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**Subject: Significant Errors of Omission and Errors of Fact in General Development Plan for 45th & Troost PIEA Planning Area, 4504, 4522, 4524, 4528, 4536 Troost Ave. Kansas City, MO. (CD-CPC-2019-00065)**

Dear Mr. Macoubrie, Mr. Agbaji, and Mr. Williams,

This letter is regarding the General Development Plan for 45th & Troost PIEA Planning Area, 4504, 4522, 4524, 4528, 4536 Troost Ave. Kansas City, MO, March 11, 2019. This General Development Plan is plan number CD-CPC-2019-00065 on CompassKC and is docketed for the May 18, 2021 City Plan Commission meeting. I request that this letter be entered into the public record of comments on this case and be made publicly available as part of the Attachments page for this plan on CompassKC.

I am a professional economist with more than twenty-five years of professional experience, including experience as a consultant providing public policy review of development projects for local governments, and state and federal agencies. I currently serve as Associate Professor and Chair of the Department of Economics at the University of Missouri Kansas City and affiliated faculty of the Urban Studies program. I am also an abutting landowner of the 45<sup>th</sup> and Troost PIEA Planning Area. I have closely reviewed this General Development Plan and this letter contains my professional opinion of it as a public policy document.

Having reviewed this General Development Plan closely, it is apparent that it contains numerous substantive errors fact and errors of omission. Not only does this plan fail to mention or consider the Troost & Emanuel Cleaver II Boulevard Redevelopment and Implementation Plan, which was adopted by City Council in 2015 to guide development of the subject plan area, it also significantly misrepresents the type of land use and level of development intensity recommended or permitted for the parcels in the plan

area by other adopted plans and ordinances. The General Development Plan also fails to adequately identify several significant violations of the Kansas City Zoning and Development Code.

For clarity I group the obvious errors or omission and errors of fact into six bolded statements below. These errors are significant enough to invalidate much of the analysis and conclusions presented in this General Development Plan, and it is my professional opinion that this General Development Plan does not meet minimum acceptable standards of accuracy or comprehensiveness. As such it does not provide the City Plan Commission or the City Council with the accurate and complete information necessary to make sound public policy decisions. This is of particular importance when the purpose of a plan is to recommend the granting of incentives to a developer. This plan should be withdrawn by the PIEA and the issues identified below should be addressed before a new General Development Plan is proposed. If it is not withdrawn by PIEA the Department of City Planning should recommend against its approval by either the City Plan Commission or City Council.

I am available to discuss this matter further and would welcome the opportunity to do so. I can be reached at the address above or by email at [olsenek@umkc.edu](mailto:olsenek@umkc.edu).

Sincerely,



Erik K. Olsen Ph.D.

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**1) Section “Approved Public Planning Guidelines” (p. 20) and subsequent analysis of relevant planning does not refer to the Troost & Emanuel Cleaver II Boulevard Redevelopment and Implementation Plan (2015) and fails to identify nonconformity of the proposed General Development Plan with the recommendations of the Troost-Cleaver II plan. These are significant errors of omission and errors of fact.**

The General Development Plan specifies these four existing plans as relevant to the Planning Area:

Four main documents guide development within the city, greater downtown, and the Plan Area: the FOCUS Kansas City Plan (adopted October 1997), the FOCUS Plan For The Heart Of The City – Urban Core Plan (adopted October 1997), the Midtown / Plaza Area Plan (MPAP) (adopted January 7, 2016), and the Troost Corridor Overlay (adopted July 16, 2015).

The Troost & Emanuel Cleaver II Boulevard Redevelopment and Implementation Plan<sup>1</sup> was unanimously adopted by the City Council on January 15, 2015 (resolution 140996) as “a guide for future redevelopment in the Troost-Emanuel Cleaver II Boulevard area.” It was developed by staff and consultants of the Kansas City Land Clearance for Redevelopment Authority (LCRA), an agency in the

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<sup>1</sup> The Troost-Cleaver II Plan (2015) and resolution 140996 are available at:

<http://cityclerk.kcmo.org/LiveWeb/Documents/Document.aspx?q=C2WfA%2BT3Cn5w3ZCuHeW%2FjoI0ktrZxx43hoimRy2A3cNmyyFG5kM1gEuXSH2012xT11qLzO5nweM%2Fj1tMJ%2BjUbg%3D%3D>

Economic Development Corporation of Kansas City, with extensive community engagement, including neighborhood associations and nearby property owners. This plan is explicitly not replaced by the Midtown/Plaza Area Plan (pp. 12, 83-84), and as such remains the primary planning guidance adopted for the 45<sup>th</sup> and Troost PIEA Planning Area.

