

MINUTES

1. The meeting was called to order by Chairman Richard Hemphill.

2. Roll Call:	Manson	Present	McPherson	Present
	Garrett	Absent	Shultz	Present
	Hemphill	Present	Fisher	Present
	Lane	Present		

3. General Business:

A. Approve Planning Commission Agenda.

Motion by Commissioner Shultz to approve the Agenda; second by Fisher.

All Commissioners approved by “ayes.”

Motion carried.

B. Approve Minutes of the Planning Commission meeting held on June 25th, 2019.

Motion by Commissioner McPherson to approve the Minutes; second by Lane.

All Commissioners approved by “ayes” with Manson abstaining.

Motion carried.

C. Disclosure of conflicts of interest. N/A

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

4. **Call to Public:**

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

No one appeared.

5. **Public Hearing:**

A. Comprehensive Plan update – Final Report. Planning Director Brad Weisenburger said the process began in Spring 2018. Each chapter has been presented to the Planning Commission and City Council for their comments. A joint meeting was held between the Council and the Planning Commission. Public input was sought to a high degree

to provide a baseline for updating the plan. Chairman Hemphill said this is a lengthy plan and all of the Commissioners have reviewed and talked about the plan. The plan is ever evolving.

Chairman Hemphill opened the Public Hearing for comments.

Holly Barth, 37070 W. 95th Street, said she has read the document and commented on the Future Land Use Map and how the current map doesn't really reflect the rezoning that is on the agenda for tonight. She asked if the City is willing to hang their hat on the future of Sunflower being cleaned up when not much has been done. Changing the map to accommodate the Future mapping, what does the Commission see going in this area?

Chairman Hemphill said the long-range planning is the best guess on what might happen. De Soto is bounded by the Kansas River on the north, Lenexa on the east. There has always been discussion that 95th Street could become a new commercial corridor in the future. That isn't saying it is absolute, but it could happen. Generally, what happens, the first developer who comes along and builds, this area seems to call for light industrial. We have used the term 'mixed use' in past years. The flat ground in this area is a reasonable use for light industrial combined with residential and mixed uses. Discussion.

Ms. Barth said she is looking for a business that all the citizens can enjoy, such as the restaurants and stores. The people who live in this area came here for a rural feeling, and not industrial or living next to a trucking company. Discussion ensued between Chairman Hemphill and Ms. Barth. She feels Sunflower is many years away from being cleaned up. She doesn't want Sunflower to be the anchor for justifying industrial businesses in this residential area.

Chairman Hemphill said De Soto is in the right position to take the lead on Sunflower and the area surrounding it. The goal is to be pro-active and show uses for the adjacent Sunflower property.

Commissioner McPherson commented on how the intermodal came to the city of Edgerton and has brought business, industry and money to the town. The map can be changed at any time. Commissioner Lane said the City has to look at the tax base as well to keep a community healthy and financially stable.

Denise Everhart, 8910 Rowan, De Soto, said she hasn't read the Comprehensive Plan, but wants to know how hilly properties can be affordable to build housing as there are no utilities going out there to those hilly areas. Chairman Hemphill commented that commercial ground and residential ground are priced differently. Commissioner Manson commented. Ms. Everhart said industrial could be built along Lexington Avenue.

Arlice Gallagher, 9130 Sunflower Road, said she has lived on a flat piece of ground for over 40 years. She has no intention of ever looking to build on a hilly ground. She likes the flat ground for residential.

Mike Jeavons, 36270 W. 95th, said he has lived here 42 years and every few years the City seems to encroach on residential and agricultural property. The roads are not set up for the heavy traffic, and they are already abused by the heavy trucks from the rock quarry, the overhead door company on 95th Street, and Lumber One. The people who live on 95th

Street have to stop and wait for the big trucks to clear out. He wants to live in privacy on the ten acres he had to purchase in order to build there in the first place.

