

TOPEKA PLANNING COMMISSION

A G E N D A

Monday, March 21, 2016
6:00 P.M.

**214 East 8th Street
City Council Chambers, 2nd Floor
Municipal Building
Topeka, Kansas 66603**

Persons addressing the Planning Commission will be limited to four minutes of public address on a particular agenda item. Debate, questions/answer dialogue or discussion between Planning Commission members will not be counted towards the four minute time limitation. The Commission by affirmative vote of at least five members may extend the limitation an additional two minutes. The time limitation does not apply to the applicant's initial presentation.

Items on this agenda will be forwarded to the City Council for final consideration. The progress of the cases can be tracked at: http://www.topeka.org/planning/staff_assignment/tracker.pdf

All information forwarded to the City Council can be accessed via the internet on Thursday prior to the City Council meeting at: <http://public.agenda.topeka.org/meetings.aspx>



ADA Notice: For special accommodations for this event, please contact the Planning Department at 785-368-3728 at least three working days in advance.

HEARING PROCEDURES

Welcome! Your attendance and participation in tonight's hearing is important and ensures a comprehensive scope of review. Each item appearing on the agenda will be considered by the City of Topeka Planning Commission in the following manner:

1. The Topeka Planning Staff will introduce each agenda item and present the staff report and recommendation. Commission members will then have an opportunity to ask questions of staff.
2. Chairperson will call for a presentation by the applicant followed by questions from the Commission.
3. Chairperson will then call for public comments. Each speaker must come to the podium and state his/her name. At the conclusion of each speaker's comments, the Commission will have the opportunity to ask questions.
4. The applicant will be given an opportunity to respond to the public comments.
5. Chairperson will close the public hearing at which time no further public comments will be received, unless Planning Commission members have specific questions about evidence already presented. Commission members will then discuss the proposal.
6. Chairperson will then call for a motion on the item, which may be cast in the affirmative or negative. Upon a second to the motion, the Chairperson will call for a role call vote. Commission members will vote yes, no or abstain.

Each item appearing on the agenda represents a potential change in the manner in which land may be used or developed. Significant to this process is public comment. Your cooperation and attention to the above noted hearing procedure will ensure an orderly meeting and afford an opportunity for all to participate. Please Be Respectful! Each person's testimony is important regardless of his or her position. ***All questions and comments shall be directed to the Chairperson from the podium and not to the applicant, staff or audience.***

Members of the Topeka Planning Commission

Brian Armstrong
Kevin Beck
Rosa Cavazos
Scott Gales, Chair
Dennis Haugh
Carole Jordan
Wiley Kannarr
Katrina Ringler
Patrick Woods, Vice Chair

Topeka Planning Staff

Bill Fiander, AICP, Planning Director
Carlton O. Scroggins, AICP, Planner III
Dan Warner, AICP, Planner III
Mike Hall, AICP, Planner III
Tim Paris, Planner II
Dean W. Diediker, Planner II
Annie Driver, AICP, Planner II
Susan Hanzlik, AICP, Planner II
Taylor Ricketts, Planner I
Kris Wagers, Office Specialist

AGENDA
Topeka Planning Commission
Monday, March 21, 2016 at 6:00 P.M.

- A. Roll call**

 - B. Approval of minutes – February 15, 2016**

 - C. Communications to the Commission**

 - D. Declaration of conflict of interest/exparte communications by members of the commission or staff**

 - E. Action Items**
 - 1. Initiation of re-zoning and review annexation for West Indian Hills Subdivision No. 12.**
 - a. Rezoning Initiation**
Consider initiating a rezoning of the West Indian Hills Subdivision No. 12.

 - b. Annexation Review**
Review proposed annexation for consistency with the comprehensive metropolitan plan.

 - 2. ACZR16/1 Amendment to Chapter 18.190, Planned Unit Development Regulations, requirements and standards relating to minimum parcel size for a Planned Unit Development, including conditions under which a parcel less than one acre may be reclassified to a planned unit development district.**
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- F. Adjournment**



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION
M I N U T E S

Monday, February 15, 2016

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

Members present: Scott Gales (Chair), Brian Armstrong, Kevin Beck, Rosa Cavazos, Dennis Haugh, Carole Jordan, Katrina Ringler, Wiley Kannarr, Patrick Woods (9)

Members Absent: (0)

Staff Present: Bill Fiander, Planning Director; Dan Warner, Planner III; Susan Hanzlik, Planner II; Kris Wagers, Office Specialist; Mary Feighny, Legal

A) Roll Call - Nine members present for a quorum.

B) Approval of Minutes from January 25, 2016

Motion to approve as typed; moved by Ms. Jordan, second by Mr. Beck. **APPROVED (8-0-1 with Mr. Kannarr abstaining)**

C) Communications to the Commission –

Mr. Fiander welcomed Mr. Wiley Kannarr to the Planning Commission

D) Action Items

1) 2017-2021 CIP Projects – In accordance with K.S.A. 12-748(b), review the city's capital improvement program to ensure that it is consistent with the comprehensive metropolitan plan and forward findings to the governing body as to whether such projects are consistent with the comprehensive metropolitan plan. **(Warner)**

Mr. Fiander explained that a local ordinance and state law require the Planning Commission review the Capital Improvement Program (CIP) to assure programs relevant to the LUGMP are in conformity with the current Plan. Once done, no further approval by the Planning Commission is necessary.

Mr. Fiander stated that the February packet included highlights of the projects within the CIP that Planning Staff believe may impact the LUGMP or other elements of the Comprehensive Plan in terms of physical capacity for growth. He added that present at the meeting were COT staff that could assist in answering questions or addressing concerns, including Shawn Bruns, City Engineer, Nickie Lee, COT Budget Director, and Doug Gerber, Assistant City Manager.

