



City of Lawrence

DAVID L. CORLISS
CITY MANAGER

City Offices
PO Box 708 66044-0708
www.lawrenceks.org

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION
MAYOR
MICHAEL H. DEVER
COMMISSIONERS
SUE HACK
ROBERT CHESTNUT
DENNIS "BOOG" HIGHBERGER
MIKE AMYX

January 6, 2009

The Board of Commissioners of the City of Lawrence met in regular session at 6:35 p.m., in the City Commission Chambers in City Hall with Mayor Dever presiding and members Amyx, Chestnut, Hack, and Highberger present.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval, Mayor Dever recognized Lawrence Police Captain Mike Patrick as a graduate of the 235th FBI National Academy class.

CONSENT AGENDA

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to approve the City Commission meeting minutes of December 9, 2008, December 16, 2008 and December 30, 2008. Motion carried unanimously.

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to approve claims to 181 vendors in the amount of \$1,064,476.90 and payroll from December 21, 2008 to January 3, 2009 in the amount of \$1,819,625.95. Motion carried unanimously.

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to approve the Drinking Establishment License for Astros, 601 Kasold Ste: C-107; and Wild's Chateau 24, 2412 Iowa; the Cereal Malt Beverage Licenses for Presto Convenience Store, 302 West 9th; and Eastside Tavern, 900 Pennsylvania. Motion carried unanimously.

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to waive bidding requirements and approve the sole source purchase of personal protective



We are committed to providing excellent city services that enhance the quality of life for the Lawrence Community

clothing for the Fire/Medical Department from Municipal Emergency Services (MES) for \$26,397. Motion carried unanimously. (1)

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to adopt on first reading Ordinance No. 8360, authorizing the codification of general ordinances of the City. Motion carried unanimously. (2)

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to concur with the Planning Commission's recommendation to approve Text Amendment (TA-10-17-08), amendments to Section 20-804, 20-805, 20-807, and 20-815 of the joint Subdivision Regulations revising standards for Build Out Plans. Motion carried unanimously. (3)

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to concur with the Planning Commission's recommendations to approve the Preliminary Plat (PP-10-14-08) for Free State Addition No. 3, a non-residential subdivision containing 17.641 acres, located at 4700 Overland Drive; and accept the dedication of easements and right-of-way, subject to the following condition:

1. Remove Note 12 as additional right-of-way is being proposed with this plat.

Motion carried unanimously. (4)

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to concur with the Planning Commission's recommendations to approve the Preliminary Plat (PP-10-15-08), for Hunter's Acres, a non-residential subdivision containing 9.353 acres, located at 2145 Louisiana Street; and accept the dedication of easements and right-of-way, subject to the following condition:

1. Remove Note 12 as additional right-of-way is being proposed with this plat.

Motion carried unanimously. (5)

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to authorize the City Manager to negotiate an agreement with Haase and Long for collection services. Motion carried unanimously. (6)

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to authorize the City Manager to execute a Predesign Phase Engineering Services Agreement with BG Consultants in the amount of \$43,419 for the annual Watermain Replacement Program. Motion carried unanimously. (7)

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to approve temporary use of right-of-way permits adjacent to 642 and 824 Louisiana for one month, January 6, 2009 through February 6, 2009, for the storage of construction materials, with additional extensions to be considered as needed, provided that any future extension requests must be applied for prior to the expiration of the then current temporary use of right-of-way permits. Motion carried unanimously. (8)

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to receive request for special assessment benefit district for the construction of Exchange Place/Fairfield Street in Fairfield East subdivision (east of O'Connell); and directed staff to review and prepare appropriate resolutions. Motion carried unanimously. (9)

As part of the consent agenda, it was moved by Chestnut, seconded by Hack, to adopt Resolution No. 6818 declaring the necessity to appropriate interests in real property for use by the City for the location, construction, operation and maintenance of a public sanitary sewer pump station, sanitary sewer main and equipment and facilities appurtenant thereto, and authorizing a survey and description of the land to be condemned. Motion carried unanimously. (10)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said, regarding the possible federal infrastructure stimulus package, staff did not know the shape, contours or final passage of that

stimulus package. He said it was heard that the package was likely to include infrastructure elements. Staff had been participating in meetings at the state level. Scott McCullough, Planning/Development Services Director, representing the MPO (Metropolitan Planning Office) attended meetings with KDOT (Kansas Department of Transportation) regarding possible transportation elements. KDOT's website included economic stimulus projects which included a couple of Douglas County projects that were listed under the one year time frame. He said the idea was to get jobs where there was a great amount of work involved sooner so there would be a premium placed on projects that were ready to bid. The projects were broken down by 180 days and one year. He said staff was looking at lists regarding all levels of infrastructure such as transportation, utilities and public buildings.

Commissioner Amyx asked if everything needed to go through the state for applications.

Corliss said staff did not know. The press was full of comments that the federal government was not going to earmark projects. There might be grants to states, but they were not sure what criteria the state might use to spend that money. Local government organizations were lobbying that the money go directly to local governments in some cases. He did not know if it would go directly to the state or local government and what criteria the state might use. If it was an economic stimulus, the criteria would place a premium on projects that were ready to bid and perhaps an employment measure. Staff thought the projects needed to comply with all the federal requirements as far as property acquisition, design, environmental review, and wage considerations. There were likely to be a number of federal requirements.

Also, KDHE released Ozone designation recommendations and Douglas County was being designated as "Unclassifiable/Attainment" meaning Lawrence was not in a nonattainment area, which was good for the quality of air.

REGULAR AGENDA ITEMS:

Consider adopting on second and final reading, Joint City Ordinance No. 8358/County Resolution No. 09-01, amending Horizon 2020, Chapter 14, Specific Plans by approving and incorporating by reference the K10 and Farmer's Turnpike Plan, CPA-2008-9.

Scott McCullough, Director of Planning and Development Services, presented the staff report. He said on December 9, 2008, the City Commission adopted on first reading Ordinance No. 8358, incorporating the sector plan into Horizon 2020. That same evening, there was an informal challenge to the notice procedures under K.S.A. 12-743, which spoke to notice to other units of government when a City adopted or amended comprehensive plans, zoning regulations, or subdivision regulations. While staff believed the statutory requirements were fulfilled, an extra step was taken between that first reading and the second reading to deliver certified mail to those entities identified in the statute, which were the townships and the City of Lecompton. Staff believed there was a clear record of notice and believed they satisfied the statute. Today, a letter was received from Mr. Schneider that brought up the issue again and the City's Legal Department delivered to the City Commission an opinion that they were in compliance with the statute and staff recommended the City Commission adopt on second reading the K-10 and Farmer's Turnpike Sector Plan.

Mayor Dever called for public comment.

Jane Eldredge, Barber Emerson, Counsel for the applicant, commended staff for the amount of work they had done. They were subject to a great deal of challenge on this matter in regards to notice. She thought staff's legal opinion was exactly right and as Ms. Wheeler had pointed out, there were two different statutory requirements. The statutory requirement for the Planning Commission for publication in the newspapers, which was met by K.S.A. 12-747 and the statutory requirement for the City Commission and County Commission, was in K.S.A. 12-743, and in those matters it was before they took action. The action was not completed until the City Commission had done their second reading and until they have the ordinance signed and

ready to be transferred to the County. She did not believe the City Commission was at any risk and asked to commend staff for the work they did.

She said the memo the Planning Department prepared with the number of notices and contacts met the mandatory minimum and smothered everyone with notice. It was hard to say that no one had actual notice of the sector plan and the deliberations surrounding it.

Commissioner Amyx thanked staff for their work and the additional information provided. He knew it was quite a bit of work to provide on a very short notice. He said if someone brought forward a plan to revise the sector plan, he asked if that could be done in the future.

McCullough said it was possible if initiated by the Planning Commission or the City Commission.

Commissioner Amyx said there were important items for open space that people in the area brought forward.

Ordinance No. 8358/County Resolution No. 09-01, amending Horizon 2020, Chapter 14, Specific Plans by approving and incorporating by reference the K10 & Farmer's Turnpike Plan (CPA-2008-9), was read a second time. As part of the consent agenda, it was moved by Hack, seconded by Amyx, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, and Hack. Nay: Highberger. Motion carried. (12)

Consider the following items related to Lawrence SmartCode:

- a) Consider approval of CPA-2007-6, a Comprehensive Plan Amendment to Horizon 2020 by creating Chapter 15 – Place Making to ensure proper comprehensive plan language is in place for the proposed Lawrence SmartCode in the City of Lawrence.
- b) Consider approval of CPA-2007-7, a Comprehensive Plan Amendment to Horizon 2020, Chapter 14 Specific Plans, to add a reference to the Lawrence SmartCode Infill Plan.
- c) Consider adopting Text Amendment TA-11-24-07 regarding the Lawrence SmartCode and, pursuant to the provisions of K.S.A. Chapter 12 Article 7, enacting a new Chapter 21 of the Code of the City of Lawrence, Kansas, establishing comprehensive zoning regulations and other land use regulations.

Consider adopting Ordinance No. 8286 on first reading regarding TA-11-24-07 for the Lawrence SmartCode.

Dan Warner, Long Range Planner, presented the staff report. He said there were three items related to the Lawrence SmartCode. The first item was the code itself and then the two comprehensive plan amendments that helped establish the policy to the SmartCode. He said all of those items were unanimously approved by the Planning Commission on May 21. The purpose of the Lawrence SmartCode was to promote Lawrence traditional neighborhood design. It would expand the Lawrence developmental kit by providing an option for developers to design TND neighborhoods. It was a transect based code which basically meant that development was organized according to different levels of urbanism. The code specified form standards and regulated uses, emphasized natural features, mixed land uses, and required open space. The intent was to develop more compactly and develop the needs of neighborhoods. The SmartCode developed bonus incentives, similar to the mixed use district, which changed a little bit. The idea was to provide incentives to promote affordable housing, promote transit supported development, and promote production of environmental quality.

He said the first set of changes were the major changes that occurred when the Planning Commission discussed the SmartCode. Staff went to the Planning Commission three different times with different drafts of the SmartCode and all the changes they made revolved around the development processes of the code. What was approved was a Consolidated Review Committee, the CRC, which approved in this draft. The CRC would administratively approve Article 3 and Article 5 applications. The CRC would be a staff group and would not have any Planning Commissioners.

He said the next group of changes was after the Planning Commission approved the draft and were minor changes for clarification and to clear up conflicts. An administrative notice letter was discussed at the study session in which language was changed to make the appeals process clearer and inserted the correct graphic for the thoroughfare.

Regarding the greenfield process, the first step was rezoning. It was the exact same process that was used under the Development Code and was a public hearing process. After rezoning, a developer could apply for a new community plan which was CRC administratively approved. After that community plan was approved, the developer could seek their building scale approvals which were the site plans and was administratively approved by the CRC.

He said on the infill redevelopment process, rezoning would have the same process and there would be a concurrent review for the infill community plan. The City Commission approved this development plan concurrently with the rezoning. After those approvals were met, the site plan would be approved. He said the process was similar to what they did under the Development Code now and the rezoning was the same process. Staff currently processed site plans administratively under the development code. The difference was the new community plans were CRC administratively approved, the preliminary development plans in the Development Code was Planning and City Commission approved, and the final development plans were administratively approved. It was thought with this draft, they had arrived at a good compromise with public and administrative processes. He said if the Commission thought they were not quite there yet, one option would be to change the Article 3 approval to be similar to what happened under infill. The infill community plans had City Commission approval. It was possible to make the Article 3, new community plans, City Commission approved. Generally the code regulated form and uses. It would be parallel to the existing land development code. It was an optional code that could only be used if the property was in the corporate limits of the City of Lawrence. The code would not be mandatory anywhere. The use of the code would be an all or nothing choice and users would not be able to cherry pick items from this code and apply it to the existing code. It accommodated both greenfield and infill and would become Chapter 21 of the City Code if adopted. They were asking for an effective date of July 1, 2009, to accommodate some training. It was a similar process that was used when the code was adopted.

He said the City Commission received information from David Dunfield prior to the December meeting in which the SmartCode would be discussed regarding architectural standards and those sections listed were the standards. Most communities that adopt a SmartCode did not actually adopt the architectural standards. They were meant to plug in or out of the code and not integral to the form or design of the code. During the charrette, pulling the architectural standards out was discussed, but the comments that were received during the charrette led the consultant to believe they were favorable for the architectural standards. Deviation from those standards could be available through a warrant approval which was an administrative approval. There was a process for deviation to the standards. If in the future, if it was decided that architectural standards process was not working well on some of those projects, they could revise or remove those standards in the future.

He said CPA-2007-6, creating Chapter 15, Place Making, was to ensure the policy and comprehensive plan supported the SmartCode. CPA-2007-7 was the SmartCode infill plan. It contained three areas; 19th and Haskell, 23rd and Louisiana, and 25th and Iowa that were planned by Place Makers according to TND principles during the charrette. The approval of this plan would allow property owners in those areas to seek approvals under the SmartCode assuming they followed those plans. He said staff recommendations were to approve the SmartCode by enacting Chapter 21 and approve the two comprehensive plan amendments.

Commissioner Hack asked if the process was changed for greenfield development to reflect the same process that was outlined for infill, which included City Commission approval of the community plan, would that be a substantial change that needed to be returned to the Planning Commission or could the City Commission approve it this evening.

Warner said it would be substantial, but it could be done with 4 votes.

Commissioner Amyx asked if that was an important part of this approval.

Commissioner Hack said yes.

