

US-56 Gap Analysis

City of Baldwin City, Kansas

Chapter 16: Zoning and Planning

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| Article 1. CITY PLANNING COMMISSION | |
| 16-103 Comprehensive Plan (b) | Consider adding at the end of the second sentence a provision requiring that notice of the hearing on requests for amendment of the Comprehensive Plan that have the potential to impact development in the US-56 Corridor be provided to KDOT at least 20 days prior to the date of hearing. |
| Article 2. ZONING REGULATIONS; BOARD OF ZONING APPEALS | |
| 16-202 Interpretation and Scope | Consider an additional provision providing that front yard and side yard setbacks for each zoning district established in these zoning regulations, when not as deep as necessary to protect projected rights-of-way for US-56, shall be modified to conform to the number of feet that is necessary to protect that right-of-way. |
| Purpose | Consider adopting a new section setting out the purposes to be achieved by the zoning regulations, to include implementation of the City's comprehensive plan and any adopted area or corridor plans. |
| 16-206 District Classifications | <p>Consider adoption of planned districts, in addition to planned neighborhood shopping district and community unit planned district. <u>See</u>, Section I.B.2.c., Implementation Chapter, US-56 Corridor Management Plan.</p> <p>Consider adoption of overlay districts at critical location along the Corridor, particularly where the Corridor Management Plan indicates high intensity or density development will locate, to help ensure that development at those locations occurs in accordance with the recommendations of and vision established by the Plan. <u>See</u>, Section I.B.2.b., US-56 Corridor Management Plan.</p> |
| 16-220 Yard Regulations in A-1 Agriculture District (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |
| 16-228 Yard Regulations in R Single-Family Dwelling District (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |
| 16-236 Yard Regulations in R-1 Single Family Dwelling District (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |

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| 16-244 Yard Regulations in R-2 Two-Family Dwelling District (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |
| 16-252 Yard Regulations in R-3 Multiple-Family Dwelling District (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |
| 16-257 General Requirements of R-P Community Unit Plan District (c) | Consider adding a new subsection after (8) requiring that the preliminary development plan show the projected right-of-way for US-56. |
| 16-296 Yard Regulations in C-P Planned Neighborhood Shopping District (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |
| 16-2, 105 Yard Regulations in C General Commercial District (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |
| 16-2, 114 Yard Regulations in CB Central Business District (a) and (b) (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |
| 16-2, 123 Yard Regulations in I-P Industrial Park District (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |
| 16-2, 133 Yard Regulations for I-1 Light Industrial District (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |
| 16-2, 143 Yard Regulations for R-E Single Family Dwelling District (a) and (b) | Consider adding a provision referencing the new subsection of Section 16-202 relating to setbacks and the need to protect projected right-of-way for US-56. |
| 16-2, 165 Traffic Regulations | Consider amending to allow the governing body to require changes as may be suited to ensure compliance with the City's Comprehensive Plan and any adopted area or corridor plans. |
| 16-2, 166 Curb Cuts | Consider adding a new sentence containing a proviso that all points of ingress and egress shall conform to the points of access to US-56, as shown on the US-56 Corridor Management Plan. |

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| <p>16-2, 173 Building Setback Lines</p> | <p>Consider adding a new subsection (c) related to US-56 providing that no building or structure which fronts or sides on US-56 shall be located nearer than 50 feet (±) to the outer limit of the projected right-of-way for US-56.</p> |
| <p>16-2, 180A Site Plans (b)(1)</p> | <p>Consider amending this subsection to require that the necessary projected right-of-way for US-56 be shown on the composite site development plan.</p> |
| <p>SECTION XXVI</p> | <p>Consider revising the title to ENFORCEMENT, VIOLATION, PENALTIES AND APPEAL and adding new Section 16-2, 181A entitled "APPEALS" as follows:</p> <p>Appeals.</p> <p>A. Procedure for appeals from the effect of the requirements in this Chapter.</p> <p>1. An appeal to the Governing Body may be taken by any applicant aggrieved by any decision of the City requiring the applicant to conform a proposed development to the requirements of this Chapter and who alleges that the final decision of the City constitutes a "taking" without just compensation under the 5th Amendment to the United States Constitution or under the Kansas Constitution. On appeal, the burden will be on the appellant to establish, by the preponderance of the evidence:</p> <p>a. with respect to a requirement, which is imposed as a condition of approval of the Development Application, that the applicant convey to the City an interest in land:</p> <p>(1) that there is not an essential nexus between the challenged requirement and the public purposes sought to be achieved by the challenged requirement, or</p> <p>(2) that, through an individualized determination, the challenged condition is not roughly proportionate both in nature and extent to the impact of the Development proposed in the Development Application; and</p> <p>b. with respect to other requirements imposed by this Chapter, that:</p> <p>(1) the requirements result in a denial of all beneficial economic or productive use of the property; or</p> <p>(2) the requirements constitute a permanent physical occupation or invasion of the applicants property; or</p> <p>(3) the burden that the requirement places on the applicant is greater than the benefit</p> |

