



PLANNING COMMISSION MEETING
December 14 & 16, 2009
Meeting Minutes

December 14, 2009 – 6:30 p.m.

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

Staff present: McCullough, A. Brown, J. Miller, M. Miller, Uddin, and Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of November 16 and 18, 2009. *These will not be available until the January Planning Commission meeting.*

COMMITTEE REPORTS

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

Commissioner Hird said the Agri-tourism Committee will meet January 12 at 8:30am at his office and anyone is invited.

Commissioner Harris said the Comprehensive Plans Committee met last week and reviewed the revised environmental chapter and took comments from committee members and staff. She said she will meet with Commissioner Rasmussen try to incorporate all of those comments into a work session and bring back to the committee before it is released to the public.

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

- Ex parte:
All Commissioners had individual conversations with Ms. Jane Eldredge regarding Mercato.
- No abstentions.

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ITEM NO. 1A UR TO COMMERCIAL; 29 ACRES; NE CORNER OF K-10 & W 6TH (MKM)

Z-10-17-09: Consider a request to rezone approximately 24 acres from UR (RO-1A/RMO pending) to Commercial (CC-400), for the Mercato project located at the NE corner of K-10 & West 6th Street (Hwy 40). Submitted by JDS Kansas, L.C.; Kentucky Place, L.C.; Tanglewood, L.C.; Oread, L.C.; Hanover Place, L.C.; Venture Properties, Inc.; TAT Land Holding Company, L.C.; Scotsdale Properties, L.C.; Sojac Land Company, L.C.; K-10/40 Development, L.C., property owners of record.

ITEM NO. 1B PRELIMINARY PLAT FOR MERCATO; 29 ACRES; NE CORNER OF K-10 & W 6TH (MKM)

PP-10-5-09: Consider a four lot commercial and residential office Preliminary Plat on approximately 29 acres and variance to permit block length of greater than 800 ft for the Mercato project located at the NE corner of K-10 & West 6th Street (Hwy 40). Submitted by JDS Kansas, L.C.; Kentucky Place, L.C.; Tanglewood, L.C.; Oread, L.C.; Hanover Place, L.C.; Venture Properties, Inc.; TAT Land Holding Company, L.C.; Scotsdale Properties, L.C.; Sojac Land Company, L.C.; K-10/40 Development, L.C., property owners of record.

STAFF PRESENTATION

Ex parte: All commissioners had conversations with Ms. Jane Eldredge.

Ms. Mary Miller presented items 1A and 1B together.

Commissioner Harris inquired about the right-in/right-out access onto W. 6th Street.

Mr. Shoeb Uddin, City Traffic Engineer, said the right-in/right-out access will function as a free flow right turn, meaning that there will be a fully developed deceleration lane, so if a car is going west it will be pulled into the right turn lane and off the main true traffic. The concept of free flow right turn is that there will not be a queue, it will move continuously, the traffic will not encounter any kind of traffic control such as a signal or stop sign. He said when cars are leaving there may be queue build up but that the build up will be onsite and will not affect the traffic on 6th Street.

Ms. Amy Brown was present to address the retail market aspect of this application. She discussed a correspondence that was received by Kirk McClure after the communication deadline. She wanted to clear up a discrepancy in his letter. His letter asserted that the retail sales are only growing by .22% annually. She said that statement was true. She said the market study submitted said that growth was 1.8% and that was a cumulative total from 2000-2008, it was not an annual figure. She stated that in his analysis based on vacancy rate, the study he is referring to in 2007 was produced Mr. McClure, not by the city and the city does not have access to that data. She said she could not speak to how that data was analyzed or what assumptions were used in the market study. What staff based the last city wide vacancy rate was the 2006 study that the city produced and it was cited in the staff report.

Commissioner Harris said the main gist of Mr. McClure's letter was that this is not the time to add a large development like this to the retail mix because it could endanger downtown and some other places. She asked Ms. Brown to speak about that.

