

**ITEM NO. 1      COMPREHENSIVE PLAN AMENDMENT; H2020 CHP 6; NEIGHBORHOOD COMMERCIAL CENTER (DDW)**

**CPA-5-7-10:** Consider amending Horizon 2020 Chapter 6, Commercial Land Use, to include the NW Corner of 6<sup>th</sup> Street and Queens Road as a potential location for a new Neighborhood Commercial Center.

**ITEM NO. 2A      UR TO CN2; 3.158 ACRES; NW CORNER W 6<sup>TH</sup> ST & QUEENS RD (MKM)**

**Z-5-8-10:** Consider a request to rezone approximately 3.158 acres from UR (Urban Reserve) to CN2 (Neighborhood Commercial Center), located at the Northwest corner of W. 6<sup>th</sup> Street and Queens Road. Submitted by Olsson Associates for Pear Tree Village L.P., property owner of record.

**ITEM NO. 2B      UR TO CO; 3.113 ACRES; NE CORNER W 6<sup>TH</sup> ST & STONERIDGE DR (MKM)**

**Z-5-7-10:** Consider a request to rezone approximately 3.113 acres from UR (Urban Reserve) to CO (Office Commercial), located at the Northeast corner of W. 6<sup>th</sup> Street and Stoneridge Drive. Submitted by Olsson Associates for Pear Tree Village L.P., property owner of record.

**ITEM NO. 2C      UR TO RM24; 34.527 ACRES; BETWEEN STONERIDGE DR & QUEENS RD (MKM)**

**Z-5-9-10:** Consider a request to rezone approximately 34.527 acres from UR (Urban Reserve) to RM24 (Multi-Dwelling Residential), located north of W. 6<sup>th</sup> Street between Stoneridge Drive and Queens Road. Submitted by Olsson Associates, for Pear Tree Village L.P., property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented items 1, 2A, 2B, 2C together.

Commissioner Hird asked what total square footage of commercial was being requested.

Ms. Miller said 14,100 square feet.

Commissioner Hird asked Ms. Miller to explain the condition for no more than 50,000 square feet.

Ms. Miller said there is a requirement for the Com Plan. If a rezoning could have more than 50,000 square feet of commercial space then a retail market study would be required.

Commissioner Burger asked if it was a non binding site plan.

Ms Miller said it is a concept plan and they can change the layout slightly, it's just their intention, not finalized.

**APPLICANT PRESENTATION**

Mr. Greg Musil, Polsinelli Shughart, on behalf of the property owner Mr. Pat Kelly. (he displayed a color board) He said the 3 acres of commercial does not violate the spirit or intent of H2020 or the Northwest Plan. Horizon 2020 does not consider a single use in a nodal corner of a coordinated development. He said staff was comfortable with higher density because the circumstances are different now than they were when the Northwest Plan was created. He said it would not be a high intense use, just 14,100 square feet of retail that will go on 150,000 square feet of land. He asked the Commission to look at the 3 acres of commercial on its own because it doesn't strip out 6<sup>th</sup> Street, it is rather a node that serves a residential development that it is anchored to. He asked that neighborhood uses be allowed. He felt the project would be best done if all approved.

Commissioner Dominguez asked if commercial would drive the marketing of the development.

Mr. Musil said that is one part. It is a development that has all the amenities that would typically be found in a modern apartment complex. What will make it different is that they can walk to serve a lot of their needs.

Commissioner Finkeldei asked if Mr. Musil was okay with the staff recommendation of multi-family being limited to 20.

Mr. Musil said yes.

## **PUBLIC HEARING**

Ms. Patricia Manning, discussed walkability for commercial. She didn't understand why residents couldn't walk to the existing CVS and nearby grocery stores.

Mr. Kirk McClure, Lawrence Association of Neighborhoods (LAN), said they wish to reiterate that the Northwest Area Plan protects this part of the city from commercial strip development. This proposal violates that promise. 6<sup>th</sup> and Wakarusa was originally a CC150, then a CC200, now a CC400 with an asterisk beside it because it's over 400. He said the Northwest Area Plan specifically says no more commercial. He said there is a lot of distrust in the planning process within the community. He said LAN supports the staff recommendation of denial.

Commissioner Finkeldei asked if it would be fruitful to defer the item to allow time for the applicant to have discussions with the Lawrence Association of Neighborhoods.

Mr. McClure said LAN was opposed to retail and had split opinions on the office. He said since the applicant has already said this was their plan so additional time would probably not result in something fruitful.

Commissioner Rasmussen asked if he saw any potential in this concept to have a traditional neighborhood design.

