



PLANNING COMMISSION MEETING
October 19, 2015
Meeting Minutes

October 19, 2015 – 6:30 p.m.

Commissioners present: Butler, Britton, Culver, Denney, Kelly, Liese, Sands, Struckhoff, von Achen

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

PLANNING COMMISSION MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of September 21, 2015.

Motioned by Commissioner Kelly, seconded by Commissioner Sands, to approve the September 21, 2015 Planning Commission minutes.

Approved 9-0.

COMMITTEE REPORTS

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

Commissioner Culver said the Metropolitan Planning Organization (MPO) Policy Board met last week. He said they covered two agenda items; amendment #2 to the Unified Planning Work Program and a request to support a grant application for KU Jayhawk Blvd streetscape project.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- No abstentions.

PC Minutes 10/19/15

ITEM NO. 1 RS7 TO IL; 2.96 ACRES; 1501 LEARNARD AVE (MKM)

Z-15-00427: Consider a request to rezone approximately 2.96 acres located at 1501 Learnard Ave from RS7 (Single-Dwelling Residential) District to IL (Limited Industrial) District with conditions to limit certain uses. Submitted by Sunrise Green LLC, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Dave Milstein said he supported the staff report. He did not feel this would impact the neighborhood the way Sunrise Garden Center did with the amount of customers. He said the new plan would reduce the density.

PUBLIC HEARING

Ms. Melissa Feiburger, Sunrise Project, said they were committed to being on the site with other businesses. She felt the historic location was an ideal site for this kind of work. She said there were lots of programs and projects to promote growing healthy food and trees. She felt this would engage youth and adults in meaningful projects and education. She stated it would be a vibrant community center that would provide space to learn from each other.

Mr. Dan Nagengast, Rolling Prairie, said he imported seeds from Italy and currently operated out of a farm near Lone Star. He said it would be hard to even tell he was there as a business because most of his business was done through the mail.

Ms. Debbie Rascoll, Limestone Pizza, supported the project.

Ms. Crystal Hammerschmidt, USD 497 Farm to School Coordinator, supported the project.

Mr. Byron Wiley expressed concern about a potential zoning nightmare similar to the 12th & Haskell Recycle Center. He said after the successful relocation of the junk yard the neighborhood met with the new owners of the property to limit the uses that would be incompatible with the neighborhood. He stated conditional zoning and a Special Use Permit allowed for safeguards for the neighbors and he was highly satisfied with the outcome. He felt Planning Commission should give careful consideration and protection to the neighborhood.

Ms. Bonnie Uffman expressed concern about the rezoning and what the future would hold for the property. She wanted more time to explore zoning options.

Ms. Jane Gibson, Barker Neighborhood Association, echoed Ms. Uffman's concerns. She felt they needed more time to understand the project further and the implications for the future.

Mr. Ray Beaumont said he attempted to get a neighborhood meeting together last minute last week. He said not enough people in the neighborhood had been notified. He asked for additional time to organize the neighborhood better.

Ms. Lisa Harris said she supported the people in the project but felt it was unusual to change zoning to industrial next to residential. She said staff did a good job of conditioning the uses on the property to be compatible with the residences around it. She wished there was another mechanism for allowing this to happen. She said she would support it being zoned to Urban Agriculture once it was an option.

Mr. Jim Carpenter said he struggled to find out what the plans were. He said he met with staff and talked about the different possibilities. He felt it was possible to meet the requirements of everyone with Urban Agriculture zoning. He said it would also provide for an urban agriculture overlay district to permit a Special Use Permit, such as agriculturally related limited manufacturing. He said it would have the benefit of preserving the RS7 underlying base district zoning and provide for all the uses requested by the applicant. He said the zoning change was problematic for what comes in the future. He wondered why the greenhouse was not registered as a historic structure. He felt the site could be made into a showpiece to preserve the character of the neighborhood.

APPLICANT CLOSING COMMENT

Mr. Milstein said time was not of the essence and he was fine with the neighborhood reviewing it further if needed. He said the number of options that would happen were smaller than the potential of uses. He said waiting a month was not going to hurt him but he was not sure what would be gained by delaying a month.

COMMISSION DISCUSSION

Commissioner von Achen asked if Central Soy and Optimal Living would be on the south side of the property.

Mr. Milstein said he was not sure about Optimal Living because the owner was having a hard time making a commitment. He stated he would probably increase the size of the building for Central Soy.

Commissioner von Achen inquired about possible modifications to the greenhouses.

Mr. Milstein said his vision for the greenhouses was to have them grow things but he has not really thought beyond that. He said that was what greenhouses were built for and that's how he wanted to keep it. He said he had not considered doing anything else with the greenhouses other than growing things and providing education.

Commissioner Sands inquired about the timeline for improvements to the parking area.

Mr. Milstein said he wanted to keep the gravel for runoff. He said the City recommended putting concrete aprons to the parking and to make sure a fire truck could get in and out.

