

PLANNING COMMISSION MEETING
December 17 & 19, 2007
Meeting Minutes

December 17, 2007 – 6:30 p.m.

Commissioners present: Blaser, Eichhorn, Finkeldei, Harkins, Harris, Hird, Jennings, Lawson, and Moore

Staff present: McCullough, Stogsdill, Day, J. Miller, M. Miller, and Brown

MINUTES

Discussion regarding November 26 & 28, 2007 draft minutes -

Commissioner Harris emailed her suggested changes prior to the meeting.

Commissioner Jennings said he would abstain from the vote since he was not at the November Planning Commission meeting.

Commissioner Eichhorn had a minor change to a sentence on page 27.

Motioned by Commissioner Finkeldei, seconded by Commissioner Moore, to approve the minutes of the November 26 & 28, 2007 meeting with the suggested changes.

Motion carried, 8-0-1 with Commissioner Jennings abstaining.

COMMITTEE REPORTS

Commissioner Harris stated that she did not attend the last T2030 meeting.

Commissioner Finkeldei said that T2030 met and continued to work on the road portion of the plan. They narrowed it down to three alternatives to consider, and further narrowed it down to a single option that will be put forth in a report. All of the options will be included in the appendix of the report.

Commissioner Finkeldei stated that TAC met and worked on formatting changes to the TIP. They changed the format to an easier form to read and put it on the internet and tracked by the public. He said it was now much more searchable. TAC was also continuing to move forward with the reconstitution of the MPO and had discussions about that with the Federal Highway, KDOT, and Staff.

Commissioner Eichhorn stated that RZO did not meet but that he met with Linda Finger to discuss formatting and timelines.

Commissioner Harris reminded the Commission about Planning Commission orientation in June.

COMMUNICATIONS

Item 4A-4D – Annexation, Rezoning & Preliminary Development Plan for The Links; Queens Rd & Wakarusa Dr

- Letter from the League of Women Voters

Items 5 – Rezoning for the NW corner of N 1800 Road & E 900 Road

- Letters from: Dennis Beach, Donald Fuston, David Faurot, Jane Eldredge, Larry James, David & Glenda Ross, Stan Unruh, Steve & Kathy McDowell, Scott Hanks, Rob Zimmerman, Janette Funk, Marguerite Ermeling, Julie & Scott McEathron, Karen Dirks, Sandra Hubbard, Sandra Ward

Item 6 – Rezoning of 4000 W 24th Place

- Letter from the League of Women Voters

Item 7 – Minimum Maintenance of E 700 Road

- Letter from Leo Anderson

Misc.

- Memo from Planning Staff regarding the proposed Mid-Month Schedule

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- Abstentions:
Commissioner Hird received a telephone call from Steve Schwada regarding Item 5.
Commissioner Eichhorn said he also received a telephone call from Steve Schwada regarding Item 5.
- Item 2 was withdrawn. Items 8A, 8B, 8C, 9A, 9B, 10, and 13 were deferred

PC Minutes 12/17/07

ITEM NO. 1A: FINAL DEVELOPMENT PLAN FOR 6 WAK; NW CORNER OF 6TH ST & WAKARUSA DR (SMS)

FDP-08-12-07: Final Development Plan for 6 WAK, located at the NW corner of 6th Street & Wakarusa Drive, North side of Highway 40. Submitted by BFA, Inc, for 6Wak Land Investments, LLC, property owner of record.

ITEM NO. 1B: FINAL PLAT FOR WAKARUSA PLACE ADDITION NO. 2; NW CORNER OF 6TH ST & WAKARUSA DR (SMS)

PF-09-25-06: Final Plat for Wakarusa Place Addition No. 2, located at the NW corner of 6th Street & Wakarusa Drive, North side of Highway 40. Submitted by BFA, Inc, for 6Wak Land Investments, LLC, and Village Meadows, LLC, property owner of record.

Motioned by Commissioner Harris, seconded by Commissioner Hird, to remove Items 1A & 1B from the Consent Agenda to discuss.

Unanimously approved 9-0.

Commissioner Harris inquired about the nodal plan for the area and how these projects comply with the nodal plan.

Ms. Stogsdill said that through the review of the rezonings, the rezoning request and Preliminary Development Plan had addressed the consistency issues with the Comprehensive Plan and Nodal Plan. She also stated that Planning Commission recommended approval and that City Commission had approved.

Commissioner Harris asked if their job was to solely look at consistency with that plan.

Ms. Stogsdill replied yes. The regulations say that a FDP that is consistent with a PDP shall be approved.

Commissioner Eichhorn asked if it was appropriate to have a public hearing.

Mr. McCullough said that was up to the discretion of the Planning Commission. It was not an official public hearing but that the group Grass Roots Action had given Staff a letter after the 10:00am deadline for correspondence. He read the correspondence from Gwen Klingenberg:

" Tonight the Lawrence-Douglas County Metropolitan Planning Commission is scheduled to take action on the proposal by 6Wak Land Investments LLC to build a second Wal-Mart in Lawrence. Given the long controversy over this proposal, and given the ever-present danger of conflicts of interest in planning decisions on sensitive matters of this kind, Grassroots Action calls upon the Planning Commissioners to treat this action as a matter of the highest moral and legal consequence. Specifically, we call upon Planning Commissioners to publicly disclose any financial interest they might have in Wal-Mart, 6Wak Land Investments, or any firms which are financially linked to 6Wak. If any Planning Commissioners have such financial interests, they should recuse themselves from all deliberations and votes on the proposal to build a second Wal-Mart – starting tonight. "

Commissioner Finkeldei said he shopped at Wal-Mart last week and saved some money.

Commissioner Eichhorn said that Rueschhoff does lock work for the property owner but not over \$5,000 worth.

Commissioner Harkins was sympathetic to the letter but felt they were obligated by law. He did not want to start the practice of responding to challenges and did not feel they should have to continually reaffirm the obvious.

Commissioner Eichhorn agreed with Commissioner Harkins.

Commissioner Hird said he seconded the motion to remove Items 1A & 1B from the Consent agenda to hear the question by Commissioner Harris. He disclosed that he has no financial interest in Wal-Mart.

ACTION TAKEN ON ITEM 1A

Motioned by Commissioner Finkeldei, seconded by Commissioner Lawson, to approve the Final Development Plan for 6 WAK, subject to the following conditions:

1. Recordation at the Register of Deeds' Office of the 6 WAK Addition Final Plat.
2. Recordation at the Register of Deeds' Office of all restrictions or covenants that will be applied to the development.
3. Provision of the following fees and executed documents:
 - a) Agreements Not to Protest the Formation of Benefits District for Improvements to the intersection of Overland Drive and Wakarusa Drive.
 - b) A Site Plan Performance Agreement.
 - c) A copy of the document listing the site's restrictions and/or covenants.
 - d) Recording fees made payable to the Douglas County Register of Deeds.

Unanimously approved 9-0.

ACTION TAKEN ON ITEM 1B

Motioned by Commissioner Finkeldei, seconded by Commissioner Lawson, to approve the Final Plat for 6WAK Addition and forwarding it to the City Commission for acceptance of easements and rights-of-way, subject to the following conditions:

1. Provision of the following fees and documentation:
 - a) A current copy of a paid property tax receipt.
 - b) Recording fees made payable to the Douglas County Register of Deeds.
 - c) A completed Master Street Tree Plan in accordance with Section 21-708a.3.
 - d) A Temporary Utility Agreement.
2. Pinning of the lots in accordance with Section 21-302.2 of the Subdivision Regulations.
3. Submittal of Public Improvement Plans to the Public Works and Utilities Departments for street/sidewalk, stormwater, sanitary sewer, and waterline improvements.

Unanimously approved 9-0.

PC Minutes 12/17/07

ITEM NO. 2: CONDITIONAL USE PERMIT; 1702 N 466 ROAD (SLD)

CUP-11-10-07: Conditional Use Permit for Covenant Care Home, located at 1702 N 466 Road, east of E 1700 Road, Baldwin City. Submitted by Greg & Naomi Mitchell, for David & Rosie Olmstead, property owners of record. *This will be a joint meeting with Baldwin City Planning Commission.*

Item 2 was withdrawn prior to the meeting.

PC Minutes 12/17/07

ITEM NO. 3: RS7 TO GPI; 50 ACRES; 1910, 2110, 2120 HARPER ST (MKM)

Z-11-29-07: A request to rezone a tract of land approximately 50 acres, from RS7 (Single-Dwelling Residential) to GPI (General Public & Institutional). The property is the Douglas County Fairgrounds, located at 1910, 2110, 2120 Harper Street. Submitted by Pam Madl, Assistant Douglas County Administrator, for Douglas County, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Hird asked why the rezoning was being requested now.

Ms. Miller stated that the Fairgrounds submitted a Site Plan application for a new building and that was when it was noticed that the rezoning change was needed.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Moore, seconded by Commissioner Hird, to approve the rezoning request Z-10-29-07 for approximately 50 acres from RS7 (Single-dwelling Residential) District to GPI (General Public and Institutional Use) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Unanimously approved 9-0.

PC Minutes 12/17/07

ITEM NO. 4A: ANNEXATION OF 81.13 ACRES; QUEENS RD & WAKARUSA DR (MKM)

A-11-07-07: Annexation of approximately 81.13 acres located at the intersection of Queens Road & Wakarusa Drive. Submitted by JEO Consulting Group, Inc. for Lindsey Management Co., Inc., contract purchaser, and Turner Douglas LLC et al, property owner of record.

ITEM NO. 4B: A TO RM12; 80 ACRES; QUEENS RD & WAKARUSA DR (MKM)

Z-11-28A-07: A request to rezone a tract of land approximately 80 acres, from A (Agricultural) to RM12 (Multi-Dwelling Residential). The property is located at the intersection of Queens Road & Wakarusa Drive. Submitted by JEO Consulting Group, Inc. for Lindsey Management Co., Inc., contract purchaser, and Turner Douglas LLC et al, property owner of record.

ITEM NO. 4C: A TO RM12-PD; 80 ACRES; QUEENS RD & WAKARUSA DR (MKM)

Z-11-28B-07: A request to rezone a tract of land approximately 80 acres, from A (Agricultural) to RM12-PD (Multi-Dwelling Residential Planned Development Overlay). The property is located at the intersection of Queens Road & Wakarusa Drive. Submitted by JEO Consulting Group, Inc. for Lindsey Management Co., Inc., contract purchaser, and Turner Douglas LLC et al, property owner of record.

ITEM NO. 4D: PRELIMINARY DEVELOPMENT PLAN FOR THE LINKS; QUEENS RD & WAKARUSA DR (MKM)

PDP-11-06-07: Preliminary Development Plan for The Links at Lawrence, located at the intersection of Queens Road & Wakarusa Drive. Submitted by JEO Consulting Group, Inc. for Lindsey Management Co., Inc., contract purchaser, and Turner Douglas LLC et al, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented items 4A-4D together.

She stated that the Northwest Area Plan recommend low density single family residential development in this area. The proposed housing type is different because they are clustering with the multi-dwelling low density request. The design of the development would allow for environmentally sensitive lands to be protected. The impact on the sanitary sewer services would be the same as for single dwelling residential in this area. And the impact on the surrounding properties will be minimized by the design of the planned development. She outlined that within the sensitive areas there would be no buildings or parking areas.

Ms. Miller went on to say that the applicant intended to develop a multi-dwelling residential unit with a golf course, club house, and pool. Queens Road would be improved through a benefit district. George Williams Way would be extended to the southern property line through a benefit district established through development to the south and must be extended with this development. Any street improvements that were not constructed with this development would need to be constructed through benefit districts. The applicant is dedicating 80' of R-O-W for the extension of Wakarusa Drive, which will be renamed Links Drive in this area due to the direction change. She stated that there would be sidewalks on both sides with a recreation bike path to the south. There would be a pedestrian connection from the south property line up to the north. The golf course would be for members, residents, and the general public through a pay and play basis. The pool and clubhouse would be for members and their guests only. The downstream sanitary sewer analysis had been reviewed by the City

Utility Engineers who indicated the capacity for this development would be available when the Baldwin Creek Interceptor project was complete. The City Engineer indicated that the development was consistent with the recommendations in the City's 2003 Wastewater Master Plan.

