



## **PLANNING COMMISSION MEETING**

**May 23, 2018**

### **Meeting Action Summary**

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May 23, 2018 – 6:30 p.m.

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

Staff present: McCullough, Crick, Day, Ewert, Larkin, M. Miller, Pepper

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## **GENERAL BUSINESS**

Commissioner Struckhoff recognized Commissioner Culver for his 7 ½ years serving on Planning Commission.

## **PLANNING COMMISSION ACTION SUMMARY**

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of April 23 & 25, 2018.

Motioned by Commissioner Carpenter, seconded by Commissioner Sinclair, to approve the April 23 & 25, 2018 Planning Commission action summary minutes.

Motion carried 7-0-2. Commissioners Carpenter, Culver, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in favor. Commissioners Butler and Sands were not present for the vote.

## **COMMITTEE REPORTS**

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

Commissioner Willey said the Comprehensive Plan Committee met twice in April and continue to process public comment. She said the final draft would be seen by Planning Commission in the future.

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

- Ex parte:  
Commissioner Willey said she spoke with Mr. Wesley Broyles regarding Item 4, Marion Springs Event Center Conditional Use Permit, who expressed support for the project.
- No abstentions.

## **GENERAL PUBLIC COMMENT**

No general public comment.

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**ITEM NO. 1 CAPITAL IMPROVEMENT PLAN**

Presentation of recommended Capital Improvement Plan.

**STAFF PRESENTATION**

Mr. Jeff Crick presented the item.

**PUBLIC COMMENT**

Mr. Michael Almon commented on the project to fund 19<sup>th</sup> Street east of Harper to O'Connell Road. He felt the Capital Improvement Plan was premature and the scope larger than what was discussed at City Commission and Transportation Commission. He said there was nothing at Venture Park that would necessitate this at this time. He said he would like to see the project pulled from the Capital Improvement Plan.

**COMMISSION DISCUSSION**

Commissioner Culver asked staff to comment on pulling one item from the Capital Improvement Plan.

Mr. McCullough said Planning Commission's role was to look at the Capital Improvement Plan projects against the Comprehensive Plan. He said Planning Commission was not looking at the detailed design of the projects. He said Mr. Almon's comments were too detailed for the state statute review by Planning Commission. He said the existing plans of records reflect a connection on 19<sup>th</sup> Street to Venture Park Industrial Park so it had full plan support. He said street lane width and design, stormwater, etc were not in Planning Commission's purview.

**ACTION TAKEN**

Motioned by Commissioner Willey, seconded by Commissioner Culver, to make a finding that the projects presented in the 2019 - 2023 Capital Improvement Plan are in conformance with the City's Comprehensive Plan and forward a recommendation to the City Commission for approval.

Motion carried 7-0-2. Commissioners Carpenter, Culver, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in favor. Commissioners Butler and Sands were not present for the vote.

Commissioner *Butler arrived at the meeting at 6:46pm.*

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

**PP-18-00028:** Consider a Preliminary Plat for Mercato 2<sup>nd</sup> Addition, a five-lot subdivision on approximately 116.8 acres located at 6200 W 6<sup>th</sup> St and an associated variance from the standard in Section 20-811(c) of the Subdivision Regulations that sidewalks be installed on both sides of all streets. Submitted by Landplan Engineering, for Kentucky Place LC, JDS Kansas LC, Venture Properties Inc, Tat Land Holding Co LC, Sojac Land Company LC, Scotsdale Properties LC, Tanglewood LC, property owners of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Matt Gough, Barber Emerson, said there was a traffic study from 2017 and an update in 2018. He said staff received the 2018 updated traffic study and four other supplements to calculate traffic generated by the Lawrence Memorial Hospital West facility. He said staff did not accept those methods and intended to hire someone else to look at the numbers. He said the drainage study was updated in March to reflect the comment from staff about the location of detention areas in the right-of-way. He said the revised study was approved by the City stormwater engineer. He said the staff report noted Rock Chalk Drive as a local street. He said Rock Chalk Drive was within 80' of right-of-way, 31' wide, and used like a collector street. He said an enclosed stormwater system was added to the plat. He said page 7 of the staff report references an existing sanitary sewer main located at the northwest corner of the property. He said the sanitary sewer main wasn't extended as part of Rock Chalk Park but was completed several years prior in April 2009. He showed a video on the overhead of the aerial view of the sidewalk area so they could get a sense of the grading and spacing.

**PUBLIC COMMENT**

Mr. Gary Webber, 907 Murrow Ct, said he supported the staff report for denial of the variance because it did not meet the criteria. He felt this would be a step backward and he encouraged Planning Commission to deny the variance.

