

**STAFF REPORT – ZONING CASE  
TOPEKA PLANNING DEPARTMENT**

**PLANNING COMMISSION DATE: Monday, May 16, 2022**

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<b>APPLICATION CASE:</b>	Z22/02 by: City of Topeka Planning Commission
<b>REQUESTED ACTION:</b>	Zoning change from “M-2” Multiple-Family District, “O&I-2” Office and Institutional District, “C-4” Commercial District, “D-1” Downtown District, “I-1” Light Industrial District and “I-2” Heavy Industrial District TO “D-3” Downtown District.
<b>APPLICANT / PROPERTY OWNERS:</b>	City of Topeka Planning Commission / See attachment #5 Property List
<b>STAFF:</b>	Bryson Risley – Planner Dan Warner, AICP – Planning Division Director
<b>PROPERTY LOCATION / PARCEL ID:</b>	See Attachment #5 Property List
<b>PARCEL SIZE:</b>	61 properties containing 61.7 acres
<b>STAFF RECOMMENDATION:</b>	<b>APPROVAL</b> of reclassification from “M-2” Multiple-Family District, “O&I-2” Office and Institutional District, “C-4” Commercial District, “D-1” Downtown District, “I-1” Light Industrial District and “I-2” Heavy Industrial District TO “D-3” Downtown District.
<b>RECOMMENDED MOTION:</b>	Based on the findings and analysis in the staff report I move to recommend to the Governing Body <b>APPROVAL</b> of the request to reclassify the property “M-2” Multiple-Family District, “O&I-2” Office and Institutional District, “C-4” Commercial District, “D-1” Downtown District, “I-1” Light Industrial District and “I-2” Heavy Industrial District TO “D-3” Downtown District.

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**PROJECT AND SITE INFORMATION**

<b>PROPOSED USE / SUMMARY:</b>	No proposed use changes. Existing land uses will be allowed to remain per TMC 18.50.040.
<b>DEVELOPMENT / CASE HISTORY:</b>	On May 4 <sup>th</sup> , 2021, City Council adopted the Downtown Master Plan as an amendment to the Comprehensive Plan. The Implementation Section of the Downtown Master Plan identifies segments of Downtown to be rezoned to “D-3” Downtown District. The <u>Downtown Master Plan</u> was prepared to provide guidance for the redevelopment of downtown, including appropriate zoning in order to implement the Plan. On November 19 <sup>th</sup> , 2021 the Planning Commission initiated the rezoning of properties located within the boundary of Downtown Topeka for study, public hearing, and recommendation.

**ZONING AND USE OF SURROUNDING PROPERTIES:**

The proposed D-3 parcels consist of three generally contiguous areas. The first is west of Topeka Boulevard to the ½ block east of Kansas Avenue between the Kansas River and 1<sup>st</sup> Street. The second is properties that front SW Jackson between 2<sup>nd</sup> Street and 4<sup>th</sup> Street. The third is between SE 4<sup>th</sup> Street and SE 8<sup>th</sup> Avenue between SE Jefferson and SE Adams. There are a few remaining parcels that are adjacent to these areas. Individual parcels may have differing zoning and uses from the zoning and uses identified below. Specific zoning and uses of surrounding properties can be found on attachment #2 Zoning Map. The zoning and uses below are utilized to provide a high level understanding of surrounding zoning districts and uses.

**North:** "I-1" Light Industrial District / Warehouse Distribution & Storage

"D-1" Downtown District / Parking

"I-2" Heavy Industrial District / Warehouse Distribution & Storage, Retail, Natural Gas Utility, Furniture Manufacturing, Vacant

"D-3" Downtown District / Mid-Rise Apartments, General Office

**South:** "I-1" Light Industrial District / Warehouse Distribution & Storage

"I-2" Heavy Industrial District / Parking, Electric Power Generation, Natural Gas Utility, Single-Family Housing, Warehouse Distribution & Storage

"D-1" Downtown District / Correctional Institution, Parking, Retail, General Office, Warehouse-Office Combination, Garden Apartment Complex

