

Memorandum

City of Lawrence

Douglas County

Planning and Development Services

TO: Lawrence-Douglas County Planning Commission

FROM: Amy Miller, Long-Range Planner

CC: Scott McCullough, Planning and Development Services Director
Sheila Stogsdill, Assistant Director, Planning and Development Services Director

Date: October 24, 2012

RE: Remand of CPA-4-2-12, TA-4-3-12, Z-4-5-12 (CC600 proposal for the northwest corner of 6th Street and K-10)

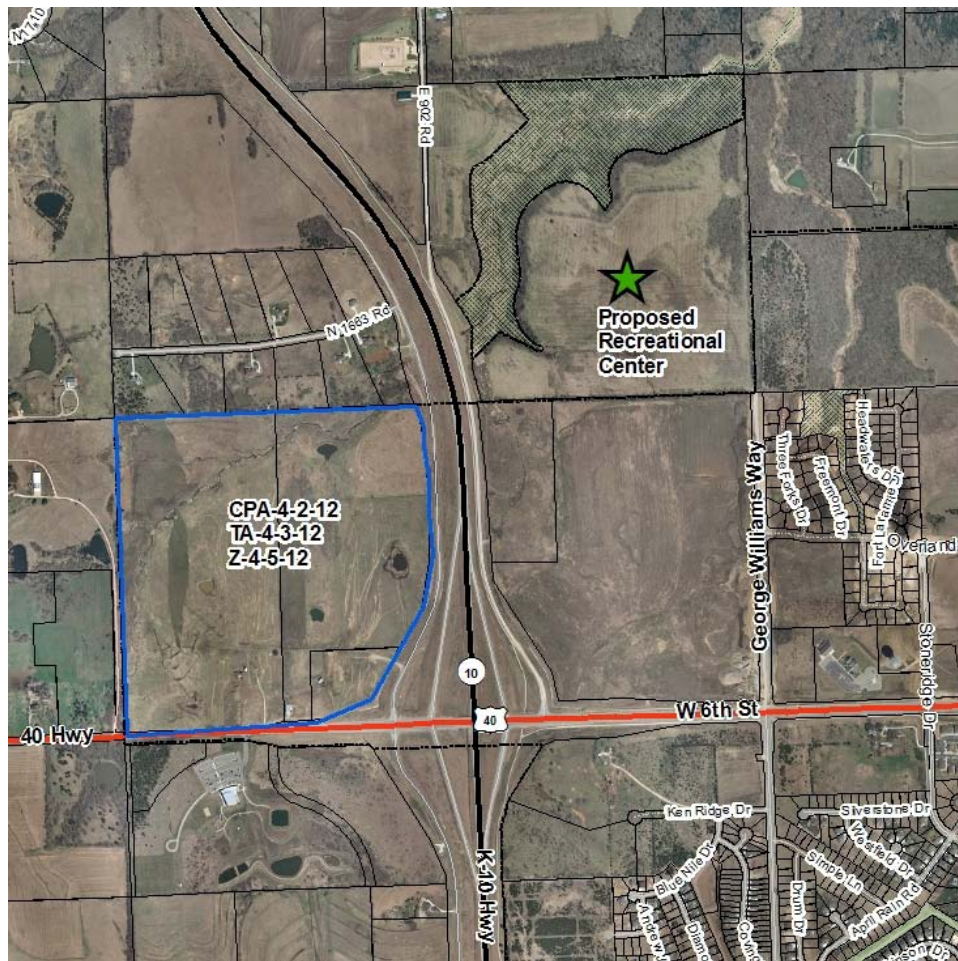
Background:

The city commission initiated the following items on April 10, 2012 under a proposal where 50 acres of land was to be donated to the City at the northwest corner of the 6th and K-10 node for the city and the University of Kansas to use for recreational facilities.

- 1. 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.
- 2. 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.
- 3. 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.

The Planning Commission forwarded a recommendation of approval (vote 7-1-1) of the above applications at their May 21, 2012 meeting. The Douglas County Board of County Commissioners voted to approve CPA-4-2-12 (vote 3-0) at their July 11, 2012 meeting.

The Lawrence City Commission deferred these items from the August 21, 2012 and the September 4, 2012 meeting. On September 17, 2012, KU Endowment submitted a letter to the Lawrence City Commission regarding their purchase of land north of the northeast quadrant of the 6th and K-10 node with the purpose of locating athletic facilities on the site. In that letter, KU Endowment invited the city to locate their proposed recreational center on that site as well. At the September 18, 2012 City Commission meeting, the land use items related to the northwest corner of the node were withdrawn by the City Commission. The withdrawal was based, in part, on the fact that the proposed recreational center which was going to be located on the northwest corner of the 6th Street and K-10 node, was instead being planned for the northeast corner of the intersection and would not be located on the property that is the subject of these requests.



At the September 25, 2012 Lawrence City Commission meeting, the withdrawal was rescinded and these items were referred back to the Planning Commission for further consideration.

Discussion:

At the September 25, 2012 meeting, the Lawrence City Commission had a detailed discussion regarding their rationale for referring these items back to the Planning Commission for further consideration. In general, the City Commission wanted the Planning Commission to view these applications in light of the proposed recreational center moving to the east, and determine what may be appropriate for this portion of the node in that light. In addition, the Commissioners requested that the Planning Commission take a comprehensive look at the entire area, including the node, in order to provide an innovative idea that sets this area apart from other nodes in the city and addresses a need for the ancillary uses that will be necessary to support the considerably larger recreational center to the east.

Issues to consider:

1. The recreational center is no longer proposed to be in the 6th and K-10 node, but immediately adjacent and north of the northeast quadrant of the node.
2. The recreational center proposal has expanded to over 100 acres, will still be located in the vicinity, and is expected to drive some amount of commercial demand at the node.
3. Proposed CC600 policies outlined in CPA-4-2-12 may still be valid.
4. The proposed recreational center's location east of K-10 will change the timing of developing the area West of K-10.
5. Discussions at the May 21, 2012 Planning Commission meeting concluded that the proposed CC600 was a valid land use pattern compared to the existing Industrial/Warehouse/Office designation even if the recreational facilities did not end up locating at this node.

Options:

1. The Planning Commission, after considering the comments of the City Commission, may resubmit its original recommendations with its reasons for doing so. Those original recommendations were all for approval.
2. The Planning Commission may submit a new or amended recommendation.

In either case, staff has identified that some changes will need to be made to the CPA in order to remove references to the proposed recreational center being located on the northwest corner of the node.

Attachments:

Planning Commission Meeting Minutes May 21, 2012
City Commission Meeting Minutes September 4, 2012
City Commission Meeting Minutes September 18, 2012
City Commission Meeting Minutes September 25, 2012
Letter from KU dated September 17, 2012
Letter from Barber Emerson dated October 10, 2012
Transcript from City Commission Meeting September 25, 2012

Updated Correspondence since Planning Commission meeting (05/21/12)

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.



City of Lawrence

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HUGH CARTER
MIKE AMYX
ARON E. CROMWELL

September 4, 2012

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

A. RECOGNITION/PROCLAMATION/PRESENTATION

1. Proclaimed September 5 – 11, 2012 as International Literacy Week.

B. CONSENT AGENDA

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

1. Approved City Commission meeting minutes from 08/21/12 and 08/28/12.
2. Received minutes from the following boards:

Board of Plumbers and Pipe Fitters meetings of 03/21/12 and 06/20/12
Homeless Issues Advisory Committee meeting of 07/10/12
Mental Health Board meeting of 07/31/12

3. Approved claims to 232 vendors in the amount of \$12,432,669.57.
4. Approved licenses as recommended by the City Clerk's Office:
Class A Club license for Dorsey-Liberty Post No. 14, 3408 West 6th St.
5. Approved appointments as recommended by the Mayor.

Reappointed David Teixeira and Vern Norwood to the Community Development Advisory Committee to additional terms that will expire 09/30/15.

6. Bid and purchase items:
 - a) Awarded bid for one (1) ½ ton pickup for the Finance Department to Roberts Chevrolet Buick for \$21,100.



- b) Awarded bid for the Comprehensive Rehabilitation project at 3012 Flint Drive to Schmidt Contracting, Inc. for \$13,000 for the Base Bid, \$6,000 for Alternate #1 and \$4,900 for Alternate #2. Total contract price of \$23,900.
 - c) Awarded bid for the Comprehensive Rehabilitation project at 3113 Creekwood Drive to T & J Holdings, Inc., for \$13,550 for the Base Bid, \$1,750 for Alternate #1 and \$3,500 for Alternate #2. Total contract price of \$18,800.
 - d) Authorized the City Manager to execute an engineering services agreement with Wilson and Company in the amount of \$99,980.00 for Design and Bid Phase Engineering for project UT1206DS O'Connell Road Waterline.
7. Adopted the following ordinances on second and final reading:
- a) Ordinance No. 8781, establishing residential solid waste service rates for 2013.
 - b) Ordinance No. 8782, establishing no parking along both sides of Massachusetts Street from 23rd Street south 150 feet (TSC item #4; approved 7-0 on 8/6/12).
8. Adopted on first reading, correction ordinances for rezonings Z-8-14-09, Z-8-15-09, and Z-8-16-09 for property located at the SE corner of Kasold and W 31st Street curve, 3309 W 31st Street. Ordinance No. 8767, Ordinance No. 8786, and Ordinance No. 8787 will replace previously adopted and published Ordinance No. 8472, Ordinance No. 8473, and Ordinance No. 8474 to correct a clerical error and to maintain consistency with established policy regarding overlay zoning designations.
9. Accepted dedication of right-of-way shown on Final Plat, PF-12-00118, for Pump Station No. 15, a one-lot subdivision of approximately .3 acres, located on N Michigan Street east of Pin Oak Drive.
10. Approved rezoning, Z-12-00020, approximately .25 acres from IG (General Industrial) to CS (Strip Commercial), located at 444 - 446 Locust Street. Submitted by Tiburcio J. Reyes Sr., property owner of record. Adopted on first reading, Ordinance No. 8783, to rezone (Z-12-00020) approximately .25 acres from IG (General Industrial) to CS (Strip Commercial), located at 444 - 446 Locust Street. (PC Item 2; approved 8-0 on 8/20/12)
11. Approved rezoning, Z-12-00029, approximately 11.93 acres from PRD (Planned Residential Development) and CO (Office Commercial) to RM24 (Multi-Dwelling Residential), located at the northwest corner of W. 6th Street and Congressional Drive and currently addressed as 525 Congressional Drive. Submitted by Paul Werner Architects, for M & I Regional Properties LLC, property owner of record. Adopted on first reading, Ordinance No. 8784, to rezone (Z-12-00029) approximately 11.93 acres from PRD (Planned Residential Development) and CO (Office Commercial) to RM24 (Multi-Dwelling Residential), located at the northwest corner of W. 6th Street and Congressional Drive and currently addressed as 525 Congressional Drive. (PC Item 3; approved 8-0 on 8/20/12).
12. Approved Text Amendment, TA-12-00023, to the City of Lawrence Land Development Code to amend uses in the Hospital (H) District, to change all P uses (Permitted Uses) to A uses (Accessory Uses) to identify the Hospital use as the only principal use in this district and all other uses allowed in this district to be accessory to the this principal use.

Requested by Lathrop & Gage LLP, on behalf of Lawrence Memorial Hospital. Adopted on first reading, Ordinance No. 8785, for Text Amendment (TA-12-00023) to the City of Lawrence Land Development Code to amend uses in the Hospital (H) District, to change all P uses (Permitted Uses) to A uses (Accessory Uses) to identify the Hospital use as the only principal use in this district and all other uses allowed in this district to be accessory to the this principal use. (PC Item 5; approved 6-0-2 on 8/20/12).

13. Approved Traffic Safety Commission recommendation to designate the right northbound lane on Kasold Drive at 6th Street as a right turn only lane.
14. Approved a temporary use of public right-of-way permit for use of various city streets, including the closure of the northbound lane of Massachusetts Street downtown from approximately 8:00 a.m. – 8:25 a.m., on Sunday, November 11, 2012, for the Veteran's Day Run.
15. Approved a temporary use of public right-of-way permit for use of various city streets, including the closure of the northbound lane of Massachusetts Street downtown from approximately 8:00 a.m. – 8:25 a.m., on Sunday, October 21, 2012, for the Jayhawk Jog 5K.
16. Approved a request for a sign of community interest for the Pilot Club of Lawrence to place a temporary directional sign at the northwest corner of Harper and 23rd Streets advertising the Antique Show. The sign would be placed on September 21, 2012 and removed at the end of the day on September 22, 2012.
17. Authorized the Mayor to sign a Release of Mortgage for Glenda and Terry Shelby, 741 Locust.
18. Authorized the Mayor to sign a Subordination Agreement for Rita Moses, 1721 E. 17th Street.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report.

D. REGULAR AGENDA ITEMS:

Mayor Schumm said that we were not at the point of considering the entire package of land use items and agreements regarding the recreation center. First we would have tonight a review of the historical timeline, then staff would present the land use items, and the city manager would address the status of the agreements. Then we would open it up for comments and more than likely we would continue the items to a later day when we had more information before us.

Regular agenda items 1 through 4 were all presented and discussed together.

1. Receive update on items related to the proposed Sports Village/Recreation Center development.
2. Consider Comprehensive Plan Amendment, CPA-4-2-12, 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. Adopt on first reading, Ordinance No. 8740, for Comprehensive Plan Amendment (CPA-4-2-12) 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. (PC Item 5; approved 7-1-1 on 5/21/12) (BoCC approved 3-0 on 7/11/12)
3. Consider a Text Amendment, TA-4-3-12, to the City of Lawrence Land Development Code to create a CC600 zoning district. Initiated by City Commission on 4/10/12. Adopt on first reading, Ordinance No. 8741, for Text Amendment (TA-4-3-12) to the City of Lawrence Land Development Code to create a CC600 zoning district. (PC Item 6; approved 7-1-1 on 5/21/12).
4. Consider a request to rezone, Z-4-5-12, 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. Adopt on first reading, Ordinance No. 8742, for rezoning (Z-4-5-12) of 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. (PC Item 7; approved 7-1-1 on 5/21/12) Because a valid protest petition has been received, a super-majority vote (at least 4 votes) is required for approval.

Ernie Shaw, Director of Parks and Recreation, presented a staff report regarding the community's needs for a recreation center.

Scott McCullough, Director of Planning and Development Services, presented the staff reports regarding the land use items.

Mayor Schumm asked when ex parte communications should be declared.

Toni Wheeler, City Attorney, said they should be declared before public comment is received.

John Wilkins, Gould Evans Architects, presented an overview of space programming.

Paul Werner, Paul Warner Architects, presented the site plan.

Schumm asked if we are at the point of knowing if this will be certified as a LEED structure.

Wilkins said we thought we could

Carter asked if we could have an area for a small visitor center component for showcasing Lawrence in the public space of the building.

Wilkins said he thought that was a good idea.

Amyx asked how it was determined that our building would be on the back end of the property.

Wilkins said we looked at having it on the east end of the site but that was the lower end of the site and people would be looking at the roof mechanicals as they drove in. The current location on the site plan is the high point on the site and presents a better visual as you approach.

Schumm said keeping the parking lot to the south of the site provided some buffer for the lights.

Wilkins said we can also bury the western half of the building into the grade which makes it fit a little better relative to the neighborhood.

Gary Anderson, Gilmore and Bell, provided an update regarding the status of the agreements.

The City Commission recessed for a short break at 7:30 p.m.

The City Commission resumed the regular session at 7:39 p.m.

Schumm said we would start with disclosures of ex parte communications regarding the rezoning. He said he did not have any specific discussions about the zoning issue with anyone. He had met with the neighbors on three or so occasions and we had really only talked about the project. He said he had been involved in many meetings with the parties involved with the project but we had really only focused on the project and not the zoning question.

Dever said that he had conversations and had received communications from various people interested in the project. The conversations were generally about the project as a whole and not specifically about the zoning. None of those conversations or communications contained information that wasn't out in the public realm or public record already.

Amyx said his comments mirrored those of Schumm and Dever as far as individual conversations about the rezoning for this particular item. He said they had just received communications from Lawrence Association of Neighborhoods and Dr. McClure that had questions about the policies and procedures for zoning. Also, he had conversations with Mr. Fritzler, meetings with the Schwadas early in this process, but as far as individual discussions that dealt with any of the rezoning questions, he did not really have any at all.

Cromwell said he had many meetings in person, on the telephone and various communications through email, mostly regarding the project as a whole. Zoning is part of the discussion, but there was nothing in particular about the project that was not part of the public record. He said he had nothing to add in any ex parte communications.

Carter said he attended the Lawrence Association for Neighborhoods meeting in July and spoke about their concerns regarding the rezoning. He said he met individually with Kirk McClure for some time, but nothing in that conversation was outside of what McClure put into the public record. He said he did not think he had any kind of material information come up in ex parte that was not already out there.

Mayor Shumm called for public comment.

Laura Routh said she supported a community rec center, but she didn't support the sports village proposal as it currently exists. She said she was somewhat disturbed by the process regarding this sports village so far. The land has been annexed and money was budgeted already for public improvements. She said before you proceed with rezoning we owe it to the taxpayers to answer more questions. What is the assessed value of the land being donated compared to the infrastructure costs? How much has the city paid Gould Evans and

Werner architects and where has the money come from? Has the city considered the costs of police and fire services to the facilities? How would an economic downtown affect the financials of the project? Is the city prepared for cost overruns in the construction? She said she asked that you not proceed with rezoning until these questions are answered. She would ask that the city pay attention to the taxpayers' concerns.

Dickie Heckler said he supported Laura's concerns about the economy. This is risky business not knowing what might happen in the next few years. He said he didn't see any light at the end of this tunnel for a long time. Maybe there will be another home loan scam we will experience. Do the pros outweigh the cons? He said he did not think so. He said there were a lot of money, risk and speculation. It has recently been suggested to ask the voters to weigh in on the project. It should also be considered whether to repeal the sales tax altogether. Think of it this way. 10% of this sales tax, we could use it to fund the library project and reduce sales taxes. Perhaps we could build a nice vo-tech center for the community. Our elementary schools are in dire need. Perhaps some of this could offset the school district tax levy by reducing the city sales taxes. He said he has never heard any opposition whatsoever to a neighborhood rec center in northwest Lawrence. Let's build a neighborhood rec center. In addition use some of the money to add space to Holcom.

Joe Patterson said his main concern was not the rec center, but who was paying for it, which would be the taxpayers. 75% of the taxpayers would pay for it without using it. He said he hadn't heard definite figures that it would be a money maker. We have a bus system that has fallen flat on its face and costs \$3,000,000 a year. The voters approved a new library but it seems like it will be more computers and parking, not a bigger library. Eventually the poor taxpayers aren't going to be able to afford all this. You've also talked about a new police station. The project so far isn't practical. If it is, let the private sector or KU build it. He said we don't need this major undertaking. It's out of control. The size of the rec center and the cost to the taxpayers, the majority of whom would never use it, were the issues. We are putting a lot of

burden on a lot of people on fixed incomes. We need to take a long hard look at what this will cost us before we progress any further. The city is not known to be business friendly. We need to put more emphasis on bringing business into Lawrence.

Candice Davis said she recalled when she took her own kids out of town for sports events. She said in all the years she took her kids to different events, we never shopped, ever. We went to the events, watched them, and left. A lot of the people have spent a lot on the events already and don't have means to spend any more. She was not so sure this would be such a festive kind of thing. While we did stave off a downtown mall, most of the retail is on South Iowa. She said the jewel we had was downtown. She said she supported a rec center but not this one.

