

# CITY COMMISSION MEETING AGENDA

CITY COMMISSION / CONFERENCE RM 1AB  
516 MECHANIC  
EMPORIA, KS  
October 12, 2016 at 9:30 am

1. Members present: Mayor Gilligan  

<u>Vice Mayor Mlynar</u>	<u>Commissioner Giefer</u>
<u>Commissioner Harmon</u>	<u>Commissioner Geitz</u>
<u>City Manager McAnarney</u>	<u>City Clerk Sull</u>
<u>Asst. City Mgr. Jim Witt</u>	<u>City Attorney Montgomery</u>
2. Ordinance and Request from BG Consultants to Change the Zoning Status of Property on Elm Street for expansion of Newman Regional Hospital.
3. Ordinance and Request from BG Consultants, to Vacate a Portion of the Public Right-of-way of Elm Street for expansion of Newman Regional Hospital.
4. Consider Approval of License Agreement with Sacred Heart Church.



# AGENDA ITEM SUMMARY

**MEETING DATE:** October, 12 2016

**ITEM NUMBER:** 2

**SUBJECT:**

**APPLICATION 2016-14.** Ordinance and request of BG Consultants, Inc to change the zoning status of 1001, 1007, 1013, 945 Elm St for the purpose of facilitating the expansion of Newman Regional Hospital, from R1 Low Density Residential District to Public Exempt, as authorized by Article 26-1 of the Zoning Regulations.

**RECOMMENDATION:**

At their September 24, 2016 regular meeting, the Planning Commission voted 6-0 to recommend approval of the application based upon consistency with the 2008 Comprehensive Plan and Staff's recommendation.

**BACKGROUND SUMMARY**

Newman Regional Hospital has acquired the parcels in question and desire to use the subject property for their proposed hospital expansion.

In February of 1996 a 353.97 ft section of Elm Street south of 12<sup>th</sup> Ave was vacated, leaving the houses at the north end a dead end street.

The Utility Advisory Board met Sept 8<sup>th</sup>, 2016. The UAB recommend approval of the proposed rezoning. The easement to the west side of 1001, 1007, 1013, 1019 Elm St on will remain in place and can be utilized for utilities. This proposed use is consistent with the 2008 Comprehensive plan.

**ACTION:**

You may 1) approve the recommendation of the Planning Commission by a majority vote; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) table the request; or 4) return the application to the Planning Commission, giving reasons for doing so.

**ATTACHMENTS:**

Planning Commission Minutes Excerpt, Site Plan, Map, Ordinance

The Planning Commission met in regular session on Tuesday, September 27, 2016, with Chair Thomas presiding. Members Miller, Pontius, Rech, Springeman and Wade were present. Members Bucklinger, Fowler and Sauder were absent.

Member Miller moved to approve the July 26, 2016, minutes as written. Member Wade seconded. Motion approved 6-0.

**APPLICATION 2016-14.** A request of BG Consultants, Inc to change the zoning status of 1001, 1007, 1013, 945 Elm St., for the purpose of facilitating the expansion of Newman Regional Hospital, from R1 Low Density Residential District to Public Exempt, as authorized by Article 26-1 of the Zoning Regulations.

Staff confirmed jurisdiction over this application.

No exparte communication was declared.

**STAFF REPORT:**

**ACTION RECORD**

Action: \_\_\_\_\_

Motion: \_\_\_\_\_ Second: \_\_\_\_\_

Abstained: \_\_\_\_\_ Vote: \_\_\_\_\_  
GILLIGAN \_\_\_\_\_ KESSLER \_\_\_\_\_ MLYNAR \_\_\_\_\_ NELSON \_\_\_\_\_ PHIPPS \_\_\_\_\_

# AGENDA ITEM SUMMARY

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Newman Regional Hospital has acquired the parcels in question and desire to use the subject property for their proposed hospital expansion.

In February of 1996 a 353.97 ft section of Elm Street south of 12<sup>th</sup> Ave was vacated, leaving the houses at the north end a dead end street.

The Utility Advisory Board met Sept 8<sup>th</sup>, 2016. The UAB recommend approval of the proposed rezoning. The easement to the west side of 1001, 1007, 1013, 1019 Elm St. will remain in place and can be utilized for utilities. This proposed use is consistent with the 2008 Comprehensive plan. Staff recommends approval, as this would allow needed improvements to Newman Regional Hospital. Staff sees that no public rights will be injured or endangered by the rezoning, also no private rights will be effected by this vacation.

With no further discussion, the public hearing portion is opened.

**Public Hearing:**

Bruce Boechter of BG Consultants spoke on behalf of Newman Regional Health. Mr. Boechter, the architect and associates of Newman Regional Health were on hand if board members had any questions regarding the zoning request.

With no further comments, the public hearing portion was closed.

Member Miller moved to approve Application 2016-14, to change the zoning status of 1001, 1007, 1013, 945 Elm St., for the purpose of facilitating the expansion of Newman Regional Hospital, from R1 Low Density Residential District to Public Exempt, as authorized by Article 26-1 of the Zoning Regulations based upon staff recommendations and the recent set forth therein. Member Wade seconded. Motion approved 6-0.

## ACTION RECORD

Action: \_\_\_\_\_  
\_\_\_\_\_

Motion: \_\_\_\_\_ Second: \_\_\_\_\_

Abstained: \_\_\_\_\_ Vote: \_\_\_\_\_  
GILLIGAN \_\_\_\_\_ KESSLER \_\_\_\_\_ MLYNAR \_\_\_\_\_ NELSON \_\_\_\_\_ PHIPPS \_\_\_\_\_

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

AN ORDINANCE REZONING A CERTAIN AREA IN THE CITY OF EMPORIA, KANSAS FROM R1, LOW DENSITY RESIDENTIAL DISTRICT TO P, PUBLIC DISTRICT AND AMENDING THE DISTRICT ZONING MAP TO CONFORM WITH SAID ZONING.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. The following described property is hereby rezoned from R3 High Density Residential District to C3, General Commercial District to wit:

**Lots 1,2, and 3, Berryman Addition, a not platted tract lying directly South of Lot 1, Berryman Addition, and Lot 15 James C Dwelle's Addition including the 15' of Vacated grove Ave.**

Section 2. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
ROBERT GILLIGAN, Mayor

ATTEST:

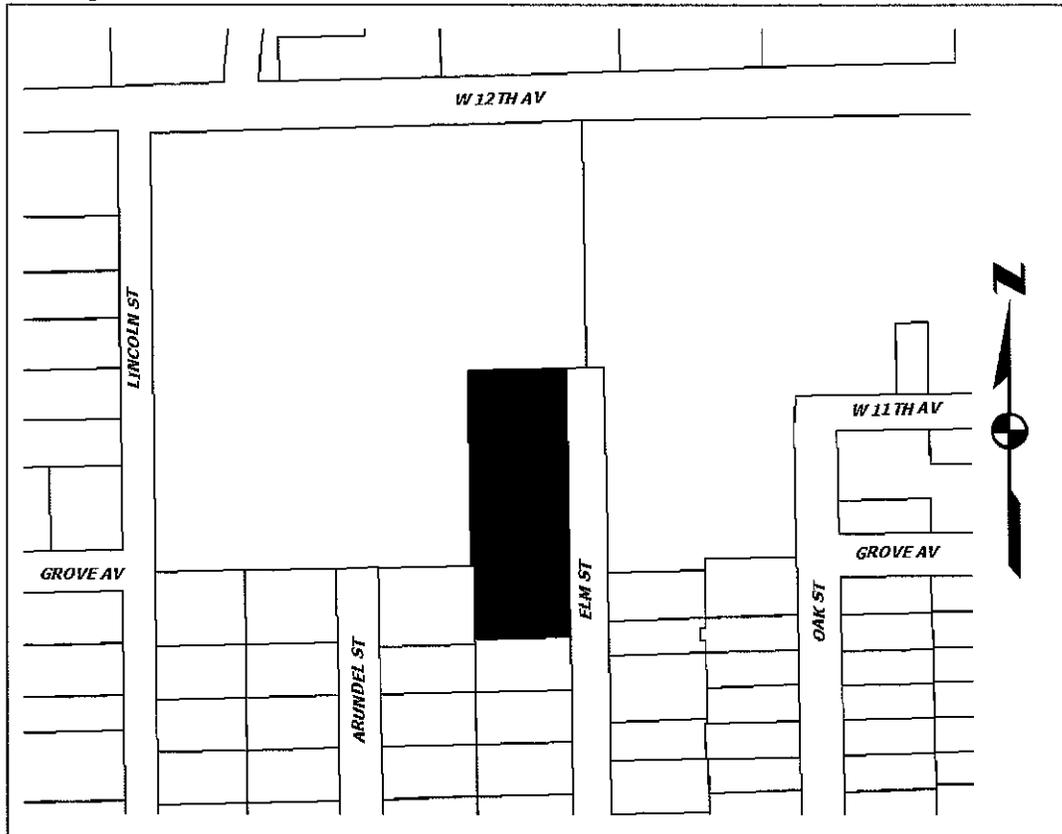
\_\_\_\_\_  
KERRY SULL, City Clerk

## NOTICE

NOTICE IS HEREBY GIVEN THAT THE EMPORIA-LYON COUNTY METROPOLITAN AREA PLANNING COMMISSION WILL CONDUCT A PUBLIC HEARING STARTING AT 7:00 P.M. ON TUESDAY, SEPTEMBER 27, 2016 IN THE CITY CONFERENCE MEETING ROOM 1 A&B OF THE CIVIC BUILDING AT 516 MECHANIC STREET TO CONSIDER:

APPLICATION 2016-14. A request of BG Consultants, Inc to change the zoning status of 1001, 1007, 1013, 945 Elm St for the purpose of facilitating the expansion of Newman Regional Hospital, from R1 Low Density Residential District to Public Exempt, as authorized by Article 26-1 of the Zoning Regulations.

APPLICATION 2016-15. A request of BG Consultants, Inc to vacate a 280 ft portion of the public right-of-way of Elm St for the purpose of facilitating the expansion of Newman Regional Hospital. The vacated portion is adjacent to Lots 1,2,3 of Berryman Addition, as authorized by Section 12-401 of the Subdivision Regulations.



All interested persons are invited to attend and express their views. Contact the Emporia-Lyon County Metropolitan Area Zoning Office at 343-4268 for additional information.

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Joe Foster, Secretary  
Metropolitan Area Planning Commission

# 1001-1019 Elm Zoning Map



DATA IS NOT  
SURVEY ACCURATE

0 0.01 0.02 0.04 Miles



1" = 133'

2016-14 1/3

**EMPORIA-LYON COUNTY**

**METROPOLITAN AREA PLANNING COMMISSION**

CIVIC BUILDING / EMPORIA, KANSAS 66801 / PHONE 316-343-4266

**REZONING APPLICATION**

<b>APPLICANT</b>	BG Consultants, Inc.
Address	2508 W 15th Ave. Emporia, KS 66801
Phone number	(620)343-7842
Interest in property	n/a

<b>OWNER</b> <i>(if not the applicant)</i>	Newman Regional Health
Address	1201 W 12th Ave. Emporia, KS 66801
Phone number	(620)343-6800

Owners & Officers *(Corporate applications only)*

Address of property to be rezoned 1001, 1007, 1013, 1019 and 945 Elm St.

Describe location (nearest streets, landmarks, etc.) Elm Street North of 9th Avenue

Is property within the City limits Yes

Physical characteristics \_\_\_\_\_

Legal description of property Lots 1,2 and 3, Berryman Addition, a not platted tract lying directly South of Lot 1, Berryman Addition, and Lot 15 James C Dwelle's Addition including the south 15' of Vacated Grove Ave.

Size of property (area in square feet or acres) 1.0 Acres

Current Zoning District R-1 Proposed Zoning District P

Current Use of property Residential Housing

Proposed Use of property Hospital Expansion

List all existing structures and their present use 5 Residential Households

Zoning of adjacent properties: North P East P West P South R-1

Number of existing marked parking stalls \_\_\_\_\_

Number of proposed parking stalls \_\_\_\_\_

Explain why the Planning Commission should approve this application

Improve area health by expansion of hospital

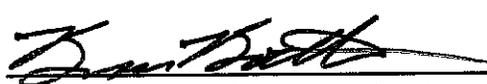
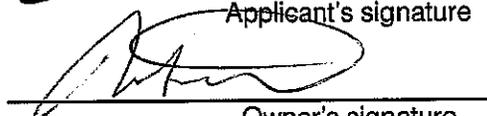
Explain the nature of any expected neighborhood opposition to this request N/A

Please provide any other pertinent information such as proposed roads, number of living units, future zoning requests, etc. which would be helpful in making a decision.  
\_\_\_\_\_  
\_\_\_\_\_

