



PLANNING COMMISSION MEETING
May 23 & 25, 2011
Meeting Minutes

May 23, 2011 – 6:30 p.m.

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

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

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of April 25, 2011.

Motioned by Commissioner Harris, seconded by Commissioner Singleton, to approve the April 25, 2011 Planning Commission minutes.

Commissioner Rasmussen said on the issue concerning the sand quarry his point by point criteria comments were not included in the minutes.

Motion carried 9-0.

COMMITTEE REPORTS

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

Commissioner Hird said the Agri-Tourism committee met and would present to the Planning Commission a written report possibly in June.

COMMUNICATIONS

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

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Finkeldei said he had a short conversation with a board member of the West Hills Neighborhood Association, Robert Lewis, regarding Item 11.
Commissioner Hird said he had a relatively short conversation with Mr. Matt Gough regarding Item 9, Inverness District Plan.
- No abstentions.

Commissioner Blaser stated that Items 6 and 7 would not receive public input tonight.

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ITEM NO. 1 I-2 TO A; 32 ACRES; 670 N 1800 RD (MKM)

Z-3-10-11: Consider a request to rezone approximately 32 acres from I-2 (Light Industrial) to A (Agricultural), located at 670 N 1800 Rd. Submitted by Paul Werner Architects, for Rockwall Farms L.C., property owner of record. *Joint meeting with Lecompton Planning Commission.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, said this was a clean-up item for Berry Plastics and that they agreed with the staff report.

PUBLIC HEARING

Mr. Walt Spencer, lives south of Berry Plastics, said there were very few places in Douglas County with I-2 zoning. He wondered what the purpose of the rezoning was.

Mr. Scott McCullough said the staff report articulated the purpose for the rezoning and that it grew out of concern for the representation that was made to accommodate Berry Plastics at the location. He stated if you took Berry Plastics away from the property and put the test of the Comprehensive Plan to it there were factors that supported I-2 zoning and factors that may not support I-2 zoning. He said there seemed to be agreement between the applicant and staff that reverting back to agriculture right now would address a lot of the potential concerns for uses in the Commercial districts that would remain with I-2 unless it was rezoned or zoned and maintained I-2 with conditions. He said the purpose of the Berry Plastics and the consequence of a second lot was to accommodate Industrial uses, not the gamut of uses that includes Commercial uses found in the County Code. He said if I-2 zoning was maintained staff would recommend some of the Commercial uses be conditioned away. He said there was an argument that there was value in having a little bit of Industrial inventory there but the Commercial components of that did not come into the discussion before.

Commissioner Rasmussen asked if this would create an unusually shaped lot with a narrow corridor. He asked if it would be a useable lot in the future.

Mr. McCullough said it was useable for some of the infrastructure to the Woods development and Berry Plastics. He said even if it was maintained at I-2 it would most likely be used for agricultural purposes until development occurred.

Commissioner Rasmussen asked if the property could be used for anything other than agriculture given its size and shape constraints.

Mr. McCullough said it could be used for development. He said staff would not assume a house would be built there. He said it acted as a holding pattern until there was a user identified and analyzed that specific user and development.

The two Lecompton Planning Commissioners present, Amber Nickel and Leigh Ann Woody, were satisfied with the staff report.

COMMISSION DISCUSSION

Commissioner Burger asked if any communication was received from the Lawrence Chamber of Commerce.

Mr. McCullough said no.

Commissioner Hird asked if the applicant would agree to conditional zoning if the land remained I-2.

Mr. Werner said the applicant would agree with that. He said the 32 acres was deceiving because only about 8 acres at the front was useable. He said the narrow strip going to the north was shared access and not usable. He said I-2 was appropriate but they would agree to just about anything to keep Berry Plastics on task. He suggested publishing it differently when it was heard by County Commission.

Commissioner Harris asked if the item could be advertised differently to avoid confusion.

Mr. McCullough said staff would have to look at that. He said procedurally denying the rezoning request or maintaining I-2 with conditions was accurate and within the Planning Commissioners range. He said one of the concerns was because there was significant representation that the 1000' setback from the road would be beneficial in maintaining the rural character. He said upon County Commission receiving knowledge of the lot split they required the applicant to at least go through the process and learn from the public if there were issues with that.

Commissioner Harris inquired about the original notification for the rezoning.

Mr. McCullough said it would have been a 1000' buffer area.

Commissioner Harris asked if the people who were notified previously were notified again for this rezoning.

Mr. McCullough said yes, if they fell within the 1000' notification boundary.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Singleton, to approve the rezoning request for approximately 32 acres from I-2 (Light Industrial) to A (Agricultural) District and forward 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.

Unanimously approved 9-0.

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ITEM NO. 2 FINAL DEVELOPMENT PLAN; PRAIRIE WIND; 3 ACRES; 2620 HASKELL AVE (MKM)

FDP-3-1-11: Consider a Revised Final Development Plan for Prairie Wind, including the addition of one single-family dwelling unit for a total of 18 homes, on approximately 3 acres, located at 2620 Haskell Ave. Submitted by Tenants to Homeowners, Inc., property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Rasmussen inquired about the restrictions.

Ms. Miller said with single lot developments there needed to be some sort of restrictions or covenants that state who would maintain the common space between the homes. She stated Tenants to Homeowners would maintain it and the covenants were already recorded.

Commissioner Burger asked about the reasons for changing the architectural element.

Ms. Miller said Tenants to Homeowners could explain that.

APPLICANT PRESENTATION

Ms. Rebecca Buford, Executive Director of Tenants to Homeowners, said they would be adding extra detail for this development such as front porches and railings. She stated they were trying to give it a traditional look that would fit in the Prairie Park neighborhood. She said the streetscape drawing was a good indication of what it would look like. She said they would use materials that would lower maintenance costs for affordable housing such as cement board siding, durable materials, and high energy efficient windows.

PUBLIC HEARING

Ms. Debbie Brown inquired about the green space. She wondered if the detention pond would be useable.

Ms. Miller said it was counted as green space and would be an attractive detention pond.

Ms. Brown asked how big the green space would be and how much space would be between each house.

Ms. Miller said .16 acres and that each house would be separated by 10-12'.

Ms. Brown asked about the street being T-shaped

Ms. Miller said a hammerhead street was requested by the Fire Department.

Ms. Brown was concerned about standing water and drainage issues.

Ms. Miller stated the City Stormwater Engineer said that with the grading it should improve drainage for the properties to the south.

Ms. Brown wanted to know if there was a guarantee.

Mr. McCullough said it would be reviewed by the City Stormwater Engineer for best practice methods.

COMMISSION DISCUSSION

Commissioner Finkeldei felt that Tenants to Homeowners would be a good owner to the property and would probably be better than any private homeowners association in maintaining it. He thought this was an improvement for the neighborhood and great infill development.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to approve the Final Development Plan based upon the findings of fact presented in the body of the Staff Report subject to the following conditions:

1. Provision of a revised Final Development Plan with the following changes:
 - a. Conditions of approval, Note 8 shall be revised to reference the elevations on the 'Final' Development Plan rather than the 'Preliminary'.
 - b. General Note 10 shall be revised to indicate that the declaration of covenants, conditions, and restrictions of the Home Owners Association shall be recorded prior to the recording of the Final Development Plan.
 - c. The plan should be revised to show trees located at least 8 ft from underground water or sanitary sewer lines or an exhibit may be provided which shows the trees in relation to the underground lines to verify that adequate space is being provided for tree placement.

Unanimously approved 9-0.

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**ITEM NO. 3 PRELIMINARY PLAT; HUNTERS RIDGE ADDITION; 35 ACRES; NORTH
SIDE OF W 6TH ST BETWEEN QUEENS RD & STONERIDGE DR (MKM)**

PP-3-3-11: Consider a Preliminary Plat for Hunters Ridge Addition, an approximately 35 acre subdivision containing 4 lots, located on the north side of West 6th Street between Queens Road & Stoneridge Drive. Submitted by Pat Kelly for Pear Tree Village L.P., property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Seth Reece, Olson & Associates, said he reviewed all staff conditions and was agreeable to all of them. He thanked staff for their work.

