



PLANNING COMMISSION MEETING
September 23, 2013
Meeting Minutes

September 23, 2013 – 6:30 p.m.

Commissioners present: Britton, Culver, Denney, Graham, Josserand, Kelly, Liese, Rasmussen, Struckhoff, von Achen

Staff present: McCullough, Stogsdill, Day, Larkin, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of August 26, 2013.

Motioned by Commissioner Liese, seconded by Commissioner Kelly, to approve the August 26, 2013 Planning Commission minutes.

Unanimously approved 10-0.

COMMITTEE REPORTS

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

Commissioner Culver said the MPO did not meet in September.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Denney said he made a telephone call to the County Administrator regarding Item 6. He said he called Mr. Craig Weinaug to find out who the property owner was. He said the County gave the property to Tenants To Homeowners with the understanding it be used for this purpose.

Commissioner Liese said he received an email after the 10:00am deadline regarding Item 4.

Commissioner Josserand said he received an email late in the day from a neighbor regarding Item 2 who expressed concern regarding the size of the lot.

Commissioner Graham said she received a call from a resident regarding Item 8 who was concerned about parking.

Commissioner Kelly said he spoke to USD 497 superintendent, Mr. Rick Doll, about Item 5 and Mr. Doll wanted him to be aware the proposed rezoning was next to a school.

Commissioner Struckhoff said he received an email from Mr. Mike Myers regarding Item 6 who felt the project was appropriate and acknowledged the concerns of the neighbors.

- Abstentions:

Commissioner Kelly said he would abstain from Item 1 due to his employment by USD 497.

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**ITEM NO. 1 PRELIMINARY PLAT FOR HOLCOM SCHOOL SUBDIVISION; 2600 W 25TH
ST (SLD)**

PP-13-00282: Consider a Preliminary Plat for Holcom School Subdivision, a 1-lot subdivision containing 8.763 acres, located on the east side of Lawrence Avenue and north of the Holcom Park tennis courts. The property is currently addressed as 2600 W. 25th Street. Submitted BG Consultants, Inc., for USD 497, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

David Hamby, BG Consultants, was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Rasmussen, to approve the Holcom School Subdivision Preliminary Plat.

Motion carried 9-0-1, with Commissioner Kelly abstaining.

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**ITEM NO. 2 MINOR SUBDIVISION VARIANCES FOR HASKELL PLACE NO. 4; 2035
BARKER (SMS)**

MS-13-00341: Consider Minor Subdivision variances for Haskell Place No. 4, located at 2035 Barker. Variances requested include reducing minimum lot size and waiving requirements to dedicate right-of-way for Barker and construct sidewalk along Rhode Island. Submitted by Grob Engineering Services, LLC, for Architectural Consulting Source, property owner of record.

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item.

APPLICANT PRESENTATION

Mr. Dean Grob, Grob Engineering Services, was present for questioning. He agreed with the staff recommendation.

PUBLIC HEARING on Variance Only

Mr. Shawn Cargill said he lived at 21st and Barker and he did not believe the applicant had met the hardship required for a variance, nor did he feel it was harmonious with the neighborhood. He felt it would create two substandard lots. He said the lot provided enough space to build a single-family home on it. He felt the lot provided more of an advantage rather than a disadvantage for someone trying to build it with the dual frontages. He felt the open space was important. He said regarding the harmony of the neighborhood, comparing the subject property to adjacent lots was not a good representation of what the neighborhood was. He said there were several thru lots with single-family homes on them. He felt Barker and Rhode Island were more the exception not the rule. He said most of the lots were well in excess of 5,000-6,000 feet. He wished something greater would be done than the bare minimum. He felt they should maintain the integrity of the neighborhood by keeping it simple with single-family homes.

APPLICANT CLOSING COMMENT

Mr. Grob said the house being over a sewer line created some issues with improving the house so the options included either trying to get around that or raze the building. He said he spoke with Planning staff about the rules and regulations and he felt like it was a reasonable situation to divide the lot. He said if the applicant wasn't allowed to split the lots he would have to deal with the house being over the sewer line or go to the expense of tearing it down to take it off the sewer. He said there were numerous lots that were sub-regulation size, some where the double frontage lots were split, and some that had more width than originally platted but he did not feel this subdivision critically impaired the neighborhood.

COMMISSION DISCUSSION

Commissioner Liese said in looking at the findings of fact in the staff report it appeared everything had been addressed extremely well. He said during the public comment it was suggested it would not be a hardship for the owner to maintain one plat but it looked like it would be based on the findings of fact in the staff report. He said based on the findings of fact in the staff report he did not believe the division into two lots would create substandard lots, as stated during the public comment. He said if that lot was substandard it would mean all the other lots that already exist in that subdivision were substandard, which he did not feel was the case. He said based on the applicant's response and confirmation in the staff report it would not be out of harmony and would resolve a problem that would create a hardship. He said he would vote in favor of the variances.

Commissioner Josserand asked if there had been applications from any of the three lots south of the proposed lot to divide. He presumed they would be recommended as well.

Ms. Stogsdill said it would depend on whether those homes would stay because the homes would not meet the rear yard setback for creating a new line. She said there would be a lot more lot coverage with keeping the existing larger homes and subdivided the backyards. She said if this property was subdivided into two, each of the lots would have the required rear yard setback from the common property line and the building envelopes for each lot was smaller than what would be allowed on the through lot by itself.

Commissioner Josserand asked if they would be hard pressed to deny the three lots south based on their actions tonight.

Ms. Stogsdill said the distinction was the fact that the plan was to move an obstruction from the City's infrastructure and then to build two new homes so that those new homes have to meet the individual setbacks of each of those lots.

Commissioner Josserand wondered how they could be sure the house would be razed if they approve the variances.

Ms. Stogsdill said a demolition permit application had already been submitted and noticed in the newspaper.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Denney, to approve the following variances:

1. Approve the variance requested from Section 20-810(2)(a) to allow the creation of lots that do not meet the minimum lot size requirement of 5,000 square feet for lots in the RS5 District as identified in Section 20-601(a).
2. Approve the variance requested to allow the right-of-way for Barker Avenue to remain at 60 feet rather than the 80 feet right-of-way requirement in Section 20-810(e)(5) for Collector Streets.
3. Approve the variance requested from Section 20-811(c) to waive the requirement to construct a sidewalk on the east side of Rhode Island Street and accept an Agreement Not to Protest the Formation of a Benefit District in its place.

Motion carried 9-1, with Commissioner Josserand voting in opposition.

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Recess LDCMPC

Convene Joint Meeting with Eudora Planning Commission

**ITEM NO. 3 CONDITIONAL USE PERMIT; WATER TREATMENT PLANT; ¼ MILE E OF E
1750 RD & N 1500 RD (MKM)**

CUP-13-00281: Conditional Use Permit for a water treatment plant to produce water for Public Wholesale Water Supply District No. 25, located ¼ mile east of the intersection of E 1750 Rd and N 1500 Rd. Submitted by Public Wholesale Water Supply District No. 25, property owner of record.
Joint meeting with Eudora Planning Commission.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Eudora Planning Commissioner Kurt von Achen said the Eudora Planning Commission did not have quorum.

Mr. McCullough said that they could allow a few weeks for Eudora Planning Commission to meet and then send the Lawrence Planning Commission and Eudora Planning Commission minutes to the County Commission.

APPLICANT PRESENTATION

Mr. John Ruckman, Bartlett & West, was present for questioning. He said he agreed with the staff recommendation.

PUBLIC HEARING

Ms. Cille King, League of Women Voters (LOWV), said they were concerned about the location being close to the river, the ground water level, and possible drought issues that would determine how effective this would be. She said in addition to the letter the LOWV's sent they wanted to emphasize that the LOWV has long been concerned with maintaining agricultural lands and sprawl in the county. She said the LOWV did a study in 1999 that looked at the environmental impact from loss of prime agricultural land and the true cost of urban sprawl. She asked the Planning Commission to reconsider approving more water for urban sprawl development.

APPLICANT CLOSING COMMENT

Mr. Ruckman responded to some of the concerns outlined in the League of Women Voter's letter. He said any of the water lines within the UGA would be reviewed and would follow guidelines. He said all of the physical structures would be outside of the 500 year floodplain. He said regarding drought, by taking water out of the eluvium of the river they would become a member of the Kansas River Assurance District, which meant they would comply with the vision of Water Resources. He said any water taken from the eluvium was backed by water stored in reservoirs along the Kansas River.

COMMISSION DISCUSSION

Eudora Planning Commissioner Kurt von Achen said the Eudora Planning Commission had no comments at this time.

Commissioner von Achen asked if the easements obtained for future mains would be obtained upfront or down the road.

Mr. Ruckman said they would be obtained before construction occurred. He said the water line routing would be determined for the water lines and then easements would go out to private land owners prior to any bidding or construction.

Commissioner Denney asked if there was a water shortage in these areas or reason for doing this.

