



CITY OF  
**TOPEKA**

**A G E N D A**

## **TOPEKA PLANNING COMMISSION**

**MONDAY, JANUARY 23, 2023  
6:00 P.M.**

**214 EAST 8TH STREET  
CITY COUNCIL CHAMBERS, 2ND FLOOR  
MUNICIPAL BUILDING  
TOPEKA, KANSAS 66603**

**MEETINGS ARE LIVESTREAMED AT [WWW.TOPEKASPEAKS.ORG](http://WWW.TOPEKASPEAKS.ORG)**

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.

All information forwarded to the City Council can be accessed via the internet on Thursday prior to the City Council meeting at: <https://www.topeka.org/calendar>



ADA Notice: For special accommodations for this event, please contact the Planning Division 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

Marc Fried, 2022 Chairperson  
Corey Dehn  
Del-Metrius Herron  
Jim Kaup  
William Naeger  
Donna Rae Pearson  
Jeff Preisner  
Jim Tobaben  
Matt Werner

## Topeka Planning Staff

Rhiannon Friedman, Interim Director, Planning & Development Dept.  
Dan Warner, AICP, Director, Planning Division  
Carlton Scroggins, AICP, Transportation Planning Manager  
Taylor Ricketts, Planner  
Bryson Risley, Planner  
William Sharp, Planner  
Ian Trefren, Associate Planner  
Megan Rodecap, Zoning Inspector  
Kris Wagers, Administrative Officer

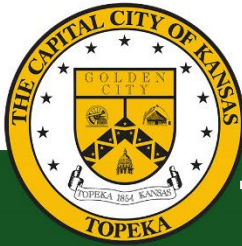


CITY OF  
**TOPEKA**

# TOPEKA PLANNING COMMISSION

**Agenda for Monday, January 23, 2023**

- A. Roll call**
- B. Approval of Minutes – December 19, 2023**
- C. Election of 2023 Chair and Vice Chair**
- D. Declaration of Conflict of Interest/Ex Parte Communications**  
by members of the commission or staff
- E. Action Items**
  - 1. Public Hearing of PUD23/01 Potwin Lofts II PUD by Potwin Lofts, LLC** requesting to amend the district map on properties located at 400 & 500 SW Washburn, from R-2 Single Family Dwelling District and X-1 Mixed Use District to PUD Planning Unit Development with M-2 Multiple-Family Dwelling District and X-1 Mixed Use District uses, respectively. The PUD will permit a portion of the church to be used as apartments and the adjacent parcel as associated parking. (Trefren)
- F. Communications to the Commission**
- G. Adjournment**



CITY OF  
**TOPEKA**

**MINUTES**

## **TOPEKA PLANNING COMMISSION**

**Monday, December 19, 2022**

**6:00PM**

**Members present:** Marc Fried (Chair), Jeff Preisner, Jim Kaup, William Naeger, Donna Rae Pearson, Jim Tobaben, Matt Werner (7)

**Members Absent:** Corey Dehn, Del-Metrius Herron (2)

**Staff Present:** Bill Fiander, Planning & Development Director, Dan Warner, Planning Director; Bryson Risley, Planner; William Sharp, Planner; Ian Trefren, Associate Planner; Kris Wagers, Administrative Officer; Mary Feighny, Legal

**Roll Call** –Chairman Marc Fried called the meeting to order with 6 members present for a quorum. Mr. Naeger arrived at 6:05, after the first vote.

**Declaration of conflict of interest/ex parte communications** – None

**Approval of Minutes from November 21, 2022**

**Motion** by Mr. Kaup to approve; **second** by Mr. Tobaben. **APPROVED** 6-0-0

**PUD22/05 by OneGas, Inc., City of Topeka, and Roman Catholic Archdiocese of Kansas City in**

**Kansas (continued from 11/21/2022)**, requesting to amend the District Zoning Map for property located at 401 SW Gage Blvd. and 501 SW Gage Blvd. from “R-1” Single Family District and “PUD” Planned Unit Development with “R-1” Single Family District and “O&I-2” Office and Institutional District **TO** “PUD” Planned Unit Development with “O&I-2” Office and Institutional District (plus interior storage) and “I-1” Light Industrial District (per approved site plan), to allow for an addition to the existing building plus exterior storage of materials and vehicle parking.

Mr. Warner reviewed the staff report and changes made to the site plan based on requests made by Commissioners during the November Planning Commission meeting. He presented staff's recommendation for approval and Mr. Fried called for questions. Hearing none, he explained that the public hearing on the matter had been held (and closed) at the November meeting. Ms. Feighny confirmed this to be correct. Mr. Fried asked commissioners if any believed the public hearing should be re-opened to receive comments on the revisions made by the applicant; none replied affirmatively.

Mr. Werner stated he's happy to see that the compressor station and fill stations have been moved from the south to the north property lines. The added greenspace and reference to continuous evergreen trees has satisfied his concerns.

Mr. Kaup wished to acknowledge the efforts the applicant made to address the concerns voiced during the November meeting.

**Motion by Mr. Kaup; Second by Mr. Werner: Recommend approval of the proposed PUD zoning and master plan subject to the conditions listed in the December 2022 staff report.**

**APPROVED 6-1-0** with Tobaben voting no

**A22/03 by Auburn-Washburn USD 437**, requesting annexation of approximately 93 acres located on the Northeast corner of SW 29th Street and SW Auburn Road.

Mr. Risley explained that while a review by the Planning Commission is not required by state law, the City's Comprehensive Plan does require a review and finding by the Commission that the proposed annexation is consistent with the Land Use and Growth Management Plan (LUGMP).

