



CITY OF
TOPEKA

A G E N D A

TOPEKA PLANNING COMMISSION

MONDAY, SEPTEMBER 21, 2020
6:00 P.M.

Meeting Held Electronically Only via Video Conference
For information on live viewing,
contact the Planning & Development Department.

Persons addressing the Planning Commission will be limited to four minutes of public address on a particular agenda item. Debate, questions/answer dialogue or discussion between Planning Commission members will not be counted towards the four minute time limitation. The Commission by affirmative vote of at least five members may extend the limitation an additional two minutes. The time limitation does not apply to the applicant's initial presentation.

Items on this agenda will be forwarded to the City Council for final consideration.

All information forwarded to the City Council can be accessed via the internet on Thursday prior to the City Council meeting at: <https://www.topeka.org/calendar>



ADA Notice: For special accommodations for this event, please contact the Planning Department at 785-368-3728 at least three working days in advance.

HEARING PROCEDURES

Welcome! Your attendance and participation in tonight's hearing is important and ensures a comprehensive scope of review. Each item appearing on the agenda will be considered by the City of Topeka Planning Commission in the following manner:

1. The Topeka Planning Staff will introduce each agenda item and present the staff report and recommendation. Commission members will then have an opportunity to ask questions of staff.
2. Chairperson will call for a presentation by the applicant followed by questions from the Commission.
3. Chairperson will then call for public comments. Each speaker must come to the podium and state his/her name. At the conclusion of each speaker's comments, the Commission will have the opportunity to ask questions.
4. The applicant will be given an opportunity to respond to the public comments.
5. Chairperson will close the public hearing at which time no further public comments will be received, unless Planning Commission members have specific questions about evidence already presented. Commission members will then discuss the proposal.
6. Chairperson will then call for a motion on the item, which may be cast in the affirmative or negative. Upon a second to the motion, the Chairperson will call for a role call vote. Commission members will vote yes, no or abstain.

Each item appearing on the agenda represents a potential change in the manner in which land may be used or developed. Significant to this process is public comment. Your cooperation and attention to the above noted hearing procedure will ensure an orderly meeting and afford an opportunity for all to participate. Please Be Respectful! Each person's testimony is important regardless of his or her position. **All questions and comments shall be directed to the Chairperson from the podium and not to the applicant, staff or audience.**

Members of the Topeka Planning Commission

Brian Armstrong, 2020 Chairperson
Ariane Messina
Corey Dehn
Marc Fried
Wiley Kannarr
Jim Kaup
Corliss Lawson
Katrina Ringler
Matt Werner

Topeka Planning Staff

Bill Fiander, AICP, Planning Director
Carlton O. Scroggins, AICP, Planner III
Dan Warner, AICP, Planner III
Mike Hall, AICP, Planner III
Tim Paris, Planner II
Annie Driver, AICP, Planner II
Taylor Ricketts, Planner I
Bryson Risley, Planner I
Melissa Fahrenbruch, Planner I
Kris Wagers, Administrative Officer



CITY OF
TOPEKA

TOPEKA PLANNING COMMISSION

Agenda for Monday, September 21, 2020

A. Roll call

B. Approval of minutes – August 17, 2020

**C. Declaration of conflict of interest/ex parte communications
by members of the commission or staff**

D. Action Items

1. Public Hearings

- a. **Z20/04 by Stormont-Vail Healthcare, Inc.** requesting to amend the district zoning map on property located at 700 SW Washburn Avenue from M-3 Multiple Family Dwelling District to MS-1 Medical Service District to allow for Cotton O'Neil Cancer Center Pharmacy Addition. **(Fahrenbruch)**
- b. **Z20/03 by A.M. El-Koubysi, Trustee for El-Koubysi Jana Trust,** requesting to amend the district zoning map on property located at 3440 SE 29th Street from R-1 Single Family Dwelling District to M-2 Multiple Family Dwelling District to allow for conversion of the existing single family home to a duplex, as well as conversion of attached garage to use as a single family dwelling. Future development will add three duplexes on the north side of the property upon the extension of SE 28th Terrace. **(Driver)**

2. Other

- a. **P20/15 Timber Ridge Subdivision #2** (preliminary/final plat phase) is a 6.08 acre tract for ten lots generally located at the southeast intersection of SW 53rd Street and SW Timber Ridge Lane, the center of the tract being approximately 1,000 feet south of SW 53rd Street along the east side of SW Timber Ridge Lane, all being within the City of Topeka three mile extraterritorial jurisdiction and within unincorporated Shawnee County, Kansas. **(Driver)**

