



CITY OF  
**TOPEKA**

**A G E N D A**

## **TOPEKA PLANNING COMMISSION**

**MONDAY, OCTOBER 19, 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  
Dan Warner, AICP, Planner III  
Carlton O. Scroggins, 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, October 19, 2020**

**A. Roll call**

**B. Approval of minutes – September 21, 2020**

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

**D. Action Items**

- 1. Public Hearing of PUD20/01 6th & Golden Everygy Substation by Everygy, Inc.**  
requesting to amend the District Zoning Map from “X-1” Mixed Use District to “PUD” Planned Unit Development District (“X-1” Mixed Use District uses plus allowing a Public Utility Station, Type II with an exception to the 62 ft. height limitation for poles and towers) on a 1.64 acre property located along the south side of SE 6th Avenue lying between SE Golden and SE Highland Avenues. The rezoning allows the remodeling and expansion of the existing electric substation and allows transformers and dead end structures poles to exceed the 62 ft. height limit and allow towers up to a maximum height of 75 ft. **(Driver)**

**E. Presentation/Discussion Items**

- 1. Downtown Master Plan Update** with a focus on Tower and Van Buren Districts. View the presentation slides on the Downtown Master Plan webpage at [www.topeka.org/planning/downtown-master-plan/](http://www.topeka.org/planning/downtown-master-plan/)
- 2. Short Term Rentals –** A Report by Planning Staff regarding draft changes to the zoning code creating new standards for “Short Term Rentals” and results of October information meetings with stakeholders. Short term rentals are regulated as “bed and breakfast home” and “bed and breakfast inn” in the current zoning code.

**F. Communications to the Commission**

**G. Adjournment**



CITY OF  
**TOPEKA**

# MINUTES

## TOPEKA PLANNING COMMISSION

**Monday, September 21, 2020**

**6:00PM – via video conference**

**Members present:** Brian Armstrong (Chair), Marc Fried, Corey Dehn, Jim Kaup, Corliss Lawson, Ariane Messina, Katrina Ringler, Matt Werner (8)

**Members Absent:** Wiley Kannarr (1)

**Staff Present:** Bill Fiander, Planning & Development Director; Mike Hall, Current Planning Manager; Annie Driver, Planner; Kris Wagers, Administrative Officer; Mary Feighny, Legal

**Roll Call** – Chairman Brian Armstrong called the meeting to order with seven members logged in for a quorum.

### **Approval of Minutes from August 17, 2020**

Motion to approve by Mr. Fried, **second** by Ms. Ringler. **APPROVED** (6-0-2 with Ms. Lawson and Ms. Messina abstaining)

### **Declaration of conflict of interest/ex parte communications by members of the commission or staff –**

Mr. Armstrong stated he would abstain from voting on case P20/15 (Timber Ridge Subdivision) as his firm worked on the project.

Mr. Kaup stated he has a family member who is employed by Stormont-Vail but that would not influence his decision on case Z20/04.

### **Action Items**

**Public Hearing of 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.

Mr. Hall presented the staff report and staff recommendation of approval.

Maria Kutina with HTK Architects was logged in representing the applicant. Ms. Kutina explained that Stormont-Vail is unable to meet federal regulations regarding the mixing of hazardous drugs (chemotherapy) in their current facility, thus the need for this new facility.

Mr. Armstrong declared the **public comment period open**. With nobody logged in to speak, he declared the **public comment period closed**.

Ms. Ringler stated that the proposal seems consistent and she has no concerns or questions. Mr. Armstrong agreed.

**Motion** by Ms. Lawson to recommend to the Governing Body approval of the reclassification of the property from "M-3" Multiple Family Dwelling District to "MS-1" Medical Service District; **second** by Mr. Dehn. **APPROVED** 8-0-0

draft

**Public Hearing of 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.

Ms. Driver presented the staff report and staff recommendation of approval and stated the applicant was logged in and available for questions.

Mr. Armstrong asked what triggers the extension of 28<sup>th</sup> Terrace and what the funding mechanism will be. Ms. Driver explained that this is the first step in the process and a subsequent subdivision plat will be required. The street will need to be extended prior to building on the property to the north. Ms. Driver stated the funding could be through a benefit district or paid by the developer.

Mr. Kaup asked when public sewer connection and public water has to be accomplished. Ms. Driver verified that sewer must be extended prior to conversion of the current structures.

Mr. Fried inquired about whether access to the property needs to be or will be moved. Ms. Driver explained that both City and County traffic engineers have reviewed and the owner will be able to keep the existing driveways. Additional access to 28<sup>th</sup> Terrace will be required when that street is installed.

Mr. Ek-Koubysi was logged in and stated he had nothing to add to Ms. Driver's presentation but would take questions. There were none.

Mr. Armstrong declared the **public comment period open**. With nobody logged in to speak, he declared the **public comment period closed**.

**Motion** by Mr. Dehn 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; **second** by Mr. Fried. **APPROVED** 8-0-0

Mr. Armstrong reminded all that he would be abstaining from the next case and inquired if Mr. Fiander had any communications to the commission. Mr. Fiander stated he did not, other than noting the new case webpages available on the COT website which commissioners had already received an email about.

Mr. Armstrong turned the meeting over to Vice-Chair Fried and proceeded to mute his audio and video feed.

Mr. Fried called the next case.

**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 53<sup>rd</sup> Street and SW Timber Ridge Lane, the center of the tract being approximately 1,000 feet south of SW 53<sup>rd</sup> 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.

Ms. Driver presented the staff report and staff recommendation of approval and stated the applicant was logged in and available for questions.

Mr. Kaup asked about the property's proximity to the city limits and what the current plat allows. Ms. Driver clarified that the re-plat adds 10 lots plus the cul-de-sac.

Angela Sharp of Bartlett & West was logged on and spoke representing the applicant. Ms. Sharp

explained that the developer has owned the property for decades and development has increased since an inter-local agreement between the City, USD 437 and his development company regarding sanitary sewer.

With no questions from the commission, there was a **Motion** by Mr. Dehn to recommend to the Governing Body approval of the Preliminary and Final Plat phases for Timber Ridge Subdivision #2, subject to the conditions listed in the staff report; **second** by Mr. Werner. **APPROVED** 7-0-1 with Mr. Armstrong abstaining

#### **Communications to the Commission**

Mr. Fiander stated that Council approved the two cases from the August Planning Commission meeting, Z20/01 and PUD19/03A.

**With no further agenda items, the meeting was adjourned at 6:37PM**

**PUD20/01**  
by Evergy, Inc.

**STAFF REPORT – PLANNED UNIT DEVELOPMENT  
TOPEKA PLANNING DEPARTMENT**

**PLANNING COMMISSION DATE: Monday, October 19, 2020**

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**APPLICATION  
INFORMATION**

**APPLICATION CASE  
NUMBER/NAME:**

**PUD20/01 By: Evergy Inc. Electric Substation**

**REQUESTED ACTION /  
CURRENT ZONING:**

Rezoning from "X-1" Mixed Use District to "PUD" Planned Unit Development (X-1 uses plus the additional use of a "Public Utility Facility, Type II") on property located on the south side of SE 6<sup>th</sup> Avenue between SE Highland and SE Golden. The PUD will allow Evergy to re-build and expand the existing substation on to adjacent property at 2647 SE Highland Avenue. The PUD is specifically intended to allow structures to exceed the height limit of 62 ft. up to a maximum height of 75 ft.

**PROPERTY OWNER:**

re  
Evergy Inc.

**APPLICANT REPRESENTATIVE:**

Alex Darby, Professional Engineering Consultants

**CASE PLANNER:**

Annie Driver, Senior Current Planner

**PROPERTY ADDRESS:**

Two properties between SE Golden and Highland along the south side of SE 6<sup>th</sup> Avenue / PID: 1320402002002000 and 1320402002001000

**PARCEL SIZE(S):**

2 Acres

**PHOTOS:**

*View from SE 6<sup>th</sup> Avenue and SE Highland / PID: 1320402002001000*







**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 rezoning from "X-1" Mixed Use District to "PUD" Planned Unit Development ("X-1" Mixed Use District plus the use of a "Public Utility Facility, Type II).

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**PROJECT AND SITE  
INFORMATION**

**PROPOSED USE / SUMMARY:**

The property owner proposes to re-build and expand the existing electric substation currently located at SE Golden and SE 6<sup>th</sup> on to adjacent property containing an automotive repair shop at 2647 SE 6<sup>th</sup> Avenue. The expansion is necessary to maintain and improve electric service within the area

Specifically, the PUD Master Plan is necessary to grant a variance to TMC18.230.050 (dimensional requirements) which restricts *"poles, towers, television, and radio antenna support systems, and similar apparatus, flag poles, erected for non-commercial purposes"* to a height of 62 ft. Under the PUD, the developer will construct a tower associate with the substation up to, but not to exceed, a height of 75 ft.

**DEVELOPMENT / CASE HISTORY:**

The substation has remained on the western parcel since 1981. Until the property was rezoned, the property was zoned "R-1" Single Family Dwelling District. It is not clear how the substation was constructed under this zoning. This was not a listed use in the zoning code at the time and is presumed to have been exempted. The automotive repair station has remained on the property at 2647 SE 6<sup>th</sup> since 1977. The site was zoned for heavy commercial uses at this time. Both properties were rezoned to "X-1" Mixed Use District in 2002 following the adoption of the East Topeka Neighborhood Plan. In the "X-1" District and in most other zoning districts, a Conditional Use Permit is required for "Public Utility Facilities Type II".

