



PLANNING COMMISSION MEETING
September 20, 2010
Meeting Minutes

September 20, 2010 – 6:30 p.m.

Commissioners present: Blaser, Burger, Carter, Dominguez, Finkeldei, Harris, Liese, Rasmussen, Singleton, and Student Commissioner Davis

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

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of July 26, 2010.

Commissioner Harris found a minor error on the first page of the document that she emailed to Ms. Denny Ewert prior to the meeting.

Motioned by Commissioner Harris, seconded by Commissioner Finkeldei, to approve the July 26, 2010 Planning Commission minutes with the correction suggested by Commissioner Harris.

Approved 7-0-2 with Commissioners Blaser and Rasmussen abstaining. Student Commissioner Davis abstained.

Receive and amend or approve the minutes from the Planning Commission meeting of August 23 and 25, 2010.

Minutes were not available to vote on. They will be voted on during the October meeting.

COMMITTEE REPORTS

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

Commissioner Blaser said the Industrial Design Committee met and will present the whole plan at the October Mid-Month meeting. He encouraged all the Commissioners to attend.

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 spoke with Ms. Marci Francisco briefly at a social event and she reiterated points she made at the last Planning Commission meeting.

Commissioner Carter said he met with Ms. Candice Davis to discuss the boarding house Text Amendment and talked briefly on the telephone with Mr. John Davis and Mr. Rob Farha.

Commissioner Dominguez said he briefly spoke with Ms. Candice Davis. He said he also received many emails from the public.

- No abstentions.

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ITEM NO. 1 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT; BOARDING HOUSE (SDM)

TA-6-17-09: Reconsider Text Amendments to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House." *This item was originally heard by Planning Commission on 12/16/09. City Commission returned this item on 2/2/10 for additional consideration.* (PC Item 12; approved 6-3 on 5/26/10) *Continued by Planning Commission on 8/25/10.*

STAFF PRESENTATION

Mr. Scott McCullough, Planning Director, presented the item.

Commissioner Dominguez inquired about an appeal process for parking request.

Mr. McCullough said at the end of this process there would be a set of standards and assuming it would be a permitted use in the zoning district they would submit a site plan and staff would process the site plan to make sure all the standards were met and then the applicant would seek building permits.

Commissioner Dominguez asked if someone could make a boarding house out of something that is not a boarding house.

Mr. McCullough said the permitted uses of the zoning district RM32 would allow multi-dwelling structures and non-conforming single detached dwelling structures. In the Oread neighborhood boarding houses and several other types of land uses would be allowed.

Commissioner Dominguez asked if the applicant could seek a variance through the Board of Zoning Appeals if the parking was limited to one to one.

Mr. McCullough said yes.

Commissioner Finkeldei inquired about the language *'The planning director could alter the parking requirement, for boarding houses or multi-dwelling structures, to assist in the preservation of the architectural nature of the structure and neighborhood.'*

He asked if he intended that to apply over a certain square footage or in any case.

Mr. McCullough said it meant over a certain square footage so code language would have to be built. The intent would be to build in administrative variance procedure for those that are over a certain threshold of size. He said an alternative way to do it was some sort of ratio that just very objectively shows the reduction of ratio past a certain square footage. He said there seemed to be support for coming up with some mechanism to grant some relief to certain size structures. He said it could also be certain size structures within historic districts or environs of listed properties if they want to go that far.

Commissioner Finkeldei asked if this was passed but the non-conforming change was not passed, could staff retroactively go back and approve those structures and make them conforming.

Mr. McCullough said typically it would take some sort of action by the applicant to get re-approval of the property.

Commissioner Harris asked staff to respond to the Lawrence Preservation Alliance diagram that showed how a small house could become a really big house under the code.

Mr. McCullough said the current code allows that.

Commissioner Harris inquired about previous discussion about the current code being sufficient to keep a building from becoming 20% bigger than its footprint. She asked if that was not always the case.

Mr. McCullough said hopefully he didn't portray that there are codes in place that keep it from becoming 20%. He said staff has tried to help people recognize that the current code allows certain development rights in the RM32 zoning district on a certain size lot. He said if the governing bodies think that is too much for the district or neighborhood than the standards need to be addressed. He said staff was trying to pull away from demonizing someone who was working within the current code.

