

**ITEM NO. 12 CPA-2007-2 (DDW)**

**CPA-2007-2:** Consider amending Horizon 2020 to ensure proper comprehensive plan language is in place for a proposed Mixed Use District in the City of Lawrence Land Development Code.

**ITEM NO. 13 AMENDMENTS TO CHAPTER 20, DEVELOPMENT CODE (JCR)**

**TA-04-05-07:** Consider amendments to Chapter 20, Development Code to create a Mixed Use Zoning District. Initiated by the Planning Commission on April 23, 2007.

**STAFF PRESENTATION**

Mr. Dan Warner and Mr. Joe Rexwinkle presented items 12 and 13 together.

Commissioner Hird asked why transit stops had to have shelters.

Mr. Rexwinkle said that the Transit System creates a map and it needs to be represented on the map. The definitions are tied to the Lawrence T Routes Map.

Commissioner Hird said he thought the point was to place mixed use development centers where there is access to bus shelters and asked what happens if a developer builds a mix use development and wants to put in a bus shelter.

Mr. Rexwinkle said that the developer should talk to the Transit Department if they want to put a bus shelter.

Commissioner Harris asked how to show zones if only working with one lot or building.

Mr. Rexwinkle said that if it is just one piece of property they can show the zones across the property.

Commissioner Harris suggested using the word 'route' instead of 'stop' regarding transit.

Commissioner Hird said that the financial viability of the transit changes annually. He liked the suggestion of changing the word to 'route.'

Mr. McCullough said these would be decisions in the public process and would be elements of judgment that the City Commission and Planning Commission will have to make.

Commissioner Finkeldei inquired about a market study.

Mr. Rexwinkle said the scale of mixed-use districts could not compete with downtown because of the size.

Commissioner Finkeldei asked how to analyze the viability of downtown.

Ms. Stogsdill said that the Commission tabled many months ago a CPA to that very section because the Development Code language is not the same as Horizon 2020 language.

Commissioner Harris inquired about page 13-4 (item 13) where it mentions that a development bonus can be transferred to another site.

Mr. Rexwinkle said that if a developer can earn points in other zones within the same development.

Commissioner Harris said that the plan talks about mixed use being allowed within ¼ mile from downtown. She asked how the edge of downtown was defined.

Mr. Rexwinkle said it was based on the downtown boundary district CD.

Commissioner Harris asked if drive-thrus would be allowed in the mixed-use development.

Mr. Rexwinkle said no, it was not permitted.

Commissioner Harris asked if brew pubs were allowed.

Mr. Rexwinkle replied yes.

Commissioner Harris had concerns about that and said that should only be allowed by special permit.

Commissioner Eichhorn asked if an application would have to spell out the intended uses.

Mr. Rexwinkle said yes at the Site Plan phase and that the applicant should consider what uses are permitted before rezoning.

Commissioner Harris said that currently a mixed-use development can put in a brew pub no matter the size. She felt that if the development is in a residential area that a special permit would be helpful.

Commissioner Moore agreed with Commissioner Harris.

Commissioner Finkeldei asked for the definition of brew pub.

Ms. Stogsdill directed him to page 17-22 of the Land Development Code.

Commissioner Finkeldei read the definition of brew pub out loud.

## **PUBLIC HEARING**

Betty Lichtwardt, League of Women Voters, spoke regarding the letter they sent. She was concerned about the randomness of this district. She said the fact that it can be as large as 20 acres indicates that it also might be utilized in new areas. She stated that it was essential to have a preplanned neighborhood with pedestrian routes identified first. She questioned the separation of site plans from the rezoning process because the site plan is not reviewed by Planning Commission. She felt that the decision would then depend on the judgment on relatively few people. She was concerned about the location of commercial uses not being distributed where people need them. She said that initially when the early Comprehensive Plan was adopted the idea was to tailor the needs to the size of the district so that the smallest districts were designed for neighborhoods and included food stores, service uses, and small businesses. She said that the whole purpose of the mixed use district is to support pedestrian use. She felt that they needed to reduce reliance on automobiles.

