



PLANNING COMMISSION MEETING
November 17 & 19, 2008
Meeting Minutes

November 17, 2008 – 6:30 p.m.

Commissioners present: Carter, Chaney, Dominguez, Finkeldei, Harris, Hird, Moore, Rasmussen, and Student Commissioner Shelton

Staff present: McCullough, Stogsdill, Leininger, J. Miller, Rexwinkle, Warner, and Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meetings of October 20 & 22, 2008.

Commissioner Rasmussen had a correction to page 16.

Commissioner Harris had a few changes that she emailed to Ms. Denny Ewert.

Motioned by Commissioner Rasmussen, seconded by Commissioner Moore, to approve the October 20 & 22, 2008 minutes with changes suggested.

Motion carried 8-0-1, with Commissioner Blaser abstaining. Student Planning Commissioner Shelton abstained from the vote as well. Commissioner Harris was not present for the vote.

COMMITTEE REPORTS

Receive reports from any committees that met over the past month.

Commissioner Moore said the Industrial Design Guidelines Committee met at the East Hills Business Park and went through the Serologicals building and a few members took a tour of the park to get an idea of applying some of the guidelines that Planning Commission has been discussing. Commissioner Moore also stated that TAC met and discussed the UPWP.

COMMUNICATIONS

Mr. Scott McCullough reviewed new attachments/communications that were posted to the online Planning Commission agenda after the initial posting date.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- No abstentions.

Commissioner Hird said that he serves on the board of Rural Water District #2 and that part of the process for item 1, PP-08-11-08, was for Mr. Joseph Daniels to get approval from RWD #2.

Mr. Finkeldei said that if anything comes up tonight that would affect Commissioner Hird's decision to be sure to mention those items.

PC Minutes 11/17/08

**ITEM NO. 1 PRELIMINARY PLAT FOR DANIELS BALDWIN JUNCTION; HWY 59 & HWY 56
(JCR)**

PP-08-11-08: Preliminary Plat for Daniels Baldwin Junction, a 4-lot nonresidential subdivision comprising 18.36 acres, located approximately .2 miles SE of the intersection of Hwy 59 and Hwy 56. Submitted by Ed Dannewitz of McAfee Henderson Solutions, Inc. for Joseph Daniels Jr., Trustee of Joseph Daniels Sr. Trust, property owner of record. *Joint meeting with Baldwin City Planning Commission.*

STAFF PRESENTATION

Mr. Rexwinkle presented the item.

Commissioner Rasmussen inquired about condition 5.

Mr. Rexwinkle said that a note would be added to the plat to reference the agreement so potential future buyers would be aware of it.

Commissioner Rasmussen asked if a note would be added to refer to the agreement.

Mr. Rexwinkle replied, yes, it would briefly describe the agreement by stating that the Rural Water District will provide the water that is needed for emergency for fire fighting purposes. At the time when the condition was written the details had not been finalized.

Commissioner Rasmussen asked about condition 6.

Mr. Rexwinkle said that a portion of the subdivision is serviced by Westar Energy and the very northern part, which includes a portion of lot 1, is not. The applicant should provide staff documentation regarding that.

Commissioner Rasmussen asked why condition 7a was added.

Mr. Rexwinkle said that it is to let future owners know that it would be their responsibility when they purchase a lot and develop it that stormwater would need to be dealt with on a lot by lot basis.

Commissioner Rasmussen asked if this is a typical note that is required by all developers.

Mr. Rexwinkle said this is the first plat in the county that staff has seen under the new Subdivision Regulations. Within the city there are regulations at the subdivision stage to address the stormwater issues more directly with the plat process, but in the county that is done at the site plan stage.

Commissioner Rasmussen felt that adding the note to the plat was reiterating regulations already in place and inquired about the purpose of doing that.

Mr. Rexwinkle said those were comments forwarded to staff by the County Engineer because he wanted to be sure that Mr. Daniels and future property owners were aware of it.

APPLICANT PRESENTATION

Mr. Joe McAfee, McAfee Henderson Solutions, said regarding condition 7a the County told him that they do not have storm detention requirements for commercial lots and the applicant is comfortable with putting a note on the plan. Mr. McAfee said he only had an issue with condition 1 to revise the plat to

widen the utility easement. He submitted a plat with 15' utilities easement and did it in keeping with the County Regulation requirements. He expressed concern in going to a 30' utility easement for the Rural Water District. He felt it might start to affect the developable ground that is along the frontage of the plat. He said that he and the applicant are comfortable with all the other comments and conditions by staff.

Commissioner Rasmussen asked why Mr. McAfee was concerned about the 30' utility easement when there is a 40' setback requirement.

Mr. McAfee said the 40' setback is for the buildings and there needs to be room for parking in front of the building and he would prefer not to put asphalt over utilities in case they need to be dug up by the utility company. He said that 15' is the county standard and he felt that 30' would be giving up too much.

COMMISSION DISCUSSION

Commissioner Carter asked for clarification on the 30' utility easement versus the 15' utility easement.

Mr. Rexwinkle said the Rural Water District had asked for that for maintenance purposes. They believe they need the additional width.

Commissioner Carter asked if the Rural Water District is looking to revise the standards to be a permanent requirement or is it just for this particular development.

Mr. Rexwinkle said the Rural Water District asked for it on this particular development.

Commissioner Finkeldei asked if the written agreement includes the 30' utility easement.

Mr. Rexwinkle said no, the written agreement is just about water supply for fire fighting purposes and there is no discussion of easements.

Commissioner Hird disclosed that he sits on the board for Rural Water District #2 and was at the meeting where this was discussed. He said that the Rural Water District asked for the 30' utility easement for several reasons. One of which is because there will be a 4" line running across the edge of the property and due to the size of the line and the difficulty in replacing and maintaining it was why they had requested the 30' utility easement.