Commissioner Singleton inquired about the procedure for deciding to move forward with the August language.

Mr. McCullough said they could make a motion like that using the previous language and it would be forwarded on. He said if the language starts getting into different code sections, like multi-dwelling parking, it would have to be re-advertised and brought back at a future date.

Commissioner Finkeldei did not think they would get uniformity on the discussion. He felt there was a place for boarding houses and a place to try and save large structures. He supported sending it back to create incentives to save large structures. He liked the language '*...to assist in the preservation of the architectural nature of the structure and neighborhood.*' He felt the people who have followed the rules and have a non-conforming use should be protected. He said the question becomes in this current version if 4,000 square feet is the definition of a large structure. He felt they needed to limit it to no more than 10% or 20% for the reasons the Lawrence Preservation Alliance pointed out. He said he might prefer 3,500 square feet and any structure larger than that could be granted a parking waiver to allow more parking spaces to save that structure without going to the Board of Zoning Appeals.

Commissioner Harris said she supported Commissioner Finkeldei's comments in general. She asked him about the scenario of an addition being added to a building that makes it large enough to be considered by the Planning Director for parking reductions.

Commissioner Finkeldei said he would support a provision that says if the gross square footage did not expand more than 10% or 20% in the last 5 years.

Commissioner Dominguez asked why Commissioner Finkeldei would not want the issue to go to the Board of Zoning Appeals.

Commissioner Finkeldei said the Board of Zoning Appeals can only consider certain items and saving an historic structure is not one of their decision making criteria.

Commissioner Rasmussen said there has to be unique circumstances and if the hardship is self inflicted that is not one of the criteria and neither is the dollar cost.

Commissioner Liese asked staff to review the current parking requirements for multi-dwelling and boarding houses.

Mr. McCullough said for multi-dwelling structures it is 1 parking space per bedroom, for boarding houses it is 1.5 parking spaces per two lawful occupants.

Commissioner Rasmussen asked about the current parking requirements for dormitories.

Mr. McCullough said it was the same as boarding houses, 1.5 parking spaces per occupant.

Commissioner Blaser felt that the parking should be the same across uses with boarding houses being 1 parking space per bedroom.

Commissioner Rasmussen asked if that meant he also favored a change in sorority and fraternity parking.

Mr. McCullough said currently sororities, fraternities, and boarding houses have a reduced parking standard than apartments.

Commissioner Blaser said he would have to think about that.

Commissioner Carter said he did not want to address fraternities and sororities separate from this. He felt the one to one parking was the way to go and also grandfather in the legal non-conforming issues. He said the Overlay Districts could address large structures.

Commissioner Finkeldei said there are quite a few structures that are 10 bedroom apartments. He said if an owner tries to renovate those and does not comply with the parking standards then they would probably just leave them the way they are.

Mr. McCullough said of the 22 boarding houses originally provided to them 7 of those were over 3,500 square feet.

Commissioner Dominguez asked Commissioner Finkeldei what he wanted changed from the August language.

Commissioner Finkeldei said he favored the 1 to 1.5 parking for structures over 4,000 square feet. He said adding multi-dwelling structures would require more time.

Commissioner Singleton said if the majority of people in attendance tonight were in agreement that parking should be 1 to 1 and in agreement that the only other modification was to grandfather approved boarding house structures then it could be forwarded to City Commission.

Mr. McCullough said yes, if it did not include a standard for waiving parking requirements.

Commissioner Singleton said they were close to getting it done last month. She said her understanding was that they were going to vote on this tonight. She said there was new information about potential language for parking, how to handle non-conforming structures, and how to address the issue of an onsite property manager. She said if they look at the language from the August meeting that says the parking should be 1 space per bedroom. She felt that the majority of the Commission believed it should be 1 parking space to 1 bedroom. She said the only other issue was the issue of grandfathering in structures that were already in place.

Commissioner Finkeldei asked if Commissioner Singleton was suggesting the motion should be to adopt the August language plus the non-conforming language from this month's memo.

Commissioner Singleton said yes.

Commissioner Harris said if the vote was to forward to City Commission she would only be comfortable doing that if she could see the language that they would be voting for and preferably review the minutes from the August meeting to refresh her memory.

