



**PLANNING COMMISSION MEETING**  
**September 24, 2012**  
**Meeting Minutes**

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September 24, 2012 – 6:30 p.m.

Commissioners present: Burger, Culver, Hird, Jossierand, Lamer, Liese, von Achen

Staff present: McCullough, Stogsdill, Day, Larkin, M. Miller, Ewert

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**MINUTES**

Receive and amend or approve the minutes from the Planning Commission meeting of August 20, 2012.

Motioned by Commissioner Hird, seconded by Commissioner von Achen, to approve the August 20, 2012 Planning Commission minutes.

Motion carried 5-0-1, with Commissioner Burger abstaining. (Commissioner Lamer was not present at the meeting yet.)

**COMMITTEE REPORTS**

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

Commissioner Hird said the County Commission returned the agritourism text amendment to the Agritourism Committee so they will be meeting in the next few weeks.

**EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- No ex parte.
- Abstentions:  
Commissioner Hird said he would abstain from Item 1.

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**ITEM NO. 1      CONDITIONAL USE PERMIT FOR PENNY SAND PIT; N 1500 RD & E 1850 RD (MKM)**

**CUP-12-00099:** Consider a Conditional Use Permit for sand excavation and extraction for Penny Sand Pit, approximately 434 acres located on the NE Corner of N 1500 Road & E 1850 Road. Submitted by Landplan Engineering, for William Penny & Van LLC, property owners of record. *Joint meeting with Eudora Planning Commission.*

Eudora Planning Commissioners Kurt von Achen and Glenn Bartlett were present.

Eudora Commissioner von Achen said Eudora Planning Commission did not have quorum this evening.

Mr. McCullough said for action and voting Eudora Planning Commission would need quorum but that they could participate in the discussion.

Commissioner Burger inquired about the quorum by-laws for Planning Commission.

Mr. McCullough said it took six for Lawrence Planning Commission quorum and if someone abstained there was still quorum.

Eudora Commissioner von Achen said the City of Eudora was meeting this evening to discuss this item. He said one of the vital interests Eudora had was the preservation of their well water and they were discussing a recommendation this evening. He said based on the fact the City of Eudora had not been able to stake their position and the absence of quorum from the Eudora Planning Commission he requested the item be deferred for 30 days.

Mr. Randy Larkin, City Attorney, said the City of Eudora Planning Commission could not defer the item but that Lawrence Planning Commission could.

Commissioner Burger said she would support a deferral based on the lack of professional recommendation from the City of Eudora and lack of quorum from Eudora Planning Commission. She felt it would be in the best interest of the community to defer the item.

**ACTION TAKEN**

Motioned by Commissioner Burger, seconded by Commissioner von Achen, to defer Item 1, CUP-12-00099, for 30 days.

Commissioner von Achen said they seemed to be lacking some information regarding the wetlands and she hoped they could receive additional information before they act on it.

Motion unanimously carried 5-0.

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**ITEM NO. 2      A TO R-T; 31 ACRES; 1674 N 1000 RD (MKM)**

**Z-12-00098:** Consider a request to rezone approximately 31 acres from County A (Agriculture) to County R-T (Rural-Tourism Business), located at 1674 N 1000 Rd. Submitted by Mid-American Association for Autistic Training and Research (MAATR), for Marcus and Sandra Patton, property owners of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

*Commissioner Lamer arrived at the meeting at 6:50pm.*

**APPLICANT PRESENTATION**

Mr. Harry McLearn, Director of MAATR, was present for questioning. He said the program focused on autistic adolescents and young adults.

**PUBLIC HEARING**

Mr. Gary Holladay wanted to know if all the buildings would be built to code.

Ms. Miller said in the Rural Tourism District it was necessary to plat and site plan and that all the buildings would have to be built to code.

Mr. Holladay asked where the east boundary was from E 1700 Road. He wondered if there would be 15 cabins.

Ms. Miller showed a map of the east boundary on the overhead.

Ms. Deborah Giudicessi, MAATR, said about 12 acres would separate the property from E 1700 Road. She said the number 15 was the number of guests not cabins. She said each cabin would have a separate septic field with three acres per cabin so that would only allow a maximum of 5 cabins. She said there would not be much more activity than the current use as a commercial stable.