Mr. Risley reviewed that staff memo, noting that the owner has consented to annexation. He explained that sanitary sewer will be provided by the Sherwood Improvement District, but it has not yet been determined whether water will be handled by the City or by CRWD #1. Shawnee County has street improvement projects planned for Auburn Road and also for the intersection at 29<sup>th</sup> & Auburn Road.

Mr. Risley concluded with staff's recommendation for a finding that the proposal is consistent with the LUGMP.

Mr. Naeger asked when the question about water would be decided. Mary Feighny explained that there is a statutory procedure. If the city wants to provide water, it must provide notice to the rural water district and then they will negotiate purchase of infrastructure, etc. The City has provided notice to the rural water district that we *may* be the water service provider but the final decision has not been made yet.

**Motion by Mr. Preisner; Second by Mr. Kaup for a finding that annexing the subject property is consistent with the Comprehensive Plan.**

**APPROVED 7-0-0**

**Public Hearing of Z22/06 by Auburn-Washburn USD 437**, requesting to amend the district map on approximately 93 acres located on the Northeast corner of SW 29th Street and SW Auburn Road, from RR-1 Residential Reserve District, PUD Planned Unit Development with C-2 Commercial District, R-1 Single Family Dwelling District, and O&I-1 Office & Institutional District uses, all to R-1 Single Family Dwelling District to allow for a new middle school for the Auburn-Washburn School District.

Mr. Trefren presented the staff report and recommendation for approval.

Chairman Fried invited the applicant or their representative to speak and David Wood with Kaw Valley Engineering (KVE) came forward. He stated that the project design team was in attendance and would be happy to answer technical questions.

Mr. Tobaben asked if a traffic impact study has been conducted. Mr. Wood confirmed that yes, there had been one done by a consultant not present this evening. In general, they looked at both 29<sup>th</sup> Street and Auburn Road. As mentioned by staff, the county is in the process of planning a round-about. Additional turn lanes on both 29<sup>th</sup> and Auburn are being recommended by KVE to help mitigate traffic.

Mr. Naeger asked if there are details about pedestrian paths or how students may walk or bike to school to help alleviate traffic. KVE stated that this is part of the plans they will be submitted to the City later in the process, but yes, a trail connection is being proposed.

Mr. Tobaben asked about concerns regarding potential flooding. Mr. Wood talked about the proposed detention basin on the SE quadrant of the campus which will manage most of the increase in volume and run-off. He acknowledged concerns voiced about water runoff into Lake Vaquero, stated that the design goal is a zero increase, and added that there are subdivisions being developed peripherally to the subject property.

**Chairman Fried declared the public hearing open.**

**Dennis Ross of 7810 SW El Cerrito Drive** in the Lake Vaquero area came forward to speak against the proposal. He expressed concern about traffic flow; both 29<sup>th</sup> & Auburn are busy roads and he has heard about the possibility of a turnpike exit in Auburn. This would, he believes, increase the traffic even more.

Mr. Ross expressed concern about a bond issue that named a different location for the school. He believes that moving the location approved by the voters would require a new vote and failing this, there could potentially be costly litigation.

Mr. Ross spoke about issues Lake Vaquero has had with being considered a “high hazard dam” by the State of Kansas Division of Water Resources due to the property downstream. Property owners around Lake Vaquero had to pay to rehab the lake, which was around \$500,000 divided by the 16 property owners. He’s concerned about the effect on the lake if additional run-off is added.

Mr. Kaup asked if he’s concerned about further development anywhere in the watershed. Mr. Ross spoke about the improvements that had already been made to the lake, and yes, there are concerns about further development having a negative impact.

With nobody else coming forward to speak, Chairman Fried invited Mr. Wood to address concerns voiced. Mr. Werner asked Mr. Wood where the water run-off will go. Mr. Wood explained there’s a culvert that goes under 29<sup>th</sup> Street and into Lake Vaquero.

Chairman Fried called once again for people to speak and with nobody coming forward, he declared the **public hearing closed**.

Mr. Kaup asked Ms. Feighny if potential legal issues about the bond are a land-use issue. Ms. Feighny stated that the issue is legally irrelevant to the zoning question. Mr. Fried added that this is simply a zoning issue, and Mr. Warner confirmed that in order to move forward once zoning is approved, there will be a subdivision plat which requires an in-depth stormwater management plan and eventually a site plan review for buildings, sidewalks, etc. A traffic study review is underway.

**Motion by Mr. Kaup, Second by Mr. Naeger: Recommend to the Governing Body approval of the reclassification of the property from “RR-1” Residential Reserve district and “PUD” Planned Unit Development with “R-1” Single Family Dwelling District, “C-2” Commercial District, and “O&I-1” Office and Institutional uses to “R-1” Single Family Dwelling District.**

**APPROVED 7-0-0**

**Public Hearing of Z87/06A Southern Hills PUD by New Beginning Missionary Baptist Church, Inc.,** requesting to amend the Planned Unit Development (PUD) Master Plan from PUD Planned Unit Development with C-4 Commercial uses to PUD Planned Unit Development with M-1 Two-Family Dwelling District to allow for an affordable senior living 24-unit duplex development on approximately 6.05 acres of property located north of SE 38th Street between SE Colfax Place and SE Adams Street.

Mr. Risley presented the staff report and recommendation for approval.

Josh Bielinski with SBB Engineering was present representing the applicant and he stood for questions.

With no questions of Mr. Bielinski, Mr. Fried declared the **public hearing open**. Nobody came forward to speak and Mr. Fried declared the **public hearing closed**.

