



PLANNING COMMISSION MEETING
June 24 & 26, 2013
Meeting Minutes

June 24, 2013 – 6:30 p.m.

Commissioners present: Culver, Denney, Graham, Josserand, Lamer, Liese, Rasmussen, von Achen

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

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of May 20, 2013.

Motioned by Commissioner Josserand, seconded by Commissioner Graham, to approve the May 20, 2013 Planning Commission minutes.

Motion carried 6-0-2, with Commissioners Denney and Rasmussen abstaining.

COMMITTEE REPORTS

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

There were no committees that met.

COMMUNICATIONS

Mr. McCullough announced that this would be Commissioner Lamer's last meeting. He also stated that Planning Commission needed to appoint someone to the Oread Design Guideline subcommittee.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Culver said he met with Mr. Matt Gough regarding item 3 and briefly discussed parts of the item but that it was nothing outside of what was already included in the packet material.

Commissioner Graham said she received a brief telephone call from Mr. Gough regarding item 3.

Commissioner Lamer said he received an email from Mr. Gough but did not return the email.

Commissioner Rasmussen said he had a brief similar conversation with Mr. Gough regarding item 3.

Commissioner Liese said he briefly talked to Mr. Gough on the telephone about item 3 as well.
- Abstentions:
Commissioner Denney said he would abstain from item 1 due to his past involvement with the radio system that would be discussed.

Commissioner Rasmussen asked Commissioner Denney to clarify why he was abstaining.

Commissioner Denney said he retired as the Director of Emergency Communications in 2008 and designed the system in place now. He said he chose the site for part of the current radio system and was involved in the planning for the new radio system, including choosing that site as well. He said he did some consulting with the County after he retired and may do more in the future.

ELECTION OF OFFICERS FOR 2013-2014

Accept nominations for and elect Chair and Vice-Chair for the coming year.

Motioned by Commissioner von Achen, seconded by Commissioner Rasmussen, to elect Commissioner Culver as Chair.

Motion carried 7-0-1, with Commissioner Culver abstaining.

Motioned by Commissioner von Achen, seconded by Commissioner Culver to elect Commissioner Liese as Vice-Chair.

Motion carried 7-0-1, with Commissioner Liese abstaining.

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Recess LDCMPC

Convene Joint Meeting with Lecompton Planning Commission

**ITEM NO. 1 CONDITIONAL USE PERMIT FOR DOUGLAS COUNTY EMERGENCY
COMMUNICATION TOWER; 297 N 2100 RD (SLD)**

CUP-13-00156: Consider a Conditional Use Permit for a 300' guy tower for Douglas County Emergency Communication, located at 297 N 2100 Rd. Submitted by Selective Site Consultants, on behalf of Douglas county Emergency Communication Department for Freda Laduke, property owner of record. *Joint meeting with Lecompton Planning Commission.*

**Adjourn Joint Meeting
Reconvene LDCMPC**

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Rex Curry, Selective Site Consultants, was present for questioning.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Josserand asked if the issue between the first and second tower was weight.

Mr. Curry said it was a structural issue. He said the existing tower could not accommodate the load that would be added.

Commissioner Josserand asked if the prior tower that was exclusively for public use would come down.

Ms. Day said there was still equipment on that tower in use.

Mr. Scott Ruff, Douglas County Emergency Communications Director, said that tower was owned by Great Plains Media and was their main transmitter site for the local radio station. He said to his knowledge, in working with those engineers, they support the second tower with the understanding it was not structurally sound to add the additional equipment. He said in talking to Great Plains Media and their engineers there was no plan to take down or replace the tower until necessary. He stated the existing tower was owned by a public company.

Commissioner Josserand asked if the intent with the second tower was to be used by public entities.

Mr. Ruff said no.

Commissioner Rasmussen inquired about staff report condition 1a and asked who the owner was.

Ms. Day said the condition referred to the ownership of the tower, which was owned by Douglas County and they would lease the land from the property owner.

Commissioner Rasmussen asked if the condition was referring to the structure owner not the land owner.

Ms. Day said yes.

Commissioner Liese asked if Lecompton had an Urban Growth Area.

Mr. McCullough said Lecompton did not have an Urban Growth Area that was identified. He said if he was referring to the 3 mile boundary, that was a separate issue. He said many years ago the county provided some formal input on the smaller cities in the county to provide input if a project was requested within 3 miles of their corporate limits.

Commissioner Rasmussen felt the first condition 1a should clarify that Douglas County would be responsible for removing the tower, not the property owner.

ACTION TAKEN

Motioned by Commissioner Rasmussen, seconded by Commissioner Liese, to approve the Conditional Use Permit for the 300' tower and forwarding it to the County Commission subject to the following conditions:

- 1) The provision of a revised site plan that adds the following notes to the face of the drawing:
 - a) "The owner, Douglas County, at the owner's expense shall remove any tower not in use for a period of three years or more."
 - b) "A sign shall be posted on the tower or the exterior fence around the base of the tower with the name and telephone number of the tower owner/operator."
 - c) "Use of this tower for carriers other than Douglas County Emergency Communication Department shall require County Commission approval, as the tower owner, in addition to site plan review and approval of any co-location request for new equipment other than that expressly used for Douglas County Emergency Management. Equipment changes or improvements by Douglas County may be approved by site plan amendment per the County Zoning Administrator. "
 - d) "A change of ownership of the tower shall require a new Conditional Use Permit and public hearing." This will allow review of the intended use of the tower and public notice of the proposed change.

Motion carried 7-0-1, with Commissioner Denney abstaining.

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ITEM NO. 2A PID TO IG; 46 ACRES; E 25TH ST & FRANKLIN PARK CIR (MKM)

Z-13-00145: Consider a request to rezone approximately 46 acres located south of the intersection of E 25th Street & Franklin Park Circle from PID (Planned Industrial Development) District to IG (General Industrial) District. Submitted by Bartlett & West, for Douglas County Board of Commissioners, property owner of record.

ITEM NO. 2B PRELIMINARY PLAT FOR DOUGLAS COUNTY PUBLIC WORKS ADDITION; E 25TH ST & FRANKLIN PARK CIR (MKM)

PP-13-00144: Consider a Preliminary Plat for Douglas County Public Works Addition, a 1 lot subdivision of approximately 46 acres, located south of E 25th Street & Franklin Park Circle. Submitted by Bartlett & West, for Douglas County Board of Commissioners, property owner of record.

STAFF PRESENTATION

Commissioner Lamer said he would abstain from this item because his wife was a former employee of Bartlett & West and had funds in their retirement account that had not been dispersed yet.

Ms. Mary Miller presented items 2A and 2B together.

APPLICANT PRESENTATION

Mr. Darron Ammann, Bartlett & West, was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN on Item 2A

Motioned by Commissioner Liese, seconded by Commissioner Josserand, to approve the rezoning request of approximately 46 acres from PID-Franklin Park (Planned Industrial Development) District to IG (General Industrial) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Commissioner Rasmussen said the building layout could totally change when a site plan was actually submitted.

Mr. McCullough said in this particular case it was a pretty high level idea because they were also trying to do the utility easement work in conjunction with the plat so at this stage it was pretty close. He said it had the potential to change though.

Motion carried 7-0-1, with Commissioner Lamer abstaining.

ACTION TAKEN on Item 2B

Motioned by Commissioner Liese, seconded by Commissioner Josserand, to approve the Douglas County Public Works Addition Preliminary Plat subject to the following conditions:

1. Provision of a revised plat with the following changes:
 - a. Note that Franklin Park Circle is proposed to be renamed 'Franklin Park Court'.
 - b. Identify the drainage easements as detention basins and add the following notes to the plat:

- The detention basins will remain free of any natural or non-natural structures or vegetative barriers (including but not limited to trees, shrubbery, berms, fences, and walls."
 - The detention basins will be privately-owned and maintained. The developer is responsible for establishing ownership and maintenance of same via individual owner maintenance. No fences or structures other than necessary retaining walls and/or guardrails will be allowed within the drainage easements."
 - c. Revise utilities and easements per City Utilities Department approval.
 - d. Note the minimum finished floor elevation for structures on lots.
2. Provision of a revised Downstream Sanitary Sewer Analysis per Utility Engineer approval.

Motion carried 7-0-1, with Commissioner Lamer abstaining.

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ITEM NO. 3A UR TO RS7; 21.54 ACRES; QUEENS RD & OVERLAND DR (SLD)

Z-13-00149: Consider a request to rezone approximately 21.54 acres from UR (Urban Reserve) District to RS7 (Single-Dwelling Residential), located on the northwest corner of Queens Road & Overland Drive. Submitted by Highland Construction Inc., for Prairie Rose Holdings, LC, property owner of record.

ITEM NO. 3B UR TO RS5; 3.34 ACRES; QUEENS RD & OVERLAND DR (SLD)

Z-13-00165: Consider a request to rezone approximately 3.34 acres from UR (Urban Reserve) District to RS5 (Single-Dwelling Residential), located on the northwest corner of Queens Road & Overland Drive. Submitted by Highland Construction Inc., for Prairie Rose Holdings, LC, property owner of record.

ITEM NO. 3C UR TO RM12; 15.89 ACRES; QUEENS RD & OVERLAND DR (SLD)

Z-13-00166: Consider a request to rezone approximately 15.89 acres from UR (Urban Reserve) District to RM12 (Multi-Dwelling Residential), located on the northwest corner of Queens Road & Overland Drive. Submitted by Highland Construction Inc., for Prairie Rose Holdings, LC, property owner of record.

ITEM NO. 3D PRELIMINARY PLAT FOR KELLYN ADDITION; QUEENS RD & OVERLAND DR (SLD)

PP-13-00148: Consider a Preliminary Plat for Kellyn Addition, an 87 lot residential subdivision containing 40.76 acres. Lots include 15.89 acres for multi-dwelling, RM12 zoning, and 21.54 acres of proposed RS7, and 3.34 acres of proposed RS5 located on the northwest corner of Queens Road and Overland Drive. Submitted by Highland Construction Inc., for Prairie Rose Holdings LC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented items 3A-3D together.

APPLICANT PRESENTATION

Mr. Matt Gough, Barber Emerson, said he met with staff multiple times to bring forth a clean project with no conditions. He said he sent out letters and held a neighborhood meeting but that nobody attended the public meeting. He said he was not aware of any concerns from the neighbors other than the correspondence received and included in the packet.

PUBLIC HEARING

Mr. William Gary Michle said he was visiting Lawrence from New Jersey and expressed concern about too many apartments being built in Lawrence. He also expressed concern about there not being any green space along 6th Street. He felt there needed to be a plan to make sure apartments were maintained. He suggested putting a park in the middle of an apartment complex.

COMMISSION DISCUSSION

Commissioner Liese asked staff to comment on the League of Women Voters letter.

Mr. McCullough said generally speaking the League of Women Voters had held a position for some time they want each building on its own lot. He stated staff and the Code do not hold that view and

that staff does not share the same position as the League of Women Voters. He said this was not a new concern and that it typically comes up when these types of development are seen. He said it was not an unfamiliar letter to staff.

Commissioner Liese asked staff to comment about the validity of their concerns.

Mr. McCullough said there were processes that help ensure maintenance of projects.

Commissioner Liese said Planning Commission constantly thinks about the inventory of apartments. He asked the applicant to respond to that concern from the public speaker.

Mr. Gough said this was an upscale development and not intended to be student housing. He said it represented a substantial part of the developers plans for the next several years and the overall investment could represent a 10-20 million dollar investment. He said the investment wouldn't be made if the belief didn't exist that the apartments could be leased up on a profitable basis. He said there was no empirical data or information that suggests there are too few or too many apartments. He said it was not within the ambit of Planning Commission to consider such a macro issue of if there were enough apartments. He said it was a land use question and the results of that land use analysis say this is a good project.

Commissioner Josserand asked if Mr. Gough was saying that examining the issue of multi-family being overbuilt/underbuilt was not within the purview of Planning Commission.

Mr. Gough said that was his belief.

Commissioner Josserand asked on what basis it would not be a matter that the Planning Commission could consider.

Mr. Gough said if Commissioner Josserand's position was that there was a sufficient inventory of multi-family, based on subjective beliefs, he would not be able to convince him otherwise. He said if the policy of the city was to make that the rule then it was something the elected officials should do.

Commissioner Josserand said there was no rule that would prevent them from considering it.

Mr. Gough felt there was intention behind the purpose of Planning Commission and it was not to make decisions that were intended for the elected body.

Mr. Josserand asked if Mr. Gough was saying by the absence of a rule Planning Commission was prohibited from considering the issue under the Golden Factors.

Mr. Gough said he was going to stop right there.

Commissioner Josserand asked how many units would be in the RM district.

Mr. Gough said the maximum number of units permitted would be 172.

Commissioner Josserand asked if it was the developers intent to fully maximize the number of units. He inquired about timing for the entire development.

Mr. Gough said his client currently had a project under construction a short distance away that was almost complete. He stated the first thing that would occur onsite was the addition of street and

sewer infrastructure inside the 40 acres. He said the project would also drive the construction of Queens Road north that would connect with The Links and greatly enhance the connectivity of that development to other parts of town. He said in all likelihood there would be single-family lots for sale before ground was broken on the multi-family.

Commissioner Josserand asked if it was the intent of the developer to parcel out the RM part of the development to different people.

Mr. Gough said he had not spoken specifically to the developer about that but if it was approved those were options on the table.

Commissioner Josserand expressed concern about the amount of multi-family units. He felt if overbuilding created blight or bad impacts it was something Planning Commission should investigate and develop data.

Commissioner Rasmussen asked staff if it was typical to identify green space on a plat.

Mr. McCullough said it could be.

Commissioner Rasmussen said he did not see any green space identified on the plat. He asked if developers typically dedicate green space.

Ms. Day said green space for public purposes occurs with either a private park or public park. She said the Parks and Recreation Department was not in favor of taking on the maintenance of smaller neighborhood pocket kind of parks so they do not actively pursue them. She said public open space comes forward many times when there is a large drainage component to it. She said this project had a corner parcel that would be part of the drainage but that was the extent of it.

Mr. McCullough said for residential uses if there are environmentally sensitive lands present a certain percentage has to be maintained as open space as well. He said the RM District had a standard of 50 square feet per unit which was also provided as an amenity to the residents of the community. He said upon Site Plan development the RM parcel would provide some open space.

Commissioner Rasmussen asked if the proximity and access to public open space was considered.

Ms. Day said yes, public streets and sidewalks would take the residents to the public open spaces. She said the developer was proposing an amenity within the multi-family piece where the single-family residents would have access to that. She said it was predominately going to be the public sidewalk that connects residents from one subdivision to another.

Mr. McCullough pointed out on a map the recreation sites in the vicinity that the development would be able to take advantage of.

Commissioner Rasmussen asked if the open space areas were within a ½ mile of the development.

Mr. McCullough said yes.

Commissioner Josserand asked if the site next to the school was one of the alternative sites for the neighborhood recreation center.

Mr. McCullough said it was.

Commissioner Josserand asked if the land was being held to be used for park purposes.

Mr. McCullough said it was still owned by the City and there were no immediate plans for developing it so it was undetermined what the future build out would be.

Commissioner Denney inquired about upscale homes/apartments and wondered if that was something that at this point could be changed in the development.

Mr. McCullough said it was not and that staff did not regulate the quality, scale, or price points of development. He said staff are looking for compatibility. He said it was the applicants planned project.

Commissioner Denney asked if there were no studies showing what was appropriate density.

Mr. Gough said he was not aware of any studies of vacancy rates in Lawrence. He said there were areas of the target market that have not been met yet. He said the size of the RS7 and RS5 lots could be redone and there was nothing holding them to building upscale. He said the site plan would show the green space. He stated everybody who got notice for this meeting would receive the site plan and anyone could provide input to staff. He said the administrative decision could also be appealed to City Commission.

Commissioner Denney said Mr. Gough mentioned the developer was finishing up a current project nearby. He asked if this development was going to be something similar to what was currently being built.

Mr. Gough said the units with garages and the clubhouse would be very similar and it was a great example of the kind of work the developer builds.

Commissioner Liese inquired about the letter received from one neighbor expressing concern about a blind spot on Queens Road.

Ms. Day said staff provided a response to the individual and the blind spot would be looked at in the public improvement process with the Final Plat. She said the applicant would be required to participate in the cost of the improvement to Queens Road.

Commissioner Liese asked staff about how much Planning Commission should consider the market of apartments.

Mr. McCullough said the apartment market was not monitored. He said the census data showed 50+% of rental units. He said one school of thought was that as new developments come online in appropriately located areas of town it forces the older ones to step it up and provide higher levels of maintenance. He stated another school of thought was that residents could flee from older apartments and leave them to decay. He said probably a little bit of both scenarios were happening. He said staff had not been tasked with the issue of looking at market vacancy and he was not sure how that information would be obtained because it was very proprietary information. He said Planning Commission's charge to date was to appropriately locate and plan for that segment of the housing population. He said Langston Heights project really tested that because in the current economy multi-dwelling business does better than the single-family business. He said if they were willing to give up what they think should be single-family in nature just because the apartment market seemed to be going somewhat strong. He said staff went into this project with the same

prospective. He said staff landed in this compromised position of maintaining the link of single-family in the transition zones but allow some multi-dwelling that could act as a transition itself.

Commissioner Lamer asked why this wasn't a planned development.

Mr. McCullough said it was the applicant's decision. He said they started off with the planned development look and the applicant brought back different kinds of projects and this is the one the applicant submitted.

Commissioner Lamer asked if this had been a planned development plan would the project have included more detail.

Mr. McCullough said yes.

Mr. Gough said there was really no benefit to doing a planned development plan. He said the applicant was not asking for more height, density, or the right to add commercial; all of which were some of the advantages to doing a PD overlay. He said there were no sensitive areas in the tract. He also stated that without knowing whether the zoning would be approved it was not free to come up with detailed information. He felt the League of Women Voters wanted a planned development so that they could see a detailed plan right now in a public meeting. He said the site plan process allowed for public input.

Commissioner Lamer asked if Mr. Gough did a third party consultant market feasibility study.

Mr. Gough said he did not and the developer did not either. He said the developer was familiar with the market and was a longtime Lawrence developer.

Commissioner Rasmussen asked if the green space would be shown on the site plan instead of the plat.

Mr. Gough said the plat was a legal document that subdivides property and the site plan shows where everything is going to go. He said green space was grass, trees, shrubs, not park that was owned or operated by the City.

Commissioner von Achen said on the map with the legend on the left the subject property was in the transition area and color coded to single-family.

Ms. Day said if you look at the Northwest Area Land Use Plan as the only layer the property falls within that yellow space.

Commissioner von Achen asked about stormwater drainage and providing water to The Links.

Mr. Dean Grob, Grob Engineering, said the area on the southeast corner of the proposed Links project included a pond as a feature to one of their golf holes and there isn't much runoff for the pond. The water from this proposed 40 acres has always gone to the northwest corner and detention was proposed with the water redirected to the Links pond. He said regarding Queens Road all the property owners on both sides signed an agreement not to protest a benefit district. He said Public Works was proposing to improve Queens Road in 2014 since all the pieces were now in place.

Commissioner Rasmussen thought it was great for the applicant to work with other property owners on drainage.

ACTION TAKEN on Item 3A

Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the rezoning, Z-13-00149, of approximately 21.54 acres from UR (Urban Reserve) District to RS7 (Single-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.

ACTION TAKEN on Item 3B

Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the rezoning, Z-13-00165, of approximately 3.34 acres from UR (Urban Reserve) District to RS5 (Single-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.

ACTION TAKEN on Item 3C

Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the rezoning, Z-13-00166, of approximately 15.89 acres from UR (Urban Reserve) District to RM12 (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.

Commissioner Josserand said he would oppose the motion in an attempt to flag the issue for the need to have more information regarding the vacancy rates for multi-family. He said there had been testimony in the past few months about too much multi-family.

Motion carried 7-1, with Commissioner Josserand voting in opposition.

ACTION TAKEN on Item 3D

Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the Preliminary Plat, PP-13-00148, of Kellyn Addition, located on the northwest corner of Queens Road and Overland Drive.

Commissioner Josserand asked if the League of Women Voters would receive formal notice of the final plat.

Mr. McCullough said no. He said they likely subscribe to the weekly submittal list serve and would receive notice of it that way.

Commissioner Josserand did not like the fact that the process cut people out.

Commissioner Rasmussen said it was a public document and did not cut anyone out.

Unanimously approved 8-0.

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ITEM NO. 4 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; LIGHTING STANDARDS (MKM)

TA-12-00204: Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, to establish lighting standards and requirements as an alternative to the photometric plan. *Initiated by City Commission on 8/21/12.*

Item 4 was deferred prior to the meeting.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

Commissioner Rasmussen was appointed to the Oread Design Guidelines Subcommittee.

Commissioner Culver brought to their attention the attendance record that was included in this month's packet. He said the intent was to maintain consistent engagement and felt it was a good measure to show their active participation.

Commissioner Culver reminded Planning Commission of the July 12th all day orientation.

Recess at 8:25pm until 6:30pm on June 26, 2013

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Reconvene June 26, 2013 – 6:30 p.m.

Commissioners present: Culver, Denney, Josserand, Lamer, Liese, Rasmussen, von Achen
Staff present: McCullough, Stogsdill, Larkin, Leininger, A. Miller, Ewert

BEGIN PUBLIC HEARING (JUNE 26, 2013):

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Rasmussen said he had a limited discussion with Ms. Sue Hack about the Retail Market Study and that she did not think it was particularly valuable.
- No Abstentions.

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ITEM NO. 5 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; ACCESSORY DWELLING UNIT (MJL)

TA-13-00106: Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Articles 4 and 5, to permit the Accessory Dwelling Unit use as an accessory use in the RS5 (Single-Dwelling Residential) District.

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

PUBLIC HEARING

Ms. Holly Krebs said she submitted the request for the Text Amendment out of a desire to build a new garage with an accessory dwelling unit above it to serve as her husband's home office. She said it would also position them to potentially provide care for elderly family members if needed. She said her understanding about the accessory dwelling unit regulations was that when they were passed several years ago the units were allowed in all districts except RS5 out of a concern that a massive influx of accessory dwelling units might create too much density. She said there was not a massive influx of these units and she did not feel that would happen in the RS5 district either. She said the limitation of a small lot in RS5 would naturally restrict too many of these units being built. She believed that allowing accessory dwelling units on lots that would accommodate it would appropriately allow for slightly denser living in certain areas and would provide a mix of housing types, which were both goals of Horizon 2020.

Mr. Kirk McClure, Old West Lawrence Neighborhood Association, said they generally supported the notion of accessory dwelling units. He said the difficulty was with investors buying older properties and Old West Lawrence Neighborhood Association was concerned about maintaining the desirability of the neighborhood which meant maintaining the single-family character. He said the concern was with the abuse of procedure of absentee owners who break up an old house into a multi-unit structure. He requested the definition of an owner be written carefully so that there wasn't a surrogate agent operating as an owner through a corporate entity or partnership. He felt the process could be facilitated as a mechanism to restore older homes. He supported the Text Amendment but felt it should be tightened through the definition of the owner.

Mr. Jim O'Malley agreed with Mr. McClure's comments. He stated the spirit of the accessory dwelling use was intended for the principal residents of actual living breathing home owners. He said there was a loophole for absentee owners to use the corporate form to evade owner occupancy and principal residence requirements. He said the result would be duplex use without owner occupancy. He felt the definition of ownership should be narrowed.

Ms. Karen Kressin said she was disturbed to see this happen in the name of infill. She said maybe this should only be available on double lots in RS5. She felt corporations should not be allowed to own a structure with an accessory dwelling unit. She gave the example of a house on her block a few years ago that was owned by a corporation who tried very hard to make the house a duplex. She said the house did not end up being split up because a buyer appeared and did not want there to be an extra unit in the house. She expressed concern about families who would use the accessory dwelling unit selling their house to someone who would use it as a rental. She said corporations should not be allowed to own accessory dwelling units and felt they should have to transfer the property to personal ownership.

Ms. Katy Nitcher felt there should be notice to adjoining neighbors or neighborhood associations for this type of use as part of the application process. She agreed with all the previous public comments.

COMMISSION DISCUSSION

Commissioner von Achen asked how staff currently handles rental properties that already have an accessory dwelling unit on them.

Ms. Leininger said rental properties in the RS District would have to apply for a rental license.

Mr. McCullough said those types of units do not participate in the program because there is an owner on site so they are not required to be licensed.

Ms. Leininger said that would be considered two dwelling units, not an accessory because the owner would have to live in one of the units.

Commissioner Denney asked if staff could consider the issue of definition of owner.

Commissioner Liese arrived at the meeting at approximately 6:40pm.

Mr. McCullough said yes. He said the prevailing issue seemed to be the potential for abuse from ownership. He recognized the potential but said it had not been seen in practice. He said there had only been about 15 accessory dwelling units registered in the past seven years. He said it was seen more in a trust where an heir picks up the property or in probate. He said the potential for abuse may be worth pursuing and that better language could be drafted. He said regarding the issue of notice, they should consider the bundle of property rights people enjoy and weigh what should get notice and what should not. He stated building permits do not require notice to neighbors or neighborhood associations but that use changes or rezonings would.

Commissioner Rasmussen asked staff to comment about being able to chop houses up into multi-units since he thought that could occur now.

Mr. McCullough said in the RS Districts some of the established neighborhoods have had non-conforming uses and different zoning districts throughout the decades. He said under the current zoning codes it was a single-family district so a house could not be changed into a duplex.

Commissioner Rasmussen said he was referring to more of a boarding house.

Mr. McCullough said in this particular district it could not be changed into a boarding house. He said the other distinction was that if there was the ability to change it to a duplex there would be two units with each having an occupancy cap of three with a total of six people on the property.

Commissioner Josserand asked Mr. McClure about his concern for the potential for abuse. He wondered if Mr. McClure had suggestions on how to tighten the language to prevent abuse.

Mr. McClure said when he lived in Berkley, California he ran into the situation of investors forming limited partnerships and one tenant would become a managing general partner for a \$100 deposit, which would be refunded at the end of their lease, and acting as agents for the ownership while being residents. He said if there was a requirement of identity of interest between the occupant and owner of record then that would equal a real live person. He was worried about devious people who would find ways around it. He hoped the Text Amendment would provide regulatory authority for the

administrators to make sure there was a flesh and blood owner on-site and a mechanism where the neighborhood could appeal if that was deviated from.

Commissioner Josserand inquired about the situation of an accessory use where the resident dies and the property was sold to a new owner who rents out both structures. He wondered what mechanism existed now to deal with that situation.

Mr. McCullough said it would likely be received through a complaint. He said staff investigates and has the code authority to compel compliance.

Commissioner Lamer asked if there was a definition of owner elsewhere in the Code outside of this section.

Ms. Leininger said yes, Article 17-01, in the general terms. She read the definition of owner.

Commissioner Lamer inquired about the definition of family as it relates to three unrelated individuals.

Ms. Leininger said all the occupancy information was in Article 6-01(d) under Occupancy Limits, and it talks about unrelated as not related by blood, marriage, or adoption.

Commissioner Lamer asked if staff could look at those two definitions and merge them together as owner family.

Ms. Leininger said recently with the occupancy limit Text Amendment the definition of family was lumped all in with the occupancy limits.

Mr. McCullough said the value of the former definition of family was maintained. He said if the direction was to look at those definitions to address the issue staff could do that.

Commissioner Lamer said one way to address the issue of corporations or limited partnerships was with a threshold, such as the individual living in the home having a certain percentage membership interest.

Commissioner Rasmussen said they could scare themselves with a lot of scenarios but that they were not seeing this in practice so he did not think they should craft a highly technical definition of owner to avoid a problem that may not even occur. He was worried they were going to regulate out a problem that may not even occur. He felt if it was a big money maker that people were going to manipulate they would have already seen it in other districts.

Commissioner Josserand agreed with Commissioner Lamer. He said abuse had not been seen yet because accessory dwelling units were not allowed in the RS5 District. He was concerned about the issue of potential abuse and that it may take a little bit of drafting for the language.

Commissioner Rasmussen asked Commissioner Josserand if he was concerned about accessory dwelling units springing up all of a sudden in RS5 but not in RS7 where they were already allowed.

Commissioner Josserand said Old West Lawrence was unique enough to distinguish it from other areas of the city. He appreciated Commissioner Rasmussen's concern about family corporations and felt that if the language was written well enough it would allow for families to be fine.

Commissioner Lamer asked staff to discuss the parking.

Ms. Leininger read from Article 5 – Use Regulations, 20-534 Accessory Dwelling Units (2)(vii)a *“Lots containing Accessory Dwelling Units shall contain a minimum of two off-Street Parking Spaces.”* She said there would need to be two parking spots for the property.

Commissioner Denney said he was in favor of adding the capability to RS5 but was concerned about absentee landlords. He would like to find a way for this to go forward but with some limitations on it.

Commissioner Rasmussen asked staff to show on the overhead map what parts of town it would add to.

Ms. Leininger showed the map on the overhead.

Commissioner von Achen asked staff if language could be drafted to address the concerns about absentee landlords.

Mr. McCullough said staff could attempt to do that.

Mr. Randy Larkin, staff attorney, said staff could attempt to draft a definition of owner that would apply to this particular provision that would try to accommodate the number of different opinions.

Commissioner Culver asked staff if Planning Commission should take action and then draft language or defer it and have it brought back with language.

Mr. McCullough said staff would prefer to have the item deferred if that was the majority consensus direction and have it brought back next month. He said it would also allow more time for the public to review the language.

Commissioner Culver asked if there had been any thoughts on notice that could be given to neighbors and neighborhoods in the event of a use change. He asked if an Accessory Dwelling Unit would trigger that notice.

Commissioner Lamer thought notice was appropriate but he didn't want a situation where someone would have to go through a process of approval that could add more expense. He said building permits did not require notification.

Commissioner Josserand said typically notice was sent for meetings with the ability to provide input and receive a decision but that Accessory Dwelling Units would be more of a right.

Mr. McCullough gave the examples of Home Occupations and Site Plans that were a matter of right but that provide notice to the neighborhood. He said construction on a property was also a right which only required a building permit that would be displayed on site and people would have to seek out the information.

Commissioner Rasmussen said structurally it was like building a garage, which did not require notice. He said the difference was that it would be a garage with people living in it.

Commissioner Josserand said he was not as concerned about the notice. He said he was more concerned about the potential abuse through a legal manipulation entity.

Commissioner von Achen asked the audience if they knew of cases where this had happened.

Ms. Kressin said there was a case where a corporation tried to turn a house into a duplex on her block with no intention of living there. She said the corporation was unsuccessful because RS5 did not allow Accessory Dwelling Units and it delayed the process long enough that a buyer appeared who wasn't interested in a duplex.

Commissioner Rasmussen asked if an Accessory Dwelling Unit was a separate building or part of the main structure.

Mr. McCullough said it could be either or.

ACTION TAKEN

Motioned by Commissioner Lamer, seconded by Commissioner Josserand, to defer and direct staff to draft a definition of "owner" specific to this code section that would preclude corporations from abusing the intent and purpose of permitting Accessory Dwelling Units on owner-occupied properties in the RS districts.

Commissioner von Achen inquired about the notification issue.

Commissioner Lamer said he did not include that in the motion because he did not feel it was necessary.

Commissioner Denney expressed concern about a lengthy process and wondered if it would create a hardship to the applicant.

Mr. McCullough said it would be brought back next month.

Ms. Leininger said from discussions with the applicant it was not something she was looking at doing immediately, just setting up options for the future.

Commissioner Culver asked if the notification issue could be discussed next month.

Mr. McCullough said it could but that it would be a better service to the process if majority direction was provided today so the public knows the direction. He said the City Commission could also send it back for Planning Commission to discuss if they desire.

Motion carried 6-0-1, with Commissioner Liese abstaining.

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ITEM NO. 6 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; RETAIL MARKET STUDY (AAM)

TA-12-00205: Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Article 11, to modify the requirements for a Retail Market Study. *Initiated by City Commission on 8/21/12.*

STAFF PRESENTATION

Ms. Amy Miller presented the item.

PUBLIC HEARING

Mr. Kirk McClure said this was a good amendment and that staff was moving in the direction to provide the kind of market analysis needed. He said he was not sure two years was the right frequency. He felt ideally there should be an annual or semi-annual reporting mechanism, not limited to retail. He supported the overall idea of the text amendment and felt Planning Commission should demand more from staff and then learn from the information brought forward.

COMMISSION DISCUSSION

Commissioner Rasmussen asked Mr. McClure what type of qualifications an expert needed for market analysis.

Mr. McClure felt an expert should have a Master's degree in Urban Planning.

Commissioner von Achen asked Mr. McClure asked about his comment that Planning Commission should demand more from staff. She asked if he was referring to the square footage of retail space and sales tax or additional information.

Mr. McClure said the text amendment this evening was narrowly within the confines of retail and he supported that. He said in an ideal market retail was the easiest one to follow because you could monitor inflation adjusted revenue per square foot. He said they were hurting the capacity to redevelop the downtown because the revenue per square foot had fallen so far. He said had they properly monitored the market and rationed the spending, the spending could have been directed to the benefit of the community. He said similar analysis could be done for multi-family, office use, and subdivisions so that when an applicant brings a proposal forward Planning Commission could be informed on whether or not the community was capable of absorbing that without undue harm to other parts of the community.

Commissioner Josseland asked Mr. McClure about his thoughts on the percent number.

Mr. McClure said in the market place 5% was considered a healthy number. He said 2% was considered a tight market and 8% was considered a soft market.

Mr. McCullough referred them to the language in Article 13(g)(10):

for proposals that will create more than 100,000 square feet of retail space within the city: the impact of the proposed project on the retail market. Staff will provide an analysis based on the addition of the square footage to the retail market, vacancy rate trends, square footage per capita trends, and current demand trends, including but not limited to population, income, pull factors, and retail sales using the latest available city-wide retail market report.

Commissioner Denney asked if the text amendment would prevent the applicant from providing their own report.

Mr. McCullough said no, the applicant could present a report to refute the staff analysis.

Commissioner Denney felt this was a step in the right direction.

Commissioner Liese asked Mr. McClure if the market study would still be valid if a business would draw customers from outside Lawrence.

Mr. McClure said retail was locally driven. He said the important issue was basic industry versus non-basic industry and would it bring in dollars from outside of town. He said retail rarely draws. He felt the numbers could be monitored through monthly sales tax reports.

Commissioner Liese asked if the customer draw could be measured.

Ms. Miller said no, not on a specific business basis. She stated a lot of merchants do track zip codes but that staff did not have access to that type of data.

Commissioner Josserand said if the City wanted to they could establish rules to require reporting for that type of information.

Commissioner Rasmussen asked if the language allowed flexibility to look at other factors such as draw and geography.

Mr. McCullough said yes, there was flexibility to bring in components that may be unique to the situation.

Commissioner Rasmussen said the retail market report would be completed every two years but also triggered if there was a proposal for projects over 100,000 square feet associated with a rezoning.

Mr. McCullough said that was when it was part of the staff report. He said the city-wide retail market report would be done every two years and also done with retail space over 100,000 square feet with a specific analysis, using the biennial report as the basis.

Commissioner Rasmussen asked if the analysis would remain where a new building would be counted in the vacancy rate.

Mr. McCullough said it was not that direct. He said staff would provide an analysis on the impact of the project on the retail market but that it wouldn't directly be treated as vacant once built.

Commissioner Rasmussen preferred staff to have flexibility.

Commissioner von Achen asked if separate sectors could be tracked.

Ms. Miller said there were limitations with the data that staff can publicize, in terms of sales. She said the sales tax data from the State had strict requirements. She said they could talk about it in an aggregate sense but could not talk about it in a way that would identify specific businesses and how much sales they make.

Commissioner von Achen asked if they would have definitive criteria for decisions.

Mr. McCullough said it was one of ten factors that Planning Commission would weigh in decisions about rezoning property.

Commissioner Lamer thanked staff for their work and said they were very fortunate to have Ms. Miller on staff because she was a valuable asset. He encouraged Planning Commissioners to attend the next American Planning Association Conference if they were interested in market analysis and trends since there were lots of sessions on the topic.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner von Achen, to approve the text amendment, TA-12-00205, to the Land Development Code and forward to the City Commission based on the analysis in the staff report.

Commissioner Liese thanked Ms. Miller for her work.

Commissioner Culver felt this was a step in the right direction.

Unanimously approved 7-0.

Commissioner von Achen asked why staff had not been tasked with a multi-family study.

Mr. McCullough said City Commission had chosen thus far to not task staff with providing trends, vacancy rates, and different studies on the apartment industry.

Commissioner Rasmussen said industry and office was also not tracked.

Commissioner Denney asked if similar numbers were available for industry.

Mr. McCullough said data and trends could be found on a number of factors, such as the number of stock or historical trends.

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ITEM NO. 7 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; PARKING & ACCESS STANDARDS (SMS)

TA-6-14-09/TA-13-00235: Receive proposed Text Amendments to the City of Lawrence Land Development Code, Article 9 and related sections of Chapter 20, for comprehensive revisions to parking and access standard. *(Staff will introduce proposed revisions and Commission will receive public comment. Action will not be taken at this meeting.)*

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item. After an overview of the changes, staff asked for discussion and direction regarding regulation related to the storage of RV's, boats, and trailers on residential properties.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Liese said he would like to see the RV issue be responded to by the entire community and felt they should solicit input through a broad advertisement. He said Mission, Kansas completely prohibited RV's. He felt that storing RV's in a driveway for short periods of time seemed fair but that he was not in favor of them being stored in a neighborhood long term. He said if they were outlawed he liked the idea of giving a buffer, of a year for example, so that it would allow time for people to adjust. He asked how many calls that Code Enforcement receives and what the response was.

Mr. Brian Jimenez, Code Enforcement Manager, said Development Services receives those types of complaints more often than most people think. He said most people are not happy to hear there are no regulations regarding RV's. He said important factors were the size, how close it was to the property line and right of way, and being on an approved surface. He said when staff looked at the issue several years ago they looked at height and width limitations. He stated duration was a key concept. He said in his opinion RV's were a moving structure that sits there for months. He felt there needed to be some regulations in place.

Commissioner Liese asked if there were any statistics.

Mr. Jimenez said staff does not specifically track how many complaints are received regarding RV's but that it was approximately 12-15 calls a year.

Commissioner Liese felt it would be time consuming to have provisions of measuring it with precision.

Mr. Jimenez said a lot of the complaints were about the bigger RV's, which could be problematic. He said if RV's are parked on unapproved surfaces it can lead to mud pits.

Commissioner Denney asked if there was any rule against RV's that fit in a garage being parked in a garage.

Mr. McCullough said no.

Ms. Stogsdill said if it was a detached structure it could be built as close as 5' to the property line if there was no utility easements.

Commissioner Denney asked if there was a restriction on the size of a garage.

Ms. Stogsdill said there were size limitations on detached structures but that those were not specifically related to how high and wide the door was.

Commissioner Denney asked if there were any issues with people living in RV's in the driveway.

Mr. Jimenez said occasionally those types of complaints are received. He said RV's were not a Code compliant dwelling unit.

Commissioner von Achen inquired about the Code prior to 2006.

Ms. Stogsdill said it had to be on an improved surface in the driveway and the Code was silent about any surface requirements for the rear yard. She said it had to be 4' from a structure on the same lot and at least 10' from a structure on a neighboring lot. She said it also could not be used as a living unit. She said with past Code violations there was debate about whether there was good guidance on surfacing for the rear yards.

Commissioner von Achen inquired about size restrictions and setbacks prior to 2006.

Ms. Stogsdill said there were setbacks for the side lot line and corner lots.

Commissioner von Achen asked what kind of complaints were received prior to 2006.

Mr. Jimenez said the same type of complaints were received.

Commissioner Rasmussen inquired about the language *'No parked vehicles shall overhang into the right-of-way or block a portion of the sidewalk.'*

Ms. Stogsdill said that was a provision that could be enforced today through a ticket from the police if a vehicle was parked over a sidewalk.

Commissioner Rasmussen asked if Mr. Steve Watts received tickets for the way he parked his vehicle across the curb.

Ms. Stogsdill said she did not know.

Commissioner Rasmussen expressed concern about long term storage only being 48 hours.

Ms. Stogsdill said the intent was for using those required spaces for something other than passenger vehicles.