E. Communications to the Commission

F. Adjournment

Z20/03

by

A.M. El-Koubysi,

Trustee for El-Koubysi Jana Trust

**STAFF REPORT – ZONING CASE
TOPEKA PLANNING DEPARTMENT**

PLANNING COMMISSION DATE: Monday, September 21, 2020

APPLICATION CASE: Z20/03 By: El-Koubysi Jana Trust

REQUESTED ACTION: Zoning change from “R-1” Single Family Dwelling District TO “M-2” Multiple Family Dwelling District

APPLICANT / PROPERTY OWNERS: Abdulrahman M. El-Koubysi Trustee for El-Koubysi Jana Trust

PROPERTY LOCATION / PARCEL ID: 3440 SE 29th Street / PID: 1321004001012000

PARCEL SIZE: 3.29 acres

CASE PLANNER: Annie Driver, AICP – Senior Current Planner

STAFF RECOMMENDATION: Approval

RECOMMENDED MOTION: Based on the findings and analysis in the staff report I move to recommend to the Governing Body approval of the reclassification of the property to “M-2” Multiple Family Dwelling District

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY: The rezoning will allow the owner to develop the property for a total of 9 units. His current plans are to remodel the existing residence on the south portion into a duplex and remodel the existing detached garage into an accessory dwelling. In the future, he will develop the north portion of the property as three lots for duplexes, which will require dedication and construction of SE 28th Terrace.

DEVELOPMENT / CASE HISTORY: The parcel is 190’ wide X 756’ deep. The 2,078 sq. ft. single family dwelling has existed on the site since 1967. The site also contains a detached garage and storage shed. The site was annexed into the City in 1980 and has remained zoned for single-family uses since that time. The existing residence was constructed before the property was annexed into the city. The size and configuration of the property are reflective of this being a County rural residential homestead using a septic system for wastewater.

ZONING AND USE OF SURROUNDING PROPERTIES: North: “M-1” Two-Family Dwelling District / Duplexes
South: “RR-1” Residential Reserve District / Lake Shawnee

West: "PUD" Planned Unit Development (Aquarian Center) for O&-2 and C-2 uses / Retail store, dialysis clinic, and bank

East: "R-1" Single Family Dwelling District / Single family dwelling

PHOTO:

Existing residence at 3440 SE 29th Street:



Looking towards property from north side (SE Taurus Ct):



DEVELOPMENT STANDARDS AND POLICIES

PURPOSE, USE STANDARDS:

"M-2" Multiple Family Dwelling District: *This district is established to provide for the use of attached dwelling units containing three or more dwelling units, designed and intended for individual dwellings, group or community living facilities, congregate living facilities, and including townhouse, condominium or cooperative division of ownership. The location of this district is further intended to provide a transitional use between the districts of lesser and greater intensity.*

"M-2" zoning: Allows multiple family dwelling buildings, as well as single- two- and three- family dwellings. Other institutional residential uses allowed in "M-2" include: Group Homes, Home Cares, Assisted Living Facilities, Medical Care Facilities (nursing homes), and Religious Assembly.

DIMENSIONAL STANDARDS:

Building Setbacks:

- Front: 25 ft.
- Side: 5 ft.
- Rear: 25 ft.
- Building Separation: 6 ft.

Maximum density: The “M-2” zoning allows 15 units per acre maximum. The applicant’s proposal is within the low density realm of a gross density of 3 DUs per acre (including future street), which is acceptable and appropriate given proximity to duplexes and single family.

OFF-STREET PARKING:

Two-family dwellings require two stalls per dwelling (including garage)

OTHER FACTORS

SUBDIVISION PLAT:

Not platted. A plat is required when the applicant extends sanitary sewer, which is needed when another dwelling unit is added to the site. At that time, dedication of the right-of-way for the extension of SE 28th Terrace is required.

FLOOD HAZARDS, STREAM BUFFERS:

Not in a flood risk zone

UTILITIES:

Sewer: The existing residence has two septic systems serving the residence – one for upstairs and one for downstairs. Connection and extension of sanitary sewer is needed when an additional dwelling unit is added to the property. A building permit is required for this change of use converting the dwelling to a duplex or the garage to a dwelling unit.

