



PLANNING COMMISSION MEETING

March 25, 2013

Meeting Minutes

March 25, 2013 – 6:30 p.m.

Commissioners present: Blaser, Britton, Culver, Graham, Hird, Lamer, Liese, von Achen

Staff present: McCullough, Stogsdill, Day, Leininger, Warner, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of February 27, 2013.

Motioned by Commissioner Britton, seconded by Commissioner Culver, to approve the February 27, 2013 Planning Commission minutes.

Motion carried 5-0-3, with Commissioners Graham, Hird, and Lamer abstaining.

COMMITTEE REPORTS

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

Commissioner Liese said MPO met and approved T2040.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- No Abstentions.

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**ITEM NO. 1 PRELIMINARY PLAT FOR NORTH SYCAMORE SUBDIVISION; 827
WALNUT ST (SLD)**

PP-13-00021: Consider a Preliminary Plat for North Sycamore Subdivision, a 10-lot subdivision containing 2.4 acres and proposing detached residential lots, located at 827 Walnut Street. Submitted by Landplan Engineering, for KW Homes, LLC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

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

PUBLIC COMMENT

Mr. Ted Boyle, North Lawrence Improvement Association, said they were delighted about the project and that the issues they were concerned about had been addressed.

ACTION TAKEN

Motioned by Commissioner Blaser, seconded by Commissioner Hird, to approve the North Sycamore Addition Preliminary Plat, PP-13-00021, subject to the following condition:

Extend 5' sidewalk along Walnut Street to west property line.

Unanimously approved 8-0.

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ITEM NO. 2 UR TO CS; 1.81 ACRES; 2200 E 23RD ST (DDW)

Z-13-00038: Consider a request to rezone approximately 1.81 acres from UR (Urban Reserve) District to CS (Commercial Strip) District, located at 2200 E. 23rd Street. *Initiated by City Commission on 2/5/13.*

ITEM NO. 3 RS10 TO CS; 1.99 ACRES; 2206 E 23RD ST (DDW)

Z-13-00039: Consider a request to rezone approximately 1.99 acres from RS10 (Single-Dwelling Residential) District to CS (Commercial Strip) District, located at 2206 E. 23rd Street. *Initiated by City Commission on 2/5/13.*

STAFF PRESENTATION

Mr. Dan Warner presented items 2 and 3 together.

Commissioner Hird asked if the rezoning was consistent with what is in store for Farmland.

Mr. Warner said the Farmland plan did not have these properties that were already in the city as part of the future land use. He said it would be surrounded by manufacturing and employment uses and the CS district would support the employment uses.

PUBLIC HEARING

No public comment.

ACTION TAKEN on Item 2

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the rezoning request, Z-13-00038, for approximately 1.81 acres, from UR (Urban Reserve) District to CS (Commercial Strip) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Unanimously approved 8-0.

ACTION TAKEN on Item 3

Motioned by Commissioner von Achen, seconded by Commissioner Culver, to approve the rezoning request, Z-13-00039, for approximately 1.99 acres, from RS10 (Single-Dwelling Residential) District to CS (Commercial Strip) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Unanimously approved 8-0.

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ITEM NO. 4 CS TO RS5; .22 ACRES; 306 ELM ST (DDW)

Z-13-00061: Consider a request to rezone approximately .22 acres from CS (Commercial Strip) District to RS5 (Single-Dwelling Residential) District, located at 306 Elm Street. *Initiated by City Commission on 2/19/13.*

STAFF PRESENTATION

Mr. Dan Warner presented the item.

PUBLIC HEARING

Mr. Ted Boyle, North Lawrence Improvement Association, said the property was dilapidated and felt that changing the zoning to RS5 would be an asset to the community.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the rezoning request for approximately 9,750 square feet, from CS (Commercial Strip) District to RS5 (Single-Dwelling Residential) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Unanimously approved 8-0.

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ITEM NO. 5 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; PARKING LOT PERIMETER SCREENING (MJL)

TA-12-00207: Consider Text Amendments to the City of Lawrence Land Development Code, Chapter 20, Article 10, to change the parking lot perimeter screening standards. *Initiated by City Commission on 8/21/12. Deferred by Planning Commission on 2/27/13.*

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Hird asked if the net effect of the text amendment was to add the option of a continuous row of evergreen shrubs.

Ms. Leininger said yes.

Commissioner Hird asked if staff was satisfied that was a suitable option.

Ms. Leininger said yes.

