



CITY OF
TOPEKA

A G E N D A

TOPEKA PLANNING COMMISSION

**MONDAY, SEPTEMBER 18, 2023
6:00 P.M.**

**214 SE 8TH AVE.
CITY COUNCIL CHAMBERS
TOPEKA, KANSAS 66603**

MEETINGS ARE LIVESTREAMED AT 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

Corey Dehn, 2023 Chairperson
Marc Fried
Del-Metrius Herron
Jim Kaup
William Naeger
Donna Rae Pearson
Jim Tobaben
Matt Werner

Topeka Planning Staff

Rhiannon Friedman, Director, Planning & Development Dept.
Dan Warner, AICP, Director, Planning Division
Carlton Scroggins, AICP, Transportation Planning Manager
Mike Hall, Land Use Planning Manager
Annie Driver, Planner
Taylor Ricketts, Planner
Bryson Risley, Planner
William Sharp, Planner
Megan Rodecap, Zoning Inspector
Amanda Tituana-Feijoo, Administrative Officer
Quinn Cole, Management Analyst

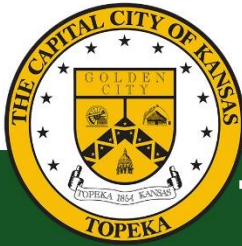


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TOPEKA PLANNING COMMISSION

Agenda for Monday, September 18, 2023

- A. Roll call**
- B. Approval of Minutes – August 21, 2023**
 - Recognition of Outgoing and Incoming Planning Commissioners**
- D. Declaration of Conflict of Interest/Ex Parte Communications by members of the commission or staff**
- E. Action Items**
 - 1. Planning Commission By-Laws**
- F. Discussion Items**
 - 1. Presentation and Discussion: Update to the Holliday Park Plan (Risley)**
- G. Communications**
- H. Adjournment**



CITY OF
TOPEKA

MINUTES

TOPEKA PLANNING COMMISSION

Monday, August 21, 2023

6:00PM

Members present: Corey Dehn (2023 Chair), Marc Fried, Del-Metrius Herron, Jim Kaup, William Naeger, Donna Rae Pearson, Jim Tobaben, (7)

Members Absent: Matt Werner (1)

Staff Present: Rhiannon Friedman, Planning & Development Director, Dan Warner, Planning Director; Mike Hall, Land Use Planning Manager; Annie Driver, Planner; Zoe Brown Planning Intern; Amanda Tituana-Feijoo, Administrative Officer; Mary Feighny, Legal

A. Roll Call –Chairman Corey Dehn called the meeting to order with 7 members present for a quorum.

B. Approval of Minutes from July 17, 2023

Motion by Commissioner Kaup to approve; **second** by Commissioner Tobaben. **APPROVED 5-0-2.**

C. Declaration of conflict of interest/ex parte communications

Commissioner Herron stated that she would be abstaining from PUD23/05, Topeka Prime Sports.

Commissioner Naeger stated (regarding PUD23/05, Topeka Prime Sports) that he had heard from someone in the neighborhood wanting further information, and he pointed them in the right direction. Mr. Naeger also pointed out that the applicant is his landlord; however, there has been no discussions regarding the project and he feels that he can make an impartial decision.

D. Actions Items

Public Hearing of CU23/04 Saints Peter and Paul Orthodox Christian Church, requesting a Conditional Use Permit on a 29.4 acre parcel, located south of SE 38th Street and west of SE Adams Street, and along the north side of the Kansas Turnpike on property entirely zoned “R-1” Single Family Dwelling District to allow for a Religious Assembly use with an accessory cemetery not meeting the requirement in the zoning code that religious assembly uses be on or within 300 ft. of a major traffic thoroughfare (SE Adams).

Staff:

Annie Driver presented the staff report and staff’s recommendation of approval.

Questions/Comments from Commissioners:

Commissioner Kaup asked about the retention and treatment of the stormwater, and whether or the not the site plan review will address those concerns. Ms. Driver confirmed that this review was a conceptual site plan review, and those specific questions will come out when they get to the actual site plan review. Mrs. Driver also commented that she was unsure if the applicant was going to plan stormwater for the entire project or break it down into three phases in the site plan review.