Mr. Gales asked Mr. Fiander to give a brief review of the relevance of the designations of Tiers I, II & III in the Urban Growth Area. Mr. Fiander did so, and he explained that the main focus of CIP projects is in Tier I.

DRAFT

Mr. Warner reviewed some of the proposed projects and Commissioner questions were answered.

Mr. Fiander pointed out a correction on page 2 of the packet memo, stating that the bullet point regarding SE California Ave. should read 5 lanes, not 3.

Mr. Gales opened the floor to public comments. With none coming forward to speak, Mr. Gales stated that the public hearing was closed and asked if Commissioners had additional comments or questions.

Ms. Cavazos inquired regarding a pedestrian crossing in North Topeka project on the unfunded project list, asking when it might get funded. Mr. Fiander stated he's not certain, explaining there's a policy cap of approximately \$9m/year in general obligation bonds.

Motion by Mr. Beck, stating that upon review of the CIP, the Planning Commission determines that the CIP is consistent with the Comprehensive Plan. Second by Mr. Haugh.

APPROVAL (9-0-0)

- 2) **Elmhurst Neighborhood Conservation District (NCD)** Elmhurst N.A. is requesting the initiation of a Neighborhood Conservation District Zoning overlay for the properties roughly bounded by SW 10th St to the north, the alley between SW Boswell Ave. and SW Jewell Ave. to the west, SW Huntoon Ave. to the south, and SW Washburn Ave to the east, excluding the commercial properties along SW 10th St, the Library, the Topeka Bible Church campus, Lowman Hill Elementary School, the Elmhurst Greenway Park, and the 1000 block located between SW Mulvane Ave. and SW Garfield Ave. **(Hanzlik)**

Ms. Hanzlik reviewed the Elmhurst NCD, explaining that Elmhurst is the second neighborhood to seek this zoning overlay. Westboro was the first neighborhood to do so. She stated that the zoning overlay standards are administered and enforced by the Topeka Planning Department, with the design guidelines within the document reflecting the existing character of the neighborhood. The guidelines are written by neighborhood representatives and approved by the relevant Neighborhood Association, thus they reflect the concerns of the neighborhood property owners.

Upon Ms. Hanzlik's review of the proposal, Mr. Gales called for questions from Planning Commissioners.

Mr. Haugh asked about the wording of the fence portion of the regulations. Mr. Fiander stated that the verbiage will be reviewed to assure clarity.

Mr. Gales inquired regarding document's dealing with the styles of homes that are allowed to be built in the district and what someone's options might be if they wanted to build a different style of home. Mr. Fiander stated that additional detail may need to be added. Ms. Hanzlik stated that she had worked closely with neighborhood property owners to design the guidelines, and it was quite important to them that the neighborhood maintain the historic period goal.

Mark Galbraith of 1230 College, president of the Elmhurst Neighborhood Association (NA), came forward to speak as representative for the NA. He stated that the NA is grateful to

City Council for making the NCD option available to Elmhurst and other older, historic neighborhoods in Topeka because they feel there is value in the historic character of some of our older neighborhoods. The NCD gives neighborhoods a tool to help preserve that historic character.

Mr. Galbraith relayed some of the history of the neighborhood, stating it was developed in 1909 (the first year houses were made available) and though they're a fairly small neighborhood of around 400 homes, there is a wide variety of architectural styles. He stated there are a number of vacant properties and the neighborhood is somewhat concerned about the style of homes that might be built that could negatively impact the historic character of the neighborhood.

Mr. Galbraith shared that the NA has been working on the NCD plan for approximately two years. They got a lot of public input from the two neighborhood meetings required for NCD status, and they believe they were able to incorporate almost all the recommendations that came out of the meetings, making it a much better plan because of the process.

Ms. Ringler asked if there were any major items that came out of the neighborhood meetings that the neighborhood was unable to come to a compromise on. Mr. Galbraith stated he couldn't think of anything. He said there was a lot of discussion about metal accessory buildings. The plan originally called for none, but the compromise was that they would be allowed if they couldn't be seen from the street.

Mr. Gales thanked Mr. Galbraith for the work that the Neighborhood has done on the plan.

Mr. Fiander stated that staff would appreciate any comments the Commissioners may offer, as staff will work on clarifications or revisions the Commission feels necessary.

Mr. Haugh asked who would be responsible for the review and compliance with the NCD guidelines. Mr. Fiander stated it would be the responsibility of Planning Staff, and the BZA would be the ultimate arbiter of any disagreements.

Ms. Jordan stated it's exciting to her that the neighborhood is willing to go to these lengths to initiate this to protect their neighborhood. She added that she feels neighborhoods are the strength of our city and it fits well with the new land use planning.

Mr. Gales asked why there was nothing in the NCD plan addressing sidewalks or driveways. Ms. Hanzlik explained that the neighborhood was content with the current standards and didn't feel they needed to be more restrictive.

Motion by Mr. Woods to initiate the application for the Elmhurst NCD. Second by Ms. Ringler. Mr. Fiander pointed out that a vote for the initiation does not mean commissioners are in favor of the NCD. Mr. Gales encouraged the NA to remain sensitive to what options there might be for design and not be too explicit in the statement of design. **APPROVAL (9-0-0)**

Adjournment at 7:06 PM



CITY OF TOPEKA

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MEMORANDUM

TO: Topeka Planning Commission

FROM: Dan Warner, AICP
Comprehensive Planning Manager

DATE: March 21, 2016

RE: Annexation proposal – West Indian Hills Subdivision No. 12

Proposal

Annexation of the West Indian Hills No. 12 subdivision. The property is approximately 1.46 acres and is intended to develop as a 4-lot single-family urban development.

