



CITY OF
TOPEKA

TOPEKA PLANNING COMMISSION

Monday, December 16, 2024

CASE MINUTES

Members present: Willie Brooks, Jennifer Hannon, Jim Kaup, Jeff Lolley, Joesph Mauk
William Naeger, Katy Nelson, Donna Rae Pearson (8)

Members Absent: Del-Metrius Herron (1)

Staff Present: Rhiannon Friedman, Planning & Development Director; Dan Warner, Planning Director
Michael Hall, Land Use Planning Manager; Ann-Marie Driver; Planner, Paul Turner,
Planner; Amanda Tituana-Feijoo, Administrative Officer; Mathew Mullen, Legal, Amanda
Stanley, Legal, and Brandy Roy- Bachman, Legal

PUD24/16, Paradise Providence Place (Revision Number 2)

The purpose of the PUD amendment is to allow a Crisis Center, Type II (permitted by a conditional use in the X-2, D-1 or D-2 Districts) included within Area B of the Master PUD Plan operated in association with, and accessory to, the religious assembly use currently on the property. This Crisis Center will include the following uses:

- 1.) Temporary boarding and lodging for a maximum of six (6) individuals until said individuals can secure employment
- 2.) Boarding and lodging for seasonal emergency overnight 24-hour shelter for up to twenty (20) additional persons
- 3.) A food and clothing pantry
- 4.) A permanent residence for up to two full time building caretakers

Staff:

Ann- Marie Driver presented the staff report and staff's recommendations of approval. Ms. Driver stated that this rezoning application is in response to life safety code violations that are in the process of being resolved.

Questions/Comments from Commissioners:

Commissioner Kaup asked about the seasonal occupation that was listed within the staff report. Ms. Driver stated that it will run from October through April, and at times when the city declares inclement weather. Commissioner Kaup asked for clarification on the "times of inclement weather" that was stated in the staff report, and if it is in addition to the time periods from October through April. Ms. Driver stated the intention was at the times the city declares inclement weather between the months of October and April.

Commissioner Pearson stated that she assumes the inclement weather being referred to is during the winter months but asked about any inclement weather during the summer months. Director Friedman stated that the city works through inclement weather via warming centers. Although she does not disagree that the inclement weather happens in the summer months as well, the city relies on the county for support during the warmer months. The city just helps with the warming centers and severe cold temperatures. Commissioner Pearson asked if the applicant can only operate a warming center, and Director Friedman stated that would be the use for the 20 beds.

Commissioner Kaup asked staff to revise the staff report to reflect "October through April and only for use during those months at times of inclement weather". Mr. Hall pointed out that in the master plan there is a statement that is more specific. "A seasonal emergency shelter or overnight shelter is only permitted from October 16 through April

15, and only in coordination with and at the request of the City of Topeka. Commissioner Kaup would still like to see the phrase “during those months” added to deter any confusion.

Commissioner Kaup asked about the daycare (that has not been, and is not now in operation), and whether arises from the “M2” zoning and is a part of the original PUD. Commissioner Kaup asked If that were to be deleted, and if the original PUD would have to be amended. Mr. Hall stated that there could be verbiage in the conditions of approval that the daycare could not be permitted.

Commissioner Pearson stated that the staff report already states that there is no daycare permitted. Commissioner Hannon clarified that no daycare center is permitted to operate simultaneously when the crisis center is operating. Mr. Hall stated daycare centers are currently allowed when they are accessory to religious assembly.

Commissioner Hannon asked for clarification on the six beds used for temporary residents, and what the definition of “temporary” is. Mr. Hall said the intent is for the homeless population that needs shelter, but there is no designated limit. Commissioner Pearson asked Director Friedman about the definition of time in the “unhoused” world. Director Friedman said that it is a term that is determined community by community and could be made up of the existing resources, but unfortunately no.

Commissioner Naeger asked about the government interest of the four restrictions that are recommended in the staff report. Mr. Hall stated that the compelling interest on the daycare is based on the feedback from the police department, which was public safety. As far as the six beds, they need to comply with the building and fire codes in terms of zoning. As far as the 20 beds, if that is allowed unrestricted, then that could set a precedent and could occur in other neighborhoods.

Commissioner Pearson asked how many other facilities are zoned to serve homeless on that side of town. Mr. Hall stated zero.

