



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION

MINUTES

Monday, December 19, 2016

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Carole Jordan, Katrina Ringler, Wiley Kannarr, Dennis Haugh, Rosa Cavazos, Scott Gales, Patrick Woods, Brian Armstrong, Ariane Burson (9)

Members Absent: (0)

Staff Present: Bill Fiander, Planning Director; Dan Warner, Planner III; Mike Hall, Planner III; Annie Driver, Planner II; Kris Wagers, Office Specialist; Mary Feighny, Legal

Roll Call – Nine members present for a quorum.

Approval of Minutes from November 21, 2016

Motion to approve as typed; moved by Mr. Haugh, second by Mr. Armstrong. **APPROVED** (9-0-0)

Communications to the Commission –

Mr. Fiander pointed out that Commissioners should have these three handouts in front of them: a “packet” for Reser’s case(s), an item passed out by Reser’s, and an item for the Topeka Water Pump station CUP.

Mr. Fiander reminded Commissioners that Chair/Vice Chair elections will be held in January 2017 and that the meeting will be January 23, 2017.

Mr. Fiander suggested re-arranging the agenda items, moving E3.2 and E3.3 before E3.1. Mr. Gales asked the Commissioners if there was a motion to make this change. **Motion** by Mr. Woods, **second** by Ms. Jordan, **motion approved** by unanimous consent.

Declaration of conflict of interest/exparte communications by members of the commission or staff

Mr. Gales reported that he would be abstaining from item E.3.3, PUD16/06 Brewster Place Campus Master Planned Unit Development.

Mr. Armstrong reported that he would be abstaining from item E.3.2, CU16/06 by City of Topeka.

Action Items

CU16/5 by: 901 Real Estate LLC requesting a Conditional Use Permit for a Correctional Placement Facility, General” on property located at 2035 SW Western and presently zoned “I-1” Light Industrial District and requesting a Conditional Use Permit for a “Surface Parking Lot in Association with a Principal Use” on property located along the east side of SW Fillmore between SW 20th and SW Hampton streets and presently zoned “M-1” Two Family Dwelling District. **(Driver) Remanded by Governing Body November 15, 2016**

Mr. Fiander reported that this had been remanded by the Governing Body and it is the Commission’s option to hear additional public comment even though it will not be a “public hearing”.

Ms. Driver reviewed the parking lot proposal and staff's recommendation as given in the staff report. Ms. Driver confirmed that conditions 1,4, & 7 in the staff report apply specifically to the parking lot under consideration and stated that the applicant will need to provide an updated site plan before the case goes back to Council.

Austin Wengerson of 901 Real Estate came forward and confirmed that the applicant is agreeable to the conditions set forth by staff.

Mr. Fiander pointed out that at the October Planning Commission, nobody had spoken about the parking lot and suggested that they may wish to do so now.

Mr. Gales opened the floor for **public comment**.

Mr. Anthony Garvin came forward to speak, stating he was representing his son, Thomas Garvin, a home owner in Chesney Park who resides at 1820 SW Fillmore. Mr. Garvin read a letter from Thomas Garvin, who was unable to attend the meeting due to his work schedule. The letter spoke against approving the Conditional Use Permit for the parking lot. Mr. T. Garvin expressed grave concerns about the Department of Corrections having an office at 2035 SW Western due mainly to safety concerns. He stated that his understanding of the principal use of the building is to house the State Department of Corrections Parole Office. He stated that the building already has a parking that has thus far been sufficient. He stated that the spirit of the request for the surface parking lot is due to the DOC not being able to move into the space without additional parking. Mr. Garvin stated that the idea of the probation office moving into the building causes him alarm and concern, and though he understands this isn't the proper venue to address that, he does believe that spirit equals intent. He hopes the request for surface parking lot will be denied to maintain the family residential potential for development, citing recent habitat for humanity homes built. Mr. Garvin hopes that in the near future, the Topeka Planning Commission will define a different zoning code for business entities such as the Department of Corrections probation office. The letter stated that Mr. Garvin would be happy to partner with Mr. Clinkenbeard and others in finding a business entity to occupy the building at 2035 SW Western that is conducive to the Chesney Park neighborhood and would add value. Mr. Garvin requested the letter be attached as a permanent record with the CU16/05 application.

Mr. Steve Clinkenbeard of 901 Real Estate came forward and explained that the property on Western would require additional surface parking lot regardless of who the tenant would be, adding that the lease with Kansas Dept. of Corrections (KDoC) is tentative. He explained that of the 42,000sq ft, building, 15,000-17,000 sq. feet of it is set up as office space.

Mr. Clinkenbeard stated that we cannot just ignore people on parole or living in halfway houses as they are our responsibility. He gave some statistics from KBI's map about the number of listed offenders (approx. 395) residing within a 2 mile radius of 2035 SW Western and 105 within a 1 mile radius, with 57% of those being sexual crimes in nature. He stated that his point was that 2035 SW Western is not in an area that is free of the criminal element and that a goal should be to help people become productive citizens. He added that 901 Real Estate has already been damaged by the actions of Shawnee County, who, he stated, was primarily responsible for not allowing City of Faith to use the property, and asked that the Planning

Commission at least approve their request for a surface parking lot so the building can be used. He pointed out that the building has been vacant for 10 years and stated that there are more [safety] problems with vacant buildings than with those that are occupied.

Mike Morse of Kansas Commercial Real Estate came forward to speak in support of CUP approval. He pointed out that KS Commercial Real Estate had unsuccessfully marketed the property at 2035 SW Western for 10 years and spoke about the improvements 901 Real Estate has made to the property by cleaning up the trash, painting, mowing, trimming trees, landscaping, etc.

Mr. Gales inquired as to current parking stalls, confirming there are currently 28 on the property. He asked how much parking is normally needed for the amount of office space the building has to offer. Mr. Morse explained that the building is set up for approximately ½ office space and ½ warehouse so even though zoning is light industrial, the building is set up for mixed use. He stated ideal parking ratio is 4-1 or 5-1, meaning approximately 80 stalls. He agreed that industrial requires 1-1 ratio, but added that even if it were only warehouse, the parking lot/surface would be required for trucks to maneuver. He also spoke to the city needing a strong inner-core and needing people to re-invest in that inner-core so jobs and people will return to the core of the city rather than go to the outskirts.

Mr. Gales stated that the Planning Commission is not being asked to sign off on who 901 Real Estate leases their building to but rather allow them to enhance their property so it can be used. Mr. Morse confirmed that the owners have the land, they simply need permission to utilize the land to enhance the property.

