

smaller container. He said when recycling, it limited what a person would throw away. They also had a program for elderly low income to help insulate a vulnerable population from cost increase.

Amyx said he was not going to stand in the way of negotiating with Hamm, but he was going to have to do some soul searching on the costs they would be placing on people. He said it's only \$16/month, but those were tough numbers for a lot of folks.

Moved by Cromwell, seconded by Carter, to authorize staff to negotiate with Hamm for Materials Recovery Facility (MRF) operations under a recycling proposal with the City collecting curbside recycling on a bi-weekly basis. Motion carried unanimously.

The City Commission recessed for a short break at 9:25 p.m.

The regular session resumed at 9:37 p.m.

5. **Considered the following items related to the Langston Heights Addition:**

- a) **Considered rezoning, Z-12-00229, approximately 6.491 acres from UR (Urban Reserve) to RM12D (Multi-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended as shown in the preliminary plat of Langston Heights Addition. Submitted by Landplan Engineering, for Langston Heights, LC, property owner of record. Adopted on first reading, Ordinance No. 8836, to rezone (Z-12-00229) approximately 6.491 acres from UR (Urban Reserve) to RM12D (Multi-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended. (PC Item 3B; approved 6-3 on 1/28/13)**

- b) **Considered rezoning, Z-12-00231, approximately 9.122 acres from UR (Urban Reserve) to RS7 (Single-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended as shown in the preliminary plat of Langston Heights Addition. Submitted by Landplan Engineering, for Langston Heights, LC, property owner of record. Adopted on first reading, Ordinance No. 8837, to rezone (Z-12-00231) approximately 9.122 acres from UR (Urban Reserve) to RS7 (Single-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended. (PC Item 3C; approved 6-3 on 1/28/13)**

- c) **Considered rezoning, Z-12-00232, approximately 6.48 acres from UR (Urban Reserve) to RM12 (Multi-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive, as shown in the preliminary plat of Langston Heights Addition. Submitted by Landplan Engineering, for Langston Heights, LC, property owner of record. Adopted on first reading,**

Ordinance No. 8838, to rezone (Z-12-00232) approximately 6.48 acres from UR (Urban Reserve) to RM12 (Multi-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive. (PC Item 3D; approved 6-3 on 1/28/13)

- d) **Considered rezoning, Z-13-00015, approximately 5.471 acres from UR (Urban Reserve) to RS5 (Single-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive, as shown in the preliminary plat of Langston Heights Addition. Submitted by Landplan Engineering, for Langston Heights, LC, property owner of record. Adopted on first reading, Ordinance No. 8839, to rezone (Z-13-00015) approximately 5.471 acres from UR (Urban Reserve) to RS5 (Single-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive. (PC Item 3E; approved 6-3 on 1/28/13)**

Schumm asked that commissioners disclose their ex parte contacts on these items.

Amyx said he spoke with Mark Crabtree about this project. He had numerous emails from people, some he responded to and some not.

Corliss said the key was if there was any information from those contacts that wasn't part of the public record, it should be disclosed, so everyone had the same information.

Amyx said along those lines there was nothing discussed that wasn't already in the public record.

Dever said he spoke with Tim Herndon and heard a description and history of the development. He spoke with Andy Pitts today, just a conversation about the project.

Carter said he had spoken with Pitts and Herndon. There was nothing in those conversations that was not in the record, just more in depth perhaps. If anything came to mind that was new information, he would disclose it later.

Cromwell said he didn't have any ex parte contacts that had information that wasn't in the public record already.

Schumm said he spoke with Herndon, and had a lot of other emails that he had responded to by saying that he couldn't say anything more until after the discussion. He had nothing to add to the public record.

Sandra Day, Planner, presented the staff report.

Schumm said regarding the north south street that would eventually be built which would be Renaissance Drive, he asked where would that go to the north?

Day said it would curve around and tie into Ken Ridge Dr. The parcel to the north was undeveloped so they didn't have a site plan for area. Future development application for that would include some kind of connection.

Schumm said that's a given that someday it would carry traffic to the north.

Day said yes.

Amyx asked if this was part of the original Diamondhead Development.

Day said no.

Schumm asked the applicant for his presentation.

Tim Herndon asked how much time was allotted and heard they might have 15 minutes.

Schumm said they could have 15 minutes, but he hoped they could do their presentation in less time.