Commissioner Rasmussen said he would like to see the language too. He said when looking at the August language he would support the 1 parking space per bedroom but would like to see some relief for large structures and felt they were creating a problem by ignoring it.

Commissioner Carter said he was concerned about the unintended consequences. He was comfortable with the 1 parking space per bedroom and including language to allow the Planning Director if it's based on saving a larger structure.

Commissioner Harris asked if Commissioner Carter meant large or large historic.

Commissioner Carter said he meant large historic.

Commissioner Rasmussen said the reason he liked boarding houses was it preserved the character of the neighborhood.

Commissioner Liese said in the staff memo it states that there appears to be consensus that large structures in the Oread neighborhood or another established neighborhood should be provided relief from parking requirements in a way that treats multi-dwelling structures and boarding houses the same. He wondered if there was really consensus.

Commissioner Finkeldei said he thought there was consensus.

Commissioner Blaser thought so too.

Commissioner Carter thought so as well.

Commissioner Singleton said there was a difference between an historic home being maintained but she does not want to encourage them to be torn down and an apartment complex be built instead.

Commissioner Dominguez said the incentive to turn a house into a boarding house was to make money. He said he liked the Board of Zoning Appeals route in order to get the neighborhood involved.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Harris, to defer the item and direct staff to work on language consistent with the staff memo set forth in item 1 and include language that saves larger structures, includes language that does not allow it to expand over a certain percentage, and look at the non-conforming language again.

Commissioner Singleton said staff did an excellent job of raising good points to take into consideration. She said she would like information about how many houses are over 4,000 square

feet. She suggested during the Mid-Month meeting having a theoretical discussion about the issue of grandfathering non-conforming structures. She agreed that maybe the Board of Zoning Appeals was not the best route to be making these decisions because the factors they consider aren't relevant to the issue they would be asked to address. In reference to an onsite property manager, she strongly felt there needed to be someone who had some level of responsibility. She suggested a phone number onsite to get a hold of owner. She said she supported Commissioner Finkeldei's motion.

Commissioner Liese supported Commissioner Finkeldei's motion. He would like staff to elaborate on the statement that parking regulations should be revised to create uniform relief from the parking standards for multi-dwelling structures and boarding houses.

Mr. McCullough said hundreds of Text Amendments have been done since the Code was adopted in 2006 because there have been discrepancies and inequities. He said this Commission has worked a long time on that. The process has brought up the notion that there are inequities between multi-dwelling structures and boarding houses if they are both to thrive in established neighborhoods in the RM Districts. He said the code today gives advantage to boarding houses.

Commissioner Dominguez did not know if he would support or vote against the motion. He said regarding not having the Board of Zoning Appeals hear items because of the five criteria, the first two criteria are unique circumstances to a variance being requested by a boarding house. He did not like decisions being made by the city instead of being heard through the public process and did not think it was good for public policy. He said he did not think he would support motion

Commissioner Harris said Commissioner Dominguez made some good points. She said she was not ready to move it forward just yet.

Commissioner Carter said he would vote in favor of the motion. He said the motion was for including language that saves larger structures and he would like to see it for large historic structures. He said he would rather use Overlay Districts to address all large structures.

Commissioner Burger asked if the motion was approved if the public comment period would be open again.

Mr. McCullough said he would recommend they have a public hearing on that language.

Motion carried 7-2, with Commissioners Burger and Dominguez voting in opposition. Student Commissioner Davis abstained.

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ITEM NO. 2 UR TO CN2; 3.158 ACRES; NW CORNER W 6TH 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. 6th Street and Queens Road. Submitted by Olsson Associates for Pear Tree Village L.P., property owner of record. *Deferred by Planning Commission on 8/23/10.*

Item 2 was deferred prior to the meeting.

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ITEM NO. 3 COMPREHENSIVE PLAN AMENDMENT; H2020 CHP 8; TRANSPORTATION (RTG)

CPA-3-1-10: Consider Comprehensive Plan Amendment to Horizon 2020 for an update to Chapter 8 – Transportation. *Initiated by Planning Commission on 2/22/10.*

STAFF PRESENTATION

Mr. Todd Girdler presented the item.