Ms. Brown said that what staff looks at is based on the Development Code and Comprehensive Plan. The Development Code spells out certain things the applicant has to provide in a market study. The applicant has to provide information (demand factors) based on how income has grown over the last

however many years, how the population has grown, and how retail sales have grown. There also has to be analysis based on supply factors such as square footage, how much retail stock is added to the market over that same period of time. She stated that in general those things should be in somewhat balance of each other. Outside of that the Development Code spells out some analysis that needs to be done based on the type of uses and their impact on downtown and the rest of the Lawrence market. There was analysis based on that in the market study the applicant provided. The applicant is proposing specific uses such as home improvement center, discount department store, convenience store, and fast food restaurant. She said with the small amount of square footage for the convenience store and fast food restaurant, the impact on downtown is negligible. The home improvement store being 175,000 square feet there is nothing comparable to it downtown. She said there really will not be an impact on downtown. The difficulty with the discount department store is that in retail terms that is a broad category, it can include anything from Wal-Mart or K-Mart to Kohls or JCPenney. There really isn't a category of a business like that currently downtown today.

Commissioner Harris asked how tied the developers are to those uses through the actions of Planning Commission.

Mr. McCullough said that was a question for the applicant.

APPLICANT PRESENTATION

Ms. Jane Eldredge, attorney representing applicant. Said stated during her ex parte communications with the Commissioners she did not speak about the rezoning, only the plat. With regard to the rezoning, in her opinion, the retail market study is based on the intentions of the developer and the developer has to come back with a site plan which will look at those uses, but the zoning category is not limited to just those uses. The zoning category would be broad enough for different uses but nothing will be built without a tenant. The uses that have been proposed so far are the ones that are anticipated to become tenants.

Commissioner Harris asked if the retail study would come back into play at the site planning stage.

Ms. Eldredge said that would be up to staff because staff would be looking at the site plan and if there is something in there that is quite different than what was proposed she would anticipate staff would want to look at it.

Mr. McCullough said that staff does have the ability to review a revised retail study at the site planning stage.

Ms. Eldredge requested the rezoning be approved and the plat be approved with one minor change to the staff recommended condition #7. She felt the ordinance needed to be changed. She felt that it should be handled separately from the plat by City Commission. She did not feel there was any reason to tie the ordinance to the plat. She discussed access points and referred to the staff report. She stated that when the earlier commercial rezoning for Mercato was before Planning Commission the developers agreed to close the access point at the frontage road when George Williams Way and Overland Drive were completed. She agreed the frontage road needs to be closed because it is too close to the K-10 ramp but by moving to a right-in/right-out at this peak location it has not changed/alterd the number of access points as they were originally approved in 2000. She said that meeting the fire code requirements which are very important for a large commercial area.

Commissioner Dominguez inquired about the fire code and asked why staff overlooked a fire regulation.

Mr. McCullough said staff did not overlook the fire code, what happened was at the time the section 16-1201 of the City Code that placed the restriction for W 6th Street was adopted and made city law the fire code was a former code. In 2008 the fire code changed that requires more access to commercial properties. During the review process the Fire Department said the applicant needed to address it somehow. There are different ways to address it in staff's opinion. Gaining access from 6th Street is one of the ways to address the fire code.

Mr. Phil Struble, Landplan Engineering, was present for questioning. The way he understands it is the new fire code says there needs to be access to a large commercial development from two arterial streets and the distance between the two access points has to be less than half the diagonal dimension of the development. He also discussed Right-of-Way and easement issues.

Commissioner Hird asked how big the gas line is.

Mr. Struble said it is a 16" gas line.

Commissioner Rasmussen asked if the only staff recommendation that the applicant has a concern with is plat condition #7 in the staff report that says '*The preliminary plat shall be valid only upon approval of revisions to Section 16-1201 of the City Code by the City Commission.*'

Ms. Eldredge said that was correct.

Commissioner Harris inquired about pedestrian access and asked if in the site planning process would pedestrian connections to the development be provided.

