

**LOUISBURG CITY COUNCIL  
REGULAR MEETING  
OCTOBER 19, 2020  
6:30 P.M.**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. CONSENT AGENDA
  - A. Adopt Agenda
  - B. Approval of Minutes of the Regular Meeting September 21, 2020
  - C. Approval of the Bills
4. RECOGNITION OF SCHEDULED VISITOR
  - A. McKenzie Phillips – Summerfield Farm Subdivision parking
5. PUBLIC COMMENTS: Persons who wish to address the Mayor and City Council regarding items not on the agenda may do so at this time. Speakers will be limited to three (3) minutes. Any presentation is for informational purposes only.
6. DEPARTMENT REPORTS
7. CITY ATTORNEY’S REPORT
8. MAYOR’S REPORT
9. ADMINISTRATOR’S REPORT
  - A. Zone Change – 101 N 3<sup>rd</sup> Street
  - B. Zone Change – 401 & 403 S 1<sup>st</sup> Street
  - C. Special Use Permit – 206 N Broadway – Communications Tower
  - D. Special Use Permit – 106 W Amity – Storage and Warehousing
  - E. Text Amendment – Accessory Building Requirements
  - F. Leaf Debris Loader
  - G. Burn Site Review
  - H. Immediate Hazard at 128 Harvest Drive
10. COUNCIL/COMMISSION REPORTS
11. ADJOURNMENT

**CITY OF LOUISBURG, KANSAS  
MINUTES OF REGULAR MEETING  
OCTOBER 5, 2020**

The Council of the City of Louisburg, Kansas met at 6:30 p.m. in regular session in the City Hall Council Chambers. Mayor Marty Southard presiding. Councilmember Sandy Harris was absent.

Council Members Steve Town, Donna Cook, Thorvald McKiernan, Kalee Smith  
City Administrator Nathan Law  
City Clerk Traci Storey  
City Attorney  
Police Chief Tim Bauer  
Fire Chief Gerald Rittinghouse  
Communications Coordinator Jean Carder  
Public Works Supervisor Craig Hufferd  
Visitors Jennifer Leikam, LHS Student Councilmembers

**PLEDGE OF ALLEGIANCE**

Councilmember Kalee Smith led the pledge of allegiance.

**APPROVAL OF CONSENT AGENDA**

Councilmember Cook asked about a bill regarding security cameras at the pool. Administrator Law said these were put in early this summer, but we just got the bill. Councilmember Kalee Smith moved, seconded by Councilmember Thorvald McKiernan and carried 4-0, to approve the consent agenda to include adoption of the agenda, approval of the regular meeting September 21, 2020 minutes.

**VISITORS**

Administrator Law read an email from Jackie Boyce with Boyce Homes. She stated concerns regarding the new code guidelines and said Boyce Homes has lost business due to the new codes. Some code changes have added up to an additional \$15,000 to the home price, mostly involving insulation and other energy factors. Administrator Law told Council he would review and research this issue. Councilmember Town said he would like to see what Leawood has compared to

what Louisburg has. Councilmember McKiernan said didn't we just pay a company to have all this reviewed. Law said yes, and they are aware. Law will return with more information at a future meeting.

**Jennifer Leikam:** Jennifer Leikam event coordinator for Halloween on Broadway said the event has been relocated. Due to concerns from business owners, the event has moved to the LHS south parking lot. This will be a drive-through event and businesses will set up around parking spaces. Councilmember Smith asked why not just have it on Broadway and if those business owners that don't want to participate don't have to. Leikam said her employer, Dr. Jake of Louisburg Chiropractic Center, will only take this route or it will be canceled. Her name is on this event and she isn't going to feel responsible if there is an outbreak. She has received several nasty comments just moving the event. Leikam is asking for the police to still be present to help with control of traffic. Chief Bauer said they are very short handed, but would provide extra assistance.

**LHS Student Council:** LHS Student Council members asked permission to close Wildcat Drive from the high school to Wildcat Sports Complex for Homecoming. This year's homecoming will include a pep rally and float presentation at the stadium from 1:15 – 1:45 on Oct. 16<sup>th</sup>. Mayor Southard asked if Chief Bauer had any concerns. Bauer said they would be happy to help with the police escort as well. Councilmember Kalee Smith moved, seconded by Councilmember Donna Cook and carried 4-0, to allow street closure for the LHS Homecoming on October 16, from 1:15 – 1:45 p.m.

## **PUBLIC COMMENTS**

None

## **DEPARTMENT REPORTS**

**Fire Department:** None

**Police Department:** Police Chief Tim Bauer said they are still in the hiring process for the full-time Administrative Assistant. The County Commissioners issued a proclamation for Supporting our Law Enforcement Week Sept, 26- Oct. 3, 2020. The Police Department would also like to thank Governing Body for their support.

**Administrator Law:** Administrator Nathan Law said he would like Councilmembers to set a date for his Administrator Goals workshop. This could be from now until the end of the month.

## **CITY ATTORNEY'S REPORT**

### **MAYOR'S REPORT**

Mayor Marty Southard received a thank you card and \$100 from vendors of the Louisburg Farmer's Market. They appreciate the use of the area and the assistance with what is needed to be successful.

## **ADMINISTRATOR'S REPORT**

**Annual STO & UPOC:** City Administrator Nathan Law presented the Standard Traffic Ordinance for Kansas Cities, 47<sup>th</sup> Edition of 2020, as amended. Councilmember Thorvald McKiearnan moved, seconded by Councilmember Steve Town and carried 4-0, to authorize Mayor Southard sign Ordinance 1130 as presented.

Administrator Law presented the Uniform Public Offense Code, 36<sup>th</sup> Edition of 2020, as amended. Councilmember Steve Town moved, seconded by Councilmember Kalee Smith and carried 4-0, to authorize Mayor Southard sign Ordinance 1131 as presented.

**MoKan Dial, Inc. Franchise Agreement:** Law presented a nonexclusive telephone franchise ordinance for MoKan Dial Inc. Councilmember Thorvald McKiearnan moved, seconded by Councilmember Kalee Smith and carried 4-0, to accept as presented.

## **COUNCIL REPORTS**

**Councilmember McKiearnan:** Councilmember Thorvald McKiearnan asked for an update on the leaf trailer. Hufferd said he is working on it.

McKiearnan asked if we had received estimates to fix the sewer jetter. Hufferd said the pump was rebuilt by a technician but was unable to be permanently repaired. Another technician also attempted to repair motor but was not able to complete the repair. Both technicians recommended to purchase a new machine,

Hufferd said. McKiearnan said they are trying to sell a new machine. McKiearnan said we don't want to wait to the last minute on everything.

McKiearnan said there are have been a lot of food trucks lately in town and asked if they all have the necessary permit. City Clerk Storey said they are licensed and have had a background check.

McKiearnan asked about the curb work at the school and asked if we had received bids for this. Administrator Law said the school was allowed to take over the project and they put the bids out. McKiearnan said we need to start looking at how jobs are bid and not just award bids to the good ole boys. He said we need more interest on bids.

McKiearnan attended the Planning Commission meeting and provided an update on action taken at that meeting. McKiearnan asked about the tower at the wastewater treatment plant and said the tower should be a monopole.

**Councilmember Kalee Smith:** Councilmember Kalee Smith asked about the parking in Summerfield on N. 3<sup>rd</sup> St. East. Administrator Law said the HOA should be involved and any recommendation come from them, as was done the last time. He will contact them.

**Councilmember Steve Town:** Councilmember Steve Town asked about the house at 508 N. 6<sup>th</sup>. Law said the owners will come to the first meeting in November to show the progress. Councilmember Town asked if a structural inspection is required. Law stated that it would be required if this were taken through the code enforcement process, but at this point it is just highly recommended.

The Electric Light Show will be held on October 24<sup>th</sup> at the stadium. This will be following Halloween off Broadway. There will be fireworks following the concert.

**Councilmember McKiearnan:** Councilmember McKiearnan said he drove by the strip mall on Harvest Drive. The broken glass seems like it is everywhere. Administrator Law said we have reached out to the owner. McKiearnan said we need to clean this up it is a public safety issue and once it is cleaned up then bill the owner of it.

