SPRING HILL PLANNING COMMISSION
REGULAR MEETING
AGENDA
THURSDAY, JANUARY 7, 2015
7:00 P.M.
SPRING HILL CIVIC CENTER
401 N. MADISON – ROOM 15

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

FORMAL ACTION

1. Approval of Minutes: December 4, 2014

2. Recommendation of moratorium for issuance of permits for cargo container storage facilities and individual use of cargo containers as storage buildings

3. Establishment of public hearing date for zoning regulations pertaining to cargo container storage facilities and individual use of cargo containers as storage buildings

4. Establish alternate date for the Feb. 5, 2015 Planning Commission Meeting

5. Appointment of Christie Campbell as Planning Commission Secretary

DISCUSSION

6. Zoning regulations for cargo storage containers, cargo container facilities, and individual use of cargo containers as storage buildings

ANNOUNCEMENTS and REPORTS

ADJOURN

PUBLIC HEARING PROCEDURE

1. Chairperson opens the public hearing.

2. Commission members describe what, if any, ex-party contacts they might have had regarding this case; indicating the nature of the communication and *whom* it was with.

3. Commission members describe what, if any, conflicts of interest they may have and dismiss themselves from the hearing.

4. Staff presents a report and comments regarding the case.

5. Applicant or agent of the applicant makes brief presentation of the case or request.

6. Commission members ask for any needed clarification of the applicant or agent.

7. Public comments are solicited from the audience. Each member of the audience must fill out a Citizen Participation/Comment Form.

8. Commission members ask for any further clarifications from applicant or staff.

9. Public Hearing is closed.

10. Members deliberate the request.

11. 14-day Protest Period begins after the Planning Commission Public Hearing is closed. *****

***** **Protest Petitions:** Any protest petition must be filed in the Office of the Spring Hill City Clerk within 14 days from the conclusion of the public hearing held by the Planning Commission. Sample copies of protest petitions may be obtained from the City Clerk Office at 401 N. Madison, Spring Hill, KS 66083 (913-592-3664).

City of Spring Hill, Kansas
Minutes of Planning Commission Regular Session
December 04, 2014

A Regular Session of the Planning Commission was held in the Spring Hill Civic Center, 401 N. Madison, Room 15, Spring Hill, Kansas on December 04, 2014. The meeting convened at 7: 00p.m. with Chairman Mitchell presiding, and Natalie Lazenby, Planning Secretary recording.

Commissioners in attendance:	Brian Haupt Cindy Squire Michael Weber Janell Pollom Michael Nowlin Troy Mitchell Stephen Sly
Councilmembers absent:	Tobi Bitner
Staff in attendance:	Community Development Director, Jim Hendershot Planning Secretary, Natalie Lazenby

ROLL CALL
The Secretary called the roll of the Planning Commissioners. With a quorum present, the meeting commenced.

APPROVAL OF THE AGENDA
Motion by Mr. Weber, seconded by Mr. Haupt, to approve the agenda as presented.
Motion carried 7-0-0.

FORMAL COUNCIL ACTION

1. <u>Approval of Minutes: November 6, 2014</u>
Motion by Ms. Squire seconded by Mr. Haupt, to approve the minutes as presented.
Motion carried 7-0-0

2. <u>Public Hearing – Conditional Use Permit – CU-05-14</u>

Case:	CU05-14
Request:	Drinking Establishment & Micro Brewery
Address:	20559 Lone Elm Road
Applicant	RCBC, LLC – Mistie Roberts

The chairman asked if anyone had any contact or conflict of interest with the applicant. With none stated, The Community Development Director presented the following staff report.

<u>Beginning of Staff Report</u>

SPRING HILL PLANNING COMMISSION
CONDITIONAL USE STAFF REPORT

Case #: CU-05-14 **Meeting Date:** December 4, 2014

Description: Conditional Use Permit – Drinking Establishment & Micro-Brewery

Location: 20559 Lone Elm Road

Applicant: RCBC, LLC – Mistie Roberts

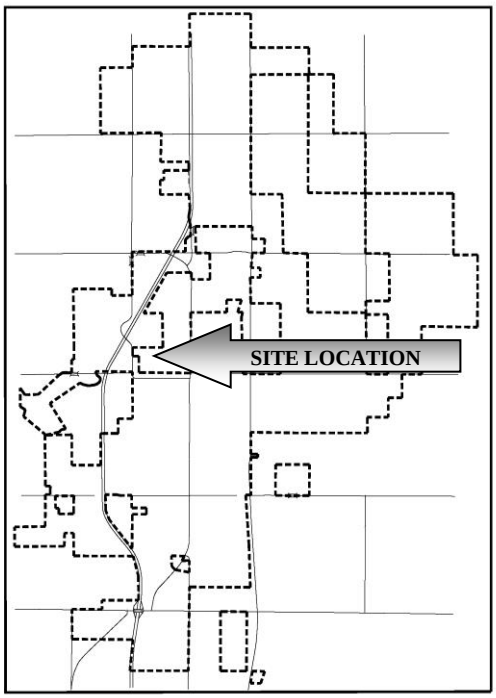
Engineer: n/a

Current Zoning: "C-2" General Business District

Site Area: 6.83 acres **Number of Lots:** 1

	Current Zoning	Existing Land Use	Future Land Use Map
Site:	C-2	Vacant	Residential
North:	C-2	Vacant	Residential
South:	R-R & R-1	Vacant	Residential
East:	R-R	Vacant	Residential
West:	M-1	Vacant	Industrial