Ms. Miller went over the conditions from the Staff Report. Where Headwaters Drive & Links Drive meet there was a small area that constitutes as a separate block. It was too small to be a lot so it would be renamed as a tract. The applicant requested a waiver from the requirement to have a 60' peripheral border along all sides of the planned development. They also requested a waiver from the maximum building height to allow a 41.5' clubhouse to be constructed. The additional height should have no impact on surrounding properties.

In addition, there would be designated trees saved as part of the common open space and additional landscaping required to breakup the parking areas.

Another waiver was granted from the City Engineer for a driveway location less than 300' from George Williams Way intersection due to the topographical constraints of the site.

Ms. Miller noted the League of Woman Voters (LOWV) concerns. The LOWV felt that the development was inconsistent with the Comprehensive Plan and Northwest Area Plan. Staff believed that the plan met the intent of both the Comprehensive Plan and Northwest Area Plan because it was proposing a low-density development although using multi-dwelling units rather than single family detached homes. The LOWV felt that the project would create precedence that predictability and demographics were unimportant and that gross density was the only determining factor in neighborhood planning. Ms. Miller stated that Horizon 2020 recommends a mixture of housing type styles and economic levels for new residential and infill developments. The LOWV was also concerned that the concepts of preserving sensitive land forms and features subject to the needs of the development and storm drainage planning was no longer needed to protect open streams and drainage ways. Ms. Miller said that there was an intermittent stream on the property and that intermittent streams were not included in the Development Code definition of environmental sensitive features. The design of the Planned Development will allow for protection of a substantial amount of steep slope and wooded areas.

APPLICANT PRESENTATION

Mr. Kim Fuggett, Lindsey Management Co, Inc, stated that they manage over 26,000 apartment homes and 32 golf courses with 3,600 apartment homes and 5 golf courses under construction. He stated that they have locations in 9 states and a 5% total vacancy throughout the Lindsey Management Properties. He also stated that each property has 24 hour on-site management. The project would include 480 units, 6 units per acre. He said that demographically, single family homes have 2.6 persons per household. The Links development is expected to have 1.6 persons per unit. He said that they are not only in University communities, and that they have many properties outside of University towns. The Site Plan usually has multi family in the center with a golf course surrounding. However, the site plan for this development is different due to environmentally sensitive features. half the apartments will be near George Williams Way so that they can keep the environmental sensitive area. He said that the buildings themselves would have 12 units per building (four 1 bedroom units and eight 2 bedroom units). There will not be 3 or 4 bedroom units. The units will be mostly brick and have a backed and stacked style so there would be no rear of the building. The parking lots will be screened as much as possible from the neighbors. The clubhouse will be a 10,000 square foot facility that will have a fitness center, meeting rooms, small restaurant, a tanning bed, and onsite manager living quarters on the 2nd floor. Mr. Fuggett met with Fire Marshal, Mark Bradford, regarding 1 of the conditions of approval and he felt they had reached middle ground. Mr. Fuggett also stated that they were still reviewing the infrastructure costs and that they hope to have that resolved before the City Commission meeting.

Commissioner Harkins inquired about the location of a deep ravine and tree area.

Mr. Fuggett showed the deep ravine on a map.

Commissioner Harkins asked what percentage of trees were being saved.

Mr. Fuggett said approximately 15 acres of trees would be saved. Roughly 40 acres of the site are currently trees.

Commissioner Blaser inquired about the length of Hole 5.

Mr. Fuggett said that the length shown on the plan was an error.

Mr. Fuggett asked what would be required if the development was single family.

Ms. Miller said that since it has the environmentally sensitive area, at least 20% has to be set aside for common space. Staff encouraged preserving as much as possible.

Commissioner Harris inquired about what features of the property were being preserved.

Ms. Miller said that portions of the large wooded area and the heavily sloped area would be preserved.

Mr. Fuggett said that the sewer construction easement proposed is 100' wide so trees will be lost.

Commissioner Harkins asked if the soil type on this property was fragile.

Ms. Miller said that more than likely it was, especially on the slopes.

Mr. Rich Bishop, JEO Consultant Group, said the site has areas of only 6" soil depth on the west side and very shallow rock to the east.

Commissioner Harkins inquired about structures that would help hold the soil in place because this area would drain directly into the Kansas River, upstream of the City's municipal water intake.

Mr. Bishop said that there would be two larger lake areas to the east to catch most of the runoff. The rest would 'slow flow' through the ravine area.

Commissioner Lawson asked what demographic this project aimed to capture.

Mr. Fuggett said that probably 20-30% would be students, typically a more mature student such as those that are married. 10% would be empty nester types and the remaining 60% would be in the blue collar workers. He said that there would not be a lot of families due to the unit size.

Commissioner Lawson asked who identified the sensitive areas in this project.

Ms. Miller replied that Staff looked at aerials and selected sensitive areas based on heavily wooded areas and slopes/contours.

Commissioner Lawson asked what actually establishes the density cap.

Ms. Miller said it would be a condition on the zoning itself and also a note on the Preliminary Development Plan as being restricted to 6 units per acre.

Commissioner Lawson asked if the governing bodies have the authority to establish specific binding limitations.

Ms. Miller replied yes, that it would be included in the ordinance.

Commissioner Hird asked if runoff of chemical/fertilizers from the golf course were taken into account.

Hugh Jarrett, Lindsey Management Co, said that they will follow the Audubon International Standards Program that works with golf courses to limit the amount of runoff whenever possible. He said that the golf course is meant to be a sanctuary to birds and creates a habitat for wildlife.

Commissioner Hird asked if those standards were written in somewhere and if it was a condition of approval or voluntary.

Mr. Jarrett gave the Commissioners a handout from Audubon International titled *Environmental Management Practices for Golf Courses*. He said that it would be voluntary but that they would not have a problem with it being a condition.

Commissioner Hird asked if Staff was aware of the Audubon standards.

Ms. Miller said no, she was not.

Commissioner Harkins asked Mr. Fuggett if Lindsey Management Co. ever separated their golf courses to sell.

Ms. Fuggett said that many banks have a hard time financing golf courses so they split them apart from the apartments but that they have never sold one of their golf courses.

Commissioner Finkeldei asked if Staff had reviewed the layout of the road.

Ms. Miller said that connectivity was needed from east to west and that it was decided that it was better to curve it to the south due to terrain.

Commissioner Eichhorn inquired about the name change of Wakarusa Drive to The Links.

Ms. Miller said that the road changes direction so the name was changed to avoid confusion when people are trying to locate an address on Wakarusa Drive.

Commissioner Harris inquired about development potential to the west.

Ms. Miller said Staff recommended the waiver because they expect it to be developed to residential in the future.

Commissioner Moore inquired about the area developing and if there was consideration as to the Perry-Lecompton School District servicing the area.

Ms. Miller said the applicant was aware the development was in the Perry-Lecompton school district and was not concerned, as they do not anticipate many school age children in this development .

Commissioner Harris asked if allowing this development would set up the scenario for higher density multi-family to the west.

Ms. Miller said that the zoning would be conditioned to restrict the density to 6 dwelling units per acre, low density. We would not be able to approve medium density to the west based on this.

Commissioner Harris asked if it would be based on density, not the type of building.

Ms. Miller replied that was correct.

PUBLIC HEARING

JoAnn Farb, said she appreciated Commissioner Hird bringing up the subject of chemical runoff on the golf course. She was concerned about chemicals that might be used and the storage, manufacturing, and transporting of these chemicals. She was interested in knowing if a condition could be put on the development that chemicals could not be used. She asked that EPA registered products be restricted.

Commissioner Blaser asked what she meant by saying that they should not use EPA registered products.

Ms. Farb said that all pesticides and herbicides are registered and it might be a way to clearly describe and limit the chemicals that might be of concern.

Larry Kipp, lives downstream from the proposed development. He participated in the Northwest Area Plan and that single family and low density were not multi family. He felt there were confusing terms between Horizon 2020 and the Northwest Area Plan and hoped that there will be some clarification between single family and multi family. He said that golf courses were problematic. He inquired if businesses were included in the zoning. He was also concerned about this property being redeveloped with more apartments. He went on to say he was concerned about water runoff and that 50% of the trees removed would take away buffering from water interception. He stated that if the buffer is taken away then the water enters the stream sooner. He lives downstream and worries about increase in peak flows.

Commissioner Hird asked if Mr. Kipp lived north of the proposed development.

Mr. Kipp replied, yes.

Ms. Gwen Klingenberg, stated that the Northwest Area Plan does require less density and that 6 units of single family was not the same as 6 units of multi family. She was also concerned about the increase in traffic.

COMMISSION DISCUSSION

Commissioner Eichhorn asked Staff about Ms. Klingenberg's comments regarding 6 units of single family versus 6 units of multi family.

Mr. McCullough said that it was identified as an issue. They looked at the entire project package and it seemed to fit with the character. Staff knows that single family is different than multi family. He stated that a project should fit into an area or community. He also said that it comes on the heels of identifying

when project does not meet plan and how flexible plans should be. He said that this plan does not meet all the requirements of the Northwest Area Plan and that it could fit in the framework of the area.

Commissioner Jennings asked if 1 and 2 bedroom units would have less density.

Mr. McCullough said that it is figured by the unit count, not the bedroom count.

Commissioner Finkeldei asked Staff to address Mr. Kipp's comments about a business.

Ms. Miller said that a golf course is a recreational use which is permitted in residential areas.

Commissioner Finkeldei asked for details on runoff.

Mr. Jarrett said that the stormwater plan purposes to reduce runoff and that there would be less runoff than existing conditions. He went on to say that the stream was intermittent so it would not carry water all the time. Mr. Jarrett also stated that they were willing to abide by the Audubon standards/best management practices for the golf course and did not mind if that was a condition on the project. He stated that the east side of the site was relatively flat and that they will also have a detention site.

Commissioner Lawson inquired about Mr. Fuggett's reference to "hanging on to water" for irrigation.

Mr. Fuggett stated that the lakes would be dug to raise the building pads and that they would have a pump house for irrigation.

Commissioner Harkins asked if there was a comprehensive stormwater plan for this area.

Ms. Stogsdill said that there is an overall stormwater plan that was adopted in the mid 1990's that was based on detention calculations. There was not an actual plan for different areas. The overall plan identified where there were stormwater concerns in the city. Which required CIP improvements and set standards for greenfield development. Stormwater Pollution Plan must be submitted which meets Best Management Practices for construction

Commissioner Harkins hoped that they would anticipate development there and would have guidelines for acceptable practices.

Ms. Stogsdill said that practices are in place. For all projects a stormwater management plan is provided by the applicant. Staff does go out in the field and makes sure that is being complied with.

Commissioner Harris asked for input regarding the traffic concerns mentioned during the Public Hearing tonight and how it would compare with traffic of single family low density.

Ms. Miller stated that City Engineers wanted to direct traffic to the arterial 6th Street.

Mr. Jarrett said that there was a traffic study done and turned into the city. He said that this development does not meet the warrants for street improvements.

Commissioner Eichhorn asked if there was any thought to including a bus turnout on Links Drive since this has changed to multi family higher density.

Mr. Fuggett said they could certainly entertain that idea.

Commissioner Moore asked if the project was dependent on improvement of Queens Road and George Williams Way.

Ms. Miller replied, yes.

Commissioner Harris asked who else would be asked to participate in the benefit district.

Ms. Miller replied that the adjacent property owners would when it was developed.

Ms. Stogsdill said that at the Final Development Plan stage they would have conditions on timing of building permits and streets.