Annexation Procedure

The property is contiguous to the City boundary and the property owner has provided written consent to annexation. The property is eligible for annexation under KSA 12-520(7), which does not require hearings or public notice. No service extension plan is required.

Topeka's Land Use and Growth Management Plan – 2040 establishes that annexation requests be forwarded to the Topeka Planning Commission for consideration and recommendation based on the land use and growth management principles of the Comprehensive Plan.

Notice of the proposed annexation and neighborhood information meeting was provided to nearby property owners per the City's Citizen Participation Process. The Planning Commission's review of this annexation proposal also serves as the neighborhood information meeting.

Comprehensive Plan

The property lies within Tier 2 of the Urban Growth Area as delineated by the LUGMP-2040. These are areas that are contiguous to the City limits, urban infrastructure and services are available, and development of these areas will allow the City to grow in a compact pattern. This proposal is essentially an infill development. The project connects to an urbanized single-family housing already being served by the city to the north and east of the subject property. Developing this property allows the City to grow in a compact and affordable manner. See the attached fact sheet for additional information.

Staff Recommendation

Annexing and developing this property is consistent with the policies and principles of the LUGMP – 2040 and allows the city to grow in a compact and affordable manner. Staff recommends the Planning Commission forward a recommendation of approval of the referenced annexation to the Topeka Governing Body.

Annexation Proposal (A15/3)
West Indian Hills No. 12
Fact Sheet

Site

Address/Location: Located on the north side of SW 27th Street, approximately 366 ft. east of SW Indian Hills Road.

Owner: Krull Auction and Real Estate, Co.

Size: Approximately 1.46 acres

Existing Land Use: Vacant

Proposed Land Use: single-family residential

Subdivision: West Indian Hills Subdivision No. 12



Annexation Procedure

Contiguous?: Yes.

Consent?: Yes. Owner provided a written consent.

Requirements: Eligible for annexation under KSA 12-520(7). No required hearings or notices. No service extension plan is required.

Approval Method: COT governing body passes ordinance.

Annexation Proposal (A15/3)
West Indian Hills No. 12
Fact Sheet

Planning

Existing Zoning: RR-1 (Residential Reserve)

Current Population: 0 residents

Projected Population: 10 residents

Density: 4 dwelling units. 3 Dwelling Units/Acre

Primary Service Area (Sewer Required): Yes

Comprehensive Plan:

The Land Use and Growth Management Plan - 2040 establishes this area for *Urban/Suburban Low Density Residential* land uses. The expected residential density of this proposal is 3 dwelling units per acre, which is in conformance with the LUGMP – 2040 policies that recommend densities up to 6 dwelling units/acre within areas classified *Urban/Suburban Low Density Residential*.

The property lies within Tier 2 of the Urban Growth Area as delineated in the updated LUGMP – 2040. These are areas that are contiguous to the City limits, urban infrastructure and services are available, and development of these areas will allow the City to grow in a compact and affordable manner. This property is contiguous to the City limits and all urban services are available.

The proposal is essentially an infill development. The project connects to urbanized single-family housing already being served by the city directly to the north and east of the subject property. Developing this property allows the City to grow in a compact and affordable manner.

Annexing and developing this property is consistent with the policies and principles of the LUGMP – 2040 and allows the city to grow in a compact and affordable manner.



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MEMORANDUM

TO: Topeka Planning Commission

FROM: Dan Warner, AICP
Comprehensive Planning Manager

DATE: March 21, 2016

RE: Initiation of the rezoning of the West Indian Hills No. 12 subdivision

The West Indian Hills No. 12 subdivision was platted as a 4-lot single-family development at the end of 2015. The property lies within the unincorporated portion of Shawnee County and is currently zoned "RR-1" Rural Residential Reserve District. The property is tentatively scheduled to be considered for annexation by the Topeka Governing Body in April, 2016.

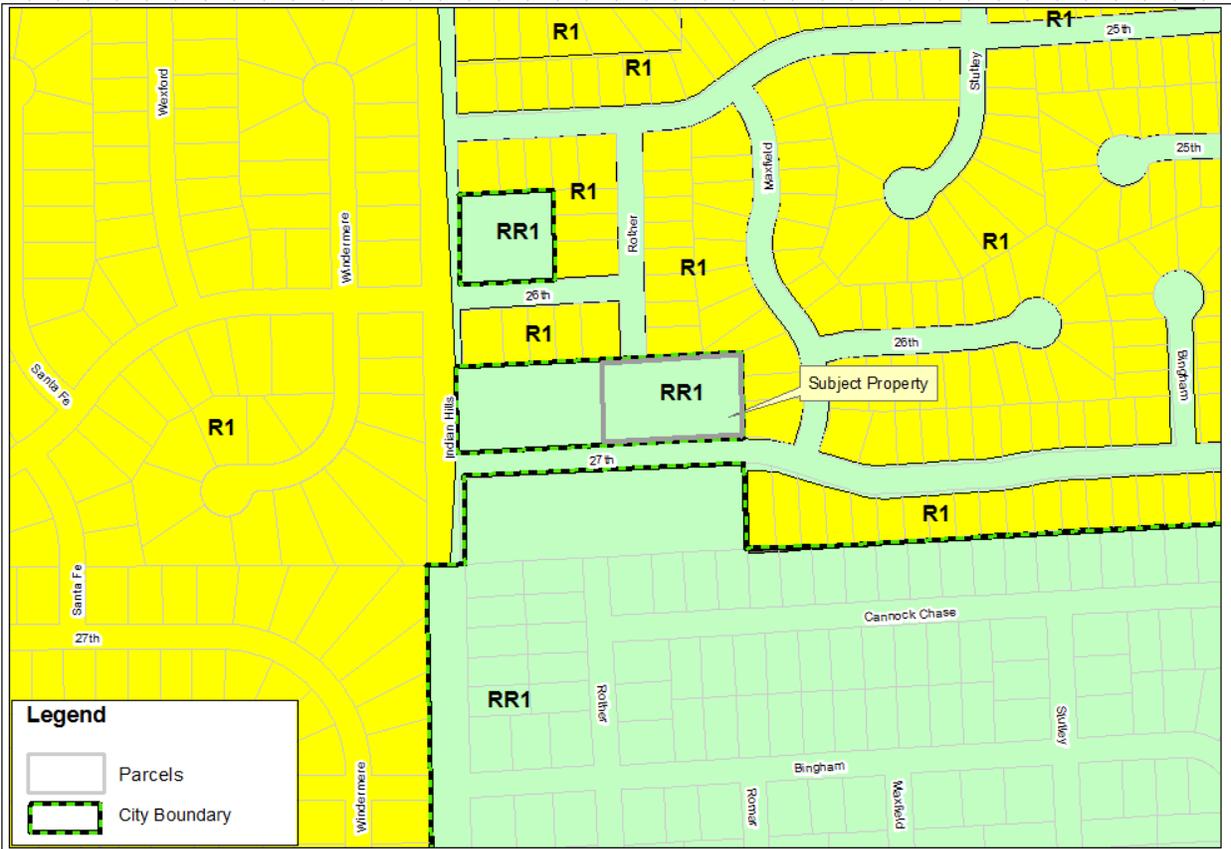
Upon annexation into Topeka, the property should be rezoned to an urban residential zoning district that is appropriate for the urban single-family nature of the development. There is an established urban single-family neighborhood to the north and east of the subject property.

