



City of Lawrence

DAVID L. CORLISS
CITY MANAGER

City Offices
PO Box 708 66044-0708
www.lawrenceks.org

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
MIKE AMYX

COMMISSIONERS
ARON E. CROMWELL
LANCE M. JOHNSON
MICHAEL DEVER
ROBERT CHESTNUT

January 25, 2011

The Board of Commissioners of the City of Lawrence met in regular session at 6:35 p.m., in the City Commission Chambers in City Hall with Mayor Amyx presiding and members Chestnut, Cromwell, Dever, and Johnson present.

A. RECOGNITION/PROCLAMATION/PRESENTATION:

1. None.

B. CONSENT AGENDA

It was moved by Cromwell, seconded by Johnson, to approve the consent agenda. Motion carried unanimously.

1. Approved City Commission meeting minutes from 12/07/10 and 12/28/10.
2. Received minutes from various boards and commissions:

Hospital Board meeting of 12/15/10

3. Approved claims to 211 vendors in the amount of \$1,459,429.15.
4. Approved licenses as recommended by the City Clerk's Office.

Drinking establishment licenses to Famous Dave's, 4931 West 6th Ste: 130; and, Abe & Jakes Landing, 8 East 6th Street

5. Bid and purchase items:
 - a) Authorized the City Manager to Execute an Engineering Services Agreement in the amount of \$110,601 with Professional Engineering Consultants for Design Phase Engineering Services and Property Acquisition for Project UT1003CS, 23rd Street Bridge Replacement Utilities Relocation.



- b) Approved extension of the ESRI Enterprise License Agreement (GIS software and maintenance), for January 22, 2011 through January 21, 2012, for a total of \$50,000.
- 6. Approved a Substantial Amendment to the 2010 CDBG Annual Action Plan of the 2008-2012 Consolidated Plan for Tenants to Homeowners, Inc. reallocating \$100,000 from the First Time Homebuyer Land Trust Rehabilitation Program to the Accessible Rental Options Rental Rehabilitation Project.
- 7. Authorized the Mayor to sign a Release of Mortgage for Pelathe Community Resource Center, 1409 and 1411 Haskell Avenue.
- 8. Received 2010 Lawrence Police Department Racial Profiling Report.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the City Manager's Report.

D. REGULAR AGENDA ITEMS:

- 1. **Consider Rezoning, Z-9-13-10, of approximately 51.13 acres from County A-1 (Suburban Home Residential) to City IG (General Industrial), located on the southwest corner of N 1800 Road (Farmer's Turnpike) and E 1000 Road (Queens Road Extended). Submitted by Venture Properties, Inc., property owner of record. Adopt on first reading Ordinance No. 8595 for the rezoning (Z-9-13-10) of approximately 51.13 acres located at the southwest corner of N 1800 Road (Farmer's Turnpike) and E 1000 Road (Queens Road Extended). (PC Item 6B; approved 8-0 on 10/27/10).**

Sandra Day, Planner, presented the staff report.

Toni Wheeler, Director of the Legal Department, stated that Commissioners should state any ex parte communications they have had regarding this agenda item.

Amyx said he visited with Steve and Duane Schwada (Venture Properties, Inc.) and Jane Eldredge, representing the Schwada's, regarding questions for this particular rezoning, as well as Dave Ross, Jim Haines, Ron Schneider, and City staff members. He said he received numerous communications about this item.

Chestnut said he met with Jane Eldredge and Steve Schwada at Barber Emerson Law Offices. He also met with Ron Schneider, Attorney, at his office covering the general topic of the subject property and the different discussions about Horizon 2020, Chapter 7, and all the

appropriate considerations of the code and plan. He also received a lot of email from both neighbors and people in general expressing their opinions.

Johnson said he spoke with Jane Eldredge and played phone tag with Ron Schneider, but never discussed this issue. He said he received numerous emails and exchanged an email or two with Beth Johnson and Mike McGrew.

Cromwell said he had a number of contacts, none of which contributed anything significant that was outside of the public purview. He said he met with Jim Haines and Mr. and Mrs. Copt. He said he met twice with Mr. Schwada and Ms. Eldredge. He received a variety of emails, but nothing that was of any significance outside of what was in the City Commission's packet.

Dever said he met with Ron Schneider and Jim Haines to discuss some of their opinions regarding the nature of the property and the zoning they would like to see occur. He said he met with Steve Schwada and Jane Eldredge and Barber Emerson's Law Offices to discuss any questions he might have regarding the property and the request. He said he talked to Duane Schwada over the phone regarding questions that he might have on the property. He talked to Beth Johnson about the need for IG versus IL zoning and what other communities were looking for and what potential investors in the community might be looking for. He said he received various emails regarding the question on the agenda and responded to a few of those emails.

