

## OVERLAND PARK CITY COUNCIL MEETING

April 7, 2025

Mayor Curt Skoog called the Overland Park City Council meeting to order at 7:30 p.m., in the City Council Chambers. The following members were present, constituting a quorum:

Council President Holly Grummert; Mr. Jim Kite; Mr. Logan Heley; Mrs. Melissa Cheatham; Mr. Chris Newlin; Mr. Sam Passer; Mr. Gregg Riess; Mr. Scott Mosher; Mr. Jeff Cox; Mrs. Inas Younis; Mr. Richard Borlaza; and Mr. Drew Mitrisin. Mr. Sam Passer was absent (excused).

Also present were: Mrs. Lori Curtis Luther, City Manager; Mrs. Kristy Stallings, Deputy City Manager; Mrs. Kate Gunja, Assistant City Manager; Mr. Bryan Dehner, Assistant City Manager; Mr. Jack Messer, Assistant City Manager; Mr. Michael Koss, City Attorney; Mr. Steve Horner, Senior Assistant City Attorney; Ms. Doreen Jokerst, Chief of Police; Ms. Gena McDonald, Director of Finance and Budget; Mrs. Lorraine Basalo, Director of Public Works; Mr. Alan Long, Fire Chief; Mrs. Leslie Karr, Director of Planning and Development Services; Mr. Tony Sage, Chief Information Officer; Ms. Meg Ralph, Director of Strategic Communications; Mr. Tony Meyers, Engineering Services Manager; Mr. Brian Monberg, Current Planning Manager; Mrs. Erin Ollig, Strategic Planning Manager; Mrs. Brian Xaine, IT Support Specialist; and Ms. Cindy Terrell, Recording Secretary.

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### **PLEDGE OF ALLEGIANCE**

Mayor Curt Skoog led the Council in the Pledge of Allegiance.

### **OPEN PUBLIC COMMENT PERIOD**

Mayor Skoog opened the public comment period and asked that the speakers state their name and address for the record. The Mayor announced each speaker would have three (3) minutes to speak. Speakers must conduct themselves in a civil and respectful manner.

Mr. Scott Schulte, resident, 8335 Mackey, stated he was present representing Heartland Conservation Alliance (HCA), as a member of the Board of Directors, in regards to the proposed development and rezoning of a project located at 172nd Street and Metcalf. HCA is an alliance of dozens of regional organizations, governments, not-for profits, and community members that work to protect the most important and valuable natural areas in the region for the benefit of all and multiple environmental benefits. Their major focus is the Blue River Watershed, of which 90 percent of Overland Park lies within. Their major project focus is to work with their partners to connect, protect, and restore the Blue River greenway, floodplain, and trail connections between the Overland Park Arboretum and the confluence of the Blue River and the Missouri River in Kansas City, Missouri. The City of Overland Park has been an important partner in this overall greenway planning over the years. When HCA saw the proposed development project, they were very interested in ensuring it be done appropriately, since it is a key linkage in the greenway and the trail system. If not done properly, it could create negative downstream impacts with flooding, erosion,

water quality, and stream destabilization. The HCA provided comments to the Planning Commission in December 2024, with recommendations about how to protect the integrity of the site.

Mr. Schulte stated HCA felt it important to testify this evening, as well as provide written comments to the Council to the effect that the HCA believes the proposed plan accomplishes their recommended objectives for the project. While they would prefer no encroachment in the floodplains, the compromise goes above and beyond the City's existing stream setback regulations by leaving the vast majority of the floodplain as open space, protecting the critical easement for the Blue River Greenway trail connection, and providing internal access for the residents to have access to nature. Very importantly, it commits to restoring and protecting over 40 acres of floodplain vegetation along the Blue River, which they know through detailed studies in the area is the key to reducing downstream flooding, protecting streambanks, and preserving water quality, habitat, and connectivity. They commend all parties for optimizing the value of the project. The proposed open space preservation and restoration on the northern bank of the Blue River is not included in the permanent restoration plan. It is important that segment is protected and restored into perpetuity in whatever way most appropriate, as well as making sure the tributary is well protected, the vegetation is protected into perpetuity, and that all of the restoration work is implemented and maintained over time in an appropriate manner. He thanked the Governing Body for receiving his comments this evening. The HCA members are available resources as the project moves forward into the development process.

Mrs. Marlene Carter, resident, 7301 Blackbob Drive, Stilwell, Kansas, stated Blackhawk Trail is a planned neighborhood that is not safe that is located in a floodplain with only one access point. Approximately 150 single-family homes and duplexes will only have one (1) access point to Metcalf and Metcalf Place. This is over three times the recommended 50 units per access point for single-family homes and duplexes as outlined in the design standards. That is incredibly unsafe. There will be 134 duplexes where older people may downsize to live. There is a long cul-de-sac, which is against all City codes. It is not a collector street and there is no thorough-way over the bridge. There are other emergencies besides fires, including medical and natural disasters. These buildings will be closer together due to deviations. FrameworkOP allows apartment buildings next to the river.

