



PLANNING COMMISSION MEETING
April 24 & 26, 2017
Meeting Action Summary

April 24, 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

GENERAL BUSINESS

COMMITTEE REPORTS

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

Commissioner Culver said the Metropolitan Planning Organization Policy Board met last week and was asked to approve a corridor for the critical rule in urban freight designations to submit to the Kansas Department of Transportation. He said the corridor identified was the west leg of the South Lawrence Trafficway.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- No abstentions.

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**ITEM NO. 1 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. Deferred by Planning Commission on 3/15/17.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

Mr. Matt Gough, Barber Emerson, said he represented the owner of Stonewall Farm. He said adopting this amendment was the right thing to do and that the County should regulate clean fill offsite. He showed on the overhead pictures of a clean fill site adjacent to the Stonewall Farm property. He said a clean fill site should require a Conditional Use Permit. He wanted some assurance that once this Text Amendment was adopted that there will be no more dumping at the site next to Stonewall Farms. He thanked staff and supported the Text Amendment.

COMMISSION DISCUSSION

Commissioner Sands asked if excessive runoff counted as a nuisance.

Mr. McCullough said generally it would be a civil matter between property owners.

Mr. Sean Reid, County Zoning & Codes Director, said runoff would be considered a civil legal issue. He said he could determine if other county codes had been violated.

Commissioner Carpenter asked if current landfills would stop current activity.

Mr. Reid said he would like to have a chance to talk to legal counsel about that.

Mr. McCullough said it was a question that would need to be talked about.

Commissioner Carpenter wondered if County Commission could issue a moratorium on it.

Commissioner Sands asked if this would be allowed to continue until a Conditional Use Permit was applied for.

Mr. McCullough said that would need to be discussed with County Counsel.

Commissioner Britton thanked staff for working with Mr. Gough in making improvements to the language.

ACTION TAKEN

Motioned by Commissioner Britton, seconded by Commissioner Carpenter, to approve the Text Amendment, TA-16-00510, and forward to the Board of County Commissioners.

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<https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/>

Commissioner Culver said this text amendment would help going forward in defining uses to help protect some rural aspects of the county and allow property owners some rights. He encouraged County Commission to look at existing uses and make those work going forward.

Unanimously approved 10-0.

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**ITEM NO. 2 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.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Sands inquired about what defined a use for the tower. He said after a year of non-use it was required to be pulled down. He was concerned a tower may be used for something other than its intended use.

Ms. Miller said it would have to be used as a telecommunications or TV tower. She said if it was used as a fence post that would not count. She said it had to be used for the Conditional Use Permit that was approved.

ACTION TAKEN

Motioned by Commissioner von Achen, seconded by Commissioner Sands, to approve the proposed amendment, TA-16-00511, to revise Section 12-319-4.31 Radio, television, telecommunication, and microwave towers to update the definitions and standards for Wireless Facilities in compliance with recent State legislation and to create a new category 12-319-4.38 for Radio, Television, and Microwave Towers, and forwarding to the Board of County Commissioners.

Commissioner Britton asked if everything they were looking at was echoing the State law changes.

Ms. Miller said yes, that previous requirements conflicted with the State.

Unanimously approved 10-0.

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ITEM NO. 3 PRELIMINARY PLAT FOR ALVABET ADDITION; 1300 BLOCK RESEARCH PARK DR (SLD)

PP-17-00078: Consider a Preliminary Plat for Alvabet Addition, a 3 lot and 4 tract subdivision along the west side of Research Park Drive, located in the 1300 block of Research Park Dr. Submitted by Landplan Engineering, for Alvamar Inc and Mabet #1 #2 and Mabet #3, property owners of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Brian Sturm, Landplan Engineering, said the primary driver behind this Preliminary Plat was to clean up some ownership lines and land titles. He said the property owners were in agreement with staff the recommendation.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Willey inquired about open space.

Ms. Day said it was not a requirement but that the applicant could do.

Commissioner Willey asked who held the conservation easement.

Ms. Day said the property owner.

Commissioner Kelly asked staff to explain the difference between open space and conservation easements.

Ms. Day said an open space was a designation within the zoning code and would allow certain development to occur in the open space district. She said a conservation easement was explicit to that property and had specific restrictions.

Commissioner Carpenter asked if a conservation easement could be crossed to access a plat.

Mr. Larkin said a conservation easement would determine the terms of the easement itself and whether it could be crossed or not.

Mr. McCullough said in this case the conservation easement was likely more restrictive than any zoning.

ACTION TAKEN

Motioned by Commissioner Sands, seconded by Commissioner Britton, to approve the Preliminary Plat for Alvabet Addition subject to the following conditions:

1. Revise general notes to remove duplication of note 8.
2. Revise general note to include maintenance responsibility for Tracts A & B.

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Unanimously approved 10-0.

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ITEM NO. 4 RM12 & RS5 TO CS; .52 ACRE; 508 MICHIGAN (SLD)

Z-17-00087: Consider a request to rezone approximately .52 acre from RM12 (Multi-Dwelling Residential) District & RS5 (Single-Dwelling Residential) District to CS (Strip Commercial) District, located at 508 Michigan. Submitted by The Johnson Group, for Jesson S. Ross, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Lance Johnson, The Johnson Group, was present for questioning. He thanked staff for their time on the rezoning.

