

ITEM NO. 8 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; PARTICIPANT SPORTS & RECREATION, OUTDOOR USES WITH SUP IN CN2 (SMS)

TA-13-00488: Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, to allow for Participant Sports & Recreation, Outdoor uses with a Special Use Permit in the CN2 (Neighborhood Shopping Center) District. Submitted by Paul Werner Architects. *Deferred by Planning Commission on 2/24/14.*

ITEM NO. 9A RSO TO CN2; 10.97 ACRES; 4300 W 24TH PLACE (SLD/TLH)

Z-13-00483: Consider a request to rezone approximately 10.97 acres from RSO (Single-Dwelling Residential-Office) District to CN2 (Neighborhood Shopping Center) District, located at 4300 W 24TH Place. Submitted by Paul Werner Architects, for Corporate Holdings II LLC, property owner of record. *Deferred by Planning Commission on 2/24/14.*

ITEM NO. 9B SPECIAL USE PERMIT; FAMILY FUN CENTER; 4300 W 24TH PLACE (SLD/TLH)

SUP-13-00486: Consider a Special Use Permit for Participant Sports & Recreation, Outdoor uses as part of a Family Fun Center, located at 4300 W 24TH Place. The development includes a 28,000 square foot clubhouse and outdoor tot lot, batting cages, electric go-kart tracks and an 18-hole miniature golf course. Submitted by Paul Werner Architects, for Corporate Holdings II LLC, property owner of record. *Deferred by Planning Commission on 2/24/14.*

ITEM NO. 9C SPECIAL USE PERMIT; FAST ORDER FOOD WITH DRIVE-THRU; 4300 W 24TH PLACE (SLD)

SUP-14-00026: Consider a Special Use Permit for a fast order food with drive-thru as part of the future commercial pad site development, to be located on the west portion of property located at 4300 W 24TH Place. Submitted by Paul Werner Architects, for Corporate Holdings II LLC, property owner of record. *Deferred by Planning Commission on 2/24/14.*

STAFF PRESENTATION

Ms. Sheila Stogsdill presented item 8.

Ms. Sandra Day and Mr. Travis Halm presented items 9A-9C.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, said he held two neighborhood meetings to try and address some of the neighborhood concerns. He said the text amendment was an appropriate change to the Development Code regardless of the outcome of the other items. He said one of the suggestions from several of the neighbors was an outdoor pool or skate park. He said either of those items would need this text amendment to go forward. He said CN2 zoning came from the area plan that was approved by Planning Commission and City Commission. He said he was okay with the conditions in the staff report. He said if the Special Use Permits were not approved the property owner would probably not want all of the conditions on the zoning. He said regarding the Special Use Permit for a drive-thru was not meant for a McDonalds, but something more along the lines of a coffee shop. He said he would be in favor of any language that could be drafted to exclude a McDonalds or Taco Bell from the site. He said the Family Fun Center would include a clubhouse with four to five birthday party rooms, redemption games, non-redemption games, lots of activities for different aged kids, and an upstairs area for parents to watch their children. He said they were still exploring other ideas, such as laser tag. He said the outdoor area would include miniature golf, batting cages, and electric go-carts. He said the batting cages would use rubber balls to minimize the noise. He said regarding alcohol they did consider a 3.2 beer license but that it was not a driving force of the project. He said they were willing to give up the beer license but that he could not say that no one would ever apply for a liquor license. He said they never intended for beer to be served outside or a bar to be in the facility. He said regarding lighting, the property