**Motion by Mr. Presiner; Second by Mr. Tobaben: Forward to the Governing Body a recommendation of approval of the proposed rezoning from “PUD/C-4” Commercial uses to “PUD/M-1” Two-Family Residential uses.**

**APPROVED 7-0-0**

**Public Hearing of Z22/07 by Makayla Girodat,** requesting to amend the district map on property approximately 0.86 acres located at 3300 SW Van Buren Street from I-1 Light Industrial District to O&I-2 Office and Institutional District to allow for use as a community living facility.

Mr. Sharp presented the staff report and recommendation for approval. He reviewed the current land use of properties in the area and pointed out that based on information from the Shawnee County Appraiser, over 70% of the nearby surrounding buildings are classified as office use. Kansas Avenue and Topeka Blvd. corridors have more intensive commercial use and less than 5% of properties are currently classified as being used for light industrial purposes.

Makayla Girodat came forward to speak as the applicant. Ms. Girodat provided an overview of the proposed use of the property. She spoke about the difficulty of finding a property which physically meets the needs of the proposed use and about how the building at 3300 SW Van Buren works well and actually looks welcoming and residential. The use will be a designated women's program which houses women for a time following addiction recovery. Mothers are allowed to bring their children. While this will be the only facility of its type in Topeka, it is a model which has proven successful in other locations. Housing, food, safety and support are all things which are provided through this program. Residents live there voluntarily; it is referral based with referrals coming from community partners.

Based on questions from Ms. Pearson, Shane Hudson, CEO of CKF Addiction Treatment, provided additional details. The residence will be the same model as a facility which currently exists in Salina, Kansas and information about the Salina facility was provided. The maximum capacity is 20 adults with an average of 16 per day. Up to 5 children are allowed, but the majority of women residing at the facility do not have children staying with them. An average of 75% of the women are working during the day and support services are offered after hours.

Mr. Hudson explained that a portion of the property will be fenced to allow the women and children to spend time outside. Cameras and contracted security are used but there are no full-time guards on the property.

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

**Robert Shively, Executive Director of the Kansas Masonic Foundation (a tenant of 221 SW 33<sup>rd</sup> Street)** came forward to speak against the proposed rezoning. Mr. Shively spoke against "intermingling residential with commercial business" and stated that while his foundation supports crucial support services for women and children, the request at hand extends beyond that mission by seeking rezoning in an area not suitable for the stated cause.

He believes the re-zoning is "spot zoning" and referred to the proposed use as a residential living facility. He believes it sets a precedent for allowing new disruptive opportunities and is a gateway to a broadened residential category undermining the business park atmosphere. He included concerns about potential fences, playground equipment and new building constructs. He believes numerous other properties exist in suitably zoned areas and rezoning the property in question for institutional use does not fit with how nearby properties are used today. He spoke to his experience working with property development and believes the proposed rezoning would have an adverse impact on neighboring businesses.

Mr. Kaup asked Mr. Shively if he worked for the Masonic Foundation when they moved to their current location and if they were aware that it is zoning industrial. Mr. Shively explained that the Masonic Foundation uses the property for more than just an office as they do shipping from that location.

Ms. Pearson referenced Mr. Shively's concern regarding possible playground equipment and asked if fencing would solve the problem. He stated that it would not be helpful because it would block all of the views out of the Masonic Foundation's back windows.

**Sue Zintera** came forward to speak in opposition of the proposal. She stated that her State Farm Agency is across the street from the property in question. She stated that everything in the area is a business of some kind; she believes the zoning should remain as it is and not be residential. As a former guidance counselor she believes we need this type of facility, but not in this area. It would be appropriate in a residential area.

**Kimberly Hinkly, co-owner of 211 SW 33<sup>rd</sup>**, came forward to speak against the proposal. She stated that they are an office park (place of business), not a 24-7 area. She stated that her office does have occasional evening meetings and they want a safe office environment as well as a safe place for people to get treatment. She referenced the Salina facility and noted that it appears to be across the street from a nursing home, which is a good fit, while the location in Topeka is next to offices.

**Brian Hagemeier, Building Chair for 221 SW 33<sup>rd</sup>**, came forward to speak against the proposal. He spoke about the hundreds of thousands of dollars they've spent to make 221 SW 33<sup>rd</sup> work for what they want to use it for, which is office and commercial space. He said that in the 4 years since they purchased 221 SW 33<sup>rd</sup>, other buildings in the area have been remodeled and repurposed for office space and the area has come a long way. He read a summary of O&I2 zoning and stated O&I2 is not for residential use. He doesn't see how this facility fits with that zoning and believes it would require a waiver to make it an allowable use.

**Henry McClure** came forward to speak in opposition of the proposal. He spoke about the fact that he is redeveloping the Gordmans Shopping Center and spoke about plans for Mainline Printing to expand. He spoke to the importance of the area's industrial zoning and believes "downzoning" will deprecate the value of properties in the area.

**Mark Harwood, a member of KMF at 221 SW 33<sup>rd</sup> Street** came forward to speak against the proposal. He expressed concern about the square footage of the building and potential expansion. He pointed out that in addition to those staying at the proposed facility, there would also be staff.

**Scott Hunsicker, owner of 3311 SW VanBuren**, came forward to speak in opposition to the proposed rezoning. He noted the recent revitalization of the area and stated that the reason he purchased his building was because of the zoning. It's a nice quiet neighborhood that is "off the beaten path". He believes that rezoning this property opens the doors to rezoning other properties. He expressed concern about rising crime and noted high crime rates in the surrounding residential areas. He believes a zoning change would change the character and integrity of the area and stated that current businesses opened their businesses there because of the zoning.

