



PLANNING COMMISSION MEETING
September 26, 2011
Meeting Minutes

September 26, 2011 – 6:30 p.m.

Commissioners present: Belt, Blaser, Britton, Culver, Finkeldei, Hird, Liese, Singleton, von Achen

Staff present: McCullough, Day, Larkin, Leininger, M. Miller, Uddin, Ewert

MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of August 22 & 24, 2011.

Motioned by Commissioner Liese, seconded by Commissioner Blaser, to approve the August 22 & 24, 2011 Planning Commission minutes.

Approved 7-0-1, with Commissioner von Achen abstaining. Commissioner Finkeldei was not present for the vote.

COMMITTEE REPORTS

Receive reports from any committees that met over the past month.

Commissioner Hird said the Agritourism Committee was still working on terms of suggested text amendments and hoped to have something before Planning Commission soon.

COMMUNICATIONS

Mr. Scott McCullough, Planning Director, reviewed new attachments and communications that were posted to the online Planning Commission agenda after the initial posting date.

Receive written action of any waiver requests/determinations made by the City Engineer.

- 1) The City Engineer approved a waiver to the distance standards on a collector road from signalized and non-signalized intersections for the development project located at the southeast corner of Crossgate Drive and Clinton Parkway (HyVee gas station; A full report is included with SUP-7-4-11 – item no. 3C on this agenda)

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Liese said when he visited the site for 5th Street Bluff Subdivision he talked briefly with a neighbor to confirm he was looking at the right property.
- No abstentions.

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ITEM NO. 1 PRELIMINARY PLAT; FIFTH STREET BLUFF SUBDIVISION; W 5TH ST (MKM)

PP-7-6-11: Consider a one lot Preliminary Plat and variances related to dedication of rights-of-way and frontage for Fifth Street Bluff Subdivision, approximately 0.29 acres, located on W 5th Street near the connection of Iowa Street and W 5th Street. Submitted by Paul Werner Architects, for JMC Construction, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, agreed with staff that the neighbors were not happy. He said he agreed with staff that the variances were more appropriate. He said the bank previously attempted to negotiate the land being purchased by the neighbors.

Mr. McCullough said there could be public comment on the variances.

PUBLIC HEARING

Ms. Jacqueline Schafer expressed opposition to the plat. She felt it would be unsafe to allow a driveway to be built at this location. She said she was also opposed to the cutting down of trees to allow for visibility. She said when she purchased her house 10 years ago she specifically asked the real estate agent if that property would be developed and was told no, that it served as the backyard for the house on Country Club Court. She said when the issue went before the Traffic & Safety Commission in July of 2009 one of the commissioners said it made no sense to put a driveway at the location. She felt the best use for the property was its original use, the backyard for 427 Country Club Court. She said the owner of 427 Country Club Court would like to purchase the land and has approached the bank about it but that there were discrepancies about the purchase price. She suggested instead of granting variances that Planning Commission encourage an agreement be reached between the bank and buyer. She felt this would keep the neighborhood safe and restore goodwill.

Mr. Chris Caldwell said the staff report makes reference to zoning district regulations, requirements and minimal specifications but does not indicate the proposed variances being reviewed by the Board of Zoning Appeals. He stated the property was unsightly and truly distressed. He said Ms. Schafer invested in the landscaping. He said the drainage was unpredictable with standing water. He requested direct answers to questions such as who was being bailed out? And why? How much public money would be spent to support any development? He suggested allowing the property to remain unplatted and subject to normal market valuation as an unplatted tract.

Mr. Tom Boxberger agreed with what Mr. Caldwell and Ms. Schaefer said. He felt it would change the entire neighborhood if the trees were removed. He stated the street was unsafe already and to add more traffic would be harmful to his family.

COMMISSION DISCUSSION

Commissioner von Achen inquired about traffic calming devices.

Mr. McCullough said it went through Traffic & Safety Commission.

Mr. Uddin said it did go through Traffic & Safety Commission in 2009 but he did not recall the outcome. He said one issue that was discussed was concern about the steep slope and that a speed hump could create more danger. He said there was also concern about funding.

Mr. McCullough said it sounded like traffic calming was explored through the Traffic & Safety Commission.

Ms. Schafer said she believed the Traffic & Safety Commission said it was not warranted.

Mr. Werner said the Traffic & Safety Commission voted 5-0 to not do anything on 5th Street.

Commissioner von Achen inquired about the recommendation to put the driveway to the far northeast of the lot. She said a neighbors letter expressed concern about increased danger for her.

Mr. Uddin said the idea for moving the driveway to the northeast was to split the available sight distance as much as possible. He said the area within the sight line, R-O-W, and all obstructions would be removed. He said it was a matter of detail location of the driveway. He said it could be kept where it was and that moving it was only a small improvement.

Commissioner Liese said he visited the site and it was a blighted property. He said he was more concerned about safety issues than blight. He said it was not an easy street to navigate and that the grade of the property was such that you could not see in both directions.

Commissioner Hird said it was his understanding that City Commission approved it and sent it back to Planning Commission.

Mr. McCullough said City Commission did approve it in 2009 but the plat expired.

Commissioner Hird asked if this version of the plat was what City Commission approved and then it expired.

Mr. McCullough said yes.

Commissioner Singleton said she voted to approve this in 2009. She felt it was a good location for infill. She said the developer did not have any problems with installing a circular drive. She said there was no guarantee that this would be purchased by a neighbor. She stated one more driveway was not going to increase the use to that road substantially. She said the hazards of that road were going to stay that way and one more single-family home was not going to solve that but would solve some of the blight issues.

Commissioner Blaser said he would also support this and felt it may improve the neighborhood for that lot to be cleaned up. He did not feel there was a good reason to deny it.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Blaser, to approve the following variances:

From Section 20-810(d)(4)(i) which requires 60 ft of right-of-way for local streets to permit the right-of-way to remain at 50 ft in this location.

From Section 20-810(a)(2)(i) which requires that lots be designed to comply with all applicable zoning district regulations to permit the creation of a lot with 37.35 ft of frontage in the RS10 Zoning District, rather than the required 40 ft.

And approval of the Preliminary Plat of the Fifth Street Bluff Subdivision and referring it to the City Commission for acceptance of dedication of easements and rights-of-way subject to the following conditions of approval:

The preliminary plat shall be revised with the following changes:

- a. Add the following note and include on the final plat: "The driveway shall be located as far to the northeast as possible and the property owner shall remove all obstructions within the sight triangle of the driveway."
- b. Show the sight distance triangle for the driveway.
- c. Show the Blackhills Energy gas line on the north side of W 5th Street.
- d. Revise the existing trees shown on the plat to reflect the current site condition.
- e. Provide 10 ft wide utility easements along the east and south sides of the lot.
- f. Revise the floodplain note to reference the August 5, 2010 FEMA map and panel.
- g. Remove the note regarding the changes made in June 2009 to eliminate the right-of-way.
- h. Revise the information shown for the lot to the north to remove JMC as owner and to provide subdivision information for this lot.