Related Applications: CU-06-12



BACKGROUND:
The applicant, RCBC, LLC has submitted a request for a conditional use permit for a drinking establishment and micro-brewery to be located at 20559 Lone Elm Road. A site plan was recently approved at this location for the construction of an office building for a construction sales and service use, Artistic Concrete Services. The site plan was approved with the concept of additional business being located in the building. As per Section 17.326.B.4 the construction sales and service facility is an allowed use in a C-2 district. However, a tavern/drinking establishment is permitted with an approved conditional

use permit (Section 17.326.C.4). As a result, this staff report will concentrate only on the tavern/drinking establishment portion of the building.

APPLICATION AND PROCEDURE FOR CUP (SECTION 17.354)

1. Complete application received 11/4/14
2. Newspaper Publication: Notice of hearing published 11/12/14 (21 days prior to public hearing)
3. Hearing notification mailed to property owners within the notification area on 11/12/14 (21 days prior to public hearing). The notification area consists of property owners within 200 ft. of the rezoning area within the city limits and 1,000 ft. for owners of property in the county.

GOLDEN FACTORS:

The review of the proposed conditional use permit is consistent with Golden v. The City of Overland Park, 224 Kan. 591, 584 P. 2d 130 (1978).

Consistent with purposes of the regulations and intent of the district: The purpose of the C-2 District is to provide a zone that will accommodate retail shopping, service, and offices. The proposed use of the building is consistent with this purpose statement, and the tavern/drinking establishment is an allowed use with an approved Conditional Use Permit.

1. Character of the neighborhood: As shown on the photo below, the neighborhood is vacant and undeveloped. The nearest occupied structure to the location is approximately 1,000 feet.

2. Zoning and uses of nearby parcels: The subject property was recently annexed into the city limits and rezoned to C-2 with adjacent properties rezoned to R-R as noted on the map segment below. Additional zoning and use information is detailed on Page 1 of this staff report.

2. **Suitability for Current Zoning.** The site is suitable for the proposed use as a tavern/drinking establishment is an allowed use in the C-2 district with a conditional use permit.

3. **Detrimental Effect of Zoning Change.** Staff anticipates no detrimental effect on the nearby properties.

4. **Length of Time at Current Zoning.** The site was rezoned to C-2 in August, 2014.

4. **Public Gain Balanced by Landowner Hardship.** Public gain includes regulating the property with a Conditional Use Permit.

6. **Review Criteria.** Sections 17.354.H and 17.334.D detail the review criteria for a conditional use permit. Not all of the criteria must be given equal consideration by the Planning Commission or the Governing Body in reaching a decision.

   A. *The proposed project is consistent with purposes of the regulations and intent of the district.*

   The proposed development is consistent with regulations and intent of the district in that a tavern/drinking establishment is allowed in a C-21 zone with a conditional use permit.

   B. *The proposed project is compatible with the character of the neighborhood.*

   The proposed project is compatible with the character of the neighborhood as surrounding property is vacant and undeveloped.

   C. *The proposed project is compatible with zoning and uses of nearby parcels.*

   The proposed project is in compliance with zoning and uses of nearby parcels as the location of the building will be isolated from adjoining residential uses (see aerial photo above).

   D. *The proposed project is requested because of changing conditions.*

   The proposed project is not requested because of changing conditions.

   E. *Review of suitability of the parcel for uses permitted by the district.*

The proposed project is suitable for this particular parcel when considering zoning, existing neighborhood character and use of the property.

F. Review detrimental effects on nearby parcels.

Considering the distance from adjoining parcels and land uses the proposed use should have no detrimental effect on the area.

G. The proposed project corrects an error.

The project does not correct an error of any kind.

H. Adequacy of current facilities.

Facilities such as road access, water, electric and gas are adequately available to the site with minimal extensions by the developer. Sewer is not available at the site, but the building will be served by an approved private septic system installed in compliance with the Johnson County and the City of Spring Hill regulations. Fire protection is available with the installation of a fire hydrant adjacent to Lone Elm Road and acceptable to Johnson County Rural Fire District #2.

I. Hardship if application is denied.

The applicant could better speak to any perceived hardship if the application is denied.

J. Parking

As shown on the attached site plan, paved parking is provided and compliant with Spring Hill regulations.

RECOMMENDATION:
Staff recommends the Planning Commission approves CU-05-14 as presented with final action by the Governing Body on January 8, 2015.

End of Staff Report

Commissioner Haupt inquired about the access entrance and exit of the property. Mr. Hendershot confirmed that the only access at this time would be from 169 Highway to Lone Elm Road.

The chairman asked the commissioners if any clarification was needed; none was stated.

Commissioner Pollom inquired about signage for the business. Mr. Hendershot noted that the site plan showed a sign near Loan Elm Road. A Sign Permit would be required prior to the installation and placement of such sign.

Commissioner Pollom queried about lighting requirements. Mr. Hendershot noted that no exterior lighting was required, however if any lighting is installed a plan must be reviewed and approved. If any parking lighting is erected, it may require a Luminaire Study.