PUBLIC HEARING

Mr. Bob Thurber, 1301 W 5th St, said the rezoning would change the zoning to match the land use that had existed for many years. He felt the rezoning would benefit the neighborhood by knowing what would be allowed. He felt it was good to have a distinction between residential and non-residential. He expressed concern about screening and future uses of the property.

Ms. Gina Graham, 1311 W 5th St, said she did not have any issue with the rezoning but expressed concern about noise and restrictions for future businesses on the property.

APPLICANT CLOSING COMMENTS

Mr. Johnson said he had no closing comments.

COMMISSION DISCUSSION

Ms. Day said the Commercial Strip zoning district allowed for a wide variety of land uses. She said the size of the property, amount of frontage, and existing improvements limited what could ultimately be developed there. She said there were some uses that may not be conducive being adjacent to a residential use, such as automotive uses or fast food with drive-thru. She said the property today was not conducive for a drive-thru restaurant. She said the property was somewhat self restricting through its current configuration. She said during the site planning process staff would look at the common property line in terms of buffering, fencing, and some amount of greenspace. She said as far as noise it was a bit more challenging. She stated there were certain requirements in the Code about noise but it could be mitigated through fencing and landscaping.

Commissioner von Achen inquired about the west half of the property being non-conforming

Ms. Day said there was a fair amount of history to the property. She said it went back to the early zoning codes where the district allowed for commercial use along the street for the front lots. She said the non-conforming use covered the property that fronted Michigan Street.

Commissioner von Achen asked if access, no matter what the use, would be from Michigan Street.

Ms. Day said yes.

Commissioner Kelly inquired about the other three properties.

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Ms. Day said she did not know anything specific about those properties. She said it was conceivable that a property owner in the future would want to make a similar request to rezone. She said 5th Street was the boundary line as it transitioned to residential.

Commissioner Kelly expressed concern about creating an island with the other three properties within the middle of commercial zoning.

Mr. McCullough said the issue was that it was an existing commercial use today. He said site planning and apply today's standards could only improve the site and make the transition better.

Mr. Thurman asked if the gravel would have to be paved.

Ms. Day said that would be looked at during the site planning process.

Mr. McCullough said site planning process would require notice and the neighbors could be involved in that process.

ACTION TAKEN

Motioned by Commissioner Britton, seconded by Commissioner Culver, to approve the request to rezone approximately .52 acres, from RM12 (Multi-Dwelling Residential) District & RS5 (Single-Dwelling Residential) District to CS (Strip Commercial) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 10-0.

PC Minutes 4/24/17

**ITEM NO. 5A COMPREHENSIVE PLAN AMENDMENT TO H2020; OREAD WEST
RESEARCH PARK (SLD)**

CPA-17-00135: Consider a Comprehensive Plan Amendment to Horizon 2020, Chapter 7, to amend the boundary of the Oread West Research Park, related to rezonings Z-17-00079 & Z-17-00080 for the undeveloped properties north of Legends Drive and in the 1100 block of Biltmore Drive and Research Park Drive. Submitted by BG Consultants.

**ITEM NO. 5B IBP TO RS7; 25.4 ACRES; 1100 BLOCK BILTMORE DR & RESEARCH
PARK DR (SLD)**

Z-17-00079: Consider a request to rezone approximately 25.4 acres from IBP (Industrial/Business Park) District to RS7 (Single-Dwelling Residential) District, located in the 1100 Block of Biltmore Dr. and Research Park Dr. Submitted by BG Consultants, for WE1929, LLC, property owner of record.

**ITEM NO. 5C IBP TO RM12D; 10 ACRES; 1100 BLOCK BILTMORE DR & RESEARCH
PARK DR (SLD)**

Z-17-00080: Consider a request to rezone approximately 10.0 acres from IBP (Industrial/Business Park) District to RM12D (Multi-Dwelling Residential) District, 1100 Block of Biltmore Dr. and Research Park Dr. Submitted by BG Consultants, for WE1929, LLC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented items 5A-5C together.

APPLICANT PRESENTATION

Mr. Jason Hoskinson, BG Consultants, said this was the perfect opportunity for infill and met the Comprehensive Plan.

PUBLIC HEARING

Mr. Tiraz Birdie, 5005 Legends Dr, expressed concern about townhomes built on Legends Drive becoming rundown and lowering the property value of the neighborhood. He wanted assurance of quality of construction.

Ms. Kristen Salmans, 1024 Summerfield Way, opposed the change in zoning. She said the greenspace was utilized every day by the neighbors and maintained by the residents.

Mr. Don Drickey, 1308 Morgan Ct, said he had maintained the pipeline easement along his property and enjoyed the greenspace. He wanted the greenspace preserved along the area to act as a buffer.

Mr. Charles Timmons, 1021 Biltmore Dr, said he was told by his real estate agent when he purchased the home that there was a 100' easement to the south. He expressed concern about the buffer being reduced and felt it would be a detriment to his property value. He felt the City would be going back on what he was promised 20 years ago regarding the 100' greenspace easement.

