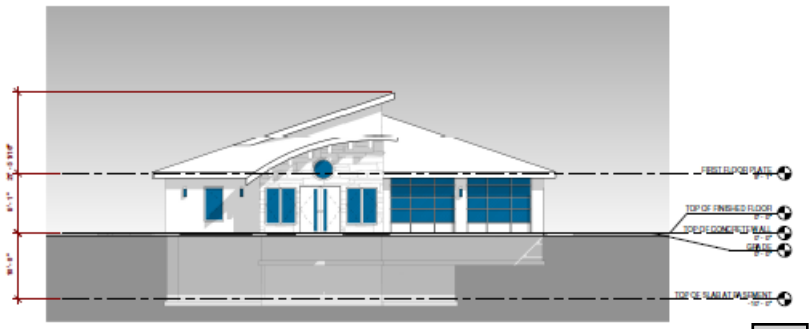
3 EAST ELEVATION  
 SCALE: 1/8" = 1'-0"



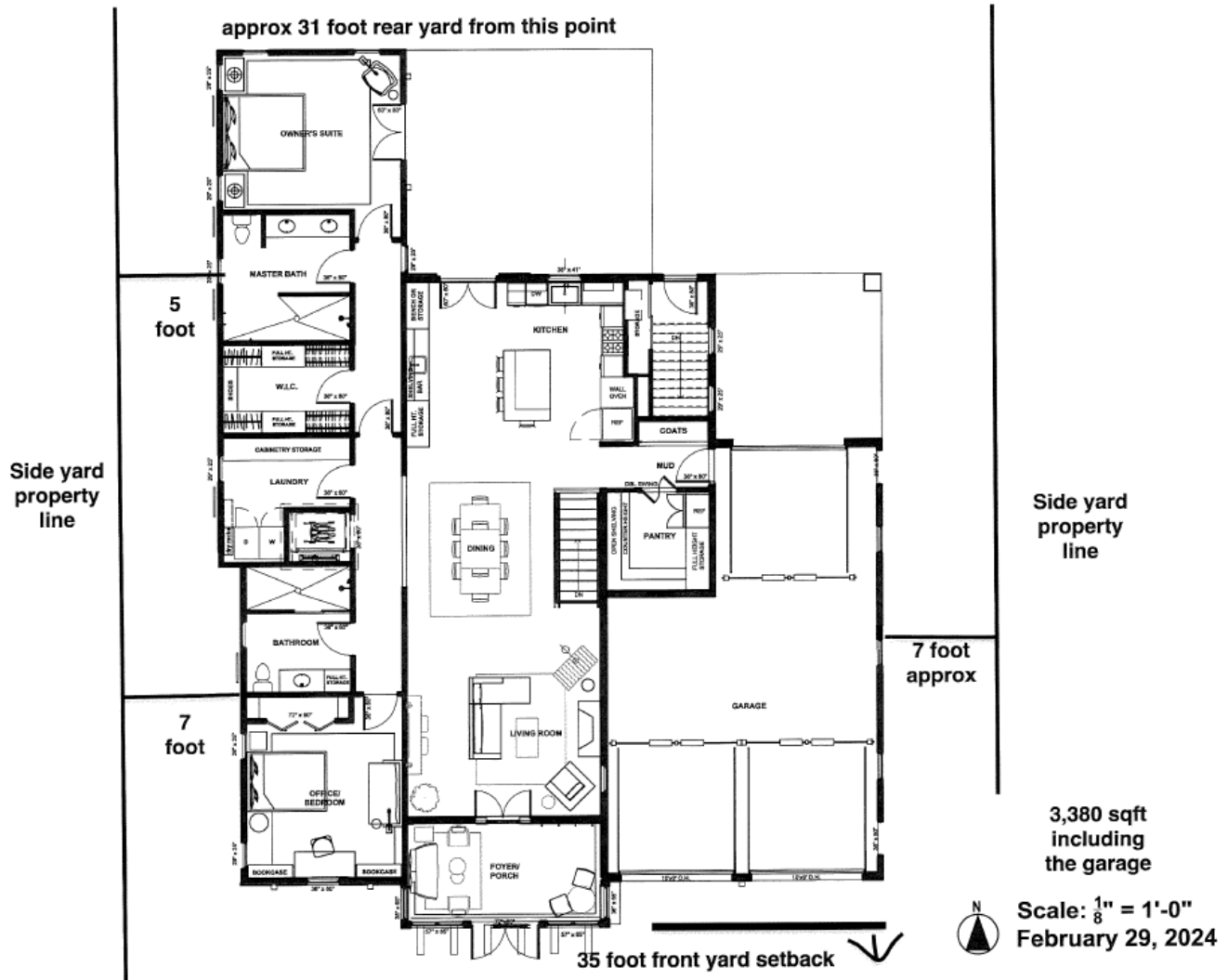
4 WEST ELEVATION  
 SCALE: 1/8" = 1'-0"



2 NORTH ELEVATION  
 SCALE: 1/8" = 1'-0"



1 SOUTH ELEVATION  
 SCALE: 1/8" = 1'-0"







## Evaluation of Permit Application Conformance with Westwood Zoning Regulations

**Review Conducted by:** Nick Finck  
**Owner of Record:** DONOVAN ENTERPRISES, LLC  
**Applicant:** James P and Peggy S Donovan  
**Address:** 3018 West 51<sup>st</sup> Terrace  
**Residential Zoning District:** R-1(C)  
**Description of Proposed Project:** New Single Family Dwelling

Address		
Zoning District		
	<i>Code</i>	<i>Admin Review</i>
<a href="#">Height (4.3.2.B &amp; H)</a> <a href="#">Story Def. (2.3.645 – 660)</a>	maximum of 2 stories; 35'	Height at peak of roof is 21' 5-1/16"
<a href="#">Lot Coverage (4.3.2.C)</a> <a href="#">Definition (2.3.405)</a>	shall not exceed 35% of the area of the lot	33.74% lot coverage
<a href="#">Maximum lot width coverage at front yard setback (4.3.2.J)</a>	Based on zoning district	R-1(C) Maximum 70% 23.3% at setback line
<a href="#">Build-to Line (4.3.2.D)</a>	at least 60% of front façade must be situated on build-to line	<b>31.25% on Build-to Line</b>
<a href="#">Maximum eave height above the first floor (4.3.2.J)</a>	Based on zoning district	R-1(C) maximum 23' 21' 5-1/16"
<a href="#">Architectural relief on vertical surfaces (4.3.2.E)</a>	max. 600 sqft. without incorporating architectural relief	Conditions are met.
<a href="#">Front setback encroachments (4.3.2.G)</a>	no greater than 4'	No encroachments.
<a href="#">Attached garage setback (4.3.6.F)</a>	entirely behind the front façade of the primary structure	Yes.
<a href="#">Setback – Front yard (4.3.2.J)</a>	Based on zoning district	R-1(C) 35' minimum 35' shown on plan
<a href="#">Setback – Side yard (1<sup>st</sup> story) (4.3.2.I)</a>	Based on zoning district	R-1(C) 5' minimum Shown on plan
<a href="#">Setback – Side yard (2<sup>nd</sup> story) (4.3.2.J)</a>	7'	R-1(C) 7' N/A
<a href="#">Setback – Back yard (4.3.2.J)</a>	Based on zoning district	29' minimum 31' shown on plan

## Waivers & Exceptions Application



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

Requested Waiver For: 4.3.2.D as it specifically relates to the property generally referenced as 3018 West 51st Terrace

General Location / Address of Subject Property: 3018 West 51st Terrace

Legal Description: The west 70 feet of the east 231 feet of the north ½ of the west ½ of lot 19, less the south 20 feet taken for road purposes, Holmesland, a subdivision of land in the City of Westwood, Johnson County, KS

Current Land Use: Residential

Zoning District: R-1 c

Property Owner's Name(s): Donovan Enterprises LLC Phone: 913-236-9466

Mailing Address: % 3009 West 51st Street, Westwood, KS 66205

E-mail Address: donovan66205@gmail.com

Applicant / Agent's Name: James P & Peggy S Donovan

Company: N/A Phone: same Mailing Address: same

E-mail Address: same

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

City

of Westwood

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

4.3.2.D - at least 60% of the front facade must be situated on build-to-line

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 is being proposed with no negative impacts to either near-by residential or nonresidential properties.

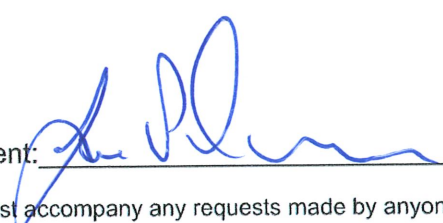
See attached

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.

See attached

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

See attached

Signature of Owner or Agent:  Date: 3/4/24

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

City of Westwood

Donovan Waivers and Exceptions Application, Page 2 responses

**Background related to the front build-to line:**

The current house has a front build-to line of 41.6 feet (Plat of Survey attached) as does the garage and front façade of the neighbor to the west and other neighbors east of this property (Johnson County AIMS Map attached). Further, the neighbor's garage to the west is located three feet off the shared side-yard property line causing a side-yard setback issue with this proposal. NOTE: That is being resolved by stepping the side yard façade of the proposed new build two additional feet off the side property line as far back as the neighbor's garage extends (one of the issues resulting from meeting with the city on Feb 12).

Allowing for relief from the front yard build-to line would keep the southwest corner of the proposed new build to be more in line with the neighbor's front façade and their southeast corner of their structure, allow a greater line of sight for that neighbor from their house/garage/driveway, and reflect the "as built" front-yard build-to line of other neighbors on that street.

