

Bauer Farm Rezoning and Development Plan Items:

- a) **Z-03-16-05: A request to rezone a tract of land approximately 2.59 acres from PRD-2 (Planned Residential Development) District to POD-1 (Planned Office Development) District. The property is generally described as being located north of W. 6th Street between Wakarusa Drive and Folks Road (Bauer Farm).**
- b) **Z-03-17-05: A request to rezone a tract of land approximately 8.23 acres from PRD-2 (Planned Residential Development) District to PCD-2 (Planned Commercial Development) District. The property is generally described as being located north of W. 6th Street between Wakarusa Drive and Folks Road (Bauer Farm).**
- c) **Z-07-48-05: A request to rezone a tract of land approximately 18.938 acres from PCD-2 (Planned Commercial Development) District to PCD-2 (Planned Commercial Development) District to revise use restrictions. The property is generally described as being located north of W. 6th Street between Wakarusa Drive and Folks Road (Bauer Farm).**
- d) **Approve subject to conditions and use restrictions the preliminary development plan PDP-03-02-05: Preliminary Development Plan for Bauer Farm. This proposed planned commercial, office, and residential development contains approximately 43.88 acres. The property is generally described as being located north of W. 6th Street (U.S. Highway 40) between Wakarusa Drive and Folks Road.**

Paul Patterson, Planner, presented the staff report. He said the property was vacant and unplatted and the only platted portion was Champion Lane. There was 18.066 acres on the west side which was zoned PCD-2 (Planned Commercial Development) and 24.4 acres on the east side which was zoned PRD (Planned Residential Development). The zoning was initiated by the City following the adoption of the Area Plan for 6th and Wakarusa and as part of that zoning there were specific restrictions on the planned commercial development portions. He said the applicant was requesting three rezonings of that property. The lower southeast section was currently zoned PRD-2 (Planned Residential Development) and the applicant proposed POD-1 (Planned Office Development) for office use which was 2.59 acres.

In the middle section, to the east of Champion Lane, the applicant requested rezoning 8.23 acres from PRD-2 (Planned Residential Development) District to PCD-2 (Planned Commercial Development) District which included the area that they would like to dedicate for use of a community theatre, bank, and a restaurant.

On the west side, the applicant was requesting to rezone 18.938 acres from PCD-2 (Planned Commercial Development) District to PCD-2 (Planned Commercial Development) District to revise use restrictions which was recommended by the Planning Commission.

He said there were 16 buildings for commercial uses on 14 lots (27.2 gross acres). The applicant was proposing 61,350 gross square feet of commercial retail which was slightly less than the 62,000 feet maximum allowed for the Area Plan. Also, 10,000 square feet for banks, 39,250 feet for office, and 23,250 gross square feet for residential. In those four buildings, the first floor was proposed to be retail, second floor was office, and third floor was residential with underground parking in two of those buildings.

The overall square footage of commercial type activities would be 133,830 square feet, plus an additional section which would be the community theatre complex and 8,300 gross square feet of office within the Planned Office Development portion.

Commissioner Schauer asked if the 61,000 gross square feet of commercial retail was the footprint or did it include the two levels and in some cases, those buildings.

Patterson said he believed that the retail component was on the lower level. He listed the uses of the buildings to the City Commission. The northwest portion was identified originally as a hotel conference center and the Planning Commission agreed that a hotel/motel use was not an applicable use for that property and would likely turn into office or office/residential type uses as the plan moved forward.

On the east side of the project, the residential portion, there were a total of 208 dwelling units on 16.4 gross acres. There were 18 custom homes, 18 carriage homes which were dwelling units above the garages, 19 starter homes, 93 warehouses, and a total of 60 apartments or condominium units and mansion houses.

The average density was 12.64 dwelling units per the gross acreage of 16.4 and staff were not subtracting anything for the drainage easements. The Planned Residential Development allowed for a total of 15 dwelling units per net residential acre.

Patterson said there were four primary issues. The first issue dealt with the setback on West 6th Street, U.S. Highway 40, the required setback for parking and the building for Monterey Way out to K-10 Highway was 50 feet on both sides which was 50 feet from the property line to where a building or parking lot could start. The applicant was requesting 15 feet from where the townhouses were located and up to 10 feet for some of the commercial buildings. This particular setback requirement was per code section 21-12 and therefore a variance was required before the Board of Zoning appeals; however, the way it was constructed, the wording would be very difficult for the Board of Zoning Appeals to approve or they would need to acquire a text amendment by the City which would mean the City would need to initiate a change in the text to allow a change to the 50 foot setback to occur.

Vice Mayor Amyx asked that if along the south side of the street there was 50 feet of right-of-way and 50 feet of setback.

Patterson said correct.

Vice Mayor Amyx said on the north side of the street to the east of the property where the bank sat, he asked about the total footage of the right-of-way plus the setback.

Patterson said the right-of-way to the center line was 50 feet and the additional 50 feet of the setback to parking lot.

Vice Mayor Amyx asked how far it was from the curb line to the curb line, east of that project, to the Douglas County Bank.

Patterson said the Douglas County Bank was right at 50 feet from their property line. He said their property line was 25 feet further to the south than what the Bauer Farm would have. The City acquired that additional right-of-way and access easement with the purchase of 1.3 acres several years ago at a cost of \$255,000.

Vice Mayor Amyx asked for what purpose did the City buy the additional right-of-way that ran along the Bauer property.

Patterson said he thought that additional right-of-way was for public right-of-way use in the future.

Vice Mayor Amyx asked if the right-of-way was purchased for the current road.

David Corliss, Assistant City Manager/Legal Services Director, said the right-of-way was for the widening of 6th Street between Folks and Wakarusa.

Vice Mayor Amyx asked if the City bought more right-of-way than would be needed in the future. He said if the property line on Douglas County Bank was 25 feet further to the south, he asked with the proposed development would the south edge of those buildings line up with the south edge of Douglas County Bank.

Patterson said the south edge of the warehouses were 10 feet further south at a 15 foot setback on their property line.

Vice Mayor Amyx said from the curb line on the Bauer property, back to where those house began, was approximately 65 feet.

Patterson said the curb line on the Bauer property, back to where the house began, was about 60 feet.

Patterson said there were three other issues to discuss with the right-in access issue. He said with the purchase of the right-of-way the City also purchased access to the property and gave that access basically over to the Kansas Department of Transportation (KDOT). He said there was no access available to the property except for Champion Lane from U.S. Highway 40. He said the proposed right-in would need to receive approval from the KDOT, but letters from KDOT indicated that was not available.

The third issue was Champion Lane. It was staff's opinion that Champion Lane needed to go through. He said the applicant in discussions with the Planning Commission had determined that was possible and there were modifications to present in that regard.

He said the last issue was the wastewater issue. The Preliminary Development Plan also acts as the Preliminary Plat for the property and as a condition needed to provide the Wastewater Study for the downstream capacity to ensure there was sufficient downstream capacity to serve the sanitary needs of that facility.

In October, the Planning Commission recommended approval of the Planned Residential portion of rezoning and Planned Office Development subject to three conditions. In December the Planning Commission recommended approval of the Planned Residential Development, Planned Commercial Development, and rezonings, subject to six conditions; and recommended approval of the Preliminary Development Plan subject to 12 conditions in which those conditions could be found in the action letter from the Planning Commission.

Mayor Highberger asked Patterson to summarize those conditions.

Patterson read the conditions as contained in the action letter.

December Item 15A [Z-03-17-05] Rezoning of 8.23 acres from PRD-2 (Planned Residential Development) to PCD-2 (Planned Commercial Development) District.

