



PLANNING COMMISSION MEETING
August 23, 2017
Meeting Action Summary

August 23, 2017 – 6:30 p.m.

Commissioners present: Butler, Carpenter, Culver, Kelly, Paden, Sands, Sinclair, Struckhoff, Weaver, Willey

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

GENERAL BUSINESS

PLANNING COMMISSION ACTION SUMMARY MINUTES

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of July 26, 2017.

Motioned by Commissioner Sands, seconded by Commissioner Culver, to approve the July 26, 2017 Planning Commission action summary minutes.

Motion carried 7-0-3, with Commissioners Butler, Kelly, and Paden abstaining.

COMMITTEE REPORTS

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

Commissioner Culver said the Metropolitan Planning Organization (MPO) received an update from staff on Transportation 2040. He said they finished up the public engagement phase I and staff was getting feedback from the committee. He said the committee would meet again in August and discuss financial aspects of the plan. He said staff and consultants continue to work on the Lawrence Loop and missing sections. He said staff and the consultants were also working on the transit center analysis. He said the MPO was working on a safety analysis for safety hotspots for all modes of transportation.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Struckhoff said he spoke with one neighbor regarding Misc 1. expressing concern about the density of the project. He said he also spoke with the applicant regarding Item 2 and her wishes.
- No abstentions.

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ITEM NO. 1 CONDITIONAL USE PERMIT FOR RICHARDSON JUMPSTARTERS; 2138 N 1000 RD (MKM)

CUP-17-00316: Consider a Conditional Use Permit for *Small Scale Industrial Uses*, Richardson Jumpstarters, on approximately 94.8 acres located at 2138 N 1000 Rd. Submitted by Dwane F and Valerie Richardson Trustee, property owners of record. *Joint meeting with Eudora Planning Commission.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

No applicant present.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Sands asked if this was the same location as the cell tower that Planning Commission approved last month.

Ms. Miller said yes, and that County Commission approved it last week.

Commissioner Willey asked if the recommendations regarding acres and number of employees were fixed or a moving target.

Ms. Miller said it was a known number and would be included in the plan.

Commissioner Sinclair inquired about the 6.5 acres around the buildings.

Ms. Miller said the plan only included the 6.5 acres not the entire 94 acres.

Commissioner Kelly said he remembered when the text amendment came before the Planning Commission and they discussed making use of the industrial land available. He felt the Conditional Use Permit provided that middle step between large scale industrial and home business. He said they should encourage businesses to grow and stay in Lawrence.

ACTION TAKEN

Motioned by Commissioner Kelly, seconded by Commissioner Willey, to approve the Conditional Use Permit for a *Small Scale Industrial Use* subject to the following conditions:

1. The CUP shall be administratively reviewed every 5 years by the Douglas County Zoning and Codes Department.
2. Provision of a revised CUP plan with the following changes:
 - a. Addition of the following notes:
 - i. *"If any new exterior lighting is proposed, a lighting plan shall be submitted to the Planning Office for review and approval prior to installation."*

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- ii. *"Up to 10,000 sq ft of building is permitted. Additional building area will require approval of the Board of County Commissioners."*
- iii. *"Business may employ up to 15 full-time equivalent non-resident employees, as defined in Section 12-303-1.65. Parking is required at the rate of one space per two employees."*
- iv. *"All business activity shall be conducted within the structure with no outdoor storage of materials or product."*
- v. *"Parking spaces for all employees and loading areas must be provided on the site. No Loading activity or parking is to occur on the adjacent roadway."*
- vi. *"No shift work/24 hour a day businesses permitted. Business shall operate with defined working hours."*
- vii. *"The use does not require Federal air quality discharge permits."*
- viii. *"The addition of a restroom to any of the buildings may require installation of an additional septic system. The Health Department shall be contacted with any building permit application for a restroom."*
- b. Note the current number of employees.
- c. Show the parking area boundaries, with dimensions.
- d. Identify the approximate number of acres to be used for the CUP.

Unanimously approved 10-0.

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ITEM NO. 2 REZONING FROM RS5 TO MU; 401 ELM ST (BJP)

Z-17-00322: Consider a request to rezone approximately 2500 sq ft from RS5 (Single-Dwelling Residential) District to MU (Mixed Use) District, located at 401 Elm St. Submitted by Margretta O. Farrar-de Vries, property owner of record.