Ms. Miller said that was correct, under the commercial design standards it has to have pedestrian and bicycle connections and connectivity is one thing that staff looks at.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Carter asked if there are any conditions that don't need to be included.

Mr. McCullough said the conditions are recommended to track the project through the process and gives it a timing element. Each step of the way grants additional development rights to the property.

Commissioner Carter inquired about condition #7 on the plat staff report.

Mr. McCullough said staff does not feel the plat meets the city code today as presented because the city code restricts access along this stretch of 6th Street. Around the year 2000 when access restrictions were adopted in the Code, KDOT and the city agreed to provide themselves access to a frontage road that has very limited access up the frontage road, not to a large commercial property. Staff does not disagree that the traffic impact study supports the right-in/right-out proposed or that the development wouldn't benefit from a right-in/right-out. Staff is actively speaking with KDOT about this issue. There is a technical challenge because there is a city code that is outside of the development code so that the Planning Commission can grant a variance or waiver to it. It can only be revised by City Commission and staff believes this plat is out of compliance with section 16-1201. Staff provided an avenue to consider the plat and even approve the plat but feels that to comply with city code the code needs to be considered by City Commission. If the code is changed then the

plat can become valid. If it's not changed then there isn't a valid Preliminary Plat because it doesn't meet city code.

Commissioner Moore inquired about the process to revise the city code.

Mr. McCullough said it is likely to be heard by City Commission.

Mr. John Miller said City Commission would direct staff to prepare modifications to that section of the code and the language would go back to the governing body for their consideration, then first and second reading, and then published.

Commissioner Hird asked if this has been submitted to City Commission.

Mr. McCullough said no, this has not been presented to City Commission for consideration yet.

Commissioner Hird asked if Planning Commission approves the plat and takes the position that the ordinance doesn't need to be revised, it isn't known if there is a conflict with the city in the first place and they might agree with Planning Commissions interpretation. Without knowing if there is a conflict the question is do you hold up this project for 60-90 days.

Mr. Miller said the timeframe to amend that code section can be done in a month.

Commissioner Hird asked what would happen if Planning Commission took the position that the code didn't have to be amended and approved the project without that condition.

Mr. McCullough said it would approach the City Commission through the acceptance of rights-of-way and easements so they will see this in some form or fashion. There is a difference though in that Planning Commission approves the plat and City Commission accepts rights-of-way and easements. He said the City Manager has made statements to that in any event the City Commission, before additional access is provided on 6th Street, would have this in front of them in some fashion.

Commissioner Hird whether there are additional access points to grant.

Mr. McCullough said in his opinion it is best characterized by granting an additional access point because he did not think that when the access restrictions were adopted it did not contemplate a CC400 development, it was a frontage road along KDOT highway so when he looks at the record of this and the access management plan it doesn't point to allowing the frontage road to exist as an access point to a large commercial district.

Mr. Uddin he spoke about the question of if it is an additional access or if it is just moving the existing access to the east. From a functional point of view the way the frontage road would function as an access the right-in/right-out will not function the same way, so as a functional point of view it is an additional access. If you have two accesses that are close together, then the impact of that access to the operational characteristics of the roadway would be insignificant that you could consider that just merely moving the access, as opposed to if they are farther apart because the impact of those two accesses on the operational characteristics would be significantly different and would be considered as an additional access.

Commissioner Hird asked where in the ordinance it talks about accepting the frontage road access, and wouldn't this access provide access to a frontage road.

Mr. Uddin said what he was trying to address is that the frontage road is fairly close to the K-10 interchange and the understanding was that when the interchange gets signalized and other development happens, road access would probably go away. Even if the access remains, the impact of that access further to the east, closer to George Williams Way, would not be appreciable but the impact of the new right-in/right-out access would be appreciable in that area. Each access has an influence area that influences the operational characteristics of the roadway.

Commissioner Harris asked if they were comparing the original plat that had no access on 6th Street, because the frontage road access would be removed, to this new idea that there would be a new right-in/right-out access.