The applicant previously applied for a Conditional Use Permit (CU20/02) and have since withdrawn that application when staff determined a variance to the 62 ft. height limit was required.

#### ZONING AND CHARACTER OF SURROUNDING PROPERTIES:

The properties to the immediate north are neighborhood retail and a church (institutional) and zoned "X-1" Mixed Use District. The property to the immediate west of the existing substation is retail and zoned "X-1" Mixed Use District. The property to the immediate east of the existing automotive repair shop is a single-family residence and zoned "X-1" Mixed Use District. The block to the south of SE 6<sup>th</sup> is single-family residential and zoned "R-1" Single-Family Dwelling District.

#### COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

##### BUILDING SETBACKS & FENCES:

"X-1" Mixed Use District dimensional standards and building height limits apply unless stated otherwise.

The maximum building height in the "X-1" District is 40 feet and there are no buildings proposed. However, TMC18.230.050 (Dimensional Requirements) allows "poles, towers, television, and radio antenna support systems, and similar apparatus, flagpoles, erected for non-commercial purposes" to a height of 62 feet provided the structures meet minimum setbacks. Evergy has proposed dead-end structures up to 75 ft. ***The reason for the PUD is to grant a variance to this height limit and allow transformers and dead-end structures up to, but not to exceed, 75 ft.***

TMC18.230.050 requires towers be set back no less than 80 percent of that structure's height from the public right of way and adjacent property lines. Setbacks of poles will be reviewed at the time of Site Plan Review Application although previously reviewed plans indicated compliance with the required setbacks.

The plat denotes a 30' platted setback along SE Golden and SE 6<sup>th</sup> where the existing substation is located and the second plat denotes a 25' platted setbacks along SE 6<sup>th</sup> and Highland where the expansion is proposed. All new equipment shall comply with these platted setbacks.

The 9 ft. tall pre-cast wall is permitted on the site according to TMC18.210.040(d)(2), which indicates fences located in or upon public utility facilities may exceed the base standard of 8 ft. in height with approval by the Planning Director.

##### PARKING AND ACCESS:

Primary access to the site will occur from the driveway on SE Highland, which will be rebuilt to City standards. In the event of an emergency or major maintenance, the driveway from SE 6<sup>th</sup> will be utilized. Both entrances will be kept locked and gated by a 9 ft. tall aluminum gate.

The Topeka Zoning Ordinance does not include a parking quantity standard specifically for electrical substations.. There will be parking on-

site that is sufficient for vehicular access anticipated to occur once per month for routine maintenance. The PUD Master Plan provides for the reconstruction of the curb and addition of a new sidewalk along SE Highland.

**DESIGN STANDARDS:**

TMC18.275 Non-Residential Design Standards do not apply as the site does not contain a building. The applicant will extend the 9 ft. stone wall surrounding the expanded area. A Landscape Plan will be submitted at the time of Site Plan Review Application to include screening of the wall with landscaping.

**LANDSCAPING:**

A Landscape Plan subject to TMC 18.235 will be reviewed and approved by staff at the time of building permit approval. The 9 ft. tall stone wall with decorative aluminum gates will be extended to the east along 6<sup>th</sup>, the south property line, and along Highland. The extension of the stone wall along the south property line is being off-set by 6 ft. to leave a buffer from the adjoining residential property.

**SIGNAGE:**

No signage is proposed. If signage is proposed in the future, all signage shall comply with TMC18.10.

**LIGHTING & SOUND:**

Any exterior lighting shall be no brighter than three foot-candles as measured at the property line and the source of illumination shall not be visible from public right-of-way or adjacent properties per code. Security lighting will be installed that inside and below the height of the stone cast wall. There is no sound or no discernible sound generated by the substation.

**OTHER FACTORS**

**SUBDIVISION PLAT:**

The subject property is currently platted as Lot 1, Block A, KPL Gas Service Subdivision and Lot 1, Block A, Smith Brothers Subdivision.

**UTILITIES:**

City sewer and water service is not necessary. Any existing service lines and meters will be removed or capped at the time of demolition of the existing building.

**FLOOD HAZARDS, STREAM BUFFERS:**

Zone "X" area of minimal flooding

**HISTORIC PROPERTIES:**

None

**NEIGHBORHOOD INFORMATION MEETING:**

The applicant was not required to hold a neighborhood information meeting due to current circumstances of COVID19. The applicant did mail out a neighborhood information notice to property owners within 300 feet and post signage on the property that indicates the date of the hearing. The Planning Department has not received any comments or questions from surrounding property owners by phone or email regarding either opposition or support of the substation expansion.

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## **REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES**

Public Works /Engineering:	No issues identified regarding the rezoning. Traffic Engineering previously approved the driveway locations due to site characteristics and existing conditions. The curb will be reconstructed along Highland along with installation of new sidewalk. Detailed plans to be submitted and approved at Site Plan Review Application.
Water Pollution Control:	No issues identified regarding rezoning.
Fire Department:	No issues identified regarding rezoning.
Development Services:	No issues identified regarding rezoning. Permits will be required. Construction plans will be required for issuance of a building permit and review for compliance.

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## **KEY DATES**

SUBMITTAL:	August 27, 2020
LEGAL NOTICE PUBLICATION:	September 22, 2020
PROPERTY OWNER NOTICE MAILED:	September 24, 2020

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## **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 THE NEIGHBORHOOD:** The neighborhood is characterized by commercial retail uses intermixed with residential and institutional uses along the frontage of SE 6<sup>th</sup> Avenue, including numerous automobile oriented uses and services such as automobile repair and used sales lots. A church is located on the opposite side of SE 6<sup>th</sup>. The neighborhoods north and south sides of the SE 6<sup>th</sup> Street corridor are primarily single-family residential. There are also apartment land uses and multiple-family residential zoning interior to the neighborhood and along the edges of commercial zoned areas.

**ZONING AND USE OF NEARBY PROPERTIES:** The surrounding zoning along 6<sup>th</sup> is “X-1” Mixed Use District and downzoned in 2002 from “C-4” with the East Topeka Neighborhood Plan (2002). The intent of the district is to *facilitate a compatible mixed use activity center within a traditional residential neighborhood and, to a limited extent, in areas envisioned for mixed use development by the comprehensive plan. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to*

*moderate intensity that complement and support dense neighborhood residential areas and pedestrian usage with quality urban design* [TMC18.185.020(a)]. The subject property is presently surrounded by numerous automobile oriented uses along 6<sup>th</sup> Street, such as service stations, which do not exemplify the intent of the X-1 District. For these reasons, many automobile oriented uses in "X-1" such as many of the automobile repair and sales lots require Conditional Use Permits and are legal non-conforming uses. The predominant zoning and land uses within the interior sides of SE 6<sup>th</sup> Avenue is single-family residential and has been such since before 2002.

**LENGTH OF TIME THE PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER THE PRESENT CLASSIFICATION:** The substation has remained on the property since at least 1981 and is a legal non-conforming use. The automotive repair has remained on the site since 1974. Prior to 2002, the substation was zoned "R-1" Single Family Dwelling District and the automobile repair was zoned "C-4" Commercial District. The automobile repair is also currently a legal non-conforming use in "X-1".

**SUITABILITY OF USES TO WHICH THE PROPERTY HAS BEEN RESTRICTED:** The subject property at 2647 SE 6<sup>th</sup> is suitable as restricted under "X-1" zoning and could foreseeably develop as presently restricted by the zoning district, but its location directly next to an existing electric substation may limit its attractiveness as a suitable location for many neighborhood retail and office uses permitted in X-1. The automobile repair shop is a non-conforming use and may continue. The viability of other uses allowed under the current "X-1" District zoning has not been analyzed or determined.

**CONFORMANCE TO THE COMPREHENSIVE PLAN:** The subject property lies within an area designated "*Mixed Use Neighborhood*" in the East Topeka Neighborhood Plan (2002). There is no specific land use category for "public utility structures". However, there are policies of the Comprehensive Plan that recognize the need for public facilities in and near residential areas to sustain existing development and to provide necessary public service infrastructure to the community and neighborhood.

The substation has existed on the site since 1981 and the expansion is necessary to increase electric service reliability in the neighborhood and broader community. Additionally, the expansion allows the removal of a heavy commercial use (i.e. automobile repair shop) along SE 6<sup>th</sup> that is considered a legal-nonconforming use under the current "X-1" Mixed Use zoning. The neighborhood plan does establish policies regarding heavy commercial automobile uses along SE 6<sup>th</sup> under the "Mixed Use Neighborhood" designation. One purpose of this designation was to reduce the number of high intensity commercial uses (i.e. auto sales lots, auto repair, tow lots, etc.) along the frontage SE 6<sup>th</sup> Avenue.

