

PC Minutes 2/27/13 **DRAFT**

ITEM NO. 1 W OF K-10 PLAN & NODAL PLAN FOR W 6TH ST & K-10; CC600 (AAM)

CPA-4-2-12: Reconsider 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. (PC Item 9; approved with modifications 7-0 on 10/24/12) *Returned to Planning Commission by City Commission on 1/15/13.*

ITEM NO. 2 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; CC600 (SDM)

TA-4-3-12: Reconsider Text Amendment to the City of Lawrence Land Development Code, Articles 1, 2 and 13, to provide for a CC600 (Community Commercial) District. (PC Item 10; approved 7-0 on 10/24/12) *Returned to Planning Commission by City Commission on 1/15/13.*

ITEM NO. 3 A & B1 TO CC600; 146 ACRES; W 6TH ST & K-10 (MKM)

Z-4-5-12: Reconsider rezoning 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. (PC Item 11; denied 4-3 on 10/24/12) *Returned to Planning Commission by City Commission on 1/15/13.*

STAFF PRESENTATION

Commissioners Belt and Culver arrived at the meeting around 7:15pm.

Mr. Scott McCullough presented items 1-3 together.

Commissioner Jossierand said there were still larger questions about whether this was the right time for CC600. He wanted to make sure they looked back at some of the overarching questions. He asked about the SLT and K-10 node.

Mr. McCullough said the node was designated as a future CC400 node. He said the full impact of K-10 was not known and would take some sort of street network planning. He said staff analysis was that it was too premature to say one way or the other whether it could support a CC600, but staff did not foreclose the idea.

Commissioner Burger asked if the stakeholders from all four quadrants were aware of the proposal.

Mr. McCullough said yes, he emailed the representatives from each corner.

Commissioner von Achen asked how the 90% at the two corners was figured.

Mr. McCullough said it was based on the existing policy for the CC200 and CC400 criteria in the Comprehensive Plan. He said they wanted to align the CC600 criteria with the existing policy.

Ms. Stogsdill said the commercial chapter was rewritten with the Planning Commission subcommittee in the early 2000. She said that factor came in then but she did not know specifically what the reasoning was other than expecting the majority of intensive commercial would be on two corners as opposed to evenly spread out around the intersection.

Commissioner Josserand inquired about non-ground floor units versus work/live units. He asked what a building with retail and office on the first floor and residential above it would be.

Mr. McCullough said that would be a non-ground floor dwelling unit.

Commissioner Josserand asked for an example of a work/live unit.

Mr. McCullough said he believed there was one on 9th Street where an individual lived in a commercially zoned house with a non-residential industry in a different part of the house with direct access to it. He said work/live units would not require to be above the ground floor.

Commissioner Josserand asked if CC600 had a 50% limit on residential.

Mr. McCullough said as proposed it would have the same 50% limit.

Commissioner Blaser asked if a non-ground floor dwelling unit could only be two stories.

Mr. McCullough said no, basically downtown was where non-ground floor dwelling units existed. He said the value of the non-ground floor dwelling units was that they were reserved for non-residential. He said it was not typical in other commercial districts, such as commercial strip, because developers did not want to mix zonings.

Commissioner Blaser said he could see some advantages to it, such as helping to stop sprawl.

Ms. Stogsdill said it was possible for a project to include multiple buildings, for example, a one story restaurant and a mixed use building that was non-ground floor residential with retail or office on the first floor. She said the 50% could be part of a project not all in one building.

Commissioner Culver asked if it was per structure.

Mr. McCullough said no, it was per project.

APPLICANT PRESENTATION

Mr. Matt Gough, Barber Emerson Law Firm, said this was the fourth time this matter had come before Planning Commission. He said the three agenda items had been thoroughly considered, evaluated, and discussed. He said the applicant agreed with all the recommendations of staff except for the allocation of retail square feet. He said CC600 was an appropriate designation of the 6th and SLT interchange. He said in addition to the recommendation of staff, the neighbors supported the rezoning request. He mentioned that Mr. Lance Johnson had been present to speak in support of the CC600 designation but had to leave.

PUBLIC HEARING

Mr. Michael Kelso said the protest petition was encouraged by past legal counsel. He said all of the property owners rescinded the protest petition. He felt this was the time to rezone the property so the owner could market the property. He said the neighbors were comfortable with the CC600 designation. He urged Planning Commission to approve the items.

Mr. Ron Crawford said he supported the CC600 under the restrictions outlined. He felt this location was a good place for mixed-use.

COMMISSION DISCUSSION

Commissioner Belt disclosed ex parte that he spoke with Mr. Matt Gough and Mayor Bob Schumm regarding items 1-3.

