



PLANNING COMMISSION MEETING

July 26, 2010

Meeting Minutes

July 26, 2010 – 6:30 p.m.

Commissioners present: Burger, Carter, Dominguez, Finkeldei, Harris, Hird, Liese, and Singleton

Staff present: McCullough, Stogsdill, J. Miller, Leininger, Warner, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of June 21 and 23, 2010.

Motioned by Commissioner Harris, seconded by Commissioner Finkeldei, to approve the June 21 and 23, 2010 Planning Commission minutes.

Motion carried 7-0. *(Commissioner Dominguez was not present at the meeting yet.)*

COMMITTEE REPORTS

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

Commissioner Harris said the Comprehensive Plans Committee met.

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 Liese said he was contacted by Mr. Ted Boyle and Ms. Barbara Clark about the Northeast Sector Plan. He said he was also contacted by Mr. Hank Booth who said there would be a group of people who would want to table the Northeast Sector Plan.

Commissioner Finkeldei said he talked to Mr. Roger Pine about the process of the Northeast Sector Plan.

Commissioner Hird said on June 16th he met with Ms. Barbara Clark and Mr. Jerry Jost to discuss the preservation of the class 1 and 2 soils. He said he also spoke with Mr. Roger Pine about the process of the Northeast Sector Plan.

- No abstentions.

PC Minutes 7/26/10

ITEM NO. 1 IG TO RS7; .412 ACRES; 302 PERRY ST (DDW)

Z-5-6-10: Consider a request to rezone approximately .412 acres from IG (General Industrial) to RS7 (Single-Dwelling Residential), located at 302 Perry Street. Submitted by Denise Copp, property owner of record.

STAFF PRESENTATION

Mr. Dan Warner presented the item.

Commissioner Dominguez arrived at 6:40pm.

APPLICANT PRESENTATION

Ms. Denise Valker, said the house is under contract but that the lender would not loan money on the property as long as it was zoned IG.

Commissioner Hird said the applicant, Ms. Valker, was a client of his. He said he didn't recognize her maiden name on the agenda item. He abstained from the item and left the room. Commissioner Finkeldei took over Chair duties.

PUBLIC HEARING

Mr. Ted Boyle, President of North Lawrence Improvement Association, wrote a letter in favor of rezoning the property.

COMMISSION DISCUSSION

Commissioner Singleton asked if staff looked at how many other houses were in limbo.

Mr. Warner said no.

Commissioner Singleton asked if more than just the adjacent home owners should be contacted.

Mr. Warner said there are a group of houses along the north side of Perry Street that would probably be appropriate.

ACTION TAKEN

Motioned by Commissioner Carter, seconded by Commissioner Singleton, to approve the rezoning (Z-5-6-10) of 302 Perry Street from IG (General Industrial) to RS7 (Single-Dwelling Residential) based upon the findings of fact presented in the body of the Staff Report subject to the following conditions:

- 1.) Approval of the rezoning request for approximately 17,949 square feet, from IG (General Industrial) District to RS7 (Single-Dwelling Residential) 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.
- 2.) Direct staff to contact the adjacent property owners in the neighborhood notifying them of the opportunity to rezone their property from IG to RS7.

Motion carried 7-0-1 with Commissioner Hird abstaining.

PC Minutes 7/26/10

**ITEM NO. 2 REVISE ACCESS RESTRICTIONS; GLENWOOD ADDITION; LOTS 2-11
(SMS)**

Consider a request to revise access restrictions for Glenwood Addition, Lots 2-11 located on the east side of Eisenhower Drive between Carson Place & Campbell Place. The owner proposes to widen the access break from 30' to 50' to provide separate driveways for each of the single-family lots in this subdivision. Submitted by Paul Werner Architects, for Redwood LC, property owner of record.

STAFF PRESENTATION

Commissioner Dominguez said he had no ex parte or committee reports.

Ms. Sheila Stogsdill presented the item.

Commissioner Harris said it looks like the cars will be separated by a strip of land in-between.

Ms. Stogsdill said there won't be any sort of shared apron or driveway with the new configuration. She said the configurations were reviewed by both the City Engineer and Traffic Engineer and found to be an acceptable access control.

Commissioner Harris asked if there were two separate ways to get in.

Ms. Stogsdill said staff looked at multiple layouts and many involved the potential for a neighbor to back into another car as one was coming in or out.

APPLICANT PRESENTATION

Ms. Joy Rhea, Paul Werner Architects, agreed with the staff report and was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Harris, to approve the requested access modification from 30' to 50' centered on the common property lines of Lots 2 – 11, Glenwood Addition subject to administrative approval and recording of a Minor Subdivision to show the new access restriction.