Kat Kehdy said she wanted to talk about the boondoggle that this was for the developer. We would spend millions on infrastructure and who would benefit? The developer. You were previously working on the site near Free State, until the gift horse came along. You need to look the gift horse in the mouth.

A man said he thought the rec center was a good idea and the city needed it. He said he had some good meetings with the architects. He still had some concerns remaining. One of the things is the shift in the stadium, the walking path so close to the property lines. What has changed since the last site plan is the location of the trails. Some other concerns are the hours of operation and the lighting and the noise pollution. The KU dynamic adds another element that we are not crazy about. He said he heard of a possible additional ten acres being donated and he wondered where they were. He said the access road was a concern. We would prefer 1663 Rd to remain a no outlet at either end. He said he would like to see the green factor involved in the rec center such as HVAC and geothermal.

Gwen Klingenberg said a few weeks ago she sent an email with questions but she hasn't received answers yet. The retail was going to be sports related. Across the street we have a lot of land zoned for retail. She was led to believe that if the retail doesn't go in on the

northwest corner then the taxpayers would be stuck with the TIF. If it is strictly sports related she can't see that helping. If you do pick this site, why is it better than the other two sites? She said she was not seeing KU's enthusiasm here. One of the reasons these are failing across the country is that they have to be marketed. Will we have to hire someone to do the marketing? How committed is KU on this? How tightly are we tied? She said she is not seeing it. It is important to get them tied into this a lot stronger than they are.

Hank Booth, Lawrence Chamber of Commerce, said he was surprised that he is the first to speak positively about the facility because he knew there were several people here who would. The first word that came into his mind when he heard of this project was "Wow." What a great fit for our town to partner with KU to put together a top notch athletic venue to share for decades to come. The opportunity to build a top notch facility for our kids, generate tax dollars from visitors, and to combine all that together, was tremendous. He knew there were a lot of details to work out still. He said he never expected KU to market our facility. We have a tremendous KU Relays event on outdated facilities and we still have 100's of athletes and 1000's of people who come here for those. When those top notch facilities are constructed, there will be thousands more who attend. He said he didn't expect Bill Self to go out and market this. He asked if we could for a moment stop questioning what the developers would gain. It is ironic that we named the hotel "The Oread" while at the same time questioning "those developers." It starts to get him upset when we don't give credit to people who build things in our community.

Alison Roppe said she was on a fixed income and the project is speeding ahead, the developers are happy, and she is concerned. She said she used to live by Burcham Park. The boathouse turned out great, but the facility doesn't serve the general public. KU doesn't pay anything for it. A person in the community would have to pay to use the park. She was leery of the public getting squeezed out. She didn't understand why we the city would pay for huge facilities for KU. What if things fail and we are left holding the bag? Do any of you know why KU

isn't asked to pay for some of the infrastructure? She was also interested in the green aspects of the project. She said she was completely for a rec center in that part of town. She doesn't hear anything being done for kids that aren't involved in sports. She didn't understand why this had to be so huge and why KU doesn't have to pay more.

Corliss said we had been in discussions with KU about this facility and other cooperative agreements. As part of the agreements with the developers a transportation development district was proposed. He said the city wasn't paying for the KU facilities. He didn't think it was appropriate for KU to pay for the infrastructure. We had a strong relationship with the university. There are examples where the university has leased property to the city for nominal costs, for example, Fire Station 5 where KU gave the City the property for very little public cost.

Zak Bolick said it was important for everyone to objectively examine the facts and get involved in the conversation. The overwhelming tone of the community is that there was a need for a facility. Take the time to do it right and he thought we would hear applause from the community.

Andy Pitts said he applauded the city for the process. Sometimes a developer led process is fluid. He said there are many things we could talk about, like the sales tax, the relationship the city has with the University of Kansas. He said he wanted to talk about the need for this facility. When the sales tax was passed it envisioned something like this. We were lacking in gym space. Every time we have a survey that comes up. Our neighborhood rec centers are packed and can't serve the neighborhoods. This would free up those spaces. We shouldn't be afraid of what other communities are doing. Why should we wait for them to build facilities and have our citizens travel? We can bring opportunities here to Lawrence. We need and deserve this facility.

Shannon Jones said she spoke as a mother and a concerned health professional. She said she had a fierce passion for bringing this to fruition. She sees the impact of the lack of facilities in her office every day. She had a 9 year old patient in her office recently. She was in

the 99th percentile for weight at her height and age. She already had health problems relating to that. We have heard a lot about cost, but what is the cost of not doing a project like this? She had recently been at a conference regarding obesity. We know through research that environment changes behavior. Do we make it easier to have a healthier lifestyle or not? The average child gets 2-3 hours of activity a week. Our generation got 21-23 hours. She was working with her patient on goal setting to help maintain weight and grow into it as she grows taller. Her patient wanted to work on at least one hour of physical activity per day. Her mom said she had tried to enroll her patient in a dance class but it was full. She looked at KU's involvement as icing on the cake. She got frustrated when we talked about cost but not the cost of not doing it. She saw movement, positive behaviors, and families having fun together. We have a chance to do this right and combat our obesity epidemic at a local level.

John Ross said the willingness of the city to partner with KU and private industry was great. He said he had two grown kids. Gym space was an issue in the 1990's. We practiced at 6:00 a.m. in the Hillcrest cafeteria. This project has a strong ability to showcase our community and KU. He encouraged commissioners to carry on.

Bill Reynolds said he didn't support the current plan. He supported the commercial development. He had a few concerns. First was the population of Lawrence. We need to have a local population willing to support the operating costs. If the population doesn't grow then any retail development will just move from other businesses in the community. Another issue is KDOT's involvement in the infrastructure in the area. They have an excellent plan but unfortunately it is a 40 year plan because they don't have any money for it right now. A final issue is Lawrence's ability to financially handle the project. If we undertake the project, he asked if it undermined our ability to pay for needs. He said interesting suggestions had been raised for other sites. He asked for a simple statement showing how much of the costs would be borne by the taxpayers and where the revenue would come from.

Melinda Henderson said she heard that people universally supported a rec center. What she hadn't heard consensus on was the sports village. Mr. Patterson and Reynolds brought up salient points she agreed with. Obesity was definitely a concern. She said she lived on the poor side of town. She said she saw kids skateboarding in the street every day because there wasn't a skate park in their part of town. How will kids at the Boys and Girls Club get to the rec center? Think of the travel time. Will they really be able to get out there? She said the person she works with coaches a lot of teams. He thinks this rec center would be a Taj Majal and he would love it, but he wouldn't want to drive out there. Personally, she has been here 16 here and in that time she hasn't always agreed with the commission but she has never been afraid of them before but she may be now. At the local level we have a police facility and school bond on the block. Sales tax is very important to a lot of people on fixed income in this time.

Schumm said it was his feeling that we should continue this item until a later date. The date could be as early as next Tuesday or as late as the following Tuesday. It was more likely to be the second Tuesday. He said he appreciated everyone's comments and concerns. It is helpful to get the concerns on the table.

Amyx said one of the questions he had now is whether it was appropriate, as staff had put together a spreadsheet of sites involved, to look at the Overland and Wakarusa site. It was 29 acres at that site and the extra costs involved were approximately \$200,000 for a traffic signal.

Corliss said that was appropriate, but that site would not accommodate KU.

Amyx asked if that site could accommodate a rec center similar to what is proposed at K10.

Corliss said we could get the square footage with a different design.

Amyx asked if it was appropriate to look at a similar size building at the Overland site. He said we were a service provider, this was a basic service. He wanted to make sure we met our needs, and questioned how much further we should go to accommodate the partnership

with the additional costs. He would like a simple sketch of what we could do at the site we own, without slowing down the decision process.

Schumm said we had been interested in all three sites. Staff has come back with pros and cons at each site. He said he didn't see anything wrong with looking at what we could do. He didn't think we had done much engineering yet. You can never have too much information on this. One thing that the site won't accommodate is the KU presence. You can argue that KU is a cost to the city in terms of this project, but what benefit do they bring to our city as a major employer and the attraction to the community. From a dollars and sense issue it would cost more to partner with them, but we have to weigh the benefits.

Amyx said if we are going to compare apples to apples, we need to compare the same size building at the Overland site and then ask how important the partnership is.

Carter said we do have the matrix. As far as sketching it, he didn't think we needed to have staff spend time drawing it. It's good enough for me to know we can do it, without seeing the sketch. The matrix is the important thing. The public needs to see it, needs to see the methodology.

Schumm said he had been to several KU events the last few days. Every time the upper echelons of the University ask where we are on the project, they are very hopeful it goes through. They see it as a great opportunity. They are very enthusiastic. How you put that into dollars and sense he didn't know, but he did know we are very dependent on KU for the health of the community as a whole. There is a cost to the project but we are doing something for KU that will benefit the city for the long term.

Dever said the thing he got tonight was a sense of agreement that we need recreation space in our community. He is really positive that something will happen on the community. Since he came to the Commission he had seen changes in our relationship with KU. KU is not the same without Lawrence and vice versa. It is a symbiotic relationship and we are trying to deepen it. We have been fiscally conservative in our budgets. It is time to invest. Whether it is at

Walmart or 1.6 miles down the road, that isn't much farther. He said he would love to invest in our largest employer in town. There is less disturbance to the community at the K10 site. We are not rushing to judgment, we are cautiously approaching it.

Cromwell said we have been talking about this need for years. He is on the Commission to try to do what's right for the community. We have an image that we are a young vibrant community. That makes us an attractive place for business. This rec center gets at a core value of ours. We have talked about the value of physical fitness. He wants to encourage that, whether at this site with the deepened relationship at KU, which would be a great opportunity, or not. There would be a lot of complex agreements to work out. He said this is a bold move by our community to get at our core values. He hoped we could put it all together. We would get something done regardless.

Carter said he definitely wants to see this as a joint effort with KU, leveraging that relationship. Hopefully that would come soon. We don't have all the documents pertaining to the Schwada site yet. One thing that came up was the university's inability to market the site. As long as we have the same rules as any other community we have the advantage of KU's reputation and proximity. Their limitations on marketing would have little impact on the advantage of having them involved.

Schumm said he thought it was the commission's pleasure to continue this, at the latest to two weeks from tonight.

Corliss said he would be in contact with bond counsel and would get the items on the agenda as soon as possible.

E. PUBLIC COMMENT:

None.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

None.

H: CALENDAR:

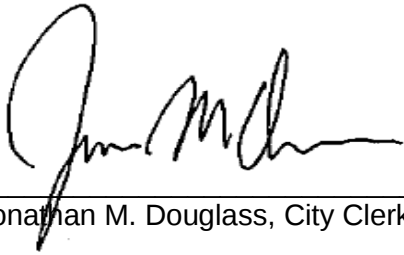
David Corliss, City Manager, reviewed calendar items.

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Amyx, seconded by Dever, to adjourn at 9:16 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON OCTOBER 9, 2012.

A handwritten signature in black ink, appearing to read 'Jonathan M. Douglass', is written over a horizontal line.

Jonathan M. Douglass, City Clerk



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT J. SCHUMM

COMMISSIONERS
MICHAEL DEVER
HUGH CARTER
MIKE AMYX
ARON E. CROMWELL

September 18, 2012

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

A. RECOGNITION/PROCLAMATION/PRESENTATION

1. Proclaimed the week of September 17 – 23, 2012 as Constitution Week.
2. Proclaimed the month of September, 201 as Leukemia, Lymphoma & Myeloma Awareness Month.

B. CONSENT AGENDA

It was moved by Amyx, seconded by Dever, to approve the consent agenda as below. Motion carried unanimously.

1. Received minutes from various boards and commissions:

Community Development Advisory Committee meeting of 04/12/12
Homeless Issues Advisory Committee meeting of 08/14/12
2. Approved claims to 332 vendors in the amount of \$1,424,747.57.
3. Approved licenses as recommended by the City Clerk's Office.

Class A Club License for Mount Oread Aerie 309, 1803 West 6th and the Retail Liquor License for Myers Retail Liquor, 902 West 23rd Street.
4. Approve appointments as recommended by the Mayor.

Appointed Katherine Simmons to the Lawrence Cultural Arts Commission to a position that expires 01/31/13 and Grace Peterson to a position that expires 01/31/14.
5. Bid and purchase items:
 - a) Approved the sale of surplus property on Gov Deals.



- b) Approved as a sole source purchase and awarded the bid for three light poles and fixtures on ball diamond #8 at the Youth Sports Complex to Musco Sports Lighting for \$30,000.
 - c) Awarded the bid for 70 golf vehicles for the Parks and Recreation Department to E-Z-Go for \$56,714 per year for the next four years.
 - d) Authorized a change order in the amount of \$75,000 for milling and overlay and associated curb repairs to Crestline Drive.
6. Adopted on second and final reading, the following ordinances:
- a) Ordinance No. 8788, allowing possession and consumption of alcohol on the public right-of-way on October 6, 2012, 10:00 a.m. – 11:00 p.m. in the 900 block of New Hampshire Street and the 200 block of E. 9th Street during events associated with the Color Run.
 - b) Ordinance No. 8748, for Comprehensive Plan Amendment (CPA-6-5-09) to Horizon 2020 – Chapter 14 to include the Northeast Sector Plan. (PC Item 4; approved 7-2 on 4/23/12)
7. Approved a Temporary Use of Public Right-of-Way Permit allowing the closure of a portion of the 900 block of New Hampshire Street for the Arts Center Final Friday event from noon to midnight on Friday, September 28, 2012, and adopted on first reading, Ordinance No. 8792, allowing possession and consumption of alcoholic liquor on the public right-of-way in conjunction with the event.
8. Approved as “signs of community interest”, a request from the United Way of Douglas County to place temporary signs in various rights-of-way throughout the City from September 15 – November 21, 2012.

C. CITY MANAGER’S REPORT:

David Corliss, City Manager, presented the report.

D. REGULAR AGENDA ITEMS:

1. **Conduct public hearing to consider the vacation of a holding basin and part of the bicycle/pedestrian easement at 3400 & 3401 Aldrich Street as requested by property owner Grand, LLC.**

Chuck Soules, Public Works Director, presented the staff report.

Moved by Cromwell, seconded by Dever, to open the public hearing. Motion carried unanimously.

Kenneth McKenzie said it was his understanding that they would vacate the trail out to the sports complex and dam area.

Soules said it was the rec path along Kasold near Eldridge. The sidewalk would be replaced closer to the street.

McKenzie said we used to have a sidewalk off of 27th connecting with the sidewalk on the opposite side of Kasold. With the reconstruction that has been removed. We would like to see a crosswalk either at 27th or 28th. We do have some handicapped people living in the subdivision.

Schumm said we could refer that to Public Works to look at those possibilities.

Soules said we could talk about that with the commenter and maybe refer it to Traffic Safety Commission.

Moved by Cromwell, seconded by Amyx, to close the public hearing. Motion carried unanimously.

Moved by Cromwell, seconded by Carter , to approve the order of vacation. Motion carried unanimously.

2. Consider adopting on first reading, Ordinance No. 8780, regarding sidewalk dining and hospitality license regulations.

Jonathan Douglass, Assistant to the City Manager/City Clerk, presented the staff report.

Mayor Schumm called for public comment.

Dan Dannenberg said he didn't know if the new proposal addressed it, but one of the thing that needs to be addressed is umbrellas. The sidewalks aren't designed for sidewalk dining. Tonight passing one sidewalk dining area I had to lower my head to get by. I once saw a tall man that had to lower his head because of umbrellas sticking out. I once was walking by Esquina and an umbrella hit me in the forehead. There should be a regulation that prohibits any shading device extending beyond the rail. This business of umbrellas sticking out should be eliminated. Any aesthetic value doesn't outweigh the safety hazard. I have written about this before to an assistant city manager and Downtown Lawrence. Shading devices or awnings shouldn't be allowed to extend.

Schumm said the man has a point. How about a minimum height standard such as the same as doorway heights.

Amyx asked if there are site planning requirements.

McCullough said yes, but the height isn't addressed strongly. We could look at the code and pick a reasonable standard.

Amyx said we could check all the sidewalk dining areas against the site plans to start.

Douglass said we have code enforcement staff inspect all of the sidewalk dining areas as part of the renewal process.

Moved by Amyx, seconded by Carter, to adopt on first reading, Ordinance No. 8780.

Motion carried unanimously.

3. **Receive update on proposed City recreation center and Sports Village and receive annexation requests for two properties containing approximately 110 acres total (approx. 19 and 89 acres each), located on property generally bounded by E 902 Rd on the west, George Williams Way extended on the east, N 1750 Rd on the north, and what would be Wakarusa Drive extended on the south. Refer the requests to the Planning Commission for review and authorize the City Manager to notify Rural Water District No. 1 and Atmos Energy of the City's intent to annex the subject property.**

David Corliss, City Manager, presented the staff report.

Amyx asked if KU is the applicant for this request.

McCullough said the application was submitted on behalf of Fairway LLC.

Corliss said KU Endowment was pursuing ownership.

McCullough said once you refer this to Planning we schedule it and send out proper notices.

Mayor Schumm called for public comment.

Thomas Johnson said he represents Jack Graham, an adjacent property owner. He believes this is premature. The city is just beginning to study this. The endowment association letter says they don't have the deal worked out yet. The athletic director's letter invites the city to conduct an investigation. We believe more time for that investigation is needed. The structure of

the project is not firm for various issues. Zenger's letter also states that there is a lack of neighbor concerns, but Mr. Graham has concerns. The lights at Free State High affect his property, and these lights will have more effect. The application says that additional uses may also be allowed. The only discussion we have heard is for athletics and city recreation. We believe that creates an ambiguity. We don't know what those uses are, and the city needs to defer annexation until more details are known. Annexation is not a necessary step at this time.

Schumm asked Johnson to point out where his client is located.

Johnson pointed it out on a map.

Chris Brown said his boys were ball players. It is crunch time right now for players and coaches to find gym time for practices. Kids are starving for more time in a basketball town. There are hundreds of parents and kids eager for a new rec center.

Jane Eldredge representing the Schwadas and the entities they control. They are in support of this. They are in support of it not only because it would meet recreational needs but also economic development goals. You have commissioned some studies. They pointed out some significant things. In addition to the rec center there needed to be support activities including commercial and hotel space. This generates property tax and bed tax. Those things bring about new jobs. The economic spur of a regional rec center is important and the Schwadas fully support it.

Carter said regarding the annexation, similar to what we did at the other tract, we do have plenty of time to work through issues as we get there. I wonder if it is necessary to defer annexation to work through those issues.

McCullough would see this in mid-November and it would come to the City Commission in December, so we have that time.

Schumm said there was reference to annexation on the west side. For one reason or another this land is going to be annexed, it is the zoning that will be the question eventually.

Corliss said we annexed 46 acres between those two tracts already. We want to be good neighbors and I am certain the Endowment and KU Athletics want that also.

Amyx said we are acting on a request of a property owner to start a process. We will work through the required process and notifications and hearings. At this point we are evaluating all properties and options we might have. At the same time we have a responsibility to start the process as we normally would.

Schumm asked for an explanation of the zoning process.

McCullough said the development rights accrue with the zoning, not the annexation. Annexation and zoning would be on track to submit for November consideration of the GPI district. It requires an institutional development plan, essentially a site plan. That has not been submitted yet but could be considered in December or even January.

