



PLANNING COMMISSION MEETING
January 25 & 27, 2010
Meeting Minutes

January 25, 2010 – 6:30 p.m.

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

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

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of November 16 and 18, 2009.

Receive and amend or approve the minutes from the Planning Commission meeting of December 14 and 16, 2009.

Planning Commission will discuss the minutes during the Wednesday, January 27, 2010 meeting.

COMMITTEE REPORTS

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

Commissioner Harris stated that the Comprehensive Plans Committee has not met in the past few months but that she and Commissioner Rasmussen have met.

Commissioner Blaser said the Industrial Design Committee met and are getting things finalized to move forward with.

Commissioner Hird said the Agri-Tourism Committee met on January 12th and will be meeting the third Thursday of each month.

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:
Commissioner Hird said he had a telephone conversation with Mr. Steve Watts about the function of the Planning Commission in developing the Oread Neighborhood Plan.
- Abstentions:
Commissioner Moore said he would abstain from Item 7 on Wednesday's agenda.

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ITEM NO. 1 RS7 TO RMO; 8.71 ACRES; 3312 CALVIN DR (SLD)

Z-12-30-09: Consider a request to rezone approximately 8.71 acres from RS7 (Single-Dwelling Residential) to RMO (Multi-Dwelling Residential-Office), located at 3312 Calvin Drive. Submitted by Landplan Engineering, for Grace Evangelical Presbyterian Church, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Tim Herndon, Landplan Engineering, was present for questioning. He said they had a neighborhood meeting and it was positive and that concerns were adequately addressed.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve the rezoning request for 8.71 acres from RS7 (Single-Dwelling Residential) District to RMO (Multi-Dwelling Residential Office) 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 7-0. Student Commissioner Shelton voted in favor.

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**ITEM NO. 2 SPECIAL USE PERMIT FOR RESEARCH SERVICES; 645-647
MASSACHUSETTS ST (SLD)**

SUP-12-11-09: Consider a Special Use Permit to expand Research Services in portions of existing buildings located at 645-647 Massachusetts Street. The proposed use is located on portion of Lot 15 and all of Lots 17 and 19 Massachusetts Street. Submitted by Barber Emerson, LC, for GCB Holdings, LC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Commissioner Hird asked if any communications were received.

Ms. Day said no.

APPLICANT PRESENTATION

Mr. Mark Anderson, Barber Emerson, was present for questioning.

Commissioner Hird asked if the applicant was okay with the conditions of approval.

Mr. Anderson said yes but would like to work on the wording of condition 4 a little bit more.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Harris, to approve SUP-12-11-09, a Special Use Permit for Research Service uses located at 645-647 Massachusetts Street [located on a portion of Lot 15 and all of Lots 17 and 19 Massachusetts Street], based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Execution of a Site Plan Performance Agreement.
2. Publication of an ordinance per Section 20-1306(j) to include the following use restrictions as noted on the face of the site plan:
 - a. No manufacturing or production activities shall be conducted on-site;
 - b. No radioisotopes or other radioactive materials shall be used on-site;
 - c. No known type 1 mutagens or carcinogens shall be used on-site;
 - d. No known toxins or pathogens shall be used on-site; and
 - e. No animal research shall be conducted on-site.
3. Publication of an ordinance per Section 20-1306 (j) to include a statement that this Special Use shall be permitted for a period of 10 years from date of publication of the ordinance.
4. Provision of a note on the face of the site plan that states: "Construction of the 4,840 SF 2nd floor addition shall occur within 24 months after the date of publication of the ordinance and shall be subject to Historic Resources Commission review and approval and issuance of building permits. Construction after 24 months from date of publication of the ordinance shall require a request for extension per Section 20-1306 of the Development Code or review and approval of a revised Special Use Permit per Section 20-1306 of the Development Code and approval of the project by the Historic Resources Commission if an extension is not granted."

Unanimously approved 7-0. Student Commissioner Shelton voted in favor.

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ITEM NO. 3 RSO TO RM15; 10.97 ACRES; 4300 W 24TH PL (SLD)

Z-7-11-09: Reconsider a request to rezone approximately 10.97 acres, located on the SE corner of Inverness and Clinton Parkway, 4300 W. 24th 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. *This item was originally heard by Planning Commission on 9/21/09. City Commission returned this item on 12/15/09 for additional consideration.*

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Mr. McCullough clarified condition 7 of the staff memo that should read 'The number of **unrelated** adult occupants shall be limited to no more than two (2) per unit.'

APPLICANT PRESENTATION

Mr. Cecil King, BG Consultants, said he met with many neighbors on December 10th and had spirited conversation. He said during the process he tried to learn what could be done to make a better project. He said there were multiple charges from the meeting: limit occupants, limit banners, move office building and create a no build zone of open space, building materials labeled, and landscape plan. He said that whatever was promised would get done and tied to the site plan. He said they hired a landscape architect and provided that document to neighbors on January 7th. He said they emailed everyone who was at the first meeting but some were unable to attend the second meeting. He said at the January 7th meeting there were four additional items discussed: add a berm, work with the city for median trees, added requirement for public notice of covenants, and the landscape plan was beefed up as a result of that meeting. He said today he heard questions about the laundry room being locked and he confirmed that it will be locked and residents will have a key. He said they tried to listen to the neighbors and make it a better project.

Mr. Mark Anderson, Barber Emerson, said this is an unusual zoning project and includes one of the most restrictive covenants and conditions he has ever seen. He stated that by upzoning the property it will decrease the number of bedrooms by half that are currently allowed. He said there were two primary concerns raised at City Commission by the neighborhood; questions about land purchase and conditioning on proposed development.

Commissioner Dominguez inquired about the need for more apartments in the city. He asked if a market study was done to see if the need exists.

Mr. Anderson said he was not privy to that information.

Commissioner Dominguez inquired about a traffic study.

Ms. Day said a traffic study is required with the site plan, not rezoning and the traffic study was received and it showed the streets are able to handle the traffic and no improvements are needed.

Commissioner Hird asked why washer and dryers were not in each unit if they are going to be luxury apartments.

Mr. Anderson said he was not privy to that information.

Commissioner Hird asked if the bedroom density would be half of what is allowed under the current zoning.

Mr. Anderson said that was correct.