Unanimously approved 8-0.

PC Minutes 7/26/10

ITEM NO. 3 COMPREHENSIVE PLAN AMENDMENT; CHP 7 INDUSTRIAL & EMPLOYMENT RELATED LAND USES (MJL)

CPA-4-3-10: Consider amending Chapter 7 – Industrial and Employment Related Land Uses to be consistent with the approved K-10 & Farmer's Turnpike Plan to include the expanded Santa Fe Industrial Area and I-70 and K-10 industrial area identified in the sector plan. This was an identified work item in the annual review of the Comprehensive Plan. *Initiated by Planning Commission on 4/26/10.*

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Harris thought the language staff was recommending was consistent with the plan. She recommended under the Santa Fe Industrial Area replacing the deleted text (~~*The area north of Lakeview Road may alternately develop with more traditional industrial uses.*~~) with the proposed text instead of adding it to the bottom of the paragraph. (*The K-10 and Farmer's Turnpike Plan identifies 130 acres of industrial and office/research uses along the western side of this area.*)

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Finkeldei, to approve the amendments to Chapter 7 – Industrial and Employment Related Land Uses to update the description for the Santa Fe Industrial Area and the I-70 and K-10 area to reflect the approved K-10 & Farmer's Turnpike Plan, with the additional recommendation of text change made by Commissioner Harris, and authorize the Chair to sign the PC Resolution.

Unanimously approved 8-0.

PC Minutes 7/26/10

**ITEM NO. 4 COMPREHENSIVE PLAN AMENDMENT; H2020 CHP 14; NORTHEAST
SECTOR PLAN (DDW)**

CPA-6-5-09: Consider Comprehensive Plan Amendment to Horizon 2020 – Chapter 14 to include the Northeast Sector Plan.

STAFF PRESENTATION

Mr. Dan Warner presented the item.

PUBLIC HEARING

Mr. Hank Booth, Lawrence Chamber of Commerce, ask that this item be deferred. He said there are two commissioners absent who have been in on these meetings from the beginning and their expertise should be heard. He also stated there are two new commissioners who just joined the Planning Commission. He felt that the Airport Master Plan should be completed first. He said people in the agri-industry have concerns about future use. He said the Douglas County budget is still being worked on and land preservation is important. He said even with 500 acres designated for something in the industrial or business component, set aside for some sort of future compromise, would still leave approximately 95% of type 1 and 2 soils undisturbed.

Mr. Roger Pine, Pine Family Investment, owns 340 acres in Grant Township. About half of that land is being designated as soil conserving agri-industry. He said the staff report states that the definition of soil conserving agri-industry says all four words need to be used together when discussing this land use. He said staff gives the example of a meat packing plant as not being acceptable and a crop research business as being acceptable. He said Grant Township has a research facility, Pioneer International, that does not own the building or property they are on. He said they do not do any research on adjoining land around the facility. They lease research sites annually according to their needs. He felt this was not a good example of a soil conserving agri-industry because it did not meet the criteria. He said he could not think of anything that would work in this area related to agriculture other than traditional farming. He was concerned about having 170 acres designated to something that cannot be used in a way other than what is currently being done. He discussed concerns about drainage issues. He felt that if 65 acres south of Hwy 40 were designated Industrial drainage issues would be addressed. He said he expressed his opinions to Mr. Matt Bond, City Stormwater Engineer. He said farmers eventually have to retire and selling land is their 401K. He said his property is most ideal for development because of access to transportation. He felt this was an opportunity for economic development for the community. He said in preparation for the Airport Master Plan the City is forming a steering committee and a new consultant may mean more changes at the airport. He said there have been talks about acquiring adjacent property.

Commissioner Carter asked Mr. Pine if he spoke with Mr. Bond about the drainage study and that if what Mr. Pine found was not reflected in the study.

Mr. Pine said he discovered that the water would not go to North Lawrence, it would drain to the east.

Commissioner Singleton asked where Mr. Pine thought drainage should be if not to the east.

Mr. Pine felt there should be infrastructure in place to get the water to Mud Creek instead of meandering through private property.

Mr. Lew Phillips said his family owns 250 acres of farmland in the Midland Junction area. He felt the proposed limitations on development would add to the perception of Douglas County being business unfriendly. He felt that Douglas County needs more Industrial tax base. Nowhere else in Douglas County is it possible to offer the transportation advantages that could be developed in the northeast sector. He said he would support having the item deferred for further review.

