

LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION

MARCH 27, 2002

Chrm. Durlfing called the meeting to order at 6:39 p.m. Other Commissioners present: Jennings, Haase, Ramirez, Schachter, Plants, Schenewerk, Bateman, and Burrell. Student Commissioners Koepke, Salvatore and Olsen were also present. Comm. Plants left the meeting at 11PM and Comm. Ramirez left the meeting at 11:18 PM.

Staff present: Finger, Stogsdill, Day, Dyer, Pedrotti, Wilson and Saker

GENERAL BUSINESS:

PLANNING COMMISSION MINUTES

Comm. Bateman asked that more detail be provided in future minutes, referencing Item # 11D from the February 27, 2002 meeting. There had been some discussion regarding whether or not to defer this item, resulting in a positive decision, and the minutes reflected only that the item had been deferred. However, Comm. Bateman did not feel this omission warranted delaying approval of the February minutes.

It was moved by Comm. Bateman, and seconded, to approve the minutes as presented. Motion to approve the February 27, 2002 Planning Commission minutes passed unanimously, (9-0).

COMMITTEE REPORTS

ZAC: Did not meet

TAC: Did not meet

CAT: Discussed the bicycle, pedestrian, bus transportation report. The committee expects a full draft in the 1st part of April and plans to hold public meetings afterwards.

CPC: Met to review follow up letter from consultants regarding the session held in Nov 2001. The Committee planned to review the letters and have another meeting on April 22nd

SPC: Did not meet

DEVO: Committee did meet but had no news to report

PCCM: The mid-month meeting was split between the 23rd Street corridor study, and the floodplain regulations before the Commission tonight.

COMMUNICATIONS / MISCELLANEOUS BUSINESS

- Ms. Finger listed communications to the Planning Commission from staff and the public.
- Chairman Durflinger stated that he had emailed to the other Commissioners copies of two letters he had received.
- Speakers were sworn in
- The Commission voted unanimously to suspend public hearing protocol for the discussion of Item #4, using instead a modified speaker time limit model and withholding all questions until after all public speakers were heard from.
- The Commission agreed to move Item #5 to the front of the Regular Agenda, as was suggested when the item was deferred at the February meeting.

CONSENT AGENDA

ITEM NO. 2: FINAL PLAT OF HERITAGE BAPTIST CHURCH NO. 2; A REPLAT OF HERITAGE BAPTIST CHURCH, NORTHEAST CORNER OF 6TH STREET AND FOLKS ROAD (BDP)

PF-12-43-01: Final Plat for Heritage Baptist Church No. 2, a replat of Heritage Baptist Church Addition, is a three-lot residential and proposed office subdivision located on the northeast corner of 6th Street and Folks Road. Submitted by The Peridian Group, Inc., for Heritage Baptist Church, Inc., property owner of record.

ACTION TAKEN

It was moved by Comm. Haase, and seconded, for approval of Item 2 as part of the Consent Agenda, subject to the following conditions:

1. Provision of a note stating, "Public improvement plans must be submitted to the City Public Works Department for the sanitary sewer main extension prior to filing of the final plat at the Douglas County Register of Deeds."
2. Re-spreading of special assessments for Folks Road and sewer extension.
3. Provide hash marks on the final plat showing restricted access from the property to 6th Street.
4. Renumber the lots so that they are in a counterclockwise position, starting with lot 1 in the southeast corner. Revise all General Notes accordingly.
5. Replace Note #1 with General Notes #10 and #11 from the Preliminary Plat.
6. Execution of a Temporary Utility Agreement.
7. Pinning of the lots in accordance with Sec. 21-302.2 of the Subdivision Regulations.

Motion carried unanimously, (9-0).

ITEM NO. 1: **FINAL DEVELOPMENT PLAN FOR THE LEGENDS AT K.U.; SOUTH OF 24TH STREET PLACE BETWEEN INVERNESS DRIVE AND CROSSGATE DRIVE (MCW)**

FDP-02-01-02: Final Development Plan for The Legends at K.U. This proposed 200-unit apartment complex contains approximately 16.9 acres. The property is located south of 24th Street Place between Inverness Drive and Crossgate Drive. Submitted by The Peridian Group for Inverness Park Limited Partnership, property owner of record.

NO STAFF PRESENTATION

Comm. Burress asked for this item to be pulled from the consent agenda for commission discussion.

DISCUSSION

Comm. Burress asked staff what action would be necessary for the commission to request that a proposed bus drop-off lane and shelter be added to the development plan. Mr. Wilson and Ms. Finger replied that the action could be taken at the Final Development Plan stage but that it would require two motions. The first motion would deal with a waiver from the peripheral setback requirement, to permit construction of a structure (the bus shelter) within the 35' setback along 24th Street. The second motion would be for approval of the FDP with revised conditions to require for a bus pull-off lane and a bus shelter to be added to the development plan.

ACTIONS TAKEN

First Motion: It was moved by Comm. Burress, and seconded, to waive the setback requirement, allowing for placement of a bus shelter within the 35' peripheral setback. Motion carried unanimously, (9-0).

Second Motion: It was moved by Comm. Burress and seconded for approval of the Final Development Plan for Legends at K.U., subject to the following conditions:

1. Provision of a revised Final Development Plan depicting the following:
 - a. Landscaping on Final Development Plan must match landscaping on approved Preliminary Development Plan with additional landscaping along the western property line.
 - b. Provide screening fence on south side of the site as approved in the Preliminary Development Plan.
 - c. Building Types must be defined within the Final Development Plan.
 - d. Phase Boundaries must be shown on Sheet 1.
 - e. Plan must note agreement not to protest the formation of a benefit district for pedestrian path improvements.
 - f. Plan must include a drawing depicting fence details.
 - g. Plan must show 3 access points from site to pedestrian easements along the south side of the property.
2. Photometric plan must be submitted and approved prior to release of Final Development Plan for building permit issuance.
3. Execution of a Site Plan Performance Agreement.
4. Execution of an agreement not to protest formation of a benefit district for pedestrian path improvements.

5. Provide storm sewer construction plan labeling all storm sewer flowline elevations.
6. Submission of a Stormwater pollution prevention plan for review and approval by the City Stormwater Engineer prior to release of the final development plan for building permit.
7. *Inclusion of a bus pull off along 24th Street and the location of a bus shelter along the street, within the 35' peripheral setback.*

Motion carried unanimously, (9-0).

Comm. Ramirez asked Staff to determine if action taken in approval of the waiver was appropriate, or if this was technically a public hearing item. He and the other Commissioners agreed to proceed with the next item while this answer was researched. After Item no. 5 was completed, Ms. Finger informed the Commission that their action in granting a waiver in Item #1 was appropriate. This could be done without holding a public hearing.

