



PLANNING COMMISSION MEETING
April 22, 2013
Meeting Minutes

April 22, 2013 – 6:30 p.m.

Commissioners present: Blaser, Britton, Burger, Culver, Graham, Hird, Josserand, Lamer, Liese, von Achen

Staff present: McCullough, Stogsdill, Day, Larkin, Leining, A. Miller, Warner, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of March 25, 2013.

Motioned by Commissioner Blaser, seconded by Commissioner von Achen, to approve the March 25, 2013 Planning Commission minutes.

Motion carried, 9-0-1, with Commissioner Burger abstaining.

COMMITTEE REPORTS

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

Commissioner Liese said MPO met and approved T2040.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner von Achen said she spoke briefly with Ms. Barbara Shallen and Ms. Marci Francisco.

Commissioner Hird said he spoke with Mr. Mike Flory regarding Item 2.

Commissioner Culver said he spoke briefly with Mr. Steve Schwada regarding Items 3-4.

Commissioner Liese said Mr. Steve Schwada contacted him also to let him know Mercato was still available for development.

- Abstentions:
Commissioner Graham said she would abstain from Items 3-4 because her current employer has a national account with Menards.

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ITEM NO. 1 CS & RS7 TO CS; 2.7 ACRES; 750 N 3RD ST (DDW)

Z-13-00057: Consider a request to rezone approximately 2.7 acres from CS (Commercial Strip) District and RS7 (Single-Dwelling Residential) District to CS (Commercial Strip), located at 750 N. 3rd Street. Submitted by Paul Werner Architects, for James Slough, property owner of record.

STAFF PRESENTATION

Mr. Dan Warner presented the item.

APPLICANT PRESENTATION

Ms. Joy Rhea, Paul Werner Architects, was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the rezoning request for approximately 2.7 acres, from CS (Commercial Strip) District and RS7 (Single-Dwelling Residential) District to CS (Commercial Strip) 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.

Unanimously approved 10-0.

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ITEM NO. 2 A TO B2; 21 ACRES; SW CORNER OF N 1100 RD & HWY 59 (MKM)

Z-13-00059: Consider a request to rezone approximately ~~29~~ **21** acres from County A (Agricultural) to County B2 (General Business District), located in the southwest corner of the intersection of N 1100 Road and Hwy 59. Submitted by Grob Engineering, for Michael Flory, property owner of record. *(Acreage revised by applicant following publication of legal notice.)*

APPLICANT PRESENTATION

Mr. Dean Grob, Grob Engineering Services, said one of the statements in the Comprehensive Plan said no commercial development in the urban growth area but three area sector plans have commercial nodes in them, which was contradictory. He said staff recommendation was for denial and a protest petition was submitted today with a significant number of names. He said the applicant called him today and wanted to be good neighbor so he was withdrawing the application.

Commissioner Liese asked staff to respond to the discrepancy.

Mr. McCullough said the application had been withdrawn by the applicant so it would not be heard. He said there was a provision in both the City Development Code and County Code upon withdraw an application cannot be submitted within 12 months, unless there was a substantial change.

NO ACTION TAKEN – ITEM WAS WITHDRAWN BY APPLICANT

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ITEM NO. 3 HORIZON 2020 CHAPTER 6 AND REVISED SOUTHERN DEVELOPMENT PLAN (MJL)

CPA-13-00067: Consider Comprehensive Plan Amendment, CPA-13-00067, to Horizon 2020 Chapter 6 Commercial Land Use and Chapter 14 Specific Plans, Revised Southern Development Plan, to expand the S. Iowa Street commercial corridor east along W. 31st Street to include 1900 W 31st Street and identify the area as a Regional Commercial Center. Submitted by Menard, Inc.

ITEM NO. 4 RM12 TO CR; 41.5 ACRES; 1900 W 31ST ST (SLD)

Z-13-00071: Consider a request to rezone approximately 41.5 acres from RM12 (Multi-Dwelling Residential) to CR (Regional Commercial), located at 1900 W 31st Street. Submitted by Menard, Inc., for Mid-American Manufactured Housing, Inc., property owner of record.