The expansion of the substation will maintain the established setbacks, extends the 9 ft. tall. pre-cast wall, and will add landscaping, including trees, along street frontages for the existing site and expanded area. Approval of the PUD rezoning is deemed to be in conformance to the Comprehensive Plan as it only allows X-1 uses plus the Public Utility Structure Type II, which is needed better serve the neighborhood and community at broad.

**THE EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:** There should be minimal detrimental effects upon nearby properties as the proposed screening pre-cast wall will be extended along the south property line where adjacent with residential property. The wall is being off-set from the existing wall to provide a landscaped setback between the adjoining property and the expanded substation. The existing substation has been adjacent to the single-family residences for 40 years and has had little or no known negative impacts on the nearby properties. The substation will be made more attractive from the street frontage with the addition of landscaping, by improving the existing gravel access entrance and curb line along Highland, and adding a sidewalk. The additional tower height from the permitted 62 ft. to allow an increase to 75 ft. for one such structure will have a minimal effect on nearby properties. The applicant indicated this variance is only necessary from one type of structure and the other towers/structures will be substantially under the allowed 62 ft. height limit.

**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:** There is no apparent gain to the public health, safety and welfare by denial of the application since approval of the application is necessary to maintain and upgrade the electrical system in the neighborhood. Denial of the application would result in a significant hardship on the owner as the expansion is necessary to allow the substation to be upgraded and modernized with new equipment. The existing substation has been located on the property since at least 1981 without any significant impacts on nearby properties. As this substation nears the end of its useful life, it is necessary that it be re-built and expanded to provide adequate electric capacity to the surrounding neighborhoods

**AVAILABILITY OF PUBLIC SERVICES:** All essential public roadways, utilities, and services are currently present and available within the area or will be extended at the expense of the developer.

**COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:** The Everygy Electric Substation PUD Master Plan establishes developments standards and guidelines as indicated.

### **STAFF RECOMMENDATION**

Based upon the above findings and analysis, Planning staff recommend **APPROVAL** of the PUD Master Plan, **subject to:**

1. Use and development of the site in accordance with the **Everygy Electric Substation Master Planned Unit Development Plan** as recorded with the office of the Shawnee County Register of Deeds.
2. Removing Note #1 under General Notes.
3. Deleting text for "Current Use of Subject Property" and " Existing Substation and Auto Repair Facility".
4. Deleting "Proposed use of Subject Property" and text directly below .
5. Under **ZONING** replacing "Existing Zoning X-1 Mixed Use" with "Uses in accordance with X-1 Mixed Use District and public utility facility type II, electric substation as an allowed use"
6. Adding a title directly above the fence graphic: "Fencing for Electric Substation"

**PLANNING COMMISSION MOTION:** Based on the findings and analysis in the staff report I move to recommend to the Governing Body **APPROVAL** of the rezoning from "X-1" Mixed Use District to "PUD" Planned Unit Development ("X-1" Mixed Use District plus the use of a "Public Utility Facility, Type II).

#### **ATTACHMENTS:**


Aerial Map  
Zoning Map  
Future Land Use Map  
PUD Master Plan



# PUD20/01 By: Evergy Inc.



City of Topeka  
Planning and Development  
Department

 PUD20-01 Evergy

# PUD20/01 By: Evergy Inc (Zoning Map)



City of Topeka

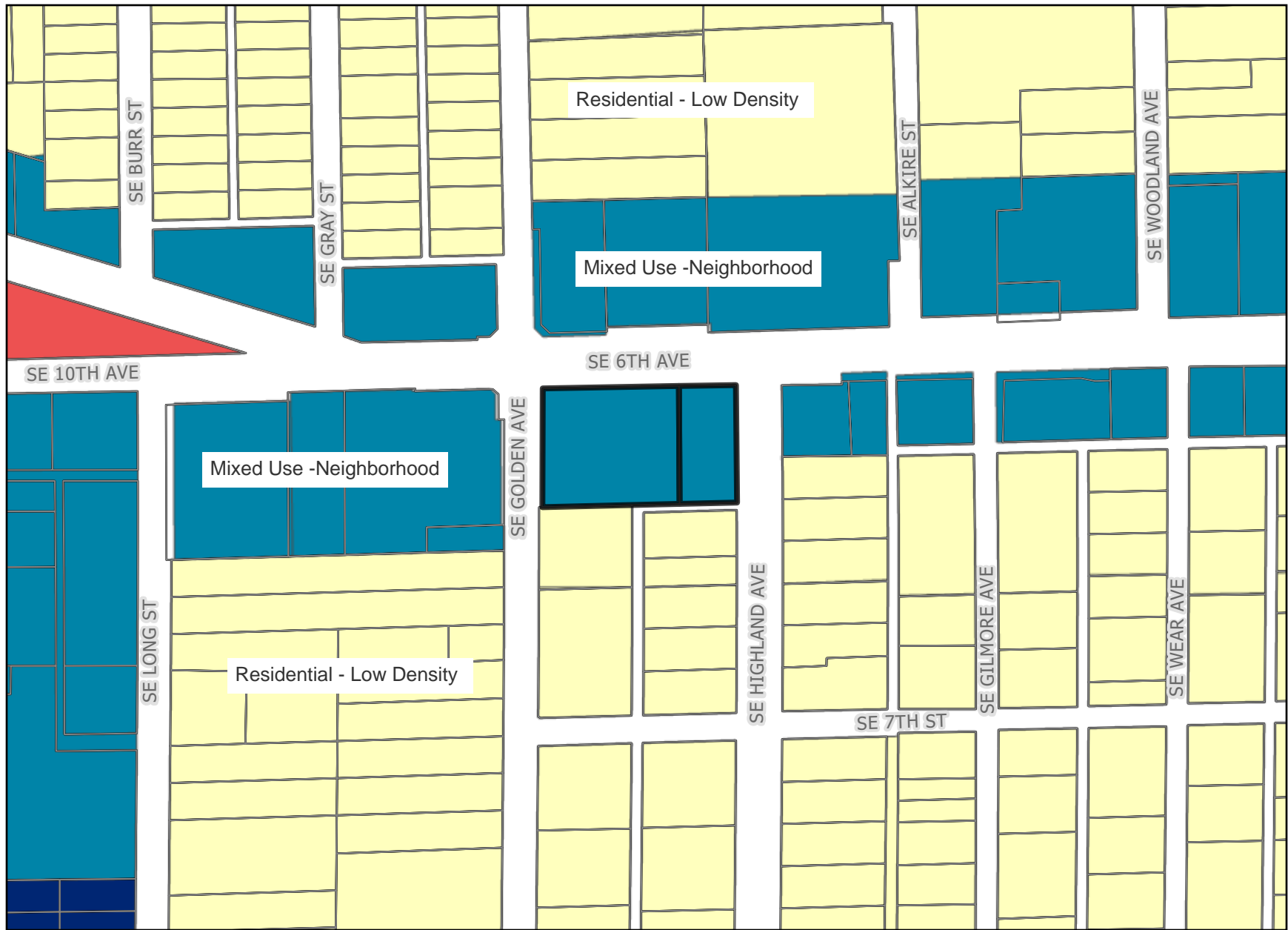


City of Topeka  
Planning and Development  
Department

Legend  
Subject Property



# PUD20/01 By: Evergy Inc (Future Land Use - East Topeka)



City of Topeka  
Planning and Development  
Department

Legend

 Subject Property

PROJECT PERFORMANCE OBJECTIVES:

1. THE INTENT OF THIS PROJECT IS TO ALLOW FOR THE UPGRADE OF A SUBSTATION FOR EVERGY TO BETTER SERVE THE AREA.

GENERAL NOTES:

1. BUILDING PERMIT...
2. THE BASE ZONING OF X-1 SHALL APPLY UNLESS NOTED OTHERWISE HEREIN.
3. NO BUILDING PERMITS SHALL BE ISSUED UNTIL A SITE PLAN REVIEW APPLICATION, SUBJECT TO TMC 18.190.060(C) HAVE BEEN REVIEWED AND APPROVED BY THE PLANNING DIRECTOR AND OTHER CITY AGENCIES PRIOR TO SUBMITTAL FOR BUILDING PERMITS. THESE SITE PLANS SHALL ADDRESS INDIVIDUAL BUILDING SITE LOCATIONS, OFF-STREET PARKING AND INTERNAL CIRCULATION, FIRE HYDRANTS, LANDSCAPING, FENCING, PEDESTRIAN CONNECTIVITY, EXTERNAL LIGHTING, SIGNAGE, BUILDING ELEVATIONS, OPTED, UTILITIES, STORM WATER, RELATIONSHIP TO ADJACENT LOTS, ETC.
4. NO BUILDING PERMITS SHALL BE ISSUED UNTIL THE PROPERTY IS PLATTED.
5. NO BUILDING PERMITS SHALL BE ISSUED UNTIL STORMWATER MANAGEMENT PLANS AND REQUIREMENTS ARE MET AND APPROVED, INCLUDING GRANTING OF ANY NECESSARY STORMWATER MANAGEMENT EASEMENTS.

VARIANCES:

1. PURSUANT TO TMC 18.190.080 THE TOPEKA PLANNING COMMISSION GRANTS A VARIANCE TO SECTION 18.230.050 EXCEPTIONS TO HEIGHT LIMITATIONS TO ALLOW THE MAXIMUM HEIGHT OF TRANSFORMER TOWERS AND DEAD-END STRUCTURES TO EXCEED A HEIGHT OF 62 FEET BUT NO TALLER THAN 75 FEET.

