

## **PLANNING COMMISSION MEETING**

**September 21, 2009**

### **Meeting Minutes**

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September 21, 2009 – 6:30 p.m.

Commissioners present: Blaser, Carter, Chaney, Dominguez, Finkeldei, Harris, Hird, Moore, Singleton, and Student Commissioner Shelton

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

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### **MINUTES**

Receive and amend or approve the minutes from the Planning Commission meetings of August 24 & 26, 2009.

Motioned by Commissioner Finkeldei, seconded by Commissioner Harris, to approve the August 24 & 26, 2009 Planning Commission minutes.

Motion carried 7-0-1, with Commissioner Singleton abstaining. Student Commissioner Shelton voted in favor. Commissioner Carter was not present for the vote.

### **COMMITTEE REPORTS**

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

Commissioner Blaser said the Industrial Design Committee met and it has been a struggle to try and fit all three categories of industry but that they are getting closer and that information should be out soon.

Commissioner Harris Comprehensive Plan Committee received a communication from Mr. Scott McCullough about the Environmental Chapter and they will see a very rough draft of the entire chapter within a week or so and continue from there.

### **COMMUNICATIONS**

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

No written action of any waiver requests/determinations made to the City Engineer.

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

- No ex parte.
- No abstentions.

**ITEM NO. 1      FINAL PLAT FOR BAUER FARM; 19 ACRES; NW CORNER OF W 6<sup>TH</sup> ST & FOLKS RD (MKM)**

**PF-7-3-09:** Consider a Final Plat for Bauer Farm Second Plat, a 19.063 acre, 73 lot subdivision located at the NW corner of W 6<sup>th</sup> Street & Folks Road. Submitted by Landplan Engineering, for Free State Holdings Inc and Bauer Farm Residential LLC, property owners of record.

**ACTION TAKEN**

Motioned by Commissioner Singleton, seconded by Commissioner Chaney, to approve the Final Plat for the Bauer Farm 2<sup>nd</sup> Plat Subdivision and forwarding it to the City Commission for acceptance of easements and rights-of-way, subject to the following conditions:

1. Revision of the final plat to include the following:
  - a. Revise the utility easements to reflect the latest revised utility layout plan (dated 8/5/09) for the Bauer Farm Residential Final Development Plan.
  - b. Label the items which are dimensioned as 15 ft and 11 ft in Lot 1 Block 7.
2. Provision of the following fees and documentation:
  - a. Recording fees made payable to the Douglas County Register of Deeds.
  - b. A completed and revised Master Street Tree Plan which includes a graphic depicting the trees, sizes, species and also the distance from the trees to the nearest utility line. (underground)
  - c. A Temporary Utility Agreement.
  - d. Street sign fees as determined by the City Traffic Engineer.
3. Pinning of lots in accordance with Section 20-811(g)(8) of the Subdivision Regulations.
4. Provision of address assignment scheme.

Submission of public improvement plans prior to the recording of the Final Plat with the Register of Deeds Office.

Unanimously approved 9-0, as part of the Consent Agenda. Student Commissioner Shelton voted in favor.

**ITEM NO. 2      RSO TO RM15; 10.97 ACRES; 4300 W 24<sup>TH</sup> PLACE (SLD)**

**Z-7-11-09:** Consider a request to rezone approximately 10.97 acres, located on SE corner of Inverness and Clinton Pkwy at 4300 W 24<sup>th</sup> Place, from RSO (Single-Dwelling Residential Office) to RM15 (Multi-Dwelling Residential). Submitted by BG Consultants Inc, for Inverness Park LP, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

Commissioner Dominguez inquired about the communication that referred to 'overbuilding.'

Ms. Day said that staff has not done a specific analysis.

Mr. McCullough said that Planning does not track the apartment vacancy rates.

**APPLICANT PRESENTATION**

Mr. David Hamby, BG Consultants Inc, briefly went over the proposed rezoning. He explained they would be 6-8 unit/townhouses geared toward young professionals. There will be no pool or clubhouse.

Commissioner Carter asked if it was not anticipated to be student housing.

Mr. Hamby said the developer is not anticipating students since there will not be a pool. The developer anticipates young professionals, graduate students, or people in a transition living stage.

