



## **PLANNING COMMISSION MEETING**

**January 26 & 28, 2009**

### **Meeting Minutes**

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January 26, 2009 – 6:30 p.m.

Commissioners present: Blaser, Carter, Dominguez, Finkeldei, Harris, Hird, Moore, Rasmussen, and Singleton

Staff present: McCullough, Stogsdill, Day, J. Miller, Rexwinkle, Zollner, and Ewert

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### **MINUTES**

Receive and amend or approve the minutes from the Planning Commission meeting of December 15, 2008.

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

Motioned by Commissioner Moore, seconded by Commissioner Hird, to approve the December 15, 2008 Planning Commission minutes with the suggested changes by Commissioner Harris.

Motion carried 7-0-1 with Commissioner Finkeldei abstaining since he was absent from the December Planning Commission meeting. Commissioner Rasmussen was not present for the vote.

### **COMMITTEE REPORTS**

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

Commissioner Moore said the Industrial Design Guidelines committee met and finalized recommendations that will go to the stakeholders for the next 30 days.

Commissioner Moore also stated that the Transportation Advisory Committee (TAC) met and had basic updates as well as the redesignation of the MPO but he was not able to attend the meeting.

Commissioner Harris said the new MPO met and its members now include elected officials. There was discussion about the money that may be coming with the stimulus package. She stated that one of the things that will need to be done soon is for TAC to meet and discuss which of the projects could receive funding if the stimulus package is approved. She said she will attend a 5 county task force meeting tomorrow on behalf of the MPO.

Commissioner Moore asked if there was discussion about redesignating the TAC because as it stands now Commissioners Moore and Finkeldei are on the committee.

Commissioner Harris said yes.

Mr. McCullough said Commissioner Harris brought up a good point about the bylaws and the former way of doing things. Some of the MPO members served on TAC also, so as it stands it will be status quo for the TAC committee until the bylaws are produced and adopted. That will then give the opportunity for

the TAC committee to be amended. The bylaws for the MPO will most likely be heard at the next Planning Commission meeting.

Commissioner Harris said the Comprehensive Plan Committee met and had an educational section related to the environmental chapter and there will be several more meetings before the next Planning Commission meeting.

### **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 Dominguez said he attended a Barker Neighborhood reorganization meeting and discussion was made about what was happening with Dillons on Massachusetts Street and that they were concerned about traffic.  
Commissioner Harris said she attended the same meeting.
- No abstentions.

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**ITEM NO. 1      CONDITIONAL USE PERMIT FOR RWD #3; 1239 E 300 ROAD (SLD)**

**CUP-11-08-08:** Consider a Conditional Use Permit for a water treatment facility modification for Rural Water District #3, located at 1239 E 300 Road, Berryton. Submitted by Bartlett & West, for Douglas County Rural Water District #3, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**APPLICANT PRESENTATION**

Mr. John Ruckman, Bartlett & West, was present for questions.

**Public Hearing**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Carter, to approve a Conditional Use Permit for a water treatment facility modification for Rural Water District #3 located at 1239 E 300 Road and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report subject to the following conditions:

1. Applicant shall provide a revised site plan with the following changes:
  - a. Note the type of surface of driveway.
  - b. Dimension width of driveway.
  - c. Identify any lights with details of the fixture, mounting height and shielding if any.
  - d. Provide a note to indicate the number of off-street parking provided.
  - e. Show accessible parking stall.

Unanimously approved 8-0, with Commissioner Rasmussen not present for the vote.

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**ITEM NO. 2 SPECIAL USE PERMIT FOR CAR TOYS; 711 W 23<sup>RD</sup> STREET (SLD)**

**SUP-12-10-08:** Consider a Special Use Permit to allow *Light Equipment Repair* for Car Toys (stereo installation) at The Malls located at 711 West 23<sup>rd</sup> Street. Submitted by Murl Westheffer for Malls Investment Company, LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

Commissioner Hird asked if the entrance for installations would be in the back of the building.

Ms. Day replied, yes.

**APPLICANT PRESENTATION**

The applicant was not present.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Finkeldei said he was glad to see businesses going in this location.