Jane Eldredge, representing Venture Properties, requested that the recommendation of staff and the Planning Commission be approved. She said the intersection of K10 and I70 was a unique part of the county due to access to the highways. She showed photos of the property from the I70 side. She said that the T2030 map showed the property had principal arterials on two sides and a freeway on the south side; there were no other places in the County with that kind of access. It was in the urban growth area. ECO² identified this area as a potential industrial site. Staff had provided for sector plans around the community, including a Farmers Turnpike/I70 sector plan, which was approved. She said Horizon 2020 reflected the sector plan.

Planning for the area had involved numerous public meetings and notices to the public. The Planning Commission minutes noted that it had been a lengthy, thorough process. The sector plan identified that the area was expected to urbanize and described how it should urbanize. The area had the potential for large parcel development, there was minimal slope, and it was a high activity node. There was already high vehicular activity in the area. She said that the sector plan stated “the intent of the industrial use is to allow for moderate to high impact uses...” She said that prior to 2006 there were 5 zoning districts that were collapsed into 3 industrial zoning districts. She said that most of the districts in the city were currently zoned IG. The other definitions were for low impact industrial uses, which was not the same language used in the sector plan. She noted that there was no protest petition accompanying this request. There were 3 people within the protest area who spoke at the Planning Commission’s consideration of the item. There were no other complaints that she was aware of. She stated that in Chapter 14 of H2020 it stated that the policies contained in the sector plans took precedence over other policies in the comprehensive plan. She said the sector plan met the criteria for being the official policy for the area because it had been properly approved by the City and County Commissions, and the comprehensive plan had been amended to include the sector plan. She said there were three Planning Commissioners who didn’t support the sector plan but did support this rezoning because once the sector plan was adopted it became the proper planning process to make decisions consistent with that plan.

Amyx asked whether IL was consistent with that plan.

Eldredge said the intent of the plan was to provide for moderate to high impact use, therefore IG zoning best meant the intent of the plan.

Mayor Amyx called for public comment.

Dave Ross, Scenic Riverway Association, said the association vigorously opposed the IG rezoning. He said the County Commission failed to consider the adverse affects of the IG classification on the surrounding properties. He said that more than 40 residential homes were

in the immediate vicinity of the subject property and 61 within one mile. He asked where jobs were growing in Douglas County, since this was about jobs and economic development. He stated that industrial jobs were in decline and service jobs on the rise, and this was a national trend. He said there had been no analysis of the cost of extending water/sewer infrastructure. He said the Berry Plastics deal underway, the association had not opposed it at the Planning Commission because they met with the neighbors and the zoning had been consistent with the county zoning in existence. He asked that the Commission consider IBP or IL zonings instead of IG zoning.

Jim Haines said that he lived in the Gorrill House which was built in the 1870's and was a structure of historical significance. To rezone the land across from this property did not comply with the letter or spirit of Chapter 11 of H2020. It deterred others from investing in the restoration of historic properties. He said the sector plan did not bind the Commission from departing from it for good reason. He said the Chamber of Commerce was on record saying that residential uses were incompatible with industrial uses in a letter regarding the relocation of the Lawrence Community Shelter. He said that Nancy Thellman voted against the County Commission's finding and said the commissioners thought the lighter industrial zonings were more appropriate.

Ronald Schneider said that in the application presented by the property owner the applicant stated that the property had no detrimental effects on the surrounding properties and the surrounding area was transitional in nature. He stated that those were misstatements and that it had tremendous adverse impact if this was rezoned IG. The description of the neighborhood was inaccurate. He said there were numerous residences in the immediate area. IG and its relationship with residential properties were significant and profound, and IG was not compatible with residential properties. The questionnaire for the rezoning application addressed the "Golden Factors" as established by Kansas Supreme Court findings and had to be considered by the City Commission. He said a sector plan was not controlling, and when it was

supportive of one's position it was relied on and when it was not it was not relied on. He said the sector plan said that all of the city's industrial zoning districts were compatible with the plan, not just IG. The biggest concern identified by staff with IL zoning was that retail uses were possible, and that the appropriate action was to zone the area IL or IBP and condition away the retail uses. He said the main purpose of the industrial zoning was job growth and tax base, and IL and IBP zoning accomplished those things. The benefit to the neighborhood should be considered. The most relevant and significant considerations were that good transportation and public services and facilities were important to IG, and those things were not available. The impact on neighbors was the most important consideration and IG zoning was not a reasonable possibility when significant residences were adjacent to the proposed IG zoned property. The offsite impacts were identified as nuisance conditions such as noises or vibrations, odors, light illumination spilling over into adjacent properties. Rezoning to IG and taking away some uses was not effective because those nuisance activities could still take place because they were permitted uses. IL or IBP zoning did not allow those nuisance impacts but still allowed industrial uses.

