



PLANNING COMMISSION MEETING

March 28, 2011

Meeting Minutes

March 28, 2011 – 6:30 p.m.

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

Staff present: McCullough, Day, Leininger, Larkin, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of February 23, 2011.

Commissioner Blaser had a correction, removing the word 'of', on page 21 of the minutes.

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve the February 23, 2011 Planning Commission minutes with the change suggested by Commissioner Blaser.

Approved 9-0-1, with Commissioner Harris abstaining. Student Commissioner Davis voted in the affirmative.

COMMITTEE REPORTS

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

Commissioner Hird said the Agri-Tourism Committee met and hoped to have recommendations for a Mid-Month meeting before it was heard by Planning Commission. He stated that if anyone was interested in the committee to contact him.

COMMUNICATIONS

Mr. Scott McCullough, Planning Director, reviewed new attachments/communications that were posted to the online Planning Commission agenda after the initial posting date.

Mr. McCullough introduced the new staff attorney, Randy Larkin, and also introduced Matt Kirby from Baldwin Planning Commission. He also stated that Item 5 had been deferred.

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 County Commissioner Nancy Thellman who had a few questions about tonight's agenda.
- No abstentions.

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**ITEM NO. 1A A TO I-1; 41.966 ACRES; [S15-T14-R20]
SOUTH OF 694 E 1700 ROAD, BALDWIN CITY (SLD)**

Z-1-5-11: Consider a request to rezone approximately 41.966 acres from County A (Agricultural) to County I-1 (Light Industrial), located south of 694 E 1700 Road, Baldwin City (S15-T14-R20). Submitted by Landplan Engineering, for Land & Sky, LC., property owner of record. *Joint meeting with Baldwin City Planning Commission.*

ITEM NO. 1B PRELIMINARY PLAT FOR VINLAND AIRZONE 2ND PLAT (SLD)

PP-1-1-11: Consider a one-lot Preliminary Plat for Vinland Airzone 2nd Plat, approximately 41.966 acres, located south of 694 E. 1700 Road, Baldwin City (S15-T14-R20). Submitted by Landplan Engineering, for Land & Sky, LC., property owner of record. *Joint meeting with Baldwin City Planning Commission.*

STAFF PRESENTATION

Ms. Sandra Day presented items 1A & 1B together.

Commissioner Dominguez inquired about an exemption.

Ms. Day said it needed to be a minimum of 40 acres so this would meet that minimum.

Commissioner Dominguez inquired about the type II soils.

Ms. Day said of the 40 acres she estimated, using the GIS area calculator, approximately 30 acres were type II soils.

Commissioner Harris inquired about drainage from the area without a detention pond.

Ms. Day said being able to spread development over a larger surface area and maintaining as much turf as possible would help disperse some of that drainage. She said there was not a lot of drainage coming through the property and that it was not encumbered by any floodplain. She said it had adequate area to be able to address management techniques through site development.

Commissioner Harris inquired about off-site sewage storage.

Ms. Day said there had been discussions about whether or not future buildings could be tied back into existing septic systems or if each building would need its own septic system. She said there needed to be enough area to be able to have that and maintain separation.

Commissioner Harris asked what 'off-site' meant.

Ms. Day said within the parcel.

Commissioner Harris asked if sewage would be contained on the property of question.

Ms. Day said yes, that was the intent.

Mr. McCullough said it would either be on this lot or the adjacent lot where the existing facility was today.

Commissioner Harris inquired about the League of Women Voters letter and concern about different kinds of development other than industrial at that location. She wondered if that came up at the Historic Resources Commission meeting.

Ms. Day said this item did not go to the Historic Resources Commission due to it being in the county. It went to the State for an independent review and they indicated that the project may proceed and met their criteria for historic evaluation.

APPLICANT PRESENTATION

Mr. Phil Struble, Landplan Engineering, thanked staff for their work. He said each facility would have its own septic tank system. He stated there were four predominant reasons for the larger rezoning size. He said the McFarlane's were good business people and were looking at the big picture of growing their operation. He said the shape of the property, as it relates to the runway, was the logical piece of property as an airport related piece of property. He stated there needed to be a significant amount of open space for the leach fields and turning movements of the planes. He said they were satisfied with the size of the property to allow for sanitation, traffic, turning movements, and site distances between entrances. He stated the runway took up a significant part of ground due to runway restrictions. He said when combined, the septic field, runway, and location of entrances, the 41 acres was eaten up quickly. He said regarding drainage, he worked with Mr. Keith Browning, Douglas County Public Works Director, on how to deal with it. He said the bulk of the drainage runs to the northwest corner of the property.

Mr. Matt Kirby, Baldwin City Planning Commissioner, asked the applicant to speak to some of the Federal Aviation Administration (FAA) issues about the angle of approach and existing structures.

