



## **PLANNING COMMISSION MEETING**

**February 23, 2009**

### **Meeting Minutes**

---

February 23, 2009 – 6:30 p.m.

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

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

---

### **MINUTES**

Receive and amend or approve the minutes from the Planning Commission meeting of January 26 & 28, 2009.

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

Motioned by Commissioner Moore, seconded by Commissioner Harris, to approve the January 26 & 28, 2009 Planning Commission minutes with the suggested changes by Commissioner Harris.

Motion carried 6-0-1 with Commissioner Chaney abstaining since he was absent from the January Planning Commission meeting. Commissioner Singleton was not present for the vote.

### **COMMITTEE REPORTS**

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

Commissioner Moore said the Transportation Advisory Committee met with Kansas Department of Transportation officials who discussed possible projects that could be funded through the stimulus bill.

Commissioner Moore said the Industrial Committee did not meet but there were a few emails regarding getting the guidelines out to individuals of the community. He stated the committee would meet in March.

Commissioner Harris said the Comprehensive Plan Committee met last week but she was not able to attend.

Commissioner Rasmussen attended the Comprehensive Plan Committee and said there was a presentation from Mr. Robert Wagner, International Dark Skies Association, discussing light pollution and how ordinances could be drafted to address it. There was also a presentation from a City staff member about refuse collection and recycling. The committee also submitted first draft of language for water resources.

### **COMMUNICATIONS**

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

### **EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- No ex parte.

- No abstentions.

PC Minutes 2/23/09

**ITEM NO. 1      A TO B-2; 58.99 ACRES; N 1800 RD & E 700 RD (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.* Deferred from the January 2009 Planning Commission meeting.

*Item No. 1 was deferred prior to the meeting.*

Mr. Scott McCullough said that the applicant deferred the item because the Lecompton Planning Commission did not have a quorum.

PC Minutes 2/23/09

**ITEM NO. 2      AMENDMENTS TO DEVELOPMENT CODE (DDW)**

**TA-1-1-09:** Consider amending various sections of Chapter 20 to reference the recently adopted Lawrence SmartCode which become effective on 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 may require amending include, but may not be limited to, Article 1, 2, 6, 7, 10, 11, 13, 14 and 17. Initiated by the Planning Commission on 1/26/09.

**STAFF PRESENTATION**

Mr. Dan Warner presented the item.

Commissioner Harris asked if the descriptions of the districts came from the SmartCode.

Mr. Warner said yes, for the most part.

Commissioner Harris inquired about the language 'irrigable deserts' in section 20-224(a)(2)(iii).

Mr. Warner said that the term is standard but that Douglas County does not really have irrigable desert, but that could be possible in the future.

Commissioner Harris asked if the Special Urban Center zone was referring to an existing downtown area.

Mr. Warner said that only applies to downtown Lawrence.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Harris, to approve the proposed amendments [TA-1-1-09 to reference the recently adopted Lawrence SmartCode] to Chapter 20, Development Code, with the removal of the language 'irrigable deserts' from section 20-224(a)(2)(iii), and forward to the City Commission. The sections being amended are 20-201(b), 20-224, 20-601(b), 20-1306(a) and (b), and 20-1402(f) and (g).

Unanimously approved 7-0.

PC Minutes 2/23/09

**ITEM NO. 3      AMENDMENTS TO DEVELOPMENT CODE (JCR)**

**TA-1-2-09:** Consider amending 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. Initiated by the Planning Commission on 1/26/09.

**STAFF PRESENTATION**

Mr. Joseph Rexwinkle presented the item.

*Commissioner Singleton arrived at the meeting at 6:45pm.*

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Carter, to approve the proposed amendments to Section 20-1301, TA-1-2-09 to Chapter 20, Development Code and forward to the City Commission.

Motion carried 7-0-1, with Commissioner Singleton abstaining.

PC Minutes 2/23/09

**ITEM NO. 4 SITE PLAN PROCESSING REPORT**

**Receive Site** Plan Processing Report prepared by Planning Staff to review 2008 applications.

**STAFF PRESENTATION**

Mr. Scott McCullough presented the item. He went over the memo that was included in the pc packet.

Commissioner Rasmussen inquired about the comments in the memo regarding Olathe, Overland Park, Leawood, and Spring Hill.