Herndon said it was a \$27 million dollar project which was all local revenue and cash flow. It would likely generate over \$2 million in taxes. It created roughly 70 jobs per unit over 5 years. Residual income after the 5 years build out was over \$4 million in local revenue, \$1 million in tax revenue. This was dependent on no TIF, no tax abatements, and no benefit districts. It's all the applicant's funding. The applicants were home town people investing in the community. Back in May or June they started working on this. At that time, their number one premise was to meet the comprehensive plans and other guidelines so it could be fully supportable. It was our intention and that was the kind of plan they crafted. There was push and pull from staff. When they initiated this work they expressly verified that 6 units per acre was their threshold for mixed use development in this area. A big issue was the traffic aspect, and making sure they didn't exceed the thresholds. He presented various iterations of the plan. He said he wanted to close by introducing Brian Sturm with Landplan.

Brian Sturm said he wanted to speak briefly about community design and how they treated the design of this community. He said Levittown, New York, was a famous community that was developed after World War II and was considered the genesis of “American Suburbia” and were seen as revolutionary in their ability to provide affordable housing of the masses. Since then, it had become, for good reason, vilified as a symbol of homogenous suburban sprawl and what not to do in the design of residential communities. He presented a map of West Lawrence which was comprised of the most recent residential development in this city. He said with 50 years removed from development of places like Levittown, they could see that Lawrence was certainly striving for something more than straight suburban homogeneity. While West Lawrence was dominated by large pockets of single family residential development, it also harbored significant pockets of multi-family housing and commercial development, generally adjacent to busier streets. There was also a greenway system that used open space for providing connections between uses as diverse as single-family, multi-family housing, institutional and even light industrial uses. It was within the geographic and historic context that the development group designed Langston Heights Addition. He said the City and County through Horizon 2020 had developed standards to which they believed residential neighborhoods should be upheld. It was with those standards in mind that Langston Heights had been designed. He said this development sat at the crux with very divergent land uses with the SLT to the west, a highway that would carry more than 20,000 cars per day when it was completed all around the south and east side of the City. On the north side there was a vacant piece of land that was zoned RM24 which was the densest piece of multi-family housing in West Lawrence and on the east was an existing subdivision, Diamondhead, of single-family of detached homes. This development responded to all those uses by providing transitional zoning. The zoning request reflected a need for transition in that area. The character and appearance of existing residential neighborhoods would be preserved by this plan and extend westward via compatible architecture and covenants. He said Ms. Day touched on nodal plan

which called for the majority of residential uses to be low density single-family. He said given what had been put forward at this time, it was clear Langston Heights design could conform to this plan, facilitated and executed the plan by providing single-family as well as multi-family as a buffer against the SLT. Horizon 2020 further clarified what was to be defined as a neighborhood. Langston Heights was developed to comply with all the density and other standards of the code which included setbacks, sidewalks on both sides of all streets, and pedestrian non-motorized route that would take people to the SLT rec path. He said there had been discussion about West Lawrence being dominated by single-family, but when traveling around the arterial routes there were pockets of transition whether it was in RM12, RM12D zoning, Industrial, Planned Commercial, Planned Residential, etc. He said when inserting Langston Heights into that pattern it was clearly appropriate in how it fit into the fabric of West Lawrence zoning. In terms of the transition it would provide from the SLT, eastward to the existing Diamondhead neighborhood. He said the look of the homes was predicated on covenants and would be submitted and recorded with the final plat. He said he wanted to make clear that those covenants spell out the architectural guidelines that would create those homes. He said the developer wanted to start from that point and create a product that was just as nice and certainly compatible with everything else seen in West Lawrence. He said he wanted to emphasize that this project was a revision for the better based on everything that was put forward for this development either in 2006 or the past couple of months. There was a development before the City Commission that provided an unprecedented reduction in traffic impact on the Diamondhead neighborhood. This development would send fewer trips through the Diamondhead neighborhood than anything that had been put forth previously which included the 2006 plat. There was an addition of a 50 foot landscape buffer up against the SLT that wasn't at that location before, a provision of sidewalks on all sides of the street, a connection to the SLT rec path which was the only connection between 6th Street and Clinton Parkway, a design of the street network that would calm traffic, a design that promoted the extension of low

density residential land use to the south as prescribed by the area and neighborhood plans, removal of all construction traffic from the Diamondhead neighborhood, extension of Renaissance Drive to Bob Billings Parkway, removed duplex lots that were once platted to be adjacent to the Diamondhead neighborhood, increased buffering from the SLT to the west and from the RM24 district to the north, and proposed a decrease in diversity of housing types and economic levels. Additionally, the plan to extend Renaissance Drive provided relief of congestion associated with Langston Hughes Elementary School. The school district had the ability to provide a second access to that school to this drive, eliminating congestion that currently plagued the Diamondhead neighborhood. The project came to the City Commission with a 6-3 vote for approval by the Planning Commission and the City staff's full support.