Mr. McClure said no. He felt that decision was made a long time ago.

Commissioner Singleton asked how he would you feel if they moved the retail space to the northern corner.

Mr. McClure said he has heard no discussion of a change in design.

Commissioner Dominguez asked how many people from the area were at the LAN meeting.

Mr. McClure said there were 2 from that area and the usual 14-15 people. He felt that interest was low due to the distrust of the planning process.

Commissioner Dominguez asked if the mile of characteristic was created in 1996.

Mr. McClure said that was not his memory of the dates.

Mr. McCullough said the boundaries of the nodes have been much more recent than the mid 1990's. The 6<sup>th</sup> & Wakarusa Area Plan was a 2004 adoption and the 6<sup>th</sup> & SLT was around the same time.

Commissioner Hird asked Mr. McClure to explain the difference of opinion with LAN about the office portion.

Mr. McClure said it was an ongoing debate on what is the definition of commercial.

Commissioner Hird asked if it would make any difference to LAN if the retail was limited. He asked if the size of proposed retail matter.

Mr. McClure said LAN was aware of the 14,100 square footage when they held discussions.

## **COMMISSION DISCUSSION**

Commissioner Finkeldei felt they should move ahead.

Commissioner Carter agreed with Commissioner Finkeldei.

Mr. Musil said he spoke with Mr. McClure and his position was clear. The Commission hearing the item tonight would probably save everybody time.

## **APPLICANT CLOSING COMMENTS**

Mr. Musil said nobody said this kind of development was considered in the Northwest Plan.

## **COMMISSION DISCUSSION** continued

Commissioner Finkeldei asked if they could deny the Comprehensive Plan Amendment and pass the rezoning.

Mr. McCullough said the Comprehensive Plan is a policy guide in the state of Kansas. He said it isn't required but good policy and practice.

Commissioner Dominguez asked if the rezoning for retail is passed could they ensure that it is tied to building of the residential.

Mr. McCullough said that would be a condition placed on the rezoning. He said it is not a condition he was familiar with so he would have to think about.

Commissioner Dominguez said Mr. Musil said that nobody thought about this type of development being there.

Mr. McClure said there was not supposed to be any retail development there.

Commissioner Carter wondered about precedence.

Mr. John Miller said each circumstance was unique and the decision would be based on the specific rezoning. The Comprehensive Plan would be a city wide change and would be addressed throughout the city. Otherwise each rezoning would be considered a unique situation.

Mr. McCullough agreed with Mr. Miller.

Commissioner Blaser asked if they do not approve the Comprehensive Plan Amendment what would be the next step for the applicant and what could the applicant do if rezonings are approved.

Mr. McCullough said Planning Commission would have a Comprehensive Plan that would not support rezoning. Rezonings do not have to comply with Comprehensive Plan. They would end up with a Comprehensive Plan that does not support the commercial rezoning.

Commissioner Blaser asked if it would limit it to this intersection, not any other place in the city.

Mr. McCullough said that was correct, just rezoning this property.

Commissioner Harris asked for clarification that item 1 was to change the Comprehensive Plan to identify that location for commercial development, not city wide ramifications.

Mr. McCullough said that was correct.

Commissioner Harris asked for an example of another commercial building in town that would be equivalent in size.

Mr. McCullough said CVS or Walgreens pharmacy.

Commissioner Dominguez said it is 1 mile to go to CVS and he wondered if that was really considered walkability.

Mr. McCullough said it was based on a sort of suburban based auto oriented development pattern that maintained some walkability surrounding the immediate node. Staff does not consider it walkable in terms of traditional neighborhood design. It is the development pattern that was chosen for western expansion of Lawrence and it does become difficult to mix once committed to a certain development pattern.

Commissioner Dominguez inquired about development on the other side of Mercato.

Mr. McCullough said the fate of that parcel is unknown right.

Commissioner Rasmussen said that Mr. McCullough stated the Comprehensive Plan clearly sets forth where commercial development was supposed to take place but the Comprehensive Plan are guidelines, not firm and hard. He asked for clarification.

Mr. McCullough said it is a guide. A rezoning request does not have to comply with the Comprehensive Plan. Different elements of Comprehensive Plan are more recent than others so the concepts of nodal development is a relatively newer concept. It should be flexible enough for us to view departures from Comprehensive Plan, whether those are slight or large.

Commissioner Rasmussen inquired about when they do something that is not in conformance with the Comprehensive Plan.