Commissioner Rasmussen asked for clarification on condition 7a. He asked if the stormwater detention was referring to during construction or post construction pertaining to impervious surfaces.

Mr. Rexwinkle said he believed it would be both but that was not clarified by the County Engineer. The County does not have stormwater regulations in place so they go on a case by case basis. He clarified his earlier comment and said that condition 7a would not be a repeat of regulations in place at the County level.

Commissioner Rasmussen said that as it is written it can apply to either during construction or post construction.

Mr. Rexwinkle said it does not specify which so he would interpret it to mean either or both.

Commissioner Carter asked if there could be a 30' utility easement with the 4" water line by allowing parking over the top of the 4" line.

Mr. McCullough said typically it is not a good idea from the Rural Water Districts perspective because they would have to maintain the water line by ripping up the asphalt.

APPLICANT CLOSING COMMENTS

Mr. McAfee said they would like to stick with the standard 15' utility easement and then an additional 15' easement behind that for only the water company to use. He said they are trying to avoid getting all the other utilities that will come down in that corridor to stretch all the way back to the 30'. He went on to say that condition 7a the county meant that the stormwater detention may be required at the time of site development.

Commissioner Dominguez asked if this happen often in the county where they want more room for utilities.

Mr. McCullough said the Subdivision Regulations state 'permanent utility easements shall be provided when necessary to accommodate utilities that will serve the subdivision....permanent utility easements shall be provided where necessary to allow for utility service in and through the proposed subdivision where such easement is necessary....it shall be centered on rear or side lot lines as applicable and shall be at least 30' and 10' wide respectively except that easements for street lighting purposes may not exceed 10' in width.' He said he is not exactly sure why the water is coming through on the front, but that a 30' wide easement is not atypical per the Subdivision Regulations.

Commissioner Moore asked if flexibility could be built into the motion and allow County Commission to work with the easement.

Mr. McCullough said staff was trying to uphold the Rural Water Districts request but that flexibility could be built into the motion.

Commissioner Finkeldei asked if they could word it to say up to 30'.

Mr. McCullough replied, yes.

Commissioner Hird asked if the 30' easement was part of the agreement with the Rural Water District.

Mr. Rexwinkle said, no, it was added through a comment by Mr. Markley.

Commissioner Hird asked if the 30' easement was discussed at the Rural Water District meeting that Mr. Daniels was at.

Mr. Rexwinkle said, no, it was not discussed as part of that meeting. That meeting was just about the water supply for fire protection.

ACTION TAKEN

Motioned by Commissioner Moore, seconded by Commissioner Dominguez, to approve the Preliminary Plat of Daniels Baldwin Junction and forwarding it to the Douglas County Board of County Commissioners for consideration of the requested dedication of easements, subject to the following conditions:

1. Revise the plat to widen the Utility Easement along the front of Lots 1-4 up to 30 feet.
2. Revise the plat to show access restriction from Lot 1 to Highway 56 along the entire length of the frontage.
3. Revise the plat to show access restriction from Lot 1 to the adjacent frontage road for a

distance of 200 feet south of Highway 56.

~~4. Receipt of written confirmation from Rural Water District #2 and Willow Springs Township Fire Department on agreement to provide water for firefighting purposes and the fire department's confirmation that the water supply method is sufficient.~~

5. Add a note to the plat demonstrating the method by which water will be provided for firefighting purposes, per the Rural Water District #2 agreement.

6. Demonstrate which utility provides electricity to the subdivision.

7. Please add the following notes to the plat:

a. Stormwater detention may be required at time of site development depending upon the extent of development proposed. Construction of such improvements shall be the responsibility of the landowner.

b. Shared access between lots may be required depending upon the proposed land use and traffic generation. Such determination shall be made at time of site development.

c. Revise note (b) under "Provisions and Financing of Roads, Sewer, Water and Other Public Services" to state that the water meter shall serve Lot 1.

d. Add a note under "Provisions and Financing of Roads, Sewer, Water and Other Public Services" that Lots 2-4 may be served by well water or water meter.

Motion carried 9-0-1, with Commissioner Harris abstaining. Student Commissioner Shelton voted in favor.

PC Minutes 11/17/08

**ITEM NO. 2 SPECIAL USE PERMIT FOR HEALTH CARE OFFICE; 4811 BOB BILLINGS
PKWY (SLD)**

SUP-09-09-08: Special Use Permit for Westside Plaza for addition of a healthcare office (oral surgery), located at 4811 Bob Billings Parkway. Submitted by Adam Williams, for NEK Management LLC, property owner of record.

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item.

APPLICANT PRESENTATION

Mr. Brad Johnson, co-owner of the building, was present for questioning.

PUBLIC HEARING

No public comments.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Harris, to approve Special Use Permit SUP-09-09-08 for a health care office use in the CN2 District located at 4811 Bob Billings Parkway, based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Execution of a Site Plan Performance Agreement; and
2. Publication of an ordinance per Section 20-1306(j).

Unanimously approved 10-0. Student Commissioner Shelton voted in favor.

PC Minutes 11/17/08

ITEM NO. 3 CPA-2008-3; AMENDMENT TO HORIZON 2020, CHAPTER 6 (DDW)

CPA-2008-3 Amend Chapter 6-Commercial Land Use – Inner-Neighborhood Commercial Uses to correct inconsistencies between the description in the comprehensive plan and the *Land Development Code* including location and an update as to where existing neighborhood commercial centers are located.

STAFF PRESENTATION

Mr. Dan Warner presented the item.

Commissioner Harris asked if the new language allow different uses or locations for the smaller centers in existing neighborhoods.

Mr. Warner replied yes, he believed so. It would allow new commercial centers that meet the criteria. He said that they are adding a local street that it can be on and adding that it can access an alley but did not change anything about the appropriateness about it.