STAFF PRESENTATION

Ms. Becky Pepper presented the item.

APPLICANT PRESENTATION

Ms. Margretta Farrer-de Vries provided a PowerPoint presentation with historic photos, current photos, and additional information about the property.

PUBLIC HEARING

Ms. Pricilla Howe, 415 Elm, said she was never bothered by the activities at the property and was in support of the text amendment.

Mr. Ted Boyle, North Lawrence Improvement Association, said neighbors had never complained about noise or traffic from the property. He would like to see the building kept in original use with one residential upstairs and small business space in the front downstairs with a workshop for artists in the back. He was in favor of the text amendment.

Mr. Mike Rundle said he was in the process of buying property to the east of this location. He was in support of the rezoning.

APPLICANT CLOSING COMMENTS

Ms. de Vries said she appreciated the neighborhood support.

COMMISSION DISCUSSION

Commissioner Kelly asked if the site could be a makerspace.

Mr. McCullough said the City had site planned a few makerspaces. He said makerspace was the assembly of people for education and training versus straight production of products. He said one of the challenges was the text amendment would be built for the entire city not just one property. He said a Special Use Permit for some of the non-residential uses would have to be a declared use at that time. He said it would require a complete review of the Code, not just these uses.

Commissioner Willey said the comparison of the East Lawrence rezonings was appropriate since current uses were looked at. She felt it was an important process as a community in looking at how the Code suits or does not suit the community. She thought this was a great property.

ACTION TAKEN

Motioned by Commissioner Willey, seconded by Commissioner Weaver, to defer the rezoning.

Commissioner Carpenter said this was different then the East Lawrence rezonings because the use did not exist in the Code. He said they were asking staff to take into account something citywide. He felt it would be tricky to come up with something that did what they wanted to see without opening a can of worms.

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Mr. McCullough said the Special Use Permit process gave protection to the neighborhoods. He said it would not be a permitted use by right. He said the MU District was pretty restrictive and there may be ways to fit into neighborhoods. He said it was worth talking about and bringing draft language to the Commission.

Commissioner Culver asked if there were applications with these types of uses that were denied because they weren't allowed in the MU District.

Mr. McCullough said there were only about 4-5 properties with MU zoning and staff had not run into this Code standard yet.

Commissioner Kelly said Special Use Permits were a great way to solve problems but they were tricky because some of the potential problems, such as sights, smells, sounds, were outside of their scope. He felt makerspace may be an option.

Motion carried 10-0.

Motioned by Commissioner Carter, seconded by Commissioner Sands, to initiate a text amendment to the City of Lawrence Land Development Code, Article 11, to permit non-residential uses in the Tertiary Zone of the MU District.

Motion carried 10-0.

PC Minutes 8/23/17 MISCELLANEOUS NEW OR OLD BUSINESS
Consideration of any other business to come before the Commission.

MISC NO. 1 CERTIFICATE OF SURVEY VARIANCE; 976 N 1050 RD AND 902 N 1000 RD (BJP)

CSU-17-00314: Consider a variance request to reduce the minimum frontage and entrance spacing requirements established in the County's Access Management Standards of the property and to permit a second access drive, located at 976 N 1050 Rd and 902 N 1000 Rd. Submitted by Grob Engineering Services, LLC, for Luke and Sheri Oehlert and Andrew J. and Mary F. Flory, property owners of record.

STAFF PRESENTATION

Ms. Becky Pepper presented the item.

APPLICANT PRESENTATION

Mr. Dean Grob, Grob Engineering Services, said he tried to address neighborhood concerns, such as buffering and drainage easements. He said the notification letter was verbatim per Code and he apologized if it came off as being harsh to the neighbors. He said the closest neighbor to the proposed development would be about 400'.

