

**ITEM NO. 3      COMPREHENSIVE PLAN AMENDMENT; H2020; 6<sup>TH</sup> & WAKARUSA AREA PLAN (AAM)**

**CPA-5-6-10:** Consider Comprehensive Plan Amendment to Horizon 2020, including the 6<sup>th</sup> and Wakarusa Area Plan, to change the designated land use from residential/office to commercial for a portion of the Bauer Farm Development located along 6<sup>th</sup> Street between Folks Road and Champion Lane.

**STAFF PRESENTATION**

Ms. Amy Miller presented the item.

Commissioner Rasmussen asked what her point was by saying it would be unlikely that a home improvement store would be built in Mercato.

Ms. Miller said because of the close proximity she was not sure that three large home improvements could be supported in Lawrence.

Commissioner Carter inquired about the user.

Ms. Miller said a specific user was not identified, but the category was home improvement.

**APPLICANT PRESENTATION**

Mr. John Peterson, Polsinelli Shughart, attorney representing Lowe's, displayed plans on the overhead and reviewed them. He discussed the issue of leakage, where residents of Lawrence drive to Topeka or Kansas City to shop at Lowes. He stated this location was the only one that Lowe's would be interested in. He said he did not understand the vacancy rates because the store would not be vacant.

Mr. Tim Herndon, Landplan Engineering, said the existing infrastructure was in place. He said they would not be promoting leapfrog development.

Commissioner Harris said Mr. Peterson mentioned he was confident he would get approval from KDOT to get access to 6<sup>th</sup> Street.

Mr. Peterson said based on preliminary discussions, he was confident they could gain access.

Commissioner Harris asked if he had met with any of the neighbors or neighborhood associations.

Mr. Peterson said he met with a few neighbors but not the neighborhood association.

Commissioner Dominguez inquired about the percentage of what the draw to the area would be.

Mr. Peterson said they have looked at other stores but that it was hard to guess.

Commissioner Liese inquired about 'Horizon 2020 versus Lowes 2011' and why this was the only location Lowe's would locate to, and not the Mercato location.

Mr. Peterson said he said some would suggest that this has to be Horizon 2020 versus Lowe's 2011 and it's a fight to the death. He said he does not believe that but it is the perception. He said that Lowe's would only locate in Bauer Farm, not Mercato.

Commissioner Hird asked if this meant that the concept of new urbanism was dead at Bauer Farm.

Mr. Peterson said he did not think so.

Commissioner Hird said Mr. Peterson mentioned leakage. He said Lowe's was a very high quality store and he was excited. He said his wife drives to Topeka to Lowe's so if she drives there she would drive to Mercato.

Mr. Peterson said on the percentage of leakage, it is a factor that is not going to drive the viability of a store. He said it gets down to where someone is in terms of outboard/inboard, in terms of current development, and in terms of shopping in their own community. He said leakage was incremental development as roof tops are built.

Commissioner Dominguez asked Mr. Peterson if he was saying that Lowe's does not go out to new sites without other stores around.

Mr. Peterson said it is a combination of established commercial area and rooftops in close proximity.

Commissioner Liese said his home was in Lecompton and his business was in North Lawrence. He said he was not convinced with the argument that 'studies have been done' about Lowe's not working in Mercato.

Mr. Peterson said Lowe's would not develop on the Mercato site.

Commissioner Harris asked if he said Lowe's could possibly locate there but not for 5-10 years.

Mr. Peterson said as they look at the picture today that was his estimate.

## **PUBLIC HEARING**

Mr. Jonathan Becker, Briarwood Community Association, was opposed to Lowe's at that location. He said it was contrary to Horizon 2020 and was too big and would lose the buffer to the neighborhood. He expressed traffic and safety concerns such as 18 wheelers turning at Overland and Folks. He said it was not compatible with infill.

Commissioner Dominguez asked how many auto accidents there have been.

Mr. Becker said 2 accidents in 10 years.

Commissioner Dominguez asked what type of infill he wanted.

Mr. Becker said they were happy with the previous proposal of new urbanism. He said Champion lane should be the dividing line of commercial development.

Commissioner Dominguez asked how many members are in the neighborhood association.

Mr. Becker said 49.

Commissioner Hird asked Mr. Becker to respond to Lowe's traffic numbers.

Mr. Becker said he looked at the numbers and he has seen the traffic studies before. He found the City's traffic counts to be unhinged from reality because they did not take into account the fact that 1,300 cars are at Free State High coming and going throughout the day. He was skeptical of the factual basis of the traffic counts.

Commissioner Hird asked if he had seen the traffic study that Lowe's did.

Mr. Becker said no, but he saw the City's traffic study on Folks Road from January 2010.

