



PLANNING COMMISSION MEETING

November 18, 2013

Meeting Minutes

November 18, 2013 – 6:30 p.m.

Commissioners present: Britton, Culver, Denney, Graham, Josserand, Kelly, Liese, Struckhoff, von Achen

Staff present: McCullough, Stogsdill, Day, M. Miller, Ewert

PLANNING COMMISSION MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of September 23, 2013.

Motioned by Commissioner Liese, seconded by Commissioner Denney, to approve the September 23, 2013 Planning Commission meeting minutes.

Unanimously approved 9-0.

Receive and amend or approve the minutes from the Planning Commission meeting of October 21, 2013.

Motioned by Commissioner Liese, seconded by Commissioner Denney, to approve the October 21, 2013 Planning Commission meeting minutes.

Motion carried 8-0-1, with Commissioner Kelly abstaining.

COMMITTEE REPORTS

No reports from any committees.

COMMUNICATIONS

Receive written communications from staff, Planning Commissioners, or other commissioners:

Mr. McCullough said staff handed out new conditions for the Menards Item 3.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:

Commissioner Struckhoff said he made a call to one of the Douglas County Zoning & Codes enforcement officers regarding Item 4. He said he also visited Pinwheel Farm last week. He said the enforcement officer expressed concern about enforcement of Pinwheel Farm.

Commissioner Denney said he received a call from Ms. Natalya Lowther inviting him to visit Pinwheel Farm. He said he declined the invitation to visit the site.

Commissioner Kelly said he received a call from the applicant of Item 1. He said all of the information he received was the same information that was contained in packet. He said he also received an email from the applicant of Item 4 and he went out and visited the property.

Commissioner von Achen said she toured Pinwheel Farm on Friday.

Commissioner Britton said he received an invitation to tour Pinwheel Farm but was not able to accept.

Commissioner Graham said she toured Pinwheel Farm on Sunday.

Commissioner Liese said he was invited to tour Pinwheel Farm but did not have time to do so. He said he spoke with Mr. Ted Boyle briefly about the fact that Pinwheel Farm was in North Lawrence. He said he also spoke with Ms. Marilyn Bittenbender and recommended she speak with North Lawrence Improvement Association.

Commissioner Josserand said he received an invitation to tour Pinwheel Farm but didn't have time to do so.

Commissioner Culver said he toured Pinwheel Farm today.

- Abstentions:

Commissioner Graham said she would abstain from Item 3 since Menards was one of the national accounts with her employer.

Commissioner Culver said he would abstain from Items 2A and 2B due to his employers interest with the project.

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ITEM NO. 1 IG TO CS; 1.95 ACRES; 1360, 1380, 1400, 1410 N 3RD ST (SLD)

Z-13-00401: Consider a request to rezone approximately 1.95 acres from IG (General Industrial) District to CS (Strip Commercial) District, located at 1360, 1380, 1400, and 1410 N. 3rd St. Submitted by Colliers International, for Evenshar, LLC., property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Ms. Marilyn Bittenbender, Colliers International, said more than 80% of jobs and job growth came from small business. She said the property owner hired her to assist in finding tenants for their property. She said all of the interested tenants had been from users who were not allowed in the IG zoning district. She said she contacted all of the adjoining property owners and/or business owners, as well as the North Lawrence Improvement Association, and already addressed any concerns they had. She said this was a land use issue and felt this was an appropriate change to the property.

PUBLIC HEARING

Mr. Ted Boyle, North Lawrence Improvement Association, encouraged Planning Commission to change the zoning to CS to allow a variety of businesses to occupy the building.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner von Achen, to approve the request to rezone, Z-13-00401, approximately 1.95 acres from IG (General Industrial) District to CS (Strip Commercial) District, located at 1360, 1380, 1400, and 1410 N. 3rd 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.

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ITEM NO. 2A ANNEXATION OF 10.684 ACRES; 1338 E 1600 RD (SLD)

A-13-00291: Consider a request to annex approximately 10.684 acres, located at 1338 E 1600 Road. Submitted by Grob Engineering Services, LLC., for Going South, LLC., property owner of record.