Water: There is an existing 16” water main along SE 29th and an existing meter serving the subject property. Future development on the north side will likely also require an extension of an 8” main from SE 28th Terrace.

Stormwater: Plans for stormwater drainage and water quality treatment will be approved at the time of the of the subdivision plat.

TRAFFIC:

There are two driveways on SE 29th Street serving the property that will remain until such time as the owner extends SE 28th Terrace. At the time, the owner extends SE 28th Terrace, all permanent access to dwellings will be taken from SE 28th Terrace and any driveways on SE 29th will be closed.

HOUSING:

The Topeka Housing Market Study identifies the single-family home as the dominant housing type built over the past decade. The study says there is a need to diversify the housing stock to retain and attract residents. Building new missing middle development (i.e. Defined as mid-size housing of 3- 20 units) helps diversity the housing stock.

HISTORIC PROPERTIES: There are not any listed properties or districts within proximity to the site.

NEIGHBORHOOD MEETING: The applicant conducted a neighborhood information meeting on August 20, 2020 at 6:00 pm via a Zoom Video Conference. A resident owning a property on Flora Court, outside the notification radius, attended the meeting. There was difficulty accessing the meeting, but the applicant indicated he had not received anyone else requesting to attend the meeting except the one resident on Flora Ct. This resident expressed concerns about the lack of maintenance of the existing duplexes in the neighborhood. The applicant's meeting summary is attached.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING: Plans for public sanitary sewer and public water extensions will be submitted to the City Engineer at the time site development. Stormwater drainage will be reviewed when the property is platted to allow for the additional lots.

FIRE: No issues expressed with rezoning. The extension of a SE 28th Terrace exceeding 150 ft. dead-end will require a temporary turnaround. Future plans will be reviewed and approved by the Fire Department.

DEVELOPMENT SERVICES: Building Permits are required to convert the single-family dwelling into a duplex and the detached garage into a dwelling.

KEY DATES

APPLICATION DEADLINE: August 7, 2020

NEIGHBORHOOD INFORMATION MEETING: August 20, 2020

LEGAL NOTICE PUBLICATION: August 26, 2020

PROPERTY OWNER NOTICE: August 28, 2020

STAFF ANALYSIS

As a zoning case Planning staff have reviewed the case relative to the required findings and conclusions in Topeka Municipal Code Section 18.245 (Findings and conclusions reflect the "golden factors" per Donald Golden v. City of Overland Park, 1978 Kansas Supreme Court).

CHARACTER OF NEIGHBORHOOD: The subject site is located near the commercial intersection of two arterial streets (SE Croco and SE 29th Street). The surrounding area contains a mix of commercial businesses along the north side of SE 29th Street, including retail, office, medical and dining establishments and at the southwest intersection of 29th and Croco. The surrounding area is characterized by Lake Shawnee and the recreational fields, parks, and trail system near the site along the south side of SE 29th Street. Residential uses in the area consist primarily of single family dwellings

and duplexes north of the site that were developed near 2000. There are vacant platted lots, zoned R-1 and M-1, north of the subject site that are not yet developed. The land immediately to the west is platted and zoned for office uses under the PUD. A dental clinic was recently constructed on SE 28th Terrace west of the site. SE 28th Terrace terminates at the property's west boundary line and it is expected the street will be extended as the subject property and adjacent property develop. The proposed development is anticipated to fit the character of the surrounding neighborhood.

THE ZONING AND USE OF PROPERTIES NEARBY: The zoning and land use of the surrounding properties to the north is single- and two- family residential (R-1 and M-1 zoning) and contains duplexes, single-family dwellings, and vacant lots. Adjacent property and nearby properties are zoned "PUD" and intended for commercial uses including a mix of retail, office, and dining establishments. The property immediately east contains three acres and is another rural residential home site that was built near the same time as the dwelling on the subject property. The proposed M-2 zoning is an appropriate transition from office and commercial zoning south and west of the property to the single-family and two-family residential zoning (M-1, R-1, and PUD R-1) north of the subject property.

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The subject property has been zoned "R-1" Single Family Dwelling District since the time it was annexed around 1980. Prior to that, it was assigned the appropriate County rural residential single-family zoning classification. The single-family residence on the property was constructed in 1967 and has existed since that time.