Mr. Uddin said the only part that he is trying to address is from a functional operational point of view. If two accesses are farther apart from each other they cannot be considered merely moving one from the other place.

Commissioner Finkeldei asked if Planning Commission will approve the plat.

Mr. McCullough said that was correct.

Commissioner Finkeldei inquired about the different ways to approve the plat.

Mr. McCullough said if the plat is approved with condition 7 and City Commission does revise the code then the plat is valid. If they do not revise the code, in staff's opinion, it would not be a valid preliminary plat and the applicant would need to revise the plat to show no access along 6th Street.

Commissioner Dominguez asked if there were both access points would they be designed the same way.

Mr. Uddin said they are different. The right-in/right-out will be much smaller.

Commissioner Rasmussen discussed the code language in section 16-1201. He said that when he read the language it was very specific to the locations of the access points for everything except the frontage road access. If the applicant is already going to have to get a permit from KDOT why can't it be moved, why does it need to be changed?

Mr. McCullough said that KDOT controls that stretch of the highway today and they have conveyed to staff their intention to restrict access to this and other substantial development along 6th Street. Mr. McCullough said the reason staff reviews plat applications is to get review comments from all agencies and understand their position and present that to Planning Commission.

Commissioner Rasmussen asked if City Commission does change the code then what would be done.

Mr. McCullough said an access point would be added on 6th Street.

Ms. Eldredge displayed a map on the overhead of the Northwest Area Plan. She gave the history of the area and said the reason KDOT funded 6th Street was for economic development.

Commissioner Harris said she was not entirely comfortable approving the plat knowing that there is a finding of fact in the staff report saying it doesn't conform to city code. She suggested alternate language for condition 7 *'the preliminary plat shall be valid upon City Commission action that will*

allow for access for this development on 6th Street in accordance of city code' and if City Commission interprets that it does meet the code then that would meet those provisions.

Commissioner Hird asked if that would really gain anything. He asked what would be the functional difference between that and requiring City Commission to amend the code.

Commissioner Harris said City Commission may have a different interpretation of the staff report.

Mr. McCullough said condition 7 could say that the preliminary plat shall remain valid only upon approval to revisions to section 16-1201 of the city code if determined necessary upon City Commission acceptance of rights-of-way and easements.

Commissioner Hird said there are clearly two different interpretations of the city code. If Planning Commission recommends to strike condition 7 and forward to City Commission with notes in the minutes about this dispute over the interpretation, what is the downside to allow the city to review the ordinance issue when dedicating easements and rights-of-way? The issue gets before the city either way, correct?

Mr. McCullough said yes. If CC has concern over this for any reason they will have the ability to accept or deny the right-of-way for Mercato Lane.

ACTION TAKEN ON ITEM 1A

Motioned by Commissioner Carter, seconded by Commissioner Hird, to approve the rezoning request for approximately 24 acres from UR (Urban Reserve) District to CC400 (Commercial Center) District 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.

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

ACTION TAKEN ON ITEM 1B

Motioned by Commissioner Carter, seconded by Commissioner Hird, to approve the Preliminary Plat for Mercato, with the exclusion of condition 7, and forward to City Commission.

- 1) The preliminary plat shall be revised as follows:
 - a. The dimension of the western width of right-of-way for Overland Drive shall be noted on the plat.
 - b. The plat shall be revised to clearly identify the Southern Star easement which is being proposed for vacation.
 - c. The plat shall show the relocation of the Southern Star gas line to the south rather than extending through the easement which is to be vacated.
 - d. The extension of the Southern Star gas line off-site to tie into the existing gas line to the southeast must be approved by Southern Star.
- 2) Prior to recording the final plat, the applicant shall provide the Planning Office with documentation that right-of-way for Renaissance Drive is available prior to final approval of the plat.
- 3) Prior to recording the final plat, the applicant shall provide the Planning Office with documentation that Southern Star approves the relocation of the gas line and easement between Lots 1 and 2 of Block Two and the relocation of the off-site gas line to tie into the existing line.