Schumm said it doesn't hurt to initiate annexation. We would consider the zoning later.

Corliss said it would be good to have direction to send the notices, refer the annexation to the Planning Commission, and authorize me to negotiate contracts with architects and engineers.

Amyx asked what the architects and engineers would do.

Corliss said site planning and infrastructure, parking and other issues that would require work. We have a pretty good program and design already. Those are the general elements we want to work on and report back to you.

Amyx said several weeks ago he asked for information on the 29 acres we own near Wal-Mart, so we can make a comparison between that site and others. Is that still coming?

Corliss said we will do that.

Moved by Amyx, seconded by Dever, to refer the annexation request to the Planning Commission; authorize the City Manager to provide written notice, pursuant to K.S.A. 2011 Supp. 12-539 and K.S.A. 66-1,176, to Rural Water District No. 1 and to Atmos Energy of the

City's intent to annex approximately 110 acres of land owned by Fairway, LC, and located west of George Williams Way and north of West Sixth Street/US Highway 40; negotiate engineering and architect contracts; and continue to work on information regarding the 29 acre site. Motion carried unanimously.

4. **Consider Comprehensive Plan Amendment, CPA-4-2-12, 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. Adopt on first reading, Ordinance No. 8740, for Comprehensive Plan Amendment (CPA-4-2-12) 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. (PC Item 5; approved 7-1-1 on 5/21/12) (BoCC approved 3-0 on 7/11/12)**
5. **Consider a Text Amendment, TA-4-3-12, to the City of Lawrence Land Development Code to create a CC600 zoning district. Initiated by City Commission on 4/10/12. Adopt on first reading, Ordinance No. 8741, for Text Amendment (TA-4-3-12) to the City of Lawrence Land Development Code to create a CC600 zoning district. (PC Item 6; approved 7-1-1 on 5/21/12).**
6. **Consider a Text Amendment, TA-4-3-12, to the City of Lawrence Land Development Code to create a CC600 zoning district. Initiated by City Commission on 4/10/12. Adopt on first reading, Ordinance No. 8741, for Text Amendment (TA-4-3-12) to the City of Lawrence Land Development Code to create a CC600 zoning district. (PC Item 6; approved 7-1-1 on 5/21/12).**

Scott McCullough, Planning and Development Services Director, presented the staff reports for items 4, 5, and 6.

Amyx said we had initiated the items and could withdraw them.

McCullough said yes.

Amyx asked if the commission could refer the rezoning to the Planning Commission.

McCullough said yes, after withdrawing the application.

Mayor Schumm called for public comment.

Steven Kahle said city representatives had emphasized two things. Development of the site was inevitable, and having the city and university as neighbors was better than a faceless

corporation. The withdrawal of KU from the original site changed things. We had protested the rezoning for various reasons. If we support the rezoning to CC600 we could face those faceless corporations but if we oppose it we might get something worse. He hoped the city would be thoughtful. He could support CC600 if major utilities were removed as an option.

Scott Robins said he was a neighbor to the north. When the idea of the rec center going in came up we met and had mixed emotions. Having the city and KU as a neighbor held better prospects than some other options. He signed the protest petition for one reason. Not that he opposed CC600 but we got counsel to help us and they suggested that signing that and putting it forward would help force some open communication to give us some real voice in what was being planned. He has signed a document to withdraw himself from the protest petition now. He supported CC600 zoning.

Thomas Johnson on behalf of the Crawfords said they don't support CC600 and they would like to be involved. They would like the Commission to withdraw their application and remand it to the Planning Commission.

David Reynolds said he signed the protest petition because he thought it was such a major issue that it should have a supermajority vote. The need for rezoning at this corner doesn't change with the move of the rec center. Zoning it CC600 takes a great amount of mystery out of what could go there. He asked that major recycling center and truck stop be removed from the possibilities. Leaving the land without zoning designation creates anxiety and frustration.

Jane Eldredge, representing the Schwadas, said they supported rezoning. Scott's indication that you can withdraw is incorrect. At the request of the owners of the property, they consented to the CC600 and agreed to join the city in initiation of the rezoning. The property owners paid a substantial fee for rezoning. If you withdraw you would have to have consent of the property owners, and I can tell you they do not consent to that. Neither the comp plan nor the text amendment was turning on the rec center site. She said that the staff report said it

would be useful to have a designation for sq footages between 400,000 and 1.5 million. Changes to the comp plan were needed to accommodate a rec center. The CC6000 and the revised nodal plan keep an open space buffer. The expansion of the area would provide new opportunities for the community as a whole. Nothing has changed regarding the analysis of use of CC600. For all the reasons mentioned we need to proceed with this CC600. We also must ask the question, if nothing has changed, why change your response? No one has identified a reason to change those plans. If you don't zone this, where will commercial to support this go? The proposed change to the plan expands commercial at all four corners. The idea might be to go to Mercato and use that commercial. That is appropriately planned already. Right now there are 359,000 square feet of retail, most of it taken up with two big boxes. This is the only place we have two big boxes planned. If the rec center moves that will certainly be an impetus for the big boxes and the residential. The only place a hotel could go was at 6th and George Williams, which is a less desirable location. If the first uses wanted were a gas station and fast food, that would soak up all the square footage. The only other place is the CC600 on the west side. We believe the only opposition to the CC600 is the Crawfords and apparently some City Commissioners. She was confident the Commissioners were not prejudging it. In the name of economic development let's make the regional rec center successful. We need to do it right.

A man said it was implied in the news that the neighbors in Northwood objected to the rec center. That was not true. We are here to say we thought everyone involved was operating in good faith.

Schumm said he had been at meetings with the neighbors and they had been good productive meetings.

Eldredge said on the zoning application the owners agreed with removing utilities from the allowed uses.

Gwen Klingenberg said she was sure the Schwadas would support the 200 foot buffer no matter what ended up there. Hopefully the JDEC would look at what kind of primary jobs we

need. This corner already has commercial on the south side. There is a wonderful place for the hotel if we need one. That corner is close to I70, SLT, K10, and KU. Our community is more information and service industry than anything and that is what Horizon 2020 stipulates. It is important to take a step back. Without the rec center, which was the driving factor, the retail wasn't needed. The industrial is needed. Step back and take a look at what we need. What substantial difference, how much, if the thing is dropped now. We can stop now and do whatever we want. We were told we would step back if the rec center wasn't approved but now the developer wants to move forward anyway. Even if it is industrial, IL still allows a hotel if that is needed.

Bill Cowgill said he thanked the Commission and Planning Commission for their continued efforts in hearing us and our neighborhood. The term good neighbor was used in good faith and was appreciated. He said he supported CC600. He thought we had a good neighbor in Steve Schwada. He understands the reasons we live out there in the area we do. Being a gateway, industrial uses would be an eyesore. He supported CC600.

Kirk McClure suggested that the commission deny or withdraw the issues before you. They are premature. You lose negotiating position by rezoning prematurely. Look at the history. Nothing has happened. We have been years with no demand for retail space at this intersection. Rezoning before demand creates problems because you are asked to extend infrastructure. The recent past ought to suggest there is danger in overbuilding. We built housing and retail way beyond our demand. Adding spaces does not add jobs or sales tax. More consumers add those things. It does not add property taxes because the aggregate buying power does not increase. The oldest rule of zoning is plan first and zone second. What you need to do know is ask how much retail we can support in the future and here. Your own CSL study said the sports complex will support 25,000 square feet of retail and 40 hotel rooms. We don't have demand for space now. He recommended withdrawing all three items.

Amyx asked about the information presented tonight. The signatures we have, do they make everything null and void on the protest petition?

Randy Larkin, Assistant City Attorney, said we looked at that issue and we did not find any statutory authority for withdrawing a signature after a petition is verified by the county. We believe this petition is still valid.

Dever said we still have a valid petition.

Larkin said yes.

Amyx asked about the question of the Commission being the applicant.

Larkin said the City could withdraw it.

Schumm said we could withdraw without the land owner consent.

Larkin said yes.

Schumm said this is pretty clear cut for him. We said we weren't going to rezone it without the rec center. We don't have a rec center there so he didn't see reason for CC600 and the rezoning. He said you've got to wait and see what happens on the zoned land. There isn't need to rezone more. He said he didn't see much room for debate on that.

Cromwell said he agreed with that. He would love to entertain a project at that site and we could look at rezoning then, but the intention here was with a particular project and without that the zoning falls off as well. We should resort back to what Horizon 2020 called for, for the time being.

Amyx said there was a full faith effort to look at a center on the property and he thanked the owners. Since day one he said he had concern with the site west of K10. As a community we aren't ready to move across K10 in terms of infrastructure or services. He has not given up on the idea of a city stand alone site on property we own near Wal-Mart. He said as we look at retail development a lot of his concerns were the effect on other parts of the community. The addition of CC600, he was not in favor of at this time. As one of the members of the applicant, he was in favor of withdrawing all the applications.

Dever said there were a couple things that didn't make this cut and dry for him. This is an area that will be developed and needs to be planned, especially if we are building a rec center. We owe it to the neighbors to carefully zone the annexed land. Annexing it but leaving it unzoned leaves a lot of uncertainty. We need to talk about how we would approach that land. He said he saw need for CC600. He was not convinced we should just move away and not have a plan of action for that land. He said he would hate to walk away from this and leave the adjacent landowners in limbo.

Amyx said one of the items recommended from staff, is if there was a withdrawal then we could refer it back to Planning Commission to have discussion with neighbors about what it should be in the future. He said he thought that might take care of a little of the concerns, if we referred it to Planning Commission.

Dever said the first step was to plan, then zone. The neighbors have clearly stated their support for CC600. The comp plan work was not rushed. I am not disagreeing with your comments, but I do see the merit of moving forward with planning and zoning. I think we studied it and had good reasons given for why we might need it. I am open to considering a comp plan amendment and giving it back to the Planning Commission to take a look at it. If a facility is built there may be need for services out there.

Carter said it was good work by staff and the planning commission and the neighbors. It has been a good concept brought forward and there could be a use for it somewhere. He would go back to Eldredge's comments about if nothing has changed why change our response. We have been crystal clear with the neighbors and others that we wouldn't move forward with the rezoning without the rec center. As far as retail, jumping K10 is a stretch but the Schwadas brought something good. The additional retail was a condition of getting that land. The additional retail and hotels would benefit the community. It would spur more things. Right now do we need it though? Probably not. It comes back to being crystal clear that we wouldn't

rezone without the rec center and we need to stick with that. He said if we initiated CC600 we wouldn't be tied to this area.

McCullough said to have CC600 in Horizon 2020 may be prudent.

Carter asked if that is what we were doing with number 5.

McCullough said it does that in the development code. The comp plan amendment does a few things, employing policies in specific sector plans. I believe what would be most prudent would be to detach the sector plan from that and bring back a separate ordinance.

Carter asked if that would be a separate action.

McCullough said it could.

Carter said he would probably support that.

McCullough said the comp plan has been approved by the county commission already. We do a joint city/county ordinance. There has to be alignment between the commissions.

Eldredge said that was the information she thought you needed, that the county already approved the amendment.

Amyx said as we look at the comp plan amendment, withdraw tonight and come back with a new one spelling out how to create CC600, it wouldn't be location specific?

McCullough said that was what he was hearing tonight. There wouldn't be zoning in the community until a sector plan identified it.

Schumm said he was somewhat perplexed. The only reason we got to CC600 was because of the rec center. Now we aren't going that direction but we are talking about having that option somewhere in the city and exploding the commercial in the city. There is nothing even out there. On all this zoning, this isn't a 10 or 20 year process. This land was brought through the process in 90 days. If someone came forward with something it doesn't take too long to process it. There is somewhere between 5-8 million dollars of infrastructure work, so just to designate it commercial was way premature. What I have heard the neighbors say is that currently part of it is industrial. They want assurance that it will be something they can live with. I

think it is a planning more than a zoning issue. Being a gateway to the city he didn't see it industrial. He didn't think the neighbors wanted that. It seems like we are spinning out of control with the zoning, commercial application.

Carter said he couldn't think of an area where we needed it, but we've done the work. He said he favored just withdrawing the items tonight and have the other discussions later.

Amyx said if there is going to be consideration of a CPA for CC600 we need to do that away from these issues tonight. That would be the right way to do it. Withdraw these three and discuss later the other issues.

Schumm asked what happens to the County Commission if we withdraw.

McCullough said we would have to determine that.

Schumm said our counsel's opinion was that we could withdraw without the owner.

Larkin said yes.

Carter said he didn't want to leave out there the issue with the developer. We could deny it and not leave it open to the question of whether we needed their consent to withdraw.

McCullough said our opinion is that if you deny the CPA and TA the rezoning would become moot. There would be no district to rezone to.

It was **moved by Carter, seconded by Cromwell**, to deny the Comprehensive Plan Amendment and Text Amendment, rendering the rezoning application moot. Motion failed 3-2 (needed four affirmative votes because motion was contrary to Planning Commission recommendation), with Amyx and Dever in opposition.

Schumm asked if the withdrawal took the land out of play in terms of rezoning, what happens with the county?

McCullough said we would have to study it.

Schumm asked if we should continue this while we study that.

McCullough said he thought we could vote and then study that.

Moved by Amyx, seconded by Carter, to withdraw the Comprehensive Plan Amendment, Text Amendment, and Rezoning. Motion carried 4-1 with Dever opposed.

E. PUBLIC COMMENT:

Leslie Soden said she had a hard time hearing some of the speakers and asked if the sound could be cranked.

Corliss said we were still transitioning.

Michael Kelso said he was intrigued by the proposal to come over and join the city. The more we talked with the city the more I became interested in the project. Now that the neighborhood is in support, I am in support of it. With all the enthusiasm present before, what happened? As a consumer and neighbor it seems we moved fast and the people opposed now were in support. I thought we were sold on the old one and a new one might take a year or more.

Schumm said KU felt that they needed additional space to address Title IX deficiencies. They felt like the other side gave them the ability to do that. We have said all along that we want to be in conjunction with them. For the city it may also give us some space for tennis courts, as well as a linkage to nature trails and a cross country site.

Kelso asked who paid for all the surveys and studies at the other site. Someone had to pay for all that and now we are going to go through that again.

Corliss said the neighborhoods' efforts were not for naught. We have learned their concerns. The largest amount of time we have spent on the rec center items was spent on programming rather than land use aspects of the project. The bulk of that would translate to another site. We have paid for some engineering and sampling, maybe \$50,000 - \$100,000. It is all good information to have for eventual development of the site.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

None.

H: CALENDAR:

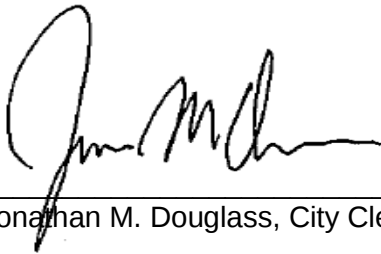
David Corliss, City Manager, reviewed calendar items.

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Cromwell, seconded by Carter, to adjourn at 8:53 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON 10/02/12.

A handwritten signature in black ink, appearing to read 'Jonathan M. Douglass', is written over a horizontal line.

Jonathan M. Douglass, City Clerk



City of Lawrence

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MAYOR
ROBERT J. SCHUMM

COMMISSIONERS
MICHAEL DEVER
HUGH CARTER
MIKE AMYX
ARON E. CROMWELL

September 25, 2012

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

A. RECOGNITION/PROCLAMATION/PRESENTATION

1. Proclaimed Tuesday, September 25, 2012 as National Voter Registration Day.

Mayor Schumm also pointed out that Lawrence won the “Best of Topeka” award for best downtown in Northeast Kansas.

B. CONSENT AGENDA

It was moved by Amyx, seconded by Dever, to approve the consent agenda as below. Motion carried unanimously.

1. Approved City Commission meeting minutes from 09/11/12.
2. Received minutes from various boards and commissions:

Board of Zoning Appeals meeting of 07/05/12
Historic Resources Commission meeting of 07/19/12
Lawrence Cultural Arts Commission meeting of 08/08/12
Mechanical Code Board of Appeals meetings of 07/12/12 and 07/26/12
Public Health Board meeting of 07/16/12
Sign Code Board of Appeals meeting of 07/05/12
3. Approved claims to 233 vendors in the amount of \$17,284,108.96 and payroll from September 9, 2012 to September 22, 2012 in the amount of \$1,931,597.38.
4. Approved licenses as recommended by the City Clerk’s Office.

Retail Liquor License for On the Rocks Discount Liquor, 1818 Massachusetts St



5. Approved appointment of John Hachmeister to the Lawrence Cultural Arts Commission for a term that expires 01/31/14.
6. Bid and purchase items:
 - a) Approved sale of surplus playground equipment on Gov Deals.
 - b) Awarded bid for Bid Number B1251, Project UT1208KW Chlorine Contact Basin Scum Skimmer Equipment Replacement, to the low bidder CAS Constructors for \$42,749 and authorized the City Manager to execute the contract.
 - c) Approved purchase of one (1) Ford Explorer for the Lawrence Douglas County Fire & Medical Department to Laird Noller Ford for \$28,736.
7. Adopted the following ordinances on second and final reading:
 - a) Ordinance No. 8792, allowing possession and consumption of alcoholic liquor on the public right-of-way in conjunction with the Arts Center Final Friday event on Friday, September 28, 2012, from 12:00 p.m. – 12:00 a.m. in a portion of the 900 block of New Hampshire Street.
 - b) Ordinance No. 8780, regarding sidewalk dining and hospitality license regulations.
8. Authorized the City Manager to execute a License Agreement permitting Heartland Community Health Center to place an informational ground sign in the City's Parking Lot at 1 Riverfront Plaza in accordance with the terms of that agreement.
9. Approved as signs of community interest, a request from the Lawrence Home Builders Association to place directional signs in various rights-of-way throughout the City during the annual Fall Parade of Homes, September 29 – October 8, 2012.
10. Received request from Community Wireless to access certain County/City fiber-optic cables. Referred to staff for report.

Mayor Schumm announced that prior to regular agenda item number 2, the city commission would be recessing into executive session.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report. He added to the report that a representative of the KU Student Senate would be attending City Commission meetings on occasion.

D. REGULAR AGENDA ITEMS:

1. **Conduct public hearing and consider adoption of Resolution No. 6995 setting out the findings and determinations of the governing body of the City of Lawrence,**

and ordering the construction of an additional parking level on the parking garage at 707 Vermont Street.

David Corliss, City Manager, presented the staff report.

Schumm asked what the process for a protest petition is.

Corliss said you would conduct the public hearing, if you adopt the resolution we have it published in the newspaper, there is then a 20 day protest period. The protest has to be signed by the majority of resident property owners and a majority of the property square footage. Resident property owner means you have to own the property and live within the Lawrence city boundaries. The city commission can decide not to proceed even without a valid petition.

Schumm said you meant 50% of the land?

Corliss said yes. It is calculated by square footage of the lots, not the structures.

Amyx said we don't know how many people inside this district are resident property owners. Do we know the square footage necessary to reach 51%?

Corliss said not at this time.

Moved by Cromwell, seconded by Dever, to open the public hearing. Motion carried unanimously.

Bryan Russell said he lived at Hobbs Taylor lofts. He urged the commissioners to exempt residential properties from the benefit districts. He said people owning residential condos at Hobbs Taylor would not receive any appreciable value to the properties. If you decide to go forward with the library then the taxpayers at large should pay for it. The city manager noted that we provide our own parking downtown. We maintain that. There is no nexus between the new parking spaces and condos. If you keep residential properties in the district and it passes, then staff needs to recalculate the square footages.

