

**AGENDA-SPECIAL MEETING
STERLING PLANNING COMMISSION**

114 N. Broadway, Sterling, Kansas
July 24, 2025, at 5:15 P.M.

A. CALL TO ORDER

B. APPROVAL OF THE AGENDA

C. CONSENT AGENDA

Items on the Consent Agenda are considered by staff to be routine business items. Approval of the items may be made by a single motion, seconded, and a majority vote with no separate discussion of any item listed. Should a member of the Planning Commission desire to discuss any item, the item will be removed from the Consent Agenda and considered separately.

1. Approval of minutes
 - a. Planning Commission Special Meeting July 2, 2025.

D. BUSINESS OF THE SPECIAL MEETING

1. Approve special use application for 906 N. Broadway Avenue, Hood Construction office expansion.
2. Approve site plan for 906 N. Broadway Avenue, Hood Construction office expansion.

E. ADJOURNMENT

NOTICE: SUBJECT TO REVISIONS

It is possible that sometime between 4:30 and 5:15 pm immediately prior to this meeting, during breaks, and directly after the meeting, a majority of the Planning Commission may be present in the commission chambers or lobby of City Hall. No one is excluded from these areas during those times.

STERLING PLANNING COMMISSION
SPECIAL MEETING
MINUTES
7/2/2025

The Sterling Board of Planning Commissioners met in a special session on Wednesday, July 2, 2025, at 5:15 P.M in the meeting room at City Hall. Those present were Jed Miller, Chairman; Kash Farney, Jeff Laudermilk, and James Silman, Planning Commissioners; Ian Hutcheson, Zoning Administrator / Subdivision Administrator / City Manager; Brian Foster, Manhattan Office Manager / Corporate Treasurer, BG Consultants; Kathy Booth, and Bob Booth, Public. David Wilson, Vice-Chairman; Brennan Sterling, Secretary; Joe Jacob, Planning Commissioner were absent.

Chairman Miller called the meeting to order.

APPROVAL OF AGENDA:

Commissioner Laudermilk moved, and Commissioner Silman seconded to approve the agenda. The motion carried 4-0.

CONSENT AGENDA:

1. Approval of minutes.
 - a. Planning Commission Regular Meeting February 20, 2025.

Commissioner Silman moved, and Commissioner Laudermilk seconded to approve the Consent Agenda as presented. Motion carried 4-0.

BUSINESS OF THE SPECIAL MEETING:

1. Approve preliminary plat for City of Sterling Industrial Park 1.

Subdivision Administrator Hutcheson presented background on the proposed preliminary plat. On March 28, 2024, a development agreement for the construction of a new manufacturing and headquarters facility operated by KMW in Sterling was signed between the City, KMW, Ltd. and Rice County. On July 25, the land on which the new facility will be located was purchased by the City. On August 19, the unincorporated land which was previously within Rice County was annexed into the city limits. On February 20, 2025, the Planning Commission held a public hearing on a proposed zoning district change for a portion of the land from County Agricultural (AG) to City Industrial (I-1) and recommended approval of the change to the City Commission. On March 17, an ordinance approving the zoning district change was approved by the City Commission.

Hutcheson continued that on June 25, the City received two copies of the preliminary plat for the City of Sterling Industrial Park 1 from BG Consultants. The industrial park corresponds to the KMW expansion project site. The preliminary plat, a second version of the preliminary plat with the KMW facility overlaid, and the application for preliminary plat approval for the industrial park were included in agenda packet.

Hutcheson explained that a preliminary plat is a document which displays the proposed subdivision of a property and important planning, zoning and engineering features such as rights-of-way, utilities and drainage. Once a preliminary plat is approved by the Planning Commission, a final plat may be applied for. A final plat

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BUSINESS OF THE SPECIAL MEETING (cont.):

incorporates any stipulated amendments to the preliminary plans.

Hutcheson discussed that Articles 4 and 5 of the City's Subdivision Regulations outline the contents of and procedures for approving preliminary plats. The Subdivision Administrator has reviewed the materials submitted by the applicants and found them to satisfy the content requirements for preliminary plats outlined in Section 5-100.

Brian Foster, Manhattan Office Manager / Corporate Treasurer for BG Consultants explained different aspects of the preliminary plat that his company developed. Foster and Hutcheson answered questions from the Commissioners and the members of the public present. The proposed zoning changes which BG Consultants recommended be made with the approval of the plat were discussed. It was agreed upon by the Commissioners that further zoning changes in the area might require separate public notice to be given, and that no zoning changes should be made with the approval of the plats. The Commissioners also discussed their desire to see further studies on the impact of KMW's planned development of the platted area, notably drainage studies of how stormwater runoff might impact neighboring areas. Hutcheson explained that these studies would be included in the site plan review of the KMW facility, and that a site plan approved by the Planning Commission will be required before a building permit for the facility can be issued.

Hutcheson recommended the Planning Commission conditionally approve the preliminary plat for the City of Sterling Industrial Park 1, with the condition that no zoning changes be made with approving the preliminary plat.

Commissioner Silman moved, and Commissioner Farney seconded to approve the preliminary plat for the City of Sterling Industrial Park 1, with the condition that no zoning changes be made with approving the preliminary plat. The motion carried 4-0.

2. Approve final plat for City of Sterling Industrial Park 1.

Hutcheson explained that much of the same information presented on the preliminary plat pertains to the final plat. A final plat is a document which displays the proposed subdivision of a property and important planning, zoning and engineering features such as rights-of-way, utilities and drainage. Once a preliminary plat is approved by the Planning Commission, a final plat may be applied for. The Subdivision Administrator has reviewed the materials submitted by the applicants and found them to satisfy the content requirements for preliminary plats outlined in Section 5-101.

Hutcheson recommended the Planning Commission conditionally approve the final plat for the City of Sterling Industrial Park 1, with the condition that no zoning changes be made with approving the final plat.

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BUSINESS OF THE SPECIAL MEETING (cont.):

Commissioner Laudermilk moved, and Commissioner Farney seconded to approve the final plat for the City of Sterling Industrial Park 1, with the condition that no zoning changes be made with approving the final plat. The motion carried 4-0.

ADJOURNMENT: There being no further business to come before the Planning Commission, it was moved by Commissioner Laudermilk, and seconded by Commissioner Silman to adjourn. The motion carried 4-0.

Jed Miller, Chairman

Agenda Item D.1

City of Sterling Planning Commission Meeting July 24, 2025

TO: Planning Commission
SUBJECT: Approve special use application for 906 N. Broadway Avenue, Hood Construction office expansion.
INITIATED BY: Zoning Administrator
PREPARED BY: Zoning Administrator
AGENDA: Business of the Special Meeting

Background: Hood Construction is a construction company with primary offices located at 906 N. Broadway Avenue. On March 1, 2023, a zoning amendment to rezone the area generally described as 908 N. Broadway Avenue, which included the property located at 906 N. Broadway Avenue, from the R-1 Single Family Residential to the B-1 General Business District was approved. Hood is planning to expand their current facility located at 906 N. Broadway Avenue and construct four additional offices and a showroom.

A “special use” as defined in Section 2-102 of the Zoning Regulations is “a use of a structure or land which is not permitted outright within a zoning district because of characteristics that might have an adverse effect upon nearby properties or the future development of the district unless certain conditions can be placed on the use which would make it suitable to the purpose of the district and compatible to the other uses so designated.” Each zoning district has a list of common special uses which may be approved within the district. To be approved, a special use application must be approved by the Planning Commission and the City Commission. The process for approving special uses is largely the same for amendments to change a zoning district classification or boundary.

Analysis: On June 25, a special use application under case number SU-2025-001, included in Exhibit A, was submitted to the Zoning Administrator by Hood Construction for an office expansion for Hood’s existing office located at 906 N. Broadway Avenue. A layout and drawing of the expanded building are included in Exhibit B.

A special use application is required for Hood’s office expansion because the use most closely corresponds to “contractor’s buildings and offices, including equipment and storage area”, which is a permitted use in the I-1 Industrial District, but is not among the permitted uses in the B-1 General Business District in which the property is located. Article 4 of the Zoning Regulations, included in Exhibit C, lists the permitted, conditional, and special uses of each zoning district. Among the special uses listed for the B-1 General Business District are “other special uses not otherwise specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-104 and compatible with the uses permitted in Section 4-104A.” The intent of the B-1 General Business District is defined “to provide for certain retail trade and for service establishments not generally in the Central Business District and to recognize existing businesses and the needs and convenience of people in adjacent residential areas.” As an expansion to an existing

business' property, Hood's office expansion is in alignment with the intent of the B-1 General Business District.

Article 11 of the Zoning Regulations, included in Exhibit D, discusses the process for approving amendments to the regulations, including special use applications. A public hearing must be held at which the proposed special use may be discussed by interested parties. Notice of the public hearing must be published in the City's official newspaper and mailed to impacted property owners within a certain distance of the property at least 20 days prior to the public hearing. Notice of the public hearing for SU-2025-001 was published in the Sterling Bulletin on July 3 and notices were mailed to the impacted property owners on July 3.

For action on special uses, a quorum of more than one-half of the membership of the planning Commission is required. Failure to make a recommendation shall be considered a recommendation of disapproval.

Within 14 days of the public hearing and the voting on a proposed special use, the Planning Commission will submit a report to the City Commission which contains the Planning Commission's recommendation. The minutes of the meeting may be submitted in lieu of a report.

Section 11-100(H) of the Zoning Regulations discusses the review criteria for amendments and special uses. The inclusion of the criteria deemed appropriate to the case must be included in the Planning Commission's report to the City Commission.

Section 11-101 discusses factors specific to considering special use cases. In general, special uses must be compatible with surrounding area and the zoning district. The minimum requirements of approval for all similar types of permitted uses in the district must be met for special uses.

Regardless of the Planning Commission's recommendation on a special use case, if 20% or more of the property owners within the official area of notification file written protest of the rezoning case, the effectuating ordinance of the City Commission can only be approved by at least a 3/4 majority vote of that body's membership. The City Commission, having received the report of the Planning Commission on the proposed rezoning case, may adopt the Planning Commission's recommendation through an ordinance, override the recommendation by a 2/3 majority vote, or return the recommendation to the Planning Commission for re-consideration.

Financial: A small publication fee of the notice of the public hearing in the newspaper, and postal charges in the mailing of notice to impacted property owners were incurred.

Legal Considerations: An effectuating ordinance of the City Commission is required to approve a special use application.

Recommendations/Actions: It is recommended the Planning Commission:

1. Open the public hearing **(VOICE)**.
2. Close the public hearing **(VOICE)**.
3. Approve the special use application for 906 N. Broadway Avenue, Hood Construction office expansion **(VOICE)**.

Attachments:

Exhibit A – Application for special use case number SU-2025-001 (3 pages)

Exhibit B – 906 N. Broadway Avenue, Hood Construction office expansion layout and drawing (2 pages)

Exhibit C – Zoning Regulations, Article 4. Zoning Districts (34 pages)

Exhibit D – Zoning Regulations, Article 11. Amendments (10 pages)

APPLICATION FOR A SPECIAL USE

This is an application for a special use. The form must be completed in accordance with directions on the accompanying instructions and filed with the Zoning Administrator at:

Sterling City Hall
114 N. Broadway
Sterling, KS 67579

or FAX: (620) 278-2866

AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.

1. List name(s) of Applicant(s) and/or his/her Agent(s).

The owners of all property requesting the special use must be listed.

Name of Applicant: Josh Hood

Address: 218 W Monroe Ave, Sterling, KS 67579

Phone: 620.204.8808 Email: hoodjosh15@gmail.com

Name of Agent, if any: Stephen Wilson

Address: 906 N Broadway Ave, Sterling

Phone: 620.204.9798 Email: stephen.s.hoodconstruction@gmail.com

Name of Applicant: Emily Hood

Address: 218 W Monroe Ave, Sterling, KS 67579

Phone: 620.204.0452 Email: hoodemily...

Name of Agent, if any: Stephen Wilson

Address: _____

Phone: _____ Email: _____

Use a separate sheet, if necessary, for names of additional Applicants.

2. The Applicant hereby requests a special use to establish a Contractor's office and storage (use)

to be located in the B-2

District, for property legally described as

Lot(s) — of Block(s) — in the —

(Addition) (Subdivision).

(If appropriate, additional lots/blocks/subdivision descriptions, or metes and bounds descriptions, may be provided in the space below or on an attached sheet.)

S10, T21, R08, BEG NE COR NW 1/4 SE 4; TH S370';
W1319'; N370'; E1319' TO POB

3. Dimensions of the property are 280 feet in depth by 370 feet in width, and _____ acres (round to the nearest tenth) or 103,600 square feet in area.

