

From: bsmathers@mizehouser.com [mailto:bsmathers@mizehouser.com]
Sent: Tuesday, July 15, 2008 3:57 PM
To: bfinkeldei@stevensbrand.com; Scott McCullough
Subject: Walgreens at Crossgate Drive and 23rd Street

Dear Brad,

It has come to my attention that there is a proposed commercial rezoning at the corner of Crossgate Drive and Clinton Parkway. As a 20-year resident of Crossgate Drive, I would like to express my support for this rezoning. Most of the residents in my neighborhood are retired, or are soon to be retired, and I see this as a great asset to "us older people." This property would be within walking or biking distance for most of us.

Sincerely,
Barbara Anne Smathers
2009 Crossgate Drive
Lawrence, KS 66047

RECEIVED

JUL 15 2008

City County Planning Office
Lawrence, Kansas

July 11, 2008

Brad Finkeldei, Chair
Lawrence Douglas County Planning Commission
City of Lawrence
6 East 6th Street
Lawrence, KS 66044-0708

Ref: proposed Walgreen's rezoning at SW corner of Crossgate and Clinton Parkway

Dear Chairman Finkeldei:

I am writing in support of the proposed rezoning referenced above. It would appear that with the considerable density of apartment dwellers in relative close proximity to the site, that a Walgreen's store in that location may well have the desired impact of reducing trips from that area onto Clinton Parkway. Providing a neighborhood convenience within easy walking or biking distance for a great number of people is an example of good planning, particularly as we try to deal with ever increasing fuel costs and as we attempt to make our community more walkable. I urge you to move this plan forward.

Sincerely,

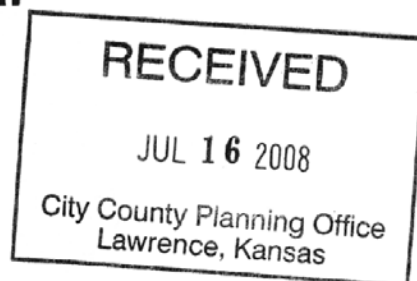


Brad Parsons
2104 Greenbrier Drive

Cc: Scott McCullough

The Greens at Alvamar

3700 Clinton Parkway
Lawrence, Ks 66047
785-749-0431
Fax: 785-749-1628



July 15, 2008

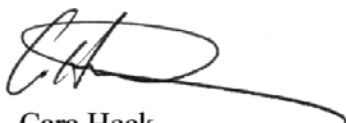
Brad Finkeldei, Chair
Lawrence Douglas County Planning Commission
City of Lawrence
6 East 6th Street
Lawrence, KS 66044-0708

Ref: proposed Walgreen's rezoning at SW corner of Crossgate and Clinton Parkway

Dear Chairman Finkeldei:

I am writing on behalf of the Greens of Alvamar in support of the proposed rezoning referenced above. Locating a drugstore at that site would be in close proximity to our residents as well as the many surrounding apartment communities; all of whom would enjoy their services. We view this plan as a neighborhood convenience that would ease the commuting burden for many people, as they would have only a short distance between their homes and needed amenities. I urge you to move this plan forward.

Sincerely,



Cara Heck
Property Manager

CC: Scott McCullough

July 16, 2008

Brad Finkeldei, Chair
Lawrence Douglas County Planning Commission
City of Lawrence
6 East 6th Street
Lawrence, KS 66044

RE: Proposed Walgreen's rezoning at SW corner of Crossgate and Clinton Parkway

To Chairman Finkeldei:

It has come to my attention there is a proposed Walgreen's being considered on the SW corner of Crossgate Drive and Clinton Parkway. I am writing to support this new, proposed addition to our area. I know that particular area was originally designated as a commercial site, but will have to be rezoned for retail. It will be an added convenience to our neighborhood and I see no reason not to pursue this expansion. I currently live on the north side of Crossgate Drive, and it will be easily accessible by walking from my residence.

If you have any further questions, please don't hesitate to contact me.

Kind regards,

Mary Nichols
2110 Crossgate Drive
Lawrence KS 66047
785 843 1461

Cc: Scott McCoullough, Director of Planning

July 18, 2008

Dear Lawrence-Douglas County Planning Commission:

I would like to comment on the proposed rezoning of RSO land and associated Walgreens store on the Southwest corner of Clinton Parkway & Crossgate Drive. There are several reasons why I am concerned about the proposed project, including traffic, litter, stormwater runoff, and light pollution, but my main objection is that the project is inconsistent with the city's *Horizon 2020* plan.

