



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION

MINUTES

Monday, July 18, 2016

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Scott Gales (Chair), Kevin Beck, Katrina Ringler, Wiley Kannarr, Brian Armstrong, Dennis Haugh, Rosa Cavazos, Patrick Woods (8)

Members Absent: Carole Jordan (1)

Staff Present: Bill Fiander, Planning Director; Mike Hall, Planner III; Annie Driver, Planner II; Mary Feighny, Legal; Kris Wagers, Office Specialist

A) Roll Call – Eight members present for a quorum.

B) Approval of Minutes from May 16, 2016

Motion to approve as typed; moved by Mr. Beck, second by Mr. Kannarr. **APPROVED** (8-0-0)

C) Communications to the Commission –

Mr. Fiander pointed out that the Commissioners should have received handouts regarding the cases to be heard at this meeting.

Mr. Fiander pointed out that Item E1 on the agenda has been continued and re-scheduled for the August Planning Commission meeting.

**D) Declaration of conflict of interest/exparte communications
by members of the commission or staff**

None

E) Public Hearings

PUD16/03 by Working Men of Christ Ministry requesting to amend the District Zoning Classification from “R-2” Single Family Dwelling District TO “PUD” Planned Unit Development (“R-2” Single Family Dwelling District use group plus re-use of the residential structure for a Correctional Placement Residence, Limited Use intended for use by the Working Men of Christ) on property located at 1025 SW Western Avenue. (Driver)

Ms. Driver explained that Items E2 & E3 on the agenda are quite similar and asked if the Commission would consider a summary of each case before discussion and Public Hearing. Hearing no objection, it was agreed by unanimous consent.

Ms. Driver spoke to the history of the two cases and reviewed the staff report for Item E2 on the agenda, noting staff recommendation of approval subject to conditions in the staff report. She added that following the completion of the staff report, concern arose regarding the statement of operations, specifically in regard to references to faith based activities/characteristics. She explained that a further condition is recommended, namely that the applicant revise their statement of operations to remove references to faith-based activities and characteristics. In place of this, language could be added regarding highly

APPROVED 8-15-2016

structured programs and operations with a focus on job training, life skills, education and therapy. The final statement would need to be reviewed and approved by both Planning staff and the COT legal staff.

Ms. Driver reviewed the staff report for Item E3, stating that staff recommends approval subject to the same condition as in item E2, amending the statement of operations.

Mr. Gales asked Ms. Driver if the applicant is agreeable to the requested changes in their statement of operations. She stated that she had just spoken with them prior to the convening of this meeting and they would have an opportunity to respond when they came forward to speak.

Mr. Beck asked why the stipulation (condition) is being placed upon them. Ms. Feighny explained that the approval is attached to the land itself rather than to the property owner; with the change, subsequent property owners would not be required to have only faith-based operations.

Mr. Gales asked why this ministry would be treated differently from a church, and Ms. Feighny explained that based on our zoning code, it is considered a correctional placement residence.

Mr. Bob Christensen came forward on behalf of the applicant, introducing himself as an attorney who has been involved with Working Men of Christ (WMOC) Ministry as their attorney and a board member since their inception. He stated that they have appreciated the cooperation they've received from the City and staff and that he believes Ms. Driver's presentation to have been comprehensive. He added that WMOC's focus is to get their ministry in place and they will not object to changing the statement of operations. He is confident they will be able to reach satisfactory language. He did state that their desire would be to leave the statement as it is and have it be granted as a separate entity, however they will do what's necessary to have the plan approved.

Mr. Christensen gave information about how residents enter the program, and referenced the letter from Officer Diehl included in the agenda packet. Mr. Christensen stated that he doesn't think there are similar houses in Topeka; this is a unique ministry. They have five houses in Wichita and WMOC believes they're some of the best neighbors they'd had in a long time.

With no questions from commissioners, Mr. Gales declared the **public hearing open**.

Mr. Nels Anderson of 1025 SW Fillmore, stating that while he has no issues with the WMOC ministry or their house, he does have grave concerns about property values and people's willingness to invest in the neighborhood because of the two houses in such close proximity to the neighborhood.

Mr. Gales stated that if WMOC move out, the home could return to a single family residence; it does not have to be a correctional placement residence. Mr. Anderson explained that the concern comes from the fact that the PUD is related to the land not the property owner so it could continue as a correctional placement residence and the presence of WMOC sets a precedent.