Commissioner Harris asked if they will be rental or owner occupied.

Mr. Anderson said they will be rentals units.

Commissioner Harris asked if he happen to know if they would be leased by the year or month.

Mr. Anderson said the applicants standard lease is one year and he had no reason to believe that would not be the case with these.

PUBLIC HEARING

Ms. Jamie Hulse, speaking on behalf of many neighbors, went over her points from the letter she submitted that was included in Planning Commission packet. She did not feel that these would be luxury apartments based on previous development from the developer. She wondered if laundry facilities could be added back into the units and market them toward seniors instead of partying students. She was interested in mixed use on both corners.

Mr. Larry Northrop showed pictures on the overhead of existing apartments in the area. He said City Commission unanimously denied this project and he did not think more apartments were needed. He said they could use more mixed use in the neighborhood.

Mr. Bill Bump said he looked at different communities who allow too many multi dwelling units in a neighborhood. He felt Lawrence were at the teetering edge. He said many of the apartments in the area are vacant and there was no need for more. He wondered about the vacancy rate of existing apartments.

Mr. Davis Loupe, 4424 W 24th Pl, expressed concern about the amount of apartment complexes in the area. He said the spirit of the City Commission meeting was *'let's see what we can do to be more creative with that corner than multi housing.'* He said the neighbors met with the developers and they said there could be something worse there under the current zoning. He said nobody in the neighborhood wants multi-family located there. He would rather see mixed use zoning there. He also said that even with the change in landscaping that most of the landscaping would really not provide screening in the winter. He felt the notification process had room for improvement.

Mr. Steven Slader said he runs in the area every morning and has seen degradation over the last five years.

Commissioner Hird said under the current zoning it could result in something worse. He asked one of the neighbors to speak to that.

Ms. Hulse said she would prefer to see senior housing.

Commissioner Hird said that is not a mixed use.

Ms. Hulse said it would change the type of people living there.

Mr. Northrop inquired about RSO district having multi-family component to it. He said the neighborhood has a problem with continually allowing the property to be rezoned to put up more apartments.

Commissioner Hird said if the zoning is not changed then what is built there could be worse and far more dense.

Mr. Northrop said it is the city's fault for not correctly zoning that area. He suggested creating a better plan to create mixed use on the parcel that makes sense.

Ms. Hulse said when the Development Code changed in 2006 it increased the density so the owner by default got more density.

Ms. Day said the two zoning districts, the current RSO and proposed RM, both have base zoning density of 15 dwelling units per acre. With regard to the type of land use allowed, RSO is restricted to single dwelling units but it does allow those attached units if they are on their own individual lot. The request is really about the form of housing. Under the RSO zoning the applicant could come back with a similar kind of project, with the exception that to do the attached units there would be lots and each unit would be on its own parcel. Because those lots have to be a certain size, the units would get bigger so it would be a bigger mass of structure for the same number of dwelling units. The base density is by number of dwelling units, not number of bedrooms.

Commissioner Hird asked if it is RSO the type of dwelling unit would be more like a three story apartment complex.

Ms. Day said not necessarily. She said it could be bigger but there would have to be public streets and bigger lots. These units are very small and occupying a very small area of the property. This project could have been 2-3 bedrooms because the dwelling units are counted, not bedroom.

Mr. McCullough said it is the self imposed condition limiting each unit to a maximum of one bedroom that really caps the population of this project.

APPLICANT CLOSING COMMENTS

Mr. Anderson said the City Commission minutes included the same type of discussion. This type of building footprint structure can be built there now with 35' of height, 3 stories, and look almost exactly what is across the street. The applicant is not doing the individual lot lines and the trade off is that he is willing to limit to one story, one bedroom, with a cap of 161 units. He said that is a lot different than a 3 story unit with a lot of mass. The applicant does not own the property. The owner platted the property 8 years ago and this parcel has set vacant for 8 years. The owner has paid special assessments at the rate of \$50,000 a year in addition to property taxes. The owner is going to unload it and not carry it anymore as vacant non income producing property. In order to build the applicants vision on this site it needs to be upzoned with less mass and density than what is allowed there now.

COMMISSION DISCUSSION

Commissioner Dominguez asked what would happen if the zoning is not changed and another developer comes in and fits the current zoning, how would that proceed.

Ms. Day said development of the site would include site plan approval. Site plans are administrative and if the project complies with the Development Code then they could construct. She stated that

site planning is administrative but there is an appeal process heard by City Commission. She said attached housing would likely require replatting.

Mr. McCullough said the difficulty is that RM15 and RSO are two different types of products. They have the same density and general concept. The Development Code speaks to density and physical standards. The restrictions were the applicants attempt to address the comments learned through the public process. In staff's opinion there can be higher density in terms of building form, population, activity at the project, under either RM15 or RSO. The difference is in how the site is laid out.

Dominguez inquired about the notification process and agreed more notification should be made. He also stated vacancy rates need to be looked at.

Commissioner Blaser felt this was a tremendous improvement over the first version that was presented to Planning Commission a few months ago and he liked that they are single story. He said regarding the comment about the empty apartments the last two built were not finished in time to be rented for the school year so he was not sure that was a good indicator of vacancy. He said he would vote in favor of the rezoning.

Commissioner Moore said he understood the neighbors frustration but felt this was a better plan and he would support it.

Commissioner Hird said it is a difficult situation because he would love to see the land be unbroken farm land forever but that is not possible. He commended the developer for reaching out and attempting to address neighborhood concerns. He said the term density to the average person is different than planners; people and cars versus units. He said he did not want to see more three story apartments and that this is a great plan to limit it to one story apartments with the best compromise that can be reached. He was glad to hear the landscaping has been improved. He said he would support the rezoning.

Commissioner Finkeldei agreed with Commissioner Hird's comments. He said he was happy for the neighbors about all the covenants and restrictions but he hoped to never see it again because he did not think it was the way zoning should be done. He said knowing the process and what he has seen during his four years on the Planning Commission, he thought this was the best it would get at that location. He said he would support the rezoning.

Commissioner Harris said the Code allows for many uses in each district. She liked that this was one story. She appreciated the applicant meeting with neighbors and listening to what they had to say. She expressed concern about the type of tenants and did not see these as luxury apartments since there were no washer and dryer units in each apartment. She asked if the city inspects properties after development. She inquired about the dumpsters left at construction sites that Mr. Northrop showed in pictures.