The 45<sup>th</sup> and Troost PIEA Planning area is entirely within Project Area A1 of the Troost-Cleaver II plan, and this plan makes specific recommendations for these parcels. Failure to identify this plan as the primary policy document guiding development in this plan area is a significant error of omission that invalidates the subsequent analysis of planning contained in this General Development Plan. This must be addressed in the General Development Plan for it to be considered a valid basis for public policy and the granting of development incentives.

Because the General Development Plan does not recognize the Troost-Cleaver II Plan it also fails to identify the numerous ways that the development profile proposed on pp. 7-9 does not conform to the recommendations of the Troost-Cleaver II Plan. The development profile specified by the Troost-Cleaver II plan (p. 24) for the parcels included in the 45<sup>th</sup> & Troost PIEA Planning Area is:

- New Development: total of 35,000 sf of live/work space.
- Building Heights: 2-3 stories.
- New Units: 42-66 Live/Work units (“depending on whether units are 2 or 3 stories”).
- Development Intensity: FAR = 1.3 (4504 Troost), 1.2 (4522, 4524, 4528, 4536 Troost).

The development profile in the proposed General Development Plan does not conform with these recommendations in the following ways:

- Proposed 106,080 sf gfa is roughly three times the amount recommended by the Troost-Cleaver II Plan.
- Proposed five-story buildings are two or three stories taller than recommended by the Troost-Cleaver II Plan.
- Proposed number of dwelling units (108) is roughly twice the amount recommended by the Troost-Cleaver II Plan.
- Proposed FAR of 2.32 (for 4504 Troost) and 2.19 (for 4522, 4524, 4528, 4536 Troost) is 1.78 and 1.82 times the amount recommended by the Troost-Cleaver II Plan.
- Troost-Cleaver II Plan recommends new development of Live/Work buildings, not mixed-use.

The failure to identify the nonconformance of the proposed development profile in this General Development Plan with the Troost-Cleaver II plan is a significant error of omission. This must be addressed in the General Development Plan for it to be considered a valid basis for public policy and the granting of development incentives.

**2. General Development Plan fails to recognize that the Midtown/Plaza Area Plan explicitly invokes the recommendations of the Troost-Cleaver II plan as “superseding” its recommendations. This is a significant error of omission.**

The Midtown/Plaza Area Plan refers stakeholders to the Troost-Cleaver II plan for planning recommendations for the 4500 block of Troost Ave (pp. 12, 83-84). It explicitly states that in instances of inconsistency the recommendation of the Troost-Cleaver II plan “supersede” those of the Midtown/Plaza Area Plan itself. As noted above, the proposed development profile of the General Development Plan


contains numerous significant instances of nonconformance with the recommendations of the Troost-Cleaver II plan. By failing to identify that the Midtown/Plaza Area Plan explicitly invokes the recommendations of the Troost-Cleaver II plan as “superseding” its own recommendations, the General Development Plan significantly misrepresents the planning guidance of the Midtown/Plaza Area Plan and cannot accurately assess the conformance or nonconformance of the proposed development with this plan.

**3. Conclusion that the development profile in the General Development Plan will “contribute” to the Mixed Use Neighborhood recommendation for these parcels by the Midtown/Plaza Area Plan is incorrect. This is a significant error of fact.**


Page 24 of the General Development Plan states,

The proposed redevelopment of the subject Planning Area with a multistory mixed-use building consisting of multifamily units above commercial space will contribute to the Mixed-Use Neighborhood designation prescribed in the Recommended Land Use Map included on the following page.