Commissioner Moore asked how many units there would be.

Mr. Hamby said 164 bedrooms/units.

No ex parte communications.

**PUBLIC HEARING**

Ms. Lori Sinclair, 4400 W 24<sup>th</sup> Place, said she lives across the street from the proposed rezoning. She said she is not opposed to the rezoning but was opposed to more apartments and was concerned about added traffic and buses. She was also concerned about the increase in noise and parties. She said there are already three other apartment complexes in the area. She expressed concern for the safety of children playing in the area if the traffic increased.

Commissioner Hird asked which direction Ms. Sinclair lives from the property.

Ms. Sinclair said she lives on W 24<sup>th</sup> across from the empty lot.

Commissioner Carter asked staff about the access.

Ms. Day said there will be no access to Clinton Parkway or Inverness, only on W 24<sup>th</sup> Place. She said the Traffic Impact Study has been reviewed and no issues were identified.

Commissioner Carter asked if those streets could handle more traffic.

Ms. Day replied yes.

Commissioner Blaser inquired about landscaping.

Ms. Day said staff asked the developer to extend the same median and side yard treatments and that it is something that is still being worked on for the Site Plan.

Mr. McCullough said that staff have a Site Plan application in the office that is being reviewed. He stated that the property owners have the opportunity to work with staff on the Site Plan and the option to appeal the Site Plan decision. He stated staff is hopeful that proper landscaping will be along the west edge. He urged the applicant to meet with neighbors on such issues.

Commissioner Hird asked if the current Site Plan that staff received extends the landscaping.

Ms. Day said it does not currently but staff have requested that from the applicant.

### **COMMISSION DISCUSSION**

Commissioner Harris inquired about the intention for RSO zoning and the vision for the neighborhood.

Ms. Day said the RSO zoning came about when the City adopted the 2006 Development Code. Before that the property was zoned RO1B and was intended as a mixed-use transition land use. Beyond that there was no more detail. She said the RSO district is considered a transitional zoning.

Commissioner Harris asked if the number of dwelling units would be the same.

Ms. Day said the gross density is the same. In order to achieve the same density there would probably be more units on smaller lots.

Commissioner Harris asked if it was possible in the RSO district to have small lot development and asked where office use would go.

Ms. Day said yes. Offices could either be a segment or incorporated, the office would be the ground floor use and the multi-family could be the second story.

Commissioner Harris asked if RSO single dwelling meant single ownership of the building.

Ms. Day said it does not necessarily have to be single ownership but it gets at single dwelling being on its own individual lot. So if someone were to build the same type of development that the applicant has then somebody could own all six or eight of those units and still rent them out. Each unit would be on its own individual lot. She said the difference is in form.

Commissioner Dominguez inquired about traffic access from Clinton Parkway.

Mr. Hamby showed the Site Plan on the overhead.

Mr. McCullough reminded them that this is a rezoning issue and the Site Plan could be replaced. He encouraged them to look at the use table and see if the uses are appropriate for the site, not just look at a Site Plan that could change.

Commissioner Dominguez said the rezoning made the project seem like a 'done deal.' He expressed safety concerns about the school children walking in the area.

Commissioner Hird asked if the same density would be allowed in the RSO and RM15 districts.

Mr. McCullough said RSO is geared toward single family type development with individual lots and public streets, RM15 is geared toward multi-dwelling type development with private streets. The

difference is in design. In this instance the owner has chosen a type of structure that both districts permit but in different ways. Both districts have the same maximum density, 15 units per acre.

Student Commissioner Shelton inquired about the traffic study.

Mr. McCullough said traffic studies go with the use that's developed and with a rezoning the use isn't always known. Traffic studies go toward the Site Plan once it has been created and shows exactly what the use is. The traffic study helps staff determine if additional improvements are warranted at the property.

Commissioner Carter said the rezoning seems appropriate with the location to arterial streets but inquired if the traffic would be reviewed at the site planning stage.

Mr. McCullough said the traffic is under review now and it is likely there would not be any further improvements necessary and that the location is capable of handling the traffic created at this site. He said if traffic becomes an issue during the site planning process it could require some sort of improvements or less density, but that would probably work its way to the City Commission level.