Mr. Michael Almon, Sustainability Action Network, said it was common for staff and others to lump together pedestrians and bicyclists as though they were the same population group but he did not feel they were. He said they were different users with different needs. He said nobody was going to walk along 6<sup>th</sup> Street or Iowa Street to get to this facility but they could do it on a bicycle. He felt bikeway connections were important.

**COMMISSION DISCUSSION**

Commissioner Sinclair inquired about the purpose for sidewalks on each side of the street.

Mr. McCullough said it was for the convenience of the pedestrian or bicyclist not having to cross roads where it may be unsafe. He said in this instance it would create a gap between the south part of Renaissance Drive and the east side going north past Mercato. He said they have to look at all the ways people will traverse sidewalks, such as internal trips generated or long-range trips. He said equitable infrastructure on both sides of street was for convenience and safety.

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Commissioner Sinclair asked about areas of town where there was a sidewalk on one side of the street.

Mr. McCullough said throughout the city's history there have been different time periods of different code requirements. He said it had been an evolution of discussion and the requirement and expectations for the transportation network. He said now they were spending funding and resources to fill in the gaps that were created at different times of the code when sidewalks were not required on the initial development. He said currently when developments are submitted they require sidewalks. He said sidewalk gaps are filled through infill development, greenfield development, or federal grant money.

Commissioner Paden said the Bicycle Pedestrian Task Force was plagued by how to pay for filling sidewalk gaps. She said this variance would create another gap. She asked if Inverness was a collector street from Bob Billings to Clinton Parkway.

Mr. McCullough said he believed so.

Commissioner Paden said Inverness had sidewalks that switched from one side to the other.

Commissioner Culver asked about to the north of Rock Chalk Drive.

Mr. McCullough said it was originally built with a recreation path on one side and no sidewalk on the south side. He said Mercato at the time was proposing residential uses. He said his recollection was that they worked on more of the crosswalks to funnel residential pedestrians to a point along Rock Chalk Drive to get to Rock Chalk Park. He said since Mercato changed to CC600 zoning the sidewalks would be re required as developments were built.

#### **APPLICANT CLOSING COMMENT**

Mr. Gough said there were a lot of common sense reasons this could work.

*Commissioner Sands arrived at the meeting at 7:22pm.*

#### **CONTINUED COMMISSION DISCUSSION**

Commissioner Sinclair asked if the reason for the variance was due to the work and cost to make it work with the geography.

Mr. Gough said it was more of an efficiency and practicality based argument. He said what they were trying to achieve could be achieved just as well using the 10' wide recreation path.

Commissioner Sinclair said he was missing why this was a sticking point.

Mr. Gough said there was a process and in this case it was for Planning Commission to hear the variance.

Commissioner Carpenter said Planning Commission was being asked to consider whether conditions exist to grant a variance from the existing city policy. He said he had not heard anything that deprived the property owner the use of their property.

Commissioner Struckhoff said he did not see a reason to grant a variance. He did not want more sidewalk gaps created, especially when there would be a proposed health facility nearby. He said the policy was for sidewalks on both sides of the street and he did not see a compelling reason to grant a variance.

Commissioner Willey agreed with Commissioner Struckhoff that there was no compelling reason to grant the variance.

Commissioner Culver said without it being a residential area and with a 10' recreation path and all the internal pedestrian and bicycle modes of transportation within the development, he felt there would be adequate access points for pedestrians and bicyclist. He said the area would not develop further west due to the South Lawrence Trafficway. He felt a variance could be justified.

Commissioner Struckhoff asked about why the traffic study was not accepted by the city engineer.

Mr. McCullough said staff accepted and acknowledged the conclusions for the project of the medical office complex. He said with a site this size staff needed good traffic information by which to judge future projects and what improvements were needed to accommodate the remainder of Mercato. He said there was additional work to be done with the applicant in terms of traffic.

#### **ACTION TAKEN on Variance**

Motioned by Commissioner Paden, seconded by Commissioner Carpenter, to deny the variance requested from Section 20-811(c) of the Subdivision Regulations to waive the requirement to install sidewalks on both sides of proposed Renaissance Drive based on the findings listed in this staff report.

Commissioner Culver said he would not support the motion.

Motion carried 6-2-1, with Commissioners Butler and Culver voting in opposition. Commissioners Carpenter, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in the affirmative to deny the variance. Commissioner Sands abstained.