Mark Price, 8120 Wyandotte, asked how having businesses come in helps to lower the taxes on residential properties. How does giving an abatement for ten years or more give a home owner a tax break. Discussion ensued. He said giving free taxes to a business for ten or twenty years puts a burden on the residents who live here. Discussion ensued among Commissioners and Mr. Price.

Mr. Price said the water treatment plant is on the docket to be cleaned up next year. He asked how are those trucks going up and down the road to clean the water plant and all that traffic going to benefit the residents on 95th Street? Chairman Hemphill said the roadway will be improved. City Administrator Brungardt said the clean up discussions will be held with the government when the time comes.

Trevor Barth, 37037 W. 95th Street, said the majority of 95th Street is residential and is not just wide-open land to be developed. There are spots of agriculture in the middle, but it is predominantly an area of residential housing. County regulations apply in most areas.

Chairman Hemphill closed the Public Hearing as there were no further comments.

Commissioner Manson asked about the change made to the Future Land Use Map that Commissioners approved, and why that Map has now been changed in the Comprehensive Plan. Planning Director Weisenburger said the draft Comp Plan was forwarded to the City Council after the Commissioners reviewed it. The Council reviewed the Plan and all land areas were discussed. City Council requested the area be changed from mixed use to light industrial based on their discussion and review of the Plan.

Linda Manson, 37045 W. 95th Street, asked when this area was annexed into the City. Staff responded the property requesting a rezoning tonight was requested for annexation back in April by the landowner, Mr. Rieke. The entire track was annexed into the City in July, 2019, at the request of the property owner. Administrator Brungardt commented on the annexation.

Will Moneymaker, 36715 W. 95th Street, said the overall long-term plan is necessary and it takes a lot of work. When it comes to 95th Street, this is a neighborhood. If there is a logistics center on 95th Street, with semi-trucks, coming over the hill past Rowan, this road is not suited for semi-trucks. Chairman Hemphill commented on a loaded tractor trailer and the current road is not designed for it. Mr. Moneymaker said he appreciates the work that has been done on the long-term plan. He reiterated that 95th Street is a neighborhood.

Motion by Commissioner McPherson to recommend approval of the Comprehensive Plan as written; second by Lane.

Roll Call:	Manson	Yes	McPherson	Yes
	Garrett	Absent	Shultz	Yes
	Hemphill	Yes	Fisher	Yes
	Lane	Yes		

Motion carried.

- B. 29150 83rd Street - Consider Rezoning to C2. The applicant, Kip Saxon, has submitted an application to rezone a 6.2 acre tract of land at 29150 W.83rd Street from Rural Suburban RO to C-2 Business General. Notification letters were sent to property owners within the 200-foot buffer on August 1, 2019. The hearing notification was also posted in the paper and a sign posted on the property notifying of this public hearing. Planning Director Weisenburger said this property adjoins the Carriage House property. No comments have been received from the surrounding property owners. The applicant would like to have the rezoning in order to establish a landscaping business. He reviewed the existing uses allowed in the zoning district and reviewed the zoning compatibility factors as outlined in the Staff Report dated August 27, 2019, directed to the Planning Commissioners. The findings of the criteria are positive, and the requested rezoning is consistent with the Future Land Use Plan. Any potential negative impacts to the immediate neighbors and surrounding area would be minimal. Staff recommendation is in favor of granting the rezoning request.

Chairman Hemphill said he agrees the C-2 zoning would be a good use for this property and the proposed landscaping business. Planning Director Weisenburger said the current structure on site will have to be taken down and a site plan submitted for this property. Commissioner Lane said she is concerned about a Facebook post last October stating *'bear with us as we have semis backed up unloading rock salt.'* Planning Director Weisenburger said that should the matter come up, it will be dealt with at the site plan review and approval process. Discussion ensued among Commissioners.

Chairman Hemphill opened the Public Hearing for comment. No comments were heard.

Chairman Hemphill closed the Public Hearing.