SIGNAGE NOTES:

1. SIGNS SHALL BE APPROVED BY SEPARATE SIGN PERMIT APPLICATION.
2. TMC 18. DIVISION 2 SIGNS SHALL GOVERN ALL OTHER SIGNS UNLESS SPECIFICALLY STATED HEREIN.

LANDSCAPE/FENCE NOTES:

1. A LANDSCAPE PLAN DEMONSTRATING COMPLIANCE WITH TMC 18.235 AND SPECIFICALLY INDICATING TYPE, SPECIES, AN QUANTITY SHALL BE SUBMITTED FOR REVIEW AND APPROVAL AT THE TIME OF SITE PLAN REVIEW APPLICATION, THE LANDSCAPE PLAN SHALL ADDRESS LANDSCAPING FOR BOTH THE EXISTING AND NEW SUBSTATION AND PROVIDE A 6 FOOT RESIDENTIAL BUFFER ALONG THE SOUTH PROPERTY LINE FOR THE EXPANDED AREA.
2. THE CARE, MAINTENANCE, AND OWNERSHIP OF COMMON OPEN SPACE, PARKING AREAS, UTILITIES, PRIVATE STREETS, ACCESS WAYS, STORMWATER MANAGEMENT EASEMENTS, FENCING, AND LANDSCAPING SHALL BE THE RESPONSIBILITY OF THE OWNERS, ALL LANDSCAPING SHALL BE INSTALLED PURSUANT TO PHASING SCHEDULE AND PROPERLY MAINTAINED, IF ANY PORTION OF THE LANDSCAPED MATERIAL DIES, IT SHALL BE REPLACED BY THE NEXT PLANTING SEASON.

A MASTER PLANNED UNIT DEVELOPMENT PLAN

for  
EVERGY ELECTRIC SUBSTATION  
SE 6th & GOLDEN

NW 1/4 , SEC.4, T12S, R16E  
OF THE 6th PM IN  
SHAWNEE COUNTY, KS

UTILITY NOTES:

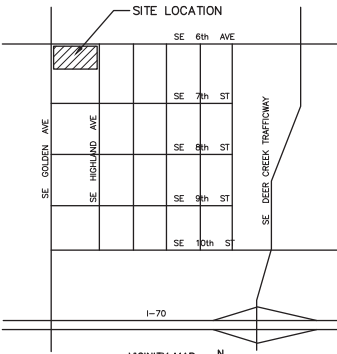
1. LIGHTING SHALL BE SHIELDED AND RECESSED WITH OUR OFF ANGLES TO PREVENT THE CAST OF LIGHTING BEYOND THE PROPERTY AND NOT EXCEED THREE FOOT-CANDLES AS MEASURED AT THE PROPERTY LINE.

CIRCULATION, PARKING, & TRAFFIC NOTES:

1. ALL DRIVES AND SIDEWALKS WILL EITHER REMAIN OR ARE PROPOSED AS SHOWN ON THE PLAN HEREIN . ALL DRIVE ACCESS POINTS SHALL COMPLY WITH SIGHT TRIANGLE STANDARDS OF THE CITY OF TOPEKA.
2. NO PEDESTRIAN ACCESS IS PROPOSED TO THE SITE. ONLY PUBLIC ACCESS ALONG THE PUBLIC RIGHT-OF-WAY.
3. ALL DRIVES, LANES, AND PRIVATELY OWNED ACCESS WAYS PROVIDING ACCESSIBILITY TO STRUCTURES, BUILDINGS, AND USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE CONSIDERED AND SERVE AS MUTUAL RIGHTS OF ACCESS FOR OWNERS, TENANTS, INVITED GUESTS, CLIENTS, CUSTOMERS, SUPPORTS AND UTILITY SERVICE PERSONNEL AND EMERGENCY SERVICE PROVIDERS, INCLUDING LAW ENFORCEMENT, FIRE PROTECTION, AND AMBULANCES SERVICES. ALL ACCESS WAYS PROVIDING GENERAL ACCESSIBILITY TO, AND CIRCULATION AMONG, THE USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE MAINTAINED AT ALL TIMES IN GOOD SERVICEABLE CONDITION WITH THE MAINTENANCE OF SAID ACCESS WAYS BEING THE RESPONSIBILITY OF THE OWNER(S).
4. THE LOCATION, NUMBER, AND SPACING OF ALL ACCESS OPENINGS SHALL BE REVIEWED AND APPROVED BY THE CITY TRAFFIC ENGINEER AT THE TIME OF SITE PLAN REVIEW APPLICATION FOR CONSISTENCY TO CITY STREET DESIGN SPECIFICATIONS.

PROJECT INFORMATION:

1. X-1 MIXED USE DISTRICT PLUS THE ADDITIONAL USE OF A PUBLIC UTILITY STRUCTURE, TYPE II (ELECTRIC SUBSTATION).



OWNER:

EVERGY, INC.  
818 S KANSAS AVE  
TOPEKA, KS 66612

ENGINEER:

ALEXANDER M. DARBY, PE-20332  
PROFESSIONAL ENGINEERING CONSULTANTS, P.A.  
400 S KANSAS AVE, #200  
TOPEKA, KS 66603  
(785) 233-8300

PROPERTY DESCRIPTION:

LOT 1, BLOCK A, K.P. & L. SUBDIVISION, AND LOT 1, BLOCK A, SMITH BROTHERS SUBDIVISION, IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 12 SOUTH, RANGE 16 EAST, OF THE 6TH PRINCIPAL MERIDIAN IN SHAWNEE COUNTY, KANSAS.

BENCHMARKS:

BM A: SQUARE CUT ON STORM DRAIN INLET AT THE SOUTHEAST CORNER OF 6TH AND GOLDEN.  
EL.=923.92

BM B: SQUARE CUT ON STORM DRAIN INLET EAST CURB LINE OF HIGHLAND STREET SOUTH OF 6TH STREET,  
EL.=930.75

CURRENT USE OF PROPERTY:

EXISTING SUBSTATION AND AUTO REPAIR FACILITY.

PROPOSED USE OF PROPERTY:

PUBLIC UTILITY: PUBLIC UTILITY FACILITIES TYPE II, SUBSTATION  
(EXISTING SUBSTATION TO BE EXPANDED TO THE EAST).

ZONING:

EXISTING ZONING: X1 MIXED USE

BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
DATE \_\_\_\_\_ TIME \_\_\_\_\_

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS

REBECCA J. NIOCE, REGISTER OF DEEDS

CERTIFICATION OF PUD MASTER PLAN APPROVAL

THIS PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN HAS BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 18.190 OF THE COMPREHENSIVE ZONING REGULATIONS OF THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS AND MAY BE AMENDED ONLY AS PRESCRIBED IN TMC 18.190.070 OF AND AS SET FORTH ON THIS DOCUMENT OR AS MAY SUBSEQUENTLY BE APPROVED AND RECORDED.

BILL FIANDER, PLANNING & DEVELOPMENT DIRECTOR  
SECRETARY TO THE PLANNING COMMISSION

BE IT REMEMBERED THAT ON THIS \_\_\_\_\_ DATE OF \_\_\_\_\_, A.D. 2020 BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE CAME BILL FIANDER, WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON WHO EXECUTED THE WITHIN INSTRUMENT OF OF WRITING, AND SUCH PERSON DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

IN WITNESS WHEREOF, I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: \_\_\_\_\_

OWNER'S CERTIFICATE: EVERGY, INC. AGREES TO COMPLY WITH THE CONDITIONS AND RESTRICTIONS AS SET FORTH ON THE MASTER PUD PLAN.

IN WITNESS WHEREOF:

THE OWNER OF THE DESCRIBED PROPERTY, EVERGY, INC. HAVE SIGNED THESE PRESENTS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