Commissioner Naeger referenced the low number of funerals brought up during the staff report.

Commissioner Naeger asked how complicated the process is to change something that is designated as a cemetery, if the applicant finds that they are not using the whole cemetery grounds, and wants to use it as something else. Mrs. Driver stated that there are requirements in the conditional use permit regulations

as to what constitutes a “major and minor” amendment, and if the applicant is increasing the floor area by more than 10 percent then that could constitute a major amendment.

Commissioner Fried inquired about the school the applicant is wanting to build and whether it is intended for Sunday services or also intended to be used during the weekday. Mrs. Driver confirmed that all classes would be associated with the church.

Owner’s Representative: Kevin Holland, Cook Flatt and Strobel Engineers

Mr. Holland confirmed the parish is small, and full build out would hold 250 members in the future. Mr. Holland suggests, for the size of the property, that designating a cemetery and leaving it a cemetery would be beneficial for the church. Mr. Holland also confirms that the building phase is broken down into three phases due to funding. Although the church would love to get to a size when they can utilize the school building for everyday use, the current plan is to use the school for religious functions and religious schooling. Mr. Holland also mentioned keeping the existing trees as a landscape buffer between church and residents.

Commissioner Kaup asked Mr. Holland if the applicant has reviewed and agreed to the conditions in the staff report. Mr. Holland confirmed that they have.

Commissioner Dehn declared the **public hearing open**.

Henry McClure (address unknown) spoke in favor of building the church and provided backstory on how the transaction was handled between the previous owner (Buddhist Church) and the current church owners. Mr. McClure believes that the cemetery is insignificant of the whole development.

Jerry Lester (3900 SE Quincy St.) states that the new building will be in his back yard, along with some of his neighbors’ back yards. Mr. Lester did a small private survey around his neighborhood to get their thoughts on the project, and he provided the results to the commissioners. Mr. Lester is concerned that the project is not within 300 feet of a major thoroughfare, and the streets within the neighborhood are small and narrow. He believes that this presents a safety concern for the neighborhood.

Joseph Ledbetter (address unknown but owns property within designated 300 feet notification) is for the project. Mr. Ledbetter pointed out that the 29 acres in question have not been developed in over 60 years. The cemetery will take up about an acre of land, and will be unseen from the road. Mr. Ledbetter believes that this area in Topeka is over looked, and thinks that a church can be a great neighbor.

Robert Starr (3726 SE Evans Dr.) refers to 25 vacant lots and how they have been overlooked and have weeds growing all over them. Mr. Starr also references the current street conditions in the proposed area for development, and how narrow both 38th Street and Evans Dr are.

Commissioner Kaup interrupts the public comment to make sure the applicant has had a chance to look at the documents provided by Mr. Lester. Commissioner Dehn called Mr. Holland up to take the notebook, and informed the public that typically anything shared is uploaded for transparency reasons.

Brenda Gritten (2239 SE 40th Ter.) lives across from the water tower and the runoff (mentioned by Mr. Holland) will come directly down the hill onto her property. Mrs. Gritten doesn’t like the idea of the location of the cemetery because when she goes out on her driveway she will see it. Mrs. Gritten is concerned with the size of the project and damage to the current roadway.

Brandy Lange (3726 SE Evans Dr.) was not notified of the project. Mrs. Lange is concerned with the community at large, and has several questions of the applicant. Mrs. Lange provided the commissioners with her research/questions.

Rosemary Press (1938 SW Westwood Dr.) is one of the original families that established the Orthodox Church, and when they started the church they were advised that the Medford and Huntoon area was not a good area. Mrs. Press assures the commission that the church is a good neighbor, and wants to

encompass the surrounding community. Mrs. Press states that the church and cemetery will not be visible, and the members will take care of the property. Because of the cemetery, the church will stay forever and will not be sold or given away.

