

Governing Body Minutes – July 11, 2023

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, July 11, 2023. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M. with the following Councilmembers present: Councilmembers Hiller, Valdivia-Alcala, Kell, Dobler and Hoferer -5. Councilmembers Ortiz and Naeger participated remotely -2. Mayor Padilla presided -1. Councilmembers Duncan and Emerson were absent -2.

Public comment for the meeting was available via Zoom or in-person. Individuals were required to contact the City Clerk's Office at 785-368-3940 or via email at cclerk@topeka.org by no later than 5:00 p.m. on July 11, 2023, after which the City Clerk's Office provided the Zoom link information and protocols prior to the meeting start time. Written public comment was also considered to the extent it was personally submitted at the meeting or to the City Clerk's Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or via email at cclerk@topeka.org on or before July 11, 2023, for attachment to the meeting minutes.

AFTER THE MEETING was called to order Councilmember Hoferer provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by meeting participants.

BOARD APPOINTMENT recommending the reappointment of Lindsay Freeman to the Topeka Sustainability Advisory Board for a term ending July 11, 2025, was presented. (*Council District No. 6*)

ADVISORY COUNCIL APPOINTMENT recommending Monique Vopat to the City of Topeka Americans with Disabilities Act (ADA) Advisory Council for a term ending July 11, 2025, was presented. (*Council District No. 5*)

07-11-23

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BOARD APPOINTMENT recommending the appointment of Leilani Grey to the Topeka Sustainability Advisory Board for a term ending July 11, 2025, was presented. (*Council District No. 6*)

Councilmember Naeger moved to approve the appointments. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. The Mayor does not vote. (7-0-0)

A PRESENTATION on the “Write the Mayor a Letter” Initiative was provided by Lissa Staley, Topeka & Shawnee County Public Library.

Mayor Padilla thanked Lissa Staley for the presentation and stated he has received many positive comments on the initiative from citizens.

CONSENT AGENDA was presented as follows:

RESOLUTION NO. 9435 introduced by Councilmember Karen Hiller approving a special event known as For the Culture KS Fest, was presented. (*Council District No. 1*)

RESOLUTION NO. 9436 introduced by Councilmember Karen Hiller approving a special event known as Crusin the Capitol After Party, was presented. (*Council District No. 1*)

RESOLUTION NO. 9437 introduced by Councilmember Karen Hiller, granting The Celtic Fox an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. (*Council District No. 1*)

ORDINANCE NO. 20437 introduced by Councilmember Spencer Duncan concerning the land bank board of trustees terms of office, amending Section 3 of Ordinance No. 20426, to be codified at TMC 2.260.030, was presented.

APPROVAL of a Utilities Engineering CONTRACT NO. 51463 between the City of Topeka and WSP USA Environment and Infrastructure Inc., in an amount not to exceed \$542,205

for engineering services, was presented.

MINUTES of the regular meetings of June 20, 2023 was presented.

APPROVAL of the following Cereal Malt Beverage license application was presented:

<u>Business Name</u>	<u>Address</u>
Love's Travel Stop	1811 NW Brickyard Rd

APPROVAL of a Professional Services Agreement CONTRACT NO. 51466 between the City of Topeka and Kansas Personnel Services DBA Key Staffing for Temporary Employment Services to include Clerical, General, and Skilled Labor positions, was presented.

APPROVAL of a Professional Services Agreement CONTRACT NO. 51477 between the City of Topeka and 22nd Century Technologies for Temporary Employment Services to include Skilled Labor positions, was presented.

Councilmember Dobler moved to approve the consent agenda. The motion seconded by Councilmember Kell carried unanimously on roll call vote. (8-0-0)

RESOLUTION NO. 9438 introduced by Acting City Manager Richard U. Nienstedt making certain findings pursuant to the Kansas Reinvestment Housing Incentive District Act with regard to an application submitted by RMD Development, LLC to establish a Reinvestment Housing Incentive District and requesting that the Secretary of Commerce review the Resolution, and advise the Governing Body, was presented.

Rhiannon Friedman, Planning and Development Director, reported approval of the proposed resolution was the first step in the process of establishing a district and adopting a plan. She noted State law requires review of the resolution by the Kansas Secretary of Commerce and any suggestions by the Secretary would be incorporated into a final application presented to an

internal City of Topeka RHID review panel. Upon approval by the Review Panel, the application would be presented to the Governing Body for final consideration.

Councilmember Emerson entered the room.

Councilmember Emerson moved to approve the resolution. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. (9-0-0)

ORDINANCE NO. 20438 introduced by Acting City Manager Richard U. Nienstedt, amending City of Topeka Code Section 2.15.090, concerning redistricting and repealing original section, was presented.

Andrew Howell, Shawnee County Election Commissioner, reported redistricting takes place every 10 years as required by State statute, and the Election Commission works to make sure changes are absolutely necessary and avoids confusion by voters. He stated none of the Council District boundaries will be changed; no Council Districts will lose voters; and the proposed changes will protect the privacy of voters in low number precincts.

Councilmember Emerson thanked Commissioner Howell for his service.

Councilmember Hiller stated she was surprised by the proposal and asked if they sought input on the proposed changes.

