

# TOPEKA PLANNING COMMISSION

## A G E N D A

**Monday, December 19, 2016**  
**6:00 P.M.**

**214 East 8th Street  
City Council Chambers, 2<sup>nd</sup> Floor  
Municipal Building  
Topeka, Kansas 66603**

*Persons addressing the Planning Commission will be limited to four minutes of public address on a particular agenda item. Debate, questions/answer dialogue or discussion between Planning Commission members will not be counted towards the four minute time limitation. The Commission by affirmative vote of at least five members may extend the limitation an additional two minutes. The time limitation does not apply to the applicant's initial presentation.*

Items on this agenda will be forwarded to the City Council for final consideration.

All information forwarded to the City Council can be accessed via the internet on Thursday prior to the City Council meeting at: <https://www.topeka.org/calendar>



**ADA Notice: For special accommodations for this event, please contact the Planning Department at 785-368-3728 at least three working days in advance.**

## HEARING PROCEDURES

**Welcome!** Your attendance and participation in tonight's hearing is important and ensures a comprehensive scope of review. Each item appearing on the agenda will be considered by the City of Topeka Planning Commission in the following manner:

1. The Topeka Planning Staff will introduce each agenda item and present the staff report and recommendation. Commission members will then have an opportunity to ask questions of staff.
2. Chairperson will call for a presentation by the applicant followed by questions from the Commission.
3. Chairperson will then call for public comments. Each speaker must come to the podium and state his/her name. At the conclusion of each speaker's comments, the Commission will have the opportunity to ask questions.
4. The applicant will be given an opportunity to respond to the public comments.
5. Chairperson will close the public hearing at which time no further public comments will be received, unless Planning Commission members have specific questions about evidence already presented. Commission members will then discuss the proposal.
6. Chairperson will then call for a motion on the item, which may be cast in the affirmative or negative. Upon a second to the motion, the Chairperson will call for a role call vote. Commission members will vote yes, no or abstain.

Each item appearing on the agenda represents a potential change in the manner in which land may be used or developed. Significant to this process is public comment. Your cooperation and attention to the above noted hearing procedure will ensure an orderly meeting and afford an opportunity for all to participate. Please Be Respectful! Each person's testimony is important regardless of his or her position. ***All questions and comments shall be directed to the Chairperson from the podium and not to the applicant, staff or audience.***

### Members of the Topeka Planning Commission

Brian Armstrong  
Ariane Burson  
Rosa Cavazos  
Scott Gales, Chair  
Dennis Haugh  
Carole Jordan  
Wiley Kannarr  
Katrina Ringler  
Patrick Woods, Vice Chair

### Topeka Planning Staff

Bill Fiander, AICP, Planning Director  
Carlton O. Scroggins, AICP, Planner III  
Dan Warner, AICP, Planner III  
Mike Hall, AICP, Planner III  
Tim Paris, Planner II  
Dean W. Diediker, Planner II  
Annie Driver, AICP, Planner II  
Taylor Ricketts, Planner I  
Kris Wagers, Office Specialist

# **AGENDA**

## **Topeka Planning Commission**

**Monday, December 19, 2016 at 6:00 P.M.**

- A. Roll call**
- B. Approval of minutes – November 21, 2016**
- C. Communications to the Commission**
- D. Declaration of conflict of interest/exparte communications by members of the commission or staff**
- E. Action Items**
  - 1. CU16/5 by: 901 Real Estate LLC** requesting a Conditional Use Permit for a Correctional Placement Facility, General” on property located at 2035 SW Western and presently zoned “I-1” Light Industrial District and requesting a Conditional Use Permit for a “Surface Parking Lot in Association with a Principal Use” on property located along the east side of SW Fillmore between SW 20th and SW Hampton streets and presently zoned “M-1” Two Family Dwelling District. **(Driver) Remanded by Governing Body November 15, 2016**
  - 2. P16/20 Lewis Industrial Park Subdivision** (Preliminary Plat Phase) by Lewis Family Limited Partnership on property located at 840 NE U.S. 24 Highway, all being within the City of Topeka, Shawnee County, Kansas. **(Driver)**
- 3. Public Hearings**
  - 1. Reser’s Development**
    - a. A17/01 by Reser’s Fine Foods, Inc.** requesting to annex into the City the property located at the northwest intersection of SE 6<sup>th</sup> Street and SE Croco Road. **(Warner)**
    - b. CPA16/01 by Topeka Planning Commission** requesting to amend the text and map of the City’s Land Use and Growth Management Plan 2040 related to the proposed rezoning at the northwest intersection of SE 6<sup>th</sup> Street and SE Croco Road. **(Warner)**
    - c. PUD16/05 by Reser’s Fine Foods, Inc.** requesting to amend the district zoning classification from “RR-1” (Residential Reserve District) and “C-2”

(Commercial District) on 25 acre property located at the northwest intersection of SE 6<sup>th</sup> Street and SE Croco Road **ALL TO "PUD"** Planned Unit Development ("I-1" Light Industrial District uses). **(Driver)**

2. **CU16/06 by the City of Topeka** requesting a Conditional Use Permit to allow for a public utility facility (water pump station) on property zoned "R-1" (Single Family Dwelling District) located on the SE corner of SE 5<sup>th</sup> Street and SE Norwood Avenue **(Hall)**
3. **PUD16/06 Brewster Place Campus Master Planned Unit Development by Congregational Home, Inc. and City of Topeka** requesting a rezone from "R-1" (Single Family Dwelling District), "M-2" (Multiple Family Dwelling District), "O&I-2" (Office and Institutional), "PUD" Planned Unit Development, and "O&I-3" (Office and Institutional uses) on a 25.82 acre property lying near the southwest intersection of SW Topeka Blvd and SW 29<sup>th</sup> Street and bounded by SW Lincoln Street on the west side and SW 31<sup>st</sup> Street on the south side , **ALL TO PUD** with "M-3" (Multiple Family Dwelling District) use. **(Driver)**

**F. Adjournment**

CU16/5  
by 901 Real Estate LLC

# Staff Report – Conditional Use Permit Topeka Planning Department

PLANNING COMMISSION DATE: Monday, December 19, 2016

The Planning Commission recommended DENIAL of both CUP applications (correctional placement facility and surface parking lot) by a vote of 3-2 at its October 17, 2016 public hearing. The Governing Body considered the applications on November 15, 2016 and remanded the request back to the Planning Commission for reasons as follows:

- Gathering input on the rezoning request from the ExpoCenter.
- The Planning Commission having a full attendance by Commission members.
- Examine the proposal thoroughly regarding what is best for the future health and regrowth of a neighborhood.
- Share more factual information about the operations of the City of Faith to date, including but not limited to photos of their properties, performance data of programs and residents, and more information about the neighborhood and community relationships.

Subsequent to the Governing Body meeting, City of Faith has withdrawn its participation in the CUP application for a "Correctional Placement Facility". 901 Real Estate LLC, applicant and property owner, has not withdrawn its applications.

In light of the withdrawal of City of Faith's participation, Planning staff recommends DENIAL of the CUP application for a correctional placement facility and APPROVAL of the CUP application for a vehicle surface parking lot subject to submitting an amended site plan. The original staff report follows.