**ADJOURNMENT**

At 7:00 p.m. Councilmember Kalee Smith moved, seconded by Councilmember Thorvald McKiernan and carried 4-0, to adjourn the meeting.

Approved:

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Marty Southard, Mayor

Attest:

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Traci Storey, City Clerk

**BILLS 10/19/2020**

<b>VENDOR</b>	<b>AMOUNT</b>	<b>DEPARTMENT</b>
BLACK HILLS ENERGY	\$9,710.11	SERVICES - GAS
CCL SUPPLY LLC	\$130.60	SUPPLIES - POLICE
CHAMBER OF COMMERCE	\$11,400.00	ANNUAL DUES
CLYDE & WOOD LLC	\$1,000.00	COURT APPOINTED ATTY FEES
CORE & MAIN	\$1,768.00	EQUIPMENT - WATER
D.C.& B. SUPPLY INC.	\$627.15	GAS METER - GAS
DELTA DENTAL OF KANSAS	\$2,547.33	INSURANCE - ALL
FAMILY CENTER OF PAOLA	\$223.94	SUPPLIES - PUA
FAMILY CONCEPTS LTD	\$272.09	BOOKS - COPS FOR KIDS
FIRST OPTION BANK	\$19,993.89	PUMPER TRUCK PAYMENT - FIRE
GRAINGER W.W.INC	\$36.45	SUPPLIES - PUA
HAYNES EQUIPMENT CO, INC	\$1,244.91	EQUIPMENT - SEWER
HICKEY, KRAIG	\$200.00	MONTHLY STIPEND - CEMETERY
HIGH SPEED MOWING	\$185.00	MOWING SERVICES - BZ
HOLLIDAY SAND & GRAVEL CO	\$414.49	SAND - PWD
HOME DEPOT CRC	\$661.22	EQUIPMENT, SUPPLIES - PWD
INDUSTRIAL SALES CO	\$1,337.79	EQUIPMENT - GAS
JOHNSON COUNTY WASTEWATER	\$926.00	TESTING - SEWER
KANSAS ONE CALL SYSTEM	\$290.40	ONE CALL SERVICES
KDH&E	\$25.00	CERTIFICATION - PUA
LEAGUE KANSAS MUNICIPALITIES	\$198.00	CONF - ADMIN
LOUISBURG ANIMAL CLINIC	\$1,255.00	IMPOUND AND EUTHANASIA SERVICE - POLICE
LOUISBURG ATHLETIC CLUB	\$186.50	MEMBERSHIPS - ALL
LOUISBURG FORD	\$725.46	MAINTENANCE - PWD
MAYFAIR CLEANERS	\$213.82	UNIFORM CLEANING - POLICE
MCI	\$80.60	TELEPHONE - ALL
MIAMI COUNTY AUTO	\$20.13	REPAIRS - POLICE
MIAMI COUNTY KANSAS	\$8,181.25	METCALF 2.0 PROJECT 18-15-CO
MIAMI COUNTY SHERIFF	\$80.00	PRISONER CARE - POLICE
NAPA AUTO PARTS	\$41.45	SUPPLIES - PWD
NATIONAL SIGN CO INC	\$1,133.10	SIGNS AND LOCATE FLAGS - PWD
NAVARAT'S OFFICE PRODUCTS	\$1,189.88	OFFICE EQUIPMENT - ADMIN, PD
NPG NEWSPAPERS	\$1,130.52	PUBLICATION - ADMIN
OADES BROTHERS TIRE	\$707.15	TIRES AND SERVICE - POLICE
PEREGRINE CORP.	\$1,117.02	UTILITY BILLS - GS, SW, WT
POLSINELLI PC	\$3,990.00	CITY ATTY SERVICES
PRICE CHOPPER	\$47.03	SUPPLIES - ADMIN, PUA
QUILL	\$317.20	OFFICE SUPPLIES - ALL
RAY LINDSEY COMPANY	\$23,522.50	BROADWAY LIFT STATION - SEWER
RURAL WATER DISTRICT #2	\$323.70	WATER - PARKS
SCARECROW FARM LAWN CARE	\$2,900.00	CEMETERY MOWING
SECURITY 1ST TITLE LLC	\$270.00	SERVICES - SEWER
SI FUNERAL SERVICES	\$725.00	SERVICES - CEMETERY
STAPLES ADVANTAGE	\$75.72	OFFICE SUPPLIES - ADMIN
SUTTON LAW OFFICE, P.A.	\$3,985.80	CONTRACT TO PROSECUTE
TRI COUNTY PEST CONTROL	\$450.00	PEST CONTROL - ALL
USA BLUE BOOK	\$331.13	SUPPLIES - PUA

WASTE MANAGEMENT	\$315.66
WHISTLE REDI-MIX INC	\$378.00
ZEP MANUFACTURING	\$235.99
	\$107,121.98

TRASH SERVICES
SIDEWALK REPAIR - PWD
SUPPLIES - ADMIN

# Memo

To: Louisburg Governing Body

From: Nathan Law

Date: October 15, 2020

Re: Zone Change for 101 N. 3<sup>rd</sup> Street

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**Background:** The Planning Commission discussed a proposed zone change for property located at 101 N. 3<sup>rd</sup> Street at its regular meeting September 30, 2020. The proposed rezone is from C-3 – General Business District designation to R-1 – Single Family Dwelling District.

Rezoning is a process that requires a public hearing. A public hearing notice was published in the Miami County Republic September 9, 2020 and all property owners within a 200-foot radius were given direct notification of the same. Planning Commission is tasked with making a recommendation of approval, or otherwise, of such rezoning to Council for final approval.

During the hearing no public comment was received. Following closing of the hearing and after taking into consideration what Commission felt were the facts of the request, Planning Commission voted unanimously, by a vote of 7-0, to approve the rezone request and recommend City Council consider the same.

Attached is a copy of the Planning Commission Item for this request.

**Financial:** All necessary fees for the application process and all other associated costs have been paid. Publication cost of ordinance.

**Legal:** Council approval is required. No protest petition has been received.

**Recommendation:** Approve the attached ordinance for 20003-Z (Rezone) for property located at 101 N. 3<sup>rd</sup> Street.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICT OF CERTAIN LANDS LOCATED IN THE CITY OF LOUISBURG, KANSAS UNDER THE AUTHORITY GRANTED BY THE CITY OF LOUISBURG, KANSAS, CITY ZONING REGULATIONS OF 2010 ADOPTED BY ORDINANCE 987, AS AMENDED, OF THE CITY OF LOUISBURG, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LOUISBURG, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under the authority and subject to the provisions of the City of Louisburg, Kansas, City Zoning Regulations of 2010 as amended, the zoning classification or districts of lands legally described hereby are changed as follows:

**CASE NO. 20003-Z**

Zoning change from “C-3” General Business District to “R-1” Single-Family Residential District for the property commonly known as 101 North 3<sup>rd</sup> Street, Louisburg, Kansas and is legally described as follows:

Commencing at the Southeast corner of the Southeast Quarter of Section 30, Township 16 South, Range 25 East, thence North 0 degrees 13’59” East 940.44 feet along the East line of said Quarter Section, thence North 89 degrees 32’07” West 243.94 feet along a line parallel with and 50.00 feet South of the North line of the South half of the North half of the Southeast Quarter of said Quarter section said line being the South right of way line of North Third Street to the true point of beginning, thence South 0 degrees 13’59” West 246.79 feet along a line parallel to the East line of said Quarter Section thence North 89 degrees 32’07” West 190.75 feet along a line parallel to the South right of way line of said North Third Street, thence North 2 degrees 25’05” West 247.10 feet to a point on the south right of way line of said North Third Street, thence South 89 degrees 32’07” East 202.18 feet along the South right of way line of said North Third Street to the point of beginning, in Miami County, Kansas.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the “Official Zoning Map” previously adopted by reference, and said official zoning map is hereby incorporated as a part of the Zoning Regulations as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption by the Governing Body of the City of Louisburg, Kansas and publication in the official City newspaper.

PASSED and approved by the Governing Body this 19<sup>th</sup> day of October, 2020.