Mr. Dan McFarlane described how the airspace restrictions relate to the property. He stated any building within a certain perimeter of the airport had to comply with FAA regulations related to airports and airspace. He said it defines a 250' primary surface that was centered on the center line of runway. He stated it was an imaginary surface that defines the airspace restrictions. He stated 125' from the center line of the runway there was a 1 to 7 slope that no building could be built that exceeds the plane created by that 1 to 7 slope. That meant somewhere around 250-300' there could not be a building higher than 20' tall. He said the farther out from the runway center line the taller the building could be. He stated one of the existing structures on the current Vinland airzone was pushing the margins as close as it could get without exceeding those airspace restrictions.

PUBLIC HEARING on Item 1A

Ms. Beth Johnson, Chamber of Commerce, said this was an existing company looking to expand. She said it was a family run and owned company with a family environment. She stated it was a hidden gem in the county. She said the company anticipated an additional 28 new jobs and the average pay would be \$48,000 and that most of the jobs (probably 80%) would come from Douglas County.

Mr. Mike Grosdidier, Baldwin City Planning Commissioner, said they were supportive of the business and had no concerns.

COMMISSION DISCUSSION

Mr. Kirby agreed with what Mr. Grosdidier said and that Baldwin City Planning Commission unanimously approved it. He said it was a wonderful local business. He stated initially he had some concerns about wastewater but upon talking to Tina with the Baldwin City Public Works they arrived at the belief it was a matter of simple engineering and easily worked out.

ACTION TAKEN

Motioned by Commissioner Rasmussen, seconded by Commissioner Singleton, to approve the rezoning request for 41.966 acres from County A (Agricultural) to I-1 (Limited Industrial) District and forwarding it to the County Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Commissioner Harris said she would support the motion but that 30 acres of class II was a lot and she hated to see them taken out of production.

Mr. Dave McFarlane (spoke from his seat in the audience) said he would like to farm some of it. He said they intended to replace the topsoil taken off for construction back in agricultural areas so. He said they also wanted to farm the buffer zone and that most of the land would stay in production as long as possible.

Unanimously approved 10-0. Student Commissioner Davis voted in favor.

Motioned by Commissioner Rasmussen, seconded by Commissioner Liese, to approve the Preliminary Plat of the Vinland Airzone 2nd plat and forwarding it to the Board of County Commissioners for consideration of dedication of easements and rights-of-way subject to the following conditions:

1. Provision of a revised preliminary plat to show the ~~maximum~~-building setback *line from the runway* for a building 45' *high* based on the allowable height of the district and
2. Provision of a revised preliminary plat to include a note that states buildings may be constructed within the transitional zone less than 45' in height subject to the requirements of 14 CFR Part 77.

Unanimously approved 10-0. Student Commissioner Davis voted in favor.

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ITEM NO. 2A RM32 TO MU; .19 ACRES; 1340 TENNESSEE STREET (MJL)

Z-1-1-11: Consider a request to rezone approximately .19 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1340 Tennessee Street. Submitted by Paul Werner Architects, for Gremlin Holdings, LLC., property owner of record.

ITEM NO. 2B RM32 TO MU; .26 ACRES; 1344 TENNESSEE STREET (MJL)

Z-1-2-11: Consider a request to rezone approximately .26 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), including establishing a Bar or Lounge use as an automatic Special Use Permit for Bullwinkle's, located at 1344 Tennessee Street. Submitted by Paul Werner Architects, for Lynn Investments LLC., property owner of record.

ITEM NO. 2C RM32 TO MU; .49 ACRES; 1343 TENNESSEE STREET (MJL)

Z-1-3-11: Consider a request to rezone approximately .49 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1343 Tennessee Street. Submitted by Paul Werner Architects, for TK Property's LLC., property owner of record.

ITEM NO. 2D RM32 TO MU; .23 ACRES; 1403 TENNESSEE STREET (MJL)

Z-11-25-09: Consider a request to rezone approximately .23 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1403 Tennessee Street. Submitted by Paul Werner Architects, for DJC Holdings, LLC, property owner of record.

ITEM NO. 2E RM32 TO MU; .14 ACRES; 1400 OHIO STREET (MJL)

Z-11-26-09: Consider a request to rezone approximately .14 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1400 Ohio Street. Submitted by Paul Werner Architects, for Wakarusa Partners, property owner of record.

ITEM NO. 2F RM32 TO MU; .29 ACRES; 413 W. 14TH STREET (MJL)

Z-11-28-09: Consider a request to rezone approximately .29 acres from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 413 W. 14th Street. Submitted by Paul Werner Architects, for Douglas J. Compton, property owner of record.

STAFF PRESENTATION

Ms. Michelle Leininger presented Items 2A-2F together.

Commissioner Rasmussen asked how they could place a 50,000 square foot retail space restriction on properties that were not advertised.