Mr. McCullough said yes. He said the city can send someone out this week to check on the blight.

Commissioner Harris said she was not happy about not having an office on that location but did not see how she could deny the application based on that. She felt they ought to be looking at areas as they are developing.

Commissioner Carter echoed Harris' frustrations with the fact that this is the best scenario for this property. He expressed concern about additional apartments being built and was worried about the

overbuilding apartments. He was also concerned about developers building just for tax breaks instead of a need. He felt better with the covenants included and said he will support the rezoning.

Commissioner Moore asked if the city has considered commissioning a multi-family vacancy study.

Mr. McCullough said not in his two years with the city. He said staff is challenged in keeping up with the retail market study.

ACTION TAKEN

Motioned by Commissioner Finkeldej, seconded by Commissioner Hird, 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, with the addition of 'unrelated' added to condition 7.

1. Development of the property shall be in substantial conformance with the site plan dated January 4, 2010 and attached hereto. Any changes to the site plan that oppose the spirit of these conditions or that are considered major by the Planning Director shall be reviewed by the City Commission after public hearing in which mailed notice is provided to owners within 1,000 feet at least 20 days prior to the hearing.
2. The use of the property shall be limited to Multi-Dwelling Structures as shown on the site plan.
3. Every building in the development shall be limited to a maximum height of one story above grade.
4. Every residential unit shall be limited to a maximum of one bedroom.
5. The development shall be limited to a maximum of 161 residential units.
6. Advertising banners shall be prohibited at the corner of 24th Place and Inverness Drive.
7. The number of **unrelated** adult occupants shall be limited to no more than two (2) per unit.
8. Prior to the zoning ordinance being published, the applicant will record a Declaration of Covenants and Restrictions which, among other things, will (i) prohibit the construction of any permanent structure on the corner of 24th Place and Inverness Drive, (ii) restrict the use of the property to a maximum of 161 one-story, single-bedroom, residential units, and (iii) name the City of Lawrence as a third-party beneficiary whereby the Declaration may not be amended or terminated without the prior consent of the City. The City's Legal Department shall review this document prior to recording.
9. These zoning conditions shall be listed on the approved site plan prior to site plan approval.

Commissioner Harris said she would vote in favor based on the reasons she stated earlier but wished there had been more mixed use in that space.

Motion carried 6-1, with Commissioner Dominguez voting in opposition. Student Commissioner Shelton voted in opposition.

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**ITEM NO. 4 RSO & PRD TO RM12; 6.5 ACRES; 2451 CROSSGATE & 3901 W 24TH PL
(SLD)**

Z-11-19-09: Consider a request to rezone approximately 6.5 acres from RSO (Single-Dwelling Residential-Office) & PRD (Planned Residential Development) to RM12 (Multi-Dwelling Residential) located at 2451 Crossgate Drive and 3901 West 24th Place. Submitted by BG Consultants, for Inverness Park, L.P., property owner of record.

Item No. 4 was deferred prior to the meeting.

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ITEM NO. 5A CS, COUNTY A, COUNTY I-1 TO IL; 2.65 ACRES; 2176 E 23RD ST (SLD)

Z-10-18-09: Consider a request to rezone approximately 2.65 acres from CS (Strip Commercial), County A (Agricultural), and County I-1 (Limited Industrial) to IL (Limited Industrial) for Lawrence Community Shelter, located at 2176 E 23rd Street. *Initiated by City Commission on 9/15/09.*

Item No. 5A was withdrawn by the applicant prior to the meeting.

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**ITEM NO. 5B SPECIAL USE PERMIT FOR LAWRENCE COMMUNITY SHELTER; 2176 E
23RD ST (SLD)**

SUP-9-9-09: Consider Special Use Permit for Lawrence Community Shelter, approximately 2.65 acres, located at 2176 E 23rd Street and a portion of former Farmland Industries property. Submitted by Grob Engineering Services, for Gary L. Bartz Trust, property owner of record. *Initiated by City Commission on 9/15/09. Deferred by Planning Commission 11/16/09.*

Item No. 5B was withdrawn by the applicant prior to the meeting.

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**ITEM NO. 6 CONDITIONAL USE PERMIT FOR MIDLAND JUNCTION SAND FACILITY;
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. *Deferred from 12/14/09 Planning Commission.*

Item No. 6 was withdrawn by the applicant prior to the meeting.

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MISCELLANEOUS NEW OR OLD BUSINESS

MISC NO. 1 Consider changes to the Planning Commission by-laws related to Ex Parte Communications. **(JJM)**

STAFF PRESENTATION

Mr. John Miller presented the item. He said a 2/3 vote was needed.

Commissioner Harris inquired about the process for a Commissioner arriving late to the meeting.

Mr. Miller said that ex parte can be disclosed before each item or disclosed all at once when the Commissioner arrives. He said it might be easier to disclose ex parte all at once.

Commissioner Moore said he will email the absent Planning Commissioners and tell them to look at the by-laws and make sure there are no concerns.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Carter, to approve the proposed Planning Commission By-Laws amendments.

Approved 7-0. Student Commissioner Shelton voted in favor.

Consideration of any other business to come before the Commission.

Recess at 8:15pm until 6:30pm on January 27, 2010.

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Reconvene January 27, 2010 – 6:30 p.m.

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

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

BEGIN PUBLIC HEARING (JANUARY 27, 2010):

COMMUNICATIONS

Commissioner Harris emailed her suggested changes to the November 2009 Planning Commission minutes.

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of November 16 and 18, 2009.

Receive and amend or approve the minutes from the Planning Commission meeting of December 14 and 16, 2009.

Motioned by Commissioner Carter, seconded by Commissioner Finkeldei, to approve the Planning Commission meeting minutes of November and December, 2009, with the changes suggested by Commissioner Harris.

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

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- Abstentions:
Commissioner Singleton said she would abstain from the Oread Neighborhood Plan.
Commissioner Moore said he would abstain from Item 7, Parkway Plaza.