ITEM NO. 2B A TO RM15; 10.684 ACRES; 1338 E 1600 RD (SLD)

Z-13-00290: Consider a request to rezone approximately 10.684 acres from County A (Agricultural) District to RM15 (Multi-Dwelling Residential) District, located at 1338 E 1600 Road. Submitted by Grob Engineering Services, LLC., for Going South, LLC., property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented items 2A and 2B together.

APPLICANT PRESENTATION

Mr. Dean Grob, Grob Engineering Services, was present for questioning.

PUBLIC HEARING

Ms. Cille King, League of Women Voters, felt that large residential lots with multiple buildings should be zoned as Planned Development. She said in the concept plan there was just a single public street and the rest of the streets would be private drives. She expressed concern about the long term maintenance of private drives.

COMMISSION DISCUSSION

Commissioner Denney asked staff to comment about the League of Women Voters comment about private streets.

Ms. Day said there may be a street piece that goes north and south called Prairie View but that those elements were still being reviewed through the plat and site planning process. She said the pieces that were shaped like figure eights would be private drives like the ones seen in many multi-family developments. She said the south parallel street, 28th Street, would be a public street. She said it would be a mixture of private and public streets.

Commissioner von Achen inquired about the advantage of Planned Development versus what was proposed.

Ms. Day said the advantages were maybe in the eye of the beholder. She said Planned Developments were used a lot under the old Code because they did not have the kind of Design Standards they have now. She said there was a lot of discussion, especially on older PUD's, regarding maintenance of private drives. She said they work hard to address those things with maintenance agreements. She said sometimes interior drives were constructed with a more rigorous surface to prevent wear and tear. She stated there were a number of mechanisms to ensure long term maintenance and that this project would include a site plan which would be the enforcement tool. She also said sometimes homeowner associations maintain the common grounds.

Commissioner Kelly asked about what other approvals were needed.

Ms. Day said the project would still need a Preliminary Plat that would be seen by Planning Commission, a Final Plat and public improvement plan that would be administratively reviewed, and

an administratively reviewed Site Plan. She said property owners had the ability to appeal the Site Plan decision and the appeal would go to City Commission.

Commissioner Josserand said he did not have any issues with the rezoning. He expressed concern about the vehicle parking being separate from the housing units on the concept plan.

Ms. Day said those parking pad areas were designed to be in front of the units. She said this was just a concept plan of what the applicant was thinking and that staff had not yet looked at the parking. She said the applicant was looking to build something low profile.

Commissioner Josserand said the project looked to be a bit more dense. He inquired about sidewalks.

Ms. Day said staff would look at the connection points out of the development to the public street network.

Mr. McCullough said a sidewalk would be required.

Commissioner Josserand said he would support the annexation and rezoning but expressed concern about the amount of multi-family in Lawrence. He said the concept plan made him nervous but that it was consistent with the long-term area plan as medium to high density.

Commissioner Liese felt the annexation and rezoning were appropriate and he agreed with the staff report.

Commissioner Josserand inquired about the financing for road development and infrastructure.

Ms. Day said interior private roads would be the developer's responsibility. She said a benefit district already existed.

Mr. McCullough said essentially developer's pays for it with private financing.

ACTION TAKEN on Item 2A

Motioned by Commissioner Kelly, seconded by Commissioner Graham, to approve the requested annexation, A-13-00291, of approximately 10.684 acres, located at 1338 E 1600 Road, based on the findings in the body of the staff report and forwarding the request to the City Commission with a recommendation for approval.

Motion carried 8-0-1, with Commissioner Culver abstaining.

ACTION TAKEN on Item 2B

Motioned by Commissioner Kelley, seconded by Commissioner Graham, to approve the request to rezone, Z-13-00290, approximately 10.684 acres from County A (Agricultural) District to RM15 (Multi-Dwelling Residential) District, located at 1338 E 1600 Road, based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Motion carried 8-0-1, with Commissioner Culver abstaining.

