

DE SOTO PLANNING COMMISSION MINUTES

City Hall, 32905 W. 84th Street
Tuesday, December 22, 2009 – 7:00 P.M.

1. The meeting was called to order by Chairman Mike Kroeger.

2. Roll Call:	Crumbaker	Present	Kroeger	Present
	Hemphill	Present	Krudwig	Absent
	Honomichl	Present	Lane	Present
	Winslow	Present		

3. **General Business:**

A. Approve Planning Commission Agenda.

Motion by Commissioner Honomichl to approve the Agenda; second by Winslow.

All Commissioners approved by “ayes”.

Motion carried.

B. Approve minutes of the November 24, 2009 Planning Commission meeting.

Motion by Commissioner Honomichl to approve the Minutes; second by Crumbaker.

Commissioners Hemphill and Winslow abstained; all other Commissioners approved by “ayes.”

C. Disclosure of conflicts of interest. Commissioners Lane and Honomichl said they are in the notice area of Public Hearing Item B, and will recuse themselves from the discussion of Item B.

D. Disclosure of outside communications regarding Commission business. N/A

4. **Call to Public:**

Members of the public who wish to address the Planning Commission regarding items not on the agenda may do so at this time. Any presentation is for information purposes only. No action will be taken. There is a four-minute time limit.

No one appeared and the Call to Public was closed.

5. **Public Hearing:**

A. Public hearing to consider an application to rezone property located at 33160 W. 83rd Street from C-1 Business Central to R-H Residential Historic Old Town District.

Motion by Commissioner Crumbaker to table this hearing to the next meeting; second by Honomichl.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Yes	Krudwig	Absent
	Honomichl	Yes	Lane	Yes
	Winslow	Yes		

Motion carried.

- B. Public hearing to consider an application to rezone several parcels of land within the City that retain their county zoning following annexation. Discussion between Planner Bohnsack and Commissioner Honomichl that Commissioner Honomichl was incorrectly sent a letter for this rezoning. He is more than 200 feet from the area so he will remain in the discussions of the rezoning. Commissioner Lane is within the rezoning area. After discussion, the Commissioners agreed to discuss the rezoning properties in separate areas.

Motion by Commissioner Honomichl to amend the Agenda to split public hearing item 5.B into three items with 5.B #1 to consider Area 5 of the proposed rezoning action; and 5.B 2 to consider Areas #1, #3, and #4, and 5. B 3 will be area #2; second by Winslow.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Yes	Krudwig	Absent
	Honomichl	Yes	Lane	Recused
	Winslow	Yes		

Motion carried.

Chairman Kroeger requested Planner Bohnsack discuss the properties in Area 5. Parcel #48 is the property that is close to Commissioner Lane's property and that is why she has recused herself from this discussion. Chairman Kroeger and Planner Bohnsack discussed the rezoning criteria. Current uses on all properties match up with the proposed zoning.

Chairman Kroeger opened the Public Hearing for discussion. No one appeared and Chairman Kroeger closed the Public Hearing.

Motion by Commissioner Hemphill to take action on Area 5; to recommend approval to rezone Adkins #48 to R-1 Residential - Low Density; JAA Land #64 to R-A Rural Agriculture; JAA Land #66 to R-0 Residential – Suburban; second by Honomichl.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Yes	Krudwig	Absent
	Honomichl	Yes	Lane	Recused
	Winslow	Yes		

Motion carried.

Commissioner Lane was recalled to the Planning Commission meeting.

Engineer Brungardt showed the audience the areas on the map that are in the discussion for the rezoning.

Planner Bohnsack discussed Areas #1, #4 and #5 belonging to Mr. Thane Palmberg. Planner Bohnsack provided a map of this area showing contours and floodplain. Mr. Palmberg would like to go with the R-O Residential Suburban zoning classification. Planner Bohnsack pointed out that the Nonconformity regulations will allow him to continue the agricultural activities on the northern part of the properties and the proposed R-0 zoning will allow development of the southern part into large-lot residential use. Development of the property will require public access.

Planner Bohnsack and Commissioners discussed the Clearview Village parcels #13, #17, #149, #151 and #157. Mr. Dave Rhodes is requesting all the parcels be rezoned to the C-2 Business – General. This agrees with the Comp Plan and he is not concerned about re-appraisal of his property.

Engineer Brungardt noted there that the residential uses on the Clearview Village properties will become legal non-conforming uses if this property is rezoned to C-2. The City will notify Mr. Rhodes in writing that the residential use cannot be expanded in future. Discussion between Chairman Kroeger and Engineer Brungardt on what is regular rental activity for the residential apartments and what might amount to abandonment of the residential use. Discussion ensued between Commissioner Winslow and staff on the current uses on parcel #149.

