



PLANNING COMMISSION MEETING
December 13, 2010
Meeting Minutes

December 13, 2010 – 6:30 p.m.

Commissioners present: Blaser, Burger, Culver, Finkeldei, Harris, Hird, Liese, Rasmussen, Singleton

Staff present: McCullough, Stogsdill, Day, Leininger, J. Miller, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of November 15, 2010.

Commissioners Blaser and Rasmussen said they would abstain from the vote since they were absent from the November meeting.

Commissioner Harris said the discussion regarding language on watersheds did not make sense the way it was written.

Mr. McCullough said it could be revised for clarification.

Motioned by Commissioner Liese, seconded by Commissioner Hird, to approve the November 15, 2010 Planning Commission minutes.

Approved 7-0-2, with Commissioners Blaser and Rasmussen abstaining.

COMMITTEE REPORTS

No reports from any committees that met over the past month.

COMMUNICATIONS

Mr. Scott McCullough, Planning Director, reviewed new attachments/communications that were posted to the online Planning Commission agenda after the initial posting date.

No written action of any waiver requests/determinations made to the City Engineer.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- No ex parte.
- Abstentions:
Commissioner Finkeldei said he would abstain from Item 2 as he currently serves on the board.

PC Minutes 12/13/10

ITEM NO. 1 CONDITIONAL USE PERMIT; 1724 N 780 RD (SLD)

CUP-9-4-10: Consider a Conditional Use Permit for Jayhawk Excavating, truck storage, in the NW ¼ of S10-T14-R20, located at 1724 N 780 Road, on approximately 20 acres. Submitted by Allen and Teresa Rockhold, property owners of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Allen Rockhold, was present for questioning.

Commissioner Liese inquired about the number of accessory buildings without a Conditional Use Permit.

Ms. Day said that was a determination that came from the County Administrators Office. The applicant had a preliminary hearing with one of the County Commissioners as part of the appeal process and the determination from that Board was that a Home Occupation was limited to a certain amount of square footage for those accessory buildings. There are a number of accessory buildings onsite and it was not the applicant's intent to use those buildings for the business. County Administration Staff found that this was a difficult matter to enforce so they have been rigid in their interpretations when talking about accessory structures and Home Occupations.

Commissioner Liese asked what the neighbors thought.

Mr. Rockhold said he tried to contact all the neighbors and they were all fine with it. He said one of the neighbors was present in the audience. He said some of the neighbors were scared by the wording of 'truck storage' used in the staff report.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Rasmussen, seconded by Commissioner Singleton, to approve a Conditional Use Permit for the truck storage building at 1724 N 780 Road in the NW¼ of section 10-14-20 and forwarding of this application to the County Commission with a recommendation for approval, based upon the findings of fact presented in the staff report, and subject to the following conditions:

1. Approval of the truck storage use, as long as the use is associated with the Home Business, for a period of ten years expiring on July 1, 2020.
2. Provision of a copy of a permit approved by the County Public Works Department for "Over Size/Over Weight Vehicles" prior to the commencement of the operation from 1724 N 780 Road.
3. Submittal of a revised site plan to show the following revisions and/or additions to the site plan notes as follows:
 - a. The Conditional Use Permit is approved for 10 years and shall expire July 1, 2020 unless a request for an extension is submitted for approval by the Board of County Commission prior to that date;
 - b. A review of the Conditional Use Permit in five years, on or before July 1, 2015, by county staff for compliance with the conditions of approval.

- c. The conditional use permit is limited to the use only for the storage of Jayhawk Excavating equipment and personal property of the owner/resident of 1724 N 780 Road.
- d. Exterior storage of business equipment and materials shall be restricted to the areas shown on the face of the site plan.
- e. Dumping of construction debris is prohibited on this site.
- f. Wholesale and retail sales are prohibited on this site.
- g. Maintenance and repair of equipment shall be limited to that equipment owned by Jayhawk Excavating and personal property of the owner/resident of 1724 N 7800 Road.
- h. Exterior lighting proposed to be added to the site to serve the business shall be approved by the County Zoning Administrator. All lighting shall be shielded and directed downward.
- i. The applicant is responsible for dust control between the applicant's residence/place of business and the nearest paved road. Dust control measures shall be coordinated with the Township Board. Depending on weather and the time of year, different types of dust control measures may be required to mitigate dust. The Board of County Commissioners retains the right to review the dust prevention methods based on complaints from County Public Works, Township Staff, or neighbor calls to determine if the methods used are sufficient and to direct the applicant to mitigate dust disturbance for future events through an approved treatment for dust control.

Unanimously approved 9-0.

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ITEM NO. 2 SPECIAL USE PERMIT; 345 FLORIDA ST (SLD)

SUP-10-7-10: Consider a Special Use Permit for a daycare facility located at 345 Florida Street, on approximately 1.065 acres. Submitted by Peridian Group, Inc., for DCCCA Inc., c/o of Elizabeth B. Ballard Community Center, Inc., property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Aaron Gaspers was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Hird, to approve SUP-10-07-10, a Special Use Permit for a day care center located at 345 Florida Street, based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Execution of a Site Plan Performance Agreement.
2. Publication of an ordinance per Section 20-1306 (j).
3. Provision of a copy of the Health Department license prior to operation to be included in the record file of this application.
4. Provision of a revised site plan to include the following notes and changes:
 - a. Application shall be subject to review by Staff prior to the addition of before and after school care programs.
 - b. Provision of a revised site plan to show additional landscaping in the interior parking lot islands to include two trees and 6 shrubs.
 - c. Provision of a revised legal description to include the new minor subdivision.
 - d. Revise general note 6 on the face of the plan to indicate that the building is vacant.
 - e. Revise drawing to note the portion of the sanitary sewer main that will be abandoned in place under the new building.