Darrell Ward said he lived adjacent to this site and urged the Commission to deny the rezoning. He said last week the Commission considered changes to the IBP zoning uses and the Commission concurred with neighbors and denied the proposal because of the uncertainty and lack of specifics. This proposal had a similar lack of specific plans and the neighbors mostly speaking out against the rezoning. He spoke out against the annexation also because it was outside the contiguous City boundaries and did not affect city residents, only county, rural residents. He said that his representatives were the County Commissioners but he did not have representation on the City Commission. He said the ramifications of the City Commission voting against his wishes were that the city was not accountable to the rural county residents and asked the Commissioners to consider their wishes as if they were city residents. He said that there were additional sites at the trafficway and 6th Street that were close to the I70 interchange,

so there were other sites that were close, that they were contiguous to the City, and they were closer to city infrastructure.

Dan Brogran, Trust Company of Kansas, agent for a landowner to the west of the subject property, said that the owner had no reservations about the proposed rezoning.

Debbie Konzem asked the Commission to approve the rezoning. She said economic development was very competitive and she supported rezoning to IG.

Gwen Klingenberg said she had a map from H2020 that showed future industrial at 6th and K10 that seemed to have disappeared but it was on the City's website. She said the sector plan was in place which had been imposed on the county neighborhood. She said that Commissioners, maybe Cromwell, had said that the City only had responsibility to city residents, not county.

Commissioner Cromwell said not to put words in his mouth that he did not even agree with.

Klingenberg said the neighborhood had offered a compromise with IL or IBP zoning. She said more meeting spaces were needed for conventions. IL zoning offered the opportunity for hotels and motels. This entire area would be great to consider for this use which was needed by the community and the tax base, and did not cause the problems and worries of IG zoning.

Steven Rothwell said he owned the land directly west of the subject property and supported the IG zoning.

Amyx asked how many acres were in Rothwell's property.

Rothwell said, in total, his family owned approximately 66 acres.

Dickie Heckler said he was sympathetic to the residents and when he heard urbanization and annexation, he thought that represented a tax increase to pay for city services. If not knowing precisely what was going into the area, the city did not know if it would expand the tax base, but it would increase his tax bill. Empty buildings did not generate the taxes to support

their required services. He saw this issue as a tax subsidy and more specifics were needed on the proposed uses of the property.

Beth Johnson, Lawrence Chamber of Commerce, spoke in support of the rezoning because it was supported by the sector and comprehensive plans. When the Chamber worked with economic development projects, the need for available industrial land was discussed. She said there were a number of inquiries in 2010 that were looking for land, and infrastructure and buildings were required in most cases. In that last few years over half of prospects looked for 31 or more acres and Lawrence only had one site. The developer had not currently listed the 155 acres on their website and the Chamber was unable to market it. Last year a valuable prospect was lost because communities nearby were adding industrial land. Last year Bimbo Bakeries was lost to Topeka because Lawrence did not have sufficient land space with I70 access available.

Sarina Farb said at the County Commission meeting one of the issues brought up was that IG zoning was incompatible with residential uses. She asked if the area would be zoned less or should it wait. She said the 155 acres should be marketed first, to find an applicant for that property.

Kirk McClure said targeting and timing were important issues. He said “goods” producing jobs had decreased nationally and in Kansas, but “services” oriented jobs had increased. The future was not in industrial expansion, but in professional services. He asked if the developer was searching for a warehouse business which was a low benefit for the community at large and was not the path to take in targeting. As for timing, no one was talking about when. When industrial jobs were going away, he asked why the responsibility for services should be taken on. The city should not cede timing decisions to the developers and should not go after additional low gain projects like this.

Frank Male said this proposal added to the industrial land inventory available and would be the highest benefit to the community. IG zoning was reasonable because additional restrictions could be put on the use as platting, subdividing, etc. were considered in the future.

