

**ITEM NO. 3A RS-7 TO RM-12D; 6.14 ACRES; 4145 SEELE WAY (MKM)**

**Z-10-17A-08:** Consider a request to rezone a tract of land approximately 6.14 acres from RS-7 (Single-Family Residential) to RM-12D (Multi-Dwelling Residential Duplex), located at 4145 Seele Way. Submitted by Landplan Engineering PA, for Doolittle Farms, LLC property owner of record.

**ITEM NO. 3B RS-7 TO RS-5; 3.57 ACRES; 437 SEELE DRIVE (MKM)**

**Z-10-17B-08:** Consider a request to rezone a tract of land approximately 3.57 acres from RS-7 (Single-Family Residential) to RS-5 (Single-Family Residential), located at 437 Seele Drive. Submitted by Landplan Engineering PA, for Doolittle Farms, LLC, property owner of record.

**ITEM NO. 3C VARIANCE & WAIVER FOR MAPLE LEAF SQUARE ADDITION (MKM)**

Maple Leaf Square Addition; a 10.24 acre, 41 lot subdivision which is a replat of Lots 1 through 29 in Block One, Lots 1 through 12 in Block two and Tracts A and B in Doolittle Subdivision; located north of Overland Drive between Monterey Way and Eldridge St. A waiver is being requested from the requirement in Section 20-811(c)(1)(i) of the Subdivision Regulations that sidewalks be constructed on both sides of the street and a variance is being requested from Section 20-810(d)(2)(iii) which prohibits the approval of subdivisions with more than 35 lots or potential dwelling units which have outlet to the public road system via a single outlet to the arterial and collector street system.

**ITEM NO. 3D PRELIMINARY PLAT FOR MAPLE LEAF SQUARE; 4145 SEELE WAY (MKM)**

**PP-10-13-08:** Preliminary Plat for Maple Leaf Square, a 10.24 acre subdivision consisting of 41 lots, located at 4145 Seele Way. Submitted by Landplan Engineering PA, for Doolittle Farms LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented items 3A-3D together.

Commissioner Hird asked if it was originally platted with 41 lots and if that was in excess of the 35 lots for the multiple access.

Ms. Miller replied, yes, it was originally platted with 41 lots and that it was platted prior to the adoption of the current Subdivision Regulations and prior to the provision.

Commissioner Hird asked if nothing was approved tonight would there will still be the same access to more than 35 units.

Ms. Miller replied, yes.

Commissioner Hird inquired about the page map for item 3A where it showed lots 444 and 448 on Eldridge Street as being included in the project.

Mr. McCullough said that it was a mistake on the GIS map.

Commissioner Hird inquired about the south edge of the proposed development.

Ms. Miller said that the south edge was adjacent to duplexes and townhomes zoned PCD.

Commissioner Rasmussen asked to see the map with multi-residential properties.

Ms. Miller showed the map on the overhead.

Commissioner Rasmussen inquired about a comment that Ms. Miller mentioned in her presentation about properties needing to reflect what is adjacent.

Ms. Miller said that infill development needs to be compatible with what is surrounding it, so if there are duplexes along the side they will be compatible to what is to the south.

Commissioner Rasmussen asked if it was required to have sidewalks on both sides of the street.

Ms. Miller said yes, it is a new regulation.

### **APPLICANT PRESENTATION**

Mr. Tim Herndon, Landplan Engineering, introduced his clients, John Bush, Ann Bush, Doug Hassig. He stated that he has worked with Mr. Bush over the years on multiple projects. He said that the proposal is in compliance with Horizon 2020 and basic planning principals and that the rezoning requests follow the guidelines. He felt the project would add benefit and value to the neighborhood and city and that the project should be approved because it is in compliance. He showed the plan layout on the overhead and explained how the plan would work. He said that duplex development is about as tightly packed as they could be and that it is not physically possible to have duplexes at 12 units per acre. He said that there is a glitch in the Development Code and he has shared this with staff in past years. He did not feel that the applicant should be penalized by a code that is not clear. He said that the public comments were focused on property value, which they have a right to be concerned, but the property value issue has become an element of fear. He showed a map on the overhead of the surrounding property and listed the appraised value of each lot. He stated that the new single-family homes will be of greater value than the existing homes. He addressed traffic, access, and safety. He said the new proposal would add a fire access as required by the Fire Code. He discussed the detention pond that the church was concerned about children playing in. He said the pond was meant to be a dry pond, not a wet pond. Maple Leaf Square will take the pond and move it away from the church. He said in staff's opinion he used the incorrect traffic trip generation, which he felt was inaccurate. He said that an emergency access point would be added, which is needed. He said the traffic figures do not reach the level which would require a traffic study. He asked for a waiver on sidewalks and pointed on the map to all the existing sidewalks. He said that Maple Leaf provides a through pedestrian route.