Ms. Maura Dingman of 1118 SW Taylor came forward to express concern about the PUD. She stated that she owns 7 homes in Holliday Park and reminded the Commission that the neighborhood is a national register historic district. As a neighborhood, they approve of the mission and spirit of the WMOC Ministry but are concerned about the character of the neighborhood and the house itself. Their desire would be that the use would be allowed solely to WMOC and not transferrable to another property owner. Like Mr. Anderson, she's concerned that the house will get "labeled", and she and her neighbors are concerned about property values.

Mr. Michael Michner, owner of Western Properties LLC (3 houses and large triplex). Mr. Michner stated that he echoes the concerns of the other who had spoken in regard to property values. He stated that he's been in the neighborhood for approximately 15 years and property values have been increasing. His concerns are property values and the proximity of his properties to the 1025 SW Western house. He stated

that if the Commission approves the application, he would like to see a privacy fence built to shield his three houses.

With nobody else coming forward to speak, Mr. Gales declared the **public hearing closed**.

Mr. Armstrong asked staff to address the ability to apply this directly to the property owner and not the property itself. Mr. Hall explained that zoning goes with the property, not the property owner; this is true of a conditional use permit and a change in zoning. Mr. Fiander added that the only real option he sees would be to add a time restraint/renewal requirement on the PUD (a sunset clause). It's also okay for the Zoning Inspector to do inspections to ensure the things are operating in conformance with the PUD conditions. Mr. Fiander stated that while a sunset is not what staff is recommending, they could help the Commission explore that possibility.

Mr. Woods stated that he felt a sunset might be appropriate, potentially with a renewal time being shorter than the time period when re-sale is foreseen so to alleviate residents' concerns that what is approved today would perpetuate itself.

Mr. Haugh stated that another option would be to deny the request, and he expressed concern that the house may sit vacant and deteriorate unless homeowner(s) in the neighborhood purchased the house and kept it up. He also expressed concern about the applicant using the property with a non-conforming use and asking the Commission to solve their problem of non-compliance by re-zoning.

At this point Ms. Dingman stated that she'd like to provide the Commission with some history; hearing no objections from Commissioners, Mr. Gales invited Ms. Dingman to come to the podium to speak.

Ms. Dingman stated that a couple years after the neighborhood downzoned, the property was sold and the new owner, unaware of the downzoning, began remodeling to turn the house into a duplex. The neighborhood informed the City, and the owner stopped the remodel. She stated that she thought there was a single family living in the home for a couple years just prior to WMOC acquiring the property.

Ms. Dingman added that many property owners have in fact purchased multiple properties on the block and the block is now one of the most beautiful in the neighborhood.

With no questions from Commissioners, Ms. Dingman returned to her seat.

Mr. Beck stated that from what he's heard, he believes the concern is not the intended use at the present time but in the future. He believes that the requirement to have either the staff or the Commission as a whole periodically review the operation to confirm they continue to meet the conditions of the PUD is a viable option and believes a 3-year review would be. If, upon the review, the use appears no longer applicable for the neighborhood, the use would revert back to R2. He stated that he is not hearing the residents say they are concerned about the current user but rather a continued future use.

Mr. Fiander stated that this would be an appropriate condition but it's not one that staff has talked with the applicant about.

Mr. Kannarr expressed concern that a sunset clause has the potential of making it difficult to sell the property.

Mr. Fiander stated that staff would recommend approval regardless of whether or not the house were occupied and stated that reintegration is a serious issue in our society; the ability to have a community adopt reasonable policies for reintegration in terms of land use is part of what staff considered, but at the same time, staff does not wish to overstep the character of the neighborhood or create unintended consequences. The PUD was crafted as narrowly as possible short of adding a sunset clause.

Discussion continued and included questions about condition #8 and how that would be enforced, and possible options as to how to proceed.

Mr. Gales invited Mr. Christensen back to the podium to respond to the discussion. Mr. Christensen stated that he thinks the idea of a sunset clause may be welcomed by the applicant as it would help hold the ministry accountable and give them an opportunity to share about their success. He thought a 3-5-year term would work and reminded the Commission that WMOC would be making a financial investment in the house.

Mr. Beck reminded the commission regarding Mr. Michner's request for a privacy fence. Commissioners discussed the viability of the request.

Motion by Mr. Gales to approve staff recommendations to approve the PUD with a change to the statement of operations, to add a sunset clause requiring the PUD conditions be reviewed by the Planning Commission in 3 years for verification of compliance for renewal, and to request a fence on 3 sides of the 1025 Western yard to assure privacy to neighbors.

Commissioners discussed the fence and Mr. Beck seconded in order to further discussion, which did continue.

Mr. Beck suggested and Mr. Gales agreed to revise the motion regarding the fence to ask that only the southern property have a privacy fence, meeting requirements of the city/permitting.

Mr. Beck seconded.