Mrs. Carter stated Blackhawk Trail will be rezoned for single-family homes at Shadow Ridge and 17 houses will be built when it calls for less intensive uses such as light industrial. This area is also in a river floodplain so it will affect wildlife and might get flooded. Lower entry duplex buyers may not have the money to pay for flood insurance. She is concerned with sight distance. A drive is planned instead of a street for 17 houses. This is a bad precedence. There is a bend in the road and anyone traveling 45 mph can barely see it until it is reached.

Hearing nothing further, Mayor Skoog closed the public hearing at 7:38 p.m.

### **PUBLIC HEARING**

None.

**MAYOR CURT SKOOG**

**PROCLAMATION** – Proclaiming April 13 through April 19, 2025, as Architecture Week in Overland Park.

Mayor Skoog proclaimed April 13 through April 19, 2025, as Architecture Week in Overland Park.

Mr. Nathan Disco, co-chair, Augmented Intelligence Kansas City, stated he is a member of the education outreach community for Kansas City. This is their first year to do Architecture Week. They are excited about doing their part to celebrate and expand people's knowledge on architecture. They travel to schools and talk to kids across K through 12 promoting architecture. They offer many services available during Architecture Week, including things people can do at home. On Thursday, April 17, 2025, they are holding a high school event at their building.

**PROCLAMATION** – Proclaiming April 2025, as Fair Housing Month in Overland Park.

Mayor Skoog proclaimed April 2025, as Fair Housing Month in Overland Park.

Mr. Gregg Gehrig, committee member, Community Development Block Grant Citizen's Advisory Committee, stated the CDBG Advisory Committee is honored to live up to the obligation of fair housing in Overland Park. Over the past 10 years, the CDBG Committee has worked to deliver \$7,204,833 in Housing of Urban Development (HUD) money to increase housing options for residents, principally those of low and moderate incomes. All eligible projects and activities aid in the prevention of the elimination of slums and blight, and meet other urgent community needs. Augmenting that \$7.2 million stream of funding, the CDBG Committee worked to assist struggling small Overland Park businesses and individuals struggling to pay utilities resulting from job losses during the COVID-19 pandemic. Through funding from the Coronavirus Aid Relief, and Economic Security (CARES) Act, signed into law just five years ago, the CARES Act provided over \$1.247 million to local businesses and neighbors. As the CDBG Committee prepares for the next five years addressing the tasks within FrameworkOP, the work continues beyond this proclamation. The City is partners with Johnson County to help educate renters and property managers on their rights and responsibilities under State and Federal fair housing laws. This event will be held at Matt Ross Community Center on April 22, 2025. He personally anticipates greater challenges to affordable housing, the President of the United States has halted \$1 billion in nationally-slated monies for rehabilitating aging buildings. The CDBG Committee is up to the task and he thanked the Governing Body for trusting them with this responsibility.

Mayor Skoog thanked the CDBG Citizen's Advisory Committee for the great work they do.

**NEW APPOINTMENT – DOWNTOWN BUSINESS IMPROVEMENT DISTRICT  
ADVISORY BOARD**

Rob Arnold – Term 11-01-2024 to 11-01-2026

Council President Holly Grummert moved to approve the new appointment of Rob Arnold to the Downtown Business Improvement District Advisory Board, as presented. The motion was seconded by Mr. Logan Heley and carried by a vote of 11 to 0.

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Mayor Skoog shared that he had the honor to attend both the Overland Park Fire Department and Overland Park Police Department award ceremonies over the last two weekends. It is always his honor to witness the power of those departments.

Mr. Skoog announced that the Overland Park Farmers' Market is set to open soon for the season. The market will be held in the Matt Ross Community Center parking lot this year during the ongoing construction of the new Clock Tower Landing.

### **COUNCIL PRESIDENT HOLLY GRUMMERT**

Council President Grummert announced that fair housing forums are scheduled to be held this month at Matt Ross Community Center for landlords and renters on Tuesday, April 22, 2025. The landlords' forum will be held at 3:30 p.m., and at 6:00 p.m. for renters. She and Councilmember Logan Heley had a great opportunity to speak with third graders from Tomahawk Elementary School about elections and the work of the Council. Police Officer Bill Koehn spoke about the police department, and Neighborhood Program Coordinator Alissa Workman spoke as well. The children took a tour of City Hall, received an up-close look at traffic signals, and learned about City government. They talked about pools, parks, and other great Overland Park amenities and answered their questions. She encouraged other young residents of Overland Park interesting in learning about City government to come to City Hall for a tour.

