

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CIVIL COURT DEPARTMENT

JEFFREY CHEEK,)	
JEFFREY A. BEAVERS,)	
PAMELA J. BEAVERS,)	
CHRISTINA WALLACE,)	CASE NO.
CURTIS BRAXDALE,)	DIVISION:
DONNA BRAXDALE,)	
)	
Plaintiffs,)	
v.)	
)	
CITY OF LENEXA, KANSAS)	
)	
Serve: Jennifer Martin, City Clerk)	
City of Lenexa, Kansas)	
17101 W. 87th St.)	
Lenexa, KS 66219)	
)	
PLANNING COMMISSION)	
CITY OF LENEXA, KANSAS)	
)	
Serve: Jennifer Martin, City Clerk)	
City of Lenexa, Kansas)	
17101 W. 87th St.)	
Lenexa, KS 66219)	
)	
Defendants)	

**VERIFIED PETITION FOR INJUNCTIVE RELIEF FOR ILLEGAL ACTS,
DECLARATORY JUDGMENT, MANDAMUS, JUDICIAL REVIEW**

COME NOW Plaintiffs Jeffrey Cheek, Jeffrey A. Beavers, Pamela J. Beavers, Christina Wallace, Curtis Braxdale and Donna Braxdale (collectively “**Plaintiffs**”), by and through undersigned counsel, and for their Petition for relief against the City of Lenexa, Kansas (“**City**”) and the Planning Commission of the City of Lenexa, Kansas (“**Planning Commission**”) (collectively “**Defendants**” or “**Lenexa**”) allege:

PARTIES, JURISDICTION, VENUE

1. Plaintiff Jeffrey Cheek (“**Cheek**”) is a resident of the City of Lenexa, Kansas, and is the owner of property located [REDACTED] Lenexa, KS 66227, Johnson County, Kansas (“**Cheek Property**”).
2. Plaintiffs Jeffrey A. Beavers and Pamela J. Beavers (“**Beavers**”) are residents of the City of Lenexa Kansas and are the owners of property located [REDACTED] Lenexa, KS 66227, Johnson County, Kansas (“**Beavers Property**”).
3. Plaintiff Christina Wallace (“**Wallace**”) is a resident of the City of Lenexa, Kansas, and is the owner of property located [REDACTED]. Lenexa, KS 66227, Johnson County, Kansas (“**Wallace Property**”).
4. Plaintiffs Curtis Braxdale and Donna Braxdale (“**Braxdale**”) are residents of the City of Lenexa Kansas and are the owners of property located [REDACTED]. Lenexa, KS 66227, Johnson County, Kansas (“**Braxdale Property**”).
5. The Defendant City of Lenexa, Kansas (“**City**”) is a Kansas municipal corporation of the first class, with a mayor-council form of government, located in Johnson County, Kansas.
6. Defendant City of Lenexa Planning Commission (“**Planning Commission**”) is a municipal body of the City of Lenexa, Kansas, responsible for reviewing and making recommendations on zoning amendments and development applications.
7. Defendants City and Planning Commission may be collectively referred to herein as “**Defendants**” or “**Lenexa.**”
8. Plaintiffs are aggrieved by the actions of the Defendant undertaken in Johnson County, Kansas as described herein.
9. This Court has jurisdiction over this matter under K.S.A. § 12-760, §60-1701, K.S.A. § 20-301, K.S.A. § 60-901 through § 910, and other provisions of state law.

10. This Court has subject matter jurisdiction over the declaratory judgment claims pursuant to K.S.A. § 60-1701, courts shall have power to declare the rights, status, and other legal matters whether or not further relief is or could be sought.
11. This Court has subject matter jurisdiction over claims for injunctive and other relief pursuant to K.S.A. § 77-622, courts may grant appropriate relief, whether mandatory, injunctive, or declaratory, in judicial review of agency actions.
12. This Court has personal jurisdiction over defendant City of Lenexa because it is a municipal corporation organized under the laws of Kansas with its principal place of business in Lenexa, Kansas.
13. This Court has personal jurisdiction over defendant City of Lenexa Planning Commission because it is a municipal body of the City of Lenexa, Kansas.
14. All parties are and all actions giving rise to this Petition are and were in County of Johnson, State of Kansas.
15. Venue is proper before this Court because the City is located within Johnson County, the alleged actions took place in Johnson County, and the real property at issue is located in Johnson County, Kansas.

FACTS COMMON TO ALL COUNTS¹

Property History and Parkland Designation

16. The site and property which is the subject matter of this case is a 16.73-acre undeveloped tract of land located near the southeast corner of 86th Terrace and Clare Road, Lenexa, Kansas. The site is under City ownership and was originally acquired by the City, along with

¹ Exhibit 1(a)-(g) are Affidavits of seven (7) property owners within a 200-foot radius of the Property at issue, including five (5) of the named Plaintiffs herein, incorporating other exhibits therein. For the sake of brevity, Plaintiff incorporate Exhibit 1(a)-(g) and Exhibits A-P in support of each applicable allegation. Plaintiffs substantially limited the exhibits available in order to strongly support their claims and provide some brevity and judicial economy by excluding additional evidence at this juncture of these proceedings.

other property, as part of a larger City-owned tract that has long been planned for a combination of public park land, regional stormwater facilities. (the “**Property**”).

