

ITEM NO. 5 COMPREHENSIVE PLAN AMENDMENT TO H2020 - CHP 6; CC600 DISTRICT (AAM)

CPA-4-2-12: Consider a Comprehensive Plan Amendment to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600. *Initiated by City Commission on 4/10/12.*

ITEM NO. 6 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; AMENDING VARIOUS SECTIONS TO ADD A CC600 DISTRICT (SMS)

TA-4-3-12: Consider a text amendment to the City of Lawrence Land Development Code, Articles 1, 2 and 13, to provide for a CC600 (Community Commercial) District. *Initiated by City Commission on 4/10/12.*

ITEM NO. 7 A & B1 TO CC600; 146 ACRES; W 6TH ST & K-10 (MKM)

Z-4-5-12: Consider a request to rezone approximately 146 acres located in the NW quadrant of the intersection of West 6th Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending district CC600 (Community Commercial) District to accommodate a regional recreation facility. *Initiated by City Commission on 4/10/12.*

STAFF PRESENTATION

Mr. Scott McCullough presented items 5, 6, and 7 together.

Commissioner Liese asked staff to address the League of Women Voters claim of serious procedural problems.

Mr. McCullough said there were no legal procedural issues. He said the value of the comment was to plan linearly. He stated in this case City Commission directed staff to build them a package with all the zoning tools for their consideration that could accommodate a recreation center at this location. He said staff believed it was fully appropriate to look at them concurrently. He said the Mayor contacted him about a half hour before this meeting and he was aware of some of the procedural questions and wanted him to convey to Planning Commission that during the May 15th City Commission meeting they discussed that when this package gets out of Planning Commission they are likely not to act on the zoning until they vet out and resolve other issues. He said City Commission had a broader scope than Planning Commission.

APPLICANT PRESENTATION

Mr. Dave Corliss, City Manager, said Planning Commissions decisions were land use related; specifically what types of uses would be allowed. He said the City had begun discussions with the property owner and a potential builder. He said they want to seek additional public input regarding what type of City building would be appropriate for the site. He said they scheduled a public meeting on June 6th to conduct that. He said the proposed grant was for a recreation use. He said they discussed with the KU Athletic Department regarding the potential use of the property and that they had not made any agreement with the City. He said one of the challenges with this is that the discussion to date has been that the builder indicated a willingness to put forward a project much larger than the City and KU can afford which presented a unique opportunity and challenge. He said the road improvements from Folks Road to K-10 were financed from a combination of City and K-10 funding and he would expect that discussion to continue for Hwy 40.

Commissioner Liese inquired about what City Commission has asked Planning Commission to do.

Mr. Corliss said Planning Commissions role was set out in statute. He said at the City level they did not plan on acting on the zoning request before they knew what they plan to do with the 50 acre donation.

Commissioner Liese said there would be a public meeting on June 6th. He wondered how the Planning Commission's decision tonight would relate to that.

Mr. Corliss said the public meeting was a comment/question period on June 6th in the commons area of Free State High School. He said they were trying to hear the pros and cons from the public regarding such things as hours, accessibility, etc.

Ms. Jane Eldredge, Barber Emerson, represented the property owner. She said the property owner had been in discussions with various members of City staff for months about this tract of land.

PUBLIC HEARING

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods, expressed concern about the process. She said CC600 could not be picked by the applicant until after approved and published. She felt the neighbors concerns should be addressed. She also felt the stream corridor should be protected. She said the traffic impact study was based on industrial not commercial.

Mr. Dave Reynolds said he was not here to argue against CC600 but wanted to discuss the recommended uses. He said it was a residential neighborhood and that it was low density. He said the plan calls for uses in the CC600 that would be compatible with the recreation uses. He felt the square footage should be restricted to 180,000 square feet max on the commercial side.

Mr. McCullough said Mercato accommodates and accounts for approximately 340,000 of what would be 600,000 of retail square feet. The northwest corner would account for approximately 180,000 square feet of retail space. He said that was not the limit of development on either one of those properties, it was just the retail.