CHRISTOPHER MEYER, SR. ENGINEER

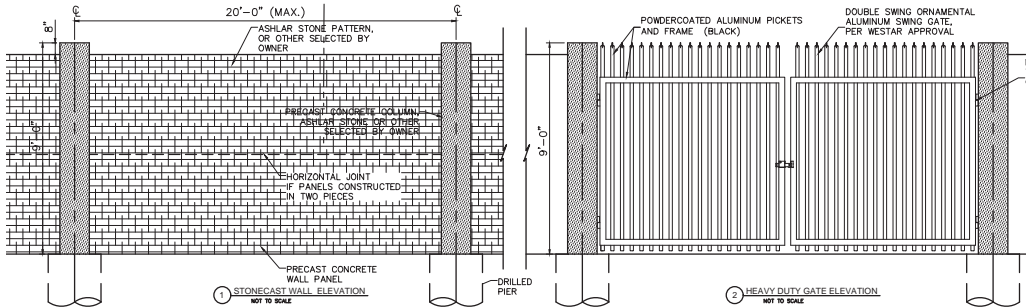
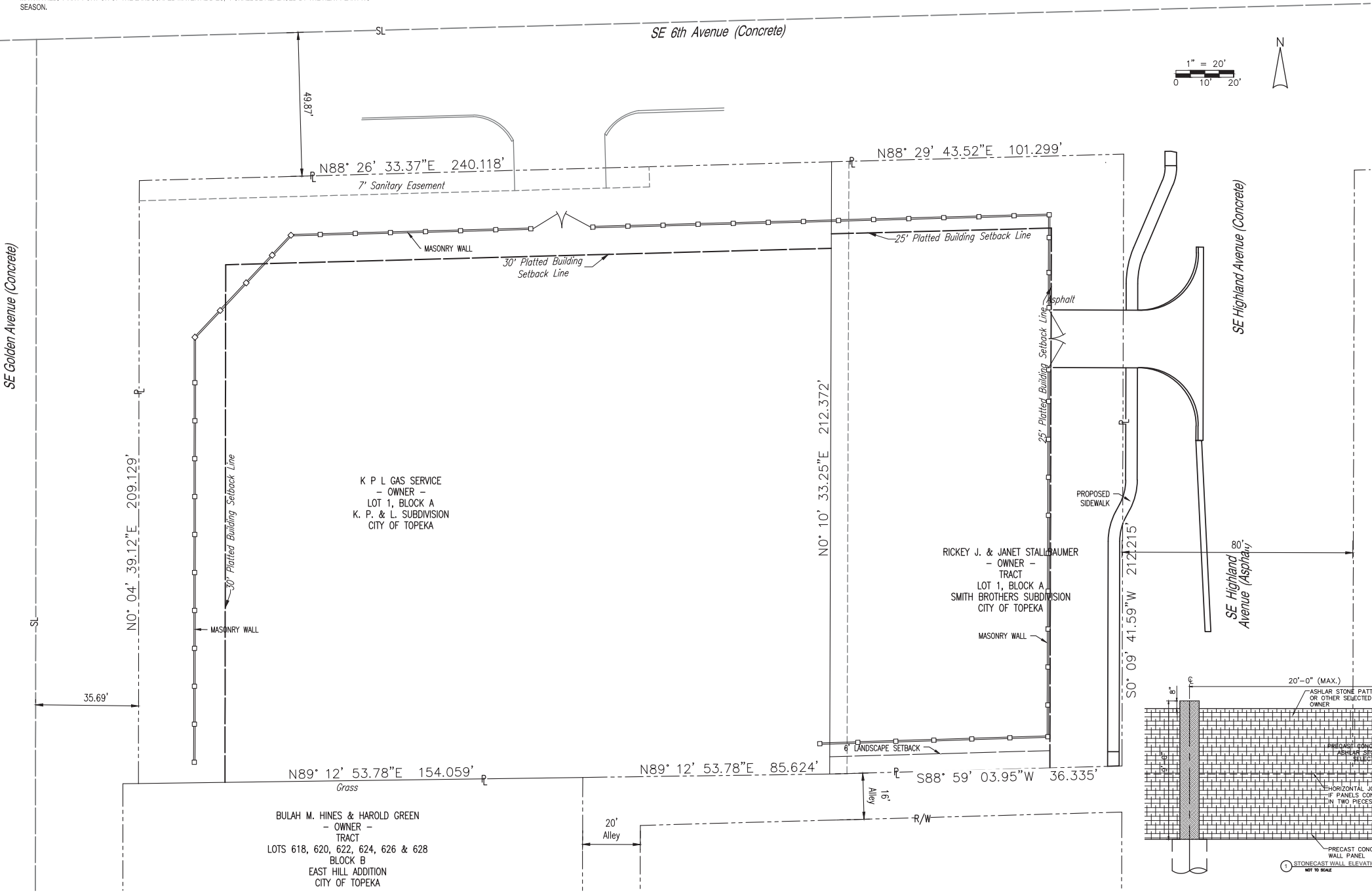
BE IT REMEMBERED THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 2020 BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE CAME \_\_\_\_\_, OWNER OF THE ABOVE DESCRIBED PROPERTY.

I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: \_\_\_\_\_

PURSUANT TO TMC 18.190, THE APPLICANT MUST RECORD THE MASTER PUD PLAN WITH THE SHAWNEE COUNTY REGISTER OF DEEDS WITHIN SIXTY (60) DAYS UPON APPROVAL OF THE GOVERNING BODY. FAILURE BY THE APPLICANT TO RECORD THE PLAN WITHIN THE PRESCRIBED TIME PERIOD AND PROVIDE THE PLANNING DEPARTMENT WITH THE REQUIRED NUMBER OF COPIES OF THE RECORDED PLAN WITHIN NINETY (90) DAYS OF THE DATE OF ACTION BY THE GOVERNING BODY SHALL RENDER THE ZONING PETITION NULL AND VOID.



evergy

# **Short-Term Rental Regulations**



# CITY OF TOPEKA

Planning Division  
620 SE Madison, Unit 11  
Topeka, KS 66607

Bill Fiander, AICP, Planning Director  
Tel: 785-368-3728  
[www.topeka.org](http://www.topeka.org)

**To: Topeka Planning Commission**  
**From: Mike Hall, AICP; Manager, Current Planning**  
**Date: October 19, 2020**

**RE: ACZR 20/01 Text Amendment for Short Term Rental Regulations**

Staff is presenting for your consideration and discussion draft changes to the zoning regulations regarding transient lodging of the type available on AirBnB, Verbo, and similar on-line platforms otherwise known as “short term rentals.”

No action is requested at this time. You will be asked to make a recommendation to the Governing Body on a recommended zoning code amendment upon conducting a public hearing at a future meeting, possibly as early as December 2020.

### **Stakeholder Meetings**

Planning staff scheduled two stakeholder meetings for proposed short term rental regulations. The first meeting, for owner/operators of short term rentals, is being held at 6pm, October 12<sup>th</sup>. The second meeting, mainly for property owners in proximity to short term rentals, will occur at 6pm, October 14<sup>th</sup>. Both meetings will be conducted via Zoom.

For the stakeholder meetings staff sent invitations to 20 owners (for a total of 31 known short term rental properties) and 495 owners of properties located within 200 feet of known short term rental properties. At the October 19<sup>th</sup> meeting staff will present to the Planning Commission the feedback received from the two stakeholder meetings.

### **“Short Term Rentals” per Current Zoning Regulations**

Topeka’s zoning regulations accommodate “short term rentals” in two types: “bed & breakfast homes” and “bed & breakfast inns” as defined by the Topeka zoning ordinance (TMC 18.55.020).

A bed & breakfast home is “a private, owner occupied single family dwelling where no more than four guestrooms are provided for overnight paying guests for not more than seven consecutive nights. The dwelling shall be the primary residence of the owner with no employees permitted, other than permanent residents of the dwelling.” The key characteristic of bed & breakfast homes is that the principal use is essentially a single family residence to which the overnight stay of guests is secondary.

A bed & breakfast inn is “a single family structure that provides not more than 10 guestrooms for overnight paying guests.” The bed & breakfast inn is more like a hotel as the principal use in that the owner or long term tenant does not necessarily reside in the building and in which a larger number of guests is allowed.

In single-family residential zoning districts (R-1, R-2), bed and breakfast homes and inns are permitted only by a conditional use permit (CUP) approved by the Governing Body.

## **Background / Recommended Standards**

The circumstances surrounding short term rentals in Topeka arose as a result of complaints received about a concentration of short term rentals in the Auburndale neighborhood (generally located north of SW 6<sup>th</sup> Avenue between SW MacVicar on the west and the Potwin neighborhood on the east).

The Planning & Development Department issued a notice of violation to the owner of a “bed and breakfast inn”, requiring a conditional use permit. The owner appealed and, upon holding a public hearing, the Board of Zoning Appeals denied the appeal and upheld the action of the Planning & Development Director. The proceedings of the public hearing revealed there are many bed and breakfast “homes” and “inns” in Topeka and none approved by conditional use permit. A subsequent decision was made to hold off requiring owners of bed and breakfast homes and inns to obtain conditional use permits pending consideration of an amendment to the zoning code to address these uses, while enforcing generally the specific standards for them in section 18.225.010 of the zoning code.

Staff has completed a ***Report on the State of Short-Term Rentals within the City of Topeka*** (attached) which was provided to stakeholders by a link to the Planning Division web page. The summary describing the current and proposed standards, and the reason for the changes, was provided to stakeholders and is attached. The draft zoning code changes provided to stakeholders are also attached.

In summary, the proposed changes:

- provide more practical and effective definitions for short term rentals, including definitions for three types of short term rental (short term rental, types I, II, and III);
- allow short term rental, types I and II by administrative permit and type III by conditional use permit in single family residential districts (R-1, R-2) and two family residential districts (M-1, M-1A);<sup>1</sup> and
- require short term rentals to comply with specific use standards, including standards for off-street parking currently not included in the standards for bed and breakfast homes and inns.

## **Attachments**

1. *Report on the State of Short-Term Rentals within the City of Topeka*
2. Summary of Current Regulations, Proposed Regulations, and Purpose of Proposed Changes
3. Draft Zoning Code Text Amendment

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<sup>1</sup> Under current regulations bed and breakfast homes and inns require a conditional use permit in single family and two family residential zoning districts.

