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MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION

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Monday, December 12, 2011
Shawnee County Annex
6:15 PM

Roll Call and Announcement of Hearing Procedure: After the Board of Zoning Appeals adjourned, Chris Bortz, Chairman, called the meeting to order stating members would be reconvening as a Planning Commission.

Members Present: Brian Jacques, Lynn Marolf, Dave Macfee, Chris Bortz, Pat Tryon, Nancy Johnson and Christi McKenzie. With all members present a quorum was established and the meeting was called to order.

Members Absent: None.

Staff Present: Barry T. Beagle, Planning Director, Gloria Obregon, Administrative Assistant and Aimee Betzen, Assistant County Counselor.

Approval of November 14, 2011, Public Hearing Minutes: Mr. Marolf moved for Approval subject to identifying the three (3) members absent, second by Mr. Jacques and with a unanimous voice vote the November 14, 2011 minutes were approved.

Communications: Mr. Beagle distributed to commission members basic statistical information related to item I.1 on the agenda in addition to a spreadsheet identifying affected property owners. He also referenced the 2012 Schedule of Processing that gives commission members understanding of deadline and hearing dates for the upcoming year.

Ex Parte Communication by Members of the Commission: There were no Ex Parte communications expressed by members of the Commission.

Declaration of Conflict of Interest by Members of the Commission or Staff: Mr. Macfee noted that he is a member of the Chamber of Commerce and currently doing some furniture restoration work for them. Ms. Johnson also referenced that she is a member of the Chamber. Mr. Jacques also stated that he is a member and his law firm has done work for them in the past but have not had any discussed with respect to the issue before them tonight. No Conflict of Interest was expressed by the staff.

Zoning and Subdivision Items:

No Agenda Items

Public Comment on Non-Agenda Planning and Zoning Items

None.

Discussion of Planning Related Issues

1. Consideration to Initiate the South Topeka Economic Growth Corridor Zoning Proposal.

Mr. Beagle stated the issue before the Commission is a request by GO Topeka to recognize an area extending south of the City of Topeka to SW 93rd Street along SW Topeka Boulevard and US 75 Highway as an area intended for economic development. He said the requested area comprises approximately 4,135 acres,

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including 113 parcels consisting of 67 property owners, with a total of 38 dwelling units. In making contact with the Planning Department, Mr. Beagle said GO Topeka's goal was to recognize this area for economic growth and development. He said this area has a long standing tradition for business development including Southgate Industrial Park, Topeka Air Industrial Park, Forbes Industrial Park, Heartland Park and the more recently the successful initiatives of Central Crossing Commerce Park and Kanza Fire Commerce Park. To maximize the development potential of this area for this purpose, GO Topeka contacted the Planning Department to explore different ways by which to secure this area for this purpose. As a result of those communications, Mr. Beagle said a proposed zoning concept was developed which is the subject of the request before the Planning Commission.

As currently zoned, Mr. Beagle said that 97.5% of the proposed land area is zoned the RR-1 Residential Reserve District, with a small area along SW Topeka Boulevard zoned I-2 Heavy Industrial District amounting to 0.5% and the remainder of the area zoned the PUD Planned Unit Development District intended for commercial and industrial land use that comprises approximately 2%. He said that staff also looked at existing land use patterns and existing commercial and industrial zoning within a 1½ to 2 miles radius to get an indication of established patterns of development and zoning. Within the defined radius, Mr. Beagle there exists approximately 140 acres of commercial zoned land and over 4,000 acres that is already zoned for industrial land use. He said, this gives an indication that this is an area of continuing economic growth and development.

As a result of discussions with the Planning Department, Mr. Beagle said a proposed zoning concept was developed which provides for the majority of this area to be rezoned to the I-1 Light Industrial District and a smaller area zoned the O&I-2 Office and Institutional District and C-3 Commercial District along SW 69th Street. He said that approximately 86.5%, or 3,578 acres is proposed for reclassification to the I-1 District. Mr. Beagle said this classification appears to be the most reflective of the evolving trend of growth and development along the corridor. Mr. Beagle said if the Planning Commission acts to initiate this rezoning process, there will be the associated 1,000 foot notification radius that would involve notification of 1,032 property owners.

