

**League of Women Voters of Lawrence-Douglas County**

P.O. Box 1072, Lawrence, Kansas 66044

Attachment A

June 24, 2007

Grant Eichhorn, Chairman  
Members  
Lawrence-Douglas County Planning Commission  
City Hall  
Lawrence, Kansas 66044

**RECEIVED**

JUN 25 2007

City County Planning Office  
Lawrence, Kansas

RE: ITEMS NO. 9B - 9D, REZONING AND PRELIMINARY PLAT FOR THE EXCHANGE, 31<sup>ST</sup> & OUSDAHL

Dear Chairman Eichhorn and Planning Commissioners:

We view the rezoning and preliminary plat applications for the Exchange as an example of land use practices that we had hoped would not be continued with the updating of the comprehensive plan and new Land Use Development Code. There are several planning issues that have not been considered here.

1. This is an application for rezoning to an RM District. There is much that is still not regulated in conventional RM districts.

The 24 acre tract proposed to be a student residential complex will be platted as a single lot without any commitment as to how it will develop. The requirements of the RM15 District in terms of site lay-out are for maximum building cover (50%), maximum impervious cover (75%), and minimum outdoor area per dwelling (50 square feet, which a balcony can supply). The lighting must conform to requirements and also the access must conform to access management standards. Landscaping required is for street trees (peripheral) and parking lots. The building height permitted is 45 feet.

This sounds as though everything is regulated and predictable, but there is much that is not. For example, the RM district allows any building type of any mass (within the buildable space). All internal access is to driveways and parking lots. No internal sidewalks are required. The minimum space between buildings is according to the Fire Code, which in the past has been three feet when buildings were detached. No recreational open space is required. The configuration and orientation of the buildings on the lot is not regulated. The pervious surface can all be on the periphery. No internal trees or landscaping outside of parking is required. If the project that planners think will be built is not, the RM District can be sold to someone else and the zoning still exists. The site plan is administratively approved and does not get reviewed either by the City Commission or by the Planning Commission.

2. The potential population concentration would be inordinately high in this location in the city.

The actual gross density of large lot development is almost the same as the net density because there are no public streets in large lots that reduce the buildable area. (All of the area within lot lines is privately owned, including easements. Dedicated streets are public land.) Driveways and parking lots, and the limits on lot cover and permeability do not affect the potential density in large-lot development. The 24.5-acre tract will allow 15 units an acre. This would be 367 units or 1470 adult students at maximum allowable density. This could mean with the requirement of one parking space per bedroom plus one per each ten units that the total number, at capacity, in this 24.5 acres could be 1506 cars.

3. This proposal was presented earlier and was rejected as being premature. The sewerage was inadequate, and the area planning was in process. This situation has not changed, and requires that the developer build a pump station.

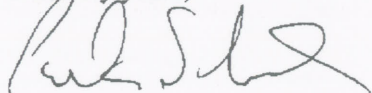
4. The traffic study indicates that most of the traffic will use Iowa Street rather than Louisiana. We suggest that this burden on 31<sup>st</sup> Street, especially at the overloaded corner of 31<sup>st</sup> and Iowa, could have the same negative impact on the city as the potential problems for the neighborhoods bordering Louisiana.

5. Adding to the existing surplus of new apartments could cause the student population, where they now have access to the Downtown, to shift to the periphery of the city with potentially negative effects on the CBD.

In a previous letter, we suggested that this application for RM conventional zoning should be given better control and predictability by requiring concomitant zoning of a PD Overlay District. However, the other considerations leads us to believe that this proposal has not been given adequate planning consideration. We suggest that this use in this location is unwise, and that much more planning for the area and the community as a whole should be done before this type of project should be approved.

We hope that you will consider our suggestion and not approve this project at this time.

