



## **PLANNING COMMISSION MEETING**

**March 15, 2017**

### **Meeting Action Summary**

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March 15, 2017 – 6:30 p.m.

Commissioners present: Britton, Butler, Carpenter, Culver, Kelly, Sands, Struckhoff, 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 February 22, 2017.

Motioned by Commissioner Britton, seconded by Commissioner Butler, to approve the February 22, 2017 Planning Commission action summary minutes.

Motion carried 8-0-1, with Commissioner Struckhoff abstaining. Commissioner Weaver was not present for the vote.

## **COMMITTEE REPORTS**

Receive reports from any committees that met over the past month.

Commissioner Culver said the Transportation 2040 Steering Committee met and will continue to meet throughout the year to work on the updated draft plan. He said they went over some of the projects and developments completed since the last plan. He said they talked a little bit about the fiscal realities. He said they also reviewed the public participation plan and were trying to get a survey out to as many people as possible. He said the goal was to get about 2,300 surveys from the public. He stated federal performance measures would go into plan. He said their next meeting would be early summer of 2017.

Commissioner Culver said the Metropolitan Policy Board met last month and went through the Unified Planning Work Plan for 2017. He said there were a few larger items and dollar amounts allocated to those efforts.

## **EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- Ex parte:  
Commissioner Struckhoff said he received a letter from Mr. Matt Gough regarding the Landfill Text Amendment.
- No abstentions.

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**ITEM NO. 1A        RS7 & PUD TO RM24-PD; 1.418 ACRES; 2021 CROSSGATE/1809  
BIRDIE WAY (SLD)**

**Z-17-00009:** Consider a request to rezone approximately 1.418 acres from RS7 (Single-Dwelling Residential) District and PUD (Planned Unit Development) District to RM24-PD (Multi-Dwelling Residential-Planned Development) District, located at 2021 Crossgate Dr. (1809 Birdie Way, Lot 1 Alvarmar Inc one Addition) Submitted by Paul Werner Architects for Eagle 1968 LC, property owner of record.

**ITEM NO. 1B        PUD TO RM24-PD; .558 ACRE; 2021 CROSSGATE/1575 BIRDIE WAY  
(SLD)**

**Z-17-00011:** Consider a request to rezone approximately .558 acre from PUD (Planned Unit Development) District to RM24-PD (Multi-Dwelling Residential-Planned Development) District, located at 2021 Crossgate Dr. (1575 Birdie Way, Lot 2 Alvarmar Inc one Addition) Submitted by Paul Werner Architects for Eagle 1968 LC, property owner of record.

**ITEM NO. 1C        FINAL DEVELOPMENT PLAN FOR ALVAMAR LOT 1; 1809 BIRDIE WAY  
(SLD)**

**FDP-17-00028:** Consider a revised Final Development Plan for Alvarmar Lot 1, located at 1809 Birdie Way for the addition of an 8,200 SF multi-purpose building. Submitted by Paul Werner Architects, for Eagle 1968 LC, property owner of record.

**ITEM NO. 1D        FINAL DEVELOPMENT PLAN FOR ALVAMAR LOT 2; 1575 BIRDIE WAY  
(SLD)**

**FDP-17-00029:** Consider a revised Final Development Plan for Alvarmar Lot 2, located at 1575 Birdie Way for the relocation of the apartment clubhouse and pool area. Submitted by Paul Werner Architects, for Alvarmar Apartments LC, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented items 1A-1D together.

*6:45pm Commissioner Weaver arrived.*

**APPLICANT PRESENTATION**

Ms. Joy Rhea, Paul Werner Architects, displayed an image of the golf course on the overhead.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Sands asked if the purpose of moving the clubhouse was aesthetic. He inquired about what would go there.

Ms. Rhea said that was correct. She said it would be vacant.

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Commissioner von Achen said she had not heard negative comments from the neighbors. She asked staff to comment.

Ms. Day said she talked to neighbors who had questions regarding the street.

Commissioner Willey asked if the cart barn would be thought of as an event space or just used as needed.