The proposed Walgreens site is located approximately 1/3-mile (1,800 feet) from the existing Hyvee commercial center at Clinton Parkway & Kasold Drive, which offers the same services (drug, grocery, and photo) as Walgreens. Lawrence has two existing Walgreens stores, both of which are approximately 2.5 miles away from the proposed location. I don't believe that another Walgreens store at the proposed location provides a unique commercial opportunity for the city. As it is located less than a mile from an existing commercial center, the proposed project is not compliant with *Horizon 2020*.

I live near the location of the proposed project and use the referenced intersection almost daily. This intersection already has a relatively high volume and speed of traffic, including the 45 mph speed limit in this part of Clinton Parkway). Vehicles turn both east and west into apartment buildings on Crossgate, which often backs up traffic near the roundabout on that street. I have doubts that this area can handle the amount of traffic which Walgreens stores attract, without causing additional traffic accidents.

In addition, I don't feel that this type of commercial center is entirely appropriate for the neighborhood. As with any commercial center, the project has the potential to cause increased litter and stormwater runoff, which concerns me especially with the stream running on the West side of the proposed property. This stream provides wildlife habitat and aesthetic quality, which would be negatively affected by increased 'non-point' pollution from the proposed project. Also, nearby residences, especially those directly across the street from this location, would be negatively affected by increased light pollution, especially if this is to be a 24-hour store.

I would like to thank Sandra Day, City/County Planner, who spoke with me earlier this week and provided me more information regarding the proposed project. I see that the Planning Commission Staff recommends denial of the proposed project for some of the same reasons I stated above. I strongly agree with this staff recommendation, and I ask that the city and county commissions uphold the recommendation for denial.

Sincerely,

Mandi Chace
2624 Red Cedar Dr.
Lawrence, KS 66047
(785) 393-1769 Phone

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*ADMITTED IN KANSAS AND MISSOURI

Matthew S. Gough
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MATTHEW D. RICHARDS*
LINDA K. GUTIERREZ
MATTHEW S. GOUGH*
CATHERINE C. THEISEN
KRISTOPHER S. AMOS

RICHARD A. BARBER
(1911-1998)

GLEE S. SMITH, JR.
OF COUNSEL

July 21, 2008

VIA E-MAIL ONLY

Mr. Brad Finkeldei, Chair

Lawrence-Douglas County Metropolitan Planning Commission

6 East 6th Street

P.O. Box 708

Lawrence, Kansas 66044

*Re: Walgreens Rezoning Applications (collectively the "Applications");
July 21, 2008 Agenda Item No.'s 3A, 3B and 3C;*

Dear Mr. Finkeldei and Planning Commissioners:

Walgreens met with Planning Staff on May 6, 2008 for a pre-application meeting to discuss the Application. At that meeting, Planning Staff indicated that they would not support a Walgreens at the location, but that if Walgreens desired to proceed, Walgreens should request CN2-PD zoning. In the several weeks following that meeting, at the request of the Planning Staff, Walgreens prepared and submitted a traffic impact study, a sanitary sewer downstream analysis, a storm-water surface analysis, and a preliminary development plan, in support of its CN2-PD zoning application and all at considerable expense. On June 13, 2008, the Planning Staff called a meeting with the applicant and its representatives to ask for more information about the project. At that time, Planning Staff did not object to the use of a PD overlay district. On June 24, 2008, Planning Staff, for the first time, expressed concern that Section 20-701(e), which states that the minimum area for a PD district is five (5) acres, prohibits Walgreens from using a PD district at the southwest corner of Clinton Parkway and Crossgate Drive (the "**Property**"), which is approximately 3.324 acres in size.

The Planned Development (PD) regulations are intended to:

(1) ensure development is consistent with the Comprehensive Plan;

(2) ensure that development can be conveniently, efficiently, and economically served by existing and planned utilities and services;

Mr. Brad Finkeldei, Chair
Lawrence-Douglas County Metropolitan Planning Commission
July 21, 2008
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(3) allow design flexibility that results in greater public benefits than could be achieved using conventional Zoning District regulations;

(4) preserve environmental and historic resources; and

(5) promote attractive and functional residential, non-residential, and mixed-use developments that are compatible with the character of the surrounding area. Section 20-701(a).

With the exception of issues related to *Horizon 2020* which are addressed by separate letter, Planning Staff's objections to the use of a PD district do not pertain to the purposes of a PD district, but rather are technical in nature.