Mr. Beagle said there are a number of representatives of GO Topeka present to give the Commission more detail information concerning this proposal. He said at the conclusion of their comments, he would wrap things up by defining what the Commission's role is in this process and lay out the public hearing procedure to follow.

Mr. Luck DeFries, immediate past chair of GO Topeka, rose to speak to this request. He said that GO Topeka did contact the Planning staff with respect to this project. Mr. DeFries said this effort is important to attract business interests to this area. He said that GO Topeka understands that this is a sensitive issue and need to balance the need for orderly development of this area with the needs of businesses that want to locate in this area, and with the property owners and their interests. Mr. DeFries referenced the presentation concerning this request to the County Commission in the morning and noted a couple of people who made comments and GO Topeka has already contacted them as follow up. He said that GO Topeka has been and will continue to make efforts to contact people and address questions they may have.

Mr. DeFries said the complexion of this area began to be established decades ago. Beginning with the advent of Forbes Field and what is now including the Forbes Industrial Park, we began to see the evolution that brings us to today. Over the years, he said that we have seen the creation of the Southgate Industrial Park, which includes among other tenants, Frito Lay. He said that Frito Lay has expanded four or five times over the years and have one of their largest facilities in their system here in Topeka. Some years later Heartland Park was created. More recently, he said, was GO Topeka's first venture into commerce park development beginning with Central Crossing which now includes Target, Home Depot and Bimbo Bakeries. He said there is very little land left in that commerce park. As a consequence, Mr. DeFries said that GO Topeka learned the importance of having shovel ready land available and then acquired additional land referred to as Kanza Fire Commerce

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Park. He said that very recently, we have all been very fortunate to have attracted Mars Chocolate of North America to Kanza Fire, the first occupant of the new commerce park.

He said it can be seen the steady growth with respect to the kind of uses people are identifying with this particular area. Mr. DeFries said it must be asked what it is that is attracting business to this area, he said there are a number of things that could be looked at including the availability of large parcels of land that are relatively flat and attractive for the kinds of site locations that people are interested in. Another important consideration is that this area has access to major transportation links including highways, rail, arterials, and air. Being next to Forbes Field is significant for a number of business interests. He also said there is the presence of existing manufacturing and distribution centers there. He said there is the availability of significant utility infrastructure which has been worked on with both commerce parks. This area has also been an area of expanding center of employment growth with more than 4,000 individual currently employed.

Of particular interest to GO Topeka, Mr. DeFries said, is that if we look at those criteria that have attracted business there, in connection with the development of the Kanza Fire Commerce Park, they contracted with Bartlett & West Engineers to do a very comprehensive analysis of what are the best sites in Shawnee County for the next commerce park. They wanted to make sure they were identifying the best possible site that met all the criteria. He said that Bartlett & West came up with a very sophisticated matrix of factors to take into consideration in determining the location of the next commerce park. Mr. DeFries said that when Bartlett & West went through that analysis, this area was clearly the best location. A major factor in making this the best area for expansion was the availability of rail access. There are differences between rail lines for which some lines are very difficult to get access to. Such is not the case in this area. To conclude, he said the reasons why people have identified this area as a good place to locate their businesses was confirmed by the analysis done by Bartlett & West. It is for these same reasons that GO Topeka sees this area as continuing to be attractive for future business growth. Mr. DeFries said they are hopeful they will be able to fill up the Kanza Fire Commerce Park the same as they have Central Cross Commerce Park.

Mr. DeFries said the intent in identifying the South Topeka Economic Growth Corridor and establishing the appropriate zoning classification is to proactively plan for the future with sites that are attractive to businesses within the global business market who may be interested in investing their capital dollars by locating or expanding in Shawnee County. Over the years of talking with people about the possibility relocating here in Topeka have been interested in the zoning surrounding that area. Mars, the most recent company to located in Kanza Fire Commerce Park is no different and wants to make sure there is compatibility between what they do and those that surround them. He said that those already in that area have the same concerns in making sure that the zoning surrounding this area is compatible with all their operations as well. Whether its Forbes Field, the 190th or Heartland Park they all want the assurance that the zoning and the development of the area will reflect what has clearly evolved over the years and represents the best way to assure that we will continue to experience the kind of growth that this area has seen. He said that a good percentage of this area is already zoned for the types of land uses GO Topeka is proposing with over 140 acres of commercial zoning and over 4,000 acres of industrial zoning within the immediate area.