Commissioner Harris asked how traffic generation is figured.

Mr. Herndon said it is figured by trips. 7.25 trips per day is the average.

Commissioner Rasmussen asked if the trips were less than 10.

Mr. Herndon replied, yes.

Commissioner Dominguez asked where the entry points were located.

Mr. Herndon pointed to the entry points on the overhead map. One access point is on Seele Drive and the other is an emergency access.

### **PUBLIC HEARING ON ITEMS 3A-3C**

Mr. Larry Sherraden, 3932 Monterey Place, President of Lawrence Bible Chapel, asked that the zoning be denied. He feared for the safety of the children in the neighborhood due to the detention pond and also feared property value would go down. He felt that the addition of duplexes in the area would lower property values. He suggested they rezone and build the single-family homes first and then request the duplex zoning to then see how they feel about the duplexes. He also suggested that Horizon 2020 be revised and then the rezoning revisited.

Commissioner Rasmussen asked Mr. Sherraden if he was concerned about abutting single family residential or the proximity to duplexes.

Mr. Sherraden replied, both.

Mr. Jason Pendleton, 3929 Monterey Place, was concerned about his property value going down and the increase in traffic. He asked if the houses would be more expensive than the existing houses, how would it make them more saleable?

Mr. Steve Devore, 3901 Monterey Place, said his objection to the project had nothing to do with Mr. Bush, but he was concerned about his property value decreasing. He asked that the item be denied.

Mr. Mark Fagan, 3905 Monterey Place, expressed concerns about transition. He said this is infill project and the Lawrence Bible Church property was zoned RS7 when he purchased his property with the knowledge that the neighboring property was RS-7 zoning. He stated that zoning is a long term decision, not a short term fix.

### **APPLICANT CLOSING COMMENTS**

Mr. Herndon said that no matter what happens tonight he does not want the neighbors to think he called them irrational for having fears about decreased property value. He said the project will have very nice smaller lots. He stated that by the year 2020-2025 the average homeowner will not be looking for a single family home, they will be looking for more compact housing due to economic times. He said there would be no impact on traffic to neighbors and that it is a tiny subdivision. He said there is nothing about the proposal that is not fitted to the existing property values. He said it is a great subdivision proposal and he requested that it be approved. He said a fence would be constructed in the south to protect the development from the adjacent duplexes/townhomes.

Commissioner Rasmussen asked about the difference in number of lots in Doolittle versus Maple Leaf.

Mr. Herndon said there are 41 lots in Doolittle and there will be 41 lots in Maple Leaf.

Commissioner Rasmussen inquired about the 6.15 units per acre.

Mr. Herndon said Horizon 2020 defines low density as 6 units per acre or lower and medium density 7-15 units per acre. He felt the project was closer to low density than medium density.

Commissioner Rasmussen asked if Horizon 2020 provides rules or guidelines.

Mr. Herndon replied, guidelines.

Commissioner Harris inquired about the new fence that would be put up between the existing duplexes and this development.

Mr. Herndon said all the duplexes to the south have fences that are in different stages of maintenance so a new fence will be put up to block the view of the old fence.

Commissioner Dominguez inquired about the access.

Mr. Herndon said the existing Doolittle subdivision has 41 lots, which exceeds the number of units it can have with one access by 11 units. Maple Leaf square has a single access because there is not room for another one but a new fire/emergency access entrance will be constructed. Mr. Herndon said the traffic study is 100% complete and accurate. With the traffic being produced from Maple Leaf it is only at 64%

of the amount of traffic that would even warrant a traffic study. He said there will be no traffic generated from this development that will cause a traffic jam.