Ms. Jeanne Drickey, 1308 Morgan Ct, expressed concern about greenspace being lost.

APPLICANT CLOSING COMMENTS

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Mr. Hoskinson said he had gone through an extensive process to engage the public. He said he notified the surrounding neighbors and held a public meeting in February to present concepts and ideas. He said he was trying to be as transparent as possible. He said the quality of home building would be similar to Oregon Trail and slightly better than the surrounding neighbors. He said the townhomes would all be owned and the Homeowner Association would be set up to maintain that. He said he was looking to maintain some sort of buffer around the perimeter and that the development would also address some stormwater issues. He said the rezoning was the first step in the process and he would like to work further with the neighbors.

COMMISSION DISCUSSION

Commissioner Kelly asked staff to respond to the 100' easement that was "promised" to the neighborhood.

Ms. Day said she did not know of any recorded or dedicated easement for that space. She said she thought at one time Mr. Bob Billings may have met with property owners and neighbors about the expectation of streets connecting and what the industrial development would do. She stated there was never a plan or subdivision plat submitted. She said all of those conversations were verbal. She stated the old Code would have required a 40' setback, not 100'.

Commissioner Kelly asked how wide the pipeline easement was.

Mr. Hoskinson said 66'.

Ms. Day said the City owned a little piece of the easement on the south side of Stone Creek Drive. She said it was typical that those types of easements would be transferred either as a tract or pedestrian easement to continue the connectivity.

Commissioner Sands asked if the stormwater main in the area could support the requested zoning.

Ms. Day said that would be part of the applicant's requirement, to submit a sanitary sewer and drainage study. She said if there were downstream improvements that needed to be made it could be part of this development as well.

Commissioner von Achen said Venture Park catered to heavy industry and was not a substitute for West Oread Research Park. She said this area was zoned industrial in 2003 and she was not in favor of changing it to residential just because it hadn't been developed fully. She said there was a recession and they were on the cusp of coming out of that recession. She did not want them to squander the property with residential when there could be a good research park in this area. She felt it would be hard to find another piece of property like this and she would not support the proposal. She said maybe in 10 years if it hasn't developed yet then they could look at residential but felt it was a short-sided move at this time.

Commissioner Sands referred to the Golden Factors and felt all were except satisfying the neighborhood. He stated that an industrial area could present issues to the neighbors as well. He said an industrial area could potentially limit the walkability of the neighborhood. He said the land had been vacant a long time and he wasn't sure if it was more appropriate to deny the rezoning and hope something else would come along or approve the rezoning to allow development now.

Commissioner Butler thanked the neighbors for their input. She expressed concern about the neighbors talking about being promised things and maintaining a space they did not own. She stated property owners had the right to develop their own property and she felt the rezoning was appropriate. She asked staff what uses could currently be built on the property under the industrial zoning.

Mr. McCullough said there were four zoning categories that had industrial in the name. He said Venture Park was in addition to and not a replacement of industrial. He said this site was an important development as well and slow to absorb. He said staff analyzed how much land that was left in the area versus the absorption rate. He said the lot inventory for single family was starting to decrease over time. He said the question was if they want to start replacing some of the commercial or industrial land for the higher absorbing rate of residential use with infill development.

Commissioner Willey said her initial reaction was that they should value industrial zoning but that this was a transition area in one way or another. She stated this was private property and had the right to develop. She said buffering could be looked at during the platting phase. She was in favor of rezoning as long as a portion of the industrial was retained.

Commissioner Kelly asked if there had been conversations with the school district about capacity.

Ms. Day said no.

Mr. Hoskinson said he had not had direct conversations with the school district.

Commissioner Kelly inquired about the setback for IBP zoning.

Mr. Hoskinson said IBP required a 40' setback and RS7 required a 30' setback.

Commissioner Kelly asked if they were talking about a difference of 10' on the setback.

Ms. Day said yes.

Commissioner Kelly said there was no record of a 100' easement.

Mr. Drickey said his neighbor had a copy of a document stating a 100' easement was promised.

Commissioner Kelly said he was supportive of the idea of more residential and keeping some IBP. He felt the developer had some rights. He said he struggled with vacancy and developing property just because it was vacant, such as Bauer Farm. He asked if the applicant was interested in providing a planned overlay district.

Mr. Hoskinson regarding the question regarding working on some type of use in the boundary. He said Parks & Recreation was not interested in taking on the maintenance of more open space. He said he was in favor of working with staff and neighbors to find a good solution to meet concerns as best possible during the platting stage.

Commissioner Britton said changing the Comprehensive Plan required heightened scrutiny and if a change needed to be made there needed to be a compelling reason to do it. He stated industrial was tricky and they did not know where a business would want to locate. He said although they have

Venture Park this site was a unique option for industrial in the community and he would hate to see it disappear in a short-sighted decision. He was hesitant to jump at something in front of them that could prevent them from getting something more valuable to the community as a whole in the future. He stated industrial could potentially be worse for the neighbors. He asked how long this site had been identified as industrial in the plan.

Commissioner von Achen said 2006 was when the property was designated as IBP.

Commissioner Britton said he was leaning toward finding that this was not compelling enough to change the Comprehensive Plan.

