

**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