Sincerely yours,



Paula Schumacher  
President



Alan Black, Chairman  
Land Use Committee



**LAND USES IN THE AREA OF THE PROPOSED REZONING AND PLAT  
FOR 'THE EXCHANGE; W 31<sup>ST</sup> AND OUSDAHL AREA**



**Figure 1.** View to the northwest / Home Depot and Best Buy.



**Figure 2.** View to the west, across Ousdahl Road / mini storage and Wal-Mart.





**Figure 3.** View to the west / Entire Car Center.



**Figure 4.** View to the north / Gaslight Village Mobile Home Park.



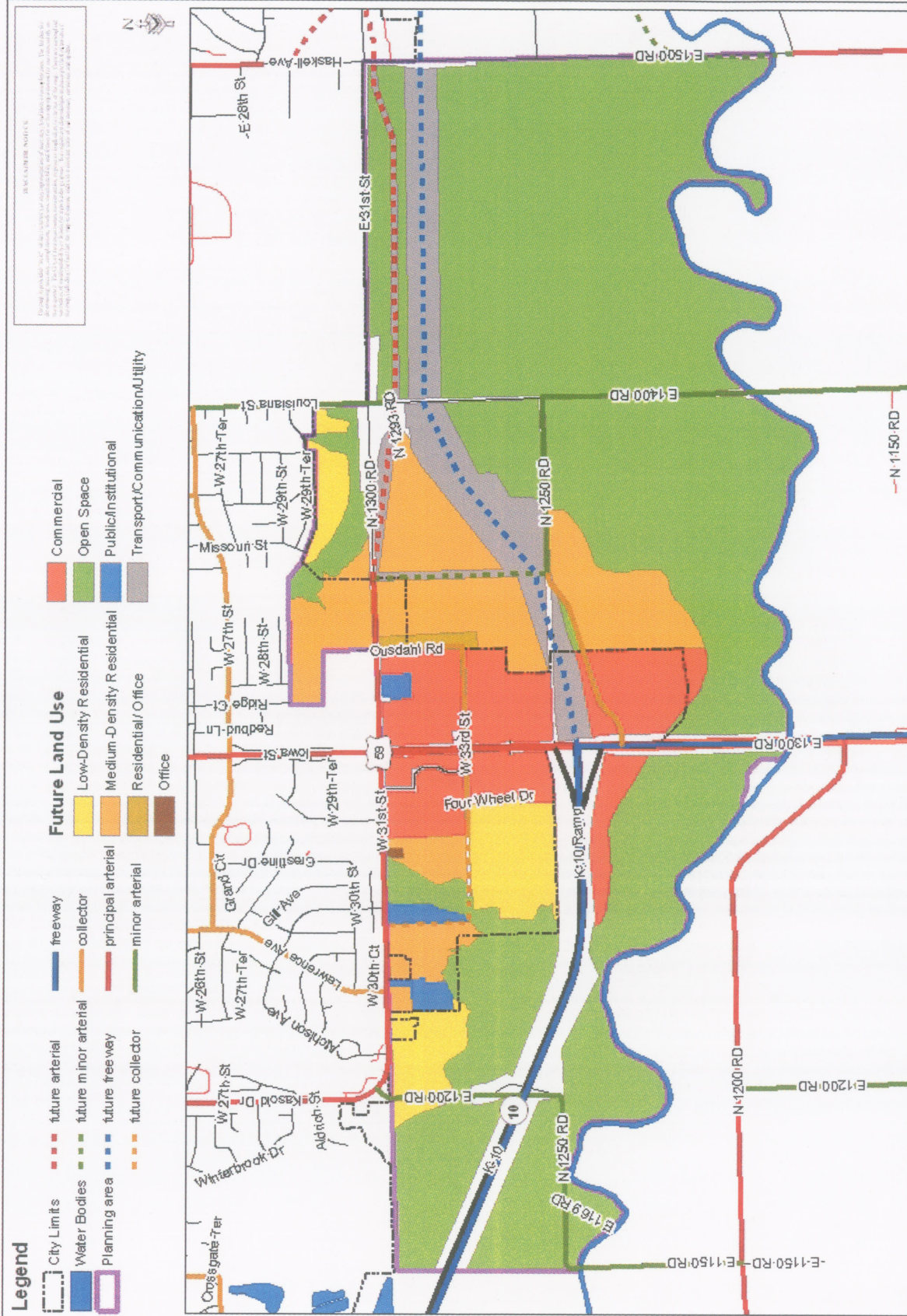


**Figure 5.** The subject property; view to the south of W 31<sup>st</sup> Street.



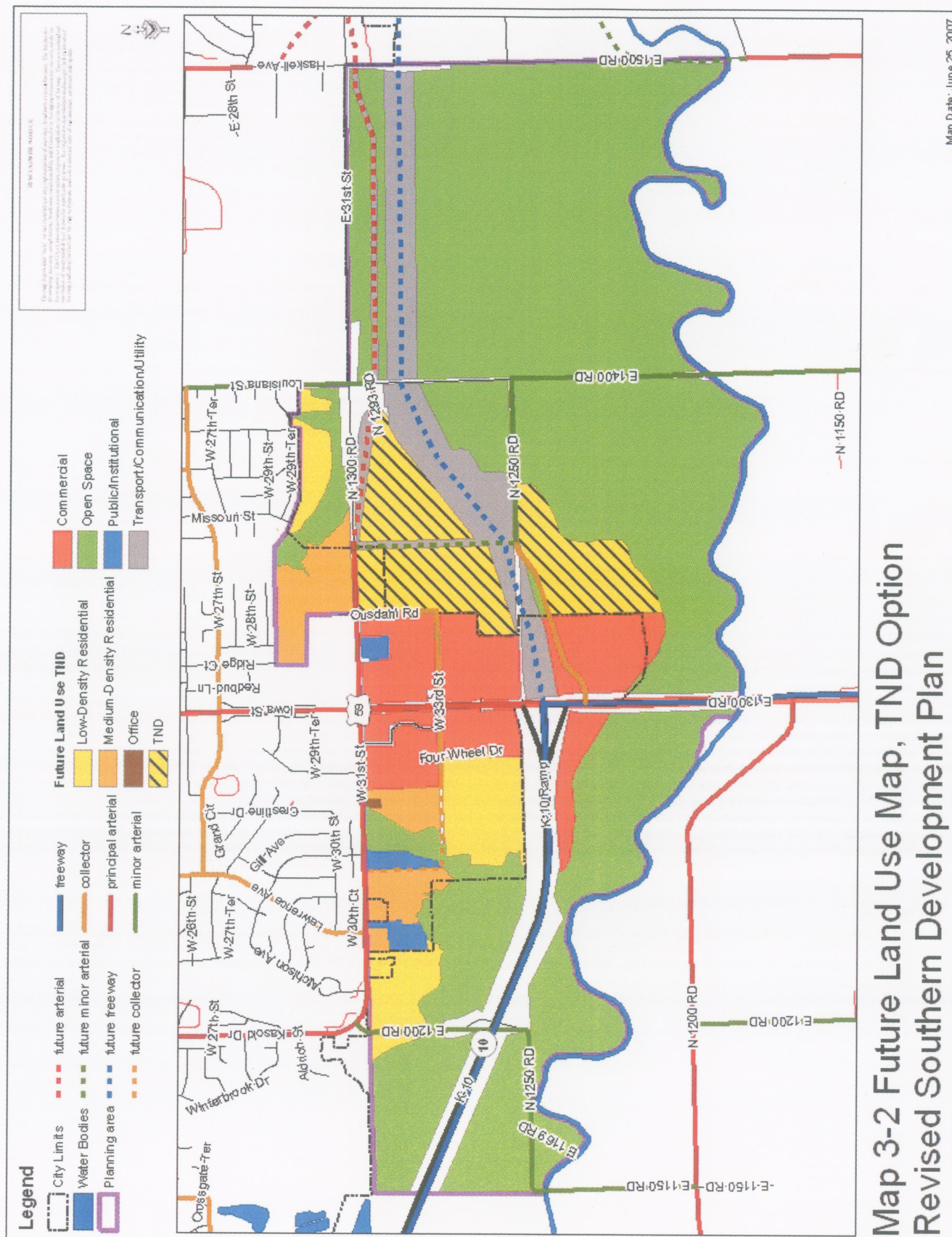
**Figure 6.** Aerial w/zoning. Pink shaded area is the subject property.





Map 3-1 Future Land Use Map  
Revised Southern Development Plan









October 16, 2007

Steven T. Stamos  
FF Realty, LLC  
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Grand Prairie, Texas 75050

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Lenexa, Kansas 66215  
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Fax 913.492.7443  
www.terracon.com

Direct: 817-816-9483  
Fax: 817-816-9583  
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Re: Tree Evaluation  
The Exchange at Lawrence  
Southeast Corner of West 31st Street and Ousdahl Road  
Lawrence, Douglas County, Kansas  
Project No. 02067803

Dear Mr. Stamos:

We are pleased to submit this letter-report for the above-referenced site. This evaluation was performed in accordance with our Supplement to Agreement for Services dated September 28, 2007.

Per the request of the client, Terracon conducted a tree evaluation of the site to determine if "stands of mature trees" were present as noted in the City of Lawrence Development Code dated July 1, 2006. However, the Development Code does not provide a definition or guidance for evaluating "stands of mature trees." According to Ms. Mary Miller, City/County Planner with the Lawrence-Douglas County Planning Office, a "stand of mature trees" is defined as a contiguous area of 0.5 acre or greater which is covered by densely wooded growth of mature trees having a minimum height of 25 feet or greater. However, the Development Code does not define "density" or "mature tree." Terracon used the following definitions to estimate these criteria:

Density = greater than 50 percent of the total number of trees in approximate 10 foot by 10 foot representative test plots identified as mature trees (as defined below);

Tree = As defined by the 1987 United States Army Corps of Engineers (USACE) Wetland Delineation Manual, a tree is a woody plant of greater than 3 inches in diameter at breast height (dbh, as measured at 4.5 feet above ground surface) regardless of height. However, for the purposes of this evaluation, a "mature tree" was defined as a woody plant of greater than 3 inches in dbh and a minimum height of 25 feet or greater.

Terracon performed the following tasks as part of our scope of service:

- Visited the site on October 3, 2007 and made site-specific field observations by estimating the density of mature trees in test plots to determine if "stands of mature trees" exists at the site in approximate 0.5 acre contiguous areas;
- Performed boundary staking of the approximate boundaries of "stands of mature trees" (which were surveyed by a registered land surveyor provided by the client); and,



- Prepared a letter-report including our rationale, discussion of applicable data, and a map of "stands of mature trees."

Terracon excluded the eastern boundary right-of-way (ROW) from the evaluation since a City road will be developed in the ROW based on conversations with the client and Ms. Miller.

Terracon estimated the height (whether 25 feet or taller) and measured the dbh of each tree within six 10 foot by 10 foot representative test plots (TPs) in the tree-covered areas at the site. Two TPs were conducted in the tree-covered area on the northeastern portion of the site and four TPs were conducted in the tree-covered stream area on the central portion of the site. Two suspect areas of "stands of mature trees" were identified and flagged by Terracon at the site: one in the northeastern portion of the site at TP 1, and one in the east-central portion of the site at TP 5.

The client provided a survey map of the site prepared by Professional Engineering Consultants, P.A. (PEC) depicting the flagged areas at the site with associated estimated sizes. Based on the survey map, the estimated size of the suspect area at TP 1 is 0.36 acres and the estimated size of the suspect area at TP 5 is 0.23 acres. Since both suspect areas are less than 0.5 acre in size, these two suspect areas do not meet the definition of a "stand of mature trees" as defined above. The density of mature trees, height of the trees, and/or area of mature trees were below the required criteria (of greater than 50%, 25 feet or taller, and 0.5 acre or more, respectively) at the remaining TPs (TP 2, TP 3, TP 4, and TP 6). The PEC survey, with TPs marked by Terracon, and a photo log are attached to this letter-report.

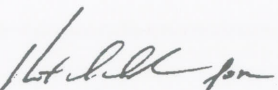
Terracon concludes that "stands of mature trees" as defined above are not present at the site.

This scope of services was conducted in accordance with our Supplement to Agreement for Services dated September 28, 2007. This letter-report is prepared for the exclusive use and reliance of FF Realty, LLC. Use or reliance by any other party is prohibited without the written authorization of FF Realty, LLC and Terracon. Reliance on the letter-report by the client and all authorized parties will be subject to the terms, conditions and limitations stated in Terracon's Supplement to Agreement for Services and this letter-report. The limitation of liability defined in the Supplement to Agreement for Services is the aggregate limit of Terracon's liability to the client and all relying parties.

We appreciate the opportunity to perform these services for you. Please contact us if you have questions regarding this information or if we can provide any other services.

Sincerely,  
Terracon Consultants, Inc.

  
Tracie A. Ragland  
Environmental Project Manager

  
Eric J. Gorman, CHMM, P.G.  
Environmental Due Diligence Manager

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Attachments: PEC survey and photo log





Photo #1 Facing ESE: View of the northeastern tree-covered area on the site



Photo #2 View of a suspect "stand of mature trees" in the northeastern tree-covered area on the site near the vicinity of TP 1



Photo #3 Facing ENE: View of the tree-covered stream area on the central portion of the site (south of the stream)



Photo #4 Facing ESE: View of the tree-covered stream area on the central portion of the site (north of the stream)

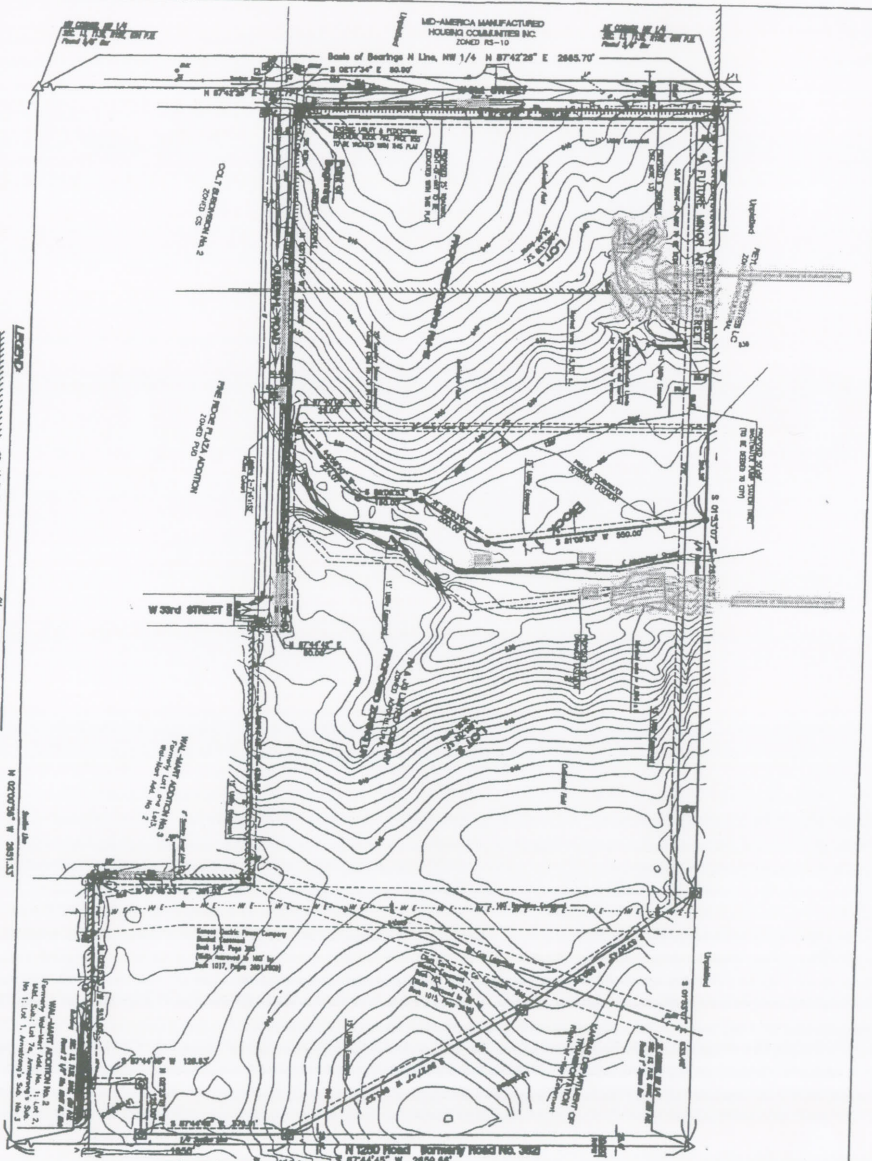
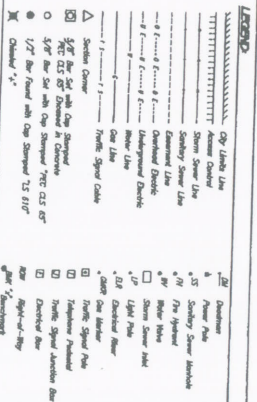


