

PC Minutes 10/24/05

**ITEM NO 6: PRELIMINARY PLAT FOR TOMLINSON ADDITION; 1800
NORTH COUNTY ROAD 250 (LAP)**

PP-09-20-05: Preliminary Plat for Tomlinson Addition. This proposed one-lot residential subdivision contains approximately 48.0 acres. The property is described as being located at 1800 N 250 Road. Submitted by Landplan Engineering, PA, for Ralph and Barbara Tomlinson, property owners of record.

ACTION TAKEN

Motioned by Erickson, seconded by Haase to approve the Preliminary Plat for Tomlinson Addition, subject to the following condition:

1. Revision of the plat to include a note, stating that development will be limited to one single-family residence until the property is annexed into Baldwin City.

Motion carried unanimously, 9-0, as part of the Consent Agenda.

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ITEM NO 7A: PRD-2 TO POD-1; 2.59 ACRES; NORTHEAST CORNER OF W. 6TH STREET & WAKARUSA DRIVE (PGP)

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). Submitted by Landplan Engineering, P.A., for Free State Holdings, Inc., property owner of record. *Deferred from the September Planning Commission meeting.*

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ITEM NO 7B: PRD-2 TO PCD-2; 8.23 ACRES; NORTHEAST CORNER OF W. 6TH STREET & WAKARUSA DRIVE (PGP)

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). Submitted by Landplan Engineering, P.A., for Free State Holdings, Inc., property owner of record. *Deferred from the September Planning Commission meeting.*

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ITEM NO 7C: PCD-2 TO PCD-2; 18.938 ACRES; NORTHEAST CORNER OF W. 6TH STREET & WAKARUSA DRIVE (PGP)

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). Submitted by Landplan Engineering, P.A., for Free State Holdings, Inc., property owner of record. *Deferred from the September Planning Commission meeting.*

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ITEM NO 7D: PRELIMINARY DEVELOPMENT PLAN FOR BAUER FARM; NORTHEAST CORNER OF W. 6TH STREET & WAKARUSA DRIVE (PGP)

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. Submitted by Landplan Engineering, P.A., for Free State Holdings, Inc., property owner of record. (This item relates to Z-03-16-05, Z-03-17-05, and Z-07-48-05.) Consideration will include requests for approval of waivers from various requirements in Article 10 of the Zoning Ordinance. *Deferred from the September Planning Commission meeting.*

STAFF PRESENTATION

Mr. Patterson outlined past rezoning approvals leading up to the current situation and explained the current requests were tabled previously for four months under the assumption that certain things would take place, including:

- Creation of a new development plan
- Work between the applicant and Staff regarding the needed waivers
- Completion of a public presentation on New Urbanism
- Scheduling of a Commission work session to discuss the needed waivers

Staff recommended approval of Items 7A and 7B with conditions, including the continuation of the use and building size restrictions applied to previous rezonings.

Staff recommended denial of Item 7C, which requested to expand the allowed uses in the current PCD-2 zoning. Staff offered an alternate recommendation for a limited expansion of allowed uses to include some of the less traffic-intensive uses proposed by the applicant. There was specific concern about the number of drive-thru uses proposed.

Staff identified a number of waivers needed to accommodate the development plan (Item 7D) as proposed:

1. Waiver from the Subdivision Regulations to allow creation of building lots with less than 4000 square feet. Staff could support this waiver, including the row house portion of the plan where dwelling units might be sold individually.
2. Waiver from the Subdivision Regulations to reduce internal peripheral boundaries between uses. Staff could support this waiver because the internal boundaries served no purpose.
3. Waiver from the Subdivision Regulations to reduce outer peripheral boundaries. Staff opposed this waiver because other developments had been required to provide this buffer between themselves and adjacent uses. If this waiver were approved Staff cautioned the Commission to pay close attention to streetscape amenities and the location of common open space.
4. Waiver from the Subdivision Regulations to reduce residential setbacks. Staff supported this waiver with the understanding that additional building codes would come into play.
5. Waiver from the Subdivision Regulations to reduce commercial setbacks. Staff supported this waiver, provided appropriate peripheral boundaries were matched.

