



PLANNING COMMISSION MEETING
January 23 & 25, 2012
Meeting Minutes

January 23, 2012 – 6:30 p.m.

Commissioners present: Belt, Britton, Burger, Culver, Finkeldei, Hird, Liese, Singleton, von Achen, and Student Commissioner Cory Davis

Staff present: McCullough, Larkin, Leininger, M. Miller, Warner, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of December 12, 2011.

Motioned by Finkeldei, seconded by Commissioner Culver, to approve the December 12, 2011 Planning Commission minutes, with a minor wording change suggested by Commissioner Burger.

Motion carried 7-0-1, with Commissioner Singleton abstaining. Commissioner Liese was not present for vote.

COMMITTEE REPORTS

Receive reports from any committees that met over the past month.

Commissioner Hird said the Agritourism Committee continues to meet and will have a presentation at the Mid-Month meeting on the proposed text amendment.

Mr. McCullough said a few Planning Commissioners were assigned as liaisons for the Oread Overlay District process and that the RFP would go to City Commission tomorrow.

COMMUNICATIONS

Mr. Scott McCullough, Planning Director, reviewed new attachments and communications that were posted to the online Planning Commission agenda after the initial posting date.

Received written communications from staff:

- Communication from the Historic Resources Administrator pertaining to the Landmark nomination of the Joseph Savage House located at 1734 Kent Terrace.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Burger said she received emails that all the other Planning Commissioners were copied on.

Commissioner Finkeldei said he had a brief meeting with Mr. Matt Gough, representative of Aspen Heights, and was shown additional color layouts of the project.

Commissioner von Achen said she spoke briefly with Mr. Gough and also spoke with County Commissioner Nancy Thellman.

Commissioner Liese said he received an invitation from County Commissioner Thellman to talk about the Northeast Sector Plan and explain the County Commissioners reasoning behind the questions they sent Planning Commission.

Commissioner Culver said he received an invitation to meet with Mr. Gough and a representative for Aspen Heights tomorrow.

Commissioner Belt said he spoke briefly with County Commissioners Thellman and Mike Gaughan. He said he met with Ms. Barbara Clark and Mr. Jerry Jost about the Northeast Sector Plan. He said he spoke with Mr. Gough about Aspen Heights. He said he also spoke with Mr. Dan Hughes about the North Mass Development.

Commissioner Hird said he had the same invitation from Mr. Gough to attend a meeting with the developers of Aspen Heights. He said he respectfully declined the meeting. He said he had a lengthy meeting with County Commissioner Thellman regarding the Northeast Sector Plan and her position as a County Commissioner on the issue.

- No abstentions.

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Recess LDCMPC

Convene Joint Meeting with Lecompton Planning Commission

ITEM NO. 1 CONDITIONAL USE PERMIT FOR FRED'S BOAT STORAGE; 568 N 1800 RD (MKM)

CUP-11-7-11: Consider a revised Conditional Use Permit for Fred's Boat Storage, located at 568 N 1800 Road. The request amends CUP-8-7-06 to specifically include the covered storage of recreational vehicles, trailers and campers, as well as boats as currently permitted. Submitted by George Roll, property owner of record. *Joint meeting with Lecompton Planning Commission.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Fred Roll, said he voluntarily built a berm in front of the second building and planted 22 evergreen trees. He said if he needed to plant more trees he would be happy to do that.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Lecompton Planning Commissioners Mary Jane Hoffer and Amber Nickel were present but had no comment.

Commissioner Singleton asked if the Lecompton Planning Commission had met already and if they had heard any concerns within the community.

Lecompton Planning Commissioners Hoffer and Nickel said no.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Liese, to approve the revised Conditional Use Permit for the storage facility subject to the following conditions:

- 1) The provision of a revised site plan with the following changes:
 - a. Note 'a' revised to read: "*All boat, RV, trailer and camper storage must be stored entirely inside the buildings.*"
 - b. Note 'c' revised to read: "*Conditional use Permit (CUP-11-7-11) replaces the previous permit (CUP-08-07-06) and will be administratively reviewed by the Zoning and Codes Office in 5 years and will expire in 10 years from the approval date noted on the plan.*"
 - c. Note 'd' revised to read: "*Screening from the adjacent public road shall be provided by four evergreen trees on approximately 30 ft centers south of the storage facility.*"
 - d. The approximate location of the 4 trees shall be shown on the plan.

Unanimously approved 9-0.

Lecompton Planning Commissioners voted in favor 2-0.

Adjourn Joint Meeting

Reconvene LDCMPC

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ITEM NO. 2 ANNEXATION; 17.4 ACRES; YANKEE TANK (MJL)

A-8-3-11: Consider annexation of approximately 17.4 acres for Yankee Tank, located south of Bob Billings Pkwy, north of Clinton Parkway, east of Villa Drive, and west of Burning Tree Drive. Submitted by North Tank LC and Burning Tree LLC, property owners of record.

ITEM NO. 3 ANNEXATION; 109 ACRES; YANKEE TANK/LAKE ALVAMAR (MJL)

A-8-4-11: Consider annexation of approximately 109 acres for Yankee Tank (commonly known as Lake Alvamar), located north of Clinton Parkway, south & west of Lake Alvamar Drive, and east of E. 920 Road. Submitted by Alvamar Inc, and Kansas Athletics, Inc. property owners of record.

STAFF PRESENTATION

Ms. Michelle Leininger presented items 2 and 3 together.

Commissioner Hird said a few months ago he was appointed by the District Court as one of the three appraisers for condemnation of the land that would be taken by increasing the damn and water on the properties. He said in that role he viewed the properties and had a lot of contact with this project. He did not feel it was a conflict of interest because it was well over with. He said any compensation was approved by Judge Malone in District Court. He said he wanted to be sure to disclose that because it could be considered an ex parte communications even though it was over. He said he would be glad to recuse himself if it was a problem.

