



**PLANNING COMMISSION MEETING**  
**February 22, 2017**  
**Meeting Action Summary**

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February 22, 2017 – 6:30 p.m.

Commissioners present: Britton, Butler, Carpenter, Culver, Kelly, Sands, von Achen, Weaver, Willey

Staff present: McCullough, Stogsdill, Day, Larkin, M. Miller, Pepper, Ewert

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**GENERAL BUSINESS**

**PLANNING COMMISSION ACTION SUMMARY MINUTES**

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of January 25, 2017.

Motioned by Commissioner Culver, seconded by Commissioner von Achen, to approve the January 25, 2017 Planning Commission action summary minutes.

Unanimously approved 6-0-3, with Commissioners Butler, Weaver, and Willey abstaining.

**COMMITTEE REPORTS**

No reports from any committees that met over the past month.

**EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- No ex parte.
- No abstentions.

PC Minutes 2/22/17

**ITEM NO. 1      COUNTY B-1 TO COUNTY R-1; .58 ACRES; 697 E 1725 RD (BJP)**

**Z-17-00022:** Consider a request to rezone approximately 0.58 acres from County B-1 (Neighborhood Business) District to County R-1 (Single-Family Residential) District, located at 697 E 1725 Rd, Baldwin City. Submitted by Vinland Preservation LLC, property owner of record. *Joint meeting with Baldwin Planning Commission.*

**STAFF PRESENTATION**

Ms. Becky Pepper presented the item.

**APPLICANT PRESENTATION**

Mr. Ray Wilbur, 502 E 1600 Rd, said he was a shareholder in the project. He said the sanctuary was used as a workshop and half the building was used as a house.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Britton asked what the purpose was behind the lot minimum size in the A-1 zoning district.

Ms. Pepper said that was part of the County Zoning Regulations. She said the difference with the A district was more rural in nature. She said the larger lot size was intended to maintain the rural character of the area.

Commissioner Willey inquired if the property was on a septic system.

Ms. Pepper said yes, septic.

**ACTION TAKEN**

Motioned by Commissioner Britton, seconded by Commissioner von Achen, to approve the rezoning request for approximately 0.58 acres from B-1 (Neighborhood Business) District to R-1 (Single-Family Residential) District and forward to the Board of County Commissioners with a recommendation for approval based on the findings of fact found in the body of the staff report

Unanimously approved 9-0.

PC Minutes 2/22/17

**ITEM NO. 2      PRELIMINARY PLAT FOR PAXTON PLACE ADDITION; SE CORNER 31<sup>ST</sup> & MICHIGAN (MKM)**

**PP-16-00544:** Consider a Preliminary Plat for Paxton Place Addition, a two lot residential subdivision, on approximately 49 acres located at the southeast corner of W. 31<sup>st</sup> St and Michigan St. (future address of 1101 W 31<sup>st</sup> St). Submitted by BG Consultants, for Castle Rock LC, property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. David Hamby, BG Consultants, was present for questioning.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Sands inquired about the concept plan.

Ms. Miller showed the concept plan on the overhead.

Commissioner Sands asked if there were plans for development on lot 2. He also inquired about the acreage of lot 2.

Ms. Miller said development was not currently planned for lot 2. She said the property was approximately a million square feet and approximately 25 acres on each lot.

Commissioner Sands inquired about open space.

Mr. McCullough said the property had development potential but that there was substantial floodplain on the property. He said the property was annexed into the city and two feet of freeboard was added for the floodplain. He said the Code allowed for development in the floodplain if the floodplain regulations were followed. He stated there was a cost associated with developing in the floodplain so many developers choose not to develop in the floodplain. He said the plat showed the lot layout and where the floodplain was located.

**ACTION TAKEN**

Motioned by Commissioner Sands, seconded by Commissioner Culver, to approve the Preliminary Plat of Paxton Place Addition subject to the following conditions:

1. Applicant shall provide a revised preliminary plat with the following changes:
  - a. Show the SLT/K10-TC Overlay District boundary on the plat.
  - b. Show and label the sidewalks on the adjacent roadways. The sidewalk on W 31<sup>st</sup> Street should also be labeled 'proposed'.
  - c. Provide dimensions for the Westar Easement.