Commissioner Harris asked if there was anything in the current Transportation Chapter that was contradicted by Transportation 2030.

Mr. Girdler said the current chapter heralds back to the Transportation 2020 timeframe and things have moved forward since then and are not consistent. He said the text was out of sync, as well as the map, and the new chapter would alleviate confusion.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to approve the use of the latest L-DC MPO approved Metropolitan Transportation Plan (MTP) as amended as the transportation policy guide for comprehensive planning activities conducted by the Lawrence-Douglas County Planning & Development Services Department and Lawrence-Douglas County Metropolitan Planning Commission and agree to use that document as local and regional policy in their decision-making process for all transportation related matters.

Unanimously approved 9-0. Student Commissioner Davis voted in the affirmative.

Motioned by Commissioner Finkeldei, seconded by Commissioner Harris, to approve and authorize the Planning Commission Chair to sign the PC Resolution (PCR-6-2-10).

Unanimously approved 9-0. Student Commissioner Davis voted in the affirmative.

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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. *Deferred by Planning Commission on 7/26/10.*

STAFF PRESENTATION

Mr. Dan Warner presented the item.

Commissioner Harris asked if in Option 2 the name of the category would be Agri-Industry but would permit other kinds of industrial uses.

Mr. Warner said that was correct, it clarified that industrial uses were appropriate but mandates setting aside 50% of the soil in perpetual protection.

Commissioner Harris asked Mr. Matt Bond what the area would look like if it was 50% farming and 50% industrial. She asked if the industrial sites would have to be built up to meet other codes.

Mr. Matt Bond, City Stormwater Engineer, said it would be based on where it falls on the FEMA floodplain map. He showed area floodplain maps on the overhead.

Commissioner Harris asked if more conventional industry, not agri-industry, are built in that area and the land next to it is saved would it affect the quality of the land that is trying to be protected.

Mr. Bond said as far as additional runoff, yes. He said impervious surface creates more runoff downstream.

Commissioner Rasmussen inquired about the language in the definition of Industrial that says '*Land west of the airport and north of Highway 24/40 and south of Highway 24/40 is also....*'. He wondered if the word 'and' should be 'or' instead.

Mr. Warner said the language describes two areas so he suggested adding a comma: '*Land west of the airport and north of Highway 24/40, and south of Highway 24/40 is also....*'

Commissioner Rasmussen asked if it would be possible to just reference the map instead of having a written description.

Mr. Warner said that was possible.

Mr. McCullough said they have typically tried to include a narrative in the map. Option 1 is depicting a change in land use classification for the area south of 24/40. The narrative talks about the existing industrial developments and also the undeveloped land. He said it was a matter of wordsmithing or referencing a map.

Commissioner Blaser asked that public comments be kept to the options proposed tonight.

PUBLIC HEARING

Mr. Hank Booth, Lawrence Chamber of Commerce, said he was amazed at the patience and calm determination of the people who have lived and farmed the area for generations. He said he has attended all the meetings outside of Planning Commission and has left some of those meetings with

the sense that farmers can't be trusted or are somehow incompetent when it comes to making sure the land is well cared for. He thanked staff for providing Option 1 and that a large number of people are in favor of proceeding with at this level. He said after a decade of basic zero job growth in Douglas County that every opportunity to move forward in job creation was needed. He did not believe that using Option 1 would jeopardize that opportunity. He said Option 1 most closely represents what was originally passed in Horizon 2020. He asked that Planning Commission support Option 1.

Mr. Roger Pine, Pine Family Investments, was pleased and felt encouraged after working on this for a year and a half. He said he was in favor of Option 1 and felt it gave land owners options to have choices in how they use the land. He showed a map of land owners who supported Option 1. He said the green areas on the map were equal to 5,000 acres of the 7,000 acres that staff identified as agricultural land.

Commissioner Rasmussen asked Mr. Pine to clarify the green areas on his map.

Mr. Pine said the green areas of the map identify agricultural land that owners are in support of Option 1.

Mr. Matt Eichman, Midwest Concrete Materials, said he was one of the land owners on the map that Mr. Pine showed in favor of Option 1. He said Option 1 still includes language specific to class 1 and 2 soils. He said at the last meeting he went into detail about other resources being important. He requested an amendment to take out specific language of class 1 and 2 soils and add language that protects all natural resources in the area.

