



Zoning Application Procedures and Instructions

(includes PUDs and CUPs)

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STEP 1: PRE-APPLICATION MEETING

Prior to filing an application, the applicant is requested to schedule a pre-application meeting with Planning staff. The meeting is intended for the exchange of information by which the owner can explain the general development concept and site conditions, and Planning staff can explain the requirements of the zoning regulations, constraints applicable to the proposal, and Comprehensive Plan policies.

A pre-application meeting should be held no later than one (1) week prior to the application deadline. Applications without a qualified pre-application meeting will be processed as staff resources allow and cannot be guaranteed for the next scheduled agenda of the Planning Commission.

At the time of the pre-application meeting, staff will fill out and sign the **Re-Zoning Application Checklist** which should be turned in at the time of application. If the site is located in a Neighborhood Improvement Association (NIA) area, staff will encourage the applicant to also discuss the application with the NIA.

In lieu of a pre-application meeting, the applicant may submit a **Zoning Inquiry** form at least two weeks prior to the application deadline. Staff will send a written response to the applicant within a week indicating issues, level of support, and direction for proceeding with an official application.

STEP 2: FILING AN APPLICATION

All elements of the application shall be filed together at one time before 12:00 noon on the filing deadline day at the Planning Department office (see attached Schedule of Processing). Upon a finding that an application is incomplete or otherwise not in compliance with code requirements, further processing shall be at the discretion of the Planning Director. Elements of this application packet are more fully described as follows:

1. **Application Form**

Each item must be completely answered, with the original signature of the owner(s) of record and authorized agent(s), if any, or the application will be considered incomplete and not processed for public hearing. The authority to determine the completeness of an application rests with the Planning Director.

- a. **Legal Description** – Staff relies on this legal description to prepare property owner notices, legal notices, advertisements, and ordinances. If an error is found in the submitted legal description after application, it may invalidate the process and cause substantial delay.
- b. **Ownership** - The application shall be endorsed by the owner(s) of record. Owner(s) of record shall mean the owner(s) as contained on the last deed of record filed with the Shawnee County Register of Deeds or, submission of a recorded Certificate of Power of Attorney, duly notarized, and containing the legal description of the subject property.

2. Property Owner Notification

The law requires a published notice of the application in the official city newspaper as well as mailed notices to surrounding property owners at least 20 days prior to the Planning Commission public hearing. The Planning Department is responsible for all publishing and mailing of notices. A portion of the filing fee covers this cost. **The applicant is responsible for presenting the correct legal description of the subject property** to the Planning Department at time of application so that Staff can prepare a vicinity map of the official notification area. The notification area of adjacent property owners is as follows:

- When in the City of Topeka: 200 foot radius around subject property
- When in unincorporated Shawnee County: 1,000 foot radius around subject property

For rezonings, the above dimensional distances also represent the limits of the *legal protest area* as set forth by Kansas Statutes.

3. Filing fee

Applications for proposals must be accompanied by the appropriate filing fee (see attached Filing Fee List). Checks should be made payable to The City of Topeka.

4. Real Property Tax Status

All real property taxes including special assessments are to be paid to date and current for the subject property. A completed form must be filed with the application (see page 4 of the attached application).

STEP 3: STAFF REVIEW & COURTESY COMMENTS

Once a complete application has been submitted, Planning Staff will distribute it to other reviewing agencies for comments. If an application is deemed to be incomplete because of missing information, the case will be continued to the following month. The applicant will be notified within 2 weeks if there are any incomplete items to be addressed. Planned Unit Development (PUD) and Conditional Use Permit (CUP) applications will be afforded the opportunity to respond to courtesy comments midway through the staff review process. A typical review schedule looks like this:

Week 1 – application assigned a case planner, distributed to review agencies for comment, and reviewed by staff

Week 2 – case planner completes research and sends courtesy comments (PUDs and CUPs only) back to the applicant by the end of Week 2 or at the beginning of Week 3.

Week 3 – notices to surrounding property owners are mailed from Planning Department no later than 20 days before public hearing.

