



# City of Lawrence

## CITY MANAGER'S OFFICE

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INTERIM CITY MANAGER

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CITY COMMISSION

MAYOR  
MIKE AMYX

COMMISSIONERS  
LESLIE SODEN  
STUART BOLEY  
MATTHEW J. HERBERT  
LISA LARSEN

January 5, 2016

The Board of Commissioners of the City of Lawrence met in regular session at 5:45 p.m., in the City Commission Chambers in City Hall with Mayor Amyx presiding and Commission members Commissioner Boley, Commissioner Herbert, Commissioner Larsen and Vice Mayor Soden present.

### A. RECOGNITION/PROCLAMATION/PRESENTATION:

1. None

### B. CONSENT AGENDA

**It was moved by Vice Mayor Soden, seconded by Commissioner Larsen** to approve the consent agenda as below. Motion carried unanimously.

1. Receive minutes from various boards and commissions:  
  
Homeless Issues Advisory Committee meeting of 07/14/15
2. Approve claims to 89 vendors in the amount of \$1,340,695.70 and payroll in the amount of \$2,083,134.42.
3. Approve licenses as recommended by the City Clerk's Office.

#### Drinking Establishment

Playerz  
Dis and Dat LLC  
1910 Haskell Ave. Suite A6

#### Expiration

December 28, 2015

Rudy's Pizzeria  
Rudy's Pizzeria of Lawrence Inc.  
704 Massachusetts

January 3, 2016

Bourgeois Pig  
RCJ Inc.  
6 East 9<sup>th</sup>

December 29, 2015

Pueblo Mexican Restaurant  
Cavadas Corporation  
804 Iowa

January 12, 2016

#### Sidewalk Dining & Hospitality Renewals

Global Café, Gonzalez Enterprise, 820 Massachusetts St.



Ingredient, Wysong 5 LLC, 947 Massachusetts St.  
BurgerFi, MIOM Burgers Lawrence LLC, 918 Massachusetts St.

4. Approve appointments as recommended by the Mayor.

**Homeless Issues Advisory Committee:**

Reappoint Teri Smith (785.838.2460) to an additional term that would expire 12/31/18.

5. Bid and purchase items:
  - a) Award bid for Bid No. B1554, Clinton Water Treatment Plant Phase 1 Taste and Odor Improvements Project (UT1209), to the low bidder Crossland Heavy Contractors in the amount of \$3,879,000 and authorize the Interim City Manager to execute the construction contract.
  - b) Authorize Interim City Manager to execute Supplemental Agreement No. 2, in the amount of \$205,284, with George Butler Associates, Inc. for Project UT1402 City of Lawrence Flow Monitoring Program for 2016 sanitary sewer flow monitoring services.
  - c) Authorize payment to Meera, LLC, in the amount of \$35,000, for the Kaw Transmission Main waterline easement acquisition at 1010 N. 3<sup>rd</sup> Street.
6. Approve vacation of utility easement, for The Reserve at Alvamar No. 5, associated with Minor Subdivision, MS-15-00628, located at 1621 and 1617 Cog Hill Court. Submitted by Landplan Engineering, for Ann Warren and David and Sarah Favreau, property owners of record.
7. Approve a request to rezone, Z-15-00522, approximately 5,500 SF from IG (General Industrial) District to CS (Strip Commercial) District, located at 239 Elm Street and 311 N. 3<sup>rd</sup> Street for the Levee Café. Submitted by Paul Werner Architects, for Lawrence Kansas Rentals, LLC and Jon Davis, property owners of record. Adopt on first reading, Ordinance No. 9193, to rezone (Z-15-00522) approximately 5,500 SF from IG (General Industrial) District to CS (Strip Commercial) District, located at 239 Elm Street and 311 N. 3<sup>rd</sup> Street. (PC Item 1; approved 8-0 on 12/14/15)
8. Approve a request to rezone, Z-15-00523, approximately 1.04 acres from UR (Urban Reserve) District to RMO (Multi-Dwelling Residential-Office) District, located at 4111 W. 6<sup>th</sup> Street for Freestate Dental. Submitted by Paul Werner Architects, for Freestate Dental Building, LLC, property owner of record. Adopt on first reading, Ordinance No. 9194, to rezone (Z-15-00523) approximately 1.04 acres from UR (Urban Reserve) District to RMO (Multi-Dwelling Residential-Office) District, located at 4111 W. 6<sup>th</sup> Street (PC Item 2; approved 8-0 on 12/14/15)
9. **REMOVED FROM THE CONSENT AGENDA FOR SEPARATE FOR A SEPARTE VOTE.** Accept the LiveWell Community Wellness Grant funding to purchase and install 74 additional bicycle parking spaces downtown: 30 spaces of on street bicycle parking spaces in bike corrals replacing two on street parking spaces and 44 spaces at inverted U racks on existing pavement on the sidewalk. Proceed with a public comment process for final bike corral parking locations before a final City Commission decision.

10. **REMOVED FROM THE CONSENT AGENDA FOR A SEPARATE VOTE.** Accept the LiveWell Community Wellness Grant funding of \$4,383 and commit local match of \$1,461 and staff time to install bike repair stands and pumps at Burroughs Creek Trail parking on 15<sup>th</sup> Street, the North Lawrence Levy Trail Head parking lot, Rotary Arboretum Trail parking for SLT, and the Library Plaza near the parking garage.
11. Authorize the Interim City Manager to execute the Memorandum of Agreement with the University of Kansas or University participation in the construction cost for the Sunnyside Drive Waterline Improvements.
12. Receive Bert Nash Community Mental Health Center.
13. Authorize the Mayor to sign the mortgage Subordination Agreement for Dylan A. and Carletta K. Bassett, 2521 Maverick Lane.

Commissioner Boley abstained from voting on items number 9 and 10 to avoid a potential conflict of interest. Commissioner Boley recused himself at 5:48 p.m.

Mayor Amyx called for public comment (None)

**Moved by Commissioner Herbert, seconded by Commissioner Larsen,** to accept the LiveWell Community Wellness Grant funding to purchase and install 74 additional bicycle parking spaces downtown: 30 spaces of on street bicycle parking spaces in bike corrals replacing two on street parking spaces and 44 spaces at inverted U racks on existing pavement on the sidewalk. Proceed with a public comment process for final bike corral parking locations before a final City Commission decision. Aye: Mayor Amyx, Commissioner Herbert, Commissioner Larsen and Vice Mayor Soden. Nay: None Abstain: Commissioner Boley. Motion carried.

**Moved by Commissioner Herbert, seconded by Commissioner Larsen,** Accept the LiveWell Community Wellness Grant funding of \$4,383 and commit local match of \$1,461 and staff time to install bike repair stands and pumps at Burroughs Creek Trail parking on 15<sup>th</sup> Street, the North Lawrence Levee Trail Head parking lot, Rotary Arboretum Trail parking for SLT, and the Library Plaza near the parking garage. Aye: Mayor Amyx, Commissioner Herbert, Commissioner Larsen and Vice Mayor Soden. Nay: None Abstain: Commissioner Boley. Motion carried.

Commissioner Boley returned at approximately 5:50 p.m.

**C. CITY MANAGER'S REPORT:**

Diane Stoddard, Interim City Manager, presented the report regarding the Menards Public Hearing Rescheduled; December Sales Tax Report and November Financial Report; the draft Oread Design Guidelines; Parks and Recreation Annual Holiday Luncheon and Teamwork Awards; Special Populations Hold Holiday Party; LPRD applies for BlueCHIP Award; LPRD applies for NFL Tplay-60 Grant; August 2015 Rental Licensing; November 2015 Monthly Building Permit Reports; and, Government Finance Officers Association Award.

**D. PUBLIC COMMENT: None**

**E. REGULAR AGENDA ITEMS:**

1. **Conduct public hearing to consider the vacation of the 10' utility easement on the east side of 1918 East 23<sup>rd</sup> Street, as requested by the property owner Cornerstone Plaza, LLC, Mike and Donna Hultine.**

Chuck Soules, Public Works Director, presented the staff report.

**Moved by Commissioner Boley, seconded by Commissioner Herbert,** to open the public hearing. Motion carried unanimously.

Mayor Amyx called for public comment. (None)

**Moved by Vice Mayor Soden, seconded by Commissioner Larsen,** to close the public hearing. Motion carried unanimously.

**Moved by Commissioner Larsen, seconded by Vice Mayor Soden,** to approve the vacation of a 10' utility easement on the east side of 1918 East 23<sup>rd</sup> Street. Motion carried unanimously.io

2. **Consider approving a Preliminary Development Plan, PDP-15-00529, for Bauer Farm, located at the NE corner of 6<sup>th</sup> Street and Wakarusa Drive. The plan proposes revisions to the remaining undeveloped commercial and multi-dwelling residential areas of Bauer Farm. Submitted by Treanor Architects PA for Free State Holdings, Inc., Bauer Farm Residential LLC, Free State Group LLC, property owners of record. (PC Item 4; approved 5-3 on 12/14/15)**

Sandra Day, Planner, presented the staff report.

Bill Fleming, General Counsel with Treanor Architects presented the applicant's report.

Vice Mayor Soden: Are the two new businesses already automatically included in the benefit district for the signals?

Bill Fleming: Yes, they are already in the benefit district. That's correct.  
General Counsel  
Treanor Architects

Bill Fleming continued his report.

Mayor Amyx: Any questions for Bill? (None) In the answer to the question about the need to restrict, I think the drive through places I think it had to do with was sold as a new urbanism neighborhood and it was all going to be a walkable and all that stuff and there wasn't going to be the need for drive-through and we weren't going to have that many cars in the area.

Bill Fleming: And back to my point which it was always contemplated as being a lot of, especially on 6th Street, the pad site developments all along 6th Street, even though it was always considered to be walkable, I think it's still walkable because we've got sidewalks that go along Bauer Farm Drive, so I think

it still meets that concept but I understand it's not a pure new urbanism type of development.

Mayor Amyx:

I won't argue with you on that one. I remember going through that process and that's what was discussed. I do think the project to be honest with you, is a very walkable area and probably more sidewalk in this development than others. We discussed that as a member of the last commission about how much concrete there is for sidewalk and the requirements for sidewalks in the area so I appreciate that. Any other questions.

Vice Mayor Soden:

I have one quick question. Are there a lot more fast food restaurants as was originally anticipated in this?

Bill Fleming:  
General Counsel  
Trenor Architects

Well I mean, I don't really think so because we got one more. I mean we had approval for 3 fast food drive through originally and we have one. So I don't think that's a significant increase to the number that was originally contemplated and keep in mind it was always the PCD which means...PCD stands for I don't really know what's going to go in there. We're just going to have to go as we go. We're going to have to play along as we go here. We didn't have a long list of pre identified users for this center when we developed it. We had CVS and that's about it and so that's what we went forward with, on this project. It was really developed more as a spec type project originally.

Vice Mayor Soden:

Okay

Mayor Amyx:

Other questions? Thank you. Other public comment on this item (None) Okay, back to the Commission. We do all understand the changes we're being asked to make. The addition of the one fast food bank and what else was it? Can't remember.

Scott McCullough:  
Planning & Development  
Services Director

Just clean up on the documents for past approvals for residential use.

Mayor Amyx:

Okay

Commissioner Larsen:

Is this about the end of the changes that were going to see? Is it about full?

Scott McCullough:  
Planning & Development  
Services Director

That's a question for the applicant.

Bill Fleming:  
General Counsel  
Trenor Architects

I tried to address that. The 3 pad sites that are along 6th Street and that are along Wakarusa, we all have under contract so assuming it's closed; there won't be any other changes there.

Let me go back to this real quickly here. Okay, there's 2 pad sites left here one we have under contract with the fast food restaurant, one we have under contract with a non-fast food users, it doesn't have a drive through in it so these are under contract and so there won't be any additional changes there other than just a final PDP you know, final site plan once that's done. This has already been sold to a credit union and then the only kind of open, undeveloped sites are at this corner is still not developed, but this is what we're asking for at least a proposed bank drive-through if we had a bank that came along and wanted to put one there they could put one there and then we have this spot here we proposed as a hotel use. We don't have a hotel right now, we don't have anybody under contract with that one and there's one small, about 40,000 square foot pad that's right in front of Spouts, right here so we would not anticipate

Scott McCullough:  
Planning & Development  
Services Director

Bill, just to complete the thought that while the apartments south of Bauer Farm Drive, they're close to being permitted, and if not under construction, would bring...

Bill Fleming:  
General Counsel  
Trenor Architects

Yeah, I think those are these, about 100 units here.

Scott McCullough:  
Planning & Development  
Services Director

The residential to the north hasn't been permitted yet, but we have resisted changing that from residential, so it's taken different forms through the years, but it are slated to be residential.

Bill Fleming:  
General Counsel  
Trenor Architects

That's zoned for residential. There's no commercial development in this area here.

Commissioner Larsen:

No changes anticipated there.

Bill Fleming:  
General Counsel  
Trenor Architects

No, no changes anticipated. Never say never, but no changes anticipated.

Commissioner Herbert:

On that fourth drive-thru that's being added, would you agree with the City staff's original analysis that effectively, the names are obviously used for example only, but effectively we're trading a Jiffy Lube for a Burger King? Is that where the addition of the fourth drive-thru is happening?

Bill Fleming:  
General Counsel  
Trenor Architects

I guess you could say that. I don't know.

Commissioner Herbert:

I'm just trying to gather how much the face of this is truly

changing.

Bill Fleming:  
General Counsel  
Treasor Architects

To me, the key issue is, are you really changing the traffic patterns and the development by adding this, and the answer really is no, there's not really that much additional marginal traffic that's shown on the traffic study, which I do have here. I'd be happy to provide that to anybody that wanted to see it. This is the traffic study. There's not very much, if any. They do an analysis where they take out the existing uses and add back the new ones and say, "Here's the difference." There's not much difference. That should be the key concern I think here in adding that drive-thru, so you really put some additional stress on maybe an already over-stressed intersection someplace.

Commissioner Herbert:

Thanks.

Vice Mayor Soden:

One of those two emails that we received was someone from Briarwood Home Development, and they were complaining about the smell from Burger King and they were worried that perhaps a chicken place would add to the smell. Is there anything that can be done about that at all? Is that just completely impossible?

Bill Fleming:  
General Counsel  
Treasor Architects

I don't know. I don't know the answer to that. I'm sorry. I don't know that we would have any type of provision other than just normal city rules and regulations that control something like that. I'll think about that, but if you have any ideas, I'd be happy to take them up with the chicken place.

Vice Mayor Soden:

Just asking for-

Bill Fleming:  
General Counsel  
Treasor Architects

Maybe we can overwhelm the burger place, I don't know. Maybe the chicken smells better.

Vice Mayor Soden:

It's my duty to ask for the citizen.

Mayor Amyx:

That's right.