Commissioner Howell stated there was a narrow timeline to make changes to precincts as well as they must be mindful of State of Kansas district representative boundaries.

Councilmember Hoferer stated she served on the City of Topeka Redistricting Committee in 2022. She questioned if the area for the Washburn Rural Middle School, recently annexed into the city recently would have voters living in the new precinct, and if there will be a new precinct for the newly annexed subdivision East of SE Croco Road.

Commissioner Howell stated the majority of the time smaller precincts are combined with

an adjoining precinct; however, they do have the ability to create a new precinct. He spoke to the difficulty of effective change for precinct boundaries and would be happy to create a taskforce to review the precincts before the next redistricting review.

Councilmember Hiller reported the past two redistricting reviews resulted in minimal changes of precincts; however, there was a great variance in size of precincts with some having as many as 1,765 voters and some as little as 4 voters. She suggested splitting large precincts in District 1 in order to make it easier for the redistricting process.

Councilmember Hoferer moved to adopt the ordinance. The motion seconded by Councilmember Emerson carried unanimously. The Mayor does not vote.

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Kell, Dobler, Ortiz, Hoferer, Emerson, and Naeger -8.

ORDINANCE NO. 20439 introduced by the members of the Public Health and Safety Committee, concerning retaliatory eviction, amending Sections 9.25.010 through 9.25.030 of the Topeka Municipal Code and repealing original sections and creating Sections 9.25.040 and 9.25.050, was presented

Councilmember Hiller stated the proposed ordinance was the second ordinance resulting from the Changing Our Culture of Property Maintenance initiative, and they anticipate a vegetation ordinance will be proposed in the fall of 2023. She announced this was the second mowing season of the initiative, and they plan to create a Taskforce to address vacate properties. She noted the City's current ordinance has not been updated since the mid 1970's which was designed for prevention. She reported Karen Black (May 8 Consulting) recommended changes to the retaliatory eviction ordinance which punishes landlords that evict tenants who complain to the landlord or a government agency regarding violations of laws requiring safe and sanitary

dwellings. She thanked Councilmember Valdivia-Alcala and City Staff members for their assistance with drafting the ordinance as well as all of the stakeholders that provided input and supports the ordinance as presented.

Councilmember Valdivia-Alcala stated this ordinance, in conjunction with Ordinance No. 20383 concerning liability of legal entities related to property code violations, will make Topeka a better place for all citizens. She spoke to the problems associated with slumlords and stated the changes define 'retaliatory action' and clarify what steps a tenant can take to pursue prosecution in municipal court.

Pat DeLapp, Shawnee County Landlord Association President, spoke in opposition of the ordinance. He stated Kansas Residential Landlord and Tenant Act regulations far exceed the protection provided in the proposed ordinance. He spoke to other important issues that need to be addressed by the City such as the increased number of homicides and the homeless population.

Councilmember Hiller reported State law does not specify that a person can evict which is why the City approved the initial ordinance in the 1970s, and the proposed ordinance provides for more specific regulation.

Councilmember Valdivia-Alcala expressed the importance of making sure there was a strong education campaign implemented with the approval of the ordinance as it will take the entire community to provide assistance to people living in dire situations. She spoke to the fear of residents reporting slumlords.

Councilmember Duncan entered the room.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Valdivia-Alcala carried unanimously. The Mayor does not vote.

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Valdivia-Alcala, Kell, Dobler, Ortiz, Hoferer, Duncan, Emerson, and Naeger -9.

ORDINANCE NO. 20440 introduced by Acting City Manager Richard U. Nienstedt, concerning the adoption of the 2023 National Electrical Code, amending § 14.30.010 of the Topeka Municipal Code and repealing original section, was presented.

Richard Faulkner, Development Services Division Director, reported the City was currently using the 2017 National Electrical Code and highlighted notable changes with the 2023 version of the code.

Councilmember Naeger moved to adopt the ordinance. The motion seconded by Councilmember Kell carried unanimously.

The ordinance was adopted on roll call vote as follows: Ayes: Padilla, Hiller, Valdivia-Alcala, Kell, Dobler, Ortiz, Hoferer, Duncan, Emerson, and Naeger -10.

RESOLUTION NO. 9439 introduced by Acting City Manager Richard U. Nienstedt amending Resolution No. 9392 to revise the mill and overlay project list for 2023 Citywide Half-Cent Sales Tax projects, was presented.

Braxton Copley, Public Works Director, reported in light of the physical inspection of SW Fairlawn Road from SW Brentwood to SW Cedar Crest Roads, Staff was requesting to remove that area from the project list, and add SW Fairlawn Road from SW Cedar Crest Road to SW Redbud Lane.

Councilmember Hoferer moved to approve the resolution. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. (10-0-0)

PUBLIC COMMENT was submitted via email by William Brandlin, Douglas Brier, Jason Maymon and Pam Hess (Attachment A) and provided by the following individuals:

William Brandlin distributed handouts (Attachment A) relating to the Eugene and Paramore rezoning case PUD 23/02 and PUD 23/03. He expressed concern with the inaccurate data being used to determine the need for a traffic study; the disregard of the obvious traffic congestion on Rochester Road; and drainage issues.