COMMISSION DISCUSSION

Commissioner Finkeldei said it was good to see the project moving forward.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to approve the Preliminary Plat of the Hunters Ridge Addition and forwarding the plat to the City Commission for acceptance of dedications of easements subject to the following conditions:

1. Provision of a revised plat with the following changes:
 - a. Areas along Queens Road, Stoneridge Drive, and Overland Drive with restricted access shall be shown graphically on the plan and labeled 'no access'.
 - b. The water and sanitary sewer lines and associated easements shall be revised on the preliminary plat per the Fire Code Official and City Utility Engineer's approval prior to the plat being placed on the City Commission agenda for acceptance of dedication of easements.
 - c. A phasing schedule shall be shown on the plat, if phasing of final platting is proposed.
 - d. Building envelopes shall be shown for Lots 2 and 3 along with a note that the setbacks were taken from Section 20-601(a) of the Development Code, as amended November 29, 2010.
 - e. Sidewalks shall be shown along all streets and the width of the existing and new sidewalks shall be noted.
 - f. The legal description shall be revised to extend to the section line on the east.
 - g. One-half of the required right-of-way for Queens Road, 40 ft, shall be dedicated with this plat.
 - h. A note shall be added which states that an access and maintenance agreement for lots which share the common access drives shall be recorded prior to recording of the final plat.
 - i. An access easement shall be provided for the common access drives.
 - j. A note shall be added which states that 'Timing of development of Lots 3 and 4 will be linked to improvements to Queens Road. Building permits will not be issued for Lots 3 or 4 until Queens Road has been improved to City Standards.'
 - k. The plat shall designate the Detention Basins as drainage easements.
 - l. The size and location of detention basins shall be shown and detention basins shall be labeled on the plat.
 - m. The following note shall be added: *"The detention basin/drainage easements will be privately-owned and maintained. The developer is responsible for establishing ownership and maintenance of same via individual owner maintenance. No fences or structures*

other than necessary retaining walls and/or guardrails will be allowed in within the drainage easements. They will remain free of any natural or non-natural structures or vegetative barriers (including but not limited to trees, shrubbery, berms, fences, and walls)." (City Code 20-1101(f))

Unanimously approved 9-0.

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ITEM NO. 4 A & B2 TO B2; 6 ACRES; 751 HWY 40 (MKM)

Z-3-7-11: Consider a request to rezone approximately 6 acres from A (Agricultural) and B2 (General Business) to B2 (General Business), located at 751 Hwy 40. Submitted by Kathleen Baker Wolfe, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Finkeldei inquired about additional access off of Hwy 40.

Ms. Miller said that would be determined by KDOT.

Commissioner Finkeldei inquired about the distance for entrances from other roads.

Ms. Miller said the County Access Management Standards were different in the county and would be determined by the county engineer.

Commissioner Harris asked if there was an existing business in that area that wanted to expand.

Ms. Miller said not that she knew of. She did not know who would be using the location. She said she received a phone call from a neighbor to the south concerned with the aesthetics of a commercial use. She said the County Zoning Regulations would require the same condition that new uses be reviewed for compatibility with adjacent properties. She said when the Site Plan was reviewed by staff they would look at buffering, landscaping, orientation of the building, and parking lots to make sure it was compatible.

Commissioner Harris inquired about the interpretation of the language for allowing the use there. She thought it was saying an existing business could be expanded but not allowed to add a new business.

Ms. Miller said that language was referring to commercial areas, not commercial uses. She said a commercial area could expand to accommodate an existing or new business.

APPLICANT PRESENTATION

Ms. Kay Wolfe said when she purchased the property she was told by her real estate agent that the property was zoned commercial, which was not true. She felt the area would be perfect for a small business such as a gas station. She said she was moving and would like to sell the property before moving.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Harris asked where the language she mentioned earlier.

Mr. McCullough directed her to where the language was located in the staff report. *"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."*

Commissioner Harris inquired about notification.

Mr. McCullough said the notification radius was 1000'.

Commissioner Harris asked how many households that included.

Ms. Miller said 16.

Commissioner Culver asked how long the section of B2 zoned land had been zoned that way.

Ms. Miller said since 1966.

Commissioner Liese inquired about a letter included in the packet that raised concerns about the auto junkyard.

Mr. McCullough said staff could pursue that with the County Zoning office to see if it was a compliance matter.

Ms. Miller said she believed the auto use was installed before site planning was required. She said anything new would need to be site planned and reviewed for buffering and landscaping.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Liese, to approve the rezoning request for approximately 6 acres from A (Agricultural) District and B-2 (General Business) to B-2 (General Business) 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

Unanimously approved 9-0.

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ITEM NO. 5 A TO R-T; 209 ACRES; 778 E 1300 RD (MKM)

Z-3-9-11: Consider a request to rezone approximately 209 acres from A (Agricultural) to R-T (Rural Tourism), located at 778 E 1300 Rd. Submitted by Grob Engineering Services, for Sadies Lake LC, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Finkeldei asked if the Site Plan would be approved by County Commission.

Ms. Miller said that was correct.

Commissioner Harris asked how large the conference center could be.

Ms. Miller said for the Woods project a 55,000 square foot conference center was approved so this conference center could be larger which could be something the County Commission would look at. She said the type of road was different and that the 55,000 square foot conference center was appropriate for the Woods since it was on N. 1800 Road but this project was on a township road so it probably would not be as large.

Commissioner Harris asked if that would be up to the County Commission to decide.

Ms. Miller said that was correct, as well as the township and county engineer providing their input on how much traffic that road could handle.

APPLICANT PRESENTATION

Mr. Dean Grob, Grob Engineering Services, said the reduced buffer did not lend itself well to the conference center or other larger buildings because of its total size. He said regarding the hunting aspect of the property the owners wanted to maintain any hunting rights they currently have. He said commercial hunting and guided tour hunting would not be a permitted uses in the R-T zoning and would have to be a Conditional Use Permit. He stated the owners were hunters and may have guests hunt with them but they had no desire to pursue a Conditional Use Permit. He did not believe hunting would increase with more cabins, but instead decrease due to safety reasons. He said west of the property was a minimum maintenance road that the owners had no desire to extend. He said the existing FEMA floodplain cuts off that end of the property so there was nothing to be gained by extending the road to the south.

Commissioner Hird inquired about the cost for road improvements.

Mr. Grob said presently it was a minimum maintenance road but basically there was no road there.

Commissioner Hird asked where the minimum maintenance part of it located.

Mr. Grob pointed on the overhead to where it was located. He said there was a piece of right-of-way that was vacated to the south.

Commissioner Harris asked for clarification about the hunting. She asked if the proposed zoning did not allow hunting.

Mr. Grob said commercial hunting and guided hunting tours would not be permitted in R-T zoning, but the owner would still retain property owner hunting rights.

Commissioner Harris said she did not understand how that would work.

Mr. McCullough said staff could not give a definitive answer because there may be some differences in terms of a single user. He said the gray area was if there could be exempt agricultural based hunting and a commercial property with cabins.

Commissioner Harris said she wanted to be sure the applicant knew the restrictions on the uses. She also asked if it was possible to build some of the cabins closer to the floodplain line than what was requested.

Mr. Grob said it was a matter of trying to fit everything within the layout of the land. He was okay with a condition that stated within the reduction could only be cabins versus anything else. He said it was possible to squeeze a cabin between the 200' buffer and the floodplain. He said there was only one actual residence/house across from the property.

Commissioner Finkeldei inquired about the setback requirement from the buffer line.

Mr. Grob said he wanted a little wiggle room to figure it out.

PUBLIC HEARING

Mr. Robert Eye, attorney representing Mr. Newton McCluggage, said some of the comments heard tonight clarified some things and raised additional concerns. He stated if there were 13 cabins on the property there would be the opportunity for 13 hunting parties and that nothing in the plan would limit it. He said there was no limitation on the use or patron use of the property for hunting. He expressed concern for the potential of a 55,000' conference center. He said a conference center was contrary to rural character according to Horizon 2020. He was concerned that this was a sensitive area with slopes and that additional development might cause additional erosion or change drainage patterns. He also expressed concern regarding traffic. He said a 55,000' conference center would have the potential for many more cars. He felt that access to water should be available before the plan went forward and that if water was not available the rezoning would be a mute point.

Commissioner Hird said regarding Mr. Eye's argument about hunting parties, the way it was zoned now (agricultural) there could be 100 hunting parties. He asked where the number for 13 hunting parties came from.

Mr. Eye said the number came from 13 cabins.

Commissioner Hird asked if he was suggesting that there would be 13 hunting parties on 209 acres.

Mr. Eye said the way the applicant structured the rezoning request there would be nothing to prohibit that. He said it would clearly not be a safe thing to do.

Commissioner Hird said the only thing preventing that would be common sense.

Mr. Eye said that was correct.

Mr. Bill Mitchell, neighbor to the east across the minimum maintenance road, said he was relieved to hear he would not be required to co-share on the upgrading of the road. He hoped they would

disallow the requested variance of 150' and require the statutory 200'. He disagreed with Mr. Grob's comment about the number of houses across 1300 Road. He said there were four houses across the road. He said the justification for this was to make room to build cabins and the real justification for narrowing the buffer was that there were existing trees and elevation drop. He felt the minimum 200' should be preserved. He stated the conceptual Site Plan may morph into something else. He felt it was only fair that neighbors be given notification of all future Site Plans and changes of use. He said if the rezoning was approved he would like to see some limitations placed on the hunting, such as bow hunting for deer or small caliber shotguns for birds. He stated Rural Tourism zoning was new and unknown making the neighbors the guinea pig.

APPLICANT CLOSING COMMENTS

Mr. Grob said Mr. Mitchell was correct, there were four residences on the west side of the property. He said the one residence he spoke of earlier was the one in the setback reduction.

Commissioner Harris said she was leaning toward deferral to clear up issues on hunting and water. She asked if the applicant would be okay with that.

Mr. Grob said that would be fine if the Commission desired to do so. He said he spoke with the Rural Water District and meters were available. He said it was more of a matter of improvements may need to be made to the infrastructure. He said the property owner could currently hunt and they wanted to maintain that right.