Scott McCullough:  
Planning & Development  
Services Director

It may be addressed retroactively go back to Burger King and ask for some filter of sorts, I don't know that we would have that opportunity at this point or if they add extra spice to get it to smell like that for folks driving down the road.

Vice Mayor Soden:

What about the new chicken place then?

Scott McCullough:  
Planning & Development  
Services Director

Keep in mind, as we permit it. Obviously there'll be building code, but I don't know if building code addresses odors of restaurants as much as it does the safety.

Bill Fleming:

This Burger King is located here. This is the Briarwood

General Counsel  
Treanor Architects

Development over here. That's at least, it's got to be a half a mile away, and I guess if the wind's coming out of the West, you'd have that issue, but most of the time, I don't think the wind's blowing that direction, so I don't know. I'm not saying it's not a valid concern. I just don't know how to address that unless there're city code issues that address that.

Mayor Amyx:

If you want to take it after, when we adopt the international building code, you'll have the opportunity to require all kinds of filtering. I'm very honest, you can do whatever.

Bill Fleming:  
General Counsel  
Treanor Architects

That's probably correct, yeah.

Vice Mayor Soden:  
Mayor Amyx:

It's an email I received, it's a valid concern.  
I understand. It is a valid concern. Because we understand that the use on the corner is now anticipated to be a bank...

Bill Fleming:  
General Counsel  
Treanor Architects

We don't have a contract through, so it's possible.

Mayor Amyx:

Then let's discuss about a condition that that will not become fast food.

Bill Fleming:  
General Counsel  
Treanor Architects

It's not zoned for commercial. It's zoned POD. It can only be office or bank.

Mayor Amyx:

Very good. I noticed there were no conditions, and that would take care of the concern.

Bill Fleming:  
General Counsel  
Treanor Architects

It would require a zoning change if we're going to do that, which I'm not anticipating coming back here and asking for.

Mayor Amyx:

Any other questions of Bill?

Commissioner Larsen:

Just a real quick one. As part of an email that we received, was there ever a promise made regarding any more restaurants east of Burger King that there wasn't supposed to be any more or ...

Bill Fleming:  
General Counsel  
Treanor Architects

No. In fact, the original plan, we anticipated restaurant uses anywhere along 6th Street, because that's where the visibility is. We have agreed not to ask for restaurant in the lot that's going to be next to the fast food restaurant. It'd be the lot that's farthest east, we've basically agreed with staff to say we will not request any type of restaurant use for that, but that was not the original intent. The original intent was to put a restaurant

anywhere in the PCD area that somebody wanted to go, basically. Now we thought that these would be more sit-down type of restaurants is what we originally contemplated, we'd have at least one sit-down restaurant. We haven't been successful in attracting the sit-down restaurant. We've talked to some, but we've never been successful in getting one to locate there.

Mayor Amyx: Basically it looks fairly close to what the original PCD did and the requirements that were there for this additional one. Okay, Anything else? Thanks, Bill.

Bill Fleming:  
General Counsel  
Treanor Architects

Thank you.

Mayor Amyx: Back to the Commission.

Bill Fleming:  
General Counsel  
Treanor Architects

Again, thanks for the staff and all the work that Sandra's done on this and everybody in the City.

Mayor Amyx: Scott, do you have any other comments on this item that we should take into consideration? Anything else that jumped out during the process?

Scott McCullough:  
Planning & Development  
Services Director

No, sir, except that maybe that if you're sensing some of the questions are coming from the planning commission minutes about some of their frustration is that just over time, with as much time and effort that they have put into it. I think a few of them have seen the changes; the evolution of this project more significant because of what it was represented in the mid-early 2000s to where it's at now. Bill's given a good explanation of why, what market pressures have been working on that site, but there's some frustration at the planning commission level. I think they're anxious to see this built out and fully active.

Mayor Amyx: I do agree that in 2008, Bill's discussion, the time that changes were made and modifications to the plan, and solely to do with the economic conditions at the time, and we took those into consideration. Seems to me that this pretty much finishes this plan, except for final approvals that would come to us through normal development. That'll be a decision sometime in the future, I guess. Anything else?

Commissioner Herbert: I think this has been eight years in the making. 2004 I believe is when you said this started. It's hard when you zone a project that doesn't have any names attached to it to actually have an expectation of what it will look like. Mr. Fleming said CVS was the only name attached. It's hard to penalize somebody for, "We said this would be a restaurant and we couldn't ..."

ultimately at the end of the day. I think this is a conversation we'll be having a lot of the night, looking at the agenda. You can't force people to settle a place they don't want to settle. If we're trading a Jiffy Lube for a Burger King, I don't think that changes the face of the development to a degree that massively alters what our city looks like. For better or for worse, with Rock Chalk Park located right there, if we're trying to bring in lots of people for these tournaments, these people have to go somewhere to eat, building places for them to go to eat in the near proximity of Rock Chalk Park benefits us, so I don't have a problem with adding a fourth drive-thru versus only three.

Mayor Amyx: I agree with what you say at the end, but as we talk about good planning, you got to remember one thing at this location too, the Commission considered a Lowe's at this location and decided through the planning principles and requirements that were placed on this piece of property that this was not the location where that was going to happen.

Commissioner Herbert: I do remember that. I think I was in the room that night.

Mayor Amyx: Just a friendly reminder. Anything else?

**Moved by Commissioner Herbert, seconded by Mayor Amyx,** to approve the Preliminary Development Plan (PDP-15-00529) for Bauer Farm. Motion carried unanimously.

3. **Consider the following items related to KTEN Crossing (formerly known as Southpoint).** (Items a, b and c were presented jointly but separate action was taken by the Commission on each item).

a) **Consider approving Comprehensive Plan Amendment, CPA-15-00335, to Horizon 2020 Chapter 6 to change the designation from Auto-Related Commercial to Regional Commercial, and Chapter 14 (Revised Southern Development Plan) to revise the future land use designations from open space and auto-related commercial uses to open space and commercial use at the southeast corner of the intersection of South Lawrence Trafficway and US-59. Submitted by Landplan Engineering, P.A. for Armstrong Management L.C. and Grisham Management L.C., owners of record. Adopt on first reading, Ordinance No. 9151, for Comprehensive Plan Amendment (CPA-15-00335) to Horizon 2020 Chapter 6 to change the designation from Auto-Related Commercial to Regional Commercial, and Chapter 14 (Revised Southern Development Plan) to revise the future land use designations from open space and auto-related commercial uses to open space and commercial use at the southeast corner of SLT and US-59. (PC Item 1; approved 6-2 on 8/24/15)**

b) **Consider approving a request to rezone, Z-15-00327, approximately 59.798 acres from RS10 (Single-Dwelling Residential) District to CR (Regional Commercial) District, located at the southeast corner of the South**

**Lawrence Trafficway and US-59. Submitted by Landplan Engineering P.A., on behalf of Armstrong Management L.C. and Grisham Management L.C., property owners of record. Adopt on first reading, Ordinance No. 9152, to rezone (Z-15-00327) 59.798 acres from RS10 to CR, located at the southeast corner of SLT and US-59. (PC Item 2A; approved 6-2 on 8/24/15)**

- c) **Consider approving a request to rezone, Z-15-00328, approximately 6.706 acres from RS10 (Single-Dwelling Residential) District to OS (Open Space) District, located at the southeast corner of the South Lawrence Trafficway and US-59. Submitted by Landplan Engineering P.A. on behalf of Armstrong Management L.C. and Grisham Management L.C., property owners of record. Adopt on first reading, Ordinance No. 9153, to rezone (Z-15-00328) 6.706 acres from RS10 to OS, located at the southwest corner of SLT and US-59. (PC Item 2B; approved 7-1 on 8/24/15)**

Scott McCullough:  
Planning & Development  
Services Director

Mayor, I might mention that ex parte communication declaration is advisable with these actions as well, anytime you choose to do that.

Commissioner Larsen:

I met with Dan and Pat Watkins and I have met with the developers for the property. I've also met with Marilyn Bittenbender regarding the project. Everything that we have discussed is in the packets, I don't see anything that we did not discuss. I've also met with Mr. Steve Schwada regarding this matter and I believe that's it

Vice Mayor Soden:

I met with the developers Pat and Dan Watkins, Mr. Schwada as well. I just happen to be on the phone with Steve Maceli today, talking about something else and I just asked him out of the blue.

Mayor Amyx:

Also, I met with Dan and Pat Watkins, the development team, phone call from Marilyn Bittenbender, last evening. I met with Steve Schwada. I'm sure I've had countless comments from a number of folks that I couldn't begin to tell you who they all are. It was just general comment.

Commissioner Boley:

I've met with Patrick and Dan Watkins and the Development Team. I met with Steve Schwada, Michael Almon, Janet Gerstner and had a brief conversation with Mike Bosch.

Commissioner Herbert:

It's going to surprise all of you, but I met with Pat and Dan Watkins, Steve Schwada and Steve Maceli. I probably had 100 emails. There's no top secret information in them other than some people tell me I should vote for it and some people tell me I should vote against it. That's about it. I'm pretty sure every email I got, the rest of you was carbon copied on as well.

Vice Mayor Soden:

I'm on the LAND mailing list and I didn't get anything individually. I'm just part of the mailing list and they were

discussing it. Does that count as ex parte at all?

Randy Larkin:  
Senior City Attorney

If you reviewed and it plays a part in your decision, yes, it should be probably disclosed as ex parte communications.

Vice Mayor Soden:

I got the land mailing list as well.

Commissioner Larsen:

So did I. I guess I should mention that, yes. I was at a land meeting where they had a discussion regarding it. I wasn't involved in the discussion, I just listened.

Mayor Amyx:

I also, yesterday I talked to Janet Gerstner as part of the ex parte also.

Jeff Crick, Planner, and Andy Ensz, Water Utilities Project Engineer, presented the staff report for items a, b and c.

Andy Enz, Utilities Project Manager, discussed sanitary sewer and waterlines that are available the sites.

Mayor Amyx:

This site doesn't require a 16 inch line.

Andy Enz:  
Utilities Project Manager

No, that's correct

Mayor Amyx:

What kind of area can a 16 inch line take care of

Andy Enz:  
Utilities Project Manager

Well, the reason this would be 16 inch is to eventually run down...

Mayor Amyx:

Amyx: This is going to go down past south of the river, right?

Andy Enz:  
Utilities Project Manager

...to 1100 Road and then eventually run along 1100 Road to O'Connell and then form a big loop around the south side of the City so that's really the main reason the 16 inch would be required. Now, for the cost share part of that, that the utilities department would share in, Administrative Police 52 states that the cost of new water main extensions with a diameter up to 12 inches shall be paid by the developer. Anything above that to get to that 16 inch we would cost share just to be consistent with the master plan that we have. It's really what we have for the waterline and sanitary sewer.

Mayor Amyx:

Any questions? Questions of Jeff?

Commissioner Larsen:

If you all were to open space that you, I'm thinking about slide 10, could you ...

Jeff Crick:  
Planner The yellow ones up there, again, so the ones, where the ones that the applicant had removed from the crosstalk.

Commissioner Larsen: No, it's about slide 10. Go back to about slide 10.

Jeff Crick:  
Planner My apologies.

Commissioner Larsen: Maybe it was one before that. I must've written down the wrong slide. I guess my question is, you had indicated that open space was designated just as a placeholder type zoning or ...

Jeff Crick:  
Planner What we use with the open space is we take the floodplain and just designated an open space for the initial steps of the sector plan to make sure that area's encumbered and protected in that use. We don't really look at it as in relation to property lines or anything else. We just look at it, is it in the floodplain, and then we designate an open space to give it a little added bump in the planning process.

Mayor Amyx: Jeff, on item B, the rezoning of the 59.798 acres, okay, so the area marked off in blue is the 59.798 acres?

Jeff Crick:  
Planner The area in blue would part of the comprehensive plan amendment. The section there in the red hashing in the solid red would be the 59.8 acres for the CR zoning.

Mayor Amyx: It includes the K-10?

Jeff Crick:  
Planner Yeah, it does include the K-10 right of way. It goes up to where the city limit would've been when the PCD zoning was put in place for the property to the north.

Mayor Amyx: How much developable property is in that area to the north?

Jeff Crick:  
Planner I believe right now, probably the north that would all be encumbered by KDOT for the SLT.

Mayor Amyx: Why would I zone that?

Jeff Crick:  
Planner The land development code requires that even the right-of-ways be zoned in some capacity, and usually it goes to the center line, when the PCD that is now Crown Toyota to the north there was originally zoned, there was no center line, SLT hadn't been built past that way yet, so the standard application would've been to take it to the property lines since there was no right-of-way to continue it down. This would be the rezoning up to that old PCD zoning. PCD was under the old 1966 zoning code that was replaced in 2006 with the land development code, so the PCD is, in some respects, equivalent to the CR zoning today, it just was the old mechanism that was in place at

the time.

Scott McCullough:  
Planning & Development  
Services Director

Mayor, the developable site area is approximately 44 or 45 acres in terms of outside of what would be the right-of-way.

Mayor Amyx:

Does the property owner own that property?

Scott McCullough:  
Planning & Development  
Services Director

As I understand it, when the applicant gets up to speak, they can speak to the frontage road, the property owner, as I understand it, owns the frontage road, the underlying land to the frontage road, KDOT has an easement over that land, and through this, it hasn't happened yet, but through this project transaction, they would get that property back, negotiate that back from KDOT, move that road down, build it to city standards, so maintain the value of that as a street system. That would then become project area.

Mayor Amyx:

If there's no developable property in that hashed area, I could recommend or the Commission could recommend that that go to open space or whatever?

Scott McCullough:  
Planning & Development  
Services Director

What Jeff's mentioned, the development code automatically zones property to the center line of streets and rights-of-way, just so that when you got two zones on either side of the street, the Marriott at the center line, if anything is vacated, it's got zoning without going through the zoning process, so it's just a function of zoning that you go to the street center line. This may be a little not misleading, but it's very accurate today, but if their negotiations with KDOT worked out to capture where the frontage road is today, then the development, the site actually moves up north of that right-of-way and the road drops to the south. You see that better maybe in the concept plan, where with that north property line, approximately where the frontage road is today. What you see in this concept plan, I believe, is about 44 or 45 acres, somewhere in that range.

Mayor Amyx:

Without the hashed area that's recommended for CR zoning, or if we go to the center of the street, how many total acres are in there, to the center of the street?

Scott McCullough:  
Planning & Development  
Services Director

I'm not sure we have that exact figure.

Mayor Amyx:

Then what is the requirement for CR zoning, what's the minimum amount of acres?

Scott McCullough:  
Planning & Development  
Services Director

Minimum site area is 40 acres.

Mayor Amyx: According to one of the things, one of the maps I've seen, that area that goes to the edge of the fronting roads makes that only 30 acres in there, right?