4. Describe the general location of the property. (Use appropriate section.)

- The address is 906 N Broadway Ave, Sterling, KS 67570
- At the _____ (NW, NE, SW, SE, etc.) corner of _____ (Street) and _____ (Street).
- On the _____ (N, S, E, W, etc.) side of _____ (Street), between _____ (Street) and _____ (Street).

5. Is this property part of a recorded plat? Yes No

6. The property is presently used for Contractor's Office + Storage, and this special use is requested for the following reasons:
We were informed that this is needed by Ian

7. I (We) the Applicant(s), acknowledge receipt of the instructions, and further state that I (we) have read the material. If an Agent, I further state that I have or will provide the owner(s) of the property for which the special use is requested an explanation of or copy of this material. I (We) realize that this application cannot be processed unless it is complete, and is accompanied by a current real property ownership list for the notification area, and the fee. I (We) acknowledge that the Governing Body has authority to require such conditions as it deems necessary and reasonable in order to serve the public interest.

Signature: Josh Hood, Applicant

Print name: Josh Hood

Date: 6/24/25, 2025

Signature: Stephen Wilson, Agent (if any)

Print name: Stephen Wilson

Date: 6/24/2015, 2025

Signature: Emily Hood, Applicant

Print name: Emily Hood

Date: 6/24, 2025

Signature: Stephen Wilson, Agent (if any)

Print name: Stephen Wilson

Date: 5/24, 2025

Signature: David J., Applicant

Print name: _____

Date: _____, 20____

Signature: _____, Agent (if any)

Print name: _____

Date: _____, 20____

Use a separate sheet, if necessary, for names of additional Applicants.

- List of affected landowners attached: Yes No

OFFICE USE ONLY

This application was received at 2 : 30 (am, pm)
on June 25, 2025
by the Zoning Administrator acting for the Planning Commission.

It has been checked and found to be complete, and accompanied by the required real property ownership list, and the fee of \$ 125.

Signature: _____, Zoning Administrator

Print name: _____

Date: _____, 20____

Provide copy to:

- Applicant(s) and/or Agent(s)

Front

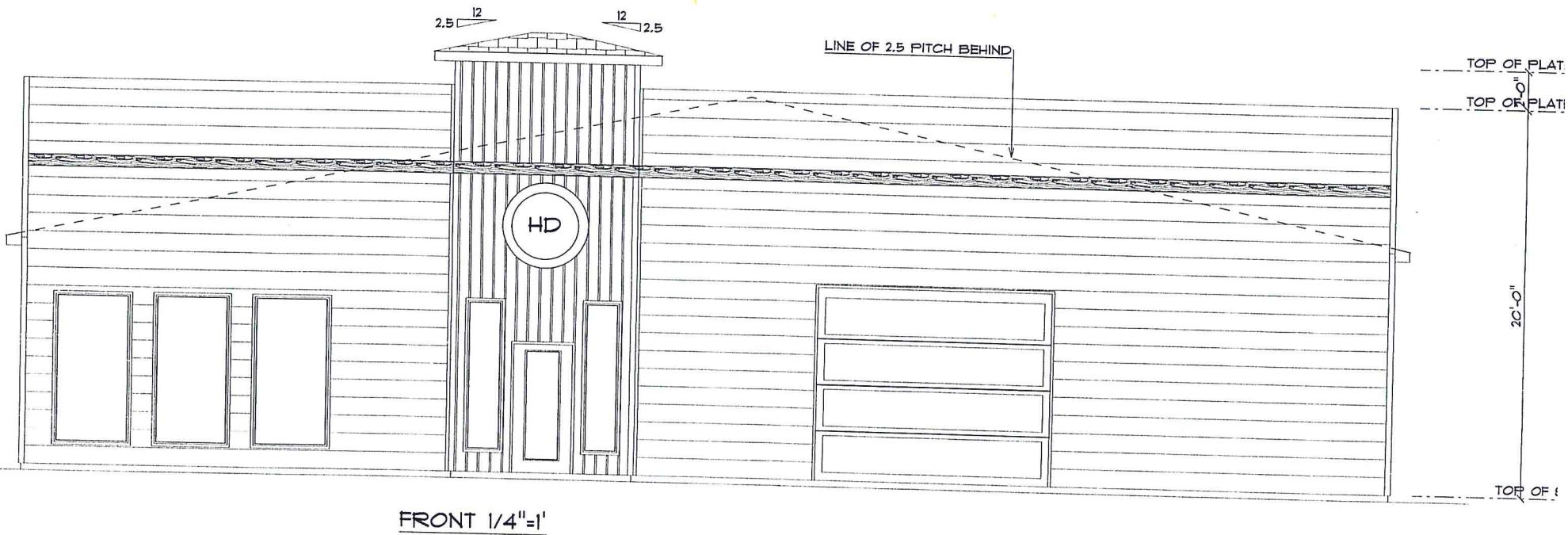
New Addition

$$S \xrightarrow{w} N$$

This architectural floor plan illustrates a building section with the following dimensions and features:

- Exterior Widths:** 26'-0" and 31'-0" on the left, and 11'-0" on the right.
- Rooms and Areas:**
 - EXISTING Office:** A large rectangular room on the left side.
 - EXISTING Storage:** A room below the existing office.
 - Showroom:** A large rectangular room on the right side.
 - Office 1:** A room below the showroom.
 - Office 2:** A room below Office 1.
 - Office 3:** A room below Office 2.
 - Office 4:** A room below Office 3.
 - CLOSET:** A small room located between the existing office and the showroom.
 - Bathroom:** A small room located between the existing storage and the existing office.
 - Back:** A label at the bottom left.
- Dimensions:** The plan includes numerous dimensions for walls, rooms, and openings, such as 14'-4" for the existing office, 20'-8 1/2" for the existing storage, 31'-0" for the showroom, 11'-0" for the first office, 10'-2 1/2" for the second office, 10'-2 1/2" for the third office, 10'-2 1/2" for the fourth office, and 17'-0" for the back area.
- Notes:** The plan includes several handwritten notes, including "WRAPPED OPENING" near the existing office, "Showroom" near the large room on the right, and "Office 1", "Office 2", "Office 3", and "Office 4" labeling the rooms below the showroom.

Front Elevation



ARTICLE 4. ZONING DISTRICTS

100 Permitted Uses in All Districts.

- A. Off-street parking and loading as required by Article 5.
- B. Accessory and temporary uses and home occupations as permitted by Article 6.
- C. Signs as permitted by Article 7.

101 **R-1 Single-Family Residential District.** This district is established for the purpose of medium density single-family dwelling units with both public sewerage and water supply and to allow certain community facilities. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing therein. Regulations are intended to control density of population and to provide adequate open space around buildings and structures to accomplish these purposes. (See Section 5-101A1 for required off-street parking spaces.)

A. Permitted Uses.

- 1. Single-family detached dwellings and residential-design manufactured homes and group homes as defined in Section 2-102. (See Section 3-103N for conditions under which manufactured or mobile homes or RV campers are permitted in this district.)
- 2. Churches, chapels, temples and synagogues.
- 3. Golf courses, including accessory club houses, but not driving ranges and miniature golf courses operated for commercial purposes.

B. Special Uses.

- 1. Public buildings erected or land used by any agency of a city, township, county or state government.
- 2. Cemeteries, private or public.
- 3. Public and private schools: educational buildings for primary, intermediate and secondary schools including administrative centers, transportation centers, recreation areas, spectator sports facilities and the like. All such uses must be located on land which is platted according to the City Subdivision Regulations.
- 4. Utility substations, pumping stations and water towers, publicly and privately owned. (See Section 3-103G for lot size and bulk regulations.)

C. Conditional Uses.

1. Accessory dwellings.
2. Adult and child care centers and preschools.
3. Bed and breakfast homes.
4. Boarding and rooming houses.
5. Earth-sheltered dwellings, provided that the design is compatible with adjacent properties including such features as drainage, parking and accessory structures.
6. Large recycling collection centers. (See Section 2-102 for definition.)
7. Metal buildings specifically designed for use as single-family detached dwellings; provided, that the design is compatible with adjacent properties including such items as aesthetic appearance, parking and accessory structures.
8. Swimming, tennis, racquetball and similar recreational club activities and related clubhouses.

D. Lot Size Requirements.

1. Minimum lot area:
 - a. Residential buildings: 6,500 square feet.
 - b. All other uses: 10,000 square feet.
2. Minimum lot width:
 - a. Residential buildings: 60 feet.
 - b. All other uses: 80 feet.
3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:
 - a. Minimum front yard: 25 feet on all sides abutting a street.

- b. Minimum side yard:
 - (1) Residential buildings: 7 feet on both sides.
 - (2) All other permitted uses: 7 feet on both sides.
- c. Minimum rear yard: 25 feet.

- 3. Maximum lot coverage: 35%

F. Use limitations.

- 1. No outdoor storage shall be permitted as defined by Section 2-102.

102 **R-2 Multiple-Family Residential District.** This district is established to permit various types of low density two-family and multiple-family dwelling units with compatible community facilities and certain special and conditional uses, yet retain a basic residential quality. It is not intended generally for single-family type use, except as incidental to the area.

A. Permitted Uses.

1. Any permitted use allowed in the R-1 Residential District.
2. Single-family attached, not exceeding two, and two-family dwellings.
3. Multiple-family dwellings.
4. Adult and child care centers and preschools.
5. Boarding or rooming houses.

B. Special Uses.

1. Any special use allowed in the R-1 Residential District except cemeteries.
2. Funeral homes and mortuaries including live-in facilities.
3. Hospitals; medical, dental and health clinics; and professional medical offices.
4. Multiple dwelling units for the elderly and handicapped whereby density and parking requirements may be varied from the standards otherwise required by these regulations.
5. Nursing and convalescent homes, retirement centers and assisted living facilities.
6. Rehabilitation houses and residential centers.

C. Conditional Uses.

1. Adult care homes exceeding the limit on the number of adults as a home occupation.
2. Bed and breakfast homes.
3. Swimming, tennis, racquetball and similar recreational club activities and related clubhouses.

D. Lot Size Requirements.

1. Minimum lot area:

- a. Dwellings permitted by Section 4-102A1: 6,000 square feet.

- b. Single-family attached and two-family dwellings: 7,500 square feet.
- c. Multiple-family attached dwelling units: 3,000 square feet per dwelling unit, but no zoning lot shall be less than 10,000 square feet.
- d. All other uses: 10,000 square feet.

2. Minimum lot width:

- a. Dwellings permitted by Section 4-102A1: 60 feet.
- b. Two-family dwellings: 70 feet.
- c. Multiple-family dwellings: 80 feet.
- d. All other uses : 70 feet.

3. Minimum lot depth: 90 feet.

E. Bulk Regulations.

1. Maximum structure height: 45 feet.

2. Yard requirements:

- a. Minimum front yard: 25 feet on all sides abutting a street, except that on corner lots one of the yards may be reduced to 15 feet; however, 20 feet shall still be required for driveway access to a permanent parking space, e.g., a garage.
- b. Minimum side yard:
 - (1) Dwellings permitted by Section 4-102A1: 6 feet.
 - (2) Single-family attached and two-family dwellings: 7 feet on each side, except for the common lot line of an attached dwelling.* (See Section 2-101 for definition of dwelling, attached.)
 - (3) Multiple-family dwellings: 7 feet.
 - (4) All other uses: 8 feet.
- c. Minimum rear yard: 20 feet.

3. Maximum lot coverage: 40%.

* See City Subdivision Regulations for procedures for approval of lot splits.

F. Use limitations.

1. No outdoor storage shall be permitted as defined by Section 2-101.

103 **MH-1 Manufactured Home Park District.** This district is designed to provide for medium density manufactured home parks where all types of manufactured homes plus RV campers and single-family portable housing structures are located on individually rented lots which have access by an internal driveway to a paved public street with public water and sewer.

A. Permitted Uses.

1. Manufactured home parks including related facilities for the residents, such as:
 - a. Child care centers, preschools and day care homes.
 - b. Recreational facilities such as playgrounds, swimming pools, tennis courts, shuffleboards, ball fields, and lakes providing boating and fishing for residents of the park to the exclusion of the general public.
 - c. Recreation or community buildings, washrooms, rest rooms, laundry facilities, storm shelters, outdoor storage areas for motor vehicles and recreational vehicles, and offices for the park.