Mr. Reynolds felt there should be a reasonable restriction of total amount of square footage allowed. He inquired about utility major and utility minor and wondered if that meant a power plant or somewhere to pay a bill. He said the neighbors did not want a truck stop and felt there should be specific language addressing that. He said a normal filling station was fine but not a truck stop. He felt some of the allowed uses should be restricted or eliminated, such as communication facilities, recycle centers, hotels and motels.

Commissioner Finkeldei asked if there was currently a cellular tower on the site.

Mr. McCullough said yes, there was one at the location now.

Commissioner Finkeldei said regarding manufacturing limitations it was currently planned for light industrial so there could be a large manufacturing plant there. He asked if Mr. Reynolds wanted to limit the retail uses or would he prefer that to light industrial.

Mr. Reynolds said the recreation center would go right up against residential property with no buffer space. He wanted to limit the intensity so that it wouldn't impact the neighbors.

Ms. Melinda Henderson felt a small collection recycle facility would not be inappropriate and that an example would be something along the lines of the new Ripple glass containers. She encouraged recycling at the site.

Mr. Thomas Johnson expressed concern about the process moving forward too quickly. He requested the items be deferred until after the public meeting on June 6th and when additional information was available.

Mr. Kirk McClure, Old West Lawrence Neighborhood Association, felt more information was needed. He expressed concern about Lawrence being overbuilt. He felt the project should be approached with a smart growth mentality.

Mr. Ron Schneider, attorney for neighbors, disagreed that the procedural process was followed. He said it was illogical and illegal for a change of zone for a site when that zoning classification does not exist. He said the property could not be considered for change of zone because it was not within city boundaries yet. He asked Planning Commission to defer the items. He said there were far more questions than answers. He said the neighbors could not take a position when they did not know the details. He said there were concepts but no project to look at. He expressed concern with the nodal plan green space/buffer area.

APPLICANT CLOSING COMMENTS

Mr. Corliss said he couldn't think of a better buffer area than City owned property that would be used for recreation.

Commissioner Liese asked staff to address questions about the procedural process and if it was legitimate.

Mr. Randy Larkin, staff attorney, said there was nothing in State law or in City ordinances that would preclude Planning Commission from making a recommendation for property outside of City limits.

COMMISSION DISCUSSION

Commissioner Finkeldei asked if that was the same explanation for recommending a rezoning category that does not exist.

Mr. Larkin said that was correct.

Commissioner Finkeldei asked staff to follow up on the legal point of view.

Mr. McCullough said they do that with text amendments to create a new use and rezonings with specific project in mind. He said Planning Commission was only a recommending body.

Commissioner Finkeldei asked staff to respond to Mr. Reynolds inquiry about utility major and utility minor.

Mr. McCullough said the conditional zoning would get at some of how it would develop. He said utility major and minor could span from a water tower to pump station or electrical sub-station, or something necessary to develop and urbanize the property. He stated a recent amendment to the Code removed truck stop from the CC zoning district all together and was not permitted. He stated manufacturing could be cleared up with that information as well. He said manufacturing uses permitted in the CC district were contained uses within a building.

Commissioner Finkeldei asked staff to respond to the height of a motel/hotel.

Mr. McCullough said the district had height limitations. He said it was not known if Mercato or the northwest corner would ever live up to its full potential of retail uses. He said there were a number of uses that could enhance and compliment the recreation center.

Commissioner Finkeldei asked staff to speak about the buffer zone and the Baldwin Creek drainage area.

Mr. McCullough said staff could not find a reason for the shape of it. He said it was at the top of the Baldwin Creek drainage area and a lot of the sensitive lands as it heads down toward the river were preserved and maintained in the Baldwin Creek sewer easement and some property donated for park purposes. He said it was likely that the drainage bed would be piped, moved, and relocated which was pretty standard development in an area for non-residential uses.

Commissioner Culver asked Mr. McCullough about the traffic impact study based on industrial not retail.

Mr. McCullough said the recent corridor study that KDOT, City, County, and MPO partnered on had as its based assumptions the West of K-10 Plan land use categories and designations. He said this opportunity

presented itself as that process was ending its completion. He said BG Consultants essentially said because it was such a high cross section of urban corridor anyway it would work. He said it needed to be studied further to determine such things as how many lanes and lengths. He said the plat would be one of the next steps and KDOT offered to do a full traffic study with new assumptions based on the commercial aspects of the property.