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ITEM NO. 3 PRELIMINARY PLAT FOR MENARDS ADDITION; 1900 W 31ST ST & 1352 N 1300 RD (SLD)

PP-13-00338: Consider a Preliminary Plat for Menards Addition, a 7 lot commercial subdivision, located at 1900 W 31st St & 1352 N 1300 Rd. Consider variance request from section 20-810 (e)(5) regarding minimum right-of-way for a principal arterial street. Submitted by Menard, Inc. on behalf of Tom Horner III and Bruce Snodgrass, property owners of record. *Deferred by Planning Commission on 10/21/13.*

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Josserand asked if at one time it was thought there would be an Ousdahl connection.

Ms. Day said she did not believe that Ousdahl was realistically ever thought to cross all the way to the north property line. She said it would have to cross the creek and would be a fairly expensive structure. She said it was probably expected to "T" with other streets and have another north/south street farther to the east with a grid network within that area. She said dedication of right-of-way would have been required.

APPLICANT PRESENTATION

Mr. Tyler Edwards, Menard Inc., said it made more sense to vacate the other half and allow the First National Property owner to develop their property farther. He said Menards changed the site plan because there were congestion issues and pedestrian interference with the delivery staging area. He said it was moved over to the warehouse on all the new stores. He said in moving that there was not enough space so the whole warehouse was moved south. He said they took a good plan and made it better.

PUBLIC HEARING

Ms. Joanne Zingo expressed concern about Ousdahl connecting through in the future. She felt it would create a traffic problem. She wondered about the lighting in the storage area and if it would spill into the neighborhood.

Mr. Patrick Watkins thanked staff and Menards for accommodating his requests. He said he supported the proposed conditions drafted by staff.

APPLICANT CLOSING COMMENTS

Mr. Edwards showed Ms. Zingo the renderings of the back of the store. He stated there would not be lights on the back of the store.

COMMISSION DISCUSSION

Commissioner Denney asked staff about the 30' right-of-way on Ousdahl Road.

Ms. Day said there would be no street, it would be whatever the necessary utility easements that were needed. She said the existing right-of-way there today would be vacated.

Mr. McCullough said there would be no public right-of-way on Ousdahl from that point north.

Commissioner Denney asked if the pad sites would not be developed until tenants were identified.

Ms. Day said that was what the applicant indicated but it was not a requirement for them to wait.

Commissioner Denney asked if it would remain greenspace until developed.

Ms. Day said the landscaping site plan would indicate the locations of greenspace.

Commissioner Kelly asked about the multi-use path.

Ms. Day said the multi-use path would be located within a pedestrian utility easement and would provide a connection from 31st Street to the park.

ACTION TAKEN

Motioned by Commissioner Denney, seconded by Commissioner Britton, to approve the preliminary plat subject to the following conditions, which shall be noted on the preliminary plat and implemented prior to City Commission acceptance of dedications of easements and right-of-way:

1. The owner of First National Addition agrees to request vacation of the 40' of right-of-way along First National's east property line (that portion of Ousdahl Road north of the frontage road in Menard's proposed preliminary plat) and First National will execute easements in the former Ousdahl Road right-of-way necessary for Menard's access, public utilities and pedestrian path required for Menard's development.
2. Menard's agrees to allow un-detained stormwater runoff from the First National Addition's property into its detention basin located on Tract A. This detention basin will function as a regional basin for the parcels within close proximity. The ability for First National Addition's stormwater to be conveyed undetained to Menard's detention area will need to be further reflected in the Menard's site plan.
3. The parties agree to the following terms, which will be made part of a private agreement executed and recorded between the parties
 - A. Menard's and First National Development agree to execute a cross access agreement for the shared use and maintenance of that portion of Ousdahl Road and other facilities constructed as part of the Menard's development, in the area north of the frontage road in Menard's proposed preliminary plat, and
 - B. Menard's agrees to provide First National Development with the necessary easements and access rights for construction, implementation, and maintenance of necessary facilities for the conveyance of stormwater into to the regional detention pond.
 - C. First National Addition agrees it will pay the cost to install/construct the pipe from the Menard detention pond area to First National Addition's north property line to receive First National Addition's undetained stormwater and will pay its fair share of detention pond maintenance once the pipe is installed.
4. If these agreements are not fulfilled, then the 30' of half-width right-of-way Ousdahl Road to the north property line of the First National Addition's property shall be dedicated with the final plat.
5. Provision of a note on the face of the preliminary plat indicating that an agreement not to protest the formation of a benefit district for geometric improvements to the intersection of Michigan Street and 31st Street will be executed with the Final Plat for this property.
6. Provision of a revised preliminary plat to correct the notation of the 60' AE & UE on Lot 7 and Lot 1.