Photo #5 View of a suspect "stand of mature trees" in the central tree-covered area on the site near the stream near the vicinity of TP 5



Photo #6 View of typical trees less than 3 dbh and less than 25 feet tall in the central tree-covered area on the site near the stream





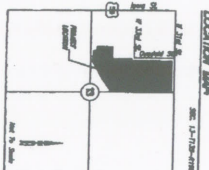
**RESEARCHERS:**


**STILLER, T. C.**  
Collected 'Y' on the underside of the leaf and the leaf  
base of *Clusia* from the wet evergreen forest along  
highway 100, 10000 ft.

**DOCKRIDGE, T. C.**  
3 227,000 (T. 12,011)  
Collected 'Y' on the underside of leaf and leaf base on  
CLT as well as on *Clusia* between 316 and 326  
ft. on CLRT

**DOCKRIDGE, T. C.**  
3 226,000 (T. 12,010)  
Collected 'Y' on the underside of leaf and leaf base on  
CLT as well as on *Clusia* between 316 and 326  
ft. on CLRT

**DOCKRIDGE, T. C.**  
3 226,000 (T. 12,010)  
Collected 'Y' on the underside of leaf and leaf base on  
CLT as well as on *Clusia* between 316 and 326  
ft. on CLRT



 **Professional Engineering Consultants, P.C.**  
416 WILSON ST. SUITE 4, LANSING, MICHIGAN 48204  
760-642-6464 / FAX 760-642-4160

[illegible]



The Exchange at Lawrence Development History:  
Annexation, Rezoning and Preliminary Plat

**Items considered at the November 2006 Planning Commission meeting for a development proposal for a one lot multi-dwelling student residential complex on the northern 24.5 acres of this property.**

**A-09-04-06; Annexation request for 13.3 acres.** The portion of the proposed 24.5 acre Exchange development which lies outside the City limits.

Planning Commission voted 10-0 to recommend approval of the annexation request subject to the condition of approval that funds would be placed in escrow for the future modification and decommissioning of the temporary pump station prior to the issuance of any building permit.

**Z-09-26-06; Request to rezone the 24.5 acres from RS10 and A to RM15**

Planning Commission voted 5 to 5 to recommend approval of the rezoning request subject to the condition of approval that a final plat be recorded before the ordinance is published. The 5 to 5 vote constituted a vote for denial. During the discussion of the item the Planning Commission indicated a desire for an update to the Southern Development Plan and an estimated time frame of 6 months was given for the plan's completion.

**PP-09-15-06; Preliminary Plat for 24.5 acres at the SW corner of W 31<sup>st</sup> Street and Ousdahl Road.** Applicant requested the plat be deferred until the December Planning Commission meeting. Planning Commission approved the deferral 10-0. The minutes of the November, 2006 Planning Commission meeting are included in Attachment E.

- *The Planning Commission initiated the development of a Revised Southern Development Plan to guide land use decisions in this area.*
- *The items listed above were not forwarded on to the City Commission.*
- *The applicant resolved KDOT right-of-way and easement issues that had prevented them from including the entire property they eventually intend to develop as The Exchange.*
- *The applicant submitted new annexation and rezoning requests and a new preliminary plat including all the property, approximately 63 acres, proposed for development as The Exchange.*

**Items considered at the June 2007 Planning Commission meeting for a development proposal for a multi-dwelling student residential complex on the northern 24.5 acres of this property and a rezoning of the southern 38.6 acres to UR (Urban Reserve) pending future development proposal.**

**A-05-04-07 Annexation request for 52 acres at 31<sup>st</sup> & Ousdahl;** The Exchange. The Planning Commission voted 7 to 1 to recommend approval of the annexation request subject to the condition of approval that funds must be placed in escrow for the future modification and decommissioning of the temporary pump station prior to issuance of any building permit.



The Exchange at Lawrence Development History:  
Annexation, Rezoning and Preliminary Plat

**Z-05-06-07 Rezoning request for 38.6 acres from County A to UR (Urban Reserve).** The Development Code requires that newly annexed properties without development proposals rezone to UR.

The Planning Commission voted 5 to 3 to recommend approval of this rezoning request subject to the condition of approval that a final plat be recorded before publication of the zoning ordinance.

**Z-05-05-07 Rezoning request for 24.5 acres from RS-10 and County A to RM-15.**

The Planning Commission voted 5 to 3 to recommend approval of this rezoning request subject to the condition of approval that a final plat be recorded before publication of the zoning ordinance.

**PP-05-06-07; A Preliminary Plat for approximately 63.111 acres;**

The preliminary plat contained 2 lots. Lot 1 would be rezoned to RM15, and Lot 2 would be rezoned to UR pending a development proposal. The Planning Commission voted 5 to 3 to approve the Preliminary Plat subject to the conditions of approval listed in the Staff Report.

The minutes reflect that the fact that the Southern Development Plan was not adopted was a concern. The minutes of the June Planning Commission meeting regarding these items and the preliminary plat are included as part of this attachment.

- *The annexation and rezoning requests and preliminary plat which were considered by the Planning Commission at their June, 2007 meeting were scheduled for the August 14<sup>th</sup>, 2007 City Commission meeting. At the meeting, the City Commission agreed to the applicant's request to defer the items. The applicant indicated they were considering submitting a revised zoning request for the southern portion of the property to replace Z-05-06-07. The City Commission voted to defer the items until the Planning Commission has had the opportunity to consider the new rezoning request. (Minutes from the August 14<sup>th</sup> City Commission meeting are included in this attachment.)*

**Items being considered by the Planning Commission at their November 2007 meeting:**

**Z-10-24A-07; Rezoning of approximately 6.7 acres from A to OS (Open Space)**

**Z-10-24B-07; Rezoning of approximately 56.44 acres from RS10 and A to RM15 (Multi-dwelling Residential)**

**PP-05-06-07; Revised Preliminary Plat for approximately 63.111 acres.**

The revised preliminary plat contains 3 lots and one tract. The requested rezonings would zone Lots 1-3 as RM15 for residential development and would zone Tract A as Open Space.



*Items 8A, 8B & 8C were discussed simultaneously.*

PC Minutes 11/15/06

**NON-PUBLIC HEARING ITEM:**

**ITEM NO. 8A: ANNEXATION OF 13.3 ACRES; 31<sup>ST</sup> & OUSDAHL (MKM)**

**A-09-04-06:** Annexation of approximately 13.3 acres located at 31<sup>st</sup> and Ousdahl. Submitted by Professional Engineering Consultants, P.A., for RA & JG Limited Company, property owners of record.

**ITEM NO. 8B : RS-10 AND COUNTY A TO RM-15; 24.5 ACRES; 31<sup>ST</sup> & OUSDAHL (MKM)**

**Z-09-26-06:** A request to rezone a tract of land approximately 24.5 acres, from RS-10 (Single-Dwelling Residential) and County A (Agricultural) to RM-15 (Multi-Dwelling Residential). The property is located at 31<sup>st</sup> and Ousdahl. Submitted by Professional Engineering Consultants, P.A., for RA & JG Limited Company, property owners of record.

**ITEM NO. 8C: PRELIMINARY PLAT FOR THE EXCHANGE AT LAWRENCE; 31<sup>ST</sup> & OUSDAHL (MKM)**

**PP-09-15-06:** Preliminary Plat for The Exchange at Lawrence. This proposed 1 lot residential subdivision contains approximately 24.5 acres. The property is located at 31<sup>st</sup> and Ousdahl. Submitted by Professional Engineering Consultants, P.A., for RA & JG Limited Company, property owners of record.

**STAFF PRESENTATION**

Mary Miller, Planning Staff, gave an introduction and overview of the planned annexation, rezoning and preliminary plat for The Exchange. Ms. Miller said that the annexation conforms to criteria set in Horizon 2020 (H2020), adequate services are established, and there is a 36 inch sanitary sewer line which will not have capacity until the Wakarusa Water Reclamation plant is on line. There is a 24 inch line further to the south which the City Utility Engineer has approved tying into. The applicant will place funds in escrow for a new pump station that will be required. The applicant will provide the lines and construct a temporary pump station which is to be connected prior to any building permits being issued. Ms. Miller said the City Engineer stated this would not pose a problem. She indicated that the Commission had received a memo from Staff which provided a revised condition for the annexation and plat.