#### **ACTION TAKEN**

Motioned by Commissioner Paden, seconded by Commissioner Culver, to approve the Preliminary Plat of Mercato 2<sup>nd</sup> Addition subject to the following condition:

1. Applicant shall provide a revised preliminary plat with the following change:
  - a. Show and label a 5 ft wide sidewalk along the east side of Renaissance Drive, to be constructed with the Renaissance Drive improvements.
    - i. Alternatively, if the Planning Commission approves a variance from this requirement, note the variance and the date of the Commission's action.

Motion carried 8-0-1, with Commissioner Sands abstaining. Commissioners Butler, Carpenter, Culver, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

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**ITEM NO. 3      VARIANCE; 893 E 1650 RD (MKM)**

Variance from 1,320 ft frontage requirement for Residential Development Parcels which take access from a Principal Arterial. The variance is associated with a Certificate of Survey, CSR-18-00137, for approximately 20 acres located at 893 E 1650 Road. Submitted by Ryan J. Niehoff, property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Ryan Niehoff said given the circumstances of the frontage road he was trying to create two parcels. He said there was already a pending agricultural easement driveway on the south side of the creek. He said a split driveway would require deconstructing the creek and adding a drainage easement to get to the south property.

**PUBLIC COMMENT**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Struckhoff asked if the County Engineer had been consulted about the proposed text amendment.

Ms. Miller said yes, the County Engineer was supportive of the amendment, provided it was limited to the one access point.

Commissioner Carpenter asked if a text amendment was passed would there be a need for the variance.

Ms. Miller said in this case yes. She said the topography would make it difficult for them to utilize one access point.

Commissioner Willey said the County made the requirements about the road frontage for safety issues because of the amount of driveways. She said the development patterns that allowed for the neighborhood to develop this way was poor use of agricultural land. She felt continuing in that pattern was not the right direction. She said this gave her pause even though the rest of the neighborhood had developed in this way.

Commissioner Sands asked if there was a proposed text amendment coming up.

Ms. Miller said if Planning Commission approves the variance staff is recommending the initiation of a text amendment.

Commissioner Willey said she would feel more confident if the text amendment came first. She said this felt backwards to her.

Commissioner Struckhoff said the placement of the variance before the text amendment did not concern him as much since the County Engineer was okay with it.

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Commissioner Carpenter inquired about deferring until the text amendment. He said he was concerned about setting a precedent.

Commissioner Butler said it would not be fair to the applicant to defer the request until a text amendment since that could take a while. She said she did not have an issue with the variance request and would support it.

Commissioner Sands asked about how long it would take a text amendment to come back to Planning Commission.

Mr. McCullough said approximately three months.

Commissioner Sands said he agreed with Commissioner Butler and did not have an issue with the order.

Commissioner Sinclair asked if the applicant owned the residential parcels across the road.

Mr. Niehoff said no.

Commissioner Sinclair appreciated Commissioner Willey's comments. He said it seemed like the applicant was the victim of the surrounding development.

## **ACTION TAKEN**

Motioned by Commissioner Sands, seconded by Commissioner Butler, to recommend approval of the variance request to allow a Certificate of Survey creating two Residential Development Parcels to occur on the subject property with less than the required 1,320 feet of frontage requirement for each Residential Development Parcel based on the findings of fact found in the body of the staff report, and subject to the following condition:

1. The following note shall be added to the Certificate of Survey:
  - a. *On May 23, 2018, the Planning Commission approved a variance from Section 20-806(d)(2) of the Subdivision Regulations [Section 11-106(d)(2) of the County Code] to allow the creation of two Residential Development Parcels with a total of approximately 1,655 ft of frontage on a principal arterial road rather than the 2,640 feet required by Code."*

Commissioner Willey said she would vote against the motion because she felt it was premature.

Commissioner Carpenter said this was an example of incremental development in the county. He did not see a hardship since the land still had value. He said he would vote against the motion to be consistent.

Motion carried 6-3, with Commissioners Carpenter, Paden, and Willey voting in opposition. Commissioners Butler, Culver, Sands, Sinclair, Struckhoff, and Weave voted in the affirmative.

## **ACTION TAKEN**

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Motioned by Commissioner Sands, seconded by Commissioner Willey, to direct staff to initiate a text amendment to the Subdivision Regulations to revise the frontage requirement for Residential Development Parcels that front on, and take access to, principal arterials.

Motion carried 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.