COMMISSION DISCUSSION

Commissioner Finkeldei asked staff about Mr. Mitchell's request for notification.

Ms. Miller said county Site Plans do not receive notification.

Mr. McCullough said it could be added as a condition to the rezoning.

Commissioner Finkeldei said the request regarding reduction of the buffer zone was to allow flexibility for the cabin sites during the rezoning stage. He said during the Site Plan stage they would know exactly where the cabins would be at and someone could object at that time and ask the County Commission to move it.

Ms. Miller said she believed they could, yes.

Commissioner Hird said if deferring this was the wise choice then he was fine with that. He was concerned about the notice requirement and said if this was deferred he hoped there would be notice. He said he was not nearly concerned about the hunting issue as others may be. He said with his personal experiences of hunting, two hunting parties with rifles on 209 acres, would be a problem. He said three hunting parties shooting shotguns at quail would be no problem. He said a 22 caliber rifle bullet would travel 2 miles so using a small caliber was not the answer, he said it was common sense. He said he did not want to see any commercial hunting but that it was not being requested by the applicant. He felt it was a slippery slope of restricting land owners right to hunt their own land.

Commissioner Rasmussen said he would rather deal with this tonight than delay it. He did not see a problem with including a requirement that notification be provided to the property owners along that road.

Commissioner Singleton agreed with Commissioner Rasmussen. She said the hunting issue could be researched and investigated and presented to the County Commissioners. She said Commissioner Hird was correct, hunting parties have to self regulate with noise, space, and the number of people. She would like to see this plan go on with a requirement for Site Plan notification to the neighbors in the immediate area when it goes to County Commission.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Finkeldei, to approve the rezoning request for approximately 209 acres from A (Agricultural) District to R-T (Rural Tourism), with a reduced buffer width of 150 ft along the west property line 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 rezoning will not be placed on the Board of County Commission's agenda for consideration until the Rural Water District has determined adequate water capacity is, or can be made, available to serve the facility.
2. Property owners on the portion of E 1300 Road which is used to access the subject property from Hwy 59 shall be notified when a site plan has been submitted for the rural tourism use.

Commissioner Finkeldei asked staff about a condition regarding notification.

Mr. McCullough said he would consult with the County Attorney, Evan Ice, about notification. He said that type of condition could create procedural issues in the future if staff does not pick up on the condition.

Commissioner Finkeldei said regarding the hunting issue, if for some reason it was discovered that hunting would not be allowed at all, the applicant may have to make a decision about proceeding with the rezoning. He said he was voting in favor with the assumption that hunting would still be allowed for the owners and their guests, but not for commercial hunting.

Commissioner Hird inquired about the issue of the gravel road accessing this site.

Mr. McCullough said the County Engineer reviewed the traffic study and would be reviewed upon Site Plan submittal.

Ms. Miller said the Township did not have objections to the number of traffic that would be traveling. She said when a Site Plan was submitted with the exact number of cabins and square footage of the lodge that was when it would be decided if any upgrades would be needed to the road.

Commissioner Hird asked with Rural Water District.

Ms. Miller said Rural Water District 2.

Commissioner Hird said he currently served on the Rural Water District 2 board and that they meet Thursday.

Commissioner Finkeldei said in theory it was possible to have a 55,000 square foot building but that the County Commission would not approve something that large.

Commissioner Harris said she would vote against the motion and would prefer to see cabins built as close as possible to the buffer boundary indicated in the Code.

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

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ITEM NO. 6 COMPREHENSIVE PLAN AMENDMENT TO H2020 - CHP 11 (LBZ)

CPA-4-4-10: Consider Comprehensive Plan Amendment to Horizon 2020 – Chapter 11 - Historic Resources. *Initiated by Planning Commission on 4/26/10.*

STAFF PRESENTATION

Ms. Lynne Braddock Zollner presented the item.

COMMISSION DISCUSSION

Commissioner Finkeldei inquired about Goal # 6. He said he did not necessarily disagree with it but that it seemed odd to mix in using locally grown materials in the historic preservation chapter.

Commissioner Rasmussen asked how historic preservation could be married with the requirements of new construction.

Ms. Zollner showed a diagram on the overhead regarding sustainability. She said historic preservation was starting to blend with the sustainability movement. She stated the goal was an overall sustainable community by putting together cultural, environmental, and economic targets. She said the chapter tries to integrate historic preservation as a part of the sustainable community movement. She stated the National Trust for Historic Preservation was spending a lot of time trying to help Americans make the bridge between sustainable communities and sustainable design, instead of just thinking about historic preservation as saving old buildings. She said it was really about the building materials, reducing fill and landfill, and using locally manufactured products. She stated the goal of the chapter was the Historic Resources Commission trying to respond to the national trend on how to incorporate this into the larger picture.

Commissioner Finkeldei felt that some of the language did not belong in this chapter. He said he did not disagree with it but felt that a few provisions seemed out of place. He felt the following wording was a proper mix of the two: *'Building energy codes that focus on energy saving and consumption give existing structures proper credit for embodied energy and discourage teardowns.'* He encouraged staff to look at some of the other language again.

Commissioner Rasmussen felt it was out of place to be talking about new construction for a new building in the historic resources section. He said he would be fine with language regarding putting a solar panel on a historic home or incorporating new technology on a historic structure but felt that language about new construction was out of place. He said they were good ideas but he needed to hear more about why they were in this chapter and not somewhere else. He said he liked Goal # 3 regarding incentivizing.

Commissioner Harris agreed with comments made by Commissioners Finkeldei and Rasmussen.

Commissioner Finkeldei suggested the language for Policy 4.1 (c) 'Revitalizing the Watkins Community Museum' be changed to something else so as not to insinuate that it was not living up to its potential.

Commissioner Hird thanked staff for their work. He agreed with the comments made by everyone.

Commissioner Liese agreed with all the comments stated. He said he liked the concept but felt that introducing sustainability in this chapter just because it was in vogue subtracted from the overall strength.

NO ACTION TAKEN

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**ITEM NO. 7 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.*

STAFF PRESENTATION

Ms. Sheila Stogsdill presented the item.

COMMISSION DISCUSSION

Commissioner Harris said in the past when she talked with people who lived in the county who weren't familiar with the development process about subdivision regulations they would say there weren't interested in that because it was for big subdivisions. She said she would tell them it was about land division, not about big subdivisions. She suggested changing the title of the document to land division or land subdivision.

Commissioner Finkeldei thanked staff for starting this topic.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Hird, to re-initiate the text amendments (TA-3-3-10) since the review resulted in a number of proposed changes not originally contemplated.

Unanimously approved 9-0.

PC Minutes 5/23/11

**ITEM NO. 8 CONDITIONAL USE PERMIT; FRATERNAL ORDER OF POLICE SHOOTING
RANGE; 768 E. 661 DIAGONAL RD (MKM)**

CUP-12-8-10: Consider a Conditional Use Permit for the Fraternal Order of Police shooting range, located at 768 E. 661 Diagonal Road. Submitted by Dan Affalter, for Fraternal Order of Police, property owner of record. *Deferred by Planning Commission on 4/25/11.*

Item 8 was deferred prior to the meeting.

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MISCELLANEOUS NEW OR OLD BUSINESS

MISC NO. 1 PLANNING COMMISSION TRAINING SESSION

Reminder regarding Planning Commission training session: July 15th 8:00am - 5:00pm in the City Commission room.

Commissioner Hird said he would not be present at Wednesday's Planning Commission meeting. He thanked Commissioner Harris for her years of service.

Consideration of any other business to come before the Commission.

Recess at 9:00pm until 6:30pm on May 25, 2011.

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Reconvene May 25, 2011 – 6:30 p.m.

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

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

BEGIN PUBLIC HEARING (MAY 25, 2011):

COMMUNICATIONS

Mr. Scott McCullough said there was a PowerPoint presentation added to the packet.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Rasmussen said he had discussions with City Commissioner Dever concerning the Inverness Park Comprehensive Plan and they talked about possible uses for the north side of that area.

Commissioner Finkeldei said he had a very short conversation with Ms. Margaret Lewis, West Hills Neighborhood Association, wondering if he had seen the deed for Kappa Delta regarding Item 11. He told her he had seen it.
- No abstentions.

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ITEM NO. 9 COMPREHENSIVE PLAN AMENDMENT TO H2020 - CHP 14 (DDW)

CPA-3-1-11: Consider Comprehensive Plan Amendment to Horizon 2020 – Chapter 14 to include the Inverness Park District Plan.

STAFF PRESENTATION

Mr. Dan Warner presented the item.

Commissioner Rasmussen asked how Option 3 could be proposed with high density since there was already development there.

Mr. Warner said it was not completely developed, there was still about 5 acres left that could be developed.

Mr. McCullough said it was developed with the maximum number of dwelling units on about 2/3 of the area leaving open space undeveloped land. He stated they built out to the current zoning category but left a portion undeveloped and the only way to get additional density on the property was to rezone to a higher level and develop to that new maximum number of dwelling units.

Commissioner Rasmussen inquired about a landscape plan for the vacant area.