**ACTION TAKEN**

Motioned by Commissioner Carter, seconded by Commissioner Hird, to approve SUP-12-10-08, a Special Use Permit allow *Light Equipment Repair* for Car Toys (stereo installation) in the CN2 District located at 711 West 23<sup>rd</sup> Street, suite 5, based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Execution of a Site Plan Performance Agreement.
2. Provision of a revised site plan to include a note that all installation activities shall occur in the building.
3. Publication of an ordinance per Section 20-1306(j).

Commissioner Moore asked if the SUP only applied to the user Car Toys.

Ms. Day replied, yes.

Mr. McCullough said it could run with the tenant space that Car Toys occupies. Typically the Site Plan would govern and the CUP would govern the space.

Commissioner Moore suggested adding more site specific wording of 'suite 5.'

Ms. Day agreed that would be fine.

The amendment was accepted by Planning Commission to add the wording 'suite 5' to be more specific.

Unanimously approved 8-0, with Commissioner Rasmussen not present for the vote.

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**ITEM NO. 3      RS5 TO RSO; 11,715 SQUARE FEET; 1245 CONNECTICUT STREET (SLD)**

**Z-11-18-08:** Consider a request to rezone 11,715 square feet located at 1245 Connecticut Street from RS5 (Single-Dwelling Residential) to RSO (Single-Dwelling Residential Office). Submitted by James Williams and Sara Hurd for Peaceful Rest Corp., Second Christian Church of Lawrence, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

Commissioner Dominguez inquired about the parking.

Ms. Day said parking is an element of the site plan so she could not speak about the specifics of the parking. She said the parking area on the site is small. She said that some of the neighbors have expressed concern about parking. Ms. Day said the applicant is required to provide a certain number of off street parking. She stated that staff would encourage the applicant to work on a shared parking agreement at another location to meet the code requirement or seek a variance from the Board of Zoning Appeals.

Commissioner Dominguez asked if this is the normal way to do this.

Ms. Day said declaring the basic land use is the first step and then looking at a property in more detailed after that.

**APPLICANT PRESENTATION**

Mr. James Williams gave the history of the church and his family involvement with the building over the years. He said they feel like a mortuary would be a good fit for the neighborhood. He requested that the rezoning be approved.

Commissioner Dominguez said he appreciated the history on the property. He inquired about the parking when the building was used as a church.

Mr. Williams said that Trinity Lutheran Church shared their parking and people also parked along the street. He said they can probably do a parking agreement with Trinity Lutheran Church but that has not been discussed yet.

Commissioner Dominguez was concerned about Connecticut Street becoming crowded. He would prefer to keep traffic off of Connecticut Street and would rather see a parking agreement with Trinity Lutheran Church.

Mr. Williams said he will talk to Trinity Lutheran Church after the property is rezoned. He said Connecticut Street is not as busy with children today as it was when he was a kid.

Commissioner Moore said he was concerned about parking as well, but the use is a fairly low impact use and he felt this was a good way to utilize the existing building.

Commissioner Finkeldei asked how long the church building has been vacant.

Mr. Williams said a few months.

Commissioner Dominguez asked why the church left.

Mr. Billy Sims, a member of the former church said the church congregation dwindled.

### **PUBLIC HEARING**

Ms. K.T. Walsh, East Lawrence Neighborhood Association, said the neighborhood was in support of the rezoning and they support adaptive reuse of buildings. She said they discussed concerns about parking. She also said they are trying to get the City to repaint the crosswalks on 9<sup>th</sup> and 11<sup>th</sup> cross streets of Connecticut Street. She said the neighborhood would like to have the use of 'check cashing' excluded as a use for the building as this was not in the best interest of the neighborhood.

Mr. Billy Sims, represents the church, said there are about 20-25 parking stalls at the site and that over the years the church has been good neighbors and worked with Trinity Lutheran Church for parking. He stated that they have had funerals and services at the location for many years and he hoped they could go forward with the rezoning and felt it would benefit the community.

### **COMMISSION DISCUSSION**

Commissioner Finkeldei asked about the comment from the East Lawrence Neighborhood Association about 'check cashing.'

Ms. Day said check cashing would probably fall into the Financial Institution category. The Development Code does not define check cashing.

*Commissioner Rasmussen arrived at the meeting at 7:11pm.*

Commissioner Carter asked if the applicant was okay with the restriction.