Scott McCullough:  
Planning & Development  
Services Director We'll show you on GIS. Thank you. This acreage, together this is about 37 acres or two parcels here that comprises the property today. That's about 37 acres. The south boundary, let me zoom in on that, Mayor, so you can ...

Mayor Amyx: That's where you get into the situation; you remove the southern six acres that takes the remaining piece to 30 acres.

Scott McCullough:  
Planning & Development  
Services Director Staff had had this discussion with the applicant very early on because it's one of the first criteria we look at is what's the criteria for CR site. There's a couple different ways maybe to look at it. One is that with the comp plan amendment, the comprehensive plan policy designates all of South Iowa as commercial regional. We're really adding this area to that entire corridor. The value of having that minimum site area is that you're getting enough land to support the type of commercial that is anticipated in the comprehensive plan. From the zoning perspective, this is the site area today. It's not 40 acres; it's just under 40 acres, about 37. The south property line does not change. This north property line is propose to go north, square off at this area, drop this road down essentially to a place that access is better along Highway 59, and that would add acreage to the entire site. It's not a requirement that the OS zoning be placed on the floodplain area. It was an added protection negotiated between staff and the applicant to propose with this as an added protection to the floodplain area. We do have regulations that would protect that area in any event if it were rezoned to CR district, so we have not held that issue against the applicant in our interpretation of meeting the 40-acre site area. I do think that even without the OS zoning, this area, which has not, as I understand it, been defined yet, maybe it has, and that that's right at 40 acres in any event. The applicant may have more information to share with you. That's how we've approached the area of site area and meeting the development code. The site area's not a defined term in the development code, so we take into account, in this case, the area that's going to OS and the area that's going to CR as the site, the project site.

Mayor Amyx: Other questions of Jeff? The applicant.

Dan Watkins, on behalf of the applicant, presented his report.

Korb Maxwell, Polsinelli Law Firm, Kansas City, talked about the guidelines that had developed over the years for zoning authorities to consider as they vote on zoning changes and

comprehensive plan requests. We would ask, Mr. Mayor, to have whatever remaining time we have left for rebuttal after the public comments. Thank you.

Mayor Amyx:

Thanks. At this time, we will open public comments. If I could just real quick have a show of hands how many people would like to speak tonight? I tell you what, because we want to hear everybody's comments and I know they'll be good, I'll tell you what, I will let you go a little bit longer than our usual five minutes, because I think it's important that we hear all comments. Let's go about seven, eight, and something like that. Fair enough? Public comment. Who would like to be first? Yes, ma'am? If we could have your name and address.

Bonnie Johnson:

I'd like to give you my top four reasons to say no to this proposal. Number four, when you go down this road of adding more regional commercial, once you say yes, it's so hard to say no. We saw a very good example of that earlier this evening with the Bauer Farm and with some recent proposals, such as we drew a hard line of that Home Depot was were commercial was going to stop there at 31st Street, and whoop, nope, now we have Menards and more outbuildings. We know ourselves here in Lawrence, it's hard to say no once you say yes. Number three, I'm tapped out. I do my fair share of shopping and I shop local. I have to admit to some online shopping over Christmas. Amazon Prime is a good deal. I have Weaver's, Weaver's on Kohl's, Weaver's, but I have no more dollars or time for shopping. If this was built and I shopped there, it would mean that I wouldn't shop somewhere else in Lawrence. I work for KU. There're no raises anytime soon, so no more money. Why do we want empty retail spaces? Number two, let the traffic way interchange be an interchange. Don't turn it into just another intersection like 31st and Iowa or 6th and Wakarusa. The great thing about highways and interchanges is that they move lots of traffic. All that traffic catches the eye of retailers, "Hey, if I could only get some of those cars to stop at my store, that would be great," but all that stopping hurts moving lots of traffic. We have three highways running through Lawrence, 40, 59, and 10. If we have three highways moving through Lawrence, why did we need to build the South Lawrence Traffic-Way? It's because those three highways became magnets for commercial development and they became 6th Street, Iowa Street, and 23rd Street. We shouldn't head down that same route with this location. Let it be an interchange for moving traffic and for people, trucks, coming off and getting gasoline and getting back on. If you get off of the South Lawrence traffic-way, I want you to come into Lawrence, come all the way into Lawrence, head downtown, but if you're wanting to move lots of traffic, which is what the traffic-way is all about, and what we invested, and the state of Kansas invested a ton of money in was to move traffic, let's not congest it up. Number one reason, we have a plan in place that

considered all this. What we have to do is stick with our present plan. It allows for meeting the needs of travelers without cannibalizing other retail. It protects our investment in a traffic-way to move traffic. It's not as if we didn't consider retail here when we made the plan. We did think about it and think about it hard, and decided it would be best to not do this type of retail here. Thank you very much.

Mayor Amyx:

Other public comment? Anyone else?

Dan Dannenberg:

I noticed in one of the pictures that were shown on the screen there, there was a Barnes & Noble store. We had, I think, a Barnes & Noble store just right down the street here some years ago, and now Barnes & Noble has evidently seen fit to locate at this new location outside of downtown Lawrence. Interesting. I guess there's a reason for that. Evidently, they see that they can stay out there and will be there for an extended period of time. I also noticed from the picture, there was a shoe store, and just north of the traffic-way, next to the Kohl's commercial desert as I like to call it, there's a shoe store, famous or infamous footwear, and is there enough market to sustain those two? I noticed there was an Academy Sports store with the sign up there, and there's a Dick's sports store I think just north on Iowa Street. Is there enough market to sustain those two? When the Academy store went in, I believe the downtown sports retail store went out of business. At the previous meeting, the orientation that was in the Carnegie building, they mentioned that there would be 442 jobs created by this development. They never did tell us what those jobs would be, what salary and wage ranges they would be, and that sort of thing. That detail is important. We need to know what kind of jobs these are going to be, this development is going to be creating. As one who had a part-time job in a major retailer here in town a few years ago, I can tell you that the people on the low end of the scale are just about this far above being slaves, because that's the way they keep the prices low is keep the salaries and wages low. Finally, I would just say that where I live, I see no reason to go out there to shop for my needs. I guess there's going to be a furniture store. I don't think we have furniture, as such, in town. There are probably places where you can buy furniture, but I don't think we have a full-fledged furniture store. I could be mistaken about that. Other than that, boy, for me to drive clear out there, not going to happen. I don't drive to the Fritzel-Farmer Fun and Frolic Facility, which is halfway to Topeka, sorry, Sports Lawrence Pavilion, or Lawrence Pavilion Sports, whatever. That's just too far. This is going to happen, I'm pretty sure. I think there're some considerations and some questions that need to be addressed.

Mayor Amyx:

Thanks, Dan. Other comment?

Peter Zacharias:

I am a downtown property owner, business operator, and I came to downtown Lawrence in 1968, started urban pioneering then when there were plenty of empty buildings. In the last 10 years, we have had a net loss downtown of over 50 stores. Most have changed into restaurants, but they're still gone all the same. We succeeded some years ago in preventing a suburban mall, but the continued expansion of big box stores and other edge developments on the edge of town there slowly but constantly eroded our customer base. This development here is probably going to cost us a couple of shoe stores. All over town, there are empty stores, especially in former edge developments from years ago that are now more or less in the center of town. It'd be nice to see some rezoning of commercial space actually devoted to, based on some sort of need. Most of the people are pretty happy with the retailing options in Lawrence right now. Obviously, before you rezone stuff on the edge, you should probably consider promoting infill and the existing empties we have now. The developers here saying we're losing business to outside areas, that's probably true, especially in the home furnishing areas, but they're not offering any destination substitute to Nebraska Furniture Mart or the internet, which is where most of that stuff is going. They also, the newspaper, brought up several things about how we lack in retail options downtown. They said Topeka has 63 retail options per 10,000 people, we have 41, and Kansas City has 30. Topeka has almost 50% more than we have, but nobody goes to Topeka to shop, or very few people do, and their downtown is dead from so much retail development, especially on Wanamaker Avenue on the edge there. People do go to Kansas City to shop, which actually has a third less shopping opportunities than we have, but I don't think Lawrence can ever erect enough shopping to lure people away from a city that's 20 times our size and 30 miles away. Also, this developer here has said they are going to increase Lawrence's pull factor from 1.04 to 1.08%, a 4% increase, and that they're going to have approximate sales of \$80,000,000. If you do the math on that, only \$5,000,000 of that then comes from out of town. The other \$75,000,000 comes from existing local merchants. They haven't figured out there how many of those businesses are now going to go under, suffer, have to lose employees. I'm not sure how much actual sales tax would actually be generated with this, because it'll be done at the expense of others. Also, I got a real problem with the 60 acres. They're not using the majority of this site. I get the distinct feeling this is a way to get your shoe in the door so that later on you can do a much bigger expansion once you've rezoned the whole plot of land. I would strongly encourage you to reject this proposal, and then perhaps at the very least, restrict the rezoning so that it's in a much smaller parcel of land. Thank you.

Mayor Amyx:

Other public comment?

Bryant Parker:

Good evening, Mayor, Commissioners. I'm appearing on behalf of Axrom LLC, Domino LLC, and Stonewall Farms LLC. All three of these entities own property along East 23rd Street within the city limits, and all three are opposed to the proposed rezoning and comprehensive plan amendment that's before you tonight for consideration for the following reasons, and I'll try to be somewhat brief because I know we have a lot of public comment for you all to hear this evening. First, according to City staff and the Horizon 2020 Comprehensive Plan, South Point will in fact harm the rest of Lawrence's retail outlets. There're at least four different places within the staff reports for both the comprehensive plan, as well as for the rezoning that identify this fact. Page 1-19 of the Comp Plan amendment staff report states, and I quote, "An intensification of the South Iowa Regional Commercial Center as proposed will potentially impact the citywide retail market, in terms of potentially detracting from other planned commercial areas." The entities I represent this evening are located, as I said, along East 23rd Street. Some of the other areas that have been identified by page 1-2 of the Comprehensive Plan Amendment staff report as being potentially negatively impacted include the North Mass, Bauer Farms, Mercato, the recently approved Menards property, and just generally the other retail areas located throughout Lawrence, both those that exist and those that are waiting to develop. I also wanted to point out, as a related topic, specifically regarding East 23rd Street, this goes in derogation of a stated goal of Horizon 2020, which is to help better the geographic imbalance of shopping opportunities for some of our most established neighborhoods in the community. Adding more retail to South Iowa just makes the problem worse. That's something that the Horizon 2020 Comprehensive Plan said we want to address. The second reason why the entities I represent are against this proposed rezoning and Comprehensive Plan amendment, is that the Staff Report and the Retail Study in support of K-10, excuse me, note the name's been changed, in support of the K-10 development, have been undermined by Colette's recent admission that none of the units are pre-leased. I had the good fortune of attending the community meeting that was hosted by the K-10 folks, Colette, to just generally inform the community about the development and the tenants that were being considered for locating there, and I listened to Mr. Chalice give an explanation that over the course of the planning of the development, several retailers have been contacted. I saw the slides that had been presented here, all kinds of exciting potential retail users, Fresh Market, love Fresh Market. They said that these folks had already committed to locating in Lawrence. I then raised my hand and asked, "Well, if they've committed, have they signed anything that's binding? Have they signed a lease?" Mr.

Chalice did a very stand-up thing; he clarified, in front of the whole room and said, "No. In fact, no one has signed anything that obligates them to come to the City of Lawrence." That could all change. None of those tenants are obligated on paper. Some of them have given letters of intent, but under Kansas law, I can tell you, signing a letter of intent in no way obligates you to locate in a specific location. I listened to the comments both before and the comments from the bench, and knowing what actually is going to be located in the development before it's approved, we don't know that here. That, in turns, undermines, and I'll be very brief, I won't go all the way through the spaces where it's discussed in the staff report or the market study, but both that staff report and the market study assume that these units are going to be pre-leased, and that's what their numbers rely upon. Specifically on page 1-10 of the Planning Commission Staff Report, it makes reference to, there's an assumption that they're already leased, and that same thing is done on page 20 of the South Point Retail Market Study. I know Mr. Maxwell did a nice job of pointing out that under this study, it wouldn't increase the vacancy rate for the community. We don't know that if they're not pre-leased. Finally, I briefly wanted to bring up that the K-10's rezoning application is procedurally flawed, because KDOT is now a co-applicant. We did some research into who actually owns the property that SLT is going to be located upon. Originally, I thought it was just KDOT right-of-way and that the Armstrong's still held the land underneath. It turns out that's not correct. Back in 1995, the Armstrong's were paid approximately \$2.9 million by the Kansas Department of Transportation for a right-of-way. Then in 2013, Mrs. Armstrong executed a document giving the actual land, the fee simple is what we call it in the law, to the Kansas Department of Transportation. Our slides, I neglected to get them up because I was trying to get things done in front of you. If you look back and if you can recall it in your mind, to the property that's being considered ... Sorry, I'm having technical malfunctions. For someone as young as I am, I should be more technically proficient. That doesn't seem to be working. Here we go. This slide is important and I guarantee it's worth the wait. Right here, if you notice up on the screen, all of this slashed property, the stuff that's labeled right-of-way proposed CR 28.82 acres, that's in fact owned by the Kansas Department of Transportation. The only thing that's owned by the Armstrong's and the only thing that the application has been submitted for are the 30.98 acres of proposed CR that's solid red, and the 6.07 acres that's solid green. KSA 12-757 requires the owners of the property to initiate the rezoning request if the city itself is not seeking the rezoning. This request was not made by all the property owners, because KDOT owns almost half of the property, including the rezoning. If you have any questions, please let me know. Thank you very much.

Mayor Amyx:

Other public comment? Yes, ma'am?