Henry McClure spoke in support of pro-development and how that relates to the recommissioning of a combined metropolitan planning commission that considers zoning and platting cases separate from zoning and policy cases. He stated he believes the separation would allow the process to be more successful because it would involve more public comment. He spoke to the need of working together to determine where development was most needed in the city as well as how to eliminate the need for developers to contribute an exorbitant amount of money to invest in development.

ANNOUNCEMENT BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL;

Richard U. Nienstedt, Acting City Manager, spoke to the importance of the Governing Body approving the ordinance concerning retaliatory eviction as it will help those who cannot help themselves.

Councilmember Valdivia-Alcala announced a Coalition for a Better Topeka meeting has been scheduled by Topeka residents on July 17, 2023 at 6:00 p.m. at Serendipity of Topeka, 820 N. Kansas Avenue, to discuss how to help the homeless in Topeka. She announced the 90th Annual Fiesta Mexican would be hosting various events during the week of July 17-23, 2023. She stated more information can be found at www.fiestatopeka.com.

Councilmember Kell referenced WarDogs a non-profit organization that uses the U.S. Military WarDogs Baseball program as a platform to raise funds and show awareness within

communities across the country by taking the best ball players in the United States Armed Forces and competing against Major, Minor, and collegiate league teams. He stated the funding received supports active military and veteran ball players who play for the team as well as to veterans dealing with PTSD, unemployment, homelessness and education. He encouraged everyone to donate to the organization and stated more information could be found at www.wardogs.org.

Councilmember Naeger announced July was Disability Pride Month. She stated the City of Topeka ADA Advisory Council meets every 2nd Wednesday of the Month at 1:00 p.m. in the Cyrus K. Holliday Building Sunflower Conference Room located at 620 SE Madison Street, Topeka. She encouraged those interested in serving on the Advisory Council to contact the Mayor's Office.

Councilmember Duncan commended Trina Goss, GO Topeka Director of Business & Talent Initiatives and the Greater Topeka Partnership Team for helping raise nearly \$3 million to help create child care slots in the Topeka Shawnee County area. He requested the resolution establishing a City Property Tax Rebate for 2024, and the resolution proposing the redevelopment incentive grant program for the NOTO Business Improvement District be considered as discussion items on July 18, 2023, and as action items on August 8, 2023.

Mayor Padilla expressed his appreciation to all community members and Our Lady of Guadalupe Church member volunteers for their efforts in planning the 90th Annual Fiesta Mexicana.

Following a 10-minute recess, Councilmember Dobler moved to recess into executive session not to exceed 40 minutes to discuss employer/employee negotiations relating to one or more unions as justified by KSA 75-4319(b)(3). The meeting resumed in the City Council Chambers. The following staff assisted the Governing Body in its deliberations: Acting City

Manager Nienstedt and any other Staff he deemed necessary. The motion was seconded by Councilmember Emerson.

Mayor Padilla asked all those in favor of recessing into to an executive session to indicate so verbally by saying “yea” and those opposing to indicate so verbally by saying “no.” The motion carried unanimously on voice vote. (10-0-0)

Following an 18-minute time period the meeting reconvened into open session, and Mayor Padilla announced no action was taken during the executive session.

Councilmember Dobler moved to recess into executive session not to exceed two hours for consultation with the city attorney to discuss attorney-client privileged matters regarding a specific employment matter as justified by K.S.A. 75-4319(b)(2). The open meeting resumed in the City Council Chambers. The following staff assisted the Governing Body in its deliberations: City Attorney Stanley and any other Staff deemed necessary. The motion was seconded by Councilmember Emerson.

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Councilmember Dobler moved to waive the Governing Body Rules and Procedures and add two items to the agenda for consideration. The motion seconded by Councilmember Hiller carried unanimously on roll call vote. (10-0-0)

Councilmember Dobler moved that the Governing Body terminate Contract No. 50620 between the City of Topeka and Stephen Wade dated September 13, 2023, for cause under

Section 2C., of the employment agreement. The motion seconded by Councilmember Valdivia-Alcala carried unanimously on roll call vote. (10-0-0)

Councilmember Dobler moved to approve RESOLUTION NO. 9440 introduced by Deputy Mayor Neil Dobler concerning the designation of an Interim City Manager - Richard U. Nienstedt. The motion seconded by Councilmember Valdivia-Alcala carried unanimously on roll call vote. (10-0-0)

NO FURTHER BUSINESS appearing the meeting adjourned at 9:52 p.m.

(SEAL)

Brenda Younger City Clerk

BOARD APPOINTMENT recommending the appointment of Leilani Grey to the Topeka Sustainability Advisory Board for a term ending July 11, 2025, was presented. (*Council District No. 6*)

Councilmember Naeger moved to approve the appointments. The motion seconded by Councilmember Dobler carried unanimously on roll call vote. The Mayor does not vote. (7-0-0)

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Councilmember Hoferer moved to adopt the ordinance. The motion seconded by Councilmember Emerson carried unanimously. The Mayor does not vote.

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Councilmember Duncan entered the room.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Valdivia-Alcala carried unanimously. The Mayor does not vote.