Mr. Ruckman said Osage #5 to the south draws water out of Clinton Lake and have had issues with the water treatment plant they currently utilize so this would be a supply to take care of that in the future. He said there was also growth in these areas with a 2% growth rate of meter sales, which would drive the additional water need.

Commissioner von Achen inquired about the Valley Channel zoning with the Conditional Use Permit and if there would be mitigation for potential flooding.

Mr. Ruckman said the facility would be above the 500 year floodplain. He said they could not do any moving of earth inside the floodway itself, which was the majority of the property.

Commissioner von Achen asked what would happen when wells flood.

Mr. Ruckman said wells were built in such a way for that. He said most water treatment plants that take ground water lay in the floodway, which was where the water was at. He said they would be using pit-less units which were sealed and could be flooded. He said any electrical going to the well would be brought in through junction boxes located above the 500 year floodplain and the power would be dropped down into the well itself. He said those could run in an inundated situation for a period of time.

Commissioner Kelley appreciated the public comments about this. He said he wanted to preserve as much agricultural land as possible but also understood the need for water. He said the growth of the area would be somewhat controlled by Planning Commission. He said he was in favor of this and would vote for it.

Commissioner Liese said it was not zoned for this and a Conditional Use Permit would be required. He was not sure that it was necessary. He appreciated the letter by the League of Women Voters. He asked if the water mains connecting this would potentially pass through Lawrence City boundaries.

Mr. McCullough said that was correct.

Commissioner Liese he said the League of Women Voters questions about that were valid. He asked staff to respond.

Mr. McCullough said running the main lines was a separate matter from the Conditional Use Permit before them tonight. He said the route could change or be altered. He said at the time of the request to the City or property owners the City would have some ability to look at the request to go through the City right-of-way and negotiate whatever issues there may be.

Commissioner Liese asked what Planning Commission should be mostly concerned about if the line wasn't what they should be concerned about.

Mr. McCullough said the blue line on the map was provided as general information about the request to see where the District intends to expand service. He said the Conditional Use Permit would not be

applied to the routing of the main line, it would be applied to the treatment plant itself and well sites in terms of a land use compatibility issue. He said the project would need to go through the floodplain development permit process in the County and meet the requirements.

Commissioner Liese asked if it would be considered and addressed in the future.

Mr. McCullough said water was controlled by the State, not the County or City.

Commissioner von Achen asked Mr. Ruckman what percentage of water would go to Osage County and Douglas County.

Mr. Ruckman said it was split almost 50/50% between Osage #5 and Douglas # 5 with both entering as equal partners.

Commissioner Denney expressed concern about doing away with agricultural farmland. He asked if the Conditional Use Permit would allow water from any part of the property.

Mr. McCullough said the Conditional Use Permit was married to a site plan that would go to the County Commission for approval. He said any modifications to the site plan in the future would be administratively reviewed or reapproved by County Commission, depending on the scope of change.

Commissioner Denney asked for clarification that this was only include a small part of the property where the character of the land would change.

Mr. McCullough said that was correct.

Commissioner Rasmussen inquired about staff recommendation 2 where it states the property shall be platted to Zoning and Codes. He asked if that meant County Zoning and Codes.

Ms. Miller said she could clarify the language to say Douglas County Zoning and Codes.

Commissioner Rasmussen commented about the first condition and asked why the applicant would need to be told to obey the law and comply with their permit. He wondered what would happen if the applicant got into a dispute or some sort of issue with their permit and if the City or County would be pulled into the dispute since it was included as a condition of the permit. He wondered why that was included as a condition.

Ms. Miller said it was not so much for the applicant because the applicant knows they need to comply with the permit. She said it was more of a notice for the Zoning and Codes office.

Commissioner Rasmussen asked if the Zoning and Codes office would enforce the State water permit.

Ms. Miller said if the applicant was not in compliance the Conditional Use Permit could be rescinded. She said they needed to comply with the State and the Conditional Use Permit was based on compliance.

Commissioner Rasmussen asked if the Conditional Use Permit was tied to compliance with the State permit.

Ms. Miller said that was correct.

ACTION TAKEN

Motioned by Commissioner Rasmussen, seconded by Commissioner Kelly, to approve the Conditional Use Permit for the water treatment plant for Public Wholesale Water Supply District No. 25 and forwarding it to the Board of County Commissioners with a recommendation for approval based on the findings of fact found in the body of the staff report subject to the following conditions:

- 1) The CUP shall comply with the terms, conditions, and limitations specified in the Division of Water Resources permit.
- 2) The property shall be platted prior to release of the Conditional Use Permit plan to Zoning and Codes.
- 3) The provision of a revised Conditional Use Site Plan with the following changes:
 - a. Delineation of a wooded area near the east side of Tract 2 that is 20 ft wide and extends 240 ft north of the south property line, and the addition of the following note: *"The trees and other vegetation in this area will be retained to screen the facility from the east. In the event the trees are removed, native conifers will be planted on 30 ft centers to provide screening."*
 - a. Note the revision date on the plan.
 - b. Show one ADA accessible parking space on the plan. This space shall also be marked and signed on site.

Commissioner Liese said he would have voted against the motion because of concerns raised by the League of Women Voters but staff convinced him those should not be part of their decision making process.

Commissioner Culver agreed with Commissioner Liese regarding looking at the Conditional Use Permit as it pertains to land use. He said the concerns and questions he had were brought up and addressed. He appreciated the input from the League of Women Voters. He said he was confident some of those concerns would be discussed and worked out by the County Commission. He said he would support the motion for approval.

Commissioner von Achen said she was not comfortable sending 50% of the water in Douglas County out of the county. She agreed with the League of Women Voters comments about how this would encourage county sprawl but staff has indicated it was not within Planning Commission purview. She said she would support the motion but had reservations.

Commissioner Rasmussen said Kansas was an arid state and it was not Douglas County water it was State water. He said Kansas was a prior appropriation state which meant water could be moved great distances within the state. He said all of the citizens of Kansas share the water.

Ms. Suzannah Vasquez-Bridgens was confused about Commissioner Rasmussen's comment about this being the State's water. She said she was under the impression that the entire state was a water table and had access to the water table. She did not understand why there would be a need to move it from one area to another if the entire state had a water table available to it. She asked if the State was requesting this.

Commissioner Rasmussen said the State was issuing a permit to the applicant to take water from the Kansas River eluvium and that Planning Commission had to decide whether the building could be built there.

Commissioner Denney said he would support this even though it does change some of the characters of the land use. He said a significant portion of Douglas County was served by Osage Water District #5 so it was not like all the water was going outside of Douglas County.

Commissioner Struckhoff said he would support the Conditional Use Permit but shared the League of Women Voters concerns about agricultural land and water tables.

Commissioner Josserand agreed with Commissioner von Achen's comments.

Unanimously approved 10-0.

Adjourn Joint Meeting
Reconvene LDCMPC

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ITEM NO. 5 UR TO CO; 4.767 ACRES; 4930 OVERLAND DR & 450 WAKARUSA (SLD)

Z-13-00319: Consider a request to rezone approximately 4.767 acres, including right-of-way, from UR (Urban Reserve) District to CO (Office Commercial) District, located at 4930 Overland Drive and 450 Wakarusa Drive. Submitted by Colliers International on behalf of EBRPH LLC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

No applicant presentation.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Culver inquired about the allowed uses in the CO district.

Ms. Day said the uses allowed in the district were predominantly office uses. She said there was a specific limitation on commercial pieces not to exceed 3,000 square feet. She said if there was a retail element it had to be in conjunction with the office. She referenced the table in the staff report that highlighted the uses allowed.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner von Achen, to approve the request to rezone approximately 4.767 acres from UR (Urban Reserve) District to CO (Commercial-Office) District based on the findings presented in the staff report and forwarding it to the City Commission.

Unanimously approved 10-0.