Commissioner Harris asked if changing to a local street would make it possible to have smaller commercial centers on many more streets than are currently allowed in the Development Code.

Mr. Warner said the Development Code allows them on local streets. He stated that most of the ones on the list are on local streets or take access from a local street. He said that given the very small nature of the commercial centers staff did not think it was a problem to add local street to the list.

Commissioner Hird inquired about the letter from the League of Women Voters that discussed three particular locations to be included.

Mr. Warner said he thought the letter was asking that the areas zoned CN2 (Neighborhood Commercial Center) be designated as such as a protection that the use would not be allowed to intensify. Staff has discussed this. Staff could see why they want to protect those as neighborhood commercial in Horizon 2020, but if it is looked at in the context of where they are located amongst commercial strip there could be an argument about rezoning to commercial strip. Staff can look at the issue if the Planning Commission wishes.

Commissioner Hird asked about Inner Neighborhood Commercial Centers being an acre or less in size. He stated that the Hillcrest Shopping Center and The Malls are larger than that and wondered if it would be consistent to have them under this designation.

Mr. Warner said that the acreage may not be an issue, it is the amount of commercial that they have. He thinks they are asking to have them designated in the Comprehensive Plan as neighborhood commercial centers, which is a separate issue from what is being looked at tonight.

Commissioner Moore said the CN2 designation was much different than all the other zonings and that maybe the neighborhood commercial might fall under a CS.

Mr. Warner said the CN2 is more limiting than the commercial strip which is what the League of Women Voters was referring to in their letter.

Commissioner Moore asked if the CN2 was already limiting enough.

Mr. Warner said yes, but that the League of Women Voters are asking for Horizon 2020 support for those being designated as neighborhood commercial centers.

Commissioner Harris inquired about staff's opinion regarding CN2.

Mr. Warner said one of staffs' opinions is that it might not be so bad that those are zoned CN2 amongst the CS zoning. It could also be appropriate to be rezoned commercial strip given the context of each area.

Commissioner Harris asked if the Planning Commission needed to consider this issue tonight.

Mr. Warner replied, no.

PUBLIC HEARING

No public comments.

ACTION TAKEN

Motioned by Commissioner Carter, seconded by Commissioner Hird, to approve CPA-2008-3 comprehensive plan amendment Chapter 6, Commercial Land Use – Inner Neighborhood Commercial Centers, to correct inconsistencies between the description in the comprehensive plan and the *Land Development Code* including location and an update as to where existing inner neighborhood commercial centers are located, and approve and sign Planning Commission Resolution 2008-12. 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 10-0. Student Commissioner Shelton voted in favor.

PC Minutes 11/17/08

ITEM NO. 4 CPA-2008-9; AMENDMENT TO HORIZON 2020, CHAPTER 14 (MJL)

CPA-2008-9: Consider amending Horizon 2020, Chapter 14 Specific Plans, to add a reference to and incorporate the K-10 & Farmer's Turnpike Plan.

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Harris inquired about truck traffic and asked if either option had an increase.

Ms. Leininger said the truck traffic would depend on the use. Based on acreage, option 2 might have more traffic.

Commissioner Harris asked about the difference in industrial acreage for option 1 versus option 2.

Ms. Leininger said option 1 has approximately 441 acres of industrial and option 2 has approximately 421 acres of industrial (not total buildable).

Commissioner Harris inquired about the variety in housing for option 2.

Ms. Leininger said the area N of I-70, for very low density residential, allows one or two dwelling units per acre and just detached dwelling units. It does not allow for a variety of housing types.

Commissioner Blaser asked about office research.

Ms. Leininger said option 1 has approximately 671 acres and option 2 has approximately 704 acres.

PUBLIC HEARING

Ms. Marguerite Ermeling, spoke on behalf of a group, felt that option 2 should be given consideration because it provides more industrial, office, and residential and the efforts represent a larger group effort. Option 2 provides a new progressive way to look at planning for the future. This plan will extend over the next decade. Option 2 allows industrial and office research in rural areas. She said that the transition zones would not require the same as a higher density area. She said that City Commission has stated several times that there would not be utilities in the foreseeable future provided to the area so that will limit the types of uses that can be in the area. She felt that looking east is where near term industrial should occur. She felt that option 2 serves the needs of everyone and is acceptable to the community at large that live in the area.

Mr. Rick Stein, lives on N. 1950 Road, said he supports draft map option 2 and felt it was the more economical option for the county. He said that option 2 takes advantage of existing infrastructure that would allow a more immediate industrial solution and would mean less cost for citizens. He strongly supported consolidating intense uses and option 2 consolidates on the east and west sides the most intense uses. He did not like the location of neighborhood commercial center in option 1.

Commissioner Hird asked if option 2 has high density residential.

Mr. Stein replied, no, not that he was aware of.

Mr. Steve McDowell, did not agree with high residential on dirt roads. He would like co-existence between residential homes and industrial. He said the standards of industrial lighting are not adequate. He favored option 2.

Mr. Stan Unruh, lives on 900 Road, said he supports option 2 because it will be less intrusive to people living in the corridor of the proposed zones.

Mr. Paul Bahnmaier, said the Freedom Heritage Area Management Plan would be approved in February and he felt that all plans should consider it. He was concerned about the large commercial area at K-10/I-70 because he does not want to see a truck stop there. He said there would be an impact on the area. He felt that the gateway to Lecompton should be given consideration. He explained what the Freedom Heritage Area Management Plan is and that the Freedom Frontiers is a 41 county economic development effort.

Mr. Jim Bagget, lives on 950 Road, said that option 2 represents the efforts of a large number of people over many years and has evolved from the efforts of many people.