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NO FURTHER BUSINESS appearing the meeting adjourned at 9:52 p.m.

(SEAL)

Brenda Younger City Clerk

Brenda Younger

From: WILLIAM BRANDLIN <graybeard18@yahoo.com>
Sent: Monday, July 10, 2023 8:09 AM
To: Michael Padilla; Karen A. Hiller; Christina Valdivia-Alcala; Sylvia Ortiz; Tony Emerson; Brett Kell; Hannah Naeger; Neil Dobler; Spencer Duncan; Michelle A. Hoferer; City Clerk; Amanda L. Stanley
Subject: PUD23/02 Response By City Planning Staff To Governing Body Remand Back To City Planning Staff For Additional Work
Attachments: TONY-RECHARACTERIZATION CHART.xlsx

This message originated from outside your organization



This message needs your attention

- You've never replied to this person.
- This is a personal email address.

Powered by Mimecast

Good Morning -

I want each Governing Body Member to be aware of the total disregard that the City Planning Staff had for the Governing Body remand of PUD 3/02 back to them for additional work. Please let me explain in more detail.

1. The additional directive for a **Traffic Study** was completely ignored.

The Staff Report ignored the most relevant nearly one mile of Rochester Road where the PUD 23/02 access point would be (that would be the area north of 25th Street and south of Menninger Road, which is 9/10th of a mile). The Staff Report used data from traffic patterns in an area that is over half a mile to the south of where the PUD 23/02 access to Rochester Road would be. The quoted data is in an area where the access to the Walmart parking lot is on the east side of Rochester Road and the access to the Dillon's parking lot is on the west side of Rochester Road. This "study" area on Rochester Road is 2 lanes each way, has turning lanes, sidewalks and traffic signals. The area of access for PUD 23/02 to Rochester Road is one lane each way, has no turning lanes, no sidewalks and no traffic signals. The Staff Report data could not be more misleading to the Governing Body and was used simply to beef up the vehicle per day (vpd) statistics included in the Staff Report to justify the lack of a Traffic Study. This artificially minimized the increased traffic flow from the proposed PUD 23/02 access to Rochester Road. The traffic engineers (Benesch) admitted at the June 26, 2023 Planning Commission Meeting that no traffic study has ever been done for the area affected by PUD 23/02, which should be from the north end of Walmart on the south to 50th Street on the north. This is coincidentally the area suggested by the mysterious and unverified Shawnee County alleged Rochester Road improvement scheme to be completed 8 years down the line. **SEE NEXT PARAGRAPH**

The Staff Report also made reference to an unapproved, unfunded futuristic Shawnee County Rochester Road improvement plan. Quoting from the Staff Report response by a Shawnee County official..."if we can fit everything in...we'll bring a consultant on board in mid to late 2026 with design starting in 2027, Construction will likely take 3 years (2029-2031)." Apparently, the fact that there is a 2 lane bridge over Soldier Creek just south of the PUD 23/02 access point was ignored. The Planning Staff expects the Governing Body to take this Shawnee County wish list out 8 years in the future as gospel truth. This doesn't pass even the smell test.

2. The **flood plain issue** response completely ignores the historic reality of flooding in the PUD 23/02 parcel in 1996 and 2005/2006. What do you believe?...recent history or an outdated and possibly incorrect floodplain map?

3. The **recharacterization of the neighborhood** conclusions drawn in the Staff Report rely on vague and subjective terms such as "substantially, "ensure" and "character". If you refer to the "Comparative PUD 23/02 Neighborhood Recharacterization Chart", attached as an Excel file, which was presented to the Governing Body at their June 20, 2023 meeting, you will be able to see that there is absolutely no conformance between the existing neighborhood and the PUD 23/02 proposal. The (a) lot size per residential unit does not conform, (b) the ownership status of the residents does not conform, (c) the architectural style of the residential units does not conform(d) number of residential units per access street does not conform, (e) the population density per acre does not conform and (f) total traffic generated by PUD 23/02 does not conform and (g) the zoning of PUD 23/02 does not conform to the zoning of the surrounding neighborhoods. More specifically, (a) the lot size of PUD 23/02 is 50% of the lot size of the existing neighborhood, (b) PUD 23/02 has renters while the existing neighborhood has owners, (c) the architectural style of PUD 23/02 is not single story ranch and does not conform to the single story ranch style architecture of the existing neighborhood, (d) the number of residential units per access street is three (3) times that of the existing neighborhood and does not conform resulting in three times the traffic volume and (e) the population density of PUD 23/02 is three (3) times that of the existing neighborhood, (f) the traffic generated by PUD 23/02 is three (3) times that of the existing neighborhood and (g) the PUD 23/02 zoning of M-2 does not conform to the R-1 zoning of the entire surrounding area parcels of land.

Instead of using the relevant and measurable metrics of lot size per residential unit, ownership status, architectural style, residential units per access street, living unit density per acre, population density per acre, traffic generation and existing zoning, the Staff Report quotes mathematically incorrect statistics for unit density and factually incorrect conclusions for architectural style. As further boilerplate for this severely flawed Staff Report, mention is made of non-relevant items such as fencing, landscaping, garage size and structure orientation.