Commissioner Finkeldei said that traffic is always a concern, but that office use could generate significant more traffic than an apartment complex. He stated that RSO could have uses that have higher traffic generators. He said that RSO could be a lot of things, whereas RM15 is only going to be apartments. He asked if child care was an allowed use in the RSO zoning district.

Mr. McCullough replied yes.

Commissioner Finkeldei felt it was unlikely that this would ever develop into a predominately single family area.

Commissioner Singleton agreed with Commissioner Finkeldei. She said the area of land was very unattractive and something needs to go there and there is nothing that will abut onto Clinton Parkway that would be the type of low traffic, large lot housing development that an adjacent property owner might want. She said small units could be good for the area and could be directed toward young professionals. She felt it was a good site plan and she asked staff to make sure the west side had appropriate landscaping. She liked the fact that there would only be two access points.

Commissioner Harris said she was hesitant about taking out the opportunity for office development in that area but that Commissioner Finkeldei had a valid point about some offices generating a lot of traffic.

Commissioner Hird said it was unfortunate they could not see the specific site plan. He expressed concern about traffic especially with children walking in the area, but that the same risk exists with either RSO or RM15 zoning. He said Commissioner Finkeldei raised a good point that there are office uses that would make traffic worse. He hoped that proper landscaping on the west could help abate noise issues. He felt they were reaching the saturation point in this area but that he would approve the rezoning with some hesitation.

Commissioner Blaser agreed that there are a lot of apartments in the area. He felt that most of the traffic in that area will go east so he did not know that Inverness will be affected that much. He liked this layout better than RSO where there might be 2-3 story buildings. He said they will almost be hidden from Clinton Parkway with their elevation.

Commissioner Harris asked what the maximum height could be allowed in the new zoning.

Ms. Stogsdill said 45' in RM15 and 35' in RSO.

### **ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to approve the rezoning request [Z-7-11-09] for 10.97 acres from RSO (Single-Dwelling Residential-Office) to RM15 (Multi-Dwelling Residential) and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Commissioner Dominguez expressed concern about traffic and the safety of school children walking in the area. He said that office use might have traffic at only specific times. He felt the area was saturated with apartments and suggested that City Commission start tracking the amount of apartments being built. He said he would support the rezoning but with hesitation.

Motion carried 8-1, with Commissioner Harris voting in opposition. Student Commissioner Shelton voted in favor.

**ITEM NO. 3      COMPREHENSIVE PLAN AMENDMENT (MJL)**

**CPA-6-3-09:** Consider Comprehensive Plan Amendment to Chapter 3 to remove the "Table of Land Use Categories & Locational Criteria." Initiated by the Planning Commission on June 24, 2009 as part of the Annual Review of the Comprehensive Plan.

**STAFF PRESENTATION**

Ms. Michelle Leininger presented the item.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Harris asked Ms. Leininger what map she was referring to.

Ms. Leininger said Future Land Use Map 3-2 and showed the map on the overhead projector.

Commissioner Harris asked where all of the information in the table that talks about relationship with land uses would go, if the table is taken away.

Ms. Leininger said all the information is in various places within the Comprehensive Plan. She said when looking at the table, the second category regarding the extent relationship of land uses references different page numbers. She stated the problem was that it described things in the different columns but it may not be what is in the current chapter because the tables were not updated with the chapter updates, so there is a conflict if people are referencing the table.

Commissioner Finkeldei said it is obviously out of date and there are two choices; remove it or update it. He asked why the map could not be updated instead of removing it.

Mr. McCullough said there needed to be a table or map to summarize all of the policies of the comprehensive plan. At one point there was no map, only the table and when the map was brought in the table was not remove. Staff has been updating chapters and policies within those chapters through the years and the map is more reflective through sector planning which has been brought into Chapter 14 so the table has not been updated. Staff does not believe it is valid in the plan because the chapters and policies are updated and there are land use maps that accompany those policies.

Commissioner Harris said that some of the paragraphs do not have citations so she wanted to be sure even though it is not in there that the information will not be lost.