PUBLIC HEARING

Mr. Phillip Struble said a significant amount of the proposed property would abut his. He said the Subdivision Regulations state that residential development parcels are eligible for a Certificate of Survey approval only one time within the urban growth areas. He said the area they were looking at already had two plats of survey recorded and that the platted survey allowed him to buy his property. He said the existing platted survey had become an important tool. He said he knew there was the ability for five houses to be built north and one house built to the west. He said this proposal doubles that. He said he did not understand how an administrative approval process could require a variance request and that it seemed like variances would be a red flag. He stated there were codes and regulations for a reason. He said Planning Commission's involvement was to just barely get involved and he felt that was a problem. He did not feel the project had an unnecessary hardship because the developer created the circumstance.

Mr. Hank Willems said he had always complied with regulations and developers should too. He was opposed to the variance. He expressed concern about increased traffic and wear on the roads.

Mr. Pat Beard, 902 N 1050 Rd, felt that cluster development did not fit the character of the area. He said that 1050 Road was poorly maintained and had deep ruts and could not support the increased traffic. He felt the process could have been handled better and wished the developer had made more of an effort to reach out to neighbors.

Mr. Kelly Bradford, 920 N 1050 Rd, opposed the cluster development and variances. He felt the number of houses went against the existing character of the neighborhood.

Ms. Joelle Holt encouraged Planning Commission to decline the variances. She felt rules were put into effect for a reason and they should be kept. She stated the entire development was out of line with the character of the neighborhood.

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Mr. Dean Dunlap provided a slideshow on the overhead that was included in packet. He discussed concerns regarding entrance and egress, sight line safety for school buses, and drainage.

Mr. Robert Hickerson objected to the variance. He said this type of development would negatively affect the quality of life he invested in. He said he did not object to development but wanted the character and quality of the neighborhood to be considered. He said the road was not safe for more traffic and that it needed to be blacktop.

Mr. Russ McDonald, 1053 E 900 Rd, asked that the variances be denied. He said the development did not fit the character of the surrounding area. He said 1050 Road could not handle more traffic. He said drainage was also an issue.

Ms. Judith Emde, 1055 E 900 Rd, felt the development would place an additional burden on the poorly maintained road. She stated the development did not fit the character of the neighborhood.

Mr. David McPherson, 1070 E 850 Rd, said the road could not handle more traffic. He felt larger tracts would fit better and that five houses versus ten would be better suited for the area.

Mr. Carlos Castillo, 1069 E 850 Rd, said he had to follow the rules and buy a larger piece of property than he wanted. He felt the developer should follow the same rules. He said this was simply two homeowners who joined forces to make money. He did not believe the road could handle five driveways but would at least comply with the rules. He opposed the variances and felt the applicant needed to play by the rules.

Mr. Jim McDonald opposed the variances. He said it didn't seem right that the applicant could double the development. He asked Planning Commission not to approve the variances.

APPLICANT CLOSING COMMENTS

Mr. Grob said the township needed to be called upon to maintain the road. He said the letter notification for ¼ mile included 22 different landowners. He said if Mr. Flory's property wasn't involved the regulations would still allow the cluster development to the north without any variances. He said the hardship was the existing property not having frontage. He felt it was a good design.

COMMISSION DISCUSSION

Commissioner Sands asked staff about the one time certificate of survey for this land.

Mr. McCullough said Certificate of Survey was a defined term in the Subdivision Regulations. He said there were plats of survey recorded at the County but they haven't been Certificates of Survey which are methods of dividing land. He said only one Certificate of Survey was allowed and this would be it for this land. He said County Council agreed with staff's interpretation.

Commissioner Sinclair asked if that was an issue for Planning Commission to look at.

Mr. McCullough said no, Planning Commission was not judging the legal issue raised by Mr. Struble. He said staff was bringing forward an interpretation of a legal application.

Commissioner Kelly said it was important to focus on the three criteria in the staff memo. He said he struggled with the hardship created since the Certificate of Survey was still pending. He said without the Certificate of Survey there wouldn't be a variance request.

Commissioner Sinclair said they needed to focus on the three factors and analyze them assuming the Certificate of Survey would be approved.

Mr. McCullough said the City processes allow for variances on different levels. Planning Commission sees certain variances associated with platting and land divisions in the county. The Board of Zoning Appeals sees other types of variances related to property standards. He stated the house and driveway exist today but was only out of compliance with the Certificate of Survey but the same standard is applied. He said any variance had a project associated with it so they should look at it in the eyes of that project.