ATTEST:

\_\_\_\_\_  
Traci Storey, City Clerk

\_\_\_\_\_  
Marty Southard, Mayor

(SEAL)

**Item #5**  
**20003-Z (Rezoning)**  
**101 North 3<sup>rd</sup> Street**  
**Parcel ID: 1093004007001010**

Meeting Date: September 30, 2020

The Applicant wishes to rezone this property from “C-3” General Business District to “R-1” Single-Family Dwelling District. Staff has determined that rezoning this property from “C-3” to “R-1” would be consistent with the Bright Future Comprehensive Plan dated December 4, 2017. This plan identifies this property as “SFR, Single-Family Residential”.

The below web address will direct Planning Commission members to the Bright Future Comprehensive Plan:

<https://louisburgkansas.gov/DocumentCenter/View/366/Louisburg-Comprehensive-Plan-12-4-17>

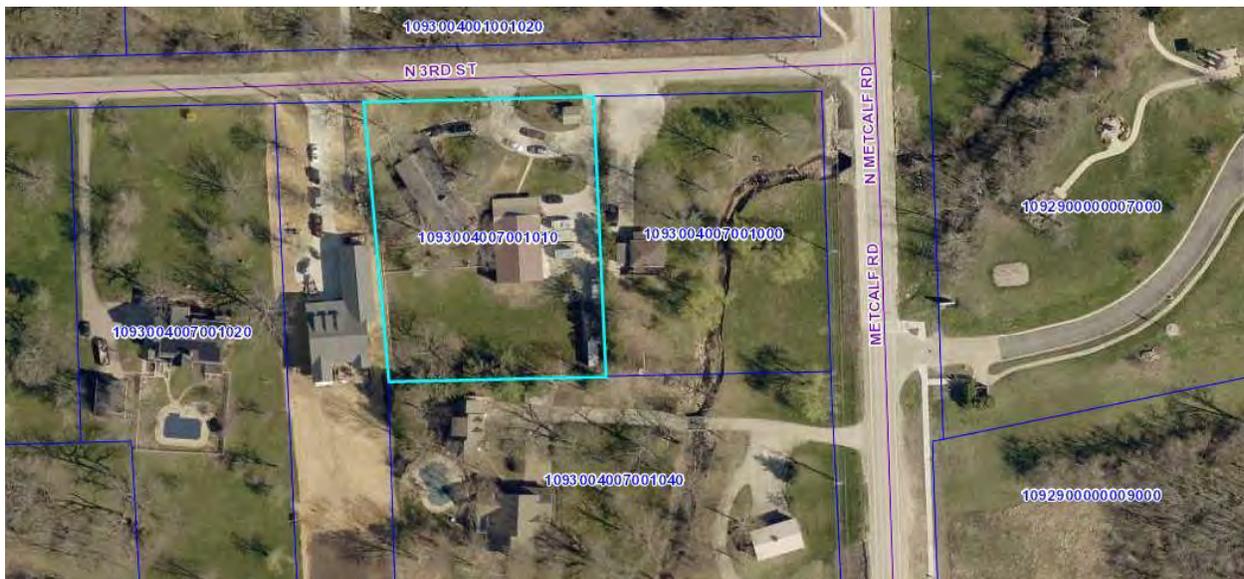
**Adjacent Property Zoning:**

North – Agricultural District (A-L) Vacant Land

South – Agricultural District (A-L) Residential Home

East – General Business District (C-3) Residential Home

West – Single-Family Dwelling District (R-1) Residential Home



The Planning Commission should determine one of the following:

1. Recommend zoning change from “C-3” to “R-1”

The Applicant has provided written notice of this public hearing to all property owners within 200’ radius of the subject property. Staff has also placed a public notice in newspaper to advertise this hearing. This ad appeared in the newspaper on September 9, 2020. To date Staff has not received any comments from the neighbors concerning this proposal.

All Planning Commission recommendations will be forwarded to the City Council for additional review and consideration. This item with Planning Commission recommendation will be presented to the City Council on October 19, 2020. Property owners within 200 feet of subject property described above, wanting to protest the proposed change will have fourteen (14) days after the Planning Commission makes its recommendation regarding the requested rezoning to submit a protest petition to the office of the City of Louisburg City Clerk. If a valid protest petition is filed with the City Clerk prior to the deadline, the change shall only be approved by at least a 3/4 majority vote of the City Council. Protest petitions are available in the office of the Codes Administrator for the City of Louisburg.

### **Eight Golden Factors to Consider**

In 1978, the Supreme Court of Kansas handed down a decision in the Golden vs. City of Overland Park case that established the basis for considering and reaching a decision on zoning changes. The decision should be made based on the evidence submitted and the factors considered. The eight Golden Factors emerged from this case and have become institutionalized in the consideration of zoning changes in Kansas. A more recent court case determined that Special Use Permits were, in reality, a land use change and should be considered by the same factors.

The factors must be considered by the Planning Commission and Governing Body in order to determine whether granting or denying a zoning change, including a Special Use Permit, was reasonable. It is not necessary that findings on all the factors be favorable to approve or be unfavorable to deny the zoning change or Special Use Permit. Also, not all the factors carry the same weight and the weight may vary from case to case.

- 1. The character of the neighborhood:** Factual description of the application area and surrounding property as to land uses, density, intensity, general condition, age of structure, etc.
- 2. The zoning and uses of property nearby:** Factual listing of the zoning surrounding the property along with the specific abutting uses.
- 3. The suitability of the property for the uses to which it has been restricted under its existing zoning:** How is the property currently zoned and what uses are allowed on the property? Are these uses suitable given surrounding zoning and site criteria? Are the current allowed uses the only ones which might be appropriate for this property?
- 4. Extent to which removal of the restrictions will detrimentally affect nearby property:** Can the uses allowed in the requested district be good neighbors to existing development? This is a subjective question. The focus should be on facts, not fears, and should be based on issues that zoning can address (e.g., allowed uses, minimum lot sizes, height, setbacks, traffic, etc.)
- 5. Length of time of any vacancy of the property:** Factual information, but its importance can be somewhat subjective. A property might be vacant because the current zoning is unsuitable, but there may be other reasons not related to zoning. Some examples might be a glut of available property of the same zoning district, financing problems, speculation, lack of available services or other development problems.

**6. Relative gain to the public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners:** The protection of the public health, safety and welfare is the basis for zoning. The relationship between the property owner's right to use and obtain value from their property and the City's responsibility to its citizens should be weighed.

**7. Recommendation of professional staff:** Should be based on the evidence presented, the factors, adopted plans and policies, and other technical reports (e.g., Capital Improvement Programs, facility master plans, etc.) which speak to the topic and staff's best professional judgment.

**8. Conformance with the Comprehensive Plan:** Does the request agree with the adopted plan recommendations? If not, is the plan out-of-date or are there mitigating circumstances which speak to the nonconformity?

# Memo

To: Louisburg Governing Body

From: Nathan Law

Date: October 15, 2020

Re: Zone Change for 401 & 403 S. 1<sup>st</sup> Street

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**Background:** The Planning Commission discussed a proposed zone change for property located at 401 & 403 S. 1<sup>st</sup> Street at its regular meeting September 30, 2020. The proposed rezone is from C-2 – Central Business District designation to R-1 – Single Family Dwelling District.

Rezoning is a process that requires a public hearing. A public hearing notice was published in the Miami County Republic September 9, 2020 and all property owners within a 200-foot radius were given direct notification of the same. Planning Commission is tasked with making a recommendation of approval, or otherwise, of such rezoning to Council for final approval.

During the hearing no public comment was received. Following closing of the hearing and after taking into consideration what Commission felt were the facts of the request, Planning Commission voted unanimously, by a vote of 7-0, to approve the rezone request and recommend City Council consider the same.

Attached is a copy of the Planning Commission Item for this request.

**Financial:** All necessary fees for the application process and all other associated costs have been paid. Publication cost of ordinance.