Responses to questions asked on page 2:

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

The proposed new-build incorporates a consistent front yard setback with current city zoning standards and works to allow the new/proposed structure to incorporate a stepped approach to reflect the consistency of setbacks in this neighborhood and more importantly the neighbor to the west, their façade, garage location, and their line of site.

**B. Relief of the development restriction 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.**

The requested waiver/exception presents a better alternative than to construct a new build on the 35 foot front yard setback with a five foot side yard setback starting at the southwest corner of a new build and then stepping the west wall of the new build two additional feet once it reaches a point equal to the three foot setback of the neighbor's garage . Further, allowing for a waiver/exception better protects the root structure of the two established mature trees in the front yard and allows for side windows within the foyer/sunroom.

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

The waiver/exception requested is in keeping with the lived experiences (front yard setbacks) on that street while incorporating modern living expectations in housing (universal design) and keeping with current city zoning codes.

Signature of Owner or Agent:  Date: 3/4/24

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**BACKGROUND CONTEXT:**

Feb 12, 4pm – Jim and Peggy met with Nick and Leslie for the purpose of receiving zoning clarification related to Westwood’s codes and a potential new construction of a single family home.

Feb 16 via e-mail – Nick clarified issues associated with the Feb 12 meeting. He also shared information related to universal design (Better Living Design documents) to assist us in furthering our design/build-to features. Based on Nick’s review and our attempts to alleviate as many of the issues presented, Nick’s conclusion is that this proposed build-to design will need an exemption from the planning commission to address the front build-to line (4.3.2.D).

March 1 via e-mail – Leslie shared two documents: Evaluation of Permit Application Conformance with Westwood Zoning Regulations; and, Waivers and Exceptions Application. Completed and returned herein.

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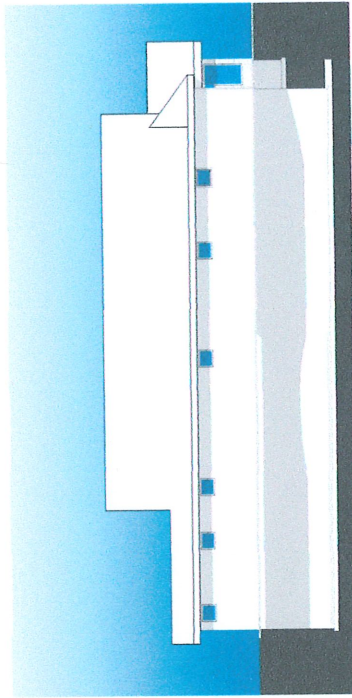
ISSUES & REVISIONS					
#	DATE	DESCRIPTION	BY	DATE	CLIENT COMMENTS

DESIGNER: Author  
 CHECKER: DAD  
 ISSUED FOR:

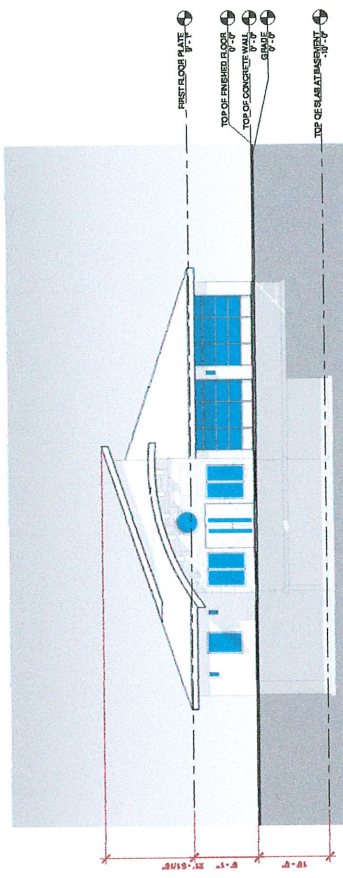
SHEET TITLE  
 ELEVATIONS

Item A, Section III, Item

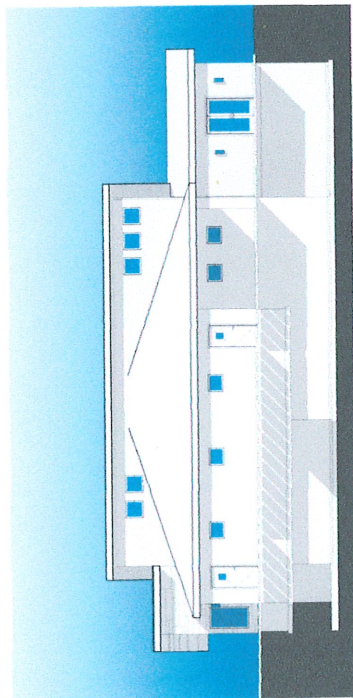
SHEET



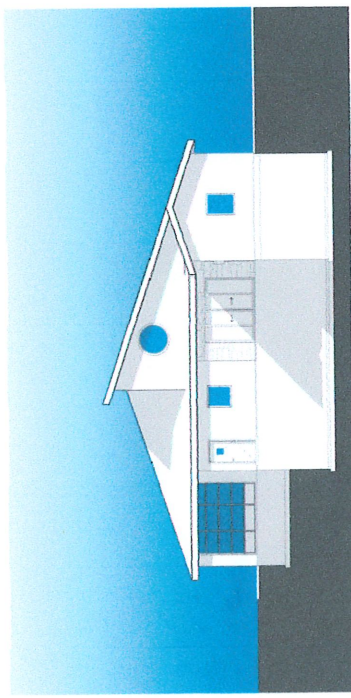
**4 WEST ELEVATION**  
 SCALE: 1/8" = 1'-0"