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**ITEM NO. 7 FINAL DEVELOPMENT PLAN FOR PARKWAY PLAZA; 2121 KASOLD DR
(MKM)**

FDP-11-10-09: Consider a revised Final Development Plan for Parkway Plaza PCD Phase IV-B, located at 2121 Kasold Drive. Submitted by Landplan Engineering, for Patrick Alexander, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Harris inquired about the related uses.

Ms. Miller said related offices such as medical, dental, optical, etc.

APPLICANT PRESENTATION

Mr. Tim Herndon, Landplan Engineering, was present for questioning. He agreed with conditions of approval.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Carter, to approve the Revised Final Development Plan for Parkway Plaza, Phase IV-B to amend the permitted uses based on the findings presented in the staff report and subject to the following condition:

1. The property owner shall install the landscaping shown on the approved plan. As this plan is being considered in the winter, staff recommends that a temporary certificate of occupancy be granted with the provision that the landscaping shall be installed as shown on the approved plan by May 1st 2010.

Unanimously approved 7-0, with Commissioner Moore abstaining. Student Commissioner Shelton voted in favor.

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ITEM NO. 8 PRELIMINARY PLAT FOR PINES INTERNATIONAL ADDITION; 1997 E 1400 RD (MKM)

PP-11-6-09: Consider a Preliminary Plat for Pines International Addition, a one lot addition of approximately 2.3 acres, located at 1997 E 1400 Rd, and variance from Section 20-810(d)(4)(ii) to permit dedication of less than 120 ft of right of way for a principal arterial. Submitted by Grob Engineering Services, LLC for PINES International Inc., property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Hird inquired about the temporary set aside agreement regarding the school house.

Ms. Miller said the draft set aside agreement says they will maintain the school house. They can use it as an office, for example, but will have to maintain its character.

APPLICANT PRESENTATION

Mr. Dean Grob, Grob Engineering Services, was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the variance request from Section 20-810(d)(4)(ii) to permit the dedication of 20 ft of right-of-way and 10 ft of easement rather than the 30 ft of right-of-way required for Hwy 24/59.

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

Motioned by Commissioner Hird, seconded by Commissioner Harris, to approve the Preliminary Plat of the PINES International Addition and referring it to the Board of County Commissioners for consideration of dedication of easements and rights-of-way subject to the following conditions of approval:

1. A variance shall be obtained from the Board of County Commissioners from Section 20-811(d)(2)(ii) of the Subdivision Regulations to permit the location of an on-site sewage management system on a lot that is less than 3 acres.
2. The plat shall be revised with the following changes:
 - a. Waiver and Variance Requested shall be revised to 'Variances'.
 - b. Note 1 shall be revised to include the date the Planning Commission granted the variance, if it is approved.
 - c. Note 2 under 'Variances Requested' shall be revised as follows: The owner is requesting a variance from the 3-acre requirement for on-site sewage management system on lots which are served by a public water supply. [Section 20-811(d)(2)(ii)] of the Subdivision Regulations. The note shall be revised to include the date the Board of County Commissioners granted the variance, if it is approved.

- d. Label shall be added for N 2000 Rd along the western portion of the north property line.
3. The following actions shall be required prior to recording of the final plat:
- a. The applicant shall provide documentation to the Planning Office that a water meter is available from Rural Water District #13 to serve this property.
 - b. The applicant shall provide documentation to the Planning Office indicating Water District #13 and Lawrence Fire Department's approval of hydrants or alternate water storage devices to support firefighting needs, per Section 20-811(e)(3) of the Subdivision Regulations.
 - c. The applicant shall provide documentation to the Planning Office that the on-site sewage management system has been approved by the Douglas County Health Department.
 - d. The applicant shall provide an executed water connection agreement, per Section 20-811(e)(2)

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

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ITEM NO. 9 UR TO CO; 2.98 ACRES; 525 WAKARUSA DR (MKM)

Z-11-20-09: Consider a request to rezone approximately 2.98 acres from UR (Urban Reserve) to CO (Office Commercial), located at 525 Wakarusa Drive. Submitted by Bartlett & West, Inc., for CPC Ventures, Inc., property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Harris inquired about the nodal plan and what it says about commercial development.

Ms. Miller said the area exceeded the amount of commercial space before the nodal plan was developed. When the nodal plan was developed different amounts of retail were recommended. These amounts were exceeded when additional commercial space was approved for the Bauer Farm development. She said this bit of commercial space might be more appropriate because it is intended for the office use, not to draw others to the site. She gave the example of a coffee shop that is limited retail use intended for the site area.

Commissioner Finkeldei said the nodal plan does not talk about overall commercial space, it talks about overall retail space, correct?

Ms. Miller said that was correct and the bank would not be included because it would not be commercial. She said they were looking at the potential for other retail uses, such as a fast food restaurant, if it was not more than 10% of the office area.

APPLICANT PRESENTATION

Mr. Steve Lacoste, Bartlett & West, was present for questioning. He said the intent is for a bank and that they were not looking for retail, it was just the most appropriate district that allows the ATM drive-up. He said they are not anticipating a fast food restaurant.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve the rezoning of 525 Wakaursa Dr of approximately 2.982 acres from UR (Urban Reserve) District to CO (Office Commercial) 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.

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ITEM NO. 10 COMPREHENSIVE PLAN AMENDMENT TO CHAPTER 14 (MJL)

CPA-2-1-09: Consider a Comprehensive Plan Amendment to Chapter 14 – Specific Plans to approve and incorporate by reference the Oread Neighborhood Plan.

STAFF PRESENTATION

Ex parte:

Commissioner Carter said he had a brief conversation at the ribbon cutting of the Oread Hotel with a few members of the Oread Neighborhood Association about the Oread Plan.

Commissioner Hird said he had a telephone conversation with Mr. Steve Watts about the function of the Planning Commission in developing the Oread Neighborhood Plan.

Ms. Michelle Leininger presented the item. She reviewed the timeline, changes to the December draft, and changes to maps.

Commissioner Harris asked if staff reviewed the Lawrence Preservation Alliance and Oread Neighborhood Association suggestions. She inquired about any other suggestions besides the Historic Resources Commission recommendations.

Commissioner Rasmussen asked if staff reviewed the recent comments from Ms. Marci Francisco.

Ms. Leininger said she reviewed all comments.