Motion by Commissioner Lane to recommend rezoning approval from Rural Suburban RO to C-2 Business General of the property located at 29150 W. 83rd Street to the City Council; second by Fisher.

Roll Call:	Manson	Yes	McPherson	Yes
	Garrett	Absent	Shultz	Yes
	Hemphill	Yes	Fisher	Yes
	Lane	Yes		

Motion carried.

- C. 95th and Sunflower Road – Consider Rezoning to M1. The applicant, Sims Global Solutions, submitted an application to rezone a 25-acre tract of land on the northwest corner of 95th Street and Sunflower Road from RUR – Agriculture to M1-Light Industrial. The applicant is here this evening. The proposed use is warehousing, truck transportation and company management. These uses are allowed in M-1 zoning. Notification letters to property owners within the 200-foot buffer were sent on July 3, 2019. Public hearing notification was posted in the paper and a sign was posted on the property notifying the public of this public hearing. A validated protest petition was submitted to City Staff.

The subject property is current zoned RUR-Agriculture under Johnson County's zoning category. The RUR is intended for the preservation and protection of rural areas. The

proposed use is Light Industrial as defined in the De Soto City Code, and defined as *“The intent of this district is to permit industrial uses that are not obnoxious due to appearance, noise, emissions, or odor; that do not require intensive land coverage; and that can be compatibly developed with adjacent districts through site plan review.”*

Staff has discussed the matter with several nearby land owners surrounding the site. Planning Director Weisenburger provided a Review of the General Zoning Requirements and the Zoning Compatibility Factors as outlined in his 13-page Staff Report directed to the Planning Commissioners dated August 27, 2019.

City Administrator Mike Brungardt provided background information on a rezoning of a property and the certain land rights and uses associated with the property. In the utility review, there aren't any public sewers currently in this area. This area is in the RWD #7 service territory. The District hasn't yet established the capacity of their 12" water main along 95th Street. The City has a high-capacity 12" water main along Sunflower Road that could be used, with the permission of RWD #7, for fire suppression or domestic service to the property in the event the RSD #7's main doesn't have adequate capacity. Discussion ensued between Administrator Brungardt and Commissioners on the Future Sewer Map in the Comprehensive Plan.

While there are negatives with increased truck and automobile traffic, these issues can be mitigated. The utilities in the area are adequate but connection to a public sewer would be preferable. Screening and buffering will be extensively required to further shield surrounding property owners from any nuisance created by the use at the site. The applicant has submitted a traffic study that assesses the impacts of a proposed logistics company use on the surrounding road network. Administrator Brungardt commented on the completion of 91st Street and all truck traffic can be limited to the 91st Street route. Trucks would travel on Sunflower Road for only ¼ mile between 91st Street and the subject site. The City can restrict truck traffic on 95th Street and Sunflower Road.

The results of the individual analysis of the Compatibility Factors are mixed. These criteria are set out by state statute and by the Zoning Regulations to serve as a basis for decision. They are not intended to be a score card to tally upon completion. One of these criteria could outweigh all the others on any particular criterion. Discussion ensued between Commissioner Shultz and Administrator Brungardt concerning the roundabout at 91st and Lexington Avenue. Discussion that the proposed roundabout will be legally capable of handling semi-trucks when completed.

Planning Director Weisenburger commented on the remaining criteria of noise, economic impact, the impact of the zoning amendment on nearby properties, and the impact (if any) to the public health, safety, and welfare from a denial of the rezoning application. The fact the new Comprehensive Plan indicates light industrial rather than mixed use for this property is indicative of a more focused intent for this area to transition from rural residential and agricultural uses to non-residential uses over time. The intent of this transition has been consistently reflected in the City's long-term land use and utility planning for at least 20 years.

De Soto City Staff recommends approval of the rezoning requested, based primarily on the requested rezoning is consistent with the Future Land Use Plan which has been part of De Soto's urban growth area for over 20 years, and reaffirmed by the updated

Comprehensive Plan. This area is posed for future development that is urban in nature and that is ready to be served by municipal services. De Soto will ultimately benefit from having a business that has potential to employ nearly 100 people and be woven into the fabric of the City.