**1 SOUTH ELEVATION**  
 SCALE: 1/8" = 1'-0"

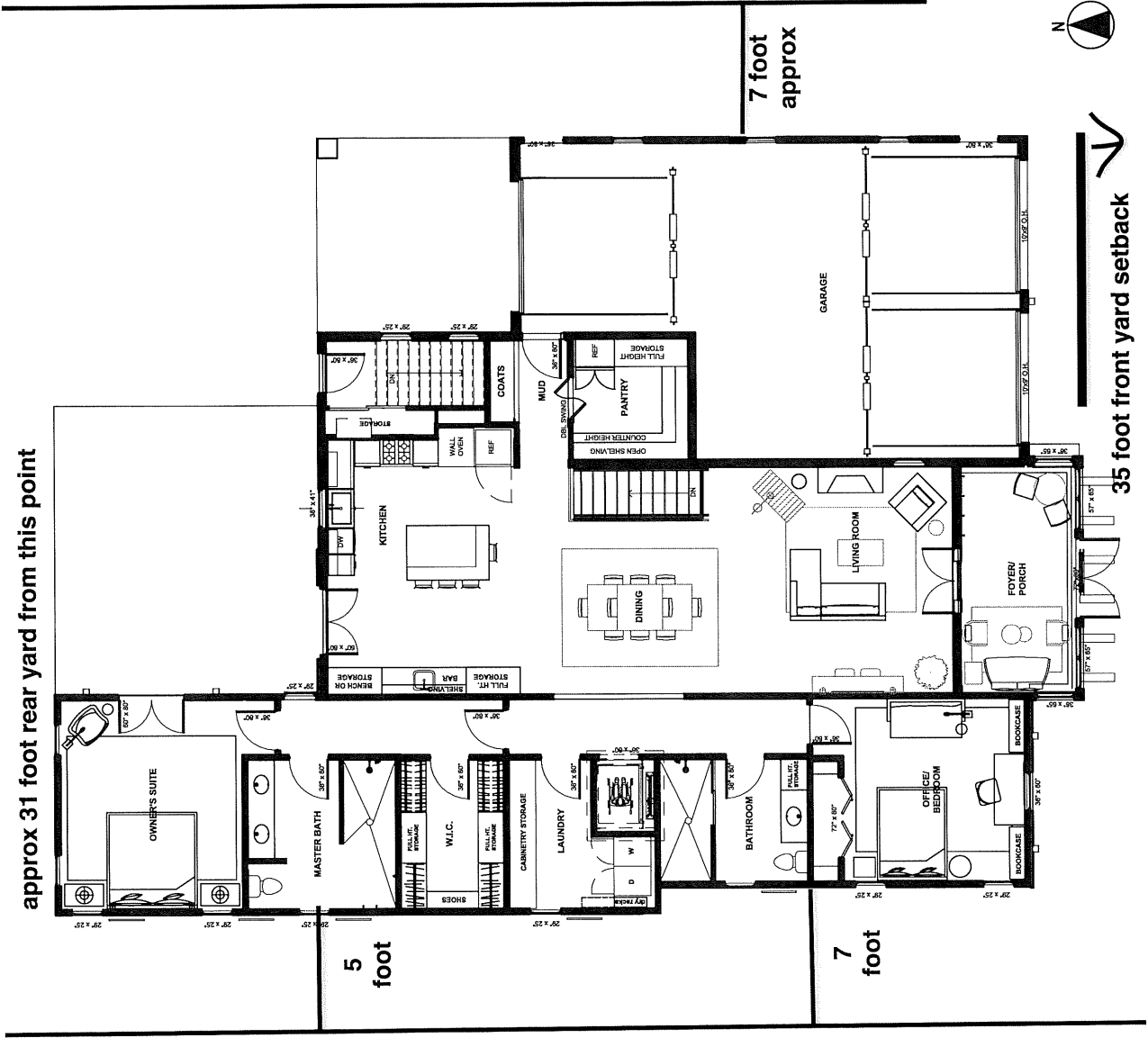


**3 EAST ELEVATION**  
 SCALE: 1/8" = 1'-0"



**2 NORTH ELEVATION**  
 SCALE: 1/8" = 1'-0"

Scale: 1" = 1'-0"  
February 29, 2024



approx 31 foot rear yard from this point

5 foot

7 foot

Side yard property line

Side yard property line

7 foot approx

3,380 sqft including the garage

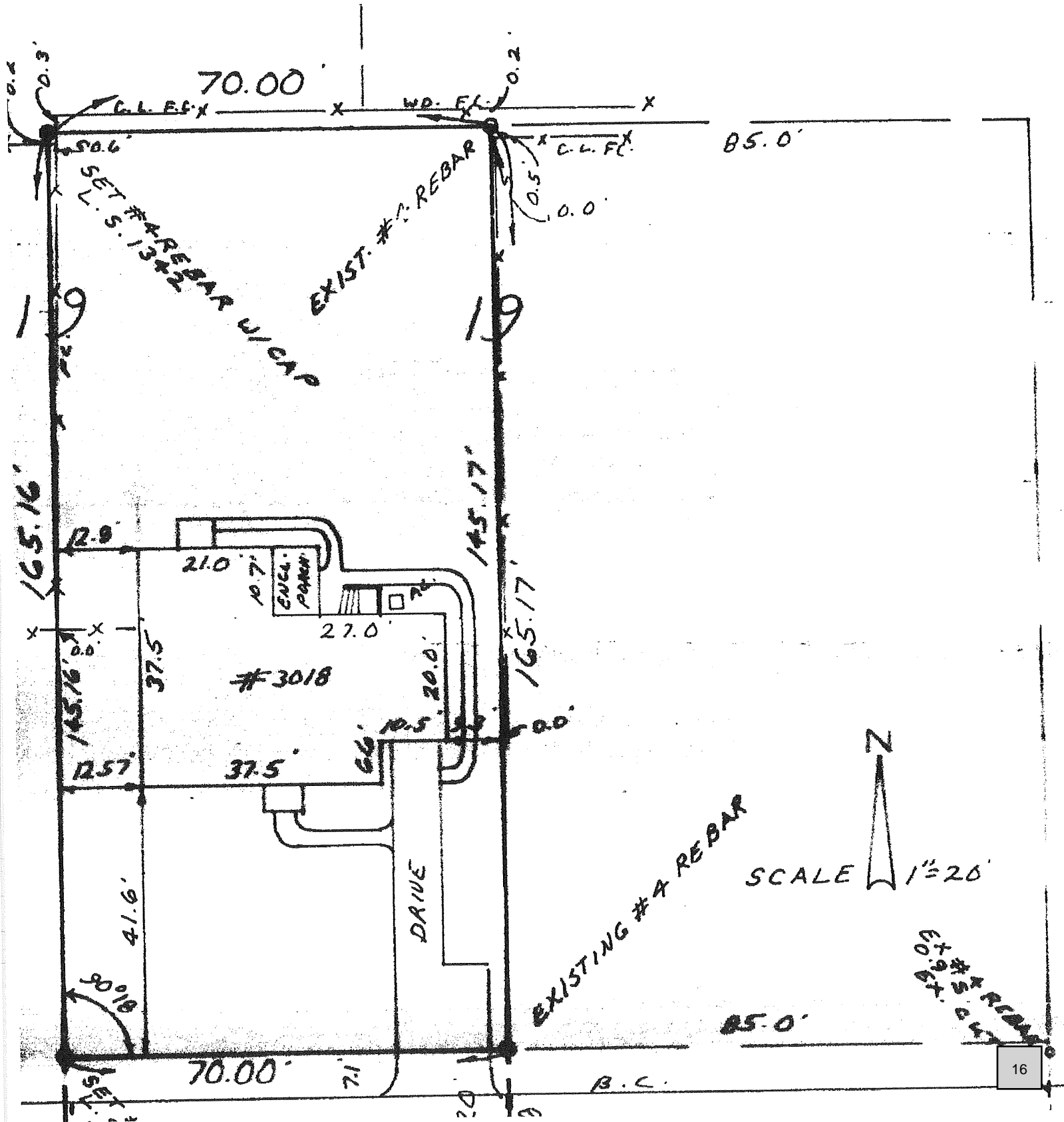
35 foot front yard setback

# PLAT OF SURVEY

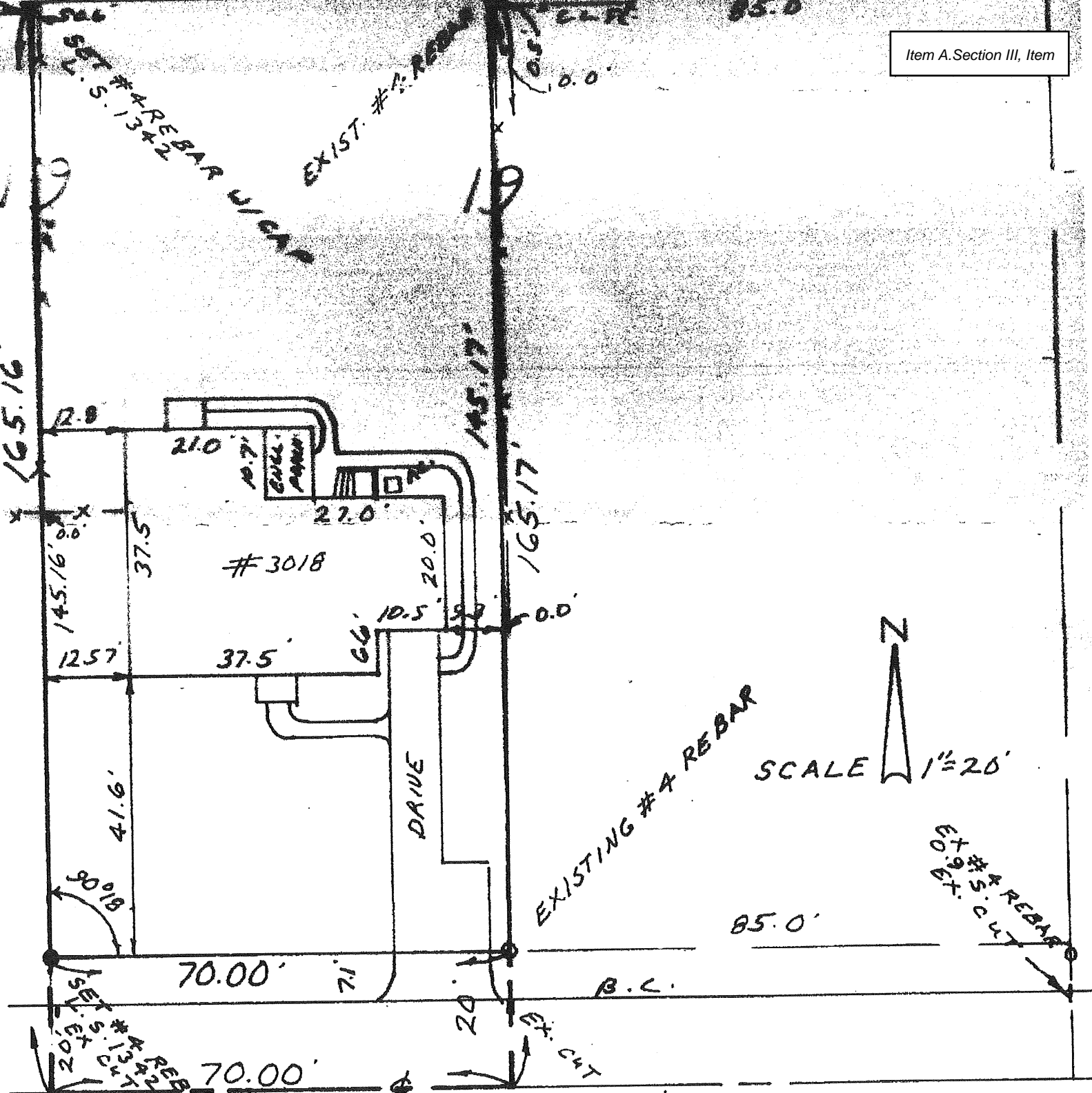
job no. 02- Item A, Section III, Item

ORDERED BY: Jim Donovan  
3009 W. 51<sup>st</sup> St.  
Westwood, KS. 66205  
FOR: 3018 W. 51<sup>st</sup> Terr.  
Westwood, KS 66205

DESCRIPTION: The West 70 feet of the East 231 feet of the North 1/2 of the West 1/2 of Lot 19, less the South 20 feet taken or used for road purposes, Holmesland, a subdivision of land in the city of Westwood, Johnson County, Kansas.








70.00' 51st TERR. 20' EX. CUT 26' PUMT B-B.  
 Norman E. Holmes Land Surveyors (913) 334-3888  
 7540 Leavenworth Rd. Kansas City, KS 66109

This is to certify that we have on this day made a survey of the premises herein described and that the results of said survey are correctly represented on this plat.

Sept. 10, 2002  
DATE

  
 ROBERT L. HAMM L.S. 1342  
 KANSAS LAND SURVEYOR

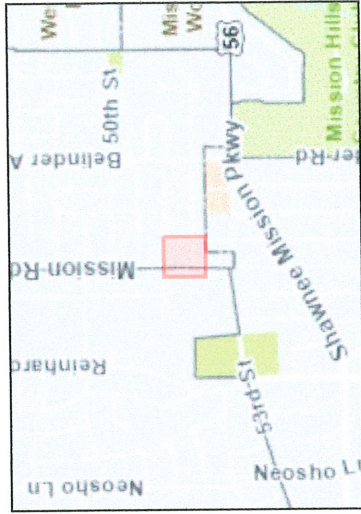
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February 29, 2024



# Johnson Co AIMS Map

## LEGEND

- + Address Point
- Building/Structure
- Property
  - Untaxed
  - Vertical
  - Unplatted
  - Mineral Rights
- Property
  - Common Interest
  - Platted
  - Right-of-way
  - Leased Land



Disclaimer: The person or persons who prepared this map are not responsible for any errors or omissions in the data provided herein. Johnson County makes every effort to provide accurate and up-to-date information, but cannot guarantee the accuracy of the data. Johnson County assumes no liability whatsoever, including any liability for use or misuse of a copy of this data, and disclaims any representation or warranty as to the accuracy and currency of the data.