Jane Eldredge said usually when someone was opposed to a project, that person called for a plan before a specific proposal was considered. Some of this planning was done when leaders of the community lobbied for a Lecompton interchange, and once that interchange was built, it changed the area which was recognized and a sector plan was adopted. Many of the neighbors participated in that process and it was adopted by the City and the County. This site was looked at as an expansion site for a local manufacturer who thought they wanted city services. That was a cooperative and good effort to keep a local employer in the community. That business had moved on to a county site. The primary concern was that lawsuits were filed after the 155 acres were annexed. Businesses did not want to endure unrelated controversies. It was important to get approvals so future businesses did not hesitate to locate to this community. Businesses did not want to be told there were no choices, and this community did not have a long track record of offering choices.

It was moved by Johnson, seconded by Chestnut to close the public hearing. Motion carried unanimously.

Cromwell asked for clarification regarding conditional zoning and nuisances.

Scott McCullough said those were uses, not zoning. The uses came with the impacts, versus the entire industrial district. The other uses in the table of uses would not necessarily be accompanied by the uses in that zoning. It was one of the big distinctions between IG and IL zoning.

Cromwell said the nuisance uses followed the intensive industrial use, if removing the use, the nuisance was removed.

Amyx asked whether consideration was given for IL zoning at this location, and could Plastikon locate there.

McCullough said yes.

Amyx said in comparing IG to IL zoning, he asked about the process to follow in finding out if a business could fit into an IL zoning area.

McCullough said the overwhelming amount of land today was IG zoning and a strong look was not needed to look at businesses operations because most uses could be accommodated in that zoning category. As for IL zoning, an exercise was needed to look at the businesses operations for any nuisance uses to determine whether that businesses would be permitted in IL, but would not know until a business plan was presented.

Amyx asked about the effect on the marketability of the property.

McCullough said this particular area did not have rail service, and that would mitigate some of the nuisances that would require rail. The area was designated to accommodate high intensity but it could accommodate lower intensity also.

Amyx said site planning and related processes could mitigate the nuisances.

McCullough said industrial brought some nuisance by its nature.

Amyx said the 51 acres were near a creek and a natural area, and asked how much of this property was developable.

McCullough said once setbacks were taken into account a good portion was still developable. Some cut and fill would be required, but a good portion could still accommodate industrial uses.

Amyx asked about the rectangle shape of the property and what affect that area would have on truck traffic.

McCullough said the site could have a building and good traffic circulation.

Dever said regarding compatibility of IG and residential zoning, he asked how a positive recommendation was received.

McCullough said the development code stated that IG zoning was generally incompatible, but the sector plan had taken compatibility into account itself. He said many things

factored into compatibility, such as roads bisecting the areas. While in transition, the compatibility might not be as good, but at build out the compatibility would be as good as could be planned.

Dever asked whether the industrial development guidelines mitigated some of the impact during the transitional phase.

McCullough said yes. Prior to the 2006 development code there were a couple examples of conditions regarding buffer yards which were not built into the development code.

Johnson said someone said this area did not affect city residents, only county rural residents, but he disagreed. He said it greatly affects city and county residents and the community in general, and the residents gained benefits from this property being in the city. It was unfortunate that sometimes a few were affected for the greater good of the community, but the facts were evident. He said K10 and I70 made this the best location in Douglas County and the City of Lawrence for this use.

Chestnut said it came down to a conflict of rights, but every development had some impact on neighbors and it was an important consideration. He said concerns were not being brushed aside and he had visited the homes of several neighbors in that area. He said the County voted to move this rezoning forward and thus the County residents had representation in the process. He said IG zoning represented over 90% of the industrial zoning in the community. He said his employer was in an IG zoning area and was 50 feet from residential homes, and he thought they were good neighbors. He said some planning documents had language but thought any one of the industrial zonings was a legitimate request. He said he could not speculate on the uses. The planning process would address issues that came up, and the rezoning was not a declaration of a development that would be detrimental to the neighbors. He said that the City Commission had proven to be fiscally sound, and while County mill levy had gone up the City levy had stayed the same. He said good development could be done and

would be done, and infrastructure extension would only proceed when it made sense. He said the zonings were spelled out to be appropriate zonings and he supported the application.

Cromwell said there would be some impact on the neighbors. The current use was rural, residential, and agricultural. The area was in transition, but the City could help to make the compatibility better. Industrial zoning provided job opportunities. IL or restricted IG zonings could prevent the nuisance uses and send a message to the County that the City was taking care of the residents in that area. He said when someone came in with a complaint, the City listened and took the complaint seriously and whether a person could vote was not taken into consideration. Commissioners were concerned for the well being of the community. He said consideration for residential should be taken and industrial should be increased. He said he supported IL or restricted IG zoning, taking the intensive industrial category and the nuisance conditions away. He said this was a good, responsible thing to do at this site.