Ms. Jane Eldredge, Barber Emerson, said she supports staff recommendation for option 1 because the intersection of Farmers Turnpike and I-70 is a unique opportunity in the county and is the one place where there is access to interstate and state highways and is important in terms of industrial development. She felt that it made sense for the community as a whole to have the industrial and industrial related concentrated around this access. She said the parameters between Farmers Turnpike and I-70 are not optimal single family residential areas. She showed a sketch of property owners she represents and it was a substantial portion of the area.

COMMISSION DISCUSSION

Commissioner Finkeldei asked about the changes in the neighborhood commercial locations.

Ms. Leininger said that Horizon 2020 identifies it in the northwest area. It was moved north to serve higher density uses and in the latest draft it was moved to the north side of Farmers Turnpike to offer choices.

Commissioner Dominguez asked about the purpose of not having high density in option 2.

Ms. Leininger stated that in option 1 high density gives a range of densities and allows the opportunity for people with a range of economic status and income to live in those areas and support the employment centers.

Commissioner Dominguez asked if the developer could pay to bring the utilities to the site.

Ms. Leininger replied, yes.

Commissioner Dominguez asked about the higher intensity industrial being moved from the north to the south of Farmers Turnpike.

Mr. McCullough said that it can accommodate East Hills Business Park sized lots. He said that sector plans reflect the typical Lawrence development pattern which is a mix of uses and housing choices. Staff also sought to take advantage of arterial roads, which the Farmers Turnpike is, and step that higher intensity uses up away from arterial roads. Staff felt it was appropriate to put those higher intensity uses along Farmers Turnpike. In terms of utilities, staff feels that this is a plan for when utilities are brought

to the area. The assumption is that utilities will be available there. Option 1 includes concepts suggested by the group.

Commissioner Rasmussen asked why it was more preferable to have medium residential density north of office research rather than all office research. (he pointed on map)

Ms. Leininger said that medium density residential offers the transition for land uses that Horizon 2020 stresses. Staff felt that keeping the employment type uses along Farmers Turnpike takes advantage of the arterial road and helps to keep those employment center uses away from some of the residential uses.

Mr. McCullough said that Horizon 2020 calls for 20,000 new jobs and they do not all have to be in this area so industrial was scaled back.

Commissioner Rasmussen said the original drafts from April and July had much larger industrial areas (dark purple) and much larger office research areas (light purple) and now it has shrunk back. He stated that this corner has incredible access to I-70 and Farmers Turnpike and the amount of industrial has shrunk.

Mr. McCullough said in those additions there was no industrial to the east so some of that was reallocated to the east. It has probably shrunk a little since when the first drafts based on comments from community representatives. Staff changed the concept for clustering at the intersection and began to stretch it along Farmers Turnpike and take advantage of the area between the interstate and Farmers Turnpike and start transitioning to the north with residential.

Commissioner Rasmussen inquired about the difference between industrial and office research from the beginning version versus the most recent versions.

Ms. Leininger said the first draft from April that Planning Commission saw had approximately 496 acres of industrial and approximately 319 acres of office research (total of 815 acres), the second draft from July had approximately 270 acres of industrial and approximately 305 acres of office research (total of 575 acres), the third draft from September had approximately 270 acres of industrial and approximately 348 acres of office research (total of 619 acres), and the current draft option 1 has approximately 441 acres of industrial and approximately 230 acres of office research (total of 671 acres). The current draft option 2 has a total of 704 acres of industrial and office research.

Mr. McCullough said that staff did not think industrial should be extended that far and that there should be a clear area of high density residential to take advantage of the intersection.

Commissioner Rasmussen said option 1 is the smallest of all of the options.

Mr. McCullough said that it could be expanded.

Commissioner Carter said that options 1 and 2 both represent a lot of work and combined efforts from neighbors, staff, and others. He said he was surprised that in option 2, north of I-70, there is no low, medium, or high density residential. Option 1 has a lot of compromise and a good effort.

Commissioner Blaser said that one of the discussions about option 2 was that affordable housing was needed and option 2 does not address that.

Commissioner Harris said she has been mostly involved with the process all along and she saw merits in both of the plans. She liked the industrial and office research on both sides in option 2. She wished

option 2 had some higher residential density areas. She liked the option of keeping a larger low density residential area because homes there can exist on septic systems instead of infrastructure. She said the community has not yet identified what parts of the county will stay low-density residential and this area seemed a good candidate because it is developing that way already and because it is so hilly.

Commissioner Hird asked if Commissioner Harris favored having very low density residential in option 2 north of the Turnpike.

Commissioner Harris replied, yes, partly because there is already that type of development out there.

Commissioner Harris said the beginning plan that was developed in April was developed by Staff without much input from the neighbors. She did not think it was fair to compare what Planning Commission looked at in the beginning to what is before them today.

Commissioner Hird commended the group that thought of and worked on option 2. He said he drove around the area again today. He said he understand the need of the neighbors to press for the very low density. He said that he wished in option 1 that some very low density could be squeezed into it because there is a value in preserving that lifestyle. He also wished option 2 had more varied residential uses in it. He asked staff to discuss the portion on the east end that is office research and the reason for cutting off the industrial.

Mr. McCullough said the goal is to get a mixture of uses in that area. Commercial support area on one corner, an opportunity for a business park to the north, and an extension of the higher intensity industrial to the south. Most office research activities can fit within the industrial designation and that is open for discussion by the Planning Commission.

Commissioner Finkeldei said he would support option 1. He felt it was important for Planning Commission to get far ahead of development and gives them something to work with.

Commissioner Blaser said the light purple area maybe fits office research because of the street going through there and that would not work as well with a large industrial user. He said he will support option 1 because it gives some high density and hope for affordable housing.

Commissioner Dominguez said he would support option 1 because of the economic diversity. He commended the citizens for their efforts and work on the plan.

