

**CITY OF DE SOTO
PLANNING COMMISSION**

City Hall, 32905 W. 84th Street
April 22, 2008 – 7:00 P.M.

MINUTES

1. The meeting was called to order with Roll Call by Chairman Kevin Honomichl.

2. Roll Call:	Walker	Present	Hemphill	Present
	Honomichl	Present	Kroeger	Present
	Krudwig	Absent	Crumbaker	Present
	Templin	Present		

3. **General Business:**

A. Approve Planning Commission agenda.

Motion by Commissioner Kroeger to approve the Agenda with the addendum; second by Crumbaker.

All Commissioners approved by “ayes”.

Motion carried.

B. Approve minutes of the February 26, 2008 Commission meeting. (Note for the record that the March 27 Planning Commission meeting was cancelled.)

Motion by Commissioner Hemphill to approve the Minutes; second by Walker.

Commissioners approved by “ayes”, with Commissioners Kroeger and Templin abstaining.

Motion carried.

C. Disclosure of conflicts of interest. Commissioner Templin stated at one time in the past he represented Monte Jacobs on some property along 95th Street. However, Mr. Jacobs has since passed away.

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.

5. **Public Hearing:**

A. Public hearing to consider and make a recommendation to the City Council

concerning signs in the “R-H” Residential – Historic “Old Town” District. (Article 7, Section 11, Part A). Chairman Honomichl requested Planner Bohnsack review the staff report provided to the Commissioners. The recently adopted Sign Regulations do not make provision for signs in the “R-H” Residential-Historic “Old Town” District. Commissioner Templin and Planner Bohnsack discussed the sign regulations for the commercial properties located within this district. Chairman Honomichl said a special use permit is required for commercial uses located within the “R-H” District.

Chairman Honomichl opened the public hearing. No one appeared and Chairman Honomichl closed the public hearing.

Motion by Commissioner Templin to recommend approval of the new language as proposed; second by Kroeger.

Roll Call:	Walker	Yes	Hemphill	Yes
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Absent	Crumbaker	Yes
	Templin	Yes		

Motion carried.

- B. Public hearing to consider an amendment to the subdivision regulations to address condominium developments and the conversion of existing developments to condominium status. Planner Bohnsack said the City has been approached by a developer concerning the possibility of converting an existing office park into condominium units. She provided some examples for the Commissioners perusal. Planner Bohnsack discussed the changes and the proposed re-wording of the regulations as provided to Commissioners as Exhibit C. She stated there is not currently a submittal filed with staff.

Commissioner Hemphill said the words “common areas” are used a lot in the proposed regulations. Discussion by Planner Bohnsack that the language is defined in the Kansas statutes regarding “convertible” land—when specific parts of common areas are reserved for a specific owner’s use. Commissioner Hemphill said there are common areas that the landlord has to maintain. He said this proposed language seems to be different on the common areas. Continued discussion by Planner Bohnsack and the specific uses of common areas. Commissioners discussed common areas.

Commissioner Templin said Kansas law states you are basically purchasing the right to occupy the “wall to wall” space between the walls. The owner then has responsibility for all the common areas. Planner Bohnsack discussed the document that must be filed stating all property uses clearly defined, as set forth in K.S.A. 58-3101(g). Commissioner Templin discussed the Kansas law regarding condominium laws. Discussion by Commissioners regarding a stipulation that the condominium entity be incorporated. Commissioner Kroeger said he would like for Steve Chick, Building Official, to review the codes for condominiums as stated by the International Code Council. Commissioner Crumbaker asked staff if they are comfortable with this language. Planner Bohnsack stated the City Attorney has reviewed the state statutes and this language. He did not see any problems.

Commissioner Walker said he would prefer not to act on this tonight. He would like to have a chance to read the documents in entirety. Chairman Honomichl said in light of the code concerns, this would allow City Staff to review the requirements. Commissioner Templin said he would like to inquire of other communities around us, in Kansas, that have condominium codes. Commissioner Hemphill asked if we can go with the Uniform Building Code and National Fire Code requirements it keeps us out of trouble. Discussion by Commissioner Kroeger regarding some concerns in how the UBC is interpreted on condominiums. Discussion continued by Commissioners and staff concerning the firewalls and multiple stories for two-hour separations on firewalls.

Chairman Honomichl opened the public hearing.

Joe Rawie, 8980 Rowen Road, De Soto, stated he has a person interested in the Lexington Plaza building and a potential condominium on that property. He said he is curious how the firewalls would be looked at under the building codes. Chairman Honomichl said Mr. Rawie would have to replat his property. Discussion ensued between Mr. Rawie and Commissioners regarding the fact that the City doesn't have regulations in place currently for the condominiums.

No one else appeared. The public hearing was closed by Chairman Honomichl.