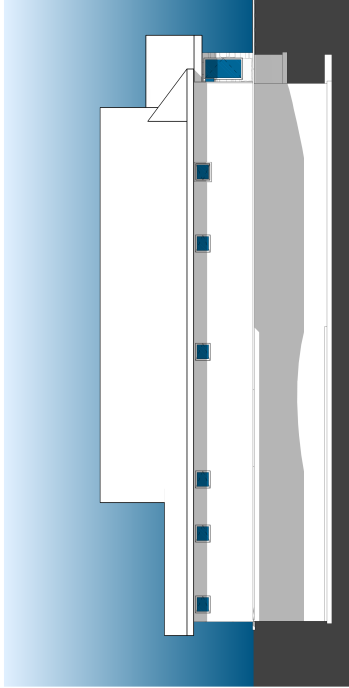
**JOHNSON COUNTY**  
KANSAS  
AIMS GIS & Mapping

5/21/2024

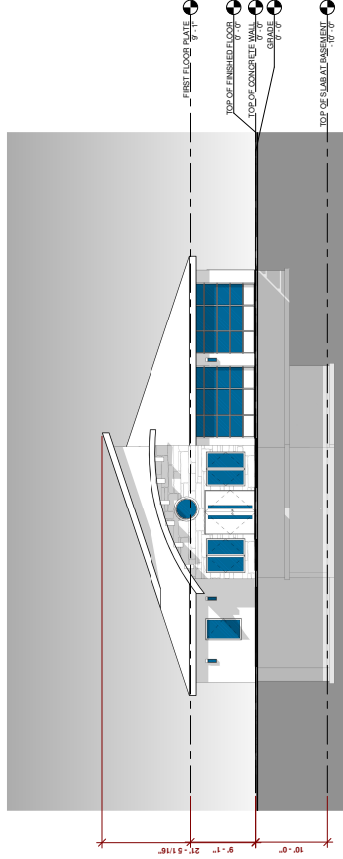


ISSUES & REVISIONS	#	DATE	DESCRIPTION	CLIENT COMMENTS
	1	11/10/2012		

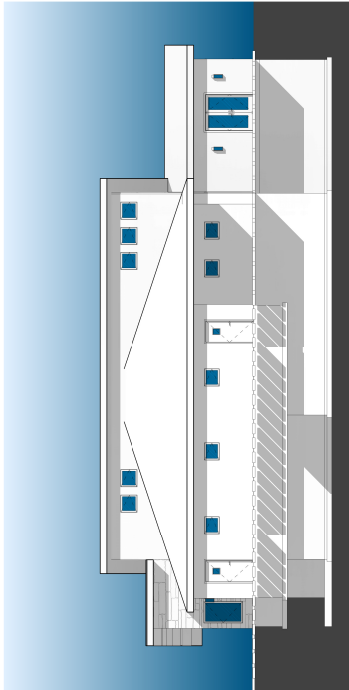
Item A, Section III, Item



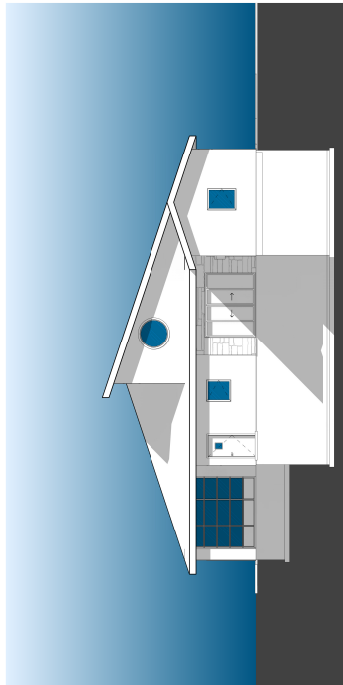
**4** WEST ELEVATION  
 SCALE: 1/8" = 1'-0"



**1** SOUTH ELEVATION  
 SCALE: 1/8" = 1'-0"



**3** EAST ELEVATION  
 SCALE: 1/8" = 1'-0"



**2** NORTH ELEVATION  
 SCALE: 1/8" = 1'-0"



March 8th, 2024

Dear neighbor:

As a property owner within 200 feet of the property located at 3018 W. 51st Terrace in Westwood, you are being notified of an application by Jim and Peggy Donovan, for a waiver or exception for a proposed new single-family residence on property located at **3018 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.

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, April 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](mailto: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, City Administrator Leslie Herring by using the contact information below.

Kind regards,

Leslie Herring  
City Administrator  
913.942.2128

[leslie.herring@westwoodks.org](mailto:leslie.herring@westwoodks.org)

JOHNSON COUNTY PUBLIC NOTICES

First published in The Legal Record, Tuesday, March 12, 2024.

CITY OF OLATHE, KANSAS  
NOTICE OF HEARING ON REZONING

RZ24-0005

NOTICE is hereby given that the PLANNING COMMISSION OF THE CITY OF OLATHE, KANSAS, will hold a Public Hearing at its regular meeting in the Council Chamber of City Hall, 100 E. Santa Fe, Olathe, Kansas, on the 8th day of April 2024 at 7:00 PM, at which time and place you may be heard in regard to the Rezoning of the following described property situated in the City of Olathe, Johnson County, Kansas:

DESCRIPTION (M-2)

ALL THAT PART OF THE SOUTHWEST QUARTER AND NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 23 EAST, IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE N 87°52'31" W, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 66.30 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF BURLINGTON NORTHERN RAILROAD, AS NOW ESTABLISHED, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF SAID BURLINGTON NORTHERN RAILROAD, FOR THE FOLLOWING SEVEN (7) COURSES; THENCE N 2°18'27" W, A DISTANCE OF 264.72 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE N 87°57'03" E, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 18.00 FEET; THENCE N 2°00'36" W, A DISTANCE OF 161.82 FEET; THENCE NORTHERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 5661.58 FEET, AN ARC DISTANCE OF 1169.92 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE S 87°59'31" W, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 11.11 FEET; THENCE NORTHERLY ON A CURVE TO THE RIGHT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF N 9°47'30" E AND A RADIUS OF 5679.58 FEET, AN ARC DISTANCE OF 350.11 FEET; THENCE N 13°19'25" E, A DISTANCE OF 633.09 FEET; THENCE N 88°01'58" E, A DISTANCE OF 401.80 FEET; THENCE N 1°58'02" W, A DISTANCE OF 372.34 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE N 88°01'58" E, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 415.86 FEET; THENCE S 1°50'23" E, A DISTANCE OF 130.51 FEET; THENCE SOUTHERLY ON A CURVE TO THE LEFT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 300.00 FEET, AN ARC DISTANCE OF 134.18 FEET; THENCE SOUTHERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 300.00 FEET, AN ARC DISTANCE OF 133.85 FEET; THENCE S 1°58'56" E, A DISTANCE OF 680.56 FEET; THENCE SOUTHERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 135.34 FEET; THENCE SOUTHERLY ON A CURVE TO THE LEFT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 120.23 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE N 87°59'31" E, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 66.44 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE S 1°58'56" E, ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 1322.53 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE S 87°57'03" W, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 61.79 FEET; THENCE SOUTHERLY ON A CURVE TO THE LEFT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF S 1°15'37" E AND A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 46.57 FEET; THENCE S 17°11'48" E, A DISTANCE OF 500.63 FEET; THENCE SOUTHERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 134.72 FEET; THENCE S 1°45'34" E, A DISTANCE OF 685.92 FEET; THENCE SOUTHERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 279.72 FEET; THENCE N 2°07'30" W, A DISTANCE OF 156.00 FEET; THENCE N 4°15'59" W, A DISTANCE OF 55.13 FEET; THENCE N 27°40'51" W, A DISTANCE OF 69.73 FEET; THENCE N 5°30'00" W, A DISTANCE OF 98.28 FEET; THENCE N 1°05'59" E, A DISTANCE OF 25.00 FEET; THENCE N 7°01'04" W, A DISTANCE OF 15.26 FEET; THENCE N 10°23'38" E, A DISTANCE OF 128.09 FEET; THENCE N 6°17'14" E, A DISTANCE OF 137.97 FEET; THENCE N 4°50'53" W, A DISTANCE OF 135.42 FEET; THENCE N 2°04'46" W, A DISTANCE OF 67.81 FEET; THENCE N 89°52'09" E, A DISTANCE OF 245.24 FEET; THENCE S 0°07'51" E, A DISTANCE OF 75.08 FEET; THENCE N 89°52'09" E, A DISTANCE OF 94.42 FEET; THENCE S 1°45'20" E, A DISTANCE OF 194.14 FEET; THENCE S 88°14'26" W, A DISTANCE OF 40.42 FEET; THENCE S 1°45'57" E, A DISTANCE OF 330.05 FEET; THENCE S 19°22'40" W, A DISTANCE OF 302.19 FEET; THENCE S 16°32'24" W, A DISTANCE OF 941.03 FEET; THENCE SOUTHERLY ON A CURVE TO THE LEFT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF S 77°49'54" E AND A RADIUS OF 800.00 FEET, AN ARC DISTANCE OF 207.61 FEET; THENCE S 1°26'40" E, A DISTANCE OF 442.54 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE S 87°52'31" W, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 508.24 FEET TO THE POINT OF BEGINNING, CONTAINING 628,131 SQUARE FEET OR 14,4199 ACRES, MORE OR LESS.