The Plaza Sub Area Recommended Land Use Map of the area plan (figure 4.9, p. 43) does designate the parcels in the PIEA 45<sup>th</sup> and Troost Planning Area as “**Mixed Use Neighborhood**”. This land use designation is defined on page 28 as:

	<p><b>MIXED USE NEIGHBORHOOD</b> - Primarily intended to accommodate and promote neighborhood serving retail sales or service uses, as well as mixed-use development consisting of business uses on a building’s lower floors and residential uses on upper floors. This type of vertical, mixed-use development that includes a variety of business and residential choices should enhance the pedestrian environment of the community. Encouraging residential development in mixed-use areas provides increased housing choice and promotes higher density housing. This land use classification generally corresponds with the “B1” zoning category within the zoning ordinance.</p>
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Note the height and scale of the exemplar given. This is a two-story mixed-use building. The Midtown/Plaza Area Plan also defines a more intense land use type as “**Mixed Use Community**” on page 28:

	<p><b>MIXED USE COMMUNITY</b> - Primarily intended to accommodate and promote a variety of community-serving retail sales or service uses generally of a higher intensity and larger scale than what is allowed in Mixed Use Neighborhood areas. This category should include a mix of business and residential uses designed to enhance the pedestrian environment of the community and generally corresponds with the “B2” zoning category within the zoning ordinance.</p>
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Note that the exemplar given for Mixed Use Community precisely matches the development profile of the proposed General Development Plan: a five-story building with four stories of residential above first floor commercial.

The Midtown/Plaza Area Plan also makes the following specific recommendation regarding new development in its Planning Area I, which includes the 4500 block of Troost Ave:

While there is only one property identified as “Maintain Predominate Form” along the corridor, the intent is to use this structure as a model for new development. Key urban form attributes that should be emulated in new development include: placement, scale,

footprint, articulation, quality and type of materials, walkability, and parking configuration (p. 84).

This model for new development (4305 Troost Ave.), a three-story mixed-use building with less than 60' of frontage. This recommended "model" for redevelopment in this area demonstrates consistent plan recommendations for this area and indicates that Mixed Use Neighborhood is consistent with buildings of two to three stories, as recommended by the Troost-Cleaver II plan, not five stories, as proposed by this General Development Plan. Five story mixed-use development of the type recommended by this General Development Plan is clearly consistent with the Mixed Use Community designation, and, therefore, does not conform with the land use recommendations of the Midtown/Plaza Area Plan.

There is consistency in the Midtown/Plaza Area Plan regarding the recommended height, scale, and intensity of development for these lots, and the development profile of this proposed General Development Plan clearly does not conform with these recommendations. The General Development Plan should recognize that while the recommendations of the Midtown/Plan Area Plan are subordinate to those of the Troost-Cleaver II Plan, the proposed development intensity also does not conform to the recommendations of the Midtown/Plaza Area Plan itself. The General Development Plan should identify nonconformance of proposed development profile with the Recommended Land Use of Midtown/Plaza Area Plan and then re-evaluate contribution to Plan Goals and Guiding Principles. The obvious conclusion that the development profile in the General Development Plan does not conform with its land use recommendations implies that it is also contrary to the Goals and Guiding Principles of the Midtown/Plaza Area Plan, and this should be acknowledged in the General Development Plan.

**4. General Development Plan analysis of Troost Overlay (ordinance 150581) fails to identify important violations of this ordinance, and incorrectly attributes appendices A and B from the FOCUS Kansas City comprehensive plan to the Troost Overlay. These are significant errors of omission and errors of fact.**

Section 3.1.c.iii.1 of the Troost Overlay (ordinance 150581) states:

**New Development.** Full compliance with this ordinance is required for all new buildings constructed within this district.

The General Development Plan (p. 26) correctly notes that 150581 designates the 4500 block of Troost Avenue as "Urban Corridor". However, it omits the definition of "Urban Corridor", which is defined by section 3.2.d.ii of the ordinance as:

**Urban Corridor.** Urban Corridors provide housing choice for a diverse range of incomes and lifestyles. These medium-density residential areas support nearby retail, entertainment and institutional services.

As Urban Corridor the 4500 block of Troost Ave is designated as "medium-density residential", not mixed use. Section 3.2.a and Table 2.1 of 150581 specify that only Live/Work, Attached House – Townhouse, Multi-unit Building may be constructed in an Urban Corridor as-of-right. 3.2.b states that building types not allowed as-of-right "may be allowed if reviewed and approved in accordance with the special use permit procedures of 88-525." Large scale mixed-use buildings of the type proposed in this General Development Plan are defined by Table 2.2 of 150581 as "Flex." This is the only building type

explicitly prohibited in the entire area subject to 150581 unless approved through the special use permit procedures of 88-525.

