

ITEM NO. 1 COMPREHENSIVE PLAN AMENDMENT TO HORIZON 2020 CHAPTERS 6 & 14 (JSC)

CPA-15-00335: Consider a Comprehensive Plan Amendment to *Horizon 2020* Chapter 6 to change the designation from Auto-Related Commercial to Regional Commercial, and Chapter 14 (*Revised Southern Development Plan*) to revise the future land use designations from medium-density residential, traditional neighborhood design, open space, and auto-related commercial uses to commercial use at the southeast corner of the intersection of South Lawrence Trafficway and US-59. Submitted by Landplan Engineering, P.A. for Armstrong Management L.C. and Grisham Management L.C., owners of record.

ITEM NO. 2A RS10 TO CR; 63.89 ACRES; SE CORNER SLT & US-59 (JSC)

Z-15-00327: Consider a request to rezone approximately 63.89 acres from RS10 (Single-Dwelling Residential) District to CR (Regional Commercial) District, located at the southeast corner of the South Lawrence Trafficway and US-59. Submitted by Landplan Engineering P.A., on behalf of Armstrong Management L.C. and Grisham Management L.C., property owners of record.

ITEM NO. 2B RS10 TO OS; 2.61 ACRES; SE CORNER SLT & US-59 (JSC)

Z-15-00328: Consider a request to rezone approximately 2.61 acres from RS10 (Single-Dwelling Residential) District to OS (Open Space) District, located at the southeast corner of the South Lawrence Trafficway and US-59. Submitted by Landplan Engineering P.A. on behalf of Armstrong Management L.C. and Grisham Management L.C., property owners of record.

STAFF PRESENTATION

Mr. Jeff Crick presented items 1, 2A, and 2B together.

APPLICANT PRESENTATION

Mr. Chris Challis, Collett, said the new proposal tried to address comments from last time. He said the project was scaled down and within city limits. He said the completion of the South Lawrence Trafficway was a significant public investment. He said the property was easily accessible. He said the development was an aesthetically pleasing gateway to Lawrence. He said they wanted to capture sales tax that was being spent in other cities.

Mr. Korb Maxwell, Polsinelli Law Firm, went over the golden factors and why the project met each of them. He stated the character of the neighborhood was retail and commercial. He said the property had zero suitability for its current zoning of residential. He said if the current restriction of single family residential was removed it would have a positive impact to nearby land owners. He stated commercial retail was a better use for wetlands than heavy auto related commercial. He said the property was never meant to be single-family residential. He said the project met and exceeded all eight golden factors.

PUBLIC HEARING

Ms. Bonnie Johnson said there was already a plan in place for the area and that they should stick with the plan for that area. She wanted to protect her property value and the area she lived in. She asked Planning Commission to vote no to the development.

Mr. Stan Rasmussen endorsed development at this location. He stated the planning of the South Lawrence Trafficway & Iowa intersection foresaw this type of development going there. He said it was a major intersection and they needed high quality revenue generating opportunities there. He said he could not envision apartments or homes at this location because it was too high traffic and too commercial. He said this was the second time the proposal was recommended by staff. He encouraged Planning Commission to support the project.

Mr. Brad Finkeldej said he was on the committee and Planning Commission that passed the Southern Development Plan and they looked at this area. He said they looked across the city for auto related centers to add more car dealerships because at that time there weren't many car dealerships. He said they put into the plan auto related commercial because at the time they could envision another auto dealership. He said what had changed since then was the auto dealerships started growing in place by remodeling and expanding. He said the area needed for auto related was not necessary now. He stated the plan says they should encourage commercial and auto related uses geared toward traffic from K-10 Hwy, which sounded like a truck stop to pull people off the highway. He felt this should be a gateway to Lawrence and they do not want an auto related use or truck stop there.

Mr. Trevor Marrongelli inquired about right-of-way. He felt there should be an accurate plan before approving the rezoning. He wondered who would pay to run infrastructure to the site. He felt the guidelines of Horizon 2020 should be followed.

Ms. Mary Jo Shaney, attorney on behalf of K-10/40 Development LLC, opposed the project. She said they were being asked to change fundamental long range plans in Horizon 2020 and doing so in breakneck speed. She felt amending the Comprehensive Plan was premature. She said the project would change the character of the location forever to heavy commercial uses that were not envisioned by the long range policies. She said the project would dictate what long range planning goals were supposed to be. She said K-10 Hwy was a barrier to these types of uses.

Mr. Jim Bowers, White Goss Law Firm, on behalf of Tanglewood LLC and Hanover Place LLC, said the right-of-way owned by KDOT property was included in the application. He said unless the right-of-way property became property of the applicant the development could not be built. He felt rezoning was premature until Horizon 2020 issues were dealt with first.