Ms. Victoria Garvin, mother of Mr. Thomas Garvin, came forward to speak. Ms. Garvin spoke about concerns of the safety of the Department of Corrections having an office at 2035 SW Western and pointed out that there is a pre-school located just over 1,000 feet from the property. She stated that regarding offenders, we need to treat them with the utmost respect and dignity and provide services for assistance, but at the same time, we must be strategic and intentional about where the services are located. She stated that a residential area where children reside and daycare is provided is not a proper location and added that, as stated in his letter, her son is willing to work with 901, GO Topeka, etc. to find businesses/tenants for the property that will improve the neighborhood. Regarding the statistics Mr. Clinkenbeard shared from the KBI map, she stated that just because there are criminals living in the neighborhood, that doesn't mean you should bring more criminals in.

Mr. Gales asked and received confirmation from Mr. Fiander that all the Planning Commission is considering is allowing a surface parking lot and that there is no tenant tied to this part of the CUP application. Mr. Gales asked Mr. Wenger to confirm that currently there is no tenant in the office space and no contract/lease signed with anyone. Mr. Wenger did confirm and Mr. Gales stated that he wants to be sure his decision is based on the property and not the tenants/potential tenants.

Mr. Garvin asked to speak again, and Mr. Woods made a motion to allow him additional time since he had already spoken for 4 minutes. Second by Ms. Cavazos; approved by unanimous consent.

Mr. Garvin stated that he's worked with the Department of Corrections for 29 years, 9 of which were for the Topeka Correctional Facility (TCF). He spoke again to concerns about the safety of allowing the probation

office to lease the space at 2035 SW Western. He stated that he was speaking on the spirit of intent, saying that someone from 901 Real Estate has said they have a tentative contract with KDoC and they're asking for a surface parking lot to allow the probation office be office there. He stated that while he wants people to improve and does care about that sector of our society, it is the responsibility of the government to protect people who are of a weaker nature. He asked that the Planning Commissioners make their decision based on the intent of the applicant.

Mr. Gales asked Mr. Fiander to explain how the Dept. of Corrections using the facility is different from City of Faith's requested use and how that can be disassociated from the requested CUP for the surface parking lot. Mr. Fiander explained that City of Faith use was a residential facility that requires different zoning than 2035 Western has. The Department of Corrections/probation office falls within the allowed use of the current zoning. KDoC would use the space as an office space and that is allowed. The parking lot CUP is attached to the property, not to a potential owner or tenant.

With nobody else coming forward to speak, Mr. Gales stated that public comment time was over.

Mr. Woods asked for additional clarification as to the difference between City of Faith and KDoC probation office and Mr. Fiander stated that City of Faith included a residential component not allowed for in current zoning, whereas KDoC probation office is simply office use allowed for in the current zoning. Mr. Woods re-stated that the property owner's request for a CUP for a surface parking lot is based on the fact that any tenant using the space as office space would require the additional parking being requested and it is not specifically tied to KDoC probation office. Mr. Fiander verified that is correct.

Mr. Gales asked Mr. Fiander if a probation office could occupy the space as it currently is. Mr. Fiander explained that adequate parking is tied to square footage of space used and is required regardless of the tenant but yes, if a probation office occupied a small enough amount of space where current parking would be enough, it would be allowed without the surface parking lot CUP.

Ms. Jordan asked for additional clarification and Mr. Gales explained that the limitation is based on occupancy; only a limited amount of the entire square footage can be used based on the parking currently available.

Motion by Ms. Jordan, **Second** by Ms. Ringler, to submit an amended recommendation to council that would withdraw City of Faith's correctional placement facility participation but grant the Conditional Use Permit for the surface parking lot with relevant staff conditions (#s 1, 4, 7 in the staff report). **APPROVAL (9-0-0)**

P16/20 Lewis Industrial Park Subdivision (Preliminary Plat Phase) by Lewis Family Limited Partnership on property located at 840 NE U.S. 24 Highway, all being within the City of Topeka, Shawnee County, Kansas.
(Hall)

Mr. Hall presented the staff report, explaining that it's a major plat because it will require extension of sanitary sewer. He stated that staff recommends approval of the preliminary plat and added that a final plat would also come before the Commission.

Mr. Gales asked about the stormwater management plan and Mr. Hall explained that City staff would review and approve because it's a technical document.

Rick Schmidt of Schmidt, Beck and Boyd came forward on behalf of the applicant and stated that they are agreeable to the staff recommendations and conditions placed on the plat.

Mr. Gales took a motion and unanimous consent to hear public comment. With nobody coming forward to speak, Mr. Gales called for a motion.

Motion by Mr. Haugh, **Second** by Mr. Kannarr, to approve the preliminary plat subject to conditions set forth in staff's report. **APPROVAL (9-0-0)**

CU16/06 by the City of Topeka requesting a Conditional Use Permit to allow for a public utility facility (water pump station) on property zoned "R-1" (Single Family Dwelling District) located on the SE corner of SE 5th Street and SE Norwood Avenue **(Hall)**

Mr. Armstrong excused himself as the case was called.

Mr. Hall presented the staff report, stating that it satisfies all the Golden Factors and that staff recommends approval with conditions. He reminded Commissioners that they received a handout with a revised condition.

Mr. Gales inquired as to elevations on sheet 4 of the drawings provided in the agenda packet. Mr. Hall explained that the applicant will be required to submit a revised sheet showing elevations that meet staff conditions, with said revision required prior to the case going before the Governing Body.

Ms. Angela Sharp of Bartlett & West came forward representing the applicant and stated that the applicant is agreeable to staff conditions. Ms. Sharp added that a number of City departments had worked diligently together to make sure necessary infrastructure is provided and that it fits in well with and compliments neighboring properties.

Mr. Gales declared the **public hearing open**.

Mr. Clay Warren came forward asking for clarification as to whether this is a city sewer pump station or city water. Mr. Hall explained it's a water pump station, not sanitary sewer. Mr. Warren asked for and received confirmation from Mr. Hall that this is not in conjunction with the proposed Reser's plant.

With nobody else coming forward to speak, Mr. Gales declared the **public hearing closed**.

Motion by Ms. Ringler, **Second** by Ms. Burson, to approve the CUP subject to conditions in the staff report, acknowledging the revision in condition #5 as described in memo provided as handout.

APPROVAL (8-0-1 with Mr. Armstrong abstaining)

Mr. Gales passed the gavel to Mr. Woods and excused himself as the next case was called. Mr. Armstrong returned to the room.

PUD16/06 Brewster Place Campus Master Planned Unit Development by Congregational Home, Inc. and City of Topeka requesting a rezone from “R-1” (Single Family Dwelling District), “M-2” (Multiple Family Dwelling District), “O&I-2” (Office and Institutional), “PUD” Planned Unit Development, and “O&I-3” (Office and Institutional uses) on a 25.82 acre property lying near the southwest intersection of SW Topeka Blvd and SW 29th Street and bounded by SW Lincoln Street on the west side and SW 31st Street on the south side , **ALL TO** PUD with “M-3” (Multiple Family Dwelling District) use. **(Driver)**

Ms. Driver reviewed the staff report, explaining that the result of the proposed PUD would be that the entire Brewster Place campus would be in a single PUD. Ms. Driver stated that staff recommends approval with recommendations put forth in the staff report.