Ms. Rhea said the cart storage would not be an event space but that it could be used in the event of rain.

Commissioner Culver inquired about the bufferyard on the west side of property line.

Ms. Rhea said the required bufferyard would be restored. She stated it was a note on the final development plan that if the bufferyard disappeared it would be fixed.

### **ACTION TAKEN on 1A**

Motioned by Commissioner Britton, seconded by Commissioner Struckhoff, to approve the request to rezone approximately 1.418 acres from RS7 (Single-Dwelling Residential) District and PUD (Planned Unit Development) District to RM24-PD (Multi-Dwelling Residential-Planned Development) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval and subject to the following use restrictions:

1. Retail uses, as accessory to the golf course.
2. Office uses, accessory to the direct operation of the golf course and banquet/reception facility (Event Center) or management of accessory uses directly associated with the golf course.
3. Eating and Drinking Establishments, including a night club (to be operated as a banquet/reception facility only), Fast Order Food, Quality Restaurant, and Accessory Bar uses.
4. Transient Accommodations, including a Hotel with not more than twenty-four (24) guest rooms.

Unanimously approved 10-0.

### **ACTION TAKEN on 1B**

Motioned by Commissioner Britton, seconded by Commissioner Struckhoff, to approve the request to rezone approximately .558 acres, from PUD (Planned Unit Development) District to RM24-PD (Multi-Dwelling Residential-Planned Development) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval and subject to the following use restrictions:

1. Retail uses, as accessory to the golf course.
2. Office uses, accessory to the direct operation of the golf course and banquet/reception facility (Event Center) or management of accessory uses directly associated with the golf course.

3. Eating and Drinking Establishments, including a night club (to be operated as a banquet/reception facility only), Fast Order Food, Quality Restaurant, and Accessory Bar uses.
4. Transient Accommodations, including a Hotel with not more than twenty-four (24) guest rooms.

Unanimously approved 10-0.

#### **ACTION TAKEN on 1C**

Motioned by Commissioner Britton, seconded by Commissioner Struckhoff, to approve Alvarado Lot 1 Revised Final Development Plan based upon the findings of fact presented in the body of the staff report and subject to the following conditions:

1. Prior to the recording of the Final Development Plan a Final Plat shall be submitted and approved and recorded with the Register of Deeds Office.
2. Provision of a revised plan that updates the Landscape calculations per the 99 parking spaces shown on the face of the drawing.

Unanimously approved 10-0.

#### **ACTION TAKEN on 1D**

Motioned by Commissioner Britton, seconded by Commissioner Struckhoff, to approve revised Final Development Plan based upon the findings of fact presented in the body of the staff report and subject to the following conditions:

1. Prior to the recording of the Final Development Plan a Final Plat shall be submitted and approved and recorded with the Register of Deeds Office.
2. Provision of a revised plan that includes a landscape plan for the west property line bufferyard per staff approval.

Unanimously approved 10-0.

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**ITEM NO. 2      PRELIMINARY PLAT FOR MERCATO; 6200 W 6<sup>TH</sup> ST (MKM)**

**PP-17-00010:** Consider a Preliminary Plat for Mercato, an eight-lot commercial subdivision on approximately 121 acres located at 6200 W 6<sup>th</sup> St (northwest corner of W 6<sup>th</sup> Street & George Williams Way). Submitted by Landplan Engineering PA on behalf of Kentucky Place, LC; Tanglewood, LC; JDS Kansas, LC; Scotsdale Properties, LC; Tat Land Holding Company, LC; Sojac Land Company, LC; and Venture Properties, Inc. property owners of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Brian Sturm, Landplan Engineering, said the development group did not agree with the required East 902 Road improvements and he would like it stricken from the conditions. He felt the condition was burdensome and outside the Subdivision Regulations. He said this development should not be responsible for improvement of E 902 Road. He said a sidewalk along the south side of Rock Chalk Drive should have been built when Rock Chalk Park was developed.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Mr. McCullough said he thought the applicant was in agreement with the conditions. He said East 902 Road was a street coming into this node and it was the owner's responsibility in accordance with the transportation plan. He said it was a necessary street to the development. He said this is the time, during the platting of the property, to provide the infrastructure that the development demands. He stated staff's position was firm and the development policy required the developer pay for it. He said if infrastructure was not there to support the CC600 zoning then staff may not have recommended approval of the project. He said the sidewalk on Rock Chalk Drive was in response to the Mercato plat with residential lots backing to Rock Chalk Drive.

