



PLANNING COMMISSION MEETING
August 20, 2012
Meeting Minutes

August 20, 2012 – 6:30 p.m.

Commissioners present: Belt, Blaser, Britton, Culver, Hird, Lamer, Liese, von Achen

Staff present: McCullough, Stogsdill, Day, Larkin, Leininger, M. Miller, Stoddard, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of July 23, 2012.

Motioned by Commissioner Hird, seconded by Commissioner Culver, to approve the July 23, 2012 Planning Commission minutes.

Motion carried 7-0-1 with Commissioner Belt abstaining.

COMMITTEE REPORTS

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

Commissioner Blaser said the Metropolitan Planning Organization (MPO) met last week and reviewed the Transportation Improvement Program (TIP). He said the funding for Cottonwood Inc, Bert Nash, Douglas County Senior Services, and Independence Inc were added for transportation. He also stated volunteers were needed for the annual bicycle/pedestrian count in September.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- Abstentions:
Commissioners Britton and von Achen both said they would abstain from Item 5.

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**ITEM NO. 1 CONDITIONAL USE PERMIT FOR CREEKWOOD LAWN; 1753 N 700 RD
(SLD)**

CUP-12-00030: Consider a Conditional Use Permit for a truck storage facility for Creekwood Lawn, located at 1753 N 700 Road. Submitted by Shelby Franklin, property owner of record. *Joint meeting with Baldwin City Planning Commission.*

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Shelby Franklin was present for questioning.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Hird said he was concerned with limiting the duration of Conditional Use Permits, particularly where a business was trying to obtain financing for an activity. He said a Conditional Use Permit that could expire prior to the end of the term of financing could become problematic from a banking standpoint. He said he would support the staff recommendation but in general was very reluctant to endorse a Conditional Use Permit with a short fuse on it.

Mr. Franklin said he was requesting the Conditional Use Permit due to financing reasons. He said the five year time duration was doable.

ACTION TAKEN

Motioned by Commissioner Blaser, seconded by Commissioner Hird to approve the Conditional Use Permit for a Truck/Equipment Storage Facility and forwarding of 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:

1. Provision of a note on the face of the site plan stating, "The Conditional Use Permit shall expire on December 31, 2017."
2. Provision of a revised site plan to include the following changes:
 - a. Show proposed electrical service to the existing building.
3. The applicant shall obtain from Douglas County a building permit as a condition of continued operation.
4. The applicant shall provide a revised site plan drawing to include the following information:
 - a. The limits of the floodplain need to be clearly shown and labeled on this site plan.
 - b. Note identifying the base flood elevation.
 - c. Note listing the floodplain panel number.
 - d. Note showing the current effective date (08-05-2010).
5. The applicant shall obtain from Douglas County a local floodplain development permit.
6. The applicant shall provide the following information for submission to the State Historic Preservation Officer:
 - a. Cover letter requesting review by the SHPO under K.S.A. 75-2724
 - b. Written description of the project
 - c. Location map showing the listed property and the location of the project
 - d. Photos of the site and photos of the view to and from the listed property

Unanimously approved 8-0.

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ITEM NO. 2 IG TO CS; .25 ACRES; 444-446 LOCUST ST (MJL)

Z-12-00020: Consider a request to rezone approximately .25 acres from IG (General Industrial) to CS (Strip Commercial), located at 444 - 446 Locust Street. Submitted by Tiburcio J. Reyes Sr., property owner of record.

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

APPLICANT PRESENTATION

Mr. Tiburcio Reyes was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner von Achen, seconded by Commissioner Britton, to approve the request to rezone approximately .25 acres, from IG (General Industrial) District to CS (Commercial Strip) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 8-0.

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ITEM NO. 3 PRD & CO TO RM24; 11.93 ACRES; 525 CONGRESSIONAL DR (SLD)

Z-12-00029: Consider a request to rezone approximately 11.93 acres from PRD (Planned Residential Development) and CO (Office Commercial) to RM24 (Multi-Dwelling Residential), located at the northwest corner of W. 6th Street and Congressional Drive and currently addressed as 525 Congressional Drive. Submitted by Paul Werner Architects, for M & I Regional Properties LLC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, agreed with the staff report and was present for any questions.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Lamer, seconded by Commissioner Belt, to approve the request to rezone approximately 11.93 acres, from PD [Village Meadows]-Planned Residential Development District and CO (Commercial Office) to RM24 (Multi-Dwelling Residential) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 8-0.

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ITEM NO. 4 PRELIMINARY PLAT FOR GATEWAY ADDITION; 880 HWY 40 (MKM)

PP-5-6-12: Consider a Preliminary Plat for Gateway Addition, a 6 lot subdivision containing approximately 146 acres, located at 880 Hwy 40 (NW quadrant of the intersection of W. 6th St/Hwy 40 & Kansas Hwy 10 (K-10). Submitted by Landplan Engineering, for Hanover Place, L.C. and Tanglewood, L.C., property owners of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Liese asked if the Planning Commission should consider the League of Women Voters recommendations.

Ms. Miller said the Planning Commission could take them into account.

APPLICANT PRESENTATION

Mr. Chris Storm, Landplan Engineering, was present for questioning.

PUBLIC COMMENT

Mr. Shane Kahle said overall he was pleased with the meetings with staff to work on the project. He said the neighbors still had a few concerns such as the true defined buffer space, the type of buffering that would be used, hours of construction, and the impact of the day to day routine. He felt it was a positive project as long as the neighbors concerns were taken into consideration.

Commissioner Belt asked if Mr. Kahle was asking for more time and input or if he was satisfied with the current version of the plat.

Mr. Kahle felt more time was always better. He wanted to be sure the neighbors concerns were adequately addressed.

COMMISSION DISCUSSION

Commissioner Belt asked what would happen with the plat if the project did not move forward.

Mr. McCullough said this was just a preliminary plat and there were other development steps. He said the rezoning would have to be approved by City Commission first. He stated the mayor and City Commission have been very vocal in wanting to know they have a specific project before development approval. He said at some point the land would be platted and zoned regardless of what the project was.

Commissioner von Achen inquired about access to homes.

Ms. Miller said there was a temporary cul-de-sac to the north that serves the houses and it would be removed when Aldersgate was constructed to the area.

Commissioner von Achen inquired about increased traffic.

Mr. McCullough said that was a concern the neighbors raised and there wasn't a perfect answer other than staff would look at any and every tool possible, but that traffic could not be restricted on a public road to the north. He said the intention was to do everything possible to deter traffic away from that property to the north.

Commissioner von Achen inquired about the Baldwin Creek change of alignment.

Mr. McCullough said it was an intermittent creek that does not have water in it all the time. He said it was an engineered system so it would not be seen until, and if, it opens up in certain areas. He said it was discussed opening it up as it reaches the property and then flowing into the detention/retention pond.

Mr. Storm said he had been working closely with the City Stormwater Engineer on the sizing and planning for the stormwater. He said it would be difficult to have an open channel due to the location of gas lines but that they were still in the process of looking at it.

Commissioner von Achen inquired about the distance that the creek would run underground.

Mr. Storm said somewhere around 1,500 feet. He said they were making sure it was properly sized so there would not be concerns with flooding.

Commissioner Blaser inquired about any costs to the church.

Mr. McCullough said KDOT was currently designing that stretch of 6th Street and that negotiation would primarily be between the church and KDOT.

Commissioner Culver applauded the neighbors for continuing to voice their input and applauded staff in working with the neighborhood and developers. He also thanked the developers for being willing to adjust the plan to address concerns.

ACTION TAKEN

Motioned by Commissioner Culver, seconded by Commissioner Blaser, to approve the Gateway Addition Preliminary Plat subject to the following conditions:

1. Provision of a revised plat with the following changes:
 - a. Addition of a note stating that additional right-of-way or easement for Hwy 40/W. 6th Street will be dedicated with the final plat if it is determined to be necessary for planned KDOT improvements.
 - b. Show access restriction along Hwy 40/W. 6th Street along all of the frontage not identified as access points.
 - c. Show the following access restrictions on Aldersgate: 300 ft from the perpendicular curb face of an intersecting arterial street and 250 ft from the perpendicular curb face of an intersecting collector or local street.
 - d. Address to the City Utility Engineer's satisfaction the technical comments provided by the City Utility Engineer in relation to water lines and sanitary sewer improvements.
2. Provision of a revised DSSA with the revisions noted in the staff report, per City Utilities Engineer approval.

Commissioner Hird said he would vote in favor of the motion but was concerned about the adequacy of egress and ingress for the project. He hoped it could be addressed as the project moved forward. He also agreed with Commissioner Culver's comment about the neighbors working hard with staff and developers in a cooperative manor.

Commissioner von Achen said she would vote in favor but was concerned about Horizon 2020 stating non-structural or natural approaches should be used for stormwater management systems design. She did not feel that was being done with this project.

Commissioner Lamer said he would vote in favor but had concerns about the channelization of the stream and encasement of the stream. He said he would like to see staff come back and explain at some point what alternatives were considered for this project.

Mr. McCullough said it was not atypical in a non-residential development to do exactly what was proposed with this project with an engineered solution to stormwater. He said laying down impervious materials would generate an increase in runoff and it would need to be accounted and accommodated for. He said this type of engineered encased structure was a common way to resolve issues. He said there were other green infrastructure ways to resolve issues. He said with this project the engineered solution was a concept that allowed for parking at the site and that parking was an element that would be needed. He said this solution was a way to accommodate both parking and stormwater.

Commissioner Britton asked if this approach was inconsistent with the Horizon 2020 language Commissioner von Achen mentioned.

Mr. McCullough said they try and meet the Horizon 2020 goals and policies when possible. He mentioned next month they would see a plat for the former Farmland Industries where they had the luxury of having the space available to do some unique green infrastructure in terms of stormwater. He said even grass and water was still an engineered structure, just not encased with parking over the top. He did not feel it was inconsistent because the Codes allow for it.

Unanimously approved 8-0.

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**ITEM NO. 5 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; HOSPITAL USE
(SLD)**

TA-12-00023: Consider a Text Amendment to the City of Lawrence Land Development Code to amend uses in the Hospital (H) District, to change all P uses (Permitted Uses), *except for the Hospital Use*, to A uses (Accessory Uses) to identify the Hospital use as the only principal use in this district and all other uses allowed in this district to be accessory to the this principal use. Requested by Lathrop & Gage LLP, on behalf of Lawrence Memorial Hospital. *Initiated by City Commission on August 14, 2012.*

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. David Waters, Lathrop & Gage LLP, was present for questioning.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Blaser asked if they were initiating or taking action.

Mr. McCullough said City Commission initiated the text amendment and that Planning Commission would make a recommendation.

Commissioner Culver asked if there were any existing sites with the permitted use that would have a negative impact to change it to an accessory use.

Mr. McCullough said the Hospital use was only allowed in the H district and that there was only one property zoned Hospital. He said some of the uses being changed to accessory were permitted in other districts but that the Hospital use was only permitted in the Hospital district.

Commissioner Belt inquired what the advantage to changing to passive recreation would be.

Mr. McCullough said there would need to be a request for the Hospital district and that would be with the request for a new hospital within the community. He said the hospital was the primary use. He said it was unique and not the typical zoning. He said in this scenario any request with the H district would come along with community discussion about a hospital use.

Commissioner Hird said he had no problem with the proposed text amendment but wished Lawrence Memorial Hospital would have used a local attorney for the local hospital.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the proposed text amendment and forward the recommendation for approval of TA-12-00023 to the Land Development Code to the City Commission with a recommendation for approval.

Motion carried 6-0-2, with Commissioners Britton and von Achen abstaining.

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ITEM NO. 6 REDEVELOPMENT PLAN; 9TH & NEW HAMPSHIRE ST

Consider making a finding that the Redevelopment Plan for the proposed redevelopment at 9th and New Hampshire is consistent with the City's comprehensive plan.

STAFF PRESENTATION

Commissioner Belt said he had an ex parte conversation with Ms. Leslie Soden before the meeting.

Ms. Diane Stoddard, Assistant City Manager, presented the item.

Commissioner Liese inquired about what they should be focusing on.

Mr. McCullough said Ms. Stoddard's report outlined the specific scope of Planning Commission's responsibility which was land use and Horizon 2020 policies as they relate to downtown development.

Mr. Bill Fleming, Treanor Architects, said they scaled back the height of the building to accommodate some of the neighborhood requests.

PUBLIC HEARING

Ms. Leslie Soden, President of East Lawrence Association, said height and public financing were the main concerns of the neighborhood. She said Historic Resources Commission has denied this three times as damaging the historic environs of the North Rhode Island National Historic District. She said a petition was distributed in the Spring and in one week they gathered 179 signatures supporting Historic Resources Commission's decision that the building was too tall. She said Horizon 2020 specifically says sensitivity shall be given to important architectural historical elements. She said the League of Women Voters letter discussed public financing and the East Lawrence Association was also opposed to public financing for the project. She said public financing for a chain hotel that created temporary construction jobs and low wage part-time service jobs was not something public financing should be used for. She said millions of public financing already went into Oread Hotel so creating a competing publically financed hotel was a bizarre form of economic development. She stated if a business plan could not succeed without public finance than most people would change the business model so that it would work. She did not feel public financing to guarantee a return on investment was not an appropriate use of public funding.

Commissioner Liese asked if they were talking about the district tonight, not a specific project.

Mr. McCullough said the redevelopment plan had to be detailed enough so that they had enough information to judge whether it met the Comprehensive Plan. He said they knew a lot about the mixed use building and knew enough about the Salvation Army and Arts Center site to know how it would likely develop. He said Planning Commission needed to look at the development plan and policies and then move forward with their finding. He stated Historic Resources Commission had a narrow view and made a determination which stands as damaging the environs of the North Rhode Island District. He said past that the process involves an appeal to City Commission. He said City Commission had a different look at historic issues and had to make determinations based on the feasibility of the project and whether there were feasible and prudent alternatives to the project. He said that project ran its course with City Commission and they found there were no feasible and prudent alternatives so the project was allowed to move forward to this point. He said Planning Commission needed to look at the project overall with that information and decisions made.

Ms. K.T. Walsh, East Lawrence Neighborhood Association, asked if they were discussing the development proposal from 9th Street south. She asked if they were ignoring the north side completely tonight.

Mr. McCullough said yes.

COMMISSION DISCUSSION

Commissioner Hird said Planning Commissions job was not to decide whether this should receive public funding because that was not within their purview. He said Planning Commissions scope was to decide whether the project, including the architectural aspects, was consistent with Horizon 2020. He said there were three references to Horizon 2020 in the staff report. He wondered why the portion Ms. Soden cited, regarding the architectural aspect, was not in the staff report.

Ms. Soden said it was in the staff report.

Commissioner Belt said in the staff report there was a bit of a liability disclaimer in terms of focusing Planning Commission on a specific charge. He wondered if they would see more of these in the future because it would simplify the report and remind them of what they are doing every time.

Mr. McCullough said typically Planning Commissions charge was broader than this.

Commissioner Britton inquired about Horizon 2020 and project financing.

Mr. McCullough said there were encouragements of using incentives but it doesn't necessarily get into details about which one to use.

Commissioner Britton asked who was offering the incentives.

Mr. McCullough said in this case it would be the City offering an incentive package for the new hotel.

Commissioner Britton asked if the sentiment was still that the financing scenario for this project did not fall under those kinds of incentives.

Mr. McCullough said it could.

Commissioner Britton asked if they should be looking at this being an appropriate incentive.

Mr. McCullough said he did not know he would go to that great of detail with it, he did not think that was what this was saying. He did not believe that Planning Commission was to judge whether this was the appropriate incentive to use. He said what was highlighted in the policy was that incentives were appropriate for certain types of development and that City Commission was entertaining the incentives.

Commissioner Britton said when he originally read in the staff report *'Offer appropriate incentives for desired tourism development'* he assumed that this development would be preserving downtown.

Mr. McCullough said of the three items listed under *Conformance with the Comprehensive Plan* the other two were directly linked to the physical redevelopment plan. He said the development was a mixed-use development and was infill.

Commissioner Liese said he saw Commissioner Britton's point but he read it differently. He read it as Horizon 2020 saying it was good to offer appropriate incentives. He felt it was up to the legislatures to decide if the incentives were appropriate. He said the concept was one they should be thinking about not the dollars.

Commissioner Britton said he thought they read number three the same way. He said he read it whether the development offered incentives, not whether the City's incentives were appropriate.

Commissioner Blaser asked for clarification on what was considered an extended stay hotel.

Mr. Fleming said it generally had a few more amenities, such as refrigerator, stove, or kitchenette area so that people could prepare meals in the room if they wanted to. He said the idea was for people to stay typically 30 days or more.

Commissioner Blaser said an extended stay hotel was not something he would consider as a draw for tourism, especially since most tourists would not stay for 30 days.

Mr. McCullough said a big part of the TIF redevelopment plan was the Arts Center development that was supported by the policy of looking for ways to encourage tourism. He said the extended stay hotel would support tourism.

Commissioner Hird did not think it was within their purview to decide if financing was appropriate or not. He said it was important to him that it was an infill development because he would rather have an extended stay hotel in downtown where the people would be dining and shopping to support downtown, as opposed to being on the western fringes of the city. He said he was not convinced it was a tourist destination but considering it in conjunction with the first two standards that it supports downtown and was an infill development, it was persuasive that it was in conformance with the long term plan. He said he would leave it up to City Commission to debate the merits of financing. He stated given the narrow scope of Planning Commission he would support the staff recommendation.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to make a finding that the proposed plan for the redevelopment of the south portion of the Ninth and New Hampshire Project is consistent with the comprehensive general plan, Horizon 2020.

Commissioner Liese said they didn't know that it wouldn't encourage tourism and felt it could be a less expensive alternative to the Oread Hotel which may be desirable to tourists.

Mr. Fleming said they did a consultant study which provided data and assumptions. He said the data was based on a room rate of about \$93 a night.

Commissioner Liese said that would be about the same as the Oread Hotel.

Commissioner Belt asked if there were any other extended stay hotels in Lawrence.

Mr. Fleming said the Eldridge Hotel had a few extended stay type rooms.

Commissioner Liese asked who wrote in the staff report that an extended stay property would be a new product for Lawrence.

Ms. Stoddard said she drafted that language.

Commissioner Blaser said the new hotel by Hallmark Cards had all the same amenities that Mr. Fleming described as being in an extended stay.

Commissioner von Achen asked Ms. Stoddard to comment about the concern from the historical perspective of this hotel and the position the City was taking on it.

Ms. Stoddard said there were very specific legal steps that the City took. She said City Commission made a finding that there were no reasonable and prudent alternatives to the developer's proposal related to that site. She said in general City Commission was very cognizant of the historic nature of downtown and preserving downtown as a whole. She said they have been favorable toward the project as it relates to the first two items stated in the staff report. She said bringing additional development downtown would create a synergy of people to shop and utilize restaurants which would create economic activity for the long term and help preserve the community.

Commissioner Lamer addressed the three points in the staff report. He said preserving downtown as a mixed-use activity center was accomplished by this project. He said part of the key to having a mixed-use activity center was increasing the levels of density so he supported the project for that reason. He also felt it conformed to the comprehensive plan. He felt this was an appropriate location for infill. He said regarding appropriate incentives he did consider the incentive package put before the City. He said to his understanding it was a pay-as-you-go tax increment financing tool which was different than if they had come forward with some other type of incentive request such as a real property tax abatement.

Commissioner Culver asked if the two areas to the north and south would be treated independently ongoing.

Ms. Stoddard said there would be an overarching redevelopment agreement that would address the entire district. She said the only thing that would happen with having them on two different time frames was that the developer had an incentive to wait until they were ready to proceed with the north project, in a closer timeframe, before they would bring a redevelopment plan forward. She said the 20 year clock on the tax increment financing district would begin when a redevelopment was approved by City Commission. She said one could be on a 20 year tract and the other on a separate 20 year tract, a few years apart from each other.

Commissioner Culver said based on the relevant items presented in the staff report he would support the motion because he felt it conformed to the comprehensive plan.

Commissioner Britton said he was sensitive and sympathetic to Ms. Soden's concerns but felt accommodations had been made even if they were not to everybody's satisfaction. He felt the financing incentives were appropriate as discussed by Commissioner Lamer. He said he would support the motion.

Commissioner Blaser said he agreed with everything that had been said but felt the incentives were to attract tourism, not to incent the developer. He said a small grocery store would be a larger incentive for downtown. He said he would support the motion.

Commissioner Liese thanked Ms. Soden for voicing her opinion this evening. He said he would support the motion based on the comments already made by Commissioner Lamer.

Commissioner Belt said he appreciated the neighborhood, applicant, and staff efforts to make sure this was the best possible project, specifically on the south side.

Unanimously approved 8-0.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

Commissioner Liese asked the Planning Commissioners to check the Mid-Month calendar for dates and topics and that they were mandatory meetings.

ADJOURN 8:40pm