



CITY OF  
**TOPEKA**

**MINUTES**

## **TOPEKA PLANNING COMMISSION**

**Monday, July 20, 2020**

**6:00PM – via video conference**

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

**Members Absent:** Brian Armstrong (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** – Acting Chair Marc Fried called the meeting to order with eight members logged in for a quorum.

### **Approval of Minutes from June 15, 2020**

Motion to approve by Mr. Dehn, **second** by Ms. Ringler. **APPROVED** (7-0-1 with Ms. Lawson abstaining)

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

None voiced

### **Action Items**

**CU20/02 by: Evergy, Inc.**, requesting a Conditional Use Permit on a 1.64 acre property along the south side of SE 6th Avenue lying between SE Golden Ave and SE Highland Ave currently zoned “X-1” Mixed Use District in order to expand the existing electrical substation to the east (2647 SE 6th Avenue), increasing electrical system reliability to the area.

Ms. Driver presented the staff report, noting that there is a 62 foot height limit for “poles, towers, television and radio antenna support systems, and similar apparatus...” and that Evergy may find it necessary to erect pole taller than 62’. If this is the case, they will need to apply to the Board of Zoning Appeals (BZA) for a variance to be granted. A CUP cannot grant a variance to base zoning requirements. Ms. Driver added that as an alternative, the commission could table the application and recommend the applicant apply for PUD zoning.

Ms. Driver reported that she received no contact from neighbors either in support of or against the project. A Neighborhood Information Meeting (NIM) was not held due to COVID-19 concerns, but an informational mailing was sent out to those who would have received an invitation to a NIM.

Ms. Driver noted staff’s recommendation for approval of the CUP and stated that applicant representatives were logged in to the meeting and available for questions.

With no questions of staff, Mr. Fried invited Mr. Chris Meyer of Evergy to speak representing the applicant. Mr. Meyer explained that Evergy has an option to purchase the land on which they are requesting the CUP and they will not move forward with the purchase unless / until they are able to obtain the CUP and feel certain they will be able to erect a tower at the necessary height. The improvements are, he said, necessary to install newer technology and improve service to their

approved

customers. Regarding the height of the pole, he stated that 65-75' is the standard height Evergy uses. Hearing no questions of Mr. Meyer, Mr. Fried declared the **public hearing open**. With nobody having logged in to speak, Mr. Fried declared the **public hearing closed**.

Ms. Messina asked if there is a specific reason for the 62' limit in the zoning code. Mr. Hall explained that he has spoken with the City attorney who agrees that the 62' limit does apply in this instance. He is uncertain as to why that height was chosen for the code and went on to explain that a request for a variance from the BZA is not a sure thing. Specific criteria must be met in order for the variance to be granted and some of that would, in his opinion, be difficult to show in this instance. He stated that if the applicant wants certainty, they would need to revise their CUP application to an application for PUD zoning which could include a more generous height allowance. When asked about the time frame for each option, he explained that to continue with the CUP would mean (likely) Governing Body review/approval in August and an application to the BZA which, due to application deadlines, could not be heard until October. If the applicant withdrew their CUP application, a PUD application could be considered by Planning Commission at their September meeting and considered by the Governing Body in October.

When asked by Mr. Fried, Mr. Meyer explained that he does not know the details of the land purchase option agreement or when it expires. He stated that his preference would be to move forward with the CUP application.

Mr. Kaup noted that he is in favor of the CUP and Ms. Ringler asked if a PUD could be applied for if a variance is not approved by the BZA. Mr. Hall stated that the applicant could apply for PUD zoning at any time.

Mr. Werner asked if concern was expressed over the height of the tower at the pre-application meeting between staff and applicant. Ms. Driver explained that it was not because at that time staff was unaware of the need for a 62+' tower.

**Motion** by Mr. Kaup to recommend APPROVAL to the Governing Body of the Conditional Use Permit CU20/02 subject to conditions in the staff report. **Second** by Mr. Dehn. **APPROVAL** (8-0-0)

### **Communications to the Commission**

Mr. Fiander stated that applications have come in for the August Planning Commission meeting.

Mr. Kaup referenced the Housing Study that was presented at a previous Planning Commission meeting. He suggested that when relevant, staff should reference that document in their staff reports when considering support or concerns regarding applications. He stated that this would be a way to keep the document "alive" and in front of people.

Mr. Fiander explained that the study is technically not a part of the Comprehensive Plan but it will be used to make decisions on amendments and updates to our policies and our zoning code. Because of this, the impact of the study will have far-reaching effects.

**With no further agenda items, meeting was adjourned at 6:40PM**