I would also direct your attention to page 5 of the aforementioned Neighborhood Recharacterization Chart for some additional governmental considerations (as well as mandatory requirements of the private sector) that the Staff Planners should be considering...rehashing the same rezoning case from 2006, length of construction period, financial viability of the developer and resident interaction and communication.

4. The **Sproaton Lane connection** to the PUD 23/02 parcel indirectly acknowledges the traffic problem on Rochester Road...more from the Staff Report concerning the Sproaton Lane connection..."giving pedestrians and cyclists an alternative to Rochester Road". If there are no access problems with Rochester Road, as every Staff Report has suggested, why the need for an alternative access point?...and why the need for any connection of any sort?

The two Planning Commission Staff Reports for PUD 23/02 are filled with bad information, inaccurate data and preconceived developer friendly conclusions.

As a point of fact, over the last 13 months (per the Planning Commission Meeting minutes over the same period), 34 applications have come before the Planning Commission...34 were approved, none were rejected. Quite a batting average considering the Planning Commission is supposed to plan in the best interests of all Topekans, not the best interests of the developers.

Topeka is littered with Planning Commission mistakes (the southeast corner of Topeka Blvd. and Menninger Road and the 270 unit senior housing development near the Hummer Sports Complex to name just two).

Don't let PUD 23/02 add to the litter. Vote it down.

Thanks for taking the time to read this.

WILLIAM AND CELESTE BRANDLIN
641 NW Walnut Lane
Topeka, KS 66617-1254
785-670-0677

COMPARATIVE PUD 23/02 NEIGHBORHOOD RECHARACTERIZATION CHART

COMPARATIVE FACTORS	EXISTING NEIGHBORHOOD	PUD 23/02 PARCEL	COMPARATIVE SIMILARITIES
1 APPROXIMATE LOT SIZE PER RESIDENTIAL UNIT	1 ONE HALF ACRE (1/2)	1 ONE QUARTER ACRE (1/4)	1 NONE
PUD 23/02 LOT SIZE ONE HALF (1/2) THE SIZE OF EXISTING NEIGHBORHOOD			
2 OWNERSHIP STATUS OF RESIDENTS	2 NON-TRANSIENT HOMEOWNERS, PROPERTY OWNERSHIP	2 TRANSIENT RENTERS, NO OWNERSHIP	2 NONE
PUD 23/02 TENANTS (NO OWNERSHIP) VS. EXISTING NEIGHBORHOOD (OWNERS)			
3 ARCHITECTURAL TYPE OF HOMES/RENTAL UNITS	3 SINGLE STORY RANCH STYLE	3 SINGLE STORY, NOT RANCH STYLE	3 NONE
PUD 23/02 ARCHITECTURE DISSIMILAR THAN EXISTING NEIGHBORHOOD			
4 NUMBER OF RESIDENTIAL UNITS PER ACCESS STREET	4 TEN (10)	4 THIRTY (30)	4 NONE
PUD 23/02 THREE (3X) TIMES THE LIVING UNIT DENSITY OF EXISTING NEIGHBORHOOD			
5 NUMBER OF RESIDENTS PER RESIDENTIAL UNIT	5 TWO (2), ASSUMED	5 TWO (2), ASSUMED	5 N/A
ASSUMPTION, FOR COMPARATIVE PURPOSES ONLY			
6 POPULATION DENSITY PER ACRE OF OCCUPANCY	6 ONE QUARTER PERSON (1/4)	6 ONE EIGHTH PERSON (1/8)	6 NONE
PUD 23/02 TWICE (2X) THE POPUATION DENSITY OF EXISTING NEIGHBORHOOD			
7 NUMBER OF AUTOS PER RESIDENTIAL UNIT	7 TWO (2), ASSUMED	7 TWO (2), ASSUMED	7 N/A
ASSUMPTION, FOR COMPARATIVE PURPOSES ONLY			

COMPARATIVE PUD 23/02 NEIGHBORHOOD RECHARACTERIZATION CHART

COMPARATIVE FACTORS	EXISTING NEIGHBORHOOD	PUD 23/02 PARCEL	COMPARATIVE SIMILARITIES
8	8	8	8
TOTAL AUTOMOBILES PRESENT FOR TRAFFIC CONSIDERATIONS	TWENTY (20), ASSUMED	SIXTY (60), ASSUMED	N/A
ASSUMPTION, FOR COMPARATIVE PURPOSES ONLY			
9	9	9	9
TRIPS OUT AND BACK IN PER AUTOMOBILES PRESENT	ONE (1)	ONE (1)	N/A
ASSUMPTION, FOR COMPARATIVE PURPOSES ONLY			
10	10	10	10
TOTAL CARS (ALL TRIPS) ADDED TO ROCHESTER ROAD PER DAY	40	120	NONE
10a	10a	10a	10a
PER MONTH	1,200	3,600	NONE
10b	10b	10b	10b
PER YEAR	14,400	43,200	NONE
PUD 23/02 ADDS THREE TIMES (3X) THE AUTOMOBILES PRESENT ON ROCHESTER ROAD THAN EXISTING NEIGHBORHOOD			
11	11	11	11
NEARBY EXISTING ZONING	ALL PARCELS NORTH OF SOLDIER CREEK, SOUTH OF MENNINGER RD., WEST OF ROCHESTER RD. AND EAST OF SPROATON LANE TO TOPEKA BLVD. ARE ZONED R-1. THIS INCLUDES THE PARCEL CONTEMPLATED BY PUD 23/02. SINGLE FAMILY DWELLING DISTRICT	THIS PARCEL TO BBE REZONED INTO M-2, MULTIPLE FAMILY DWELLING DISTRICT	NONE
THE ZONING USES OF NEARBY PROPERTY ARE ALL R-1. REZONING TO R-2 IS IN DIRECT CONFLICT WITH THE INTENDED EXISTING ZONING			