One variance was also identified, which was not within the Planning Commission's purview. The variance to reduce/eliminate the 50' building and parking lot setback along W. 6th Street would have to be approved by the Board of Zoning Appeals or a Text Amendment must be initiated and adopted to remove this requirement for all developments.

Mr. Patterson said Staff had no objection to the requested exception for off-set streets, but more information was needed about the impact of residential alleys on emergency and utility access.

Mr. Patterson said Staff recommended denial of the preliminary development plan for several reasons:

- The proposed development plan contains more commercial retail uses than allowed by the approved nodal plan.
- A number of issues remain about streets, traffic and access.
- The wastewater capacity matter needs further study.
- Additional information is needed about the provision of open space and other elements.
- A significant number of waivers would be needed to permit the plan as proposed.
- Tandem parking is shown on the development plan. This type of parking has been allowed in developments in the past, but each tandem space counts only as one space toward the parking requirement.
- Changes recommended by Staff would require an entirely new development plan design, making the current design moot.

APPLICANT PRESENTATION

Dan Watkins spoke on behalf of the applicant, giving an overview of the applicant's position on main points:

- Open space is designed to make the development "pleasantly walkable."
- The Code does not support Staff's recommendation for denial based on the need for multiple waivers.
- The Code does not provide for the introduction of this new design concept (New Urbanism).

Mr. Watkins spoke about the setback issues along W. 6th Street, describing how the 200' corridor originally intended from Monterey Way to the SLT had been incrementally whittled away and was no longer an appropriate requirement. He stated the applicant's intent to make this case before the City Commission and request initiation of a Text Amendment to remove the 50' setback requirement along the entire corridor.

Mr. Watkins explained the W. 6th Street access, saying KDOT made it clear the right-in/right-out access point originally proposed would not be permitted. The applicant said Chris Huffman at KDOT said he was not opposed to the applicant pursuing the legal options for obtaining a right-in only access at this point.

Mr. Watkins discussed the applicant's participation in benefit districts for improvements at several intersections. These included an intersection at Champion Road, with the understanding that Staff had recommended a cul-de-sac at that location to preclude traffic issues related to the nearby High School. Mr. Watkins said their traffic study indicated a minimum of traffic from the high school would travel this direction because of parking lot locations and the applicant asked for additional guidance on this issue.

The applicant presented a chart comparing the applicant's proposed list of expanded allowable uses vs. Staff's more limited list. He said the commercial area proposed conformed to the 62,000 square feet approved by the City Commission.

Mr. Watkins said the applicant understood the proposed drive-thru businesses were of concern to Staff and said the drive-thrus could be achieved without changing lot

configuration or open space. Burress questioned how many drive-thru uses were actually needed and how many were requested as "place-holders". Mike Treanor said an effort was being made to create a pedestrian-friendly development, but this location along the arterial road meant auto-related uses would be involved. He identified one drive-thru location that was requested but possibly could be done without.

Mr. Watkins presented various ideas for eventual build-out of the subject area. He said some of these concepts may not be appropriate today, but approval now would reserve the land for other uses when this kind of development was needed.

Ermeling expressed concern that the New Urbanism concept was lost in the transition between residential and commercial sections of the development. She said the proposal had elements of New Urbanism but was not a true example of this development concept. She asked if there were elements that could be redesigned to form a more textbook example of New Urbanism. The applicant said many true New Urbanism elements could not be applied in this development because of retail limitations and the property's location along an arterial. New Urbanism designs were also limited by the City Code, which was not written to accommodate this new planning style.

It was suggested that Champion Lane could be designed as a boulevard if it were connected and discussed whether this point would be signalized whether or not Champion Lane went through.

Mr. Treanor responded to several questions:

- The applicant's traffic study took into consideration the possible need for improvements to Overland Drive and indicated these improvements could be done without interrupting the lots proposed for drive-thru uses.
- The development provides adequate parking even with the tandem spaces counted as one space instead of two.
- The applicant's traffic study indicated that Overland Drive is wide enough to stripe for three lanes but this is not needed.

Mr. Treanor explained in response to questioning the reasoning behind several design choices:

- Why the houses were oriented as shown instead of backing onto the center greenspace;
- How drive-thru locations related to pedestrian pathways in terms of congestion and safety; and
- How the layout would be modified if the proposed right-in access were not allowed.