Mr. McCullough said they have a process where the preliminary and final Site Plans are reviewed and/or approved by the Planning Commission instead of administratively approved like Lawrence. He stated he received the information on their websites.

Commissioner Harris inquired about the process time.

Mr. McCullough said typically staff needs time to review a project to get it code compliant before it is reviewed by Planning Commission and/or City Commission, which typically adds more time to a project.

Commissioner Harris asked if staff had any information about how long Site Plans take in other nearby communities.

Mr. McCullough said he did not know. The previous process of Lawrence Site Plans included taking them to the governing bodies in 80 days. Some of the Site Plans on the list were large in scope and some of them were not. He stated that smaller ones would have most likely taken around 39 days versus the 80 day level for larger Site Plans. Staff feels

Mr. McCullough said that there tends to be some spotlight issues in the Development Code that staff hope to work on in the coming year. He stated that Lawrence processes plats a little reverse of what other communities do where the Preliminary Plat is the general platting layout scheme. The dedication of easements and right-of-way are looked at with the Final Plat and that then goes to the governing body for acceptance. He stated that Lawrence may go back to a more conventional system.

Commissioner Carter asked staff to discuss the League of Women Voters letter.

Mr. McCullough said that when the SmartCode process went through the notification area was expanded to 500'. The Development Code still states to notify adjacent property owners. He gave examples of O'Reilly Auto Parts and Boardwalk Apartments that staff worked with the neighborhood on issues they had. He stated that in his opinion the adjacent notification works but there would be no harm in extending the notification area.

Mr. McCullough said some of the issues with the current Development Code were revised in the SmartCode and it would be good to go back and make changes to the current Development Code. The property owners do have an opportunity to review the final site plan by involving themselves in the process. Neighbors have the opportunity to make an appeal to City Commission for a Site Plan. Out of 115 site plans reviewed last year there were no appeals made.

Commissioner Carter inquired about the appeal process being made more clear.

Mr. McCullough stated the language in Site Plan letters the applicant sends to property owners includes required language from the Development Code. Some of that language was revised in the SmartCode to advise property owners about their right to appeal. He stated that the number of days for appeal process can be worked on if they governing body wishes.

Commissioner Finkeldei said if the appeal process was ten business days there would be two weekends included but if there were only nine days to appeal then there would be only one weekend.

Mr. McCullough said that the League of Women Voters had legitimate concerns and the same concerns were expressed with the creation of the SmartCode, which included changes that have not yet caught up with the Development Code.

Commissioner Rasmussen asked if the site plan process was different than the preliminary plat process.

Mr. McCullough said yes, the plat lays out the lot layout and boundaries, whereas the site plan is the development process that locates buildings on the lot once the lot is created by the plat. He went on to say that site plans look at the entire development from the ground up.

Commissioner Rasmussen asked if a site plan is used to approve the start of construction.

Mr. McCullough said that if development is looked at in a linear way then typically the zoning entitlement, and/or platting would occur at the same time to create the lots. Next the site planning process would occur and then once that is approved the building permits, inspections, and certificate of occupancy can be issued.

Commissioner Rasmussen inquired about the number of preliminary plats versus site plans.

Mr. McCullough said that site plans are done much more often because most of the lots in the city have already been platted, but occasionally they need to be replatted.

Commissioner Finkeldei asked if the number of plats was less than 50.

Mr. McCullough said he did not have that information in front of him but that platting is a small fraction compared to site planning.

Commissioner Finkeldei inquired about the average of 39 days and if staff had a goal to do better/worse/or stay the same.

Mr. McCullough said the staff goals have more to do with the front end process to get the application going and get the initial set of review comments to the applicant.

Commissioner Rasmussen said he has heard comments from developers and an attorney friend suggesting that there is a lot of information that has to be provided up front along with a lot of up front investment. He asked if there was more of a preliminary approval that the applicant could show lenders.

Mr. McCullough said it would matter a little bit on the type of development. Once at the site plan stage the applicant should be ready to build and looking to get building permits next. He said that staff also does a lot of informal reviews and staff will walk through preliminary plans and let the applicant know the major challenges with the property that would need to be addressed. That is the best compromise staff has right now because the applicant would not have to spend a lot of money on engineering.

