

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, Finkeldei, Liese, and Rasmussen voted in favor of the motion. Student Commissioner Davis abstained.