

**SPRING HILL PLANNING COMMISSION  
REGULAR MEETING AGENDA**

**Thursday, March 5, 2009**

**7:00 p.m.**

**Spring Hill Civic Center**

**401 N. Madison**

**CALL TO ORDER**

**ROLL CALL**

Tobi Bitner  
Janet Harms  
Brian Haupt  
Valerie Houpt  
Bill Kiesling

Michael Newton  
Tim Pittman  
Steven Sebasto  
Cindy Squire

**APPROVAL OF AGENDA**

**FORMAL COMMISSION ACTION**

1. Approval of Minutes

February 5, 2009

**DISCUSSION**

2. Olathe Comprehensive Plan presentation
3. Park Fees payment in lieu of dedication
4. Private Parking Lot specifications
5. Amend sign regulations related to subdivision monument signs

**OTHER BUSINESS**

**ADJOURN**

## **PUBLIC HEARING PROCEDURE**

1. Chairperson opens the public hearing.
2. Commission members describe what, if any, ex-party contacts they might have had regarding this case; indicating the nature of the communication and *whom* it was with.
3. Commission members describe what, if any, conflicts of interest they may have and dismiss themselves from the hearing.
4. Staff presents a report and comments regarding the case.
5. Applicant or agent of the applicant makes brief presentation of the case or request.
6. Commission members ask for any needed clarification of the applicant or agent.
7. Public comments are solicited from the audience. Each member of the audience must fill out a Citizen Participation/Comment Form.
8. Commission members ask for any further clarifications from applicant or staff.
9. Public Hearing is closed.
10. Members deliberate the request.
11. 14-day Protest Period begins after the Planning Commission Public Hearing is closed. \*

\* **Protest Petitions:** Any protest petition must be filed in the Office of the Spring Hill City Clerk within 14 days from the conclusion of the public hearing held by the Planning Commission. Sample copies of protest petitions may be obtained from the City Clerk Office at 401 N. Madison, Spring Hill, KS 66083 (913-592-3664).

# Memo

To: Spring Hill Planning Commission

From: Jim Hendershot, Planning & Development Coordinator

CC: file

Date: February 26, 2009

Re: Agenda review, March 5, 2009 PC meeting

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1. *Approval of minutes from February 5, 2009*
  2. Olathe Comprehensive Plan Update presentation: Representatives from the City of Olathe will be in attendance for a brief presentation of their Comp. Plan Update process. The purpose of the presentation is to have open communication between Olathe and adjoining cities with regards to our Comp. Plans and working together on common issues in the area.
  3. Park Fees, payment in lieu of dedication of open space: Based on the conversations at the joint Planning Commission/City Council meeting of Feb. 12, it appears there is a common interest in addressing park fees in subdivisions. Of particular interest is abolishing the fees in Residential Planned Districts. This discussion will continue with the goal of directing staff to amend existing ordinances and establishing a public hearing date for formal discussion and public comment.
  4. Private parking lot specifications: Discussion of this topic will continue along with a report on current provisions of the International Property Maintenance Code that addresses parking lot maintenance.
  5. Amend sign regulations related to subdivision monument signs: Section 17.720.A.23 of the Spring Hill Sign code defines "a subdivision entrance marker as "a detached sign identifying the subdivision, located at one or more of the subdivision entrances". Sections 17.730.A.2 & 3 (R1-R4) then refers to Section 17.730.A.1.b-f (AG District) for sign regulations. Section 17.730.1.c addresses subdivision entrance markers with respect to size limitations, and defines the structure as being "the outside shape and includes any frame, border or base that forms an integral part of the display". Staff has interpreted

this definition to mean the total area of the entrance marker regardless of the area of the actual lettering on the entrance marker. This interpretation was recently confirmed at a recent Board of Zoning Appeals hearing where the applicant requested a variance to allow a subdivision entrance marker with a total developed length of 37 feet and 6 feet in height (222 sq. ft.). Code allows for a total sign size of 48 sq. ft. The issue is that through the years other subdivisions have somehow been approved with subdivision entrance markers in excess of the 48 sq. ft. limit. Staff recognizes large subdivision entrance markers are very common in the area and help create a sense of community pride when constructed and maintained properly.

As a result, staff is requesting a discussion on this topic and guidance from the Planning Commission as to resolving this matter. Staff is currently collecting information on subdivision entrance markers from area communities that will be provided at the meeting.

**SPRING HILL PLANNING COMMISSION  
REGULAR MEETING  
February 5, 2009**

The Spring Hill Planning Commission met in regular session on Thursday, January 8, 2009 at 7:00 P.M., in Room 15, at the Spring Hill Civic Center located at 401 N. Madison, Spring Hill, Kansas.

**CALL TO ORDER**

Chair Bitner called the meeting to order at 7:00p.m.