Commissioner Rasmussen said that as staff moves forward in looking at the issue he would like to hear from lenders, possibly a mid-month meeting topic.

Commissioner Blaser inquired about Paul Werner's questions regarding the release date.

Mr. McCullough said the total review time in business days for a Site Plan is the time it is approved by Planning staff and sent to the applicant. Typically it will have conditions on it, which can either be minor or substantial conditions. Once the applicant satisfies the conditions, Planning staff releases it to Development Services for the building permit issuance. Staff encourages applicants to get their building permit paperwork submitted to Development Services early since it can take a few days, or up to 20 days for a Commercial project, to be reviewed.

Commissioner Harris asked if the number of conditions have been a point of contention with developers.

Mr. McCullough said staff have worked on a few cases where the applicant has respectfully challenged the conditions, but for the most part if staff knows a condition is going to be a deal killer for the applicant then staff will have worked through that. Of the 115 Site Plans submitted in 2008 there were none appealed to the City Commission.

Commissioner Harris said the report was thorough, easy to read, and really well done.

#### **PUBLIC HEARING**

No public comment.

#### **NO ACTION TAKEN**



PC Minutes 2/23/09

**ITEM NO. 5      MATRIX STUDY STATUS REPORT**

**Receive** Matrix Study Status Report. Planning & Development Services Staff has recently completed a status report on the recommendations of the *Management Study of the Development Review Process* prepared by the Matrix Consulting Group for the City Commission in November 2006.

**STAFF PRESENTATION**

Mr. Scott McCullough presented the item. He went over the memo.

Commissioner Harris inquired about the education of the Planning Commission. She said the memo discussed a detailed review of the meeting schedule and agenda management process and that it was marked down as being implemented. She questioned when that was done.

Mr. McCullough said his understanding was that staff did that prior to his employment through some of the by-laws. He stated the agenda had been worked out to be what the process is today.

Commissioner Finkeldei said the matrix report was meant to manage the agendas so that the meetings did not go until 3:00am.

Mr. Dave Corliss said that was where the two monthly Planning Commission meetings came from.

Commissioner Harris inquired about having discussions with the City and County officials about the role of the Planning Commission.

Mr. McCullough said the reason it was marked as being implemented was because discussions with City and County officials were a part of the annual training for Planning Commissioners. There have also been joint meetings in the past that have not always been well attended by different bodies.

Commissioner Harris said that when the Site Plan for Kwik Shop at 9<sup>th</sup> & Massachusetts was being worked on one of her neighbors asked her what was going on because the posted signs at the site were not detailed. She said she could not find on the Planning website the status of the Site Plan.

Mr. McCullough said there is currently no better way to find out the status of a Site Plan other than to call the Planning office because the status can change so quickly.

Commissioner Moore asked if the HTE software would better track Site Plans.

Mr. McCullough said the new Access database would help in tracking the Site Plan process.

Commissioner Finkeldei asked if there was a goal for approving Site Plans within a certain amount of days.

Mr. McCullough said Site Plans are process a little different and consist more of a 2-3 week time frame. He stated that in 2008 staff attempted to reduce deferrals to the Planning Commission and he felt they had done that. Staff has been meeting more with applicants to address possible issues to try and work out any issues ahead of time.

Commissioner Rasmussen said on the training section of the memo it states that there is budget to send two staff members and two Planning Commissioners to the American Planning Association conference in

Minneapolis. He wanted to correct the record to say two staff members and one Planning Commission member because his employer will be paying for 100% of his American Planning Association trip.

Mr. Dave Corliss, City Manager, said one of the things that is important in City Hall is to continuously improve the process and one of the missions is to try and make City Hall business friendly while still achieving substantial goals as a community. He said that it has been heard that sometimes the planning process is not business friendly but staff are trying to attack that through City Hall values. One of those is transparency and City Hall is trying to make progress on transparency. One of the ways that has been done is by having the Planning Commission packet be web based. Ideally staff would like for every application submitted and staff reports to be on the website so they can be tracked and take away some of the mystery of the decision making process. Staff is trying to make progress on the matrix and it is difficult due to staffing challenges. He stated that the goal for site plans is not known yet because the process of counting them has just begun and staff need to try and establish that. He said that the way to do that is to have substance to have merit that City Hall is business friendly and trying to move projects forward. He felt the way to get at that issue is with results and transparency and the matrix are results. Some projects are complicated and take longer than others. It is important as an organization to work on these things. He said he was looking for thoughts or ideas on how to continuously improve that process.