Mr. McCullough said the table and future land use map are not meant to be the end all to the policies in the context of the goals and policies. The comprehensive plan works by going to those chapters and reading the goals and policies in their full depth to understand the value of those goals and policies. He stated the map was meant to pull those all together into one place but all of the information needed in the comprehensive plan is in the appropriate chapters.

Ms. Leininger said the table is lacking a lot of information and to be referencing it would not be using the correct information.

Ms. Stogsdill said that when the comprehensive plan was first adopted the referenced page numbers would direct you to the information. She said it was a directive from the city attorney because staff had not prepared a map so a guide was needed to build a map that could say this is where those areas are in the comprehensive plan. She stated that having this kind of information in two places is

inherently risky because if you update one place and not update the other then it can be confusing. She said the table was a placeholder until a map was developed and for whatever reason it was not removed once the map was created.

#### **ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve the comprehensive plan amendment to Chapter 3 to remove the "Table of Land Use Categories & Locational Criteria" and forwarding the recommendation to the governing bodies, and authorize Planning Commission Chair to sign PC Resolution 9-5-09.

Unanimously approved 9-0, with Student Commissioner Shelton voting in favor.



**ITEM NO. 4      COMPREHENSIVE PLAN AMENDMENT (MJL)**

**CPA-6-4-09:** Consider Comprehensive Plan Amendment to renumber the Implementation Chapter to be 17 and reserve Chapter 13 for future use. Initiated by the Planning Commission on June 24, 2009 as part of the Annual Review of the Comprehensive Plan.

**STAFF PRESENTATION**

Ms. Michelle Leininger presented the item.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner Chaney, to approve the comprehensive plan amendment to change the current Chapter 13 – Implementation to be Chapter 17 - Implementation and reserve Chapter 13 for a future use, and forwarding the recommendation to the governing bodies, and authorize Planning Commission Chair to sign PC Resolution 9-6-09.

Unanimously approved 9-0, with Student Commissioner Shelton voting in favor.

**ITEM NO. 5      AMENDMENTS TO DEVELOPMENT CODE; ENVIRONMENTALLY SENSITIVE AREAS (MKM)**

**TA-12-27-07:** Consider Text Amendments to various sections of the City of Lawrence Land Development Code to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. TA-12-27-07 with revisions to Sections 20-1101, 20-1109 & 20-1701 (PC Item 18; approved 7-1-1 on 7/23/08). TA-12-27-07 with revisions to Sections 20-701 and 20-702 to maintain consistency throughout the Code. (PC Item 9; approved 7-0 on 9/24/08) *City Commission sent back to Planning Commission on 2/10/09. Deferred by Planning Commission on 5/18/09.*

**STAFF PRESENTATION**

Ms. Mary Miller presented the item. She briefly went over the League of Women Voters points from their communication letter. The first point in their letter talks about common open space, as defined, does not lend itself to include sensitive lands and that common open space may include things that are not environmentally sensitive. She stated that with the wording in the Text Amendment common open space is defined to the amendment as a means for protecting environmentally sensitive lands. The League's second concern was in order to have any meaning, how much of a sensitive land feature is preserved depends on what type of land it is. She stated that was a provision in the earlier Text Amendment where it was divided, however with this narrower scope it went back to the priority ranking that was in the original Code. The League's third concern was the amount of land required to be preserved is unrealistic compared to the much greater potential in the Code. She stated it is possible that more land could be preserved than what is required but there has to be some sort of assurance for the developer of what is required. The League's fourth concern is that certain features weren't included that should have been. Staff recognizes that and when Chapter 16 gets adopted if those features are identified this Text Amendment could be revisited to include them. The League's fifth concern was that there continues to be a need for an effective means to prevent slashing and burning prior to development such as a development permit. She said that staff considers development permits or grading permits but that might be something that can be revisited also after Chapter 16 is adopted.

Commissioner Harris asked why wait to implement a grading permit.

Ms. Miller said the provision staff had for not waiting was that if someone damaged their land after the date of this Text Amendment they'd be required to replace those features. She stated the Commissioners brought up a very good point on how far back to look. She said staff checked with other communities and they have created overlay districts which are more concrete and people have more information when they purchase a piece of property.

Commissioner Harris asked if Ms. Miller was talking about finding the right mechanism rather than needing a comprehensive plan policy direction for that.