The Chairman opened the Public Hearing. With a lack of public attendance and no comments, he closed the Public Hearing.

The Chairman asked if anybody had any additional concerns. Commissioner Pollom noted that due to the nature of the business, and the late operating hours, she would like to see lighting as a requirement.

Commissioner Squire agreed that lighting is important in this area and to be safe she feels that it should be added as a condition.

Motion by Ms. Squire to recommend approval of CU-05-14 as presented with final action before the Governing Body on January 8, 2015. The following conditions apply:

1. Subject to annual staff review.
2. Security lighting to be installed, with staff and/or Planning Commission review.

Second by Mr. Haupt.
Roll Call Vote: Nowlin-Aye, Haupt-Aye, Sly-Aye, Mitchell- Aye, Weber-Aye, Pollom-Aye, Squire-Aye.
Motion Passed 7-0-0.

Chairman Mitchell requested that the Commissioners state the reason behind their vote.

Nowlin- Good type of business for the community
Haupt- Meets all regulations
Sly- Helps community
Mitchell- Good recommendation
Weber- Suitable use
Pollom- Good to have more business
Squire- Same as stated

DISCUSSION

3. <u>Comprehensive Plan Review 2014</u>

The Community Development Director presented the review of the 2015 Comprehensive Plan

Previous discussions on the annual Comprehensive Plan review revealed a desire to concentrate the review on two issues; parking and USD230.

In regards to parking, Staff reviewed the various sections of the Plan with regards to parking guidelines. Specifically, how the Plan addresses on-street parking and how this could be coordinated with the recent adoption of a review of plans for on-street head-in parking. The Plan has several references to on-street parking and often encourages this type of parking to develop a sense of “Main Street”. The concept of head-in parking is not specifically mentioned but seems to be implied as a possibility. It is staff’s opinion the recent parking amendment that provides for Planning Commission review and approval by the Governing Body for head-in parking is compliant with the guidelines set forth in the Plan. As a result, staff is not recommending any changes to the Plan with regards to parking.

Staff contacted USD230 for interest in updating sections of the Plan relating to schools. Included with this packet, you will find a rewrite of Section 12.1 of the Comprehensive Plan, along with various slides that contain information found in Appendix E of the Comprehensive Plan. Much of the information contained in Appendix E is outdated and requires a thorough review by USD 230 and city staff. Staff is currently in communication with the school district to assist with this review.

As directed by the Planning Commission, staff will concentrate the 2014 review of the Comprehensive Plan around Section 12.1 Education. Appendix E will require coordination between city and school staff to complete all the necessary updates.

Motion by Mr. Haupt to approve the Comprehensive Plan in its present form.
Second by Ms. Squire.

Roll Call Vote: Squire-Aye, Pollom-Aye, Weber-Aye, Mitchell- Aye, Sly-Aye, Haupt-Aye, Nowlin-Aye.
Motion Passed 7-0-0.

Commissioner Squire noted that her vote was based on “good housekeeping”.

4. <u>Regulations on storage containers</u>

The Community Development Director presented the Zoning Regulations regarding Storage Containers.

Mr. Hendershot also provided regulations from Johnson County; that have recently been adopted, regarding storage container facilities and individual use of containers as storage buildings. In addition, the cities of Gardner and Edgerton have also adopted very similar regulations for their communities.

The cargo containers defined in the Johnson County regulations are for the box containers utilized within the BNSF Intermodal. Through time these containers age and wear to the point, they are unusable by railroads and shipping companies. At that point, they are sold to various companies and individuals and many times show up in communities as storage sheds.

Cargo container storage facilities are industrial businesses that store and repair the containers that remain in use by shipping and railroad companies. These storage yards are a necessary business related to an intermodal facility, but they must be regulated in a responsible manner. As the BNSF Intermodal expands its operations, these storage facilities will become more and more attractive business opportunities in the area.

Currently, Spring Hill Zoning Regulations do not address container storage facilities. With regards to placement of containers in residential areas, the Spring Hill Zoning Regulations need to be amended to address the issue specifically. Current R1 and R2 district regulations for accessory buildings allow one accessory building 120 square feet in size located in the rear yard (Sec. 17.336.B.2.d). These accessory buildings are to be maintained comparable to the maintenance of the main dwelling structure. R-3 and R-4 districts allow one such building per multifamily structure with the same language for maintenance comparable to the dwelling structure (Sec. 17.336.B.3.a).

Through general consensus, the Planning Commissioners, and the Community Development Director agreed that restrictions needed to be established regarding storage containers to maintain the appearance of the community.

Commissioner Pollom inquired about the use of storage containers within new developments and if any restrictions were in place. Mr. Hendershot noted that this was an allowed use for the containers at this time. A restriction could be established to determine the length of time that the container is allowed.

Staff will conduct additional research and create a set of Conditional Use Permit requirements for storage facilities in industrial zones and prohibiting the use of storage containers in all residential and commercial zones. This information will be presented to the Planning Commission at the January meeting.

ANNOUNCEMENTS AND REPORTS

Reminder: The January 01, 2015 Planning Commission meeting has been rescheduled to Wednesday, January 07, 2015.

ADJOURN
Motion by Mr. Weber, **Seconded by** Ms. Squire, to adjourn.

The meeting adjourned at 8: 00p.m.

