



PLANNING COMMISSION MEETING
December 15, 2008
Meeting Minutes

December 15, 2008 – 6:30 p.m.

Commissioners present: Blaser, Carter, Chaney, Dominguez, Harris, Hird, Moore, Rasmussen

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

MINUTES

Receive and amend or approve the minutes from the Planning Commission meetings of November 17 & 19, 2008.

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

Motioned by Commissioner Hird, seconded by Commissioner Chaney, to approve the November 17 & 19, 2008 minutes with changes suggested.

Unanimously approved 7-0. *Commissioner Dominguez was not present for the vote.*

COMMITTEE REPORTS

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

Commissioner Moore said the Industrial Design Committee met and are making good progress. There should be something for the planning community to look over soon and will hopefully be before Planning Commission by February, 2009.

Commissioner Moore said that TAC met but he was unable to attend.

Mr. McCullough said Transportation Advisory Committee went over the Metropolitan Planning Organization re-designation and some minor updates to the Kansas Department of Transportation studies that are underway.

Commissioner Harris said the Comprehensive Plan Committee met to talk about water issues related to the Environmental Chapter and will meet again to start drafting language.

Commissioner Hird said the Boulevards and Gateways committee discussed other stakeholders and he inquired if staff could put some thought into what organizations and committees should be included.

COMMUNICATIONS

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

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte

Commissioner Hird said Doolittle Farms was a previous client of his but he is not currently representing them. He said he does not have a substantial interest or conflict and discussed the matter with Staff Attorney, John Miller, and they went through the regulations and City Ethic Code and there was no reason to recuse himself. He said he did talk with Mr. John Bush of Doolittle Farms and the conversation was strictly confined to whether he could and would participate in the vote. He went over the legality of voting on the project with Mr. Miller and determined he could participate. Commissioner Hird said he does not have a direct or indirect financial benefit.

Commissioner Moore said he did the appraisal of Doolittle Farm and used to work for Mr. Bush.

- No abstentions.

PC Minutes 12/15/08

ITEM NO. 1 PRELIMINARY PLAT FOR FREE STATE ADDITION NO. 3; 4700 OVERLAND DRIVE (SMS)

PP-10-14-08: Preliminary Plat for Free State Addition No. 3, a non-residential subdivision containing 17.641 acres, located at 4700 Overland Drive. Submitted by Landplan Engineering, for City of Lawrence Public Schools USD 497, property owner of record. Applicant has requested a variance from full dedication of right-of-way requirements of 20-810(d)(4)(i).

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item. Approval of the preliminary plat required approval of a variance from the Subdivision Regulation requirement to dedicate an additional 25' of right-of-way required for Wakarusa Drive, a designated principal arterial.

APPLICANT PRESENTATION

Mr. C.L. Maurer, Landplan Engineering, was present for questioning. He explained the variance request. The school district was dedicating an additional 10' of right-of-way and 10' of pedestrian/utility easement. The location of the existing fence for the ball field along Wakarusa Drive prevented the full dedication.

PUBLIC HEARING ON VARIANCE ONLY

No public comments.

COMMISSION DISCUSSION

Commissioner Harris asked about the road being designated a principal arterial street and whether the plan for that is still the same.

Ms. Stogsdill said it is designated in Transportation 2020 currently as a principal arterial. With the pedestrian and utility easement there is the ability to widen the roadway to put sidewalk in that pedestrian easement and the City Engineer does not anticipate problems with that in the future.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Hird, to approve the variance requested from Section 20-810(d)(4)(i) to allow a total half-width dedication of 60' of right-of-way with an additional 10-foot Utility/Pedestrian easement where a total half-width dedication of 75' of right-of-way is required for a principal arterial street, subject to the following condition:

1. A note shall be included on the plat that defines the use of the Utility/Pedestrian easement.

Unanimously approved 7-0.

Motioned by Commissioner Harris, seconded by Commissioner Hird, to approve the Preliminary Plat of Free State Addition No. 3 and forwarding it to the Lawrence City Commission for consideration of the requested 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.

Unanimously approved 7-0.

PC Minutes 12/15/08

ITEM NO. 2 PRELIMINARY PLAT FOR HUNTER'S ACRES; 2145 LOUISIANA ST (SMS)

PP-10-15-08: Preliminary Plat for Hunter's Acres, a non-residential subdivision containing 9.353 acres, located at 2145 Louisiana Street. Submitted by Landplan Engineering, for City of Lawrence Public Schools USD 497, property owner of record. Applicant has requested a variance from full dedication of right-of-way requirements of 20-810(d)(4)(i).

