



PLANNING COMMISSION MEETING

April 26 & 28, 2010

Meeting Minutes

April 26, 2010 – 6:30 p.m.

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

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

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of March 22 and 24, 2010.

Motioned by Commissioner Harris, seconded by Commissioner Finkeldei, to approve the March 22 and 24, 2010 Planning Commission minutes with revisions suggested by Mr. Bill Mitchell.

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

COMMITTEE REPORTS

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

Commissioner Hird said the Agri-Tourism Committee met around April 12th and will meet again the second Thursday in May. He said they are still studying the definition of agri-tourism and what types of activities should be promoted and encouraged.

Commissioner Harris inquired about the upcoming Planning Commission retreat.

Mr. McCullough said the group will be formed soon for the June meeting. He said there may be a new Planning Commission member in May and three others are up for reappointment, which may change what is planned for the retreat.

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 Rasmussen said he stopped by Pinwheel Farm today and took a tour.
- No abstentions.

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ITEM NO. 1 PUD TO OS; 22.63 ACRES; SE OF W 27TH ST & CROSSGATE DR (MKM)

Z-3-3-10: Consider a request to rezone approximately 22.63 acres, from PUD (Planned Unit Development) to OS (Open Space), located southeast of W 27th St. & Crossgate Dr. *Initiated by Planning Commission on 3/22/10.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Chaney, to approve the rezoning request for approximately 22.63 acres from PUD (Planned Unit Development) District to OS (Open Space) District, located southeast of W. 27th Street and Crossgate Drive, and forwarding it to the City Commission, based on the findings of fact found in the body of the staff report.

Commissioner Rasmussen asked what the plan was for the open space.

Ms. Miller said the intention was to keep it agriculture.

Unanimously approved 8-0.

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ITEM NO. 2 CONDITIONAL USE PERMIT; 1478 N 1700 RD (MKM)

CUP-2-1-10: Consider a Conditional Use Permit for camping, sale of farm products, and events at Pinwheel Farm, approximately 11.79 acres, located at 1478 North 1700 Road. Submitted by Natalya Lowther, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Hird inquired about the total parcel size.

Ms. Miller said 11.29 acres.

Commissioner Hird asked if there could be six camping units at any one time on the property.

Ms. Miller said that was correct. It could be a mixture of RV's and tents.

Commissioner Hird asked if the neighborhood concern was about tents or RV's.

Ms. Miller said she thought the main concern was about unknown people coming into the neighborhood.

Commissioner Hird asked if the camping would be marketed as a camp ground.

Ms. Miller said no, it would only be as an adjunct to the farming operation and the applicant indicated that in her guidelines.

Commissioner Hird asked if there were other examples of this kind of activity in the region or state.

Ms. Miller said she has not seen any.

Commissioner Hird asked why the RV's are limited to 20'.

Ms. Miller said some RV's can be very large. She said she contacted Development Services and they said a class B RV is typically less than 20'. She said she thought the applicants intent is to have RV's near the front of the property where the gravel drive would be.

Commissioner Harris asked if the staff report included the other conditions provided by the applicant today.

Ms. Miller said no, it does not.

Commissioner Harris asked if staff has had a chance to look at the applicant conditions.

Ms. Miller said the applicant would like the RV length to be up to 30' rather than 20' and staffs position is that it is a judgment call. The applicant would also like a 100 year Conditional Use Permit but staff feels the 10 year time limit is appropriate. She asked that the long term goals be included so that they would be grandfathered uses in case the land is annexed into the city or the zoning ever changed. If the zoning was changed then those uses would be grandfathered and seen as non-conforming uses. The applicant would like four RV's in the area located near North Street and staff

recommended two. The applicant does not have a problem with providing an annual report, but would like to include the square footage and location of the farm stand use and the number of parking spaces. Staff feels that should be on the Conditional Use Permit, not the yearly report. The applicant would like to change condition 15 from no sound amplification to no electronic sound amplification is permitted that is readily audible from neighboring properties except for emergency hazard warning devices. Staff would not have objection if the sound was not audible from neighboring properties. Staff would accept her revisions to condition 18 regarding the bottled water and chemical toilets needed for events of more than 25 people. The applicant is requesting that camping be permitted in floodplain. FEMA may permit that with some limitations, as long as that reduced the amount of camping that would be along North Street. Staff recommended 15' setbacks and the applicant is recommending 10' setbacks. Staff feels like the 15' setback would help buffer the outdoor activities. Staff has no objection to alternative paving for parts of the drive and if it doesn't work then gravel can be put in.

Commissioner Harris asked if the two things staff does not agree with are the number of years for the Conditional Use Permit and the setback.

Ms. Miller said that was correct, as well as the inclusion of the applicant's goals with the Conditional Use Permit.

Commissioner Rasmussen inquired about the availability of sanitary facilities for camping areas.

Ms. Miller said a grandfathered privy could be used.

Commissioner Rasmussen asked about condition 12 (*camping area shall be kept in a neat, safe and sanitary manner*) and why it is limited to the camping area and not the farmers market.

Ms. Miller said that it could apply to the farmers market as well.

Commissioner Rasmussen inquired about a time limit on camping.

Ms. Miller said she discussed it with the applicant and the applicant did not see the difference on intensity. The applicant felt that if someone camps for a longer period of time they could become familiar with the neighbors instead of being seen as a stranger.

Commissioner Rasmussen said that Clinton Lake has camping time limits.

Commissioner Finkeldei asked if there is a definition of camping in the Code.

Ms. Miller said no.

Commissioner Finkeldei said the County has had other difficulties with people living on property in RV's rather than camping in a tent. He inquired about the possibility of someone camping for three years.

Ms. Miller said it was possible but that it might be considered living there at that point, not just camping.