DESCRIPTION (R-1)

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 23 EAST, IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE S 87°52'31" W, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 279.72 FEET; THENCE N 2°07'30" W, A DISTANCE OF 156.00 FEET; THENCE N 4°15'59" W, A DISTANCE OF 55.13 FEET; THENCE N 27°40'51" W, A DISTANCE OF 69.73 FEET; THENCE N 5°30'00" W, A DISTANCE OF 98.28 FEET; THENCE N 1°05'59" E, A DISTANCE OF 25.00 FEET; THENCE N 7°01'04" W, A DISTANCE OF 15.26 FEET; THENCE N 10°23'38" E, A DISTANCE OF 128.09 FEET; THENCE N 6°17'14" E, A DISTANCE OF 137.97 FEET; THENCE N 4°50'53" W, A DISTANCE OF 135.42 FEET; THENCE N 2°04'46" W, A DISTANCE OF 67.81 FEET; THENCE N 89°52'09" E, A DISTANCE OF 245.24 FEET; THENCE S 0°07'51" E, A DISTANCE OF 75.08 FEET; THENCE N 89°52'09" E, A DISTANCE OF 94.42 FEET; THENCE S 1°45'20" E, A DISTANCE OF 194.14 FEET; THENCE S 88°14'26" W, A DISTANCE OF 40.42 FEET; THENCE S 1°45'57" E, A DISTANCE OF 330.05 FEET; THENCE S 19°22'40" W, A DISTANCE OF 302.19 FEET; THENCE S 16°32'24" W, A DISTANCE OF 941.03 FEET; THENCE SOUTHERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 1900.00 FEET, AN ARC DISTANCE OF 128.12 FEET; THENCE S 89°35'00" W, A DISTANCE OF 89.49 FEET; THENCE WESTERLY ON A CURVE TO THE LEFT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 187.04 FEET, AN ARC DISTANCE OF 62.32 FEET; THENCE N 0°54'31" E, A DISTANCE OF 187.04 FEET; THENCE N 55°42'29" W, A DISTANCE OF 204.47 FEET; THENCE N 30°27'02" W, A DISTANCE OF 77.72 FEET; THENCE N 34°07'03" W, A DISTANCE OF 54.02 FEET; THENCE N 41°36'08" W, A DISTANCE OF 65.84 FEET; THENCE N 45°37'36" W, A DISTANCE OF 54.24 FEET; THENCE N 43°46'11" W, A DISTANCE OF 90.99 FEET; THENCE N 28°20'10" W, A DISTANCE OF 61.81 FEET; THENCE N 28°20'10" W, A DISTANCE OF 11.15 FEET; THENCE N 32°24'01" W, A DISTANCE OF 58.74 FEET; THENCE N 37°21'59" W, A DISTANCE OF 65.78 FEET; THENCE N 41°28'28" W, A DISTANCE OF 77.63 FEET; THENCE N 29°59'27" W, A DISTANCE OF 20.96 FEET; THENCE N 22°03'51" W, A DISTANCE OF 62.07 FEET; THENCE N 11°19'40" W, A DISTANCE OF 123.36 FEET; THENCE N 6°39'09" W, A DISTANCE OF 33.41 FEET; THENCE S 65°57'42" W, A DISTANCE OF 82.13 FEET; THENCE S 77°05'59" W, A DISTANCE OF 25.00 FEET; THENCE NORTHERLY ON A CURVE TO THE LEFT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF N 12°54'01" W AND A RADIUS OF 200.00 FEET, AN ARC DISTANCE OF 103.27 FEET; THENCE N 42°29'00" W, A DISTANCE OF 47.23 FEET; THENCE N 2°02'57" W, A DISTANCE OF 193.15 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE N 87°57'03" E, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 1099.73 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE S 1°50'31" E, ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 2643.31 FEET TO THE POINT OF BEGINNING, CONTAINING 1,301,451 SQUARE FEET OR 29,8772 ACRES, MORE OR LESS.

DESCRIPTION (R-2)

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 23 EAST, IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE S 87°52'31" W, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 279.72 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S 87°52'31" W, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 660.61 FEET; THENCE N 1°26'40" W, A DISTANCE OF 442.54 FEET; THENCE WESTERLY ON A CURVE TO THE RIGHT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF S 87°17'57" W AND A RADIUS OF 800.00 FEET, AN ARC DISTANCE OF 207.61 FEET; THENCE N 16°32'24" E, A DISTANCE OF 341.03 FEET; THENCE N 19°22'40" E, A DISTANCE OF 302.19 FEET; THENCE N 1°45'57" W, A DISTANCE OF 330.05 FEET; THENCE N 88°14'26" E, A DISTANCE OF 40.42 FEET; THENCE N 1°45'20" W, A DISTANCE OF 194.14 FEET; THENCE N 89°52'09" W, A DISTANCE OF 94.42 FEET; THENCE N 0°07'51" W, A DISTANCE OF 75.08 FEET; THENCE NORTHERLY ON A CURVE TO THE LEFT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 134.72 FEET; THENCE N 17°11'48" W, A DISTANCE OF 500.00 FEET, AN ARC DISTANCE OF 134.72 FEET; THENCE SOUTHERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 134.72 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE N 87°57'03" E, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 1099.73 FEET TO THE POINT OF BEGINNING, CONTAINING 1,301,451 SQUARE FEET OR 29,8772 ACRES, MORE OR LESS.

E, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 282.59 FEET; THENCE S 2°02'57" E, A DISTANCE OF 219.15 FEET; THENCE S 42°29'00" E, A DISTANCE OF 47.23 FEET; THENCE SOUTHEASTERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 200.00 FEET, AN ARC DISTANCE OF 103.27 FEET; THENCE N 77°05'59" E, A DISTANCE OF 25.00 FEET; THENCE N 63°57'42" E, A DISTANCE OF 82.36 FEET; THENCE S 6°39'09" E, A DISTANCE OF 33.41 FEET; THENCE N 11°19'40" E, A DISTANCE OF 20.96 FEET; THENCE S 22°03'51" E, A DISTANCE OF 62.07 FEET; THENCE S 29°59'27" E, A DISTANCE OF 65.78 FEET; THENCE S 41°28'28" E, A DISTANCE OF 77.63 FEET; THENCE S 37°21'59" E, A DISTANCE OF 11.15 FEET; THENCE S 32°24'01" E, A DISTANCE OF 58.74 FEET; THENCE S 28°20'10" E, A DISTANCE OF 11.15 FEET; THENCE S 28°20'10" E, A DISTANCE OF 61.81 FEET; THENCE S 43°46'11" E, A DISTANCE OF 90.99 FEET; THENCE S 45°37'36" E, A DISTANCE OF 54.24 FEET; THENCE S 41°36'08" E, A DISTANCE OF 65.84 FEET; THENCE S 34°07'03" E, A DISTANCE OF 54.02 FEET; THENCE S 30°27'02" E, A DISTANCE OF 77.72 FEET; THENCE S 55°42'29" E, A DISTANCE OF 204.47 FEET; S 0°54'31" W, A DISTANCE OF 187.04 FEET; THENCE EASTERLY ON A CURVE TO THE RIGHT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF N 83°35'16" E AND A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 52.32 FEET; THENCE N 89°35'00" E, A DISTANCE OF 89.49 FEET; THENCE SOUTHERLY ON A CURVE TO THE LEFT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF S 1°31'16" E AND A RADIUS OF 1900.00 FEET, AN ARC DISTANCE OF 128.12 FEET; THENCE S 5°23'05" E, A DISTANCE OF 106.77 FEET; THENCE S 84°36'55" W, A DISTANCE OF 140.33 FEET; THENCE S 4°50'53" E, A DISTANCE OF 135.42 FEET; THENCE S 2°04'46" W, A DISTANCE OF 67.81 FEET; THENCE S 3°33'07" E, A DISTANCE OF 128.09 FEET; THENCE S 6°17'14" W, A DISTANCE OF 137.97 FEET; THENCE S 0°29'29" W, A DISTANCE OF 25.00 FEET; THENCE S 79°01'04" E, A DISTANCE OF 15.26 FEET; THENCE S 10°23'38" W, A DISTANCE OF 134.72 FEET; THENCE S 5°30'00" E, A DISTANCE OF 98.28 FEET; THENCE S 11°08'59" E, A DISTANCE OF 69.73 FEET; THENCE S 4°15'59" E, A DISTANCE OF 55.13 FEET; THENCE S 2°07'30" E, A DISTANCE OF 156.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1,554,861 SQUARE FEET OR 35,6947 ACRES, MORE OR LESS.

DESCRIPTION (R-3 NORTH)

ALL THAT PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 23 EAST, IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE N 88°01'58" E, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 1237.53 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 88°01'58" E, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 952.77 FEET; THENCE S 1°51'49" E, ALONG THE WEST PLAT LINE OF CRYSTAL COURT CONDOMINIUM, A PLATTED SUBDIVISION OF LAND IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, AND ITS NORTHERLY EXTENSION, A DISTANCE OF 1321.92 FEET TO THE SOUTHWEST PLAT CORNER OF SAID CRYSTAL COURT CONDOMINIUM, SAID POINT ALSO BEING ON THE NORTH PLAT LINE OF MADISON PLACE, 2ND PLAT, A PLATTED SUBDIVISION OF LAND IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS; THENCE S 87°59'31" W, ALONG THE NORTH PLAT LINE OF SAID MADISON PLACE, 2ND PLAT, AND ITS WESTERLY EXTENSION, A DISTANCE OF 927.80 FEET; THENCE NORTHERLY ON A CURVE TO THE RIGHT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF N 0°15'01" W AND A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 120.23 FEET; THENCE NORTHERLY ON A CURVE TO THE LEFT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 500.00 FEET, AN ARC DISTANCE OF 135.34 FEET; THENCE N 1°58'56" W, A DISTANCE OF 680.56 FEET; THENCE NORTHERLY ON A CURVE TO THE LEFT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 300.00 FEET, AN ARC DISTANCE OF 133.85 FEET; THENCE NORTHERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 300.00 FEET, AN ARC DISTANCE OF 134.18 FEET; THENCE N 1°50'23" W, A DISTANCE OF 130.51 FEET TO THE POINT OF BEGINNING, CONTAINING 1,200,328 SQUARE FEET OR 27,3557 ACRES, MORE OR LESS.