Mr. Larkin said since that was over before this item began he did not believe there would be a legal problem. He said if Commissioner Hird could look at it fairly and rule on it impartially then he could consider the matter.

Commissioner Hird said he did not see a connection between the condemnation of the land and the annexation so he would proceed.

ACTION TAKEN on Items 2 & 3

Motioned by Commissioner Liese, seconded by Commissioner von Achen, to approve the requested annexation of approximately 126 acres located between Bob Billings and Clinton Parkways and east of the South Lawrence Trafficway (SLT), and initiate rezonings from county A (Agricultural) and A-1 Districts (Suburban Home Residential) to OS (Open Space) and OS (Open Space)-FP (Floodplain) District.

Unanimously approved 9-0.

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**ITEM NO. 4 COMPREHENSIVE PLAN AMENDMENT TO H2020 - CHP 14; NORTHEAST
SECTOR PLAN (DDW)**

CPA-6-5-09: Reconsider Comprehensive Plan Amendment to Horizon 2020 – Chapter 14 to include the Northeast Sector Plan. *Approved by Planning Commission 5-4 on 9/20/10. Referred to Planning Commission by the Board of County Commission and City Commission for consideration of specific issues. Deferred by Planning Commission on 12/12/11.*

STAFF PRESENTATION

Mr. Dan Warner presented the item.

PUBLIC HEARING

Ms. Barbara Clark, Citizens for Responsible Planning, said most of their concerns were due to the great amount of land available for industrial development in the northeast sector. She also expressed concern about the elimination of the capability class I & II soils in the area and the inability to be separated from flooding concerns. She said geologically flood and fertile soils were tied and could not be unlinked. She expressed concern for the downstream residents in North Lawrence. She stated she attended the Board of County Commissioners meeting in May and June where there was testimony that implementation of the North Lawrence Drainage study could cost anywhere between zero and forty million dollars. She referenced a document that was instituted by President Clinton after the 1993 floods in the Midwest that covers a lot of issues. She appreciated the public forum allowed on the subject.

Mr. Ted Boyle, North Lawrence Improvement Association, said the residents of North Lawrence did not want to see flooding again like in 1993. He said the pump on North 2nd Street was currently at its maximum capacity. He said he would like to see the area remain agricultural and that any industrial development should take place at the airport since it already has a footprint.

Mr. Jerry Jost read from the United States Global Change Research Program, that there would be more frequent and intense floods, greater burden on already stressed water systems, increased infrastructure and property damage, overloaded drainage systems, and that the past was not a reasonable guide for the future. He displayed on the overhead pictures from past floods. He felt this land would become increasingly important due to stress on the agricultural and food system and more intense storm events.

Mr. Charles NovoGradac discussed several vacant properties in the area. He expressed concern about drainage and if the kind of development that goes on south of the turnpike goes north of the turnpike the runoff would directly impact his property and North Lawrence. He felt they needed to put some sort of brakes on this. He felt they needed a greater criteria for development, other than the landowner wants to retire.

COMMISSION DISCUSSION

Commissioner Finkeldei asked why it was changed from 300 acres of industrial to 105 acres of industrial land.

Mr. McCullough said the future land use map that has been discussed throughout this process had a commercial component to it and was taken into consideration with the options. He said commercial was included in the 125 acres but that it was certainly up for discussion of whether it should be separated out or kept together.

Commissioner Finkeldei asked if the 300 acres of industrial included commercial as well.

Mr. McCullough said that was correct. He said it was a 300 acre area with industrial and commercial designation on it. He showed a map on the overhead.

Commissioner Finkeldei asked if a plan was considered with 125 acres of industrial and no commercial or did staff believe commercial was an important component of the area plan.

Mr. McCullough said the commercial had been a component all along and staff felt like it was appropriate planning to include an element of commercial to support some of the designated industry.

Commissioner Liese said he owns property that could benefit from good development in North Lawrence. He felt they were not ready for the Northeast Sector Plan. He expressed concern about losing class I and II soils, drainage issues not being appropriately addressed, and infrastructure to develop it was too expensive. He said there was some undeveloped land at the end of Lyon Street and 55 acres available at the airport. He said he was not at the point to vote in favor of the Northeast Sector Plan.

Commissioner von Achen inquired about the total amount of current industrial zonings in North Lawrence.

Mr. Warner said he did not have a total, but that it was approximately 245 acres.

Mr. McCullough said a few of the slides included vacant undeveloped industrial areas.

Student Commissioner Davis arrived at 7:30pm.

Commissioner Hird said Planning Commission has battled the Northeast Sector Plan until it was dead. He said he met with County Commissioner Nancy Thellman for an extended period of time to listen to her concerns. He said he understood the arguments about flooding and class I and II soils. He said he had not heard any information that wasn't presented a year or two years ago. He said Planning Commission adopted a Northeast Sector Plan that called for 300 acres of industrial development and at the last meeting someone suggested reducing that to half and instantly it was adopted as a compromise. He felt it was adopted because it was easier to face the people in the audience than to give a reason for that decision. He said he was concerned about that because Planning Commission needed to make a well reasoned decision based upon fact. He said he could not see what facts were presented that would cause a change since it was the same information they had seen before. He said there were a few new Planning Commissioners and he did not want to take such an important step without being convinced they had taken the time to educate all the Planning Commissioners on the facts. He suggested if they were going to be adopting a Northeast Sector Plan on a better than 5-4 vote that they needed to spend some time talking about this and getting some input. He said in June there would be more new Planning Commissioners and that it would be a never ending process. He suggested setting the topic for a Mid-Month meeting and immersing from that with some sort of unanimous solution because he felt right now any vote would be hard to justify. He said he was going to make a motion to defer the Northeast Sector Plan to a Mid-Month meeting with the condition that it come back for vote prior to June. He said he wanted the Board of County Commissioners and the public to be satisfied that all the Planning Commissioners have all the information they need to make a good decision.