Mary Jo Shaney:  
Attorney  
White Goss Law Firm  
KCMO

Mr. Mayor and members of the City Commission, good evening. , I represent K-10/40 Development LLC. That entity has an interest in retail development at the intersection of K-10 and Highway 40, and that interest includes, for example, the Mercato that's already been approved by the city. On behalf of that entity, we oppose this development plan. In summary, it dismantles key comprehensive plan policies. It ignores revised Southern Development Plan mandates. It fails to include a nodal plan and introduces a starkly more intensive use at the intersection of K-10 and Highway 59. Respectfully, Commissioners, we urge that you operate pursuant to the City's adopted policies and adopted procedures and deny this project. Here is what might not be readily apparent from all of the documentation you've been provided, assuming you've even had time to read the 200-and-plus pages. First of all, much as been said about this project replacing an auto-related use with CR, Commercial Regional, zoning, as if it had to be this or that. I'd suggest to you that this is a false choice. The land is presently zoned RS-10. It's not zoned auto-related. Auto-related is not and has never been inevitable at this site. Furthermore, the auto-related use is not equivalent to commercial retail being proposed. I know the staff says at page 1-14 that the proposal, quote, "Only changes the form of the commercial," and the developer has told you this evening, it's just a lateral move. A more complete statement, I would suggest to this Commission, is to say that the proposal dramatically changes the form and the scale of what is envisioned by your comprehensive plan south of K-10. Let me direct you to a map that the City staff had up. If you see here, this is from the revised Southern Development Plan. This is what is currently envisioned at south of K-10. That's the auto-related commercial about which we've heard so much. In fact, this auto-related commercial is about 14 acres total, give or takes. 14 acres is a lot less, or a lot fewer acres than the 59.8 acres that the developer has proposed to be rezoned to CR. This, in fact, using their numbers, the 59.8 or the staff's numbers, this in fact increases the scale of the project by 142%, and not the 77.8% that staff identifies at page 1-115. More critically, on the issue of auto-related is not equivalent to CR, and ironically, substituting CR does not eliminate the auto-related uses, but instead expands permission for this and for higher-intensity uses. CR zoning is the carte blanche of zoning in the City of Lawrence. Almost anything goes. For example, if you looked at Article 2, Chapter 20-403, at the uses that are presently allowed in CR, and I want you to put aside the fact that they have six acres for open space, but right now, as it presently stands, what CR allows is livestock use, sex shops, sexually-oriented theaters, a car wash, a truck stop, heavy equipment repair, inoperable vehicles, junkyards, RV and boat

storage, just as examples. Approval tonight, as everything stands, as the proposed ordinances have been drafted, would green-light this. I respectfully suggest that you couldn't, this evening, try to re-plan around this in some ad hoc fashion, nor could the planning commission re-plan around the plan proposed to you tonight, because procedurally it's not acceptable, and in any case, wouldn't be fair. This body would have to, or somebody would have to redo the comprehensive plan in total, and then you would have to start and present a development plan a fresh and from scratch. What you have before you tonight is a concept plan. This project, as things now stand, does not have to come back to you at all. There is no site plan, as staff has told you. It appears that this plan would be covered under Article 13, Section 20-1305, as an administrative matter. It would go back to the planning director. The safeguards that you usually would put in place through Horizon 2020 have been stripped from this plan, and if I could just summarize them, the city will be shunting aside the prohibition and safeguard that K-10 is a physical barrier to retail and retail shall not occur, the city will be shunting aside the command and safeguard in the revised Southern Development Plan that further commercial development being the form of plan development overlays. By skating over this requirement, the planning required until Article 13 is ignored, among other things. There would be no PDO public hearing, so the city leapfrogs over the due process mandates. Suspending and ignoring these planning principles are on top of multiple other specific prohibitions, for example, existing strip areas, quote, "Shall not be extended," under your comprehensive plan, but you will do that if you approve this plan, "CRs shall not intrude or expand into lower-intensity uses," but you will do that tonight, "CRs shall not exceed 1.5 million square feet," but you will do that tonight, "CR requires a minimum of 40 acres," but the developer doesn't have its own 40 acres to give you. I would ask the Commission, respectfully, and again, I appreciate, Mayor, the time, approving the K-10 project would ignore clear, direct, unambiguous multiple prohibitions and protections in your comprehensive plan. Approving the project would deeply undercut the 2020 planning policies. We ask that you deny it. I thank you very much for your time. I'd be happy to answer any questions.

Mayor Amyx:

Any questions? Okay. Thank you. Public comment. Yes, sir?

Jim Bowers:  
Attorney  
Representing Tanglewood  
LLC & Hanover Pl.

Mr. Mayor, members of the Commission. Here tonight on behalf of Tanglewood, LLC, and Hanover Place, LLC. They are property owners of commercial property at the intersection of 6th and K-10 Highways. My clients oppose the applications that are pending tonight, before you. My focus is going to be somewhat different than Mr. Parker and Ms. Shaney, and I

agree with both of their comments. My comments are focused upon what your approval tonight will mean in terms of decisions and findings of facts that were made in 1987, when the cornfield mall was before this Commission, on the same piece of property. You will recall that a year ago, in 2014, this application was before the Commission for consideration. It was denied. The application, then, was twice the size that it is today. What's happened in the last year is that the application was essentially cut in half. The City Commission in 1987 made findings of facts in connection with the same 60 acres that's before you tonight. That decision by the City Commission in 1987 was ultimately upheld on appeal to the 10th Circuit Court of Appeals for the United States District Court. That was some 4 years later in 1991. The reason that case is important tonight - you might say, why, what do we care about what happened in 1987? The parallels between what you're being asked to do tonight and what was asked to be done in 1987 are really quite startling. Before I get into the specifics of the findings of fact that this Commission made in 1987, I'd like to, in summary, go over the golden factors that the applicant presented to you as a slam-dunk. The applicant told you 8-0, no questions asked. I beg to differ with the applicant. Let's analyze them in a summary fashion, and then I'll go through them in greater detail with respect to the 1987 findings of fact. The first factor is the character of the neighborhood. It depends on how you define the neighborhood. Look at the map. That's the neighborhood, not the property north of the SLT on South Iowa. This is the neighborhood. The neighborhood is primarily floodplain, wetlands, and agricultural uses. It is planned for floodplain, open space, auto-related commercial, and medium-density residential uses, and is zoned for single family. The auto-related uses, as Ms. Shaney pointed out, is a very small portion of the property that is subject to the application, tonight. Let's talk about the zoning and use of property nearby. The property nearby is floodplain, wetlands, open space, agricultural. Let's talk about the suitability of the subject property for the uses to which it's been restricted. Because of the extensive floodplain, it's well-suited for the uses to which it has been restricted. What about the extent to which removal of the restrictions will detrimentally affect nearby properties? Removal of the restrictions will have a serious detrimental effect on the floodplain and open spaces, and I'll deal with that in greater detail in just a moment. What about the length of time the subject properties remain vacant as zoned? Thirty-some years? It's not vacant. It's been used in agricultural production. It's been used as wetlands. It's been used as floodplain. These are uses of property that are legitimate concerning the topography of the property, its location adjacent to the Wakarusa River. The 6th item is the relative gain to the public health, safety, and welfare, by the destruction of the value of the plaintiff's property, in this case, the applicant, as compared

to the hardships imposed upon the individual landowner. No doubt, that the rezoning of this property will greatly enhance the value of the property, to the owner of the property, and to the option holder of the property. It will do so at the expense of the public's interest in maintaining the integrity of the Horizon 2020 Plan. I'll give the applicant one victory, and that is point number 7, the staff recommendations for approval, based on the City Planning Commission's recommendation for approval, 6 to 2. On compliance with the Master Plan, this case doesn't come close to compliance with the Master Plan, and Ms. Shaney pointed out many of the discrepancies between what the Master Plan Horizon 2020 requires, and what this application proposes. There's a very specific set of findings of fact that this Commission made in 1987 with respect to the cornfield mall, and I think it's worth going through them in some detail. I'm reading directly from the findings of fact made by the Commission in '87. The location of the property was 61.4 acres carved out of 165-acre tract, owned by the same parties, Richard Armstrong, now Armstrong Management, LC, and Betty J. Grissom, now Grissom Management, LC. The same legal owners then, are the same legal owners, today. Back then, JVC, the then-developer of the cornfield mall, held the option on the property. Today, it's held by the Collett Group. The findings go into the history of the property, and the history is that this parcel, this 60-acre parcel, was part of a larger 165-acre parcel. In 1972, as pointed out by Ms. Shaney, the property along Iowa Street was condemned for highway purposes, and the owner received a substantial sum of money in connection with the condemnation. That was a finding of this Commission. Trying to speed this up because the findings are substantial and I won't be able to go into them in the detail that I would like to, based on the time limitations. The findings also deal with the zoning and use of property nearby. What the Commission said was, "Property to the west and east and south are zoned, agricultural, by Douglas County. Property to the north, across the SLT is zoned, commercial. Property to the east and west are in agricultural use, same as today, no change. The area south of the Wakarusa River is zoned, agricultural, by the County, same as today. The character of the neighborhood: "This is not a neighborhood in the traditional planning sense, in light of the definition of 'neighborhood,' in Plan 95," which was in effect, then, has been supplanted by Horizon 2020. "It is more appropriate to think of the neighborhood as the area which exerts influence on the use and development of the subject property." That's what that is. That's what this slide shows you. "The neighborhood is now defined by the SLT, said the Commission, on the north, and extends east and west and south on the Wakarusa River, to encompass the Pendleton, Opal, and Mears properties," as shown in this slide. "The physical characteristic to the neighborhood is best defined as wide, alluvial plain, extending

on both sides of the river through the neighborhood. Much of the area is regulatory floodplain, dedicated to wetlands, agricultural use floodplains, and vacant open space. The proposed regional shopping center is inconsistent with the character of this neighborhood," said the City Commission. "Conformance of the requested change to the adopted or recognized Master Plan as utilized by the City ..." There are findings that go on with respect to Iowa Street, getting into the principal strategies of the land-use plan, all of which are almost identical to what's going on today. In other words, the decision to deny the cornfield mall, all of the factors has not essentially changed in the intervening period of time. We have a situation in which there is little or no justification, and particularly if you follow ...

Mayor Amyx:

Could you please wrap up?

Jim Bowers:  
Attorney  
Representing Tanglewood  
LLC & Hanover

... follow the requirements of the Horizon 2020 Plan. I'll close with this statement out of a case that was decided in 2011 by the Kansas Court of Appeals, involving Baggett versus the Board of County Commissioners in Douglas County. Emphasizing the importance of the Horizon 2020 Plan, said, "The relative importance of the City's formal plan for development was best stated by one of the ..." this is the case involving annexation, whether the City should annex property, and one of the owners who opposed annexation, said, "I'm writing to insist the City and County operate according to the Horizon 2020 Plan. As a property owner affected by the proposal, I made an investment based on the City, County Comprehensive Plan, which states that this area would not be in line for development for another 10 to 15 years." The plan states, he said, "The Comprehensive Plan provides a vision for the community. It is used as a policy guide that identifies the community goals for directing future land-use decisions. The Plan is also used by property owners to identify where and how development should occur, by residents to understand what the City and County anticipates for future land-uses within the community, and by the City, County, and other public agencies to plan for future improvement to serve the growing population of the community. The comprehensive plan is used, most often, as a tool to assist the community's decision makers, in evaluating the appropriateness of land-use development decisions. For the Commission to approve ..." and I'll finish, Mr. Mayor, "... to approve the annexation by mere conclusory findings, without a more careful and deliberative consideration of the extent of the proposed, that the proposal might hinder proper development of the area under consideration, is both unsupported by this record, and inherently arbitrary and capricious." Thank you for your patience.

Mayor Amyx:

Thank you. It's one of you two gentlemen.

Gary Rexroad:

Good evening, Mr. Mayor, Commissioners. I'm not an attorney; I'm not here to represent anyone with a specific commercial interest in this. I am a small business owner here in town and a taxpayer that believes I pay too many taxes. I've been giving a lot of thought and some study to the question of retail development in Lawrence over the last couple of years and this matter, in particular, and I'd like to share an opinion with you. I looked at a number of factors as I did this work. Direction of development, Horizon 2020 indications, impact of new retail, cost of infrastructure, and specifics of this particular project. These are the thoughts. On direction of development, we're limited in commercial development by a number of factors north and east, which suggests that west and south are the natural directions for growth. While I'm a firm believer that commercial and retail development will and should happen in west, particularly associated with Rock Chalk Park and the draw there, I do believe that the SLT is a game-changer for Lawrence. It's something that is going to draw our attention. I believe that growth will happen there, not only as a likelihood, but probably it is inevitable, and that this quarter will most likely be some of the most significant planning questions and issues that we face as a City over the next few years. Looking more closely at the area in question, it seems to me the Horizon 2020 anticipated a retail use as one of the possibilities, and in fact, when you listen to the testimony at the Planning Commission as they approve support for the project, we learn that the Commission, at the time, had intended uses similar to the one being offered here. It was their view that it's consistent with the plan, the intent of the design. Impact on existing retail is a long-term debate in Lawrence, and I've listened carefully to that argument stating that retail is overbuilt in Lawrence and citing studies and logic which predict the negative consequences, should we allow any more retail development to occur. Ultimately, I felt the argument did not stand, based on three things. First, every negative prediction made in this long-running debate, has been wrong, every one. A vibrant retail environment is important to expanding our commercial tax-base, and to realize the benefit of primary jobs. Last, according to credit card data, we leak millions of dollars in retail from our area, which is, perhaps, a better test of retail saturation than retail available square footage. Competition is good, and as a consumer, I like choices. To the degree that those choices are available inside our market, the dollars will remain here. We have to allow that to happen. We focus quite a bit of energy on the pursuit of primary and higher-waged jobs, with good reason, but without the ability to keep that revenue at work locally, we lose the ability to capture its value, capture their value. We maintain the costs for it, but we lose the benefit of having them from where those salaries are spent. For several reasons, I struggled with the use of retail square footage as a

measure for retail capacity. Instead, I began looking at the very real retail push pull data, and its impact on the question of saturation. The results are interesting. If you look at those numbers within a 1 or a 3-mile circle of Downtown in Lawrence, you could draw a conclusion that says we're reasonably well-built in retail. There's a pull there. If you look at that circle from a 10 or a 15-mile radius, the story's very, very different. The numbers are very interesting. We move from what looks like a reasonably well-built market, to one where the data actually shows a \$215 million dollar retail leakage from our area, out. That's up from \$192M this time last year, significant leakage. I concluded that this data, which is actually consumer behavior, was a better indicator, a better empirical indicator, of the retail capacity and commercial opportunity because it is consumers very real spend. It then asked the questions, how do we begin to recapture that? What steps do we need to take, as a community; to capture what is absolutely being lost? A few years back, North Kansas City was in a dire economic condition, until their decision to invest in what is now called, The Legends. Their decision to create a retail pull factor was a formula that transformed North KC into one of the healthier communities in our State. It's not based on square footage or how to protect, rather, they asked, "What if?" Lawrence can set their sights high, as well. If we can find a way to capture that leakage, it would benefit every business in Lawrence, and offer real promise for personal property tax reliefs. The costs of infrastructure are real. They got to be factored in, but I also think that they are inevitable. At some point, infrastructure will be extended south on Iowa, and I concluded that doing so in conjunction with a project that provides jobs and commercial tax-base, is a great time to do that. On this particular project, any time a company comes to town wanting to invest millions of their own dollars, where they want to bring jobs, tax revenue, and they ask for no special incentive, I feel they merit our attention. The K-10 crossing can be a strong retail space and an attractive gateway to Lawrence. The developers demonstrated through their actions and through their investment, a desire to be a part of this community. They've gained the support of neighbors, they've gained the support of the folks with the wetlands, they've built a visible legacy, great project that add lasting value to the communities where they have worked, to date. Also, I think really important, with all of the "what-if" and "might-be," all of the other places where retail might go, they are ready, now. They're ready to begin work of building a capability, which helps us to begin to capture that retail leakage. For all these considerations, I feel that we should support the project as a good opportunity that addresses a demonstrable opportunity for Lawrence. Thanks for your consideration. Thank you all for your service.