# City of Topeka

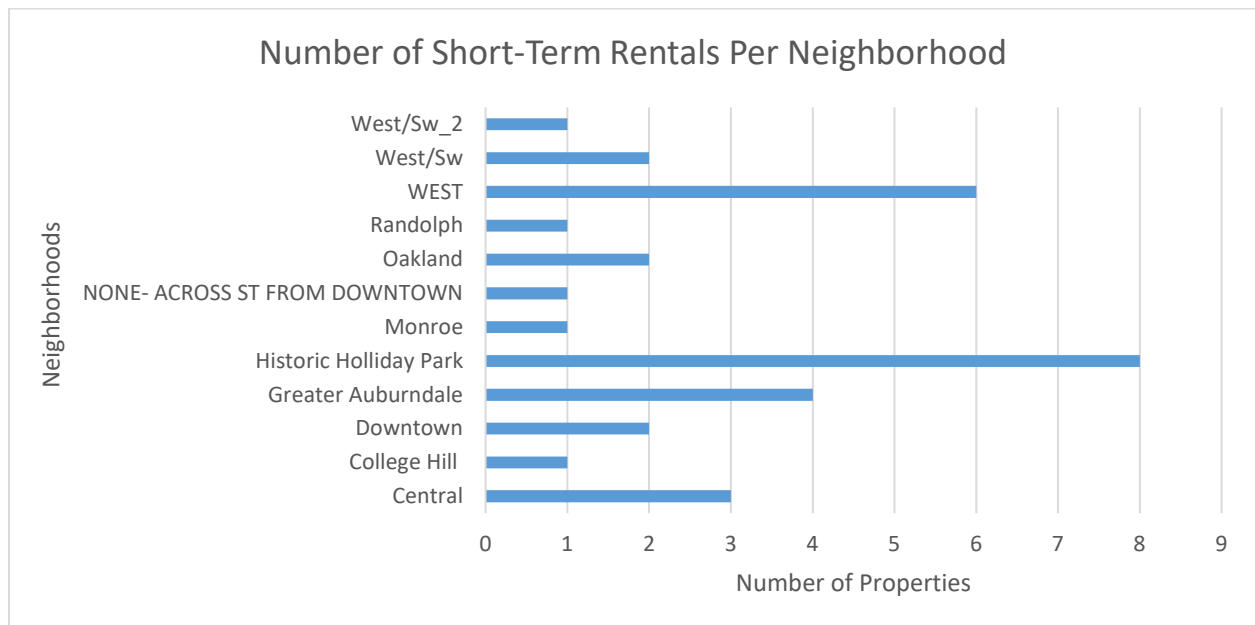
## Planning Division

### Report on the State of Short-Term Rentals Within the City of Topeka September 22, 2020

Planning Staff collected information over a period of several days, March 24 - 26, 2020 using the travel dates of November 6 – 13, 2020 for two adults. Platforms searched were: VRBO, FlipKey, HomeAway, and Airbnb with a total of 32 properties found within the city limits.

### Neighborhoods

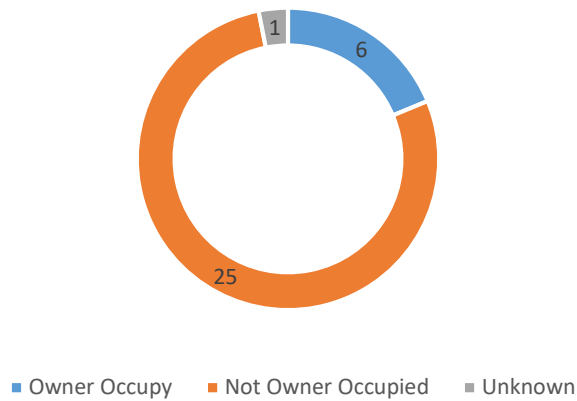
Twelve neighborhoods were identified as having at least one property that is listed as a short-term rental. (See chart below.)



### Occupied Status

Of these properties, 25 were found to be not occupied by the owner and six were found to be occupied by the owner. One property has no owner information. (See graph below)

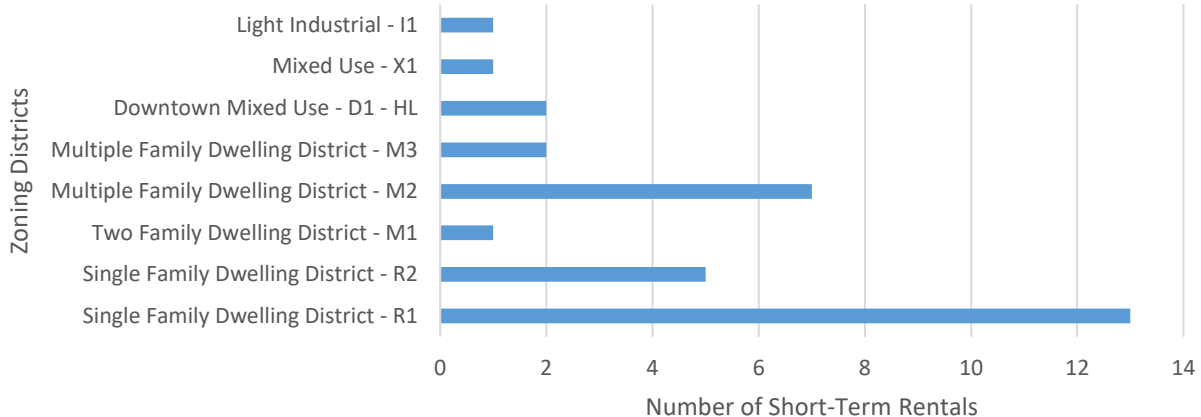
Number of Owner Occupy Vs. Not Owner Occupied



## **Zoning**

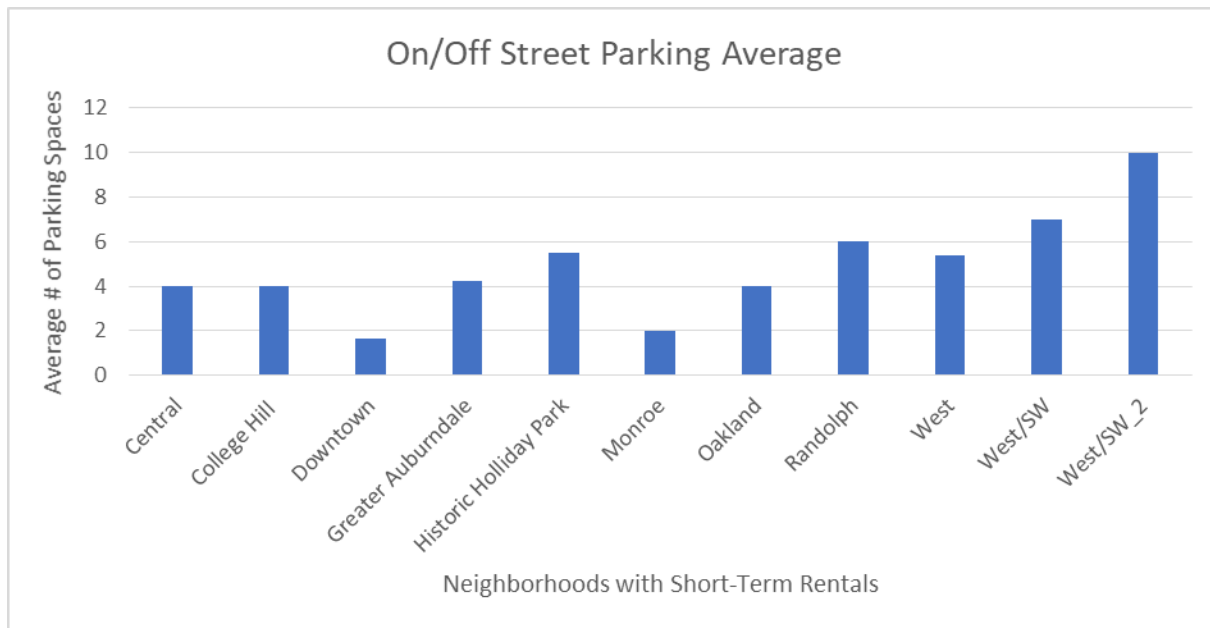
Zoning districts for these properties may vary, however, the majority were located in Single Family Dwelling District – R1, followed by Multiple Family Dwelling – M2, and Single Family Dwelling – R2. (See chart below for break down)