Commissioner Amyx said the SmartCode was new and rather than changing the process to reflect the current Development Code by this body, he asked if Commissioner Hack's idea would make this code better.

Commissioner Hack said she thought it would be more effective if there was that additional step of the City Commission approval in terms of a procedural step. She said the CRC and the City Commission approval as it existed, with infill, was also appropriate for the greenfield.

Commissioner Amyx said the correspondence had everything to do with participation and having the City Commission address it. The Code was new to Lawrence and if there was a code that worked in going through the same process as the Development Code it would be a lot easier sell in the future.

Warner said if the Commission went that route and made that change, staff needed time to change the draft.

Commissioner Amyx said since the effective date for the new code was July 1, 2009 he asked if the code could be adopted with changes that might come forward between now and July 1st.

Warner said that was plenty of time to get those changes completed.

McCullough said if it was the Commission's desire to adopt that code, staff would hold off with the ordinance portion and make those changes and then bring it back to the City Commission for first and second reading.

Commissioner Highberger said if there were four votes or more, it would not need to go back to the Planning Commission and that process would not get reinitiated.

Mayor Dever called for public comment.

Kirk McClure, Lawrence, said certain districts would be designated as appropriate for development under this code. Once designated and zoned, no further public input would be permitted on the development proposal as it came forward. The development plan within the

district was appropriately zoned; it would go to a staff committee, the Consolidated Review Committee. The CRC looked to its architectural design standards and if it met the guidelines, the building permit was issued within 60 days. There was no review by the Planning Commission and there might be no review by the City Commission unless there was an appeal and the standards for meeting an appeal were very, very narrow. Public input was normally only received at Planning Commission and City Commission and there was no public input in the process. The SmartCode assumed that if the land was zoned, the developer could move to a building permit within 60 days if it met certain architectural requirements.

He said there were a set of things completely wrong with that idea. First off, this code was an example of political double speak. It was a SmartCode when it was nothing of the sort. The phrase "smart" was a cutesy word taken out of advertising. Within the planning context, the word "smart" had meaning; growth management. The trend for smart development codes had been around for 30 plus years and it was because they discovered over time that there was a tendency within the building industry to overbuild, that this harmed communities, and communities have learned to fight back and brought rational pace of growth to their community. Sadly, Lawrence had not been one of those communities. Lawrence suffered from being overbuilt and had an enormous inventory of unsold new homes, a big inventory of unsold existing homes, especially in the older neighborhoods, an inventory of empty and blighted shopping centers, and a lot of leased office space that was sitting empty. The City could have prevented this easily by being smart, but chose not to. Perhaps the only good thing that had come out of this economic downturn was it brought a halt to the spree of overbuilding. The banks had pulled the plug on the developers and told the developers if they could not bring pre-lease agreements on retail space, the bank would not trigger the loans for shopping centers. The city had approved multiple shopping centers on West 6th, but no building activity was going on because the banks would not trigger the loan. He said while the economic downturn had brought this overbuilding to a halt, the City needed to right-size the building industry for when

the economy turned around. It was what a truly smart code could do for the city, unfortunately, despite its name; there was no smart mechanism within this code.

There still was a mechanism where it called for a market analysis, but this was done by the developers. They all knew the phrase used for those developers which was “the liars for higher.” They would go out and generate a report that said whatever the developer wanted it to. Those things were flat out wrong and the City needed to charge their own staff with the market analysis. If the City did not have the skills with current staff, he suggested hiring a consultant, but a consultant who answered to the City. The City needed to learn to read those signals so they could set the pace of growth. Right now, the absence of not reading those signals, the City was hurting the good developments in this town. The Hobbs-Taylor building was still looking for tenants, the 600 block of Massachusetts was still looking for tenants. Those were top quality developments that ought to be setting the standards for occupancy in this town and were sitting empty. It was the pain of going through the overbuilding. The “Smartcode” was anything but smart.

He said the second issue was public input. At this point, what the City had done was traded away public input for very modest gains in the design. The assumption of the SmartCode was that the City could gain improved design by granting fast track authority to the developers. The costs were great and the benefits were minimal and perhaps non-existent. The public was effectively excluded. When the SmartCode first came out, there was no public notice. Now the developer provided a mechanism that if someone lived within 200 feet of the district, a notice would be received. Even if a notice was received, there was no mechanism to have a public review of this process because the Planning Commission’s review was eliminated. There was no notification process and no right of appeal other than for those few people who lived in that sliver of land adjacent to the property. In fact, the City had traded away the public input. He asked what the supposed benefits of this were. The benefits of traditional neighborhood design were illusory and unproven. Illusory was a dream that they would make

significant changes between where they lived and where they were. Lawrence was a college town and had been for a very long time. Over 9,000 people work at the University of Kansas. The University was not going to change where it located those employees. Hallmark, Pearson and others were other major employers who were not likely to make major changes in where the employment was. The separation between residents and place of work was not going to change for the vast majority of workers in this community. Yes, there was a home office process that was going on since the 1980's and it was going to happen with or without the traditional neighborhood design. They were not going to make big changes. Those benefits were also highly unproven. The new urbanism of traditional neighborhood design had been around for quite a while and there had been an awful lot of good research on it. They were not finding the economic benefits of it and not finding improved property values. They were not finding the economic benefits, improved property values, did not increase the sell ability of properties or a lot of great benefits from it.

The SmartCode did nothing to resolve the problems of housing affordability. Cities across the nation were moving along with this problem and the most common tool was inclusionary zoning. Inclusionary zoning mandated that a percentage of units in all new residential developments be set aside for affordable housing units. The SmartCode said much on this but did very little. It set up a system of incentives, which were a little more than density bonuses. They were in exchange for inclusion of such features such as affordable housing, bus stops, green roofs, and so forth.

He said density bonuses had been shown to be relatively little value. They allowed a developer to allow a few more units to an existing site. If they were in a location where the land was a very high percentage of total development costs, it might have meaning. Land costs were a low percentage of total development costs and density bonuses would get them nowhere. The developers would do little or nothing to leverage those bonuses. If the City was serious about affordable housing, this code did nothing and would fail what it set out to do.

He said the City had a set of design guidelines. The guidelines were weak and it was offered to take them out of the code to make them further discretionary. He said this ordinance would create a staff committee, a staff committee without public notice requirements, a staff committee that was not obligated to receive public input, and a staff committee that was under an obligation to make its decisions very quickly. Staff was subject to political pressure. Staff had admitted in various settings that those would be closed meetings. This Commission enjoyed a very unenviable reputation. They were the City Commission of secret meetings and if this code was passed, the Commission would be institutionalizing a new set of secret meetings. The neighborhoods would not know about this development and it would be 60 days from proposal to building permit and the neighbors would find out about it when the building permit was posted. By that time, it was too late.

He said if the City wanted design guidelines, he asked that it be done the right way and smart way, which was to mandate it. The City Commission would lay it out and say that the developers who wanted to meet the guidelines they would be the first to get the building permits. Rather than trade away public input, the City should make the developers compete for the designation of the designated developer for those particular projects. They should compete and appeal to the City Commission to make this the best possible way for this to go forward. They had to have effective growth management to make that work. Rather than let the development community set the pace of growth and saying yes to every shopping center that came along and every subdivision that came along, the City needed to manage that growth and figure out how many square feet of retail space that could be absorbed and only allow that amount to be built each year. Figure out how many subdivisions that could be absorbed every year. It would probably be less than what the developers were willing or like to put forward. That was how the City would get the developers to compete and then could have the public input on which were the best possible ones. The City should not continue to let the private development industry set the pace of growth to prevent the kind of problems they were facing

now. If the City Commission wanted affordable housing in this town, they needed to adopt an inclusionary zoning ordinance. Density bonuses were not going to do it and public input should always be part of the planning process and need not be sacrificed.

Gwen Klingenberg, Lawrence, said recently the paper had an article about the City Commission's concerns for affordable housing and the SmartCode was the ideal place to require an affordable housing component. As a member of the Housing Needs Task Force, she heard the concerns of the development community of not being able to build affordable housing and complained about things like land prices and other things that cost the builders to have to build above a certain price point. As she told the Planning Commission, when developing large acreage of new development, there was room for a percentage of affordable houses. Lot sizes could be smaller, live/work development and cluster development were great ways to build affordable housing. When they were dealing with large lots, variances and warrants were not going to be needed enough for the incentive package that was now part of this document and therefore affordable housing should not be incentivized as a hope and not a reality.

She said she pulled up the SmartCode from PlaceMakers and noted that the word "should" in the purpose section of the document were blue, just as the section for municipalities, adoption dates and other interchangeable language. She asked the point of creating a document that was supposed to be a community visioning if leaving all the actual purposes to the developers and not the community. If they really wanted to retain the region's natural infrastructure, visual character, encourage infill development, development to be contiguous and not sprawl, traditional neighborhoods, connectivity, pedestrian orientation and affordable housing, they should make it a requirement. The blue words (should) in the PlaceMakers purpose section allowed the vision of the community to set which should be "shall" and which should be "should." This document had set none of the words "shall" in the purpose section. If they left the door open, they would be amazed at what they would actually get. They should

take care to require and make a "shall" instead of a "should" under purposes or the purposes would be dismissed.

She said under "preserved" and "reserved" open sectors, there were three very important terms that would be under "preserved" and should not be developed, which included legacy woodlands, legacy farmlands, and legacy view sheds. Those were spaces subject to development without the public hearing of the City Commission under the reserved open sectors. There was a City Commission hearing if they were under "preserved", but not "reserved." She asked what the point of legacy was if they had no intention of honoring those areas for future generations.

She said as for the CRC, it took the community out of the process. The biggest issue was the loss of transparency and the democratic process with this code. Several Kansas statutes referred to requiring a public hearing if they were going to make new streets, easements, affect property values and many other things. The state required a hearing and as for the open meetings act, the CRC would be making those decisions behind closed doors. At no time was a project so needed and desperation so set in that Lawrence would need to abandon the democratic process of public input or the loss of transparency in the City's process. This document, as written, removed the constitutional and state protected rights of taxpayers and residents of Lawrence to allow public discussion on their own growth and quality of life. She said she talked to other communities who have adopted a SmartCode and the CRC was also a big issue. She did not talk to any City that was using a CRC. It was either transferred to the Planning Commission or city council. She pointed out this document was very specific when it came to windows and where building façade went. Lawrence was an art community and triangle windows were all around the community. She asked why they were being so specific about windows when they were not being specific about the community vision. This document was backwards in thinking and needed to be rethought. This document stipulated too much on the materialistic and not enough on the vision and democratic process of Lawrence, Kansas.

Luke Bell, Lawrence Board of Realtors, commended the Planning staff for their work. It was a two or three year process and had been through the process quite a bit and multiple changes had been made. He said several commentators talked about the pace of growth and using smart growth to limit growth in the community. He said he would like to emphasize that the SmartCode was not intended to be a no growth or antidevelopment code. It was simply about quality of life and creating walkable neighborhoods, quality of life in the community, attractive design, preserved green space, encouraged quality neighborhoods and was not about limiting growth or making an antigrowth community. It was about improving the quality of life in their neighborhoods and thought that was what the SmartCode should be tailored to.

He said he also wanted to emphasize that the residential and commercial development was not one size fits all, which was why they were encouraged by the fact that the SmartCode would be parallel to the existing development code. He urged the City Commission to retain that feature of the SmartCode. It was not going to work for every type of development, but over time would need to be tweaked. Certain developments would go first and see how it worked. Two or three years down the road the City Commission could take another look at the SmartCode but for now, they urged the City Commission to retain its parallel existence to the current development code.

Commissioner Highberger asked Warner to comment on items Klingenberg mentioned in her comments.

Warner said he thought Klingenberg was speaking under the Purpose Section 1.2, which were policies the code was implementing and there were a lot of "shoulds" that meant it was a great idea, but not making you implement all of those policies and he thought Klingenberg preferred to see "shalls" in most of the statements, such as affordable housing.

Commissioner Highberger said those were not design standards.

Warner said correct. They were general purpose statements.

He said Klingenberg was quoting Article 2, "Preserved Open and Reserved Open. It came straight from the Model Code. Article 2 was not tweaked much because a sector plan was prepared for the City by PlaceMakers. The purpose of Article 2 was to prepare sector plans. He said it was similar to what would be adopted in other places because it had not been changed from the model.

Commissioner Highberger asked if Warner had recollection why some things like surface water bodies were in the preserve sector and other things like floodway were in the reserve sector.

Warner said flood fringe could develop with an H&H study and those sorts of things. The floodway for utilities, the existing code did not limit those exactly either.

Commissioner Highberger said the preserved things were things that were legally protected and the reserved things were things the intent was to protect but the legal protections were not in place yet.

Warner said yes, that was how it was discussed during the charrette.

Commissioner Amyx said during the study session discussion took place on how the CRC would operate.

Scott McCullough, Development Services Director, said as staff thought about the process, it would be similar to how site plans were processed today that had zoning in place. That was a process of public notice to the adjoining property owners and neighborhood associations. It was not notice of a certain meeting, but notice that the information was out there. They also had a practice now of including site plan graphics on the City's online notification so Neighborhood Associations could look at the site plan in a moment's notice once posted on a weekly basis. The actual process of site plans in the current code or certain articles of site plans in the SmartCode would happen in one or a series of meetings of internal staff meetings where the code was reviewed, processed, a determination was made and then the appeal period started. It was just what staff did with the site plans today and proved to be pretty

effective with neighbors and Neighborhood Associations. Staff was speaking with those associations before staff made decisions. The City Commission had an opportunity to add a layer of review of the governing body which was more akin to the way preliminary and final development plans were processed previous to the new Development Code. Staff would still do the administrative process, but then the City Commission would be the decision maker and not the CRC. He said that might be appropriate also.