Commissioner Hemphill discussed the firewall regulation and said there is a strong reason the rules for firewalls exist. Discussion continued among the Commissioners regarding the firewall language. Planner Bohnsack said Building Official Chick is familiar with firewall regulations and the building code requirements.

Motion by Commissioner Walker to table this item until the next meeting; second by Crumbaker.

All Commissioners approved by "ayes".

Motion carried.

6. Old Business:

- A. Consider an application from Bob Power to implement the Uptown De Soto Overlay District for a site at 32955 W. 82nd Street. Planner Bohnsack reviewed the comments in the staff report provided to Commissioners. She stated the "Uptown De Soto Regulations" are now in place. Mr. Power has submitted an application for the Uptown De Soto Overlay District regulations to be utilized for his site. The applicant intends to build a two-story garage in the rear of the home, accessible from the alley. Parking for the business will be provided in the access drive from 83rd Street and in three spaces near the future garage. The work on the interior of the structure was begun several months ago.

Planner Bohnsack discussed the utilities and the public improvements, and said Mr. Power will sign an agreement not to protest a benefit district for public improvements that are apportioned among the surrounding and benefiting property owners. She stated the landscaping plan sufficiently meets the goals of the plan.

Engineer Brungardt stated he has talked with Mr. Power regarding the utilities, and

there is no need to define these specifically, as they will be handled through the building permit process. The parking spaces in the rear of the building should be paved in accordance with the minimum surfacing standards. He has talked with Mr. Power and Mr. Power wants to explore the use of hard surface permeable surfacing. Engineer Brungardt further discussed the signs for this business as it is on 83rd Street. He is in favor of granting the exception for the sign being in the right of way, as it appears there is approximately 10 feet of right-of-way in excess of the "required" right of way on the south side of 83rd Street.

Mr. Bob Power, 32955 W. 83rd Street, De Soto, discussed the more permeable surfaces that are being discussed by Johnson County contractors, as opposed to the specific hard-surface materials. Discussion between Commissioners and Engineer Brungardt on the regulations calling for six inches of asphalt for parking.

Commissioner Templin asked if the Commission has the authority to grant discretion on the regulations. Engineer Brungardt and Chairman Honomichl agreed the Commission may direct staff on this particular matter. Engineer Brungardt read the City's regulations concerning the parking surfaces that allows the City Engineer to approve alternate surfacing materials upon recommendation by a geotechnical engineer.

Mr. Power described the signage that will be placed in the front yard of the business. Discussion between Commissioner Templin and Engineer Brungardt regarding the regulations for fencing in the front yard. Mr. Power said he hired an historical architect to help restore this property back to its Victorian "period" design.

Commissioner Hemphill discussed the 'porte cochere' with Mr. Power and how close this structure is to the property line. Continued discussion among the Commissioners regarding language concerning the property line and structures at the property line within the Uptown De Soto Overlay regulations. Commissioner Templin said the language that has been adopted is what must be used at this time. Discussion continued between Engineer Brungardt and Commissioners regarding the setback guidelines, and the newly adopted Uptown Overlay regulations. Commissioners discussed the sidewall height on commercial-to-commercial setback versus the commercial to residential at the property line.

Commissioner Walker said his concern was on the sign location. Mr. Power said the right-of-way comes to within 25 feet of the front porch. Mr. Power asked if there were specific species of trees that are requested for the 83rd Street trees. A discussion ensued between staff and Commissioners regarding the trees. Commissioner Templin said staff should check to see if there is a species standard. The landscaping regulation for the Uptown Overlay District was read by Planner Bohnsack. Discussion by Commissioners and Mr. Power regarding landscaping. Commissioner Kroeger provided comments in the overlay allowing discretion. Chairman Honomichl said the language regarding landscaping in the Overlay should be looked at by staff and Commissioners.

Chairman Honomichl asked about the screening on the trash receptacles. No dumpster is indicated on the site plan. Engineer Brungardt stated that by it not being shown, this depicts there isn't screening shown for a dumpster. Chairman Honomichl asked if the density has been verified; Planner Bohnsack replied "yes". Discussion between Commissioners and Staff.

Motion by Commissioner Templin to approve the application with the conditions indicated in the staff report, items 1, 2 and 3, and with an additional condition that the indicated porte cochere, if constructed, be no closer than five (5) feet from the property line, unless the property to the immediate west ceases to be a residential use, in which case the porte cochere may be constructed up to the property line; second by Crumbaker.

Commissioner Kroeger asked if we are setting a precedent for the sign. He also said there is an implication of a sidewall because there is a structure there. Further discussion ensued by Commissioners on the structure height near the property line. Commissioners requested a graphic to show how to determine wall height in the zone.

The Motion was amended and seconded from five (5) feet to six (6) feet.

Roll Call:	Walker	Yes	Hemphill	Yes
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Absent	Crumbaker	Yes
	Templin	Yes		

Motion carried.