PUBLIC HEARING

Ms. Candice Davis read a story that she wrote called "Once Upon a Time in Your Neighborhood." The story was about neighborhood issues such as parking, trash, blight, and college parties. She believed more work should be done on the plan. She suggested under the inappropriate neighborhood behavior adding a fourth action to limit or eliminate congregate living in the Oread neighborhood.

Ms. Carol von Tersch, lives in the Snow house, said the Oread Neighborhood Association tried to listen to the Planning Commission direction and focus on goals. She felt the primary goal was to focus on different types of housing. The second goal would be historic preservation. She said the plan, as proposed, is contradicting because there is a text amendment moving forward for congregate living. She predicted that in 10 years, every owner occupied structure or single family structure in the neighborhood will be congregate living with this text amendment. She said the cost of this will be borne by the taxpayers across the community because there will be additional law enforcement and city utilities needed.

Mr. Kyle Thompson, Oread Neighborhood President, said financial incentives will encourage more boarding houses. He felt the Text Amendment contradicts the plan and undercuts the goals of the plan.

Mr. Tony Backus clarified police call statistics at 1300 Ohio Street. He said it was not just for the house, it also included the intersection and that a majority of the calls were for the intersection, not the house. 1121 Ohio was listed as having 19 calls. He said those calls were related to traffic accidents, burglary, medical emergency, parking tows, suspicious activity, etc, and that the police department has to associate an address with every call even if it is just in the area. He said the Oread neighborhood was blighted much worse when he was younger and that it has never looked

better. Expressed concern about schools closing and families not wanting to move to a neighborhood without a school.

Ms. Serena Hearn displayed a book about the history of co-ops and group living. She said there was a long history of this type of housing with young women as "house mothers." She said the Oread neighborhood has always been mixed use and asked the Commission not to get 'historic amnesia' about what the Oread neighborhood was and is.

Mr. Rob Farha, Crimson Properties, reiterated that they want to protect what they currently own in the Oread neighborhood.

Ms. Marci Francisco, 1101 Ohio St, went over the points in the letter submitted by the Oread Neighborhood Association. Suggested changes for the overlay districts: lot size, limiting the size of building additions, alley access is important, suggested wording changes for history of Neighborhood Association, parking clarification, and minor edits.

Commissioner Carter had a question about a suggested edit on the Neighborhood Association regarding grants.

Ms. Francisco said before the neighborhood received CDBG funds they had a federal program for crime prevention that started before the CDBG grants.

Commissioner Finkeldei inquired about land use implementation strategies and how it would allow rebuilding of a single-family home if destroyed.

Ms. Francisco said the question of how to protect investment is to maintain a mix of housing types.

Ms. Fadila Boumaza, owner of 928 & 930 Ohio Street, felt the rights of the property owners should weigh equally. She said the best she can do is carefully select tenants but cannot discriminate. She said she is working on an exercise of mapping owner occupied versus rental. She said she takes exception to people continually saying "encourage owner occupied single-family houses."

Mr. David Holroyd, 1224 Louisiana St, gave the history of the area. He said a majority of the 1200 block of Louisiana was rental and most had 'families that rented out rooms.' He said it was a myth that there have been traditional families with children.

COMMISSION DISCUSSION

Ms. Leininger said staff would not have strong objection to any of the suggestions from the Oread Neighborhood Association.

Mr. McCullough said the letter from Lawrence Preservation Alliance was discussed by the Historic Resources Commission and staff agrees with the Historic Resources Commission recommendations. There was discussion about the down zoning issues which was one of their comments. Through the overlay districts some of the goals can be achieved without down zoning property and taking away development rights of that form. For various reasons the Historic Resources Commission did not accept that proposed change on the plan.

Commissioner Harris asked for further explanation of down zoning versus overlay district.

Mr. McCullough said overlay zoning process will involve looking at such things as height, coverage, setback, character defining elements, etc. He said staff are not likely to strip away any uses and

cannot add any uses in overlay districts. He said overlay districts are a future implementation. He said for example down zoning from RM to a Single-Family district would probably not be politically palatable. Having the ability to get at the character through overlay districts is appropriate.

Commissioner Harris asked if it would result in the goal of providing 'diversity of people' in the neighborhood.

Mr. McCullough said he did not know if it would or not. He said all through the process a major stakeholder group, the students, have not been present and they are the vast majority of people in the area.

Commissioner Moore said he liked Ms. Francisco's suggestions. He asked if Mr. Dennis Brown was present at Historic Resources Commission.

Mr. McCullough said that was correct.

Commissioner Carter also agreed with Ms. Francisco's suggestions. He appreciated recommendations being suggested. I thought the text amendment was critical. He felt there should be wording in the neighborhood plan that clarifies the ability to rebuild.

Commissioner Finkeldei agreed that maybe the language could be cleaned up regarding the rebuilding issue for single-family.

Mr. McCullough said implementation would come through the Development Code text amendments. He said rebuilding non-conforming structures is on our radar, but that the issue is bigger than just this plan.

Commissioner Finkeldei agreed they should incorporate Ms. Francisco's suggested changes.

Suggested wording change to Table 43-1:

Review the Land Development Code:

- regarding boarding houses to address neighborhood concerns while maintaining boarding houses as ~~a feasible option~~ *one of many options* for owners and students. ~~to ensure that the parking requirements are appropriate, limit the number of bedrooms and occupancy in a boarding house to a reduced limit.~~ [Land Use]

Commissioner Finkeldei said he would also support something similar to what Candice Davis suggested in 3.8 adding a #4 that discourages proliferation of Boarding Houses. He said this is just the first step and that there is still lots of work ahead but that the plan needs to move along so that the Implementation Steps get in front of City Commission. They can direct the Police Department for more resources.

Commissioner Moore agreed with those suggestions.

Commissioner Finkeldei also wanted to be sure that under the Action table the wording was changed to reflect text changes.

Support the expansion of the rental registration and inspection program ~~to include all rental units in the city that are 50 years or older.~~ [Neighborhood Atmosphere]

Commissioner Rasmussen said regarding the Implementation Action Items that the university should be more involved. He suggested that it be an action item to try to get them more involved somehow.

Mr. McCullough said today they met with University of Kansas officials to revisit the land use agreement. He said staff has attempted to involve them in the process and they have not been very engaged in it. He said they could add another general action item to maintain and encourage more collaboration.

