

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: **PUD14/2**

By: **Batis Development (Purchaser under contract)**

PROPOSAL: Zone change from “R-1” Single Family Dwelling District **TO** “PUD” Planned Unit Development (C-2 uses)

LOCATION: Eleven (11) properties located at 3900, 3904, 3908, 4000 SW 29th Street; 2821, 2817, 2813 SW Gage Blvd; and 4013, 4017, 4021, 4025 SW 28th Terrace (2.75 acres)

PRESENT USE: Single-family dwellings

PROPOSED USE: New 14,820 sq. ft. Walgreens with drive-through pharmacy that is open 24-hours

CHARACTER OF NEIGHBORHOOD: The subject properties are located at the intersection of SW Gage Blvd and SW 29th Street (principal arterials), which is comprised of commercial development at the remaining three corners. An existing Walgreen’s and retail center are located directly to the south. Two banks are located at the southeast corner of the intersection. A retail center, Sonic drive-in, and abandoned gas station are located at the northeast corner of the intersection.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	“R-1” Single Family Dwelling District	Single family dwellings
South:	“PUD” Planned Unit Development (C-4 uses)	Walgreens/Retail center
East:	“PUD” Planned Unit Development (C-4 uses)	Vacant
	“C-2” Commercial District	Retail center
West:	“R-1” Single Family Dwelling District	Single family dwellings

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT RESTRICTIONS: The subject properties have remained zoned for single-family dwellings since annexed in 1951. Westview Heights Subdivision was platted in 1956. The existing single family dwellings were constructed in 1959.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject properties along SW Gage and SW 29th are no longer suitable for single-family dwellings based upon the pattern of surrounding land uses, the location of the property at the intersection of two principal arterials, and their condition. The existing pattern of single-family residential land uses fronting a major commercial intersection is not sustainable. Property values, housing maintenance, and public safety have all suffered over time as the traffic impacts and commercial intensity surrounding them have grown.

Property values on average are \$10,000-\$20,000 less for the lots located at the intersection than those lots interior to the neighborhood. The increased crime rates and lack of maintenance for these properties have contributed to depressed rents, which makes them less suitable for single-family residential. While these properties have become more blighted, the four lots directly behind them along SW 28th Terrace are impacted which in turn negatively impacts the rest of the neighborhood. (The attached Police Department dispatch records show 19 calls responding to the subject eleven properties between January and March, 2014.)

This existing design allows for individual residential driveways taking access directly off of the arterial streets. This subdivision design for single family residential is no longer desirable in close proximity to such as major intersection because it increases the number of conflict points near the arterial intersection. In addition, this land use arrangement with numerous driveways decreases the ability of the arterial streets to move traffic, which is its primary function.

CONFORMANCE TO COMPREHENSIVE PLAN: The Topeka Land Use and Growth Management Plan – 2025 (LUGMP)'s future land use map identifies the area for *Urban Suburban Low Density Residential* uses. However, the future land use map in the plan is a broad brush approach and does not designate specific land uses for each particular lot within a neighborhood, but rather gives general guidelines for making land use and rezoning decisions.

The LUGMP's land use principles and policies recommend that commercial uses, such as this proposal, be located in a “nodal” pattern at arterial intersections and encompass approximately 7 – 15 acres at each corner of the intersection rather than in strip commercial patterns fronting along the arterial streets. There is currently commercial development located at three of the four corners of this intersection comprising a total of only 11 acres of land area. Rezoning the subject property for commercial would complete the commercial node and locate the most intensive uses closest to the intersection.

The current land use design with single-family driveways accessing the arterial streets is discouraged by policies in the LUGMP because it tends to decrease the primary function of an arterial street, which is to move traffic. The proposed PUD design has provided for future cross access with the adjoining lots fronting SW Gage and SW 29th, in the event they are also rezoned and redeveloped for transitional uses in the future. The PUD also provides an 8 ft. tall composite fence with 6 ft. tall evergreens on the outside of the fence along its west and north property boundaries in order to provide a residential buffer.