Commissioner Belt agreed with the comments Commissioner Liese made earlier about traffic safety. He also expressed concern about stormwater mitigation. He said he would vote against the motion.

Commissioner Blaser said the last time they saw this item stormwater was discussed and the city stormwater engineer would look at stormwater during the site planning stage.

Commissioner Culver said he would be in favor of the application because of the enhancements that would be made by platting the property. He agreed with Commissioner Singleton's comment that adding one more driveway for a single family home would not dramatically change the safety of the street.

Commissioner Hird said it was a difficult decision because the neighbors want it to stay an undeveloped lot. He said if Planning Commission did not approve the variances and allow the infill project then they would be taking the value of someone else's property and saying they could not use it for its highest and best use because the neighbors like their view. He said he wished the neighbors would buy the lot and that it was not within the Planning Commissions power to force a deal with the bank. He stated the elected officials, City Commission, said yes to this. He stated that unless there was a compelling reason that had changed since 2009, he needed to be consistent with his vote in 2009, which was a reluctant vote in favor.

Commissioner Liese said he would vote against the motion but that in doing so he was running the risk of doing a disservice to the owner/developer/bank. He said they had a responsibility to do good infill and enable people to build homes. He stated he wished he could vote in favor of it. He said he was not an overly cautious driver but it would be a challenge to pull/in out of. He said a circle drive did not guarantee people would drive forward out of it. He urged Planning Commission to think carefully.

Commissioner von Achen said she would like to vote with the neighbors but felt it would be unfair without a concrete reason to deny the owner the opportunity to build on the property. She said she would regretfully support the motion.

Commissioner Britton said the property had to be put to some use and every time someone develops a property there were positives and negatives. He said in the end the externalities could not be removed. He said he would support the motion.

Motion carried 6-2, with Commissioners Belt and Liese voting in opposition. Commissioner Finkeldei was not present for the vote.

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**ITEM NO. 2 CONDITIONAL USE PERMIT FOR THE FRATERNAL ORDER OF POLICE
SHOOTING RANGE; 768 E 661 DIAGONAL RD (MKM)**

CUP-12-8-10: Consider a Conditional Use Permit for the Fraternal Order of Police shooting range, located at 768 E. 661 Diagonal Road. Submitted by Dan Affalter, for Fraternal Order of Police, property owner of record. *Deferred by Planning Commission on 4/25/11.*

STAFF PRESENTATION

Ms. Mary Miller presented the item and went over the conditions.

Commissioner Finkeldei recused himself from the item.

APPLICANT PRESENTATION

Mr. Mike Riling, attorney representing Fraternal Order of Police (FOP), said the FOP operated a range for its membership and that the use was minimal. He said they hoped the city and county would get their own range at some point but when that happened the FOP would be stuck with the conditions. He said this was not fair. He stated the FOP has allowed the police and sheriff's department to use the range for some 40 years. He did not think enforcement would be a big deal in terms of telling when the range would be used by the police or sheriff's department. He stated the FOP had been burned by setting regulations. When the law enforcement center was built many years ago there was a range deep inside of it which never got fired upon by any training. It was designed and made to be used and it was never used. He said the FOP was frustrated in trying to get a handle on the conditions. He said soil testing through the Extension office was not available. He said noise abatement was something that needed to be done but that the driving force behind it was the sheriff and police departments who were the ones making the noise. He said the city and county had direct control over those departments. The FOP was being squeezed in the middle. He said trying to do noise abatement within 6 months was a probably not possible. He asked that noise abatement not be included. He said it was the city and county creating the problem. He said regarding the contact number on the gate they were fine with that. He said the hours of operation was different between the FOP and the police and sheriff training. He felt it was only fair to set apart the training hours versus the FOP general use.

Mr. Dan Affalter said regarding lime he talked to Dr. Cohen who was one of the environmental companies listed in the NRA Range Source book. Dr. Cohen claimed to have written many of the things the EPA Best Practices regulations were based on. He said you could not just throw lime on a problem because it may inadvertently create arsenic. He said it would involve some science to figure out abatement for lead.

Mr. Riling said the FOP was fully aware that if lead got in the water supply it was a problem. He said they had been monitoring it and there was no sign of lead contamination in the water. He said the Kansas Department of Health and Environment (KDHE) had been to the property. He said the soil had a high content of lime so the facility was already in a good location. He said the facility had to exist somewhere and the reality was that nobody would want it built in their backyard as a new facility. He stated this site had been there for 40 years.

Mr. Ken McGovern, Douglas County Sheriff, said currently there were 140 employees in the agency and they needed flexibility for shooting hours. He said they plan on letting the neighbors know when they will be there doing training and the hours.

Mr. Tarik Khatib, City of Lawrence Police Chief, said sharing the range was not an ideal situation. He said 70% of law enforcement firearm encounters occur during nighttime conditions. He said there was no substitute for having an outside training facility to have real world experience.

Mr. Riling said regarding trees as a buffer it was not a big issue because there were no plans to cut trees. He said the big issue was the shooting times and it was important to draw the distinction between the two uses so the individual members could use the range in a more expanded fashion than the training facility. He said noise was a problem but the FOP could not fulfill what they were being asked to do because nobody could lay a solid plan out. He said an artificial time period for noise abatement was going to be difficult and the FOP did not want to do something that would create a bigger problem. He said regarding the environmental factor the FOP was aware of the need to keep an eye on the lead but there were other agencies already regulating that area, such as KDHE and the Environmental Protection Agency (EPA).

Mr. Affalter said the FOP had preliminary conversations with city and county officials regarding funds to accomplish whatever noise mitigation needed to happen. He said he could not get them to agree to pay for something without a guarantee a permit would be in place.

Mr. Riling said the police would be subject to City Commission and suggested neighbors talk to City Commission about the use of the range. He said the City Commission could impose their own limitations on the police department. He said he did not want to commit to something that may or may not work. He asked Planning Commission to adopt the Conditional Use Permit (CUP) for the FOP.

PUBLIC HEARING

Mr. Ron Wilson said he lived within the ½ mile zone. He inquired about a building in the woods and what it was made out of and what they were using it for. He wondered if this was a law enforcement or recreational establishment. He agreed with the fact that the Extension office could not test for lead. He said he found the name and number of someone who could test for lead and it was \$35, which he would be willing to pay for. He said he looked at the KDHE health findings and did not see any factual numbers about lead. He said he related weapons fire with someone trying to kill him. He did not like the noise of firing and felt it should be taken care of. He wondered if they would be going over this again in 10-15 years when his house becomes part of the suburbs of Lawrence.