Applicant/Owner Representative:
Joshua Bielinski, SBB Engineering
Tina Carter, Open Outreach Ministries

Commissioner Kaup asked Mr. Bielinski about the starting up the daycare. Mr. Bielinski stated that the daycare “language” was included in the original PUD, and the applicant has no concerns about removing that language from the PUD.

Ms. Carter stated that with the money received from the grant, Open Arms bought 20 beds in case the city needed to use them. In the last two years, the city has not called yet with a need.

Ms. Hannon asked about the temporary beds. Ms. Carter stated that it depends as sometime clients are there for a couple of months, and then other times for a few weeks. It depends on the services that they are waiting for, but there have been people transitioning out and transitioning in.

City attorney, Mathew Mullen, stated that to remove the childcare issue there would need to be a compelling issue, and currently he is not seeing one.

Commissioner Pearson stated that it could be left on with the understanding that the daycare won't be utilized, because if it gets taken out now, then the commissioners will have to prove it. Mr. Hall asked if the intent was to not allow the daycare at all, and Commissioner Pearson stated no.

Commissioner Pearson **opened the hearing for public comment.** With no one coming forward, **the public hearing was closed.**

Discussion by Commissioners:

Commissioner Kaup would like to propose to replace condition in the staff report to say the applicant should not operate a daycare center, and they can add it back in for a future Planning Commission meeting. Mr. Kaup expressed concern of mixing the populations of the daycare kids with the homeless. Commissioner Pearson stated, to her understanding, that the way it reads currently does not prevent the applicant from coming back in the future. However, if the verbiage is removed now then there will have to be a compelling reason and currently there is not one.

Commissioner Brooks stated the argument has already been made about mixing the two populations is not safe for the public, and therefore point three exists to assume that by mixing the two populations is not safe for the public. Commissioner Brooks agrees with Commissioner Kaup, that even though the two populations are in different wings, the daycare population is still not safe. Commissioner Brooks would like to restrict the use of the daycare in the facility if the homeless shelter is inside.

Commissioner Kaup is proposing to “kick the can” down the road, as there is not a daycare center currently being proposed. If there is a condition that states there will not be a daycare center, then the applicant can still come back and try to change it. At that point, there would be an informed discussion about whether or not there is a safety issues between the two populations.

Commissioner Pearson pointed out that, as it is written right now, the applicant is not prohibited to come back in the future to attempt to change anything. If the language is left alone, it is still open to possibilities. If the commissioners decide to remove the language, then they are guiding a direction that might not even be necessary, and there is not a compelling reason to change it outside of our personal opinions.

Commissioner Kaup asked about the verbiage “not permitted in any wing”. Mr. Mullen stated, the way he reads it, that if there is a crisis center operating in one wing, then the daycare center can not also operate in that same wing. Mr. Hall stated the applicant does not want to operate a daycare, and they haven’t operated one. They do want to operate the homeless residence. If you have a statement on master plan that has the text in it, then they can come back with an amendment.

Commissioner Naeger asked about the clarification of the current language. If there is a crisis center in wing A, then there can’t be a daycare center in wing A. Mr. Hall stated that assumption is correct. Commissioner Kaup stated just because there are separate “wings” in the building doesn’t mean that the populations are separated in the parking lot or hallway.

Commissioner Brooks stated he would like to propose the use of the day care center. Director Friedman stated that there are other shelters that operate as a day care center during the day. Sometimes those populations are not exclusive of each other, as sometimes there are families and having the option for daycare during the day could be some thought for the future.

Mr. Mullen stated that staff recommendation three addresses the public safety concern, but asked if it is written to resolve the issue in the most least restrictive way? Commissioner Naeger stated that is what he finds the most compelling, as this is a government interest that needs to be acted on, but also going about achieving the interest in the least restrictive way.

Commissioner Brooks asked if the wings of the building could be clarified? Mr. Hall stated that the wings on the master plan are not actually labeled, but one wing is on the east side and one on the west side.

Motion by Commissioner Naeger, **second** by Commissioner Nelson to move for approval, as presented in the staff report, noting the revision on recommendation three which clarifies the crisis center and the daycare center cannot be in the same wing, and each wing must be labeled “East” and “West”. **Approved 7-0-1**