**Legal:** Council approval is required. No protest petition has been received.

**Recommendation:** Approve the attached ordinance for 20004-Z (Rezone) for property located at 401 & 403 S. 1<sup>st</sup> Street.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICT OF CERTAIN LANDS LOCATED IN THE CITY OF LOUISBURG, KANSAS UNDER THE AUTHORITY GRANTED BY THE CITY OF LOUISBURG, KANSAS, CITY ZONING REGULATIONS OF 2010 ADOPTED BY ORDINANCE 987, AS AMENDED, OF THE CITY OF LOUISBURG, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LOUISBURG, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under the authority and subject to the provisions of the City of Louisburg, Kansas, City Zoning Regulations of 2010 as amended, the zoning classification or districts of lands legally described hereby are changed as follows:

**CASE NO. 20004-Z**

Zoning change from “C-2” Central Business District to “R-1” Single-Family Residential District for the property commonly known as 401 & 403 South 1<sup>st</sup> Street, Louisburg, Kansas and is legally described as follows:

All of Lot 1 and 2, excepting the South 40 feet thereof, in Block 25, in the City of Louisburg, Miami County, Kansas.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the “Official Zoning Map” previously adopted by reference, and said official zoning map is hereby incorporated as a part of the Zoning Regulations as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption by the Governing Body of the City of Louisburg, Kansas and publication in the official City newspaper.

PASSED and approved by the Governing Body this 19<sup>th</sup> day of October, 2020.

ATTEST:

\_\_\_\_\_  
Traci Storey, City Clerk

\_\_\_\_\_  
Marty Southard, Mayor

(SEAL)

**Item #6**  
**20004-Z (Rezoning)**  
**401 & 403 South 1<sup>st</sup> Street**  
**Parcel ID: 1093101011001000**

Meeting Date: September 30, 2020

The Applicant wishes to rezone this property from “C-2” Central Business District to “R-1” Single-Family Dwelling District. Staff has determined that rezoning this property from “C-2” to “R-1” would be consistent with the Bright Future Comprehensive Plan dated December 4, 2017. This plan identifies this property as “TRF, Two-Family Residential”.

The below web address will direct Planning Commission members to the Bright Future Comprehensive Plan:

<https://louisburgkansas.gov/DocumentCenter/View/366/Louisburg-Comprehensive-Plan-12-4-17>

**Adjacent Property Zoning:**

North – Central Business District (C-2) Vacant Land

South – Central Business District (C-2) KRS Corporation

East – General Business District (C-3) Wildcat Activity Center

West – Central Business District (C-2) First Option Bank



The Planning Commission should determine one of the following:

1. Recommend zoning change from “C-2” to “R-1”

The Applicant has provided written notice of this public hearing to all property owners within 200’ radius of the subject property. Staff has also placed a public notice in newspaper to advertise this hearing. This ad appeared in the newspaper on September 9, 2020. To date Staff has not received any comments from the neighbors concerning this proposal.

All Planning Commission recommendations will be forwarded to the City Council for additional review and consideration. This item with Planning Commission recommendation will be presented to the City Council on October 19, 2020. Property owners within 200 feet of subject property described above, wanting to protest the proposed change will have fourteen (14) days after the Planning Commission makes its recommendation regarding the requested rezoning to submit a protest petition to the office of the City of Louisburg City Clerk. If a valid protest petition is filed with the City Clerk prior to the deadline, the change shall only be approved by at least a 3/4 majority vote of the City Council. Protest petitions are available in the office of the Codes Administrator for the City of Louisburg.

### **Eight Golden Factors to Consider**

In 1978, the Supreme Court of Kansas handed down a decision in the Golden vs. City of Overland Park case that established the basis for considering and reaching a decision on zoning changes. The decision should be made based on the evidence submitted and the factors considered. The eight Golden Factors emerged from this case and have become institutionalized in the consideration of zoning changes in Kansas. A more recent court case determined that Special Use Permits were, in reality, a land use change and should be considered by the same factors.

The factors must be considered by the Planning Commission and Governing Body in order to determine whether granting or denying a zoning change, including a Special Use Permit, was reasonable. It is not necessary that findings on all the factors be favorable to approve or be unfavorable to deny the zoning change or Special Use Permit. Also, not all the factors carry the same weight and the weight may vary from case to case.

1. **The character of the neighborhood:** Factual description of the application area and surrounding property as to land uses, density, intensity, general condition, age of structure, etc.

2. **The zoning and uses of property nearby:** Factual listing of the zoning surrounding the property along with the specific abutting uses.

3. **The suitability of the property for the uses to which it has been restricted under its existing zoning:** How is the property currently zoned and what uses are allowed on the property? Are these uses suitable given surrounding zoning and site criteria? Are the current allowed uses the only ones which might be appropriate for this property?

4. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Can the uses allowed in the requested district be good neighbors to existing development? This is a subjective question. The focus should be on facts, not fears, and should be based on issues that zoning can address (e.g., allowed uses, minimum lot sizes, height, setbacks, traffic, etc.)

5. **Length of time of any vacancy of the property:** Factual information, but its importance can be somewhat subjective. A property might be vacant because the current zoning is unsuitable, but there may be other reasons not related to zoning. Some examples might be a glut of available property of the same zoning district, financing problems, speculation, lack of available services or other development problems.

**6. Relative gain to the public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners:** The protection of the public health, safety and welfare is the basis for zoning. The relationship between the property owner's right to use and obtain value from their property and the City's responsibility to its citizens should be weighed.

**7. Recommendation of professional staff:** Should be based on the evidence presented, the factors, adopted plans and policies, and other technical reports (e.g., Capital Improvement Programs, facility master plans, etc.) which speak to the topic and staff's best professional judgment.

**8. Conformance with the Comprehensive Plan:** Does the request agree with the adopted plan recommendations? If not, is the plan out-of-date or are there mitigating circumstances which speak to the nonconformity?

# Memo

To: Louisburg Governing Body

From: Nathan Law

Date: October 15, 2020

Re: Special Use Permit – Communication Tower – 206 N. Broadway (North Lagoons)

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Background: The Planning Commission has discussed this proposed Special Use Permit, of which the resulting recommendation requires City Council confirmation and approval by ordinance. For this item/discussion the appropriate public hearing process was followed, with a hearing notice published on September 9, 2020 and the hearing held on September 30, 2020. All property owners within a 200-foot radius were given direct notification of the same. During the hearing no public comment was received.

Planning Commission members brought into question language within the zoning regulations regarding the pole structure design. The construction plans for this include a triangular lattice tower structure. Section 614 of the City Zoning Regulations include limitations of tower height, the primary reason for bringing this issue to Planning Commission, but also states that all towers shall “maintain a hot dipped galvanized finish and shall be a monopole design unless otherwise approved by the City.” The Planning Commission commented that City Council should follow the regulations. For this discussion, that includes Council consideration of not only the SUP allowing for the tower height, but also for the tower design.

The Planning Commission recommends Council consideration of the SUP with the added stipulation to follow the last statement in Zoning Regulations. This recommendation was made unanimously, by a vote of 7-0.

Attached is a copy of the Planning Commission Item for this request. This item includes information on setbacks, property zoning classification, neighboring property zoning classification, and additional factors considered.

Financial: City does not charge itself for this process. Publication costs for hearing notice and ordinance, following approval.

Also attached with this SUP consideration is cost and other information regarding monopole structures as mentioned at the last Council meeting.

Legal: The ordinance must be published once in the official newspaper.

Recommendation: Consider approval of the attached ordinance for a Special Use Permit under Case No. 20002-SUP, for property located at 206 N. Broadway for a Communication Tower.