Dennis Brown said three or four years ago a developer placed an addition on the back of a building and needed to take out some city parking spaces. That parking had been taken by a developer and now you were talking about an assessment for more parking. There seems to be

a disconnect. If you approve this additional parking, how long before a developer asked for dedication of spaces for their business, and would you approve it? He suggested that you not proceed with the benefit district and stick to what the voters approved.

Joe Patterson said the problem he has is that this project was approved by the general project, and now you were changing the project. The voters' thoughts need to be carried out as they voted upon and not adding to the project.

Teresa Hill said a key purpose of the garage was for children using the library and the pool. How much risk do you add to their safety when adding 72 spaces? Consider the excited toddler and the mom halfway in the car unstrapping the infant. The toddler runs into the traffic lane. Our children's safety is the most important concern. Limit the number of cars in the garage.

Peter Zacharias said he owned property both near and far from the garage. There is a tremendous need for parking downtown. There has never been enough parking. In the summertime with the pool open the garage will still be full. Downtown parking benefits everyone downtown. The city has done a good job of making the district large enough to make the financial burden spread out over a lot of properties. He said he didn't see an intrinsic safety concern and he supported the benefit district.

Ralph Gage, World Company, said you are putting a square peg in a round hole. If more parking is needed, the public should pay for public parking. They questioned four aspects of the proposal, that the district contained residences, that it contained tax exempt property (i.e. that it contained businesses that provided their own parking, and taxes on those private spaces already pay taxes to support public services) and the fourth unfair element is the protest process because the burden is so large due to the city owning so much of the land.

Bob Roten, First United Methodist Church, asked why this wasn't part of the original plan, and why are non-profits included? We have a limited use of parking, peaking on Sunday

morning. This parking location will not be a direct benefit to us. The other point to make is the amount of property the city owns is a big obstacle to a successful protest.

George Paley said he asked the commission to reconsider. We have all experienced the pool and library parking uses. This is more of a public use. He said he supported more parking but asked that you reconsider the funding method.

Moved by Cromwell, seconded by Amyx, to close the public hearing.

Schumm said regarding Hobbs Taylor, you have a unique situation with living units on top of commercial. Can you split those out and only include the commercial.

Corliss said he thought we could. If you are going to do that you have to have a rational basis such as excluding residences that have their own parking.

Schumm said for the non-profits, mostly churches, what options do we have?

Corliss said you can enter into an agreement whereby the city pays the assessment, and if the use changes the assessment reverts to them. The city would pick up the assessment unless the use changes. One of the difficulties is that the state law does not account for the use, only that the property gets a benefit. One case law in Kansas said that it's not the specific use that the law looks at, it is the proximity of the property. From a policy standpoint, if you want to exempt certain property, such as that which provides its own parking, you do that by agreement.

Schumm said several benefit districts have been created over the years. Have churches been included in those?

Corliss said we have included all of the CD district.

Dever asked Dave to summarize how other surface lots were paid for.

Corliss said the one he is most familiar with is the 800 block of New Hampshire. Some of the other surface lots had smaller footprints for their benefit districts.

Schumm said most of the lots as they came online, the property was within a short distance or contiguous to the lot. He had been in 5-6 of those benefit districts over those years.

Dever asked if this is the largest scale parking improvement.

Corliss said as far as cost, yes.

Carter asked if there is any ability to remove the city from the square footage as far as the protest is calculated.

Corliss said there wasn't a legal mechanism, but the commission could decide as a matter of policy to look at the percentages without the city property.

Schumm said he thought that was the best way to proceed. To exclude that in a handshake agreement with the public that if 51% of the non-city property protests, we could decide not to proceed.

Carter said that sounded more fair to him. Are we about \$320,000, and would the bonds go for about 2%?

Corliss said based on recent experience, he thought that was probably what it would be in the fall of 2014. We would probably do a temporary note now and then bond it when we conclude the project.

Carter said he wasn't supportive of paying more than what we had already committed to spend on the project.

Corliss said the source of funds for the city's participation in the benefit district would be the parking fund.

Amyx said a lot of the problem he had is that we asked people to go to the polls a few years ago to fund a library project. Now we are asking them to pay an additional amount. There comes a time when enough is enough and he thought we had reached that. We can't keep asking people to dig a little deeper. He thought it was the wrong time, and it was wrong to ask the residences and the churches to pay.

Schumm said he has been in these parking districts and every time another one comes by the same arguments come up, but where would we would if we hadn't built them. He said he would like to see this more forward. These are parking spaces on sale, the \$14,000 per space is a lower price. There is some opposition. He doesn't think this is a change to the project. He said

some of the arguments were good about residences and people that provide their own parking. He would like to see if we could work around those. He said he would like to consider the protest without the city's land in the calculations. He would like to see it move forward. He said he had three parcels in the district and had disclosed that. He thought it was a great opportunity. If you get people to come downtown and try a few times to park and can't find a space, they aren't coming back to downtown.

Carter said those were his initial concerns. Removing our property mass from the voting makes it more fair, taking residences and non-profits out, then letting downtown businesses decide for themselves. He didn't want to get in the way of that possibility. Those few things would make it more equitable.

Dever asked why we exempted the county courthouse building.

Corliss said it is not in the CD zoning district. The only non-CD included was adjacent to the garage and also the city's GPI zoned land.

Dever said a couple things seemed unfair to landowners in the assessed district. We are taxing people with their own private parking for both the property with buildings and parking. You are basically penalizing people for providing off street parking. The non-profit assessments should be looked at. We are already doubling the number of spaces in the lot by building the garage. He said the city at large is paying a large portion of this already. There are gray areas that make him uncomfortable. Let's take a look at how we can pay for this thing. It's a great idea to add parking and the garage will take burden off people who are 2-3 blocks away. He said upper floors of garages are used less frequently, so it becomes less desirable, but it will still take pressure off other parts of downtown.

Cromwell said the top floor of the other parking garage is heavily used. He thought it was being used by people who are working and are downtown for a long time. Otherwise those people would be parking somewhere else. It is not necessarily that someone inside of Buffalo Bob's is parking there, but maybe someone working at Bob's is, and that frees up space for

customers. Regarding the library project and how parking fits in, we came up with a library budget that is as tight as possible. What wasn't fair and what nobody wanted was to ask the voters to approve a library, a garage, and other things. As we have started designing the project we identified an opportunity and a creative way to finance this. He agreed with statements about making this equitable. He can see excluding residences and churches. Our job sitting up here is to plan further out than a few years. We are going to need those spots in the future, and downtown will benefit today.

Schumm asked if we could submit our comments and have this come back with options.

Corliss said he hears that the commission wants a process to exempt residents and businesses that provide their own parking, properties that are tax exempt, and not include the city property in the protest calculation.

Schumm said there is one difficulty in the businesses that provide parking. They still benefit from additional parking. If that is the sole requirement to exempt a business, that doesn't seem fair in the other direction.

Carter said he thought we wouldn't include the parking itself in the square footage calculation.

Corliss said you are talking about not including that in the calculation for the assessment.

Dever said he would like to take a look at that and see what the totals look like.

Amyx said if we exempted residential, would the amount of the assessment have to go back in the assessment on the other properties and we'd have to re-notify.

Corliss said maybe. Let's see what the numbers come back as.

Schumm said when you start digging into this you are going to find there some sort of rhyme or reason with a threshold to consider.

Amyx said as we look at this district without the city property, could we look at what's left and how many property owners it would take.

Corliss said yes.

Schumm asked if we are under time constraints.

Corliss said he didn't think so. We would probably have this on in 2-3 weeks. We might actually find out what the bid will be during the protest period.

Schumm asked what was budgeted for the existing spaces.

Corliss said 4.25 million.

Schumm asked what if the bids came in at 4.0 million, can the extra reduce the assessment.

Corliss said it would be up to the commission.

Schumm said our next item would be to recess into executive session.

Moved by Dever, seconded by Amyx, to recess into executive session for approximately 30 minutes for the purpose of consultation with attorneys for the city deemed privileged under the attorney client relationship. The justification for the executive session is to keep discussions with the attorneys for the city confidential at this time. Motion made at 8:02 p.m. Motion carried unanimously.

The City Commission resumed the regular session at 8:28 p.m.

2. **Consider initiation of zoning items related to the northwest corner of West 6th Street and K-10 and refer to planning commission. The City Commission voted to withdraw the earlier land use items related to this property at their meeting of September 18, 2012.**

Randy Larkin, Assistant City Attorney, presented the staff report.

Amyx asked if we rescind the votes and the majority wished to send it back to Planning Commission, would it come back to the City Commission for final approval again.

Larkin said yes.

Mayor Schumm called for public comment.

Jane Eldredge said she appreciated having the item on the agenda. She said she had a meeting with Schumm, Dever, and staff, and made phone calls to other commissioners. She

said she would like you to move forward with approving all three of the applications. She wanted to make it clear that that was her request. The city was planning way out into the future with these items. The zoning is site specific and is a little different than the other items. You are good and careful about being fair to landowners and this seems a little unfair, and she asked to move forward with the applications.

Gwen Klingenberg said you have already planned this corner twice, in the K10 Plan and the SmartCode. One of the reasons it was planned as a business park is because of the gateway. It says this area is to be office industrial warehouse. The employment related land use should be maintained. This sits on the corridor between Manhattan and Columbia on the animal sciences corridor and is an opportunity to develop primary jobs in that field. On the K10/40 plan it says this would best be suited for warehouse and other employment uses. She said she is asking that we be equal and fair to all, including the city and neighborhood and landowner, and that you send it to the Planning Commission with no set boundaries on what you want.

Carter said that last week he said when this first started that we would not rezone this if the rec center didn't go forward, and the cleanest way to restart the process was to deny it. One of the consequences of not acting on it is neighbor angst and we have heard that clearly. Denying it didn't pass and we rescinded it. Through the past week it seems like the best way to get this going for the neighbors would be to send it back to Planning Commission, rescinding the action from last week, asking them to take a look at it based on the changes that have occurred. Here are the changes, take a look at what appropriate zoning would be.

Amyx said one of the things is if we go ahead and rescind, and that is probably appropriate due to our concern for the neighbors, it is obvious to me that there are probably different considerations that need to be made. We are going to ask the Planning Commission to make recommendations back to this body, with the change that has occurred, what is the appropriate zoning for that area. This body will make the decision. I want the Planning

Commission to make their recommendation and I don't want to lead their discussion. Being asked to rescind and send it back to Planning, I guess I can do that at this time.

Cromwell said in looking at this from last week, his comments then were that he wanted the Planning Commission to have an opportunity to take a look at this in light of the fact that the Sports Village is not going to be at this location. He said he agreed that they need a clean slate to work from. If we need to rescind to keep this as clean as possible he thought he could go along with that. He said his is interested in the input of the Planning Commission.

Schumm said he had been pretty adamant that if the rec center failed for any reason he wasn't in favor of rezoning any land that was not needed for that. We have a rec center in the general vicinity, possibly with a larger project than before. The site is now in the 150 acre range, more a park than just a regional rec center. It has grown and grown for the best. We have an obligation to support that with ancillary uses. There is still a need for additional land uses. He was willing to send this back to the Planning Commission and have them look at the whole area. He wanted all property owners notified. He said he wanted to see a comprehensive view of the whole area. The area will be a major commercial, industrial or mixed use area, a major are for activity and he hoped the Planning Commission could come back with some innovative plans for the area. He hoped they could take a broader global view. He would support rescinding and sending it back to Planning.

Moved by Dever, seconded by Carter, to rescind motions from last week to withdraw Comprehensive Plan Amendment CPA-4-2-12, Text Amendment TA-4-3-12, and Rezoning Z-4-5-12. Motion carried unanimously.

Larkin said with that motion you have reopened the four options you had earlier.

Moved by Carter, seconded by Dever, to remand Comprehensive Plan Amendment CPA-4-2-12, Text Amendment TA-4-3-12, and Rezoning Z-4-5-12 to the Planning Commission for consideration per the City Commission comments tonight and the specific direction as follows: Given the change in circumstance that the regional recreation center/sports village is no

longer planned for the Gateway Addition property west of K-10, the City Commission has not approved or dis-approved the applications and directs the Planning Commission to review the comprehensive plan, text amendment and rezoning applications in light of the change in circumstance of the regional recreation center/sports village relocating to a property east of K-10. Motion carried unanimously.

E. PUBLIC COMMENT:

K.T. Walsh said if you visit Hulu and search “up to speed Kansas” you will see something featuring two sites in our community.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

None.

H: CALENDAR:

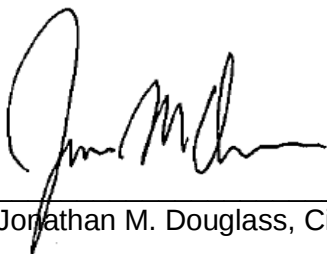
David Corliss, City Manager, reviewed calendar items.

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Carter, seconded by Cromwell, to adjourn at 8:54 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON OCTOBER 9, 2012.



Jonathan M. Douglass, City Clerk



September 17, 2012

City of Lawrence
Attention: Mayor Bob Schumm
6 E. 6th Street
P.O. Box 708
Lawrence, KS 66044

Dear Mayor Schumm:

The Kansas University Endowment Association is excited about the potential partnership between KU Endowment and the City of Lawrence relative to a lead gift to KU Endowment for purposes of land acquisition for athletic and recreation development west of George Williams Way. This partnership brings together vision and collaboration to recreational efforts for the City, and Title IX and aged facility solutions for KU Athletics. For both entities, these projects have been identified as needs; the benefits to both will be recognized by many people locally and nationally.

As details are being finalized specific to the gift for purchase of the land, we anticipate that once the land is purchased, KU Endowment would enter into ground leases with the City and with KU Athletics to develop the recreation center and KU athletic facilities (soccer, softball, and track stadiums). Not unlike other donations, it would be common to have the stipulation that the ground lessor (KU Endowment) will retain certain rights to ensure a desired high level of quality control for any improvements made on the land, including, but not limited to, site development, architectural design, quality of materials and construction, and final approval and selection of architects and contractors. These expectations are important to KU Endowment, as all land developments must meet the highest standards.

However, as the City and KU Athletics enter into their agreements with KU Endowment, it would be expected that each entity has the opportunity not only to design their own respective facilities, but also to have input into architectural standards and construction decisions. It is understood that these projects are paramount to each lessee; therefore, joint approvals with lessees to KU Endowment are expected.

As you know, KU Endowment and the City share prior agreements. This opportunity, as presented, provides another excellent opportunity for partnership success.

KU Endowment looks forward to working with you, your fellow commissioners, and the City staff on this great opportunity for KU and the Lawrence community.

Cordially,

Dale Seuferling
President, KU Endowment

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MATTHEW S. GOUGH*

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LINDA K. GUTIERREZ
CATHERINE C. THEISEN
MATTHEW B. TODD
EDWARD H. TULLY*

RICHARD A. BARBER
(1911-1998)

GLEE S. SMITH, JR.
OF COUNSEL

Jane M. Eldredge
Email: jeldredge@barberemerson.com

October 10, 2012

Via E-Mail and U.S. Mail

Scott McCullough, Director
Lawrence-Douglas County Metropolitan Planning Commission
6 East Sixth Street
Lawrence, Kansas 66044
smccullough@lawrenceks.org

Re: Planning Commission Meeting October 24, 2012

Dear Scott:

Thank you for meeting with me on Tuesday, October 2, 2012 to discuss the procedure for referring the comprehensive plan amendment, the text amendment, and the zoning request by Gateway Addition to the Planning Commission. These items were all referred to the Planning Commission by the City Commission on September 25, 2012.

As I understand our discussion, the Staff will not be making any additional Staff Report other than to provide to the Planning Commission the original Staff Reports, the Planning Commission's minutes from their first review and analysis of these three items, the City Commission minutes from September 18, 2012 and from September 25, 2012, with the Mayor's statement regarding the reason for the referral. Toward that end at Amy Miller's request, I am enclosing a copy of the court reporter's transcript from the September 25, 2012 City Commission meeting in which the commissioners stated their reason for the referral back to the Planning Commission. That reason was the relocation of the Regional Recreation Center from west side of the South Lawrence Trafficway to the east side of the South Lawrence Trafficway.

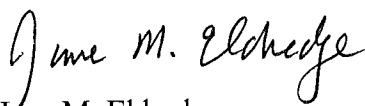
I further understand that you will be presenting this item to the Planning Commission and that you anticipate that the landowner would have ten minutes for a presentation to the Planning Commission. We also anticipate that there may be other owners in the area who will wish to address the Planning Commission. If this is not an accurate statement regarding the format and content of the October 24, 2012 Planning Commission then, please clarify it for me at your earliest convenience.

McCullough, Scott
October 10, 2012
Page 2

If there is any further information that we may provide, please do not hesitate to contact me.

Sincerely,

BARBER EMERSON, L.C.


Jane M. Eldredge

JME:dkh
Enclosure
cc: Toni Wheeler

LAWRENCE CITY COMMISSION

LAWRENCE, KANSAS

COPY
ORIGINAL

EXCERPT FROM

CITY COMMISSION MEETING

REGULAR AGENDA ITEM NO. D2

City Hall

6 East 6th Street

Lawrence, Kansas

September 25, 2012

6:30 p.m.

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APPEARANCES

MR. BOB SCHUMM
Mayor

MR. MIKE AMYX
Commissioner

MR. HUGH CARTER
Commissioner

MR. ARON CROMWELL
Commissioner

MR. MIKE DEVER
Commissioner

MR. DAVID CORLISS
City Manager

MS. DIANE STODDARD
Assistant City Manager

MS. TONI WHEELER
City Attorney

MS. CYNTHIA WAGNER
Assistant City Manager

MR. CHARLES F. SOULES, P.E.
Division of Public Works

MR. SCOTT McCULLOUGH, Director
Planning & Development Services

MR. JONATHAN DOUGLASS
Assistant to City Manager

MS. JANE M. ELDREDGE
BARBER EMERSON, L.C.
1211 Massachusetts Street
PO Box 667
Lawrence, Kansas 66044

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MR. HUGH CARTER	12
MR. MIKE AMYX	15
MR. ARON CROMWELL	16
MAYOR SCHUMM	17
MR. RANDY LARKIN	20

1 (Excerpt from City Commission
2 Meeting, Discussion Regarding Regular Agenda
3 Item No. D2, commenced at 8:28 p.m.)

4 MAYOR SCHUMM: We're back from our
5 executive session and we'll consider the next
6 item on the agenda.

7 The next item on the agenda is to
8 consider initiation of zoning items related to
9 the northwest corner of West 6th Street and
10 K-10 and refer to Planning Commission. The
11 City Commission voted to withdraw the earlier
12 land use items related to this property at
13 their meeting of September 18th, 2012.

14 Staff?

15 MR. RANDY LARKIN: Yes. Mayor,
16 Commissioners. Randy Larkin, senior assistant
17 City attorney.

18 The second item tonight is to address
19 the Gateway property and possible initiation
20 of zoning items related to that property.

21 At last week's meeting the City
22 Commission voted four to one to withdraw the
23 applications to amend the comprehensive plan,
24 to create the proposed CC600 zoning district,
25 and to rezone the Gateway property from

1 various county designations to the
2 CC600 designation.