**ROLL CALL**

Roll call by Glenda Gerrity, Acting Secretary

Members Present:   Tobi Bitner  
                          Janet Harms  
                          Brian Haupt  
                          Michael Newton  
                          Tim Pittman  
                          Steven Sebasto

Members Absent:   Valerie Houpt  
                          Bill Kiesling  
                          Cindy Squire

Staff Present:       Jim Hendershot, Planning and Development Coordinator  
                          Frank H. Jenkins, Jr., City Attorney  
                          Glenda Gerrity, Acting Secretary

Public Present:     Roxie Floyd, Jerry Floyd, Kendall Shives, Lane Slaten, Allen Meyer, Pete Oppermann,  
                          John Brann, Robert P. Garver, Chris W. Leaton, Kathleen Swartley, Chase Jordan

**APPROVAL OF AGENDA**

**Motion by** Brian Haupt to approve the agenda.

**Seconded by** Steve Sebasto. Motion passed 6 yes, 0 no, 0 abstention.

**FORMAL COMMISSION ACTION**

1. Approval of Minutes: January 8, 2009

**Motion by** Brian Haupt to approve the minutes as presented.

**Seconded by** Michael Newton. Motion passed 4 yes, 0 no, 2 abstention (Sebasto, Harms)

• **Public Hearing Items**

2. Conditional Use Permit

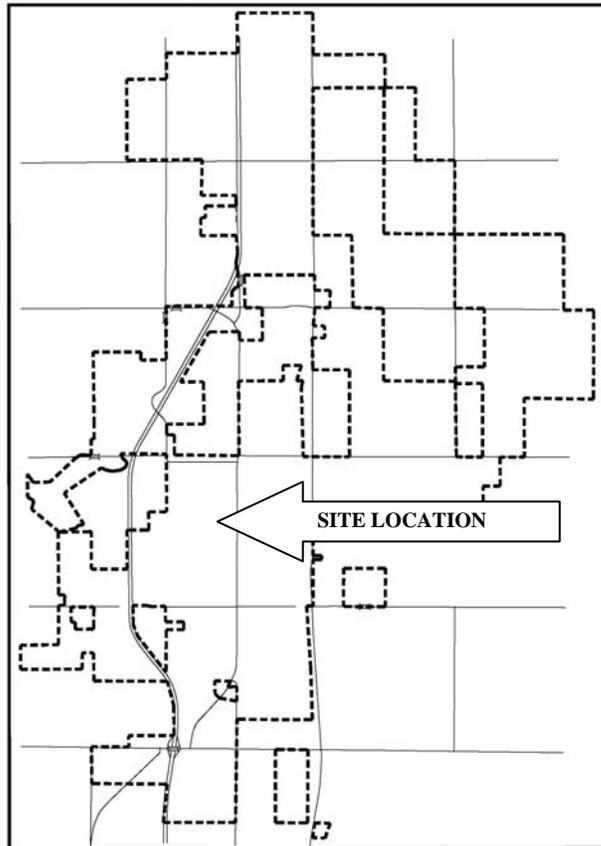
Case No.:           CU-01-09  
Request:            Vehicle sales and detail shop  
Address:            210 N. Webster St.  
Applicant:          Kendall Shives

Chair Bitner asked if anyone had any contact or conflict of interest with the applicant. With none stated,

Mr. Hendershot presented the following staff report.

**SPRING HILL PLANNING COMMISSION  
CONDITIONAL USE STAFF REPORT**

<b>Case #:</b>	CU-01-09	<b>Meeting Date:</b>	February 5, 2009
<b>Description:</b>	Conditional Use Permit, Auto dealer and detail shop		
<b>Location:</b>	210 N. Webster		
<b>Applicant:</b>	Midwest Auto Group, Kendall Shives		
<b>Engineer:</b>	Not Applicable		
<b>Current Zoning:</b>	C-2 Gen. Business		
<b>Site Area:</b>	70'x170'	<b>Number of Lots:</b>	1
	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map</b>
<b>Site:</b>	C-2	Commercial	Mixed Use Commercial
<b>North:</b>	C-2	Commercial	Mixed Use Commercial
<b>South:</b>	C-2	Commercial	Mixed Use Commercial
<b>East:</b>	C-2	Commercial	Mixed Use Commercial
<b>West:</b>	R-1	Residential	Mixed Use Commercial
<b>Related Applications:</b>			