- 4) Prior to recording the final plat, the applicant shall provide the Planning Office with documentation that Southern Star approves the design of Renaissance Drive in relation to the gas line location.
- 5) Prior to recording the final plat for the remainder of the Mercato Development (PF-03-04-07), the applicant shall revise the previously approved preliminary plat (PP-01-02-06) and final plat (PF-03-04-07) to reflect the changes approved with this preliminary plat.
- 6) Prior to recording the final plat, the applicant shall gain approval of an access permit from the Kansas Department of Transportation to access W. 6th Street (Hwy 40).
- 7) ~~The preliminary plat shall be valid only upon approval of revisions to Section 16-1201 of the City Code by the City Commission.~~
- 8) Prior to recording the final plat, the rezoning request [Z-10-17-09] from UR (RMO pending) to CC400 District shall be adopted and published.

Commissioner Harris said she could not vote in favor of this because she felt it was their duty to follow the code.

Commissioner Carter agreed with Commissioner Harris but proposed the motion because he disagreed with staff interpretation that it is an additional access versus moving it so he felt it did meet the code.

Commissioner Hird commended staff and appreciates the difference in the function in moving the access point. He felt there were two possible interpretations of the code therefore he can't conclude approving this would be a violation.

Commissioner Rasmussen appreciated the information from staff. He expressed concern about the information that suggested approval of this could have a large financial impact upon the city. He said the plat is still conditioned upon getting an access permit from KDOT. He thought the applicant could be better off if the code was changed because it could give the city more weight with KDOT in getting it changed. He said he will vote in favor of the motion and does not believe the vote will necessarily result in any type of cost implication for the city.

Commissioner Finkeldei agreed with what has been said. He did not see that this is in violation of the ordinance. He thought this was a huge policy issue for the city and wants to give them the most flexibility so he supports the motion.

Commissioner Singleton concerned about the finding that this plat would then not be in compliance with code. She felt there was a way to rewrite condition 7 and not exclude it.

Commissioner Dominguez said he would support the motion and felt that the International Fire Code is important for public safety and needs to be looked into quickly.

Commissioner Moore said he would vote in favor of it. He agreed with many of the comments made.

Motion carried 6-2, with Commissioners Harris and Singleton voting in opposition. Student Commissioner Shelton voted in favor.

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**ITEM NO. 2 CONDITIONAL USE PERMIT FOR MIDLAND JUNCTION; SW OF THE
INTERSECTION OF E 1400 RD & N 2000 RD (SLD)**

CUP-8-8-09: Consider a Conditional Use Permit for Midland Junction Sand Facility, on approximately 310 acres, generally located southwest of the intersection of E 1400 Rd & N 2000 Rd. Submitted by Landplan Engineering, for RCS Properties LLC, property owner of record.

Item 2 was deferred prior to the meeting.

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MISCELLANEOUS NEW OR OLD BUSINESS

MISC NO. 1 Potential Text Amendments

Mr. Scott McCullough said it is just an informational update on Text Amendments.

MISC NO. 2 Planning Commission By-Laws

Mr. John Miller, staff attorney, prepared a draft modification of the Planning Commission By-Laws to revise the approach to the ex parte communications, and it will remove the requirements for ex parte communications before each item. He said it will need to go on the January Planning Commission agenda as an official item to vote on.

Consideration of any other business to come before the Commission.

Recess at 8:26pm until 6:30pm on December 16, 2009.

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Reconvene December 16, 2009 – 6:30 p.m.

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

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

BEGIN PUBLIC HEARING (DECEMBER 16, 2009):

COMMUNICATIONS

No communications received.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Hird said about a month ago he had lunch with Jeff Hatfield to discuss other issues but the boarding house issue came up.
- Abstentions:
Commissioner Singleton said she would abstain from the Oread Neighborhood Plan.

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ITEM NO. 3 COMPREHENSIVE PLAN AMENDMENT TO CHAPTER 14 (MJL)

CPA-2-1-09: Receive the Oread Neighborhood Plan and schedule for action in January.