Mr. Charles Novogradac, Chestnut Charlie's, owns land on other side of Maple Grove. He said he did not sign the letter Mr. Pine mentioned in favor of Option 1. He was concerned about drainage. He said drainage follows from capability of the soils. He said at an earlier meeting he tried to explain that the soaking up capability of capability 1 lands is much greater than capability 2 lands. He said since 1995 when he started planting his tree crop, all the absorbing capability of the soil in that drainage district was being sucked up by other development. He said when he started his tree crop the FEMA floodplain did not touch his land but the most recent map has the FEMA touching his land. He was concerned the incremental development of the area and felt that industrial development may conflict with his ability to grow crops.

Ms. Barbara Clark, owns 47 acres in Grant Township, said the dynamics of the water issues in the area was changing at a rapid clip. She said Citizens for Responsible Planning was still in favor of the original 3rd draft proposal as presented at the July meeting. She said she could not support Option 1 because flooding concerns for the area were high. She said any impervious surface on those soils would exacerbate flooding issues already affecting the North Lawrence community. She showed a map on the overhead of planned growth areas. She said the total acres of capability class 1 and 2 soils in the planned growth area was 93.56%. She said that was a staggering figure of contiguous class 1 and 2 soils. She was not in favor of dropping out language regarding the preservation of class 1 and 2 soils.

Commissioner Singleton asked which language Ms. Clark preferred.

Ms. Clark said she preferred the language in the original 3rd draft as presented.

Commissioner Singleton asked what her concerns were with the 2nd draft.

Ms. Clark said her greatest concern was clarification of just what that might be. It would come down to this body deciding whether they were compatible uses.

Commissioner Dominguez asked if there was a percentage she was willing to compromise with.

Ms. Clark said that was difficult without having an actual application to look at. She thought the soil conserving agri-industry language was stronger and a much better language rather than trying to look at a percentage.

Commissioner Liese said it seemed that one of the biggest controversies was what an agri-industry was. He asked what Ms. Clark would consider an agri-industry business.

Ms. Clark said it would have to be all four words, soil conserving agri-industry. She said the seed research being done on a lease basis on that land is a soil conserving agri-industry. She said the Endowment has also initiated a native medicinal plant area.

Commissioner Dominguez asked staff to confirm the numbers Ms. Clark came up with for class 1 and 2 soils.

Mr. McCullough said staff has not studied them in that way.

Mr. Ted Boyle, President of North Lawrence Improvement Association, said he was representing approximately 2,500 North Lawrence residents. He expressed concern about class 1 and 2 soils and storm drainage. He felt they went hand in hand. He said as a result of the 1993 flood the City built a big pump on North 2nd Street in 1995. He said that pump today is small, overwhelmed, and over capacity. He said the residents of North Lawrence were not worried about the river flooding, but rather a 1-2" rainstorm in a short time creating a lot of storm water runoff. He said North Lawrence has endured stormwater flooding for 15 years and was concerned about more runoff due to development.

Mr. Frank Male said he owns two businesses in North Lawrence as well as three industrial properties and three single-family homes with basements in North Lawrence. He said he was deeply invested in North Lawrence. He said drainage was a prime consideration. He said as part of the City's drainage study in 2005 two pumps will be installed at 5th & Maple Street and he felt that would be a tremendous help to North Lawrence. He liked Option 1. He said the area was a good transportation hub.

Commissioner Liese asked Mr. Male if he had seen any basement flooding.

Mr. Male said no.

Commissioner Dominguez inquired about benefit of his property value.

Mr. Male felt Option 1 benefited the entire community. He said his true interest was economic development.

Mr. Bill Woods said he was a professor in the Geography Department and Courtesy Professor in the Anthropology Department at KU. He said his research specialty was human influences on soils through time. He said soils were really a nonrenewable and finite resource and they are the most important resource. He said they were being called upon to produce ever more as populations rise and that they are increasingly under pressures throughout the world and are degrading. He felt that

every effort must be made to adversely impact highly productive soils and put them into other uses. Almost always these alternate, less productive sites exist for whatever alternate uses are proposed. He was highly dismayed by what he has seen during his 40 years of working with agricultural soils in this hemisphere and felt the US should lead in efforts to protect productive soils. He said generally, an alternative use has a finite lifetime of a few years or at most decades and then is done. Soils have been destroyed in the meantime and the site from an agricultural standpoint is worthless. He said as stewards for future generations they need to think beyond this time scale and look to the future. Productive soils, with proper treatment, have proved to be resilient for hundreds, if not thousands of years. He urged the Commission to do everything in their power to aid in the effort to protect these fertile soils.