DESCRIPTION (R-3 SOUTH)

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 23 EAST, IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE N 87°52'31" E, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 1191.68 FEET TO THE POINT OF BEGINNING; THENCE N 1°45'34" W, A DISTANCE OF 435.21 FEET; THENCE NORTHERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 1000.00 FEET, AN ARC DISTANCE OF 364.71 FEET; THENCE N 19°08'12" E, A DISTANCE OF 351.47 FEET; THENCE NORTHERLY ON A CURVE TO THE LEFT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 385.16 FEET; THENCE N 89°52'09" E, A DISTANCE OF 182.35 FEET; THENCE N 1°45'34" W, A DISTANCE OF 75.08 FEET; THENCE N 89°52'09" E, A DISTANCE OF 245.24 FEET; THENCE S 0°07'51" E, A DISTANCE OF 194.14 FEET; THENCE S 88°14'26" W, A DISTANCE OF 40.42 FEET; THENCE S 1°45'20" E, A DISTANCE OF 330.05 FEET; THENCE S 19°22'40" W, A DISTANCE OF 302.19 FEET; THENCE S 16°32'24" W, A DISTANCE OF 941.03 FEET; THENCE SOUTHERLY ON A CURVE TO THE LEFT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF S 77°49'54" E AND A RADIUS OF 800.00 FEET, AN ARC DISTANCE OF 207.61 FEET; THENCE S 1°26'40" E, A DISTANCE OF 442.54 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13; THENCE S 87°52'31" W, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13, A DISTANCE OF 508.24 FEET TO THE POINT OF BEGINNING, CONTAINING 628,131 SQUARE FEET OR 14,4199 ACRES, MORE OR LESS.

Owners Request Change from: CTY PEC-3 (County Industrial) District to the R-1 (Single Family), R-2 (Two-Family), R-3 (Low-Density Multifamily) and M-2 (General Industrial) Districts

Location or Vicinity: Northeast of W. 167th Street and S. US-169 Highway

If, however, a protest against such rezoning be filed in the office of the City Clerk within fourteen (14) days after the date of the conclusion of the Public Hearing pursuant to said publication notice, duly signed and acknowledged by the Owners of twenty (20) percent of the total area, excepting public streets and ways, located within two hundred (200) feet, within the city limits, or one thousand (1,000) feet, within the unincorporated area, of property proposed to be Rezoned, such rezoning shall not be passed except by at least three-fourths (3/4) vote of all of the members of the City Council.

This Notice shall be published once in the official City Newspaper at least twenty (20) days prior to the date of said Public Hearing.

DATED this 8th day of March, 2024.

OLATHE CITY PLANNING COMMISSION  
BY Kim Hollingsworth, AICP  
Secretary

ATTEST:  
/s/ Brenda Swearingin  
City Clerk  
(Seal)  
3/12

First published in The Legal Record, Tuesday, March 12, 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, April 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](http://www.westwoodks.org) or by calling 913-362-1550. Written comments may also be submitted ahead of the public hearing to [info@westwoodks.org](mailto:info@westwoodks.org). The subject of the public hearing is:  
WE 2024-01

An application of Jim and Peggy Donovan, for a waiver or exception for a proposed new single-family residence on property located at 3018 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 facade on the front build-to line.

/s/ Nick Finck, Building Official  
3/12

# City of Westwood, Kansas Planning Commission, Board of Zoning Appeals Training

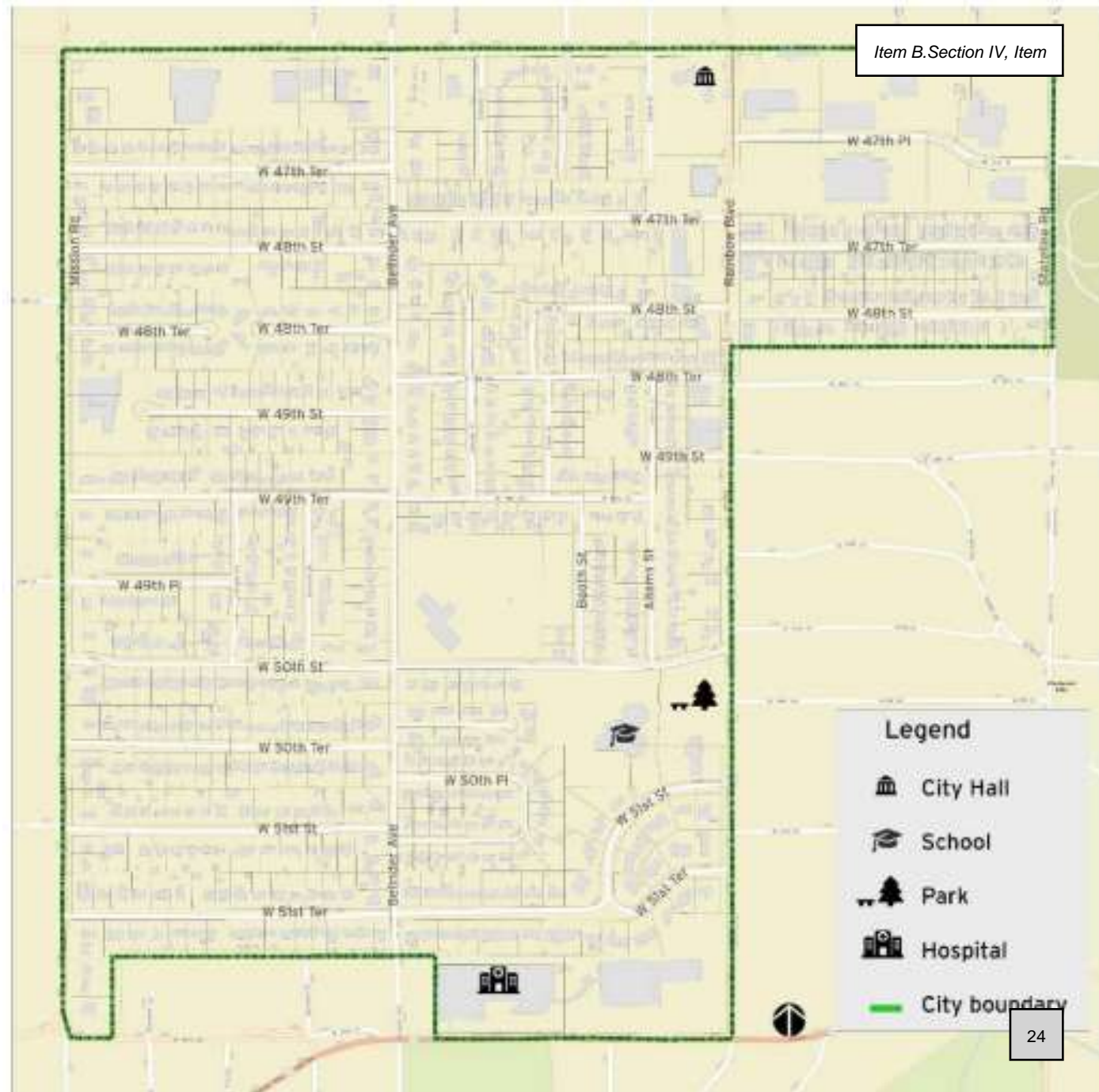
Spencer Low

McAnany, Van Cleave & Phillips P.A.



# Outline

- City Planning Generally
- Role of Planning Commission
- Role of Board of Zoning Appeals
- Roles and Responsibilities
- Types of Decisions
- How Hearings Operate
- KORA/KOMA
- Prejudging Applications





# City Planning

- Long Range
  - How actions of today impact issues of future
- General
  - Known, anticipated issues and framework to react to unanticipated
- Comprehensive
  - The city as a whole; integrated
- City Building
  - Good civic design
  - Efficient municipal / public services
  - Strong fiscal strategies
  - Places, people, value



# Planning Commission

What is the role of the Planning Commission?

- Make comprehensive plan (KSA 12-747(a))
- Approve “location, extent and character” of all public improvements (KSA 12-748(a))
- Review and recommend capital improvement program (KSA 12-748(b))
- Approve plats (KSA 12-745, 12-752)
- Review and recommend zoning changes (KSA 12-756, 12-757)
- Other decisions referred to it by the zoning ordinance (KSA 12-756, 12-757)
- Annual review of the plan (KSA 12-747(d))

Westwood Zoning Code 1.4 establishes this Planning Commission

- Unique Responsibility: Waivers and Exceptions



# Planning Commission

Elect Chair and Vice Chair (KSA 12-745)

Elect Secretary (KSA 12-745)

- Does not need to be a member (City Administrator) (KSA 12-745)

Has its own By-Laws



# Board of Zoning Appeals (BZA)

What is the role of the BZA?