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## APPLICATION INFORMATION

**APPLICATION CASE NO:**

**CU16/5 By: 901 Real Estate LLC**

**REQUESTED ACTION / CURRENT ZONING:**

A Conditional Use Permit (CUP) for *Correctional Placement Facility, General* on property at 2035 SW Western that is zoned "I-1" Light Industrial District and a Conditional Use Permit for a *Surface Parking Lot in Association with a Principal Use* on property zoned "M-1" Two-Family Dwelling District and located along the east side of SW Fillmore.

**APPLICANT / PROPERTY OWNER:**

901 Real Estate LLC

**APPLICANT REPRESENTATIVE:**

Steve Clinkenbeard, MindTap Group (property owner)  
Terry Williams, Director, City of Faith (Applicant)  
Stan Peterson, Peterson Architectural Group, Architect

**PROPERTY ADDRESS & PARCEL ID:**

2035 SW Western Ave (1410104028009000 and  
1410104028001010);

Vacant properties lying along SW Fillmore between SW Hampton and SW 20<sup>th</sup> Streets (1410104028004000, 1410104028005000,

**PHOTOS:**



2035 SW Western



Fillmore properties adjacent to 2035 Western

**PARCEL SIZE:**

2.05 acres

**STAFF PLANNER:**

Annie Driver, AICP, Planner II

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**PROJECT AND SITE INFORMATION**

**PROPOSED USE / SUMMARY:**

A federal re-entry program (City of Faith) contracted through the U.S. Bureau of Prisons for a maximum of 60 persons: 45 will live at the facility (40 men, 5 women) and 15 will live off-site in “home confinement”. Those in “home confinement” are monitored electronically and check-in as scheduled. *\*A detailed program description is provided in the applicant’s Statement of Operations.*

The Kansas Department of Corrections will use the first floor for their re-located parolee office (8,300 sq. ft.) and is a permitted use in the “I-1” zoning district.

The new 70-stall parking lot on SW Fillmore will provide adequate parking for both users: The KDOC offices on the first floor and City of Faith on the second floor.

**DEVELOPMENT / CASE HISTORY:**

“I-1” Light Industrial – The zoning has remained as such since 1940 when part of the building (warehouse) was constructed as an assembly plant. The two-story office building (proposed site) was constructed in 1969 and contains 16,600 sq. ft. total (two floors).

"M-1" Two – Family Dwelling District – Part of this block along the east side of Fillmore was zoned "I-1" in 1998 and rezoned to "M-1" after the adoption of the first Chesney Park Neighborhood Plan (1998). The remaining block has been zoned "M-1" as far back as records indicate.

**BACKGROUND:**

Mirror, Inc. located at 2201 SE 25<sup>th</sup> Street is currently contracted as the Federal Re-Entry Facility in Topeka and has existed in this location since 1996. Mirror, Inc. is bidding on this same current contract with the Bureau of Prisons and will lose contractees if City of Faith is awarded this bid instead, which ultimately will cause this facility to close.

The zoning of this property is PUD (M-2 uses) and the use is considered legal non-conforming and permitted to continue since it has existed at the site since the adoption of the current "Correctional Placement Facility" zoning category after 2000.

**ZONING AND CHARACTER OF SURROUNDING AREA:**

The zoning and land uses along the west side of SW Western from SW 21<sup>st</sup> SW 18<sup>th</sup> are industrial in nature and/or zoning classification and are used for storage, warehousing, parking lots, and/or Water Treatment Plant by the City of Topeka. The Chesney Park Great Mural Wall surrounds the City Water Plant located north of this block. The east side of SW Fillmore between 19<sup>th</sup> and 21<sup>st</sup> contains a mix of residential and non-residential uses. The blocks along the west side of SW Fillmore are entirely single-family residential in character. *(Below is an example of a residence directly across SW Fillmore Street from the proposed parking lot that has made investments.)*



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**COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES**

**BUILDING SETBACKS:**

The site plan provides a 30' parking lot setback along SW Fillmore that is consistent with the standard zoning setback of "R-1" (zoning of property on the west side of Fillmore).

**OFF-STREET PARKING:**

Required: 1 per 400 stalls for KDOC office (21 stalls)  
1 per 2 beds based on 45 beds (23 stalls)

1 per staff based on maximum staff on a shift (6 stalls)

Proposed: 28 parking stalls at 2035 SW Western  
Approximately 70 new parking stalls on Fillmore

**LANDSCAPING:**

The site plan provides a 30' landscape setback for the parking lot with a 36" berm along Fillmore. The site plan states no fencing is allowed within this 30 ft. setback. Additional streets trees are required along Fillmore. A specific Landscape Plan addressing points, type, and quantity will be provided at the time of site plan review and prior to approval of a Parking Lot Permit.

**OPERATION CHARACTERISTICS:**

The facility is a 24/7 operation with round the clock security personnel by 13 Security Officers. Additionally, there will be six full time staff on-site per shift. Approximately 30% of the residents living on-site will drive and adequate parking is provided for staff and residents. Residents will maintain full-time employment and are subject to job checks by staff. Residents are required to pay a percentage of their week income as subsistence. The Re-Entry Center employs a digital sign in/sign out program called Safe-Keep to maintain accountability. Those residing off-site will be accounted for by electronic monitors.

**FENCING:**

A fence is proposed around the KDOC parking lot. Staff is recommending an additional fence around the City of Faith parking.

**LIGHTING:**

A lighting note states: *"Lighting shall be shielded and recessed to prevent the cast of lighting beyond the properties and shall not exceed three foot-candles as measured at the property line. Exterior lighting shall follow accepted standards for parking lot lighting and be reviewed at the parking lot permit stage."*

**SIGNAGE:**

The site plan states: *"No signage for either use is permitted except typical parking lot regulatory signs"*. The site plan needs to address signs for City of Faith.

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**PUBLIC FACILITES**

**TRANSPORTATION:**

SW Western is classified as a collector street. All access to and from the site will be restricted to the Western driveway entrance. SW Fillmore is a local street. No access is provided along Fillmore.

There are bus routes on SW 17<sup>th</sup> (Route #17) and SW 21<sup>st</sup> (Route #21). The closest bus stops to the property are located at SW Fillmore/21<sup>st</sup> and SW Western/17<sup>th</sup>. Topeka Metro is reviewing the need to re-route down Western and provide a bus stop in front of the facility.

**UTILITIES:** The building is connected to existing sanitary sewer and water. Service lines will need to be verified to determine if sizing is correct. A public utility easement is necessary if the alley is vacated.

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## **OTHER FACTORS**

**SUBDIVISION PLAT:** Existing platted lots of record.

After application submittal, the applicant discovered a lot line discrepancy on property covered by the northernmost row of parking stalls at 2035 SW Western- The owner to the north may actually have fee title to this portion of the property. An access easement or quick-claim deed may need to be executed between the two property owners (901 Real Estate/Starky). The applicant and adjacent owner are in discussion regarding how to proceed.

**FLOOD HAZARDS, STREAM BUFFERS:** No applicable

**HISTORIC PROPERTIES:** Not applicable

**VACATION:** The applicant has submitted an alley vacation application in conjunction with this application that would enable them to connect their parking with the building by fencing/gates. This is intended to limit the points of pedestrian access into the neighborhood and also control access to a single driveway on Western.

**NEIGHBORHOOD MEETING:** The applicant conducted a meeting on Monday, September 26, 2016 at 5:30 pm located on-site at 2035 SW Western. Approximately 20 attended the meeting, including Planning and Police Department staff.

