

ITEM NO. 4 HORIZON 2020 CHAPTER 6 AND REVISED SOUTHERN DEVELOPMENT PLAN (MJL)

CPA-13-00067: Consider Comprehensive Plan Amendment, CPA-13-00067, to Horizon 2020 Chapter 6 Commercial Land Use and Chapter 14 Specific Plans, Revised Southern Development Plan, to expand the S. Iowa Street commercial corridor east along W. 31st Street to include 1900 W 31st Street and identify the area as a Regional Commercial Center. Submitted by Menard, Inc. *Deferred by Planning Commission on 4/22/13.*

Authorize the chair of the Planning Commission to sign PCR-13-00192 regarding CPA-13-00067, if appropriate.

ITEM NO. 5 RM12 TO CR; 41.5 ACRES; 1900 W 31ST ST (SLD)

Z-13-00071: Consider a request to rezone approximately 41.5 acres from RM12 (Multi-Dwelling Residential) to CR (Regional Commercial), located at 1900 W 31st Street. Submitted by Menard, Inc., for Mid-American Manufactured Housing, Inc., property owner of record. *Deferred by Planning Commission on 4/22/13.*

STAFF PRESENTATION

Ms. Amy Miller provided an update on the retail market study section of the Comprehensive Plan report.

Ms. Michelle Leininger presented item 4.

Ms. Sandra Day presented item 5.

Mr. Dave Cronin, City Engineer, displayed SLT improvements on the overhead.

APPLICANT PRESENTATION

Mr. Tyler Edwards, Real Estate Representative for Menard Inc., said they were willing to take the suggested staff recommendation of conditional zoning. He displayed the concept plan on the overhead. He did not feel the buffer needed to be 200' and would prefer to see a 100-200' buffer instead. He said Menards would accommodate the new trail, all the new stormwater, and relocate the sewer pipe. He said Menards still needed the ability to have some sort of out lots on the property. He said they were negotiating with the adjacent Snodgrass property, which would allow for second point to the retail development. He said Menards does not do land leases for out lots so it would provide security of a tenant.

PUBLIC HEARING

Mr. Zak Bolick expressed continued support for the Comprehensive Plan Amendment and rezoning. He stated he had reviewed the Keller and Associate studies regarding multi-family uses. He stated that the multi-dwelling use was declining and had high vacancy. He estimated a 7 year inventory of multi-dwelling uses and stated that commercial development was in demand.

Mr. Tim Bateman was in favor of the rezoning for Menards to increase the tax base. He did not believe the retail market was over built. He stated multi-family was overbuilt. Development could not creep east because of the floodplain and that the use posed less risk of noise because it would follow business hours.

Ms. Cille King, League of Women Voters, asked for denial. She said the rezoning would be contrary to the Comprehensive Plan and have detrimental impacts to the north and east. She said the CR district was too inclusive and inappropriate for this location. She said only a portion would be used for Menards and the remainder would be speculative development. She felt it would be better to limit the area to only the amount needed for Menards which would allow for more buffering. She stated that other locations were available. She said if the project moved forward the area should be reduced to only accommodate Menards, a natural buffer should be created to the north and east, create a Planned Development overlay with conditional zoning, and encourage the applicant to seek another less inclusive site. Ms. King read into the record the letter provided in the packet from the League of Women Voters.

Mr. Bruce Livingston felt the tax base should be expanded. He stated the proposed property already had infrastructure in place.

Mr. Kirk McClure, Old West Lawrence Neighborhood Association, expressed opposition to the CPA and rezoning. He discussed market analysis, the mythical benefits alleged, and the integrity of planning. He felt retail was overbuilt and that supply had been growing more than demand. He said there would be no jobs, sales tax, and property taxes from this project. He said all those figures were a function of the amount of population in the community and that adding more stores would not create more people to purchase. He said retail jobs would continue on a slow downward path and that adding big box stores would accelerate that pace of decline. He said property taxes would only have a momentary bump and that adding more buildings would not add more value, it just reduces the value by square foot. He expressed concern about the integrity of the planning process. He felt the benefits should be so great to make exceptions. He said this was predatory competition and it was not wanted.