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**ITEM NO. 4 CONDITIONAL USE PERMIT; SEASONAL CAMPING; 1478 N 1700 RD
(MKM)**

CUP-2-1-10: Consider a Conditional Use Permit to allow seasonal camping accessory to farm operations, on approximately 12 acres, located at and adjacent to 1478 N. 1700 Road. Submitted by Natalya Lowther, property owner of record. *Deferred by Planning Commission on 5/26/10.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Ms. Natalya Lowther, Pinwheel Farm, showed farm activities on an overhead slideshow while she talked about the farm. She said since 2010 she had gained insight into the puzzling opposition to camping at Pinwheel Farm. She said many opponents probably grew up playing on the Pinwheel Farm land and their parents sold the parcels to her not to them so she thought maybe they still thought of the land as their childhood playground. She said that six years before she moved to Lawrence a North Lawrence child was murdered by a mentally ill individual who happened to be living in a tent in North Lawrence. She said her neighbors enjoy activities that she does not, such as riding ATV's and hunting, which have been carried out in unsafe ways, illegally, and adversely affect her farming operation. She said she has had to discuss these situations with enforcement agencies to protect her Code compliant farm business operation. She said of course her neighbors are angry for turning them in and insisting they comply with regulations they do not like. She felt this should be about how the land was used and not who was using it. She said the benefits of camping at Pinwheel Farm included economic, reduced lodging expenses for out of town participants, reduced transportation expenses for all participants, use of multi-modal transportation which was cheaper than personal vehicles, time management, increased time at the farm for learning, working, and social purposes, decreased driving time, increased amount of time to spend money in town, sustainable living, reduced carbon footprint, more time to learn and practice off grid living skills and emergency preparedness skills, full emersion in daily farm activities around the clock, to practice and learn camping, sustainable living and emergency management skills, to experience the farm environment and ecology at all times of night and day, and more shared relaxation time for in depth discussion and teaching. She said regarding health and safety it allowed participants to sleep or rest when tired, more flexible work schedule, and allowed people to clean up and change clothes when needed. She said it would also reduce driving which would mean less potential for accidents. She stated the social benefits included shared meals, deeper conversations and friendships, more spiritual connection, and more shared relaxation time. She stated she had never been shown exactly what regulation camping violated. She said there was no specific code provision prohibiting camping. She read a memo she received from Mr. Keith Dabney from the Zoning & Codes Department that stated temporary camping was not listed as a permitted use in the regulations and would require a Conditional Use Permit. She said there are a lot of things done in the county not specifically mentioned in the regulations. She said she would like camping to be allowed and was not convinced there was a legal basis for not allowing farm participants to camp. She said all activities other than sleeping were permitted. She said people from all over the country come to visit Pinwheel Farm and she was working hard to be ahead of the game on water shortage situations through developing innovative farming methods where irrigation was not needed. She said people want to come and learn that and the best way to learn farming was hands on.

PUBLIC HEARING

Ms. Mary Spencer wanted to know why Pinwheel Farm needed a camping area. She wondered if it was for the farm or campers and wondered what the purpose of camping was.

Ms. Diane Menzie, 509 North St, inquired about access lanes to the property. She said she lives directly in front of Pinwheel Farm. She said the main access driveway to 1480 N. 1700 Rd was to the farmhouse which was currently rented to a young couple with two young children. She said the property requesting the Conditional Use Permit was behind the farmhouse and she wondered how it would be accessed by RV's. She said the other driveway to the property was at 501 North St., which was in the City and the access could be used as a roundabout for agritourism to come in at 1480 N. 1700 Rd. and go out at 501 North St. She said this was not a personal vendetta. She said she spoke in favor of Pinwheel Farm for the agritourism portion. She said this Conditional Use Permit was deferred from 2010 and she was informed by the Planning office that the only people who could put a time limit on it was the Planning Commission. She said a temporary camping trailer was approved in 2012 to be parked at 1480 N. 1700 Rd for 90 days. She said it was still in operation and she was assuming it was still in use. She said today was the third hearing on the same issue and now it had escalated to more people, more camping trailers, more tents, less sanitary facilities, and less fresh water. She said a ground approved privy was approved by the Health Department but that it was for agritourism visitors. She said there were no provisions for running water and showers. She said Ms. Lowther told Channel 6 News that she was going to allow people to use her personal home at 501 North Street for showering. Ms. Menzie said that property, as well as 1478 N 1700 Rd, were both under contract and Ms. Lowther was not the property owner of record for either property. She felt Ms. Lowther did not have legal approval from the property owner. She expressed concern about the lack of sanitary facilities and also felt there needed to be ADA approval for people to use her personal shower. She expressed concern about there not being background checks on campers and was worried about recent burglaries in the area. She stated Home Occupations require the owner to live on the property and Ms. Lowther does not live at 1480 N. 1700 Rd.

Mr. Ted Boyle, North Lawrence Improvement Association, said this same discussion took place in 2010. He stated the neighborhood was in favor of the farm agritourism but that they were not in favor of camping. He did not believe her farm was very productive at this time and a lot of work needed to be done. He said the immediate residents were concerned citizens that live in the area. He felt camping at this site would be like camping in South Park. He said if the Conditional Use Permit was approved it should only be for 2 years and checked every year.

Mr. Clint White said he was the tenant at 1480 N. 1700 Rd that Ms. Lowther rented to. He said he was excited about maybe having the Boy Scouts at the site to camp. He felt that what she was doing was ground breaking. He felt that the sharing of knowledge was important as well as learning farming operations without irrigation and how to live sustainably. He felt that camping would allow people to learn and share knowledge and that what Ms. Lowther was doing was wonderful.

Mr. Charles NovoGradac said he operates an organic nut tree farm and employs about 45 part-time people during harvest season. He said he buys produce from Ms. Lowther at the Farmers Market and also employs her as a harvester a few hours a week. He said in order to learn his chestnut tree business he spent time on farms in New Zealand and Australia and was always treated very well and welcomed by the neighbors. He said it was a very good learning experience that put him in the forefront of his industry in this part of the world. He felt living on a farm was a good learning model and he hoped the community could make it work out.

Mr. Will Katz, Director of KU Small Business Development Center, said this had the potential to be an emotional issue and he felt it was difficult for Planning Commission to settle issue of neighbors living with neighbors. He said there were a lot of agricultural and agritourism based businesses in Kansas. He felt the mobility of the workforce was a key component to the success of an agricultural based business. He referenced a League of Women Voters letter that said 16-18% of the total workforce in

the United States rests with agricultural based businesses. He said about 77% of all businesses in Kansas employ between 1-5 employees. He said he visited Pinwheel Farm and felt the camping line could be moved farther north and still be okay. He felt the location placement was a pretty good compromise.

Ms. Melinda Henderson felt a lot of effort had gone into trying to meet the neighbor's concerns and still allow Pinwheel Farm to be able to have people on the farm to learn. She said she was sad to see and hear that neighbors were concerned about the camping specifically. She said she did not know Ms. Lowther well but did know her well her enough to know she would not tolerate campers that would wreak havoc. She felt the conditions on the Conditional Use Permit addressed concerns. She hoped a resolution could be found to move the project forward.

Mr. Michael Almon, Sustainability Action Network, said 20% of primary energy in the United States was used in agricultural. He felt Lawrence needed a resilient local and regional food system to anticipate when the national and global food supply might be in danger. He felt they needed to develop extensive food growing capacity in the urban fringe and that this opportunity should not be thrown away. He said some of the volunteers on Ms. Lowther's farm would be World Wide Opportunities on Organic Farms (WWOOF) who move around from farm to farm to learn how to grow organically. He said WWOOF's were not rag-tag people who had no respect for property, environment, and neighbors, but were well respected people who were on an educational plan to develop a career in agriculture.

Ms. KT Walsh said there were a number of young people who leased land in North Lawrence to farm because the soil was good. She stated Pinwheel Farm was a learning facility and she urged Planning Commission to support the camping proposal.

Ms. Brook White said she currently rented from Ms. Lowther and was a former volunteer. She said while she was a volunteer she missed out on lambing season due to not being able to be close enough during night hours. She said she was an accounting manager for a firm in Kansas City and not a hoodlum. She urged Planning Commission to approve the request.

Mr. Marvin Schaal said he owned the property west of Ms. Lowther's and that the pictures she showed during her presentation were not an accurate representation of what the property looked like. He said he retained a lawyer regarding the issue and he requested the issue be deferred for a month.

Mr. Rocky Daniels said his family lived next door to Ms. Lowther. He was concerned about Ms. Lowther's ability to manage the property. He said he did not know a child was killed by someone who lived in a tent. He said last fall Ms. Lowther held a meeting at Prairie Moon school and said she feared for her life and her animals lives from golf balls being hit into her property. He said part of the Conditional Use Permit application said there would be zero tolerance for smoking and drinking but now there were designated areas for smoking. He said Ms. Lowther's only answer to what the campers would do is pick up sticks and pull weeds. He felt the property needed gravel or asphalt to get campers on to the property and also needed showers and background checks for the campers.

Ms. Cille King, League of Women Voters, said a previous speaker asked the question about why people needed to camp on the property. She said her daughter went to Colorado and worked for 8 months on an organic farmed market operation and lived on the farm in a trailer. She said her daughter got up at 5:30am-6:00am and helped tend the plants and harvest produce to take to market. She said sometimes her daughter would be working till 8:00pm-9:00pm at night. She said

her daughter went on to pursue her Master's degree in sustainable agricultural. She said there was a real reason for volunteers to camp on a farm and she urged Planning Commission to consider that.