Key issues discussed at the meeting included:

- Security provisions, including staffing, door entry provisions, lighting
- Need to re-locate bus stop or route in front of the facility.
- Fencing around site to limit pedestrian and vehicular access through/from the neighborhood.
- The need for good cooperation and communication between Police and the tenants.
- Types of crimes committed: The applicant responded that they will not serve people convicted of “Heinous” crimes as well as, those convicted of murder, sexual offenses, and crimes against children. “Heinous” crimes have to be deemed as “Heinous” by the court system and are considered those that are unnecessarily violent.

## **REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES**

<b>Public Works/Engineering:</b>	Stormwater quantity has not been reviewed. As noted on the site plan, the City Engineer will review a stormwater report for drainage quantity at the time of City Parking Lot Permit application to identify the need for detention based upon what is being added to the existing storm system from new parking. Detention may be required, but more information is needed from the applicant's engineer at the time of Parking Lot Permit application to determine the future location of detention.
<b>Water Pollution Control:</b>	Stormwater quality measures are not required since the developed area is less than 1 acre.
<b>Fire Department:</b>	The Fire Department indicated there are no current issues. Future plans will be further reviewed.
<b>Development Services:</b>	A Parking Lot Permit and Building Permit are required. All driveways, parking areas, and the alley will be improved and surfaced to City standards.
<b>Topeka Metro:</b>	Topeka Metro is reviewing the request to move or re-locate the bus route and add a new bus stop in front of the facility.
<b>Police Department:</b>	Police Department staff walked the site with Planning staff and reviewed for access, lighting, and security concerns. The proposed site plan and conditions of approval is based on this discussion. The Police Department recommended the applicant pursue vacating the alley and the applicant has submitted an application, which is under review.

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### **KEY DATES**

<b>SUBMITTAL:</b>	September 6, 2016
<b>NEIGHBORHOOD INFORMATION MEETING:</b>	September 26, 2016
<b>LEGAL NOTICE PUBLICATION:</b>	September 21, 2016
<b>PROPERTY OWNER NOTICE MAILED:</b>	September 23, 2016

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### **STAFF ANALYSIS**

**EVALUATION CRITERIA:** In considering an application for a Conditional Use Permit, the Planning Commission and Governing Body will review the request following standards in Topeka Municipal Code Section 18.245(4)(ix) in order to

protect the integrity and character of the zoning district in which the proposed use is located and to minimize adverse effects on surrounding properties and neighborhood. In addition, all Conditional Use Permit applications are evaluated in accordance with the standards established in the Section 18.215.030 for Land Use Compatibility, Site Development, Operating Characteristics, and consistency with the Comprehensive Plan.

- 1. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies:** The subject properties lie within areas designated as “Transition Areas” (M-1 zoned properties) and “Industrial” land uses (2035 SW Western) by the Chesney Park Neighborhood Plan (re-adopted 2009). The “Industrial” category characterizes the blocks lying adjacent to the Expo Center. The category is intended to accommodate either for the expansion of the Expo Center uses (parking, storage, etc.) or for the expansion of existing light industrial uses. The category does not support the whole sale re-development of entire blocks for new industrial land uses. The blocks lying along the east side of Fillmore are designated as a “Transition Areas”. These areas are those that have potential to develop for non-residential uses due to the presence of vacant land, deteriorated or blighted structures, or other non-residential uses lying nearby. The plan establishes design standards for new development within these areas that includes: fencing, setbacks, berms, landscaping, tree retention, street closures/alley closures, and limiting driveway access off of local streets. The zoning of the properties are not changing. A “Correctional Placement Facility, General” is permitted with a Conditional Use Permit in the “I-1” zoning. A “Parking Lot in Association with a Principal Use” is permitted with a Conditional Use Permit in the “M-1” zoning. If the vacation of the public alley is approved, the parking lots will be connected to, and tied together, with the properties at 2035 SW Western by fencing/gates.

The CUP site plan demonstrates consistency with design guidelines for these “Transition Areas” along Fillmore. The following design guidelines are provided: A 36” berm to separate the parking from residential uses, a setback that is consistent with the “R-1” zoning front yard setback, retention of existing trees and provision for street trees along Fillmore. Additionally, the site plan adds notes about lighting considerations and addresses concerns with pedestrian access through the neighborhood. No fencing shall be placed within the “front yards” along SW Fillmore within 30 ft.

As conditioned, the site plan satisfies design standards and is in conformance with the Chesney Park Neighborhood Plan.

- 2. The character of the neighborhood including but not limited to: land use, zoning, density, architectural style, building materials, height, structural mass, sitting, open space and floor-to area ratio:** The neighborhood is characterized by single-family dwellings fronting the west side of SW Fillmore St. and extending further westward into the neighborhood. Industrial uses or uses related to the Kansas Expo Center front on SW Western between SW 21<sup>st</sup> and 18<sup>th</sup> streets. The residential blocks on the east side of SW Fillmore and between SW 17<sup>th</sup> and SW Hampton are designated as “Transition Areas” in the neighborhood plan, recognizing that there is an industrial pull at these locations, which does limit their viability for new residential development.
- 3. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses:** The zoning and uses of nearby properties is for two-family dwellings along the east side of Fillmore and single-family dwellings along the west side and has been such since platted in the 1880’s with 25 ft. wide lots. Both the uses of the properties for a “Correctional Placement Facility” and “Surface Parking Lot in Association with a Principal Use” are allowed with Conditional Use Permits in the base zoning districts of “I-1” and “M-1”, respectively. The zoning of the properties are not changing. The second floor of the building is being re-purposed for the “Correctional Placement Facility”. The properties along Fillmore will remain zoned “M-1”. The site plan demonstrates design standards (setbacks, berms, landscaping) that allow the parking lot to “Transition” into the single-family residential land uses further west. The proximity of the “M-1” zoned properties to higher intensity industrial uses lessen their potential to re-develop as currently zoned.

Physically, the proposed development is in character with the neighborhood. The site plan proposes a suitable design for a parking lot within a "Transition Area". The building itself is currently vacant and this would be an infill development, adaptive re-use of an unoccupied structure. Operationally, there may be some aspects of the proposal that are not in character with the neighborhood, but is dependent upon the monitoring and structural arrangement of the program.

4. **The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations:** The "I-1" zoned property (2035 SW Western) and building is still suitable for non-residential uses or industrial uses. However, the part of the warehouse structure where City of Faith/KDOC will be re-located was originally constructed for office purposes and has been used entirely for those purposes since 1969 until 2006 (when it became vacant). Removal of the offices and returning this unit of the building to an industrial space would require a substantial interior remodel. Additionally, the property is located between warehouses and other light industrial uses. This location does not fit the criteria or the needs most professional office users require and other uses are also appropriate at this site.

The "M-1" zoned properties along the east side of Fillmore are still suitable as restricted for new single-family dwellings or new duplexes. In fact, duplexes or another multiple-family residential zoning would be an appropriate transition into the single-family neighborhood lying west of Fillmore. New housing on this block of Fillmore would promote the goals of the neighborhood plan. The Chesney Park neighborhood has undergone extensive revitalization efforts as initiated by the neighborhood plan (1998) and plan's update (2009). These investments have included new infill single-family homes for homeownership, rehabilitation of existing housing, installation/repair new alleys, sidewalks, and curbing. Public safety (Part I crimes) has improved and crime has dropped between 2000 and 2014, as indicated by the Neighborhood Health Maps. This has led to Chesney Park improving from an "Intensive Care" to an "At Risk" neighborhood from 2007 to 2014.