"D-3" Downtown District / Warehouse Distribution & Storage, General Office

**West:** "I-2" Heavy Industrial District / Vacant, Single-Family Housing, Parking

"I-1" Light Industrial District / Warehouse Distribution & Storage

"M-3" Multiple-Family Dwelling District / Dwelling Converted to Apartments, Single-Family Housing

"D-1" Downtown District / Hotel High-Rise, Mid-Rise Apartment, Parking, Garden Apartment Complex

"D-2" Downtown District / Vacant, Single-Family Housing, Church, Service Garage, Dwelling Converted to Apartments

"D-3" Downtown District / Mid-Rise Apartments, Warehouse Distribution & Storage, Parking

**East:** “I-2” Heavy Industrial District / Vacant, Production and Manufacturing, Warehouse Distribution & Storage, Service Garage, Cold Storage Warehouse, General Office, Warehouse-Office Combination, Furniture Manufacturing, Single-Family Housing, Rail Transportation, Steel Fabrication,

“D-1” Downtown District / General Office, Apartments, Retail, Warehouse-Office Combination, Service Garage

“D-3” Downtown District / Mid-Rise Apartments, Warehouse Distribution & Storage, Parking

## **DEVELOPMENT STANDARDS AND POLICIES**

### **PURPOSE, USE STANDARDS:**

Proposed “D-3” Zoning; The purpose of this district is to reestablish the linkage between downtown and the Kansas River through intensive redevelopment of the area north of Crane Street to the Kansas River. The district includes housing, commercial, and office uses that emphasize the relationship between downtown and the river, as well as expand cultural opportunities in the general downtown area.

Uses and activities permitted are typically characterized by higher density residential uses, commercial and office uses, civic and cultural uses, and higher intensity industrial uses. Specific permitted uses include multiple-family dwellings, dwelling units above ground floor or basement, dwelling units on main floor, group home, management/leasing facilities, short term residential rentals, art and portrait galleries and artist studios, class “A” & “B” clubs, private club or lodge, Common open space (within a development and for its occupants), community center, cultural facility, museum, library, daycare facility type I & II, farmers markets, community gardens, government services type I & II, open spaces, private residential recreational facilities, park space, public utility facilities, indoor recreation type I & II, outdoor recreation types I, II, and III, religious assembly, schools, business and vocational school, artisan manufacturing, automotive rental establishments, auto service stations type I & II, bank/financial institutions, body art services, brew pubs, building, construction, and mechanical contractor office, catering, check cashing/pay-day loans, drinking establishments, drive through establishments, grave monuments & markers, health services, clinic, health care facilities, home improvement & building supplies, hotel/motel, liquor sales, packaged goods, medical equipment, mobile retail vendors, office/professional office, parking, surface lot in association with a principal use, multi-level parking garage, patio/garden hardware, pawn shops/second hand shops, personal services, pet shops, pharmacy & drug stores, printing/copy center, restaurant, family dining, carry-out, drive in/drive through, fast-food, retail merchandise outdoor display, retail sales/service, gun sales and service, theatres, tobacco shop, bottling works, contractor yards, machinery and equipment repair and restoration, manufacturing/processing type I & II, micro-alcohol production, research lab, testing or development laboratory, self-storage type I, small cell wireless facilities, bus terminal, warehouse, storage, distribution facilities, welding, tinsmithing & machine shop. The extent and range of activities

permitted are generally more intensive in nature, but the mixed-use character of the D-3 District allows for these more intensive residential, civic and cultural, commercial and office, and industrial uses to be integrated into the built environment.

**DIMENSIONAL STANDARDS:**

D-3 Zoning:  
Front/Rear building setbacks: 0'  
Side building setbacks: 0'  
The maximum building coverage is 100%  
Maximum building height: 60'

**OFF-STREET PARKING:**

No Parking requirements in "D-3" Downtown District

**OTHER DESIGN GUIDELINES AND CONSIDERATIONS:**

Development is subject to the Landscape Requirements (TMC 18.235), Non-residential Building Design Standards (TMC 18.275), and the Downtown Topeka Urban Design Standards (TMC 18.200).