Commissioner Burger asked if the Kansas Department of Revenue factor internet sales in their analysis.

Mr. McCullough said no.

Commissioner Burger asked if going from 400 to 600 was to accommodate the recreation square footage.

Mr. McCullough said partially. He said it was primarily to accommodate the property off the 50 acres as compatible with recreation uses.

Commissioner Burger inquired about class I or II soils.

Mr. McCullough said he did not believe there were any at the site.

Commissioner Burger asked if there was commercial recreational acreage in the county or city that could be considered to be zoned industrial to replace what would be lost if the West of K-10 Plan was approved.

Mr. McCullough said not outside of what was already designated for those uses. He said essentially about 145 acres would be lost.

Commissioner Burger asked if Planning Commission voted to defer the item could staff look at increasing industrial in the West of K-10 Plan.

Mr. McCullough said staff did briefly look at that. He said there were very good reasons for designating it for industrial employment warehouse, such as two state highways and good topography. He said that could be an appropriate land use for the area but this opportunity presenting itself changed that. He did not believe there would be other areas in the West of K-10 Plan that had the same characteristics that this site does for industrial employment zoning.

Commissioner von Achen asked staff to address the stormwater management.

Mr. McCullough said the stormwater management plan was in the beginning stage so there was no full plan yet. He displayed the general aspects of it on the overhead. He said the concept plan showed regional detention.

Commissioner von Achen inquired about the impact to the neighbors to the north.

Mr. McCullough said staff believed it was an opportunity to improve some of the current drainage issues. He said the City Stormwater Engineer would be very involved with the process.

Commissioner von Achen inquired about limiting the size of some of the non-retail buildings.

Mr. McCullough said there could be with conditions placed on the zoning to limit the overall development. He said staff did not think it was necessary because there were compatible uses.

Commissioner von Achen inquired about the lack of need for more retail space that Mr. McClure discussed.

Mr. McCullough said staff disagrees with Mr. McClure on the analysis of some specific areas of the city. He said development does not happen all at once overnight. He said they needed to get somewhat ahead of the market on commercial areas so that it was in place when the market needs it.

Commissioner Burger inquired about funding for improvements needed within the development of the project for the highway going west.

Mr. Corliss said they were working on those details. He said KDOT has indicated they should have available funds to signalize the existing 6th & K-10 intersection. He stated it would not only be a City project but that it would be a State project as well. He said he was in the process of putting together the budget on how the City would be involved with putting in necessary infrastructure. He stated the City project was not likely to proceed if there was no city funding for that. He said the initial numbers indicate it was likely the City would be able to do it over multiple years. He said it was such a unique project that it was likely the City would stretch to do it.

Commissioner Blaser said studies and research indicated facilities were needed in the western part of the City.

Mr. Corliss said that was correct, a recreational facility with indoor gym space was needed on the west side of town.

Commissioner Liese said there were different combinations to think about taking action on this evening. He inquired about the implications of deferral.

Mr. Corliss said if Planning Commission wanted to spend more time on this they would need to be specific on the details they would want. He said the site plan would go before City Commission and they would spend excruciating time on the details. He said there were continued concerns from the neighbors about drainage. He said the City could not negatively exacerbate stormwater issues for the neighbors or the City would end up with a lawsuit. He said the City would be responsible for maintaining the 50 acres so they would need to be smart about the buffering.

Mr. McCullough said if Planning Commission needed more information then staff would like specific information of what was requested.

Commissioner Liese inquired about the noise volume and lights in the Oread neighborhood from KU events at the stadium.

Mr. Corliss said he did not know that it would a similar use as the recreation facility. He said the recreation facilities uses would be indoors. He said the soccer and track field would be outside but that it would not be the same volume and intensity as a KU game.

Commissioner Belt asked if it would be comparable to Lawrence High School.