Mayor Dever said in the Planning Commission meeting minutes, Klingenberg mentioned the CRC was needed, and asked her if she now was saying that committee was not ideal.

Klingenberg said she never had approved of the CRC so the Planning Commission minutes must be inaccurate. She said in all her speeches she had a concern for land and neighborhood involvement was very important. She said LAN pushed for the involvement that was part of the infill development, but would also have green fields that would be next door to neighbors and they had a community that wanted to be involved in growth, but the CRC took that away.

Mayor Dever asked if Klingenberg's biggest concern was the CRC was not using the public hearing process, the fact that the committee existed, or the process by which those things would be evaluated.

Klingenberg said the fact the discussions were behind closed doors and there was no public input. With their state statutes, if they were dealing with putting in roads, easements or something that was going to be done to affect the property values, the state required a public hearing if that issue was created. She never supported the CRC as a private, behind closed doors discussion.

Commissioner Highberger said there were good points about the architectural guidelines. He asked if this was adopted, did Klingenberg prefer to see the architectural guidelines gone over and improved or done away with entirely.

Klingenberg said because they were trying to create a certain look they needed the architectural guidelines. She thought the current guidelines needed a lot of work.

Mayor Dever asked Warner if he had talked to other communities that have adopted the SmartCode. He said the whole CRC seemed contentious. He asked if Warner talked to anyone who indicated the CRC was an effective means in evaluating this type of guideline or activity.

Warner said he had not really spoken to communities about the CRC. He thought it was an issue because it was a completely different process than what normally happened through a rezoning development plan process, but it was not entirely different than what was being done with the development code and administrative process. He said he thought Lawrence was closer than some communities on the administrative side of things.

Mayor Dever asked the inference that those were to be closed meetings, could the public not give any input when making those decisions. He said he was wondering about the transparency of this process. He said using the current City's code he asked how transparent it was relative to how the CRC would behave.

McCullough said it would behave similarly and tried to mirror the Development Code. This had been a compromised position throughout the process. One of the things the consultant talked about was an incentive for this code. If buying into its benefits and elements that could be beneficial to create neighborhoods, one of the incentives for some communities had been to streamline the process. He said there was a hearing for rezoning and establishing whether to enter into the SmartCode and then in turn an administrative process for the prescribed parts of this code. He said he would not characterize what they did now in the Development Code as secret or closed meetings. It was a very open process, had a lot of notice to the community, they were open to receiving notice and having meetings with people who had issues with certain plans. They also had the appeal process to the SmartCode. The question was had the new code gone far enough in terms of its public input. They would have it at the rezoning level, the planning level for infill, and it was the fringe or the greenfield

developments that would not necessarily affect the current higher density neighborhoods where staff thought the compromise might be to keep it streamlined, but again it was how the governing body felt was appropriate for this code.

Commissioner Hack said as they worked their way through the Development Code, the issue of administrative approval for site plans was something different as well. She said she still thought the additional Commission layer was good for infill and greenfield development, but that particular portion of the development code people were concerned because it had been something the Commission had done which had proven to be effective with staff review. Sometimes it was just getting used to something, but she still believed that greenfield development should reflect the same kinds of process the infill did in the SmartCode. She said she would be more comfortable if it had that extra layer.

Mayor Dever said he was not sure everyone grasped the concept Commissioner Hack was describing in that it would be more arduous to do greenfield Development.

Commissioner Hack said infill developments were smaller areas that were already designated, but the greenfield would be a larger development. She liked the idea of the CRC viewing and working their will on it as well because those gave the expertise with the utilities, fire codes, and how it complied with the code itself. Bringing it to the City Commission made sense and following the CRC, rezoning would be the same process, the community plan would have the CRC approval and then come to the City Commission.

Mayor Dever asked if the size of the development was the hurdle or the trigger for requiring the additional step or was it because of the impact it might have on the community.

Commissioner Hack said both. Infill development could be challenging for both parties and putting the City Commission in the middle did make sense in terms of the City Commission hearing both. The greenfield development was a huge new neighborhood design. If the City Commission believed that traditional neighborhood design was important, which was something

the City had been moving toward for a long time then the Commission had to make it fiscally and feasibly appropriate for both developers and existing neighborhoods.

Commissioner Highberger said one of the reasons he ran for City Commission in 2003 was because he looked around his neighborhood and downtown Lawrence and thought there were some really good things about it and wondered why no one was building neighborhoods like that anymore. He realized one of the reasons was because it was illegal. They could not build the things he liked about the City in the current zoning code. He said fortunately they were able to find the funds to secure the PlaceMakers grant, had the design/charrette process, and were getting to the point they were now.

He said this code was not going to solve every problem in the City of Lawrence. He agreed with McClure that growth management was probably a good idea and did not think there were three votes on the City Commission to do that right now and killing this code would not get them closer. Likewise, with inclusionary zoning, when he was Mayor he called together an Affordable Housing Taskforce and inclusionary zoning proposal was one that came out of that and it did not get anywhere.

He said public input should always be a part of the development process. He helped encourage the start of this process and his goal was to have Lawrence, Kansas have a code that would allow traditional neighborhood design to occur and preferred that type of design to be mandatory for all new development, but again, he did not have the votes for that idea. He was ready to move forward with an optional code. If an optional code was going to be used, it had to be preferable to the City's parallel code or it would not get used and the entire process would be useless.

He said he did not think compromising in the public process was the way to get there. He was happy to hear at least four commissioners saying they were willing to make changes in the current draft to change the approval process for greenfield development to be the same as for an infill development, which did require the entity preparing the development plan to meet

with and involve the neighborhoods adjacent to the project prior to submitting the plan. The language needed to be tweaked somewhat for infill development which might or might not have any active neighborhoods adjacent to the project. The notification process for the greenfield developments needed to be altered and a broader notice might be needed. He disagreed with some of the characterization of this code and thought the code had substantial requirements for connectivity of streets and street design requirements because there were requirements for a certain percentage of commercial development within neighborhoods. Having this option would make it possible for more citizens to live where they work, shop where they live, and to do things like that. There were studies showing that vehicle miles decreased for households living in TND neighborhoods.

This code was not perfect and would require some modification over the years, but took them a big step forward. He said with the suggested revisions he strongly support the proposed code.

Vice Mayor Chestnut thanked the three Commissioners who had been through this process because it had been a long one. He said one thing that was important to him as this code developed was an opposite opinion of Commissioner Highberger which was the proposed code was not trying to be a growth regulation type of proposal. There was some irony in some of the comments made regarding not being able to change employers and where people work and where they live, and yet to turn around and say they wanted to regulate all of the development. He did not see that as being an effective tool. He said this was the right approach, in particular, regarding comments about the vision of the community because there was a whole lot of input taken about the vision of the community. It had been through a significant amount of public comment. At the end of the day, no one got exactly what they wanted, which probably meant it was a pretty good policy because it compromised with a number of stakeholders in the community.

He agreed with Commissioner Hack's comments that a 60 acre tract was something that ought to come before this body and on the other side with a 60 acre tract there was no way that there would not be massive public process and notification. Everyone would know in town because it would be in every paper and everything else. He said he understood that there might need to be some tweaking on public notice, but he supported what the Planning staff was trying to do. He said in the comments on the sector plan, to go above and beyond on notification and to make sure all the stakeholders had some type of vested interest in whatever project was in front, and staff had tried as much as possible, outside of what was legally required, to notify people and to receive as much input as possible.

He said the accusations of nefariousness were great drama, but had little fact. The fact was whether it be the neighborhood associations, the development community, the people who had sat on the City Commission before, all had the best intentions in mind of trying to create what they thought was going to be a great enhancement to this community. It was why he supported it and was exciting to think about something that would entice capital to really look at developing traditional neighborhoods. He spent some time with some people who knew a lot more about it than he did, and they were pretty excited about the opportunity to look at a project like this and look at narrower streets, less turn radius and a lot of things talked about in downtown Lawrence. He said he had even seen developers take that grid of downtown Lawrence and overlaid it onto the west side of town and have this type of design some place else with traditional neighborhood design which was what everyone was trying to achieve and were the goals in this effort. The only way progress would be made was to get something moving and realize there was always work to be done.

Commissioner Hack echoed the gratitude for staff and particularly Dan Warner's work. She said people were fascinated and appreciative of the traditional neighborhood designs. She remembered comments from Commissioner Highberger about how much he liked downtown but the downtown was illegal.

She said they began this journey on the idea of a parallel code and while she appreciated the idea and because it was a great new concept, the newness of it did not allow that type of design for now. Over time, they could work toward that type of design and could become how Lawrence designed neighborhoods. She said if Lawrence desired this type of design, they knew it was cost effective. When doing the fiscal impacts of growth study and TND design was overlaid south of the Wakarusa and in the northwest part of town, if looking at the cost of service in those areas, it was less expensive to put traditional neighborhood design in both of those areas than it would have been with the current development code. She said they needed to make the process cost effective not only for the developers, but for City staff. If involving staff in countless hours of continual meetings over and over again, hitting the same nail with the hammer, it was not a cost effective use of City staff.

She said this concept was approved unanimously by the Planning Commission. She said she would like to see the process for greenfield and Infill Developments be the same because of the size of one type of development and the impact of the other development were parallel in terms of the necessity for public process. She said the City Commissioner layer after the CRC was appropriate.

Commissioner Amyx said several years ago, he had the opportunity to visit with then Mayor Highberger about traditional neighborhood design and that discussion helped him decide that something was needed to establish traditional neighborhood design in Lawrence. The vehicle brought to the City Commission was the SmartCode and public input was heard throughout that entire process. He said this plan was not perfect, but the main concern was public input into the process.

Other concerns were to make sure the appeals process was understood as well as the CRC process.

He said he wanted to mention the letter received by the City Commission from former Mayor Dunfield that talked about taking risks and how this code might be risky, but it was something that was important, and he believed that was a true statement.

There were a number of changes to the development code that was brought to the City Commission which would help with this code. He said he would hate to see this code adopted, but not used because the City Commission would be letting the public down and City staff down.

He said his only concern at this point was the access to the CRC and letting people have access to that process.

Mayor Dever said the City Commission needed to seriously consider the effects of putting restrictions on greenfield development. He was in favor of those restrictions, but he wanted to make sure they were not discouraging the use of those codes because there was no incentive to use those codes. He said he was in favor, but wanted to make sure they were not doing something that would take away the power of this design standard and process.

McCullough said it was a balancing act. He said it was whether or not it was an important incentive to the community when in growth mode. It was hard to predict whether that would be an important element or not. He said the profitability and uniqueness of something like this would be enough incentive to get someone interested in the code. He said knowing what everything needed to look like was a better guarantee in moving forward on the process would lead to an outcome of success. He said it was important to note that this code did not abandon the growth management policies of the comprehensive plan. Anytime a rezoning came before the City Commission, staff had an element in the staff reports, policies of the comprehensive plan. He said staff recently reviewed their first retail market study that showed they were hitting that magic trigger of 8% vacancy. He said staff took those issues to heart and made them part of the public discussion as part of those projects. He said it would be interesting in the future to see whether or not that was meaningful to the development

community and see if they had to go through another month or two of process in a 60 acre development, but staff did not know.

Mayor Dever said he felt like they had addressed the issue of transparency of the CRC. He said it was implicit that staff involved the public and would have a fairer and clearer process. He said he was generally in favor and supported passing the plan amendment, but make sure they include any changes carefully.

Commissioner Highberger said he understood the Mayor's concern and it was obviously useless if it did not get used, but should adopt it with a good public process. A good way to incentivize this was not throwing away the public process, but should provide other incentives in the future if it was not getting used.

Moved by Highberger, seconded by Hack, to approve a Comprehensive Plan Amendment (CPA-2007-6) to Horizon 2020 by creating Chapter 15 – Place Making to ensure proper comprehensive plan language is in place for the proposed Lawrence SmartCode in the City of Lawrence. Motion carried unanimously. (13)

Moved by Hack, seconded by Amyx, to approve a Comprehensive Plan Amendment (CPA-2007-7 to Horizon 2020, Chapter 14– Specific Plans, to add a reference to the Lawrence SmartCode Infill Plan. Motion carried unanimously. (14)

Moved by Hack, seconded by Amyx, to defer for two weeks consideration of approval Text Amendment (TA-11-24-07), regarding the Lawrence SmartCode, and directed staff to come back with amendments regarding the Greenfield Development process; increased notification options; and, options on how to proceed with the architectural design guidelines. Motion carried unanimously. (15)

Consider the following items related to Maple Leaf Square.

- a) Consider Planning Commission's recommendation to approve a request to rezone a tract of land, Z-10-17A-08, approximately 6.14 acres from RS-7 (Single Family Residential) to RM-12D (Multi-Dwelling Residential Duplex), located at 4145 Seele Way.
- b) Consider approving a request to rezone a tract of land, Z-10-17B-08, approximately 3.57 acres from RS-7 (Single-Family Residential) to RS-5 (Single-Family Residential) located at 437 Seele Drive.
- c) Consider deferring acceptance of dedication of easements and rights-of-way for PP-10-13-08, a Preliminary Plat for Maple Leaf Square, a 10.24 acre subdivision consisting of 41 lots, located at 4145 Seele Way.
- d) Consider deferring approval of a waiver from the requirement in Section 20-811(c)(1)(i) of the Subdivision Regulations that sidewalks be constructed on both sides of the street for 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 Street.