Commissioner Finkeldei asked if the owner is planning on using her own RV's to house people.

Ms. Miller said yes.

Commissioner Finkeldei asked if there was a requirement to move the RV's periodically.

Ms. Miller said no but that there could be a requirement that RV's be moved after a certain amount of time.

Commissioner Finkeldei said they need to come up with a way to differentiate between camping and residing so that these are not permanent residences.

Ms. Miller suggested if people were staying longer they could maybe register with county office so it could be tracked.

Commissioner Finkeldei inquired about the condition related to what can be sold there.

Ms. Miller said with a farm stand things can be sold that are grown there, a farmers market would sell things grown there and grown by other farmers. She said she did not believe the applicant wanted to sell retail products.

APPLICANT PRESENTATION

Ms. Natalya Lowther, Pinwheel Farm, went over history of Pinwheel Farm and the long term goals. She discussed uses permitted by right and that she cannot implement some of her long term goals immediately. She inquired about how she can "register" the long term plan. She expressed concern about not being able to use the property as planned if the regulations change in the future. She would like all four RV spots at the southern end so that they are on the driveway.

Commissioner Blaser inquired about an agri-tourism liability waiver. He asked if she signs it then would she not have liability for anyone getting hurt on the farm.

Ms. Lowther said that was correct, but that it does not remove her liability in making a safe environment for people.

Commissioner Blaser asked if she still had to carry liability insurance.

Ms. Lowther said yes.

Commissioner Blaser inquired about Kansas fence laws.

Ms. Lowther said it sets forth rules for agricultural fencing that says property owners on both lines need to maintain the fence in order to contain livestock.

Commissioner Finkeldei asked if she expects to put her two campers in one place and leave them there.

Ms. Lowther said the campers would be moved as needed. She said she did not want to have to shuffle the campers around each month but that she thought they would naturally be moved around based on the needs of the farm.

Commissioner Finkeldei asked if she would expect or want someone to camp in one spot for a long time.

Ms. Lowther said she would encourage people doing an internship to stay on her farm for a year if they want to start their own farm. She said realistically people would camp during the more pleasant times of year.

Commissioner Rasmussen asked about the plans for the structure located at 1478 N 1700 Rd.

Ms. Lowther said it has structural problems and does not have running water or a legal source for running water. She said at this point it is a tabled issue. She said they want to clean up the lot and make it look better from the street but that there are no immediate plans of doing anything with it other than using it for storage. She said it has a limited shelf life and eventually will be torn down.

Commissioner Rasmussen discussed the alternative surfacing for the driveway and said he liked the idea of woodchips. He said woodchips would require more upkeep than gravel to replenish it. He asked if she would have any problem with a maintenance requirement on that.

Ms. Lowther said that because it is experimental it would be hard to predict maintenance. She said it would be a while before she knows where the driveways will go. She said if the maintenance requirement was general in nature then she would not have a problem with it.

Commissioner Hird said condition 10 in the staff report prohibits engines and generators for campers. He said most larger campers have engines or generators and wondered if she was satisfied that they would not be able to use generators.

Ms. Lowther said yes. She also felt it would encourage smaller RV's.

Commissioner Hird asked if there was any other alternative than using bottled water for crowds of more than 25 people.

Ms. Lowther said from a public health point of view the only other alternative would be a small scale public water system.

PUBLIC HEARING

Mr. Ted Boyle, President of North Lawrence Improvement Association, said they had no problem with Pinwheel Farm or the farmers market. He said the problem is with the issue of camping. He said Pinwheel Farm abuts a residential area and they are not comfortable with strangers being brought into the neighborhood. He also expressed concerns about sanitation and the number of people camping on the site. He did not feel it would be an appropriate use 10-15 years from now when the area is annexed into the city. He said KOA is less than a mile from the location. He suggested having day classes or sessions for learning purposes instead of having people stay the night. He said in a real life situation on a farm there isn't a camper next to the barn; a real farmer lives in a house and goes to the barn or pasture no matter what the weather. Mr. Boyle mentioned there have been problems in the past with homeless people camping.

Commissioner Finkeldei asked if the North Lawrence Improvement Association is okay with the events.

Mr. Boyle said it depends on how big the event is. He said if it is a huge crowd, regardless of the amplified noise, there will be more traffic to the neighborhood.

Commissioner Harris asked Mr. Boyle to comment about problems he has experience in the past with homeless people that he mentioned earlier.

Mr. Boyle said that some time ago transient campers near the river were removed and started living on Pinwheel Farm. He said there were a few living in a type of shed on the property.

Commissioner Harris asked if there had been any problems associated with the campers.

Mr. Boyle said the neighbors were concerned for their safety.

Commissioner Harris asked if his objection was to the use or the behavior.

Mr. Boyle said the residents were concerned about safety and did have a few problems of things going missing on their property.

Mr. Bryce Campbell, 868 Oak Street, said he owns the adjacent property to Pinwheel Farm and used to live there. He said one of the main reasons he moved was because Pinwheel Farm was run down and not kept up. He expressed concern about camping in the area and said the safety and integrity of the neighborhood was at stake. He said Clinton Lake and KOA are nearby for camping. He said he intends to let his son live on his property adjacent to Pinwheel Farm in the future but felt the safety of his son may be compromised. He also expressed concern about coyotes digging up carcasses of animals Ms. Lowther might slaughter.

Ms. Camile Cody said she is traveling around the United States thru a farm program to gain hands on farm experience. She said when she did a yearlong internship on a farm she stayed in campers and yurts for housing. She said she hopes to have her own farm someday. She said places like Pinwheel Farm are directly accessible to neighbors and are an excellent source of fresh local food. She felt the Conditional Use Permit invites opportunity to review operations and compliance. She said Ms. Lowther focuses on education and safety and that educational opportunities would be lost if volunteers were not allowed to stay on the property. She indicated there were several other places like this around the country.