Jeff Laubach of Schmidt, Beck & Boyd came forward representing the applicant and stated that the applicant is agreeable to staff recommendations.

Mr. Woods declared the **public hearing open**.

Mr. John Keller came forward and stated he lives at 29th & Lincoln. He asked where the parking garage is going to be located, stating he’s concerned that it would be an eyesore for his home.

With nobody else coming forward to speak, Mr. Woods declared the **public hearing closed**.

Mr. Fiander explained that the parking garage will be located off 31st street. Mr. Haugh noted that it appears the parking garage will be located toward the center of the site and concealed by an 80 unit project so shouldn’t be highly visible from Mr. Keller’s property. Ms. Driver confirmed and stated that there are design guidelines for the parking garage.

Ms. Ringler asked if the proposed conference building will be solely for residents or for the public in general. Ms. Driver stated it will be for residents and their guests. Mr. Laubach stated it will be a multipurpose building/cafeteria/auditorium and will not be for use by the general public.

Motion by Mr. Kannarr, **Second** by Mr. Armstrong, to approve PUD16/06, subject to the seven conditions listed in the staff report. **APPROVAL** (8-0-1 with Mr. Gales abstaining)

Mr. Woods called a short recess while Mr. Gales returned and resumed chairing the meeting.

Reser’s Development

Mr. Fiander explained that there are three cases related to the Reser’s development project. Parts 1 & 2 (A17/01 & CPA16/01) are policy decisions and staff proposes working through them before covering the zoning case (PUD16/05). There were no objections from Commissioners.

A17/01 by Reser's Fine Foods, Inc. requesting to annex into the City the property located at the northwest intersection of SE 6th Street and SE Croco Road. **(Warner)**

Mr. Warner presented the staff report, stating that this is a policy issue and the decision at hand is whether the proposed annexation is consistent with our Land Use and Growth Management Plan (LUGMP 2040). Staff recommends approval of the proposed annexation.

With no questions from commissioners, Mr. Kevin Holland came forward to speak representing the applicant for the Reser's project. Mr. Holland stated he was available for questions but would defer comment until item number 3.

Mr. Gales opened the floor for public comments regarding the annexation case at hand.

Marvin Schlaif of 3714 NE Seward came forward and asked for clarification on what the "other two" proposals were. Mr. Gales and Mr. Fiander reviewed the proposed process of speaking about A17/01 then CPA16/01 and finally PUD16/05. Mr. Fiander stated that current comments should deal with the proposed annexation.

Mr. Schlaif asked questions about the city limits and stated he opposes any annexation.

Clay Warren of 3819 SE 2nd came forward and stated he opposes the annexation. He explained that he had moved to his current home 17 years ago to get to a country setting and believes having Reser's built there would "cause a lot of troubles". Mr. Gales asked for clarification and Mr. Warren spoke of concerns about stormwater runoff, crime that he believes goes with big business, and smell. He suggested a different area for Reser's to build on, adding that they should look for an industrial spot rather than a neighborhood.

Rebecca Cannon of 416 SE Croco Road came forward to speak against the annexation. She expressed concern about whether services such as fire, police, etc. are actually available in the area, stating that calls would go to the county rather than the city. She also expressed concern about increased traffic and taking alternate routes on side streets that may be county. She stated that she's voted multiple times not to be annexed into the city because she enjoys the rural atmosphere and they've isolated themselves from the crime of East Topeka.

Mr. Woods asked Ms. Cannon to speak about her concerns regarding crime that she thinks would come with the development. She stated that now the property is a field, and it would be foolish to think that no crime is going to occur on property with big parking lots, etc. She stated there's a lot of crime to the east of them and she's concerned that the development would connect them with a sidewalk to that area, which would invite opportunistic crime like stealing mail, breaking into cars, etc. She added that any development is going to attract some element of crime to an area.

Kimberly Tibbs of 520 Laurel came forward to state that she opposes annexation.

Deborah McLay of 246 SE Croco Road came forward and provided photos for Commissioners to review. The photos were of standing water. Ms. McLay stated she has concerns about the project going forward and stated concerns about decreased water pressure in the neighborhood due to added use by Reser's. She

expressed concerns about home values declining, stated it affects her and her neighbors with traffic and traffic noise, and trash. She stated that 16 years ago she and her husband actively searched for a home and they love their home because it's outside city limits, quiet, has a rural atmosphere. She expressed concerns about water run-off and referenced the photos, which she explained were pictures of her yard and her neighbor's yards and how they flood when it rains. She believes that her house will be underwater if they build on the proposed site. She also expressed concern about additional run-off from the street being widened and wanted to know if residents would be offered city solid waste. She expressed concern about spillover of lighting.

Sandra Campise of 416 SE Croco Road came forward to speak against the annexation. She stated they've lived at that address 24 years and like the area because it's peaceful and has no crime. She stated that they've fought annexation the whole time they've been at that property and she is concerned that their property will be taken by eminent domain. She said a neighbor told her the previous owners of the land in question had been told that they must sell now at the price the buyers wanted to pay or it would be eminent domain. She expressed concern about going from a residential rural neighborhood to an industrial zone, about the roads and deep ditches that are currently there, stating that increased traffic would mean more cars in the ditch.

Mr. Armstrong asked Mr. Fiander what the intention is with the roads and Mr. Fiander explained Croco would widen to widen to 3 lanes with curb and gutter on both side. Ms. McLay expressed concern about construction damaging her property / septic system. Mr. Gales explained they would be working in right of ways, not private property, and that the work being discussed would not be an issue with the annexation case.

Mr. Fiander gave additional information about possible road changes.

Lula Armstrong of 344 SE Croco Road came forward to speak about concerns with traffic flow issues but asked if that should be addressed under a different case. Mr. Gales explained that it may fit better during one of the next two case hearings.

Mr. Fiander explained that during the zoning case, additional specifics would be shared about the proposed project, including traffic and stormwater, noise, etc. and there would be people available to specifically address such concerns.

Beverly Clark of 337 SE Croco Road came forward to speak against the annexation. She stated she owns the land adjacent to Reser's, sharing the fence line. She stated that the people in the neighborhood consider themselves Tecumseh and expressed concerns about their property being flooded. Mr. Gales asked Ms. Clark if anyone had ever asked Shawnee County to address the flooding issues, she stated they had not; the property owners had taken measures themselves to protect their property. Mr. Gales asked Ms. Clark if she was concerned the water run-off would get worse if Reser's built on the land and she stated that yes, there was no doubt it would get worse.

Ms. Clark expressed concern about additional people in the area and the vantage point from the land Reser's would like to build on, stating that people on the Reser's property would be able to see into the windows of homes around.