The following non-conformities exist on this property: N/A

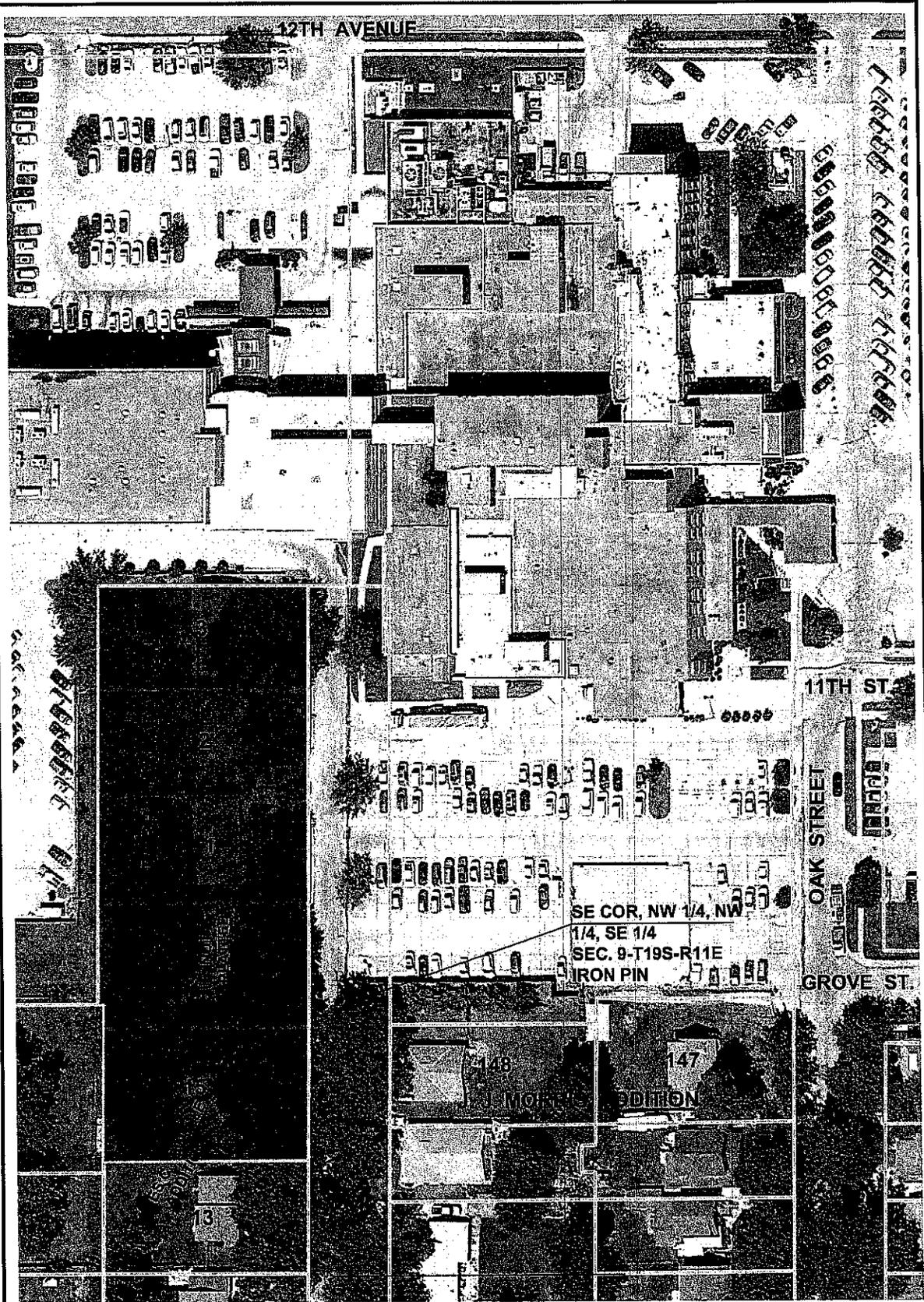
\*Attach an ownership list, certified by a registered abstractor, listing the legal description, name and mailing addresses of the owners of all property located within 200' of the boundaries of the property for which the variance is requested (1000' for County applications).

\*Attach a site plan map (2), drawn to scale, showing property lines, roads, driveways, existing and proposed structures, parking stalls, landscaping, fences and other topographical features.

	<u>8/24/16</u>
Applicant's signature	Date
	<u>8/22/16</u>
Owner's signature	Date

FOR OFFICE USE ONLY

Fee	Date Paid	Receipt No.
\$ 150.00		
Application No.		
Hearing Date		



**LEGEND**

 Lots to be Rezoned

**DESCRIPTION**

LOTS 1,2 AND 3, BERRYMAN ADDITION, A NOT PLATTED TRACT LYING DIRECTLY SOUTH OF LOT 1, BERRYMAN ADDITION, AND LOT 15 JAMES C DWELLE'S ADDITION INCLUDING THE SOUTH 15' OF VACATED GROVE AVE.

**REZONING EXHIBIT**

Prepared for  
**NEWMAN MEMORIAL  
 COUNTY HOSPITAL**



Prepared By :

**BG CONSULTANTS**  
 ENGINEERS - ARCHITECTS - SURVEYORS

MANHATTAN, KANSAS  
 1808 Van Du Lac Place  
 Manhattan, Kansas 66503  
 TEL: 620-734-8100

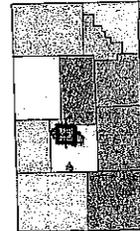
HUTCHINSON, KANSAS  
 LAWRENCE, KANSAS  
 EMPORIA, KANSAS

AUGUST 2016

16-1340E



**Overview**



**Legend**

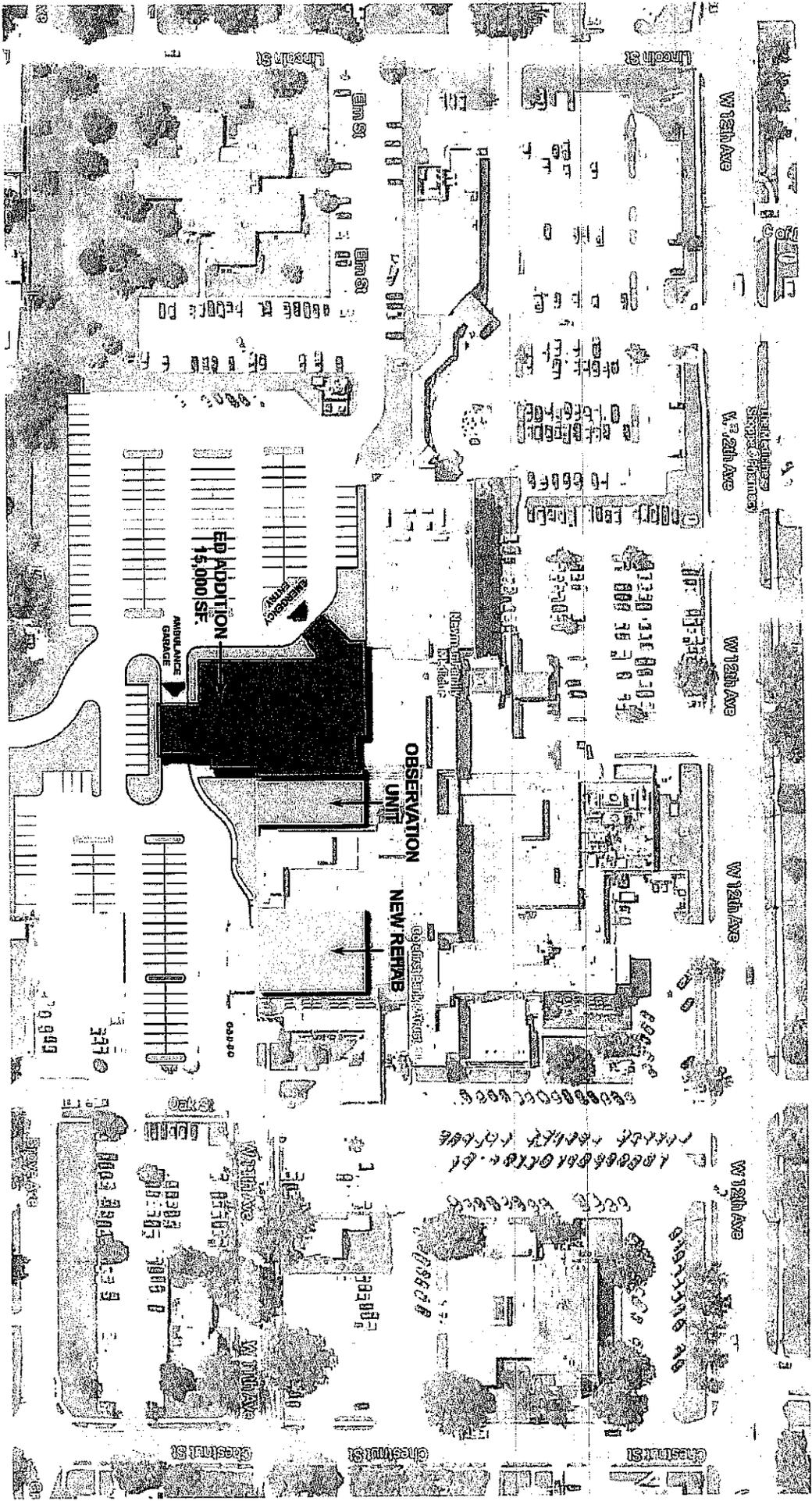
-  Parcels
-  Street Centerline
-  City Limits
- Zoning Districts**
-  A-L
-  C-1
-  C-2
-  C-3
-  C-4
-  I-1
-  I-2
-  M-P
-  MHS
-  P
-  R-1
-  R-2
-  R-3

Disclaimer: The data used to produce this map is not survey accurate. It is intended for tax purposes only.