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**ITEM NO. 4      CONDITIONAL USE PERMIT FOR MARION SPRINGS EVENT CENTER;  
316 E 900 RD (MKM)**

**CUP-18-00127:** Consider a Conditional Use Permit for Marion Springs Event Center, located on approximately 9.58 acres at 316 E 900 Rd, Baldwin City. Submitted by Jay I and Mary D Bessey, property owners of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Jay Bessey said he applied for the building to be on the National Historic Register. He said he was looking forward to preserving the building and maintaining the property.

Ms. Mary Beesey said the building provided value to the community. Said there was interest from the public in renting the space.

**PUBLIC COMMENT**

Mr. Jay Coffman expressed concern about security, increased lighting and traffic.

Mr. Ryan Niehoff spoke in favor of the event center.

**APPLICANT CLOSING COMMENT**

Mr. Bessey said there was current lighting on the property and he wasn't aware of any issues. He said the lights were on a timer and could be adjusted. He said he was not requesting a liquor license although patrons could have liquor on-site but would have to abide by the rental rules and conditions.

**COMMISSION DISCUSSION**

Commissioner Struckhoff asked staff to respond to the comments made about lighting.

Ms. Miller said the applicant could add additional lighting by revising the site plan and having staff review it.

Commissioner Willey felt having a public space in a rural neighborhood was valuable. She said she was excited to see it move forward.

Commissioner Weaver thanked the applicant for trying to preserve the structure.

Commissioner Sinclair said condition 2(c) listed the ending hour of 12:00pm when it should be 12:00am.

**ACTION TAKEN**

Motioned by Commissioner Weaver, seconded by Commissioner Willey, to approve the Conditional Use Permit, CUP-18-00127, for a *Recreation Facility* use at 316 E 900 Rd, subject to the following conditions:

1. The applicant shall provide a revised CUP plan with the following change:
  - a. Provide one additional ADA accessible parking space and update the parking summary.

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- b. List the conditions which have been applied to the Event Center use.
2. The following conditions apply to the Conditional Use:
- a. The CUP shall be administratively reviewed every 5 years by the Douglas County Zoning and Codes Office to ensure compliance with the CUP conditions.
  - b. Event occupancy is limited to no more than 200 patrons.
  - c. Event center may operate from 8:00 AM to 10:00 PM Sunday through Thursday, and 8:00 AM to 12:00 ~~PM~~ AM, Friday and Saturday.
  - d. Outdoor night-time events with amplified music are limited to no more than two per month. All other night events with amplified music shall be held indoors or shall be approved as Special Events.
  - e. All parking for the events shall occur on-site. Road-side parking is not permitted.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

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**ITEM NO. 5      REZONING 14.13 ACRES FROM PID TO IG; 3641, 3660, 3661 THOMAS CT & 3640-3660 E 25<sup>TH</sup> ST (BJP)**

**Z-18-00131:** Consider a request to rezone approximately 14.13 acres from PID (Planned Industrial Development) District to IG (General Industrial) District, located at 3641, 3660, 3661 Thomas Ct and 3640 & 3660 E 25<sup>th</sup> St. Submitted by Paul Werner Architects on behalf of Arbor Properties LLC & Roger Johnson, property owners of record.

**STAFF PRESENTATION**

Ms. Becky Pepper presented the item.

**APPLICANT PRESENTATION**

Ms. Joy Rhea, Paul Werner Architects, agreed with staff report and was present for questions.

**PUBLIC COMMENT**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Willey said the rezoning seemed like a straightforward housekeeping item.

**ACTION TAKEN**

Motioned by Commissioner Willey, seconded by Commissioner Sands, to approve the request to rezone approximately 14.13 acres, from PID (Planned Industrial Development) District to IG (General Industrial) District, located at 3641, 3660, 3661 Thomas Ct and 3640 & 3660 E 25<sup>th</sup> St, based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval

Unanimously approved 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

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Motion by Commissioner Sands, seconded by Commissioner Weaver, to move agenda item Misc. 1 up on the agenda.

Motion carried 9-0.

**MISC NO. 1      VARIANCE; 3300 W 6<sup>TH</sup> ST (BJP)**

Consider a variance from the right-of-way width for a Minor Subdivision (lot combination), MS-18-00188, for RCB Bank Subdivision, located at 3300 W. 6<sup>th</sup> Street and 534 Frontier Road. Submitted by BG Consultants on behalf of RCB Bank, property owner of record.

**STAFF PRESENTATION**

Ms. Becky Pepper presented the item.

**APPLICANT PRESENTATION**

No applicant present.