Commissioner Willey inquired about future land use maps.

Ms. Day said she did not know what the school district would have been planning for land use in this area. She said the applicant was requesting about 35 acres which would included approximately 120-130 total households.

Commissioner Carpenter said comparing this to Venture Park was not comparable.

Ms. Day said uses found in other office/commercial districts have found their way into the IBP district.

Mr. McCullough showed the future land use map on the overhead.

Commissioner Carpenter said if he were a resident living in that neighborhood he would gamble with residential over industrial. He said back when the plan was created the neighborhood was opposed to industrial and wanted residential.

Mr. McCullough said the KU's Master Plan designates a research park that could relieve some of the tension in this area.

Commissioner Britton said if there was continued demand for residential stock he preferred infill versus sprawl.

Commissioner Kelly inquired about a planned overlay district.

Mr. McCullough said staff did not see the need for a planned development overlay. He said it could be an option to mitigate concerns but it was really an applicant decision to start over with a planned overlay.

Commissioner Culver said he struggled with this and was thinking about the long-term impacts. He said there was some advantages to allowing this to move forward and he could see it being a good long-term fit. He said he was conflicted but felt there was an opportunity for the applicant and neighbors to come together with a suitable solution. He said he was not opposed to changing the Comprehensive Plan in this scenario.

Commissioner Struckhoff said the applicant was willing to address some of neighbors concerns about buffer greenspace. He said he could support the application overall.

Commissioner Sands said he was leaning in favor of supporting this. He asked staff to mandate an additional 10' of setback.

Mr. McCullough said the setbacks would come with the plat.

Commissioner Willey said she was not interested in further erosion of industrial lots after this. She said she was marginally in favor of the rezoning.

Commissioner Kelly encouraged the applicant to bring a plat forward fast. He said he supported infill versus sprawl. He said he was hesitantly leaning in favor of this.

ACTION TAKEN on 5A

Motioned by Commissioner Sands, seconded by Commissioner Butler, to approve the Comprehensive Plan Amendment to Horizon 2020: Chapter 7: Industrial and Employment-Related Land Use revising Map: 7-1 Existing Industrial & Employment-Related Land Use, and recommends forwarding this Comprehensive Plan Amendment to the Lawrence City Commission with a recommendation for approval.

Commissioner Britton said he would vote against the motion because he would like City Commission to see there were concerns and hesitations with this. He felt if they change the plan they need to have a compelling reason to do so. He did not want to let this land sit vacant for very long. He hoped City Commission would bring their better sense of economic environment to this situation.

Motion carried 7-3, with Commissioners Britton, Carpenter, and von Achen voting in opposition.

ACTION TAKEN on 5B

Motioned by Sands, seconded by Commissioner Butler, to approve the request to rezone approximately 25 acres from IBP (Industrial/Business Park) District to RS7 (Single-Dwelling Residential) District less that area adjusted to retain IBP zoning at the northwest corner of Research Park Drive and Legends Drive, subject to the submission and approval of a preliminary plat based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Commissioner Willey asked if the area designated as IBP had boundaries.

Ms. Day said yes. She said it would tweak a little with the plat.

Commissioner Willey wondered if they should amend the motion to say the area of IBP should not be less than 5 acres.

Motioned by Commissioner Sands, seconded by Commissioner Butler, to amend the motion to include language of 5 acres:

to approve the request to rezone approximately 25 acres from IBP (Industrial/Business Park) District to RS7 (Single-Dwelling Residential) District less that area, ***of approximately 5 acres***, adjusted to retain IBP zoning at the northwest corner of Research Park Drive and Legends Drive, subject to the submission and approval of a preliminary plat based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

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Commissioner Britton said he would vote against the motion but did like the idea of 5 acres dedicated to industrial.

Motion carried 7-3, with Commissioners Britton, Carpenter, and von Achen voting in opposition.

ACTION TAKEN on 5C

Motioned by Commissioner Sands, seconded by Commissioner Butler, to approve the request to rezone approximately 10 acres from IBP (Industrial/Business Park) District to RM12D (Multi-Dwelling Residential) District less that area adjusted to retain IBP zoning at the northwest corner of Research Park Drive and Legends Drive, approximately 5 acres, subject to the submission and approval of a preliminary plat based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval

Motion carried 7-3, with Commissioners Britton, Carpenter, and von Achen voting in opposition.

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ITEM NO. 6 RSO TO RM32; .464 ACRE, 1816 & 1822 W 24TH ST (BJP)

Z-17-00083: Consider a request to rezone approximately .464 acre from RSO (Single-Dwelling Residential-Office) District to RM32 (Multi-Dwelling Residential) District, located at 1816 and 1822 W 24th St. Submitted by Paul Werner Architects, for Cherry Hill Properties LLC, property owner of record.

STAFF PRESENTATION

Ms. Becky Pepper presented the item.

APPLICANT PRESENTATION

No applicant present.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Sands asked if the building was vacant for 10 years.

Ms. Pepper said she believed so but could not say for sure.

ACTION TAKEN

Motioned by Commissioner Willey, seconded by Commissioner Struckhoff to approve the request to rezone approximately .464 acre, from RSO (Single-Dwelling Residential-Office) District to RM32 (Multi-Dwelling Residential) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in this staff report.