Ms. Day said the area was left open and that a piece of it had floodplain and drainage encumbrance. She stated the landscape applied toward the two streets, Clinton Parkway and 24th Place.

Commissioner Rasmussen asked if it could just be a vacant lot with dirt and no grass.

Ms. Day said anytime there was property there needed to be grass, or at least seeded.

PUBLIC HEARING

Mr. Matt Gough, Barber Emerson, advocated for Option 3 on behalf of two interested users, Remington Square LC (Mr. Tim Stultz) and Hy-Vee, who were under contract to acquire the southwest corner of Clinton Parkway and Crossgate. He said when Horizon 2020 was adopted in 1997 it included a land use map for all of the property at that time annexed into the city. He said the Inverness Park District was a big white blob. Since that time the property was annexed and for the most part developed. He asked Planning Commission to consider whether or not some of these projects would be worthy of Option 3 type uses proposed. He said the first tract was the 5 acre parcel owned by Remington Square, and currently had a pending rezoning application from RM15 to RM24 with a staff recommendation of approval. The request was made to allow the developer to construct more one bedroom apartments. He said the property had significant special assessments on it, most of which were necessary to provide water improvements and drainage culverts needed to make the whole area developable. He said Hy-Vee hoped to have a rezoning application before Planning Commission in August. He said Option 3 was the only option that would work for both of the potential users. He said approval of Option 3 did not rezone the properties and in each instance the projects would come before Planning Commission on their own merits to be considered for rezoning and there would be additional opportunities for people to speak on them specifically. He said his concern with Options 1 and 2 was that someday someone may want to amend the plan to do something more like Option 3 because RSO use of the property had not been popular. He displayed a map on the overhead with the residence locations of all the public comments received. He stated some of the comments were regarding property values. He displayed the 2009 and 2011 appraised values for everyone who submitted a comment and overall there was a .34% decrease in

appraised values from 2009 to 2011, which was the timeframe Remington Square apartments were built. He said comparing that with the county overall, all residential property in the county experienced a significant decrease in 2009. He said there was no specific data that stated anyone's property value decreased because of multi-family.

Commissioner Rasmussen asked what the plan was for the Remington Square area.

Mr. Gough said that was undetermined at this time. He said the current Site Plan calls it open space.

Commissioner Rasmussen said he thought when the apartments were proposed that the 5 acre tract was identified as open green space that would be useable for the people that live in the apartments.

Mr. Gough said he did not have an answer to that.

Commissioner Harris asked if the Remington Square property would be the only one contributing to the special assessments.

Mr. Gough said the assessments were formed approximately 7-8 years ago and were much higher and spread among all the properties in the area. He said since the Remington Square property was one of the larger square footage properties and probably took the largest percentage of the specials.

Commissioner Harris asked if the corner properties would share the costs of the special assessments when they develop.

Mr. McCullough said he assumed they would.

Commissioner Liese thanked Mr. Gough for presenting data on property values. He said when he went and looked at the property it was around rush hour and it was very congested and difficult to navigate. He inquired about a traffic study.

Mr. Gough said at this time there was no traffic study. He said one of the components that would come forth with the Hy-Vee plan would involve some sort of traffic analysis because of the access issues involved with that site.

Mr. McCullough said that road was studied and generally speaking the infrastructure was put in place with enough capacity to take on pretty healthy development in the area so there has not been any bump up against capacity issues from a traffic engineering standpoint. He said there was always the discussion of quality of life issues with congestion.

Ms. Jamie Hulse said she supported options that did not allow additional multi-family. She was concerned about the change in property values over time. She wondered why RM24 wasn't the original rezoning request if that was the plan along.

Commissioner Finkeldei asked if she supported the change to commercial on both ends.

Ms. Hulse said what neighbors were told about the corner of Inverness and Clinton Parkway was that if they didn't support the Casitas project that something bigger and worse could be built. She said based on the drawings shown tonight the only way to build something bigger would be with a Special Use Permit. She said she was still not clear on that issue.

Commissioner Finkeldei asked if she would prefer commercial on the two ends.

Ms. Hulse said there would probably be neighborhood support for the Hy-Vee commercial as long as it did not allow multi-family. She said what happened with The Grove was that the neighbors were told it could not be tied to that specific project so the neighbors supported it because they supported senior housing and when that didn't happen The Grove was put in instead. She said The Grove was a much more intensive project than what the neighbors were told originally. She said there was lack of trust with the neighborhood. She said there had been mixed comments from neighbors about commercial at the corner of Inverness and Clinton Parkway due to concerns with the kids walking back and forth.

Commissioner Liese thanked Ms. Hulse for her constructive and positive emails.

Mr. Davis Loupe wondered why the plan was even created. He thought it came out of the dispute that neighbors had about the last multi-family. He said the original plan from years ago for the area called for mixed use. He said most of the neighbors did not want more multi-family. He said apartments were mainly geared toward students and they want to live in the newest apartment complex so the older ones decline over the years. He said he disagreed with the idea that plot # 2 had undeveloped land. He thought that was to remain open space. He stated there was no grass on the open space and it still looked like a construction site. He supported Option 2 if it did not allow multi-family.

Commissioner Singleton asked why the neighbors were opposed to additional multi-family.

Mr. Loupe said because there was already so much of it. He stated that nobody in the neighborhood knew that Remington Square was happening.

Commissioner Singleton asked how apartment buildings had a negative impact on him.

Mr. Loupe said it was a lot of density and that in 5-10 years from now they could deteriorate and make the neighborhood less attractive. He said he would rather see commercial there than more dense apartments.

COMMISSION DISCUSSION

Commissioner Harris asked staff if the neighbors were notified about Remington Square.

Mr. McCullough said 200' mailed notification was sent, signs posted at the site, as well as the newspaper legal notice.

Commissioner Rasmussen said he used to live on Shady Brook Lane when the whole Inverness Park area was proposed. At the time he was not too keen on a lot of apartments being built there. He liked the fact that the whole north part was supposed to be residential office and supposed to be a senior living area along Crossgate. He said he really empathized with the people who lived there in the single-family homes that have seen more and more intensive use put upon this land. He said because he had lived there he was not too favorable for Option 3. He felt that property was originally zoned for residential-office and then it was changed to multi-family residential. And now it was being considering for it to go to a more dense use, which he was not in favor of. He did think some types of commercial could benefit the neighborhood. He said he would not mind seeing lot 1 more akin to what was at Bauer Farm with commercial uses or something like the southeast corner of Bob Billings and Wakarusa where there were restaurants, beauty shops, coffee shops, etc. He said he would support commercial on those two ends. He said the overall Comprehensive Plan took a nodal approach and he thought there was concern discussed a few years ago about commercial

development between the nodal area at Kasold and Clinton Parkway and the next nodal area at Wakarusa and Clinton Parkway. He said there was validity to that concern but there had been talk about trying to create more walkable/livable neighborhoods. He said if there was convenience store, restaurants, shops that people could walk to, it would go toward a more walkable/livable neighborhood. He said the northeast corner of Clinton Parkway and Wakarusa was designed for commercial development but a lot of earthwork would have to happen for development to occur. He said maybe the appropriate approach was not to leapfrog around with development but instead gradually build it out along the Clinton Parkway corridor. He said he was not in favor of additional multi-family density increases so he would tend to support Option 2, instead of Option 1.

Commissioner Finkeldei said they should look more at Option 2 or 3. He felt there should be commercial in some of the areas. He did not feel that lot 1 should be multi-family. He thought staff should look at CN2 and 50%. He said he supported Walgreens at the other corner and that commercial would be good. He said he did not like the idea of talking about a plan at the same time there was a pending application. He said it was strange to be talking about Option 2 versus Option 3 in the abstract of whether or not they support something being built on the 5 acres. He stated in general he may not support any type of multi-family at that location if it was 4 bedroom apartments that were big and dense. He said on the other hand if it was a specific plan with 1 bedroom apartments that was an extension of something that already existed he might be okay with that. He said no matter what they do with the plan, whether they choose Option 2 or 3, they still have a plan to consider. He said he was more focused on lots 1, 4, 5, and 6 and bringing back Remington Place and Hy-Vee to consider. He said in general he supported Option 2 or 3.

Commissioner Harris agreed with Commissioner Rasmussen and did not support anymore high density residential in the area. She said regarding the staff report conclusion she felt that City Commission was asking staff to think about whether the recommendation made sense in the bigger picture so they asked staff to initiate the plan to look at the whole context and decide from there. She felt it would be proper for staff to change their mind if the plan in fact said that it would be a good way to go for the whole area. She believed some commercial in the area could benefit the existing neighbors but needed to be done carefully since Clinton Parkway was such a major street. She said that the commercial area could become a regional serving property and add more traffic to the area than a neighborhood business would. She liked the idea of creating places in the neighborhood that could be walked to for amenities. She suggested staff provide more education to the neighbors to clear up any confusion about the options that different zoning categories could bring. She said she understood concerns from the neighbors.

Commissioner Finkeldei agreed with Commissioner Harris. He thought it would be helpful to get staffs opinion.

Commissioner Singleton shared Commissioner Finkeldei's theoretical concerns about discussing a neighborhood plan when they know a development proposal would be coming soon. She expressed concern about water drainage for Options 2 and 3. She said she was fine with commercial on the two corners.