Ms. Miller continued that the applicant is requesting rezoning of the property. The area was zoned RS1 in the late 1960's and the zoning category automatically converted to RS10 with adoption of the Land Development Code. The property is currently being used for agricultural production. To the north is an unplatted area which is a mobile home park. Directly to the west is a tire repair shop and to the southwest is Pine Ridge Plaza. Ms. Miller stated she had received public comment regarding the rezoning which listed concerns regarding traffic impact on the neighborhood and the uncertainty of the status of the South Lawrence Trafficway on stormwater drainage. She said the



proposed land use is in conformance with the Comprehensive Plan and that policies and goals recommend higher density residential.

Ms. Miller stated the preliminary plat is for one lot, multi-dwelling residential development. It provides a stormwater detention pond in the southeast corner, 50 feet of right-of-way (r-o-w) for a future minor arterial street on the east side and 25 feet of additional r-o-w for 31<sup>st</sup> Street. Ms. Miller said public comment had been received from the League of Women Voters which stated concerns about multiple buildings on one lot and suggested it should be a planned development. She said one of the conditions of RM zoning is good transportation access and Ms. Miller showed a future bikeway map. A bikeway is planned on 31<sup>st</sup> Street and to the south which would lead to the paths in the Wal-Mart area. There would be good bicycle access and it would be a good location for transit. Ms. Miller pointed out that transit routes 7 & 8 currently service the area; she spoke with the Transit Administrator who said that the Lawrence Transit System is working on coordinating with the University bus system. If that occurs, route 7 would be removed and two route 8's would be established. Staff recommends approval of the annexation, rezoning and preliminary plat.

#### **APPLICANT PRESENTATION**

Mike Berry, Professional Engineering Consultants, for applicant said that the Staff report addresses many technical issues and they agree with the amended language suggested. The applicant would request that the annexation be approved with the amended condition regarding the sanitary sewer that is addressed in the memo as opposed to the original condition contained within the Staff report. Mr. Berry indicated the applicant has no issues with the zoning conditions. In regards to the plat requirements, Mr. Berry requested adopting the amended conditions regarding the sanitary sewer and also requested reconsidering the dedication of 25 feet r-o-w for 31<sup>st</sup> Street. He said there is currently 50 feet r-o-w on this stretch of 31<sup>st</sup> Street. Mr. Berry does not want to dedicate 25 feet of r-o-w if it cannot be obtained to the east and west.

Scott Schlosser from Fairfield Residential introduced himself and indicated he is available to answer questions.

Comm. Harris asked why the word "construction" was not on the revised condition as it appeared on the original and wondered if that aspect of the condition had changed.

Ms. Miller stated the applicant would have to construct the pump station and the funds would be placed in escrow for future modifications or decommissioning of the pump station.

Comm. Finkeldei asked if the site plan does or does not show the additional 25 feet of r-o-w along west 31<sup>st</sup> Street.

Mr. Berry said the site plan did not show the additional 25 feet.

Comm. Krebs asked Staff to clarify the r-o-w issue for the Commission and asked if previous applicants have been required to provide the same.



Ms. Miller replied that Home Depot had additional r-o-w requirements and that it has been required based on the 31<sup>st</sup> Street Corridor Plan.

Comm. Eichhorn inquired why it was necessary to change from RS10 zoning to RM15.

Ms. Miller stated the RS-1 zoning was automatic. The area had automatically been zoned RS-1 when annexed and this had converted to RS10 with the adoption of the Development Code. The RM15 zoning was a more appropriate use for the area.

Comm. Krebs quoted the League of Women Voters letter which suggested concurrent zoning of RM15 and an overlay district. Comm. Krebs questioned the protocol for use of a Planned Unit Development (PUD) under the current code.

Ms. Stogsdill replied that the Code has the planned development as an overlay, not base district. In the new code there must be a base conventional district with all planned development overlays.

Comm. Krebs asked what criteria are used to determine if a planned development overlay is appropriate.

Ms. Stogsdill indicated the intent was to establish development standards that allowed development to occur in conventional districts. In the previous code, there were not as many standards in site planning in conventional districts. The general intent of the new code would be to manage these exceptions.

Comm. Krebs asked if PUD standards are now integrated into the code.

Ms. Stogsdill replied in the affirmative.

Comm. Burress asked the status of the legal protection of the Wetlands on the property.

Mr. Schlosser stated a federal permit would be required from the Corps of Engineers before any action could be taken that would compromise the Wetland area.

Comm. Erickson commented that the staff report mentioned a second phase was being considered and asked how many acres would be involved with that phase.

Mr. Berry said that the 2<sup>nd</sup> phase consisted of a 60 acre parcel to the south and showed an aerial photo of the area.

Comm. Erickson asked if the intent was to make phase 2 multi-family.

Mr. Schlosser said they may build a 2<sup>nd</sup> phase or they may sell the parcel but it will be dependent upon the success of the 1<sup>st</sup> phase of the project.



**PUBLIC HEARING**

Carol Bowen, 403 Dakota, Park Hill Neighborhood resident, stated that she was involved in forming the original Louisiana Street Traffic Calming Coalition. She said she has read all of the information and comments printed in the Lawrence Journal World and feels an assumption has been made that all residents will be students. Ms. Bowen thinks that it is not going to be that clear cut and that there may be residents that are not students. She said another assumption is that residents will use Iowa to get to campus and pointed out that students have a life in between classes with flexible schedules. She stated that Louisiana Street will be the main corridor to campus, grocery stores and restaurants. Ms. Bowen said there are long held beliefs that Louisiana should be widened to campus but various pressures do not allow that to happen. There is limited access to the neighborhood via Park Hill, Utah or Dakota. She said Vermont Street is no longer safe as cars stack up and add to the visibility problem. Ms. Bowen stated the assumption that traffic will not use Louisiana Street is not valid as the claim was made before regarding Target, Wal-Mart and Home Depot. She said there are not enough through streets in the area. Ms. Bowen stated that with the limited access to the neighborhood, the 4 schools in the area and the multitude of driveways, widening Louisiana Street would not be easy and left turn lanes would not work well. She said that the neighborhood had, in the past, received assurances that there would be no commercial development east of Home Depot.

Comm. Jennings asked Ms. Bowen about being told in the past that commercial development would not creep east and how that statement relates to this project.

Ms. Bowen replied that the size of the development and density is worrisome.

Mike Carron, 315 Park Hill Terrace, President of Park Hill Neighborhood Association, said there are over 200 households in the neighborhood and they are all concerned about how imprisoned the neighborhood is becoming. There are many driveways that back directly onto Louisiana and the new schools are impacting traffic. He believes the neighborhood is reaching the saturation point and traffic is becoming a safety concern. There is increased difficulty getting in and out of the neighborhood, particularly during rush hour.

Comm. Burress questioned whether stoplights on the intersecting streets would be a potential solution.

Mr. Carron replied that he was not sure. He said it may help residents exit their driveways but it may exacerbate traffic issues.

Jeanne Ellermeier, 2529 Arkansas, Indian Hills Neighborhood Association, said she has lived in this location for 42 years. She stated she is very concerned with the traffic issues regarding this project. The developers have spoken to the neighborhood association and the time they spent was appreciated but she does not feel the traffic impact has been sufficiently addressed. She said the comparison of the development to an office area is not correct. With 888 bedrooms, not all residents would depend on the bus service to get around the city. The hours of travel will not be just during office hours. Ms. Ellermeier does not believe Louisiana Street can handle the traffic it already



has and stated there are larger implications to the City in a decision to recommend approval. She stated the City is at a crossroad in all of southern urban development in Lawrence and urged the Planning Commission to be careful of the precedence their decision will set.

Joyce Wolf, 2535 Arkansas, Indian Hills representative, referenced a September 2000 letter sent to the City urging a comprehensive plan for the south side of Lawrence. She stated there are external pressures on the City to go forward with development to avoid being characterized as hostile to development. Ms. Wolf said being asked to approve a large apartment complex without a future plan is haphazard development and asked if this is what is wanted for the south side of Lawrence. She stated she would like to see this request put on hold until the Southern Development Plan, which is 20 years old, is updated. Ms. Wolf said there seems to be an excess of rental vacancies and suggested the City perform a study similar to the Commercial Study of the downtown area to answer the question of what impact rental units will make to this neighborhood as well as the other rentals in the City. Ms. Wolf asked the Planning Commission not to approve the requests as it would add to the haphazard manner of development in the area and suggested the Commission instead initiate a land use plan for the south side.

Comm. Finkeldei asked if the Indian Hills Neighborhood Association was involved with the 31<sup>st</sup> Street Corridor Study.

Ms. Wolf said she did not believe the members were asked to take part in the study. She said she would like the neighborhoods to be part of the process and stated that studies have been done for other areas and she believes it is their turn.

Comm. Lawson asked the status of the Southern Development Plan (SDP).

Ms. Stogsdill answered that the SDP was initiated in the middle of the H2020 process. It was done in the mid 1990's when Target was proposed in Nieder Acres. She said there was a similar request for property adjacent to this site to have a development in 2000 and the request was made for the City to look at updating the SDP. At the same time, staff was working on the H2020 amendment that expanded the Urban Growth Area (UGA). That amendment was adopted in January 2004 and intended to combine the SDP update with a sector plan for the southern UGA. Ms. Stogsdill stated the plan is on the long term planning list and has not risen to the top. She commented that the Southeast Area Plan is not complete and five H2020 chapter updates are in process and not yet complete. The 6<sup>th</sup> and Wakarusa Plan, the 6<sup>th</sup> and Nodal Plan, the Northwest sewer planning have taken up most of the staff's time in the last 3 years. Ms. Stogsdill stated that H2020 addresses the area and it is not totally unplanned. She said Staff has begun to look at the UGA and has a contract with Placemakers to have charettes looking at southern UGA and western UGA, however, not everything will be planned at that time.