As agreed by the Commission, Item #5 was moved to the beginning of the Regular Agenda

ITEM NO. 5: PRELIMINARY PLAT FOR PARK WEST, LOCATED SOUTH OF WAKARUSA DRIVE AND EAST OF QUEENS ROAD (SLD)

PP-01-02-02: Preliminary Plat for Park West. This proposed 129-lot mixed-density residential subdivision contains approximately 52.56 acres. The property is located south of Wakarusa Drive, and east of Queens Road. Submitted by Landplan Engineering for Green Tree L.C., property owner of record. *This item was deferred from the February 27, 2002, Planning Commission meeting.*

STAFF PRESENTATION

Ms. Day introduced the item, stating that Staff had met with Public Works and Legal Services following direction from the Commission at the Study Session, resulting in the memo presented tonight regarding condition revisions. Specifically, condition **1e** limited development of double-frontage lots on Queen's Road until Queen's Road improvements were initiated. Ms. Day also pointed out that a portion of Queen's Road is currently located within the city. A portion of it is within the county.

It was noted that the last sentence of revised condition **1f** contained an error, and the words "Eisenhower Drive" needed to be replaced with "E. 1000 Road (Queen's Road)". With this correction, condition **1f** would restrict occupancy of the lots along Overland Drive, from Wakarusa to Queen's Road, until road improvements on this segment of Overland Drive were completed.

APPLICANT PRESENTATION

Tim Herndon of Landplan Engineering spoke on behalf of the applicant, expressing thanks to Staff for their work on this project and acceptance to all of the proposed conditions except 1e and 1f.

Mr. Herndon requested that condition 1f be changed to read as follows:

- 1f.** "Execution of an agreement that Overland Drive improvements be initiated prior to issuance of building permits for RM-D and PRD residences. No occupancy permits be issued prior to completion of Overland Drive."

Mr. Herndon stated that, to his understanding, dust and the proximity of these lots to the undeveloped county road were the primary concern. He indicated that the applicant was willing to participate in a county-sponsored dust reduction program, which involved applying a form of salt that attracted water and thus reduced dust. Mr. Herndon presented an alternative condition 1e to include this intention:

- 1e.** "Execution of an agreement to participate in the Douglas County user fee dust palliative program until such time that Queen's Road between Wakarusa Drive and Overland Drive is improved. This agreement will include provisions for annual dust palliative applications via private contractor in the event the aforementioned county program becomes unavailable."

COMMISSION DISCUSSION

Comm. Burress noted that salt is a pollutant and asked how seriously this would affect water runoff pollution. Mr. Herndon replied that he was not able to answer definitively, but that the mixture of sodium chloride and magnesium chloride was used in large amounts throughout the county for dust reduction. Chairman Durlinger further referenced the salt applied liberally to the city streets during winter.

Comm. Schachter asked Staff to review their reasons for requiring completion of Queens Road before occupancy. Ms. Day indicated the staff's main concerns were:

1. Public safety issues related to increased traffic onto an unimproved country road;
2. Potential conflicts over jurisdiction for maintenance of the boundary line road;
3. Nuisance issues for residents built backing onto Queens Road related to dust, noise and traffic.

It was clarified that the occupancy restriction was a modification of the original requirement, which had stipulated no occupancy of any of the lots until Queens Road improvements were completed.

Ms. Finger reminded the Commission that half of Queen's Road was now within the City, making it unlikely for participation in a county-sponsored dust palliative program administered by the Township. Comm. Jennings added that he had taken part in similar dust-reduction programs and although the dust problem was reduced, it was far from eliminated.

Ms. Day stated that Staff was comfortable with the proposed change in wording on condition **1f**.

Discussion ensued regarding the improvement schedule for Queen's Road. Ms. Day stated that the first 600' feet north from 6th Street would be completed as part of the W. 6th Street project.

Commission discussion centered around comparisons to development projects along Folks Road and the incremental stage in which the gravel surface replaced by pavement to meet city standards as properties were annexed into the city and prepared for development. Ms. Finger noted that a portion of the Folks Road is still in the unincorporated portion of the county and is still gravel surfaced.

Ms. Day referenced the Overland Subdivision, in which Staff had originally recommended the road be improved along the entire length of the subdivision before occupancy of lots was permitted. Conditions for that subdivision were modified to include permit improvement of Folks Road on a partial basis, just past the entrance to the subdivision. An agreement not to protest street improvements for the balance of Folks Road was executed.

Mr. Herndon presented another possible exchange for condition 1e, a compromise between his original suggestion and the current recommendation of Staff.

- 1e.** "Execution of an agreement that E. 1000 Road improvements between Wakarusa Drive and Overland Drive be initiated prior to the issuance of building permits for the double-frontage lots along Queen's. No occupancy permits for said double-frontage lots will be issued prior to completion of E. 1000 Road improvements between Wakarusa Drive and Overland Drive. *In such case that Queen's Road improvements between Wakarusa Drive and Overland Drive are not completed by 2005, this agreement will become null and void.*

Mr. Herndon explained that, because of all the factors involved, it was possible that Queen's Road improvements could take many years to complete. The addition of a null and void clause would prevent the applicant from being unduly delayed due to circumstances beyond his control.

Mr. Herndon replied to questioning that a traffic study had not been done, he indicated it could be safely assumed that the majority of traffic in the area would be heading east, towards Lawrence.

Ms. Day clarified the revisions to condition **1f** and assured the Commission that Staff was comfortable with the applicant's proposed addition to **1f**. She was hesitant, however, to respond to the proposed **1e** caveat without first consulting Legal Services. Ms Day stated the proposed condition was a sound policy and consistent with staff recommendation.

The suggestion to barricade both ends of Queen's Road was made, but Staff indicated the trepidation of Public Works and Traffic Engineering to place barricades between two public right-of-ways.

The Commission was curious about the 2005 limit proposed by the applicant. Phil Struble, Landplan Engineering, explained that this was the amount of time that would elapse before the property owner was prepared to develop the lots in question, but did not state whether he was referring to the beginning of 2005 or the end. Mr. Struble told the Commission he would accept their decision whatever date in 2005 they wanted it to be.

Mr. Struble indicated the property owner had no objection to executing improvements along Queen's Road to execute when 6th Street improvements are made, but would like to know when those improvements were going to happen.

It was established during discussion that the subdivision regulations state building permits may not be issued on properties that are not adjacent to improved rights-of-way. However, this restriction has been negotiated on a case-by-case basis, usually at the time of annexation.

The example of the Spring Hill subdivision was discussed next. Development of the majority of that subdivision had been delayed for nearly two years while property owners worked with adjacent owners to form the required benefit district for Monterey Way. That developer was not allowed to complete his subdivision until road improvements along Monterey Way were begun. Phasing was discussed during the Spring Hill project, similar to that suggested here, and as has been used in other larger projects. Approximately 20% of the Spring Hill subdivision lots were allowed to be built upon because they were part of an isolated cul-de-sac that could take access to an existing public improved street and did not need to access Monterey Way. The number of lots was not arrived at as a random selection but rather based upon their position in the subdivision.

Comm. Bateman asked how the subdivisions on either side of O'Connell Road had occurred, as it was unimproved and they were located on either side of it. Ms. Finger explained that it those developments had come about through a series of compromises and actually had precipitated many problems of the problems we are faced with today. The city had learned a lesson from those developments and Staff was hesitant to repeat the errors of the past.