Commissioner Harris agreed with Mr. Corliss and said that it was helpful for the Planning Commissioners to know the process especially when approached by members of the public.

Mr. Corliss said the goal is to have good data. He did not think they should have to apologize for having standards. He said he was glad the City has landscaping standards and historic preservation standards. He said that maybe they should look at values that they may not want to pay attention to as much.

Commissioner Carter felt this was a great start and said it would be helpful for goals to be established and he would love to be able to say that Lawrence averages x number of days shorter for review as compared to another community.

Mr. Corliss said the City is just starting the accounting process.

Commissioner Finkeldei said that during his time on the Planning Commission the number of contentious conditions and the number of deferrals have decreased due to issues being worked on before it is heard by Planning Commission.

Commissioner Harris agreed with Commissioner Finkeldei and said that the explanations in staff reports have improved.

## **PUBLIC HEARING**

No public comment.

## **NO ACTION TAKEN**

PC Minutes 2/23/09

## **ITEM NO. 6 PLANNING COMMISSION BY-LAWS**

Consider changes to the Planning Commission by-laws related to Ex Parte Communications, Conflicts of Interest and Abstentions. Deferred from the January 2009 Planning Commission meeting.

### **STAFF PRESENTATION**

Mr. John Miller presented the item. He went over the memo that was included in the Planning Commission packet.

### **PUBLIC HEARING**

No public comment.

### **COMMISSION DISCUSSION**

Commissioner Harris had a comment about Article VII, Section 7 on page 10 of the By-Laws document. She suggested the words '*by the relevant governing body(s)*' be added because some projects are heard by City and County Commission.

*Section 7. Commissioners continue to be subject to the ex parte disclosure requirements until a 'final action of approval' has been taken **by the relevant governing body(s)** on an active request.*

Mr. Miller said that change could be made to the by-laws. He stated that the way it is written it refers back to Article VII, Section 1C where 'final action of approval' is defined:

C. ACTIVE REQUEST. An item is an active request until such time as the Planning Commission has completed deliberations on the item, forwarded a recommendation to the Governing Body(ies) and a 'final action of approval' has been taken. A 'final action of approval' shall be construed to mean, for the purposes of this document, the adoption of an ordinance or resolution by the Governing Body(ies) to enact a zoning or text change, the filing of a plat or development plan at the Register of Deeds, the denial of a request, or the issuance of a building permit based on an approval of an "active request." An item is an active request at least from the time that any filing or request is received by the Planning Office, or any action has been initiated by the Planning Commission or by a Governing body.

Commissioner Finkeldei said it would help to put quotes around 'active requests' to help direct readers back to the definition.

Mr. John Miller said he could also put that 'active requests' is defined in sub-section C.

Commissioner Rasmussen felt that in the coming year they should address the abstention issue if a Commissioner is not present for the public comment or if a Commissioner is only present for one meeting and the vote is taken on another evening. He felt they should talk more about these issues.

Mr. Miller said he had already exchanged potential language changes with Mr. McCullough but that it was not included in the review of the by-law changes this time because that was not originally included in the January submission. He stated that the issue could be brought back to Planning Commission at a future meeting.

### **ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Chaney, to approve the Planning Commission by-laws related to Ex Parte Communications, Conflicts of Interest and Abstentions, with the

addition of quotation marks in Article VII, Section 7 around the words 'active request' and language added '(as defined in sub-section C)':

*Section 7. Commissioners continue to be subject to the ex parte disclosure requirements until a 'final action of approval' has been taken on an **'active request' (as defined in sub-section C)**.*

Unanimously approved 8-0.

PC Minutes 2/23/09

**MISCELLANEOUS NEW OR OLD BUSINESS**

**MISC NO. 1**      Memo regarding Gateways & Boulevards Committee.

Motioned by Commissioner Rasmussen, seconded by Commissioner Moore, to defer Miscellaneous Item No. 1 due to Commissioner Hird being absent from the meeting.

Motion carried 8-0.

Consideration of any other business to come before the Commission.

**PUBLIC COMMENT SECTION**

---

**ADJOURN 7:55pm**