**Bob Evanston** came forward to speak against the proposal, stating that he has kept his business in the area for 40 years because he likes the office environment. He spoke of the White Lakes Mall demo and new restaurants going in and he foresees a very vibrant neighborhood. He stated he has spoken with potential buyers of various buildings and rezoning for institutional/residential would likely change their outlook.

With nobody else coming forward to speak, Chairman Fried invited the applicant to come forward to address issues that had been voiced.

Ms. Girodat stated that she noticed an on-going theme throughout the speakers in that they kept referring to their building as an office. She stated that the area has been zoned I-1 since the 1950s but is actually a pocket of office and institutional, including Compassionate Care Community Services right across the street from 3300 Van Buren, Open Heaven Parish to the north, Family Peace Initiative across the street from the Mason's building, and the rest are office buildings. The zoning change is actually the first time someone has tried to make the zoning fit the use.

Ms. Girodat acknowledged the stigma that is common with addiction recovery but wonders how a facility that helps people recover from addiction will facilitate crime; these types of services keep people from being homeless and turning to a life of crime to survive.

Ms. Girodat stated that this type of facility is not welcome in residential communities. The use fits here because of the way the area has developed and in fact, she believes the surrounding area should perhaps be zoned O&I rather than I-1. Based on the above, she's unclear as to how the re-zoning would de-value the area.



Ms. Girodat spoke to the good the proposed service would bring to the community. There are 8 of these facilities in the state of Kansas but none in the capital city. The facility in question is a good choice for what they're trying to do.

Mr. Fried asked if there are plans to change the appearance of the building and Ms. Girodat stated that other than the addition of a privacy fence, there are no plans to change the exterior of the building. Regarding blocking the view of other buildings, she explained that the view referred to is the back of their building.

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

Mr. Tobaben asked about future plans for the White Lakes Mall property. Mr. Fiander explained that the recent approval of a TIF district for that area does not necessitate changes to the current zoning. If someone comes forward with a development proposal, they will need to provide a development plan.

Mr. Werner asked what zoning districts a community living facility is allowed in. Mr. Sharp explained it's allowed in O&I2, C2, C3, & C4 Commercial, MS-1 Medical Service, and D-1 Downtown. Later it was noted that the use is also allowed in M-3 Multiple Family Dwelling District with a CUP. Mr. Werner pointed out that the Land Use and Growth Management Plan designates the entire area as "Large Commercial".

Ms. Pearson asked for examples of other community living facilities. Mr. Fiander spoke briefly about non-congregant types of shelters run by non-profits.

Mr. Naeger asked if the property in question is within the abovementioned TIF District and Mr. Fiander stated it does not.

Mr. Preisner spoke about the existing zoning of the area being I-1 and surrounded by C-4 on Topeka Blvd. Even though it is under-utilized as I-1 zoning due to the majority of current use being office, by pure planning policy he still can't support the proposal.

Mr. Kaup stated he is in favor of the rezoning. Nobody has disputed the need for the services which would be provided by the proposed use and under our code it not a residential use but rather an institutional use. He believes opportunities for such facilities are quite limited by our zoning code and expects that most any location where this type of use is proposed would get the same "not in my back yard" response. He stated that if the rezoning is approved it would likely be more appropriate to the use than any other zoning vs. use in the area.

Ms. Pearson concurred with Mr. Kaup that there should be more options for this type of facility in other zonings districts. She believes people will come out of this situation looking for places to live in their area; they can't do that in an office area.

**Motion by Mr. Kaup; Second by Mr. Preisner: Recommend to the Governing Body APPROVAL of the request for rezoning from I-1 Light Industrial to O&I-2 Office and Institutional.**

**APPROVED 5-2-0** with Preisner and Pearson voting no

## **Communications to the Commission**

**With no further agenda items, the meeting was adjourned at 7:37PM.**

**STAFF REPORT – PLANNED UNIT DEVELOPMENT  
TOPEKA PLANNING AND DEVELOPMENT DEPARTMENT**

**PLANNING COMMISSION DATE: Monday, January 23, 2023**

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**APPLICATION  
INFORMATION**

**APPLICATION CASE  
NUMBER/NAME:**

**PUD23/01 Potwin Lofts II by Potwin Lofts, LLC.**

**REQUESTED ACTION /  
CURRENT ZONING:**

Rezoning from R-2 Single Family Dwelling District and X-1 Mixed Use District to PUD Planned Unit Development District with M-2 Multiple Family Dwelling District and X-1 Mixed Use District use groups in order to support conversion of a portion of the church into apartments and the adjacent lot into associated parking.

The proposed zoning is for a parcel of less than one acre. Parcels containing less than one acre may be reclassified to a planned unit development district where a plan includes the reuse of an existing building. Applications for PUD zoning typically include a master plan. As is allowed under TMC 18.190.050 (PUD procedures) the requirement for a master plan because the conditions and restrictions of the PUD can be adequately included in the ordinance reclassifying the property.