Commissioner Culver inquired about removing fence from the landscaping options and what it would do to existing properties.

Mr. McCullough said the fence item was proposed new language.

Commissioner Liese said some of the least attractive photos showed dead plants.

Mr. McCullough said the plants may be dormant for the season. He said the text was meant to be an evergreen shrub. He said dead/damaged plants could be enforced by complaint or when a revision to a site plan is proposed.

Commissioner Liese asked if the plants at Central Middle School and Auto Exchange were not evergreens.

Mr. McCullough said some of the plants were in combination with a berm, wall, or fence. He said they would have to look at each case individually.

Commissioner Britton asked if the pictures with evergreen or other shrubbery were either in conjunction with a berm and voluntarily added by the property owner or may have been pursuant to waivers.

Mr. McCullough said it could have been under different codes, pursuant to waivers or variances. He said many times the property owner will go above and beyond the Code with landscaping.

Commissioner Britton asked if landscaping could be enforced with a complaint or with site plan revisions.

Mr. McCullough said that was correct.

ACTION TAKEN

Motioned by Commissioner von Achen, seconded by Commissioner Hird, to approve the proposed amendments, TA-12-00207, to the Land Development Code, Article 10 and forward to the City Commission for approval.

Commissioner Britton thanked staff for the additional information and pictures.

Unanimously approved 8-0.

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**ITEM NO. 6 TEXT AMENDMENT TO THE ZONING REGULATIONS; NANOBREWERY
(MKM)**

TA-13-00035: Consider a Text Amendment to Section 12-319-1 of the Zoning Regulations of the Unincorporated Territory of Douglas County to include Nanobrewery in the list of uses permitted with Conditional Uses and to establish any necessary standards for the use. *Initiated by Planning Commission on 1/30/13.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

Mr. Leslie Neil Hull, 1620 E 652 Road, said he initiated the text amendment and that a nanobrewery was basically a glorified home brewery. He said he currently grows his own hops and barley and that his neighbors are okay with it. He said he wanted to create a unique beer and educate people about the process of brewing.

COMMISSION DISCUSSION

Commissioner von Achen asked if a session was the same as a batch and how long it takes.

Mr. Hull said yes, about 4-5 hours.

Commissioner von Achen asked staff why this was not considered an agricultural use.

Ms. Miller said staff looked into whether it could be considered a value added ag business because it was already permitted with the CUP but this had a retail component that the value added ag businesses do not have. She also said it was much smaller in scope. She said the reason was because this was much smaller with a retail component.

Commissioner Hird asked why this would not be considered an agritourism use.

Ms. Miller said if the nanobrewery provided tours at the property it could be considered agritourism. She said the actual making of the beer was not agritourism. She said it was similar to a winery without tours. She said the county counselor said the state designation of agricultural use to a winery does not extend to a nanobrewery. She stated a winery would be able to produce wine as an agricultural use without a Conditional Use Permit but producing beer would need a Conditional Use Permit because it's not agriculturally exempt. She said people visiting and touring could be considered agritourism.

Commissioner Hird asked why it would be different than someone growing lavender and producing goods from the lavender on site.

Ms. Miller said growing lavender would be an agricultural activity. She said growing hops and barley would not need a Conditional Use Permit but when it's processed and other product are brought in it then would become a value added business.

Commissioner Hird asked if in order to qualify as an agritourism business it had to be agriculturally exempt.

Ms. Miller said the agritourism had to do with the tourism aspect and many tourism things were not allowed as agricultural uses but did fall under agritourism. She said if what was being done was not agricultural than a Conditional Use Permit would probably be needed.

Commissioner Hird asked if growing beans and canning them was not an agricultural activity.

Ms. Miller said it would be unless products were imported.

Commissioner Britton said with an agritourism use the underlying use did not necessarily have to be agricultural.

Ms. Miller said tours of the nanobrewery were included in the Conditional Use Permit and did not have to register as agritourism. She said if he wanted people to tour the barley and hop fields and wasn't producing anything in the nanobrewery it could be considered agritourism.

Commissioner Britton asked if the reason a Conditional Use Permit was necessary was because the actual conduct would not qualify as agricultural.

Ms. Miller said agritourism could be something such as having a picnic surrounded by agricultural. It did not need to be tied to the agricultural activity. She said the the nanobrewery itself was not an exempt agricultural activity by the State of Kansas.