Mr. Ken Reiling said he owns 60 acres at the east end. He felt that the Airport Master Plan data should be included. He said that soil conserving agri-industry is extremely narrow, vague, and confusing when used to define a land use classification. He asked staff to draft a list of potential agri-industries which may be attracted to the infrastructure of Grant Township. He asked if a tractor supply store or a seed processing plant would be allowed in this designation. He would like to see more long range plans for police and fire protection. He also felt there should be complete separation of bicycles and vehicles for the general public safety.

Ms. Dorothy Congrove said she owns 235 acres in Grant Township. She felt that very little of the property owners opinions have been incorporated into Northeast Sector Plan. She felt the definition of soil conserving agri-industry was too restrictive. She said she was not advocating development without standards. She said the soil conserving agri-industry designated area is closest to the city. She asked that the plan be deferred.

Mr. Bart Hall said he farms Kansas River Bottom land and also a soil scientist by training. He said he does not take any Federal farm program subsidy for which he is eligible. He said he rejects the premise that farming is something that is done with land while waiting for a higher use to come along. He said that 1/10 - 2/10 of 1% of all the soil in the world is the quality that is in the Kansas River Valley. Agriculture is the highest and best use and when that land is removed from agriculture it is removed from agricultural forever, there is no replacement.

Commissioner Dominguez asked what kind of scientist Mr. Hall was.

Mr. Hall said he was a soil chemist by training.

Commissioner Liese asked what kind of farming he did.

Mr. Hall said he has a mixture of wheat, beans, alfalfa, and assorted horticultural crops.

Commissioner Liese asked Mr. Hall to repeat his statistics and his source.

Mr. Hall said the Eudora type soils are probably about 1/10 - 2/10 of 1% of all the soils in the world that are of that caliber and information regarding it can be found in numerous soil rating science text books.

Mr. Ron Schneider said he has lived in Grant Township for 23 years and owns about 40 acres. He said he was speaking for himself, not speaking on behalf of any clients. He said the community has a responsibility to step up to save the unique land for agriculture. He agreed with the previous speaker that the best and highest use of this land that is so rare is agricultural purpose. He said it was similar to the National Park Service. He felt that land owners should be compensated in some way. He questioned the definition of soil conserving agri-industry and felt it needed to be broadened and made more general. He said the future designation of Midland Junction Designation makes no sense. He said it is a dangerous intersection and would require massive infrastructure changes.

Commissioner Singleton said she lives in a residential neighborhood in Old West Lawrence and is clearly limited by what she can do with her land. She said she knows she cannot put a gas station there and it is not her 401K. She inquired about agricultural zoning being different.

Mr. Schneider gave the analogy of someone who has a vacant lot and they are told they cannot build on it but that a lot with a house on it has far more value than a vacant lot. He said he would like every farmer to keep their land as farmland but he does not think that would be fair.

Commissioner Hird asked what changes he would recommend to the sector plan.

Mr. Schneider said Midland Junction is a dangerous intersection and massive infrastructure will need to be addressed. He would like the definition of soil conserving agri-industry needs to be worked on further.

Mr. Ted Boyle, North Lawrence Improvement Association, was concerned about storm drainage. He said everything that happens north of North Lawrence directly affects North Lawrence. He said the pumps are overwhelmed and that it will take extensive infrastructure to make the water go east.

Ms. Barbara Clark, Citizens for Responsible Planning (CRP), said she sent a letter with attachments that had good examples of Best Practices that other communities are using. The Comprehensive Plan, Airport Master Plan, T2030, Wastewater Management, Flood Zoning Mapping are not a static system. They are dynamic and always moving. She said there is already an Airport Plan in existence but is being updated. She did not necessarily think that was a legitimate stop-stick to the approval of the Northeast Sector Plan. She said CRP has discussed the interconnectedness of the deep fertile soils in North Lawrence and floodwater mitigation. Class 1 soils in that area, specifically Rossville silt loam, has 80" before it meets any restrictive layer, which means it has the capacity to absorb water. She said Long Range Planning is comprehensive. Many areas of the county are identified for industrial development. She said there are areas already where there is the need for environmental mitigation and great opportunity for infill development. She felt there were transportation limitations because Grant Township has railroads but not active rail spurs. She hoped they would not put the brakes on this process and suggested an accelerated study session with groups such as American Farmland Trust and other communities.

Commissioner Liese asked Ms. Clark to give a brief description of Citizens for Responsible Planning.