ACTION TAKEN

Motioned by Commissioner Carter, seconded by Commissioner Dominguez, to approve CPA-2008-9 with the "Option 1" future land use map and forwarding that recommendation of approval to the City and County Commissions for their concurrence, and authorizing the chair to sign PC Resolution 2008-06 regarding this CPA.

Commissioner Rasmussen said he would not support the motion because the amount of industrial has been reduced too much around the intersection of I-70 and Farmers Turnpike. He did not feel the plan was that different from what was proposed back in April.

Motion carried 7-3, with Commissioners Rasmussen, Singleton, and Harris voting in opposition. Student Commission Shelton voted in favor.

PC Minutes 11/17/08

ITEM NO. 5 2009 PLANNING COMMISSION MEETING CALENDAR

Adopt the 2009 Planning Commission meeting calendar.

COMMISSION DISCUSSION

Commissioner Finkeldei reminded the Planning Commissioners about Planning Commission Orientation on June 13 and 14, 2009.

Commissioner Chaney had a correction to the memo that referenced the incorrect year of 2008 instead of 2009.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Chaney, to approve the 2009 Planning Commission meeting calendar, with Commissioner Chaney's correction.

Unanimously approved 10-0. Student Commissioner Shelton voted in favor.

PC Minutes 11/17/08

ITEM NO. 6 PLANNING COMMISSION BY-LAWS

Consider changes to the Planning Commission by-laws related to Ex Parte Communications and Conflicts of Interest.

Item 6 was deferred prior to the meeting.

PC Minutes 11/17/08

MISCELLANEOUS NEW OR OLD BUSINESS

Mr. McCullough said that the December Planning Commission meeting might just meet on Monday, December 15, 2008 and not hold a meeting on Wednesday, December 17, 2008.

Mr. McCullough asked that the Planning Commissioners be thinking about who will serve on the Metropolitan Planning Organization that will be discussed during the Wednesday meeting.

Consideration of any other business to come before the Commission.

Recess at 8:45pm until 6:30 P.M. on November 19, 2008.

PC Minutes 11/19/08

Reconvene November 19, 2008 – 6:30 p.m.

Commissioners present: Blaser, Finkeldei, Harris, Hird, Moore, Singleton and Student Commissioner Shelton

Staff present: McCullough, Stogsdill, A. Brown, Girdler, J. Miller, M. Miller, and Ewert

BEGIN PUBLIC HEARING (NOVEMBER 19, 2008):

COMMUNICATIONS

Mr. Scott McCullough went over an additional communication received since Monday's meeting for Item 10.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- No abstentions.

PC Minutes 11/19/08

ITEM NO. 7 2009 UNIFIED PLANNING WORK PROGRAM (RTG)

Conduct a public hearing to consider approval of the 2009 Unified Planning Work Program (UPWP) for the Lawrence-Douglas County Metropolitan Planning Organization (MPO). The UPWP is a federally required document that describes how the federal planning funds allocated to the MPO will be used and what planning activities the MPO staff and consultants will undertake next year. Copies of this UPWP are available for public review and comment at the Lawrence Public Library, at the Lawrence-Douglas County Planning & Development Services Office in the 1st floor of the Lawrence City Hall, and online at www.lawrenceks.org/pds/transportation-planning

STAFF PRESENTATION

Mr. Todd Girdler presented the item.

Commissioner Harris asked how many staff members work for the MPO.

Mr. Girdler said two, himself and Bart Rudolph.

Commissioner Harris said that as part of Transportation 2030 the committee talked about having an annual report to the Planning Commission to chart the progress. She asked if that needed to be added to the UPWP.

Mr. Girdler said that it would be part of the education process for the new MPO policy board but that a sentence or two could be added to the document if the Commission would prefer.

PUBLIC HEARING

Mr. Alan Black, felt there was a major omission of pedestrians in the document. He said that the intersection of 9th Street and Massachusetts was a dangerous intersection and felt that a Pedestrian Advisory Committee should be formed.

STAFF CLOSING COMMENTS

Mr. Girdler said that staff thought about pedestrian issues and continue to do that as part of the long range transportation plan. It is a recognized issue, but there is only so much staff can do in one year with funding. It will be part of next years plan.

Commissioner Finkeldei inquired about the Pedestrian Committee.

Commissioner Harris said that the Pedestrian Committee was a subcommittee of Traffic Safety Commission and Public Works staffed the committee and asked the City Commission to designate it as a separate group under the City Commission and they decided at that time not to do that.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Singleton, to approve the 2009 Unified Planning Work Program and instruct the staff to forward this approved UPWP to KDOT.

Unanimously approved 6-0. Student Commissioner Shelton voted in favor.

PC Minutes 11/19/08

ITEM NO. 8 RE-DESIGNATION OF LDCMPO

Select appointments to serve on the re-designated Lawrence-Douglas County Metropolitan Planning Organization (L-DC MPO)

STAFF PRESENTATION

Mr. Todd Girdler presented the item.

Commissioner Hird asked if there was any thought to including a representative from Haskell Indian Nation University.

Mr. Girdler said that a representative from Kansas University will be included since it is located in the middle of town, is a large traffic generator, and is a major employer.

Commissioner Finkeldei said that two members of Planning Commission need to be appointed to the MPO and that Commissioners Harris and Rasmussen both expressed interest.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Moore, to appoint Commissioners Harris and Rasmussen to the re-designated Metropolitan Planning Organization.

Unanimously approved 6-0. Student Commissioner Shelton voted in favor.

PC Minutes 11/19/08

ITEM NO. 9 VARIANCE; LOTS 43-45, NORTH LAWRENCE ADDITION NO. 6 (MKM)

A variance request from Section 20-810(d)(10) of the Subdivision Regulations which require that alleys be constructed to City standards to permit the alley's gravel surface to remain. This variance request is associated with a Minor Subdivision of Lots 43, 44 & 45 North Lawrence Addition No. 6. Submitted by Dean Grob of Grob Engineering for Gleason Gregory, Jr. property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Dean Grob, Grob Engineering, was present for questions. He said that this is an issue that might come up again in the future so the Development Code might need to be altered with a Text Amendment to address the variance process on alleys.