Commissioner Dominguez said he voted for the Walgreens proposal and would support commercial development. He agreed with the neighbors about no more multi-family. He said he would vote for Option 2. He would also like to see the staff recommendation.

Commissioner Culver said in general he would support Option 2 or 3 and felt that commercial on either corner would make sense. He said he was a little torn on lot 2, although he agreed with

neighbors about the concern of high density residential increasing, he also had concerns about that land not being used. He said he would like direction from staff regarding lot 2.

Commissioner Blaser said that commercial on lots 1 and 3 would be good but felt that access would be an issue in both cases. He said he would support higher density on lot 2 because he saw it as infill and infill helped reduce sprawl. He said the area was a ways from residential. He said he had not observed the traffic problems in the area that Commissioner Liese mentioned earlier. He said he understood the neighbors concern about large student housing ending up where they thought senior housing would go but he said the senior housing could have been high density too. He felt the buffer on Inverness was good, regardless of which Option was chosen. He said he would pick Option 3 because he did not think the extra density would be noticed by the housing area to the west.

Commissioner Rasmussen said Planning Commission seemed to support commercial for lots 1 and 3. He suggested staff include discussion about how Planning might be able to influence the type and style of development. He said he hoped the back of the stores wouldn't face Clinton Parkway. He said he would like to hear discussion about how Planning might be able to serve that area as an attractive corridor.

Commissioner Harris inquired about the empty land in the Remington Place Addition. She asked if the area was completely built out yet to its allowed density.

Mr. McCullough said it was.

Commissioner Harris said that area could be a very attractive open space for the neighborhood. She said if they allow the space to be developed, when the plan was to have lower density, they would be setting a precedent for other developments in the area. She did not think it was a good idea.

Commissioner Burger encouraged staff to revise the plan so neighbors could understand it. She said she was glad this was still a working document and that there was opportunity for more education for the neighbors. She did not support the increase in density. She said she was surprised that this project was going into this neighborhood. She did not like any of the three options because the area would be wonderful for a new urbanism concept. She gave the example of the Hollywood neighborhood in north Boulder, Colorado. She said she was not sure she would equate Hy-Vee with Walgreens as far as what it would do to the community but the neighborhood seemed to be okay with it.

Commissioner Liese said commercial uses on the corners of Inverness and Crossgate was a no brainer if done well. He wished the potential developer could put a park there. He also wished neighbors could be guaranteed that if this development occurred with higher density that it would improve the community not be a detrimental.

Mr. McCullough thanked the Commission for the good direction. He said every plan was unique. He said Remington Square, The Grove, and Legends at KU were all different in that the original plan did sort of self limit in terms of the intensity of the density. He said they did the maximum number of units but they were 1 bedroom units. He said there was opportunity in the plan for some detail description about what a development should be in terms of granting density but having some equivalent compatibility to what was there today. He said the east commercial proposed property was easy to determine what it would be, something small such as a gas station or convenience store. He said the other corner was a substantial piece of property that could hold a medium box retail store, for example. He said City Commission tasked them with looking at some of the nuances and trying to understand what intensity of development should go on these undeveloped parcels.

Commissioner Liese inquired about the need for apartments.

Mr. McCullough said the Planning office did not track that information.

NO ACTION TAKEN

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ITEM NO. 10 COMPREHENSIVE PLAN ANNUAL REVIEW (MJL)

Receive the Comprehensive Plan Annual Review and initiate recommended comprehensive plan amendments to be considered at future meetings.

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

Commissioner Harris thanked staff for their work. She said she would like to see an overall analysis in the annual review of how Planning Commission uses the Comprehensive Plan as a tool in making land use decisions.

Commissioner Rasmussen inquired about the status of the Northeast Sector Plan.

Mr. McCullough said it was heard once by County Commission and scheduled to be heard again so it was still very viable. He said after that it would move on to City Commission.

Commissioner Rasmussen asked when City Commission would hear the Environmental Chapter.

Mr. McCullough said June 7th.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to initiate Comprehensive Plan Amendments for Planning Commission consideration at future public hearings.

Motion carried 9-0.

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ITEM NO. 11 PRELIMINARY PLAT; KAPPA DELTA ADDITION; 1.8 ACRES; 1602 HIGH DR (SLD)

PP-3-2-11: Consider a Preliminary Plat for Kappa Delta Addition, a 1.8 acre subdivision containing one lot, located at 1602 High Drive. Submitted by Bartlett & West, for Zeta Epsilon House Corporation, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Darron Ammann, Bartlett & West, said he was aware of the communications sent by the neighborhood and appreciated their comments and concerns. He said he tried to get a neighborhood meeting set up but the neighborhood by-laws require a certain amount of time be given for notification so it did not work out. He said he made phone calls to a few people that were not returned. He said the rock garden deed was a mystery item that they did not know about. He stated when the survey manager pulled the new title deed description for the entire property the issue never came up. He said what they were doing at this time had no impact on platting the parcel lines and trying to combine the piece of property. He said this was a procedure to get a page and a half legal description reduced. He said he had several conversations with the applicant about doing some improvements to the property at some point in the future. He did not know what those improvements would be or when they would take place. He said there would be upgrades to the parking and maintenance upgrades to the building, such as a new roof.

Commissioner Harris inquired about the site improvements.

Mr. Ammann said in order to do any improvements the property needed to be platted because it had never been platted. He said the applicant was looking to enhance parking improvements and potentially a building addition in the far future. He stated the applicant wanted to work with the neighborhood and be a good neighbor.

Commissioner Harris asked if parking may be put on the piece of land the neighborhood thinks was restricted from adding parking.

Mr. Ammann said at this point in time his answer was that it was undetermined. He said probably not because they wanted to keep as much green space as possible in the front of the property.

Commissioner Dominguez inquired about the plan.

Mr. Ammann said platting needed to be done in order to move forward with a Site Plan at some point in the future. He said currently there was no concept of what would be done other than improve parking. He said the rock garden area was a private thing that was done between two private parties.

PUBLIC HEARING

Mr. Kurt Falkenstien, West Hills Neighborhood Association, said they had the indenture and were interested in keeping the rock garden as green space. He felt the Preliminary Plat should not be approved because the document specifically said it should not be.

Commissioner Dominguez asked how Mr. Falkenstien found out about the Preliminary Plat.

Mr. Falkenstien said word of mouth.

Commissioner Liese said the document was very interesting and asked staff to clarify if it was irrelevant to the Planning Commission decision.

Mr. McCullough said the City would have no regulatory authority to enforce the private deed restriction.

Mr. Randy Larkin, staff attorney, said it was an agreement between outside parties and the City would not get involved in enforcing those types of agreements or covenants between third parties. He said the platting process would establish the footprint for what it would be. He said the deed had no relevance to the platting process.

Commissioner Liese asked if he was indirectly advising Planning Commission to not consider it in their deliberations about the proposed plat.

Mr. Larkin said it had no effect on the process.

Mr. McCullough said staff was directly advising them to not necessarily consider it. He said it was always good information to know about these things but that there was no current proposal to impact the area at all, just simply platting and creating boundary lines. He said Site Planning could be a different story and when the notice goes out for the Site Plan the issue might come up again, although the staff legal position would still be the same. He stated as a plat issue it had very little relevance.

Commissioner Singleton asked if the neighborhood association was aware that by platting all the applicant was doing was combining the property into one lot for the legal description.

Mr. Falkenstien said tonight was the first time he had heard what the applicant was proposing.

Commissioner Singleton said at this point the applicant was just trying to compact the legal description.

Ms. Day said additionally, it would dedicate an easement to cover existing City utilities crossing the property and the additional minimum right-of-way width for the street.

Mr. Falkenstien said if it was at all related to parking and related to the rock garden the neighborhood would like to nip it in the bud tonight.

Commissioner Singleton said the plat had nothing to do with parking.

Commissioner Rasmussen said all Planning Commission would be doing was approving a plat. He asked if he would still recommend denial.

Mr. Falkenstien said no.

Commissioner Harris said one of the things in the deed was that if the property developed with parking or a building the rock garden would revert back to the ownership of the neighborhood association. She wondered if it was platted as one property would there be a mechanism to honor that.

Mr. Larkin said the City was not in a position to honor that and enforce a contract between outside parties. He said if there was violation then one party could possibly take action against the other party.

Commissioner Harris asked if the land could be subdivided.

Mr. McCullough said in the future there could be some sort of court order affecting the subdivision of the property.

Ms. Sarah Casad, 1130 Emery Rd, said the deed included a stipulation that if the land was ever built upon the ownership would revert back to neighborhood association because it was intended as a dedicated buffer. She felt it would change the character of the neighborhood. She said the sidewalk on the west side of Emery was because it would destroy the bird sanctuary on the east side. She suggested two plats, one with the original deeded property.