Dever asked who owns the land south of the development.

Sturm said Alvamar Incorporated and USD 497.

Dever asked about building a road on someone else's property.

Sturm said there was a memorandum of understanding for the construction of that road at the time of the development of the SLT/Bob Billings interchange.

Mayor Schumm called for public comment.

Andrew Pitts said his family lived on Palisades Dr. This development was better than when it started. Both the developers and neighborhood have important roles. Neither was evil. More communication could occur. He wanted to talk about RS5 zoning. They heard about low density. RS5 did not qualify as low density. It was not consistent with the character of the neighborhood. What happened to the south as well as the north? This development sets precedent regarding what developed to the south. He asked if there was potential for the southern part to change to RS7 or RM12D to the north. They had heard a lot about the design intent and how it would match the character of the neighborhood. He was confident that the developer could build a quality product, but the size of the lot and the homes was the question. They encouraged development and wanted to ensure the level of the quality, but didn't have the

answer on how to do that. He would welcome continuing dialogue between the neighborhood and the developer after tonight.

Erica Gudenkauf said she was going to discuss the traffic patterns and behaviors. There had been statements in past meetings with the developer that connecting Renaissance Drive to the south would alleviate any traffic behaviors given the majority of Lawrence land areas to the south. Traffic studies were done with formulas and algorithms that the traffic study came from. However, they failed to account for actual human behavior and how a person would act in their daily life getting to where the amenities were. She said without Renaissance Drive connected to the north, as a stipulation for the development of the RM12, Crystal Lane would still get all that traffic that went from the north on a daily basis as a regular part of living. She showed a map of two routes to get to the north which was the route going through the Diamondhead neighborhood on Crystal Lane and the other map was going south and taking the bypass. She said grocery, gas stations, restaurants and the quickest way downtown was to the north and down 6th Street. She asked the Commission to think about if living in this neighborhood which way they would go. Another aspect to think about was to get to George Williams Way on 6th Street from Langston Heights was Crystal Lane which was .65 miles and going south it was 1.28 miles taking Renaissance Drive down south.

Michael Whittlesey said one of the expectations they would like to see was alleviating the traffic connection from the higher density neighborhood into their neighborhood. The comp plan discouraged designing traffic flows from high density through lower density. The new development did not meet all portions of H2020 and he would ask the City Commission to consider that. If the Commission approved this rezoning, they would like the Commission to condition that on Renaissance Drive to be connected to the north and south before construction began. Also, develop a construction road for construction traffic. If they increased traffic near the school, it would be a major safety issue. They wanted assurances that developers construct a construction road to the south before beginning construction.

Eric Boedeker said before building they referenced all the existing documentation, including the 2006 plat. That was the basis for their understanding of the type of neighborhood they were moving into. The applications significantly alter the plan they were moving into. Staff had made recommendation that the plan before you should be approved, but the plan called for low density single-family with a small portion, medium density. This did not have a small portion of medium density. The transition zones from east to west were all in a small area. They would like to know specifically what would go into the neighborhood. They would request some kind of planned development. The covenants should match Diamondhead. They would like to see traffic calming devices.

Mark Crabtree said he would like to say they were not there yet, but they were close. They left the Jan 28th meeting with unanswered questions for the neighborhood and for 3 of the Planning Commissioners. He said RM5 didn't have any conditional zoning and needed some help with answers. He said it might be that they return to the 2006 plat which was RM7. They appreciate eliminating the 4-plexes and access to the south. He said they didn't know who would build the roads to the north and south. They would like to see some phased developed. Maybe the row houses aren't completed until Renaissance Drive was connected. If they could have phased construction, maybe they could avoid people cutting through the neighborhood. Conditional zoning could keep the neighborhood very palatable to the existing neighborhood. The neighborhood had four requests: Access to the north and east, less density, conditional zoning, and phased construction.

Schumm asked about RS5 zoning and where that was seen around town.