3 The landowner has asked that due to
4 changes related to the sports village, that
5 the City Commission reconsider its decision
6 from last week and instead of withdrawing it,
7 to reopen it and remand it to the Planning
8 Commission for reconsideration of the land
9 uses in light of those changes.

10 If the Commission chooses to do so,
11 it may do so through a motion to rescind. And
12 then if the motion is seconded and a majority
13 of the commission members vote in favor of the
14 motion to rescind, that would reopen the
15 applications and it would allow the City
16 Commission to reconsider those three
17 applications.

18 And if that occurs, then you would
19 have the same four options available to you as
20 you had last week.

21 You could vote by a simple majority
22 to approve the recommendation regarding the
23 comprehensive plan and the text amendment, and
24 then you would vote -- which would have to be
25 by four-fifths of the majority -- either to

1 approve or to disapprove the Planning
2 Commission's recommendations regarding the
3 rezoning.

4 You could vote to disapprove, and
5 this would have to be by four-fifths majority,
6 the Planning Commission's recommendation
7 regarding the comprehensive plan regarding the
8 text amendment. And then such a vote would
9 moot out any consideration of the rezoning
10 request.

11 Third, you could send the issue back
12 to the Planning Commission by a simple
13 majority vote for reconsideration of the
14 applications in light of the change in
15 circumstances. And that is that the KU and
16 proposed City recreation center may be moving
17 to a different location and with the direction
18 to the City -- to the Planning Commission that
19 based upon those changes -- whether or not
20 that changes their recommendation regarding
21 those three applications.

22 And, also, you would need to make a
23 statement that the reason you are not
24 approving or not disapproving, is that because
25 of those various specific changes in

1 circumstances.

2 Or four, you could withdraw, in our
3 opinion. But, obviously, if you rescind that
4 motion, it would probably be a moot deal.

5 At this time it is the recommendation
6 of the City attorney's office that if you
7 decide to rescind your vote of withdrawal,
8 that you send it back to the Planning
9 Commission because of the changes in
10 circumstances for review and consideration:

11 No. 1, stating that the City
12 Commission has neither approved nor
13 disapproved the recommendations of the
14 Planning Commission due to the change in
15 circumstances relating to KU's location and
16 the City's location of this recreational
17 center;

18 And, 2, directing the Planning
19 Commission to determine whether its
20 recommendation regarding the comprehensive
21 plan amendment, the text amendment and the
22 rezoning recommendations had changed in light
23 of the change in circumstances. And if you
24 have any questions.

25 MAYOR SCHUMM: Questions from staff?

1 Mr. Amyx?

2 MR. AMYX: So, Randy, then, if we
3 were to go through the rescinding the
4 withdrawal of this item, you know, if it
5 was -- a majority of the Commission wished to
6 send it back to the Planning Commission, it
7 would go through the process to either affirm,
8 reaffirm, whatever action, you know, that they
9 have done before. It would come back to this
10 body for final decision again?

11 MR. LARKIN: Yes, that is correct.

12 MAYOR SCHUMM: Other questions from
13 staff? Public comment?

14 MS. ELDREDGE: Thank you, Mr. Mayor.
15 My name is Jane Eldredge and I very much
16 appreciate you putting the item on the agenda
17 that you did.

18 And then as part of full disclosure,
19 I want to make it clear that I had a meeting
20 with the mayor, with Commissioner Dever and
21 with City staff discussing this item, and I
22 have since made telephone calls to each of
23 you.

24 It sounds as if perhaps my message
25 was not clear. And the message is we would

1 like to have you reconsider your actions as is
2 necessary, and we would like you to move
3 forward with approving all of these three
4 things for -- on the basis that you have the
5 information, you have the referrals.

6 And I understand that you may choose
7 to do something else with it, but I appreciate
8 the opportunity, and I just wanted to make it
9 clear what my request was intended to be.

10 I appreciated Commissioner Cromwell's
11 comments on the earlier agenda item that it is
12 important to plan way out in the future. And
13 I think that's what the staff and the City and
14 the Planning Commission have been doing with
15 regard to this intersection since their
16 planning of the comp plan and the text
17 amendment has been regardless of where a rec
18 center located.

19 The zoning was the site-specific one.
20 And I think that is a little bit different and
21 we've discussed the issue about withdrawal of
22 names on petitions before, and I just want to
23 be very careful. Because you are so good and
24 careful about being fair to landowners.

25 And this seems a little bit unfair,

1 and I'd like to ask you to consider moving
2 forward, as well as considering what the staff
3 recommendation has been to you at this time.

4 Thank you very much. Appreciate it.

5 MS. KLINGENBERG: My name is Gwen
6 Klingenberg. I'm president of Lawrence
7 Association of Neighborhoods.

8 We've already planned this corner.
9 Actually twice. You have it planned in the
10 K-10 plan. You also have it planned in our
11 SmartCode, which actually is mentioned in the
12 K-10 Plan and Horizon 2020.

13 And the reason -- one of the reasons
14 why it was planned what it is now -- which is
15 not smoke stacks, but it's a business park --
16 is because of the Gateway.

17 And, actually, it says that this area
18 is to be office/industrial/warehouse.
19 Regardless of which land use option is chosen
20 for development, the employment-related land
21 use should be maintained.

22 That can be developed conventionally
23 under the development code or potentially with
24 special districts under the Lawrence
25 SmartCode.

1 As I pointed out a couple of times
2 ago, this sits on the corridor between
3 Manhattan, Kansas and Columbia, Missouri as
4 the center for the animal health and nutrition
5 industries. As we look at trying to bring in
6 more primary jobs, this is a great place right
7 on I-70 to have primary jobs in this field.

8 As you know, the City hired
9 PlaceMakers, a national consulting firm, to
10 write a traditional neighborhood development
11 code that can be used to develop a traditional
12 neighborhood in the future, and we actually
13 have one in there.

14 On the K-10/Highway 40 plan under
15 Horizon 2020, it says, "Over time as this area
16 develops, it will serve as a gateway to the
17 city of Lawrence and will best be suited for
18 warehouse and distribution uses, industrial
19 uses, work live campus-type centers and
20 industrial business research and parks."

21 And we all know the length of time it
22 took to get this site -- determine what that
23 plan was going to be. Now, I'm not asking you
24 to push it forward to the Planning Commission
25 and say industrial.

1 What I am asking is that we be equal
2 and fair to all, that's including the City,
3 the Gateway for the City, that we be fair to
4 the neighborhood and fair to the landowner,
5 and that you send it over to the Planning
6 Commission with no set boundaries of what kind
7 of zoning you want.

8 Leave it open to them for full
9 discussion of all the various things
10 available, including the SmartPlan code. And
11 that's what I'm asking for. Thank you.

12 MAYOR SCHUMM: Thank you,
13 Ms. Klingenberg. Other comments?

14 Okay. Back to the Commission for
15 discussion.

16 Mr. Carter?

17 MR. CARTER: I'll kick it off.
18 Last -- when we were voting last week, I had
19 said, you know, that -- I had stated when this
20 first started that, you know, we would not
21 rezone this property unless the rec center had
22 moved forward. So my feeling was that the
23 cleanest way to do that was to -- well,
24 actually, to deny it and to restart the
25 process.

1 But at the same time, as I mentioned
2 last week, at the same time we need to restart
3 the process because now we've annexed it.
4 And, the thing is, we didn't move the rec --
5 we moved the rec center, but we didn't move it
6 far. It's a stone's throw away. So we need
7 to address this property.

8 Because one of the unintended
9 consequences of not acting on it -- that at
10 the time I said we wouldn't act on it -- was
11 that, obviously, neighbor angst. And we have
12 heard that clearly from the neighbors that
13 worked well with us through this process, that
14 now it's left up in the air.

15 And with the rec center still being
16 somewhat in proximity, something is going to
17 happen, so let's get some clarity there.

18 Also, just the fact, again, based on
19 the proximity, it probably is going to hasten
20 some sort of development out in that area.

21 But.

22 So denying that -- denying didn't
23 pass, removing it -- or not rescinding
24 it and -- the way that we went.

25 But through this past week in

1 conversation, it's clear to me that the best
2 way to go ahead and get this addressed for the
3 neighbors -- and I think just from a planning
4 standpoint, it makes sense to determine what
5 the best zoning is -- would be to -- just to
6 send it back to the Planning Commission and
7 rescind the action of last week.

8 And I would just say that I agree,
9 you know, definitely I would want the Planning
10 Commission just to look at what is appropriate
11 in light of these changes now, knowing that
12 the comp plan is the guideline and not zoning
13 so.

14 We planned it before but what is most
15 appropriate. You know, in employment-related
16 land use, business park, primary jobs are
17 important. But based on the proximity of the
18 rec center and other things out there, just
19 kind of an open book to say, here are the
20 changes. Take a look again and come back with
21 a recommendation what's the appropriate zoning
22 for this property. So. That's my thoughts
23 anyway.

24 MAYOR SCHUMM: Okay. Thank you.
25 Comments? Mr. Amyx?

1 MR. AMYX: Well, I guess one of the
2 things is that, you know, if we go ahead and
3 rescind the withdrawal, which I think if -- I
4 think it's probably appropriate to do that
5 because we promised the neighbors that are
6 adjacent to this property that, you know, our
7 concern was for them.

8 And then the fact that now that this
9 change has occurred in the location where the
10 sports village is going to be, it is
11 obvious -- it's obvious to me that there's
12 probably -- you know, different consideration
13 is to be given to this property.

14 One of the things that was brought up
15 a second ago that I think is appropriate --
16 and we can refer it to the Planning
17 Commission. And, you know, it's one of those
18 things where we're going to ask people that
19 we've appointed to the Planning Commission to
20 be planners in the area, to make the
21 recommendation back to this body for what --
22 you know, with the change that's occurred, you
23 know, what is the appropriate zoning for that
24 area. And then we will look at that.

25 You know, obviously, final decision

1 rests here. But I -- I really don't want to
2 go a whole lot farther and given any direction
3 here, because I want them to, you know, make
4 their recommendation based on, you know, the
5 things that they have to consider through the
6 planning process. So I want to be careful
7 here as to not lead, you know, that part. So.

8 I guess if this is -- I guess, if --
9 being asked to rescind the withdrawal and send
10 this back to the Planning Commission for their
11 recommendations, I guess I could do that at
12 this time.

13 MAYOR SCHUMM: Mr. Cromwell?

14 MR. CROMWELL: Thanks. Yes. In
15 looking at this from last week, I think my
16 comments last week were that I wanted our
17 Planning Commission to have an opportunity to
18 take a look at this -- this project in light
19 of the fact that it no longer will have the
20 sports village assigned to this particular
21 location. So they need to have a chance to
22 say whether or not that impacts their zoning
23 decision.

24 I do agree with the statement that
25 they need a clean slate to work from. And,

1 you know, if we need to rescind in order to
2 keep this as clean as possible for the time
3 being, then I think that I could go along with
4 that.

5 I have never -- I have always voted
6 to -- had something go back to planning and
7 get their input when it was appropriate. And
8 I think, you know, I am interested in that
9 input. And if that's what we need to do here
10 today, then I can be comfortable with it.

11 MAYOR SCHUMM: Okay. My comments are
12 as follows: I was pretty adamant about the
13 fact that as a promise to the public, that if
14 the rec center failed for any reason, that I
15 was not interested in rezoning an additional
16 amount of land that we wouldn't have need of
17 right away because the rec center wouldn't be
18 there.

19 We have -- still have the rec center
20 in the general vicinity; it's just moved to
21 the east side of K-10 as opposed to the west
22 side. Actually, it's gotten larger. There's
23 more -- there's going to be more activity
24 there. There's going to be a softball diamond
25 and stadium, you know, possibly be eight

1 illuminated tennis courts for the City. There
2 could be a walking, jogging, cross-country
3 trail in addition to all the other uses that
4 we had originally.

5 So, if anything, it's gotten a lot
6 larger. And the site is now in the 150-acre
7 range. It's more like a park than just a
8 regional recreational center. So it's grown
9 quite a bit and I think grown for the best.

10 So with that in mind, we still have
11 an obligation to support that with some
12 ancillary uses, stuff like hotels, motels,
13 restaurants, gas stations, et cetera. So
14 there's still the need for some additional
15 land uses.

16 I am willing to send this back to the
17 Planning Commission. I hope that they take a
18 good hard look at the whole area. I'm very
19 interested in all the property owners being,
20 you know, contacted, once directly involved in
21 the four corners as well as the neighborhood
22 to the north.

23 I'd like to see a real good
24 comprehensive review of the whole project, the
25 whole area now that -- now that we know that

1 it's moved and that it's larger and see what
2 they come back with.

3 I don't really believe that the
4 picture we have today is the same picture we
5 had as short as three weeks ago. It's much
6 clearer and much more well-defined.

7 Obviously, that area is going to be a
8 major commercial area, commercial or
9 industrial or mixed use, but a major area for
10 activity in terms of not -- other than
11 residential uses.

12 So I would hope that they would --
13 the Planning Commission would come back with
14 some really innovative ideas that sets that
15 district apart from others and makes it look
16 like it's a really well-planned perfected part
17 of our city.

18 So with that in mind, I'm willing to
19 send it back to the Planning Commission and
20 see what they have to say. I hope that they
21 look past where we were with the last zoning
22 initiative and give it a much broader global
23 view now that we have all these things in
24 clearer vision.

25 So I would support the motion to

1 rescind with the idea that it goes back to the
2 Planning Commission for a total review. I
3 will entertain a motion at this time to
4 rescind.

5 MR. DEVER: Mayor, in light of your
6 comments, I respectfully request a motion to
7 rescind our September 18th, 2012, decision to
8 withdraw the applications to amend the comp
9 plan, to create the CC600 zoning district and
10 to rezone the Gateway property from county
11 designations to CC600 zoning district.

12 MAYOR SCHUMM: Move Dever. Second
13 Carter?

14 MR. CARTER: Yes.

15 MAYOR SCHUMM: All in favor, Say aye.

16 (The ayes were thereupon heard.)

17 MAYOR SCHUMM: Opposed?

18 (No response.)

19 MAYOR SCHUMM: I think it carries
20 five zero; motion rescinds the action of last
21 week.

22 Now, is it just a simple motion to
23 refer this back to the Planning Commission or
24 does it go back automatically?

25 MR. DEVER: I think we need to ask

1 whoever responded to the three options we
2 have --

3 MAYOR SCHUMM: All right.

4 MR. LARKIN: Right. With that
5 motion, now, you've reopened the applications
6 and you have before you the four options that
7 we discussed earlier. The first would be to
8 approve the comp plan, approve the text
9 amendment and then either approve or deny by a
10 four-fifths margin the rezoning.

11 You could deny the comp plan
12 amendment; you could deny the text amendment
13 and that would moot out the rezoning issue.

14 Or you could send it back to the
15 Planning Commission with the statement that
16 because of the change in circumstances, you
17 did not vote either to approve or to
18 disapprove and direct the Planning Commission
19 to reconsider those applications based upon
20 the change in circumstances.

21 Or, fourth, you could withdraw, which
22 is what you did last week and you just voted
23 to rescind. So you're basically faced with
24 those options this time.

25 MAYOR SCHUMM: Thank you. Questions?

1 MR. CARTER: Are you ready to make a
2 motion?

3 MAYOR SCHUMM: I guess we would look
4 a little foolish if we voted for another four;
5 it would be a never-ending loop.

6 MR. DEVER: Do over.

7 MAYOR SCHUMM: Just keep doing it.

8 MR. CARTER: Mayor, I would give a
9 motion, I guess, at this time unless there's
10 some more conversation on it.

11 MAYOR SCHUMM: Go ahead.

12 MR. CARTER: Yeah. I move at this
13 time that we not take action on those three
14 items, that we send it back to the City
15 Commission --

16 UNIDENTIFIED MALE: (Unintelligible.)

17 MR. CARTER: -- back to the Planning
18 Commission -- it is a loop, isn't it -- for
19 further consideration. And I think the
20 comments that were made earlier are to be
21 shared with them, as well.

22 MAYOR SCHUMM: It's been moved by
23 Carter.

24 MR. DEVER: Second.

25 MAYOR SCHUMM: Second by Dever.

1 Just a point of importance to me, is
2 that I would want the conversation of the
3 comments I made included in the minutes that
4 would go to the Planning Commission as well as
5 all the relevant comments here to make
6 sure ...

7 MR. CARTER: I'm sorry. I thought
8 I included that in the motion of the earlier
9 comments.

10 MAYOR SCHUMM: Okay. So it's moved
11 by Carter; seconded by Dever.

12 All in favor say aye.

13 (The ayes were thereupon heard.)

14 MAYOR SCHUMM: Opposed.

15 (No response.)

16 MAYOR SCHUMM: Carries five zero.

17 (Excerpt from City Commission
18 Meeting, Discussion Regarding Regular Agenda
19 Item No. D2, concluded at 8:50 p.m.)
20
21
22
23
24
25

C E R T I F I C A T E

I, Avanelle L. Sullivan, a Certified
Shorthand Reporter of the State of Kansas, do
hereby certify that I appeared at the time and
place first hereinbefore set forth, that I took
down in shorthand the entire proceedings had at
said time and place, and that the foregoing
constitutes a true, correct, and complete
transcript of my said shorthand notes.

Witness my hand and seal this 4th day of
October, 2012.



Avanelle Sullivan
State of Kansas
Certified Shorthand Reporter

Avanelle L. Sullivan
Avanelle L. Sullivan

Certified Shorthand Reporter
State of Kansas

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RICHARD A. BARBER
(1911-1998)

GLEE S. SMITH, JR.
OF COUNSEL

*ADMITTED IN KANSAS AND MISSOURI

October 20, 2012

Via E-Mail

Jane M. Eldredge
Email: jeldredge@barberemerson.com

Dr. Bruce Leise, Chair
Lawrence Douglas County Metropolitan Planning Commission
City Hall
6 East Sixth Street
Lawrence, Kansas 66044
bruce@kansascitysailing.com

Re: October 24, 2012 Planning Commission
Item No. 9 CPA-4-2-12 (comprehensive plan amendment)
Item No. 10 TA-4-3-12 (text amendment)
Item No. 11 Z-4-5-12 (rezone 146 acres to CC 600)

Dear Dr. Leise:

All three of these items were previously adopted by the Planning Commission and/or recommended for approval to the County and City Commissions. On September 25, 2012 the City Commission remanded them to the Planning Commission by motion directing:

“Given the change in circumstance that the regional recreation center/sports village is no longer planned for the Gateway Addition property west of K-10, the City Commission has not approved or disapproved the applications and direct the Planning Commission to review the comprehensive plan, text amendment and rezoning application in light of the change in circumstance of the regional recreation center/sports village relocating to a property east of K-10.”

I. HISTORY

The Planning Commission considered these three items on May 21, 2012. The Staff provided extensive studies and analyses of each of these proposals before recommending approval of each to the Planning Commission. After a thorough discussion, the Planning

Commission recommended all three items for approval by the County and/or City Commissions. The Planning Commission also adopted the comprehensive plan amendments. Please see Exhibit A (PCR-5-4-12).

The Douglas County Commission adopted the comprehensive plan amendments on July 11, 2012 by unanimously approving Exhibit B (Resolution No. 12-24).