Mr. Bill Roth, lives west of the range, thanked Planning Commission and staff. He said the neighbors were not against law enforcement personnel. He said the range was set up before the EPA was established in 1970. He felt they should look at the CUP in another 5 years. He mentioned Topeka's firing range by hiring a consultant and had an excellent range with berms. He said they only occasionally fire at night. He felt the hours should be more restricted.

Ms. K.T. Walsh felt there should be signs along Washington Creek to indicate the beginning and end of the property so canoeists would know.

Mr. Eric Knoche said his property was probably the closest house to the firing range. He expressed concern about the times. He agreed with the times that staff set up and felt those times should fit everyone's needs. He wanted to be notified if there would be late night shootings. He did not want any military usage of the range.

Mr. Karl Birns, lives within ½ mile of the range, said Mr. Riling raised a lot of issues that were not directly related to the permit. He said the overburden of additional usage by city and county employees was the issue and that if they had their own facility it would not be an issue. He said he

found numerous handbooks by military, state, and county governments on the design and construction of outside shooting facilities. He was dumbstruck that the FOP acting like they had never heard of it. He was surprised that nobody from the county or city health department was not present. He said that reports filed should be made available to the public instead of just the applicant.

APPLICANT CLOSING COMMENTS

Mr. Riling said there were methods of mitigating and some may or not work well. The FOP did not have a lot of money to spend on it. He felt there needed to be noise mitigation but how and when that would come he did not know. He said the bulk of the problem was due to city and county use and he felt those entities should have enough motivation to work with the FOP to get the mitigation done. He said 6 months for noise abatement was unrealistic and could set them up for further problems.

COMMISSION DISCUSSION

Commissioner Singleton inquired about time constraints.

Mr. Riling said this case was in front of Judge Kittel and she made a ruling but that it was now in front of Judge Fairchild who would be in favor of this being worked out in the form of a CUP to the extent that it could. Once the CUP was issued then the FOP had the right to accept it or not. If the FOP was satisfied they would drop the lawsuit but if not the lawsuit would continue. He said the range was still operating and there was no firm time to stop it. Training was ongoing.

Commissioner Liese asked if in the past 40 years there had been any injuries at the site.

Mr. Riling said there was one injury.

Mr. Affalter said it was an on-duty officer.

Commissioner Liese inquired about funding.

Mr. Riling said the FOP talked to the city and county about helping develop the range. He said the County Commission would be in a quasi-judicial role when they hear this case and if they committed to funding that would put them in a bad spot. He said it was kind of a chicken and egg situation. He said the CUP needed to come first and then mitigation ideas could be discussed. He said the county was hamstrung from doing it at this time.

Commissioner Liese asked staff their thoughts.

Mr. McCullough encouraged Planning Commission and County Commission to act in their quasi-judicial manner. He said while it was interesting to hear the county's position as part of the group who uses the facility, they also have a role and responsibility to regulate it from a land use perspective.

Commissioner Liese asked what led to the accusation that a list of requests was submitted to the FOP but 'met a stonewall.' (He was referring to a letter from Mr. Karl Birns)

Mr. Affalter said at some point in 2006 the issue was brought to the FOP that neighbors were concerned. He said Mr. Craig Weinaug, Douglas County Administrator, contacted the board of the FOP and said they were in violation of zoning regulations. He said the county and city helped build the range and over the years have encouraged the building of the range.

Commissioner Liese felt communication should be better with the neighbors.

Mr. Riling said the FOP's reaction to the county was the fact a CUP was needed. He felt the county and city should be part of the solution for noise mitigation. He said they met with the neighbors and invited them to tour the range. He said the problem was not the FOP's use of the range, but rather the city and county training. He said the FOP had to get through this process first before any funding from the city and county could be received.

Mr. Birns said the reason he stated that was the neighbors got together and discussed issues. He said the FOP was starting to get involved in litigation with the county and did not want anything to do with the neighbors.

Commissioner Liese asked if he believed a good dialogue could exist between everyone.

Mr. Birns said he hoped so. He said the neighbors were not asking for much and he still thought it was possible. He said part of what they were dealing with was the uncertainty of what the future would bring. He said the neighbors would be willing to sit down and meet to discuss concerns.

Commissioner Singleton inquired about the noise from FOP members shooting versus training.

Mr. Riling said with FOP members it was typically one or two people shooting.

Mr. Affalter said a typical training had 8 people lined up shooting many rounds per second.

Commissioner Singleton inquired about noise testing.

Mr. Riling said he was not clear about what type of noise test and when, where, or who would measure it.

Commissioner Singleton did not feel the noise abatement plan should be the burden of the FOP since they were not the ones who were causing the aggravated noise to the area.

Mr. Affalter said before the litigation started he proposed to Mr. Weinaug to have the county get the CUP but he essentially said since it was FOP property it was the FOP's problem. He said if they could make it work they would certainly like to make that happen.

Mr. Riling said the FOP was not opposed to meeting with the neighbors and working things out but the CUP would have to come before the funding from the city and county, and then what to do would have to be figured out.

Commissioner von Achen inquired about lead abatement. She said under the recommended conditions it stated the property owner shall have the soil tested and the test would be maintained in the FOP office for review. She asked how those would be monitored and would they be available to the public.

Ms. Miller said no routine monitoring was planned, just would be available for the Douglas County Zoning and Codes office. She said the FOP would test the pH level of the soil, not lead, and then apply the necessary soil amendments.

Commissioner von Achen suggested forwarding those documents to an appropriate agency, such as the County Zoning and Codes staff.

Ms. Miller said they could forward to the County Zoning and Codes staff and the Planning office and also keep a copy available on site for the public.

Commissioner von Achen asked who the testing agency would be.

Ms. Miller said she would leave that up to the FOP and that the pH level could be tested by almost anyone.

Commissioner von Achen inquired about KDHE visiting the site

Ms. Miller said that information was with the original staff report. She said a complaint was made to KDHE and KDHE reviewed it and provided a response. KDHE looked at the pistol range and determined the berm was of sufficient height. They also looked at the distance of the trap range and did not feel it was a problem. KDHE said Washington Creek was carved into limestone and that it was not a issue at this time. She stated KDHE left a copy of the EPA Best Practices for the FOP and suggested they follow them. She said the complaint did not result in any findings.

Commissioner von Achen inquired about testing Washington Creek.

Ms. Miller said it would have to be proved the pollution came from the range.