Commissioner Dominguez asked if the development would increase traffic enough to require a traffic study.

Mr. Herndon said even using the worst case scenario, the traffic is at 64% capacity to warrant a traffic study, which includes the development proposal.

Mr. McCullough said the variance requested from the Subdivision Regulations, for the 35 residential lots having two access points to a collector or arterial road system, is within the connections section of the Subdivision Regulations and it talks about connectivity between adjoining properties, convenience, and connectivity to the arterial and collector road system. He stated that this is an existing subdivision that already exceeds the current level of 35 lots by 6 lots. These are matters of convenience to those who live in the subdivision and connectivity is valued because it is a better system of travel than the typical cul-de-sac or subdivisions that do not have multiple access. He went on to say that the proposed development can provide emergency access to meet fire codes, which is a good thing, but an increase in the number of lots and units could exacerbate the issue of number of lots that do not have multiple access points to the collector or arterial road system.

Commissioner Rasmussen asked how staff would propose the land owner add a new access point.

Mr. McCullough said one potential option for the developer is to take advantage of what they have existing between the church and the development to the south and purchase extra right of way and do the traffic study to see if that is a feasible alternative.

Commissioner Rasmussen asked if it could be a one-way access.

Mr. McCullough said probably not, and that it would probably need to be full access.

Commissioner Harris asked for staff's response to Mr. Herndon's comments about the property being impossible to use as a conforming use right now.

Mr. McCullough said it has all the entitlements to acquire building permits today with the RS-7 standards to create single-family homes. It is a viable subdivision that exists with infrastructure. One of the more important discussion points is transition and Ms. Miller did an analysis with the documents used in Planning to analyze projects, shows this in an area of RS-7. The parcel of property to the south has helped establish the transition from 6<sup>th</sup> Street up to the RS-7 zoning that includes the church site, this site, and the immediate single-family houses to the west on Eldridge Street. One of the conclusions from staff analysis is that the transition is already there.

Commissioner Harris said Mr. Herndon talked about the Comprehensive Plan had not being followed exactly along 6<sup>th</sup> street. She inquired about why that happened and if that should continue.

Mr. McCullough said it was fair to say that the Comprehensive Plan is the guide plan for development but that is not to say that staff does not consider and appreciate creative ways to meet the values and goals of the plan. He felt that they should continue to use the current Comprehensive Plan or work to amend it if the Planning Commission does not think that it is appropriate for some of these areas.

Commissioner Dominguez asked about the transition, if the duplex zoning creates for transition.

Mr. McCullough said there is a fairly clear demarcation of how far up the duplex or multi-family land uses come from 6<sup>th</sup> Street. He said this will bring up the duplex development north of that established transition line and have RS-7 zoning to the west, north, and east of this development.

Commissioner Blaser asked about what the present fire code requirement for access in terms of lots under RS-7.

Mr. McCullough said he did not currently have that information.

Mr. Herndon said excess of 30 lots must have a second entrance for fire code regardless of what it is zoned. He said he did not think there was a limit under the old code.

Commissioner Blaser asked if the second entrance is for emergency access only.

Mr. McCullough said that was correct, the Fire Code requires a second access which may be for emergency access only. The Development Code speaks to 'full vehicular' access to the road system – not emergency access.

Commissioner Chaney asked what materials the emergency access drive would be made of and who will be responsible of maintaining it.

Mr. Herndon said the emergency access will be a chip-n-seal road and will be maintained by the Homeowner Association.

Commissioner Moore asked staff about the low density discussion earlier between densities of 6-7.

Mr. McCullough said in his opinion this dead zone area is one element of it. In this project staff also looked at some of the policy statements that state to look at the context of the area. In staffs opinion the context is that beginning point of RS-7 district, so when staff first answered the question of what context is looked at, because there are duplexes to the immediate south, but if we are trying to determine if the project demands single family structures and the context is going to be the existing single family neighborhoods surrounding it, then we look at lot size, structure type, and density relative to the existing area. Staff is not going to be of the opinion that 6 or 7 will be the difference between low and medium density, it is more about duplex versus single-family.