**PROPERTY OWNER:**

Potwin Lofts, LLC

**APPLICANT REPRESENTATIVE:**

Mark Burenheide

**CASE PLANNER:**

Ian Trefren, Associate Planner

**PROPERTY ADDRESS:**

400 SW Washburn Ave – PID: 0973601004002000 and  
500 SW Washburn Ave – PID: 0973601007005000

**PARCEL SIZE(S):**

0.39 acre – 400 SW Washburn  
0.27 acre – 500 SW Washburn

**PHOTOS:**



400 SW Washburn from the north facing south - 1958 Addition on the left



400 SW Washburn from the south facing north – Courtyard where stair tower will be located. 1958 addition to the right



500 SW Washburn from the north facing south – Future parking lot for tenants



400 SW Washburn from the west facing east – Church (1924 portion)

**RECOMMENDATION:**

**APPROVAL** subject to conditions detailed in the staff report.

**RECOMMENDED MOTION:**

Based on the findings and analysis in the staff report I move to recommend to the Governing Body **APPROVAL** of the rezoning from *R-2 Single Family Dwelling District and X-1 Mixed Use District* to *PUD Planned Unit Development (M-2 Multiple Family Dwelling District and X-1 Mixed Use District Uses)* to support the conversion of a portion of the church into apartments and the adjacent lot as associated parking.

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**PROJECT AND SITE  
INFORMATION**

**PROPOSED USE / SUMMARY:**

Applicant proposes to convert a portion of the church at 400 SW Washburn Avenue to six apartment units. The applicant also seeks to use the parcel located across the street to the south – 500 SW Washburn - as parking for these units.

Rezoning as a PUD is necessary to support the increased residential density as well as the use of the adjacent lot as parking for the new use. The M-2 zoning classification is intended to, “to provide for the use of attached dwelling units containing three or more dwelling units, designed and intended for individual dwellings, group or community living facilities, congregate living facilities, and including townhouse, condominium or cooperative division of ownership. The location of this district is further intended to provide a transitional use between the districts of lesser and greater intensity”.

**DEVELOPMENT / CASE HISTORY:**

Z01/16 (400 SW Washburn) – A large portion of the Ward-Meade neighborhood underwent a rezoning effort in 2001. This rezoning effort included the northern parcel of the subject properties which was rezoned from “M-1” Multiple Family Dwelling District to “R-2” Single-Family Residential Dwelling District.

The church currently located on the property was constructed in 1924. In 1958 the eastern portion of the church was expanded to include a school building. The portion of the church that was constructed in 1958 is primarily the subject of the alterations proposed by this project.

Z01/19 (500 SW Washburn) – As a part of the aforementioned rezoning effort, the southern parcel was rezoned from “C-4” Commercial District” to “X-1” Mixed Use District.



The 1300sf structure currently located on this parcel was constructed in the 1940s as a gas station. It is currently being used by the Potwin Neighborhood Association as auxiliary storage.

**ZONING AND CHARACTER OF  
SURROUNDING PROPERTIES:**

North: R-1 (Single Family Dwelling District); single family homes

East: R-2 (Single Family Dwelling District); single family homes

Southwest: M-1a (Limited Multiple Family Dwelling District)

South: X-1 (Mixed Use District)

West: X-1, M-1 (Multiple Family Dwelling District)

Southeast: M-1a (Limited Multiple Family Dwelling District)

**COMPLIANCE WITH DEVELOPMENT  
STANDARDS AND GUIDELINES**

**USE STANDARDS AND  
DIMENSIONAL STANDARDS:**

M-2 and X-1 use, density and dimensional standards will apply.

M-2 use standards are intended to provide for the use of attached dwelling units containing three or more dwelling units, designed and intended for individual dwellings, group or community living facilities, congregate living facilities, and including townhouse, condominium or cooperative division of ownership. The location of this district is further intended to provide a transitional use between the districts of lesser and greater intensity (TMC18.100.010).

The density and dimensional standards of the current "R-2" single family dwelling district and proposed "M-2" multiple family dwelling district are very similar. The only difference between them are an increase in maximum height from 42ft to 50ft, an increase in minimum lot width from 40ft to 50ft, and the "M-2" designation has a maximum unit density of 15 while "R-2" does not define a maximum.

X-1 use standards are intended to facilitate a compatible mixed-use activity center within a traditional residential neighborhood and, to a limited extent, in areas envisioned for mixed use development by the comprehensive plan. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support dense neighborhood residential areas and pedestrian usage with quality urban design (TMC18.185.020).

**PARKING AND ACCESS:**

Off-street parking requirements are determined by land use and not the zoning classification. Multiple family dwelling units require two parking spaces per dwelling unit for the first 20 dwelling units. With six dwelling units, this project will require a minimum of 12 parking spaces dedicated to the development. Applicant is proposing six parking spaces at a ratio of one parking space per dwelling unit.

One parking space per dwelling units will be appropriate for this use since it is predominantly intended for studio and one-bedroom apartments. This variation in parking requirements would also facilitate future development of 500 SW Washburn Avenue by increasing the amount of parking available for use on the lot.

**DESIGN STANDARDS:**

N/A

**LANDSCAPING:**

N/A

**SIGNAGE:**

Signage will be required to comply with the Sign Code (TMC18.10) as applied to X-1 and M-2 zoning designations. Because this PUD ordinance does not include provisions related to signage, all Sign Code associated with the respective zoning regulations apply.

**LIGHTING & SOUND:**

Any exterior lighting installations shall not have a negative impact on traffic safety or the surrounding properties, and there shall be no spillover effects on the adjacent properties.

**VARIANCES REQUESTED:**

Off-street parking provided less than required for multiple-family dwelling units (<20 units) (TMC 18.24 – Off-Street Parking Requirements)

**OTHER FACTORS**

**SUBDIVISION PLAT:**

Both properties are platted under Horne's Addition.

**UTILITIES:**

Public sanitary sewer main is located in the alley to the east of the properties. City water mains are located along all abutting streets and roads.