Mr. Williams said yes, he was okay with that restriction.

Mr. Miller said since there is no definition of check cashing that it might be better to restrict the entire category of Financial, Insurance, & Real Estate.

Commissioner Finkeldei asked if the applicant was okay with limiting the entire category of Financial, Insurance, & Real Estate.

Mr. Williams replied, yes.

Commissioner Dominguez asked if they are going to go through a litany of things it cannot become and is that really going to stop it from becoming something different in the future.

Ms. Day said the proposed change is to RSO so it does not open it to all of the commercial opportunities that would be allowable in other districts.

Commissioner Dominguez inquired about a massage parlor.

Ms. Day said a massage parlor would probably fall under the Personal Improvement category.

Commissioner Harris said she was glad that the neighborhood talked about the uses and identified one that they would like to be excluded. She asked if a transient shelter was okay with the neighborhood.

Ms. Walsh said the neighborhood did talk about that and that their assumption is that it is a non-issue.

Mr. McCullough said that is a fair assumption but it could be considered a Special Use Permit. Ms. Day provided the Development Code use categories in her staff report. This does not include what could be in the future. The ordinance is still being reviewed and staff anticipates something different than what the Planning Commission recommended to the City Commission regarding the homeless facilities.

Ms. Walsh said the space is smaller than the current day shelter, so because of the site and size the neighborhood assumed it would not be an issue.

Commissioner Harris asked if the East Lawrence Neighborhood Association thought that there would not be a transient shelter at that location.

Ms. Walsh said that was correct.

Commissioner Harris was concerned that the neighborhood made some assumptions that may not be true for that space in the future. She asked if a transient shelter could technically be placed there with a Special Use Permit.

Mr. McCullough said that was correct, with a Special Use Permit.

Commissioner Dominguez asked if the applicant could condition the rezoning and exclude the use of transient shelter.

Mr. McCullough said yes, the Commission could condition the rezoning to exclude categories such as the financial category and homeless/transient shelters.

Commissioner Carter asked if the applicant would be okay with excluding both of those uses.

Mr. Williams replied, yes.

Commissioner Finkeldei said he was excited to see some use in that facility again but was not a big fan of limiting uses. He said that if everyone was happy then he would go along with it, but as a general policy he did not think it was the best way to go.

Commissioner Moore agreed with Commissioner Finkeldei and wondered how future land owners would know.

Mr. McCullough said it was difficult to administer but it would show up in the adopted ordinance and that one of things on staff's checklist is to look at the adopting codes on a property.

Commissioner Moore asked if the conditioning would be included on the site plan.

Mr. McCullough said yes, notes could reference the restrictions on the site plan.

Commissioner Hird felt there should be a separate category for predatory businesses such as check cashing, but not excluding legitimate banks that would cash checks.

Mr. McCullough said that if the Planning Commission would like to exclude those uses, it would mean that a bank would have to go through the rezoning process to have those restrictions lifted.

Commissioner Carter asked if a Special Use Permit for a homeless shelter would allow opportunity for neighborhood comments.

Mr. McCullough said that was correct.

Commissioner Rasmussen asked if he should abstain from voting on the item since he came in late to the meeting.

Commissioner Finkeldei said that was correct, he should abstain from voting.

Commissioner Dominguez was concerned about the parking but felt that the applicant could work it out.

Commissioner Moore said he believed there was already a check in place that if a transient shelter was sought there would be a review process.

Motioned by Commissioner Harris, seconded by Commissioner Singleton, to approve the rezoning with the conditions of removing the two use categories of Financial Insurance & Real Estate and Transient & Homeless Shelter.

Commissioner Hird asked about taking out the entire category of Financial, Insurance & Real Estate.

Mr. McCullough said they are all one use category and that a future owner could submit a rezoning request to use that category.

Commissioner Hird said the property would probably be more valuable to the applicant by not restricting uses and he did not think the neighborhood would mind if there was a real estate or financial institution at that location in the future.

Mr. McCullough said there is no category for predatory lending agencies so they have to use what the Code language provides them.

Commissioner Hird asked if there was a definition of check cashing facilities in the Development Code.

Mr. McCullough replied, no.

Ms. Walsh said that perhaps they could be referred to as 'payday loans.'