- This is a “quasi-judicial” function
- Hear and decide appeals alleging an error in any order, requirement, decision, or determination by City Staff regarding the Zoning Code (KSA 12-759(d))
  - May reverse, affirm, reverse/affirm in part, or modify the order, requirement, decision, or determination by Staff (KSA 12-759(d))
- Grant variances from the Zoning Code if the following five conditions are met: (KSA 12-759(e))
  - Variance arises from a condition unique to the property that was not created by an action of the owner/applicant,
  - Granting the variance will not adversely affect the rights of adjacent property owners,
  - Strict application of the zoning code (denial of the variance) would constitute an unnecessary hardship on the property owner,
  - Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and
  - Variance will not be opposed to the general spirit and intent of the zoning code

Created by Westwood Zoning Code 1.8



# Roles and Responsibilities

## Governing Body

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- Elected
- Legislative
- Immediate
- Execute the Plan
- Make Laws

## Planning Commission

- Appointed
- Policy / Administrative
- Long-range / Vision
- Make Plan
- Recommend / Guide / Apply Laws

## Board of Zoning Appeals

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- Appointed
- Quasi-judicial
- Adjudicate Specific Questions
  - Variances
  - Appeals



# Types of Decisions

	<b>Planning Commission</b>	<b>Governing Body</b>	<b>Board of Zoning Appeals</b>
<b>Text Amendment</b>	<i>Recommendation</i>	<i>Legislative</i>	
<b>Rezoning</b>	<i>Quasi-Judicial Recommendation</i>	<i>Quasi-Judicial</i>	
<b>Special Use Permit</b>	<i>Quasi-Judicial Recommendation</i>	<i>Quasi-Judicial</i>	
<b>Site Plan</b>	<i>Quasi-Judicial Recommendation</i>	<i>Quasi-Judicial</i>	
<b>Exceptions</b>	<i>Quasi-Judicial</i>		
<b>Variance</b>			<i>Quasi-Judicial</i>
<b>Comprehensive Plan Adoption</b>	<i>Legislative</i>	<i>Acceptance</i>	
<b>Fence Variance</b>		<i>Quasi-Judicial</i>	
<b>Plats</b>	<i>Administrative</i>	<i>Administrative</i>	



# Types of Decisions

## Legislative

*Changing the Law*

- Weigh or Make Policy
- Full Discretion
- Open to Wide Considerations

*Public Hearing / Testimony*

## Quasi-Judicial

*Evaluate How the Law Applies*

- Weigh Evidence Against Policy
- Targeted Discretion
- Limited to Record

## Administrative

*Apply the Law*

- No Policy
- Limited Discretion
- Record Only  
Applies Facts to Standards

*Public Meeting / Comment  
(optional)*



# Types of Decisions

## Legislative

Changing/Making the law

- Comprehensive Plan
- Zoning Text Amendments
- Full Discretion
- What should we do?

## Quasi-Judicial

Determine How the Law Applies

- Rezoning
- Variances and Exceptions
- Special Use Permits
- Targeted Discretion
- How does the law apply to these facts before us?

## Administrative

Apply the Law

- Site Plans
- Plats
- Limited Discretion
- How do these facts meet our standards?





# Legislative Decisions - Comprehensive Plan

Broadest land use control document. Basis or Guide to ensure harmonious development:

- ❖ General location and relationship of land uses
- ❖ Population and building intensity standards
- ❖ Priority of public improvements
- ❖ Plans (including funding sources) for capital improvements
- ❖ Utilization and conservation of natural resources
- ❖ Any other element deemed necessary

The comprehensive plan is not binding on municipalities

The comprehensive plan does not mandate specific zoning decisions, but is used as a policy guide for future zoning decisions



# Comprehensive Plan - Themes

## CHARACTER

- Promote and protect the neighborhood character of existing single-family detached homes
- Respecting the scale and design of the existing built environment
- Community civic spaces & additional open green space areas
- Defined gateways and corridors
- Property maintenance & codes enforcement
- Unique and distinctive identity

## CHOICE

- Encourage the reinvestment and improvement of existing housing
- Provide homes for all ages and a broader market demand
- Encourage family occupancy while facilitating a housing rental market
- Improved mobility
- Pedestrian and bicycle improvements

## COLLABORATION

- Assist the school district with planning for the future
- Existing and new residences – listen to the past, look to the future
- Local businesses, patrons and visitors
- Greater collaboration with neighboring municipalities and other elected officials
- Partnerships with agencies that can build upon a shared understanding of values and culture to support mutual needs of the community

# Comprehensive Plan

## WESTWOOD'S VISION

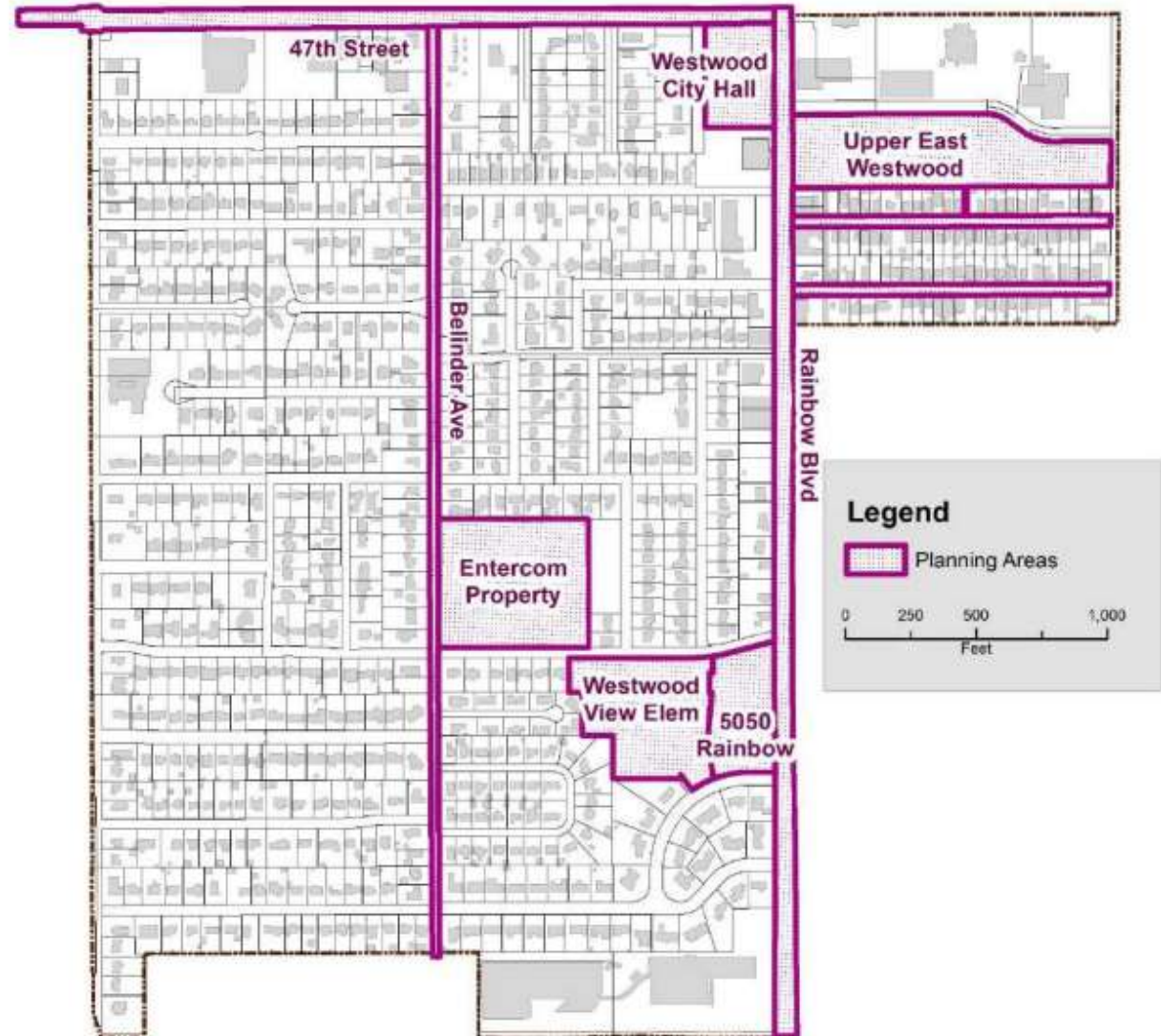
**Westwood, Kansas is a charming, vibrant and diverse city which is safe, walkable, bikeable and comfortable. It is connected to other communities and boasts locally-owned businesses, schools, and parks. Citizens strongly identify with, and value the unique and welcoming character of the community.**