### **CITY MANAGER LORI CURTIS LUTHER**

City Manager Lori Curtis Luther reiterated that the Overland Park Farmers' Market will open its 2025 season at the Matt Ross Community Center on Saturday, April 19, 2025. Market hours are 7:30 a.m. to 1:00 p.m. Staff has been readying and testing operations at Matt Ross getting vendors set up. Matt Ross has served as a Market location in the past, which has worked well.

### **CONSENT AGENDA**

#### **COMMUNITY DEVELOPMENT – Committee Report:**

BID TABULATION – Stuppy, Inc., for the Arboretum and Botanical Gardens Greenhouse and installation, in the amount of \$215,000.

#### **COMMUNITY DEVELOPMENT – Staff Report:**

RESOLUTION NO. 5036 – Setting a public hearing for April 6, 2026, pursuant to K.S.A. 12-1752 and Overland Park Municipal Code Section 7.25.110, concerning the unsafe and dangerous structure at 4700 West 120th Street.

RESOLUTION NO. 5037 - Setting a public hearing for April 6, 2026, pursuant to K.S.A. 12-1752 and Overland Park Municipal Code Section 7.25.110, concerning the unsafe and dangerous structure at 13476 West 174th Place.

RESOLUTION NO. 5035 – Authorizing the operation of the common consumption area generally located in the vicinity of 79th Street and Santa Fe Drive, south to 80th Street and Marty; and Overland Park Drive to Valley View Drive, and Foster, between 79th Street south to 80th Street, allowing the consumption of alcoholic liquor on property not otherwise subject to a license issued pursuant to the Kansas Liquor Control Act or the Club and Drinking Establishment Act.

**PUBLIC WORKS – Committee Report:**

BID TABULATION – VF Anderson Builders, LLC, for the 2024 Major Storm Sewer Repair Project, in the amount of \$1,992,642.25.

BID TABULATION – Superior Bowen Asphalt company, LLC, for 2025 Street Improvement Project (Overlay), in the amount of \$20,529,276.78.

BID TABULATION – McAnany Construction, Inc., for 2025 Street Improvement Project (UBAS), in the amount of \$9,317,224.80.

BID TABULATION – McConnell and Associates Corp., for 2025 Street Repair (Asphalt Patch), in the amount of \$153,000.

BID TABULATION – M.H. Logistics Corp., d/b/a Armor Equipment, for purchase of a Variable Height Municipal Regenerative Street Sweeper, in the amount of \$376,875.

2027 NEIGHBORHOOD STREETS RECONSTRUCTION PROGRAM – Approving the selection of the 102nd Street cul-de-sac within the Indian Heights Estates subdivision located northeast of 103rd Street and Nall; Quail Ridge subdivision southwest of 107th Street and Lamar; Warrington Estates, northwest of 107th Street and Lamar; select cul-de-sacs within Galway Domains southeast of 83rd Street and Grant; and Arrowhead Acres southwest of 87th Street and Antioch, to be included in the 2027 Neighborhood Streets Reconstruction Program.

APPROVAL TO PURCHASE ASPHALTIC CONCRETE – From any of the three (3) previously approved vendors; Bettis Asphalt and Construction, Inc., Superior Bowen Asphalt Co., Inc., and Asphalt Sales Co., Inc., in an amount not to exceed \$750,000.

**FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT – Staff Report:**

EXPENDITURE ORDINANCE NO. 3B – Outlining the expenditures from the General Operating Fund and the Capital Projects Fund for March 14 through March 27, 2025.

Mayor Skoog presented the Consent Agenda and asked the Council if they wanted to remove any items for separate discussion.

Mrs. Grummert moved to approve the Consent Agenda, as presented. The motion was seconded by Mr. Jim Kite and carried by a roll-call vote of 11 to 0.

**REGULAR AGENDA:**

**COMMUNITY DEVELOPMENT – Committee Report:**

Logan Heley, Chair

Mr. Heley announced that the Overland Park Recycling Extravaganza would take place from 9:00 a.m. to 2:00 p.m. at Black and Veatch. Additional details are available on the City's website.

**COMMUNITY DEVELOPMENT – PLANNING AND DEVELOPMENT SERVICES – Staff Report:**

No report.

**COMMUNITY DEVELOPMENT – PARKS AND RECREATION SERVICES – Staff Report:**

No report.

**PUBLIC SAFETY – Committee Report:**

Melissa Cheatham, Chair

Mrs. Melissa Cheatham reported on the recent Overland Park Police and Fire awards banquets. She thanked all the staff members who host, along with all of the public servants honored at the ceremonies. It was moving to hear their stories of saving lives and keeping the community safe. Several of the councilmembers visited seven (7) of the police departments today and learned a lot about their work. They also received some information on the new Police Training Center, the design of which is underway. Construction is set to begin in 2026. They will hold the April 9, 2025, Public Safety Committee meeting in the Council Chambers.