Ms. Suzannah Vasquez-Bridgens said she was at the public meeting that was reference by Mr. Daniels and she did not remember Ms. Lowther saying volunteers would only pick up sticks and pull weeds. She said she was looking forward to being a volunteer at Pinwheel Farm and that Ms. Lowther was doing for free what Kansas State University was teaching currently. She said Kansas State had a program where they promote self-sustainable growing. She said farming was a 24/7 job to protect the animals and plants. She said Ms. Lowther was not requesting campers for profit or for no reason, they were coming to learn from her. She stated Ms. Lowther was teaching the full cycle of life. She encouraged Planning Commission to approve the request.

Ms. Barb Higgins-Yoger said most of the people in opposition to camping were growers themselves and none of them were utilizing tent living individuals in their backyard. She said there were a lot of warm fuzzy comments about sustainable growth and organic gardening. She said nobody has ever been in opposition to those activities. She said the opposition has almost always been about camping not the farming. She said there was still plenty of opportunity to learn about farms without camping on the property.

Ms. Joyce Higgins said she has lived beside Pinwheel Farm for years and that a lot of what goes on at Ms. Lowther's farm was great. She said she had seen a lot of people come and go over the years and despite what volunteers were learning she advised them to watch their backs. She said she felt sorry for the volunteers.

APPLICANT CLOSING COMMENT

Ms. Lowther showed pictures on the overhead of activities her farm was surrounded by with her neighbors' property. She said one of the reasons for she wanted camping allowed was so she could have friendly neighbors.

COMMISSION DISCUSSION

Commissioner Liese reiterated all the positive things said about Pinwheel Farm and felt the efforts Ms. Lowther had put in to the farm were important. He said Ms. Lowther had inspired people in a lot of good directions regarding the environment, sustainability, agricultural, etc. He said knew the value of being on a farm 24/7. He said he listened hard to as many arguments as possible regarding the camping itself. He said a lot of what he heard was important and interesting but didn't address the camping and he felt they needed to pay attention to the camping portion. He felt the business model was a good one. He said the comments in the minutes from April 2010 were crystal clear. He shared some of the comments that were relevant to their discussion tonight. He said there were multiple comments regarding the condition of the property. He said concerns were expressed by several Planning Commissioners during the April 2010 meeting about the structural issues. He said one of the speakers described Pinwheel Farm as being run down and not kept up. He stated Planning Commissioners had gone by the property and felt the property was not well kept. He said he personally drove by the property today and was shocked and disappointed that the comments made three years ago didn't have an impact on the property. He said within 10' of the front door of the property there were at least three bicycles in various states of disrepair, two saw horses, an upside down wheelbarrow, and trash on the ground. He felt it was obvious that attention was not paid to what he felt the neighbors would be concerned about regarding the condition of the property. He said within 15' of the house there was a pile of cement blocks, an old tire, empty plastic cans, a broken chair, and several pieces of lumber. He said in April of 2010 Planning Commission expressed explicit concern about the condition of the property. He said the slides shown by Ms. Lowther made the neighborhood out to be trashed but he said there were some beautiful homes across the street

that were extremely well groomed. He did not feel some of the activities shown in Ms. Lowther's slide presentation represented the neighborhood. He said the picture of the strip club All Stars was irrelevant to what they were considering tonight. He said most of the pictures shown were completely irrelevant. He felt deferring the item would be inappropriate and that they had all the information they needed. He hoped fellow Planning Commissioners drove by and looked at the property. He said he wanted the farm operation to continue but wanted it to be in greater harmony with the neighborhood. He felt if the property had been cleaned up in the past three years it would have made a difference to him. He mentioned Mr. Daniels comment about whether this kind of operation could be managed by the applicant. He thought it was important for the applicant to maintain the property in such a way to get along with the community. He felt camping would only exacerbate that disharmony. He said the signage on the property directing people to the farm and parking was barely visible from the road and did not look like it was prepared well for the community to support it. He said the property did not look like any effort had been put into it making it look like a good place for a nestled away campground. He felt the property looked haphazard.

Commissioner von Achen asked staff to show a map with the locations of the access, Ms. Lowther's home, and the rental house.

Ms. Miller showed a map on the overhead showing the property.

Ms. Lowther pointed to the access points on an overhead map. She said there was ADA parking and signs. She said she had widened the driveway and had received new gravel today for improving some of that. She said she was slowly working on it due to the lack of people she had to help. She said there were three existing gravel access points from North Street. She said one was more for just farm use. She said another one could be used to circulate the traffic one way or the other. She said there was a 16' wide road going north to the camping area. She said the tenants of the rental home were currently moving in so there was some clutter on the property. She said she wished some of the Planning Commissioners had contacted her to receive a recent site visit.

Commissioner Denney asked which building Ms. Lowther lived in and which was the rental

Ms. Lowther pointed out her house and the rental house on an overhead map.

Commissioner Denney said he drove by the property and the area today. He stated that Google Earth had a record of property photographs from 1991-2012. He said in 1991 it was a pristine and nice looking farming area and that the character changed in the late 1990's. He said the photographs showed the property, as well as others in the area, deteriorating during the last 10-12 years. He said there were a few nice individual homes in the area and that it was disheartening that the whole neighborhood doesn't rise to the same standard. He asked Ms. Lowther what her crop was.

Ms. Lowther said she raised vegetables that she sells at the Farmer's Market. She said she also raises lamb and wool. She said in some seasons she milks sheep as well as value added products with wool and sheep hides.

Commissioner Denney asked if Pinwheel Farm had year round agricultural activities.

Ms. Lowther said yes. She stated there were agricultural activities throughout the year. She said Google Earth may show pictures with row covers that were used in the winter to extend the crop season.

Commissioner Denney asked if the people who would be camping were workers, students, or migrant workers. He wondered about the procedure for camping on her property.

Ms. Lowther said people make contact with her normally weeks and months in advance of their stay and each person has a specific focus on what they would like to learn.

Commissioner Denney inquired about the length of stay for campers.

Ms. Lowther said the longest stay to day was about 10 months and that she would not anticipate someone staying for an entire year. She said the typical stay was a month or two. She said a lot of campers stay for the weekend or one week.

Commissioner Denney asked how she arrived at the number of campers that should be allowed.

Ms. Lowther said the number came from her original proposal when thinking about the scenario of seasonal help, such as a group during Spring Break. She said the twelve adults would allow two groups to overlap a few days, for example.

Commissioner Denney said he heard several public comments regarding background checks of campers. He asked how people would know about her program.

Ms. Lowther said through volunteer matching organizations, such as Growing Growers and World Wide Opportunities on Organic Farms, or through word of mouth. She said she gets to know people before she commits to a plan to have them stay.

Commissioner Denney asked Ms. Lowther what she talked to potential volunteers about.

Ms. Lowthers said she grills volunteers about their interests and expects them to have a focused reason for being at Pinwheel Farm. She said she asks people for a resume and talks to them about things on their resume. She said she asks them to read the general policies of the farm and talks to them about various aspects of that. She said she talks to them about what their learning goals are and any limitations they may have.

Commissioner Liese felt the pictures Ms. Lowther showed of her neighbors was a misrepresentation because they were not about camping. He said the site plan shown on the overhead was not how the property currently looked and Planning Commission could not make a decision based on an ideal set of circumstances.

Commissioner Graham asked Ms. Lowther about the average number of people camping.

Commissioner Lowther said nobody had been camping because it was not allowed to yet. She said the expectation was there would be a few at a time but that the peak seasons may be busier. She said realistically she preferred not to work with more than 3-4 volunteers at a time.

Commissioner Britton asked staff to address Ms. Lowther's history memo that states there was confusion about where the restriction on camping came from and that it was somehow tied to a definition of mobile home.

Mr. McCullough said Zoning and Codes interpreted the Code and that interpretation went to the Board of Zoning Appeals. He said that process happened a few years ago and it was determined that camping was not a permitted use and that it required a Conditional Use Permit.

Ms. Miller said a mobile home could be considered a tent. She stated that farm employees could stay on an agriculturally zoned property in a mobile home. She said Zoning and Codes determined that the Pinwheel Farm volunteers were not employees because they were not paid a wage.

Commissioner Rasmussen inquired about a seasonal limit for seasonal camping.

Ms. Miller said she did not think Ms. Lowther meant just certain seasons of the year and that she may want camping for each season of the year.

Commissioner Rasmussen said in 2010 the Conditional Use Permit being considered was proposed to be 1 year and now the staff recommendation was 10 years.

Ms. Miller said she did not remember it only being a 1 year period but that Planning Commission discussed putting a shorter timeframe on it, such as a trial year.

Commissioner Rasmussen asked if the Conditional Use Permit was recommended for approval in 2010.

Ms. Miller said yes.

Commissioner Rasmussen asked if a privy/outhouse was acceptable to county health officials.

Ms. Miller said yes.

Commissioner Britton asked if staff visited the property.

Ms. Miller said she visited Pinwheel Farm in 2010 and then drove by more recently.

Commissioner Britton asked if staff noted the same conditions that Commissioner Liese did about the property.

Ms. Miller said she did not notice the items in the yard but did notice the vegetation. She said Ms. Lowther indicated in 2010 she would be going to native landscaping, which was allowed.