Commissioner Rasmussen asked about the lots abutting the church property and why not continue down that side with single-family residential zoning with the idea that the church may not be there in the future.

Mr. Herndon said they do not necessarily think the design would not work for future acquisition of the church property, but the idea that this subdivision would integrate with the church is not part of our vision of good planning for the area. Typically the interface between a church property and something like medium-density residential is not perceived as noxious, harmful, or a threat. The church property abuts very low value duplex units along the southern edge so we are trying to do something that would integrate with the church, whether it is single-family lots or duplex lots, as long as they are nice. Open space uses, such as churches, are seen as an amenity to the adjacent properties. Multi-family properties do not have that type of luxury since their backyard/frontyard might not be big.

Commissioner Carter asked if there was any reason to rezone the property other than a change in the economic environment.

Mr. Herndon said the previous development was not a context sensitive development. It does not work now. It is an issue of taking property with infrastructure in place and making it creatively adapt to what people want.

## **COMMISSION DISCUSSION**

Commissioner Hird said he was familiar with the area and drove the area again today. He said that Horizon 2020 is a guide, not a rule book and he felt that the project was consistent with the surrounding area. He felt that the development would improve the area. He understood the concerns of the neighbors. He appreciated Mr. Herndon showing the surrounding property value. Safety is a huge factor and the detention ponds would be improved, as well as an emergency access point added. He said the changes of density of the existing plat do not sound like it will be that much of an issue. A few months ago Planning Commission considered a proposal for an infill development west of Iowa and north of 15<sup>th</sup> Street and at that time the Commission discussed the value of infill development instead of urban sprawl. It is not going to be perfect because they are trying to take what exists and work with it. It is also a way to provide affordable housing. He said he will support the proposal.

Commissioner Blaser said he walked the whole area and was concerned about 63 units having only one entrance. He was not sure that putting more units on the land will make it sell better. He felt it was already zoned for infill. He felt there should be sidewalks on both sides. He said he would vote against the item.

Commissioner Carter said he was still torn. He stated the specific spot was selected as a transition area because it is already flawed because it is zoned for RS-7. The one access does not cover the single-family, 41 units, so if it is simply a matter of where to move he line to accommodate that might be a little easier. He said it was hard for him to get past the point that it was purchased zoned as is and that the zoning is appropriate for single-family.

Commissioner Rasmussen said he would vote in favor of the project to support and encourage infill development in the city. He felt this will be more of a walkable and livable area in Lawrence and provide good graduated transition between the tightly compacted duplexes along Overland Drive. He said he would have liked to have seen an entire circle of single family homes around the church. He said the one access point might be appealing to the people who live there since there will not be traffic going through. He did not think it was a big deal to ask for a waiver from the sidewalk requirement.

Commissioner Chaney said he grew up in the area and lived in an area that had only one access point. He said all of the properties only increased in value. He said he would vote in favor of the project.

Commissioner Dominguez said he was torn. He said he liked Commissioner Hird's reasons. He said that Horizon 2020 is a guideline but he would like to try and stick with it. He said he built a development once that only had one access and it was nice that there was not through traffic but he understand the importance of connectivity. In this case, he really did not see the property value being a huge issue. He said he would probably vote in favor of the project. He said he would like to see sidewalks on both sides of the streets.

Commissioner Harris said she was torn about the project. She said she sees merit in the proposal but that she was leaning toward voting in opposition of the project because of Horizon 2020. The one access issue was a concern to her but she did like the fire access. She said she was present for the approval of the original project and a lot of input was included for the neighborhood in creating it.

Commissioner Carter said the current input that came from the neighbors were people who are a little less impacted and that there were no concerns expressed from people on Eldridge Street. He was concerned about increased traffic on Eldridge Street.

Commissioner Dominguez inquired about the traffic impact study.