Ms. Miller said it is both. The right mechanism would be helpful and to get community support with the comprehensive plan amendment.

**PUBLIC HEARING**

Mr. Alan Black, League of Women Voters, said that open space and environmentally sensitive areas are not identical and that numerical requirements are based on open space. Streets and parking are not counted as open space but other paved areas can be counted such as recreation areas. Side yards and setbacks are included in the measures of open space. Environmentally Sensitive areas cover a broad range of things and can be very large and include things such as stream valleys, hillsides, and stands of trees, and these things don't lend themselves to uniform measurements.

Commissioner Harris asked Mr. Black if he had any suggested alternatives to the language that would allow development rights to be respected but still allow as much land as possible to be saved if it is sensitive.

Mr. Black said he did not know the answer to that.

Ms. Susan Iverson, member of WRAPS, stakeholder group. She said there needs to be protection of steep slopes and prairies too. She expressed concern about sedimentation, erosion, runoff in watershed which can be exacerbated by development activities. She said that WRAPS was in favor of development that takes water quality and environmental quality into first position instead of being an afterthought. She requested that steep slopes and prairies be included because they are important. She said that erosion on steep slopes is a major concern.

Commissioner Harris asked Ms. Iverson if she knew what percent of silt in Clinton Lake is a result of man-made development activity.

Ms. Iverson said it is also from agricultural as well as development but she did not have a number.

Commissioner Harris said that information would be helpful to the environmental chapter committee.

Mr. McCullough said staff tried to do a minimalist type of amendment. Staff brought forth a more expansive environmental code and were met with some challenges, one of them being that staff did not have everything identified and now staff has tried to keep it to a list that can be identified through GIS and have online so people can go to a source and know if they have environmentally sensitive lands. Prominent geographic features with rocky outcroppings is not an animal staff can objectively define well or even say that is what it is when confronted with it. It is defined to a degree in the Code but it is a challenge to map that today. Staff did take a map to City Commission about steep slopes and the slope categories staff were presenting in our expanded amendment turned out to be a very small fraction of all of the property in the community and county and that was another reason it is not show here. Soil erosion issues are addressed in other ways with the Stormwater Pollution Prevention Plan that the City has. Staff feels like they are following some of the direction of Planning Commission and City Commission with this amendment.

## **COMMISSION DISCUSSION**

Commissioner Carter asked Mr. McCullough to address steep slopes erosion.

Mr. McCullough said they can occur in development if developers and contractors aren't implementing the Stormwater Pollution Prevention Plan that has been approved. Some of the photos there were because of development and we try to monitor that carefully. The City takes it very seriously. In terms of environmentally sensitive areas and lands and how they go with development, staff's conclusion is that slopes don't rise to the level of these other environmentally sensitive lands do in terms of protecting them. Certainly if the land is developed we want to know that erosion won't be a concern.

Commissioner Hird asked if in the determination of development land area (11-2 page) there is reference to land owner control by a partnership, trust, or corporation. He inquired about a limited liability company (LLC).

Mr. McCullough said the intent and value of this Code section is to not start dissecting land up in order to get away from the Code standard. When you look at lands owned or controlled by a partnership, trust, or corporation we hope it is comprehensive enough, but LLC could be added.

Commissioner Hird asked where the 500' square foot requirement came from.

Mr. McCullough said that is existing Code language and staff felt directed not to necessarily revise that existing standard.

Commissioner Hird inquired what maintenance of a sensitive area meant.

Ms. Miller said it depends on what kind of feature is being talked about. She gave the example of a floodplain that could be mowed instead of letting grow. Someone needs to be responsible for maintaining the land. She said woodlands could be cleared of dead limbs, or a stream bank could be stabilized, and that just because it is natural does not mean it does not need upkeep or maintenance.

Mr. McCullough said that if there is a violation of trash and debris staff would need to know who to contact.

Commissioner Hird inquired about Article 17 where there is both mapping and definitions.

Mr. McCullough said the mapping helps staff understand there is a sensitive area that requires the developer to analyze and provide a Site Plan that shows they are meeting the definition. Trees are the best example of that. Staff can map out a canopy but an owner may present evidence that says it shows up in GIS but their study says they do not meet the definition for 25' or more in height that are greater than 8" caliper. Staff will then analyze that information to know whether or not they have environmentally sensitive lands on the property.