Ms. Ringler asked if Ms. Clark would have concerns about the annexation if Reser's were not wanting to build on the property; if there were no plans to do anything with the property would she be opposed to the annexation? She stated she would be against it because she shares a fence line and doesn't want to risk her property being eminent domain.

Steve Allison of 3738 SE 2nd Street came forward to speak against annexation, stating concern that it would open the door to his property being annexed. Mr. Ellison stated he already has major flooding issues on his property and is concerned that Reser's building would worsen that. He added that he moved out to the county because he didn't want to be in the city.

Mary Jean Florea of 714 SE Croco Road came forward to state that she is against the annexation.

Mr. Tom Plemons of 713 SE Baldwin Road come forward and stated he was concerned the annexation would be approved before the Commission heard all the objections. He asked the vote be held until everything was heard.

Ms. Feighny, Deputy City Attorney, stated that the Planning Commission has no power to recommend annexation; that is purely a Council decision. She explained that all the Planning Commission is tasked with doing is deciding whether the proposed annexation is based on the Land Use and Growth Management principles of the Comprehensive Plan. She stated that when the annexation proposal comes up on Council agenda, the public will have the right to address the City Council regarding whether they oppose annexation.

When asked, Mr. Fiander stated that he doesn't know when it will be on Council agenda but January 10 would be the earliest possible date.

Ms. Ringler asked about the usual process of annexation and Mr. Fiander spoke to her question, explaining the process and that annexation is initiated by land owners.

Mr. Woods pointed out that people had referred to voting against annexation in the past and asked Mr. Fiander what they were referring to. Mr. Fiander stated that he didn't know of any prior annexation proposals.

Mr. Gales asked Mr. Warner to give a brief summary of what staff looks for when considering annexation.

Mr. Warner referred to the annexation policy stated in the staff report. "If a property within Tier 3 is contiguous, consideration should be given to annexing the property prior to development if all urban services are available and it is cost effective for the City". He added that all 5 services are available to this property, it's cost effective because the city has already made all the investments.

Motion by Ms. Jordan, **second** by Ms. Burson: Upon consideration of the proposed annexation, it is the Commission's determination that the annexation is based on the Land Use and Growth Management principles of the Comprehensive Plan. **APPROVAL** (9-0-0)

Mr. Gales called for a 10 minute break. Upon resuming, the next case was introduced by Mr. Fiander. He explained that it is a comprehensive plan amendment and, like the case before, is simply a policy issue. He added that if the comprehensive plan amendment passes, it does not change the zoning of any properties.

CPA16/01 by Topeka Planning Commission requesting to amend the text and map of the City's Land Use and Growth Management Plan 2040 related to the proposed rezoning at the northwest intersection of SE 6th Street and SE Croco Road. **(Warner)**

Mr. Warner presented the staff report, stating that this is a policy issue and the decision to be made is whether the proposed land use is consistent with our Land Use and Growth Management Plan (LUGMP 2040). He stated that staff recommends the initiation and approval.

Mr. Gales asked how often the Land Use and Growth Management Plan (LUGMP) is reviewed and updated. Mr. Warner reported that the current plan was adopted in 2015; staff generally notes changes/updates that might be needed and the plan is formally updated every couple years. Mr. Fiander added that this is a large change and that's why it's coming before the Commission now. He stated that this is a much more intense review of this area than was initially done with the overall plan.

Mr. Haugh asked about the area included in the proposed change and whether it would be different if the Reser's project weren't in consideration. Mr. Fiander stated that he didn't think the bump out would have been included were it not for the Reser's proposal.

Mr. Gales asked if traffic counts had anything to do with the proposed amendment. Mr. Warner stated that no, this wasn't part of the consideration but the area is part of a regional network with good access to highways. He stated that the entire corridor was looked at when considering the request.

Mr. Kevin Holland of Cook Flatt & Strobel Engineers came forward to make himself available to commissioners if they had questions and stated he'd make a presentation when the zoning item came up.

Mr. Gales declared the **public hearing open**, stating that comments should be about the case at hand.

Jonathan Ashley of 525 SE Baldwin came forward and asked why the change wasn't made when the LUGMP 2040 was originally written in 2015. Mr. Fiander stated again that a detailed review of areas outside the city limits are not generally completed until or unless a proposal comes forward that requires one. The urban growth area exists because the city anticipates that at some point it will grow into that area. The map exists to serve as a guide to help know whether proposals should even be considered.

Mr. Ashley stated that it appears light industrial zoning will be a considered use and asked if staff thinks that's wise in light of the fact that the neighborhood is residential. Mr. Fiander stated that one of the reasons the amendment was worded the way it was is to allow for controls to be put in place to make uses more compatible with the surrounding neighborhood/area. Mr. Fiander referenced "clean" industry as being all that might be allowed because of the residential impacts. It's not a "smokestack" industry that's being allowed with this amendment.

Beverly Clark of 337 SE Croco came forward to speak against the proposal, stating that 6th Street is also Highway 40 and 6th & Croco is a dangerous intersection. She voiced concerns about elevations and the sun being in people's eyes.

Mark Armstrong of 344 SE Croco Rd came forward to speak against the proposal. He stated his front yard faces where the facility is proposed. He stated he recognizes that the Planning Commission has a difficult job and also that Reser's being in town is a good thing, offering economic growth; he thinks the facility should be built on a different site.

Mr. Armstrong read a prepared statement and referenced the Golden case. He spoke to 3 guidelines: Character of the neighborhood – he stated that the area is surrounded by residential homes and apartments, and mobile homes.

Extent to which removal of restrictions will detrimentally affect nearby property. Mr. Armstrong referenced a 2007 report of an ammonia leak at the Reser's plant at 6th & Deer Creek, a 2015 report of Reser's being fined for violations related to an ammonia leak. He stated that were an industrial accident to occur in residential area it would have a devastating effect on people in the surrounding homes.

Mr. Armstrong's 4 minutes were up so the Commission agreed to allow him an additional 45 seconds.

Mr. Armstrong continued to express concern about an industrial accident and asked the Commission to locate Reser's in some other place in the community not surrounded by residential.

Ms. Feighny spoke, reminding that the case involves an amendment to the comprehensive plan and comments should be limited to whether the amendment should be made to the plan. She encouraged those with concerns about the re-zoning itself, be they concerns about noise, water, traffic, odor, etc. to save their comments for the next case. Ms. Feighny stated she doesn't wish to discourage anyone from speaking but rather to make sure the record is clear that the people are speaking about the re-zoning.

Sandra Campise of 416 SE Croco Road returned to the podium to speak. She stated they've lived at that address 24 years. She stated that commercial properties are "apart" from the neighborhood, with the nearest market being 3-5 miles away and two gas stations that aren't always open. She suggested that there needs to be stuff in the area but asked that it be a market or bakery or restaurant; something that would make her life better, not "a giant industrial plant." She expressed concern that in the future her property would be taken over by Reser's to make a bigger parking lot.

