



CITY OF
TOPEKA

MINUTES

TOPEKA PLANNING COMMISSION

Monday, May 16, 2022

CASE MINUTES

Members present: Corey Dehn (Acting Chair), Marc Fried, Del-Metrius Herron, Jim Kaup, Donna Rae Pearson, Jim Tobaben, Matt Werner (7)

Members Absent: Ariane Messina, Wiley Kannarr (2)

Staff Present: Bill Fiander, Planning & Development Director; Dan Warner, Planning Director; Kris Wagers, Administrative Officer; Mary Feighny, Legal

Z22/02 Downtown D-3 Re-zoning by Topeka Planning Commission requesting to amend the District Zoning Classification of multiple properties from M-2 “Multiple Family”, O&I-2 “Office and Institutional”, and C-4 “Commercial”, D-1 “Downtown”, I-1 “Light Industrial”, and I-2 “Heavy Industrial” **ALL TO** D-3 “Downtown” District. These properties are located in Downtown Topeka with boundaries of SW Topeka Boulevard, 8th Avenue, ½ block east of SE Adams Street, and the Kansas River.

Mr. Warner presented, reminding commissioners that this is the third and final “D-District” re-zoning. Informational meetings were held in August and October of 2021 and April of 2022. In all, four notifications have been made to property owners regarding the zoning. Notifications were sent to owners of parcels identified for rezoning *and* to property owners within a 200’ radius of properties identified for rezoning. NIM notices were mailed to property owners within a 300’ radius.

Mr. Warner explained that current uses are not proposed to change with this re-zoning; existing land uses will be allowed to remain. Mr. Warner reminded commissioners about the text changes approved in the text amendment case ACZR221/01. Significant additions were made to the zoning matrix for D-3 zoning, adding warehouse storage and distribution, manufacturing processing type II, and more. Mr. Warner concluded his presentation with staff’s recommendation for approval.

Mr. Kaup asked if a surface lot not associated with a principal use is permitted. Mr. Warner explained that stand-alone parking in D-3 requires a CUP (Conditional Use Permit). Mr. Kaup then asked for and received additional information regarding what “micro alcohol production” refers to.

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

Michelle Hoferer, an owner of J.T. Lardner Cut Stone, came forward to speak in opposition of the proposed re-zoning. She stated they own multiple properties in the proposed D-3 zoning area and, having operated since 1903, are likely the oldest operating small business in the neighborhood between the bridges, between 2nd and the Kansas River. She said that this area was part of the first industrial park in Topeka.

Ms. Hoferer stated she is dismayed that the City wants to change the zoning of her property; it has been industrial use and that’s how they continue to see it operating. She expressed concern about “spot zoning” and stated there are plenty of places in D-1 and D-2 that can be used for mixed use. She would

prefer to leave the option of re-zoning to a future property owner if that is their preference. She feels like things are “moving ahead” and [existing businesses] are being pushed out.

Ms. Hoferer asked for confirmation that Commissioners received an email sent by Paul Properties to Planning staff earlier in the day. Mr. Fried confirmed that Commissioners have the email and it is part of the public record.

Ms. Herron asked Ms. Hoferer to expand on how she believes the proposed zoning is creating the feeling that she and other property owners are getting “pushed out”. Ms. Hoferer stated that part of the neighborhood is getting pushed out through the [Polk-Quincy] Viaduct. She stated that some of the uses in the use matrix are those talked about by GTP for future use, specifically research buildings for the pet health corridor. Most of the current property owners are small businesses and it feels like everyone wants to push them out of business and begin changing the future use of the neighborhood; it doesn't feel like they're wanted. She stated that there aren't very many industrial zoned areas left in the city, so they don't have a lot of options if they need to re-locate their businesses.

Ms. Pearson asked what their vision is for the area if the re-zoning does not take place. Ms. Hoferer stated she would hope the current businesses would continue to grow. The businesses that are there have employed a lot of people and paid a lot of property taxes through the years and they have helped the city grow; they want to continue to do that.

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

Mr. Dehn asked if the zoning change would impact the existing uses; would someone be able to purchase the current business(es) and continue to operate them with those uses. Mr. Warner confirmed that existing businesses could continue to operate regardless of who owned them; grandfather rights run with the land, not with the owners.

Mr. Fried made reference to the email from Paul Properties, which expressed concern about mixing residential uses with industrial uses and (potential) consequent complaints from residents about the industrial uses. He asked if staff have researched how this has worked in other cities and if they anticipate it being an issue. Mr. Warner stated that while it is possible to receive complaints, it is also possible for the uses to co-exist. This ability to co-exist is happening now in the River South area where there is a mix of residential and industrial uses.

Mr. Fiander stated that this is a transition from a past to a future vision. Downtowns and riverfronts across the country are going through similar changes where cities turned their backs on traditionally industrial riverfronts. They are being “rediscovered” from a non-industrial standpoint, opening it up to the public, providing greater access to the river and the ability to live in and frequent the area with shops, etc. The proposal strives to recognize the need to balance the interests of all involved including the existing businesses.

Mr. Fiander continued, explaining that this is not a zoning change designed to move anyone out but rather to prepare for what we believe is to come. We know there is a demand for new uses and we want to have a zoning and planning vision that accommodates both as best as we can. Again, this is a transitional period in the history of this area. The challenge is to allow that transition without disrupting the viability of the uses already there.

Staff believes it is possible to accommodate existing uses while having standards for their expansion. There are currently no businesses in the area that would be classified as Type III manufacturing (heaviest industrial) which is the main use being eliminated. Staff does recognize that reserving industrial uses is important. That is accomplished through the Downtown Master Plan in this district and especially the River to Rail District.

This is a “policy evolution” of sorts that seeks to prepare for what the areas are to become. If the future vision which has been adopted is to have a policy that moves toward a mixed use riverfront and downtown, then this is the type of implementation we need to look at.

Mr. Fried asked if a new industrial business could open in the D-3 zoning. Mr. Fiander noted that I-1 Industrial zoning is still intact with wide latitude in D-3; it is some of the more intensive I-2 uses that have been eliminated.

Mr. Kaup asked about the Paul Properties email reference to the Golden Factors and the email statement that there are more reasons not to pass than to pass the proposed re-zoning. Mr. Kaup stated he does not believe the Golden Factors are a “score card” where, for instance, if there are 5 factors against and only 3 supporting, the proposal cannot pass. Weight is assigned to the Factors as appropriate in any particular case. Ms. Feighny agreed, stating they are guidelines and Commissioners should put as much weight on each of the factors as they feel is called for based on the evidence. Mr. Werner added that he believes the eight Factors were sufficiently covered in the staff report.

Mr. Dehn asked why the D-3 zoning does not go further to the east. Mr. Fiander explained that this area is the River to Rail District, which is intentionally reserved for heavier industrial use. There has purposely not been an introduction of mixed use into that area.

With no questions from commissioners, Mr. Fried called for a motion.

Motion by Mr. Kaup Kannarr to recommend to the Governing Body APPROVAL of the request to reclassify the property 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. Second by Mr. Tobaben. **APPROVED** 8-0-0