**FLOOD HAZARDS, STREAM  
BUFFERS:**

None

**HISTORIC PROPERTIES:**

None

**NEIGHBORHOOD PLAN:**

Located in the Ward Meade neighborhood and subject to the 2010 Ward Meade Neighborhood Plan

**NEIGHBORHOOD INFORMATION MEETING:**

The applicant conducted a Neighborhood Information Meeting on January 4<sup>th</sup>, 2023. Owners of properties within a surrounding buffer of 300ft were invited to hear a presentation from the developer about the project and provide comments and feedback.

Approximately 15 individuals attended the meeting in the Fellowship Hall of Potwin Presbyterian Church located at 400 SW Washburn Avenue. Discussion centered on the appearance of the lofts, the type of tenants that the units would be marketed towards, and the parking provided for the units.

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**REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES**

<b>Public Works /Engineering:</b>	No issues identified regarding traffic or engineering.
<b>Water Pollution Control:</b>	No issues identified regarding rezoning.
<b>Fire Department:</b>	No issues identified regarding rezoning. Fire Department has provided general comments and conditions applicable to site development.
<b>Development Services:</b>	No issues identified regarding rezoning. Permits will be required.

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**KEY DATES**

<b>SUBMITTAL:</b>	November 22, 2022
<b>LEGAL NOTICE PUBLICATION:</b>	January 2, 2023
<b>PROPERTY OWNER NOTICE MAILED:</b>	December 30, 2022

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**STAFF ANALYSIS**

Planning staff have reviewed the zoning application relative to the required findings and conclusions in Topeka Municipal Code Section 18.245 (Findings and conclusions reflect the “golden factors” per Donald Golden v. City of Overland Park, 1978 Kansas Supreme Court) as is required for applications for rezoning.

**CHARACTER OF THE NEIGHBORHOOD:** The surrounding neighborhood is characterized by single family housing to the north, east, and south, duplex units to the east and south, commercial to the south and immediate west, and institutional uses further west. The northern parcel is located at the confluence of SW Willow Avenue, SW Washburn Ave, and SW 5<sup>th</sup> St. All three of these thoroughfares are identified as “collectors”, providing adequate carrying capacity for new development. The Potwin neighborhood is located to the north of the property and the Potwin Place Historic District to the northwest. The renovation of the property will have little material effect on the neighborhood character.

**ZONING AND USE OF NEARBY PROPERTIES:** The proposed zoning of Planned Unit Development (PUD) with M-2 and X-1 uses is a designation that is compatible with the surrounding zoning and land uses. Adjacent and surrounding properties are zoned X-1, M-1a, and M-2 – designations that provide for density above and beyond the most restrictive R-1 Single Family Dwelling District. The nearest R-1 zoning designation is situated to the north of the subject properties, across an arterial road which serves as a buffer between the uses. Zoning standards that will apply under the proposed zoning will help ensure compatibility of development with surrounding zoning and land uses.

Adjacent land uses include neighborhood-level commercial and offices to the west across Washburn Avenue, a mix of single family and duplex housing to the north, east, and south of the property, and medium-intensity commercial which includes drive-through coffee shops and a bar to the south along SW 6<sup>th</sup> Ave.

**LENGTH OF TIME THE PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER THE PRESENT CLASSIFICATION:** The northern property has been in use as a church since as early as 1924, according to the Potwin Presbyterian Church. The structure on the southern parcel was constructed in 1950, renovated in 1988, and has been used as storage for the Potwin Neighborhood Association.

**SUITABILITY OF USES TO WHICH THE PROPERTY HAS BEEN RESTRICTED:** The property is not well suited for the uses to which it is restricted under its current R-2 single family residential zoning. It is surrounded on three sides by streets, including the heavily traveled SW Willow and Washburn Avenues and is thus not a desirable location for single family homes. Few other uses are allowed under R-2 zoning, and the size and shape of the property pose a challenge for development of other uses under other zoning districts, as well.

**CONFORMANCE TO THE COMPREHENSIVE PLAN:** The subject properties are designated “Institutional” and “Commercial/Mixed-Use” for 400 and 500 SW Washburn Ave, respectively in the Ward Meade Neighborhood Plan (2010) Future Land Uses Map. The “Commercial/Mixed-Use” designation allows for “a healthy combination of mixed-uses along an aesthetically pleasing regional corridor that avoids future “strip commercial” characteristics”. The “Institutional” designation, “recognizes existing schools, churches, utilities, and off-site parking lots” and indicates that limited expansion of institutional uses “should be assessed accordingly”. This provision allows for expansion or alteration of churches such as this under certain circumstances when assessed on their own merits. The proposed method of permitting multi-family development via a Planned Unit Development accommodates this requirement under the neighborhood plan by allowing the church to remain as a use on the property with the additional use of 6 dwelling units. Further, open space on the property is preserved by allowing parking for the multi-family use to be accommodated on the southern property. Because of the limited scope of this project, the modifications proposed in this project conform to the 2010 Ward-Meade Neighborhood Plan.

**THE EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:** Development allowed under the proposed zoning is anticipated to generate few if any detrimental effects on nearby properties. X-1 Mixed Use uses are compatible and similar to adjacent land uses. Further, M-2 zoning allows the property’s continued use as a church with the addition of 6 dwelling units. In the long-term, a property that is used and maintained has a better outcome on surrounding properties than a property that remains vacant, not maintained, and is left abandoned.

**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 neighborhood would stand to gain from an increase in diversity of housing selection within the surrounding neighborhood. The adaptive reuse of institutional structures is a way to encourage infill development and reinvestment into neighborhoods, boosting the economic productivity of the



surrounding area. The limited nature of the proposed development is not likely to create hardship upon nearby property owners. Denial of the application would not provide any apparent gain to the public health, safety, and welfare.