Mr. McCullough said staff put this issue to the test of the Code and processes and this was the process that staff had to create to accommodate requests like this. He said with the definitions and intent of agritourism staff felt like they needed this process to accommodate it.

Commissioner Hird asked if anybody had determined whether the limitations imposed in the 16 conditions would allow someone to actually make 1250 barrels of beer a year.

Mr. Hull said he contacted several beverage distributors and if he actually met the 1250 barrel limit it would equal 54 pony kegs per month and a distributor could pick that up in a regular 18' liquor truck.

Commissioner Hird asked why there was a limit of 3 employees.

Ms. Miller said Type B Home Occupations in the Code allow 3 full-time employees. She said the value added business also allowed that many. She said when she did online research of nanobreweries most people thought 2 employees were adequate.

Commissioner Liese asked if Mr. Hull was comfortable with 3 employees.

Mr. Hull said he would prefer 4 employees but was satisfied with 3 employees.

Commissioner Hird felt that arbitrarily limiting the number of employees for a successful business was perplexing. He said limiting it to 3 full-time employees seemed like a standard the City was famous for as being less business friendly. He said he would prefer to see 4 employees to allow the greatest flexibility for someone starting a business.

Mr. McCullough said it was a proposed Text Amendment for County Commission consideration.

Mr. Hull said 4 employees would be better. He said he was comfortable with the other conditions.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to forward a recommendation for approval of TA-13-00035 to the Zoning Regulations for the unincorporated Territory of Douglas County to the Board of County Commissioners, with the modification that the nanobrewery may employ up to 4 full-time employees.

Unanimously approved 8-0.

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ITEM NO. 7 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; DEVELOPMENT PROJECTS REQUIRED TO COMPLY WITH H2020 (MJL)

TA-12-00206: Consider Text Amendments to the City of Lawrence Land Development Code, Chapter 20, various articles, to change the requirement that development projects be required to comply with *Horizon 2020*. *Initiated by City Commission on 8/21/12.*

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner von Achen inquired about what the options were.

Mr. McCullough said staff had not provided any language that would make the changes that Ms. Leininger noted in the different articles of the Development Code that would be needed. He said one option would be to direct staff to draft that specific language and bring it back for their consideration. He said another option would be to recommend that the item be denied and send it to the City Commission for final determination or further consideration. He said they could also direct staff to provide more information and defer it.

Commissioner Liese asked how it would change for staff and the community.

Mr. McCullough said it could be viewed as the teeth of the Comprehensive Plan. He said it would still need to be evaluated. He said not every community requires plan amendments.

Commissioner Liese asked if it was overly burdensome to developers.

Mr. McCullough said with the type of cases they were talking about it was not overly burdensome. He said it was part of major development projects.

Commissioner Liese asked for an example of something that would have been impacted.

Mr. McCullough gave examples such as the proposed Walgreens at Inverness and Crossgate, the Bauer Farm Lowe's proposal, the CC600 proposal, the North Mass Development, and the pending Menards project.

Ms. Leininger showed a list on the overhead.

Commissioner Liese asked if they rezoned something and if it wasn't consistent with the Comprehensive Plan what would happen.

Mr. McCullough said if it was rezoned today it would be not compliant with the Code. He said if the Code was changed to strike the language that required it it would be consistent with State Law. He said the Comprehensive Plan was a guide and that the Golden Factors were one factor to consider.

Commissioner Liese asked if it was unusual for the City Commission to ask Planning Commission to consider.

Mr. McCullough said many of the text amendments have maintained the value of certain standards but may have lessened the time or cost to get through the development process. He said the City

Commission wasn't direct in its processing of the text amendment, they wanted the issue considered for its value in the development process.

Commissioner Liese asked if it was law that Douglas County have a Comprehensive Plan.

Mr. McCullough said yes, when there are Subdivision Regulations there also needs to be a Comprehensive Plan.

PUBLIC HEARING

Ms. Paula Martin, lives in West Hills Neighborhood, wondered why they would want to do this and said it seemed like they were going backwards and putting the cart before the horse. She said there had been a long history of reliance and predictability with the Comprehensive Plan. She wondered how this protected the neighborhoods. She felt the Golden Factors were subjective and that the Comprehensive Plan was objective. She said she was also speaking on behalf of Homes Association members Pam Underwood and Robert Lewis.

Ms. Laura Routh, Lawrence Association of Neighborhoods, felt the text amendment would limit the ability and access of community members to affect the process. She felt it would encourage spot and incremental zoning. She asked that Planning Commission reject the proposal.