APPLICANT CLOSING COMMENTS

Mr. Fuggett said that their project was not typical and does not fit into the plan perfectly so that is why they have asked for waivers.

COMMISSION DISCUSSION

Commissioner Hird said he was not an expert but was familiar with the Audubon standards but that he would prefer to follow the Audubon standards and that it be added as a standard. He was concerned about density on the west edge and the quality of buffering for future development to the west. Overall he was impressed with the amount of greenspace being preserved. He was in favor of adding a condition to the plan of compliance with Audubon's standards for golf courses.

Commissioner Eichhorn was concerned about changing from single family to multi family housing but that the housing market was changing. He also agreed with Hird regarding the Audubon standards.

Commissioner Harkins said that the project looked good on paper with all the open space. He went on to say that given the demographic changes the city has faced, having an attractive housing alternative for the aging generation was a good attraction. He felt it would be an asset to the community.

Commissioner Jennings agreed with Commissioner Harkins. He felt there was a big market for lower density housing. He thought it might be a good idea to set aside one pod for empty nesters. He felt that this project was a good use for a hard piece of property and that golf courses do not seem to hurt land value.

Commissioner Harris had mixed feelings about the project. She liked the creative use of the land but did not like the apartment buildings all looking the same. She felt that it did change the character of the area. She was not as concerned about traffic for the project. She did believe the property from the street looked like a multi family area. She stated the benefits of the open space was for the view of the people living in the apartments, rather than the neighbors. She was concerned about the removal of over 50% of trees in an environmentally sensitive area.

Commissioner Lawson felt that well established grass could hold water and soil on a slope as well as trees. He did not believe that the absence of trees would lead to the destruction of the land.

Commissioner Jennings said that golf courses plant other species of trees, and that good golf courses usually plant additional landscaping.

Commissioner Harkins concerns were primarily during the construction phase and that the city would

need to be vigilant in monitoring the construction phase.

Commissioner Finkeldei applauded Staff for coming up with creative solutions to this difficult piece of property. He thought that this was better than an 80 acre subdivision with cul-de-sacs. He was concerned about multi family in context of a larger area.

Commissioner Harkins was happy with the quality of the project.

ACTION TAKEN ON ITEM 4A

Motioned by Commissioner Lawson, seconded by Commissioner Jennings, to approve the requested annexation of approximately 81.13 acres located at the intersection of Queens Road and Wakarusa Drive and forwarding it to the City Commission with a recommendation for approval based on the findings found in the body of the staff report.

Commissioner Harris stated she would be voting against the project because it looked too much like multi-family units.

Commissioner Eichhorn stated that he liked the project and its reflection of how the housing market is changing, however he wished staff had a better tool for allowing the change in the existing area plan. He said he would be voting in favor of the annexation but in opposition to the rezoning.

Motion carried 8-1, with Commissioner Harris voting in opposition.

ACTION TAKEN ON ITEM 4B

Motioned by Commissioner Moore, seconded by Commissioner Harkins, to approve the rezoning request for 80 acres from A (Agricultural) to RM12 (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. Maximum density is limited to 6 dwelling units per acre.

Motion carried 7-2, with Commissioner Eichhorn and Harris voting in opposition.

ACTION TAKEN ON ITEM 4C

Motioned by Commissioner Moore, seconded by Commissioner Blaser, to approve the rezoning request for 80 acres from A (Agricultural) to RM12-PD (Multi-dwelling Residential Planned Development Overlay) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Motion carried 7-2, with Commissioners Eichhorn and Harris voting in opposition.

ACTION TAKEN ON ITEM 4D

Motioned by Commissioner Moore, seconded by Commissioner Blaser, to approve the Links at Lawrence Preliminary Development Plan [PDP-11-06-07] and the two associated waivers (from the buffer area requirement in Section 20-701(j) of the Development Code for the western property line where the adjacent property is located outside the City limits and from the maximum height limitation of 35 ft in the RM12 District in Section 20-601 of the Development Code to permit the club house to be constructed with a maximum height of 41.6 ft.) to the City Commission based upon the findings of fact presented in the body of the Staff Report and subject to the following revised conditions (language added by the Planning Commission is underlined):

1. Agreements not to protest the formation of a benefit district must be executed by the applicant and provided to the Planning Office before recording of the Final Development Plan for the following:
 - a. Street and sidewalk improvements for Queens Road.
 - b. Street and sidewalk improvements for George Williams Way.
 - c. Geometric intersection improvements for Queens Road and Wakarusa Drive.
 - d. Intersection improvements, geometric and signalization, for Queens Road and W 6th Street.
 - e. Intersection improvements, geometric and signalization, for George Williams Way and Links Drive.
2. Provision of a revised Preliminary Development Plan with the following changes:
 - a. Note added to the General Notes on the Cover Sheet, Sheet CO.0 to indicate that 'The density of the development is limited to 6 dwelling units per acre per condition of approval of the RM12 Zoning [Z-11-28A-07].'
 - b. Remove waiver #2 on the Cover Sheet, Sheet CO.0, which requests a waiver from the 800 ft block length Code requirement. This requirement applies to local streets only.
 - c. Dimensions must be noted for the 6' sidewalk on the east side of the extension of George Williams Way and the 5' sidewalk on the west side of Queens Road.
 - d. Figures in the site summary table for bicycle parking must be revised to correct the bicycle parking requirement for the Clubhouse from '1 per 10 auto spaces' to '5 or 1 per 4 auto spaces, whichever is greater', and the number of bicycle parking spaces required for the pool must be corrected to read '3' rather than '4'.
 - e. The pool requires 2 ADA compliant parking spaces and 2 are provided, but they must both be located as near the entrance to the pool as possible.
 - f. The 46.11 acres which is being designated as Common Open Space must be delineated on the plan and noted in the legend. The legend should also indicate that the 31.32 acres containing the shaded golf areas and the pool area make up the open recreation area.
 - g. A note must be placed on the Preliminary Development Plan stating that prior to any construction activity the perimeter of the wooded areas adjacent to the construction activity will be fenced at the drip line and signage erected stating that any construction activity, grading, trenching or storage is prohibited within the fenced area.
 - h. Lot 1, Block Three must be designated as a tract rather than a lot.
 - i. Additional landscaping must be shown on the plan to provide separation between the parking modules, per Section 90-913(j).
 - j. Western parking area, parallel with George Williams Way, must be divided into modules of 72 parking spaces or less.
 - k. Note added stating that the use of the club house and pool is restricted to members only or to residents of The Links at Lawrence and their guests.
 - l. Note added stating that the temporary easement for the sanitary sewer interceptor will be 100' during construction (30' additional on each side of the easement shown), and permanent easement will be 40', as shown.
 - m. The golf cart and pedestrian crossings shown across Links Drive subject to the City Traffic Engineer's approval. Safety measures the City Traffic Engineer determines are necessary such as signage and pavement treatment, will be shown on the plan and implemented on site.
 - n. Typical parking detail note on page CO.1 regarding typical curbing must be revised to read 'typical curbing' rather than 'typical curb or sidewalk'.
 - o. General note added stating that the horizontal separation between all sanitary sewer lines and water lines is 10' or more.
 - p. Note added to the plan stating that building permits can not be obtained until streets are installed which are a minimum of 20' wide and have the first lift of asphalt.
 - q. Any approved waivers or modifications must be noted on the face of the plan.

- r. Note 23 on Landscaping plan, (Sheet L1.2) must be revised to read 'All parking areas are screened from street R.O.W. with **a 10' wide landscaping area containing shade or ornamental trees at the rate of 1 tree per 20 linear feet of parking area** and coniferous shrubs (Seagreen junipers) as shown and berming. Such berming shall be a minimum of two feet in height. (new text is in bold print)
- s. The ADA parking spaces must be located as near the activity as possible. The 2 parking spaces required for the pool area must be located near the pool. One is currently located near the cart barn.
- t. Parking detail on page CO.1 must be revised to show dimensions for ADA accessible parking spaces as required in Section 20-913(e) of the Development Code. All van accessible parking spaces must have an 8' access aisle abutting the passenger access side of the designated parking space.
- u. Access restrictions must be shown and noted on the Plan. The area on Links Drive between the westernmost driveway and George Williams Way must be marked with hatch marks to indicate 'no access' and Links Drive must be marked with hatch marks to indicate 'no access' for 300' from the Wakarusa Drive / Queens Road intersection and a note added to the plan that no access is permitted in these areas.
- v. A General Note must be added stating that the City Engineer approved the reduced driveway spacing of 270' rather than the 300' feet required by Code at this location.
- w. Dimensions must be shown between the two driveways being provided on Links Drive, near George Williams Way. Per Code, these driveways must be spaced at least 250' apart or a waiver must be obtained from the City Engineer.
- x. Note added to the plan that the golf course will be developed and maintained according to the Audubon International Environmental Management Practices of Golf courses.

Motion carried 7-2, with Commissioner Eichhorn and Harris voting in opposition.

PC Minutes 12/17/07

ITEM NO. 5: A TO I-2; 154.9 ACRES; NW CORNER OF N 1800 ROAD & E 900 ROAD (SLD)

Z-10-23-07: A request to rezone a tract of land approximately 154.9 acres, from A (Agricultural) to I-2 (Light Industrial). The property is located at the NW corner of N 1800 Road and E 900 Road. Submitted by Steven Schwada, agent for Stonewall Farms LLC; JDS Kansas LC; Pert LC; Penny J Tuckel; Axrom LLC; Venture Realty Corporation; Arco Sales Corporation; Venture Properties Inc; Industrial Square Corp; JDSS Limited Company; Radol LC; Tuckel Russell L JR; Northland Ventures LC; and Oread LC, property owners of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item. Staff recommended denial of approximately 154.9 acres, from A to I-2 based on the findings presented in the staff report and forwarding it to the County Commission with a recommendation for denial.

Lecompton Planning Commissions Jennifer Smith, Jeff Robertson, Paul Moline, Darby Lohrding were present in the audience.

APPLICANT PRESENTATION

Ms. Jane Eldredge, attorney from Barber Emerson representing Duane and Steve Schwada. She did not feel that Ms. Day's report was complete. She showed a map of the area and the proximity to K-10/I-70 and stated that industrial properties are supposed to be located near major interstates. She showed photos of the surrounding area and the existing legal, non-conforming industrial use, (not Home Occupation) for Foley Construction. She pointed out on a map where the residences were located. She also pointed out the location of a water tower to the southwest that was identified as a commercial use in the previous Staff Report from 2003.

Ms. Eldredge suggested an alternate finding for:
Surrounding Zoning and Land Use as:

Agriculturally zoned that the land use includes pasture, vacant wooded land, legal non-conforming industrial use, residential, commercial, and that it's located near the intersection of major arterial roads. From the site it is close to the I-70 interchange. It is an ideal site for industrial use because it has gentle slopes, no floodplain, no prime farmland, and is at the intersection of two major highways.

She stated that the character of the area is a subjective conclusion based on the thorough understanding of the zoning and surrounding land uses. This area changed from agricultural use after the I-70 interchange was built in the 1980's. Instead of agricultural land there are small residences tracts located in the area. This provides a unique opportunity for the I-70 access that is so important to the community.

She showed a map with routes thru signals/stop signs to move material designated to handle intense truck traffic. There are no local roads involved with access in and out of the proposed site, they are all of an arterial nature. She suggested a proposed finding for the character of the area:

That the area is defined by the interchange of I-70 and K-10. The area is designed for heavy traffic and truck traffic.

Ms. Eldredge addressed the suitability of the property for the use had been restricted. The staff finding does not include the power of the K-10/I-70 intersection. She compared the staff findings from the previous staff report for LRM zoning to I-3 that was granted in October of 2003. This was for an area

that was adjacent to a residential use and it was in the county. The staff finding was based on the soil survey and the current use of the property. It appeared to be highly suitable for the use it was restricted based upon its proximity to other industrial uses this property and also appears to be suited to industrial development. She suggested that the staff finding should be replaced with one that says:

Based on the soil survey the subject property is suitable for pasture lands but based on the soil, topography, drainage, the adjacency to the UGA, location on primary arterial road with direct access to 2 freeways, it is suitable for industrial uses which are needed to create jobs and support the tax base.

