



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION

MINUTES

Monday, February 20, 2017

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

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

Members Absent: Carole Jordan (1)

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

Roll Call – Eight members present for a quorum.

Approval of Minutes from January 23, 2017

Motion to approve as typed; moved by Ms. Burson, **second** by Mr. Armstrong. **APPROVED** (8-0-0)

Election of 2017 Chair and Vice Chair

Mr. Fiander thanked Mr. Gales for serving 2 years as Chair of the Planning Commission and explained that there had been a **nomination** by email for Mr. Kannarr to serve as 2017 chair. No additional nominations were made and **Mr. Armstrong seconded** the nomination of Mr. Kannarr. **Approval** by unanimous consent and Mr. Kannarr took the gavel.

Mr. Fiander explained that there were two nominations via email; one for **Ms. Cavazos** and one for **Ms. Ringler**. Both accepted the nominations and Mr. Gales moved that both be considered. Vote cards were completed and counted, ending in a tie of 4 votes for each. Mr. Gales moved to approve both as **2017 co-vice chairs**, second by Mr. Woods. **Approval** by unanimous consent.

Communications to the Commission

None

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

None

Public Hearing

PUD17/01 by Charles and Joseph Schmidt et al (Schmidt Vending) requesting to rezone property located at 1903 NW Lower Silver Lake Road, 1911 NW Lower Silver Lake Road, and approximately 187 ft. of property to the west from R-1 Single Family Dwelling District TO PUD Planned Unit Development (I-1 Uses). **(Driver)**

Ms. Driver reviewed the staff report and the handout provided to Commissioners. Said handout listed revised condition numbers 3 and 5 and Ms. Driver stated that the applicant is agreeable to the conditions recommended by staff.

With no questions for staff, Mr. Mark Boyd of SBB Engineering came forward representing the owner, who was also present. Mr. Boyd stated he had nothing further to add and confirmed that the owner is agreeable to all conditions, including the revisions to numbers 3 and 5.

APPROVED

Mr. Haugh inquired about the landscape buffering and Mr. Boyd explained that a more detailed landscape plan would be required and submitted with the building permit application. Ms. Driver stated that the siteplan calls for 5' setbacks on all new buildings, leaving room for landscaping. Storage would be fenced and landscaped. Mr. Gales asked Ms. Driver for verification that detailed landscape plans are not due until the time of building permit application and she confirmed.

With no further questions, Mr. Kannarr declared the **public hearing open**. With none coming forward, Mr. Kannarr declared the **public hearing closed**.

Mr. Gales asked if there would be an obligation to fence/screen the entire property. Ms. Driver explained that due to the nature of the area, staff waived the necessity of a fence along the entire length of the property. Mr. Gales asked if the owners could later be required to put up a fence, assuming the neighborhood changes, and Ms. Driver explained that the City could only require it if the applicant returned asking for an amendment to the PUD.

Motion by Mr. Gales to accept staff recommendation of approval, subject to the conditions given. **Second** by Mr. Haugh.

Mr. Kannarr noted that only one person attended the Neighborhood Information Meeting (NIM); there was no opposition and the land has been undeveloped for a long period of time.

Approval (8-0-0)

Other Action Items

1. **2018-2027 CIP** – In accordance with K.S.A. 12-748(b), review the City of Topeka's capital improvement program (CIP) to ensure that it is consistent with the comprehensive metropolitan plan. **(Warner)**

Mr. Warner reviewed the memo from Mr. Fiander and stated staff has found that on the whole, the CIP is consistent with the current Land Use and Growth Management Plan (LUGMP).

Mr. Kannarr called for questions from the commission and hearing none, called for public comment. With none coming forward, Mr. Fiander added that the Public Works Director and Ted Clemmons from Financial Services were both in attendance and able to answer questions.

Mr. Fiander stated that the street projects listed in the CIP are largely in the city limits and there were no projects that caused concerns or questions in regard to whether they are in line with our LUGMP. He stated that there are a couple water projects on the outskirts of the city limits but their purpose is to benefit tier one or existing city limits with water pressure / capacity / redundancy / fire purposes. He then pointed to fire stations that were listed in the CIP and gave further information.

Mr. Gales asked for clarification about numbers related to GO Bond projects and narrative included on the worksheet. Mr. Clemmons came forward and provided the information about funds that had already been approved vs. funds that are new.

Motion by Mr. Gales to find that the Topeka Planning Commission has reviewed the CIP and agrees that it is consistent with the comprehensive metropolitan plan. **Second** by Ms. Cavazos.
Approval (8-0-0)

2. Z71/02E by Old Dominion Freight Lines requesting a variance to allow an electrically charged security fence to a height of 10 feet, exceeding the maximum fence height of 8 feet pursuant to TMC 18.210.040 (Fences) in association with a minor amendment to a planned unit development (PUD) master plan. **(Hall)**

Mr. Hall explained that the zoning case is a minor amendment to a PUD which is approved administratively (by staff). The case is before the Planning Commission because the applicant is requesting a variance for a 10' fence where the max height allowed is 8 feet. He presented the staff report and stated that staff recommends approval of the variance.