Mr. Dean Elliott, owns property east of Pinwheel Farm, said a future water line will be across Ms. Lowther's land, approximately where the campers will be. He wondered what impact it would have. He said soil samples were taken on his property but Ms. Lowther would not allow samples to be taken from her property.

Mr. McCullough said an infrastructure project is in the works with the intention to provide the North Lawrence area another means of water supply. He said he was not sure if it would cross Ms. Lowther's property but that it very well could.

Ms. Kirsten Bosnak, 646 Walnut St, said she has lived in Lawrence for more than 20 years. She said she works at the Kansas Biological Survey doing outreach. She moved to North Lawrence in 2004 and has known Ms. Lowther for about 10 years. She said the location of Pinwheel Farm at the very edge of the city puts it in an excellent position to provide both food and education. She said she has been personally acquainted with some of the volunteers there and has known them to be idealistic, hardworking and goal-oriented. They speak of how much they learn from Ms. Lowther, and the farm depends on their contributions of knowledge and energy. She was in favor of the Conditional Use Permit for Pinwheel Farm with camping and would like to see the farm continue even if the city grows around it.

Mr. Brady Karlin said he has traveled around working on organic farms and said it was commonplace for workers to camp on the property.

Commissioner Hird asked if he could give a geographically close example.

Mr. Karlin said there are a few in Missouri but he was not aware of any close by. He said he thought there was a place out by Baldwin City that does the same type of program through World Wide Opportunities on Organic Farms (WWOOF), but he wasn't sure about their living arrangements.

Commissioner Rasmussen inquired about other WWOOFing facilities.

Mr. Karlin said in California there was an intern camp facility with common bathing and kitchen areas.

Ms. Barbara Higgins-Dover said her parents live next door to Pinwheel Farm and she felt the area hasn't grown around the farm, the farm has grown within the area. She was concerned about the camping and said that was the only thing she was opposed to.

Commissioner Harris asked there were any conditions or circumstances in which camping would be okay.

Ms. Higgins said no, she was not okay with a campground being on the property. She said the KOA campground is close and has nice facilities.

Commissioner Hird said with limitations there would be no more than 12 adults.

Ms. Higgins said it is the passing thru of strangers that bothers her.

Commissioner Hird asked if it made a difference to her that the campers have to be associated with the agricultural work and if she would be okay with the same number of people living in mobile homes instead of tents.

Ms. Higgins said she might not have a problem with it if the mobile homes had running water.

Commissioner Singleton said it sounds like these are official internships through organizations or agencies. She asked if the applicant works with an affiliated institution for volunteers, would that make her more comfortable.

Ms. Higgins said no, it would not make her more comfortable. She was concerned about property value.

Ms. Katelyn McGill, volunteering at Pinwheel Farm through the Lawrence Sustainability Network, said she is doing it so she can get experience to go into the Peace Corps. She said the only way Pinwheel Farm can operate is through volunteers. She said before any volunteers can work they go through extensive training and safety and that Ms. Lowther does not just let anyone work on her farm.

Commissioner Rasmussen asked when she went through the orientation process were the rules written out or were they verbal.

Ms. McGill said Ms. Lowther has written general rules of the farm and then verbal rules for specific tasks.

Ms. Melissa Warren, retired firefighter and volunteer at Pinwheel Farm, said she would like to keep her camper at the farm so she can use it to rest. She felt the neighbors had unfounded fear and that Ms. Lowther does not want harmful people on her property any more than the neighbors.

Mr. Stephen Figgins said he values the farm and felt the volunteers needed a place to stay. He was in favor of the Conditional Use Permit.

Ms. Emily Fisher, participated in the WWOOFing program and volunteered on farms. She felt the immersion in culture was important. She was in favor of the Conditional Use Permit and allowing volunteers to camp on the property.

APPLICANT CLOSING COMMENTS

Ms. Lowther said she was not aware of ongoing plans for the future water line that would be built across her property until a speaker mentioned it this evening. She said she was present at meetings almost two years ago and that was the last she heard of it. She said the Conditional Use Permit is a request, not a demand and that the farm will go on even if the camping is not allowed. She hoped Planning Commission would consider approving the amended conditions she submitted in the packet. She asked for a 100 year Conditional Use Permit, with a review every 5 years or however often needed.

Commissioner Harris asked how the ability to shower will be addressed.

Ms. Lowther said there are multiple places in town where people can legally shower. She said Clinton Lake charges \$4.25 to shower and dump septic.

Commissioner Harris asked if people working at your farm would have to shower somewhere else.

Ms. Lowther said she also offers showers in her home as well as her laundry room.

Commissioner Finkeldei said Ms. Lowther is allowed to have a mobile home but would need to provide water and sanitary sewer facilities. He asked if that is why she is not interested in that.

Ms. Lowther said that is a part of it. As the farm grows they may look into more permanent options.

COMMISSION DISCUSSION

Commissioner Finkeldei asked staff if they agreed with the interpretation of someone not being allowed to camp on their own property.

Mr. McCullough said he'd have to research that with Mr. Keith Dabney, Director of County Zoning & Codes. He said he also wanted to clarify that RS40 district does allow agricultural uses, so there is one district in the city that does permit those types of uses.

Commissioner Finkeldei said neighbors mentioned the neighborhood houses being there first versus the farm being there first.

Ms. Lowther said when she moved there the north side of the property was crop agricultural and in front of the house there is a foundation of a barn that was once associated with a farm. She said the farm has a long term history, although not a continuous history. She said one of the concerns with the city zoning district would that she would not be able to sell milk if in the city.

Commissioner Rasmussen said the WWOOF properties in Missouri have conditions of no firearms or stun guns.