Although, the neighborhood is still viable for single- or two- family homes, this particular block was not part of the plan's target areas for new City investment so any new residential investment likely would come primarily from the private sector. There have been some investments by private landowners on Fillmore (Note: residence directly across Fillmore.) Additionally, in 2014, Habitat for Humanity constructed two new infill houses along the east side of Fillmore on blocks north of the subject property (1816/1814 SW Fillmore). Nevertheless, the near proximity of industrial land uses that back-up to these four, "M-1" zoned properties does limit their viability and feasibility for new residential development.

5. **The length of time the property has remained vacant as zoned:** The office space portion (constructed 1969) has been unoccupied since 2006 when it was last used by Family Service and Guidance Center. The warehouse space portion of the building was constructed in 1949 and is still in use as warehousing. The single family lots along Fillmore have been vacant since at least 2006. (The last known aerial map showing houses on the properties was in 1966.)
6. **The extent to which the approval of the application would detrimentally affect nearby properties:** The proposed site design should "physically" have no detrimental effects on nearby properties. The Re-Entry Center will be located in an existing building and be inconspicuous. All of the following design aspects of the parking lot provide for a suitable use of a "Transition Area": Restricted access along Fillmore (local street), three-foot tall berm, landscape setbacks, and fencing. Fencing and vacation of the alley will control and restrict access (pedestrian and vehicular) to a single driveway on Western. Parking lot lighting will be further reviewed at the site development stage after a foot-candle analysis is prepared by a licensed professional, but a note is added to the CUP to address parking lot lighting concerns of staff.

The applicant has provided a detailed Statement of Operations to make certain the proposed use does not "operationally" have a detrimental effect on nearby properties. The City recognizes there are perceived negative effects associated with "unregulated" halfway houses that have been developed in the past and the

impact they may have had on public safety and property values. The “*Correctional Placement Facility or Residence*” zoning category was created after the adoption of these neighborhood plans to ensure there is a public process and oversight of these types of uses, as well as, the opportunity for the neighborhoods to voice input. This CUP request is consistent with that intention because it provides an opportunity for transparency between the “*Correctional Placement Facility or Residence*” and the neighborhood. This owner should make all attempts to remain accountable to the Chesney Park NIA and the Police Department concerning current residents and is encouraged to inform the neighborhood and Police Department when there is a change in residents. The Statement of Operations indicates the facility will exclude residents who have been convicted of “heinous” crimes, which are those deemed by the court system to be “unnecessarily violent in nature” as well as, all those individuals who have committed murder, crimes against children, and sexual offenses. Staff does have some concerns with the proximity of this facility to a recently approved CUP for a day care center at SW 19<sup>th</sup> and Fillmore and also after the City Council’s recent approvals of two other “Correctional Placement Residences” in nearby central Topeka neighborhoods.

7. **The extent to which the proposed use would substantially harm the value of nearby properties:** There may be some negative effects upon property values by the close proximity of “Correctional Placement Facilities” and the perceived danger resulting from this use. Staff proposes a time limit requiring renewal of the conditional use permit after five years. This time limit on the CUP will give staff the opportunity to re-review the request after five years and assess the presence of any negative impacts.
8. **The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property:** The proposed uses will present no parking problems in the neighborhood and have no adverse effect on the capacity or safety of that portion of the road network. Primary access is provided from SW Western (collector street) and there will be no vehicle or pedestrian access to SW Fillmore (local street). The fencing will restrict vehicles and pedestrians to a single driveway entrance. Additionally, only 30 percent of the residents living on-site will drive and the remaining will rely on bus transportation. Topeka Metro is reviewing the need to re-route a bus along Western to pick-up from the facility. The additional parking lots on Fillmore are necessary to make certain there is not an overflow parking problem along surrounding neighborhood streets. The vacated alley and driveways will be improved to City standards at the time of site development of the parking lot.
9. **The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm:** The subject properties are not affected by a stream buffer or flood plain. The proposed development will need to comply with the City’s stormwater quantity requirements. If the City Engineer determines that it is required, detention will be provided in order to retain the additional increase in runoff, but further information needs to be provided from the applicant at the time the parking lot is developed. Water quality treatment is not required since the increase in impervious area is less than 1 acre. The 36” berm along Fillmore and parking lot setback will lessen any noise impact that may be associated with parking lot traffic. Additionally, vehicular access is not proposed from off of Fillmore.
10. **The economic impact of the proposed use on the community:** There would be a positive economic impact upon the community from the tax revenue that is added to the community from the new jobs that are created and from the additional investment in the building. A building lying vacant does not provide a positive impact upon the neighborhood or community.
11. **The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application:** Denial of the application will leave the present building in its current unoccupied state, in which there is no gain to the public health, safety and welfare. Any harm to the public health, safety, and welfare may come from a lack of compliance with conditions of their approval and Statement of Operations, which is enforced by the applicant. The CUP site plan proposes an adaptive re-use of an older, industrial-like building on the exterior boundary of

the single family neighborhood. There is a better chance the structure will be maintained if it is occupied rather than left to stand vacant. There is a hardship imposed upon the individual landowner since they have actively been trying to lease the site for an office for at least 10 years without any success.

## **STAFF RECOMMENDATION AND CONDITIONS OF APPROVAL**

The proposed physical site design appears to satisfy the standards for evaluation as provided for in TMC 18.215.030 Conditional Use Permits for Land Use Compatibility, Site Development, Operating Characteristics, and consistency with the Comprehensive Plan by incorporating the design standards for “Transition Areas” from the Chesney Park Neighborhood Plan. There is still some uncertainty as to whether the nature of this use in its operational characteristics will have a negative impact on the neighborhood. The applicant’s Statement of Operations has attempted to address the use’s operational characteristics to limit its impact on the neighborhood. The five year time limit will allow further evaluation of the use’s operational characteristics and effect on the neighborhood.

Based upon the above findings and analysis, Planning staff recommends **APPROVAL** of this proposal, **subject to the following conditions.**

1. **Use and development of the site in accordance with the approved Resolution, Conditional Use Permit Site Plan and Statement of Operations for City of Faith (CU16/5).**
2. Adding note: *“The Conditional Use Permit shall expire five (5) years upon the date of City Council approval of the Resolution. The property owner(s) is responsible for notifying the Planning Department and shall apply to re-new the Conditional Use Permit following the same procedures set forth with approval of an initial application.”*
3. Revising note regarding number the facility “will house” to state: *“City of Faith will be a 24 hour/7 day per week operation. The facility is contracted to serve a maximum of 60 persons total. Of these, a maximum of 45 (40 men, 5 women) will reside in the facility and a maximum of 15 will reside off-site in ‘home-confinement’”.*
4. Revising Lighting note to include: *“. . . A foot-candle analysis shall be prepared by a licensed professional at the time of parking lot permit approval.”*
5. Adding note: *“Any gates or fencing in public utility easements shall allow access for public service providers, emergency service providers, and adjacent property owners who need access.”* Provide for a private access agreement/shared parking agreement with adjoining owners, if necessary.
6. Labelling and revising site plan to indicate the segment of the public alley that is *“proposed to be vacated”*.
7. Adding note to fencing to indicate the type: *“6’ black wrought iron, ornamental or black chain link. Barbed wire is not permitted.”*
8. Depicting additional fencing around City of Faith parking lot with gates across alley, as needed.
9. Revising signage statement on site plan to propose the type of signage for City of Faith. Staff recommends a door sign only if any sign for this use is desired.
10. Add site plan note: *“In the event the alley vacation is not approved, the site plan shall be revised to reflect fencing around parking lots, but not across or within the public alley.”*