She also wanted to compare it to the staff finding for the Frontier Farm Credit building (Z-07-29-04) at the intersection of 56/59, it was outside the UGA. She also referenced the staff findings for Z-10-32-03. She stated that buffering could be provided thru platting and site plans.

Ms. Eldredge stated in the section of the staff report that talks about the relative gain to the public health, safety, and welfare, the staff report does not analyze the balance of interest. The staff report for the Farm Credit project stated that it is okay to extend commercial uses outside the UGA. The LRM project says that the rezoning will not negatively affect the public health, safety, and welfare. Impacts to property may be mitigated through platting and site planning.

She had a suggested finding regarding the relative gain balancing test. She proposed that rezoning this property to allow for industrial development would promote the public welfare by creating jobs.

She referenced Chapter 7 of Horizon 2020. She stated that there are no other industrial sites on the west side of town and that the market has been asking for a site like this. Transitional methods can be used in the platting and site planning such as site orientation, building relationships, land features, screening and landscaping, lighting, locating less compatible uses to the interior of the industrial areas.

She felt the plan conformed to the Comprehensive Plan. She said this was a premature use. She said in 2004 when this project was considered by the County Commission, Bob Johnson asked for new zoning category and nothing has happened in the past 4 years. Transportation 2030 has a map that says that this is an appropriate site for industrial. Another map created a month later also shows the site as a future industrial site. It is outside the UGA so there is a competition for 10 acre building sites with industrial uses. In the past few years there have been 2 or 3 houses added within 1000 feet of the property. That kind of addition will continue to happen until the site is designated as an industrial site. If we lose this site as industrial we have lost a tremendous asset to this community, she said.

Commissioner Finkeldei asked for a description of buffering that could be put in at the site plan or platting stage.

Ms. Day said the county requirements are not specific for buffering. Staff did not disagree that there is beneficial road access.

Commissioner Finkeldei asked how Clinton storage units were different since they spent a lot of time talking about trees.

Ms. Day said that the mini storage unit project was a Conditional Use Permit and it had specific standards.

Commissioner Hird asked Ms. Eldredge to respond to a letter from the RWD about there not being adequate water supply.

Commissioner Eichhorn requested to hear from the RWD representative during the public hearing first.

Commissioner Harris asked for more information about the different type of zoning in the county that Bob Johnson had previously wished was available regarding this site.

Ms. Eldredge said that when this site went to the County Commission in 2004 Bob Johnson said that the board should look beyond the UGA to identify sites that could and should be used for industrial use. He said he would rather see it be zoned in a category more palatable to the neighborhood and suggested a text amendment be initiated to the zoning regulations to create 1 or 2 more industrial zoning classifications. He did not believe that water was an issue and that rezoning does not obligate water. He would have been more comfortable voting for it if it were a narrower classification.

Commissioner Eichhorn said that the rural zoning ordinances are being rewritten right now. He also said that 7 years ago a consultant suggested narrowing down industrial classifications to specific uses in fewer categories.

Commissioner Finkeldei asked for a copy of the condition strikeouts that Ms. Eldredge recommended.

Ms. Eldredge said that they wanted to strike out the processing and manufacturing things but retain the warehousing and distribution activities.

Commissioner Finkeldei asked if the uses could be restricted.

Ms. Day said that is a provision that is not identified or granted to commissions in the County Zoning Ordinance. Staff has stated in the past that it is not a tool that they are in favor of.

Commissioner Lawson asked why it would be appropriate to restrict uses in the city and not the county.

Ms. Day said that Planned Unit Developments have been the one tool historically used that has restricted uses. City Code provides authority to do that in the Land Development Code. It did not exist in the previous code for conventional zoning districts.

Commissioner Harkins said he had strong discomfort with these highly technical discussions about standards, plans, and interpretations. We heard last month about a significant need for adequate industrial sites. Planning Commission is the body that should be providing leadership and encouraging these types of locations so that development can occur.

Commissioner Eichhorn said that at the mid-month meeting they discussed the area and it has been identified to have an area plan. He stated that 7 area plans have been approved in the past year and significant effort has been made to pass those plans.

Commissioner Jennings inquired about a truck stop at the proposed location.

Ms. Day said that comment was made several times by the public to staff as a concern but that Ms. Eldredge said that was not part of their proposal.

Lecompton Commissioner Jennifer Smith asked if it was typical to see a Preliminary Development Plan with rezoning.

Ms. Day replied, no, not with a County application.

Ms. Smith inquired about plans for traffic improvements.

Ms. Eldredge said at this point there were no traffic improvement plans, but maybe in the future.

PUBLIC HEARING

Mr. David Ross, President of the Scenic Riverway Association, formed in 2003 as a result of the previous rezoning request. The Association was opposed to the project. He stated the wooded area would remain as a natural area because it had been donated to KU. He was concerned about that this development being presented without a detailed plan. He said they met with Mr. Schwada during the first application and he felt like the answers they got were vague. Mr. Schwada told them that convenience was needed in that area. Mr. Ross said that a gas filling station was allowed under I-1 zoning so he wondered why they would want I-2 zoning. He was curious about the intensity of the project and that the neighborhood is preparing for the worst case scenario about what could be allowed under I-2 zoning. He said they would prefer to meet with Mr. Schwada again and reach some sort of common ground. The property ownership group owns nearly 1,000 acres along the Farmers Turnpike between the subject property and Kasold. This zoning would set precedence for future requests. He would like to see a more specific plan from the applicant.

Commissioner Finkeldei asked Mr. Ross if his group would support some industrial use with the plan or would they prefer the land be used for homes.

Mr. Ross said that the group understood that something might go there but that they would prefer to see something like the Fall Creek project. They would like to see definite plans.

Ms. JoAnn Farb, lives north of the site, stated that the applicants photos did not capture the essence of the area. She said there were spectacular views in the area. The proposed property is what buffers the surrounding homes from I-70 noise and smells. That is also a watershed that goes down to the river. If there was any type of spill it would go down the direction of homes and down to the river. She did not think that a water tower could be compared to light industrial. She wondered if potential negative impacts to land values would result in compensation.

Mr. Rick Stein, 963 N 1950 Road, said that if intense land use is allowed at this property, the reasonable assumption that the land owners group will expect an industrial corridor along the Farmers Turnpike. He does not want to drive through an industrial area to go home. He said that if what they are requesting is unknown at this point, it is another pandora's box without understanding the ending.

Ms. Sarina Farb, lives 2 miles north of the property, was concerned about light and air pollution over 1,000 feet.

Commissioner Hird asked how old Ms. Sarina Farb was and where she went to school.

Ms. Farb said she was 13 years old and is home schooled.

Commissioner Hird told her she did a very good job of speaking.

Ms. Gwen Klingenberg, President of Lawrence Area Neighborhood Association, said the construction would start immediately. She said the city cannot afford the infrastructure needs and that industrial sites are hard to sell and the costs are high. She felt that any industrial site was inappropriate at this time due

to the city budget constraints. She requested the Commission deny the project. She did not think it was fair for a developer to ask the city to fund projects.

Commissioner Finkeldei asked if there was a request for tax dollars for this project.

Ms. Klingenberg said she was not positive but it would require a major cost. Generally speaking, it would be expensive to get all the services they would need at the site.

Mr. Sonny Foley, lives on the north side of the property, uses his land for agricultural and livestock. He has health issues so has not been active with his land as much lately. This was why he has equipment just sitting on his property. He said he has beautiful view of the land from his house and did not want something built that would devalue his property. He said that since he did not know what the project was proposed for and therefore he could not be in favor of it.

Ms. Carolyn Misick, landowner and participant on the ECO2 study, said the Economic Development Board, through the Chamber of Commerce, identified 3 priority sites and the property in question was not chosen as a potential industrial site. She felt that this project would be leapfrog development.

Commissioner Harris asked if Economic Development Board identified sites along I-70.

Ms. Misick said that the site identified along I-70 was near the airport.

Commissioner Eichhorn said that ECO2 was a voluntary type of endeavor and that no developers were coming forward with a proposal.

Ms. Misick said she was not speaking on behalf of ECO2, only as a member of that group.

Ms. Janette Funk lives in the area, was concerned about the intense land use suggested by the applicant. She said that there were no County regulations in place to monitor the developer and the industry. She was also concerned about watershed. She said that at her old house had watershed runoff from farmland and her son was born without enamel on his teeth. There was weed killer runoff in the standing water in her backyard. She was concerned about water pollution runoff.

Commissioner Eichhorn said that if there is a violation she should report it to the County zoning department.

Ms. Funk said that after the last meeting she called and was told to let things cool off.

Mr. Greg Berger, lives ½ mile west of the property, said he sent a letter to the County Commission in 2003, and he still had the same comments today that he had previously. He felt that they needed to have a vision of what they want the city to look like 20 years from now. He said this area is the gateway to the City of Lawrence and that it should be attractive to visitors of Lawrence. He felt it was too early to rezone this area and once it is zoned industrial there is no turning back.

Mr. Jim Baggett, lives on 950 Road, said the rezoning was premature and that I-2 zoning has too many options. He thought that the I-1 zoning might be more acceptable to the neighborhood. He wanted to see more specifics on the plan.

Ms. Beth Johnson, Chamber of Commerce, said the economic development partnership has an issue of changing the tax base from reliance on residential use to balance with industrial property. She said that

residential property is assessed lower than industrial and that unless more industrial sites are added the City tax base was not going to get that balance. She said that the City only has 1 site over 50 acres available for industrial development. She said that more industrial sites were needed and that transportation and utility access for industrial sites was needed as well. She has had to turn down prospective companies because there are not industrial sites available. She said that there were companies in Lawrence right now looking at surrounding areas to warehouse their goods. It would be easy for companies to pack up and leave. The Economic Development Board recommended the sites of ECO2, not just pinholing certain sites. They see East Hills Business Park as a great gateway to the community.

Commissioner Finkeldei asked if company inquires want large parcels zoned industrial or just land available.

Ms. Johnson said it could be both. Usually calls are from a consultant and if the 50 acres are not available then we do not get to the next step of finding out what they want.

Commissioner Finkeldei asked why she could not tell a company that there is a site that might be developed.

Ms. Johnson said that most company timeframes are short. They can find a site somewhere else if Lawrence does not have one.

Commissioner Blaser stated that this site does not have rail and airport access. He wondered how important it would be to have all 3 modes of transportation.

Ms. Johnson said that truck access was the most important. She said that the biggest detriment right now is not having industrial sites with I-70 access.

Commissioner Hird stated that if a company needs sites that are ready to go, this proposed site is not ready to go in terms of infrastructure.

Ms. Johnson said that different uses would require different infrastructures. This site could be a warehouse site fairly quickly.

Commissioner Jennings asked if there was a bias for I-70 access versus K-10.

Ms. Johnson said that most truckers see K-10 as more of a commuter highway and I-70 as truck traffic.

Lecompton Commissioner Darby Lohrding asked if East Hills Business Park was annexed into Lawrence before being developed.

Ms. Day replied, yes.

Commissioner Harkins asked Ms. Johnson if she was advocate either way for this project.

Ms. Johnson said she was just an advocate for industrial sites.

Commissioner Harkins asked how she would rank the site for industrial use.

Ms. Johnson said that since there are no I-70 sites this location was very good.

BP Pay asked if the decision was going to be based on evidence of 2 very nice looking ladies. He said there was no evidence, just pleading.