Ms. Susan Michalski, Kappa Delta Sorority, said the rock garden issue just came up this week. She said they purchased the property 20 years ago and this was never brought to their attention. She said when she took over she found out that none of the property was platted and they wanted to do things right that were not done in the past. She said knowledge of the deed was brand new and that they wanted to start on the right foot. She said when the property was built in the 1950's nobody had cars so they wanted to try and meet City requirements for residence and sidewalks. She said they were not intending to do any major projects or big construction. She said she was more than willing to meet with the neighborhood and address their concerns. She said they loved the green space and did not want anything to happen to it but that there were city requirements for the size of parking stalls and sidewalks that they were looking at from a liability standpoint. She said if they do need to change the parking lot they were not trying to wipe out all the trees.

Commissioner Harris asked if they currently had a parking capacity problem.

Ms. Michalski said when the new City requirements came about there was a certain number of lots required for the number of residents. She said the size, width, and depth of the lot might be an issue but they have not gotten into the details of that.

Commissioner Harris asked if they did not have enough parking spaces for the current residents and their guests the way it was currently configured.

Ms. Michalski said on weekends with visitors parking was always an issue. She said they did not know yet if they could add more asphalt.

Commissioner Dominguez asked if they had been notified by the City that they were in violation of parking.

Ms. Michalski said no.

Commissioner Dominguez asked if they planned on putting in additional parking.

Ms. Michalski said she was not sure. She said they needed to add more asphalt to the parking lot in order to drive across it.

Commissioner Dominguez asked if there was an increase in the number of residents.

Ms. Michalski said no, that the number of residents had decreased. She said they were not looking at building expansions.

COMMISSION DISCUSSION

Commissioner Singleton said the property needed to be platted and it made sense to plat the property, as well as the easement and right-of-way being good for the City. She recognized there may be some issues between the private land owners but it did not look like there was even any suggestion of a Site Plan that would affect the rock garden or the deed.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Liese, to approve the Preliminary Plat of the Kappa Delta Addition and forwarding it to the City Commission for consideration of dedication of easements and rights-of-way.

Commissioner Finkeldei agreed that Planning Commission does not consider private issues and for that reason he would support the plat. He hoped both sides worked on the issue.

Commissioner Harris said she would support this because platting it would allow the property to develop other areas that did not have anything to do with the garden and they couldn't do it otherwise. She said she did not see the advantage of two plats because it would still belong to the property owner and they could still do what they wanted and then the neighborhood could contest it with the deed. She did not think the neighborhood would lose anything in this process and would still have recourse with the document they had to limit development on that area, whether it was platted or not.

Motion carried 7-2, with Commissioners Burger and Dominguez voting in opposition.

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ITEM NO. 12 IG TO RS5; .3 ACRES; 525 & 527 N 7TH ST (DDW)

Z-3-11-11: Consider a request to rezone approximately .3 acres from IG (General Industrial) to RS5 (Single-Dwelling Residential), located at 525 & 527 N 7th Street. Submitted by Nieder Properties, Inc., property owner of record.

STAFF PRESENTATION

Mr. Dan Warner presented the item.

Commissioner Rasmussen asked staff to identify on the overhead which residences were IG.

Commissioner Dominguez asked why property owners would want to rezone from IG.

Mr. Warner said the end result would get the property rezoned to what it was being used for.

APPLICANT PRESENTATION

Mr. Mike Nieder was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to approve the rezoning request for approximately .3 acres, from IG (General Industrial) District to RS5 (Single-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.

Unanimously approved 9-0.

Motioned by Commissioner Finkeldei, seconded by Commissioner Culver, to direct staff to contact other single family developed property owners in the 500 block of N 7th Street to determine interest in rezoning to RS5.

Motion carried 9-0.

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**ITEM NO. 13 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; SEC
20-403; DETENTION PERMITTED WITH SPECIAL USE (SLD)**

TA-3-5-11: Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Article 4, Section 20-403 to change "Detention" from a use permitted by right in the IG (General Industrial) District to one permitted with Special Use approval. *Initiated by Planning Commission on 3/28/11.*

STAFF PRESENTATION

Ms. Sandra Day presented the item.

Commissioner Harris asked where other properties in town were zoned GPI.

Ms. Day said GPI properties could include City treatment facilities, schools, emergency services, police stations, fire stations, sewer plants, water treatment plants, and any public property that was not also the hospital.

Commissioner Finkeldei asked if it was safe to say all GPI zoned land was owned by government entities.

Ms. Day said that was correct.

Mr. McCullough said it was predominantly developed with those public uses.

Commissioner Dominguez asked if Planning Commission should determine whether there should be a Special Use Permit or not.

Ms. Day said there were two recommendations. She said with the GPI there was discussion about whether that should be a use by right or under the venue of a Special Use Permit.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Liese said it was his understanding that this was being recommending so they had more control over a decision to place a detention center where the community wanted it.

Commissioner Harris agreed with approval of the first part of the staff recommendation and that for the GPI district a Special Use Permit would absolutely be appropriate.

Commissioner Finkeldei said he did not absolutely agree that a Special Use Permit should be in the GPI district. He was not convinced a Special Use Permit was needed and that it could be awkward between the City and County. He said he would support the first part.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to initiate a text amendment to the Land Development Code to require the Detention use to be approved through the Special Use process in lieu of being permitted by right.

Unanimously approved 9-0.

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to initiate a text amendment to Section 20-403 to include Detention as an allowed use in the GPI district (this use could be permitted as either by right or as a Special Use, depending on a more complete analysis of the change).

Commissioner Harris felt a Special Use Permit would be important because there were many GPI properties in residential neighborhoods and it would be a prudent process.

Commissioner Rasmussen said he would not vote in favor of this unless they do specifically recommend a Special Use Permit be required.

Commissioner Burger asked if it was permitted by right would there not be notice to the neighbors.

Mr. McCullough said one of the distinctions between IG and GPI was that there was not an inventory of GPI out there being marketed as GPI zoned property like there was IG. He said the big assumption was that if the County or City wanted to do a detention facility they would have to find a piece of property and go through the public process of rezoning it to GPI with the use known, the same process as a Special Use Permit. He said with IG a piece of property could be found in the community and an administrative Site Plan for a detention facility could be approved without any public process.

Commissioner Rasmussen asked if non-conforming uses could be expanded.

Mr. McCullough said likely they would have to request IG zoning.

Commissioner Rasmussen said it sounded like staff already determined that they need to have detention as an allowed use in GPI.

Mr. McCullough said staff identified that there were non-compliant uses in one of the three industrial categories and detention in two of the industrial categories so it was prudent to go through the process to attempt to remedy the non-conforming governmental uses. He said if it was concluded that it does not belong in GPI staff would need to take action to rezone those properties to IG or IL.

Commissioner Harris asked if there was any other method, such as another zoning category, that could be explored. She said industrial use had different impacts than detention use on the surrounding properties.

Mr. McCullough said staff could expand the analysis to talk about whether this particular use should be permitted in other districts.

Commissioner Rasmussen said his understanding was the motion was to allow detention facilities in a GPI district and put the burden on the staff to recommend Special Use or some other permitted use.

Commissioner Finkeldei said the motion was to initiate the drafting of a Text Amendment to be brought back before Planning Commission for consideration. He said he was leaving it up to staff to say either one of those because he did not want to pre-judge what the Text Amendment might say.

Commissioner Rasmussen asked what the motion was.

Commissioner Finkeldei said the motion was to initiate a Text Amendment to section 20-403 to include detention as allowed by the GPI district.

Commissioner Rasmussen said the motion already jumped to the conclusion that it needed to be an allowed use in GPI. He felt that one of the options that needed to be looked at was whether it should be allowed in GPI.

Commissioner Finkeldei said this would just initiate it and was the start of the process.

Mr. McCullough said what was initiated on all Text Amendments was consideration whether an allowed use was appropriate. He said the analysis would be whether detention should be an allowed use in the GPI district.

Commissioner Rasmussen said he would rather determine whether or not it should be an allowed use, as opposed to determining that it was already allowed.

Commissioner Finkeldei said the motion he made was exactly what Mr. McCullough said, in his opinion. He stated initiating a Text Amendment was initiating the consideration of the Text Amendment. He said he could say it differently or withdraw his motion and vote for Commissioner Rasmussen's motion because he felt they were talking about the same thing.

Commissioner Finkeldei withdrew his motion, seconded by Commissioner Singleton.

Motioned by Commissioner Rasmussen, seconded by Commissioner Finkeldei, to recommend staff examine what the proper use should be in the GPI district and whether or not detention should be an allowed use, and if so, how should it be an allowed use.

Motion carried 9-0.

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ITEM NO. 14A ANNEXATION; 69 ACRES; SOUTH SIDE OF N 1800 RD & BETWEEN E 900 RD & E 950 RD (SLD)

A-3-1-11: Consider an annexation request for approximately 69 acres, located on the south side of N 1800 Rd (Farmers Turnpike) and between the extended alignments of E 900 Rd and E 950 Rd. Submitted by Steven Rothwell, Timothy W. and Lani S. Rothwell, for Timothy Rothwell, Wilber C. Rothwell, and Donald Kenna Rothwell, property owners of record.