Commissioner von Achen said the staff report noted some of the right-of-way was being held by the Kansas Department of Transportation (KDOT). She asked if the visitor center was in the right-of-way.

Ms. Miller said yes, there was an agreement with KDOT.

Unanimously approved 9-0.

PC Minutes 2/22/17

**ITEM NO. 3      PCD TO CS; 1.07 ACRES; 3215 OUSDAHL RD (MKM)**

**Z-16-00545:** Consider a request to rezone approximately 1.07 acres located at 3215 Ousdahl Rd from PCD-[Pine Ridge Plaza] (Planned Commercial Development) District to CS (Commercial Strip) District. Submitted by Paul Werner Architects on behalf of Jayhawk Acquisitions LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Ms. Joy Rhea, Paul Werner Architects, was present for questioning.

**PUBLIC HEARING**

Mr. Jeff Tucker, 1801 W 31<sup>st</sup> St, wondered if the same owner owned the property to the north. He was curious if the property to the north would be demolished and rebuilt.

**APPLICANT CLOSING COMMENTS**

Ms. Rhea said the applicant did own all the property. She said the existing storage units would remain for now and worked around to make it a continuous development.

**COMMISSION DISCUSSION**

Commissioner Culver asked about the access point to the lots.

Ms. Miller said it was shared access to the north.

Ms. Rhea said there would be access on Ousdahl as well.

Commissioner Britton asked Mr. Tucker if his concerns had been addressed.

Mr. Tucker said the current buildings were dilapidated and vacant. He said people were living in the vacant storage units and doing drugs. He said it was an unsightly property with lots of trash.

Commissioner Kelly inquired about the confusing access and traffic at the intersection on 31<sup>st</sup> Street near the post office.

Ms. Stogsdill said that change occurred when Home Depot and Best Buy were built on the north side and they needed a lighted intersection. She said the post office access changed at that time. She stated the access was shared with the east end of Pine Ridge Plaza and not the best example of coordinated development.

Commissioner Kelly asked if the applicant was thinking of going across the drainage ditch area.

Ms. Rhea said there would be a building along there to shore things up a bit. She stated the long term plan was to eventually tear down the existing buildings and build new buildings to match.

Commissioner Kelly asked staff to explain the site planning stage to the public.

*Complete audio & video from this meeting can be found online:  
<http://www.lawrenceks.org/boards/planning-commission/agendas>*

Mr. McCullough said it was helpful to have input regarding site plans and what the issues are at a particular site. He said they could address some of the concerns through site planning design, with such things as a security gate, lighting, etc.

**ACTION TAKEN**

Motioned by Commissioner Britton, seconded by Commissioner Willey, to approve the rezoning request, Z-16-00545, for approximately 1.07 acres from PCD-[Pine Ridge Plaza] (Planned Commercial Development) District to CS (Commercial Strip) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Unanimously approved 9-0.

PC Minutes 2/22/17

**ITEM NO. 4 SPECIAL USE PERMIT; BULLWINKLE'S; 1340 TENNESSEE ST (BJP)**

**SUP-16-00547:** Consider a Special Use Permit to allow a building addition for Bullwinkle's, located at 1340 Tennessee Street, to expand onto property in a MU (Mixed Use) zoning district. Submitted by Paul Werner Architects on behalf of Sorrentino Investments LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Becky Pepper presented the item.

**APPLICANT PRESENTATION**

Mr. Paul Werner, Paul Werner Architects, said the site had been cleaned up and the owners had invested a lot of money. He said the house at 1344 Tennessee Street would also be renovated and cleaned up. He agreed with the staff conditions.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Britton asked what the number of occupants was on a normal night.

Mr. Werner said the maximum occupancy was 269 people. He said there was about a two hour window on Friday and Saturday nights when the bar typically reaches the maximum occupancy. He said he was working with the fire department.