Commissioner von Achen asked staff to speak about the agreement.

Mr. McCullough said that was only laying down the framework for the timing of closing the outer road to the highway and providing right in/right access on Mercato Lane.

Commissioner Sands asked staff for a comparable CC600 zoning of 100,000 gross ft.

Mr. McCullough said the Walmart on 6<sup>th</sup> Street was just under 100,000 gross ft.

Ms. Miller said it limited the number of big buildings to two.

Mr. McCullough said certain uses, such as hotel, are not included in the retail count.

Commissioner Britton inquired about the law requiring the developer to pay for these things.

Mr. McCullough said it was an analysis of the demand created. He said two big box stores and more retail square footage was driving the need for appropriate road infrastructure to the site. He said the

development policy outside of the Subdivision Regulations put the cost burden on the development itself.

Commissioner Culver inquired about the applicant saying the road was outside the boundaries of the property.

Mr. McCullough said it was an argument that staff did not agree with.

Commissioner Culver asked if 902 Road was not closed would the developer still be required to improve it.

Mr. McCullough said it was necessary to address 902 Road with this development. He said 902 Road was serving the development and was a primary road to the development.

Commissioner Kelly inquired about the development north of Rock Chalk Park.

Mr. McCullough said it was designated for residential density. He said there was some market pressure to do something to the north.

Commissioner Butler asked the applicant to show on the drawing what the developer did not feel they should be responsible for.

Mr. Sturm said the developer was responsible to upgrade streets within the development and provide connections to the edges of the development.

Commissioner von Achen asked the applicant about internal traffic flow.

Mr. Sturm said there was a collector street that would tie George Williams Way east to west over to East 902 Road. He said there was also an east/west local street further north that would bring people from George Williams Way into the development. He said the primary movements would be at the 6<sup>th</sup> Street and George Williams Way intersection. He said Mercato Drive would be a collector street.

Commissioner von Achen asked if Mr. Sturm agreed East 902 Road needed to be improved.

Mr. Sturm said when demand is shown with a traffic impact study. He did not feel it needed to be improved at this time with Mercato paying for it.

Commissioner Carpenter inquired about sidewalks.

Mr. Sturm said he disputes that improvement costs should be this developer's responsibility.

Commissioner Sands said he would be willing to bend a little on the sidewalk issue. He said if the back of the store goes on the south side then a sidewalk wouldn't necessarily be used. He said East 902 Road was going to serve this property almost exclusively.

Commissioner Britton said the orientation of the buildings was not known at this time.

Mr. McCullough said that was correct.

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Commissioner Britton felt the property would be a lot better if it did not have the backside of buildings facing Rock Chalk Park. He said he had not heard anything compelling to get rid of the sidewalks and felt the development would be better with sidewalks. He said regarding East 902 Road it was consistent to have the developer foot the bill for the improvements. He asked if this development was different than other situations.

Mr. McCullough said sometimes the improvements come in benefit districts and sometimes has to do with how directly it effects the property and the timing of the project. He said Rock Chalk Drive was paid for by Rock Chalk Park but would benefit Mercato.

Mr. Matt Gough said the development was tiny piece of a big piece. He said he did not interpret the agreement to require the owner to assume the responsibility of East 902 Road. He said the course of the roads could change. He said there was a 10' sidewalk on the north side of Rock Chalk Drive instead of two 5' sidewalks on each side and it was probably better to move pedestrians across the street on one side.

Commissioner Willey felt the staff conditions should be upheld as written.