was lower than Clinton Parkway and that the lights would be fairly manageable. He showed a picture on the overhead that showed the view from the tennis courts looking across Clinton Parkway to The Grove over the proposed Family Fun Center site. He said the intention was to have the lights of the putt-putt course be 3-5' above the sidewalk of Clinton Parkway. He said Clinton Parkway was a fairly well lit street all year long. He said the Family Fun Center proposal was driven by the weather so it would not be open all year long. He said the lights proposed would be less than what else might end up on the site. He said the parking lot lights could be on a motion detector so they would be off when nobody was in the parking lot and would turn on when cars would pull into the parking lot. He showed a drawing on the overhead that showed the distance from the midpoint between the batting cages and go-carts and how far the neighboring properties were. He said the go-carts would be approximately 900' away from the single-family house on the west side of the property. He said he received sound information from the go-cart supplier and that 10 go-carts running at the same time 100' away roundabout. He said regarding security, there would be a fence around the property. He said loitering would be addressed by management and did not feel a security guard was necessary. He said recreation centers, pools, and the bowling alleys did not need security guards. He said an extensive market analysis was prepared and the study saw no issues with the proposal. He said a thorough traffic study was conducted and the infrastructure and street patterns worked. He said several neighbors did not agree with the assessment. He said there were three schools located on Inverness Drive and at 7:45am the street would be congested. He said Raintree Montessori had approximately 540 students being dropped off and picked up daily. He said the Family Fun Center could not compete with that. He said one of the advantages with the proposal was the time it would operate would not coincide with the peak times on Inverness. He said the site was 12-18' below most of Clinton Parkway. He said the times of operation were revised. He said the batting cages and batting cage lights would end at 9:00pm. He said go-carts and go-cart lights would end at 9:00pm Sunday-Wednesday and 11:00pm Thursday-Saturday. He said the outdoor sound system would have the same hours. He said he felt for the people who lived southwest of the site because they had been dealing with the entire stretch for about 15 years. He said the Alvamar pool, with a liquor license, probably had more noise coming off of it than what was being proposed. He said Clinton Parkway was a 4-6 lane primary arterial at 45 miles per hour so he did not feel the project was being crammed into a residential area. He gave the example of Holcom Park being in the middle of a residential area with more lights than what was proposed for the Family Fun Center. He said several neighbors close to Holcom Park felt it was an asset. He gave the example of Black Bob Park in Olathe that had eight baseball fields, pool, batting cages, and football which was completely surrounded by single-family homes. He said noise and time of operation was manageable with the Family Fun Center. He felt if this proposal was denied the property might get another apartment complex. He said the property had been zoned for office for 15 years and had never received a request for office. He said neighbors that were in favor of the Family Fun Center had suggested other locations but that other locations were not available or affordable. He felt this was a good location for the project. He agreed with the staff conditions but requested condition 2a on item 9B be removed.

Mr. Mike Riling, attorney representing Kansas Fun Center LLC, said Mr. Glen Lemesany was the owner of Kansas Fun Center LLC and he had substantial investment in the area. He said this project did not come up overnight and that it had been studied for two years. He said it would be a good quality family fun themed development.

Mr. Rick Hird, attorney representing the bank that owns the land, said the bank was frustrated that the things that had been proposed for the site had been denied or abandoned. He said the Inverness plan called for CN2 zoning at this location. He said the text amendment would harmonize Horizon 2020 and the Code by adding outdoor recreation uses with a Special Use Permit. He said the Special Use Permit would provide protection through the process. He said his client was advocating for approval of the project as a whole and that there were no objections to the conditions in the staff report. He said if the project was not approved his client did not want to agree to some of the conditions set forth by staff on the rezoning request.

PUBLIC COMMENT

Ms. Lleana McReynolds, Raintree Montessori, read the following letter:

"My name is Lleana McReynolds, and my husband and I own Raintree Montessori School, a program we started 36 years ago. Raintree has grown from a small school with 35 children, four teachers, a