Mary Miller, Planner, presented the staff report. She said the Maple Leaf Square development proposal included two rezoning requests along with a preliminary plat and a waiver for the requirement to construct sidewalks on both sides of the streets. The Planning Commission considered those items at their December 15, 2008 meeting and voted 6 – 2 to recommend approval of the rezoning request from the RS7 to the RM12D district, which was Z-10-17A-08; voted 7 – 1 to recommend approval of the rezoning request from the RS7 to the RS5 district, which was Z-10-17B-08; and, voted 6-2 to approve the preliminary plat for 41 lots and 3 tracts.

Since that meeting, a valid protest petition had been submitted for the rezoning request for the RM12D district. This protest petition would require a super majority vote for the approval of that rezoning request. Since that time, the applicant submitted a revised rezoning request for the RM12D district to remove the duplex zoning from the east property line and to replace that with the RS5 zoning, or single dwelling zoning. The applicant provided amended rezoning maps which would show how the property would be rezoned if revised rezoning were approved.

The applicant was requesting the City Commission approve the revised rezoning requests based on the lesser change table.

She said the property was located north of Overland Drive between Monterey Way and Eldridge Street. The property was platted in 2006 as the Doolittle Subdivision and was a 41 lot subdivision in the RS7 zoning district, which was single family. The plat was submitted prior to the adoption of the 2006 subdivision regulations, so it was processed under the provisions of the previous subdivision regulations. The Maple Leaf preliminary plat also contained 41 lots, however the lot lines were reconfigured to allow for the larger lots of the duplex development. As many of the lots were proposed for the duplex development, the number of dwelling units would increase from the Doolittle Subdivision from 41 to 63. The applicant submitted a revised preliminary plat to accommodate the revised rezoning request. The revised plat included 42 lots with the total number of dwelling units being 60.

As the plat had been changed from when it was submitted to the Planning Commission, staff determined that the preliminary plat should be returned to the Planning Commission for approval prior to the acceptance of dedications. This would also allow the reviewing agencies and departments the opportunity to review the reconfigured lot lines to determine there was no conflict with the infrastructure already in place.

She said the applicant requested a waiver for the requirement to locate sidewalks on both sides of the streets and staff recommended the waiver requests would be deferred so it could be considered along with the preliminary plat.

She said this would be considered infill development as it was an island of undeveloped property located within a developed area. When the property was platted as Doolittle Subdivision, 41 lots were created; the infrastructure was installed at that time, so the plat currently contained streets. There were also sanitary sewer and water lines established, one road access out to Eldridge Street, and there were two pedestrian connections, one to Eldridge and one to Monterey Way.

She said the rezoning requests were reviewed with the recommendations in Horizon 2020. The land use map was looked at and the land use map showed future land uses that were recommended for the area. The land use map recommended commercial areas primarily along West 6th Street. The majority of the area was recommended for low or very low residential development.

She said the development code had a chart that showed the zoning districts and also showed what comprehensive plan designation those districts correlate with. She said the RS5 district was a single dwelling residential district with a minimum lot size of 5,000 square feet. It was considered low or medium density in the comprehensive plan. The RM12D district would have a maximum density of 12 dwelling units per acre. It was designated in the comprehensive plan as medium density. The RM12 zoning request did not conform with the land use recommendations in Horizon 2020's land use map for this area, as it recommended a low to very low residential. She said the maximum allowable density was the density or number of units per area that was possible in an area without any consideration being given for the amount of road right-of-way or other non residential uses. She said often it was not possible to achieve that density with a development, but that was the maximum that would be allowed. The RM12D district was designated a medium density development in the development code.

She displayed a chart that showed density calculations for the subject property. The RS7 district had a minimum lot size of 7,000 square feet and arrived at a maximum allowable density of 6.2 units per acre. The RS5 zoning would arrive at 8.7 units per acre. This would be the maximum density that would be allowed in those districts. They had the gross area of the two different zoning districts but did not have the net areas. She said when they calculated the gross area density for Doolittle, it was 4 dwelling units per acre and for Maple Leaf Square it would be 6.15 dwelling units per acre. Calculating the net density, they were moving the road right-of-ways, it would be 5.97 dwelling units per acre or 9.17 dwelling units per acre as a whole.

She said the RM12D zoning was for the southern portion of the property. It was for 22 lots and one tract. The tract in the corner was for a drainage easement and an access easement. The lots on the east were being requested to be removed through the lesser change table and be replaced with RS5 zoning. The original zoning requests were for 22 lots with RM12D zoning and 19 lots with the RS5 zoning. The revised rezoning request would result in 19 lots with RM12D zoning and 23 with RS5 zoning. The number of dwelling units would change from 63 to 60.

She said as this was infill development, both zoning requests were reviewed at the recommendation of Horizon 2020 for infill. Page 5-15, Goal 3, contained recommendations for infill developments within low density residential land uses. Paragraph three recommended that infill development should conform to lot size, housing type, scale and general architectural style of the area in which it was proposed. The rezoning requests for RS5 would result in smaller lot sizes than the adjacent properties and the rezoning request to RM12D, which would provide a different housing type. The development proposal did not comply with the recommendations in Horizon 2020 for infill development within the low density residential area.

She said Policy 1.3 of Goal 1, criteria for location of medium and higher density residential development recommended that medium and higher density developments should be arranged in small clusters as transitions from more intensive land uses or be located at the major intersections of streets or roads. Medium density areas were located to the south. The apartments and medium density residential areas served as transitions from the commercial area. The proposed duplex zoning would not serve as a transition and not located at the intersection of major streets. The proposed RM12D zoning district did not comply with the locational criterion of Horizon 2020.

She showed the development pattern in the area, including West 6th Street. There were commercial, residential office, medium density developments, and a small area of RS7. The area consisted of RS7 and RS10 or planned residential development that was developed to a

low density. She said directly south was Monterey Center, the apartment complex and above was the duplex which served as a transition. There were other multi-dwelling developments in the area and to the west adjacent to the Free State High School and the Indoor Aquatic Center was RM12 and RSO district which was developed with town homes and duplexes, below was Bauer Farms Development which was PCD to the left and PRD to the right which would have a mix of residential uses. At the corner of Monterey Way and 6th Street was RM12 and medium density residential uses and most of those uses were serving as a transition from the commercial along with 6th Street.

The existing land uses utilized medium density residential uses as a transition from the more intensive uses. She said the medium density would encroach into the existing low density neighborhood if the rezoning was approved. Some of the multi-dwelling or medium density residential development was not as was shown on the land use map in Horizon 2020. The land use map was just one of the items used in Horizon 2020 and it also had recommendations for location criteria used, but wanted to point out areas that varied from the land use map. To the east, items one, two, and three and the plats for some of those properties were recorded prior to the adoption of the comprehensive plan in 1997. Four, five and six were developed after the comprehensive plan. Number four would meet the locational criteria as it was located adjacent to a more high intensive use and the southern portion was located at the intersection of major streets. Number five was part of the Bauer Farm, which was recently approved and located along West 6th Street and would be serving as a transition from that more intensive use. Briarwood was the southern portion of the Briarwood PRD. The entire Briarwood PRD was actually submitted prior to adoption of Horizon 2020, but the southern portion was Briarwood Cottages and was submitted later; it was serving as a transition from office uses of West 6th Street and lower density to the north.

She said Horizon 2020 also contained recommendations regarding access and recommended that medium and higher density development would occur in areas that were

adequately and efficiently served by infrastructure facilities and infrastructure was defined as water, sanitary sewer and streets. Horizon 2020 also recommended that the site design of a residential development should accommodate multiple points of access, direct and indirect, with attention to directing vehicular traffic to and from a development, collector and/or arterial streets.

This property was rezoned to be RS7, low density district, platted in 2006 and infrastructure was installed at the time to accommodate the approved density. The increased density would require an additional access to the street network and was not possible to provide the necessary street connection. She said there was a requirement in Horizon 2020 to provide additional access to the arterial and collector street network. Adequate infrastructure and streets were not in place to accommodate the higher density being requested with the rezoning request.

In summary, the rezoning request Z-10-17A-08 from the RS7 to the RM12D district would require a supermajority to pass based on the protest petition, which was found to be valid, and also on the revised rezoning request, using the lesser change table to remove the eastern portion of the property from the RM12D zoning district and rezone it to the RS5 district.

Planning staff recommended denial of the rezoning request based on non compliance with the land use map and other recommendations on Horizon 2020 regarding compatible infill development and access as well as locational criteria. The Planning Commission recommended approval of a vote 6 – 2 based on the findings listed in the minutes. The zoning request Z-10-17B-08, RS7 to RS5 was not revised and there were no protest petition, so it would only require a majority vote to approve. Planning staff recommended denial based on non compliance with recommendations in Horizon 2020 regarding compatible infill development and access. The Planning Commission recommended approval by a vote of 7-1 based on the findings listed in the minutes.

The preliminary plat for Maple Leaf Square, based on the submittal of the revised plat, staff determined that the plat must be returned to the Planning Commission for approval and would recommend that the associated waiver would be deferred and considered with the plat.

Commissioner Hack said when talking about the duplex zoning not serving as transitional, she asked why this one did not and others did.

Miller said the project would not serve as transitional because of the commercial district, the apartments and north was the duplex town homes which was serving as transition and if putting in more the same, usually you would transfer from a more intense use to a less intense use, but this would be an equivalent use which would be encroaching into the lower density neighborhood.

Commissioner Amyx asked if the design would be different with the current street network if duplex zoning would have been granted originally with the Doolittle Farm.

Miller said she did not know if the design would have been different. Back at that time, there were not many requirements and if the Commission would have approved that many units and lots on the streets, she was not sure there was an alternative street design to use, to allow more lots.

Tim Herndon, LandPlan Engineering, on behalf of the applicant, said there was a question about RM12D density in one of the tables that was shown. Part of his presentation did not include the discussion about the ramifications of how a duplex zoning designation got to where it was today.

The City of Lawrence with a new development code in the summer of 2006 adopted the RM12D zoning classification to accommodate duplex development. Prior to the new code being adopted and the old code, it was called RM12 and the new code for duplexes and the zoning was very similar to the old code. It was flawed and he had spoken in length with the former Planning Director but did not have much of a chance to talk to the new Planning Director, Scott McCullough, about it, but wanted the City Commission to understand that the flaw laid in the fact

that duplex zoning in the City of Lawrence allowed for 12 units per acre. There was no duplex development in the City of Lawrence that exceeded 8 units per acre. If a developer or someone else could figure out how to cram 12 units of duplexes into an acre, those types of proposal would be seen. They had a zoning classification that was judged based on a Comprehensive Plan guideline that was incongruous because duplex zoning developments could not achieve that density. Duplex development in the City of Lawrence, the very densest was something around 8 units per acre.

He said regarding the overview, the project was bounded on the east by Monterey Way and bounded to the north, generally, by Trail Road, on the west by Eldridge Street and further west by Folks Road. Immediately south of the project was a local street, which was Overland Drive and further south was 6th Street/US 40. There had been a lot of controversy, doubt, fear, trepidation, paranoia, projected on this project. A great deal of that he would attribute to the fact that there was a duplex development that lay south of the subject site that no one liked. He said he was going to take the opportunity to say that he had an immense amount of respect for the concern that lies in the minds of the adjacent property owners, the nearby owners, and neighbors, but also wanted to say that his purpose of addressing the City Commission was to allay the unfounded concerns and ameliorate the fear because there was an abundant amount of misinformation that he thought discredited this project proposal which was in conformance with Horizon 2020 and met the basic design and planning policies they aspired to implement. He said he would show that this project was safe and the traffic fell within the allowable thresholds by a long shot regarding the City's traffic management policies. He said he would show that it was good planning, sensitive to its context, sensitive to the adjacent land values, structures and general characters within which this project lies. He said a lot of the consternation associated with this project had to do with the duplexes to the south.

He said he would show pictures of Overland Drive, south of the subject site, regarding parking, trash, and homes that backed up to the site. He showed an example of one of the

developments done recently in Westwood Hills that began in the late 1990's but finished in the 2000's which were duplexes with garage doors in the front and other garage doors on the side. He also showed pictures of duplexes from Longleaf and Deer Run in which the homes retained their value, were well maintained, and owner occupied. He said apples to apples needed to be compared and anticipate what was going to come down the pike.

He said the original zoning application on the preliminary plat showed duplex zoning with duplexes adjacent to the church property. He said they received public comment in the form of letters, heard the public speak at the Planning Commission meeting and it was expressed that the neighbors were concerned that if the church had duplexes adjacent that at some point in the future, the church sold their property to a developer and the property would be developed, that with duplexes to the west and south, it might become an assumption that the new component would come in as duplexes. After the Planning Commission recommended approval of their rezoning request, in deference to the neighbors, the change was made taking the duplex away and added single family. One of the results, in order to get from 6 units down to five single family lots, they had to revise the preliminary plat. They went from six units to five units and from three duplexes to five single family homes and down zoned from RM12D to RS5.

He said what was important to understand about Maple Leaf Square, was they had 10.24 acres and proposed 61 dwelling units for a density of 5.96 units per acre. Before the change, they were at 6.15 units per acre. The 5.96 units per acre was a very important element in this discussion. They were now looking at Horizon 2020's definition of density calculations and defined very low density development as 1 or fewer dwelling units per acre. Low density residential development was defined as 6 or fewer dwelling units per acre, and they were at 5.96 dwelling units per acre, which was in accordance with the definition of Horizon 2020, they were low density development and not medium density development. He said medium density development was defined at 7 – 15 units per acre, and their density fell well below those numbers.