### **ACTION TAKEN**

Motioned by Commissioner Willey, seconded by Commissioner von Achen, to approve the Preliminary Plat, PP-17-00010, of Mercato Addition subject to the following conditions:

1. Applicant shall provide a revised preliminary plat with the following changes:
  - a. ~~Show and note the entire length of George Williams Way, except where the access points are proposed, as 'access restricted'.~~
  - b. Revise the note regarding the closing of E 902 access to W 6<sup>th</sup> Street/ Hwy 40 to note that this access shall be removed by the ~~property owner~~ **developer, at developer's expense**, with the construction of Mercato Drive Lane and the disturbed area shall be seeded and maintained until vegetation is established.
  - c. Add a note that indicates that the developer shall improve, **at developer's cost**, Renaissance Drive (currently E 902 Road) to City standards to the north boundary of the property with the construction of Mercato Lane.
  - d. **Revise Note 1 under 'Provision and Financing of Roads, Sewer and Other Public Services' to note that right-of-way shall be provided for external as well as internal streets.**
  - e. Provide dimensions for the proposed drainage easement on Lot 1, Block One.
  - f. Show and label the 100 ft 'no build setback' which is centered on the Southern Star gasline.
  - g. **Remove the proposed 15 ft landscape easement adjacent to the south side of Rock chalk Drive. Show** Show a sidewalk along the south side of Rock Chalk Drive **and along the east side of E 902 Road.** ~~Show sidewalks along both sides of all interior streets, and show~~ **Label the existing sidewalks** ~~those along the adjacent streets as 'existing'.~~
  - h. ~~Remove the grading changes which are shown within the Southern Star gasline easement through Lot 1, Block Four.~~ **Add a note that grading or other development activity within the Southern Star easement or setback will require Southern Star approval.**

- ii. **Show dedication of right-of-way at the intersection of George Williams Way with Overland Drive and with Rock Chalk Drive to accommodate intersection improvements, per the City Engineer approval.**

Commissioner Culver said he understood the need to plat the property preliminarily. He said he agreed with Mr. Gough's statement that it may not be the most appropriate time to talk about East 902 Road and how that may or may not be the sole responsibility of the development. He was supportive of the plat but not as supportive of the condition of East 902 Road being the sole expense of the developer.

Commissioner Struckhoff appreciated the development group's concerns about the costs and burden but felt it was appropriate under the development scheme and felt it was consistent with policies. He said this area was the retail future in Lawrence.

Commissioner Sands asked if there had been any interaction with KU Athletics about what would go west of the tennis area.

Mr. McCullough said staff had not had recent discussions with KU but that it was assumed something would develop.

Commissioner Kelly said he expected this development to be more pedestrian friendly. He said families would walk back and forth from the hotel use to Rock Chalk Park. He was supportive of sidewalk on both sides. He stated this was the preliminary plat and it allowed more time for changes.

Commissioner Britton felt they should stick to the preliminary plan and could make revisions if needed. He felt it would be harder to go back to the rule if an exception was made up front. He said he would support the motion.

Commissioner Carpenter was comfortable with the recommendations in the staff report.

Commissioner von Achen supported the motion.

Commissioner Sands said East 902 Road would support the development

Unanimously approved 10-0.



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**ITEM NO. 3      PRELIMINARY DEVELOPMENT PLAN FOR MT. BLUE ADDITION; 2350 FRANKLIN RD (BJP)**

**PDP-17-00008:** Consider a Preliminary Development Plan for Mt. Blue Addition, Lot 1 and Mt. Blue Addition No. 2, Lot 9 to accommodate a gun range and retail store, located at 2350 Franklin Rd. Submitted by Paul Werner Architects on behalf of Ace Self Storage LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Becky Pepper presented the item.

**APPLICANT PRESENTATION**

Ms. Leticia Cole, Paul Werner Architects, agreed with the staff report and was present for questioning.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner von Achen asked staff about Lot 1.

Ms. Pepper said Lot 1 was developed as proposed under the previous planned development. She said there were some minor changes to correct and match what exists today. She stated they were not proposing any changes to existing Lot 1, other than the access and moving the trash.

Commissioner Sands asked if Planning Commission would see more on this project.

Ms. Pepper said yes, the final development plan would come back to Planning Commission.