Mayor Amyx:

Excuse me, just a second, Michael. How many more speakers

do we have this evening? I'll tell you what. We're going to take about a 5-minute break right now, just to stretch legs and stuff, okay? Thank you.

The City Commission recessed at 8:13 pm.

The City Commission reconvened at approximately 8:18.

Mayor Amyx: Okay, we're back for the remaining public comment.

Michael Almon:  
Sustainability Action Network Yes, good evening, Mayor, and Commissioners. I am representing the Sustainability Action Network, a not-for-profit here in Lawrence. We advocate for ecological sustainability, our primary mission among many diverse approaches. Before I get into my presentation, I wanted to raise a question that somebody here needs to answer. If the Planning Commission had a 6-2 vote on the Comprehensive Plan Amendment and the CR Zoning, I don't know if that requires a 4-1 supermajority by you? It's the 7-1 on the open space, maybe that does, so ...

Mayor Amyx: Okay.

Michael Almon:  
Sustainability Action Network Anyway, what I'd like to do tonight is provide some background, some underlying context, particularly for the Commissioners who are new to the Commission and wouldn't know the last 10 years of history of some of this. Basically, the Sustainability Action Network is opposed to two of the three issues before you, tonight: the Comprehensive Plan Amendment, and the CR Zoning. We have no issue with an open space zoning, it fits right in with ecological sustainability, just fine. To get on with what I'd like to show you, we are approaching this from the perspective of open space, floodplain, alluvial river bottom lands, and Lawrence is bounded by river bottom lands on the north, the east, and the south, all this huge acreage all to the east and to the south, the Wakarusa River Valley Bottom Lands, the Kansas River Bottom Lands. These river bottom lands are alluvial soils and the 100-year regulated FEMA floodplain. This is an area that, historically, Lawrence has recognized as the limits to our physical boundaries, being surrounded by these bottom lands. There are exceptions, of course, when some facilities do get built, developments do occur in the floodplain. Most commonly, historically, North Lawrence that was built a long time ago without consideration, or because people had no other choice, but more recently, our development and our planning takes into consideration the fact that we had this physical barrier around us. This realization, this understanding, is affected by ... affects our operations practically, in that it is the physical limitation for the amount of fill dirt, the cost, the insurance possibilities, the requirements, that developers have traditionally avoided, if they can, but also

because more recent realization of the 100-year floodplain with FEMA, the insurance rates. The third reason that's it's become more of a concern in the last 10 years or so, is because the alluvial, very rich agricultural bottom lands. This is all become enshrined in our Comprehensive Plan, Horizon '20, as the awareness has grown. I'm going to go through several areas of the Comprehensive Plan that go into this in detail, and provide policies and land guidance. In the background studies, the land forms floodplains form barriers to development on the north, south, and the northeast sides of the City inhibit north-south street extensions. The planning area of the City: The urban area boundary is based on development trends and other factors, including physical constraints, for instance, floodplains. Horizon 2020 - The Plan Overview: Key features of the Plan: recommends the protection and preservation of the extensive floodplains. Key features of the Plan: the Plan encourages the conservation of sensitive natural environmental features. Chapter Four - Growth Management: Uses appropriate for floodplain areas are agriculture, public or private open spaces, public or private utilities, things of this sort. Growth Management Goals in Policies: Policy 1.3.2 Non-Residential Land Uses: environmentally sensitive areas within the urban growth area should be protected. Chapter Sixteen - the Environment: Recently adopted, I believe in 2011, Water Resources and Management. Flooding: protecting floodplain areas maintains the carrying capacity of the floodplain. Flooding is considered a serious public hazard. Policy 1.6: protect floodplain areas to maintain the carrying capacity of the floodplain. Consider further limiting new development from encroaching into the regulatory floodplain. Chapter Sixteen - the Environment, also includes Policy 1.3: the City and County shall participate in the applicable watershed restoration and protection strategy, it's a State-level program, focusing on the Upper Wakarusa and the Lower Kansas Watersheds, which is what we're talking about, here. This is the Lower Kansas River Watershed; this is the site we're talking about, right there. The overall goal of the Lower Kansas WRAPS Plan is to provide a blueprint for protection and restoration strategies and activities to protect and restore surface waters in the Lower Kansas WRAPS Project. Chapter Six - Commercial Land Use: Lawrence - the section on Existing Commercial Areas, S. Iowa Street (23rd Street to K-10): South Iowa Street is considered an existing Regional Commercial Center between 23rd Street and K-10. K-10 provides a physical barrier and edge to the commercial corridor. I should not that none of this Regional Corridor is zoned, regional commercial. That's something that is being considered tonight, would take on its own meaning and its own intensity, as its own stand-alone regional center, separate from - thank you, Mike. The Revised Southern Development Plan: to protect the FEMA designated floodplain by allowing very minimal development. Property designated by

FEMA to be our 100-year floodplain. The Staff Report uses this map, from the Southern Development Plan - digital page 16 in your Southern Development Plan, if you want to look at the whole map - showing the floodplain just skirting the edge of this property, where, in fact, the FEMA map from 2010 which predates both these Staff Reports, shows the floodplain covering about 2/3 of the commercial property that's being considered here. In other words, it needs to be filled; the floodplain needs to be filled to make this commercial site actually work. It encroaches into the 100-year floodplain. 2/3 of the property, from my estimation, is in the FEMA 100-year regulatory floodplain. All the buildings, 2/3 of the parking area, are in this floodplain. K-10 intrusion into the 100-year floodplain violates many public policies. The 23rd Street to K-10 is the regional commercial center, not South of K-10. K-10 is the barrier. Menards and other recent projects increase this regional commercial center to 1.5 million square feet, now, which is the limit for a regional commercial center. Floodplains and barriers - 100-year floodplain for sensitive lands are to be protected. The 1979 cornfield mall site we heard of earlier this evening, was an aberration at the time, and it's a relic which now is out of place and out of time. These alluvial bottom lands have taken on new meaning in the last 10 years. The airport business park was a proposal deliberated for a good 4 years. It was not actually denied, but in 2008 the developer pretty much left town with his tail between his legs. The East Hills Business Park - the East Hills Business Park is in this area here ...

Male: Mike, we need to wrap up.

Mayor Amyx: Okay.

Michael Almon:  
Sustainability Action Network

Okay. That area was annexed, and then further de-annexed in 2014, last year, because we built the Venture Business Park on upland instead of the bottom land, and so the community realized we don't want to be in bottom land anymore. The same with the Northeast Sector Plan that was the original development area in the bottom lands. It was minimized in the adopted plan. All the areas of the protected areas in Chapter 16 for farm lands, bottom lands, sensitive environmental quality. Where Lawrence is growing, West of K-10 Plan shows us upland development, not bottom land development. This is what the community wants to do; this is where the community wants to go. All these areas also are seeking in-fill development, Downtown, obviously, Rock Chalk, and Venture Business Park. K-10 and Bob Billings Interchange is seeing a lot of growth. That's where the smart money, including the school board and churches –

Mayor Amyx: Michael, excuse. It's been 10 minutes now, okay?

Michael Almon:  
Sustainability Action Network

Okay. I've got one more slide to go, or two ... maybe one more

Mayor Amyx:

Okay. Quickly.

Michael Almon:  
Sustainability Action Network

85% is already sold. It's where the population is going; it's where the retail needs to go. The fresh grocer of K-10 doesn't have a demographic to support it. It's wetlands, it's floodplain, it's commercial retail. Groceries need a minimum of 2-mile diameter. Lawrence's natural food storage niche is now saturated. Even the Merc is losing market share. It can only cannibalize our existing grocery stores if we allow K-10. This is what we recommend: please recognize K-10 as the development limit. It's in the Horizon 2020, it's in the Southern Development Plan, and it's the result of years of community deliberation that that is the limit. Our community sentiment has become community policy. It's instituted by our choice over at least a 10-year period, now. Adhere to the public policy, and do the following, please: to not eviscerate 2020 by amending its strengths away. To not cross K-10 into the 100-year floodplain. To keep South Iowa Regional Center between 23rd and K-10. To keep South Iowa Regional Center at 1.5 million square feet. To protect the floodplain and the agricultural uses. Please do not grant the regional commercial zoning to K-10, and in keeping with the East Hills Business Park precedent, please de-annex this subject property. It's not appropriate to be RS10...

Mayor Amyx:

Okay.

Michael Almon:  
Sustainability Action Network

..and initiate rezoning to valley channel.

Mayor Amyx:

Thank you. Yes, ma'am.

Candice Davis:  
Chair  
Lawrence Association of  
Neighborhoods

I do really appreciate this opportunity to speak tonight. I will try and be as brief as possible. LAN's primary interest is healthy and strong neighborhoods. We believe that good citywide planning practices enhance and benefit neighborhoods in the City, as a whole. I think you all have seen the letter that I sent for LAN, and we had all voted on that. There are 3 points, and one is we feel like this reduced-size is disingenuous, and that, in fact, a future parcel of land exists and we believe that it would be developed at some future date, and would then be 1 1/2 million square feet of retail space. Number 2, the selling point of sales tax leakage and jobs is speculative and the studies on this have been conflicting. Certainly, we'd have to agree that existing business in the City would be impacted. I would like to make a comment. I know sometimes Kirk McClure has, there's been attempts to discredit him, but I would like to remind you that he's a professor of urban planning, and that

many of his own students, actually, have worked here in the City Planning Department and some still do. He has no secondary gain; he's not being paid to submit any of his market studies. I would have to say that I would think that they're legitimate. Most importantly, in number 3, is this project violates the existing Comprehensive Plan, Horizon 2020 that calls for the Southern boundary to stop at that Regional Shopping area along Iowa Street. In leaping that boundary, this would be a huge step that requires careful City planning along the KU expansion area. Development and expansion in our City is expected. We are definitely no-growth, but in what fashion and on whose terms would it be? What is the City vision for the entire community? LAN is aware that City planners and Commissioners are under conflicting economic interests and pressure. It takes strength and far-sided thinking to stay focused on the bigger picture of what is best for our entire City. Free-market economics should not exclude good planning practices. Strip malls are not inviting gateways. Kellogg Street in Wichita is not what I consider a gateway to their City. The K-10 Project has had the City Planning's Department attention for the past 2 years, and all the while, it did not fit in with the long-range plan. How many other important City projects were delayed because of this project? One builds a house with good plans and a solid foundation. The sheetrock doesn't go up before the plumbing and the electricity. Interior spaces are not completed until the roof is on. It's a thoughtful, careful, process. LAN does support planned growth that has been determined by our City Planners and is reflected in our long-range City plan. Wise, long-range planning helps a community become desirable and sustainable. Following our City plans would surely increase efficiency in both time and labor. Why consider a project over a 2-year period when it isn't allowed? To me, this is a hardship on the developer, as well as the City. This may be a great project for a different location, or for the future. At the present time, LAN does not support moving forward with the K-10 Crossing Project. Thank you very much.

Mayor Amyx:

Thank you. Yes, sir.

Price Banks:

Mayor, Commissioners. Thank you for enduring this evening. I'm a retired attorney and a city planner. I was Director of the Lawrence-Douglas County Planning Office for 12 years. I've been a professional planner for 47 years. I've practiced community law and land-use law for over 20 years. I've taught courses at the University of Kansas Graduate School for Urban Planning. I presided over the ad hoc committee that drafted the original version of the Kansas planning and zoning enabling legislation that's still on the books today. I was also President of the Kansas Chapter of the American Planning Association, and I've drafted land-use regulations for many cities and counties. Lawrence has a lengthy history of, and is known

nationally, for its good planning practices, and for the resulting livability of the community. The current vitality of our central business district is no accident. It is a rarity in the State and the Nation, and it has been threatened at times. There are no ends to the number of community CBDs that have been destroyed by sprawl and malls. You don't have to go very far from this site to see it. The community has come together each time we were threatened to defend against the threats, while other communities were devastated by sprawl and by cornfield malls. In planning school, there are 2 no-no's as far as city planning is concerned. One of them is strict commercial development, and the other one is sprawl and here, we're looking at both of them. Many years ago, Horizon 2020 was adopted as the City-County Comprehensive Plan after lengthy and participatory processes that involved multiple interest groups and community shareholders. Since then, it has been amended several times, but each time after extensive study and public hearings, and never for a single outside special interest, and never on a reactive basis. Community planning was originally conceived so that citizens, public officials, and property owners, would have policies and procedures on which they could base decisions regarding investments, both public and private. It was conceived as a mechanism to improve the quality of life in a community. Although the plans must not be set in concrete, they should not be changed willy-nilly whenever a proposal is inconvenienced by those plans. They need to provide a steadying feature to assist planners to achieve the positive influence on the quality of life in the community. If they're amended on a reactive basis, they become meaningless. About 32 years ago, Lawrence denied an application for commercial zoning for what became known as the cornfield mall. Well, it's right in this exact location. That application was denied, and the Courts affirmed that action, and affirmed the right of our community to map a future that could be depended upon by the citizens. In the present case, it is suggested in the Staff Report, that the purposes of the amendment is to bring Horizon 2020 and the revised Southern Development Plan into alignment with the proposed commercial center. That's having the cart before the horse. The developer ought to be in alignment with the plans, and not ask the plans to come in alignment with their proposal. Any proposal needs to meet all the criteria of the plan, or it should not be considered. Piece-mail, leap-frog amendments to the Comprehensive Plan are not planning, but they're anti-planning, and they take us back to the days when there was no planning, at all. We might as well save the money and not invest in a planning office, or all the equipment. The present proposal expands the Regional Center to intrude into the lower intensity land uses, including agricultural land and open space, and regulated floodplain. Therefore, it's contrary to the provisions of the Comprehensive Plan, it meets none of the design criteria of the Plan, it expands the Center far beyond the

set maximum of 1.5 million square feet, and creates a precedent for additional expansion, and for a gauntlet of strip-commercial land uses, signs, and resulting traffic congestion. I urge you to deny the request to amend Horizon 2020, and to preserve the tradition of planning excellence in Lawrence and Douglas County.

Mayor Amyx:

Any questions of Mr. Banks? Thank you. Yes, ma'am. Good evening.