ORDINANCE NO. _____

AN ORDINANCE IMPOSING A LIMITED AND TEMPORARY MORATORIUM UPON THE ISSUANCE OF PERMITS FOR CARGO CONTAINER STORAGE FACILITIES AND INDIVIDUAL USE OF CARGO CONTAINERS FOR STORAGE BUILDINGS IN THE CITY OF SPRING HILL PENDING REVIEW AND ADOPTION OF REVISIONS AND ADDITIONS TO THE CITY'S ZONING REGULATIONS.

WHEREAS, the term "cargo container", also referred to as "containers" or "storage containers" as used herein includes, but is not limited to, an industrial, standardized reusable vessel that is not permanently attached to a semi-trailer and wheels; and,

a. Originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, and,
b. Designed for or capable of being mounted or moved on a rail car, and,
c. Designed for or capable of being mounted on a chassis for movement by truck, train or loaded on a ship, and

WHEREAS, the term "cargo container storage facility" as used herein includes, but is not limited to, any site engaged in the storage of cargo containers, semi-trailers or chassis in which either the principal or secondary use is the movement, storage, staging or redistribution of cargo containers or semi-trailers (either on or off a chassis) or chassis, but not to include railroad operations that are subject to jurisdiction of the U.S. Department of Transportation, Surface Transportation Board; and

WHEREAS, cargo container storage facilities and the use of individual cargo containers for storage are not addressed in the Spring Hill Zoning and Subdivision Regulations; and

WHEREAS, the availability and use of cargo containers both privately and commercially has increased significantly in the recent years; and

WHEREAS, a study and analysis of regulations regarding cargo container storage facilities and individual use of cargo containers is being conducted by City staff and the Spring Hill Planning Commission; and

WHEREAS, the City is concerned that multiple applications for cargo container storage facilities and private use of cargo containers for storage purposes may be made to the City, and that such applications in the absence of updated regulations addressing the planning and zoning concerns associated therewith, may negatively impact the aesthetic, coordinated and harmonious development of the City; and

WHEREAS, pursuant to K.S.A. 12-747 et seq. and by Article 12, Section 5 of the Kansas Constitution, the Governing Body has the authority to initiate an interim zoning ordinance establishing a limited and temporary moratorium to preserve the general health, safety and welfare of the citizens of Spring Hill, Kansas; and

WHEREAS, the Planning Commission considered this temporary moratorium ordinance at its January 7, 2015, meeting and recommended approval of the same to the Governing Body.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SPRING HILL, KANSAS:

SECTION ONE: There is hereby declared a limited and temporary moratorium on the issuance of permits for cargo container storage facilities and individual use of cargo containers for storage buildings in the City of Spring Hill. In addition, the placement of cargo containers on any property with the city limits of Spring Hill, Kansas is prohibited.

Further, the issuance by the City of special use permits, building permits, or conditional use permits for cargo container storage facilities or the use of cargo containers for individual storage buildings pursuant to the Spring Hill Municipal Code and Spring Hill Zoning and Subdivision Regulations expressly prohibited.

SECTION TWO: The duration of this Ordinance shall be from the effective date of this Ordinance until the 9th day of July, 2015, or until the review and adoption of revisions to the Spring Hill Zoning and Subdivision Regulations is complete, whichever occurs first.

SECTION THREE: This Ordinance shall be construed as follows:

A. Liberal Construction. The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare and convenience.

B. Invalidity. If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed Ordinance set out, or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: That this Ordinance shall take effect and be enforced from and after its passage and publication in the official City paper.

PASSED by the Governing Body this 8th day of January, 2015.

SIGNED by the Mayor this 8th day of January, 2015.

_____
Steven M. Ellis, Mayor

ATTEST:

_____
Glenda Gerrity, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
Frank H. Jenkins, Jr.,
City Attorney

SECTION 17.302

DEFINITIONS

A. Rules.

1. **Meaning and intent.** All provisions, terms, phrases and expressions contained in this Zoning Code shall be construed in accordance with the purposes of this Code.

2. **Mandatory and discretionary terms.** The word "shall" is always mandatory. The word "may" is permissive.

3. **Conjunctions.** Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:

   "And" indicates that all connected items, conditions, provisions or events shall apply; and

   “Or” indicates that one or more of the connected items, conditions, provisions or events shall apply.

4. **Tense, number and gender.** Words used in the past or present tense include the future as well as the past or present, unless the context clearly indicates the contrary. The singular shall include the plural and the plural shall include the singular, as the context and applications of this Code may reasonably suggest. Words of one gender shall apply to persons, natural or fictitious, regardless of gender, as the context and application of this Code may reasonably suggest.

B. Definitions.

For the purposes of this Code words and terms defined in this section shall be given the meanings set forth here. All other words shall be given their common, ordinary meanings, as the context may reasonably suggest.

In case of a dispute over the meaning of a term not defined here or over the application of a definition set forth here, the Zoning Administrator shall give a written interpretation.

1. **Accessory Building** means a subordinate building having a use customarily incident to and located on the zoning lot occupied by the main building or used customarily incidental to the main use of the property. A building housing an accessory use is considered an integral part of the main building, when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.

17. **Best Management Practice (BMP)** mean physical facilities, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which, when properly designed, installed and maintained, will be effective to prevent or reduce the discharge of water or air pollution associated with land disturbance activities regulated by this Ordinance.