Commissioner Liese said he listened to the audio of prior Planning Commission meetings about the Northeast Sector Plan. He said the first meeting he listened to was a passionate presentation from North Lawrence stakeholders hoping to get their land industrial. He said it was difficult to balance the needs, wants, and desires of the different factions in the community. He stated it was hard to know the truth about events that haven't happened yet. He said he was not surprised by his changing view. He said the stakeholder balance has shifted from more people who want industrial to more people expressing concerns.

Commissioner Burger said she felt like they needed a more specific plan. She said the 300 acres was really big. She was not a proponent of industrial development on these soils. She said to clarify her last vote was not to say 125 acres was a good idea, but she wanted to see what staff would come up with. She said if they discuss this topic at a Mid-Month meeting they should have quorum. She asked if adding the 125 acres would actually approve 370 acres.

Mr. McCullough said no, they have to keep separate the existing zoning there today in the unincorporated area and what the plan was designating for urbanization. He said the property zoned industrial in the county did not necessarily equate to urbanized industrial as it comes into the city. He said it was very common for sector plans to start off with a certain unincorporated zoning district and the designation for future development was different.

Commissioner Burger asked if they approved the plan with 125 acres would it be downzoning.

Mr. McCullough said no, properties with current county zoning would be maintained. He said property owners would have the development right to request a site plan and have the right to any industrial use afforded it under the county zoning code. He said it was possible if the plan was adopted that there would be some amount of development in those areas zoned industrial today in the county.

Commissioner Burger asked if the county zoned industrial acres were identified on the map as such.

Mr. McCullough said no, the plans purpose was to designate for future urbanization. He said this plan was unique because it does not call for complete urbanization of the sector plan of Grant Township.

Commissioner Burger said she was concerned that 125 acres would take the percentage of industrial acres, compared to the total amount of acres in plan, to be a very high percentage. She said she would like to look at the total exposure during the Mid-Month meeting. She thanked the citizens who spoke this evening. She said there are vacancies in North Lawrence and that vacant property can be rehabilitated and repurposed but once soils are moved and built upon they cannot be returned. She said that was what made the sector plan important, once the soil was gone it was gone. She appreciated the years people had spent on the issue and recognized that in those years there were other areas of the city and county that had become vacant and repurposed for industrial use.

Commissioner Britton said he was one of the newest Planning Commissioners. He said he had not heard yet why industrial development was needed there. He said he would support a motion to talk about this at a Mid-Month meeting. He said his perspective on the Northeast Sector Plan and the area was that it was a safety issue with regard to flooding and impact to North Lawrence and an environmental issue with class I and II soils. He said anything done to change that, especially moving toward industrial development, needed to meet a really high bar of certainty and necessity and he had not heard anything that met that bar yet. He agreed that the Northeast Sector Plan should come back for a vote before June.

Commissioner Hird thanked staff for their time and work.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Liese, to defer the item and schedule for discussion at the March Planning Commission Mid-Month meeting with the understanding that they would make a decision and move forward before June.

Commissioner Singleton asked if this topic could be heard at the February Mid-Month meeting and move Agri-Tourism to March.

Commissioner Hird said he would prefer not.

Commissioner Singleton said she would not be present for the March Mid-Month meeting.

Mr. McCullough asked if there was any additional guidance.

Commissioner Hird felt it was important to inform the fairly new Planning Commissioners about the history of the discussions and what happened with this plan.

Commissioner Singleton asked when the topic could be back on the Planning Commission agenda.

Mr. McCullough said it could be on the April Planning Commission agenda.

Motion carried 9-0. Student Commissioner Davis voted in the affirmative.

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**ITEM NO. 5 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE;
INDUSTRIAL DISTRICTS (MJL)**

TA-10-16-11: Consider a text amendment to Chapter 20 of the City Code, Land Development Code, to review the uses of the existing industrial districts and explore creating a new district that permits uses with intensities between the IL (Limited Industrial) district and IG (General Industrial) district. *Deferred by Planning Commission on 11/14/11.*

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

PUBLIC HEARING

Ms. Jane Eldredge, Barber Emerson, said industrial development was a unique kind of zoning district that is not dealt with very often. She displayed on the overhead industrial areas available in the city, minus North Lawrence. She also displayed industrial areas in Topeka on the overhead. She said Lawrence did not have enough industrial land ready to go. She stated they needed to stop dinking around with the Code so much. She said Topeka, Overland Park, and Olathe had light or heavy industrial districts and Lawrence was heading toward four districts. She asked them not to make changes to the IL and IG districts.

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods, agreed with the letter Mr. Frank Male wrote (included in the packet) and a lot of what Ms. Eldredge said this evening. She said the problem with IL was that it allowed too much commercial and commercial develops faster than industrial. She felt that taking things out of districts that already exist would create problems for those that have them. She suggested creating a district that removed the commercial from IL and would not tolerate any of the uses that were not tolerant to neighborhoods and were incompatible. She said the incompatible statement needed to stay. She asked that this be made more simple.

COMMISSION DISCUSSION

Commissioner Singleton asked how much time had been open for public comment.

Ms. Leininger said it was initiated in October by City Commission and before Planning Commission heard it in November staff met with a few groups. She said there was a stakeholder meeting in December, as well as talking with individuals between those times.

Commissioner Singleton asked if there were only small groups coming to the meetings and providing feedback since very few people own industrial land in Lawrence and because it's not related to a specific project.

