CITY OF TOPEKA
TOPEKA PLANNING COMMISSION

C A S E M I N U T E S

Monday, August 15, 2016

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present:	Scott Gales (Chair), Kevin Beck, Carole Jordan, Katrina Ringler, Wiley Kannarr, Brian Armstrong, Dennis Haugh, Rosa Cavazos, Patrick Woods (9)
Members Absent:	(0)
Staff Present:	Bill Fiander, Planning Director; Mike Hall, Planner III; Annie Driver, Planner II; Mary Feighny, Legal; Kris Wagers, Office Specialist

PUD16/02 by Heartland Management Co. / First Assembly of God requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District with a Conditional Use Permit for a surface parking lot and "O&I2" Office and Institutional District, on property at 520 SW 27th Street, and from "R-1" Single Family Dwelling District on the west portion of property at 500 SW 27th, **ALL TO** "PUD" Planned Unit Development ("O&I2" Office and Institutional District uses). **(Driver)**

Due to conflicts of interest, Mr. Beck and Mr. Gales left the room prior to the introduction of this case. The gavel moved to Mr. Woods.

Ms. Driver reviewed the staff report and staff recommendations. She also stated that she had received two phone calls from neighbors who couldn't attend this Planning Commission meeting but wished to voice objection to the zoning amendment.

With no questions from commissioners, Mr. Woods asked if the applicant or a representative wished to speak. Mr. Vern Jarboe came forward representing the applicant.

Mr. Jarboe stated that also present and able to answer questions was Art Glassman, Ren Newcomer, Mark Boyd, and a representative from First Assembly of God Church.

Mr. Jarboe gave information about Newcomer, saying they've been in business for 120 years. They have approximately 120 Topeka employees, 40 of whom are at the SW 27th Street location. With the addition they anticipate adding another 5 at that location. Newcomer also has locations in several other states. It is a family owned business and the proposed expansion allows the business to grow and stay in Topeka.

Mr. Jarboe stated that following the June 3, 2016 filing of the application, the applicant had meetings with staff and neighbors where concerns were identified. One of these was what the building was going to look like, including size/scale and where it's to be situated. He stated that largely because of these concerns, an architect had been retained to help Newcomer decide both the scale of the building needed and the best orientation on the property. The initial building proposal was downsized and the orientation of the building changed to be laid out north and south, making it consistent with the current building and the neighborhood. Mr. Jarboe pointed out that to the west of the current and proposed buildings are large structures, a church and multi-story single family home, and to the east another church. He stated that Newcomer's structures – the existing one and the one they wish to build – are one story structures with residential scale and they believe the structures will fit in well with the neighborhood.

Another concern identified was landscaping. The changing of the orientation allows Newcomer to keep at least two of the large, mature trees that are on the property.

Mr. Jarboe explained that a concern voiced by neighbors was drainage, and he stated that in phase 1 a berm will be erected to move stormwater into the public system. Mr. Jarboe stated that in phase 2, a dry detention pond will be constructed, which only fills when it's raining and empties generally within hours of the rain ceasing. This pond will be hidden by the berm. A study has been done by City engineers and it reports that the public system can handle this drainage/run-off. Mr. Jarboe added that one of the current drainage problems is caused by a shed in the parking lot of the church. This shed will be removed and the drainage design will return to what it was originally. Drainage should improve immediately.

Mr. Jarboe explained that the proposed changes include a more modern design for the parking lot which will improve the appearance and allow better stormwater removal. There will be less parking than currently offered. Also with the changes will come new and improved lighting which will meet the requirement of the City that new lighting not spill out into the neighborhood. In short, Phase 1 will guarantee a better parking lot for stormwater, appearance, traffic circulation and lighting.

Another concern of neighbors was traffic, and the parking lot re-design allows for the removal of two driveways, namely the exit onto Western and an entrance from 27th Street. The new entrance will be a bit east, where the current driveway is for the church. This is allowed by re-orientation of building and re-design of parking lot. The applicant was concerned that the City Fire Department would want better access than one entry/exit would allow, but in meetings with them, they stated they are fine with it and recommended a hydrant be placed on the property. This will be at Newcomer's expense and they intend to have one installed.

