

League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

September 25, 2005

Dr. Terry Riordan, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044

RE: MISCELLANEOUS ITEM NO. 1A: RECONSIDERATION OF REZONING REQUEST; A TO B-2; SOUTHEAST CORNER OF HIGHWAY 56 AND 59

Dear Chairman Riordan and Planning Commissioners:

We believe that the reconsideration of this issue goes beyond the reasoning of the County Commission for looking upon this rezoning favorably. We believe that it also concerns the issue of consistency by the Planning Staff when interpreting the goals and policies of the Comprehensive Plan, *Horizon 2020*. The County Commission, in their decision, placed emphasis on the Planning Staff recommendation; therefore, a professional and consistent interpretation by staff is extremely important. Each interpretation of the Plan made by the staff on which they base recommendations constitutes a precedent for future interpretation of *Horizon 2020*.

In the case of (Z-04-30-05), this request has been interpreted by staff to be part of an existing commercial area. In the explanation for positive recommendation of the commercial rezoning to B-2 of 34+ acres of the southeast corner of Highway 56 and 59, the Staff Report extracted two provisions from *Horizon 2020* that dealt specifically with county commercial development:

- Require new Commercial Centers in the unincorporated portion of Douglas County to be located at the intersection of two hard surfaced County Routes or the intersection of a hard surfaced County Route and a state or federally designated highway and no closer than four miles to another Commercial Center in the Unincorporated portion of Douglas County.
- Areas that are already zoned commercial and located at the intersection of a hard surfaced County Route and state or federally designated highway should be expanded to serve any increase in demand for commercial space in the county.

The other specific policies in the Comprehensive Plan dealing with county commercial development were not included in the consideration until requested by the Planning Commission in the Study Session. These were:

Policy 3.10: Criteria for Commercial Development in Unincorporated Areas

- A. Existing commercial areas that are located at the intersection of a hard surfaced County Route and a state or federally designated highway should be allowed to expand if the necessary infrastructure (water, road, approved wastewater treatment facility, etc.) is available.
- B. Encourage new commercial development at key access points on major corridors only if served by adequate infrastructure, community facilities and services.
- C. The commercial gross square footage of a development shall be limited to a total of 15,000 gross square feet.
- D. The only new commercial area shall be located at the intersection of either US-56 and K-33 or US-56 and County Route 1061.

In the review of the initial 7+ acres recently rezoned to county commercial use on the north side of Highway 56, the planner stated that the *entire* commercial node, if extended to an equal amount to the south side of Highway 56, would be limited to 15,000 gross square feet of commercial development. This would mean that in this current request the 34+ acres plus this 7+ acres would be limited to 15,000 square feet of commercial development in order to conform to the Comprehensive Plan. The county zoning regulations are of the conventional zoning type, meaning that any of the permitted uses listed in the regulations for that district would be allowed and cannot be individually conditioned or prohibited. Because of the nature of conventional zoning, if the county were to add 34 acres or—more accurately, an area of unknown acreage—to that already there, once zoned it would not be legal to put this type of restriction limiting development on the 34-acre tract.

Consequently, it appears to us that the criteria limiting county commercial development have been breached by this current interpretation to a point that there is no longer any limiting recommendation on the size of county commercial developments. When this happens, the county no longer has a guide for making important commercial zoning decisions. We regard this situation as very serious.

In addition, at this time there is no “adequate infrastructure, community facilities, and services” for this area. Most notably, there is no adequate wastewater treatment. Planning Staff has recommended denial in recent requests for development in the city for which there would have been no adequate wastewater treatment. The lack of consistency in staff recommendations creates the precedents that make our comprehensive plan ineffective in the critically important requirements for county commercial development and infrastructure.

We encourage you in your examination of County comprehensive planning policy, and hope that your intended meanings will be implemented.

Sincerely yours,

Alan Black, Chairman
Land Use Committee

Caleb Morse
LWV L-DC Board of Directors