



LEAGUE OF WOMEN VOTERS®  
OF LAWRENCE/DOUGLAS COUNTY

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JUN 24 2013

City County Planning Office  
Lawrence, Kansas

June 23, 2013

To: Dr. Bruce Liese, Chair, and Lawrence/Douglas County Planning Commission

**5. ITEM NO. 6: TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; RETAIL MARKET STUDY**

We would like to commend the Planning Staff for the most recent general Retail Market Study that was presented to you in the May, 2013 Agenda, as Item No. 3. We believe that it was very informative on the current situation in Lawrence. However, we have some major questions as to the value of such studies when they are actually applied to rezoning cases in Lawrence. We have some serious questions on how you propose to apply these new regulations. Our questions are italicized in bold face. We pose our questions following each proposal of the new regulations as they are outlined in the Staff Report which we quote below, as follows:

"Therefore, staff is proposing the following:

1) Move the requirement for a retail market review to Section 20-1303 (g) under the decision-making criteria for zoning map amendments.

" a. Zoning map amendments will have an analysis of the projects' potential impact on the retail market included in staff reports."

***Question: If analysis proves a negative effect, what triggers a recommendation for denial?***

"b. The analysis would be completed for zoning map amendments that would create more than 100,000 square feet of retail in the City."

***Question: Isn't that too high a threshold to trigger a review? Doesn't it depend on the actual use? Wouldn't some uses have more of a negative impact than others?***

"c. Applicants will no longer need to provide an independent, project specific retail market study."

***Question: But regardless, shouldn't their potential impact be included in the staff report on the market?***

"d. Remove the thresholds of 8% for the vacancy rate and 100 square feet per capita.

***Question: What parameters do you plan to use to determine overzoning and/or oversupply of either a specific retail use or additional retail commercial land use in general?***

"2) In Section 20-1107, retain the definition of retail, and the requirement that staff will produce a city-wide

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market report biennially.

***Question: When major additions are made such as Menards, how can that be registered if another major retail proposal comes next year, and this year's study was made before Menards, but is required to be used to measure the impact?***

Another major point is that **tax returns**, rather than **vacancy rates** was stated in one discussion on how to determine oversupply of retail commercial zoning by the committee studying the issue for Horizon 2020 (then to be written). We suggest that this should be used as a measure to determine demand rather than using vacancy rates exclusively. In our previous letter on this issue to you in May of this year, our most important question to you was what specific directions are given to the staff that instructs them to recommend denial of a retail zoning application? We still are lacking a definitive statement on this.

We hope that you will seriously consider our questions and make reasonable modifications to the Land Development Code that will render it more effective when responding to retail commercial applications.

Sincerely yours,

*Cille King*

Cille King  
Co-President

*Alan Black*

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**Re:                   ITEM NO. 6 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; RETAIL  
MARKET STUDY (AAM)**  
**TA-12-00205:** Consider a Text Amendment to the City of Lawrence Land  
Development Code, Chapter 20, Article 11, to modify the requirements for a Retail  
Market Study. Initiated by City Commission on 8/21/12.

Dear Members of the Lawrence Douglas County Metropolitan Planning Commission,

The requirement for a developer-funded independent market analysis has never worked. The market studies are not independent. Their results are dictated by the developers. The reports always make a favorable recommendation for the developer's proposal. Making this favorable recommendation often means misrepresenting or ignoring the facts.

Over time the staff has greatly improved the quality of its reports. Unfortunately, the staff is hampered mandates that they report on two unreliable statistical factors, vacancy rates and per capita square footage. Retail space is often occupied by underperforming uses because an owner would rather have the space occupied than vacant. Thus, vacancy rates, if used as a measure of market health, will often lead to false conclusions. Vacancy rates provide some information, but generally, vacancy rates are viewed to corroborate findings made with other, more reliable indicators. Similarly, there is no

generally accepted standard for what is a healthy number of square feet per capita. Thus, there is no good way to assess the health of the Lawrence market through such a measure.

The Planning Commission should look carefully at the relative growth of supply and demand over time. The staff possesses the data to do this through: 1.) On the demand side, the sales tax data that come to the City on a monthly basis, and 2.) on the supply side, the square footage of the stock of retail space from the Tax Assessor's office.

The supply and demand data would permit the staff to monitor the flow of dollars per square foot by type of vendor (e.g.: grocery, apparel, etc.) and by district (e.g.: downtown, South Iowa Street, etc.) In normal economic conditions, the inflation adjusted revenues per square foot should remain relatively stable. If a market becomes overbuilt, the revenues per square foot will fall, and with this fall will come disinvestment, a lack of upkeep of the properties, and at the extreme, blight. If a market is in a shortage condition, the revenues per square foot will rise, and with the rise will come higher lease rates and feasibility problems for marginal businesses that are unable to absorb these higher lease rates. If the market experiences flat inflation-adjusted revenue per square foot, it will achieve long-term stability in occupancy, lease rates and reinvestment in the properties, all of which are traits of healthy markets.

It is important to note that multiple market conditions can exist simultaneously. Grocery stores can be in a balanced condition. Home improvement stores can be overbuilt. While apparel stores may be in shortage.

The Planning Commission should receive periodic reports from the staff to guide it in its decision making. Without such guidance, the Planning Commission cannot make well-informed decisions.

Recommendation:

Support the recommended text amendments.

Demand more from the planning staff and use the information obtained from them to guide the pace of growth of the market so that it finds equilibrium in a healthy condition.

Sincerely,

A handwritten signature in black ink, appearing to read "Kirk McClure", with a horizontal line extending to the right.

Kirk McClure