Mr. Kirk McClure said the timing of the development was important. He felt this project was bad for the community. He said sales taxes were paid by consumers, not the vendor. He said there would only be a slight bump in property taxes. He said regarding the pull factor the market study was flawed. He said jobs were dependent on spending.

Mr. Michael Almon opposed the Comprehensive Plan Amendment and rezoning. He felt it should be zoned to Open Space. He said this was in the wrong place for land planning reasons in the Comprehensive Plan. He said K-10 Hwy provided a physical barrier. He felt this item should not be at Planning Commission until a nodal plan was done for the area.

Ms. Candice Davis, Lawrence Association of Neighborhoods, opposed the project. She did not feel the plan should be changed for an individual investor. She felt it would negatively impact existing commercial on the Iowa Street corridor. She said infrastructure costs should not be at the City's expense.

Mr. Gary Rexroad said they should try and find a way to help an investor that wanted to come to Lawrence. He felt most of the questions brought up tonight were issues that should be addressed by City Commission and that Planning Commission should only address land use. He felt this intersection of highways was the perfect location for this development. He said the community would benefit from a really good retail development. He stated Horizon 2020 had been amended multiple times, including for the benefit of Mercato. He supported the Southpoint project.

Ms. Ruby Armstrong owned the tract of land that was being sold and she approved the sale.

APPLICANT CLOSING COMMENT

Mr. Maxwell said the reason he went through the golden factors was because this was governed by statute and regulations. He felt that some of the opposition was using the CPA request to block the rezoning for protectionist reasons. He said the existing plan already says heavy commercial. He said this was the 50th master plan amendment that had come before Planning Commission, and interestingly enough the 48th

request was Mercato. He said there had been multiple conversations with KDOT regarding the right-of-way process and it would be improved because they were going to swap right-of-way.

COMMISSION DISCUSSION

Commissioner von Achen said she forgot to mention at the beginning of the meeting that she received a call from Ms. Marilyn Bittenbender, Colliers International. She asked staff to discuss the property to the east between Baker Wetlands and the proposed development site.

Mr. McCullough said it was currently designated for residential purposes.

Commissioner von Achen inquired about the advantage and/or disadvantage of Planned Development Overlay.

Mr. McCullough said a Planned Development Overlay was used in the context of the surroundings. He said staff encouraged the applicant to use the PD Overlay to understand more about the project. He said it was mostly used by applicants because it provided certain variances to development and could bring in commercial uses to residential projects. He said mostly PD Overlays benefit the developer.

Commissioner von Achen inquired about the greenspace on the south end of this. She asked if it was going to be 2 acres or 6 acres of Open Space.

Mr. McCullough said at one point the Open Space zoning was closer to 2.61 acres and it was changed to 6 acres. He said the Open Space would be passive recreation, such as trails.

Commissioner von Achen inquired about access to the property.

Mr. McCullough said the staff and the developer had preliminary discussions with KDOT about access. He said the discussions involved taking the outer frontage road down to the middle of the property. He said an issue KDOT was mindful of was the access point distance from the new ramps to K-10.

Commissioner Britton said Mr. Almon mentioned the nodal plan requirements.

Mr. McCullough said the revised Southern Development Plan stood as the sector plan for the property.

Commissioner Culver said regarding the right-of-way in the rezoning application it looked like the proposed CR zoning was for the SLT land.

Mr. McCullough said in the Code zoning districts go to the center line of right-of-way.

Commissioner Culver asked if KDOT needed to be involved in the rezoning process with property they own.

Mr. McCullough said not necessarily. He said the Development Code makes that a matter of fact that when rezoning property.

Commissioner Sands inquired about Open Space in the floodplain and mitigation factors of 50% or greater

Mr. McCullough said the Open Space zoning actually protects it more than floodplain regulations would. He said staff works with the applicant to get amount of Open Space as large as possible.

Commissioner Sands asked if the size of the Open Space was the mitigation factor for the floodplain.

Mr. McCullough said that was correct. He said those types of things would be applied to the site plan.

Commissioner Kelly said several public comments talked about opening the door for other properties within the same area. He asked about the process for that.

Mr. McCullough said it would be the similar process. He said the only property he could think of was the property immediately west, which was smaller and had more floodplain. He said there were also some redevelopment parcels north of K-10 that could seek development. He said the property immediately east would be vacant until development.

Commissioner Kelly asked if staff saw the floodplain as a boundary for further development south.

Mr. McCullough said for practical purposes he did not see any more development until south of the Wakarusa River and the floodway/floodplain. He said staff owed the community a South of the Wakarusa Plan. The proposed project had a sector plan but the South of Wakarusa Plan would be new opportunity which would need to be assessed.

Commissioner Struckhoff inquired about Mr. Almon's comment that a nodal plan was required.