Chairman Durlinger asked about the possibility of the applicant organizing a benefit district with the adjacent property owners for the improvement of their section of Queen's Road. If this occurred, would the applicant then be able to develop these double-frontage lots? Staff replied in the affirmative.

ACTION TAKEN

It was moved by Comm. Schachter, and seconded, for approval of the Preliminary Plat of Park West, subject to the following conditions:

1. Execution of the necessary agreements for street and sidewalk improvements as follows:
 - a. Execution of an agreement not to protest the formation of a benefit district for Wakarusa Drive from Eisenhower Drive to Queens Road,
 - b. Execution of an agreement not to protest the formation of a benefit district for E. 1000 Road (Queens Road)
 - c. Execution of an agreement not to protest the formation of a benefit district for Overland Drive.
 - d. Execution of an agreement that Wakarusa Drive improvements, from Overland Drive to Eisenhower Drive, be initiated prior to issuance of building permits for single-family homes. No Single-family occupancy permits will be issued prior to completion of Wakarusa Drive, from Overland Drive to Eisenhower Drive.
 - e. Execution of an agreement that E. 1000 Road (Queens Road) improvements *between Wakarusa Drive and Overland Drive* be initiated prior to issuance of building permits for the double frontage lots along Queens (exclusive of the PRD lot). No occupancy permits be issued prior to completion of E. 1000 Road (Queens Road).
 - f. Execution of an agreement that Overland Drive from Wakarusa Drive to *E.1000 Road (Queens Road)* improvements be initiated prior to issuance of building permits for RM-D and PRD-2 lots. Occupancy permits for the RM-D and PRD-2 lots will not be issued prior to completion of Overland Drive, from Wakarusa Drive to Queens Road.
2. Provision of a note on the face of the plat, which states, "No fences shall be permitted in the public right-of-way per section 16-603 of the City Code nor shall they be permitted in pedestrian/utility easements."
3. Provision of a revised preliminary plat per the approval of the City Stormwater Engineer to include a revision that specifies the MEBO's for lots 27, 28, 29, 30, 36, 35, 54, 55, 65 and 64.

Motion carried unanimously, (9-0). Student Commissioners Salvatore, Olson and Koepke also voted in favor.

**ITEM NO. 3: **PRELIMINARY DEVELOPMENT PLAN FOR WAKARUSA VILLAGE;
NORTHEAST CORNER OF W. 6TH STREET AND WAKARUSA DRIVE
(BPD)****

PDP-06-05-01: Preliminary Development Plan for Wakarusa Village, a planned commercial development to be located on the northeast corner of W. 6th Street and Wakarusa Drive. The plan proposes 31 retail structures (133,416 sq. ft.) and three restaurant structures (15,000 sq. ft.). Submitted by Bartlett & West Engineers for Carolena Ltd. and Henrys Flower LLC, property owners of record, and The Woodmont Company, developer. *This item was deferred from the February 27, 2002, Planning Commission meeting.*

STAFF PRESENTATION

Mr. Dyer introduced the item, explaining that Staff was recommending denial of this project based on the fact that it does not comply with either Horizon 2020 or the PUD requirements set forth in the Code. Mr. Dyer also reminded the Commission of the memo from Legal Services responding to the letter received from Ms. Roxanne Miller.

APPLICANT PRESENTATION

RoxAnne Miller spoke on behalf of the applicant, Carolena Ltd. and Henrysflower L.L.C.. Ms. Miller described the features of the plan, focusing on both aesthetics and function. She had met with many of the surrounding property owners, City Staff, The League of Women Voters, the School Board and many other members of the community, nearly all of whom were in favor of this project.

Ms. Miller cited what she felt were Staff's three main objections to the plan and cited her reasons why these objections were not sufficient grounds for denial.

1. This property was slated for mixed-use. Ms. Miller explained that, in conjunction with the surrounding properties (Aquatic Center, school, commercial areas), this entire neighborhood fulfilled the mixed-use intent of the comprehensive plan and that it had begun under the same ownership as this tract of land.
2. Staff preferred Champion Lane as a through street with a roundabout for safety reasons, while the applicant proposed a cul-de-sac. The applicant had met with the School Board and had determined that this body preferred a cul-de-sac. The applicant was now willing to work with Staff on the development of said through street with a roundabout for safety reasons but they would like the staff to work with them to explain to the school district why a through street is now recommended instead of a cul-de-sac.
3. Horizon 2020 states a maximum permitted area of 450,000 square feet for a commercial community center. The addition of this development would exceed that amount by approximately 100,000 square feet. Ms. Miller conjecture was that this property is the last remaining undeveloped corner on the intersection. They should not be penalized for coming after the other corners had to propose development since the other corners had taken up so much of the available square footage and acreage for a Community Commercial Center. Ms. Miller also noted a subcommittee of the Commission was working on changes to Horizon 2020 which could raise the maximum allowed square footage and area to a number that was larger than 450,000.

In closing, Ms. Miller stated that the plan she represented was everything the Planning Commission has been looking for and fulfilled the goals and spirit, if not the letter of Horizon 2020.

PUBLIC HEARING

Marilyn Bittenbender spoke in support of the project, concurring that the intent of the project was more important than the numbers. She added that Staff's recommendation that the subject corner be used for office development was not valid based on the high office-space vacancy rates already present in the city.

Comm. Burress asked Ms. Bittenbender if she was contractually obligated to the owners of developers of the site. She indicated that she was. He commented that her testimony should then be considered as a continuation of the applicant's presentation and not as public comment. She guessed that was so.

Comm. Schachter raised the question of this development posing a threat to the downtown area. Ms. Bittenbender replied that the intended uses at Wakarusa Village were different from those seen downtown, adding that the "24/7" uses seen downtown (bars, late-night coffee houses) were not an option for this development. She said that the development was carefully balanced to be small enough not to compete with downtown, but large enough to survive.

Larry Kipp spoke before the Commission, indicating his approval of the plan and his wish that it had come forward earlier. He felt the Commission used poor planning, maximizing the property in financial terms, but leaving behind the vision of *Horizon 2020*. He understood that now the Commission's hands were tied. Approval would go directly against the letter of *Horizon 2020*, while denial would strike against the intent.

Melinda Henderson spoke on behalf of the League of Women Voters, stating that the applicant had not met with the entire land use committee and that no formal letter of support or non-support had been issued from that body.

Chairman Durlfänger closed the public hearing on this item.

COMMISSION DISCUSSION/QUESTIONS OF STAFF

There was some discussion over the unintentional creation of an arterial road out of Overland Drive by using it to connect two existing arterials. Ms. Finger clarified that Overland Drive had always been intended to serve the function of a minor arterial or frontage road as it provided relief to the traffic along the highway. It was staff's opinion that some sort of traffic calming device would be necessary in front of the high school, regardless of what was done with Champion Lane, to slow traffic along Overland Drive as it connected to the neighborhoods developing to the west and north.