cook and a goat, to large school with 500 children, over ninety staff, two cooks and a menagerie of animals. Raintree is our life's work, and we know our success is due in large measure to the fact we live in Lawrence, Kansas, a university community that values education and good city planning. Over the past 36 years, I have visited many schools, but few compare to Raintree, and, frankly, few cities of comparable size compare to Lawrence. When we started the school, it was with the understanding the city would stand by its development plan. Originally it was called Plan 95, and about the same time the two-lane county road in front of our school became Clinton Parkway, the city planners and the Planning Commissioners developed a new overall development plan for Lawrence called Horizon 2020. Concerned that the parkway would become another version of the heavily commercial 23rd street, the planners created guidelines in the planning and construction of Clinton Parkway. The guidelines allowed limited commercial development such as office buildings or a garden store at the four corners where Wakarusa intersects with Clinton Parkway. The remaining land was to be residential. The parkway itself was to be just that, a parkway with trees planted in the medians, a jogging path running parallel to the new road and exercise stations built at intervals. Development began in earnest in the surrounding area, and over time neighborhoods sprang up, townhouses were constructed, and three more schools were built nearby. The uniqueness of a city rests on the shoulders of those with vision, and the strength of that vision depends on faithful adherence to the plan. Three of the obstacles we faced at Raintree were when that vision was in direct opposition to the plan. The first was when Plan 95 was still in affect, and the church wanted to sell the building we were renting to a nightclub developer. The second was when Warmack, a mall developer from Arkansas, wanted to build an enclosed shopping mall west of the school, and the third, when a concrete company proposed the construction of a plant south of Raintree. We were young and idealistic, and we thought, we, with help from our Raintree parents and other community supporters, defeated the projects, but it was really because of the plan. One of the indirect outcomes is the vibrant downtown we all enjoy today. When the majority of cities across the country were allowing mall developers to construct indoor shopping centers on the outskirts of their cities and turning their main streets into ghost towns, Lawrence said no, and not to just one cornfield mall proposal, but two! The moral of the story is that one has to be vigilant when one lives near undeveloped land, and that's the second part of the parkway story. Time passed, and we got busier developing Raintree. We had a few more challenges along the way—a fire destroyed our school, and then it was hit by a tornado, and we let down our guard. During that time, apartment complexes, a convenience store and gas station were built. The neighbors living closest to these recent developments organized and protested when a third apartment complex was proposed. They didn't want more apartments in their neighborhood. Their property values were being affected, and the traffic was becoming unmanageable. In their efforts to stop another high-density residential project, the neighbors may be on the verge of ushering in a new development phase which could have terrible consequences if a zoning change is allowed. Allowing zoning changes that are against the overall plan is not right. If you want to see what can happen, go to Houston. They have no zoning laws, and you take your life in your hands just walking down the street because there are no setbacks for sidewalks and industries can be built right next to residential areas. The rezoning of this property will change the environment of the parkway forever. The dominos will fall, maybe slowly at first, but fall they will, and before we know it, parts of the parkway will look like 23rd street. We have invested not only our blood, sweat and tears, but also our life savings into creating Raintree, a campus with swimming pools, outdoor amphitheater, fishing pond and a 1/2 mile running path. We are a family-owned enterprise, and as such, we pay huge property taxes providing over \$100,000 annually to the tax base. We would never have created Raintree if we thought the parkway would become a commercial zone. We are not opposed to family fun. In fact we are all for families doing things together, especially activities that get them outside, in nature, and enjoying each other's company. We just don't think this is the right location. This is not about a family fun center. This is about zoning. There are other locations for a project of this kind in nonresidential areas with appropriate zoning already in place. Lawrence is a unique community, the gem of Kansas, with a bustling downtown, creative city planners and visionary commissions. We have faith that you will do the right thing and honor the original development plan for the parkway. We are counting on you."

Mr. Luke Sinclair said it seemed that the text amendment would be the tail that wags the dog. He said the entire Code would have to be changed to accommodate the Family Fun Center. He said a change to the Code seemed to be a drastic step and that it should be closely scrutinized. He said Ms. McReynolds addressed some of his concerns regarding Horizon 2020. He wondered if the text amendment met the challenge of a changing condition. He said the area already had access to some of the best outdoor recreation amenities and there was no need to be addressed. He said perhaps the project should be located in an area that had a need. He said he was not opposed to this type of development but did not see the justification to amend the Development Code to shove this in a residential area.