Ms. Sue Pine said the hardest vote she ever made while serving on Planning Commission was to expand the Urban Growth Area. She said Douglas County needed a tax base to support the community and to do that they needed to expand the urban growth area to the Douglas county line. She said she was not sorry for her decision. She said this area was important to the community. She felt they needed to allow the entire area to develop. She said soils were great but that climate and irrigation were contributing factors to the quality of those soils.

Mr. Jim Congrove said he signed the letter in support of Option 1. He provided data compiled by the Sustainable Agriculture Specialist at K-State. The study focused on 51,518 acres of class 1 cropland between Manhattan and Kansas City that could support local food production. He said climate was the limiting factor, not soil, as far as local food production. He said class 1 was not necessarily the best for some crops like melons.

Mr. Pat Ross said he owns 450 acres within the Northeast Sector Plan. He felt Option 1 gave direction to staff and the Commission that was easy to understand and directly reflects the policies of Chapter 7 and Horizon 2020. He felt it eliminated the controversial grey area of what fits in the soil conserving agri-industry category. He also felt it allowed staff and Commissioners to be proactive not reactive.

Commissioner Harris asked about his comment regarding eliminating confusion about soil conserving.

Mr. Ross felt the way it was presented in Option 1 was easier to understand that it would be encouraged but not demanded.

Ms. Crystal Hammerschmidt said Lawrence has a wonderful community of young growers and she was in favor of soil conservation for food production.

Mr. Ken Holladay said he grew up in North Lawrence. He owns farm land and wants to be able to do with it what he wants and not be confined even though agricultural was the current use.

Mr. Jerry Jost, resident of Grant Township, wondered why the area wasn't already developed since it has all the assets of transportation, airport, railroad, etc. He felt it hadn't already been developed due to flooding. He said there were better places to invest limited public resources for industrial development. He supported the original 3rd draft of the plan.

Ms. Debbie Milks, Chestnut Charlie's, said their business was not a hobby, it was 15 years worth of investment. She said if soil was covered by parking or development she would be drown out of business. She supports the original 3rd draft.

COMMISSION DISCUSSION

Commissioner Blaser said that Ms. Gwen Klingenberg requested item 6 be deferred.

Motioned by Commissioner Harris, seconded by Commissioner Finkeldei, to defer item 6 to the next Planning Commission meeting.

Motion carried 9-0. Student Commissioner Davis voted in the affirmative.

Commissioner Finkeldei said he didn't hear support for Option 2. He agreed that class 1 and 2 soils were important and should be protected but there were competing concerns. He felt that Option 1 was consistent with what was approved in Chapter 7. He said draft 3 expanded that language greatly and he does not support draft 3. He said he supported Option 1.

Commissioner Liese asked for input on stormwater and flooding.

Mr. Bond said everything (water) off of E 1500 Road goes to the east. He said everything (water) on the west side of E 1500 Road ends up in Maple Grove Drainage the way it is now.

Commissioner Finkeldei asked if a development plan could include improvements to mitigate.

Mr. Bond said some of it could be kicked east by putting in a culvert pipe under 7th Street based off of the ridgeline and then upsize the pumps at the 2nd Street pump station.

Commissioner Burger asked staff to comment about Ms. Pine's comments about water rights for irrigation.

Mr. McCullough said he did not have any information about water rights on irrigation and said that was the first time they had heard that issue.

Commissioner Harris asked Mr. Bond about the improvements he just mentioned and how much they would cost and if it could be funded by a developer.

Mr. Bond said the cost would be determined by the size of the pump. He said as far as a small drainage culvert it would probably be \$50,000-\$100,000.

Commissioner Rasmussen asked how many acres in the entire Northeast Sector area were class 1 and 2 soils.