Commissioner Rasmussen felt the provision had lots of places for conflict.

Ms. Stogsdill said the intent was that the spaces were not being used and available for parking.

Commissioner Rasmussen said regarding temporary storage he felt some sort of temporary storage should be allowed.

Mr. Jimenez said there was some language in the Property Management Code regarding that.

Commissioner Rasmussen inquired about the term recreation vehicle and wondered if that included any type of trailer.

Ms. Stogsdill said that was probably one of the issues that needed to be addressed.

Commissioner Culver said maybe the length of the trailer may help.

Commissioner Rasmussen inquired about the safety of staff walking around on property to measure the length of a trailer.

Mr. Jimenez said it could be potentially problematic and that staff may want to consult the staff attorney regarding legal issues. He said currently the only thing staff measures are fences. He said staff has the right, upon investigation, to go from the right-of-way to the front door to make contact.

Commissioner Culver said once trailers get to a certain length they are double axles so that could be a way to address it.

Commissioner Liese said one of the requirements in Kansas was if it was over 2,000 pounds you had to be licensed.

Commissioner Rasmussen suggested considering a recreation season during which it would not be a problem to temporarily store a boat in a driveway, as long as it did not go out over the sidewalk or right-of-way. He inquired how business vehicles and business trailers were defined.

Ms. Stogsdill said it was not defined yet.

Commissioner Rasmussen said something to consider when forming that definition was the size of the company logo. He gave the example of Fritzel Construction which had a small company logo on their vehicle, versus a vehicle that was completely wrapped in a driving billboard.

Ms. Stogsdill said that section specifically started from Home Occupations and lawn care contractors allowed as Home Occupations.

Mr. Jimenez said the Home Occupation regulations state one company vehicle associated with the Home Occupation was allowed on the property.

Mr. McCullough said Home Occupations included a business use at the property.

Commissioner Rasmussen said he was a proponent for being able to use pervious paving materials. He inquired about limiting it to pervious concrete or asphalt and if there were other types.

Mr. McCullough said staff didn't want to argue gravel and woodchips all the time. He said another option could be grid unit pavers with grass above.

Ms. Stogsdill said she looked on the pervious pavement website and thought she captured the two major categories.

Commissioner Rasmussen inquired about how necessary 4" of concrete was to park a bike on it.

Mr. McCullough said that was a pretty standard depth for patios, sidewalk, etc., that would not be taking on vehicle traffic.

Ms. Stogsdill said it was a maintenance issue.

Commissioner Josserand recommended that they allow for public input on trailers and stacked parking. He felt abuse of stacked parking created an incentive for more dense structures than should be allowed. He said stacked parking was different in a family situation than unrelated individuals living together.

Mr. McCullough said the figures in the stacked parking section were a formal interpretation that was being brought into the Code. He said they were new to the Development Code but that it had been a formal published interpretation for a few years.

Commissioner Josserand said stacked parking was an issue in the Oread neighborhood.

Commissioner Rasmussen said his office building had stacked parking as well.

Mr. McCullough said for the most part it was not strangers parking stacked. He said it also had to do with aesthetics and coverage and stormwater issues with how much impervious material they wanted to see.

Commissioner Denney was worried about interfering with the minutia of life, such as what size company logo might be acceptable for a vehicle parked in a driveway. He felt the issue of health and safety was valid and should be addressed. He felt there should be restrictions upon what could be done within certain distances of the property line so as not to interfere with the neighbors with easements and rights-of-way. He stated if someone chooses to build a garage in the backyard to house a 30' motorhome and it was not interfering with anything he didn't feel like they should tell people they can't do that. He felt they should focus on physical things rather than lifestyles.

Commissioner Lamer said he agreed with Commissioner Denney. He felt they should receive more public input on the issue. He said the marketplace provides neighborhoods that do not allow RV's through Homeowners Associations.

Commissioner Liese expressed concern that if they started basing it on the health, safety, and welfare that they would have to start proving it through such things as measuring. He said he would be in favor of solid standards that did not require minutia. He suggested creating an online survey that the entire community could take regarding what they think and feel about RV's, trailer sizes, stacked parking, etc.

Commissioner Rasmussen asked if the text amendment could be split up into separate issues instead of lumping it all together in one big package.

Mr. McCullough said staff would prefer to take it as one amendment to the City Commission but that it could be broken up into parts to focus on individually.

Commissioner Culver liked the idea of breaking up the discussion into parts.

Mr. McCullough said there were effective tools to get public input, such as a press release and online survey.

Ms. Stogsdill said some of the vehicles were as big as a building addition so the thought was that anywhere a building could be built on the lot it could be stored. Also, anywhere an accessory building could be built one could store it. She asked if there were any other options Planning Commission wanted drafted and brought back.

Commissioner Liese suggested drafting a ten item survey to capture the most controversial questions that Planning Commission would want answers to.

Commissioner Josserand felt stacked parking was only an issue in the Oread neighborhood.

Commissioner Rasmussen said he was not sure how helpful the survey would be. He felt getting people to respond to surveys was difficult. He said he preferred option 1 over option 2.

Commissioner Culver said he would be more supportive of option 2. He said having RV's on improved surfaces was pretty clear.

Commissioner Rasmussen said side yard and rear yard would be his preference. He also liked the suggestion of having screening around it.

Commissioner Denney said there were some existing standards regarding what type of tag a vehicle had that might be easily applied especially when looking to enforce. He said generally a single axle trailer would not be over 20' long. He said if there was no tag it would be less than 2,000 pounds and fairly short. He said other factors to consider were the number of axles and whether or not it had a motor.

Mr. McCullough suggested Planning Commissioners do some homework and pay attention to RV's more as they drive around town.

NO ACTION TAKEN

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MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

MISC NO. 1 MPO POLICY BOARD MEMBER

Nominate and approve one City Appointed Planning Commissioner to the MPO Policy Board.

Commissioner Culver was appointed to the MPO Policy Board.

ADJOURN 9:50pm