Ms. Leininger said there were a lot of responses to the letter sent out for the stakeholder meeting. She said they sent letters to current property owners zoned IG and IL, anybody that had a pending rezoning, and anybody identified in a future land use plan as industrial. She said staff received a lot of phone calls and had a decent amount of property owners at the stakeholder meeting. She said most of the inquiries were for clarification and understanding.

Commissioner Hird said City Commission directed the opening of a text amendment to create the IM district. He asked if City Commission also requested revisions to IL and IG or was that something staff thought was necessary.

Mr. McCullough said he could not recall specifically how much discussion was had about reviewing all of the industrial districts. He said it seemed like staff mentioned they would analyze the industrial districts. He said staff believed the architecture of the Code produced a continuum of intensity that needed to be reviewed so there weren't disjointed districts going forward with development in the future.

Commissioner Hird asked if it would be possible to create an IM district without changing IG and IL.

Mr. McCullough said yes.

Commissioner Hird asked if they deleted uses from IG and IL would that reduce the property rights of those landowners.

Mr. McCullough said it would change the uses afforded to the property owners and that they have done countless text amendments that do that very thing every year since the 2006 was adopted. He said one of the reasons we would need to initiate a text amendment to revise the definition of Gas and Fuels because that would affect commercial properties.

Commissioner Hird inquired about the motivation behind this text amendment.

Mr. McCullough said he thought this came out of several requests to rezone property. He said it wasn't one specific property that generated this, it was a culmination of discussions that the City Commission has heard numerous times, the fact that IG has some of these impactful uses and IL has uses that introduce a lot of commercial. He said commercial was absorbed faster and reduced the impact of IL to be maintained for primary job uses.

Commissioner Finkeldei asked Ms. Eldredge to display on the overhead again the map of existing industrial zoning. He asked if any of those were IG.

Ms. Eldredge said they were predominately IG.

Commissioner Finkeldei said so much of the existing IG sits in the middle of neighborhoods or small areas. He stated if all IG were big areas on the edge of town that continuum would make more sense. He did not think the continuum made sense with all those small parcels.

Commissioner Singleton said the problem wasn't what the designations were currently, it was that there wasn't enough space for industry on the edges of town. She said with the small amount of land already designated industrial she did not know why they were messing with the Code right now. She said it seemed like the protections needed were already in place. She said if another industrial park was created it would be on the edge of town. She did not see a compelling reason to be messing with industry and definitions right now.

Commissioner Burger asked if a lot of this came after they approved the Northwest Sector Plan and that the industrial planning in that area had problems with agreement and City Commission did this to try and respond to that.

Mr. McCullough said City Commission had not shared their intent about it other than they keep hearing from staff the issue of between IL and IG and what was better for any given area to be zoned industrially. He believed City Commission wanted a district that could have some of the high impact uses broken away and some of the commercial retail uses broken away, leaving a pure

industrial district that supported primary jobs and not necessarily the secondary commercial market. He thought City Commission wanted another tool in the toolbox to use.

Commissioner von Achen said part of their responsibility was to afford some predictability to land owners and potential land owners. She was uncomfortable with stripping that predictability away by removing permitted uses that were promised to them fairly recently and pulling that rug out from under them.

Commissioner Culver agreed that the theory or concept of the continuum between the three districts makes sense but when there are two existing districts that were thought out over years, it was hard to say that by just creating a third category should have an impact on either light industry or general industry. He said he would not be as comfortable making changes to those districts but could see some opportunity for that third district but keeping it within its own category.

Commissioner Liese said two weeks ago during the Mid-Month meeting they discussed this. He said they were relaxed informal meetings and the community was invited to speak. He said they did not get the turnout they needed because they should have been having this discussion during the Mid-Month meeting. He wanted to be sure that for future Mid-Month meetings they would have better turnout, especially for the Northeast Sector Plan.

Commissioner Finkeldei said typically Mid-Month meetings were an opportunity for Planning Commission to talk amongst themselves and not have input from the public. He said he did think of it differently after reading public comments but that one of the turning points for him was realizing all the IG in the middle of town. He said the Northeast Sector Plan was a different animal because they had been talking about it for several years.

Commissioner Liese thought the Mid-Month meeting was ever evolving. He said the best education Planning Commission gets is from the public sharing their opinions. He said he would want this type of feedback before Planning Commission meetings.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to defer the text amendment before them tonight and direct staff to bring back a text amendment to create an IM District and initiate a text amendment regarding Truck Stop and Gas and Fuel Sales, while leaving the other two districts as is.

Motion carried 9-0. Student Commissioner Davis voted in the affirmative.

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**ITEM NO. 6 TEXT AMENDMENT TO THE DOUGLAS COUNTY ZONING REGULATIONS;
 AGRITOURISM (MKM)**

TA-8-11-11: Consider a Text Amendment to the Douglas County Zoning Regulations for the Unincorporated Territory of Douglas County to establish *Agritourism* as a use in the A (Agriculture) District.

Item 6 was deferred prior to the meeting.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

Recess at 8:48pm until 6:30pm on January 25, 2012.

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Reconvene January 25, 2012 – 6:30 p.m.

Commissioners present: Belt, Britton, Burger, Culver, Finkeldei, Hird, von Achen, and Student
Commissioner Cory Davis
Staff present: McCullough, Day, Larkin, A. Miller, Ewert

BEGIN PUBLIC HEARING (JANUARY 25, 2012):

COMMUNICATIONS

Mr. McCullough said the applicant for Item 11, North Mass Development, requested a deferral.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Belt said he had a brief conversation a few weeks ago with Mr. Matt Jones regarding Item 8. He said he also had correspondence with Mr. Dan Hughes and Mr. Joe Flannery regarding Item 11.