STAFF PRESENTATION

Ms. Michelle Leininger presented Item 3 for the Comprehensive Plan Amendment.

Ms. Amy Miller presented the retail market study section of the Comprehensive Plan report.

Ms. Sandra Day presented Item 4 for the rezoning.

APPLICANT PRESENTATION

Mr. Tyler Edwards, Real Estate Representative for Menard Inc., said he started working on a Menards in Lawrence about two years ago. He said Menards looked at Gaslight Village originally but the owners went with the student housing project. He showed a map on the overhead of locations they had looked at in Lawrence. He said Menards deemed other sites to be unfitting. He stated staff recommended the 6th & SLT area but Menards did not feel it was developed enough to make it worth their while. He said the site had a lot of challenges. He said Menards found the perfect site at the Gaslight Village location. He felt the focus should be less on expanding the existing South Iowa node and more on a new smaller node of Louisiana and 31st Street. He said Menards was willing to take care of any traffic issues. He showed the concept plan on overhead which showed the building set fairly far back from the street. He said Menards was here to stay and had no intention to increase the vacancy rate. He said the entire site would not be built out and that the out lots would not be built until someone wanted to buy them and go through the approval process. He said the response had been positive from residents in the area and that their initial concern was the existing stream channel being in poor condition which caused backup of water. He said Menards could make that issue better. He said Menards would have a full lumber yard, garden center, pet food, some people food, hunting supplies, holiday ornaments, etc and was not a direct competitor of anyone. He showed pictures of other existing Menards stores.

PUBLIC HEARING

Ms. Joanne Zingo expressed concern about residential property values. She wondered about outdoor lighting and security for the open outdoor area. She wondered about the stub of Ousdahl, when there was previous talk of putting in a gate and road for emergency vehicles to access the area from 27th Street. She expressed concern about thru traffic and parking safety. She said she was not adverse to commercial development.

Mr. Greg Springer discussed previous lumber dealers that disappeared and lumber now being outsourced. He said McCray was the only lumber yard in town. He felt competition was good and it

was an excellent location. He said Home Depot was an excellent place but that Menards would be worthy for the growth of the community.

Mr. Zak Bolick supported the rezoning. He said the site was a blighted rundown area that was a highly visible area of the community. He said Lawrence did not need more multi-unit complexes. He stated many retail dollars leave Lawrence and Menards was a willing retail business that wanted to relocate to Lawrence. He said he was impressed Mr. Edwards took the time to respond to individual communications. He asked that Planning Commission approve this.

Mr. Dale Willey said he wanted tax relief and wanted Lawrence to open up for business. He stated Horizon 2020 was originally meant as a guide. He asked if a bike and walking path was currently on the property.

Ms. Day said it was recommended.

Mr. Willey felt Lawrence was difficult for businesses. He said all the retail activity was at 31st and Iowa. He felt the business would increase taxes and employment. He felt they should become more proactive.

Mr. David Geyer said he was Chairman of Lawrence Association of Neighborhoods when Home Depot was developed. He asked Planning Commission to recommended denial because it would create a line of businesses right down 31st Street. He expressed concern about drainage being an issue in the area.

Ms. Bonnie Johnson, Indian Hills Neighborhood Association, said she heard from ten residents in the neighborhood. She said they had concerns about Home Depot being promised as the end, drainage issues, and traffic and alignment issues. She said some residents would rather see a business at the site than an apartment complex because it would be the lesser of two evils. She said neighborhood comments were about half in favor and half opposed. Ms. Johnson said she would personally prefer to see Menards farther south on Iowa Street. She expressed concern about traffic and drainage issues. She did not feel the revised Southern Development Plan needed to be changed without a valid reason.