Commissioner Denney said the staff recommendation was for 10 years with administrative review in 5 years. He wondered if Planning Commission could change that.

Mr. McCullough said Planning Commission could make a different recommendation to the County Commission.

Commissioner Kelly asked about the pros and cons of making the Conditional Use Permit shorter or longer. He wondered how it would impact the process.

Mr. McCullough said it wouldn't necessarily impact the process. He said it could be a common tool to use if they want to review the impact without granting a long time that may harm the neighborhood and community. He said once granted an applicant had the right to operate under the framework of the Conditional Use Permit as long as it was complied with. He said sometimes shorter periods of time provide a test period. He said sometimes it was judged by the amount of investment, such as a Conditional Use Permit for a multi-million dollar water treatment plant which may not get any time limit.

Commissioner Rasmussen asked about the criteria to evaluate the Conditional Use Permit versus a rezoning, specifically, the language that talked about the length of time the subject property had remained vacant as zoned.

Mr. McCullough said it was a much more minor criteria with this application.

Commissioner Rasmussen asked who would enforce or inspect the Conditional Use Permit.

Mr. McCullough said County Zoning and Codes.

Commissioner Culver asked if the campers would use the same parking facilities that were designated for agri-tourism.

Ms. Miller said the RV's would park wherever they were located and campers in tents could park in the agri-tourism area or closer to their tent as long as they were on the access drive.

Ms. Lowther said it would be case specific, depending on how closely related their camping was to their car. She said for example, if they were storing stuff in their car and not driving it to town it may make more sense to have it closer to their campsite. She said if they were planning on going to the library every evening they would probably park in the agri-tourism area, which was usually unused due to low volume. She said the bicycles Commissioner Liese described earlier were used daily by her tenants for transportation.

Commissioner Liese asked about the small bicycle that was permanently affixed to a wood plank.

Ms. Lowther said it was a clever device the tenant invented for his 3 year old son so they could bike together as a family.

Commissioner Liese asked if the application was denied the applicant could apply again in a year.

Mr. McCullough said yes.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Denney, to deny the Conditional Use Permit for camping at this location.

Commissioner Liese strongly encouraged the applicant to clean up the property in the next year and make peace with the neighbors.

Commissioner Britton said there seemed to be some tension between the neighbors and the applicant. He appreciated Commissioner Liese's comments about the property and said he did not have the opportunity to drive by the property. He said he was having trouble factoring the condition or neatness of the yard into the analysis of whether a Conditional Use Permit was appropriate to allow camping at the site. He did not think the quality above some certain baseline of how the property was maintained was something they should be looking at. He felt the property not being maintained in an optimal fashion should not be the basis for denying the Conditional Use Permit. He said there was a fairly extensive list of conditions on the Conditional Use Permit that represented a pretty good compromise between the concerns of the neighbors and the ability of the property owner to use her property in the way she wishes to use it. He said he would vote against the motion and lean toward approval. He said given the tension among the neighbors and property owner it

seemed like the status quo was not a good thing and anything that changed it might have a hope of making something better. He said maybe by having some people out there to work the property the conditions may improve.

Commissioner Denney said he was not sure he could use the neighborhood tension as part of his decision. He said camping was the issue they were looking at. He said generally he was behind anything that promoted agricultural use. He said normally he would lean toward approving the Conditional Use Permit with a few modifications, because unless the public health safety or welfare was involved, they should not interfere with what people do with their own property. He said from what he could observe from a distance he had concerns about public safety and welfare. He said his impression that there were physical things on the property that may be dangerous to campers.

Commissioner Rasmussen said this was not about organic farming, sustainable living, sustainable agricultural, or agricultural education. He said the issue was about camping and that it was a location issue with the proximity to the city and residents in the area. He said if this was an application associated with a farming activity miles outside the city border it would be approved with no problem. He felt that camping on a seasonal basis may work but that this Conditional Use Permit was too much for him to feel comfortable with. He said one of the problems he had with it is that there was no duration on the camping. He said it was different than camping at Clinton Lake or Perry Lake. He said there were no accommodations for shower or bathing and that the applicant's house was a different address and not part of the application. He said there was nothing in the Conditional Use Permit for the property concerning bathing or shower provisions. He felt camping for profit should be limited and included as a condition. He felt that this Conditional Use Permit as proposed was not appropriate for this property. He discussed the Golden Factors. He stated the zoning and uses of nearby property was important and not given enough attention in the staff report. He said the character of the area was rural but rural right on the city boundary. He did not have a problem with the suitability of the subject property for the use for which it was restricted. He said the length of time it had been vacant was a non-issue on this item. He did not think camping would detrimentally affect nearby properties but that it did have the neighbors worried and concerned. He said a 10 year Conditional Use Permit would have him worried, which is why he asked about 1 year versus 10 years. He did not feel there was a lot of gain to public health, safety and welfare by permitted or prohibiting this. He said the concerns he had about the Golden Factors were the uses of the nearby property and the character of the area, and possibly about whether it would detrimentally affect nearby properties. He was concerned about whether this Conditional Use Permit satisfied all the review that needed to be done to grant a Conditional Use Permit. He said he could not support voting for a 10 year Conditional Use Permit but that he might consider a 1 year Conditional Use Permit to see how it goes. He felt there needed to be some sort of duration on the camping so it didn't end up being a permanent living situation. He also felt there should be language about shower and bathing facilities.

Commissioner Kelly said he drove by the property and had a little bit of a different view than Commissioner Liese. He said he was looking for an overall sense of the neighborhood in general. He said he was disappointed that the neighbors were not getting along and was not sure the Conditional Use Permit would elevate the neighborhood for better or for worse. He expressed the same feelings that Commissioner Britton had about looking at the land use. He said he was interested in the Golden Factors. He said he did not know if camping would detrimentally affect the neighborhood and that it may have a better effect because there may be people there to bring it up to the level that others may like to see it. He did not want to recommend a Conditional Use Permit that he did not believe the provisions could be met right now by the land owner. He said he would be more supportive of a much shorter term Conditional Use Permit. He shared Commissioner Rasmussen's concerns about showering and he wanted to be sure it didn't become a boarding

situation. He said the only way he would be supportive of this was on a trial basis and hoped with all the provisions in Conditional Use Permit it may meet the needs of the community members that shared valid concerns.

Commissioner Josserand agreed with Commissioner Britton's comments about being uncomfortable with acting on the Conditional Use Permit on the basis of trash issues. He agreed with a number of Commissioner Rasmussen's comments. He said he was inclined to be very supportive of this type of operation but also took to heart the comments made by the public. He said he would not be able to support the current proposed Conditional Use Permit. He said he had concerns about the duration of the Conditional Use Permit and the public health aspect, such as no showing facilities and camping during the winter months. He said he was more inclined to defer the item to narrow it down. He said he would be interested in Commissioner Denney's reaction to background checks.

Commissioner Struckhoff said he was very inclined to support the Conditional Use Permit and felt the efforts to educate and develop that enterprise were worthwhile. He was concerned about Commissioner Liese's observations but did not want to base the suitability of camping on the appearance of the property, although it did give some indication of the management of the property. He said he would like to support this and the concept of this type of business but was concerned about the duration. He said he would be inclined to consider a shorter duration, such as 1-2 years with review. He asked if the privy facilities and future shower facilities for workers would be vetted by the Health Department.

Ms. Miller said the privy and porta potty had been looked at by the Health Department and future showers would be as well. She said Ms. Lowther has commented that people can go other places to shower.

Commissioner Struckhoff asked if the Conditional Use Permit was approved would the property be ready to receive workers right now and house them temporarily.

Ms. Lowther said the plan was a phased entry into actively using the permit. She said she could not build facilities before she had a permit to build them. She said she also could not invest thousands of dollars of lateral fields for a one year trial basis. She said initially camping would be limited to RV's and campers that have their own bathing facilities in them or individuals who wish to use sponge bathes to cleanse the body. She said she had Red Cross instructions on how to properly do a sponge bath.

Commissioner Britton agreed with the comments made by other commissioners. He felt that putting a shorter time limit on the Conditional Use Permit was a good idea as long as it could still remain economically viable for the applicant. He also felt putting a time limit on the duration an individual or group could camp there would help minimize the impact to the neighbors. He said regarding the bathing issue it would probably be hard for an applicant to invest in a facility that they may not have for more than a year or two. He suggested the possibility of amending the Conditional Use Permit to a 1 year duration, an 8 month limitation on camping, and including language about RV's with bathing facilities as opposed to tents, or offsite access to bathing facilities at Ms. Lowther's residence. He felt that they could further restrict the Conditional Use Permit to avoid deferring it.