Unanimously approved 8-0-1, with Commissioner Finkeldei abstaining.

PC Minutes 12/13/10

ITEM NO. 3 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; RM32 DISTRICT (MJL)

TA-6-8-10: Consider Text Amendments to the City of Lawrence Land Development Code, Chapter 20, related to the density and development standards in the RM32 (Multi-Dwelling Residential) District including potentially increasing the maximum dwelling units per acre limit in that district.
Initiated by City Commission on 7/13/10.

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Liese asked how many separate buildings on average there were in the Oread neighborhood for the one acre space.

Ms. Leininger said she did not have that calculation.

Mr. McCullough said it applied in the RM32 District and there were a variety of structure types in the RM32 Districts, but all were regulated by the zoning standards. He said staff addressed the request in terms of looking at a calculable density that takes into account the variation and number of bedrooms in a unit.

Commissioner Liese asked if there were three separate buildings would the number of units inside each building affect the number of units the third building could have.

Mr. McCullough said it could if they were all combined into one development on a lot. It's calculated on a per lot basis.

Commissioner Liese asked if it was proportionate to one acre.

Mr. McCullough said yes.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, said there were no bonuses just a better mix. He said he was a little confused by the League of Women Voters letter regarding higher density. He said it was just a different way of configuring what could already be put on the property.

PUBLIC HEARING

Ms. Rose Moore said she owned rental property in the Oread neighborhood. She said a house that she owned, 916 Ohio, would be crippled if the acre thing would be approved. She expressed great concern about parking.

Commissioner Singleton asked Ms. Moore if she was speaking about the boarding house issue.

Ms. Moore said she was speaking for a lot of people who own property in the area and feel that parking is an issue.

Commissioner Rasmussen asked if Ms. Moore was concerned that this would require her to add parking.

Ms. Moore said she was concerned about not being able to sell the house in the future due to restrictions.

Mr. McCullough said this would not have any proactive effect on anything that exists today. What it does is provide an equation in the Code that allows staff to look at how density is calculated. He said parking standards still remain the same with this Text Amendment.

Ms. Moore said houses with alleys do not have the ability to add parking.

Mr. Dennis Brown, Lawrence Preservation Alliance (LPA), discussed possible unintended consequences of the amendment in terms of its possible damaging effects to existing single-family dwelling housing units. He said in the staff report staff agreed that this was a valid concern. He said it was difficult to promote preservation ideals in a neighborhood that's zoned RM32. He said there were lots more valuable than the existing original housing that sit on them. He said the Oread neighborhood was already the most densely developed neighborhood in Lawrence and this proposal increases the density. He stated a few weeks ago a City Commissioner pulled him aside at a community event and discussed a concern he had about the Oread neighborhood. He said the City Commissioner's own personal feeling was that they were reaching a tipping point, a point of no return, in losing the existing housing stock in the Oread neighborhood. Mr. Brown said a major goal of the new Oread Neighborhood Plan was to preserve existing housing stock. He said LPA understood the modern need for one and two bedroom apartments. He said they believe there are older apartment complexes and multi-family dwelling units in the Oread neighborhood that need redevelopment and could be incentivized. He felt that Lawrence was doing itself a great disservice if in allowing that redevelopment to occur they further incentivize the destruction of original single-dwelling housing. He asked the Planning Commission to direct staff to add language to the Text Amendment so that it only applies to projects that seek to replace structures originally built as multi-family dwelling units. He said projects that demolish original single-dwelling units in Oread deserve disappointment, not an added bonus of increasing the density.

Commissioner Hird said he thought the staff report said that this would not increase density, simply change the way the density was calculated based on the number of bedrooms. He said he read the League of Women Voters letter and it made the assertion that this would increase density in RM32. He asked Mr. Brown to help him understand how this could happen.

Mr. Brown said it was a little difficult for him to understand that point too, but he felt it was something the development side was requesting to help them out. He said LPA's point was that there were places in the Oread neighborhood where the help would be appropriate and others where it would not be.

Ms. Candice Davis said she lives in the Oread neighborhood and owns two rental properties. She said changing RM32 was confusing. She said she was uncertain of the impact to the entire neighborhood and would like to see more studies, investigation, and consideration. She said the Oread Neighborhood Plan was just ratified and in that there were areas designated for higher density and this was not one of them. She said it was her understanding that this Text Amendment was for a request to change one project at 11th & Indiana.

Commissioner Harris asked if the neighborhood association has discussed this issue.

Ms. Davis said she did not know since it was a new association of largely landlords.

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods (LAN), thanked Mr. Werner for coming to a LAN meeting to help explain some things. She also thanked Ms. Leininger for attending the meeting. She asked if there was a conceptual plan that was submitted with the Text Amendment. She asked how they resolved the plan to fit and to fit all over. She said in the past she has heard several commissioners say that the neighborhood always expect there might be bad development. She said LAN exists because of the occasional bad development. She stated that in writing a policy balance needs to be maintained to make sure there are no unintended consequences and everything has truly been looked at. She went over the nine review making decision criteria.

Commissioner Rasmussen said it sounded like Ms. Klingenberg thought this was a rezoning.

Ms. Klingenberg said it was a Text Amendment to change zoning and that there were neighborhoods that were never notified about this.