On a 7-3 vote, the Planning Commission forwarded to the City Commission a recommendation for approval subject to the following:

1. Approval of a Preliminary Development Plan, including approval of a downstream wastewater analysis per Section 21-706(d).
2. Filing of a Final Plat for the property at the Register of Deeds Office.
3. No building permit will be issued until the W. 6th Street Project is substantially completed.
4. No one structure shall be larger than 50,000 gross square feet of space.
5. There will be no more than 62,000 gross square feet of retail commercial space in the PCD-2 portion of the Planned Unit Development.
6. Provision of the same use restrictions applied to Bauer Farm PCD-2 [Z-07-48-05], heard in conjunction with this request.

II. December PC Item 15B [Z-07-48-05] Rezoning of 18.94 acres from PCD-2 to PCD-2 (Planned Commercial Development – restricted uses) District to PCD-2 (Planned Commercial Development – with modifications to restricted uses) District. On a 6 to 4 vote, the Planning Commission forwarded to the City Commission a recommendation for approval, subject to the following:

1. Approval of a Preliminary Development Plan, including approval of a downstream wastewater analysis per Section 21-706(d).
2. Filing of a Final Plat for the property at the Register of Deeds Office.
3. No building permit will be issued until the W. 6th Street Project is substantially completed.
4. No one structure shall be larger than 50,000 gross square feet of space.
5. There will be no more than 62,000 gross square feet of retail commercial space in the PCD-2 portion of the Planned Unit Development.
6. The permitted list of use per Ordinance No. 7756, as modified, be included as part of the rezoning ordinance (List of Bauer Farm PCD-2 Use Restrictions as recommended by Planning Commission December 12, 2005).

Item III. December PC Item 15C [PDP-03-02-05] Preliminary Development Plan for Bauer Farm On a 7-3 vote, the Planning Commission voted to forward to the City Commission a recommended for approval subject to the following conditions which were presented by the applicant's agent (strikethrough = deleted by Planning Commission, underlined = added by Planning Commission):

1. Provision of KDOT approval of a right-in-only on W. 6th Street between Champion and Wakarusa or a revised Preliminary Development Plan removing same.
2. Reconfigure Champion Lane to connect more directly to Overland Drive. Revise Traffic Study to reflect revised plan.
3. Revise Drainage Study per City Stormwater Management Coordinator's approval.
4. Completion of downstream wastewater analysis per City Policy.
5. Provision of allowed uses on face of development plan according to approved list from October 24 PC meeting with drive-thru pads limited to ~~two banks and four other uses~~ four drive-thrus, one or more of which would be a bank.
6. Provision of draft covenants and restrictions and property owner association guidelines, including architectural elements/patterns, for review and response by Planning Office.
7. Approval of requested four Waivers and three modified Subdivision Design Standards for:
 - Waiver 1. Lot size.
"B – Starter Homes", lot widths of 35' x 100' lot depths. Footprint dimensions of townhouses of 20' x 40'.
 - Waiver 2. Periphery Boundary.
2a. 30 feet commercial peripheral to 10' setbacks on W. 6th Street, 17' setback on Wakarusa Drive, 10' setback on Overland Drive, and 10' setback on Folks Road;
2b. 35 feet residential peripheral to 10' setbacks on Overland Drive, 10' setbacks on Folks Road, and 16' setbacks on W. 6th Street; and
2c. No peripheral boundary setback between the PUD areas within Bauer Farm.
 - Waiver 3. Residential Setbacks.
3a. Distances less than 10' between the "A" Custom Homes and "B" Starter Homes and between the Cottages above the "A" garages and the "B" Starter Homes; and
3b. Residential front yard setbacks of approximately 10 feet, and side and rear yard setbacks less than 10 feet; providing the structures are designed to meet the building code requirements for zero setback.
 - Waiver 4. Commercial Setbacks.
Commercial building setback as close as 10' on W. 6th Street, 17 feet on Wakarusa Drive, and 10' on Champion Lane (if the northern leg is not vacated or depending upon relocation of Champion Lane).
 - Subdivision Design Standard 1. Offset streets.
Local streets intersecting opposite sides less than 125 feet.
 - Subdivision Design Standard 2. Alleyways.

Alleyways within the residential areas of the subdivision.

- Subdivision Design Standards 3. (Private) Street width
Local private street widths of 20 feet B-B (back-of-curb to back-of-curb).
- 8. Elimination of 50' Setback by text amendment by City Commission, BZA variance on the setback or revised PDP to include the setback.
- 9. Agreement not to protest formation of benefit districts for signalization and/or geometrics at the following sites:
 - a. 6th and Champion;
 - b. Overland and Wakarusa; and
 - c. Folks and Overland.
- 10. Revised PDP to include estimated phasing and schedule of construction.
- 11. Provision of notes regarding ADA and accessibility.
- 12. Proposed Future Phase Hotel/Convention Center area not to allow commercial retail uses.

Commissioner Schauner said when the Planning Commission first took up this matter over two years ago, he thought the 40,000 square feet that the Planning Commission had allocated for the northeast corner of 6th and Wakarusa for retail commercial was to include banks.

Patterson said he did not remember seeing that idea in any of the history of the files that he read. He said the area plan identified for the northeast section, a limit of 62,000 feet of commercial retail which was approved for the Area Plan.

Stogsdill said, in the mix, there was a proposal to modify commercial use groups and there were specific proposals that would eliminate things such as recreational uses, from what was counted as commercial. She said she thought that included taking banks out because a bank was different from a retail sales tax generator type of use. She said somewhere along the line that text amendment did not move through the process.

Commissioner Schauner asked if the retail commercial included or excluded bank square footage.

Stogsdill said the City's retail inventory that had recently been updated, did not include banks because banks were considered a non-retail commercial use.

Commissioner Schauner asked if not including banks would be the proposal for the next version of the City's zoning code.

Stogsdill said she believed the new zoning code left banks out.

Commissioner Schauner said he recalled that the code was moving forward to include banks as commercial retail. He said the staff report indicated that staff was recommending against the Preliminary Development Plan based on reasons announced in the staff report.

Patterson said correct. He said there were a number of items that required, per current code that did not allow that type of design to normally be included, the four waivers, the three setbacks, and the variance for the setback from West 6th Street. He said basically staff called for design modification of the project and in doing so it broke what the applicant was requesting to do as far as concepts and creativity that the applicant would like to accomplish. He said the current code did not allow that easily and this was a more cumbersome process to try to get through as far as projects in the future.

Commissioner Hack asked if staff's recommendation for denial was a procedural one where staff could not suggest approval because of those waivers, but those waivers had been approved by the Planning Commission.

Patterson said the waivers and setback standard had been approved by the Planning Commission. He said staff was reviewing this based on what the adopted area plan was and the previous zoning that the City put in place at that time and based on the current codes for planning and development required which was more of a narrower focus than what the Planning Commission could consider.

Commissioner Schauner said the reasons in the staff report for recommending denial were that the proposed development contained more commercial retail uses than allowed by the approved nodal plan.

Patterson said those were uses. He said he thought Commissioner Schauner was reading from the minutes and what the minutes were picking up was that the proposed uses by the applicant, the restaurants and banks with the drive-through, those types of uses were a higher traffic generator than what the area plan called for and what the City restricted the zoning previously from. With the rezoning of the property there was that ability to allow more uses which were what the applicant was requesting and to allow those uses to generate more of a synergy effect for the project.

Commissioner Schauner asked if the northwestern corner of the northeastern corner of the western 40% of this proposed project was an undesignated use at this time.

Patterson said Commissioner Schauner might want to ask the applicant, but what was presented to staff was future hotel convention center and through discussions with the Planning Commission, they identified the motel/hotel use as not applicable to this project. Therefore, they were planning on coming back with some office type uses or office with residential uses, but the applicant could best respond to that question.

Commissioner Schauner said essentially those rezoning request were a request for the City Commission to change the zoning without knowing exactly what this future project would entail, at least, with respect to the northwest corner of the project.

Patterson said that would be correct.

Mike Treanor, applicant, presented information about his project. He presented examples of new urbanism concept projects included those located in Denver, Colorado and Seaside, Florida. He said they had not designed their buildings yet, but when they received approval for their plan, at that point, they would design the project. He said his proposal and presentation to the Planning Commission indicated Champion Lane going through to the north.