Commissioner Rasmussen said if a parking permit program was instituted or restrictions associated with game day activities might get their attention. He said he would like to see an action item that specifically says to get the University engaged in some of the long term planning in this area and thinking about how they can be involved. He said this plan will have more opportunities for discussion. He said regarding language that discourages the proliferation of boarding houses why not say discourage the proliferation of apartments and rental units of any type. He said he would be okay with approving tonight to move it forward. He said on the Future Land Use Map 4-1 there was not a downtown commercial center shown so it should be removed from the legend.

Ms. Leininger said that was one of staff's recommendations.

Commissioner Carter agreed with trying to get the university more involved.

Commissioner Hird expressed concern about down zoning. He said that Boarding Houses can be one of the harmonized mixed uses. He encouraged mixed use rather than 'discouraging proliferation of one type.' He discussed the police call information and said the issue with behavior is an issue for the neighborhood but he didn't know it could be solved.

Commissioner Harris said she was not ready to vote on the plan because she did not think the plan really addresses having owner occupants in the neighborhood. She felt the actions do not get to doing that, but rather more of a hope. She was not convinced that the steps will get what they want. She was not convinced that Planning Commission and the community are really invested in goals of the plan when it comes to owner occupants in the neighborhood.

Commissioner Finkeldei agreed with the difference between plans and actions. He said they will not know until they start working on the overlay districts. He said he would like to move the plan forward to the next step. He said language in section 3.8E4 regarding inappropriate residential behavior that negatively impacts the neighborhood was not put in the land use section. He said he would not put that statement in the land use section.

Commissioner Carter stated if any language is included to discourage boarding houses it should also include other things such as apartments.

Commissioner Rasmussen said he would like to see the Implementation Steps cross-referenced with Goals.

Ms. Leininger explained how the Implementation Table presents the Goals and Action Steps.

Commissioner Finkeldei said it would be helpful to include the number from Goals and Policies.

Commissioner Harris inquired about encouraging owner occupied.

Mr. McCullough referred them to the Existing Land Use Map. It is a mixed use area. He stated ownership cannot be mandated. The plan addresses mass and structure type. The overlay district in RM12D, north of the stadium, might keep those structures in a place where it is not a high density area where it might be conducive to turning back into owner occupied uses.

Commissioner Harris discussed one of the communications that talked about incentives for people to own and live in the neighborhood. She said that might be something to look at. The plan says that we need diversity of different kinds of people and owner occupied and families because they bring safety and a sense of community. She said she was not sure Planning Commission or staff really believe that is possible.

Commissioner Moore said the resources to do it are limited. He said he would not support down zoning. He stated the overlay districts are one way to achieve it.

Commissioner Hird said the goal of providing owner occupied residents in the neighborhood is tied to stability. What kind of an action step could be put with that goal when the choices are down zoning or not.

Commissioner Harris said there could be language in the plan for incentives to own and live in their homes in the Oread Neighborhood.

Commissioner Carter said if they are addressing the issues of quality of life in the neighborhood related to parking, trash, etc, and combining that with the overlay districts to encourage the mixed use, the market could potentially see the stabilization and slowing of the owner occupied leaving the neighborhood. He did not think they would be able to put anything in the plan to force the issue of owner occupied housing without some potentially negative unintended consequences. He did not necessarily think they could put a plan together here that will cause more owner occupied to come back into the neighborhood. He would like to see the neighborhood improve and stop the proliferation of boarding houses. He was in support of the overlay districts.

Commissioner Hird asked if it was within their practice to put something in this plan that says Planning Commission recommends City Commission consider tax abatement for people willing to move into the area and be owner occupied. He wondered if Planning Commission could make recommendations in the plan for that type of policy change.

Mr. McCullough said they cannot discount this plan supports a rental registration program and that it is calling for greater police presence. Those things are outside of land use but are programs that can and should be supported that can go a long way in stabilizing the neighborhood. One of Lawrence Preservation Alliance's comments was to implement neighborhood revitalization plans. Planning Commission can set up the framework but not identify specific programs. He said Planning Commission could pass along to City Commission to encourage owner occupied the city should explore programs/incentives such as '_____', and include any suggestions they would like.

Commissioner Hird said tax abatements can give incentive to move there and he was not opposed to language that will give incentive for that change.

Commissioner Moore said under section 3.4.2 B1 talks about Neighborhood Revitalization and that might be an appropriate place to add in language such as percentage of property taxes for rehabilitation and also pursue financial incentives for owner occupants.

Commissioner Finkeldei suggested language under the Land Use section as an action item 'explore the use of incentive options to encourage owner occupancy.'

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Carter, to adopt with the following:

- as written with staff changes
- including Historic Resources Commission recommendations
- including Ms. Marci Francisco's suggested changes
- including wording change to the Action table to reflect text changes.
- including language for two new action items; one related to tax incentives to owner occupancy and the second related to the involvement of the University of Kansas
- in the Implementation Schedule, make reference as to which Implementation strategy the action refers to.

Unanimously approved 7-0, with Commissioner Singleton abstaining. Student Commissioner Shelton voted in favor.

Motioned by Commissioner Finkeldei, seconded by Commissioner Carter, to authorize the chair to sign PC Resolution PCR-1-1-10 regarding this CPA.

Unanimously approved 7-0, with Commissioner Singleton abstaining. Student Commissioner Shelton voted in favor.

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ITEM NO. 11 SPECIAL USE PERMIT FOR LAWRENCE COMMUNITY SHELTER; 214 W 10TH ST/944 KENTUCKY ST (SLD)

SUP-10-10-09: Consider extending the time period for a Special Use Permit for Lawrence Community Shelter, located at 214 W 10th St/944 Kentucky St. Submitted by Lawrence Community Shelter, for James Dunn, property owner of record.

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item.

Commissioner Harris asked when the current permit expires.

Ms. Stogsdill said April 2010.

Commissioner Rasmussen inquired about staff report condition 1.

Ms. Stogsdill said the intention is that the City Commission would not grant the extension if they have not also granted approval for progress on a new location.

Commissioner Rasmussen asked if condition 1 would mean this Special Use Permit request would only be effective if the city approves a Special Use Permit for a new location.

Ms. Stogsdill said that was correct.