Commissioner Finkeldei said that 'payday loans' would still fall in the same category.

Mr. Miller said it would be safer to exclude the entire category because that is the term that is defined in the Development Code.

Commissioner Harris asked if the term 'other' is anything other than a financial institution and would a payday loan operation be a financial institution. She suggested maybe excluding 'other.'

Mr. McCullough said those are the types of things staff would like to do research on and make a formal determination on. He stated that this is the first time staff has heard of this issue with this request so he did not want to give comment or decisions about the Code without doing research.

Commissioner Singleton said all the applicant wants is to be able to use the building for funeral and interments. She said that the applicant does not care about all the other uses that fall under the RSO category so if we want to accomplish what the applicant wants and not worry about all these other



things happening then why don't we just approve this for funeral and interment usage. If someone in the future wants to use the building for something else then they can submit a rezoning request for Planning Commission to review.

Commissioner Dominguez wanted to be proactive to strike the transient shelter.

Commissioner Hird wanted clarification and restated the motion; approval of the rezoning with the conditions of removing the two use categories of Financial Insurance & Real Estate and Transient & Homeless Shelter.

Commissioner Harris said that was correct and if there was a way to exclude just payday loans she would be in favor of that.

Commissioner Finkeldei said this is not the end of the decision process so he suggested moving forward with the staff recommendation and have staff review the restrictions before City Commission sees it. He stated he is not a big fan of restricting uses.

#### **ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Singleton, to approve the rezoning request [Z-11-18-08] for 11,715 square feet at 1245 Connecticut Street from RS5 (Single-Dwelling Residential) District to RSO (Single-Dwelling Residential Office) District and forwarding it to the City Commission with a recommendation for approval based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Remove use category of Financial, Insurance & Real Estate
2. Remove use category of Homeless or Transient Shelter

Motion carried 8-0-1, with Commissioner Rasmussen abstaining due to his late arrival at the meeting.

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**ITEM NO. 4 RS7 TO RMO; 140,090 SQUARE FEET; 2141 MAPLE LANE (JCR)**

**Z-11-20-08:** Consider a request to rezone 140,090 square feet located at 2141 Maple Lane from RS7 (Single-Dwelling Residential) to RMO (Multi-Dwelling Residential Office). Submitted by Grob Engineering for Kansas Family & Children Foundation, Inc., property owner of record.

**STAFF PRESENTATION**

Mr. Joe Rexwinkle presented the item.

Commissioner Harris asked for staff's response to the League of Women Voters letter.

Mr. Rexwinkle said the League's three comments were related to the ability or inability to place more than one principal building on a lot, a lot having direct access to a street, and maintenance of any shared facilities. The maintenance responsibility would fall on each private property owner, not the public. Since it is one platted lot it does already meet the frontage requirement and the definition of a lot applies to platted lots, not ownership parcels.

Commissioner Harris asked if not allowing more than one building on the property unless it is accessory was applicable in this case.

Mr. Rexwinkle said no, it only applies in residential dwellings and this is not a residential dwelling.

Commissioner Moore asked if there was a reason the site plan was not included.

Mr. Rexwinkle said no there was no reason it was not included, but that it could be provided.

**APPLICANT PRESENTATION**

Mr. Dean Grob, Grob Engineering, said he agreed with the staff recommendations. He said the owner was present to provide more details. He said they sent out a little less than 300 invitations in November to neighborhoods and others, and nobody from the public attended.

Mr. Rexwinkle displayed the site plan on the overhead and Mr. Grob pointed out the details the commissioners.

Mr. Brenden Long, general council for the property owner, said the primary service of the site would be to provide child welfare services. He explained all the services of the Kansas Family & Children Foundation. He stated they currently have an office on 24<sup>th</sup> Street in a converted apartment building and it provides a safe secure environment for custodial exchanges. He said this new facility would be used for the same type of services and that there would be about 11 employees working at the site

**PUBLIC HEARING**

Mr. Paul South, lives Elmwood that is adjacent to this property. He said the property is only accessible two ways. He expressed concern about increased traffic for the children who live in the area and those that visit the nearby public swimming pool there. He said traffic is heavy already and reduced to one lane.

Commissioner Dominguez asked what Mr. South meant by a one lane street.