17. The Property has been represented as parkland in the City of Lenexa's Comprehensive Park Plan from 2012 through 2024.
18. At no time during the period from 2012 through 2024 was the Comprehensive Park Plan amended, addended, or publicly revised to reclassify the Property.
19. Based upon information and belief and the documentation and information Plaintiffs were able to obtain from the City, the Property identified as AG/parkland in the City’s Comprehensive Plan until it was revised in July 2024.
20. At no time prior to July 2024 was the City’s Comprehensive Plan amended, addended, or publicly revised to reclassify the Property.
21. Plaintiffs acknowledge that the City discussed “concepts” for development of the Property around 2015 to 2018.
22. The City undertook physical improvements on the Property consistent with park development, including construction of a public trail exceeding 500 feet in length.
23. The City installed a trailhead on the Property.
24. The City installed a monument on the Property.
25. The City placed benches on the Property.
26. These improvements were visible, permanent, and consistent with recreational park infrastructure intended for long-term public use.
27. On May 12, 2015, the City published a Notice of Proposed Sale of Parkland in The Legal Record pursuant to K.S.A. § 12-1301. (*See* Exhibits E and F).
28. The 2015 Legal Record publication described the property as parkland and stated that the City was considering selling a portion of approximately 126.9 acres. (Ex. ’s E - F).

29. The 2015 notice stated that the City anticipated selling up to two-thirds of such property. (Ex.'s E - F).
30. The 2015 notice stated that the specific amount and location of the portion to be sold was contingent upon future approval of a concept plan. (Ex.'s E - F).
31. The 2015 notice did not identify a metes-and-bounds description, a parcel number, a legally defined portion, or a fixed acreage amount. (Ex.'s E - F).
32. The City is relying on the 11-year-old, 2015 notice as public notification for the sale of this 16.73 acres of parkland.
33. In March 2025, the City's official publication Lenexa TownTalk utilized park imagery in connection with promotion of the 3/8th-cent sales tax initiative described as supporting development of Centennial Park, acquisition of parkland, and preservation of nature.
34. The cumulative effect of inclusion in the Comprehensive Park Plan from 2012 through 2024 and the City's Comprehensive Plan, physical park-style improvements, regional wetlands, official publications labeling the property parkland, and use of park imagery in tax promotion materials created a reasonable public expectation that the property was dedicated parkland intended for preservation and recreational use.

Surrounding Property Characteristics

35. The Property is adjacent to large lot residential subdivisions with substantially lower density than the proposed development.
36. To the north of the Property is Clear Creek Estates, consisting of low-density residential development with approximately one-acre lots zoned R-1.
37. To the west of the Property is The Timbers at Clear Creek, which contains 35 houses on 17 acres.

38. To the north at 83rd Street and Clare Road is The Enclave at Twin Creeks, which was approved in December 2025 and contains 50 houses on 33.6 acres.
39. To the east and south, the Property directly abuts City-owned stormwater and green space land that is reserved for a future park.
40. The Property has functioned as open space and a buffer between existing residential development and public land for over a decade.

Actions between Defendants and Developer

41. On May 22, 2025, the City Manager Beccy Yocham (**“Yocham”** or **“City Manager”**) engaged in private negotiations with Habitat for Humanity of Kansas City, (**“HFH”** or **“Developer”**), Chief Executive Officer Lindsay Hicks. (*See* Exhibit G).
42. In a May 22, 2025 email, Yocham stated in writing that “discussions I have had so far [with leadership] have gone well.” (Ex. G).
43. In the same May 22, 2025 email, Yocham proposed or endorsed a process granting City employees first right of refusal and preferential scoring for lots in the proposed development. (Ex. G).
44. This proposal creates a mechanism for private benefit to municipal employees from disposition of public land.
45. On July 14, 2025, the City Manager sent an email regarding a meeting scheduled for July 15, 2025. (*See* Exhibit H).
46. In the July 14, 2025 email, Yocham stated: “We did list it on our weekly meeting list, so it is technically an open public meeting, but I do not expect anyone from the public to attend. I will be sure to tell you if anyone is there that isn't one of our team.” Ex. H.
47. On July 15, 2025, the City Manager organized a meeting at a private church building in Olathe, Kansas, outside the city limits of Lenexa. Ex. H.

48. The City Manager invited the entire Governing Body and Management Team of approximately 22 people to the July 15, 2025 meeting. Ex. H.
49. The July 15, 2025 meeting was held between 3:00 pm and 5:00 pm on a workday. Ex. H.
50. The July 15, 2025 meeting was held at a location outside the city limits of Lenexa at a time when most members of the public would be working. Ex. H.
51. On July 16, 2025, Yocham confirmed the success of the meeting and directed the developer to “start moving a plan through our process.” Ex. H.
52. The July 16, 2025 email confirmed that the City’s Mayor and City Council attended the July 15, 2025 meeting. Ex. H.
53. On October 23, 2025, Yocham discussed “workshopping” the project description with the Mayor and City Council to ensure they were not “caught off guard” by “detractors.” (*See Exhibit I*).
54. The October 23, 2025 email demonstrates that City Manager acted on behalf of Defendants to build consensus among the Planning Commission and the City’s governing body outside of public view. Ex. I.
55. Communications occurred from at least April 2025 December, 2025, during which the City Manager facilitated private discussions and consensus-building among the governing body regarding the proposed development with HFH. (*See Exhibits G-L*).