Ms. Miller explained that uses had been excluded because of proximity to the school (ex. game rooms, adult uses).

Comm. Haase asked Staff to explain the relevance of the upper limit of square footage for commercial retail space for a community center as specified in *Horizon 2020*, specifically, what purpose this restriction served and why the Commission should be guided by it.

Ms. Finger stated that *Horizon 2020* was using both the square footage and acreage to arrive at a rule tool that was based on per capita. It was an attempt to mark a range, and was actually developed out of a basic framework, which ranged through neighborhood, community and regional centers. The City has backed off of that a little bit, but those were the square footages that they were developed with using a broad range; so it was adopted.

Comm. Haase asked again how this was useful to the Planning Commission. He stated that “rule of thumb” is one answer, but he was curious if it were not true that infrastructure would be planned around the amount of commercial square footage that was anticipated at one of these nodal intersections. He was specifically interested in traffic planning. He asked if the square footage couldn't take many different forms, with the mix of the uses dictating more about traffic patterns than the actual square footage. From a planning perspective, why is it important that we stipulate 400,000 square feet?

Ms. Finger replied that, first of all in respect to importance is the fact that this is the policy set forth in the Comprehensive Plan after years of public discussion and deliberation. As such, this policy should be formally amended prior to making any action on a single development project.

Comm. Haase expressed his support of this concept and indicated that it may be the deciding factor in his vote. However, he wanted to know what the possible consequences would be of building under and/or over the recommended capacity.

Ms. Finger supplied a specific example of how these guidelines were used in past projects. When the 6th Street access plan was being prepared and an in-depth study was being done of the intersection at 6th Street and Wakarusa, allowable square footage and acreage footage maximums were used to project traffic counts and to look at what the ultimate configuration of that intersection would be.

Other examples included the development of sanitary sewer plans. The exact load on a sewer is unknown until the specific use is known. Engineers can use ballpark numbers to arrive at fairly good conclusions, which are then finessed when the exact use is determined. More specifics are required at the development plan stage to decide issues such as necessity for additional left-turn lanes or length of the lane required. Sound preliminary recommendations based upon general numbers are possible based upon the policies set forth by the Plan.

Ms. Finger continued that, of course, these numbers were not the only ones possible. However, they had been reached with extensive study and debate of the commercial policies and goals. In Ms. Finger's opinion, these numbers were the conclusion of those meetings and hearings and were what the public had relied upon and should continue to rely upon. A broad public discourse should be held before adopting something different.

Ms. Finger then clarified for Comm. Haase that there are definitely infrastructure plans predicated upon the content of Horizon 2020 and the stipulation of an upper limit of 450,000 square feet of commercial space. The sewer projections for the Comprehensive Master Plan were created with an estimation of occupancy per square mile

Comm. Schachter joined the discussion, adding that one of the factors considered in setting the upper limits dictated by Horizon 2020 was that there is a recognized amount of traffic generated per square foot of retail space. The square foot maximum was set to reflect the amount of traffic that could be safely accommodated by a typical road/intersection.

Secondly, there is a measurable limit to the amount of retail development that a neighborhood of a given density can support. A community center like the one proposed tonight would typically serve approximately 4 square miles. Going above the recommended 150,000 square feet would result one of two things:

1. The development would fail because there would not be enough business in the area to support it.

2. The development would begin attracting consumers from outside the area, thus putting an additional (possibly unsafe) burden on the neighborhood trafficways.

Both of these options are undesirable.

Finally, according to Comm. Schachter, the limit recommended by the commercial committee for the Comprehensive Plan was chosen to give the maximum flexibility to the retailing community. In this attempt, the Comprehensive Plan had been worded, "typically 150,000, but could be as high as 450,000." He reiterated that pushing the upper limit would likely result in a negative impact on the community.

Comm. Ramirez suggested the Commission should be calling this area what it is, a regional commercial center, and consider the positives and negatives of having this develop at 6th and Wakarusa. Otherwise, "this is a great plan – in a vacuum". Additionally, Comm. Ramirez told Ms. Bittenbender that she had been involved in the creation of Horizon 2020 and was fully aware of the numbers involved and the importance of sticking to those numbers.

Comm. Bateman expressed that she had had ex parte communications with the applicant. Both she and Comm. Ramirez referenced lengthy discussions that had taken place with Ms. Miller, indicating the amount of commercial space that would be allowed at this intersection and the necessity of moving in a timely manner to get the development under way.

Chairman Durflinger indicated his dislike of referencing possible future revisions to Horizon 2020. He was of the opinion that, until the changes were made official, they were not sound basis for decision-making. He refused to base his considerations upon recommendations that do not currently and might not ever exist.

The entire Commission agreed that the Preliminary Development Plan presented or proposed was ideal and beautifully planned. Several Commissioners expressed regret that this project was not brought forward earlier, as it included all the ideal design points the Planning Commission had striven to encourage. However, they were unwilling to violate the standards of Horizon 2020 by such a great amount (100,000 square feet), particularly since the applicant had been fully aware of these constraints since the initiation of the project.

ACTION TAKEN

It was moved by Comm. Ramirez, and seconded, to recommend denial of the Preliminary Development Plan of Wakarusa Village, based upon deliberation and the body of fact contained in the Staff Report.

Motion carried unanimously, (9-0). Student Commissioners Salvatore, Olsen and Koepke also voted in favor of denial.

Chairman Durflinger called a 10-minute recess

Meeting reconvened at 9:22PM

Chairman Durlinger explained the commission's decision to suspend protocol for the public hearing portion of this item, and reviewed for the public the revised speaker time limit schedule. He asked that all Commissioner questions be held until all public speakers had been heard from.

**ITEM NO. 4: TEXT AMENDMENT FOR FLOODPLAIN
DEVELOPMENT/MANAGEMENT (BPD/BDP)**

TA-09-05-01: Text amendment to City Zoning Regulations revising Floodplain Development/Management for the purpose of implementing additional City standards

STAFF PRESENTATION

Mr. Dyer presented the item, and made reference to the body of material presented to the Commission in the Staff Report and the additional comments provided by individual members of the Special Projects Committee.

PUBLIC HEARING

Joyce Wolf, President of the Indian Hills Neighborhood Association, spoke on behalf of herself and 4 other individuals. She first expressed thanks to Staff and the Special Projects Committee for their hard work in creating a document significantly different from the original. However, Ms. Wolf stated, there were two issues she wished to raise with the proposed new regulations.

First, the Neighborhood Association was concerned with the Wakarusa and Kansas Rivers in the Kansas/Lower Republican River basin. The Association felt that H&H studies were not sufficient due to the large size of the drainage area. They were of the opinion that it would take far more fill than stated in the new regulations to have a significant effect on the BFE.

Ms. Wolf referenced the impervious surfaces near Wanamaker Quarter in Topeka. According to Ms. Wolf, Lawrence-Douglas County has no control over this stormwater, which all drains to the Kansas River. In spite of this, development of non-residential, previously platted lots will be allowed 60% impervious surfaces. Meanwhile, residential building will be restricted to impervious surfaces of only 30%.