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item. Approval of the preliminary plat required approval of a variance from the Subdivision Regulation requirement to dedicate an additional 17' of right-of-way required for Louisiana Street, a minor arterial road.

APPLICANT PRESENTATION

Mr. C.L. Maurer, Landplan Engineering, was present for questioning. He explained the variance request. The school district was dedicating an additional 7' of right-of-way and 10' of pedestrian/utility easement.

PUBLIC HEARING ON VARIANCE ONLY

No public comments.

COMMISSION DISCUSSION

Commissioner Harris asked if there would be future city plans that would cause this to be a problem.

Mr. McCullough said his discussions with the City Engineer were that with this equivalent mechanism of the ability to put everything in a public way would satisfy any future improvements to the road.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Carter, to approve the variance requested from Section 20-810(d)(4)(i) to allow a total half-width dedication of 40' of right-of-way with an additional 10-foot Utility/Pedestrian easement where a total half-width dedication of 50' of right-of-way is required for a minor arterial street subject to the following condition:

1. A note shall be included on the plat that defines the use of the Utility/Pedestrian easement.

Unanimously approved 7-0.

Motioned by Commissioner Harris, seconded by Commissioner Carter, to approve the Preliminary Plat of Hunter's Acres and forwarding it to the Lawrence City Commission for consideration of the requested dedication of easements and rights-of-way, subject to the following condition:

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

Unanimously approved 7-0.

7pm – Commissioner Dominguez arrived at the meeting.

PC Minutes 12/15/08

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

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

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

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

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

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

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

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

STAFF PRESENTATION

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

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

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

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

Ms. Miller replied, yes.

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

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

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

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

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

Ms. Miller showed the map on the overhead.

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

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

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

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

APPLICANT PRESENTATION

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

Commissioner Harris asked how traffic generation is figured.

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

Commissioner Rasmussen asked if the trips were less than 10.

Mr. Herndon replied, yes.

Commissioner Dominguez asked where the entry points were located.

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

PUBLIC HEARING ON ITEMS 3A-3C

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

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

Mr. Sherraden replied, both.

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

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

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

APPLICANT CLOSING COMMENTS

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

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

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

Commissioner Rasmussen inquired about the 6.15 units per acre.

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

Commissioner Rasmussen asked if Horizon 2020 provides rules or guidelines.

Mr. Herndon replied, guidelines.

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

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

Commissioner Dominguez inquired about the access.

Mr. Herndon said the existing Doolittle subdivision has 41 lots, which exceeds the number of units it can have with one access by 11 units. Maple Leaf square has a single access because there is not room for another one but a new fire/emergency access entrance will be constructed. Mr. Herndon said the traffic study is 100% complete and accurate. With the traffic being produced from Maple Leaf it is only at 64% of the amount of traffic that would even warrant a traffic study. He said there will be no traffic generated from this development that will cause a traffic jam.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Herndon said they do not necessarily think the design would not work for future acquisition of the church property, but the idea that this subdivision would integrate with the church is not part of our

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

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

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

COMMISSION DISCUSSION

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

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

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

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

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

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

said he would probably vote in favor of the project. He said he would like to see sidewalks on both sides of the streets.

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

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

Commissioner Dominguez inquired about the traffic impact study.

Mr. McCullough said it did not trigger a full traffic impact study in terms of the added number of trips per day and what exists there today. With 41 residential lots it would be about 400 trips per day out of the subdivision. With duplex development staff challenges that in Lawrence duplexes tend to act more like single-family homes than townhome/condominium. The applicant was talking earlier about whether or not this increment above what exists today triggers a full blown traffic impact study. It did not. Staff wanted to make clear that there will be an impact which will exacerbate the issue of connectivity and convenience in this project. The Development Code says that if a proposal generates 100 trips per peak hour, then a full blown traffic study would need to be done to give more detail about what the traffic would do as it hits Eldridge Street and then as Eldridge Streets hits 6th Street. The applicant did not hit that trigger so they were not required to do a more comprehensive traffic study. If this were greenfield development and the subdivision did not already exist and they requested this proposal then that would likely trigger some greater traffic information.