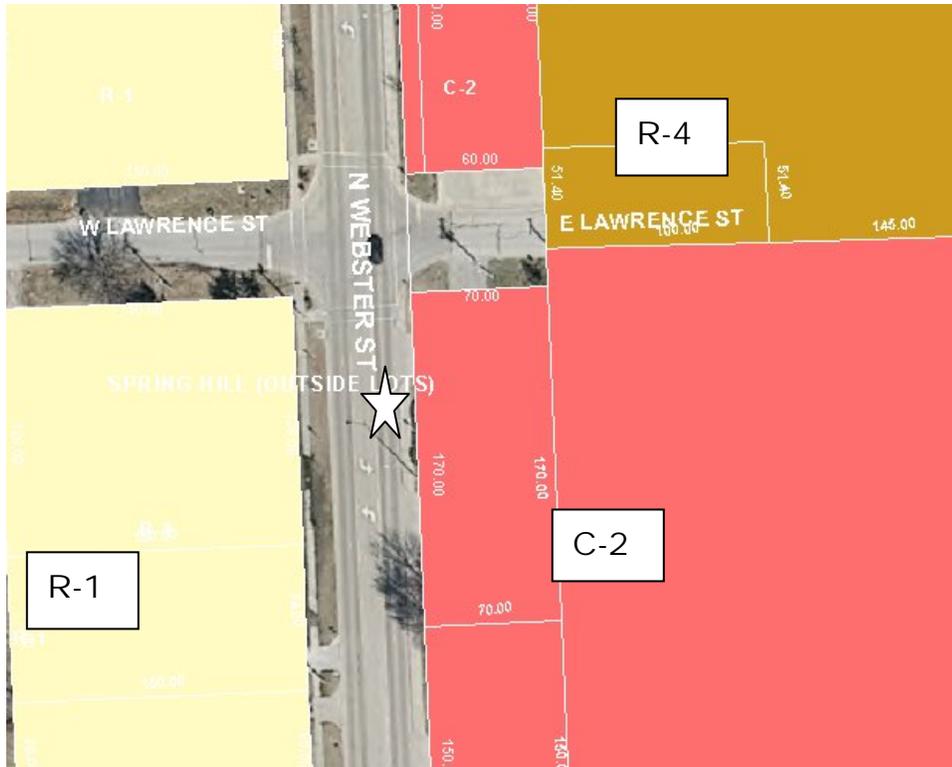


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**VICINITY MAP**



**AREA ZONING**



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**BACKGROUND:**

The applicant, Midwest Auto Group, has submitted an application for a conditional use permit to allow an auto dealership and detail shop to be located at 210 N. Webster. The proposed use will utilize the existing commercial building, parking area and fenced area with no proposed improvements with the exception of painting, landscaping and installation of accessible parking. According to information provided by the applicant, the primary focus of automotive sales will be via the internet however a limited amount of local customers is expected. A letter from Mr. Shives is included with this packet that fully explains their business intentions. In addition, a site drawing is also included with this packet that identifies existing improvements to the property.

**GOLDEN FACTORS:**

The review of the proposed conditional use permit is consistent with Golden v. City of Overland Park, 224 Kan. 591, 584 P. 2d 130 (1978).

1. **Consistent with purposes of regulations and intent of district.** Proposed use is consistent with regulations as it is an allowed use with a conditional use permit.
2. **Neighborhood character.** The surrounding neighborhood is commercial to the north, east and south with single-family residential to the west and multi-family residential northeast of the site.
3. **Adjacent zoning.** Adjacent parcels east and south are zoned commercial, with property to the north (across Lawrence St.) zoned commercial. Across Webster Street to the west is single-family zoning and to the northeast is multi-family residential.
4. **Requested because of changing conditions.** N/A
5. **Suitability for current zoning.** The proposed use is allowed in a C-2 district with an approved Conditional Use Permit.
6. **Detrimental effect of nearby parcels.** Negligible effect on nearby parcels as proposed use will not expand upon past accepted uses and parking lot lighting will not be expanded from existing lighting.
7. **Corrects an error.** N/A
8. **Length of Time at Current Zoning.** Appears area was originally zoned commercial.
9. **Length of time property has been vacant.** July 2008
10. **Adequacy of current facilities.** Existing and current facilities are sufficient as applicant will utilize existing facilities with minimal upgrade.
11. **Public Gain Balanced by Landowner Hardship.** Public gain includes regulating the property with a Conditional Use Permit.
12. **Conformance with Comprehensive Plan.** The proposed conditional use permit would be in conformance with the Spring Hill Comprehensive Plan as the area is identified on the Future Land Use Map as Mixed Use Commercial.

**ADDITIONAL STAFF REVIEW**

1. **Parking:** Building area is approximately 1,776 sq. ft. Parking is required at a rate of 4/1000 sq. ft. of building area. Site drawing identifies 7 parking stalls which meets the parking requirement.
2. **Landscaping:** Site plan identifies areas for grass and flowers. Street trees are required at the rate of 1/50 ft. of frontage. Currently there are sufficient trees located on the property and along the street right-of-way to meet

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this requirement. While no further landscaping is required, the applicant has indicated he plans to provide additional items such as flowers and shrubs.

3. **Trash Receptacles:** No outside trash bins are planned for the use.
4. **Lighting:** Applicant will utilize existing exterior parking lot lighting.
5. **Signage:** Applicant will utilize wall mounted signage only.

**RECOMMENDATION:**

It is the recommendation of staff that the Planning Commission recommend approval of the conditional use permit subject to the following conditions:

1. Permit approval subject to renewal in five years

**- End of Staff Report -**

Mr. Haupt requested clarification on the square footage of the building. The staff report indicated 1,776 sq. ft. but the site plan indicated that the building was 2,002 sq. ft. The applicant, Mr. Kendall Shives, confirmed that the building was 2,002 sq. ft. Mr. Haupt indicated that one additional parking space would be required due to the additional square footage of the building, bringing the total to eight parking spaces required.

The applicant, Kendall Shives, 210 N. Webster, stated that he was okay with the additional parking space. The majority of his car sales are through the Internet; the fenced area will be able to store 14-15 cars.

Chair Bitner opened the public hearing and requested any comments from the public.

Jerry Floyd – lives on 224<sup>th</sup> Street and owns a car lot just south of this location – had a question about the area behind the fence. In the past, he was not able to park cars on gravel - only asphalt, and marked parking spaces were required for his business.

With no further comments, Chair Bitner closed the public hearing.

Mr. Hendershot reviewed the parking regulations and stated that he has not visited with the applicant about the gravel area since it was screened. He suggested that the gravel area behind the fence be allowed to remain however, if the fence was ever to come down, then the business would be under a different situation. Mr. Hendershot believes it meets the intent of the code.

Mr. Shives stated that this area would strictly be for storage of vehicles and the vehicles would be brought out front for viewing by the customers.

The commissioners also stated that the old tire store on Webster Street was allowed to have a gravel area for storage as long as it was screened; therefore, this would be consistent with what has been approved in the past.

**Motion by** Brian Haupt that the Planning Commission recommend to the City Council that they approve the conditional use permit subject to the following conditions:

1. Permit approval subject to renewal in five years.
2. Provide eight parking stalls.
3. Storage of vehicles in inventory to be allowed in the fenced area on a gravel surface subject to the fence being maintained in good condition.