The Planning Commission, as permitted under the City Zoning Regulations, should initiate the rezoning. **Adoption of this recommendation only allows staff to set the public hearing for future consideration and does not adopt the rezoning.**

The process to review this rezoning would be typical of any rezoning case before the Commission. Staff will review the attached proposals, provide a written staff report, and make recommendations at a scheduled public hearing before the Commission. The neighborhood information meeting for this proposal is being held in conjunction with the Planning Commission's review of the annexation proposal.

Staff Recommendation:

- Staff recommends the Planning Commission initiate the rezoning of the West Indian Hills No. 12 subdivision.





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MEMORANDUM

Date: March 21, 2016

To: Topeka Planning Commission

From: Michael Hall, AICP, Current Planning Manager

Re: ACZR16/1 – Amendment to the Planned Unit Development Regulations (TMC18.190)

Issue: A text amendment concerning the minimum site area allowed as a Planned Unit Development zoning district. This revision will provide greater flexibility for the adaptive re-use of existing buildings on properties less than one acre by allowing for PUD zoning on these sites.

Background: Staff has recently encountered situations in which an adaptive re-use of an existing building is proposed, but the proposed use is not permitted under the existing base zoning thus requiring rezoning to a less restrictive zoning district (Example: “R-2” to “M-2” zoning). While the City encourages adaptive re-use of existing buildings, rezoning of property to a less restrictive zoning district may be incompatible with the surrounding neighborhood.

The zoning regulations currently do not provide an effective means for encouraging re-using buildings and mixes of uses on small sites (less than one acre) without rezoning to a less restrictive base zoning district potentially resulting in “spot zoning”. If the City had the option of PUD zoning for these situations, then conditions could be attached to the zoning to achieve compatibility. Current zoning regulations allow for PUD zoning for sites less than one acre if they are “transition areas” as defined. However, many candidate sites for adaptive re-use are less than one acre and are not “transition areas” and, therefore, do not qualify for PUD zoning.

Some examples where this type of rezoning may occur are sites containing older (although not necessarily historic) or significantly larger, single family residences that are difficult to market as single-family homes, former churches or schools, and former public facilities (i.e. fire stations). Potential re-uses of these structures include group facilities and group residences, live-work residences, offices, community/neighborhood facilities, senior housing, or multiple-family residential.

An application to the City by the organization Working Men of Christ for a rezone from R-2 to M-2 at 1175 SW Clay is the impetus for considering this amendment now. The application is on hold pending the decision of the proposed amendment.

Findings and Recommendation: The proposed amendment will allow “PUD” zoning on properties less than one acre where the proposed use demonstrates it re-uses the existing building and the proposed use requires a less restrictive zoning district.

Additionally, the amendment allows the Planning Director to accept an application without a Master PUD Plan, while still giving the City the ability to set conditions on the zoning ordinance reclassifying the property.

Staff recommends **APPROVAL** of the zoning code amendment to the Planned Unit Development regulations. The amendment has been advertised for public hearing.

Chapter 18.190

PUD PLANNED UNIT DEVELOPMENT DISTRICT

Sections:

[18.190.010](#) Purpose – Intent.

[18.190.020](#) Regulations generally.

[18.190.030](#) Use regulations.

[18.190.040](#) Requirements and development standards for the planned unit development district.

[18.190.050](#) Procedure for securing approval of a planned development and the establishment of a planned development district.

[18.190.060](#) Planned unit development approval by the governing body.

[18.190.070](#) Amendments to planned unit development plans.

[18.190.080](#) Planned unit development plan variance procedures.

18.190.010 Purpose – Intent.

This district is established to permit greater flexibility and more creative, innovative and imaginative design for the development of areas that are generally possible under the strict application of the regulations of the other districts. It is further intended to promote more economical and efficient use of the land while providing for a pleasing and harmonious development and environment, including opportunities to provide for a high level of urban amenities, and the preservation of open spaces. The regulations of this district are intended to encourage the use of this district in order to integrate multiple uses into the development; to adapt the proposed use(s) to meet the conditions of the site; and to affect certain economics in public facilities. The requirements contained herein are set forth to provide for such development on other than a lot-by-lot basis.