Commissioner Culver received an email from Mr. Dale Willey regarding Item 10, Aspen Heights, and also met with Mr. Matt Gough and representatives from Aspen Heights. He said he asked if they had met with the neighborhood to the north and they indicated they had.

Commissioner Britton said he also received an email from Mr. Willey and spoke with Mr. Gough over the phone regarding Item 10.

Commissioner Burger said she also received an email from Mr. Willey and met with the applicant for Item 10.

Commissioner Finkeldei said he also received an email from Mr. Willey and met with the applicant for Item 10.

Commissioner Hird said he had the same email from Mr. Willey. He said he met with Mr. Gough and Mr. Charlie Vatterott regarding Item 10.

- No abstentions.

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ITEM NO. 11 COMPREHENSIVE PLAN AMENDMENT TO H2020 - CHP 6; NORTH MASS DEVELOPMENT (AAM)

CPA-11-8-11: Consider a Comprehensive Plan Amendment to Chapter 6 of Horizon 2020 to expand the identified boundaries of Downtown Lawrence to accommodate a proposed mixed use project known as the *North Mass Development*. The request includes a proposal to exempt the proposed *North Mass Development* from the current requirement that individual stores in the Downtown Commercial Center have a maximum footprint of no more than 25,000 square feet. Proposed by Paul Werner Architects.

STAFF PRESENTATION

Mr. McCullough said the applicant requested a deferral.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Britton, to defer one month.

Unanimously approved 7-0. Student Commissioner Davis voted in the affirmative.

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ITEM NO. 7 IG TO H; 12.4 ACRES; 138 ALABAMA ST (SLD)

Z-11-27-11: Consider a request to rezone approximately 12.40 acres from IG (General Industrial) to H (Hospital), located at 138 Alabama Street. Submitted by Treanor Architects, for Alford-Clarke Post #852 VFW, property owner of record and Bert Nash Community Mental Health Center, contract purchaser.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Chris Cunningham, Treanor Architects, was present for questioning.

PUBLIC HEARING

Ms. K.T. Walsh asked if the old stone brewery would be affected.

The applicant said no from the audience.

COMMISSION DISCUSSION

Commissioner Burger inquired about environmentally sensitive lands.

Ms. Day said there may be but staff had not done that assessment yet. She said it was something that would be looked at during the site plan and platting process to protect those spaces.

Commissioner Burger asked if notice was given to the Pinckney Neighborhood Association and the surrounding area.

Ms. Day said typical notice was 200' and the neighborhood association.

Commissioner Burger asked if there was a limit to how long someone could stay there.

Ms. Day said no.

Commissioner Burger asked what in the Code for this zoning was different than what would be required for a homeless shelter.

Ms. Day said a shelter would require a Special Use Permit for that particular use in the H district and would require a public hearing.

Commissioner Finkeldei said it was an exciting project for Bert Nash.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Culver, to approve the request to rezoning approximately 12.40 acres and adjacent right-of-way from IG (General Industrial) to H (Hospital), located at 138 Alabama Street based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Commissioner Burger was concerned about the Pinckney Neighborhood Association not providing comment. She said she would not support the motion without their support on the project.

Motion carried 6-1, with Commissioner Burger voting in opposition. Student Davis voted in the affirmative.

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ITEM NO. 8A IG TO IL; .20 ACRES; 920 & 920 ½ DELAWARE ST (SLD)

Z-11-26-11: Consider a request to rezone approximately .20 acres from IG (General Industrial) to IL (Limited Industrial), located at 920 and 920 ½ Delaware Street. Submitted by Struct/Restruct, LLC, property owner of record.

ITEM NO. 8B PRELIMINARY PLAT FOR EVEN LOWER EAST SIDE ADDITION; 920 & 920 ½ DELAWARE ST (SLD)

PP-11-11-11: Consider a Preliminary Plat for Even Lower East Side Addition, a one lot subdivision containing approximately .20 acres, located at 920 and 920 ½ Delaware Street. The request includes a variance request from the Subdivision Design Standards, specifically 20-809(d) regarding the minimum area of the proposed lot. Submitted by Struct/Restruct, LLC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented items 8A and 8B together.

APPLICANT PRESENTATION

Mr. Matt Jones, Struct/Restruct, said he wanted to open a coffee shop that had a retail element to it to provide a place for viewing and experiencing some of the products he makes.

PUBLIC HEARING

Ms. K.T. Walsh, East Lawrence Neighborhood Association, said the applicant came to the neighborhood association and that they were in favor and had no objections. She asked the applicant to look under the dirt for a brick sidewalk.

COMMISSION DISCUSSION

Commissioner Finkeldei said he was not a big fan of conditional zoning but he understood why the neighborhood would want to so. He said he would support this.

ACTION TAKEN on Item 8A

Motioned by Commissioner Finkeldei, seconded by Commissioner von Achen, to approve the request to rezone approximately .20 acres from IG (General Industrial) to IL (Limited Industrial), located at 920 and 920 ½ Delaware Street based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the following condition:

1. Publication of an ordinance that indicates the following uses are prohibited:
 - a. Animal Services; Kennel
 - b. Eating & Drinking Establishments; Fast Order Food, Drive-In
 - c. Office; Financial, Insurance & Real Estate
 - d. Retail Sales & Service; Mixed Media Store
 - e. Transient Accommodation; Hotel, Motel, Extended Stay,
 - f. Vehicle Sales & Service;
 - i. Cleaning (Car Wash)
 - ii. Gas and Fuel sales
 - iii. Heavy Equipment Repair
 - iv. Heavy Equipment Sales/Rental
 - v. Inoperable Vehicles Storage
 - vi. RV and Boats Storage
 - g. Industrial Facilities; Scrap and Salvage Operation

- h. Wholesale, Storage & Distribution; Mini Warehouse and
- i. All uses included in the Agriculture group

Commissioner Hird said it was nice to see a project in this economy and on this side of town. He appreciated the applicant working with the neighborhood association.

