

**CITY OF DE SOTO
PLANNING COMMISSION**

City Hall, 32905 W. 84th Street
February 22, 2005 – 7:00 P.M.

MINUTES

1. The meeting was called to order at 7:00 p.m. by Chairman Honomichl.

2. Roll Call:	Hemphill	Present	Kroeger	Present
	Friday	Absent	Templin	Present
	Honomichl	Present	Moberly	Present

3. General Business:

A. Approve Planning Commission agenda.

Commissioner Templin asked if agenda item 5B was ready for action at this time. Planning Coordinator Kim Gordanier responded that it was and pointed out the sections of text to be amended.

Motion by Commissioner Moberly to approve the agenda; second by Kroeger.
All approved by "ayes".

B. Approve minutes from the Planning Commission meeting of January, 25, 2005.

Motion by Commissioner Templin to approve the minutes as written; second by Moberly.
All approved by "ayes".

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.

None appeared.

5. Public Hearing:

A. Public hearing to consider a rezoning from "C-2" Business - General district to the "O-I" Office - Institutional district for 2 parcels totaling 40 acres generally located at the Southwest corner of Lexington Avenue and 91st Street.

City Planning Consultant Lisa Briscoe stated that the staff conclusions relating to the Golden Criteria considerations were positive overall. She specifically drew attention to the only consideration given a negative finding, the suitability of uses to which the property is currently restricted. It is currently zoned for commercial uses, and has excellent local and regional street network access. Office and semi-public uses are compatible with surrounding

properties.

City Engineer Mike Brungardt stated that whether there will be larger impacts with the proposed zoning is unpredictable. Impacts related to a specific use will be evaluated very carefully during the site planning process. Any improvements to the site will require a traffic impact study. Brungardt noted a letter received from USD 232 school district representative Jack Deyoe. Their stance is essentially neutral on the rezoning. City staff and the applicant have also had conversations with the Kansas Dept. of Transportation regarding the K-10 Corridor study preliminary plans which depict future rights-of-way infringing on the site's southern property line. A letter from KDOT representative Chris Herrick has confirmed that they can make improvements within the existing right-of-way.

Briscoe stated that regarding any detrimental affects to nearby properties, there would be an impact with any development as the property is now vacant. Residential uses are located to the south across K-10 Highway, and have a sufficient buffer of 145-feet. The rezoning is found to be compatible with the light industrial, semi-public, and commercial uses in the area. The criteria regarding the relative gain to the public was found to be positive as well.

Planning Coordinator Kim Gordanier stated that the finding related to compatibility with the Comprehensive Plan was neutral because the Future Land Use map classifies the site as commercial. The Plan gives the Commission freedom to amend the map in order to reflect unpredictable market trends and opportunities. The Plan also highlights the communities desire to increase the provision of services and employment opportunities. Briscoe concluded that staff's recommendation was positive in favor of the rezoning request.

Commissioner Moberly stated that his major concern is with traffic impacts. Brungardt stated that there are thresholds that are near being reached for traffic signals at two nearby intersections. Traffic impacts will be addressed with comprehensive traffic studies and off-site improvement requirements. Chairman Honomichl asked if the opinion of KDOT could be subject to change; this isn't a guarantee for the City. Brungardt said the corridor study is nearing it's final draft. It is a long-term planning tool and there are other ramp configuration options that KDOT has said they could look into. Brungardt stated he is comfortable with development at this location based upon KDOT's letter. Commissioner Kroeger voiced concern that there were no staff findings on the economic impacts of changing the commercial zoning. Brungardt agreed that there is potential for more tax dollars from a commercial zoning. A financial analysis has not been performed.

Bill Woodhouse with ACI Boland, 11229 Nall, stated that he is an architect representing the applicant, Olathe Medical Center. The site is in a strategic location and will be developed as the need arises in the community. Initial development could be limited to a clinic-type facility. At full build-out the site could be a 300-bed hospital with an attached doctor's medical building. The applicant is looking into placing pad sites around the perimeter for supporting uses.

Chairman Honomichl opened the public hearing.

As none appeared, Honomichl closed the public hearing.