He said according to KDOT in the March 2004 Traffic Study, the highest level of traffic was at 6th and Kentucky which was more traffic than at 31st and Iowa, 23rd and Iowa, and much more than 6th and Iowa. He said his point was that that fine grid of streets seemed to work well and vehicles were driven slower.

Dan Watkins, Attorney, addressed the extraordinary 50 foot setback that currently existed along 6th Street. He said it was somewhat of a math exercise to look at what was originally contemplated, what currently existed, and what would exist if the plan was not adjusted. He said fifteen years ago the City Commission determined that

there should be a corridor to the west on 6th Street that preserved an area for the expansion of 6th Street and setback development from 6th Street. At the time, there was 100 feet of right-of-way on 6th Street, 50 feet on either side of the center line. The extraordinary setback added 50 feet to each side which created a 200 foot corridor. That 200 foot corridor was now the redeveloped 6th Street. Today, as 6th Street improvements were completed, the question was what sort of setback was at that location and what was needed.

He said Commissioner Amyx asked about Douglas County Bank which was a good example. He said it was redeveloped before 6th Street was widened and had 50 feet of right-of-way, north of the center line and an additional 50 foot setback which preserved that the bank could not get any closer based on the preservation concept. He said if taking 12 feet per lane for two and a half lanes, there would be 30 feet along with a couple of feet for curb and gutter which was 32 feet of right-of-way that used the road. He said there were 18 feet left and a 50 foot setback. The bank was 68 feet from the curb.

He said going west as 6th Street was improved, KDOT and the City acquired additional right-of-way. He said instead of having 100 feet of right-of-way for 6th Street, 50 feet on either side of the center line, it was expanded to 75 feet on either side of the center line. He said they then had 150 feet of right-of-way, 75 feet on either side. When adding the 50 foot setback there was 125 feet from the center line that facilities would be moved back to. He said their premise was that the 200 foot corridor that was originally intended was the corridor that the City wanted at the time and it should still be the corridor that the City wanted now, absent some compelling reason otherwise. He said Corliss had made a good point at a meeting about the City and County getting together and preserving a similar corridor west of the South Lawrence Trafficway on 6th Street so that similar improvements could be made in the future and that the City would preserve a corridor for reconstruction of 6th Street and setback of facilities. In order to have clear sight line going down 6th Street, and an inviting gateway to the City, they believed that 75 feet of right-of-way plus existing setbacks allowed more than the 200 foot corridor.

He said the big sticking point that Patterson pointed out was that with the 50 foot extraordinary setback, the statute required a finding that there could be no use of the property if the setback remained so that the standard to receive a variance was nearly impossible. He said without a text amendment, the City would be essentially setting up a situation where Douglas County Bank was 68 feet from the back of curb, but the City was going to require this project to be 93 feet from the back of curb, which did not make sense. He said there should be an even corridor or something close to it.

He said if a text amendment was drafted that removed the 50 foot extraordinary setback, it did not mean there was no setback at all, but it meant going back to the existing zoning setbacks in the City. He said a portion of the setback could be waived through the planning process through a Planned Unit Development just as the Planning Commission waived the other seven subdivision regulations and zoning issues through a simple process of just doing it because it made sense in a plan.

Commissioner Schauner asked if Watkins wanted the City Commission to eliminate the extraordinary setback and then give a waiver for part of that setback as well.

Watkins said for instance, if the City Commission waived the extraordinary setback, by text amendment, there would be the existing setback and for residential it would be 35 feet off of the 75 feet of right-of-way which was 110 feet. He said the south side of the street was 100 feet. If 10 feet was waived, the corridor would be uniform with a 200 foot corridor. He said they had asked for up to 50 feet on residential and 20 feet on commercial.

Commissioner Schauner said Watkins was talking about two things, a text amendment and a waiver of the resulting setback, if the City Commission did adopt a text amendment.

Watkins said that was the request.

Mayor Highberger asked, if the City Commission waived the 50 foot setback requirement, would the setback on the south side on the middle portion be reduced to 25 feet.

Watkins said the text amendment that was drafted stated that takings would not affect what the setback would be on the south side. He said what was on the south side was a situation where 25 feet was taken of permanent easement, but the judge indicated that permanent easement was actually right-of-way so the 50 foot setback requirement was not met therefore, there was damage.

Corliss said he wanted to make sure the City Commission understood the status of those text amendments. He said the City Commission had earlier approved text amendments concerning the definition of non-conforming use which impacted the ordinary setbacks regarding takings. Staff was currently working on the ordinance that would do the extraordinary setback. That statute required a separate public hearing which would be conducted in approximately 20 days. He said the formal adoption of that text amendment would occur at that time. He said one key issue that was important was that the request on the extraordinary setback was not a waiver, but a removal. The language in the statute that had to be replicated in that ordinance made the Board of Zoning Appeals granting of a variance from that extraordinary setback a very substantial undertaking. He said the applicant had to show there was no other use for that property, therefore, the variance was granted.

Watkins added that they had pressed to have this issue looked at. A subcommittee of the Planning Commission had written the City Commission a letter indicating that they would like as much setback as possible to preserve. He said two of the members on that subcommittee voted against the plan and the other members voted for the plan which was evidence to the general idea that some ordinary setback would be appropriate for that project rather than extraordinary setback. He said it was hard for him to look at this issue and say that the original intent was to preserve a 200 foot corridor, why as a City would the City want to say that since there was an unintended effect it gave them more and they would just take it.

Commissioner Schauner said he found that statement to be an interesting interpretation Dr. Riordan's letter. He said Watkins was asking the City Commission to adopt a text amendment which would remove the extraordinary setback for that portion of the Bauer Farm Development as well as then subsequently grant a waiver of that setback, reducing that setback to 15, 20 or 30 feet depending upon the use.

Watkins said off of the 75 feet of right-of-way which was a total of 90 to 100 feet.

Commissioner Rundle said the action that was coming to the City Commission regarding setback, he asked if that was the same text amendment that Watkins mentioned which responded to state highway location.

Corliss said correct.

Commissioner Rundle asked if the text amendment that Watkins mentioned would be sent to the Planning Commission.

Corliss said if the City Commission wanted to remove the 50 foot extraordinary setback, from Monterey Way to the SLT, the City was operating under a separate statute than the City had for other setbacks. The City Commission's previous action was to amend the code so that any governmental takings would not detrimentally impact the adjoining property. He said staff recommended enacting that amendment pursuant to statute. If the City Commission wanted to do what Watkins was asking, he said his recommendation was to initiate a text amendment to remove that 50 foot setback wherever the City Commission wanted to remove that setback which would be a separate text amendment to delete that entire code section. That way, the Planning Commission would review that action, the City Commission would receive the Planning Commission's recommendation, and then the City Commission could work their will on the Planning Commission's recommendation.

Watkins said that would be done by City Commission initiation and the Planning Commission would then understand that was what the City Commission was requesting.

Vice Mayor Amyx said Commissioner Schauner made a statement concerning right-of-way versus setback.

Schauner said setback was what he meant.

Vice Mayor Amyx said he wanted to make it clear that they were not taking about reducing any right-of-way.

Watkins said Patterson did a good job at explaining the issues, but concerning the right-in between Champion and Wakarusa that had been requested, KDOT bought right-of-way which was accessed controlled and people at staff level did not like that. He said the engineers believed that once that corridor was developed, they did not like to make exceptions. He said a right-in would allow better public accessibility to that commercial area and could be controlled by permit. He said it also could be revoked at any time there was a problem.

He said they were asking the City Commission, as a policy issue, to say they did not find offense with the right-in only and that kind of recommendation could go to policy makers at KDOT saying that the City believed that this did not offend any transportation grid. He said there would be a decel lane into it and would be halfway between Champion and Wakarusa. He said they believed the right-in would make that area more transit friendly and allow the City bus system to go through and make stops.