II. PERMITTED PLANNING COMMISSION ACTIONS

The Planning Commission responses to each remanded item must fall within the same three options, even though each item is governed by a different statute or City Code section. The comprehensive plan amendment is governed by K.S.A. 12-747(b), a copy of which is attached as Exhibit C. The text amendments are governed by City Code Section 20-1302(e)(2), a copy of which is attached as Exhibit D. The zoning amendment is governed by K.S.A. 12-756(b); a copy of which is attached as Exhibit E. Each one directs the Planning Commission after further consideration to:

- A. Resubmit the original recommendation stating the reasons for the resubmission; or
- B. Submit a new and amended recommendation;
- C. **BUT**, if the Planning Commission fails to deliver a recommendation to the City Commission following the Planning Commission meeting, the City Commission **shall** consider this inaction as a resubmission of the original recommendations.

III. ANALYSIS and REQUESTED ACTIONS

- A. CPA-4-2-12 Comprehensive Plan Amendments
 - 1. These amendments should be adopted by the Planning Commission and returned to the County and City Commission with recommendations for adoption with two additional changes to the West of K-10 Plan:
 - a. Page 28, delete the references to the regional recreation center being located within the northwest corner of the study area.

- b. Page 29, add a reference to the regional recreation center being located adjacent to northwest corner of the study area.
2. The reasons for adopting CPA-4-2-12 and recommending it for approval are:
- a. The May 21, 2012 Planning Commission minutes reveal that after extensive analysis and thorough discussion both the Staff and Commissioners recommended the comprehensive plan changes independently of where a recreation center may be located.
 - b. There is a gap in the permitted amount of retail commercial square footage between the 400,000 of the largest community commercial center (CC 400) and the 1,500,000 of a regional commercial center (CR) that is ameliorated with the proposed CC 600 center.
 - c. The proposed CC 600 center provides for the needed expansion of the community commercial centers and particularly for the expansion of the community commercial center at the intersection of US 40 and K-10.
 - d. The northwest corner is still at the intersection of two highways making it ideal for commercial uses. The completion of the portion of K-10 known as the South Lawrence Trafficway ("SLT") only enhances the desirability of this commercial node.
 - e. The West of K-10 Plan is the nodal plan for this intersection and it specifically limits the retail commercial on the northwest corner to 180,000 square feet, while expanding the opportunities for new commercial uses on the southwest and southeast corners. It makes no change to the northeast corner.
 - f. Even though the location of the proposed regional recreation center has moved across K-10, it will still have a significant influence on this commercial node.
 - g. Additional commercial uses will still be necessary to support the regional recreation center/sports village on the east side of K-10.

- h. Without the expansion of the node from a CC 400 center to a CC 600 center there will not be sufficient additional retail commercial zoning to support the regional recreation center.

B. TA-4-3-12 Text Amendments

1. These text amendments should be recommended for approval to the City Commission. No changes are necessary.
2. The reasons for recommending TA-4-3-12 for approval are:
 - a. It implements the comprehensive plan.
 - b. At the May 21, 2012 Planning Commission it was recommended for approval regardless of the location of the regional recreation center.
 - c. An expanded community commercial center zoning district is needed to service the completed SLT and the regional recreation center and to provide reasonable locational choices for new or expanding businesses.
 - d. The code provisions provide well planned and compatible uses for expanded commercial centers at the intersection of two federal or state highways.

C. Z-4-5-12 Zoning

1. This zoning request should be recommended for approval to the City Commission with two additional amendments:
 - a. Strike "UTILITY MAJOR" from the permitted uses shown in Table 1, p. 7-7 of the May 21, 2012 Staff Report; and
 - b. Strike "RECYCLING - large collection" from the permitted uses shown in Table 1, p. 7-8 of the May 21, 2012 Staff Report.
2. The reasons for recommending Z-4-5-12 for approval are:

- a. If the comprehensive plan and text amendments are approved, then the rezoning is consistent with them;
- b. The owner and neighbors agreed to eliminate “major utility” and “large collection recycling” uses from the table of permitted uses;
- c. CC 600 uses are not all retail. The specific uses permitted in this zoning request are restricted to those permitted in the Staff Report and those requested to be eliminated by some neighbors.
- d. This is a **conditional** zoning request that limits the amount of retail commercial permitted on this corner in an innovative and creative way, emphasizing compatibility with surrounding uses and creating an attractive gateway to the City while providing some of the necessary amenities to support the nearby regional recreation center.
- e. Without this zoning, the anticipated economic development impact of a regional recreation center may be lost. We may not be able to conveniently support the future regional sports tournaments, the concert goers or the users of the proposed recreational and entertainment activities.

IV. CONCLUSIONS

- A. **CPA-4-2-12 should be amended to reflect the move of the proposed regional recreation center to the east side of K-10. It should be adopted by the Planning Commission and recommended for approval to the County Commission.**
- B. **CPA-4-2-12, TA-4-3-12 and Z-4-15-12 should each be recommended for approval to the City Commission despite the proposed relocation of the regional recreation center/sports village to the east side of K-10, because they are still necessary to the planning and development of the important intersection that will be significantly influenced by a regional recreation center/sports village.**

Leise, Dr. Bruce
October 20, 2012
Page 6

V. SUMMARY

The Planning Staff and Planning Commission provided the initial thoughtful analysis of these three proposals on May 21, 2012, regardless of where the regional recreation center was proposed. The proposed regional recreation center move across K-10 has not changed any of this analysis. However, the change does require the housekeeping changes of removing the reference to a "regional recreation center" from the description of one of the corners in the West of K-10 Plan study area while acknowledging its adjacency to another corner in the Plan. Additionally, the agreed elimination of two more permitted uses from the corner should be honored.

Please adopt motions affirming the initial Planning Commission recommendations for approval of all three items with the necessary amendments and provide the reasons for your actions. Remember, failure to act will be perceived as approval, but without the rationale.

Thank you for your consideration.

Sincerely,

BARBER EMERSON, L.C.



Jane M. Eldredge

JME:dkh

Attachments

cc: Planning Commissioners
Planning Staff
Duane Schwada
Steve Schwada

A RESOLUTION OF THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION ADOPTING AND RECOMMENDING ADOPTION OF A PROPOSED AMENDMENT TO *HORIZON 2020*, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, AMENDING CHAPTER 6 - COMMERCIAL, TO ESTABLISH THEREIN POLICIES GOVERNING CC600 (COMMUNITY COMMERCIAL) DISTRICTS, AND CHAPTER 14 - SPECIFIC PLANS, TO REVISE THEREIN THE "WEST OF K-10 PLAN" TO DESIGNATE THE SIXTH STREET AND K-10 NODE AS A CC600 COMMERCIAL NODE AND TO DELETE THEREFROM THE EXISTING "A NODAL PLAN FOR THE INTERSECTION OF WEST SIXTH STREET AND KANSAS HIGHWAY 10 (K-10)."

WHEREAS the City of Lawrence, Kansas, and Douglas County, Kansas, in order to promote the public health, safety, morals, comfort, and general welfare and to conserve and to protect property values in the City and the County, are authorized by K.S.A. 12-741, *et seq.*, to prepare, adopt, amend, extend, and execute a comprehensive plan;

WHEREAS the City of Lawrence, Kansas, Douglas County, Kansas, and the Lawrence-Douglas County Metropolitan Planning Commission, in order to coordinate development in accordance with the present and future needs of the City and the County, to conserve the natural resources of the City and the County, to ensure efficient expenditures of public funds in the City and the County, and to promote the health safety, convenience, prosperity, and the general welfare of the residents of the City and the County, have adopted *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County; and

WHEREAS, on May 21, 2012, after giving lawful notice by publication in the official City and County newspaper, the Lawrence-Douglas County Metropolitan Planning Commission conducted a public hearing regarding a proposed amendment of *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, as set forth in Planning Staff Report, CPA-4-2-12, amending Chapter 6 - Commercial, to establish therein policies governing CC600 (Community Commercial) Districts, and amending Chapter 14 - Specific Plans to revise therein the "West of K-10 Plan" to designate the Sixth Street and K-10 Node as a CC600 Commercial Node and to delete therefrom the existing "A Nodal Plan for the Intersection of West Sixth Street and Kansas Highway 10 (K-10)."

NOW, THEREFORE, BE IT RESOLVED BY THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION:

SECTION 1. The above-stated recitals are incorporated herein by reference and shall be as effective as if set forth in full.

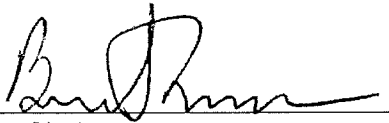
SECTION 2. Pursuant to K.S.A. 12-747, the Lawrence-Douglas County Metropolitan Planning Commission hereby adopts and recommends to the governing bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, that they adopt the proposed amendment to *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, as set forth in Planning Staff Report CPA-4-2-12, amending Chapter 6 - Commercial, to

establish therein policies governing CC600 (Community Commercial) Districts, and Chapter 14 - Specific Plans, to revise therein the "West of K-10 Plan" to designate the Sixth Street and K-10 Node as a CC600 Commercial Node and to delete therefrom the existing "A Nodal Plan for the Intersection of West Sixth Street and Kansas Highway 10 (K-10)."

SECTION 3. The revised and updated Chapter 6 - Commercial, affixed hereto as Exhibit 1, the revised and updated Chapter 14 - Specific Plans, affixed hereto as Exhibit 2, and the revised and updated "West of K-10 Plan," which is incorporated by reference into Chapter 14 - Specific Plans, affixed hereto as Exhibit 3, shall upon adoption by governing bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, be incorporated into *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County.

SECTION 4. This Resolution, together with a certified copy of the proposed amendment to *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, and a written summary of the May 12, 2012, public hearing, shall be transmitted to the governing bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, as appropriate.

ADOPTED by the Lawrence-Douglas County Metropolitan Planning Commission this 12th day of May, 2012.



Vice-Chair
Lawrence-Douglas County Metropolitan
Planning Commission



Scott McCullough, Secretary
Lawrence-Douglas County Metropolitan
Planning Commission

ORDINANCE NO. 8740

RESOLUTION NO. 12-24

A JOINT ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, AND RESOLUTION OF DOUGLAS COUNTY, KANSAS, AMENDING *HORIZON 2020*, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, CHAPTER 6 - COMMERCIAL, BY ESTABLISHING THEREIN POLICIES GOVERNING CC600 (COMMUNITY COMMERCIAL) DISTRICTS, AND CHAPTER 14 - SPECIFIC PLANS, BY REVISING THEREIN THE "WEST OF K-10 PLAN" TO DESIGNATE THE SIXTH STREET AND K-10 NODE AS A CC600 (COMMUNITY COMMERCIAL) NODE AND DELETING THEREFROM THE EXISTING "A NODAL PLAN FOR THE INTERSECTION OF WEST SIXTH STREET AND KANSAS HIGHWAY 10 (K-10)", BY ADOPTING AND INCORPORATING HEREIN BY REFERENCE "*HORIZON 2020*, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, JULY 2012 EDITION," AS PREPARED AND PUBLISHED BY THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING OFFICE.

WHEREAS the City of Lawrence, Kansas, and Douglas County, Kansas, in order to promote the public health, safety, morals, comfort, and general welfare and to conserve and protect property values in the City and the County, are authorized by K.S.A. 12-747 to prepare, adopt, amend, extend, and execute a comprehensive land use plan;

WHEREAS the City of Lawrence, Kansas, and Douglas County, Kansas, in order to coordinate the development of land in accordance with the present and future needs of the City and the County, to conserve the natural resources of the City and the County, to ensure the efficient expenditure of public funds in the City and the County, and to promote the health, safety, convenience, prosperity, and the general welfare of the residents of the City and the County, have, in accordance with K.S.A. 12-747, adopted *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County;

WHEREAS, after giving notice by publication in the official City and County newspaper, the Lawrence-Douglas County Metropolitan Planning Commission conducted a public hearing on May 21, 2012, regarding a proposed amendment of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, as set forth in Planning Staff Report, CPA-4-2-12, which would amend Chapter 6 - Commercial, by establishing therein policies governing CC600 (Community Commercial) Districts, and Chapter 14 - Specific Plans, by revising therein the "West of K-10 Plan" to designate the Sixth Street and K-10 Node as a CC600 (Community Commercial) Node and by deleting therefrom the existing "A Nodal Plan for the Intersection of West Sixth Street and Kansas Highway 10 (K-10)";

WHEREAS, at its May 21, 2012, public hearing, the Lawrence-Douglas County Metropolitan Planning Commission considered the report and recommendation of City Staff, CPA-4-2-12, received public comment, weighed the evidence adduced at the public hearing, and, through the adoption of Resolution No. PCR-5-4-12, approved the proposed amendment of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, amending Chapter 6 - Commercial, by establishing therein policies governing CC600 (Community Commercial) Districts, and Chapter 14 - Specific Plans, by revising therein the "West of K-10 Plan" to designate the Sixth Street and K-10 Node as a CC600 (Community

Commercial) Node and by deleting therefrom the existing "A Nodal Plan for the Intersection of West Sixth Street and Kansas Highway 10 (K-10)," and recommended that the Governing Bodies of the City of Lawrence, Kansas, and the Douglas County, Kansas approve those amendments; and

WHEREAS, copies of Resolution No. PCR-5-4-12, together with certified copies of "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition", the proposed amendment to *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, and a written summary of the May 21, 2012, public hearing have been transmitted to the Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, for their consideration.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS, AND BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS:

SECTION 1. The above-stated recitals are incorporated herein by reference and shall be as effective as if repeated verbatim.

SECTION 2. The Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, hereby find that the provisions of K.S.A. 12-743 and K.S.A. 12-747, governing the amendment of comprehensive plans, have been fully met regarding the consideration, approval, and adoption of the "*Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition", amending "Chapter 6 – Commercial and Chapter 14 - Specific Plans of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County.

SECTION 3. The Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, do hereby approve the recommendation of the Lawrence-Douglas County Metropolitan Planning Commission as memorialized at Resolution No. PRC-5-4-12, and do hereby amend Chapter 6 - Commercial, and Chapter 14 - Specific Plans, of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, by adopting "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition" and by incorporating that document into *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, by reference.

SECTION 4. The "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition" as approved by Section 3 *supra*, is hereby adopted and incorporated herein by reference as if set forth in full. One copy of said "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition" shall be marked or stamped as "Official Copy as Adopted by Joint Ordinance No. 8740 and Resolution No. ~~12-24~~" and shall be filed, together with a copy of this joint ordinance and resolution, with the City Clerk. The City Clerk shall make the "Official Copy as Adopted by Joint Ordinance No. 8740 and Resolution No. ~~12-24~~" open to the public and available for inspection at all reasonable office hours. One additional copy of the "Official Copy as Adopted by Joint Ordinance No. 8740 and Resolution No. ~~12-24~~" shall, at the cost of the City of Lawrence, Kansas, be made available to the Lawrence-Douglas County Metropolitan Planning Office of the City of Lawrence, Kansas.

SECTION 5. The "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition" adopted by this joint ordinance and

resolution replaces the existing Chapter 6 - Commercial and Chapter 14 - Specific Plans of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County,, and amendments thereto, it being the intent of the Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, that "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition" repeal and replace the same.

SECTION 6. If any section, clause, sentence, or phrase of this joint ordinance and resolution is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 7. This joint ordinance and resolution shall be in full force and effect upon its adoption by the Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, and publication as provided by law.

ADOPTED by the Governing Body of the City of Lawrence, Kansas, this ____ day of July, 2012.

APPROVED:

Robert J. Schumm, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

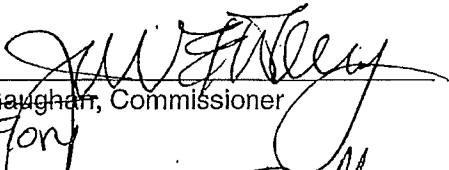
APPROVED AS TO FORM AND LEGALITY:

Toni R. Wheeler, City Attorney

ADOPTED by the Board of County Commissioners of Douglas County, Kansas, this 11th day of July, 2012.



Jim Flory, Chair
Mike Baughman


Mike Gaughan, Commissioner




Nancy Thellman, Commissioner

ATTEST:


Jameson D. Shaw, County Clerk

K.S.A. 12-747West's Kansas Statutes Annotated Currentness

Chapter 12. Cities and Municipalities

Article 7. Planning and Zoning

Planning, Zoning and Subdivision Regulations in Cities and Counties

12-747. Same; comprehensive plan; contents; procedure for adoption; annual review of plan

(a) A city planning commission is hereby authorized to make or cause to be made a comprehensive plan for the development of such city and any unincorporated territory lying outside of the city but within the same county in which such city is located, which in the opinion of the planning commission, forms the total community of which the city is a part. The city shall notify the board of county commissioners in writing of its intent to extend the planning area into the county. A county planning commission is authorized to make or cause to be made a comprehensive plan for the coordinated development of the county, including references to planning for cities as deemed appropriate. The provisions of this subsection may be varied through interlocal agreements.

(b) The planning commission may adopt and amend a comprehensive plan as a whole by a single resolution, or by successive resolutions, the planning commission may adopt or amend parts of the plan. Such resolution shall identify specifically any written presentations, maps, plats, charts or other materials made a part of such plan. In the preparation of such plan, the planning commission shall make or cause to be made comprehensive surveys and studies of past and present conditions and trends relating to land use, population and building intensity, public facilities, transportation and transportation facilities, economic conditions, natural resources and may include any other element deemed necessary to the comprehensive plan. Such proposed plan shall show the commission's recommendations for the development or redevelopment of the territory including: (a) The general location, extent and relationship of the use of land for agriculture, residence, business, industry, recreation, education, public buildings and other community facilities, major utility facilities both public and private and any other use deemed necessary; (b) population and building intensity standards and restrictions and the application of the same; (c) public facilities including transportation facilities of all types whether publicly or privately owned which relate to the transportation of persons or goods; (d) public improvement programming based upon a determination of relative urgency; (e) the major sources and expenditure of public revenue including long range financial plans for the financing of public facilities and capital improvements, based upon a projection of the economic and fiscal activity of the community, both public and private; (f) utilization and conservation of natural resources; and (g) any other element deemed necessary to the proper development or redevelopment of the area. Before adopting or amending any such plan or part thereof, the planning commission shall hold a public hearing thereon, notice of which shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county. Such notice shall be published at least 20 days prior to the date of the hearing. Upon the adoption or amendment of any such plan or part thereof by adoption of the appropriate resolution by a majority vote of all members of the planning commission, a certified copy of the plan or part thereof, together with a written summary of the hearing thereon, shall be submitted to the governing body. No comprehensive plan shall be effective unless approved by the governing body as provided by this section. **The governing body either may:** (1) Approve such recommendations by ordinance in a city or resolution in a county; (2) override the planning commission's recommendations by a 2/3 majority vote; or (3) **may return the same to the planning commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove. If the governing body returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations.** Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or it need take no further action thereon. **If the planning commission fails to deliver its recommendations to the governing body following the**

planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly. The comprehensive plan and any amendments thereto shall become effective upon publication of the respective adopting ordinance or resolution.

(c) An attested copy of the comprehensive plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan. Such plan or part thereof shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the health, safety, morals, order, convenience, prosperity and general welfare as well as wise and efficient expenditure of public funds.

(d) At least once each year, the planning commission shall review or reconsider the plan or any part thereof and may propose amendments, extensions or additions to the same. The procedure for the adoption of any such amendment, extension or addition to any plan or part thereof shall be the same as that required for the adoption of the original plan or part thereof.

CREDIT(S)

Laws 1991, ch. 56, § 7; Laws 1997, ch. 147, § 4.