Ms. Lowther said Pinwheel Farm has general policies and it prohibits any kind of firearm, fireworks, or weapon of any kind. She said she would like to reserve the right to use a 22 caliber or shotgun to be used against predators such as a coyote. She said the farm policies is very restrictive and does not even allow television or chewing gum.

Commissioner Harris asked if the Conditional Use Permit goes with the land or the owner.

Ms. Miller said as a rule the Conditional Use Permit goes with the land.

Commissioner Harris asked if the land is annexed by the city would it have to comply with noise and aesthetics codes of the city.

Ms. Miller said it would have to comply with blight and noise codes. If the property is annexed into the city it would probably be zoned UR (Urban Reserve) and that district is allowed to have crop agricultural and any uses that were lawfully in existence at the time of annexation.

Commissioner Harris asked the applicant if there was any attempt to meet with surrounding neighbors to discuss concerns and resolve issues before it came to the Planning Commission.

Ms. Lowther said she tried to call neighbors or talk about it over the fence and the response she got was 'we'll talk about it at the Planning Commission meeting.' She said she appreciated the time Mr. Ted Boyle spent talking to her on the phone and that he was the only one that talked to her.

Commissioner Blaser inquired about the annexation issue and if it is rezoned to something other than UR.

Mr. McCullough said it would be a non-conforming use so long as the use is valid. He said development policy does not necessarily encourage unilateral annexation, but that it could occur. If it did occur the use would be non-conforming but would be allowed to continue. He said a more viable situation, in his opinion, would be services (sewer & water) would be desired at the site and annexation would be requested and the property would then need to comply the Development Code of the City of Lawrence.

Commissioner Rasmussen inquired about the staff report conditions referring to 1478 1700 Road when that parcel is just one of several parcels in the application.

Mr. McCullough said the full legal description is kept on record in the file. The legal ad includes that the full legal description is available in the file. When a resolution or ordinance is created the legal description is included.

Commissioner Rasmussen asked if the condition of six camping units was for the entire area.

Mr. McCullough said that was correct.

Commissioner Finkeldei asked if the County Board of Zoning Appeals could grant an exception to the non-resident employee provision requiring the sanitary sewer and water supply.

Mr. McCullough said staff would have to investigate that and that Mr. Keith Dabney, Director of the Douglas County Zoning and Codes Department, would have to be consulted.

Commissioner Finkeldei said he did not think there was much dispute about the events and farmers market. He said he was struggling with the camping issue for several reasons. He wondered how it could be conditioned so there would not be a KOA type facility in the middle of the neighborhood. He was concerned about sanitary issues if all six guests are there all year. He inquired about the proposed amended conditions the applicant submitted today and asked if staff had looked at them yet.

Ms. Miller said she had not had time to review them in depth yet.

Commissioner Moore said he was struggling on the camping issue as well because there seems to be a provision in the Code to handle perhaps what Ms. Lowther is wishing to do that would allow some temporary housing.

Commissioner Hird said the first question they should think about is if this is the kind of activity they want to promote or discourage. And if so, are the limitations reasonable or unreasonable. He said agri-tourism is a priority in Kansas and the State has spent a lot of effort promoting it. He said the Planning Commission has spent countless hours talking about protecting high quality soils. He said the alternative for the area were things such as a housing development, mobile homes, or warehouse. He said it was hard to believe a property owner in Douglas County cannot camp on their own land. He understood the neighborhood concerns about transients camping and said he would be concerned too but that he was not as concerned with this case because there are limitations. It has to be an accessory to farm operations and is not a stand alone camping operation. The people camping there are associated with the farming. He said from what he saw tonight his fear about that has been greatly reduced. He expressed concern about sanitation issues. He said knowing they can go to Clinton Lake to take a shower does not give him peace of mind on that issue. He said he was not bothered by the setback and screening requirements for camping and the limited number of camping units. He said it gives him peace of mind that the Conditional Use Permit would be reviewed annually and will allow the neighbors the opportunity to talk about the issues if it becomes a problem. He felt that if more time was needed to review the new conditions presented today by the applicant then the item could be deferred.

Commissioner Rasmussen said this type of activity is neat and that it is a good activity in an area with high quality soils. He said he pulled up and read the Pinwheel Farm description on the WWOOF website and that it was pretty accurate and didn't make it sound glorious. He expressed concerns about the aesthetics of the property. He said it was not inviting and does not reflect well on the community. He said he would like to see conditions a little stronger to improve the appearance of the entry way of the farm. He said he would feel more comfortable seeing revised recommendations for the proposed conditions by the applicant.

Commissioner Hird said he lives in the country south of town and passes a junkyard every day that irritates him. He agreed that addressing how the property is kept is a great concern and could be a step forward in patching things up with the neighbors.

Mr. McCullough said the item could be deferred to Wednesday depending on the scope of direction.

Commissioner Blaser said he drove past the property during the past week and the physical appearance was not something to be proud of. He felt they should defer the item one month to do

more research. He said he was not as concerned about the camping as he was about the physical appearance of the property.

Commissioner Harris said it seems there are two issues from the neighbors; property appearance and who's living there. The appearance could be somewhat addressed by having permanent structures rather than camping structures, but the appearance could be let go and could be left with a similar situation. As far as who's living in structures it could be the same people. She said she was encouraged by the fact that Ms. Lowther has standards and rules that people staying there have to sign. She also said she supported the camping but agreed some language should be added about the property being presentable to the neighborhood, especially sides that face other neighbors.