Commissioner Britton said the property to the west was zoned Agricultural and Limited Industrial. He asked if it was part of any sector plan that had a future use set out for it.

Ms. Pepper said the Southeast Land Use Plan.

Ms. Stogsdill displayed the Southeast Land Use Plan Geographic Information System (GIS) layer on the overhead for Planning Commission to see.

Commissioner Willey asked if the reason for the 15' setback waiver was because it fell under the regulations of the old code.

Ms. Pepper said the old code would have required a 30' setback. She said under that condition there would not be enough space for parking on the north side which would put restraints on the site meeting parking requirements.

Commissioner Carpenter asked if the current code standard would apply.

Ms. Pepper said that was correct.

Commissioner Britton said this site did not have the same pitfalls as previous discussions about gun ranges and appropriate locations. He stated it seemed supportable.

Commissioner Sands expressed concern regarding Occupational Safety and Health Administration (OSHA) requirements within gun ranges and said Planning Commission could look at further during the final development plan.

Commissioner Carpenter asked if the proposed gun range would also sell guns.

Ms. Pepper said the specialty store would be related to the gun range but she was not sure if there would be gun sales.

### **ACTION TAKEN**

Motioned by Commissioner Sands, seconded by Commissioner Britton, to approve the waiver from the front setback to permit the proposed off-street parking for Lot 9 to be located 15 ft of the north property line.

Unanimously approved 10-0.

Motioned by Commissioner Sands, Commissioner Willey, to approve the Revised Preliminary Development Plan for Mt. Blue Addition based upon the findings of fact presented in the body of the staff report and subject to the following conditions:

- 1.) Provision of a revised plan that includes the following notes and changes:
  - a. Update Note 2.11 with the following note; "One March 15, 2017, the Planning Commission approved a waiver from the front setback requirements in Section 20-1008.5(F)(1) of the 1966 Zoning Regulation to allow the parking area to be setback 15 feet from Thomas Court right-of-way."
- 2.) Submittal of a revised stormwater drainage study with approval by the City Stormwater Engineer.

Unanimously approved 10-0.

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**ITEM NO. 4                      TEXT AMENDMENT TO COUNTY ZONING REGULATIONS; LANDFILLS (MKM)**

**TA-16-00510:** Consider a Text Amendment to Chapter 12 of the County Code, *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas* to add 'Landfills' to the enumerated list of Conditional Uses, provide a definition, and establish standards for the use. *Initiated by County Commission on 11/30/16.*

**STAFF PRESENTATION**

Ms. Mary Miller presented the item. She two changes incorporated that were suggested by Mr. Matt Gough.

**PUBLIC HEARING**

Mr. Matt Gough, Barber Emerson, thanked staff for incorporating two of his three suggested changes. He said Chapter 10 of the Code would prohibit someone from taking clean fill from one place and dumping it on another spot on their property.

**COMMISSION DISCUSSION**

Commissioner von Achen asked if there was anything that required covering the dumped material.

Ms. Miller said there was a section of the County Code that prohibited dumping.

Commissioner von Achen asked if an individual could have a temporary landfill.

Ms. Miller said they could but it would require a Conditional Use Permit. She gave the example of a pond that a landowner may want to fill it. She said the primary reason for a Conditional Use Permit was to mitigate impact to neighbors.

Commissioner Britton asked if there was a requirement for paying for damage to a shared drive.

Ms. Miller said it was not something the County Zoning & Codes office had the authority to do.

Mr. Sean Reid, Director of Zoning & Codes, said new shared access drives were not permitted in the county.

Commissioner Britton inquired about Mr. Gough's points in his letter regarding conflict between chapters.

Mr. Gough said every chapter of the Code integrates and it doesn't matter who drafts it or enforces it.

Commissioner Kelly asked if there was any benefit in deferring to allow time for the public to review.

Mr. McCullough said there had not been a lot of public knowledge and that it would not harm the process to defer it.

Commissioner Britton suggested deferring to allow staff more time to look at Chapter 10.