Commissioner Sands asked if the intent was to ask for a variance for more than one access point.

Mr. McCullough said if the variance was denied then one opportunity was to put the driveway from the house up to the north on the proposed access road. He said instead of 10 homes to that road there would be 11 and would not take any variances. He stated Certificates of Survey were administrative and approved if they met the Code.

Commissioner Carpenter asked if the proposed development was only possible with some sort of variance.

Commissioner Pepper said yes, as proposed, but it could be revised.

Mr. McCullough said they may have to drop one of the houses.

Commissioner Carpenter wondered if this was a hardship created by the Code or by the proposed development. He said currently the developer could build five homes on the north side but was requesting to double that number. He struggled with that since it wasn't a pre-existing hardship.

Mr. McCullough said if the proposal was for four homes to the north there would still be a variance issue because it was for two access points on the Certificate of Survey. He said the issue had to do with two access points, one at the existing house and one serving new units. He said when looking at hardship or self-created variances, if there were no house and they wanted to create an RDP to the south and put in a driveway then that would be, from staff's perspective, a self-created hardship. He said an existing condition was that it had been in that form for a while.

Commissioner Carpenter asked if these were two different properties.

Mr. McCullough said it was two properties that would be combined. He said combining them allowed use of the acreage on the south property.

Commissioner Kelly said he would be more compelled by the argument that there needed to be two entrances if the drive went from 1050 Road all the way to 2000 Road. He said this seemed like an opportunity to use the variance process to get more land for a few more houses but still function as two separate lots. He did think that was in the spirit of why a variance would be granted.

Commissioner Willey said the hardship of the variance was the two lots but it didn't necessarily need to be that way.

Commissioner Sands said the variance was not just shared access, it was also for frontage. He asked if the two variances should be taken together.

Mr. McCullough said they were two separate variances and that if the access variance was not granted then they would not need the frontage variance.

Commissioner Willey said by denying the variance another driveway could be put on the road. She said they could potentially be making it worse by denying the variance.

Commissioner Kelly felt the intended purpose of the regulations were not being used.

Commissioner Sands said it was undeniable the developer was trying to maximize properties on the land. He said it was a conflict of the wants and desires of the neighborhood versus the wants and desires of individual property owners.

Commissioner Struckhoff inquired about the orientation of the five lots that could be there today.

Mr. Chad Voigt, Douglas County Public Works, showed the five "piano key" shaped lots on the overhead. He said as it sits now there would be one shared driveway, not five driveways.

Mr. Grob showed on the overhead the concept plan of what could happen if the variances weren't approved. He said the applicant would still proceed with the Certificate of Survey but shorten the cul-de-sac with only eight lots.

Commissioner Culver said he had a difficult time looking at variances requested to increase density in an area where it was rural by nature. He said he could probably live with what Mr. Grob described because it fit the regulations. He stated that N 1050 Road appeared to have maintenance issues that needed to be addressed with the township. He stated the area was going to develop and grow in some form or fashion and safety concerns of the road needed to be met.

ACTION TAKEN

Motioned by Commissioner Kelly, seconded by Commissioner Butler, to deny the variance for access.

Commissioner Sands thanked the neighbors who came to the meeting.

Commissioner Struckhoff echoed Commissioner Culver's comments about the purpose of the variance. He did not feel the hardship was sufficient to approve the variance request. He said the road condition at the top of the hill was dangerous in its current state. He felt it was a self-inflicted hardship.

Commissioner Sinclair said he was hung up on the unnecessary hardship and felt there were viable alternatives that do not constitute an unnecessary hardship.

Motion carried 10-0.

Motioned by Commissioner Kelly, seconded by Commissioner Butler, to deny the variance regarding road frontage.

Motion carried 10-0.

Mr. McCullough said the topic for their September Mid-Month meeting would be the Draft Comprehensive Plan.

Mr. McCullough said that Commissioner Willey would host a social for Planning Commissioners on Friday, November 3rd. He said the Planning Commission orientation training would be on November 17 in the City Commission room.

Mr. McCullough said the Kansas State American Planning Association conference was in Salina in October.

ADJOURN 9:18pm