Unanimously approved 10-0.

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ITEM NO. 7A PRELIMINARY PLAT FOR 902 STORAGE; 1700 BLOCK E 902 RD (MKM)

PP-17-00093: Consider a Preliminary Plat for 902 Storage, a one-lot subdivision containing approximately 11.63 acres, located in the 1700 Block of E 902 Rd. Submitted by BG Consultants, for Garber Enterprises, Inc., property owner of record.

ITEM NO. 7B CONDITIONAL USE PERMIT; 902 STORAGE; 1700 BLOCK E 902 RD (MKM)

CUP-17-00092: Consider a Conditional Use Permit for a mini-storage facility, located on approximately 11.63 acres in the 1700 Block of E 902 Rd. Submitted by BG Consultants, for Garber Enterprises, Inc., property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented items 7A-7B together.

APPLICANT PRESENTATION

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

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner von Achen said she would support this but was concerned about it being a gateway to the city. She wanted a little reassurance that landscaping would address concerns for the gateway.

Ms. Miller said the landscaping was spaced out to provide a more natural appearance. She said there were some constraints with the easement but that staff would work with the applicant on the landscaping.

Mr. McCullough said the architectural detail of the buildings would help as well.

ACTION TAKEN on 7A

Motioned by Commissioner Willey, seconded by Commissioner Britton, to approve the Preliminary Plat of 902 Storage subject to the following conditions:

1. Applicant shall provide documentation from Rural Water District No. 1 and the Kanwaka Fire Department that an adequate supply of water is available for the needs of the development and fire protection for the mini-storage use.
2. Applicant shall provide a revised preliminary plat with the following changes:
 - a. Addition of a note on the face of the plat that an Access Restriction Agreement, effective until property is annexed into the City of Lawrence, restricting access for 180 ft north of the subject property shall be executed and recorded prior to the recording of the final plat.
 - b. Addition of a note that E 902 Road shall be improved to the City Limits to the south, to Kanwaka Township specifications per approval of the Township Trustee.

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- c. Addition of a note that an Annexation Agreement and Consent to Annexation shall be executed and recorded with the Final Plat.

Unanimously approved 10-0.

ACTION TAKEN on 7B

Motioned by Commissioner Willey, seconded by Commissioner Britton, to approve the Conditional Use Permit for a *Mini-Storage* use, subject to the following conditions:

1. The CUP shall be administratively reviewed every 5 years by the Douglas County Zoning and Codes Department.
2. A new septic system shall be installed prior to the operation of the use, per Health Department approval. The plans shall be revised, if needed, to provide additional area for the septic system.
3. Provision of a revised photometric plan which shows where the light levels reach the maximum amount permitted north of the lights along the north side of the driveway and the north side of the facility (0.2 foot candles).
4. Provision of a revised CUP plan with the following changes:
 - a. Note the agreement between Westar and the property owner regarding the access drive within the 150 ft easement along the north property line and include the recording Book and Page number. If Westar is permitted shared use on this drive, the use should be limited to trucks that are no larger than a pick-up truck.
 - b. Add the following note: *"No exterior storage will occur on the site. Any exterior storage would require a revised site plan and compliance with the exterior storage standards in Section 12-319-4.34 and may require an amendment to the CUP, depending on the scale of the exterior storage."*
 - c. Add 'Manager's Residence' to the Proposed Buildings and note size of dwelling unit and location on the site.
 - d. Note the height of the light poles on the plan.
 - e. Revise General Note 3 as follows: "E 902 Road will be improved **to Kanwaka Township standards** from Rock Chalk Drive to the drive for the storage facility. Improvements will include a 24 ft wide surface of 8 in. thick **stabilized** gravel (min.) with an annual dust palliative **treatment** paid for by the owner."
 - f. Modify landscape plan to include a variety of trees and relocate the trees out of Westar's easement.
 - g. Label the size of the proposed water line and indicate Rural Water District No. 1 is the provider.
 - h. Note that the proposed sign is not approved with this CUP and requires a separate permit from the County Zoning and Codes Office.

Unanimously approved 10-0.

Recess at 10:10pm until 6:30pm on April 26, 2017

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Reconvene April 26, 2017 – 6:30 p.m.

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

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

BEGIN PUBLIC HEARING (APRIL 26, 2017):

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner von Achen said she received a call from Ms. Jane Eldridge about the loss of flexibility in using property in East Lawrence related to item 10.
- No Abstentions.

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ITEM NO. 8 CAPITAL IMPROVEMENT PLAN

Presentation of recommended Capital Improvement Plan.

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item. She stated several letters were received from Mr. Michael Almon with the 19th Street Neighborhoods Coalition after the communication deadline. She included presentation slides with his concerns regarding traffic intrusion.

PUBLIC HEARING

Ms. KT Walsh said the 19th Street Neighborhoods Coalition had legitimate complaints about traffic if East 19th Street was cut through. She wondered why Franklin road was never taken all the way to 15th Street.

Mr. Michael Almon, Brookcreek Neighborhood, expressed concerns regarding traffic, especially on 19th Street.

