

Ms. Diane Stoddard, City Manager
6 East 6th Street
PO Box 708
Lawrence, Kansas 66044

RE: Pachamama's Easement/Building Setback Request

Dear Diane:

Pursuant to our previous discussions, and on behalf of 800 New Hampshire, LLC, I would like to summarize the benefits to the City from granting us the requested 30' easement and the reasons why I do not believe it is appropriate to ask the Developer to pay for the setback.

As you know, we have previously requested the City grant us a thirty (30) foot easement, building setback or dedication on the City-owned parking lot property located to the south of the proposed project and utility dedication. Please see the attached drawing. City of Lawrence Building Code, Section 705.8.1 provides that if there is not at least 30 feet between structures, a water curtain has to be added to our project that will increase the cost of the project and make it less feasible. A copy of this Code provision is attached to this correspondence.

Another City Code requirement is you must have windows in each apartment project for fire exit safety reasons. If we do not have fire exits, then we cannot design the project to provide for windows facing south. This would rob the project of additional units, and likely make the project no longer feasible to build. Even if it is feasible to build, removing the number of apartments would have a negative impact to the City regarding the ad valorem property tax value to be generated. We estimate that this would eliminate 8-12 units in a 55 unit apartment, with each unit generating approximately \$130,000 in ad valorem property tax value. Stated another way, there is a benefit to the City from granting our request – additional downtown residential density.

The addition of the 30 foot easement does not have a negative impact on the City's ability to use the lot for a surface parking lot. The attached illustration also shows that if the City desired to build an additional parking garage on this site, even with the 30 foot easements on both sides, they still could construct a parking garage identical in size to the one located next to the Library. There basically is little to no impact on the City's ability to continue to provide parking.

You should also note if you zoom in on the attached drawing that there is a sanitary sewer line running about 28 feet from the property line to the north (east-west across north portion of the City owned lot 52). Development of this lot for some other purpose would necessitate moving this sewer line, at some probable cost and expense.

With respect to parking, most of the City owned parking lots were acquired through special assessment districts that were paid by adjoining property owners. The project is located in the downtown zoning district that does not require any property owner to provide for off-street parking. In effect, in exchange for higher density (and increased taxes), the City has shouldered the responsibility to provide community parking solutions in the downtown area. Therefore, it is doubtful that this parking lot owned by the City would ever be used for any purpose other than providing parking.

This request is basically identical to the request we made for the North Project. No additional costs or fees were assessed with respect to that Project. We respectfully suggest that if a policy decision is made to begin making such assessment, it be applied prospectively, and not to already planned projects. We have already raised investment funds and secured debt financing for this Project. This additional cost would be a surprise.

The Developers have already pledge to pay \$75,000 into the City's Affordable Housing Trust Fund. We feel this is a significant investment in the City and should not be requested to provide more than this. In addition, this project will go on the tax rolls immediately and begin generating significant ad valorem property taxes for the City, County, and School District. This type of density is supported by Horizon 2020 and should be encouraged, not discouraged.

Thank you in advance for your consideration of this request and we look forward to working with you to bring this exciting Project to downtown Lawrence.

Very Truly Yours,

Bill

William N . Fleming, Esq.
General Counsel

Cc: Doug Compton

705.8.1 Allowable area of openings.

The maximum area of unprotected and protected openings permitted in an exterior wall in any story of a building shall not exceed the percentages specified in Table 705.8.

Exceptions:

1. In other than Group H occupancies, unlimited unprotected openings are permitted in the first story above grade either:

1.1. Where the wall faces a street and has a fire separation distance of more than 15 feet (4572 mm); or

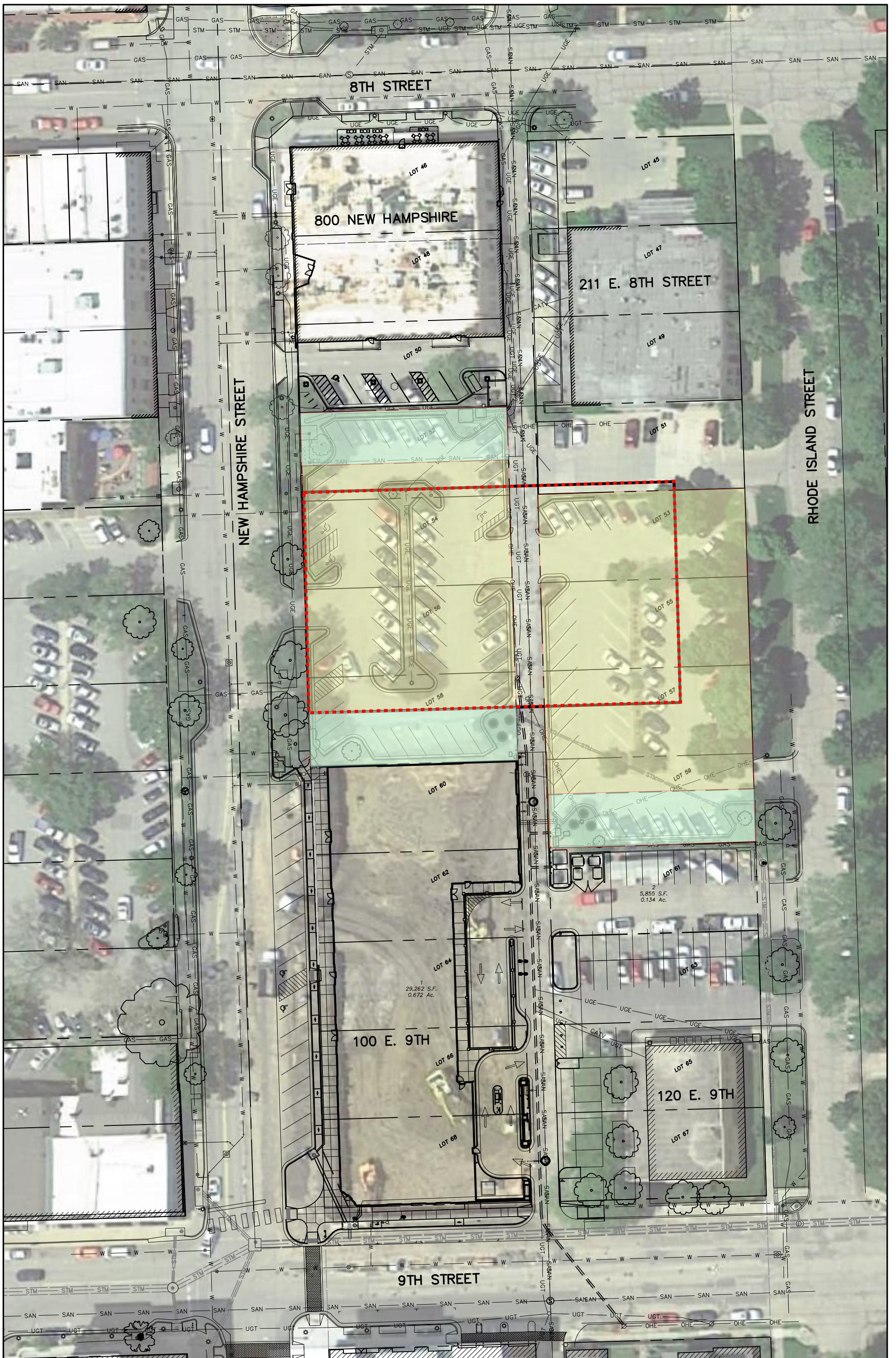
1.2. Where the wall faces an unoccupied space. The unoccupied space shall be on the same lot or dedicated for public use, shall not be less than 30 feet (9144 mm) in width and shall have access from a street by a posted fire lane in accordance with the International Fire Code .

2. Buildings whose exterior bearing walls, exterior nonbearing walls and exterior primary structural frame are not required to be fire-resistance rated shall be permitted to have unlimited unprotected openings.

705.8.2 Protected openings.

Where openings are required to be protected, fire doors and fire shutters shall comply with Section 715.4 and fire window assemblies shall comply with Section 715.5.

Exception: Opening protectives are not required where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 and the exterior openings are protected by a water curtain using automatic sprinklers approved for that use.



- CITY OWNED PROPERTY
- CITY OWNED PROPERTY WITH EASEMENT

125'x210' RECTANGLE
 (EQUIVALENT TO FOOTPRINT OF
 PUBLIC LIBRARY PARKING GARAGE)



SCALE: 1" = 50'
 WHEN PRINTED ON 11X17