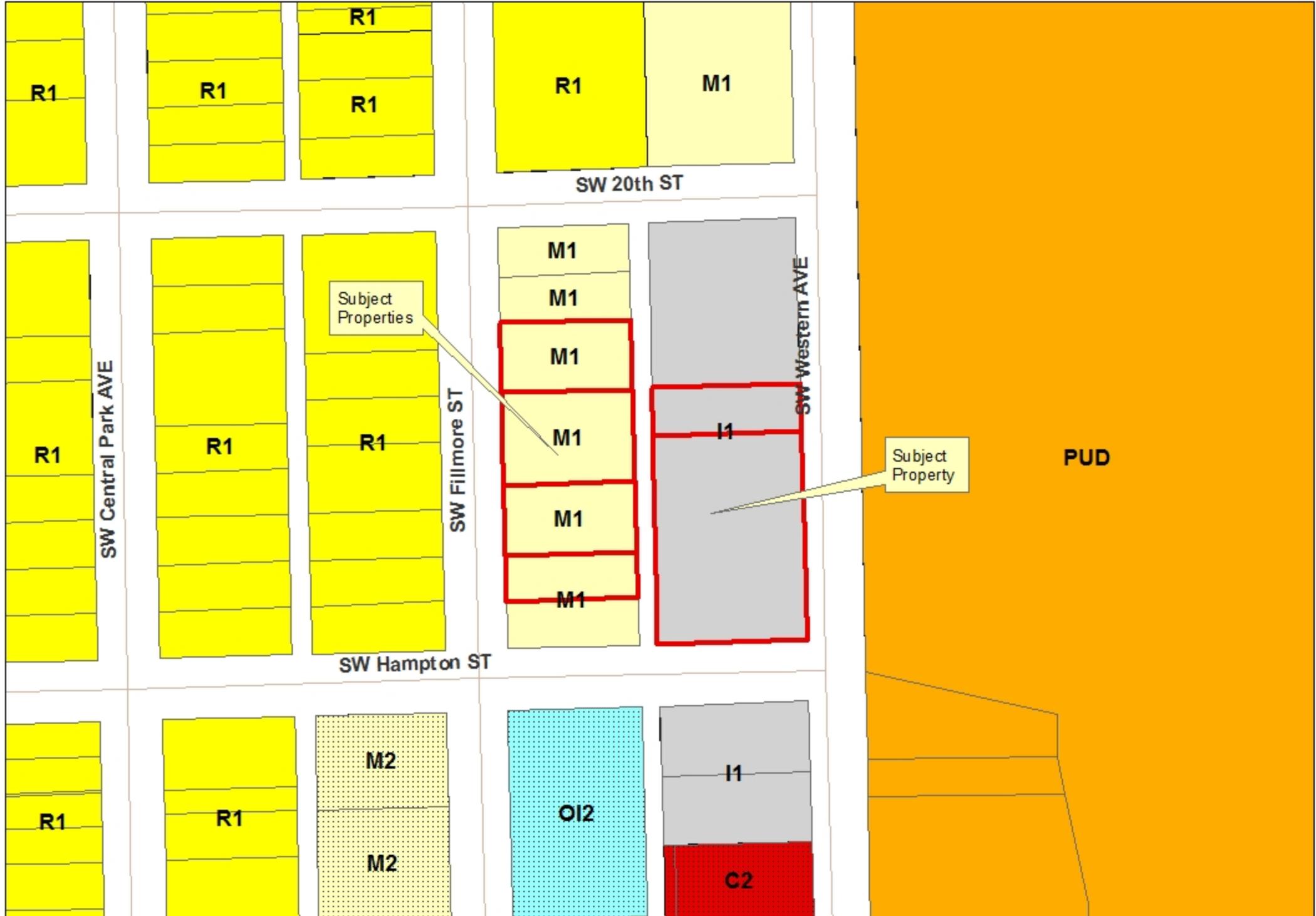
**ATTACHMENTS:**

Aerial Map  
Zoning Map  
CUP site plan  
Statement of Operations  
NIM report  
Additional Operating Information