He showed the Horizon 2020 Future Land Use Map which showed the subject site was deemed by the 1997 future land use map in Horizon 2020 was being very low density residential or low density residential. The map showed the area surrounding the subject site were also identified in current Horizon 2020 Future Land Use Map as a basis of judgment of other projects as very low density residential. The map showed office or commercial, low density residential with a community facility south and most of the area was low to very low density residential. He said what needed to be done was compare Horizon 2020's Future Land Use Map as Miller suggested to the actual land use in the area. They were using a map that showed what was the medium density residential of Bauer Farms was office or commercial. The office or commercial in another site was actually high density multifamily dwelling development. The church north half was low to very low density. Much of the development in the environs deviated from what Horizon 2020's Future Land Use Map stated would happened. He said it was somewhat unfair to hold this last tile in the mosaic to a development standard that was clearly not applied throughout this corridor.

He discussed some of the comments made at the Planning Commission. There was some emphasis placed on the idea that there was a line today that separated two family residences, multifamily residences, alternative housing types from the single family to the north and that it was a bright line. He thought planners made too much of those types of things and overstated the importance of line work sometimes because if looking at the line that separated the alternative housing types, in this corridor, from all of the single family residential that was north of 6th Street, there was nothing straight about that line; it was not a highly defined boundary. Whether working on new urbanism projects, traditional neighborhood design projects or Euclidian zoning, it was seen the better developments and the more organically developed municipalities, the cities and towns, did not segregate their uses by some long line of perfect segregation of uses. This project was no exception. What they had done was extended the line a little bit further north and banded the project with single family to respond to the existing single

family north of the subject site. He wanted to point out that when they changed the zoning and preliminary plat to change to the church's and neighbors' concern that they had duplex next door, First Southern Baptist Church's entire eastern boundary backed up to duplexes. He said for whatever the reason they heard the neighbors and made the change.

He said regarding land use transition, the staff report stated they did not successfully employ land use transition. After a similar presentation to the Planning Commission, they thought the applicant did. He said there were multifamily housing and medium density residential and were progressing from 6th Street from the commercial corridor, offices and retail uses to the multi-family north to the medium density residential. Now they had proposed a duplex component that would be adjacent to the existing duplex component with a single family band to the north and north of that was the even less intense single family properties that existed today. It was a textbook transition of use intensities and land use.

He said beginning the transition northward was an apartment complex of 16.4 units per acre. North of that was the Overland Drive duplexes which were 7.27 units per acre. They were not going to see more duplex development more packed in than this one. He said RM12D was not an accurate description for duplex zoning. He said north of that was 6.97 units per acre with the proposed development's duplexes and then the single family component at 5.4 units per acre. This development combined to a 5.96 units per acre. North of that was the roughly 2.3 units per acre of the existing single family dwellings. He said the land use progression and density progression was shown which was textbook.

He said he would show some of the physical relationship that lay within their property relative to the surrounding properties. He said first, there was a duplex component adjacent to existing duplexes. There was single family adjacent to the church and single family adjacent to the other existing single family. There was a duplex zoned piece backing up to two single family homes which there was a good reason and was all part of good planning in land use relationships. He said whether or not that duplex structure was in fact a duplex or single family

structure like the Doolittle subdivision would have proposed it to be, those two homes backed up to a single family dwelling and would not back up to a duplex rear end or duplex front which was the one exception in terms of their utter segregation between single family and duplex.

He said on the corner lots, where the duplexes were situated, that was where they would have the opposing driveways on the corners to soften the streetscape and not have such an overbearing garage presence.

He said he was asked to provide some examples of similar developments in Lawrence that had been successful. He said Westwood Hills was mixed use development and had a variety of housing type and mixed use residential. He said they worked on this project for 3 ½ years and finally got through it and it was a fabulous environment. It included a commercial component, single family area, and duplexes, triplexes and single-family houses backed right up to the duplexes which did not seem like a problem. If looking at the property values and how those values related to this array of land uses, there was a \$500,000 home backing up to a duplex and triplex area and next door \$392,000 home which did not seem to harm anyone. He said it was in people's minds that the proximity to a duplex or a triplex would somehow diminish a person's property value which was not true. He showed other examples.

He said regarding property values, the most resounding concern from the property owners was the diminishing of their property values with regard to their proposal. He said the price point of the houses that the Maple Leaf Partnership would build was: duplexes would sell for between \$145,000 and \$195,000 in today's dollars; and, the single family homes would sell between \$185,000 to \$225,000 in today's dollars. There were people signing protest petitions that this would diminish their property value, yet when averaging all the properties along the western boundary of this project, their average appraised value was \$148,000 - \$154,000. That was the baseline starting price of their duplexes, and they were not putting duplexes next to them but instead single family. When looking at the homes to the north, the appraised value was \$179,598. The average appraised value was less than the starting price of the homes that

were going to be built. He said if the equivalent property values were critical to the design process, then the Monterey Place Homes were the homes that were most similar because their average price of the homes that touched the applicant's subject ground was \$212,000, which fell right in the middle of the price range. He said he showed all those other neighborhoods and showed the disparity in price point really had not had an effect on those homes to be occupied, or the quality of the environment. He said if they used the standards by which Maple Leaf Square had been held to, or at least according to the staff report, they could have never had done one of those neighborhoods.

He said he wanted to compare Doolittle Subdivision's existing plat, with Maple Leaf Square. There was concern mentioned in the letters that those lots looked small. He said things had been mixed up a little bit because along the western edge there were four single family home sites at 60 feet in width. Now there would be five single family home sites at 50 feet in width. He said along the north edge the existing recorded plat consisted of 9 lots and there would be 11 lots when completing the project. The east edge today consisted of seven single family lots, but again, when they completed the project, there would be 8 lots.

He said as he read the letters of concern, it was apparently not clear that this property was not developed by his clients, but by a previous owner, contractor and entity in general. In the process, the detention pond was built in a way that did not drain adequately. The contractor did not get it done quite right and there was a stand pipe in the middle of the detention pond that prevented it from draining. He said he read a letter from the church that said they were concerned because they had seen children swimming in the pond so they had taken that pond and removed it. The big ditch that often filled with standing water was gone with the development proposal. They were moving it into the boundaries of the project and would be built correctly so it would drain. The two detention ponds were intended to be dry ponds. Those ponds would be wet when raining, detain the water for a few moments, and discharged into an enclosed system into a storm sewer system. The open hazard was gone with the proposal.

He said another thing that must be acknowledged was the 41 lots in the Doolittle Subdivision were not in conformance with the policy that said they had to have a second access if exceeding 30 lots. The existing development was not in conformance with the City's policy. They were going to bring it in conformance because they were going to build a second access point. He said they met with the Fire/Medical Department and discussed the standard by which that road had to be built, proposing a controlled access gate, controlled by a sensor that fire trucks and ambulances could use in emergencies. He said from that standpoint they were making two tremendous improvements. He said they were also providing a sidewalk that circumnavigated the entrance gate so that when the gates closed pedestrians could still walk back and forth from Monterey into the development. The access gate itself was going to be quite attractive and maintained by the homeowners association Maple Leaf Square. On top of all of that, the existing RS7 zoning, single family zoning, between those duplexes and the church property remained.

He said regarding the existing sidewalk system in the project environs, they were maintaining the pedestrian access that would make this connected. He said one thing to observe, speaking to their waiver request was to waive the 2nd sidewalk. After all it was an infill project and the entire infrastructure was built. A second sidewalk in this location was not required two years ago when this infrastructure was built. A second sidewalk in this location would not conform to the character or standard of development that was applied. He said there were two sidewalks on Monterey Way because that was a collector and two sidewalks were required on a collector. He said he also wanted to point out was if they looked at the cul-de-sacs in the area, there was no connectivity and they were the only project in the environs that would allow someone to walk to Hy-Vee.

He said the staff report said that it was staff's opinion that they should have used single family multipliers for their traffic data and they disagreed. There was 6th Street to the south, the collector street system of Monterey Way and Folks Road, there was Trail Road which was the

east/west collector which paralleled 6th Street and had the local street Eldridge Drive. The traffic that was going to originate in Doolittle Subdivision would not go north. The traffic was going to funnel down to 6th Street and Eldridge. He said the collector streets were where the traffic would gravitate toward.

He said he wanted to talk about the single access issue and wanted to remind them that to the west were Freedom Creek, which were 54 units with one access. There was also Overland Addition with 77 units and one access and Briarwood with 100 units also with one access onto Folks Road. With Maple Leaf Square they were proposing 61 units. He said Maple Leaf Square had something no one else had which was a second access which was signed off on by the Fire Department and would be built off of their standards. Their proposal brought the existing subdivision into conformance.

He said the existing Doolittle Farm consisted of 41 single family lots and based on the Institute of Traffic Engineer's multipliers, it would generate 32 a.m. and 42 peak hour trips. In the City of Lawrence, if your development proposal did not exceed 100 trips during its peak hour of operation, then no traffic study was required. Their development proposal produced in its maximum peak hour, 44 trips or 46 trips, about 56 trips below the requirement for even doing a traffic study. The staff report said that staff would have liked it if LandPlan would have done a study instead of showing the multiplier for single family units and multiplier for single family townhome units because in staff's opinion, it would function more like a single family development. He said this was the way a traffic engineer would do any duplex development or a development that included a duplex component in Kansas, Lawrence and America. Given the kind of doubt projected on the validity of their numbers, they ran the numbers using all single family units. What they discovered was if they used the correct numbers, they had an increase of three vehicular trips in and out of the project in the a.m. peak hour. In the absolute worst case, from the existing Doolittle Farm all the way to the worst case scenario, they had an increase of 15 a.m. trips over the existing subdivision and 21 p.m. trips over the existing

subdivision. He said 15 trips meant one trip every four minutes and 21 p.m. trips in terms of time meant one trip every three minutes. In the traffic scenario and any scenario he showed, no traffic analysis was even warranted by the City standards and neighborhood interaction with Maple Leaf traffic was extremely limited.

Another important thing was this was infill development and there was not going to be additional connections, traffic or developments. Based on the traffic study they felt compelled to do, their traffic modeling on actual counts showed that the intersection operated at 25% capacity. The intersection of Seele Way onto Eldridge operated on a 25% capacity. Maple Leaf Square could be four times the size and the intersection would still be operating within capacity. The level of service for all movements out of and into Maple Leaf Square was A.

He said two years ago when this project was constructed, the fire code demanded that this have two fire hydrants and today's new fire code asked for four, which the developer was providing.

Mayor Dever called for public comment.

Jason Pendleton, nearby property owner, opposed the proposed development. He said while the criteria were met for meeting the protest petition, he wanted to show in depth how broad the opposition was to this rezoning request. He said he only contacted people who were given the notification information he received from the Planning staff. The depth of opposition could be greater. He said people were going to challenge the traffic statements. The depth of opposition to this plan was broad and ranged from personal to others who came to this area to retire and others who had concerns of what the long term impact was going to be for Lawrence if it did become rental property, as sometimes duplexes did.

He said he wanted to make his points as to why he personally opposed this plan. In the application for rezoning one of the reasons the developer needed to rezone was the current economic situation of the City and that by rezoning to duplexes it would create an environment in which they were going to be able to stimulate sales in this market.

He said Horizon 2020 was the City's vision for how they wanted to see the community to grow and this concept of rezoning to produce affordable homes was great and the concept they were going to sell was great, but it was incorrect. He did a search on Realtor.com and found over 150 homes priced \$100,000 - \$160,000 in Lawrence right now. There were over 50 duplexes in that same range. There were 6 specific duplexes on Marilee Drive which were valued under \$150,000 which had been on the market for 622 days as of today. Duplexes were not going to sell in this economy and CNN stated the Country was in the midst of a recession. That had an impact on what was going on with home sales. It was not unique to Lawrence, Kansas City, or Topeka; houses were not selling.

He said his second reason for opposing this plan was when he and his wife went looking for homes about a decade ago they did not know the zoning of the property adjacent to their house. They were reluctant to buy the house based on the fact that they did not know the zoning. It turned out at the time, it was zoned single family low density and it was the single most deciding factor for them to buy their house. He said the purchase of a house was a big deal to them and by far the most important financial decision they ever made. They did the research, looked at how the land was zoned which guided their decision. The citizens of Lawrence deserved faith in that system so when they did that research and made home purchase decisions they could have some idea in what they were getting themselves into. The development might or might not be phenomenal. He said he looked at the City rules to make his decision and now it seemed like those rules were being changed somewhat.

He said he understood there were times when the City Commission had to override protest petitions and decide to modify elements of Horizon 2020 against the recommendations of planning staff. If the City Commission did that, there would have to be some rationale on how it would benefit the City and community as a whole. He said there had to be a broader benefit that ameliorates the entire community and not just benefits the developer to sell homes. For

those reasons he expressed and the City's planning staff's recommendation not to rezone, he asked the City Commission to reject the rezoning request.

Lauren Jacobs, nearby property owner, opposed the proposed development. She said to get to any of the developments north of the subject site, Folks Road, Monterey Way or Eldridge needed to be taken. It had been suggested that the traffic would go south. When she first moved onto Eldridge, she went south to get to 6th Street. Almost every time she ended up behind someone that wanted to turn left onto 6th Street. She learned to go north to Trail and over. Then she discovered that every teenager that lived east of Trail was taking that route to get to Free State in the morning. She had to leave herself a lot of time to get to 6th Street in the morning. She said the idea that there would not be a lot of traffic was ridiculous because it took her a couple of weeks to go north and everyone else would figure that out, too. No one took Overland because it was so congested and there were so many cars parked along the street. There were also a lot of little children that ran out between the cars and she did not go down that street because she did not want someone to get hurt and did not want to go 4 mph. She said there were already a lot of speeders on Eldridge.

