

Commissioner Amyx pulled for separate discussion Ordinance No. 8283, for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7 – Industrial and Employment Related Land Use. He said after reviewing the amendment, the only area he was interested in changing was the locational criteria for Industrial Developments which read:

“A given site, whether located within City limits, in the UGA, or in unincorporated areas of Douglas County, should *substantially* meet the following general locational criteria:

- have feasible access to Federal and State transportation networks;
- be of adequate parcel size, generally over forty acres;
- lie primarily outside of the regulatory floodplain;
- have minimal average slopes.”

He said even after all the discussions at the Planning Commission level, there were changes regarding prime agricultural property in the C1 and C2 category. Since this document discussed future sites for industrial, it would be appropriate to add prime agricultural property in C-1 and C-2 category as a fifth bullet point.

He also read from the draft Chapter 7, “After identifying a general location for potential industrial and employment park development” and went on to read the last sentence which read, “Locations initiated through the planning process that are not on Map 7-2 will be weighted against the general location criteria above.” He said the map was not depicting current locations on Map 7-2. Prime agricultural property was important to mention as one of the bullet points in establishing industrial centers locations in the future and understood the County Commission would chime in on that issue. Again, if the City had any concern about prime agricultural property, a bullet needed to be added.

Mayor Dever suggested the City Commission discuss what that bullet point should state.

Commissioner Amyx suggested the bullet contain the phrase, “Containing minimal areas of high quality agricultural land,” as a starting point.

Commissioner Hack asked if the City Commission wanted to specifically identify class one and two.

Commissioner Amyx said it was important to mention the two specific categories. He said it would be a big step regarding future development of industrial sites and employment centers, but it was important that if there were concerns about those two categories of property, those two categories be mentioned.

Mayor Dever said those were all positive statements and the last statement would be refraining from developing in areas of capability class one and two as defined by the NRCS.

Commissioner Amyx said that was the language that was left in the document. He said to treat this item fairly, because of the last minute proposed change in the wording, this item needed time for public comment.

Commissioner Highberger said he agreed with Commissioner Amyx. He said he had other problems with the document, but the way the document was stated now, had almost no weight. The change would not be an absolute rule, but would be much stronger criteria. Despite other concerns about the document, he would be willing to support the document with that change. He said he believed it required a supermajority to pass.

Vice Mayor Chestnut asked what happened if this item did not receive a supermajority vote.

David Corliss, City Manager, said it would go back to the Planning Commission. If this Commission was making a substantial change, it would require a supermajority vote. It still had to go through the County Commission. Because the City Commission was proposing changes that were substantial, the County Commission would have to have a supermajority vote.

Vice Mayor Chestnut said he would stand on the same comment he made two or three weeks ago. He said in going back to the introduction of Horizon 2020, he still thought it was a restriction because the term "should substantially" was a restriction to him. The other criteria addressed physical attributes of the land that were critical to being close to highways, right size, outside the flood plain, and minimal to average slopes.

The characteristics of the swell, he felt confident that with the character of the soil the Mayor made some important comments about that being a difficult determination to make. He would not support that item and thought there was a lot of discussion at the Planning Commission level about that particular subject and in the matter of course, the Planning Commission decided to go with language that was a little less restrictive because he believed at one point that criteria was in, then it came out. He said he at least wanted to support the Planning Commission's findings in general because he agreed it was too restrictive. He said if there was a supermajority it moved on, but if not, he was trying to figure out what happened. He asked if there needed to be another vote to send it back to the Planning Commission.

Mayor Dever said yes.

Commissioner Amyx said sending it back to the Planning Commission would not be his preference because he believed the Planning Commission did a very good job sending the document to the City Commission. He said he only had a small difference of opinion on locational criteria and the specificity of that language along with the idea of the 5th bullet point.

Mayor Dever asked staff to confirm that item was in the document and then removed.