Rebecca Cannon of 416 SE Croco Road came forward and stated she's unclear about the procedure. She asked if people get to comment on the LUGMP plan or if it's decided "in-house". Mr. Gales explained that it is a public process with public meetings advertised and held in various locations to allow people to hear about and comment on the plan.

Ms. Cannon expressed concern about allowing future growth for areas that aren't annexed into the city. She stated it appears that it's designed to allow places like Reser's to "not have to deal with us" and allow easier access to displace people from their homes to facilitate someone coming in. She asked regarding the intent of expanding the area. Mr. Gales explained that it's part of the long range planning process.

David Barnsen came forward, stating his family has lived at 520 SE Croco Road for 56 years; it's directly across the street from the proposed development, and he is concerned they'll be looking out their front window at a parking lot. He stated that he anticipates an increase of 120 cars per shift change in addition to the traffic that's already at 6th & Croco. He expressed concern about lights on at night and the odor. He stated that theirs is a residential area and not proper for a big manufacturing facility. He stated it will affect the re-sale value of any property in the area. He asked if Commissioners would want this facility in their back yard.

Virgil Funk of 916 SE Croco stated that those in attendance feel like they're being manipulated to accommodate a large industry. He stated he doesn't believe that putting an industrial development in this residential area is compatible with the growth management plan. He suggested running the corridor from Rice Road to K-4 and develop land not surrounded by residential.

With nobody else coming forward to speak, Mr. Gales announced the **public hearing closed**.

Mr. Gales asked if staff have worked with projects that include industry of a similar industrial nature next to a residential area. Mr. Fiander spoke about employment areas that were set up as part of the plan and explained that is would be a micro employment area. He spoke to the in-fill direction that the plan has and the priority it puts on existing city limits, stating he thinks any opportunity to look at an area that already has services and infrastructure should be considered as a potential employment area. He stated it would be inconsistent with the plan to try to extend services far out of the existing city limits. Mr. Fiander pointed to the Deer Creek Reser's plant that backs right up to residential and stated that the initial review of that is that it did not have an effect on the property. He stated that is not exactly the type of facility being considered here, but that's why a high standard has been included in the text amendment. Industry will have to show it's compatible and have a high level of design and sensitivity to surrounding property.

Mr. Fiander pointed to the current uses on the corridor which include a large scale prison, a large scale office headquarters, small scale retail, multiple family and mobile home parks. He stated that this is a policy issue and it's a question of whether it's an appropriate way to go.

Mr. Kannarr asked what other properties had been considered by Reser's. He suggested that no matter where the facility was proposed, the neighborhood would likely be expressing concern. Mr. Fiander stated that he doesn't know where else the developer considered locating but pointed out that a 25 acre site with utilities around Reser's distribution center is not easy to find. He stated that some had suggested property across the street but it's only 5-6 acres.

Motion by Mr. Armstrong, **second** by Mr. Woods, to recommend amending the Land Use and Growth Management Plan 2040 in accordance with the staff report. **APPROVAL** (8-1-0 with Ms. Cavazos dissenting)

PUD16/05 by Reser's Fine Foods, Inc. requesting to amend the district zoning classification from "RR-1" (Residential Reserve District) and "C-2" (Commercial District) on 25 acre property located at the northwest

intersection of SE 6th Street and SE Croco Road **ALL TO** "PUD" Planned Unit Development ("I-1" Light Industrial District uses). **(Driver)**

Mr. Fiander explained that while the first two items were policy driven, the case at hand now deals directly with zoning of the site at hand.

Ms. Driver presented the staff report and stated that staff recommends approval subject to conditions listed in the staff report, and in conjunction with A17/01 and CPA17/01.

Ms. Burson asked if county property east of the property would be incorporated into the stormwater report.

Ms. Driver explained that the stormwater report is done by the applicant and addresses only the site.

Kevin Holland of Cook, Flatt & Strobel came forward and introduced Mark Reser, President and CEO of Reser's Fine Foods.

Mr. Reser gave an overview of how Reser's Fine Foods came about and their growth, with the first Topeka facility being built in 1990. The original site has been expanded 3 times.

Mr. Reser explained that the \$86 million project at hand is two phases. Phase 1 is the proposed new site and Phase 2 is remodeling of their 6th Street site.

Mr. Reser spoke about key factors they looked at regarding location, which include close proximity to their employees, the utilities being in place, and close proximity to the distribution center.

Mr. Reser presented information about a facility they've built in Hillsboro, Oregon that they intend to mirror. He spoke about refrigeration being located in the rear for a noise buffer and recycling being enclosed in a separate facility. Mr. Reser stated it's important to Reser's that they be good neighbors and they have heard and attempted to address concerns.

David Welch of Ceta Architectural Engineers of Portland, Oregon stated he's worked with Reser's since 1974 and he addressed the architecture of the proposed building, setbacks and placement on the site, landscaping, and how the design of the building helps affect perspective, making the building seem smaller. He stated that the building they built in Oregon has gotten a good reception.

Mr. Welch addressed concerns about noise and stated that a sound consultant has been employed. All areas around the building will be less than 60 decibels, with most being in the low 50's.

Mr. Welch addressed concerns about odor, stating that the technology they intend to use is the best they've come up with to date. He spoke about tests that can be done to determine odor issues and stated that the Oregon plant has no problems with or complaints about odors. Mr. Haugh asked how many times the test was done and Mr. Welch stated it was done 2 different days. He stated that Reser's is aware that there are issues at the Deer Creek plant and they are being addressed. Mr. Welch explained that the Hillsboro plant is situated next to a residential area, similar to the proposed facility here. Ms. Cavazos asked if weather affects the odor, and Mr. Welch addressed this by explaining that all garbage and refuse is kept in an enclosed building, that Reser's does an excellent job of recycling, and that the Hillsboro plant doesn't have any complaints.

Mr. Welch addressed concerns about lighting, explaining that light will not go past the property line. He reviewed some of the landscaping and pointed out that through a combination of landscaping and berming, the parking lots will not be seen from the properties across the streets.

Craig Harris of AAI Engineering came forward to speak regarding stormwater management, which includes a detention pond that will release water at or below the current rate; water will not go toward Croco but rather toward the dry streambed through a long dispersion trench so that it will go uniformly across as a sheet flow rather than source flow. He stated that the amount of stormwater coming off the property would likely be less than there is currently, adding that even if it were the same, it would be coming off more slowly so current flooding issues would be aided by this. The analysis was done on a 100-year storm rate.

Mr. Haugh asked regarding Mr. Harris's statement that the stormwater runoff would be at or below what is presently on the site, and Mr. Harris confirmed that by design, it will release water at or likely even below current rates.