Mr. Kirk McClure, Old West Lawrence Association, said retail spending drives activity and retail jobs were related to spending, not by the number of stores. He said adding more stores would not change that. He said regarding tax revenue, customers pay the sales tax. He said there would not be new jobs and that the number of jobs in retail was a function of spending. He said there would also not be any new property taxes. He said the aggregate value of retail space was a function of the spending. He stated adding supply did not build demand. He said the market analysis on this project was flawed and did not answer the question if the community was able to support two home improvement stores. He said this was predatory development and he recommended Planning Commission deny it.

Ms. Cille King, League of Women Voters, read the letter they sent that was included in packet, which requested the Southern Development Plan not be changed to expand the existing designated area for regional commercial center and to deny the request. She said there was an intentional residential buffer to limit commercial along 31st Street.

Mr. Gary Rexroad felt Menards was different than anything Lawrence already had and felt it was an outstanding and unique shopping experience. He was in favor of approving the rezoning and allowing it to go forward. He had trouble thinking about this being a risk of extending commercial

down 31st Street, primarily because there was a natural end to developable ground. He thought they should think of this as a new node instead of an extension of the existing node. He said the alternative of a trailer park going back in at that site was not out of the question. He said Menards was not just a good second choice but a good primary choice for that location. He felt Menards drew residents to from Lawrence to Topeka and Kansas City.

Mr. Mark Stinger, Diamond Realty Investments, represented The Connection apartment complex on the south side of 31st Street, supported the project and was in favor of the development.

APPLICANT CLOSING COMMENTS

Mr. Edwards responded to questions and comments made during the public comment. He said Menards would use low level light that would not spill outside of the yard and also would have security cameras. He stated Ousdahl would not stub and not connect to the neighborhood. He said a significant number of Lawrence residents make the trip outside of Lawrence to Menards. He agreed with Mr. Willey's comment about Horizon 2020 being a guide. He said he was not allowed to create more runoff onto someone's property. He said that concern was not necessarily going to be a problem. He said regarding traffic issues the traffic comes steadily throughout the day, there was not an afternoon rush. He said their busiest time was noon-2:00pm. He said traffic impacts would be minimal. He said Mr. McClure mentioned there would be no new jobs but Menards would employ about 250 employees. He stated there was significant support from the residents of Lawrence.

COMMISSION DISCUSSION

Commissioner Hird inquired about the market study that was using 2010 data. He wondered when the new study would be done.

Ms. Miller said the new study would hopefully be done in the next few weeks. She said there was lead time and the applicant needed to use 2010 data to generate their study.

Commissioner Hird asked why it was considered vacant.

Ms. Miller said it was the Code requirement and was in Horizon 2020 Comprehensive Plan. She said it states it would either be vacant upon completion or cause vacant space elsewhere.

Commissioner Hird asked if there was some indication there would be vacant space.

Ms. Miller said the pad sites did not have identified tenants.

Commissioner Hird inquired about excluding the pad sites in the vacancy rates.

Ms. Miller said it probably wouldn't change it that much and could push it to 8%.

Commissioner Jossierand asked Mr. Zach Bolick about his earlier statement regarding vacancy rates of multi-family.

Mr. Bolick said he was a banker and tracked monthly vacancy rates but did not have exact numbers this evening.

Commissioner Jossierand asked Mr. Rexroad if he thought multi-family was overbuilt.

Mr. Rexroad said that was just his opinion.

Commissioner Liese asked Mr. McClure about the term predatory that he used earlier.

Mr. McClure said the applicant knows there is no latent demand for a second home improvement store and they are seeking to capture the existing demand and take it away from a current vendor. He said the home improvement industry was narrowed down to Home Depot, Lowes, and Menards which were each trying to cannibalize each other.

Commissioner Liese asked Mr. McClure's thoughts about certain kinds of business drawing customers from surrounding counties.

Mr. McClure said there is no significant untapped demand out there. He said Lawrence was considered a small micro-metro area. He said people from Kansas City and Topeka are not going to drive to Lawrence when they have choices in their area. He said spending from Jefferson and Franklin County already exists and that there was no evidence that a small amount of households could support two home improvement stores.

Mr. Edwards said Menards would not spend millions of dollars on a store thinking one of them would fail.