**CU16/5 By: 901 Real Estate LLC**





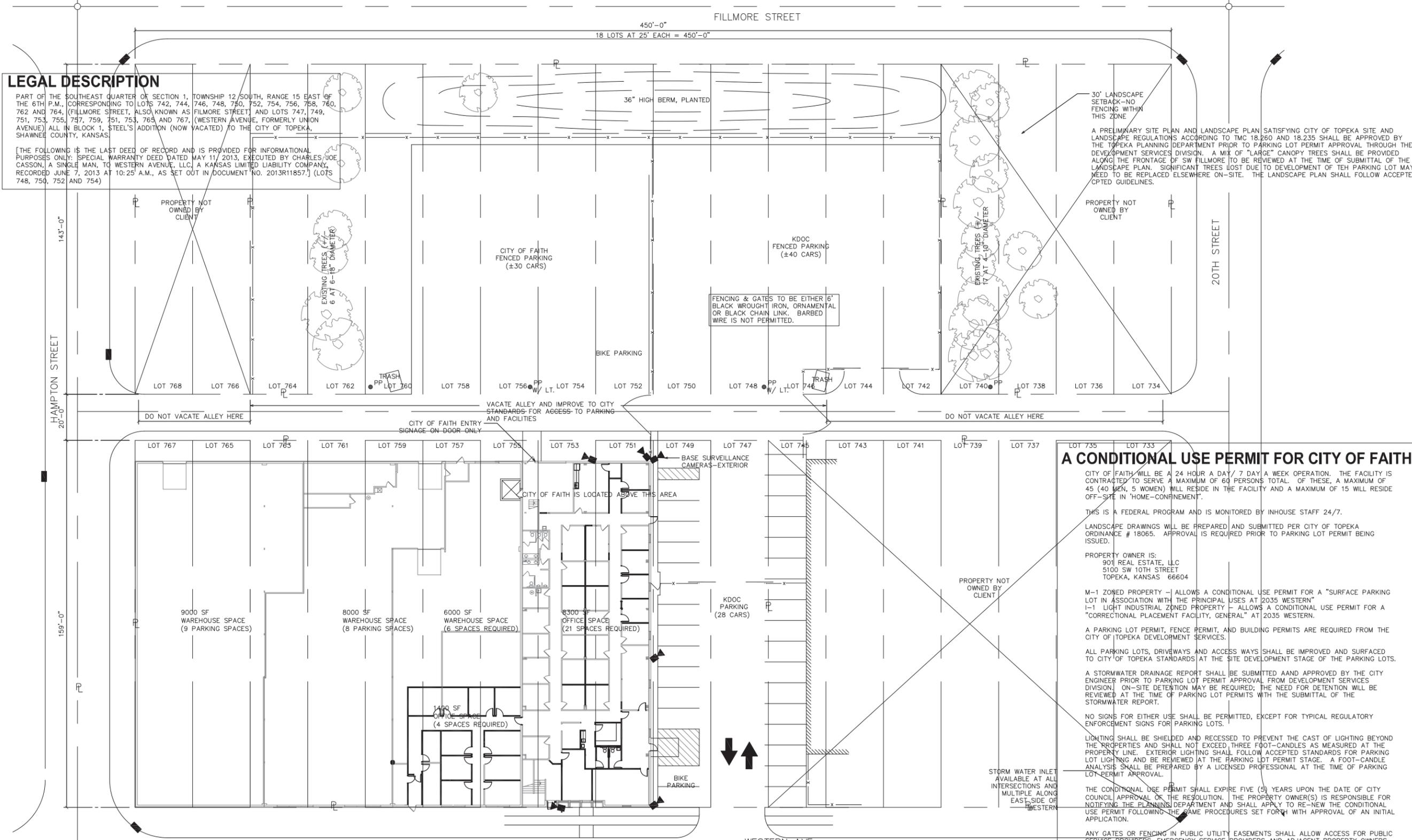
**CU16/5 By: 901 Real Estate LLC**



**LEGAL DESCRIPTION**

PART OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., CORRESPONDING TO LOTS 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762 AND 764, (FILLMORE STREET, ALSO KNOWN AS FILLMORE STREET) AND LOTS 747, 749, 751, 753, 755, 757, 759, 751, 753, 765 AND 767, (WESTERN AVENUE, FORMERLY UNION AVENUE) ALL IN BLOCK 1, STEEL'S ADDITION (NOW VACATED) TO THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS.

[THE FOLLOWING IS THE LAST DEED OF RECORD AND IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. SPECIAL WARRANTY DEED DATED MAY 11, 2013, EXECUTED BY CHARLES JOE CASSON, A SINGLE MAN, TO WESTERN AVENUE, LLC, A KANSAS LIMITED LIABILITY COMPANY, RECORDED JUNE 7, 2013 AT 10:25 A.M., AS SET OUT IN DOCUMENT NO. 2013R11857.] (LOTS 748, 750, 752 AND 754)



**A CONDITIONAL USE PERMIT FOR CITY OF FAITH**

CITY OF FAITH WILL BE A 24 HOUR A DAY / 7 DAY A WEEK OPERATION. THE FACILITY IS CONTRACTED TO SERVE A MAXIMUM OF 60 PERSONS TOTAL. OF THESE, A MAXIMUM OF 45 (40 MEN, 5 WOMEN) WILL RESIDE IN THE FACILITY AND A MAXIMUM OF 15 WILL RESIDE OFF-SITE IN "HOME-CONFINEMENT".

THIS IS A FEDERAL PROGRAM AND IS MONITORED BY INHOUSE STAFF 24/7.

LANDSCAPE DRAWINGS WILL BE PREPARED AND SUBMITTED PER CITY OF TOPEKA ORDINANCE # 18065. APPROVAL IS REQUIRED PRIOR TO PARKING LOT PERMIT BEING ISSUED.

PROPERTY OWNER IS:  
901 REAL ESTATE, LLC  
5100 SW 10TH STREET  
TOPEKA, KANSAS 66604

M-1 ZONED PROPERTY - ALLOWS A CONDITIONAL USE PERMIT FOR A "SURFACE PARKING LOT IN ASSOCIATION WITH THE PRINCIPAL USES AT 2035 WESTERN"  
I-1 LIGHT INDUSTRIAL ZONED PROPERTY - ALLOWS A CONDITIONAL USE PERMIT FOR A "CORRECTIONAL PLACEMENT FACILITY, GENERAL" AT 2035 WESTERN.

A PARKING LOT PERMIT, FENCE PERMIT, AND BUILDING PERMITS ARE REQUIRED FROM THE CITY OF TOPEKA DEVELOPMENT SERVICES.

ALL PARKING LOTS, DRIVEWAYS AND ACCESS WAYS SHALL BE IMPROVED AND SURFACED TO CITY OF TOPEKA STANDARDS AT THE SITE DEVELOPMENT STAGE OF THE PARKING LOTS.

A STORMWATER DRAINAGE REPORT SHALL BE SUBMITTED AND APPROVED BY THE CITY ENGINEER PRIOR TO PARKING LOT PERMIT APPROVAL FROM DEVELOPMENT SERVICES DIVISION. ON-SITE DETENTION MAY BE REQUIRED; THE NEED FOR DETENTION WILL BE REVIEWED AT THE TIME OF PARKING LOT PERMITS WITH THE SUBMITTAL OF THE STORMWATER REPORT.

NO SIGNS FOR EITHER USE SHALL BE PERMITTED, EXCEPT FOR TYPICAL REGULATORY ENFORCEMENT SIGNS FOR PARKING LOTS.

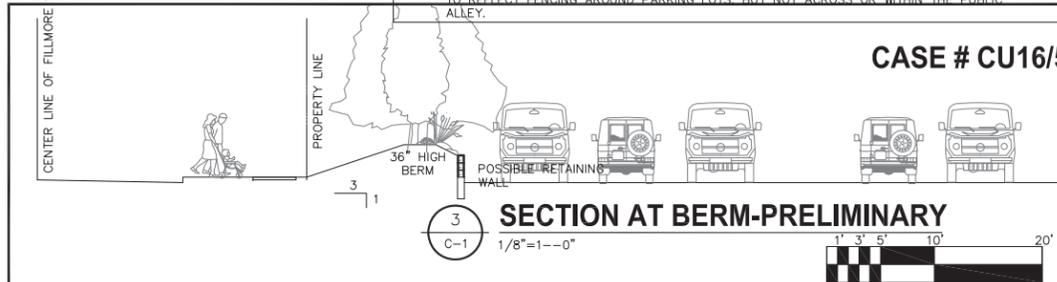
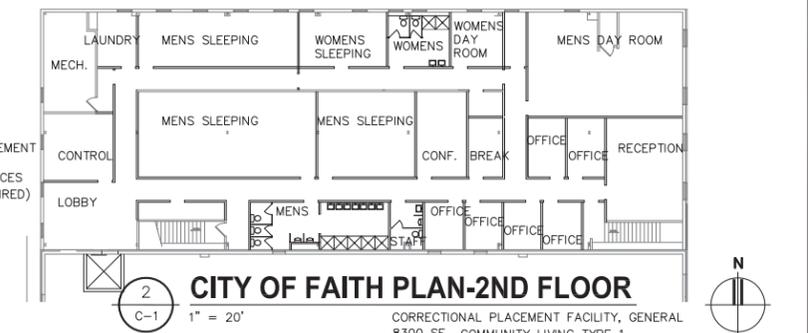
LIGHTING SHALL BE SHIELDED AND RECESSED TO PREVENT THE CAST OF LIGHTING BEYOND THE PROPERTIES AND SHALL NOT EXCEED THREE FOOT-CANDLES AS MEASURED AT THE PROPERTY LINE. EXTERIOR LIGHTING SHALL FOLLOW ACCEPTED STANDARDS FOR PARKING LOT LIGHTING AND BE REVIEWED AT THE PARKING LOT PERMIT STAGE. A FOOT-CANDLE ANALYSIS SHALL BE PREPARED BY A LICENSED PROFESSIONAL AT THE TIME OF PARKING LOT PERMIT APPROVAL.