Ms. Wolf's second concern centered on the large number of areas that drain to the Wakarusa River. The Neighborhood Association felt that fill for the Trafficway in the north would have a more significant impact on the BFE than suggested by the new regulations, and asked that a moratorium be placed on building in North Lawrence until a more comprehensive study was done.

Ted Boyle, President of the North Lawrence Neighborhood Association, also expressed thanks to Staff for their hard work. He shared his organization's desire for stricter regulations, since this would result in less risk and therefore lower flood insurance rates. Fifty homes had been built in North Lawrence since the 2000 Census was taken. There are 746 homes in North Lawrence plus those 50 new homes. All would like to get flood insurance at as inexpensive a rate as possible.

Mr. Boyle explained that, according to the new FEMA maps, the majority of new homes and many of the older homes in North Lawrence were now located in the floodplain. Many of these residents are in the low to moderate income range and are concerned about the outrageous insurance rates they may be facing. Forty-eight percent of residents in his neighborhood are low-

income and so it matters how much they have to pay for insurance rates. Of the nearly 800 homes, approximately 2/3^{ds} of these are within the designated floodplain and 75% are owner-occupied.

The NLNA felt that the overlay district was a substitute for inadequate drainage systems that they, as residents of the North Lawrence area, were already paying for. They felt the new regulations were the best thing that had been done so far to alleviate this problem, but they would like to see more.

Tim Holverson, Vice-President of Public Policy with the Lawrence Chamber of Commerce, stated the Chamber's support for the policy of "not building in harm's way". The Chamber felt a revision of the floodplain regulations was a good idea, but they could not support the proposed new regulations as currently presented. The Chamber had two requests: a complete overlay map including the entire city of Lawrence, and a layman's version of the regulations.

Mr. Holverson noted that the floodplain efforts made in Tulsa, which were used as the basis for the Lawrence project, were federally funded. He was of the opinion that the proposed plan went against the city policy of reinvestment in North Lawrence.

The Chamber asked that the Commission delay its decision and look at ways to collect more information, such as communicating to those businesses and residents affected by the changes, informing them of the potential costs and restrictions involved. The Chamber also suggested the completion of a full H & H study to find for certain which areas were impacted.

Doug Stephens of Stephens' Real Estate discussed the effect of the new floodplain regulations, particularly the 2' freeboard, on resale properties (which compose 80-90% of their real estate business). The overlay district made it difficult to explain to potential buyers/sellers whether or not the property in question was in the floodplain and if it would require flood insurance.

Mr. Stephens also had a lot of information regarding full disclosure to buyers and sellers. He presented a sample of the disclosure statement that would be required according to the new regulations (*see final pages of Item*), stating the unintended consequences of "scaring" potential buyers unnecessarily. Mr. Stephens said he understood the intent of the 2' freeboard, but wondered if it was worth the cost.

There were several other speakers with brief points:

- Betty Lichtwardt came forward only to remind the Commission of the letter they had received from the League of Women Voters.
- Carol Bowen spoke of her concerns about future development in the floodplain. She pointed out that structures already existing in the floodplain had a "built-in" expenditure of costly flood insurance. Ms. Bowen asked the Commission to carefully consider any policy that would allow even more development in the floodplain. Furthermore, the idea of "affordable housing" in this area was moot, since the required insurance negated the lower costs and could be construed by some as redlining.

- Melinda Henderson provided from the Code the defined purpose of zoning and noted that, after attending many floodplain meetings, she realized there was simply no way to please everyone. She knew how much time and effort had been put into the new regulations, and asked only that – if it was not possible to make them stricter – for them to be approved tonight so the next step could proceed.
- John Selk explained that each project had to be considered separately, and he was against the idea of the 2' freeboard. He requested that full disclosure, in this case a full city overlay map, be provided for the public before the Commission made its decision.
- Pete Wempe echoed this sentiment, feeling it was unwise to take action before knowing how many houses would be taken in by the 2' freeboard.
- Glen Westervelt, a business owner in North Lawrence, explained that he had located in this area because of the cheaper land prices. These prices would be significantly increased as a result of the adoption of the new regulations. This would restrict his ability to expand his business and difficult/impossible for other entrepreneurs to start businesses at all (no place with affordable land). This was especially important in light of all the home-based occupations, recently urged to move inside the city.
- Kay Boydston, whose son is a resident of the Crossgate area, came forward to speak for all the residents in the neighborhood whom had already been placed in the floodplain by the FEMA maps and were being required to carry high-rate flood insurance after 20 years of residency.

The public hearing was closed.

COMMISSION QUESTIONS OF SPEAKERS & DISCUSSION AMONG COMMISSIONERS

Comm. Burress wanted to go on the record saying he did not like this public hearing format and expressed the hope that it was not used in future meetings. His preference was to ask speakers questions immediately after they had commented. In response to Ms. Boydston, Comm. Burress informed the public at large that the Planning Commission had no input whatsoever on the FEMA maps or the federal government's decision requiring flood insurance. To those speakers who had requested more stringent regulations, he asked what measures they would recommend.

Mr. Boyle responded that his Association wanted to see more stormwater drainage facilities and less development in flood-prone areas, noting that the flooding prevalent in his neighborhood was due more to run-off from nearby developments than from the river. In their opinion, the fate of the 750 residents in his Association should outweigh the profit margin of developers and realtors.

The Commission pointed out the proposed regulations asked for no development in the floodplain beyond what has already been platted. They asked Mr. Boyle if the neighborhood Association had discussed the allowance of the already-platted lots to go ahead with development. Mr. Boyle replied that it had been discussed and the Association was hesitantly in favor.

A long Q & A took place with Chad Voigt, Stormwater Engineer, establishing several points in regard to the 2' freeboard:

1. It was reflective of the 2' minimum elevation FEMA required for building in the floodplain
2. In most of Lawrence, the freeboard would not pull in many new homes. This was not the case in north Lawrence and thus the overlay maps had been provided.

3. It was an estimate of what the BFE would be with full development, based on FEMA's estimates.

Mr. Voigt indicated that the FEMA maps were not, in themselves, very accurate. However, the same data used in their large, imprecise models could be run through the city's dedicated models to derive more accurate maps, such as the one provided for North Lawrence.

Comm. Ramirez stressed repeatedly the importance of obtaining a full city map before the regulations could be appropriately acted upon. Comm. Haase agreed that, since a full map would be required in the future, it would be prudent to respond to the public's concerns and provide them with this information before making a decision. Mr. Voigt estimated a full city flood map could be completed within 2 months.

Comm. Haase made the point that the city overlay district would have no effect on insurance rates. The requirement to carry flood insurance is based solely on the properties location on the FEMA maps.