18. **Board of Zoning Appeals** means the Board, which has been created by the Governing Body to hear and determine appeals, and variances, to the zoning regulations as set out in Section 17.366.

19. **Boarding House or Lodging House** means a building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

20. **Building** means a structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, horticultural products, animals, or property. When separated by division walls from the ground up without openings, each portion of such building shall be considered a separate building with separate occupancy requirements.

21. **Building Line** means the exterior face of a wall of an existing structure or the limits to which an exterior face of a wall of a proposed structure may be built, but shall not include the face of one story unoccupied gable roofed areas over open porches, entrances or like appendages.

22. **Building permit** means an official document or certificate issued by the City Building Inspector or duly authorized representative which authorizes any owner or authorized agent to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to install, enlarge, alter, remove, replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by Chapter IV of the Spring Hill, Kansas City Code, or to cause any such work to be done. A building permit may also specifically authorize land disturbance and installation of site improvements in lieu of separate site development and land disturbance permits.

23. **Car Wash** means an establishment primarily engaged in cleaning or detailing motor vehicles, whether self-service, automatic or by hand.

24. **Cargo Containers**, also referred to as **Containers** or **Storage Containers** means an industrial, standardized reusable vessel that is not permanently attached to a semi-trailer and wheels:

    a. Originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, and

    b. Designed for or capable of being mounted or moved on a rail car, and

c. Designed for or capable of being mounted on a chassis for movement by truck, train or loaded on a ship

25. **Cargo Container Storage Facililties** means any site engaged in the storage of cargo containers, semi-trailers or chassis in which either the principal of secondary use in the movement, storage, staging or redistribution of cargo containers or semi-trailers (either on or off a chassis), or chassis, but not to include operations that are subject to the jurisdiction of the U.S. Department of Transportation, Surface Transportation Board.

26. **Cargo Container Repair and Maintenance Facilities** means any site engaged in the repair and maintenance of cargo containers, semi-trailers, or chassis located within, or separate from, a cargo container storage facility. This may include facilities or operations engaged in the conversion of cargo containers for a secondary use or sale.

27. **Cemetery** means land used or intended to be used for burial of the dead, whether human or animal, including a mausoleum or columbarium. A funeral home may be included as an accessory use to a cemetery.

28. **Chassis** means the portion of a semi-trailer configuration that is non-powered and consisting of only a bed (frame) and trailer wheels.

29. **Chassis Racking** means a method of storing chassis in an upright position (on end) where the bed is perpendicular to the ground.

30. **Chassis Stacking** means a method of storing a chassis where the bed of the chassis remains parallel to the ground.

31. **City** means the City of Spring Hill, Kansas.

32. **Church or Place of Worship** means a premises or site used primarily or exclusively for religious worship and related religious services or established place of worship, convent, seminary or similar facility owned or operated by a bona fide religious group for religious activities.

33. **Club, Class A** means premises owned or leased by a corporation, partnership business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal, or war veterans' club, as determined by the Director of Alcoholic Beverage Control of the Kansas Department of Revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates and their families and guests accompanying them.

104. **Off-Street Parking** means an area that is laid out for the purpose of parking motor vehicles of residents, customers, employees or visitors and is not located on public right-of-way. Off-street parking shall be considered as an accessory use to the principal use for which the parking is provided. Off-street parking spaces shall not open directly on a public street but shall open directly on a driveway or aisle that is adequate to provide a safe means of access.

105. **Open Space** means any parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space may include common, active and landscaped areas, as well as, areas of natural preservation.

    a. **"Open space, active"** means that part of the net site area of a development that may be improved or set aside, dedicated, designated or reserved for recreational use such as swimming pools, play equipment for children, ball fields, picnic tables, sports courts, etc. Such open space may also include turf/lawn areas, shrubs and trees, walkways, paved terraces, sitting areas and outdoor recreational areas such as commonly found in a neighborhood park.

    b. **Open space, common** means that part of the net site area of a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents of a development. In no case shall common open space include required setback areas or contain structures other than those intended for landscape or recreational purposes.

    c. **Open Space, natural (Also called passive or preserve)** means essentially unimproved land or water area, not individually owned, that is part of the net site area of a development and is designed and intended for the common use or enjoyment of the residents of a development. Such open space may include natural features which are physical characteristics of properties that are not man-made (e.g. soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life, and wildlife).

106. **Parking Space** means a space on a commercial, private or public parking area that is used or intended to be used for the parking of one motor vehicle and which also complies with all applicable City standards, including the *Design Criteria for Public Improvement Projects*.

107. **Parks and Recreation** means a park, playground or community facility that is owned by or under the control of a public agency or homeowners' association and which provides opportunities for active or passive recreational activities.

108. **Permanent Container** means a time limit that exceeds 60 days

agent to perform various utility, excavation or general public improvements work in the City's Road Right-of-Way.

124. **School, Elementary, Middle and High** means the use of a site for instructional purposes on an elementary or secondary level, including both public schools as well as private schools, which have curriculums similar to those in public schools.

125. **Semi-Trailer** means the portion of a semi-trailer configuration that is non-powered and consisting of an enclosed cargo box that is permanently attached to the trailer wheels.