Mr. South said during heavy traffic a vehicle must wait behind parked cars to let oncoming traffic through.

Commissioner Dominguez asked Mr. South why he thought there had not been any public comments about the rezoning.

Mr. South said there are a lot of transient people and renters in the area and are probably not aware of what is going on.

### **COMMISSION DISCUSSION**

Commissioner Carter asked staff their thoughts on the traffic flow.

Mr. Rexwinkle said there would be an increase in traffic and the applicant did submit a traffic impact study. He stated the staff report also eluded to the additional number of trips the office use would add to it. In the purpose statement for the RMO zoning district it does state the primary access should generally be to an arterial or collector street and this site is not an arterial or collector street, but it is not a mandatory statement, just something to consider.

Commissioner Dominguez asked about the situation of the street being one lane.

Mr. Rexwinkle said he did not know the details.

Commissioner Singleton said the street is not wide enough and if there are cars parked on both sides of the street there is not enough room for two cars to drive at the same time. She said she visits that pool often and there are a lot of children who go to that pool as well.

Commissioner Dominguez inquired about the traffic study.

Mr. Grob said he did not bring the traffic impact study with him but there were no comments on the traffic study. He said there will only be 11 employees and would not produce the traffic that a traditional office would. He said there should probably be 'no parking' signs near the intersection of the streets.

Commissioner Dominguez asked if there will be 11 more cars for the 11 employees that will be employed there.

Mr. South said there are currently 7 full time employees and the other 4 employees will be there at other times, such as the weekends.

Dominguez asked if the people who represent the child would be at the facility too or just the 7 employees.

Mr. South said he would expect it to just be the 7 employees but if they receive better funding the employee size could increase. Employees will not be parking on the street because a parking lot will be provided.

Mr. Rexwinkle displayed the traffic impact study on the overhead.

Commissioner Singleton said as a family law attorney she is familiar with the process of child welfare programs. One parent drops the child off and then leaves and the other parent comes and picks the child up, so there is not a ton of traffic produced by it. She felt this is a good location for this type of service and would be extremely beneficial to the community.

Commissioner Moore asked about the City Code on street width.

Ms. Stogsdill said 27'.

Commissioner Harris was concerned about RMO zoning which might allow other uses in the future and the Code says this type of zoning should be on a collector street.

Mr. McCullough said issues along the street exist today and wondered if the neighborhood had ever brought concerns to the Traffic Safety Commission that looks at these types of issues. He said staff can go back to the City Traffic Engineer to look at the site plan.

Commissioner Finkeldei disclosed that it did not cause a conflict but that he represented the Montessori School when they sold this property to the Kansas Family & Children Foundation so he learned more about the organization at the time and felt it was a good program. He said he realizes there are concerns that the site could become something else in the future but said he would support the rezoning because the use is needed in the community.

#### **ACTION TAKEN**

Motioned by Commissioner Singleton, seconded by Commissioner Hird, to approve the request to rezone approximately 140,090 square feet at 2141 Maple Lane from RS7 (Single-Dwelling Residential) to RMO (Multi-Dwelling Residential Office) based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 9-0.

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**ITEM NO. 5 RM24 TO CS; 37,500 SQUARE FEET; 1740 MASSACHUSETTS STREET (JCR)**

**Z-12-21-08:** Consider a request to rezone approximately 37,500 square feet at 1740 Massachusetts Street from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip). Submitted by Wally Storey Associates Inc, for Dillon Companies Inc, property owner of record.

**STAFF PRESENTATION**

Mr. Joe Rexwinkle presented the item. He also explained that the original request included an additional property on New Hampshire Street that is no longer a part of the request.

Commissioner Finkeldei inquired about the original rezoning request that included 1725 New Hampshire Street.

Mr. Rexwinkle said that Dillons had wanted to acquire and rezone the apartment building at 1725 New Hampshire Street to make way for additional parking and staff identified a portion of their existing site was not zoned properly.

Commissioner Harris asked if Dillons needed the parking spaces to be compliant with the Development Code.