Scott McCullough, Development Services Director, said at one point there was that locational criteria. One of the things staff clarified for Commissioner Amyx was that Map 7-2 had gone through the exercise of using the locational criteria to get their "snowflakes" was the term. He said the locational criteria, in the context of this section of the chapter, was meant to be used for any site that was not located on that map. Throughout the process there were a couple of active zoning cases where this discussion was central to those two rezoning efforts in terms of depending on how they established their locational criteria in the section would be transferred to those zoning items. It was never staff's intent to do that, but instead to use the locational criteria in the chapter to establish a County map of industrial sites and anything not shown on that map, in the future, submitted as a development project, would be judged based on those locational criteria. He said he apologized staff did not make that clearer in their

presentation to the governing body, but that was certainly staff's intent and that was how staff interpreted the language in that it would not change Map 7-2.

Mayor Dever said if they had locations that contradicted their locational criteria, which was going to happen if they did this, because he assumed that most of the locations were with soils of class capability one and two.

McCullough said it was a position that if they substantially met the locational criteria, left enough flexibility in the language, looked at the transportation networks, and some of the slope attributes to those specific sites, they believed they weighted out higher towards industrial development than some other type of development. He said map 7-2 was produced based on the locational criteria. They did not know of future sites and could add more sites, but determined that was ample amount of opportunity to get them into the future, but wanted to be flexible enough for other potential industrial centers in the county that would be judged by criteria.

Mayor Dever asked if there were locations that contradicted their locational criteria, which would happen now if the amendment was adopted because if he went through and mapped it, it would be found that more than one of those locations was located with soils with capability class 1 and 2.

McCullough said he agreed with that statement, but staff was at a position that if substantially meeting the locational criteria, in which staff left flexibility in the language, they could look at the transportation networks and some of the slope attributes and those types of issues to those specific sites, staff believed they weighted out higher toward industrial development than some other types of development. Staff stood on Map 7-2 as being the specific sites that had gone through the exercise of the locational criteria, by the Planning Commission, by the subcommittee, and staff. He said that was the map that was produced, in some instances by ECO² committees, that was the map that was produced base on locational criteria. He said staff did not know future sites, but they could add more snowflakes to the map,

but staff determined there was ample amount of opportunity to get further into the future. He said they wanted to be flexible enough that if a site, for example, Highway 56 or 59, could be potential industrial employment centers in the County that would come in and be judged by this criteria.

Mayor Dever asked if staff did not think it was a concern that the City contradicted criterion by the use of the snowflakes because of the statements just made.

McCullough said he did not think it was a conflict, if they added the locational criteria back in, because it was a judging of several factors.

Mayor Dever asked if they could use this as an example of superseding the criteria, in spite of the fact it might have met one of the criteria, they still identify it as a developable area. In the future, one could render the opinion that if it met four out of the five locations, they could not contradict their methodology of the past. He wanted to make it clear that if the City Commission was going to approve this amendment, that they would be setting that precedent from day one.

Commissioner Amyx said that Mayor Dever made a perfect point. Even with the addition of the fifth vote, the criteria that would be established in whatever location that was being discussed, might have met three or four of the criteria and weighted as such in saying there was not a contradiction with Chapter 7. He said the correspondence the Commission received concerning Chapter 7, whatever language was changed, it needed to appear back on the agenda for public comment.

Corliss said the City Commission could amend the ordinance on second reading and adopt the ordinance as he understood Commissioner Amyx would like the language worked out and then staff could place the amendment on a future agenda again.

Commissioner Amyx said he did not want someone to come forward and state the City Commission changed the language at the last minute without any opportunity for public comment.

Vice Mayor Chestnut said he would be in support because this issue would be opened back up to significant public comment because of that change, both in support and against.

Commissioner Hack said the language could read that those were located outside areas classified as C1 and C2 as defined by NRCS which would be the 5th bullet point and parallel with the others.

Vice Mayor Chestnut said given the meaning in 7-5, when saying locations initiated through the planning process, he said what was being evaluated was essentially the individual site analysis on the four criteria and would probably need to add a 5th bullet point.

McCullough asked if the 5th bullet would be the language regarding soils.

Vice Mayor Chestnut said yes, there would be transportation, floodplain, slope, and there needed to be something regarding soils.

McCullough said correct.