Dever said it was a tough call when encroaching on rural lands. He said the City Commission was concerned for all the neighbors, whether in this City or not. It was not fair to say the neighbors unanimously opposed the rezoning. Given the proximity to I70 noise was already a nuisance and the area would continue to change. It was important to consider what the County the neighbors wanted. The community wanted a vibrant place with jobs and opportunities. He disagreed that industrial jobs were not needed. He said that jobs in business parks and industrial parks were both valuable. He said industrial land uses like Plastikon were the future of the country. He said Kansas had one of the highest wind producers and bioscience industry and green companies would locate near the strength of those industries. He said industrial land located on I70 was needed where it was not burdened by lawsuits or a landowner not willing to develop. He said there were reasons to consider down zoning to IL or restricting IG, but the City's codes and stated allowable uses need to be clear and having conditioned zoning made it difficult for prospective businesses to understand what was possible. He said the

industrial development code would protect the neighbors and the community. He said he was not in favor of putting restrictions on the IG zoning at this location.

Amyx said this was a tough issue. He said Chestnut was right that IG, IL, and IBP zoning were all consistent with the plan, and the City Commission had to consider the best zoning for that property. One consideration not taken was the understanding of the pieces. The Planning Commission and staff's recommendations were important. He did not support extension of infrastructure until it made sense. He said planning should have taken place 25 years ago in order for adjacent property owners to know what this area would look like in the future. He asked about restrictive uses at the 155 acres.

McCullough said there were 2 or 3 restricted uses as well as site planning at the City Commission level.

Amyx said the City set the precedent for not having uses adjacent to residential properties. He said all zoning categories were possible but what was best was the question. He suggested IG zoning with restrictions was appropriate.

John Miller, staff attorney, outlined the conditions placed on the 155 acres.

Amyx asked whether those conditions were reasonable to consider.

Cromwell said he was interested in the nuisance conditions. He asked what percentage of industrial uses in Lawrence had nuisance uses.

McCullough said it was hard to say but some of those things did exist. Wind turbine production included outdoor manufacturing which would likely be IG zoning. He said the majority of the City's industrial uses were not intensive by definition.

Chestnut said it might be reasonable to consider, but it would not work because any application submitted would be interpreted as an intensive use. The problem with conditional zoning was that it became a morass. The site planning process was intended to deal with this type of issue. He said regarding noise, the land was located next to the interstate. Conditional

zoning placed an asterisk on a piece of land indicating there might be problems developing that area.

Amyx said he believed IG zoning would work, but had concerns about the intensive nuisance uses and wanted that concern recognized.

Cromwell said it was possible that downgrading the zoning or conditioning that area might make it more attractive because it might be more palatable to the neighbors.

Dever said he would agree but that the 155 acres was still in court and the conditions did not assuage the neighbors. It did not seem like that helped, unfortunately.

Cromwell said he would be voting against nuisance conditions and not against industrial use of that ground.

Amyx said that those issues had to be taken into consideration at the site planning stage.

Moved by Chestnut, seconded by Johnson, to adopt on first reading, Ordinance No. 8595, rezoning approximately 51.13 acres from A-1 (Suburban Home Residential) District to IG (General Industrial) District; amending the official zoning district map incorporated by reference in Chapter 20, Article 1, Section 20-108 of the “Code of the City of Lawrence, Kansas, 2011 Edition, “ and amendments thereto. Motion carried 4-1 with Commissioner Cromwell in dissent.

At 9:11 the City Commission recessed the meeting for approximately ten minutes.

At 9:21 the City Commission resumed the meeting. Commissioner Cromwell introduced the Take Charge Challenge kickoff event before discussion of the regular agenda items resumed.

2. **Consider Text Amendments, TA-6-8-10, to the City of Lawrence Land Development Code, Chapter 20, related to the density and development standards in the RM32 (Multi-Dwelling Residential) District including potentially increasing the maximum dwelling units per acre limit in that district. Initiated by City Commission on 7/13/10. Adopt on first reading, Ordinance No. 8605, for Text Amendment (TA-6-8-10) to the City of Lawrence Land Development Code, Chapter 20, related to the density and development standards in the RM32 (Multi-Dwelling Residential) District (PC Item 3; approved 6-3 on 12/13/10).**

Scott McCullough, Director of Planning and Development Services, presented the staff report.

Amyx said that McCullough stated that the text amendment could result in a better product, and asked what that meant.

McCullough said the developer thought they could produce a more marketable product.

Amyx asked whether it was a way to meet today's needs on the same size lot and building.

McCullough said yes.