Commissioner Culver disclosed ex parte that he met with Mr. Gough on February 13th to recap items 1-3. He said he also saw Ms. Jane Eldredge at a United Way event this evening and she mentioned him needing to be at Planning Commission.

Commissioner Burger disclosed ex parte that she requested from staff the build out square footage of different locations around town.

Mr. McCullough said the information provided to Commissioner Burger was from one of the last retail market studies. He displayed it on the overhead.

Commissioner Burger said she read the City Commission minutes and asked if Mr. Price Banks was representing a group or himself.

Mr. McCullough said he believed he was representing himself.

Commissioner Burger asked why the fifth City Commissioner did not vote in favor of sending this back to Planning Commission.

Mr. McCullough said he believed the dissenting vote was supportive of the proposal as presented.

Ms. Amy Miller gave an overview of the 2010 Retail Market Study.

Commissioner Josserand expressed concern about the timing of the rezoning. He felt zoning too early would impact the remainder of the city. He expressed concern about vacancy rates in retail. He wondered about the wisdom of adding so much additional retail to the inventory. He said he was frustrated by the process and wished they had the ability to study it longer. He said maybe they should reexamine some of the land uses on the northeast corner.

Commissioner von Achen asked staff to respond to Commissioner Josserand's comments.

Mr. McCullough said if they looked at some of the intersection driven nodes like 6th and Wakarusa, 9th and Iowa, or 19th and Massachusetts they could see relatively what a node looks like today. He stated the value of the table was to put it in perspective. He said the majority of commercial was located in corridors.

Commissioner von Achen inquired about Commissioner Josserand's concern about increased vacancy caused by this development.

Mr. McCullough said one of the things coming forward was a text amendment that would consider changing the criteria of how commercial projects are analyzed. He said they are required by Code to treat commercial rezoning requests as if they were completely built out and vacant the day they got their rezoning. He said that was part of the commercial retail inventory and what effect it would have on the vacancy rate. He said staff did not think that was a practical criteria but that was how they were obligated to view commercial projects today. He said some things had changed in the world that would lead staff to want to revise the criteria. He said they were not seeing speculative building development today, especially in the commercial sector. He said they were not necessarily seeing the vacancy rate harm the city in general or even pockets of the city. He said it would be a challenge to point to an area and say vacancy was really bringing down a neighborhood.

Commissioner Burger inquired about the recommendation from the staff report:

'This intersection is not appropriate as a CC600 Commercial Center because the north corners south of 31st Street (the areas between 31st Street and K-10) already have in excess of 900,000 square feet of commercial retail. It may be more appropriate to designate the South Iowa corridor as a Regional Commercial Center that extends south of K-10 Highway interchange. A review of the proposed CC600 policies follows.'

She said the concerns she had in previous meetings about the CC600, regarding its magnitude, was no longer a concern. She said 31st and Iowa was a vibrant area that was infilling itself.

Commissioner Belt said the footprint of the site did not bother him as much but he was concerned about the growth west which would mean it would not always be a gateway. He said it was important to design this in such a way to allow flexibility for the developer and give the community the best possible product.

Commissioner von Achen said she did not want to squander the area into residential.

Mr. McCullough said there was enough land there to support some amount of residential use in a mixed-use context. He said staff was comfortable with the 50% standard cap.

Commissioner Burger asked how this tool precludes high density development of multi-family.

Mr. McCullough said it does not preclude it but instead sets a cap on it. He said it must be mixed-use development.

Commissioner Blaser said he was not concerned about overbuilding because the area would take years to develop. He said he did not have a problem with the CC600 designation there.

ACTION TAKEN on the appropriateness of designating this node as a CC600 node as it relates to other possible nodes that could support the CC600 designation.

Motioned by Commissioner Blaser, seconded by Commissioner Culver, to find that the 6th and K-10 node should be designated as a CC600 Commercial Center.

Commissioner Josserand asked what the hurry was to act today and felt they needed to take a longer look.

Commissioner Blaser did not see a problem with moving ahead. He felt it would be a gateway with the two highways and wanted a place to welcome people to the city.

Commissioner Culver said the zoning provided some certainty for property owners of each quadrant of the intersection, as well as certainty for adjacent property owners. He said it would also provide some certainty for a gateway and help plan for other nodes identified in the report. He said in the City Commission minutes one Commissioner stated they needed to get somewhere ahead of the market to insure commercial areas were available when the market needs it. He said part of planning was getting a little bit ahead of development and having available land for future development.

Commissioner Burger said they had the benefit of good information included the packet. She said all four quadrant stakeholders were notified and considered. She said the neighbors in the northwest

quadrant worked hard to provide a detailed product. She said she was concerned about the amount of residential.