Commissioner Singleton agreed with Commissioner Hird about it being an excellent business opportunity for the community. She said she initially had concerns about transients camping, but now that she has heard from the applicant and volunteers she wasn't as concerned. She said these are people that Ms. Lowther has invited into her home and she has to think about her own safety so she is confident in Ms. Lowther's screening process. She was concerned about not having enough time to review the applicants new proposed amendments to the conditions. She said the appearance of the property does speak to the relationship with neighbors and has to be addressed. If neighbors don't trust the decisions about what the applicant does with the land then they may not be confident in who is invited to stay there.

Commissioner Finkeldei expressed concerns about the sanitary conditions for the people staying there. He asked if Richard Ziesenis, Director of Environmental Health, had been consulted.

Ms. Miller said Mr. Ziesenis recommended chemical toilets but that the privy would be allowed. Kansas EPA says if there are fewer than 25 people well water can be used. He recommended using bottled water and suggested she could use large jugs rather than individual bottles.

Commissioner Finkeldei suggested lumping the camping conditions together and the other related conditions together. He was still concerned about camping in the neighborhood but felt this was a great use that should be encouraged.

Mr. McCullough said the by-laws allow them to defer the item even with the public hearing being closed.

Commissioner Hird asked if the neighbors would get a chance to see the revisions.

Mr. McCullough said they could see it in the Planning Commission packet that is posted.

Commissioner Harris asked that staff research the progress of the water line that was mentioned in earlier comment as being possibly put across Ms. Lowther's property.

Commissioner Rasmussen suggested staff look into the following:

- A condition on firearms for guests
- Alternative surfacing materials with an approved maintenance program
- The term of camping and what might be appropriate during growing season
- Fire rings for campfires
- Improvements to the north side of the property and have applicant come up with a schedule or plan to identify areas where work is needed and a time period in which to complete it
- He did not feel the 100 year Conditional Use Permit was appropriate but thought 20 years might be acceptable

Commissioner Finkeldei asked staff to look into the legality of camping on your own property and whether the Board of Zoning Appeals can grant variance from 12-303. He also said he could become more comfortable with the camping if it was more defined, such as two spots for WWOOF people, two spots for long term people, and two spots for people who would come in occasionally.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Blaser, to defer to May Planning Commission.

Commissioner Singleton asked the applicant about the impacts of the item being deferred to May.

Ms. Lowther said it would not create a conflict.

Motion carried 8-0.

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ITEM NO. 3 COMPREHENSIVE PLAN ANNUAL REVIEW (MJL)

Receive the Comprehensive Plan Annual Review and initiate recommended comprehensive plan amendments to be considered at future meetings.

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Harris said it seems a little awkward to approve a plan that is not supported by the comprehensive plan. She felt it seemed better to approve changes to the comprehensive plan at the same time the specific plan is approved. She asked if there was a way in the future to do that.

Ms. Leininger said the way it lines up in the hierarchy of plans is that the comprehensive plan is overarching and specific plans, which include sector plans, are more specific for the planning area and something needs to be approved to base the comprehensive plan on. Typically the approved policy for the more specific area supersedes the policy in the general comprehensive plan and any necessary changes are made to the comprehensive plan as part of the implementation of the sector plan.

Commissioner Harris said it seems the comprehensive plan should be amended first so that the base plan is used to base the specific plan on.

Mr. McCullough said staff uses the comprehensive plan as a starting point. For example, if a commercial designation changes then one of the action steps is to change the overarching goals to mimic that.

Commissioner Rasmussen inquired about revising chapters to conform with or refer to chapter 16.

Mr. McCullough said staff is looking at recently approved documents and checking alignment in Horizon 2020, either as specific actions steps in a sector plan for example, or because a new chapter has been created and approved, and see what implications that has on the rest of Horizon 2020.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Singleton, to close public comment.

Motion carried 8-0.

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to initiate four Comprehensive Plan Amendments for the identified amendments for future public hearings:

- Update Chapter 14 – Specific Plans. There are references are made to the previous Chapter 13 – Implementation regarding the adoption process for plans. The reference needs to be updated to refer to Chapter 17 – Implementation. This was an oversight when the chapter was renumbered.
- Amend Chapter 7 – Industrial and Employment Related Land Uses to be consistent with the approved K-10 & Farmer's Turnpike Plan to include the plan expanded Santa Fe Industrial Area and I-70 and K-10 industrial area.

- Update Chapter 11 – Historic Resources. This chapter has been in process since 2005. We have different numbering system and would like to update the file to the current system (currently CPA-2005-3).
- Update to Chapter 10 – Community Facilities. An update to this chapter is needed.

Motion carried 8-0.

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ITEM NO. 4 TEXT AMENDMENT FOR USES IN IBP DISTRICT (MJL)

Consider initiating a Text Amendment to add Hotel, Motel, Extended stay uses in the IBP (Industrial Business Park) District for discussion at a future public hearing.

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Hird, to close public comment.

Motion carried 8-0.

Motioned by Commissioner Singleton, seconded by Commissioner Chaney, to initiate a text amendment to Chapter 20, Article 4 of the Code of the City of Lawrence, Kansas to add the Hotel, Motel, Extended Stay use as a permitted use in the IBP District.

Unanimously approved 8-0.

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ITEM NO. 5 INDUSTRIAL DESIGN GUIDELINES (MJL)

Receive the draft Industrial Design Guidelines.

Consider initiation of an amendment to the Community Design Manual to incorporate the Industrial Design Guidelines and initiation of a Text Amendment to the Land Development Code, Chapter 20 of the Code of the City of Lawrence, Kansas referencing the Industrial Design Guidelines for discussion at a future public hearing.

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Harris inquired about language in the document that says *'It is recognized that design professionals including architects, landscape architects, engineers, and land planners are trained to strive for creative excellence. The standards and guidelines established herein are not intended to restrict creative solutions.'*

Mr. McCullough said the purpose of the statement is to say that the document is not meant to design a project. It is meant to provide guidance on what the values are in terms of the elements of such things as site, architecture, fencing, and grading.