Mr. Ted Boyle, North Lawrence Improvement Association, urged Planning Commission to approve the rezoning. He said the Topeka Menards received customer pull from other counties.

Mr. Gary Rexroad supported the request from Menards. He said the SLT plans would divert traffic away and that development to the east down 31st Street had natural limitations. He felt the material changes should allow a revision to the Comprehensive Plan to support the request. He believed a Menards in town would bring outside dollars. He said the neighbors were not concerned about the project. He felt Planning Commission should consider this opportunity for Menards.

Mr. Mark Stinger, representative for The Connection apartment complex, supported the project.

COMMISSION DISCUSSION

Commissioner Jossierand said he would like more information regarding transportation issues. He asked staff to briefly describe the term 'level of service' within transportation studies.

Mr. Cronin said the level of service was used to rate certain intersections, on a scale from A to F. He said traditionally it was based on delay and that longer than 80 seconds for the average vehicle to travel the intersection was an F.

Commissioner Jossierand inquired about the level of service for the intersection of 31st and Iowa.

Mr. Cronin said the existing condition at 31st and Iowa was a D level of service. He said the level of service represented the peak hour. He said the existing condition with the proposed development was an E level of service. He stated the future 2030 level of service was an F. He said many intersections in Lawrence operate with an F during the peak hour. He said 31st and Iowa had been improved and could handle the additional traffic brought on by the development.

Commissioner Jossierand said Mr. McClure referred to public investments associated with the rezoning of the Home Depot area.

Mr. Cronin said when development like that occurs there are improvements made to the public transportation network. He said the impact of the SLT traffic was unknown.

Commissioner Jossierand said 31st Street would go all the way to O'Connell and was a direct attachment to a commercial area from a fairly significant residential base.

Mr. Cronin said as growth continued it would generate more trips.

Commissioner Josserand said the transportation study recommended a number of acceleration/deceleration lanes for the Menards proposal.

Mr. Cronin said the initial traffic impact study showed an access point where the existing entrance was for the former trailer park area. He said turning lanes were recommended in lieu of a signal. He said the revised plan showed an access point east of that and would most likely be a signalized intersection which would include turn lanes. He said some things would have to be determined in the future.

Commissioner Josserand asked if the City or the applicant would pay for those investments.

Ms. Day said those would be evaluated as part of the subdivision plat process and site planning. She said many times there were conditions on subdivisions that have an agreement not to protest the formation of a benefit district. She stated that would give the City the opportunity that when various warrants were met for the need of a signal the property owner could participate in that improvement. She said it was something that was still being evaluated as more details about the specific development became known.

Commissioner Josserand asked if those types of agreements would occur subsequent to Planning Commission approval.

Ms. Day said yes.

Mr. McCullough said that was correct. He said if the demand was created by that particular user and the warrant was triggered there were policies that require the developer to pay for those improvements.

Commissioner von Achen asked Mr. McClure about his earlier statement that there would be no new jobs created.

Mr. McClure said the number of retail jobs in any market was a function of the amount of spending, not the number of stores or the square footage of stores. He said the total number of retail numbers would remain the same because it was a function of spending, not the number of stores. He said in all likelihood jobs would be taken away from other vendors.

Commissioner Burger asked Mr. McClure if the numbers of demand versus supply included the nearly one million square footage of improved but not developed retail developments, such as Mercato and Fairfield Farms.

Mr. McClure said no they do not, only inventory of space built taken from the tax assessors numbers, which was only bricks and mortar in the ground. He said the planning process was out of control in Lawrence.

Commissioner Britton said assuming it was true Douglas County dollars were going to Topeka and Olathe, he wondered if it was just as likely jobs would be taken away from Topeka and Olathe, which would add jobs and sales tax revenue to Lawrence.

Mr. McClure said home improvement was not a draw from other communities.

Commissioner Britton said there was discussion about Lawrence residents driving to other communities and he wondered if a store in Lawrence would keep them from driving to other stores.