Commissioner Harris asked why was the prairie category was removed all together.

Mr. McCullough said the prairie category does not exist in the Code. That was a category that was proposed and staff was asked to scale down.

Commissioner Harris asked if the Kansas Biological Survey has a map.

Ms. Miller said they do have a map but they are very worried that if that becomes common knowledge, without a restoration policy, people may go out and destroy their prairie so they can develop it. Their maps give the general location of prairies. She said the Kansas Biological Survey says there are very few prairies in the UGA.

Commissioner Carter inquired about 500' square feet and significant portion.

Ms. Miller said it says both in the Code, significant portion means 500' square feet.

Commissioner Finkeldei said that City Commission gave direction and he is not sure it is exactly how he would like to see it but he wants to get it passed and continue to work on it. He said he will support it to get something on the books and make changes to it.

Commissioner Blaser said they need to move something forward and he thanked staff for their work and said it is a great start. He said he would vote in favor.

Commissioner Harris agreed that it would be good to move something forward but she said she was hung up on the arbitrary percentage of land that would be required to be protected. She thought that in some parcels of land it would allow development over sensitive lands that is not desirable or may not be necessary. She suggested that first the developer would work with staff to develop the property at the allowed density while excluding any environmentally sensitive lands over 500' square feet from the developed area. If most of the land is environmentally sensitive and there can be a certain number of dwelling units per acre then we might see something more like a multi-family dwelling unit on that property rather than single-family. She said the cluster development gets to

some of that but it does not go far enough. She felt there some flexibility beyond what we allow would serve the needs of developers who have rights to their land and still keep as much environmentally sensitive land protected as possible.

Commissioner Carter said incentives will hopefully encourage people to retain more environmentally sensitive land and that it sounds like we're trying to put in more concrete things so it will be more predictable. He wondered if the developer is told that they need to 'try' first to protect all of the sensitive land how measurable is 'try'.

Commissioner Harris said she would interpret it to mean a developer should discuss with staff about having greater density. She agreed that maybe the word 'try' was not the right word to use.

Mr. McCullough referenced section 20-1101(d)(3) from the Development Code, Applicability of Environmental Design Standards, where it talks about transferring the allowable density to the non sensitive areas of the site. He said it is also the place that would talk about providing greater amounts of incentives, such as for each percentage preserved above the required percentage, allow additional density or some other attribute that helps reduce setbacks so the density could practically be moved. He said those are some ideas that staff could still explore and expand on. He suggested for every additional amount of protection there could be a reward.

Commissioner Moore said he would support staff bringing it back with some incentives.

Commissioner Carter felt incentives were the way to go.

Mr. McCullough said staff could talk to the development community and bring that information back to Planning Commission.

Commissioner Harris questioned whether incentives for greater density are necessary. She said, for example, in a given zoning a developer would be able to build the same number of units, say 15 units per acre, whether or not sensitive lands were on the property.

Mr. McCullough said at some point they cannot do that. If the environmental land is 70% of the site they are not going to get their gross density met. It is an exercise in site layout to know when that threshold has been surpassed.

Commissioner Harris said if a developer had a situation like that, they would very likely go for the minimum sensitive land required to be preserved, because they could make more money on the property, rather than trying for increased density and saving as much sensitive land as possible, unless they were required to.

Commissioner Finkeldei suggested a possible incentive. 15 units per acre saving 20% of the land or 15 units per acre saving 50% of the land, the Code allows either of those. If all 50% of the land is saved then they could put 20 units per acre on the land that is left, which would give a developer an incentive to save the whole 50% of the land. A developer could also possibly be given advantages with setbacks or ROW requirements for saving the 50% land.

Commissioner Hird said he thought it was not a foregone conclusion that every developer is going to do the absolute minimum because a setback sensitive area might end up with a project that is a higher per unit value because of the aesthetics. He said open space can enhance the value of what is built and the per unit value may compensate for that savings.