Mr. McCullough said Comprehensive Plan policies can conflict amongst themselves. When we do that we are left to weight the issues and policies to see which one holds a higher public interest. The Northwest Area Plan holds a 15 unit per acre density for multi-family. Staff believes a 20 unit per acre does not specifically comply with the Northwest Area Plan but isn't doing harm to public policy.

Commissioner Rasmussen inquired about the staff report language that says *'Staff agrees that development policy is shifting towards Traditional Neighborhood Design (TND) that creates neighborhoods that are compact, walkable, transit-oriented, and that provide more mixed land uses. However, these policies are best addressed by development that provides all of the elements of a traditional neighborhood or mixed use district. Such developments integrate residential uses with non-residential uses such as commercial, office, civic, educational, and recreational.'*

Mr. McCullough said there can be elements of most of those. Staff does not think this is commercial neighborhood design.

Commissioner Carter wanted to address Mr. McClure's comments about neighborhoods not trusting the planning process. He said it is not a perfect process but it is important for people to participate. He felt the Comprehensive Plan was just as firm as their resolve to stick to it. One of the main goals of the Comprehensive Plan was to avoid commercial strip. He did believe this would be setting a precedence and could result in future requests and possibly lawsuits.

Commissioner Hird asked if CN zoning allows for a Kwik Trip.

Mr. McCullough said he would need a few minutes to look that up.

Commissioner Hird asked if conditional zoning could be used.

Mr. McCullough said yes.

Commissioner Harris agreed with Commissioner Carter and had nothing to add.

Commissioner Liese also agreed with Commissioner Carter.

Commissioner Dominguez said for all intensive purposes that area was meant for development.

Commissioner Singleton said she liked the plan for a variety of reasons. She felt the reliance on vehicles was decreasing. She felt they needed communities and neighborhoods to use pedestrian traffic. She said it is a completely comprehensive neighborhood that is supposed to keep people within the neighborhood and decrease traffic. When she looks at that area she thinks it is a good fit for that strip on 6<sup>th</sup> Street. She liked the fact that to get to the retail space and commercial space the access is not off of 6<sup>th</sup> Street.

Commissioner Carter said this store isn't going to survive off the development, they would also want business off of 6<sup>th</sup> Street.

Commissioner Burger said as far as a traditional neighborhood she did not feel it had gone far enough. She felt it was a good start and improvement on what was done previously based on what people have said. She agreed with Commissioner Carter's comments.

Commissioner Rasmussen said he leans more toward Commissioner Singleton's opinions. He said he does not see this creating strip malls along 6<sup>th</sup> Street. He said he would be willing to support items 2A, 2B, 2C. He did not think they needed to go as far on item 1 to change the entire Comprehensive Plan to say this parcel is a neighborhood commercial center.

Commissioner Finkeldei said when they saw this previously it had CN2 along the entire front. At that time he did not support CN2 and still does not this evening. In July 2008 Walgreens on 23<sup>rd</sup> Street came before the Commission and he supported it. He said he would not vote for this. One major difference is that when they voted for Walgreens they voted for conditions and limited it to a neighborhood pharmacy with specific size and design. This is CN2 and could be a pharmacy but it wouldn't be limited it to that. He said the second difference to an extent goes to Mr. McClure's point of there being a major difference between this area and the 23<sup>rd</sup> Street corridor. This strip of 6<sup>th</sup> Street still has a lot of building out to do. The risk on 6<sup>th</sup> Street being strip is higher with the amount of open and unzoned space. He said he would not support the CN2 rezoning. He might be able to support this plan knowing it would be a pharmacy. I thought they could support CO. He said he would not support the Comprehensive Plan Amendment and CN2 rezoning but would support the other two rezonings.

Commissioner Liese said he was concerned about Mr. McClure's comments about distrust in the planning process and he would like to hear more in the future. He said the two retail properties may be more for the purposes of marketing a really good residential area. He said he would be very reluctant to mess with the Comprehensive Plan just so an apartment complex can be more marketable.

Commissioner Hird asked Mr. McCullough if he had an answer to his earlier question about CN2.

Mr. McCullough said CN1 and CN2 are neighborhood compatible districts. CN2 introduces more of the auto related uses, for example drive-thru restaurants are not permitted in CN1 but are permitted with Special Use Permits in CN2. He said it was the same with gas and fuel sales.

Commissioner Hird asked if the applicant wanted to put something more auto intensive could the Planning Commission pass on that.

Mr. McCullough said yes.