Ms. Clark said Citizens for Responsible Planning came about on June 23, 2007 when a group of residents in the Grant Township area learned about an industrial development plan in the area that the Lawrence Journal World reported was to be a 900 acre industrial park.

Commissioner Liese asked how many people Ms. Clark was representing.

Ms. Clark said the Citizens for Responsible Planning mailing list contains about 400 people.

Mr. Michael Almon, Sustainability Action Network, showed legal information on the overhead projector. He said the landowners in the northeast area are concerned with regulations that this body and the governing body might impose that limit their options on the use of their land. He wanted to point out that it was a red herring because everyone who is a land owner within a zoning category has some limits on how they use their land. He said there is an established Supreme Court precedent that regulatory takings are primarily for the public health and safety and that's where the community needs come in. They determine and establish that reasonable public policy is fully justified for the protection of the population in Lawrence from flooding through floodplain

preservation, for assuring the solvency of City and County infrastructure budgets, and justified for securing the communities ability to feed themselves as peak oil increasingly drives up food prices and limits food imports. He said the Commission is on firm legal footing when adopting plans with specific provisions for regulatory takings that protect the common health and safety. He urged them to include these in the Northeast Sector Plan. Land owners can still farm their property. They can use their property viably and economically, it's just that they should not be given value added. He urged the Commission to incorporate the following into the Northeast Sector Plan:

1. Promulgate public policies and codes that recognize numerous U.S. Supreme Court case decisions which say reasonable, uniformly applied land use regulations do not constitute legal takings. Some of the rulings include:
 - No one may claim damages due to police regulation designed to secure the common welfare, especially in the area of health and safety regulations. The distinguishing characteristic between eminent domain and police regulation is that the former involves the taking of property because of its need for the public use, while the latter involves the regulation of such property to prevent the use thereof in a manner that is detrimental to the public interest. (Nichols' The Law of Eminent Domain Sec. 1.42; J. Sackman, 3d rev. ed 1973)
 - Land use controls constitute takings, the Court stated, if they do not "substantially advance legitimate governmental interests", or if they deny a property owner "economically viable use of his land". (Agins v. City of Tiburon)
 - When the owner of real property has been called upon to sacrifice all economically beneficial uses in the name of the common good, that is, to leave his property economically idle, he has suffered a taking. (Lucas v. South Carolina Coastal Council, 112 S. Ct 2886, 2895-1992)
 - These and considerably more may be found at:
<http://caselaw.lp.findlaw.com/data/constitution/amendment05/16.html#f236>
2. Adopt a zoning category of "exclusive agricultural use" for rural properties, with a gradient of development limitations keyed to the USDA soil classification levels. This would not be a requirement, merely a zoning category that a landowner may request for their land. http://www2.co.multnomah.or.us/Community_Serivces/LUT-Planning/urban/zonordin/efu/efu.html
3. Adopt code provisions for the Transfer of Development Rights (TDR) or Capability I and Capability II prime soils specifically. Using such a program, lands containing these soils are so designated, and owners of such farmland can sell the development rights to a publicly managed fund, thus continuing to farm while realizing a financial gain. Land developers who plan to urbanize other second tier farmland would pay to buy the development rights, the proceeds going into the publicly managed fund.
http://www.greenvalleyinstitute.org/landuse_innovativezoning.htm

Commissioner Liese asked Mr. Almon to give a brief background of the Sustainability Action Network.

Mr. Almon said the Sustainability Action Network is non-profit Kansas group locally based in Lawrence. They have been in existence for approximately two years with a focus on any aspect of local or regional ecologically sustainability. He said he is the Secretary of Board of Directors and that there are 25 active members and a newsletter that goes out to approximately 425 people.

Mr. Matt Eichman, Midwest Concrete Materials, own 420 acres within the Northeast Sector Plan. He said soil was not the only natural resource and that sand is also a natural resource. He felt the plan was narrow sided and only addresses agriculture and does not allow for any other use of natural resources that could be used for the benefit of the county. He said currently many aggregates are

trucked in from Topeka. He requested the item be tabled to allow for other sustainable resources can be researched.

Commissioner Carter asked if Midwest Concrete was based in Lawrence and if the recent sand plant they proposed would have been taxed at an industrial rate.

Mr. Eichman said the office is based out of Manhattan and recently expanded in to Lawrence. Taxes would be under the industrial classification.

Commissioner Dominguez inquired about his argument for resources.

Mr. Eichman said there needs to be a balance of resources. He said sand was just as limited as class 1 and 2 soils.