Comprehensive Park Plan Amendment

56. In 2024, the City changed its Comprehensive Park Plan designation for the Property from parkland to single family residential.
57. This change occurred without transparent public process addressing the long-standing parkland designation that had existed from 2012 through 2024.

58. Based upon information and belief and the documentation and information Plaintiffs were able to obtain from the City, the Property identified as AG/parkland in the City's Comprehensive Plan until it was revised in July 2024.

59. At no time prior to July 2024 was the City's Comprehensive Plan amended, addended, or publicly revised to reclassify the Property.

Public Notice and Hearing Process

57. The Planning Commission scheduled a public hearing on January 5, 2026 on the proposed rezoning of the Property from agricultural/park use to single-family residential. (Ex.'s B-D).

58. Required public notice signage was not posted on the Property within the mandated timeframe prior to the originally scheduled hearing date.

59. Because proper public notice was not provided prior to the January 5, 2026 hearing, the Planning Commission could not lawfully open the hearing. (Ex.'s B-D).

60. Because the hearing could not be opened, it could not be continued, thus it had to be rescheduled.

61. The hearing was subsequently rescheduled to a new date, February 2, 2026. (Ex.'s B-D).

62. Following the date change for the public hearing, questions exist regarding whether mailed notice to property owners within 200 feet was required for the rescheduled hearing as well as publication in the city newspaper.

63. If the Planning Commission could not lawfully open the hearing due to notification defects, and no continuance of a public hearing was set on the record during the January 5, 2026 Planning Commission meeting, Plaintiffs believe new mailed notices and publication in the city newspaper were required for the rescheduled hearing.

64. At least one property owner within 200 feet of the proposed rezoning area did not receive mailed notice from the City as required by K.S.A. § 12-757.

65. The City issued an official Notice of Public Hearing on December 15, 2025 for the January 5, 2026 meeting; however, Plaintiffs are not aware of any Notice of Public Hearing for the rescheduled February 2, 2026 Planning Commission hearing.

Planning Commission Action and Staff Analysis

65. On February 2, 2026, Defendant Planning Commission for Defendant City voted unanimously to approve the rezoning of the 17-acre tract from park/agricultural use to single-family residential. (Ex.'s 1(a)-(g), A, B, O, P).

66. Defendant Planning Commission recommended approval of the preliminary plat and preliminary plan for development of approximately 50 houses on the 17-acre tract. (Ex.'s 1(a)-(g), A, B, O, P).

67. The proposed development includes multiple deviations from standard development requirements, including reduced setbacks, reduced minimum lot width, and smaller area lot sizes. (Ex.'s 1(a)-(g), A, C, P).

68. Planning Commission Staff characterized these deviations as routine or minor without providing detailed justification demonstrating that each deviation maintains compatibility with surrounding land uses, preserves safety and public welfare, or aligns with the purpose and intent of the Unified Development Code. (Ex.'s 1(a)-(g), A, C, P).

69. Staff's analysis of the Golden Criteria contained multiple substantive defects. (Ex.'s 1(a)-(g), A, C, P).

70. Regarding neighborhood character, staff selectively defined the neighborhood by focusing on a preferred subset of properties while ignoring dominant adjacent open space and lower-density development. (Ex.'s 1(a)-(g), A, C, P).

71. Staff's analysis failed to acknowledge that the Property directly abuts City-owned stormwater and green space reserved for future park to the east and south. (Ex.'s 1(a)-(g), A, C, P).

72. Staff's analysis failed to properly analyze that the proposed density of 50 houses on 17 acres is inconsistent with surrounding development density. (Ex.'s 1(a)-(g), A, C, P).
73. Regarding zoning and uses of nearby property, staff relied on zoning labels without analyzing actual use, intensity, and density of nearby properties. (Ex.'s 1(a)-(g), A, C, P).
74. Staff treated Clare Road inconsistently as both a boundary and connector depending on which interpretation favored approval of the rezoning. (Ex.'s 1(a)-(g), A, C, P).
75. Regarding suitability of the Property, staff characterized AG zoning as a "holding district" without support in the Unified Development Code. (Ex.'s 1(a)-(g), A, C, P).
76. Staff acknowledged physical constraints on the Property including an overhead power line easement, existing stormwater infrastructure, proximity to regional detention facilities, and a long-standing buffering function. (Ex.'s 1(a)-(g), A, C, P).
77. Despite acknowledging these physical constraints, staff simultaneously claimed the Property is suitable for residential development, creating inconsistent reasoning. (Ex.'s 1(a)-(g), A, C, P).
78. The need for multiple deviations from standard development requirements contradicts staff's claim that the site is suitable for the proposed residential development. (Ex.'s 1(a)-(g), A, C, P).
79. Regarding detrimental effects on nearby property, staff provided no evidentiary analysis. (Ex.'s 1(a)-(g), A, C, P).
80. Staff provided no property value impact study. (Ex.'s 1(a)-(g), A, C, P).
81. Staff provided no traffic impact analysis. (Ex.'s 1(a)-(g), A, C, P).
82. Staff provided no stormwater study. (Ex.'s 1(a)-(g), A, C, P).
83. Staff provided no evaluation of the loss of parkland or open space functions. (Ex.'s 1(a)-(g), A, C, P).

