



**PLANNING COMMISSION MEETING**  
**July 21 & 23, 2008**  
**Meeting Minutes**

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July 21, 2008 – 6:30 p.m.

Commissioners present: Blaser, Carter, Dominguez, Finkeldei, Harris, Hird, Moore, Rasmussen, and Singleton

Staff present: McCullough, Day, Leininger, J. Miller, Patterson, Rexwinkle, and Brown

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**MINUTES**

Receive and amend or approve the minutes from the Planning Commission meetings of June 23 & 25, 2008.

Minutes were not available to approve.

**COMMITTEE REPORTS**

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

Commissioner Moore said that TAC met and discussed the re-designation of the MPO and KDOT was looking at doing a corridor study between I-35 and Highway 59, along 56 Highway that runs through Baldwin and there would be opportunity for input. He also stated that the Industrial Committee met and discussed design guidelines.

Commissioner Rasmussen met with Mary Miller on sensitive lands language and gave her a number of comments.

**COMMUNICATIONS**

Mr. Scott McCullough reviewed new attachments/communications that were posted to the online Planning Commission agenda after the initial posting date.

**EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- Ex parte:  
Commissioner Blaser said he had a conversation regarding item 4.
- No Abstentions.

PC Minutes 7/21/08

**ITEM NO. 1A FINAL DEVELOPMENT PLAN FOR BAUER FARM; 4700 W 6<sup>TH</sup> STREET (PGP)**

**FDP-05-07-08:** Final Development Plan for First Phase of Bauer Farm, located at 4700 W 6<sup>th</sup> Street. Submitted by Landplan Engineering PA, for Free State Holdings Inc and Free State Group LLC, property owners of record.

**ITEM NO. 1B FINAL PLAT FOR BAUER FARM; 4700 W 6<sup>TH</sup> STREET (PGP)**

**PF-05-04-08:** Final Plat for Bauer Farm First Plat, located at 4700 W 6<sup>th</sup> Street. Submitted by Landplan Engineering PA, for Free State Holdings Inc and Free State Group LLC, property owners of record.

Commissioner Harris had questions and asked that items 1A and 1B be taken off the consent agenda.

Commissioner Harris asked what the difference was between the final and preliminary development plan.

Mr. Patterson said the only change on the first phase was the drive thru restaurant drive being flipped.

Commissioner Harris asked if the traffic pattern would change.

Mr. Patterson said that it would change the circulation somewhat but that the circulation still works.

**ACTION TAKEN ON ITEM 1A**

Motioned by Commissioner Moore, seconded by Commissioner Carter, to approve the Final Development Plan, subject to the following conditions:

1. Recordation at the Register of Deeds' Office of a Final Plat of Bauer Farm First Plat.
2. Recordation at the Register of Deeds' Office of all restrictions or covenants that will be applied to this phase of the development.
3. Provision of the following fees and executed documents:
  - a. A Site Plan Performance Agreement.
  - b. A copy of the document listing the site's restrictions and/or covenants.
  - c. Recording fees made payable to the Douglas County Register of Deeds.
  - d. Final Development Plan Mylar.

Unanimously approved 9-0.

**ACTION TAKEN ON ITEM 1B**

Motioned by Commissioner Moore, seconded by Commissioner Blaser, to approve the Final Plat for Bauer Farm First Plat and forwarding it to the City Commission for acceptance of dedications of easements and right-of-ways, subject to the following conditions:

1. Provision of the following fees and recording documentation:
  - a) A current copy of the paid property tax receipts.
  - b) Recording fees made payable to the Douglas County Register of Deeds.
2. Submittal of a Temporary Utility Easement Agreement.
3. Pinning of the corners of the subdivision per Zoning Code Section 20-811(g)(8).
4. Payment to Public Works of street and traffic control sign fees per the approval of the City Traffic Engineer, prior to the submittal of the Final Plat Mylar to Planning for recording at the Register of Deeds Office.

Unanimously approved 9-0.

PC Minutes 7/21/08

**ITEM NO. 2 CPA-2008-10 (DDW)**

**CPA-2008-10:** Amend Horizon 2020 Chapter 6, Commercial Land Use, to include the SW corner of Clinton Pkwy and Crossgate Drive as a potential location for a new Neighborhood Commercial Center.

**ITEM NO. 3A RSO TO CN-2; 3.324 ACRES; SW CORNER CLINTON PKWY & CROSSGATE DR (SLD)**

**Z-05-12A-08:** Consider a request to rezone a tract of land approximately 3.324 acres from RSO (Single-Dwelling Residential-Office) to CN-2 (Neighborhood Commercial Center), located on the SW corner of Clinton Pkwy and Crossgate Drive. Submitted by Mission River LLC, for Inverness Park Limited Partnership, property owner of record.

**ITEM NO. 3B RSO TO INCLUDE PD OVERLAY FOR CN-2; 3.324 ACRES; SW CORNER CLINTON PKWY & CROSSGATE DR (SLD)**

**Z-05-12B-08:** Consider a request to rezone a tract of land approximately 3.324 acres from RSO (Single-Dwelling Residential-Office) to include a PD overlay for the proposed CN-2 (Neighborhood Commercial Center), located on the SW corner of Clinton Pkwy and Crossgate Drive. Submitted by Mission River LLC, for Inverness Park Limited Partnership, property owner of record.

**ITEM NO. 3C PRELIMINARY DEVELOPMENT PLAN FOR WALGREENS; SW CORNER CLINTON PKWY & CROSSGATE DR (SLD)**

**PDP-05-04-08:** Preliminary Development Plan for Walgreens, located on the SW corner of Clinton Pkwy and Crossgate Drive. Submitted by Mission River LLC, for Inverness Park Limited Partnership, property owner of record.

Mr. McCullough said that the applicant requested items 3B & 3C be deferred. If the rezoning for item 3A was approved then the Preliminary Development Plan would convert to an administrative site plan and could be approved with additional review.

**ACTION TAKEN ON ITEMS 3B & 3C**

Motioned by Commissioner Singleton, seconded by Commissioner Hird, to defer items 3B & 3C.

Unanimously carried 9-0.

**STAFF PRESENTATION FOR ITEMS 2 & 3A**

Mr. Dan Warner presented item 2. Items 2 & 3A were heard together.

Ms. Sandra Day presented item 3A.

**APPLICANT PRESENTATION**

Ms. Jane Eldredge, of Barber Emerson, gave the history of Walgreen locations in Lawrence. Ms. Eldredge stated that the proposed site had severe limitations. There is a 60' drainage easement on the west side of the property. On the north, south, and east side is a major arterial collector and another street. The proposed property is small and confined with stringent building locations. She said that it was not suitable for residential or office building because of the size being so small. It was suitable for the proposed use which they are requesting be a CN2 use. She said that at the time of the new Development Code adoption in July of 2006 the zoning district RSO permitted 'retail sales general' and

that remained a permitted use until June of 2007 when there was a 104 page amendment to the Land Development Code, that included the deletion of two uses in the RSO district. The two uses deleted were 'repair services' and 'retail sales general.' The property owner, Mr. Gary Conwell, entered into an agreement to purchase the land before the change in the zoning code so now he was trying to regain what he had contracted for at the time he had made the initial agreement. In reviewing the proposed findings of fact in the staff report there was a great deal of discussion with conformance to the Comprehensive Plan. She said that staff was careful to point out that in its opinion that the application did not conform to the land uses of the Comprehensive Plan. She felt that it conformed to the policies.

Mr. Anthony Golden, Swartz Design Architect, worked on several Walgreen stores and stated that the proposed one was unique because it was deigned to blend with the neighborhood. It will have covered walkways and a 15' wall trash enclosure, and all the elements are stone or brick.

Commissioner Harris asked about the size of the facility compared to the other Walgreen facilities in Lawrence.

Ms. Eldredge said the other two facilities have 13,000 gross square feet and the proposed project would have 15,000 gross square feet.

Commissioner Rasmussen asked about the relationship between the current property owner and the original developer.

Ms. Eldredge said it consists of some of the same original ownership group. The applicant includes Walgreens and HT Paul.

Commissioner Moore asked if a traffic study had been completed.

Ms. Eldredge said the traffic study was completed and submitted on May 19, 2008. Access was proposed onto Crossgate Drive. On June 16, 2008 an addendum to the study was submitted.

Mr. Leon Osburn, Kaw Valley Engineering, said the amended traffic study converted the entrance off of Crossgate to a right-in-only.

Commissioner Blaser asked if there were any other street changes necessary besides the right only turn. He also asked if a median was required.

Ms. Eldredge replied no.

Commissioner Dominguez asked if the applicant was correct in saying they should avoid strip development and that because of the geography or stormwater issues they would be allowed but that nobody else could do it behind them.

Mr. McCullough said that there are no entitlements today for stripping out sections of Clinton Parkway, west of Crossgate Drive. There is always the potential for the request but has little to do with the topography of the area. The site is a 3 acre site in an urban setting so there are no hindrances to developing the site or anything west of the drainage channel. There are some access issues, much like 6<sup>th</sup> Street where some developments have obtained access to 6<sup>th</sup> Street. There are currently no-access easements on the plat for the property. One of those would have to be lifted to gain access to Crossgate Drive. He said there are currently no entitlements to strip out Clinton Parkway west of the floodplain.

Commissioner Harris asked how the access would work.

Ms. Eldredge displayed a large map showing access.

Commissioner Rasmussen asked if the public only submitted four letters and one email for communications.

Mr. McCullough said that was correct.

Commissioner Carter asked about additional sites that staff mentioned in the staff presentation and asked staff to display on overhead. He also inquired about the history of the property and the property owner purchasing the land under a code that then changed. If the zoning changed from what his initial intent

Ms. Eldredge said the general retail services zoning went into effect July 2006, and Mr. Conwell negotiated and came to the agreement in May 2007, relying on the retail service being one of the uses and therefore the drugstore was appropriate. One month later the 104 page amendment to the Development Code was approved striking that use. She said the only thing for Mr. Conwell to do at this point is to seek a rezoning.

Ms. Day displayed other commercial sites in proximity to the subject property and stated that she looked specifically for properties that still had open pad sites.

Commissioner Carter asked staff about other uses for that site that would be more conducive to the neighborhood or area plan.

Ms. Day said the uses identified as being allowed in the RSO district include various residential uses and office uses such as banks, engineering firms, real estate offices, yoga center, school, day care facility, and medical offices.

Commissioner Harris inquired about determining the use of a location. She asked when retail use is allowed in a zoning district is it automatically allowed or do other factors need to be looked at.

Ms. Day said that if the base district allowed the use in the use table, than yes it was allowed. Then there needs to be compliance with development or site criteria, such as parking, building setbacks, landscaping, screening, etc. She said there were lots of conflicts in the Development Code which lead to the text amendments. There were a number of things that were carried over in the original use tables that should not have been. The RSO district was not designed for commercial uses and that was one of the text amendment changes.

Commissioner Singleton said that Ms. Eldredge stated in 1993 there were changes in the zoning so that the other Walgreens could be brought in and that those were residential areas initially. She inquired about the current Walgreen sites surrounded by commercial uses.

Ms. Eldredge said that both of the sites have some commercial uses and some residential surrounding them. Walgreens believes they are a residential pharmacy and they want to be in residential areas. She believed the surrounding commercial sites were in place before both Walgreens were built.

Commissioner Rasmussen asked if when the property was originally developed and the zoning was established as RO-1B, would the type of use been acceptable at the proposed site.

Ms. Day replied, no, and that in the RO-1B district there are even fewer uses allowed than in today's Development Code.

### **PUBLIC HEARING**

Ms. Gayle Sigerdson, neighbor of the site, supported staffs recommendation of denial. She did not see a need for a Walgreens in the area and was concerned about the traffic increase.

Commissioner Rasmussen asked where she lived.

Ms. Sigerdson said she lives at the corner of 24<sup>th</sup> Street and Crossgate Drive.

### **APPLICANT CLOSING COMMENTS**

Mr. Gary Conwell, general council for Mission River LLC, said he was anxious to build another Walgreens in Lawrence and that there is a need for a Walgreens at the proposed location. He said they looked at the site at the northeast corner of Clinton Parkway and Wakarusa and there were infill problems. He also said they are looking at other sites on 6<sup>th</sup> Street. The proposed site is a unique site with the drainage ditch and easement and some of the land is not usable.

### **COMMISSION DISCUSSION**

Commissioner Carter said that it sounded like they were trying to amend Horizon 2020 for something that is a created need because it would be a quarter mile from other pharmacies. When development happens to the west of the property there may be enough demand to have such things as daycare or a karate studio, that might fit the neighborhood better. He said that there are spots for pharmacies all over town that comply and that it sounds like the proposed site was never intended to be a pharmacy. He said he was not compelled at this time to amend Horizon 2020.

Commissioner Hird asked if until the amendments in June of 2007 the Walgreens would have been allowed at the proposed site.

Mr. McCullough said that between July 2006 and June 2007 the Development Code permitted general retail sales in the RSO district.

Commissioner Finkeldei asked if Horizon 2020 did not have to be amended to approve the project.

Mr. McCullough said that was correct, Horizon 2020 is a guide plan and state statute does not require strict adherence to it. It was requested at staffs direction. He stated for the record, staff did not recommend the PD overlay because staff did not support the project. He said Commissioner Finkeldei was correct, they did not need to amend the plan to support the rezoning.

Commissioner Finkeldei said he felt this was a good way to proceed in cases where there would be a denial based on the Comprehensive Plan to give them the option to look at both.

Commissioner Carter thought that prior to the text amendment changes in June 2007 that the Code was more restrictive and there could not have been a pharmacy at this location.

Mr. McCullough said that the property was annexed into the city and the rezonings occurred in 1999, which rezoned the property to RO1B. The zoning would not have allowed the pharmacy. In July of 2006 zoning category RO1B transferred into zoning category RSO. After awhile it was discovered that there were incompatibilities which lead to the text amendment in June of 2007. He went on to say that for about a year the zoning district permitted retail uses.

Commissioner Carter asked if the current owner purchased the property during that time period intending to put a pharmacy on it.

Mr. McCullough said that per testimony, yes.

Commissioner Singleton asked about what would be behind the proposed project and if there would be an apartment complex with large parking lots.

Ms. Day said there was a proposed apartment complex which included roughly 2 ½ acres of open space so the density would be within the center portion of the project.

Commissioner Dominguez inquired about the cost of building the site and if there would be extra cost because of the location.

Mr. Golden said the typical Walgreens costs approximately \$1.8 - \$2.2 million to build. The proposed project would cost about \$3.8 million. He said it was a substantial increase due to the site. The west side of the site goes down into the floodplain.

Commissioner Carter asked if the building would be mostly brick.

Mr. Golden said that was correct and that the \$1.8 million dollar buildings are typically brick.

Commissioner Harris said this was a tricky decision for her because there was a year time period where the Code would have allowed the use at the location. She did not feel commercial development was appropriate for the area and was concerned about the traffic it would draw to the neighborhood. She said she would not vote in favor of the project.

Commissioner Rasmussen thanked the applicant for trying to propose something that looked nice and would be a beautiful addition to Lawrence. He stated he used to live just south of the area and at the time when the Getto property was originally annexed into Lawrence people in the area did not want a store that would generate more traffic. He thought it was interesting that the Planning Commission received letters of support from neighbors who would not be affected by the traffic and the two people who wrote letters in opposition were near the site and would be affected by the traffic. He did not feel it was a good idea and said he would be voting against the plan.

Commissioner Blaser said that the plan did not seem to fit Horizon 2020 and that he would vote against the project.

Commissioner Hird said that if someone can take a piece of vacant land and turn it into something that is useful and aesthetically pleasing then they should move forward with it. He said the same services are available right down the road but the larger issue for him was that Clinton Parkway was an opportunity to do things right, where they have nodal plans and difficult to depart from that. He also stated that the land owner bought the property under the impression that they could build a pharmacy.

Commissioner Finkeldei said this is the second time they have addressed Horizon 2020's focus on nodal development. He said he was a big proponent of traditional neighborhood design and said that a more walkable and pedestrian friendly city could not be achieved if they continue to focus on nodal development in commercial centers. He supported having more walkable access to services and the proposed project would go in that direction.

Commissioner Hird had reservations about this being a walkable facility considering the drainage ditch. He said this was an isolated unique piece of real estate that has sat empty and useless for years.

Commissioner Harris felt that they needed to look at the bigger picture of what they intend for the area.

### **ACTION TAKEN ON ITEM 2**

Motioned by Commissioner Harris, seconded by Commissioner Carter, to deny the comprehensive plan amendment to *Horizon 2020* to amend Chapter 6 to include the southwest corner of Crossgate Drive and Clinton Parkway as a potential location for a new Neighborhood Commercial Center and recommend forwarding the comprehensive plan amendment to the Lawrence City Commission and the Douglas County Board of County Commissioners with a recommendation for denial.

Motion failed 4-5, with Commissioners Blaser, Carter, Harris, and Rasmussen voting in favor. Commissioners Dominguez, Finkeldei, Hird, Moore, and Singleton voting in opposition.

Motioned by Commissioner Hird, seconded by Commissioner Moore, to approve CPA-2008-10 to amend *Horizon 2020* to include the southwest corner of Crossgate Drive and Clinton Parkway as a potential location for a new Neighborhood Commercial Center in Chapter 6 Commercial Land Use, based on the applicants' response as set forth in the staff report on each of the proposed issues, and forward to the Lawrence City Commission and the Douglas County Board of County Commissioners.

Motion carried 5-4, with Commissioners Dominguez, Finkeldei, Hird, Moore, and Singleton voting in favor. Commissioners Blaser, Carter, Harris, and Rasmussen voting in opposition.

Motioned by Commissioner Moore, seconded by Commissioner Hird, to authorize the Chair to sign the PC resolution 2008-07.

Motion carried 5-4, with Commissioners Dominguez, Finkeldei, Hird, Moore, and Singleton voting in favor. Commissioners Blaser, Carter, Harris, and Rasmussen voted in opposition.

### **ACTION TAKEN ON ITEM 3A**

Motioned by Commissioner Moore, seconded by Commissioner Dominguez, to approve rezoning a tract of land approximately 3.324 acres from RSO (Single-Dwelling Residential-Office) to CN-2 (Neighborhood Commercial Center), located on the SW corner of Clinton Pkwy and Crossgate Drive, based on the applicants' response dated July 21, 2008 included as an attachment to the staff report and restrict the use to the personal services category.

Commissioner Rasmussen asked if there was certainty that Walgreens would be built there and not a different commercial development instead.

Mr. McCullough said that it can be conditioned to a certain use. The applicant would voluntarily place a condition on the approved rezoning that would limit it to a neighborhood pharmacy use.

Ms. Eldredge said that was correct.

Mr. McCullough said that they would need to match up the request with the use category by the time it is heard by City Commission. In concept form that is what was volunteered by the applicant.

Motion carried 5-4, with Commissioners Dominguez, Finkeldei, Hird, Moore, and Singleton voting in favor. Commissioners Blaser, Carter, Harris, and Rasmussen voted in opposition.

PC Minutes 7/21/08

**ITEM NO. 4 AMENDMENTS TO CHAPTER 20, DEVELOPMENT CODE (JCR)**

**TA-04-03-08:** Consider amendments to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities in certain zoning districts with use standards. Initiated by City Commission April 29, 2008.

**STAFF PRESENTATION**

Mr. Joe Rexwinkle presented the item.

Commissioner Harris inquired about the white areas on the map that showed which neighborhoods and areas of town would not be affected by the amendment.

Mr. Rexwinkle listed the four zoning districts that the white areas included.

Commissioner Finkeldei inquired about social service agency being permitted.

Mr. Rexwinkle said he did not map the zoning districts that permit social service agency. The only uses he mapped were the day center and shelter uses.

Commissioner Finkeldei said they look like the same districts.

Mr. Rexwinkle said social service agency is permitted in the same residential districts as type B homeless shelters and homeless workplaces, and that was intentional because it might be in the day center.

Commissioner Finkeldei asked if staff has tried to map out social service agencies because he would hate to be creating non-conforming special service agencies that are already established.

Mr. Rexwinkle said that staff has not mapped out social service agencies but that it can be done.

Commissioner Harris asked why planned residential development or planned development of any kind was excluded.

Mr. Rexwinkle said it was because it was not a base zoning district. It could be rezoned to allow the use but the base zoning districts are listed in the use table, and PD overlay districts are not listed because they are not base districts.

Commissioner Harris what criteria would be used for Special Use Permits in residential areas.

Mr. Rexwinkle said that they do not distinguish between whether the area is predominately residential or commercial. For Special Use Permits for type B shelters the use standards are that the operator must make a presentation to the City Commission and update them on the status of the use at least every five years, and the Special Use Permit would be up for review at that time. That would be to determine compliance with the original conditions of approval and use standards. There would also be minimum requirements for restroom facilities and staffing. An indoor waiting area must be provided for guests one hour prior to opening if it is not co-located with a basement or transportation is not provided. All uses and activities conducted outdoors shall be shown on the site plan. Mr. Rexwinkle said that those are the basic use standards and there are also management plan requirements and design standards.

Commissioner Harris asked if a four-plex could essentially be allowed in a single family neighborhood because type A day center would allow up to four families.

Mr. Rexwinkle said that the type A shelter had to be an accessory to a religious institution or non profit or charitable organization, it could not be its own principle use on the property.

Commissioner Carter inquired about the minimum staffing requirement.

Mr. Rexwinkle said that the minimum staffing requirement is recommended out of concern was that if only one staff person member was present and an emergency were to occur or if the one staff member became ill then there would be an extra staff member present to watch over the guests. He stated there would be a minimum of two staff members and a ratio of one staff member per thirty guests.

Commissioner Carter asked if the ratio allowed two staff members supervising up to sixty people.

Mr. Rexwinkle said that was correct.

Commissioner Carter said that a facility in general could be understaffed based on the needs of the residents. Whoever is running the facility may have to adjust the staffing levels based on needs.

Commissioner Rasmussen had a question regarding draft design standards section 8 regarding littering and loitering. The last one says the effort through design to minimize loitering in the vicinity of the shelter through three things; careful site design, building design, and by providing site features for amenities on the property which attract guests to the property. He inquired what the third thing meant.

Mr. Rexwinkle said it should probably be more specific and state to attract guests to a certain area on the property. The point of that is to provide some sort of amenity outside that draws guests waiting for the center to open to one location on the property rather than all along the edges of the property.

Commissioner Harris asked about type A shelter needing to be an accessory to an institution, such as a church. She asked if it would need to be on the same property.

Mr. Rexwinkle replied, yes.

Commissioner Harris asked if a church could essentially build a four-plex on their property.

Mr. Rexwinkle said yes, but only in an RM zoning district and that in RS districts it could not technically be a four-plex, they could build four bedrooms, but not four dwelling units.

## **PUBLIC HEARING**

Mr. Price Banks, said that Gwen Klingenberg was going to request a deferral and he was opposed to that. He said that if they were going to defer the item they should do it now instead of having all the public people speak and then have them all come back again.

Mr. McCullough said that staff does not recommend deferral. There is an active group known as Family Promise, which is one type of program helping homeless families, that have begun work to make that program work and they need zoning and text changes to allow them to proceed with providing some of the homeless services in the facility. If we had to defer the item we could separate the two types of shelters out.

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods, said that the staff report said there was only one public person who was involved. She said that since this would affect the whole community she

would like the public to have more of an opportunity to look at all of the issues. She requested that the item be deferred.

Mr. Banks said that there is time for the Lawrence Association of Neighborhoods, and anyone else, to study the item between tonight and when it goes to City Commission.

The Commissioners agreed they should proceed with the item and hear public comment.

Mr. Joe Reitz, Family Promise of Lawrence, felt there was a need for assisting homeless families with children. A Homeless Day Center, Type A, would serve a maximum of 14 persons and serve only families with children. A Homeless Day Center, Type B, would be any homeless day center not meeting the definition of a Type A Homeless Day Center. Such a distinction would be consistent with the proposed distinctions between Type A and Type B Homeless Shelters. The Community Commission on Homelessness has clearly recognized the distinction between homeless families with children and other homeless persons and that their status and needs are different. An example of a Homeless Day Center, Type A, would be the model being employed by Family Promise, which plans to open in Lawrence in November. Family Promise is open only to homeless families with children. Nationwide, 80 percent of Family Promise guests are single mothers and their children; the remainder are two-parent families and the occasional single father with children. To provide a safe environment for the children, Family Promise uses a thorough and stringent screening program, including drug testing, and will not accept as clients those who abuse alcohol or other substances or who have a history of violence against persons. Finally, the size of the program is limited to no more than four families or 14 people. This number has been proven to be a manageable number for overnight sheltering provided by faith congregations and staffed by trained volunteers. It also provides a case load for the director that enables that director to work with each family every day to solve their problems and get them into permanent housing. The validity of this model is reflected in their success rate: The average family stays in the program 60 days; 70 percent graduate into permanent housing, another 10 percent into temporary housing. Family Promise further request that the proposed Residential District Use Table 20-402 be amended to allow for the distinctions between Type A and Type B Day Centers, and that a Type A Shelter be permitted across all categories provided that it obtains a Special Use Permit. First, a neighborhood is the ideal place for families with children to spend their days – quiet, safe, and surrounded by other families. Homeless children are simply, children, and do not need to be stigmatized by forcing them to spend their time in an industrial environment. Because of the screening process for admission and the limits on numbers, the Day Center poses little impact on the surrounding area. In the Family Promise model, guests are accountable to the full-time professional director for their behavior and can be immediately removed from the program for violating its rules. Further, traffic impact will be minimal: a fifteen passenger van transports the families to and from the Day Center once each day. The only other vehicles will be that of the director and one volunteer. The Center will open at 7am and close at 5pm. There will be no nighttime activities. The Family Promise model opening in Lawrence has broad support from the community. It has been endorsed by the chairs of the Community Commission on Homelessness, the Interfaith Initiative on Homelessness, and the two social workers from ECKAN and Bert Nash who work primarily with homeless families with children, Jeanette Collier and Valerie Miller-Coleman. So far fifteen faith congregations have signed on to support the program by providing shelter, food, and volunteers. Funds to operate the program have been obtained from private sources. Family Promise will not ask for nor expect financial support from the City of Lawrence. An owner has offered the use of her house for the Day Center. Family Promise has been contacting neighbors to assess their reaction to having the Center in their neighborhood and have not encountered any opposition. One of the neighbors is planning a community meeting at her home to explain the program and answer questions.

Commissioner Harris inquired about the house being separate from the church.

Mr. Reitz said the day center would not be on the same property as the church. The guests would spend the night at the church and then go to the offsite day center during the day.

Mr. Rexwinkle said the type A homeless shelter is an accessory to churches or non-profit centers. Guests would stay the night at the church and the day center is a separate location and that would require a Special Use Permit.

Commissioner Finkeldei clarified that the guests could stay overnight at the church, living in the neighborhood, but during the day they would be transported to a different location under this particular plan. This amendment would allow a four-plex to be built on a church property but that is not what Mr. Reitz is proposing.

Mr. McCullough said that was correct. Staff took the general notion of shelter and dissected it to get it at its various parts. A large shelter may need a Special Use Permit for the day center aspect, the workplace aspect, and the overnight sheltering aspect. Those are three separate uses per the Development Code as proposed. The Development Code allows overnight sheltering up to four families or fifteen people as an accessory use to a church or institution. That is not the day center, just the overnight center. The day center is a special use regardless of the zoning district or type of day center.

Commissioner Harris asked if the homeless shelter type A is a day center or night center. She also asked if it does have to be an accessory to a church.

Mr. McCullough said shelter type A is a night center and that it would be an accessory to a church. He said there can be two types of day centers and two types of night centers.

Commissioner Rasmussen asked if the type A homeless day center was not only affiliated with churches but with other institutions as well, and that those could be different entities.

Mr. McCullough said that was correct.

Commissioner Carter inquired about the proposed staffing levels.

Mr. Reitz said that they would have two staff members at the day center and two staff members at the night center.

Mr. Rexwinkle said the alternate language versus staff recommendations applies only to the type B overnight center and type B day center.

Mr. Price Banks, attorney for the Lawrence Community Shelter, said the text amendment would help solve problems related to relocating the Lawrence Community Shelter. He said the shelter at 10<sup>th</sup> Street and Kentucky Street has inadequate space and the Salvation Army is changing the way they conduct their operations. The Lawrence Community Shelter employed a commercial realtor and found they were faced with an impossible task because homeless shelters are hardly permitted anywhere. He was concerned that the ordinance contained provisions that were unnecessary or may encumber operations. He felt it was unprecedented for a zoning regulation to mandate employment levels.

Commissioner Carter asked if Mr. Banks wanted it reworded to say 'adequate' staffing.

Mr. Banks said that it should be based on the management plan. He felt that if staffing levels were mandated that it would eliminate the opportunity for volunteers. He gave the example of teachers being

the only staff member in a classroom and that schools are not mandated to have a certain number of staff in the classroom.

Commissioner Finkeldei said that staff alternate language says 'it shall be staffed in compliance with the staffing requirements in the approved management plan.' He asked if Mr. Banks was okay with that language.

Mr. Banks replied, yes.

Commissioner Rasmussen asked if the State required certain staffing requirements.

Mr. Banks said he was not sure.

Commissioner Harris inquired about crime. She wondered if it would help to divide people up to have different types of shelters in different parts of town.

Mr. Banks said he did not know and it was not his intent to address crime issues or to assume the homeless shelter would beget criminal activities.

Mr. Chris Burger, Downtown Lawrence Inc, felt there should not be an automatic right to have shelters in industrial areas. Homeless shelter type A includes accessory uses but those are accessory to any sort of non-profit or charitable organization, not just religious organizations. He felt this was not an issue about the services that they were offering, but rather the location.

Commissioner Harris asked Mr. Burger if his group talk about the appropriateness of homeless shelters in commercial areas.

Mr. Burger said they did not think it was beneficial for downtown.

Mr. Don Huggins, Board of Directors President for Lawrence Community Shelter, felt that they need to relocate in the best interest of everyone. He said that problems continue with the Shelter because of the number of people who visit the Lawrence Shelter. He said it was physically too small to serve all of those that visit and will continue to struggle when the Salvation Army implements their plan that focuses on families. The current location is not adequate as far as space and the Board of Directors initiated an effort to relocate to best serve the homeless community and the community at large.

Commissioner Singleton asked what the best fit would be.

Mr. Huggins said there are several committees to deal with the growing needs. He said they have a Programs Committee, a Building Committee, a Capital Campaign Committee, and a Public Relation Committee. Those committees work together to find the best location. He said that they would like to have choices for a location and have input from the community in picking a location that would best fit.

Mr. Loring Henderson, Director of Lawrence Community Shelter, said the need for the shelter to move is apparent and he agreed with Mr. Huggins' comments. He spoke about staffing levels and said staff did investigate 30+ cities, but he has been working with Bolder, CO as a model for policies and such. Bolder does not have a certain staffing requirement as long as it is adequate. He also talked about type A shelter having a maximum of four families, while type B says it will be any type that does not meet the definition of type A. He wanted to clarify that it did not mean that type B shelter would be five families.

Ms. Anne Bracher, board member of Lawrence Community Shelter, stated that a real estate agent has helped them find about twelve locations, most of which are in industrial zoned areas. She wanted qualifications such as security, egress as well as ingress. She said they have considered both existing structures and open lots and there are not a lot of spaces that would fit their needs.

Commissioner Singleton asked if the buildings she has found if they have come before Planning Commission.

Ms. Bracher said no, they have not had any specific sites come before Planning Commission. She said that they do not want to be tied down to one location if for some reason that location did not work out.

Commissioner Singleton asked if the text amendment was specifically written for Lawrence Community Shelter.

Mr. Rexwinkle said that the Community Shelter has worked with the Community Commission on Homelessness and the City Commission initiated this Text Amendment and that staff broadened the scope to include a variety of uses.

Commissioner Harris asked if Lawrence Community Shelter was interested in type B shelters.

Ms. Bracher said that was correct.

Mr. Michael Almon, spoke on behalf of Brook Creek Neighborhood Association and East Side Coalition, said there were good possibilities in the program and that staff has done a good job of researching the issue. He felt that staff did not do what City Commission asked staff to do. He felt that the text amendment went way beyond what was initially asked for. He said that it completely blindsided East Side Coalition and they were not prepared for the item. He said that there were all kinds of implementations and that there are four totally new uses. He felt that the neighbors should have been notified. He said that homeless shelter type A was totally new and does not comply with what the City Commission asked for. The community meals program does not comply with what the City Commission asked for. He said the text amendment was eight pages and if the Planning Commissioners were confused by it then the public would be too. He said this was a huge deal and he requested that the item be deferred so that all neighborhoods have a chance to look at it.

Mr. John Tahaw, said a bulk of the people served by the Shelter are Douglas County residents. He said that homelessness is a concern and he was surprised that Lawrence has not been an active player in helping to locate the ideal site for a shelter. He urged the Planning Commission to approve the text amendment so they could proceed with the process of finding a site.

Commissioner Carter asked if he was speaking about homeless shelter type B.

Mr. Tahaw said that was correct.

Ms. Debbie Nall, neighbor in favor of the homeless shelter from Family Promise. She said that they have had over 70 homeless people stay in her home. She said that the kids have to leave the shelter at 7am and wander the streets until school opens and then wander the streets after school from 3pm-9pm until the shelter opens up again. She asked that they not defer the item.

Mr. James Grouerholz, agreed there was still time for public comments before the item would be heard by City Commission. He said he was here on behalf of the east side of Lawrence and that all three east

side neighborhoods are in talks of merging together. He thanked staff for broadened the scope of work that City Commission asked them to do. He discussed the concept of 'fair share.'

Ms. Eileen Scharts, board member of Lawrence Community Shelter, said timing was really important and the shelter needs more space.

### **COMMISSION DISCUSSION**

Commissioner Carter asked why the public is not given more advance notice.

Mr. McCullough said the agenda item was released on July 11<sup>th</sup> that it would be heard by Planning Commission but the staff report and information were recently formulated.

Mr. Rexwinkle said the Community Commission on Homelessness holds public meetings monthly and they discussed the issue.

Commissioner Harris inquired about the legal notice in the Journal World.

Mr. McCullough read the legal notice printed in the Journal World on June 29, 2008:

**'TA-04-03-08:** Consider amendments to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities in certain zoning districts and permit homeless shelter uses by Special Use Permit with use standards in the IG (General Industrial) and IL (Limited Industrial) Districts. Initiated by City Commission April 29, 2008.'

Commissioner Rasmussen asked staff to compare the legal notice versus what City Commission asked.

Mr. McCullough said that City Commission did initiate a Text Amendment that was applicant driven to place the current terms 'transient and homeless shelters' as special uses in all industrial zoning districts.

Commissioner Finkeldei asked about being able to build, for example, a four-plex, permitted as an accessory to a principal use, subject to compliance with all other applicable local and state regulations, including the regulations of the Development Code. If there was a church in a single family residential area, a section of the Development Code would prevent a four-plex from being built in a single family residential area, correct.

Mr. Rexwinkle said, yes, it would be an accessory but the use itself would be a multi family use.

Commissioner Finkeldei said that while he was at the Planning conference recently they discussed the 'fair share' concept. He gave the example of Las Vegas only having one large day center and then dispersing guests throughout the city to smaller sites for the night.

Mr. McCullough said protections can be obtained through a Special Use Permit or the size of the facility. Based on its size it would have a lower impact to the neighborhood.

Commissioner Dominguez inquired about the safety of the overnight shelter type A. He gave the examples of drug use or violence.

Mr. McCullough said the type A shelter as an accessory use has no standards checked to allow guests into the facility, it is based strictly on the numbers and the fact that it is no more than four unrelated individuals but up to four families.

Commissioner Finkeldei asked if a church would have to get permission to get an accessory use.

Mr. McCullough said they would have to have the church constructed and go through any necessary building permits and any needed site plans. Planning would only get involved if the neighborhood filed a complaint, for example, saying twenty people were staying overnight. The church could then be found to be in violation of the Code.

Commissioner Singleton asked about the definition of family.

Mr. Rexwinkle said the definition of family was in article 17 of the Development Code.

Commissioner Singleton asked if the families would be families with children only. She was concerned about people over the age of 18 claiming to be family.

Mr. Rexwinkle said that families with children is the model that Family Promise is using. The City defines a family of one person living alone, two or more persons related by blood, marriage, or legal adoption, or in an RS zoning district a group of not more than three persons not related by blood or marriage living together as a single housekeeping unit, or in a zoning district other than RS a group of no more than four persons not related.

Commissioner Carter said it seemed like staff took the issue a step farther than what City Commission asked for.

Mr. McCullough said this was a tough community issue and the Lawrence Community Shelter folks were reaching out for advocates for this tough community issue. He went on to say that the Community Commission on Homelessness has been advocating for a master vision for a long time. Staff had the opportunity through the Text Amendment initiation to take a broader look and felt that a lot better job could be done with the homeless issue in Lawrence if they look at model codes, do some research, and look at the vision on homelessness and then try to let the Code support some of that. He understood this was new to the community but staff has been working on this for a while and feel that it is a good code that will help a lot of people in the community. It is not a specific Special Use Permit yet, that will come in due time, but in staffs opinion the accessory use structure for churches and institutions is not any more impactful than some of the other uses already in those residential districts. Staff would like to see this move forward because there is time between now and City Commission for others to review it and provide comments. City Commission certainly has the ability to change it, send it back to Planning Commission, or defer it.

Commissioner Dominguez said he serves on the Housing Board Authority and they are working with the homeless situation as well and have creating a database of people who volunteer their homes. He said the guests would be screened through various social services before they are actually entered into the database to get housing. He felt that if they go forward with the Text Amendment that they should take out the overnight in type A and move forward with type B.

Commissioner Harris said she could support limited approval but was not comfortable supporting type B shelters in commercial areas without more opportunity for public comment. She agreed that it was important to move forward with the issue but felt that more public comment was needed.

Commissioner Rasmussen felt that his role as a Planning Commissioner was to provide duty to City Commission and make sure Planning Commission had adequate time to consider and reflect issues and provide good recommendations. He said they also have a duty to the community as a whole. He was concerned about moving forward too quickly and did not think they could separate the issues tonight

and approve part of it and defer the rest. He did not feel that the community had enough time to comment on the issue and felt it was premature to move forward on the item.

Commissioner Moore agreed with Commissioner Rasmussen.

Mr. McCullough said that the City Manager and individual City Commissioners have been briefed throughout the process and he felt they are looking forward to seeing the Text Amendment that provides some framework for both types of shelters and day centers. He said the Commissioners he has talked to individually thought that the Family Promise model was a good model and serves certain needs of the community as does the Lawrence Community Shelter serves certain needs to the community. He said City Commission was aware of staff taking a comprehensive look and have not opposed that.

Commissioner Moore thanked the audience for coming up with solutions and suggestions.

Commissioner Hird felt it was commendable of staff to take charge and look at the broader issue than what City Commission requested. He felt that the neighbors should be given more notice.

Commissioner Finkeldei felt that by saying City Commission does not support going above and beyond what they ask was not true and he felt it was not a reason to delay the issue. He stated that the bylaws say that staff reports have to be out five days before the meeting. It would just delay items more to have fifteen day notice. He said he would strongly oppose that if a staff report does not come out more than five days in advance then the project should be deferred. He was sympathetic for Lawrence Community Shelter to get moving on the issue.

Commissioner Carter thought that there should be more public input on the issue for his own benefit of understanding.

Commissioner Moore agreed with Rasmussen's comment about splitting the item and did not feel it should be split.

Commissioner Dominguez asked staff how they felt about separating type A from type B shelter.

Mr. McCullough said that both types are important. There is concern because Family Promise is trying to start up and keep their coalition of churches together and move forward, and the Lawrence Community Shelter needs to get their Capital Campaign moving along as well.

Commissioner Harris asked how soon City Commission could approve the item if they chose to defer it to the August Planning Commission meeting.

Mr. McCullough said the soonest that the Text Amendment could be heard by City Commission would be mid-September if Planning Commission did not approve it until August.

Mr. Rexwinkle said a Special Use Permit could not be approved until after City Commission approves the Text Amendment so it would be approximately December before City Commission would be able to approve a Special Use Permit.

Commissioner Harris said she was not able to move forward on this issue and did not feel it was ready for City Commission. She felt there were still questions on the accessory dwelling type A and type B not being incorporated in the text.

Motioned by Commissioner Harris to defer Text Amendment TA-04-03-08 to the August Planning Commission meeting with direction to staff to add information about type A and type B Day Centers in the Development Code and notify the neighborhoods and commercial businesses.

Commissioner Finkeldei asked if Commissioner Harris wanted staff to do some sort of notice that they do not normally do. He was concerned about notifying all commercial businesses in Lawrence.

Mr. McCullough said that they can send notice to all of the registered neighborhood groups. He said that this item has already met the statutory requirement for notice.

Commissioner Harris felt that the public notice should be worded clearer so the community has a better understanding of what is going on.

Commissioner Singleton seconded the motion to defer the item.

Commissioner Finkeldei wanted to be clear on the motion to defer and add more notice. He said that they should not require notification to commercial businesses community wide. He recapped the motion to defer and give reasonable notification to neighbors, associations, and commercial businesses. Commissioner Finkeldei did not agree with deferring the item and felt it was ready to go forward.

Commissioner Rasmussen said he made suggestions about the design standard language about the loitering. He asked for clarification as to the definition of public institution, non-profit institution, charitable institution, and religious institution. He was concerned about any non-profit institution being able to qualify for this. He stated that not much language changes needed to be made, but that it can affect a large number of people in the community so he thought that maybe more notice should be required.

Commissioner Hird said he was ready to agree about inadequate notice to the neighborhoods but the notice did meet the statutory notice. His concern was that the legal notice may not have included the full extent of what the Text Amendment accomplishes. He said that if they require additional notice in this case because it impacts the public, then what are they saying about other issues that come before Planning Commission. Should they add on arbitrary additional notice requirements for other proposals? He felt that was a slippery slope. He said the Text Amendment was not perfect and there are things that could be fine tuned, but he was in favor of moving it forward.

Commissioner Carter said he would not vote to defer the item.

Commissioner Dominguez agreed with Commissioner Carter.

Commissioner Singleton said that if the is deferred she would like staff to look at homeless shelter type A and have the focus be on children.

Commissioner Blaser felt that the item should move forward.

Commissioner Finkeldei said that if they vote to move it forward that does not mean that certain issues cannot be looked at by City Commission.

Motion failed 3-6, with Commissioners Harris, Singleton, and Rasmussen voting in favor of deferring the item.

Motioned by Commissioner Carter, seconded by Commissioner Moore, to approve the proposed amendments [TA-04-03-08 to define and permit various homeless facilities with use standards] to

Chapter 20, Development Code to the City Commission, with the alternative language as presented in the staff report, clarify 20-542(8)viii per Commissioner Rasmussen's earlier comments, and to include the latest staff recommendation to incorporate the two distinct day centers.

Commissioner Finkeldei said his support of the alternative language on the management plan goes both ways. He thought that the approved management plan could require a staffing requirement that is much greater than what is set forth in the minimum and it could require something less than that in the right circumstance. He said there are many different types of programs and he did not like minimums because people gravitate to the minimums. He felt they should leave the staffing requirement open and that it can be considered at the right time.

Commissioner Harris said that if the item moves forward she would like staff to clarify how many people can live in an accessory structure.

Motion carried 7-2, with Commissioners Harris and Singleton voting in opposition.

Motioned by Commissioner Moore, seconded by Commissioner Rasmussen, to hear Item 9 after Item 4.

Unanimously approved 9-0.

PC Minutes 7/21/08

**ITEM NO. 9 CPA-2008-9 (MJL)**

**CPA-2008-9:** Consider amending Horizon 2020, Chapter 14 Specific Plans, to add a reference to and incorporate the K-10 & Farmer's Turnpike Plan.

**STAFF PRESENTATION**

Ms. Michelle Leininger presented the item.

Commissioner Rasmussen inquired about the transition areas being removed.

Ms. Leininger said that was the direction from the comments made at the last meeting.

Commissioner Harris thought the transition area was changed because the slope would be the transition. She asked about the rationale for taking out the transition area.

Ms. Leininger said that she did not recall that specifically. She said the reason for taking the transition area out was that there was quite a bit of discussion about whether it would benefit anybody.

Mr. McCullough said there were discussions about the Development Code required buffer yards serving community wide so the Commission as a whole felt like the current Code would suffice versus having a transition area. He said they talked about different types of ways to get transitioning.

Commissioner Finkeldei said that it did not mean there was no transition in those areas, it just meant there was no transition above what the Development Code says.

Ms. Leininger said that was correct, that there would be no extra ordinary transition and would still apply to what is in the Development Code.

Commissioner Harris said she stated at the last Planning Commission meeting that she did not think the plan reflected the vision of the neighbors. She did not see any of that reflected in the revised plan.

Ms. Leininger said that staff did not get a lot of direction out of public comments as to what to change. Specifically, there was talk about preservation of agricultural land, large buffer areas, and preservation of existing use. She said this was really a plan for urbanization for when the land becomes part of the city. Those are all things that if property owners want to preserve their agricultural land, this really is not the avenue to do that. This is for urbanization, and agricultural uses are not really a part of urban development.

Mr. McCullough said there was some commitment from the neighbors and community to provide additional comments that staff did not receive prior to establishing the staff report. Staff did not receive substantive comments from the neighbors that would lead staff in any clear direction, except for keep it agricultural, which is not what sector planning does.

Commissioner Harris said she remembered comments about having lower density residential and not as much industrial and those were more specific comments. She asked if staff was looking for neighbors to draw the lines differently on the map.

Mr. McCullough replied no. He stated that in the next few months the West of K-10 Plan will be heard at Planning Commission and staff has received many comments about how to address land use concepts, density issues, and take advantage of some of the infrastructure that is coming to the West of K-10

area. At this point staff is using Planning Commission as the filter to take any and all comments and filter out the important elements.

Commissioner Harris said she was not aware of that and thought it was staffs job to take comments from the public and present a plan to Planning Commission that balanced the needs of the land owners and the applicants with what the rest of the neighbors wanted for a sector plan

Mr. McCullough said that staff does that to the point of releasing it to Planning Commission and then Planning Commission becomes the filter. Staff waits to hear from the Planning Commission to see what they want changed in the plan. Staff has not obtained very many comments from the public. He said that a letter was received after the communication deadline, so the Planning Commissioners did not have a copy of that.

### **PUBLIC HEARING**

Mr. Ron Schneider, spoke on behalf of Scenic Riverway Association, asked for a continuance. He felt this was a big issue and he did not think the item should be heard late at night.

Commissioner Finkeldei said that they could possibly move the Wednesday Planning Commission agenda. He polled the audience and they all agreed they were okay with coming back on Wednesday.

Commissioner Rasmussen stated he would not be present at the Wednesday Planning Commission meeting.

### **ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Hird, to defer item 9 until Wednesday, July 23, 2008 Planning Commission meeting, and hear it after items 11 and 12 on the agenda.

Unanimously approved 9-0.

PC Minutes 7/21/08

**ITEM NO. 5      AMENDMENTS TO CITY CODE & SUBDIVISION REGULATIONS (JCR)**

**TA-05-08-08:** Consider amendments to Chapter 20, Article 8 of Lawrence City Code and Chapter XI of Douglas County Code (Subdivision Regulations) that define "Easement, Cross Access", clarify the process for creating such easements, and provide minimum construction standards for access drives within such easements. Initiated by County Commission April 14, 2008.

**STAFF PRESENTATION**

Mr. Joe Rexwinkle presented the item.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Hird, to approve the proposed amendments [TA-05-08-08 to Chapter 20, Article 8 of Lawrence City Code and Chapter XI of Douglas County Code (Subdivision Regulations)] to the Lawrence City Commission and the Douglas County Board of County Commissioners.

Unanimously approved 9-0.

PC Minutes 7/21/08

**ITEM NO. 6      AMENDMENTS TO CITY CODE & SUBDIVISION REGULATIONS (JCR)**

**TA-05-09-08:** Consider amendments to Chapter 20, Article 8 of Lawrence City Code and Chapter XI of Douglas County Code (Subdivision Regulations) that require the submittal of a certificate that all taxes or special assessments due and payable have been paid for properties included in Certificates of Survey requests. Initiated by County Commission April 14, 2008.

**STAFF PRESENTATION**

Mr. Joe Rexwinkle presented the item.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Carter, to approve the proposed amendments [TA-05-09-08 to Chapter 20, Article 8 of Lawrence City Code and Chapter XI of Douglas County Code (Subdivision Regulations)] to the Lawrence City Commission and the Douglas County Board of County Commissioners.

Unanimously approved 9-0.

PC Minutes 7/21/08

**ITEM NO. 7 AMENDMENTS TO COUNTY ZONING REGULATIONS (JCR)**

**TA-05-06-08:** Consider amendments to Article 19, County Zoning Regulations, to add a new use for 'value-added agricultural business.' Initiated by County Commission April 14, 2008.

**STAFF PRESENTATION**

Mr. Joe Rexwinkle presented the item.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Rasmussen asked why it was limited to just four full-time equivalent employees.

Mr. Rexwinkle said he could not answer that question because he did not draft that specific language.

Commissioner Hird said it was a type two business in the existing Code. He agreed it made no sense.

Commissioner Hird asked what the interplay was between the value-added agricultural business and agri-tourism.

Mr. Rexwinkle said a component of the agri-tourism use might be a value-added agricultural use by producing something on a property that draws people, but the standards probably would not go the full extent of what someone might want to do with agri-tourism.

Commissioner Hird said there were a lot of cases where a Conditional Use Permit was required, and that the people subject to that face the same problems getting financed that builders do. He said the same thing applies to people in the agricultural world and he wondered if there was a kind of zoning contemplated for value added or agri-tourism.

Mr. Rexwinkle said that Mary Miller or someone who has been working on the County Zoning re-write might be best suited to answer those types of questions.

Commissioner Finkeldei said on behalf the committee for County Zoning re-write that it is on the agenda Wednesday. He said they spent a lot of time narrowing the Conditional Use Permits down and allow a lot more permitted uses. He said they have been trying to get away from a complex Conditional Use Permit within the middle of the zoning code.

Commissioner Harris said the wording of the three examples was confusing and not entirely necessary. She wondered about instances where they would not want to have agri-cultural product changed to a chemical that may not be good for the environment.

Mr. McCullough said that Planning was shepherding the item through for the County Planning Officer, Linda Finger. He said that comments or questions could be taken to her.

The Commission had questions that could be best answered by Linda Finger, who was not present, so they decided to defer the item to Wednesday.

**ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner Moore, to defer item 7 until the Wednesday, July 23, 2008 Planning Commission meeting.

Motion carried 9-0.

PC Minutes 7/21/08

**ITEM NO. 8 AMENDMENTS TO COUNTY ZONING REGULATIONS (JCR)**

**TA-05-07-08:** Consider amendments to Article 19, County Zoning Regulations, to correct formatting error by creating sections 19-2 and 19-3 (which currently don't exist) and by revising 19-1.06 to add compliance with all applicable state and federal laws to the application process. This amendment also includes an addition of the compliance issue to what the County Commission can consider in a review or revocation of a CUP under 19-3. Initiated by County Commission April 16, 2008.

**STAFF PRESENTATION**

Mr. Joe Rexwinkle presented the item.

**PUBLIC HEARING**

No public comment.

Commissioner Rasmussen pointed out a typo.

**ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Hird, to approve the proposed amendments [TA-05-07-08 to Chapter XI, Article 19 of Douglas County Code (Zoning Regulations)] with the typo correction, and forward to the Douglas County Board of County Commissioners.

Unanimously approved 9-0.

PC Minutes 7/21/08

**ITEM NO. 10 RMG TO MU; .483 ACRES; 1420 CRESCENT RD (JCR)**

**Z-05-10-08:** Consider a request to rezone a tract of land approximately .483 acres in area from RMG (Multi-Dwelling Residential-Greek Housing) to MU (Mixed Use), located at 1420 Crescent Road. Submitted by Jayhawk Bookstore, for William P. Muggy, property owner of record.

*Item 10 was deferred prior to the meeting.*

PC Minutes 7/21/08

**MISCELLANEOUS NEW OR OLD BUSINESS**

**MISC NO. 1      KDOT FUNDING FOR RESURFACING ON 23<sup>RD</sup> ST**

Receive information from Public Works regarding KDOT funding for a resurfacing project on 23rd Street.

Mr. McCullough said that this was just for their information and that any questions could be passed along to Public Works.

**MISC NO. 2      INITIATE TA TO MU DISTRICT (JCR)**

Receive memo from staff and initiate a text amendment to the Mixed Use District use standards.

Mr. Rexwinkle presented the item.

Commissioner Harris asked about the term retail and how retail was different than general retail.

Mr. Rexwinkle said there are a number of retail uses that are specific, such as personal convenience. There are also retail sales general, and three other types of uses that are related; specialty retail establishment, medium retail establishment, and large retail establishment. He said that there are many different types of uses and there are some inconsistencies, so the proposed language may change some of those uses to be consistent with the definitions. He said that that general retail is defined as any business involved in the sale, lease, or rent of new or used products to the general public.

Commissioner Harris asked if there was a size associated with general retail.

Mr. Rexwinkle said it is less than 65,000 gross square feet.

Commissioner Harris felt there should be a maximum size of general retail in certain zones.

**ACTION TAKEN**

Motion by Commissioner Harris, seconded by Commissioner Carter, to initiate a text amendment to allow staff to pursue amending the language of Section 20-525 as described.

Unanimously approved 9-0.

Consideration of any other business to come before the Commission.

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**Adjourn at 12:15pm      Recess until 6:30 P.M. on July 23, 2008.**

PC Minutes 7/23/08

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Reconvene July 23, 2008 – 6:30 p.m.

Commissioners present: Blaser, Carter, Chaney, Dominguez, Finkeldei, Harris, Hird, Moore, and Singleton.

Staff present: McCullough, Leininger, J. Miller, M. Miller, and Brown

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**BEGIN PUBLIC HEARING (JULY 23, 2008):**

**COMMUNICATIONS**

- Mr. Scott McCullough stated there was one new communication and that the order of the agenda had been changed to accommodate items that had been deferred from the Monday Planning Commission meeting.

**EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- Ex parte:  
Commissioner Finkeldei received a phone call regarding item 9.
- No abstentions

PC Minutes 7/23/08

**ITEM NO. 11    CONDITIONAL USE PERMIT FOR PYRAMID PLACE EARLY EDUCATION CENTER; 2295 N 1300 ROAD (MKM)**

**CUP-05-03-08:** Consider a Conditional Use Permit for Pyramid Place Early Education Center, located at 2295 N 1300 Road (near the intersection of N 1300 Road & E 2300 Road). Submitted by Family of Faith Fellowship, property owner of record. *This will be a joint meeting with Eudora Planning Commission.*

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

Two members of the Eudora Planning Commissioner were present in the audience but they did not have quorum to vote on the item.

**APPLICANT PRESENTATION**

Ms. Rachel Torkelson, Pyramid Place Early Education Center, explained how the daycare would work and their intentions for the center.

Commissioner Carter inquired about the maximum of 40 children and asked if she anticipated that.

Ms. Torkelson replied yes, they do anticipate that.

Commissioner Finkeldei asked if they had a license.

Ms. Torkelson said yes, they currently have their license but that the license for this location was pending due to the Conditional Use Permit.

Commissioner Hird asked if she was going to break ground on a new facility in the future.

Ms. Torkelson said yes, they are working with the Fritzel's who own the property next to the church.

Commissioner Moore inquired about the septic system.

Ms. Miller said that the applicant did a study and suggested installing water conserving toilets. The amount of water used at the site, even with the preschool, would be less than the church.

Commissioner Moore suggested having the Church provide the Health Department with monthly water usage records for the first year after the day care has been in use.

Commissioner Finkeldei asked if the Conditional Use Permit had a time frame.

Ms. Miller said it would have the same standard time frame of 5 year review and 10 year expiration.

Commissioner Harris asked if the facility expanded or a new facility was built would the applicant have to come back to Planning Commission for a new Conditional Use Permit.

Ms. Miller said that if the building was added on to it would be a change to the Site Plan. If the number of students changed or the program changed it would be a change to the Conditional Use Permit and that would come back to Planning Commission.

**PUBLIC HEARING**

No public comment.

Eudora Planning Commission did not have any questions or comments.

### **ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Hird, to approve the Conditional Use Permit to permit the co-location of the Pyramid Pre-School with the Family of Faith Fellowship Church located at 2295 N 1300 Road and forward to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report, and subject to the following revised conditions:

- 1) Prior to commencing the use, two hard-surfaced ADA accessible parking spaces shall be provided as shown on the plan, at grade or with ramps.
- 2) Provision of a revised site plan with the following revised note added referencing the Health Department's conditional approval of the lateral system.  
"The Health Department agrees to the CUP use without adding more lateral trench at this time subject to the following conditions:
  - A) A plumber shall provide a letter to the Health Department certifying that all 8 toilets within the facility have been changed from a 5 gallon flush to a 1.6 gallon flush per use.
  - B) The Church shall provide the Health Department with monthly water usage records for the first year after the day care has been in use.
  - C) The Health Department shall make periodic inspections of the existing lateral field to ensure that it is working properly.
  - D) If the septic system fails to work property, the church and/or day care agree to either expand the lateral field or discontinue the day care use at the church"
- 3) The following language referencing the time limits of the Conditional Use Permit shall be added to the revised site plan as a note:  
"The permit will be administratively reviewed by the County in 5 years (Calendar Year 2013). The permit will expire at the end of 10 years (Calendar Year 2018), unless an application for renewal is approved by the local governing body."
- 4) Prior to commencing the use, a copy of the State KDHE license shall be provided to the Planning Office for the file.

Unanimously approved 9-0.

PC Minutes 7/23/08

**ITEM NO. 7 AMENDMENTS TO COUNTY ZONING REGULATIONS (JCR)**

**TA-05-06-08:** Consider amendments to Article 19, County Zoning Regulations, to add a new use for 'value-added agricultural business.' Initiated by County Commission April 14, 2008.

**STAFF PRESENTATION**

Mr. Joe Rexwinkle was not present at the meeting. Mr. Scott McCullough recapped that the item was deferred from the Monday Planning Commission meeting so that Linda Finger could attend for questioning.

Commissioner Harris said the descriptions for what a value added business is seemed confusing and seemed to be geared more toward a business plan rather than how you would treat such a business in a zoning regulation. (she referred to page 19-11). She wanted more simple clear language.

Ms. Linda Finger said that they started with the USDA definitions. She put on the overhead projector her suggested word changes. She stated that if people are out growing products organically the County Commission does not want them to get caught up in this regulation. They want to encourage niche farming in the county. She suggested changing the example to say 'such as production of products from raw agricultural materials' to be more succinctly what was intended. The County Commission does not want to discourage the production of raw materials. They do want to have some control over how those raw materials are then produced into something else and/or processed. She said that processing involves the changing of the material. She said that one individual they have talked to wants to take raw products such as hay or straw and compress and create compound little bricks; and that would be marketable as a different product. The individual has not processed anything from them, but has produced a more compact form of the original agricultural product. Ms. Finger thought if it was clearer more clear that it was the production of products from raw agricultural materials that than the definition would work. She also stated that standard #2 was not meant to just capture agricultural structures, because there may be an accessory building on a property. There could be, what was formerly a residential building or some other type of outbuilding, that was not used for agricultural. If the building is used for production it needs to be included, so the 'agricultural' adjective needs to be stricken. Regarding standard number 7, since the County Commission sent this forward they have adopted by home rule resolution the administrative policy for what an agricultural use is. It is either 40 acres; or the determination that the owner is in agricultural production through the provision of a schedule F, which is filed with their federal income tax, which shows they have invested more than \$1,000 in farming. If the government believes they are agricultural than the County will believe that too, even if they do not have 40 acres. That is what the County Commission recently adopted so Count Staff felt they should change the minimum site area to be consistent with the County's adopted policy for agriculture uses.

Mr. McCullough added this is an offshoot of something the State is trying to encourage.

Ms. Trudy Rice, County Extension Director, said the three definitions that Commissioner Harris referred to were taken from the USDA's website of how they have determined 'value-added.' Kansas State University has a value added center that is encouraging this type of value added to agricultural products to enhance the economic growth of the community as well as the economic status of the farmer. The Kansas Department of Commerce and Department of Agriculture are both actively encouraging value added through education and grants that are available to producers, organizations, and communities.

Commissioner Harris said that the second definition could possibly be taken out. She asked if there was a difference between the first definition and the second definition.

Ms. Rice said that the first definition was changing the physical state. She did not think it would make a difference to take out the second definition. USDA was trying to come at it in that it was selling a finished product rather than a commodity. Traditional agricultural has been commodity based, and this is more of a product based that is ready to be consumed by the consumer.

Commissioner Finkeldei said it was very unlikely someone would sell something that decreased the value of the commodity they were working with.

Ms. Rice said that an example of definition number two could be if someone decided to market birdseed and they produced two or three of the grains that went into the birdseed and purchased the fourth grain, that would be considered a production of a product that enhances its value. She went on to say her example could probably fall under the third definition and that definition two might not be necessary.

Commissioner Harris said getting to the point of using some of the products on the land, she thought as it is written that was not required. She said someone could actually bring all the natural resources from outside and manufacture them onsite and then ship them off. She wondered if that was what they really want.

Ms. Finger said yes, that is what the County Commission anticipated. If it is an agricultural product they would not have to produce it onsite, but they could not claim it as an agricultural product simply because it was hay or straw brought in on their property. That is precisely what the one property owner who has contacted Ms. Finger wants to do. She said that he has about 80 acres and is not farming it for hay or straw. The amount of product that he could create from his own 80 acres would be processed in less than a day and a half so it would not be worth the effort. The concept is to provide an area where others who have hay and straw that are within a reasonable marketing distance can take it to be processed so it would still be an agricultural product.

Ms. Rice said that not all agricultural producers have their skill set in marketing or a finished product, that this really is an advantage to agricultural producers because they can still produce that product and market it for a higher resale value because someone else in the neighborhood or in the community is providing the marketing or value added service.

Commissioner Harris said some other ordinances say that there should be 50% of the product coming from the property. She said that if that is not what they are wanting, but are wanting to use the neighboring area, should it be worded to say a certain percentage should come from the county or surrounding area, so that manufacturing facilities are not created in the country.

Ms. Rice said that currently 'local food for local people' uses a 100 mile radius.

Commissioner Harris said it would make sense to have some language that refers to reasonably nearby in the county.

Ms. Finger said that was a reasonable consideration. She stated there was minimal discussion about that at the County Commission meeting, only to the extent that the County Zoning Administrator had raised the question of how to monitor where it comes from. She said that criteria can be placed that says it has to come from Douglas County but what if it was next to the Jefferson County line, why could they not cross the border. The County Commission felt that the Planning Commission would be better to have the first shot at what that standard should be.

Ms. Rice said currently the 'local food for local people' use a 100 mile radius.

Ms. Finger said they would be fine with the 100 mile radius if the Planning Commission wanted to add it to one of the standards.

Commissioner Harris said that the section does not really describe the goals in encouraging these businesses in the county. It would be helpful in making judgment calls on something they would have goals to shoot for. There is no reference to disposal of sewage, using water, noxious discharge or odor, which she felt could be a factor.

Ms. Rice said definition four was the closest to that because it talks about air quality.

Commissioner Harris said those were only air quality issues, not liquid emissions, odor, sewage, water use, etc. and that there might be need to address those depending on the size of the business.

Ms. Finger said those issues could be looked at on an individual basis when the Commission evaluates the use. She asked if Commissioner Harris wanted to set standards.

Commissioner Harris said she did not want to set standards today but she noticed in the Special Use Permit language that some of the Special Uses have a lot of conditions attached to them and some do not. It depends on the intensity that is expected, such as daycare versus quarry. She also expressed concern about the limit of five ton loads going in and out of the facility two times a day.

Ms. Finger said that Keith Browning, County Public Works Director/County Engineer, was present at the County Commission meeting when it was discussed. The County Commission felt that two trips were reasonable and would help limit the intensity of use because manufacturing production would have many more than two trucks coming in at any time. They moved the tonnage up from two to five and the trips from one to two. She said that the number of four employees was based on making it similar to the Home Occupation regulations for some equivalency.

Commissioner Hird asked if any thought was given to the seasonality of the workers.

Ms. Finger said it was full time equivalents and that would allow seasonable employees to be increased, which also corresponds with Home Occupation type 2.

Commissioner Finkeldei asked if there was a time rush on this or if it could be reworked and brought back to Planning Commission.

Ms. Finger said a time delay might affect one applicant because he might lose grant funding, but the County would like to get it right the first time.

Commissioner Carter said that getting it right the first time would delay it.

## **PUBLIC HEARING**

No public comment.

## **COMMISSION DISCUSSION**

Commissioner Moore asked what Commissioner Harris had in mind for the goals.

Commissioner Harris said she had the Michigan Agricultural Tourism Advisory Commission Local Zoning Guidebook which had examples of goals. She read some examples from the book: *intends goals and purposes to promote and maintain local farming, to increase community benefits by having fresh local*

*produce for sale, and increase positive growing businesses that contribute to the general economic conditions.*

Commissioner Finkeldei asked if the Zoning Regulations would need to be rearranged.

Ms. Miller said yes, it would need to be reworked.

Commissioner Harris wondered if the new comments could be incorporate in the new form.

Mr. McCullough said that it is doable and Commissioner Harris' comments could be incorporated.

Commissioner Hird was not extremely concerned about the definitional section because subparts 1, 2, & 3 were illustrative of the main concept. He was concerned however about the limitation of 4 full-time equivalent employees. He understood that it came from the type 2 Home Occupation licensing but felt that type 2 Home Occupation licensing was for less intense and smaller activities that take place inside a home and has its own set of limits on square footage and other requirements. The value added business can have the need for a significant number seasonal workers. It is a great way to encourage employment in the county but flexibility needs to be allowed to business owners. He also stated that 10,000 square feet for the buildings was very small.

Commissioner Singleton was concerned about environmental issues and felt that other environmental issues other than air quality should be addressed.

Commissioner Finkeldei asked if this is passed this would be the first step and then the applicant would have to submit a Conditional Use Permit, and then Planning Commission could condition the environmental factors.

Mr. McCullough said that was correct, they would be subject to the County Health Codes.

Commissioner Blaser felt they should get this started so that the one applicant so far could proceed.

Commissioner Carter asked if the 4 employee requirement was okay with the current applicant.

Ms. Finger said yes, it was okay for him, and he does understand that he will have to go through the Conditional Use Permit process.

Commissioner Harris said she would like the following words stricken from the paragraph:

*A business that economically adds value to an agricultural product as a result of a change in the physical state of an agricultural commodity ~~that is not produced on the site~~, by manufacturing value-added products for end users instead of producing only raw commodities. Value-added products may include:*

Commissioner Finkeldei said the reason the words were there was because they do not want this to apply to a person who produces something onsite and does all the work themselves onsite, they would not have to have a Conditional Use Permit. If someone grew strawberries onsite and created jam in the basement this would not apply to them. He felt that they should clear up the language to say 'not produced entirely on site.'

Mr. McCullough said that maybe they could define agricultural product and agricultural commodity.

Ms. Finger said that it could be helpful to add definitions for agricultural product and agricultural commodity. It may complicate matters to say that it is not entirely produced onsite.

Commissioner Harris asked if the wording 'entirely produced onsite' could be added.

Ms. Finger said that might capture someone who may have any part of production.

Commissioner Moore asked if they were confusing raw commodity with the end product. He said that Commissioner Harris was saying if it is entirely produced onsite that is fine if the raw commodity comes from outside.

Commissioner Harris was also concerned that they are not setting up a business that brings its raw commodities totally from the outside to be manufactured into a product.

Ms. Finger said that a business does not have to produce any of the agricultural product onsite, but it has to be an agricultural product that is produced, it just may not be on the land where it is being changed into a commodity.

Ms. Rice gave the example of 'local food for local people', do individual marketing, so they can be a broker for the fruits and vegetables, a collection site for the fruits and vegetables, make jam onsite, and also work with restaurants or vendors to sell that food.

Commissioner Harris was still not comfortable with the language because there might be consequences.

## **ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Blaser, to approve the proposed amendments [TA-05-06-08 to Chapter XI, Article 19 of Douglas County Code (Zoning Code)] with the following changes and forward to the Douglas County Board of County Commissioners.

### **35. *Value-added Agricultural Business.***

*A business that economically adds value to an agricultural product as a result of a change in the physical state of an agricultural commodity that is not produced on the site, by manufacturing value-added products for end users instead of producing only raw commodities. Value-added products may include:*

- 1. A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam).*
- ~~2. The production of a product in a manner that enhances its value, as demonstrated through a business plan (such as organically produced products).~~*
- 3. The physical segregation of an agricultural commodity or product in a manner that results in the enhancement of the value of that commodity or product (such as an identity preserved marketing system).*

*Agricultural value-added businesses shall meet each of the following location and development standards:*

- 1. Employees: A maximum of 4 full-time equivalent employees shall be allowed.*
- 2. Buildings or Structures: The total square footage for all buildings used in the operation, production, and storage of materials shall not exceed 10,000 sq feet. Existing agricultural structures are required to be upgraded to meet commercial building code requirements if used for more than storage of raw agricultural materials.*

3. *Deliveries to/from the site: Commercial vehicles that exceed 5 tons in capacity shall be limited to two trips (to and from the site) per day.*
4. *Environmental considerations: No part of the production of the value-added product may result in dispersal of smoke or particulate matter emissions that exceeds federal EPA standards.*
5. *Equipment: All equipment used in the production of the value-added product shall be located wholly within a building or structure, or be screened from public rights-of-way and adjacent residential buildings. In either case, the associated noise, light and vibrations from the production operation shall not be perceptible at the site boundary/property lines.*
6. *Storage of products: Shall be enclosed within a building or structure so that it is not visible from the site boundary/property lines.*
7. *Minimum Site Area: A minimum site area ~~of 40 acres is required for the operation of all value-added agricultural businesses.~~ **is consistent with the County adopted policy for agricultural uses.***
8. *Road Access and Frontage: The site must have direct access to a full maintenance public road, as defined in Chapter XI, Subdivision Regulations, Douglas County Code, and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations.*
9. *Signage: One sign, limited to no more than 6 square feet in area, shall be visible from a public road, identifying the business. The sign shall be located no closer than 10 feet from the road easement/right-of-way line. No other signs may be posted or erected on the property.*

Motion carried 8-1, with Commissioner Harris voting in opposition

PC Minutes 7/23/08

**ITEM NO. 12    CONDITIONAL USE PERMIT FOR LONE STAR LAKE BISON RANCH; 588 N  
300 ROAD (MKM)**

**CUP-05-02-08:** Consider a Conditional Use Permit for Lone Star Lake Bison Ranch, located at 588 N 300 Road (near the intersection of N 300 Road & E 600 Road), Overbrook. Submitted by Don & Terri Gibbs, property owners of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Ms. Terri Gibbs, property owner, said this was a way for them to promote the value of locally produced items.

**PUBLIC HEARING**

No public comments.

**ACTION TAKEN**

Motioned by Commissioner Carter, seconded by Commissioner Hird, to approve the Conditional Use Permit for Lone Star Lake Bison Ranch County Store located at 588 N 300 Road, Overbrook, KS and forwarding it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report, and subject to the following conditions: (Condition No. 2 was deleted by the Planning Commission as the County Health Authority has provided Planning with a determination that additional septic system is not necessary for this use):

- 1) An ADA accessible parking space with signage and accessible ramp to the entrance will be provided by the property owner prior to the commencing of the use.
- 2) ~~If additional septic system capacity is deemed necessary by the Douglas County Health Department it will be provided by the property owner prior to the commencing of the use.~~
- 3) Provision of a revised site plan with the following changes:
  - a. The title changed from 'Certificate of Survey' to 'Bison Ranch Country Store Site Plan'.
  - b. Delineation of the area included within the CUP.
  - c. The addition of the following notes:
    - The permit will be administratively reviewed by the County in 5 years (Calendar Year 2013).
    - The permit will expire at the end of 10 years (Calendar Year 2018), unless an application for renewal is approved by the local governing body.
    - Proposed use: operation of a country store/farmer's market.

Unanimously approved 9-0.

PC Minutes 7/23/08

**ITEM NO. 9 CPA-2008-9 (MJL)**

**CPA-2008-9:** Consider amending Horizon 2020, Chapter 14 Specific Plans, to add a reference to and incorporate the K-10 & Farmer's Turnpike Plan.

**STAFF PRESENTATION**

Ms. Michelle Leininger presented the item.

Commissioner Dominguez asked when the process began.

Ms. Leininger said February 2008.

Commissioner Singleton inquired about the removal of buffer zones.

Ms. Leininger said the letters regarding buffer zones are referring to the transition areas and the transition areas were removed because of discussion from the June Planning Commission meeting.

Commissioner Harris said the letter received from the Department of Wildlife and Parks was regarding the impact to Clinton Lake State Park. She asked for staffs view on the letter.

Ms. Leininger said she had a hard time understanding what they meant in the letter. She thought it was regarding a small area that drains to the south as far as water sheds and they are concerned about drainage issues. She said a lot of those considerations are taken up at the time of development through stormwater regulations and stream buffer ordinances that the City Stormwater Engineer is currently working on.

Commissioner Finkeldei said he thought the letter from the Department of Wildlife and Parks referred mostly to the K-10 plan that abuts to Clinton Lake.

Commissioner Dominguez inquired about the discussion that took place by Planning Commission in June about buffer zones. He asked if the discussion was about the reduction of buffers.

Ms. Leininger said there were various discussions. It was noted that the transition area requirements as far as landscape buffering currently in the Development Code could take care of the buffering.

Commissioner Dominguez asked if the buffering could be put back in.

Ms. Leininger said the buffering could be put back in if the Commission wanted to.

Mr. McCullough said part of the discussion the Planning Commission had in June was about why staff proposed the concept of a transition zone in this area. There are policy statements in Horizon 2020 that talk about appropriate transitions for land use. Staff believed they addressed appropriate transitions moving east to west along Farmers Turnpike in terms of industrial employment, residential office, and different densities for residences. Staff discussed in June that because the concept for land use in this area attempts to address the need for a strong employment center at the intersection of state and federal highways, that when staff started backing north from Farmers Turnpike there were few things that were options to propose to make those transitions from the industrial employment center to the residential to the north. It could be done with intensity of uses by going from industrial to high density residential to low residential or with industrial to office to residential. Staff felt like residential was appropriate there but did not care for the abrupt change of industrial to low density residential. Staff

proposed the concept for a transition zone which meant at the minimum some extraordinary landscape buffering would be needed and that would be discussed at the time of development.

Commissioner Finkeldei said he remembered the discussion centering around not doubling the buffer requirement of the current Development Code. He was not against a transition area, but he was against the idea of doubling the buffer requirement that is already in the Development Code. He said that if the transition area is eliminated that does not mean there is no transition, it just means it is governed by the Code. He felt it was appropriate to include the transition area and include language the transition is important. He felt that how that is actually defined might require further discussion. He wondered if it was inappropriate to talk about something that was not going to be added.

Mr. McCullough said that if there is a transition area then staff would need direction as the plan is implemented and the opportunity to implement the definition. The Development Code does include its own standards for transitioning between industrial uses and different types of land uses. He felt there was opportunity here to do something on a clean slate that would allow the type of traditional transitional uses that are typically done with intensity of uses. Staff believes this was too abrupt of a change to let the Code cover it in terms of standards for the landscape areas.

Commissioner Blaser said that since they are writing the industrial design guidelines now, wouldn't it be better to put the language in that since it is really part of the industrial areas, rather than make it part of this.

Mr. McCullough said that it would be one implementation strategy if the governing bodies wanted to go in that direction it is good to have the support in a Planning document. He said that the Industrial Design Guidelines that are being worked on is a way to implement some of the strategies in the comprehensive plan.

Ms. Leininger said that the Industrial Design Guidelines would be used across all industrial development. The Comprehensive Plan Amendment being discussed would be used for a specific area needing specific description and specific additions.

Commissioner Harris asked if the Development Code talks about transitions but it does not actually set out a way to transition between heavy industry and low density residential and that is why staff thought the extra buffer might be needed.

Ms. Leininger said that the way the Code speaks to it is through bufferyards and it does speak to bufferyards between RS districts and Industrial districts. It speaks to all of the zoning districts.

Commissioner Hird asked if standards for the transition period have been drafted.

Ms. Leininger said there were policies that went along with the transitions and descriptions in the land use designations for the transition areas.

## **PUBLIC HEARING**

Ms. Marie Willis, member of the Scenic Riverway Community Association, said that her neighbor Marguerite Ermeling encouraged her to attend the meeting tonight. She referenced a book titled *The Job of the Planning Commissioner* which said the 'goals are best set by public discussion and government should be open and accountable to the public in every step of the Planning process.' She wanted the property owners to share their ideas about the land.

Ms. Gwen Klingenberg, President of Lawrence Association of Neighborhoods, said a major portion of the land is already in the Northwest Plan and the Northwest Plan states that industrial land use is not recommended in this planned area. She referred the Growth Management chapter in Horizon 2020 which is service area 3 and most of the area is outside of area 4. She said that the plan does not address parks, Perry/Lecompton schools, pedestrian routes, and bike paths. She felt that they needed to slow down the process and really study the plan. She felt that IG was incompatible with residential areas.

Commissioner Finkeldei asked staff about service area 3 requirements.

Ms. Leininger said it does not really talk to the service areas because the service areas are out of date and those will be updated in the future facilities plan.

Ms. Lynne Ward, 922 N 1800 Road, has a cattle ranch and is concerned about buffering to protect the land, water, and cattle. She wants a safe area for her family. She asked that more time be spent on this sector plan.

Commissioner Dominguez asked how big her land is.

Ms. Ward said 90 acres.

Mr. Ron Schneider, attorney for Scenic Riverway Community Association, felt that this sector plan was moving too fast and felt that it should be more deliberate and comprehensive. He did not think that many members of the community were aware of the plan. He said that the proposed plan failed to thoroughly consider and evaluate the topographical factors, drainage, flooding, and other environmental factors which his clients consider essential. He said that transportation considerations appear to be limited or inconsequential. Transportation costs, alternatives to conventional vehicle access, rail, etc. appear to have received limited consideration. He felt that the relationship of industrial, commercial, and residential was extremely disturbing. Transitional and compatible use has apparently been rejected or disregarded in many areas. Transitional design concepts have been considered, but their true benefit and implementation requires further discussion. Industrial areas have been proposed with little or no distinction between 'levels' of industrial use. The majority of citizens in the community do not seek new industry which presents potential harm to the environment, neighbors, and its employees. The plan does not provide guidance or limitations on industrial use and activity. Presently the industrial designation would allow any and all heavy industry on a huge volume of land. The sector plan ignores the existing industrial zone, the Santa Fe Industrial Area, as the appropriate adjacent area to expand industrial activity. Horizon 2020 addresses the concept clearly in Chapters 5, 6, and 7. Contrary to Horizon 2020, the plan proposes a huge 'leapfrog' of industrial development. The proposed industrial area is placed in a remote western location and expands Eastward. Infrastructure development and costs do not appear to have received appropriate consideration. 'Leapfrog' development of industrial areas creates an unnecessary financial hardship to the City. Industrially driven infrastructure is closer to the Santa Fe Industrial Area and far less expensive at the current industrial area. This area will include some access locations which are recognized as "Gateways" to the cities of Lawrence and Lecompton. The sector plan appears to harm the true benefits of a "Gateway" impression, and prohibit and logical consideration for areas of future growth for preferred commercial or residential development. He went on to say that the problem of the plan is not only where it designates industrial and other commercial uses, but the consequences that it will exclude, diminish, and prevent consideration of more desirable alternatives for preferred growth and development nearby in the area. Among the most significant components of Horizon 2020 is the function and designation of urban growth areas. The proposed sector plan dramatically alters and enlarges the urban growth area in the northwest region. As late as December 2006, the community did not consider such changes appropriate. The only apparent change is the pending industrial development proposal which is driving this alteration. This proposed sector plan

includes vast areas of land located outside of the City's boundaries. He said the plan should not be recommended for approval in its current draft.

Mr. Dave Ross, President of the Scenic Riverway Community Association and Regional Manager for Pur-O-Zone, discussed his experience with Pur-O-Zone. He started in 1992 and the revenues at that time were 1.5 million dollars. This year he expects to exceed 11 million dollars. He said that their growth was due to identifying their competition and identifying what they do well. He showed on the overhead the New Century Air Center in Gardner. It has the advantage of owning and operating it's own water system and rail switching equipment. They have a fire station in the heart of the business park. He said the K-10 and Farmers Turnpike area does not have this same infrastructure in place. Those things are available at the eastern end of the sector plan. He said that he talked to Michelle Leininger on the phone and sent a letter with suggestions. Ron Willis also wrote a letter with suggestions.

Ms. Bonnie Johnson, she wondered how it went from a Comprehensive Plan that indicated this area should be rural for the foreseeable future to a full fledged plan for urban development. She also wondered what happened to the proposal in the Parks and Recreation open space plan that she and citizens worked on which called for the area to be a rural part of a large green belt surrounding Lawrence. She felt there was a better way than relegating the area to more of the same urban development. She presented on the overhead an 'alternative vision' of 'listening to the land' and 'listening to the people.' She presented on the overhead an alternative sector plan.

Commissioner Harris inquired about the ability of an area that has lower industrial area to generate tax revenue.

Ms. Johnson said that it certainly could but that she did not know how it compared to a higher intensity industrial use. Rural and agricultural are good for tax base because they do not have to use certain city resources.

Commissioner Dominguez asked about the downsides to Ms. Johnson's proposed plan.

Ms. Johnson said she only talked to a few property owners in the area and did not meet with neighbors or the general public.

Commissioner Dominguez asked what made the land not ready.

Ms. Johnson replied, infrastructure.

Ms. Marguerite Ermeling, said she was one of the instigators in the alternative sector plan. She would like some sort of negotiable starting point to work with. She felt there were other locations that could be used.

Mr. Paul Bohnmier, said that 60% of visitors to Lecompton use the Lecompton interchange. He gave the historic significance of Lecompton. He felt that the appearance of the Lecompton gateway was an important area for the city.

Ms. Sarina Farb, felt that people living in the area are not being listened to. She felt that the plan was being pushed too quickly. She wanted the residences to have input. She felt there were other sites in Lawrence for industrial.

Mr. Ron Willis, member of SRCA, felt that there were other properties that could be used and hoped that the plan could be worked on together.

Mr. Kurt von Achen, said that New Century Air Center in Gardner is private. He also stated that things have changed since the adoption of Horizon 2020 and it was not intended to be followed to the letter.

Ms. Beth Johnson, Chamber of Commerce, said she just worked on a project for a company that makes solar panels and was not able to offer them any locations. She said that she needs more large sites to bring companies to the community.

Commissioner Carter said that in a few letters from the public they suggested using the eastern end of the sector plan.

Ms. Johnson said that Westar Energy owns a large portion of that and they are not a willing land owner.

Ms. JoAnn Farb, felt that the public was not being listened to. She said that lots of people get up and talk and voice their opinion and that the Planning Commissioners just nod and maybe ask a few questions, but that when Beth Johnson gets up and talks the Commissioners make great eye contact, pay attention, and always ask her questions. She said that the area does not have infrastructure and the process needs to be longer to involve the community.

Ms. Jane Eldredge, Barber Emerson, supported the plan and staffs recommendation. She said it is a bold plan that looks far into the future. She stated that the plan is not developer driven. She said that she has made suggestions to the sector plan and is satisfied with the ones that have been changed. She stated that Planning staff has taken a beating over the plan and felt that they should be supported. She spoke about bufferyards.

Commissioner Dominguez asked if Ms. Eldredge felt that the residences cause a natural buffer.

Ms. Eldredge said that was correct.

Commissioner Dominguez asked what happens if the land owner sells off a part of the land.

Ms. Eldredge said that the Code already outlines bufferyard regulations.

Commissioner Dominguez felt that the Commission should ensure that buffering be provided to the neighbors.

Mr. Joe Farb, felt that the process was unreal and that the Planning Commissioners already has their mind made up. He felt like their concerns were not heard and that the plan was moving too fast. He would like the opportunity to work with the developer to come up with a good plan. He was concerned about infrastructure and where the money would come from to pay for it.

Ms. Betty Lichtwardt, stated that when the new Development Code was adopted there were two industrial districts combined into one general industrial district and that includes everything that you can imagine an industrial. She also suggested that the industrial areas should be developed with a PD overlay for the added protection for the residence.

Ms. Janette Funk, opposed the sector plan and felt there were other industrial areas in Lawrence that could be used. She suggested the Santa Fe area, Anaheim, and East Hills Business Park, and displayed on the overhead different areas of acreage. She felt that the Schwada project would cost Lawrence money in paying for the infrastructure.

## **COMMISSION DISCUSSION**

Commissioner Carter asked Ms. Johnson about the information that Ms. Funk presented.

Ms. Johnson said that the information was on the chamber website and that people can call her as well.

Mr. McCullough said that it is a process and that this planning project did not start out in the best context and staff has gotten tonight the kind of feedback they have been looking for.

Commissioner Finkeldei inquired about a timeline.

Mr. McCullough said that staff has already been working on the plan for about 5 months and it would be another 3 months for it to go through the Board of County Commissioners and City Commission. He said that staff would like to remain on track to get a good plan in a reasonable timeframe

Commissioner Moore inquired about the work-live center that was shown on the proposed future land use map.

Mr. McCullough said that staff contemplated expanding the industrial area east but decided to keep it all by the interchange and transition east. There is a good deal of residential south of the highway.

Ms. Leininger said that another reason staff strayed away from making that area industrial is because there would be quite a distance either way to highway access.

Commissioner Dominguez asked when an industrial site plan is submitted how much leeway would staff have to say what the business does as far as transitions and bufferyards.

Ms. Leininger said that they would have to meet the bufferyard requirements.

Commissioner Carter felt that there was more specific feedback heard tonight and that he does not feel that the plan is being rushed even though the speakers have thought that.

Commissioner Singleton said this is the biggest sector plan that has come before this board. She felt that they needed to take the peoples concerns into account and there is no reason to vote on the item tonight. She suggested they invite the leaders of Perry/Lecompton and involve as many people as possible. She was concerned about the letter from the Clinton Parks & Recreation about potential runoff. She was also concerned about how to handle water and sewage needs in the area.

Commissioner Hird said that when Ms. Klingenberg spoke she raised a point about land near the South Lawrence Trafficway and he wondered if there was overlap.

Ms. Leininger replied yes and that it was done on purpose. Staff thought it was appropriate that the area be updated as part of this plan since the Northwest Area Plan is roughly 10 years old.

Commissioner Harris was encouraged by the meeting this evening. She said her idea of what a sector plan is and does comes from Horizon 2020. She felt that in the plan they were shown tonight by the public where thinking about the needs of the people and that they could all win something from it. She felt that staff should look more into the ideas presented.

Commissioner Finkeldei said that staff needs direction to move this plan forward. He said that he listens to all of the public speakers even if he does not agree with the ideas. He stated that the area around the Turnpike is at some point in the future a prime location for industrial land for the community. He said he

heard some ideas tonight that might work and he appreciated hearing those things tonight and could agree with some of the ideas. He felt it was important to leave the transition in the language. He did not support doubling the bufferyard. He thought there was misconception about a sector plan and infrastructure. He said that the plan does not zone the property and does not cause industrial to be built. The plan does not equal infrastructure. He discussed the need for significant industrial land and moving some of the industrial east is a possibility.

Commissioner Hird agreed with Commissioner Finkeldei. He was disturbed that public speakers say the Commission already has their minds made up. He said they do not have their minds up and they do listen to every speaker.

Commissioner Moore liked the idea of 'bookending' the industrial and felt they should look into the idea of buffering to the west, but not by way of bufferyards.

Commissioner Blaser wanted to move the plan forward. He said part of the problem in Lawrence was talking about things to death and dragging feet on items and not moving them forward. He cautioned about discussing other industrial sites due to size because industrial need larger sites.

Commissioner Dominguez said there is a place for everyone and they need to appreciate each other. He felt the Chamber of Commerce was going a good job.

Commissioner Harris liked the idea of having industrial at Santa Fe. She liked the innovative ideas of mixing industrial with agriculture.

Commissioner Singleton felt that they should preserve the view from I-70.

Commissioner Harris felt it was important to have a high quality gateway into Lecompton.

Commissioner Finkeldei felt that the plan needed to be moved forward. He felt it was important as a goal that large tracts of land are needed and he was okay with the idea of Prairie Stone with big tracts of land with buffering.

Mr. McCullough said that the concepts of when an area urbanizes is going toward higher densities.

Commissioner Finkeldei said he heard tonight that they can incorporate being able to use land and natural topography and make it more pleasing in that industrial area.

Mr. McCullough said they have seen some new concepts this evening that staff will have to try to operate under the existing codes.

Commissioner Carter felt that they should delay the project instead of starting all over.

Commissioner Harris disagreed with working strictly with tools in the existing code. She said that if there is another tool out there then it should be considered, especially for this unique area that mixes low intensity uses and industrial.

Commissioner Finkeldei agreed with Commissioner Harris. He said he was hearing all the input and there are some additions to the commentary. He said that the overall industrial space could be expanded but that it should be done in a different way that allows for transitions.

Commissioner Dominguez asked about a timeframe for the plan to come back.

Mr. McCullough said that at the earliest the plan could come back in 3 months.

Commissioner Finkeldei asked that an update be provided at an upcoming mid-month meeting. He felt that instead of having it sent to a committee he would direct it back to staff to meet with the citizens.

**ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Blaser, to defer item and reschedule for the October 2008 Planning Commission.

Unanimously approved 9-0.

PC Minutes 7/23/08

**ITEM NO. 13 UR TO CO; 4.55 ACRES AT 6<sup>TH</sup> ST & STONERIDGE AND 2.68 ACRES AT 6<sup>TH</sup> ST & QUEENS RD (MKM)**

**Z-05-11-08:** Consider a request to rezone a tract of land approximately 4.55 acres located at the NE corner of 6<sup>th</sup> St & Stoneridge and a tract of land approximately 2.68 acres located at the NW corner of 6<sup>th</sup> St & Queens Rd from UR (Urban Reserve) to CO (Office Commercial). Submitted by Landplan Engineering, for Pear Tree Village L.P., property owner of record.

*Item 13 was deferred prior to the meeting.*

PC Minutes 7/23/08

**ITEM NO. 14 COUNTY ZONING REGULATIONS (MKM)**

Receive draft revised County Zoning Regulations and receive any public comment on proposed revisions. No action will be taken at this meeting. A public hearing will be scheduled at a future Planning Commission meeting.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**PUBLIC HEARING**

No public comments.

**NO ACTION TAKEN**

PC Minutes 7/23/08

**ITEM NO. 15 AMENDMENTS TO COUNTY ZONING REGULATIONS (MKM)**

**TA-06-13-08:** Consider amendment to Article 18, County Zoning Regulations, to revise the minimum lot area requirements in the A District. Initiated by County Commission May 7, 2008.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

Commissioner Harris asked if the reduction in area would result in a change in the density permitted.

Ms. Miller said that the change would not result in an increase in density. When the County Commission initiated the text amendment they asked Staff to clarify if this would result in an increase in density. The land divisions would still be of the same minimum area and would require the same amount of road frontage so the density would not be affected. In the rural portions of the County, a parent parcel must be 20 acres and 2 or 3 RDPs can be created depending on the classification of the bounding roads. The arrangement of the RDPs would be changed, but not the total number of RDPs that are possible.

**PUBLIC HEARING**

No public comments.

**ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Dominguez, to approve the proposed amendment [TA-06-13-08] to revise the table in Section 18 to reduce the minimum lot area requirements, and forward to the Board of County Commissioners.

Unanimously approved 9-0.

PC Minutes 7/23/08

**ITEM NO. 16A AMENDMENTS TO SUBDIVISION REGULATIONS (MKM)**

**TA-06-10-08:** Consider amendment to Section 20-806(d)(1), Subdivision Regulations, to clarify the number of RDPs that may be created based on the classification of the bounding roads. Initiated by County Commission June 23, 2008.

**ITEM NO. 16B AMENDMENTS TO SUBDIVISION REGULATIONS (MKM)**

**TA-12-26-07:** Consider amendments to Section 20-806(b)(3) and 20-806(d), Subdivision Regulations, to clarify that a parent parcel may be divided to create 1 residential development parcel, and is not required to create 2 or 3 RDP's. Initiated by the Planning Commission November, 26 2007.

**STAFF PRESENTATION**

Ms. Mary Miller presented items 16A and 16 B together.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Carter asked how big an RDP could be.

Ms. Miller said that with the amendment, a RDP could be as large as the parent parcel. It could be as small as 3 acres with a public water supply and 5 acres with a private water supply.

Ms. Betty Lichtwardt, League of Women Voters, gave the general background as to the establishment of the size of RDP's in the subdivision regulations. Originally, they had wanted a minimum area of 20 acres per RDP, but the result of the Subdivision Regulations was that a property had to have a minimum area of 20 acres in order to be divided and the number of RDP's which could be created was limited to 2 or 3 per parent parcel.

**ACTION TAKEN ON ITEM 16A**

Motioned by Commissioner Harris, seconded by Commissioner Moore, to approve the proposed revisions [TA-12-26-07 and TA-06-10-08] to Sections 20-806(b)(3), 20-806(c)(1 and 2), and 20-806(d) of the Subdivision Regulations, and forward to the Board of County Commissioners and the City Commission.

Unanimously approved 9-0.

**ACTION TAKEN ON ITEM 16B**

Motioned by Commissioner Harris, seconded by Commissioner Moore, to approve the proposed revisions [TA-12-26-07 and TA-06-10-08] to Sections 20-806(b)(3), 20-806(c)(1 and 2), and 20-806(d) of the Subdivision Regulations, and forward to the Board of County Commissioners and the City Commission.

Unanimously approved 9-0.

PC Minutes 7/23/08

**ITEM NO. 17: AMENDMENTS TO SUBDIVISION REGULATIONS (MKM)**

**TA-06-11-08:** Consider amendment to Section 20-804, 805 and 806 of the Subdivision Regulations to include requirement that RDPs must comply with the lot requirements in Article 18, County Zoning Regulations. Initiated by County Commission June 23, 2008.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**PUBLIC HEARING**

No public comments.

**ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Chaney, to approve the proposed amendment [TA-06-13-08] to require that RDPs comply with lot dimensional requirements in Article 18 of the County Zoning Regulations, and forward to the Lawrence City Commission and the Douglas County Board of County Commissioners.

Unanimously approved 9-0.

PC Minutes 7/23/08

**ITEM NO. 18 AMENDMENTS TO DEVELOPMENT CODE (MKM)**

**TA-12-27-07:** Consider amendments to Section 20-1101 and 20-1701, Lawrence City Land Development Code, relating to environmentally sensitive lands.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item. Since the June Planning Commission meeting, Staff has received comments on the proposed text amendment language from various individuals. Stan Rasmussen, Planning Commissioner, met with Staff to discuss language which may be unclear. The amendment has been revised based on his suggestions to clarify language and to reformat the amendment so that standards and guidelines are clearly listed in a separate section and not distributed throughout the amendment. Frank Norman of Norman Ecological Consulting provided information on the native prairie remnants as well as other ecological issues. The text amendment has been revised to include the language and reformatting as a result of these discussions.

**COMMISSION DISCUSSION**

Commissioner Dominguez asked for information on the revised standard for historical properties which includes those which are 'eligible' for listing. He asked how eligibility is determined.

Ms. Lynne Braddock Zollner, Historic Resources Administrator, stated that the State Historical Preservation Office has a database of properties that are eligible for listing and there is a set of criteria that must be met in order to be eligible for listing. Utilizing the database and the criteria, she would determine if the property was eligible for listing.

Commissioner Dominguez asked how long the determination would take.

Ms. Braddock Zollner responded that it takes a short time to make the determination, usually within one day.

**PUBLIC HEARING**

Ms. Betty Lichtwardt, League of Women Voters, said that several months ago the League was encouraged by Mary Miller examining the proposed revisions for loopholes. A key provision in the draft is the following excerpt (i) under the new Section 20-1109 which is a source of their concerns.

(i) Ranking and Required Protection of Environmentally Sensitive Areas

All protected areas together shall not be required to exceed 30% of gross land area unless critical sensitive areas exist.

She said that the term "gross land area" was not clear. It could be interpreted in two different ways: (1) the gross land area of the sensitive features or (2) the gross land area of an ownership tract. She was assuming that it means the ownership tract, but it should be made clear. Second, the amount of environmentally sensitive land required to be "protected" by the new draft they believe would be a major source of trouble. The arbitrary limit of "All protected areas together shall not be required to exceed 30% of the gross land area." they view as a major problem. She went on to say that the draft also states that 100% of "protected areas" must be preserved. However, except for the category of 40% slopes and stream corridors on USGS Quad maps this is not over and above the amount of land that would, under other laws be required to be preserved anyway. If 30% or more of a tract constituted all "protected areas" features, everything else that might exist on a tract would be lost regardless of what other features might be present. She said that the League has mentioned this several times in letters. Some sensitive features commonly exist in combination such as streams, wooded slopes, rocky outcroppings, and even prairie. In the case of a major stream existing on a tract coming up to or exceeding the 30% preservation allotment, the wooded slopes, rocky outcroppings, and prairie would be

sacrificed because they exceeded the 30% maximum required for preservation. She said that this did not make sense. In the near future, besides the other many environmental benefits, trees are going to be worth money in the form of carbon credits and they should be protected. She said that it would make more sense if there must be a limit on how much is protected, to add the 30% allotment over and above the mandatory protected areas when they also exist on a tract. She said that there are many other problems that by setting arbitrary allotments. The land itself should dictate what is to be preserved and not the size of an ownership tract. However, the most serious issue of this code that we see is its method of enforcement. Mitigation requires only replacement of what would have been required to be preserved. This is an invitation to destroy everything else before submitting a Sensitive Areas Site Plan with a challenge to the City to prove the damage. The enforcement would require taking the perpetrator to court. We suggested in previous communications on this code that the City extend the Development Permit requirement to all land in the City, not just in Floodplains where they now are required. She said that they have also asked that the City and County institute a program of Transferrable Development Rights or similar program to better preserve environmentally sensitive areas and agricultural lands.

**ACTION TAKEN**

Motioned by Commissioner Blaser, seconded by Commissioner Carter, to approve the proposed amendment [TA-12-27-07] to Section 20-1101 and 20-1701, Lawrence City Land Development Code, relating to environmentally sensitive lands, and forward to the Lawrence City Commission.

Motion carried 7-1-1, with Commissioner Singleton voting in opposition and Commissioner Harris abstaining.

PC Minutes 7/23/08

**MISCELLANEOUS NEW OR OLD BUSINESS**

Commissioner Harris was concerned about the process of minutes and wondered how the minutes could be done faster.

Commissioner Harris inquired about a GIS overlay for class 1 and class 2 soils.

Motioned by Commissioner Harris, seconded by Commissioner Carter, to approve adding a GIS overlay for class 1 and class 2 soils.

Unanimously approved 9-0.

Consideration of any other business to come before the Commission.

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**ADJOURN 12:00am**