Mr. McCullough said it did not trigger a full traffic impact study in terms of the added number of trips per day and what exists there today. With 41 residential lots it would be about 400 trips per day out of the subdivision. With duplex development staff challenges that in Lawrence duplexes tend to act more like single-family homes than townhome/condominium. The applicant was talking earlier about whether or

not this increment above what exists today triggers a full blown traffic impact study. It did not. Staff wanted to make clear that there will be an impact which will exacerbate the issue of connectivity and convenience in this project. The Development Code says that if a proposal generates 100 trips per peak hour, then a full blown traffic study would need to be done to give more detail about what the traffic would do as it hits Eldridge Street and then as Eldridge Streets hits 6<sup>th</sup> Street. The applicant did not hit that trigger so they were not required to do a more comprehensive traffic study. If this were greenfield development and the subdivision did not already exist and they requested this proposal then that would likely trigger some greater traffic information.

Commissioner Rasmussen said traffic will be approaching from 6<sup>th</sup> Street so all the homes on the west side of the development will probably not be as impacted.

Commissioner Carter inquired about the difference between the trips.

Mr. Herndon said the number of trips increase three vehicular trips in the A.M., 1 vehicular trip in the P.M. Staff told him that they should have used single family to figure the trips but the applicant did not. He said that even if they had used single family, it was at 64% of what would require a traffic impact study.

Ms. Miller said she discussed it with the Senior Transportation Planner, Todd Girdler, and his opinion of the traffic figures was that in the trip generation book it assumes condominiums/townhomes/duplexes will be primarily retirees. There is a huge traffic range with condominiums/townhomes from very very small to very very large, showing that even using the condominiums/townhomes, the range of traffic would be great. Ms. Miller said she wanted to use a comparison of figures. There will be additional traffic so she wanted to illustrate that it could be more than what the applicant said, could cause a problem with just the one access point.

Commissioner Hird said even if the applicant is off by a factor of 100%, there will be six additional trips in the morning and two additional trips in the evening.

Ms. Miller said her figures were much different. Using the applicants figures leads to the belief that the tenants would be retirees as opposed to students.

Commissioner Carter asked what the difference between staffs figures of trips versus the applicants.

Ms. Miller said the applicant did not use an incorrect traffic study, but it does not necessarily reflect the type of development and the actual development needs to be looked at. Duplexes for single families rather than retirees may be different. The uses are going to range.

Commissioner Harris said every student who lives in duplexes would have a vehicle.

Mr. McCullough said it is a matter of assumptions. One assumption is if you look at a chart in the low range for retirees, you use one figure. Ms. Miller's calculation is for a different assumption for the type of use for the duplex. The applicant's numbers were an increase of 47 trips per day and Ms. Miller's calculation was an increase of 210 trips per day.

Mr. Herndon said the figure of 47 trips per day would be divided by 24 hours and the figure of 210 trips per day would also be divided by 24 hours, with 2 of those hours being peak hours.

Commissioner Moore said if it is not required to do the traffic study then maybe it should be required.

Mr. McCullough said a traffic study is not required because the additional trips do not trigger a traffic study. It is assumed that the existing street network can absorb the traffic increase.

Commissioner Harris said they are looking at the impact of the development on the immediate and surrounding area, not just the access point.

Commissioner Dominguez said if 210 trips is divided by 24 hours there is not that much increase in traffic.

Mr. McCullough said even with staff's number it is 17 more trips in the a.m. peak hour and 22 trips in the p.m. peak hour. Staff is not debating that this triggers a full blown Traffic Impact Study, staff just challenge the assumptions that this is going to be a low use development.

Commissioner Carter said the price range would dictate that it would be on the higher end, but there is no Planned Development overlay that states that.

Commissioner Moore said he did a study of 1,000 lots with infrastructure that could have building permits pulled today. He said there are not many duplexes right now.

Commissioner Rasmussen said the request is to rezone from RS7 to RM12D so technically there could be more dwellings.

Mr. Herndon said they can put 12 units per acre but they would not physically fit.

Commissioner Rasmussen asked if the applicant would be willing to limit duplexes to the density being requested now and not increasing the development down the road.

Mr. Herndon said the applicant would be willing to not publishing the rezoning ordinances until recording of the final plat. The recording of the final plat is what sets the number of lots and the rezoning is required to record the final plat.