Commissioner Singleton said she was uncomfortable with some of the proportionate language as it is now. She said there is only have a small amount of sensitive land remaining in the community and it needs to be preserved. She did not think 10% of the 2% of the existing prairie was enough of land

to save. She said at some point the cost to the environment outweighs the value to the developer who owns the land. She would like to see the incentive language.

**ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Carter, to defer Text Amendment TA-12-27-07 to the November Planning Commission meeting.

Motion carried 8-1, with Commissioner Blaser voting in opposition. Student Commissioner Shelton voted in favor.

**ITEM NO. 6      AMENDMENTS TO DEVELOPMENT CODE; DOWNTOWN COMMERCIAL DISTRICT & DEVELOPMENT REVIEW PROCEDURES (SDM)**

**TA-7-18-09:** Consider Text Amendments to various sections of the City of Lawrence Land Development Code to (1) exempt certain projects in the CD, Downtown Commercial District, from site planning requirements, and (2) revise certain requirements in Article 13 Development Review Procedures related to Major, Standard, and Minor Development Projects.

**STAFF PRESENTATION**

Mr. Scott McCullough presented the item and gave an overview of exemptions. He explained there was a revision regarding trash receptacles, proposed as:

(xix) Designate a trash storage site on each site plan *appropriate for the number of occupants proposed.* ~~or a note explaining how refuse removal will be handled.~~ The size of the trash storage receptacle, its location and an elevation of the enclosure shall be approved by the Director of Public Works prior to approval of the site plan. If a modification to the location of the trash storage area is required during the construction phase *or thereafter.* both the Planning and Public Works Directors must approve the modification before it occurs *a revised site plan can be approved.*

He addressed the League of Women Voters letter. He appreciated that they recognized that the Code does try to cover the many varying situations and that a modification may be warranted in this instance. The League suggested that staff mention to prospective developers that they should consult with planning staff. He said that a pre-submittal meeting is already required but that staff will also consider their recommendation to put something on the website that makes that more explicit. He felt it was a good suggestion.

Commissioner Dominguez asked staff to discuss the different standards of site plans.

Mr. McCullough said if the City decided to establish some template site plan for a specific site that a prospective economic development opportunity could come in and say 'it is close but lets tweak it a little bit to move toward building permits.' He said this doesn't really address that issue. He stated currently in the Code there are three types of site plans; minor, standard, and major development. Staff will apply the Code in every case but this would open up some authority to negotiate out standards that may not uphold good site planning principles or may kill a project. He gave the example of staff recently meeting with a medium sized retail business that was proposing a moderate to small size addition that would have triggered the full brunt of the Code. The business attempted this a few years back and they could not afford to do the project if they were going to be upheld to every Code standard.

Commissioner Dominguez inquired about parking requirements.

Mr. McCullough said the parking regulations that were heard by Planning Commission a month ago are being heard by City Commission tomorrow night. Staff believe that a careful balance has been struck with parking regulations and projects will still be required to do their fair share of off street parking, except for the Downtown District.

Commissioner Carter asked if judgments being made were virtually the decision of the Director.

Mr. McCullough said that was correct, unless it is appealed to City Commission. Or unless staff cannot agree that we should vary from the Code standard. The applicant could either seek a variance or appeal the decision to City Commission.

Commissioner Harris asked where the 50% for industry came from.

Mr. McCullough said that partially came from discussion with the Industrial Design Review committee. He said they wanted to be more flexible than the 20% for other types of development. Industrial projects are viewed from staff as a bit unique because they are employment centers, typically older and it would be expensive to bring up to full Code standards. We have had developments walk away because they see the Code standard.

## **PUBLIC HEARING**

Mr. Alan Black, League of Women Voters, expressed concern with the procedure, not the content. He felt there were so many things left to the discretion of the Planning Director and staff. He felt there was lack of predictability.

Commissioner Dominguez reminded Mr. Black that the appeal process to City Commission is an option.

Mr. Black said he did not know about the appeal process.

Mr. Hank Booth, representing the Lawrence Chamber of Commerce, felt this was an opportunity to fix some relatively small parts and pieces for an orderly planning process.

## **COMMISSION DISCUSSION**

Commissioner Carter asked about staff making interpretations.