Commissioner Liese said Mr. Eichman mentioned a sand/gravel extraction project that was stopped. He said sand occurs in river bottoms and asked if Mr. Eichman said where the soil is located.

Mr. Eichman said the 420 acres that Midwest Concrete owns is cornered by Midland Junction.

Commissioner Liese asked what soils it is located on.

Mr. Eichman said it has class 1 and 2 soils going through it but not its entirety.

Commissioner Liese asked what percentage of land that he owns is class 1 or class 2.

Mr. Eichman said his best guess would be about 25%.

Commissioner Liese asked Mr. Eichman to explain sand extraction from class 1 soils.

Mr. Eichman he said they are not together and that the soil is over the top. They remove the soil and sell it to farmers and/or developers. He said the soil is not destroyed, it is relocated to other sites. He said the sand is then extracted and a pond is left. It is common for a community to then turn the site into a public use area such as a park or fishing lake.

Commissioner Liese asked if extracting the sand and gravel and selling the soil was in the best interest of the community versus importing the sand from elsewhere.

Mr. Eichman said it is a good thing for a few reasons; he said there is a growing concern of carbon footprint. Once resources are trucked in there is quite a bit of carbon footprint. A community needs materials to build streets, foundations for houses, etc, and sand is as basic as it gets for a construction component. He said he would argue that sand is every bit as needed as feeding people. He said there is an increased tax for industrial over agriculture use.

Commissioner Liese said Mr. Hall claims that 1/10 - 2/10 of 1% of all the soil in the world is the quality that is in the Kansas River Valley. He asked Mr. Eichman how much sand is available in the world.

Mr. Eichman said he had no way of answering that. He said Kansas has 13 distinct geographical areas. He said for different types of soil there is also different types of sand.

Commissioner Harris asked if knew how much sand in the county is located under soils other than high quality soils.

Mr. Eichman said sand generally is not outside of river valleys.

Commissioner Harris asked if there are other areas along the Kansas River that have sand not under top quality soils.

Mr. Eichman said that there probably are but he didn't know how much. He said that the depth of the alluvium is not uniform.

Commissioner Harris said that Planning Commission was told in a study session that when high class soils are moved from their locations the quality of the soil is not the same.

Mr. Eichman said he did not know the answer to that and it was not his area of expertise.

Mr. Rich Bireta, Grant Township Trustee, said the board voted unanimously to approve the plan. He said all of Grant Township is covered by the Northeast Sector Plan. He thanked staff for their work on a complex issue.

Mr. Pat Ross said the notice letter he received was postmarked July 22, 2010. He asked that the item be deferred since he did not have enough time to review it. He wanted to comment on an earlier comment by Barbara Clark who said there were no active rail spurs in North Lawrence. He said he knew of at least 5 active rail spurs in the North Lawrence/Grant Township area. He felt the plan as presented was too restricted. He said the transportation corridors can support development and jobs.

Commissioner Dominguez asked how many acres Mr. Ross owns.

Mr. Ross said he and different family members own 450 acres in Grant Township.

Commissioner Liese asked if a rail spur is a place where a train can stop and make deliveries.

Mr. Ross said yes.

Ms. Beth Johnson, Lawrence Chamber of Commerce, said Union Pacific is always looking for more spurs. Rail, airway, and highway are important to industrial development. Nowhere else in Douglas County are there all three. She asked for a better definition of soil conserving agri-industry.

Commissioner Carter asked if there have been any inquiries for industrial in that area.

Ms. Johnson said the airport has and the fact that the airport now has water/sewer makes it more marketable.

Commissioner Carter asked Ms. Johnson if she saw Commissioner Rasmussen's comments regarding the plan.

Ms. Johnson said no.

Commissioner Liese said he was struck by staff's presentation where Mr. Warner showed the development of Lawrence and North Lawrence in 10 year segments. He asked Ms. Johnson if she

could explain why there would be more development now suddenly if they did eliminate agri-industry.

Ms. Johnson said the City has extended sewer and water to the airport so that changes the perception of what can be done in that area. She said the City has indicated by putting those services there that they want to see growth in that area.

Commissioner Liese wondered how much effort has been put in to development along North 2nd Street.

Ms. Johnson said most of those are retail and she works with Industrial or Office. She said the City has a Retail Task Force to work on those types of issues.

Commissioner Dominguez asked what kind of business could be at the airport.

Ms. Johnson said she sees it for testing/research or prototyping type businesses that can take advantage of the small airport size.