Unanimously approved 7-0. Student Commissioner Davis voted in the affirmative.

ACTION TAKEN on Item 8B

Motioned by Commissioner Finkeldei, seconded by Commissioner Belt, to approve the variance request from Section 20-809(d)(2) which requires that each lot resulting from the division will conform with the minimum lot size and other dimensional requirements applicable to the property through the Zoning District Regulations found in Section 20-601(a).

The variance would permit the following variation from the dimensional requirements of Section 20-601(a) for the IL Zoning District:

1. Lot area of 8,701 for Lot 1 rather than the 20,000 sq. ft. required in the proposed IL Zoning District.

Commissioner Britton inquired about the requirement of 20,000 sq. ft. for industrial IL and only 5,000 sq. ft. for IG.

Mr. McCullough said the answer may be in having staff research the analysis of the Code.

Unanimously approved 7-0. Student Commissioner Davis voted in the affirmative.

Motioned by Commissioner Finkeldei, seconded by Commissioner Burger, to approve the Preliminary Plat of the Even Lower East Side Addition subject to the following conditions:

1. Revision of the preliminary plat with the following notes and changes:
 - a. Addition of the following note to the face of the drawing: "Variance approved from Section 20-809(d)(2) which requires that each lot conform with the dimensional requirements applicable to the property through the Zoning District Regulations found in Section 20-601(a), specifically the minimum area requirements.
 - b. The revised Preliminary Plat must list the revision date.
 - c. Provision of a revised note regarding the 100 year floodplain to reference the August 5, 2010 FEMA FIRMs.
2. An Agreement Not to Protest the Formation of a Benefit District for future street and sidewalk improvements to Delaware Street must be executed by the property owner and provided to the Planning Office with submission of the Final Plat.
3. Review and approval by the Historic Resources Commission.

Unanimously approved 7-0. Student Commissioner Davis voted in the affirmative.

PC Minutes 1/25/12

ITEM NO. 9 CONDITIONAL USE PERMIT FOR US 59 HWY BORROW PIT (SLD)

CUP-11-6-11: Consider a Conditional Use Permit for US 59 Hwy Borrow Pit located west of US 59 between N 1100 and N 1000 Roads. The property address is 1297 N 1056 Road. The applicant proposes to sell soil for the nearby US 59 construction project. Submitted by Landplan Engineering, for Evelyn M. Johnston Trustee, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. C.L. Mauer, Landplan Engineering, was present for questioning. He said he agreed with the staff report.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner von Achen asked the applicant to explain the process of stockpiling the topsoil.

Mr. Mauer said they will strip off the northern portion first and stockpile to the south which will act like a berm. He said once the excavation was complete the stockpile will go back over the area.

Commissioner Culver said he liked the wording that put an end date to it so that it has a useful life that ends or needs to be reapproved.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner von Achen, to approve the Conditional Use Permit for a borrow pit at 1297 N 1056 Road in the NE1/4 section 26-13-19 and forwarding of this application to the County Commission with a recommendation for approval, based upon the findings of fact presented in the staff report, and subject to the following condition:

1. Submittal of a revised site plan to show the following revisions and/or additions to the site plan notes as follows:
 - a. The Conditional Use Permit is approved for construction of Highway 59 between N 1000 Road and N 1100 Road and shall expire January 1, 2014 unless a request for an extension is submitted for approval by the Board of County Commission prior to that date.

Unanimously approved 7-0. Student Commissioner Davis voted in the affirmative.

PC Minutes 1/25/12

ITEM NO. 10A RS10 TO RM12; 41.15 ACRES; 1900 W 31ST ST (SLD)

Z-11-28-11: Consider a request to rezone approximately 41.15 acres from RS10 (Single-Dwelling Residential) to RM12 (Multi-Dwelling Residential), located at 1900 W. 31st Street. Submitted by Landplan Engineering, for Mid-America Manufactured Housing Communities, Inc., property owner of record.

ITEM NO. 10B PRELIMINARY PLAT FOR ASPEN HEIGHTS ADDITION; 1900 W 31ST ST (SLD)

PP-11-12-11: Consider a Preliminary Plat for Aspen Heights Addition, approximately 41.15 acres, located at 1900 W. 31st Street. The request includes variance requests from the Subdivision Design Standards, specifically 20-810(d) regarding the dedication of additional r-o-w for the adjacent arterial street; connection of at least one street connection to each adjacent subdivision; and the dedication of the remainder of r-o-w for Ousdahl Road (extended). Submitted by Landplan Engineering for Mid-America Manufactured Housing Communities, Inc., property owner of record.

ITEM NO. 10C SPECIAL USE PERMIT FOR ASPEN HEIGHTS; 1900 W 31ST ST (SLD)

SUP-11-5-11: Consider a Special Use Permit for Aspen Heights for the development of multiple detached dwelling structures on a single lot in an RM District as required by Section 20-402 of the Land Development Code. The property is located at 1900 W. 31st Street. Submitted by Landplan Engineering, for Mid-America Manufactured Housing Communities, Inc., property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented items 10A-10C together.

Commissioner Finkeldei asked if the two conditions on the benefit districts were the same that were done for The Exchange.

Ms. Day said yes.

Commissioner Hird asked if accessible parking was for ADA compliance.

Ms. Day said yes.