Commissioner Liese said at this point in time he did not feel this was the best place to locate the store. He said it could be more appropriate for the store to be closer to 6th and SLT. He asked staff to explain rationale to direct the store to 6th and K-10.

Mr. McCullough said staff identified the 6th and K-10 area as being able to accommodate the store. He said there were a number of sites in Lawrence. He said timing was key and at some point in time the 6th and K-10 area would be the best location.

Commissioner Liese asked what Menards would have to do to build at 6th and SLT right now.

Mr. McCullough said platting, site plan, and pulling building permits.

Commissioner Liese inquired about the traffic study for 6th and SLT.

Mr. McCullough said he did not have that information off the top of his head.

Commissioner Liese asked Mr. Edwards to respond to locating at 6th & SLT.

Mr. Edwards said in the future 6th & SLT might be a good spot but not right now.

Commissioner Burger asked if there was a way to approve this without the pad sites.

Mr. McCullough said there was room to modify this in a number of ways. He said reducing the size of the rezoning would reduce the amount of retail at the site.

Commissioner Blaser asked about the earlier suggestion of creating another node.

Mr. McCullough said staff would not view it as a secondary node and that it would be considered strip development.

Commissioner Culver said there were competing arguments about the potential precedence to expand the commercial area to the east being an impossibility.

Mr. McCullough said there was some opportunity beyond this subject site to entertain commercial development. He said at the very least the Snodgrass property to the east.

Ms. Day displayed the land use map on the overhead.

Commissioner Liese asked Commissioner Culver, as a banker, to respond to Mr. Bolick's comments regarding banks receiving information on vacancy rates.

Commissioner Culver said there were trends, but that he had not seen specifics with hard numbers from a third party.

Commissioner Josserand wondered if planning should drive development or should development drive plans. He said at some point excess capacity had deleterious effects.

Commissioner Lamer thanked Mr. Edwards for meeting with the neighbors. He asked Mr. Edwards if this location was denied would Menards look at a different area in Lawrence.

Mr. Edwards said no, not for a long time.

Commissioner Burger ask Mr. Edwards about the property west of Four Wheel Drive.

Mr. Edwards said they had extensive conversations with the property owners and it was unrealistic to pay what they were asking.

Commissioner Blaser said they needed to study 31st Street east. He wondered how should this proceed if approved so that both could be done.

Mr. McCullough said there were a couple of options. He said they could defer the application and open the Southern Development Plan, or forward to the City Commission with a recommendation to initiate planning for the corridor.

Commissioner Blaser asked if the location of the 31st interchange was set.

Mr. McCullough said it was pretty well set. He said the original 31st Street would go back to Haskell University.

Commissioner Burger asked to see a map of the SLT exits.

Ms. Day showed on the overhead that segment having an interchange at Iowa and an interchange at Haskell.

Commissioner Hird inquired about the development potential with floodplain.

Ms. Day pointed out the Snodgrass property on the overhead and where the floodway portion was. She said there would be infrastructure improvements to help with the drainage. She pointed out the developable portions along 31st Street.

Commissioner Liese asked Mr. Willey if he had an additional comment.

Mr. Willey said 31st Street had been the SLT for the last up-teen years. He felt the traffic volume would be less after the SLT was complete and not an issue for the neighborhood. He responded to Mr. McClure's comment about businesses going out of business. He said it was due to management matters.

Commissioner Liese thanked Mr. Edwards for his work. He said they had heard conflicting information.

Mr. Edwards said a while back before the city knew the current market they thought 6th and K-10 was the best place for retail. He said the former Gaslight Village was the best spot for Menards.

Commissioner Liese asked Mr. McCullough to respond.

Mr. McCullough said the 6th and SLT node made sense and they were trying to plan a community for decades worth of growth. He said right now there were policies about strip development. He said the market does adjust to the will of the community. He said he agreed it may be premature at 6th and K-10 but he would like to work with the market to identify other locations in the South Iowa corridor.

Commissioner von Achen asked if he was saying they were premature to act tonight and that more studies needed to be done before a decision was made.