Treanor said on 6th Street there was 80 feet of right-of-way, 25 foot setbacks, and 5 lanes of traffic, on-street parking, 32,900 cars per day and it worked well. He said obviously they did not have that connectivity and they needed that additional right-of-way at that location.

He said he would question once getting to 5 or 6 lanes, it might be time to improve the next grid over to 15th Street or one of the other east/west streets.

Watkins said the Planning Commission spent a lot of time on expanded uses. Staff recommended some expanded uses and the applicant asked for more expanded uses. In the end the Planning Commission voted to expand the uses. There was one action taken at the Planning Commission that removed one and that was the ability to have off-site liquor/beer (liquor store). He said a couple of the Commissioners expressed the idea that a neighborhood might need some place to buy wine or beer and they were requesting that the City Commission look at that particular use, but they would like to have that use in the area for the neighborhood.

Gwen Klingenberg, Lawrence Association of Neighborhoods, said by changing the restrictions on the PCD-2, it would increase the traffic at that intersection greatly. She said concerning the site project summary on the PCD-2 they were looking at 133,850 square feet of commercial which was not 62,000.

She said it was staff's findings that the plan did not show adequate provisions for proposed placement of utilities and utility easements throughout the PUD. The conflict existed where the plan showed the placement of utilities and landscaping co-existing along West 6th Street based upon the code separation and criteria.

She said 6th Street had been purchased by KDOT and the last time she talked to KDOT, they were not willing to make that change to let them have the right-in access. She said Champion Lane had to go through. She said she had heard a long time ago that if Champion Lane did not go through there would never be a stop light at that intersection. That was a local neighborhood grocery store. She said it was almost impossible to get to the grocery store and back to their homes, especially when living on the southwest corner.

Commissioner Hack asked if Klingenberg differentiated between retail commercial and commercial.

Klingenberg said when the City Commission was deciding on the nodal plan, commercial was commercial. She said there was 61,350 feet of commercial retail, 10,000 feet for banks, 39,250 feet of office space and also the community theatre.

Commissioner Hack asked if Klingenberg was counting the community theatre as commercial.

Klingenberg said yes because Planning Staff had indicated that community theatres were never placed in any type of zoning category.

Hal Lettinger, Lawrence, said he came to listen to the discussions because of the idea of new urbanism sounded exciting. However, being familiar with that site because of rather frequent trips, he would like to bring up a couple of points which might impact or at least give the City Commission some additional consideration. He said 6th Street, quite clearly, from Monterey Way west all the way through to the new enlargement, west of Wakarusa was intended for a major corridor. That ship had sailed and he did not know how to bring that ship back. Furthermore, the relocation of those overhead power lines recently within in the last year, was done for a particular reason which he was not sure why, but in fact were they considering further widening of 6th Street. He said although the area was appealing, but it was within a larger area that would not support it well. He said the High School had not been brought up for discussion. He said around 3:15 p.m. or 3:30 p.m., everyday from August to June, there was a mass of cars trying to get back out to 6th Street and if that road did go through that would be a very busy short corridor to get out to 6th. He said the High School would have a tremendous impact on this area and he would like the City Commission to give that consideration. He said if those were spec homes, the question was whether those would be purchased because of the traffic on 6th Street.

He said he did not think the new urbanism or streetscape that Treanor discussed was going to occur between Folks and Wakarusa simply because it did not have the same scale and secondly, there might be more traffic at 6th and Kentucky, but because of all the development from Monterey Way west, that would change within the

timeframe this would be built. He said because of this location, the project would not succeed.

Mary Doveton, Director of the Lawrence Community Theatre, said they were thrilled with this project. They had been through focus groups along with a feasibility study and two years ago they planned on acquiring new property, but in the middle of that acquisition Treanor came to them with a proposal to join him in this new development. She said their Board of Directors looked at this project carefully and at first determined that they were too far along, but the more they looked at this project, the better fit they saw for the City of Lawrence, the Community Theatre, and the development. This was a development that brought the theatre into a position where there was a synergy between the various components where people could go out to dinner, go to the theatre, and go out to have drinks and dessert. She said they could become a part of a real neighborhood.

She said at their present location at 15th and New Hampshire, they were part of a neighborhood, but they were located on the outskirts of that neighborhood and they did not have a lot of interaction with the neighbors. This project presented a wonderful opportunity to really be a part of something bigger. She encouraged the Commission to go forward with this project because it was an attractive project and a project that could benefit the community.

Susan Chi said she was at the early LandPlan meeting and was excited about this project, but she had concerns about the traffic and children walking to and from the high school. She said she was not only worried about the children walking around the perimeter of the development, but also cutting through as a short-cut. She said she had a question about the buffer between the streets themselves that surround the development and the sidewalk. She assumed there would be some type of buffer and asked how big that buffer would be.

Tim Herndon, Land Plan Engineering, said 6th Street might be the area where there was the greatest amount of concern.

Chi said she also had concern with Wakarusa coming across from the neighborhoods by the high school

Herndon said it would be approximately 50 feet ranging between 45 and 60 feet between the curb and where the building would start.

Chi said her concern was if the sidewalk wasn't going to abut the street directly. She said she assumed there would be a lot of interior sidewalks, not only in the housing portion, but also in the commercial area. She said she understood that there would be several drive-through areas and had a concern with that along with the overall traffic situation.

Treanor said the concept was that a street tree planter would be between every curb and every sidewalk and then more lawn. He said the bigger the street the bigger the setback street tree planter.

Herndon said to cap that question, for instance along Wakarusa Drive it was anticipated that they would use the template from Public Works specifications for building streets where the sidewalk was 6 feet off the back of the curb and that was standard throughout the City. Along street however, they were proposing that the sidewalk be meandering with a double row of street trees in particular areas to emphasize the pedestrian friendliness and gave it an aesthetic appeal and create more buffer.

Jane Bateman, Lawrence, said she was speaking in support of the Community Theatre. She said for years City leaders had wanted diversity in their planning and this project would bring that diversity together. The Community Theatre was an important part of this project in the plan. The theatre had not been able to grow in their location and they needed more space to allow more people in the community to enjoy their theatre. She urged the Commission to approve the project because it would be great for the community.

Carol Hurst, Lawrence, said her concerns were about traffic. She said the proposed area was a U.S. Highway and there would be more traffic simply because the population was increasing and because of the tremendous outflow from the high school in a commercial area as the population grew west. She said as she understood the project was to be 62,000 square feet of commercial space and now it was well beyond 100,000 feet.

She said there was a great value in reality and she would hope that the City would not develop in terms of looking like, but rather of thinking about what was the best design use of our materials, not making it look like downtown. In terms of new urbanism, which she was in favor of, as the population grew, density was a necessity. She said density in the downtown area was where it might be encouraged and rethinking how the suburbs developed not in terms of an already set situation, but how they might develop to exacerbate their benefits, not create a new urban center because you don't want to kill the downtown area.

Alan Cowles, West Lawrence Neighborhood Association, said only a few of their members had been over the detail of that plan. Those who had looked over the details found that it only has a smattering of what could be clearly identified as new urbanism and that the plan, as it was now, was riddled with problems. He said because they had not been over the details as a neighborhood association, they did not have any comment as a neighborhood association on the details of the plan, even those individuals that had been over the plan did have comments which were well reflected in the staff report.

He said many residents in their area had been up and down 23rd and 6th Streets multiple times and they noticed the tremendous traffic in those areas. He said all of them realize that the overload of traffic was caused by excessive building in the area and in excess of what the streets could take. The only way to avoid that overload was to avoid placing enormous amounts of stuff on every corner.