Commissioner Templin agreed with Kroeger that the economics of the zoning change warrants some consideration. This is a great site, and the hospital has said that this is a strategic purchase with no development time frame. Honomichl stated that there is a trade off here; he is enthusiastic about the employment opportunities. The Commission asked that Economic Development Director Sara Ritter give her thoughts. Speaking from the audience,

Ritter stated that the matter has not been before the Economic Development Commission board, and she is not speaking on their behalf. Additional medical facilities are important to the community, and the Targeted Industry Study determined that Office-Institutional uses would be favorable.

Chairman Honomichl stated that the institutional use would be a great gateway into the City. Kroeger noted that based upon the zoning and Future Land Use maps, there are not many options elsewhere in town for this type of facility. The Commission discussed amending the Future Land Use map to designate additional areas for commercial development.

Motion by Commissioner Templin to recommend approval of the zoning change; second by Hemphill.

Roll Call:	Friday	Absent	Templin	Yes
	Hemphill	Yes	Honomichl	Yes
	Kroeger	Yes	Moberly	Yes

Motion carried.

B. Public hearing to consider amendment(s) to Section 6.05 of Article 6 of the Zoning Regulations pertaining to requiring lighting interior to developments.

Planning Coordinator Kim Gordanier stated that the agenda item has been correctly published and is now ready for a public hearing and action. The text amendment will require lighting in public parking areas that have 20 or more stalls, as well as pedestrian walkways within 30-feet of the buildings. The amendment requires specific minimum luminance levels, pole height and design limitations, and that a photometric plan be submitted for the City Engineer's review.

Commissioner Hemphill asked about the recommended luminance levels in the first paragraph, shouldn't these be noted as minimums? The Commission agreed that the word 'minimum' should replace 'recommended' for clarification in this section. Commissioner Templin questioned why the text amendment gives the Commission discretion to raise the pole height limitation from 25 to 35-feet. Gordanier responded that the extended pole height may be appropriate for certain uses. City Engineer Mike Brungardt noted that the Board of Zoning Appeals couldn't grant variances for pole heights. Commissioner Hemphill stated that he did not like the 35-foot poles being considered for office parks. The Commission agreed to change the permitted uses for extended pole heights from 'office parks' to 'industrial uses'.

Chairman Honomichl opened the public hearing.

As none appeared, Honomichl closed the public hearing.

Chairman Honomichl wondered what constitutes 20 parking stalls. Does the language read that the stalls have to be adjoining for the requirements to apply? After some discussion, the Commission agreed to clarify that the 20 stalls need only be located within the site plan. The Commission discussed the minimum foot candle levels in the first paragraph again. Brungardt recommended that the text be changed to 'required to a minimum foot candle level of illumination as specified in Section F-6'.

Motion by Commissioner Hemphill to recommend approval of the text amendment to the City Council with the changes as discussed, specifically to drop the word 'recommended' and

change to 'minimum' on page 2 of 3; drop the foot candle levels on page 2 and reference the foot candle minimum levels on page 3 of the staff report; change item 3 at the top of page 3 from 'office parks' to 'industrial uses'; and change '20 parking spaces' to '20 parking spaces within the site plan'; second by Kroeger.

Roll Call:	Friday	Absent	Kroeger	Yes
	Honomichl	Yes	Moberly	Yes
	Templin	Yes	Hemphill	Yes

Motion carried.

C. Public hearing to consider amendment(s) to Section 3 of Article 5 of the Zoning Regulations pertaining to cul de sac regulations.

Planning Consultant Lisa Briscoe stated that her research found that at 500 feet, De Soto's cul-de-sac length regulations are more restrictive than many other area communities. The proposed text amendment would add that not more than one cul-de-sac shall extend from another, with a total length restriction of 1,000 feet. Chairman Honomichl asked if 'cross street' is necessarily a through street. City Engineer Mike Brungardt interjected that with the intersection spacing requirements, practically you would be limited to around 800 feet in total length. Commissioner Templin asked that the first sentence of the existing language be clarified to 'subdivision boundary' instead of 'such boundary'.

Chairman Honomichl opened the public hearing.

As none appeared, Honomichl closed the public hearing.

Motion by Commissioner Templin to recommend approval of the proposed text amendment with the clarification that 'such' refers to the actual boundary of the subdivision; second by Moberly.