Motion carried 8-0-1, with Commissioner Graham abstaining.

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**ITEM NO. 4 CONDITIONAL USE PERMIT; SEASONAL CAMPING; 1480 N 1700 RD
(MKM)**

CUP-2-1-10: Consider a Conditional Use Permit to allow seasonal camping accessory to farm operations, on approximately 12 acres, located at and adjacent to 1480 N. 1700 Road. Submitted by Natalya Lowther, property owner of record. *Deferred by Planning Commission on 9/23/10.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Ms. Natalya Lowther, Pinwheel Farm, said regarding the condition regarding the size of logs around the fire she was fine with 10" logs instead of 12" logs. She said she would be closing on the property by December 8th so she would have a clear title. She said that would allow her to better address the long-term sanitation issues. She also said once she had clear title to the parcels they would be joined to the main farm ground through a land combination so they would all become one parcel of land. She said she conducted some online surveys through her Facebook page, via email to residents in North Lawrence, and also posted on the North Lawrence Facebook page. She compiled the statistics and provided it in the packet. She said 77% of all survey respondents felt that camping was or should be legal in Douglas County on a broad scale. She said guns were an issue that came up in the survey so she submitted conditions to staff proposing ways to address that issue. She recapped the survey results. She showed the zoning of the area on the overhead as well as the actual use of the land in the area to show the mixed-use character of the neighborhood. She referred to a letter from the Health Department, Mr. Richard Ziesenis, that discussed the requirement for a chemical toilet. She felt there needed to be more clarification and wondered if a toilet in an RV and the portable one at the farm would satisfy the condition or if it had to be a rented port-a-potty. She presented her version of the conditions that were included in the packet.

PUBLIC HEARING

Ms. Diane Menzie, 509 North St, felt this should be a separate Conditional Use Permit since there were so many additional conditions. She said they were still talking camping provisions on 1480 N 1700 Rd. She was not concerned with 501 North St or 1478 N 1700 Rd because they were not part of the Conditional Use Permit proposal. She said she was invited by Ms. Lowther to serve on a landscaping advisory committee. She stated the appearance of the property of 501 North St and 1478 N 1700 Rd had improved tremendously. She stated Conditional Use Permits were not usually right on the city/county line. She said it was sad when a neighborhood could not be 100% cooperative. She stated many of the neighbors had nothing but adverse comments about camping at Pinwheel Farm. She said Ms. Lowther's former tenant left under unexplained circumstances and was not allowed to speak about Pinwheel Farm because of a clause in his contract. She felt Ms. Lowther should conduct background checks. She said she was not in favor of camping at Pinwheel Farm.

Mr. Ted Boyle, North Lawrence Improvement Association, felt more questions needed to be answered. He did not feel background checks would be hard and could be conducted by calling the sheriff with a driver license number. He stated the north end of the farm was all floodplain and would be difficult to get in and out of during rainy periods. He stated Ms. Lowther was allowed up to 100 people at one time for agritourism but does not have sanitary facilities. He said North Lawrence was an agricultural entrance to Lawrence and people support the agricultural use. He said KOA was a few miles away for people to sleep. He did feel that personal camping should only be allowed for Ms. Lowther, family, and the tenants who rent a house on her property.

Mr. Rick Hird, attorney representing clients, Marvin and Mindy Schaal, who live next door to Pinwheel Farm, had severe reservations about this. He stated some of the complaints from the neighborhood were emotional. He said the neighbors were rightly concerned about the safety of the area. He felt there needed to be adequate sanitation requirements. He stated there was a provision in the staff report for sponge baths and showering facilities. He did not know of any regulations that defined what those were. He wondered what they would be approving with that condition and what standards would be used to enforce that. He felt they would be on thin ice by approving a Conditional Use Permit that had no regulations, no standards, and no descriptions. He said he personally worked very hard on the agritourism text amendment. He said agritourism did not include provisions for camping and it was a separate issue.