Commissioner von Achen said a water test would be easy to do. She inquired about the condition that if another range was created out there it should be created outside of the floodplain.

Ms. Miller said when looking at a new location this location would not be seen as a good location for a new range.

Commissioner Blaser asked if mitigation was only being suggested for the pistol range.

Ms. Miller said on all the shooting ranges.

Commissioner Blaser said noise abatement/mitigation had a time duration and noise level so he was not sure that noise would turn out to be a problem. He said it may be a problem for the 4 second time period of shooting. He expressed concern about environmental issues. He said with the trap range that steel shot could be used instead of lead.

Mr. Affalter said there were non-toxic shots available but they were expensive.

Commissioner Blaser said there should be some sort of condition about testing of the soil. He said it sounded like Planning Commission needed to resolve something tonight because County Commission was waiting on Planning Commission. He said regardless of when the EPA was formed it did not make things grandfathered or exempt. He thought they needed the training area and needed to move this forward. He felt noise needed to be tested but he did not know that it would be a huge issue.

Commissioner Hird asked staff if there was any evidence now that there was a lead pollution problem.

Ms. Miller said no, there was no evidence of a problem because it had not been tested. She said she recommends the Best Management Practices but that they are not required.

Commissioner Hird asked if the EPA would regulate lead runoff into the creek.

Ms. Miller said KDHE would get involved.

Commissioner Blaser asked if there was a time limit for the CUP.

Ms. Miller said no time limit was suggested since it already existed for 40 years. She stated Planning Commission could do a review time or time limit.

Commissioner Hird agreed with Commissioner Blaser about moving this forward. He said it would be ideal to return it to a social club but that the FOP had been doing a wonderful service to the community by allowing the county and city to use the range. He said initially it seemed like a joint effort but that the FOP was taking the brunt of the problems caused by city and county training use of the facility. He felt the city and county should step up and provide funding. He said it was unfair for the FOP to be shouldering this when the city and county had an obligation. He said the FOP has been there more than 40 years and Mr. Jim Locks letter stated that most home owners knew it was there when they moved to the area. He thought the hours of operation should be resolved. He said they needed to listen to law enforcement about what they needed in terms of training. He said regarding a mitigation plan using Best Practices was a wonderful idea. He did not want to impose conditions on the CUP that could not be met. He felt they should provide a longer period for a mitigation plan, such as a year. He stated noise was caused by the city and county law enforcement training. He said he did not know if there was a noise problem but he did not want to create a problem if there was none. He said the range was an essential part of the community and he did not want to limit it unduly by imposing standards that could not be met.

Commissioner Singleton said the FOP was doing a huge service to the community and as a result had a burden placed on them because of that. She did not have a problem with 25 nights of training but felt the neighbors should get notice. She preferred the hours of operation put forth by the FOP and law enforcement. She felt regulations, such as Best Practices, needed to be followed for environmental and noise issues. She said the one year change made sense to her. She felt there needed to be a distinction in the language of conditions that indicates when testing of noise was from FOP versus sheriff or police. She said the burden should be on law enforcement if they are the ones creating the noise and environmental issues. She felt the language should be very clear to protect the FOP. The biggest conditions were hours, noise abatement, and environmental impacts.

Commissioner Hird suggested including a soil testing and mitigation plan to head off an environmental problem. He said if it was impractical to come up with then there should be a mechanism for the FOP to come back to staff if they cannot come up with a plan, with a good faith effort to try. He did not feel 6 months was long enough but did feel it was reasonable to have a lead mitigation plan.

Commissioner von Achen said it seemed that KDHE was the appropriate agency to test the soil and Washington Creek and make the records available to the public.

Commissioner Liese agreed with Commissioner Blaser's suggestion that the CUP come under review in a number of years. He said he would vote to approve it but would love to see a time limit for review.

Commissioner Blaser said one year was fine with him for noise and environmental testing. He said he could go along with a 5 year review for base data. He was fine with 15 nights of shooting and the hours submitted by staff.

Commissioner Culver said he was not comfortable setting standards at a point in time when there were multiple users. He did not think the burden should be exclusively on the FOP at this point. He felt specific standards for mitigation would be premature. He said regarding the hours of operation he tended to agree with the police and sheriff department for their need of being able to shoot at night. He did not want to get ahead of themselves and impose standards/conditions that may or may not be needed or appropriate at this time.

Commissioner Belt said this could have been adverted with more leadership at the city level. He was disappointed the FOP had to hire a lawyer to deal with the issue. He said essential the facility was for the training of officers. He said he would have a minimum expectation from the FOP as stewards of the property. He said he would prefer a 6 month environmental check but he could live with 1 year.

Commissioner Britton was fine with the time extension for noise and environmental abatements. He said testing soil and noise were reasonable things to do in order to continue the essential use of the property. He felt that enough time should be given to achieve those conditions. He said the city and county need to step up with regards to their use of the property.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the Conditional Use Permit for the Fraternal Order of Police shooting range subject to the following conditions:

The provision of a revised site plan with the following changes:

- a) Show and label the backdrops for each firing range. The trap shooting range and shooting house are not required to have backdrops
- b) Add a note that the CUP is subject to conditions approved by the Board of County Commissioners.

Uses which are approved with this CUP include the following:

- a) Use of firing ranges for training exercises for law enforcement personnel, hunter safety courses and other similar events.
- b) Training exercises that utilize the remainder of the property as well as the firing ranges, such as orienteering.
- c) The use of the firing ranges by the Fraternal Order of Police members and their guests.

The FOP will cooperate with the county and the city to try and obtain a reduced noise level from the ranges.

SIGNAGE:

- a) 'No trespassing' signs shall be posted around the perimeter of the property at reasonable points of ingress. The plan shall identify the approximate location of these signs.
- b) Signs shall be posted at all ranges with the following safety information:
 - Organized group or training activities must have a designated range safety officer on site
 - Eye and ear protection must be worn when firing.
 - Alcoholic beverages are prohibited on the firing ranges.
- c) A sign shall be posted on the main gate which identifies the area as a firing range, or as a high noise area approved with Conditional Use Permit, CUP-12-8-10. A contact number for a representative of the Fraternal Order of Police who is available to respond during the hours of operation of the firing ranges shall be included on the sign. The police dispatch or 911 number may be included for emergencies.

- d) Similar identification signs shall be posted where Washington Creek crosses the property line for the benefit of canoe users of the Creek.

HOURS OF OPERATION:

The FOP shall not allow range operations on New Year's Day, Easter, Thanksgiving, Christmas Eve, and Christmas Day.

Restriction on hours of operation for the Firing Ranges.

Law Enforcement, Military Training and other groups on firing ranges.