Mr. McCullough said it can be added to the list of Text Amendments to be looked at in the future.

Commissioner Harris inquired about the process for the applicant not to protest the alley.

Ms. Miller said the protest agreement is not required right now.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Blaser, to approve the variance request from the requirement to construct alleys in compliance with the construction standards of the City as required by Section 20-810(d)(10)(iii).

Unanimously approved 6-0. Student Commissioner Shelton voted in favor.

PC Minutes 11/19/08

ITEM NO. 10 CONDITIONAL USE PERMIT; 2 N 1700 ROAD (MKM)

CUP-07-05-08: Consider a Conditional Use Permit for Big Springs Quarry, located at 2 N 1700 Road, revising conditions of the previously approved CUP and expanding the area of the Quarry. Submitted by Mid-States Ventures, LLC, for Mid-States Ventures and Nichols, Clifford C. Trustees, Etal, property owners of record. *Deferred by Planning Commission on September 24, 2008.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Finkeldei asked for clarification on what conditions in the list of use restrictions and conditions of approval would be adopted.

Ms. Miller said the blue text were conditions related to this Conditional Use Permit and the red text are comments that Planning Commission or Board of County Commissioners may wish to clarify.

APPLICANT PRESENTATION

Mr. John Hutton, attorney representing Mid-States Ventures, said he asked all the property owners in the area that might have wells that needed to be reviewed. He stated that Mr. Robert Vincent expanded his hydrology study to include six wells on Lone Oak property and other wells that might exist in the vicinity. He was concerned about the Kansas Geological Survey's study being an anonymous study.

Mr. Robert Vincent recapped the hydrology study that he did of the area. Said there were no changes in the facts or data from his previous report, only added new information to the study. He stated there was no interconnected or mappable water table around the quarry and that surface mining cannot interrupt a water table that does not exist. He said the six wells on Lone Oak property are fairly shallow, all hand dug, about 8'-15' with water levels of 6'-12'. He stated that the wells do not go into the rock formation that supplies water and that the storage is wide, not deep. He also stated that the wells are close to each other and that variation in water depth for being close means no continuous water table in the area. He commented on the state report by saying the pond on the quarry site should provide recharge to rock level that supplies Lone Oak wells and that the quarry site all falls to the east, so there will be runoff.

Mr. John Hutton said the mining is above the top of the wells.

Mr. Bruce Klein, prepared the Reclamation Plan, addressed the report by Intuition & Logic for Lone Oak and refuted their claims.

Mr. John Hutton showed the video that was included in the online Planning Commission agenda packet and was narrated by Eric Bettis. Mr. Bettis said the Lone Oak video was done several years ago when Martin Marietta was discharging water. He stated that Mid-States do not do that. He said the operation is different from previous quarry operation and that the condition of the property is not as shown in the Lone Oak video.

Commissioner Harris asked about the applicants statement that they would like to lower the overburden hill to 1090' rather than 1080'.

Mr. Hutton said he would prefer not to move more dirt than necessary.

PUBLIC HEARING

Mr. David Buffo, attorney for Lone Oak, was concerned about the negative impact that the quarry expansion would have on the ground water at Lone Oak. He stated that the overburden pile should not be there and is not part of the original Conditional Use Permit.

Mr. Robert Prager, Principal River Engineer for Intuition & Logic, discussed how the slope is currently gullied and that he could see the spoil pile from almost a mile and a half away when he approached the property. He stated that depositions indicated very little pumping of water at the time and that the concentrated flow resulted in gullies. He showed slides on the overhead of the drainage area. He recommended that if the overburden pile remains, the bench should go around the east side of the hill as well.

Ms. Martha Silks showed maps on the overhead of her hydrological study of the area.

Mr. Lloyd Hemphill, Quad State Services, explained his field survey while pointing to projected overhead pictures. He discussed fractures in the limestone.

Mr. Bart Christian, owner of Lone Oak, said he is tired of this issue and has spent \$500,000 already. He did not like the overburden pile, ruts, gullies, etc. He said the land was purchased during a lawsuit. He stated that part of the creek on his land has been ruined and he was upset that his land was being ruined by Big Springs Quarry.

Mr. Bill Schaetzel, adjoining property owner to Big Springs Quarry, said the property is not in compliance with the original Conditional Use Permit. He stated he did not like the overburden pile and was also concerned about people falling from the cliff wall. He felt that if the quarry expanded then their bond should increase, not go down. He did not feel the quarry timeframe should be extended and that the quarry is noisy and a nuisance. He said that if the Conditional Use Permit is extended he would like a guarantee that the number of explosions will not increase.

Mr. Edward Moses, Kansas Aggregate Association, felt that the needs of Douglas County as a whole needed to be considered. He said the quarry was an evolutionary plan and that if the Conditional Use Permit is not extended it could disrupt the community as a whole. He felt the quarry production would then have to be replaced by another quarry and would just bring on a new set of unhappy neighbors.

Commissioner Hird asked if Mr. Moses was present during the hearings when the Conditional Use Permit was originally issued.

Mr. Moses said that was correct.

Commissioner Hird asked Mr. Moses if the fact that the quarry would be expanded was a known fact back then because Mr. Moses referred to it as an evolutionary process.

Mr. Moses said the fact that the quarry would have to be expanded, no. The possibility was discussed but was not a known fact.

Commissioner Hird said if the quarry knew it would be an evolutionary process and the possibility of expansion was present then why did they agree to the terms of not expanding.

Mr. Moses said at that point in time the quarry assumed they had sufficient reserves.