Ms. Tami Easley expressed concern about alcohol at the site. She said the Alvamar pool was only open from 12-8pm and that there was no music. She was worried about patrons of the Family Fun Center swimming in the Alvamar pool after hours. She said batting cages could be heard from far away and that noise would carry to her home. She said she was never notified about the previous multi-family proposal.

Mr. Emil Tonkovich said he was opposed to the development. He stated the process bothered him. He felt that people who purchased homes had a reasonable right to rely on zoning. He said nobody expected a go-cart track and beer sales to be next to their home. He said there was a sense of distrust in the community because of Rock Chalk. He said only one City Commissioner objected to a no bid contract for Rock Chalk. He said he did not see this project as a Family Fun Center but rather a teen hangout. He said Raintree and Bishop Seabury have children's interest in mind and they objected to the project. He felt it would have a negative impact on the neighborhood.

Ms. Lori Sinclair expressed opposition to the development and felt there would be a negative impact to her quality of life. She expressed concern about smells from food uses, trash, noise, and traffic. She said schools have lots of activities before and after school so traffic would not just be at peak times. She said the Family Fun Center would generate outdoor laughing and yelling, excessive lighting, and alcohol sales. She wondered about the sustainability of a Family Fun Center in Lawrence and how often people would pay to go to the same putt-putt course. She said her neighborhood and property value would decrease and she wanted to live in a residential neighborhood, not commercial area.

Ms. Sarah Williamson concerned for the safety of children in the neighborhood with the increased traffic. She said she moved to this location with the proposed property being zoned residential. She did not feel the site was appropriate for commercial zoning. She said there was no access from Clinton Parkway so the appeal to businesses was very limited. She did not feel this project would be an amenity to the neighborhood and that it would be built for college students in mind. She said alcohol did not belong at a Family Fun Center.

Mr. Larry Grecian said he lived in Osage Beach, Missouri for 30 years and Planning Commission was pretty non-existent. He said rules and zoning were meant to be followed. He felt like they were being bullied into changing the rules by big money. He expressed concern about security at the site and felt there was potential for children to be harmed. He wondered why single-family homes would not work at this location. He was concerned about the lack of transparency from the developer. He said the berms would disappear when the road needed to be widened.

Mr. Doug Baur said the public notice signs that were posted at the site disappeared in the last few days.

Ms. Loren Bennesch said the benefit of one developer would be at the expense of hundreds of property owners. She expressed concern about decreased property values. She felt the project was not the highest and best use of the property. She said she had no argument about the current zoning, only the density. She was concerned about the sustainability and felt it would not be viable for the long term. She said just because apartments were not appropriate for the site that a carnival was.

Mr. Richard Bennesch said RSO zoning was meant as a transition buffer. He said removing the RSO zoning would remove the buffer to the residential neighborhood. He felt if the project needed Special Use Permits than it was too intense. He did not want more high density apartments and that there were many other uses

permitted in RSO. He said the entire Family Fun Center industry was on the decline so he was concerned about longevity. He did not feel a carnival was appropriate in a residential neighborhood.

Mr. William Graybill said the project did not fit into the Horizon 2020 Plan. He said Horizon 2020 addressed neighborhood commercial centers. He said the Comprehensive Plan did not support increasing the size or number of new commercial centers but small new inter-neighborhoods centers were possible and/or anticipated as part of the overall new planned neighborhoods. He said the intent was small compact commercial nodes with goods and services to the immediately adjoining neighborhood areas. He said the neighborhood commercial centers were limited to one mile of other commercial centers and that this site was less than ½ mile from HyVee and Wakarusa. He said the nature of CN2 zoning was the emphasis on neighborhood commercial center. He said the Family Fun Center proposal was not something that was a neighborhood commercial center but rather a community commercial center. He asked Planning Commission to deny the project.

Dr. Gary Olson, Clinton Parkway Animal Hospital, said he had been in business at Clinton Parkway and Inverness for 40 years. He agreed with a lot of the comments that had been expressed. He opposed the rezoning.