**PUBLIC SAFETY – POLICE DEPARTMENT – Staff Report:**

No report.

**PUBLIC SAFETY – FIRE DEPARTMENT – Staff Report:**

No report.

**PUBLIC WORKS – Committee Report:**

Jim Kite, Chair

No report.

**PUBLIC WORKS – Staff Report:**

AGREEMENT – Thomas H. and Crystal E. Ansley, for the purchase of real property by the City, generally located at 10310 West 170th Terrace, in the amount of \$500,000, to reconstruct Switzer, 167th Street to 179th Street, to an improved two-lane thoroughfare, including two (2) new roundabouts at 175th Street and 179th Street.

Director of Public Works Lorraine Basalo presented an agreement with Thomas H. and Crystal E. Ansley, for the purchase of real property by the City, generally located at 10310 West 170th Terrace, in the amount of \$500,000, to reconstruct Switzer, 167th Street to 179th Street. The property is located on the northwest of the intersection of 170th Terrace and Switzer. It is unusual for the Council to discuss right-of-way and acquisition agreements, as she and staff mostly approve them. The City will purchase the entirety of the property as part of the project, due to the proximity of the proposed roadway improvements to the actual residential structure on the property. Purchasing the entire property requires Council approval. The property was appraised and the City's acquisition agent worked closely with the property owners. The City reached an agreement for the purchase of the property at the appraised value of \$500,000. While this agreement is within the purview of the Public Works Committee, because of timing, staff made the decision to come directly to Council, as the property owners aim to close on another property before April 23, 2025, which is their scheduled closing. Bringing this agreement directly to Council allows staff to promptly finalize the agreement and allow the Mr. and Mrs. Ansley to facilitate their relocation. It also allows the City to remain on schedule for the project. The residential structure on the property will be demolished after purchase, which will allow water and gas utility relocations to proceed as early as this year, to ready for construction in 2026.

Mr. Kite moved to approve the agreement with Thomas H. and Crystal E. Ansley, for the purchase of real property by the City, generally located at 10310 West 170th Terrace, in the amount of \$500,000, to reconstruct Switzer, 167th Street to 179th Street, to an improved two-lane thoroughfare, including two (2) new roundabouts at 175th Street and 179th Street. Mr. Chris Newlin seconded the motion.

Mr. Drew Mitrison stated the Public Works Committee previously discussed this project when they talked about the Capital Improvements Program (CIP). He thinks this is an interesting project, as it increased from a \$25 million budget to \$34 million. The Committee voted to recommend approval of the project, but they were encouraged to have some good discussions and subsequent discussions about how much money the City is spending on thoroughfares. In the 2026-2030 CIP, the City will spend \$92.4 million on thoroughfares. These projects will serve new subdivisions. The subject project serves an existing subdivision, but there will be more development in the area. The people who live out there deserve to drive on a safe thoroughfare. While the City will be reimbursed some of the \$92.4 million, it will still spend \$46 million, including \$18 million in the new infrastructure sales tax, which in some people's opinion, is intended to better maintain the City's current assets. The Council just approved the 2027 Neighborhood Streets Reconstruction Program. The maps show the City has 131.8 lane miles that are in immediate need of reconstruction, or are beyond their useful life. In 2027, they will reconstruct 3.7 of those lane miles. That is not to say they should cancel all thoroughfare projects by any means, but he does believe the balance on spend for thoroughfares is off and he would like to see more spent on neighborhood street reconstruction moving forward.

The motion carried by a vote of 11 to 0.

**FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT – Committee Report:**

Chris Newlin, Chair

No report.

**FINANCE, ADMINISTRATION AND ECONOMIC DEVELOPMENT – Staff Report:**

No report.

**ECONOMIC DEVELOPMENT PUBLIC-PRIVATE PARTNERSHIP PROJECTS – Regular Agenda:**

None.

**PLANNING COMMISSION – Consent Agenda:**

SPECIAL EVENT PERMIT NO. SEP2025-00022 – 9401 Indian Creek Parkway. A special event permit is requested to allow a 4th of July celebration on July 4, 2025, in Corporate Woods Founders' Park. Application made by Julie Bilyea, representing the City of Overland Park.

SPECIAL EVENT PERMIT NO. SEP2025-00044 – 5454 West 110th Street. A special event permit is requested to allow a private concert on June 20, 2025. Application made by Joe Cummings, representing Creative Planning.

SPECIAL EVENT PERMIT NO. SEP2025-00083 – 5300 Metcalf. A special event permit is requested to allow a tent from May 1 through November 1, 2025. Application made by Abdallah Shriners.