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| | <p>that the requirement confers on the general public, considering all of the following and any other relevant factor: (a) the temporal relationship between the effective date of the ordinance and the date the applicant (or if the applicant is not the landowner, the date the landowner) acquired the property that is the subject of the development application; (b) the degree of interference created by the challenged requirements with the applicant's reasonable investment-backed expectations that the property could be developed free of the impacts of the challenged requirements; (c) whether, and if so the extent to which, the development proposed by the applicant is prejudicial to the health, safety or general welfare of others or constitutes a nuisance or nuisance-like activity; (d) the extent to which the challenged requirements achieve important public purposes; (e) the economic impact of the challenged requirements on the applicant's (or if the applicant is not the landowner, the landowner's) entire parcel and contiguous parcels commonly owned, as determined through a comparison of the value of this ownership without application of the challenged requirements with its value with application of the challenged requirements; and (f) that applicant is not necessarily entitled to the most profitable use of the property.</p> <ol style="list-style-type: none"><li data-bbox="618 1388 1435 1703">2. With respect to all appeals made pursuant to this subsection, the person seeking the appeal shall file a written notice of appeal with the City Clerk within 15 days of the date of the final decision from which the appeal is being taken. The notice shall specifically identify the grounds for the appeal and include all other information required by this Section to be submitted with the notice of appeal. If notice in compliance with all requirements of this Section is not timely filed, all rights to appeal the decision are waived.<li data-bbox="618 1724 1435 1856">3. The City Clerk, immediately upon receipt of the notice, shall transmit to the Governing Body all the papers constituting the record concerning the action from which the appeal is taken. |
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| | <ol style="list-style-type: none"> 4. A properly effectuated appeal shall stay all proceedings in furtherance of the action from which the appeal is taken. 5. The Governing Body shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as written notice to all interested parties. 6. The Governing Body, after considering all evidence presented by the applicant in support of the appeal and any evidence presented by the City in rebuttal or otherwise presented in relation to the appeal, shall render a written decision in the form of findings of fact and conclusions of law. If the Governing Body determines that applicant has not met the requisite burden of proof, it shall affirm, wholly or partly, the decision from which the appeal was taken. If the Governing Body determines that the applicant has met the requisite burden of proof, it may reverse or modify the decision from which the appeal was taken and make a decision respecting development application as it determines is appropriate and in conformity with all applicable laws. In making this new decision, the Governing Body may attach any condition it deems necessary to further the purposes of this Chapter. |
| 16-2, 188 Public Hearing and Notice | Consider amending this section to provide that notice to KDOT of an application for a variance that has the potential of having an impact on the development in the US-56 Corridor be provided at last 30 days prior to the date fixed for the hearing. |
| 16-2, 189 Powers and Jurisdictions | (c) Consider amending the last sentence to also provide that the granting of a variance shall be consistent with the Comprehensive Plan or any adopted area or corridor plan. |
| 16-2, 191 Variances to the Zoning Ordinance (c) | Consider revising this subsection to provide that a variance, if granted, is in harmony with the City Comprehensive Plan and any adopted area or corridor plan. |
| 16-2, 196 Public Hearing and Notice | Consider amending this subsection to provide that notice of any proposed or requested change to a zoning district boundary that has the potential to impact development in the US-56 Corridor be provided to KDOT at least 20 days prior to the date scheduled for the public hearing. |
| 16-2, 197A Recommendations | Consider amending this section to specifically provide that the Planning Commission may recommend approval with conditions. |
| 16-2, 197B Amendments to Change Zoning Districts | Consider adding a new subsection between existing subsections (10) and (11) focusing on whether utilities and points of ingress and egress from property onto US-56 are consistent with the US-56 Corridor Management Plan. |
| 16-2, 197C Adoption of Amendments | Consider amending this section to specifically provide the authority to the governing body to approve an amendment with conditions. |