84. Staff ignored the removal of long-standing open space buffers as a detrimental impact on surrounding properties. (Ex.'s 1(a)-(g), A, C, P).
85. Regarding length of time the Property has remained vacant as zoned, staff failed to distinguish between market-driven vacancy and intentional municipal planning decisions. (Ex.'s 1(a)-(g), A, C, P).
86. The Property was City-owned and actively used for stormwater management. (Ex.'s 1(a)-(g), A, C, P).
87. The Property was identified in adopted plans as future parkland. (Ex.'s 1(a)-(g), A, C, P).
88. The vacancy of the Property resulted from deliberate public planning decisions, not from zoning unsuitability or market failure. (Ex.'s 1(a)-(g), A, C, P).
89. The Planning Commission packet identifies no failed development proposals, market infeasibility studies, or evidence that AG zoning prevented reasonable use of the property. (Ex.'s 1(a)-(g), A, C, P).
90. Regarding relative gain to public health, safety, and welfare, staff assumed hardship without evidence. (Ex.'s 1(a)-(g), A, C, P).
91. The City owns the Property and intentionally held it for public planning purposes including stormwater management and future open space. (Ex.'s 1(a)-(g), A, C, P).
92. No zoning-imposed hardship exists because the rezoning request arises from a City-initiated sale and development arrangement. (Ex.'s 1(a)-(g), A, C, P).
93. Staff relied on self-created conditions including municipal ownership and deliberate non-development to justify the rezoning.
94. Staff substituted generalized policy goals for zoning-based welfare analysis. (Ex.'s 1(a)-(g), A, C, P).

95. Staff failed to weigh documented public losses including loss of open space, stormwater functionality, and reliance interests created by the City's representations regarding the Property's status. (Ex.'s 1(a)-(g), A, C, P).
96. As to comprehensive plan consistency, staff selectively read plan designations while ignoring explicit park and open space designations that existed from 2012 through 2024 in its Comprehensive Park Plan and the Comprehensive Plan. (Ex.'s 1(a)-(g), A, C, P).
97. Regarding impact on community facilities, staff provided no quantitative or standards-based analysis of water, sewer, roadway, emergency services, parks, or school capacity. (Ex.'s 1(a)-(g), A, C, P).
98. Staff deferred critical capacity determinations to later stages including engineering review, plat approval, and building permit review. (Ex.'s 1(a)-(g), A, C, P).
99. Deferral of capacity analysis to later stages is legally improper at the rezoning and preliminary plan stage. (Ex.'s 1(a)-(g), A, C, P).
100. Staff failed to analyze cumulative impacts of the proposed development on community facilities. (Ex.'s 1(a)-(g), A, C, P).
101. Staff did not identify adopted standards used for capacity determinations. (Ex.'s 1(a)-(g), A, C, P).
102. The Planning Commission recommending the City Council approve its own rezoning, and the City Council considering its own rezoning application must be subject to strict scrutiny.

Public Opposition

102. A protest petition was filed within fourteen (14) days after the conclusion of the public hearing.
103. The protest petition was signed by sixteen (16) property owners representing one hundred percent of property owners within the statutory protest radius.

104. The one hundred percent protest petition triggers the requirement for a three-fourths majority vote of the governing body pursuant to K.S.A. § 12-757.
105. Defendant Planning Commission received five hundred thirty-six pages of public comments prior to 5:00 pm on January 28, 2026.
106. Defendant Planning Commission received twenty-five pages of public comments between 5:00 pm on January 28, 2026 and 10:00 am, February 2, 2026.
107. City Council received ninety-eight pages of public comments between 10:00 am February 2, 2026 and 8:00 am February 13, 2026.
108. Approximately 1,880 additional residents signed public petitions opposing the development.
109. Staff failed to meaningfully address this extraordinary level of opposition in the Golden Criteria analysis.

Actions by Defendants

110. In 2025 and 2026, the City negotiated and entered into a real estate agreement to sell the Property to HFH, pursuant to standard contractual provisions, for a specified purchase price. (Ex. 's 1(a)-(g), L, M, N, O, P)
111. Thereafter, the City filed a rezoning application for the Property (“**Application**”).
112. In the Application, the City is requesting approval to rezone Property from the current zoning thereof - AG, Agricultural District, to the RP-1, Planned Residential Single-Family (Low-Density) District, to allow a single-family residential neighborhood.
113. A companion preliminary plan/plat reflects 50 lots and 3 tracts at a density of 2.99 dwelling units per acre.
114. The Developer proposes purchasing the Property from the City to construct affordable homes using a Community Land Trust if the Application is approved by the City.