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

Commissioner Carter inquired about the difference between the trips.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTION TAKEN ON ITEM 3A

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

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

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

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

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

ACTION TAKEN ON ITEM 3B

Motioned by Commissioner Hird, seconded by Commissioner Chaney, to approve the rezoning request for approximately 3.57 acres from RS 7 (Single-Dwelling Residential) District to RS-5 (Single-Dwelling Residential) District, located at 437 Seele Drive, and forwarding it to the City Commission with a recommendation for approval subject to the provision that the plat conform to the uses presented by the applicant and based upon findings that the proposal would increase public safety, would provide for connectivity, and that it represents the type of infill development that should be encouraged in Lawrence.

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

ACTION TAKEN ON ITEM 3C

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

Commissioner Harris said she would vote in favor.

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

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

ACTION TAKEN ON ITEM 3D

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

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

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

10:00pm – Commissioner Chaney left the meeting.

PC Minutes 12/15/08

ITEM NO. 4 AMENDMENTS TO COUNTY ZONING REGULATIONS (MKM)

TA-08-16-08: Consider comprehensive revisions to the Douglas County Zoning Regulations and general revisions to the County Zoning Map. Initiated by the Planning Commission in 2006. Deferred from the November 2008 Planning Commission meeting.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Harris asked about the definition of full maintenance roads in this document.

Ms. Miller said there are two types of roads in the county, full maintenance road and minimum maintenance road.

Commissioner Harris asked if heavy trucks would be allowed on any types of full maintenance roads that are not currently allowed.

Ms. Miller said heavy trucks should be on hard surface or collector streets. She said zoning requests would be reviewed by the County Engineer and the use would be taken into account. There are different levels of low demand and the type of transportation required would be looked at.

Commissioner Rasmussen inquired about what the second sentence meant in section 12-305(c)[1]

[1]- Total setback is the required yard measured from the Base Setback Line. ~~base setback plus the required yard.~~ On through lots eligible parcels the front yard must be provided on both frontages

Ms. Miller said it was going to say 'on through lots' which means a lot that has a road on each side, but the word 'lots' is being revised because in the county there are lots, residential development parcels, and vested properties, so rather than saying each one of those they will be referred to as eligible parcels.

PUBLIC HEARING

Mr. Keith Dabney, Director of Zoning & Codes, said that since he sent his letter staff has addressed both of the issues with the proposed text.

Commissioner Blaser asked how his concerns were resolved.

Mr. Dabney said interpretations were changed. He said that if the County Zoning office is going to enforce the zoning regulations than Planning has no authority to technically interpret the zoning regulations and that was the purpose of his letter.

Commissioner Harris asked about the change.

Mr. McCullough directed the Commission to the proposed revised language that was included in their packet:

(2) WRITTEN INTERPRETATIONS

In the event that the language in the Zoning Regulations ~~this Resolution~~ is unclear or clarification is necessary, the Director of Zoning and Codes is authorized to make an interpretation of these Regulations. ~~the Resolution~~ This section sets out the procedures for interpreting the text of this Zoning Code as well as provisions of any approved land use applications administered under this Code.

(i) Authority. The Director of Zoning and Codes shall have authority to make all written interpretations.

(ii) Application. A complete application for an Interpretation Request shall be submitted to the Director of Zoning and Codes in a form established by the Director of Zoning and Codes, along with a nonrefundable fee that has been established by the Governing Body to defray the cost of processing the application. No application shall be processed until the application is complete and the required fee has been paid.

(iii) Action by the Director of Zoning and Codes. Within ten days after a request for interpretation has been submitted, the Director of Zoning and Codes shall: (1) consult with the Lawrence-Douglas County Metropolitan Planning Office and other staff; (2) review and evaluate the request in light of the text of this Code, the Official Zoning Map, the Comprehensive Plan and any other relevant documents; and (3) render an opinion.

Commissioner Harris inquired about changes to the zoning categories and if more intense uses will be added. She inquired if there needed to be any other public notice process other than publishing it in the newspaper.

Ms. Miller said it was not the goal to increase the uses in the zoning districts, however some districts were collapsed and include uses from each previous district.

Mr. McCullough said this is a general policy change so there would be no specific notice to individual property owners, just the notice in the newspaper, which is proper procedure.

Commissioner Hird expressed his consistent concern about Home Occupations and Value Added Agricultural limiting the number of employees.

ACTION TAKEN

Motioned by Commissioner Blaser, seconded by Commissioner Carter, to forward a recommendation for approval of the proposed amendments [TA-08-16-08 to Chapter 12, Article 3 of Douglas County Code (Zoning Regulations for Unincorporated Territory of Douglas County) and the associated rezoning map] to the Douglas County Board of County Commissioners.