SPECIAL EVENT PERMIT NO. SEP2025-00096 – 7951 West 160th Street. A special event permit is requested to allow various special events at Bluhawk for 2025. Application made by Stu Stram, representing Price Brothers.

SPECIAL EVENT PERMIT NO. SEP2025-00097 – 13800 Switzer. A special event permit is requested to allow various events and signage at Deanna Rose Farmstead from May 17 through December 31, 2025. Application made by the City of Overland Park.

SPECIAL EVENT PERMIT NO. SEP2025-00101 – 13600 Antioch. A special event permit is requested to allow temporary banners from April 7 through October 7, 2025. Application made by Marti Palmer, representing The Oslo.

SPECIAL EVENT PERMIT NO. SEP2025-00105 – 8909 West 179th Street. A special event permit is requested to allow various special events at the Overland Park Arboretum and Botanical Gardens for 2025. Application made by Jennifer Cairns, representing the Arts and Recreation Foundation of Overland Park.

SPECIAL EVENT PERMIT NO. SEP2025-00106 – 16350 Kenneth Road. A special event permit is requested to allow a semi-permanent tent structure from April 7 through September 30, 2025. Application made by Karine Hellwig, representing Aubrey Vineyards.

REVISED PRELIMINARY PLAN NO. PDP2025-00003 – Johnson County Rehabilitation Hospital Expansion – 11325 College Boulevard. Application made



by NEC College Park, LP. The Planning Commission approved this item on March 10, 2025, by a vote of 9 to 0. (Related Case No. SUP2020-00029)

REZONING NO. REZ2024-00013 – 17205 Metcalf Place. Rezoning is requested from RUR-J, Rural District, Johnson County, to R-1, Single-Family Residential District, and RP-2, Planned Two-Family Residential District, to allow the development of single-family and multifamily residences. Application made by Thompson, Cynthia Gill Trust. The Planning Commission approved this item on March 10, 2025, by a vote of 9 to 0. Ordinance No. Z-4360.

Mayor Skoog presented the Planning Commission Consent Agenda and asked if anyone wanted to pull an item for separate discussion.

Hearing none, Mrs. Grummert moved to approve the Planning Commission Consent Agenda, as presented. Mr. Newlin seconded the motion, which carried by a roll-call vote of 11 to 0.

**PLANNING COMMISSION – Regular Agenda:**

RIGHT-OF-WAY VACATION NO. VAC2025-00001 – 8600 Grant. Application made by Eliot Anderson. Ordinance No. VAC-3478.

Current Planning Manager Brian Monberg presented Right-of-Way Vacation No. VAC2025-00001, 8600 Grant, which requires a public hearing. He presented an aerial map submitted by the applicant, who is also the current homeowner, of which their home and driveway is located within the right-of-way. The area for this public right-of-way was subject to rezoning in the 1970s. As part of that rezoning, right-of-way was dedicated, which included the property that the home was constructed on. It was anticipated that the home would be removed and new construction would occur as part of the overall rezone. There was a plan to align some additional lots for duplexes, which never proceeded. This home remained with the right-of-way over the last 35 years. The home was purchased in the last few years, so the applicant request is a relatively new homeowner.

Mr. Monberg stated staff reviewed the request and acknowledged there are no other proposed changes as part of this application, either by the applicant or by the City. A portion of right-of-way just to the west will remain public and is not a part of this application. While there are no plans for roadway or other street improvements, staff was recommending retaining the access easement so not to preclude the opportunity to provide pedestrian connection at some point in the future. Staff was recommending approval of Ordinance No. VAC-3478, Right-of-Way Vacation No. VAC2025-00001, 8600 Grant, subject to stipulations a and b.

Mrs. Grummert asked if the application was triggered from the new home ownership. Mr. Monberg responded that was the staff understanding. The home was purchased a couple of years ago and the request is by the new homeowner. Mrs. Grummert said the new homeowner wants to reclaim this section of their house. Mr. Monberg said that was correct. He believed their understanding was to remove their home out of public right-of-way, as well as the driveway. Mrs. Grummert stated the City still wants some of the easement and access to the utility. Mr. Monberg said that was correct.

Mr. Heley thanked staff for considering keeping the opportunity for future pedestrian connection. The map shows that many residents do not have easy access to Grant, so that would be a great future connection.

Mrs. Cheatham also appreciated staff retaining the pedestrian access. Her kids' school has a small pedestrian path from the playground over to one of the streets that the kids use all the time. She could see this being a similar opportunity. She encouraged staff to explore what it will take to actually build in the connection and look for opportunities throughout the City where they could add connections to make walking easier.

Mayor Skoog opened the public hearing on this item. Hearing none, he closed the public hearing at 8:09 p.m.