PUBLIC HEARING

Ms. Marguerite Ermeling inquired about the stakeholders and felt that not very many people knew about the document. She hoped that more stakeholders are involved.

Commissioner Harris asked staff how the stakeholder list was compiled.

Ms. Leininger said it was compiled in-house by the committee. Staff drafted a base list and took to the committee for additional stakeholders to be added. She said Ms. Beth Johnson from the Chamber of Commerce was also used as a resource to forward to other stakeholders, specifically in the manufactures group, that may be interested.

Commissioner Rasmussen asked who she represented.

Ms. Ermeling said the Scenic Riverway Association.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Harris, to close public comment.

Motion carried 8-0.

Commissioner Rasmussen said he did not anticipate this document being made public at this time and asked what the plan was for the project.

Mr. McCullough said there was some miscommunication in the subcommittee in terms of what to do with the document. He said he felt like staff was charged with providing this to stakeholders for review. He said the plan was to initiate tonight, receive public comment from now till next month, and hold a hearing on the document to get public comment. If the Planning Commission chooses, the draft can go back to the committee for additional work and then receive a recommendation to the Planning Commission body. He stated that if the Planning Commission does not think it is ready

for public hearing then comment could be taken and the document continued to be worked on. He said there are several ways to work on it.

Commissioner Rasmussen said there were several comments from the meeting last week and concerns about the subjective nature of some of the standards. He asked how those comments would be taken into consideration and incorporated.

Mr. McCullough said staff was hoping tonight to get it initiated and then at a future meeting bring back the staff report which would outline any comments received, which would include the manufacturers group meeting from last week.

Commissioner Finkeldei wondered if the Planning Commission should wait to hear it until the working group committee has approved it.

Mr. McCullough said that is an option. He suggested initiating it tonight, taking public comments for the next 30 days, keeping it before the committee, and then sending it back to Planning Commission.

Motioned by Commissioner Singleton, seconded by Commissioner Chaney, to initiate the Industrial Design Standards and initiate a text amendment to the Land Development Code referencing the Industrial Design Standards.

Motion carried 8-0.

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ITEM NO. 6 AMENDMENTS TO DEVELOPMENT CODE; ENVIRONMENTALLY SENSITIVE AREAS (MKM)

TA-12-27-07: Consider Text Amendments to various sections of the Land Development Code, Chapter 20 – Code of the City of Lawrence, Kansas to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. *Planning Commission requested more information on the proposed Density Bonus Incentive at their 2/22/10 meeting.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Rasmussen inquired about density caps.

Ms. Miller said density caps are necessary in the RM districts. She said the RS7 district is right at the density cap now so she did not believe the cap would need to be changed for RS7.

Commissioner Rasmussen asked how the 20% requirement was established.

Ms. Miller said before there were Text Amendments the Code said there were environmentally sensitive lands if it was over 500 square feet and the property wasn't platted. Then a planned development needed to be done and planned developments said there had to be 20% of common open space. Staff took that to mean that is where the environmentally sensitive area would go.

Commissioner Moore inquired about the tracking of density bonuses in GIS.

Ms. Miller said there is a layer called conditional zoning so another layer could be added called density bonus.

Commissioner Harris said she appreciated the time staff took putting this together with examples.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Harris, to close public comment.

Motion carried 8-0.

Motioned by Commissioner Harris, seconded by Commissioner Chaney, to:

- Initiate a Text Amendment to Article 6 of the Development Code to revise the Density and Dimensional Standards to accommodate the increased density.
- Initiate a Comprehensive Plan Amendment to Chapter 5 of *Horizon 2020* to note that the Density Caps may be exceeded when density bonuses are applied.
- Direct staff to revise Text Amendment [TA-12-27-07] for Protection Standards for Environmentally Sensitive Lands to incorporate the incentive language and place it on the May Planning Commission agenda for action.

Motion carried 8-0.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

Recess at 10:48pm until 6:30pm on April 28, 2010.

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Reconvene April 28, 2010 – 6:30 p.m.

Commissioners present: Blaser, Finkeldei, Harris, Hird, Moore, Rasmussen, and Singleton
Staff present: McCullough, Brown, J. Miller, M. Miller, and Ewert

BEGIN PUBLIC HEARING (APRIL 28, 2010):

COMMUNICATIONS

No communications received.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- No abstentions.

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Presentation only, no action being taken on Item 7

**ITEM NO. 7 COMPREHENSIVE PLAN AMENDMENT TO H2020; CHAPTER 16 -
ENVIRONMENT (AMB/MKM)**

CPA-2008-7: Consider Comprehensive Plan Amendment to Horizon 2020 to include Chapter 16 – Environment.

STAFF PRESENTATION

Ms. Amy Brown presented the item.

PUBLIC HEARING

Mr. Tom Huntzinger, Upper Wakarusa WRAPS Coordinator, said there are two watersheds under this program, Upper Wakarusa and the lower part of Kansas River basin. He said he did submit written comments and was satisfied that the chapter was well done and the document sufficiently met the WRAPS program needs.

Mr. Alan Black said he was speaking for himself not on behalf of the League of Women Voters. He said there were two topics that were not covered by the chapter. The first is power production, general electricity. He said most of the electricity in the area comes from Westar Energy's coal-fired plant and a small amount comes from the Bowersock Dam, with a few farmers having windmills. He said coal-fired plants contribute to global warming and air pollution. A comprehensive plan doesn't usually deal with this subject. The community is dependent on the Westar plant, and it will be operating for a long time, but the plan could encourage generation of electricity from the wind and sun. The second topic: In an urban area such as the City of Lawrence, a high percentage of the land is covered – some of it by buildings, but much of it by pavement, mostly in the form of concrete or asphalt. This increases the run-off of water, which spreads pollutants to adjacent ground and may contribute to flooding. This also decreases the amount of ground where plants and flowers can grow, and it may have adverse effects on some animals. A high percentage of this pavement is intended for parking. To a large extent, the amount of parking is determined by minima specified in the Land Development Code. If the Code were revised to reduce the amount of required parking, it would be very beneficial for the environment. This goal could be stated in the comprehensive plan. Reducing the use of private motor vehicles and increasing travel by public transit and bicycles would also help by lowering the demand for parking. He did not have any specific language to propose for the chapter at this time.