Commissioner Hird did not feel this was traditional neighborhood design but that it was a step in that direction. He was concerned if retail was allowed in this portion then what other uses would be allowed other than what is depicted here. He said everyone was concerned about 6<sup>th</sup> Street being stripped out. He thought they should be consistent with Horizon 2020 and stay true to their values on nodal development. He said given the size and nature of what they are suggesting, if developed consistent with that plan he would not have a problem with it. He felt they should consider using their tool of conditional zoning and require the access to the retail spot be only through the development, limit the retail to 14,100 square feet, and limit the retail use to drug store or other personal convenience services. He felt they could end up with something that could benefit the residents of the area. He expressed concerns about screening and felt it was critical. He felt they should intensify the buffer between 6<sup>th</sup> Street and any use there. He was not interested in attracting a convenience store/gas station, although he did not think that was what the applicant was proposing. He felt they should allow something reasonable for residents to walk to. He said he would support with conditions. He did not think they needed an amendment to Horizon 2020 and was not substantial enough to do that.

Mr. Musil said they would be interested in doing conditional zoning.

Commissioner Blaser did not feel they needed to change Horizon 2020. He said he would not support item 1. He said strip malls were a thing of the 1970's and created blight. He said without the retail it would still be walkable.

Commissioner Harris said she could not support commercial development on the corner of 6<sup>th</sup> Street.

#### **ACTION TAKEN on Item 1**

Motioned by Commissioner Harris, seconded by Commissioner Liese, to deny the Comprehensive Plan Amendment (CPA-5-7-10) to *Horizon 2020* to amend Chapter 6 to include the northwest corner (approximately 3 acres) of W. 6<sup>th</sup> Street and Queens Road as a potential location for a new Neighborhood Commercial Center and recommend forwarding to the Lawrence City Commission with a recommendation for denial.

Commissioner Singleton said she would prefer to defer to allow the applicant time to change instead of voting to deny.

Commissioner Hird said to his understanding they could deny the Comprehensive Plan Amendment and still approve the rezoning of residential and office portions and then defer the CN2 zoning.

Mr. McCullough said that was an option.

Commissioner Hird said he would support the motion to deny the Comprehensive Plan Amendment.

Commissioner Harris said the intent of the motion was to deny the request for having that be a commercial center at that location. The staff report supports denial based on the Comprehensive Plan not recommending strip development on 6<sup>th</sup> Street.

Commissioner Finkeldei agreed. He said he was going to vote in favor of the motion because he did not think Horizon 2020 should be amended. He said he would be in favor of deferring item 2A.

Commissioner Singleton said if they defer item 2A there should be as many options to the applicant as possible.

Commissioner Hird said by supporting the motion his intent was that if Horizon 2020 was amended and designated this as a commercial center they would be opening the door to a variety of uses.

Motion carried 9-1, with Commissioner Singleton voting in opposition.

#### **ACTION TAKEN on Item 2A**

Motioned by Commissioner Rasmussen, seconded by Commissioner Dominguez, to defer the rezoning (Z-5-8-10) of 3.158 acres from UR (Urban Reserve) to CN2 (Neighborhood Shopping Center) as requested by the applicant.

Commissioner Blaser asked if that was a one month deferral.

Mr. McCullough said they will work with the applicant. He said it would help if the motion provided direction of what should be worked on.

Commissioner Singleton said she thought what Commissioner Hird proposed earlier was what they intended.

Commissioner Hird repeated what he said earlier: require the access to the retail spot be only through the development, limit the retail to 14,100 square feet, limit the retail use to drug store or other personal convenience services, and be a requirement to build out the residential concurrently with the retail.

Commissioner Carter said even with all those conditions, he would not be supportive of that because it would be opening a door. He was not sure a compromise served the community well.

Commissioner Liese agreed with Commissioner Carter.

Commissioner Blaser said he would feel better if they could move it somewhere other than 6<sup>th</sup> Street.

Commissioner Rasmussen said they should also put screening along 6<sup>th</sup> Street on the list.

Motion carried 8-2 to defer with Commissioners Burger and Harris voting in opposition.

#### **ACTION TAKEN on Item 2B**

Motioned by Commissioner Rasmussen, seconded by Commissioner Hird, to approve the rezoning request (Z-5-7-10) for approximately 3.113 acres from UR (Urban Reserve) to CO (Office Commercial), located at the northeast corner of the intersection of W 6<sup>th</sup> Street and Stoneridge Drive, and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Unanimously approved 10-0.

#### **ACTION TAKEN on Item 2C**

Motioned by Commissioner Rasmussen, seconded by Commissioner Hird, to approve the rezoning request (Z-5-9-10) for 34.527 acres from UR (Urban Reserve) to RM24 (Multi-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 and with the following condition:

1. The net density shall not exceed 20 dwelling units per acre.

Unanimously approved 10-0.