115. As part of the Application, the City seeks deviations from the City Unified Development Code (“UDC”) for lot area, lot width, and front yard setbacks.
116. Pursuant to K.S.A. 12-757(a), before a city can establish or change a zoning district, such as is proposed in the Application, the city shall require its planning commission to make a recommendation thereon.
117. Pursuant to K.S.A. 12-757(b), a city’s planning commission shall hold a public hearing thereon.
118. Pursuant to K.S.A. 12-756(b), as applicable here, written notice of the Application shall be mailed at least 20 days before the planning commission hearing to all owners of record of real property within the area to be altered and to all owners of record of real property located within at least 200 feet of the Property.
119. In addition, and pursuant to K.S.A. 12-756(h), the zoning regulations of a city must provide additional notice by providing for the posting of signs on the land, which is the subject of a proposed rezoning, for the purpose of providing notice of such proposed rezoning.
120. The City UDC requires the Property to be posted to provide notice of the date and time of the City Planning Commission hearing on the Application.
121. The City scheduled the City Planning Commission hearing on the Application for January 5, 2026.
122. Prior to a January 5, 2026 scheduled Planning Commission hearing on the Application, the City and Developer failed to comply with the procedural and notice requirements.
123. Plaintiffs’ residential properties are all within a 200-foot radius of the Property with significantly less density that sought in the Application and recommended by staff and the Planning Commission
124. The Plaintiffs had a substantial interest in attending the January 5, 2026 hearing.

125. As a result of the failure to comply with proper notice requirements for a public hearing on the Project Approvals on January 5, 2026, the Planning Commission could not lawfully open the hearing. Even if the City had provided proper public notice for the hearing, the Planning Commission did not hold a public hearing and did not hold or allow any discussion on the Project.
126. For Plaintiffs and others who showed up at City Hall for the January 5, 2026 Planning Commission hearing, the available agenda simply noted that the Planning Commission's hearing on the Application had been continued to February 2, 2026.
127. The City Planning Commission did not vote on the hearing's continuance.
128. Instead, when the Planning Commission met on January 5, 2026, they did not note any deficiencies in the required notice procedures and/or state that the Application's hearing would be continued to February 2, 2026 so that proper notice procedures could occur as required to a date when the Planning Commission would conduct a public hearing on the Project Approvals.
129. The Planning Commission failed to comply with procedural and notice requirements pursuant to Kansas law for a public hearing on the Project Approvals on February 2, 2026.
130. The Planning Commission's failure to comply with Kansas law and the UDC requirements for scheduling the rezoning, preliminary plan, and deviations for public hearing on February 2, 2026
131. A public sign was posted timely for a public hearing on February 2, 2026.
132. Plaintiffs and other property owners within 200 feet of the Property concerning the Application were deprived of proper notice and a meaningful opportunity to participate in the public hearing process.

133. The Planning Commission's actions also violate Kansas statutory requirements and City UDC requirements for rezoning, rendering the recommendation to rezone the Property, approve the preliminary plan, and approve deviations invalid.
134. The Planning Commission held on February 2, 2026, the Planning Commission held a “hearing” and voted to recommend the Application for approval to the City’s governing body – City Council.
135. The Planning Commission’s approval recommendation included the deviations further increasing the density of the proposed development under the approved rezoning.
136. Plaintiffs have submitted a valid Protest Petition regarding the Application and the Planning Commission’s approval recommendation.
137. The City’s City Council is scheduled to take up, consider, and vote on the Application for the Property on February 17, 2026.
138. The Planning Commission recommending the City Council approve its own rezoning, and the City Council considering its own rezoning application must be subject to strict scrutiny.
139. Plaintiffs seek a temporary injunction, preliminary injunction, and a permanent injunction as to any further action by the Planning Commission or City Council due to the City’s failure to comply with all procedural requirements under Kansas law and the UDC, including reposting notice on the property, publishing notice, and resending certified mail notices to all property owners within 200 feet of the Tract.

Irreparable Harm

140. Allowing the rezoning process to proceed without correcting these procedural violations will cause irreparable harm to Plaintiffs’ property rights and those of other affected property owners.
141. Plaintiffs’ property values have already been impacted by the actions of Defendants.

142. Plaintiffs are aware of at least two or three neighbors who have put their homes on the market for sale to hopefully soften the impact on the value of their homes.
143. The harm to Plaintiffs, other affected property owners, the public health, safety, and welfare outweigh any alleged hardship of the City of Lenexa, the Planning Commission, or the Developer.
144. With the City attempting to continue to pursue and process the Application following the February 2, 2026 Planning Commission favorable recommendation, the Plaintiffs will suffer irreparable harm, injury, damage, loss of property values, loss of the protections provided unless an injunction is issued.
145. With the City Council vote scheduled for February 17, 2026 on an illegal Planning Commission recommendation, there is a substantial likelihood that Plaintiffs will eventually prevail on the merits of this case, i.e., that the City Council is considering an illegal recommendation from the Planning Commission, thus stopping the City from considering that the Application as recommended for approval on an invalid Planning Commission vote.
146. The threatened injury to the Plaintiffs outweighs whatever damage the proposed injunction may cause the City – in that an injunction will maintain the status quo of the Application as of prior to the illegal Planning Commission vote on February 2, 2026. If injunctive relief is not issued, the City Council will vote on the Application and if approved, have authorized further progress on the Application without having resolved whether or not the Application were legally recommended for approval by the City Planning Commission on February 5, 2026.
147. Plaintiffs have no adequate remedy at law to cause the City to cease further progress on the Application pending the results of this action.