Mr. Corliss said it may be more appropriate to compare it to Free State High School. He said Free State had some level of distance and separation from the neighborhood. He said the recreation facility site was at the intersection of two state highways and would likely urbanize and develop with something. He said the key was how to do it in a way to help the neighbors and have adequate distance and buffers.

Commissioner Liese asked if it was reasonable to assume that the project would attract enough tourists to bring more retail activity into town.

Mr. Corliss said these types of facilities would not only support local recreational needs but would support regional needs as well.

Commissioner Britton asked if KU had committed to anything.

Mr. Corliss said the University of Kansas Athletic Corporation would be considering the next steps this week. He said their level of commitment was similar to the City and they agree to continue to work on some type of arrangement. He said the City had not accepted the donation of land yet.

Commissioner Britton asked what would happen if the City accepted the donated land but KU does not sign on.

Mr. Corliss said it was the expectation that the property would be accepted for a regional recreational facility.

Commissioner Finkeldei said items 5 & 6 were related but were not dependent on a recreation center going in at the location. He said item 7 was tailored to the recreation center.

Mr. McCullough said that was correct. He said the intersection would be the only designated CC600 in the Comprehensive Plan if approved.

Commissioner Finkeldei asked if a recreation center was not proposed to go in that location would staff support the change.

Mr. McCullough said this intersection had been the subject of debate in context of the 6th and Wakarusa site as to which should hold more intensity of development. He said if presented with an application for an increase of commercial retail at this particular node of 6th & SLT staff would probably support it given the justification, reasons, and findings in the current staff report.

Commissioner Finkeldei said item 7 was dependent on the recreation center.

Mr. McCullough said yes.

Commissioner Finkeldei asked if the donating land owner would be in favor of rezoning the property if the recreation center didn't come with it.

Ms. Eldredge said it was still appropriate to rezone with the limited uses because the recreation facility could still happen in the future. She said the limitations on zoning were still appropriate because there would be provisions for other kinds of retail.

Commissioner Britton asked if all 50 acres would be on the same plan when it gets to the site planning state.

Mr. McCullough said yes. He said Planning Commission would see the plat but City Commission would see the site plan.

Commissioner Finkeldei said items 5 and 6 were pure zoning with or without the recreation center. He said the question was that at the intersection of 6th & SLT was it appropriate to have some retail component at the intersection as opposed to industrial on this corner. He said Diamondhead on the southeast corner originally had a large retail component at the corner. He said Mercato came in later and had a retail component. He said mainly 90% of the retail was divided between Diamondhead and Mercato. He stated then Diamondhead expired and Mercato came back and Planning Commission discussed about was it appropriate to move retail from the southeast to the northeast corner to make Mercato a place where it could have a stronger retail node. So now there was CC400 with 340,000 square feet of retail in the one Mercato corner. He believed that was appropriate because it was decided that was a good location for a big box store. He felt it was the perfect location for something larger than 400,000 square feet. He said currently the Code allows CC400 or regional of 1.5 million, nothing in between. He said the question was if this location was a good place to do something between CC400 and 1.5 million. He believed it was the perfect location to create CC600 and a good location to put in the Comprehensive Plan as to what was wanted at the intersection. He said the limitations of the CC600 to not allow big box stores on the other corners was thought through. He said he would support with or without the recreation center. He said what was actually in the West of K-10 Plan was light industrial and also had a couple other limiting words in there. He said it was never meant to be heavy industrial. He felt the rezoning was specific to a recreation center. He said if the recreation center did not go in then he would not like the limitations on the uses at that intersection. He said it made sense that with the rezoning they would

add a condition that the rezoning was contingent upon approval of site plan. He felt it sent the message that they want this zoning to be there after a full public process for the City Commission to address site plan issues. He said when City Commission approves the site plan the zoning can go with it. He felt it was important to address Baldwin Creek and drainage but that it was a site plan issue. He said buffering was important but it was also a site plan issue. He said traffic was important but was also a site plan issue for the most part. He said he disagreed with Mr. McClure's analysis about retail. He said there was a big difference between what was planned, what was zoned, and what was actually built. He said a lot more was planned for than what was actually built. He said projects get retrofitted such as the Tanger Outlet Mall into office space. He said there was overall support of this being a recreation center. He strongly believed that the pull factor of a regional recreation center would be immense and would help overall retail sales of the city and sales tax. He felt that whatever was built around this will do well and not cause detriment to the rest of the community.