**AVAILABILITY OF PUBLIC SERVICES:** All essential public roadways, utilities, and services are currently present and available within the area or will be extended at the expense of the developer.

**COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:** Development under the proposed zoning will be required to comply with M-2 Multiple Family Dwelling District and X-1 Mixed Use District standards. The PUD zoning allows a portion of the church to be use as apartment units subject to conditions making the zoning and land use consistent with the Ward Meade Neighborhood Plan. The property is platted as part of the Horne's Addition Subdivision.

## **STAFF RECOMMENDATION**

Based upon the above findings and analysis, Planning staff recommend **APPROVAL** of the proposed zoning, subject to the following conditions, which are to be included in the ordinance adopted by the Governing Body:

1. Development shall comply with standards applicable to the "M-2" zoning except as noted by any of the following conditions of the Planned Unit Development.
2. Development shall comply with standards applicable to the "X-1" zoning except as noted by any of the following conditions of the Planned Unit Development.
3. The property located at 400 SW Washburn Avenue shall be restricted to one sign that is subject to "M-2" zoning district signage regulations
4. The property located at 500 SW Washburn Avenue shall be subject to "X-1" zoning district signage regulations.
5. In order to accommodate parking requirements, the parking lot at 500 SW Washburn Avenue shall accommodate at least one parking space for every dwelling unit sited at 400 SW Washburn Avenue.

**PLANNING COMMISSION MOTION:** Based on the findings and analysis in the staff report I move to recommend to the Governing Body **APPROVAL** of the rezoning from "R-2" Single Family Dwelling District and "X-1" Mixed Use District to "PUD" Planned Unit Development with "X-1" and "M-2" Multiple Family Dwelling District use groups on properties located and 400 and 500 SW Washburn Avenue, subject to conditions as recommended in the staff report.

## **ATTACHMENTS:**

Aerial View Map  
Adjacent Zoning Map  
Future Land Use Map  
Neighborhood Information Meeting Attendance and Summary

