



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION

MINUTES

Monday, October 17, 2016

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

Members present: Carole Jordan, Katrina Ringler, Wiley Kannarr, Dennis Haugh, Rosa Cavazos (5)

Members Absent: Scott Gales, Patrick Woods, Brian Armstrong (3)

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

Mr. Fiander announced that in the absence of both the Chair and Vice-Chair, a Commissioner would need to be elected to serve as Interim Chair. A quorum was present. Motion by Mr. Haugh for Mr. Kannarr to serve as Chair for the 10/18/2016 meeting; second by Ms. Ringler. **APPROVED (5-0-0)**

Mr. Kannarr took the gavel and presided over the evening's meeting.

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

B) Approval of Minutes from September 19, 2016

Motion to approve as typed; moved by Ms. Jordan, second by Ms. Cavazos. **APPROVED (5-0-0)**

C) Communications to the Commission –

Mr. Fiander told Commissioners that the September cases would be heard at the October 19 City Council meeting so he would bring an update to the November Planning Commission meeting.

Mr. Fiander stated that there will be four public meetings for Futures 2040, each to be held in a different quadrant of the community. Meeting dates will be November 2, 3, 9, 16 (2016) and additional information will be provided.

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

Ms. Cavazos reported that she had 2 communications “by accident” regarding CU16/5 but nothing was said that wasn’t public knowledge / included in the agenda packet.

E) Public Hearings

1) CU16/5 By: 901 Real Estate LLC requesting a Conditional Use Permit for a Correctional Placement Facility, General” on property located at 2035 SW Western and presently zoned “I-1” Light Industrial District and requesting a Conditional Use Permit for a “Surface Parking Lot in Association with a Principal Use” on property located along the east side of SW Fillmore between SW 20th and SW Hampton streets and presently zoned “M-1” Two Family Dwelling District. **(Driver)**

Ms. Driver reviewed the staff report and staff recommendations, reading Conditions #2 and #10 into the record: (2) Adding note: *“The Conditional Use Permit shall expire five (5) years upon the date of City Council approval of the Resolution. The property owner(s) is responsible for notifying the Planning Department and shall apply to re-new the Conditional Use Permit following the same procedures set forth with approval of an initial application.”* (10) Add site plan note: *“In the event the alley vacation is not approved, the site plan shall be revised to reflect fencing around parking lots, but not across or within the public alley.”*

Mr. Haugh asked Ms. Driver how she felt the Neighborhood Information Meeting (NIM) went. Ms. Driver stated that there had been discussion at the 9/26/16 NIM meeting about security, staffing, entry provisions, the possible need to relocate a bus stop, fencing, the need for cooperation and open communication with the police, the types of crimes residents had been convicted of.

Mr. Haugh asked regarding police concern about the parking & access to parking, and Ms. Driver confirmed that they wanted a single entry point into the facility for vehicles and to limit points of exit/entry for pedestrians.

Mr. Fiander added that there were questions about the impact the facility may have on the Expocentre, especially in regard to the number of children and families that attend events there. He also noted that representatives from Topeka Police Department had been in attendance to help address concerns.

Ms. Cavazos asked if there were concerns expressed about the children's center on 19th street. Ms. Driver stated nothing was brought up by the neighborhood. Ms. Cavazos also asked if this would be a facility for people not just from Topeka but from the state of Kansas, and Ms. Driver confirmed.

Ms. Jordan asked about the 50+ jobs mentioned in the report and Mr. Fiander stated he believed they'd be a combination of security and administrative.

With no further questions from Commissioners at this time, Mr. Troy Adams came forward representing City of Faith.

Mr. Adams stated City of Faith (CoF) is a non-profit, faith based organization that has been in business for 30+ years operating work-release programs or residential re-entry centers in Louisiana (90 bed facility & 160 bed facility) and Arkansas (45 bed facility). He explained that everyone in their facilities must have a job unless physically unable, they must pay subsistence to the facility, and CoF accounts for their whereabouts 24/7. He stated that CoF has not been detrimental to any of the areas they have facilities in, and added that a Head Start program chose to move in across the street from one of their Louisiana facilities.