Roll Call:	Friday	Absent	Honomichl	Yes
	Hemphill	Yes	Kroeger	Yes
	Templin	Yes	Moberly	Yes

Motion carried.

6. Old Business:

A. Consider a Special Use Permit for continuation of the commercial operation of the Zimmerman Kill Creek Farm property, zoned "R-1" Residential - Low Density, addressed 9210 Kill Creek Rd.

City Engineer Mike Brungardt stated that the item was sent back to the Commission by the City Council because staff had not contacted the County Planning Department. The County is required to be contacted for comment on zoning matters in the K-10 Overlay District. Dean Palos, the Director of Johnson County Planning, has recommended adding language that if public parking in the right-of-way becomes a problem, the applicant will take measures to resolve such problem. Brungardt recommends adding language to this effect to the permit conditions. By approving the permit, the city would not be condoning the use of the on-site privy. Privies are not allowed in the City, and the applicant is aware that it's use will have to be discontinued.

Chairman Honomichl asked if the Council wants to police these conditions or should they be an issue for the codes enforcement department. Brungardt said in his opinion, leaving it up to the Council as a group makes more sense than to a single codes enforcement officer. Councilman Emil Urbanek stated from the audience that because the Council is a political body, the codes enforcement staff are more appropriate to enforce the provision. City Administrator Greg Johnson said from the audience that he recommends 'codes enforcement staff or other appropriate public safety personnel' be added to the language. This would include law enforcement officers who are the ones dealing with traffic issues.

Motion by Commissioner Moberly to recommend approval of the Special Use Permit as presented as item 2a in the Kill Creek Farms Special Use Permit memorandum, with the exception of line 2: replace 'City Council' with 'codes enforcement staff or other appropriate public safety personnel'; second by Hemphill.

Roll Call:	Friday	Absent	Templin	Yes
	Hemphill	Yes	Honomichl	Yes
	Kroeger	Yes	Moberly	Yes

Motion carried.

7. New Business:

A. Consider final development plan for the Arbor Ridge Subdivision, generally located south of 83rd Street between Kill Creek and Waverly Roads.

Planning Consultant Lisa Briscoe stated that the Commission approved the preliminary development plan and rezoning on December 16, 2005. Staff has evaluated the plan and found it to be in substantial compliance with the preliminary plan conditions of approval. Regarding the architectural design review, guidelines have been provided in the Master Lot Sales Agreement. Staff has made recommendations as to the administrative review of the plans, as far as how to quantify by percentage the adherence of the plans to the Master Lot agreement. Briscoe continued that the buffers and material densities have either met or exceeded the requirements.

City Engineer Mike Brungardt noted that the applicant's agreeing not to protest a benefit district was a contingency of the previous approval. This agreement has not been executed, so any approval of the final plan should be contingent upon its submittal. This approval is for Phase 1 of the 5-phase development.

Commissioner Templin voiced that he had recused himself from discussion of this applicant's rezoning application before due to his firm's relationship with one of the applicant's investors (on other matters). Although he was not required to recuse himself under the City's Conflict of Interest Policy, and noted the City Attorney's opinion had been that his recusal wasn't necessary, he voluntarily recused himself from the rezoning discussion. Now that the rezoning matter has been resolved, he felt it was now appropriate to rejoin the commission on topics concerning the applicant.

Chase Simmons of the Polsinelli Law Firm, 6201 College Blvd., stated that he is representing Kill Creek Investors. The applicant has agreed to execute the agreement of non-opposition this week and understands that it is subject to approval. They also understand that the improvement requirements stand whether they get approval for the benefit district or not. The applicant is strongly in disagreement with the additional language by staff regarding how the building official reviews architectural design. It is highly unusual in this area for cities to review

home plans on a case by case basis. The Council voiced agreement to a limited review process in their approval of the preliminary plan, as recorded in the minutes. Simmons continued that Kill Creek Investors wants to avoid getting into a process that would be complicated and potentially rife with conflict and dispute. This project will have high standards but needs to be market driven.