Due to the nature and implications of a district zone which provides for such a broad spectrum of land use and a more challenging responsibility of the delivery of public services, considerations and quasijudicial deliberations relating to the compatibility of the district to a particular site shall permit greater discretionary review and broad latitude in applying conditions and limitations for a permitted development. The compliance with all standards set forth in this division and the submittal of all specified documents and data shall not entitle an applicant to this district classification. (Ord. 19370 § 108, 3-23-10. Code 1995 § 48-24.00.)

18.190.020 Regulations generally.

The regulations set forth in this chapter or set forth elsewhere in this title when referred to in this chapter are the district regulations for the PUD planned unit development district. A development plan shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, design and location of buildings, the density or intensity of use, the common open space, the public facilities and the development by geographic division of the site as well as with the surrounding or adjacent properties.

One or more use groups, referring to one or more of the zoning districts, shall be established on the master plan. The use regulations, dimensional requirements, off-street parking regulations and sign regulations for each of the use groups shall be as set forth in each of the corresponding zoning districts contained in this code, unless other requirements are specifically set forth on the master plan or the site plan. (Ord. 19218 § 1, 2-3-09. Code 1995 § 48-24.01.)

18.190.030 Use regulations.

(a) Permitted Uses. A planned unit development district may provide for any use or combination of uses that are listed in the use regulations of the various districts contained in this division, subject to applicable limitations, provisions or conditions specified therein and in accordance with the following regulations:

(1) All approved permitted uses of this district shall be geographically designated and grouped by category on all plans in like manner as other districts contained in this division, either by individual group or in combination therewith.

(2) Permitted use categories and any approved conditional uses provided by the individual categories shall be specifically designated on all approved plans and shall be set forth in the adopting ordinance or resolution.

(3) Provided, that all applicable limitations, provisions and conditions specified by use and set forth in this district are complied with, there may be use changes or relocations within each group category; provided, that the approved plan is not modified except as otherwise provided for by the procedures of this district.

(b) Setback and Height Regulations. The height and front, side and rear yard setbacks for individual structures within the planned unit development shall be determined in conjunction with the final approval of the planned unit development plan.

(c) Off-Street Parking Regulations. The provisions of Chapter [18.240](#) TMC, Off-Street Parking Requirements, shall apply to the planned unit development district in all respects except for the specified standards establishing the required number of spaces. Off-street parking regulations shall be based on the applicable requirements for each proposed use as set forth in this code. The planning director can provide a downward variance from this requirement based on factors provided by the applicant, including, but not limited to, the use of shared parking, nearby public parking or other factors that justify a lesser parking requirement.

(d) Signs. The number, location, size, area, height and type of signs shall be determined in conjunction with the approval process. (Ord. 19218 § 2, 2-3-09. Code 1995 § 48-24.02.)

Cross References: Planning department, TMC [2.25.210](#).

18.190.040 Requirements and development standards for the planned unit development district.

The following performance criteria shall be required of all planned unit developments and shall be addressed by the master plan:

(a) Size of Parcel.

(1) ~~One acre. Except as provided in subsection (a)(2) In order to encourage the efficient use of land and resources, promote greater efficiency in public and utility services, and encourage innovation in the planning, design and building of all types of development,~~ the minimum site size requested for a planned unit development district shall be one acre.

(2)(a) Less than one acre; transition area. Parcels containing less than one acre may be ~~sought for reclassification~~ reclassified to the a planned unit development district where the planning director determines the proposed PUD to be a “transition area,” defined as an area that separates a nonresidential use group classification (O&I, C, or I districts alone or within a PUD) from another nonresidential use group classification or a residential use group classification (R or M districts alone or within a PUD). The determination of the planning director may be appealed to the planning commission.

(2)(b) Less than one acre; re-use of building; zoning change. Parcels containing less than one acre may be reclassified to a planned unit development district where the plan includes a re-use of an existing building and the proposed use would require a zoning change to a less restrictive classification. Conditional uses may be allowed as indicated in 18.190.030(a)(2).

(b) Additional Standards and Requirements for Projects on Less Than One Acre.

(1) The use group category assignment of the planned unit development will be ~~comparable to that of compatible with~~ surrounding properties in the neighborhood. Restrictions may be imposed to ensure the proposed use is compatible with surrounding properties or uses.

(2) The density and design of the planned unit development shall be compatible in use, size and type of structure, relative amount of open space, traffic circulation and general layout with adjoining land use, and shall be integrated into the neighborhood.

(3) The development shall not have any greater impact on existing streets and utilities than that anticipated for a conventional development of the site.

(4) The development shall not adversely affect views, light and air, and use and enjoyment of neighboring properties any more than would a conventional development.

(5) The master planned unit development plan shall also include building elevations for all structures and details of materials to be used for external construction, when determined necessary by the planning director. The determination of the planning director may be appealed to the planning commission.

(c) Property Owners' Association. Areas within the planned unit development which are designated as private streets, private utility services, common areas, recreation areas, or other open space set aside for the benefit of tenants and property owners, shall be maintained by the property owners' association or, in the alternative, property owners within the planned unit development. In the event the property owners' association or property owners within the planned unit development fail to maintain such areas, the governing body may proceed under applicable ordinances and/or resolutions to maintain such areas. All costs incurred by the governing body in maintaining such areas shall be assessed against the lots within the planned unit development as provided for by law. Nothing contained herein shall be construed as creating a duty on behalf of the governing body to enforce any of the duties, obligations, or responsibilities of the property owners' association or, in the alternative, individual property owners.

(d) Platting. Building or zoning permits shall not be issued nor any development initiated on any property designated as planned unit development until such time that the property has been platted as a subdivision; or replatted as a subdivision when determined by the planning director that conditions and circumstances relating to utility extension and service, street or alley right-of-way, topographic and drainage factors, easements, or vehicular access warrant said replat.