Mr. Kannarr asked regarding the nature of offenses, and Mr. Adams explained that they're federal offenses that might include drug offenses (that's the majority), armed robbery/bank robbery. They do not take offenders who were convicted of heinous crimes, murders, crimes against children, or sex offenders.

Mr. Haugh asked for statistics on crimes committed by clients over the years. Mr. Adams stated he could not, but it's very rare that they have a resident commit a crime. He added that any time a resident couldn't be located for 20 minutes, they're reported to the federal marshal's office as an escapee.

Ms. Jordan asked regarding staff ratios, and Mr. Adams stated there are typically 14 security staff, 5 administrative, and 3 multipurpose.

Ms. Cavazos asked how closely CoF works with the police/sheriff department and Mr. Adams explained that by contract they must have a Community Relations Advisory Board that meets at least once a month, made up of representatives from the community and police department.

Ms. Ringler asked for confirmation that a parole office will be on the 1st floor and Mr. Adams stated he believes this is the plan. That is separate from CoF, which will be on the 2nd floor.

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

Jessica Janes, of 1935 SW Central Park, speaking against the proposal. Ms. Janes stated she was not notified by the City or the applicant of the proposal / NIM and she wanted to know why.

Ms. Janes spoke about a streetlight she had reported being out at 20th & Central Park since the beginning of the summer and that the light hadn't been repaired even after 3 requests. She feels this is a testament to what the city thinks about the area she lives in.

Ms. Janes owns a childcare/daycare center which she believes serves as a safe haven for the children who attend. She spoke about field trips to the Fire Station #5 and how she wouldn't be comfortable walking the children past a facility such as the one proposed. She added that she believes the facility would have a detrimental affect on the businesses nearby.

Ms. Janes gave a petition to Ms. Driver.

Mr. Kannarr asked Ms. Driver why Ms. Janes didn't receive notification of the NIM or case, and Ms. Driver explained that Neighborhood Meetings have a radius of 300' notification and the Janes property is not contained within 300' of the boundary of the case property. She added that the NIA president was informed.

Mr. Kannarr asked Ms. Janes how many children they have at their home daycare. Ms. Janes replied that they see about 25 children per day; the group daycare home is licensed for 12 children at any given time with 2 adults there.

Jeff Chabon, representing Topeka Expocentre as General Manager, speaking against the proposal.

Mr. Chabon spoke about tourism and the people who come to Topeka because of the events at the Expocentre, many of which are children/youth events, including high school wrestling and college & high school athletics. etc. Mr. Chabon referred to renovation plans the Expocentre expects to begin in 2017 and voiced concern regarding what people will think of the area having a facility such as CoF in such close proximity. He added that the Expocentre has 800+ events per year and they're busy 12 months a year.

Josh Smith, of the Shawnee County Counselor's Office, representing Shawnee County Board of Commissioners, speaking against the proposal. Mr. Smith stated he has concern about the types of crimes committed by residents of CoF and cited some Federal Bureau of Prisons statistics from a publication he stated was published 9/24/16. Statistics included: 46.4% of offenders are drug offenders, 23.7% are "violent offenders" which include robberies, burglaries, kidnapping, aggravated assault, and arson. He stated that "heinous" is subjective. Mr. Smith also referenced a 2013 New York Times article that cited a Pennsylvania study and spoke to other states as well.

Mike Morse, of Kansas Commercial Real Estate, speaking in support of the proposal. Mr. Morse stated that a facility that currently handles residents such as would reside at the proposed CoF facility is located across the street from Highland Park High School. Mr. Morse stated that he had attended the NIM and the TPD representatives were supportive of the project. Referencing the statistics given by Mr. Smith, Mr. Morse stated that the success rate for Grace (CoF) is 83%; 83% do not commit another crime/return to prison. He stated that's one of the reasons the program exists – to stop the cycle.

Mr. Morse stated that the property in question has been vacant for years and has been vandalized and trash (including tires, couches, etc.) dumped on the property. He stated the new owner has cleaned up, painted, mowed, and wants to re-invest in the central part of the city. He added that had Shawnee County been concerned about the neighborhood, they could have purchased the property when it was on the market.

Mr. Morse stated that the current owner has met all requests made by the Planning Department.