**COMMISSION DISCUSSION**

Commissioner Jossierand wondered how much would be dependent upon third party payment from insurance companies, state, federal government for the services provided.

Ms. Miller said this could possibly be considered as agritourism when the text amendment was adopted but that it was coming to them today as rural tourism which was a business zoning district.

Mr. McLearn said primarily they were a not-for-profit corporation. He said they exist with the ability to raise funds, primarily from individuals. He said to this day they have not been dependent on federal or state funding but that if funding was available he would not turn it down. He said they were trying to reach a segment of autism, adolescents and teenagers, that had not been truly touched yet. He said he has a 48 year old autistic son and there was nothing for him so he was trying to make something for youngsters at this facility.

Commissioner Hird inquired about the staff recommendation of buffer width reduction to 100' along the north and south property line but no recommendation for the east and west sides.

Ms. Miller said she did not recommend a reduction on those sides so it would be keeping the 200' on the east and west sides.

Commissioner Hird asked the applicant to discuss the buffers.

Mr. McLearn said he asked for a lesser buffer on all four sides. He said the south side was along the road and he was not as concerned with that one but that on the west side they were not going to build anything but that he wanted to allow room for another temporary cabin if needed. He did not want to be restricted because of a 200' buffer. He said on the east side the present owners of the property indicated they would give 0' buffer if possible. He said if he could go that far he would but that 100' would satisfy him.

Mr. Holladay asked if it was a non-profit organization.

Commissioner Liese said that was what the applicant said.

### **ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner von Achen, to approve the rezoning request for approximately 31 acres from A (Agricultural) District to R-T (Rural Tourism), and forwarding it to the Board of County Commissioners with a recommendation for approval based on the findings of fact found in the body of the staff report, and; approval of the buffer width reduction to 100 ft along the east, west, north and south property lines, subject to the following conditions:

- The reduction on the south property line would apply only to the area needed to accommodate the activity area parking area and drive. The buffer on the remainder of the south property line would remain at 200 ft.
- A note would be added to the site plan which limits the use of the driveway to the cabins to 4 cabins, to insure it remains a low-intensity use.

Unanimously approved 7-0.

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**ITEM NO. 3      VARIANCE FOR GRAND ADDITION NO. 2; 3400 & 3401 ALDRICH ST  
(SLD)**

**MS-12-00092:** Consider a variance associated with the Minor Subdivision for Grand Addition No. 2, from the 150' right-of-way requirements in section 20-810 (e)(5) for an arterial street, Kasold Drive, to remain at 100', and from section 20-811 (c) to require a sidewalk on the south side of Aldrich Street. A four-lot division located at 3400 and 3401 Aldrich Street. Submitted by Dean Grob for Jerry Willis, Grand, LLC, property owners of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**APPLICANT PRESENTATION**

Mr. Dean Grob, Grob Engineering Services, was present for questioning.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Josserand said he liked sidewalks.

Mr. McCullough said the recreation path was being moved and a variance was being given to not put sidewalks on the south side of the street.

**ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner Culver, to approve the variance requested from Section 20-810(e)(5) to allow the Kasold Drive right-of-way in this location to remain at 100 feet, rather than the 150 feet required by Code, and; Approve the variance requested from Section 20-811(c) to forego the construction of sidewalk along the south side of Aldrich Street.

Motion carried 6-1, with Commissioner Josserand voting in opposition.

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**ITEM NO. 4A I-4 & VC TO UR-FP; 31.7 ACRES; N OF K-10 BETWEEN GREENWAY CIR & E 1575 RD (SMS)**

**Z-12-00119:** Consider a request to rezone approximately 31.7 acres (and adjacent railroad r-o-w) from I-4 (Heavy Industrial) and VC (Valley Channel) Districts to UR-FP (Urban Reserve – Floodplain Overlay) District, located in the NE1/4 & NW1/4 Sec 4-13-20 (Former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd). *Initiated by City Commission on 8/7/12.*

**ITEM NO. 4B I-4 TO UR; 170.4 ACRES; N OF K-10 BETWEEN GREENWAY CIR & E 1575 RD (SMS)**

**Z-12-00120:** Consider a request to rezone approximately 170.4 acres (and adjacent railroad r-o-w) from I-4 (Heavy Industrial) District to UR (Urban Reserve) District, located in the NE1/4 & NW1/4 Sec 4-13-20 (Former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd). *Initiated by City Commission on 8/7/12.*