Ms. Patricia Manning was concerned about the noise produced by Lowe's that would be heard at Free State High. She was also concerned about increased traffic noise and deliveries being scheduled around the school day and activities.

Mr. Jonathan Perkins, resident of Briarwood, said that Mr. Peterson said there wouldn't be less traffic, he said there would be less traffic between the key periods of when school starts and ends. He said there has been a lot of talk about the impact of Lowe's on Home Depot, but it will also affect other hardware stores such as Westlake Hardware.

Mr. Kirk McClure, Lawrence Association of Neighborhoods, discussed the promises made about the pace of growth and about the economic impact. He said they were promised new urbanism and so far they have a drive-thru Taco Bell and drive-thru CVS, and now they are being asked to swallow a 100,000 square foot home improvement center. He said they were promised no commercial space east of Champion Drive and less intensive commercial use in this development. He said they were also told the node would be 150,000 square feet, then 200,000 square feet, then 400,000 square feet, and now 600,000 square feet. He said it would create a crisis in confidence of the planning process. He said regarding pace of growth, commercial space has outpaced income and property. He felt there was a 1.5 million square foot of retail surplus space in Lawrence. He said Lawrence was at least a decade away from having any capacity to absorb it. He felt Lowe's was coming to Lawrence for predatory retailing. He said there would be no new retail sales tax. He said the buyer pays the sales tax so it would only be as much as spending. He said it would also not create new jobs because retail jobs are a function of the retail spending, not the number of stores. He said property values in the market place would equilibrate and the aggregate value of retail space in the market would be a function of spending, not the number of stores.

Ms. Mary Doveton, Executive Director of Lawrence Community Theatre, said they had no objection to being next door to Lowe's.

Mr. Charlie Crabtree said he has lived for 40 years within 2 blocks of 6<sup>th</sup> Street near Kasold. He expressed concern about increased traffic. He felt this would set a second precedence, with Walmart being the first. He felt that the traffic on 6<sup>th</sup> Street has increased tremendously, especially in the past 3 years since Walmart was built there. He wondered how many more stop lights would be installed in that area. He thought Lowe's needed to be built on 10<sup>th</sup> Street or South Iowa.

Mr. Rick Renfro, owner of Johnny's Tavern and Marisco's, said he loves getting new development in his backyard. He was in support of Lowe's.

Mr. Travis Hicks supported the proposal and thought it was a good use of property. He felt it created jobs for Lawrence and a tax base of commercial property as opposed to a residential property.

Mr. Bob Dannevik said he has lived in the area for 17 years and would really like to see a Lowe's in the area.

Mr. Dick Meininger, lives in Westwood, and moved from Topeka to that part of Lawrence based on the mixed use Bauer Farm proposal. He said about 20% of the vehicles he has seen at the Lowe's in Topeka are contractor trucks with trailers. He said the problem with the entry from the west, with the roundabout, would be torn apart quickly by the contractor trailer trucks. He supported Lowe's but was not sure that this was the right location for it.

Ms. Paula Dupigny, lives in Briarwood, said she preferred Lowe's over other choices but felt that it was a quality of life issue as opposed to a financial issue.

Ms. Beth Johnson, Lawrence Chamber of Commerce, said adding jobs and a tax base was a top goal of City Commission. In order to add to that tax base and increase jobs there needs to be projects. She said this project adds to the tax base, both in property and sales tax. She said this project also gives the ability to capture some of those consumer dollars that currently end up in other communities.

Commissioner Carter said when she talked about new sales and property taxes, it is not incremental unless it's additional sales to what would be elsewhere.

Ms. Johnson said there would probably be some that is not leakage. She said Lawrence does have the rooftops to support another home improvement store.

Mr. Glen Westerveldt said they needed another lumber yard in town. He said he shops at Lowe's out of town and he would rather support one in town. He said residential development was tough right now so it will be tough to develop that site for residential. He thanked Planning Commission for their time.

Mr. Hank Booth, Chamber of Commerce, said there is a very different economic climate for the development of the western edge of Lawrence than expected 5-6 years ago. He did not believe that Lawrence would see the kind of growth over the next few years as seen in the past 10 years. He said there was opportunity for infill.

Commissioner Hird asked Mr. Booth to comment on Mr. McClure's statement about promises being made for that area.

Mr. Booth said he appreciated professor McClure's statements, but those who go to his classes, unless they continue to work within the college, will have to go out and work in the world of business, and in order to do that they will have to make a profit and make chances, create jobs, and create a place for people to shop. They aren't teaching it, they are doing it.

Commissioner Liese asked Mr. Booth to comment on Mr. Peterson's statement that Lowe's would go in no other location.