STAFF PRESENTATION

Commissioner Singleton abstained from this item.

Ms. Michelle Leininger presented the item. Action will be taken in January.

Mr. McCullough advised the Planning Commission that it was appropriate to take public comment and that public comment is open until the January Planning Commission meeting.

Ms. Leininger said the draft version will not make any changes during this month.

Commissioner Finkeldei said the overlay districts are in the details. Historic Resources Commission came up with the two new overlay districts. Inquired about what they envision those to be and how they are different from other overlay districts.

Ms. Leininger said the Development Code allows for a handful of overlay districts. The Urban Conservation Overlay district and the Historic Overlay district are two of those. Ms. Zollner and I worked together to tweak the preservation section.

PUBLIC HEARING

Mr. Dennis Brown, President of the Lawrence Preservation Alliance, read LPA comments. He expressed the need for an outside consultant to lead Urban Conservation Overlay efforts.

Mr. Kyle Thompson, president of Oread Neighborhood Association, felt the five overlay districts were a good idea. He went over the letter communication that was included in the packet.

Commissioner Rasmussen asked if Mr. Thompson had a suggestion on what could be done to encourage owner occupants.

Mr. Thompson said different incentives but that he hasn't come up with anything specific.

Ms. Marci Francisco, 1101 Ohio, said she appreciated the new map showing the density. She said that five overlay districts is a good idea. She would like to see the EHS Bailey house that was added to the register on the map if possible.

Ms. Elle LeCompte discussed blight in the Oread neighborhood. She felt that more code enforcement was needed.

Mr. Rob Farha asked to see the overlay map on the overhead. Ms. Leininger displayed it on the overhead.

Mr. James Hicks expressed concern about blight as well. He said a program should be come up to slowly increase property taxes and tax incentives.

Mr. David Holroyd, 1224 Louisiana, brought up the issue of neighborhood revitalization and said the city is dragging their feet on doing that. He said blight is terrible. He felt like the city should set an example.

NO ACTION TAKEN

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ITEM NO. 4 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." *Deferred from 10/26/09 Planning Commission.*

STAFF PRESENTATION

Mr. Scott McCullough presented the item.

Commissioner Harris asked how will the changes address the concerns about the behavior of the students.

Mr. McCullough said the Development Code is limited by what it can do. Other programs already in place can address those, such as the police. The Development Code is not going to address those issues but a little bit can be done with design, such as outdoor decks being limited in size.

PUBLIC HEARING

Ms. Carol von Tersch, Oread neighborhood resident for about 30 years, said she is getting tired of discussing these issues and the efforts don't seem to produce any outcomes. She felt the Development Code can address some behavioral issues of tenants by not encouraging boarding houses.

Ms. Candice Davis, lives in Oread neighborhood, met and discussed recent issues in December. She said she was outnumbered in the meeting because there were 3 Oread neighborhood association representatives and 6 boarding house people. She mentioned a memo from Linda Finger from 2004.

Mr. Zachary Stoltenberg, architectural student and designer of 928 Ohio Street, discussed the pro and con issues raised. Positives and negatives can apply to multiple residence types. He said the staff memo is not going to fix any of the issues raised.

Ms. Gwen Klingenberg, president of Lawrence Neighborhood Association, was concerned about parking. The more rooms allowed the more parking will be taken up on the street.

Mr. David Holroyd discussed walkability of the neighborhood. He felt that CDBG funds should go to sidewalks instead of neighborhood coordinators.

Mr. Tom Harper expressed concern about increased density.

Ms. Serena Hearn she decreased the density of the boarding homes she owns, gave example of 1121 Ohio where they took a 9 apartment house to a boarding house with 12 occupants. Many houses built with more than 4 bedrooms. She discussed income based appraisals.

Mr. Tom Devlin, Crimson Properties, commented on the increased value. He discussed the amount of parking. He said it's not a boarding house problem that causes parking issues, it's a university problem. It's a student behavioral problem and should not be addressed in the Development Code. Ordinances through the police is how issues should be handled.