Commissioner Liese said what he was most struck by when he read this proposed amendment was that nothing would change except for the number of units. He said regarding Ms. Klingenberg's question of unintended consequences, density and dimensional standards have to be maintained. He said he was curious about her thoughts about everything that's being maintained and what it would take within that to assure her that this isn't such a major change.

Ms. Klingenberg said her questions come from neighborhood concerns and the staff report. She said she wanted to make sure this was not rushed through. She said there were some neighborhoods that didn't even know about this until December 2nd. She wondered how the density would not be increased if the number of kitchens, dining rooms, and restrooms were doubled. She said it may be the same number of bedrooms but doubling the number of other rooms.

Commissioner Harris asked if her concern was that the buildings would be bigger to accommodate the extra room for the kitchens and living rooms.

Ms. Klingenberg said it was because nobody knew what it will look like and nobody had seen the conceptual plan.

Commissioner Harris said in her opinion it seemed like the density wasn't being increased but rather increasing the options for obtaining the density allowed in the Code.

Ms. Klingenberg said she did not think the neighbors were as concerned about what the inside of the house looked like.

Commissioner Harris asked how many of the buildings in the Oread neighborhood were zoned RM32 and currently had that density now.

Ms. Leininger showed a map on the overhead projector.

Commissioner Harris asked if theoretically everything else could be expanded, demolished, and built to the RM32 density sometime in the future.

Mr. McCullough said that could be done today. He stated the language in the staff report reflects the assumption that this would add marketability to the Code and the ability to basically cater and serve a wider range of customers for the industry because of an ever-changing industry. He said there was a market for studio and one bedroom apartments with the college crowd and staff was trying to let the Code provide some flexibility so as not to push and require four bedroom apartments and allow

the ability to serve the students in the RM32 areas. He said with the increased marketability perhaps comes some pressure to consolidate lots but that staff could not put objective facts to that discussion so a lot of these were based on assumptions about how the apartment complexes serve the community and students. From a Planning perspective it does not harm the neighborhood because it was not increasing density.

Commissioner Harris inquired about previous discussions of desired diversity of housing stock in Oread. She wondered if there was a difference of concept of that in the community. She wondered if neighbors would like to see existing housing stock stay there in its current form, which is not RM32, although it is zoned RM32. She asked if the Planning perspective of diversity of housing stock was different in that it was related more to the diversity of types of structures that could accommodate RM32 density.

Mr. McCullough said in terms of the Oread Neighborhood Plan the diversity in housing stock comes from the structures, such as single-family type structures, apartment complexes, Greek housing, and a number of different types of housing structures that serve different types of users.

Commissioner Harris asked if Planning envisioned that the single-family houses in the Oread that are now zoned RM32 would eventually go away.

Mr. McCullough said there were several factors working on developments outside of the footnote proposed tonight. He said there was historic review if in the environs and the majority of Oread was in some environs of a listed property. He said there was also the Oread Plan itself factored into development. He stated the overlay districts would affect development as well. He said maximum density was one factor but in his opinion there were much stronger factors working on developments that outweigh with how density was calculated.

Commissioner Harris asked if zoning trumped everything else.

Mr. McCullough said not necessarily. Zoning was one factor but historic review was a major component of development in the environs and this area in particular.

Commissioner Hird inquired about the issue of pressure to combine lots and asked what steps were involved in combining a lot in the Code today.

Mr. McCullough said if it's in the historic environs review then it would go to Historic Resources Commission. To replat the lots it would involve demolition permits to remove the existing structures, and then whatever structures were placed back on the site would require another historic review. Site planning and other Development Code standards would need to be met as well.

Commissioner Hird said there was a lot of interest in preserving single-family housing stock in the Oread neighborhood. He asked how many single-family houses were located in the RM32 district.

Ms. Leininger said she did not have a number for him but that it was one of the maps in the Oread Neighborhood Plan that showed the existing land use. She stated there was a mix of multi-family, duplex, and single-family structures in the RM32 areas of the neighborhood. She said that's part of what the plan speaks to is that mix, not only it's structure type, it's the mix within the structures also.

Commissioner Hird asked if it would be up to the individual home owner to request a downzoning to maintain single-family zoning in the Oread.

Ms. Leininger said yes, property owners can initiate rezoning, as well as Planning Commission and City Commission. She said in the August staff report there was a scheme that showed a general lot with a footprint with four bedroom units and the same footprint with one and two bedroom units.

Ms. Moore felt they needed to preserve the historical look of single-family houses.

Mr. Rob Farha, 1005 Indiana St, expressed concern about notification not being adequate. He was in favor of the text amendment and said the footprint wouldn't change and the density wouldn't increase.

Mr. Rick Hupper asked what was there now.

Commissioner Finkeldei said they were not discussing a particular development, they were talking about a Text Amendment for all of the RM32 district.

Ms. Marci Francisco, 1101 Ohio, said she lives in a single-family home that was zoned RM32. She said she has lived in the Oread neighborhood since 1973 and during that time she has worked on developments such as the fourplex that was catty-corner to her house at 1046 Ohio. She said it was developed with a mix of apartment sizes. She said this was not in response to a change of what the market was asking for, but in fact, an opportunity to create some additional dense development within the neighborhood. She said they agreed as part of the neighborhood plan that there were areas in the neighborhood that it did make sense to use for high density areas. She said they agreed those areas that are now apartment complexes should be allowed to be redeveloped to that use, so many feel that this text amendment would be appropriate if it could follow the low, medium, and high density recommendations in the neighborhood. She said Historic Resources Commission was not a tool to limit use, that was zonings job. If it really made sense, in terms of density, this change would be made throughout the zoning categories.