Mr. DeFries said their expectation is that this rezoning proposal will minimize the potential for sporadic residential growth in this area while encouraging economic growth. He said that GO Topeka has tried to be respectful of existing owners of land and recognizing the US 75 Highway will continue to be the economic engine of Topeka and Shawnee County. In addition to the required public hearings, he said that GO Topeka has planned a series of public open houses to give them the opportunity to ask any questions they may have. What is contemplated is that current residential uses and agricultural uses would be allowed to continue upon rezoning even if they were to sell their property. He said that it is their expectation that all existing residential and agricultural land uses would be grandfathered upon reclassification.

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At the County Commission meeting this morning, Mr. DeFries said there was a question expressed about why now for this particular request? He said that this is something they have heard several times over the years from people who have expressed interest in coming to Topeka. He said that there are a number of individuals in this area that are also interested in this proposal. Mr. DeFries said that GO Topeka is having conversations with a large number of people and based on those conversations, that now seems an appropriate time to look at this and come up with some type of plan that will provide people with some assurances as to what the future growth in this area will look like.

Ms. Angela Sharp, Bartlett & West Engineers, said she wanted to give the Commission some additional information on this request from the perspective of land development. She said that when her company is approach about a potential land use project, they first need to look at the factors associated with the specific property they are considering in addition to key factors such as the adopted comprehensive plan and what the anticipated growth is for that vicinity. Other things she said they look at is the actual use of adjacent properties and the zoning of those properties. Ms. Sharp said that this proposal is accordance with the intent of the adopted comprehensive plan. She said there exists a number of existing industrial and business parks in this corridor. She said this corridor extends all the way down US 75 Highway, SW Topeka Blvd. and the railroad and along which are the numerous existing industrial and business parks. One of the main reasons those business parks came to be was because of the great transportation links that exist in the corridor. Right through the middle of the corridor is the Class 1 BNSF rail line. The BNSF has been very good in allowing rail spurs off their main line. That is one of the key reasons why Mars Chocolate chose the site in Kanza Fire Commerce Park because of that availability. The rail spurs for Mars are currently under construction from the main line. US 75 Highway provides a direct connecting link to the busy highway in the State of I-70. Forbes Field, she said, is also nearby with one of the longest runways in the nation which is an ideal air transportation asset.

Mr. Sharp said that City, County and other utility owners have seen the value of this corridor and there have been a number of extensions over the years of large interceptor for sewer, and water. Most recently there was the extension of a high pressure gas line that Kansas Gas Service brought down to Kanza Fire. Westar is also in design for a new substation for this area to help provide power.

She said there are a number of large parcels along the corridor that are owned by forward thinking individuals. She said her company has the opportunity to work with them on a regular basis as clients. Two of them, Steve Harlan, who has Harlan Industrial Park, and Dave Herman who owns 80-acres, have expressed support for this proposal and understand the value of having the entire corridor with the similar zoning use group.

Ms. Sharp said this proposal will allow existing residential and agricultural land owners to continue using their property as they always have. These would be grandfathered uses. The majority of the residential properties within this area are 5 to 10 acre tracts. What is proposed is that these large scale residential tracts not be bothered with the proposal. She said what they are looking at is trying to locate small tract, high density residential development from this area. Ms. Sharp said that many of her residential clients have not looked at this area as being attractive to them for development. Although the airport, Heartland Park and rail service are great regional draws, those are not beneficial to residential development and not the neighbors that residential developers would like to have.

Ms. Sharp said this is an exciting time for our community because we not only have existing businesses that area expanding, but have global companies that are willing to bring their capital dollars to our community for infrastructure improvements to build their facilities and with those facilities to provide jobs. Today is the first step in that process to proactively plan for the siding of that next major facility.

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Mr. Beagle said that what is before the Commission is a proposed zoning concept. It is the request of GO Topeka that the Planning Commission initiate this areawide zoning change based on the proposed zoning concept plan. He said the authority of the Planning Commission to initiate this process comes from state statute. There are three entities that have the ability to seek reclassification, the property owner, governing body, or planning commission. The County Counselor's Office said the most appropriate body to initiate this request would be the planning commission. Mr. Beagle said the concern was that if the County Commission initiated this request, they would appear compromised since the same request would have to come back before them for final consideration. He said a simple majority vote would be all that is necessary to initiate the zoning action. If initiated, he said what will follow is a series of public information activities involving the Planning Department and GO Topeka. As already referenced, there will be three open houses hosted by GO Topeka that will take place in the library at Washburn Rural High School. These will be come and go events whereby property owners can come and ask questions to better understand the process and how it make affect them.