Mr. Don Fuston, Chairmain of RWD #6, said that water availability was a major problem for this site. The water district was not designed for industry or fire protection, it is only designed for rural farms and homes. The largest water main is 6" in diameter. Water consumption is a concern. The volumes and pressure will be adversely affected and consumption would surpass supply. They do not have capacity to furnish fire protection and could not maintain the water levels in lagoons. He said it was highly possible in approximately 5 years that they will have to restrict water consumption to 300+ families. He did not think the people in the industrial district would like being restricted on water.

Commissioner Hird said that when RWD#2 gets an application request they do a service review for line size and pressure to make sure they can serve an applicant. He asked Mr. Fuston if he could just say no.

Mr. Fuston replied, yes they can say no.

Mr. Joe Farb, lives a mile north of the site, drives 3 or 4 times a week on the Farmers Turnpike and every time he goes by the plant his child holds her nose because it smells so bad. He had no idea that this project was on the agenda a few years ago or he would not have built a house there had he known. He wanted to know what type of entities would go at this site and how many would request tax breaks.

Commissioner Lawson asked how long he has lived there and if an industrial site had been there already would he have built his house in that area.

Mr. Farb said he has lived there about 1 year and he would not have built his home there if he had known that an industrial site might be added to the area.

Mr. David Smith, Grass Roots Action, did not have an opposition to development but felt that warehousing jobs are low wage jobs. The city needs sustainable good jobs. The intent is to have a lot of truck traffic to serve a warehouse and he did not feel it would serve the community.

Commissioner Jennings asked Mr. Smith if he thought the K-mart distribution center was a bad idea.

Mr. Smith said that the region does not need mediocre jobs at low wages.

Ms. Marguerite Ermeling, said she sent a letter and it expressed her ideas. She was curious about the status of the Farmland Plan with 225 acres. She said that there were 10 parcels in the Southeast Area Plan that looked available and seems like they have well structure plans. She does not have a problem with something going in this area, but wanted more planning and more buffering. She said the applicant had land to the south and east and it needs a plan. She felt that there were plenty of people that would not have a problem building a house in that area. She said that lights and design can accomplish a lot.

Mr. Darrel Ward, lives east of property, has a large pond on his property and was concerned about runoff from an industrial business. He rents his pasture to cattle and they drink rainwater so he was concerned about the water source being compromised. He was not opposed to anything being put at that location but wanted protection for water quality.

Mr. Stan Unruh, lives east of the proposed site, was not aware that the property would become industrial. He was opposed to the project. He realized saying "not in my backyard" was not effective but he was concerned about urban sprawl.

Mr. Steven McDowell, lives within 1000 feet of property, had no protection or buffer from the proposed site. He said it made economic sense but that there needed to be buffering around it. He felt it was illogical to build in the county with no access to facilities.

APPLICANT CLOSING COMMENTS

Ms. Eldredge, felt it was an ideal site for industrial. She stated that she could not request a survey from RWD #6 until they had a user. She stated that the applicants were not asking for money, just consideration of a site that is needed. Industrial sites take many years to develop, usually around 20 years. She felt that the assumption that industrial sites were obnoxious was inaccurate. She also stated that housing around the K-mart distribution center popped up after the industrial site was built.

Commissioner Moore asked why the I-2 zoning was sought over I-1.

Ms. Eldredge said it provided the most industrial flexibility and would be most useful to potential tenants.

Commissioner Hird inquired about the strikeouts that Ms. Eldredge had recommended.

Ms. Eldredge said they were an effort to lead the kind of products that might be useful in a warehouse, but eliminate processes such as slaughtering. It was provided by the applicants to staff.

Ms. Day said that staff met with the applicant about uses and Ms. Eldredge volunteered to restrict uses. Staff did not support that idea but said that they could present it to Planning Commission.

Commissioner Harris inquired about the difference between I-2 and I-1 zoning and what is allowed.

Commissioner Lawson continued to be concerned about the possibility of a truck stop.

Ms. Eldredge said the applicant was not planning to develop a truck stop in the usual sense of overnight accommodations. A gas station could certainly be a possibility.

Ms. Day said that multiple uses such as fueling stops and restaurants can be construed to a truck stop, but the specific use 'truck stop' is not listed as a use.

Commissioner Blaser asked if the applicant sold the project would the strikeouts not be binding.

Ms. Eldredge said the strikeouts would be the same as any other zoning category, and that if the property is sold it would be restricted to the strikeouts. It would be passed along with the property.

Commissioner Eichhorn said that this side of the Farmers Turnpike was defined as a site that we would look at as industrial. He said that 7 area plans have been created this year. Neighbors in the area are not necessarily opposed to industrial uses so he wondered if there was the possibility for the applicant and neighbors to develop an area plan.

Ms. Eldredge said that she understood that that planning would be between 1800 Road and the Turnpike and did not think it included this property.

Commissioner Eichhorn said that the maps make a relevant case to where things should go.

Ms. Eldredge said the site complies with the general goals and policies of Horizon 2020. Horizon 2020 encourages industrial in the UGA. Industrial zoning is appropriate here and meets all the guidelines.

Commissioner Eichhorn said those industrial areas were put on the map a long time ago. This area is also identified that it should be planned. He inquired if they have to move quickly on this or could they really plan the area and come up with buffering.

Ms. Eldredge felt that they should move quickly on this because home owners have said they would not have built their property if the industrial site had been there so there is the possibility of new homeowners moving into the area. She also stated that the city tax base has eroded and that they need to give the Chamber of Commerce industrial sites to work with. She felt like the RWD would treat this site fairly and that there are regulations to take care of that.

Commissioner Eichhorn said the County regulations lack significant standards. He would be more comfortable with the project once the new County code is complete.

Ms. Eldredge said that the platting issues are pretty resolved and that the applicant would agree to have zoning effective upon site planning/platting.

Lecompton Commissioner Mr. Jeff Robertson wanted to see a site plan instead of rezoning first.

Ms. Day said staff prefers to have a development package that is complete as possible but it is not required in the County to have a site plan with rezoning.

Lecompton Commission Mr. Paul Moline was concerned that if the property is rezone as industrial then it will be grandfathered in and was concerned about what type of business would be at the site. He felt that if the applicant was pushing hard they might be trying to invoke a grandfather clause.

Commissioner Finkeldei said it was a balancing act to tell someone that wants a site along I-70 to bring forth a planned site plan because zoning is needed before site planning. If they have to wait then they might take their business elsewhere.

Commissioner Harkins asked what Lecompton's jurisdiction was.

Lecompton Commissioner Ms. Darby Lohrding said their jurisdiction was 3 miles.

Commissioner Jennings asked how an applicant could come forth with a site plan if they do not know who their tenant will be. Until they know what the interested user will want they cannot do a site plan since it depends on the needs of the business. He did not know that a site plan was a reasonable thing to ask for at this point.

Lecompton Commissioner Ms. Jennifer Smith said that even having the site zoned industrial was too long of a timeframe. Businesses are looking for a warehouse that is already there.

Ms. Johnson said that the Chamber has an 87 acre site adjacent to East Hills Business Park zoned industrial but still needs a lot of prep work.

Commissioner Harkins said that Lawrence has had it good for the past 50 years. Johnson County has been more aggressive with industrial development. He felt that Lawrence needed to be more competitive in the market and unless the City/County/Chamber of Commerce was going to get into the game competitively then it was not going to happen. He felt that the Planning Commission had an obligation to develop strategies to be competitive in the market. He suggested setting this project aside for a reasonable amount of time to bring interested parties together.

Commissioner Lawson said that if the project is postponed it really means procrastination, and for every procrastination there would be more and more people coming forward to oppose it. He felt it was a good site for industrial for the community.

Commissioner Eichhorn said putting sites and corridors on a map to define areas would give certainty about an area plan being worked on.

Commissioner Lawson said that they are good at maps and theory about the future but that they need to act in order to make progress. He felt that the site was prime industrial.

Ms. Smith asked if things changed in the future and someone wanted to develop a truck stop was there any way to stop it.

Ms. Day said that if a truck stop is a permitted use and it is in compliance then they would not be able to stop it.

Commissioner Finkeldei asked if Commissioner Eichhorn was suggesting they wait until an area plan is created.

Mr. McCullough said that an area plan is on the list of long range plans but that the boundaries have not been looked at yet so that is still to be determined in terms of what is looked at. He hopes to initiate a sector plan for the area in 2008.

Commissioner Harkins felt this was urgent since the Chamber of Commerce had no resources to recruit business to the city. He felt they should send a message to City Commission to accelerate plans for this area and industrial projects.

Commissioner Eichhorn said he felt they were moving quick and that they have completed a number of area plans in the past year.

Commissioner Jennings said that Hallmark has not been a bad industrial use and that they take good care of the site and that lots of people work there. He said that industrial did not have to be undesirable. I-70 is going to be more desirable than K-10 because industrial land needs to have turnpike access for economic development.

Commissioner Blaser said it was too bad that this project was not approved 4 years ago so that people who built their homes in the area might have known before they built. He agreed that they needed more industrial sites in Lawrence. He agreed with Commissioner Lawson about moving forward with this project and then make plans for the entire area.

ACTION TAKEN

Lecompton Planning Commission

Motioned by Commissioner Jeff Robertson, seconded by Paul Moline to recommend approving the rezoning.

Motion failed 2-2, with Commissioners Jennifer Smith and Darby Lohrding in opposition.

ACTION TAKEN

Motioned by Commissioner Lawson, seconded by Commissioner Blaser, to recommend approval based on findings of facts presented by the applicant and subject to a condition to restrict uses as follows. All uses in the I-2 district except the following uses are excluded:

CHEMICAL, PETROLEUM, COAL AND ALLIED PRODUCTS

~~Ink manufacturing (mixing only)~~

~~Insecticides, fungicides, disinfectants, and related industrial and household chemical compounds (blending only)~~

FOOD AND BEVERAGE

~~Meat products, packing and processing (no slaughtering)~~

~~Oleomargarine (compounding and packaging only)~~

~~Poultry packing and slaughtering (wholesale)~~

TEXTILES, FIBERS, AND BEDDING

~~Hat bodies of fur and wool felt, (including men's hats) manufacture~~

~~Hosiery mill~~

UNCLASSIFIED USES

~~Animal pound or hospital~~

~~Cigar and cigarette manufacture~~

~~Circus grounds~~

~~Cleaning and dyeing of garments, hats and rugs~~

~~Coal and coke storage and sales~~

~~Fur finishing~~

~~Railroad switching yard, primarily for railroad service in the district~~

~~Theater, including a drive-in or outdoor theater~~

~~Tire retreading and vulcanizing shop~~

Commissioner Harris said she would vote against the rezoning because she believes they should have a plan for the area and they should pursue that aggressively. She also said that it lacks infrastructure at that site for I-2.

Commissioner Hird said this was a serious matter for the people who live in the area and that if they approve the rezoning there was no guarantee of infrastructure and the water district could simply say no to them. He felt the highway access for an industrial site was good at this location. He thought there should be some protection for buffering that could actually be an agreement with the applicant and neighbors. He wished that the Planning Commission was not backed into a corner of saying yes or no because he felt like there could be a resolution that could be acceptable for all. He said he would support the project because it was probably the best spot for industrial in the County.

Commissioner Finkeldei said it would be better if they had a specific business in mind but they have to have a site before a business will come. He was concerned that Lawrence Area Neighborhood and

Grassroots were against warehouse jobs. He would like to set up a mid-month meeting with them about economic development.

Commissioner Eichhorn felt it was a good site for industrial but thinks that with a little more time that the applicant and Chamber of Commerce could reach an agreement.

Commissioner Harkins did not agree that there was any urgency to pass something now. He did not think there was evidence that a potential tenant would move in right away. He felt they needed to continue working on this issue in a comprehensive way. He said he was not going to resist a good site but would vote for the rezoning with the understanding of a comprehensive job being done.

Commissioner Moore was concerned a little about the intensity but thought that there are example of residential and industrial sites that work well in Lawrence.

Commissioner Harris inquired about the difference between I-2 versus I-1.