Commissioner Harris asked if Ms. Francisco was saying for the neighborhood plan that the low and medium density areas that have been proposed would in fact not develop to the full RM32 density.

Ms. Francisco said that was the hope of the neighborhood.

Commissioner Harris said the density wasn't really being increased, just increasing the options to get the RM32 density, so the pressure comes from having more different kinds of buildings to market to customers.

Ms. Francisco said she would agree. She said the four bedroom units really have only been used in duplexes in the Oread neighborhood.

Ms. Beth Reiber said the text amendment was very confusing. She did not feel there was enough in place to protect historic homes. She expressed concern about single-family homes being replaced with more units. She also expressed concern about the impact to the neighborhood with more kitchens resulting in more sewage issues.

Commissioner Harris asked if the Oread neighborhood infrastructure could sustain RM32 density for what it was zoned.

Mr. McCullough said staff was not familiar enough to answer that question. He stated the infrastructure supports what exists today. He said there were some improvements made to the infrastructure with the Oread Hotel that was warranted with that project.

Mr. Paul Werner said this was not a rezoning, all of the properties were already RM32 and could do this today, it was just a different mix. He said in the example Ms. Leininger gave the parking would go up. He stated a list of incentives was made as well as multiple meetings. He said the way to protect the single-family homes in the Oread was to rezone them. He did not feel it would add any more pressure in Oread since it could already be done, but would present a better product instead.

Commissioner Finkeldei asked Mr. Werner to answer one of the public questions about adding kitchens and living rooms but not increasing density.

Mr. Werner said the box has to remain the same with the same restrictions on height and setbacks. He said in theory if there were more living rooms and kitchens there may be less people living in those buildings because those things would take up more space.

Commissioner Liese said Mr. Werner stated he was proposing a better project. He said nobody would stop Mr. Werner from producing that product it just wouldn't be as profitable.

Mr. Werner said he disagreed with that statement. He said the land value near campus was worth more today than it was 20-30 years ago so an older apartment complex could be replaced with a more marketable product.

Ms. Carol von Tersch felt that development pressure could result in the loss of historic structures.

Mr. Tony Backus said regarding profitability, rent was per bedroom, not per unit. He stated it would be the same number of people, just a different configuration. He said he was opposed to the demolition of any old houses unless they were beyond repair.

COMMISSION DISCUSSION

Commissioner Finkeldei asked if this would only apply to RM32.

Mr. McCullough said yes. He said staff talked about the applicability in other RM districts and staff found it probably did apply to others but thought it should be put forth on the highest density zoning district to see how it was applied in the city. Because it is the highest based district it was the most applicable in RM32.

Commissioner Finkeldei asked how kitchens could be added without adding density.

Mr. McCullough said Mr. Werner would know better about the layout since he was the architect. He said in a four bedroom there would be larger living areas versus a studio or one bedroom so you make up some of that in the tradeoff between a four bedroom and a studio or one bedroom. He said they were talking about caps and staff was not expecting projects to come in meeting the fullest extent of the density unless there were some subterranean units.

Commissioner Finkeldei said if this goes forward to City Commission he thought it would be helpful to include the density slide show that shows what two densities could look like. He asked if there was any other conceptual plan other than what was shown in August.

Mr. McCullough said no.

Commissioner Finkeldei said he thought it would be helpful to link the two examples Mr. Werner showed them at the first meeting.

Commissioner Finkeldei said Ms. Francisco mentioned the high density areas in the Oread Plan and linking it to the high densities in the plan. He asked how staff saw this change meshing with the Oread Plan and those designations.

Mr. McCullough said in his opinion the Oread Plan and designations stand separate from this. He said staff does not see it necessarily as an incentive to do high, medium, or low. It does go with the RM32 district. The Oread Plan itself will designate on development what those density levels should be.

Commissioner Harris asked if underground parking would allow more dwelling units.

Mr. McCullough said it would perhaps allow them to reach their maximum cap.

Commissioner Harris said increasing options does make sense in some cases but does not make sense in the entire RM32 area, especially in the Oread neighborhood. She said the mechanism for attaining low, medium, and high density has not been established yet. The planning process has not gone far enough to be proactive in attaining what the Plan says they want to have. She supported the change in areas that were designated as higher density in the Plan or creating a new zoning category for those areas. She said she could not support a global change in the RM32 because there were too many structures in the Oread neighborhood that were zoned RM32 that were not in fact that dense. She agreed the historic review process would not necessarily save those structures. She said she could not currently support the text amendment as it stands but did see merit in a limited version of it.

Commissioner Liese said ultimately he felt it was a financial decision because not as much money could be made from 10 renters as from 16 renters. He said he could not support the text amendment without some modifications.

Commissioner Finkeldei asked if a project came in that wanted to tear down an apartment building that had 20 units and wanted to put in 30 units and it was in the medium density under the Oread Neighborhood Plan, how would that effect the process.

Mr. McCullough said if it was zoned RM32 and classified as medium density, staff would likely work to get the medium density established through the site plan process. If the applicant wanted to appeal that to the City Commission they could. He said staff was obligated to use planning documents in review of applications and would look for new development to meet the Plan and use the underlying zoning to get it there.

Commissioner Finkeldei asked if the plan going forward with the Oread Plan was to try and implement that as projects come forward.

Mr. McCullough said yes.

Commissioner Harris asked why they didn't actively downzone areas of the Oread to the intended density.