Mr. Richard Heckler supported comments made by previous two speakers. He felt it bordered on a laissez-faire type of approach to planning and felt it would impact quality of life. He said taxpayers prefer clear documents. He said this was only one request to eliminate guidelines and he wondered where it would stop.

Ms. Jeanne Pees, Sunset Hill Neighborhood Association, said Horizon 2020 made their neighborhood predictable.

Ms. Melinda Henderson, League of Women Voters, expressed concern about transparency. She felt they needed more time for input if Planning Commission directed staff to continue. She said predictability was important for everyone and that the Comprehensive Plan Amendment was an opportunity to let the community speak to issues. She said she would prefer the Comprehensive Plan Amendment be separated from the zoning to allow time for notice. She wondered how the hierarchy of plans would be affected.

Mr. Ted Boyle, North Lawrence Improvement Association, said he helped draft Horizon 2020 and a lot of time was spent drafting the document. He felt there needed to be more public input with this request. He said developers with the North Mass project approached to the neighborhood association four years ago with their plans and continually provide monthly updates. He said the amendments currently work well because they allow more time for input.

Mr. Dan Dannenberg, Sunset Hills Neighborhood Association, said the Comprehensive Plan needed to be held as a controlling document and did not need to change. He said there was a 6-plex on University Drive that was allowed through spot zoning. He felt they needed a Comprehensive Plan that was followed and could be complied with by both developers and the community. He wondered what would happen without a Comprehensive Plan. He did not want his neighborhood to become the Oread neighborhood.

Ms. Lisa Harris said the Comprehensive Plan was a basis for planning decisions. She said the Comprehensive Plan was based on research, addressed fiduciary responsibility, and developed and implemented a vision for a livable community. She felt predictability was important and community

members rely on the plan. She felt an annual review of the Comprehensive Plan should take a bigger picture look and review how they were doing in reaching the vision with the plan, what challenges there were in implementing it, and what circumstances might suggest they should change the vision.

COMMISSION DISCUSSION

Commissioner von Achen asked what would happen to the environmental protections in Horizon 2020.

Mr. McCullough said that would not go away, Horizon 2020 would remain active. He said some of the policies of Horizon 2020 were action steps, some were used to review development proposals against, and some helped create policy and code. He said the Comprehensive Plan sets up policies that often time become code. He said a lot of environmental protections supported by the Comprehensive Plan policies were part of the Development Code that they would need to comply with anyway.

Commissioner Lamer said he had some misgivings about this proposed text amendment. He said one of the most important things was the time of community members who spent working on Horizon 2020. He felt they would be taking a step backward by doing this. He felt it was important for developers to have certainty too and that uncertainty in the process could cause developers grief.

Commissioner Blaser agreed with Commissioner Lamer. He did not see a reason to make this change. He said there were a lot of resources and time spent on Horizon 2020.

Commissioner Culver said it was difficult at this time to see the defined need to remove the restriction. He said predictability and certainty were good for all parties. He said the process of Comprehensive Plan Amendments was not overwhelmingly burdensome. He felt the time and effort spent by citizens in developing the plan would be diminished by removing the restriction. He did not feel there was a compelling reason to do this. He said they may want to look into the annual review process and take the opportunity to look forward and be proactive.

Commissioner von Achen said she was stunned to even see this in the Planning Commission packet. She said everything good about development in Lawrence could be traced to Horizon 2020. She felt that without high standards no one would want to develop which would not really be business friendly. She felt it should remain as is.

Commissioner Britton said he could see both sides of the issue but also shared some of the concerns heard tonight. He felt they shouldn't fix something that wasn't broken.

Commissioner Hird said studying and amending the plan from time to time was a healthy exercise. He said there were lots of changes that could be made to the Development Code to make Lawrence more business friendly. He said this was a real sea change fundamentally in the legal requirements for this process. He said it was uncoupling Horizon 2020 as a basis and making it more of a guide. He felt it was an unhealthy direction, given the alternatives. He said compliance wasn't etched in stone and they had made exceptions with text amendments to change it. He said he was hesitant to move forward with this text amendment at this time.

Commissioner Liese said research showed Lawrence was no more difficult to develop in than many other communities.

ACTION TAKEN

Motioned by Commissioner Britton, seconded by Commissioner Lamer, to receive the staff report and forward to the City Commission with a recommendation of denial.

Motion carried 8-0.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

ADJOURN 8:50pm