148. Once the City Council approves the rezoning and development proceeds, removal of park infrastructure will occur.
149. Removal of park infrastructure will include uprooting trees, removing trail segments exceeding 500 feet, altering, or demolishing the trailhead, and removing the monument and benches.
150. These actions will permanently eliminate open space, buffering, and stormwater functionality.
151. Once zoning, plats, and infrastructure approvals are granted, the harm to plaintiffs and the public is irreparable as the status quo cannot be easily restored.
152. Because injunctive relief will only maintain the current status quo regarding the Property and the Application pending a resolution of the issues raised in this Petition, injunctive relief will not be adverse to the public interest. Accordingly, Plaintiffs suggest that a nominal bond be required.

**COUNT I
DECLARATORY JUDGMENT – NOTICE**

153. Plaintiffs incorporate and reallege the allegations set forth above as if fully set forth herein.
154. An actual, present controversy exists between Plaintiffs and Defendants regarding the validity of the Planning Commission's recommendation.
155. On February 2, 2026, the Planning Commission voted unanimously to approve the rezoning of the 17-acre tract from park/agricultural use to single-family residential and recommended approval of the preliminary plat and preliminary plan.
156. Plaintiffs oppose the rezoning while defendants seek to proceed with it, creating adverse legal interests between the parties.
157. Defendants violated mandatory notice requirements of K.S.A. § 12-757.

158. K.S.A. § 12-757 requires that written notice of proposed amendments be mailed at least 20 days before the hearing to all owners of record of real property within 200 feet of the area proposed to be altered.
159. Required public notice signage was not posted on the Property within the mandated timeframe prior to the originally scheduled hearing date.
160. The hearing was subsequently continued to a new date.
161. Following Defendant Planning Commission's rescheduling of the public hearing, none of the property owners within 200 feet received written notice and may not have been provided for the rescheduled hearing if the continuance was not set publicly on the record.
162. Kansas courts have consistently held that proper notice is mandatory and must be complied with to give the planning commission authority to recommend action and the governing body jurisdiction to act.
163. Plaintiffs have legal rights that are affected by the procedurally defective governmental action.
164. Plaintiffs have legal rights under K.S.A. § 12-757 to receive proper notice of proposed zoning amendments affecting property within 200 feet of their property.
165. Plaintiffs have legal rights to participate in the public hearing process.
166. Plaintiffs have legal rights to have their property protected from arbitrary and capricious zoning decisions.
167. The rezoning will directly affect plaintiffs' property values, neighborhood character, and land use rights.
168. A 100 percent protest petition was filed by 16 property owners within the statutory protest radius.
169. Approximately 1,880 additional residents signed petitions opposing the development.

170. Declaratory relief is appropriate because Kansas law explicitly permits pre-enforcement challenges to governmental actions through declaratory judgment proceedings.
171. Courts have jurisdiction to determine the validity of governmental actions before they are fully implemented.
172. Plaintiffs face a realistic prospect of injury from the rezoning decision as it would directly affect their property values and neighborhood character.
173. Once rezoning and development proceed, the harm is irreparable as park infrastructure will be removed and the status quo cannot be easily restored.
174. The Planning Commission's recommendation is invalid due to violations of mandatory notice requirements.

COUNT II
DECLARATORY JUDGMENT
Invalidity of Planning Commission Recommendation Due to Substantive Defects in Golden
Criteria Analysis

175. Plaintiffs incorporate and reallege the allegations set forth above as if fully set forth herein.
176. Kansas courts require proper application of the Golden Criteria in evaluating rezoning decisions.
177. The Golden Criteria include neighborhood character; zoning and uses of nearby properties; suitability of property for current use; detrimental effects on nearby property; length of vacancy as zoned; relative gain to public health, safety, and welfare versus hardship to applicant; comprehensive plan consistency; community opposition; and staff recommendations.
178. Defendants failed to properly analyze and apply the Golden Criteria.