COMPARATIVE PUD 23/02 NEIGHBORHOOD RECHARACTERIZATION CHART

COMPARATIVE FACTORS	EXISTING NEIGHBORHOOD	PUD 23/02 PARCEL	COMPARATIVE SIMILARITIES
12 DETRIMENTAL ECONOMIC EFFECTS	12 HISTORICAL, STEADY INCREASED RETURN ON OWNER'S CAPITAL INVESTMENT WHERE R-1 REMAINS INTACT.	12 HISTORICAL, STEADY DECREASE IN ANY R-1 ZONED PROPERTY SUDDENLY BORDERED BY M-2 ZONED PROPERTY.	12 NONE
<p>THE REMOVAL OF THE EXISTING ZONING RESTRICTIONS WILL DETRIMENTALLY AFFECT THE SURROUNDING PROPERTIES AND PROPERTY RIGHTS OF THE INDIVIDUAL SURROUNDING PROPERTY OWNERS</p>			

CONTINUED ON THE NEXT PAGE

OTHER IMPORTANT FACTORS TO AFFECT DECISION PROCESS

- 1 THIS NEARLY IDENTICAL REZONING CASE WAS DENIED BY THE GOVERNING BODY IN 2006 AFTER A SUCCESSFUL PROTEST PETITION WAS FILED BY THE RESIDENTS. THE 2006 CASE INVOLVED REZONING FROM THE EXISTING R-1 (SINGLE FAMILY DWELLING DISTRICT) TO M-1a (LIMITED MULTIPLE FAMILY USE GROUP)

- 2 THERE HAVE BEEN MANY QUESTIONS BY THE AFFECTED RESIDENTS AS TO THE FINANCIAL VIABILITY OF THE DEVELOPER. WHY A 2-3 YEAR CONSTRUCTION PERIOD UNLESS THE DEVELOPER DOES NOT HAVE THE NECESSARY RESOURCES TO COMPLETE THE PROJECT IN A CUSTOMARY AND USUALLY ACCEPTED TIME FRAME OF ONE YEAR OR LESS?

- 3 WHY DOESN'T THE PLANNING COMMISSION GIVE EQUAL WEIGHT TO THE FINANCIAL CONDITION OF THE DEVELOPER TO SUCCESSFULLY CARRY OUT HIS WIDE RANGE OF PROMISES FOR WHICH THERE IS NO GUARANTEE OF SUCCESS OTHER THAN THE DEVELOPER'S WORD? HISTORICAL, INDEPENDENT VERIFICATION OF THE DEVELOPER'S FINANCIAL POSITION , INCOME AND EXPENSE, CASH FLOWS AND THE ATTENDANT FULL DISCLOSURE SHOULD BE MADE AVAILABLE TO THE PLANNING COMMISSION AND THE AFFECTED RESIDENTS BEFORE THE FIRST PUBLIC MEETING AND AT REGULAR 90 DAY INTERVALS THROUGHOUT THE REZONING PROCESS.

- 4 TOPEKA IS LITTERED WITH FAILED DEVELOPMENT PROJECTS. ON THE SOUTHEAST CORNER OF MENNINGER ROAD AND TOPEKA BLVD. IS JUST ONE EXAMPLE OF THE DEVELOPER EXPECTATIONS AND PROMISES NOT BEING REALIZED AND FULFILLED. ALL OF THESE REZONING ATTEMPTS WERE APPROVED WITHOUT THE FULL, NECESSARY AND DILIGENT INVESTIGATIVE PROCESSES THAT ANY PRUDENT EVALUATOR WOULD APPLY TO THE RISK AND REWARD OF SUCH PROJECTS.

- 5 IT IS WELL TO REALIZE THAT NO DIRECT RESIDENT COMMUNICATION, NO DEVELOPER FINANCIAL VERIFICATION, NOT EVEN A CURSORY DRIVE BY FROM ANY MEMBER OF THE PLANNING COMMISSION HAS EVER OCCURRED. THESE QUESTIONS WERE ASKED AND UNANSWERED AT BOTH THE NEIGHBORHOOD INFORMATION MEETING AND THE FIRST PUBLIC HEARING, FEBRUARY 22, 2023 AND MARCH 20, 2023 RESPECTIVELY.