Commissioner Liese felt the most important Golden Factors had to do with the zoning of nearby property, character of the area, and suitability of the property for uses. He said the reason he was concerned about the condition of the property was because he was interested in the nearby property. He was concerned about the condition of the property because they needed to support the character of the area. He said property was probably suitable for the use of camping as long as the

camping was in the county. He felt the length of time the land had been vacant was important for weighing the benefits of making an exception. He felt it was relevant because there were several years where the property could have been brought up to a better condition so it wouldn't be like a vacant property to the neighbors. He said it was easy to put the condition of the property into the context of the Golden Factors. He did not feel a shorter Conditional Use Permit was an option due to it being a burden on the applicant, the neighbors, and the system to revisit it in a very short period of time. He said he wanted to see camping in the area but did not want it to happen until some of the more obvious problems were ironed out. He did not think a shorter Conditional Use Permit would do that but instead just raise tension in the neighborhood. He felt the applicant should come back in one year after having worked with the neighbors and making an effort to clean up the property.

Commissioner Denney asked if the Conditional Use Permit was approved would it include language preventing camping for profit.

Ms. Miller said there would be nothing to stop that so it may be best to include that language. She said the language included that camping would be accessory to farm operations.

Mr. McCullough said staff felt conditions 2 and 3 addressed that issue because camping was an accessory to the farm operations, not as a standalone enterprise, and that camping should not be publically promoted in any way, although it could be mentioned in the farm volunteer opportunity description.

Commissioner Denney said he was concerned about how far they were going into peoples personal lives. He did not feel like they should tell people how and when to take a shower.

Commissioner Rasmussen said he did not care if there was a shower but stated the application said there would be water in jugs so he was curious how people would bath. He wondered if there would be an enclosure for people to use for a sponge bath or if they would just have to stand undressed out in the open using gallon jugs of water.

Commissioner Denney asked if Planning Commission could add conditions addressing that.

Mr. McCullough said yes.

Commissioner Josserand said lack of showers was not a deal breaker for him on a short term Conditional Use Permit but after 1-2 years he would like to see shower facilities.

Commissioner von Achen inquired about the administrative review and what options there would be if the conditions were not being met.

Ms. Miller said the Zoning & Codes office would do the administrative review and enforce non-compliance. She said if Zoning & Codes visits the site and finds things that are not in compliance with the conditions they will send a letter to the applicant to let them know they are not in compliance and allow them time to come into compliance. She said it depended on what the issue was and that if it was a major issue they would take action right away. She also said there was a provision in the Zoning Regulations that if a Conditional Use Permit was found to be out of compliance it could go back to County Commission for another public hearing. She said County Commission could rescind the Conditional Use Permit, amend it, put different conditions on it, or find other steps to bring it into compliance.

Commissioner Denney asked if Zoning & Codes noticed any other health code violations while doing an inspection would they take action on those as well, such as unsafe structures.

Ms. Miller said that was correct.

Commissioner Struckhoff said he wanted to clarify his earlier comment and said he was not suggesting that shower facilities were necessary but wanted to be sure it was in compliance with health department regulations.

Commissioner Rasmussen said he was not inclined to rewrite this for the applicant tonight. He felt if it was deferred it should be deferred for a few months to allow the public to review any new conditions. He said he really questioned the need for the Conditional Use Permit in the first place because he didn't realize camping was outlawed county wide.

Commissioner Culver agreed with Commissioner Rasmussen about revising the conditions tonight. He felt it may take more time working with staff, applicant, and neighbors to revise the conditions to address issues raised this evening. He said he could not support the Conditional Use Permit as written, especially for 10 years. He agreed with Commissioner Liese that having a 1 year trial period would be hard to make meaningful progress on perceived issues. He did not feel denial was the best option but said he could not support the Conditional Use Permit as written.

Commissioner Liese said he was disappointed when he saw Ms. Lowther's property today but hoped a year from now the property would show improvement. He said if a year from now the application comes back and there's a big difference in the property and the community doesn't support it he will be disappointed in the community. He said Ms. Lowther was an innovator, a hard worker, and dedicated to important principals, but felt the Conditional Use Permit should occur under much more friendly circumstances.

Commissioner Liese restated his motion of recommending denial of the Conditional Use Permit for camping at Pinwheel Farm.

Motion failed 6-4, with Commissioners Britton, Culver, Denney, Josserand, Struckhoff, and von Achen voting in opposition. Commissioners Graham, Kelly, Liese, and Rasmussen voted in favor of the motion.

Commissioner von Achen felt they were making this much more difficult than it should be. She felt they should tweak the conditions and act on it tonight. She said they could reduce the Conditional Use Permit to 5 years with an administrative review in 1 year, stipulate a length of term the campers could stay, and address the shower facilities as being something that could be installed in the future. She said the fact the farm didn't look appealing and tidy was not part of Planning Commission's purview to be passing judgment on how it looks. She said Planning Commission was tasked with looking at whether the land was suitable for camping.

Mr. McCullough said there would be some options even with the revision and tweaking of conditions that Planning Commission may want to review with more time. He said given the late hour and the fact the public may want to review the conditions, he recommended deferral for two months to allow some language options to be drafted.

Motioned by Commissioner Britton, seconded by Commissioner von Achen, to defer the Conditional Use Permit for two months with direction to staff to consider the things discussed this evening, such

as a shorter time limit on the Conditional Use Permit (1-2 years), a time limit on the length of stay for campers, some way to address bathing issues and maintenance of future showering facilities, and clearer language that the camping portion should not be operated as a for-profit enterprise.

Commissioner Rasmussen said he was concerned about length of time for the Conditional Use Permit and would prefer it proceed in baby steps by starting with something shorter than a year. He felt there should not be as many camping/trailer/tents units. He would prefer it limited to two camping units to try it out. He said he would also like additional information about sanitary facilities and being able to clean up from activities such as lambing operations and spreading manure on crops. He also said he would like to see duration on the camping.

Commissioner Liese said he would like staff to address, that by the neighbors standards, the Conditional Use Permit does not conform to the nearby property or the character of the area. He requested some evidence that the transition was not so stark. He said he would like some evidence that the conditions of the property would improve.

Unanimously approved 10-0.

PC Minutes 9/23/13

ITEM NO. 6 RS7 TO RM12; 2.119 ACRES; 2518 RIDGE CT (MKM)

Z-13-00288: Consider a request to rezone approximately 2.119 acres from RS7 (Single-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) District, located at 2518 Ridge Court. The portion of the property proposed to be rezoned is located on the east half fronting on Cedarwood Avenue. Submitted by Tenants To Homeowners, Inc., for Douglas County, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Mike Myers, Hernly Architects, provided a brief description of Tenants to Homeowners (TTH). He said TTH was a non-profit that developed permanently affordable housing through land leases for first time homebuyers. He said in addition to TTH also provided affordable rental options. He stated this project was tailored to downsizing toward the later years in life and would be active senior housing. He said the project would provide a high quality infill housing product that would be within walking distance to multiple businesses, such as CVS and Dillons. He said he was an East Lawrence resident and lived close to a TTH project at 11th and Rhode Island Street. He said he was so pleased with the TTH work on that project that he became a board member. He said the project would provide housing for a population that was underserved and would be located in an area of mixed housing types with infrastructure already in place. He stated the community was interested in attracting retirees and that it was well received by the Douglas County Commission. He said TTH held a few neighborhood meetings and received comments from the neighborhood.

PUBLIC HEARING

Ms. Mary Spencer said the housing project was in her backyard and she felt it would decrease her property value. She stated she did not want more multi-family rental homes in her neighborhood. She stated she would prefer single-family homes that would be occupied by the home owner. She said the majority of seniors would not be capable of walking to Dillons. She opposed this project and felt senior needs were already being met in the community. She felt other things could be put at the site to better the community. She said the County gave the land away for free and that she had to buy her land. She said she asked TTH if they had to purchase the land would they still be proposing this development and TTH said no. She said TTH was a non-profit organization but at some point it would become profitable.

Ms. KT Walsh, East Lawrence Neighborhood Association, said TTH was a non-profit and when they pay the property off the money gets funneled right back into the program to expand, not for a profit. She felt there was a terrible need for affordable senior housing and she was glad TTH was stepping up to meet it. She said there were at least 25 TTH homes and rental properties in East Lawrence and they had a tremendous record of property maintenance. She said she was in favor of TTH and the good work they were doing for the community.

Ms. Jean Affalter, 2543 Cedarwood, said the proposed field of land was her backyard. She described a video that she took of flood water coming from the field behind her house that damaged her house and property. She felt there were too many rental properties in her neighborhood and that of the 52 properties that fell within the 200' boundary 26 properties were rental properties. She said the neighborhood used to be a close knit community and it was gone because of all the rentals in the neighborhood. She felt the rental properties were the cause of shootings, robberies, and crime in the area. She asked Planning Commission to deny the proposal.