Date created: 8/17/2016

Last Data Uploaded: 5/11/2016 2:45:01 PM

 Developed by  
The Schneider Corporation





COFE DR

CHESTNUT ST

1920901024001010

W 12TH AV

192090406001000

192090405001000

OAK ST

GROVE AV

E HM ST

W 9TH AV

1001 Elm, Lyon County Board of Commissioners  
1007 Elm, Newman Regional Health  
1013 Elm, Lyon County Board of Commissioners  
1019 Elm, Newman Memorial County Hospital  
945 Elm, Newman Memorial Hospital

Owners of real property located within 200 feet of the boundary of the following described real estate in Lyon County, Kansas:

**THE SOUTH 70 FEET OF THE EAST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER (E1/2 E1/2 NW1/4 NW1/4 SE1/4) OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6 P.M., LYON COUNTY, KANSAS, AND THE NORTH 15 FEET OF GROVE AVENUE (NOW VACATED) LYING SOUTH OF AND ADJACENT TO THE ABOVE DESCRIBED PROPERTY.**

**ALSO:**

**LOTS 1, 2 AND 3 IN BERRYMAN ADDITION TO THE CITY OF EMPORIA, LYON COUNTY, KANSAS, ACCORDING TO THE RECORDED PLAT THEREOF**

**ALSO:**

**LOT 15 ON ELM STREET IN JAMES C. DWELLE'S ADDITION TO THE CITY OF EMPORIA, LYON COUNTY, KANSAS, ACCORDING TO THE RECORDED PLAT THEREOF, AND THE SOUTH 15 FEET OF GROVE AVENUE (NOW VACATED) LYING NORTH OF AND ADJACENT TO SAID LOT.**

1. Michael A & Jane A O'Connor  
945 Arundel St  
Emporia, KS 66801-2517
2. Trinidad & Doralinda Garcilazo  
18 S Rural St  
Emporia, KS 66801-4253
3. Jake McCracken  
940 Elm St  
Emporia, KS 66801-2526
4. Eric A & Donna S Sprague  
939 Elm St  
Emporia, KS 66801-2525
5. Brian R Willhite  
PO Box 2207  
Emporia, KS 66801-2207
6. F N Laurent Living Tr  
1710 Yucca Ln  
Emporia, KS 66801-5640

7. Joseph P & Rebecca Jamison Rev Trust  
936 Elm St  
Emporia, KS 66801-2526
8. Sandra D Wells Rev Trust  
933 Elm St  
Emporia, KS 66801-2525
9. Brent L & Melissa E McCrory  
934 Arundel St  
Emporia, KS 66801-2518
10. James W & Shirley A Eubanks  
2915 Westlake Dr  
Emporia, KS 66801-5953
11. Benjamin T Stone  
926 Elm St  
Emporia, KS 66801-2526
12. Nellie B Owens Living Trust  
927 Elm St  
Emporia, KS 66801-2525
13. Gabriel L & Katrina J Werly  
928 Arundel St  
Emporia, KS 66801-2518
14. Christian A Schrock  
924 Elm St  
Emporia, KS 66801-2526
15. Newman Memorial County Hospital  
1201 W 12<sup>th</sup> Avenue  
Emporia, Kansas 66801-2504

**Dated at Emporia, Kansas, this 15<sup>TH</sup> day of August 2016, at 8:00 A.M.**

**Moon Title & Escrow, LLC**

By 

**Title Agent**

## LAND USE PLAN

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### HOSPITAL FOCUS AREA

Newman Regional Health is a 190 bed hospital operated on a not-for-profit basis and is accredited by the Healthcare Facilities Accreditation Program. Newman Regional Health is owned by Lyon County and governed by a Board of Trustees. The hospital employs 500 people, 300 volunteers and over 130 physicians. The hospital provides a wide range of medical and surgical services, critical care, level II nursery, 24 hour emergency services, outpatient services, chemical dependency treatment programs, home health care, and hospice services.

A stakeholder meeting was held with the Hospital and residents within the neighborhood surrounding the Hospital. The Hospital indicated they do not intend to expand east of Chestnut Street. The preference would be to expand south. However, expansion of facilities would not occur south of Grove Avenue. Property purchased by the Hospital south of Grove Avenue would be used for parking. The Hospital also indicated that in the next 15 to 20 years they would likely outgrow the present site and would likely relocate to a larger site.

There were no objections from the neighborhood about expansion south of Grove Avenue as long as the properties were acquired through opportunity purchase by the hospital and that the property be used for parking and not expansion of facilities including buildings, storage, etc.

#### Potential Future Growth Area

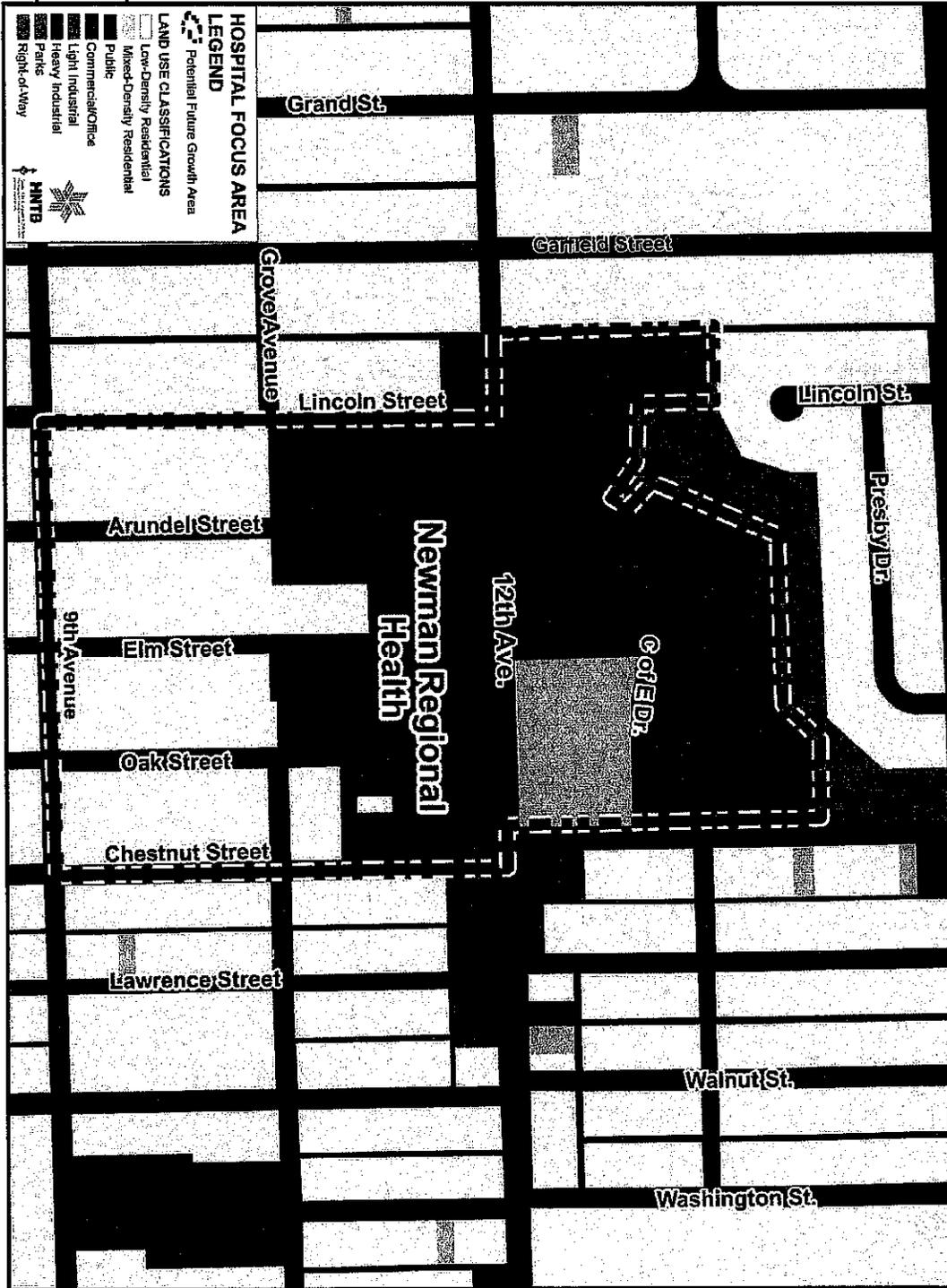
- North - C of E Linear Park;
- South - 9th Avenue;
- East - Chestnut Street; and
- West - Lincoln Street.