### **CLOSING COMMENTS**

Mr. Schlosser said that in response to Ms. Bowen's comment about the type of resident that will be living in the development, this is a student project and for students only. The space will be rented by the bedroom, will be fully furnished with a common kitchen



area and students parents will have to co-sign the lease. There will be quarterly inspections, extensive recreation facilities and will be a gated community accessible by card only; this is not a typical rental situation. Mr. Schlosser stated that he understood Park Hill's traffic concerns but there is nothing they can do to correct the existing issues. He said the conditions that are part of approval provide r-o-w, agreements not to protest benefit districts for road and intersection improvements. R-o-w will be dedicated on 31<sup>st</sup> Street and new infrastructure will be installed. Mr. Schlosser referenced the Traffic Impact Study which indicates no significant impact on the current traffic conditions. All traffic will be directed on to Ousdahl, not to 31<sup>st</sup> Street. There are numerous amenities within walking distance and the development will be serviced by public transit systems. Mr. Schlosser stated not many students will be driving to the University as there are few new parking permits being issued and there is a new Park and Ride lot at Clinton Parkway and Iowa. Traffic will be scattered due to varied student schedules and the estimate is that there will be 2100 trips daily. Mr. Schlosser said that under H2020, this area was earmarked for office and industrial use which would have resulted in an additional 2404 daily trips. He said Fairfield researches the area prior to submitting an application and would not be in front of the Planning Commission if there was not a strong indication that the development will be successful.

Comm. Burress asked if Fairfield does any brownfield development or if the projects are primarily greenfield developments.

Mr. Schlosser answered that they do brownfield development but not as frequently. Fairfield performs a full review of environmental, historical and archeological factors as well as wetland studies and jurisdictional studies. Fairfield also tries to maintain mature trees.

Comm. Harkins asked Mr. Schlosser to comment further on the affect of the additional 25 foot r-o-w dedication.

Mr. Schlosser replied that giving up the r-o-w could be accommodated by reusing their site plans but would like to ensure this is something the City will actually need. Mr. Schlosser stated he was not certain others on the same side of the street have dedicated the r-o-w and would prefer not to give up the r-o-w.

Comm. Burress questioned whether there are hydric soils outside of the wetland area.

Mr. Schlosser answered that there were not hydric soils, just the Wetland. He said that a jurisdictional wetlands study was done, the area has been farmed and the development will stay out of the stream and riparian area.

Comm. Harris asked what percentage of the traffic is predicted to utilize 31<sup>st</sup> Street.

Mr. Berry displayed a diagram, Figure 5, from the Traffic Impact Study which showed existing traffic conditions obtained from the City Traffic Engineer in morning and evening peak hours.

Comm. Harris questioned whether there will be significantly more trips going east rather than west to Iowa Street.



Mr. Berry replied that assumptions are made and modeled on existing traffic patterns. He said there will be a significant amount of traffic going up Ousdahl which is the established traffic pattern.

Comm. Jennings asked if there was really any way of presuming how much of the traffic would be headed east using afternoon peak hours.

Mr. Berry referenced the existing traffic at that location.

Comm. Finkeldei asked Staff to explain the 31<sup>st</sup> Street Corridor Study.

Ms. Miller stated that the Study looked at different alignments of the South Lawrence Trafficway (SLT) and at what 31<sup>st</sup> Street would need to be in the future. The City stated an additional 50 feet of r-o-w would be needed for future improvements to 31<sup>st</sup> Street.

Ms. Stogsdill said that the Commission saw residential development occurring just west of Mary's Lake and the requirement to provide r-o-w for that development was in accordance with the 31<sup>st</sup> Street Study. The additional r-o-w will be necessary to improve 31<sup>st</sup> Street. The residential development near Mary's Lake was required to provide the additional r-o-w.

Comm. Burress asked where the minor arterial on the east is going to go to in the south.

Ms. Stogsdill replied that it is conceptual as an alternate location for Louisiana should the 32<sup>nd</sup> Street alignment occur.

Comm. Krebs asked the applicant to address the comment that an office or industrial use will produce 2400 more trips daily. She questioned what size office complex, in square footage or number of workers, would account for 2400 additional trips.

Mr. Berry answered that traffic generation for office versus residential is a standard set by the manual from the Institute of Traffic Engineers. The manual provides formulas used to calculate standard daily trips dependent upon usage of the land. Office park use is calculated at 195 trips per acre, multi-family residential at 6.63 trips per dwelling unit.

Comm. Eichhorn questioned whether the office calculations were based on the area in phase 1 or included phase 2.

Comm. Haase stated that he did computations using the square footage of the office building and applied 11 trips per 1000 square feet. He looked at weekly trip generation and converted it to daily. Comm. Haase said it seems the applicant used the square footage of the entire site to calculate trips per day and computations should be limited to the square footage of the buildings only.



Comm. Burress asked how Staff makes recommendations when the questions posed are more discretionary and have to do with good public policy; should applicants be approved if there is no code preventing the approval of their application.

Ms. Miller replied that this project is seen as transitional and a lesser intensive use between commercial and residential as recommended by H2020.

Comm. Burress asked about how Staff analyzes land use and timing.

Ms. Stogsdill said that H2020 talks about having infrastructure concurrent with development. This can be served by streets and infrastructure. The Utilities Department stated a temporary pump station is appropriate at this location. H2020 does have language about analyzing commercial impact in an area but not the impact of multi-family development. This is not a new question. In the 1990's there was a huge influx of building permits and an unusual number of apartments built in one year; the Commission had discussions about how much apartment development should be allowed. There is no current policy on which to base those decisions.

Comm. Burress stated there is direction that wherever possible infill development should be utilized to maintain the quality of housing stock and that growth should be controlled. He asked if the Planning Commission could logically find, on that basis, that the timing for this project is not right.

Ms. Stogsdill replied that the Planning Commission has unlimited authority to recommend.

Comm. Eichhorn asked if there is anything in the Comprehensive Plan relating to student housing being closer to campus.

Ms. Miller said she did not see anything directly relating to student housing.

Comm. Burress asked if there was anything regarding minimizing driving distances.

Ms. Miller replied that there was not.

Comm. Krebs stated that she felt the recommendation for approval was based on appropriate transition as supported by H2020 and asked for clarification of what was meant by appropriate transition.

Ms. Miller said that the UGA map in H2020 looked at the southern portion and area directly to the east of this parcel and that H2020 recommended either residential or office usage.

Comm. Burress questioned whether there is enough code in place to protect what happens inside the parcel pertaining to setback rules for buildings, emergency access road rules, etc.



Ms. Miller replied that the fire code addresses issues regarding space between buildings and access. The new development code includes design standards in the site planning process.

Comm. Burress asked if the code addresses setback between buildings and pedestrian access.

Ms. Miller said there is not a provision for setback between buildings but there are additional standards in the Code on open space requirements and adequate pedestrian access is required as part of the site plan.

Mr. Schlosser stated the Fair Housing Standards require handicap accessibility and International Building Code dictates required setbacks.

Comm. Harris asked for clarification on the current level of service and proposed level of service for Louisiana Street.

Mr. Berry referred to Table 1, Row 4 of the Traffic Impact Study and stated that in the morning peak hours, level of service are at C & F. After development, the level of service will remain at C & F. He explained that in the grading system, A is good and F is a breakdown which includes long delays, traffic and queues. C is an acceptable grade at a peak hour.

Comm. Harris asked if the Traffic Impact Study looked at the traffic moving north on Louisiana.

Mr. Berry said it did not as City guidelines ask the Study to look at intersections, not mid-points.

Comm. Harris asked if the prediction was that more traffic would be going straight east rather than north.

Mr. Berry replied that was correct and based on existing traffic patterns.

Comm. Krebs pointed out that eastbound traffic is predicted to increase and that for a student-only development it is unlikely that students will be traveling east.

Comm. Finkeldei stated that most students do not travel at the peak morning hours and the Study shows peak morning hours.

Comm. Burress said that if building on the periphery is not prevented, it is where things get built as it is less expensive for the developers to build there. If building on the periphery is unrestrained, the center of the City will be affected. He asked if Staff concurred that there is an overcapacity of rental dwellings with a 10% vacancy.

Ms. Stogsdill replied that she did not know the current vacancy rate.



**COMMISSION DISCUSSION**

Comm. Jennings said he did not have a problem with the 25 foot r-o-w if it had been requested of others. His feeling is that it had not as it would not have been possible to the west. Comm. Jennings recalled that this area was recommended for use as high density residential in the past, there had been an application that wanted more intense retail uses and it was denied. He said that there was similar development on the west side of Iowa, behind Target, and that this type of request is not without precedence.

Comm. Harkins stated the argument and concern about the traffic situation is real. He thought it compelling that the University has made efforts, through the Park and Ride program, to provide off-campus parking. Comm. Harkins said this location will provide access for residents walking to restaurants, shopping and theaters and will reduce vehicle miles traveled compared to developments built without these services. He said the Commission should be concerned about vehicle miles traveled in the future and that he was generally impressed with the good use of this project.

Comm. Erickson commented that this seems to be incremental development without a plan. She said she was disappointed with the site plan and the traffic patterns in the area should be more closely studied before developing the area.