Mr. Frank Male, Lawrence Landscape, supported deferring the item. He felt that not a lot of changes were made to the plan. He did not feel like public comments were being heard. He said the term highest and best use had to do with maximizing the existing transportation network and there are three state highways, an interstate, a railway, and an airport in that area. It doesn't get anymore intense than that. Also when talking about highest and best use Utilities comes into play; electricity, water, natural gas, and sewer, which are available at the site. Another thing to consider is the population and how far the population center is from the workforce and neighbors. He discussed the constraints of a site such as noise, the airport, I-70, and the railroad. Anything other than farming and industrial development would be severely limited. He said the world would not come to an end if 10% of the area was allowed to be developed for business purposes. It is a prime area for industrial development because there isn't anywhere else for it to go. He asked that this be tabled until the Airport Master Plan was complete. He asked staff to come up with a better description of soil conserving agri-industry.

COMMISSION DISCUSSION

Commissioner Harris asked staff to respond to the questions about drainage related to the soil conserving agri-industry.

Mr. McCullough said the City Stormwater Engineer provided a graphic that was displayed on the overhead. One of the issues is that it is relatively flat out there so it has created its own drainage network at this point. If development is allowed in the area drainage patterns and impacts could be changed. He said the dots on the map represent where all the water in each water shed comes down to. He said the proposed 2007 development plan took the water more directly to the east.

Commissioner Harris asked if that is planned in the North Lawrence Drainage Study.

Mr. McCullough said he would have to review the study more.

Commissioner Finkeldei asked if there have been any discussions with the County Commission about \$5,000 being spent on Heritage.

Mr. McCullough said he has not been part of those conversations.

Commissioner Harris inquired about who was on the stakeholder list.

Mr. Warner said all the property owners in the area and others who have signed up on the list serve.

Commissioner Harris asked if those folks received notification via email.

Mr. Warner said he believed he mailed letters out on or about July 6th and then a list serve message on or about July 12th. He said notice has gone out several times.

Commissioner Hird said there are type 1 and 2 soils all through the area so he wondered why agri-industry wasn't designated to other areas such as Midland Junction.

Mr. McCullough said in some regard staff is coming at it fresh in designating the area southwest of the airport as industrial uses. This discussion has occurred with the Chapter 7 update several years ago. Staff begins sector planning with adopted policies as assumptions. So staff assumed when working on the Northeast Sector Plan that Midland Junction and this area (pointed to map) would align with Chapter 7. Those policies would be brought forth and become the base maps for the policies of the Northeast Sector Plan. Toward the end of the Chapter 7 update there was a term proposed and ultimately adopted, soil conserving agri-industry. That concept was brought forward to the Northeast Sector Plan. He said from staffs perspective it is not simply the soil classification being looked at. Staff is trying to be realistic in laying out the expectation for the public, development community, Planning Commission, and governing bodies, about where and how staff sees services being put forth in this area of the community, and it's a real challenge. Even if you strip out the soil conserving agri-industry or class 1 or 2 soils it is still left with significant flooding issues and challenges. Even without intervention it is not historically developed because of those reasons. He said in staffs opinion Chapter 7 policies and concepts is how they got to this location.

Commissioner Hird said if the goal is to preserve soils then the protected area could be wherever there is class 1 or 2 soils.

Mr. McCullough said its root is industry. In some ways the soil conserving agri-industry is still industrial designated property. It has been a challenge to define it and ultimately up to the governing bodies to determine what it means. He suggested possibly looking at percentages preserved and look at some more conventional industry. He said for all the other class 1 and 2 soils that are shown as agriculture it is mainly because it is not expected for services to be brought there and developed.

Commissioner Hird asked if staff has developed a list of businesses that would meet the definition.

Mr. McCullough said staff has not but the plan language talks about projects being creative in their seeking to meet the soil conserving agri-industry classification.

Commissioner Harris asked if it was important for those industries to be ag-related regarding the production on their soil or was it really most important for the open space around industries to be conserved for agricultural use.

Mr. McCullough said it was difficult to answer that because it is difficult to say which one gets more weight. Staff's answer is that the term includes four words that all need to work together. He said there was still opportunity to do some conventional industry perhaps with a good ratio preserved.

Commissioner Liese asked if he was suggesting a compromise.

Mr. McCullough said staff started pretty general with Chapter 7 and it contains language that says certain sites in the community contain high quality ag-land and those sites should be encouraged to develop as soil conserving agri-industry businesses. In the Northeast Sector Plan it has been better developed to designating it to a land use category. Staff has proposed one way to get at that value and there may be other ways such as a more objective intent.