Chairman Hemphill said this property could be several potential uses under the M-1 zoning. Discussion ensued between Planning Director Weisenburger and Chairman Hemphill.

Justin Bodenhausen, for the applicant, Olathe, KS 66062, said he is the CFO of Sims Global Solutions. He stated this is a brokerage company with warehousing, and not an asset-based trucking company. There are two trucks, one long-haul that is out for a week, and one short-haul, in and out in two or three days.

Commissioner McPherson asked how much actual traffic is going to come via other truck companies into the warehouse location? Mr. Bodenhausen said a traffic study was done. The plan is to grow the computer software brokerage platform. Discussion ensued between Commissioners and Mr. Bodenhausen. Currently there are 15 employees. Recruiting is a challenge right now for top talent. Mr. Bodenhausen said the company likes the area, the community of De Soto, and the location near K-10.

Chairman Hemphill asked Commissioners to review the Zoning Districts and Uses permitted in the M-1 zoning district. Discussion. Currently, the existing road system would not support most of these uses.

Chairman Hemphill opened the public hearing for comment.

Ken Tyler, 37150 W. 95th Street, said the rezoning change is jumping the gun without a real plan in place for the roadways to this area before any kind of industrial is going to go. There is a hill and there is only one place to go if you meet a truck—the ditch. Giving a blanket M1 zoning without addressing the roadways is asinine.

Becky Gallagher, 9130 Sunflower Road, said this group of people are all very smart people and we are a community who loves De Soto; we want to see something that is compatible for this neighborhood. As far as tax abatements and companies not ditching a city after a tax abatement is done, there is proof cities do that. How many outside vehicles will be coming in and out every day. The question was asked, but the applicant skirted around it and did not give an answer. The traffic has already increased due to Lexington Lake Park. It is a beautiful park, but having this company located on 95th Street would definitely impact the area. There are also many people who walk daily on 95th Street and this is another safety concern. There are already issues with traffic on 87th Street with truck traffic and large trucks drifting over the line on the hill. The kids from the High School run on this road daily, and this has to be taken into consideration. 91st Street is also going to be used by the school kids and this is a safety concern when large amounts of traffic are present. There are other places in De Soto for this type of rezoning and light industrial commercial.

Chairman Hemphill asked Ms. Gallagher what her vision is for this area. She said she has always thought this would be large homes and possibly multi-family homes, along with soccer fields and a good quality of life improvement for De Soto.

Traci Gaulthey, 34860 W. 95th Street, east of the property in question. The new 91st Street going in is going right by the schools. The logistics are completely insane when kids are going and coming from the area. Including more trucks in this area is a huge safety concern. The infrastructure of the roads on 95th Street is not good; it's down to gravel and it is very narrow. There is no way she would allow her three children to ride their bikes on the road now due to the increased traffic to Lexington Lake Park. There should not be industrial in this area.

Rob Childers, 9400 Rowan Road, said he has five special needs children and that is why he moved his family to De Soto. There is no way any kids could walk down 95th Street to Lexington Lake Park currently. He takes Edgerton Road due to the already questionable safety issues with the truck traffic that currently is on 95th Street.

Arlice Gallagher, 9130 Sunflower Road, said she is not in favor of this project as it just is not suitable for this area. She said she asked Mike about the tax abatement and he said it was an 85% tax abatement for ten years. She said this business website states they have been in business since 2010. She said their website also says they have an office on Strang Line Road in Olathe, Kansas. She said Mike said the tax abatement amount would be approximately \$293,000 which includes all taxes involved. She is not in favor of the zoning as she has lived there for 43 years.

Sam Male, 37265 W. 95th Street, said the property is going to be cut into two tracts. Why do they need a sign on K-10? Why do they want to come to De Soto? Have you ever seen a high school kid drive through a roundabout? Have you watched a semi go through a roundabout? They can't! He feels this company has ulterior motives and trying to lead you to believe.