**ITEM NO. 4C I-4, I-1, A, & CC200 TO IG; 170.7 ACRES; N OF K-10 BETWEEN GREENWAY CIR & E 1575 RD (SMS)**

**Z-12-00121:** Consider a request to rezone approximately 170.7 acres (and adjacent highway r-o-w) from I-4 (Heavy Industrial), I-1 (Limited Industrial), A (Agricultural) County Districts and CC200 (Community Commercial Center) City District to IG (General Industrial) District, located in the NW1/4 & SW1/4 Sec 4-13-20 (Former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd). *Initiated by City Commission on 8/7/12.*

**ITEM NO. 4D I-1, B-1, A, & IG TO IM; 59 ACRES; N OF K-10 BETWEEN GREENWAY CIR & E 1575 RD (SMS)**

**Z-12-00122:** Consider a request to rezone approximately 59.0 acres (and adjacent highway r-o-w) from I-1 (Limited Industrial), B-1 (Neighborhood Business); A (Agricultural) [County Districts] and IG (General Industrial) District to IM (Medium Industrial) District, located in the SE1/4 Sec 5-13-20 & SW1/4 Sec 4-13-20 (Former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd). *Initiated by City Commission on 8/7/12.*

**ITEM NO. 4E PRELIMINARY PLAT FOR FORMER FARMLAND INDUSTRIES; N OF K-10 BETWEEN GREENWAY CIR & E 1575 RD (SMS)**

**PP-12-00101:** Consider a Preliminary Plat for the Former Farmland Industries property, an industrial subdivision containing 20 lots, 4 tracts and 4 greenway tracts. The property is located N of K-10 between Greenway Circle & E 1575 Rd. Submitted by Bartlett & West, for City of Lawrence, property owner of record.

**ITEM NO. 4F SPECIAL USE PERMIT FOR WESTAR SUBSTATION; N OF K-10 BETWEEN GREENWAY CIR & E 1575 RD (SMS)**

**SUP-12-00100:** Consider a Special Use Permit for a Westar substation to provide electricity to the Former Farmland Industries property and surrounding properties. The property is located N of K-10 between Greenway Circle & E 1575 Rd. Submitted by Bartlett & West for Westar Energy. The City of Lawrence is the property owner of record.

### **STAFF & CONSULTANT PRESENTATION**

Commissioner Lamer said his wife worked for Bartlett & West in this past year and may have had a hand in this plan so he recused himself.

Mr. Darron Ammann, Bartlett & West, presented background information about the planning that has been going on at the site in the past year. He showed a graphic of what the site could potentially look like when completely built.

Ms. Eileen Horn, Sustainability Coordinator, discussed some of the green sustainable aspects of the project.

Ms. Sheila Stogsdill presented the item.

### **PUBLIC HEARING**

No public comment.

### **COMMISSION DISCUSSION**

Commissioner Burger said she assumed the Chamber of Commerce was represented within all of the conversations.

Mr. McCullough said that was correct.

Commissioner Burger inquired about the IG area along K-10. She asked if there was a market benefit to having IG frontage property.

Mr. McCullough said some companies want the visibility and some do not. He said it was advantageous that IG was the most advantageous industrial district because it was the most wide open. He stated general industrial use allowed some of the high off-site impacts. He said IG was beneficial to the community when companies were looking at Lawrence.

Commissioner Hird asked if they took into consideration the possibility of less intensive uses along frontage road.

Mr. McCullough said it was considered and a few things were in the works right now. He said it was possible that codes covenants and restrictions on the park could address some of the use issues. He said the City owed the property so there would be a real estate negotiation that would likely include use of a specific site because they did not know how it would evolve. He stated they would not want to put a use in the new park that would prohibit attracting other uses.

Commissioner Hird said he was not in favor of cutting down the amount of IG. He was concerned about this being a major gateway to the City and needed reassurance that the buffering requirements and industrial design guidelines would protect the appearance of the site as people drive into Lawrence.

Mr. McCullough said that was a high priority and that they had every intention of creating a park like setting in the business park and allowing it to be a true industrial park with industrial uses. He said the City put a lot of resources into the park by removing stuff that was un-aesthetically pleasing. He said the park-like easement at the sign and gateway would be landscaped well.