Ms. Leininger said the restriction already exists in the published ordinance.

Mr. McCullough said it applied to these properties in an expansion of that particular district. He said at the time, there were properties deferred from that rezoning district and the ordinance was worded in a way that if the district expanded, than that condition expanded along with the district. He said they did have to wordsmith the conditions for these properties to meet up with the former condition. He said at the time the thought was that the condition would grow with this. He said there was the

option of bringing a retail market study forward and going through the process to get the condition lifted in the future. He stated if this was approved by City Commission the entire district, including the former MU zonings, would be limited to no more than 50,000 square feet.

Commissioner Rasmussen was concerned about placing a condition on properties that were not part of the application.

Mr. McCullough said it was already there.

Commissioner Rasmussen said it should not say it includes the other properties. He asked how they could put a condition on all properties, including properties that were not included on the application.

Mr. McCullough said that was an appropriate point and that wordsmithing would likely need to be done. He said they could strike the addresses of the previously zoned properties or forward this on to City Commission with direction to work with the Legal Department to wordsmith the appropriate condition.

Commissioner Rasmussen asked how they could say the entire MU district unless that entire MU district was limited to just the six properties that were part of the application.

Mr. McCullough said it was forecasted with the previous zoning that staff would follow up with a rezoning and appropriate language that would expand the district and the restriction of the retail.

Commissioner Rasmussen said he was uncomfortable with it.

Commissioner Finkeldei agreed with Commissioner Rasmussen's point. He suggested a condition that says the rezoning tonight would be conditioned upon the passage of a valid ordinance that the entire MU district was limited to 50,000 square feet.

APPLICANT PRESENTATION

Ms. Joy Rhea, Paul Werner Architects, said there were no development plans in the works now but that there was great potential for something in the future. She said the MU zoning district was great because it allowed the current density already allowed and in addition gives mixed use for the site. She said regarding the League of Women Voters letter about why not any other zoning request other than primary zone. The density in the secondary zone is 15 dwelling units per acre, like in the RM15 District, was not feasible for the area.

PUBLIC HEARING

Mr. Rick Kupper said he owned property in the area and was trying to get better feel for what this would do to the area. He asked if it meant no more than 50,000 square feet of retail space. He asked if someone could give him an idea of what 50,000 square feet was.

Mr. McCullough said about half the size of Wal Mart at 6th and Wakarusa. He said the 50,000 square feet would likely be interspersed throughout several block ends of the district. He said the primary zone demands mixed use in the structure itself so there would be a mixed use of commercial, office, and residential in every structure.

Mr. Kupper asked how high the structures could be in the primary area.

Ms. Rhea said 48 feet high which would be 3-4 stories.

Mr. Kupper asked if this would increase the amount of apartment space in the area.

Mr. McCullough said the density would be the same. He said it was also important to note that there were no plans to redevelop for any foreseeable time so it would likely remain as is for the foreseeable future. He said if developed then all the MU standards would have to be met.

Mr. Kupper asked if there was a plan yet.

Mr. McCullough said no plan was presented to the Planning office.

Mr. Kupper asked if all of this would take parking into consideration.

Mr. McCullough said yes.

Commissioner Liese thanked Mr. Kupper for his questions.

Mr. McCullough showed the ordinance on the overhead. He said the challenge was to link the new ordinance to the existing ordinance.

COMMISSION DISCUSSION

Commissioner Blaser asked if they needed to make six motions.

Mr. McCullough said yes.

Commissioner Finkeldei said the language he was thinking of would condition all the rezonings upon the implementation of a restriction upon the entire MU District that the entire district shall not contain over 50,000 square feet of retail.

Mr. McCullough asked if Planning Commission would be willing to give staff the authority to wordsmith it.

Commissioner Finkeldei said yes.

Commissioner Harris asked staff to show on the overhead map where Bullwinkle's was in relation to single family homes. She said that was the hanging point for her on the Special Use Permit. She was comfortable with the primary zone there but not comfortable with having a full liquor license and being allowed to operate till 2:00 am since there were single family homes right behind it. She did not feel it was compatible. She said she would be willing to have a Special Use Permit for the beer use and closing at midnight for that property.

Commissioner Dominguez said he lived in the area and most of the single family homes were rentals.

Ms. Rhea confirmed that they were all rental houses.

Commissioner Liese said he drove by and there wasn't any evidence of single family homes. He said he did not know the assumption of not serving hard liquor really made that much of a difference. He said that if someone wanted to get really drunk in a cereal beverage establishment that it would be possible.

Commissioner Harris said she agreed and said it wasn't the liquor as much as it was the operating time.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Dominguez, to approve all items 2A-2F with the conditions stated in the staff report and with the rewording of retail space limit condition.

Commissioner Harris asked if that included the Special Use Permit.

Commissioner Liese said it was inclusive of the Special Use Permit.