He said they still did not know what would happen on the northwest corner where people were sending \$300 an hour lawyers to try to hammer residents into submission for the largest piece of development that they could get in that area. He said as time went on, going out west on 6th Street, there would be a lot of people hammering the City Commission to put as much as they could on that part of 6th Street. He said for several years there had been a nodal plan that had called for approximately 200,000 square feet of commercial development. He said the area was already up to or over that amount along with a big development probably going in on the northwest corner and they wanted to add more on the northeast corner. He asked if area plans mattered and also the concerns of the citizens.

He asked the City Commission to take a wider look both in space and in time to look at what excess development would do to the area and remember, whatever was put in place over the next year or two on that northeast corner was going to affect that area for 50 to 75 years.

He said if new urbanism was what the City Commission wanted then people needed to go back to the drawing boards and ask for something that really was

recognizable throughout and not just an eastern half that was crammed with apartments and condominiums and a western half that had a smattering of new urbanism along with a bunch of undefined areas.

He asked the City Commission to stand up for the people in the wider area and the interest over many generations that would need to deal with whatever was placed at that location and say no to this particular project.

Jane Henry, a member of the Lawrence Community Theatre Board of Directors, spoke in support of the project because it would benefit the City as a whole. It would provide ambiance that could be appreciated by the entire community and not just the West Lawrence areas.

In response to the citizen that compared that area to 23rd Street, she said with one access road into the development from 6th Street, it would no way compare with 23rd Street that had driveways into each and every business. To the person that spoke about the inability to walk to and from the neighborhood grocery store, although she did not walk that area on a daily basis, that she had walked to a from her home to Dillon's numerous times and never feared for her life going across Wakarusa. She urged the City Commission to approve this project for the enjoyment of the entire community.

Bill Fleming, Lawrence, said this project was consistent with Horizon 2020 and the long-range plans of this community. It was the exact uses that were projected for this area, and was in place. He said he understood there were concerns about traffic to a certain extent, but they were asking Treanor who was only developing a very small percentage of the total area to try to solve all the traffic problems. Those were issues that were significant, but those issues had to be solved within a large context. The road widening would help mitigate a lot of those traffic issues and the fact that the traffic was being dumped onto major arterial road would also address those traffic issues.

He said the second issue was that Cowles had criticized the concept of new urbanism and how this project was not consistent with new urbanism. He said new urbanism would take that west track and instead of putting 60,000 square feet of commercial retail, put 250,000 or 500,000 square feet. He said Horizon 2020 had imposed certain requirements and certain limitations on what Treanor could accomplish with respect to the amount of square footage that Treanor was given. He said if wanted a true urbanism project, then more density needed to be allowed and not less density.

With respect to the traffic issues, to the extent there were multiple uses, those uses would have a tendency to not have peak traffic patterns. There would be different uses at different times. He said that was one of the advantages the City needed to look at in supporting those types of mixed use projects. He said to the extent of those mixed uses, hopefully, those traffic patterns would average out over a period of time.

Commissioner Rundle asked if the traffic study took into account the current mixed uses and the traffic generated from those mixed uses.

Mike Wallstead, TransSystems, said in the traffic study there were two different scenarios. One scenario was generally consistent with the plan and the other scenario was the land use indicated in the Horizon 2020 Plan which was office for that area.

Commissioner Schauner asked if Wallstead had a chance to look at the KDOT corridor simulation that was produced for West 6th from K-10 up through Folks Road. Wallstead said not specifically, but he was aware of that corridor simulation.

Mayor Highberger said it was his understanding that the Congress for New Urbanism was looking to help standards for traffic generation for mixed use, but there was not much out there right now.

Wallstead said the Congress for New Urbanism recently had a conference, but right now a hybrid process needed to be gone through in looking how those things would generate traffic and then discounting it to some degree for that internal use of capture of trips within the site.

Mayor Highberger asked if that discounting was done when this project was modeled.

Wallstead said he did not use discounting in the base study. He said they assumed they were all each individual uses. He said when they looked at this issue for the Planning Commission they applied some factors for discounting.

Commissioner Rundle asked what percentages of the favorability of this project depended on the concepts of new urbanism if they attempted to present those concepts and incorporate those into this project

Treanor said conceptually new urbanism, as it was a mix of uses, would get people who wanted to be there at all times of the day. He said basically you would be trying to create a space that had a great quality of life and those people were there day and night.

He said the percentage of the retail was about half that related to the corridor and the other half, plus office and residential, related to more of the walkable portion of the site. .

He said the retail on this site was equal to less than one side on one block in downtown Lawrence which was approximately 75,000 square feet where it was 65,000 square feet on one side of the street. There was perhaps more intensity with the restaurant uses, but this would be a light impact on the site.

Vice Mayor Amyx said his concern with this plan was how he would guarantee people that this would be the plan 20 years from now when it was fully built out.

Treanor said the City was always going to be in position of reviewing plans. He said as there was greater connectivity, on the west side and a north route that went to the trafficway toward the other north/south roads that would be constructed, as 15th Street was connected toward the west, and as they improved other connectivity and perhaps more transit over the long term, that you don't get the same thing, but growth. He said perhaps in the future a boulevard would be constructed that had more transit along the street as the community grew and more density could be accomplished.

Vice Mayor Amyx asked the real world build out timeframe.

Treanor said the timeframe could be as long as five years.

Mayor Highberger said he understood there was a phasing of the project already.

Treanor said they would come back with those phasing plans. He said if they could receive a general direction with their approvals, they would come back with those phasing plans.

Vice Mayor Amyx said he would be looking at those phasing plans to make sure the commitment to this plan was what they would actually end up with.

Treanor said the most popular parts of the project were in front of the Community Theatre, the entire residential portion, the office building, and the sites along the streets were the most popular. He said they might come back to the City Commission with a proposal to increase residential in the center section. Also, he said they would try to attract someone that had a family entertainment type of activity which would be located on the corner.

Dale Glenn, GLPM Architects, spoke in support of the project. He said this project was an extraordinary and creative solution for that area. He said he was proud of Treanor for having the commitment of going as far as Treanor had gone with this process. He said personally, he was involved with the Community Theatre and when this proposal came and they took a look at what this could mean, it made sense for the theatre to switch locations because there would be a real synergy between the Community Theatre and the type of activities that they could see would be special.

Commissioner Schauner said to say that he was torn was an understatement. He said he was a fan of the Community Theatre and he wanted the theatre to have the best possible location. He said where the theatre was now, he suspected was inadequate, both from an attendee perspective and from putting on productions perspective.

He said he had some serious reservations about this particular project which unfortunately carried with it, the fate of the Community Theatre. First, he thought the idea of new urbanism was terrific because the City needed more density and mixed uses.

He said the Planning Commission a couple of years ago allocated 40,000 square feet of commercial and he did not think a distinction was made between banks, retail commercial, and commercial. He said the former City Commission allocated 62,000 square feet. He said he did not know what the final number of square footage was, but he thought it might be over 100,000 and over 100,000 without a substantial quadrant of the west PCD identified for use. In fact this development from Folks to Wakarusa, Overland to 6th was a Planned Unit Development, what he thought that meant was that the units developed and the whole picture was seen. He said what the City Commission was being asked to do was to say "yes", but the City Commission did not know what part of that was ever going to be developed as there had been no promise as to what that northwest corner of the northeast corner was going to be developed as. He said he did not think it was a PUD.

He said one of the things Bruce Appleyard, the person that spoke on new urbanism, said that struck him was that one of the reasons why the City was where it was in planning this City was the tyranny of incremental decision making and this project was a poster child for that incremental decision making.

He said the City had Horizon 2020 which was not followed. For instance, they say not 40,000, but 60,000 square feet and the applicant came to the City Commission with 100,000 square feet, had nice pictures with a lot of appeal along with good ideas, but if the City Commission gave into that sort of notion of "well its just this little project" then the City Commission was really giving in to the tyranny of that incremental decision making. He said that was not good public planning or long-term planning. He said staff had it exactly right when staff recommended against the Preliminary Development Plan for the reasons staff listed.