Number of Short-Term Rentals per Zoning District



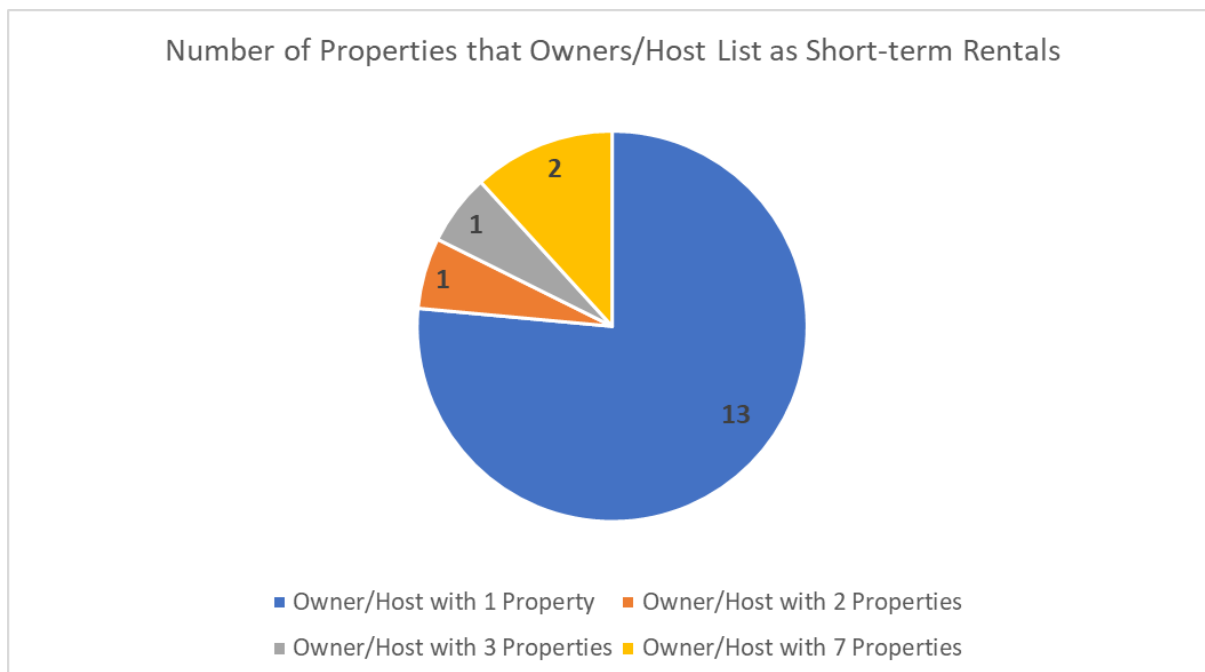
## **Parking**

Parking is a concern for neighbors of short-term rentals, however, staff's research indicates that the majority of the properties have both on and off street parking for at least two cars. Although, there are a few locations where it appears to be no parking. (See chart below)



### **Listed and/or Owned**

Of the 32 properties, there were properties that were listed and/or owned by the same person. Out of these properties four people have listed and/or own two or more properties. (See chart below)



Research on what other Kansas and Missouri cities are doing to regulate short-term rentals is underway and a separate report will be written.



# **SUMMARY**

## **Short Term Rentals**

### **Current Zoning Regulations**

Much of the transient lodging offered on Air BnB, Verbo, and other online platforms is currently regulated by Topeka's zoning code under the land use categories of "bed and breakfast home" and "bed and breakfast inn." A "bed and breakfast home" is defined as *"a private, owner-occupied single-family dwelling where no more than four guestrooms are provided for overnight paying guests for not more than seven consecutive nights . . . ."* A "bed and breakfast inn" is defined as *"a single-family structure or portion thereof that provides not more than 10 guestrooms for overnight paying guests. Food service may be provided for guests and sometimes in conjunction with social events."*

Under current regulations bed and breakfast homes and inns require a conditional use permit in single-family (R-1, R-2, R-3) and two-family (M-1, M-1a) residential zoning districts. The zoning regulations include other standards specific to bed and breakfast homes and inns. The standards are intended to ensure bed and breakfast homes are compatible with surrounding residential land uses.

### **Proposed Zoning Regulations**

The proposed regulations replace "bed and breakfast home" with two categories of transient lodging: "short term rental, type I, which is owner-occupied, and "short term rental, type II", which is not owner-occupied. "Bed and breakfast inn" is replaced with "short term rental, type III."

It is proposed that the three types of short term rental be defined by length of stay, owner or non-owner occupancy, number of sleeping rooms, allowance for events and related activities. It is also recommended that short term rental types I and II be allowed in single and two-family residential districts but be subject to specific standards and require an administrative permit. Short term rental, type III would require a conditional use permit in single and two-family residential districts, as is the current requirement for bed and breakfast inns.

### **Why are Changes Proposed?**

The City of Topeka regularly updates its zoning regulations to more efficiently and effectively respond to the needs of owners, residents, and other stakeholders. The availability and use of short term rentals has proliferated along with the growth in the sharing economy and internet commerce. The current regulations in Topeka's zoning code lack clarity and do not meet the needs and expectations of stakeholders.

## Draft Zoning Code Text Amendment

### Short Term Rentals

October 2020

#### Instructions for Reading this Document:

Text in the current regulations **to be removed** is indicated in strike-out. Example: “~~Bed and breakfast home~~” means a private, owner-occupied single family dwelling .....

Text **to be added** to the regulations is underlined. Example, “Owner-occupied” means any dwelling in which.....

Text in the current regulations but **to remain unchanged** is not in strike-out or underlined. Example: “Boarding house” means any dwelling where.....

Numbers such as **18.55** and **18.225.010** denote the chapter and section of the Topeka Municipal Code.

## Chapter 18.55

### DEFINITIONS

~~“Bed and breakfast home” means a private, owner-occupied single family dwelling where no more than four guestrooms are provided for overnight paying guests for not more than seven consecutive nights. The dwelling shall be the primary residence of the owner with no employees permitted, other than permanent residents of the dwelling. Food service may be provided for guests.~~

~~“Bed and breakfast inn” means a single family structure or portion thereof that provides not more than 10 guestrooms for overnight paying guests. Food service may be provided for guests and sometimes in conjunction with social events.~~

“Boarding house” means any dwelling where for compensation and by prearrangement lodging with or without food is provided for three or more persons but not exceeding 20 persons in contradiction to hotels. No personal care is provided.

“Dwelling” means a building or portion thereof, used exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, but not including hotels, motels, ~~lodginghouses,~~ boardinghouses, tourist homes, nor house trailers and mobile homes as defined by this chapter.

“Hotel” means a building or group of buildings offering transient lodging accommodations normally on a daily rate to the general public, where access to the rooms is made through a lobby, and with or without accessory uses, such as restaurants, meeting rooms, or recreational facilities. (Ord. 19707 § 2, 2-28-12.)

“Motel” means a building or group of buildings offering transient lodging accommodations normally on a daily rate to the general public, where access to each room is provided directly by an exterior door, and with or without accessory uses, such as restaurants, meeting rooms, or recreational facilities.

“Owner-occupied” means any dwelling in which the owner of record resides for 182 days or more per calendar year.

“Non-owner Occupied” means and dwelling in which the owner of record does not reside in the dwelling or resides in the dwelling fewer than 182 days per calendar year.

“Short term residential rental, type I” means a portion of a dwelling or room within an owner occupied dwelling, containing no more than three (3) sleeping rooms, rented to transient guests for a period less than thirty (30) days.

“Short term residential rental, type II” means a portion of a dwelling or room within a non-owner occupied dwelling, containing no more than three (3) sleeping rooms, rented to transient guests for a period less than thirty (30) days.

“Short term residential rental, type III” means a single-family structure or portion thereof, which may or may not be owner-occupied, containing four (4) to ten (10) sleeping rooms rented to transient guests for a period less than thirty (30) days. Food service may be provided for guests and sometimes in conjunction with social events.

“Transient guest” means a person who occupies a sleeping room in a hotel, motel, bed and breakfast inn, or short term rental for a period less than thirty (30) days.

Use Standards, TMC 18.60.010

## 18.60.010 Use Tables

A = Allowed

S/C = Allowed but Specific Use Requirements Apply; CUP to vary from specific use requirements

C = Conditional Use Permit Required

P = Prohibited

Land Use	Zoning District														
	R-1, R-2, R-3	R-4	M-1	M-1a	M-2	M-3	O&I-1	O&I-2	O&I-3	C-1	C-2	C-3	C-4	I-1	I-2
Bed & Breakfast Home	C	P	C	C	A	A	A	A	A	P	P	P	P	P	P
Bed & Breakfast Inn	C	P	C	C	S/C	S/C	C	C	C	A	A	A	A	A	A
Short Term Residential Rental, Type I	S/C	P	S/C	S/C	A	A	P	P	P	P	P	P	P	P	P
Short Term Residential Rental, Type II	S/C	P	S/C	S/C	A	A	P	P	P	P	P	P	P	P	P
Short Term Residential Rental, Type III	C	P	C	C	S/C	S/C	C	C	C	S/C	A	A	A	A	A

Land Use	Zoning District									
	U-1	MS-1	X-1	X-2	X-3	D-1	D-2	D-3	RR-1	OS-1
<del>Bed &amp; Breakfast Home</del>	P	A	C	C	C	S	C	P	C	P
<del>Bed &amp; Breakfast Inn</del>	P	C	A	C	A	A	A	C	C	P
<u>Short Term Residential Rental, Type I</u>	P	S/C	S/C	S/C	S/C	A	S/C	S/C	S/C	P
<u>Short Term Residential Rental, Type II</u>	P	S/C	S/C	S/C	S/C	A	S/C	S/C	S/C	P
<u>Short Term Residential Rental, Type III</u>	P	C	S/C	C	A	A	A	C	C	P

## Chapter 18.225

### SPECIFIC USE REQUIREMENTS

#### 18.225.010 Special Use Requirements

##### (z) Bed and Breakfast Home Reserved.

~~(1) *Specific Requirements.* Requests to establish a bed and breakfast home shall conform to all of the following requirements:~~