B. Special Uses. None.

C. Conditional Uses. None.

D. Lot Size Requirements for Manufactured Home Parks.

1. Minimum lot area: 40,000 square feet for park.
3,500 square feet for each home or housing structure.

1,250 square feet for each RV camper.
2. Minimum lot width: 35 feet for each home or housing structure.
25 feet for each RV camper.
3. Minimum lot depth: 100 feet for home or housing structure.
50 feet for each RV camper

E. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:
 - a. Minimum front yard: 25 feet on all sides abutting a street.
 - b. Minimum side yard: 10 feet, unless otherwise established by the standards of Section 4-103F

- c. Minimum rear yard: 20 feet, unless otherwise established by the standards of Section 4-103F.
 - d. Maximum lot coverage: 40%.
- F. Standards for Manufactured Home Parks. Each manufactured home park shall be designed so as to comply with the following standards:
 - 1. The park shall be located on a well-drained site which is properly graded to insure rapid drainage and freedom from stagnant pools of water.
 - 2. Each park shall provide rental lots for their respective types of living accommodations. Each such lot shall be clearly defined and delineated on a drawing to scale which shall show all dimensions necessary to determine whether the lot size requirements and bulk regulations have been met as required by these regulations. Each type of living accommodation shall have separately defined areas.
 - 3. All manufactured home lots shall abut on a paved or graveled internal driveway of at least 28 foot width leading to a public street. Each lot shall provide for at least one on-site paved or graveled parking space.
 - 4. All electric distribution systems, plumbing systems and telephone service systems to each lot, except outlets and risers, shall be underground. Both 120 and 240 volt outlets shall be provided.
 - 5. Park owners are encouraged to construct or provide nearby access to a storm shelter for the residents and a park for the recreational use and enjoyment of the occupants.
 - 6. In all other respects, parks shall comply with all of the applicable ordinances and regulations of the City.
- G. Unused Manufactured Home Park. Whenever a property, zoned for the MH-1 District ceases to be used for such purposes for a period of one year, the Planning Commission may initiate an application to rezone such property to some other district compatible with the neighborhood area.

104 **B-1 General Business District.** This district is designed to provide for certain retail trade and for service establishments not generally in the Central Business District and to recognize existing businesses and the needs and convenience of people in adjacent residential areas. Off-street parking is required and also screening where necessary to reduce possible adverse environmental effects on adjacent residential properties.

A. Permitted Uses.

1. Animal hospital or clinic with all activities indoors. (See Section 2-101 for definition.)
2. Automobile service stations and supply stores.
3. Barber and beauty shops and related personal care services.
4. Business and professional offices and financial institutions including drive up windows and automatic teller machines.
5. Child care centers and preschools.
6. Department and variety stores.
7. Garden stores.
8. Grocery and convenience stores for food and related items.
9. Hotels, motels and bed and breakfast homes and inns.
10. Liquor stores.
11. Rental centers including appliances, furniture, tools and construction equipment. (See Section 4-104F3 for outside storage.)
12. Restaurants including drive-up windows.
13. Self-service laundries.

B. Special Uses.

1. Public buildings erected or land used by any agency of the City or a township, county or state government.
2. Assembly places both private and public including churches and similar places of worship and fraternal and service clubs.
3. Other special uses not otherwise specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-104 and compatible with the uses permitted in Section 4-104A.

C. Conditional Uses.

1. Car washes.
2. Commercial recreational activity and amusement centers, both indoor and outdoors. (See Section 2-101 for definition.)
3. Drive-in restaurant establishments. (See Section 2-101 for definition.)
4. Garages, repair. (See Section 2-101 for definition.)
5. Mini-storage facilities for inside rental storage only and personal storage structures.
6. Sales lots for new and/or used vehicles including recreational vehicles.

D. Lot Size Requirements.

1. Minimum lot area: 5,000 square feet.
2. Minimum lot width: 50 feet.
3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:
 - a. Minimum front yard: 35 feet on all sides abutting a street.
 - b. Minimum side yard: None, but if a side yard is provided it shall not be less than 10 feet.
 - c. Minimum rear yard: None, but if a rear yard is provided, it shall not be less than 10 feet.
3. Maximum lot coverage: A building, structure or use may occupy all that portion of the zoning lot not otherwise required for off-street parking or the yard regulations.

F. Use Limitations.

1. No new building shall be used for residential purposes.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district.

3. All related business, servicing, storage and display of goods shall be conducted within completely enclosed structures or screened from public view, unless approved as a conditional use by the Board of Zoning Appeals or as part of an application for a special or conditional use.

105 **B-2 Central Business District.** This district is designed to group the main retail merchandising activities into a concentrated area serving the general shopping needs of the City and its trade area. The grouping of related activities which are compatible is intended to strengthen the Central Business District. (See Section 3-105G3 for Conditions of Approval of Site Plan Approval.)

A. Permitted Uses.

1. Antique, art, craft and gift shops wherein some production of related products may occur.
2. Assembly places both private and public including churches and similar places of worship and fraternal and service clubs.
3. Business and professional offices and financial institutions including drive-through service at windows and automotive teller machines.
4. Bus stations and taxicab stands.
5. Clubs, taverns and drinking establishments. (See Section 2-102 for related definitions.)
6. Department and variety stores.
7. Establishments employing not more than five persons in service businesses working on the premises such as cleaning and laundry establishments, appliance repairs, watch and shoe repairing, barber and beauty shops and the like.
8. Hotels and motels.
9. Microbreweries.
10. Dwelling units constructed in conjunction with and above the first floor of business establishments.
11. Newspaper, publishing and printing firms.
12. Restaurants, but not drive-in establishments.
13. Retail businesses. (See Section 2-101 for definition.)
14. Theaters.

B. Special Uses.

1. Public buildings erected or land used by any agency of a city, township, county or state government.
2. Business and technical schools with related off-street parking facilities.

3. Sexually oriented business which are not established within 1,000 feet of a residence, park, church, elementary or secondary school or child care facility as the latter is defined herein. (See Section 2-102 for definition.)
4. Shops employing not more than five persons for manufacturing items of which some portion are sold at retail on the premises.
5. Utility substations, pumping stations and water towers, publicly and privately owned. (See Section 3-103G for lot size and bulk regulations.)
6. Other uses not specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-105 and compatible with the uses permitted in Section 4-105A.

C. Conditional Uses.

1. Amusement centers.
2. Automobile service stations.
3. Car washes.
4. Commercial recreational activities, indoor only.
5. Garages, repair.
6. Large recycling collection centers. (See Section 2-102 for definition.)
7. Storage warehouses, but not mini-storage facilities.

D. Lot Size requirements:

1. Minimum lot area: None required.
2. Minimum lot width: 25 feet.
3. Minimum lot depth: 50 feet.

E. Bulk Regulations.

1. Maximum structure height: 45 feet.
2. Yard requirements:
 - a. Minimum front yard: None
 - b. Minimum side yard: None, but if there is one provided, it shall not be less than 5 feet.

- c. Minimum rear yard: None, but if there is one provided, it shall not be less than 5 feet.
- 3. Maximum lot coverage: A building, structure or use may occupy all that portion of the lot not otherwise required for the yard regulations.

F. Use Limitations.

- 1. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district.
- 2. All related business, servicing, storage and display of goods shall be conducted within completely enclosed structures or screened from public view, unless approved as a conditional use by the Board of Zoning Appeals or as part of an application for a special or other conditional use.

106 **I-1 Industrial District.** This district is designed for industrial uses which do not require large amounts of land; generate modest amounts of traffic; are consistent with the capacity and availability of public and private services; create limited environmental problems in the way of odor, smoke, dust, glare, vibration or sounds; and do not permit the intermixing of residential uses.

A. Permitted Uses.

1. Agricultural feed, grain and fertilizer mixing, storage and sales.
2. Agricultural and oil equipment sales, repairs and storage.
3. Animal hospitals or clinics with indoor or outdoor facilities.
4. Assembly, manufacture or repair of electrical and mechanical appliances, instruments, machinery and the like.
5. Automobile, truck and recreational vehicle sales, storage, repairs, garages and washing facility.
6. Building material production, storage and sales including manufactured housing and lumberyards.
7. Clothing and textile manufacturers.
8. Construction equipment distribution, repair, storage and sales.
9. Contractor's buildings and offices, including equipment and storage area.
10. Food manufacture, distribution and storage.
11. Furniture manufacture and repair and upholstery shops.
12. Garden stores, greenhouses and hydroponic farming.
13. Laundry, dry cleaning and dyeing works.
14. Manufactured products such as: bags, brooms, concrete products, jewelry, paper goods, pharmaceutical products, plastics, sporting and office equipment, and the like.
15. Metal fabrication and assembly.
16. Printing and publishing companies.
17. Sale lots for new and used vehicles as well as manufactured homes, recreational vehicles and portable storage structures.
18. Sign shops and service.

19. Transportation firms including vehicle storage areas.
20. Utility substations, pumping stations and water towers, publicly and privately owned. (See Section 3-103G for lot size and bulk regulations.)
21. Wholesale businesses; storage warehouses; mini-storage facilities, including indoor and outdoor storage; and personal storage structures.

B. Uses Not Permitted.

1. Acid manufacture.
2. Cement, lime, gypsum or plaster of Paris manufacture.
3. Creosote or tar treatment.
4. Distillation of bones.
5. Explosives manufacture or storage, including fireworks.
6. Fat rendering.
7. Fertilizer manufacture.
8. Garbage, offal or dead animal incineration or reduction.
9. Glue or soap manufacture.
10. Petroleum processing and refining.
11. Primary smelting of base metals from ore.
12. Stockyards or slaughterhouses.
13. Tanning, curing or storage of rawhides or skins.

C. Special Uses.

1. Public buildings erected or land used by any agency of the City or a township, county or state government.
2. Bulk storage for retail or wholesale distribution and not used as an accessory part of a normal manufacturing process of such items as anhydrous ammonia and other products which may be considered as highly explosive, combustible or of a volatile nature.
3. Recycling processing centers. (See Section 2-101 for definition.)
4. Salvage yards. (See Section 2-101 for definition.)

5. Public and private hazardous waste facilities. (See Section 2-101 for definition.)
6. Other uses not specifically listed as a permitted, special or other conditional use, but which are in keeping with the intent of Section 4-106 and compatible with the uses permitted in Section 4-106A. Such other uses may also include retail and service businesses which provide a particular direct service to the industrial uses or serve as a convenience to the employees thereof or the community as a whole.

D. Conditional Uses.

1. Asphalt and concrete mixing plants.
2. Dog kennels, including outside runs.
3. Large recycling collection centers. (See Section 2-101 for definition.)

E. Lot Size Requirements.

1. Minimum lot area: None.
2. Minimum lot width: None.
3. Minimum lot depth: None.

F. Bulk Regulations.

1. Maximum structure height: 45 feet exclusive of grain elevators.
2. Yard requirements:
 - a. Minimum front yard: 35 feet on all sides abutting a street.
 - b. Minimum side yard: No minimum requirement, but if a side yard is provided, it shall be not less than 15 feet.
 - c. Minimum rear yard: No minimum requirement, but if a rear yard is provided, it shall be not less than 15 feet.
3. Maximum lot coverage: 75%.

G. Use Limitations.

1. No new building shall be used for residential purposes except that a watchman or custodian may reside on the premises inside an industrial use structure or in a manufactured home or RV camper.
2. Outdoor operations, display and storage is permitted which is related activity to the principal use; except that only parking and display areas are permitted in the minimum front yard setback.
3. There shall be no emission of dust, noise, odor or vibration which shall be detectable as a nuisance beyond the lot line.

107 **P-O Protective Overlay District.** This district may be applied as an overlay district in combination with any underlying zoning district. By limiting specific uses or requiring more restrictive development standards to individual projects or specific properties, this district is intended to:

- (1) ensure compatibility among incompatible or potentially incompatible land uses;
- (2) ease the transition from one zoning district to another;
- (3) address sites or land uses with special requirements; and
- (4) guide development of unusual situations or unique circumstances.

Development standards include, but are not limited to, lot sizes, bulk requirements, use limitations, off-street parking and loading provisions, accessory structures and uses, sign standards, miscellaneous requirements of Section 3-103 and screening and landscape requirements of Section 3-104.

A. Use and Development Standards. This district can be used to modify and restrict the use and development standards of an underlying zoning district. All requirements of this district are in addition to and supplement all other applicable standards and requirements of these regulations. Restrictions and conditions imposed by this district shall be limited to the following:

1. Prohibiting otherwise permitted or special or conditional uses and accessory uses; or making an otherwise permitted use a special or conditional use;
2. Decreasing the number or average density of dwelling units that may be constructed on the site;
3. Increasing minimum lot size or lot width;
4. Increasing minimum setback requirements in any yard;
5. Restrictions on access to abutting properties and streets, including specific design features; and
6. Any other development standards required or authorized by these regulations.

- B. Method of Adoption. Modifications and restrictions imposed through this district are considered part of this zoning text and accompanying map. All property included in the district shall be identified on the Official Zoning Maps by adding the letters "P-O" and a number to the base zoning district symbol. The number shall be assigned when the application is filed and numbers shall run consecutively beginning with number 1. The effectuating ordinance for zoning or rezoning property to the P-O district shall specifically state the modifications or restrictions imposed pursuant to Section 4-107A. Such modifications and restrictions imposed shall be considered part of the text of these regulations and a violation of them shall be a violation of these regulations. The modifications and restrictions shall continue in full force and effect until revised in accordance with the same amendment procedures as for the approval of the original P-O District.
- C. Effect of P-O District Designation. When the P-O District zoning designation is applied in combination with an underlying zoning district, it shall always be considered to result in a more restrictive designation than if the district did not have the P-O classification. In the event that the P-O designation was not originally requested as part of the rezoning application, but is added instead during the public hearing process, renotification and readvertisement of the requested zoning amendment shall not be required.