Mr. Booth hoped that if this site was not approved by City Commission that Lowe's would continue to look at other possible sites.

Commissioner Liese said that he and Mr. Booth agreed that they both want Lowe's and would be disappointed if Lowe's walked away if suggested they be somewhere else in Lawrence.

Mr. Booth said he agreed.

Mr. Bill Fleming said he has been working on Bauer Farm for years and that when Lowe's first came to town they said they were only looking at this location. He felt Lowe's was a great opportunity for the community. He felt they needed to find retailers that will bring shoppers to Lawrence.

### **APPLICANT CLOSING COMMENTS**

Mr. Peterson said Lowe's wants to be at this location and this is the only location they will look at. He said Lowe's would only build 25 stores next year and senior management has approved Lawrence as one of those. He said they would work on issues of road alignment and buffers to make a high quality project.

### **COMMISSION DISCUSSION**

Commissioner Dominguez said his biggest reason for supporting were the financial benefits. Lawrence needs the tax revenue. He did not think Horizon 2020 was the rule of the law, it was just a guideline. He did not see this as predatory just good business and economics.

Commissioner Harris said she supported staff and their opinion about it. She felt this proposal would take away residences from the area that would support stores and schools. She said it was mentioned that human behavior should shape what is done in an area but planning aims to shape human behavior with a concept about an environment. She said the planning for that area is for nodal development with a lot of space that's not developed with commercial in between. She said there were earlier comments about whether Horizon 2020 was relevant or not. She said staff thinks it is relevant and so does she. She said Home Depot went into an area that didn't have much residential development. People do drive long distances to get there and they could to Lowe's as well. She said the issue for Lowe's seems to be the cost of development. If they move out to some place like Mercato it would cost them more to develop than Bauer Farm and it's reasonable for them

to consider that. She said she was not sure this was the time to have another large store in the area and did not want to deviate from the nodal plan for the area.

Commissioner Singleton was concerned about promises made to homeowners in the area and felt it was important to be consistent. She did not want that gateway to end up looking like the southern edge of Lawrence. She did not see Lowe's fitting into that area of town. She did not support the Comprehensive Plan Amendment.

Commissioner Carter said he did not see this as strip development. He said the 6<sup>th</sup> & Wakarusa plan was more specific than the Northwest plan. He said things will change again through economic cycles. He said the nodal plan is sound and is the right plan for the area. This proposal would triple the 50,000 square foot maximum footprint that was previously conditioned and would greatly alter the look, feel, and operation of the existing development in that area. He said he wanted Lowe's in Lawrence but in a place that is in the community's best interest and Lowe's best interest. He said he would support staff's finding.

Commissioner Hird said when he read the staff report he had a hard time bringing himself to support the request. He was concerned that Bauer Farm would remain empty and this could be an opportunity for infill. He said the new urbanism concept was dead there and it was a shame. He wished it had worked but unfortunately the economy affected it. He would like to have the economic development of Lowe's but was concerned about having it adjacent to the high school and the traffic issues it could create in that location. He thought it would create a nightmare situation in terms of the traffic pressure in the area. He did not think he could support it at this location. He hoped Lowe's would not consider Planning Commission the last stop if this was voted down because City Commission was the governing body. He said reluctantly he could not support Lowe's at this location and he hoped they could find another location.

Commissioner Finkeldei said he does not like taking up Comprehensive Plan Amendments without the rezoning requests. He said the golden factors talk about conformance with the Comprehensive Plan. To vote on that issue alone does not give the complete picture of what should be considered. He said he could vote in support of amending Horizon 2020 but could not vote to change the 6<sup>th</sup> and Wakarusa Plan and the commitment he voted on to limit it to 40,000 square feet in Bauer Farm.

Commissioner Liese said he was concerned about traffic issues and promises made to the area about how it would be developed. He felt that Lowe's was being inflexible. He could not support the Comprehensive Plan Amendment. He hoped Lowe's would continue looking for a different site in Lawrence.

Commissioner Blaser expressed concerns about promises made to the area and did not feel it was the right location for Lowe's for the many reasons stated by others. He said he could not support this huge change. He felt the tax increases would be short term and eventually even out.

#### **ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Liese, to deny the comprehensive plan amendment, CPA-5-6-10, to *Horizon 2020*, including the 6<sup>th</sup> and Wakarusa Area Plan, to change the designated land use from residential/office to commercial for a portion of the Bauer Farm Development located along 6<sup>th</sup> Street between Folks Road and Champion Lane and forward this comprehensive plan amendment to the Lawrence City Commission with a recommendation of denial.

Motion carried 8-2, with Commissioners Dominguez and Rasmussen voting in opposition.