Mr. McClure said Lawrence could really only support one home improvement center.

Commissioner von Achen asked staff about the numbers in the retail market study and how reliable they were as a predictor of vacancy.

Mr. McCullough said the retail market study was not trying to predict vacancy, it was just saying it was the assumption all the properties were constructed and vacant. He stated that would be the vacancy if all of that was built and vacant. He said that basis for looking at it that way came at a time in the economy when a lot of spec commercial building was being constructed and since the recession there has been little to no spec building of commercial property.

Commissioner von Achen asked why vacancy was assumed when a building opened.

Mr. McCullough said there was the concept of predatory building to take away from other like retail.

Commissioner von Achen asked it was the Planning Commission's responsibility to look at the market studies or just the land use.

Mr. McCullough said they were looking at both for their review.

Commissioner Hird asked if the concept of predatory retail was experienced in Topeka with three home improvement stores in close proximity.

Mr. McCullough said he did not have data to speak to that.

Mr. Edwards said the Menards in Topeka was doing great and that Home Depot and Lowe's were also doing fine.

Commissioner Britton asked Mr. Edwards about a list he provided about cities that had another home improvement store within a close proximity. He asked if there had been enough time to know if they could coexist.

Mr. Edwards said in the last five years Menards had opened 30-40 new stores and made it through the economic hard times.

Commissioner Lamer asked if Menards strategy was to try and collocate next to other home improvement stores.

Mr. Edwards said it wasn't necessarily a strategy but that it happens often because larger commercial areas have more tracts by it. He said Menards does not have a problem with it because it brings more of a synergy of home improvement users. He said it was similar to car dealerships locating in the same area.

Commissioner Lamer asked if that decision was what drove the site selection process for this location.

Mr. Edwards said no. He said the decision to locate at this site was the overall South Iowa retail market.

Commissioner Lamer said what they had heard was that there was a huge pull factor for Menards and citizens who leave Lawrence to go to Topeka and Kansas City to shop. He stated the applicant said this was the only site that worked but yet people are driving 20-30 minutes to go shop at a Menards. He said it didn't seem to fit in his mind that people were not willing to drive across town to places that were already appropriately zoned. He said he had a problem with why the Comprehensive Plan should be changed.

Commissioner Liese said he had not heard any business owners comment about the Menards location. He said as a business owner himself he really relies on stores like Menards and frequently has to shop outside of Lawrence to find what he needs. He said he felt bullied by Menards that they won't locate anywhere else. He said he would like to see Menards moved to a place that was zoned for it and in the Comprehensive Plan.

Commissioner Burger said there were certain things about the application that were exciting and creative. She said her hesitancy increased as testimony was shared. She wondered if the Douglas county tags that are seen

in the Topeka Menards parking lot are perhaps people who work there too and are already there. She said Menards had a significant pull factor with a loyal commerce base. She said she was sympathetic to Menards and its supporters. She said regarding the predatory nature, in the past few years Planning Commission approved infill in the parking lot at Walmart on Iowa. She said it did not create a new business, it just relocated a business from 23rd Street to Iowa, leaving an opening on 23rd Street. She did not think Menards was out to do anything other than operate a good business and create a loyal customer base but that predatory argument had additional validity because Menards said it was not financially viable for them to occupy this site without having the opportunity to sell parcels to other commercial investments. She did not want to see open spots on 23rd Street. She said she had many hesitations and was concerned that Menards was not able to do the project without selling out lots.

Commissioner Blaser said auto dealers locate in the same area because it attracts people who want to shop for cars. He thought that healthy competition was the real reason Menards wanted to locate there.

Commissioner Lamer said competition was great but Home Depot was not allowed to build a full service store when it was developed and Menards would be able to build a full service store if approved.