Mrs. Grummert moved to approve Ordinance No. VAC-3478, Right-of-Way Vacation No. VAC2025-00001, 8600 Grant, with stipulations a and b. Mr. Heley seconded the motion, which carried by a roll-call vote of 11 to 0.

FINAL DEVELOPMENT PLAN NO. DEV2024-00122 – APPEAL – Overland Station – DSW – 12160 Blue Valley Parkway. Application made by Cherry Hill Properties, LLC, c/o Colliers. The Planning Commission denied this item on February 10, 2025, by a vote of 6 to 4.

Mr. Monberg presented an appeal for a deviation request related to rooftop screening for Final Development Plan No. DEV2024-00122, Overland Station, DSW, 12160 Blue Valley Parkway. The applicant was requesting a deviation to allow the existing rooftop equipment to remain partially unscreened from public view. The building was constructed in 2001. The original design included a parapet that fully screened all of the rooftop equipment. He presented an aerial photograph of the building.

Mr. Monberg stated the Unified Development Ordinance (UDO) currently requires all rooftop equipment to be wholly screened, and screened using an architectural treatment. The applicant is present to speak this evening. In the industry, heating, ventilation and air conditioning (HVAC) rooftops have gotten larger, which is partially due to some energy requirements, among other reasons. This has been a deviation requested of the Planning Commission in certain cases with Board of Zoning Appeals over the last couple of years, as owners have replaced their rooftop units.

Mr. Monberg stated staff initially identified this need through a permit request. A hold was placed on the permit due to the screening requirement within the UDO. Staff performed an evaluation and identified that while the newer units are partially screened, five (5) are visible from Lowell. From the access drive and Conser, three (3) units are visible. He presented images of the building from various angles. They are more visible in the wintertime when there is less foliage.

Mr. Monberg stated this deviation request went before the Planning Commission on February 10, 2025. The Planning Commission denied the request by a vote of 6 to 4. At least two planning commissioners said they could envision approving the deviation request if the units were painted or provided some other color that is more consistent with the rooftop. Other planning commissioners said they would deny the request even with paint. Upon receiving the denial, the applicant appealed to the Governing Body for discussion and consideration. Staff's recommendation, per the Planning

Commission decision, would be to move to deny the deviation request. Staff included stipulation a, if the Council deems the deviation criteria have been reviewed and met as part of this. In addition to the Council action, staff was seeking direction pending their decision about how to consider these types of situations within the UDO and any refinements for the forthcoming UDO update.

Mayor Skoog stated the current units on the building are the new ones. Mr. Monberg said that was correct. Mr. Skoog stated the new units stand out above the existing parapet, which covered the old units. Mr. Monberg said that was correct. The parapet fully screened the old units.

Mrs. Grummert said these are new energy efficient HVAC units, which they will certainly see more of moving forward. This issue will start to become common.

Director of Planning and Development Services Leslie Karr agreed with Mrs. Grummert. Staff is talking about those changes, as they are seeing more and more situations where the new units are not screened.

If the Council were to deny the request, Mrs. Grummert asked what happens to the existing units; will they remain unscreened. Mrs. Karr replied the applicant will be required to provide screening. Mrs. Grummert said in that case, the applicant will need to bring forward another option. Mrs. Karr said that was correct.

Mr. Mitrisin said he never noticed this problem. He asked for some screening alternatives. Mr. Monberg said in terms of providing that screening, there are other architectural options, such as wrapping. There are buildings in the City where the owner has appended a screen along the roofline all the way around to block the units. In addition, there have been discussions about without screening, could there be things to mitigate the visual impact such as painting. The UDO does not currently allow painting as a method of screening.

Mr. Heley said the Council were not experts as to what the UDO should say about this issue. He questioned if it would make sense to give temporary relief, pending the UDO update. He asked if the consultant for the UDO will inform best practices for this issue, so the City can follow that advice. He asked if the UDO will address this specific issue, or merely give national best practice. Mrs. Karr responded that staff is interested in addressing because it is happening more often. Staff was asking for guidance from the Council. Maybe they could use a different standard where the City only requires the units to be partially screened from view. For this application, staff would prefer the Council take action. They do not want the application to remain pending if the code does not get changed any time in the near future. They do not want the applicant to have an open Certificate of Occupancy because of the issue.

Mr. Scott Mosher asked if regulations were in place about what the screens can be. In general, Mrs. Karr said they need to be architecturally compatible with the building. The preferred method is always the building parapet, so there is no worry about the screens falling down. Some screening materials are not sufficient, so you can still see through them to the units. Staff has entertained many different methods. Some buildings will put in HVAC to recess the units. Mr. Mosher stated not all of the HVAC units on this particular building have been replaced. Mr. Monberg said that was his understanding.

Mrs. Inas Younis said the screening is purely an aesthetic issue, as there is no other value to screening. Mrs. Karr said that was correct.