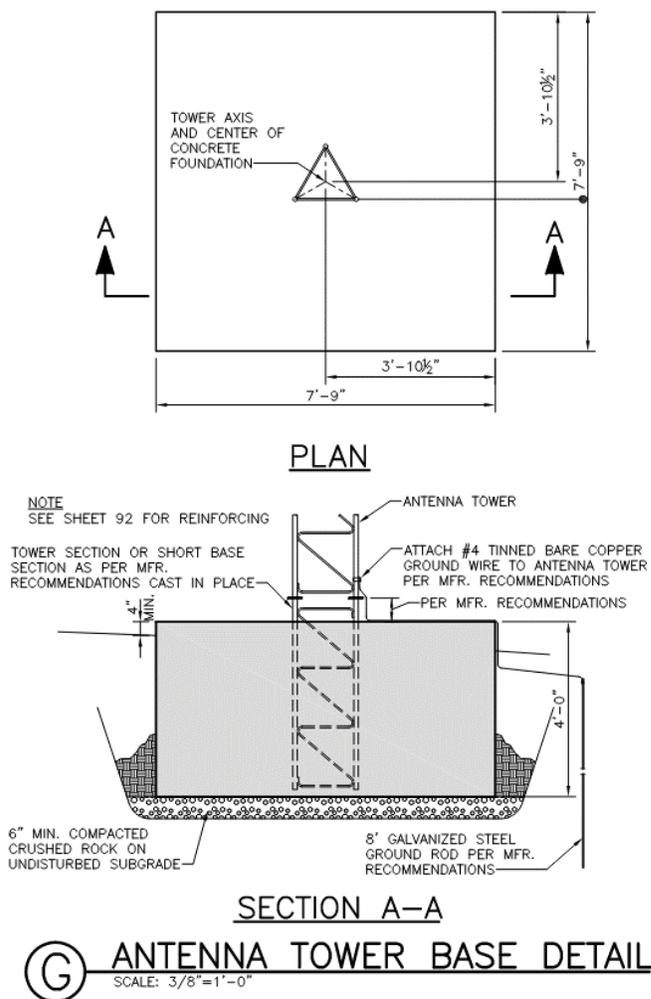
Existing pole – hot-dipped galvanized triangular lattice



Triangular towers are onsite, having been designed by Micro-Comm, the company the City utilizes for SCADA work, work that includes the existing tower shown in the picture below. That tower, located next to the Public Works building, was installed in 2016 to improve SCADA access at the shop building. New SCADA towers were designed to match the existing tower(s). The design of communication towers for this project was intended to be done by Micro-Comm during the construction process. It is the responsibility of staff to ensure enforcement of City regulations for projects, including review of plan sets. The staff focus for this project was to ensure the facilities were designed and constructed to meet zoning regulations of cladding materials, paving, and setbacks. Tower design was unintentionally overlooked. Zoning regulations allow the City to approve alternative tower structure design.



Currently purchased and onsite tower structure may have resale value, but is unknown at this time. Otherwise there is a restocking fee for the tower structure. The base of the tower for the south lagoon site of the new wastewater treatment plant is currently installed. Per manufacturer specifications, this base section is direct bury in concrete at a depth of 4' (see image below). This section and base concrete will need to be removed and replaced for a monopole structure, likely a loss of \$5,000 already spent for this base, because it is not sized and reinforced for a monopole structure. A monopole base has to be significantly larger and deeper to realize the stability intended for wind gusts.



Price for two monopoles is \$30,000.

Ordering two monopoles now would follow a standard process for a change order. This includes redesign of the new structure and base, contractor compiling cost and potential time changes, Council consideration of the change order, and then ordering of the appropriate equipment. Once the monopoles are ordered, there is a lead time of 16 weeks. Once the structures are received, there will be time for

installation and testing, then time to equip with SCADA. All things considered, this will exceed the project completion date of February 26<sup>th</sup> requiring the change order to include a project time extension as well.

With the timing of construction of the north lagoon pump station, the crane intended to construct the lattice tower structure will not demobilize. However, with the timing of order and receipt of monopoles, this crane may have additional rental costs, but are anticipated to be minimal. The communications system is needed between the north pump station and the wastewater treatment plant once the pump station is operational, otherwise it can wait.

While there are ways to accommodate cold weather concrete installation, it is preferred to install concrete before winter or unknown weather. The timing of receiving a monopole structure for the north pump station would likely include increased cost for cold weather concrete.

Recommendation on tower structure: With all of the considerations discussed herein, it is reasonable and appropriate for Council to approve a tower structure design that is not a monopole structure.

**SPECIAL USE PERMIT**

**CASE NO. 20002-SUP**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE GRANTING APPROVAL OF A SPECIAL USE PERMIT TO ALLOW A COMMUNICATIONS TOWER, ON CERTAIN LANDS LOCATED WITHIN THE CITY OF LOUISBURG, KANSAS, UNDER THE AUTHORITY GRANTED BY THE ZONING REGULATIONS OF THE CITY OF LOUISBURG, KANSAS.

**BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF LOUISBURG, KANSAS.**

SECTION 1: That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under the authority of and subject to the provisions of the City of Louisburg Zoning Regulations of 2010, as amended by Ordinance 1023, Section 614. This Special Use Permit shall allow for the installation of a communications tower, at a height greater than 35 feet, with the following stipulations:

- *City follows the last statement in Section 614 of the City Zoning Regulations, either having the structure be a monopole structure or the City approve an alternative structure.*

SECTION 2: The property to which the application for this Special Use Permit applies is located at 206 North Broadway, legally described as follows:

Parcel of land being generally 100 or more feet in width and varying distances in length constituting that certain former line of railroad of Missouri-Kansas-Texas Railroad Company, known as its Holden Subdivision and extending generally in a westerly direction from a point on the Missouri-Kansas state boundary line at Mile Post E-312-91 and chaining station 3651/21, over and across the Southwest Quarter (SE 1/4) of Section 30, Township 16S, Range 25E, Miami County, Kansas.

EXCEPT: A strip of parcel of land 50 feet in width and being the Northerly 50 feet of the Missouri-Kansas-Texas Railroad Company's former 100 foot right of way adjacent to the South line of the following described property: A part of the Southwest Quarter of Section 30, Township 16S, Range 25E, described as follows: Beginning at the center of said Section 30, thence West 120 rods; thence South 32 rods to the North line of the Missouri-Kansas-Texas Railroad right of way, thence in a Southeasterly direction along the North line of said railroad right of way to the East line of said Southwest Quarter, thence North to the place of beginning.

SECTION 3: This Ordinance shall take effect and be in force from and after its adoption by the City Council and publication in the official City newspaper.

PASSED and approved by the Governing Body this 19<sup>th</sup> day of October, 2020.

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Marty Southard, Mayor

ATTEST:

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Traci Storey, City Clerk

(seal)

**Item #7**  
**20002-SUP (Special Use Permit)**  
**Communication Tower**  
**206 North Broadway (North Lagoon)**  
**Parcel ID: 1093202005003000**

Owner: City of Louisburg  
Applicant: City of Louisburg  
Meeting Date: September 30, 2020

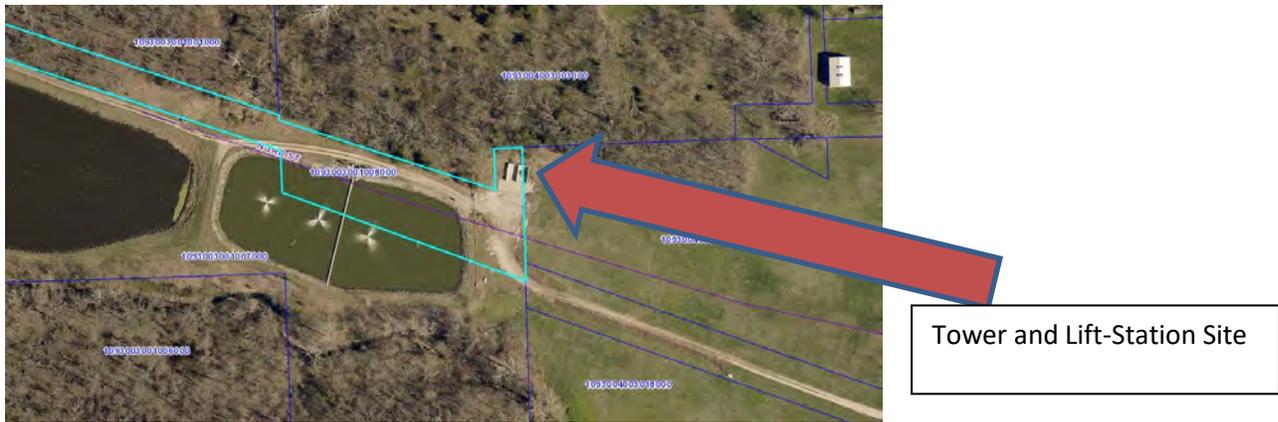
The City wishes to install a forty-four (44) foot communication tower in conjunction with a lift-station at the North Sewer Lagoon site located at 206 North Broadway. This lift-station and communication tower are essential items needed for the proper operation of new wastewater treatment facility currently under construction at 29140 South Rogers Road.