108 **PUD Planned Unit Development District.** The purpose of the Planned Unit Development District, herein referred to as a PUD District is:

(1) to encourage innovation in residential, commercial and/or industrial development by permitting greater variety and flexibility in type, design and layout of buildings; (2) to encourage a more efficient use of land reflecting changes in the technology of land development; (3) to encourage development which incorporates the best features of modern design, while conserving the value of land; and (4) to provide a procedure which relates the type, design and layout of residential, commercial and/or industrial development to the particular site and the particular demand for housing at the time of development in a manner consistent with the preservation of property values. The PUD District operates as an overlay zone in conjunction with all of the other districts in that it is necessary for an area to concurrently be zoned for one or more of the other districts in addition to the PUD District designation; however, such other districts may differ in one or more respects when utilized for the PUD District.

A. General Provisions.

1. The Governing Body may by ordinance approve the establishment of a PUD District on any parcel or tract of land which is suitable for and of sufficient size to be planned and developed, or redeveloped, as a unit and in a manner consistent with the intent and purpose of these regulations and with the Comprehensive Plan.
2. A PUD District may be established for a residential development or for a general development. A development shall be deemed to be a residential development when it is limited to dwelling units in detached, attached or clustered, or multiple-storied structures, or any combination thereof; and nonresidential uses of a religious, cultural, recreational and business character that are primarily designed and intended to serve the residents of the residential development. A development shall be deemed to be a general development when it contains major business and/or industrial structures and uses exclusively, or when it blends residential structures or dwelling units in a unified plan with business and/or industrial structures and uses.
3. Any development that is proposing any of the following criteria shall be required to be established by approval of a PUD District:
 - a. To use multiple zoning classifications;
 - b. Land uses or standards that would not otherwise be allowed in an existing zoning district;
 - c. Innovation in a development, but which will preserve property values in the area;

- d. A development of such a large size and/or intensity of land uses that, in the opinion of the Zoning Administrator, the design and processing of such a development would be facilitated by the establishment of a PUD District; or
- e. Any combination of the above;

This does not preclude a developer from applying for a PUD District even though these regulations do not require it.

B. Standards and Criteria for Planned Unit Developments.

1. For all planned developments:

- a. A development plan of the site that is not inconsistent with the standards set out in this section or with such general policies or specific rules and regulations for PUD Districts as may be adopted from time to time by the Planning Commission or the Governing Body and placed on public record in the office of the City Clerk shall *prima facie* be deemed to have qualified for preliminary approval. No such policies, rules or regulations shall be revised or added to which would be applicable to a specific proposal for a PUD District after an application for preliminary approval of a specific PUD plan has been filed. A PUD plan shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, design and location of buildings, the density or intensity of use, the common open space, the public facilities and the development by geographic division of the site:
 - (1) The PUD District will not substantially injure or damage the use, value and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the Comprehensive Plan.
 - (2) The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development and the streets and driveways on the site of the proposed development will be adequate to serve the residents or occupants of the proposed development. Traffic control signals will be provided without expense to the City when it is determined that such signals are required to prevent traffic hazards or congestion in adjacent streets.
 - (3) The PUD District will not impose an undue burden on public services and facilities such as fire and police protection.
 - (4) The entire parcel of land to be occupied by the PUD District shall be held by a single landowner, or if there are two or more landowners, the application for such district

shall be filed jointly by all such landowners; however, the holder of a contract to purchase or other person having an enforceable proprietary interest in such land shall also be deemed a landowner for purposes of these regulations.

- (5) The PUD plan shall contain such proposed covenants, easements and other provisions relating to the bulk, location and density of residential buildings, nonresidential uses and structures, and public facilities as are necessary for the welfare of the PUD District and are not inconsistent with the best interests of the area. Such covenants, easements and other provisions, if part of the PUD plan as finally approved, may be modified, removed or released only with the consent of the Governing Body after a public hearing before and recommendations by the Planning Commission as provided in Section 4-108C. All such covenants shall specifically provide for enforcement by the City in addition to the landowners within the development.
- (6) The Planning Commission may designate divisible geographic units of the entire parcel of land to be developed as a unified plan. In the case of residential PUD plans and general PUD plans which contain residential buildings, the Planning Commission may permit in each unit deviations from the number of dwelling units per acre established for the entire plan; provided that, such deviation shall be adjusted for in other units of the plan so that the number of dwelling units per acre authorized for the entire PUD plan is not affected.
- (7) For all business and industrial uses proposed for development within the plan, the standards and extent of uses shall not exceed the least restrictive requirements for the specific use as provided for in the business and industrial districts of these zoning regulations unless they meet the provisions of Sections 4-108B1a(12) and 4-108C9.
- (8) The location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a PUD plan not used for structures, parking and loading areas, or access ways, shall be landscaped or otherwise improved.
- (9) When business or industrial structures or uses in a PUD District abut a residential district or residential buildings in the same development, screening shall be provided. In no event shall a business or industrial structure in a PUD District be located nearer than 100 feet to a residential building.

- (10) Notwithstanding any of the other provisions of these regulations, when a shopping center is developed as a PUD District, such shopping center shall have 300 square feet of space devoted to off-street parking for each 100 square feet of floor area in the structures located in the planned shopping center development. Such off-street parking facilities shall otherwise comply with the provisions of Section 5-100A of these regulations.
- (11) The specifications for the width and surfacing of streets, alleys, ways for public utilities, for curbs, gutters, sidewalks, public parks and playgrounds, school grounds, reserves, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment adopted in the City Subdivision Regulations as amended from time to time, may, within the limits hereinafter specified, be waived or modified by the Planning Commission where the Commission finds that such specifications are not required in the interests of the residents or occupants of the planned development and that the waiver or modification of such specifications for PUD plans would not be inconsistent with the interests of the City. The Commission shall require guarantees for required public improvements and the filing of comparable engineering and survey data on final development plans.
- (12) Any modifications of the zoning or other regulations that would otherwise be applicable to the site shall be warranted by the design of the PUD plan, and the amenities incorporated in it, and shall not be inconsistent with the interest of the public generally.

2. Standards for Residential Planned Developments and General Planned Developments Containing Residential Buildings:

- a. Any PUD plan that does not propose to increase the number of dwelling units per acre that would otherwise be permitted on the property under the maximum zoning regulations otherwise applicable thereto in the districts which permit residences shall be *prima facie* qualified for preliminary approval insofar as residential density is concerned. A PUD plan may provide for a greater number of dwelling units per acre than would be permitted by these district regulations otherwise applicable to the site, but if the number of dwelling units per acre exceeds by more than 10% of that permitted by the zoning regulations otherwise applicable to the site, the developer has the burden to show that such excess will not have an undue and adverse impact on existing public facilities and on the reasonable enjoyment of neighboring property. The Planning Commission, in determining the

reasonableness of a proposed increase in the number of dwelling units per acre, shall recognize that increased density may be compensated for by additional private amenities and by increased efficiency in public services to be achieved by: (1) the amount, location and proposed use of common open spaces; and (2) the location, design and type of dwelling units. The Planning Commission shall also consider that the physical characteristics of the site may make increased densities appropriate in the particular location. In addition to establishing a maximum density, the plan shall specify either the minimum number of dwelling units and commercial or industrial uses or the minimum acreage allowances for each specific PUD District.

- b. When common open space is provided in a PUD plan, the amount and location of such common open space shall be consistent with the declared type of development as described in Section 4-108A2 for a PUD District. The PUD plan shall include such provisions for the ownership and maintenance of the common open space as are reasonably necessary to ensure its continuity, care, conservation and maintenance, and to ensure that remedial measures will be available to the City if the common open space is permitted to deteriorate or is not maintained in a condition consistent with the best interest of the PUD plan or of the City. If the City finds it necessary to carry out the obligations required to maintain the open space in order to avoid having it become a public nuisance, the costs shall be assessed against the properties within the development and shall become a tax lien on said properties.
- c. When a PUD plan includes common open space, such common open space shall never be used for the construction of any structure, nor shall such open space ever be computed as a part of the required minimum lot area, or any required yard, of any other structure. Adequate safeguards, including recorded covenants, shall be provided to prevent subsequent development of, and the future construction of structures on, such open space.
- d. The total ground area occupied by buildings and structures shall not exceed 35% of the total ground area of the PUD plan unless previous development in the neighborhood has a greater lot coverage, in which case the PUD plan may increase the lot coverage of buildings and structures to correspond with the bulk of the other structures in the neighborhood.
- e. Nonresidential uses of a religious, educational or recreational nature shall be designed or intended primarily for the use of the residents of the PUD plan.

C. Preliminary PUD Plan Contents. An application to establish a PUD District shall be processed in the same manner prescribed for amending these Zoning Regulations. The same requirements for notice to property owners, advertisement of public hearing, protest petitions, and adoption by the Governing Body shall be required as in conventional zoning. (See Article 11.) The applicant shall also concurrently prepare and submit a preliminary PUD plan for review and recommendation by the Planning Commission which shall contain the following information and documents:

1. A development plan of the site showing the location, arrangement, bulk, type and use of all existing and proposed structures, the proposed traffic circulation pattern within and surrounding the development, the areas to be developed for parking, the points of ingress and egress, access streets where required, the relationship of abutting land uses and zoning districts, proposed lots and blocks, if any, and proposed public or common open space, if any, including reserves, parks, playgrounds, school sites and recreational facilities.
2. Applicable information as required for a preliminary plat pursuant to provisions in the City Subdivision Regulations.
3. A statement of the anticipated residential density (when applicable), the proposed total gross floor area of nonresidential uses, and the percentage of the development which is to be occupied by structures, i.e., total area of all such zoning lots.
4. Preliminary sketches and/or description of the proposed screening and landscaping features.
5. When a PUD plan is to be constructed in units the phasing of development for each unit in sequence shall be indicated. No such unit shall have a residential density that exceeds by more than 20% the proposed residential density of the entire PUD plan. When a PUD plan provides for common open space, the total area of common open space provided at any stage of development shall, at minimum, bear the same relationship to the total open space to be provided in the entire plan as the units completed or under development bear to the entire plan.
6. Evidence that the applicant has sufficient control over the parcel of land to effectuate the proposed plan, including a statement of all the ownership and beneficial interests in the land and the proposed development.
7. When it deems necessary, the Planning Commission may require a traffic survey setting out and analyzing the effect that the PUD plan will have upon traffic in the streets and thoroughfare adjacent to and in the vicinity of the proposed development.

8. A statement of objectives showing the relationship of the PUD plan to the Comprehensive Plan with respect to land use for various purposes, density of population, direction of growth, location and function of streets and other public facilities, and common open space for recreation or visual benefit or both, and such other factors as the City may find relevant in making a finding whether a PUD plan shall be authorized as being in general conformity to the Comprehensive Plan.
9. In the case of general planned developments, a statement identifying the principal types of business and/or industrial uses that are to be included in the proposed development.
10. When a PUD plan includes provisions for common open space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
11. Copies of any restrictive covenants that are to be recorded with respect to property included in the PUD plan.

D. Action on Preliminary PUD Plan.

1. Hearing, Findings and Recommendation of Planning Commission. The Planning Commission shall, within 60 days after a preliminary PUD plan is filed with it, hold a public hearing on the plan after giving the notice required by Section 11-100D for hearings on amendments. Such public hearing shall consider all aspects of the preliminary PUD plan including all proposed units of development. Within 14 days after the last public hearing on such plan, the Commission shall prepare and transmit to the Governing Body and to the applicant specific findings of fact with respect to the extent to which the preliminary PUD plan complies with the standards set out in Sections 4-108B and C, together with its recommendations to the Governing Body with respect to the action to be taken on the PUD plan. The Commission may recommend approval, disapproval or approval with modifications, conditions or restrictions. Copies of the findings and recommendations of the Planning Commission shall be made available to any other interested persons.
2. Action by the Governing Body. After a 14-day period following the public hearing in which to receive protest petitions as provided by Section 11-103, the Governing Body shall under the adoption procedures of Section 11-104 consider the approval or disapproval of the preliminary PUD plan after it receives the findings and recommendations of the Planning Commission thereon. If the preliminary PUD is disapproved, the applicant shall be furnished with a written statement of the reasons for disapproval of the plan. If the preliminary PUD is to be approved, the Governing Body shall, after

receiving from the applicant any acceptance required by Section 4-108D3, adopt an ordinance approving the preliminary PUD plan, and establishing a PUD District for the parcel of land included in the preliminary PUD plan.