Ms. Gayle Sigurdson, Kaw Valley Older Women's League, discussed the benefits of infill development for the community. She said infill development would bring new life to an established neighborhood, increase the value of the surrounding properties, especially when replacing empty lots or abandoned buildings. She said it would make use of existing infrastructure and increase the use of established community services. She said TTH was an established, qualified, and competent developer that was part of the neighborhood. She said there was a need for senior housing in the community. She said senior housing would be low density with a quiet population with fewer drivers who will be looking for long term tendency. She said TTH was not an out of town landlord and they would maintain the development.

Ms. Bonnie Uffman said as an active senior in the community she was well aware of the need for affordable housing for seniors. She said TTH would be an asset to any neighborhood and she strongly encouraged Planning Commission to support the project.

Ms. Jean Stoneking said she had lived on Ridge Court for 25 years and she welcomed seniors to the neighborhood.

Ms. Jamie Bone, 2537 Cedarwood, said she did not receive notice. She felt the rezoning would reduce the value of her property. She felt the proposed lot would better serve the community as a park or recreational area and that children would not have a place to play without it. She felt more traffic would be unsafe for pedestrians due to no sidewalks on the street. She urged Planning Commission not to approve the project.

Mr. Sean Metzinger, 2537 Cedarwood, said he did not receive notice and that his realtor did not know of the project. He said he did not see the reason for more rental properties and that the US Census numbers from 2000 show 638 vacant units and 1,346 vacant rental units in 2010. He said independent websites show it's closer to 2,000 vacant rental properties in Lawrence. He said a new 120 unit retirement facility was expected to be built on the west side of Lawrence so there was no need for one in the central part of town. He felt the neighborhood was already high density with major thoroughfares surrounding it. He expressed concern about increased traffic and parking in the neighborhood. He asked Planning Commission to deny more rental properties in Lawrence.

Mr. Stan Hernly, Hernly Architects, said he was the original founding member of TTH. He stated the project would be infill development and would not extend new utilities. He said the number of units in the development was about half of what RM12 allowed, and barely above what was allowed with single-family number of units. He said the tenants would be quiet active seniors.

Mr. Don Hawley expressed concern about perpetual water issues and felt this project would make the problem worse. He said there were runoff issues from the lot, as well as water line breaks. He said he was never told about the project and that neighborhood meetings were not very productive. He felt that Ms. Rebecca Buford had a bitter attitude and that Mr. Mike Myers was the only one who had been receptive to his questions about the project. He said he was not in favor of the project. He thanked Mr. Mike Myers for his polite responses to the neighborhood.

Ms. Deborah McMullen, Tenants to Homeowners Board of Directors, felt the project would improve the overall neighborhood and increase property values in the area as well. She said the original intention for the land was for the use as a senior facility and now was the time to proceed with the goal. She felt the improvements made would be a positive step for the senior residents and the community. She said the Chamber was working to encourage seniors to remain and live in the community. She said seniors could bring economic stability to Lawrence in many ways and can anchor a neighborhood and improve the livability. She said TTH can enhance property values in

older neighborhoods. She said TTH improved the diversity of the community as a non-profit for the good of the whole community. She asked Planning Commission to approve the rezoning.

Ms. Spencer made an additional comment and said if she had known the neighborhood she would not have bought her house. She said a police officer sits in front of her house every day because of the drugs on Redbud Lane.

Mr. Dave Affalter, 2543 Cedarwood, expressed concern about water and sewer issues in the area. He said when he first looked at his house he saw the big open field out back and was sold on the house. He felt the lot would be a very good place for a park and has served as a park for years. He asked Planning Commission to consider a park or community garden for the property.

APPLICANT CLOSING COMMENTS

Mr. Matt Gough, Barber Emerson, Member of Board of Directors for TTH, said the Douglas County Commissioners gifted the property to TTH, subject to certain conditions. He said this was one of the conditions; requesting the property be rezoned to determine if the Planning Commission and City Commission wish to give approvals needed for the intended use. He said TTH typically focuses on creating owner occupied opportunities but that they were making an exception to that rule because the target market of active seniors have strongly said that they do not want to be home owners anymore. He stated the stormwater and sewer issues would all be resolved as part of the site planning process. He said the property would be subject to a deed restriction and must be used for affordable housing for a period of 15 years, according to the conditions place by the County Commission. He said he was proud of TTH for all their hard work. He quoted County Commissioner Jim Flory as saying *"If the property is going to be developed eventually I don't think you will find a better neighbor to develop it. We hate to lose that little open space but it is being lost to an excellent cause."*

COMMISSION DISCUSSION

Commissioner Josserand asked if the typical tenant would be someone coming out of the sale of a principal residence or from another rental situation.

Mr. Gough said the expectation was that the majority of the tenants may be coming from the sale of a home but because they were targeting a specific income segment they could not say for sure what their situation would be. He said they were not looking for the lowest end of the spectrum, such as Section 8, but that it was more targeted toward the middle working class.

Commissioner Rasmussen inquired about 6.2 versus 6.6 dwelling units per acre.

Mr. Gough said the purpose of the RM12 was the ability to have more of an apartment type setting with a site plan that would include a private street. He said it was laid out with single-story duplex style with a density lower than what RS7 would permit.

Commissioner Rasmussen said the difference was 13 living units versus 14.

Mr. Gough said it was intended to look and feel like a single-family neighborhood.

Commissioner Liese asked staff to respond to the comments made regarding property values.

Mr. McCullough said those were frequent comments on any number of land use development requests. He said it was difficult to say and that time tells typically what the neighborhood values do because there were so many different variables. He said one project doesn't typically drive that

issue. He said staff's purpose was to seek for compatibility development so there would not be a big shift in property values one way or the other. He said generally speaking staff does not study it to be able to advise Planning Commission about whether a project would work one way or the other regarding property values. He said there was no study or fact basis to judge it by.

Commissioner Liese asked if Planning Commission should not consider it because they don't have facts either way.

Mr. McCullough said there was no appraisers report or study one way or the other.

Commissioner Liese asked staff to respond to the comments made about green space being a park.

Mr. McCullough said any vacant property was subject to development, whether it was developed as a park or otherwise. He said the expectation is that it will be developed, especially if it's within the city and has urban infrastructure to it.

Commissioner Liese asked staff to address the comments made about not being adequately informed about this.

Mr. McCullough said TTH did have several meetings. He said per State Statute the City does a mailed notice, legal notice published in the newspaper, and public notice signs posted at the site.

ACTION TAKEN

Motioned by Commissioner Rasmussen, seconded by Commissioner Liese, to approve the rezoning request for approximately 2.1 acres from RS7 (Single-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) 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 subject to the following conditions:

- 1) The lot at 2518 Ridge Court (Lot A, Block 7, Southridge Addition No. 3) will be divided through the Minor Subdivision process to create a separate lot for the property that is the subject of this rezoning request prior to the publication of the rezoning ordinance.
- 2) The RM12 Zoning is conditioned to limit the permitted uses to single-story *Duplex* dwellings.

Unanimously approved 10-0.

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ITEM NO. 7 RM12D-UC TO CS-UC; .27 ACRE; 804 PENNSYLVANIA ST (MKM)

Z-13-00287: Consider a request to rezone approximately .27 acre from RM12D-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District to CS-UC (Commercial Strip with Urban Conservation Overlay) District, located at 804 Pennsylvania St. Submitted by Bartlett & West, Inc., for Ohio Mortgage Investors LLC, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Darron Ammann, Bartlett & West, felt this was a great project for the area.

Mr. Tony Krsnich said he came up with the term bistro to soften the word bar. He said it would be similar to a coffee hangout with local pre-made food, iced tea, beer, and cocktails. He said some of the concerns received were about it turning into another fraternity bar like The Wheel. He said the general manager of the Warehouse Arts District put a petition together of people who were in favor of the project. He said adjacent property owners were in support of the project. He said there was 97% support from the Poehler residents that they talked to. He said he has heard from many of the people who live and/or work in the area that they want a place to go. He said he did not think he would be able to achieve the 55% of gross sales from food during the first year and that it would probably take closer to two years to achieve that. He said Option 2 in the staff report was closer to what he intended to do but that he never planned to have a big loud outdoor venue. He said he disagreed with the outdoor seating limitation with Option 2 and hoped there could be more outdoor seating without amplified music. He said he had no intention to be open until 2:00am. He said instead of fighting with the East Lawrence Neighborhood Association, who has supported him in the past, he would prefer to attempt to try and make the 55% non-alcoholic revenue. He said at this point it will be a long shot and he was not doing this from a revenue generating standpoint but it was one of the pieces to further the progress in protecting the investment in the Warehouse Arts District. He said in the event that he would come up short at the end of the two year period he would like to take a look at doing something closer to Option 2 in the future, if possible.