Mr. Kimball Hales, architect, Finkle + Williams Architecture, 8787 Renner Boulevard, Lenexa, Kansas, stated the Council was asking good questions. Throughout the City, the ordinance that requires screening units for new construction is very effective. The challenge they are running into is with the replacement units. The newer units are bigger and just barely visible above the previously constructed parapets. It can at times be impossible to understand the view sheds and things of that nature. In this case, the building sits low and the street of Lowell sits 15 feet above the store's entrance. This screening is difficult to enforce on existing buildings in every case where new units go in. In this case, the tenant, not the actual property owner, replaced the units. This issue encumbers the property owner. The question is how to make it equitable, when existing buildings and owners are screening and others are not.

Mr. Hales stated that retrofit screens are expensive. Their client had two bids to add structural screens, which are anchored through the building and very disruptive. It requires cutting a hole through the existing roof membrane and waterproofing around it. The low bid they received to screen the seven (7) units was \$106,000. There are screens that can be attached to the units but in his opinion, they do not look nicer than the units themselves. It can be difficult to predict how a building will evolve. He presented photographs of different examples across the City. The architectural design for the Michael's building had a lot taller massing. The Michael's store will probably never have a problem with their units being visible. The DSW building is purposely diminutive and steps down a bit, which is a good architectural design. Adding to that parapet is not feasible. Adding structural screening would be expensive and will essentially just be another layer of architecture. The DSW units are slightly visible from the south headed towards the Target store. The units on Target's roof are visible.

Mr. Hales said the applicant is asking for deviation approval. Staff will eventually figure out a way to address this issue in the UDO update. They believe the Planning Commission needs new guidelines that apply to existing buildings, but should not penalize owners who permit the work versus those who do not.

Mayor Skoog asked for solutions. Mr. Hales said with new construction, the ordinance has been effective. He did not know if he would change the existing ordinance. It would be difficult to predict how much taller to require the parapets to be. There are also architectural decisions, such as building massing. He was unsure of other solutions, other than a way to make the new parapets on new construction slightly larger than the units, in anticipation they may get even larger in the future. Mr. Skoog asked if paint would make a difference in this case. Mr. Hales felt if the units on the DSW building were painted more of a beige color, they may better fit in with the brick and fascia. The problem is that the units are factory painted and designed to last 20 years. They get baked in the sun, so merely painting over paint is not the best solution, but may fix the issue for another five years.

Mr. Mosher asked for the tonnage of the old units versus the new ones. Mr. Hales was unsure, as they were not involved in that process. The tenant, DSW, replaced the units, but he believes the tonnage remained the same because the square footage of the space and the demand for more cooling did not change. He thinks they were merely replacing old units with new. Mr. Mosher said a variance in tonnage makes a

difference. Putting in a new unit that is 5 tons heavier would have been a conscience decision to install a larger unit. Mr. Hales said the newer units are incrementally larger, which attributes to the newer energy code and more efficient systems require bigger boxes, but not necessarily larger tonnage. Mr. Mosher said that has not been his experience with replacing HVAC units on many fast food restaurants. Units tend to be smaller, not bigger, until you increase in tonnage.

Mr. Jeff Cox stated buildings are what they are when they get built. There is changing technology and they are talking about being able to see an extra foot of an HVAC unit on top of a commercial building. He drives by that location every day and never noticed the top of the air conditioner. He was comfortable putting in more gap when new buildings are built, so there is room for coverage if the replacement units are bigger than the original. Residential structures are different. He did not think it was reasonable to ask the building owner to spend \$100,000 to fix the issue. This issue will continue to come up on existing buildings, but he does not think it is a big problem.

Mrs. Karr stated staff met with industry experts and sales representatives from some of the companies that provide the units. The indication they gave was that even if the tonnage remains the same, today's energy requirements are making the units bigger and bigger, along with the spacing around them for airflow. It is an ongoing trend, which is why this issue is coming up more often.

Mr. Skoog felt this was a unique situation, and one he had not seen before in his service to the City. Mrs. Karr stated staff felt this was a good opportunity to get some feedback from the Council, as they continue to review the code and make amendments for future consideration by the Council.

Mr. Mitrisin agreed with some of Mr. Cox's comments. They want people to pull permits, so staff can stay on top of what is happening in the City. They certainly do not want to discourage people from following code, while they also want people to update their HVAC systems to provide everyone with better airflow. Putting more cost onto existing building owners when they replace their old HVAC units may discourage the kind of behavior they want from property owners. He felt handling these issues by character types was reasonable. Residential areas could have stricter screening rules. He has not noticed many of these units and does not want to add more burden to those who just want to improve their buildings to keep the economy going.

