



CITY OF TOPEKA

CITY COUNCIL COMMITTEE
MEETING MINUTES

PUBLIC WORKS INFRASTRUCTURE SPECIAL COMMITTEE

CITY COUNCIL
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Date: September 20, 2022

Time: 11:00 a.m.

Location: 1st Floor Conference Room; Cyrus K. Holliday Bldg 620 SE Madison (*virtual attendance option also available*)

Committee members present: Council members Tony Emerson (Chair) & Neil Dobler. Committee member Michael Lesser was absent.

City staff present: City Manager Stephen Wade Public Works: Interim Director Braxton Copley, Deputy Director Hannah Uhrig, Robert Bidwell, Jason Tryon Planning: Director Bill Fiander, Development Services Director Richard Faulkner, Dan Warner Finance: Interim Director Rachelle Mathews Legal: City Attorney Amanda Stanley, Deputy City Attorney Mary Feighny

Call to Order

Chairman Tony Emerson called the meeting to order at 11:00am, and Committee members introduced themselves.

Approval of August 16, 2022 Meeting Minutes

Committee member Dobler made a motion to approve the minutes. Chairman Emerson seconded the motion. Minutes approved 2:0. Committee member Michael Lesser was absent.

Discussion: City of Topeka Process for Development Opportunities

Planning Director Bill Fiander provided a presentation to describe the basic process of Development Review that the City of Topeka uses.

Highlights:

- There are three phases of developmental planning
 - Planning phase - This phase begins with a multi-departmental, pre-application meeting where all levels of disciplines are represented from Engineering, Utilities, Fire, Planning and Development Services and work through some initial issues that may apply and can be addressed by the applicant prior to them sending in submittals to staff. This phase is also where the decision is made for which track the application will fit into.
 - Planning Phase Track 1 - Does not require any further preliminary review or additional information and is ready to move straight to

Permit Phase. These are most typically small projects or minor types of projects.

- Planning Phase Track 2 - More common track for new buildings or major additions. This is a building permit plus site plan review track.
 - Planning Phase Track 3 - This includes a building permit, site plan review, and a zoning/major plat step that will need to be approved. Typically, this is seen in a historic district that needs approval from the Landmarks Commission. This third track is the most lengthy, in terms of the time it takes to move through, because the application cannot simply move through the approval process administratively. The additional processes in this track include:
 - Submission of application
 - Neighborhood information meeting
 - City staff
 - Public hearing (Planning Commission or other Body)
 - Governing Body or other body approval
 - Then move to Track 1 or 2
- Permits phase - This is the time when plans are received for approval and review and the building permit gets issued. The site plan review trigger is 15,000 sq. ft. additions or 50% addition of the existing square footage, or a brand new free-standing building. There are other triggers that would elicit a site plan review, such as making the site impervious and expanding parking, however the first items mentioned are the most commonly seen.
 - Construction phase - There are additional series of inspections that occur at this phase before the final Certificate of Occupancy is issued.
- The Site Plan Review box is an additional step that comes from Track 2 on the way to the Permits Phase Director Fiander stated he felt this this newer addition has improved the process quite a bit. Prior to this process, it was noticed that people would jump into a building permit submittal and find out there was something incomplete or erroneous and needed more information. It made the adjustment and enforced the adjustment to where the building could be on the property. Staff found that this was where big issues occurred. It was at that time that the decision was made to create the additional step to provide a preliminary approval of the site plan, this also gave Utilities time to review stormwater, which was also a newer development. Now, it seems to be running more smoothly and people are understanding that the application does not have to be perfect but that applicants can move forward to the building permit stage with a conditional site plan, basically.
 - There is one caveat before applicants are able to continue forward from the Planning Phase to the Permits Phase, and that is to receive State &/or Federal approvals that may be needed before the permit can be accepted. One of the biggest pieces that staff has to remind applicants of is that their submittal must

receive state approval before moving land around or disturbing land. Director Braxton Copley stated that, starting at one acre of land, a NOI is triggered.

- During the Permits Phase:
 - Submit Construction Plans for Building Permit
 - Plans are reviewed and approved
 - Minor/Major Plat, PUD Master Plan Recorded, if needed. This step may be where the Governing Body has to approve the permit and the approval must be recorded prior to permit being issued. They can apply for the permit without the recording, it just cannot be issued.
 - Permits are issued and released for the on-site trade and building inspections, until we reach the Certificate of Occupancy (C of O).

Questions/Comments:

- Committee member Dobler inquired about the definition of what would make something a “minor plat”? Director Fiander responded that a minor plat is anything with five or fewer net new lots, that are created and that does not involve dedication of a new street. There are some cases that need to dedicate more right-of-ways but the street is already there, in such a case, this would also fall under the minor plat definition. Minor plats are administratively approved. This is if the right-of-way is already in place. If the right-of-way is not already there, the project would be bumped up to a major plat project, as it is creating a brand new access that was never there before. Anything over five lots, a brand new street dedication, would fall under the major plat definition and would be required to move through Track 3 and the review/approval of various Body’s including the Governing Body prior to approval to move forward with.
- Committee Dobler inquired about the timeframe to of the process for projects in Track 1? Initial reviews, on the staff side, is about 5-10 days. The goal is to meet closer to 5 days, however there is room for bigger projects or heavier loads. The initial review is the longest portion of the review process. Typically, on a rehab, you are less than three weeks. For a new building that may require more reviews and contracts, it could be closer to six weeks before final approval.
- How about the site plan review part? There is a ten-day process cap to send the comments back to applicants on that portion. If there is missing information, the process may take closer to three weeks or four weeks depending on how much additional information was left off of the review plan and how major the project is.
- Chairman Emerson inquired about the duty of the City to check the work of applicants end? And if it places any responsibility onto the City if we are asking for changes. Director Fiander stated that it varies case to case, but generally the applicant’s stamp does not cover incompleteness. The staff review comes into play during the final site review process.