Day said there were several areas around town, some in the older portions with smaller lots.

Schumm asked if staff had seen this in new developments.

Day said on consent tonight to the east in Fairfield Farms.

Schumm asked if the Planning Commission talked about requiring the road to the north to be complete prior to the development of this project.

McCullough said they discussed it with the applicant and they didn't really have the commitment from the owner to the north.

Schumm said that could not be forced.

McCullough there was an agreement at the Planning Commission level not to make it a condition of approval, understanding that it would need to be obtained through the City's eminent domain process. He said they didn't talk in that type of detail, but they were accepting of the discussion that there was some commitment to the south, but not to the north.

Amyx asked if the compromise at Planning Commission happened after public comment.

McCullough said yes.

Amyx said after the public comment was there general discussion about the compromise that had been reached, but without further public comment.

McCullough said as he recalled there was an agreement to public comment after that. During public comment there were at least 2 plans presented by the neighborhood and this came close to the plan Mr. Pitts presented with RS7 and the compromise was RS5.

Carter said from a traffic standpoint, could you elaborate on how single-family zoning generated traffic compared to multi-family.

McCullough said typically multi-family produced less traffic.

Carter said it was different than what most people thought.

McCullough said the city accepted the traffic study because the local roads could handle the traffic. If it had all developed together they probably wouldn't be having this discussion because the roads were designed to handle the traffic.

Carter said with Renaissance Drive being completed to the south versus going to the north, he asked if that was a reflection of the willingness of the people on the south to talk to Herndon.

Herndon said the people at the southernmost that Vice Mayor Dever asked about was a cooperative project between KDOT, the school district, and Alvamar which was one leg of the completion of that road. The next leg of the completion of that road would be directly south of Langston Heights Addition. Although the property was presently owned by Alvamar Inc., RSR had the option to purchase it and first right of refusal. That completed that roadway segment. The roadway to the north was owned by another entity that was presently not interested in developing, selling, and not within the reach or purview to work something out.

Herndon said with the original plat submittal without a north or south street, was fully vetted and reviewed and approved by the city. It was strictly a subjective response to negotiate with disparate property owners off-site for an extra half mile of road. Finally, the old plat that was referred to by the neighbors regarding the type of traffic they thought would be generated when they moved in. He wanted the Commission to very carefully consider this fact. Through their own permutations in response to changes by the neighbors, the plat today generated less traffic through Diamondhead neighborhood than the plat that was approved in 2006 and expired in 2008 and certainly less than the early iterations of the plat they had discussed with the city, all of which had approved traffic studies and maintained the level of service, safety levels, and were endorsed by the School District. Their provision, by entering with the School District to extend Renaissance Drive to the south, made possible that connection from Langston Heights to Renaissance Drive that would further alleviate the existing traffic problems on the front of Langston Hughes on George Williams Way which were of no making of this application.

Schumm said the original plat that didn't get filed had 85 units on it.

Herndon said the original plat had 102 units.

Schumm said he counted each duplex as one, but they were one lot. Without the row houses there were 89 units. Once the road was built to the south, it was going to take a lot of the traffic out that way. Did the 2006 plat require the road to the south?

Day said no.

Schumm said so the traffic would have gone through Diamondhead.

McCullough said yes.

Amyx asked if there was developable land to the south.

Herndon said yes. Bear in mind when Renaissance Drive was extended to the south, the dynamic of traffic from Diamondhead through this neighborhood would probably be far more pronounced.

Dever asked if anyone present lived on Diamondhead Drive. No one responded affirmatively. Dever said there were 50 households immediately adjacent to the neighborhood on the east and asked if those households had an impact on the neighborhood? He said he was trying to figure out how those people drive and flow through the neighborhood.

Pitts said one of the early discussions, with traffic through the local streets from the medium density, was that there was direct connection from that multi-family directly to the collector. That traffic directly exited onto Bob Billings.

Dever said those were important points, and the developer asked if those had an impact. There was already a similar neighborhood on the neighborhood traffic grid. He asked if those had an impact on traffic through your neighborhood. In his estimation from knocking at every door in that community two years ago, he didn't see much impact.

Pitts says a lot of it stems from the row housing and duplexes. There were concerns for rental traffic, which was a different kind of driver than a single-family driver. There was a discussion whether the single-family versus multi-family traffic counts were different in our town than others.

Dever said it was more complex than it appeared.