Paul Warner, Paul Warner Architects, said the text amendment provided some options. The setbacks etc. were the same but parking went up. He said that 4 bedroom apartments were usually rented to younger students. Grad students were more interested in 1 or 2 bedroom units. This text amendment allowed a different configuration of the space within the building.

Mayor Amyx called for public comment.

Dennis Brown, Lawrence Preservation Alliance, said that LPA took no issue with the desire to have 1 or 2 bedroom units if this change would help older deteriorated structures be updated, but that it might have adverse effect on existing housing stock. Without qualifying language development pressure would be increased. Contiguous lots could be purchased and existing stock demolished to combine lots and create larger structures. He said that his correspondence to the City Commission contained some errors. LPA thought qualifying language was needed so that this would only be used in vacant lots, existing large structures, or structures that needed to be demolished, but not existing housing stock such as single family homes in RM32 zoning.

Stan Hernly said he was in favor of the text amendment with one caveat. If approved as written, in theory the density would not change because the number of bedrooms did not change. This was not true because only four unrelated individuals could live in one unit, and

units with fewer bedrooms could house more individuals per bedroom. Parking would not be adequate if this happened.

Marci Francisco said that in the Oread neighborhood most of the new units were studios and one and two bedrooms. Present development patterns stem from historically having the area zoned residential dormitory but the dorms were built on Daisy Hill instead. One of the concerns was that the change applied to all areas zoned RM32, not just where increased density was needed. The change allowed developers to get beyond the surface parking limits by using underground parking to accomplish more density. It encouraged redevelopment and the Commission and community had the opportunity to look at making change only in areas in Oread where high density was intended. It could also be limited only to areas with large apartment buildings or vacant lots. For example it would be a shame if the house at 1043 Indiana were demolished as a result of this change.

Candice Davis said that a unit can be 1-4 bedrooms. Realistically, how many 4 bedroom units were built and was this a trend? When making an offering as a planner, a developer was given an option. She said she had never personally been in an apartment with 4 bedrooms. It was curious that Mr. Werner would choose the 4 bedroom unit as the marker of comparison.

Dickie Heckler asked why it was not required to have one parking space per individual scheduled to live in that area.

Kirk McClure said the rule of unintended consequences applied, such as high occupancy and assembling lots. He said there was history of this in Oread. Assembly of parcels and demolition of units happened. There could be a good use for the area north of the Oread Hotel. The ordinance, as proposed, should apply in smaller areas, and a higher threshold should apply.

Carol Von Tersch said that she was opposed to lifting the cap on RM32. The only reason the request was before the Commission was Paul Werner's ability to manipulate the code for the project at 1043 Indiana. She displayed photos of various homes and said if prices on

unimproved properties were above \$500K already, it was because it had value to developers who could put underground parking in. Those historic properties could fall prey to development pressures and be demolished.

KT Walsh, East Lawrence Neighborhood Association, opposed lifting the cap. She was concerned about the house at 711 Connecticut which was a horrible case of demolition by neglect. Everything was being rushed and everyone needed to take a step back.

Tom Harper said there were clearly unintended consequences to voting yes tonight. The item should go back to the Planning Commission. These two projects were about demolishing houses in historic neighborhoods.

Beth Rieber said her concern was changing the definition of a unit. She had never been in a 4 bedroom apartment in Oread. To change the definition increased the density.

Sophia Lau said she had seen density on her block change over 15 years and this text amendment needed to be reconsidered. She said she appreciated what the development community wanted to do, but the .5 unit changed density.

Tom Hoffman said he was not against increasing density, but there was a problem with the parking requirements. He always had his tenants wanting more parking for their guests and he knew there would be tremendous density and parking challenges.

Caleb Morris said he objected to the change and thought it was too good to be true. Students being students would pack themselves in an area. Density and intensity of use would increase.

Paul Werner said the Planning Commission did not go along with LPA's suggestion because this was currently allowed. Four bedroom apartments could already be built. He said that college kids today did not share bedrooms. He said he was not aware of anybody, in recent years, acquiring homes, just to tear those homes down. He said this text amendment would not stop redevelopment projects and would make those projects better. The Historic Resources

Commission was not around when older homes were torn down on Kentucky or Tennessee Streets. People were saying that density was increasing, but it was not.

Amyx asked how Werner's project would be different if this text amendment was not adopted.

Werner said he would have to build 4 bedroom units. He said the project would be better for the neighbors and the community if the text amendment was approved. This would give more opportunities to redevelop older apartment complexes.

Chestnut asked about dwelling units and potential occupancy. He asked if it was illegal to have 4 unrelated in a dwelling unit, whether it was 4 or 2 bedrooms.