Ms. Day read the purpose statement from the Development Code for I-2.

Commissioner Moore said he lives near Hallmark and feels that the City has done a good job working industrial into the neighborhood.

Motion carried 7-2, with Commissioner Eichhorn and Harris voting in opposition.

Applicants Findings of Fact

K-10 - I-70 BUSINESS PARK ZONING REQUEST A TO I-2; 154.9 ACRES NORTH OF N. 1800 ROAD AND WEST OF N. 900 ROAD

I. ZONING AND USES OF PROPERTY NEARBY

The present zoning of the surrounding properties to the east, west, north and south is A (Agricultural) District with a few rural residences. This **is** typical of the agricultural and residential zoning surrounding the other existing industrial parks in Douglas County, that are at or near the City's limits, such as; East Hills, Riverside, Anna Hope, Franklin Park, South Haskell, the airport and others. The surrounding uses are pasture, rural residential sites and some home occupations. The area is in transition from large farms to scattered rural residential and businesses on small lots near the City limits and adjacent to the urban growth area. The county roads to the north and east of the site are gravel. Pasture land adjoins the site to the west. The site is bounded on the south by N. 1800 Road. This road is a newly improved three lane arterial road that also serves the industrial areas 3.5 miles to the east (Riverside, Anna Hope). N. 1800 Road serves major truck traffic generators such as Lawrence Paper Co., Kansas Power and Light, Standard Brands, Classic Eagle Distribution, K-Mart Distribution, Berry Plastics, Reuter Organ, Heinz and others.

II. CHARACTER OF THE AREA

The subject property is located at the north side of the T-intersection of Kansas State Highway K-10 and newly improved County Road N. 1800 Road. It is approximately 1000 feet along an expressway (K-10) from the intersection of that expressway and an interstate highway (I-70). It is anticipated that truck traffic and most automobile traffic will leave the subject property and head south to K-10 and/or I-70. This extraordinary accessibility to the major roads surrounding Lawrence is unique in Douglas County.

The area is served by rural water, with a water tower and fire department across N. 1800 Road to the southwest. There is sufficient acreage on site to store any additional water that may be required. An on-site domestic wastewater lagoon will be retired and converted to building sites when city sewers are available. In the meantime, the lagoon will be regulated by the Kansas Department of Health and Environment ("KDHE") and monitored by Douglas County. The owners will impose restrictive covenants as they have in other industrial developments and will limit the uses in the business park to non-polluting, nonobjectionable uses.

2

III. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

The subject property is currently zoned A (Agricultural) District. According to the Soil Survey of Douglas County, 1977, soils found on this property are generally classified as Martin-Sogan-Vinland. These soil types are typical of pasture land. The subject property has been and continues to be used for pasture. It is not suitable for cultivation of crops. It is suitable for building sites and can easily be modified to meet all percolation requirements for a wastewater lagoon regulated by KDHE.

The proximity of the property to N. 1800 Road, K-10 and the K-10/I-70 interchange makes this property uniquely suited to serve businesses and industries with a need to access these major routes to distribute their goods and services. It is unlikely, given the developing pattern of small lot rural residential and ranchettes in the area, that larger tracts such as this one, will remain pasture land for very long. Given its location on the western edge of Lawrence and its direct access to the major county, state and interstate highways in Douglas County, it is uniquely suited for a business/industrial park. It is not yet surrounded by the rural residential development that exists to the north of this site.

IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

This property has been zoned for agricultural uses since 1966 when the County adopted zoning regulations for the unincorporated areas of the County.

V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Rezoning the subject property will not significantly affect the properties to the north, east or west, because the subject property is high and rolling and well screened with natural vegetation. N. 1850 Road, E. 900 Road and E. 800 Road are currently gravel roads on the north, east and west of the subject property. None of these roads will have direct access to the subject property. The site plan for this property will address buffering and screening of the businesses on the subject property and the preliminary plat for this site will restrict access from this tract to two drives on N. 1800 Road.

The two rural residential properties south of the subject property between N. 1800 Road and I-70 are planned as commercial and residential in Transportation 2025. It is not anticipated that a business/industrial park would have a detrimental affect on any property on the south side of the arterial N. 1800 Road, but especially not on the planned commercial property.

3

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

For many years, the City of Lawrence, Douglas County and the Chamber of Commerce have worked together and with a volunteer Chamber of Commerce task force

known as ECO2 to preserve prime farm ground and open space while providing adequate industrial sites for new office, business and industrial parks. The subject property is not prime farm ground like the areas near the airport, East Hills Business Park or along the Wakarusa bottoms. This site is not in a flood plain or an environmentally sensitive area. It is large enough to be well planned and well screened from any nearby residences. Most business/industrial parks are zoned and planned next to rural scattered residences, rural land uses or residentially platted subdivisions. Most are on the edges of the city limits. They all need to be designated as industrially zoned long before they are actually used. Waiting for a user before obtaining a zoning designation is neither practical nor realistic. It is better to give future home purchasers ample notice of the industrial plans.

This site is at a unique location with direct access to K-10 and immediate access to I-70. From K-10 there is direct, non-stop access to U.S. 40, Clinton Parkway and U.S. 59. There is no other location with such simple, direct and fast access to all of the major eastwest and north-south highways that serve Douglas County. The site would be ideally suited for any business with a need to distribute goods and services across our city, county and region. It is also ideal for home grown small businesses that cannot operate as home occupations, but cannot afford higher priced, business zoned sites within the City limits. The opportunity to have this option for businesses seeking to relocate or locate in our county gives us an opportunity to attract more non-retail jobs, and to provide small and appropriate industrial sites for our own start-up businesses and former home occupations while providing an excellent location for a large industrial user such as a distribution center.

Although the owner will suffer a hardship if it is required to wait another four years to gain approval of this as an industrial site, the greater hardship is to the public the next time a business considering a move to Lawrence cannot find a zoned site to locate on. The hardship is also to the owners of Category III type small businesses that can no longer be home occupations and that need small, affordable industrial sites to locate their businesses. The hardship will be felt by the County that presently has no small incubator size lots for new businesses that want a west side location in the County, not in the City.

The County Zoning Regulations require site plan approval for industrial development. The site plan will address the buffering of proposed uses to minimize any potential negative affects.

4

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Horizon 2020 identifies several strategies for the development and maintenance of industrial areas. Horizon 2020, at page 7-1, states:

The principal Comprehensive Plan strategies for the development and maintenance of industrial areas are:

- **Strive to increase the number and diversity of jobs available to citizens of Douglas County, with the intent of stabilizing the future employment base and generate additional wealth in the community. This strategy requires the community to make available an adequate amount of land in a number of locations to meet diverse development needs. The plan designates and encourages the development of a number of employment areas.**
- **Increase the community's involvement in economic development in order to secure a job growth goal of 20,000 total new jobs in Douglas County by the year 2020. The plan encourages the continued cooperation of the local business community and area educational institutions to bring new technology and investment to the community.**
- **Recognize the need to protect, enhance and retain existing industriallyrelated**

land use areas serving the community.

- **Continue to address the needs of existing local employers and industrialists to ensure their retention and to facilitate expansion plans for the future.**
- **Work with developers and industrialists to make available sites, improvements and amenities which best respond to the market demands while meeting community objectives for the type and quality of development.**
- **Provide employment locations in various parts of the community and encourage bicycle and pedestrian access improvements to employment centers from community neighborhoods.**

Horizon 2020 recommends (not requires) that industrial areas be annexed into the City of Lawrence. Douglas County's Home Occupations regulations were initiated to stop the proliferation of small industrial type home occupations throughout the county. These small businesses have started in individuals' driveways and barns because the individuals needed a low cost/low overhead opportunity to start a new business. Many of these businesses and other similar start-up businesses need industrial sites in the unincorporated areas of the County that are close to major transportation routes and that are not too expensive. These young, home grown enterprises need industrial sites such as those that will be offered at the subject property. This proposed business park will provide diversity in the

5
type of business/industrial parks the community can offer. There is no similar business park in Douglas County now. On the other hand, we have no large site to show to a prospective warehouse distributor such as Target, that has as good access to all major transportation routes without traveling through residential areas of Lawrence. Because of our proximity to both Topeka and Kansas City, this is an ideal location with immediate and direct access to K-10 and I-70. From this location, one can get from the west side of Lawrence to the east side without having to use already overburdened city streets such as 23rd Street and Iowa, to gain access to U.S. 24 or 59, K-10 or I-70. Chapter 7, Goal 3 and the policies that support it are found on pp.7-12 to 7-14.

Chapter 7, Goal 2 on Horizon 2020, pp. 7-9 to 7-11, and the policies that support it, provide the necessary safeguards to achieving a compatible transition from industrial/employment-related development of less intrusive uses. This goal and these policies should be applied to the site plan and plat that will follow the approval of the industrial zoning designation.

This application complies with the policies for the location of industrial or employment related development. It specifically complies with **Horizon 2020**, Policy 3.1, at page 121, which sets out the locational criteria for all industrial or employment-related development. The site is adjacent to the urban growth area and it is clear that the future land use map had not contemplated the rate of growth to the west of Lawrence and the need for an employment center in this part of Douglas County. The request meets the policies for good locational criteria. The access to each business will be from internal circulation, with shared direct access only onto an arterial (N. 1800 Road). (Policy 3.1(b)). The site is large enough to ensure that new industrial developments are concentrated in the area with similar compatible uses (Policy 3.1(c)). It will take approximately 10-25 years to fully develop this park. The site plan will ensure that the major entrances will be developed as gateways (Policy 3.1(d)). This will allow for well planned and orderly cluster development (Policy 3.1(e)(3)). It will be located on an arterial street (Policy 3.1(e)(4)). The site plan will avoid substantial disruption of drainage and will retain mature trees and natural vegetation as much as possible (Policy 3.1(e)(5) and (6)).

The subject property is also consistent with the following locational policies for designating industrial parks. It will be site planned as a planned industrial park that will support job creation for the next 10-20 years, while coordinating the circulation systems, lot configurations, site layouts and environmental amenities of the park (Policy 3.3).

The zoning of this tract will allow the County to have and maintain an appropriate supply of industrially zoned land so that site choices are available, in a diversity of areas, and infrastructure expansion can occur in an efficient and orderly manner. (Policy 3.4). Such a site would have allowed Douglas County to compete for a large warehouse distribution center that recently located in Topeka.

6

This unique location satisfies the major traffic impact concerns addressed by Horizon 2020 that accompany most industrial areas. The site will meet Chapter 7, Goal 4 Transportation Considerations set out on pp.7-15 to 7-16. It will provide the best access and circulation within and adjacent to an industrial area that is possible in Douglas County (Goal 4). The anticipated levels of service on N. 1800 Road, K-10 and I-70 will not be negatively impacted by this industrial park (Policy 4.1). This site will neither permit direct vehicle access to local residential streets nor allow new industrial traffic through residential neighborhoods (Policy 4.3). This site will provide a minimum of two access points on an arterial road (Policies 4.4 and 4.5). The internal circulation will provide access to adjacent industrial buildings (Policy 4.6). The site plan will ensure safe pedestrian and bicycle access (Policies 4.7 and 4.8). The site is large enough to support adequate internal parking, truck loading and maneuvering areas (Policies 4.9 and 4.11).

Additionally, Horizon 2020, Chapter 12 - Economic Development Goals and Policies at pp. 12-1 to 12-10 are met with this application; which if granted, will provide for an additional location in which to increase job growth in Douglas County over the next 10-25 years, in a business park with unique access, that will be developed privately. This application serves the purpose of increasing job growth, increasing the tax base and increasing livable wages (Goals 1, 2 and 3 on p. 12-1).

The fact that our population and housing have grown at a faster rate than our net job growth, requires us to increase the rate of job growth by expanding our economic development efforts. We need this additional business park as a way to attract new businesses to Douglas County locations, by meeting the market demand.