STAFF CLOSING COMMENTS

Mr. McCullough said Planning Commission's role was to look at adopted plans and see if the projects within the Capital Improvement Plan met those plans. He said the appropriate time to address Mr. Almon's concerns would be with the current amendment of Transportation 2040. He stated that next years Capital Improvement Plan may have another adopted plan included.

COMMISSION DISCUSSION

Commissioner Britton said Mr. Almon raised some valid points. He inquired about objections to the Capital Improvement Plan.

Mr. McCullough said the request to the public through the Capital Improvement Plan process typically included projects the public wanted to add to the Capital Improvement Plan. He said Mr. Almon's request was to remove things from the Capital Improvement Plan.

Commissioner Britton agreed with staff. He said Planning Commission was capable of looking at the list of projects and determining generally speaking if they were in compliance with the Comprehensive Plan. He said he felt less capable of making a determination of the merits of one of the included projects.

Commissioner Kelly said he trusted the process in place and the Comprehensive Plan was made up of other plans to bring them together to form that plan.

Commissioner Struckhoff asked staff when the proper forum/review would be for traffic.

Mr. McCullough said the Transportation 2040 plan needed to be updated by March, 2018. He said the Metropolitan Planning Organization Policy Board would approve it and it would then be incorporated into the Comprehensive Plan. He said specific issues get vetted out through that process.

Commissioner Struckhoff said what happens on the east end of 19th Street would impact what happens on the rest of 19th Street. He said 19th and Louisiana, especially between 23rd and 31st

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Streets was woefully underbuilt. He said it was very difficult getting improvement in that corridor. He said for now it was compatible with the plans but he did share concerns and welcomed further discussion at the appropriate time.

Commissioner Carpenter echoed concerns about opening 19th Street. He encouraged those with concerns to express them to City Commission and during the Metropolitan Planning Organization Policy Board process. He said as written tonight it was consistent with the Comprehensive Plan.

Commissioner Sands inquired about the E 902 Road improvements.

Ms. Stogsdill said it was near Mercato.

Mr. McCullough said that was a citizen request not a City initiated project.

Mr. Bryan Kidney said currently that project was not recommended for funding in the Capital Improvement Plan.

ACTION TAKEN

Motioned by Commissioner Britton, seconded by Commissioner Sands, to make a finding that the projects included in the Capital Improvement Plan (CIP) are in conformance with the Comprehensive Plan.

Motion carried 10-0.

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**ITEM NO. 9 PRELIMINARY PLAT FOR APPLIED ECOLOGICAL ADDITION; 1269 N
222 RD (MKM)**

PP-17-00090: Consider a Preliminary Plat for Applied Ecological Addition, a one-lot subdivision of approximately 11.7 acres, located at 1269 N 222 Rd. Submitted by Landplan Engineering, for Applied Ecological Services, Inc, property owner of record. *Joint meeting with Baldwin City Planning Commission.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Brian Sturm, Landplan Engineering, was present for questioning.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Willey felt this would be a benefit to the neighborhood and was in favor of approving the Preliminary Plat.

Commissioner Culver asked if there were any comments from Baldwin Planning Commission.

Ms. Miller said no.

ACTION TAKEN

Motioned by Commissioner Willey, seconded by Commissioner von Achen, to approve the Preliminary Plat of Applied Ecological Addition subject to the following condition:

1. The property owner shall obtain a driveway permit for the new access point on E 1260 Road from the Douglas County Public Works Office prior to the recording of the final plat.

Unanimously approved 10-0.

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ITEM NO. 10 EAST LAWRENCE REZONINGS (BJP)

East Lawrence Rezoning of multiple properties to align the properties' current use with the zoning districts that contain the appropriate density and intensity standards to support the uses, as identified in the interactive map available here: lawrenceks.org/pds/rezoning

The properties to be rezoned are in an area of the East Lawrence neighborhood, as identified on a map in the Staff memo, and generally bound by 9th Street to the south, Rhode Island Street to the west, various streets to the east but no farther than the alley between New Jersey Street and Pennsylvania Street, and the Kansas River to the north. This item will receive a hearing before the Planning Commission with notice to all affected properties and to owners within 400 feet of the affected properties. *Initiated by City Commission on 12/6/16.*

Z-17-00098: Consider a request to rezone 82 properties from RM24 (Multi-Dwelling Residential) District to RS5 (Single-Dwelling Residential) District.

Z-17-00099: Consider a request to rezone 22 properties from RM24 (Multi-Dwelling Residential) District to RM12D (Multi-Dwelling Residential) District.

Z-17-00100: Consider a request to rezone 10 properties from RSO (Single-Dwelling Residential-Office) District to RS5 (Single-Dwelling Residential) District.

Z-17-00101: Consider a request to rezone 2 properties from RSO (Single-Dwelling Residential-Office) District to RM12D (Multi-Dwelling Residential) District.

Z-17-00102: Consider a request to rezone 627 Connecticut from RSO (Single-Dwelling Residential-Office) District to RM24 (Multi-Dwelling Residential) District.

Z-17-00103: Consider a request to rezone 5 properties from CS (Strip Commercial) District to RS5 (Single-Dwelling Residential) District.