Planner Bohnsack stated she has not received any clear response from the Skelgas representatives for parcel #150 in area 3. She recommends this parcel be rezoned to C-2 Business – General.

Discussion ensued between Planner Bohnsack and Commissioners regarding the parcel #37 belonging to Mr. Campbell in Area 4.

Commissioner Winslow asked about Area 1 and the R-0 District due to the 50-foot setback requirements, are the buildable areas large enough for a road and the setbacks. Commissioner Hemphill and Planner Bohnsack said this would be addressed at the time a preliminary plat is submitted. Engineer Brungardt and Commissioners discussed that plans would have to come before the City before the tracts could be developed.

Chairman Kroeger asked Mr. Palmberg for any comments. Mr. Palmberg wanted to be clear that the property noted as a separate tract dividing parcel #1 on the map is actually an easement. He said his family gave the road easement and he owns the property the government road is located on.

Mr. Dave Rhodes, 36000 W. 103rd Street, owner of Clearview City, said he is not aware of any buildings or uses that would not be non-conforming. Engineer Brungardt said the post office is a commercial use. Mr. Rhodes said he doesn't see that as a commercial use. Mr. Rhodes said the empty space is used strictly for storage and he said there is no space to be rented. Mr. Rhodes said there is a ballroom in the leasing office that is used only by those people who live in the complex and that he considers all buildings and uses as accessory to the residential use of the property. Mr. Rhodes said there are about 15 residential buildings that have been boarded up for the past eight years, and he wants to

know where these buildings stand in the non-conforming use. Engineer Brungardt said those structures will need to be identified. These will not be deemed non-conforming residential uses because they are not and have not been used for residential use in the recent past. They will not be able to be used without meeting the zoning district regulations.

Chairman Kroeger opened the Public Hearing for comment. No one appeared and the Public Hearing was closed.

Motion by Commissioner Crumbaker that the Commission has reviewed the mandatory considerations as outlined in Article 13 of the Zoning Regulations for the City, and I hereby move that we recommend the Zoning designations to be changed for the specified parcels and that the zoning map be revised as follows:

Properties #1, 4 and 5 to be rezoned to R-0 Residential Suburban;
Properties #13 and 17 to be rezoned to C-2;
Properties #159, 151, 157, and 150 to be rezoned to C-2 Business-General; and
Property #37 to be rezoned to R-A Rural Agriculture; second by Winslow.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Yes	Krudwig	Absent
	Honomichl	Yes	Lane	Yes
	Winslow	Yes		

Motion carried.

Planner Bohnsack discussed the Terra Vista property described as Area 2, and she stated she has legal descriptions for each of the areas of the parcel to go into the separate zoning districts. Engineer Brungardt discussed the zoning map in Exhibit D. He discussed the proposed rezoning as it would relate to the Comprehensive Plan and the requested three rezoning uses of C-2 Business, O-I Office Institutional and R-3 Multi-Family. Discussion ensued between Commissioners and staff. Commissioner Crumbaker asked if the requested rezoning designations would fit with the Future Land Use Plan. Engineer Brungardt said most of the area for the C-2 zoning fits, but the other two zoning districts requested do not.

Discussion between Commissioner Winslow and Engineer Brungardt regarding the proposed O-I zoning classification as it would relate to the flood plain area. Chairman Kroeger asked if this parcel would fit better with a 'PD' zoning. Planner Bohnsack pointed that it would be better as PD, but that type zoning requires submittal of a development plan

Chairman Kroeger asked the property owner to comment.

Ken Kohler, 12805 Russell Street, Overland Park, Kansas said this property is on K-10 and 95th Street. The tract geographically does break out fairly well for the three designated areas. He distributed an aerial map with the areas depicted on it for the benefit of the Commissioners, and discussed the topography of the tract as it could be developed in future by a developer. Mr. Kohler said he wasn't aware that the tract would have to fit with the Future Land Use Map for a rezoning.

Chairman Kroeger stated this is one criterion that is always considered in a rezoning matter.

Chairman Kroeger opened the Public Hearing for comment. No one appeared and the public hearing was closed.

Commissioner Winslow said there are legal descriptions for three portions of this tract, so there could be three different zoning designations for this parcel. The Commissioners discussed the legal descriptions and asked who provided them as this property is still one large tract.

Mr. Kohler said he wrote the legal descriptions for the three tracts; the legal descriptions were not done by a surveyor. Commissioner Honomichl he has some concerns with the legal descriptions, that there should be a legal description prepared by a licensed surveyor for the zoning boundaries to be defined. Chairman Kroeger said he is inclined to agree. Commissioner Honomichl said the combination of zonings might be complimentary to this tract. He said he would like a more specific definition of how the tract actually breaks out with specific zoning boundaries.