Mr. Rob Farha, Crimson Properties, discussed parking.

Ms. Debbie Milks, 945 Ohio, discussed parking issues. She felt that the cost to enforce a parking permit system was unlikely to work.

Mr. Jim O'Malley gave Old West Lawrence Association support for the Oread Neighborhood Association. Boarding houses should be limited with parking.

Ms. Marci Francisco, 1101 Ohio Street, said that boarding houses were not the only way to renovate structures. As the number of occupants goes up, property value goes up. She said parking needed to be addressed in the Code. Shouldn't favor one type over other development, but realize large structures should be saved.

Ms. Jeanne Pees, president of Sunset Hills Association, supports the Oread Neighborhood Association. She said she knew what it was like to live near an area with parking and noise issues.

Mr. Tony Backus, property owner in the Oread neighborhood, has invested 4 million dollars in 10 years.

Commissioner Harris asked how to address problem issues after the fact.

Mr. Backus said possibly permit parking.

Ms. Fadila Boumaza, owner of 928 & 930 Ohio Street, said it is not about money versus value because nobody buys a house to lose money. Every property is assessed by its merit. We look at properties for what they can offer to students. We need to figure out a way to meet everyone's needs. She said that a majority of concerns were emotionally based and there are rules to address those. She felt there was more work to be done with the text amendment.

Mr. Jeff Hatfield said he was willing to identify a resident manager.

Commissioner Carter asked Mr. Hatfield if he attends the neighborhood association meetings.

Mr. Hatfield said Mr. Farha attends them sometimes.

Mr. Devlin, Crimson Properties, showed a slideshow of the boarding houses from before and after they fixed them up.

Mr. Kyle Thompson, agreed that the boarding houses look nice but he is concerned that more people can come in and convert smaller houses into boarding houses and not do the same nice work.

Mr. John Pultz, 937 Ohio Street, said he likes his neighborhood but that it is also a very fragile neighborhood. Students living in groups make more noise and their behavior is different. As the housing options go down it becomes more exclusively undergraduate, making it harder for families, professionals, and grad students to live in the neighborhood.

COMMISSION DISCUSSION

Commissioner Finkeldei asked how staff came up with 20%.

Mr. McCullough said staff did some rough exercises on how to get different sizes of structures. The Development Code uses 20% for thresholds. Wanted it to be large enough to be meaningful but not so much to double the size.

Commissioner Finkeldei inquired about unlivable space.

Mr. McCullough said an example would be a basement that is not finished.

Commissioner Harris inquired about parking with the overlay district.

Mr. McCullough said the Development Code would have as its standard for parking one space per bedroom. Through the future overlay zoning exercise that standard can be revised. This condition doesn't necessarily exist in the Oread neighborhood alone.

Commissioner Harris shared information she received from the police department today regarding numbers on police calls to boarding houses.

Commissioner Carter said it is tough to draw too much from the information because they could have more vigilant neighbors that call the police more often. Student housing in general probably gets calls. He expressed concern about failing on blight and behavior. He said they need to protect current owners and their investments but going forward boarding houses need to be limited. HE suggested tax incentives as a great idea to encourage improvements and parking permit program that could generate funds for better enforcement.

Commissioner Hird felt it was a complicated issue. 90% of the issues have to do with behavior. He thought the list Commissioner Harris brought was helpful. He wondered how the bars affected the police numbers since the houses with the most calls are near the Hawk and The Wheel. He felt that these were law enforcement issues, not land Development Code issues. Property owners have the right to expect enforcement. He did not believe the parking issues in the Oread neighborhood are due to just boarding houses. He wondered how to stimulate investment in these old structures and preserve the historic element of these neighborhoods. He would favor a parking permit program but did not know who would fund it or enforce it. He said he appreciated all the comments made but did not know how this will solve all the issues.