Commissioner Carter said he would vote in favor of the project.

### **ACTION TAKEN ON ITEM 3A**

Motioned by Commissioner Harris, seconded by Commissioner Blaser, to deny the rezoning request for approximately 6.14 acres from RS-7 (Single-Dwelling Residential) District to RM-12D (Multi-Dwelling Residential) District, located at 4145 Seele Way, and forwarding it to the City Commission with a recommendation for denial based upon the findings of fact outlined in the staff report.

Motion failed 2-6, with Commissioners Blaser and Harris voting in opposition.

Motioned by Commissioner Hird, seconded by Commissioner Dominguez, to approve the rezoning request for approximately 6.14 acres from RS-7 (Single-Dwelling Residential) District to RM-12D (Multi-Dwelling Residential) District and forwarding it to the City Commission with a recommendation for approval subject to the provision that the plat conform to the uses presented by the applicant based upon findings that the proposal would increase public safety, would provide for connectivity, and that it represents the type of infill development that should be encouraged in Lawrence.

Commissioner Rasmussen said the motion is supported by the applicant's testimony that the density of the development complies with Horizon 2020.

Motion carried 6-2, with Commissioners Blaser and Harris voting in opposition.

### **ACTION TAKEN ON ITEM 3B**

Motioned by Commissioner Hird, seconded by Commissioner Chaney, to approve the rezoning request for approximately 3.57 acres from RS 7 (Single-Dwelling Residential) District to RS-5 (Single-Dwelling Residential) District, located at 437 Seele Drive, and forwarding it to the City Commission with a

recommendation for approval subject to the provision that the plat conform to the uses presented by the applicant and based upon findings that the proposal would increase public safety, would provide for connectivity, and that it represents the type of infill development that should be encouraged in Lawrence.

Motion carried 7-1, with Commissioner Harris voting in opposition.

### **ACTION TAKEN ON ITEM 3C**

Motioned by Commissioner Hird, seconded by Commissioner Chaney, to approve the variance requested from Section 20-810(d)(2)(iii) which requires any subdivision in which more than 35 residential lots or potential residential dwelling units are proposed to have access to the public road system via more than one outlet to the street system, and approve the waiver requested from Section 20-811(c)(1)(i) which requires that sidewalks be installed on both sides of all streets, based upon the information provided by the applicant and findings that the proposal would increase public safety, would provide for connectivity, and that it represents the type of infill development that should be encouraged in Lawrence.

Commissioner Harris said she would vote in favor.

Commissioner Blaser said there needed to be sidewalks on both sides of the street so he will vote in opposition.

Motion carried 7-1, with Commissioner Blaser voting in opposition.

### **ACTION TAKEN ON ITEM 3D**

Motioned by Commissioner Hird, seconded by Commissioner Chaney, to approve the Preliminary Plat of Maple Leaf Square subject to the following conditions listed in the staff report:

- 1) Provision of a revised preliminary plat with the following changes:
  - a) Provision of a note on the preliminary plat that states that the applicant will submit public improvement plans showing the manholes being raised to final grade and the relocation of any fire hydrants, valves, or other water appurtenances so they are located on, or immediately adjacent to, the side lot lines.
  - b) Extension of the sewer main serving the duplex on the western side of Lot 1, Block One to avoid a private service line crossing the future lot split line.
  - c) General Notes 16, 17 and 18 should be revised to clearly indicate who is responsible for maintaining the drainage easements. If it is to be the property owners rather than the homeowner's association, the property owners should be specified or the lots should be listed for clarity and Notes 17 and 18 should be revised to clearly state what portions of the tracts the homeowner's association will maintain.
  - d) Clarification of the use of the fire access lane. If it is intended to serve as a pedestrian and bike pathway, this should be noted on the plan and the area which is to be surfaced should be marked.
  - e) Revision of General Note 22 to read: "Per the City Fire Code, construction of the emergency access drive and associated features is required for 30 dwelling units and will occur prior to the construction of a 30<sup>th</sup> dwelling unit."

Motion carried 6-2, with Commissioners Blaser and Harris voting in opposition.