OTHER IMPORTANT FACTORS TO AFFECT DECISION PROCESS

- 6 AT THE MAY 2, 2023 CITY COUNCIL MEETING, DAN WARNER, CITY OF TOPEKA DIRECTOR OF PLANNING, MADE REFERENCE TO THE SUCCESSFUL PROTEST PETITION FILED BY THE AFFECTED RESIDENTS OF PUD 23/02 AS "A STANDARD PART OF THE ZONING APPLICATION". MR. WARNER ALSO MADE REFERENCE TO ROCHESTER ROAD AS "BEING A MINOR ARTERIAL". BOTH OF THESE STATEMENTS, ON THEIR FACE, ARE INCORRECT. HOW MANY SUCCESSFUL PROTESTS HAVE BEEN FILED (NOT VERY MANY, NOT VERY STANDARD, WE RECKON) AND HOW MANY VEHICLES TRAVEL ROCHESTER ROAD (MORE THAT MR. WARNER "ASSUMES", WE RECKON, SINCE NO TRAFFIC STUDY WAS DONE)?

William Brandlin - Public

Handout

STAFF REPORT – PLANNED UNIT DEVELOPMENT
TOPEKA PLANNING AND DEVELOPMENT DEPARTMENT

PLANNING COMMISSION DATE: Monday, June 26, 2023

PUD23/02 by Eugene & Paramore LLC

PUD23/02 is a request to rezone 7.2 acres of vacant land from "R-1" Single-Family Dwelling District to PUD Planned Unit Development District ("M-2" land use) for the development of duplexes and four-plexes for a total of 30 dwelling units.

The Planning Commission held a public hearing for PUD23/02 on March 20, 2023. Staff recommended approval of the rezoning based on the findings and analysis in the staff report. The written comments received prior to the public hearing were presented to the Planning Commission and are attached. Eleven neighborhood residents spoke in opposition or with concern about the project at the public hearing.

After considering public comment, the Planning Commission closed the public hearing and voted 8-0-0 to recommend APPROVAL to the Governing Body based on the findings and analysis and subject to the recommended conditions in the staff report.

At its May 2, 2023 meeting, the Governing Body remanded PUD23/02 to the Planning Commission requesting that the Commission consider:

- The character of the neighborhood
- The connection to NW Sprouton Lane
- Whether a traffic study is necessary
- Drainage

Planning staff notified all owners of property within 200 feet of the subject property of the June 26, 2023 meeting.

Character of the Neighborhood

As required by Topeka's zoning regulations, the staff report includes findings and conclusions regarding "Character of the Neighborhood." "Character" pertains mainly to the physical characteristics of the existing neighborhood and the proposed development. The conditions and restrictions of the PUD master plan for the development ensure it is not substantially out of character with the existing neighborhood. More specifically:

- Buildings must be in substantial conformance with the applicant's design plans, which are for single-story, one and two-bedroom units with garages.
- The recommended PUD master plan limits development to no more than 30 units for a density of 4.2 units per acre, which is a lower density than what may be permitted for single family residential development under the current zoning.
- Fencing at a minimum height of 4 feet where the property abuts adjacent, existing residential use. Fencing is not required by the site's current zoning.
- Specific landscape requirements as a buffer for adjacent residential uses.
- Buildings required to include single or two car garages for each dwelling, modulated building facades, and gable roofs.
- The buildings will be oriented so that the rear yards for the proposed development will be along the north and south perimeter of the site adjacent to the existing residential development north of the site.

Connection to NW Sprouton Lane

The project does not include any street or other vehicular connection to Sprouton Lane and the owners and residents north of the subject property oppose a connection to Sprouton Lane. Per Fire Code, the development is allowed a single point of vehicular access from Rochester Road without need for a secondary access because the development is limited to no more than 30 dwellings.

The Land Use & Growth Management Plan encourages pedestrian connectivity between and within subdivisions and, therefore, staff is recommending pedestrian access be provided between the end of the private drive and the east boundary to provide for a pedestrian and bicycle connection through the adjacent tract, if and when it is developed, to the south end of NW Sprouton Lane, giving pedestrians and cyclists an alternative to Rochester Road.

Need for Traffic Study

City traffic engineering staff determined that a traffic impact analysis (TIA) is not required due to the limited traffic volume generated by the development. When development is proposed, the need for a TIA is determined in large part by thresholds requiring a TIA as described on the attached TIA information document. The proposed project does not meet any of these thresholds requiring a TIA.

City traffic engineering staff have provided the following traffic data and analysis.

Based on the Institute of Transportation Engineers (ITE) Trip Generation Manual, the 30 dwelling unit development would result in the following:

30 dwelling units / multi-family housing (low rise)

ADT = 268 vehicles per day (vpd)

AM Peak Hour Traffic = 32 vehicles per hour (vph) (8 vph enter and 24 vph exit)

PM Peak Hour Traffic = 33 vph (21 vph Enter and 12 vph exit)

Rochester Road has an average daily traffic of 15,565 vehicle trips per day (vpd) south of NW 25th Street, and 5,680 vpd north of Menninger Road, according to KDOT traffic volumes maps. Using traffic data from a recent traffic impact study in the area, Rochester Road currently has a daily traffic volume of 6,800 vpd. Based on the estimated ADT, the proposed development will generate 3.9% of the daily traffic volume.