#### Recommendations:

- Expansion of Hospital facilities should occur within the identified Hospital Influence Area north of Grove Avenue. The Hospital may purchase property south of Grove Avenue for expansion of parking. This parking would serve the Hospital and provide an additional buffer between the Hospital and adjacent neighborhood.
- The City should work with the Hospital to maximize the current site to meet its present and mid-term needs. When and if the need arises to relocate the Hospital, the City should work together with Newman Regional to identify a suitable area to relocate and find an appropriate adaptive re-use of the vacated site that is compatible with the surrounding neighborhood.

# LAND USE PLAN

Map 9: Hospital Focus Area



# AGENDA ITEM SUMMARY

**MEETING DATE: October, 12 2016**

**ITEM NUMBER: 3**

**SUBJECT:**

**APPLICATION 2016-15.** Ordinance and request of BG Consultants, Inc to vacate a 280 ft portion of the public right-of-way of Elm St for the purpose of facilitating the expansion of Newman Regional Hospital. The vacated portion is adjacent to 1001, 1007, 1013, 945 Elm St and is authorized by Section 12-401 of the Subdivision Regulations.

**RECOMMENDATION:**

At their September 24, 2016 regular meeting, the Planning Commission voted 6-0 to recommend approval of the application based upon consistency with the 2008 Comprehensive Plan and Staff's recommendation.

**BACKGROUND SUMMARY**

Newman Regional Hospital is proposing improvements to the Emergency Room. In February of 1996 a 353.97 ft section of Elm Street south of 12<sup>th</sup> Ave was vacated for the previous hospital expansion (Application 96-3).

The Utility Advisory Board met Sept 8<sup>th</sup>, 2016. The UAB recommend approval of the proposed vacation. The utilities in the area to be vacated can be moved as need to accommodate the proposed development. The easement to the west side of 1001, 1007, 1013, 1019 Elm St on will remain in place and can be utilized for utilities.

**ACTION:**

You may 1) approve the recommendation of the Planning Commission by a majority vote; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) table the request; or 4) return the application to the Planning Commission, giving reasons for doing so.

**ATTACHMENTS:**

Planning Commission Minutes Excerpt, Site Plan, Map, Ordinance

The Planning Commission met in regular session on Tuesday, September 27, 2016, with Chair Thomas presiding. Members Bucklinger, Miller, Pontius, Springeman, Wade and Rech were present. Commissioners Fowler and Sauder were absent.

**APPLICATION 2016-15.** A request of BG Consultants, Inc to vacate a 280 ft portion of the public right-of-way of Elm St for the purpose of facilitating the expansion of Newman Regional Hospital. The vacated portion is adjacent to Lots 1,2,3 of Berryman Addition, as authorized by Section 12-401 of the Subdivision Regulations.

Staff confirmed jurisdiction over this application.

No ex parte communication was declared.

**STAFF REPORT:**

Newman Regional Hospital is proposing improvements to the Emergency Room. In February of 1996 a 353.97 ft section of Elm St., south of 12<sup>th</sup> Ave., was vacated for the previous hospital expansion (Application 96-3).

The Utility Advisory Board met Sept 8<sup>th</sup>, 2016, and recommended approval of the proposed vacation. The utilities in the area to be vacated can be moved as needed to accommodate the proposed development. The easement to the west

### ACTION RECORD

Action: \_\_\_\_\_

Motion: \_\_\_\_\_ Second: \_\_\_\_\_

Abstained: \_\_\_\_\_ Vote: \_\_\_\_\_  
GILLIGAN \_\_\_\_\_ KESSLER \_\_\_\_\_ MLYNAR \_\_\_\_\_ NELSON \_\_\_\_\_ PHIPPS \_\_\_\_\_

## AGENDA ITEM SUMMARY

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side of 1001, 1007, 1013, 1019 Elm St. will remain in place and can be utilized for utilities. Staff recommends approval, as this would allow needed improvements to Newman Regional Hospital. Staff sees that no public rights will be injured or endangered by this vacation, also no private rights will be effected by this vacation. This proposed use is consistent with the 2008 Comprehensive Plan.

With no further discussion, the public hearing portion is opened.

### Public Hearing:

Bruce Boechter of BG Consultants spoke on behalf of Newman Regional Health. Mr. Boechter shared that the request is similar to Application 2016-14 which would facilitate the improvements to the emergency room. He felt that Staff covered the information but would answer any questions from the board.

With no further comments, the public hearing portion was closed.

Member Wade stated that the information showed that a fire hydrant would be removed and he wondered if another to protect the hospital. Mr. Boechter acknowledged that he had spoke with Fire Chief Jack Taylor and discussed adding a hydrant within the parking area.

Member Miller moved to approve Application 2016-15, to vacate a 280 ft portion of the public right-of-way of Elm St., for the purpose of facilitating the expansion of Newman Regional Hospital. The vacated portion is adjacent to Lots 1,2,3 of Berryman Addition, as authorized by Section 12-401 of the Subdivision Regulations based upon Staff's report and reasons therein. Member Pontius seconded. Motion approved 6-0.

## ACTION RECORD

Action: \_\_\_\_\_  
\_\_\_\_\_

Motion: \_\_\_\_\_ Second: \_\_\_\_\_  
Abstained: \_\_\_\_\_ Vote: \_\_\_\_\_  
GILLIGAN \_\_\_\_\_ KESSLER \_\_\_\_\_ MLYNAR \_\_\_\_\_ NELSON \_\_\_\_\_ PHIPPS \_\_\_\_\_

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

AN ORDINANCE VACATING A CERTAIN CITY STREET RIGHT OF WAY IN THE CITY OF EMPORIA, KANSAS.