The General Development Plan (p. 29) states “Multi-unit Building is a permitted use while the addition of the proposed first floor commercial space might require a special use permit.” This should be corrected to state that full compliance with 150581 requires the buildings in the development profile of this General Development Plan must be approved through the procedures of 88-525.

Page 29 of the General Development Plan also incorrectly identifies two appendices from the Heart of the City Plan element of the FOCUS Kansas City comprehensive plan as part of ordinance 150581. Specifically, it identifies Appendix A, “Land Use Concept Plan”, and guidelines from Appendix B of the Heart of the City Plan as parts of ordinance 150581. These are significant errors of fact that must be corrected.

Ordinance 150581 and the Heart of the City Plan have very different places in the hierarchy of planning, zoning, and city ordinances, and attributing elements of the comprehensive plan to an overlay district indicates lack of understanding of this hierarchy.

**5. General Development Plan mistakenly attributes land use recommendation in FOCUS Kansas City comprehensive plan as “MU2”; correct designation is “MU1”. This is a significant error of fact.**

As noted in item four, above, this General Development Plan reproduces the Land Use Concept Plan from Appendix A of the Heart of the City Plan (1997), which is an element of the FOCUS Kansas City comprehensive plan. This Land Use Concept Plan is itself superseded by the more specific recommendations of the Plaza Sub Area Recommended Land Use Map of the Midtown/Plaza Area Plan (2016), which is itself superseded by the even more specific recommendations of the Troost-Cleaver II Plan (2015) for this project area.

Despite this, the General Development Plan chooses to refer to the Land Use Concept Plan, Appendix A of the Heart of the City Plan, for land use guidance and concludes (pp. 29 and 47) that this map recommends development intensity “MU2 – Mixed use up to 10 stories” for the parcels in the 45<sup>th</sup> and Troost PIEA Planning Area. This is incorrect. The Land Use Concept Plan map actually recommends development intensity “MU1 – Mixed use up to 5 stories”. However, given that the Land Use Concept Plan is superseded by both Plaza Sub Area Recommended Land Use Map (Mixed Use Neighborhood, as discuss in item 3 above) and the recommendations of the Troost-Cleaver II Plan, references to the Land Use Concept Plan in the Heart of the City Plan should be removed.

**6. General Development Plan incorrectly states that the current B3-2 zoning for the proposed parcels “does not have a density limitation”. This is a significant error of fact. It also fails to identify that the proposed development profile exceeds the height limits of current zoning and does not satisfy the parking requirements of the Zoning and Development Code. These are significant errors of omission.**

On page 47 the General Development Plan states that the current zoning for the parcels in the project area is B3-2, and this zoning “does not have a density limitation.” This is incorrect and should be corrected. Lot and Building Standards are specified in 88-120-04 and Table 120-2 of the Zoning and Development

Code. These specify the maximum FAR in B3-2 of 2.2. This error is consequential in the context of this General Development Plan because the proposed northern building has a FAR of 2.32, which exceeds the limit of the current zoning. Failure to identify this is a substantive error of fact in the General Development Plan and should be corrected.

88-120-04 and Table 120-2 of the Zoning and Development Code also limit building height in B3-2 to 45'. This can be raised to 50' for mixed use buildings meeting certain requirements, but because mixed use buildings are prohibited by 150581 in an Urban Corridor unless approved by a Special Use Permit, the relevant height limit for the 45<sup>th</sup> and Troost PIEA Planning Area is 45'. The building height of 60' in the development profile of this General Development Plan exceeds this height limit by 15'. Failure to identify this violation of the Zoning and Development Code is a significant error of omission that should be corrected to give an adequate assessment of this plan.

The parking provided in the development profile of the General Development Plan is inadequate to satisfy requirements of 88-420 of the Zoning and Development Code, including 88-420-04-M and 88-420-04-J. The development profile appears to claim exemption from parking requirements for all non-residential space under 88-420-04-J. However, 88-420-04-J only applies to development within 1,000' of a rapid transit stop. The southern building shown in the proposed development profile is within 1,000' of a rapid transit stop, but the northern building is not within 1,000' of a rapid transit stop and does not qualify for this exemption. Failure to identify this violation of the Zoning and Development Code is a significant error of omission that should be corrected to give an adequate assessment of this plan.

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