Mr. McCullough said it is the Planning Director that has the authority to do it but if there is an issue that planning office staff or the Assistant Director cannot resolve then he is brought in to resolve that. For the most part if staff is varying from the Code the Director is going to be involved with almost all of those issues.

Commissioner Carter concerned that some developers may say 'why bother' if a staff member tells them in an initial meeting that a variance may not be granted and the Director would not know of the conversation.

Mr. McCullough said that is an inherent challenge and it's going to take organization and lots of communication.

Commissioner Hird said this is not a wholesale delegation of authority on the Code to the Planning Director. He said that when Planning Commission considers any agenda item they read the staff report because staff have the expertise to guide Planning Commission decisions because that is what they do for a living. He felt if these changes are made it is a step in the right direction and it might create more dialogue. He felt it was a very positive step forward.

Commissioner Finkeldei felt this was a great step forward and that in a perfect world exceptions would not be needed but that this allows a way to get to those quicker.

## **ACTION TAKEN**

Motioned by Commissioner Dominguez, seconded by Commissioner Chaney, to approve Text Amendment TA-7-18-09, to various sections of the City of Lawrence Land Development Code to (1) exempt certain projects in the CD, Downtown Commercial District, from site planning requirements, and (2) revise certain requirements in Article 13 Development Review Procedures related to Major, Standard, and Minor Development Projects, including the proposed changes to 20-1305(f)(1)(xix) that Mr. McCullough addressed during his presentation, and forward to City Commission.

Unanimously approved 9-0, with Student Commissioner Shelton voting in favor.



**ITEM NO. 7      LAWRENCE MUNICIPAL AIRPORT DEVELOPMENT PROJECT**

Consider a development permit application pursuant to Section 20-302 of the City of Lawrence Land Development Code for improvements related to an Office Other use at the Lawrence Municipal Airport.

**STAFF PRESENTATION**

No ex parte communications.

Mr. Scott McCullough presented the item.

**NON PUBLIC HEARING ITEM**

**COMMISSION DISCUSSION**

Commissioner Dominguez asked what was in the area right now.

Mr. McCullough said a corn field.

Commissioner Dominguez asked how many acres.

Mr. McCullough said the acreage was in the staff report, 0.85 to 1.5 acres.

**ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to grant staff the authority to proceed with approving the site planning and other permitting of an area east of the existing terminal for an Office, Other use.

Unanimously approved 9-0, with Student Commissioner Shelton voting in favor.

**ITEM NO. 8 PLANNING COMMISSION WORKSHOP REPORT (SDM)**

Planning Commission workshop report. *Deferred from July Planning Commission.*

**STAFF PRESENTATION**

Mr. Scott McCullough said a visioning exercise was done and he summarized what was talked about since Commissioner Harris was unable to attend.

Commissioner Harris said it was interesting for the neighborhood emphasis on family. She asked if there was discussion of diversity regarding social-economic or racial.

Mr. McCullough said there was discussion of every cycle of life from cradle to grave and that the community should support every one of those stages of life. He said diversity in neighborhoods tends to be about every stage in life.

Commissioner Harris asked if there was discussion that each neighborhood should have that diversity, or the city overall.

Mr. McCullough said the general discussion was about Lawrence and Douglas County overall.

Commissioner Harris inquired about the next steps ideas to pursue. She asked for a little bit more information regarding what was meant by action versus talk.

Mr. McCullough said it is easy to get out of a workshop and not have follow up to it and this is some of the follow up that can be kept handy or brought back to Planning Commission with additional ideas or action steps.

Commissioner Harris said she supported next steps from staff to flesh out ideas. She recommended that staff forward to the MPO the ideas about transportation because one of them has regional implications and it would be good for them to have the information.

**ITEM NO. 9      AMENDMENTS TO DEVELOPMENT CODE; BOARDING HOUSE (SDM)**

**TA-6-17-09:** Consider Text Amendments to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House."

*Item 9 was deferred prior to the meeting.*

**MISCELLANEOUS NEW OR OLD BUSINESS**

**MISC ITEM NO. 1**

Letter regarding Minimum Lot Area and Maximum Dwelling Units per Acre Standards in RMG District

Consideration of any other business to come before the Commission.

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**Adjourn at 9:30p.m.**