Commissioner Culver said he would support deferral to allow staff time to look at Chapters 10 & 12 to see if they could be better aligned. He wondered if monitoring and enforcement of these types of uses would be similar to other Conditional Use Permits or if they would have a different list of criteria and timing.

**ACTION TAKEN**

Motioned by Commissioner Britton, seconded by Commissioner Carpenter, to defer until April Planning Commission to allow the public more time to participate in the process and to allow staff more time to look at the language in the Code Chapters to see if there alignment was needed.

Motion carried 10-0.

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**ITEM NO. 5      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.*

**STAFF PRESENTATION**

Ms. Becky Pepper presented the item.

**PUBLIC HEARING**

Ms. Courtney Shipley asked if the exception in the Kansas statute that religious organizations did not need to keep the same trust would be effective.

Ms. Pepper said it would be considered a cemetery corporation but the condition that they have a management or disposition plan.

Ms. Shipley inquired about the guidelines a church would follow if they wanted their own cemetery.

Ms. Pepper said it would be site planned and reviewed for how the church plans to maintain the cemetery through funding or a disposition plan.

Mr. Randy Larkin, staff attorney, said if a cemetery was in place and a church moved or dissolved there would be some type of plan of what to do with the cemetery. He stated there would be some type of trust fund to maintain it or some other situation where someone would have the responsibility to take care of the cemetery instead of it going to the City. He said it would be an approved plan and that the situation may be different for each cemetery.

Ms. Shipley expressed concern about trusts being cost prohibitive for non-profit organizations.

Mr. Larkin said the plan did not have to be a trust, just some type of assurance it would be maintained to protect the City.

**COMMISSION DISCUSSION**

Commissioner Kelly inquired about what the "plan" for disposition would look like.

Mr. McCullough said the intent was to protect the City but the plan could be flexible.

Mr. Larkin said the plan could be something as simple as the church giving the property to the land next door and that person would mow and maintain it. He said the plan would be on a case-by-case basis.

Commissioner Carpenter was satisfied that his concerns had been addressed with this text amendment.

Commissioner Britton asked if a disposition plan was only required for cemeteries, not columbariums.

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Mr. Larkin said the disposition plan was mostly connected to cemeteries but that it would depend on the situation. He said the City was not as concerned with columbariums since they were portable to some degree and there was a state procedure for disposing of the ashes.

Mr. McCullough said columbariums were primarily a civil issue, where cemeteries had a link to the City taking over if abandoned.

Commissioner Britton asked if the text amendment required cemeteries created after the effective date to be accompanied by a disposition plan but no requirement for columbariums to have something similar to that.

Mr. McCullough said that was correct.

Commissioner Willey inquired about the timeframe of the management plan.

Mr. McCullough said that would be part of the disposition plan and approving it with the site plan. He stated nothing would be 100% foolproof and that the City may still have to get involved if a cemetery is abandoned and not maintained with a 30 year old agreement. He said the management plan was to document that it was not the intent of the City to take on maintenance if it was abandoned.

Commissioner Willey suggested adding similar language for the requirement of a management plan for new columbariums.

Mr. Larkin said the language could be wordsmithed to meet the intent.

### **ACTION TAKEN**

Motioned by Commissioner Sands, seconded by Commissioner Carpenter, to forward a recommendation for approval the City Commission of the proposed amendment, TA-16-00388, to establish a use group for Columbariums amending Sections 20-402, 20-403, 20-505, and 20-1729, with the addition of "Passive Interment Improvements" to the condition regarding management and disposition plan (Section 20-505).

Commissioner Britton liked the language of management and disposition plan because it was vague enough to provide flexibility to address specific situations.

Unanimously approved 10-0.