LIBRARY REFERENCES

Zoning and Planning ¶30.

Westlaw Topic No. 414k30.

C.J.S. Zoning and Land Planning §§ 2, 5, 12, 39.

K. S. A. **12-747**, KS ST **12-747**

Current through 2012 regular session.

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END OF DOCUMENT

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(t) Planning Director as Administrative Official

Except where otherwise specifically provided in the Development Code, the Planning Director shall be the administrative official charged with interpreting and enforcing the provisions of the Development Code.

20-1302 TEXT AMENDMENTS**(a) Initiation**

An amendment to the text of the Development Code may be initiated by the City Commission, the Planning Commission, or, as to provisions affecting Urban Conservation Districts, by the Historic Resources Commission; and adopted in accordance with the rules of that body. Applications for text amendments may also be initiated by private parties and shall be filed with the Planning Director. The application shall be in writing and shall include the proposed text and the reasons for proposing the amendment. The Planning Director shall forward the application to the City Commission for review and consideration of initiating the amendment taking into consideration the need for the amendment. Any proposed amendment shall follow the process set forth in this section after initiation.

(b) Public Hearing Notice

Newspaper notice of the Planning Commission's public hearing shall be provided in accordance with Section 20-1301(q).

(c) Staff Review/Report

The Planning Director will review each proposed text amendment in accordance with the review and decision-making criteria of subsection (f) of this Section and, if deemed necessary, distribute the proposed amendment to other agencies and reviewers. Based on the results of those reviews, the Planning Director will provide a report on the proposed amendment to the Planning Commission and City Commission.

(d) Planning Commission's Review/Recommendation

The Planning Commission shall hold a public hearing on the proposed text amendment, review the proposed text amendment in accordance with the review and decision-making criteria of subsection (f) of this Section and recommend in writing that the City Commission approve, approve with modifications or deny the proposed amendment. The Planning Commission is also authorized to forward the proposed amendment to the City Commission with no recommendation.

(e) City Commission Decision

After receiving the Planning Commission's recommendation, the City Commission shall take one of the following actions on the proposed text amendment:

- (1) approve, approve with modifications, or deny; or
 - (2) return the application to the Planning Commission for further consideration, together with a written explanation of the reasons for the City Commission's failure to approve or disapprove.
- (i) The Planning Commission, after considering the explanation by the City Commission, may resubmit its original recommendations with its reasons for doing so or submit a new or amended recommendation.

- (ii) Upon the receipt of such recommendation, the City Commission may, by a simple majority vote, approve the proposed text amendment, approve it with modifications, or deny it.
 - (iii) If the Planning Commission fails to deliver its recommendations to the City Commission following the Planning Commission's next regular meeting after receipt of the City Commission's report, the City Commission will consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendations and proceed accordingly.
- (3) The City Commission may act by a simple majority vote, except for action pursuant to Section 20-1302(e)(1) that is contrary to the Planning Commission's recommendations, in which case the action shall be by a 2/3 majority vote of the full membership of the City Commission.

(f) Review and Decision-Making Criteria

In reviewing and making decisions on proposed zoning text amendments, review bodies shall consider at least the following factors:

- (1) whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition; and
- (2) whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (See Section 20-104).

(g) Date of Effect

The Development Code text amendment will become effective upon publication of the adopting ordinance.

K.S.A. 12-756West's Kansas Statutes Annotated Currentness

Chapter 12. Cities and Municipalities

Article 7. Planning and Zoning

Planning, Zoning and Subdivision Regulations in Cities and Counties

➔12-756. Same; zoning; zones or districts; procedure to establish; notice and hearing

(a) Before any city or county establishes any zone or district or regulates or restricts the use of buildings or land therein, the governing body shall require the planning commission to recommend the nature and number of zones or districts which it deems necessary and the boundaries of the same and appropriate regulations or restrictions to be enforced therein. Except as provided in the zoning regulations, all such regulations shall be uniform for each class or kind of building or land uses throughout each district, but the regulations in one district may differ from those in other districts and special uses may be designated within each district with conditions attached.

(b) Upon the development of proposed zoning regulations, the planning commission shall hold a public hearing thereon. Notice of such public hearing shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county at least 20 days prior to the date of the hearing. In the case of a joint zoning board, notice of such hearing shall be published in the official city and official county newspapers. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. The hearing may be adjourned from time to time and at the conclusion of the same, the planning commission shall prepare its recommendations and by an affirmative vote of a majority of the entire membership of the commission adopt the same in the form of proposed zoning regulations and shall submit the same, together with the written summary of the hearing thereon, to the governing body. The governing body either may: (1) Approve such recommendations by the adoption of the same by ordinance in a city or resolution in a county; (2) override the planning commission's recommendations by a 2/3 majority vote of the membership of the governing body; or (3) may return the same to the planning commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove. **If the governing body returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations.** Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or the governing body need take no further action thereon. **If the planning commission fails to deliver its recommendations to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly.** The proposed zoning regulations and any amendments thereto shall become effective upon publication of the respective adopting ordinance or resolution.

(c) The provisions of this section shall become effective on and after January 1, 1992.

CREDIT(S)

Laws 1991, ch. 56, § 16.

LIBRARY REFERENCES

Zoning and Planning ¶31, 134.Westlaw Topic Nos. 414k31; 414k134.C.J.S. Zoning and Land Planning §§ 12 to 16, 40.



LEAGUE OF WOMEN VOTERS®
OF LAWRENCE/DOUGLAS COUNTY

RECEIVED

OCT 22 2012

City County Planning Office
Lawrence, Kansas

President
Melinda Henderson

October 22, 2012

President-Elect
David Burress

Mr. Bruce Liese, Chairman
Members, Lawrence-Douglas County Metropolitan Planning Commission
City Hall • Lawrence, KS 66044

Vice President
Milton Scott

RE ITEMS 9-11: RECONSIDERATION OF AMENDMENTS OF THE CP, ZONING ORDINANCE AND REZONING REGARDING THE NW CORNER OF 6TH AND K10.

Dear Chairman Liese and Planning Commissioners:

Secretary
Caleb Morse

The Lawrence/Douglas County League of Women Voters Environmental Position on Land Use under Economic Considerations states that the City should keep the central area of the city "strong, active, and diverse." Our Position goes on to say (excerpted), "The Central Business District should be Lawrence's primary regional commercial center, and proposals for extension of regional, community ... developments should be analyzed in light of potential negative impact on the CBD.... Land zoned for commercial ... should revert to its original zoning if not utilized within a certain period of time."

Treasurer
Marjorie Cole

We believe that the 146 acres of new commercial zoning in the 6th and K10 location, predictably would have a negative effect not only on the CBD, but the remainder of the city, as well. It could become the third regional shopping center, a real planning misfortune considering the lack of supporting population for the amount of commercial zoning that we now have. For this reason we objected to this current proposal that has now been remanded to the Planning Commission (PC) for review. The instruction from the City Commission is for you not to change anything now, but rather, to start over.

Directors
Margaret Arnold

Bonnie Dunham

James Dunn

Sally Hayden

Cille King

We appeal to you to recognize that this area with its unique access to regional transportation would be a major, choice location for an **employment-related center** as an industrial-business park (IBP District). If planned carefully and creatively, and not zoned before it is extensively designed with committed users, it could be the employment gem of our region and would give Lawrence the economic boost that so many would like to see. The original plan that now exists for this area would support such an approach if it were "tweaked" to limit the intensity of the uses and expanded to include not only the IBP approach but also a carefully controlled IL (Limited Industrial District) with accessory supporting uses. The system could be included in a Planned Development (PD Overlay) District. Both districts could be designed to avoid impacting neighboring properties if the zoning is limited and controlled by this type of planning.

Ruth Lichtwardt

Because this property has been annexed, a UR (Urban Reserve) District would allow the area to be marketed for an employment type of use and not rezoned until users are committed to it.

Marlene Merrill

We appeal to the Planning Commission to keep the Comprehensive Plan as it is now or make it a less intensive industrial designation. Please do not designate it as commercial use or rezone it as CC 600, or for that matter allow any commercial use that is not accessory to the IBP District. We urge you to **not** throw away this opportunity by rezoning this property now. Wait until it is planned and committed to a creative employment-oriented use that will actually benefit the economic situation of Lawrence instead of challenging it.

We appreciate that you will carefully consider our letter. Thank you.

Sincerely yours,

Melinda Henderson,
President

Alan Black
Chair, Land Use Committee

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(1911-1998)

GLEE S. SMITH, JR.
OF COUNSEL

*ADMITTED IN KANSAS AND MISSOURI

October 20, 2012

Via E-Mail

Jane M. Eldredge
Email: jeldredge@barberemerson.com

Dr. Bruce Leise, Chair
Lawrence Douglas County Metropolitan Planning Commission
City Hall
6 East Sixth Street
Lawrence, Kansas 66044
bruce@kansascitysailing.com

Re: October 24, 2012 Planning Commission
Item No. 9 CPA-4-2-12 (comprehensive plan amendment)
Item No. 10 TA-4-3-12 (text amendment)
Item No. 11 Z-4-5-12 (rezone 146 acres to CC 600)

Dear Dr. Leise:

All three of these items were previously adopted by the Planning Commission and/or recommended for approval to the County and City Commissions. On September 25, 2012 the City Commission remanded them to the Planning Commission by motion directing:

“Given the change in circumstance that the regional recreation center/sports village is no longer planned for the Gateway Addition property west of K-10, the City Commission has not approved or disapproved the applications and direct the Planning Commission to review the comprehensive plan, text amendment and rezoning application in light of the change in circumstance of the regional recreation center/sports village relocating to a property east of K-10.”

I. HISTORY

The Planning Commission considered these three items on May 21, 2012. The Staff provided extensive studies and analyses of each of these proposals before recommending approval of each to the Planning Commission. After a thorough discussion, the Planning

Commission recommended all three items for approval by the County and/or City Commissions. The Planning Commission also adopted the comprehensive plan amendments. Please see Exhibit A (PCR-5-4-12).

The Douglas County Commission adopted the comprehensive plan amendments on July 11, 2012 by unanimously approving Exhibit B (Resolution No. 12-24).

II. PERMITTED PLANNING COMMISSION ACTIONS

The Planning Commission responses to each remanded item must fall within the same three options, even though each item is governed by a different statute or City Code section. The comprehensive plan amendment is governed by K.S.A. 12-747(b), a copy of which is attached as Exhibit C. The text amendments are governed by City Code Section 20-1302(e)(2), a copy of which is attached as Exhibit D. The zoning amendment is governed by K.S.A. 12-756(b); a copy of which is attached as Exhibit E. Each one directs the Planning Commission after further consideration to:

- A. Resubmit the original recommendation stating the reasons for the resubmission; or
- B. Submit a new and amended recommendation;
- C. **BUT**, if the Planning Commission fails to deliver a recommendation to the City Commission following the Planning Commission meeting, the City Commission **shall** consider this inaction as a resubmission of the original recommendations.

III. ANALYSIS and REQUESTED ACTIONS

- A. CPA-4-2-12 Comprehensive Plan Amendments
 - 1. These amendments should be adopted by the Planning Commission and returned to the County and City Commission with recommendations for adoption with two additional changes to the West of K-10 Plan:
 - a. Page 28, delete the references to the regional recreation center being located within the northwest corner of the study area.

- b. Page 29, add a reference to the regional recreation center being located adjacent to northwest corner of the study area.
2. The reasons for adopting CPA-4-2-12 and recommending it for approval are:
- a. The May 21, 2012 Planning Commission minutes reveal that after extensive analysis and thorough discussion both the Staff and Commissioners recommended the comprehensive plan changes independently of where a recreation center may be located.
 - b. There is a gap in the permitted amount of retail commercial square footage between the 400,000 of the largest community commercial center (CC 400) and the 1,500,000 of a regional commercial center (CR) that is ameliorated with the proposed CC 600 center.
 - c. The proposed CC 600 center provides for the needed expansion of the community commercial centers and particularly for the expansion of the community commercial center at the intersection of US 40 and K-10.
 - d. The northwest corner is still at the intersection of two highways making it ideal for commercial uses. The completion of the portion of K-10 known as the South Lawrence Trafficway ("SLT") only enhances the desirability of this commercial node.
 - e. The West of K-10 Plan is the nodal plan for this intersection and it specifically limits the retail commercial on the northwest corner to 180,000 square feet, while expanding the opportunities for new commercial uses on the southwest and southeast corners. It makes no change to the northeast corner.
 - f. Even though the location of the proposed regional recreation center has moved across K-10, it will still have a significant influence on this commercial node.
 - g. Additional commercial uses will still be necessary to support the regional recreation center/sports village on the east side of K-10.

- h. Without the expansion of the node from a CC 400 center to a CC 600 center there will not be sufficient additional retail commercial zoning to support the regional recreation center.

B. TA-4-3-12 Text Amendments

1. These text amendments should be recommended for approval to the City Commission. No changes are necessary.
2. The reasons for recommending TA-4-3-12 for approval are:
 - a. It implements the comprehensive plan.
 - b. At the May 21, 2012 Planning Commission it was recommended for approval regardless of the location of the regional recreation center.
 - c. An expanded community commercial center zoning district is needed to service the completed SLT and the regional recreation center and to provide reasonable locational choices for new or expanding businesses.
 - d. The code provisions provide well planned and compatible uses for expanded commercial centers at the intersection of two federal or state highways.

C. Z-4-5-12 Zoning

1. This zoning request should be recommended for approval to the City Commission with two additional amendments:
 - a. Strike "UTILITY MAJOR" from the permitted uses shown in Table 1, p. 7-7 of the May 21, 2012 Staff Report; and
 - b. Strike "RECYCLING - large collection" from the permitted uses shown in Table 1, p. 7-8 of the May 21, 2012 Staff Report.
2. The reasons for recommending Z-4-5-12 for approval are:

- a. If the comprehensive plan and text amendments are approved, then the rezoning is consistent with them;
- b. The owner and neighbors agreed to eliminate “major utility” and “large collection recycling” uses from the table of permitted uses;
- c. CC 600 uses are not all retail. The specific uses permitted in this zoning request are restricted to those permitted in the Staff Report and those requested to be eliminated by some neighbors.
- d. This is a **conditional** zoning request that limits the amount of retail commercial permitted on this corner in an innovative and creative way, emphasizing compatibility with surrounding uses and creating an attractive gateway to the City while providing some of the necessary amenities to support the nearby regional recreation center.
- e. Without this zoning, the anticipated economic development impact of a regional recreation center may be lost. We may not be able to conveniently support the future regional sports tournaments, the concert goers or the users of the proposed recreational and entertainment activities.

IV. CONCLUSIONS

- A. **CPA-4-2-12 should be amended to reflect the move of the proposed regional recreation center to the east side of K-10. It should be adopted by the Planning Commission and recommended for approval to the County Commission.**
- B. **CPA-4-2-12, TA-4-3-12 and Z-4-15-12 should each be recommended for approval to the City Commission despite the proposed relocation of the regional recreation center/sports village to the east side of K-10, because they are still necessary to the planning and development of the important intersection that will be significantly influenced by a regional recreation center/sports village.**

Leise, Dr. Bruce
October 20, 2012
Page 6

V. SUMMARY

The Planning Staff and Planning Commission provided the initial thoughtful analysis of these three proposals on May 21, 2012, regardless of where the regional recreation center was proposed. The proposed regional recreation center move across K-10 has not changed any of this analysis. However, the change does require the housekeeping changes of removing the reference to a "regional recreation center" from the description of one of the corners in the West of K-10 Plan study area while acknowledging its adjacency to another corner in the Plan. Additionally, the agreed elimination of two more permitted uses from the corner should be honored.

Please adopt motions affirming the initial Planning Commission recommendations for approval of all three items with the necessary amendments and provide the reasons for your actions. Remember, failure to act will be perceived as approval, but without the rationale.

Thank you for your consideration.

Sincerely,

BARBER EMERSON, L.C.



Jane M. Eldredge

JME:dkh

Attachments

cc: Planning Commissioners
Planning Staff
Duane Schwada
Steve Schwada

A RESOLUTION OF THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION ADOPTING AND RECOMMENDING ADOPTION OF A PROPOSED AMENDMENT TO *HORIZON 2020*, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, AMENDING CHAPTER 6 - COMMERCIAL, TO ESTABLISH THEREIN POLICIES GOVERNING CC600 (COMMUNITY COMMERCIAL) DISTRICTS, AND CHAPTER 14 - SPECIFIC PLANS, TO REVISE THEREIN THE "WEST OF K-10 PLAN" TO DESIGNATE THE SIXTH STREET AND K-10 NODE AS A CC600 COMMERCIAL NODE AND TO DELETE THEREFROM THE EXISTING "A NODAL PLAN FOR THE INTERSECTION OF WEST SIXTH STREET AND KANSAS HIGHWAY 10 (K-10)."

WHEREAS the City of Lawrence, Kansas, and Douglas County, Kansas, in order to promote the public health, safety, morals, comfort, and general welfare and to conserve and to protect property values in the City and the County, are authorized by K.S.A. 12-741, *et seq.*, to prepare, adopt, amend, extend, and execute a comprehensive plan;

WHEREAS the City of Lawrence, Kansas, Douglas County, Kansas, and the Lawrence-Douglas County Metropolitan Planning Commission, in order to coordinate development in accordance with the present and future needs of the City and the County, to conserve the natural resources of the City and the County, to ensure efficient expenditures of public funds in the City and the County, and to promote the health safety, convenience, prosperity, and the general welfare of the residents of the City and the County, have adopted *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County; and

WHEREAS, on May 21, 2012, after giving lawful notice by publication in the official City and County newspaper, the Lawrence-Douglas County Metropolitan Planning Commission conducted a public hearing regarding a proposed amendment of *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, as set forth in Planning Staff Report, CPA-4-2-12, amending Chapter 6 - Commercial, to establish therein policies governing CC600 (Community Commercial) Districts, and amending Chapter 14 - Specific Plans to revise therein the "West of K-10 Plan" to designate the Sixth Street and K-10 Node as a CC600 Commercial Node and to delete therefrom the existing "A Nodal Plan for the Intersection of West Sixth Street and Kansas Highway 10 (K-10)."

NOW, THEREFORE, BE IT RESOLVED BY THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION:

SECTION 1. The above-stated recitals are incorporated herein by reference and shall be as effective as if set forth in full.

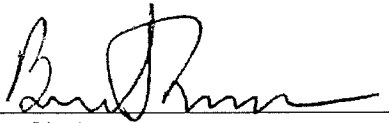
SECTION 2. Pursuant to K.S.A. 12-747, the Lawrence-Douglas County Metropolitan Planning Commission hereby adopts and recommends to the governing bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, that they adopt the proposed amendment to *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, as set forth in Planning Staff Report CPA-4-2-12, amending Chapter 6 - Commercial, to

establish therein policies governing CC600 (Community Commercial) Districts, and Chapter 14 - Specific Plans, to revise therein the "West of K-10 Plan" to designate the Sixth Street and K-10 Node as a CC600 Commercial Node and to delete therefrom the existing "A Nodal Plan for the Intersection of West Sixth Street and Kansas Highway 10 (K-10)."

SECTION 3. The revised and updated Chapter 6 - Commercial, affixed hereto as Exhibit 1, the revised and updated Chapter 14 - Specific Plans, affixed hereto as Exhibit 2, and the revised and updated "West of K-10 Plan," which is incorporated by reference into Chapter 14 - Specific Plans, affixed hereto as Exhibit 3, shall upon adoption by governing bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, be incorporated into *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County.