**Seconded by** Tim Pittman. Motion passed unanimously 6 yes, 0 no, 0 abstention.

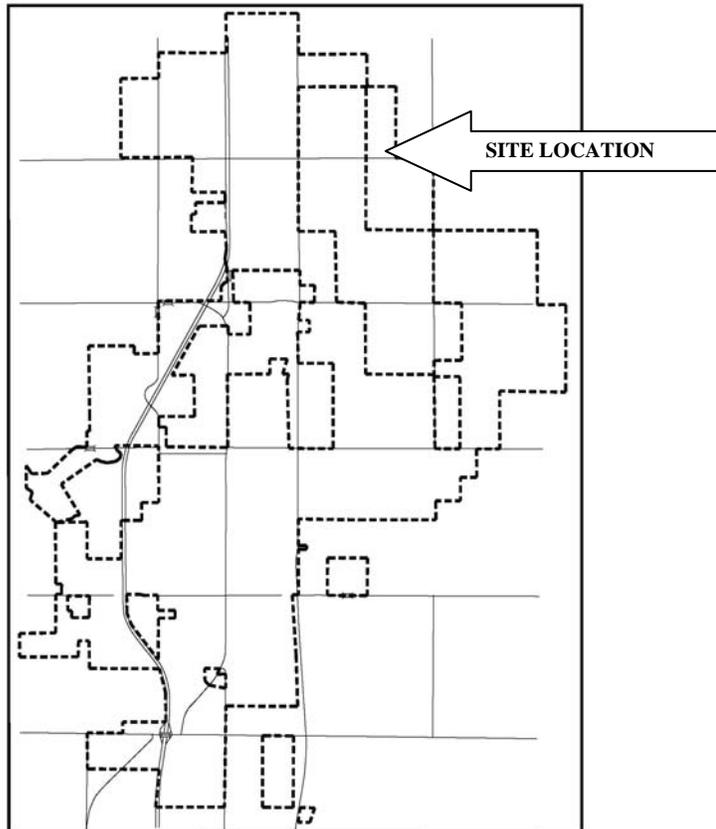
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3. Final Plat  
 Case No.: FP-01-09  
 Request: Revision to house plans  
 Address: Estates of Wolf Creek  
 Applicant: Pete Opperman

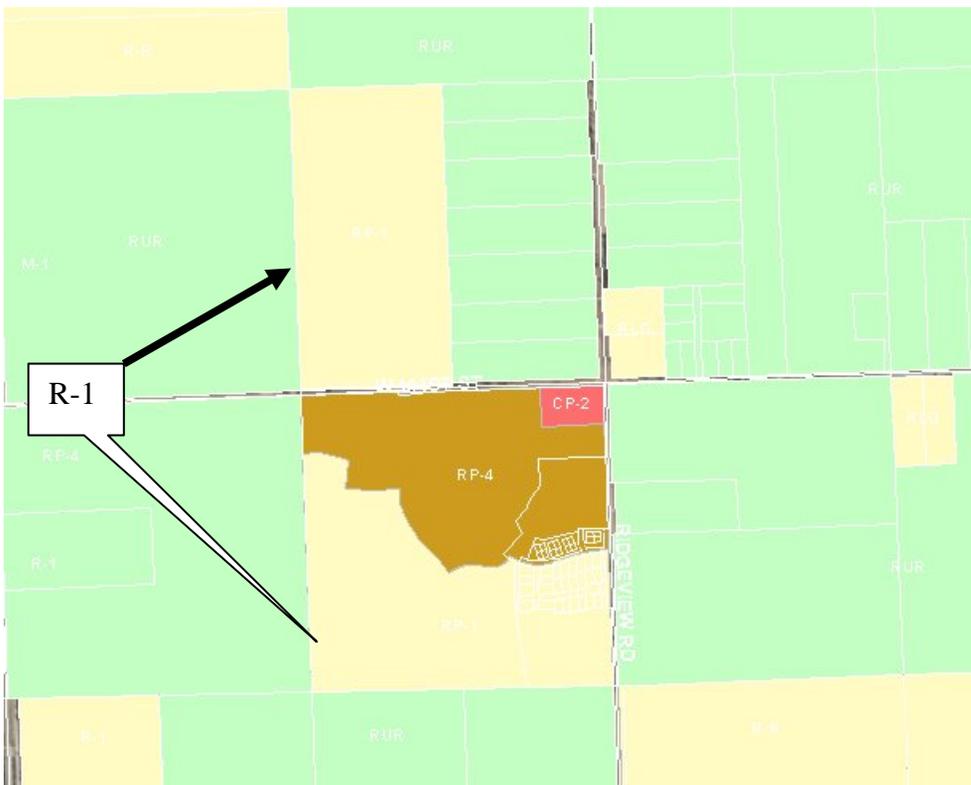
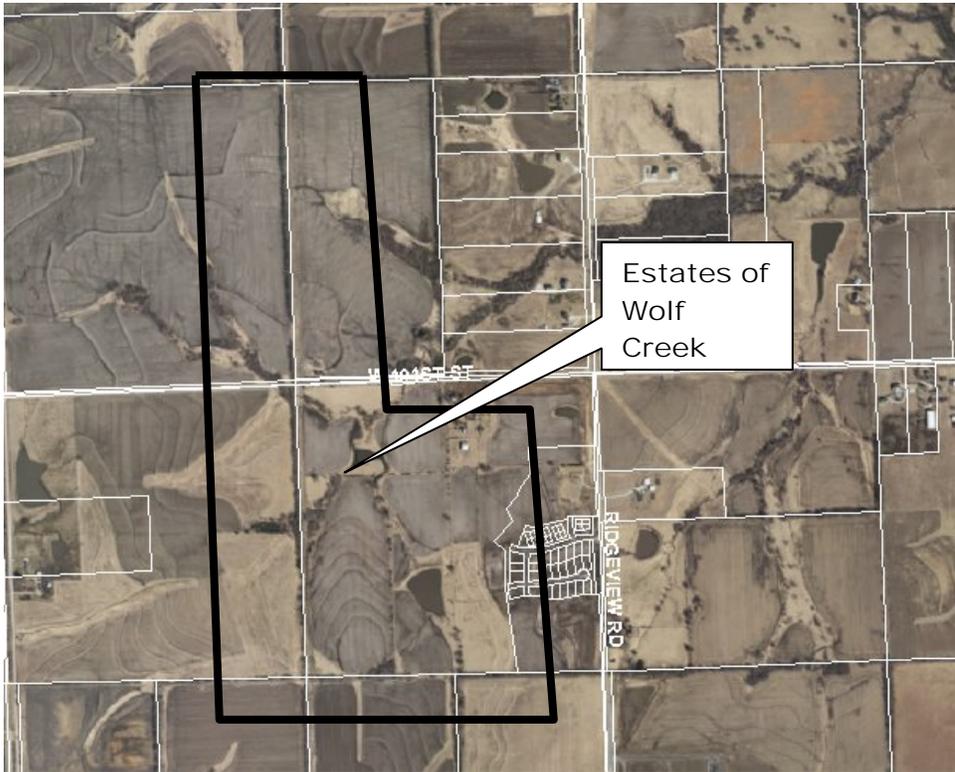
Chair Bitner asked if anyone had any contact or conflict of interest with the applicant. With none stated, Mr. Hendershot presented the following staff report.