3. **Restrictions and Conditions.** The Governing Body may alter the preliminary PUD plan according to the procedures of Section 11-104 (2) or (3) and impose such conditions and restrictions on the PUD plan as it may deem necessary to ensure that the development will be in harmony with the general purpose and intent of these regulations and with the Comprehensive Plan. When the Governing Body alters the preliminary PUD plan, the applicant shall have 30 days within which to file an acceptance of such alterations, conditions or restrictions.
4. **Form of Ordinance.** An ordinance establishing a PUD District and approving a PUD plan shall specify the Zoning Regulations and restrictions that will, pursuant to the PUD plan, apply in the PUD District and shall describe the boundaries of such district or set such boundaries out on a map that is incorporated and published as a part of such ordinance. Such ordinance shall also specify the conditions and restrictions that have been imposed by the Governing Body on the PUD plan, and the extent to which the otherwise applicable district regulations have been modified.

E. Status of Preliminary PUD Plan After Approval.

1. Within 15 days after the adoption of an ordinance establishing a PUD District and approving a preliminary PUD plan, a copy of such ordinance shall be filed by the City Clerk with the Zoning Administrator and a similar copy mailed to the applicant. When approval of such a preliminary plan has been granted, the establishment of the PUD District by name shall be noted on the Official Zoning Maps.
2. After being notified of the approval of a preliminary PUD plan by the Governing Body, the applicant shall within 15 days file with the County Register of Deeds a statement that such a plan has been filed with the City and has been approved and is applicable to certain specified legally described land and that copies of said plan are on file in the office of the Zoning Administrator. Such statement recorded with the Register of Deeds shall also specify the nature of the plan, the proposed density or intensity of land uses and other pertinent information sufficient to notify any prospective purchasers or users of land of the existence of such a plan. The recorded statement shall specify that the preliminary PUD plan shall become binding upon all successors and assigns unless amended in conformance with these regulations.

3. Preliminary approval of a PUD plan shall not qualify such a plan for recording. A PUD plan which has been given preliminary approval as submitted or which has been given preliminary approval with alterations, conditions and restrictions, which have been accepted by the applicant (and provided that the applicant has not defaulted nor violated any of the conditions of the preliminary approval), shall not be modified or revoked nor otherwise impaired by action of the City pending an application or applications for approval of a final PUD plan without the consent of the applicant; provided that, an application for a final PUD plan approval is filed within one year of the date of approval of the preliminary PUD plan, or in the case of unit developments, that a final plan of at least one unit shall be filed within one year from the date of approval of such preliminary plan and final plans of all such units shall be filed within five years from the date that such preliminary plan was approved. The Planning Commission on application of the applicant, may from time to time, recommend extensions of time to the Governing Body for their decision within which an applicant may submit such final PUD plans. Each such extension shall not be for more than one year.
4. In the event that a PUD plan is given preliminary approval and thereafter, but prior to approval of a final PUD plan, the applicant shall: (1) choose to abandon said plan and shall so notify the Planning Commission in writing; or (2) shall fail to timely file an application, or applications, for approval of a final plan, it shall be deemed to be revoked. When a preliminary plan is revoked, all that portion of the preliminary plan for which final approval has not been given shall be subject to those provisions of the Zoning Regulations and other local ordinances that were applicable thereto immediately prior to the approval of the preliminary plan and as they may have been amended from time to time. The Governing Body shall forthwith adopt an ordinance repealing the PUD District and the preliminary PUD plan for that portion of the development that has not received final PUD plan approval and reestablishing the zoning and other regulatory provisions that would otherwise be applicable. When a PUD District is revoked, such revocation shall be noted on the Official Zoning Maps.

F. Final PUD Plan Contents and Approval.

1. An application for approval of a final PUD plan may be filed for all the land included in a planned development or for a unit thereof. Such application shall be filed by the applicant with the Zoning Administrator within the specified time in Section 4-108E3, and shall be in substantial compliance with the preliminary PUD plan as approved. The application shall include:
 - a. A development plan of the site showing the physical layout and design of all streets, easements, rights of way, reserves, lots, blocks and common open space including statements, where applicable, on the residential densities, the types and uses of

structures, the maximum gross floor area, the percentage of the development by total area of such zoning lots to be occupied by structures, the height of structures, the height and size of signs, the building setback lines, and the boundary of units within which the phasing of construction would be scheduled.

- b. Applicable information and certificates as required for a final plat pursuant to the provisions in the City Subdivision Regulations including such waivers and modifications as may have been agreed to in the preliminary PUD plan.
- c. Plans for landscaping and screening.
- d. A statement of dedication for easements or right of ways and a copy of any restrictive covenants.
- e. Proof of the establishment and activation of any entity that is to be responsible for the management and maintenance of any common open space.
- f. No lots, parcel or dwelling unit in such development shall be conveyed or leased prior to the recording of the final PUD plan.
- g. Such guarantees and agreements that are required by the provisions and procedures of the City Subdivision Regulations regarding final plats.

2. A PUD plan submitted for final approval shall be deemed to be in substantial compliance with the preliminary PUD plan, as approved; provided that, any modification by the developer of the preliminary plan, as approved, does not: (1) vary the proposed gross residential density or intensity of use by more than 5%; or (2) involve a reduction of the area set aside for common open space; or (3) increase by more than 10% the gross floor area proposed for nonresidential use; or (4) increase by more than 5% the total area of zoning lots used for buildings or a substantial change in their height. A public hearing shall not be held to consider modifications in the location and design of streets or facilities for water and for disposal of sanitary sewerage and storm water.
3. Although a public hearing shall not be required on an application for approval of a final PUD plan to determine if it is in substantial compliance with the preliminary PUD plan, as approved, the Planning Commission may receive public input related to the final plan if deemed desirable. The burden shall be upon the applicant to show the Planning Commission good cause for any variation between the preliminary plan, as approved, and the final plan as submitted. When the application for final approval has been filed, together with all drawings, specifications and other documents required in support thereof, the Commission shall make a recommendation on such final plan; provided, however, that in the event the final plan as submitted contains variations from the

preliminary plan as approved, but remains in substantial compliance with the preliminary plan, as approved, the Commission may, after a meeting with the applicant, refuse to recommend approval of the final plan and shall so advise the applicant in writing of such refusal, setting out the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the applicant may refile his application for final approval without the variations objected to by the Commission at any time within which he shall be entitled to apply for final approval. If the time for applying for final approval shall have expired at the time when the Commission advised the applicant that the variations were not in the public interest, then the applicant shall have 60 additional days within which to refile an application for final approval without the said variation. If the applicant shall fail to refile within said period, he or she shall be deemed to have refused to accept such requirements and final approval shall be deemed to have not been approved.

4. In the event the final PUD plan, as submitted for approval, is not in substantial compliance with the preliminary PUD plan as approved, the Planning Commission shall so notify the applicant in writing, setting out the particular ways in which the final plan is not in substantial compliance with the preliminary plan as approved. The applicant may make such changes in the final plan as are necessary to bring it into compliance with the preliminary plan as provided for variations in Section 4-108F3, or may file an application for an amended PUD District and/or a preliminary PUD plan in order to bring the proposed final plan into substantial compliance with such an amended District or plan. The time limit within which to file such amendments shall be the same as for a variation in Section 4-108F3. Such public hearing shall be held, notice thereof shall be given, and the hearing shall be conducted in the manner prescribed in Sections 4-108D and E of these regulations including the provisions for protest petitions, Governing Body approval and filing a revised statement of the plan with the County Register of Deeds. In the event the applicant shall fail to take either of these alternate actions within said time, the applicant shall be deemed to have abandoned the plan.
5. After a final PUD plan, or any unit thereof, has been submitted for consideration by either the procedures prescribed in Sections 4-108F3 or 4, the plan shall be considered for final approval by the Governing Body within 30 days. A final PUD plan, or any part thereof, which has been given final approval by the Governing Body, shall be filed of record with the County Register of Deeds within 60 days following the satisfying of all conditions precedent and conditioned upon such approval as well as signatures for all certificates required for a final plat before recording. A copy of the recorded final plan shall also be filed with the Zoning Administrator before any building and/or zoning permits are issued or development takes place in accordance therewith. In the event the Governing Body fails to act, either by approval or by disapproval within the time prescribed, the final plan shall be deemed to be approved.

Pending completion within a reasonable time of said PUD, or of any unit thereof, that has been finally approved, no modification of the provisions of said plan, or unit thereof, as finally approved, shall be made except with the consent of the applicant.

6. In the event that a final PUD plan or unit thereof is given final approval and thereafter the applicant shall abandon said plan or the unit thereof and shall so notify the City in writing, or in the event the applicant shall fail to commence the plan within 18 months after final approval, it shall terminate and shall be deemed null and void unless such time period is extended by the Governing Body upon written application by the applicant.
- G. Enforcement and Modification. To further the mutual interest of the residents and owners of the final PUD plan and of the public in the preservation of the integrity of the plan, as finally approved and to ensure that modifications, if any, in the plan shall not impair the reasonable reliance of the residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:
 1. Enforcement by the City. The provisions of the final plan relating to:
 - a. The use of land and the use, bulk (height, yards and maximum coverage) and location of buildings and structures;
 - b. The quality and location of common open space; and
 - c. The intensity of use or the density of residential units shall run in favor of the City and shall be enforceable in law or in equity by the City without limitation on any powers or regulation otherwise granted the City by law.
 2. Enforcement by the residents and owners. All provisions of the final plan shall run in favor of the residents and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan and to that extent such provisions, whether recorded by plan, covenant, easement or otherwise, may be enforced at law or equity by residents and owners, acting individually, jointly, or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the development except as to those portions of the plan which have been finally approved and have been recorded.
 3. Modification of the final plan by the City. All those provisions of the plan authorized to be enforced by the City under Section 4-108G1 may be modified, removed or released by the City (except grants or easements relating to the service or equipment of a public utility unless

expressly consented to by the public utility), subject to the following conditions:

- a. No such modification, removal or release of the provisions of the plan by the City shall affect the rights of the residents and owners of the planned development to maintain and enforce those provisions, at law or equity, as provided in Section 4-108G2.
- b. No modification, removal or release of the provisions of the plan by the City shall be permitted except upon a finding by the City, following notice of a public hearing called and held in accordance with the provisions of these regulations, that (1) the same is consistent with the efficient development and preservation of the entire final PUD plan; (2) does not adversely affect either the enjoyment of land abutting upon or across a street from the plan or the public interest; and (3) is not granted solely to confer a special benefit upon any person.

4. Modification by the residents and owners. Residents and owners of the planned development may, to the extent and in the manner expressly authorized by the provision of the plan, modify, remove or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the City to enforce the provisions of the plan in accordance with the provisions of Section 4-108G1. If it is determined by the Zoning Administrator that such modifications would result in changes to the PUD District and/or the preliminary PUD plan, then application must be made for such amendment or amendments to be considered for re-approval of the district or plan in the same manner as the original. If it is determined that modifications resulting in changes to the final PUD plan are necessary and cannot be satisfied under Sections 4-108F2, 3, 4 and 5, then application must be made for such amendment or amendments to the original PUD District or preliminary PUD plan as may be necessary to consider such amendment(s).

109 **C-O College Overlay District.** This district may be applied as an overlay district in combination with the underlying residential districts, i.e. the R-1 Single-Family and the R-2 Multiple-Family Residential district. More specifically, the C-O District is intended to accommodate the development of a college as an institution of higher education. This may be accomplished by serving both as a permitted use for the main campus owned or leased by the college as well as being applied on adjacent residentially zoned properties as individual special uses. By delineating the boundary of the district on the latter residential area, such area is recognized as a logical and desirable direction for the expansion of the college itself and its many potential related activities.

A. **Permitted and Conditional Uses.** When the C-O District is applied as an overlay district, the following uses shall be permitted by-right in addition to all the permitted and conditional uses in any underlaying residential district:

Colleges including their buildings owned or leased as principal and accessory structures for administrative and faculty offices; classrooms; laboratories; chapels; auditoriums; lecture halls; libraries; student, faculty, and alumni centers; athletic facilities; maintenance buildings and dormitories, group residences, and day care facilities for student and faculty housing. Permitted outside activities shall include marching, drilling, band, athletics, campus celebrations and displays, graduations, scientific research, music and drama presentations, off-street parking, and similar functions.

B. **Special Uses.** When the C-O District is applied as an overlay district, the special uses allowed within the underlying residential district shall be special uses within the C-O overlay as well. In addition, the following uses related to the college activities shall also be designated as special uses in the C-O College Overlay District:

1. Offices, meeting rooms, laboratories, and other facilities for educational, fraternal, professional, religious, service, and research organizations and institutions having a demonstrated relationship to the college.
2. Libraries, art galleries, museums, and other nonprofit cultural groups.

Such special uses shall be expected to be accompanied by the parking space requirements of Article 5, the accessory uses allowed by Article 6, and the Signs of Article 7.