**PUBLIC COMMENT**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Willey, seconded by Commissioner Culver, to approve the variance requested for a Minor Subdivision, MS-18-00188, to reduce the right-of-way, required per Section 20-810(e)(5) for a principal arterial street, from 150 feet to 110 feet in accordance with the provisions per Section 20-813(g) of the Land Development Code for property located at 3303 W 6<sup>th</sup> Street.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

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**ITEM NO. 6      TEXT AMENDMENT TO LAND DEVELOPMENT CODE; SHORT TERM RENTAL (JSC)**

**TA-18-00079:** Consider a Text Amendment to the City of Lawrence Land Development Code regarding Short Term Rental. *Initiated by City Commission on 2/20/18.*

**STAFF PRESENTATION**

Mr. Jeff Crick presented the item.

**PUBLIC COMMENT**

Ms. Rhonda Miller, 214 Lawrence Ave, spoke in favor of short term rentals and read a poem she wrote.

Mr. Dan Dannenberg, 2702 University Drive, said most of his street contained rental properties. He wondered who would monitor parties at short term rental properties. He expressed opposition to Short Term Rentals. He felt there would be no regulation.

Mr. Michael Davidson, Explore Lawrence, felt short term rentals should be regulated and felt the city recommendations were sound. He said the regulations played a valuable role in keeping tourism in the community.

Ms. Tena Santaularia, 1535 Kasold Drive, said Airbnb allowed her to take care of her properties and already provided regulations. She said Airbnb hosts are ambassadors for the city. She said she had more than one property. She felt that light regulations were important but did not want over regulations.

**COMMISSION DISCUSSION**

Commissioner Carpenter inquired about current non-owner occupied properties.

Mr. McCullough said they would need to come into compliance. He said it was not currently an allowed use under the code.

Commissioner Willey inquired about owner occupied short term rental accessory use.

Mr. Crick said it would be an administrative item. He said it would fall under rental licensing. He said Planning Commission would only see Special Use Permits.

Mr. McCullough said accessory uses were permitted by right as accessory uses.

Commissioner Willey asked about the additional burden of staff time.

Mr. McCullough said the known short term rentals could be absorbed into the staff workload with both Special Use Permits and licensing and inspection. He said the program could handle 160 additional short term rentals into the existing 18,000 rental properties.

Commissioner Sands inquired about the nature of the agreement that Airbnb has with the State of Kansas.

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Mr. Crick said it was for tax collection. He said it was not required for other platforms and different platforms have different mechanisms to show they are compliant with state taxes.

Commissioner Sands asked if the City or State could restrict the use of certain platforms.

Mr. Crick said it would be extremely difficult since new platforms come and go.

Commissioner Sands asked if short term rentals were taxed at the same rate as hotels.

Mr. Randy Larkin said taxes would still be owed regardless of which company was used. He said the owner of the property would still have to remit taxes. He said if they do not then they would have issues with the State. He said Airbnb took an extra step and reached an agreement with the State to make it easier to submit taxes.

Mr. Davidson said Airbnb was taxed the same as hotels. He said Airbnb collects the money and then remits it to the City.

Commissioner Butler thanked Mr. Dannenberg for his comments. She said there may be benefits of having a text amendment with monitoring. She felt a text amendment was necessary for regulations.

Commissioner Culver asked if other community regulations had been looked at.

Mr. Crick said staff looked at many other communities and there was a large range. He said some were very complex while others had a simple permit.

Ms. Danielle Buschkoetter said there was a wide range in terms of what other cities do. She said the overarching theme was that it depended on what the community needed and what the community was looking for. She said there wasn't a best practice out there and it varied from community to community.

Commissioner Butler inquired about renting a property for 20 days.

Ms. Buschkoetter said it would depend on whether the property was owner occupied or non-owner occupied. She said most other cities say 30 days or under.

Commissioner Butler asked Mr. Buschkoetter to address Mr. Dannenberg's concerns.

Ms. Buschkoetter said the regulations would help staff have some kind of licensing in place to see where rental properties are within the community and identify issues and basic needs. She said it was not currently a permitted use and there were about 160 short term rentals in the community.

Commissioner Willey asked if single-family zoning where only 3 unrelated people were allowed was meeting the needs of the people currently doing short term rentals.

Ms. Buschkoetter said feedback was received about the occupancy standards.

Mr. McCullough said some of the Airbnb listings were for 10-12 people in larger houses. He said there was a congregate living land use as an alternative that could allow a higher occupancy. He said in the Oread District there were over 30 site planned congregate living uses. He said he could see

those uses being converted to short term rentals which would be allowed in what the text amendment proposes.

Commissioner Sands inquired about parking requirements of one space per bedroom.