Deborah Duncan:  
President  
League of Women Voters

We have 134 members, and we have been in Lawrence for 96 years. I'm really not going to say what I was going to say, because everyone else has already said it. We are opposed to this project, and you have a letter from us that sets out the reasons why. Everyone has said them. It's basically floodplain issues and environmental issues. I had made a few notes that I would like to address things that people have said. One of the things is that the proximity to the floodplain has been one of our issues. There's going to be runoff, without a doubt, and it has a major impact on farmlands the surrounding farmland. The proponent, I believe, said that they are absolutely having a plan to completely ensure that the wetlands are protected. I don't know how you could possibly protect wetlands in a 100-year floodplain. It makes no logical sense, to me. The other thing is, just to me, everyone treats these stores like they are some kind of major destination for people, like wow, I'm going to get up and I'm going to drive 20 miles today to go to Old Navy. I don't think people do that. I go to Kansas City and wow, there's a HomeGoods. Okay, maybe I'll stop there. I don't think those are destination stores, I don't think that's a pull, at all. It's definitely not the Legends. The Legends, for God's sakes, has NASCAR. They have a state-of-the-art soccer stadium, they have the T-Bones, they have bars and restaurants and Schlitterbahn and all kinds of things. Nebraska Furniture Mart, definitely. It's not a pull. Those are the main comments I wanted to make on what other people had said. I do want to say some things, just on my own. I've lived in Lawrence for 28 years. When we moved to Lawrence, there wasn't a lot here. There was, it was a very viable community, it was a great community to move to, but when we were looking for a house, the realtor took us over to Kasold, which was the end of the western part of Lawrence, and showed us these empty lots, and there's a model home you can look at and they're going to call this development, Quail Run. That was the end of Lawrence. Downtown was really, everything. Two movie theaters, anything you wanted to do, you did Downtown. It was a blast, and that's part of the reason we moved here. I had been living in Kansas City. When we came home on Thanksgiving without any leftovers, we immediately went to Dillon's and found out it was closed at 6:00, and we were kind of shocked by that, but, that's okay. That was cool. I'm very concerned by what I see now. I don't

think that people ... I don't know. If Chad Lawhorn is right, I don't know if he is, according to his article in the Journal World in December, in 2006 there was 43% of Downtown was retail. Now, it's 26%. I don't see how people can say, that's great, and Downtown is healthy, because that, to me, does not seem healthy. His count says that there were, the last count there were 80 bars and restaurants and 82 retail establishments. Since that time, at least 4 retail establishments have gone under. A couple more has come in, but I don't think that bars and restaurants taking over Downtown are healthy. I hate to see Lawrence lose that, because when you drive up on Iowa, or when you drive out on 6th Street, west or south, it looks like everywhere else. You could be in any city, anywhere, in America. There's nothing special or different about it. Lawrence has always promoted the uniqueness of Lawrence, and it's a draw. That is the pull into Lawrence. That's - I'm sorry, okay - that's why we get people here. That's why they come into this town, that and, of course, basketball. I know that it's silly, but I always pay attention to these little, top ten this and top ten that, best place to live, and last night I looked up the top ten college towns by some website called, Livability. Lawrence wasn't listed. Number 1 top ten college town was Manhattan, Kansas. They also had the 2016 list of top 100 places to live. Overland Park was number 14, Manhattan, Kansas was number 43, and Lawrence was 78. I think we need to focus on Downtown. Thanks.

Mayor Amyx:

Other public comment, anyone else?

Tim Bateman:

I guess I'm probably not going to say anything new since I'm towards the end of the speaker list, but I'll state my case. A few items, one, we have a group of people who are coming to invest money in our City, and not asking for incentives. I think that's a very important point. Some people ask for incentives and some people don't, but here you have somebody that's not, at all, and I think that's a very important point. Also, we are losing a lot of money outside the City to people shopping other places, whether it is Amazon.com, or whether it is going to Kansas City for stuff. If we a chance to keep those sales tax dollars here, and shop locally, I support that whether it's Downtown or whether it's a business on the east or west side of town. There are other places that are already zoned commercial. I live, I told you my address, I live on the Westside of town, and I personally would like it if it was on the Westside of town so I didn't have to drive, but that's not where the retailers want to be. They've done market studies and they've figured this stuff out, and that's where they need to be, and if you push them to go somewhere else, they're either not going to go and then we're still going to shop out of town. We've had lots of people here representing different parts of the City and everything, and one thing I have not heard is a neighbor of the

actual project coming up here and objecting. I think that's kind of an important thing. If the people that - I didn't see any houses on the map, I'm sorry, I don't know the area that well in terms of houses - but the people around there that either own property or live around there are now up here vehemently objecting to this. I think that's a very important point. I've lived here virtually all my life; I didn't have a choice when I started because I was born here. I've lived here, nonetheless, through all these changes. Some changes I like some changes I don't. Stuff moves along, anyway, and I think this is a good thing for Lawrence, again, to keep the sales tax dollars here, and also property tax dollars. I've already written you guy a few letters, and we've been here long enough. I just wanted to state my support of the project. Thank you.

Mayor Amyx:

Thank you. Other public comment?

Janet Gerstner

I had a lot of things I hoped to say and fortunately I don't have to say a lot of those, because they were said so well tonight, much better than I ever could have. I had originally a lot of planning concerns. Last year, I was very concerned about this from that standpoint, and I still do. I think those things have been covered very well tonight. I guess the only thing maybe I could bring that might be fresh tonight, is that about a month ago - starting about a month and a half ago - my husband had been urging me to go out to the Baker Wetlands and see what's been done now. My husband is, among other things, a nature photographer, and he, about 15 years ago, did a series of shots out there of the wildlife. I've had mixed feelings about what's gone on out there, and it's been kind of hard for me to go out and actually visit it. With his urging and him coming with me, we took a, started to take walks out there. Then finally about a month ago, we took a really extensive walk, we spent the whole afternoon. It's an amazing place, I have to admit. If any of you haven't been out there, I'd really urge you to go out and explore it and enjoy it. We were amazed that an owl came and flew right over us, right in the middle of the day, and so on. There's, this is a tremendous area that we have. I could get up here and tell you what I'm against. I'd rather get up here and tell you what I'm for, tonight. I feel like you're faced with a really amazing opportunity, you City Commissioners, right now. This is a really huge issue. I think it's almost hard to see the forest through the trees, the way it's being presented it's almost an innocuous little piece here, that we're being asked to look at and argue about details of stores and how big, and so on and so forth. After walking down there and thinking about this, I drove down a few weeks ago right to this intersection and then looked, and it struck me, looking east and west for the first time, that there was no development. I guess it's just a no-brainer, but I'd kind of been lulled into thinking it's been boogered-up at this point, and we have development around

31st Street and so on, but it's actually been kind of hard to even see this area with all the construction that's been going on. It was fresh to me when I went down there and looked and I realized this is still all open, and this just adjoins, virtually, all this work we've done with the Baker Wetlands. I have a map that overlays that, but I don't think I'll both with that tonight. I went through the Comprehensive Plan and found 58 references to our commitment to floodplains and preserving open space. I read about our Sustainability Commission and their mission statement that their belief that sustainability means making decisions that balances the needs of the environment, economy, and society, to both present and future generations. I guess the things I'm for I'm for a true gateway. If we all take a big breath and stand back, we have, you have the opportunity to be visionary. You have the opportunity to set a legacy, here, and to really envision what is a real gateway to our community, and to really do something here that we can all be proud of for years to come. We have an opportunity in the future to be truly business-friendly. We have this document, Horizon 2020 that guides us. Let's help, when businesses come, let's invite them and encourage them to actually go where it makes sense, based on our plan, and help them do that. I'm for our Comprehensive Plan, and I'm especially for all the work that's gone into this over the years, all that citizen input. It is, truly, a vision of our community, and I'm for upholding that, unless we have some amazing reason to override it. I'm also for supporting our current investments that we already have in place in the City. We have already invested a lot of tax dollars out on the west side with Rock Chalk Pavilion and that surrounding area and infrastructure. It's already been and it is part of our Comprehensive Plan. I do support that sort of development going there, rather than this. I'm for balanced growth all over our community. We have underserved areas such as on the east side. In fact, I had a friend just tear into me today when I mentioned this was on the agenda tonight. She lives on the east side, wondering why aren't there more services out there and why is more being built down here? I'm also for walking the walk that we say that we are. We say we're progressive, we have all these things outlined in our Comprehensive Plan about that we want to create greenways and that we want to improve and protect our floodplains. We have just an amazing opportunity here and I don't think many cities are really faced with this opportunity, where you have a large stretch of undeveloped land like this, that is floodplain and is not yet boogered-up, and have a chance to carefully decide what to do with this. If you move forward with something tonight without much thought, it prevents that opportunity to really give thought and step back and think about what should happen all through this area. If, by chance, you all decide that for some reason we should develop down here, then we need to step back and really think about that. We are actually opening up

miles and miles and miles of development. It looks like, to me, the forest is hard to see here, through the trees, is that I don't see that you're just being asked about one small piece of property here. I see that you'll all being asked to cross a barrier that hasn't been crossed before, in moving south, which would open up the entire southern part of our community, all the floodplains, and even to the Wakarusa River, and south of the Wakarusa for development. If that's what we are going to do, we need to give that a lot of thought and a lot of planning. Thank you very much. I appreciate your time.

Mayor Amyx:

Thank you. Other public comment? Anyone else?

Roger Boyd:

I'm associated with the Baker Wetlands, adjacent land manager. I would like to acknowledge the concerns about floodplain in this case. The map is a little deceptive, the FEMA map. The property that is actually going to be developed could more appropriately be described as a floodplain fringe. It's not really true floodplain. FEMA does that, occasionally. The area that is, I'll refer to it as the "green area" that's being proposed is open space. That is true floodplain. That is going to be preserved and the conversations I've had with the developer, we will be working with them to ensure that the area that is in floodplain currently that's going to be preserved, will be enhanced. Currently, it's woodland, which is doing a very good job at filtering and retaining flood water and so on. The area to the east is a soybean field, and we have plans of how we can enhance that to better filter and reduce the rate of runoff. As a wetland manager, we're not really concerned about the quantity of water; we're concerned about how rapidly it gets there. This would allow us an opportunity to slow down that rate from parking lots and so on, do some filtering before it gets into the wetlands, but we're certainly not concerned about the volume of water that's coming. We have no opposition to the proposal, this evening. Thank you.

Mayor Amyx:

Thank you. Yes, ma'am.

Ruby Armstrong:

Thank you for giving me the opportunity to speak this evening. I was not born an Armstrong, but became one in 1958 when I became the bride of Richard Armstrong, who, along with his sister, Joanne Armstrong Grisham, inherited from their great-grandfather the property that is the subject of this discussion tonight. At the time of our marriage, Dick was farming what was then a parcel of 320 acres, not 160, but 320. That has been in our family for more than 100 years. Neither Dick nor I ever resided outside of Douglas County, except for his time spent in the Air Force before we were married. This has always been home for both of us. Farming that land has been our primary livelihood for the last several decades. Over that time, the City, the County, and the State continued to carve up our farm into

smaller and smaller pieces with road and highway construction and additional right-of-way and development, to the point where this is the last parcel owned by our family. Though it is within the city limits, our property has become an island. On the west is Highway 59, on the north is the trafficway, K-10, on the south, the Wakarusa River, and on the east is the Baker Wetlands. Dick had to quit farming in the late 1990s and we have leased the land to an area farmer for the last several years. Access for farm machinery to get to this final parcel has become increasingly difficult with the road construction, and we have been fearful that we would not be able to get anyone to farm it if our current tenant retires. We were approached by this group of developers almost four years ago, and have been working with them ever since to see if their project can get approved. Three years ago this last October, Dick died unexpectedly and did not live to see this project come to reality. Before his death, we were part of the discussions in 2007 when the area plan was being developed that showed this part of the property as being suitable for commercial development. We supported City staff in their planning process, and we agree that the commercial zoning designation it received from the City in the Comprehensive Plan is the right land use for this property. Dick and I and his sister and her husband have always taken great pride in the businesses, tax revenue, and jobs that our family land has helped bring to this community. We still have great pride in our property and hope that the City will provide the requested approvals so that this property may become useful to the entire community. We believe that today is the right time to say yes to this project and we encourage you to approve this application.

Mayor Amyx

Thank you. Any other public comment? Anyone else? We can wrap up.

Korb Maxwell:  
Polsinelli Law Firm  
Kansas City

Thank you, Mr. Mayor, members of the Commission. Enlightening testimony. It's interesting; I want to put the testimony in really three categories. There were several supporters that got up to speak in favor of the project very eloquently, and we thank them for their time and support. It's been a long journey getting to this point. As Ruby just said, it's four years ago that we approached them in the property, and we've been in the City process for over two years, so it's been a long time. We appreciate the open arms that the community has given to us and being able to build the relationships here in Lawrence that you saw and some of the support that came out. To some others, there was true community opposition that we just have an honest disagreement with, a disagreement that we would rely on in response of just purely the staff report and the golden factors that we went through. Then there was another element of opposition tonight that really is unheralded, frankly, in the land use process, and it's the first time in my career I've

seen it, and I think most of the members of our development team. That was actually paid opposition by a whole host of attorneys and consultants that belong to a bunch of nameless, faceless LLCs that I'm not quite sure of, but I'm just going to put it all in Mercato.

Mayor Amyx: Let's don't badmouth.

Korb Maxwell:  
Polsinelli Law Firm  
Kansas City I'm not going to badmouth, Mayor, but I do want to just...

Mayor Amyx: No, I won't allow it.

Korb Maxwell:  
Polsinelli Law Firm  
Kansas City Let me just say this, Mayor. This is using the land use process for protectionism. It is trying to create an exclusive on development through the land use process, and none of that is within the golden factors, or appropriate in this context. We can have honest disagreements about the golden factors; we can have honest disagreements about rezoning, but trying to use this process that Kansas law has laid out to create an exclusive for one property's development, that is truly unheralded. We can respond to any of the claims that were made or any of the confusion that was tried to create. We will rely on the staff report. We'll rely on the due diligence that has been done for years via your staff and via this application to say a proper application is in front of you, and appropriate, and can be voted on tonight. We look forward to that approval. Mr. Mayor, I'd add only one point. There was only one neighbor, true neighbor that is right next to the property that stood up in all of this process tonight, and that was Mr. Boyd, the second to last person who spoke. He rose in favor of this application, in favor of it, asking for it to be approved, because he thinks it is the right thing for the land area there. With that, Mr. Mayor, we stand on the record, and of course, all of our team would be available to answer any questions. Thank you.

Mayor Amyx: Questions? Mr. Maxwell, there was a question brought up about the ownership of the property, or maybe it was for Mr. Watkins, I don't know which one.

Korb Maxwell:  
Polsinelli Law Firm  
Kansas City Thanks, Mr. Mayor. Mr. Watkins can speak to it too, but the land use records, all of everything we have looked at, we have discussed it with Mrs. Anderson and her broker. There has only been right-of-way taken by KDOT. We are also very confident in that, in that Mr. Watkins was the attorney that represented KDOT that acquired that right-of-way. The 2013 application that was cited had nothing to do with that right-of-way. It was about construction access and construction information. We find it interesting that none of that information was actually presented in a real document to the Commission and/or the staff. We

believe if that was true and was a true impediment to a vote tonight, the proper course of action would've been, you would've gotten that to staff, you would've gotten that to the City Attorney, you would've stopped this process. We believe it's just a scare tactic out there to be thrown at the last minute.