(e) Access.

(1) All drives, lanes, streets, culs-de-sac, and other accessways within the planned unit development shall be owned and maintained by the property owners' association or owners within the planned unit development unless it is determined by the planning commission that there is a public need for local streets and/or major trafficways to transverse the district. In such instances, the transversing streets and/or trafficway right-of-way shall be dedicated by the developer in accordance with the plat subdivision regulations.

(2) All drives, lanes, streets, culs-de-sac and other privately owned accessways providing accessibility to individual structures, buildings, and uses within the planned unit development shall, by the nature and intent of the district, be considered and serve as mutual rights of access for owners, tenants, invited guests, clients, customers, support and utility service personnel and emergency service providers, including law enforcement, fire protection and ambulance services. No gates, structures or other barriers shall be constructed across said accessways which may impede, limit, or restrict the above rights of access.

(3) The site will be accessible from public streets which are adequate to carry the traffic that will be imposed upon them by the proposed development. Streets and driveways on the site of the proposed development will be adequate to serve the residents, occupants, or users of the proposed development. Traffic control signals will be provided without expense to the city when

~~the governing body determines that~~ such signals are required to prevent traffic hazards or congestion in adjacent streets.

(4) All drives, lanes, streets, culs-de-sac, accessways, and parking lots shall comply with all applicable provisions of Chapter [18.240](#) TMC in respect to surfacing, design, screening, lighting, and drainage.

(f) Other Standards. Other developmental standards, requirements, and provisions of applicable jurisdictional units including but not limited to those of public works, fire and water district, law enforcement, utilities, and parks and recreation, and which may not be specifically set forth in this division, shall apply and the master and final planned unit development plans should account for such and reflect a development design accordingly; provided, that variances and waivers are not granted by the appropriate authority.

18.190.050 Procedure for securing approval of a planned development and the establishment of a planned development district.

Prior to any use or development within the planned unit development district, the district shall be established in accordance with the provisions of this division, including the approval of all plans set forth in the procedure.

(a) Application to Amend to the District. Except as set forth by this division, a petition to reclassify property to the planned unit development district shall be as established in Chapter [18.245](#) TMC, Amendments, and include like contents. Additionally, the application shall include ~~15~~ the specified number of copies of the planned unit development master plan which shall consist of the following documents, information and graphics unless determined to be unnecessary by the planning director. The planning director may waive the submittal of the master plan in circumstances where the conditions of approval, restrictions, and limitations of the planned unit development can be addressed in the ordinance reclassifying the property.

(1) Legal description of the proposed district in its entirety, total acreage, and planned unit development name/designation.

(2) Legal description of each proposed use group category with corresponding acreage.

(3) The site plan shall identify the name of the planned unit development in large, bold letters centered across the top of all plan sheets; the general location and arrangement of all existing structures; the proposed traffic circulation pattern within the development; the approximate location of proposed and existing major streets and major pedestrian and bicycle routes, including major points of access; the areas to be developed for parking; the points of ingress and egress including access streets where required; the relationship of abutting land uses and zoning districts; proposed types of signage; proposed lots and blocks, if any; proposed public or common open space, if any, including parks, playgrounds, school sites, and recreational facilities.

(4) The site plan of the development shall be at a minimum scale of one inch equals 50 feet, composed of one or more sheets with an outer dimension of 24 inches by 36 inches. A single-line border shall be provided around all plan sheets measuring exactly one inch from the edge of the sheet except along the left side of the sheet which line shall measure exactly two inches from the edge. The scale, north point and most recent date of preparation shall be so indicated on the plan.

(5) Graphically reflect the geographic location and designation of each use group category proposed.

(6) The anticipated density, number, maximum height and type of residential units; and floor area, maximum height and types of business, commercial and industrial use presented in tabular form in comparison to minimum applicable standards.

(7) Existing topographical character of the land at a contour appropriate with the scale of the project; all watercourses, floodplains, unique natural features, including wildlife areas and vegetative cover, and recognized historical sites and structures. Further, all existing streets, alleys, easements, utility lines, and existing land use shall be included on the plan.

(8) Total land area, approximate location, and amount of open space included in the residential, business, commercial, and industrial areas.

(9) When a planned development includes provisions for common open space, streets, utilities, drainageways or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space, streets, utilities, drainageways, or recreational facilities.

(10) A preliminary plat of subdivision pursuant to the applicable ordinances, rules and regulations relating to subdivision approval; or a copy of the existing recorded plat which is appropriate for the intended plan.

(11) Area shown on the site plan shall extend beyond the property lines of the proposal to include a survey of the area within 150 feet of the proposal, exclusive of public right-of-way, at the same scale as the proposal and include the following:

(i) Land uses, location of principal structures, and major existing landscape features.

(ii) Traffic circulation system.

(iii) General topographical mapping at same scale as master plan.

(12) Traffic impact analysis as defined by this division; provided, however, if in the opinion of the public works director, upon determination at preapplication conference that the intensity and scope of the requested planned unit development is of such nature that said impact analysis is not warranted, the director may waive said requirement.

(13) A development phasing schedule including the sequence for each phase, approximate size in areas of each phase, and proposed phasing of construction of public improvements, recreation, and common open space areas.

(14) One 11-by-17-inch reproducible electronic and paper copy of master plan.

(15) Indicate “Book,” “Page,” “Date,” and “Time” in upper right-hand corner of all plan sheets.

(16) Immediately below the “Book,” “Page,” “Date” and “Time” entries, provide the following signature block:

Recorded With The Shawnee County Register of Deeds:
(Registrar’s Name) – Register of Deeds

(17) Include the following statement on the plan sheet:

This Planned Unit Development (PUD) Master Plan has been reviewed and approved in accordance with the provisions of Chapter [18.190](#) of the Comprehensive Zoning Regulations of the City of Topeka and Shawnee County, Kansas, and may be amended only as prescribed in TMC [18.190.070](#) and as set forth on this document or as may subsequently be approved and recorded.