Commissioner Harris said she would prefer to vote on the Special Use Permit separately.

Commissioner Liese amended the motion to exclude the Special Use Permit. Seconded by Commissioner Dominguez.

Commissioner Hird said that item 2B indicated an automatic Special Use Permit so he wondered how they could vote on it separately.

Motioned by Commissioner Liese, seconded by Commissioner Dominguez, to approve item 2A (Z-1-1-11) to rezone 1340 Tennessee Street from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) as a Primary Development Zone, and forwarding it to the City Commission based on the findings presented in the staff report and made with the following condition:

1. The entire MU District shall not contain over 50,000 square feet of retail space.

Unanimously approved 10-0. Student Commissioner Davis voted in the affirmative.

Motioned by Commissioner Liese, seconded by Commissioner Dominguez, to approve item 2C (Z-1-3-11) to rezone 1343 Tennessee Street from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) as a Primary Development Zone, and forwarding it to the City Commission based on the findings presented in the staff report and made with the following condition:

1. The entire MU District shall not contain over 50,000 square feet of retail space.

Unanimously approved 10-0. Student Commissioner Davis voted in the affirmative.

Motioned by Commissioner Liese, seconded by Commissioner Dominguez, to approve item 2D (Z-11-25-09) to rezone 1403 Tennessee Street from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) as a Primary Development Zone, and forwarding it to the City Commission based on the findings presented in the staff report and made with the following condition:

1. The entire MU District shall not contain over 50,000 square feet of retail space.

Unanimously approved 10-0. Student Commissioner Davis voted in the affirmative.

Motioned by Commissioner Liese, seconded by Commissioner Dominguez, to approve item 2E (Z-11-26-09) to rezone 1400 Ohio Street from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) as a Primary Development Zone, and forwarding it to the City Commission based on the findings presented in the staff report and made with the following condition:

1. The entire MU District shall not contain over 50,000 square feet of retail space.

Unanimously approved 10-0. Student Commissioner Davis voted in the affirmative.

Motioned by Commissioner Liese, seconded by Commissioner Dominguez, to approve item 2F (Z-11-28-09) to rezone 413 W. 14th Street from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) as a Primary Development Zone, and forwarding it to the City Commission based on the findings presented in the staff report and made with the following conditions:

1. The entire MU District shall not contain over 50,000 square feet of retail space.
2. A 16' wide access shall be designated where an alley is currently platted but now vacated along the south side of W. 14th St between Ohio and Tennessee Streets.

Unanimously approved 10-0. Student Commissioner Davis voted in the affirmative.

Motioned by Commissioner Harris to approve item 2B (Z-1-2-11) to rezone 1344 Tennessee Street from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) as a Primary Development Zone, including a Special Use Permit for the Bar or Lounge, and forwarding it to the City Commission based on the findings presented in the staff report and made with the following conditions:

1. Restricted to Cereal Malt Beverage License only for purposes of limiting operating hours to midnight.
2. The entire MU District shall not contain over 50,000 square feet of retail space.

Motion died due to lack of second.

Motioned by Commissioner Liese, seconded by Commissioner Dominguez, to approve item 2B (Z-1-2-11) to rezone 1344 Tennessee Street from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) as a Primary Development Zone, including a Special Use Permit for the Bar or Lounge Use, and forwarding it to the City Commission based on the findings presented in the staff report and made with the following condition:

1. The entire MU District shall not contain over 50,000 square feet of retail space.

Commissioner Burger suggested limiting the operating time to midnight and letting Bullwinkle's apply for any kind of liquor license they wanted.

Mr. McCullough said that would be possible with the Special Use Permit as part of a motion.

Commissioner Hird said he would vote in favor of the motion without the time restriction because it would be inconsistent and unfair since there was another bar a block away without that restriction. He felt it would create a competitive disadvantage.

Commissioner Dominguez agreed with Commissioner Hird.

Commissioner Burger asked if The Wheel was open till 2:00am.

Mr. McCullough said yes, The Wheel and The Hawk both have Drinking Establishment License.

Commissioner Liese agreed with Commissioner Hird.

Commissioner Harris said she disagreed because those properties more to the east were closer to single family homes and single family neighborhoods and felt the midnight was more appropriate.

Motion carried 8-2, with Commissioners Burger and Harris voting in opposition. Student Commissioner Davis voted in favor.

Commissioner Singleton left the meeting at 8:00pm.

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**ITEM NO. 3 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE;
DENSITY & DIMENSIONAL STANDARDS IN THE RM32 DISTRICT**
(MJL)

TA-6-8-10: Reconsider Text Amendments 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. (PC Item 3; approved 6-3 on 12/13/10) Referred back to Planning Commission by City Commission on 1/25/11.*

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Harris said she read Ms. Marci Francisco's letter and it got her thinking differently. She said in the past she thought this would give choices for dwelling unit sizes but with the number of people staying the same. She said that did not seem to be the case. She said in Ms. Francisco's letter it stated there would be two people per bedroom so there could be four people in a two bedroom apartment, potentially doubling the density.