APPLICANT PRESENTATION

Mr. Brian Sturm, Landplan Engineering, presented a slideshow on the overhead. He said Aspen Heights would be a great addition to the city and a great neighbor to the area. He said the product centers around the home, which is what student surveys show they want. He said Aspen Heights stresses quality over quantity and looks to create an experience for the residents that will keep them there during their college careers. He said traffic generated by the site will be mitigated through a couple of turn lanes added to 31st Street and extending Ousdahl Road on the south side to provide a safer access point. He said the site comes into conformance with Transportation 2030 and there will be a significant addition to the existing bikeways in that part of Lawrence. He said new sanitary sewer lines would be added and connected to city lines which would improve the system in the area. He said floodplain was a significant feature to the site and would virtually not be touched by the development. He said improvements would be made to stormwater management in the area. He said greenspace exceeded the requirements and was one way to improve the quality of life for the residents.

PUBLIC HEARING

Mr. Dale Willey said he was in favor of the development but was concerned about increased traffic on the frontage road in front of his dealership.

Ms. Diane Sholander said she has a family member who lives in Gaslight Village and that communication to the tenants about this hearing was remiss because there was not signage in front of Gaslight Village. She said she had heard that Gaslight Village would pay to move the trailer but that her family members trailer was too old to move so she wondered about the scrap value in lieu of moving costs. She suggested a condition H be added for another hearing where tenants of Gaslight Village could be fairly represented and that income distribution be added for future residents of Aspen Heights.

Mr. Michael Pomes said his family member lives in Gaslight Village and that the owner of Gaslight Village will put up \$5,000 for the move. He said some trees needed to be removed before the trailer could be moved and he felt that his family member should not have to pay for that.

Ms. Jeannie Russell said she was a resident of Gaslight Village. She said Lawrence was geared toward college housing and that they needed to consider lower income families being displaced by this project.

APPLICANT CLOSING COMMENT

Mr. Matt Gough, Barber Emerson, said this project was in compliance with Horizon 2020 and the Southern Development Plan and eliminated a current non-conforming use. He said the project created an ideal transition between the single-family residences to the north and commercial uses along 31st Street. He said the project would make significant drainage improvements that have been a factor to the residential properties to the north. He said there were nine other manufactured housing communities in Lawrence with an existing supply to accommodate all of the existing occupants of Gaslight Village. He said it was his understanding that the owner of Gaslight Village and several other parks were providing incentives to help people get into those new areas. He said the applicant accepted the conditions in the staff report.

Commissioner Finkeldei inquired about the neighborhood meetings.

Mr. Gough said the applicant had a good meeting at South Junior High with about 15-20 members of the public. He said most questions centered on drainage. He said this project would improve drainage issues. He said there were also questions regarding noise. He said Aspen Heights would buffer the property line with a row of homes facing away to the south.

Commissioner Finkeldei asked Mr. Gough to comment on Dale Willey's regarding the right hand turn.

Mr. Gough said the primary access points would be on 31st Street. He said if the City recommended no right hand turn he did not anticipate there would be a problem with that. He said the applicant was flexible with what the City felt was best.

Commissioner von Achen asked the applicant to address concerns about residents being moved and compensated.

Mr. Tom Horner said he works for Mid-America Manufactured Housing which is the owner of Gaslight Village. He said there were approximately 130 mobile homes that still needed to be moved. He said trailer parks Easy Living and Harper Woods have paid for trailers to be moved to their communities.

He said they were trying to meet with individual residents to find out their needs because each situation was case-by-case. He said there would be no cost to the residents for moving their trailer.

Commissioner Burger asked how long it took to move people during the Home Depot development.

Mr. Horner said it took months.

Commissioner Hird said hearing the commitment to move the trailers at no cost gave him some comfort. He asked Mr. Thomas to visit with Mr. Pomes about the trees he discussed.

Ms. Becky Albertson said people don't want to live at Gaslight Village because it has gone downhill. She felt Aspen Heights should pay to remove the trees that Mr. Pomes talked about.

Mr. Charlie Vatterott, Aspen Heights, said they could not cut a tree on property that does not belong to them yet. He said they were not going to displace any resident prior to the end of the school year. He said anyone with special needs would also not be asked to move before May.

COMMISSION DISCUSSION

Commissioner Finkeldei asked if the City Traffic Engineer had looked at Mr. Willey's concern regarding traffic.

Ms. Day said yes it had been looked at a number of times with the City Traffic Engineer and Transportation Planners. She said based on the traffic analysis staff did not recommend restricting the right turn.

Commissioner Finkeldei asked if staff had looked at the T intersection in front of Dale Willey Automotive.

Ms. Day said the frontage road serves a purpose and provides access to abutting commercial properties. She said the City typically does not install lights on frontage roads.

Commissioner Culver urged staff and the City to look at that frontage road from a safety standpoint.

Commissioner Burger asked if Home Depot had been part of the conversations regarding traffic.

Ms. Day said Home Depot did not contact staff.

Commissioner Burger asked if staff reviewed this with Home Depot.

Ms. Day said no, but that they would have received notice of this meeting.

Commissioner Burger asked if the entrance into that parking lot was a Code requirement for that type of retail space.

Ms. Day said she would have to look. She said there needed to be two points of access, depending on how big the structure was, for fire code.

Commissioner Hird inquired about signage for no right turn.

Ms. Day said signage could be added but that the City Traffic Engineer says it's the least effective way to discourage it.

Commissioner von Achen asked staff to comment on the north Ousdahl limited access.

Ms. Day said currently the street does not extend, there's a creek there. She stated the project would enclose part of the stormwater and provide a driveway where the street stubs in. She said this was a multi-family project that would exit onto a local street into four blocks of low density residential neighborhood until the next collector street 27th Street. Staff did not feel full access was warranted for the project. She said if the project was designed in such a way that there was more conventional lot arrangement for the western portion then maybe the Ousdahl Road extension would make sense. She said the project gives partial connection with a gate for emergency access.

Commissioner Finkeldei said he liked the plat and the fact that it would help the neighbors to the north with drainage. He said he would support the project.