Mayor Amyx:

Another question that was brought up, this is probably for Mr. Challis or Mr. Collett, what kind of jobs are going to be brought to the project?

Korb Maxwell:  
Polsinelli Law Firm  
Kansas City

I'll generally answer it if Mr. Challis or Mr. Collett wants to get up. It was brought though in our study this is a retail development. This is retail, commercial, regional development that will have big box regional retailers there, and pad sites and out lots too. The jobs that would be involved in that would be the management positions, the assistant management, the floor workers, the clerks, the stockers, the transportation folks that need to bring the items to it. It would be all of the jobs that you would see in a big box, 250,000-square-foot retail development. The level of wages will be consistent with what national retailers pay in Lawrence and in these types of developments all across the nation.

Mayor Amyx:

Gentlemen?

Commissioner Boley:

A question for staff. Michael Almon, asked a question about what vote is necessary tonight. I didn't hear an answer.

Scott McCullough:  
Planning & Development  
Services Director

Commissioner Boley, I believe that was in regard to the OS that had recommendation for the approval for the planning commission. That doesn't need to approve that OS zoning, which is what Mr. Almon was advocating for. It just takes a simple majority vote, three out of the five Commissioners. It takes a simple majority vote to affirm the planning commission's recommendation of approval for any of the zoning in the Comp Plan amendment. It takes a four out of five to oppose the planning commissions and overturn it and deny the applications. Jeff's bringing up the options screen.

Commissioner Larsen:

Somebody brought up that the auto-related center that is now in the Comp Plan was only 14 acres. Is that correct?

Scott McCullough:  
Planning & Development  
Services Director

When we do our sector planning, I think we tried to talk through a little bit about this. One of the things we do automatically is paint all the floodplains green, designate those for open space, and then as development projects come in, we apply our floodplain regulations to it. I think the graphic that showed the current plan of the revised Southern Development Plan, if you calculate out just the red part, the auto-related and I think that equated to about 14 acres is what they said, yes.

Mayor Amyx: As we look at 40 acres of CR, how much can be developed on that, 1.5, a maximum 1.5 million square feet?

Scott McCullough:  
Planning & Development  
Services Director That's the Comprehensive Plan maximum for the entire CR designation, which is applied to all of Iowa Street Corridor from 23rd Street down to K-10.

Mayor Amyx: Let's go back. This 40 acres, 25%, if I read everything right, 25% would be able to be developed on that 40 acres, correct, in square footage?

Scott McCullough:  
Planning & Development  
Services Director Are you asking how much square footage we can anticipate?

Mayor Amyx: Can be developed on those 40 acres as compared to the auto-related site?

Scott McCullough:  
Planning & Development  
Services Director It's going to be very similar in terms of what can be pending approvals by the City Commission. The coverage of the site is going to be very similar, how much surface area, how much impervious area, parking lot, rooftops, those kinds of things, is going to be very similar, whether it's auto-related, with small buildings and large parking lots, or whether it's mostly buildings and parking. What the difference is going to be, how much retail component is going to be the product of each one of those types of commercial? There's obviously going to be a lot more retail with the project proposed versus what an auto-related commercial would yield. An auto-related would yield things like maybe hotels with parking lots, restaurants, gas stations, truck stops was noted, vehicle sales, whether that's auto, RV, boat, those kind of things. The amount of coverage would be similar.

Vice Mayor Soden: This map in the staff report says that 31 acres is for the commercial, 29 is for the right-of-way around SLT, and six is the open space?

Scott McCullough:  
Planning & Development  
Services Director Right, under the current...What page are you at, Vice Mayor?

Vice Mayor Soden: It's a summary ... I can't tell which page number.

Mayor Amyx: On the staff report?

Vice Mayor Soden: Yeah.

Commissioner Larsen: It's the one that shows the stippled and then red hashed marks on the top, the right-of-way.

Vice Mayor Soden: That's the first big map. Figure 1.

Scott McCullough:  
Planning & Development  
Services Director Let's just clarify so that we're all clear about what the request is and how this project moves. Right now, the property boundary line is this blue line. Jeff can correct me if I'm not accurate here, because I want to be accurate. This is about, all together is how many total acres? Just the property is about 37 acres. This may have been throwing people. This hashed area is KDOT right-of-way that would get the CR zoning by default of our development code. Don't really consider it part of the application, except in the sense that we know that the applicant has been talking with KDOT about this area north of the frontage road going into the project. If they get ... Yes, Commissioner?

Commissioner Herbert: I think that's where the sticking point is. I've been trying to think of a way to ask this question in a true/false, yes/no, so we can get a definitive answer. Are there 40 acres that are developable within your entire picture, are there 40 acres that can be developed?

Scott McCullough:  
Planning & Development  
Services Director Yes.

Commissioner Larsen: Does that include them requiring getting the KDOT land, if they get the KDOT land?

Scott McCullough:  
Planning & Development  
Services Director That would include capturing that road, that KDOT land.

Commissioner Herbert: Because I think that sticking point is within the city code, Chapter 20, Section 2, then there's-

Scott McCullough:  
Planning & Development  
Services Director Talks about the site area and the 40 acres.

Commissioner Herbert: Talks about the site area have to have a minimum of 40.

Scott McCullough:  
Planning & Development  
Services Director Of 40 acres.

Commissioner Herbert: Now when I look at the map under the proposed CR that is not right-of-way and is not OS, I see 31.

Scott McCullough:  
Planning & Development  
Services Director Correct.

Commissioner Herbert: You're saying that there are 40 acres that can be developed?

Scott McCullough:  
Planning & Development  
Services Director There are 40 acres that, in our understanding, and being in some of those discussions with the applicant and KDOT, is that those discussions are proceeding. Obviously they need zoning entitlements to make that happen, that that is the realistic outcome of this project if the Commission favors it, to work with KDOT to capture that additional acreage.

Commissioner Larsen: What would happen if they don't get the KDOT property, if we went through tonight and zoned it and they wound up not getting KDOT property?

Scott McCullough:  
Planning & Development  
Services Director They would have some options. It probably is a crucial element of this project to get the KDOT property. There's no reason to have two roads there, but they would, because this is the main access point. If they don't essentially meet the 40-acre requirement, that's a requirement of the development code, they could seek a variance to that requirement.

Vice Mayor Soden: Could they just expand to the east?

Scott McCullough:  
Planning & Development  
Services Director Not without going through this process.

Vice Mayor Soden: Acquire more land.

Scott McCullough:  
Planning & Development  
Services Director They'd have to go through this process. They'd have to actually annex property into the city and get it rezoned and change the Comp Plan that's designated residential right now in the sector plan.

Mayor Amyx: This is probably a question for Mr. Watkins. What is the process one goes through to be able to purchase land that was sold to KDOT here? Who's eligible to buy? Am I eligible to buy?

Pat Watkins: Probably not.

Mayor Amyx: Why would I not be?

Pat Watkins: In the first place, the underlying fee belongs to the Armstrong's, so KDOT can't really sell that to somebody else. KDOT came up with a policy about how they do this when they did the same thing for Mercato in closing that frontage road just to the west and flipping land and bringing a road, realigning a road so that the existing road that was close to the entrance ramp on K-10 would be moved away. KDOT developed a policy then. The same policy would apply here. KDOT looks at relocation and a swap, where you replace the road that is ill-placed now, and

becomes better placed, which they like, so they're willing to enter into those discussions to swap a portion of what they have now for that road that's inconvenient and unsafe, to move it further south where there'd be a signal. Same thing, again, this policy developed when Mercato came and said that they wanted to do that. This is very similar. We've been in discussions with KDOT for the last couple of years about this. There really isn't anybody else that they could sell it to or swap it with.

Mayor Amyx:

Thank you. Any other questions? Matthew?

Commissioner Herbert:

Mayor, this, believe it or not, might actually be a question for you, but I'm going to aim it at the planning services. You've been around for a little while and you might be able to answer this. I didn't move to this community until 1994 and so I can't answer this question. A lot of speakers tonight, one attorney in particular, made reference to this being very similar to the 1987 cornfield mall issue, in fact, same parcel of land. In 1987, where was our cutoff on South Iowa Street? Where did retail cease when the cornfield mall was rejected? Do you have any ballpark idea?

Scott McCullough:  
Planning & Development  
Services Director

We'd have to look back at some aerials to tell, but several things have changed, including policies and two planning documents and some of the policy systems have changed.

Mayor Amyx:

At that time we were already having discussions of the South Lawrence Trafficway. As we look at that and we were a ways away, obviously, but we were looking at that as a barrier, I think. I don't think that we ever anticipated going down into the Wakarusa River Valley. A lot of the discussions that we had really involved, I think, a lot of the floodplain and stuff, along with the things about competing with other areas of town, specifically the effect it was going to have on downtown. I would have to say, as you look at it, it was probably just to the north side of the current SLT and the bridge that's there. That was still quite a bit farther north. You got to remember, you got a skating rink and everything else.

Commissioner Herbert:

I was trying to piece it together and I can remember. What was it, 84 Lumber out there somewhere?

Mayor Amyx:

Payless Cashways and stuff was in there, yeah. 84 Lumber was at 31st behind the KLWN at the time.

Scott McCullough:  
Planning & Development  
Services Director

One thing to consider is that the Wastewater Treatment Plant will open up, we predict, in the coming couple of decades probably, development south of the Wakarusa. We see K-10 area, whether it is this property or north of K-10, is a terminus. Definitely the Wakarusa River is a terminus, the floodplain is

wide there, and then we pick development back up on the south side of Wakarusa. One of the items on our work plan is to do a sector plan for that area eventually.

Mayor Amyx:

See, Scott, that's where I'm going to head here real quick is that one of the things that made me realize this may be the single biggest issue that comes, especially before this Commission, but actually it may have come before this community that it's always been considered that commercial is going to stop on the north side of the SLT. I think our Comprehensive Plan says it. We're being asked to change the Comprehensive Plan and really take that language out, the natural, the barrier, the physical barrier of the SLT, take care of that language. I've got to know the Comprehensive Plan a little bit over the last couple of years, as I've sat on the committee that is looking at making changes and recommendations, as a co-chair with Nancy Thellman from the County Commission. One of the things that, as I went back through a bunch of my notes over the weekend, are I did not see any discussion by our committee talking about the removal or jumping the SLT. I didn't see it.

Scott McCullough:  
Planning & Development  
Services Director

That's a fair statement that we didn't have that discussion, but the current-

Mayor Amyx:

Excuse me, then. That being said, we're recommending a 16-inch waterline to burrow through the SLT, underneath the roadway, and through that right-of-way, so that we can take it as, I think Jeff said, or one of the utility department folks that was here said, that we're going to take it to 1100 Road. We are no more ready to develop to 1100 Road than the man on the moon. If we jump the SLT, if we jump the SLT, I guarantee you, the property to the west, you may as well recommend it for CR right now. We may as well do that, because it would be hard to deny. I understand it's for sale today. The same logic and the same recommendation that we have right now on this piece of property, you can recommend it across the road. Once you take the waterline across, underneath the river, the thing that happens is, and you're right, we'd put the water or the sewer treatment plant to the east there, we can hook on somewhere I'm sure, that'll open up that entire area for development. That one picture, the one picture that was up there, what was there, 400+ acres in that area, in four or five different quadrants of property? Once you get to 458, I guarantee you, 458 Road, County Road 458 going back to the west, that's going to be a major intersection, and we've yet to plan for that. I think that one of the things that happens is, as we make the kind of decision that we're being asked to make, it seemed to me that before you do that, you better have those plans in place, because we're talking about investing in this. I think one of the

comments was from utility department, we're going to rely on our current policy where we're going to help pay for that waterline to be expanded. I think we need to be very careful. As somebody who is a member of this Commission, when I went through deposition, I got sued as a Commissioner because I did what I think was right. I will continue to do what I think is right with any piece of property, after I take all the comment, the recommendation from my professional staff, public comment, everyone involved, and I'll make that decision. One of the things that happened here is that we had a plan in place, we had our planning in place as we looked at that. I believe today we don't have that, because we're jumping the SLT and we're not ready to do that.

Scott McCullough:  
Planning & Development  
Services Director

One of the options, Mayor, that the Commission has in this situation, in my opinion, because the sector plan does identify land use for this area, this is the terminus of the revised Southern Sector Plan, is if you want to initiate an amendment to that, that certainly is an option, and then we study whether or not what land use is appropriate for this area. It's designated auto-related today. The proposal is for shifting that to conventional commercial. I think that's an option as well. That's if you don't favor this proposal and you don't favor the current designation in the sector plan, then my advice, my recommendation would be to open up that sector plan, let's take another look at it.

Mayor Amyx:

All I'm suggesting is that if a majority of this commission thinks it's time, I've always operated under city policy that says that our Comprehensive Plan was telling us what we were going to be doing here and that that barrier that the SLT was going to be the end of the commercial as I see it, is that we were not going to favor other areas. We'd done the planning, whether we'd look, the South Iowa Street Corridor and the zonings that we've done there, and the assistance that we've done there in making sure that it's a major part of our community. As we look at development, 6th and K-10, the Mercato property in that entire intersection there, as we look at areas on East 23rd Street, areas that we have there, and then we also have our strong downtown, has been suggested, I think that we've done very good planning and we've stood behind our Comprehensive Plan. My suggestion is, I understand, Commissions change, Commission members should change, ideas change. Hell, I watched the election like everybody else this last spring and I got to see a lot of change. Maybe my thinking is, I wouldn't say I was a dinosaur, but I'm getting pretty doggone close, I think, but if I'm wrong, what I'm saying is, and a majority of this Commission wants to do this, then let's do it right. Let's go through the planning process as it should go through, and make sure that we do it correctly, because here again, we are changing the policy that we've always had in the past and said

... If we do this, it is a huge change for our community, and it's one that I don't believe we have the plans, the planning done now to be able to accommodate everything that's about to happen, because I don't think that we can control or deny any of the other properties that are to the west and to the south.

Commissioner Larsen:

And east.

Mayor Amyx:

And east. Don't know my directions this time of night.

Commissioner Larsen:

I think that this is just too big of a departure from our Comp Plan for me to move forward with it, just on a Comp Plan part. I think we need to send it back and get community input on what want to do with that area south of K-10.