Dusty Slocum (3805 SE Quincy) lives directly across the street from where the church is planning to build, and does not have a problem with the facility being built. However, Mrs. Slocum feels that the private cemetery is unneeded. Mrs. Slocum would like to see the church built but with a public access road coming off Adams and a parking lot. She is concerned for the surrounding community with the increase of traffic

Mr. Holland spoke to clarify whether coming off Adams is an option. The property unfortunately does not border Adams and there is a stream buffer and significant water way between Adams and the Eastern part of the property.

Dan Lang (3726 SE Evans Dr.) emphasizes the hill on Evans Street, along with other streets heading towards the property are not passable during the winter because of ice. You want to protect your community, and you want to protect your property as well. Mr. Lang also referenced the narrowness of the surrounding streets within the neighborhood, and feels this location is a danger to both the community and the parishioners.

With no one else coming forward from the public, **Commissioner Dehn declared the public hearing closed.**

Questions/Comments from Commissioners:

Commissioner Kaup asked for clarification on the 300 foot distance and whether the applicant could do everything they are proposing to do by right with the "R1" zoning. Mrs. Driver confirmed that was correct because the applicant doesn't have the direct access or access within 300 feet of the arterial.

Commissioner Kaup alleged the biggest concern for the project is the roads since the property can be developed by right. Mrs. Driver confirmed this statement.

Commissioner Kaup asked if cemeteries are permitted by right in "R1" zoning. Mr. Hall confirmed that cemeteries as a primary use are not permitted; however, this project is an accessory cemetery and the size is limited.

Commissioner Kaup again asked if the biggest concern was the road, and Mr. Hall agreed that it was the primary issue. Commissioner Kaup asked if there were any other concerns, and Mr. Hall said that, as a conditional use permit, everything about the project is addressed using the golden factors and again referenced "permitted by right". Mr. Hall did point out that there are a lot of ways in and out of the area so the traffic will be dispersed, and the streets are designed to accommodate the traffic. Mr. Hall also points out that if this property were developed with single family residential developments, you could get a lot of units (homes) on the land. It is 29 acres. Even after taking out the land that can't be developed easily, which is the stream and flood plain, there is still a lot of capacity for development. As Mr. Hall explained, the special use requirement that states that a religious assembly be within 300 feet of a major thoroughfare could speak to the character and changing nature of the neighborhood apart from the increased traffic volume's effect on traffic operations. When staff evaluated the application, staff did consider the land use's effect on traffic operations. The traffic volume from the proposed church is estimated at 108 trips on its busiest day, so apart from its effect on traffic operations, the traffic will be noticeable. But, when you consider how the land could be used under its current zoning, on balance the proposed use is appropriate for this property. Additionally, this conditionally use permit will be tied to the site plan which requires a substantial setback, and that would not be a requirement if the land was developed as a use by right.

Commissioner Dehn asked with an "R1" on 29 acres, how many single-family houses can be built? Mr. Hall stated after excluding the undevelopable parts, you could probably get three to four house per acre. Mrs. Driver stated that development would account or about 10 trips per day (per dwelling), and most likely traffic engineering would most likely require the public streets to be connected. This would cause more direct traffic through the neighborhood versus this project which will just have dead end cul de sacs.

Commissioner Naeger wanted to clarify that people may have gotten the idea he was concerned with the cemetery, but once something is used as a cemetery there is less flexibility for other uses. Mr. Naeger referenced the comment about the church being a permanent fixture, and he does not have a concern with the flexibility.

Commissioner Dehn asked if it was required in the site plan to retain stormwater going off the site, and whether it would be funneled into the large storm area. Mr. Hall confirmed that is accurate and that at some point there is a threshold of development that requires retention and another one for treatment.

Commissioner Tobaben inquired about the property line setback and if there was anticipation of screening the property. Mrs. Driver confirmed that this would require the city landscaping standards, and it does address what a significant tree is.

Commissioner Fried commented on the traffic and how most of the traffic would be on Sunday mornings, but this would not be when the other peak traffic would be for people leaving and coming to work and school.

Commissioner Dehn commented on when he looks at the project, he is looking at the church versus what could be there. He would rather have a church take the whole lot rather than 60 single family residences.

With no further questions or comments from commissioners, Commissioner Dehn called for a motion.