WHEREAS, A Petition was filed by the City of Emporia with the Emporia-Lyon County Metropolitan Area Planning Commission requesting vacation of certain described alleys; and

WHEREAS, A Public Hearing was conducted concerning the request for vacation; and

WHEREAS, no written objection was filed with the City Clerk at the time of or before the Public Hearing by an owner or adjoining owner who would be a proper party to the Petition, but has not joined therein;

NOW, THEREFORE BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

SECTION 1. The following described street right-of-way is hereby ordered vacated and the following utility easement is hereby retained:

ALL THAT PORTION OF ELM STREET, A PUBLIC STREET IN THE CITY OF EMPORIA, LYON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 15 FEET SOUTH OF THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS; THENCE NORTH 295 FEET TO THE POINT OF TERMINATION AND THE EXTENDED NORTH LINE OF LOT 3, BERRYMAN ADDITION TO THE CITY OF EMPORIA, KANSAS, SAID POINT BEING 353.97 FEET SOUTH OF 12TH AVENUE AND ON THE SOUTH LINE OF A ROAD VACATION AS DESCRIBED ON PAGE 567 OF VOLUME 505 AT THE LYON COUNTY REGISTER OF DEEDS.

SECTION 2. This ordinance shall take effect upon publication in the official city newspaper.

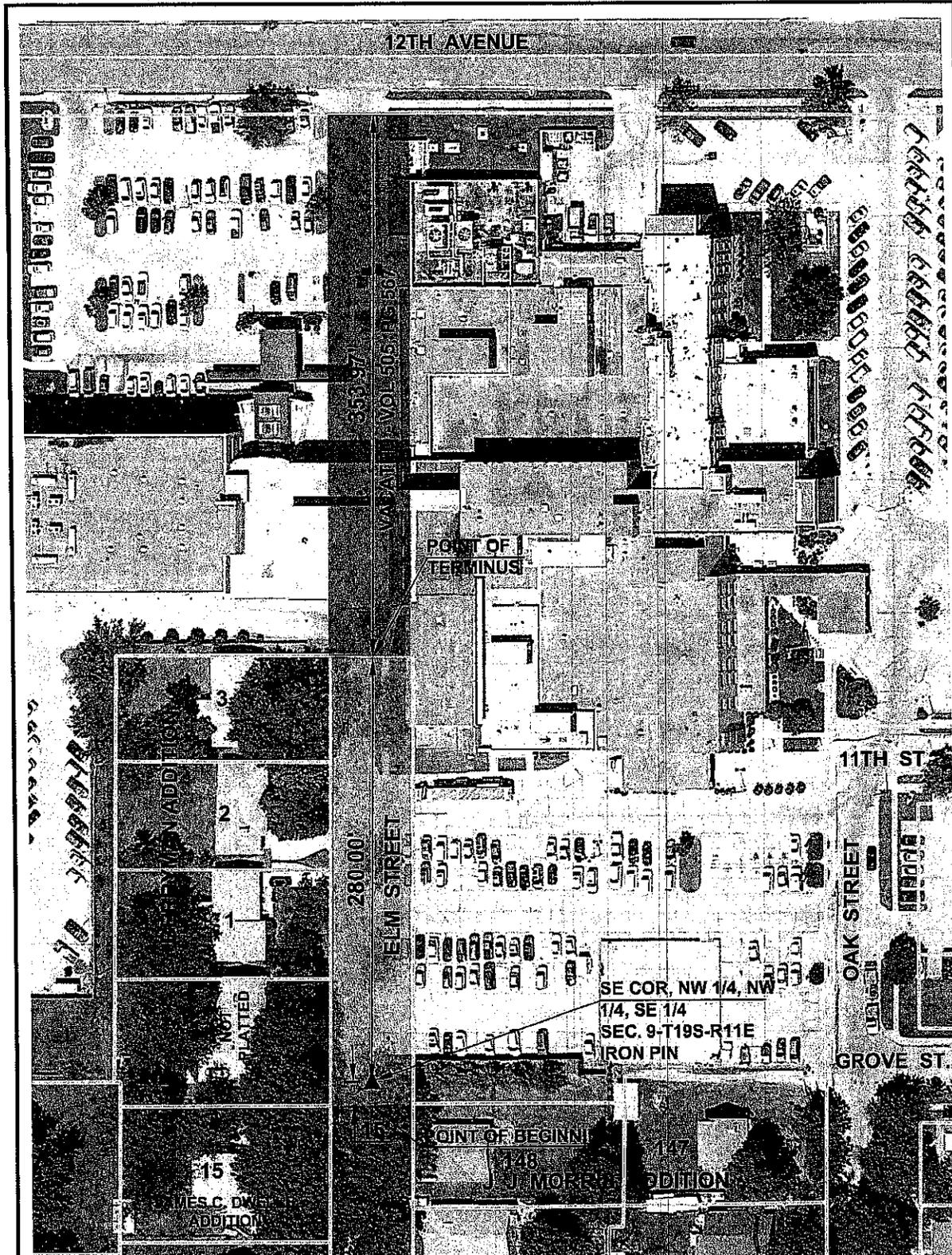
PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
ROBERT GILLIGAN, Mayor

ATTEST:

\_\_\_\_\_  
KERRY SULL, City Clerk





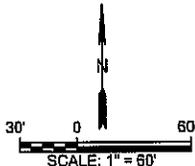
**DESCRIPTION**

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BEGINNING AT A POINT 15 FEET SOUTH OF THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M., LYON COUNTY, KANSAS; THENCE NORTH 285 FEET TO THE POINT OF TERMINATION AND THE EXTENDED NORTH LINE OF LOT 3, BERRYMAN ADDITION TO THE CITY OF EMPORIA, KANSAS, SAID POINT BEING 353.97 FEET SOUTH OF 12TH AVENUE AND ON THE SOUTH LINE OF A ROAD VACATION AS DESCRIBED ON PAGE 567 OF VOLUME 505 AT THE LYON COUNTY REGISTER OF DEEDS.

**VACATION EXHIBIT**

Prepared for  
**NEWMAN MEMORIAL  
 COUNTY HOSPITAL**



**LEGEND**

-  Elm Street - Vacated Right-of-Way
-  Elm Street - Right-of-Way to be Vacated

Prepared By :