When she moved to Eldridge two years ago she asked about the plot behind her lot and looked it up herself and it said single family units. It did not say multifamily dwellings but low density single family units. She did not know what decision she would have made, but knew what she saw and knew what she felt the agreement was. She paid \$50,000 more to be on that other line drawn in the sand. She wanted to live in a single family unit and wanted to live in a community of single family units, not single family units backed up to a little row and then a bunch of multifamily dwellings.

She said a sample of 8 or 20 was not a sufficient sample size for any kind of statistical conclusion. She said those very expensive homes and home prices that were shown should be excluded entirely from the City Commission's decision.

She said there was also a comment made earlier that it was not fair to hold the last tile in the mosaic up to standards that other areas had not been held up to. She said if they were going to throw the word fair into the equation, then they should probably not be having this discussion at all because they made an agreement when they purchased their homes with the community that single family units was what would be developed. She asked how that would be fair to change that on them.

Gregory Herd, nearby property owner, opposed the proposed development. He said after many years he learned not to go straight down Eldridge to 6th Street. It was a better choice to go north or another direction because traffic down that street was a concern right now. He and his family strongly objected to this request. They knew the previous property owners and understood their intent for the development. They knew the character of the neighborhood would change and it seemed as though this development was moving towards the worst possible outcome. They expected the character of the neighborhood to change from what they expected, have impacted their quality of life and would negatively impact their property values. He said this would affect the concerns of the City and responsibilities of the City. He appreciated the excellent presentation from his neighbors.

The road known as Seele Way at this point, which was a few feet of roadway bounded by a couple of driveways and some curbing, currently experienced zero cross traffic right now. It was still a single point of access to this entire plat. There was a lot to consider. They were looking at increasing the traffic out of this plat from zero to around 120 cars. Rush hour in the morning would be an incredible peak for an intersection that saw no cross traffic right now. This particular intersection had become a de facto bus stop and there were a lot of children who had reached school age and now they were at the curb waiting for school in the morning. They gathered at this intersection and at the intersection of Eldridge and Overland. It was a real hazard for drivers and the children themselves.

He said emergency access was difficult to make a call on, but his first impression was that it would be a little difficult. There was no question that the constant traffic coming out of this development would increase. Going from virtually no cross traffic to a change of several vehicles entering Eldridge and would end up going north.

He said he was concerned primarily with the children in the neighborhood. He did not think that it was any question about whether or not there would be an impact on property values throughout the neighborhood. The City had to consider some of the risks that were presented by this project. He did not think there was any question that they were presented a very professional case for making this rezoning request, but it seemed to be full of false equivalencies and they were treated with several of best case demonstrations, none of which showed a vehicle in the driveway. They were given incremental justifications for crossing the line for pursuit of this encroachment. They were also shown several cherry picked properties as examples of property values and treated to bad math in terms of the traffic analysis. That intersection would not support four times the amount of traffic.

He said he wanted the City Commission to consider this carefully. There was plenty of traffic going through the neighborhood right now and traffic patterns because of the connection of 6th Street were not optimal. Traffic from this development would not likely go immediately south and would spread out throughout the neighborhood as people tried to find their way out of this very narrow pocket. He appreciated the contribution of the neighbors and would appreciate it if the City Commission denied this request.

Penny McDonald, nearby property owner, opposed the proposed development. She said one thing she did not understand before she came here was that the developer had changed since the last time she was here. She came with her husband to City Hall a couple of years ago and they looked at the proposal then which was supposed to be single family housing and had no problem with that. She wanted to support what her neighbors said as well. She and her husband were retired, bought their house three years ago. They moved from out of state

and did not know Lawrence other than their son went to school there some time ago. They thought they did their homework, dismissed houses that were backed up to Wakarusa because of the travel. They also dismissed a house that backed up to the indoor aquatic center. They lived on the north side of the street and thought that single family houses would be developed behind them. She said that really meant something to them and would not be living in their current house if that property had been zoned something else. They liked quiet neighborhoods. She said she felt very strongly about this issue and pointed out that whoever got the values for the houses was incorrect because she paid more for her house. She said the developer was going to make money on this so years from now the decision would be made for them but the decision the City Commission made tonight would affect the neighbors for a long time.

Larry Sherradan, Lawrence Bible Fellowship, opposed the proposed development. He said he was the President of the Lawrence Bible Fellowship and wanted to partner with the neighbors, which he was included in as well, in signing both the request to deny the rezoning. He lived in Lawrence for 30 years and this was the first time he had been to a City Commission meeting. He felt an obligation to tell the City Commission how much he appreciated the things they had done. He said he wished he could say that he moved into their house because there was property zoned behind him as single family, but did not. They moved there solely because his wife liked the house. When they moved there and when the church property was built, they knew someday that this land would be developed. He remembered Mr. Seele. The church was not opposed to this development because of the duplexes. The church was opposed to it because of the density and there was a rule of order being asked to be violated by the developer. They felt a sense of community with their neighborhoods and people in their church that lived on Overland Drive.

He said he was quite distressed at the City Planning Commission when City staff decided their guidelines. He said he remembered one of the Commissioners asking Miller which number was right and very honestly gave the answer that it depended on which number

they wanted to use. More than 20% of the effected land owners had protested but it was much greater than that.

He said the City Commission had a hard decision because this was not new development. They had a development with existing single family homes around it and neighbors who bought their houses because of the surrounding property values. He said he did not know the developers or land owners, but the consultant was present and he dealt with consultants in his work. He said consultants would tell them anything within truth to try to sway the City Commission's opinion, but was paid by the applicant to do so. The City Commission's decision tonight would affect the lives of many people. They could argue whether or not the property values would increase or decrease. He said he felt that all the way through the consultant's presentation was he denigrated and tore down anyone who opposed him.

He said his property value might not go down, but the sale ability of his house would be affected. He said 20 years ago he bought a house in Lawrence and it was across the street from multifamily housing. When they got ready to sell that house, they had a hard time selling it because there were multifamily houses nearby. He said the developer wanted them to believe that they would create a better mouse trap than what was on Overland Drive. They were not guaranteeing that. He said if those were not owner occupied duplexes on Overland Drive there would be a serious parking problem.

He said he appreciated what Commissioner Hack said about infill. Feasibility and appropriateness for neighbors was important, but there had been no neighbor involvement in this development. No one had talked to the neighbors after the City Planning Commission meeting. There had been no communication to his church.

He said he would like to appeal to the City Commission's sense of law. When his house was finished being built, the City inspectors came out and inspected it. He said the consultant said what was wrong with the City and that City staff did not know what they were talking about with density, traffic and sidewalks. Even though the taxpayers had unfounded fears, paranoia

and misinformed, they lived there, paid taxes there and raised their children there. He said if they wanted to develop something let the developers come talk to the neighbors and let the neighbors participate. They did not want another Overland Drive and the applicant could not guarantee that was not going to happen.

Amy Mason, nearby property owner, opposed the proposed development. She said she and her husband purchased their half of the duplex on Overland Drive in 2004. They had lived there and understood some of the issues. Her biggest issue was the traffic. One of the things she had the biggest issue with was Overland Drive was between Eldridge, which everyone was supposed to go down, and Monterey Way, which had the stop light on 6th Street. One of the first things that Herndon showed on the screen was the pictures and they saw the craziness, the parking, and how many cars were on their street. It was a big traffic hazard. She said they could not pass two cars on their street anytime of day. One car had to pull over while the other car passed through. She fully expected this exact same thing would happen with the duplexes built to the north. She said that was going to be more cars from that development down her street where there were already too many cars on Overland Drive.

She said duplexes were affordable and tended to attract students and young families. Students usually pile into those duplexes and everyone had a car.

Right now, they had 15 children in her neighborhood. They ranged from the ages of 4 to 12 and every single day her or one of the other moms was yelling out the front door to watch for cars, not to play in the street or between the parked cars because it was not safe and there were too many cars already on the street. She said one child was hit two years ago and last summer her neighbor was riding his motorcycle and a car backed out of the driveway and he hit their car. She said they needed to remember that because there was no traffic signal onto 6th Street, everyone came to Monterey Way to go left. She said unless they were planning on putting a traffic light at Eldridge and 6th Street, she hoped they would disapprove of those duplexes.

She said the similar developments had dual access or at least out of the way. She said if they wanted to take the emergency outlet and take it as a full blown outlet that would be a viable option. She said it was also pointed out that Overland Drive had already been overdeveloped. She did not see how overdevelopment was the answer. Even though she lived in a duplex, they also asked what would happen to this land. She knew she was moving into a duplex, but also knew more duplexes were going to cause a density problem and was not something they wanted to get into. She said a lot of people thought that this was about people who lived in duplexes versus people who lived in single family.

Michael McDonald, nearby property owner, opposed the proposed development. He said he wanted to add that he and his wife were examples of what Pendleton pointed out in that they were people who lived very near to the development who did not sign the petition. He guaranteed that he and his wife would have signed the petition but did not know about the petition. He said they were very much opposed to any change in the zoning and they would have definitely signed the petition.

Mark Fagan, nearby property owner, opposed the proposed development. He said he and his neighbors have brought up the most eloquent descriptions of the most important issues. He said his property backed up to the church and could not sign the protest petition because his house was probably the farthest from this development. He wanted to mention the nuts and bolts of what was going on here. He said he always regarded that zoning was not a short term economic issue much more of a long term community planning issue. One of the things that really struck him when he looked at the application for these rezoning was that it basically pointed out that they could not sell single family homes so they wanted to rezone so they could make more marketable houses. The economics of the situation, all housing was not selling. He said he saw the land zoned single family, which was what he had seen, was in the plan, and had been in the comprehensive plan and all of those things. The single family existed, still existed, and could exist when the economy improved. Just because the economy was a little

tough right now, they did not need to rezone to duplex and let them have more valuable lots so they could be sold later on to turn a buck.

There was also a lot of talk early on where the line was drawn on duplex versus single family and the transition. He remembered the term abc's and kindergarten level zoning was brought up at the Planning Commission and about transitions. To him, the line was drawn there and the transition was the land they bought which was the single family. He said for the neighbors, they saw single family, but the City was on the neighbor's side and the rezoning would not happen unless there was a really good reason to make that change.

In terms of the future and what would happen at this site, they bought this land from another developer. The same thing could happen right now. He liked the pictures of their developments, the work they did, the construction and they were great things and high quality work. At the same time, if the zoning got recorded this land could be sold to someone else and as they all knew, the zoning went with the land. He said they made their investments as homes and wanted to remain homes.

He said the main point of his concern in looking at this development was that the property to the south, the church, might someday change. When he bought his house, he saw the land was zoned single family. He said with this duplex peeking up north of Overland Drive, in his book it made it more likely that the church would become duplex or some semblance of it. He said he liked that they changed the three lots to make them single family zoning and liked the strip of where the access road would be would remain RS7. He said if this zoning was approved, maybe that was enough to prevent it. Someday down the road if the church was gone, he would argue against duplex at that location. The three lots made a difference but they did not make the whole difference. Every time they bumped up the line, they started to erode the land use pattern set.

Commissioner Amyx asked Fagan if he had any concerns with the zoning.

Fagan said he was most concerned with single family. Single family to him said something and it was more likely to be owner occupied. The smaller RS zoning, the more dense RS zoning, was a concern for him, but he was not going to go crazy about that. Single family sent a signal to the area that it still fit. He did not realize that when they were talking about the zoning, there were two different zoning requests.

He said Herndon was talking about the six units per acre and how in the land use for Horizon 2020, if they followed it and looked at it as two separate zoning requests, the duplex zoning request was not under 6. It was the whole project that was under six.

Mayor Dever said Fagan met with the developer, asked for changes and the developer gave those changes and that still was not acceptable.

Fagan said that was not accurate. He said Herndon solicited his opinion and asked about his concerns. He said he emailed Herndon back with his main concern which was with the church property in the future. He said he appreciated the slight change by Herndon, but it did not mean he enjoyed the entire project. He said having those 3 lots change was better, but in the grand scheme of things it was 2 or 3 percent better. He said he thought that entire area should remain single family and the market should have time to absorb that zoning.

Mayor Dever asked Herndon if he had any comments.

Herndon said there were a handful of things said he did not believe were entirely accurate. There were a couple of instances where the validity of their data was questioned with things like the regard to traffic. They met the City's requirements and exceeded the City's requirements. It was suggested to them to use a higher standard, so they did. Even based on the highest standard, they were based at the 25% capacity level for service A and all that other stuff.

He did not want to talk about what the property was zoned when the property owners purchased their property. The adjacent property was zoned agricultural until about three years

ago. The main thing was he hoped the facts that he showed were stand alone, self sufficient and conveyed the project proposal adequately and if they did not, they should let him know.

David Corliss, City Manager, said it would be helpful if they discussed any ex parte contacts that the City Commission had.

Mayor Dever said he had two specifically; one with the applicant and one with the leader of the neighborhood association on several occasions.

Commissioner Highberger said he wanted to apologize to everyone who sent him an e-mail he did not respond to. If it came before 10:00 p.m. the night before he read it. He also had a meeting with the applicant.

Vice Mayor Chestnut said he had a lot of e-mail but never had a formal meeting with the applicant. He had correspondence through e-mail with the residents around the property.