Mr. Rexwinkle said there is a site plan from 1982 based upon site conditions, standards, and regulations from 1982, so staff asked for a new site plan to recalculate the parking by today's conditions and standards. Dillons did not have enough parking spaces to meet the Code and a parking variance was required at that time. Staff expects a new site plan will show a similar situation. He said Dillons was short about 30 parking spaces in 1982. This rezoning request will not bring them into conformance with regard to parking requirements because the zoning applies to an existing portion of the Dillons site that currently contains parking. This rezoning is to bring the zoning into conformance with the established use.

Commissioner Finkeldei said he shops at Dillons on Massachusetts Street and has never seen the parking lot full.

Commissioner Harris said the parking information would be helpful. She said she has experienced the opposite of Commissioner Finkeldei and that when she shops at Dillons the parking lot is full.

Mr. Rexwinkle said staff did request the parking information from the applicant but it is technically not required. As of this time a plan has not been submitted.

**APPLICANT PRESENTATION**

Applicant was not present.

**PUBLIC HEARING**

Ms. Constance Hallberg, 1822 New Hampshire Street, said the omission of the apartment complex in this rezoning was not known to her.

Commissioner Finkeldei asked if a rezoning request for 1725 New Hampshire is submitted would Planning Commission see it.

Mr. Rexwinkle said that was correct, the rezoning of the apartment complex would be heard by the Planning Commission, as a separate rezoning request.

Ms. Hallberg said she supported Dillons staying in business.

**ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner Moore, to approve the request to rezone approximately 37,500 square feet, from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip) based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 9-0.

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**ITEM NO. 6      AMENDMENTS TO DEVELOPMENT CODE (LBZ)**

**TA-10-18-08:** A text amendment to revise Article 3, *Section 308(g) – Appeals* to be consistent with the adopted Downtown Design Guidelines and to revise the Ordinance No. in *Section 308(h)* to request the latest adopted ordinance.

**STAFF PRESENTATION**

Ms. Lynne Braddock Zollner presented the item.

Commissioner Rasmussen inquired about the definition of working days.

Ms. Zollner said there is a definition in the Development Code for working days.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Harris, to forward a recommendation of approval of Text Amendment TA-10-18-08 to the Development Code to the Lawrence City Commission.

Unanimously approved 9-0.

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**ITEM NO. 7      AMENDMENTS TO DEVELOPMENT CODE (LBZ)**

**TA-10-19-08:** A text amendment to Article 3, *Section 308(h)* to add an Ordinance No. and reference for 8<sup>th</sup> & Pennsylvania Urban Conservation Overlay District. Initiated by the Planning Commission at their October 2008 meeting.

**STAFF PRESENTATION**

Ms. Lynne Braddock Zollner presented the item.

Mr. John Miller said the amendments to the Development Code would 'incorporate by reference' all the design guidelines. If the Planning Commission approved the recommendation then there may be additional language included as part of the ordinance for City Commission approval.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Moore, to forward a recommendation of approval of Text Amendment TA-10-19-08 to the Development Code to the Lawrence City Commission.

Unanimously approved 9-0.



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**MISCELLANEOUS NEW OR OLD BUSINESS**

**MISC ITEM NO. 1: Initiation of Text Amendments to the Development Code for future public hearings**

Mr. Scott McCullough said staff has been working on several items which will require future amendment of the Development Code. Staff requests that the Commission initiate text amendments to Chapter 20 for future public hearings related to the following:

**Misc. Item 1A:**

Amend Section 20-1301 (t) to specifically identify the Director of Planning and Development Services as the Administrative Official Charged with Interpreting and Enforcing the Development Code.

**Misc. Item 1B:**

The Lawrence SmartCode recently received approval from the Lawrence City Commission with an effective date of July 1, 2009. Staff has identified a few text amendments regarding the Lawrence SmartCode that should be made to the Development Code before July 1, 2009. These amendments will not materially affect processes within the Development Code, but will instead reference the Lawrence SmartCode where necessary for certain processes and/or standards. Potential Articles that will require amending include Article 1, 2, 6, 7, 10, 11, 13, 14 and 17.

Commissioner Rasmussen asked if the interpretation is done in writing.

Mr. McCullough said interpretation can be done in writing, but can be made in everyday decisions of processes, not everything is a formal written interpretation.

Commissioner Harris asked if the interpretation would be appealable.

Mr. McCullough replied yes, generally any decision would be appealable.