Discussion occurred between Mark Buhler of Stephens Real Estate, Comm. Burress and Comm. Schachter regarding what could potentially occur as an outcome of the new floodplain regulations and that although flood insurance may not be required, properties located within the 2' freeboard proposed would have a stigma attached to them from the perspective of potential buyers and, more importantly, from mortgage companies. A mortgage company may require flood insurance "off the cuff" if the mortgage rep sees floodplain and does not make an in-depth investigation.

John Selk, a principal with Landplan Engineering, estimated that an H & H study for an individual property could cost between \$4,000 to \$10,000.

Comm. Haase mentioned his recommendation that the freeboard be based upon a percentage of urbanization.

Mr. Selk responded that many discrepancies were found in the data used for the 1981 FEMA maps. He conceded that better GIS technology made it more likely that the new FEMA maps had a greater degree of accuracy. When asked how the city could protect itself from urban development, Mr. Selk replied that funds should be utilized for stormwater improvements and stated that more proactive steps should be taken to reduce flood damage and increase drainage velocity. Some steps he mentioned were an increase in detention facility requirements and the requirement of an H & H study for all new developments.

One of the discrepancies mentioned by Mr. Selk involved the 6' decrease in the Wakarusa River basin BFE. He was more inclined to believe the old maps were grossly inaccurate than to place the problem on the new maps. Mr. Voigt interjected that the 6' change was due in part to the realization that a farmer's levee was more effective in water detention than had been thought in 1981.

Chairman Durlinger asked what effect stormwater management measures were having. Mr. Voigt replied that the measures were working, but reminded the Commission that detention measures effect only the flow velocity, not the actual amount of water being released. Therefore these measures have no real effect on the floodplain.

It was debated whether seeing a full city flood map was important in this policy decision. Comm.

Ramirez felt that knowing exactly how much of the city would be affected was an important factor and could result a different outcome than an uninformed decision made today.

Mr. Boyle interjected that his neighborhood now had more floods at higher levels since drainage “improvements” were made to nearby areas. He accepted the fact that already-platted properties would be allowed to proceed with development, but asked the Commission to consider recommending a moratorium on further platting of properties that would be included in the overlay district by the adoption of the new regulations. He warned that, unhindered, developers would rush to submit plans while the Commission awaited the production of a full map.

ACTION TAKEN

It was moved by Comm. Ramirez, and seconded, to table consideration of this item for 3 months to allow time for a complete floodplain map of the city to be created by staff and introduced to the public.

Comm. Burress asked Mr. Buhler for evidence on overlay district property owners who had been required to carry flood insurance when they were not actually in the floodplain, due to the mortgage company’s unwillingness to investigate the property fully.

Motion carried unanimously, (9-0). Student Commissioner’s Salvatore, Olsen and Koepke also voted in favor.

**The Commission voted unanimously in the first of several motions to extend the meeting 20 minutes.*

Student Commissioner’s Salvatore and Olsen left.

The property is located within the City's Floodplain Overlay District.

There is a possibility that Structures within the Floodplain District may be inundated by water during a Flood.

There is a possibility of loss of life and/or the loss of personal property as a result of a Flood.

Insurance against the loss of personal property or structural damage due to a Flood may be available and is typically the responsibility of the property owner to obtain; and,

Such notice shall be in 28-point bolt type, signed by all buyers, and retained by the seller for five years following the closing of the sale.

Seller _____

Buyer _____

ITEM NO. 6: C-4 & C-5 TO PCD-2; LOTS 3-8, COMMERCE PLAZA ADDITION; NE QUADRANT OF S. IOWA & 31ST STREETS (SMS)

Z-11-41-01: A request to rezone Lots 3-8, (inclusive) Commerce Plaza Addition along the NE quadrant of S. Iowa on 31st Street from C-4 and C-5 (General Commercial and Limited Commercial Districts) to PCD-2 (Planned Commercial District). Initiated by the Lawrence/Douglas County Planning Commission at their meeting on November 20, 2001.

Comm. Jennings recused himself from this item and left the room.

STAFF PRESENTATION

Ms. Stogsdill introduced the item, stating Staff's recommendation for approval of the rezoning, with the condition that the new zoning would not take affect until the approval of a preliminary plat of the property.

APPLICANT PRESENTATION

The Commission initiated this item so they were the applicants.

PUBLIC COMMENTS

Dan Watkins spoke on behalf of the contract purchaser, indicating an objection to the rezoning based on the fact that all the intended outcomes of the rezoning were already accomplished. He argued that the rezoning was therefore superfluous and would only have the effect of reducing her property values.

Mr. Watkins explained that the two intentions of the rezoning were to integrate the property into the surrounding area and to restrict the property owner from piecing off the property, thus creating what the Commission felt was an inappropriate development for this area. Mr. Watkins stated that the property was already integrated, and that there was no intention of lot-by-lot development.

Chairman Durflinger referenced the pending contract with a nearby property owner, asking if single-lot selling/development would be an option if this contract did not go through. Mr. Watkins replied that this would be a possibility, but reiterated that this was not intended. The planning objectives for the property were met by the current plans and existing development.

Comm. Schachter questioned why the contract purchaser was objecting to the proposed rezoning, since, by his own testimony, he was planning on doing development that would fit into the new zoning as well as the old. Mr. Watkins replied that the new zoning would be excessively regulatory, and the same development would require more Commission involvement. He explained also that the new zoning would result in less developable area in the same square footage, which would therefore reduce the property value. Mr. Watkins asked the Commission to delay taking action until it felt its plans for the area were being threatened.

Nancy Sietz, on behalf of the property owner, asked why this property was being singled out in this action, pointing out that the other corners in this same area are all zoned C-4 or C-5. The Commission explained that, as the last undeveloped corner, this property presented an opportunity to formally integrate the area. It was also noted that the other corners, regardless of their zoning, were already fully developed as part of a Community Center. There was no chance that they could be developed otherwise. This undeveloped property presented the only potential 'threat" to the complete integration of the neighborhood.

There was no additional public comment.
Chairman Durflinger closed the public hearing on this item.

ACTION TAKEN

It was moved by Comm. Ramirez, and seconded, to recommend the City Commisison approve the rezoning of Lots 3-8 in the Commerce Plaza Addition from C-4 and C-5 to PCD-2, subject to the following condition:

1. Approval of a Preliminary Development Plan

Motion carried unanimously, (8-0-1), with Comm. Jennings abstaining. Student Commissioner Koepke also voted in favor.

The Commission agreed to consider Items 7A, 7B and 7C together, although separate motions would be required.

ITEM NO. 7A: 59.63 ACRES NORTH OF CLINTON PARKWAY (SLD)

A-02-01-02: Consider annexation of approximately 59.63 acres of land north of Clinton Parkway and west of Lake Alvamar. Submitted by Peridian Group, Inc. for Alvamar and Yankee Tank Investors, property owners of record.

STAFF PRESENTATION

Ms. Day introduced the combined items, mentioning the memo from Staff with the additional/modified conditions. She noted that the applicant had expressed an objection to the proposed conditions in Item 7A, but was not present to speak on his own behalf. This was presumed to be due to the lateness of the hour.