The FOP shall limit use of shooting on its ranges by Law Enforcement, Military Training, Hunter Safety and other similar activities to Monday thru Friday 7:00 a.m. to 7:00 p.m., Saturday 9:00 a.m. to 7:00 p.m., Sunday 11:30 a.m. to 7:00 p.m.

Law enforcement and the Military shall be entitled to use the range 25 days per year for extended shooting to 10:15 p.m. The FOP shall provide a reasonable method neighbors can sign up for email notification of extended shooting hours. The FOP will send an email to the neighbors who have signed up for such notification at least five days before the use of extended shooting hours is going to occur. The Chief of the Lawrence Police Department or the Sheriff of Douglas County may modify the number of days per year and the amount of time notice is to be given when in their judgment such modification is necessary for the proper training of Law Enforcement officers who have jurisdiction in Douglas county. When reasonably possible the Sheriff or chief shall notify the Douglas county Zoning and Codes department in writing of this decision.

Individual use of the ranges by FOP members

Individual use by FOP members. Shooting shall be limited to 8:00 a.m. to 9:30 p.m. every day of the week except for the holidays listed above.

When there are training exercises involving the firing ranges, the range safety officer shall determine if any other activities may occur.

The 94 acres included in this CUP shall remain in the Fraternal Order of Police's ownership to serve as a buffer area. Any reduction in area shall require an amended CUP.

Trees may be selectively harvested, or removed to create trails provided the wooded areas included in the parcels surrounding the range areas remain intact to serve as buffers.

LEAD MANAGEMENT

- a) Soil shall be tested for pH levels if practicable in consultation with KDHE to establish a baseline for lead content in soil.

The CUP shall be reviewed administratively in 5 years.

Commissioner Blaser said they should get a baseline on noise. He was convinced it would not turn out to be a problem.

Commissioner Singleton agreed with the hours falling with FOP. She did not agree with the changes to the noise level and lead. She said the language staff put in place needed to be adopted in reference to environmental protections. She said there needed to be tested within 6 months and within a year there needed to be a clear action plan. She said she would vote against the motion as it stood and would make an additional motion.

Commissioner von Achen said she would still like water monitoring left in and that copies of the water and soil monitoring be sent to Planning staff.

Commissioner Belt suggesting the word 'recreationalists' for the signage on the creek.

Commissioner Liese said he would support amending the motion.

Commissioner Hird said he would amend the motion to get a baseline for noise. He felt that 6 months for lead testing and 1 year to fix it could be a problem. He said if they require testing within a year and it was a KDHE issue there were statutes/regulations in place to address it and it was KDHE's responsibility.

Ms. Miller said there could be lead in the soil but it did not mean it would leach to the water. She said it depended on the pH level of the soil.

Commissioner Singleton said her suggested language would be 6 months to test for noise, lead, pH, and 1 year to have a plan. She said the city and county had a responsibility to make sure environmental protections are in place based on actions they are taking. She said she was not saying it needed to be solved in one year, just a plan in place to solve it.

Mr. McCullough said staff was not necessarily trying to react to a problem or issue. These were Best Management Practices that would be imposed at a brand new location to monitor any firing range.

Motion amended by Commissioner Hird, seconded by Commissioner Blaser, to do testing to establish a baseline for noise, include requirement of lead and noise testing within 6 months and if a problem was indicated the FOP would adopt a plan within a year to mitigate that, included in the testing should be monitoring of the creek, copies of reports be sent to staff, and a sign for recreationalists on Washington Creek.

Commissioner Britton asked the FOP about the 5 year time limit review.

Mr. Riling felt a 5 year review should be on the law enforcement, not the FOP. He felt it may harm the ability to get funding.

Commissioner Hird said the FOP was the host and if the problem was caused by law enforcement then the FOP would need to take it upon themselves to do something.

Commissioner Liese suggested the FOP keep the community involved by inviting them out.

Commissioner von Achen asked if the motion was leaving in the revised staff recommended condition under lead management program.

Commissioner Hird said the motion was that there would be testing within 6 months and an abatement plan adopted within 1 year.

Commissioner von Achen asked if they were omitting staffs recommended conditions.

Commissioner Hird said he replaced them.

Commissioner Britton asked who would accept the mitigation plan.

Commissioner Hird said staff would advise if they did not think it was in compliance. If there was a problem then they would have to come up with a mitigation plan.

Commissioner Singleton asked if that would include the requirement of the EPA Best Management Practices for lead, noise, and lime in reference for outdoor shooting ranges.

Commissioner Hird said he was not declaring a standard. He said the FOP would have to come up with a mitigation plan if there was a problem. He said if the staff felt the EPA Best Management Practices for lead at outdoor shooting ranges should be adopted then they could advise Planning Commission at that time, but to require it now was not right.

Commissioner Singleton asked staff how that would be handled.

Ms. Miller said if they discover the pH level was low they should immediately apply the lime, not wait. She said the lead recovery could be a lot more costly and perhaps could take up to a year to decide how to do the recovery.

Commissioner Singleton was concerned the motion did not have enough standards/protections to create a plan and she felt the EPA Best Management Practices made sense.

Motion amended by Commissioner Hird, seconded by Commissioner Blaser, to approve the Conditional Use Permit for the Fraternal Order of Police shooting range subject to the following conditions:

- 1) The provision of a revised site plan with the following changes:
 - Show and label the backdrops for each firing range. The trap shooting range and shooting house are not required to have backdrops
 - Add a note that the CUP is subject to conditions approved by the Board of County Commissioners.
- 2) Uses which are approved with this CUP include the following:
 - Use of firing ranges for training exercises for law enforcement personnel, hunter safety courses and other similar events.
 - Training exercises that utilize the remainder of the property as well as the firing ranges, such as orienteering.
 - The use of the firing ranges by the Fraternal Order of Police members and their guests.
- 3) The Fraternal Order of the Police shall contract with a noise specialist to measure the noise level at the receiving points during a typical training event.
 - This testing shall be completed within 6 months of the CUP approval date.
 - Copies of the testing report shall be provided to the Lawrence-Douglas County Planning Office (6 East 6th Street, Lawrence, KS 66044) and the Douglas County Zoning and Codes Office (2108 W 27th Street, Suite 1, Lawrence, KS 66047).
 - If noise abatement measures are found to be necessary based on these tests, the Fraternal Order of Police shall provide a noise abatement plan to the Planning Office for approval within 1 year of the testing date.
- 4) SIGNAGE:
 - 'No trespassing' signs shall be posted around the perimeter of the property at reasonable points of ingress. The plan shall identify the approximate location of these signs.
 - Signs shall be posted at all ranges with the following safety information:
 - Organized group or training activities must have a designated range safety officer on site
 - Eye and ear protection must be worn when firing.
 - Alcoholic beverages are prohibited on the firing ranges.
 - A sign shall be posted on the main gate which identifies the area as a firing range, or as a high noise area approved with Conditional Use Permit, CUP-12-8-10. A contact number for a representative of the Fraternal Order of Police who is available to respond

during the hours of operation of the firing ranges shall be included on the sign. The police dispatch or 911 number may be included for emergencies.