Comm. Haase said that the City Commission saw similar development on the northwest side and ordered an area plan. The 31<sup>st</sup> and Iowa area will fail as the City continues to develop which will add to the F level of service at 31st and Louisiana. He stated there will be severe traffic problems in this corridor. He said he will support rezoning to urban reserve and make it a priority to develop an area plan to realistically assess traffic impact.

Comm. Harkins commented that the Planning Commission is responsible for doing the planning. He said development should not be stopped because the job of crafting the report has not been accomplished. Comm. Harkins said he would not have trouble putting this area at the top of the list but he felt one project would not harm what is already existing. He asked Comm. Haase if Transportation 2030 (T2030) is considering this issue.

Comm. Haase responded that this is not an issue the Transportation Committee will take on directly. T2030 is working on broad land use projections and transportation infrastructure; this is a bit beyond the T2030 scope. He said the need for a temporary pump station signals the development, is premature and the City is 4 years out from being able to service sewer at this site.

Comm. Harkins stated there is an existing sewer on the site that City Engineers have indicated will work.

Comm. Haase replied there is less priority in planning this area because it cannot be served with the existing sewer.

Comm. Finkeldei commented that it is ironic that if the entire tract was developed at once the property would hook into the 24 inch sewer system.



Comm. Haase replied that the temporary pump station would still be necessary to get through to the sewer line.

Comm. Jennings said, in regards to the area plan for the corridor, after this property there is not much left to plan as much of the remaining area is wetlands. He questioned what is left that is development-related.

Comm. Haase stated the area immediately east to Louisiana has substantial room for development as does the area north of 31<sup>st</sup> Street from Home Depot to Louisiana and has the potential to exacerbate traffic issues.

Comm. Harkins questioned how to solve a traffic problem that already exists by stopping this and every other project in this area of the city to develop a plan. He asked if development is stopped to create an area plan, what changes.

Comm. Haase responded that an area plan would look at build out scenarios and traffic implications in the area which would provide information on what projects are feasible. He continued that the City's expenses could be quantified and development could be asked to defray the costs.

Comm. Krebs stated with the timing of the development it is within Planning Commission's purview to say that changing zoning is not appropriate at this time.

Comm. Finkeldei said that the plans are consistent with H2020 and there is not a plan in place for the area to deal with existing traffic issues. He suggested looking at benefit districts and perhaps asking existing merchants to help defray costs of a benefit district. Comm. Finkeldei stated that Staff and the applicant have anticipated future issues and have addressed how to fix them.

Comm. Eichhorn stated he was conflicted regarding the rezoning from RS10 to RM15.

Comm. Krebs cited the H2020 land use map which shows office, industrial or warehouse use. The text is the only thing identifying that the area could be higher density residential.

Comm. Harkins asked for clarification that the current zoning was a "holding zone".

Ms. Stogsdill replied that it was and the process of automatically zoning newly annexed property to RS-1 stopped in the 1990's.

Comm. Krebs said that infrastructure is a general issue the Planning Commission deals with on a regular basis and that timing is frequently a struggle and whether development pays for itself. She commented that there now exists a situation in which Lawrence is catching up for years when development was a little ahead of its time. Comm. Krebs stated H2020 does not indicate timing of development or give a chronology and she believes this plan does not address finer details. She said in the long term there are substantial areas still undeveloped that will affect traffic and development will need to catch up.



Comm. Jennings stated that he is not sure whether development is ahead of sewers or sewers are behind development. He said he feels this is an appropriate use for the area.

Comm. Harris questioned how long it typically takes to complete an area plan.

Ms. Stogsdill replied best case scenario, 4-6 months.

Comm. Krebs asked what type of detail and guidance for long term infrastructure could be expected from an area plan.

Ms. Stogsdill said it varied but there have been plans which included specific timelines regarding development and infrastructure such as 6<sup>th</sup> and K-10 which indicated building permits could not be issued until the 6<sup>th</sup> Street improvements were complete. She also stated part of the timing is gathering property owners for public input and pointed out that Placemakers will be in the area doing charettes at the end of January.

Comm. Haase noted that the northwest nodal plan (6<sup>th</sup> Street and K-10) is a better benchmark plan.

Comm. Finkeldei commented that the plan will ultimately say the 31<sup>st</sup> and Louisiana corridor is failing and that the traffic problem must be fixed. He said the ability to solve the issue will be a huge problem which will take a great deal of time and it will take even more time to get an agreement on how to implement plans which will continue to hold up development. He asked if there would be a delay until a plan has been developed or until the problem is solved. If the Commission wants to restrict development until traffic in the area is fixed, the applicant should be advised accordingly.

Comm. Krebs stated that wise planning would be to solve the issues before making land use decisions.

Comm. Haase said part of planning is understanding fiscal constraints. He questioned who will pay if the land is developed at this density and with infrastructure needs. He believes the community needs to know the ramifications and costs of such decisions.

Comm. Lawson stated he was conflicted and empathized with the neighbors who spoke to the traffic issues on Louisiana Street. He said he would be inclined to be supportive but not with great enthusiasm as he could see many of the obstacles to the development and is not certain it can be supported from a pragmatic standpoint.

Comm. Harkins commented that this is a fairness issue. The rules, land, interest, development and Staff recommendations all concur and the Planning Commission is not saying "yes" because necessary planning has not been done. He said this one project will not define the future of the region and that this project meets all standards. Rather than allowing developers to go to the time and expense of going through the process and taking Staff time, say yes to the project and give other developers a warning that



there would be no further development approved until an area plan is completed, then do more area planning after.

Comm. Haase stated that zoning is a privilege and this request should be considered in light of many factors in order to make a recommendation to the governing body. He said one test is the impact of development on the area and that timing of the development may be at issue as well. Comm. Haase felt the Planning Commission was being asked to look at a fairly high density multi-family project before having the information needed to provide proper direction.

#### **ACTION TAKEN**

Moved by Comm. Lawson, seconded by Comm. Finkeldei, to recommend approval of the requested annexation of approximately 13.3 acres located at the southeast corner of the intersection of W 31<sup>st</sup> Street and Ousdahl Road and forwarding it to the City Commission with a recommendation for approval based on the findings found in the body of the staff report subject to the condition as revised in the Staff Memo:

1. Prior to issuance of any building permit the funds must be placed in escrow for the future modification and decommissioning of the temporary pump station.

#### **COMMISSION DISCUSSION**

Comm. Burress asked if there was an obligation to move forward on the zoning and preliminary plat if the property is annexed and if there is an obligation to have a plan to handle the infrastructure.

Ms. Stogsdill replied that there is an obligation if the annexation is unilateral but it is not the case in this request.

Comm. Harkins stated the annexation, rezoning and preliminary plat are a package and questioned whether the applicant would want the property annexed if the rezoning and preliminary plat are not approved.

Comm. Burress asked the applicant if it was known that the rezoning and preliminary plat would be denied, would they want the annexation denied as well.

Ms. Stogsdill replied that the Planning Commission makes the recommendation and the City Commission will make the decision regarding this action. The applicant has the ability to pull the items off of the City Commission agenda.

Comm. Haase stated his belief that the annexation is in the public's best interest and is appropriate at this time.



**ACTION TAKEN**

Motion on the floor was to recommend approval of the requested annexation of approximately 13.3 acres located at the southeast corner of the intersection of W 31<sup>st</sup> Street and Ousdahl Road and forwarding it to the City Commission with a recommendation for approval based on the findings found in the body of the staff report subject to the following revised conditions:

1. Prior to issuance of any building permit the funds must be placed in escrow for the future modification and decommissioning of the temporary pump station.

Motion passed unanimously, 10-0.



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*Items 8A, 8B & 8C were discussed simultaneously.*

**ACTION TAKEN ON Z-09-26-06 (Item No. 8B)**

Moved by Comm. Lawson, seconded by Comm. Finkeldei, to recommend approval of the 24.5 acres from RS10 (Single-Dwelling Residential) and County A (Agricultural) Districts to RM15 (Multi-Dwelling Residential) 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 and subject to the following condition:

1. Recording of a final plat prior to publication of the rezoning ordinance.

**COMMISSION DISCUSSION**

Comm. Burress stated he will not vote for the rezoning due to the timing. He said the area will be developed but feels it is premature to do so at this time due to an absence of an area plan and the negative impact to the City in discouraging future infill development. He stated traffic impact is a consideration but not a sufficient reason to vote against the rezoning.

Comm. Eichhorn noted that there are times the applicant has been asked to change to lower density.

Comm. Krebs stated her rationale for voting against is not about specific density but about the timing of the project.

**ACTION TAKEN**

Motion on the floor was to recommend approval of the 24.5 acres from RS10 (Single-Dwelling Residential) and County A (Agricultural) Districts to RM15 (Multi-Dwelling Residential) 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 and subject to the following condition:

1. Recording of a final plat prior to publication of the rezoning ordinance.

Motion failed, 5-5, with Comms. Eichhorn, Finkeldei, Harkins, Jennings and Lawson in favor and Comms. Burress, Erickson, Haase, Harris and Krebs in opposition.



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**ITEM NO. 9A: ANNEXATION OF 52 ACRES; 31<sup>ST</sup> & OUSDAHL (MKM)**

**A-05-04-07:** Annexation of approximately 52 acres located at 31<sup>st</sup> & Ousdahl. Submitted by Professional Engineering Consultants, P.A., for RA & JG Limited Company, property owner of record.

**STAFF PRESENTATION**

Mary Miller presented the item. She discussed item 9A-9D together.

**APPLICANT PRESENTATION**

Steve Stamos, of Fairfield Residential, stated that Fairfield Residential is a national developer and they have two very strong financial partners that back them. He showed a slide show of different types of housing projects that they have developed in other areas and a conceptual plan of this proposal.