Commissioner Rasmussen inquired about staff recommendation 5e.

Ms. Stogsdill said those are the Historic Resources Commission conditions that have been pulled forward. The intent would be that if you were somewhere between here and two years from now and it was apparent the shelter was not ready to move to a permanent location and would need to extend at the current location, Historic Resources Commission is saying the temporary canopy should not continue to be the structure that is used. A more compatible permanent structure should be constructed for that extended period of time. She said staff incorporated Historic Resources Commission recommendations into the Special Use Permit and technically Planning Commission does not have the authority to modify Historic Resources Commission specific recommendations because those are their conditions and they are the decision making body

Commissioner Rasmussen inquired about what happens at the end of the 2 year extension when the carport and fence will be removed and a new structure constructed. He wondered if the Special Use Permit would be extended past that date.

Commissioner Finkeldei said Planning Commission cannot change the Historic Resources Commission conditions, correct.

Ms. Stogsdill said Planning Commission could give direction of how they would like them to be changed and if the situation was 18 months from now and a new structure would have to go through Historic Resources Commission then Planning Commission would have the opportunity to wordsmith how to recommend the conditions be executed.

Commissioner Blaser inquired about how the semi-annual report to City Commission was arrived at.

Ms. Stogsdill said that was recommended because for many years the city has been getting an annual report, however since it is a 2 year period of time it seems like the City Commission would be interested in having periodic updates as to the progress. The frequency of reports was based on how long it takes to be on an agenda and how long it takes Lawrence Community Shelter to prepare a report. She thought 6 months was a reasonable time in terms of fundraising and construction activities.

Commissioner Blaser said quarterly reports would be better.

Ms. Stogsdill said staff was open to modifying the frequency of reports.

APPLICANT PRESENTATION

Mr. Loring Henderson, Director of Lawrence Community Shelter, gave information and statistics of current location. He also reference the new proposed location at 3701 Franklin Park Circle.

Mr. Don Huggins, president of Lawrence Community Shelter, said the owners of the new location came forward and offered the opportunity and he feels the new location is a better facility. He stated the building already exists so that will cut down on building costs. The new structure would allow for space for the jobs program onsite. Both the area and building location allow more liberty in establishing an outside recreation area.

PUBLIC HEARING

Ms. Marci Francisco, 1101 Ohio, said the Oread Neighborhood Association board has no objections to the extension of the SUP.

Mr. Hubbard Collingsworth inquired about the timing.

Mr. McCullough said Planning Commission will hear the request for the proposed location on March 22nd so it can go to City Commission and the plan is to get it heard before the current Special Use Permit expires.

Mr. Collingsworth recommended updates from Lawrence Community Shelter every quarter.

Mr. Brad Cook, social worker at Lawrence Community Shelter, said he supported the two year Special Use Permit renewal.

COMMISSION DISCUSSION

Commissioner Finkeldei asked what happens if Planning Commission doesn't act on the new location in March.

Mr. McCullough said if this recommendation is approved it would go to City Commission and they can still act on extending the Special Use Permit for a lesser time frame while working on the location. He said there are options.

Commissioner Finkeldei asked if some of the changes made in the management plan for the new facility could be implemented at the current location, or just the new location.

Mr. Henderson said it will be both because some of the changes are site specific. Most of it will be transferable to the new site.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Carter, to approve the extension of the Lawrence Community Shelter Special Use Permit and forwarding the request to the City Commission with a recommendation of approval and the ordinance for adoption on first reading, subject to the following conditions:

1. Extension of Special Use Permit request is granted subject to City Commission approval of a Special Use Permit for a new LCS Shelter location.
2. SUP approval granted for period of approximately two years to expire at the earlier of either completion of permanent facility or June 30, 2012.
3. Submittal of a semi-annual report to the City Commission regarding the status of fundraising and construction progress for permanent facility.
4. Submittal of an annual report to the Planning Office within the first calendar quarter of each year. The report shall include a listing of law enforcement & emergency response calls, a log of guests who obtain jobs and housing, numbers of guests who utilize the day and nighttime services, and an update on the on-going commitment to communicate with the surrounding neighborhood and to address concerns of neighbors.
5. Revision of the site plan to update notes to state:
 - a. Identification of expiration dates, HRC, PC and CC action dates, as necessary.
 - b. Maximum overnight occupancy (with staff) shall continue to be limited to 57 persons, except for the period between Oct. 1 – April 1 of each year when the maximum occupancy (with staff) may be increased to 82 persons.
 - c. LCS commits to assist in regular litter pickup for nearby properties.
 - d. The noncompliant fence and carport will be removed when the SUP expires or when the Shelter moves to a new location. (Condition of DR-10-118-09)
 - e. If the Shelter does not move at the end of this two year extension, the non-compliant carport and fence will be removed and a new structure allowing for outside shelter is to be provided. (Condition of DR-10-118-09)
 - f. The applicant will submit drawings of a compliant structure(s) to the Historic Resources Commission prior to their installation for approval. (Condition of DR-10-118-09)
6. Execution of a new Site Plan Performance Agreement.
7. Publication of an ordinance per Section 20-1306(j).

Commissioner Blaser felt there should be more frequent reporting on fundraising and construction.

Mr. Huggins said the fundraising progress may not show up in monthly reports.

Commissioner Moore said he would support quarterly reports.

Commissioner Finkeldei said he would support quarterly reports. He also suggested condition 1 have the language 'granted subject to' replaced with 'contingent upon.' And on condition 5e he suggested the following language in bold be added:

'If the Shelter does not move at the end of this two year extension, the non-compliant carport and fence will be removed and **if an additional extension is granted** a new structure allowing for outside shelter is to be provided.'