He said there were a number of good things about the concept, but there were a number of things that literally scared him into no other decision except voting against that proposal. He said from what he was able to determine, the strategic development marketed analysis that was performed made an assumption that Lawrence was going to continue to grow at a faster rate than the City had grown in the past 10 years. He said he seriously questioned whether the City would be able to absorb that additional retail space without doing serious harm to what Horizon 2020 recognized as the City's primary responsibility and that was protecting the downtown area. He said he did not think this proposal had any long-term impact, except to damage a downtown which was struggling. He said they might say they wanted to protect downtown, but if looking at the number of store fronts that continued to change, downtown was struggling. Property values were up, taxes were up, and downtown businesses struggle to continue to stay in business. He said if the City Commission provided downtown with this level of retail competition, he was not confident about the City's downtown ability to survive the project.

Placing this number of drive-through areas and other attractive activities in front of a high school struck him as an inherently bad idea.

He said he had been to areas where new urbanism projects had been done, but some of those new urbanism projects were significantly bigger pieces of ground than this project and they were much more able to contain internal traffic than this proposed project could contain.

The internal grid suggested by the use of other lines on the map that there were lots of grid street activities outside that plan, but there were none. He said the City suffered from the lack of a good grid network in this City to the west.

He said Treanor talked about the future connectivity of 15th Street to the SLT which might happen some day, but it was not on anybody's capital improvement plan. No one was coming forward with the millions it would take to build that interchange. He said the City had absolutely no commitment by this City Commission to do anything to extend Peterson Road to the SLT. He said he did not think any of the current members of the City Commission when that was approved. Yes, those things would happen at some time in the future and "if" and "when" they happen, this might be a terrific project if there was some way to relieve this traffic.

He said as he said to a reporter when this article was written, he thought the West Lawrence Neighborhood Association would shoot them if they approve a plan that put that type of density, 200 residences, 100+ thousand square feet of commercial, 80,000 square feet of office, and 4 drive-through areas. He said it was too much in one place.

He said he liked the look, he just thought it was in the wrong place and it was too much. He said he wished he could be more favorable, but he could not.

Vice Mayor Amyx shared concern about the amount of square footage. Another concern was not knowing the type of use that would go on the northwest corner. He said he wanted to make sure that what he saw was what they would end up with because he liked the plan.

He said City staff had to make a recommendation on this particular development plan based on current development codes and the fact that the City did not have a code that dealt with that type of zoning. He said staff probably made the decision they made based on City code and he applauded staff because staff was essentially saying if they were going to move ahead, the City needed some other type of code that would allow those types of projects to happen.

The mixed use of this project made a lot of sense, but he disagreed about the idea of the liquor store because of the relationship to the school to the north.

He said he shared Commissioner Schauner's concern about downtown being fragile, but downtown was successful because the downtown merchants worked hard.

He said he thought downtown would stand for years because of the downtown merchant's commitment, not only as merchants, but as City Commissioner's of this City. He said the downtown would continue to compete with project like this. He said this project would be a showcase and an entry way to the Lawrence community. He said the overall concept of the project was one that he could support, but again he reiterated that he wanted to make sure this plan was the same plan they would end up with.

Commissioner Schauner said if the City Commission approved the zoning as requested, as long as the uses proposed after the zonings had been approved, complied with one of the use groups on the list of approved use groups for that zoning, did the Commission have any legal authority to say no to those uses.

Corliss said as development and infrastructure was in place and the uses that were proposed complied with the use groups that were allowed and comply with all of the conditions, then they would be allowed to pull a building permit.

Commissioner Rundle asked if the preliminary development plan covered the entire area and could the City Commission condition the preliminary development plan.

Corliss said yes. He said among the conditions that was pointed out, that the proposed future phase hotel/convention center area was not allowed for commercial retail uses which was one of the conditions.

Commissioner Rundle said he thought the PDP did restrict or at least the City Commission could restrict something to provide the guarantee that Vice Mayor Amyx wanted.

Stogsdill said those uses were shown on the face of the PDP. Once all of those uses were permitted, revisions to the PDP could come forward that might change allocations. Obviously, the issues about numbers of drive-thru areas or restaurants, she would assume would be a pretty difficult argument to change at some point in the future, but the plan was not so specific. Any mix of those permitted uses would be permissible not to exceed the overall square footage for retail uses.

Commissioner Schauner asked what was the overall square footage permitted in this PDP.

Stogsdill said something less than 62,000 square feet.

Commissioner Hack asked if that was Stogsdill's assessment of what was allowed and what they were doing.

Stogsdill said yes. She said Patterson's staff report specifically provided an appendix that showed the language that was in the 6th and Wakarusa Area Plan and the report specifically stated 62,000 square feet of retail commercial uses. That discussion took place with the applicants early on because one of the first proposals had more.

Commissioner Rundle asked if the different housing types were specified for the zones.

Stogsdill said the PRD portion had specific housing types that were shown on the plan. The residential that was in the PCD portion was just simply identified as residential and that was one of the issues that would come back to staff was to define how many units would be in that square footage.

Commissioner Rundle asked where there were detached dwellings was there some language to state that there would be one dwelling unit structure with the occupancy that was set out in RS-1.

Stogsdill said she did not believe there was a specific note on the development plan about the occupancy for the detached residences.

Commissioner Rundle asked if it was going to be a multi-family use or a single-family use.

Stogsdill said the development plan had a combination of uses.

Commissioner Rundle asked if the plan specified where those uses were.

Stogsdill said yes.

Treanor said there was not a user in the wings on the northwest corner. He said they truly believed it would be some type of residential, perhaps with some office. Regarding the nodal plan and the amount of square footage, he did not think that office was included. There was recently an office building directly across the street from their project that did not have any discussion about that being part of commercial office space. There would be medical office in the proposed project such as a dentist that would take office space. He said 62,000 square feet of retail within those particular use groups was discussed with the Planning Commission.

Commissioner Rundle said he did not feel comfortable going forward with this project. He said the Commission, in general, was also supportive of the concepts of new urbanism and recognized the difficulty of the City's current code in not permitting those ideas to be implemented. He said he did not think the City could move forward on new urbanism until there was a community discussion, either with a specific project, such as this project, and come up with new urbanism guidelines that would govern that project or until there was a new urbanism code for the entire City. He said the City Commission could not point to any kind of policy or standards for the next new urbanism proposal.

There were a number of small issues such as getting KDOT to sign off on the access. Those types of things needed to be completed before the City Commission approved this project when the project was predicated on keeping that road open.

Commissioner Rundle said his primary concern was the impact on existing retail. Horizon 2020 was very clear about mandating an analysis of this issue when considering commercial development proposals. He said he did not think they had been monitoring the pace of growth and the demand for retail space in the way it was specified and the way this Commission had indicated they wanted to.

He said the analysis that was used was flawed. The Census Bureau, as Commissioner Schauner stated, had projected the City was growing slower now than in the 1980's and 1990's. He said the study that claimed the City could absorb the additional retail was predicated on the City growing at a rapid pace.

He said he thought the project needed to be put on hold until a better market analysis and he would not be voting in favor of this project.

Commissioner Hack said her comments in the newspaper made it very clear that this was a project that she could support, but she wanted to articulate some of her thoughts. One of the things that needed to be done in this community was to go through the definition of new urbanism, but she did not know if they could define the "perfect" new urbanism project. She said this was not a typical infill project because it was not a small project, but it also was not a thousand acre type project and the

project was in an area that was developed. The characteristics of the project that she appreciated were the mixed use, the fact that the parking was away from the street, the buildings frame the street, the project was adapted that it was on the highway, and it was on a major arterial. She said the sense was that the applicant, Treanor, had crammed this project down everyone's throat, but they needed to understand that there had been a number of compromises and conversations to come up with some things that people could live with. In addition, the civic space used with the Lawrence Community Theatre was an incredible opportunity for that part the City. New Urbanism stated that design, density and diversity needed to be looked at and this project certainly did. She said as Watkin's had stated that you could articulate uses for that project that would not require waivers, discussion, and was allowed under the City's current zoning codes, but that wasn't what the City wanted to look at in that wider look of this community. She said she enthusiastically supported the project.