**SPRING HILL PLANNING COMMISSION  
PRELIMINARY PLAT STAFF REPORT**

<b>Case #:</b>	FP-01-09	<b>Meeting Date:</b>	February 5, 2009
<b>Description:</b>	Amendment to construction conditions, Estates of Wolf Creek		
<b>Location:</b>	191 <sup>st</sup> & Ridgeview (generally)		
<b>Applicant:</b>	Wolf Creek Development / Robert Garver		
<b>Engineer:</b>	Opperman Land Design, LLC		
<b>Site Area:</b>	240 acres (approx)		
<b>Minimum Lot Area:</b>		<b>Number of Lots:</b>	
<b>Current Zoning:</b>	RP-1, RP-4, CP-2	<b>Proposed Use:</b>	Residential Subdivision
<b>Related Applications:</b>	Z-09-09, Z-10-05, Z-11-05, Z-02-06		



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**BACKGROUND:**

In 2005 three separate rezoning cases were approved for the development now known as Estates of Wolf Creek. In 2007 a fourth rezoning request was approved following a major revision in the preliminary plat with respect to road development. Copies of the four rezoning ordinances are included with this staff report packet for your review.

Recently the developer, Bob Garver, made an application for three single-family building permits in Phase 1 of the development. Two of the permits were approved with the third being denied as it was not in compliance with the provisions of the rezoning ordinances. Primarily the plans called for a three car garage that is in excess of 50% of the width of the dwelling. This denial led to several conversations between myself, Bob Garver and Pete Opperman. In short, my interpretation of the zoning conditions was different than those of Mr. Garver and Mr. Opperman.

As a result, Mr. Garver has filed an application to amend the conditions set forth in the rezoning ordinances. The application identifies several restrictions approved with the rezoning cases and seeks relief or elimination of some of these conditions. Included with this staff report is a copy of the application letter that specifically identifies issues important to the developer. Each of these items are identified and reviewed as follows:

A. The following issues are identified on the application letter from Mr. Opperman on page 1 under the heading of RP-1 Area. Rezoning conditions are found in Ordinance 2005-38.

- 1) "The garages of a single-family house may not exceed 50% of the overall width of the house needs to be modified to add "on lots less than 70 feet wide".

**Staff Comment:** This restriction is found in Ord. 2005-38 Section One.2.B. The restriction is also referred to in the Comprehensive Plan (pg. A-5) as follows:

*Residential areas with reduced lot sizes and widths should comply with the following:*

*Provide the front entry and the habitable portion of the dwelling as the dominant elements of the structure. Garages oriented toward the street must not exceed fifty (50) percent of the width of the residential structure facing the street.*

Marketing of homes is vital to the developer and it is understood homes with three car garages are more attractive to buyers than those with two car garages. However, the intent of the statement above is to not allow the garages to become the dominating feature in a subdivision. Since this development has a mixture of lots widths, the limitation of 70 foot lots will act to limit number of three car garages. As a result, staff has no objection to allowing garages in excess of 50% of the width of the house on lots 70 feet and wider. However, in no case should the garage width be in excess of 60% of the width of the house. If approved this would allow the construction of three car garages with a maximum width of 60% of the dwelling width on 327 of 445 lots in the subdivision.

- 2) "Garages that are oriented toward the street may not project beyond the habitable portion of the front façade greater than 7 feet." Does this include and account for the habitable portion which is above the garage? If not, the allowed offset needs to be more like 14 ft. House plans approved as examples contradict this stipulation.