Commissioner Rasmussen asked if Mr. Black understood that electricity used in homes doesn't necessarily come from the Lawrence power plant. He said the electricity on the grid in the Southwest Power Pool is provided by the Lawrence Power Plant, Tecumseh Power Plant, La Cygne Power Plant, Jeffrey Energy Center, Wolf Creek Power Plant, and the wind turbines in the western part of the state. He said the electrons generated in one power plant cannot be traced to the end user.

Mr. Black said he was not an expert on the subject. He felt the problem was from the use of coal. Natural gas may be slightly more desirable but may have problems as well. He said power plants will not be eliminated any time soon but that the plan could try to encourage the use of wind and sun. He said this is a national problem. He said he just watched a news broadcast today that stated the US Secretary of Interior just approving the building of wind towers in the ocean off of Cape Cod, which had been controversial for many years. He said in the past Senator Ted Kennedy had opposed it and stopped it because the Kennedy family has a summer home in Hyannis Port and he said it would hurt the view they had from their home and hurt the tourist industry. Mr. Black said that today the US Secretary of Interior approved the building of those.

Commissioner Rasmussen said they should revisit language regarding the encouragement of wind generation and solar power in the city.

Mr. Brian Sifton said he serves on the Sustainability Advisory board but was speaking for himself, and is also an employee of JW Prairie Wind Power. He felt it was a very good document and the main environmental interests are represented for the most part. He said the Sustainability Advisory board would be more than happy to work further on this issue with staff and the Planning Commission.

Commissioner Hird had a question for Mr. Sifton regarding wind generation. He asked why there were wind generators/wind farms north of Interstate 70 but prohibited south of Interstate 70. He said there seems to be a disagreement between environmental groups, as well as those who are more interested in the scenic value, as to whether or not these are a good idea. He said it was hard for him to imagine that wind generators could be worse than a coal mine. He said there are people who are deeply vested in environmental concerns that are sharply divided on the issue. He wondered how the Planning Commission should approach that.

Mr. Sifton said wind turbines produce megawatt hours that aren't potential produced by a coal generating power plant, however view sheds are damaged. He said some people think wind turbines are high-tech and cool looking, while others think they don't look good and kill bats. He suggested that the board spend time finding out what their constituents interests are. He recommended doing a significant amount of outreach. He said he didn't know if wind studies have been done for the county.

Commissioner Hird wondered how they should approach this from a policy perspective if there is no data. He said his instinct is to encourage alternative fuels, including wind production, but that just because he is sold on the idea doesn't mean it's the right decision.

Mr. Sifton said it could be looked at from a ground up perspective or a top down perspective. He said a ground up perspective would be similar to what was done for this plan where drafts are created, they are vetted by the public, vetted through interest groups, and then they can look at what bubbles up to the top as far as reasonable policy and what can be supported. He said the alternative could be looking into whether it is even possible and feasible for Douglas County and would wind developers be interested if the ordinances and tax incentives were in place. He said feasibility could be started with a wind energy analysis to see if it would even be possible.

Commissioner Rasmussen said on page 16-30 under Policy 6.6 g. it says '*Develop regulations and incentives for the use of renewable energy sources,*' but didn't single out any particular energy sources to select such as wind over solar over geothermal over bio fuel production. He said in his opinion Planning Commission does not have the expertise to be making that call so they only included a general statement in the document. He said wind turbines can affect weather radars, they can impact and disrupt defense radar, they can interfere with flight training routes for the Department of Defense, large wind turbines kill bats, and wind turbines are interfering with the nesting habits of the prairie chicken. Although, wind turbines don't omit air pollutants.

Mr. McCullough said he appreciated the discussion.

Commissioner Rasmussen asked if there were any ordinances or building codes that deal with the issue.

Mr. McCullough said the building code does and have strengthened considerably in terms of its energy efficiency mandates. There are impacts in an urban setting that need to be looked at. The energy issue is a big issue.

Ms. Barbara Clark went over her suggested changes that she submitted to staff and were included in the Planning Commission packet. She also said she likes that there is language included in the document about local food source.

Commissioner Harris asked how long the alluvium study would take that she referenced in her letter.

Ms. Clark said she didn't know.

Commissioner Rasmussen said his personal opinion was that the local food program belongs in Chapter 12 and doesn't have much to do with the Environmental Chapter. He asked her to persuade him why it should stay in this chapter.

Ms. Clark said the local food system is integrated with land resources and preservation of capability class 1 and 2 soils is one of the ways of establishing and expanding a local/regional food system.

Commissioner Hird said there is separate language for class 1 and 2 soils. He felt that the language on the local food program sounded more like economic development type stuff rather than preservation of class 1 and 2 soils.

Ms. Clark said just an urban setting would not be sufficient to do a local food system.

Mr. Daniel Pool, serves on the Sustainability Advisory Board, felt the language should be in both chapters. He said it was important for preserving the human and built environment. Local food has and could have a greater health outcome for citizens of Douglas County. He said as far as the energy discussion goes he agreed and said there are tradeoffs with anything. He said overall the chapter was well written but he would like to see actual benchmarks included.

Mr. Sifton agreed the language should be included in the economic development section.