Ms. Leininger said in the Code today there could be up to four unrelated people per unit. She felt that would be the minority situation.

Commissioner Harris asked if it was reasonable to assume a two bedroom apartment could have four people living there.

Ms. Leininger said there was potential for that. She said in certain situations there would be two people per bedroom and one person per bedroom. She said staff did not think every unit would have four people per unit.

Mr. McCullough said that was why they looked at the census data and called the University of Kansas (KU) to understand their perspective on it. He said there would be an increase in intensity under the Text Amendment that had been noted all along. He said what was difficult for staff to accept was that every unit would max out at four people. He said that was not what the data was showing in the census and in discussions with KU Housing. He said there would be some that have the increased intensity but when staff looked at what the density was at 54 units per acre previously, capping it at 48 units per acre was a reasonable conclusion in the discussions.

Commissioner Harris asked if there was a way to know if a single person in a one bedroom chose to be that way or because the Code said they couldn't have more than one person per bedroom in the unit.

Mr. McCullough said the Code does not restrict the number of people in a bedroom, it restricts the number of people in the unit. He said theoretically every studio apartment could have four people living in it.

Commissioner Harris asked when doing research were they able to say if students in a four bedroom unit, with only one person per bedroom, chose that.

Mr. McCullough said they did not get to that level of detail.

Commissioner Dominguez asked if a four bedroom apartment and a two bedroom apartment could both only have four people living there. He said that was probably not the case if national research showed that each person wanted a bathroom.

Ms. Leininger said KU stated their trend was that people were okay with sharing a room with people but not okay with sharing a bathroom with a lot of people, so having four people in a unit sharing one bathroom was not ideal for most students, according to KU's findings.

Commissioner Dominguez inquired about a financial analysis.

Ms. Leininger said staff looked at the average appraisal value of blocks in the Oread, which was included in the staff report. She said it was not cheap to buy a lot to pave for parking. She said that was a question maybe the applicant could address.

Mr. McCullough said staff did not do any type of analysis but did analyze the many years that there were 54 units per acre allowed and what kind of incentive that established for the development community. He stated after it was dropped down to 32 units per acre the development community voiced that was too low so the exercise was in looking for the middle ground that would help appropriate redevelopment but not incentivize inappropriate development.

Commissioner Burger asked if these parameters conflicted with what the Housing Authority would suggest for housing standards.

Mr. McCullough said staff did not seek that specific question.

Commissioner Burger was concerned about other populations that could be impacted by this besides college students, such as those seeking affordable housing, allowing four people in a studio and one bedroom apartment.

Ms. Leininger said this would not change the number of people allowed in a housing unit. Currently there can be up to four unrelated people in a dwelling unit.

Commissioner Dominguez asked if this would incentive people to stack up in a small apartment.

Mr. McCullough said the ability to construct studio and one bedroom apartments exists in the Code today. He said there were other factors such as building and accessibility codes that would make it a safe structure. He said they were trying to limit the discussion to the zoning application. He said they should assume it would intensify the use at a site. He said staff was not trying to say that they would not see more people living in a structure because two and three bedroom apartments would likely see the greatest amount of intensity increase because there would be two bedrooms with two people each, equaling four occupants. He felt it was a poor assumption to say that studio and one bedroom apartments would have four people in them. He said two, three, and four bedroom apartments could and would, but it would not be all of them.

Commissioner Rasmussen asked staff if they thought it was possible that some of the four bedroom units in town had more than four people living in them.

Mr. McCullough said that was possible.

Commissioner Harris asked why the area was changed from 54 to 32 units per acre.

Mr. McCullough said it was the culmination of the new Code, committee input, collapsing of certain districts, and the creation of districts. He said he did not have a good reason why the density was reduced.

Commissioner Harris asked if it was because it created too great of an impact on parking or infrastructure.

Mr. McCullough said he could not speak to specifics. He said there was a Code analysis performed for the City and the Comprehensive Plan review.

Commissioner Harris said it would be helpful to have that information.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, said he has worked with a lot of apartment projects, and gave the example of Tuckaway that has one, two, and three bedroom apartments. He said the reason they did a PRD was because they were going to have build four bedrooms since the only conventional zoning that they could get out of that was enough so they wouldn't have to build all four bedrooms. He said most college kids do not want to share a bedroom. He said most landlords would not want four people sharing a bedroom. He said he was a little surprised about staff wanting to put cap on this. He suggested the option of adding to the footnote that it would only apply to vacant lots or existing multi-dwelling structures. He suggested an additional footnote option that it would only apply to vacant or multi-dwelling structures of more than six units. He said he requested two additional Text Amendments.

PUBLIC HEARING

Mr. Dennis Brown, Lawrence Preservation Alliance, said the Text Amendment attempts to incentivize the renovation of older apartment complexes, which was a worthy goal, and not just in the Oread neighborhood. He stated the troubling issue identified in the staff report that needed attention was issue 3. Without qualifying language the amendment could also incentivize teardowns of older housing now used for rentals in the Oread neighborhood. He said the goal of the Oread Neighborhood Plan was to preserve existing housing stock. He stated Lawrence Preservation Alliance, Lawrence Association of Neighborhoods, and the League of Women Voters are all on record warning about this very valid concern. He said if the language of the Code could differentiate between apartment complexes and an older house converted to apartments there would be no problem. He said the application for 711 Connecticut makes this concern more real. He was concerned about the threat of lots being combed. He stated staff says parking restrictions would protect older housing but the 711 Connecticut applicant applied to the Board of Zoning Appeals for a parking variance. He said rather than make a decision tonight he felt discussion was needed and direction for staff. He felt establishing a density cap at 40 or 48 might have merit and so might increasing the parking ratio, but he did not feel either were the answer. He felt the footnote should be allowed on infill lots vacant for two or more years. He appreciated staffs thinking that adding the term 'dangerous structures' could actually promote demolition by neglect. He said 6,000 square feet as the minimum parcel was definitely too small for this footnote. He said something larger needed to be designated provided the footnote was clear the lot size must be existing, so as not to incentivize combining lots to meet the minimum threshold. He felt the best solution was to give Code language the ability to differentiate between an apartment house and an old house that had been divided into apartments. He said if that was not possible there needed to be several safeguards in the footnote to protect older housing and direct the amendment towards the larger rental structures its advocates seek to help.

Commissioner Rasmussen asked Mr. Brown if he felt a studio apartment and four bedroom apartment were essentially equal.

Mr. Brown said there would be a lot more renters in the four bedroom apartment so they would be a little different in terms of the number of people.

Ms. Carol von Tersch quoted a statement from the staff report *'An argument can be made that if the total number of bedroom are contained in the same building form (regulated by setbacks, height, parking, bufferyards, and outdoor space) the total number of units is not relevant.'* She felt that was an absurd statement. She was also concerned about the statement in the staff report *'Staff has contacted the KU Department of Student Housing for trends they are seeing for housing.'* She stated she worked for the Student Housing Department as an Assistant Director for almost 25 years and was very involved in the design of each one of the major renovations of the residence halls and construction of the Housing Departments new buildings in the last 20 years. She said she was intimately familiar with design concepts in each of the residence halls that had been renovated. She stated the trends that were reported to the staff were obviously all true but that was only one part of the story. She said there were probably around 3,000 Freshman living in the residence halls. She said it used to be quite a bit higher than that and as the demand for the kind of residence halls dropped the department started renovating them to make them more attractive to students. She said KU has about 8,000 Freshman so she wondered where the other 4,000 Freshman were living that weren't in residence halls. She said that when students say they don't want to share a bathroom what they really mean is that they don't want to share a bathroom with 40 other students. She said almost all the halls that were renovated had four students in a suite with one bathroom. She said the statement that the total number of units was not relevant was not a true statement. She felt this change created additional development pressures in the neighborhood. She said the driving force for this whole request was Mr. Thomas Fritzel's effort to redevelop 11th and Indiana. She felt the reason he took this approach was because he could get it through Planning staff and Planning Commission quicker. She said she spoke with Mr. Fritzel about this and asked him to investigate other ways to accomplish the same thing. She said he came up with a proposal of the PD district so there was another Text Amendment in the works to reduce the 5 acre minimum for a district so that a project could move forward.

Mr. Kirk McClure, Lawrence Association of Neighborhoods, said they did not support the Text Amendment as written. He said they recommend narrowing the scope of the Text Amendment and increasing the minimum threshold where it takes effect. He stated in terms of scope the Text Amendment applied far too broadly. He said clearly there was a design behind this. He said there may be times when smaller bedrooms may be a desirable design but as written the Text Amendment applies to every RM32 district in the city. He said the design would be a 6,000 square foot threshold, which was one city lot. He stated the way the Text Amendment was written was poorly suited to what has been promised. He said when Commissioner Dominguez asked what was driving this there has been a long term trend of more smaller units occupied better than fewer larger units. He stated four bedroom apartments were not as popular as one bedroom apartments, especially when there is a locational advantage such as being close to the university. He said there was a good deal of confusion going on between the desirability of density and the desirability of infill. He said the Oread Plan called for moderate levels of density in the 7-15 units per acre. He said when looking at the literature on Smart Growth it did not say take the highest density districts and raise them higher, it said the waste and sprawl was found in the half acre and one acre lots in the districts of the city where there were two residences per acre. He said the Text Amendment calls for something that is not in fact what is needed and promotes the consolidation of lots. The Oread Plan does not call for an increase in density and the Text Amendment does. He felt staff confused some of the debate by mixing the definitions. He said the Census Bureau measures persons per room and the way they

count rooms is an apartment minus the kitchen and minus the bathroom. Persons per room is not the same as persons per bedroom. He stated car ownership is and remains about 85% percent. He felt a proposal like this was going to create new development incentives, foster demolition by neglect, encourage people to assemble small parcels so they could meet the minimum parking requirement, and create intense problems in some of the older neighborhoods. He suggested having staff reexamine the Text Amendment in considerable detail and also raise the threshold. He gave the example of 19th & Kentucky as what this might result in.

Commissioner Rasmussen inquired about Mr. McClure's statement that this was ill-suited for most of the RM32 properties in the city.

Mr. McClure said because a lot of them were not large lots and that the same 6,000 square foot threshold applied to those areas as well.

Commissioner Rasmussen inquired about him characterizing this as an increase in density and asked what he was basing that on.

Mr. McClure said the argument being sold to them was that a building, for example, with ten 4-bedroom units totaling 40 bedrooms. He said that could be changed into 22 bedrooms or 40 one bedrooms in the same footprint. He said that was not the kind of development pressures they were confronting. He said what they were talking about were older properties in the Oread neighborhood that were in areas searching for 7-15 units per acre which would become subject to development pressures for being assembled, demolished, and rebuilt into much higher densities.

Commissioner Harris asked if he would not be in favor of language proposed earlier about applying to vacant land and existing multi-dwelling structures without any further clarification.

Mr. McClure said infill was a good thing but wondered what would be considered multi-family.

Ms. Marci Francisco said every additional occupant would add an additional needed parking space. She was concerned about the Text Amendment affecting her own property. She said she was trying to figure out what vacant lots exist in her neighborhood, other than 1043 Indiana, that initiated this Text Amendment.

COMMISSION DISCUSSION

Commissioner Finkeldei inquired about item 5 on the agenda.

Mr. McCullough said item 5 was going to apply this Text Amendment to their project.

Mr. Werner said 711 Connecticut had a lot of issues. He felt that 711 Connecticut proved that the Text Amendment would not incentivize anything because a lawyer could get past a demolition. He stated there would be something on that lot and if the Text Amendment was approved it would be a 6-plex.

APPLICANT CLOSING COMMENTS

Mr. Werner said he could not believe Mr. McClure compared this to 19th & Kentucky. He said he could not imagine this having that effect. He felt it was a valuable tool.

Commissioner Liese said the Lawrence Association of Neighborhoods letter strongly suggests that the scope of the amendment being narrowed drastically. He asked for Mr. Werner's thoughts on that.

Mr. Werner said he understood it and suggested several solutions that would help narrow the scope. He said he didn't understand making the minimum one acre. He didn't think the land area was an issue at all and felt it was the wrong thing to try and do.

Commissioner Dominguez asked how historical structures could be protected.

Mr. Werner said they could be eliminated from being included in this but if they were already zoned RM32 the house could still be cut up into apartments.

Commissioner Dominguez asked why a variance could not be requested.

Mr. Werner said the Board of Zoning Appeals could not grant a variance for density.

Commissioner Dominguez asked if the Code could be changed to allow a variance for density instead of a Text Amendment.

Mr. McCullough said that could be looked at but there were options to the Text Amendment, such as creating a new zoning district that gives density so its site specific or amending the PD Overlay to establish a framework that may be more conducive. He said the common thread for concern with the Text Amendment was the impact to all properties zoned RM32. He stated there were alternative Code revisions that could be looked at that wouldn't be so broad in scope and wouldn't affect every RM32 piece of property. He said he would prefer not to create a footnote that tries to do everything. He said staff supports the Text Amendment because there is an equivalency factor and increasing the intensity in the RM32 district is a factor but not necessarily a harmful factor. He said parking standards could be tweaked if needed. Staff does not think it will foster the consolidation of lots because that exists today and staff is not seeing that. He said there were other Code amendments that could address the issue as well.

Commissioner Rasmussen said when this was first brought to Planning Commission his recollection was that the definition of dwelling unit was based on the number of stoves.

Mr. McCullough said it came forward when looking at the equivalency in the number of bedrooms with all other things held equal. He said most will acknowledge that while the number of bedrooms is equal the number of people has the potential to grow more than what it would be if they were all four bedroom units.

Commissioner Finkeldei inquired about the staff recommendation.

Mr. McCullough said one of the options tonight was to defer and direct staff to look at all three Text Amendments together. He said he did not know that they would want to send it to City Commission knowing that there were two other Text Amendments trying to reach the same or similar goal.

Commissioner Finkeldei asked if it was safe to assume that even if they passed this tonight that City Commission would probably not take it up until the other Text Amendments were before them.

Mr. McCullough said City Commission would be provided the same information.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Culver, to defer Text Amendment (TA-6-8-10) to the City of Lawrence Land Development Code, Chapter 20.

Commissioner Dominguez inquired about the need for an increase in density. He said he would like to see occupancy rates for apartments and wished City Commission would look into if more apartments were needed.

Commissioner Hird said he would support the motion to defer so that the Text Amendments could be heard together. He said the PD option was something he would like to see explored further.

Commissioner Harris agreed with Commissioner Hird. She requested staff provide some history about why the density was lowered from 54 to 32. She supported the concept of having more flexibility in the kind of units that can be built within a zoning district but she was concerned about increasing density at the same time.

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

PC Minutes 3/28/11

ITEM NO. 4 IG TO RMO; 3.9 ACRES; 800 BLOCK OF LYNN STREET (MJL)

Z-2-6-11: Consider a request to rezone the 800 block of Lynn Street (bounded by Lynn St, Homewood St, Haskell Ave, and Bullene Ave), approximately 3.9 acres, from the IG (General Industrial) and IL (Limited Industrial) Districts to the RMO (Multi-Dwelling Residential-Office) District to implement recommendations in the adopted Burroughs Creek Corridor Plan. *Initiated by Planning Commission on 2/23/11.*

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Rasmussen asked if there was an applicant.

Ms. Leininger said the City was the applicant for implementing the Burroughs Creek Corridor Plan.

Commissioner Harris asked who owned the property.

Ms. Leininger said the Salvation Army.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve the rezoning of approximately 3.9 ac, from IG (General Industrial) District and IL (Limited Industrial) to RMO (Multi-Dwelling Residential-Office) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Commissioner Rasmussen said the city was losing more industrial property so it was important when doing these area plans to be thinking about making space available for industrial development.

Unanimously approved 9-0. Student Commissioner Davis voted in favor.

PC Minutes 3/28/11

ITEM NO. 5 RM24 TO RM32; .13 ACRES; 711 CONNECTICUT STREET (MKM)

Z-1-4-11: Consider a request to rezone approximately .13 acres from RM24 (Multi-Dwelling Residential) to RM32 (Multi-Dwelling Residential), located at 711 Connecticut Street. Submitted by Michael Tubbs, for James and Nancy Dunn, property owner of record.

Item No. 5 was deferred prior to the meeting.

PC Minutes 3/28/11

**MISC NO. 1 INITIATE TEXT AMENDMENT TO LAWRENCE DEVELOPMENT CODE;
DETENTION USE IN IG DISTRICT (SLD)**

Initiate Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Article 4, Section 20-403 to change "Detention" from a use permitted by right in the IG (General Industrial) District to one permitted with Special Use approval.

STAFF PRESENTATION

Mr. Scott McCullough presented the item.

Commissioner Finkeldei said as a philosophical matter he would not vote for this because he did not like the idea of finding someone in the city and initiating something to stop it. He gave the example of a proposed mental facility in Jefferson County where a Text Amendment was initiated and changed the rules beforehand.

Mr. McCullough said there was no active application.

Commissioner Finkeldei said he did not like the feeling of initiating something to change it.

Commissioner Hird said he understood Commissioner Finkeldei's concern but did not necessarily share it. He thought requiring a Special Use Permit did not eliminate it, it just created a different type of proceeding for approval and allowed a lot of input. Unless the Text Amendment was initiated it could be built as a matter of right. He said this was one of those things that the public would have a lot of input in. He felt it was appropriate to allow a Special Use Permit process for this type of application.

Commissioner Rasmussen said he shared Commissioner Finkeldei's concerns and it made him not feel good. He said if permitted by right to build a detention facility in an IG property in the Burroughs Creek area where there are homes abutting to the IG property he would expect a Special Use Permit. He said he would support the initiation even though it made him feel slimy.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Liese, to initiate a Text amendment to the Land Development Code – Code of the City of Lawrence, Kansas to require the Detention use to be approved through the Special Use process in lieu of being permitted by right.

Motion carried 6-3, with Commissioners Culver, Dominguez, and Finkeldei voting in opposition. Student Commissioner Davis voted in favor.

Consideration of any other business to come before the Commission.

Commissioner Blaser said another Planning Commission training volunteer was needed.

Commissioner Finkeldei said he would volunteer.

Commissioner Blaser said for Commissioners Dominguez and Rasmussen to let Ms. Sheila Stogsdill know if they wished to be reappointed when their terms were up in May.

Commissioner Harris said another Planning Commissioner would be needed to serve on the MPO to replace her when her term was up in May.

Commissioner Liese said he would be interested.

PUBLIC COMMENT SECTION

ADJOURN 9:42pm