Mr. Pat Ryan expressed safety concerns regarding the roundabout. He said the pavement was rutting and there was a grade differential. He stated he would like to see the roundabout reworked no matter what the outcome of the project was.

APPLICANT CLOSING COMMENT

Mr. Werner said the property was not zoned single-family, it was zoned RSO which was low to medium density. He said he heard contradicting statements about how the Family Fun Center would struggle and fail but would also generate monstrous amounts of traffic. He said Planning Commission and City Commission created the area plan with CN2 zoning. He said CN2 was limited commercial and a bar was not allowed. He said the old putt-putt at 31st & Iowa was viable for a long time but it became more viable for a bank to be at that location. He felt a lot of the neighborhood concerns could be worked out. He said 12,000 square feet was not a monster commercial center.

Mr. Riling said he remembered the previous putt-putt and it was good family entertainment. He said the proposal was not meant to be anything short of that. He said it did not close because it wasn't doing well, the property became valuable and it was more profitable as a bank. He said the Family Fun Center was designed as a long term investment. He said the developer agreed to take beer sales off the table. He said it was going to be developed in such a way that all neighbors would come and use it. He said miniature golf courses in Lawrence have been nothing but good wholesome family entertainment.

COMMISSION DISCUSSION

Commissioner Rasmussen asked if the applicant expected clientele for the Family Fun Center to be from all over town or just the neighborhood.

Mr. Riling said there was no question that patrons would come from all over town.

Commissioner Rasmussen asked staff why CN2 zoning instead of CC zoning. He said CN2 was for sales and goods at the neighborhood level.

Ms. Day said the CN2 zoning district was supported by the neighborhood plan.

Mr. McCullough said this was a use that could serve both the community and the neighborhood. He said CC zoning did not work at this location because there were different Horizon 2020 policies that would be needed to support a CC zoning district at this site.

Commissioner Josserand asked why CN2 zoning was used instead of CN1 zoning.

Mr. McCullough said they were different levels of commercial neighborhood districts because it related to serving the neighborhood and the location. He said the issue of distance from other commercial nodes was a major discussion point when going through the Inverness Park District Plan and that staff noted the conflict with Horizon 2020. He said the prevailing wisdom in the process of the Inverness Park District Plan was the size of the two corners of the plan would support the neighborhood commercial land uses. He said within the plan those were designated for CN1 and CN2 zoning.

Commissioner Denney asked if there could not be any curb cuts off of Clinton Parkway onto this property.

Mr. McCullough said that was correct.

Commissioner Denney asked if Inverness or Crossgate were minor arterials.

Mr. McCullough said they were collector roads. He said the Inverness Park District Plan had a number of options put forth with what the corner could be. He said at the time CN2 was seen as the lesser of two evils to some people who participated in the plan. He said the pushback on apartment development and student housing projects was so great that the commercial node concept won the day.

Commissioner Britton asked if CN2 zoning allowed active recreation by right. He asked what the reasoning for including that as a right and then not having outdoor participant recreation use at all.

Ms. Day said the active recreation was most typically associated with public parks, such as Holcom Park. She said when it had a retail or commercial element it would fall into the other category.

Commissioner Liese said there were letters in the packet that supported the Family Fun Center and he was surprised nobody from the public was present this evening supporting the project.

Mr. Werner said there was significant opposition. He said there may be supporters in the audience who chose not to speak this evening. He said people who are opposed to things were more likely to show up.

Commissioner Britton asked where in the Development Code he could find the description for participant outdoor recreation.

Ms. Day said the definition was in Article 17.

Commissioner Rasmussen said when the Inverness Park District Plan was approved last year it recommended the property be zoned Neighborhood Commercial. He wondered about the level of opposition to multi-family.

Mr. McCullough said the opposition was about the same number of people but primarily residents south of Clinton Parkway. He said there was very strong opposition that generated the Inverness Park District Plan. He said there were two different projects that drove the opposition. He said the intensity and density of apartments were at capacity. He said at that time the HyVee gas station site was vacant and the plan set forth the plan for that.