Pitts said correct. He said in looking at the 2006 plat it was more than just the traffic, it was also the implication of the type of zoning that was applied within that plat and was primarily RS7 which was mostly single-family with a few duplexes.

Schumm said someone said that they all relied on this plat. Where did you get the plat if it never was filed?

Pitts said he called LandPlan. He did research based on what he knew what was out there. He thought others relied on their builders.

Amyx asked if they had any trouble with RS7.

Pitts said no.

Amyx asked about the row houses on the west.

Pitts said most of them had come to an agreement that there needed to be some sort of a buffer to K-10.

Amyx said that's right and as long as Renaissance Drive was extended to the south at this point, they were fine.

Pitts said the discussion had been with the idea of connecting it to the north end to the south would be the ideal situation.

Amyx said right not they might not have the possibility to connect to the north.

Pitts said correct.

Amyx said the problem was with the RS5 and the RM12D.

Pitts said his specific issue was with more of the RS5. He said with the RM12D in thinking about the mix in trying to create the buffer from the row houses in.

Amyx said looking at the plan, moving RM12D to north and south and single family in the middle would be RS7.

Pitts said yes.

Amyx asked what the change in the density was.

Pitts said he thought it lost 4 lots on each block.

Amyx said 4 lots per block.

Someone in the crowd said 1 lot per block, 4 lots total.

Schumm asked what Pitts didn't like about RS5.

Pitts said the issue he had with the RS5 was the size of the development that would occur on that lot and the potential to change the character of the existing neighborhood. He said there was a possibility that with the smaller lot size it would potentially change the property values of the neighborhood. He said it was maintaining the level of quality that the developer had outlined both within the covenants and the renderings that that would be carried through. He said they could setup a set of covenants that they had so much materials on the front of a structure, but what was the actual structure going to become.

Schumm asked if Pitts was afraid the size would be considerably smaller than the adjacent neighborhoods.

Pitts said they were going from lots that were roughly 74 to 80 feet wide to 51 foot wide lots. He said it would be a significantly smaller house.

Amyx asked if Pitts was afraid it would be more of a rental property.

Pitts said his concern was whether it changed the character of the neighborhood and the property values.

Schumm said there was a double row of similar homes as a buffer. He was not convinced that RS5 had that much of a negative influence, and if that RS5 zoning did, it would be still separated by two rows of houses.

Carter said regarding the Mayor's comments, he said if they were that concerned with RS5's impact on home values, he thought there should be more concerns that right adjacent to that, those RS5's about RM24, the most intense district. He said they were putting RS5 and RS7 to buffer from RM24 and RS5 and was more attractive to the boomer. They were not looking for a huge footprint and maintenance. Covenants protect the quality of the homes. Assurances regarding the roads, and the covenants, were big steps. A slow transition approaching the highway and RM24 was appropriate. He said he didn't question the traffic study. One Planning Commissioner did, but they vetted the studies. Multi-family actually generated fewer trips. There was no question that the traffic would increase no matter what was

built, but it's not an issue especially with the road to the south. Things to the north might build quicker anyway with Rock Chalk Park going in. The averaging of the six units was consistent with H2020 as well. RS5 wasn't as scary as people were thinking due to the covenants. There was a smaller footprint and probably a lower price to attract younger families or retirees.

Cromwell said he appreciated the neighbor's quality presentation. He appreciated the neighborhood and developer tossing iterations back and forth and he saw this as progress. Now they were seeing something that no one was 100% happy with. He said this was a very small project in the grand scheme of things to have so many different types of housing in it. It is a creative solution to buffering from the highway and the RM24. It was always hard when they were adding from a vacant field to housing. Traffic's going to increase, but he said he stood by the studies. He said he was okay moving forward.

Amyx said the only difference was with the RS5 taking Renaissance Drive to the south would be a trip all the way around and traffic would probably go to the east instead. If they changed the RS5 to RS7, he was okay.

Dever asked how that could be done. He asked if Herndon could comment on any further reduction in the number of lots, and the need for the small lots (50x125).