Mr. McCullough said that was a major discussion point through the Oread Neighborhood Plan and one of the options talked about was if the goal was to create stratification of densities in the Oread, one way to get there was to initiate rezonings (down zonings). Through that process many did not believe that would be productive use of time because it would not be feasible or accepted as a product of the Oread Neighborhood Plan.

Commissioner Harris said if it was not considered feasible, was it reasonable for the Planning Commission to think if someone had an RM32 property in a medium or low density that they would fight restricting their density.

Mr. McCullough said that was reasonable to conclude there was potential for a fight.

Commissioner Rasmussen thought the proposed text amendment was a good idea because it removed an impediment to creativity of how the property could be developed. He said there was no proposal to change lot size, setbacks, building coverage requirements, reduce impervious coverage restrictions, height restrictions, parking, landscaping, lighting, etc. and that all it was doing was allowing creativity in how a building was constructed. He said he heard earlier comments that somehow trying to make a profit was a bad thing and he said he would question that. He said when someone has rental units they are typically trying to make money. He thought tying the proposed change to the Oread Neighborhood Plan would not be the way to go and would essentially be elevating the Plan to ordinance status and did not feel that was appropriate. He said staff would consider the Oread Plan in review of an application but it should just be guidance and general direction for the neighborhood. He said he would support the text amendment as proposed in the staff report. He said he liked the staff report and thought it was clean and simple.

Commissioner Liese said he was in favor of profit. He liked the way the staff report was written and thought it was clear. He felt it still boiled down to how concerned the community was. He said at this point given the same constraints it would cost more because of fewer renters. He said his main concern was community satisfaction.

Commissioner Finkeldei felt the reason there were so many people here speaking about it, for both sides of the issue, because there were conflicting goals. He felt it was a struggle to find the right balance and allow flexibility without tipping the balance. He said it takes awhile to understand this and felt they needed to get more information out to the community as it moves along in the process to make sure they understood it. He did not think the change was enough to tilt the balance and create houses to be bought up. He felt this particular proposal allowed flexibility without tipping that balance. He said to Ms. Klingenberg's point about unintended consequences that he could not say there would never be an unintended consequence. On the flip side he thought there would be some intended consequence of getting older buildings replaced. He did not want this to lead to the demolition of historic structures or single-family homes but he trusted staff to look at the Oread Plan to consider these things. He said he would support the text amendment.

Commissioner Singleton agreed that the text amendment was very well written and a much better staff proposal than the previous one, but that it was so different because the last proposal had very specific social consequences about development, appearance, green issues and protecting the community. She was disappointed to see that change. She said Mr. Werner's proposal made absolute sense about configuring the box the best way to be able to get students in there with their preferred living arrangements. She said this was initiated by an individual and there was no rush and there were community concerns that the Oread neighborhood would turn into just apartment buildings. She felt there was time to send this back to staff and ask for clarification about additional protections. Perhaps limiting it to buildings that were condemned, blight, or buildings that were

already multi-dwelling units. She said she understood Commissioner Finkeldei's point about this not being a tipping point and that it was a balancing act.

Commissioner Hird appreciated the interest in preserving single-family housing and historic structures. He said he did not have any objections about postponing this one month but he thought the objections he heard were based on fears that he doesn't fully understand because it was simply about calculating density in a zoning district that already exists. He said if the text amendment was not approved the Oread Plan had the same effect and would not magically create low density in all the RM32 areas. He said it would not create maximum density in all the RM32 districts if it was approved. He thought it was silly to calculate dwellings based on kitchens instead of bedrooms. He said he wanted to have some sensitivity to the people living in the area but he did not see this creating an incentive to tear down structures because the building requirements were the same, just simply a change in how the density was calculated. He said he was not concerned about the profit to the developers if a better product was being created for the community. He said if staff looked at this and their recommendation was that this was a reasonable text amendment he could vote for it, but he had no objection to postponing it either. He objected to the notion that people did not know about this issue because it had been on the agenda multiple times. He was opposed to building in more complicated protections since this was just a simple way of calculating density and he did not want to complicate the Code any further. He did think they could accomplish some communication with members of the Oread neighborhood and sway some fears that this would somehow change the development in the area.

Commissioner Culver agreed that there needed to be more communication due to the different perspectives from the public speakers tonight because there was not a consensus of understanding with the community. He said fear hadn't been addressed and in moving forward it would take more communication in working together to avoid a tipping point. He felt they needed to work toward improving some of the existing multi-family dwellings that could make the whole Oread neighborhood a better place. He said if there was a need for one and two bedroom facilities near campus it was their duty to fill that need and work toward that.

Commissioner Liese asked if there was a way for Mr. Werner to do his project before the text amendment was approved.

Mr. McCullough said Mr. Werner was working on a project at 10th & Indiana, not being considered tonight, that would be able to utilize this text amendment if adopted, thus the reason this was an applicant driven request. He said any project in the RM32 district could do 32 units per acre of one, two, three, and four bedroom units. To maximize the development potential of 32 units of four bedroom units, would get the most use out of the RM32 district. So if that's the highest use but it's not a very marketable product then it would make sense to recognize that around campus studio, one, and two bedroom units are more practical. He said it was tough to maximize the zoning district but that there was relevance in terms of profitability, marketability, and highest use.

Commissioner Burger said the proposal was succinct and clear. She said there were other issues being debated that perhaps fall outside of this even though they might be legitimate concerns. She supported the text amendment because it was simple. She said she was looking at the character of the units that would be built. She said in her opinion studio, one, and two bedroom units, would provide for a more responsible populous. She said there would be more efficiency in space from a design standpoint. She did not think the impact to City infrastructure would be enough to make a difference. She thought this was a good proposal. She was not in any hurry to approve this but did not see any reason to not go ahead with it.