Ms. Day said the rezoning for the Casitas apartment project that would have rezoned it from RSO to RM15 to accommodate conventional multi-family had a successful protest petition so the rezoning failed at the City Commission level.

Commissioner Rasmussen asked how long the Inverness Park District Plan took to develop.

Mr. McCullough said the Inverness Park District Plan it was originally adopted in 2012 and took about 6-8 months to develop. He said there were revisions that looked at those corners.

Commissioner Kelly said the Alvamar pool was brought up during the public comments and was under the same recreational use as the Family Fun Center property would be.

Mr. McCullough said the Alvamar pool had a Special Use Permit under the old Code.

Commissioner Britton asked if the neighborhood commercial designation was part of the original Inverness Park District Plan.

Mr. McCullough said no, he did not believe it was. He said the residential projects were in the pipeline and the plan initially gave them support. He said City Commission directed the plan be revised due to the opposition.

Commissioner Rasmussen asked if there were any audience members present who were opposed to the apartment proposal a few years ago.

Ms. Sinclair said she was in support of the Casitas apartments but not a high density apartment complex.

Commissioner Graham inquired about bars allowed in the CN2 district.

Mr. McCullough said a recent text amendment allowed a bar or lounge up to 3,000 square feet. Above that square footage would require a Special Use Permit.

Commissioner Denney suggested they break the discussion into two parts; the text amendment and then the other elements.

Commissioner Britton said the CN2 was goods and sales at a neighborhood level and he did not think this kind of use fit that. He felt this type of outdoor participant sports should be at a community center. He said the developer talked about community use and he did not think this kind of use could fit into what CN2 district was designed for. He said he was leaning toward not supporting the Special Use Permit.

Commissioner Culver asked Commissioner Britton if he felt the same way about indoor sports.

Commissioner Britton said an indoor use would not have the same impact but not really designed to serve the neighborhood on a daily routine basis.

Commissioner Kelly said an indoor fitness center could serve as a neighborhood use.

Commissioner Denney said the main difference between indoor and outdoor was seasonal.

Commissioner Liese wondered about tennis courts in neighborhoods.

Commissioner Rasmussen said there was one right across the street and several others in the area.

Commissioner Struckhoff echoed previous comments about whether CN2 contemplates this type of outdoor use. He felt indoor and outdoor uses were different. He felt they needed to take into account the expectation of the neighborhood of an open field when they purchased their homes.

Commissioner Britton inquired about outdoor participant recreation with a Special Use Permit.

Mr. McCullough said one of the distinctions was whether it was part of the City Parks and Recreation system or privately owned.

Commissioner Denney said Mr. Sinclair hit the nail on the head that the text amendment was the key to the whole issue. He said he was not sure that changing conditions indicated a need for a change. He said there was plenty of outdoor exercise in this part of town. He did not believe CN2 needed to be amended because

participant outdoor activity already existed in other classes. He felt it was excluded from CN2 for a reason. He said CN1 or CN2 might be needed or acceptable for neighborhood conveniences but that this project was a seasonal business and would not do much good to the neighborhood when it was closed. He said Mr. Graybill made a good point of saying that it was not supported by the neighborhood. He said CN2 was not designed to be a community activity. He stated this seasonal business was likely to be closed most of the year. He said a vacant closed business may be an attractive nuisance.

Mr. Riling said there would be security to handle the site. He said there was no plan to leave the property unsecure, even when it was closed. He said there would be an indoor component, such as a birthday center, that would be open year round.

Commissioner Liese asked what would happen if Planning Commission denies the text amendment.

Mr. McCullough said Planning Commission was a recommending body to City Commission.

Commissioner Liese said there was not a pressing need for a text amendment, especially if the community was not interested in a Special Use Permit. He said he would not vote in favor of the text amendment because there was no need to change it.