Commissioner Britton said if they went ahead and approved it he felt like it would be alright and they wouldn't end up with something terrible. He said he had a nagging feeling that they might be missing an opportunity to shape that area into something different and exceptional. He felt the CC600 made sense in that area and allowed flexibility.

Mr. McCullough asked if the motion included staff's recommendation of allowable retail square footage for the corners.

Commissioner Blaser said the 155,000 square feet should be included on the northwest corner. He felt that some of the commercial should be shifted south. He agreed with the square feet recommended by staff.

Commissioner Culver said he would be more supportive of the original recommendation of 180,000 square feet on the northwest corner.

Commissioner Liese said CC600 was a good tool based on months and months of considering it. He thought the concern of it being difficult to develop in Lawrence was addressed by creating a tool like this and by finding a place for it. He felt the area would be a gateway and draw from other communities west of Lawrence.

Commissioner Britton asked what opportunities there would be after this to incentivize development.

Mr. McCullough said this may be the last opportunity for Planning Commission to set the course for development. He said procedurally most would be site plan processes.

Commissioner Blaser said KDOT agreed they would be working to make it a gateway area with their designs.

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

Commissioner Culver said he would not be opposed to the idea of sticking with the original recommendation of 180,000 square feet on the northwest corner given it was 146 acres.

Commissioner Liese asked Mr. Gough to comment.

Mr. Gough said if they revert back to the original allocation the remaining 60,000 square feet would remain unallocated among the southerly two nodes.

Mr. McCullough said that was accurate. He said it would remove 25,000 square feet from the south. He said one of the benefits of doing it this way was it would allocate all of it to the actual corners. He said the original one left 60,000 square feet up in the air for the future. He said the benefit of the revision was that it made future decisions easier. He said knowing what they know now about the node, they would not recommend allocating what Mercato had because it was not a going home corner of this intersection. He said the going home routes were important.

ACTION TAKEN on the appropriate allocation of the 240,000 square feet of retail uses that is not currently allocated to the Mercato Development.

Motioned by Commissioner von Achen, seconded by Commissioner Belt, to find that the 240,000 square feet of retail uses that are not currently allocated to the Mercato Development at the node be allocated as follows:

- i. NW Corner – 155,000 square feet
- ii. SW Corner – 25,000 square feet
- iii. SE Corner – 60,000 square feet

Commissioner Britton said he accepted staffs explanations and that the going home routes made sense. He said there would be plenty of opportunities to develop on the northwest quadrant with other uses.

Commissioner Culver asked the applicant to reiterate his counterargument to staff's recommendation about the analysis and why they would support the 180,000 square feet at the northwest corner.

Mr. Gough said staff's per square foot allocation, which was the first part of the analysis, was 167,000 square feet. He said the 146 acres in gross was over 6 million square feet. He said there was an ocean of real estate that could be used for 180,000 square feet of retail and use the non-retail commercial uses that were permitted in CC600. He said taking the most visible and largest corner and allocating it down from 180,000 square feet to 155,000 square feet made it harder to have the ability to build it out.

Commissioner Britton asked if the plan could be amended in the future if there was need to increase retail.

Mr. McCullough said yes, it was feasible.

Commissioner Blaser asked if the owner of the southeast corner made any kind of statement.

Mr. McCullough said staff met with the owner and the owner's representative on the issue and they were comfortable with the original proposal. He said he had not spoken with the owner about the revised proposal. He said the owner made statements that they would like more retail on their corner.

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

Commissioner von Achen said she still had concerns and thought staff was depending on assumptions based on what had already happened. She did not feel they should have to rely on indefinable assumptions rather than just putting it into the Code what percentage of housing they really do want. She felt 50% of housing was squandering a valuable entrance to the city.

Commissioner Josserand asked staff if the percentage of housing could be reduced in the node.

Mr. McCullough said there were some options. He said this would be applied city wide through the use standards in several commercial districts. He said it would take a text amendment to effect all of the city.

Commissioner Josserand asked what it would take to affect just this node.

Mr. McCullough said possibly a condition could be crafted to reduce the maximum percentage of residential that references the use standard. He said there were three residential uses in play in the Code. He said two of them were essentially hooked to a mixed-use structure and one of them allowed for standalone residential as part of a mixed-use project. He said they all had the 50% rule.

Commissioner Burger asked if there was an example for where that principle was applied and built to. She asked if Bauer Farm would be in the same category.

Mr. McCullough said no, Bauer Farm was built using a different set of Code standards.

Commissioner Liese asked the applicant to comment on the residential percentage.