179. Regarding neighborhood character, defendants selectively defined the neighborhood by focusing on a preferred subset of properties while ignoring dominant adjacent open space and lower-density development.
180. Defendants' analysis failed to acknowledge that the Property directly abuts City-owned stormwater and green space reserved for future park to the east and south.
181. Defendants' analysis failed to properly analyze that the proposed density of 50 houses on 17 acres is inconsistent with surrounding development density including The Timbers at Clear Creek with 35 houses on 17 acres and The Enclave at Twin Creeks with 50 houses on 33.6 acres.
182. Regarding zoning and uses of nearby property, defendants relied on zoning labels without analyzing actual use, intensity, and density of nearby properties.
183. Defendants treated Clare Road inconsistently as both a boundary and connector depending on which interpretation favored approval of the rezoning.
184. Regarding suitability of the Property, defendants characterized AG zoning as a “holding district” without support in the Unified Development Code.
185. Defendants acknowledged physical constraints on the Property including an overhead power line easement, existing stormwater infrastructure, proximity to regional detention facilities, and a long-standing buffering function.
186. Despite acknowledging these physical constraints, defendants simultaneously claimed the site is suitable for residential development, creating internally inconsistent reasoning.
187. The need for multiple deviations from standard development requirements contradicts defendants' claim that the site is suitable for the proposed residential development.

188. As to detrimental effects on nearby property, defendants provided no evidentiary analysis including no property value impact study, no traffic impact analysis, no stormwater study, and no evaluation of the loss of parkland or open space functions.
189. Defendants ignored the removal of long-standing open space buffers as a detrimental impact on surrounding properties.
190. The Property has functioned as open space and a buffer between existing residential development and public land for over a decade.
191. Regarding length of time the Property has remained vacant as zoned, Defendants failed to distinguish between market-driven vacancy and intentional municipal planning decisions.
192. The Property was City-owned and actively used for stormwater management.
193. The Property was identified in adopted plans as future parkland from 2012 through 2024.
194. The vacancy of the Property resulted from deliberate public planning decisions, not from zoning unsuitability or market failure.
195. The Planning Commission packet identifies no failed development proposals, market infeasibility studies, or evidence that AG zoning prevented reasonable use of the property.
196. Regarding relative gain to public health, safety, and welfare, defendants assumed hardship without evidence.
197. Defendant City owns the Property and intentionally held it for public planning purposes including stormwater management and future open space.
198. No zoning-imposed hardship exists because the rezoning request arises from a City-initiated sale and development arrangement.
199. Defendants relied on self-created conditions including municipal ownership and deliberate non-development to justify the rezoning.
200. Defendants substituted generalized policy goals for zoning-based welfare analysis.

201. Defendants failed to weigh documented public losses including loss of open space, stormwater functionality, and reliance interests created by the City's representations regarding parkland status.
202. Regarding comprehensive plan consistency, defendants selectively read plan designations while ignoring explicit park and open space designations that existed from 2012 through 2024 in the City's Comprehensive Park Plan.
203. The Property was identified and depicted as City parkland in the City of Lenexa's Comprehensive Park Plan from 2012 through 2024.
204. At no time during that period was the plan amended, addended, or publicly revised to reclassify the property.
205. In 2024, the City changed its Comprehensive Park Plan designation for the Property from parkland to single family residential without transparent public process addressing the long-standing parkland designation.
206. Regarding impact on community facilities, defendants provided no quantitative or standards-based analysis of water, sewer, roadway, emergency services, parks, or school capacity.
207. Defendants deferred critical capacity determinations to later stages including engineering review, plat approval, and building permit review.
208. Deferral of capacity analysis to later stages is legally improper at the rezoning and preliminary plan stage.
209. Defendants failed to analyze cumulative impacts of the proposed development on community facilities.
210. Defendants did not identify adopted standards used for capacity determinations.

211. Regarding opposition or support of neighborhood residents, defendants failed to meaningfully address extraordinary opposition.
212. A protest petition was filed signed by 16 property owners representing 100 percent of property owners within the statutory protest radius.
213. Approximately 1,880 additional residents signed public petitions opposing the development.
214. Defendants' failure to properly apply the Golden Criteria renders the Planning Commission's recommendation arbitrary, capricious, and unsupported by substantial evidence.
215. The Planning Commission's recommendation is invalid due to substantive defects in the Golden Criteria analysis.

**COUNT III
MANDAMUS**

216. Plaintiffs incorporate and reallege the allegations set forth above as if fully set forth herein.
217. Mandamus is available to compel compliance with clearly defined legal duties.
218. K.S.A. § 12-757 imposes a clearly defined legal duty on defendants to provide written notice of proposed zoning amendments mailed at least 20 days before the hearing to all owners of record of real property within at least 200 feet of the area proposed to be altered.
219. Defendants have a clearly defined legal duty to provide proper notice under K.S.A. § 12-757.
220. Defendants failed to comply with this clearly defined legal duty.
221. Required public notice signage was not posted on the Property within the mandated timeframe prior to the originally scheduled hearing date.

222. Following Defendant Planning Commission's rescheduling of the public hearing, none of the property owners within 200 feet received written notice.
223. Failure to provide proper notice deprives the Planning Commission of authority to recommend action and the City Council of jurisdiction to act.
224. Plaintiffs have no adequate remedy at law.
225. Once the rezoning is approved and development proceeds, the harm is irreparable and cannot be adequately remedied through damages.
226. Plaintiffs are entitled to a writ of mandamus compelling defendants to provide proper notice in full compliance with K.S.A. § 12-757 before any further action on the rezoning.