There was discussion about how long it would take to get a Text Amendment adopted that would allow the development to proceed as shown (without providing the 50' setback along W. 6th Street). It was suggested that, if done correctly, this could take several months.

Jennings commented that a wider variety of uses would be viable if Champion Lane was allowed to go through. It was suggested this would be preferable as long as adequate traffic calming measures were taken.

PUBLIC HEARING

No member of the public spoke on these items

COMMISSION DISCUSSION

Burress expressed concern over the number of questions that could not be defined or answered tonight. He said he would prefer to pursue the text amendment, meanwhile giving the applicant direction for revisions to bring back to the Commission. Eichhorn said he agreed about initiating the text amendment, but he felt the Commission had adequate information to take action on the items before them tonight.

The Commission discussed the Champion Lane connection, identifying the two sides of the issue:

1. High School students using Champion Lane to cut through the development is a significant safety concern, especially when efforts are being made to make the City more pedestrian-friendly.
2. The City Engineer and Traffic Engineer recommended connecting Champion Lane to provide some relief for traffic issues at 6th & Wakarusa and Overland Drive & Folks Road. Their review of this connection was made in consideration of the current development plan.

Each Commissioner stated their opinion about the Champion Lane question, with an even number on each side of the issue.

An effort was made to decide which item (rezonings, waivers, or the development plan) to concentrate on first. Several comments were made:

- Burress said he did not like to consider the rezonings without the plan and suggested a reverse order was more appropriate (development plan first).
- Haase said dealing with the waivers first might identify a "deal breaker" that would require re-design of the development plan and rezonings.
- The Community Theatre cannot begin fundraising until its new location is finalized. It may be advisable for them to look at other possibilities if timing is critical.
- The location proposed for a convention center is odd, being some distance from Downtown and both Universities.

Meeting extended 30 minutes

It was established that the Commission could limit the number of drive-thrus in the PCD-2, and that carry out spaces (as seen at Applebee's or Chili's) were not considered drive-thru's but were not included in the provided parking calculation.

The Commission discussed approving the list of expanded uses from Staff and go through the list of uses proposed by the applicant one-by-one.

ACTION TAKEN

Motioned by Burress, seconded by Ermeling to approve the list of expanded uses presented by Staff, including:

Use Group 4 - Multiple-family Residential

- Multiple-family residential use above commercial use (retail/office on 1st floor with multiple-family residential on upper floor(s))

Use Group 12 - Retail Sales

- Antique sales
- Appliances, furniture, home furnishings, sales, rental repair
- Art supply sales
- Bank, savings & loan and trust company (without a drive-thru)
- Clothing sales
- Food store, including retail bakery
- Laundry, self service only
- Mail order service
- Optical goods, sales
- Orthopedic or medical appliance sales
- Photographic studio
- Quick copy or duplicating center
- Radio and television studio
- Sewing machine sales and repair
- Shoe repair and sales

Use Group 13 - Automotive Services, Retail Sales other

- Automobile parking garage
- Barber and beauty equipment sales
- Blueprinting and similar reproduction processes
- Bus passenger station
- Caterer
- Free standing automated banking or dispensing facility (walkup without a drive-thru)
- Leather goods, sales and repair
- Pet shop
- Quick copy or duplicating center
- Recording studio
- Secretarial service
- Baked goods, candy , delicatessen, and ice cream; all for retail sales on the premises only

Motion carried unanimously, 9-0.

COMMISSION DISCUSSION

Several points were clarified regarding the proposed expanded uses presented by the applicant:

- "Media store" refers to a sexually-oriented business and both the applicant and the Commission agreed this use could be struck without opposition.
- A swimming pool may be permitted as an accessory use even if the use is struck from the list.
- If "Variety Store" is retained as an allowable use, a clear definition should be applied.
- "Licensed premises" refers to any business holding a liquor license.
- "Service Station" refers only to gas pumps and does not include a convenience store or repair shop.
- The applicant does not intend for this development to include a Convenience Store use.
- The applicant does not oppose striking the Motel or Hotel uses, but this kind of use might generate needed customers for other businesses in the development.
- A Hotel use might be permissible if it were split away from the convention center use.
- Restaurant with drive-thrus are considered to be included under "Eating establishment with dancing and entertainment".
- The majority of the Commission supported retaining the Hotel and Motel uses.
- The majority of the Commission supported retaining the Auto Sales use.