Holly Barth, 37070 W. 95th Street, said all the folks here tonight signed the petition and we are all here to say we don't want the rezoning and we don't want the roundabout. The company isn't talking about how many trucks and vehicles are coming in and out every day. They didn't answer the question. The neighborhood does not want this property zoned light industrial.

Lesley Janssen, 35300 W. 95th Street, said she agrees with everyone on the traffic. She said she is for progress, but not the traffic from this proposed company. She feels like she is being led astray and if this property goes to M1 it could open the flood gate to something even more. She said the paper that is circulating is 17 trailer stalls and 70 employees.

Justin Bodenhausen, applicant, said growth wise, the two trucks right now is where they are; but their bread and butter is in the brokerage and this is a growing company who hopes to continue to expand.

Will Moneymaker, 36715 W. 95th, said he looked at the company's website and a quote on there is "LATE is a four-letter word" which he feels implies the trucks are going to be driving faster than they should. De Soto has a four-letter word, too, and it is SAFE.

Scott Barger, 9150 Rowan Road, said west on 95th Street there is a residence, and M1 makes a comment that says M1 should not be zoned next to residential property. He sees that residential property as a conflict. He sees how the most recent plan shows Residential and then four months later it is now M1. Was the recommendation to move

forward with this recommended zoning change a part of the new plan's reason. He said when he looks at the plan and sees light industrial where residences are currently, how is that going to affect him as a property owner living in his home? He further commented that the City has to look at what any potential use could be and whether or not traffic could be restricted on certain roads, legally. Can the City restrict traffic on the county's portion of those same roadways?

Becky Gallagher, 9130 Sunflower Road, said she wanted to remind Commissioners that most of the property is located in Johnson County and not in De Soto. The County has specific restrictions on this property. This could be a great area for some planned neighborhoods verses light industrial.

Sam Male, asked who is going to pay for this company's fire hydrant suppression from the water tower to the building? Do you know this company has also proposed to buy the property south of 95th Street which just came up?

Denice Everhart, 8910 Rowan Road, said her concern is the road and the maintenance. She already has to stop on 95th Street to accommodate the trucks coming in and out of Lumber One. You better be driving very carefully at the hill and be very cautious. The trucks just go; they don't seem to care. It isn't fair to our Sheriff's Department to sit there all day to slow them down and watch them. This company, Sims, hauls large farm implements and they haul in at night and then leave the next day.

Holly Barth, 37070 W. 95th Street, is concerned about the noise from this company. What are the hours of operation and will there will be trucks loading in and out during the night and noise beepers are not going to be covered up with berms and trees? There are two new homes being built on 95th Street on Rowan and there are families living in these homes. She is not in support of the rezoning.

Natalie Nelson, Kill Creek Road, stated her concerns are of driving traffic down 91st Street. They moved to De Soto because of the schools. She is concerned about driving traffic down a road designated for the schools and this is defeating the purpose of a safe school driving zone. She is not against growth. She is against this property being rezoned to light industrial.

Bob Heinen, 9620 Sunflower Road, south of the proposed rezoning. Commented that he didn't appreciate the City lighting up the water tower and the building. Once this company comes in, the place is going to be lit up like a Christmas tree. Administrator Brungardt said he will look at the lighting on the water department's building.

Ken Tyler, 37150 W. 95th Street, said there are some requirements, etc. but is there a requirement that they have to maintain weed control and pest control? Rodents and raccoons are invasive. What is in the regulations to have companies keep properties clean? Discussion.

Chairman Hemphill closed the Public Hearing.

Planning Director Weisenburger said Commissioners have heard all the comments from the residents. The City Council will have the final say on this rezoning request.