Commissioner von Achen said when the Inverness Park District Plan was approved she never envisioned this type of intensity. She felt this use would take up space for the neighborhood services that were needed. She felt they should protect the existing property owners by providing predictability. She said she would not support the text amendment.

Commissioner Rasmussen said he was conflicted. He said the neighborhood plan supported neighborhood commercial uses. He felt they should support a plan that was only two years old. He said the plan was developed because there was large opposition to a previous plan. He wondered how long the property would remain vacant. He stated there were no good places for teenagers to hang out. He felt like the project would be more fitting in CC since it would draw from all over and not just the neighborhood.

Commissioner Culver said he was also conflicted. He said this was not the type of use he envisioned either. He stated the definition of neighborhood level could be interpreted several ways. He said he could think of other uses that would be a more appropriate fit. He said a lot of progress was made on the area plan but he wondered if they were trying to make the application fit the plan.

Commissioner Liese thanked the public for their comments.

Commissioner Kelly said he read the neighborhood plan and it took time to develop. He said comments from tonight concerned him because the plan does call for commercial uses. He said he struggled with amending the Code so soon after the plan was adopted. He said he would not vote for the text amendment because he did not envision these uses in existing CN2 areas.

Commissioner Liese inquired about fast food restaurants with outdoor play areas.

Ms. Day said fast order food with playground would be permitted in CN2. She said the play area would be an accessory use.

Commissioner Josseland thanked staff for their work on this item.

Commissioner Culver asked if sports and recreation participant outdoor uses would pertain to an outdoor pool.

Mr. McCullough said yes.

Commissioner Britton said the Alvarado pool across the street was in a residential district.

Mr. McCullough said when the Alvamar pool was constructed it was under the former Code. He said under the recreational facility category there was private recreation which was set aside for open recreational use as part of a residential development, such as an amenity for a residential subdivision.

Commissioner Kelly said he struggled with the realm from swimming pool to driving range. He said he could see a swimming pool use working in a CN2 district but did not imagine that request coming forward.

ACTION TAKEN on Item 8

Motioned by Commissioner Britton, seconded by Commissioner von Achen, to deny the text amendment (TA-13-00488) to the City of Lawrence Land Development Code, Chapter 20.

Commissioner Culver said he would not support the motion for denial. He said with a Special Use Permit it could fit.

Commissioner Britton said he could imagine ways in which it could work with a Special Use Permit. He said it was hard when what they were being asked to do would also include other things. He said they have had a lot of discussion that relates to this specific proposal. He said a lot of the discussion focused on the character of the CN2 district of neighborhood services and goods. He thanked staff for their work.

Motion carried 9-1, with Commissioner Culver voting against the motion.

NO ACTION TAKEN on Items 9A, 9B, 9C

Mr. Hird said his client was in favor of the rezoning request and the text amendment was part of the package. He said his client was not interested in CN2 with all the restrictions and absence of approval of the project. He said his client was not interested in the elimination of the possibility of apartments.

Commissioner Josserand said that was already part of the Inverness Park District Plan.

Mr. McCullough said the neighborhood plan does not support more apartments going on the parcel.

Motioned by Commissioner Liese to deny the rezoning request. Commissioner Liese withdrew his motion to allow Mr. Hird to speak.

Mr. Hird said given the vote of the text amendment the applicant would like to withdraw the rezoning and Special Use Permit requests.

Mr. McCullough said the Development Code had language that spoke to the process of this. He said withdrawing an application after it had been advertised for public hearing would constitute essentially denial of the application. He said a new application would have to be substantially different and had a 120 day waiting period. He said a similar request could not be made for 12 months.

Commissioner Culver asked the applicant if all items were withdrawn.

Mr. Hird said yes

Mr. McCullough said there was no further action needed by Planning Commission.

Commissioner Josserand asked if the applicant came back with a CN1 zoning request would it be different.

Mr. McCullough said yes.

Commissioner Britton said the text amendment would go to City Commission with recommendation of denial.

Commissioner Liese thanked the applicant and said there was public support for the project in a different location.