PUBLIC HEARING

Ms. KT Walsh, East Lawrence Neighborhood Association, said Mr. Krsnich was amazing with historic preservation and this was the first serious hitch they had run in to. She said they were in favor of Option 1, the 55% food sales rule. She said their reasoning for that was because it was a residential area and they had fought for years not to become an expansion of downtown. She said they told Mr. Krsnich at a meeting that they were pro-bar and would like an establishment to eat and drink at. She said she frequently sees the Allen Press employees walking downtown to eat and drink. She said the neighborhood association was in support of the project but that they would like to see the 55% food sales rule stuck to.

Commissioner Jossierand asked if Mr. Krsnich meet with Poehler residents as a group.

Ms. Leslie Soden, resident of the Poehler building, said no.

Mr. Krsnich said the building manager was in charge of meeting with the Poehler residents.

Mr. Michael Almon said he attended the September 9th East Lawrence Neighborhood Association meeting and he agreed that the area was in support of a restaurant opportunity and option for

alcohol. He said one thing that came up at the meeting was that Mr. Krsnich wanted to meet the concerns of the neighborhood. He said Mr. Krsnich has shown good faith by offering the condition of meeting the requirement for 55% food sales or offering to condition the deed. He felt Planning Commission should consider conditional zoning.

Mr. John Gasgone, 941 Pennsylvania, said he lived a block from this property and he saw the potential for the neighborhood to grow into a mixed use urban area. He said a project like this was exactly what he was looking for in his neighborhood. He said he supported Option 1. He said having any restrictions on a business like this made an already challenging business more difficult and this was risky on Mr. Krsnich's behalf. He said he did not see an issue with noise or other things associated with this type of establishment.

APPLICANT CLOSING COMMENT

Mr. Krsnich said if he takes this chance he believed it would take 2 years. He said if at the end of those 2 years and he comes up short he would like to refer back to Option 2 that he chose to pass on even though it's 100% what he wants to do.

COMMISSION DISCUSSION

Commissioner Culver asked staff if they could do a 2 year window and then revisit the issue if needed in the future.

Mr. McCullough said typically with the food sales requirement downtown a business gets a year to prove themselves and then submit the gross receipts. He said if they don't meet it during that first year staff will try and work with them to try and comply with the regulation. He said Mr. Krsnich was asking to be able to do that within 2 years instead of 1 year.

Mr. Randy Larkin, staff attorney, said this would be a condition for the property instead of a requirement and that a 2 year recommendation could be made to the City Commission.

Mr. Krsnich said one of the reasons he believed this could be a variation from Massachusetts Street was because of the zoning and restriction that was done voluntarily by the previous developer.

Commissioner Josserand suggested deferring the item to allow Mr. Krsnich time to meet with the Poehler building residents.

Mr. Krsnich said he personally spoke with 15 residents and preferred a more personal approach by reaching out to them individually. He said the building manager met with approximately 52 residents as well. He said there was nobody that cared about his tenants and that area than him. He said they were going to hold a group meeting last week but it got rained out. He said if he did not have the support of the residents/employees of the area he would not be proposing the project.

Commissioner Rasmussen said it did not concern him that there was no group meeting and felt meeting one on one with the tenants was more effective.

Commissioner Liese agreed with Commissioner Rasmussen and felt Mr. Krsnich did his homework in knowing whether he would get the support he needed in the community.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Rasmussen, to approve the rezoning request for approximately 0.27 acre from RM12D-UC to CS-UC with the restrictions of uses

established by Ordinance 8054, with the condition requiring that 55% of the total sales receipts be from food sales be revised to allow a 2 year time-frame for compliance.

Commissioner Britton said he would support Option 1 or Option 2 because they both get to the end result.

Ms. Walsh said the difference between having a big group meeting is that a group provides empowerment to individuals who might feel intimidated by their landlord approaching them individually.

Commissioner Liese agreed with Ms. Walsh. He said the applicant would pay a dear price if he hasn't reached out to the tenants.

Ms. Soden said the two options were new and not part of their meeting.

Commissioner Culver suggested the neighbors voice their opinion to the City Commission.

Mr. Krsnich said he was agreeing with the recommendation of the East Lawrence Neighborhood Association option.

Motion carried 9-1, with Commissioner Josserand voting in opposition.

Mr. Krsnich said Ms. Walsh asked what would happen at end of the 2 year period.

Mr. McCullough said it would be enforced how 1 year grace periods are enforced. He said it would not automatically fall back to Option 2. He said there would be a process of the applicant having avenues to comply with the condition. He said one of those options could be going through the zoning process to amend the conditions.

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ITEM NO. 8A IG TO RM32-PD; 1.3 ACRES; 900 DELAWARE ST (MKM)

Z-13-00286: Consider a request to rezone approximately 1.3 acres from IG (General Industrial) District to RM32-PD Overlay (Multi-Dwelling Residential with PD Overlay) District, located at 900 Delaware St. Submitted by Bartlett & West, Inc., for Provident Family, LP, property owner of record.

ITEM NO. 8B PRELIMINARY DEVELOPMENT PLAN FOR 9 DEL LOFTS; 900 DELAWARE ST (MKM)

PDP-13-00299: Consider a Preliminary Development Plan and associated modifications for 9 Del Lofts, a multi-dwelling residential development with 43 dwelling units, located at 900 Delaware St. Modification requests are related to the off-street parking requirements, and setback standards. Submitted by Bartlett & West Inc., for Provident Family, LP, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented items 8A and 8B together.

APPLICANT PRESENTATION

Mr. Tony Krsnich said the project would provide 43 rent restricted apartment units. He said the Poehler Lofts set a national record of leasing in 11 hours. He said the 9 Del Lofts would probably be leased within 1-2 days of receiving certificate of occupancy.

PUBLIC HEARING

Ms. KT Walsh, East Lawrence Neighborhood Association, said they supported this project. She said they appreciated Mr. Krsnich adding three bedroom apartments to allow more family friendly options. She the intersection of 9th and Delaware would need to be looked at in the future because a lot of the tenants would be parking there and crossing the street. She said there was talk about bringing the rails to trail right in front of the apartment and not all of the neighborhood had an opportunity to comment on that yet.

Mr. Michael Almon, Sustainability Action Network, said he was a member of the Burroughs Creek Park and Trail Task Force that came up with the Burroughs Creek Corridor Plan adopted by Planning Commission and City Commission in 2006. He said the trail should continue to the north to a desired trail head at Hobbs Park and in the future allow the trail to continue farther to the north toward downtown and points other ways. He said it was an ideal opportunity for a public/private partnership to complete this segment of the Burroughs Creek Trail and make connections with this district to downtown. He supported this project.

Mr. John Gascon said he supported the project and felt that 9th and Delaware was an important hub and valuable corridor from downtown.

COMMISSION DISCUSSION

Commissioner von Achen inquired about the substantial gain of impervious area.

Ms. Miller said it was a completely undeveloped lot.

Commissioner von Achen asked if there were any attempts to mitigate that.

Ms. Miller said the applicant was below the total impervious that was allowed at 61.5% of the site so no mitigation suggested.

ACTION TAKEN on Item 8A

Motioned by Commissioner von Achen, seconded by Commissioner Graham, to approve the rezoning request for approximately 1.3 acres from IG (General Industrial) District to RM32-PD (Multi-Dwelling Residential with Planned Development Overlay) 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.

Unanimously approved 10-0.

ACTION TAKEN on Item 8B

Motioned by Commissioner von Achen, seconded by Commissioner Graham, to approve the requested modification to allow the provision of 60 parking spaces on the property rather than the 73 required by Code per Section 20-1107(i) and approve the requested modification to allow a 20 ft front yard setback, rather than the 25 ft required by Code per Section 20-1107(g). To approve the 9 Del Lofts Preliminary Development Plan based upon the findings of fact presented in the body of the staff report and subject to the following conditions:

1. Provision of a DSSA and a Drainage Study/Grading Plan per the approval of the City Utility Division and the City Stormwater Engineer, respectively.
2. City Utilities Division approval of the proposed sanitary sewer line.
3. Alternative Compliance Landscaping will be reviewed and determined with the Final Development Plan.
4. Obtain and record an access easement to allow access from the north through property owned by Ninth and Delaware LC.
5. Provision of a revised Preliminary Development Plan with the following minor technical changes:
 - a. Note the entity or party that will own and maintain the common open space.
 - b. Delineate the common open space on the plan and note the percentage of the site which is included. Minimum of 20% of the site is required.
 - c. Revise PDP Plan Note No. 14 to list the modification being requested from the required off-street parking and to refer to the change requested to the setback as a 'modification'.
 - d. Revision of water service items per the City Utilities Engineer's approval.
 - e. Addition of revisions per the Fire Code Official's approval.
 - f. Show the access easement on the land to the north and note the Book and Page Number on the plan.

Unanimously approved 10-0.

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MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

Commissioner Liese reminded Planning Commissioners about the January 24th retreat.

Commissioner Culver reminded Planning Commissioners about the October 9th Mid-Month meeting regarding Planning 101.

Commissioner Liese said he would be absent from the Mid-Month meeting.

ADJOURN 1:08am