126. **Service Station** means an establishment primarily engaged in the retail sale of gasoline or other motor fuels, which may include accessory activities, such as the sale of lubricants, automotive accessories, or supplies, the lubrication or washing of motor vehicles, the minor adjustment or repair of motor vehicles.

127. **Setback** means the distance that is required by this code to be maintained in an unobstructed state between a structure and the property line of the lot on which the structure is located. (Note: while the term setback refers to a required minimum area the term yard refers to the actual open area.) See Section 17.338.A.1.

128. **Setback, Front** means a setback that is to extend across the full width of a lot, the required depth of which is measured as the minimum horizontal distance between the street right-of-way line and a line parallel thereto on the lot. See Section 17.338.A. 1.

129. **Setback, Interior Side** means a setback that is to extend from the street right-of-way line to the rear lot line along the side of a lot that is adjacent to another lot, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot. See Section 17.338.A. 1.

130. **Setback, Rear** means a setback that is to extend across the full width of a lot the required depth of which is measured as the minimum horizontal distance between the rear lot line and a line parallel thereto on the lot. See Section 17.338.A. 1.

131. **Setback, Street Side** means a setback that is to extend from the street right-of-way line to the rear lot line along the side of a lot that is adjacent to a street or street right-of-way line, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot. See Section 17.338.A.l.

132. **Secondhand Store** means a retail establishment other than an antique store, which engage in the purchase and resale of used goods such as clothing, furniture, appliances, books, and other household items.

133. **Sign** means any words; numerals, figures, devices, designs or trademarks by which anything is made known, such as are used to designate an individual, a firm,

profession, business, or a commodity and which are visible from any public street or the air.

134. **Single-Family** means the use of a lot for only one detached principal dwelling unit, which may be a residential-design manufactured home but shall not be a mobile home.

135. **Stable, Private** means an accessory building and premises for the keeping of horses, ponies, mules or cows, owned by occupants of the premises, and not kept for remuneration, hire or sale.

136. **Stacking Container** means a method of placing containers in a vertical manner where the floor of the container remains parallel to the ground.

137. **Site development permit** means an official document or certificate issued by the City Building Inspector authorizing installation of site improvements, including but not limited to, pavement, curbs, sidewalks, storm water facilities, retaining walls and bank stabilization, and work related to such construction, including but not limited to clearing, grading, and grubbing.

138. **Stable, Riding** means a structure and premises in which horses, ponies or mules, used exclusively for pleasure riding or driving are housed, boarded or kept for remuneration, hire or sale.

139. **Storage Yard** means a parcel of land devoted to the outdoor location placement or storage of inoperable vehicles or any other property, goods, products or wares and may include storage buildings.

140. **Street Line** means the dividing line between the street right-of-way and the abutting lot, tract or parcel of land.

141. **Street** means a public thoroughfare of such width to conform to adopted subdivision regulations. For the purposes of these regulations, the term "street" shall include "road," “highway," "boulevard," "avenue," “parkway”, "courts," and the following street network:

    a. Expressway. A street, which provides for fast and efficient movement of large volumes of traffic between areas and does not provide direct access to abutting land.

    b. Arterial. A street, also called a “boulevard”, which provides for distribution and collection of traffic to and from collector streets and local streets through traffic movement between and around areas with direct access to abutting property. Such streets are intended to be formally designed with a “boulevard” character of distinguished character to establish special community identity.

c. Collector. A street, also called an “avenue”, which provides for traffic movement between arterials and local streets, with direct access to abutting property. These formally designed roadways create special character and identity within a development.

d. Local. A street, which provides direct access to abutting property.

e. Parkway. A wide roadway that may vary in character and traffic carrying capacity ranging from a collector street (avenue) through a neighborhood to an arterial street with a boulevard character. A parkway design typically consists of a meandering divided roadway with special features incorporated in a varying sized median. In limited locations a parkway may not include a median where the parkway extends through or along side a park, drainage corridor, or natural open space area.

142. Structural Alteration means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

143. Structure means anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

144. Subdivision means the division of a lot, tract or parcel of land into two or more parts for the purpose, whether immediate or future, of sale or building development, including re-subdivision.

145. Subdivision Regulations mean the lawfully adopted subdivision ordinances of the City of Spring Hill.

146. Transient Guest means a person who occupies a room for a period of less than one week at a time.

147. Tavern and Drinking Establishment means an establishment engaged in preparation and retail sale of alcoholic liquor or cereal malt beverage for consumption on the premise. Typical uses include taverns, beer halls, discotheques, dance clubs.

148. Truck Trailer see Chassis or Semi-Trailer

149. Underlying District means the existing base zoning district classification that is applied to land in an overlay district.

150. Utility, Major means generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term "utility" shall not be construed to include corporate or general

SECTION 17.328

MP INDUSTRIAL PARK DISTRICT

C. Conditional uses. The following uses shall be permitted in the MP district if reviewed and approved by the Planning Commission and Governing Body in accordance with the procedures and standards of Section 17.354.