Rick Yo, Project Manager for construction, came forward to speak. Mr. Yo stated he's been doing construction for over 40 years and that the technology for controlling noise, odor, stormwater, etc. changes constantly and has changed [for the better] a lot just over the past several years. Mr. Yo stated that before construction begins they will hold a neighborhood meeting to explain the process and hear concerns, then develop a construction plan that will incorporate the comments and concerns of the neighbors. Mr. Yo spoke to proposed timelines, containing noise and dirt, and working only weekdays during daytime hours. He stated that on the average, 75% of the construction is done by local sub-contractors, which would mean about \$65m stays in the community.

Mark Reser returned to the podium, reiterated that Reser's wants to be a good neighbor, and spoke regarding the time he lived in Topeka.

Ms. Cavazos asked what other locations were considered for the new Reser's plant. Mark Rezac of Kansas Commercial Real Estate came forward and reviewed the sites, as well as why they weren't the best option for Reser's. Site issues included being in floodplains, 2-lane roads and lack of services. Sites included 21st & Wittenberg, 29th & Wittenberg, and near 21st & Rice Road. They looked at land east of Rice Road but there wasn't a sufficient amount of contiguous land and no sewer. Another area included an apartment complex. Mr. Rezac pointed out that a priority for Reser's was to remain as close as possible to their distribution center and pointed out that other sites didn't include enough acreage.

Mr. Gales asked the Mr. Harris to review where the water is going to go from the detention pond. Mr. Harris reviewed the location of the pond, a dispersion trench, and the direction the water will flow, which is toward the creek. Mr. Gales asked about the decision to have a detention pond rather than retention pond. Mr. Harris stated that they are meeting what city code requires and gave information about why a retention pond isn't a good option as it would cause flooding. Mr. Harris stated that they would discuss with the city issues that had been heard at this evening's meeting to make sure they will not be adding to the problems; he stated that hopefully they would be improving the situation for the neighbors.

Mr. Haugh asked if street improvements were a separate issue. Mr. Harris stated that street improvements will be made and reviewed this briefly. Water will be contained in a catch basin rather than the open ditches that are there now, and the water will be discharged at the end of the road improvements back into the ditch. Mr. Gales asked how far the road improvements would go and Mr. Harris explained that they must go to the property line. After that they will taper back down to the existing system rather than just stop. Mr. Gales also received confirmation that the road improvements and ditch removal will take place on both sides of the road – curbs and gutter.

With no more questions from commissioners, Mr. Gales declared the **public hearing open**.

Curtis Sneden with Topeka Chamber of Commerce spoke for the Chamber in support of the proposal, speaking of Reser's being an exemplary corporate citizen in Topeka for decades, stating they're concerned about the impact they have on the community and environment. Mr. Sneden stated that it's clear from the Reser's presentation that they're concerned about how their facilities look, sound, smell, and that they're focused on being good neighbors. Mr. Sneden stated that GO Topeka is excited about the fact that the project will bring close to 200 jobs to the community and entail \$87m initial investment and recurring economic impact year after year. Mr. Sneden noted that JEDO met last week and unanimously approved the package that GO Topeka had worked with Reser's on to support the project. Mr. Sneden stated that he encourages the Planning Commission to vote in favor of the project as well.

Ms. Jordan asked what the average job at Reser's pays. Jeff Russell, VP of Operations for Reser's, came forward and explained that \$10.25 is the lowest starting rate and all positions offer have full medical benefits that include dental and vision. He stated that all employees are on the same medical plan. From \$10.25 the pay can go much higher, depending on the position and tenure.

Tom Plemons returned to ask Reser's to address 3 reported major ammonia leaks in the past 9 years and how long the water stands in the holding pond. Mr. Clemmons referenced the dangers of standing water and mosquitos.

Mr. Harris came forward and explained that it's a detention pond, not a retention pond, and water will drain out over 24-48 hours cycles. He added that if we got 2 weeks of rain it might take a little while longer but it's designed to drain out in 24-48 hours. At that point it's empty.

Mr. Russell spoke to the ammonia leaks. He stated they've had only one reportable ammonia leak in the time he's been here (approx. 35 years). He stated there was a failure in a seal many years ago. He stated the other incidents were not reportable in size but they did create a visit from OSHA, who did make some safety citations. Those have been addressed. He stated they were technical violations and Reser's doesn't believe employees were in danger at any time. He added that there were no employee injuries in the past incidences.

Mr. Kannarr asked regarding Mr. Russell saying the incidents weren't "reportable" and asked who to. Mr. Russell answered OSHA or EPA, depending on the amount. He stated these were 1 or 2 pound leaks.

Mr. Plemons returned to the podium and stated the events he was referring to were released to the public as being reportable and that Reser's was fined for not reporting. Regarding the detention pond, Mr. Plemons stated that we've been told all summer not to leave water standing, even overnight, so he's concerned that the detention pond would be a health issue. Mr. Gales explained that detention ponds are necessary to developments so water doesn't release all at once.

Van Beal, President of McElroys, came forward to speak in support of the Reser's proposal. He stated they've done business with Reser's since 1990's. They are one of the local contractors involved in the construction and also plumbing/heating/air service provider and have technicians at the plant nearly every week if not every day. He spoke to the importance of having Reser's in the community; he reported that their hourly wage is \$35/hour and they will see continued growth in their employee base if Reser's builds this plant. Mr. Beal added that they've never had issues of crime or vandalism to their vehicles while at Reser's, adding that it's safer for them to be in a Reser's parking lot than to sit in technician home driveways where they've had issues with vehicles being broken into. Mr. Beal stated that Reser's has a lot of choices regarding where they build their facilities and he's glad they've chosen Topeka.

Lula Armstrong returned to the podium. She stated that many of her concerns have been addressed, but she has concerns about the traffic. She stated that DuPont is remodeling their plant and that will add traffic, there will be shift change traffic intersecting at Croco, and there are a lot of school buses. She's also concerned about traffic backup due to trains. She states it's already a dangerous intersection and the facility would be increasing by several thousand cars as well as large truck traffic. She stated she's glad we have Reser's but thinks it would be better to have the plant located elsewhere. She also expressed concern about the wildlife they currently have in the area being displaced.

Ms. Armstrong stated that she does think the proposed building is beautiful with nice aesthetics, but expressed concerns about employees and complaints she's heard from them, mainly via the internet.

Jeanette Wiens, Corporate Engagement Manager for Harvester's Topeka facility, came forward to speak for Harvester's in support of the Reser's proposal. She stated that Harvesters is a food bank that feeds approximately 141,500 food insecure individuals each month and spoke to the importance of support from the corporate community. Ms. Wiens state that Reser's has received the Circle of Hope Award from Harvester's, which recognizes an extraordinary and long term commitment to hunger relief in our region. She spoke to the regular food donations that Reser's makes, as well as the Reser's employee donations.