Mr. Byron Wiley, 1200 Almira, said Ms. Lowther was a caring individual who cared about the land and he valued her persistence. He said in order for a farmer to make it these days they have to be creative. He stated there was value in having volunteers stay where they work. He said people generally involved with organic farming seemed to be conscientious with high character. He said Ms. Lowther had very specific rules and she was not afraid to let people know if they are not following the rules. He said he was aware of the contentious relationship with the neighbors and felt it should be set aside. He did not feel the camping would create a problem with the neighbors or the property. He felt there was no reason not to grant the Conditional Use Permit.

Ms. Barb Higgins-Grover said her folks live next door to Pinwheel Farm. She said when she inquired about liability insurance she was told 1 million dollar insurance had existed for years. She wondered if that was for the home or the business. She wondered who would regulate that. She was bothered by the fact that the Douglas County Zoning & Codes was having a hard time regulating camping that occurs around the county by individuals passing through. She felt there should be background checks.

Mr. Phil Patmon said he toured Pinwheel Farm. He felt property owners should be allowed to camp on their own property. He mentioned the program WWOOF (World Wide Opportunities on Organic Farms). He said campers were not all bad guests.

Ms. Melissa Warren, volunteer at Pinwheel Farm, said she was bothered by background checks. She wondered what Ms. Lowther would be expected to do with the background check information and who would judge who was proper enough to be there. She felt like it was an impossible inquisition with no standards to judge them by. She said nothing in this world was without some risk and that nothing could guarantee that everybody was going to be behaving. She said Ms. Lowther should not be held to some impossible standard.

APPLICANT CLOSING COMMENTS

Ms. Lowther said Mr. Boyle was correct in saying there were flood issues on the north end of the property, however camping would be allowed in the floodway fringe but not allowed in the actual floodway. She said if it was necessary to disallow camping in the floodway fringe that was a restriction she could live with but would like to personally be allowed to camp there because it was an area that was very hard to see from the farm. She said regarding liability insurance she has had it for more than 10 years. She said she had 1.5 million coverage. She said the tradeoff for volunteers camping was an educational and economic value.

COMMISSION DISCUSSION

Commissioner von Achen asked why the Conditional Use Permit was needed in the first place.

Ms. Miller said the County Zoning Regulations were silent about camping and it was a Zoning & Codes determination that camping was not allowed in the county without a Conditional Use Permit.

Commissioner von Achen said the agricultural zoning regulations say one or more mobile homes were allowed as an accessory use to a farm for family or employees.

Ms. Miller said Ms. Lowther does not pay her employees a wage so they were not considered employees, they were considered volunteers.

Commissioner von Achen asked if pitching a tent in the county was illegal but not in city.

Ms. Miller said currently, yes. She said there were no standards so it was not permitted at all except with a Conditional Use Permit.

Commissioner von Achen asked what part of camping was illegal.

Ms. Miller said the overnight stay camping activity without residence.

Commissioner Liese thought the issue of background checks was handled well by staff. He said to assume that transient and vagrants would work at Pinwheel Farm may be an unrealistic fear. He did not think background checks were reasonable. He felt they had an important responsibility to protect citizens and they were being asked to set forth a long list of conditions that could not be enforced. He felt the Conditional Use Permit would be unrealistic because he did not believe they had the manpower to enforce the contradicting conditions. He said one of the conditions says it cannot be advertised but it can be on the website. Another condition says it cannot be for profit but who was going to check the books. He said one of the conditions talks about how important it was to have a safe water supply but wasn't required right away. He wondered who would measure the log size. He said there were some things that bothered him about the whole thing, especially the wording about guns generally not being kept at the campsite. He said the applicant proposed that she would be inclined to implement the landscape but doesn't want that to be tied to the Conditional Use Permit. He expressed concern about there being a central facility for campfires. He said he liked the letter written by the neighbor that highlighted what Ms. Lowther does on her farm without complaints, such as grow and sell produce. He said they were not impinging upon the applicants rights. He said the applicant said the farm was reliant on the camping and that she may need to rethink the business plan. He said the business plan had allowed for a lot of good agriculture activities. He said it was not fair to assume KOA/Jellystone would be available forever for campers but Clinton Lake would be. He said the survey conducted by the applicant did not represent a broad enough segment of the population and should not be taken seriously. He felt one of the conditions that should be in writing was that someone injured while camping should be covered by insurance.