Meeting extended 30 minutes

ACTION TAKEN

Motioned by Krebs, seconded by Lawson to approve the following uses proposed by the applicant (*uses proposed but struck are indicated by ~~strikethrough~~*):

Use Group 12 – Retail Sales

- Altering, pressing, repairing of apparel
- ~~Automotive Service Station~~
- Banks, Savings and Loan (with drive-thru)
- Bowling Alley
- Club or Lodge
- Hardware Store and small tool rental but not lumber or industrial hardware
- ~~Hatblocking and repair~~
- Ice Vending Machine
- Laundry Pick-up Station
- Licensed Premises
- Liquor, Wine, Beer Sales - consumption off premises
- Loan Office
- Nursery Sales/Stock
- Paint and Wallpaper Sales
- Photographic Processing
- Post Office
- Theatre, Indoor Commercial
- Variety Store

- Video Store, Sale or Rental or retail

Use Group 13 – Automotive Services, Retail Sales other

- Amusement Park – commercial
- Automobile Parts Store, Tire Accessories
- Automobile Repair and Services
- Automobile Sales, Service, Rental (new and used)
- ~~Automobile Service Station~~
- Business Machine rental, repair, sales
- Car or Truck Wash
- Eating establishment enclosed with dancing and entertainment
- ~~Eating establishment, drive-up services only, no seating~~
- ~~Golf driving range~~
- Golf, Pitch and Putt
- Home Improvement Center
- Hotel
- Laboratory, medical or dental
- ~~Media Store (Ord. 7226)~~
- ~~Mobile Home Sales~~
- Monument Sales
- Motel
- Motorcycle Sales
- Office Equipment sales
- Plumbing Fixture sales
- School, commercial or trade
- Skating Rink
- Studio for professional work
- Swimming Pool
- Clothing custom manufacturing

Motion carried 7-2, with Burress, Eichhorn, Erickson, Krebs, Jennings, Lawson and Riordan voting in favor. Haase and Ermeling voted in opposition.

Item 7A

Motioned by Krebs, seconded by Eichhorn to approve the rezoning of 2.59 acres from PRD-2 to POD-1 and forwarding it to the City Commission with a recommendation for approval, based on the findings of fact presented in the body of the Staff Report and subject to the following conditions:

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; and
3. No building permit will be issued until the W. 6th Street Project is substantially completed.

Motion carried 5-4, with Eichhorn, Krebs, Jennings, Lawson and Riordan voting in favor. Burress, Erickson, Ermeling and Haase voted in opposition.

COMMISSION DISCUSSION

Burruss explained he had opposed the previous vote because, without the development plan, he did not know what additional conditions he might like to place on the rezonings and he wanted to keep that option open. Eichhorn said he agreed with Burruss regarding the PCD rezoning request. It was discussed that denial of a rezoning would prevent the applicant from resubmitting before 12 months. However, anything the applicant did to revise the development per Staff's recommendations would constitute a substantial change and would not be subject to the 12-month rule (this would have to involve a different zoning classification or a substantially different square footage).

The Commission discussed the appropriateness of applying the commercial design guidelines that had not yet been adopted by the City Commission. Staff said the Legal Department opinion was that the Commission could ask the applicant to consider using the guidelines, but could not yet legally require their use.

*Meeting extended 10 minutes
Lawson left at 11:00 p.m.*

Krebs asked if there was a general consensus for supporting the waivers and exceptions, with the understanding that the W. 6th Street setback issues were beyond the authority of the Planning Commission.

Haase said the Commission would be remiss to ignore how much traffic mattered in this proposal. Eichhorn said the City Commission had made it clear they did not intend to address relevant traffic matters at this time.

It was suggested that the Chair appoint three Commissioners to a new committee to investigate a potential Text Amendment with Staff that would address gateway planning on a City-wide basis. Meanwhile, the applicant indicated their intent to suggest the City Commission initiate the Text Amendment.

It was suggested that the peripheral boundary waivers reflected directly on the W. 6th Street issue and should also be discussed by the new committee.

ACTION TAKEN

Motioned by Burruss, seconded by Krebs to defer Items 7B-7D to the December 2005 agenda.

Motion carried unanimously, 8-0.