Mr. Jarboe pointed out that the traffic study done by the City states that the proposed changes will have nominal or no effect on neighboring streets. The results of the study are available in the staff report to the Planning Commission.

With nothing further, Mr. Jarboe stood for questions.

Mr. Haugh asked him to describe the berm/landscaping, and Mr. Jarboe stated that in phase 1, the only thing that happens is the berm along the north side of the property to keep water from going off into the neighborhood as it currently does. The detailed landscaping plan will be part of the permitting process in Phase 2. The City will need to approve landscaping at that time.

With no additional questions from commissioners, **Mr. Woods declared the public hearing open.**

Joel Taylor of 2435 SW Granthurst Avenue came forward to speak against the expansion of the Newcomer building, stating that the detention pond is one of his main concerns in that it would disrupt the neighborhood. His concern is that while it was stated that the water would be gone within a few hours of a rain, there are always unforeseen things and he referenced the floods in New Orleans and Baton Rouge. He stated that he doesn't understand how an earthen berm would keep the pond from flooding into the neighborhood as dams fail. He spoke of concerns about retention ponds.

Regarding traffic concerns, he pointed out that even with closing the two driveways, traffic will likely travel to Topeka Blvd. by going down Western to 21st where they can turn east at stoplight by Quinton Heights Hill. The other option will be to go down 27th to Burlingame.

At this point, Mr. Taylor's allotted 4 minutes were up.

Amy Potter of 717 SW Merriam Ct. came forward to speak in opposition to the proposed zoning amendment.

Mrs. Potter stated that she and her husband feel the zoning change will violate the historic preservation plan the City adopted in 2014, which, she stated, says that neighborhoods are a valuable economic asset

that require maintenance and preservation. She stated that the neighborhood is pursuing historic preservation status for their residential neighborhood and a zoning change of this size would alter and impact their community and the entire city of Topeka.

Mrs. Potter spoke to the history of the neighborhood and stated that they lost one of the unique neighborhood homes when it was torn down to construct the current Newcomer building and expressed concern that this would happen to other homes in the neighborhood because Newcomer would wish to expand again. She spoke of residents who she stated had been approached by Mr. Newcomer to sell him their residences so, she stated, that they could be demolished to expand his business. She stated that what was once a small business on the border of their neighborhood threatens to destroy more historic homes. She suggested Newcomer might be better served by moving to an office district that can accommodate future growth and expansion.

Mrs. Potter stated that with Newcomer's initial expansion her home lost 20% of its value, and that this expansion will go even further, creating 30,000 square feet of office space, 88 parking stalls, and a very large detention pond. She added that detention ponds can handle water run-off but also overflow into yards and basements, attract snakes and wildlife, and are nasty eyesores.

Shane Sawyer of 2601 SW Western came forward to speak against the proposed zoning amendment, stating that she was in attendance to ask that the commission save their unique neighborhood from commercial encroachment. She read from a Topeka magazine from 2009, an article entitled Architecturally Positive Addition which is about their neighborhood. The article speaks positively of the Country Club Addition Neighborhood. She quoted the article as saying that the neighborhood is "an architecturally diverse and unusual neighborhood much like Westboro" and then stated that she doesn't believe the City would permit the expansion of commercial property at the expense of Westboro's residents and houses.

Alice Brooks of 2525 SW Western came forward to speak against the proposed zoning amendment. She spoke in regard to a home Mr. Newcomer had purchased in the past and torn down and how she doesn't trust what will happen if the city allows the zoning amendment. She stated that she thinks Topeka has too many empty office buildings; too many places have been deserted to build a newer and better building. She stated that if Newcomer wants to expand, she thinks that ideally, he would take one of these buildings and renovate it to make it work for him; someplace that is not in their neighborhood.

Randy Sawyer of 2601 SW Western came forward to speak against the proposed zoning amendment, asking that the commission reject the Planning staff's recommend for approval and to remove the existing driveway entrance on Western Avenue. Mr. Sawyer spoke of a home and trees/foliage that were removed for the current Newcomer building in 2009. He stated that his current view from his home is parking lots, building, increased traffic, and invasive light at night that comes clear across the street. Mr. Sawyer stated that there's no plan in the PUD for how that light might be eliminated.