Mr. Crick said the zoning districts of RS or RM would be one space per bedroom.

Commissioner Sands asked how the text amendment would conflict with the parking requirement of the downtown district.

Mr. McCullough said if the text amendment was approved then the more restrictive would apply and a parking space would need to be provided.

Commissioner Willey asked how often owners have to live in a property to be consider owner occupied.

Mr. McCullough said the legal term is "the majority of the time."

Mr. Crick said owner occupied does not mean the owner has to be on-site during the rental.

Commissioner Willey asked if there were options for short term rental in Industrial zoning.

Mr. Crick said yes, residential uses in any district would be consistent across the table.

Commissioner Willey said she stayed in a short term rental recently at a conference in New Orleans. She said although she enjoyed her stay she was appalled there was only one exit, no working fire escapes, and no fire extinguisher. She felt standards would keep people safe.

Commissioner Culver said this was a great starting point and would need to be adapted as the industry evolved.

Commissioner Struckhoff said he was supportive of the text amendment.

Commissioner Willey felt the occupancy standards needed to echo what they would be for long-term rentals.

Commissioner Carpenter wondered if the hotel industry was purchasing property to use for short term rentals.

Mr. Davidson said the Marriott chain was looking at working with properties to put into their system.

### **ACTION TAKEN**

Motioned by Commissioner Sands, seconded by Commissioner Paden, to forward the proposed amendment to Articles 4, 5, 9, and 17 of the Lawrence Land Development Code permitting short-term rental unit uses to the Lawrence City Commission with a recommendation for approval.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

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**ITEM NO. 7      TEXT AMENDMENT TO LAND DEVELOPMENT CODE; CONDITIONAL ZONING (SLD)**

**TA-18-00154:** Consider a Text Amendment to the City of Lawrence Land Development Code, Article 13 to review and potentially remove conditional zoning. *Initiated by City Commission on 4/17/18.*

**STAFF PRESENTATION**

Commissioner Sands said he had ex parte with Mr. Hugh Carter and his concerns about removing conditional zoning as a tool from the planning toolbox.

Ms. Sandra Day presented the item.

**PUBLIC COMMENT**

Mr. Hugh Carter, Chamber of Commerce, said he was part owner of property on Research Park Drive that was being rezoned to allow climate controlled storage. He felt the ability to condition was an important tool. He said conditional zoning was used for the good of the neighborhood and helped to alleviate fears. He stated the community was growing and infill was a way to control sprawl and to condition out offensive uses.

**COMMISSION DISCUSSION**

Commissioner Sands asked staff for a summary of City Commission concerns.

Mr. McCullough said a particular rezoning came up on Research Park Drive striking a number of uses in the IL zoning district to match the IBP zoning district. He said conditional zoning was identified as an alternative to the text amendment process. He stated it was beneficial for a number of reasons. He said it may be something staff does not support putting into a new district just to support one property because it would affect all zoning city wide. He said the Research Park Drive applicants were willing to strike all other uses because they had a specific use in mind. He said City Commission had discussions that if mini-warehouses were allowed in the area then why weren't they looking at incorporating it into the IBP district. He said City Commission initiated a text amendment to consider adding mini-warehouses in the IBP district. He said staff was working on language to distinguish between climate controlled and traditional mini-warehouses. He said the City Commission discussion was not a fully informed discussion because there were some terms thrown out like contract zoning and spot zoning. He said the current City Commission had only seen a few conditional zoning items and were not used to the way it had been used in the past and did not have the benefit of the staff research being presented in the staff report. He said City Commission rezoned that particular property to IL with conditions. He said the direction from City Commission was to go through the amendment process and if mini-warehouse ends up going into the IBP district the direction was to go back to the one property on Research Park Drive and initiate a rezoning back to the IBP district. He said that was the solution to cure what City Commission believed was a process issue. He said some projects may not have been moved forward if not for conditional zoning.

Commissioner Struckhoff said the use of conditional zoning was his least favorite way to get the best outcome of both encouraging development, satisfying the applicant with a reasonable project, and

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still protecting the interest and needs of the neighborhood. He said conditional zoning was one of the most important tools in the PC toolbox. He appreciated the ability to provide a solution to allow a development and a good use to proceed while still maintaining control and protections that the conditions provide. He agreed with staff about not removing the use of conditional zoning.

Commissioner Culver asked what other tools could be used to allow unique situations to work if conditional zoning was removed.