Commissioner Britton said in general he would end up supporting this. He said the property would be developed at some point and this seemed to be a good way to develop a chunk of it. He said the neighbors adequately communicated their concerns and he was confident issues could be addressed to reasonable satisfaction. He felt this was a great way to develop the property and felt it would benefit the community. He was concerned about the retail markets ability to sustain whatever eventually goes there. He said it was a unique and great opportunity and they needed to be cognizant of the details.

Commissioner Blaser said he would support all three items. He felt they needed a recreation center in the northwest section of town. He believed it would become a main gateway to the city and needed to be an appropriate one. He did not feel that CC600 would change much out there but did allow some conditional zoning on the west side. He felt City Commission would do the site plan right and would hopefully solve some of the issues.

Commissioner Culver said the scope of Planning Commission was to focus on land uses. He said the questions in his mind were answered to make a recommendation for the potential land use. He did not feel that by deferring any or all of the items they would obtain additional information that would help with land use decisions. He felt that issues and concerns could be addressed during the site planning stage. He said he would support the rezoning being contingent on City Commission approval of the recreation center.

Commissioner von Achen said through tonight's discussion with the audience most questions were somewhat addressed so she felt more comfortable supporting the items. She felt other concerns would be addressed during the site planning stage. She said her major concerns were the Baldwin Creek area, drainage, traffic, and how they would impact the adjacent neighbors, but she felt they could be addressed.

Commissioner Liese said all his questions were answered and he would support all three items.

Commissioner Belt asked if there was any scenario where Planning Commission could see any of the site plan.

Mr. McCullough said the site plan was an administrative process and City Commission would review and consider it.

Commissioner Belt said he was grateful someone was willing to donate land for a recreation center. He said during the last meeting Mr. Crawford made an important plea about this being a unique opportunity for us and to make sure the public had the opportunity for input. He said in his mind he would like Planning Commission to see more of the plan before it moved forward. He would like the public to have more opportunities to have their say. He said he would not support any of the three items.

Commissioner Burger said she had hesitancy about moving forward with this but that City Commission provided Planning Commission with a package on how to plan faster with the same attention to detail and input. She said City Commission and County Commission had the final say and that there were additional opportunities to talk about this more. She said the plan was very comprehensive and the three items bundled together could be a new efficiency. She said CC600 gave options with responsible restraints. She asked City

Commission to look at initiating some type of referral to increase light industrial in the area. She said the opportunity to get a much needed recreation center was exciting. She said she would support all three items. She thanked the public for attending this evening.

ACTION TAKEN on Item 5

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to forward a recommendation of approval of the comprehensive plan amendment to Horizon 2020, to the Lawrence City Commission to amend Chapter 6: Commercial Land Use to create CC600 District policies, Chapter 14: Specific Plans to revise the West of K-10 Plan to change the designation of the 6th and K-10 node to a CC600 commercial center, and to remove A Nodal Plan for the Intersection of West 6th Street and Kansas Highway 10 (K10) from Chapter 14: Specific Plan.

Motion carried 7-1-1, with Commissioner Belt voting in opposition. Commissioner Hird abstained.

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to approve and sign Planning Commission Resolution PCR-5-4-12.

Motion carried 7-1-1, with Commissioner Belt voting in opposition. Commissioner Hird abstained.

ACTION TAKEN on Item 6

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to approve the proposed amendment TA-4-3-12 to the Land Development Code and forward to the City Commission based on the analysis in the staff report.

Motion carried 7-1-1, with Commissioner Belt voting in opposition. Commissioner Hird abstained.

ACTION TAKEN on Item 7

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to approve the rezoning request for approximately 146 acres from A (County-Agriculture) District and B-1 (County-Neighborhood Business) District to CC600 (Community Commercial) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report and subject to the following condition:

The permitted uses in this District shall be limited to those listed in Table 1 of this staff report.

Motion carried 7-1-1, with Commissioner Belt voting in opposition. Commissioner Hird abstained.