Mr. Sawyer stated that the Western Avenue parking lot engages numerous types of traffic, including a semi-truck and trailer rig in use. He stated that there are no sidewalks in the neighborhood and the increased traffic puts pedestrians and cyclists at risk.

Speaking to the traffic study, Mr. Sawyer cited the potential for 98 more trips per day, stating that meant an extra 49 extra vehicles exiting and entering their streets during peek hours. He does not see how this is deemed negligible.

David Hewitt of 601 SW Merriam Court came forward to speak against the proposed zoning amendment. He stated that his property suffers most from current parking lot drainage/run-off problems during spring rains, stating that he gets a "creek" running through his back yard that dumps out onto the street even days after the rains have quit. He recognizes that he stands to gain the most from any improvements to the drainage system, but he is still against the amendment. He stated that the beauty and architecture of the neighborhood is a value that goes beyond commerce. Despite his problems with drainage, he hopes the

commission will give up on the idea of further commercialization encroaching on the borders of the neighborhood, stating that commercialization results in decay and they don't want their neighborhood to turn into urban blight. He stated that he enjoys living in the neighborhood and that it's truly one of the gems of Topeka. He has a respect for the neighborhood that he didn't have when he initially moved in.

Howard Blackmon came forward to speak, stating that he is the Quinton Heights NIA President. He stated that this proposed amendment has caused a lot of stir in the neighborhood and asked those present in the audience who were attending in opposition to stand. Mr. Blackmon stated that he was once a Planning Commissioner and understands the commissioners have a difficult decision to make. He stated that the neighborhood's main concern is Western Street and traffic. Despite the traffic study, he's concerned about commercial traffic with the pedestrian and cyclist traffic and virtually no sidewalks in the neighborhood. He also pointed out that 27th Street is a bike route.

Mr. Blackmon stated that he believes Mr. Newcomer listened to the concerns voiced at the Neighborhood Information Meeting and made some significant changes from the original plans. He thinks it's too bad that things had happened in the past and he knows this commission can do nothing to rectify. He stated that he was glad the first package didn't go, he's glad to see the Western Street exit closed, and he sees that the new plans have a lot more specifics and requirements included to give the City more say in what is built on the property.

Billie Padilla came forward to speak against the proposed zoning amendment. She stated she's lived at 724 SW Merriam Court for 20 years. She thinks the neighborhood is beautiful and doesn't want it to change. She stated she lives 2 blocks off Topeka Blvd. and rarely does she hear sirens, there's not a lot of traffic, and she doesn't want that to change.

With no one else coming forward to speak, asked the applicant if they would like to respond. They asked for a 2 minute break to confer, and Mr. Woods stated the commission would break until 7:15PM.

When the meeting was called back to order, Mr. Jarboe came forward representing the applicant. Referring to the churches near the property in question, he stated that the applicant understands that change is difficult but he wished to point out that although churches are not zoned commercial, they draw a lot of people and have big parking lots. He stated that commercial intervention had already been established long before this building was built in 1968. He pointed out the church to the east also occupies land basically to the same northern neighborhood boundary.

Mr. Jarboe stated that the plan is not about encroaching into the neighborhood because it's not going further in and in fact not as far as the property to the west used to. He added that many allegations had been made against Mr. Newcomer which he could respond to, but they have nothing to do with the case at hand so he would not.

Mr. Jarboe pointed out that zoning is not a "plebiscite", or a vote of the neighbors. It is what the Planning Commission and ultimately what City Council think is best for the community. He further stated that most of the issues the neighbors had spoken about would be solved with this proposal. He stated that upon completion, neighbors wouldn't be able to see Topeka Blvd. or a parking lot, or the lighting that's lighting the parking lot today because that will be updated. He believes this proposal is best both for the community and even for this neighborhood.