Mr. Warner said he did not have that information right at hand.

Commissioner Carter said it was easy to get emotional and think they are overdoing things as far as growth goes but he didn't think it was a choice of drowning or not drowning Chestnut Charlie's or other businesses out there. He said the site planning process would address issues of flooding. He said even if they choose Option 1 they are not committing to send the infrastructure out there to develop it they are just allowing it to be an option for the future.

Commissioner Harris responded to Commissioner Liese's question about stormwater. She said if the area that's agri-business is developed more intensely than talked about before, not only would they be adding more impervious surface but they would be taking away the soil that retains water so well. She said that Mr. Bond mentioned earlier that there would be a problem if a stormwater

detention area was built because it would attract water fowl. She said the vision she has for the area would be very limited buildings and a lot of land saved. She did not think Option 1 did that and had way too much leeway for development of the area and that there would be a potential for problems with stormwater because of that. She said she could not support Option 1. She said she would support the original language but did not think it was perfect.

Commissioner Singleton said she would not support Option 1 and preferred draft 3. She felt they needed to look past traditional job growth and encourage preserving the soil to be used for innovative green types of industry. She felt this would be a win-win for future generations as well as for the economy. She said they needed to change the way they look at growth. She did not think the language in Option 1 was the best for future generations.

Commissioner Liese inquired about language under Option 1: *'Add language to the Industrial category encouraging soil conserving agri-industry businesses to locate in areas with class 1 and 2 soils.'* He wondered what the 'encouraging' part meant.

Commissioner Finkeldei said the language in Option 1 was almost word for word from Chapter 7. He said they don't know exactly what 'soil conserving agri-industry' meant except that they want to encourage it.

Commissioner Rasmussen said the Northeast Sector Plan encompasses a very large area of 10,640 acres and considers a number of potential uses in that area. All of the discussions have focused on less than 200 acres out of the 10,000 acres. He said the reality is that the 200 acres is best suited for industrial use. It's bounded by highways, close to airport and railroad. He said Option 1 makes the most sense from a Planning perspective and he would support it.

Commissioner Dominguez agreed with Commissioner Rasmussen's comments. He said he is pro-business. He said Sector Plans change lives. He said he would support the original language.

Commissioner Blaser said they are not asking anyone to change their lives if they don't want to. He said he would support Option 1 because it gives options to the landowner.

Commissioner Finkeldei said just because he would vote against it doesn't mean the land would go away and doesn't mean he don't care about class 1 and 2 soils. He said 200 acres was the total area but once building starts there would be setbacks, stormwater, etc so it would actually only be built on a small fraction of the 200 acres.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Carter, to approve the Northeast Sector Plan (CPA-6-5-09) with the addition of Option 1 as set forth in the staff memo for item 4.

Motion carried 5-4, with Commissioners Burger, Dominguez, Harris, and Singleton voting in opposition. Commissioners Blaser, Carter, Finkeldei, Liese, and Rasmussen voted in favor of the motion. Student Commissioner Davis abstained.

Motioned by Commissioner Finkeldei, seconded by Commissioner Carter, to approve and authorize the Planning Commission Chair to sign PC Resolution (PC-7-5-10).

Motion carried 5-4, with Commissioners Burger, Dominguez, Harris, and Singleton voting in opposition. Commissioners Blaser, Carter, Finkeldej, Liese, and Rasmussen voted in favor of the motion. Student Commissioner Davis abstained.

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ITEM NO. 5 DE-ANNEXATION; 2.4 ACRES; 1820 N 3RD ST (DDW)

A-6-1-10: Consider the de-annexation of approximately 2.4 acres, located at 1820 N 3rd Street, legally described as: the north 90 feet of the southwest quarter of the southeast quarter of Section 18, Township 12 South, Range 20 East, of the sixth principal meridian. Submitted by Eugene F. Reding, property owner of record.

STAFF PRESENTATION

Mr. Dan Warner presented the item.

Commissioner Harris asked what the cost to the city was to de-annex the property.

Mr. Warner said the normal cost of publishing an ordinance and lost tax income.

Commissioner Harris asked if there was any cost to the land owner or the city to annex back in.

Mr. McCullough said it would be minimal if it was not a litigation matter.