He said there would be no access to 31<sup>st</sup> or Louisiana but that there would be two access points to Ousdahl. He showed on a map where the detention center would be on the property at 31<sup>st</sup> & Ousdahl.

He went on to say that this would be a gated community with onsite management 24 hours a day, 7 days a week (some of their other projects provide private courtesy lodging for police officers), and an intended bus stop on site. He also stated there would be quarterly inspections of each unit.

He provided a chart showing "intersection level of service delay thresholds." He showed traffic studies that show traffic will not become worse due to the development. There was only one drop in service, from A to B.

Mr. Stamos would like for conditions 4 & 5 (j & k) on the Preliminary Plat Staff Report to be stricken. He would prefer those conditions be applied in the future when the rezoning is changed for the southern part of the tract. He would like further discussion on condition 5f and was willing to make that part of the future rezoning. He also did not feel that condition 5l asking for a roundabout was appropriate. He would like all of these conditions deferred until future rezoning.

Commissioner Harris asked Mr. Stamos what year the traffic study trip generation used to calculate peak hours was done.

Mr. Stamos replied, November, 2006.

Commissioner Harris wanted clarification on level of service F. She stated that there was nothing lower than F so you could add another 100 seconds to that level and it would still remain F.

Tom Swenson, TransSystems, stated that F was the lowest level and there was some uncertainty once that threshold is reached because beyond an F would be difficult to predict.

Mr. Stamos said that trips being generated was an additional 15 trips during morning peak time.

**COMMISSION DISCUSSION**

Commissioner Finkeldei inquired to Staff about the roundabout at 33<sup>rd</sup> & Ousdahl.

Ms. Miller stated that the roundabout was a recommendation by the City Traffic Engineer.

Commissioner Finkeldei thought that the roundabout was on the 31st Street corridor plan.

Ms. Stogsdill said that is the standard improvement when you have a collector intersection.



Commissioner Lawson wanted to know if Staff had additional thoughts about the requests the applicant made about striking conditions.

Ms. Miller stated that ROW was usually dedicated with the Plat, so unless the developer was planning on replatting, when they rezone the southern portion, the conditions in the Staff Report were appropriate.

Commissioner Harkins asked if there was any reason why 33<sup>rd</sup> & Ousdahl could not be extended.

Ms. Miller said there was nothing that would stop the road from being extended to the east.

Commissioner Eichhorn stated that the tire company on 31<sup>st</sup> Street encroached upon the ROW.

Ms. Miller said that the ROW is what the corridor study recommends and that other new development were referred to provide the additional ROW.

Commissioner Jennings asked the applicant about replating.

Mr. Stamos stated that they are asking for the southern tract to be rezoned to preserve their rights for water since rezoning it would allow them the right to a pump station. He said that they have not even thought out the development for the southern part of the tract and would prefer more time to think about it.

Commissioner Harris inquired about density for the zoning.

Ms. Miller stated that the plan that the applicant submitted showed about 13.5 units per acre. The zoning district permits up to 15 units per acre.

#### **ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Lawson, to approve the requested annexation of approximately 52 acres located at the southeast corner of the intersection of W 31<sup>st</sup> Street and Ousdahl Road and forwarding it to the City Commission with a recommendation for approval based on the findings found in the body of the staff report subject to the following condition:

1. Prior to issuance of any building permit the funds must be placed in escrow for the future modification and decommissioning of the temporary pump station.

Motion carried 7-1, with Commission Harris voting in opposition. Student Commissioner Robb voted in favor.



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**ITEM NO. 9B: RS-10 & COUNTY A TO RM-15; 24.5 ACRES; 31<sup>ST</sup> & OUSDAHL (MKM)**

**Z-05-05-07:** A request to rezone a tract of land approximately 24.5 acres, from RS-10 (Single-Dwelling Residential) & County A (Agricultural) to RM-15 (Multi-Dwelling Residential). The property is located at 31<sup>st</sup> & Ousdahl. Submitted by Professional Engineering Consultants, P.A., for RA & JG Limited Company, property owner of record.

**STAFF PRESENTATION**

Mary Miller presented the item. She discussed item 9A-9D together.

**PUBLIC HEARING**

Jeanne Ellermeier, 2529 Louisiana, appreciated the applicant giving a presentation to neighbors. She said the traffic will still be a problem with over 800 beds of upscale students which she did not feel would take public transportation bus system. She did not agree that this would not increase traffic along 31<sup>st</sup> Street and that the entire area has a lot of decisions still to be made with the Southern Development Plan. She felt it would be beneficial to see the Southern Development Plan first before deciding on the proposal. She wanted the larger picture to be considered, not just a single development. She thought that The Exchange might be okay under some circumstances, but until that area was planned out in a way that would benefit the entire city, she wanted the project deferred.

Joyce Wolf, Indian Hills Neighborhood Association, agreed with the League of Women Voters letter. She also agreed with Ms. Ellermeier regarding the Southern Development Plan. She did not believe that the majority of trips would go out on Iowa. She felt that students would go other places besides campus so there would be traffic concerns. She was also concerned about the site layout and would like to have seen the Site Plan prior to this evening. She also expressed concern about the impact on the nearby wetlands. She did not feel it was an appropriate location and the proposal should come back before Planning Commission after the Southern Development Plan was complete.

Commissioner Eichhorn asked Ms. Wolf if she attended the neighborhood meetings with the developer.

Ms. Wolf said, yes, and that they went reasonably well and she had the opportunity to ask the developer questions. She appreciated the applicant taking the time to inform the neighborhood on what they planned to do.

Ms. Stogsdill stated that there had not been a Site Plan submitted to the Planning office so there was no Site Plan to review at this time.

Betty Lichtwardt, League of Women Voters, was concerned about consistent Staff interpretation of the new Development Code. She stated that the proposed Site Plan was not binding and that this type of conventional development was a major concern for the League of Women Voters because when a rezoning is approved, plat conditions are based on what the Ordinance permits. Only with a Planned Development Plan can you place conditions that would guarantee that it would be developed in that way. With zoning, if the development falls through then the zoning is still in place. She was also concerned because the area planning was still underway.

**APPLICANT CLOSING COMMENTS**

Mr. Stamos stated that this is a student project and that the addendum to the TIS study shows that for the most part students would be traveling at off times and would use the bus system. He went on to say



that the Site Plan that showed the buildings had not changed from when it was showed to the Indian Hills Neighborhood Association. He stated that they were extremely sensitive to the wetland area and they have done multiple studies to not encroach on the wetlands. They are also working to minimize their impact on the Riparian area on site. He said that according to Federal law they cannot do anything that would have detrimental effect on the wetlands. He also stated that the west side of Iowa had similar transition use of multi-family between commercial and lower density residential.

### **COMMISSION DISCUSSION**

Commissioner Finkeldei inquired about the Site Plan process.

Ms. Miller stated that the Site Plan will go to different City departments for review and those get returned to Planning with comments. Staff would then make recommendations to the applicant and the applicant would give Staff a revised plan. The applicant would then have a certain amount of time to get a building permit.

Commissioner Harkins inquired why Staff proposed to move ahead with this project prior to the Southern Development Plan being complete.

Ms. Miller stated that it was not known when the Southern Development Plan would be adopted.

Ms. Stogsdill stated this was similar to the Southeast Area Plan. An area was permitted to develop, which was a suitable development. Staff discussed this internally and decided to treat this development similarly.

Commissioner Harkins asked about the new transportation plan.

Ms. Stogsdill stated that during the next T2030 discussion it will be an overall broad look at what improvements are needed for the entire community and that 31<sup>st</sup> Street has already been identified for improvement.

Commissioner Eichhorn asked why an area plan was required sometimes but not always.

Ms. Stogsdill replied that if it were in a fringe area then that would be the time to wait and examine that area but there is a history of looking at this area and it is an infill site.

Commissioner Harris asked Staff to address the letter from the League of Women Voters.

Ms. Miller went over the points of the letter and agreed the area plan had not been completed.

- *This is an application for rezoning to an RM District. There is much that is still not regulated in conventional RM districts.*
- *The potential population concentration would be inordinately high in this location in the city.*
- *The proposal was presented earlier and was rejected as being premature. The sewerage was inadequate, and the area planning was in process. This situation has not changed, and requires that the developer build a pump station.*
- *The traffic study indicates that most of the traffic will use Iowa Street rather than Louisiana. We suggest that this burden on 31<sup>st</sup> Street, especially at the overloaded corner of 31<sup>st</sup> & Iowa, could have the same negative impact on the city as the potential problems for the neighborhoods bordering Louisiana.*



- *Adding to the existing surplus of new apartments could cause the student population, where they now have access to the Downtown, to shift to the periphery of the city with potentially negative effects on the CBD.*

Commissioner Moore asked Staff if conditions 4 & 5 are typically done in the platting process.

Ms. Miller said the agreement was very common and that they are agreeing not to protest the benefit district.

Commissioner Harkins asked what the process to get the solution to traffic was.

Ms. Stogsdill replied that there are multiple processes. One would be to have a decision east of Iowa that would allow for street improvements to proceed. If that decision were made then decisions as to what kind of improvements would be necessary at 31<sup>st</sup> and Louisiana would come forward in a CIP plan and then typically put in TIP, which would be determined through Public Works how it would be funded.

Commissioner Harkins asked if the process would move through the Public Works Department.

Ms. Stogsdill replied, correct.

Commissioner Jennings stated that all four sides of the project were in the County.

Ms. Stogsdill said the City would need to annex the property.

Commissioner Eichhorn asked if the extension of the sewer system was normal.

Ms. Stogsdill replied, yes.