**Staff Comment:** This restriction is found in Ord. 2005-38 Section One.2.C. The restriction is also referred to in the Comprehensive Plan in two distinct areas as follows:

*(pg A-5) Residential areas with reduced lot sizes and widths should comply with the following architectural standards:*

*Provide garages flush with the principal front building façade, recessed, side loaded, rear-accessed, or detached. Garages oriented toward the street typically should not be projected in front of the habitable portion of the front façade. However if such projections occur they should be minimized and generally not exceed five (5) to seven (7) feet.*

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(pg 5-9) **Recommendation: Limit garages from extending out from the house front.** Alternatives to house designs without projecting front garages are strongly encouraged to maintain the historic character of Spring Hill. Garages which extend out from the front of a house create an emphasis on the automobile system of a neighborhood, diminish the effects of inviting front doors and porches, and are simply less attractive than the house itself. All of these effects breakdown the pedestrian oriented quality that is sought for new residential areas in Spring Hill.

Mirroring the comments from #1 above, the intent of this Comp. Plan recommendation is to not allow the garage to become the dominant feature of the dwelling, particularly in developments granted a reduction to lot widths. Whether the garage has habitable space above the garage is, in staff's opinion, irrelevant. As a result staff recommends the restriction of seven feet not be amended. However, Mr. Opperman claims the approved house plans contradict this stipulation. Included with this staff report are copies of plans provided by the developer at previous meetings of the PC and Mr. Opperman will provide additional examples of construction designs for consideration.

- 3) "Any dwelling with a garage projecting from, or flush with, the principal front building façade shall have a front porch or similar enclosed front stoop feature that projects in front of the garage and building façade." Essentially, this stipulations makes any garage other than one recessed from the front of a house impractical since you would have to build a covered/enclosed front porch which sticks out beyond the garage and adds a very expensive item to the cost of the house. We ask this stipulation be removed. House plans approved as examples contradict this stipulation.

**Staff Comment:** This restriction is found in Ord. 2005-38 Section One.2.D. The restriction is also referred to in the Comprehensive Plan in two distinct areas as follows:

(pg A-5) *Residential areas with reduced lot sizes and widths should comply with the following architectural standards:*

*Provide other architectural features, such as a front porch or similar enclosed front stoop feature that projects in front of the garage, for any dwelling design in which a garage projects from or is flush with the principal front building façade.*

(pg 5-9) **Recommendation: Encourage new home construction designs with front porches.** Front porches allow homeowners to comfortably spend more time near the front yard and street, and are consistent with the historic development pattern of Spring Hill. This creates a greater opportunity to know neighbors, maintain a casual surveillance of the area, and thereby maintain a safe residential neighborhood. Porches also reinforce a community ambiance and reduce the visual impact of garages oriented toward the street.

As a former contractor, staff finds this stipulation confusing and difficult to design a home that is in compliance. Staff agrees with Mr. Opperman in his statement of creating an expensive item to the home. In addition, staff has concerns with the appearance of the final product that has a front porch extending beyond the garage that extends beyond the front façade of the building. Staff recommends this stipulation be removed.

- B. The following issues are identified on the application letter from Mr. Opperman on page 2 under the heading of RP-4 Area. Rezoning conditions are found in Ordinance 2005-39.

- 1) "A current stipulation requires 75% masonry such as brick or stone, and allows EIFS stucco and fiber cement board as a minor accent only. However, current guidelines on the City's website call for 40% masonry and stipulate that the balance can be lap siding and stucco. In order to create fair competition, we believe the current stipulation needs to be modified to be the same as the City's current guidelines."

**Staff Comment:** The condition noted above is found in Ord. 2005-39 Section One.4.A.6 and 4.B.4 however, these sections specify a 50% limit not the 75% identified in the Opperman letter. As noted by Mr. Opperman the Comprehensive Plan indicates a 40% recommendation as noted on page A-12 as follows:

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*A variety of exterior building materials and colors should be used to create visual interest and to avoid monotony. An amount no less than forty (40) percent of the total net exterior wall area of each elevation shall be finished with brick or stone, excluding gables, windows, doors, and related trim. The balance of the net exterior wall area may be lap siding (excluding vinyl lap siding) and/or stucco (excluding pre-manufactured stucco panels or EIFS).*

Staff recommends reduction of the 50% stipulation found in the ordinance to 40% as found in the Comprehensive Plan.

- 2) “Similarly our plan currently requires 50-year composition shingles, clay tile, or concrete tiles. We believe our stipulation needs to be modified to comply with the current website guidelines of 40-year comp shingles, clay tile, or concrete tiles with other materials being considered on a case-by-case basis.”

**Staff Comment:** This restriction is found in Ord. 2005-39 Section One.4.A.7 and 4.B.6. As noted by Mr. Opperman the Comprehensive Plan indicates a 40-year or longer roof covering recommendation as noted on page A-12 as follows:

*Predominate roofing materials must be high quality and durable. Preferred materials include 40-year or longer composition shingles, clay tiles, or concrete tiles. Other materials will be considered on a case-by-case basis.*

Staff recommends amending the 50-year roofing requirement found in the ordinance to 40-year roofing materials as recommended in the Comprehensive Plan.

- 3) “If someone in the future decides that apartments are more appropriate than town homes, the 75% masonry and 50-year roof stipulations should be modified as stated in Item #2 above.

**Staff Comment:** The Planning Commission should review the recommendations for clarity and consistency.

- C. The following issues are identified on the application letter from Mr. Opperman on page 2 under the heading of CP-2 Area. Rezoning conditions are found in Ordinance 2005-40.