**COUNT IV
JUDICIAL REVIEW**

227. Plaintiffs incorporate and reallege the allegations set forth above as if fully set forth herein.
228. K.S.A. § 12-760 provides that within 30 days of the final decision of the city, any person aggrieved thereby may maintain an action in the district court to determine the reasonableness of such final decision.
229. Plaintiffs are aggrieved persons within the meaning of K.S.A. § 12-760.
230. Plaintiffs own real property within 200 feet of the Property proposed for rezoning.
231. The rezoning will directly affect plaintiffs' property values, neighborhood character, and land use rights.
232. On February 2, 2026, the Planning Commission voted unanimously to approve the rezoning and recommended approval of the preliminary plat and preliminary plan.
233. The Planning Commission's recommendation constitutes a decision subject to judicial review.
234. The Planning Commission's recommendation is unreasonable.
235. The Planning Commission failed to properly apply the Golden Criteria.

236. The Planning Commission's analysis of neighborhood character selectively defined the neighborhood while ignoring dominant adjacent open space and lower-density development.
237. The Planning Commission's analysis of zoning and uses of nearby property relied on zoning labels without analyzing actual use, intensity, and density.
238. The Planning Commission's analysis of suitability contained internally inconsistent reasoning by acknowledging physical constraints while claiming the site is suitable.
239. The Planning Commission's analysis of detrimental effects provided no evidentiary analysis.
240. The Planning Commission's analysis of vacancy failed to distinguish between market-driven vacancy and intentional municipal planning decisions.
241. The Planning Commission's analysis of relative gain to public welfare assumed hardship without evidence and relied on self-created conditions.
242. The Planning Commission's analysis of comprehensive plan consistency ignored explicit park and open space designations that existed from 2012 through 2024 in its Comprehensive Park Plan.
243. The Planning Commission's analysis of community facilities impact provided no quantitative or standards-based analysis and improperly deferred critical determinations to later stages.
244. The Planning Commission failed to meaningfully address extraordinary opposition including a 100 percent protest petition and approximately 1,880 additional petition signatures.
245. The Planning Commission's recommendation is arbitrary and capricious.
246. The Planning Commission's recommendation is unsupported by substantial evidence.

247. The Planning Commission's recommendation was made following procedural violations including failure to provide proper notice under K.S.A. § 12-757.

248. Plaintiffs are entitled to judicial review and a determination that the Planning Commission's recommendation is unreasonable and must be set aside.

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

1. A declaratory judgment pursuant to K.S.A. § 60-1701 that the Planning Commission's recommendation is invalid due to violations of mandatory notice requirements of K.S.A. § 12-757.
2. A declaratory judgment pursuant to K.S.A. § 60-1701 that the Planning Commission's recommendation is invalid due to substantive defects in the Golden Criteria analysis rendering the recommendation arbitrary, capricious, and unsupported by substantial evidence.
3. A temporary restraining order and preliminary injunction pursuant to K.S.A. § 77-622 halting the rezoning process and preventing the City Council from voting on the rezoning pending compliance with all statutory requirements including proper notice under K.S.A. § 12-757 and improper application of the Golden Criteria and proper deviations/variances as part of the preliminary plan/plat recommendation.
4. A permanent injunction pursuant to K.S.A. § 77-622 setting aside the Planning rezoning.
5. A writ of mandamus compelling defendants City of Lenexa and City of Lenexa Planning Commission to provide proper notice in full compliance with K.S.A. § 12-757 before any further action on the rezoning.
6. A determination that the Planning Commission's recommendation is unreasonable, arbitrary, capricious, and unsupported by substantial evidence and must be set aside.

7. A Temporary Injunction, temporarily enjoining the City from any further actions which would approve and implement the Application pending the results of this action,
8. A permanent injunction, permanently enjoining the City from any further actions which would approve and implement the Application pursuant to the February 5, 2026 Planning Commission's favorable recommendation of the Application,
9. For such further orders and judgments as the Court feels proper under the premises,
10. Costs of this action and attorney fees if allowed under law.

Certification Under Local Rule 3.7

Pursuant to Local Rule 3.7, the undersigned hereby certifies that that Generative A.I. was used to draft/prepare Plaintiffs' Petition.

Specifically, Lexis+ Protégé Legal AI was used, in whole or in part, to draft/prepare this submission. The undersigned further certifies that she has independently verified the accuracy of every citation to the law or to the record and that any language drafted by Generative A.I., including quotations, citations, paraphrased assertions, and/or legal analysis has been included and submitted after considering the requirements of KSA 60-211 and any applicable ethical rules governing attorneys.

Respectfully submitted:

/s/ *Michelle W. Burns*

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ATTORNEYS FOR PLAINTIFFS

VERIFICATION

STATE OF KANSAS)
)
COUNTY OF JOHNSON)

I JEFFREY CHEEK, of lawful age, being first duly sworn, upon oath states he is a Plaintiff named above; he has read the above Verified Petition, knows of the contents thereof, and knows that the statements made therein are true to the best of his information and belief.



SIGNED AND SWORN TO before me this 16th day of February, 2026.



Notary Public

My Commission Expires: 4.11.27