Commissioner Hird said the difference was that Home Depot was subsidized. He said an important factor was that neither Lowe's or Menards wanted to go out to 6th & K-10. He said public testimony had demonstrated that the request was generally viewed as acceptable if certain conditions were placed on the request. He said the comments had been overwhelmingly in support of the project. He said in past years infill development had been preferred over urban sprawl and this was an example of a blighted property that could be turned into something better than more apartments. He thought it was very important to consider the neighbors support of this. He said Planning Commission has been ultra sensitive to people who are opposed to projects so perhaps the same sensitivity should be given to people in support of it. He thought it was a unique piece of property with the floodplain as a natural barrier and changes in the road configuration with the construction of the SLT. He felt any of those reasons could justify approving this. He said he visited a Menards for the first time recently and found it to be different than Home Depot. He said it would compete with home improvement stores but that there were some differences in the stores. He said the property was currently zoned for apartments and that nobody had come up with a better idea. He thought Menards looked like a reasonable alternative and he hoped the concerns about predatory retail do not come true. He said Menards had been known for its adamantly conservative politics but that he was not considering that as a factor. He thought he could support the project because of the support from the residents in the area and also that it seemed to be the best alternative. He said it would be convenient for Menards to locate to 6th & K-10 but that they need to be realistic.

Commissioner Jossierand said he was pleased to hear comments from other Commissioners about too many multi-family structures. He said he was struggling with this project. He said he did not care who the ultimate tenant was but he was trying to figure out how much commercial zoning was needed and how to plan for it. He felt they needed to be aware of what those decisions do to community. He said he did not know what the appropriate amount of vacancy was. He said he liked what the applicant had done and he did not care if it was Menards or Walt Disney World. He said he had heard the neighborhood was enthusiastic about the project but he was not sure that was true. He said his conversations with members of the neighborhood included discussions of angst about Louisiana Street and the nature of more retail development in the area. He expressed concern about transportation and the construction of too many home improvement stores.

Commissioner Culver thanked staff for taking the time to look at suggestions from last month and providing opportunities to see if it could be a good fit. He thanked the applicant as well. He felt guiding policies were in place for a good reason to help planning for the future but that it was a balance between current opportunities for the community and long range planning. He felt this was a unique opportunity as a community to have an area that could be developed in a way that had been adapted to mitigate some of the concerns originally proposed. He said builders and contractors travel outside of the community for construction materials which means those dollars are leaving the community. He agreed with Commissioner Jossierand that there was not overwhelming support from the neighborhood but that they saw this as an opportunity to get what could fit

for the area in a good way. He said there was predictability in the project with hours of operation and a natural transition from commercial to residential that would prevent future strip development heading east. He said it was not known how the SLT would impact traffic. He said Menards knows their business and customers very well and they cannot force an applicant to locate somewhere they do not want to locate because they may miss out on opportunities. He said he would support the revision to the Southern Development Plan and would be disappointed if they could not accommodate a situation in which a new partnership could be created with the business community.

Commissioner von Achen asked staff about the out lots and if Planning Commission would have any discretionary power over when the out lots would be sold.

Mr. McCullough said it would be up to the applicant. He said the lots would be sold and site planned administratively and that there would likely be private covenants.

Commissioner Blaser said since the Comprehensive Plan was created the economy had changed. He felt the Comprehensive Plan needed to be looked at and changed. He said the neighborhood would benefit from improvements to flooding issues and something other than apartments. He said he did not like the term strip out. He said the Walmart on 6th Street had out lots that were approved but not built yet. He believed if they turned down this project it would send the message Lawrence does not want new business.

Commissioner Britton said staff did a good job with the staff report and he appreciated being given some compromised options. He said he was not sure how he would vote. He said it was hard to pinpoint one single change in circumstance that would justify a change in the Comprehensive Plan. He said if they were drafting that portion of the Comprehensive Plan now they probably would put commercial at that location. He said there was also concern in the community about there being too many apartments. He said Mercato was not quite ready to support big boxes in general. He felt this was a good example of infill development. He did not feel this was entirely inconsistent with the node at 31st and Iowa. He said he was not really concerned about the impact on vacancy rates with Menards. He felt they would probably retain more money in town with a Menards and pull other dollars in from outside of Lawrence. He said a lot of the concerns should be discussed at the City Commission level. He said he was leaning toward supporting the proposal presented by staff.