Rich Eckert, of the Shawnee County Counselor's Office, representing Shawnee County Board of Commissioners, speaking against the proposal. Mr. Eckert spoke about the county's intention to invest \$45+ million in the Expocentre, focusing on the popularity of equine, horse facilities, and the plan to build arenas and stall barns on most of the property owned by Sn County around the Expocentre and across the street from the proposed facility in question. He spoke about the number of horse shows currently held and planned for in the future, about how they are 24 hour events, with shows taking place late into the night and care of the horses taking place all the time. He stated there are no houses around the Expocentre because of

events held there and questioned putting a 50 bed residence across the street. He stated it's not a proper place to put any residential, much less a correctional residential.

Other statements made by Mr. Eckert included the idea that the 50 jobs created would be 50 jobs lost by Mirror, Inc. (currently under contract), and that while he didn't think anyone would be in favor of putting the facility across from Kansas Children's Discovery Center, in fact far more children go through the Expocentre grounds than the Discovery Center. He stated that during wrestling events 1,000 children might go through the Expocentre in a weekend; 20,000 go through the horse barns and of those, 9,000 are children. They expect that to at least double with new additions.

Mr. Kannarr pointed out that the property in question is currently undeveloped and the area has a high crime rate, and he asked if that affects the Expocentre. Mr. Eckert stated that car break-ins and theft are simply an issue where they're located and he doesn't think it would change whether the facility goes in or not; it's simply a fact of the matter in that neighborhood. He added that with planned Expocentre improvements, the neighborhood should become safer because of improved lighting.

Ms. Ringler asked if Mr. Eckert saw a benefit to giving the proposed facility a 5 year trial to see how it goes. Mr. Eckert's reply was no.

Major Scott, of Topeka Police Department, speaking regarding the proposal. Major Scott stated that TPD will enforce the laws that are put in place. Major Scott stated that he/TPD asked how the property can be made better and safer, so a CPTED (Crime Prevention through Environmental Development) was done and recommendations were made. He pointed out that the lots just off Fillmore have been a problem for the neighborhood for some time because they're overgrown and not open to natural surveillance. As stated before, the applicant agreed to comply with all recommendations made.

Major Scott stated that TPD has worked with Mirror, Inc. who have a similar facility, and he added that when people come in for relocation, TPD likes to know where they're at. Facilities such as this provide a central location where officers can talk with staff, review surveillance tapes, etc. if necessary.

Regarding the 1st floor State Parole Office – Major Scott stated that the offices are open 8-5 so there will be no evening activity with that.

He referenced the advisory board, meetings which TPD would be sure to have their community police officer attend.

Steve Clinkenbeard, owner of 901 Real Estate, speaking in support of the proposal. Mr. Clinkenbeard stated that he bought the property in April and has made improvements. Soon after purchasing, the RFP came out from Dept. of Corrections and the facility seemed adequate so they bid. He stated he's worked with Kansas Dept. of Corrections. He clarified that regarding the 50 jobs referred to, 35 were to come from Department of Corrections and 15 from City of Faith.

Mr. Clinkenbeard spoke to why so much parking was needed and the fact that the residents are required to hold jobs. He also spoke to the concern for children in proximity to the facility, adding that the other side is that residents of the proposed facility would be people who made mistakes and went to jail, served their time, and now CoF is there to help them get back on their feet. When their time at CoF is complete, they will have a job and the ability to make a living. He confirmed that the first floor will be Kansas parole office, open 8-5, and added that the current location of the parole office is just 6 blocks away, or 5 blocks from Expocentre.

Mr. Clinkenbeard stated that Mirror Inc. currently has a similar facility near Highland Park HS and noted that we're not reading in the papers about problems arising.

Ann Marshall of 1713 SW Lane speaking in support of the proposal. Ms. Marshall stated that she's a resident of Chesney Park, a member of the NIA, but not representing the NIA. She stated that she's lived in the neighborhood since 1986. She spoke about how the NIA has worked to improve the neighborhood and make it safer, working with the community police, Officer Scott, Bill Fiander of the Planning Department, etc.