McCullough said staff had to make some assumptions, that there would be one person per bedroom.

Chestnut said that theoretically, the occupancy could be doubled, per acre, without violating the law.

McCullough said yes.

Cromwell asked if there was data regarding people per bedroom.

McCullough said no.

Amyx said the City Commission was trying to find a way to accommodate a development and wondered if this text amendment would be the best for that lot. If so, he asked if it should be applied to other areas in the community.

Chestnut said it made sense to have some changes to encourage developments of less than 4 bedroom units. He said the idea had merit and it made sense to provide housing stock in smaller units. The problem was that in one scenario (4 bedroom), legally 4 people could live in those units, but in smaller units (such as 2 bedroom) legally 4 people could live in those units also, therefore there was the possibility of creating more people on the same acreage. There were problems with limiting the number of people per bedroom if there was a family unit. He

said he supported the concept of encouraging smaller units but if there was two bedrooms and twice as many people, that could be problem.

Dever said he was not in favor of moving forward at this time due to the complexities. He said he wanted to talk through the negative externalities.

Cromwell said he concurred and the issue and unintended consequences were still murky.

Johnson said that in green fields it did not make sense, but it probably did in Oread and other infill areas with site constraints. He said sometimes density became an issue and quality was not focused on. He said more density should be allowed, if quality was taken into consideration. He said he liked the direction but was not ready to move forward at this time.

Chestnut said the issue was avoiding the unintended consequence of having more than one person per bedroom.

Amyx asked whether that was the real stumbling block.

Dever said yes, among other things such as encouraging demolition of existing structures.

Amyx asked whether additional information was needed from staff or whether it should be sent back to the Planning Commission.

McCullough said it might make sense to vet the issues out at Planning Commission if the language might change anyway.

Chestnut said this was significant in Oread but also in other areas such as Stewart Avenue and Ridge Court.

McCullough said he understood the Commission's direction to the Planning Commission was to consider the following issues:

- Discuss how the amendment affected occupancy in developments compared to the current way of calculating density, especially as it related to the Development Code's definition of Family.

- Discuss parking standards and whether current standards would accommodate a presumed potential increase in occupancy of individual units.
- Discuss whether the amendment would incentivize redevelopment and lot consolidation in the Oread neighborhood at levels and intensities not compatible with the designations in the Oread Neighborhood Plan.
- Discuss the affect of the amendment on RM32 zoned areas outside of the Oread neighborhood.

Moved by Chestnut, seconded by Cromwell, to refer Text Amendment TA-6-8-10 back to the Planning Commission to consider the issues outlined by the Planning and Development Services Director. Motion carried unanimously.

3. **Reconsider Text Amendments, TA-6-17-09, to various sections of the City of Lawrence Land Development Code to review standards related to “Boarding House” and expanded to consider parking standards for Multi-Dwelling structures and nonconforming standards for Boarding Houses. Adopt on first reading, Ordinance No. 8606, for Text Amendment (TA-6-17-09) to various sections of the City of Lawrence Land Development Code to review standards related to “Boarding House” and expanded to consider parking standards for Multi-Dwelling structures and nonconforming standards for Boarding Houses. 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 4; approved 8-1 on 12/13/10)**

Scott McCullough, Planning Director, presented the staff report.

Mayor Amyx called for public comment.

Dennis Brown, Lawrence Preservation Alliance, said there were two remaining concerns. There were enough neighborhood concerns to warrant requiring a contact person for the house. Second, an applicant could expand the footprint 20% then expand upward to the height limit. No public good was obtained by taking small houses off the market and making them large congregate living areas. LPA suggested not allowing more levels above the existing structure.

Kirk McClure said Old West Lawrence Neighborhood Association did not support this text amendment because of the reduction in the parking requirements for large structures. The

party house phenomenon and the congregate living situation were one and the same. Enforcement of unrelated individuals and noise issues were not effective.

Dickie Heckler asked how to deal with the additional people and vehicles. Many neighborhoods had become victims of a single family homes becoming a rental with lots of cars.

Marci Francisco said the significant points were that congregate living was a better name, that it made sense to make parking consistent with what was required for apartments, and investments of owners should be protected who already had boarding houses. The opportunities for expansion were great, so the provision against additional levels might make sense. She suggested a language change to say that "parking shall be provided at a minimum of 0.5 spaces." She said there needed to be an understanding of why the number of required spaces should be less than a fraternity or sorority house. It would be important to have benchmarks regarding the size of the structures.