Chairman Honomichl requested staff bring back some amended language for consideration regarding the comments that were discussed this evening pertaining to the new Uptown De Soto Overlay regulations. There is also a request to discuss the TND language.

7. New Business:

- A. Discuss the proposed revisions to the Future Land Use Map of the Comprehensive Plan for the 95th Street Corridor area. Engineer Brungardt provided a power point presentation concerning the public meetings that have been held and the discussion outcomes from the groups that participated. Common themes were commercial at Kill Creek and K-10, and low density residential where it currently exists. Engineer Brungardt reviewed the findings of each group's recommendations at the public workshops.

From these workshop findings, Engineer Brungardt has drafted a proposed Future Land Use Map. He provided copies of the map for Commissioners and those present in the meeting. He discussed the Land Area Summary, and stated the map shows revisions strictly to the area inside the study boundaries.

He requested Commissioners consider discussion on the area designated as the "Urban Service Area" and changing it to "Rural Policy Area", even though it is outside the Study Boundaries. He also called attention to the areas designated for "Public/Semi Public" Uses. Engineer Brungardt called attention to the distinction between "Low Density Residential" and "Low to Moderate Density Residential" and the division line being determined by future sewer basins. The Gateway Areas and K-10 Viewshed Overlay remain the same. The Park areas were refined to follow the floodplain boundaries. The land use patterns are not adjusted for the County's CARNP Route due to the 20-year planning timeframe.

Commissioners had no further comments. The audience had no response.

Commissioner Walker discussed why the “Rural Policy” would be applied for the future sewer basin. Discussion by Commissioners and Engineer Brungardt on this area still being within the County’s jurisdiction. The “Urban Services Area” restricts to ten acres. “Rural Policy” is five acres.

Discussion by Commissioner Templin and Engineer Brungardt on the “dogleg left” on the CARNP interchange plan. Commissioner Templin said the proposed alignment will chop up the property at the interchange. Discussion by Commissioner Kroeger and Engineer Brungardt on reconfiguring the interchange in the future. Commissioner Templin said there should be a policy statement that the City’s plan is to develop the property located at 95th Street and Kill Creek. Discussion that access is going to have to be drawn off 95th Street. The current alignment limits the expansion. Engineer Brungardt said the 400 feet is likely to be maintained by the County.

Comments by Mary Guntert regarding the Prairie Star Parkway alignment coming in as a future interchange south of 95th Street.

Commissioner Templin said we should do our planning for what we have, and push back on the CARNP plan. Chairman Honomichl agreed, and this would be within the City’s ability to approve a plan for commercial development at K-10 and 95th Street. Comments from Dean Wall regarding the County’s purchase of two 10-acre tracts of land around 107th and 111th Streets. Discussion by Commissioners on the new area county road plan from I-70 to I-35.

Chairman Honomichl stated the Future Land Use Map has come together with a good consensus. Commissioners agreed to keep the “Urban Services Area” as is. The next step is a public hearing on May 27th, 2008. Engineer Brungardt thanked everyone that was involved in the public workshops.

Chairman Honomichl called a five-minute break at 9:35 p.m. The meeting was reconvened at 9:40 p.m.

- B. Discussion of proposed review of the sign regulations as they apply to temporary banner signs. Planner Bohnsack stated the enforcement of banner signs has created some protests at the City Council meeting. The Council approved a moratorium to give the business owners an opportunity to appear before the Planning Commission to request certain changes to the regulations. The business owners are required to come to City Hall and sign an “Agreement to Display Banner Signs” until the moratorium is lifted. Ten businesses have applied for the banner signs as of this date.

Planner Bohnsack she has a concern that people will use the banner signs in place of required business signage as set out in the sign regulations. She encouraged the Commissioners to review the current regulations on banner signs and discuss any suggested amendments. She anticipates any revisions to be heard at the June meeting.

Commissioner Crumbaker asked about the 21-day permit for a banner sign twice per year. Commissioner Templin said, “Give them what they want” because after a couple of weeks, no one will pay any attention to the banners and they will become an eyesore in the community. If the goal is to be something that attracts

attention, then it should only happen for short periods of time. Discussion ensued between Commissioner Crumbaker and Commissioner Templin. Commissioner Kroeger suggested a banner sign option of once per quarter for 21 days. Commissioner Crumbaker said it is pretty tough for a board to make decisions that the business owner should be making as it relates to his particular business.

Discussion ensued among all the Commissioners on the flexibility of when the business can put up or take down a banner sign. Commissioner Templin said why stop with temporary banner signs, why not allow pole signs and neon signs. He said he doesn't agree that regulating banner signs is impairing the business owner to make a buck. Commissioner Crumbaker said he feels the present regulations are overly restrictive. Commissioner Crumbaker said businesses should be able to put up a banner sign and take it down when the business decides. Continued discussed between Commissioners Kroeger, Crumbaker and Templin.