PUBLIC COMMENT

There was not public comment.

Chairman Durflinger closed the public hearing on this item.

ACTION TAKEN

It was moved by Comm. Schachter, and seconded, to forward a recommendation for approval of the annexation request for 59.63 acres north of Clinton Parkway, subject to the following conditions:

1. Initiation of a zoning change for the balance of the proposed annexation request not otherwise included in Z-02-06-02.
2. Execution of the following agreements:
 - a.) Agreement consenting to the annexation of the following described property:
Proposed RS-E properties along Yankee Tank Place

Provided, that this annexation consent shall only be valid: 1) at or after 5 years from the date the annexation consent is executed; or 2) on the application of the property owner of the above described property, their successors, assigns or heirs, for a building permit allowing for additional development of the above described property;

- b.) Agreement consenting to the annexation of the following described property:
Existing A-1 area (Lake Estates #6)

Provided, that this annexation consent shall only be valid: 1) at or after 10 years from the date the annexation consent is executed; or 2) on the application of the property owner of the above described property, their successors, assigns or heirs, for a building permit allowing for additional development of the above described property; and

- c.) Agreement consenting to the annexation of the following described property:
Existing B-3 area (Lake Estates #7)

Provided, that this annexation consent shall only be valid: 1) at or after 10 years from the date the annexation consent is executed; or 2) on the application of the property owner

of the above described property, their successors, assigns or heirs, for a building permit allowing for additional development of the above described property.

Motion carried unanimously, (7-0). Student Commissioner Kopeke also voted in favor.

ITEM NO. 7B: A-1 TO PRD-1; 23.48 ACRES, NORTH OF CLINTON PARKWAY AND WEST OF LAKE ALVAMAR (SLD)

Z-02-06-02: A request to rezone a tract of land approximately 23.48 acres from A-1 (Suburban Residential District) to PRD-1 (Planned Residential District). The property is generally described as being located north of Clinton Parkway and west of Lake Alvamar. Submitted by Peridian Group, Inc. for Alvamar and Yankee Tank Investors, property owners of record.

PUBLIC HEARING

There were no members of the public wishing to speak on this item.
Chairman Durflinger closed the public hearing on this item.

COMMISSION DISCUSSION

There was no discussion on this item

ACTION TAKEN

It was moved by Comm. Jennings, and seconded, to recommend approval of the rezoning of 23.48 acres north of Clinton Parkway and West of Lake Alvamar from A-1 to PRD-1 and forwarding this recommendation to the City Commission, based upon the findings of fact in the body of the staff report, subject to the following conditions:

1. Approval of a Preliminary Development Plan prior to publication of the rezoning ordinance
2. Uses are restricted to duplex and single -family land uses, excluding commercial and retail uses.
3. Maximum residential density be limited to 5 dwelling units per acre.

Motion carried unanimously, (7-0). Student Commissioner Koepke also voted in favor.

ITEM NO. 7C: **PRELIMINARY DEVELOPMENT PLAN FOR THE RIDGE AT ALVAMAR; NORTHEAST CORNER OF CLINTON PARKWAY AND SLT/HWY K-10 (SLD)**

PDP-02-02-02: Preliminary Development Plan for The Ridge at Alvamar. This proposed townhouse development contains approximately 23.48 acres. The property is generally described as being located north of Clinton Parkway and west of Lake Alvamar. Submitted by Peridian Group, Inc. for Alvamar & Yankee Tank Investors, property owners of record.

STAFF PRESENTATION

Ms. Day introduced the item and answered questions for the Commission:

- o If the Home Owners' Association folded, maintenance issues would return to the individual property owners.
- o A PUD specifically allows public access.
- o A traffic study would be submitted that would respond to the intersection in question regarding improvements and access locations.

Staff recommended approval of the item.

PUBLIC HEARING

There were no members of the public wishing to speak on this item.

Chairman Durlinger closed the public hearing on this item.

COMMISSION DISCUSSION

There was no further discussion on this item.

ACTION TAKEN

It was moved by Comm. Jennings, and seconded, to forward a recommendation for approval of the Preliminary Development Plan for The Ridge at Alvamar to the City Commission, subject to the following conditions:

1. Approval of a Traffic Impact Study prior to the submission of a Final Development Plan and that necessary public improvements be included as part of the final development plan.
2. Provision of a revised note on the face of the development plan for the driveway detail that states "Driveways provided to residential structures shall provide a minimum setback of 20' from the street or sidewalk (if one exists) per section 20-1007(E)(1)"
3. Provision of a revised development plan that removes the references that state; " Future pedestrian trail to be installed by the Home Owners Association." and includes a note that states; "All sidewalk and pedestrian path improvements shall be included in the initial construction phase of the development, prior to occupancy."
4. Provision of a note on the face of the Preliminary Development plan that notes the land use restrictions as follows:
 - a. Uses are restricted to duplex and single-family land uses, excluding commercial and retail uses; and
 - b. Maximum residential density be limited to 5 dwelling units per acre

5. Execution of an agreement not to protest improvements to Clinton Parkway and Clinton View Drive Intersection

Motion carried unanimously, (7-0). Student Commissioner Koepke also voted in favor.

ITEM NO. 8A: A TO RO-1B; 15.19 ACRES, WEST OF THE S.W. CORNER OF W. 6TH STREET AND FOLKS ROAD (BDP)

Z-02-05-02: A request to rezone a tract of land approximately 15.19 acres from A (Agriculture District) to RO-1B (Residence-Office District). The property is generally described as being located west of the southwest corner of West Sixth Street and Folks Road. Submitted by Peridian Group, Inc. for First Management, Inc, property owners of record.

ACTION TAKEN

This item was deferred at the applicant's request.

ITEM NO. 8B: PRELIMINARY PLAT FOR OAKLEY ADDITION; WEST OF THE S.W. CORNER OF W. 6TH STREET AND FOLKS ROAD (BDP)

PP-02-03-02: Preliminary Plat for Oakley Addition. This proposed office and multi-family residential area contains approximately 15.2 acres. The property is generally described as being located west of the southwest corner of W. 6th Street and Folks Road. Submitted by Peridian Group, Inc. for First Management, Inc., property owner of record.

ACTION TAKEN

This item was deferred at the applicant's request.

ITEM NO. 9A: RS-1 TO RS-2, 2.02 ACRES, 1829 RIVERRIDGE (BDP/MCW)

Z-02-07-02: A request for rezoning from RS-1 (Single-Family Residential District) to RS-2 (Single-Family Residential District) for a 2.02 acre tract of land located at 1829 Riverridge Road. Submitted by Landplan Engineering for David Davison, property owner of record.

ACTION TAKEN

This item was deferred at the applicant's request.

ITEM NO. 9B: PRELIMINARY PLAT FOR RIVERRIDGE #3; 1829 RIVERRIDGE ROAD (BDP/MCW)

PP-02-04-02: Preliminary Plat for Riverridge #3. This proposed residential subdivision contains approximately 2.02 acres. The property is located between Riverridge Road and Golden Rain Drive, and is also known as 1829 Riverridge Road. Submitted by Landplan Engineering, for David Davison, property owner of record.