Commissioner Crumbaker said the City has been fairly consistent in following the Comprehensive Plan, and he feels that legal descriptions should be provided for the three rezoning classifications within this single parcel. Commissioner Crumbaker stated he is opposed to the rezoning at this time. Discussion by Commissioners.

Commissioner Honomichl said this parcel migrates a little further into a concept for the land use much more so than the other properties. He said he agrees that this tract more than likely will come forward to the City again just because of the nature of the mix of the development and the uses. He asked Planner Bohnsack to review the tract for a different zoning.

Discussion between Engineer Brungardt and Commissioners regarding tabling this matter until staff can re-notice this tract due to the legal descriptions and zoning classification. Planner Bohnsack commented that the owner has a right to create his own legal descriptions if the property is not being transferred to a new owner. She then referred to Article 3 of the Zoning Regulations that describes how to determine zoning district boundaries. Commissioner Honomichl said he doesn't disagree, but these are highly conceptual zoning districts being requested and is the ambiguity enough to cause concern, with the creek being used as a property line. Discussion continued by the Commissioners as to the concept being more in line with the Comprehensive Plan and the Future Land Use. It was also noted that two other parcels had been divided into separate zoning districts using a creek line as the division point in the parcels.

Motion by Commissioner Honomichl, after having reviewed the mandatory considerations as outlined in Article 13 of the Zoning Regulations for the City, and I hereby move to recommend the zoning designation be changed for parcel #25 of Area 2, as included in the Staff Report, with specific zoning districts as follows: that the western 1,100 feet of parcel #25 be recommended for C-2 Business-General zoning; that the portion of parcel #25 lying south of the centerline of the creek bisecting the parcel except there from the western 1,100 feet of parcel #25 be

designated R-3 Multi-Family zoning; and that portion of parcel #25 lying north of the centerline of the creek bisecting parcel #25 excepting there from the western 1,100 feet be designated O-I Office Institutional zoning; second by Winslow.

Commissioner Crumbaker asked how this would relate to the map. Engineer Brungardt provided a rough drawing as to how this zoning is depicted.

Roll Call:	Crumbaker	No	Kroeger	Yes
	Hemphill	Yes	Krudwig	Absent
	Honomichl	Yes	Lane	Yes
	Winslow	Yes		

Motion carried.

Planner Bohnsack noted that there are still two more parcels with county zoning to be addressed in January.

- C. Public Hearing to consider a proposed text amendment to the Zoning Regulations concerning rezoning of newly annexed land. Planner Bohnsack was asked if she has received any feedback regarding this text amendment. City Attorney Reavey has reviewed and concurred with the proposed new wording as provided in the Staff Report dated December 22, 2009. He does not want to give more than three months for the zoning process to begin because the property will basically be without zoning for that period of time.

Chairman Kroeger opened the Public Hearing. No one appeared and the public hearing was closed.

Motion by Commissioner Honomichl to recommend approval of a text amendment to Article 3, Section 5 F and Section 7 of the Zoning Regulations as set forth in staff's report; second by Hemphill.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Yes	Krudwig	Absent
	Honomichl	Yes	Lane	Yes
	Winslow	Yes		

Motion carried.

6. **Old Business:** N/A

7. **New Business:** N/A

8. **Staff Advisory Reports**

- A. Planner Bohnsack provided feedback from the Council comments/action on rezoning of the first 140 parcels of land from County to City zoning districts; the archery SUP; the text amendments to implement regulations for solar and wind energy conversion systems; and the wind turbine SUP that was on the December 17th, 2009, Council Agenda.

- B. Issuance of Certificates of Non-Conformance has been discussed by staff and the City Attorney regarding the zoning changes that have been approved.

9. Calendar:

- A. *January 7th 2010* - City Council - Tentative Planning agenda items include:
- None
- B. *January 21st 2010* - City Council - Tentative Planning agenda items include:
- Application to rezone 33160 W. 83rd Street from C-1 to R-H District.
 - Application to rezone parcels of land within the City from county to City Districts.
 - Text amendment concerning rezoning of newly annexed land
- C. *January 26th 2010 - Planning Commission – Tentative agenda items include:*
- Rezone parcels within the City that retain county zoning following annexation
- D. *Upcoming Business*
- Possible rezoning of parcel(s) with C-1 zoning to the R-H District
 - Possible rezoning of parcel on Kill Creek Rd from R-0 to R-A District
 - City Code revisions needed to implement R-A District (livestock)
 - Consideration of Conservation Subdivision Design regulations as a development tool

Motion by Commissioner Honomichl to adjourn at 8:50 p.m.; second by Crumbaker

All Commissioners approved by “ayes”.

Motion carried.

Respectfully submitted:

Lana R. McPherson, MMC, City Clerk