Mr. McCullough said they needed to act on the applicants request for plan amendments and zoning to accommodate their specific request. He thought there were some collateral impacts that could be pursued further if they wanted to accommodate the applicants request at this location. He felt there were some options but Menards has indicated they were not willing to start over and take the time to pursue other opportunities. He said staff could not compel the applicant to pay a higher price than they were willing to pay for a piece of property.

Commissioner von Achen asked if staff was making a different recommendation than what was in the packet.

Mr. McCullough said no, staff's recommendation was based on the Comprehensive Plan policies in place and that this was not the place to extend retail down 31st Street. He said if Planning Commission believed otherwise they should pursue that and develop that in an appropriate way.

Commissioner Lamer said the guiding document was the Comprehensive Plan and that many members of the community spent hours coming up with a vision of how the community should grow. He felt he would be doing a disservice if he discounted the document.

Commissioner Liese said he did not want to ignore the Comprehensive Plan but he was concerned if he voted against this the city would be blamed for being difficult to work with. He respected the applicant's knowledge of the business. He said he would vote in favor of the text amendment to the Comprehensive Plan.

Commissioner Hird would like more information on the market study. He would like to see a calculation of the vacancy rate with only the pad sites vacant. He said the SLT would provide a huge change in traffic patterns and appearance. He said they needed to consider what the changes in the road would do to the area. He said he was surprised the neighbors seemed to prefer a quality big box project like this than apartments. He said he was not sure they could force the applicant to look at other alternatives. He said the Comprehensive Plan was a good document and he has used it as a sword and shield over the years. He said he would be in favor of approving or deferring for more

studies on 31st Street and how it would actually be handled. He said as a consumer he liked the idea of competition and felt this was a good project.

Commissioner Burger asked if it was possible to eliminate the 31st Street curb cut.

Mr. McCullough said there were some options that could be looked at. He said this was just a concept plan subject to a lot of different revision and modification.

Commissioner Culver said the tough part was to balance between future and current planning and market opportunities. He felt this was a unique piece of property and underutilized. He was encouraged by the support from the community surrounding this. He felt it was worthwhile to consider the request. He had concerns about the area to the east of the property and the future of it. He thought revisiting those plans and further developing them was prudent. He said he could support moving ahead with this project or defer for further studies.

Commissioner Britton said he was struggling because he wanted to say yes but also put stock in the planning guides. He said he put a lot of stock in staff's recommendation. He was concerned about the extension of retail east on 31st Street, although it would be limited due to the floodplain area. He expressed concern about retail vacancy rates. He stated it almost didn't make sense to include Menards in the vacancy rate when they would be going into the space they build. He said some of the support for the project he felt were more the kinds of things that were up to City Commission, such as economic, taxes, and how to pursue commercial development. He said he would probably oppose this but had not made his mind up. He would like more information on vacancy rates and how to treat that with the building being occupied by the applicant.

Mr. McCullough said the Comprehensive Plan was a process and would take longer than a month or two to revisit the Revised Southern Development Plan to stretch it to Louisiana Street. He answered Commissioner Hird's earlier question about the vacancy rate of Menards being occupied and the pad sites vacant, the vacancy rate would be 7.6%.

Commissioner Blaser felt the Comprehensive Plan can and should be changed because conditions have changed, such as the SLT. He said he did not like strip malls so the term strip out bothered him. He said the property needs to be used and Menards was a good potential use for it. He said he would vote in favor but felt they needed to study the Revised Southern Development Plan for changes farther east.

Mr. McCullough said there were three primary questions the plan review amendment process includes and Planning Commission may want to use those as a guide for this item:

- Does the proposed amendment result from changed circumstances or unforeseen conditions not understood or addressed at the time the Plan was adopted?
- Does the proposed amendment advance a clear public purpose and is it consistent with the long-range goals and policies of the plan?
- Is the proposed amendment a result of a clear change in public policy?