ACTION TAKEN

This item was deferred at the applicant's request.

Student Commissioner Koepke left.

ITEM NO. 10: CONDITIONAL USE PERMIT FOR TRUCK STORAGE AT 602 E 1250 ROAD (MCW)

CUP-02-01-02: A Conditional Use Permit request for truck storage of a mobile washing company on 8.33 acres generally located east of U.S. Hwy. 59, approximately ½ mile south of Zarco 66 gas station, also known as 602 E 1250 Road. Requested by Michael A. & Cheryl A. Flory, property owners of record.

STAFF PRESENTATION

Mr. Wilson introduced the item, noting the added condition regarding the screening of non-vehicular items if stored on the south side of the building.

APPLICANT PRESENTATION

Mike Flory, the applicant indicated he found the conditions acceptable as presented this evening, but asked if the proposed condition could be changed so it did not apply to the screening of farm equipment that is occasionally present on the site.

PUBLIC HEARING

Tom Galyardt, the property owner/resident directly to the east of the subject property, addressed the Commission, requesting that the applicant be required to screen the area in question, regardless of what was being stored. His main concern was the sight of “a line of trucks” parked outside the storage facility. Mr. Galyardt said that farm equipment on the cement storage area outside would be acceptable.

It was clarified that Mr. Galyardt’s residence was nearly a quarter-mile away, but there was no hedgerow or naturally -formed visual barrier.

Ms. Finger suggested Red Cedars as screening materials, but the applicant pointed out that these trees will not mature in 4 years and the CUP would expire in 5 years. The trees would not be tall enough to screen the 9-10’ trucks concerned. He would also look for another location for the operation if he had to move in 5 years.

The Commission considered different applications of the proposed screening condition. They arrived at the decision to require screening of non-agricultural equipment stored outside. Truck storage would be allowed exclusively indoors. The applicant and Mr. Galyardt were amenable to this.

ACTION TAKEN

It was moved by Comm. Schachter, and seconded, to forward a recommendation for approval of this Conditional Use Permit for truck storage at 602 E. 1250 Road to the County Commission, subject to the following conditions:

1. The application be approved for no more than a 5-year period.
2. Limit the number of employees to no more than 10, which will limit the possible adverse impacts on surrounding properties.
3. All mobile washing trucks must be stored inside the building and any non-agricultural equipment stored outside the building must be screened from view.
4. Submission of a revised site plan that includes:

- a. A legal description of the property.
- b. Landscaping location and size of all perimeter and interior landscaping, including grass, ground cover, trees and shrubs.
- c. Show utility and easement locations.
- d. Show proposed location, indicate direction, and list amount of illumination of proposed lighting.
- e. Show location of each outdoor storage area.
- f. Show topography by contour lines of not more than five feet intervals.
- g. The location and dimensions of existing and proposed structures that indicate the number of stories, gross floor area, and entrances to all structures.
- h. Show the location of all parking, loading, and walkway areas.
- i. List the type of surfacing and base course proposed for all parking, loading, and walkway areas.
- j. Indicate the number of employees and required parking spaces on site plan.

Motion carried unanimously, (7-0).

ITEM NO. 11: **CONDITIONAL USE PERMIT FOR TOPSOIL REMOVAL AT 1724 E 902 ROAD (SLD)**

CUP-02-02-02: A Conditional Use Permit request for topsoil removal on 56.2 acres generally located at 1724 E 902 Road. Requested by Irving A. and Esther L. Mitchell, property owners of record.

STAFF PRESENTATION

Ms. Day introduced the item, stating that the applicant was not present, presumably due to the lateness of the hour. Ms. Day told the Commission that she had talked with a representative from Williams Pipeline. Staff was of the opinion that they should meet with the applicant, Williams Pipeline, and the Natural Resources Conversation Service before this item goes before the County Commission. Ms. Day was confident this could take place in time if the Planning Commission approved the item this evening.

DISCUSSION

Ms. Day explained that the requirement for reclamation was dealt with in condition 3h. Comm. Schachter expressed his hesitancy to approve the 4" topsoil removal without knowing what was underneath the surface area. Other Commissioners agreed if larger parcels or numerous small ones began coming in, the Commission would confer with Johnson County regarding reclamation measures.

ACTION TAKEN

It was moved by Comm. Bateman, and seconded, to forward a recommendation for approval of the Conditional Use Permit for topsoil removal at 1724 E. 902 Road to the County Commission, subject to the following conditions.

1. Provision of the following notes on the face of the site plan regarding Williams Pipe Line:
 - a. "Applicant shall contact One Call and Williams Pipeline Company, L.L.C. prior to cut activities within 50' either side of the pipeline (100' total on center) to allow for necessary stress analysis on the pipe for the additional surface load from excavation equipment and measurement of existing and proposed soil removal."
2. Provision of a site plan per Section 19A-4 of the County Zoning Regulations, prior to the consideration of this item by the County Commission that includes the following:
 - a. Existing and proposed contours;
 - b. Legal description and graphical boundaries;
 - b. Direction of proposed storm drainage flow;
 - c. The location and size of trees;
 - d. Current elevation of soil to be removed;
 - e. Note stating anticipated truck traffic and hours of operation;
 - f. Proposed erosion control measures;
 - g. Provision of a restoration plan, per the approval of the Douglas County Natural Resources Conservation District.
 - h. Provision of a site plan that shows the location and dimension of all existing utilities and easements located on the property; and
 - i. Provision of a revised site plan to show a maintained 20' vegetation buffer along all property lines, to control soil erosion;
3. Provision of the following notes on the face of the site plan that state:
 - a. "A minimum of 4" of topsoil shall remain on the site and shall not be disturbed."

- b. "The maximum number of acres disturbed at one time shall not exceed 6 acres."
- c. "No more than 5 truck loads of dirt shall be removed from the site per day with hauling limited to take place only from Monday through Friday."
- d. "All areas on the property not being actively used for topsoil removal shall be maintained with a vegetative cover to reduce undue soil erosion and potential dust problems."
- e. "Permanent or temporary soil stabilization should be applied to denuded areas that will remain undisturbed for longer than 60 days."
- f. "The Conditional Use Permit is valid for a period of up to 3 years from the date of approval by the Board of County Commissioners. Extension of the CUP for an additional period of time may be considered by the Board of County Commissioners."

Motion carried unanimously, (7-0).

MISCELLANEOUS BUSINESS

Comm. Burress brought up the fact that, if the Commission wants to continue using the public hearing tested tonight on Item #4, it should be formally acted upon and made public knowledge, so future speakers know what to expect. The Commission discussed merits and disadvantages of the alternate format.

It was moved by Comm. Burress, and seconded, to adopt the new public hearing procedures format for a “test period” of the next three (3) Planning Commission meetings, to be used for all public hearing items.

Motion carried unanimously, (7-0).

ADJOURN – 11:54 p.m.