Commissioner Denney said they were so far in the weeds that they were losing the direction they were going. He stated Planning Commission was a land use advisory board. He said it was not within their purview to solve a neighborhood dispute. He said their only issue was the camping of people performing work on the farm. He felt property owners not being allowed to camp on their own land was a freedom issue and that the government was too involved in the minutia of people's lives. He felt the only concern was the Conditional Use Permit to camp but that they didn't have a definition of what camping meant. He commended staff for their work on the issue. He said in general he was in favor of the Conditional Use Permit because it allowed someone to use their property and the applicant felt it was necessary for the operation of the business. He felt they should impose as few requirements as possible. He said whether something was an eyesore was not a public safety health and welfare issue. He said whether the people working there were clean shaven and wear a tie or

had a beard and wore blue jeans was irrelevant. He said he was inclined to say the only requirement was a restriction to make sure it was not overflowing with people.

Commissioner Liese said he was not interested in trying to resolve the neighborhood dispute. He agreed with Commissioner Denney about what the appearance of the volunteers not mattering. He also agreed that Planning Commission was a land use board. He said the law dictates that a Conditional Use Permit be applied for. He said the purpose for the Conditional Use Permit was to protect the safety and welfare of the neighbors, applicant, and volunteers. He said insurance was required in case something terrible happens just like how cars have insurance. He said land use decisions could have an impact on the safety and welfare of others.

Commissioner Denney said there were no city or county laws requiring a business owner to have a particular type of insurance. He said the difference between business insurance and car insurance was that vehicles were on the road. He said there were already codes in place that require proper disposal of waste.

Commissioner Liese said the applicant did not want to address sanitation facilities immediately, but instead do it over time.

Commissioner von Achen said the first phase would be self-enclosed mobile homes that have their own drinking source and waste facilities so the issue of sanitation and water would be taken care of for the first two years.

Commissioner Denney said the applicant should not be expected to search volunteers for the possession of guns. He said the lengthy proposed conditions were unenforceable and he did not think they could pass a Conditional Use Permit with that many conditions. He was in favor of limiting the number of people and perhaps the type of camping equipment used, such as an RV versus a tent.

Commissioner von Achen referenced the regulations and asked why an owner could not have a mobile home on the farm.

Ms. Miller said the mobile home could be for her family. She said the term mobile home meant an RV. She said she did not believe the regulation did not apply to the property owner but that she would have to check with Zoning & Codes.

Commissioner von Achen discussed the ADA requirement for farms. She referred the staff report. She said there were no ADA requirements for farms but yet they were asking a farmer with 12 acres to install best management practices for a business that would only involve able bodied people. She said this was a standard that had not even been adopted yet and if it was it was for federal public lands. She did not think they should be concerned with the ADA requirement for the Conditional Use Permit. She said they were asking the applicant to invest a lot of money in infrastructure for sanitation facilities but they were only approving a two year Conditional Use Permit. She felt that would create a burden for the applicant.

Commissioner Britton asked staff to comment on the enforceability of the conditions.

Mr. McCullough said some of the conditions were a little unique because they were related to human behavior. He said generally he looks at a project in terms of how many conditions were needed to make it compatible with the neighborhood. He said sand quarries were a good example. He said in

theory a good set of conditions could help make a project, that may not otherwise compatible, compatible with the neighborhood.

Commissioner Kelly agreed with Commissioner Denney that they were getting stuck in the weeds of this item. He said with 21+ conditions they were trying to create a zone that they did not currently exist. He said they were trying to apply safety and health conditions to an agriculturally zoned area. He encouraged the Board of County Commissioners to look at agritourism and the regulations that were there for agritourism. He said Planning Commission was trying to create regulations for agritourism and there wasn't anything. He said they were having a hard time defining agritourism, in terms of insurance or ADA compliance. He said that was not the same as agriculture. He felt the reason they were struggling so much with this was that they were trying to create rules where they did not exist. He stated in order for this to be successful they had to have community agreement that they were going to be successful. He did not have the feeling that this would be successful. He said he thought a lot about agritourism as a business entity and as it's zoned. He was not sure there was enough set up as a community for it to be successful yet.