Ms. Day said it would mean more text amendments to add more uses to districts, as well as more planned developments. She said it would be more process heavy to do the same project. She stated it would probably end up diluting districts or creating many more districts, such as CN4 and IL4. She said prior to the new Land Development Code being adopted staff went through the old code trying to collapse down those many districts that had grown because of that exact issue of creating a new district for a single project or use.

Mr. McCullough said there would be less distinction between districts as uses were added from one district to the next.

Commissioner Willey said she liked conditional zoning because it allowed for creativity in solving problems. She said infill was difficult and conditional zoning allowed for some control to alleviate fears in neighborhoods. She said she would hate to see the conditional zoning tool go away. She said she understood why the Research Park project got flagged by City Commission as being a little bizarre because all other uses were removed. She said that specific project could have been solved with a text amendment but some past projects where conditional zoning was used could not have been solved with a text amendment. She said Planning Commission would end up having to say no to projects they like because they cannot give reassurance to the neighborhood about fears. She stated she supported the staff recommendation of keeping conditional zoning.

Commissioner Sands said if conditional zoning was removed it would broaden and restrict other tools.

Mr. McCullough said there were implications to the zoning code in terms of when they were looking at uses and striking uses. He said the analysis of a text amendment that would affect the entire city was different than the analysis done on a specific property.

Commissioner Sands supported the staff recommendation of keeping conditional zoning.

Commissioner Carpenter said the discussion of "either-or" did not address the issue. He said initially the League of Women Voters opposed conditional zoning. He felt it was essentially planning a la carte by choosing what they do and don't want in a zone. He felt there should be predictability for property owners who live around infill development. He said they were forcing rezonings to comply with area plans. He said all conditional zonings were not the same and it was a mischaracterization to say he was against all conditional zoning. He said the ones that bothered him were the ones where the density was increased and uses were stricken from it. He said he was not completely opposed to conditional zoning but felt a better system was needed to define what it was and what the process was and when it would apply. He said the new Comprehensive Plan was forcing more infill so they would see a need for more flexibility. He felt there was middle ground for choosing which types of uses were good and bad and how to address the issue. He wondered why there were 35 conditional zonings since the new Development Code was adopted in 2006 and what was missing

from the Development Code that didn't take these issues into account. He wondered if they could add something to the Development Code that could take these issues into account. He felt conditional zoning had the potential to be legally challenged. He felt they could do this in a more structured and predictable fashion to address the issue.

Commissioner Sands asked Commissioner Carpenter if the proposed text amendment language met his intent.

Commissioner Carpenter said no and neither did the current language.

Commissioner Willey said City Commission probably wanted Planning Commission to have this discussion. She said what she was hearing from Planning Commission was that they did not want to remove the conditional zoning tool completely but it may need a great deal more time and attention. In the meantime, City Commission should expect that Planning Commission would forward those to them.

Commissioner Culver said something he found helpful during his years on Planning Commission was to learn some of the processes and procedures the applicant goes through that Planning Commission does not see. He felt it would be helpful to educate decision makers on the process and procedures the applicant goes through in regard to what type of tool could be used for different scenarios.

Mr. McCullough said staff employs the right tool in the right condition. He said the thing that was hard to predict was what the harm might be to the neighborhood from project to project. He said there is a high hurdle to change the zoning of a property once conditional zoning was established. He stated it would be difficult to come up with code language that was predictable enough to hit every possible future scenario. He said there would be some impacts to developments deemed as good. He said even a Planned Development Overlay was not the most flexible tool to use.

Commissioner Carpenter felt this would be a long-term discussion that should go hand in hand with the Comprehensive Plan.

Mr. McCullough said staff struggles with what problem this initiative is trying to solve. He said he would not know what to do with the Code until he received clarity on what problem is trying to be solved. He said the City's position is that conditional zoning is a legal tool.

Commissioner Struckhoff asked Planning Commission if for now it made sense to return the text amendment to City Commission without changes.

Commissioner Sands said yes. He felt the text amendment should be forwarded to City Commission with a recommendation to retain existing language with no changes. He struggled with sending nothing back to City Commission.

Commissioner Willey said Planning Commission looked at the text amendment and had a full-bodied discussion. She said the changed language did not solve the problem so it was entirely appropriate to send the text amendment back to City Commission with no changes but with the understanding that more discussions were needed in the future.

Mr. Randy Larkin said Planning Commission could send the text amendment back to City Commission with no changes. He said if City Commission did not agree with that opinion they would direct staff to prepare something specific which would be brought back to Planning Commission.

Commissioner Struckhoff said regarding Mr. McCullough's comment about 'what problem were they trying to solve' he requested that the 35 properties with conditional zoning be examined. He wondered if there had been complaints or problems with any of them.