- Does the City's review and acceptance of plans place liability on the City? City Attorney Stanley responded that it generally fall under the Tort Claims Act, unless you could prove intentional negligence or that it was not a discretionary function of government.
- Committee member Dobler followed up by confirming the duty of the City is to make sure the design follows the applicable building code. Director Fiander confirmed and stated that the Governing Body has passed a code. From that point, staff is looking at the codes and seeing if the application has met the standards of those codes. The City's process is working to get them to meet the local compliance, not the "this was engineered correctly" compliance.
- Chairman Emerson inquired with Utilities Director Copley as to if the run-off portion is part of the site plan review? Director Copley stated that it is generally triggered at a site plan review, and that is one of the very first steps. The Utilities staff's goal is to turn any stormwater site plan review around within a week. Staff is looking for quantity and quality in the amount of additional and previous surface that is being added.
- Committee member Dobler noted that it was his understanding that the City used to look at detention as a method of making sure the flow downstream equaled the pre-development flow from upstream. And that now, the City is requiring the total flow to equal what was the pre-development total flow. He asked Director Copley to speak further on this. Director Copley stated the topic is about quantity, and that the standard had historically been that you are limiting your post-development flow to the amount of flow pre-development. There are two or three sub-basins within the city that are very sensitive to the amount (volume) of flow. It is not just the peak flow or just the timing, but rather it is the total volume of water. In those two or three basins, the City requires 100% retention to avoid adding additional flow. This is by far the minority of basins. The other approximately 20 require the post-development to match the pre-development. Director Copley used Colley Creek as a good example of such a retention that is very sensitive basin, with a number of homeowners who live along the creek and add to its volume that can flood their houses. The same is true for the basin in North Topeka.
- Committee member Dobler inquired if Colley Creek precluded any future development? Director Copley responded it would not necessarily preclude development but it would make it more challenging, in terms of the amount of land or underground storage that will be needed in order to develop.
- Committee member Dobler stated he would like to spend more time at a future meeting discussing additional strategies or options for any future development in the Colley Creek area. He did not like the idea of telling landowners they would not be able to develop the land because they could not send any more volume of water downstream.

- Chairman Emerson requested Staff bring more information to subsequent meetings through the end of the year to continue learning more about the process.

Discussion: Rural Housing Incentive District (RHID)

City Attorney Amanda Stanley recapped that the City of Topeka was recently included within the State statute to receive RHID's and this went into effect July 1, 2022. The Rural Housing Incentive District (RHID), in basic terms, is a Tax Increment Financing (TIF) for housing. It allows the City to set a base year and then use the tax increment increases from those taxes to help fund infrastructure. There are a lot of cities in the State that participates in RHID's. The most prolific has been Dodge City, where the first one was done in 2009, and since that time have developed 12 districts with over 200 units put in under the RHID.

City Attorney Stanley provided the Committee with a draft policy, and stated that since there had been a growing interest in the RHID program, staff felt it was important to get a draft of the policy out to the public, in this form. It is now a public document and can be reviewed over the next few weeks by members of the Committee, Governing Body, Developers, and citizens and offer feedback to continue to shape the policy.

City Attorney Stanley stated that staff reviewed other RHID policies, extensively, from other cities in Kansas which included: Dodge City, Hayes, Emporia, Ottawa. She noted that a lot of the policy language was drafted after the TIF policy, and that the Finance Committee had been able to look at it and conducted the "but for" tests to make sure the development will pay for itself using these kinds of policies. She stated staff had entered a number of drafting questions that they did not yet have answers to, but are continuing to investigate and seek input to find the best answer. Such questions that remain, include asking "Does it make sense to be able to stack a special improvement district on top of an RHD, depending on the project"?

City Attorney Stanley stated one unique thing that Staff has done, compared to other cities, is to use the Housing Study as part of it.

Committee member Dobler referenced the Housing Study and stated that in it, the study identifies a need for 500 units a year and that over a roughly five-year average, the City is currently meeting about 200 of the units a year. Director Fiander confirmed. Committee member Dobler stated that it made sense to target 300 units or 1,500 over five years, that are possibly eligible for this kind of incentive. He inquired about the breakdown of the affordable units, workforce, and market rate, and asked if those are determined by the current need? Director Fiander stated it was a snapshot in time. It will not measure the trickle effect that may come with people buying/building larger houses and freeing up the smaller houses.

Chairman Emerson requested that City Attorney Stanley send the document to the rest of the Governing Body. She agreed and stated it would provide them

information so that they could offer the Committee feedback to consider. Chairman Emerson stated this could potentially move the needle for development in Topeka.

Committee member Dobler stated that he saw a reference to the City's Financial Advisor, and asked if there was not already an in-house expertise to oversee the process? City Attorney Stanley stated that there was in-house expertise to oversee the process, but with similar language being carried over from the TIF ordinance, the City's Financial Advisor also oversees the "but for" tests and some of those things. She felt the process could be overseen in-house, as long as the ability to consult with the Financial Advisor could remain an available option. Committee member Dobler stated that would be his preference.

City Attorney Stanley invited anyone in the community who had additional questions about the RHID program to reach out to her. [City Attorney email is alstanley@topeka.org or phone 785-368-3883].

Other Items

No additional items.

Adjourn

Chairman Emerson adjourned the meeting at 11:35am.

This meeting can be viewed online at: https://youtu.be/cViz8hz_Bwc