In accordance with section 614 of the City Zoning Regulations a Special Use permit is required to install a forty-four (44) foot communication. See below except from the Zoning Regulations:

*“Radio, communication, and television towers over thirty-five (35) feet in height may be constructed in a "C-1", "C-2", "C-3", "C-S", "B-P", "I-1", or "I-2" district upon approval of a special use permit. A special use permit for a radio, communication, or television tower shall not be granted until an application has been submitted to and approved by the City of Louisburg in accordance with the provisions for special use permit applications as specified in Article 11 of these regulations. All towers shall maintain a hot dipped galvanized finish and shall be a mono-pole design unless otherwise approved by the City.”*

The property selected for this communication tower is within the “I-2” Heavy Industrial Zoning District. Communications towers are allowed in this Zoning District. The engineering company overseeing the construction of the wastewater treatment plant has determined that no other location is feasible for this communication tower. The communication tower and lift-station must be located on the same site to ensure proper operation as required the engineer.

This tower will be solely used by the City of Louisburg in support of wastewater operations. The city may consider other tower space users in the future.



**Adjacent Property Zoning:**

- North – Single-Family Dwelling District “R-1”
- South – Single-Family Dwelling District “R-1”
- East – Heavy Industrial District “I-2”
- West – Agricultural District “A-L”

The City has provided written notice of this public hearing to all property owners within the required 200-foot radius of the subject property. Staff has also placed a public notice in newspaper to advertise this hearing. This ad appeared in the newspaper on September 9, 2020. To date Staff has not received any comments from the neighbors concerning this proposal. All Planning Commission recommendations will be forwarded to the City Council for additional review and consideration. This item with Planning Commission recommendation will be presented to the City Council on October 19, 2020. Property owners within 200 feet of subject property described above, wanting to protest the proposed SUP will have fourteen (14) days after the Planning Commission makes its recommendation to submit a protest petition to the office of the City of Louisburg City Clerk. If a valid protest petition is filed with the City Clerk prior to the deadline, the change shall require approval by a 3/4 majority vote of the City Council. Protest petitions are available in the office of the Codes Administrator for the City of Louisburg.

**Eight Golden Factors to Consider**

In 1978, the Supreme Court of Kansas handed down a decision in the Golden vs. City of Overland Park case that established the basis for considering and reaching a decision on zoning changes. The decision should be made based on the evidence submitted and the factors considered. The eight Golden Factors emerged from this case and have become institutionalized in the consideration of zoning changes in Kansas. A more recent court case determined that Special Use Permits were, in reality, a land use change and should be considered by the same factors.

The factors must be considered by the Planning Commission and Governing Body in order to determine whether granting or denying a zoning change, including a Special Use Permit, is reasonable. It is not necessary that findings on all the factors be favorable to approve or be unfavorable to deny the zoning change or Special Use Permit. Also, not all the factors carry the same weight and the weight may vary from case to case.

1. **The character of the neighborhood:** Factual description of the application area and surrounding property as to land uses, density, intensity, general condition, age of structure, etc.

2. **The zoning and uses of property nearby:** Factual listing of the zoning surrounding the property along with the specific abutting uses.

3. **The suitability of the property for the uses to which it has been restricted under its existing zoning:** How is the property currently zoned and what uses are allowed on the property? Are these uses suitable given surrounding zoning and site criteria? Are the current allowed uses the only ones which might be appropriate for this property?

4. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Can the uses allowed in the requested district be good neighbors to existing development? This is a subjective question. The focus should be on facts, not fears, and should be based on issues that zoning can address (e.g., allowed uses, minimum lot sizes, height, setbacks, traffic, etc.)

5. **Length of time of any vacancy of the property:** Factual information, but its importance can be somewhat subjective. A property might be vacant because the current zoning is unsuitable, but there may be other reasons not related to zoning. Some examples might be a glut of available property of the same zoning district, financing problems, speculation, lack of available services or other development problems.

6. **Relative gain to the public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners:** The protection of the public health, safety and welfare is the basis for zoning. The relationship between the property owner's right to use and obtain value from their property and the City's responsibility to its citizens should be weighed.

7. **Recommendation of professional staff:** Should be based on the evidence presented, the factors, adopted plans and policies, and other technical reports (e.g., Capital Improvement Programs, facility master plans, etc.) which speak to the topic and staff's best professional judgment.

8. **Conformance with the Comprehensive Plan:** Does the request agree with the adopted plan recommendations? If not, is the plan out-of-date or are there mitigating circumstances which speak to the nonconformity?

# Memo

To: Louisburg Governing Body

From: Nathan Law

Date: October 15, 2020

Re: Special Use Permit – Storage and Warehousing – 106 W. Amity

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**Background:** The Planning Commission has discussed this proposed Special Use Permit, of which the resulting recommendation requires City Council confirmation and approval by ordinance. For this item/discussion the appropriate public hearing process was followed, with a hearing notice published on September 9, 2020 and the hearing held on September 30, 2020. All property owners within a 200-foot radius were given direct notification of the same. During the hearing no public comment was received.

Planning Commission members discussed language within the zoning regulations regarding items not allowed to be stored, as well as discussion of other factors.

The Planning Commission recommends Council consideration of the SUP with no added stipulations. This recommendation was given by a vote of 6-0-1, one member abstaining from the vote.

Attached is a copy of the Planning Commission Item for this request. This item includes information on setbacks, property zoning classification, neighboring property zoning classification, and additional factors considered.

**Financial:** All necessary fees for the application process and all other associated costs have been paid. Publication cost of ordinance.

**Legal:** The ordinance must be published once in the official newspaper. No protest petition has been received.

**Recommendation:** Consider approval of the attached ordinance for a Special Use Permit under Case No. 20003-SUP, for property located at 106 W. Amity, establishing a Storage and Warehousing facility.

**SPECIAL USE PERMIT**

**CASE NO. 20003-SUP**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE GRANTING APPROVAL OF A SPECIAL USE PERMIT TO ALLOW STORAGE AND WAREHOUSING, ON CERTAIN LANDS LOCATED WITHIN THE CITY OF LOUISBURG, KANSAS, UNDER THE AUTHORITY GRANTED BY THE ZONING REGULATIONS OF THE CITY OF LOUISBURG, KANSAS.

**BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF LOUISBURG, KANSAS.**

SECTION 1: That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under the authority of and subject to the provisions of the City of Louisburg Zoning Regulations of 2010, as amended by Ordinance 1023, Section 509, paragraph C.12, allowing for storage and warehousing. This Special Use Permit shall allow for the use of this property for storage and warehousing, excluding products of a highly explosive, combustible or volatile nature.

SECTION 2: The property to which the application for this Special Use Permit applies is located at 106 West Amity, legally described as follows:

A tract of land beginning at the Southwest corner of Lot 16 of Cook's Subdivision, City of Louisburg, Miami County, Kansas, thence East 80 feet, thence North 317 feet, thence West 80 feet to the West lot line of Lot 14, thence South to the point of beginning at the Southwest corner of Lot 16, said tract includes parts of Lots 14, 15, and 16 in Cook's Subdivision, City of Louisburg, Miami County, Kansas.

Also beginning at the Northwest corner of Cook's Subdivision, City of Louisburg, Miami County, Kansas; thence East 80 feet; thence South 50 feet; thence West 80 feet; thence North 50 feet to the place of beginning.

Also a tract of land in the Southeast Quarter of Section 30, Township 16 South, Range 25 East, Miami County, Kansas, in the City of Louisburg, in said County and State, beginning at a point 660.0 feet West and 40.0 feet North of the Southeast corner of the Southeast Quarter of Section 30, Township 16 South, Range 25 East, Miami County, Kansas, said point being on the North right of Way line of Kansas State Highway 68; thence North 135.24 feet and parallel to the East line of said Quarter Section; thence West 10.0 feet and parallel to the South line of said Quarter Section; thence South 135.24 feet and parallel to the East line of said Quarter Section to a point on the North right of way line of Kansas State Highway 68; thence East 10.0 feet and along said North right of way line to the point of beginning.