Chairman Hemphill said, assuming this would be rezoned, there would be a roadway (91st) that would have a roundabout and end at the stop sign near Casey's. Administrator Brungardt commented on the traffic study submitted by the applicant. He said the company is starting with 30 employees and is projected to grow to 178 employees with 366 trips daily. Administrator Brungardt commented on the roadway and the transitioning from the rural residential to more mixed use and commercial at the intersections. Discussion among Commissioners.

Chairman Hemphill called Mr. Rob Childers back to comment. Discussion.

Rosemary Male, 37265 W. 95th, asked if this property is going to have sidewalks for people to walk safely along the road. Discussion.

Chairman Hemphill again closed the Public Hearing.

Commissioner Lane said she wanted to thank everyone for coming out tonight. Typically there is no one attending the commission meetings. Very few people came to the meetings for the Comprehensive Plan discussions. City Staff and City Planning Commissioners have to use their best judgment when reviewing the Comp Plan and future needs of De Soto. Commissioner Lane said we need the public's opinions and thoughts to make the best decisions. We need you to attend the meetings. Thank you for coming out tonight and voicing your opinions.

Chairman Hemphill said this rezoning is what is being asked for in the future planning of the City, but it may be immature for this area as the road network isn't really ready for this. He hesitates because of the road system not being sufficient for the request.

NOTE: On Wednesday morning, following this meeting, Chairman Hemphill asked to clarify his comments above by stating for the record: "*This zoning is what is being proposed in the 2019 proposed Comprehensive Plan Update*". Hemphill's email is attached.

Commissioner Manson said he had noted five points before this hearing began tonight. He read his five points as follows:

- 1) the M1 rezoning request is for the full 25 acres, proposed building is less than 10 acres;
- 2) the future use that could be used on this property – infrastructure does not support all uses;
- 3) the surrounding road systems do not support M1 zoning;
- 4) M1 is not consistent with the current future use/comprehensive plan;
- 5) M1 designation states they should be located along major roadways and with truck traffic to be located in Sunflower Redevelopment or sites not connected to residential;

Commissioner Fisher asked if anyone from the Johnson County Parks & Recreation is here to comment on how the truck traffic will affect the Lexington Lake area. No one appeared.

No further discussion by Commissioners and Chairman Hemphill called for a motion.

Motion by Commissioner Manson to recommend denial to the City Council for the rezoning based on the following points: 1) the M1 rezoning request is for the full 25 acres, proposed building is less than 10 acres; 2) the future use that could be used on this property – infrastructure does not support all uses; 3) the surrounding road systems do not support M1 zoning; 4) M1 is not consistent with the current future use/comprehensive plan; 5) M1 designation states they should be located along major roadways and with truck traffic to be located in Sunflower Redevelopment or sites not connected to residential; and 6) strong public objection; second by Lane.

Roll Call:	Manson	Yes	McPherson	Yes
	Garrett	Absent	Shultz	Yes
	Hemphill	Yes	Fisher	Yes
	Lane	Yes		

Motion carried.

Chairman Hemphill commented to the applicant that they need to understand the City's position with quite a leap from RUR to M1 and the roadway infrastructure.

Commissioner Fisher said the City would love to have your business, but not in this location. You need to move it over on Commerce Drive.

6. Old Business: None

7. New Business:

A. Site Plan Review 95th and Sunflower Road – Sims Global.

Motion by Commissioner McPherson to table any further comments on this subject of 7 A and 7 B until the City Council makes their decision; second by Shultz.

Roll Call:	Manson	Yes	McPherson	Yes
	Garrett	Absent	Shultz	Yes
	Hemphill	Yes	Fisher	Yes
	Lane	Yes		

Motion carried.

B. Final Plat 95th and Sunflower Road – Sims Global. – Tabled by above motion.

Commissioner Shultz requested the Planning Commission packets be sent out earlier than three days. Administrator Brungardt said they could try to get the packet out earlier on Thursday.

Motion by Commissioner McPherson to adjourn at 9:06 p.m.; second by Shultz.

All Commissioners approved by “ayes.”

Motion carried.

Respectfully submitted:

Lana R. McPherson, MMC, City Clerk