**SIGNAGE:**

Signage will be permitted subject to Title 18 Division 2 Sign Code. With some exceptions, signs require a sign permit.

**COMPREHENSIVE PLANS:**

Land Use and Growth Management Plan 2040 (LUGMP) and Ward Meade Neighborhood Plan: The parcels sit within areas identified for *Downtown and Industrial* as designated by the Future Land Use Map (Map #3). These use designations encourage a mix of uses that aligns with the rezoning of the properties and the recommendations of the Downtown Topeka Master Plan.

**SUBDIVISION PLAT:**

Degginger Subdivision, Shrake Subdivision, Shrake Subdivision 2, Levin Subdivision, Sells Block, Topeka Transit, Mill Block, Cranes Addition, Keyway Sub, Original Town, C K Hollidays Sub,

**FLOOD HAZARDS, STREAM BUFFERS:**

46 parcels fall within an area with a reduced flood risk due to levee. Two parcels have a portion of the parcel within the floodway.

**UTILITIES:**

City utilities located throughout Downtown Topeka.

**TRAFFIC:**

Not applicable

**HISTORIC PROPERTIES:**

129 N Kansas Avenue is located within the Mill Block Historic District.

**NEIGHBORHOOD MEETING:**

The City of Topeka Planning Division conducted a neighborhood information meeting on Thursday, April 21, 2022 at 620 SE Madison Street in the Holiday Conference Room. Three Planning staff hosted the meeting, and 20 members of the community attended the

meeting. Minutes from the neighborhood information meeting have been attached.

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

**PUBLIC WORKS/ENGINEERING:** Not applicable

**FIRE:** Not applicable

**DEVELOPMENT SERVICES:** Not applicable

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## **KEY DATES**

**Initiation:** November 15, 2021

**NEIGHBORHOOD INFORMATION MEETING:** April 21, 2022

**LEGAL NOTICE PUBLICATION:** April 25, 2022

**PROPERTY OWNER NOTICE:** April 22, 2022

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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 NEIGHBORHOOD:** The proposed zoning contributes to the mixed-use character of Downtown Topeka. Large segments of the surrounding Downtown Topeka are already zoned “D-1” and “D-2” Downtown District to accommodate the mix of commercial, office, residential, and industrial uses and include buildings with a variety of building footprint sizes. Rezoning of properties to “D-3” Downtown District allows the existing variety of industrial, retail, office and transportation uses to remain and accommodate a higher density of residential to be incorporated. The previously stated Zoning and Use of Surrounding Properties identifies the diverse land uses of adjacent properties.

**THE ZONING AND USE OF PROPERTIES NEARBY:** The proposed D-3 zoning is compatible with the existing and desired future character of Downtown Topeka. D-3 zoning on the subject properties is a better fit than the existing M-2, O&I-2, C-4, D-1, I-1, and I-2 which do not promote a cohesive mixed-use downtown, by expanding allowed residential uses. Rezoning of the properties would allow a variety of uses to be developed on the site that are compatible with nearby mixed-use properties found within Downtown Topeka.

**LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER**

**PRESENT CLASSIFICATION:** The subject 61 properties have zoning classifications of, “M-2” Multiple-Family District, “O&I-2” Office and Institutional District, “C-4” Commercial District, “D-1” Downtown District, “I-1” Light Industrial District and “I-2” Heavy Industrial District. Of these properties, two are currently vacant and four have a land use associated with surface level parking or storage. Of these vacant properties, the vacant parcel on SE 8<sup>th</sup> Avenue became vacant between 1966 and 1994 with the 11 single-family homes disappearing as the character of the neighborhood changed from predominately single-family in nature to a mixture of civic, industrial, and institutional uses. The vacant lot being used for surface parking at 327 SW Jackson became vacant between 2012 and 2018 and is utilized as parking for the Tree of Life Church located at 335 SW Jackson. The remaining parcels consist of varying office, retail, civic, and industrial uses and zoning districts align with the development that would have occurred prior to the 1940’s on the edges of a Downtown Central Business District.