Commissioner Rasmussen inquired about Pendleton's County Market having more than four employees.

Mr. Dabney said that Pendleton's has a Conditional Use Permit for a portion of what they do which allows them to have more than four employees and a portion of the use is considered 'agricultural' and there is no limit on employees.

Commissioner Harris recommended forwarding the item to the County Commission to obtain feedback/thoughts for consideration by the Planning Commission.

Motion denied 7-0. *Commissioner Chaney left the meeting prior to item 4.*

Motioned by Commissioner Blaser, seconded by Commissioner Carter, to forward to the Douglas County Board of County Commissioners with a request for feedback/thoughts on the regulations, with the expectation that the Planning Commission will reach some type of conclusion by the March 2009 Planning Commission meeting.

Unanimously approved 7-0.

PC Minutes 12/15/08

ITEM NO. 5 AMENDMENTS TO SUBDIVISION REGULATIONS (MKM)

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. Initiated by the County Commission on 10/29/08.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

No public comments.

COMMISSION DISCUSSION

Commissioner Dominguez asked if anyone from the industry had reviewed them.

Ms. Miller said many of the surveyors who have worked on Certificate of Survey's suggested changing it from lot to block.

Commissioner Harris said she was part of the committee that came up with build out plan idea. She said she thought it was a good idea but did not know how it would work. She said she recognized the challenges of working at the lot level and this is much better.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Hird, to forward a recommendation for approval of the proposed amendment, [TA-10-17-08] revising the requirements of the build out plans, to the Board of County Commissioners and the City Commission, with the revision added by Planning Staff based on comments the by League of Women Voters.

Unanimously approved 7-0.

PC Minutes 12/15/08

ITEM NO. 6 DOWNTOWN URBAN CONSERVATION OVERLAY DISTRICT (LBZ)

TA-10-18-08: A text amendment to Article 3 to add a new Ordinance No. for Downtown Urban Conservation Overlay District.

Item 6 was deferred prior to the meeting.

PC Minutes 12/15/08

ITEM NO. 7 8TH & PENNSYLVANIA URBAN CONSERVATION OVERLAY DISTRICT (LBZ)

TA-10-19-08: A text amendment to Article 3 to add a reference for 8th & Pennsylvania Urban Conservation Overlay District. Initiated by the Planning Commission at their October 2008 meeting.

Item 7 was deferred prior to the meeting.

PC Minutes 12/15/08

ITEM NO. 8 PLANNING COMMISSION BY-LAWS

Consider changes to the Planning Commission by-laws related to Ex Parte Communications and Conflicts of Interest. Deferred from the November 2008 Planning Commission meeting.

STAFF PRESENTATION

Mr. John Miller, said by-law changes require 2/3 vote from Planning Commission. (There were only 6 Commissioners present due to Commissioner Chaney leaving the meeting early.)

Commissioner Hird said that Commissioner Finkeldei has had great interest in the by-law changes.

Commissioner Moore said he spoke with Commissioner Finkeldei and he was in support of the changes but that it could be deferred to next month in order to be voted on by all Commissioners.

Commissioner Harris said she would support the changes if her suggested change was incorporated regarding ex parte communications.

Commissioner Rasmussen asked about the difference between Section 2.d)4. and Section 2.j) on page 4 of the By-Laws.

Mr. Miller said there was no difference. The reason for the change was due to discussion at the December Planning Commission Mid-Month meeting for ex parte communications to occur prior to the public hearing.

Mr. Miller went over all the by-law changes.

PUBLIC HEARING

No public comments.

Commissioner Harris felt it was redundant to disclose ex parte at the beginning of the meeting and again before the item.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to defer changes to the Planning Commission by-laws related to Ex Parte Communications and Conflicts of Interest, until the January Planning Commission meeting.

Unanimously approved 7-0.

PC Minutes 12/15/08

MISCELLANEOUS NEW OR OLD BUSINESS

MISC NO. 1 Communication regarding CPA-2008-7 Environmental Chapter of Horizon 2020.

Consideration of any other business to come before the Commission.

Commissioner Harris asked if they should initiate a Text Amendment to close the gap between 6 and 7 units per acre that was discussed earlier for Maple Leaf.

Mr. McCullough said that it could be looked at to possibly change the language to state 'up to 7 units' per acre.

PUBLIC COMMENT SECTION

Adjourn 11:26pm