Joe Rawie stated that he owns two buildings in town and has 12 tenants. He said not one of them is making a lot of money. He said these businesses have invested a lot of money in their businesses, and in the last year and one-half the City has lost eight or nine businesses, including the grocery store. Mr. Rawie said he feels we owe it to the people who have invested in businesses in this town and there is a need to either support them or lose them. He said he is asking for a little latitude for a while until the economy improves. He feels the City and fellow businesses need to do whatever they can to help each other survive.

Chairman Honomichl asked Mr. Rawie when he believes there is a saturation point and the banner sign loses its effectiveness.

Commissioner Kroeger said his biggest complaint is that the Council and the Commission are having to deal with this issue and the Economic Development people aren't here to support this request for these businesses. So, why is it the Council's and Commission's concern to keep the businesses when the EDC isn't concerned. Commissioner Kroeger stated these boards are not the reason for whether a business prospers or not, and the Chamber and EDC people need to be more involved in helping these businesses.

Commissioner Templin discussed the regulations for banner signs with Mr. Rawie. Commissioner Templin said he is not opposed to discussing something different for a longer period of time to advertise, but the very notion that this Planning Commission or the City Council is in some way discouraging business is offensive to him.

Mr. Rawie said he is trying to help keep the businesses in De Soto and he doesn't want De Soto to turn into a ghost town. Discussion ensued. Chairman Honomichl said what if the days were changed to 84 days per year. Discussion by Mr. John Richmond, owner of JT's, that he doesn't have a problem with coming in and signing an Agreement regularly for a banner sign.

Commissioner Crumbaker said what is wrong with having a 21-day permit. Chairman Honomichl said a banner is a temporary sign. Commissioner Templin said he feels the Council did a good thing when they put a moratorium on this, so let it play out. Mr. Rawie stated he is passionate about keeping the businesses

here up and running, and he doesn't know the answers. He feels there has to be a solution. Chairman Honomichl said he would like to carry this matter forward to the next agenda for consideration, discussion, and any changes or not to the current regulations. Chairman Honomichl said he is concerned as to why the Chamber director or EDC folks are not here to present their concerns for these businesses. Planner Bohnsack said this item was not advertised.

Discussion between Mr. Rawie and Commissioner Templin on the sign committee that was formed a year or so ago and the results of that committee's findings. Commissioner Templin said it was determined that the City could not control the content on the signs, and the billboard sign issue kept coming up.

Commissioners thanked Mr. Rawie and Mr. Redmond for their time in coming.

8. Staff Advisory Reports

- Request delay on review of uses allowed in Districts compared to Appendix A & NAICS Listing. Discussion between Planner Bohnsack and Commissioners that she bring this back on her timetable.
- Re-codify zoning regulations to incorporate approximately 35 amendments that have been made over the last 8 years. (Last update in 2000) Planner Bohnsack asked if there could be a committee of one or two people to help review the ordinances and amendments. Chairman Honomichl asked why Commissioners need to be involved in this; why can't this be a staff function? Planner Bohnsack said that an ordinance can amend more than one section or one article and the review process would help determine which sections could be affected. Commissioner Templin said he would be happy to help as his time allows.
- Pre-Application Report: Planner Bohnsack said she has a draft of procedures for the Uptown De Soto Overlay District. She requested Commissioners review this for discussion at the next meeting.
- Engineer Brungardt stated he met a couple of weeks ago with the owner of the property where the old gas station is located at 83rd and Kill Creek. They have requested a work session with the City. The applicant wants to present some architectural renderings and get some feedback from the City. The date proposed is May 13th. Chairman Honomichl said there is a concern that this property is a viable property to develop. Discussion by Engineer Brungardt and Commissioners regarding all the issues and concerns to be addressed before the developer would go to the site plan review committee. Chairman Honomichl said he will meet with City staff and the business.

9. Calendar:

- A. *May 1st* - City Council - Tentative Planning agenda items include:
 - Discussion of possible projects for 2009 CDBG application
- B. *May 15th* - City Council - Tentative Planning agenda items include:
 - Selection of project(s) for 2009 CDBG application
- C. *May 27th* - *Planning Commission – Tentative agenda items include:*

- Rezoning request for property located at 9345 Lexington Avenue
- Text Amendment – banner sign regulations
- Recommendation on changes to the FLU Map for the 95th Street Corridor
- Discussion on design guidelines for R-H and C-1 Districts
- Recommendation on changes to banner sign regulations

Motion by Commissioner Kroeger to adjourn at 10:52 p.m.; second by Hemphill.

All Commissioners approved by “ayes”.

Motion carried.

Respectfully submitted:

Lana R. McPherson, MMC
City Clerk