Commissioner Kroeger asked how the applicant would determine 'substantial conformance' to the language in the Master Lots Sales Agreement. Simmons replied that intuition and experience are used to negotiate the home buyer's proposals. Chairman Honomichl noted that the 'P-D' district is intended to encourage innovation in greater variety, type, and layout of the subdivision. Commissioner Moberly said he likes the idea of having guidelines but disapproves of very explicit rules. Commissioner Hemphill added that coming from a design background, he knows that there are appropriate exceptions to these rules. He thinks there should be a compromise. Commissioner Templin noted that this 'P-D' zoning was required in light of uncertainty regarding the master sewer plan, road improvements and discussions of density which came out of the comprehensive plan work. Brungardt responded that the zoning also had to do with compatibility with the neighboring homes. Templin stated that having a strict architectural review was not the intention of the PD zoning in this case and imposing stricter design requirements than would otherwise be required of a conventional residential subdivision seems disingenuous.

Dan Gulley of Axiom Real Estate, 8571 Timber Trails Dr., stated that he felt the review process was overly regulated. Market trends can change, and they may be left with unsellable lots trying to meet these calculations.

Responding to Commissioner Kroeger, Brungardt stated that this approval is only for Phase I of the subdivision, around 40 homes. Kroeger said that if the applicant is willing to rely on the discretion of the building official, then the Commission can take another look at the process with Phase II. At this point, there is nothing to suggest that the developer will approve poor quality designs.

Motion by Commissioner Kroeger to approve Phase I per the language submitted, with the exception of the supplemental points on page 6 and the top of page 7 of the staff report, and conditioned upon the signed agreement not to protest a benefit district; second by Moberly.

Roll Call:	Friday	Absent	Honomichl	Yes
	Moberly	Yes	Templin	Yes
	Kroeger	Yes	Hemphill	Yes

Motion carried.

Chairman Honomichl called for a 5-minute recess at 9:28 p.m.

Honomichl called the meeting back to order at 9:35 p.m.

B. Discuss amendment(s) to Section 5 of Article 6 of the Subdivision Regulations pertaining to rural street standards.

City Engineer Mike Brungardt stated that the subcommittees have met on several occasions and discussed all of the technical and policy issues surrounding these amendments. In order to implement portions of the Comprehensive Plan and encourage rural residential growth, the subdivision regulations will need to be modified. The areas proposed for the rural subdivision overlay district are identified as either low density, rural policy, or urban service areas in the

Future Land Use map. The Map will need to be amended to reflect these policy changes. With the proposed text amendment, exceptions to the typical curb and gutter requirements could be granted by the City Council.

Brungardt explained the technical specifications of the rural section regulations. The lanes will be 28 feet wide, with concrete culverts and ditch sections. Asphalt sidewalks or integrated pathways are to be allowed. In order to qualify for the rural street standards, there will need to be a minimum lot size of 1.5 acres, and an average lot size of 2 acres. Brungardt stated that he recommends any rural subdivision be required to put in dry sewers in order to be readily connected to public sewer service when it is available. Commissioner Kroeger questioned the need for dry sewers when there may not be city services available for quite some time. Brungardt replied that the imposition of the dry sewers is a way to avoid future problems, which may be environmental in nature if public services are not readily connectable.

C. Discuss recommending to City Council the enactment of amendment(s) to the City Code requiring the approval and issuance of grading permits.

Planning Coordinator Kim Gordanier stated that the City Council has requested the Commission discuss requiring grading permits. As requiring such permits would necessitate amendments to the City Code and fee schedule, there will be no formal action needed from the Commission. City Engineer Mike Brungardt added that there is no mechanism to require a review now if the project is meeting erosion control requirements. With a grading permit, the City will at least be able to take a look at these sorts of activities.

Chairman Honomichl voiced that this process can help to prevent mass amounts of trees being cleared. He reminded staff that for large projects, it is not the immediate site being worked on, but rather other nearby areas where materials are being hauled in from or wasted to that the City will need to look at. Brungardt gave examples from around town where grading permits would have been beneficial. After some discussion, the Commission agreed with implementing a grading permit. Honomichl recommended adopting something similar to Lenexa's guidelines, except for gleaning out NPDES (National Pollutant Discharge Elimination System) and adding a tree inventory component to protect against mass tree clearing.

Motion by Commissioner Hemphill to adjourn at 10:23 p.m.; second by Moberly.
All Commission approved by "ayes".

Respectfully submitted:

Kim Gordanier
Planning Coordinator