Commissioner Finkeldei suggested focusing on language that encourages businesses to locate, rather than regulate. He said the current definition is too narrow and he suggested looking into a more general definition of soil conserving agri-industry to encourage it in the entire area rather than designating a particular area. He liked the idea of a creative approach. He said he liked the language in the plan that says *'Protection of soils through agricultural use or preservation can be implemented in different ways and the community should be open to creative ways that develop projects that can utilize this classification.'* He suggested crossing the rest of the paragraph out. He agreed with the earlier speaker, Ron Schneider, who said that there should be compensation or assistance for land owners. He said there should be systems set up to do that.

Mr. McCullough said Chapter 7 does not have a category of soil conserving agri-industry but the Sector Plan does.

Commissioner Carter expressed concern about unintended consequences. He said that it would be helpful at the next meeting for the City Stormwater Engineer, Matt Bond, to be present. He agreed with keeping the language general and incentives for land owners.

Commissioner Dominguez said he did not think it was a good idea to set a precedence of compensating land owners.

Commissioner Finkeldei said his thoughts on incentives was for the entire area to permanently protect a valuable resource. He felt their four possibilities for the area were agriculture (no industrial), which is contradictory to Chapter 7; soil conserving agri-industry; industrial but encourages soil conserving; or flat industrial with or without soil conserving. He did not feel the first and last option were appropriate. He was in favor of industrial but encourages soil conserving.

Commissioner Harris asked Commissioner Finkeldei what if 80 acres were proposed for industrial development and a developer could not think of a way to preserve that land.

Commissioner Finkeldei said the plan says to encourage soil conserving in the area. It would need to comply with Horizon 2020. If soil conserving was in there and a project came in that was 80 acres the plan could be changed. Trying to define what a soil conserving agri-business is will always come up with something creative. He felt they should allow people to be creative unless they want to go all the way to a zoning category type chart.

Commissioner Singleton thanked staff for their work. She said the class 1 and 2 soils map on page 2-24 shows the airport having gotten the portion of class 1 and 2 soils that she would be willing to give up. She felt they needed to protect the land that is left. She said the airport is not completely developed and there is more space out there for more development to occur. She did not feel the item should be deferred because certain Commissioners were absent or new Commissioners were present. She said fresh perspectives represent more closely to the views of the public and are valuable. She said she understands farmers wanting to use their land as their 401k.

Commissioner Harris thanked staff for their hard work and agreed with Commissioner Singleton. She said the things she was thinking about in the plan were soil conservation as primary, stormwater storage, fiscal responsibility for infrastructure development, opportunities for industrial development, and sand along the river in Douglas County. She said the soil conserving agri-area was not come to lightly in developing the plan. It was a compromise that attempts to preserve the existing soil but also allows some low impact/low footprint industry near the airport. She said if she had to lean one way or the other she would lean toward agri use in that area rather than industry. She said she does see some value in allowing some industry in that area if it conserves soil as well. She agreed with providing incentives for preserving soil. She appreciated that the Grant Township Trustees considered the plan and voted unanimously in favor of it.

Commissioner Hird thanked the members of the public who came out to speak this evening. He said he was not sure he was willing to go backwards on Chapter 7 in Horizon 2020. He agreed with Commissioner Finkeldei's earlier statements about providing incentives. He asked how much land at the airport was available for industrial development.

Mr. McCullough said somewhere between 30-60, aviation based industry.

Commissioner Hird expressed concern about Commissioner Rasmussen not being present and felt they would benefit from having his input. He said he would like to know more about whether the Airport Master Plan is essential to considering this sector plan and what the implications are of the Airport Master Plan. He would also like more thought put into incentives to have soil conserving industry in this area.

Mr. McCullough said there was a question at the last meeting about the Airport Master Plan and he said he spoke with staff that support the advisory board and they do not believe there will be any boundary changes. There may be some implications but shouldn't impact the major concepts of the Northeast Sector Plan.

Commissioner Dominguez agreed with Commissioner Singleton's comments about their responsibility to the environment. He felt if they start compromising on that area then where does it stop. He did not feel they should compensate owners. He felt they should move the plan forward.

Commissioner Burger thanked staff for a very detailed packet of information. She said the charts and maps were very helpful. She thanked the community for sharing their viewpoints. She liked the idea of incentives and keeping the door open to creativity. She was in favor of being more conservative in their approach because once the land is gone that's it.

Commissioner Liese said they would put the community at risk by compromising a precious resource that won't come back if it goes away. He was not in favor of development on class 1 and 2 soils. He said he was unsure of how he would vote. He thanked Commissioner Singleton for saying the new Commissioners don't have a deficit and provide a fresh perspective. He said he read Commissioner Rasmussen's letter and did not feel as though his perspective was absent from the meeting tonight.