THE CONDITIONAL USE PERMIT SHALL EXPIRE FIVE (5) YEARS UPON THE DATE OF CITY COUNCIL APPROVAL OF THE RESOLUTION. THE PROPERTY OWNER(S) IS RESPONSIBLE FOR NOTIFYING THE PLANNING DEPARTMENT AND SHALL APPLY TO RE-NEW THE CONDITIONAL USE PERMIT FOLLOWING THE SAME PROCEDURES SET FORTH WITH APPROVAL OF AN INITIAL APPLICATION.

ANY GATES OR FENCING IN PUBLIC UTILITY EASEMENTS SHALL ALLOW ACCESS FOR PUBLIC SERVICE PROVIDERS, EMERGENCY SERVICE PROVIDERS AND ADJACENT PROPERTY OWNERS WHO NEED ACCESS. PROVIDE FOR PRIVATE ACCESS AGREEMENT/SHARED PARKING AGREEMENT WITH ADJOINING OWNERS, IF NECESSARY.

IN THE EVENT THE ALLEY VACATION IS NOT APPROVED, THE SITE PLAN SHALL BE REVISED TO REFLECT FENCING AROUND PARKING LOTS BUT NOT ACROSS OR WITHIN THE PUBLIC ALLEY.

**1 OVERALL PLAN-GROUND LEVEL**



PETERSON ARCHITECTURAL GROUP  
ARCHITECTS  
1000 W. 10TH STREET, SUITE 100  
TOPEKA, KS 66604  
TEL: 785.326.1234  
FAX: 785.326.1235  
EMAIL: info@petersonarchitects.com

**BUILDING REMODEL FOR CITY OF FAITH RE-ENTRY DEVELOPMENT, LLC**  
2035 WESTERN STREET, TOPEKA, KANSAS

DATE: APRIL 2016  
DRAWN BY: CSP  
CHECKED BY: CSP  
REV:

**CHARLES STANLEY WELLS**  
LICENSED PROFESSIONAL ARCHITECT  
KANSAS  
NO. 2299

PAG JOB NO. 2016-007

SITE PLAN

**C-2 CASE #CU 16/5**

**901 Real Estate Investments, LLC  
5100 SW 10<sup>th</sup> St.  
Topeka, KS 66604  
785-272-5102**

November 9, 2016

Honorable Larry Wolgast  
Mayor  
City of Topeka  
215 SE 7<sup>th</sup> St., Rm 350  
Topeka, Kansas 66603

**HAND DELIVERED**

Ms. Brenda Younger  
City Clerk  
City of Topeka  
215 SE 7<sup>th</sup> St., Rm 166  
Topeka, Kansas 66603

**HAND DELIVERED**

Mr. William Fiander  
Planning Director  
620 SE Madison St.  
Topeka, Kansas 66607

**VIA E-MAIL  
bfiander@topeka.org**

**RE:   CONDITIONAL USE PERMIT APPLICATION 16/5  
      2035 SW WESTERN  
      901 REAL ESTATE INVESTMENTS, LLC**

To Whom It May Concern:

We are formally requesting that the City Governing Body return the Conditional Use Permit 16/5 to the Topeka Planning Commission for reconsideration based on the following items:

1. The October 17, 2016 Planning Commission meeting was attended by 5 of 9 members, missing were the Chairman and the Co-Chairman. No reason for the 3/2 denial was given; notwithstanding the fact that the Planning Staff had recommended approval.
2. The subject property lies in a Revitalization Area the City of Topeka has designated for redevelopment. The property has been vacant for 10 years and the present plan would have 90% of the building occupied by June 30, 2017, along with a private investment of \$400,000 in improvements to the subject property.
3. The contract City of Faith proposed was characterized as an either/or situation, meaning if the Conditional Use Permit was denied, the contract would default to the

current contract holder, placing the City of Topeka in a position to determine the outcome of a federally bid contract. This information was both incorrect and irrelevant to the issues that the commission should have appropriately considered under the objective standards of the ordinance.

4. The Federal Bureau of Prisons has inspected and approved the subject property for consideration of the contract award.
5. The City of Faith runs a low-profile operation and will occupy the second floor of the building with its main entryway on the west side of the building. The distance from this entrance to the southwest entrance of the Expo Centre is 2.5 city blocks and 3.5 city blocks from the ticket box office. All parking and green space areas for this operation are located on the west side of the building. This operation has no external signs, only a small sign at the entrance at the west side of the building.
6. The Applicants who developed this request worked four weeks with the City Planning Department whose representatives went to exhaustive efforts to review this operation. The City Planning Department recommended the Conditional Use Permit be approved, based on the factors set forth in the ordinance.
7. One of the terms of Conditional Use Permit 16/5 prohibits the City of Faith from accepting any individual who has committed a sexual offense, crimes against children or any crimes of a heinous nature as documented by the courts. Residents of this facility have committed crimes against the Federal government and not against a state government.
8. The Chesney Park Neighborhood Improvement Association is behind this project because it brings activity and jobs to their area. The City of Topeka Police Department has spoken in favor of this operation indicating they work together with operations such as City of Faith, due to their ability to know where residents are always located and that the residents are closely monitored.
9. The current facility, which is located across the street from Highland Park High School, has operated this federal reentry program for twenty years, and has no history of problems. The Bureau of Prisons has procedures and programs in place to determine who should be given the opportunity to return to society.
10. The protests from Shawnee County or those influenced by Shawnee County should be substantially discounted due to the County's conflict of interest, its lawyer and its desire to convert the existing property into an RV parking lot based on the strategic long range plan for the Expo Center. The County Counselor made an inquiry to our realtor indicating the County needed to buy this property before the owner invested any more money into it. Two Commissioners have openly stated they intend to contact members of the Governing Body of the City of Topeka to vote against this

issue. One cannot decrease the value of another's property to financially benefit its position. We do not believe it is about the children, we believe it is about the future plans of the Expo Center. Nothing has been mentioned about what impact does two new horse barns on the property directly across the street do to our property value? We question the benefit of the protest system which the City of Topeka has in place. One person filing a Protest, without stating any reason, can force a property owner in a Conditional Use Permit situation to seek one more vote at the City Council Level. In short, the County's reasons for objecting could be a pretext to the underlying purpose of keeping the value of the property low for acquisition purposes. However, there is no system in place where people who support the Conditional Use Permit can file an equally powerful statement.

11. This building's second floor has been vacant for 10 years. It has been listed for this entire time without attracting a tenant. For this current tenant, this space is properly zoned but requires a Conditional Use Permit. This permit is under attack because of the activity, but how does the City of Topeka ever approve such a Conditional Use Permit if it allows a "Not in my backyard" argument to be the determining factor. This tenant has met and exceeded the guideline as set out in the Municipal Code for approving a Conditional Use Permit.
12. The Kansas Department of Corrections has confirmed the State of Kansas is in the final stages of approving the relocation of its current Parole Office at 1430 SW Topeka Blvd to the subject property. The Kansas Department of Corrections will occupy 10,000 square feet of newly remodeled office space on the first floor and directly below the space subject to this Conditional Use Permit.

Finally, there are individuals in our area who have ran afoul of the federal law; they have been sent to prison; they have been subject to many programs designed to turn their lives around. They have reached the final leg of their rehabilitation, structured reentry back into society. Part of this process is to place them in jobs, help them get items they will need to return to society such as driver's license, social security number, opening bank accounts, buying insurance, and so forth. These are human beings the same as the children and the same as you and I. They need a hand up, not the verbal abuse they have received from some Shawnee County elected officials who are more concerned about building a horse barn in the middle of the City than focusing on society and this valuable program to our community.