ITEM NO. 14B A TO IG; 69 ACRES; 933, 939, & 943 N 1800 RD (SLD)

Z-3-8-11: Consider a request to rezone approximately 69 acres from A (Agricultural) to IG (General Industrial), located at 933, 939, & 943 N 1800 Rd. Submitted by Steven Rothwell, Timothy W. and Lani S. Rothwell, for Timothy Rothwell, Wilber C. Rothwell, and Donald Kenna Rothwell, property owners of record.

STAFF PRESENTATION

Ms. Sandra Day presented items 14A and 14B together.

Commissioner Dominguez asked what percentage of the property was type I and II soils.

Ms. Day said there were no type I, only type II soils, and that she did not do that analysis.

Commissioner Liese asked if an Urban Growth Area was legally defined.

Ms. Day said it was very specifically defined in Horizon 2020.

Commissioner Liese asked if this was within 3 miles of Lecompton.

Ms. Day said no.

Commissioner Liese asked if the Urban Growth Area expanded with annexation.

Ms. Day said no, it would require a change in the future to the Urban Growth Area.

Mr. McCullough said it was already initiated in a Text Amendment that was deferred until the water and wastewater master plans were completed.

Commissioner Harris inquired about the criteria to evaluate '*...hinder or prevent the proper growth..*'

Ms. Day said the legislation did not give any more guidance than that. She said annexations were evaluated based on policies in Horizon 2020.

Mr. McCullough said the County looks at whether it hinders or prevents the proper growth. He said staff interprets the statute to require the County to act as an arbitrator of whether a request to annex in one city would impact another city. He said in this circumstance there were well defined growth boundaries and planning documents that helped give guidance about whether something in that area of the county would be appropriate in Lawrence.

Commissioner Harris asked if the findings of fact would be the planning documents and the fact that no one from other cities came tonight to say that this would impact their city negatively.

Mr. McCullough said those would be appropriate findings. He said also the finding that Lawrence was planning for infrastructure in that area and no other city was.

Commissioner Harris inquired about the language of one of the conditions regarding building permits.

Ms. Day said the conditions with this request were identical to what they have seen previously. She said in some ways it would be easier to get sanitary sewer to the property than water so the interim ability to use an agreement with the Rural Water District to provide water service could be an option. She said depending on what the end user was they may have to have sanitary sewer, but may be able to do on-site as well.

Commissioner Harris read part of the condition '*...the uses being those that can be served by rural water or on-site sanitary sewer...*' She thought there were no plans in the near future to extend services until the area in between was developed.

Ms. Day said there were no near plans. She said they did a general assessment of what could or would be needed.

Commissioner Harris asked if the City would pay for the sewer line.

Mr. McCullough said that was undetermined. He said there were different financing mechanisms that would help finance the infrastructure and that it would have to be completely analyzed and determined for opening up an area or specific property.

Commissioner Rasmussen inquired about the long term effect of this provision. He asked if it would always run with the land. He also inquired about being able to get building permits.

Mr. McCullough said the intent was not to allow the user to perpetually go without City services. He said the intent was to have an interim plan established until City services were extended to the area.

Commissioner Rasmussen asked if the provision meant only prior to the extension of City water and sanitary sewer service.

Mr. McCullough said that was the intent of that provision.

Commissioner Culver said regarding an earlier question from Commissioner Dominguez, that type II soils made up 11.3% of the property, according to the staff report.

APPLICANT PRESENTATION

Mr. Matthew Todd, Barber Emerson, thanked staff for their work. He said the location of the property made for an excellent industrial site. He said there was no specific development plan in place but the applicant was asking to be annexed into the City and to be rezoned. He said the Rothwell's made multiple efforts to contact their neighbors and get them involved. He said regarding water usage the Rothwell's have been in contact with Rural Water District #6 and received confirmation that the district would be pleased to continue to provide water service if and when the annexation was approved. He said the property was in the Urban Growth Area and that it was a voluntary annexation request which was prioritized by Horizon 2020. He said regarding the earlier concern from Commissioner Harris about the specific findings to whether the annexation would be detrimental to the proper growth and development of the area or any other cities; it would be

appropriate for Planning Commission to make certain findings but ultimately the statute directs for the County Commission to make that determination. He said based on the Sector Plan the Planning Commission may be able to make findings that by approving the rezoning they would be facilitating the growth and development in accordance with the Sector Plan, which would be an appropriate growth and development of the area.

PUBLIC HEARING on Annexation

Mr. Dan Brogran, Trust Company of Kansas, said he was the agent investment advisor for the property owner immediately to the west, and that they had no reservations about the rezoning and annexation.

Mr. Don Rothwell, applicant, said he was not looking to move for 3-4 years. He said he would appreciate their recommendation of approval.

COMMISSION DISCUSSION

Commissioner Harris asked if there had been progress on infrastructure planning since the last annexation request.

Ms. Day said it was still being analyzed between City Utilities staff and the consultant who were going through the modeling process. She said there were some discrepancies in some flow data so they had to go back and revisit that which set them back about 90 days.

Mr. McCullough said regarding the Wastewater Master Plan there had not been much advancement in specifically getting sewer and water to the property since they last had a potential user in the area.

Commissioner Dominguez inquired about the issue of island annexation discussed in the letter sent by Mr. Darrel Ward.

Mr. McCullough said the staff report articulated the annexation policies that supported this annexation. He said the goal was to identify areas for industrial, primary job growth, and employment areas, which was seen as high value to the community.

Commissioner Rasmussen suggested additional language to the beginning of condition 1, *'Prior to the extension of City water or City sanitary sewer service,...'*

ACTION TAKEN on Item 14A

Motioned by Commissioner Rasmussen, seconded by Commissioner Singleton, to recommend approval and forward the recommendation to the City Commission for the approval of the requested annexation of approximately 69 acres located on the south side of N 1800 Road (Farmer's Turnpike) and between the extended alignments of E 900 Road and E 950 Road subject to the following conditions:

1. *Prior to the extension of City water or City sanitary sewer service*, building permits may be issued for the property if the City of Lawrence reasonably determines that either City water or City sanitary sewer service is not required to serve the use or uses on the property, the uses being those that can be served by rural water or on-site sanitary sewer management systems (including, but not limited to sewage storage tanks).
2. The applicant shall execute an agreement not to protest the future annexation of any adjacent rights of way or roadway easements.

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

Motioned by Commissioner Singleton, seconded by Commissioner Liese, to make a recommendation to the County Commission that they find that the annexation will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within the Douglas County and that the annexation is compatible with Horizon 2020 and the K-10 and Farmer's Turnpike Plan.

Motion carried 9-0.

PUBLIC HEARING on Rezoning

Ms. Beth Johnson, Lawrence Chamber of Commerce, stated Lawrence needed more industrial sites. She said Topeka added 1,000 acres of industrial space in the past year with a new business park that they purchased with money through their economic development funds that were put aside each year. She said Topeka gives land away for free to companies and also gives them a check to move their company. She said Lawrence could not begin to compete with that because Lawrence did not have property zoned correctly or infrastructure in place. She said in 2010 the Chamber saw five different opportunities come to them for land along I-70. She showed on the overhead two letters that came to the Chamber in the past two weeks that were specific requests for industrial sites.

Mr. Darrel Ward requested the rezoning be tabled. He stated he did not receive proper notification for commonly owned property. He said his brother received notification, he and his wife received notification, but the commonly owned property did not receive notification. He referenced the Kansas State Statute regarding notice requirements.

Commissioner Singleton asked who the four joint property owners were.

Mr. Ward said himself, his brother, his sister, and his nephew. He expressed concern about inconsistency with notification.

Commissioner Liese asked what Mr. Ward was requesting.

Mr. Ward requested that they table the rezoning request. He said at this meeting he was not trying to argue for or against the rezoning.

Commissioner Rasmussen asked if he received notice concerning the annexation.

Mr. Ward said two of the three properties received notice.

Commissioner Rasmussen asked if he personally received notice.

Mr. Ward said he did.

Commissioner Harris asked Mr. Ward when he receives his tax bill from the County who it is sent to.

Mr. Ward said it is addressed to all the property owners and is sent to his mailing address.

Commissioner Dominguez asked if he wanted to defer the rezoning and then come back and argue against it.

Mr. Ward said he would like it tabled until notification was given. He said the biggest issue was that notification was not provided as per statute.

Commissioner Singleton asked if he discussed it with his sister or nephew.

Mr. Ward said no.

Mr. McCullough said the state statute required newspaper legal notification, sign posting, and mailed notice. He said the intent was to get broad notice out to the stakeholders affected by a zoning application. He said the County Clerk provided a certified property ownership list and it would seem to indicate all the property owners were notified that were required to be notified by statute.

Mr. Ward said there was inconsistency with the mailed notice because not all of the property owners received notice.

Mr. McCullough said the further intent of wide distribution notice was that people would talk amongst themselves or neighbors.

Mr. Ward said he was not an agent for the Planning office and under no obligation to speak to anyone.

Mr. McCullough said preliminary analysis of the record indicated staff did what was required under state statute.

Mr. Ward said he respectfully disagreed.

Ms. Gwen Klingenberg said she was having trouble with the concept that IG was a better product because it had more available. She said she went through the Code and found that IL had 21 more uses than IG. She said IG had uses that they probably would not want, such as explosive storage, industrial intensive, and mining. She said the idea of possibly putting a hotel at this location would do a lot more for the City than just something an IG could. She thought they needed to consider whether they wanted IG or IL. She was in favor of IL because she liked the hotel idea. She said when it came to policy making there needed to be balance. She said the neighborhood was not against IL, they were against IG.