Sophia Lau said that college students did share rooms, especially in nicer units. Students also did not like congregate living situations, except in sororities and fraternities. The block she lived on had six boarding homes with parking exemptions and now there were 60 cars vying for 30 parking spaces.

James Dunn said the designated contact person idea could be useful and he supported adding that to the code.

Gwen Klingenberg, Lawrence Association of Neighborhoods, said LNA supported the idea of 1 for 1 parking and protecting the larger homes in the neighborhood. The boarding house issue could happen in PD zoning also. Allowing congregated living to expand houses did not make it feasible to ever turn those homes back into single family.

A woman asked whether part of the text amendment idea could be passed, but not the entire text amendment. The City Commission should consider requiring one parking space per bedroom and additional language regarding the expansion.

Rob Farha said there were stakeholders with many different types of homes and situations and this text amendment affected everyone differently. The key point for a year and a half was parking, the 1 to 1 and a reduction for large structures. He thought this text amendment was a good compromise. The numbers seemed to work and would help save some larger properties. Protecting the properties that were site planned, sprinkled, and that were all done correctly, should be protected and not made non-conforming.

Carol Von Tersch said parking should not be drastically cut for larger structures but should go on a graduated scale.

Beth Reiber said she converted a boarding house back to single family and her concerns were smaller houses, which had been priced out of the reach of single family homes because of the boarding house potential. Accessible parking was also a concern. Visitors and parties were also a concern for parking.

A woman said the proposal was not a perfect solution but it was a compromise.

Dan Dannenberg said he supported McClure's comments particularly in the area of enforcement against party houses. He said property owners should be responsible for how tenants conduct themselves.

Caleb Morris said party houses were a problem and code enforcement with respect to nuisance houses was an issue. He said the expansion issue was a concern.

Rob Farha asked how this text amendment came about.

Scott McCullough said it was initiated by the Planning Commission with a set of text amendments.

Scott McCullough said these were minimum standards. Not every lot was going to be able to accommodate a boarding house.

Dever said he agreed that there were potential loopholes that might exist, but limiting factors on going up were cost and structural factors. He said he was in favor of some of the improvements. In general, he said he was in favor of moving forward. He said the people that

lived it this area were the types that might not have a car and this type of accommodation would suit their needs.

Cromwell said this offered an improvement but it was not perfect. He did not want to send this item back to Planning Commission at this time. He said Oread parking was complex and this was not going to solve that problem one way or another. He said concerns were expressed but this represented compromise and was good so far. He was in favor of moving forward for now.

Chestnut said there was a point of compromise where this item was going to end up. He said that congregate living had been in the neighborhood for a long time and it had always been a tension. He hoped that the City's underage hosting laws would help with the party house issue. He said he did not think these proposed regulations would not affect the law enforcement issues. He said working with stakeholders would make a better impact on those issues.

Johnson said he agreed with what has been said.

Amyx said some people had brought up the idea of a manager on site, but he thought the police would figure out who the owner was when appropriate. He said this ordinance would be a starting point.

Moved by Chestnut, seconded by Dever, to approve Text Amendment TA-6-17-09 to adopt on first reading, Ordinance No. 8606, an ordinance relating to Chapter 20, The Development Code of the City of Lawrence, Kansas of the Code of the City of Lawrence, Kansas 2011 Edition and amendments thereto; amending Chapter 20, Article 4, Sections 20-402 and 20-403; article 9, Sections 20-1701 and 20-1731; and enacting Article 5, Section 20-546 pertaining to Boarding House/Cooperatives and Congregate Living Uses by adopting and incorporating by reference the "Development Code of the City of Lawrence, Kansas, Text Amendments, January 25, 2011 Edition" prepared by the Lawrence-Douglas County Metropolitan Planning Office of the City of Lawrence, Kansas, and repealing the existing sections. Motion carried unanimously.

E. PUBLIC COMMENT:

Marci Francisco reiterated her comments on the formerly considered items.

James Dunn said there were two congregate houses with un-cleared sidewalks that he tried to report and found that the City's phone line was busy all day.

F. FUTURE AGENDA ITEMS:

David Corliss, City Manager, outlined potential future agenda items.

G: COMMISSION ITEMS:

I: CALENDAR:

David Corliss, City Manager, reviewed upcoming calendar items.

J: CURRENT VACANCIES – BOARDS/COMMISSIONS:

Existing and upcoming vacancies on City of Lawrence Boards and Commissions were listed on the agenda.

Moved by Chestnut, seconded by Dever, to adjourn at 11:32 p.m. Motion carried unanimously.

APPROVED:

Mike Amyx, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk