



PLANNING COMMISSION MEETING

June 20 & 22, 2011

Meeting Minutes

June 20, 2011 – 6:30 p.m.

Commissioners present: Belt, Blaser, Burger, Culver, Finkeldei, Liese, von Achen

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

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of May 23 & 25, 2011.

Motioned by Commissioner Liese, seconded by Commissioner Finkeldei, to approve the May 23 & 25, 2011 Planning Commission minutes.

Motion carried 5-0-2, with Commissioners Belt and von Achen abstaining.

COMMITTEE REPORTS

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

Commissioner Blaser said the Metropolitan Planning Organization met and were short a quorum so they did one by phone to vote on several items regarding budget numbers that needed approval. He stated they also approved a committee of about 19 people to work on the Transportation 2040 update.

COMMUNICATIONS

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

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- No abstentions.

Mr. Hank Booth mentioned briefly the Farm Tour and mixer on Friday. He said it was a Chamber of Commerce event but he wanted to invite other members of the community.

ELECTION OF OFFICERS FOR 2011-2012

Accept nominations for and elect Chair and Vice-Chair for the coming year.

Commissioner Blaser said since Vice-Chair Hird was absent they would defer elections to Wednesday night.

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ITEM NO. 1 CONDITIONAL USE PERMIT FOR A PRESCHOOL; 2084 N 1300 RD (SLD)

CUP-4-2-11: Consider a Conditional Use Permit for a Preschool located at 2084 N. 1300 Road. Submitted by Kristine Lawhorn for United Methodist Church of Eudora, property owner of record. *Joint meeting with Eudora Planning Commission.*

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Ms. Kristine Lawhorn was present for questioning.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION by Eudora Planning Commission

Eudora Commissioner Kurt von Achen said Eudora Planning Commission supported the item.

Eudora Commissioner Ken Adkinson asked how many kids would attend.

Ms. Lawhorn said currently there were 24 enrolled but that there could be up to 40 children this semester. She said there could be 10 children per classroom per session so there could be a total of 80 children. She said they hoped to grow into more classrooms.

ACTION TAKEN by Eudora Planning Commission

Motioned by Eudora Commissioner Richard Campbell, seconded by Eudora Commissioner Ken Adkinson, to approve the Conditional Use Permit for a preschool located at 2084 N 1300 Road.

Motion carried 4-0 by Eudora Planning Commission.

COMMISSION DISCUSSION BY Lawrence Planning Commission

Commissioner Finkeldei disclosed ex parte that his son's friend hoped to go to this school.

ACTION TAKEN by Lawrence PC

Motioned by Commissioner Finkeldei, seconded by Commissioner Liese, to approve the Conditional Use Permit for a preschool located at 2084 N 1300 Road.

Unanimously approved 7-0.

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**ITEM NO. 2 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; CHP
20; PLANNED DEVELOPMENT OVERLAY DISTRICT (MJL)**

TA-3-4-11: Consider Text Amendments to the City of Lawrence Land Development Code, Chapter 20, Article 6 & 7, regarding revisions to the district criteria and development standards in the Planned Development Overlay District. *Initiated by City Commission on 4/5/11. Deferred by Planning Commission on 5/25/11.*

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Burger asked staff if they had an opinion about writing into the language that it only apply to the Oread Neighborhood.

Ms. Leininger said it would be better regulated through overlay districts. She said it would be difficult to regulate based on a specific area in the Code and that it would create inconsistency within districts.

Mr. McCullough said since the Code was adopted in 2006 the Links apartment complex was created with a planned overlay district. He said the planned overlay could be a very appropriate tool to use but was limiting and conflicting with the Code and this was an opportunity to clean it up and make part of it more objective. He stated staff felt like this should be applied and available citywide for any number of types of development projects.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, said City Commission should be able to increase or decrease the parking requirements. He felt it was okay to make it a zero area with a minimum of a quarter of an acre. He thought the height increase should only require a change to the front side, but not the alley. He said a planned overlay would be like a rezoning with a public hearing and a lot of people would not want to go through that process.

Commissioner Burger asked Mr. Werner to comment on the letter written by Ms. Marci Francisco that suggested .4 for studio, .6 for one bedroom, and .75 for two bedroom.

Mr. Werner said it would penalize for building a two bedroom.

PUBLIC HEARING

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods (LAN), said the change could affect development citywide. She said they needed to find a way to help the applicant build 1043 Indiana without changing the Code. She said height limit and setback was important for privacy and sunlight. She stated LAN did not support any parking changes.

Ms. Marci Francisco, 1101 Ohio, appreciated Planning Commission taking the time to look at options. She said by using an overlay district the developer would get an extra bonus. She said she would support .4 for one bedroom, .6 for two bedroom, .8 for three bedroom, and 1 for four bedroom. She suggested a half acre minimum.

Commissioner Burger asked if a half acre would encourage consolidation of lots.

Ms. Francisco said 4-plexes generally were built on single lots. She said this could be used to redevelop existing apartment complexes in the Oread Neighborhood.

Mr. Alan Black, League of Women Voters, expressed concern about the applicability citywide.

Mr. Werner said he was okay with Ms. Francisco's numbers. He asked staff if parking was being changed.

Mr. McCullough said no, it was one per bedroom.

COMMISSION DISCUSSION

Mr. McCullough pointed out the staff table on page 69 of the packet that included the planned overlay 25% increase. He stated staff kept it simple with straight calculations. He said Mr. Werner took it an extra step to show options of what could occur with mixing and matching. He said the assumption was that the market wanted two bedroom units, but even with four bedroom units it would not likely max out the intensity. He said the Planned Development Overlay District would offer an applicant to go through the public process with a little bit more flexibility and allow the applicant to request up to 25% more density of units. The new language would allow the density to be recalculated but would not change the parking standards, except it would allow City Commission the ability to require more or less parking of a project.

Commissioner Liese inquired about the original town center lot.

Ms. Leininger said those were the size of lots originally platted.

Commissioner Liese asked how much acreage that was.

Mr. McCullough said it was close to 1/10 of an acre.

Commissioner Culver said on page 67 of the packet the staff report says ½ acre = 21,780 square feet.

Commissioner Blaser asked if size made any difference.

Mr. McCullough said it seemed a bit arbitrary. He said the flexibility of having no size limit was that someone would be able to take a single lot and propose through the public hearing process a development. He felt it was appropriate to have a flexible process.

Commissioner Liese said if it was indeed arbitrary maybe the best thing to do was to eliminate the minimum.

Mr. McCullough said it could either be eliminated or let the underlying base district minimum lot size regulate it.

Commissioner Blaser inquired about the base lot sizes.

Mr. McCullough said every lot had a base minimum lot size. (He displayed the chart on the overhead)

Commissioner Finkeldei said he could support the original staff recommendation of the .5 and zero acreage but he was hearing more consensus on a few other issues that he could support as well. He

said he could support the .4, .6, .8 density ratio and ¼ acre minimum lot size. He asked staff to address Ms. Klingenberg's comments about height.

Mr. McCullough displayed the table standards on the overhead. He said the current Code stated that you have to match the structure height of the adjacent property, not the maximum height of the district. He said the adjacent structure could increase their height to their maximum at any time with a building permit.

Commissioner Liese asked Ms. Francisco if she was comfortable with zero.

Ms. Francisco said they were talking about the size of original town site lots and that was the map that the City of Lawrence first laid out. She said the overlay district would give the developer a 25% bonus density. She suggested ½ acre which would equal 4 lots.

Commissioner Burger asked if City Commission could also change the density.

Mr. McCullough said the Planned Development Overlay district today allowed a request to be made to increase the density by 25% of the base district on a 5 acre or larger site. He said it also allowed City Commission to decrease the parking standards.

Commissioner Belt inquired about the current status of Oread grants Ms. Klingenberg mentioned.

Mr. McCullough said City Commission accepted the grants so an RFP would be sent out to the consultants and a process to include the public would be built.

Commissioner Belt asked if he thought there would be time conflicts.

Mr. McCullough said he thought the process would take a year to complete.

Commissioner Finkeldei inquired about the ability to reduce below the minimum.

Ms. Stogsdill said there were a number of PUD's under the old Code where there was a variance requested through the Planning Commission on the lot size reduction.

Commissioner Culver asked staff's opinion regarding Mr. Werner's letter about setbacks for alleys.

Mr. McCullough said that standard was not being addressed in this amendment.

Mr. Werner said with increasing the height he did not want it forced to be pulled back to the alley.

Mr. McCullough asked Mr. Werner if he thought there was something being changed in the language on how that issue was viewed.

Mr. Werner said when using the exception to increase the height it would be pushed further away from the alley and closer to the street.

Mr. McCullough said anything over and above the base zoning district standards requested by the applicant did not have to be approved so each project would be looked at.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Liese, to approve Text Amendment, TA-3-4-11, regarding revisions to the district criteria and development standards in the Planned Development Overlay District, with the following three changes:

1. To include a density calculation of .8 for three bedroom, .6 for two bedroom, .4 for one bedroom and studio.
2. To create minimum size for the PD district of ½ acre but with language similar to the old Code where the district size could be modified with City Commission approval.
3. Update regarding parking which would allow City Commission to increase or decrease the parking requirements.

Commissioner von Achen asked if that also included the height issues that they discussed.

Commissioner Finkeldei said his motion accepts staff's recommendation on changing the height.

Motion carried 5-2, with Commissioners Belt and Burger voting in opposition.

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**ITEM NO. 3 CONDITIONAL USE PERMIT FOR A RETAIL NURSERY; 1185 N 1250 RD
(SLD)**

CUP-3-1-11: Consider a Conditional Use Permit for a Retail Nursery located at 1185 N. 1250 Road. Submitted by Lawrence Landscape Inc., property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Frank Male, Lawrence Landscape, was present for questioning.

Commissioner Finkeldei asked if he had any issues with the two conditions.

Mr. Male said no.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Culver, to approve a Conditional Use Permit for a Retail Nursery located at 1185 N. 1250 Road subject to the following conditions:

1. Approval of a local floodplain development permit prior to start of commercial retail operations.
2. The applicant shall provide a revised site plan with the following note: Chemical or compost toilets may be used only if approved by the County Health Official.

Unanimously approved 7-0.

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ITEM NO. 4A RS7 TO RM12D; 4.6 ACRES; 25TH TERRACE & O'CONNELL RD (SLD)

Z-4-13-11: Consider a request to rezone approximately 4.6 acres from RS7 (Single-Dwelling Residential) to RM12D (Multi-Dwelling Residential), located at 25th Terrace and O'Connell Road. Submitted by Johnson Group Engineering, for Fairfield Investors LLC, property owner of record.

ITEM NO. 4B PRELIMINARY PLAT; FAIRFIELD FARMS; 25TH TERRACE & O'CONNELL RD (SLD)

PP-4-5-11: Consider a Preliminary Plat for Fairfield Farms, a revision to an approved residential plat known as Fairfield Farms East Addition No. 1, specifically modifying Blocks 1 and 2 and Blocks 14 and 15 to combine 44 lots and rights-of-way into 14 lots with abutting right-of-way, located at 25th Terrace and O'Connell Road. Submitted by Johnson Group Engineering, for Fairfield Investors LLC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented items 4A & 4B together.

Commissioner Burger said the staff reports states approval does not guarantee development of the site as a church or other community facility. She asked if with the rezoning it could be a potential location for a homeless shelter.

Ms. Day said potentially it could, it would require a public hearing through a Special Use Permit.

Mr. McCullough said they could have a temporary shelter in a church, up to 15 people, through the program Family Promise.

Ms. Day said a standalone shelter would be something different.

APPLICANT PRESENTATION

Mr. Aaron Gaspers, Johnson Group, was present for questioning.

PUBLIC HEARING on Item 4A

No public comment.

COMMISSION DISCUSSION

Mr. McCullough said a standalone temporary shelter was not allowed in RM12D. If it was accessory to a religious institution it would be allowed with no more than 20 occupants (15 shelter clients plus 5 support staff) that shall only be operated for up to 120 days in either consecutive or non-consecutive days per calendar year.

ACTION TAKEN on Item 4A

Motioned by Commissioner Liese, seconded by Commissioner Finkeldei, to approve the request to rezone approximately 4.6 acres, from RS7 (Single-Dwelling Residential) District to RM12D (Multi-Dwelling Residential) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 7-0.

ACTION TAKEN on Item 4B

Motioned by Commissioner Liese, seconded by Commissioner Finkeldei, to approve the Preliminary Plat of the Fairfield Farms Subdivision and forwarding it to the City Commission for consideration of acceptance of easements and right-of-way and subject to the following conditions:

1. Provision of a revised Preliminary Plat note number 18 to include a note that states: Direct access to O'Connell Road south of 25th Terrace shall be subject to review and approval of a traffic study to be submitted with future development applications. Removal of the access restriction does not guarantee a direct access to O'Connell Road in the future for Lot 9, Block 1 Fairfield Farms East Addition.
2. Provision of a revised Preliminary Plat to show in the site summary a total of 125 Lots in the RS7 zone

Unanimously approved 7-0.

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ITEM NO. 5 CONDITIONAL USE PERMIT FOR INDOOR SPORTS CENTER; 1898 E 56 RD (SLD)

CUP-4-3-11: Consider a Conditional Use Permit for an indoor sports center, located at 1898 East 56 Road, Lecompton. Submitted by PLS Landscape for Price Property LLC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Commissioner Finkeldei asked if staff talked to the applicant about the two teams or 40 person maximum.

Ms. Day said she forwarded the staff report to the applicant and also had a brief conversation with him.

Commissioner Finkeldei said the two teams seemed arbitrary.

Ms. Day said the intention was not to limit it to only two teams, but rather a maximum of 40 people.

Commissioner Finkeldei asked if she would object to changing the wording.

Ms. Day said no.

APPLICANT PRESENTATION

Mr. Chad Price, Price Property LLC, was present for questioning.

Commissioner Finkeldei asked if he was okay with the 40 person maximum.

Mr. Price said he was comfortable with 40 players but said if each team had 15 players and each player had a parent bring them then they would be over the 40 maximum.

Commissioner Burger asked if there was enough space in the two story office building in the event of inclement weather.

Mr. Price said yes, there was a full basement.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Finkeldei asked if staff would be okay with 40 participants. He asked if the 40 was based on parking.

Ms. Day said there was ample parking and that was not the issue. She said it was an issue of occupancy that the county building codes administrator would establish. She said the building was capable of handling a significant larger number of people. Staff was trying to hold the occupancy down to allow the applicant time to address some of the building code issues that he may encounter. She stated staff was not married to the number of 40 people.

Commissioner Liese asked if staff could leave the number up to the county zoning office. He thought it might be wise to take the number of people out and leave it up to county zoning.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Burger, to approve the Conditional Use Permit for an indoor sports center/recreation facility located at 1898 E 56 Road [SE1/4 Section 11-Township 12-Range 17] and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report subject to the following conditions two conditions:

1. Provision of note on the face of the plan that states: the facility is not an event facility and that the use is restricted to practice only.
2. ~~Provision of a note on the face of the plan that states: This use is limited to not more than two teams or 40 persons maximum at any one practice time.~~
3. Provision of note on the face of the plan that states: prior to occupancy all applicable building codes shall be met for the proposed change in building use.

Unanimously approved 7-0.

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ITEM NO. 6 COMPREHENSIVE PLAN AMENDMENT TO H2020 - CHP 11 (LBZ)

CPA-4-4-10: Consider Comprehensive Plan Amendment to Horizon 2020 – Chapter 11 - Historic Resources. *Initiated by Planning Commission on 4/26/10.*

STAFF PRESENTATION

Ms. Lynne Braddock Zollner presented the item.

Commissioner Burger asked why the Watkins Community Museum was singled out.

Ms. Zollner said the Watkins Community Museum was struggling to find their voice and have a place in the community as a stakeholder. She said they were working toward the goal of revitalizing the museum and having it become a more important place in the heritage tourism and economic development strategies. She stated it was specifically requested to be in the County Preservation Plan.

Commissioner Burger asked when they consider an addition or change to this type of document, where do they quantify the cost associated with approval.

Mr. McCullough said that should be in everyone's thoughts throughout the process.

PUBLIC HEARING

Mr. Dennis Brown, Lawrence Preservation Alliance, felt the chapter was an important element in the overall planning document.

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods (LAN), thought this was fantastic. She loved the idea of considering other neighborhoods that needed to be considered for historic preservation. She felt that outside tourism money needed to be brought into the community. She said the document supported LAN policies.

Mr. Alan Black, League of Women Voters, said they were very much in favor of the amendment. He said they were pleased that staff accepted the rewording of goal 2.

COMMISSION DISCUSSION

Commissioner Liese thanked the public for their comments and felt it was a good amendment.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner von Achen, to approve the comprehensive plan amendment to Horizon 2020, Chapter 11 (Historic Resources), for unincorporated Douglas County and the City of Lawrence and recommends forwarding the comprehensive plan amendment to the Lawrence City Commission and the Douglas County Board of County Commissioners with a recommendation for approval.

Unanimously approved 7-0.

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ITEM NO. 7 U-KU TO RM64-PD; .8 ACRES; 1043 INDIANA ST (LBZ)

Z-4-15-11: Consider a request to rezone approximately .8 acres from U-KU (University – Kansas University) to RM64-PD (Multi-Dwelling Residential), located at 1043 Indiana Street. Submitted by Paul Werner Architects, for Triple T LLC, property owner of record.

Item 7 was deferred prior to the meeting.

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MISCELLANEOUS NEW OR OLD BUSINESS

**MISC ITEM NO. 1: FINAL DEVELOPMENT PLAN; BURGER KING – BAUER FARM PCD;
4671 BAUER FARM DRIVE (SLD)**

FDP-5-2-11: Consider Final Development Plan for a 2,855 SF drive-thru restaurant [Burger King – Bauer Farm PCD], located on approximately 0.7 acres, at 4671 Bauer Farm Drive. Submitted by Bartlett & West Engineering for Genesh Inc., property owners of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Culver, to approve the Final Development Plan based upon the findings of fact presented in the body of the Staff Report subject to the following conditions:

1. Submission of building elevations to be recorded with the Final Development Plan.
2. Provision of a mylar for the site plan and applicable recording fees.

Unanimously approved 7-0.

Consideration of any other business to come before the Commission.

Recess at 9:05pm until 6:30pm on June 22, 2011.

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Reconvene June 22, 2011 – 6:30 p.m.

Commissioners present: Belt, Blaser, Burger, Culver, Finkeldei, Hird, Liese, von Achen
Staff present: McCullough, Stogsdill, Larkin, M. Miller, Ewert

BEGIN PUBLIC HEARING (JUNE 22, 2011):

ELECTION OF OFFICERS FOR 2011-2012

Accept nominations for and elect Chair and Vice-Chair for the coming year.

Motioned by Commissioner Liese, seconded by Commissioner Finkeldei, to nominate Rick Hird as Planning Commission Chair.

Motion carried 7-0-1, with Commissioner Hird abstaining.

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to nominate Bruce Liese as Planning Commission Vice-Chair.

Motion carried 7-0-1, with Commissioner Liese abstaining.

COMMUNICATIONS

Mr. McCullough stated there was a deferral request for item 11, a Text Amendment for synthetic turf.

Mr. Paul Werner, Paul Werner Architects, said staff put together a large packet of information and they needed additional time to review it all.

Commissioner Liese asked if there were any restrictions on how much research they could do on their own.

Mr. McCullough said research was good and recommended Commissioners forward any research they do to staff so it could be shared with the full Commission.

Motioned by Commissioner Finkeldei, seconded by Commissioner Liese, to deny the deferral request for item 11.

Commissioner Hird said the Text Amendment was initiated in May by City Commission and if voted on tonight it would be the fastest amendment he has ever seen. He felt they should keep the public hearing open and defer action until another date.

Motion carried 8-0.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Belt said he had a brief conversation with Mr. Paul Werner about item 11 for the synthetic turf Text Amendment.
Commissioner Hird said he had a brief conversation with Ms. Jane Eldredge regarding the deferral request for item 11.

- No abstentions.

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**ITEM NO. 8 EXTENSION REQUEST FOR REVISED PRELIMINARY PLAT; MERCATO; N
OF HWY 40 & E OF HWY K-10 (MKM)**

PP-10-05-09: Extension request for a Revised Preliminary Plat for lots 7,8 and 9 Block Four and Lots 2, 3, and 4, Block Seven as shown on the approved Preliminary Plat for Mercato dated 4/26/06; N of Hwy 40 & E of Hwy K-10.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Blaser inquired about the bicycle path.

Ms. Miller said there were plans to connect the bicycle path.

APPLICANT PRESENTATION

Ms. Jane Eldredge, Barber Emerson, was present for questioning. She said that Ms. Gwen Klingenberg advised her that the West Lawrence Neighborhood Association was supportive of the plat.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Finkeldei, to approve an extension request for a Revised Preliminary Plat for lots 7,8 and 9 Block Four and Lots 2, 3, and 4, Block Seven as shown on the approved Preliminary Plat for Mercato dated 4/26/06; N of Hwy 40 & E of Hwy K-10.

Unanimously approved 8-0.

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**ITEM NO. 9 PRELIMINARY PLAT; KASOLD WATER TOWER ADDITION; SE OF TAM
O'SHANTER & KASOLD DR (MKM)**

PP-4-4-11: Consider a Preliminary Plat for Kasold Water Tower Addition, approximately .5 acre containing 1 lot, located southeast of the Tam O'Shanter and Kasold Drive intersection, a waiver from Section 20-811(c) which requires a 6 ft wide sidewalk along arterial streets, and a variance from Section 20-810(d)(4)(i) which requires 150 ft of right-of-way for a principal arterial. Submitted by the City of Lawrence, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Aaron Gaspers, Johnson Group, was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner von Achen, to approve the requested variance from the requirement to dedicate 150 ft of right-of-way for a principal arterial to permit the dedication of 40 ft, resulting in a total of 140 ft of right-of-way in this location.

Unanimously approved 8-0.

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to approve the requested waiver from the requirement to install a 6 ft wide sidewalk along the east side of Kasold Drive along the frontage of this subdivision and forwarding the request to the City Commission with a recommendation for approval subject to the following condition:

1. Addition of the following note to the preliminary plat: "A 6 ft wide sidewalk shall be constructed on this lot when sidewalks are installed on either of the adjacent properties"

Unanimously approved 8-0.

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to approve the Preliminary Plat of the Kasold Water Tower Addition and forwarding the plat to the City Commission for acceptance of dedication of right-of-way and easements subject to the following conditions:

1. The plat shall be revised with the following changes:

- a. If the requested waiver is approved the plat shall be revised with a note indicating the date of approval. If the requested waiver is not approved, the plat shall be revised to show the location of the 6 ft wide sidewalk.
- b. The amount of right-of-way being dedicated shall be increased to 40 ft from the centerline of Kasold Drive.
- c. The distance of the shed to the right-of-way line shall be dimensioned on the plat.

Unanimously approved 8-0.

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ITEM NO. 10 A TO B-1; 2.9 ACRES; N OF N 650 RD & E OF E 1250 RD (MKM)

Z-4-12-11: Consider a request to rezone approximately 2.9 acres from A (Agricultural) to B-1 (Neighborhood Commercial), located North of N. 650 Road and East of E. 1250 Road. Submitted by Stanley Zaremba, property owner of record.

Item 10 was withdrawn by the applicant prior to the meeting.

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**ITEM NO. 11 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; CHP
20; SYNTHETIC TURF AS LANDSCAPING MATERIAL (MKM)**

TA-4-6-11: Consider Text Amendments to the City of Lawrence Land Development Code, Chapter 20, Articles 10 and 17, regarding synthetic turf as landscaping material. *Initiated by City Commission on 5/3/11.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, said synthetic turf was previously used at The Oread hotel, through an alternate compliance approval, and he thought that might be why the builder got off track with Frontier apartments. He said he did not desire to start using it everywhere and anywhere, only in specific circumstances. He felt it fit the location and the builder thought it was a good idea. He said the product they used did not contain lead. He asked for an opportunity to do more research and have more discussions about synthetic turf. He said he did not intend for this to be a blanket text amendment.

Commissioner Liese asked Mr. Werner if he thought the Landscaping Practices Comparison Chart that was in the staff report was accurate.

Mr. Werner said he did not know that it was accurate. He said water does go through synthetic turf. He said he needed to do more research.

Commissioner Liese said he wanted to know if the chart was accurate. He said if it was he could not imagine supporting a text amendment that would include synthetic turf. He asked how The Oread hotel got approved for synthetic turf.

Mr. McCullough said The Oread was approved through a request for alternative compliance. He said The Oread had very little setbacks and that a majority of the landscaping was real but that there was a small area where turf was approved through alternative compliance.

Commissioner Liese asked if they could have filed for alternative compliance for this project.

Mr. McCullough said the reason it was approved for The Oread was because there was only a small area of synthetic turf. He said the applicant did have some options. They could have challenged the interpretation of the code or sought alternative compliance and appealed that decision of denial. He felt the avenue they chose was appropriate. He said ultimately the project would need to comply before being granted occupancy permits.

Commissioner Belt said he would be curious to know how many of the products were petroleum based.

Mr. Werner said he would look into that but he thought petroleum products were used more with athletic fields.

Commissioner Culver asked if a variance would just apply to a specific situation.

Mr. McCullough said staff would have to analyze that further. He said he did not discuss a variance much with Mr. Werner. He said it would be a tough hurdle to get a variance because the Code states no artificial materials shall be used.

PUBLIC HEARING

Ms. Jane Eldredge, attorney representing the applicant, said when the discrepancy was discovered there were a string of emails between Mr. Werner and Mr. McCullough indicating that the temporary occupancy permits would be granted and that the City would work with the applicant if the applicant would make the request for a text amendment by April to the City Commission, in order to get it on the next Planning Commission agenda. She said the applicant did not provide a proposed text amendment and made the assumption that staff would draft a text amendment that would limit the use of synthetic turf to the kinds of situations that existed at The Oread hotel and Frontier Apartments. She said there were cities, predominantly in the southwest, that give people breaks on their water bills if they use synthetic turf. She referenced the lists in the staff report and said she had no idea of the validity, nor if the selection of those particular items were the appropriate set of factors to be looking at. She said it was hard to maintain a good looking lawn with narrow strips of ground that get a lot of foot traffic. She said the applicant would like the opportunity to work with staff about what kinds of things should be in a text amendment. She suggested a two month deferral.

Commissioner Hird asked why a variance or waiver was not requested instead.

Ms. Eldredge said she was unaware of the problem until Monday of this week. She did not think the applicant had a clear understanding of who should draft the text amendment.

Commissioner Hird said the site plan stated that real materials should be used, not synthetic turf. He said the builder knew it was going to be required and installed something not in compliance with the site plan.

Ms. Eldredge said she did not believe the builder was the one who agreed to the site plan. She said she did not know factually who did what and what the communication was between the parties.

Commissioner Hird said a text amendment may be way beyond the fix of this particular situation.

Ms. Eldredge said if the applicant had other projects where this sort of use may be appropriate then it should be addressed now.

Commissioner Burger asked how many square feet of the material had already been installed.

Ms. Eldredge said she did not know.

Mr. Werner displayed the area on the overhead.

Commissioner Liese asked why the builder didn't install grass once they realized they were not in compliance.

Ms. Eldredge said this was the same builder that did The Oread hotel and thought it was okay. She said there had already been considerable expense installing synthetic turf and staff suggested a text amendment would be drafted so the builder felt no urgency to replace it.

Commissioner Liese said he wanted to hear more information. He agreed with what Commissioner Hird said about the fact that the builder had a site plan that differed from what they installed. He wanted to know what the community thought about it after they were informed.

Ms. Eldredge said she agreed and wanted a published text amendment that would be informative to the public.

Mr. McCullough said several sections would need to be revised.

Ms. Eldredge felt there should also be standards for maintenance.

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods (LAN), said she was not able to start research until recently but felt it was a start. She said LAN did oppose a site plan not being followed. She said synthetic turf lawns were only recommended with hard to maintain or limited lawns. She referenced specifics, such as the price, of turf from several different companies.

Commissioner Hird said the public hearing would be left open.

COMMISSION DISCUSSION

Commissioner Finkeldei said he did not think the Frontier Apartment project was relevant to this text amendment because they were really discussing whether they should amend the Code. He asked if staff had to make the decision again would they still approve synthetic turf at The Oread.

Mr. McCullough said he still stood by the position of synthetic turf for The Oread because it made sense at that location. He said it was a unique situation and the owner and builder were informed of the special circumstance. He felt that synthetic turf, in very specific situations, was appropriate.

Commissioner Finkeldei did not personally think they needed more studies on lead, zinc, water, etc. He did not think that would sway the Commission very much on what the end product was. He said there were probably certain very limited situations where turf could work. He suggested adding a line in to section 20-1007 (a)(1) that synthetic turf could be considered an alternative compliance. He felt they needed something specific to allow staff to consider it in certain circumstances. He did not want to direct staff and the applicant to do hours of study.

Commissioner Burger said the Code was very clear that no artificial plants may be used.

Commissioner Liese said he heard an undertone from the applicant that staff may have made certain suggestions that they did not adequately follow through with and guided the applicant wrong. He asked staff to respond.

Mr. McCullough said he would re-characterize the communications with the applicant. He agreed with Commissioner Finkeldei that Frontier Apartments was both not germane and very germane because it initiated the issue. He said in the email string that Ms. Eldredge noted staff recommended complying with the site plan as the quickest solution. He said staff stated that alternative compliance and/or a variance would not be supported by staff, given the clear intent of the Code. He said staff laid out various options for the applicant to pursue in resolving the compliance issue and advised that if the applicant desired keeping the turf a text amendment was the best vehicle to address the matter.

Commissioner Finkeldei asked the hypothetical question if staff would support a text amendment that would prohibit the use of synthetic materials anywhere in the city.

Mr. McCullough said staff could probably support that text amendment based on Ms. Miller's research. He said there were alternatives to turf.

Commissioner Finkeldei said he did not have a problem with synthetic turf. He suggested adding a note in section 20-1007 that synthetic turf could be considered as an alternative compliance issue.

Mr. McCullough said he believed when he approved the synthetic turf at The Oread that he would never be faced with the issue again.

Commissioner von Achen said in her mind there were two separate issues; the appropriateness of using artificial turf as landscape, and the procedural issue of accommodating an owner who willingly violated the Code with a text amendment.

Commissioner Blaser said he was not sure they needed a text amendment and was leaning toward not doing anything. He said almost all professional stadiums have gone back to natural turf because of problems with astroturf.

Mr. McCullough said this particular builder does amazing landscaping with his properties.

Motioned by Commissioner Liese, seconded by Commissioner Blaser, to deny the text amendment to the Land Development Code, Chapter 20, Articles 10 and 17, regarding synthetic turf as landscaping material.

Commissioner Finkeldei said he would vote against the motion because he felt the applicant needed more time to respond and there needed to be more public comment. He said if voted down he might move to initiate a different text amendment.

Commissioner Culver agreed with Commissioner Finkeldei that they owed it to the public, staff, and applicant for more time to review the information. He said he was torn because an isolated circumstance brought this to their attention but they had the responsibility to see how it fits or doesn't fit in the Code. He said a text amendment may address that. He said they owed it to the community to look into the issue further. He said at this point he would not support a motion to deny because a lot more work needed to be done.

Commissioner Burger asked what options the applicant would have if the text amendment was denied.

Ms. Miller said they would still have the option of requesting alternative compliance or a variance. She said staff would probably not support that but the applicant could appeal it to the City Commission.

Commissioner Burger said she was very aware that the developer did wonderful landscaping projects with properties they were associated with. She said she was glad there are options for them if the text amendment was denied. She said she would support the motion.

Commissioner Liese said he would not have made the motion if he did not believe there were other options.

Commissioner Finkeldei said what happens at Frontier Apartments should have no impact on what they do with the text amendment. He felt they should be separate issues.

Commissioner Burger said she did not know that she could separate the issues because on the text amendment application the applicant referenced the Frontier Apartments as the reason for the request.

Commissioner Hird said he did not have sympathy for the builder because it was on the site plan. He said it was hard for him to imagine that a builder would substitute an extremely expensive material without talking to the owner. He felt the issue was the text amendment and whether they should move forward it. He said he might support denying the text amendment, but that denying it right now might be too quick because he wanted additional information. He wanted to know more from staff about the approval of alternative materials given to The Oread and the rules for that so they would know if it was an acceptable alternative for a builder. He said he would vote against denying the text amendment now.

Commissioner Culver asked staff to research other communities that have addressed the issue and have incorporated it into their policies.

Motion failed 4-4, with Commissioners Belt, Culver, Finkeldei, and Hird voting in opposition. Commissioners Blaser, Burger, Liese, and von Achen voted in favor of the motion.

Motioned by Finkeldei, seconded by Commissioner Culver, to defer the item to the July, 2011 Planning Commission meeting.

Commissioner Burger asked how relevant the Environmental Chapter was to this.

Mr. McCullough said the Code was meant to implement the Comprehensive Plan. He said the Environmental Chapter would be published and adopted this week. He said the devil was in the details with this issue and they needed to figure out whether turf was a feasible landscaping material for many different reasons.

Commissioner Hird said he would like to know more about the authority of the Planning staff to grant alternative compliance.

Commissioner Liese would like to know what the public thinks.

Mr. McCullough said the item was properly noticed for the public to attend.

Motion carried 7-1, with Commissioner Burger voting in opposition.

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ITEM NO. 12 AGRI-TOURISM COMMITTEE RECOMMENDATIONS (MKM)

Agri-Tourism Committee recommendations

STAFF PRESENTATION

Ms. Mary Miller presented the item and said it would be heard by Planning Commission in July.

Commissioner Liese asked if this could include boating.

Ms. Miller said that was one of the uses identified as being considered.

Commissioner von Achen asked what was meant by the wording in the staff report that refers to registration of agri-tourism uses.

Ms. Miller said primarily it would be used for economic benefits where they could be noted on the Douglas County website which would include a link to their website. She stated each registration would be verified. If they register with the State it would automatically be registered with the county.

Commissioner von Achen asked if the recent food garden tour was in any way associated with this.

Ms. Miller said no.

Commissioner Hird said the committee spent a long time discussing terms because there were a lot of ways to refer to agri-tourism, agri-business, rural tourism, etc. He said the State Statute adopted several years ago said that if you registered with the State and posted a prescribed notice the landowner had certain insulation from liability. He said they did that because agri-tourism was something the state of Kansas should get behind.

Commissioner Hird thanked Mr. Pep Selvan, Blue Jacket Crossing Winery, for his participation in the process. He said regarding dust palliative treatment, the only solution that he knew of was dust palliative but that it was incredible expensive. He suggested that the County could help participate in some fashion with finances.

PUBLIC HEARING

Mr. Hank Booth, Lawrence Chamber of Commerce, discussed the Farm Tour and mixer on Friday that was a Chamber of Commerce event.

Ms. Gwen Klingenberg, said she was excited about this and the money that it will bring into the community. She thought it would be a good idea to include the information on the City website.

Commissioner Finkeldei asked what the next step was for the committee.

Commissioner Hird said they would be working on the specifics of the registration.

Commission Finkeldei suggested looking at language regarding signage.

Commissioner Culver suggested an additional step of how to promote it beyond Douglas County.

NO ACTION TAKEN

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**ITEM NO. 13 CONDITIONAL USE PERMIT FOR FRATERNAL ORDER OF POLICE; 768 E
661 DIAGONAL RD (MKM)**

CUP-12-8-10: Consider a Conditional Use Permit for the Fraternal Order of Police shooting range, located at 768 E. 661 Diagonal Road. Submitted by Dan Affalter, for Fraternal Order of Police, property owner of record. *Deferred by Planning Commission on 4/25/11.*

Item 13 was deferred prior to the meeting.

PUBLIC COMMENT SECTION

Commissioner Liese asked the Commissioners to bring specific questions with them to the upcoming Planning Commission orientation.

ADJOURN 9:00pm