(18) Notarized owner’s certification of acceptance of conditions and restrictions set forth on the master plan as follows:

OWNER’S CERTIFICATE: (Type Name) agrees to comply with the conditions and restrictions as set forth on the master PUD plan.

In Testimony Whereof:

The Owner(s) of the above described property, (Type Name), have signed these presents this _____ day of _____, (Year) _____.

(Type Name and Title) (Type Name and Title)

Be it remembered that on this _____ date of _____, A.D. _____ (Year) before me, a notary public in and for said County and State come _____, Owner(s) of the above described property.

I hereby set my hand and affix my notarial seal the day and year last written above.

Notary Public

My Commission Expires:_____

(19) Notarized certification of master PUD plan approval by the secretary to the planning commission as follows:

Certification of Master PUD Plan Approval:

(Planning Director's Name) (Date)

Secretary to Planning Commission

Be it remembered that on this _____ date of _____, A.D. _____ (Year), before me, the undersigned, a notary public in and for said County and State came (Planning Director's Name) who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I hereby set my hand and affix my notarial seal the day and year last written above.

Notary Public

My Commission Expires: _____

(b) Action on the Petition and Master Plan of the Planned Unit Development Plan by the Planning Commission and Governing Body. Upon filing of a petition to amend a district to the planned unit development district as set forth in Chapter [18.245](#) TMC, Amendments, and as further provided by this division, the planning commission shall review, consider, and act on the petition in a like manner and procedure as provided in Chapter [18.245](#) TMC. The appropriate governing body shall consider such proposal upon report and recommendation by the planning commission also in a like procedure as provided in Chapter [18.245](#) TMC. (Ord. 19218 § 4, 2-3-09. Code 1995 § 48-24.04.)

Cross References: City council – mayor, Chapter [2.15](#) TMC; department of public works, TMC [2.25.170](#); planning department, TMC [2.25.210](#); planning commission, Chapter [2.65](#) TMC.

18.190.060 Planned unit development approval by the governing body.

(a) Form of Ordinance. An ordinance approving a planned unit development and establishing a planned unit development district shall specify the restrictions that will, pursuant to the development plan, apply in the planned development district and shall describe the boundaries of such district or set such boundaries out on a map that is incorporated and published as a part of such document. Such document shall also specify the conditions and restrictions that have been imposed by the governing body on the planned development and shall designate geographic areas by use group category. Prior to consideration of an ordinance by the city council, the applicant shall submit the plan on a permanent-type drafting film material on sheets 24 inches by 36 inches suitable for recording.

(b) Recording. For those proposals which are approved to be reclassified to the planned unit development district, the master plan, and site plan (if concurrent approval is requested by the applicant) as approved by the governing body with all conditions, revisions, and restrictions as set forth or imposed by said action of the governing body shall be recorded within 60 days of the action date of the city council by the applicant with the register of deeds. Failure by the applicant to record the plan within the prescribed time period or provide the planning department 15 copies of the recorded plan within 90 days of the action by the governing body shall deem the zoning petition as null and void. The planning director upon written request of the applicant and for good cause shown may extend this time period an additional 30 days. Upon recordation, any changes, revisions, or modifications to the plan shall be in accordance with this division and again recorded in a similar manner; provided, however, if the cause of the delay was one of circumstances beyond the control of the applicant, the planning director may grant an additional extension of 90 days.

(c) Site Development Plan Review. If the site plan was not submitted and approved concurrently with the master plan, the following procedure shall apply: following the recording of the master planned unit development plan and prior to application for any building development on the site, the applicant shall be required to submit a site development plan in accordance with the procedures set forth as follows:

(1) Submission of Site Development Plan. A site development plan shall be submitted for the entire area as per the approved master planned unit development plan or for a subarea (single use group area) within the planned development, provided: (i) the plan of the subarea meets all the requirements of the master planned unit development plan; (ii) the dwelling unit density for residential development or total floor area for nonresidential development does not exceed the dimensional standards established by the master plan unit development plan; (iii) the subarea can function as an independent development unit with adequate access, services, utilities, open space; etc.; and (iv) the subarea is more than two acres in size. The applicant shall submit 15 copies of the site development plan which shall contain the following information:

(i) The title of the project, centered across the top of the plan sheet, and the names of the engineer or surveyor and names of the developer; and a signature panel for the planning director's approval.

(ii) A north point, scale, date and vicinity map.

(iii) Existing zoning and improvement of immediately adjacent properties.

(iv) The boundaries of the entire planned unit development or the specific land use area for which development is sought; all existing property lines; setback lines; the right-of-way and pavement dimension of existing streets; the location, dimension, height and square feet of all existing buildings and identification of those to be retained or removed; location, alignment and area of watercourses, waterways or lakes; and other physical features in or adjoining the proposed development.

(v) The right-of-way and pavement dimension of all proposed streets, loading and parking areas; location, height, type of fixture, and intensity of illumination of all exterior lighting; location and dimension of storm drainage facilities and all curb cuts and access points.

(vi) The location, dimension, height, and square footage of all proposed buildings, main and accessory, including dwelling type and number of dwelling units per building.

(vii) The location of trash receptacles, including the type and height of trash enclosures.

(viii) The location and dimension of proposed recreation areas, open spaces, and other amenities and improvements.

(ix) The location, character, size, height, and orientation of existing and proposed signs.

(x) The location, type, height, and materials of all fences and walls.

(xi) The location and type of all existing trees with a caliper of eight inches or greater. The plan shall indicate which of the trees are to be retained and which are to be removed.