Similar identification signs shall be posted where Washington Creek crosses the property line for the benefit of recreational users of the Creek.

5) HOURS OF OPERATION:

Law Enforcement Training and other groups on firing ranges.

The FOP shall limit use of shooting on its ranges by Law Enforcement, Hunter Safety and other similar activities to

Monday thru Friday: 7:00 a.m. to 7:00 p.m.;

Saturday: 9:00 a.m. to 7:00 p.m.; and

Sunday: 11:30 a.m. to 7:00 p.m.

The FOP shall not allow range operations on New Year's Day, Easter, Thanksgiving, Christmas Eve, and Christmas Day.

Law enforcement groups shall be entitled to use the range 25 days per year for extended shooting to 10:15 p.m.

The FOP shall provide a reasonable method neighbors can sign up for email notification of extended shooting hours. The FOP will send an email to the neighbors who have signed up for such notification at least five days before the use of extended shooting hours is going to occur.

The Chief of the Lawrence Police Department or the Sheriff of Douglas County may modify the number of days per year and the amount of time notice is to be given when in their judgment such modification is necessary for the proper training of Law Enforcement officers who have jurisdiction in Douglas County. When reasonably possible the Sheriff or Chief shall notify the Douglas County Zoning and Codes department in writing of this Decision.

Individual use of the ranges by FOP members

Shooting shall be limited to 8:00 a.m. to 9:30 p.m. every day of the week except for the holidays listed above.

- 6) When there are training exercises involving the firing ranges, the range safety officer shall determine if any other activities may occur.
- 7) The 94 acres included in this CUP shall remain in the Fraternal Order of Police's ownership to serve as a buffer area. Any reduction in area shall require an amended CUP.
- 8) Trees may be selectively harvested, or removed to create trails provided the wooded areas included in the parcels surrounding the range areas remain intact to serve as buffers.
- 9) LEAD MANAGEMENT

Soil shall be tested for pH levels within 6 months of CUP approval and annually thereafter to insure proper pH levels and to monitor any changes. (Note: The ideal pH should be between 6.5 and 8.5. Do not add lime if the pH is above 8.5) Tests shall be conducted in the following locations:

Pistol Range berm area;

Area between the pistol range area and the nearest downgrade surface water; and

The trap shotfall area.

The water in Washington Creek shall be tested within 6 months of CUP approval and annually thereafter to check for lead pollution.

Records of all soil and water tests shall be provided to the Planning Office (6 East 6th Street, Lawrence KS 66044) for distribution to KDHE, the Douglas County Zoning and Codes Office (2108 W 27th Street, Suite 1, Lawrence KS 66047) and kept on file at the FOP office.

Lime or other amendments shall be added as recommended by the Douglas County Extension Office, or as recommended in the EPA Best Management Practices for Lead at Outdoor Shooting Ranges to maintain a proper pH balance.

The Fraternal Order of Police shall provide a lead management plan to planning staff for approval within 1 year of the determination date if:

It is determined from the soil tests that it is not possible to manage the pH level effectively with soil amendments, or

The water tests indicate lead pollution in Washington Creek.

10) The CUP shall be reviewed administratively every 5 years.

The Planning Commission revised the conditions and the conditions noted above have been revised to reflect the Commission's action. The Commission accepted staff's recommended conditions with the following exceptions:

- Condition 3 regarding noise was revised to require an initial testing—within 6 months of approval, but to defer any noise abatement decisions until the testing has been completed. If the testing indicates abatement is necessary, the FOP shall have 1 year to develop a plan.
- Condition 4 regarding signage was revised to include signage for recreational users of Washington Creek.
- The Commission accepted the FOP hours of operation, with separate hours noted for training and FOP members.
- Condition 10 regarding lead management was revised to require an initial soil test and a water test of Washington Creek within 6 months. Results are to be provided to staff for distribution to KDHE and kept on file. If it is determined that the soil pH or lead migration to the waterway can not be managed with soil amendments, the FOP shall provide a lead management plan within 1 year of this determination.
- The Commission did not set an expiration date on the CUP, but did recommend 5 year administrative reviews.

Motion carried 8-0-1, with Commissioner Finkeldei abstaining.

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ITEM NO. 3A RSO TO CN2; 3.3 ACRES; 3900 W 24TH PLACE (SLD)

Z-7-21-11: Consider a request to rezone approximately 3.3 acres from RSO (Single-Dwelling Residential-Office) to CN2 (Neighborhood Shopping Center), located at 3900 W. 24th Place. Submitted by Landplan Engineering, for Corporate Holdings II, LLC, property owner of record, and Hy-Vee, Inc. as contract purchaser.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Matt Gough, Barber Emerson Law Firm, said he agreed with the staff report.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Blaser, to approve rezoning approximately 3.3 acres, from RSO (Single-Dwelling Residential-Office) to CN2 (Neighborhood Shopping Center) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the following condition:

1. As a means to implement the recommendation of the Inverness Park District Plan, the City Commission shall review and approve any site plan application prior to issuance of a building permit on the subject property.

Unanimously approved 9-0.

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ITEM NO. 3B PRELIMINARY PLAT; INVERNESS PARK PLAZA ADDITION; 3900 W 24TH PLACE (SLD)

PP-7-7-11: Consider a Preliminary Plat of Inverness Park Plaza Addition No. 5, a Replat of Lot 1, Block 1, Inverness Park Plaza Addition No. 1, for a two lot commercial development, located at 3900 W 24th Place. Submitted by Landplan Engineering, for Corporate Holdings II, LLC, property owner of record, and Hy-Vee, Inc. as contract purchaser.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Matt Gough, Barber Emerson Law Firm, agreed with the staff report.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Singleton, to approve the Preliminary Plat of Inverness Park Plaza Addition No. 5, a replat of Lot 1, Block 1, Inverness Park Plaza Addition No. 1 and forwarding it to the City Commission for consideration of acceptance of easements and rights-of-way; subject to the following condition:

Provision of a revised Preliminary Plat to show the vacated easement along Crossgate Drive and the 10' pedestrian easement with dimensions.

Commissioner von Achen asked what the purpose was of the original restriction of the access.