APPLICANT CLOSING COMMENTS

Mr. Hutton said it was important to keep in mind the broad picture that it is an existing quarry that is serving the residents. He stated that they want a sustainable quarry for the future that is easier to manage and conditions that can be relied on. He said Big Springs Quarry has different goals than Martin-Marietta and that it makes sense to expand the quarry. He said that Mr. Evan Ice provided a letter that stated that Big Springs Quarry is not bound by what previous legislative bodies have done. He said regarding Mr. Christian's concerns, the quarry has gone through a long arduous process to put together a plan that works and that professionals were hired to work on the project. He said they are open to suggestions to make the reclamation work as best as it possibly can.

COMMISSION DISCUSSION

Commissioner Harris asked if the rate of demolition was going to increase with the new quarry.

Mr. Hutton said he did not expect that it would. The point of increasing the size is to have reserve for the future, rather than to mine more quickly.

Commissioner Harris asked if there would be an increase in the number of blasting per week.

Mr. Hutton replied, no.

Commissioner Moore asked if Ms. Sheila Stogsdill was present when the first Conditional Use Permit was heard and if she could speak about the purpose of Condition #2 that restricts additional requests made by Martin Marietta or its signees for the remainder of the Conditional Use Permit.

Ms. Stogsdill said she was present and her understanding and recollection of Condition #2 was because the original quarry was about 640 acres and there was an additional 80 acres that was added. She said she thought at that point in time Martin Marietta quarry had not even begun to operate and perhaps there was concern about how large the area would be so limits were set to give assurance to land owners in the area about what would be quarried. She said she believes it was based primarily on the fact that no quarrying activity had been done.

Commissioner Moore expressed appreciation of the efforts of all involved on both sides of the issue. He said he would vote no because he felt that the original Conditional Use Permit from 1992 should be followed.

Commissioner Singleton said that they needed to weigh the needs of the few versus the many. She felt that there should be reliance on past decisions. She did not want the quarry to be shut down and understood that it is a resource for the community. She felt that the quarry should work within the regulations, terms, and conditions of the Conditional Use Permit and be in compliance. She said if the quarry had been in compliance and then come back to request a time extension she would be more comfortable with it. She said that the nearby land owners and community need to rely on set conditions. She stated that the overburden pile needed to be taken care.

Commissioner Harris agreed with Commissioners Moore and Singleton. She felt that a Conditional Use Permit is a contract and now the Planning Commission is being asked to change set conditions. She said she would vote in opposition.

Commissioner Blaser said he drove by the area and he felt that the overburden hill should be flattened out. He agreed that the current owner needs to demonstrate that they will be good neighbors.

Commissioner Hird said this is a difficult issue. Planning Commissioners represent all the residents of the County and there is a need for this type of industry. He said that Planning Commissions try hard to

adhere to documents adopted by previous Commissioners and he felt they should try to be consistent. He said that even though Planning Commission can change the terms of the Conditional Use Permit, then should they. He did not think it was appropriate to expand the quarry at this time and that there should be extenuating circumstances in doing so. He said he would vote in opposition.

Commissioner Finkeldei pointed out that the condition only says that no additional requests will be made by Martin Marietta to expand the size of the quarry. It does not say they won't ask to extend the life of the quarry, change the reclamation plan, or ask to change the area which can be quarried at one time. He felt there were a lot of good things about the proposal and that it included a better reclamation plan. He felt that clarifying the conditions would be good for the quarry, neighbors, and county as a whole. He asked the Commissioners if the request came forward without the expansion request would they have a more favorable opinion of it.

Commissioner Hird said he did not have a problem with extending the term. He sensed a real change with Mid-States owning the land as opposed to Martin Marietta, and that they are striving to be better neighbors. He felt that there will be a future time when they will consider this item again but felt that a consensus should be met with the applicant and neighbors.

Commissioner Singleton said she did not have problems with the quarry continuing to operate. She was considered about the overburden pile and felt that the applicant could do things to better the situation. She was concerned about rewarding someone who was not working within the guidelines.

Commissioner Moore agreed that the parameters of the Conditional Use Permit need to be followed. He still felt the restrictions should include no expansion in size.

Commissioner Harris was okay with swapping out the 80 acres with no increase in size.

ACTION TAKEN

Motioned by Commissioner Moore, seconded by Commissioner Hird, to deny the Conditional Use Permit, CUP-07-05-08, per the original conditions from September 6, 1992 that state no further requests for expansion can be made until December 12, 2020.

Motion carried 5-1, with Commissioner Finkeldei voting in opposition. Student Commissioner Shelton voted in favor.

PC Minutes 11/19/08

ITEM NO. 11 CPA-2008-7 ENVIRONMENTAL CHAPTER (AMB & MKM)

CPA-2008-7: Receive public comment and direct staff on general strategies to be included in draft environmental chapter of Horizon 2020.

STAFF PRESENTATION

Ms. Amy Brown presented the item.

PUBLIC HEARING

Mr. Alan Black, League of Women Voters, said that land features should be reflected on future land use maps. He also stated that TRD's tool can assist in dealing with private property concerns. He said that the Air Resources Goal has no policy statements. He expressed concern about global warming. He recapped the letter the League of Women Voters sent.

Mr. Tom Huntzinger said he was encouraged by the environmental chapter. He stated that floodplain and stream corridors are important for water quality in Clinton Lake. He would like habitats and clean water referred to in the environmental chapter.

Mr. Bob Garrett said he was encouraged by the environmental chapter and felt that the environment should be preserved.

Mr. Charles Marsh said that both City Commission and Board of County Commissioners have said they are looking to Chapter 16 to provide the frame work for Chapter 7. He suggested in the overview adding the language of "high quality agricultural land" and other natural areas. He also suggested adding "sustainable food supplies" to the list. He read language from the September National Geographic magazine.