SECTION 4. This Resolution, together with a certified copy of the proposed amendment to *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, and a written summary of the May 12, 2012, public hearing, shall be transmitted to the governing bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, as appropriate.

ADOPTED by the Lawrence-Douglas County Metropolitan Planning Commission this 12th day of May, 2012.



Vice-Chair
Lawrence-Douglas County Metropolitan
Planning Commission



Scott McCullough, Secretary
Lawrence-Douglas County Metropolitan
Planning Commission

ORDINANCE NO. 8740

RESOLUTION NO. 12-24

A JOINT ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, AND RESOLUTION OF DOUGLAS COUNTY, KANSAS, AMENDING *HORIZON 2020*, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, CHAPTER 6 - COMMERCIAL, BY ESTABLISHING THEREIN POLICIES GOVERNING CC600 (COMMUNITY COMMERCIAL) DISTRICTS, AND CHAPTER 14 - SPECIFIC PLANS, BY REVISING THEREIN THE "WEST OF K-10 PLAN" TO DESIGNATE THE SIXTH STREET AND K-10 NODE AS A CC600 (COMMUNITY COMMERCIAL) NODE AND DELETING THEREFROM THE EXISTING "A NODAL PLAN FOR THE INTERSECTION OF WEST SIXTH STREET AND KANSAS HIGHWAY 10 (K-10)", BY ADOPTING AND INCORPORATING HEREIN BY REFERENCE "*HORIZON 2020*, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, JULY 2012 EDITION," AS PREPARED AND PUBLISHED BY THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING OFFICE.

WHEREAS the City of Lawrence, Kansas, and Douglas County, Kansas, in order to promote the public health, safety, morals, comfort, and general welfare and to conserve and protect property values in the City and the County, are authorized by K.S.A. 12-747 to prepare, adopt, amend, extend, and execute a comprehensive land use plan;

WHEREAS the City of Lawrence, Kansas, and Douglas County, Kansas, in order to coordinate the development of land in accordance with the present and future needs of the City and the County, to conserve the natural resources of the City and the County, to ensure the efficient expenditure of public funds in the City and the County, and to promote the health, safety, convenience, prosperity, and the general welfare of the residents of the City and the County, have, in accordance with K.S.A. 12-747, adopted *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County;

WHEREAS, after giving notice by publication in the official City and County newspaper, the Lawrence-Douglas County Metropolitan Planning Commission conducted a public hearing on May 21, 2012, regarding a proposed amendment of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, as set forth in Planning Staff Report, CPA-4-2-12, which would amend Chapter 6 - Commercial, by establishing therein policies governing CC600 (Community Commercial) Districts, and Chapter 14 - Specific Plans, by revising therein the "West of K-10 Plan" to designate the Sixth Street and K-10 Node as a CC600 (Community Commercial) Node and by deleting therefrom the existing "A Nodal Plan for the Intersection of West Sixth Street and Kansas Highway 10 (K-10)";

WHEREAS, at its May 21, 2012, public hearing, the Lawrence-Douglas County Metropolitan Planning Commission considered the report and recommendation of City Staff, CPA-4-2-12, received public comment, weighed the evidence adduced at the public hearing, and, through the adoption of Resolution No. PCR-5-4-12, approved the proposed amendment of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, amending Chapter 6 - Commercial, by establishing therein policies governing CC600 (Community Commercial) Districts, and Chapter 14 - Specific Plans, by revising therein the "West of K-10 Plan" to designate the Sixth Street and K-10 Node as a CC600 (Community

Commercial) Node and by deleting therefrom the existing "A Nodal Plan for the Intersection of West Sixth Street and Kansas Highway 10 (K-10)," and recommended that the Governing Bodies of the City of Lawrence, Kansas, and the Douglas County, Kansas approve those amendments; and

WHEREAS, copies of Resolution No. PCR-5-4-12, together with certified copies of "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition", the proposed amendment to *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, and a written summary of the May 21, 2012, public hearing have been transmitted to the Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, for their consideration.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS, AND BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS:

SECTION 1. The above-stated recitals are incorporated herein by reference and shall be as effective as if repeated verbatim.

SECTION 2. The Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, hereby find that the provisions of K.S.A. 12-743 and K.S.A. 12-747, governing the amendment of comprehensive plans, have been fully met regarding the consideration, approval, and adoption of the "*Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition", amending "Chapter 6 – Commercial and Chapter 14 - Specific Plans of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County.

SECTION 3. The Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, do hereby approve the recommendation of the Lawrence-Douglas County Metropolitan Planning Commission as memorialized at Resolution No. PRC-5-4-12, and do hereby amend Chapter 6 - Commercial, and Chapter 14 - Specific Plans, of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, by adopting "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition" and by incorporating that document into *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, by reference.

SECTION 4. The "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition" as approved by Section 3 *supra*, is hereby adopted and incorporated herein by reference as if set forth in full. One copy of said "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition" shall be marked or stamped as "Official Copy as Adopted by Joint Ordinance No. 8740 and Resolution No. ~~12-24~~" and shall be filed, together with a copy of this joint ordinance and resolution, with the City Clerk. The City Clerk shall make the "Official Copy as Adopted by Joint Ordinance No. 8740 and Resolution No. ~~12-24~~" open to the public and available for inspection at all reasonable office hours. One additional copy of the "Official Copy as Adopted by Joint Ordinance No. 8740 and Resolution No. ~~12-24~~" shall, at the cost of the City of Lawrence, Kansas, be made available to the Lawrence-Douglas County Metropolitan Planning Office of the City of Lawrence, Kansas.

SECTION 5. The "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition" adopted by this joint ordinance and

resolution replaces the existing Chapter 6 - Commercial and Chapter 14 - Specific Plans of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County,, and amendments thereto, it being the intent of the Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, that "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, July 2012 Edition" repeal and replace the same.

SECTION 6. If any section, clause, sentence, or phrase of this joint ordinance and resolution is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 7. This joint ordinance and resolution shall be in full force and effect upon its adoption by the Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, and publication as provided by law.

ADOPTED by the Governing Body of the City of Lawrence, Kansas, this ____ day of July, 2012.

APPROVED:

Robert J. Schumm, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

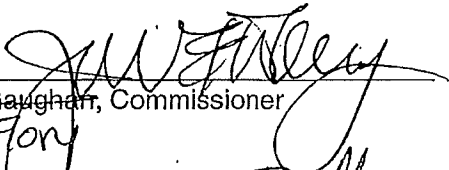
APPROVED AS TO FORM AND LEGALITY:

Toni R. Wheeler, City Attorney

ADOPTED by the Board of County Commissioners of Douglas County, Kansas, this 11th day of July, 2012.



Jim Flory, Chair
Mike Baughman


Mike Gaughan, Commissioner




Nancy Thellman, Commissioner

ATTEST:


Jameson D. Shaw, County Clerk

K.S.A. 12-747West's Kansas Statutes Annotated Currentness

Chapter 12. Cities and Municipalities

Article 7. Planning and Zoning

Planning, Zoning and Subdivision Regulations in Cities and Counties

12-747. Same; comprehensive plan; contents; procedure for adoption; annual review of plan

(a) A city planning commission is hereby authorized to make or cause to be made a comprehensive plan for the development of such city and any unincorporated territory lying outside of the city but within the same county in which such city is located, which in the opinion of the planning commission, forms the total community of which the city is a part. The city shall notify the board of county commissioners in writing of its intent to extend the planning area into the county. A county planning commission is authorized to make or cause to be made a comprehensive plan for the coordinated development of the county, including references to planning for cities as deemed appropriate. The provisions of this subsection may be varied through interlocal agreements.

(b) The planning commission may adopt and amend a comprehensive plan as a whole by a single resolution, or by successive resolutions, the planning commission may adopt or amend parts of the plan. Such resolution shall identify specifically any written presentations, maps, plats, charts or other materials made a part of such plan. In the preparation of such plan, the planning commission shall make or cause to be made comprehensive surveys and studies of past and present conditions and trends relating to land use, population and building intensity, public facilities, transportation and transportation facilities, economic conditions, natural resources and may include any other element deemed necessary to the comprehensive plan. Such proposed plan shall show the commission's recommendations for the development or redevelopment of the territory including: (a) The general location, extent and relationship of the use of land for agriculture, residence, business, industry, recreation, education, public buildings and other community facilities, major utility facilities both public and private and any other use deemed necessary; (b) population and building intensity standards and restrictions and the application of the same; (c) public facilities including transportation facilities of all types whether publicly or privately owned which relate to the transportation of persons or goods; (d) public improvement programming based upon a determination of relative urgency; (e) the major sources and expenditure of public revenue including long range financial plans for the financing of public facilities and capital improvements, based upon a projection of the economic and fiscal activity of the community, both public and private; (f) utilization and conservation of natural resources; and (g) any other element deemed necessary to the proper development or redevelopment of the area. Before adopting or amending any such plan or part thereof, the planning commission shall hold a public hearing thereon, notice of which shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county. Such notice shall be published at least 20 days prior to the date of the hearing. Upon the adoption or amendment of any such plan or part thereof by adoption of the appropriate resolution by a majority vote of all members of the planning commission, a certified copy of the plan or part thereof, together with a written summary of the hearing thereon, shall be submitted to the governing body. No comprehensive plan shall be effective unless approved by the governing body as provided by this section. **The governing body either may:** (1) Approve such recommendations by ordinance in a city or resolution in a county; (2) override the planning commission's recommendations by a 2/3 majority vote; or (3) **may return the same to the planning commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove. If the governing body returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations.** Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or it need take no further action thereon. **If the planning commission fails to deliver its recommendations to the governing body following the**

planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly. The comprehensive plan and any amendments thereto shall become effective upon publication of the respective adopting ordinance or resolution.

(c) An attested copy of the comprehensive plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan. Such plan or part thereof shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the health, safety, morals, order, convenience, prosperity and general welfare as well as wise and efficient expenditure of public funds.

(d) At least once each year, the planning commission shall review or reconsider the plan or any part thereof and may propose amendments, extensions or additions to the same. The procedure for the adoption of any such amendment, extension or addition to any plan or part thereof shall be the same as that required for the adoption of the original plan or part thereof.

CREDIT(S)

Laws 1991, ch. 56, § 7; Laws 1997, ch. 147, § 4.

LIBRARY REFERENCES

Zoning and Planning ¶30.

Westlaw Topic No. 414k30.

C.J.S. Zoning and Land Planning §§ 2, 5, 12, 39.

K. S. A. **12-747**, KS ST **12-747**

Current through 2012 regular session.

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(t) Planning Director as Administrative Official

Except where otherwise specifically provided in the Development Code, the Planning Director shall be the administrative official charged with interpreting and enforcing the provisions of the Development Code.

20-1302 TEXT AMENDMENTS**(a) Initiation**

An amendment to the text of the Development Code may be initiated by the City Commission, the Planning Commission, or, as to provisions affecting Urban Conservation Districts, by the Historic Resources Commission; and adopted in accordance with the rules of that body. Applications for text amendments may also be initiated by private parties and shall be filed with the Planning Director. The application shall be in writing and shall include the proposed text and the reasons for proposing the amendment. The Planning Director shall forward the application to the City Commission for review and consideration of initiating the amendment taking into consideration the need for the amendment. Any proposed amendment shall follow the process set forth in this section after initiation.

(b) Public Hearing Notice

Newspaper notice of the Planning Commission's public hearing shall be provided in accordance with Section 20-1301(q).

(c) Staff Review/Report

The Planning Director will review each proposed text amendment in accordance with the review and decision-making criteria of subsection (f) of this Section and, if deemed necessary, distribute the proposed amendment to other agencies and reviewers. Based on the results of those reviews, the Planning Director will provide a report on the proposed amendment to the Planning Commission and City Commission.

(d) Planning Commission's Review/Recommendation

The Planning Commission shall hold a public hearing on the proposed text amendment, review the proposed text amendment in accordance with the review and decision-making criteria of subsection (f) of this Section and recommend in writing that the City Commission approve, approve with modifications or deny the proposed amendment. The Planning Commission is also authorized to forward the proposed amendment to the City Commission with no recommendation.

(e) City Commission Decision

After receiving the Planning Commission's recommendation, the City Commission shall take one of the following actions on the proposed text amendment:

- (1) approve, approve with modifications, or deny; or
 - (2) return the application to the Planning Commission for further consideration, together with a written explanation of the reasons for the City Commission's failure to approve or disapprove.
- (i) The Planning Commission, after considering the explanation by the City Commission, may resubmit its original recommendations with its reasons for doing so or submit a new or amended recommendation.

- (ii) Upon the receipt of such recommendation, the City Commission may, by a simple majority vote, approve the proposed text amendment, approve it with modifications, or deny it.
 - (iii) If the Planning Commission fails to deliver its recommendations to the City Commission following the Planning Commission's next regular meeting after receipt of the City Commission's report, the City Commission will consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendations and proceed accordingly.
- (3) The City Commission may act by a simple majority vote, except for action pursuant to Section 20-1302(e)(1) that is contrary to the Planning Commission's recommendations, in which case the action shall be by a 2/3 majority vote of the full membership of the City Commission.

(f) Review and Decision-Making Criteria

In reviewing and making decisions on proposed zoning text amendments, review bodies shall consider at least the following factors:

- (1) whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition; and
- (2) whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (See Section 20-104).

(g) Date of Effect

The Development Code text amendment will become effective upon publication of the adopting ordinance.

K.S.A. 12-756West's Kansas Statutes Annotated Currentness

Chapter 12. Cities and Municipalities

Article 7. Planning and Zoning

Planning, Zoning and Subdivision Regulations in Cities and Counties

➔12-756. Same; zoning; zones or districts; procedure to establish; notice and hearing

(a) Before any city or county establishes any zone or district or regulates or restricts the use of buildings or land therein, the governing body shall require the planning commission to recommend the nature and number of zones or districts which it deems necessary and the boundaries of the same and appropriate regulations or restrictions to be enforced therein. Except as provided in the zoning regulations, all such regulations shall be uniform for each class or kind of building or land uses throughout each district, but the regulations in one district may differ from those in other districts and special uses may be designated within each district with conditions attached.

(b) Upon the development of proposed zoning regulations, the planning commission shall hold a public hearing thereon. Notice of such public hearing shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county at least 20 days prior to the date of the hearing. In the case of a joint zoning board, notice of such hearing shall be published in the official city and official county newspapers. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. The hearing may be adjourned from time to time and at the conclusion of the same, the planning commission shall prepare its recommendations and by an affirmative vote of a majority of the entire membership of the commission adopt the same in the form of proposed zoning regulations and shall submit the same, together with the written summary of the hearing thereon, to the governing body. The governing body either may: (1) Approve such recommendations by the adoption of the same by ordinance in a city or resolution in a county; (2) override the planning commission's recommendations by a 2/3 majority vote of the membership of the governing body; or (3) may return the same to the planning commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove. **If the governing body returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations.** Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or the governing body need take no further action thereon. **If the planning commission fails to deliver its recommendations to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly.** The proposed zoning regulations and any amendments thereto shall become effective upon publication of the respective adopting ordinance or resolution.

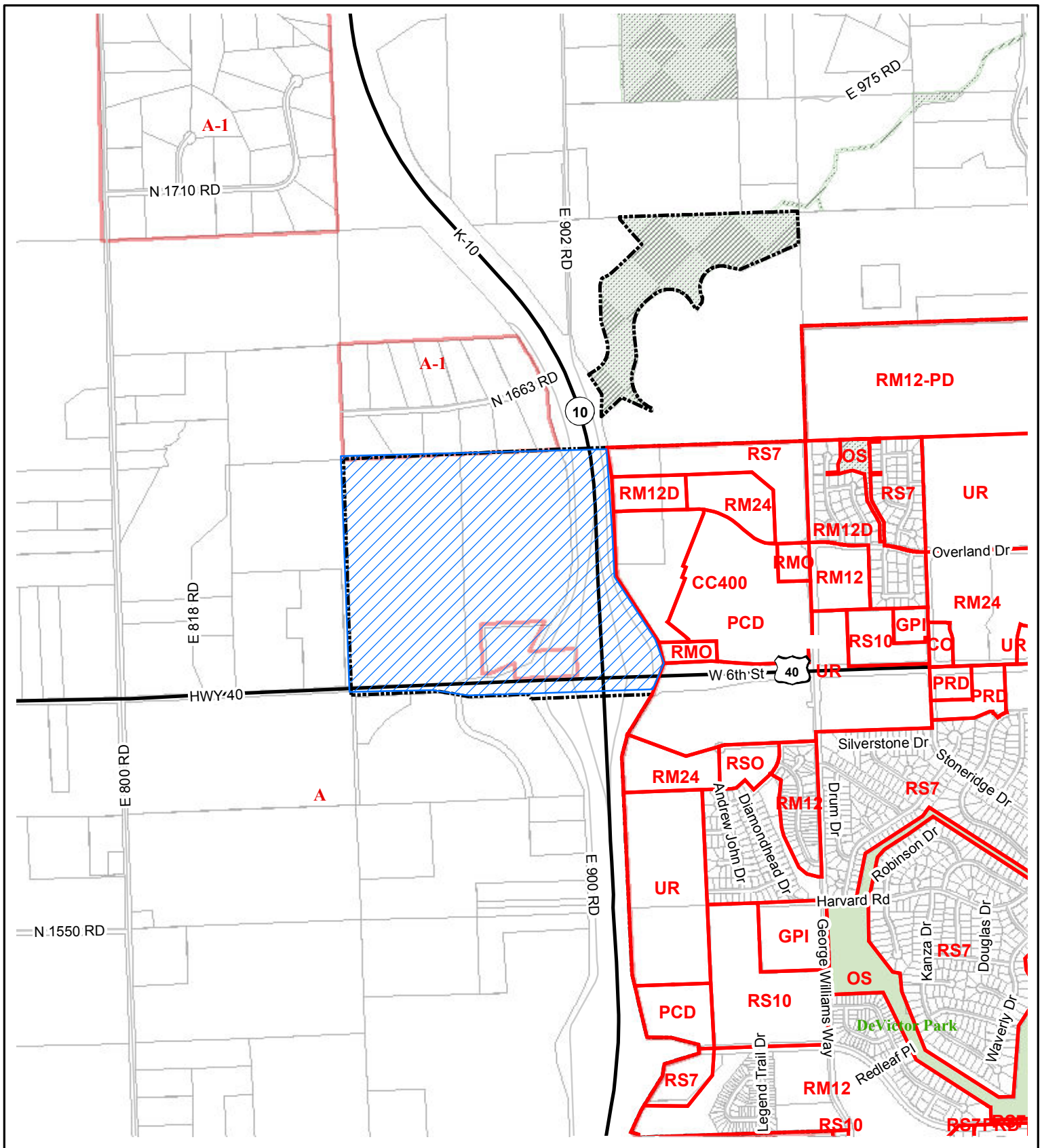
(c) The provisions of this section shall become effective on and after January 1, 1992.

CREDIT(S)

Laws 1991, ch. 56, § 16.

LIBRARY REFERENCES

Zoning and Planning ¶31, 134.Westlaw Topic Nos. 414k31; 414k134.C.J.S. Zoning and Land Planning §§ 12 to 16, 40.



**Z-04-05-12: Rezone 146 acres from A & B1 to CC600
Northwest corner of W. 6th St & K-10**