Future Improvements to Rochester Road:

After the May 2, 2023 City Council meeting, staff learned about a planned Shawnee County project. Per Curt Neihaus, Shawnee County Public Works Director, "Shawnee County has a sales tax project (2027-2031) to reconstruct Rochester Road from the north end of Walmart to 50th Road. If we can fit everything in, there will be 3 lanes (center continuous left-turn) curb & gutter, sidewalk, multi-use path, enclosed drainage, a bridge widening and possibly two roundabouts (35th and possibly 50th). We'll bring a consultant on board in mid- to late 2026 with design starting in 2027. Construction will likely take 3 years (2029-2031)."

Drainage

Neighborhood residents have expressed concerns about the proposed development increasing potential flood hazards and the potential for the proposed development to be flooded, as well.

Flood hazards are mapped by the Federal Emergency Management Agency (FEMA) and these hazards are the official flood maps. The City's GIS includes the flood hazards mapped by FEMA. Mapped flood zones include Reduced Flood Risk due to Levee; .2% Annual Chance Flood Zone (500-year floodplain); 1% Annual Chance Flood Zone (100-year floodplain); and the Floodway. Topeka regulations restrict development in the 100-year floodplain and floodway. The regulations do not restrict development in the other flood hazard areas. As shown on the attached map, the subject property is not located in any of the mapped flood hazard areas.

The developer will be required to submit a stormwater management plan for review at the time of the subdivision plat and site plan review applications. City staff will review the stormwater management plan to restrict the amount of drainage allowed to run off the site post development. Plans for erosion control during construction are also required. Additionally, Ground disturbance of one acre or more requires the stormwater management plan to include best management practices (bmp) to treat stormwater runoff entering the City's stormwater system.

Brenda Younger

From: Douglas Brier <mbrier2571@ymail.com>
Sent: Sunday, July 9, 2023 3:30 PM
To: Michael Padilla; Karen A. Hiller; Christina Valdivia-Alcala; Sylvia Ortiz; Tony Emerson; bkell@topela.org; hnaeger@topela.org; Neil Dobler; Spencer Duncan; Michelle A. Hoferer; City Clerk
Cc: Douglas Brier
Subject: PUD 23/2 Issues/concerns

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- 1.) No traffic study has ever been done to address traffic or sidewalk issues.
- 2.) PUD 23/2 does not provide "substantial conformance" for the neighborhood.
- 3.) Flooding and drainage is still an issue and whether or not PUD 23/2 is in the floodplain.
- 4.) Commission seems to rubber stamp projects/proposals in favor of developers.

I do not feel PUD 23/2 is a good fit for the neighborhood and oppose further consideration by the Council.

Thank you

Douglas M. Brier
701 NW Walnut Lane
Topeka, Ks. 66617

(785) 250-4994

Brenda Younger

From: Jason Maymon <jason@thedartcenter.org>
Sent: Tuesday, July 11, 2023 7:13 PM
To: Tonya L. Bailey
Cc: City Clerk; Pam Hess
Subject: Re: Public Comment
Attachments: image001.jpg

This message originated from outside your organization

These public comments are from our JUMP member, Pam Hess at Christ the King.

https://jumpks-my.sharepoint.com/:w:/g/personal/jump_jumpks_onmicrosoft_com/Ef8E_eFbgcROrgFayaa2u9MB9uzR5GXDf8wcAevZ3TI5hw?rtime=0uzwT2yC20g

Jason Maymon
Associate Organizer
Topeka JUMP

On Tue, Jul 11, 2023, 7:07 PM Tonya L. Bailey <tlbailey@topeka.org> wrote:

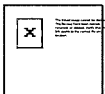
Thank you for your email. Please submit your written public comment.

Tonya L. Bailey

Administrative Officer, City Clerk

Office: 785-368-3940

tlbailey@topeka.org



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From: Jason Maymon <jason@thedartcenter.org>

Sent: Tuesday, July 11, 2023 7:05 PM

To: City Clerk <cclerk@Topeka.org>

Subject: Public Comment

This message originated from outside your organization

Hello,

I have written public comment to submit for tonight's meeting.

Jason Maymon
Associate Organizer
Topeka JUMP

Good evening,

My name is (blank) and I am a member of the Affordable Housing Committee of Topeka Justice Unity & Ministry Project (JUMP). We are here again to implore you all to move forward with the next step in utilizing the AHTF- to call together the Affordable Housing Review Committee, so they can begin issuing Requests for Proposals to housing developers.

We would like to thank City Councilman Spencer Duncan for providing an update regarding the Affordable Housing Trust Fund at the last city council meeting. We are glad to hear that work is being done to update the Trust Fund ordinance. These are great next steps. But we are here to ensure that this governing body does not forget that calling together the Review Committee is a step that must happen immediately following the updating of the ordinance.

The Review Committee's purpose is to ensure the effective allocation of funds and resources to support affordable housing initiatives. Their expertise and oversight are vital in identifying suitable projects and implementing strategies that will make a meaningful impact on the lives of our citizens.

The longer we delay the activation of this crucial committee, the more individuals and families will find themselves on the brink of homelessness. More than 10,000 households in Topeka are living with relatives or friends, or paying more in rent than they can afford, or are living in unsafe conditions. It is your responsibility as representatives of