Commissioner Carpenter said there were 10 conditional zonings in 2013.

Mr. McCullough said he did not know of any complaints.

### **ACTION TAKEN**

Motioned by Commissioner Willey, seconded by Commissioner Culver, to forward the proposed amendment, TA-18-00154, amending Article 13 of the Lawrence Land Development Code to the City Commission with a recommendation to retain the existing language with no changes.

Motion carried 8-1, with Commissioner Carpenter voting against the motion. Commissioners Butler, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor of the motion.

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**ITEM NO. 8      TEXT AMENDMENT TO LAND DEVELOPMENT CODE; RECORDING  
SUBDIVISION DOCUMENTS WITH REGISTER OF DEEDS (SLD)**

**TA-18-00199:** Initiate a Text Amendment to the City of Lawrence Land Development Code, Articles 8 and 13, to update requirements for recording subdivision documents with the Douglas County Register of Deeds Office.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**PUBLIC COMMENT**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Sands, seconded by Commissioner Paden, to initiate a Text Amendment to the City of Lawrence Land Development Code and the Subdivision Regulations for the unincorporated areas of Douglas County to revise the requirement related to the material used for recording documents with the Douglas County Register of Deeds Office.

Motion carried 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

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**ITEM NO. 9      TEXT AMENDMENT TO COUNTY ZONING REGULATIONS; DATA  
COLLECTION DEVICES (SLD)**

**TA-18-00155:** Consider a Text Amendment to the Douglas County Zoning Regulation Article 13-319-5.01, to include and define *Data Collection Devices*, such as SODAR and meteorologic equipment and similar equipment as a Temporary Business Use. *Initiated by County Commission on 3/28/18.*

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**PUBLIC COMMENT**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Carpenter asked about the purpose of the measurements.

Ms. Day said SODAR was equipment to collect data for a potential wind farm application.

Commissioner Carpenter asked if it would be as loud as a motorcycle.

Ms. Day said it would be louder than the clicking of computer keyboard typing but quieter than a motorcycle.

Commissioner Willey asked if it bothered the birds.

Ms. Day said she wasn't sure she could answer that.

**ACTION TAKEN**

Motioned by Commissioner Culver, seconded by Commissioner Weaver, to approve Text Amendment, TA-18-00155, amending Chapter 12-319-5 of the Douglas County Zoning Regulations to include *Data Collection Devices* as a temporary business use and forwarding to the Board of County Commissioners with a recommendation for approval.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

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**ITEM NO. 10      TEXT AMENDMENT TO LAND DEVELOPMENT CODE; OUTDOOR  
LIGHTING STANDARDS (MKM)**

**TA-18-00085:** Consider a Text Amendment to the City of Lawrence Land Development Code, Articles 11 and 17, to update outdoor lighting standards to include standards for various types of light fixtures, such as LED. *Initiated by Planning Commission on 2/21/18.*

**ITEM NO. 11      TEXT AMENDMENT TO LAND DEVELOPMENT CODE; STORAGE USES IN  
IBP DISTRICT (SLD)**

**TA-18-00150:** Consider a Text Amendment to the City of Lawrence Land Development Code, Articles 4, 5, 9 and 17 to define certain types of storage uses; *Mini-Warehouse, self-storage, climate controlled self-storage and similar uses* and to permit some uses in the IBP (Industrial/Business Park) District. *Initiated by City Commission on 4/17/18.*

*Items 10 and 11 were deferred prior to the meeting.*

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**ITEM NO. 12      CONDITIONAL USE PERMIT; 1055 E 1500 RD (MKM)**

**CUP-17-00313:** Consider a Conditional Use Permit for a *Recreation Facility* (event center), and a *Rooming, Boarding, and Lodging Houses* (Short Term Rental) located on approximately 1.26 acres at 1055 E 1500 Road. Submitted by Stan Trekell, for Linda G. Fritz, Inc., property owner of record. *Deferred by Planning Commission on 4/25/18.*

*Item 12 was withdrawn by the applicant prior to the meeting.*

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**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

**MISC NO. 2      METROPOLITAN PLANNING ORGANIZATION POLICY BOARD**

City Appointee Planning Commissioner to Metropolitan Planning Organization Policy Board.

Motioned by Commissioner Willey, seconded by Commissioner Culver, to nominate Commissioner Sands to serve on the Metropolitan Planning Organization Policy Board.

Motion carried 8-0-1, with Commissioner Sands abstaining. Commissioners Butler, Carpenter, Culver, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

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**ADJOURN 10:43pm**