She stated that the realtor/owner has taken a piece of property that was trashed and a risk for health and safety and has cleaned it up and put it back on the rolls. She stated that having someone on site and regularly using a facility cuts down on crime in the neighborhood. She thinks the realtor and CoF people are willing to work with the neighborhood. She pointed out that there is crime in the neighborhood and ex-felons living there already, and stated that at least CoF residents would be tracked.

Mr. Clinkenbeard of 901 Real Estate returned to the podium to answer questions. He stated that the property is in a revitalization zone, and 901 Real Estate is looking to put half million dollars back into the real estate to revitalize it. The property is not going to attract a law firm, CPA firm, etc. He believes we must trust that the Dept. of Corrections and CoF know what they're doing and have procedures. He expressed concern about financial incentives the Expocentre might have to be against the proposal, stating he has often thought that if that property is improved and then it is taken, it's a lot easier to take it as a vacant building than it is with two leases in it and improved properties. He added that 901 Real Estate is going to improve [the property] and make it more valuable, and if it's in [the Expocentre's] plans, it's going to cost them more.

Mr. Kannarr declared the **public hearing closed**.

Additional discussion took place among Planning Commissioners, including Mr. Haugh asking what controls there were over CoF residents once they left the facility, such as on their way to work, etc. Mr. Adams returned to the podium to explain that residents have a certain amount of time to get from one place to another and if they don't report in on time, then it goes into escape procedures. Mr. Haugh stated that gives no protection if they choose to do something during that time period, and Mr. Adams agreed that they are in a reintegration system and have to earn the trust they're given.

Ms. Jordan asked for and received from Ms. Driver confirmation that if CoF does not get the contract, the Conditional Use Permit will not be necessary.

Discussion continued and Mr. Kannarr called for a motion. Ms. Feighny explained that one option would be to defer a decision to the next Planning Commission meeting, especially in light of the fact that 3 commissioners were not in attendance. Ms. Cavazos asked for and received confirmation from Ms. Feighny that with the present attendance, 3 votes would be required for a motion to pass. Mr. Kannarr asked if there was a timeline on the contract and whether a deferral would have a negative impact. After discussion, Mr. Adams returned to the podium and stated that a deferral would be a hardship because it also pushes back a vote by the Governing Body.

Ms. Jordan moved to defer, second by Ms. Cavazos. Following discussion and on the recommendation of Ms. Feighny, the motion was amended by Ms. Jordan to a motion to defer to the next scheduled Planning Commission meeting as determined by Planning Staff, continuing the public hearing to that date as well. Ms. Cavazos's second stood, and there was discussion about what would happen at the next Planning Commission meeting if the decision was deferred. A vote was taken. MOTION FAILED TO PASS (0-5-0 with all present voting against).

There was discussion about the possibility of splitting the parking lot CUP out from the rest of the case, but it was agreed that the application could not be split.

Motion by Mr. Haugh to **recommend to the Governing Body denial of the Conditional Use Permit;** second by Ms. Cavazos. **APPROVAL (3-2-0** with Ms. Ringler and Ms. Jordan dissenting).

F) F. Action Items

- 1) Initiation of re-zoning for Misty Harbor Estates No. 5

Mr. Fiander reviewed the proposed initiation, explaining that with a positive vote, staff would begin work on

the re-zoning and the case would come before the Planning Commission at the November meeting. Mr. Fiander noted that moving forward depends on Council approving an annexation that is before the at their 10/19/16 meeting.

Motion by Mr. Haugh to initiate rezoning of Misty Harbor Estates No. 5, contingent upon Governing Body approval of annexation of the property, second by Ms. Ringler. APPROVAL (5-0-0)

G) Discussion Items

1) Zoning Code/Matrix Amendments (Group B)

Mr. Hall reviewed proposed updates to Title 18 of the Topeka Municipal Code and potential amendments, stating these have the potential to make significant changes to how zoning regulations are administered. He stated the proposals are in the spirit of modernizing the code and keeping up with the way business is conducted in the city. Items/proposals reviewed and discussed included the following:

- Short Term Rental Housing (Bed & Breakfast Home or Inn)
- Artisan Manufacturing
- Cargo Containers
- Setbacks for Uncovered Decks, Porches, Stair Landings, and Ramps

With no further agenda items, meeting was adjourned at 8:10PM.