Also all that part of the Southeast Quarter of Section 30, Township 16 South, Range 25 East, in the City of Louisburg, Miami County, Kansas described as follows:

Commencing at the Southeast corner of the Southeast Quarter of said Section 30; thence South 87°57'46" West along the South line of the Southeast Quarter of said Section 30, a distance of 418.96 feet; thence North 02°08'58" West, a distance of 208.01 feet to the point

of beginning; thence North 02°08'58" West, a distance of 197.98 feet; thence South 88°05'53" West, a distance of 160.00 feet; thence South 02°08'58" East, a distance of 198.36 feet; thence North 87°57'58" East, a distance of 160.00 feet to the point of beginning, subject to that part in roads or easements. Being a part of Cook's Subdivision in the City of Louisburg, Miami County, Kansas.

SECTION 3: This Ordinance shall take effect and be in force from and after its adoption by the City Council and publication in the official City newspaper.

PASSED and approved by the Governing Body this 19<sup>th</sup> day of October, 2020.

\_\_\_\_\_  
Marty Southard, Mayor

ATTEST:

\_\_\_\_\_  
Traci Storey, City Clerk

(seal)

**Item #8**  
**20003-SUP (Special Use Permit)**  
**Storage and Warehousing**  
**106 West Amity**  
**Parcel ID: 1093004007012000**

Owner: MBB, LLC  
Applicant: MBB, LLC  
Meeting Date: September 30, 2020

The Applicant wishes to establish a “storage and warehousing” facility at 106 West Amity (MBB Business Park).

This property is currently zoned within the “C-3” General Business District”. In accordance with section 509, paragraph C.12, “storage and warehousing” is an allowable use within this Zoning District if a Special Use Permit is approved by the Planning Commission.

**Adjacent Property Zoning:**

North – Single-Family Dwelling District “R-1”  
South – General Business District “C-3”  
East – General Business District “C-3”  
West – General Business District “C-3”

The Applicant has provided written notice of this public hearing to all property owners within the required 200-foot radius of the subject property. Staff has also placed a public notice in newspaper to advertise this hearing. This ad appeared in the newspaper on September 9, 2020. To date Staff has not received any comments from the neighbors concerning this proposal.

All Planning Commission recommendations will be forwarded to the City Council for additional review and consideration. This item with Planning Commission recommendation will be presented to the City Council on October 19, 2020. Property owners within 200 feet of subject property described above, wanting to protest the proposed SUP will have fourteen (14) days after the Planning Commission makes its recommendation to submit a protest petition to the office of the City of Louisburg City Clerk. If a valid protest petition is filed with the City Clerk prior to the deadline, the change shall require approval by a 3/4 majority vote of the City Council. Protest petitions are available in the office of the Codes Administrator for the City of Louisburg.

**Items to be discussed by the Planning Commission.** This is not a comprehensive list of discussion items. Other items may be discussed at the Planning Commissions discursion:

1. Hazardous materials - No explosive, combustible or volatile nature materials shall be stored on the property.

## Eight Golden Factors to Consider

In 1978, the Supreme Court of Kansas handed down a decision in the Golden vs. City of Overland Park case that established the basis for considering and reaching a decision on zoning changes. The decision should be made based on the evidence submitted and the factors considered. The eight Golden Factors emerged from this case and have become institutionalized in the consideration of zoning changes in Kansas. A more recent court case determined that Special Use Permits were, in reality, a land use change and should be considered by the same factors.

The factors must be considered by the Planning Commission and Governing Body in order to determine whether granting or denying a zoning change, including a Special Use Permit, is reasonable. It is not necessary that findings on all the factors be favorable to approve or be unfavorable to deny the zoning change or Special Use Permit. Also, not all the factors carry the same weight and the weight may vary from case to case.

- 1. The character of the neighborhood:** Factual description of the application area and surrounding property as to land uses, density, intensity, general condition, age of structure, etc.
- 2. The zoning and uses of property nearby:** Factual listing of the zoning surrounding the property along with the specific abutting uses.
- 3. The suitability of the property for the uses to which it has been restricted under its existing zoning:** How is the property currently zoned and what uses are allowed on the property? Are these uses suitable given surrounding zoning and site criteria? Are the current allowed uses the only ones which might be appropriate for this property?
- 4. Extent to which removal of the restrictions will detrimentally affect nearby property:** Can the uses allowed in the requested district be good neighbors to existing development? This is a subjective question. The focus should be on facts, not fears, and should be based on issues that zoning can address (e.g., allowed uses, minimum lot sizes, height, setbacks, traffic, etc.)
- 5. Length of time of any vacancy of the property:** Factual information, but its importance can be somewhat subjective. A property might be vacant because the current zoning is unsuitable, but there may be other reasons not related to zoning. Some examples might be a glut of available property of the same zoning district, financing problems, speculation, lack of available services or other development problems.
- 6. Relative gain to the public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners:** The protection of the public health, safety and welfare is the basis for zoning. The relationship between the property owner's right to use and obtain value from their property and the City's responsibility to its citizens should be weighed.
- 7. Recommendation of professional staff:** Should be based on the evidence presented, the factors, adopted plans and policies, and other technical reports (e.g., Capital Improvement Programs, facility master plans, etc.) which speak to the topic and staff's best professional judgment.

**8. Conformance with the Comprehensive Plan:** Does the request agree with the adopted plan recommendations? If not, is the plan out-of-date or are there mitigating circumstances which speak to the nonconformity?



# Memo

To: Louisburg Governing Body

From: Nathan Law

Date: October 13, 2020

Re: Text Amendment – 20001-TXA – Accessory Building Requirements

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Background: The Planning Commission discussed the following item regarding requested language change of the City Zoning Regulations pertaining to paved access drives for accessory structures. For this item, the hearing notice was published on September 9, 2020, and the public hearing was held on September 30, 2020. No public comment was provided at the hearing. The Planning Commission recommends Council consider approval a Text Amendment pertaining to Supplementary District Regulations.

Case No. 20001-TXA (Text Amendment) – Article 6, Supplementary Districts Regulations, Section 602, Yard Regulations, amending subsection B. Accessory Buildings, Structures and Uses, by adding Item 8. The following is the proposed addition:

*“Tracts of land greater than five (5) acres within R-1 Single-Family Dwelling or A-L Agricultural Districts shall have the option to install a hard surface or gravel driveway leading to any constructed accessory building greater than 300 square feet. Accessory buildings within this category shall have a 100-foot front yard setback and a 50-foot side yard setback.”*

The Planning Commission recommends Council consideration of the Text Amendment. This recommendation was given unanimously, by a vote of 7-0.

Financial: Cost to publish ordinance.

Legal: The ordinance must be published once in the official newspaper. No protest petition has been received. The attached ordinance must be published once in the official newspaper.

Recommendation: Approve the ordinance for a Text Amendment under Case No. 20001-TXA, amending and adding to Zoning Regulations pertaining to accessory buildings, structures and uses as presented.

**TEXT AMENDMENT 20001-TXA**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE AMENDING THE CITY ZONING REGULATIONS BY REVISING ARTICLE 6, SUPPLEMENTARY DISTRICTS REGULATIONS, SECTION 602, ACCESSORY BUILDINGS, STRUCTURES AND USES, AMENDING PARAGRAPH B AND ADDING ITEM 8 TO THE 2010 CITY OF LOUISBURG ZONING REGULATIONS.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LOUISBURG, KANSAS.**

That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under the authority and subject to the provisions of the Zoning Regulations of the City of Louisburg, Kansas of 2010, that:

**SECTION 602, ACCESSORY BUILDINGS, STRUCTURES AND USES**

Item 8 shall be added to Paragraph B as follows:

- 8. Tracts of land greater than five (5) acres within R-1 Single-Family Dwelling or A-L Agricultural Districts shall have the option to install a hard surface or gravel driveway leading to any constructed accessory building greater than 300 square feet. Accessory buildings within this category shall have a 100-foot front yard setback and a 50-foot side yard setback.*

PASSED and approved by the Governing Body this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Marty Southard, Mayor

ATTEST:

\_\_\_\_\_  
Traci Storey, City Clerk

(seal)

**Item #9**  
**20001-TXA**  
**TEXT Amendment**  
**Accessory Building Requirements**

PC Meeting Date: September 30, 2020 @ 6:30pm

On August 26, 2020, the Planning Commission directed Staff to draft a Text Amendment altering the accessory building requirements in Section 602, paragraph B.1 of the Zoning Regulations. This item was also previously discussed by the Planning Commission on June 24th and again on July 29<sup>th</sup>, 2020. As a result of Planning Commission discussions, Staff recommends the following modifications to this section:

Text Amendment to Article 6, Supplementary Districts Regulations, Section 602, Accessory Buildings, Structures and Uses, adding item 8 to paragraph B. The following is the proposed amendment:

(Add Item 8)

*“Tracts of land greater than five (5) acres within R-1 Single-Family Dwelling or A-L Agricultural Districts shall have the option to install a hard surface or gravel driveway leading to any constructed accessory building greater than 300 square feet. Accessory buildings within this category shall have a 100-foot front yard setback and a 50-foot side yard setback.”*

Since this discussion is open to the public, Staff has placed a notice in newspaper to advertise this hearing. This ad appeared in the Miami County Republic newspaper on September 9, 2020. To date Staff has not received any comments concerning this proposal.