(xii) A landscape plan in compliance with the requirements of the provisions of Chapter [18.235](#) TMC, Landscape Requirements.

(xiii) A tabulation of the total number of acres in the project, total number of acres in the land use area for which site plan approval is sought, the percentage and acreage thereof proposed to be allocated to residential use, nonresidential uses, off-street parking, common open space, parks, schools, and other reservations.

(xiv) A tabulation of the total number of dwelling units in a residential area and the overall project density in dwelling units per gross acre. Tabulation of floor area by use in a nonresidential area.

(xv) The type, location, and size of all existing and proposed utilities and utility easements extending through or adjacent to the site.

(xvi) A topographic survey showing the elevation of streets, buildings, structures, watercourses, and their names. The topography shall be shown by adequate spot elevations.

(2) Review and Approval of Site Development Plan. Site plans shall be approved administratively by the planning director after first circulating the plan and all attachments to all applicable reviewing departments and agencies for written comment. This provision, however, shall not prohibit the planning director from requesting a recommendation from the planning commission. The site development plan shall be reviewed for conformity with the provisions of the master planning unit plan and other applicable codes and regulations of the appropriate jurisdiction. The planning director may approve the site development plan as submitted, approve with modifications, remand back to the applicant for modifications, or deny. If the plan is approved, the director shall certify thereon his approval and state the conditions of approval, if

any. If the plan is disapproved, he shall indicate his disapproval and the reasons therefor in writing to the applicant. Appeals of any decision of the planning director shall be submitted to the planning commission for review and determination. Appeals of any decision of the planning commission shall be submitted to the city council for final action.

(3) Amendments or modifications to approved site development plans must be submitted to the planning department for review and determination. Such modifications shall be submitted to all applicable reviewing agencies and departments for review and comment. The planning director shall approve, modify, or deny the proposed amendment in the same manner as the submission of the original site development plan. The planning director again may submit the proposed amendment to the planning commission for recommendation.

(4) A stop work order shall be put on a project if any improvements required on the approved site development plan are not adhered to during the development of the site. (Ord. 19218 § 5, 2-3-09. Code 1995 § 48-24.05.)

Cross References: City council – mayor, Chapter [2.15](#) TMC; planning department, TMC [2.25.210](#); planning commission, Chapter [2.65](#) TMC.

18.190.070 Amendments to planned unit development plans.

Each applicant petitioning for a planned unit development district shall, as part of the application, designate a prescribed manner as to who may initiate amendment(s) to the approved planned unit development master plan. In addition to the planning commission or city council, the owner may solely initiate amendments to the plan. The terms and provisions of the plan shall extend to and be binding upon the heirs, executors, administrators, trustees, and assignees of the owner. Should more than one entity hold title, then all such affected owners of all such title as determined by the planning director shall be required to execute any such amendment. In lieu of all owners individually executing such document, the planning director may approve a homeowners' or property owners' association to execute any such amendment if they present evidence their organization has the authority to represent all owners within the PUD.

(a) Minor Amendments to Master Plan. Minor changes to a planned unit development master plan may be approved administratively, if at all, by the planning director. Such changes may be authorized without additional public hearings, at the discretion of the planning director. This provision shall not prohibit the planning director from requesting a recommendation from the planning commission.

(1) Minor Amendment Criteria. Amendments shall be deemed as minor if the cumulative revisions to the most recent approved master plan of record which was considered at a public hearing do not include:

(i) A change to the use and character of the development.

(ii) The possible creation of obstacles, barriers and service problems to traffic circulation, fire protection, public safety, and public utility services due to the revision(s).

- (iii) A reduction by greater than 10 percent of the designated open space.
- (iv) An increase by greater than 10 percent in the approved number of residential dwelling units.
- (v) Increase the floor area proposed for nonresidential use by more than 10 percent.
- (vi) Increase by greater than 20 percent the approved signage including, but not limited to, height or sign face area.

(2) Submittal of Revised Master Plan with Minor Amendments. The proposed revised master plan shall be submitted to the planning director for consideration of approval. Said plan shall be presented on reproducible tracing material in like manner, and substance as reflected on the most recent approved plan. All other data, conditions, and information other than that proposed for amendment shall be identical to the most recently approved plan. Space for acknowledgement of approval by the planning director with date space shall be reflected on said plan. A letter of transmittal from the designated applicant setting forth in detail all proposed amendments shall accompany the submittal. Upon approval of any revised plan, the applicant shall furnish 16 copies of such plan with the planning agency for distribution to public agencies and utilities. The original tracing will remain on file in the planning agency and the revised master plan shall be rerecorded with the register of deeds in like manner as established with the original filing.

(b) Major Amendments to Master Plan. Major changes shall include any modifications that do not meet all the minor amendment criteria set forth above. A major amendment is processed and approved in the same manner as the original application. Amendments that add a permitted use group and/or change the location of a use group by legal description are subject to protest as provided for under state law for any other rezoning. (Ord. 19218 § 6, 2-3-09. Code 1995 § 48-24.06.)

Cross References: City council – mayor, Chapter [2.15](#) TMC; planning department, TMC [2.25.210](#); planning commission, Chapter [2.65](#) TMC.

18.190.080 Planned unit development plan variance procedures.

The planning commission is solely empowered to grant variances to the provisions of this chapter and only under the following circumstances:

- (a) The applicant demonstrates that the plan as submitted more effectively accomplishes the goals and objectives of the comprehensive plan than such plan incorporating the provision for which a variance is requested; or
- (b) The strict application of any provision would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property; provided, that the variance may be granted without substantial detriment to the public good and without substantially impairing the purpose of this chapter. (Ord. 19218 § 7, 2-3-09. Code 1995 § 48-24.07.)