Mr. Woods asked regarding neighborhood concerns about traffic. Mr. Jarboe stated he was not at the Neighborhood Information Meeting, but having spoken with some who were, including neighbors, he thought the biggest issue was regarding the driveway on Western. With the re-orientation of the building that driveway will be removed. Mr. Jarboe spoke to original applicant concerns about adequate entrances for fire protection, but that issue is resolved by placing a fire hydrant on site. This is part of the building permit phase; they believe this is what will be required and it's what they plan on doing.

With no further questions for Mr. Jarboe, he was seated.

Mr. Woods asked if anyone else would like to speak and with none coming forward, he **declared the public hearing closed.**

Though the public hearing was officially closed, Joel Taylor returned to the podium and asked why a detention pond is necessary. Jeff Laubach of SBB Engineering stated that currently there is a detention basin on site and the new detention basin will be about the same size.

Mr. Haugh asked where it would be located, and Mr. Laubach stated it will be upstream of the parking lot that's being removed. He explained that during Phase 1 the existing detention pond will remain and a berm will be built. Phase 2 is when the new detention pond will be built. He added that the removal of the shed, along with the berm, will help immediately to move the water to the east toward Topeka Blvd. He stated the current detention basin is mowed and manicured, and he reminded the commission that what will be built will be a detention basin rather than a retention basin so it will be dry most of the time. He stated that people would hardly know it's there.

Mr. Woods once again stated that the public hearing was closed and asked Commissioners for discussion.

Mr. Haugh asked staff what could be built on this property if the current owner didn't function there. Mr. Fiander stated that R-1 allows for single family residential or institution uses such as school and churches. The only limitations are setbacks of 30'; no limitation on scale.

Ms. Cavazos asked if the new plans to remove the driveway on Western and all the other changes the owners had made after the Neighborhood Information Meeting had been shared with the neighbors. Ms. Driver stated that by law, the Planning Department was required to (and did) send notification that the case had been re-submitted. The changes were also available on the City of Topeka website.

Mr. Fiander stated due to neighborhood concerns about encroachment of commercialization on the neighborhood, the Planning Department is very cognizant of maintaining an adequate character transition to maintain character. Generally development includes a parking lot that fronts a street. In this situation, the parking will be behind the building and shielded from the street. That's a big plus for not commercializing that road; the change/removal of the driveway was very significant.

Ms. Cavazos asked how many additional parking spaces would be created and Ms. Driver stated the parking lot will be re-designed but no additional parking spaces added.

Ms. Jordan asked about the staff recommendation #5 requiring the applicant maintain a residential appearance on all 4 sides; how is that enforced? Mr. Fiander explained that the PUD requirements include using architectural elements consistent with the current building, elevations to be approved by the Planning Department, and maintaining a residential appearance on all 4 sides. He explained that commercial buildings often have a "back" that has dumpsters, etc. and the PUD will guard against this. The applicant intends to mimic the elevations currently on the site, as well as architectural detail, roof elevations, etc. Planning Dept. staff will hold them to that design.

Mr. Woods pointed out that he'd heard from neighbors one concern about property values, two about drainage, four about traffic, and eight about the character of the neighborhood. He asked Mr. Fiander to explain what the Planning Department looks at to help R1 remain R1 and not allow encroachment from commercial activity. Mr. Fiander stated that character is about reflecting what's there, such as materials, shapes, scale. No parking lots in front, though homes have driveways, trees, and landscaping. The question is whether expansion is in keeping or harming the character. He added that the staff is not approving or recommending approval of anything beyond this property, and will not recommend expansion or encroachment into the neighborhood beyond the property lines that are currently before the Commission.

Mr. Kannarr stated he too had been tracking neighbor comments and heard a lot about the view onto Topeka Blvd., lights, etc. He asked how these issues might be solved if the zoning amendment were not approved; how is the character of the neighborhood restored that may have already changed?

Mr. Fiander replied that if the amendment doesn't pass, then nothing will change or be improved, including improved lighting that doesn't spill beyond the parking lot.

Motion from Ms. Ringler to accept staff recommendation for approval; second by Ms. Jordan. **APPROVAL** (7-0-2 with Mr. Gales and Mr. Beck abstaining)

Mr. Gales and Mr. Beck returned to their seats and the gavel returned to Mr. Gales.