Commissioner Harris inquired about the service plan for the area. She asked if there was an immediate need for it or compelling reason to do it in that area at this time.

Mr. McCullough said staff has been speaking with the Utilities Department about the Wastewater Master Plan which will shed more light on a lot of different areas of the city. He said during this research and in inquiries with developers along the corridor of the highway there have been recent discussions about extending service along the highway. He said the city has intended to capture the county industrial park but it needs to be reviewed at a higher level.

Commissioner Blaser inquired about the cost difference in taxes between annexed and de-annexed.

Mr. Warner said he did not know.

Commissioner Rasmussen asked Mr. Warner to review the staff analysis for denial.

Mr. Warner said the issue was the existing county development in the area. He said the city intends to annex the property immediately south in the future. The comprehensive plan supports annexing property and doing a service plan if it is in service area 4, which this property is. He said there were a number of reasons. He said the property was also within the urban growth area.

APPLICANT PRESENTATION

Mr. Eugene Reding said he acquired the property in June, 2009. He said the previous owner requested to be annexed into the city due to well problems. He said the city has had 22 years to get water out there. He said he has no city services such as garbage collection, water, city road maintenance, etc. He said the difference in taxes was \$230 more a year and he gets nothing for it. He said when he had a theft at the property he called the city police and they told him to call the county sheriff. He said he has gotten attitude from city departments and that the City Manager and City Commissioner Amyx would not answer his letter. He asked the Planning Commission to please de-annex his property and that he would sign any paperwork necessary agreeing to future annexation.

Commissioner Liese asked Mr. Reding when he bought the house what research he did to determine whether or not the property was in the city.

Mr. Reding said the realtor who listed the property said the property was in the city and listed it as having city water. He said he wanted the property for use of outbuildings. He wanted to tear the outbuildings down but couldn't because they could only be rebuilt as a footprint of the house, which was too small.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Mr. Warner said the item was properly notified to the public.

Commissioner Singleton said she felt the land should be de-annexed since the property was not receiving any city services.

Commissioner Harris agreed that this piece of land should be de-annexed with the provision that staff recommended in the staff report for the owner to sign a "Consent to Annex." She said the reason for the annexation in 1988 never materialized so it was fair to de-annexed for the time being.

ACTION TAKEN

Motioned by Commissioner Carter, seconded by Commissioner Singleton, to approve the requested de-annexation with a condition that the owner execute a "Consent to Annex" agreement with the City of Lawrence that outlines when the property must be annexed into the city (when water and sewer are extended within a certain distance of the property for example.)

Unanimously approved 9-0. Student Commissioner Davis voted in the affirmative.

PC Minutes 9/20/10

**ITEM NO. 6 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; CHP
20; IBP DISTRICT (MJL)**

TA-4-4-10: Reconsider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Section 20-403, and potentially other sections, of the Code of the City of Lawrence, KS to permit the Hotel, Motel, Extended Stay use in the IBP (Industrial/Business Park) District. *Initiated by Planning Commission on 4/26/10. Approved 6-4 by Planning Commission on 6/23/10. City Commission returned to Planning Commission on 8/3/10.*

Item 6 was deferred to next month by Planning Commission.

ACTION TAKEN

Commissioner Blaser said that Ms. Gwen Klingenberg requested item 6 be deferred.

Motioned by Commissioner Harris, seconded by Commissioner Finkeldei, to defer item 6 to the next Planning Commission meeting.

Motion carried 9-0. Student Commissioner Davis voted in the affirmative.

PC Minutes 9/20/10

**ITEM NO. 7 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 7 was deferred prior to the meeting.

PC Minutes 9/20/10

**ITEM NO. 8 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; CHP
20; INDUSTRIAL DESIGN STANDARDS & GUIDELINES (MJL)**

TA-4-5-10: Consider Text Amendment to various sections of the City of Lawrence Land Development Code, Chapter 20 of the Code of the City of Lawrence, KS to add reference to proposed Industrial Design Standards and Guidelines. *Initiated by Planning Commission on 4/26/10.*

Item 8 was deferred prior to the meeting.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

Commissioner Blaser reminded them about the Mid-Month meeting.

PUBLIC COMMENT SECTION

Adjourn 10:20pm