Following the three scheduled public open house events, the Planning Commission will next get involved in February through a series of three public hearings. Given the scale of this project, Mr. Beagle said it was recognized that this could not be accomplished in one hearing. He said it was decided to break-up this area and hold a series of three public hearings to be held on February 13th, 20th and 22nd. He said he would anticipate the commission withholding any recommendation on the request until the conclusion of the third and final public hearing,

Mr. Beagle said he wanted to emphasize was that the commission is not bound to or obligated to follow the proposed zoning concept once initiated. He said that all property owners, including those within the traditional 1,000 foot notification radius, would be notified as normally required. As a result of public testimony, he said the commission may wish to modify the proposed zoning concept by removing certain areas not felt appropriate to be included as part of this request or certain individual properties that don't make sense as part of this request. He said the commission would also have the ability to downzone areas or individual properties included as part of this request. For example, as a result of public testimony, the commission would have the ability to scale back from I-1 Light Industrial to a commercial district. The reverse, he said, is not true, in that the commission could not recommend higher intensity zoning district from what was advertised without re-advertising and going back through the process. He said he wanted to make sure the commission has complete flexibility in their consideration of this proposal. By initiating this zoning change, he said the commission is not locked into this zoning concept.

Mr. Beagle said that at the conclusion of the public hearing, there will be the standard 14-day protest period before the issue goes onto the County Commission in March. Due to the nature of this proposal, Mr. Beagle said there would be two different sets of protesting properties since this is not a property owner initiated zoning action. He said the property owners proposed to be rezoned will have the opportunity in addition to those within the standard 1,000 foot notification radius.

Mr. Beagle said first and foremost in the commission's mind as you consider this proposal based on what GO Topeka has shared, is whether you see this as an established and growing economic development corridor. If so, then the next step would be to take a close look at the proposed zoning concept.

Mr. Jacques asked Mr. Beagle if staff is intending to offer its recommendation for or against this matter at this time. Mr. Beagle said that when this issue returns to the planning commission in February, it will include a staff report with recommendation. He said that otherwise staff is responding to the request made by GO Topeka and funneling it onto the planning commission for initiation. Mr. Beagle said he sees value in this request in the fact that it is getting out in front of development. By doing this action, we recognize this area as a continuing source of economic growth and development. He said that in order to protect this area for that intended

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purpose and minimize encroachment of non-business related uses, such as residential development, this would be an appropriate course of action. Mr. Beagle said he recognizes this area for that purpose and have no objection to it.

Ms. Johnson asked Ms. Sharp to explain the purpose of Area 23 which is off by itself at the northeast corner of Forbes Field and Area 22 that wraps around Heartland Park. Ms. Sharp said they would looking at a radial view of the central portion of the existing industrial corridor and expanded it out. She said why Area 23 appears by itself is because it is within the radial area east of SW Topeka Boulevard that includes Forbes Field and Heartland Park that is already zoned industrial. Ms. Sharp said they also looked at including the area north of AREA 22 along SE 77th Street but it made sense to not include it since there are already a number of residential parcels in that area and did not lend itself to industrial development. Ms. Johnson asked if the area south of Area 22 was also residential? Mr. Sharp said that there are long skinny residential tracts in this area which is why they were also not included. She said that as we move along this long process, we are going to have the opportunity to look at each of these areas individually and individual parcels within each area to see if each one makes sense. Ms. Johnson also asked about Area 1 and why a parcel adjacent to US 75 Highway was not included as part of the area. Ms. Sharp said that this is the Engler tract which is already zoned commercial which is why it was not included.

Mr. Bortz asked if there any significance to Area 23? Ms. Sharp said that only because it fell within that radial area and it was a parcel that would have good access. Mr. Beagle said this parcel is also adjacent to existing industrial zoning to the north. Ms. Johnson asked how it is accessible. Mr. Beagle said it is accessible to SW Topeka Boulevard via SE Adams Street and SE 53rd Street.