Motion by Commissioner Naeger, **second** by Commissioner Kaup: **to recommend approval of the Conditional Use Permit CU23/04 subject to the conditions in the staff report. Approved 7-0**

Public Hearing of PUD23/05 Topeka Prime Sports LLC, (property owner Fellowship Hi-Crest, Inc.) requesting rezoning of 3601 SW 33rd St from "R-1" Single-Family Dwelling District to "PUD" Planned Unit Development to convert the church into facilities for cheerleading classes or similar sports and recreation instruction.

Staff:

Zoe Brown presented the staff report and staff's recommendation of approval.

Questions/Comments from Commissioners:

Commissioner Fried asked for clarification on whether a traffic study for this project was going to be done. Mr. Hall confirmed that the traffic engineering staff suggested the applicant do a trip generation memo. Mr. Hall went on to say that the team wanted to keep the project on schedule because they felt like they could do the trip estimations based on the statement of operations; and wasn't sure if it would require improvements to the local streets.

Commissioner Fried asked for clarification on the class schedule. Mr. Hall said it was his understanding that it would be 40-60 participants for the entire evening.

Commissioner Dehn asked about the building to the north. Ms. Brown informed the commission that it was Bishop Professional Development Center. Commissioner Dehn asked about the general occupancy of the building. Mr. Hall understands that most of the traffic occurs during the day.

Owner's Representative:

Mark Burenheide, Topeka Prime Sports

Taylor McKaig, Topeka Elite Cheer

Mr. Burenheide informed the commission that the spot has been vacant for over a year, and it contains a gym along with a former sanctuary. The goal is for Topeka Elite Cheer to occupy the facility and use the gym and sanctuary area for competitive cheer training. Mr. Burenheide is looking forward to taking a vacant building and making it useful again.

Commissioner Fried asked for clarification on the classes. Mrs. McKaig informed the group that there are currently 167 families total for both the recreational and competitive teams. The classes are staggered with about 25 families coming in at one time, and everything should be relatively spread out regarding traffic. The current space Topeka Elite is in is 5,000 square feet, and they would be moving into a space with 16,000 square feet. Mrs. McKaig said they would have the ability to add more classes, and typically half of the families would leave before the next ones arrived.

Commissioner Naeger asked if there were plans to have any of the activities outside? Mrs. McKaig stated no unless they went outside for popsicles. Commissioner Naeger asked for clarification between Fellowship Bible Church LLC, Topeka Prime Sports, and Topeka Elite Cheer. Mr. Burenheide clarified the following: Fellowship Bible is the current owner of the building, and Topeka Prime Sports would be purchasing it from them. Topeka Elite Cheer would then be leasing the property from Topeka Prime Sports.

Commissioner Dehn declared the **public hearing open**. With no one coming forward to speak,
Commissioner Dehn declared the public hearing closed.

Questions/Comments from Commissioners:
NA

With no questions from commissioners, Mr. Dehn called for a motion.

Motion by Commissioner Kaup **second** by Commissioner Fried: to recommend approval of the Conditional Use Permit subject to the conditions listed in the staff report. **Approved 6-0-1** (Commissioner Herron abstained)

E. Discussion Items – Revision of the By - Laws of the Planning Commission

1. City of Topeka Deputy Attorney Mary Feighny stated that it has been 15 years since the Planning Commission By - Laws were updated. Mary will be sending out a couple of different red-line versions of the draft which would show the current By - Laws against the proposed By - Laws. There was conversation between the commissioners about a public comment time and whether it should be held prior to the meeting starting, or after the agenda and scheduled cases have been presented.

Public Comment regarding By - Law Updates

Henry McClure (address unknown) agreed that public comment should be allowed before an actual Planning Commission meeting begins. Mr. McClure stated that there must be a better way for the public to communicate, and more public comment can only benefit everyone.

2. Golden Factor
Discussion from commissioners about description of what they are, how they affect any decisions, and when to present them

F. Communications to the Commission

1. PUD 23/02 Eugene and Paramore Update - approved by Governing Body
2. ADU meeting
3. Neighborhood Profiles

With no further business appearing, the meeting adjourned at 7:45 PM.