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| 16-2, 197D Special Use Permit (c)(2) | Consider amending this section to specify that proposed curb cuts onto US-56 shall be consistent with points of access to US-56, as shown on the US-56 Corridor Management Plan. |
| (d) | Consider amending this section to add after Comprehensive Plan of the City, "and any adopted area or corridor plan." |
| (d)(5) | Consider amending this subsection by including "the general functionality of the transportation network." |
| Article 3: SUBDIVISION REGULATIONS | |
| 16-302 General Purpose | Consider amending this provision to state that one of the purposes of these regulations is to ensure compliance with the City's Comprehensive Plan or any adopted area or corridor plan. |
| 16-303 Specific Purpose (f) | Consider amending this subsection to provide that public utilities shall not be located in any projected necessary right-of-way, as shown on the Comprehensive Plan of the City or any adopted area or corridor plan. |
| 16-304 Plat Required | Consider exercising the power granted to the City pursuant to K.S.A. 12-715b to exercise extraterritorial subdivision regulatory powers. <u>See</u> Section I.B.2., Implementation Chapter of the US-56 Corridor Management Plan. |
| 16-308 Exemptions | Considering amending the preparatory sentence to state that, provided that no exception shall be inconsistent with the Comprehensive Plan of the City or any adopted area or corridor plan. |
| 16-314 Preliminary Plat; Conformance with Comprehensive Plan and Zoning Regulations | Consider amending this section to additionally provide that the proposed street pattern and land use will conform to any adopted area or corridor plan. |
| 16-315 Preliminary Plat; Contents | Consider adding a new provision between existing subsections (f) and (g) requiring that projected right-of-way for US-56 be shown on the preliminary plat. |
| 16-316 Same; Staff Review and Actions (c) | Consider amending this subsection to provide that a notice and a copy of any preliminary plat that is deemed to have the potential to impact development within the US-56 Corridor shall be provided to KDOT. |
| 16-322 Same; Contents | Consider adding a new subsection (g) requiring the inclusion of a statement providing notice that the area included within the subdivision is also included in the area covered by the US-56 Corridor Management Plan. <u>See</u> , Section I.C.3., Implementation Chapter of the US-56 Corridor Management Plan. |
| 16-336 Approval Guidelines | Consider a revision to include at the end of the first sentence a requirement that division of lots comply with the Comprehensive Plan of the City and any adopted area or corridor plans. |
| 16-337 Additional Requirements | Consider amending this section to add in the second sentence after "rights-of-way easements," a statement that "including projected right-of-way for US-56, to the extent the dedication of such right-of-way is roughly proportionate to the demand for highway enhancements generated by the subdivision." |

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| 16-343 Streets; Conformance with the Comprehensive Plan | Consider amending this section by adding at the end of the first sentence a reference to any adopted area or corridor plans. |
| 16-349 Streets; Dedication of Abutting Street Right-Of-Way | Consider adding as a new sentence after the first sentence stating that when a proposed subdivision abuts the proposed public right-of-way for US-56, the owner of the land proposed to be subdivided shall dedicate, without charge, any land within the subdivision that is necessary to provide conformity with the projected right-of-way to the extent such dedication is roughly proportionate to the demand generated by the proposed subdivision. |
| 16-358 Utility Easements | Consider amending this section to restrict easements that are located within right-of-way for US-56. |
| 16-359 Drainage Easements | Consider amending this section to restrict easements that are located within right-of-way for US-56. |
| 16-360 Pedestrian-Way Easements | Consider amending this section to restrict easements that are located within right-of-way for US-56. |
| 16-377 Water and Sanitary Sewer; Applicability | ...”administered by the director of public works” <u>and consistent with any adopted area or corridor plans.</u> |
| 16-385 Rule Exceptions | Consider adding a proviso at the end ensuring that rule exceptions which will adversely impact development in the US-56 Corridor, as shown on the US-56 Corridor Management Plan, will not be approved. |
| Article 5: CONDITIONAL USE PERMITS | |
| 16-504 Same; Procedures, Hearing, Notice and Criteria (g) | Consider an amendment to this subsection to additionally include conformance with any adopted area or corridor plan. |
| 16-505 Conditional Use Permits; Standards for Conditional Use Permits | Consider adding a new standard at this point requiring that a conditional use permit be consistent with the Comprehensive Plan of the City and any adopted area or corridor plan. |
| GENERAL RECOMMENDATIONS | <p>Although not necessary to adopt an ordinance establishing a moratorium, the City's zoning and planning chapter could include specific authority to adopt moratoria in a situation where it desires to allow the City time to adopt a code or plan revision before development is allowed to proceed. <u>See</u>, Section I.B.1., Implementation Chapter of the US-56 Corridor Management Plan.</p> <p>Consider establishing density transfers and incentives either in the overlay districts recommended above or in other locations in the code to encourage more dense or intense development at locations indicated on the Plan, which are appropriate for such development, and to protect environmentally sensitive features, agricultural lands or protected lower density locations. <u>See</u>, Section I.B.5. and 6., Implementation Chapter of the US-56 Corridor Management Plan.</p> |

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| | <p>Consider adding a provision allowing for cluster development at locations along the Corridor where less intense development on the overall tracts is appropriate to ensure open space, protect critical environmental features and ensure future development as more dense urban patterns may occur as the demand for that type of development increases. <u>See</u>, Section I.B.7., Implementation Chapter of the US-56 Corridor Management Plan.</p> |
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