Commissioner Burger inquired about the League of Women Voter letter that states there should be no parcelization after the one-lot plat was approved and recorded.

Ms. Day said that has been a discussion from the League of Women Voters for many years. She said property owners have the right to subdivide their property to create metes and bounds descriptions that can be recorded with the register of deeds. She said there were a number of state laws that allow for townhouse and condominiumization of those units. She said she did not know of any local regulation that prohibited that. She said she did not foresee that happening with this project and staff determined it was not an appropriate condition.

Commissioner Hird said this was an exciting project because it would be an improvement to southern Lawrence. He said he understood Mr. Willey's concern about traffic. He said he was pleased to hear the commitment from Mr. Horner about moving the Gaslight Village residents at no cost. He said he had great empathy for the folks who live there and it made it easier for him to support the project without reservation. He said it was consistent with Horizon 2020 and the development plan for the area. He said the transition from single-family to commercial uses would be helpful. He said they very rarely get a project where there will be drainage improvements. He stated he would support the project.

ACTION TAKEN on 10A

Motioned by Commissioner Finkeldei, seconded by Commissioner Culver, to approve the request to rezone approximately 41.15 acres from RS10 (Single-Dwelling Residential) to RM12 (Multi-Dwelling Residential), located at 1900 W. 31st Street based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval

Unanimously approved 7-0. Student Commissioner Davis voted in the affirmative.

Commissioner Burger asked if staff would be looking into the traffic issue.

Mr. McCullough said the City Traffic Engineers and Public Works Department could get together to look at the issue.

Commissioner Belt inquired about connection to Ousdahl.

Mr. McCullough said he was not hearing from the public or the applicant to look at connection to Ousdahl. He said connectivity was important for development patterns but it was a balancing act of

creating a situation through local streets that do not have a lot of student traffic currently. He said there were pros and cons to that.

Commissioner Belt said his hope would be that by having traffic disperse in multiple locations it would have the least effect on retail and the neighborhood at the same time.

Mr. McCullough said considering opening up Ousdahl at this point would be a significant change to the development request and would likely mean new notice to neighbors and a new process with them. He said he thought it was presented to the neighbors as non-access to Ousdahl.

Commissioner Finkeldei said the City should look into the issue of cut through traffic but not tie it to this project.

ACTION TAKEN on 10B

Motioned by Commissioner Finkeldei, seconded by Commissioner Culver, to approve the variance request from Section 20-810(d)(4) which requires a minimum of 150' of right-of-way for principal arterial streets. The variance would permit the following variation from the minimum required right-of-way from 75' to 65'.

Unanimously approved 7-0. Student Commissioner Davis voted in the affirmative.

Motioned by Commissioner Finkeldei, seconded by Commissioner Culver, to approve the Preliminary Plat of Aspen Heights Addition subject to the following conditions:

1. Revision of the preliminary plat with the following notes and changes:
 - a. Addition of the following note to the face of the drawing: "Variance approved from Section 20-810(d) which requires a minimum of 75' to 65' for 31st Street."
2. Execution of an agreement not to protest the formation of a benefit district for future signalization and intersection improvements at Louisiana and 31st Streets executed by the property owner and provided to the Planning Office with submission of the Final Plat subject to the review by the City Attorney's Office prior to recording.
3. Execution of an agreement not to protest the formation of a benefit district for future street improvements to W 31st Street executed by the property owner and provided to the Planning Office with submission of the Final Plat subject to the review by the City Attorney's Office prior to recording.

Commissioner Hird said he was surprised when he first saw the plan with no connectivity into the neighborhood onto Ousdahl but as he read the staff report and looked at that area he felt it made sense to have an exception to that because it would create a real problem in their neighborhood with traffic. He said he was encouraged there was connectivity for bike and foot traffic. He said he would typically endorse connectivity but he agreed with staff on this one.

Motion carried 6-1, with Commissioner Belt voting in opposition. Student Commissioner Davis voted in the affirmative.

ACTION TAKEN on 10C

Motioned by Commissioner Finkeldei, seconded by Commissioner Burger, to approve the Special Use Permit of Aspen Heights for the development of multiple detached dwelling structures on a single lot in an RM District as required by Section 20-402 of the Land Development Code located at 1900 W. 31st Street and forwarding the request to the City Commission with a recommendation of approval,

subject to the following conditions to be completed prior to the release of the site plan associated with the SUP for building permits:

1. Submission and approval of a local floodplain development permit prior to the release of the Special Use Permit for issuance of building permits.
2. Applicant shall submit the following additional documents to the Planning Office for review and approval prior to release of the Special Use Permit for issuance of a building permit:
 - a. Provision of a revised plan to include pedestrian lighting along interior sidewalks and the multi-use path.
 - b. Provision of an addressing scheme proposing distinct references for each building.
 - c. Provision of an exhibit designating minimum elevation of building openings for units adjacent to a drainage easement.
 - d. Provision of additional detail to assure that fencing proposed for the site does not obstruct the multi-use path.
 - e. Provision of a revised General Note 19 that states All trash enclosures shall be constructed per City of Lawrence design specifications and shall be screened from view of adjacent properties and street rights-of-way per City of Lawrence Land Development Code Sec.20-1006(a)
 - f. Provision of a revised plan per the approval of the City Stormwater Engineer that provides stormwater mitigation per Section 20-901 (c).
 - g. Provision of a revised plan to show and note the minimum number of required accessible parking spaces per City Code.

Commissioner Britton asked why a Special Use Permit was necessary.

Mr. McCullough said the Development Code in the RM12 District does not allow detached dwellings, which was part of the structure type proposed here, unless a Special Use Permit was granted.

Unanimously approved 7-0. Student Commissioner Davis voted in the affirmative.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

ADJOURN 8:41pm