Commissioner von Achen said this was a difficult decision for her because she could see both sides. She said as a consumer she might want Menard's but as a Planning Commission she had to consider other things. She said the retail report concerned her. She shared the same concerns of big box stores that Commissioner Josseland expressed. She said it seemed like every time a project comes forward that's counter to Horizon 2020 it was always marketed as unique and they have to make an exception. She said the alternative was more apartments and she felt Lawrence already had too many. She said there seemed to be a lot of community support which was hard to ignore. She was concerned about stripping out 31st Street but that the floodplain would prevent that. She liked the fact that this project was infill. She said she would reluctantly support the change. She said in terms of the out lots she favored reducing sprawl but that there was already a lot of retail development in the community.

Commissioner Liese thanked staff for their work. He said the public had done a great job of expressing their opinion. He said Menards had put a lot of time and resources into preparing this proposal. He expressed concern about the notion that Lawrence was difficult to develop and he did not like that perception. He felt Menards would provide inventory and options Lawrence wouldn't otherwise have. He clarified his earlier comment and said he did not think Menards was a bully but that he felt bullied because he did not like ultimatums. He said this felt like good planning but he was not yet convinced the jobs and money would not be here. He stated competition was good for business. He said he would vote in favor of the Comprehensive Plan Amendment and rezoning.

Commissioner Blaser inquired about conditional zoning.

Mr. McCullough said the use restriction would come with the zoning. He stated Option 3c included the land use map that would show a 200' buffer in the plan itself. He said staff would take the Planning Commission direction on the 200' buffer to also add as a zoning condition as well. He said it would be implemented through the planning document and conditioned upon zoning.

ACTION TAKEN on Item 4

Motioned by Commissioner Blaser, seconded by Commissioner Hird, to approve Comprehensive Plan Amendment, CPA-13-00067, to expand the South Iowa Street commercial corridor east along W. 31st Street, to include 1900 W. 31st Street and the southwest corner of the property to the east (Snodgrass property) up to but not including the floodplain and floodway (Future Land Use Map Option 1).

Commissioner Hird said regarding public support, this project may not rise to the level of flag waving but it was refreshing to see neighbors not vocally opposed.

Motion carried 6-3-1, with Commissioners Burger, Josserand, and Lamer voting in opposition.
Commissioner Graham abstained.

Motioned by Commissioner Blaser, seconded by Commissioner Hird, to authorize the Planning Commission Chair to sign Planning Commission Resolution, PCR-13-00192

Motion carried 9-0-1, with Commissioner Graham abstaining.

ACTION TAKEN on Item 5

Motioned by Commissioner Blaser, seconded by Commissioner Hird, to approve rezoning, Z-13-00071, approximately 32.75 acres from RM12 (Multi-Dwelling Residential) to CR (Regional Commercial), located at 1900 W. 31st Street, with Option 3c conditions:

1. Condition CR to include 200' buffer along north property line, permitting a reduction in the size of out lots on the Menards site, and designate the adjacent property to the east for future commercial development in the Revised Southern Development Plan.
2. Restrict uses to ensure compatibility. Per attachments:
 - a. Animal Services; Livestock Sales.
 - b. Eating and Drinking Establishments; Bar or Lounge.
 - c. Vehicle Sales and Service; Truck Stop, Heavy Equipment Repair, Inoperable Vehicles Storage;
 - d. Industrial Facilities, Laundry Service.

Commissioner Burger asked how many acres were allowed for out lots.

Mr. McCullough said generally speaking, five to six acres.

Ms. Day said that was a basic estimate.

Commissioner Burger asked what defined how many acres the applicant could sell.

Mr. McCullough said it was a product of platting and what on site circulation would be needed, what stormwater improvements would be needed, and how much parking would be needed. He said Planning Commission would see the Preliminary Plat which would show details such as how many lots and the location.

Motion carried 6-3-1, with Commissioners Burger, Josserand, and Lamer voting on opposition.
Commissioner Graham abstained.