Commissioner Kelly said the two homes and business were owned by the same owner. He wondered what would happen if the ownership was transferred.

Mr. Werner said that was one of the reasons for combining the lots into one property to make it clearer. He said the minor subdivision would make it harder for the property to be pieced off.

Commissioner Sands asked if improved parking was part of the project.

Mr. Werner said there was a parking lot there now and it would be improved and in better shape with this project. He said the parking would be paved once the project was complete. He also stated it was reserved parking that went with the resident homes.

Commissioner Willey asked staff about the standard for setbacks.

Mr. McCullough said in this case it was driven by the building fire code. He said after the lot was combined the buildings could be as close as the design allowed.

Commissioner Willey asked if the homes would be improved with fire retardant materials.

Mr. Werner said the buildings were closest at the bay window area of the house and he was not sure the bay window was salvageable. He said both structures would have fire sprinkles installed.

Commissioner Carpenter said every time he drives by Bullwinkle's there are people out the door and around the corner waiting to get in.

Mr. Werner said on a game days all the bars in the area are crowded.

Commissioner Carpenter said on Thursday and Friday evenings Bullwinkle's was packed.

Mr. Werner said the business was doing well which was why he was here.

Commissioner Carpenter said the patio made the site safer. He asked how maximum occupancy was enforced.

Mr. Werner said the fire department shows up during peak hours and counts the number of people.

Commissioner von Achen said Bullwinkle's was a bar that people walked to instead of driving.

Mr. Werner said that was correct. He said fire retardant materials would be used. He said a 5' setback between structures on one lot and one and two hour fire walls would meet the building and fire codes making it safer than it currently was.

Commissioner Britton inquired about the history of occupancy limit problems.

Mr. McCullough said bars were routinely checked by the fire department. He said through the years bars come in and out of compliance as management changes. He said when architects submit plans they design a certain occupant load. He gave the example of restaurants downtown that were required to install a fire sprinkler if the occupancy was more than 100 people. He said the fire department pays special attention to establishments that could be dangerous if the occupancy is exceeded. He said a new policy included occupancy rates on outdoor patio spaces.

Commissioner Culver asked if increased occupancy was desired in the future by Bullwinkle's if it would require parking requirements.

Mr. McCullough said that was correct.

Commissioner Kelly said enforcement was the best way to deal with occupancy issues.

Commissioner Willey felt the addition of fire sprinklers was a gain to the property.

Commissioner Sands asked how many bedrooms were in the house at 1344 Tennessee Street.

Mr. Werner said both 1344 Tennessee and 314 W. 14<sup>th</sup> would have 7 bedrooms and be congregate living residences.

Commissioner Kelly asked if the house improvements would follow the Oread Design Guidelines.

Mr. McCullough said that was correct.

*Public comment was opened again.*



Mr. Terry Riordan, 1613 Tennessee St, had questions and concerns about this project. He did not feel it was consistent with what was in this area. He stated there had been at least four fires on Tennessee Street. He said there were not any other houses in the neighborhood that were 2' apart. He was concerned about the safety of the patrons at Bullwinkle's lining up outside.

Commissioner von Achen expressed concern about the 2' distance between the buildings and asked how it was allowed in the Oread Guidelines.

Mr. McCullough said the mixed use district was a specific category in the guidelines which allowed that kind of closeness of buildings. He said the MU district called for more intensity and density which was not the typical residential pattern. He said closing up the patio helped with some of the loitering, as well as landscaping in the right-of-way.

Commissioner Kelly said the location of Bullwinkle's was unique and presented some challenges. He felt comfortable that the factors that could be controlled were being controlled.

Commissioner Sands inquired about the difference between a single family residence and congregate living use.

Mr. McCullough said congregate living allowed more than four unrelated people to live there, required one parking space per bedroom, and required a fire sprinkler system.