Commissioner Burger said one changed circumstance was a change of use. She felt this was a responsible applicant and would be a nice addition to the community. She expressed concern that it would take some business away from current businesses. She said one benefit would be that it could provide a draw to the area. She said there were lots of pluses and some negatives but that the pluses outweighed the negatives. She said she was not okay with it not agreeing with the

Comprehensive Plan. She felt it would be helpful to have a more detailed road diagram to see what 31st Street would look like. She felt there were ways to redesign it so that it was less stripped out.

ACTION TAKEN

Motioned by Commissioner Blaser, seconded by Commissioner Hird, to approve the change to the Comprehensive Plan to include extending the commercial area east to include this property for Menards, which would identify this parcel as CR. He said the changed circumstances included the completion of the SLT which would attract the need for more commercial. He stated the change in purpose would in fact lower construction costs because of materials and competition.

Commissioner Josserand asked when the Southern Development Plan last changed.

Ms. Leininger said the revised Southern Development Plan was approved in 2008.

Commissioner Josserand asked if there was any change to the South Lawrence Trafficway configuration since then.

Ms. Leininger said no.

Commissioner von Achen said she relied on the staff recommendation and the Comprehensive Plan. She felt the Comprehensive Plan should be amended and revised as needed if there was an exceptional reason to do it. She agreed with the Comprehensive Plan. She said she would oppose the motion.

Commissioner Britton said he hoped City Commission would look at whether approving this proposal might significantly frustrate the growth envisioned west on 6th Street.

Commissioner Burger asked if the site plan would be seen by Planning Commission or administratively approved.

Mr. McCullough said it would be administratively approved.

Commissioner Burger said that changed her vote and she would not support this.

Commissioner Josserand said he would reluctantly vote against the motion. He said with some additional study he could support it. He felt the staff recommendation was very well written and agreed with it. He did not think there was a changed condition with SLT but did think they should engage in a Revised Southern Development Plan.

Commissioner Lamer echoed Commissioner Josserand's comments. He said he could not support this with its non-compliance with the Comprehensive Plan. He agreed staff did an excellent job with the staff report. He said the Revised Southern Development Plan was only 5 years old. He did not believe the SLT had changed that much. He said he would vote against the motion.

Commissioner Hird felt this was a tremendously unique situation of infill that was supported by the neighbors. He felt if they voted this down it would be the Planning Commission killing another opportunity. He expressed frustration because this was a good opportunity.

Commissioner Britton said City Commission should look at what approving this project down off of Iowa would do to progress at 6th and SLT. He inquired about more information regarding that.

Mr. McCullough said he was not sure any good information could be brought back. He said a lot of it was market driving. He said it was possible it may impact the progress. He said staff was not trying to push everything to that node but it was an option for the market to consider as an inventory option.

Commissioner Blaser withdrew his motion.

Commissioner Hird withdrew his second of the motion. He thought they were deferring it just because they didn't want to make a difficult decision. He said he had not heard any particular direction. He asked Mr. Edwards about his thoughts on a deferral for 30 days.

Mr. Edwards said a deferral would allow him to look at any concerns they may have. He said it was not an issue of either or, so denying this location did not mean they would relocate to 6th and K-10. He said they were under contract for a limited time but that they still had a little bit of time left.

Commissioner Liese asked if staff could look at the entire area and provide options.

Mr. McCullough said staff could provide option for increasing the commercial use along 31st Street and show what it may look like.

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to defer items 3 and 4 to next month for study of issues discussed.

Commissioner Lamer asked Mr. Edwards if there is a certain amount of funds he would lose based on the real estate contract.

Mr. Edwards said it would equal less time the property could be utilized but that he was okay with a deferment.

Commissioner Josserand said he would support a deferral. He requested that staff obtain more information regarding traffic impacts on Louisiana Street.

Motion carried 9-0-1, with Commissioner Graham abstaining.

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**ITEM NO. 5 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; LIGHTING
STANDARDS (MKM)**

TA-12-00204: Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, to establish lighting standards and requirements as an alternative to the photometric plan. *Initiated by City Commission on 8/21/12.*

Item 5 was deferred prior to the meeting.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

ADJOURN 10:32pm