Commissioner Rundle said he was not clear in his statement about waiting until the City had the perfect new urbanism program, but what he was saying was that they needed to wait until the City had new urbanism standards in place. He said someone mentioned Overland Park taking a new approach to some type of development. He said Overland Park was taking that approach, but they had standards in place for that type of development. He said in the Kansas City area they had taken a new approach to approving projects based on how they could adjust their impact on the traffic system to be at an off time, such as an office building being let out at non-rush hour times. That standard was in place before their City Commission approved that.

Commissioner Schauner said the letter from LAN quoted from Horizon 2020 which stated:

"The area located east of Wakarusa Drive (the northeast corner of the West 6th Street/Wakarusa Drive intersection) is recommended as most appropriate for commercial development of a non-retail focus. As three (3) corners of this intersection are likely to develop as retail centers, it is recommended the remaining corner incorporate less-intensive commercial development. This corner is in closest proximity to the high school complex and indoor aquatic center to the north and adjacent residential neighborhoods to the northeast. It is recommended the existing A, Agricultural, zoning designation be rezoned to PCD-2 with restrictions. The restriction being that the development of this corner of the intersection incorporate some kind of recreational commercial use, mixed-use office-residential activity, public or semi-public/institutional use, or other such use or activity that can be demonstrated as having a less intensive impact on traffic patterns and surrounding land use activities and neighborhoods."

He said that statement should be guiding this discussion, not was this or was this not new urbanism. This project did not meet that direction. This wasn't a matter of whether this was new urbanism or it wasn't. Commissioner Emerling, from the Planning Commission, indicated that this project wasn't new urbanism and she knew a lot more about new urbanism than he did. He said Planning Commissioner Emerling might have voted in favor, but in the notes it indicated that she did not think it was a true example of this development concept. He said this was a decision which everyone who drove out West 6th Street would live with. Everyone who tried to walk across the street to the Indoor Aquatic Center now had to cross 6 or 7 lanes of traffic which would get worse, not better. He said they would see significant amount of additional development requests, west of this intersection out to the SLT. He said he did not know how the City Commission said "no" to anything. He said developers should bring projects forward and the City Commission would rubber stamp those projects and let them be built because the City did not have any standards anymore. He asked if the City had some standard or some benchmark. He said he was just asking the City Commission to be consistent because everybody wanted consistency and transparency, unless the project was their project and then they wanted an exception. He said KDOT's Corridor simulation for West 6th Street said not with this development, but much less development on that corner that street as improved failed in a very few years. He said it would be 30 minutes to drive from 6th and the SLT to 6th and Folks.

Vice Mayor Amyx asked if that same study did not take into consideration any improvement to the SLT at 15th Street.

Commissioner Schauner said that was exactly right, but the problem was that the City did not have any money to do that.

Vice Mayor Amyx said he understood, but he asked if KDOT told the City Commission that it did not show any connection to any other roadway. He said it was the only east/west roadway connection that the City had.

Commissioner Schauner said it was the only roadway when the study was done and the only one that the City had today, but the City did not have anything on the Capital Improvement Projects in the next dozen years that even addressed 15th Street corridor. That was a multi-million dollar project. He said the roadway could be built, but the City did not have the money to build it. He said this City Commission denied extending Peterson Road because of the difficulty of the terrain and costs. He said where would they place those roads and who paid for them. He said maybe this developer would like to participate in the cost of the 15th Street interchange. He said he was at a loss to understand what the guideline would be in the future for honoring their commitment under Horizon 2020.

Mayor Highberger said when talking about honoring commitments, this City Commission, minus Vice Mayor Amyx, informed the property owner that they had 62,000 square feet of commercial retail to work with and there was some disagreement about whether banks were included which was a legitimate concern. He said the rest of the Community Theatre was not a retail commercial use and had entirely different traffic patterns. He said this project might be a few percent off of what the City Commission had committed to giving the developer, but it was not radically off.

He said it was completely irrelevant whether this was a new urbanism project or not. He said the question was whether this was a good project for this community. He said one thing that needed to be done was to compare the project with what could happen under the City's existing code and they could get comparable densities on the residential portion and something similar on the commercial.

He said they could also get a real ugly project and still have the same traffic concerns which would not be a long term benefit for the community. The traffic concerns were legitimate, but the applicant should be commended for taking an extreme effort to try and bring the City Commission something that was beyond what the City Commission was accustomed to. The residential portion especially was something that was exciting because it had mixed housing types in the same neighborhood. He said where else in Lawrence were they getting proposed developments that have anything close to mixed housing types. He said bringing the development close to the street was a good thing and he would thoroughly support reducing the 50 foot setback for that corridor.

The Planning Commission's letter discussed the future possibility of boulevards frontage roads. He said this discussion was about setback and not right-of-way and the property was already valued around a million dollars an acre.

Commissioner Schauner said if the City built on that ground, it would be more expensive if the road had to be widened in the future.

Mayor Highberger said he did think the City wanted 6 lanes roads in the future. He said Commissioner Schauner was correct in saying as west of 6th Street was developed they would need to build a much better grid system than what the City currently had. He said putting Champion Lane through would help somewhat.

He said he was generally supportive of the project. As far as the right-in only on the west end, he still had his serious concerns about access management because it impeded the ability in controlling how traffic worked. Even though it was a major arterial, other communities had shown that if designing the street properly, traffic could be controlled and make it compatible with a residential urban neighborhood. This project was a small step in that direction. He supported moving forward and eliminating the extraordinary setback requirement.

He said obviously this project was conditioned on the PCD as it stood now which was conditioned on insuring there was adequate wastewater capacity. There were a number of conditions that were on the PCD that he was not sure that when those conditioned were complied with, that the applicant would be able to come back with a plan in all respects like the current plan. He said the City Commission needed to make sure they reviewed the final version before approval was granted.

In terms of the uses, he was not thrilled with the drive-through and he was interested in discussions on limiting those drive-through areas. In general, this project was far better than what the City Commission was likely to see if they did not approve the project.

Vice Mayor Amyx asked what the Mayor's suggestion was concerning the right-in only.

Mayor Highberger said he was not suggesting any different conditions that were on the PDP as approved by the Planning Commission.

Commissioner Rundle said there was nothing currently on the development plan that eliminated that right-in only.

Mayor Highberger said the applicant was required to secure that right-in only before the plan was approved and if they get that right-in only, fine.

Commissioner Rundle said he did not want the right-in only to be moot by having the plat vacated.

He said the City Commission should be part of the initiation of that discussion with KDOT, rather than saying if they could get the right-in only.

Commissioner Schauner asked if Commissioner Rundle was saying that the City Commission should or should not be part of that discussion.

Commissioner Rundle said the City Commission should be part of that discussion. He said the Commission should be asking for the right-in only, if they were going to approve that plan.

Commissioner Schauner asked if KDOT had a concern about the right-in only being too close to the intersection.

Mike Wildgen, City Manager said the right-in only was half way between Champion Lane and Wakarusa Drive.

Vice Mayor Amyx asked if the Mayor wanted to review the plan again for final approval.

Mayor Highberger said the Commission was likely to see some substantial changes in the Preliminary Development Plan and he assumed if there were substantial changes, the City Commission would see that plan back.

Stogsdill said staff had discussed that because of the large number of conditions, it was likely that the layout would change which would be an option for the City Commission. Normally, complying with conditions was left to staff to make that determination and then it moved on the Final Development Plan which went to the Planning Commission. She said staff had discussed, as an option, that the City Commission could ask the applicant, since there would be numerous revisions and more detail, that the City Commission give the applicant conceptual approval to move forward with the plan so the applicant could address all of those detailed issues and staff could bring that plan back to the City Commission for their final blessing before the applicant could move on to a Final Development Plan submission.