Ms. Miller said that the applicant would not be providing their own sewer, they will still use city sewer; the applicant is just providing their own extension to the city sewer.

Commissioner Finkeldei inquired about dedicating the roads because the typical process was to dedicate at the platting stage. He wanted to know if the plan changes later but the road has not been built, how they would take that into account.

Ms. Stogsdill said that it could be vacated and realigned with a future plat. Typically if there was some change in alignment, someone who purchases the property and moves forward with development would know that intention upfront. Realignment would not be difficult, if the developer did not want the road to extend, that might be difficult.

Commissioner Finkeldei stated that none of the previous plans predicted low density residential, and did not feel it would be appropriate to stay low density with commercial zoning across Ousdahl. He did not feel that more commercial was needed and thought that medium density was a very rational use for the location. The Southern Development Plan still has to go to City Commission and County Commisison so it would be a while before it was passed. He was not sure that T2030 could do anything for the intersection of 31<sup>st</sup> & Louisiana and that there was not a great solution for the intersection. He agreed that more traffic would go down Iowa but that the only alternative would be to wait until 31<sup>st</sup> & Louisiana was fixed to approve this project, which may not be for quite some time. He felt that this would have a minimum impact during AM & PM peak hours.



Commissioner Jennings agreed with Commissioner Finkeldei and felt the fix would be to add a bypass. A surface street would probably not fix the intersection. 31<sup>st</sup> & Iowa works well now and he has used it for 30 years and felt that the intersection was working the best it has ever worked. The Southern Development Plan that is in the works was showing medium density in this area.

Commissioner Harkins voted in favor of the project last time and was not concerned about the traffic at 31<sup>st</sup> & Iowa. He argued that the area plan being out of date was the Planning Commission's fault and recommended action be taken. He stated there was some degree of rationale in his mind to stall the project since the area plan was not done yet. The Planning Commission announced that they were doing an area plan and appeared to be sincere about creating a plan, if the Planning Commission made a decision right in the middle of creating this plan they may damage the Planning Commission institution in the public eye. He did not want to hold up development but was concerned about the credibility of the Planning Commission in the public's view.

Commissioner Eichhorn stated that the area plan was in the process and he agreed with Commissioner Harkins.

Commissioner Moore asked if there was no area plan when the project came to Planning Commission previously.

Commissioner Eichhorn said that there was an area plan but it was outdated.

Commissioner Finkeldei felt it was appropriate to move forward because the application came forward when the Southern Development Plan was outdated. The applicant returned after the time-frame he had been given for completion of the plan and the Southern Development Plan is not done, so he did not feel it set precedence.

Commissioner Harris agreed with Commissioner Harkins. The area plan was taking longer but it was being done in good faith and 6 months ago they had to guess at how long it would take. She felt the plan was a big project and the Planning Commission should wait for it to be in place before approving this project.

Commissioner Jennings agreed with Commissioner Harkins too and felt that if the applicant was trying to sneak this in prior to the completion of the area plan then he might feel differently, but since the use was compatible with uses being recommended in the 'draft' plan, there was no opposition to the 'Land Use' but all opposition was related to traffic. The Southern Development Plan would not affect the traffic issue.

#### **ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Moore, to approve the rezoning request [Z-05-05-07] for 24.5 acres from RS10 (Single-Dwelling Residential) and County A (Agricultural) Districts to RM15 (Multi-Dwelling Residential) 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 and subject to the following condition:

1. Recording of a final plat prior to publication of the rezoning ordinance



Motion carried 5-3, with Commissions Eichhorn, Harkins, and Harris voting in opposition. Student Commissioner Robb also voted in opposition.

0-02-08-07: A request to rezone a tract of land approximately 38.6 acres, from County A (Agricultural) to UH (Urban Reserve). The property is located at 31<sup>st</sup> & Oushah. Submitted by Professional Engineering Consulting, P.A., for RA & JC United Company, property owner of record.

STAFF PRESENTATION  
Staff will present the item. She discussed item 9A-9D together.

ACTION TAKEN  
Motioned by Commissioner Finkels, seconded by Commissioner Lawson to approve the rezoning request [0-02-08-07] for 38.6 acres from County A (Agricultural) District to UH (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 and subject to the following condition:

1. Recording of a final plat prior to publication of the rezoning ordinance.

Motion carried 5-3, with Commissions Eichhorn, Harkins, and Harris voting in opposition. Student Commissioner Robb also voted in opposition.



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**ITEM NO. 9C: COUNTY A TO UR; 38.6 ACRES; 31<sup>ST</sup> & OUSDAHL (MKM)**

**Z-05-06-07:** A request to rezone a tract of land approximately 38.6 acres, from County A (Agricultural) to UR (Urban Reserve). The property is located at 31<sup>st</sup> & Ousdahl. Submitted by Professional Engineering Consultants, P.A., for RA & JG Limited Company, property owner of record.

**STAFF PRESENTATION**

Mary Miller presented the item. She discussed item 9A-9D together.

**ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Lawson to approve the rezoning request [Z-05-06-07] for 38.6 acres from County A (Agricultural) District 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 and subject to the following condition:

1. Recording of a final plat prior to publication of the rezoning ordinance

Motion carried 5-3, with Commissions Eichhorn, Harkins, and Harris voting in opposition. Student Commissioner Robb also voted in opposition.

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**ITEM NO. 9D: PRELIMINARY PLAT FOR THE EXCHANGE; 31<sup>ST</sup> & OUSDAHL (MKM)**

**PP-05-06-07:** Preliminary Plat for The Exchange, located at 31<sup>st</sup> & Ousdahl. Submitted by Professional Engineering Consultants, P.A., for RA & JG Limited Company, property owner of record.

**STAFF PRESENTATION**

Mary Miller presented the item. She discussed item 9A-9D together.

**ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Moore, to approve the Preliminary Plat of Exchange at Lawrence subject to the following conditions:

1. Execution of an agreement not to protest the formation of a benefit district for construction of future minor arterial road on the east border;
2. Execution of an agreement not to protest the formation of a benefit district for future signalization and intersection improvements at Louisiana and 31<sup>st</sup> Streets.
3. Execution of an agreement not to protest the formation of a benefit district for future street improvements to W 31<sup>st</sup> Street.
4. Execution of an agreement not to protest the formation of a benefit district for extension of Ousdahl Road through the property.
5. Execution of an agreement not to protest the formation of a benefit district for extension of W 33<sup>rd</sup> Street through the property.
6. Contact the U.S. Army Corps of Engineers for any necessary permit for development of the wetland shown on the plat and provide the Planning Office with a copy of the permit, or with documentation showing that a permit is not needed.
7. Provision of a revised Preliminary Plat with the following changes:
  - a. Note added stating that the size and location of the pump station and easement will be determined at the final design phase and shown on the final plat;
  - b. Note added stating that an access easement will be provided on the final plat to allow the City Utilities Department unlimited access to the proposed pump station;
  - c. Note added stating that a Transfer of Ownership for the property where the proposed pump station will be located will be executed before the final plat is recorded;
  - d. Note added stating that funds will be placed in escrow after the approval of the final plat for the future decommissioning and modification of the temporary pump station, and that no building permits will be issued until the funds are in escrow.
  - e. Easements provided for access to waterlines, per Utilities Department's approval.
  - f. Note added stating that access will not be permitted onto the future minor arterial road along the east property line until the intersection at the Louisiana/W 31<sup>st</sup> Street intersection is operating at a C level or better.
  - g. The existing and proposed sidewalks along W 31<sup>st</sup> Street and Ousdahl Street must be shown with dimensions, with a notation that the proposed sidewalk will be installed during construction of the development. It must be noted that sidewalks will be constructed to City Standards.
  - h. Note added stating that sidewalks will be provided along the extension of Ousdahl, W 33<sup>rd</sup> Street and the future arterial road along the east property line, when these roads are constructed.
  - i. Proposed detention pond must be shown on the plat, with a note that it is a private drainage easement which will be maintained by the property owners.



- j. 80' of right-of-way must be dedicated for the future extension of Ousdahl Road to the south property line.
- k. 80' of right-of-way must be dedicated for the future extension of W 33<sup>rd</sup> Street to the east property line.
- l. Additional right-of-way for a roundabout must be dedicated at the corner of W 33<sup>rd</sup> Street and Ousdahl. (50'x50' triangle of right-of-way on each corner.)
- m. Southern Star's easement must be shown on the plat, if it is located on the Exchange Property. If an encroachment agreement is necessary, the applicant must provide a copy to the planning office.
- n. Site Summary table must be provided on the plat which includes the lot size, amount of right-of-way being dedicated and the net area in each lot.
- o. Dimensions must be shown for the lots.

Motion carried 5-3, with Commissions Eichhorn, Harkins, and Harris voting in opposition. Student Commissioner Robb also voted in opposition.

Steve Stamos, Fairfield Residential, said they were asking the City Commission to table or defer the related items regarding the Southeast corner of 31<sup>st</sup> Street and Ousdahl Road. He said there were issues that recently came up and they were working with staff, but there were still unresolved issues. He said one of the main issues was that they were purchasing the entire property and now they would need to be dedicating all of the right-of-way along with doing all of the benefit districts. He said they still did not have the zoning for the southern half of that area, but they had developed a new site plan and would like to come back to the City Commission's agenda as early as possible. He said they were trying to meet the September 5<sup>th</sup> submittal date for the October Planning Commission and come back to the City Commission in November with the entire site. He said worst case scenario was their submittal date might slip, but they could come back to the Planning Commission in November and the City Commission in December.

**Moved by Amyx, seconded by Dever,** to defer the consideration of the items on the southeast corner of 31<sup>st</sup> and Ousdahl Road until the Planning Commission had the opportunity to consider the revised plan.