Commissioner Eichhorn asked how this zoning district did not help what they are emphasizing.

Ms. Lichtwardt said that it does not restrict uses and that businesses should have value to the neighborhood. She said that the site plan needs to be with the zoning.

Commissioner Eichhorn felt that the use table spoke to those types of things.

Ms. Lichtwardt said that explosives storage should require a Special Use Permit in the IG district.

Ms. Jane Eldredge, Barber Emerson, representing the Jayhawk Bookstore in regards to the mixed-use planning. She gave history of Jayhawk Bookstore. She said that the bookstore has always been non-conforming and has had problems with lenders and insurance. She said that this problem was compounded by the Development Code automatic rezoning. She stated that the Jayhawk Bookstore is in the RMG district and if it burned down it could not accommodate a fraternity or sorority because of the small lot size. She stated that the owner is trying to rezone for conformity and that the MU district does not quite work. She went on to say that some residents are concerned about the location being turned into a bar but the Mr. Muggy has no intention of opening a bar at that location. As part of the zoning staff report, she suggested striking requirements of MU District for major Development projects. She suggested alternate language of existing mixed uses prior to MU.

Mr. McCullough said that a new code provides new standards. There is an entire article for non conforming uses. He stated that this is not a unique situation for the MU district and that lots of sites that do not conform to standards and the code allows for a few options such as variance or rezoning. He disagreed that the Code should have specific language.

Mr. Michael Almon, lives in East Lawrence, spoke from the perspective of being a member of Friends of Douglas County that started the discussion on Smart Growth. He went on to say that the main principle of smart growth is to increase density offset by open space preserved. He felt that open space should be under the jurisdiction of MU site. He felt that they should not be building over all the open lots in the old parts of town. He commented on Peak Oil and felt that development patterns needed to be changed.

Commissioner Harris asked why Mr. Almon did not want to see open space adjacent to parks.

Mr. Almon said he did not want a developer to not dedicate open space on their site and claim an adjacent park was the open space.

Ms. Lichtwardt said that she thought Mr. Almon was probably referring to a comment that the League of Women Voters made. If high density is near natural areas it can be problematic to maintain so they need to choose park space wisely.

## **COMMISSION DISCUSSION**

Commissioner Harris suggested several changes:

- Change 'and' to 'or.'

- Change 'transit stop' to 'transit route.'

- Require a brew pub to have a Special Use Permit.

- Document should specify boundaries of downtown as defined by Horizon 2020.

Mr. Rexwinkle said that they could reference boundaries of downtown as being defined in Horizon 2020, Chapter 6.

Commissioner Finkeldei agreed with the suggested changes.

Commissioner Hird recognized that a lot of hard work and time has gone into this. Some of the comments about the Jayhawk Bookstore lead him to be of the opinion that they should not take action on this tonight. He wanted to see further communication on the ideas and a clearer draft of what is being done. He suggested deferring the item.

Commissioner Eichhorn agreed and was okay with this being deferred.

Mr. McCullough said that the four changes suggested were fairly minor.

Commissioner Eichhorn agreed with Mr. McCullough and said that they should identify areas that might be mixed use.

Commissioner Harris wondered if there are existing mixed use sites in Lawrence that should not be and that they might be opening a can of worms.

Commissioner Finkeldei said there is nothing in town that is zoned mixed use and will not be until a rezoning.

Ms. Eldredge said that there are places in town that are not legal in any way. She said that Jayhawk Bookstore is a legal non-conforming use.

Commissioner Finkeldei said that Mr. Muggy would still need to apply for rezoning.

Commissioner Hird said he would feel better about approving this if he knew who it was impacting.

Commissioner Moore said that whether it impacts them or not is up to them coming forward and rezoning their property.