Mr. Tryon asked why the two areas north and south of SW 69th Street were proposed for reclassification to O&I-2 and C-3 instead of I-1 industrial. Ms. Sharp said that for the area adjacent to US 75 Highway it made sense for commercial zoning and also that commercial zoning would be less intense adjacent to Montara. With respect to the proposed O&I-2, there are a number of developed residential tracts and it made sense to classify this area for office use than more intense zoning. He also asked why the same principal was not used for the area south of Montara since it is proposed for industrial zoning. Ms. Sharp identified the location of Kanza Fire Commerce Park to the south, including the location of the new Mars plant. She also identified a plumbing business that already exists south of Montara. So she said this area is already beginning to develop for industrial land use.

Mr. Jacques stated that the commission can always down grade the proposed rezoning instead of upgrade if they choose. Which Ms. Sharp confirmed. He then said that if there are owners in the area proposed for O&I-2 that want I-1 zoning we would have to readvertise and go back through the process. Mr. Jacques wanted to know why GO Topeka did not go with I-1 Light Industrial all the way through and allow people to down grade from that zoning to something more restrictive if they wanted. Ms. Sharp said that with as many residential properties that already exist in the proposed O&I-2 and C-3 areas, it made more sense to go with that zoning which is more compatible than industrial zoning. She also said that there are not many large tracts in that area that would otherwise lend itself to industrial land use. Mr. Sharp also said most of the properties in the O&I-2 proposed area already contain homes and would not be considered suitable for industrial types of land use. Mr. Jacques questioned whether it would be to the advantage of the owners of these parcels to start with industrial zoning and adjust downward if requested. Ms. Sharp said that letters will be going out to owners of these properties soon and GO Topeka wanted to start with notification of residential properties first.

Mr. Marolf asked for people who have purchased property for a future home site built have not yet built, how would the grandfathering apply to them. Ms. Sharp said that those are some of the details that have yet to be worked out. She said the County Counselor and Mr. Beagle are looking into how to structure the grandfather clause. Mr. Beagle said the first thing the grandfather clause will do is grandfather existing residential

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properties. For example, there exists 38 homes within the area proposed to be reclassified and we want to protect their ability to rebuild if they should suffer a loss, or even to add on to or remodel their home. He said the other part being looked at is existing vacant parcels and possibly protecting their interest to build a home on their parcel. Right now the way the grandfather clause is being looked at, he said, is primarily for the protection of properties that have homes on them today. Mr. Beagle said this provision, just like the proposed zoning concept, is just a concept at this time that will be further defined based on public testimony.

Mr. Beagle said he failed to mention as part of his earlier comments that Area 3 is owned by Shawnee County and proposed for reclassification to the I-1 District. In conversation with John Knight, the Parks and Recreation Director, he said that this area is under the control of the National Park Service. He said this parcel is not likely to be released for private development in our lifetimes. Mr. Beagle recommended the planning commission eliminate Area 3 as part of its consideration that would reduce the total number of defined zoning areas from 23 to 22.

Ms. Johnson said that something that is vitally important is getting public comment. That means taking advantage of radio and TV as much as possible to get people notified. Given the time of year, she asked if there is a snow storm, will the open houses proposed be made up at another time? Ms. Sharp said that GO Topeka is going to take every opportunity to get the word out and receive comment. She said that letters informing landowners of open houses will be going out soon. Those letters will not only give them information about the project, but dates of the open houses and phone numbers of who to contact for more information. Ms. Sharp said the first wave of letters to go out will go to residential property owners because they would be the ones expected to be the most concerned. Mr. Beagle said the separate from the letters GO Topeka will be sending out will be notification letters normally sent out by the Planning Department in advance of the planning commission public hearings. Ms. Sharp said the Topeka Capital Journal has already picked up on this proposal and already ran a couple articles. Ms. Johnson said she sees that this could really be a win-win between the county and GO Topeka which is what we want. Ms. Sharp said there has been a series of internal meetings and went around the table with all 113 affected property owners and identified those property owners they knew personally and make contact with them. Mr. Beagle said this has been a joint effort to get out in front of this issue with public notification.