- 1) “Item 2.D of our stipulations calls for the primary material of buildings to be masonry including stone or brick with EIFS and stucco used as minor decorative elements. The current website verbiage includes masonry, but doesn’t limit materials to masonry. We believe our stipulation should be modified accordingly.

**Staff Comment:** The Comprehensive Plan addresses this matter on page A-18 as follows:

*Exterior building materials should consist of those that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to, natural or synthetic stone; brick; stucco; integrally-colored, textured, or glazed concrete masonry units; high-quality prestressed concrete systems; or glass. Water-managed Exterior Installation Finish Systems (EIFS) may also be incorporated as a decorative accent material.*

The current ordinance language is more restrictive than the adopted standards of the Comprehensive Plan. Therefore, in the interest of consistency, staff recommends amending the current language of the ordinance to reflect the language found in the Comprehensive Plan as noted above

- 2) “Item 2.E mandates all buildings to have sloped roofs or an appearance of sloped roofs. The City’s website calls for this only when buildings are adjacent to residential areas. Most of the illustrations in the City’s

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document also show non-residential looking rooflines. We believe our current stipulation should be modified to state “when adjacent to residential”.

**Staff Comment:** The Comprehensive Plan addresses this matter on page A-17 as follows:

*Buildings near residential uses must include sloped roofs, or the appearance of sloped roofs (mansard and gables) to maintain a residential appearance, unless other architectural features and site design provide residential compatibility.*

It is the opinion of staff that the intention of the ordinance language was to require sloped roofs or the appearance of sloped roofs on structures adjacent to residential uses. As a result staff recommends amending the language to include the statement “when adjacent to residential”. The term “adjacent” would include structures directly across the street from residential area.

- 3) “Item 2.J does not allow any parking or paved areas between a building and a street. Yet, our approved plan has this. The current document on the City’s website does not mention anything about where parking or drives can be located. We believe this stipulation should be eliminated”.

**Staff Comment:** The Comprehensive Plan addresses this matter on page A-10 as follows:

*Frame and enclose parking areas on at least three sides. Parking must not be located between the building and the street. However, on-street parking may be permitted in order to create a “main street”. A majority of the frontage along an arterial street or other major roadway should be occupied by buildings or other structures such as decorative architectural walls (not to exceed 3-feet in height).*

Two points of interest to discuss with this matter. 1) The approved preliminary plan does include parking between the 191<sup>st</sup> St. and the proposed commercial structures. All other parking in the commercial area is in compliance with the above noted recommendation. An important note to this matter is that there is no direct access from 191<sup>st</sup> St. to the parking area. Access to the parking area is via neighborhood streets. 2) The Comprehensive Plan recommendation noted above and reflected in the ordinance is found with the recommendations for Multifamily Residential Design and not within the Commercial Design Guidelines as found on page A-14. Page A-13 of the Comp. Plan recommends commercial parking areas not be located within a 200 foot radius of the center point of a major intersection. The majority of the approved parking area shown on the preliminary plan is outside of this 200 foot radius recommendation. As a result, staff recommends elimination of this language from the ordinance as requested.

- D) On page 3 of Mr. Opperman’s letter the following statement is made:

“As a part of these revisions, we would like to have verbiage added that gives the City Planner the authority to approve building plans and elevations for what he/she believes are reasonably in compliance with the approved plan. This would allow the developer to proceed within a reasonable time frame instead of having to come to the Planning Commission for every approval or modification”.

**Staff Comment:** This topic is covered in the Zoning Regulations in Section 17.332.J.1 as follows:

*Once property has been rezoned to a planned zoning district, changes to the preliminary development plan may be made only after approval of a revised preliminary development plan. Changes in the preliminary development plan which are not substantial or significant may be approved by the Planning Commission, and disapproval of such changes by the Planning Commission may be appealed to the Governing Body. Substantial or significant changes in the preliminary development plan may only be approved after rehearing; such rehearing shall be subject to the notice and protest provisions set forth in Section 17.364.*

Section 17.332.J.2 then provides details on what is classified as “substantial or significant changes”.

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A great deal of discussion was held between staff, owner and designer about this matter. It is my opinion the intent of most regulations for zoning and planning are designed to provide the enforcement authority a limited degree of discretionary ability for deviations from approved plans. However, in the case of Planned Developments, this discretionary is and should remain very limited. This is due to the concept that planned developments carry "trade offs". For example, the developer is allowed to build on reduced sized lots in return for more open space. In addition, the planned development requires a statement to be filed with the Register of Deeds that a plan has been approved for a specific tract of land and must contain specifics about the project. The planned development requires a higher degree of planning on the part of the developer to provide a clear picture of the finished product. It is staff's opinion the current regulations are adequate and sufficient.

As noted to the developer several times, the ordinances authorizing the various rezoning cases are the ultimate deciding factor in determining conditions associated with developments. When the ordinances contain specific conditions or stipulations the enforcing officer has little if any discretionary authority. Thus, the system currently in place is adequate and appropriate.

**STAFF COMMENT:**

The Planning Department staff understands and truly appreciates the dedication and financial investment of the developer to provide the City of Spring Hill with a unique development as designed into the Estates of Wolf Creek. In addition, staff will continue to work with the developer in all phases of the development. However, all involved must understand that a Planned Development is a unique creature and must remain within the stipulations of approval. Deviations from the approved plans should follow the stipulations and requirements found in the city code.