Mr. Gough said the purpose of asking for CC600 zoning was not to position this for apartments. He said allowing residential as a component to a mixed-use development added a tool in the available inventory of uses allowed. He said residential was not the primary objective but that it was important to leave options open. He said the neighbors would have the opportunity to look at every request along the way as part of the site plan process. He stated maybe the Planning Commissioners were picturing residential in a negative light, such as a large apartment complex, but that there were other options, such as a retirement community.

Commissioner Burger asked staff if this was the only quadrant that had the stipulation.

Mr. McCullough said the northeast corner, Mercato, currently had CC400 zoning and was the only CC zoning in the node. He said the southeast corner was not zoned for its commercial purpose yet. He said the southwest corner was in the county and not annexed or zoned. He said essentially Mercato was the only commercial zoning in the node and it had unrestricted CC400 zoning on about half of it and PCD zoning on the other portion of the commercial part.

Commissioner von Achen said her objection to allowing 50% of residential was not because of any negative connotations with it, but because it would take up land that should be reserved for commercial.

Commissioner Britton asked what if residential was restricted to mixed-use buildings and prohibit standalone multi-family buildings. He said he was picturing large apartment complexes and he did not think it belonged out there.

Mr. McCullough said if that was what they wanted they could strike multi-dwelling structure from the use table.

Commissioner Britton inquired about getting rid of multi-family standalone and the 50% requirement.

Mr. McCullough said he did not know that they could relax a Code standard without going through the text amendment process.

Commissioner Josserand said the idea of reducing the residential component from 50% was appealing to him.

ACTION TAKEN on the appropriateness of allowing residential uses for the specific CC600 district on the property that is the subject of the rezoning application.

Motioned by Commissioner Britton, seconded by Commissioner von Achen, to find that residential uses should be allowed, but restrict multi-dwelling structure use, as part of the CC600 district on the property that is the subject of the rezoning application per the limitations existing in the Development Code.

Commissioner Culver inquired about options to revisit that use within the plan.

Mr. McCullough said a future owner could rezone to revise the condition or to revise the conditional zoning to bring the multi-dwelling structure back in. He said for example, if there was interest in building a standalone apartment project the owner could rezone to the RM district or seek the rezoning.

Commissioner Culver asked the applicant to comment.

Mr. Gough said he did not support the change of removing standalone multi-family. He said there would need to be a matching amount of non-residential before residential could be done. He stated by eliminating standalone structures they would not be eliminating that use they consider to be bad, they would be eliminating all standalone multi-family structures of whatever size and to whatever target market. He thought it may be more appropriate to consider it as a part of the site planning process. He felt they would be limiting options.

Commissioner Britton felt that by excluding standalone multi-family from the zoning it would push it to be something a little bit different than what was elsewhere, in terms of residential, and excluded the opportunity to end up with half commercial and half residential with two separate areas. He felt it would help drive land use away from residential to primary job uses.

Commissioner von Achen said it would also allow for the mixed-use component with pedestrian use of the area.

Motion carried 6-2, with Commissioners Burger and Culver voting in opposition.

ACTION TAKEN on Item 1 for Comprehensive Plan Amendment CPA-4-2-12

Motioned by Commissioner Blaser, seconded by Commissioner von Achen, to approve the Comprehensive Plan Amendment as originally drafted and presented at the May Planning Commission Meeting, which establishes the CC600 policies in *H2020*, and designates the 6th St./K-10 node as CC600 Commercial Center. This also includes a modification to the West of K-10 Plan that revises the amounts of allowable retail square footage at the node as follows:

- NW Corner – 155,000 square feet
- SW Corner – 25,000 square feet
- SE Corner – 60,000 square feet

The West of K-10 Plan as revised will also supersede *A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10)*. The Planning Commission also authorizes the Chair to sign PCR-13-00060.

Commissioner Culver said he supported the Comprehensive Plan Amendment as originally presented in May without the square footage allocations.

Commissioner Josserand said he would vote against the motion based on premature timing.

Motion carried 6-2, with Commissioners Culver and Josserand voting in opposition.

ACTION TAKEN on Item 2 for Text Amendment TA-4-3-12

Motioned by Commissioner Belt, seconded by Commissioner Blaser, to approve the Text Amendment, TA-4-3-12, to the City of Lawrence Land Development Code, to provide for a CC600 (Community Commercial) District.

Unanimously approved 8-0.

ACTION TAKEN on Item 3 for Rezoning Z-4-5-12

Motioned by Commissioner Britton, seconded by Commissioner Blaser, to approve the rezoning, 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), with the following conditions:

- 1) The amount of retail square feet on the subject property shall not exceed 155,000 square feet.
- 2) The uses shall be restricted to those uses included in the staff memo, with the exception that Multi-Dwelling Structure is not a permitted use.

Motion carried 6-2, with Commissioner Burger and Culver voting in opposition.