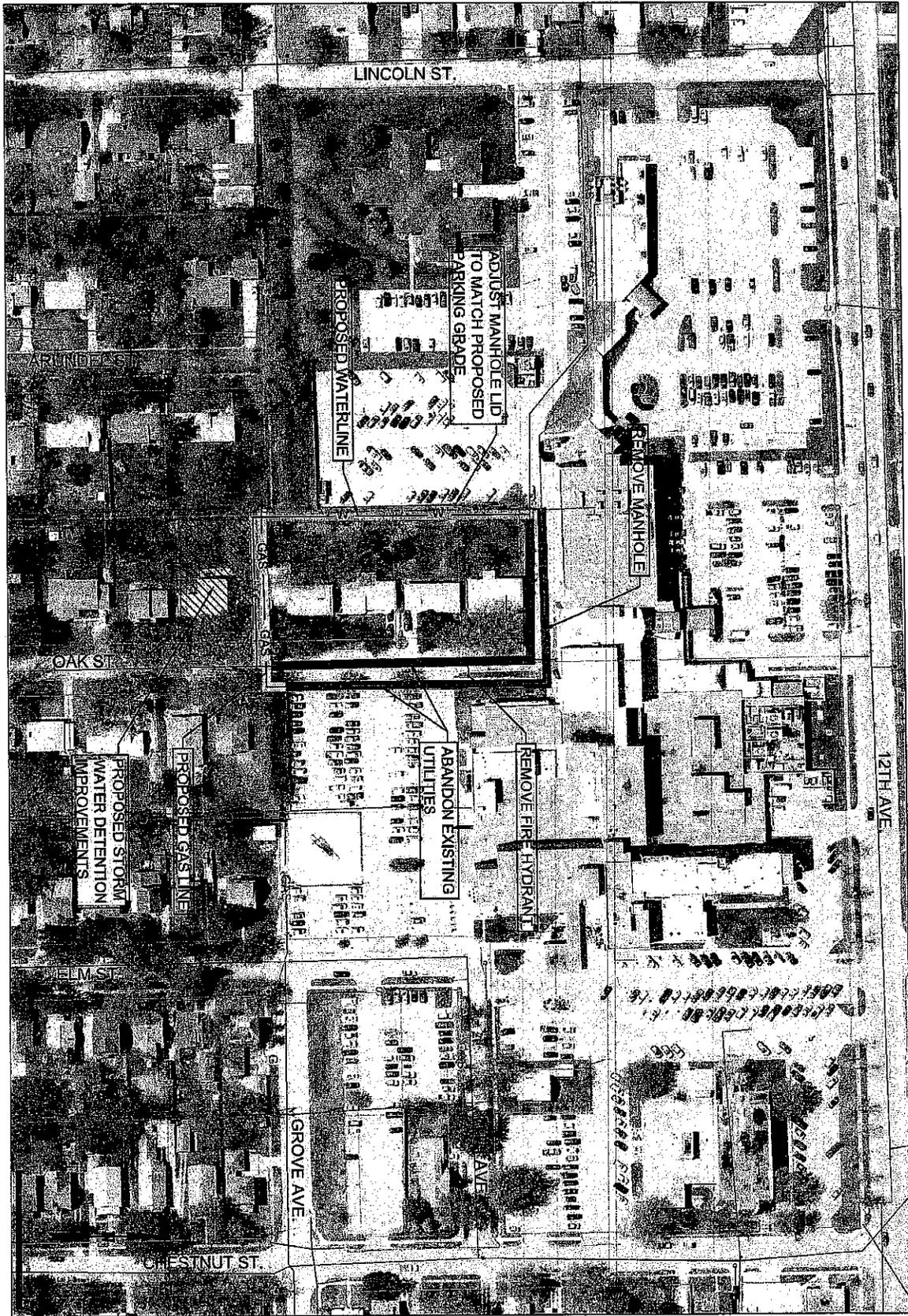
**BG CONSULTANTS**  
 ENGINEERS - ARCHITECTS - SURVEYORS

MANHATTAN, KANSAS  
 4808 Van De Lue Place  
 Manhattan, Kansas 66503  
 785-733-7448

HUTCHINSON, KANSAS  
 LAWRENCE, KANSAS  
 EMPORIA, KANSAS

AUGUST 2016

16-1340E



Engineer: BLS  
 Designer: DAG  
 Date: 02-21-15  
 Project: 15-1346E

NEWMAN REGIONAL HEALTH  
 UTILITY RELOCATION



## LAND USE PLAN

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### HOSPITAL FOCUS AREA

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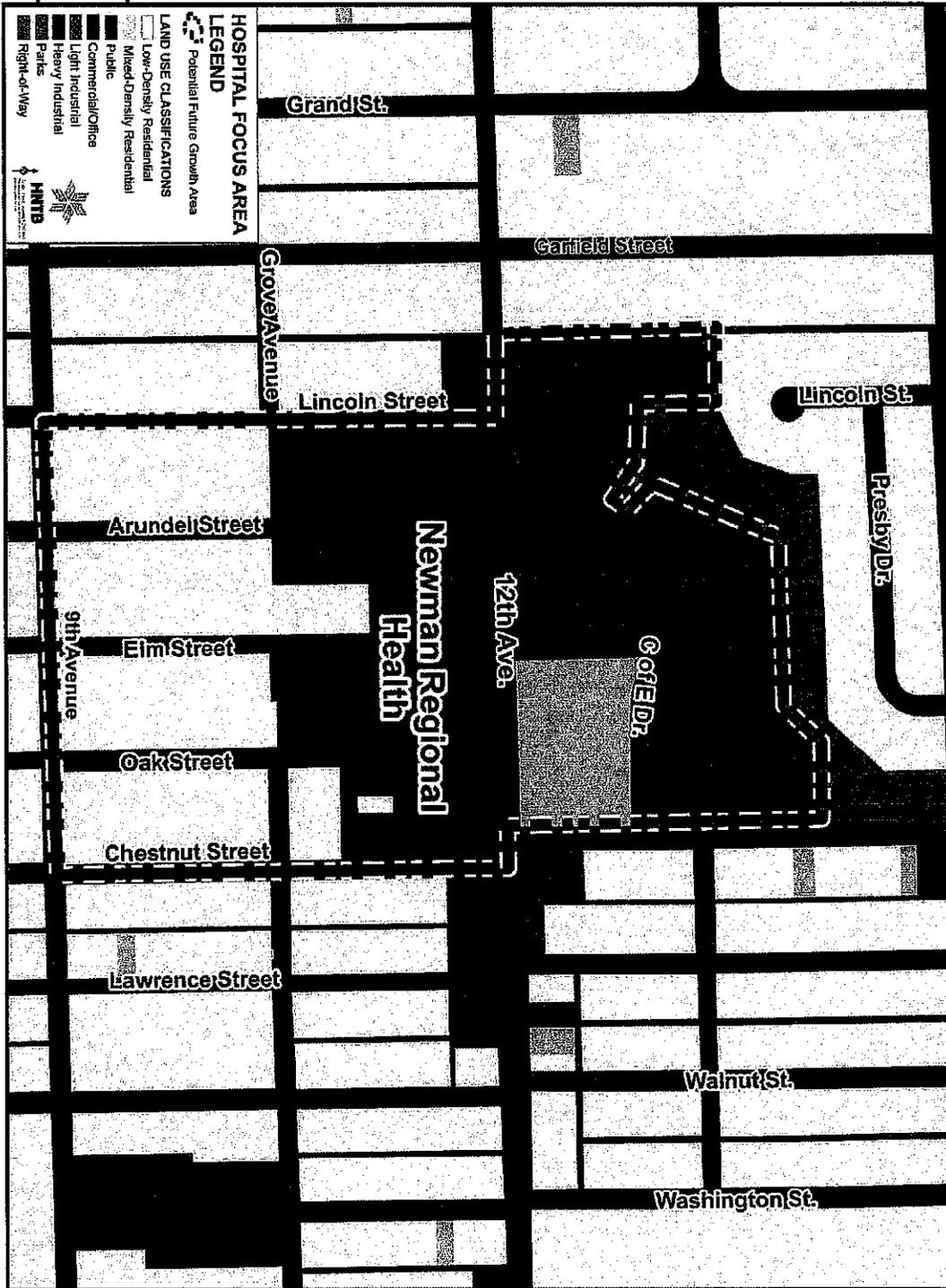
- North - C of E Linear Park;
- South - 9th Avenue;
- East - Chestnut Street; and
- West - Lincoln Street.