Vice Mayor Soden:

I'm not comfortable with the CR zoning category either. Like one of the people said, that's carte blanche to just about anything that you want to put there. As he said, if you approve that, then you're going to have a tough time denying to the east, the west, and to the south. Jumping the river or not jumping the river, I'm just not comfortable with that. I also agree with your points about we need to have our planning in place. I'd like to also put a plug in for this is why we really need strategic planning. It really needs to be important. We have a set amount of resources with money and with people at City Hall and we choose where to put those resources at. If we want to put those resources into planning south of SLT, then we should decide to do that. That's what we would be deciding here today, I guess, if we approved it, but I'm not ready to approve that kind of commitment for our resources. We need to focus on our current city goals that we have now, that we created, and focus a little more on strategic planning, as in our City Commission goals, not just planning and development.

Commissioner Boley:

I appreciate all those comments. One of the first people to talk this evening, I think, was Bonnie Johnson. She said her number one reason was, we have a plan in place. If we're going to change the plan, let's do it intentionally.

Commissioner Herbert:

One of the things I think we need to keep in mind with all of this, whether we go back to the drawing board, whether we reject, whether we accept, we need to remember what specifically we're in the business of doing as a City Commission. What I mean by that is, we heard from a lot of individuals tonight that were attorneys, we heard from a lot of individuals that were members of the community, we heard from a lot of people, and that's wonderful. We've done a lot of talking about how are we going to fill those chairs, and by god, I think we managed to do it. One of the questions we have to answer at the end of the day is, what is the business that we are in as five Commissioners? I think when you look at that,

one of the things that we have to make sure we're doing is we have to make sure that we're creating a level playing field. One of the things that we have to make sure we're doing is that we're honoring our tax base, not just the tax base that exists, but the tax base that wants to exist. Dan Watkins stood up and he talked about how, and I'm going to screw up your numbers, so I apologize, but World War Two, we had 15,000 people, we've grown 10,000 people every 10 years or something to that effect. It caught my curiosity and so I pulled up the U.S. Census numbers real fast. Here's what I found, that projected population of Lawrence in 1987, this was when the cornfield mall was rejected, same piece of land, 1987 population of Lawrence, Kansas was 61,000 people. You look at the 2015 Census population of Lawrence, Kansas, you're at 93,000 people. That's a mathematical difference of 33 and two thirds percent. Effectively, the Lawrence that we look at today compared just to the Lawrence we looked at in 1987 when you were made to give a deposition and you were sued for your comments, we're a third different. You look at the Commission that sits before you today and I think about just the five Commissioners here, Vice Mayor Soden, not a member of Lawrence in 1987, I was not a member of Lawrence in 1987, Mike, you were here, and I know you were. The point is this, that we can look at the reasons we reject in 1987 and we can try to put that onto the reasons to reject in 2015, but that's not something I'm willing to do, because whether we like it or not, the Lawrence that we're looking at in 2015 is not the Lawrence of 1987. I'm not telling you not to reject. What I'm telling you is, reject for 2015 reasons, don't reject for 1987 reasons, don't reject for 1990 reasons. Dave Corliss, before he left, I didn't serve with Dave Corliss for very long. He and I had very few conversations, in fact, as an elected official, but the one that he had with me that stuck with me was, he and I got to talking about the SLT and he was joking that being a younger person, that this had probably been going on my entire life, the building of this one piece of road, and he wasn't that far off. He said a couple words to me that have stuck with me. He said, "You have to realize that communities grow based upon transportation destiny." I've thought about those two words for the better part of seven months now. What does he mean by transportation destiny? What he meant by that was, in this world, in this city, in this country, whatever you want to say, where we can get people is where people are going to go. For better or for worse, and I know that there's not a single person sitting up here that voted in favor it, yourself included, for better or for worse, Rock Chalk Park was built. Rock Chalk Park was built and it was said that the only way that this is going to be successful is if we create things around it, circumstances around it to make it successful. We know that Rock Chalk Park will bring in tons of people. Now what do we do with those people when they're here? If you've ever had children that

compete in sports, you know that when you go to these tournaments, it's not an hour or two commitment of your time. You're committing your weekend. When we get somebody at Rock Chalk Park for a basketball tournament or a gymnastics tournament or whatever the case might be, it makes no difference to that mom or dad whether they drive to Topeka, Kansas City, or Lawrence, because they've got a lot of time. What we have to do in a community, now that we've made that decision, for better or for worse, to build a facility like that, is we have to create that transportation destiny. We've got the roadway going through. We now have to give people reason to do something with that roadway. I thought the Mercato development was great when it first started. It's been going on for a very long time, but when it really takes hold two years ago, we've got the opportunity to have massive development on 6th and Wakarusa that people can easily go to, if they're at Rock Chalk Park, if they're on the west side of town, wherever it might be. The one thing I also know is that we can project upon our community what we want our community to look like. We want a community where people can do everything that they could ever possibly imagine downtown, but we don't live in that community. No matter how much we project that being the community we want, that's not the community we live in. The community we live in is a community where we've gone to the point where downtown, the retail numbers have dropped off and retail has moved to South Iowa. Retailers know where to build retail, because that's what they do for a living. We've got the Mercato development and we need Mercato to be successful, but we don't have any retail going in there. We can sit and we can wait for that to be successful, or we can allow retail to build where it's told us it wants to build and we can enable things like Rock Chalk Park to create that transportation destiny that brings money to town. I get back to the first question I asked you guys, what is the business we're in? We're not in the business of picking winners and losers. We're in the business of job creation, tax-based growth. Our City Manager gave us a report this evening where she demonstrated sales tax revenue generation as below our midyear estimates. We have before us an opportunity to grow sales tax base without the sacrifice of any financial incentives, which based upon the election results, I think is appealing to some of us. I want to protect downtown the same as anybody. My wife makes the bulk of her income downtown. If downtown dies, my family income dies. It matters to me, but the reality of the situation is, where the retailers want to go is where retail is going to go. We can chase them out of Lawrence and pound our chests that we've been victorious, or we can bring them here and take advantage of the sales tax revenue that they can bring. At the end of the day, like anything in life, you can look at it from an outlier perspective. There's going to be unintended consequences. Some of them are going to be good, some of

them are going to be bad. If we focus only on the bad, the project is horrible. If we focus only on the good, the project is a false goldmine. If we meet in the middle and we actually look at the project, when we look at these retail sale generation numbers and we talk about a million, two million a year, and we think about the fact that we tried as Commissioners, because what's our business? It's public safety and it's infrastructure. We try to build a police station and we're told we can't build a police station because we don't have \$2,000,000 in sales tax revenue, so we take it to the voters and we say, "We need you to give us that money, because we can't get it with sales taxes," and they tell us no, so now we're back at the drawing board, where in the heck do we get this money? Then I have a group come to us and say, "We want to develop in Lawrence. We want to be here, we want to be part of the community here, the people we want to bring to the community, and by the way, we can generate that tax revenue that you can't find anywhere else," that we haven't been successful in finding anywhere else. That's pretty appealing to me. I can count noses as good as anybody up here. I understand that I'm speaking from the minority. I just want to make sure that those thoughts get heard, because it's what I'm thinking, and based upon the hundred emails that we've received, it's what a lot of other people are thinking too.

Mayor Amyx:

Matt, I appreciate your comments. One of the things that I will tell you about as I look at my job too, it has to be a lot about planning also and planning for what that future is going to look like. Planning takes on a lot more than just maybe a development coming forward and saying that we're not going to be asking for any incentives of those kinds of things and it's a natural fit, on and on and on. We have the final decision as to, is it going to go now or is it going to go later. Those are the questions. That's part of the job that we have to take into consideration here. I appreciate your comments. Thank you.

Commissioner Herbert:

Thanks.

Vice Mayor Soden:

I've got a few more reasons that I didn't go into when I got off on my strategic planning tangent.

Mayor Amyx:

Go right ahead.

Vice Mayor Soden:

One of the things that when I spoke to the developers, who are very nice people, is that I made sure to tell them that one of the things that impressed me was that when the project was denied the first time, that Pet Smart was one of the retailers that wanted to go in, and they still chose to go into Lawrence, and instead, it spurred the development of the old Sears building. I think that is something really important we need to keep in mind. I feel like that South Iowa now has this new energy in

redeveloping, which I think is really, really good, and I think we need to keep that in mind before we consider expanding the footprint of that CR commercial development. I'm not ready to jump K-10 either. I already said that I'm not comfortable with the scale of CR zoning. I wanted to bring up in the Horizon 2020 Action Report that you guys came up with a few months ago, the report talked about emphasizing neighborhood commercial. It wasn't about regional commercial, it was emphasizing more neighborhoods commercial, and so I think that's where we need to focus on. I have some real serious concerns with not just jumping the SLT, but also encouraging development and encroachment of the floodplain and the watershed as well. Those are my other reasons.

Mayor Amyx:

Anything else? Then the items before us ... Where did Scott go? The items that you have before us are the approval of the Comprehensive Plan amendment and consider adoption of ordinance number 9151, and the rezoning, which is ordinance number 9152, and then last is the ordinance number 9153. Is there anything else that we need to discuss? Is there anything from legal staff that we need to talk about tonight before we make a decision?

Scott McCullough:  
Planning & Development  
Services Director

Give Randy chance to comment to that good question there. These are options, again, four votes to overturn the planning commission recommendation, three to affirm, or three to return it with specific questions.

Randy Larkin:  
Senior City Attorney

I would concur in that legal staff would ask for the Commission to direct us to prepare findings of fact and bring back to you in two weeks for your review and approval, in case there is future litigation or other action after this.

Mayor Amyx:

Will those findings of fact be based on the comments that we have made this evening?

Randy Larkin:  
Senior City Attorney

It would be based on comments Commissioners have made, the evidence that was presented tonight, and you would have an opportunity to review that to make sure that it captures what you want it to say.

Mayor Amyx:

Again, are we supposed to take the action?

Scott McCullough:  
Planning & Development  
Services Director

Yes, you're supposed to take the action, and within that action, direct City Attorney's office. If the action is to overturn the planning commission ...

Randy Larkin:  
Senior City Attorney

Either way ...

Scott McCullough:

Either way?

Planning & Development  
Services Director

Randy Larkin:  
Senior City Attorney

Randy: We would want to prepare findings either way.

Scott McCullough:  
Planning & Development  
Services Director

Take your action, we'll prepare findings for your review, for a final action later.

Mayor Amyx:

Then the first item that we have before us then is ordinance number 9151, which is the Comprehensive Plan amendment to Horizon 2020 Chapter 6 and Chapter 14. I would entertain a motion one way or another on that particular ordinance, and also to direct staff to prepare those findings of fact based on the comments and the evidence that was presented here this evening. I entertain a motion for approval or denial of ordinance number 9151. I would make a motion that we deny ordinance number 9151 and that we direct staff to prepare findings of fact based on the evidence and our comments here this evening.

**Moved by Commissioner Amyx, seconded by Commissioner Larsen,** to deny Comprehensive Plan Amendment to Horizon 2020 Chapter 6 and Chapter 14, and to not adopt Ordinance No. 9151, and direct City staff to prepare findings of fact based on the evidence and comments presented to the Commission. Aye: Mayor Amyx, Vice Mayor Soden, Commissioner Larsen and Commissioner Boley. Nay: Commissioner Herbert. Motion carried

**Moved by Commissioner Amyx, seconded by Vice Mayor Soden,** to deny rezoning 59.798 acres from RS10 to CR, at the southeast corner of SLT and US-59, and to not adopt Ordinance No. 9152, and direct City staff to prepare findings of fact based on the evidence and comments presented to the Commission. Aye: Mayor Amyx, Vice Mayor Soden, Commissioner Larsen and Commissioner Boley. Nay: Commissioner Herbert. Motion carried

**Moved by Commissioner Amyx, seconded by Commissioner Boley,** to deny rezoning 6.706 acres from RS10 to OS, at the southeast corner of SLT and US-59, and to not adopt Ordinance No. 9153, to rezone (Z-15-00328) 6.706 acres from RS10 to OS, located at the southwest corner of SLT and US-59. (PC Item 2B; approved 7-1 on 8/24/15) Aye: Mayor Amyx, Vice Mayor Soden, Commissioner Larsen and Commissioner Boley. Nay: Commissioner Herbert. Motion carried.

4. **Consider motion to recess into executive session for approximately 40 minutes. Twenty minutes will be for the purpose of consultation with attorneys for the City deemed privileged in the attorney client relationship and 20 minutes will be for the purpose of discussing non-elected personnel matters. The justification for the executive session is to keep attorney client matters and non-elected personnel matters confidential at this time. The City Commission will resume its regular meeting in the City Commission Room at the conclusion of the executive session.**

**Moved by Commissioner Boley, seconded by Vice Mayor Soden,** to recess into executive session for approximately 40 minutes. Twenty minutes will be for the purpose of consultation with attorneys for the City deemed privileged in the attorney client relationship and 20 minutes will be for the purpose of discussing non-elected personnel matters. The justification for the executive session is to keep attorney client matters and non-elected personnel matters confidential at this time. The City Commission will resume its regular meeting in the City Commission Room at the conclusion of the executive session. Motion passed unanimously.

**Moved by Commissioner Boley, seconded by Vice Mayor Soden,** to extend the executive session by 10 minutes. Aye: Mayor Amyx, Commissioner Boley, Vice Mayor Soden, Abstain: Commissioner Herbert and Commissioner Larsen. Motion carried.

**F. FUTURE AGENDA ITEMS:**

Diane Stoddard, Interim City Manager, outlined potential future agenda items.

**G: COMMISSION ITEMS:**

Commissioner Boley: I've got one on the utilities work on Ousdahl Street, 21st. The meeting that we had in the neighborhood with the utilities guys, they said that they'd have that sidewalk open, and they'd had to close it at 21st, and so I'd like to ask the utilities folks to call the folks or email them that were at the meeting and just let them know what's going on, and maybe also be in touch with the school.

Diane Stoddard:  
Interim City Manager: We'll definitely do that, Commissioner. It's a very short-term situation, as we found out today, but we had some unexpected issues with the main that we discovered in the field, and so we've had to temporarily close it. We put in flowable fill and we'll be getting some kind of plate over to make the sidewalk usable by tomorrow, and then we'll eventually come back with concrete and fix it entirely. It was disruptive for today. Fortunately, school was out today too, but things will be back in swing tomorrow. We'll definitely get the word out.

Commissioner Boley: Thank you.

Mayor Amyx: Thanks. Thanks, Stuart. Any other Commission items?  
(None)

**H: CALENDAR:**

Diane Stoddard, Interim City Manager, reviewed calendar items

**I: CURRENT VACANCIES – BOARDS/COMMISSIONS:**

Existing and upcoming vacancies on City of Lawrence Boards and Commissions were listed on the agenda.

**Moved by Vice Mayor Soden, seconded by Commissioner Larsen,** to adjourn at 10:50 p.m. Motion carried unanimously.

**MINUTES APPROVED BY THE CITY COMMISSION ON FEBRUARY 16, 2016.**

  
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Brandon McGuire, Acting City Clerk