Commissioner Hird inquired about there not being a commercial area. He was surprised there wasn't some area for support like a gas or convenience station.

Mr. McCullough said there was some commercial zoning across the street at Fairfield Farms. He said this was to carry forth and implement the concept of capturing as much industrial land as possible at the appropriate places to support primary jobs.

Commissioner Hird said people using the industrial area would need to use the roads to drive out to get commercial services.

Mr. McCullough said yes, the industrial park would be more auto related than any kind of mixed use center.

Commissioner Hird inquired about fueling stations and said he was surprised that was not part of the mix.

Mr. Ammann said they discussed and investigated how commercial might work in the park. He said one of the things to get site selectors interested in a business park like this was having that land available. He said most of them don't care where the gas station was located, they care about how big the piece of land was, railway, incentives, access, etc. He said there was some thought that the area where Slimmer's and Knights of Columbus were could potentially be additional commercial in the future. He said they were concerned about what the gateway to the community along K-10 would look like. He said there was a traffic issue with East Hills Business Park and that hopefully with the intersection of K-10 and O'Connell being signalized it would start to alleviate that problem. He said the exact landscape plan hasn't been developed. He stated along the entire frontage there would be between 30'-50' easement for greenspace landscaping and that it could be some sort of berm. He said the easement would run from the entrance all the way over to the East Hills Business Park lot.

Commissioner Culver inquired about potential access for 15<sup>th</sup> Street and 19<sup>th</sup> Street.

Mr. McCullough said even though there was a possibility to go up to 15<sup>th</sup> Street it was not in the plans today. He said 19<sup>th</sup> Street would have to be improved. He stated traffic patterns would dictate it.

Commissioner von Achen inquired about the cemetery.

Mr. McCullough said it would remain the same.

Commissioner von Achen inquired about the remediation status.

Mr. McCullough said the process was working but essentially the property was hot with nitrates so it was a natural process of filtering the ground of those nitrates and collecting it in some of the lagoons on the property and shifted to it agriculture property. He said it was approximately a 30 year process.

Mr. Ammann said a portion of the property on the far north could not be touched for 30 years because of the high levels of nitrates in the soil.

Commissioner von Achen asked if the maximum length of time was 30 years.

Mr. Ammann said that was the approximate time for the nitrates to leach out of the soil given by KDHE. He said the southern area was deemed acceptable for development.



Commissioner Josserand said he was excited about the site and the work that had been done on it.

**ACTION TAKEN on Item 4A**

Motioned by Commissioner Josserand, seconded by Commissioner Hird, to approve the rezoning request for 31.7 acres from I-4 (Heavy Industrial) and VC (Valley Channel) to UR-FP (Urban Reserve-Floodplain Overlay) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Motion carried 6-0-1, with Commissioner Lamer abstaining.

**ACTION TAKEN on Item 4B**

Motioned by Commissioner Josserand, seconded by Commissioner Hird, to approve the rezoning request for 170.4 acres from I-4 (Heavy Industrial) to UR (Urban Reserve) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Motion carried 6-0-1, with Commissioner Lamer abstaining.

**ACTION TAKEN on Item 4C**

Motioned by Commissioner Josserand, seconded by Commissioner Burger, to approve the rezoning request for 170.7 acres from I-4 (Heavy Industrial), I-1 (Limited Industrial), A (Agricultural) and CC-200 (Community Commercial) to IG (General Industrial) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Commissioner Hird said he would vote in favor of the rezoning but felt there should be commercial zoning of some sort. He hoped they weren't creating a potential situation where employees would have to use motor vehicles to go out and get essential services.

Commissioner Burger appreciated Commissioner Hird's comment. She said the industrial park was designed similar to what had already been developed in other regional cities that Lawrence competes with. She felt having IG on K-10 could get significant industrial partners in the community and long term visibility that Lawrence was industrial friendly. She said many times the essential services, commercial component, goes faster in development so she would promote the idea to preserve the IG as is but with a caveat that the landscape planning should be detailed.

Commissioner Josserand asked if a gas station was allowed in IG zoning.

Mr. McCullough said there were areas of commercial in the Southeast Area Plan, and even adjacent to this property, so it was possible that those lots could be conglomerated and redeveloped into something walkable for this. He said if there was a need for commercial in this part of town they would have given it heavier thought but that there was currently commercial on 23<sup>rd</sup> Street.