~~(i) The bed and breakfast shall operate as an ancillary use to the principal use of the residence as a single-family dwelling.~~

~~(ii) The bed and breakfast shall be located in an existing single-family dwelling and no new structure shall be built expressly for a bed and breakfast establishment.~~

~~(iii) The bed and breakfast shall be operated within the single-family dwelling and not in any accessory structure.~~

~~(iv) The primary entrance to all guestrooms shall be from within the dwelling. A guestroom can retain an original secondary exterior entrance opening onto a porch or balcony.~~

~~(v) The exterior of the dwelling and premises shall outwardly remain and appear to be a single-family dwelling giving no appearance of a business use.~~

~~(vi) Individual guestrooms shall not contain cooking facilities.~~

~~(vii) The bed and breakfast shall not be used for weddings, receptions, parties, business meetings, or similar such activities.~~

~~(viii) One nonilluminated nameplate sign, attached flat on the face of the principal dwelling, shall be permitted, not to exceed nine square feet. The nameplate shall be styled and detailed architecturally with the principal building and shall be limited to the name of the bed and breakfast or owner or both.~~

~~(ix) Retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a bed and breakfast establishment shall be permitted subject to the following requirements:~~

~~(A) The merchandise offered for sale shall be confined to the dwelling and not located within a garage or accessory structure, whether attached or detached.~~

~~(B) Merchandise offered for sale shall be restricted to that produced on site; souvenir items bearing the name and/or logo of the establishment; and those items customarily provided for the convenience of resident guests.~~

~~(C) There shall be no advertising, display or other indication of merchandise offered for sale on the premises.~~

~~(D) No commercial telephone listing, newspaper, radio or television service shall be used to advertise the sale of merchandise.~~

~~(E) The total area devoted to the display or merchandise shall not exceed five percent of the gross floor area of the dwelling, excluding an attached garage.~~

(aa) ~~Bed and Breakfast Inn~~ Short Term Residential Rental, Type III.

(1) *Specific Requirements.* Requests to establish a bed and breakfast inn shall conform to all of the following requirements:

(i) ~~The bed and breakfast~~ short term residential rental, type III shall be located in an existing single-family dwelling and no new structure shall be built expressly for a ~~bed and breakfast establishment short-term rental, type III.~~

(ii) ~~The bed and breakfast~~ short term residential rental, type III shall be operated within the single-family dwelling and not in any accessory structure.

(iii) The primary entrance to all guestrooms shall be from within the dwelling. A guestroom can retain an original secondary exterior entrance opening onto a porch or balcony, or from a basement unit.

(iv) The exterior of the dwelling and premises shall outwardly remain and appear to be a single-family dwelling giving no appearance of a business use.

(v) Individual guestrooms shall not contain cooking facilities.

(vi) ~~One nonilluminated nameplate sign, attached flat on the face of the principal dwelling, shall be permitted, not to exceed nine square feet. The nameplate shall be styled and detailed architecturally with the principal building and shall be limited to the name of the bed and breakfast or owner or both. Signage shall be regulated by the Topeka Sign Code except as allowed or restricted by conditional use permit.~~

(vii) Only Retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a bed and breakfast establishment shall be permitted. ~~subject to the following requirements:~~

~~(A) The merchandise offered for sale shall be confined to the dwelling and not located within a garage or accessory structure, whether attached or detached.~~

~~(B) Merchandise offered for sale shall be restricted to that produced on site; souvenir items bearing the name and/or logo of the establishment; and those items customarily provided for the convenience of resident guests.~~

~~(C) There shall be no advertising, display or other indication of merchandise offered for sale on the premises.~~

~~(D) No commercial telephone listing, newspaper, radio or television service shall be used to advertise the sale of merchandise.~~

~~(E) The total area devoted to the display or merchandise shall not exceed five percent of the gross floor area of the dwelling, excluding an attached garage.~~

~~(F)~~(viii) In the RR-1 district, a ~~bed and breakfast inn~~ short term residential rental, type III shall not be established on less than a three-acre parcel. In all other districts where permitted, a bed and breakfast inn shall be established on a parcel having a minimum size equivalent to 500 square feet per guestroom plus the minimum lot area of the district, for a single-family dwelling, in which located.

(ix) The short term residential rental, type III shall contain a minimum of three (3) off-street parking spaces and one (1) additional off-street parking space for every two sleeping rooms in excess of five (5) sleeping rooms. The Planning & Development Director may allow up to two on-street parking spaces to substitute for required off-street parking if the property contains frontage of 44 feet or more exclusive of driveway approaches and sidewalk ramps.

~~(G)(x)~~ Social events such as weddings, receptions, parties, business engagements or similar activities may be accommodated in conjunction with a bed and breakfast inn, subject to the following requirements:

1. The scheduling and conduct of social events shall be incidental and subordinate to the principal use of the premises as a bed and breakfast inn.
2. All scheduled events shall be by prearranged contract or agreement. Such events shall not be open to the general public.
3. No amplified sound or music, noise or glare shall be allowed outside the inn nor be perceptible from beyond the property line.
4. Social events shall be restricted to between the hours of 9:00 a.m. and 11:00 p.m.
5. Submission of a plan of operation which shall include: Arrangements for parking. Parking for Social Events. Parking for event guests in addition to parking for transient guests shall be provided at a quantity required for religious assembly or cultural facilities.
  - a. ~~Types of social events anticipated to be scheduled at the inn including the types of services to be offered in conjunction with a social event and the anticipated maximum number of guests to be accommodated.~~
  - b. ~~Days of the week and hours of operation for which social events would be scheduled.~~
  - c. ~~Any permitted outdoor activities and the location on the premises that may be used for such activities.~~
  - d. ~~Supervision of guests and arrangements for enforcement of any provisions of the conditional use permit, when applicable.~~
  - e. ~~Any proposed screening, buffering, or landscaping to mitigate potential negative effects.~~
  - f. Arrangements for parking. Specify the added number and location of guest parking in conjunction with social events. Additional on-site parking shall not interfere with accessing guest parking spaces nor conflict with internal traffic circulation.

(2) An administrative permit shall be required and issued by the Planning & Development Director after it is determined the short term residential rental complies with all of the above standards. If one or more of the requirements cannot be met, a person may apply for a conditional use permit pursuant to Chapter [18.215](#) TMC.

\* \* \*

(ii) Short Term Residential Rental, Type I.

(1) Specific Requirements. Requests to establish a short term residential rental, Type I shall conform to all of the following requirements:

(i) The short term residential rental shall be located in an existing dwelling and no new structure shall be built expressly for a short term residential rental.

(ii) The primary entrance to all guestrooms shall be from within the dwelling. A guestroom may retain an original secondary exterior entrance opening onto a porch or balcony, or from a basement unit.

(iii) The exterior of the dwelling and premises shall outwardly remain and appear to be a dwelling giving no appearance of a business use.

(iv) Individual guestrooms shall not contain cooking facilities.

(v) The short term residential rental shall not be used for weddings, receptions, parties, business meetings, or similar such activities.

(vi) Signage shall comply with the City of Topeka sign regulations applicable to residential uses.

(vii) Only retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a short term residential rental establishment shall be permitted.

(viii) When contained within a single family or two family dwelling, the short term residential rental shall contain a minimum of one off-street parking space for the primary resident and one off-street parking space for transient guests. The Planning & Development Director may allow up to two on-street parking spaces to substitute for required off-street parking if the property contains frontage of 40 feet or more exclusive of driveway approaches.

(2) An administrative permit shall be required and issued by the Planning & Development Director after it is determined the short term residential rental complies with all of the above standards. If one or more of the requirements cannot be met, a person may apply for a conditional use permit pursuant to Chapter 18.215 TMC.

(kk) Short Term Residential Rental, Type II.

(1) Specific Requirements. Requests to establish a short term residential rental, Type II shall conform to all of the following requirements:

(i) The short term residential rental shall be located in an existing dwelling and no new structure shall be built expressly for a short term residential rental.

(ii) The primary entrance to all guestrooms shall be from within the dwelling. A guestroom may retain an original secondary exterior entrance opening onto a porch or balcony, or basement unit.

(iii) The exterior of the dwelling and premises shall outwardly remain and appear to be a dwelling giving no appearance of a business use.

(iv) Individual guestrooms shall not contain cooking facilities.

(v) The short term residential rental shall not be used for weddings, receptions, parties, business meetings, or similar such activities.

(vi) Signage shall comply with the City of Topeka sign regulations applicable to residential uses.

(vii) Only retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a short term residential rental shall be permitted.



(viii) When contained within a single family or two family dwelling, the short term residential rental, type II shall comply with the off-street parking standards applicable to a single family dwelling. The Planning & Development Director may allow up to two on-street parking spaces to substitute for required off-street parking if the property contains frontage of 44 feet or more exclusive of driveway approaches and sidewalk ramps.

(ix) The short term residential rental, type II shall be no closer than 500 feet from another short term residential rental, type II or bed and breakfast inn in an R, M-1, or M-1A district.

(2) An administrative permit shall be required and issued by the Planning & Development Director after it is determined the short term residential rental complies with all of the above standards. If one or more of the requirements cannot be met, a person may apply for a conditional use permit pursuant to Chapter [18.215](#) TMC.