Commissioner Harris asked what her understanding was of what was considered industrial intensive.

Ms. Klingenberg said anything that was obnoxious, major light pollution, major smell pollution, anything dangerous, chemical storage, mining, etc. She did not feel this corner would be appropriate because it was a major center into the community and into Lecompton.

COMMISSION DISCUSSION

Commissioner Rasmussen inquired about why IG was requested.

Mr. Todd said if the property was annexed into the City it needed some sort of City zoning designation. He said IG came from the Sector Plan which already evaluated what the appropriate uses for the area would be. He said at this point in time a specific use for the site was unknown so it would enable the property owners to promote the property adequately and for the Chamber to bring in companies interested in stimulating the economic development of the community. He said there was certainly opportunity for uses in the IL category that also fall in the IG category but at this point in time until a specific use was known or a specific user was interested in the property it needed to have some sort of general industrial zoning classification in order to open it up for potential uses. He

said regarding the issue of notification, the certified list from the County Clerk's office did have three separate tracts owned by the Ward family but they all had the same mailing address.

ACTION TAKEN on Item 14B

Motioned by Commissioner Liese, seconded by Commissioner Singleton, to approve the rezoning request (Z-3-8-11) for 69 acres from County A (Agricultural) District to City IG (General Industrial) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Commissioner Dominguez said there needed to be a tax base to support nice amenities for the community. He stated he hated for that scenery to go away but that he would support the motion.

Commissioner Harris said she agreed this was a good place for industrial but was uncomfortable with how quickly they were moving toward putting infrastructure there. She said the Comprehensive Plan cautioned against doing that because it was not good for the community to pay for that. She said if there was another mechanism or language in the Comprehensive Plan that said industrial parks would use different rules she would feel more comfortable approving this. She said she would vote against the motion.

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

PC Minutes 5/25/11

**ITEM NO. 15 TEXT AMENDMENT TO CITY/COUNTY SUBDIVISION REGULATIONS AND
DOUGLAS COUNTY CODE; BUILDING SETBACKS ALONG US HWY 40
(DDW)**

TA-4-7-11: Text Amendment to Section 20-814 of the Joint City/County Subdivision Regulations of the Code of the City of Lawrence, Kansas and Chapter 11, Section 814 of the Douglas County Code, which concerns extraordinary building setbacks along US Highway 40, west of K-10 Highway.
Initiated by Planning Commission on 2/23/11.

STAFF PRESENTATION

Mr. Dan Warner said they were asking to withdraw the Text Amendment.

ACTION TAKEN

Motioned by Commissioner Harris, seconded by Commissioner Singleton, to withdraw Text Amendment, TA-4-7-11, to Section 20-814 of the Joint City/County Subdivision Regulations of the Code of the City of Lawrence, Kansas and Chapter 11, Section 814 of the Douglas County Code, which concerns extraordinary building setbacks along US Highway 40, west of K-10 Highway.

Motion carried 9-0.

PC Minutes 5/25/11

**ITEM NO. 16 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE;
MULTI-DWELLING RESIDENTIAL ZONING DISTRICT RM64 (MJL)**

TA-3-3-11: Consider Text Amendments to the City of Lawrence Land Development Code, to various sections regarding creation of a new multi-dwelling residential zoning district, RM64. *Initiated by City Commission on 4/5/11.*

**ITEM NO. 17 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; CHP
20; PLANNED DEVELOPMENT OVERLAY DISTRICT (MJL)**

TA-3-4-11: Consider Text Amendments to the City of Lawrence Land Development Code, Chapter 20, Article 6 & 7, regarding revisions to the district criteria and development standards in the Planned Development Overlay District. *Initiated by City Commission on 4/5/11.*

STAFF PRESENTATION

Ms. Michelle Leininger presented items 16 & 17 together.

Commissioner Harris said it seemed to say if there was an RM district next to an RS district and a one-story house on the RS lot you did not have to build a one-story multi-family house, you could build maximum height of two-story.

Mr. McCullough said that was correct, the one-story house would have the ability and right to go up to the maximum of 34'.

Commissioner Harris said she saw a lot of benefits to what was being proposed. She said she also saw the potential for people not liking what happened in the PD districts. She asked if staff anticipated any problems with developing according to the new standards in the PD districts proposed.

Mr. McCullough said it would be case by case proposals to the Planning Commission and City Commission. He felt it was an appropriate tool in the toolbox that was not being used because of all these challenges. He said they could be used to a greater degree to help meet the Comprehensive Plan policies and to get compatible and creative projects going.

Commissioner Harris inquired about applying this in the Oread neighborhood with small homes that were zoned RM instead of RS.

Ms. Leininger said specifically in the Oread neighborhood a lot of those single-family homes were more of the traditional two and three-story houses so some of that was already mitigated by the existing structures. She said neighborhood context could be taken into consideration with the PD overlay.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, said this started because they wanted more flexibility. He said the first thing they started with was the size. He said staff worked on the height to fix the flaw in the Code. He said the PD Overlay would essentially be on a case by case basis, not city wide. He said regarding the RM64 there was no desire to have 160 units per acre anywhere. He said it came out of the desire for a higher density zoning district. He said he did not know why Horizon 2020 did not support it. He said the land value 20 years ago did not drive the type of projects seen today.

Commissioner Rasmussen asked if he had a preference of RM64 or the PD Overlay.

Mr. Werner said the PD Overlay was his preference because it was more simple.

PUBLIC HEARING on both items 16 & 17

Mr. Dennis Brown, Lawrence Preservation Alliance, said the PD Overlay made more sense. He felt this was being brought forward to increase the density for a major project in the 1000 block of Indiana and possibly another in the 1100 block. He said Lawrence Preservation Alliance was not opposed to finding a tool that worked for those specific projects, provided they could pass historic review. He said the concern was what may work there could have a detrimental effect to historic and older housing elsewhere. He stated the RM32 density definition died because it wasn't specific enough. He said the PD Overlay route allowed for one at a time project review. He expressed concerns about no minimum acreage. He wondered how the PD Overlay would not increase the redevelopment process.

Ms. Gwen Klingenberg, Lawrence Association of Neighborhoods, felt the PD Overlay was the better way to go. She expressed concerns about no minimum acreage and density changes. She was concerned about apartment windows being placed to look directly into single-family homes.

Commissioner Harris asked what she would recommend for acreage.

Ms. Klingenberg said would like at least 1 acre.

Commissioner Rasmussen asked for clarification about her concern regarding height. He said he felt like the house next to his could look into his home and vice versa.

Ms. Klingenberg said in most cases, especially with new development, they were very careful to make sure windows did not look into each other.

Ms. Marci Francisco felt the PD Overlay was a better tool but limited design standards with just height and setbacks. She felt the character of the neighborhood needed to be considered. She said there should be an acreage minimum. She said City Commission should have the ability to increase parking in certain circumstances. She suggested a variety of units with a sliding scale on density/bedrooms.

ACTION TAKEN on item 16

Motioned by Commissioner Singleton, seconded by Commissioner Harris, to deny the proposed amendments TA-3-3-11 to the City of Lawrence Land Development Code to the City Commission based on the findings of fact outlined in the staff report

Commissioner Finkeldei said he would vote in favor of the denial of RM64 but would be open at some point to consider something less.

Motion carried 9-0.

COMMISSION DISCUSSION

Commissioner Finkeldei asked why staff was recommending 0 acreage.

Mr. McCullough said it allowed for maximum flexibility and all the figures were somewhat arbitrary.

Commissioner Finkeldei inquired about parking and the idea of allowing City Commission to increase or decrease it.

Ms. Leininger said for residential they would go to the Board of Zoning Appeals but for non-residential the City Commission could approve it with a parking study justification for reductions.

Commissioner Finkeldei said he would agree with allowing City Commission to consider an increase or decrease in parking.

Ms. Leininger said the Code requires 1 parking space per bedroom and an extra one for every 10 units. She said not everyone in a bedroom would have a car so it would even out.

Commissioner Singleton asked what language would address the character of the neighborhood.

Mr. McCullough said the character of the neighborhood was one of the golden criteria for any rezoning request process.

Commissioner Harris asked how this Text Amendment would preserve older structures.

Mr. McCullough said the difference in the two Text Amendments was that the RM32 would establish a standard that could have been used by right, the PD Overlay was a rezoning process so it added a few layers of public review.

Commissioner Harris asked how much space was needed to construct underground parking.

Mr. Werner said it had to meet the same dimensional standards as a normal parking lot. He said 50' wide would be too narrow so a single 50' lot would be tough. He said if it was turned the other direction 117' would be better.

Commissioner Rasmussen would like to see examples of how it could be applied to properties.

ACTION TAKEN on item 17

Motioned by Commissioner Singleton, seconded by Commissioner Liese, to defer the item until June 20, 2011.

Motion carried 9-0.

PUBLIC COMMENT SECTION

ADJOURN 11:55pm