Motioned by Commissioner Harris, seconded by Commissioner Carter, to amend the motion to include the following bolded and struck-thru changes to the conditions:

1. Extension of Special Use Permit request is ~~granted subject to contingent upon~~ City Commission approval of a Special Use Permit for a new LCS Shelter location.
2. SUP approval granted for period of approximately two years to expire at the earlier of either completion of permanent facility or June 30, 2012.
3. Submittal of a ~~semi-annual~~ **quarterly** report to the City Commission regarding the status of fundraising and construction progress for permanent facility.
4. Submittal of an annual report to the Planning Office within the first calendar quarter of each year. The report shall include a listing of law enforcement & emergency response calls, a log of guests who obtain jobs and housing, numbers of guests who utilize the day and nighttime services, and an update on the on-going commitment to communicate with the surrounding neighborhood and to address concerns of neighbors.
5. Revision of the site plan to update notes to state:
 - a. Identification of expiration dates, HRC, PC and CC action dates, as necessary.
 - b. Maximum overnight occupancy (with staff) shall continue to be limited to 57 persons, except for the period between Oct. 1 – April 1 of each year when the maximum occupancy (with staff) may be increased to 82 persons.
 - c. LCS commits to assist in regular litter pickup for nearby properties.
 - d. The noncompliant fence and carport will be removed when the SUP expires or when the Shelter moves to a new location. (Condition of DR-10-118-09)
 - e. If the Shelter does not move at the end of this two year extension, the non-compliant carport and fence will be removed and **if an additional extension is granted** a new structure allowing for outside shelter is to be provided. (Condition of DR-10-118-09)
 - f. The applicant will submit drawings of a compliant structure(s) to the Historic Resources Commission prior to their installation for approval. (Condition of DR-10-118-09)
6. Execution of a new Site Plan Performance Agreement.
7. Publication of an ordinance per Section 20-1306(j).

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

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ITEM NO. 12 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. *Deferred from 9/21/09 Planning Commission. A report on possible incentives was presented to Planning Commission at their 11/18/09 meeting.*

Item No. 12 was deferred prior to the meeting.

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ITEM NO. 13 AMENDMENTS TO ZONING REGULATIONS; BUSINESS DISTRICT (MKM)

TA-10-22-09: Consider Text Amendment to the Zoning Regulations for the Unincorporated Territory of Douglas County to create a new Business District to support rural conference, recreational, and tourism sites. *Initiated by the Board of County Commissioners on 6/24/09 Deferred from 11/18/09 Planning Commission.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Hird inquired about temporary buildings being used during development.

Ms. Miller said that is a use that is currently permitted in business districts in the county and that is for temporary buildings during construction, such as a mobile home used as an office for leasing. If they were going to sell lots it would be platting something into individual ownership. Usually that is done with residential subdivisions when they want to sell each lot. She said in this case she thought the temporary building would be for the construction of whatever the rural tourism use is.

Commissioner Hird said he did not envision the rural tourism as being a situation where a developer would be selling lots. He was concerned about the language.

Ms. Miller said the language about selling lots can be removed.

Commissioner Harris said she would support that change. She asked if the county engineer had weighed in on taking out the language about the improved arterial roadway.

Ms. Miller said she believed that would be determined on an individual basis based of the type of rural tourism use and intensity. It may not always require access, such as a secluded camping area. The county engineer would weigh in on each one and his recommendation would be taken.

Commissioner Hird said he noticed wineries and winery tasting rooms were not on the permitted uses.

Ms. Miller said wineries and winery tasting rooms are exempt by the Kansas Agricultural Law.

Commissioner Hird inquired about retail sales in a winery.

Ms. Miller said there would be two options. If it was just the winery and tasting room it would be exempt. If a winery wanted to do retail sales and it is a small operation then they could apply for a Conditional Use Permit.

PUBLIC HEARING

Ms. Marci Francisco met with the League of Women Voters Land Use Committee and they agreed with Commissioner Hird's comment about the temporary buildings. She also said they discussed a hotel or bed and breakfast being different than a motel and expressed concern about the idea of a motel.

Commissioner Hird asked why they would object to motel but not hotel.

Ms. Francisco said motels seem to be individual lodging, hotels seem to have restaurants, meeting rooms and groups that might get together.

Ms. Miller said in the County Zoning Regulations hotel is described as taking access to the room from an interior hallway and a motel is described as access from an exterior door. She gave the example of The Woods, which has cabins with exterior doors. She said perhaps when the County Zoning Regulations are revised the distinction could be removed because it seems like a fine point.

COMMISSION DISCUSSION

Commissioner Blaser said that must be an old regulation because all motels have internal doorways and hallways.

Commissioner Carter said there are a lot of motels that have meeting space for gatherings. He also gave the example of a motel accessory use for a fishing farm or hunting retreat.

Commissioner Hird recently went to the Kansas Grape Growers and Wine Makers meeting in Emporia and it was in a motel and the rooms had outside access but they also had meeting space and other facilities.

Commissioner Harris suggested language 'lodging such as bed and breakfasts, camp grounds or other lodging that includes meeting or gathering spaces for group events.'

Mr. McCullough said staff would prefer to use language already in the Code.

Commissioner Harris said we may get something we don't want if we strictly stay with the language.

Mr. McCullough staff would prefer to be more flexible with it. He gave the example of a small motel without a lot of gathering spaces would provide lodging for a family who would then explore whatever agritourism situation there is so there may not be a need for gathering spaces.

Commissioner Harris wondered how they could craft it so they could limit the things they don't want but encourage what they do want.

Mr. McCullough said it might help to define the harm in motels.

Commissioner Carter said it's not that they don't want motels. He said he could see a motel sprouting up with small rooms for a need if it's there and then add meeting space as needed.

Commissioner Singleton felt the distinction between hotels and motels is pretty antiquated. She said hotels are historically for people to go and gather and motels were created when cars became popular so people could stop and go in from the exterior. She felt that both hotels and motels could have gathering rooms. She did not think it made any difference and preferred leaving the language alone.

Commissioner Hird gave the example of an archery range where attendees stay in cabins. He said he would not be opposed to a motel if it is connected to a specific use and connected to some sort of rural tourism.

Ms. Miller said these uses are permitted only where they constitute or are part of a rural tourism. For instance they may be the rural tourism use in and of themselves or they may be a part of it.

Commissioner Rasmussen gave the example of bird watching with cabins in the woods and spotting areas set up around it. He said it would meet the definition of motel but that it would be associated with a use.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Harris, to approve the revised text amendment, TA-10-22-09, with the following strikethrough edit to section 12-309B-4.01, and forward to the Board of County Commissioners with a recommendation for approval,

12-309B-4.01 Temporary buildings, the uses of which are incidental to construction operations ~~or sale of lots during development~~ being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

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.

ADJOURN 10:00pm