Mr. Marolf asked how this issue was received by the County Commission this morning? Ms. Sharp said there was not a lot of discussion, but there were two property owners that spoke. She said that Doug Kinsinger with GO Topeka followed up and talked with one of the property this afternoon. She said that a meeting has been scheduled to talk with him next Tuesday. She said another property owner was near the southern boundary of the proposed corridor, and they are following up with him as well. The main question from the Commissioners this morning were mainly about timing and making sure we give the public as much opportunity for comment as possible.

Ms. Johnson asked if Montara has a homeowners association and if they have been contacted? Ms. Sharp said GO Topeka had looked at holding the open houses at one of the Pauline schools but they don't have large meeting facilities, but she said they may reconsider possibly hold one of the open houses there. Ms. Johnson said she would rather see one of the open houses be held in the district near Montara. Ms. Johnson there will be parents dropping off or picking kids up and school which may present a good time. Mr. Beagle said that there have been some scheduling conflicts in working with the schools, but it is something that can be looked at accommodating. Ms. Johnson also said that possibly GO Topeka could send out notifications through the schools to the parents. Ms. Sharp said that is something that can definitely be looked at.

Mr. Macfee asked if there has been any consideration as to how all this light industrial land may eventually develop? He said that the I-1 District is pretty broad. He said there have been a couple issues recently before the planning commission in this area and there was concern expressed about the lack of design controls. He

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referenced Kanza Fire but that it is controlled by GO Topeka that must include some form of design controls. Ms. Sharp said that GO Topeka does have design controls in place for Kanza Fire. She said there has been some thought given to having some type of design controls governing this area. Mr. Macfee said that given some of the development that has already happened and the fact that the county does not have building codes, he has concerns about what may possibly develop. He said that if he was a property owner around this area, he would be concerned about what may develop and how this industrial area may look. Mr. Beagle said that the planning commission said that as part of their motion to initiate rezoning could include a requirement that general performance measures accompany this proposal when it comes up for public hearing. Mr. Macfee said he understands the zoning change to be a first step in recognizing this area for business development, but having some form of design controls would be appropriate.

Ms. Johnson asked Mr. Beagle when the comprehensive plan was updated. Mr. Beagle said that as the planning commission knows, Shawnee County does not have an adopted comprehensive plan. Ms. Sharp said that the City of Topeka's comprehensive plan makes land use projects into the unincorporated area and it shows this area for employment growth. Ms. Johnson said that this is again a forum for having a comprehensive plan for the county.

Mr. Macfee asked what the impact of the proposed zoning will be on peoples taxes? Ms. Sharp said that Mr. Rich Eckert, Shawnee County Counselor, said he had direct contact with the County Appraiser who said that tax assessments are based on actual land use and not zoning. Mr. Macfee said that if somebody is using it for agricultural land use, it would not change? Ms. Sharp said that is her understanding. Ms. Betzen said that the appraiser's are required to consider zoning when they are appraising property. She said did not know whether that consideration would increase the value of the property.

Mr. Macfee asked what the City of Topeka's involvement and whether they are connected with this action. Ms. Sharp said no since all property proposed for reclassification is located in unincorporated Shawnee County. Mr. Beagle said the City of Topeka is aware the County is considering this action, but zoning remains under the exclusive authority of Shawnee County.

Going back to the appraised value question, Ms. Betzen said that agricultural land is valued based on specific statutory calculations, so that no zoning will affect that.

Getting back to the O&I-2 area, Mr. Marolf said there are some smaller parcels that have not been built on and asked if the zoning is changed and a small parcel is built for an office building in the area where there are now homes, would people living next door not be able to object? Ms. Sharp said that if rezoned to the O&I-2 District, they would be able to build an office, but there are requirements within the zoning district that would require screening for parking lots between the office and residential use.

Mr. Bortz asked if any part of this area that the City of Topeka would expand the main base of it that would automatically become annexed? Mr. Beagle said that there is that potential. The City has already committed to major infrastructure improvements for water and sewer service in this area, so there may be consideration in the future for annexation. However, Mr. Beagle said that annexation has not been discussed with the City of Topeka regarding this proposal. Ms. Sharp said they are completely two independent topics of discussion.

Mr. Jacques asked if any part of this area is part of the City of Topeka? Mr. Beagle said that no part of this proposal includes land in the City of Topeka. Mr. Jacques asked about Kanza Fire and Central Crossing, both of which have been zoned and annexed by the City of Topeka.