Week 4 – applicant submits revised PUDs and CUPs typically by Monday of Week 4 to guarantee those revisions will be included in the staff report and packet to the Planning Commission; case planner submits staff reports to Deputy Director/Planning Director for approval.

Week 5 – staff report recommendations are finalized and sent to Planning Commission by Friday of this week or 10 days prior to the public hearing; the applicant will be sent a copy of the staff report within 7 days of the public hearing.

Failure to adequately address a comment may result in a recommendation of disapproval, conditional approval, or continuance. Planning Staff will formulate a recommendation based upon planning principles and adopted policies of the Comprehensive Plan. Two Kansas Supreme Court cases - *Golden v. City of Overland Park* and *Taco Bell v. City of Mission* – establish factors to be taken into consideration for rezonings in Kansas. Staff reports will reflect these factors.

STEP 4: PLANNING COMMISSION PUBLIC HEARING

The Topeka Planning Commission meets on the third Monday of each month in the City Council Chambers at 6:00 p.m. to consider zoning applications (see attached Schedule of Processing). The Planning Commission holds the official **public hearing** at which time the public is able to offer testimony for or against the rezoning. After hearing from the public, the Planning Commission will then make a recommendation on the proposal which is forwarded to City Council.

A \$50.00 re-notification fee will be assessed to the applicant if an application scheduled for public hearing is requested for a **continuance**, unless, the request is received by the Planning Department prior to publication of the legal notification and mailing of notices to property owners.

The Kansas Supreme Court has held that zoning matters are quasi-judicial proceedings subject to due process and fairness standards. Applicants are cautioned that personal contacts with members of Topeka Planning Commission with respect to your application could complicate the proceedings and result in delays. Commissioners must declare their "ex-parte" contacts at the public hearing.

STEP 5: CITY COUNCIL DETERMINATION

Final determination of the application rests with City Council. They may approve the Planning Commission's recommendation with a simple majority vote (5), overturn it with a super-majority vote (6), or return the item to the Planning Commission for further discussion. If a valid **legal protest** is filed within 14 days after the Planning Commission's public hearing by property owners making up 20% of the land arer in the notification area, the rezoning application must be approved by a minimum of seven (7) votes.

City Council rules state that public hearings for planning items shall be conducted solely by the Planning Commission. An additional hearing will not be conducted by the City Council. City Council consideration usually can take place approximately four (4) weeks after the Planning Commission's public hearing. Please refer to the City's web-site (topeka.org) for the most recent Council agenda.

An item may be referred back to the Planning Commission by majority vote of the City Council if: 1) a person alleges there was an unfair hearing by the Planning Commission, 2) new facts or evidence has been filed with the city clerk by 5:00 p.m. on the Wednesday preceding the Council meeting, or 3) the Council determines that further deliberation is needed by the Planning Commission. Once the case is recommended back to City Council by the Planning Commission, they may approve or disapprove with a simple majority vote. Those cases involving a **legal protest** by surrounding property owners must still be approved by seven (7) votes.

Whenever the City Council has **denied** a rezoning, or whenever the Planning Commission has conducted a public hearing and made a recommendation on a requested rezoning and the request is subsequently withdrawn by the applicant prior to City Council consideration, a one (1) year re-filing limitation from the date of the original application filing shall apply *unless* the Planning Commission grants an exception.

SITE PLANS

- a. Legal description of the property
- b. Location map.
- c. Dimension and bearing of all property lines.
- d. Name and address of property owner.
- e. Name, address and phone number of plan preparer.
- f. Date, scale, including bar scale, and north arrow.
- g. Names and dimensions of all adjacent and proposed streets and alleys.
- h. Location and dimensions of existing/proposed buildings, including setbacks to property lines
- i. Dimension of parking area including stalls and aisles.
- j. Location and dimensions of existing and proposed curb openings.
- k. Identify location, type and height of landscaping, fencing, and lighting
- l. Location and dimension of existing and proposed utilities, utility easements, fire hydrants.
- m. Location, height, area and setback of existing/proposed signage.
- n. Indicate existing zoning and provide a brief statement of use.