Commissioner Finkeldei said if there was a motion to delay they needed to provide staff with direction. He said he did believe there should be more education to the public that could be provided between now and when it would go to City Commission. He said he would not support to defer just to bring back the same text amendment with no direction to staff to do anything different.

Commissioner Liese said he would like to hear from people in the community that were opposed to it and hear any alternatives.

Mr. McCullough said this was the third time this text amendment had been before Planning Commission so if Planning Commission would like staff to arbitrate two opposing view points to arrive at a compromise then that could be the direction to staff. He said there had been good information sharing to date with the neighborhood associations.

Commissioner Liese said he liked the staff report and agreed with Commissioner Burger.

Commissioner Blaser felt they should move this forward. He did not think it would make a great change or tipping point and was a way to sell property for a profit. He felt that builders/owners should have the chance to build if that's what the market calls for. He did not think it would hurt the neighborhood. He agreed with Commissioner Finkeldei that maybe a better classroom job at the City Commission level should be done so people can hear the true definition of it. He said he would vote in favor to move it forward.

Commissioner Singleton said her thoughts regarding the changes that needed to happen to the text amendment were that they needed to respect the neighborhoods designation of what the density levels were going to be, look at properties that have been condemned, blight, and abandoned structures, and limit it to the multi-dwelling units that were already in place.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Liese, to defer this item and send back to staff to consider restricting the use of this to existing multi-family structures and in high density designated areas in the Oread Plan.

Commissioner Burger asked if there was a reason why they couldn't make that happen tonight to get it moving.

Mr. McCullough said there were districts outside of the Oread neighborhood that this would be applied to as well.

Commissioner Hird said this was the first time he had heard conditions in a zoning being tied to a neighborhood plan. He inquired about the legalities of mixing those concepts.

Mr. McCullough said he thought it would be difficult because planning documents were guides and not the only source of review factors.

Mr. John Miller, City Staff Attorney, said that could be reviewed. He said he did not know that they could do that but he was hesitant to give an opinion now without doing some research and determining whether that was appropriate or not.

Commissioner Hird asked if it would create an infirmity in the Zoning Code by having to refer to an external document that doesn't have the force of law like the Zoning Code. He asked if City

Commission would have the opportunity to consider this change based on the discussion in the minutes.

Mr. Miller said it happen one of two ways; he could sit down with staff and discuss the issue and be prepared to address that at the governing body level or staff could express that it was a concern and the governing body would see it in the minutes and could direct staff to respond before enacting that change in the Zoning Code.

Commissioner Hird asked if a text amendment to the zoning regulation could be narrowed in scope to apply to only certain properties. He asked if there was anything comparable currently in the Code.

Mr. McCullough said he could think of anything comparable and that would be the review that the Legal Department and Planning Department would have to provide.

Mr. Miller said there is language within the Development Code that makes reference to, in this circumstance, the Comprehensive Plan and uses slightly different language in those sections than in other parts of the Development Code. He said they have done individual ordinances that have dealt with specific restrictions. He said the issue could be postponed for a month or two and staff could look at and provide additional information on that specific item.

Commissioner Blaser said if they send the text amendment back to staff it might undo the simplified version. He said he would not be in favor of sending it back.

Mr. McCullough said one of the major concepts was the uniformity in zoning districts so plucking out a few designated density districts in one particular neighborhood plan may create issues of uniformity in the zoning code.

Commissioner Rasmussen said he would not vote in favor of the motion and felt it was being overanalyzed. He felt it was a simple text amendment that would not have a significant change on the RM32 District.

Commissioner Harris asked if Mr. McCullough was saying that sending it back would be pointless because they could not create something that was not uniform.

Mr. McCullough said that would be at the heart of our analysis in terms of looking at the concept.

Commissioner Harris said she would withdraw her motion because she did not think it would go anywhere productive.

Commissioner Liese said that was fine with him.

Motioned by Commissioner Finkeldei, seconded by Commissioner Rasmussen, to approve the amendment to Section 20-601(a) of the Land Development Code to add a footnote to the RM32 District to calculate density and minimum outdoor area for Multi-Dwelling Structures as .5 dwelling units per acre for studio, 1 and 2 bedroom units and 3 bedroom and higher as 1 dwelling unit, and forward to City Commission.

Commissioner Harris said she would vote against the motion. She felt it would probably increase interest in development in the Oread neighborhood without having tools in place to keep areas they want to stay low and medium density lowered. She would like to see staff put some teeth in that plan so that they could say an enthusiastic yes to ideas to develop the area.

Commissioner Rasmussen said he would support a similar type of amendment to RM24, RMG, and RMO zoning districts at some point in the future because all of those areas are also designated as high density areas in the city.

Commissioner Singleton asked that her earlier comments be cut and paste here for easier reading for the City Commission:

Commissioner Singleton said her thoughts regarding the changes that needed to happen to the text amendment were that they needed to respect the neighborhoods designation of what the density levels were going to be, look at properties that have been condemned, blight, and abandoned structures, and limit it to the multi-dwelling units that are already in place at this time.

Commissioner Liese said he would support the good work that would be done as a result but hoped it did not create a tipping point.