The proposed PUD is in conformance to the recommended “nodal” land use arrangement as supported by the Comprehensive Plan for the location of commercial centers at arterial intersections.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Removal of the present restrictions may have a detrimental effect upon the nearby single-family residential properties without effective buffering techniques. The subject property is adjacent with residential properties along both its north and west boundaries. Some of these potential effects caused upon these nearby properties could be attributed to parking lot lighting, noises, traffic from the 24-hour pharmacy, visual appearance, truck loading/unloading during evening hours, etc. The PUD proposes an 8 ft. tall composite fence along its residential property boundaries with 6 ft. tall evergreens (20 ft. tall when fully grown) located along the outside of the fence that should reduce noise and protect views. Trash dumpster areas will be hidden by 6 ft. tall enclosures. A PUD note indicates,

“The building design shall be coordinated on all elevations with regard to color, materials, and architectural form to achieve harmony of design and neighborhood compatibility.” Staff believes this is significant since the rear elevations (i.e. delivery and drive-through elevations) will face residential properties. All light poles adjacent with residential boundaries will not exceed three foot-candles at the property lines (City standard) and the illumination will be shielded so the lighting is directed away from residential. Staff recommends adding a note that would further exclude, *“delivery truck loading/unloading between the hours of 8:00 pm to 5:00 am”* in order to protect the adjacent residential properties from noises that are attributed to commercial uses. There is at least 35 ft. of green space that is proposed along the north and west property boundaries that separates the Walgreen’s building from residential. The three existing rose bushes contained in the island within the SW 28th Terrace cul-de-sac bulb will be relocated on to this property (outside the fence) and remain as an asset to the neighborhood. Staff believes these measures will mitigate any detrimental effects upon nearby properties by removal of the present restrictions for “R-1” zoning. In addition, removal of the present restrictions for single-family residential zoning will eliminate properties from the neighborhood that have become blighted from a lack of maintenance and increased crime rates that contributes to depressed property values and a lack of home ownership (i.e. 8 of the 11 subject properties are rentals). These factors directly contribute to a neighborhood’s overall health ranking.

The project should not have a significant increase on traffic at SW 29th and SW Gage based upon proposed traffic passing through this intersection attributed to this specific development from existing traffic already impacting the intersection. The intersection is already operating at a LOS D, which is reaching an unacceptable level of service during peak hour traffic. However, this development is estimated to add only 52 AM trips and 146 PM trips to the existing street network (*ITE Manual for Drive-Through Pharmacies*). In the Traffic Impact Study (TIS), peak hour traffic estimates indicate the increased traffic attributed to the development passing through the SW Gage/29th intersection would be 1% in the AM peak hour and < 3% in the PM peak hour. (Traffic engineering standards frequently use a threshold of 5% to determine projects that will have a significant increase on traffic at an intersection.)

Existing traffic counts reflect SW Gage carrying 21, 290 trips per day and 29th Street carrying 12,565 trips per day (33,855 total). The LOS at the SW Gage entrance for left-turns does fall to an “F”, which is unacceptable. The TIA considered designating a “right-in/right-out” only at the SW Gage driveway. However, the City Engineer indicated a “right-in/right-out” may not be preferable since it will further decrease the performance of the SW 29th driveway and offered keeping both driveways full access. The PUD plan currently proposes both driveways with full access, which is accepted by the City Engineer. City staff believes driver patterns for those visiting the subject site will likely be determined by the time of day (i.e. it is unlikely a driver would sit waiting to make a left-turn out on to Gage at 5:00 pm and would rather make a decision to take an alternate route to leave the establishment.) The access openings on both 29th and Gage have been moved as far away from the intersection as the site allows: The SW 29th driveway is 260 ft. from the intersection and the SW Gage driveway is 240 ft. from the intersection. The 29th Street entrance that is opposite the existing Walgreens driveway to the south is preferable in this instance because of its off-set location, which decreases left-turn conflicts. The Gage entrance may have some potential left-turn conflict with the opposing driveway to the east, but is located at the most suitable location that the site will allow. The retail center and office east of SW Gage (opposite this property’s driveway) is considered a low traffic generator. An added benefit to the neighborhood will be realized for pedestrians who will not need to cross arterials to reach Walgreens.

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 proposed reclassification would allow the property to develop for commercial uses, which is consistent with the planned pattern of future development at the intersection of two arterials. The current development pattern along SW Gage and SW 29th allowing individual residential driveways accessing arterial streets is not the ideal land use arrangement and decreases the functionality of the arterial, which is a detriment to the public health, safety, and welfare. This land use arrangement also causes the single-family properties to deteriorate and lose their values significantly, which has led to disinvestment and a concentration of crime. Reversal of these trends would be a benefit to public health, safety, and welfare. The impact upon the value of the adjacent residential properties created from a commercial use directly abutting residential should be minimized by the landscaping and fencing along property boundaries that the PUD provides. Any impact upon the value of adjacent properties should be off-set by the public safety benefits that arise from removing blighted homes from impacting the neighborhood and buffering improvements.