Sheila Summers of 432 SE Croco came forward to speak against the proposed project. She stated that she doesn't believe anyone in attendance discounts what Reser's brings to the community; their goal has been to bring talking points to consider before the Planning Commission makes its decision. She stated that the proposed plant would have residents living on all 4 sides of it, not just 2 as has been reported. She spoke to the median value of homes in the area being \$135k and up and stated that having spoken with real estate agents, she heard that changing zoning to allow commercial or industrial uses usually decreases residential values of neighboring properties substantially. She added that she, too, is concerned about the amount of

traffic that will be generated. Ms. Summers stated her house is directly across the street from the proposed site and asked commissioners to consider whether they'd want it built across from their own home.

Jack Crayler, President of Custom Sheet Metal, came forward to speak in support of the Reser's proposal. Mr. Crayer stated that he's been associated with Reser's for over 20 years and said he knows them to be a company who will do what they say they're going to do. Mr. Crayler stated that it's not just about the millions of dollars that will be invested in the facility but also about the continued work after with vendors.

Clay Warren of 3819 SE 2nd Street came forward to speak against the proposed project. Mr. Warren stated that commissioners wouldn't want the plant by their home. He stated that he works for the wastewater industry and is certain Reser's won't be able to contain the odors.

Alan Henderson of 2933 Atwood came forward to speak in support of the proposal. He stated he doesn't live around Reser's but he works with Special Olympics and spoke to the support that Reser's provides for it. He said he was able to take the Special Olympics softball team he coaches to the national tournament because Reser's gave them money. He stated that Reser's supports the Law Enforcement porch run, the Polar Plunge, provides food for the annual citywide Thanksgiving Dinner, is one of the leaders in giving to United Way, and is a huge supporter of Harvesters and others. Mr. Henderson stated he looks forward to having 180 jobs added to the Topeka area. He stated that the plan they've put forward appears doable and encouraged the City to hold them accountable for the promises they've made. He encouraged commissioners to support Reser's and let them build their plant.

Heather Farias of 431 SE Baldwin came forward to speak against the proposed project. Ms. Farias stated she has 5 children; in the 4 years she's lived on SE Baldwin, they've only had one incident relating to crime. She's concerned that an industrial area moving in will bring increased crime. She stated that she had spoken with local law enforcement about the subject and they confirmed it. She said that in the past year there have been over 60 criminal reports within 1,000 feet of the Deer Creek plant and her neighborhood has currently nowhere near that amount of crime. Ms. Farias spoke to a CPTED note in a PUD utility note that she stated acknowledged and addressed the reality of increased crime rates in facilities with high parking lot and high activity. She stated homes in the area are not landscaped or lighted with deterring crime in mind. Ms. Farias stated that there are 20 kids on her street under the age of 13 and expressed grave concern about the potential for crime and rise in traffic. She asked commissioners to think of it as their own neighborhood and their own kids. She said she's all for Reser's development, but not in her residential area.

Harold Pointer of 2343 SE Croco came forward again to speak against the proposed project. He expressed concern about water run-off, stating that it all runs north. He expressed concern about the storm sewer and which way the pads are going to grade. He stated that he'd like to echo what everyone else said – that they moved there for the rural area and asked if commissioners would like to have the facility in their back yard/front yard, or even up the road.

Mr. Harris responded, stating again that the water will be run to the west and to the north. There is no stormwater from the site that will go NE down Croco. Mr. Gales asked if all the water on the property has to

go through the detention pond and be released from there at a controlled rate. Mr. Harris said yes, that's correct; it has to be released at the current rate or slower. The plan is to take the water to the NW so it will not go into the curb or ditch system. Mr. Harris stated that the stormwater management plan has to be approved by the city.

Mr. Pointer returned to the podium and asked how often the smell and sound levels are checked.

Mr. Reser came forward and stated that unless there is a change made to the evaporators, noise levels won't change, though they'd agree to a schedule for reviewing. Regarding odor, they will test until they get to the results they are seeing in Oregon, where there are no odors. Mr. Reser reminded the commissioners that the system at Deer Creek is different than what they plan for this facility, and Phase 2 of the plan is updating the Deer Creek facility.

Sandra Campise of 416 SE Croco Road came forward to speak again against the proposal. She spoke of the field that's currently there and how she enjoys looking at every day, as well as the beautiful sunsets and wildlife in her yard. She said she spoke with a County Extension agent who said that with any expansion, the animals will disappear. Some will come back but you're disturbing their habitat. She spoke to the noise of traffic around shift changes, stating that cars will be going into her front yard. She said headlights will shine into her windows; she doesn't close her windows because she enjoys looking out. She is concerned about noise in the parking lot both from cars and people talking. She asked how many of the Reser's jobs pay \$10.50/hour, how much of that has to go to pay for their health insurance and expressed concern about work conditions and the quality of life of their employees.

Mr. Russell returned to the podium to re-state that the lowest starting rate is \$10.25 and stated benefits cost depends on the plan employees choose. He said he has the same benefit options as a \$10.25/hour employee and he stated that Reser's has absolutely nothing to apologize for.

Alicia Chavez, current Chair of Our Lady of Guadalupe Fiesta & Planning Committee came forward to speak on behalf of Fiesta and Our Lady of Guadalupe Parrish in favor of the project. Ms. Chavez spoke to the more than 20 years of support that Reser's has offered to the annual Fiesta, which helps support Holy Family School. She said that year after year Reser's comes in at their highest level of sponsorship, and Mr. Russell and/or Mr. Reser also attend the Fiesta each year to show their support.

Rebecca Cannon of 416 SE Croco came forward to speak against the project. She stated most of her concerns had already been addressed, but pointed out that there are no restaurants for employees to walk to on their lunch breaks, so there will be additional traffic for that.

Deborah McCray of 246 SE Croco came forward to speak against the project. She stated she appreciates all that Reser's has done and will do, the 180 jobs they will bring, and the business people who came out to speak in favor of the project. She stated someone told her that 3-4 times/week employees are bussed in from Kansas City and wondered where they stayed if the bus only comes with that frequency. She also expressed concern about tax dollars going to KC rather than Topeka.

John Flory of 714 SE Croco, which he said is 5,400' from the Deer Creek plant. He said that at night you can hear the fans in the plant running. He quoted from a court case saying that the Planning Commission has the discretion to approve a plot with conditions. He'd like a condition set that sound is monitored at the property line behind where cooling fans are, and also that odor is monitored weekly.

Mr. Florea said he read in the newspaper that the CEO of GO Topeka said economic development is good for the people who live around this plant, so he thinks that should be taken into consideration.

Mr. Florea inquired as to the uses allowed in I-1, stating I-1 provides for a wide range of uses except specified uses which are obnoxious or obvious by reasons of odor, dust, smoke, gas or noise. He believes that should be taken into consideration.