Commissioner Hird said if there was a pending application or project that had some bearing on this he was disappointed that it was not included in this somehow and that he would want to know more about that. He said Commissioner Burger brought up a good point about social consequences that he hadn't even thought of. If there are better developments of studio, one, and two bedroom units instead of 4 bedroom units with one kitchen, there might be a more responsible clientele in the Oread neighborhood. He felt this was a relatively simple text amendment in terms of measurement of density and he did not share all the fears of unintended consequences. He said he would probably support the motion.

Motion carried 6-3, with Commissioners Harris, Liese, Singleton voting in opposition.

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**ITEM NO. 4 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE;
BOARDING HOUSE (SDM)**

TA-6-17-09: Reconsider Text Amendments to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House" and expanded to consider parking standards for Multi-Dwelling structures and nonconforming standards for Boarding Houses. *This item was originally heard by Planning Commission on 12/16/09. City Commission returned this item on 2/2/10 for additional consideration. Deferred by Planning Commission on 9/20/10.*

STAFF PRESENTATION

Mr. Scott McCullough presented the item.

Commissioner Finkeldei asked if ADA was required then why put it in the Development Code.

Mr. McCullough said it would apply from the Building Code standpoint. It was of a practical nature and good to get it in the Development Code as a starting point for the development community. He said it would provide upfront notice to an applicant of congregate living that ADA accessibility may be an issue.

Commissioner Rasmussen inquired about the accessibility requirements of the Fair Housing Act in the International Building Code.

Mr. McCullough said it would depend on the project but the requirements include an accessible route for all elements of the residence, which include sleeping, living, eating, and dining areas. He said there could be exceptions such as historic structures or topography.

Commissioner Harris asked how the parking standards for boarding houses as proposed compare with multi-family structures.

Mr. McCullough said they would be the same, one space per bedroom, unless it was a large structure on a small lot, they both have the same reduction down to .5.

Commissioner Finkeldei said the Lawrence Preservation Alliance letter suggested limiting the height of the house.

Mr. McCullough said staff had not looked at that issue. He said staff tried to keep it simple per the direction of City Commission.

PUBLIC HEARING

Mr. Dennis Brown, President of Lawrence Preservation Alliance, was pleased about limitations on expansion and liked the 20%. He stated the language regarding the building footprint included covered decks, patios, and porches. He was in favor of just using the language of roofed porches and striking decks and patios. He felt the height expansion should be no greater than the original structure. He said regarding parking he felt .5 parking spaces was less restricted than the current .75 parking spaces per bedroom. He proposed tiered parking standards.

Ms. Rose Moore expressed concern about increased parking. She said the assumption that everyone has a car was not true.

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods, said over 20 neighborhoods supported their recommended conditions.

Ms. Marci Francisco, 1101 Ohio St, said the wording on the limits on expansion was confusing and felt they should clarify the 20% footprint. She felt they should leave the parking requirement at .75 per bedroom for larger structures for now, until overlay districts were created. She said there were built-in incentives for structures over 3,500 square feet which made them immediately more valuable

Mr. McCullough said he interpreted it that the footprint could expand 20%, not the structure.

Commissioner Finkeldei said he thought they wanted to incentivize redevelopment of the 3,500 square foot and larger houses because those were the ones that needed the work and could not otherwise be saved.

Ms. Francisco said over the years there have been people who have redeveloped houses and it was not a problem. She said now people are allowed to do that for apartments as well as boarding houses. It would reduce the amount of spaces for that size of a house to redevelop into apartments.

Ms. Fadila Boumaza said she opposed additional requirements and rules because no application takes less than 9 months. She said this issue has been worked on for months due to the shifting goals which was keeping the issue alive and difficult to resolve. She felt they needed to better define the goal and focus on a solution. She said at this point the text amendment would only benefit large structures being restored or renovated and that large structures needed to be financially feasible to make repairs and restore. She said the Oread neighborhood was also full of small houses mid-size homes and the text amendment should address those structures as well. She said essentially it would wipe out the ability to renovate small structures. She felt the ADA parking and trash requirements were too restrictive.

Ms. Candice Davis she said she would like to see a variety of housing, resident, and renter opportunities and felt that the lower parking standard would incentivize a boarding house. She said she was currently renovating a large house and that it could be done without spending a fortune. She felt the .75 parking space was reasonable for large homes. She said she supported the one parking space per bedroom.

Ms. Beth Reiber said she wanted to preserve the neighborhood and preserve small homes so they might revert back to single-family. She liked the changes that were made for the larger homes.

Mr. Tony Backus asked if the ADA compliance was required for duplexes and fourplexes in the neighborhood.

Mr. McCullough said he thought it took four units worth of residential intensity to kick in the ADA compliance.

Mr. Backus asked how many parking spaces on average could be in one of the 117 foot lots.

Mr. McCullough said typically it was about five spaces in the 50 feet.

Mr. Rick Hupper asked if this was approved would that mean every house that had more than four units in the Oread district had to retrofit their house for ADA compliance.

Mr. McCullough said it would be based on a change of occupancy, use, or building permit application.

Ms. Debbie Milks, 945 Ohio, thanked and supported staff for their work on this. She said she liked the grid with all the houses and changes on it.

Ms. Rose Moore said that renovated houses have had a positive impact to the neighborhood.

COMMISSION DISCUSSION

Commissioner Finkeldei said he was always leery of adding language in that was already the law. He asked if it was the City's position that Fair Housing Act and International Building Code applied to congregate living.

Mr. McCullough said yes.

Commissioner Finkeldei said he would support the text amendment because the current rules for congregate living are unlimited and he felt this was a good compromise in preserving small homes for single-family. He felt they should incentivize saving larger houses and without giving that incentive the houses tend to continue to go down in value. He felt it was good to apply the same rules to apartments that were applied to congregate living. He felt it was important to have non-conforming use language.