VIII. LIGHT INDUSTRIAL ZONING ("I-2"):

The purpose of Light Industrial Zoning ("I-2") set forth at p.12-1 of the Douglas County Zoning Regulations is:

"This district is intended primarily for light manufacturing, fabricating, warehousing, and wholesale distributing in low buildings with off-street loading and off-street parking for employees and with access by major thoroughfares or railroads in either central or outlying locations."

This proposed site is central to northern Douglas County and is an outlying location relative to Lawrence. It is consistent with the purpose of this type of zoning. In addition to the use restrictions that exist in the zoning regulations for I-2, the property owners will use covenants to restrict some of the uses that are permitted in an I-2 district. They also support a zoning designation of I-2 that excludes all of the uses deleted from the attached list of uses permitted in the I-2 district.

SUMMARY

This rezoning request will provide a badly needed new industrial park just west of Lawrence, in an outlying location that has access to major highways that is unsurpassed in

Douglas County. It is planned to be fully developed in 10-25 years. The applicants have developed, owned, managed and maintained residential, commercial and industrial properties in Douglas County and other communities for more than thirty (30) years. Their industrial parks have not caused traffic congestion, crime, pollution or noise in the adjoining neighborhoods. They will build this business park, maintain it, obtain all of the necessary permits and meet all of the regulations for the safe and efficient provision of utilities to service the businesses that will locate there until city services are available. It will be developed with an eye to meeting City standards, so that when it is annexed by the City of Lawrence, it will be a smooth transition.

This request conforms to the goals and policies of Horizon 2020. This request is for light industrial zoning, not heavy industrial zoning. It is in the best interest of Douglas County to support this privately funded addition to our industrial and business parks.

PC Minutes 12/17/07

MISCELLANEOUS NEW OR OLD BUSINESS

Item 6 was deferred to the 12/19/07 PC Meeting.

MISC. ITEM NO. 1: INITIATE TEXT AMENDMENT TO DEVELOPMENT CODE

Initiate TA-12-25-07 to amend various sections of Chapter 20 related to the definition of family in RS Districts.

Ms. Stogsdill said that a public hearing would be held in January once the text amendment was initiated.

Commissioner Harris asked if the intent was to say that if you have a dwelling unit and an accessory dwelling unit that it can only be occupied by one family.

Ms. Stogsdill replied, no. The accessory dwelling unit allows occupancy level of 1 family and 1 additional person.

Commissioner Blaser inquired about the exception of group homes.

Ms. Stogsdill said that if a group home has 11 or more people then it would need a Special Use Permit. A group home could have more than 3 unrelated people.

Motioned by Commissioner Harris, seconded by Commissioner Moore, to initiate TA-12-25-07 to amend various sections of Chapter 20 related to the definition of family in RS Districts.

Unanimously approved 9-0.

Consideration of any other business to come before the Commission.

Recess at 11:50pm until 6:30pm on December 19, 2007.

PC Minutes 12/19/07

Reconvene December 19, 2007 – 6:30 p.m.

Commissioners present: Blaser, Chaney, Eichhorn, Finkeldei, Harkins, Harris, Hird, Jennings, Lawson, Moore and Student Commissioner Robb.

Staff present: Stogsdill, Day, J. Miller, Morgan, Rexwinkle, and Brown

BEGIN PUBLIC HEARING (DECEMBER 19, 2007):

COMMUNICATIONS

- No Communications

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No parte.
- Abstentions:
Commissioner Finkeldei stated that he would be leaving the meeting at 6:45pm so he was abstaining from any items heard after that time.

PC Minutes 12/19/07

ITEM NO. 6: RSO TO RM15; 9 ACRES; 4000 W 24TH PLACE (SLD)

Z-10-26-07: A request to rezone a tract of land approximately 9 acres from RSO (Single-Dwelling Residential-Office) to RM15 (Multi-Dwelling Residential). The property is located at 4000 West 24th Place, Inverness Park Addition, west of Crossgate Drive & south of Clinton Parkway. Submitted by Highland Construction, Inc., for Dial Realty Corp., property owner of record.

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item.

APPLICANT PRESENTATION

Mr. Tim Stultz, would like to have a nice looking project at this location. The density would be 15 units to the acre with less bedrooms than the Legends apartment complex which is nearby. The apartments would be energy efficient 1 bedroom units. The infrastructure for the project is in place.

Commissioner Harkins asked for the history on the property.

Ms. Stogsdill said that this property had a Special Use Permit (SUP) approved for a retirement community that included a nursing home and independent living. The SUP expired and was re-approved. The developer may have decided to develop the project on a different piece of property in town.

Commissioner Harkins said he thought that they had acted in favor of the Special Use Permit for the nursing home.

Ms. Stogsdill said yes they did.

Mr. Stultz said that Dial Realty Corp. did some site work prior to his offer, but anything that had been done was not done by him.

Commissioner Jennings said that this property was in the middle of the block and wanted to know about the zoning on the other ends of the block.

Ms. Stogsdill said the entire corner is zoned RSO. There is the potential for a future request for RMO because of the multi family uses that were previously allowed under the former RO-1B (old Code) zoning.

Commissioner Jennings asked if the rezoning was anticipated and if that would be undesirable.

Ms. Stogsdill said that multi family would be fine but that it is not anticipated to be rezoned to commercial.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Chaney, to approve the rezoning request [Z-10-26-07] for 9 acres from RSO (Single-Dwelling Residential-Office) to RM15 (Multi-Dwelling Residential) and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Unanimously approved 10-0, with Student Commissioner Robb also voting in favor.

PC Minutes 12/19/07

ITEM NO. 7 **MINIMUM MAINTENANCE; E 700 ROAD (DCM)**

MM-09-01-07: Request to designate minimum maintenance road status for a portion of E 700 Road within Lecompton Township.

STAFF PRESENTATION

Ms. Davonna Morgan presented the item.

Commissioner Hird asked if the section extended all the way down to the intersection to the south.

Ms. Morgan replied no, it did not.

Commissioner Eichhorn stated that there were a number of roads labeled as local roads but that they were not very good roads. The townships want to relinquish themselves to liability and get rid of the maintenance on the road. He went on to say that it could come back to a full service road in the future.

Commissioner Hird asked if it was an existing road.

Commissioner Eichhorn said that it was an existing road with dirt on it.

PUBLIC HEARING

No public comment

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird to approve Minimum Maintenance Road status for portions of E 700 in Lecompton Township and forwarding this recommendation to the Douglas County Commission.

Unanimously approved 10-0 with Student Commissioner Robb also voting in favor.

PC Minutes 12/19/07

**ITEM NO. 8A: UR TO RM15; 27.90 ACRES; SOUTH OF OVERLAND DR BETWEEN
STONERIDGE DR & QUEENS RD (MKM)**

Z-10-25A-07: A request to rezone a tract of land approximately 27.90 acres from UR (Urban Reserve) to RM15 (Multi-Dwelling Residential). The property is located south of Overland Dr between Stoneridge Dr & Queens Rd. Submitted by Landplan Engineering, for Pear Tree Village LC, property owner of record.

Item 8A was deferred prior to the meeting.

PC Minutes 12/19/07

ITEM NO. 8B: UR TO CN2; 12.89 ACRES; NORTH OF 6TH ST BETWEEN STONERIDGE DR & QUEENS RD (MKM)

Z-10-25B-07: A request to rezone a tract of land approximately 12.89 acres from UR (Urban Reserve) to CN2 (Neighborhood Shopping Center). The property is located north of 6th St between Stoneridge Dr & Queens Rd. Submitted by Landplan Engineering, for Pear Tree Village LC, property owner of record.

Item 8B was deferred prior to the meeting.

PC Minutes 12/19/07

ITEM NO. 8C: PRELIMINARY PLAT FOR CREEKSTONE; STONERIDGE DR TO QUEENS RD & 6TH ST TO OVERLAND DR (MKM)

PP-10-09-07: Preliminary Plat for Creekstone, Stoneridge Dr to Queens Rd & 6th St to Overland Dr, a 7 lot subdivision containing 34.864 acres. Submitted by Landplan Engineering, for Pear Tree Village LC, property owner of record.

Item 8C was deferred prior to the meeting.

PC Minutes 12/19/07

ITEM NO. 9A: RS7 TO PD & RS5; 9.90 ACRES; 1301 IOWA (PGP)

Z-11-27-07: A request to rezone a tract of land approximately 9.90 acres, from RS7 (Single-Dwelling Residential) to PD (Planned Development) & RS5 (Single-Dwelling Residential). The property is located at 1301 Iowa Street. Submitted by Allen Belot, for Mt. Oread Development LLC, property owner of record.

Item 9A was deferred prior to the meeting.

PC Minutes 12/19/07

**ITEM NO. 9B: PRELIMINARY DEVELOPMENT PLAN FOR UNIVERSITY PARK; 1301 IOWA
(PGP)**

PDP-11-05-07: Preliminary Development Plan for University Park, located at 1301 Iowa Street.
Submitted by Allen Belot, for Mt. Oread Development LLC, property owner of record.

Item 9B was deferred prior to the meeting.

PC Minutes 12/19/07

ITEM NO. 10: AMENDMENTS TO ARTICLES 3 & 5, COUNTY ZONING REGULATIONS (SMS)

TA-08-07-06: Amendments to Articles 3 & 5 of the County Zoning Regulations regarding the definition of lot width and the establishment of setbacks along roads based upon road classification. *[Revisions associated with proposed rural development regulations.]*

Item 10 was deferred prior to the meeting.

Commissioner Finkeldei left the meeting at 6:50pm.

PC Minutes 12/19/07

ITEM NO. 11: AMENDMENTS TO ARTICLE 8, DEVELOPMENT CODE (JCR)

TA-11-13-06: Consider amendments to Article 8 of the Development Code to correct errors and inconsistencies initiated by the Planning Commission on November 15, 2006.

STAFF PRESENTATION

Mr. Joe Rexwinkle presented the item. In reviewing and applying Article 8, Subdivision Regulations for Lawrence and Unincorporated Douglas County, a number of issues were identified which require revisions to the text adopted. Adoption of the initiated revisions will improve the implementation of the Subdivision Regulations. TA-11-13A-06, TA-11-13B-06, TA-11-13C-06, TA-11-13F-06, TA-11-13H-06, TA-11-13I-06 and TA-11-13J-06 represent specific amendments to Article 8 as discussed in the Staff Report.

Staff identified a number of amendments as a part of TA-11-13-06 which was initiated by the Planning Commission on November 15, 2006. The Planning Commission considered revised language for several individual amendments initiated with TA-11-13-06 at its March 28, 2007 meeting, which have since been approved by the Board of County Commissioners and the City Commission and have been published into the effective Subdivision Regulation text. The amendments with revised language are those amendments which were initiated in November, but have not yet been considered by the Planning Commission.

Staff recommends the Planning Commission discuss and provide feedback on the proposed revisions [TA-11-13A-06, TA-11-13B-06, TA-11-13C-06, TA-11-13F-06, TA-11-13H-06, TA-11-13I-06 and TA-11-13J-06] to Article 8 of the Development Code, to the County Commission and City Commission.

COMMISSION DISCUSSION ON TA-11-13A-06

Commissioner Eichhorn was concerned about the timing of street tree planting. He wondered if someone were to get subdivision status would they plant trees at the same time or after the house was built.

Mr. Rexwinkle was unfamiliar with the timing of street trees being planted in the city. They are paid for at the time of a building permit.

Ms. Stogsdill said now that the city installs the trees, they typically follow the construction of the house. Sometimes they may be months later since the city does 2 bids a year and do plantings all at once. This amendment really has to deal with the fact that as written they are required for development in the UGA before it's in the city, so if you had 660' of frontage with a tree every 40' it would be pretty onerous.

Commissioner Harris inquired about how the provisions would carry over if the property was sold before it was annexed.