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**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

**MISC NO. 1 MINOR SUBDIVISION VARIANCE FOR COKELEY ADDITION; SW CORNER OF W 31<sup>ST</sup> ST & OUSDAHL RD (MKM)**

Minor Subdivision, MS-17-00071, variance request from the requirement to dedicate additional right-of-way for W 31<sup>st</sup> Street, for Cokeley Addition, a one-lot subdivision on approximately 2.9 acres located in the southwest corner of the intersection of W 31<sup>st</sup> Street and Ousdahl Road. Submitted by Landplan Engineering, PA for Jayhawk Acquisition, LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Brian Sturm, Landplan Engineering, said the small property would take an unnecessary hardship by dedicating the additional right-of-way. He said a 15' utility easement would accommodate the existing and future infrastructure. He did not feel a right turn lane was needed in the area. He said the traffic study for Menards included this intersection and showed ample capacity for east bound right turn movements.

Mr. Paul Werner, Paul Werner Architects, said the staff report stated that since 2006 all right-of-way had been dedicated, but it had not. He said Menards had a 50' right-of-way with a pedestrian easement. He did not feel it was fair to compare this small lot to the large apartment complex next door.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Mr. McCullough said last month they looked at a situation at 31<sup>st</sup> & Iowa where there was a desire to maintain right-of-way on both sides. He said the City accepted a combination of right-of-way and easement on one side and recommended requiring it on another part. He said the city engineer likes to accommodate when an easement will help a development with setbacks. He said that was a judgement call by the city engineer on whether or not he believes everything needed can fit in the right-of-way. He said comparing Menards to this situation was like comparing apples and oranges. He said the city engineering was forecasting the potential for a right turn lane where right-of-way would eventually be needed.

Commissioner Willey asked in terms of a hardship determination when the applicant knew that the likely requirement would be a 75' easement.

Mr. McCullough said it was a requirement of the City Code.

Commissioner Willey wondered if this was a surprise after the applicant started the development process.

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Mr. McCullough said the applicant submitted the variance request with the Minor Subdivision application so they had knowledge of it. He said he hoped there was a way to get the right-of-way that the City needs but help with some of the parking setbacks. He said there were other avenues to pursue to grant relief for the setback issues than reduce the right-of-way.

Commissioner Sands inquired about the concept plan for rezoning that Planning Commission saw last month.

Ms. Miller said it was in the staff report from last month.

Mr. Werner said the mini-storage facility would not need parking outside and that parking would be north of the building.

Commissioner Willey inquired about how far back the right turn lane would go and if it would impact the property to the west.

Mr. Werner said the turn lane would fit in the right-of-way now but not a sidewalk.

Mr. McCullough said if the City does not get the right-of-way needed and development is built in the right-of-way then the City would have to buy the right-of-way in the future, which would include buildings. He said there was a trigger in the platting process that if there is required right-of-way that the development has to dedicate it to the City because that is the first step of development.

Commissioner Kelly said he was struggling with which side of the street to match this site with. He said if a right hand turn lane may be needed in the future then there should have been 75' setback down all of 31<sup>st</sup> Street.

Commissioner Willey inquired about the difference between a 50' right-of-way plus 20' pedestrian easement versus 70' right-of-way.

Mr. McCullough said the pedestrian easement was mostly for a sidewalk. He said east of Ousdahl with Menards and the apartment complex there was a 75' setback even though it did not have access off of 31<sup>st</sup> Street.

Commissioner Britton said it was rare for staff to recommend denial.

Commissioner Sands wondered what a traffic study for the area south would look like.

Commissioner Kelly said the City had technical experts and he struggled going against that.

Commissioner Butler said she would support the applicant.

Mr. Werner said this was a standalone lot and the only reason the City was getting a shot at more right-of-way was because the lots were being combined.

Commissioner Carpenter said he would support the staff recommendation.

Commissioner Sands said he would be in favor of deferring the item to hear from the City Engineer.



Commissioner Struckhoff said he was inclined to support the staff recommendation but wondered if a compromise could be met.

Commissioner Culver said it gave him pause that staff recommended denial. He said he would support a compromise for the staff and applicant to work out.

Mr. Werner said he was willing to continue working on it with staff.

#### **ACTION TAKEN**

Motioned by Commissioner Sands, seconded by Commissioner Britton, to defer one month to the April Planning Commission to hear testimony from the City Engineer about the future design of 31<sup>st</sup> and Ousdahl.

#### **MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

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**ADJOURN 10:39pm**