Ms. Barbara Clark, Citizens for Responsible Planning, thanked staff and Planning Commission for their open work on this. She expressed interest in establishing a local and regional food system. She referenced the American Planning Association policy guide language regarding food sustainability.

Mr. Michael Almon, Sustainability Action Network, said the environment is more than site specific and it is in more of terms of an ecology system, and all species are operating within that eco system. He said that the Mayors Task Force on Climate Protection is halfway through discussing ways to protect air quality. The Mayors Task Force on Peak Oil was appointed last week and will be discussing issues as well. He said he would like the Environmental Chapter to receive reports from both task forces.

Commissioner Harris said the committee has been talking about how to interact with the two groups Mr. Almon mentioned.

Mr. Frank Male, owner of Lawrence Landscape, encouraged involvement of business owners. He expressed concern about water conservation.

Commissioner Hird asked Mr. Male how he anticipated the Environmental Chapter affecting his business.

Mr. Male said that he installs lawn irrigation systems and he not sure at this point how it will affect his business.

Ms. Bobbie Flory, Lawrence Homebuilder Association, appreciated being able to participate in the discussion. She stated that the City of Lawrence just adopted an Energy Code with higher requirements

which the Lawrence Homebuilder Association support. She said that consumers want green building. She said that LEED is a third party criteria for building and did not think it should be included in the Environmental Chapter.

Commissioner Harris asked if Homebuilder Association standards are national standards.

Ms. Flory said they are trying to get them approved as national standards.

Commissioner Moore asked staff if they would be meeting with the Home Builders Association.

Ms. Brown replied, yes.

Ms. Jane Bateman commented on the need for balance and how that will be accomplished.

Mr. Mike McGrew, Vice Chair for Economic Development, Chamber of Commerce, expressed concern about the stagnant economy and was concerned about the impact to private property. He said there was a need to establish a new tax base.

Ms. Beth Johnson, Chamber of Commerce, said that businesses and job opportunities are needed and that balance is needed to protect the tax base. She said that Horizon 2020, Chapter 7 talks about job growth goal and she felt that there should be mention of businesses in the environmental chapter. She encouraged continued work with groups that fit all interests.

Mr. Devin Scrogun said one way to increase jobs is thru small businesses energy initiatives and that encouragement of this would increase jobs to create and maintain that.

Ms. Natalya Lowther said she would like to change the perception of 'unbuilt environment.' She said that agricultural and natural land use is as valuable as built environments. She felt that owners should be able to permanently 'opt out' of development. She felt it was important to have land remembered when plans are being made.

COMMISSION DISCUSSION

Commissioner Harris was pleased that the public was present and glad they expressed specific requests.

Commissioner Moore agreed with Commissioner Harris and thanked the public for constructive comments.

Commissioner Hird felt that Douglas County should have an environmental chapter. He said they should really consider those involved in agricultural and that they also need to consider the impact on existing employment.

Commissioner Harris said she was encouraged that there were a mix of comments and perspectives of public comments.

NO ACTION TAKEN

PC Minutes 11/19/08

ITEM NO. 12 AMENDMENTS TO COUNTY ZONING REGULATIONS (MKM)

TA-08-16-08: Consider comprehensive revisions to the Douglas County Zoning Regulations and general revisions to the County Zoning Map. Initiated by the Planning Commission in 2006.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

Mr. Keith Dabney said that Ms. Miller implied that county staff was involved in the process all along when county staff was not. He felt that this was being rushed.

Commissioner Harris asked Mr. Dabney how it should have been handled differently.

Mr. Dabney said he would have liked to have been involved in the process from the beginning. He felt like the item was being pushed through too quickly and did not feel like it was ready for County Commission.

Mr. Justin Johnson spoke about the aviation language regarding heliports and said that heliports are usually a common use in urban areas with hospital and ambulance services. He felt that a Conditional Use Permit should not be required unless on a smaller parcel and that the airstrip language is too restrictive and would exclude 90% of the Conditional Use Permits in the county.

Commissioner Singleton asked Mr. Johnson how he found out about the proposal.

Mr. Johnson said Ms. Miller told him about it.

COMMISSION DISCUSSION

Commissioner Harris expressed concern about Mr. Dabney saying this is rushed and said she was inclined to defer the item.

Commissioner Hird said he would support deferral of the item. He was concerned that the Home Occupation limits are arbitrary when they want to foster employment. He felt that the Type 2 Home Occupation standard limiting employees to four non-related people was unreasonable. He inquired about the reference of an ordinance for the exemption of agricultural uses. Said the agri-tourism section, starting on page 39, was fine but he felt it should include more agri-tourism uses.

Ms. Miller said the ordinance for the agricultural exemption is a Home Rule Resolution.

Mr. McCullough said that a while back Planning staff learned that County staff felt frustrated about the process. Planning staff did meet with County staff and talked about what the document could/should do. His understanding was that there was a conscious decision to not take on certain types of issues because it was not meant to take on what staff believe to be contentious issues. Planning staff worked on the top priorities. County Commission would like to see this item by the end of their term. This is the third time this item has been to Planning Commission with full legal notice, full posting, and full opportunity to get comments from Planning Commission.

Commissioner Harris said that in the past when they have had big issues they formed a small group to discuss it further. She recommended they form a committee to work through the issues.

Mr. McCullough said that a committee could be set up.

Commissioner Harris, Hird, and Singleton volunteered to be on the committee.

Mr. McCullough suggested having a County Commissioner and County staff also on the committee.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Hird, to defer the item until the December 15, 2008 Planning Commission meeting.

Unanimously approved 6-0. Commissioner Student Shelton voted in favor.

Consideration of any other business to come before the Commission.

PUBLIC COMMENT SECTION

Adjourn 10:35pm