AVAILABILITY OF PUBLIC SERVICES: The subject property is currently served with public utilities, services, and facilities. The developer is constructing new sidewalks along SW Gage Blvd, SW 28th Terrace, and SW 29th Street. All public improvements and utility re-locations (water, sewer, gas, electric) will be at the cost of the developer. A gas line is within the existing 12 ft. utility easement proposed to be vacated by the plat and will need re-location by the developer.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS: Bike rack parking will be located near the front entrance of the building above the required 5% of the automobile parking spaces (Four bike rack spaces are required. The PUD proposes seven bike rack spaces.) The staff recommendation for a fence height of 10 ft. along SW 28th Terrace requires a variance being granted from the Planning Commission under TMC 18.190.080 Planned Unit Development Variance Procedures in order to exceed the maximum 8 ft. fence height allowed by zoning regulations [TMC 18.210.040(a)(1) Accessory Uses]. Staff believes this fence height is justified since it will provide a more effective buffer along a primarily residential street (SW 28th Terrace) and will average 8 ft. in height due to grade elevation differences.

Minimum lot area: **Compliant** – 2.75 acres (1 acre is required)

Setbacks: **Non-Compliant** – Established on the PUD plan (30 ft. – front, 30 ft. – rear, 7 ft. sides are proposed). Setbacks should be revised on the PUD so that the minimum side yard setbacks are at least consistent with the “C-2” zoning required setback (10 ft.)

Platting: **Non-Compliant** – A minor plat for Westview Heights Estates Subdivision #2 is submitted in conjunction with this application to merge the existing lots and vacate the SW 28th Terrace right-of-way bulb.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request was submitted to all applicable reviewing agency staff for consideration and comment. All issues and concerns have been addressed or will be addressed at the time of site plan review prior to building permit issuance. The Storm Water Management Report has been accepted by the City of Topeka Engineer. The plan designates a stormwater detention area on the north side of the proposed building, which will be covered by a stormwater management easement on the plat. The applicant's Traffic Impact Study has been accepted by the City Engineer.

ADDITIONAL FACTORS:

1. Citizen Participation Process: The applicant conducted a neighborhood information meeting on Thursday, March 29, 2014 at Crestview Shelter House, 6:30 pm. The applicant's report to the City is attached.
2. Capitol Area Plaza Authority: N/A
3. Flood Hazard Area: The area currently dedicated as a right-of-way bulb for SW 28th Terrace is covered by the 100 year flood plain. Minimum opening elevations shall be 1 ft. above the adjacent 100-year water surface elevation.
4. Airport Hazard Area: N/A
5. Historic Properties: N/A

STAFF RECOMMENDATION: Based upon the above findings and analysis, planning staff recommends **APPROVAL** of this proposal, **subject to:**

1. Use and development of the site in accordance with the recorded **Master Planned Unit Development Plan for 29th and Gage Retail.**
2. Adding Note #6 under General Notes to state: "*Minimum opening elevations shall be 1 ft. above the adjacent 100-year water surface elevation.*"
3. Revising fence height to 10 ft. along the property's northernmost boundary that is adjacent with SW 28th Terrace on the plan graphics. Revising Note #2 under Landscaping notes accordingly.
4. Adding a heading Variiances under General Notes on sheet #4 and add note stating: "*Pursuant with TMC 18.190.080, the Topeka Planning Commission hereby grants a variance to exceed the maximum fence height of 8 ft. permitted under zoning regulations to allow a 10 ft. fence along SW 28th Terrace.*"
5. Revising second sentence of Note #3 under Circulation, Parking, and Traffic to state: ". . . A cross access agreement with adjoining property owners shall be recorded with the Shawnee County Register of Deeds or provided by virtue of minor re-plat at such time."
6. Revising Note #1 under Signage to state: "*per sign face*" at the end of each sentence addressing sign size to clarify the sign may be two sided.
7. Revising Note #1 under Building and Structural notes to correct miss-spelling of neighborhood "*compatibility*".
8. Revising Note #2 under Project Program to indicate side yard setbacks of a minimum 10 ft.
9. Correct Note #2 under Landscaping to state: ". . . on the same side as the residential properties and along the entire length of the fence."
10. Adding under Project Program notes: "*There shall be no delivery truck loading/unloading between the hours of 8:00 pm and 5:00 am.*"

11. Removing Note #4 under Project Program. (This is required under recently adopted zoning regulations, so it does not need to be noted on the PUD.)
12. Adding “SW” label to street names on the plan sheets.
13. Revising Note #3 under Project Program notes to indicate a height of 42 ft., which is consistent with residential zoning requirements.
14. Adding “SW Gage” label to Vicinity Map.

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