1. Agriculture uses

NONE

2. Residential uses

NONE

3. Public and civic uses

Cemetery
Day care, subject to Section 17.336.A.9
Utility, major

4. Commercial uses

Adult business subject to Chapter VIII, Article 3 of the Spring Hill City Code
Airport or airstrip
Animal care, limited, subject to Section 17.336.A.2
Animal care, general
Broadcast/recording studio
Car wash, subject to 17.336.A.4
Communication tower, subject to Section 17.336.A.7
Freeway sign, subject to Chapter XVIII, Article 7, Section 17.730.A.5.g, Sign Regulations of Spring Hill, Kansas
Hotel/motel, subject to Section 17.336.A.10
Off-Premise Billboard Signs, subject to Chapter XVIII, Article 7, Section 17.730.A.6, Sign Regulations of Spring Hill, Kansas
Service station

5. Industrial manufacturing and extractive uses

Auto wrecking or salvage yard, subject to Section 17.336.A.3
Cargo Container Storage Facilities, subject to Section 17.336.A.5
Cargo Container Maintenance Facilities, subject to Section 17.336.A.5
Manufacturing, general
Extraction of mineral

Section 17.330.C M-1 General Industrial District

C. Conditional uses. The following uses shall be permitted in the M-1 district if reviewed and approved by the Planning Commission and Governing Body in accordance with the procedures and standards of Section 17.354.

1. Agriculture uses

NONE

2. Residential uses

NONE

3. Public and civic uses

Cemetery
Utility, major

4. Commercial uses

Adult business subject to Chapter VIII, Article 3 of the Spring Hill City Code
Airport or airstrip
Animal care, limited, subject to Section 17.336.A.2
Animal care, general
Broadcast/recording studio
Car wash, subject to 17.336.A.4
Communication tower, subject to Section 17.336.A.7
Freeway sign, subject to Chapter XVIII, Article 7, Section 17.730.A.5.g, Sign Regulations of Spring Hill, Kansas
Hotel/motel, subject to Section 17.336.A.10
Off-Premise Billboard Signs, subject to Chapter XVIII, Article 7, Section 17.730.A.6, Sign Regulations of Spring Hill, Kansas
Service station

5. Industrial manufacturing and extractive uses

Auto wrecking or salvage yard, subject to Section 17.336.A.3
Cargo Container Storage Facilities, subject to Section 17.336.A.5
Cargo Container Maintenance Facilities, subject to Section 17.336.A.5
Basic industry
Extraction of mineral

NOTE: Section 17.336 addresses accessory uses in various zones. Staff recommends amendments to residential and commercial zoning districts to specifically identify and prohibit the use of cargo containers as accessory buildings. Amendments to AG and R-R Districts are recommended to regulate the use and placement of containers as accessory uses.

Section 17.336.B.1 (Accessory Uses AG and R-R)

1. Agricultural accessory uses (districts AG and R-R). In addition to the accessory uses in Section 17.336.B.2. agricultural uses shall include:

a. Accessory uses and activities customarily associated with agricultural operations, including farm equipment repair, and as determined by the Zoning Administrator. Even though agricultural uses are allowed in all districts accessory agricultural buildings, such as barns will only be allowed in districts AG and R-R. All detached accessory buildings shall provide a minimum rear yard and side yard setback of 20 feet, except for cargo containers which shall comply with Section 17.336.B.1.b.

b. In districts Ag and R-R, cargo containers may be used as accessory buildings subject to the following:

1. On property ten (10) acres or greater the number of cargo containers, hauling trailers or similar enclosed boxes (hereinafter "Containers") used for personal storage shall be limited in number to five (5). Containers shall not be rented or used for business use. Containers that are empty are not allowed.

2. On property greater than two (2) acres but less than ten (10 acres, the number of cargo containers, hauling trailers or similar enclosed boxes (hereinafter "Containers") used for personal storage shall be limited in number to three (3). Containers shall not be rented or used for business use. Containers that are empty are not allowed.

3. Appearance: All containers shall have the wheels and chassis removed. All signage on the container shall be removed and the container shall be painted an earth tone color. Containers shall not be stacked on top of each other and shall be safe, structurally sound, stable, in good repair, and in compliance with any other applicable City requirements including building, electrical, mechanical and plumbing codes. Containers shall be continually maintained in accordance with these regulations. Any container that is not maintained in accordance with these regulations, as determined by the Building Official or Zoning Administrator, shall immediately be brought into compliance or removed by the property owner to a location that can legally accept it. Any container that becomes unsound, unstable or otherwise dangerous, as determined by the Building Official or Zoning Administrator, shall be immediately repaired or removed by the property owner to a location that can legally accept it. Adequate means for fire and emergency vehicles assess to containers shall be provided.

4. Personal Materials Stored: Materials stored inside the container shall be limited to normal personal household items. No agricultural, commercial or business products, equipment or material shall be stored in a container.

5. Screening and Landscaping: Visual screening shall be placed adjacent to the container(s) to obscure, shield or mitigate the view of the container from adjacent property or street. Alternatively, the perimeter of the tract or lot on which container(s) are placed shall be screened. Screening shall be at least 75% visually solid, shall consist of dense landscaping, landforms, fences and walls with a height of at least eight (8) feet. All screening shall be continually maintained.

6. Setbacks and Separation Distance: Containers shall be setback a minimum of 50 feet from all property lines. In addition, if there is an existing house or residence on adjacent property, containers shall be separated by a distance of at least 300 feet from the existing house or residence. Therefore, this does not apply to adjacent houses that are established after the container placement.

   Containers may be placed side-by-side or end-to-end. End-to-end grouping shall not exceed two (2) containers in length.