Commissioner Singleton said nobody was suggesting that boarding houses are the sole cause of all the issues. She said she did not like the direction that the text amendment took from October to now. She felt that boarding houses are aimed at a certain demographic and felt they should require a Special Use Permit and have an onsite manager. She would like one parking spot per person in boarding houses and that it is a city wide issue, not just the Oread neighborhood. She said she would rather see diversity with apartments and single family homes around campus.

Commissioner Finkeldei disagreed with Commissioner Singleton and felt they were moving in the right direction. New construction has stricter parking requirements. When it comes to converting existing structures we want to encourage that. He said that when a Special Use Permit is put on a piece of property you cannot get the financing needed. He said he would not support a Special Use Permit for boarding houses. He said he would like to see City Commission to direct David Corliss to talk to Chief Olin to put more officers in the Oread neighborhood more often. He would also like more resources through Development Services be put into dealing with blight. He did think the overlay districts will be a place to attack certain issues. He did not think this is the place to address parking. He is not sure that a parking permit system is a good idea. He hoped City Commission can take steps to solve other issues that cannot be addressed in a land use document.

Mr. McCullough put on the overhead next to the police numbers how many occupants live in each house.

Ms. Boumaza said that some of the addresses were duplexes not boarding houses during the time period.

Commissioner Harris agreed with Commissioner Singleton but not sure about requiring Special Use Permits across the board. She suggested limiting the number of boarding houses and only in certain areas that make sense but did not know how to accomplish that without a Special Use Permit.

Commissioner Rasmussen said this process was started back in May and they didn't have much, now they have some proposed language that defines congregate living, set standards for limiting expansion of structures, site plan approval, limiting parking based on bedrooms, and limiting it for 1 space per bedroom on new construction. He thought it was all an improvement from where it started but that this is not a solution to other issues going on in the Oread neighborhood. He did not see boarding houses as the only problem that is contributing to issues in the Oread neighborhood. He thought this was a great start but could be improved through the Oread Plan process.

Commissioner Blaser said an onsite manager would be beneficial.

Commissioner Moore liked the one parking space per bedroom for new construction and the uncovered deck areas to 20 square feet. He said they cannot address all the issues right now but this is a good start.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Carter, to approve Text Amendment TA-6-17-09 to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House" and forward to City Commission.

Commissioner Harris said she will vote against the motion because it does not go far enough to spread boarding houses apart.

Motion carried 6-2, with Commissioners Harris and Singleton voting in opposition. Student Commissioner Shelton voted in favor.

PC Minutes 12/16/09

ITEM NO. 5 AMENDMENTS TO DEVELOPMENT CODE; COMMUNICATIONS (SMS)

TA-10-21-09: Consider Text amendments to various articles to correct inconsistencies regarding the uses identified as 'Communications' and 'Communications Service Establishments.' *Initiated by Planning Commission on 8/24/09.*

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Finkeldei, to approve the revised text for Sections 20-402, 20-403 and 20-506 to remove references to the use *Communications* and standards for *Communication Service Establishments* and forwarding of the proposed text amendment to the City Commission for approval and adoption.

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

PC Minutes 12/16/09

**ITEM NO. 6 AMENDMENTS TO DEVELOPMENT CODE; GENERAL & ADDITIONAL
STANDARDS FOR RESIDENTIAL & NON-RESIDENTIAL CONSTRUCTION
(SDM/SMS/AMB)**

TA-11-23-09: Consider a Text Amendment to Article 12- Floodplain Regulations to review General and Additional Standards for Residential and Non-Residential Construction. *Initiated by Planning Commission on 10/26/09.*

STAFF PRESENTATION

Mr. Scott McCullough presented the item.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the revised text for Section 20-1204(e) [and the minor revision to Sections 20-1203 (d)(2), 20-1204 (e)(2)(i)(a), 20-1204 (e)(3)(i)(a)(1), 20-1204 (h)(4)(i) and 20-1204 (h)(4)(ii) to add *or professional engineer*] and forwarding of the proposed text amendments to Chapter 20, Article 12 to the City Commission for approval and adoption.

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

PUBLIC COMMENT SECTION

ADJOURN 9:20pm