Mr. McCullough said staff believed there was already a plan that had gone through the process and spoke to the designation.

Commissioner Liese said there had been about arguments for golden factors being met versus not being met. He said he was confident staff had met the golden factors in the staff report.

Commissioner Britton inquired about the Comprehensive Plan Amendment that Mr. Finkeldei talked about with the pull factor of cars.

Mr. McCullough said staff would have to research the pull factor of cars.

Commissioner Denney inquired about Horizon 2020 consideration that would address this point and sections involved.

Commissioner Britton said they had not talked about that section of the plan yet.

Mr. McCullough said they had discussions about retail. He said the conclusion in the issue action report was the processing of applications should not necessarily change.

Commissioner Kelly said they had not looked at individual sectors. He said there would always be conflict in the Comprehensive Plan. He said he struggled with the idea that because they had not completed the Horizon 2020 review they should not look at any Comprehensive Plan amendments. He stated there was nothing happening in the Horizon 2020 review that would prevent them from making an amendment to the plan.

Commissioner Liese said they should never worry about whether or not to amend it but rather if it would benefit the community.

Commissioner Britton said if all people had to do was to check to see if something complied with the Comprehensive Plan and Development Code there wouldn't be a need for Planning Commission or City Commission. He said their job was to exercise judgement beyond the page and from time to time it requires an amendment.

Commissioner Sands said the majority of commercial policies were not affected.

Commissioner Liese said he was not convinced any of the golden factors were violated, just like property taxes were not included in the golden factors.

Commissioner Kelly asked where "nearby" properties extended to.

Mr. McCullough said it was a measure of impacts but it wasn't exclusive.

Commissioner Britton said the health of the retail market played into golden factor 6.

Commissioner Liese said the cannibalism claim is speculation. He inquired about the impact from Rock Chalk Park, Lawrence Sports Pavilion.

Mr. McCullough said there was a report generated recently that he would have to review.

Commissioner Liese asked about the pull factor and how it cannot pull equally from the city.

Ms. Amy Miller, Assistant Planning Director, said the pull factor report was produced by the Kansas Department of Revenue for the city as a whole, not different sectors.

Commissioner Liese inquired about pull factors per neighborhood.

Ms. Miller said staff did not have that data. She said the best way to do that would be to look at credit card receipts by zip code and that retailers often do that on their own.

Commissioner Denney said it was absolutely reasonable to consider whether what they were doing was affecting an area or region.

Commissioner Sands inquired about the traffic into and out of the complex.

Mr. McCullough said the applicant submits the traffic impact study and the City and KDOT review it.

Commissioner Sands asked if the main entrance would require a traffic signal.

Mr. McCullough said it was likely and the developer would incur the cost since it benefited them.

Commissioner Sands wondered how a traffic signal would affect north and south bound traffic.

Mr. McCullough said it would be looked at.

Commissioner Denney asked who would pay for infrastructure.

Mr. McCullough said the cost would be on the developer. He said the City may contribute for certain roads that the community would benefit from.

Commissioner Culver inquired about the limitation of a regional commercial center.

Mr. McCullough said it was over the 1.5 million. He said this was one of two corridors that the city has for community regional. He said this exists today as a commercial designation. He said they were not necessarily adding new commercial to the plan, but changing the form and type of commercial.

Commissioner Sands asked if they should refrain from discussing the impacts if not a designated regional center.

Commissioner Britton said they do not have to compare regional commercial centers to regional commercial centers. He said the impact to any property would be relevant.

Commissioner Liese asked Mr. Maxwell about the term he used of protectionistic.

Mr. Maxwell said there were public comments made about stymied competition instead of looking at nearby properties and golden factors.

Commissioner Julia Butler arrived at the meeting at 9:00pm.

Commissioner von Achen inquired about K-10 providing a physical barrier.

Commissioner Kelly said he heard the thought earlier that it was just an extension of what was currently on south Iowa and he disagreed with that because it does jump and creates a new neighborhood. He felt K-10 was a significant line but felt the project may be appropriate for the intensive use designated in the plan for the other side of K-10. He wondered if they were ready to leap over K-10.

Mr. McCullough said except for auto related commercial. He said it was typical for the intersection of two state highways to have some amount of commercial on all four corners. He said staff believed the K-10 line had already been crossed with the sector plan as being designated for auto related commercial center. He said a use such as a truck stop was a very real possibility in terms of what the Code allows. He said if this project does not win on merit, then one could assume that the community wants an auto related use. He said to assume it would stay agriculture forever was a poor assumption. He said the property was within the city today and the SLT was being built, which were triggers pushing it toward development.