CONFORMANCE TO COMPREHENSIVE PLAN: The subject property is located in an area on the future land use map of the Land Use and Growth Management Plan that is near a "Mixed Use Node" designation. (i.e. the Node designation on the map is general and not intended to exactly represent all properties contained within the Node.) "Mixed Use Nodes" are designated at or close to arterial street intersections where only two or fewer corners are zoned or developed for commercial uses, such as this intersection of SE 29th and Croco. These nodal areas may display characteristics, such as vacant buildings and underdeveloped land, surrounding the node. The plan supports redevelopment or new development of these properties by mixing uses, including residential, with the higher intensity uses being located closer to the arterial intersection corner.

The intersection of SE Croco and SE 29th follows these "Mixed Use Nodal" principles. Lake Shawnee (SW corner) and Meadowview Subdivision (NE corner) are residential and that is not planned and expected to change in the future. The opposite corners of the arterial intersection are primarily commercial. This subject property sits at a location where commercial uses to the west front and strip out along SE 29th Street, which is not a desirable land use pattern for commercial uses. This area is designated "Strip Commercial" on the Future Land Use Map. New curb cuts on the arterial street are not desirable within these areas shown as "Strip Commercial". Future lots should take access off the interior SE 28th Terrace when it is extended. There is lower density residential housing (single-family, two-family dwellings) on the north side of the subject property. The proposed "M-2" zoning on the subject property allows an appropriate development pattern within "Mixed Use Nodes" by providing a transition from the commercial uses nearer the intersection. Therefore, the proposal is in conformance to the Comprehensive Plan.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES OF WHICH IT HAS BEEN RESTRICTED: The subject property is no longer suitable as zoned "R-1" Single Family Dwelling District. The single-family dwelling zoning pre-dated the property's annexation into the city limits. The house was constructed on the three acre parcel when the property was in the County and served, and continues to be served, with a septic tank and lateral field. At that time, the surrounding property to the west, north, and east were not developed at an urban density. A medium density residential zoning on the parcel is ideally situated for residents to make use of surrounding commercial development and the parks/open space uses in the area upon the extension of SE 28th Terrace.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: There would appear to be no detrimental effects upon nearby properties by a rezoning to allow "M-2" zoning, which allows a desirable pattern of land use near the intersection of SE 29th and Croco. If developed with additional lots, this zoning district enables new residents in the area to take advantage of the commercial and recreational

uses near the site. In reality, the proposed density of this applicant's particular project is roughly 3 DUs/acre and is considered low density and similar to the density of surrounding housing, although the M-2 zoning will allow for higher density development. A nearby homeowner expressed concerns about the lack of maintenance of existing duplex rental units in the neighborhood, which is a common perceived negative effect with the addition of multiple-family to a neighborhood. The "M-1" zoning district does allow duplexes to be split and each unit sold if platted in that manner, although the owner is not required by the zoning to do such.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL

LANDOWNER: The owner has to extend sanitary sewer, water, dedicate right-of-way, and build a significant segment of street to fully utilize the property. Developing the property under the current R-1 zoning restrictions is likely not economically feasible because of the substantial investment in infrastructure that is required. The added density is necessary to make the project viable for the owner. The proposed rezoning and development is anticipated to have little, if any, negative impacts. Therefore, the public has little or nothing to gain by denial of the proposed zoning change.

AVAILABILITY OF PUBLIC SERVICES: Utilities are available and will be extended at the expense of the developer at the time of site development.

STAFF RECOMMENDATION:

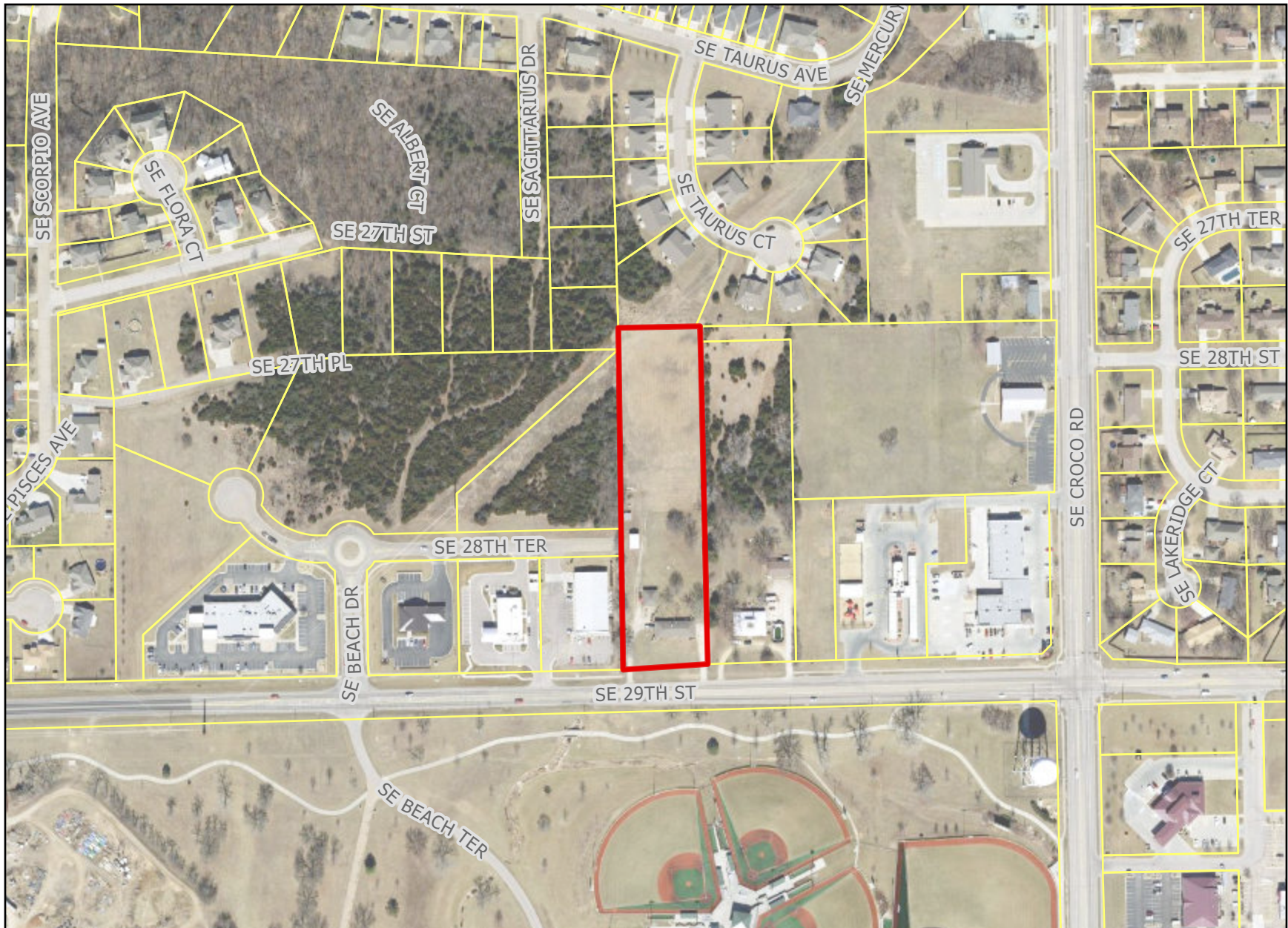
RECOMMENDATION: Based on the above findings and analysis Planning Staff recommends approval of the zoning reclassification from "R-1" Single Family Dwelling District to "M-2" Multiple Family Dwelling District.

RECOMMENDED MOTION: Based on the findings and analysis in the staff report I move to recommend to the Governing Body approval of the reclassification of the property from "R-1" Single Family Dwelling District to "M-2" Multiple Family Dwelling District

Exhibits:

Aerial map
Zoning map
Future land use map
Neighborhood Meeting Summary & Attendance