All Planning Commission recommendations will be forwarded to the City Council for additional review and consideration. This item with Planning Commission recommendation will be presented to the City Council on October 19, 2020.

The Governing Body shall consider the Planning Commission's recommendation and may either approve the recommendation; override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or return the proposed amendment to the Planning Commission for reconsideration, as prescribed in the adopted zoning or subdivision regulations. If received for reconsideration, the Planning Commission shall consider the Governing Body's reasons for failure to approve or deny and may resubmit its original recommendation or a revised recommendation. Upon receipt of the recommendation, the Governing Body may approve or deny the proposed zoning or subdivision text amendment.

If the Governing Body approves the requested change, it shall adopt an ordinance to that effect.

## Louisburg Burn Site Debris Loader

**To:** Mayor and City Council  
**From:** Craig Hufferd, Public Works Supervisor  
**Date:** October 15, 2020  
**Re:** Debris Loader

**Background:** The leaf bin at the burn site was a great success last season as there seems to have been less leaf burning in town and a large number of leaves being dumped at the site. At the direction of City Council, Staff has researched leaf disposal and recommends the purchase of a vacuum trailer to haul leaves from the site. Leaves would be hauled to Belton where they would charge \$30 a load. Earlier this year Council requested prices for bigger trailer units which are listed below.

**Description:** The self-contained engine-driven vacuum leaf collecting machines are trailer-mounted, designed for one-person operation, and capable of picking up and completely mulching leaves from our leaf dump area. The mulch is deposited in the trailer-mounted hopper to be hauled to the desired location.

These units were researched via the internet and then called to verify pricing of each unit. When researching all the units shown below, they all had good online reviews for their desired uses.

**Below are prices and attached are pictures of the individual units:**

**Weibang Debris Loader**

- 5 yard \$7,198



**Little Wonder Debris Loader**

- 5 yard \$18,256
- 10 yard \$32,300



**Xtreme Vac Debris Loader**

- 20 yard \$80,000
- 25 yard \$84,000
- 30 yard \$88,000



**Tough Equipment ARM Debris Loader**

- 17 yard \$62,000
- 25 yard \$65,500
- 30 yard \$67,500



**Spartan Leaf Pro Debris Loader**

- 20 yard \$75,000
- 30 yard \$80,000



With the leaves located in one place this would only require one employee for one day a week. All debris loaders can be pulled by any of our current F350's or F550's with the trailer fully loaded.

**Recommendation:** Staff recommends the mid-size, less expensive Little Wonder 10 yard unit as leaves will be collected at only the site, versus running it throughout the city, and because of the short duration of the leaf season. It is smaller but reviews indicate it is easier to tow than the larger models. The smaller unit would likely require 1 or 2 additional trips to the dump in a day.

# Memo

To: Louisburg Governing Body

From: Nathan Law

Date: October 15, 2020

Re: Burn Site Review

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Background: Staff was notified of a complaint regarding the City burn site, filed with the Kansas Department of Health and Environment. KDHE point of contact Pat Simpson has asked that the City of Louisburg consider options for the burn site to lessen the conditions that have caused the complaint. The complaint is regarding smoke carried from the burn pile identified in the image below. City employees push trees and brush into the burn pile typically early in the work week, with some exceptions occurring when a large amount of trees or brush are dumped mid-week. The reason for any deviation is in order to avoid so much volume of trees and brush that pose risk to the next planned burn or poses an uncontrolled fire hazard.



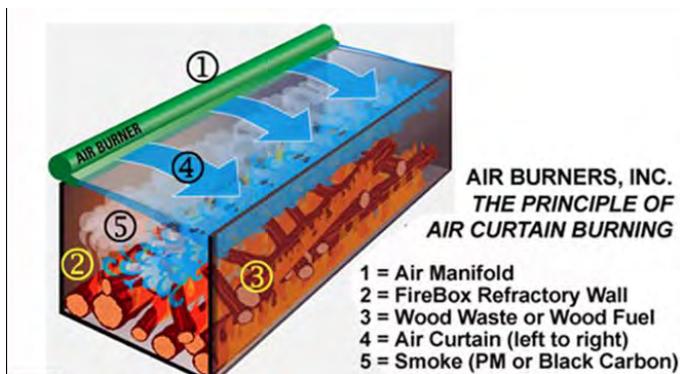
At this point the items to consider are:

- Move the location of the burn site to some other city-owned property
- Add a forced-air system to the burning operation to lessen the degree of smoke and ash
- Contract for hauling away of trees and brush and not burn at the location
- Gate off the burn site and schedule for unlock times, closing when reaching a certain quantity
- Further limit who is able to dump at the site
- Close the site and no longer offer a burn site

#### Move the Location

No other city-owned property provides the appropriate combination of proximity to neighboring residential properties and security of the site. City-owned properties that afford enough space for such an operation is limited to one, Lewis-Young Park, and that location has deficiency in oversight and security. Moving the location does not seem to be feasible at this time.

#### Forced-Air System



Any system that adds forced air to a burn pile is required to be permitted every year by the State of Kansas, at a cost of \$3,000 each year, along with monthly checklist inspections by the City. The cost of a forced-air system can range from \$100,000 to \$180,000 for combined air and box units. There are likely smaller or less expensive units to be found, but may not include the fire box.

#### Contract Hauling

Unknown cost at this time, but would require equipment the City does not currently have to load trees and brush into a large container truck, haul to a landfill, and would occur at an unknown frequency. The burn site is sizable for its current use, but would potentially be difficult to maneuver around with a large truck and trailer.

#### Gate Site

This option does not have a significant infrastructure cost, but would require coordinating staff time to monitor the burn site on those days when the site is unlocked to ensure only a certain quantity of trees or brush are allowed to collect before closing off for purpose of scheduling a less frequent burn operation.

#### Further Limit

Through additional time monitoring the burn site, an option is to limit the currently allowable function of commercial tree operations performing work for Louisburg residents are allowed to offload trees at the burn site. This falls within the posted restrictions at the burn site. There is undoubtedly some tree and brush taken to this burn site that does not come from within the City proper, but would take full-time monitoring to determine.

#### Close Site

The City could eliminate the offering of a burn site for residential use. The permit for this site could lapse for lack of renewal and the residents could utilize yard waste services through current trash hauler, could contract individually for tree and brush removal, or can haul trees and brush to a landfill.

Financial: None.

Legal: None.

Recommendation: Discuss burn site consideration and direct staff accordingly.

# Memo

To: Louisburg Governing Body

From: Nathan Law

Date: October 15, 2020

Re: Immediate Hazard at 128 Harvest Drive

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**Background:** At the last Council meeting it was noted that broken glass posed an immediate hazard to the public at 128 Harvest Drive. While the private property is not necessarily open to the public, City Code section 8-812 requires the Governing Body to declare any issue an immediate hazard. In consultation with the City Attorney, this should be done by a formal vote of the Council. Once done, the City will be able to immediately address the hazards, and then pursue the remainder of nuisance property items according to City Code.

**Financial Consideration:** Costs may be assessed against the property on which safety concern is abated.

**Legal Consideration:** City Code section 8-812 is as follows.

**Immediate hazard.** When, in the opinion of the Governing Body, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the Governing Body may direct the public officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 8-811.

**Recommendation:** Declare the broken windows at 128 Harvest Drive to be an immediate hazard.