## Aerial Map

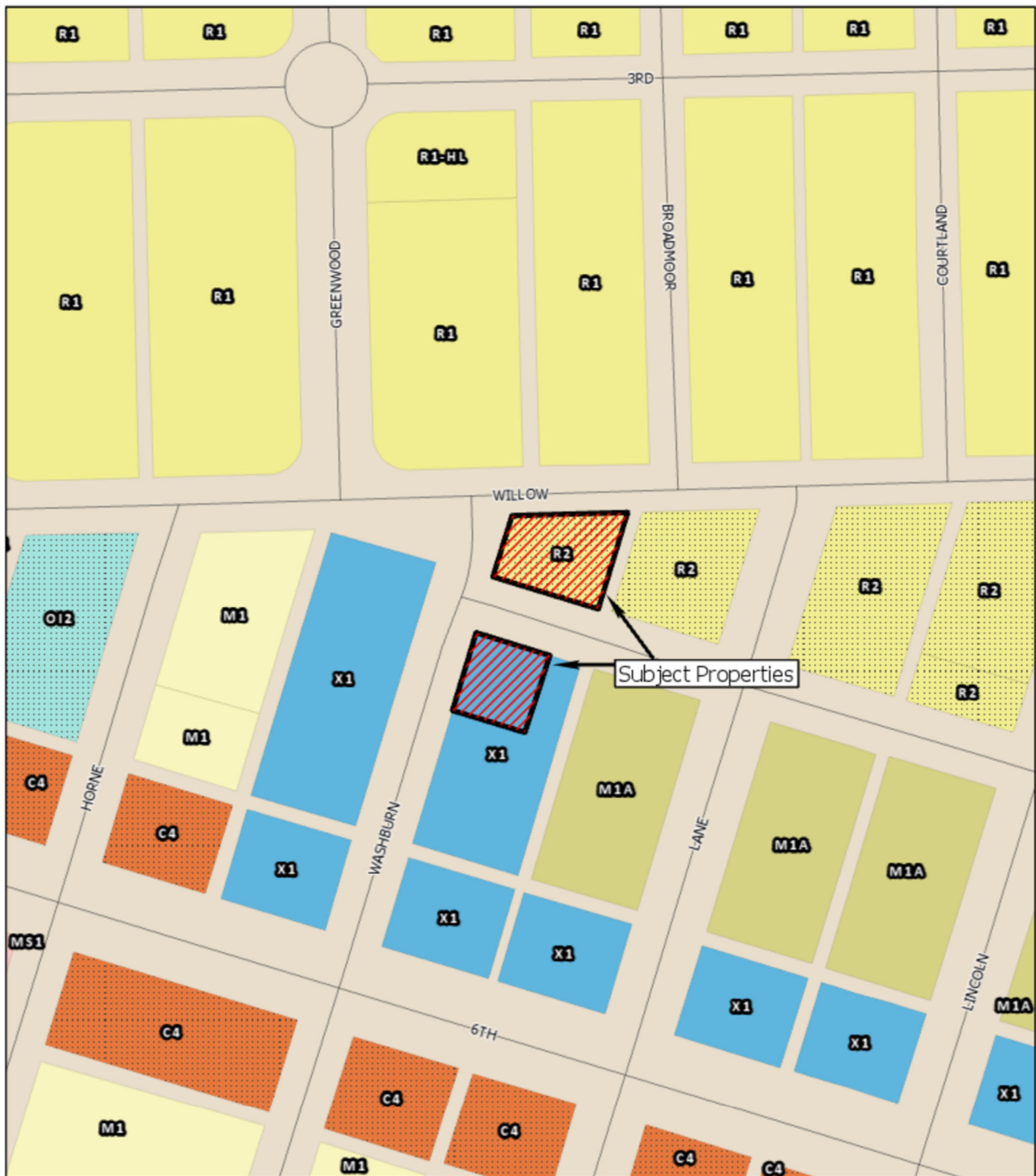
Aerial View Map





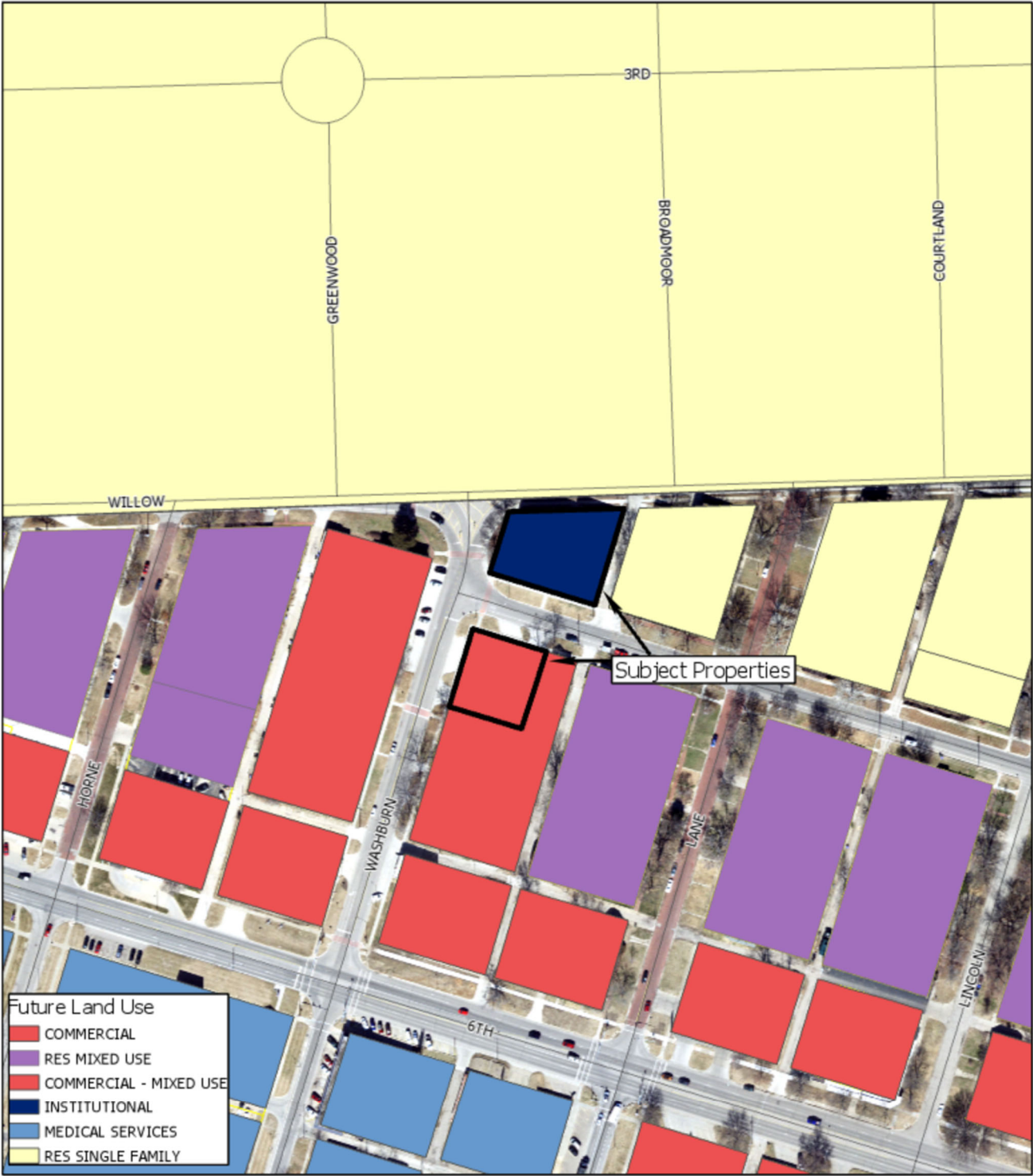
## Zoning Map

Adjacent Zoning Map




Future Land Use Map

Future Land Use Map



## Neighborhood Meeting Attendance & Summary

TO: IAN TREFEN, DAN WARNER  
PLANNING AND DEVELOPMENT DEPARTMENT

FROM: MARK BURENHEIDE   
POTWIN LOFTS, LLC

DATE: 1/11/2022

RE: NEIGHBORHOOD MEETING ON 1/4/2023 IN REGARD TO REZONING OF 400 AND 500 SW  
WASHBURN AVE

There were approximately 15 individuals that attended the neighborhood meeting, which took place in the Fellowship Hall of Potwin Presbyterian Church.

Mark Burenheide explained that the former 1959 Education Wing of the Church would be turned into 6 residential lofts. The former filling station would provide parking for the loft residents.

Discussion from attendees centered on the appearance of the lofts and what type of residents would be attracted to the lofts. Parking was also discussed.

The Pastor, Sue Ann Seele also attended the meeting and told the attendees that Potwin Presbyterian Church would be staying in its original 1924 building.

Attendees seemed supportive of the project. The meeting lasted approximately 45 minutes.