The five (5) acre minimum generally applicable to PD districts does not apply to Walgreens' Application because the CN2 district two (2) acre minimum applies. *See* Section 20-601(b). There is a conflict between the provisions of Sections 20-701(e) and 20-601(b). The Land Development Code (the "Code") specifies how to resolve such a conflict. Section 20-109(b) provides:

If the provisions of this Development Code are inconsistent with one another, or if they conflict with other City Regulations, the more restrictive provision will control. The more restrictive provision is the one that imposes greater development restrictions or more stringent controls.

As described in Walgreens' Application, the purpose for PD zoning is to restrict the use of the Property to that of a neighborhood pharmacy. That "single-use" restriction is far greater than the restrictions on permitted uses under base CN2 zoning, which permits a multitude of uses under Section 20-403 of the Code. Walgreens' PD overlay does not reduce, waive or favorably modify any of the use restrictions of the base CN2 district. From the perspective of the Planning and City Commissions, a single-use restriction is a desirable means to guaranty the type of use that will exist on a property. For Walgreens, the single-use restriction imposed by the PD district is voluntary, but is a more stringent restriction nonetheless.

The CN2 zoning minimum of two (2) acres is more restrictive than a five (5) acre minimum in this case, because the use restrictions imposed by the PD overlay district described in Walgreens' Application are more stringent and impose greater controls than the base CN2 district. Under Section 20-109(b), the minimum size requirement that causes the PD zoning restrictions to have the

Mr. Brad Finkeldei, Chair
Lawrence-Douglas County Metropolitan Planning Commission
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broadest effect (i.e. the smaller acreage that enables the PD district to affect more properties) is more stringent and restrictive than the larger minimum size requirement that limits the applicability of the PD district. In this case, the CN2 minimum results in greater development restrictions because it allows the imposition of the PD district. If the larger size minimum were applied, then the less stringent land use standards of CN2 zoning would apply, thereby causing a result contrary to the intent of Section 20-109(b).

The use of a smaller minimum size requirement is already permitted in Section 20-701(f)(2), albeit in reverse. Section 20-701(f)(2), pertaining to standards that may be modified in a PD overlay district, states:

The minimum Lot size standards of the Base District may be reduced by the City Commission, provided that Lot sizes shall be adequate to safely accommodate all proposed Buildings and site features.

If the Code permits the Base District's minimum lot size to be decreased under certain conditions, clearly the minimum size of a PD district can be reduced for a single-lot property, like the Property, when a conflict arises under Section 20-109(b), and when the use restrictions in the PD district are more restrictive than the Base District.

The size of a PD district does not affect the district's ability to accomplish the policies underlying the district. See 21ST CENTURY LAND DEVELOPMENT CODE, page 90, Robert H. Freilich, S. Mark White, with Kate F. Murray (stating that there should be no minimum size for a PD district). Please also note that under the old zoning code, a PCD district (the predecessor to PD overlay district) had a two (2) acre minimum size requirement, as did C2 zoning (the predecessor to CN2). See Section 20-1003(b) and Section 20-707(b). Planning Staff has proffered no policy reason why the two (2) acre minimum should not apply. The purpose of the PD five (5) acre minimum appears to have no factual or historical context, and no clear purpose.

The competing minimum size requirements in Sections 20-701(e) and 20-601(b) should not be resolved in isolation under Section 20-109(b), but rather in the context of the underlying use restrictions that would be imposed on the subject property depending on which standard applied. In Walgreens' Application, where the PD district is more stringent and imposes more development restrictions than the base CN2 district, the application of the two (2) acre size minimum results in greater restrictions, not the five (5) acre minimum. We therefore strongly urge that the Planning Commission apply Section 20-601(b) rather than Section 20-701(e).

Mr. Brad Finkeldei, Chair
Lawrence-Douglas County Metropolitan Planning Commission
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Preliminary Development Plan

In the process of preparing the preliminary development plan required with the request for PD zoning and the preparation of the various studies described above, Walgreens has accumulated enough information and prepared detailed enough plans to fully discuss the effect of the proposed development on the neighboring properties. Contrary to the requirements of the Code, Section 1303(d), there is no Planning Staff report discussing the proposed plan, but Walgreens will be prepared to discuss the plan during the July 21, 2008 meeting.

Very truly yours,

A handwritten signature in black ink that reads "Matthew S. Gough". The signature is written in a cursive style with a large initial "M".

Matthew S. Gough
of Barber Emerson, L.C.