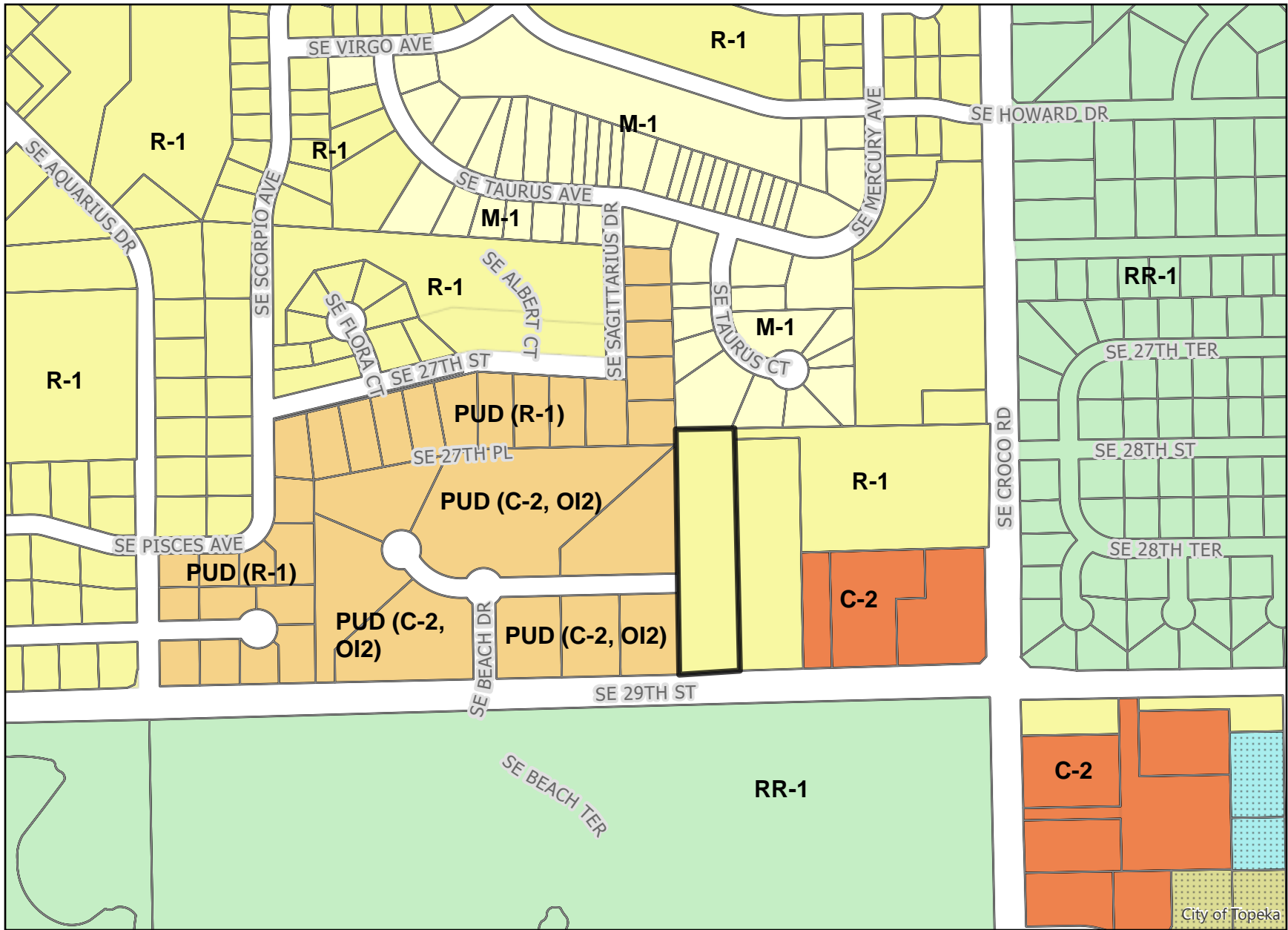
Z20/03 By: El-Koubysi Jana Trust



City of Topeka
Planning and Development
Department

 Subject Property

Z20/3 By: A.R. El - Koubysi Jana Trust (Zoning Map)