7. Pad Site: Containers shall be placed on a stable surface or foundation consisting of rock or gravel, concrete or asphalt.

8. Anchoring of Container: Containers shall be securely anchored to the foundation or tied down with straps sufficient to prevent overturning.

Section 17.336.B.2.e (Residential Accessory Uses R-1 and R-2)

e. One accessory building with a maximum size of 120 square feet by 12 feet maximum height may be allowed in the rear yard only. A minimum of a five-foot setback from the side and/or rear yard line is required. It shall be anchored properly to the ground to resist wind forces of 25 lbs. per square foot on roof or wall surfaces. Such accessory building shall be maintained comparable to the maintenance of the main dwelling structure. Cargo containers are prohibited for use as an accessory building. (Ord.2007-24)

Section 17.336.B.3.a (Residential Accessory Uses R-3 and R-4)

3. Multifamily accessory uses (districts R-3 and R-4). Multifamily uses shall include, but not be limited to; the following accessory uses activities and structures:

a. One accessory building per multifamily structure with a maximum size of 120 square feet by 12 feet maximum height may be allowed in the rear yard only. A minimum of a seven-foot setback from the side and/or rear yard line is required (or not less than twenty-five feet setback shall be provided on the street side of a corner lot). Such

building shall be in keeping with the character of the residential dwelling(s). It shall be anchored properly to the ground to resist wind forces of 25 lbs. per square foot on roof or wall surfaces. Such accessory building shall be maintained comparable to the maintenance of the main dwelling structure. Cargo containers are prohibited for use as an accessory building. (Ord. 2007-24)

Section 17.336.B.4.a (Commercial Accessory Uses C-O, C-1 and C-2)

4. Commercial accessory uses (districts C-O, C-1, and C-2). Commercial uses shall include, but not be limited to; the following accessory uses activities and structures:

a. One accessory building per business with a maximum size of 120 square feet by 12 feet maximum height may be allowed in the rear yard only. A minimum of a seven-foot setback from the side and/or rear yard line is required (or not less than twenty-five feet setback shall be provided on the street side of a corner lot). Such building shall be in keeping with the character of the main building. It shall be anchored properly to the ground to resist wind forces of 25 lbs. per square foot on roof or wall surfaces. Such accessory building shall be maintained comparable to the maintenance of the main dwelling structure. Cargo containers are prohibited for use as an accessory building. A building permit will be required for the construction of an accessory building in the commercial districts.(Ord. 2007-24)

SECTION 17.336.A.5

USE REGULATIONS

NOTE: New section for cargo container storage facilities and cargo container maintenance facilities added

5. Cargo container storage facilities and cargo container maintenance facilities (collectively referred to as "facilities") may be approved as a conditional use in MP and M-1 districts, subject to the following provisions:

a. Access: No cargo containers or semi-trailers (either on or off a chassis), or a chassis, may be stored in a manner that impedes access to public right-of-way, public utility or drainage easement, structures and buildings.

b. Exterior Lighting: Facilities shall provide lighting on-site, including at all vehicular entrances and exits. A lighting plan shall be submitted and approved in conjunction with the permit. Said plan shall be prepared in accordance with the requirements of Section 17.338.A.6.

c. Minimum Lot Size: Facilities shall have a minimum lot size of twenty (20) acres.

d. Paving: All interior driveways, parking, loading, and storage areas shall be paved and dustfree. For purposes of this stipulation:

1. Paving shall mean concrete, asphalt, chip seal or milled asphalt surfaces, and

2. Dustfree shall mean that all interior driveways and storage area surfaces shall be kept free of dust, dirt or other materials to prevent the migration of dust off-site.

e. Parking: Facilities shall comply with the Off Street Parking Requirements of Section 17.350.A of these regulations.

f. Cargo Container Stacking: Cargo containers shall not be stacked more than five (5) in number.

g. Chassis Stacking/Racking. Empty chassis may be stored on end (racking), or may be stacked. When stacked, chassis shall not be more than five (5) in number.

h. Screening and Landscaping: Screening may be required on the perimeter of the property. Screening shall be a combination of fencing and landscaping or berming and landscaping. Screening shall comply with Section 17.360 of these regulations.

i. Setbacks and Separation Distance: All buildings, structures, parking and other uses on the property shall be subject to the setback requirements in Section 17.328 (MP District) or Section 17.330 (M-1 District). In addition, cargo container facilities shall be subject to the following setback standards:

1. When abutting (touching), or across the street from, residentially zoned property, such parking and storage shall be setback a minimum of 250 feet from the nearest property line of the residentially zoned property.

2. When abutting (touching), or across the street from, a habitable dwelling, such parking and storage shall be setback a minimum of 300 feet from the nearest dwelling, and

3. For the purposes of Stipulations 1 & 2 above, measurements shall be made between the nearest property line of the residentially zoned property or the nearest edge of a dwelling, and the nearest cargo container, semi-trailer (either on or off a chassis, or chassis).

j. Signage: Business signs shall be allowed according to Section 17.710 thru 17.770 of these regulations. No signage, other than shipping company identification logos and placards, shall be allowed on any cargo container, semi-trailer or chassis.

k. Other Rules and Regulations: All facilities shall abide by any and all governmental rules, regulations, codes and specifications now in effect or hereafter adopted that would be applicable to this permit or the use of the property by the applicant/landowner.