



PLANNING COMMISSION MEETING
June 22 & 24, 2009
Meeting Minutes

June 22, 2009 – 6:30 p.m.

Commissioners present: Blaser, Chaney, Dominguez, Finkeldei, Harris, Hird, Moore, Rasmussen, Singleton, and Student Commissioner Shelton

Staff present: McCullough, Day, J. Miller, M. Miller, Zollner, and Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of May 18 & 20, 2009.

Commissioner Harris had a few minor change that she emailed to Ms. Denny Ewert.

Motioned by Commissioner Moore, seconded by Commissioner Chaney, to approve the May 18 & 20, 2009 Planning Commission minutes with the suggested changes by Commissioner Harris.

Motion carried 8-0, with Student Commissioner Shelton voting in favor. (Commissioner Dominguez was not present yet for the vote)

COMMITTEE REPORTS

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

There were no committee reports.

Commissioner Hird suggested that an agri-tourism committee be created.

COMMUNICATIONS

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

No written action of any waiver requests/determinations made to the City Engineer.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- Abstentions:
Commissioner Singleton said she would abstain from Item 8 because there is a conflict with the law firm she works for.

ELECTION OF OFFICERS FOR 2009-2010

Motioned by Commissioner Blaser, seconded by Commissioner Singleton, to nominate Commissioner Moore as Chair.

Unanimously approved 8-0.

Motioned by Commissioner Hird, seconded by Commissioner Chaney, to nominate Commissioner Blaser as Vice-Chair.

Unanimously approved 8-0.

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ITEM NO. 1 WAIVER FINAL DEVELOPMENT PLAN; BAUER FARM; 16.44 ACRES; NW CORNER FOLKS RD & 6TH ST (MKM)

Consider waiver from Section 20-1006 to permit reduced lot areas as presented on most recently approved Final Development Plan for Bauer Farms-Residential [FDP-1-2-09].

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Harris inquired about the character of the open space.

Ms. Miller said it is not a detention basin, it can be usable open space.

APPLICANT PRESENTATION

Mr. Micah Kimball, Treanor Architects, said the waiver was previously overlooked.

Commissioner Harris inquired about the League of Women Voters comments about transit access.

Mr. Kimball said there will be transit access but they have not met with transit yet.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Chaney, to approve a waiver for the Final Development Plan for Bauer Farm from Section 20-1006(a) of the pre-2006 Development Code to permit the creation of residential building lots as shown on the Final Development Plan with a revision date of May 07, 2009 subject to the following conditions of approval:

1. The following note shall be added to the Revised Development Plan: "A waiver from Section 20-1006(a) was approved by the Planning Commission on June 22, 2009 permitting the creation of residential building lots as shown on the May 07, 2009 revised Final Development Plan. Any future variations in lot dimensions from Code will require a waiver from the Planning Commission."

Unanimously approved 8-0, with Student Commissioner Shelton voting in favor.

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ITEM NO. 2 U-KU TO RS5; 6,732 SQ FT; 1646 ILLINOIS ST (MKM)

Z-4-4-09: Consider a request to rezone a residential lot approximately 6732 sq ft, located at 1646 Illinois Street, Lot 7, Block 3 of University Place, from U-KU (University – Kansas University) to RS5 (Single-Dwelling Residential). Submitted by Rhonda Prohaska for Renaissance Designs, LLC; property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Finkeldei inquired about the fence.

Ms. Miller said the fence on the adjacent property was built a few feet over the property line so it encroaches into the subject property and the building appears to be closer to the property line than it actually is.

Commissioner Harris asked what criteria was used in approving the building when it was not zoned to this category before it was built.

Mr. McCullough said this was a staff error in permitting the building and assuming it was in the RS district. When the error was recognized a letter was sent to the property owner requesting a rezoning.

Commissioner Moore asked if the property was zoned that way due to the University owning it.

Ms. Miller said with the 2006 Development Code certain properties were zoned U-KU that were not part of the main campus but were owned or made available to the University of Kansas.

APPLICANT PRESENTATION

No applicant presentation.

PUBLIC HEARING

Mr. Greg Walters, 1652 Illinois, expressed concerns about the building construction starting in July 2008 without the proper zoning. He said he contacted Mr. Brian Jimenez, Code Enforcement Manager, and Mr. Jimenez had the property owner refill the hole since they were violating city codes. He stated that since the house was built he has had water problems in his basement that he did not have previously. He expressed concern about the property discharging a white substance to the street. He also felt the house size did not fit in the neighborhood.

COMMISSION DISCUSSION

Commissioner Finkeldei asked staff to respond.

Mr. McCullough said that the site could be looked at for code violation issues. He also stated the construction has not gone up without city inspections.

Commissioner Hird asked staff if Planning Commission was just looking at the rezoning issue, not code violations.

Mr. McCullough said that was correct, Planning Commissions charge is just the rezoning issue.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the request to rezone approximately 6,732 square feet at 1646 Illinois Street, from U-KU (University-Kansas University) District to RS5 (Single Dwelling Residential) District based on the findings presented in the staff report and forwarding the request to the City Commission with a recommendation for approval.

Commissioner Finkeldei said he would support the motion but felt that code compliance should be met and since it is no longer owned by the University it should be rezoned to RS5.

Commissioner Hird agreed with Commissioner Finkeldei.

Commissioner Harris also agreed with Commissioner Finkeldei. She stated that with the new Development Code the district RS5 allows more building on a property than it used to and she felt staff should give more scrutiny for drainage on those properties.

Unanimously approved 8-0, with Student Commissioner Shelter voting in favor.

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**ITEM NO. 3 SPECIAL USE PERMIT FOR TEMPORARY SHELTER; 1242-46
 MASSACHUSETTS ST (SLD)**

SUP-4-4-09: Consider a Special Use Permit for a temporary shelter for Lawrence Community Shelter to be located on the northeast corner of 13th & Massachusetts at 1242-46 Massachusetts St. Submitted by Loring Henderson, Director for the Lawrence Community Shelter Inc. Douglas County is the property owner of record.

Item 3 was deferred prior to the meeting.

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ITEM NO. 4 GPI TO IG; 503 ACRES; LAWRENCE MUNICIPAL AIRPORT (SLD)

Z-4-5-09: Consider a request to rezone the Lawrence Municipal Airport, containing approximately 503 acres, from GPI (General Public and Institutional) to IG (General Industrial). There is existing ASO (Airspace Overlay District) and FP (Floodplain Management Regulations Overlay District) zoning overlays on all or portions of the property being rezoned to the base IG district. Initiated by City Commission on 4/7/09 and re-initiated on 5/26/09 to include 503 acres.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Commissioner Harris asked what staff meant by 'airport related development.'

Ms. Day said they would typically be businesses that need direct runway access, flight space, helicopter related type activities, mechanic type activities, or industrial development that has that kind of focus.

Commissioner Finkeldei asked how much developable land is on the airport site.

Ms. Day said the two pieces outlined represent about 77 acres. Of that, the floodprone area is about 18 acres. She said that including what is already there the acreage is approximately 60 acres.

Commissioner Moore asked if all the uses out there were currently in non-conformance with the zoning code.

Ms. Day replied yes.

Commissioner Harris inquired about soil conserving agri-industry businesses.

Mr. McCullough said when City Commission initiated the rezoning there was comment from the public on class 1 and 2 soils. He stated that staff wanted to highlight that the draft Chapter 7 has the site as a location for industrial development. The distinction between the municipal airport as a location and other property around the airport for industrial development and the draft Chapter 7 has in it that soil conserving industries are more directly related to the areas outside of the airport. The airport property, in terms of how Chapter 7 views it, encourages air related industry not soil conserving industry.

PUBLIC HEARING

Mr. Stanley Sneegas, secretary for the Lawrence Airport Aviation Advisory Board, stated that the board supports the rezoning request.

Commissioner Harris inquired about the boards discussion.

Mr. Sneegas said it was discussed at their May meeting and the board discussed economic development. They felt it would help improve the ability of the City to develop the airport.

Mr. Scott Swedlund, expressed concern about the runway being expanded and how it will effect his residential property. He stated the City already has an easement for the crash zone but he said if they expand the area then his bedroom will be in the crash zone.

Mr. McCullough said the airport master plan is not necessarily being looking at through this application. He stated there may be potential for development on the airport relative to whatever business may have a need for something, but usually that is taxi ways or hanger space, versus the infrastructure of the runway itself. He said he was not as familiar with the airport master plan. He said as far as he understood, the effort to rezone the property would not impact Mr. Swedlund's property.

Mr. Sneegas said in order to extend the runway Highway 24 would have to be moved and there are no plans to do that anytime soon.

Commissioner Hird asked Mr. Swedlund how long he has lived in his residence.

Mr. Swedlund said he moved there right before the 2006 rezoning.

Mr. McCullough said when the property was purchased there was M2 Industrial Zoning on the property. South of 24-40 and east of Mr. Swedlund's property there is a no build area. The rezoning would bring the current businesses out there into compliance and open the door for increased development at the site.

COMMISSION DISCUSSION

Commissioner Harris asked if a heavy manufacturer, that was not airport related, would have to be approved by Planning and City Commissions.

Mr. McCullough said the City is the property owner so any decisions to lease or sell property would be up to the governing body, which would be similar to a landlord/tenant relationship. The business may comply with the Development Code but whether the City wants to open the door to non-aviation related uses would be a decision of the governing body. He said it would go against the draft Chapter 7 that calls for that area to be reserved for aviation related industry but that technically the IG district allows those uses, but it would fall on the city, as the owner of the property, to allow that to happen.

ACTION TAKEN

Motioned by Commissioner Rasmussen, seconded by Commissioner Finkeldei, to approve the request to rezone approximately 502.62 Acres from GPI (General Public and Institutional) District to IG (Industrial General) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Commissioner Harris said she supports the idea of having airport related development near the airport but will vote against the rezoning because it would not guarantee that non-airport related development would be located there. She felt it left the door open for more intense development next to agricultural and residences to the south, and the Comprehensive Plan talks about how heavy industry zoning is not compatible with those uses.

Motion carried 6-2, with Commissioners Harris and Singleton voting in opposition. Student Commissioner Shelton voting in favor.

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ITEM NO. 5 RS5 TO RSO; 15,625 SQ FT; 135 & 137 PAWNEE AVE (SLD)

Z-4-6-09: Consider a request to rezone 15,625 sq. ft. located at 135 & 137 Pawnee Avenue from RS5 (Single-Dwelling Residential) to RSO (Single-Dwelling Residential-Office). Submitted by Landplan Engineering, for Haskell Light Inc, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Stanley Sneegas, President of Board of Directors for Haskell Light, presented a slide presentation to give background and an overall idea of what the Light program does. He agreed with the Historic Resources Commission and Planning staff recommendations. He said he was informed by staff that the occasional overnight guest is considered to be a temporary shelter which is a prohibited use so he issued a memorandum to the Board of Directors to cease and desist that activity.

Commissioner Rasmussen asked if the current use for 137 Pawnee Ave is similar to a church.

Mr. Sneegas said the central focus is more of providing support for the Haskell students such as counseling but that worship service is one of the uses.

Commissioner Rasmussen asked who specifically told Mr. Sneegas that there could not be any overnight guests.

Mr. Sneegas replied Ms. Sandra Day.

Commissioner Dominguez arrived at the meeting at 7:30pm.

Commissioner Moore asked how many individuals they currently serve.

Mr. Sneegas said the whole student population.

Ms. Patricia Main, Director of Campus Ministry, said they allow different clubs and study groups to use the facility. She said they hold dinners that can feed anywhere from 50-150 students. She also stated that about once a week there is a bible study held at the facility and there are about 10-15 students that attend.

PUBLIC HEARING

Ms. Dorothy Hoyt- Reed, 50 Winona Ave, stated she and a few of her neighbors supported the rezoning, and asked that the mature trees be preserved. She also expressed concern about the property being reverted back to residential if it were to sell.

Mr. Mike Sizemore, 2301 Massachusetts, also serves on the Historic Resources Commission, speaking on his own behalf, expressed concern about building neglect to faith based facilities that have dwindling congregations. He said there have been two faith based facilities demolished in the area due to neglect. He felt that Breezedale is intended to be a residential area.

Commissioner Rasmussen asked Mr. Sizemore if he sees a role for a church type use in a residential neighborhood.

Mr. Sizemore said yes, and an appropriate design in this location could work.

Commissioner Singleton asked what the two religious institutions were that were demolished.

Mr. Sizemore said a Morman church was demolished due to a leaky roof and mold and a Catholic center was demolished due to lack of upkeep.

Mr. Christopher Black, student at Haskell, said his involvement with Lighthouse has been a positive experience and he supported the rezoning.

Mr. Roy Coker, 110 Pawnee, supported the rezoning and felt that Lighthouse was a great organization.

Mr. Brandy Supernaw, supported the Lighthouse program and rezoning of the property.

Ms. Marsha Princivale, helps out at the Lighthouse occasionally. Said the LDS church that was recently demolished was for sale but there was a stipulation that they would retain member rights so that is why the building did not sell and fell into disrepair. She said that 137 Pawnee is very well taken care of but is a little outdated. She stated that the house on the right does not look very good but that if it were purchased by a homeowner it would be remodeled. She felt that if the two current houses were demolished and a bigger building were designed to fit in the neighborhood that it would improve the neighborhood. She did not feel it was a big deal if someone stayed the night located next to a residential neighborhood. She asked if Lighthouse had a plan for how long the new construction building would take.

Mr. Sneegas said it would be 3-5 years before a new building would be built.

Ms. Val Howland, 2563 Montana, non-denominational minister, supported ministry work in general.

Mr. Ron Schneider, attorney on behalf of Marian Percival who resides at 132 Pawnee Ave, expressed opposition to the rezoning due to details of the project not being available. He felt there should be more clarity on what is proposed. He wondered how big the proposed building would be and would it assist 20 or 200 guests. He said if the applicant is willing to work with the Planning Department then maybe incompatibility issues on boarding could be addressed. He also expressed concerns about easements and covenants.

Commissioner Hird asked Mr. Schneider if he has had any discussions with the applicant.

Mr. Schneider replied no.

COMMISSION DISCUSSION

Commissioner Finkeldei inquired about protecting mature trees and reversionary zoning.

Mr. McCullough said currently there are environmental sensitive protections. Once the zoning is approved then there would be the site plan process so there will be opportunity for input into the site plan. He stated to revert back to a different zoning would require a new rezoning request so it would not automatically revert back to a former zoning when the use changes because it runs with the land not the occupant.

Mr. John Miller agreed with Mr. Scott McCullough.

Mr. Miller said regarding the restrictive covenants staff discussed them and it is not within the scope of the Planning Commission review to enforce restrictive covenants. It would be a private action that would be taken on part of the property owners affected by the restricted covenants. The restrictive covenants contain language that predates the Supreme Court Case Shelley V. Kraemer and there are concerns within those restrictive covenants about the equitable enforcement under the protection clause of the specific restrictions.

Ms. Lynne Braddock Zollner, Historic Resources Administrator, said that Historic Resources Commission did hear this rezoning application and they approved it under State Historic Preservation Law with conditions similar to what Planning Commission is looking at tonight. Their feeling was that this use has been ongoing in the neighborhood and has been compatible with the neighborhood for a length of time. The main key for the Historic Resources Commission will be the architectural styling, setbacks, height, mass and bulk of the new structure.

Commissioner Finkeldei asked what impact Historic Resources Commission will have at the site plan stage.

Ms. Zollner said Historic Resources Commission will have quite a bit of input because the whole project will go through the design review process. Historic Resources Commission will look at the site plan which lays out the building and also look at the elevations of the building and review their compatibility with the listed properties on Haskell and the Breezedale Neighborhood.

Commissioner Singleton asked about a more specific zoning classification for this type of use.

Mr. McCullough said the new comprehensive revision to the Development Code accounted for social service agencies and also looked at some religious assembly uses. With the 2006 Development Code we made a band-aid fix for social service agencies in the Office-Other category but now it has its own category use under social service agency.

Commissioner Singleton asked about the recent project that they heard for the funeral home on Connecticut Street. She was curious why the decision was made on this project to restrict uses.

Mr. McCullough said generally speaking, one of the differences is that this is a recommendation that grew out of input and discussions with the applicant. Staff had a different look and analysis of the two neighborhoods but staff supports conditional zoning and feel it's appropriate in this instance.

Commissioner Rasmussen inquired about temporary shelters and asked if any church in the city cannot have overnight guests.

Mr. McCullough said there are two types of shelters. One would house up to 15 guests and 5 staff, which is a permitted use and allowed in any religious institution for a certain time limit. If those thresholds are exceeded then it would require a Special Use Permit. Staff does not believe the Development Code defines this as a religious assembly use but rather a faith based social service use.

Commissioner Rasmussen asked where to find the definition of faith based social service agency.

Mr. McCullough said there is no definition for faith based social service agency, it is just social service agency:

Social Service Agency

A service operated by a public, publicly funded, nonprofit, or charitable organization providing services undertaken to advance the welfare of citizens in need which typically includes supporting office uses. Typical uses include employment counseling, life skills training, counseling, food banks, and blood banks. Social Service Agencies shall not include Temporary Shelters, Group Homes, commercial uses such as medical, professional, financial, real, estate offices, or religious institutions providing these services as accessory to their religious assembly use.

Commissioner Harris responded to Ms. Hoyt-Reed's question about reverting back to residential zoning. She asked if it was true one of the avenues could be a request for down zoning.

Mr. McCullough said there is a process initiated by City Commission and possibly an avenue through Planning Commission. A private owner can not initiate a rezoning for someone else's property but the governing body has been authorized to do so.

Mr. Miller wanted to address another issue in Mr. Schneider's letter regarding excluding group homes. He stated that statutorily if a property has single family dwelling unit zoning Planning Commission cannot, by State Statute, prohibit group homes from that zoning district.

Commissioner Moore asked about the Chabad House that is zoned RM12.

Ms. Day said the applicant first proposed the RM12 zoning but as discussions continued it was concluded that the use was not really religious assembly so we looked at use categories that better fit the applicants activities which is where the social service agency use was identified.

Mr. McCullough said the Chabad House meets the definition of a religious institution.

Commissioner Finkeldei followed up on the League of Women Voters letter and asked if there was progress being made to add conditional zoning into GIS.

Mr. McCullough said staff is still actively working on getting the ordinances linked in GIS.

Commissioner Hird expressed concern about religious uses because as the attendance goes down so does the funds for maintenance. He said the location of it lends itself well in assisting the students at Haskell and he is inclined to support the rezoning.

Commissioner Singleton expressed support for the Lighthouse organization. She said that the plans are vague but it will still go under scrutiny of Historic Resources Commission. She expressed concern about there not being a zoning category for this type of use.

Commissioner Finkeldei said he was supportive of the recommendation but not a big fan of conditional zoning. He said he has not heard any complaints about the use so he trusts the staff, applicant, neighbors, and Historic Resources Commission to review the design of the building.

Commissioner Moore said RSO zoning may be more compatible with the neighborhood and he supports the rezoning.

Commissioner Harris said she supports the rezoning and thanked staff for coming up with a sensitive solution to some of the concerns in neighborhoods. She felt it would be a good fit and potential for it to fit the needs of everyone.

ACTION TAKEN

Motioned by Commissioner Blaser, seconded by Commissioner Finkeldei, to approve the request to rezone approximately 15,625 SF, located at 135 and 137 Pawnee Ave, from RS5 (Single-Dwelling Residential) District to RSO (Single-Dwelling Residential Office) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the following condition:

1. Uses in the RSO district shall be restricted to only:
 - a. Household Living Uses in Section 20-402 of the Land Development Code, except that duplex uses shall be prohibited, and
 - b. Social Service Agency use in the Community Facilities use group in Section 20-402 of the Land Development Code.

Motion carried 8-0-1, with Commissioner Dominguez abstaining. Student Commissioner Shelton voting in favor.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

Recess at 8:30 p.m. until 6:30 p.m. on June 24, 2009.

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Reconvene June 24, 2009 – 6:30 p.m.

Commissioners present: Blaser, Carter, Chaney, Finkeldei, Harris, Hird, Moore, Rasmussen, Singleton, and Student Commissioner Shelton
Staff present: McCullough, Leininger, J. Miller, Toomay, Zollner, and Ewert

BEGIN PUBLIC HEARING (JUNE 24, 2009):

COMMUNICATIONS

Mr. Scott McCullough stated that an email was received after the Monday communication deadline. He said it was regarding an item that is not an action item on the agenda so it will be included in the future.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- Abstentions:
Commissioner Singleton said she would abstain from Item 8.

Mr. McCullough requested that Item 9 be moved to the end of the agenda due to staff member Mr. Dan Warner being at County Commission.

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ITEM NO. 6 2010-2015 CAPITAL IMPROVEMENT PLAN (CASEY TOOMAY)

Approve projects to be included in the 2010-2015 Capital Improvement Plan (CIP) for the City of Lawrence.

STAFF PRESENTATION

Ms. Casey Toomay presented the item.

Commissioner Harris inquired about the relevant chapters in the report and asked if the projects were reviewed for all of the policies so if any of them were not in conformance with the Comprehensive Plan that would be known.

Ms. Toomay said she did not think so. She said it was provided to give Planning Commission a place to go in the Comprehensive Plan and that it is not an exhaustive list. She said there might be other policies or chapters that would apply to the project.

Commissioner Moore inquired about the second item in year 2011 showing funding in 2010.

Ms. Toomay said when the plan was adopted in 2007 projects were associated with a certain year. She stated in the annual budget projects are selected from the first year of the plan based on the resources available to move forward. While there may be a list of 25 projects in the first year of the plan there may only be funding for 4 or 5 projects and the rest of the projects get moved back into the outlying years.

Commissioner Moore said it might make more sense to move everything over to 2011.

Ms. Toomay said that could be done before City Commission adopts the Capital Improvement Plan. She suggested using language such as 'year one, year two, etc.'

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Harris said that, when looking at the goals from H2020 listed in the staff report to justify extending city infrastructure to the airport, she did not see how they applied. Specifically, one of the goals referred to increasing capacity of existing infrastructure for existing businesses. She said the purpose of extension of city services to the airport goes beyond this intent. She felt the wording addressed business expansion but did not fit.

Ms. Toomay said staff interpretation is that those services are already extended to the airport but that this would improve the existing service to the airport. She said the water and sewer would be upgrading from septic.

Mr. McCullough said the airport and businesses already exist at the airport on minimal infrastructure. Staff feels the Development Code supports providing infrastructure to the existing facility.

Commissioner Harris asked if the businesses at the airport are on city land and continue to be on city land.

Mr. McCullough replied yes.

Commissioner Hird inquired the justification statement 'extension is necessary in order to accommodate future development on existing airport property.'

Mr. McCullough said there is some development at the airport already. He stated that because there is minimal infrastructure development at the airport today it is difficult to expand the uses substantially without getting water for fire fighting purposes and meeting sewer capacity for increased employees at the site.

ACTION TAKEN

Motioned by Commissioner Carter, seconded by Commissioner Hird, to find the projects presented in the 2010-2015 Capital Improvement Plan (CIP) are in conformance with the comprehensive plan of the City and forward a recommendation to the City Commission for adoption.

Commissioner Harris said she would vote against the motion because she did not feel the language citing the comprehensive plan supported extension of utilities to the airport as currently written.

Commissioner Finkeldei said there are other policies not listed, such as Chapter 7, that would conform. He suggested the addition of other policies to the list that do more directly comply.

Commissioner Harris felt that when Planning Commission is asked to decide whether something complies with the Comprehensive Plan that the language upon which they base their findings should match what they are approving. She thought some policies may be more important for this project.

Commissioner Finkeldei said it could be amended to include the policy that more applies to it. He gave the example of policy 1.3 of Chapter 7 that could be included.

Commissioner Hird said it probably did not require an amendment just a finding of fact. He suggested that a statement could be added that the finding is based on policies found elsewhere in the Comprehensive Plan in addition to the chapters cited.

Commissioner Carter agreed with Commissioner Hird and said it is not an exhaustive list and there are multiple places throughout the Comprehensive Plan that support it. He did not feel it required an amendment.

Motion carried 8-1, with Commissioner Harris voting in opposition. Student Commissioner Shelton voted in the affirmative.

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ITEM NO. 7 COMPREHENSIVE PLAN ANNUAL REVIEW (MJL)

Receive the comprehensive plan annual review and initiate recommended comprehensive plan amendments (CPA).

STAFF PRESENTATION

Mr. Michelle Leininger presented the item.

Commissioner Rasmussen inquired what 'on hold' meant.

Mr. McCullough said sometimes when issues are identified and efforts are undertaken they get replaced with new issues that are identified and as staffing resources have been reduced staff have had to make choices about what the department works on. The issues are still on the work list but staff are more actively working on other things than the issues noted as being on hold.

Commissioner Finkeldei inquired about the process for projects to be initiated.

Mr. McCullough gave the example of Chapter 8 Transportation that got put aside as staff went through the Long Range Transportation Plan, so there is still a document that holds the values for the transportation plan even if staff does not go back to Chapter 8. These are still valuable chapters to pursue.

Commissioner Rasmussen inquired about the two amendments in Chapter 6.

Ms. Leininger the first one about the retail market study was left in the City Commission hands and has not come to the surface again. The consistency in the commercial center description one was tied to something else too and was a workload priority situation.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Chaney, to initiate the recommended comprehensive plan amendments (CPA).

Unanimously approved 9-0, with Student Commissioner Shelton voting in favor.

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ITEM NO. 8 OREAD NEIGHBORHOOD PLAN (MJL)

CPA-2-1-09: Receive and give direction on the draft Oread Neighborhood Plan.

STAFF PRESENTATION

Commissioner Singleton recused herself from the meeting.

Ms. Michelle Leininger presented the item.

Commissioner Harris asked how it was decided that so much higher density residential development would take place generally east of Tennessee Street.

Ms. Leininger said there was a comparison of the 1979 plan to the existing land use and the existing densities. All of those different things were taken into account and discussed. She stated it is an overall density, not a lot by lot density. Staff took the current densities and current land use and derived it from there.

Commissioner Harris asked if higher density developments were put in place that were not consistent with the plan in 1979.

Ms. Leininger said not necessarily; she would have to look at the existing land use map. She said it is always up for discussion if she would like it changed.

PUBLIC HEARING

Ms. Elle LeCompte, landlord of three properties in the Oread neighborhood, addressed the blight of newly constructed apartment buildings. She said the materials do not stand up to water, cold and heat and the buildings have a short shelf life. She showed pictures on the overhead projector. She also expressed concern over parking in the Oread neighborhood. She suggested parking on both sides of the street on all streets. She said she has spent the last year working on a blight survey looking at each house in the neighborhood.

Commissioner Carter asked Ms. LeCompte how much longer it would be before she is done with the blight survey she has been working on.

Ms. LeCompte said she spends about 2-4 hours a weekend and hopes to get it done by the end of the summer.

Commissioner Rasmussen asked what she would recommend for the blight in the neighborhood.

Ms. LeCompte said it was a tough decision to make because some landlords are not going to maintain properties without incentives. She expressed concern about beautiful old historic houses being torn down and replaced with poorly constructed apartment buildings.

Ms. Candice Davis, 947 Louisiana Street, said the Oread Plan is meant to extend the life of the neighborhood for all residents. She said she lives in the Oread neighborhood and is also a landlord. She said it is essential to have permanent residents in a neighborhood or it will promote blight, disrepair, and crime. She felt the plan as written does not reflect mixed use. She said that if parking was addressed it would create a reasonable neighborhood for everyone. She said she is not against density but that adequate parking needs to be provided. She showed pictures on the overhead

projector of boarding houses. She felt there needed to be adjustments to provide stability for the neighborhood.

Commissioner Harris asked Ms. Davis what percentage of the block she would recommend be owner occupied.

Ms. Davis said on her block there are two homeowners and it creates stability and less blight to the neighborhood.

Commissioner Hird asked if she considered permanent renters as permanent residents and if there has been any attempt to quantify the number of renters.

Ms. Davis said she would consider permanent renters as permanent residents.

Commissioner Finkeldei inquired about the history of trying to implement a new parking policy.

Ms. Davis said that Ms. Marci Francisco could speak to that.

Ms. Carol von Tersh, 706 W 12th Street (historic Snow House), said she likes the mixed use neighborhood she lives in and does not want it to change. She said she was not opposed to the Oread Hotel. She felt the high density on the future land use map will be the downfall of the neighborhood. She felt there needed to be solutions to maintain the mixed use value. She said the plan did not offer solutions to the problems and does not respect historic preservation.

Mr. Kyle Thompson, 1041 Tennessee Street, said the lot sizes in the neighborhood are 50' x 117' and are substantially different than the rest of Lawrence. He hoped the plan would maintain the lot sizes and have better setbacks.

Mr. David Holroyd, 1224 Louisiana Street, gave background and brief history of the area. He stated that people are being discouraged from improving their property and that the city needs to look ahead.

Ms. Marci Francisco, 1101 Ohio Street, discussed areas that still needed improvements such as bike paths on the right blocks, steps added to hills, and trash. She asked that LINK and the open shelter be noted on the map of community facilities. She was concerned about the plan because areas proposed for higher density need to be identified. She said they need help being specific about the direction. She wants the Oread neighborhood to be a sustainable neighborhood. She also discussed the overlay zoning concept and incentives for rehabilitation.

Commissioner Finkeldei asked Ms. Francisco about the history on parking.

Ms. Francisco said when the Scholarship Halls were built there was not parking built with it because it was thought that the students would not drive cars. In the 1970's a parking study was done and determined 1 ½ cars for every 2 bedroom apartment and ended the construction of four-plexes in the neighborhood. From that point forward the parking issue has controlled what can be built. She stated one of the issues with boarding houses is that they have lower standards for parking and duplexes allow for tandem parking. She said most of the people who live in the neighborhood live there because they enjoy the mixed uses.

Commissioner Finkeldei inquired about the proposed plan where there are two areas that are just low density. He asked if that was bothersome because it takes away from the mixed use feeling of the neighborhood.

Ms. Francisco said those two areas represent traditional areas of single family so those are appropriate areas for low density.

Commissioner Rasmussen inquired about the statement in Ms. Francisco's letter *'The actions to encourage the rehabilitation of the existing housing stock should not be limited to tax incentives...'* He asked if she had any other suggestions on how to encourage that.

Ms. Francisco said zoning.

Commissioner Rasmussen asked if it would be helpful to have goals that say there needs to be a certain percentage in the area that are single family residential and if that percentage is bumped up against than no more multi-family development can be built.

Ms. Francisco said she thinks they need to look at each block and say 'is this a block that it makes sense to preserve.' She felt they should locate blocks that need to be torn down due to blight. She said she would like to keep the commercial areas and apartments in the neighborhood but do not need to necessarily add to it.

Commissioner Hird said if high density is not allowed in areas adjacent to the university then apartments would be built on the outskirts of town and create more traffic to the campus, therefore getting away from being a green city.

Ms. Francisco said there is an opportunity to continue adding density to existing structures without necessarily tearing what is there down. She also suggested redeveloping Stauffer Place on campus.

Mr. Rob Farha, stakeholder in boarding houses and owner of The Wheel, concerned about the plan keeping mixed uses. He would like to protect his property and have the area around The Wheel designated as a mixed use district.

Commissioner Carter asked if he was saying he would like to keep mixed use in the plan.

Mr. Farha said whatever option would fit that would protect his business.

Commissioner Finkeldei asked about the location of The Wheel.

Mr. Farha said The Wheel is located at 507 W 14th Street (corner of 14th & Ohio). He said the parking lot behind it is owned by the university.

Commissioner Rasmussen asked Mr. Farha if he thought there should be any other commercial uses in the neighborhood.

Mr. Farha said he was not opposed to having commercial businesses on 14th Street.

Commissioner Harris said that the residents have expressed concern about congregate housing not being an asset to the neighborhood. She asked for Mr. Farha's thoughts on that issue.

Mr. Farha gave the example of 1334 Ohio Street that he is co-owner of. He said it was a large house structure with seven two-bedroom apartments. It had add-ons and was dilapidated. He opened it up to turn it back into one house with 12 bedrooms. So the density was lowered and increased parking was added in the alley. He said the argument is that people want to call it a party house but he cannot control what people do in the house. He said he put a big investment in the house and it is a beautiful safe structure now.

COMMISSION DISCUSSION

Mr. McCullough elaborated on the process of building the plan. He said that staff's role has been to gather and reflect all of the big issues out of three public meetings that had pretty good attendance. Once the issues were captured staff brainstormed on creative ways to address them. There are some complex issues that have been around for a long time in this neighborhood. He said an insufficient answer was given earlier when Commissioner Harris asked about the designation of the future land use map. He directed them to look at page 286 of the June Planning Commission packet and note the existing zoning in that area. The highest density zoning district RM32, reflects the designation for high density zoning. He said they also have to take into account some of the proposed policy and action statements in the plan to provide an overlay district to get at some of the other issues about the fact that the zoning standards may not be appropriate for the neighborhood. He encouraged them to look at the plan in its totality in terms of what the ultimate goal is. He agreed with Ms. Francisco that there could be more detail included. Staff chose to be vague in terms of a policy document and give the detail when the action steps are taken to look at where zoning should or could be. He said it is difficult because doing any one action step presents challenges. There are different sides to any one of the issues. He said the term mixed use was being used differently during public comments because there are mixed housing types in the Oread neighborhood. He directed them to look at page 307 of the Planning Commission packet where the goals and policies are located. He said that is where the policies are located to consider rezoning appropriate areas and consider zoning solutions to support higher density development in existing high density areas adjacent to the KU campus. Staff does believe that this is an area that can support higher density because it is between campus and downtown. This plan helps identify the issues and provide policy statements. Staff would like to prioritize the action steps at the end of the plan.

Commissioner Finkeldei inquired about the next step for the process.

Mr. McCullough said it has to formally go back to Historic Resources Commission, Planning Commission, and then ultimately City Commission.

Ms. Lynne Braddock Zollner, Historic Resources Administrator, stated that the Historic Resources Commission looked at this last week and they felt that this was a beginning type of draft and they wanted more input from staff on how the plan proposes to protect historic structures.

Commissioner Moore said he liked the action items at the end of the plan. He said regarding the RS5 rezoning of the area it makes sense but he was hesitant to throw it in there without speaking to property owners in the neighborhood first. He also liked the thought regarding boarding houses that there are better places than others to put them.

Mr. McCullough reminded Planning Commission that they initiated a text amendment in May to possibly place a moratorium on boarding houses.

Commissioner Moore said the land use map is basically a reflection of zoning. He said this is one of the most un-conforming neighborhoods in the city regarding zoning so he suggested maybe tracking uses instead of rezoning.

Mr. McCullough said Commissioner Moore was correct that the densities do not match RM32.

Commissioner Rasmussen said the maps that show the existing land use and residential density do not lend themselves to making good comparisons. He wondered if it would be possible to revise them to be a more meaningful comparison.

Mr. McCullough said the maps could be looked at.

Commissioner Rasmussen suggested a cross-walk or discussion about the 1979 plan. He said maybe they should discuss the differences between the 1979 and the new plan. He asked if it would be possible for staff to give a walking tour of the Oread neighborhood to the Planning Commissioners.

Mr. McCullough said there could be a walking tour at the next mid-month meeting.

Commissioner Carter asked if there were any development projects on hold waiting on this plan.

Mr. McCullough said there is one property 1232 Louisiana Street that cannot develop until this plan is completed, but he did not think they were ready to develop at this time. He said he knew of no other development that is waiting on this plan.

Commissioner Carter said that Ms. Francisco had a great idea about working with KU regarding additional student housing. He thought the goals and policies are fairly solid and the challenge is how to achieve them in a small area. He said the area around The Hawk and The Wheel seem like it could be a fairly easy fix.

Commissioner Rasmussen said the land use policy G on page 307 of the Planning Commission packet says *'maintain the existing commercial areas to their current locations in the planning area.'* He said he interprets that to mean that the recommendation is no new commercial anywhere within the Oread neighborhood.

Mr. McCullough said no, that was not the intention. The intension was to maintain commercial there and land use policy H was to support mixed use and commercial uses where appropriate.

Commissioner Rasmussen asked if there was a proposal for a bakery or coffee shop in the neighborhood where there wasn't commercial this is not saying that could not happen.

Mr. McCullough said that was correct. Commercial uses can be appropriate elsewhere but staff has not done the analysis to say where. This would provide a policy statement that other commercial uses or mixed uses could be appropriate for the plan.

Commissioner Harris said she was struck by what Ms. von Tersh said that it does not fix what problems are in the neighborhood. She said it does address some of the problems but just in a general way right now. It can be a challenge for a plan that is in an infill situation. She felt it was difficult to visualize the changes when looking at a map with zoning designations. She said that if she lived in the Oread neighborhood she would be very concerned when looking at the future land use map. She wondered if there could be different designations. She said if the intent is to have high

density residential mixed with historical preservation she felt it should be stated. She was confused about the overlay idea because in the text it talked about preserving single family areas but the action statement the overlay is called an urban conservation overlay.

Mr. McCullough said the urban conservation overlay districts gets at the issues that we heard in the meetings that the neighborhood is developing out greater than it historically has. One of the examples is that there was a large addition put on a house and an overlay can help get at the bulk and mass of structures, setbacks, and open space that will have a physical impact of the neighborhood. He also noted that every development talked about today meets the current Development Code or has sought waivers to meet the current Development Code. He said the value in this plan is in the action plan because that is where real impacts are made.

Commissioner Harris asked if the purpose of the urban conservation overlay district is to try and create more sensitive development in relation to existing structures in the area.

Mr. McCullough said it could be different things and could be a block by block thing. He gave the example of one overlay district for two blocks that would allow greater heights and greater densities, and five other blocks of a different nature and step it down as it comes from KU. He said different things can be done to preserve the physical development.

Commissioner Harris felt that there was opportunity to do great things in the area.

Commissioner Hird said he repeatedly heard concerns this evening about parking. He said it would be helpful to have discussions about bicycles and how to improve transit.

Commissioner Finkeldei struggled with the maps serving much purpose because they might confuse the issue more than help. He said he did like the current use map though. Suggesting taking the future map out of the plan. He said the action plan should somehow separate enforcement issues from action items of change. He felt they should also clearly identify on the future land use map where commercial uses should be in the future.

Commissioner Rasmussen said when he served on the Board of Zoning appeals with Ms. Francisco one issue that they saw over and over again was variance requests from people wanting to do something on their house but they did not meet the setbacks. He asked if that was ever resolved.

Mr. McCullough said in the 2006 Development Code there is a provision that grandfathers in existing structures. He stated that today what is typically seen are owners seeking variances during the process of a new addition.

Commissioner Harris said she would like more detail on some of the policy statements.

ACTION TAKEN

No action taken.

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Item 9 was moved to the end of the agenda.

ITEM NO. 10 AMENDMENTS TO DEVELOPMENT CODE; CHICKENS & DUCKS (SDM)

TA-4-3-09: Consider Text Amendment to various sections of the Development Code to establish the keeping of chickens and ducks within the City consistent with the provisions of Chapter III of the City Code.

STAFF PRESENTATION

Mr. Scott McCullough presented the item.

Commissioner Moore asked if the definition of fowl was in the Ordinance not the Development Code.

Mr. McCullough said the definition of fowl is in Chapter 3 of the City Code, not the Development Code.

Commissioner Moore asked if roosters were allowed.

Mr. McCullough replied no.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Harris, to approve Text Amendment (TA-4-3-09) to various sections of the Development Code to establish the keeping of chickens and ducks within the City consistent with the provisions of Chapter III of the City Code, and forward to the City Commission.

Commissioner Rasmussen said he would vote against the text amendment because he did not think it was a good idea to have chicken and fowl within city limits based on recommendations by the Center for Disease Control (CDC). He said that the CDC website states that chickens, ducks, and other poultry often carry bacteria such as salmonella and that the risk of infection is especially high for children, elderly, and people with weakened immune systems. He did not think the current Development Code considers those recommendations. He said he has a friend undergoing chemo treatment and her immune system is compromised that she is vulnerable to such infections.

Commissioner Moore said he was hesitant too but that there is currently an ordinance allowing it.

Mr. McCullough said to complete the legality of permitting fowl in the city there needs to be an amendment to the Development Code.

Commissioner Harris asked Commissioner Rasmussen if the CDC was referring to small numbers of fowl within the city.

Commissioner Rasmussen read a statement he found on www.cdc.gov:

Many families raise a small number of chickens, particularly in rural areas. In recent years, however, raising chickens has become a popular hobby for people who live in urban areas as

well. Information that promotes raising chickens touts the birds as being good pets, stress relievers, and easy to keep. Most people though, choose to keep flocks because they believe the meat and eggs they grow will be safer and less expensive than store purchased products. Whether they are pets or a source of food, there are some issues that need to be considered before deciding to raise chickens. In addition to the fact that many urban areas will not allow chickens to be raised within city/town limits, keeping chickens poses a potential health risk.

Commissioner Harris asked if the information about disease specifically says that they find those conditions in urban environments.

Commissioner Rasmussen said no. He stated that the CDC says that chicks are particularly susceptible because they are often raised in large breeding areas and chicks shed the salmonella bacteria in their feces more than adults because they are more sensitive to the stress. He did not think it was a good idea and did not want to help implement it.

Commissioner Finkeldei said it is a philosophical issue and that they face it often in different ways. He stated in his opinion City Commission has said that fowl is legal and they are asking Planning Commission to help write the enforcing languages.

Commissioner Rasmussen said he recognized Planning Commission was not being asked to approve the keeping of fowl in the city but he did not want to help implement it so he would vote in opposition.

Commissioner Blaser asked if the law overrides subdivision covenants.

Mr. McCullough said subdivision covenants are typically a civil matter. He stated the city would not enforce it, it would be up to the homeowners association to bring a civil action against a property owner.

Commissioner Finkeldei said a city ordinance does not trump a covenant.

Motion carried 7-2, with Commissioners Moore and Rasmussen voting in opposition. Student Commissioner Shelton voted in the affirmative.

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ITEM NO. 11 AMENDMENTS TO DEVELOPMENT CODE; PARKING LOT LANDSCAPING REQUIREMENTS (SDM)

TA-5-5-09: Consider Text Amendments to various sections of Chapter 20 of the Development Code to address implementation issues regarding Parking Lot Landscaping Requirements. *Deferred by Planning Commission on 5/20/09.*

STAFF PRESENTATION

Mr. Scott McCullough presented the item.

Commissioner Rasmussen asked staff to clarify the issue on Mr. Paul Werner's second comment regarding landscaping only in the lot.

Mr. McCullough said Mr. Werner came up with a different figure than staff for the amount of square feet in the parking lot of Boardwalk Apartments. He stated that staff tried to clarify that by talking about interior parking lot and the idea of breaking up pavement and shade the parking lot. It should be only those things within the perimeter parking lot curbing. Landscaping between buildings would not count.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Finkeldei said he would support the text amendment and felt it was a good effort and great step to making the Development Code more usable.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Chaney, to approve text amendment (TA-5-5-09) to various sections of Chapter 20 of the Development Code to address implementation issues regarding Parking Lot Landscaping Requirements and forward to City Commission.

Unanimously approved 9-0, with Student Commissioner Shelton voting in the affirmative.

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ITEM NO. 12 AMENDMENTS TO DEVELOPMENT CODE; PARKING STANDARDS (SMS)

TA-4-4-09: Consider Text Amendments to various sections of Chapter 20 of the Development Code to address implementation issues regarding Parking Standards.

STAFF PRESENTATION

Mr. Scott McCullough asked that the item be deferred to the July Planning Commission meeting.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Chaney, to defer Item 12.

Motion carried 9-0, with Student Commissioner Shelton voting in the affirmative.

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ITEM NO. 9 AMENDMENTS TO SMARTCODE; ARCHITECTURAL STANDARDS (DDW)

TA-5-8-09: Consider Text Amendments to various sections of the Lawrence SmartCode to revise the architectural standards.

STAFF PRESENTATION

Mr. Dan Warner presented the item.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Harris asked how the guidelines will be used.

Mr. Warner said they will be applied at the site plan stage.

Mr. McCullough said the guidelines would be addressed in the final site planning stage but this exercise made them more flexible in the language and does connote that they are guidelines and there is intent to meet values versus strict language.

Mr. Finkeldei asked if any potential applicants have inquired about using the SmartCode.

Mr. Warner said there have only been conversations on one particular project.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Finkeldei, to approve the proposed amendments [TA-5-8-09 to revise the architectural standards of the Lawrence SmartCode] and forward to the City Commission. The sections being amended are 21-500.1.4, 21-500.1.5, 21-500.1.8, 21-500.3.5, 21-500.4.5, 21-500.5.5, and 21-500.6.5.

Commissioner Harris expressed concerned about changing this but did like the idea of building in more flexibility for different styles of architecture.

Commissioner Hird asked staff to respond to Kirk McClure's letter that indicates that the architectural requirements are being made into guidelines and taking the teeth out of the SmartCode.

Mr. Warner said the architectural standards are not integral to the Code. The form standards of the Code are key and they are not being taken out. The architectural standards are meant to be plugged in or taken out.

Unanimously approved 9-0, with Student Commissioner Shelton voting in the affirmative.

Consideration of any other business to come before the Commission.

Mr. McCullough let the Commission know that Fifth Street Subdivision was sent back to them by City Commission and will be heard at the July Planning Commission meeting.

PUBLIC COMMENT SECTION

Adjourn 9:37pm