Commissioner Rasmussen asked if the Planning Director does the enforcing.

Mr. McCullough said of the Development Code, yes.

Motioned by Commissioner Moore, seconded by Commissioner Singleton, to initiate Text Amendments to the Development Code for future public hearings.

Unanimously approved 9-0.

Commissioner Finkeldei said that Commissioners Carter, Chaney, Harris, and Moore, Chaney would be absent from the Wednesday Planning Commission meeting.

Commissioner Rasmussen said he might be late to the Planning Commission meeting Wednesday night.

Mr. John Miller said there needs to be 2/3 majority vote for the bylaws.

Commissioner Singleton asked if the definition of payday loan could be looked at.

Mr. McCullough said it could be added to the list of Text Amendment topics to look at.

Commissioner Rasmussen said the by-laws should include the practice of voting/not voting if not present for an entire presentation.

Commissioner Finkeldei said in his opinion Commissioners should not vote without listening to public comment or applicant presentation.

Commissioner Harris said there would be no point in having a public hearing if Commissioners could vote without hearing the applicant presentation and public comments. She said the purpose of the meeting is to gather other information.

Mr. Miller said that disclosing ex parte is part of the process and is disclosed before the public hearing.

#### **MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

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**Recess at 8:42pm until 6:30 P.M. on January 28, 2009.**

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Reconvene January 28, 2009 – 6:40 p.m.

Commissioners present: Blaser, Dominguez, Finkeldei, Hird, Rasmussen, Singleton and Student  
Commissioner Shelton

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

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**BEGIN PUBLIC HEARING (JANUARY 28, 2009):**

**COMMUNICATIONS**

No communications.

**EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- No ex parte.
- No abstentions.

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**ITEM NO. 8      A TO B-2; 58.99 ACRES; N 1800 ROAD & E 700 ROAD (MKM)**

**Z-11-19-08:** Consider a request to rezone 58.99 acres located northeast of the intersection of N 1800 Road & E 700 Road, S of Lecompton from A (Agricultural) to B-2 (General Business District). Submitted by Paul Werner Architects, for Rockwall Farms L.C., property owner of record. *Joint meeting with Lecompton Planning Commission.*

**APPLICANT PRESENTATION**

Mr. Paul Werner, Paul Werner Architects, requested a deferral.

**ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner Singleton, to defer Rezoning Z-11-19-08 until the February 23, 2009 Planning Commission meeting, per the applicants request.

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**ITEM NO. 9      VARIANCE RELATED TO HALLMARK ADDITION, 2<sup>ND</sup> PLAT  
MINOR SUBDIVISION; 101 MCDONALD DRIVE (MKM)**

**MS-09-10-08:** Variance requested from right-of-way requirement in Section 20-810(d)(4)(i) of the Subdivision Regulations. The variance is associated with the Hallmark Minor Subdivision. Submitted by Landplan Engineering for Hallmark Cards, Inc. and Downtown Equities, II, L.C., property owners of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Paul Werner, Paul Werner Architects, agreed with staff report. He said it is a tremendous amount of work to do a variance and thought there should be a simpler way to do a variance.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner Dominguez, to approve the variance request to permit the right-of-way for N Iowa Street.

Unanimously approved 6-0, with Student Commissioner Shelton voting in favor.

PC Minutes 1/28/09

**ITEM NO. 10 OREAD NEIGHBORHOOD PLAN UPDATE (MJL)**

Receive update memo regarding the Oread Neighborhood Plan update and initiate a Comprehensive Plan Amendment for an Amendment to Chapter 14, list of specific plans to add a reference to the Oread Neighborhood Plan and incorporate the plan by reference.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Singleton, seconded by Commissioner Blaser, to initiate the Comprehensive Plan Amendment for an amendment to Chapter 14-Specific Plans, to add a reference to and incorporate the updated Oread Neighborhood Plan.

Unanimously approved 6-0, with Student Commissioner Shelton voting in favor.

PC Minutes 1/28/09

**ITEM NO. 11 PLANNING COMMISSION BY-LAWS**

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

*Deferred until the February 23, 2009 Planning Commission meeting.*

Consideration of any other business to come before the Commission.

**PUBLIC COMMENT SECTION**

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**ADJOURN 7:00pm**