Commissioner Rasmussen inquired about the added language for the Fair Housing Act in the International Building Code and if it applied to multi-unit residential.

Mr. McCullough said multi-unit residential was an apartment building and congregate living was a single structure with more than four unrelated people in it. He said they were two different uses in the Zoning Code.

Commissioner Rasmussen asked if it would also apply to dormitory, scholarship halls, fraternity, and sorority houses.

Mr. McCullough said he would have to review the Building Code.

Commissioner Rasmussen said he could probably support the text amendment. He felt the congregate living houses were more like scholarship halls, fraternity, or sorority houses and he did not think the parking requirements should be any different than those. He said regarding the 20% expansion, a home could already expand upward as long as it did not exceed height restrictions in the neighborhood and he did not think that should be looked at here. He felt it was clear how it was calculated.

Commissioner Harris asked Commissioner Finkeldei about the language for calculating the expansion and what he thought about the Lawrence Preservation Alliance suggested language.

Commissioner Finkeldei said the December 13 letter suggested the height of a building expansion shall not be greater than the height of the original structure. He said his concern was if a dormer was added that was one foot high. He said he might be able to support the language in their November 9 letter.

Commissioner Harris said overall she liked the changes in the amendment. She would like to see some changes to the expansion language more in line with the Lawrence Preservation Alliance

suggested language. She did not think patios and outside structures without roofs should be included as part of the building footprint. She said regarding parking she thought it would be nice if the parking requirement was .75 or 1.5 for every two but she could live with .5 if the requirement of 1 per 1 was kept for the small dwellings.

Commissioner Finkeldei asked if story was a defined term.

Mr. McCullough said the quick reference table uses maximum height as the development standard for height. He said stories could vary in height.

Commissioner Rasmussen said he would support removing the proposed language about the Fair Housing Act in the International Building Code because it was redundant to restate something that already applied.

Commissioner Finkeldei said it would be helpful to have a memo from the City Legal Department stating that this was the City's opinion that they apply to congregate living.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Rasmussen, to approve text amendment, TA-6-17-09, to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House" and expanded to consider parking standards for Multi-Dwelling structures and nonconforming standards for Boarding Houses, based on the staff report as drafted and forward to City Commission for approval.

Commissioner Hird said he hoped City Commission would look at Federal Laws. He hoped they would not see major height additions and felt City Commission should take note. He felt the parking was a compromise. He said he would support the motion.

Commissioner Harris said she would reluctantly vote against the motion. She said she could vote in favor if the language on expansion were different than what was written in the plan. She also felt patios and decks should not be considered part of the building footprint.

Mr. McCullough said the proposed language would include roofed decks, roofed patios, and roofed porches.

Commissioner Singleton said she appreciated staff putting in the non-conforming structure. She would also like the City to consider designating an onsite contact person.

Motion carried 8-1, with Commissioner Harris voting in opposition.

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**ITEM NO. 5 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE &
DOUGLAS COUNTY CODE; MINOR & MAJOR SUBDIVISIONS (SMS)**

TA-3-3-10: Consider Text Amendments to the joint city/county subdivision regulations in the City of Lawrence Land Development Code, Chapter 20, Article 8 and the Douglas County Code, Chapter 11, Article 1 to revise requirements and standards related to the processing of Minor and Major Subdivisions, including minor housekeeping changes. *Initiated by City Commission on 2/16/10.*

Item 5 was deferred prior to the meeting.

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ITEM NO. 6 CONDITIONAL USE PERMIT; 2102 N 1500 RD (SLD)

CUP-10-6-10: Consider a Conditional Use Permit for Kaw Valley Eudora Sand Facility, located at 2102 N 1500 Road, NE of SW Cor. SW ¼ S32-T12S-R15E, on approximately 196.58 acres. Submitted by Landplan Engineering, P.A., for Kaw Valley Companies, Inc., contract purchaser, for James and Ronda Bigger and Wellsville Bank, property owners of record.

Item 6 was deferred prior to the meeting.

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MISCELLANEOUS NEW OR OLD BUSINESS

MISC NO. 1 Initiate Rezoning of 1820 N 3rd Street. **(DDW)**

Motioned by Commissioner Singleton, seconded by Commissioner Harris, to initiate the rezoning of 1820 E 1450 Rd from the Lawrence UR (Urban Reserve) District to Douglas County "A" Agriculture District.

Unanimously approved 9-0.

MISC NO. 2 Initiate Rezoning of a portion of the 300 Block of Perry Street. **(DDW)**

Motioned by Commissioner Singleton, seconded by Commissioner Harris, to initiate the rezoning of 315 Perry Street, 309 Perry Street, and 528 N. 3rd Street from IG (General Industrial) District to RS7 (Single-Dwelling Residential) District.

Unanimously approved 9-0.

Consideration of any other business to come before the Commission.

Commissioner Finkeldei asked if Planning Commission would see the Dillons project on Massachusetts Street.

Mr. McCullough said no, it would be reviewed through Historic Resources Commission, Board of Zoning Appeals, and an Administrative Site Plan.

Commissioner Rasmussen inquired about including in public notices that Planning Commission meetings would end by midnight.

Mr. McCullough said that was up to the Planning Commission to consider.

Mr. John Miller said if they would like to consider that he would recommend a By-Law amendment.

Commissioner Harris said in the past they have had meetings till 1:00am because developers really wanted an item to keep moving in the process.

PUBLIC COMMENT SECTION

ADJOURN 8:08pm