Commissioner Hack echoed Commissioner Highberger. She did not receive/read all the e-mails because she was out of town until late Sunday and spent last night catching up. She met with the applicant.

Commissioner Amyx said he also received all the e-mails, visited with John Bush yesterday, had a call from Jason and Mark Fagan this weekend.

Mayor Dever said he might have responded to one or two emails, but did not recall exactly because there were several emails.

Vice Mayor Chestnut asked McCullough about the zoning and some of the Planning Commission minutes. He said this went from A to RS2 under the old development code and then was reclassified to RS7 with the conversion to the new development code. He wanted to make sure that in some of the zoning, there was a little bit of overlap because there was not a one to one correspondence, but in this case he asked if there any uses in RS2, the old code when rezoned that basically dropped out of the equation when it moved to RS7. This came up when they talked about industrial zoning and with industrial zoning there was a collapse and part of the discussion was old to new and was not a one to one correspondence. He said he

wanted to make sure that wasn't the case here and that there were used in RS2 that might have dropped out when it moved to RS7 because it just flipped over.

McCullough said he would have to research the old code because staff was not as much into the old code when the new code was adopted.

Vice Mayor Chestnut said he agreed with what Mark Fagan said that zoning went with the land. The zoning was RS2 and when it converted over to RS7, it was not an action by the Commission, but when the code converted. He wanted to know the intent to go to RS2 and that there were no unintended consequences either way.

He said McCullough made some comments at the Planning Commission of questions of density versus use. It stated in the minutes that McCullough talked about the dead zone area and staff was not going to be of the opinion that six or seven would be the difference between medium or low density and was more about duplex versus single family. He said they had all the density charts and such, but McCullough seemed to allude to the fact that his thinking was something other than just the density alone.

McCullough said the staff report expands the comprehensive plan discussion about the many different policies that supported any project like this project. The culmination of looking at all the different policies that Horizon 2020 laid out for this designation in this area and infill development left staff to the conclusion that single family was the compatible structure type for this area and not a duplex development. While they got into a pretty detailed discussion about if it was net density, gross density, separated out the duplex, RS5 and talked about that in depth in the Planning Commission. He wanted to get the point across to the Planning Commission that the real issue in staff's analysis of Horizon 2020 was the conclusion it was a single family area and the line of transition was made by the land use map at Overland Drive and that if 6.1 was the density, it was more about the structure type versus the raw numbers.

Vice Mayor Chestnut asked if in his opinion all low density would be single family.

McCullough said it needs to be taken into context. He said they have done creative things with apartment buildings, for example. The comprehensive plan talked about duplex development in the low density designation and had policies in its context. The discussion they had at the Planning Commission level was that the context was already established and established when Doolittle Farm was platted and was a residential single family residential development. The discussion talked about how staff believed this project talked about a new context and expanded on the transition that already existed there.

Vice Mayor Chestnut asked McCullough that in the comments of the Planning Commission in talking about entitlements to acquire building permits today for RS7 standards to create single family home was a viable subdivision that existed with the infrastructure. He said viable was a word that everyone questioned what was viable or not. He did not think McCullough was commenting on market conditions but the fact that it was there, the infrastructure was there, and it was ready to go.

McCullough said right. It went back to some of the golden criteria about what was zoned today was supported. It was supported by fact that infrastructure was in place, it was platted property, and could work pretty easily for the use that was already zoned for.

Vice Mayor said the infrastructure needed to be upgraded. If it was rezoned to RM12D and RS5, that would include more investment or infrastructure which he thought was a benefit district or something like that.

McCullough said the only thing that the code changed on was storm water improvements and the sidewalk was an issue.

Vice Mayor Chestnut said in the rezoning, McCullough agreed that the traffic situation was not a detriment to the project.

McCullough said the findings that staff drew in their conclusion of the staff report, did not use trip generation as a finding for denial. They did not even mention property values. They used compliance with the recommendations in Horizon 2020, compatible infill development, and

provisions of adequate infrastructure, meaning the one access point into the road. Staff did not interpret the code to mean that was emergency access because it was a portion of the code that talked about street connectivity, not emergency access. Staff interpreted that to be a connectivity issue, not just an emergency vehicle issue.

Vice Mayor Chestnut said he found it interesting in the conclusion of the Planning Commission in their statement to the City Commission which was subject to the provision that the plat conformed to the uses presented and upon finding the proposal to be an increase in public safety, provide connectivity and represent the infill development encouraged in Lawrence. He asked if they were making that conclusion or asking the City Commission to make that finding.

Deleted: was

McCullough said at the Planning Commission meeting, when they made their motion they had created their own findings and those were the findings they put forth. They were making that statement.

Commissioner Amyx said at the time the application was made, he asked if Planning Staff took into consideration duplexes that backed up to the duplexes on Overland Drive and making a different recommendation to the north or inside that circle.

McCullough said no. He said staff did not make a recommendation to alter the request or propose any options to develop the property.

Deleted:

Commissioner Amyx asked if it was reasonable to think that duplexes would back other duplexes regarding where the line was drawn.

McCullough said that was the City Commission's opinion of the comprehensive plan and Horizon 2020 designated the area for in its context. Duplexes along the south border were going to be compatible, debatably, with the duplexes on Overland Drive. Staff had not looked at all the points of view, but there was an argument there and needed to be extended to what would happen north. If there was a compromise, that would be the compromise.

Commissioner Amyx said in looking at this request, it seemed to make sense in considering the duplex to the south and the middle of the center rectangle, the RS7 to the RS5, with the larger lots on the north that would join the single family to the north and east and backed up to the church area, as a gradual change in the area. If making the lots on the north larger and the lots in the center smaller so there was a gradual change, there would be fairly equal part of the development. He asked if staff considered the zoning of the duplexes to the south to the duplexes that would abut Overland Drive.

Deleted:

McCullough said no.

Commissioner Highberger said he recalled that in Horizon 2020 it called for transitions that generally happened on back lot lines. He said he did not think that made sense because of the way most people used their homes in suburban development.

McCullough said staff would do some research.

Mayor Dever said the main focal point was what a four letter word “duplex” had become. Good or bad, people felt compelled to prohibit that land use zoned near their homes. He asked how did they get to that point and how would they fix that. He said his first home was a duplex because it was all he could afford. It was interspersed with rentals and owner occupied units. He thought homes or duplexes were only as good as the neighborhood and the people who lived there. He said he wanted to discuss the stigma of duplexes and had several owners who owned half of the duplexes here as well. He was troubled by the negativity surrounding the word and use of duplexes because of the kind of land use that occurred on Overland Drive. They were taking Overland Drive, superimposing it and saying basically that it was bad and they could not do this. He said for him, it was the first drawback from this instance. He said it was about changing the land use from single family to multifamily, the number was thrown out that this land use proposed fit the criteria for low density residential and whether or not they wanted to include attached single family homes or not, that was what it did. He said Mark Fagan pointed out that if it was in pieces, it would not. He said they could take this and break it down

Deleted:

Deleted:

Deleted: were

Deleted: to

in pieces, but he was concerned with all of the justification of the facts and the reality was the neighbors who bought their homes were told one thing, it would be single family residential, and now there was an applicant who wanted to change that zoning.

Vice Mayor Chestnut said the applicant's presentation was very good on looking at some of the uses of duplexes. He said some of those were in planned developments master plans such as Longleaf and Westwood in particular, and it could have been added later but was not sure if that was the plan. Also, the adjacent properties in that area were predominately single family. The biggest concern was that he did not think they could discount the character of the surrounding to the south. He said it was getting into economics and if the proposal right now with the multifamily was higher than some of the surrounding single family that could prove not to be economically viable. If that was the case and the property changed hands, the zoning did not change. He thought that was the crux of the concern. Realistically, he did not think RS7 was the correct zoning, but was not sure if RM12D was right either. Much more dense single family might be appropriate just because he believed in the intentions of the development group, but also knew where they were with financing. If that did not fly, it could change hands and the RM12D stayed. Then, the argument of the church and everything else, he thought there was risk there that might not be present in other developments where it was planned to have this transitional use where they built it in phasing and had higher values of single family homes that could sustain higher values of multifamily homes. He was not sure this was the case because they were in a little bit lower range for single family. It was not his intention right now that if the economics did not work and the development was rezoned, then the next Commission could be looking at an RM12D presentation that was a much different plan. That was a risk and his single biggest concern on this consideration.

Commissioner Hack said that was always a risk and if they said they could not do a change because those things might not happen, they should return it to the way it was before. She was uncomfortable with the use of the word "duplex." A single family home did not

Deleted: No where in writing had it ever been until they submitted the plat was single family residential until two years ago when this area was zoned. It might have been agricultural, single family residential in Horizon 2020, but the contracts made with themselves and the adjacent land owners was something that had happened in the last few years and was concerned about altering that. He asked if they wanted to prevent the creep of duplexes in this development and if it was a bad thing.

Deleted: L

Deleted: ¶

Deleted: miss-

guarantee a \$400,000 home, either. They knew that every time a piece of property was brought and every time the City Commission made a decision, there was a risk that something would go haywire. She remembered that former Mayor Jim Henry saying that if they did not own the view, it was going to be subject to someone else's decision.

Vice Mayor Chestnut said he agreed with Commissioner Hack's comments, but that was one issue where he thought the risk was. The second risk was pointed out in the presentation about the non-conformance to Horizon 2020 and some of those things came in before and some came in after. He said if they were totally in conformance with Horizon 2020 and did everything and did not have this patchwork quilt, he asked if they would even be having this discussion. Somehow the plan for low density single family had greater weight if everything else was consistent or were they saying to heck with the whole thing because they did not conform to anything. That was the argument they were being taken down the path, which was not to hold this hostage because they did a couple of things wrong. He had a hard time with that because he would have no foundation to make any decisions because they were saying the current development code had some flaws in it and Horizon 2020 had not always been complied with. That was a difficult one for him as well because then what did he use as a basis. In the applicant's presentation, those were the two things he had an issue with. He thought there was more risk in whatever multifamily development in this plan because of what was surrounded to the south. If the economics did not pan out as this went through the process, the zoning stayed, the plat could change, and there was a risk for the neighbors. Secondly, he felt that they were in a domino affect in the sense that since other developments did not work, they should not hold this one hostage. He could not hold his teeth into that because there was no where to go because there was no development code or Horizon 2020 because the City did not conform to Horizon 2020 all the time.

Commission Hack said that went into a baseline conversation that would go into every City Commission election since 1995. The other thing to keep in mind was if they looked at the

Formatted: Indent: First line: 0"

Deleted: ¶

Deleted: e

Deleted: Plan

land use map it called for low density, not single family. This entire project was low density. If taking the project into chunks, it would be looked at differently, but if they looked at the entire project, it was low density so it conformed.

Deleted: to the yellow

Vice Mayor Chestnut said the biggest judgment call was whether Horizon 2020 or the development code, one of the main goals, was neighborhood conservation, which was a stated goal of residential land use for low density residential land use. The question was if they believed this rezoning could compromise that. He said he personally thought there was a risk. There was risk in everything and whether the risk was greater or less and where their judgment was going to fall. The Planning Commission approved 6 – 2 and two of the six said they were torn about the project. It did not come with massive resounding endorsements. Two of the Planning Commissioners were absent and two that voted for it, were uncomfortable with this but on the preponderance were willing to go for it. It was a very unclear situation and one of the risks.

Deleted: t

Deleted:

He said he wanted clarification that the area was zoned RS2 and then it was converted over. If there were changes in uses there that happened because they happened, that could be a different ball of wax, whereas if it was a permitted use before and now it was not because of the conversion. He did not think that was the case, but it was important to clarify.

Mayor Dever said while they were talking about risk, he wanted to bring out the risk of the two actions. One would be to approve, and one would be to deny. The risk of denying would be continued degradation of current infrastructure and the potential for some third party to buy the property in that area, come to the next City Commission, and propose something even greater in density and receive approval. There was risk in both sides and he had to look at this in evaluating the proposal on its own in its time and place and determine if they thought it was an acceptable development provided the restraints. If this was never developed, there was no infrastructure, or it was a vacant lot, it would be a totally different conversation. There was already an essence of a vacant subdivision in the City and what appearance that had on the

values and property by it. Although it might be nice for the people adjacent to it, they needed to know what it said about their community, the state of the community, and their ability to manage the land they had in place. He said for him that was a hard thing to drive into and see. It did not look like very good planning on whoever's part. This was not about not doing anything, but finishing something that someone started and not transferring green space. This was already platted and laid out and they had to figure out if the forms and applications provided by this developer were adequate for approval.

Vice Mayor Chestnut said he thought the Mayor's point was well taken in finishing something that was started because it was started as 41 lots. He did not think it was a matter of being better, but if it was viable. The conclusion by the applicant in this market was that it was not viable. It needed to be a criteria and economics was a criteria in Horizon 2020 along with preservation of neighborhoods and the whole thing. He did not think those decisions were easy, but was expressing what his sense of fear was by going down this path, with all the best intentions, the presentation Herndon did about the values of the houses, that was not in any of the Commission's materials. He did not know if that was binding or not, but the zoning was binding. The question was if the risk was great enough or less. It came down to judgment.

Commissioner Amyx said one of the problems was they had a recommendation for denial from the City's professional staff and a Planning Commission recommendation that it was in conformance and had a positive recommendation, even though it was on a 6 – 2 vote. He said he shared some of Vice Mayor Chestnut's concern, but was there a portion of the property that was suitable to have some type of multi-family low density on the property. He said he could say yes to that. The question was the part that backed to the duplexes. He said to do this correctly, they had to determine if the single family was going to sell or develop in the next few years on the north end of this property. As of right now, they would say that was probably a no. He asked if it made sense to have any low density multi-family to the north side of the duplexes that existed on Overland Drive.