Mrs. Grummert agreed that the Council may not be the best group to make decisions about building screening. She watched the Planning Commission meeting where they discussed this. They were also conflicted about what to do. She agreed that paint could be an easy fix, but paint does not look good when it starts to chip and peel. These decisions are made for everyone in the City. They do not know if apartment dwellers will eventually be looking down onto the DSW building, or any other commercial building, which would be residential looking at commercial.

Mr. Skoog said this is a deviation request for a unique situation. Staff was also looking for guidance as they continue to make updates to the UDO. Even if a councilmember does not think it is their job to make these types of decisions, it really is partly their responsibility after listening to the recommendations from the professionals.

Mr. Newlin said no permit is required to replace one (1) unit, but on multiple. He asked how many replacements are allowed before someone is required to get a permit. Mrs. Karr responded it depends on the situation. Some maintenance-type things do not require a permit, but broader replacements or situations that involve electrical or duct work, a permit may be required. At times, staff sees something on a building that was replaced that they did not know about because it was not flagged for a permit. That is not to say there are not units that get replaced that probably should have had a permit and no one realized what happened. It is a difficult code for staff to enforce. In the City's history, there have been times when screening was of emphasized importance and a lot of time, effort, and energy went into the remedy. Today, with changing energy codes, they are seeing more and more building owners meeting the requirement. Staff is questioning if they should continue as is, or figure out another way to achieve some aesthetic benefit without the full requirement.

Mr. Newlin said he drove by DSW today and the rooftop unit did not stick out to him. Pertaining to the UDO updates, he likes the idea of talking more in depth about new construction and major refurbishment. A building receiving a major refurbishment where major changes are being made to a roof, and during that work sufficient screening can be installed that does not add additional burden from a cost perspective, may be the way to go. He felt they should grant the deviation.

Mr. Newlin moved to grant the deviation request and approve Final Development Plan No. DEV2024-00122 – Appeal, Overland Station, DSW, 12160 Blue valley Parkway, subject to stipulation a. Mr. Cox seconded the motion.

Mrs. Younis said aesthetics are subjective. This item did not strike her as the kind of eyesore that warranted imposing any additional expense for the property. She will support more stringent new construction expectations and codes.

Mr. Heley was sympathetic to many of the comments made about this request. It is a challenge for him to go against the recommendations made by the Planning Commission and staff. Most of this issue involved aesthetics and the general appeal and beautification of an area. This particular shopping center is a heat island with minimal landscaping. They might consider in situations where screening will cost the building owner \$100,000, taking a percentage of that amount and making landscape improvements. They may be able to remove some of the largely unused parking stalls and install additional treed medians in the parking lots. Instead of requiring aesthetic improvements that most people are not worried about, the City could require the property owner an opportunity to make landscape-type improvements that would provide bigger benefit and cost less. That might also raise property value.

Mr. Mosher said he did not feel one way or another about this issue, but the screening costs will affect the property owner. If they continue to allow this activity, what will be the requirements moving forward for new construction. Mrs. Karr replied this item is a variance specific to this property. Screening will still be required for new construction, unless the code is changed and that requirement is removed.

Mr. Mitrisin liked Mr. Heley's comments about making a swap to do landscape improvements. He cautioned that the more trees they add, the less visible the signage at these commercial properties. The Council adopted specific land use character areas and there should be more stringent screening requirements in the downtown district, compact neighborhoods, traditional neighborhoods, suburban neighborhoods and

rural transition zones, cover any scenario if they stick to the integrity of the plan for Housing 1, 2, and 3.

Mr. Skoog said updates to the UDO are subjective. He encouraged staff to explore options to address this issue for new construction. They certainly want to continue to encourage improvement and investment into existing buildings and commercial property. Every member of this Council will now pay more attention to these rooftop units, so they need to prepare their feedback for future discussion.

The motion carried by a vote of 10 to 1, with Mrs. Grummert voting nay.

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

#### **MID-AMERICA REGIONAL COUNCIL REPORT**

Mrs. Grummert reported Mid-America Regional Council (MARC) works in collaboration with neighboring communities to share ideas, access greater resources, and build a stronger region. Their dues go towards this aim and support a wide range of regional programs such as the Government Training Institute, the Government Initiatives Forum, and Homeland Security and Emergency Services. This helps to improve the region and make it stronger. Being a part of MARC means they are invested in a better future, not just for the City, but for their neighbors in the entire region. The MARC dues they contribute are 1.2 percent of MARC's total annual revenue, most of which is Federal funding. MARC coordinates a wide variety of regional initiatives that benefit local governments, both directly and indirectly

### **ADJOURNMENT**

At 8:52 p.m., Mayor Skoog declared the meeting adjourned. Minutes transcribed by Cindy Terrell.

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Curt Skoog, Mayor

ATTEST:

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Elizabeth Kelley, City Clerk