Commissioner Sands asked if there would be paved parking.

Mr. Milstein said no.

Commissioner Sands asked staff if the Historic Resources Commission had weighed in on this.

Ms. Miller said staff had not talked about registering it.

Commissioner Britton asked staff to comment on the notification process used.

Ms. Miller said standard notification of 200' letters were mailed out 20 days before the Planning Commission meeting. She said letters were also sent to the Barker Neighborhood Association and East Lawrence Neighborhood Association, as well as public notice signs posted at the site.

Commissioner Sands asked staff about future use concerns. He asked if the ownership changed or any of the uses changed would it have to come back to Planning Commission.

Mr. McCullough said this was a difficult project to accommodate with the Code. He said there were not many zoning districts that could accommodate the mix of uses proposed with the Sunrise project. He said IL zoning was about the only one with limited manufacturing production. Staff understood that it would be an issue in any residential neighborhood. He said because of the desire for flexibility they chose the tool of conditional zoning which set forth a list of uses appropriate with the surrounding area. He stated this was only the beginning of the project in terms of process. And that if the zoning was approved at the City Commission level there would still be a Special Use Permit required for the tofu production facility. He said the zoning would run with the land not the ownership. If the owner changed or any use was added it would go back through this process. He stated any use approved would be added through the site plan process. He said after the zoning goes forward a site plan would still be needed to change the use and/or a Special Use Permit to add those items deemed only approved only with a Special Use Permit.

Commissioner von Achen inquired about the idea of utilizing the urban agriculture zoning.

Mr. McCullough said urban agriculture was in the beginning stages and would require the applicant to wait substantially longer. He said there were more unknowns with the outcome of the urban agriculture text amendment than to take this conditional zoning forward.

Commissioner von Achen asked if staff was concerned about this never being tested in the courts.

Mr. McCullough said staff used this tool plenty of times when there were compatibility issues with requested projects. He said the public comment was correct, it has not been tested in court but a lot of things haven't been tested in the courts. He said staff was comfortable with its use or they wouldn't be recommending it.

Commissioner Butler asked staff to respond to a fast food or health care use.

Mr. McCullough said some of the permitted uses, such as health care office and fast order food, had standards associated with them that limited them in scope. He said they both had a 3,000 square foot limitation. He said they were allowed but only allowed in a limited fashion. He said a fast order food with drive-thru would not be allowed. He said staff was utilizing the best tool in zoning to propose a tight restrictive IL to accommodate the Sunrise project.

Commissioner Kelly asked how long the urban agriculture text amendment process would take.

Mr. McCullough said it depended on the idea of urban agriculture being allowed in all zoning districts. He said there were some unknowns with urban agriculture and that not every part of Sunrise may fit in the urban agriculture text amendment.

Commissioner Liese felt it was important to give staff direction if they deferred the item. He wondered if staff thought it was legitimate to put it on hold to see where the urban agriculture text amendment would go over the next month.

Mr. McCullough said they operated under the framework of notice with ample time to get involved. He said staff was comfortable if the applicant was willing to allow more time to allay fears of the neighborhood.

Commissioner Liese asked Mr. Milstein about delaying the project.

Mr. Milstein said he did not want to be delayed in moving forward with the clean-up and restoration of the greenhouse. He said all the parts would not come together for another 6 months but that did not mean he wanted to pour money into this and then have it denied.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Britton, to defer one month to allow the Barker neighborhood additional time to become educated on the request.

Commissioner Britton said this was a pretty unique situation and project. The applicant was not opposed to the delay so having the opportunity to get everyone on the same page was a good thing to do.

Commissioner Struckhoff said he would support the motion but was prepared to approve it under the IL zoning.

Commissioner Britton echoed Commissioner Struckhoff's comments. He said it was a little awkward because IL seemed out of place but that staff did a good job with the conditions.

Commissioner Struckhoff said he was a Barker Neighborhood resident and shared the concerns of the neighborhood.

Commissioner von Achen thanked the applicant for being willing to work with the neighborhood.

Commissioner Kelly said he would support the motion. He said it sounded like the project was still developing and he encouraged the applicant to think about going down the road of fast order food.

Commissioner Sands said he would be prepared to support the rezoning but felt it was a good thing to allow the public to review the staff report further. He asked those with concerns to make use of the resources, such as staff, to familiarize themselves with the uses.

Commissioner Liese asked staff to give a second thought on how the community could be protected if the ownership should change.

Motion carried 9-0.

PC Minutes 10/19/15

ITEM NO. 2 TEXT AMENDMENT FOR URBAN AGRICULTURE (MKM)

TA-15-00346: Consider a Text Amendment to the City of Lawrence Land Development Code, to add Urban Agriculture as a permitted use and establish standards. *Initiated by City Commission on 6/23/15.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

Mr. Steve Tipton, Kansas Honey Producers, said the rules and guidelines set forth were very compatible with rural areas. He felt the text amendment looked good for protection of the public. He encouraged Planning Commission to make Lawrence a pollinator district. He said not everybody needed a beehive, but everybody needed a pollinator friendly plant in their yard.