Commissioner Liese felt there were too many conditions. He said he could not vote for something that was bound to fail. He asked staff who would check the quality of the insurance policy if it was a condition.

Mr. McCullough said staff would have an initial review but that he didn't know about an ongoing review.

Commissioner Liese asked staff who would be checking the camping units for fire extinguishers.

Mr. McCullough said there would need to be a discussion with Zoning & Codes.

Commissioner Liese wondered if there would be people to check on whether this would become profitable.

Mr. McCullough said a mechanism could be created for interpreting that. He said it would be a challenge to see the books.

Commissioner Liese asked if there was a way to determine advertisements.

Mr. McCullough said staff would not actively be looking for advertisements.

Commissioner Liese said he could not vote for 21 conditions. He felt they should deny the application because conditions were unenforceable and the health, safety and welfare of the community was their responsibility.

Commissioner Josserand thanked staff because they did exactly what Planning Commission asked them to do two months ago. He said neither side agrees with the conditions. He quoted Commissioner Rasmussen's comments from two months ago: *"...this was not about organic farming, sustainable living, sustainable agricultural, or agricultural education. He said the issue was about camping..."* He said there was a difference between camping in a backyard and having a structure setup for 8 months of the year. He felt that was residential camping. He said two months ago he did not want to vote against the Conditional Use Permit based on appearance but did have concerns about the duration of camping and sanitation. He said the applicant did not agree with some of the revised conditions. He asked what would be wrong with a 300' hose and tent shower. He felt long term camping should have shower facilities.

Commissioner Culver asked staff if a portable shower was allowed.

Ms. Miller said showers in RVs were allowed. She said the Mr. Richard Ziesenis with the Health Department advised that a portable washing facility was acceptable but the wastewater that touches the human body cannot go to the ground, it has to be disposed of in a septic/sewage system. She said portable showers or sponge bathes would have to have some sort of catchment for the runoff.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Kelley, to deny the Conditional Use Permit, CUP-2-1-10, based on the safety, health, and welfare of the community.

Commissioner Struckhoff felt the issue was about camping. He felt the number of conditions seemed excessive but that Planning Commission requested that two months ago. He thanked staff for their time in working on this. He felt sanitation was addressed with self-contained RV's for the first two years. He said the words "transient workers coming through town" was not an accurate description of what was happening. He said volunteers were coming to Lawrence to participate in a specific activity and purpose, not transients or vagrants. He said the number of campers allowed at one time was fine. He said he would not impose any gun regulations on others that he wouldn't impose on himself on their own property. He said he would like to see a leaner proposal, although Planning Commission requested them two months ago. He said this example of land use, camping for workers on an agricultural enterprise, was something they were going to see again whether or not it was related to the agritourism issue. He felt the issue would appear before Planning Commission again for some other applicant. He asked if they supported camping on private property for this purpose in Douglas County. He said if they did they needed to draft a set of regulations that would permit that. He said this was agricultural land and the issue was camping. He said they would run into this issue again. He felt they should set a precedence that made sense. He said he did not see anything in the conditions, except for the number of them, that he found objectionable.

Commissioner Culver agreed with Commissioner Struckhoff. He wondered if it would be more appropriate to address camping as an accessory use to a business like farming. He said there could be a better product on taking a general scope and then working with specific situations to fit within those general guidelines. He agreed that safety, health and welfare was important but had not heard a lot of discussion about that same protection and certainty for the applicant and property owner. He wondered if they were putting themselves in a situation of setting subjective measurements to an applicant that would put time, effort and money in trying to comply with those only to find out by the way in which they were measured would set the applicant up to fail. He said he did not have an issue with the principal of conditions but more the regulatory enforcement part of that and how it could or should apply to other situations of a similar use. He appreciated the discussion by everyone and felt it was more focused on camping than it was two months ago. He said they may see this type of potential use presented in the future. He said he had a hard time supporting the Conditional Use Permit and feel guilty for taking the time of staff and the community where it may not work for anyone. He said he would like to support the Conditional Use Permit but did not know if this was the appropriate way to go about it.