#### Recommendations:

- Expansion of Hospital facilities should occur within the identified Hospital Influence Area north of Grove Avenue. The Hospital may purchase property south of Grove Avenue for expansion of parking. This parking would serve the Hospital and provide an additional buffer between the Hospital and adjacent neighborhood.
- The City should work with the Hospital to maximize the current site to meet its present and mid-term needs. When and if the need arises to relocate the Hospital, the City should work together with Newman Regional to identify a suitable area to relocate and find an appropriate adaptive re-use of the vacated site that is compatible with the surrounding neighborhood.

# LAND USE PLAN

Map 9: Hospital Focus Area



# AGENDA ITEM SUMMARY

**MEETING DATE:** October 12, 2016

**ITEM NUMBER:** 4

**SUBJECT:** Consider the Approval of a License Agreement for parking stalls on East 1<sup>st</sup> Avenue on the south side of the street.

**RECOMMENDATION:** Approve the License Agreement.

**BACKGROUND SUMMARY:**

Representatives from the City of Emporia and Sacred Heart Church have been working together on a license agreement for diagonal parking on East 1<sup>st</sup> Avenue. Nine diagonal parking stalls will be constructed on public right-of-way (at Sacred Heart's expense) for parking stalls. A copy of the proposed License Agreement and a map depicting the area is attached for your review.

## ACTION RECORD

Action: \_\_\_\_\_

Motion: \_\_\_\_\_ Second: \_\_\_\_\_  
Abstained: \_\_\_\_\_ Vote: \_\_\_\_\_  
GEITZ \_\_\_\_\_ GIEFER \_\_\_\_\_ GILLIGAN \_\_\_\_\_ HARMON \_\_\_\_\_ MLYNAR \_\_\_\_\_

## LICENSE AGREEMENT

**This License Agreement** made this \_\_\_\_ day of October, 2016 is between the City of Emporia ("City"), Kansas, a municipal corporation; and Roman Catholic Archdiocese of Kansas City, Kansas ("Licensee").

**WITNESSETH:**

WHEREAS, LICENSEE is the owner of a tract of land situated in the City of Emporia, Lyon Count, Kansas and generally described as:

A tract of land in the SW ¼ of the SE ¼ of the NE ¼ Section 15, Township 19 South, Range 11 East of 6<sup>th</sup> P.M. in the City of Emporia, Lyon County, Kansas; more particularly describe as follow: Lot 13 and the north 10 feet of Lot 11 on Cottonwood Street in the Original Townsite of Emporia. Subject to easements of record.

and more commonly known as Sacred Heart Parish Business Office, 27 Cottonwood Street, Emporia, Kansas: and WHEREAS, the City is the owner of an utility easement/right-of-way (hereinafter "CITY EASEMENT") which generally runs east-west and LICENSEE desires to place (hereinafter "LICENSED USE") within the CITY EASEMENT for the purposes of placing 9 (nine) angled parking spaces; and

WHEREAS, the CITY is willing to allow the placement of such LICENSED USE within the CITY EASEMENT upon the terms and conditions so hereinafter set forth.

NOW, THEREFORE, the parties hereto in consideration of the mutual promises and covenants contained herein do hereby agree as follows: The CITY does hereby grant and convey to LICENSEE a license, under, upon and over a portion of the CITY EASEMENT as shown by the diagram attached hereto as Exhibit A and incorporated by reference herein.

1. The license granted herein to LICENSEE is for the sole purpose of LICENSED USE in the CITY EASEMENT and for the purpose of construction of 9 (nine) angled parking spaces; provided that LICENSEE'S use of the CITY EASEMENT does not unduly interfere nor is hazardous to the traveling public or any use of the public right-of-way.

2. That LICENSEE agrees it will repair/replace the CITY EASEMENT any improvements or utilities therein at LICENSEE'S expense, to City standards, approved by the City Engineer, that are disturbed during LICENSED USE of the CITY EASEMENT including, without limitation, the installation/construction and/or maintenance of the LICENSED USE.

3. LICENSEE does hereby acknowledge that the license granted hereunder is under, over and upon a public easement and right-of-way and the parties agree that said grant is terminable at the will of the CITY if for any reason the CITY deems it necessary, the determination of which is in the sole discretion of the CITY. The license shall automatically terminate 60 days after the City enacts a licensing permit procedure for regulating installations in the City's right-of-way.

4. In the event that CITY determines to cancel this license, it may do so by a written notification to LICENSEE to remove the LICENSED USE and LICENSEE agrees to remove said LICENSED USE within 30 days of said notification at its expense and to restore the property to its condition prior to installation of the LICENSED USE.

5. LICENSEE agrees that the City, or any of its franchisees, does not have any responsibility or liability for damage to said LICENSED USE as a result of any installation, maintenance or construction of facilities/utilities presently existing or subsequently installed within the CITY EASEMENT, and LICENSEE does hereby waive any liability for and agrees to assume all risk of loss or damage to the LICENSED USE.

6. LICENSEE agrees to indemnify and hold harmless the CITY, its officers, and employees from any liability to person or property due to the placement or maintenance of said LICENSED USE in the CITY EASEMENT, including the cost of any attorney's fees incurred in the defense of any legal action associated with such placement or maintenance and further to indemnify the CITY against any real estate taxes or other costs and expenses it may occur due to the placement of said LICENSED USE in the CITY EASEMENT.

7. LICENSEE covenants that it will not interfere through its use of the CITY EASEMENT with any utilities currently existing therein or hereinafter installed. They further covenant that any damage to such utilities caused by LICENSEE or their employees, contractors, agents or assigns shall be repaired at the cost of LICENSEE.

8. The obtaining of any easements, licensees, or right-of-ways for adjoining property owners necessary for LICENSEE to make effective use of the license granted hereunder shall be the sole responsibility of the LICENSEE.

9. The license granted hereunder shall be deemed a covenant running with the land so long as the license thus granted continues, moreover the parties hereto bind and obligate themselves and their executors, administrators, successors and assigns to the rights and obligations respectfully granted and assumed hereunder. The foregoing notwithstanding LICENSEE shall not assign this license without the express written consent of the CITY which consent may be withheld in the discretion of the CITY.

10. The LICENSE shall extend to one year after the completion of construction of the 9 (nine) angled parking spaces. At that time, the parking area shall be inspected by City Staff. If repairs are deemed necessary, then repairs will be done by LICENSEE and the license will be extended an additional year from completion of repairs. Once the parking area is found to be good condition, then the City shall take over maintenance of the parking area and this agreement shall be terminated.

11. This agreement may be filed of record with the Lyon County Register of Deeds by the CITY, at its expense, and if so filed may be terminated by filing a copy of the written notice provided for herein with the Lyon County Register of Deeds.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date and year first above written.

BY: \_\_\_\_\_  
\_\_\_\_\_

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, who is personally known to me to be the same person who executed the above instrument of writing and such person duly acknowledges the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

CITY OF EMPORIA, KS

BY: \_\_\_\_\_

Rob Gilligan, Mayor

ATTEST:

\_\_\_\_\_  
KERRY SULL, City Clerk

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2016, before me, the undersigned, a Notary public in and for the County and State aforesaid, came \_\_\_\_\_, who is personally known to me to be the same person who executed the above instrument of writing and such person duly acknowledge the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

COTTONWOOD ST

Proposed Parking Area

E1STAV

Sacred Heart Church

EXCHANGE ST