Z-17-00104: Consider a request to rezone 738 Rhode Island from CS (Strip Commercial) District to RM12D (Multi-Dwelling Residential) District.

STAFF PRESENTATION

Ms. Becky Pepper presented the item.

PUBLIC HEARING

Mr. Brent Morrison, 812 Rhode Island, opposed the rezoning. He wanted the rezoning of his property to be denied. He said he was in the process of purchasing 816 Rhode Island. He felt the rezoning took away from the flexibility of the property.

Ms. KT Walsh, 732 Rhode Island, East Lawrence Neighborhood, thanked staff for their time. She said two different value systems were at play and that some people view the neighborhood as property and profit. She said the neighborhood was under development pressure. She wanted the character of the neighborhood to stay the same without increased density. She wondered how the City viewed "unrelated" when it came to foster children and the Lesbian Gay Bisexual Transgender, Questioning (LGBTQ) community. She felt that 816 Rhode Island should remain zoned RS5.

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Ms. Kristin Morland, 737 Connecticut, expressed opposition to the rezoning. She said rezoning would not change East Lawrence and she did not feel it was fair. She felt there were other issues to spend time on and better ways to be productive, such as improving crumbling sidewalks and alley's in East Lawrence.

Ms. Marci Francisco, 1101 Ohio, was in favor of the rezonings and felt properties should remain single-family.

Mr. Michael Almon, 1311 Prairie Ave, spoke in favor of the rezonings. He said the Brook Creek Neighborhood had been stabilized by RS7 zoning.

Ms. Pam Blackburn, 830 Connecticut, supported the rezonings. She said the goal was to keep the neighborhood as a family oriented neighborhood.

Mr. Jan Schaaake, 800 New York, did not feel the rezoning was an appropriate category to best serve the neighborhood.

Mr. Timothy Morland, 737 Connecticut, was opposed to the rezonings.

Mr. Bob Johnson said owned the building on the south side of 8th Street and west side of Rhode Island. He wondered why those not wanting to be zoned couldn't just opt out.

Ms. Phyllis Payne, 305 E 7th St, said her site would be excluded from rezoning because it had a commercial building. She supported the staff recommendation.

COMMISSION DISCUSSION

Commissioner Kelly asked staff to respond to public questions.

Mr. McCullough said staff evaluated the excluded requests. He said regarding the unrelated persons policy it would match the current policy and would not change how unrelated persons was defined in the Code.

Commissioner von Achen asked staff about the disadvantages with having property be non-conforming.

Ms. Pepper said the properties with a non-conforming use may not be able to rebuild that use if destroyed/damaged 60% beyond fair market value. She said obtaining a variance from the Board of Zoning Appeals to remedy those non-conforming land use issues would supersede that and the property owner would be allowed to rebuild those land uses in the event it was destroyed.

Mr. McCullough said banks were looking at properties more carefully to make sure they were getting a legally permitted property. He said there were three ways to be non-conforming through lots, structures, and use. He said Accessory Dwelling Units were not allowed in RS5 zoning but that the few that existed would be registered as non-conforming. He said if damaged past 60% of their fair market value an Accessory Dwelling Unit could not be rebuilt.

Commissioner Culver asked if other options were considered such as overlays and guidelines.

Mr. McCullough said staff discussed with City Commission the zoning tool of Urban Conservation Overlay District. He said additional historic districts was a tool that could be used to preserve patterns and character of neighborhoods. He said downzoning to the existing use was a pretty powerful zoning tool. He said guidelines only spoke to the character and standards not the use.

Commissioner Kelly asked staff to respond to the written correspondence.

Mr. McCullough said Mr. Jim Slough challenged the notion that rezoning would reduce gentrification. He felt that rezoning would spur gentrification by the means that people would invest in larger homes and increase property values.

Commissioner von Achen said according to the staff report there were 32 homes with licenses to rent out rooms.

Ms. Pepper said that was correct.

Commissioner von Achen asked about past instances of downzoning and the three year period.

Ms. Stogsdill gave two examples. She said in 2001 when the definition of family was changed from 4 unrelated to 3 unrelated for RS zoned properties. She said a few years later a portion of Old West Lawrence was rezoned from to RM to RS and the same three year period was offered to those properties.

Commissioner Kelly said residents like the uniqueness of East Lawrence and don't want it turning into lots of multi-family spaces. He said the rezoning accurately reflected the neighborhood and seemed to be a good plan that listened to the community in preserving history.

Commissioner Britton said when pressure develops in the future for more multi-family there will be the opportunity to come back and reevaluate. He felt the current proposal would set the area up to preserve the character.

Commissioner Struckhoff said the vitality of downtown depended on some density. He supported the preservation of the single-family nature of the neighborhood but also supported the preservation of the historic multi-family aspect as well. He was inclined to support the rezonings and felt it was a good starting point to plan for the future.

Commissioner Sands said he was in favor of the rezoning and did not see any of the Golden Factors being violated by this plan. He felt it would provide security to the neighborhood.

Commissioner Willey said she used to live at 837 Connecticut St and she loved the eclectic nature of the neighborhood. She felt the plan captured that character and she supported it. She said staff had been very responsive to individual owners and their vision for their property.