The Planning Commission instructions related to the governing body determination advise that the City Council may return back to the Planning Commission by majority vote any matter that the Council determines by written communication if the Council's basis is an allegation by an interested party that the hearing was unfair, or new facts or evidence have been presented, or the Council believes that further deliberation by the Planning Commission is needed. We suggest that all three standards are manifested in this case. Under the circumstances, we are formally and

respectfully requesting that the City Council return the matter to the Planning Commission for reconsideration as provided by City Ordinance.

We will be available to answer any questions or concerns of the Council at the meeting on November 15, 2016. Thank you for your consideration of this request.

Respectfully submitted,

**901 REAL ESTATE INVESTMENTS, LLC**

**STEVE CLINKINBEARD  
MANAGER**

cc: John R. Hamilton



December 1, 2016

Mr. Bill Fiander, AICP  
Planning Director  
620 SE. Madison  
Topeka, KS 66607

Re: CUP for 2035 Western

Dear Mr. Fiander,

It is my understanding that the city of Topeka will not process two Conditional Use Permits for the same program. With that in mind, I respectfully request that our company be removed from the CUP application that is being considered for 2035 Western, currently owned by Mr. Steve Clinkinbeard and continue to pursue the CUP application being considered for 3401 NE Seward, owned by Mr. John King.

With the Western CUP having already been denied by the Planning Commission and the misgivings spoken by the City Council, I see no reason to pursue this any longer. If Mr. Clinkinbeard feels it necessary to continue with the application for the sake of his parking lot, I ask that you remove us as this issue does not pertain in any way to ReEntry Development or City of Faith.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Terry Williams".

Terry Williams  
Executive Director  
ReEntry Development, LLC  
201 Bunting Dr.  
Mandeville, LA 70448

501-920-8684

## **Council Minutes – November 15, 2016**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, November 15, 2016. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Clear, Ortiz, Emerson, De La Isla, Jensen, Schwartz, Coen and Harmon -9. Mayor Larry E. Wolgast presided -1.

AFTER THE MEETING was called to order, Councilmember Harmon asked for a moment of silent meditation.

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### **CU16/5 Item minutes:**

A RESOLUTION introduced by Interim City Manager Doug Gerber, in accordance with Section 18.60.010 of the Topeka Municipal Code (TMC), approving a Conditional Use Permit to allow for a “Correctional Placement Facility” on property zoned “I-1” Light Industrial District located at 2035 SW Western Avenue and to allow for a “Parking Surface Lot in Association With A Principal Use” on property zoned “M-1” Two-Family Dwelling District and located along the east side of SW Fillmore between SW Hampton and SW 20<sup>th</sup> Streets within the City of Topeka, Shawnee County, Kansas, was presented. (CU16/5)

Doug Gerber, Interim City Manager, reported approval would allow a correctional placement facility for up to 45 on-site beds and a parking lot in association with the principal use. He noted a protest petition has been filed constituting 38% of the land area; therefore, eight (8) affirmative votes are needed for approval and all Governing Body members must be present. He stated the Planning Commission recommended disapproval by a vote of 3-2 at its October 19, 2016 meeting, which held the public hearing for the zoning request; however, the Planning

Department recommends approval as staff believes all the concerns expressed by neighborhood residents have been addressed.

Bill Fiander, Planning Department Director, reported the Conditional Use Permit would allow for both a Correctional Placement Facility located on the second floor of the building at 2035 SW Western Avenue and an off-site Vehicle Surface Parking Lot in association with the principal use located on adjacent vacant property along the east side of SW Fillmore between SW 20<sup>th</sup> and SW Hampton Streets. He stated the residential re-entry facility would be contracted through the U.S. Bureau of Prisons and managed by the City of Faith with an additional office located on the first floor. He noted the CUP includes a five-year sunset provision that helps mitigate future concerns should they arise during the operation of the facility and a Topeka Police Officer would be placed on the City of Faith Community Relations Board to better facilitate communication.

Councilmember Ortiz declared ex parte communications in the form of emails and telephone conversations. She asked Mr. Fiander to expand on the opposition expressed by area residents; if the proposed facility would replace Mirror Inc., a rehabilitation center located at 2201 SE 25<sup>th</sup> Street; and what type of criminal history would be allowed for the individuals living in the facility.

Councilmember Clear asked if there were any reported problems at other similar facilities located within the city.

Bill Fiander reported area residents expressed fear of adequate security and monitoring of the individuals as well as if it is an appropriate use of the property for the neighborhood; Mirror, Inc., is currently contracted with the U.S. Bureau of Prisons; however, if City of Faith is awarded the bid it could ultimately cause Mirror Inc. to close; and the Statement of Operations prohibits

the applicant from accepting “heinous” offenders as well as offenders convicted of murder, sexual offenses and/or crimes against children. He noted he is not aware of any reported issues at other properties located in the city.

Councilmember Schwartz spoke in opposition of the proposal because she believes it is not the best use of the property and neighborhood.

Councilmember De La Isla spoke in support of the proposal and reported the number one need for re-entry programs across the nation is housing of individuals that take part in these types of programs, making sure they are receiving much needed assistance.

Councilmember Hiller commended staff, City of Faith, Mr. Clinkenbeard and 901 Real Estate, L.L.C., for their work on the proposal. She commented on other similar facilities located in the city and how important transition centers are as well as improving a vacant and unsecure property in a neighborhood. She suggested remanding the resolution back to the Planning Commission as she expressed concern with the low attendance by Planning Commission members at the October 17, 2016 Planning Commission meeting which may have impacted thorough discussion and the resulting vote of disapproval.

Councilmember Schwartz moved to remand the resolution back to the Planning Commission for the purpose of (a) gathering input on the zoning request from the Kansas Expocentre; (b) the Planning Commission meeting have full attendance by Commission members; (c) examine the proposal thoroughly regarding what is best for the future health and regrowth of a neighborhood; (d) share more factual information about the operations of City of Faith to date, including but not limited to photos of their properties, performance data of their programs and residents, and more information about their neighborhood and community relationships. The motion was seconded by Councilmember Hiller.

Councilmember Coen spoke in opposition of remanding the resolution to the Planning Commission and encouraged the Governing Body to vote on the issue to avoid any delays in dealing with the matter.

Councilmember Jensen asked if individuals from across the nation would be housed at the facility.

Bill Fiander reported it would be a regional facility housing individuals with a connection to the community.

Councilmember Schwartz spoke in support of remanding the resolution back to the Planning Commission because she would prefer all Planning Commission members be present to have a thorough discussion on the issue.

The motion to remand the resolution back to the Planning Commission for the purpose of (a) gathering input on the zoning request from the Kansas Expo centre; (b) the Planning Commission meeting have full attendance by Commission members; (c) examine the proposal thoroughly regarding what is best for the future health and regrowth of a neighborhood; (d) share more factual information about the operations of the City of Faith to date, including but not limited to photos of their properties, performance data of their programs and residents, and more information about their neighborhood and community relationships carried. Councilmember Coen voted “no.” Mayor Wolgast voted “yes.” (9-1-0)

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At 9:29 p.m., the Governing Body reconvened into open session and Mayor Wolgast announced no action was taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 9:30 p.m.

Brenda Younger  
City Clerk