Ms. Day said to preserve the street network and to direct all of the access to the abutting local street. She stated the closer to an intersection with an arterial street the more separation you want to try and have for public safety.

Mr. Uddin said traffic flow and safety were the prime objectives for this kind of access restriction.

Commissioner von Achen said given the issue of safety she saw no compelling public interest to rescind that restriction so she said she would vote against the motion.

Commissioner Liese asked for Mr. Uddin's opinion about safety.

Mr. Uddin said access could be allowed on Crossgate between Clinton Parkway and 24th Place without compromising public safety.

Mr. McCullough said the area was master planned and street improvements were put in before land uses were installed. They were installed and designed with certain land uses in mind. This corner had the residential office land use type in mind, not commercial or commercial retail. The proposal for commercial retail through the Inverness Park District Plan made staff review the area and access restrictions more carefully. With a known user staff was more comfortable in making the recommendation of waiving the access on Crossgate.

Commissioner von Achen said she was following the packet of information that talked about the ideal condition for the protection of the road network was to retain the access restriction and listed four options.

Mr. McCullough said that was true in the pure sense in the street network, but knowing there was a commercial retail user and the conveniences that had to be afforded to that particular use. He said it was a balance of all of those things.

Mr. Uddin said it meant from the access management point of view that if you want absolute safety then no access would be provided whatsoever but we cannot function that way. It recognizes anytime there was a driveway on a street there would be movements and the potential for something to go wrong.

Commissioner Hird asked if the access would look like the access to the Miller Mart at Wakarusa & Clinton Parkway.

Mr. McCullough said it could. He said at this point they were talking about breaking the access point but in the next application they would talk about the type of access to Crossgate. He said the City ultimately controlled the access to the street but the plat was needed to open the door to allow discussion for the type of access for specific uses.

Unanimously approved 9-0.

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ITEM NO. 3C SPECIAL USE PERMIT FOR GAS & FUEL SALES; 3900 W 24TH PLACE (SLD)

SUP-7-4-11: Consider a Special Use Permit for Gas and Fuel Sales and Cleaning (car wash), also known as a convenience store, on approximately 2.73 acres of vacant property located at 3900 W 24th Place. Submitted by Landplan Engineering, for Corporate Holdings II, LLC, property owner of record, and Hy-Vee, Inc. as contract purchaser.

STAFF PRESENTATION

Ms. Sandra Day presented the item. She showed the applicants proposed full access visual on the overhead.

Mr. Shoeb Uddin, City Engineer, said based on the Traffic Impact Study and staff analysis, access could be located 250' away from the intersection. He suggested options of right-in only access, right-in/right-out, or left-out. He said the applicant proposed a left turn in with a dedicated left turn lane. He said the applicant proposed full access, which could be acceptable if it met certain conditions.

APPLICANT PRESENTATION

Mr. Matt Gough, Barber Emerson Law Firm, requested full access and showed a visual on the overhead. He said the applicant was hesitant about accepting a condition agreeing to pay for road changes in the future. He said the applicant was willing to pay for road improvements now but did not feel they should pay for future improvements.

PUBLIC HEARING

Mr. Greg Thomas said he was not opposed to the project but was concerned about egress and ingress off of Crossgate.

Commissioner Hird asked Mr. Thomas what he thought about a northbound left turn lane and widening the east side of the road.

Mr. Thomas expressed concern about increased traffic congestion. He said the roundabout was not working and something needed to be done.

APPLICANT CLOSING COMMENT

Mr. Gough thanked Planning Commission for their time and said access for the location was important.

COMMISSION DISCUSSION

Commissioner Hird asked if the northbound lane on Crossgate was currently one lane or two.

Mr. Uddin said it was one wide lane, approximately 13-16' wide.

Mr. McCullough said without the turn lane the car stops to make the turn and traffic backs up.

Mr. Mehrdad Givechi, traffic engineer for the applicant, explained using the overhead visual to illustrate how the turns would work.

Commissioner Britton inquired about truck traffic.

Mr. Givechi showed the truck path on the overhead. He said the driveway location may need a wider radius.

Commissioner Britton inquired about truck traffic coming out cutting across southbound traffic on Crossgate.

Mr. Uddin said it was difficult for larger trucks to make those movements and the roadway could not be built large enough for them to make turns easily.

Mr. Givechi said the trucks would be accessing the site at off-peak hours.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Britton, to approve the Special Use Permit for Gas and Fuel Sales and Cleaning (Car Wash) at 3900 W 29th Place and forwarding the request to the City Commission with a recommendation of approval, subject to the conditions included on the staff report, modifying condition 2 to allow full access in accordance with the applicants concept.

Mr. McCullough inquired about the proposed condition for an agreement that would put the cost of any future improvements, to address potential concerns, on the applicant. He said that condition came up after the staff report.

Mr. Uddin said even though staff agreed to full access there was always the possibility there could be problems with traffic movements and if that happened improvements may need to be made. It would protect the city in the long run.

Commissioner Liese said he would withdraw his motion until they discussed it further. He asked how often it was put upon a business to pay for those types of improvements.

Mr. McCullough gave the example of Dillons on Massachusetts Street that was paying for a number of public improvements. He said this particular use would create potential conflict points. While staff accepts the full access, there would be no concern if it was restricted to right-in/right-out. He said full access could create concern in the future.

Commissioner Hird asked if Planning Commission passed this with full access, without the added condition of the applicant paying for future improvements, could City Commission add that condition.

Mr. McCullough said yes.

Commissioner Finkeldei was not comfortable coming up with language for a futuristic possibility. He recommended forwarding to City Commission without that provision and allow staff and the applicant work on that to present to City Commission.

Commissioner Belt said this project might encourage more pedestrian traffic and he expressed concern about it being more difficult for pedestrian and bicycle traffic. He felt a condition for future improvements would not be unreasonable.

Mr. Uddin said in similar situations the City has asked the applicant to sign not to protest a benefit district for geometric improvements. He said that would be less of a 'blank check' because then other property owners and the City become a part of it.

Commissioner Britton said it was a good idea to preserve the most flexibility for City Commission to hash that out in the future. He did not think it would be much of an issue given how confident Hy-

Vee was in the safety of the traffic plan so they should be equally as confident there would not be any kind of cost down the road to change anything. He said he would support a motion that included that condition.

Motioned by Commissioner Liese, seconded by Commissioner Finkeldei, to approve the Special Use Permit for Gas and Fuel Sales and Cleaning (Car Wash) at 3900 W 29th Place and forwarding the request to the City Commission with a recommendation of approval, subject to the conditions included on the staff report, modifying condition 2 to allow full access in accordance with the applicants concept, and City Commission take up the question of a contingency plan for future traffic issues.