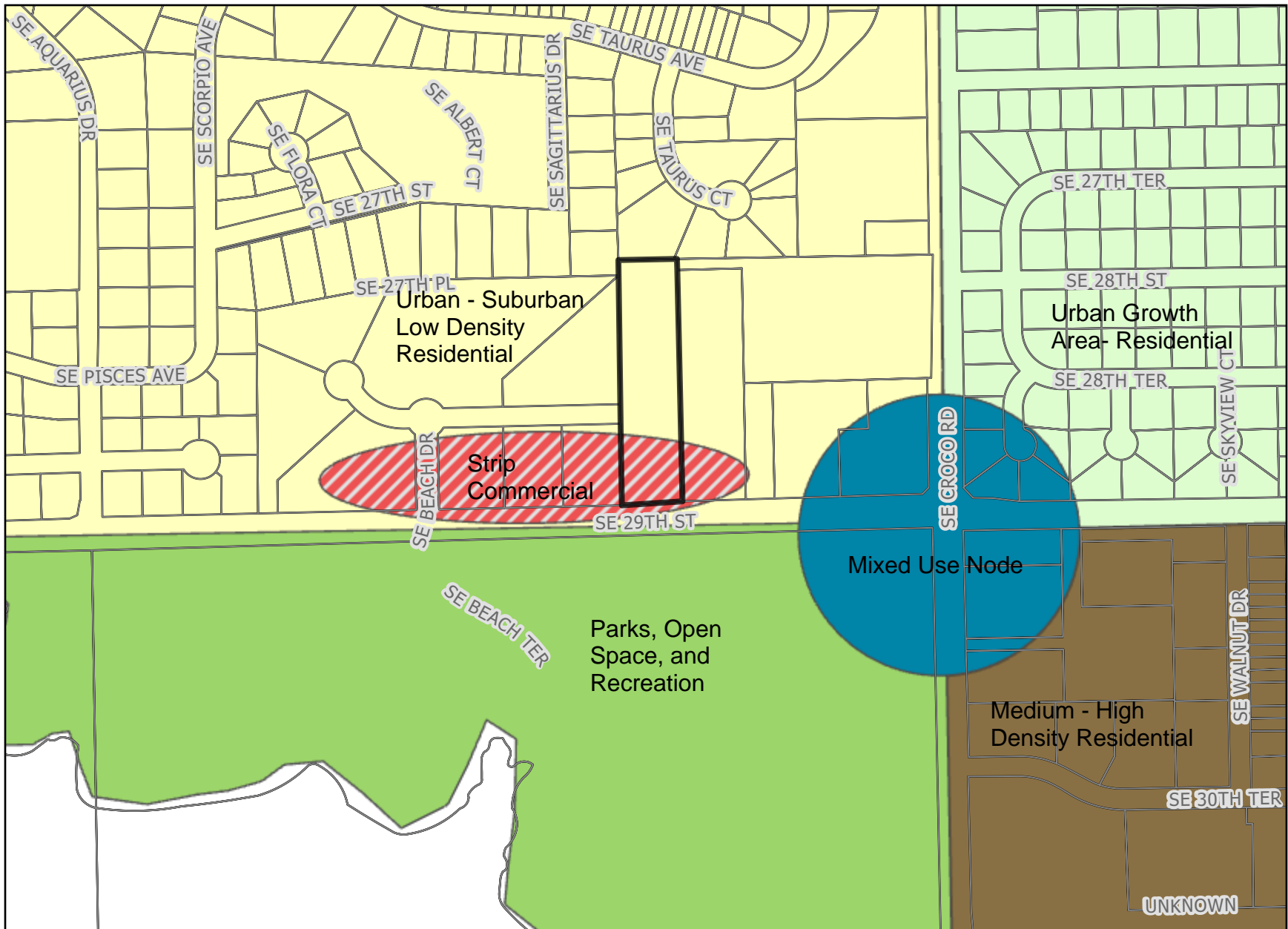


City of Topeka
 Planning and Development
 Department

Legend

 Subject Property

Z20/3 By: A.R. El - Koubysi Jana Trust (Future Land Use)



City of Topeka
Planning and Development
Department

Legend

 Subject Property

A.R. El-Koubysi
3933 SE 37th St
Topeka, KS 66605

Aug 21, 2020

RE: Neighborhood Information Meeting summary for rezoning application
at 3440 SE 29th st, Topeka KS 66605 (Z20/03 by A. El-Koubysi, Trustee for El-Kioubysi Jana Trust)

The meeting was held via ZOOM starting at 6pm Aug 20, 2020 and concluded
at 635pm.

Attendees:

A.R. El-Koubysi, applicant

Ms. Judy Scherff, 2640 SE FLORA CT, Topeka, KS 66605

Ms. Annie Driver, Topeka planning and Development 620 SE Madison/ Unit
11 Topeka, KS 66607

Ms. Annie Driver started the meeting by providing a brief introduction
to the process.

A.R. El-Koubysi provided information on location of property and reason
for requesting the zoning change from R1 to M2.

Ms. Judy Scherff major concern with Duplex buildings in general is that
they are typically not owner occupied and how some renters can possibly
cause damage to the property over time. She did not have issue with
duplexes on this particular property because they were not close to
where she lives on FLORA CT.

Ms. Annie Driver explained that this application is for rezoning only
and that during the plat process (which is a separate application)
specific issues such as building types and other issues are discussed
before plat process is completed.

The meeting concluded at approximately 635pm.