C. **Property Development Standards.** Each zoning lot developed under the C-O District provisions shall adhere to the Bulk Regulations, Lot Size Requirements, and Use Limitations of the underlying residential district, unless modified by processing the proposed new development as a special use case. Such cases shall be processed in the same manner as a zoning amendment in Article II, except not delineated on the Official Zoning Map.

ARTICLE 11. AMENDMENTS

100 General Provisions for Amendments and Special Uses. These regulations and the districts created under the authority of these regulations may be amended from time to time by the Planning Commission following a public hearing and the approval by the Governing Body. No such amendment shall be adopted except in accordance with the procedures of this Article 11. Special use applications are not amendments, but are processed for the hearing in the same manner. (See Section 11-101 for special uses.)

- A. **Proposal.** Amendments or special uses may be proposed: (1) by the Governing Body, (2) by the Planning Commission or (3) upon application by, or on behalf of the owner of the property affected, but only in accordance with the procedure set forth in Section 11-100B. When the Governing Body proposes an amendment or special use, it shall transmit its proposal to the Planning Commission for a public hearing and recommendation thereon. (See Section 11-100D3 for special notice of hearing procedure for Governing Body and Planning Commission applications.)
- B. **Application.** When the owner of the property affected proposes an amendment to any of these regulations or to any zoning district created thereby or applies for a special use, an application shall (1) be filed with the Zoning Administrator who refers it to the Planning Commission for a hearing, (2) be in such form and contain such information as shall be prescribed from time to time by the Commission, and (3) in all instances contain the following information:
 1. The applicant's name, address and telephone number;
 2. The precise wording of any proposed amendment to the text of these regulations or the exact description of the special use requested.
 3. In the event that the proposed amendment would change the zoning district classification or add a special use to any specific property:
 - a. The name, address and telephone number of the owner of the property and, if any, the agent representing the owner;
 - b. The legal description of the property and a general description such as a street address sufficient to identify the property;
 - c. The present and proposed zoning district classifications and existing uses of the property and structures thereon;
 - d. The dimensions of the property and the zoning lot area stated in square feet or acres or fractions thereof; and

- e. For land inside the city limits, an ownership list of the names, addresses and zip codes of the owners of record of real property located within 200 feet of the exterior boundary of the area described in the application both within the city limits and extending outside the city limits when necessary.
- f. If such area is located adjacent to but within the city limits, the ownership list, in addition to the 200 feet inside the city limits, shall provide similar information extending to 1,000 feet into the unincorporated area. If such area is located outside the city limits, the ownership list shall extend for 1,000 feet in the unincorporated area and, if the latter extends into the city limits, then such owners for 200 feet inside the city must also be included on the list.

C. Public Hearing. The Planning Commission shall hold a public hearing on each proposed amendment that is filed with, referred to, or initiated by the Commission. The Commission shall select a reasonable time and place for such public hearing, and it shall hold such hearing within 45 days from the date on which the proposed amendment is received or initiated. An applicant for an amendment may waive the requirement that such hearing be held within 45 days.

D. Notice of Hearing. One of the following three procedures shall be selected to provide proper notice for a public hearing for any zoning amendment application:

1. Public notice of a hearing by the Planning Commission on a proposed amendment shall be published once in the official newspaper by the Zoning Administrator. At least **20 days shall elapse** between the date of such publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed changes in regulations or the zoning classification or zoning district boundaries of any property. If the proposed amendment would change the zoning classification of any specific property or the boundaries of any zoning district, such notice shall contain the legal description or a general description sufficient to identify the property under consideration. If a general description is used, the notice shall include a statement that a complete legal description is available for public inspection and where such description is available.

In addition to such publication notice, the Zoning Administrator shall mail a written notice of the hearing containing information similar to the published notice thereof to the applicant and to the owners of record of all real property within the area to be altered or changed and to all owners of record of real property located within 200 feet of the exterior boundary of the area described in the amendment application both within the city limits and extending outside the city limits when necessary. If such area is located adjacent to but within the city limits, the area of notification shall, in addition to the 200 feet inside the city limits, be extended to 1,000 feet in the unincorporated area. If such area is located outside the city limits, the area of notification shall extend for 1,000 feet and, if such notification extends into the city limits, then 200 feet inside the city limits must also be included. The notice to adjacent property owners including the applicant shall be mailed so that **20 days shall elapse** between the mailing date and the hearing date. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Commission or the Governing Body.

2. Whenever five or more owners of record of real property owning 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification, such amendment shall require notice by publication only and hearing in like manner as required by Section 11-100C. Such zoning amendment **shall not** require written notice and **shall not** be subject to the protest petition provision of Section 11-103.
3. Whenever the Governing Body or the Planning Commission initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record of real property, such amendment shall require notice by publication and hearing in like manner as that required by Section 11-100C. In addition, written notice **shall be** required to be mailed to **only** owners of record of real properties to be rezoned and **only** such owners shall be eligible to initiate a protest petition under Section 11-103.

The Commission may give additional notice to other persons as it may from time to time provide by its rules. Such rules may include requirements for additional notice to be provided for by the posting of signs on the property to be considered in the amendment application.

E. Conduct of Hearing.

1. All hearings that these regulations require the Planning Commission to conduct for amendments to changes or revisions in the regulations or the zoning classifications or in district boundaries shall be open public meetings according to K.S.A. 75-4317 *et seq.*, the Open Meetings Act. Legislative hearings are required by the Commission's Bylaws for changes or revisions in the regulations of the Zoning Regulations. When a proposed amendment will affect the zoning classification or district boundary of specific property; however, the Commission acts in a quasi-judicial capacity for the hearing and may upon proper motion proceed to deliberate in closed session according to K.S.A. 75-4318(a). No binding action can be taken in such a session and all voting must be conducted in an open meeting.
2. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney.
3. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Commission may from time to time prescribe by rule or bylaws which are not in conflict with these regulations or applicable state statutes.
4. The Commission shall keep minutes of the proceedings showing evidence presented at hearings, findings of fact by the Commission, motions made and the vote of each member upon any question or recommendation. If a member is absent, abstains or disqualified, such fact shall be indicated.
5. The Commission may request a report on any proposed amendment from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested person prior to or at the public hearing.
6. The Commission may make recommendations on proposed amendments to specific properties which affect only a portion of the land described in the hearing notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. A recommendation for a zoning classification of lesser change than that set forth in the notice shall not be valid, however, without republication and, where necessary, re-mailing of notices, unless the Commission shall have previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications. (See Appendix page A-1 for Table of Comparability for Zoning Districts.)

7. For action on zoning amendments, a quorum of the Commission must be more than one-half of the membership as established by ordinance. A majority vote of the members of the Commission present at the hearing shall be required to recommend approval or disapproval of the amendment to the Governing Body. If the Commission fails to make a recommendation on a rezoning request, the Commission shall be deemed to have made a recommendation of disapproval.
8. A hearing may be adjourned from time to time upon a motion to continue in the future at some stated date, time and place. At the conclusion of a hearing, the Commission shall prepare its findings and the factors on which to base its recommendation and vote.
9. If a meeting is called or a hearing is on the agenda and no quorum is present, the members in attendance may agree to hold the hearing at another meeting in the future at a stated date, time and place or at the next regular meeting for which, when announced at the present scheduled meeting, no further public notice need be given to continue the hearing.

F. Report by Planning Commission. Within 14 days after the close of the public portion of the hearing and voting on a proposed amendment or special use, the Planning Commission shall submit a report to the Governing Body. A copy of this report shall also be filed with the Clerk and the Zoning Administrator and such copies shall be kept available for public inspection. A copy of the report shall also be mailed to the applicant. Such report shall contain a recommendation as to whether the proposed amendment or special use should be approved or disapproved and specific written determinations on the items listed in Sections 11-100G or 11-100H and on such other items as the Commission may consider relevant. The report submitted to the Governing Body shall be accompanied by a summary of the hearing as required by K.S.A. 12-756(b). In lieu of a report, the above information may be contained in the minutes of the meeting and submitted to the Governing Body.

G. Amendments to Text. When a proposed amendment by the Governing Body or Planning Commission would result in a change or revision in the text of these regulations, but would not result in a change of zoning classification of any specific property, a legislative hearing shall be held by the Commission and the report or minutes shall contain a statement as to the nature and effect of such proposed amendment.

H. Review Criteria for Amendments or Special Uses. When a proposed rezoning amendment or special use would result in a zoning change for any specific property, the report of the Planning Commission accompanied by a summary of the hearing shall contain statements as to (1) the present and proposed district classifications or description of the special use, (2) the applicant's reasons for requesting such reclassification or special use, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following criteria as guidelines: *

1. What is the character of the subject property and the surrounding neighborhood in relation to existing uses and their condition?
2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the request?
3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?
4. Would the request correct an error in the application of these regulations?
5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?
7. Would the subject property need to be platted or replatted or in lieu of dedications made for rights-of-way, easements, and access control or building setback lines?
8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?
10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?
11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?

* NOTE: All the factors stated in the decision of Golden v. City of Overland Park, 224 Kan. 591, 584 P.2d 130 (1978) are included in this list. In using these factors as guidelines, modifications may be made in the criteria to more specifically relate them to the particular zoning change in classification or special use.

12. To what extent would the removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?
13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?
14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?
15. What is the nature of the support or opposition to the request?
16. Is there any information or are there recommendations on this request available from professional persons or persons with related expertise which would be helpful in its evaluation?
17. By comparison, does the relative gain to the public health, safety or general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?

Of those factors considered as relevant to the requested change in zoning district classification or boundary or special use, not all factors need to be given equal consideration by the Commission in deciding upon its recommendation.

101 Special Uses. Because of particular factors associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are allowed as "special uses" when their proposed location is supplemented by additional conditions such as to make the use considered compatible with the surrounding property, the neighborhood and the zoning district.

In granting a special use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met, unless otherwise reduced by a specific reference in these regulations. The requirements may be made more stringent if there is a potentially injurious effect which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public. Such additional conditions may include, but are not limited to, requirements affecting the lot size or yard dimensions; changing street width; the extent and location of entrance or exit drives; controlling the size, location and number of signs; the period and time of operation; lot coverage and height of buildings; screening, fencing and/or landscaping to protect the surrounding property; establishing environmental standards for air and water pollution, noise, vibration, lighting and other such conditions; protection from flooding; and additional improvements such as street construction, sidewalks, utilities and storm drainage, if necessary, including platting and/or dedications. Such conditions may be placed upon the property which is the subject of the special use application or upon the applicant or both.

Although the Official Zoning Map is not amended, the procedure for approval of a special use shall otherwise be the same as for an amendment to change a zoning district classification or boundary which is set forth in Section 11-100 of this Article including the provisions for filing protest petitions in Section 11-103; provided, that any conditions which are further imposed upon the special use shall be made a part of the effectuating ordinance. Applications for a special use shall be accompanied by a plot plan of the proposed development. Concurrent applications may be processed for changing zoning district classifications as amendments and approving special uses on the same property wherein joint notices are advertised and mailed and hearing held; however, separate motions, review criteria and effectuating ordinances are necessary.

Failure to comply with any of the conditions for a special use which are later attached to a zoning permit shall constitute a violation of these regulations. Upon a finding by the Zoning Administrator of such a violation, the zoning permit may be declared null and void. If an applicant desires to make a change in a condition at a later date it is necessary to apply for a rehearing and a decision be made in the same manner as the original special use; however, only the requested condition is to be reconsidered at the hearing.

No special use approval by the Governing Body shall be valid for a period longer than one year from the publication date of the effectuating ordinance unless (1) another time period is designated as a condition attached to the special use; (2) an application is filed and a zoning permit is approved during the period of validity. In such instance the special use shall be valid for the period of validity of the zoning permit. The Governing Body may authorize extensions of the validity period without notice or public hearing for more than one year upon a written request received within a valid period. Upon expiration of any validity period, the effectuating ordinance automatically becomes null and void unless an extension has been granted or a zoning permit has been obtained.

102 **Project Review.** In the event that certain public improvements, facilities or utilities of a type embraced within the recommendations of the Comprehensive Plan are classified as special uses or are the subject of a change in zoning district classification or boundary, the consideration of such uses by the Planning Commission in conjunction with a zoning application may also constitute their project review of such proposed use if concurrently processed under procedures required by K.S.A. 12-748, as amended; provided, that a statement of findings is included in the Commission's approval or disapproval as to whether such proposed use is or is not in conformance with the Comprehensive Plan. In case the Commission finds that the proposed use is not in conformance to the Plan and states in writing the manner in which it is not in conformance, then the Governing Body shall not proceed with construction of such a proposed use unless the Governing Body by a majority vote overrides the disapproval of the Commission and the Plan shall be deemed to have been amended and the Commission shall make the necessary changes in the Plan to reflect the vote of the Governing Body.