Commissioner Hird said local food was also something he was interested in also. He referenced an article he read about large scale production being less damaging to the environment than local food production because the pickup trucks driving to the farmers market produce more CO2 emissions than the train or ship that transports the food in.

Mr. Clint Hornberger serves on the Douglas County Farm Bureau Board and Douglas County Food Council. He said his comments were his own personal comments. He likes the document. His only concern is that language not be added that will hinder or deter modern production agricultural as it stands today in Douglas County. He felt the language should be in both economic and environmental chapters. He would like to see a more in depth portion in the economic chapter.

Commissioner Harris had a question for Mr. Hornberger about the modern agricultural method that he mentioned. She said Planning Commission received a comment from the League of Women Voters about encouraging organic methods of gardening and farming. She asked if he had any objections about that language being in there as long as it didn't say to prohibit other types.

Mr. Hornberger said he personally wouldn't have a problem with it but that the board would have to discuss it.

COMMISSION DISCUSSION

Commissioner Harris suggested having the Comprehensive Plans Committee meet once to come up with new language based on the comments.

Motioned by Commissioner Blaser, seconded by Commissioner Harris, to close the public comment.

Motion carried 7-0

Commissioner Harris reviewed written comments that were received. She said there was a comment about bike paths along Heritage corridors and staff member Ms. Amy Brown said she talked to Ms. Judy Billings about that and Ms. Billings is interested in having signage when the historic and environmental areas intersect. Another comment was received regarding green spaces for children to play and safe routes to school. Commissioner Harris said it seemed to her that green spaces would be more addressed with parks. She said there was a request for cost benefits for active transportation and she did not have a problem with that. She would like to talk more about Ms. Barbara Clarks comments about the new study for aggregate mapping and whether they want to add some language or a map for an overlay. She said the League of Women Voters had a lot of comments and asked if she should go through her thoughts on all of them.

Commissioner Finkeldei said he would rather see the committee come back with a document that they agree with and then the Planning Commission can take the time to wordsmith.

Commissioner Rasmussen asked staff to comment on the approval process.

Mr. McCullough said that Planning Commission will pass a version and then it will go to City and County Commission. In the end all three boards need to agree.

Mr. John Miller said Planning Commission will adopt the plan but it is ultimately up to the governing bodies to also do so. So all three parties don't have to agree as long as the City and County governing bodies both agree.

Commissioner Rasmussen asked if Planning Commission and County Commission approve it and City Commission did not would it be part of Horizon 2020.

Mr. McCullough said no.

Commissioner Harris said she was interested in more general comments that might help the committee.

Commissioner Hird said some of the best science in the nation is available at KU and he wondered if they had tried to include professional expertise in the drafting of this.

Commissioner Harris said yes.

Commissioner Hird said he loves the fact that he gets high quality food from his neighbors but was concerned about language that talks about reducing automobile miles driven. He said if the goal is to encourage people to drive out to a farm and pick their own strawberries is that contrary to the goal of reducing automobile miles driven.

Commissioner Finkeldei said the document is a very overarching policy document.

Commissioner Rasmussen felt there should be a better definition of local food program. He said there are some things in the document that come with a high price tag, such as inventorying wetlands, mapping the woodlands, identify and map critical habitat area. He said he was uncomfortable with the strong '*shall*' language because he didn't think they had the authority to do that.

Commissioner Harris felt they should beef up the food policy section and consult the food policy committee for a definition. She said they should also increase the language on the benefits from a local food system, and add language on creating or encouraging a local food distribution system that could create transportation efficiencies.

Commissioner Hird said this is important policy and he appreciated the work that had been put into the draft. He felt the policy statement should be an affirmative statement.

Commissioner Harris asked Mr. Hank Booth, who was sitting in the audience, if the Chamber of Commerce was going to comment on the chapter.

Mr. Hank Booth, Chamber of Commerce, said the Chamber wanted to listen to public comment first because they knew there would be revisions. He said overall the chapter was a good beginning.

NO ACTION TAKEN

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**ITEM NO. 8 TEXT AMENDMENT TO DEVELOPMENT CODE, CITY CODE, COUNTY CODE;
FLOODPLAIN OVERLAY DISTRICT (AMB)**

Consider initiation of Text Amendments to the Land Development Code, Chapter 20, Article 12 of the Code of The City of Lawrence, KS and to the Zoning Regulations, Chapter 12, Article 28 of the Code of the County of Douglas, Kansas to reference 2010 effective dates for new Floodplain Overlay District Maps and related regulation changes for discussion at a future public hearing.

STAFF PRESENTATION

Ms. Amy Brown presented the item. The item will be heard by Planning Commission again in June.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Harris, to close public comment.

Motion carried 7-0.

Motioned by Commissioner Singleton, seconded by Commissioner Hird, to initiate a Text Amendment to the Land Development Code, Chapter 20, Article 12 of the Code of The City of Lawrence, KS.

Motion carried 7-0.

Motioned by Commissioner Singleton, seconded by Commissioner Hird, to initiate a Text Amendment to the Zoning Regulations, Chapter 12, Section 12-328 of the Code of the County of Douglas, Kansas.

Motion carried 7-0.

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ITEM NO. 9 TEXT AMENDMENT; LAND DEVELOPMENT CODE; MU DISTRICT (MJL)

TA-1-1-10: Consider Text Amendments to the Land Development Code, Chapter 20, Sections 20-403, 20-509(3), and 20-524 of the Code of the City of Lawrence, KS to permit Bars or Lounges and to consider changes to development standards for various Eating & Drinking Establishments in the MU (Mixed Use) District. *Initiated by City Commission on 2/2/10.*

Item 9 was deferred prior to the meeting.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

PUBLIC COMMENT SECTION

ADJOURN 8:08pm