Mr. Skylar Adamson, Lawrence Fruit Tree Project, was pleased with how collaborative the process had been. He expressed concern about the registration of bees because it might encourage theft. He felt the bee regulation was too restrictive. He was in favor of slaughtering animals. He said fruit street trees had not been addressed.

Mr. Michael Almon, Sustainability Action Network, thanked staff for their time. He requested they wait at least two months to sort through all the details. He felt that under the urban agriculture text amendment certain terms, such as permaculture, animal husbandry, aquaculture, agroforestry, beekeeping, horticulture, etc. should be added. He felt a number of things still needed to be worked out. He felt language regarding debris should identify urban agriculture implements and materials as legitimate, not to be considered debris, when in use. When not in use they can be contained in storage sheds and screened. He said under agriculture processing, accessory to an urban farm, was far too limited.

Mr. Russell Mullin, Food Policy Council, thought the bee regulations were too strict.

Ms. Emily Ryan felt the language surrounding bees was too restrictive.

Mr. Travis Weller asked for more flexibility in terms of expanding where urban farm areas and small animal agriculture could exist.

Mr. Daniel Pool did not think there would be a tremendous stampede toward becoming commercial growers or gardeners. He encouraged them to move forward with the text amendment.

Mr. Matthew Stephens echoed the comments made about beekeeping standards. He felt the licensing and regulation section for bees was over burdensome. He did not want a list of bee keepers listed publically due to the potential for theft. He said a list could also create a false sense of security for those allergic when they could get stung in any public area that has bees.

COMMISSION DISCUSSION

Commissioner Liese said bees did not concern him at all. He wondered about other animals, such as fowl.

Complete audio & video from this meeting can be found online:
<http://www.lawrenceks.org/boards/planning-commission/agendas>

Ms. Miller said fowl was already adopted so staff decided not to change any of those standards.

Commissioner Liese asked if complaints were received about other animals in town, such as fowl.

Mr. McCullough said there was a recent Code amendment to allow chickens and ducks within city limits. He said it had not been much of an issue but that there also hadn't been a rush for people to get chicken and ducks. He could not think of any complaints received.

Commissioner Denney asked if this did not include any new zoning categories.

Mr. McCullough said no new zoning category, but new uses.

Commissioner Denney asked if an operation such as Sunrise had a use that was immediately applicable.

Ms. Miller said at first some thought the Urban Agriculture Overlay District or Urban Agriculture district but it would be difficult to make a whole new zoning district for the site.

Commissioner von Achen asked if pets for personal use fell under the definition of animal agriculture.

Ms. Miller said no, it had to be an animal providing a product.

Commissioner von Achen asked if this would open the door for puppy mills.

Ms. Miller said puppy mills would fall under another section of the Code regarding kennels.

Commissioner von Achen said she would be more comfortable with adding explicit language that puppy mills/kennels were not allowed. She agreed that registration of bees did not make sense and that getting stung by a bee was not really a risk. She liked Mr. Almon's earlier comments about potential language.

Commissioner Kelly had concerns about agricultural sales. He was not comfortable with any residential property within the city limits being seen as a farmers market without limitations because it seemed problematic.

Commissioner Britton felt that there should be some limit to sales. He also felt the slaughtering of animals should be restricted to indoor or out of sight of the public view. He said regarding rabbits he was not an expert and he did not have any additional thoughts on it.

Commissioner Sands said the only agricultural benefit of rabbits was breeding or harvesting for meat. He said if there was a restriction on the slaughtering of small animals he was not sure having a standard for rabbits applied. He felt the language for puppy mills should be expanded or the definition for commercial use should be specified in talking about sale of live animals for breeding purposes.

Commissioner Culver said he supported language that would allow for slaughtering of animals with parameters for commercial versus personal use. He said regarding property maintenance providing

further definition on debris as it pertains to agricultural implements being utilized was a good idea. He said he was inclined to limit the hours and visits to protect the residents in these areas.

Commissioner Butler said she was not in favor of the slaughtering of animals within the city limits. She wondered how many bee structures someone would have on their property.

Ms. Miller said according to the proposed language if the property was under ¼ acre there could be two bee structures.

Mr. Tipton said in an urban setting there needed to be some limitation.

Commissioner von Achen agreed that there should be a limit to the number of hives a person could have within the city limits. She felt the language for slaughtering of animals should be specific so people don't slaughter dogs and cats. She wondered about enforcing the number of visits per day.

Mr. McCullough said it was a standard that was enforced, usually with the documentation by neighbors.

Commissioner Struckhoff felt the slaughtering of animals should only be permitted indoors. He felt limiting the number of beehives in the city was appropriate.

Commissioner Sands said he did not support the slaughtering of animals within the city. He expressed concern about public health standards being met.

NO ACTION TAKEN

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

ADJOURN 9:18pm