Mayor Dever said that was something they could not vote on tonight.

Vice Mayor Chestnut said he did not think it was a question of whether or not low density multi-family was there. It was a matter if this would be built out and be owner occupied in perpetuity. The probabilities of some neighborhoods were greater in staying that way than others.

Commissioner Hack asked if he saw any concern with the price points that were thrown in.

Vice Mayor Chestnut said no because that was the first time he had seen it. He said they also needed to understand that he was being asked to rule on zoning, not on a preliminary development plan, not price points, not renderings, or anything else. Right now staff recommended that RM12D did not comply. They could have some discussion and there was some grey area, but in this particular area just where it was and what was to the south, there was a reasonable probability of risk that it might become pretty much a rental area.

Commissioner Amyx asked Vice Mayor Chestnut if he could support this project the way it was drawn.

Vice Mayor Chestnut said no.

Commissioner Amyx said that was the end of the discussion and it was not going to work.

Vice Mayor Chestnut said he also recognized that he did not think there was economic viability with RS7. He was thinking the whole time that RS5 was the way to go, but that probably was not viable.

Commissioner Amyx asked Vice Mayor Chestnut what other things they ought to look at as the last piece of the puzzle.

Vice Mayor Chestnut said according to what testimony had been given, when they had 75% protest, there did not seem to be a connection between the neighborhood and the developers as far as getting to this point. The question became if there could be a comfort level

that could get this thing moving forward. He went back to the golden principle of neighborhood conservation and thought it was a big one. He thought there was some real risk and was concerned.

Commissioner Hack asked what Vice Mayor Chestnut's suggestion would be in moving forward.

Vice Mayor Chestnut said he did not want to defer. He said there needed to be more density than RS7 and with the RM12D zoning, the zoning went with the land and once the zoning was in place and recorded, they did not know what would happen from there. There was risk in every rezoning and everything and the probabilities of risk were much higher in this case than in other cases viewed just because of where they were in the economy right now and it very well might be things may have to change on the economics of the project. They needed to be fair to the applicant because once they give the zoning, to some extent they had to provide for them the flexibility of what would go along with the zoning. It was not a dictation of 185 – 225. There was no legal binding thing that they could not come back with anything else. Not to say they would do that, but the City would lose control of the situation once it was out of the game.

Mayor Dever asked if Vice Mayor Chestnut's neighborhood preservation concept was if presuming to allow that type of rezoning, it would further decay the neighborhood.

Vice Mayor Chestnut said when there was a protest petition that had the bulk of the neighbors signing it saying they had great concerns and a lot of people had been there for a long time, there ~~was~~ certainly cause for concern. That would not necessarily drive his decision exclusively, given the economics and the rentals in the neighborhood already, there was high risk that this could end up being something different. It was not the applicant's fault, but the economics and reality of the situation.

Deleted: ere

Commissioner Highberger said he did not want to get into the game of stigmatizing duplexes. They could look around the community and see well built duplexes and poorly

constructed single family houses. The applicant did quality work and that was not the issue. He said there were two primary issues. One was the predictability for the people who bought housing in the neighborhood and there was a constructed subdivision infrastructure that was out of favor with the current subdivision guidelines. They had a subdivision design that would not be approved under the current code because there were too many lots using a single access. He appreciated the applicant's efforts to provide additional access, but thought McCullough was right that the intent of the code was to encourage connectivity and was reluctant to get into a situation where they were setting a precedent of a project meeting access requirements by providing a gated emergency exit, because he did not think that was the intent. Some of the people who bought adjacent property bought it when it was agricultural and all they had to rely on was Horizon 2020, but there were a substantial number of people who bought adjacent property when it was RS2 or RS7 and one of the major functions of zoning was predictability. He said the City Commission owed it to the neighbors to stick with that. He said depending on the density, he would probably approve something with RS5. If he was redoing Horizon 2020, he would have the whole area denser, but it was what they had on the books and should try to follow it. He would support staff's recommendation to deny the request.

Mayor Dever asked if Commissioner Highberger was on the Commission when this was approved originally.

Commissioner Highberger said he did not remember it, but must have been there and thought it met all the requirements at the time.

Mayor Dever said he was misunderstanding about the access.

Commissioner Highberger said they had 41 lots with only one access right now, and assumed that could be built, but the current code would not allow it.

McCullough said the streets were in and the plat was established with 41 lots with no second access.

Mayor Dever said he was trying to get at how that problem could be fixed, but there was no road that allowed another access point.

Commissioner Highberger said not without the applicant buying some of the church property and constructing it. That would probably make it even less economically viable.

Vice Mayor Chestnut said the second access point was not an issue for him. The applicant's proposal on the emergency access, which his understanding was two access points would be connectivity, but it was a balance point of connectivity and safety.

McCullough said there were two provisions, and one was the fire code while the other was the connectivity issue.

Vice Mayor Chestnut said they were addressing one but not the other. The life/safety issue was important.

Deleted: importnat

Mayor Dever said they needed to structure something that the neighbors who lived adjacent to the development and the developers of the plan could agree to.

Herndon asked for clarification. He said he heard something concerning duplex or attached single family or multifamily north of Overland Drive and heard someone else say RS5 would be okay, but the duplex was not. They had another issue of it being non-conforming today with the single access, but if they went from RS7 to RM5, it would be less conforming than it was today. He asked for some direction.

Mayor Dever said a more inclusive proposal that would achieve something more would be appropriate. He said the neighborhood involvement seemed to be a sticking point, even though Mark Fagan said something was changed. He wanted to have meetings on something that would accomplish moving forward rather than doing nothing. The zoning would be a problem on the duplex or detached single family homes. He said they needed to talk about a proposal that would only include detached single family homes on the south edge of the dividing line.

Deleted: of

Mayor Dever said there needed to be discussion about RS5 versus RS7 zoning. He

said people needed to understand what that type of zoning meant.

Deleted: Commission if it was more of a transition from a larger single-family going south to what could be a multi-family area could work or could be a bit more tolerable.¶

McCullough said it had to do with lot size which was a minimum 5,000 square feet versus 7,000.

Moved by Amyx, seconded by Hack, to defer consideration to allow the neighborhood and applicant to meet to consider possible alternatives regarding the Planning Commission's recommendations to adopt the findings of fact and approve the rezoning request (Z-10-17A-08), of approximately 6.14 acres from RS-7 (Single-Family Residential) to RM-12D (Multi-Dwelling Residential Duplex), located at 4145 Seele Drive. Motion carried unanimously. (16)

Moved by Amyx, seconded by Hack, to defer consideration to allow the neighborhood and applicant to meet to consider possible alternatives regarding the Planning Commission's recommendations to adopt the findings of fact and approve the rezoning request (Z-10-17B-08), 3.57 acres from RS-7 (Single-Family Residential) to RS-5 (Single-Family Residential), located at 437 Seele Drive. Motion carried unanimously. (17)

Moved by Amyx, seconded by Hack, to defer consideration to allow the neighborhood and applicant to meet to consider possible alternatives regarding the Planning Commission's recommendations to approve the Preliminary Plat (PP-10-13-08) for Maple Leaf Square, 10.24 acre subdivision consisting of 41 lots, located at 4145 Seele Way. (18)

Moved by Amyx, seconded by Hack, to defer consideration of waiver from the requirement in Section 20-811(c)(1)(i) of the Subdivision Regulations that sidewalks be constructed on both sides of the street. Motion carried unanimously. (19)

PUBLIC COMMENT: None.

Formatted: Font: Not Bold

FUTURE AGENDA ITEMS:

- 01/13/09
- In order to comply with public notice requirements, this item will appear on the 01/13/09 agenda but will be deferred at that time until 01/20/09. Consider approving revised CPA-2004-02, a Comprehensive Plan Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use and consider adopting on first reading, revised Joint City

Ordinance No. 8283/County Resolution No. _____, for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7. (Tabled from the 10/21/08 CC meeting, BoCC Approved 3-0 11/12/08, PC Approved 7-2 5/21/08)

- Consider adopting [Resolution No. 6817](#) changing the timeframes for initializing discussions with the City's recognized employee groups.

ACTION: Adopt Resolution No. 6817 changing the timeframes for initializing discussions with the City's recognized employee groups, if appropriate.

- Consider approving use of right-of-way on various city streets, as well as city services in support of the Kansas Marathon on April 19, 2009.

01/20/09

- Consider approving revised CPA-2004-02, a Comprehensive Plan Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use and consider adopting on first reading, revised Joint City Ordinance No. 8283/County Resolution No. _____, for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7. (Tabled from the 10/21/08 CC meeting, BoCC Approved 3-0 11/12/08, PC Approved 7-2 5/21/08)
- Receive staff report on the structure at 617 W. 4th Street.

- Consider approving Text Amendment TA-12-27-07, revisions to multiple sections of the City Development Code to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. TA-12-27-07 with revisions to Sections 20-1101, 20-1109 & 20-1701 PC; item 18; approved 7-1-1 on 7/23/08 meeting. TA-12-27-07 with revisions to Sections 20-701 and 20-702 to maintain consistency throughout the Code; PC item 9; approved 7-0 on 9/24/08)

ACTION: Approve Text Amendment TA-12-27-07, revisions to Sections 20-701, 20-702, 20-1101, 20-1109 and 20-1701 of the City Development Code to revise Protection Standards for Environmentally Sensitive Areas and provide more precise definitions, if appropriate.

02/03/09

- Discussion of panhandling issues.

TBD

- Approve Text Amendment TA-06-12-08, to Section 20-810 of the Subdivision Regulations to clarify the natural resources and environmentally sensitive areas that are to be protected or preserved. Initiated by County Commission June 23, 2008. Adopt Ordinance No. 8317 on first reading for TA-06-12-08, to Section 20-810 of the Subdivision Regulations. (PC Item 3; approved 7-0 on 8/25/08)
- Adopt on first reading, [Ordinance No. 8300](#), incorporating by reference, a Text Amendment (TA-04-03-08), to Chapter 20 of the Lawrence City Code (Land Development Code) to define and permit various homeless facilities. (Text Amendment approved by City Commission on 10/14/08).

- Rental Registration Program.
- Conduct public hearing for the dilapidated structure at 1207 E. 13th Street. Consider adopting [Resolution No. 6815](#), declaring the structure unsafe and dangerous and ordering property owner to repair or remove the structure within a specified period of time. Should the property owner fail to comply, the City would contract for the removal of said structure.

ACTION: Conduct public hearing. Adopt Resolution No. 6815, declaring the structure at 1207 E. 13th Street unsafe and dangerous and ordering the property owner to repair or remove the structure within a specified period of time, if appropriate.

- Consider changes recommended by the Eco2 Commission to be adopted into the Eco2 Plan for Douglas County.

ACTION: Direct staff as appropriate.

- Status update on Baldwin Woods Open Space Project.

ACTION: Direct staff as appropriate.

- Consider approving revisions to Downtown Design Guidelines and adopt Ordinance No. 8363 on first reading regarding revisions to Downtown Design Guidelines. (PC Item 6; approved 8-0 on 10/20/08)

ACTION: Approve revisions to Downtown Design Guidelines and adopt on first reading, Ordinance No. 8363, regarding revisions to Downtown Design Guidelines, if appropriate.

COMMISSION ITEMS: [None.](#)

Formatted: Font: Not Bold

Moved by Chestnut, seconded by Amyx, to adjourn at 11:35 p.m. Motion carried unanimously.

APPROVED:

Michael H. Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF JANUARY 6, 2009

1. Protective clothing, Fire/Medical Dept., from Municipal Emergency Services for \$26,397.
2. Ordinance No. 8360 – 1st Read, codification of general ordinance of City.
3. Text Amendment – (TA-10-17-08) joint Sub Regs for Build Out Plans.
4. Preliminary Plat – (P P -10-14-08) 17.641 acres, 4700 Overland Dr.
5. Preliminary Plat – (PP-10-15-08) 9.353 acres, 2145 Louisiana St.
6. Agreement – Haase & Long for collection services.
7. Predesign Phase Engineering Services Agreement - BG Consultants for \$43,419, annual Watermain Replacement Program.
8. Temp Use of ROW permits, 642 and 824 Louisiana.
9. Special Assessment - Benefit district, construction of Exchange Pl/Fairfield St.
10. Resolution No. 6818 – appropriate interests in real estate property for public sanitary sewer pump station, sanitary sewer main & equipment & facilities.
11. City Manager's Report.
12. Joint City Ordinance No. 8358/County Resolution No. _____ - 2nd & Final Read, amending Horizon 2020, Ch 14 Specific Plans, approving K10 & Farmer's Turnpike plan.
13. (CPA-20007-6) – Create Chpt 15, Place Making to ensure comprehensive plan language.
14. (CPA-2007-7) – Chpt 14, add reference to Lawrence SmartCode Infill Plan.
15. Ordinance No. 8286 – 1st Read, Text Amendment (TA-11-24-07) Lawrence SmartCode.
16. Rezone – (Z-10-17A-08), 6.14 acres, RS-7 to RM-12D, 4145 Seele Dr.
17. Rezone – (Z-10-17B-08), 3.57 acres, RS-7 to RS-5, 437 Seele Dr.
18. Prelim Plat – (PP-10-13-08) Maple Leaf Square, 10.24 acres, 4145 Seele Dr.
19. Waiver Defer – Sub Regs 20-811(c)(1)(i), sidewalk on both sides.