Vice Mayor Chestnut said that would be added to Farmland, Southeast, airport, I-10, I-70, K-10, the ones that were evaluated against the four criteria.

Mayor Dever said yes, the particulars for each item. It would need to be updated with the 5th bullet point.

McCullough said yes.

Mayor Dever said there were a lot of things that would occur once they placed that item in that loop and he did not necessarily have a problem with being specific. He said it was better to be more specific than vague when someone was gauging a location. There were standards and as long as there was clear understanding that when they itemize each of those locations, it was not going to add up to what they just specified. If it was okay listing off each site and acknowledging they did exist in areas containing what they just suggested they not do, and set that precedent, then he was okay inserting that language as a bullet item. It seemed contradictory. He said when McCullough inserted the capability classes for each one of those locations, two of those locations would end up that they had capability class 1 and for sure 2.

He said the document that McCullough produced for final approval was going to contain at least 1 or 2 sites.

McCullough said there would be a few sites that would contain some amount of class 1 and 2 soils.

Mayor Dever said it set a precedent that they would still allow them to be considered if they substantially met most of those. It was good to have a number, look at the number and say they should refrain from building in those areas. He said they were trying to achieve protecting substantially those areas, but they were contradicting in that document and he wanted to make that clear because they were going to have sites listed as capability class 1 and 2.

McCullough said in looking at the maps, the transportation network had been given a very strong weighting factor, but was not laid out as a weighting factor. He said the pattern of where those employment center sites were located gave a lot of deference to the state and interstate transportation system. Again in language in 7-5, it talked about a non-exclusive list of sites had been identified on Map 7-2 and it went on to discuss those sites and what factors were relevant to those sites. He said what this document was saying was given the factors and the analysis for individual sites, there had been a determination made by ultimately the governing bodies that those individual sites weighted out and factored out to be good areas for employment centers.

Mayor Dever asked if the word "modifier" could be inserted into McCullough's comments.

Commissioner Amyx said on page 7-4, under Lawrence New Industrial Areas, the last sentence talked about the criteria of striking a balance between industrial user needs and community interest as well as being aligned with the criteria developed through the ECO² process. He asked if that sentence should be used with those potential 5 bullet points and then staff could make a determination of community interest versus industrial future needs as to what was going to carry the most weight.

McCullough said yes.

Commissioner Amyx said this body and the Planning Commission would be able to do that also.

Commissioner Hack said she thought the word “area” was better than “amount” or “quantity.”

Mayor Dever said yes, but the only problem with saying “area” was that the area could be defined as a mile. He said Commissioner Hack proposed the following language as the 5th bullet point, “were located outside areas classified as having a substantial amount of class 1 and 2 soils as defined by NRCS which would be capability Class 1 and 2 as defined by NRCS.” He said located outside areas was vague and one could be within proximity of that and therefore be a reason to deny or to vote against even though it would not contain the soil.

Commissioner Hack suggested revising the language to reference a parcel or site.

Commissioner Highberger said, in keeping parallel with the existing language regarding slopes, and suggested revising the proposed language to read, “have minimal areas of capability class 1 or 2 soils.”

Moved by Highberger, seconded by Amyx, to defer second reading until October 14, 2008 and direct staff to add “have minimal areas of capability non-irrigated Class 1 or Class 2 soils as defined by NRCS”. Aye: Amyx, Dever, Hack and Highberger. Nay: Chestnut. Motion carried. (26)

CITY MANAGER’S REPORT:

During the City Manager’s Report, David Corliss said staff drafted a report on the most visited City websites; staff and board members attended the Sister Cities 2008 International Conference; and Parks and Recreation hosted a National Gymnastics Day Event. (27)

REGULAR AGENDA ITEMS:

Conduct a public hearing on a request by Lawrence Originals, for a waiver of the restriction of the sale and serving of alcoholic liquor within 400 feet of a school or church, pursuant to section 4-113(a) of the Code of the City of Lawrence, Kansas regarding the temporary sale of alcoholic beverages at the Lawrence Originals Food Festival at South Park on Wednesday, October 8, 2008 from 5-9 pm; and consider the