Mr. Florea stated that the property is not contiguous with city limits. Mr. Gales stated that according to city officials, it is. Mr. Florea continued to state that the map is not correct.

Jonathan Ashlee of 525 SE Baldwin came forward again stating his house has been in his family since it was built by his grandfather in 1952 and it was one of the first in the neighborhood. He recently bought the house hoping to retire there and does not look forward to having a plant across the street. He stated concerns about sound and how, even though it won't be loud, it will be continuous through the night and awfully annoying.

Richard McClay of 246 SE Croco questioned whether part of the road is in the city.

Trey Jones of 612 SE Croco came forward to speak against the project. Mr. Jones addressed the other location options that Reser's representative had mentioned, speaking about properties being in floodplains. Mr. Jones suggested a good location would be the Forest Park Retreat and Conference Center, which is 34.82 acres and could be acquired by buying out one owner.

Mr. Jones cited crime statistics about 65 police calls to Reser's plant in 2016 and said that in comparison, there were 8 to Frito Lay. He thinks the difference may be because he's heard that Reser's uses a work release program.

Mr. Jones asked for clarification regarding water run-off from the street.

Mr. Harris returned to the podium and explained again that the water will be collected in a storm collection system, which is catch basins, and piped to the ditch. Currently all the street runoff goes into an open ditch. Mr. Harris continued, stating that while the current Reser's plant may be built partly in a floodplain, that happened 10 years ago; since that was built FEMA requirements for new construction have changed dramatically and make it much more difficult to build in a floodplain.

Mr. Russell came to the podium to explain that the Forest Park Retreat and Conference Center is not for sale. Reser's have tried to buy it before but the owners are not interested in selling. Therefore, it's not an option for Reser's.

Ms. Cavazos asked Mr. Jones where he got the crime stats. He stated he called the police department but couldn't get info from an open records request that quickly. Ms. Cavazos stated that she did request the

crime stats. She stated that according to those records, in 2016 there were 4 reported criminal activities that took place in the Deer Creek Reser's parking lot. She added that her stats show that in the empty gas station/car wash parking lot by the location they wish to build on, there were 32 incidents. Mr. Jones stated he thought his numbers might be from 3 Reser's locations and might be the number of calls, not the number of police reports.

Ms. Cavazos verified for Mr. Gales that Ms. Driver had supplied the stats at Ms. Cavazos's request and they came from TPD and Sn. Co. Sherriff's Office.

Jim Mader of 3622 SE 2nd Street expressed concern about the train tracks crossing the street approximately ½ mile from 6th & Croco and traffic backing up when trains come through. He stated that there are a minimum of 4 trains a day. Mr. Gales asked him how many cars may que up at the railroad track while waiting for the train to go by and Mr. Mader didn't know. He stated it's just a scenario he wanted to make sure people considered.

Kimberly Tibbs of 520 Laurel stated that cars will turn off when they see a train coming and also from people trying to avoid 6th & Croco. She stated that the neighborhoods will be inundated with cars trying to get away from trains and from the 6th & Croco intersection. She stated that while they love Reser's, if they want to be a good neighbor, they don't want to build at this place because nobody wants them there.

With nobody else coming forward to speak, Mr. Gales declared the **public hearing closed**.

Mr. Woods pointed out that staff recommendations include conditions, especially numbers 12, 13, 14, that specifically deal with noise (no more than 60 decibels at the property line, which Ms. Driver confirmed is roughly the same as a conversation from 5'); air quality standards, and discernable odors. Ms. Driver stated that according to KDHE, Reser's has air quality permits to operate their engines but there are no violations. Ms. Driver confirmed these are all conditions on the PUD.

Mr. Haugh noted questions and comments on traffic and Mr. Haugh asked for confirmation that a traffic study would be required. Ms. Driver stated that the applicant has submitted a traffic study and it has to be approved by the City's traffic engineer.

Tom Ingram of Cook Flatt & Strobel came forward stating he did the traffic study that is under review. Mr. Haugh asked if analysis took railroad crossings into consideration. Mr. Ingram stated he did not take this into account but quickly calculated that if you have a 100 car train with 65' long/car going 25mph, it's going to cross in about 4.5 minutes. So – while 4.5 minutes can feel like an eternity, it's not that long. Mr. Ingram also stated that when they did the traffic counts, only about 7% of the cars were going North on Croco, and those are the only cars that would be affected.

Mr. Gales reviewed the Commission's options and Ms. Feighny confirmed them. Mr. Woods asked for and received verification that the Planning Commission is being asked to make a recommendation to the Governing Body; the final decision regarding re-zoning will come from the Governing Body.

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Motion by Mr. Gales, **Second** by Mr. Woods, to recommend granting the rezoning subject to the conditions in the staff report and conditioned upon the governing body annexing the property.

DISCUSSION:

Mr. Gales stated that it was not an easy motion to make, but the Planning Commission must base their decision on a land use perspective. It's a challenge to consider something changing in a residential area. Mr. Gales stated that 6th Street is a commercial area and it just so happens that it's growing eastward toward the highway, an area that's been residential for some time. When the area developed it was much further from the city limits than what it is now; the city simply continues to grow; for example, 25 years ago about the only thing on Wanamaker was Sam's Club. Over time, this area will likely continue to grow as an economic commercial zone and it is our responsibility to look at things with a long range plan. Mr. Gales stated that the Planning Department is aggressive in demanding that our business community design and develop in a neighbor-friendly manner.

Mr. Gales stated he is convinced that the applicant did a good job of vetting other property options, and Planning staff have set conditions that they can make sure are followed by the applicant. In the end, this will be a good investment for the community. Mr. Gales believes it's possible to have industry growth within a city, in conjunction with nearby residential, and have a win-win situation.

Mr. Kannarr thanked everyone for being at the meeting. He stated that initially he had concerns about whether other locations had been considered and had heard testimony that other options had in fact been explored. He stated that throughout the evening there was virtually no word against the applicant; they seem to be a model of the community. While it was asked over and over if people would want the facility in their neighborhood, Mr. Kannarr stated that he understands most would answer no; however, they're going to go somewhere, and ultimately, having this in our community is a good thing. Mr. Kannarr stated that he'll be supporting the motion for those reasons.

Ms. Burson stated from an economic goal standpoint, it's worthwhile to try and keep businesses in Topeka and not elsewhere. To see them growing is a good thing.

Mr. Haugh stated while he may enjoy looking at a field across the street, he understands that if he doesn't own the property, he can't guarantee that it won't change. Having your own open space that you don't own can't always continue forever. Mr. Haugh stated he believes that Reser's has done about as good a job as you can to buffer the facility from the neighborhood through design, berming, recess of the property; all those will work together to minimize the effect and he is in support of the proposal.

With no further discussion, Mr. Gales called for a vote.

APPROVAL (9-0-0)

With no further agenda items, meeting was adjourned at 12:45AM.