

**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION**  
**City Commission Room, City Hall, 6 E. 6<sup>th</sup> Street**  
**DECEMBER 15, 2004**  
**Meeting Minutes**

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Commissioners present: Erickson, Ermeling, Angino, Burress, Haase, Eichhorn, Krebs, Riordan, Lawson and Jennings  
Staff present: Finger, Stogsdill, Patterson, Day and Saker  
Meeting called to order at 6:30 p.m.

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**AGENDA**

The Commission considered a request to move Item 5 to the end of the agenda. Chairman Haase expressed concern that members of the public may be planning to arrive in (estimated) time to speak about this item in its published order. Comm. Lawson suggested moving efficiently thorough the rest of the agenda to resolve this concern.

Item 5 was moved to the end of the agenda with unanimous consent.

Comm. Burress asked to pull Item 2 from the Consent Agenda.

**MINUTES:**

Motioned by Comm. Angino, seconded by Comm. Jennings to approve the minutes of the November 2004 meeting as presented.

Motion carried 9-0-1, with Comm. Ermeling abstaining because she was not on the Commission at that time.

**COMMITTEE REPORTS**

**CPC:** The committee met twice to work on neighborhood plans

**P&R ad hoc:** The committee met several times to work on identifying goals and objectives for park planning.

**RPC:** The committee met and was close to presenting a revised final draft of the Rural Development Chapter. A draft design manual will be presented to the Commission at the first January Mid-Month meeting.

**CDSC:** The committee met to finalize the initial draft standards and guidelines.

**PCMM I&II:** The Commission discussed comments on the proposed Subdivision Regulations.

**COMMUNICATIONS:**

Staff outlined the following communications:

Item 3 – Final Plat for Raeta Subdivision

- Copy of approved Planning Commission minutes regarding additional conditions placed on the Preliminary Plat
- Letter from Evan Ice commenting on issues for Planning Commission consideration

Item 4B – Preliminary Plat for First United Methodist Church

- Memo from Staff modifying conditions for the retention of the 40' right-of-way on the west side of the plat

Item 9 – CUP for Communication Tower

- Recommended language from Staff for additional condition discussed at Study Session

Misc. Item 2 – Request for concurrent submission of Parnell Park PRD

- Memo from Staff regarding request

General

- Revised Agenda
- Meeting notes from Mid-Month II
- Study Session summary
  
- The Commission received the draft Chapter 7-Industrial and Employment Related Land Use from Staff and the CPC. The document would appear on the January 2005 agenda for consideration.

**EX PARTE / ABSTENTIONS / DEFERRAL REQUESTS**

- Comm. Ermeling said Carl Capps had contacted her about presenting his opinions on a submittal. She said she told him she could not discuss the matter and referred him to Staff.
- Comm.'s Erickson, Burress and Haase had all received messages from Ted Boyle about the proposed RS5 zoning for North Lawrence. All Comm.'s said they referred Mr. Boyle to Staff.
- No abstentions were declared.
- There were no deferral requests for consideration.

The Commission approved Items 1 & 3 on the Consent Agenda.

**CONSENT AGENDA:**

**ITEM NO. 1:           FINAL PLAT FOR QUIKTRIP STORE; A REPLAT OF A PORTION OF LOTS 2 THRU 7, CO-OP SUBDIVISION; NORTHEAST CORNER OF E. 23<sup>RD</sup> STREET AND HASKELL AVENUE (PGP)**

**PF-11-33-04:** Final Plat for QuikTrip Store No. 167, a replat of a portion of lots 2, 3, 4, 5, 6 & 7, Co-op Subdivision. This proposed commercial subdivision contains approximately 1.609 acres. The property is generally described as being located at the northeast corner of East 23<sup>rd</sup> Street and Haskell Avenue. Submitted by QuikTrip Corporation, contract purchaser, and Axrom, LLC, property owner of record.

**ACTION TAKEN**

Motioned by Comm. Jennings, seconded by Comm. Lawson to approve the Final Plat for QuikTrip Store No. 167, 1<sup>st</sup> Plat, Lot 1, and forward it to the City Commission for acceptance of easements and rights-of-way, subject to the following conditions:

- 1) Provision of the following fees and recording documentation:
  - a. Current copy of paid property tax receipt at the time of submittal of the final plat for filing;
  - b. Recording fees made payable to the Douglas County Register of Deeds;
- 2) Submittal of Public Improvement Plans (deceleration lane, sidewalks, sanitary sewer, and storm sewer) to Public Works Department prior to submittal of the final plat for recordation; and
- 3) Pinning of the lot in accordance with Section 21-302.2.

Motion carried unanimously, 10-0, as part of the Consent Agenda.

**ITEM NO. 2: FINAL PLAT FOR STONERIDGE NORTH SUBDIVISION;  
EAST OF GEORGE WILLIAMS WAY (EXTENDED) AND WEST  
OF STONERIDGE DRIVE (EXTENDED) (SLD)**

**PF-11-34-04:** Final Plat for Stoneridge North Subdivision. This proposed single-family residential subdivision contains approximately 19.282 acres and is located east of George Williams Way (extended) and west of Stoneridge Drive (extended). Submitted by Landplan Engineering, P.A., for Stoneridge Holdings, L.L.C., contract purchaser, and Alvamar, Inc., property owner of record.

**COMMISSION DISCUSSION**

Comm. Burress referenced his attempt at the Preliminary Plat stage to have a pedestrian easement required at the end of Silverstone Drive to shorten the walking distance to the commercial element to the east of the subject property. He said he lost on that issue and on other efforts to encourage “pedestrian friendliness”.

Comm. Burress said he was disappointed that he had not made his case clearly at that time and would like to explain tonight why the Commission had been wrong not to require the pedestrian cut-through as he proposed. This would also explain why he would cast a “symbolic vote” against the Final Plat.

Comm. Burress drew a correlation between discriminating against blacks and against those with physical disabilities. He said there were now laws against discrimination, but it was still possible to keep the disabled out of developments by designing the property to make it inaccessible to them. He said he understood the concerns about cut-through traffic between private lots, but he said that “as an economist, I can promise those lots will sell”.

Comm. Burress said another Commissioner had stated during the Preliminary Plat consideration that “no one in this subdivision walks”. Comm. Burress said that was a convenient statement for someone to make that had no small school children, no pre-driving-age teenagers and no desire to walk themselves.

Comm. Burress said he hoped the Commission would not vote against this kind of addition again and that “providing a place for people with disabilities place to live is as important as giving black people place to live”. He apologized for not “telling the truth” during the Preliminary Plat stage.

**ACTION TAKEN**

Motioned by Comm. Angino, seconded by Comm. Riordan to approve the Final Plat for Stonegate North Subdivision and forward it to the City Commission for acceptance of easements and rights-of-way, subject to the following conditions:

1. Execution of an agreement not to protest the formation of a benefit district for street, sidewalk and intersection improvements for Stoneridge Drive;
2. Provision of a revised Final Plat to include necessary drainage easements as noted by the City Stormwater Engineer per his approval prior to recording the Final Plat with the Register of Deeds Office;

3. Submission and approval of public improvement plans for all public improvements per approval of the Public Works Department;
4. Pinning of the lots in accordance with Section 21-103 of the Subdivision Regulations.
5. Execution of a Temporary Utility Agreement; and
6. Provision of the following fees and recording documentation:
  - a. Copy of paid property tax receipt;
  - b. Recording fees made payable to the Douglas County Register of Deeds;
  - c. Provision of a master street tree plan; and
  - d. Provision of street sign fees.

Motion carried 6-4, with Comm.'s Angino, Eichhorn, Ermeling, Jennings, Lawson and Riordan voting in favor. Comm.'s Burress, Erickson, Haase and Krebs voted in opposition.

**ITEM NO. 3:        FINAL PLAT FOR RAETA SUBDIVISION; 1635 E 50 ROAD  
(SLD)**

**PF-11-35-04:** Final Plat for Raeta Subdivision. This proposed 13-lot residential subdivision contains approximately 159.32 acres. The property is generally described as being located at the northeast corner of E 50 Road and N 1600 Road along County Road 442 (1636 E 50 Road). Submitted by Bartlett and West Engineers, Inc., for Core Investments, LLC, property owners of record.

**ACTION TAKEN**

Motioned by Comm. Lawson, seconded by Comm. Jennings to approve the Final Plat for Raeta Subdivision and forward it to the Board of County Commissioners for acceptance of easements and rights-of-way, subject to the following conditions:

1. Provision of a mylar and necessary recording fees and documentation; and
2. Execution of the Water Supply Agreement with the County Health Department prior to recording of the Final Plat with the Register of Deeds Office.

Motion carried unanimously, 10-0, as part of the Consent Agenda.

**REGULAR AGENDA:**

**ITEM NO. 4A: RECEIVE ANNEXATION AGREEMENT FROM FIRST UNITED METHODIST CHURCH; SOUTH OF HIGHWAY 40 AND WEST OF HIGHWAY K-10 (PGP)**

Receive annexation agreement from City Commission, referred on November 23, 2004, for comment.

**ITEM NO. 4B: PRELIMINARY PLAT FOR FIRST UNITED METHODIST CHURCH; SOUTH OF HIGHWAY 40 AND WEST OF HIGHWAY K-10 (PGP)**

**PP-11-27-04:** Preliminary Plat for First United Methodist Church. This proposed church site contains approximately 67.45 acres. The property is generally described as being located south of Highway 40 and west of Highway K-10. Submitted by Landplan Engineering, P.A., for First United Methodist Church, and Gateway West Land Holding Co., LLC, property owners of record. City Commission referred on November 22, 2004.

**STAFF PRESENTATION**

Mr. Patterson reviewed the request, noting the location of the subject property adjacent to the city limits in Service Areas 3A & 3B of the UGA. He explained the comment from KDOT that the proposed access at the crest of the hill was the best location for access from a traffic safety standpoint, although this was contrary to the alignment approved in *Transportation 2025*.

Mr. Patterson showed where utility lines lay in relation to the subject property, noting they could not be readily extended to the area for a few years.

Staff explained the City Commission forwarded the draft annexation agreement to the Planning Commission for comment. As part of this draft agreement the applicant proposed building the first phase of the church and serving it through either a septic or lagoon system. The agreement stated the property owners' willingness to convert to city services when the area was annexed.

Mr. Patterson pointed out that the proposed use was in conformance with the adopted nodal plan for the area.

Staff recommended forwarding a positive recommendation for the Preliminary Plat, subject to conditions revised per the Staff memo distributed tonight. It was noted that these revisions involved the revision of a condition from the original Staff Report, based on the recommendations of the City Engineer.

**APPLICANT PRESENTATION**

Tim Herndon, Landplan Engineering, spoke on behalf of the applicant. He said the property owner had been working with the city for about two years with the intent of subdividing and developing the land as proposed. The annexation agreement was meant to formalize the intent of the applicant to build the development to city standards and to convert to city services upon annexation.

Mr. Herndon expressed concern about the revision of Preliminary Plat condition 4D, based on “last minute” comments from the City Engineer. He said the letter from KDOT clearly stated that the proposed access and collector alignment was the “only suitable” choice for the property. Mr. Herndon suggested an amendment was needed to Transportation 2025 to reflect KDOT’s opinion.

The applicant was concerned that, if the right-of-way at Hwy 40 were retained, a second collector street may be added along the western line of the subject property. It was discussed at length that both collectors could be maintained and would meet design standards. However, the applicant was concerned that construction of the western collector in the future would carry a requirement to eliminate the collector proposed with this plat. This made access in the future ambiguous and the church was hesitant to move forward (finance and design uses around) with a road that might be removed in the future.

### **COMMISSION DISCUSSION**

Staff was asked to respond to the concerns of the applicant. Mr. Patterson explained that the City Engineer recommended the retention of the western right-of-way in order to leave future options open. Development of a collector at that location was not anticipated in the near future, but Ms. Gorman considered it appropriate not to eliminate the possibility.

Comm. Angino commented that the letter from KDOT appeared clear that the state would not approve any access other than at the crest of the hill as shown on this plat, and the city could not open the western access without State approval.

It was discussed that the City had not asked if KDOT would (at a future time) consider a second or replacement access at the bottom of the hill. There was no evidence supporting the idea that they (KDOT) would or would not consider such an option.

Comm. Lawson said that, given the uncertainty of future access needs, he agreed with the City Engineer that leaving options open was the best course of action.

Comm. Burress asked what harm would be done to the applicant in retaining the western right-of-way, other than the “loss of a strip of land”? Mr. Herndon replied that the loss of the land was not the focus of the applicant’s concern. The property owner was hesitant to move ahead with the construction of a road that might be removed in the future. The applicant asked for some kind of assurance that the road shown on the current plat would be retained, even if a new collector was built on the western property line. There was discussion about how the two collector streets could co-exist.

Comm. Angino said the city had a pattern of “changing its mind”, and he understood the applicant’s concern and desire for a clear statement about the now and future access.

Comm. Lawson asked if there was not a standardized annexation agreement. Ms. Finger said there was not. It was anticipated that this would become a more standard practice with the new code, but this was only the second such agreement to come before the city and the document was currently drafted on an as-needed basis.

It was established that the City's Legal Director had been given the agreement earlier, and this draft was a revision in response to Mr. Corliss' comments but did not include his recommendation. Mr. Corliss felt it was not appropriate for the Legal Department to make a formal statement about whether the city should enter into this agreement.

It was clarified that annexation was not being proposed at this time. The agreement was meant to formalize how annexation would take place in the future and what steps the property owners should take at this time to streamline future annexation. The City does not have a standardized annexation agreement.

## **ACTION TAKEN**

### **Item 4A**

Motioned by Comm. Burress, seconded by Comm. Eichhorn to forward to the City Commission a recommendation for approval of the Annexation Agreement as presented.

## **DISCUSSION ON THE MOTION**

Comm. Lawson said he had no problem with the church being eventually annexed, but he would abstain from the vote because he was not comfortable with the level of information provided about a decision that could have significant future impact.

Comm. Burress said he supported the agreement because it conformed to the land use expectations of the area plan and the Comprehensive Plan.

## **ACTIONS TAKEN**

Motion on the floor was to forward to the City Commission a recommendation for approval of the Annexation Agreement as presented.

Motion carried 9-0-1, with Comm. Lawson abstaining.

### **Item 4B**

Motioned by Comm. Burress, seconded by Comm. Krebs to approve the Preliminary Plat for First United Methodist Church with the revised conditions presented by Staff (revise condition 4d).

## **DISCUSSION ON THE MOTION**

Comm. Angino said the city had a history of placing an undue burden on landowners based on unclear, uncontrollable concepts of the future.

Vice-Chair Riordan commented on the action for Item 4A, saying that the motion was made before everyone had had a chance to speak. He said he hoped that would not become standard practice.

Vice-Chair Riordan expressed concern about safety related to having both access points operational. He asked about conditions that could be applied to mitigate these concerns, such as requiring the access at the top of the hill to be signaled if both points were open.

Comm. Jennings noted that it would be inappropriate to take traffic from the industrial uses proposed to the east through the church property, so it was likely the proposed collector would be needed.

Comm. Burress responded to the previous comment about other Commissioners not having an opportunity to speak. He said several others spoke before the motion was made and that, when he was chairperson, he found it difficult to enforce any kind of rule about speaking before and/or after a motion was made.

The motion was restated.

Chairman Haase suggested initiating an amendment to *Transportation 2025* and the Major Thoroughfares Map of HORIZON 2020 to reflect the placement of the collector shown on the plat. This would discourage the elimination of the existing road in the future, but allow the retention of the western right-of-way for possible future use. Comm. Lawson said it seemed “ludicrous” to amend large comprehensive documents to deal with this issue.

#### **ACTION TAKEN**

Motioned by Comm. Lawson, seconded by Comm. Angino to approve a substitute motion, approving the Preliminary Plat for First United Methodist Church, subject to the conditions listed in the original Staff Report (retain condition 4d).

Motion failed to carry, 5-5, with Comm.’s Angino, Eichhorn, Jennings, Lawson and Riordan voting in favor. Comm.’s Burress, Erickson, Haase, Krebs and Ermeling voted in opposition.

Motion on the floor was to approve the Preliminary Plat for First United Methodist Church, subject to the revised conditions presented by Staff (revise condition 4d).

Motion failed to carry, 5-5, with Comm.’s Burress, Erickson, Haase, Krebs and Ermeling voting in favor. Comm.’s Angino, Eichhorn, Jennings, Lawson and Riordan voted in opposition.

#### **COMMISSION DISCUSSION**

Staff responded to questioning that it was not feasible or appropriate to require signalization at this time, without benefit of a traffic study or more detailed use analysis. A traffic analysis was required prior to development, based on trip generations and traffic movements before ascertaining the need for a signal at either potential intersection. Ms. Finger said several traffic configurations were possible and Staff would strongly suggest choices that would leave future options open.

Ms. Finger suggested applying a condition to the Preliminary Plat that the City Engineer and KDOT must work together to resolve the western right-of-way issue before the Final Plat was submitted.

Mr. Herndon was allowed to repeat that the applicant was not concerned about losing land for the right-of-way. The applicant was concerned about losing the collector street

shown on the current plat when and if the western right-of-way were developed into a new collector in the future.

Ms. Finger stated that it was new information to Staff that the applicant intended to build a public street at this time (Phase 1).

Comm. Burress asked why the collector on the plat could not be changed into a dead end road if a new western collector were needed. Mr. Herndon pointed out this would create a ½-mile cul-de-sac built to collector standards. He asked if the Commission could apply a condition stating the collector on the plat would be retained in perpetuity. Staff strongly discouraged this option.

Mr. Herndon clarified it was not the intent to construct a street as part of Phase 1, but the location of the access way to the parking lot was based on the future upgrade of this to a collector street.

It was discussed that there was no way of stating future traffic needs, which was why the City Engineer asked the Commission to keep options open.

Another condition was suggested, stating that, given reasonable opportunity, the site would retain access at the location referenced by KDOT as being the only one appropriate at this time.

Comm. Jennings said he could not think of any instances in which an existing collector street intersection was removed from a federal highway, and he could not imagine that would be the case here.

Mr. Herndon was allowed to state that the annexation agreement included a statement that the hilltop access shown would function as a private drive until annexation and until further surrounding development dictated the need of a public street.

Vice-Chairman Riordan expressed frustration that the City Engineer's "last minute observations" countered the clear statement by KDOT that the Hwy 40 access was the only appropriate location. He said the Commission was not given adequate information to determine between these conflicting opinions and it would have been helpful if Staff had brought this matter to their attention sooner.

The Commission continued to discuss at length the issue of access design and options for additional conditions.

It was verified with Ms. Finger that Staff would arrange for the City Engineer and KDOT to discuss and preferably resolve the issue by the January 5, 2005 submittal deadline for the Final Plat.

## **ACTION TAKEN**

### **Item 4B**

Motioned by Comm. Krebs, seconded by Comm. Burress to approve the Preliminary Plat for First United Methodist Church, subject to the following revised conditions:

1. Execution of an Annexation Agreement with the City of Lawrence;
2. Execution of an Agreement Not to Protest a Benefit District for improvements for water and sanitary sewer service;
3. Execution of an Agreement Not to Protest a Benefit District for collector street improvements; and
4. Revision of the Preliminary Plat to include the following items:
  - a. Correct the zoning label for property to the north from B-2 to B-1;
  - b. Provide graphic hatch marks and a general note that the property will have no direct access to Highway 40;
  - c. As recommended by KDOT, access to the area should be from a collector street, located at the crest of the hill. This collector street would need to be modified to continue towards the west/southwest to connect with the western property line for eventual collector street continuation to the south;
  - ~~d. Remove the proposed right-of-way access with Highway 40 at the western property line, and revise the required right-of-way to conform to the new collector street alignment;~~
  - d. Revised the proposed layout of the streets and rights-of-way with the assistance of City Staff and the Kansas Department of Transportation prior to submission of the Final Plat ;
  - e. Per Section 21-301.3(a), show the approximate grades for the streets;
  - f. Per Section 21-301.3(d) identify the proposed use of the Lots; and
  - g. Per Section 21-301.3(f), provide a general note that the preliminary plat does not certify approval of the proposed uses.

Motion carried unanimously 10-0.

#### **DISCUSSION ON THE ACTION**

It was clarified for the applicant that he would be responsible for meeting all conditions of approval prior to submittal of the Final Plat. Staff would arrange the meeting with KDOT to discuss road and right-of-way issues.

**ITEM NO. 5:            CONSIDERATION OF THE NEW DEVELOPMENT CODE, NOVEMBER 17, 2004, EDITION THAT REPLACES THE EXISTING ZONING ORDINANCE NO 3500 AND ALL AMENDMENTS SINCE ADOPTION IN 1966(LMF)**

The proposed "Zoning Map, November 17, 2004 Edition" includes zoning designations for all property located within the corporate limits of the City of Lawrence, Kansas. The proposed "Zoning Map, November 17, 2004 Edition" is incorporated by reference as if fully set forth in this notice. Copies of the proposed "Zoning Map, November 17, 2004 Edition" are available for review at the Office of the Lawrence-Douglas County Planning Department, City Hall, 6 E. 6<sup>th</sup> Street, Lawrence, Kansas during regular business hours. The proposed "Zoning Map, November 17, 2004 Edition" is also available at [www.lawrenceplanning.org](http://www.lawrenceplanning.org). This item is the second part of the revisions initiated by the Planning Commission on August 25, 2004. 1) Z-10-49G-04: Rezoning of properties currently zoned CP (Commercial Parking) to zoning districts associated with the developments the CP-zoned sites serve, based on the Table of CP Properties, and 2) Z-10-49H-04: Rezoning of various properties in twelve older neighborhoods currently zoned RS-2 to RS5 based on lot sizes (as indicated on the Map of RS5 properties). Maps and ownership tables for these zoning districts were developed based on Planning Commission direction. The RS5 designation is part of the official zoning map and appears on the composite zoning map of all district designations. Initiated by the Planning Commission at their meeting on August 25, 2004. The Planning Commission held public hearing on the first portion of initiated rezonings for the new zoning map on November 17, 2004. The map designations initiated for public hearing at December's meeting are the CP to related zonings [RM24 (RMO), CC200 and PCD-2 [Westgate];] and specific portions of older neighborhoods from RS-2 to RS5.

*The Commission agreed at the beginning of the meeting to move this item to the end of the agenda.*

**STAFF PRESENTATION – CP (Commercial Parking)**

Ms. Stogsdill said the Commission would need to take multiple actions, beginning with consideration of the areas currently zoned CP (Commercial Parking). She explained the new code did not have a comparable zoning classification for converting these properties. Staff had provided a recommended new zoning district for each property, based on zoning of the use each served.

It was clarified that the Commission could take a single action to approve rezoning of all the CP areas as proposed by Staff if no objection was found to any of those recommendations.

**PUBLIC HEARING**

No member of the public spoke on this item.

**COMMISSION DISCUSSION**

Chairman Haase referenced the parking lot identified at 303 W. 11<sup>th</sup> Street. He said this lot served the commercial office use on that corner, not the apartment use as designated on Staff's table. It was discussed that the proposed zoning classification of

RMO could remain, because the office use would be rezoned (with adoption of the new code) to RMO as well. Staff agreed to change the table to indicate the parking lot served the office instead of the apartments.

### **ACTION TAKEN**

Motioned by Comm. Angino, seconded by Comm. Riordan to approve the rezoning of all lots with CP (Commercial Parking) zoning to the individual zoning designations recommended in the table provided by Staff.

Motion carried unanimously, 10-0.

### **STAFF PRESENTATION – RS5 Zoning District**

Ms. Stogsdill explained that, when the new code was adopted, areas currently zoned RS-2 would convert to RS7. The new RS7 zoning district carried a minimum lot size requirement of 7,000 square feet, and many older neighborhoods and portions of neighborhoods (especially in central parts of Lawrence) would become non-conforming because they did not meet this lot area requirement. Staff proposed the approval of a new zoning classification (RS5) for these areas that carried a lot size requirement of 5,000-6,999 square feet. The materials provided identified broad areas suggested for the new RS5 zoning district.

It was established that the RS5 zoning would allow for some infill development, but not as much as would seem possible looking only at lot sizes and not at existing building locations. Many of the larger lots in the proposed RS5 areas were already developed with centrally-located structures, and infill development would require the removal or relocation of these homes. Staff provided a map showing actual building placement on lots to show the few places where infill development would be possible.

In response to public concerns, Staff had plotted out the proposed RS5 lots in North Lawrence in relation to the floodplain. Looking at this map, it was apparent that only a small number of these lots fell in the floodplain, and none of them would be able to developed more intensely by infill development.

Staff had also plotted out the lots in the Oread Neighborhood for a detailed look at the 1600 Block of Vermont and Kentucky Streets. It was noted that there were larger lots here that had more potential for infill, but that this area was within the environs of one or more listed historic structures. This added another level of review (Environs Review) to any project (demolition and/or construction) proposed in the area.

Ms. Stogsdill said she attempted to address most of the concerns expressed in the letter from Patricia Sinclair in the Staff Report. Specifically, the Staff Report detailed how the RS5 district differed from RS7 and how the regulations regarding unrelated individual residents (definition of family) would apply in all RS districts.

It was clarified that RS5 was a single-family zoning district, so new development, including infill, would be restricted to that use.

*The Commission agreed to extend the meeting until the agenda was complete.*

Staff was asked to explain the reasoning behind including the 1600 block of Kentucky in the proposed RS5 district, since this “jogged out” the boundary of the district. Ms. Stogsdill noted that those lots were currently zoned RS-2 (would convert to RS7) which did not match the adjacent zoning to the west. If the lots were not zoned to match the new RS5 to the east, they would become a spot zone.

It was also discussed that the North Lawrence Improvement Association had stated their opposition to the possible infill development this zoning would encourage. Opposing smaller lot zoning was historically the neighborhood’s position. It was pointed out that there were only about 4 lots available for infill in North Lawrence (in the rezoning area) and suggested that this was of minimal concern. It would not make a significant impact on the areas’ floodplain or stormwater issues.

**ACTION TAKEN**

Motioned by Comm. Angino, seconded by Comm. Riordan to approve the rezoning of all the lots identified by Staff from RS-2 to RS5 and forward it to the City Commission with a recommendation for approval.

**DISCUSSION ON THE ACTION**

Comm. Burress asked for more information related to the concerns of Ms. Sinclair. It was established that Ms. Sinclair’s lot was one that would become non-conforming under RS7 zoning, so she would not be able to rebuild without variances if her home were lost.

It was assumed that concerns about the 1600 Block of Kentucky and Vermont were adequately addressed, since those expressing these concerns had left the meeting after hearing about the additional layer of review (HRC) for any projects in this area.

**ACTION TAKEN**

Motion on the floor was to approve the rezoning of all the lots identified by Staff from RS-2 to RS5 and forward it to the City Commission with a recommendation for approval.

Motion carried unanimously, 10-0.

**DISCUSSION ON THE ACTION**

Comm. Burress asked to specifically state for the record why the Commission acted in opposition to the letters from the public:

- Oread – it appears that the number of undeveloped properties is small and the area is subject to additional review by the HRC.
- North Lawrence – the majority of the area is already developed and the RS5 zoning protects property owners, allowing them to rebuild if existing structures are lost

*The meeting was adjourned at this time.*

**ITEM NO. 6: O-1 & A/PRD-2 TO RO-1B; 17.874 ACRES; NORTH OF W. 6<sup>TH</sup> STREET AND WEST OF CONGRESSIONAL DRIVE (PGP)**

**Z-09-42-04:** A request to rezone a tract of land approximately 17.874 acres from O-1 (Office) District and A (Agricultural)/PRD-2 (Planned Residential Development) District to RO-1B (Residence-Office) District. The property is generally described as being north of W. 6<sup>th</sup> Street and west of Congressional Drive. Submitted by Paul Werner Architects, L.L.C., for Continuum Associates LTD., contract purchaser. B J Mellmanor Townhouse Apartments, L.L.C., and 6WAK Land Investments, L.L.C., are property owners of record. *This item was deferred from the November 17, 2004, Planning Commission meeting.)*

**STAFF PRESENTATION**

Mr. Patterson introduced the item, a request to rezone the subject property to allow use as a retirement facility. He referenced the Use Permitted upon Review approved by the Planning Commission in November. The City Commission had chosen to defer the UPR until this rezoning request could be considered at the same time.

The subject property and the adjacent properties to the east and west were described as vacant and ready for development. It is located near the recently completed improvements to Congressional and Overland.

Staff recommended approval of the rezoning, subject the filing of a revised plat showing the access easement across the property modified and retained for use by the property to the west.

**APPLICANT PRESENTATION**

No one was present to represent the applicant.

**PUBLIC HEARING**

Alan Cowels, President of the West Lawrence Neighborhood Association, said the neighborhood was in strong support of the proposed retirement facility. However, residents were concerned about what other uses would be possible under the requested RO-1B zoning if the retirement facility did not go through.

Gwen Klingenberg, 4900 Colonial Way, shared the neighborhood associations concerns, saying she was afraid apartment units would develop at the site if the retirement facility did not materialize.

**CLOSING COMMENTS**

Mr. Patterson stated for the record that the applicant's agent had contacted Staff to explain a prior commitment that kept him from attending tonight's meeting.

Staff responded to questioning that RO-1B was an appropriate zone for the use approved last month with a UPR. A PUD was possible, but Staff supported the applicant's wish to accomplish the project using conventional zoning. The city was, in general, trying to move away from the PUD system.

Mr. Patterson spoke about the impact of other uses that would be allowed in the requested zoning district. He said it was true that few uses generated less traffic than the proposed retirement facility, but there was no certainty about how much other uses would impact the area. Staff noted that any development would be bound by the nodal plan and the ability of the road network to handle other uses.

### **COMMISSION DISCUSSION**

Comm. Angino said it was fruitless to try to control and predict the future.

Comm. Krebs said the concern expressed by the public seemed to come up regularly. She asked if there was any way, other than that PUD system, to provide assurances that specific projects would take place. The Commission agreed to place this issue on the Parking Lot list.

### **ACTION TAKEN**

Motioned by Comm. Lawson, seconded by Comm. Jennings to approve the rezoning as presented.

### **DISCUSSION ON THE ACTION**

Comm. Burress said the neighbor's concerns about a "bait and switch" were important, but the Commission was not authorized to consider a specific use. The Commission was restricted to a consideration of a zoning district and whether any of the uses in that classification were suitable and supportable by the area. He said that Staff was of the opinion that the road system could handle the traffic generated by other RO-1B uses, and the comprehensive plan called for fairly dense development in this overall area.

### **ACTION TAKEN**

Motion on the floor was to approve the rezoning of 17.874 acres from O-1 & A/PRD-2 to RO-1B and forward it to the City Commission with a recommendation for approval, based on the findings of fact presented in the body of the Staff Report and subject to the following conditions:

1. Approval and filing of a replat of the property at the Register of Deeds Office.

Motion carried 9-1, with Comm.'s Angino, Burress, Eichhorn, Erickson, Haase, Jennings, Krebs, Jennings and Lawson voting in favor. Comm. Ermeling voted in opposition.

### **DISCUSSION ON THE ACTION**

Comm. Ermeling responded to questioning that she voted in opposition to the motion because of the concerns expressed by the neighborhood.

**ITEM NO. 7A:           RS-1 TO RO-1; 0.86 ACRES; A PORTION OF 1045 E. 23<sup>RD</sup>  
STREET (PGP)**

**Z-09-44-04:** A request to rezone a tract of land approximately 0.86 acres from RS-1 (Single-Family Residential) District to RO-1 (Residence-Office) District. The property is a portion of the parcel located at 1045 East 23<sup>rd</sup> Street (with frontage along E. 24<sup>th</sup> Street). Submitted by Landplan Engineering, P.A., for A-Z Enterprises, property owner of record. *(This item was deferred from the 10/27/04 Planning Commission meeting.)*

**ITEM NO. 7B:           C-4 & RS-1 TO C-4; 2.55 ACRES; 1045 E. 23<sup>RD</sup> STREET  
(PGP)**

**Z-09-45-04:** A request to rezone a tract of land approximately 2.55 acres from C-4 (General Commercial) District & RS-1 (Single-Family Residential) District to C-4 (General Commercial) District. The property is described as being located at 1045 East 23<sup>rd</sup> Street. Submitted by Landplan Engineering, P.A., for A-Z Enterprises, property owner of record. *(This item was deferred from the 10/27/04 Planning Commission meeting.)*

*Items 7A & 7B were deferred prior to the meeting.*

*Comm. Haase called a 10-minute recess.  
Meeting reconvened at 8:35 p.m.*

**ITEM NO. 8A: ANNEXATION OF 13.3626 ACRES; SOUTHEAST OF LAKE ESTATES SUBDIVISION, NORTHEAST OF 22<sup>ND</sup> TERRACE (SLD)**

**A-10-05-04:** Annexation request for approximately 13.3626 acres, located southeast of Lake Estates Subdivision, between E 920 Road and Lake Alvamar. Submitted by Peridian Group, Inc., for Lake Estates at Alvamar, LLC, applicant. Chris Earl, Mark A. & Marsha G. Buhler, Yankee Tank Investors, and Alvamar, Inc., property owners of record.

**ITEM NO. 8B: A-1 TO RS-2; 3.6348 ACRES; SOUTHEAST OF LAKE ESTATES SUBDIVISION, NORTHEAST OF 22<sup>ND</sup> TERRACE (SLD)**

**Z-10-50-04:** A request to rezone a tract of land approximately 3.6348 acres from A-1 (Suburban Home) District to RS-2 (Single-Family Residential) District. The property is generally described as being southeast of Lake Estates Subdivision, between E 920 Road and Lake Alvamar. Submitted by Peridian Group, Inc., for Lake Estates at Alvamar, LLC, applicant. Chris Earl, Mark A. & Marsha G. Buhler, Yankee Tank Investors, and Alvamar, Inc., property owners of record.

**ITEM NO. 8C: A-1 TO RM-D; 9.7277 ACRES; SOUTHEAST OF LAKE ESTATES SUBDIVISION, NORTHEAST OF 22<sup>ND</sup> TERRACE (SLD)**

**Z-10-51-04:** A request to rezone a tract of land approximately 9.7277 acres from A-1 (Suburban Home) District to RM-D (Multiple-Family Residential) District. The property is generally described as being southeast of Lake Estates Subdivision, between E 920 Road and Lake Alvamar. Submitted by Peridian Group, Inc., for Lake Estates at Alvamar, LLC, applicant. Chris Earl, Mark A. & Marsha G. Buhler, Yankee Tank Investors, and Alvamar, Inc., property owners of record.

**ITEM NO. 8D: PRELIMINARY PLAT FOR LAKE ESTATES AT ALVAMAR; NORTHEAST CORNER OF 22<sup>ND</sup> TERRACE AND LAKE POINTE DRIVE (SLD)**

**PP-10-26-04:** Preliminary Plat for Lake Estates at Alvamar. This proposed single-family and duplex residential subdivision contains approximately 12.2053 acres. The property is generally described as being located southeast of Lake Estates Subdivision, between E 920 Road and Lake Alvamar. Submitted by Peridian Group, Inc., for Lake Estates at Alvamar, LLC, applicant. Chris Earl, Mark A. & Marsha G. Buhler, Yankee Tank Investors, and Alvamar, Inc., property owners of record.

*Items 8A – 8D were discussed simultaneously.*

### **STAFF PRESENTATION**

Ms. Day introduced the items, which were all requested to facilitate the proposed residential development of Lake Estates at Alvamar subdivision. The project involved properties contained in multiple approved preliminary plats and attempted to recombine land in a different configuration.

Staff noted the existing County right-of-way and the gravel bus path across private property to the frontage road. Ms. Day pointed out the location of the cul-de-sac proposed as the dividing line between exclusively single-family homes (north side) and mixed single-family and duplex units (south side).

It was discussed that the adjacent subdivisions, The Sanctuary at Alvamar and The Ridge at Alvamar, were approved but not yet recorded.

Ms. Day outlined how the area plan provided in the addendum to the Staff Report designated existing land use recommendations, street alignments and possible/probable locations for local streets. She said a Preliminary Plat under the name Yankee Tank was approved in 1974 as the most comprehensive plan for the overall area. However, other land use decisions had been approved since 1974, so the Yankee Tank plat could not be used as a strict guideline for area development.

Comm. Burress referenced his request at the Study Session that Staff bring “radical design alternatives” to the regular meeting, and asked if the 1974 plat was “the best you could do”? Ms. Day replied that Staff did not attempt to redesign the plat, and pointed out that plat standards had become more strict since the 1974 Yankee Tank plat. The 1974 plat was conceptual in nature and did not take practical concerns like topography and grade into consideration. It was discussed that the 1974 plat was unlikely to be successful today, given actual engineering issues and the presence of existing structures and approved development projects.

It was noted that connectivity on this area would be challenging because of topography. Pedestrian connections were discussed, with Staff agreeing that a pedestrian cut-through to the south from the cul-de-sac would be possible. However, it would be difficult to firmly establish a pedestrian connection to the adjacent neighborhood, since the approved plat for that area did not contain a receiving easement on the adjacent property.

### **APPLICANT PRESENTATION**

Mike Keeney, Peridian Group, spoke on behalf of the applicants, noting the applicant was the developer of several adjacent areas. He noted the growing redevelopment pressure in the area and described how adjacent properties would work in conjunction with the subject property.

Mr. Keeney explained how the area plan Peridian Group had created for the larger area would incorporate the four existing estate-sized lots in the center of the subject property. He suggested these four lots would be retained as developed and described building types proposed for the rest of the subject property.

Mr. Keeney spoke about the way the traffic pattern and collector layout in the City's long-range transportation plan had changed since the 1974 plat. He explained the applicant's intent for the road system, including landscaping to make it apparent to vehicles when they entered the residential area.

Mr. Keeney responded to questioning that a pedestrian connection to the north was not appropriate. He said that a street connection was challenging enough based on the existing grade.

Regarding pedestrian connection to the south, Mr. Keeney said the development adjacent to the south was designed to feel secure and separate. Landscaping would be used to achieve this feel without actually fencing or gating. The subject property could be required to provide their part of a pedestrian connection, but the property to the south would have to be redesigned to meet that connection point.

Ms. Finger asked Mr. Keeney to point out the pedestrian connection from the southern cul-de-sac to the transit stop.

#### **PUBLIC HEARING – on rezonings only**

Francois Henriquez, 1436 E 920 Road, explained the location of his property immediately to the north of the subject property. He agreed with Mr. Keeney's comments that there were certain rules of planning to observe in this compact area. Mr. Henriquez said the first rule to follow was to remain true to the Comprehensive Plan, and his layman's reading of the plan indicated very low residential development for the subject area. He said the very high density development(s) already approved for surrounding areas were not consistent with HORIZON 2020 and he did not support the piecemeal way the overall area was being brought into the city with "no respect" to the area plan.

Mr. Henriquez said he was encouraged by Staff's recommendation for exclusively single-family uses north of 22<sup>nd</sup> Court, but it was important for the Commission to take into consideration the four large lots in the center of the subject property. He did not agree there was enough room to make an adequate transition between these lots and higher-density development to the south.

Mr. Henriquez said he would like the subject area zoned RS-E to be consistent with the Comprehensive Plat and more palatable as a buffer against development approved for adjacent properties to the south.

Alan Black spoke on behalf of the Land Use Committee for the League of Women Voters, expressing the concerns outlined in the League's letter about predictability for future areas zoned for multi-family housing. Mr. Black said "single-family attached" units (duplexes with separate ownership) were becoming common, leading new buyers to believe the area is zoned for single-family development when multi-family redevelopment is actually possible.

The League suggested the new RS-3 zoning provided in the new code be applied to the subject property, with a Special Use Permit for attached dwellings. This added some of the protections of single-family zoning.

Lee Rader, 916 N. 1452 Road, referenced her letter, saying she was a new property owner in the area and was preparing to build a new custom home. She expressed excitement at being a large-lot homeowner and concern that she bought her property under the assurance that low-density (“basically 1-acre lots”) were intended for the area. She was worried that higher-density development, especially duplexes, would decrease her own property value.

Ms. Rader was also concerned that E 920 Road, which she said was intended as a local road, would be turned into a collector and would bring a significant amount of additional traffic in front of her property.

Doug Garber, 1445 E 920 Road, spoke in favor of the proposed development to the south of his own land. He said he bought his property 20 years ago with the understanding that the areas would eventually be annexed into the city. He said he was told at that time that the area to the south would be commercially developed, possibly with a shopping mall. Compared to this, he thought the proposed down-zoning and residential development was an improvement.

Mr. Garber said it was “imperative” that E 920 Road connect to Clinton Parkway to provide a connection for residents of the Lake Estates #3 development to reach the arterial street. He said he and other area residents needed a way to get from the isolated subdivision to the commercial area.

Staff was asked to explain the intent for a connection to the commercial uses at Clinton Parkway, noting the location of all local streets that would not change in designation.

Mr. Garber said all the original owners of Lake Estates #3 were required to agree to restrictive covenants that would not allow them to protest benefit districts for sewers or roads to bring the area to city standards. He said he and other property owners had been paying for sanitary sewer trunk lines for years and could not use them until connection to city services were made.

Jerry Potter, 910 N. 1452 Road said it already took him 10-15 minutes to get onto the bypass from his house and the additional traffic generated by the proposed development concerned him.

Holly Garber said she had had problems getting onto Clinton Parkway as well. As a realtor, Ms. Garber said it had been her experience that residential development tended to increase the value of existing homes. She said this was especially so in comparison with the impact of commercial development.

Prince Banks spoke as the legal representative for Francios Henriquez, taking about the “profound impact” this proposal would have on a unique subdivision (Lake Estates). He said the existing, secluded large-lot development was a “priceless example of the intent

of RS-E zoning.” He said this application proposed placing intense residential development directly against large lots without a suitable buffer.

Mr. Banks suggested applying RS-E zoning to the subject property and using this land to create a suitable buffer, instead of bringing intense uses up to the edge of existing secluded lots.

Mr. Banks said no planning was done in the area and it was being developed as a ‘hodge-podge’ with no area plan. He spoke about the creation of a de facto collector out of E 920 Road, which would “expose sparse development to intense traffic.”

Mr. Banks suggested a comprehensive look at the overall area, possibly including the adoption of an area plan before further annexation, platting or intensive zoning was allowed.

It was noted that Lake Estate Drive was shown on the plat to extend as a collector and there were no plans at this time to make this improvement. It was suggested that this could be amended into the CIP, but noted that this did not guarantee the project would ever be funded.

Mr. Banks responded to questioning that RS-1 for the entire parcel would be an improvement over the proposed RS-2. RS-1 zoning for just the northern half would also be an improvement, “but not ideal.”

#### **CLOSING APPLICANT**

Mr. Kenney responded to public comments:

- The applicant would be amenable to RS-1 zoning, since all proposed lots would meet RS-1 zoning requirements. However, RS-1 would not be suitable for the entire parcel because the development would have to transition to approved projects on surrounding properties. Duplex uses to the south would supply this transition.
- Any road design other than that shown on the plat would create a cul-de-sac 1.5 miles long, which raised safety concerns.
- The area had been zoned for commercial development for 30 years before the applicant bought the property at commercial land values and had it down-zoned, which the neighbors fought as well.
- The applicant believed that most of the traffic generated by this development would take the improved Lake Point Drive to Clinton Parkway, rather than E 920 Road. Lake Point Drive improvements were scheduled to occur by June 2005.

#### **CLOSING STAFF**

Ms. Day noted a correction to the Staff Report for Item 8C, clarifying that Staff recommended approval of rezoning to RS-2 for Lots 1, 2 and 11-14 – all lots on the north side of 22<sup>nd</sup> Court.

The barricade shown across E 920 Road was proposed by the applicant in response to resident concerns about cut-through traffic into the adjacent neighborhood. However, the applicant did not have the ability to block a public street unless the city chose to vacate right-of-way. Staff did not support this option.

### **COMMISSION DISCUSSION**

Staff responded to questioning:

- Staff did not oppose amending the CIP to include collector street improvements to Lake Point Drive
- An area plan for this area would not be possible until the end of 2005 at the soonest.

There was discussion about the League's concern that RM-D zoning would convert to RS12 with adoption of the new code, and RS12 zoning would allow multi-family uses more intense than duplexes. In order to ensure nothing of higher intensity than duplexes, the Commission would have to:

- Defer the current rezoning request until the new code was adopted;
- Initiate a different rezoning district such as RS3 or RS5
- Direct the applicant to return with a revised preliminary plat showing standard lots for the ultimate desired outcome.

It was established that RS3 zoning would work for the lots in their current configuration, but RS5 zoning would require redesign to create lots of 10,000 square feet minimum. Also, RS5 zoning would allow shared driveways, while RS3 would not.

Staff responded to questioning that the city's legal department had made a determination that the Commission could initiate rezoning to a zoning district that did not yet exist because it would not be published until the new code was adopted.

Comm. Burress stated he did not want to slow the project unnecessarily. Mr. Keeney replied to questioning that the applicant would be willing to go along with the initiation of RS5 zoning in the spirit of trying to work with the Planning Commission and the address the concerns of the League of Women Voters.

### **ACTIONS TAKEN**

#### **Item 8A**

Motioned by Comm. Eichhorn, seconded by Comm. Angino to approve the annexation of approximately 13.3626 acres located north of Clinton Parkway and west of Lake Alvarado and forwarding it to the City Commission with a recommendation for approval subject to the following condition:

1. Compensation of fees for the Rural Water District as applicable prior to publication of the ordinance.

Motion carried unanimously, 10-0.

**Item 8B**

Motioned by Comm. Krebs, seconded by Vice-Chair Riordan to approve the rezoning of 3.634 acres from A-1 (Suburban Home Residential) District to RS-1 (Single-Family Residence) District and forward it to the City Commission with a recommendation for approval, based on the Lesser Change Table and the findings of fact found in the body of the Staff Report and subject to the following condition:

1. Recording of a final plat prior to publication of the rezoning ordinance.

Motion carried unanimously, 10-0.

**Item 8C**

Motioned by Comm. Krebs, seconded by Comm Angino to initiate rezoning for Lake Estates at Alvamar, Lots 15-28 from A-1 (Suburban Agricultural) to RS5 (Single-Family Residential) District and schedule a public hearing for February 2005.

Motion carried unanimously, 10-0.

Motioned by Comm. Krebs, seconded by Comm. Angino to approve rezoning of Lake Estates at Alvamar, Lots 1, 2 and 14-11 from A-1 (Suburban Home Residential) to RS-1 (Single-Family Residential) and forward it to the City Commission with a recommendation for approval, based on the Lesser Change Table and the findings of fact presented in the body of the Staff Report and subject to the following conditions:

1. Recording of a final plat prior to publication of the rezoning ordinance.

Motion carried unanimously, 10-0.

Motioned by Comm. Krebs, seconded by Comm. Angino to table consideration of the rezoning request for Lake Estates at Alvamar, Lots 15-28, from A-1 (Suburban Home Residential) to RM-D (Duplex Residential) to the February 2005 meeting.

Motion carried unanimously, 10-0.

**Item 8D**

Motioned by Comm. Angino, seconded by Comm. Lawson to approve the Preliminary Plat for Lake Estates at Alvamar, subject to the following conditions:

1. Provision of a revised Preliminary Plat per the approval of the Stormwater Engineer to include:
  - a. Show all easements based on the design revisions made to date;

- b. Show the off-site detention basin layout and outlet pipe and easements to be vacated or rededicated by separate instrument;
  - c. Revise drainage and utility easement along north property line for Lots 12-14 per staff approval to eliminate easement conflict and utility crossing of drainage easements; and
  - d. Revise utility easement along east edge of Lot 14 to eliminate manhole and provide increasing width in the drainage easement at the low point of the topography to protect the sanitary manholes.
2. Provision of a connected pedestrian easement to the east per staff approval to connect with easement alignment approved for the Sanctuary at Alvamar;
  3. Execution of an agreement to improve Lake Estates Drive to the north property line; and
  4. Provision of revised right-of-way along the west side of Lot 28 and the center cul-de-sac of 22<sup>nd</sup> Court to establish as a tract to be maintained by a home owners association.

Motioned by Comm. Burress, seconded by Comm. Krebs to amend the motion on the floor to add a condition for a pedestrian easement to the north, designed per Staff approval.

#### **DISCUSSION ON THE MOTION**

It was noted that the pedestrian easement proposed would lead to a dead end at the private property lines of the existing estate-sized lots. This would encourage pedestrian connection with future redevelopment of the large lots. Staff suggested the land could be reserved for a future pedestrian easement and a condition added for an agreement not to protest a benefit district for future sidewalk improvements. There was discussion about reserving the land and putting funds in escrow for a determined amount of time. It was also suggested that a condition could be added to the Preliminary Plat that this issue be resolved for the Final Plat. Comm. Burress and Comm. Krebs agreed to allow revision to the proposed amendment to the motion to add a condition based on this discussion, provided there was no objection. Comm. Lawson expressed objection and the amendment stood as originally stated.

#### **ACTION TAKEN**

Motion on the floor was to amend the motion to add a condition for a pedestrian easement to the north, designed per Staff approval.

Motion failed to carry unanimously, 0-10.

Motion on the floor was to approve the Preliminary Plat for Lake Estates at Alvamar, subject to the conditions presented in the Staff Report.

Motioned by Comm. Burress, seconded by Comm. Krebs to amend the motion to add a condition requiring dedication of a pedestrian easement to the north, with funding placed in escrow for 10 years.

#### **DISCUSSION ON THE MOTION**

Comm. Lawson asked who would be required to provide the escrow funds and how an

amount would be determined. Comm. Burress said the applicant would be responsible for funds and Staff would determine the amount.

### **ACTION TAKEN**

Motion on the floor was to amend the original motion to add the following condition:

5. Provision of a revised Preliminary Plat dedicating a pedestrian easement extending to the north property line. The applicant shall place in escrow for a period of ten (10) years an amount determined by Staff to fund sidewalk improvements to this easement.

Motion carried 6-4, with Comm.'s Burress, Erickson, Ermeling, Haase, Krebs and Riordan voting in favor. Comm.'s Angino, Eichhorn, Jennings and Lawson and voted in opposition.

Motion on the floor was to approve the Preliminary Plat for Lake Estates at Alvamar, subject to the following amended conditions:

1. Provision of a revised Preliminary Plat per the approval of the Stormwater Engineer to include:
  - a. Show all easements based on the design revisions made to date;
  - b. Show the off-site detention basin layout and outlet pipe and easements to be vacated or rededicated by separate instrument;
  - c. Revise drainage and utility easement along north property line for Lots 12-14 per staff approval to eliminate easement conflict and utility crossing of drainage easements; and
  - d. Revise utility easement along east edge of Lot 14 to eliminate manhole and provide increasing width in the drainage easement at the low point of the topography to protect the sanitary manholes.
2. Provision of a connected pedestrian easement to the east per staff approval to connect with easement alignment approved for the Sanctuary at Alvamar;
3. Execution of an agreement to improve Lake Estates Drive to the north property line; and
4. Provision of revised right-of-way along the west side of Lot 28 and the center cul-de-sac of 22<sup>nd</sup> Court to establish as a tract to be maintained by a home owners association.
5. Provision of a revised Preliminary Plat dedicating a pedestrian easement extending to the north property line. The applicant shall place in escrow for a period of ten (10) years an amount determined by Staff to fund sidewalk improvements to this easement.

### **DISCUSSION ON THE MOTION**

It was noted that there would be changes in lot lines with the Final Plat. Comm. Burress said he would support the plat, but stated his concern that this and other projects were being approved piecemeal, without an approved area plan. He felt the entire area could

have been designed with better connectivity and he hoped procedures would be put in place to require area planning ahead of development.

Comm. Burress asked to address “loose ends” from the public comment section:

- He said he was convinced that traffic would not increase significantly on E 920 Road, because most vehicles would use the extended Lake Estates Drive once improvements were complete.
- He said the concerns about protecting estate zoning/development were legitimate, but HORIZON 2020 indicated land uses even more intense than those being proposed by this plat.
- Since the Commission is forced to deal with existing conditions and approvals, no decision is going to be ideal and they must make the best of the given situation.

### **ACTION TAKEN**

Motion on the floor was to approve the Preliminary Plat for Lake Estates at Alvamar, subject to the following amended conditions:

1. Provision of a revised Preliminary Plat per the approval of the Stormwater Engineer to include:
  - a. Show all easements based on the design revisions made to date;
  - b. Show the off-site detention basin layout and outlet pipe and easements to be vacated or rededicated by separate instrument;
  - c. Revise drainage and utility easement along north property line for Lots 12-14 per staff approval to eliminate easement conflict and utility crossing of drainage easements; and
  - d. Revise utility easement along east edge of Lot 14 to eliminate manhole and provide increasing width in the drainage easement at the low point of the topography to protect the sanitary manholes.
2. Provision of a connected pedestrian easement to the east per staff approval to connect with easement alignment approved for the Sanctuary at Alvamar;
3. Execution of an agreement to improve Lake Estates Drive to the north property line; and
4. Provision of revised right-of-way along the west side of Lot 28 and the center cul-de-sac of 22<sup>nd</sup> Court to establish as a tract to be maintained by a home owners association.
5. Provision of a revised Preliminary Plat dedicating a pedestrian easement extending to the north property line. The applicant shall place in escrow for a period of ten (10) years an amount determined by Staff to fund sidewalk improvements to this easement.