**CONFORMANCE TO COMPREHENSIVE PLAN:** The subject properties are primarily located within the Downtown Area and some properties falling within a Downtown and Industrial designation as described by the Land Use and Growth Management Plan – 2040 and the 2010 Ward Meade Neighborhood Plan. The Downtown category designates the areas bounded by the Kansas River (north), Topeka Blvd (west), Adams (east), and 12<sup>th</sup>/Huntoon (south) and classifies the area as Topeka’s Central Business District that encourages office, regional employment, and commercial center and redevelopment for a mix of uses that include retail, high density residential and loft conversions. The Ward Meade Neighborhood Plan identifies this area as Downtown and Industrial. The Downtown Master Plan recertified these Land Use categories by recommending rezoning of segments of Downtown Topeka to D-3 promoting the mixed-use development by allowing for a greater mix of uses while accommodating the existing industrial uses.

The proposed rezoning of the subject properties to “D-3” is in conformance to the Comprehensive Plan.

**THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES OF WHICH IT HAS BEEN RESTRICTED:**

The subject properties are currently zoned “M-2” Multiple-Family District, “O&I-2” Office and Institutional District, “C-4” Commercial District, “D-1” Downtown District, “I-1” Light Industrial District and “I-2” Heavy Industrial District. While the zoning classifications and land uses are generally suitable for the subject properties, the current zoning classifications limit the potential for a mix of uses and new residential to be developed in Downtown Topeka. The proposed uses that will be allowed under the “D-3” District provide a variety of intensities that complement the existing industrial uses while incorporating residential, commercial, and civic uses that are complimentary in developing a mixed-use downtown.

City Planning staff reviewed properties prior to initiating rezoning to ensure maximum compatibility of land uses with the proposed zoning district to ensure a minimal number of new legal nonconforming uses were created. Of the 61 properties to be rezoned, one was identified as a new legal nonconforming use, this does not include uses requiring an “S” or a Conditional Use Permit.

- 139 NW Harrison Street - Outdoor storage

**THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY**

**PROPERTIES:** Removal of current restrictions resulting from the proposed zoning change are not anticipated to detrimentally affect nearby properties. A rezoning of the properties “M-2” Multiple-Family District, “O&I-2” Office and Institutional District, “C-4” Commercial District, “D-1” Downtown District, “I-1” Light Industrial District and “I-2” Heavy Industrial District TO “D-3” Downtown District is likely to have no substantial effect on the properties to the north, south, east, and west of the subject properties. Generally speaking, by allowing more mixed-use properties, more live-work relationships can be established that ultimately enhance Downtown Topeka.

**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:** The gain to the public comes from the proposed D-3 zoning allowing a broader range of uses, including potential for greater intensity for residential and a mix of uses within a single development, than what is currently allowed and is consistent with a downtown setting. Denial of the zoning change to D-3 Downtown Zoning may not impose a specific hardship upon the individual landowners as they may initiate a rezoning of their property at a later date. However,

the broad range of land uses allowed under the D-3 Zoning District is more compatible with a downtown environment and allows for properties to better react to market demands to which the property may currently be restricted.

**AVAILABILITY OF PUBLIC SERVICES:** All essential public utilities, services and facilities are available to serve the properties.

**STAFF RECOMMENDATION:**

**RECOMMENDATION:** Based on the above findings and analysis Planning Staff recommends **APPROVAL** of the zoning reclassification from “M-2” Multiple-Family District, “O&I-2” Office and Institutional District, “C-4” Commercial District, “D-1” Downtown District, “I-1” Light Industrial District and “I-2” Heavy Industrial District TO “D-3” Downtown District.

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**Exhibits:**

- #1 Aerial map
- #2 Zoning map
- #3 Future land use map
- #4 NIM Summary
- #5 Property List