Commissioner Hird said they are unanimously concerned about the conservation of class 1 and 2 soils. He did not think that tabling this would give that up. Nobody knows what a soil conserving agri-industry means and he would like the ability to better define it.

Commissioner Harris said in the packet on page 69 there is a good definition of what soil conserving agri-industry is.

Commissioner Hird said that is not in the plan, it is staffs interpretation of it. He would prefer there was something in the plan that addressed what that definition was.

Commissioner Liese said he did not find the definition of soil conserving agri-industry to be that confusing.

Commissioner Hird said he did not want their enthusiasm for protecting class 1 and 2 soils to overshadow the realities of it, because trucking in lots of sand from another county would be an environmental disaster. He did not want to be too rigid on this that they lose sight of the fact that there will be circumstances where industrial development, such as a sandpit, makes sense for the community.

Commissioner Liese said one of the greenest ways to move things is by train and there are a number of spurs available in the area so sand could be moved via train. He said the image of digging up class 1 and 2 soils in order to get sand did not excite him.

Commissioner Carter said they did not know how much of class 1 and 2 soils are represented in soil conserving agri-industry. He felt they needed to drive the economy.

Commissioner Harris wanted to clarify why the area is being designated the way it is. She said one reason was to try and preserve the soil. She asked if another reason was stormwater issues and that if they do not develop it too intensely there will be fewer problems with stormwater in the area.

Mr. McCullough said the cumulative effect of development in Grant Township will exasperate already existing stormwater issues.

ACTION TAKEN

Motioned by Commissioner Dominguez, seconded by Commissioner Harris, to approve the Northeast Sector Plan (CPA-6-5-09).

Commissioner Finkeldei said he would vote against the motion for reasons he stated earlier. He said if the motion fails he would like to make a motion to send it back to staff for a more general definition.

Commissioner Carter said he would vote against the motion and did not see a rush to send it through when it could be improved.

Commissioner Harris said she would support the motion because the definition strikes the right balance between being general and providing some specifics to help grasp what is meant by soil conserving agri-industry.

Commissioner Liese said he would also support the motion.

Commissioner Hird said he would vote against the motion because of the same reasons Commissioner Finkeldei stated earlier. He said he was not opposed to protecting class 1 and 2 soils but did not want to create language that would eliminate the opportunity for industrial uses that might be beneficial to the community. He said he would support a deferral to allow staff time to work on the definition and perhaps broaden the language to protect more areas of class 1 and 2 soils.

Motion failed 4-4, with Commissioners Dominguez, Harris, Liese, and Singleton voting in favor. Commissioners Burger, Carter, Finkeldei, and Hird voted in opposition.

Motioned by Commissioner Finkeldei, seconded by Commissioner Carter, to defer the Northeast Sector Plan (CPA-6-5-09) and direct staff to generalize the definition of soil conserving agri-business, to be heard at a future Planning Commission meeting.

Commissioner Harris said she would not support the motion because she felt they will see the same arguments as tonight if the description is generalized more.

Motioned failed 4-4, with Commissioners Dominguez, Harris, Liese, and Singleton voting in opposition. Commissioners Burger, Carter, Finkeldei, and Hird voted in favor.

Motioned by Commissioner Carter, seconded by Commissioner Finkeldei, to defer the Northeast Sector Plan (CPA-6-5-09) to a future Planning Commission meeting.

Commissioner Singleton said she would change her vote and let it go back to staff.

Commissioner Harris said she would not vote in favor of the motion.

Commissioner Dominguez said he would vote in opposition of the motion.

Motion carried 4-3-1, with Commissioner Burger abstaining. Commissioners Dominguez, Harris, Liese, voted in opposition. Commissioners Carter, Finkeldei, Hird, and Singleton voted in favor.

PC Minutes 7/26/10

**ITEM NO. 5 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE &
COUNTY SUBDIVISION REGULATIONS; MINOR & MAJOR
SUBDIVISIONS (SMS)**

TA-3-3-10: Consider Text Amendments to the joint city/county subdivision regulations in the City of Lawrence Land Development Code, Chapter 20, Article 8 and the Douglas County Code, Chapter 11, Article 1 to revise requirements and standards related to the processing of Minor and Major Subdivisions, including minor housekeeping changes. *Initiated by City Commission on 2/16/10.*

Item No. 5 was deferred prior to the meeting.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

Adjourn at 10:40pm