Commissioner Carpenter said the map represented what the neighborhood was. He said the neighborhood had struggled with pressures throughout history.

Commissioner Culver expressed concern about wholesale changes to an area and felt there was a lot of room for error. He said most issues had been addressed and mitigated on the front end but he felt it was difficult to downzone on a wholesale basis when it could take away rights from property

owners. He said the occupancy limit could have a negative impact to an owner's investment. He stated there was no perfect outcome for this but the positives outweighed the negative. He said he would support the staff recommendation.

Commissioner von Achen said high density residential was a good tool to prevent sprawl but that they need to be careful where they put it. She said this was a wonderful area of town and she wanted to be sure it stayed that way. She expressed concern about the occupancy being changed from 4 unrelated to 3 unrelated. She wondered if some people would not be able to afford to live in their house without 4 unrelated people living there. She said she would support the staff recommendation and generally liked what it would do. She felt more thought should be given to the occupancy rate and possibly providing a longer period of grace.

Commissioner Willey said there probably were not that many 4 bedroom houses in East Lawrence since many houses in the area were small. She said the market would be better at determining how many people live in a house.

Ms. Bonita Yoder, concerned about the impact of having two houses on one lot.

Mr. McCullough said lots with an Accessory Dwelling Unit being zoned to RS5 would create a legal non-conforming use. He said if it was destroyed past 60% of its fair market value then it could not be rebuilt.

ACTION TAKEN on Item 10A

Motioned by Commissioner Sands, seconded by Commissioner Carpenter, to approve the request to rezone, Z-17-00098, 79 properties from RM24 (Multi-Dwelling Residential) District to RS5 (Single-Dwelling Residential) District and forward to the City Commission with a recommendation for approval based on the findings of fact found in the staff report.

Unanimously approved 10-0.

ACTION TAKEN on Item 10Bi

Motioned by Commissioner Sands, seconded by Commissioner Carpenter, to approve the request to rezone, Z-17-00099A, 21 properties from RM24 (Multi-Dwelling Residential) District to RM12D (Multi-Dwelling Residential) District and forward to the City Commission with a recommendation for approval based on the findings of fact found in the staff report.

Unanimously approved 10-0.

ACTION TAKEN on Item 10Bii

Motioned by Commissioner Sands, seconded by Commissioner Carpenter, to approve the request to rezone, Z-17-00099B, 1 property from RM24 (Multi-Dwelling Residential) District to RS5 (Single-Dwelling Residential) District and forward to the City Commission with a recommendation for approval based on the findings of fact found in the staff report.

Unanimously approved 10-0.

ACTION TAKEN on Item 10C

Motioned by Commissioner Sands, seconded by Commissioner Carpenter, to approve the request to rezone, Z-17-00100, 10 properties from RSO (Single-Dwelling Residential-Office) District to RS5 (Single-Dwelling Residential) District and forward to the City Commission with a recommendation for approval based on the findings of fact found in the staff report.

Unanimously approved 10-0.

ACTION TAKEN on Item 10D

Motioned by Commissioner Sands, seconded by Commissioner Carpenter, to approve the request to rezone, Z-17-00101, 2 properties from RSO (Single-Dwelling Residential-Office) District to RM12D (Multi-Dwelling Residential) District and forward to the City Commission with a recommendation for approval based on the findings of fact found in the staff report.

Unanimously approved 10-0.

ACTION TAKEN on Item 10E

Motioned by Commissioner Sands, seconded by Commissioner Carpenter, to approve the request to rezone, Z-17-00102, 627 Connecticut from RSO (Single-Dwelling Residential-Office) District to RS5 (Single-Dwelling Residential) District and forward to the City Commission with a recommendation for approval based on the findings of fact found in the staff report.

Unanimously approved 10-0.

ACTION TAKEN on Item 10F

Motioned by Commissioner Sands, seconded by Commissioner Weaver, to approve the request to rezone, Z-17-00103, 4 properties from CS (Strip Commercial) District to RS5 (Single-Dwelling Residential) District and forward to the City Commission with a recommendation for approval based on the findings of fact found in the staff report.

Unanimously approved 10-0.

ACTION TAKEN on Item 10G

Motioned by Commissioner Sands, seconded by Commissioner Weaver, to approve the request to rezone, Z-17-00104, 738 Rhode Island from CS (Strip Commercial) District to RM12D (Multi-Dwelling Residential) District and forward to the City Commission with a recommendation for approval based on the findings of fact found in the staff report.

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 STAFF MEMO REGARDING COKELEY ADDITION VARIANCE; SW CORNER OF W 31ST ST & OUSDAHL RD (MKM)

Receive Staff Memo regarding Minor Subdivision, MS-17-00071, variance request for W 31st Street, for Cokeley Addition, a one-lot subdivision on approximately 2.9 acres located in the southwest corner of the intersection of W 31st Street and Ousdahl Road. Submitted by Landplan Engineering, PA for Jayhawk Acquisition, LLC, property owner of record. *Deferred by Planning Commission on 3/15/17.*

STAFF PRESENTATION

Mr. McCullough said the variance issue that they saw last month was resolved.

ADJOURN 9:24pm