Motion carried 6-0-1, with Commissioner Lamer abstaining.

**ACTION TAKEN on Item 4D**

Motioned by Commissioner Josserand, seconded by Commissioner von Achen, to approve the rezoning request for 59.0 acres from I-1 (Limited Industrial), B-1 (Neighborhood Business), A (Agricultural) and IG (General Industrial) to IM (Medium Industrial) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report

Motion carried 6-0-1, with Commissioner Lamer abstaining.

**ACTION TAKEN on Item 4E**

Motioned by Commissioner Josserand, seconded by Commissioner Culver, to approve the Preliminary Plat of the former Farmland Industries Property subject to the following conditions:

1. Provision of a revised plat including:
  - a. Dedication of full 50' of right-of-way for E 15<sup>th</sup> Street;
  - b. Dedication of a 15' utility easement along the south side of Lots 1 & 2, Block B to accommodate the planned sanitary sewer separate from the proposed 30' landscape easement, if needed;
  - c. Provision of a utility easement crossing Lots 7 & 8, Block C and Lot 1, Block D if the existing overhead power lines are not relocated;
  - d. Provision of actual minimum FFE on all lots adjacent to drainage easements once those elevations are determined; and
  - e. Provision of street names for all internal park streets and E 1575 Road.
2. Execution of revised access control agreements with KDOT prior to recording of a Final Plat.

Motion carried 6-0-1, with Commissioner Lamer abstaining.

**ACTION TAKEN on Item 4F**

Motioned by Commissioner Josserand, seconded by Commissioner Hird, to approve SUP-12-00-100, a Special Use Permit for, a Minor Utility, based upon the findings presented in the body of the staff report and subject to the following condition:

1. Review and approval of a landscape screening plan to be provided prior to final inspection of the substation improvements.

Motion carried 6-0-1, with Commissioner Lamer abstaining.

Mr. McCullough responded to Commissioner Josserand's earlier question regarding gas stations. He said the Development Code does allow, permitted by right, gas and fuel sales and truck stops in IG. He stated it was not the City's intent today to entertain those kind of uses. He said all eating and drinking establishments were not prohibited in IG.

Commissioner Hird said he was not endorsing truck stops but rather trying to keep them off 23<sup>rd</sup> Street. He said from a sustainability standpoint it might be more efficient to have fuel located where the trucks were.

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**MISCELLANEOUS NEW OR OLD BUSINESS**

**MISC NO. 1            TEXT AMENDMENT INITIATION**

Information Item: The City Commission, at their August 21, 2012 meeting, initiated the text amendments noted in the attached memo. Staff will work to draft the code language and place each amendment on a future Planning Commission agenda.

**STAFF PRESENTATION**

Mr. McCullough said City Commission initiated several text amendments that were generated out of a request by the City Commission for staff to review the Code and determine what may be less friendly to development. He said staff put forth to City Commission and Planning Commission some Code amendments that aren't necessarily aimed at removing a value from the Code. He said all of them still maintain the core value of what they are intended to do today but include a different way to look at some of them. He said they were not being asked to analyze any of these this evening, and that they would see them in the future for action. He said this was just an update on what they would be considering in the future and that Planning Commission was not being asked to take any action. He said City Commission already initiated them.

Commissioner Josserand asked how many text amendments were currently open.

Mr. McCullough said there were a few open. He said City Commission initiated text amendments on the uses of truck stop and recycle facility in the IG district. He said there was one for Article 9 regarding parking. He said the County Zoning Regulations was in the process right now.

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Consideration of any other business to come before the Commission.

Commissioner Liese inquired about the public turnout for the Penny Sand Pit Conditional Use Permit and how some seemed unhappy with the process.

Mr. McCullough felt Planning Commission made the best decision based on the facts. He said if Eudora Planning Commission had quorum staff would have encouraged them to hold the public hearing because they always had the option to defer after the public hearing. He also stated Eudora City Commission was meeting tonight to discuss the issue.

Commissioner Liese said based on high level of emotion regarding the Penny Sand Pit it might be optimal to have safety officer present for the next Planning Commission meeting.

Mr. McCullough said that could be done.

Commissioner Liese asked what would be done if a speaker refused to stop talking after the 3-5 minutes allowed.

Mr. McCullough said the police officer could remove the speaker from the room.

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**ADJOURN 8:47pm**