Mr. Hall spoke regarding a letter from Electronic Guard Dog that was provided as a handout. The letter requested an amendment to the zoning code, but Mr. Hall stated that Planning Staff does not feel they've done sufficient research to recommend such a change.

Mr. Gales asked for clarification on how the proposed variance would be noted on the plat. Mr. Hall explained that documentation provided by the applicant would be placed in the Master PUD case file and this would be sufficient.

Mr. Woods asked why the applicant felt the 10' electrified fence was necessary. Mr. Kannarr asked about the risk to individuals that may be associated with an electrified fence.

Michael Pate with Electric Guard Dog (EGD) came forward representing the applicant. He explained how the fence works and what EGD's response would be if the fence were touched. He explained that the electrified fence will be behind a standard 8' fence, with a distance of 1' between the two. Per Mr. Page, the 10' fence is connected to a 12v battery that a capacitor amplifies to a max of 7,000 volts. This has been tested with research done on tasers; the pulse is so quick it cannot hurt anyone or affect a pacemaker. He also stated that the applicant intends to use the fence to deter theft by employees as well as from outside and added that EGD operates in 49 states.

Mr. Haugh asked how debris is kept out of the 1' area between the two fences and Mr. Pate explained that this is an ongoing task they are diligent about because if debris is touching the fence, it can't work correctly.

Motion by Mr. Gales to approve the proposed variance and allow the 10' fence to be installed as recommended in the staff report. **Second** by Mr. Haugh. **Approval (8-0-0)**

3. ACZR17/01 Amending the Zoning Code / Matrix

On January 23, 2017 the Planning Commission conducted a public hearing to consider amendments to the zoning regulations regarding the conversion of the existing C-5 zoning to D-1 and an update of other sections of the zoning regulations. Upon closing the public hearing the Planning Commission moved to forward a recommendation of approval to the Governing Body with the exception of the sections listed below and any other minor modifications not presented:

- 18.200.090 (f) (2) Painted Exterior Wall Signs
- 18.200.090 (f) (4) Window Signs
- 18.200.0900 (f) (6) Monument Signs
- 18.210.050 (f) Cargo Containers

Mr. Hall reviewed the memo from Mr. Fiander to the Planning Commission and included as part of the agenda packet.

Regarding cargo containers, Mr. Gales asked what would happen if a cargo container needed to remain on site for a building project (not requiring a permit) that lasted more than the allowed 180 days. Mr. Hall and Mr. Fiander clarified that after 180 days, they would be expected to remove the container, screen it, or move it somewhere not visible to the public.

Mr. Armstrong asked if the zoning amendments would include anything about raising the allowable fence height to 10' as requested in the letter from Electronic Guard Dog. Mr. Hall stated that staff feels they have not had sufficient time to research all the implications of this change so are not prepared to recommend it at this time. There was additional discussion, which included the fact that anything over 8' would require engineering plans and a structural review. Mr. Fiander point out that 8' is probably generous compared to what other cities allow. He added that there are 10' exceptions for some very specific uses, such as parks & rec uses, public utilities (substations), and schools.

Mr. Kannarr asked if there are a lot of requests for variances from 8' and Mr. Fiander stated that it is his perception that there are only occasional requests to go higher than 8' and they have to go through the Board of Zoning Appeals (BZA), which is a high bar. Nobody has gone to the BZA with a request in recent memory.

Mr. Kannarr invited the public to speak and Mr. Pate from EGD came forward to speak to the letter he wrote requesting the 8' limit be raised to 10'. Mr. Gales asked him if it's standard for them to put their electrified 10' fences inside a standard 8' fence and he stated that it's required by the standard they operate under.

With no additional questions for Mr. Pate, he took his seat and nobody else came forward to speak.

Mr. Gales asked when this might be considered again and Mr. Fiander stated that it could perhaps be in the zoning code amendment package that would likely come before the commission in 2018 or 2019. He stated that he would not recommend doing a stand-alone amendment regarding the fence height.

With no further discussion, Mr. Woods made a **motion** to approve the zoning code amendments as recommended by staff. **Second** by Ms. Burson.

Mr. Fiander suggested including in the motion the revision to the text amendment in the cargo container section about removing, moving or screening the container after 180 days for building projects not requiring a permit. Mr. Woods agreed to this as a friendly amendment.

Approval (8-0-0)

Adjourned at 7:15PM