ACTION TAKEN on Item 1

Motioned by Commissioner Liese, seconded by Commissioner Denney, to approve the Comprehensive Plan Amendment (CPA-15-00335) to *Horizon 2020* Chapter 6 to change the designation from Auto-Related Commercial to Regional Commercial, and Chapter 14 (*Revised Southern Development Plan*) to revise the future land use designations from medium-density residential, traditional neighborhood design, open space, and auto-related commercial uses to commercial use at the southeast corner of the intersection of South Lawrence Trafficway and US-59.

Commissioner Britton felt this came down to two issues; did it make sense to change in terms from auto related to retail commercial and what would it do to the retail market. He did not feel this was a big change but felt it was an improvement over the auto related use. He did not feel the retail numbers were cause for huge concern. He did not feel this would hurt downtown or other areas of the community. He was confident that the golden factors were met in large part. He said he would vote to support the motion.

Commissioner Sands thanked the public for their comments. He felt the overall development fell within the Comprehensive Plan amendment.

Commissioner Struckhoff said he was torn on this. He felt this was a dramatic departure from Horizon 2020. He was supportive of Collett and the businesses themselves but was not supportive of violating the Comprehensive Plan. He said he would not support the motion.

Commissioner von Achen said she struggled with this. She felt it violated the Comprehensive Plan and wondered how it would affect other commercial developments. She said she didn't worry about the impact on downtown because it was considerably different. She said it helped to hear Mr. Finkeldei's comments and perspective. She said she would support this despite her reservations primarily because she would rather see retail development than auto related development at that location.

Commissioner Liese asked Commissioner Struckhoff about his comments regarding a dramatic departure from Horizon 2020.

Commissioner Struckhoff said the possible auto related use was not needed anymore. He said the Comprehensive Plan did not support increasing the size and adding retail centers. He said the current policies have worked so far. He said they planned for retail in the northwest corridor because there was more traffic coming in through that area.

Commissioner Kelly said he was reluctant to change Comprehensive Plan and sector plans unless there was good public dialogue. He felt like they had received good public dialogue and he felt more comfortable changing the plan. He said there would be a public process for other development in the area. He said he was supportive of the motion because it was a good opportunity to create a gateway to community.

Commissioner Culver said key words such as "nearby" could have multiple interpretations. He was concerned about a very concentrated retail section in the southern corridor. He said he would vote against the motion because they needed to plan for the future and this would deviate from current plans. He said there was no requirement for the businesses to be new to the market so it had the potential to create additional vacancies in the community.

Commissioner Denney said the proposed property was no longer agriculture. He said it was in the floodplain and at the intersection of major highways. He said to see it as a residential area was unrealistic. He felt this was the perfect place for this project. He said he was inclined to vote in favor of the motion. He said Horizon 2020 did not consider what might happen here when it was created.

Commissioners Britton and Struckhoff thanked staff and the public.

Motion approved 6-2, with Commissioners Culver and Struckhoff voting in opposition.
(Commissioner Julia Butler arrived at the meeting late and did not vote on this item)

Motioned by Commissioner Liese, seconded by Commissioner Denney, to authorize the Chair to sign Planning Commission Resolution PCR-15-00366.

Motion carried 7-1, with Commissioner Culver voting in opposition.
(Commissioner Julia Butler arrived at the meeting late and did not vote on this item)

ACTION TAKEN on Item 2A

Motioned by Commissioner Liese, seconded by Commissioner Sands, to approve the rezoning of 59.80 acres from RS10 (Single-Dwelling Residential) District to CR (Regional Commercial) District, and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in this staff report.

Commissioner Liese said he thought they had an enormous amount of properties available for residential, which would be good for infill.

Motion carried 6-2, with Culver and Struckhoff voting in opposition.

ACTION TAKEN on Item 2B

Motioned by Commissioner Liese, seconded by Commissioner Denney, to approve the request to rezone 6.07 acres from RS10 (Single-Dwelling Residential) District to OS (Open Space), located at the southeast corner of the South Lawrence Trafficway and US-59 Highway based on the findings presented in this staff report, and forwarding it to the City Commission with a recommendation for approval, subject to the following condition:

1. The following uses shall be prohibited:
 - a. Public and Civic Use Groups:
 - i. Community Facilities; Cemetery, Cultural Center/Library and Funeral and Interment, Utility Minor, and Utility Major
 - ii. Recreation Facilities; Active Recreation and Entertainment & Spectator Sports, Limited
 - b. Commercial Use Groups:
 - i. Transient Accommodation; Campground

- ii. Parking; Accessory Parking
- c. Other Use Groups
 - i. Communication Facilities; Amateur & Receive-Only Antennas, Telecommunications Antenna, Telecommunications Tower and Satellite Dish
 - ii. Recycling Facilities; Small Collection Recycling Facilities

Motion carried 7-1, with Commissioner Struckhoff voting in opposition.