Mr. Rexwinkle said the agreement could be filed at the Register of Deeds and could be written as such for any future owners.

Commissioner Harris wanted future buyers to know prior to purchasing.

COMMISSION DISCUSSION ON TA-11-13C-06

Commissioner Blaser said he lives on a cul-de-sac that is more than 800 feet with golf course on both sides so a walk way could not be put in.

Mr. Rexwinkle said there is a waiver process built in to do the topography so that pedestrian ways can be waived.

Ms. Stogsdill said that they would look at how the subdivision was laid out differently to be able to provide pedestrian traffic through.

Commissioner Harris inquired about the colors in the staff report. She was curious if they were just looking at the strikeouts in red.

Mr. Rexwinkle replied that was correct. The red font represents the individual amendment it is associated with.

Commissioner Harris asked if the blue font represented changes.

Mr. Rexwinkle replied no, the blue font just represented defined terms.

PUBLIC HEARING

No public comment.

Commissioner Harris asked for clarification of text on page 31 (h) under the heading of *Completion of Public Improvements [TA-11-13H-06]* regarding improvements being completed in a timely manner.

Mr. Rexwinkle said that in the case of a Final Plat the governing body does not review it so the language was moved to section (vi) since the Planning Director can approve it instead of the Governing Bodies.

Commissioner Hird asked if there were standards that the Planning Director is bound by with regard to the sufficiency of the escrow or letter of credit.

Mr. Rexwinkle said that this was the only section that discusses it in the Subdivision Regulations. The only real change is clearing up the fact who is ultimately responsible for accepting the form of financing and that would be the Planning Director. It is because the Final Plat is approved by the Planning Director, not Governing Bodies.

Commissioner Hird concerned that the Final Plat has prescribed standards but letters of credit and sufficiency of escrow deposit can be interpreted in different ways. He was curious about what the process was if a developer decides that the Planning Director has imposed arbitrary standards on the credit.

Ms. Stogsdill said that we would need to find out whether Public Works has standards for these types of things. Under today's scenario the Governing Body would make a decision based on a recommendation from the Public Works Director. The Planning Director would not make a decision in isolation.

Commissioner Eichhorn said he was against 5' for sidewalks on a local street. He felt that 4' sidewalks was adequate on both sides of the street (page 11-21).

Ms. Stogsdill said sidewalk width was changed years ago due to ADA compliance. It was amended in the early 90's because 4' was not enough for the turning radius, but in a residential situation you have probably every 100' a place to turn on the driveway.

Commissioner Eichhorn said it has been interpreted in different municipalities in different ways.

Mr. Rexwinkle asked Mr. Eichhorn if he thought that only applied to local streets.

Commissioner Eichhorn replied, yes.

Commissioner Harkins was opposed to any changes that would put the elderly at a disadvantage. He said that it did not sound like they were real certain about the ADA requirement but if they could shave 12" of concrete off of a lot it would leave more greenspace and would be worth looking into.

NO ACTION TAKEN

PC Minutes 12/19/07

ITEM NO. 12: AMENDMENTS TO SECTION 20-601, DEVELOPMENT CODE (JCR)

TA-07-14-07: Consider amendments to Section 20-601 of the Development Code to revise setbacks for the IG District when abutting residential zoning districts.

STAFF PRESENTATION

Mr. Joseph Rexwinkle presented the item.

The IG (General Industrial) District is composed of three distinct zoning districts from the 1966 Zoning Code, the M-2, M-3 and M-4 districts. The M-3 and M-4 districts were the most intense of the industrial districts and therefore had greater setback requirements than the M-2 district. In the 1966 Zoning Code, the M-2 District had lesser setback requirements than the M-3 and M-4 districts because it was considered to be a less-intense industrial district. When the Development Code was created, the M-2, M-3 and M-4 districts were combined to form the IG district, and most properties which had been zoned M-2, M-3 or M-4 converted to IG with the adoption of the Development Code. As a result, some structures located on property zoned M-2 and developed under the 1966 code may be nonconforming with regard to setback requirements in the IG district.

Staff is continuing to review the issue and will propose amended text at a future Planning Commission meeting. Staff is attempting to determine the number of properties containing structures which may be nonconforming as a result and the extent to which they may be nonconforming. Staff recommends the Planning Commission discuss and provide feedback.

COMMISSION DISCUSSION

Commissioner Eichhorn asked how many of the structures in North Lawrence were developed industrial.

Mr. Rexwinkle said that most of the properties he highlighted on the map in North Lawrence are not residential uses, he could not say definitely if they were industrial, just that they were not houses.

Commissioner Eichhorn said that on smaller lots with a 50' setback there would not be room for a building.

Mr. Rexwinkle replied that was correct, they would have to apply for a variance for the use and setbacks. If we reduce the setbacks district wide it could possibly help but since the lots are so small we would have to reduce them a lot because typical side yards setback in a residential district is 5-10' and we probably would not suggest reducing the I-G setbacks to that small.

Commissioner Moore inquired about the grandfather clause.

Mr. Rexwinkle said that would be on a property by property basis. He said it would state something like "if I-G property was previously zoned M-2 these are what the setbacks would be" and it would be the same setbacks as the former M-2 district. If the property is redeveloped then they would have to come into compliance.

Commissioner Eichhorn asked if there was any thought about sending a letter to the property owners to voluntarily be rezoned.

Mr. Rexwinkle said if they are industrial uses then they probably could not rezone to residential. Some property owners believe that their property value would go down if it was rezoned to residential.

Commissioner Harris asked what the difference between grandfather clause and non-conforming was.

Mr. Rexwinkle said the grandfather clause would allow a possible expansion into the setback that is non-conforming if it did not exceed the certain standards that Commissioner Moore eluded to or if it did not constitute a significant development project we could attach language like that to it. A significant development project is in addition of over 1500 square feet. The non-conforming article in the Development Code regarding setbacks states you cannot extend the non-conformity. If the setback is supposed to be 50' and the property is already at 40' it cannot be expanded further.

Commissioner Harris asked if that was true for grandfathering as well.

Mr. Rexwinkle said that if it is an existing structure, no. The grandfather language would say that the setbacks are automatically 20' for existing structures. If it is currently non-conforming then it would still be non-conforming. It would essentially reduce the setbacks for existing structures down to what they used to be when they were built.

Commissioner Blaser asked what would happen if they did nothing.

Mr. Rexwinkle said they would be dealing with this issue on a site plan basis. For instance if a property owner wanted to build a structure on a undeveloped property what would occur would the person may have purchased the property and platted it at a time when the setbacks were 20' and now they are 50' so they have less developable land on their property. They might have to seek a variance that will add different layers to a site plan project and complicate it more because they would not know if they can get a variance until BZA rules on it.

Commissioner Moore leaned toward the grandfather use because economically there is a need in North Lawrence to allow those uses to continue.

Commissioner Harris said she was not in favor of reducing the setbacks of all the districts. She would like for there to be a compromise. She wondered if it was possible to create another smaller district.

Mr. Rexwinkle said the M-2 district was folded in with the M-3 and M-4 districts and for some reason it always had a lesser setback than any of the industrial districts. The issue would create another zoning district but it might be a cleaner solution in the long run.

Commissioner Harris wondered if the reduced setback was wise and appropriate and do they want that to continue for new development in the future.

PUBLIC HEARING

Ms. Jane Eldredge, Barber Emerson, said that all of the M districts are in the older parts of town. They were all designed in a previous age to serve businesses. She was unaware that they needed to move away from the restrictions that are in place. She said that the parking setbacks have increased. In the M districts you could park to the property line and that is no longer the case. She suggested keeping all M designations for existing properties and retain the same rules of the old Development Code and use new I districts for new properties.

Mr. Duane Schwada showed a map of properties affected. He said that he may lose tenants that he has had for 15 years because they may want to expand the setbacks. He gave the example of having a 100'

deep lot and 50' setback you would end up with something that is not useful. Gave the example of Van Go wanting to expand.

Commissioner Eichhorn asked what would happen if a site plan did not exist and Van Go wanted to remodel.

Mr. Rexwinkle said that Van Go did a site plan for a paved parking lot and sidewalk improvements. They were not expanding into the setback. They could not expand.

NO ACTION TAKEN

PC Minutes 12/19/07

ITEM NO. 13: CPA-2004-02 (AAM)

CPA-2004-02: Receive Board of County Commissioners recommendation to reconsider a Comprehensive Plan Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use. Referred to the Planning Commission on October 8, 2007.

Item 13 was deferred prior to the meeting.

PC Minutes 12/19/07

MISCELLANEOUS NEW OR OLD BUSINESS

MISC 2

Mid-Month topic schedule.

Ms. Stogsdill said that Commissioner Eichhorn met with Mr. Scott McCullough and identified items for mid-moth topics and assigned them to different months. She said that it was just a plan, so some topics might get pushed to a different month, especially meetings that outside people will attend.

Commissioner Harris inquired about the level of discussion in August for the Northwest Area Plan.

Commissioner Eichhorn said that the goal was to have the entire area plan done.

Commissioner Harris suggested adding a brief overview of what a Watershed Plan is and when they are initiated.

Commissioner Blaser said he would be absent from the January Planning Commission meeting.

Consideration of any other business to come before the Commission.

Commissioner Eichhorn wanted to have a brief discussion on ex parte.

Commissioner Harris read the bylaws on the ex parte rules to the Planning Commission. She asked what part of a project was considered quasi judicial.

Mr. John Miller stated that not everything related to a project is considered quasi judicial. Most things that have a public hearing could be considered quasi judicial, such as rezonings, SUP's, or plats. Text amendments are considered legislative.

Commissioner Harris asked if every aspect of a project (annexation, rezoning, etc) would be considered quasi judicial.

Mr. Miller said to be safe, it was best to consider all aspects of specific projects regarding a piece of land as quasi judicial.

Commissioner Hird said that any communication could have an impact on a pending project. He felt that it would be included in quasi judicial.

Mr. Miller said it could be.

Commissioner Hird asked if they get a call from a developer should they terminate the call.

Mr. Miller said that as the bylaws are currently written he would say yes.

Commissioner Hird inquired about what they should do when they get emails that they have no way of terminating.

Commissioner Eichhorn suggested any emails be sent to everyone and have it end up in the communication packet for the Planning Commission meeting.

Commissioner Harkins said there was not hard fast answer. He felt this was a murky area leaving a lot of crossover. He suggested writing rules and living by them. Gave an example of when declaring work that is quasi judicial you then create the opportunity to use the exemption in the Kansas Open Meetings Act law to give the opportunity to have private deliberations, which is built in to the Kansas Open Meetings Act. He stated that when functioning as a quasi judicial agency you can do that but he did not think they wanted to do that. He felt it was tricky because the Planning Commission performs 3 different functions: quasi legislative mode, quasi judicial mode, and administrative mode. When there is a quasi legislative issue it is unavoidable to talk to people on the street. Legislatures have an open door where they encourage the public to communicate to them and if rules are written then he would like for legal ways to make it as easy as possible for the public to communicate to members of Planning Commission.

Commissioner Hird said it was difficult when he gets a call from someone who wants to talk about policy and then it leads to a specific project. Trying to terminate that conversation is tricky.

Commissioner Lawson asked what in particular causes this to be an issue.

Commissioner Harris referenced the Deciphera scrutiny and also a previous night when Commissioner Hird said he was unclear about the ex parte rules. She said that the bylaws state that if you disclose an ex parte conversation than you need to disclose the content so that staff and the public can rebut or respond to the information.

Commissioner Jennings acknowledged Commissioner Harkins for his service on the Commission. He asked Mr. Miller about quorum since he and Commissioner Blaser would not be present at the January Planning Commission meeting.

Mr. Miller said that the quorum would be 4 Commissioners, and 6 Commissioners needed to make a binding action.

Commissioner Harkins thanked the Planning Commission and Planning Staff for all their hard work during his service on the Planning Commission.

ADJOURN 8:10pm