Mr. Tryon said that Ms. Sharp had mentioned all the positives of this for all the utilities that serve the area, but are there any negatives to this area or utility based problems? Ms. Sharp said there are no problems, but with

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any project of this size there is going to be the cost of extension of those utilities. She said that sewer and water are currently extended south to Kanza Fire and there are plans by the City of Topeka to loop the water lines for better service. Ms. Sharp said with any development would be the expense of extending those utilities further beyond where they terminate today. As far as transportation links, she said that this is an ideal situation from all perspectives of different types of transportation systems with major highways, etc. It would only be the connector streets that would have to be built and extended to support development, but the arterial street and highway system is in place. Ms. Sharp said the City of Topeka has in its Capital Improvement Plan a new water tower to be built on the north side of Montara, and the City has already purchased the land for the tower.

Mr. Macfee motioned to initiate the proposed zoning change sought by GO Topeka with the understanding the proposal would include draft performance measures and that Area 3 be eliminated from the proposal. Ms. Johnson seconded the motion. Mr. Macfee asked if at some point whether the commission would see some performance measures as part of this process? Mr. Beagle replied they would be developed and transmitted to the Planning Commission for the February public hearings. Mr. Jacques asked whether the performance measures would be crafted prior to approving the zoning? Mr. Macfee said it was his expectation that they be considered as part of the zoning. Ms. Johnson said that her concern in establishing performance measures is that it places so many constraints on it that it ties the owners hands. She requested clarification of what is meant by performance measures. Mr. Macfee responded by saying controls on how buildings are put up, green space, the same things the commission considers when evaluating a PUD. Without the benefit of performance measures applied to property, Mr. Macfee said we could get a wide variety of activity.

Ms. Johnson asked if all this property was going to belong to GO Topeka? Mr. Beagle said that all the affected property would still be held in private ownership. She asked if she was going to put up a building in this area, she would still have to obtain a building permit and come before the Planning Commission? Mr. Beagle replied that yes she would have to obtain a building permit, but it would not have to come before the Planning Commission. He said that with any performance measures, it would simply be an administrative process of review in conjunction with the review of a building permit. Mr. Beagle said that if an industrial use were to include outside storage, for example, they may be a requirement for screening that they would have to address with the building permit. He said that he does not see the performance measures as having anything to say about the design and appearance of buildings as much as how the property itself is utilized. The intent is to create a consistent standard from one property to another by preventing property from developing in an undesirable manner. He said that he sees these as a minimum set of standards and state if you do certain types of activities, then here the minimum requirement would be to minimize the visual impact from one property to the next. Mr. Macfee asked at what point these measures would come into play? Mr. Beagle said that it would be administered at the building permit level. He said that at that time, there would be a requirement for a site plan review that would address the requirements of the performance measures for their use of land. Mr. Beagle said that to minimize bureaucracy, this would be a staff level review.

Mr. Macfee asked where the performance measures themselves would come from? Mr. Beagle said that the performance measures would probably be offered as a companion document to the zoning resolution and it would be expected the Planning Commission would offer its recommendation on them at the same time the commission is considering the zoning proposal. He said that it would be the intent of staff to have something craft in time of the Planning Commissions hearings in February.

Mr. Tryon asked whether the expectation would be to have performance measures span all affected properties to be rezoned? Mr. Beagle replied in the affirmative. Ms. Johnson said that these criteria would be more than we have right now? Mr. Beagle said each zoning district we have now is what he refers to as a "straight" zoning district that contain no performance measures at all. As a result, he said if you can fit the building on the property and meet the prescribed minimums of setbacks, off-street parking, etc. you can develop the property however you want to. He said there is no consideration in the regulations how that property may relate to other

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property around it. He said that when it comes to office, commercial and industrial districts, some communities make them all “planned” districts so there is no straight zoning district. Ms. Johnson asked then if a parcel is over a given size, they are subject to some criteria but not if under a certain size? Mr. Beagle said that performance measures will not necessarily be based on parcel size. He said he does not have specific criteria in mind at the moment but does expect whatever is drafted to be brief and straight forward. Ms. Johnson said the difficult thing is know what the performance measures might address, but she is concerned about what it looks like when you drive into town. She asked if the Planning Commission is trying to put its own spin on what we want for those parcels? Mr. Beagle said that what the commission needs to do is clarify its expectations for performance measures. He said he is not expecting to advance architectural guidelines or that level of details, as much as looking at how the owner intends to develop the property and where they are going to locate the building, off-street parking, outdoor storage, etc. The intent behind the performance measures, as he sees it, is to attempt to minimize objectionable views of certain activities.