Mr. Kannarr suggested that a deferral might be a better option to give staff an opportunity to explore all the requested changes. He elaborated that this may give staff, neighbors, and applicant an opportunity to come to agreement regarding the sunset and fence.

Discussion continued and Mr. Gales asked the applicant regarding their opinion of continuing the case. Mr. Christensen returned to the podium and stated that while they hadn't anticipated a request for a fence, they would be open to providing that to move the ministry forward. He asked the Commission to be mindful of the fact that there are men who are needing a place to live, adding that they are willing to proceed in whatever manner is requested.

Mr. Gales confirmed with Mr. Fiander that the case could be considered again at the August 15, 2016 Planning Commission meeting.

Mr. Gales asked Ms. Dingman to return to the podium to respond to concerns expressed. She stated that she likes the idea of a sunset. Mr. Gales then offered Mr. Michner an opportunity to speak again and he declined.

Mr. Gales rescinded his previous motion and moved that Item E2 be tabled with the intent to come back before the Commission at the August 15, 2016 meeting, giving staff and the applicant an opportunity to review all pertinent items. Second by Mr. Kannarr. Mr. Fiander asked for and received confirmation that "sunset" refers to an end to the PUD with the option for renewal. **APPROVAL** (8-0-0)

PUD16/04 by Working Men of Christ Ministry requesting to amend the District Zoning Classification from "R-2" Single Family Dwelling District TO "PUD" Planned Unit Development ("R-2" Single Family Dwelling District use group plus re-use of the residential structure for a Correctional Placement Residence, Limited Use intended for use by the Working Men of Christ) on property located at 1175 Clay Street.
(Driver)

Ms. Driver stated that she had nothing new to add regarding this case, and Mr. Gales invited Mr. Christensen to speak for the applicant.

Mr. Christensen stated they only ask that the same concessions previously discussed in regard to the Western property be considered in relation to this. He added that the property on Clay is not occupied at this time.

Mr. Gales declared the public hearing open.

Mr. Michael Bell, president of Tennessee Town NIA, came forward to speak in support of the proposal. He stated that Tennessee Town is a low to moderate income neighborhood with vacant homes that they are trying to get back on the taxrolls and, of course, finding good neighbors as well. He stated that the NIA is supportive of the WMOC mission and group and voted to endorse WMOC's efforts to establish a discipleship house at 1175 Clay. At their July 11, 2016 meeting they voted to send a letter of support to the Planning Commission.

Mr. Gales asked for and received from Mr. Bell confirmation that the letter provided as a handout is the letter referred to.

Mr. Gales asked Mr. Bell if, having heard the previous concerns regarding the property on Western, Tennessee Town shares them. Mr. Bell replied that they do not.

With nobody else coming forward to speak, Mr. Gales declared the public hearing closed.

Following brief discussion, Mr. Beck moved approval of the PUD with recommendations of staff, including the proposed change to the statement of operations discussed earlier. Second by Ms. Cavazos.

APPROVAL (8-0-0)

F. Discussion Item

Futures 2040 – Topeka Regional Transportation Plan

Mr. Fiander reviewed the need for updating the plan, the process, and gave a general overview, asking for input from the Planning Commissioners and encouraging them to complete an online survey.

Mr. Fiander stated that they've been asking stakeholders two basic questions:

What should the region focus on (walking, biking, transit, driving)?

Mr. Gales stated that it's important to approach from a philosophy of having victories to celebrate often throughout the process so there are very measurable improvements that people can see. He suggested having constant improvements in each of the categories and then celebrating them publicly.

Mr. Armstrong stated that all four are ultimately connected and should be focused on, especially with the ½ cent sales tax program and defined list of projects. There are already processes in place to assure the Complete Streets elements are incorporated into part of those designs.

Mr. Woods stated that he rejects the premise that you have to choose between the four as they're all connected. He stated that economic development is hampered without a decent driving system, and that hampers everything else. He suggested that focus on streets that people drive on would more quickly attract positive attention. He also hopes they'll focus on biking and walking, as these are of personal interest to him.

Mr. Haugh stated that driving on streets that aren't maintained is demoralizing and gives a sense that "things are not quite right", especially when compared to other nearby cities who might maintain their streets better.

Do you have thoughts about where our transportation impacts could be used to leverage or achieve other goals?

Mr. Gales stated that taking care of economic development will help to resolve some of the other areas.

Mr. Gales had to leave the meeting so he passed the gavel to Mr. Woods.

Mr. Fiander explained that public input would be requested from neighborhoods so that localized priorities can be heard. He added that there is an August 18 public kickoff meeting at the library and all are invited.

Adjournment at 8:00PM