Herndon said with the new development code that was adopted in 2007 there was the addition of RS3 and RS5, two single-family detached zoning districts that did not exist. If they keyed that back into the earlier presentation and Levittown, countless, nameless, faceless suburban sprawl, and single family homogenies neighborhoods that the comprehensive plan encouraged that they get away from and encouraged more transition, it was the RS5 that was the vehicle than enabled them to do that. That did get them from the single family lots further west toward the SLT. He said Diamondhead's lot sizes were 70 foot wide lots. There were a couple of lots in that subdivision that deviate from that. The strip of single-family RS7 adjacent to them, that they were building closer to the freeway, was 74 and 78 foot lots. They were taking their covenants and building upon them. He encouraged everyone to take a look at the

review of the draft covenants that were submitted, but not recorded yet. He said they took Diamondhead's covenants and build upon them, thereby assuring the integrity and character was preserved. The elevations on the streets scape seen, pertained to the RS5 lots, those were 50 one foot wide lots. Old West Lawrence was inundated and every plat was 50 foot lots. The idea of getting rid of those because of some other perception didn't seem feasible after 4 plan changes. There were a couple of rows of duplex that they were asked to consider taking those duplexes out and installing single-family which they did. He said that they did it in a way that promoted that diversity, gave them the transition, which led them to the freeway. He said if they did go from RS5 to RS7, they would be cutting out two RS5 lots one each side of the street. He asked what good was that for anyone.

Carter said as conditions of this conditional zoning, he asked if Herndon and his client would be acceptable to say that Renaissance Drive to the south was completed before row houses were done.

Herndon said that was already a condition of approval

Carter said conditioned that those covenants be filed or submitted.

Herndon said he would not let that get in the way of proceeding.

Amyx asked about the size of the house that could be built on RS5 versus RS7.

Herndon said there was almost no limit to the size that could be built because the building envelope could be 2800 square feet. Referring to the covenants might alleviate some concern. A one story dwelling could be no smaller than 1400 feet. He said for Langston Heights they were saying 1500 feet, so they had increased their minimum. As far as RS5, our covenants say the minimum was 1300 for one story and 1500 for two stories. He said for RS5 those were only 100 square feet less than the RS7 in Diamondhead.

Carter said just from a timing standpoint, first of all he appreciated the effort to get covenants already because he knew it was well ahead of time, but that was just one of the big concerns which was from a quality standpoint. He said he was hearing Herndon say that they

would build on the covenants of Diamondhead. He said the RS5 wasn't a concern to him anyway. He said certainly if they could assure from a covenant standpoint, they would be at least as stringent as Diamondhead. He said this was a preliminary draft of the covenants and didn't know if anyone else had an interest in making that a condition, but it might be one way of alleviating concerns of the neighbors.

Herndon said he would not let that come in the way of proceeding.

Amyx asked about the size of a house that could be built on RS5 as compared to an RS7.

Herndon said there was almost no limit to how big it could be because the building envelope on a RS5 lot was 2800 square feet. He said someone could buy one of those lots and build a 2800 square foot rancher with no basement and no second floor. He said it might alleviate concerns by referring to the covenants.

Amyx asked if those conditions would come back to the City Commission for final approval.

McCullough said covenants and conditions were one of those things that the City wasn't typically a party to. He said he believed, with the applicants volunteering of the conditions, staff could see to it that they were filed with the plat and they could be reviewed to assure the filling of those conditions was meeting the intent of what was being represented. He said staff typically wasn't a party to the revisions in the future. Staff regulated the City's code, but not private covenants.

He said he thought the city had a firmer position in requiring a construction access road, but the expectation that staff was out there monitoring construction traffic through the existing subdivision would be a high expectation. There would be any number of contractors and subcontractors coming and going and they would find their own ways to the construction sites. Certainly if there was a road there for the heavy construction and the construction of the roads,

they were more apt to see construction traffic move through a construction road, but pass that there was no reasonable or practical way to monitor that.

Schumm said he drove around out there and there are quite a few homes under construction, so it's going to be hard to monitor whose truck was whose.

Amyx said regarding conditions, if Herndon's client wishes to sell the property, he asked if that future buyer had to follow any conditions that would be placed on this property.

McCullough said they were governed by private means.

Amyx said he believed the applicant would follow everything they said they would do, but his concern was future buyers and how that would be protected.

Herndon said the development group was reputable and their interest was a marketable, sellable product. Secondly, once the covenants were recorded with the final plat, and one individual bought a lot with those expectations, that was a tort or civil action.

Matt Gough, Barber Emerson Law Firm, said they were talking about restrictive covenants and it existed on the theory of record notice. He said any buyer would have record notice of the fact that those covenants had been recorded and it has not, to date, been the City's practice to get involved in the particulars of those private covenants, except in very limited circumstances that did not apply to this.