1. Applicant shall submit the following additional documents to the Planning Office for review and approval prior to release of the Special Use Permit for issuance of a building permit:
 - a. Photometric plan per Section 20-1103 of the Development Code.
 - b. Building elevations compliant with the Commercial Design Guidelines.
- ~~2. Provision of a revised drawing to show 3/4 access if approved by the City Commission~~
Prior to release of the Special Use Permit for issuance of a building permit the applicant shall provide a revised site plan to include the following changes:
 - a. Provision of a note that lists the corresponding deed book and page reference for documents recorded addressing maintenance of the shared drive and trash dumpster.
 - b. Provision of a note that states: *"Any undeveloped areas shall be planted with shrubs or ground cover per Section 20-1006 (b) of the Development Code."*
 - c. Provision of a note that states: *"Lot 1 and Lot 2 as shown on the site plan are owned by same corporation. Owner has agreed, as a condition of approval, to plant street trees for Lots 1 and 2 upon initial development of Lot 1 and also to complete the perimeter sidewalk along W 24th Place along Lot 2 at the time of constructing it for Lot 1."*
 - d. Provision of a revised General Note 8 to include reference to Section 20-1103 and to state: *"A photometric plan shall be submitted for review and approval prior to issuance of a building permit for Lot 2."*
 - e. Provision of a note that states: *"The City Engineer has approved reduced access spacing from the signalized intersection of Crossgate Drive with Clinton Parkway and reduced access spacing from a non-signalized intersection of Crossgate Drive with W 24th Place."*
3. Provision of a revised drawing to show the required stormwater changes per the City Stormwater Engineer's approval to include:
 - a. Verify the floodway and floodplain limits shown on the Special Use Permit. There seems to be a discrepancy between those shown and those on the August 5, 2010 FIRM. Show the Water Surface Elevation of the Base Flood as determined by the Flood Insurance Study.
 - b. Revise the date in *General Note #14* to read August 5, 2010.
 - c. Flare the entrance to the 4' wide concrete flume at the curb line. If possible move the flume south of its proposed location to capture runoff from the driveway of Lot. Construct the flume and corresponding riprap to run perpendicular to the stream bank. Regrade the low area to drain so that the existing 24" CMP can be removed.
 - d. Per City Code Chapter IX Article 9-903(B), a stormwater pollution prevention plan (SWP3) must be provided for this project. This project will not be released for building permits until an approved SWP3 has been obtained. Construction activity, including soil disturbance or removal of vegetation shall not commence until an approved SWP3 has been obtained.
 - e. Show minimum floor elevations for lots adjacent to all drainage easements.
 - f. The Curb and gutter section shall be separated from the approach, with expansion joint material at driveway returns

Unanimously approved 9-0.

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**ITEM NO. 4 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE AND
8TH & PENNSYLVANIA URBAN CONSERVATION OVERLAY DISTRICT
(SDM)**

TA-8-13-11: Consider amendments to Article 3 of the Lawrence Land Development Code and to the 8th & Pennsylvania Urban Conservation Overlay District, including the *Design Guidelines 8th and Penn Neighborhood Redevelopment Zone*, in order to accommodate a residential proposal for property located at 619 E. 8th Street that exceeds the density limit currently noted in the guidelines. *Initiated by City Commission on 8/9/11.*

STAFF PRESENTATION

Mr. Scott McCullough presented the item.

APPLICANT PRESENTATION

Mr. Darron Ammann, Bartlett & West, said the applicant had no objections to the text amendment or rezoning.

Mr. Tony Krsnich, developer of the property, said the project was the redevelopment of East Lawrence industrial historic district. He said it would trigger redevelopment of the rest of the area as well.

PUBLIC HEARING

Ms. K.T. Walsh, East Lawrence Neighborhood Association, said the neighborhood association was in favor of the project.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to approve text amendments, TA-8-13-11, to the City of Lawrence Land Development Code, including the *Design Guidelines 8th and Penn Neighborhood Redevelopment Zone*, to the City Commission based on the findings of fact outlined in the staff report

Unanimously approved 9-0.

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ITEM NO. 5A CS TO RM32; .56 ACRES; 619 E 8TH ST (MKM)

Z-8-22-11: Consider a request to rezone approximately .56 acres from CS (Strip Commercial) to RM32 (Multi-Dwelling Residential) within the 8th & Pennsylvania Urban Conservation Overlay District, located at 619 E 8th Street. Submitted by Bartlett & West, Inc., for Ohio Mortgage Investors, LLC property owner of record.

ITEM NO. 5B CS TO RM12D; .27 ACRES; 804-806 PENNSYLVANIA ST (MKM)

Z-8-23-11: Consider a request to rezone approximately .27 acres from CS (Strip Commercial) to RM12D (Multi-Dwelling Residential) within the 8th & Pennsylvania Urban Conservation Overlay District, located at 804-806 Pennsylvania Street. Submitted by Bartlett & West, Inc., for Ohio Mortgage Investors, LLC, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented items 5A and 5B together.

APPLICANT PRESENTATION

Mr. Darron Amman, Bartlett & West, said there was no public comment on either rezoning.

PUBLIC HEARING

Ms. K.T. Walsh, East Lawrence Neighborhood Association, said the neighborhood was in favor of the project.

ACTION TAKEN on Item 5A

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to approve rezoning, Z-8-22-11, approximately .56 acres located at 619 E. 8th Street from CS to RM32 based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 9-0.

ACTION TAKEN on Item 5B

Motioned by Commissioner Finkeldei, seconded by Commissioner Blaser, to approve rezoning, Z-8-23-11, approximately .27 acres located at 806 Pennsylvania Street from CS to RM12D, based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the following condition:

Ordinance shall be published after the deed for the sale of the property to Ohio Mortgage Investors, LLC has been recorded with the Register of Deeds

Unanimously approved 9-0.

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**ITEM NO. 6 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT, CHP 20;
DEVELOPMENT ADJACENT TO RESIDENTIAL DISTRICTS (MJL)**

TA-8-12-11: Consider amendments to various sections of the City of Lawrence Land Development Code, Chapter 20, regarding revisions to the district criteria and development standards for development adjacent to R (Residential) Districts, clarify other density and dimensional standards, Section 20-1701 to clarify or add terms used in the density and dimensional standards table, and Sections 20-211 and 20-212 to make consistent with potential changes in Article 6. *Initiated by City Commission on 7/12/11.*

ACTION TAKEN

Commissioner Hird said there had been a request from the public to defer item 6 (the deferral was made earlier in the evening).

Motioned by Commissioner von Achen, seconded by Commissioner Singleton, to defer item 6.

Motion carried 9-0.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

ADJOURN 11:30pm