MSG:jsm

WALGREEN'S
PROPOSED FINDINGS TO SUPPORT
RE-ZONING TO CN-2 - PD
July 21, 2008

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

The re-zoning conforms to the policies stated in Chapter 6- Commercial Uses that:

- encourages infill development, at one or more corners of arterial and collector streets
- integrates the use (pharmacy) into the surrounding land uses of the neighborhoods
- creates a focal point for the surrounding neighborhood
- enhances the mix of uses in the existing development.

The re-zoning does not conform to the land use map contained in Chapter 6, but none of the single use neighborhood commercial uses are included on this future land use map.

2. ZONING AND USE OF NEARBY PROPERTY

The surrounding zoning is various densities of residential. The surrounding and nearby uses include single family, multi-family and apartment house residences, a park and three schools.

3. CHARACTER OF THE NEIGHBORHOOD

The neighborhood consists of college-age young people and older people in the multifamily residences, young families in the single family residences and schools and residents of all ages in the duplexes. It is dense residential area without a single neighborhood scale store to walk to or that could serve as a focal point for the neighborhood.

4. PLANS FOR THE AREA OR NEIGHBORHOOD

There are no area or neighborhood plans for this area.

5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

The property has been restricted as zoned effectively for nine (9) years. The office market has been very soft in Lawrence for a long time. Residential development at this location is highly restricted and extremely unlikely because of the drainage easement on the west and the roadways on the north, south and east of this 3.3 acre piece of property. It is not suitable for RSO as shown by the long period of lack of interest in this site.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

The property has been vacant as zoned for nine (9) years. It had been vacant as zoned A before that, since 1966 when the County adopted zoning regulations.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

The rezoning is not anticipated to have any detrimental effect on nearby properties as evidenced by support of the rezoning by nearby property owners. It will provide a pedestrian friendly neighborhood pharmacy that will allow nearby residents to walk to provide some of their daily needs. It will also provide a focal point where neighbors will meet each other in attending to their daily needs.

8. THE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED ON THE LANDOWNER AS A RESULT OF THE DENIAL OF THE APPLICATION

Denial of the application does not improve the health, safety and welfare of the public. The application includes the preliminary development plan which is based on a traffic impact study, downstream sewer analysis, and storm water study that all determine that this small site is served by sufficient infrastructure to support the proposed use and to allow for the safe handling of all traffic generated by the site.

Approval of the application will provide pedestrian friendly opportunities to provide daily necessities to a large number of nearby residents who do not have that available to them now.

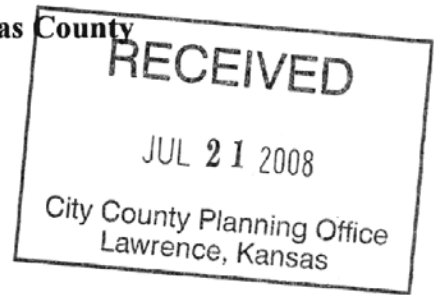
Denial of the application will continue the hardship to the owner of the land to develop the property with the existing use restrictions and physical restrictions inherent in the site.

9. PROFESSIONAL STAFF RECOMMENDATION

Staff recommended denial.

League of Women Voters of Lawrence-Douglas County
P.O. Box 1072, Lawrence, Kansas 66044

July 20, 2008



Brad Finkeldei, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044

RE: ITEM NO. 2: CPA-2008-10(DDW); ITEM NO 3A: RSO TO CN-2; 3.324 ACRES; SW CORNER CLINTON PKWY & CROSSGATE DR (SLD); ITEM NO 3B: RSO TO INCLUDE PD OVERLAY OFR CN-2; 3.324 ACRES; SW CORNER CLINTON PKWY & CROSSGATE DR (SLD); ITEM NO. 3C: PRELIMINARY DEVELOPMENT PLAN FOR WALGREENS; SW CORNER CLINTON PKWY & CROSSGATE DR (SLD)

Dear Chairman Finkeldei and Planning Commissioners:

We commend the staff for their recommendation to deny the request for a Comprehensive Plan change, a rezoning to CN-2, a request to overlay it with a PD, and a Preliminary Development Plan for Walgreen's. Like the planning staff, we believe these requests are not in alignment with the comprehensive plan, and they lack conformance to the requirements of the Land Development Code.

While some property owners adjacent or nearby the site in question have written letters in support of this rezoning, we believe that the neighborhood has (or will soon have) access to similar services, and the site is too small to meet the 5-acre minimum requirement of the PD Overlay District.

We appreciate your work to make Lawrence a great place to live.

Sincerely yours,

A handwritten signature in cursive script that reads "Carrie Lindsey".

Carrie Lindsey
President

A handwritten signature in cursive script that reads "Alan Black".

Alan Black, Chairman
Land Use Committee