Schumm said he understood, but the developer was offering those covenants, but how would they make sure?

Gough said the answer was whether the City Commission would make that a condition or whether they would agree to it. He asked if the City Commission wanted to look at every paragraph in those restrictive covenants or would they be back some other day at midnight arguing about one particular thing or another, or were they mostly concerned about square footage.

Dever said they were mostly concerned about the quality of the building and protecting the neighborhood.

Schumm said it was their client who offered that this was going to happen. He said if they accepted it as a condition, would there be a problem.

Gough asked what the condition would be.

Schumm said that you couldn't sell any lots until it was filed.

Gough said as determined by staff.

Schumm said yes.

Gough asked if it would be a confirmation that restrictive covenants had been recorded in a manner substantially similar to those recorded in the Diamondhead district.

Corliss said he would suggest that Gough and others were good at drafting those documents. He said the City Commission could set those out and as a condition of the filing of the plat that they be recorded within 30 days after the plat was recorded and no building permit would be allowed until those restrictive covenants were on file. He said if staff saw something that was substantially different from what had been represented, staff would be back before the Commission to talk about it.

Carter said it was the same thing with the Planning Commission and he was always in favor of conditional zoning only "if" and "when" the developer was comfortable in saying yes that that was a part of it.

Rainey said they were only responding to what the neighbors wanted.

Gough said for example, he had not read those covenants and did not know if the covenants required a particular type of roofing material, but without seeing the covenants, he could tell anyone whether there would be any changes as to that type of requirement. He said were they talking about square footage and basic materials.

Schumm said what he heard was the applicant held up a copy of the Diamondhead Covenants and those covenants would be close to those.

Herndon said they were not going to be a problem.

Schumm said they could put construction road as a condition.

McCullough said the Commission could give staff direction and they could tie that into the final plat.

Schumm said that he didn't want to see a gravel road forever.

McCullough said it was a construction access.

Dever asked if it could be the same road path as the road would be eventually.

Amyx said their goal had been that the development to the west worked and blended into the neighborhood to the east and the agreements made him comfortable with the RS5. The covenants were an important tool for the expectations of the city and neighborhoods. As long as they had the conditions and the road put in, he was fine with the RS5 and development as presented.

Schumm said he would entertain a motion for approval with a temporary construction road signed, and covenants recorded with the plat.

Moved by Carter, seconded by Cromwell, to approve with conditions the rezoning, Z-12-00229, of approximately 6.491 acres from UR (Urban Reserve) to RM12D (Multi-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended, and to adopt on first reading, Ordinance No. 8836. Motion carried unanimously.

Moved by Carter, seconded by Cromwell, to approve with conditions the rezoning, Z-12-00231, of approximately 9.122 acres from UR (Urban Reserve) to RS7 (Single-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended, and to adopt on first reading, Ordinance No. 8837. Motion carried unanimously.

Moved by Carter, seconded by Cromwell, to approve with conditions the rezoning, Z-12-00232, of approximately 6.48 acres from UR (Urban Reserve) to RM12 (Multi-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive, and to adopt on first reading, Ordinance No. 8838. Motion carried unanimously.

Moved by Carter, seconded by Cromwell, to approve with conditions the rezoning, Z-13-00015, of approximately 5.471 acres from UR (Urban Reserve) to RS5 (Single-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive, and to adopt on first reading, Ordinance No. 8839. Motion carried unanimously.

F. PUBLIC COMMENT: None.

G. FUTURE AGENDA ITEMS:

David Corliss, City Manager, outlined potential future agenda items.

H. COMMISSION ITEMS: None.

I. CALENDAR:

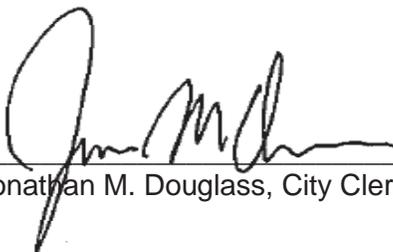
David Corliss, City Manager, reviewed calendar items.

J. CURRENT VACANCIES – BOARDS/COMMISSIONS:

Existing and upcoming vacancies on City of Lawrence Boards and Commissions were listed on the agenda.

Moved by Carter, seconded by Amyx, to adjourn at 11:26 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON MARCH 12, 2013.



Jonathan M. Douglass, City Clerk