Commissioner Liese said denial by Planning Commission of the Conditional Use Permit was not the law. He said County Commission would see their discussion and could do whatever they want, including sending it back to Planning Commission for reduced conditions. He said even if the County Commission denied it the applicant would have a year to work on it. He said he would vote in favor of the motion.

Commissioner Graham agreed that they would probably receive more camping requests. She said she would not feel comfortable giving the same conditions to everyone. She felt there were a lot of conditions with this Conditional Use Permit and she could not support that many conditions.

Commissioner Struckhoff said that enforcement issues would always be difficult with only two county inspectors.

Commissioner Britton said he was generally supportive of the request but baffled by all of the personal history from the neighbors and applicant. He said staff's list of conditions may be the best compromise. He did not think the sky would fall if the Conditional Use Permit had 21 conditions, although he did not think they were all necessary. He said they could only do so much and then the applicant needed to decide if they could make it work with the list of conditions. He agreed that this issue could come up again. He said this would be a two year trial Conditional Use Permit. He did not think they were setting the applicant up for failure. He said Planning Commission asked for these conditions two months ago and staff did a good job. He said the applicant deserved to move to the County Commission with a recommendation for approval. He felt generally this was a workable and reasonable way to move forward. He said he would vote against the motion and would generally support the Conditional Use Permit.

Commissioner von Achen felt it was grossly unfair to deny the Conditional Use Permit when Planning Commission demanded more conditions. She said she Googled WWOOF and it was an organization of people who travel around the world. She said they were not vagrants, they were people who were dedicated. She said she would vote against the motion and would support the Conditional Use Permit even if it was imperfect.

Commissioner Denney asked about the time frame for a denied application.

Mr. McCullough said the applicant could apply again in one year.

Commissioner Denney said the applicant had been working toward doing this for a few years. He said the issue of camping as part of agritourism would come up again. He thought the idea of using this as a test case was appealing. He did not like all of the conditions but would vote in favor of the Conditional Use Permit with fewer conditions. He stated if they deny the item and send it forward the process would have to start all over again. He said he was inclined to vote against the motion.

Commissioner Liese said City and County Commission would vote how they want regardless of the Planning Commission recommendation. He did not feel they were in the position to approve a campground. He felt a lot of good work could be done by delaying it a year.

Commissioner von Achen said it was easy for Planning Commission to postpone it for a year but they were talking about the applicant's livelihood.

Commissioner Liese said the applicant had done well without camping for 15 years.

Motion carried 5-4 with Commissioners Culver, Graham, Josserand, Kelly, Liese, voting in favor of the motion. Commissioners Britton, Denney, Struckhoff, and von Achen voted against the motion.

Commissioner Josserand asked what mechanism was going forward for agritourism.

Mr. McCullough said agritourism would be coming back to Planning Commission. He said originally camping was kept separate from agritourism. He said the County Zoning Code was in process which could address the camping as well.

Motioned by Commissioner Josserand, seconded by Commissioner Liese, to direct staff to bring Planning Commission a recommendation about how to proceed examining the issue of accessory use camping and personal camping in Douglas County.

Motion carried 9-0.

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ITEM NO. 5 SPECIAL USE PERMIT; 1520-1540 WAKARUSA DR (SMS)

SUP-13-00405: Consider a Special Use Permit for art classes and art-related activities located at 1520-1540 Wakarusa Drive. Submitted by Block Real Estate Services, LLC., for Wak2012, LLC., property owner of record.

Item No. 5 was withdrawn 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. 1 2014 PLANNING COMMISSION MEETING CALENDAR

Adopt the 2014 Planning Commission meeting calendar.

ACTION TAKEN

Motioned by Commissioner Kelly, seconded by Commissioner Struckhoff, to approve the 2014 Planning Commission meeting calendar.

Motion carried 9-0.

ADJOURN 10:31pm