

**ITEM NO. 4 CPA-3-2-09; AMENDMENT TO HORIZON 2020, CHAPTERS 4 & 6 (DDW)**

**CPA-3-2-09:** Comprehensive Plan Amendment for revisions to Horizon 2020 Chapter Four – Growth Management and Chapter 6 – Commercial Land Use to expand the possible locations of conference, recreation, or tourism facility uses in the rural area of Douglas County. Initiated by the Planning Commission on April 20, 2009. Requested by Rockwall Farms, LC.

**STAFF PRESENTATION**

Mr. Dan Warner presented the item.

Commissioner Hird inquired about direct access to arterial roads. He asked how this would work for agri-tourism that are on farms, not on arterials.

Mr. Warner said driveways accessing the road.

Commissioner Hird said his neighbors have a vegetable stand in the country that is rural natured and more tied to agriculture than commercial activity. He wondered how the two can be differentiated.

Mr. Warner said it is a scale issue and this amendment talks about large facilities. The differentiation could come with different definitions.

Mr. McCullough said he was not sure the language in the Comprehensive Plan was speaking to the agricultural side of the equation in terms of land use. Staff was trying to build on the heritage area. When staff reviewed the language, commercial areas are very limiting in the county and tend to take advantage of the lakes but not the other elements of the rural setting.

Commissioner Hird said by adopting this he wanted to be sure that agri-tourism would not be precluded.

Mr. McCullough said that is one of the scale issues that has been discussed and maybe needs to be clarified in the language.

Commissioner Harris asked if this could be used by other types of development such as an amusement park. She asked if it would be considered commercial or recreational.

Mr. McCullough said it depends on how the Planning Commission and County Commission judge these policies in the comprehensive plan to know when a project comes in whether or not it meets the spirit and intent of this. Staff tried not to get into the list of uses in the comprehensive plan but it needs to show integration with the natural resources in the rural environment.

Commissioner Rasmussen asked if this would affect uses like a pumpkin patch. He asked if it would need to be on an arterial road now.

Mr. McCullough said he did not think that was the intent of it but the language can be clarified if needed.

Commissioner Rasmussen asked why there was a separation recommendation of 3 miles.

Mr. Warner said that concern was raised and the 3 miles was an attempt to limit it in some manner. Chapter 6 already provides separation for commercial uses in the City.

Commissioner Harris asked if there is acreage in mind with the projects.

Mr. Warner said no.

## **APPLICANT PRESENTATION**

Mr. Paul Werner, Paul Werner Architects, gave examples of how the buffer grows the site. He gave the example of a proposed 10 acre site with a 200' buffer would grow to almost 25 acres which would provide adequate protection for area residents. Small Conditional Use Permits would not be part of the 3 mile criteria, only projects with larger scale required loans. He stated that the Conditional Use Permit recently approved for a wedding event site would not be applicable.

Commissioner Rasmussen asked why he thought the wedding site would not be applicable.

Mr. Werner said the 3 mile radius is not the applicable part, the facility falls into a smaller category that they are willing and able to function under a Conditional Use Permit.

Commissioner Harris asked if one of the reasons he was seeking this is to protect the investment of a new building.

Mr. Werner said that was correct.

## **PUBLIC HEARING**

Ms. Kim Richter, Lecompton, said she did not think the 3 mile radius buffer was good because it would prevent similar businesses from locating together.

Ms. Betty Lichtwardt, League of Women Voters, said they support the idea presented but have objected to the process because of consequences. She urged caution with the language and recommended the Planning Commission choose a different zoning ordinance than those available now.

Commissioner Dominguez asked Ms. Lichtwardt to give an example of detriment she mentioned.

Ms. Lichtwardt gave the example of Nieder Acres that was changed from residential to commercial.

Mr. Matt Gough, Barber Emerson on behalf of the applicant, said the Comprehensive Plan Amendment is a solution to a long dilemma. A Conditional Use Permit does not work for large investments.

Commissioner Rasmussen asked what language prevents it from applying to smaller recreation, agri-business activities.

Mr. Gough said Chapter 6 references to commercial zoning requests. Conditional Use Permits are allowed in agricultural zoning.

Commissioner Rasmussen expressed concern about a broad amendment that applies to everything.

## **COMMISSION DISCUSSION**

Commissioner Harris inquired about noise. She asked if a facility with motorcycles or ATV's could be placed at such sites as a recreational facility.

Mr. McCullough said the language does not address every type of land use impact.

Commissioner Rasmussen said he was uncomfortable with vague language subject to staff interpretation.

Commissioner Finkeldei said they are not writing a code here, it is the comprehensive plan and we want to set out what the principles are.

Mr. McCullough gave example of automobile race track in a different jurisdiction that was located where the comprehensive plan said a large scale recreational area should locate but after several studies on noise it was found to be detrimental to the community.

Commissioner Finkeldei said he did not like the 3 mile separation because it was too much like a code.

Commissioner Hird felt the 3 mile limit was arbitrary.

Commissioner Finkeldei suggested in Chapter 4 adding the word 'significant' and changing the period at the end of the sentence to a comma, *'There are a few locations, however, in the Rural Area which may be expected to receive some **significant** level of urban development consistent with the Plan, these include...'* He also suggested switching section D to A to highlight it. He suggested eliminating the 3 mile buffer and just state *'appropriate separation should be determined by the Board of County Commissioners.'* He suggested in the new section of Chapter 6 that it state *'Conference recreational tourism uses located in the rural area, and which included some **significant** level of urban development, shall satisfy the criteria listed in Chapter 4.'*

Commission Harris said she could not support what Commissioner Finkeldei said because there is no criteria to base it on. She would support including language that gets at staffs concern and wish to have some kind of separation of these significant developments but without having an arbitrary number associated with it. She felt they needed to articulate why having a separation requirement was important.

## **ACTION TAKEN**

Motioned by Commissioner Singleton, seconded by Commissioner Dominguez, to approve CPA-3-2-09 amending Horizon 2020 Chapter 4, Growth Management and Chapter 6, Commercial Land Use to expand the possible locations of conference, recreation, or tourism facility uses in the rural area of Douglas County, and recommends forwarding this comprehensive plan amendment to the Lawrence City Commission and the Douglas County Board of County Commissioners with a recommendation for approval.

Commissioner Rasmussen said he would vote against the motion but would be willing to vote for something that included the suggested language by Commissioner Finkeldei.

Commissioner Singleton revised her motion to add the language to Chapter 4 and 6 suggested by Commissioner Finkeldei:

Chapter 4 – *'There are a few locations, however, in the Rural Area which may be expected to receive some **significant** level of urban development consistent with the Plan, these include...'*

New section of Chapter 6 – *'Conference recreational tourism uses located in the rural area, and which included some **significant** level of urban development, shall satisfy the criteria listed in Chapter 4.'*

Seconded by Commissioner Dominguez.

Commissioner Hird said it was better than nothing but he was afraid it was excluding that there is an implication that only significant development is to ever be allowed. He said he would support the language.

Commissioner Harris said she would like to support the motion but felt language should be added about why it is important to have a separation requirement.

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

Motioned by Commissioner Singleton, seconded by Commissioner Dominguez, to approve and sign Planning Commission Resolution 5-3-09.

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