# Comprehensive Plan

Figure 4.3: Westwood Planning Areas

Westwood's Comprehensive Plan outlines the land uses for Westwood's parcels



# Comprehensive Plan

## Street Classifications

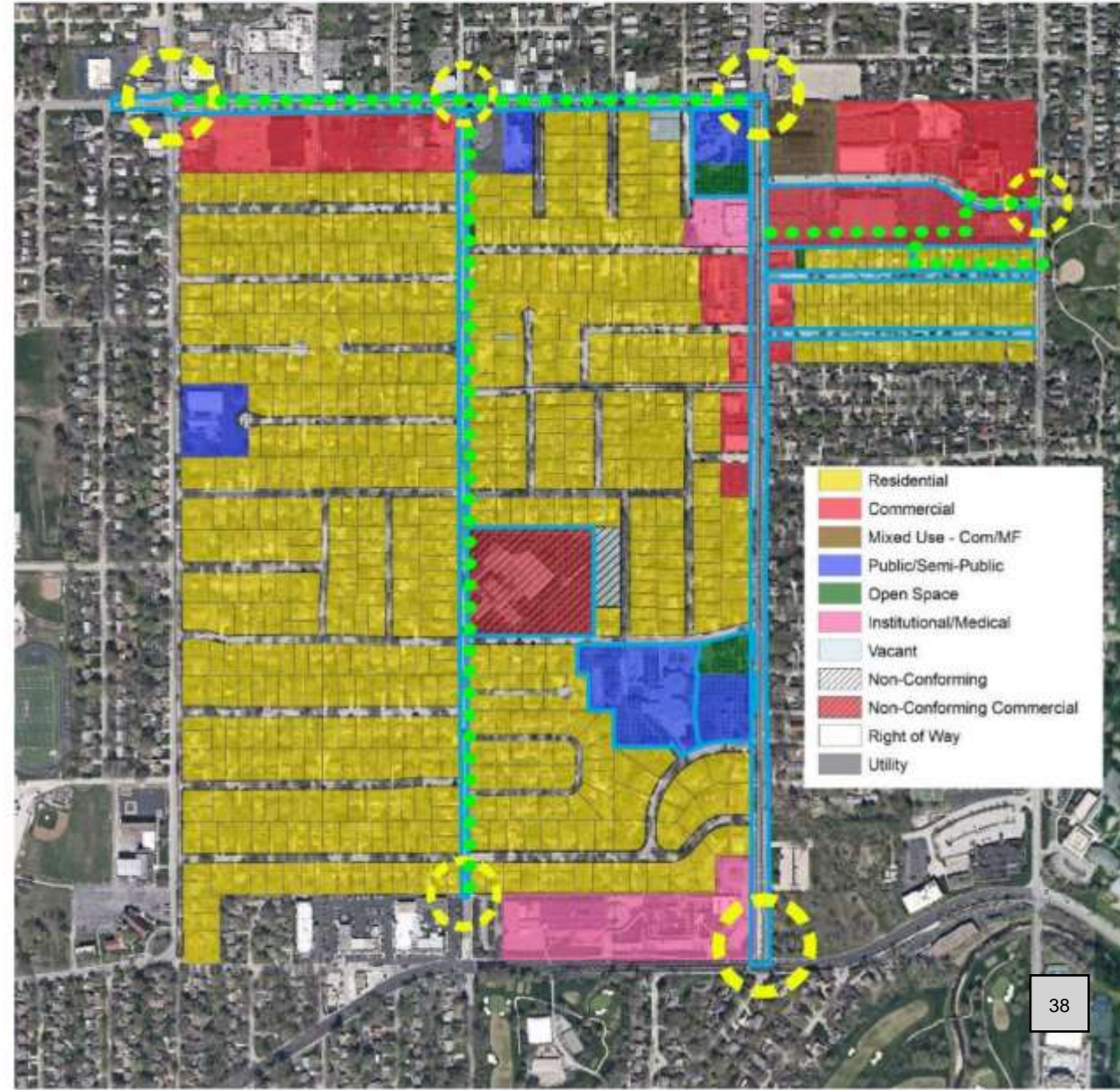
Street Name	Street Type
47th Street	C <small>Item B, Section IV, Item</small>
47th Terrace	Local
47 <sup>th</sup> Place	Collector
48th Street	Local
48th Terrace	Local
49th Street	Local
49th Terrace	Local
49 <sup>th</sup> Place	Local
50th Place	Local
50th Street	Local
50th Terrace	Local
51st Street	Local
51st Terrace	Local
Adams Street	Local
Belinder Avenue	Local
Belinder Court	Local
Booth Street	Local
Fairway Road	Local
Mission Road	Arterial
Norwood Street	Local
Rainbow Boulevard	Arterial
Shawnee Mission Parkway	Arterial
State Line Road	Collector

# Comprehensive Plan

Framework of the City as of 2017

## City of Westwood - Framework Plan Map

Item B, Section IV, Item



# Legislative Decisions – Zoning Text Amendments

- These are City-wide decisions that do not affect specific parcels or landowners
- These legislative decisions are entitled to a highly-deferential review by courts
  - Changes in zoning to specific properties are quasi-judicial, and while still given a great deal of deference, courts generally have more ability to review
- Apply to general categories
  - Commercial
  - Residential
  - Business or Overlay District



# Quasi-Judicial Decisions – Due Process

- Due Process applies to all quasi-judicial decisions
- Requires that all proceedings be fair, open, and impartial
- What to consider:
  - Pre-judging an application – making statements about how you will vote before considering the application, refusing to listen to or consider information provided by applicant, staff, fellow members of Planning Commission
  - Ex-parte contact – contact with the applicant or opponents to an application outside the public hearing process





# Quasi-Judicial Decisions – Rezoning

Golden Factors (*Golden v. City of Overland Park*, 224 Kan. 591 (1978))

- The character of the neighborhood;
- The zoning and uses of properties nearby;
- The suitability of the subject property for the uses to which it has been restricted;
- The extent to which removal of the restrictions will detrimentally affect nearby property;
- The length of time the subject property has remained vacant as zoned;
- The relative gain to the public health, safety, and welfare by the destruction of the value of plaintiff's property as compared to the hardship imposed upon the individual landowner
- Recommendations of permanent or professional staff
- Conformance of the requested change to the adopted or recognized master plan being utilized by the city



# Quasi-Judicial Decisions – Rezoning

## Westwood Zoning Code 1.6.17

- Incorporates *Golden* factors
- Includes additional factors to consider in addition to *Golden* factors:
  - 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.



# Quasi-Judicial Decisions – Variance (BZA)

KSA 12-759(e) and Westwood Zoning Code 1.8.4(C) provide five factors

- (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;



# Quasi-Judicial Decisions – Variance (BZA)

- Uniqueness: cannot be something that was created by the property owner/applicant.
  - Irregularly shaped lot
  - Topographic features
  - Creek
- Unnecessary Hardship
  - Money is not an unnecessary hardship
  - Cannot be self-created
- Appeal is brought directly to the Johnson County District Court
- The five variance criteria are difficult to meet



# Quasi-Judicial Decisions – Exception (PC)

- Westwood Zoning Code 4.5
- Applies to specific parts of the Code
  - 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;
  - 4.4 New Infill Houses – Special Considerations.

Appeal by the property owner only, to the Governing Body



# Quasi-Judicial Decisions – Exception (PC)

4.5.4: Application must meet at least one of the following criteria:

- 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



# Administrative Decisions

- Keep it simple: ensure that the standards are met
  - Not engaging in a policy decision about whether the plat is what you want it to be
- Apply the facts (usually from the staff report) to the standards of the Zoning Code
- Stay objective



# How Applications Are Heard

- Staff Report
  - Provided in advance – read it and think of questions
  - Staff report is giving you background and facts, not telling you how to make decision
- Comment or Presentation by Applicant
  - Provide additional details on application
  - Will be advocating for acceptance
- Public Hearing
  - If applicable – not all applications get public hearing
  - Time limits for public comments – Chair enforces time and decorum
  - Not a chance to engage in back and forth with public – just listen
- Discussion by Commission
- Decision by Commission
  - Approve, Approve with Conditions, Deny, Table





# Kansas Open Meetings Act (KOMA)



# Kansas Open Meetings Act (KOMA)

KSA 75-4317 *et seq.*

Passed in 1972, intended to ensure that government business is open to the public

- It is interpreted liberally, and exceptions are applied narrowly

Applies to:

1. A “covered entity” and
2. A “meeting:

PC and BZA are “covered entities”

PC and BZA are “meetings”



# Meeting – KSA 75-4317a

“Any gathering or assembly in person or through use of telephone or any other medium for interactive communication by a majority of the membership of a public body or agency subject to this act for the purpose of discussing the business or affairs of the body or agency.”

Majority of membership – open seats still count



# Interactive Communication

- Regular Meetings
- Special Meetings
- Work Session
- Telephone/Conference Call
- Video Call
- “Chance” Meetings
- Online Communication – requires contemporaneous interaction
  - Emails:
    - Not interactive where there are reasonable delays between responses
    - Interactive where two or more commissioners are simultaneously sending and responding to messages
      - The same for texting and online messaging



# Business of the Body

KOMA is only implicated where members are discussing the business of the body

Does not require “binding action” to be taken

- Just because you are not voting on something does not mean KOMA does not apply

Does not preclude members from interacting socially or on non-body-related matters

Avoid any appearances of impropriety



# Serial Meetings

Series of interactive communications

Conducted by less than the majority of the body but collectively involves a majority of the body

Shares a common topic of discussion concerning the business of the body

Exchanges are intended by any or all of the participants to reach an agreement on a matter that would require binding action

Examples:

- Text chain/group text about upcoming PC/BZA issues
- Commenting back and forth on a Facebook post



# What does KOMA Require?

Meeting must be open to the public

No binding action taken by secret ballot

Cannot completely prohibit use of recording devices

Must provide notice of date, time, and place of meeting

- Statute is silent on how notice must be given – but should be given a reasonable time in advance

Does NOT require an agenda – but if agenda is made it must be published



# Penalties for violating KOMA

Injunction or Mandamus (must refrain from doing something or must do something)

Civil penalties – up to \$500 per violation, can be assessed against individual or body as a whole

Court Costs

Attorney Fees

Invalidate any action taken

Removal from office





# Pre-Judging Applications (Don't)



# Avoiding Prejudgment

- Do not make up your mind before meetings
- Do not tell people how you are leaning, how you will vote, what you think about the application
  - More difficult in smaller community like Westwood
- Disclose any contact from the applicant directly to you (ex parte contact)
- Abstain from voting if you truly cannot vote impartially



# Abstaining and Recusing

- Difference
  - Abstain: participate in hearing/discussion but do not vote
  - Recuse: remove yourself from both the hearing/discussion and the vote
- When to do each
  - Conflict of interest – recuse
    - Leave the meeting until next agenda item
  - No conflict but do not want to vote – abstain
  - Abstain/Recuse only when necessary
  - Case by case decision
- Quorum affected by recusal but not abstention