103 **Filing of Protest.** Whether or not the Planning Commission approves or disapproves a zoning change, if a written protest against a proposed amendment for a specific property or a special use shall be filed in the office of the Clerk within 14 days after the date of the conclusion of the hearing by the Commission which is signed and acknowledged and an accurate legal description of their property provided by the owners of record of 20% or more of any real property proposed to be altered or changed, excluding streets or public ways, or by the owners of record of 20% or more of the real property within the total area required in the official area of notification by Section 11-100D, excluding streets and public ways and specific statutorily excluded property as described below, then the effectuating ordinance shall not be passed except by at least a 3/4 vote of all the members of the Governing Body. (See Sections 11-100D2 and D3 for protest petition exceptions for rezoning from a lesser restrictive to a more restrictive zoning classification.)

Property statutorily excluded by K.S.A. 12-757(f) from determining the sufficiency of a protest petition when calculating the total real property within the notification area is that which was (1) requested by the owner of the specific property for rezoning or a special use; or (2) the owner of the specific property requested for rezoning or a special use who does not oppose in writing such rezoning or special use. (See Sections 11-100 D2 and D3 for protest petition exceptions for rezoning from a lesser restrictive to a more restrictive zoning classification.)

104 **Adoption of Amendments or Special Uses by the Governing Body.** When the Planning Commission in its report submits a recommendation of approval or disapproval of a proposed amendment or special use including the basis therefore, the Governing Body may: (1) Adopt such recommendation by an effectuating ordinance; (2) override the Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or (3) return such recommendation to the Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Commission's recommendation, the Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new or amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the effectuating ordinance or it need take no further action thereon. If the Commission fails to deliver its recommendation to the Governing Body following the Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Commission as a resubmission of the original recommendation and proceed accordingly.

In considering its decision under each of the above set of circumstances, the Governing Body shall take into account the guidelines in Section 11-100H which are relevant to the proposed amendment or special use and, having reviewed the Commission's findings of fact and the factors upon which their recommendation is based, the Governing Body either adopts the Commission's findings and factors by reference or records their own findings of fact and the factors upon which their decision is based.

The proposed amendment or special use shall become effective upon publication of their respective adopting ordinance. If such an amendment affects the classification or boundaries of any zoning district, the respective ordinance shall legally describe the classification or boundaries as amended, shall order the Official Zoning Map to be changed to reflect such amendment, and shall reincorporate such map as amended.

105 **Annual Review.** In order to maintain these regulations including the Official Zoning Map(s), the Planning Commission shall annually hold a public review at their first regular meeting in February to consider amendments, if any, to these regulations. Preceding such a review, the Governing Body and other affected governmental agencies and interested parties should be notified of the intent to review and their ideas requested. In preparation for such a review, the Zoning Administrator shall maintain a master copy of the current zoning regulations on which are recorded comments and ideas brought to the attention of the Administrator during the preceding year in order to maintain the intent and purpose of these regulations under changing conditions and to implement the Comprehensive Plan. Information on any relevant changes in state statutes shall be compiled for the review.

106 **Judicial Review.** As provided by K.S.A. 12-760, as amended, any ordinance, regulation, amendment, special use or other zoning decision provided for or authorized by these regulations shall be reasonable and any person aggrieved thereby may have the reasonableness of any decision determined by bringing an action against the City within 30 days after a final decision is made by the City. In the event that an amendment to these regulations or a special use is approved by the Governing Body, the 30-day period commences when the effectuating ordinance is published. Such action shall be brought in the County District Court.

According to K.S.A. 12-757(a), if a proposed amendment is not a general revision of the existing regulations and affects specific property, such an amendment shall be presumed to be reasonable if it is in accordance with the land use plan or the land use element of the comprehensive plan.

Agenda Item D.2

**City of Sterling
Planning Commission Meeting
July 24, 2025**

TO: Planning Commission
SUBJECT: Approve site plan for 906 N. Broadway Avenue, Hood Construction office expansion.
INITIATED BY: Zoning Administrator
PREPARED BY: Zoning Administrator
AGENDA: Business of the Special Meeting

Background: Hood Construction is a construction company with primary offices located at 906 N. Broadway Avenue. On March 1, 2023, a zoning amendment to rezone the area generally described as 908 N. Broadway Avenue, which included the property located at 906 N. Broadway Avenue, from the R-1 Single Family Residential to the B-1 General Business District was approved. Hood is planning to expand their current facility located at 906 N. Broadway Avenue and construct four additional offices and a showroom.

The purpose and intent of requiring site plan approval is to encourage the compatible arrangement of buildings, off-street parking and loading, lighting, signage, landscaping, ingress and egress and drainage on 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. All principal land uses except single-family dwellings and duplexes, with some exceptions, require a site plan approved by the Planning Commission before a building permit may be issued.

A special use application for Hood's office expansion will be considered immediately prior to this agenda item.

Analysis: On July 21, a site plan review application under case number SP-2025-001, included in Exhibit A, was submitted to the Zoning Administrator by Hood Construction for an office expansion for Hood's existing office located at 906 N. Broadway Avenue. A layout, drawing, and site plan of the expanded building are included in Exhibit B.

Section 3-105 of the Zoning Regulations, included in Exhibit C, outlines the purpose of requiring site plan approval, the requirements for a site plan, and the conditions that must be met for approval. Sections of particular note are:

- Section 3-105(F) outlines the requirements for the information submitted for a site plan review application.
- Section 3-105(G) lists the conditions that must be met for a site plan to be approved.

Once a site plan has been approved by the Planning Commission, only minor revisions may be made, at the discretion of the Zoning Administrator.

Financial: None.

Legal Considerations: None.

Recommendations/Actions: It is recommended the Planning Commission: Approve site plan for 906 N. Broadway Avenue, Hood Construction office expansion (**VOICE**).

Attachments:

Exhibit A – Application for site plan review case number SP-2025-001 (3 pages)

Exhibit B - 906 N. Broadway Avenue, Hood Construction office expansion layout, drawing, and site plan (3 pages)

Exhibit C – Zoning Regulations, Section 3-105. Site Plan Approval (5 pages)

APPLICATION FOR SITE PLAN REVIEW

This is an application for a Site Plan review. The form must be completed and filed with the Zoning Administrator at:

*Sterling City Hall
114 N. Broadway
Sterling, KS 67579*

or FAX: (620) 278-2866

AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.

1. List name(s) of Applicant(s) and/or his/her agent(s).

Name of Applicant: Josh Hood

Address: 218 W Monroe Ave, Sterling, KS

Phone: 620.204.8808 Email: hoodjosh25@gmail.com

Name of Agent, if any: Stephen Wilson

Address: 906 N Broadway Ave., Sterling, KS

Phone: 620.204.9798 Email: stephen.hoodconstruction@gmail.com

Name of Applicant: Emily Hood

Address: 218 W Monroe Ave, Sterling, KS

Phone: 620.204.0952 Email: hoodemily15@gmail.com

Name of Agent, if any: Stephen Wilson

Address: _____

Phone: _____ Email: _____

Use a separate sheet, if necessary, for names of additional Applicants.

2. The Applicant hereby requests a review of a Site Plan titled Office Addition which is proposed in the B-1 District under the City Zoning Regulations.

3. The property is legally described as Lot(s) _____ of Block(s) _____ in the _____ (Addition) (Subdivision). (If appropriate, additional lots/blocks/subdivision descriptions, or metes and bounds descriptions, may be provided in the space below or on an attached sheet.)

516, 721, R08, BEG NECOR NW 4 SE 4; TH 53 10';
W 1319', N 370', E 1319' TO POB

4. Dimensions of the zoning lot are 280 feet in depth by 370 feet in width, and _____ acres (round to the nearest tenth) or 103,600 square feet in area.

5. Describe the general location of the property. (Use appropriate section.)

- The address is 906 N Broadway Ave, Sterling, KS.
- At the _____ (NW, NE, SW, SE, etc.) corner of _____ (Street) and _____ (Street).
- On the _____ (N, S, E, W, etc.) side of _____ (Street), between _____ (Street) and _____ (Street).

6. Is this property part of a recorded plat? Yes No
If no, has a plat been submitted? NO

7. The property is presently used for Contractor's Office + Storage, and this Site Plan is requested for the following purposes: An addition to our office space

8. I (We) the Applicant(s), acknowledge receipt of the Site Plan Review Criteria, and further state that I (we) have or will read the material. If an agent, I further state that I have or will provide the Applicant(s) an explanation of or copy of this material. I (We) realize that this application cannot be processed unless it is complete and is accompanied by the appropriate filing fee.

Signature: John Atal, Applicant

Print name: John Atal

Date: 7/21, 2025

Signature: Stephen Wilson, Agent (if any)

Print name: Stephen Wilson

Date: 6/24, 2025

OFFICE USE ONLY

This application was received by the Zoning Administrator at 10:45 (am) pm on July 21, 2025.

It has been checked and found to be complete, and accompanied by the required copies of the Site Plan and the filing fee of \$ —.

Signature: _____, Zoning Administrator

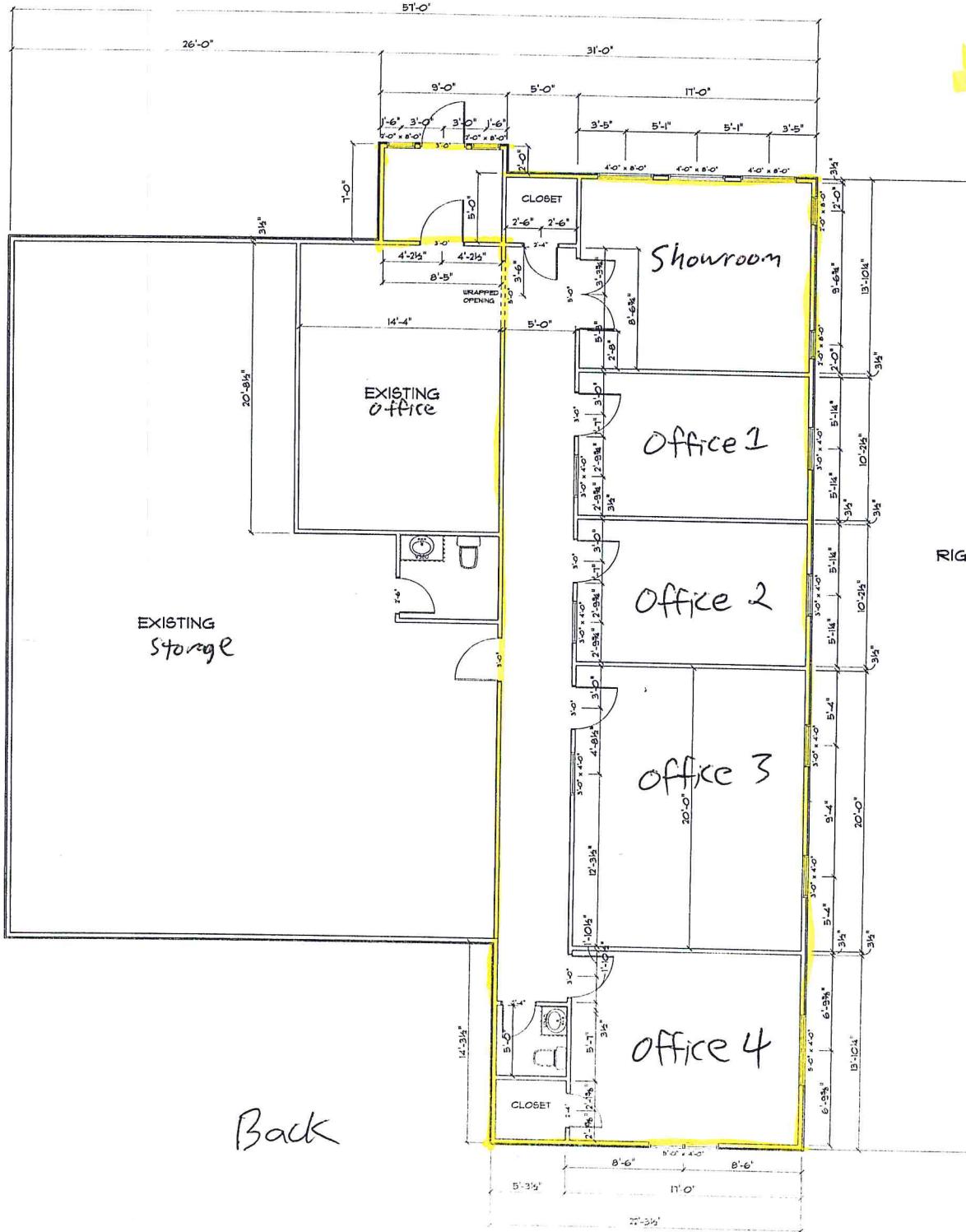
Print name: _____

Date: _____, 20____

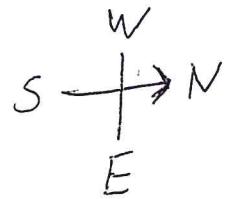
Provide copy to:

- *Applicant(s) and/or Agent(s)*

Front

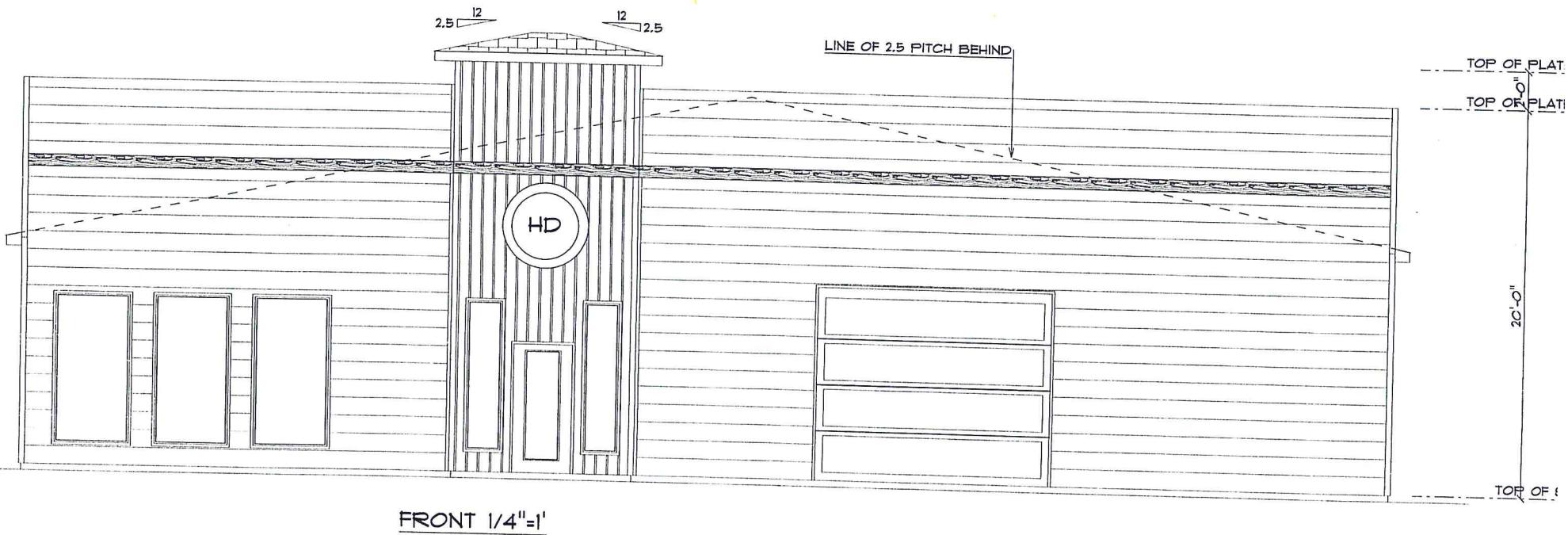


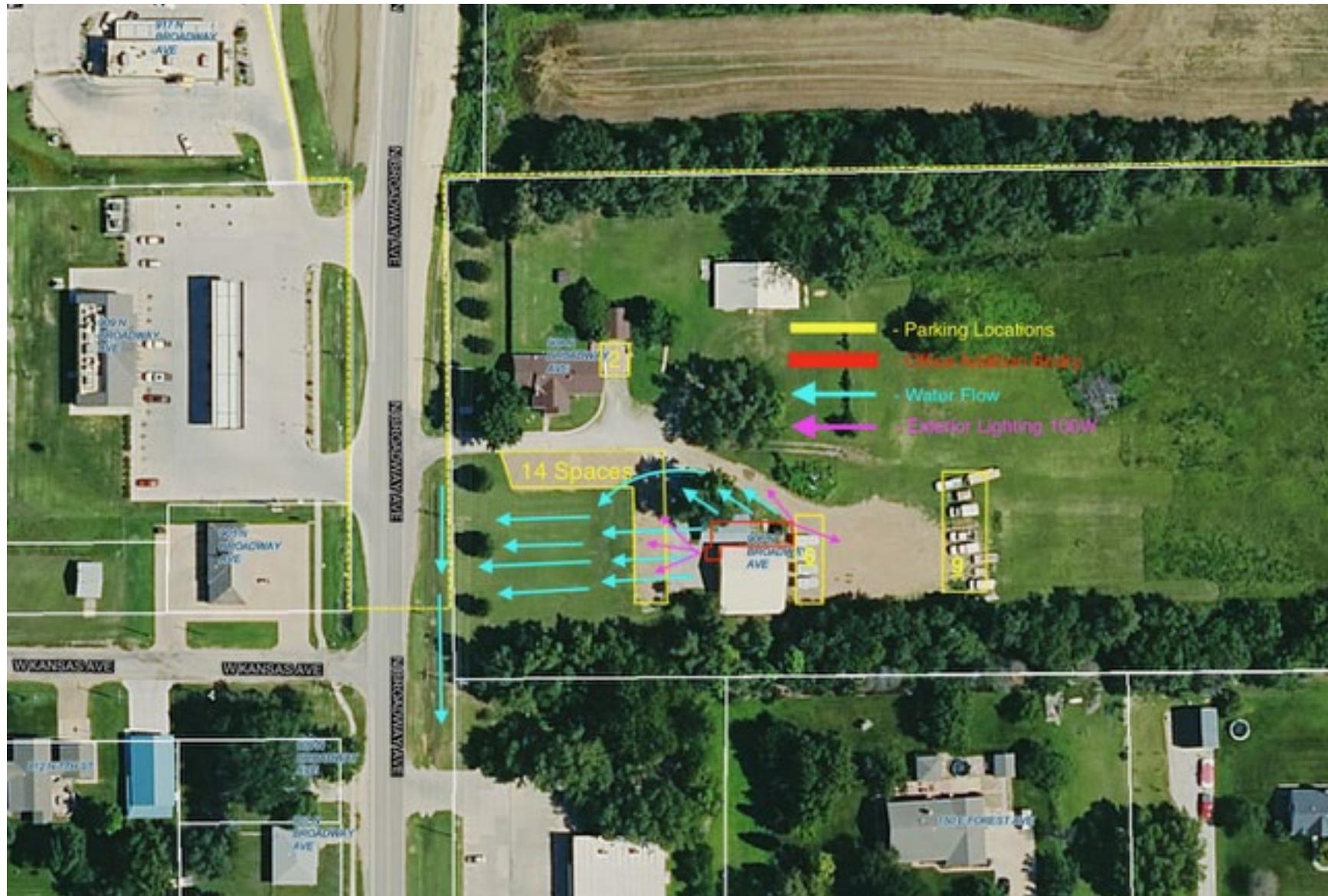
New
Addition



RIGHT SIDE ADDITION

Front Elevation





- N. All plant materials shall be healthy and/or fencing in place prior to issuance of an occupancy certificate. A temporary certificate may be issued as provided for in Section 9-101B2 without the landscaping installation; provided, written assurances are given satisfactory to the Zoning Administrator that the planting will take place when the proper season arrives.
- O. Maintenance.
 - 1. It shall be the responsibility of the property owner to maintain in good condition all of the required screening and landscaping improvements on his property. When it is determined by the Zoning Administrator that improvements required by Section 3-104 are not being maintained, it is his duty to give notice in writing to the property owner. Such notice shall specify in what manner the improvements are in need of maintenance and a date for compliance. The owner shall have not less than 30 days to comply with the notice; provided, however, that any person aggrieved by any such order and disagreeing with any of the requirements of the notice, may file an appeal under Section 10-106 within the 30-day period with the Board of Zoning Appeals.
 - 2. If the owner of the land has failed, refused or neglected to make the necessary maintenance repairs within the time of the notice or time designated by the Board, then the Zoning Administrator shall cause such maintenance to be done to the property. The cost of maintenance shall be certified by the Administrator to the Clerk, who shall cause the costs to be assessed against the property on which the maintenance repairs were made.
- P. To assist in reviewing screening and landscape plans, the Planning Commission may from time to time adopt design criteria in the form of policy statements which may include illustrations.

105 Site Plan Approval. The purpose and intent of requiring site plan approval is to encourage the compatible arrangement of buildings, off-street parking and loading, lighting, signage, landscaping, ingress and egress and drainage on 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. Once a site plan has been reviewed and approved by the Planning Commission, no changes shall be made except for minor revisions due to unforeseen circumstances as may be determined and approved by the Zoning Administrator. If other than minor revisions are requested, the changes must be shown on a revised plan, transmitted to and approved by the Planning Commission.

- A. Applicability. All principal land uses shall submit site plans for approval by the Planning Commission except single-family dwellings and duplexes, unless the latter are arranged in courtyard or grouped settings. Such plans are applicable to all new developments, and for major alterations to an existing site or structure(s) which intensify factors affecting the overall design relationships.

B. Enforcement and Appeal. No zoning permit shall be issued by the Zoning Administrator until the related site plan is approved by the Planning Commission. Anyone aggrieved by a decision of the Planning Commission may appeal to the Governing Body within 30 days for a determination based on the reasonableness of the site plan decision including any conditions attached thereto. Notification shall be given in the same manner as required for an appeal case to the Board of Zoning Appeals. (See Section 10-103.)

C. Fees. Processing fees are included in the Fee Schedule.

D. Submittal Time and Review Comments. Site plans should be submitted to the Zoning Administrator 30 days before a regular Planning Commission meeting so that they can be distributed to interested parties for review and the resulting comments summarized by the Administrator for a report to the Commission.

E. Number of Plan Copies. A minimum of 11 legible copies are needed for proper review unless otherwise determined by the Zoning Administrator.

F. Site Plan Requirements:

1. Oriented to north with north arrow and scale plus dimensions and boundary lines for the zoning lot.
2. Show the location and dimensions of all rights of way, access control, easements and setback lines either required by these regulations or by platting.
3. Topography by contour lines required only if slopes exceed 5% or buffer berms are used.
4. Show flow of storm drainage by directional arrows.
5. Locate existing and proposed structures by bulk dimensions plus number of stories, gross floor area and entrances.
6. Show existing and proposed curb cuts, aisles, off-street parking, loading spaces and walkways, including type of surfacing and number of parking spaces.
7. Indicate location, height and materials for screening walls or fences and landscaped areas, including grass, trees and shrubs.
8. Show location, direction and intensity of proposed lighting.
9. Locate all major signs by type, height and approximate size.
10. Indicate location of outdoor display, storage and trash disposal areas.

G. Conditions of Approval. All site plans must meet the applicable standards contained in both the Zoning and Subdivision Regulations as well as other relevant regulations including the following:

1. Proposed uses are permitted in the district in which the property is located.
2. Proposed arrangement of buildings, off-street parking, loading, access, lighting, signage, landscaping and screening, and drainage is compatible with adjacent land uses.
3. Within the B-2 Central Business District only, to ensure compatibility and harmony with adjacent uses, structures and streetscape elements, the following criteria shall be considered for approval:
 - a. architectural treatment of structures such as colors, materials and scale.
 - b. site design elements such as lighting; benches and signage.
4. Vehicular ingress and egress to and from the site and circulation within the site provides for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well.
5. Site plan provides for the safe movement within the site of pedestrians, pedalcyclists, and mobility devices for people with mobility disabilities. Consideration shall be given for connections with existing or future sidewalks and/or pathways.
6. There is a sufficient mixture of grass, trees and shrubs within the interior and perimeter (including public right of way) of site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan area not used for buildings, structures, parking, loading or access ways shall be landscaped with a mixture of grass, trees and shrubs.
7. All outdoor trash disposal areas are screened and outdoor storage areas screened where necessary.

H. Assurances. Site plan performance is assured by issuance of a zoning permit and occupancy certificate. The site plan drawing must include the following certificates:

Owner's Certificate

As the developer of this project approved by this site plan, I do hereby certify that I understand that the project is to be constructed as shown on this final approved plan and that no occupancy certificate will be approved by the Zoning Administrator for the project until all required items have been completed. I further certify that since these requirements run with the project, I will supply a copy of this approved site plan to any successors or assigns who may follow me in ownership of the project.

Signed: _____
(Print name and title)

Planning Commission Certificate

Official Site Plan as (approved) (modified) to the conditions approved by the Sterling City Planning Commission at their meeting of _____, 20__.

SIGNED:

ATTEST:

Chairperson

Secretary

Completion of conditions required by the Planning Commission for approval:

Zoning Administrator

Landscaping must be maintained in a healthy, disease-free and debris-free condition or it will be considered a violation of these regulations similar to the provisions of Section 3-1040.

- I. Design Criteria. From time to time, the Planning Commission may adopt additional design criteria in the form of policy statements to assist in reviewing site plans. All site plans must be in accordance with adopted Site Plan Review Criteria.