Mayor Highberger said he would like to review that plan.

Commissioner Rundle asked if the City Commission could make sure they incorporated the findings of fact and any conditions added to make it clear.

Stogsdill said she assumed that would be based on the conditions that were listed in the action letter.

Mayor Highberger said yes.

Moved by Hack, seconded by Amyx, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the request for rezoning (Z-03-16-05) of approximately 2.59 acres from PRD-2 (Planned Residential Development District) to POD-1 (Planned Office Development District) (the property is generally described as being located north of West 6th Street between Wakarusa Drive and Folks Road (Bauer Farm)); and, directed staff to prepare the appropriate ordinance. Aye: Amyx, Hack, and Highberger. Nay: Rundle and Schauner. Motion carried. (33)

Moved by Hack, seconded by Amyx, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the request for rezoning (Z-03-17-05) of approximately 8.23 acres from PRD-2 (Planned Residential Development District) to PCD-2 (Planned Commercial Development District) (the property is generally described as being located north of West 6th between Wakarusa Drive and Folks Road (Bauer Farm)); and, directed staff to prepare the appropriate ordinance. Aye: Amyx, Hack, and Highberger. Nay: Rundle and Schauner. Motion carried. (34)

Moved by Hack, seconded by Amyx, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the request for rezoning (Z-07-48-05) of approximately 18.938 acres from PCD-2 (Planned Commercial Development District) to PCD-2 (Planned Commercial Development District) to revise use restriction (the property is generally described as being located north of West 6th Street between Wakarusa Drive and Folks Road (Bauer Farm)); and, directed staff to prepare the appropriate ordinance. Aye: Amyx, Hack, and Highberger. Nay: Rundle and Schauner. Motion carried. (35)

Mayor Highberger asked Patterson to review the approved uses currently in the plan.

Patterson said if the approved uses were not in the action letter, there was an attachment to the action letter that the applicant received that was based upon the Planning Commission's actions which were multiple-family residential, community facilities, professional offices, limited services, inner neighborhood commercial uses, retail stores, retail sales, and many other uses.

Mayor Highberger said the Planning Commission made some additions and deletions.

Patterson said the Planning Commission took out the hotel/motel use requested by the applicant. The list also identified that off premise liquor sales were not

permitted. He said the Planning Commission took the basic ordinance that was previously approved and added uses recommended by staff and by the applicant.

Mayor Highberger asked about the drive-thru areas.

Patterson said the Planning Commission recommended four drive-thru areas including at least one bank drive-thru.

Mayor Highberger said he had some concern about those drive-thru areas because it seemed those areas were potentially traffic generating uses that were not necessarily compatible with the plan for the rest of the area. He said that issue did not get a lot of discussion during public comment. He said he would recommend discussing this issue before the motion was made.

Treanor said in their last discussion of those drive-thru areas, there were perhaps two restaurant drive-thru areas, a bank, and a pharmacy. He said the bank and pharmacy would have a very low use. The restaurant would be the use that would generate the most activity.

Mayor Highberger said he did not see those uses in the plan.

Mayor Highberger asked Patterson how the restriction was currently stated.

Treanor said it was four drive-thru areas, including one bank. He said that would be three restaurants.

Watkins said the plan started with a total of eight drive thru areas, two areas that were to be banks. Through the planning process, it was finally voted to allow three non-bank areas. He said one Planning Commissioner voted against the entire recommendation because that Planning Commissioner did not think there were enough drive thru areas. He said the plan started out with more drive-thru areas, but it had been reduced substantially.

Treanor said there was a lot of discussion about the gas station and convenience store, but those uses were taken out early on. If they could have those low impact drive-thru areas, it would just be for convenience. He said if they limited the restaurants that would get the bulk of the traffic down.

Commissioner Rundle asked Stogsdill if the way this plan would be approved that that banking drive thru area would not be converted to a restaurant in the future revision of the plan. He asked if this plan was specific enough to restrict that use.

Stogsdill said that use would be a substantial change that would need to come back to the City Commission.

Commissioner Schauner asked if the City Commission had any long-term absolute fix on the number of drive thru areas or any other uses at that location.

Stogsdill said just as anyone could propose to rezone a property.

Mayor Highberger asked if the drive-thru areas were recorded as a condition.

Patterson said the drive-thru condition was on the PDP portion which was condition number 5.

Moved by Highberger, seconded by Hack, to concur with the Planning Commission's recommendation to approve a Preliminary Development Plan (PDP-03-02-05) for Bauer Farm, with a change to Condition No. 5, keeping the four drive-thru areas but with the limitation of two restaurants, one bank, and one non-restaurant use, a proposed planned commercial, office, and residential development containing approximately 43.88 acres, (the property is generally described as being located north of West 6th Street (U.S. Highway 40) between Wakarusa Drive and Folks Road), subject to the following conditions:

1. Provision of KDOT approval of a right-in-only on W. 6th Street between Champion and Wakarusa or a revised Preliminary Development Plan removing same.
2. Reconfigure Champion Lane to connect more directly to Overland Drive. Revise Traffic Study to reflect revised plan.
3. Revise Drainage Study per City Stormwater Management Coordinator's approval.
4. Completion of downstream wastewater analysis per City Policy.
5. Provision of allowed uses on face of development plan according to approved list from October 24 PC meeting with drive-thrus limited to ~~four drive-thrus, one or more of which would be a bank, two restaurants, one bank, and one other (non-restaurant use, such as a pharmacy drive-thru).~~
6. Provision of draft covenants and restrictions and property owner association guidelines, including architectural elements/patterns, for review and response by Planning Office.
7. Approval of requested four Waivers and three modified Subdivision Design Standards for:
 - Waiver 1. Lot size.
"B – Starter Homes", lot widths of 35' x 100' lot depths. Footprint dimensions of townhouses of 20' x 40'.
 - Waiver 2. Periphery Boundary.
2a. 30 feet commercial peripheral to 10' setbacks on W. 6th Street, 17' setback on Wakarusa Drive, 10' setback on Overland Drive, and 10' setback on Folks Road;
2b. 35 feet residential peripheral to 10' setbacks on Overland Drive, 10' setbacks on Folks Road, and 16' setbacks on W. 6th Street; and
2c. No peripheral boundary setback between the PUD areas within Bauer Farm.
 - Waiver 3. Residential Setbacks.
a. Distances less than 10' between the "A" Custom Homes and "B" Starter Homes and between the Cottages above the "A" garages and the "B" Starter Homes; and
3b. Residential front yard setbacks of approximately 10 feet, and side and rear yard setbacks less than 10 feet; providing the structures are designed to meet the building code requirements for zero setback.
 - Waiver 4. Commercial Setbacks.
Commercial building setback as close as 10' on W. 6th Street, 17 feet on Wakarusa Drive, and 10' on Champion Lane (if the northern leg is not vacated or depending upon relocation of Champion Lane).
 - Subdivision Design Standard 1. Offset streets.
Local streets intersecting opposite sides less than 125 feet.
 - Subdivision Design Standard 2. Alleyways.
Alleyways within the residential areas of the subdivision.

- Subdivision Design Standards 3. (Private) Street width
Local private street widths of 20 feet B-B (back-of-curb to back-of-curb).

8. Elimination of 50' Setback by text amendment by City Commission, BZA variance on the setback or revised PDP to include the setback.
9. Agreement not to protest formation of benefit districts for signalization and/or geometrics at the following sites:
 - a. 6th and Champion;
 - b. Overland and Wakarusa; and
 - c. Folks and Overland.
10. Revised PDP to include estimated phasing and schedule of construction.
11. Provision of notes regarding ADA and accessibility.
12. Proposed Future Phase Hotel/Convention Center area not to allow commercial retail uses.

Aye: Amyx, Hack, and Highberger. Nay: Rundle and Schauner. Motion carried. (36)