Commissioner Culver said an addition to the building without increasing the occupancy fit the Special Use Permit and the role of Planning Commission. He felt that combining the lots was beneficial for the property owner by giving them a vested interest in both the business and residences. He also felt that down the road there would be more certainty of what may happen to the properties by them being combined. He said the addition of a sprinkler system would increase the safety of the structures.

### **ACTION TAKEN**

Motioned by Commissioner Culver, seconded by Commissioner Sands, to approve a Special Use Permit, SUP-16-00547, to allow a building addition for Bullwinkle's, located at 1344 Tennessee Street, and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Provision of a site plan performance agreement.
2. Filing of Minor Subdivision with the Douglas County Register of Deeds prior release of building permits for development.
3. Applicant shall provide a revised plan that includes the following notes and changes:
  - a. Add the following note regarding the maximum occupant load for Bullwinkle's:  
"The Design Occupancy of the space (total of interior and both patios) at its maximum configuration shall not exceed 269 people."
  - b. The label in the building footprint for 314 W 14<sup>th</sup> Street indicates that structure contains 7 bedrooms. However, Note 1.2 lists it as a 5 bedroom *Multi-Dwelling Structure*. Update whichever one is in error with the correct information.

Commissioner Britton said he would vote in favor of the motion but hoped the property owner/manager would not exceed the maximum occupancy. He said it would be a nice improvement for the area and not have significant negative impacts on the safety issues that currently exist there.

Unanimously approved 9-0.

PC Minutes 2/22/17

**ITEM NO. 5      VARIANCE; 1144 E 1200 RD (MKM)**

**CSU-17-00004:** Consider a variance request per Section 20-804 of the Subdivision Regulations to allow a Certificate of Survey on property containing less than 20 acres, located at about 1144 E 1200 Rd. Submitted by Grob Engineering Services LLC on behalf of Brian E & Cheri L Ezell, property owners of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Dean Grob, Grob Engineering Services, was present for questioning.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner von Achen, seconded by Commissioner Britton, to approve the variance request to allow a Certificate of Survey, CSU-17-00004, to occur on the subject property with less than the required 20 acres based on the findings of fact found in the body of the staff report and subject to the following condition:

1. The following note shall be added to the Certificate of Survey:
  - a. *"The Planning Commission approved a variance from Section 11-104(b) of the Subdivision Regulations [Section 20-804(b) of the City Code] to allow land division through a Certificate of Survey to occur on a property with approximately 19.5 acres of area rather than the required 20 acres based on the fact that the reduction in land use occurred in, or prior to, 1920 and appears to have occurred in order to accommodate access to the property to the north."*

Commissioner Culver said the condition that lists the background and why this variance was needed was helpful for Planning Commission and for others looking at this property in the future.

Commissioner Britton agreed and commended staff for making that clear and limiting any precedent.

Unanimously approved 9-0.

PC Minutes 2/22/17

**ITEM NO. 6      TEXT AMENDMENT TO DEVELOPMENT CODE; COLUMBARIUMS (BJP)**

**TA-16-00388:** Consider a Text Amendment to the City of Lawrence Land Development Code, Articles 4, 5, & 17, regarding *Funeral and Interment Services as defined in Section 20-1729. The requested amendment would allow Columbariums as Accessory Uses to established Religious Assembly Institutions.* Submitted by Corpus Christi Catholic Church. *Initiated by City Commission on 9/20/16. Deferred by Planning Commission on 1/25/17.*

Item 6 was deferred prior to the meeting.

PC Minutes 2/22/17

**ITEM NO. 7      TEXT AMENDMENT TO COUNTY ZONING REGULATIONS; RADIO,  
TELEVISION, TELECOMMUNICATION, & MICROWAVE TOWERS (MKM)**

**TA-16-00511:** Consider a Text Amendment to Chapter 12 of the County Code, *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas* to revise Section 12-319-4.31, *Radio, television, telecommunication, and microwave towers*, to bring the standards and definitions into compliance with State law. *Initiated by County Commission on 11/30/16.*

Item 7 was deferred prior to the meeting.

**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

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**ADJOURN 8:12pm**