Mr. Macfee requested to modify his motion to request the performance measures to come forward at the public hearing where they can be considered. Mr. Jacques concurred as part of his second. By a vote of 7-0-0, the Planning Commission acted to initiate the rezoning with the elimination of Area 3 and the expectation that performance measures would accompany the request for public hearing.

Mr. Jacques want to make sure that people attending the open houses realize that their comments were not necessarily being brought to the attention of the Planning Commission unless they attend the public hearing. Mr. Bortz asked as to what involvement the Planning Commission has at the open houses. Mr. Beagle replied none and encouraged the commission to wait until the scheduled public hearings in February. He said there is nothing to prevent individual commission members from coming and observing the open houses, but not to have any involvement with the open houses. Mr. Beagle said he would encourage commission members not attend because of ex-parte communication and that the commission wants to have that discussion on the record before them at the public hearings.

Mr. Beagle said there is nothing organized, in terms of presentations, at the open house, just come and go to answer questions. He reiterated that the open houses are to be conducted by GO Topeka and the Planning Department will be present only to address questions related to the zoning process.

2. Discussion of Proposed Fence Regulations Amendment.

Mr. Beagle said that it was the intension of the Planning Department to have this item on the agenda for public hearing but staff missed a publication notice. He said that it will be on for public hearing in January, but the information the commission received in their agenda packet is what will be the agenda in January.

Mr. Beagle said the proposed amendment eliminates the ambiguity in the regulations as they exist today. The proposed amendment continues to limit the height of fences to eight (8) feet except in the required front yard setback where they would be limited to a height of four (4) feet. It standardizes everything within the same zoning district since every property within the district will have the same front yard setback requirement. The amendment will treat every property within the same zoning district the same with respect to fence height.

He said the proposed amendment also incorporated some other provisions that were thought to be valuable to manner in which fences are accommodated. He said they are pretty straight forward as what they proposed to do. He encouraged the commission to relay any comments they had with respect to the proposed draft so they can be considered in preparation for the January public hearing.

Mr. Bortz said that one thing he likes in the draft is the requirement about the finished face of a fence. He did not know how that plays out if you had two property owners constructing a fence at the same time. He said he

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agrees that the finished side should be to the outside. Mr. Beagle said if two adjoining property owners came in together to obtain a fence permit and they agree as to the appearance of the fence, he could care less which is the finished face as long as they agree as to how it will be erected.

Mr. Marolf asked about the height requirements and said it is assumed it applies to all components of the fence? He said it does not actually say that except that fence height cannot exceed whatever it is. He asked if someone proposed to build a fence and it says the name of the farm about the fence, would that be considered part of the fence. Mr. Beagle, said that one thing the proposed amendment clarifies is that fence height does not include the fence posts which is a common question. He said sometimes fences include brick columns or something similar that taller than the height of the fence itself. This amendment allows for those situations if the posts are integral to the design of the fence itself. Mr. Beagle said that if there are other decorative elements such as an archway over a gated entrance, the amendment does not address that. In the past, he said, this is not something that staff has had a concern with.

Mr. Marolf said if there was another feud such as the one on SE Adams Street, someone could and put in 10-foot posts with 8-foot fence sections and that would be alright? Mr. Beagle said that is correct. He said there is nothing that identifies the minimum span width between posts. Mr. Tryon said that he liked the language that the posts had to be an integral part of the fence itself.

Mr. Beagle said that he appreciated the commission's comments.

3. Expiration of Planning Commissioner Terms.

Mr. Beagle said that Mr. Tryon's and Mr. Jacques terms expire at the end of 2011. He encouraged both to make contact with the County Commission and express their interest to continue to serve on the Planning Commission.

Mr. Beagle also reminded the commissioner that there will be election of officers in January and to be thinking about that.

Adjournment:

Ms. Johnson moved to adjourn, second by Mr. Jacques and with a unanimous voice vote the Planning Commission public hearing ended at 8:00 p.m.