Motion carried unanimously, 10-0.

*See Misc. Item 3 for initiation of an amendment to the CIP for road improvements to connect Lake View Drive to the South Lawrence Trafficway frontage road.*



**ITEM NO. 9:            CONDITIONAL USE PERMIT REQUEST FOR COMMUNICATION TOWER; 1694 N 1748 ROAD (SLD)**

**CUP-10-04-04:** Conditional Use Permit request for a communication tower. The property is located at 1694 N 1748 Road. Submitted by Selective Site Consultants, Inc., for Verizon Wireless. Walters Farms, LLC, is the property owner of record.

**STAFF PRESENTATION**

Ms. Day introduced the item, pointing out the proposed tower was smaller than those seen previously. She described the subject area as just inside the eastern county limits and surrounded by agricultural uses.

In response to Study Session discussion, Staff provided language for an additional condition requiring the tower be built to accommodate at least one additional provider. The applicant was aware of this change and was present to speak about engineering and technical aspects of this requirement.

Ms. Day responded to questioning that the new condition had been worded to require only one additional carrier based on the proposed height of the structure. The applicant would be able to provide additional information about the carrying capabilities of the tower and the Commission was able to modify the new condition to require more additional provider space.

Staff recommended approval of the request.

**APPLICANT PRESENTATION**

Trevor Wood of Selective Site Consultants spoke on behalf of Verizon Wireless (applicant) and the property owners, saying he felt there was compelling justification for the proposed tower.

Mr. Wood addressed the height issues, saying a 90' tower was adequate for Verizon's needs and the site faced height limitations based on its proximity to the Lawrence airport. An additional 20' could be added within these limitations, making the tower capable of holding 2 additional providers. The applicant was willing to make the 90' tower extendable by up to 20', if the additional carriers wanted to pursue permission to make the extension.

Comm. Burress commented on the visual appearance of the tower (attractive) vs. the antenna (unattractive). Mr. Wood said low-profile antennae were used when possible based on technical needs. Shrouding the antenna tended to make them more visible, not less.

Mr. Wood responded to questioning that the applicant had been unable to locate in Leavenworth County because Leavenworth was not licensed for the frequency the applicant needed. He said he did not know how much licenses cost, but he did not think that acquiring the needed license for Leavenworth County was a realistic option.

## **PUBLIC HEARING**

No member of the public spoke on this item.

## **CLONING COMMENTS**

There were no additional comments from the applicant Staff.

## **COMMISSION DISCUSSION**

The Commission had no additional comments or questions.

## **ACTION TAKEN**

Motioned by Vice-Chair Riordan, seconded by Comm. Angino to approve the Conditional Use Permit for a 90' telecommunication tower at 1694 N 1748 Road and forward it to the Board of County Commissioners with a recommendation for approval, based on the findings of fact presented in the body of the Staff Report and subject to the following revised conditions:

1. Provision of a revised site plan to include the following:
  - a. Show location, fixture type, and mounting height of exterior lighting on the equipment building and provide a note that states lighting shall be shielded and directed downward.
  - b. A note stating *"Minimal lighting at the tower base shall be reviewed and approved by staff. Any lighting of the enclosure area shall be directed downward and shielded to prevent glare and light trespass."*
  - c. Show or note the proposed height of the equipment building.
  - d. Show dimension of tower to west and south property lines.
2. Provision of the following notes on the face of the site plan:
  - a. *"Any tower that is not used for a period of three years, or more, shall be removed by the owner at the owner's expense. Failure to remove the tower pursuant to non-use may result in removal and assessment of cost to the property per K.S.A. 12-6a17. & 19-4.31(c) 4."*
  - b. *"The tower owner and/ or operator shall submit a letter to the Planning Office by July 1st of each year listing the current users and types of antenna located on the approved tower. (19-4.31(c) 5."*
3. Provision of a sign to be posted on the tower or enclosure noting the name and telephone number of the tower operator and operator. (19-4.31(c) 5;
4. Provision of a copy of an approved entrance permit from Grant Township for access to the tower site; and
5. Provision of a revised site plan to include a tower structurally capable of being extended to provide additional space to a minimum of 3 additional carriers.

Motion carried unanimously, 10-0.

**MISC. ITEM NO. 1: OLD BUSINESS**

There was no old business to come before the Commission.

**MISC. ITEM NO. 2: NEW BUSINESS**

**A. REQUEST FOR CONCURRENT SUBMISSION FOR PARNELL PARK PRD (SLD)**

Ms. Day referenced the memo from Staff that outlined the Zoning Code criteria for allowing concurrent submission. She explained how the multiple pieces of this project interrelated and said there was no easy answer to the applicant's request. Staff had discussed process alternatives with the applicant and was unclear as to how granting concurrent submission would benefit the applicant in terms of timing.

Ms. Day described the process timeline both with and without concurrent submission, saying that the process would not be complete until February or March either way.

**APPLICANT PRESENTATION**

Alan Belot spoke on behalf of the applicant, providing further explanation about the request, which stemmed from the acquisition of an adjacent parcel between approval of the preliminary plat and submission of a final plat. Mr. Belot said concurrent submission would allow the approved portion of the property to move forward while the newly acquired land began its process.

Mr. Belot described how submissions would be done to integrate the new section into the currently approved plat.

**COMMISSION DISCUSSION**

The Commission discussed the pros and cons of sequencing related to concurrent approval.

Comm.'s Angino and Lawson agreed that approval of the request would follow the city's stated goal of encouraging "nice infill development."

In Staff's opinion, the cleanest procedure would be to "pursue the course already charted" and complete the final plat based on the approved preliminary. Then the applicant could move ahead with construction of the section of the property that would not change with the revised final plat (which would incorporate the new land). It was acknowledged that either development process would incur additional costs and the applicant did not favor the option of continuing the current process.

It was restated that Staff supported the clearer path, noting that the first three months of 2005 would be complicated by the adoption process for the new code. Mr. Belot said the process seemed simple to him and he did not understand "why we can't work together to get this done."

Comm. Lawson said he usually tried not to vote against Staff's recommendation, but in this case he felt Mr. Belot had "done a good project". Comm. Burress said he

understood Staff's concerns, but was inclined to support the option that would benefit the applicant.

**ACTION TAKEN**

Motioned by Comm. Burress seconded by Comm. Eichhorn to grant concurrent submission for the revised Preliminary and Final Plats for Parnell Park PRD.

Motion carried 7-3, with Comm.'s Angino, Burress, Eichhorn, Jennings, Krebs, Lawson and Riordan voting in favor. Comm.'s Erickson, Ermeling and Haase voted in opposition.

**MISC. ITEM NO. 3: OTHER BUSINESS**

Motioned by Comm. Burress, seconded by Comm. Eichhorn to initiate a revision to the 2005-2009 CIP to give a priority position to a new project, the extension of Lake View Drive to the South Lawrence Trafficway frontage road. The motion included the scheduling of a public hearing on the proposed revision for the February 2005 meeting.

Motion carried unanimously, 10-0.

**DISCUSSION ON THE ACTION**

Staff was directed to include a recommended priority level with the proposed CIP revision to the February 2005 meeting.

*The Commission discussed Item 5 at this point.*

**ADJOURN 11:15 p.m.**

*Official minutes are on file in the Planning Department Office.*