Commissioner Finkeldei said there are certainly uses in downtown with mixed-use and those people would not have to come forward and be rezoned because they are already using it that way.

Commissioner Moore said he was comfortable with the changes and they seem fairly minor.

Commissioner Hird would rather vote on the items armed with more information. Identifying those areas where mixed use might apply might present an opportunity. He was in favor of mixed use zoning and felt it was a positive step. He wanted to know what areas of town could fit into this and identifying those might stimulate development and infill development.

Mr. McCullough said they might need to look at any use that wants to redevelop to see how close the standards are addressed.

Commissioner Eichhorn asked what would be the benefit of someone taking 80 acres and coming in with four 20 acre MU zonings.

Mr. McCullough said that those would have to be looked at as they are applied for.

Commissioner Harris asked Staff to speak about open space issues.

Mr. McCullough said that a number of important elements such as transit, moderately priced housing, and open space are all included in the district for bonus points.

Mr. Rexwinkle said that other requirements of the Code still apply but that the bonus table just grants bonuses for features that are not required.

Commissioner Finkeldei asked if there is an application waiting on this being adopted.

Mr. McCullough said that the Jayhawk Bookstore is.

Commissioner Finkeldei said he was generally supportive of the Bookstore being able to use this district and felt that other like uses could benefit from this. He was not sure that the solution should be to grandfather in non-conforming uses.

## **ACTION TAKEN ON ITEM 12**

Motioned by Commissioner Harris, seconded by Commissioner Hird, to defer until the April Planning Commission meeting to allow time for a better understanding of the implementations.

Motion carried 5-2 with Commissioners Chaney and Moore voting in opposition.

**ACTION TAKEN ON ITEM 13**

Motioned by Commissioner Harris, seconded by Commissioner Hird, to defer until the April Planning Commission meeting to allow time for a better understanding of the implementations.

Motion carried 5-2 with Commissioners Chaney and Moore voting in opposition.

**ITEM NO. 11 CPA-2007-2 (DDW)**

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**ITEM NO. 12 AMENDMENTS TO CHAPTER 20, DEVELOPMENT CODE (JCR)**

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**STAFF PRESENTATION**

Mr. Dan Warner and Mr. Joe Rexwinkle presented items 11 and 12 together.

**PUBLIC HEARING ON ITEM 11**

Mr. Bill Muggy, Jayhawk Bookstore, thanked staff for their work and expressed support for the items.

**PUBLIC HEARING ON ITEM 12**

No public comment.

**ACTION TAKEN ON ITEM 11**

Motioned by Commissioner Finkeldei, seconded by Commissioner Carter, to approve the comprehensive plan amendment to *Horizon 2020* by amending Chapter 6 to add policy language in support of a mixed use district in the Land Development Code and recommends forwarding this comprehensive plan amendment to the Lawrence City Commission and the Douglas County Board of County Commissioners with a recommendation for approval.

Unanimously approved 6-0.

Motioned by Commissioner Finkeldei, seconded by Commissioner Chaney, to approve and sign Planning Commission Resolution 2007-04.

Unanimously approved 6-0.

**ACTION TAKEN ON ITEM 12**

Motioned by Commissioner Finkeldei, seconded by Commissioner Chaney, to approve TA-04-05-07, to create a mixed use zoning district, as revised, to the City Commission for approval.

(On February 27, 2008, the Planning Commission voted 5-2 to defer the amendments to *Horizon 2020* and the Development Code until April and directed staff to make three specific revisions to the draft Development Code language.) The specific changes requested were as follows:

- 1) To revise Section 20-223(b)(1) as follows: "Within one-quarter mile of a Designated Transit ~~Stop~~ Route; and
- 2) To revise Section 20-223(b)(3) to provide a cross-reference to the downtown boundaries as described in Chapter 6 of *Horizon 2020*; and
- 3) To revise Section 20-403 to require a Special Use Permit for Brewpub uses in the MU District;

Unanimously approved 6-0.