**RECOMMENDATION:**

It is the recommendation of staff that the Planning Commission forward a recommendation to the City Council as follows:

1. Amend Ordinance 2005-38 Section One.2.B to read: *On lots less than 70 feet in width, garages oriented toward the street shall not exceed 50% of the width of the residential structure facing the street. On lots 70 feet in width and greater in width, garages oriented toward the street shall not exceed 60% of the width of the residential structure facing the street. Three car garages meeting these requirements shall be allowed.*
2. Amend Ordinance 2005-38 Section One.2.D: *Eliminate this section entirely.*
3. Amend Ordinance 2005-39 Section One.4.A.6: *Reduce the 50% requirement for decorative masonry material to 40%.*
4. Amend Ordinance 2005-39 Section One.4.B.4: *Reduce the 50% requirement for decorative masonry material to 40%.*
5. Amend Ordinance 2005-39 Section One.4.A.7: *Reduce the 50-year requirement for roof cover materials to 40-year.*
6. Amend Ordinance 2005-39 Section One.4.B.6: *Reduce the 50-year requirement for roof cover materials to 40-year.*
7. Amend Ordinance 2005-40 Section One.2.D to the following: *Exterior building materials should consist of those that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to, natural or synthetic stone; brick; stucco; integrally-colored, textured, or glazed concrete masonry units; high-quality prestressed concrete systems; or glass. Water-managed Exterior Installation Finish Systems (EIFS) may also be incorporated as a decorative accent material.*
8. Amend Ordinance 2005-40 Section One.2.E: *Add the phrase "when adjacent to or directly across the street from residential uses".*

9. Amend Ordinance 2005-40 Section One.2.J: *Eliminate this section entirely.*

**Discussion on Point A. 1):**

A. The following issues are identified on the application letter from Mr. Opperman on page 1 under the heading of RP-1 Area. Rezoning conditions are found in Ordinance 2005-38.

- 1) "The garages of a single-family house may not exceed 50% of the overall width of the house needs to be modified to add "*on lots less than 70 feet wide*".

The Commissioners discussed the following points pertaining to this item:

- The width of a 3-car garage is typically 31-32 feet, but no definition was listed on how to measure the garage;
- The interpretation of measuring the garage was objectionable;
- The proposed changes to the ordinances would only affect this planned development;
- Planning Commission has the ability in a Planned Development District to recommend to the City Council amendments to the code;

Mr. Robert Garver made the following statements:

- The house plan in question has been a Pick of the Parade Winner and is a very desirable plan;
- Requesting flexibility to provide the amenity of a 3-car garage to future home buyers on 70' lots;
- If the current guidelines are followed, there would only be 10 feet between the houses. He believes this is not a desirable feature and prefers more space between the houses;
- Only requesting this amendment on 70' and larger lots;
- An option would be to rezone to R-1 and remove the amenities in the subdivision;

Mr. Garver pointed out the following amenities that the City is receiving in exchange for smaller lots in his Planned Development:

- Significant amount in excess of the required amount of green space;
- Boulevard system;
- 15-acre City Park;
- Multiple recreation areas for the residents.

**Discussion on Point A. 2):**

- 2) "Garages that are oriented toward the street may not project beyond the habitable portion of the front façade greater than 7 feet." Does this include and account for the habitable portion which is above the garage? If not, the allowed offset needs to be more like 14 ft. House plans approved as examples contradict this stipulation.

Mr. Hendershot reiterated that habitable space above the garage or not is irrelevant in measuring the projection of the garage from the house.

Mr. Garver stated that some house plan have the master bedroom over the garage and these were the plans submitted in 2005 that were approved by the Commissioners.

**Discussion on Point A. 3):**

- 3) "Any dwelling with a garage projecting from, or flush with, the principal front building façade shall have a front porch or similar enclosed front stoop feature that projects in front of the garage and building façade." Essentially, this stipulations makes any garage other than one recessed from the front of a house impractical since you would have to build a covered/enclosed front porch which sticks out beyond the garage and adds a very expensive item to the cost of the house. We ask this stipulation be removed. House plans approved as examples contradict this stipulation.

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Mr. Haupt directed a question to Mr. Garver that when the Commissioners considered this matter and attached the conditions, was he unaware of these conditions or if they conflicted with the designs that were submitted.

Mr. Garver responded that if you review the minutes, he addressed the 3-car garage issue very adamantly, but it was not addressed in the ordinance.

Chair Bitner asked when the Comprehensive Plan was adopted. Mr. Hendershot believed it was adopted in late 2005 or 2006. The Comprehensive Plan is a guide and modifications may be granted in a Planned Development.

Mr. Garver is requesting a compromise and doesn't want to face the problem of not being able to provide homebuyers with options. He believes he has laid out a good project for the City and would like to see it through.

Mr. Opperman pointed out that developers and builders are in the business of providing what the market wants and sometimes it includes a 3-car garage. The way the ordinance is written for this project, Mr. Garver is unable to build a 3-car garage unless he would build a larger house that the homebuyer may not be able to afford.

**Motion by** Brian Haupt to take a five minutes recess.

**Seconded by** Michael Newton. Motion passed 6 yes, 0 no, 0 abstention

Chair Bitner announced the meeting was back in session.

During the break, Mr. Hendershot researched when the Comprehensive Plan was adopted (that he is quoting sections out of concerning this project) in comparison to when these zoning ordinances were approved for the rezoning for the Estates of Wolf Creek. It appears that the two were simultaneously happening at the same time. A brief review of the minutes found that the initial three rezoning requests were completed prior to the official adoption of the Comprehensive Plan that he was quoting from for this application.

**There was no discussions on Point B. 2.); B. 3.); C. 1.); and C. 2.)**

**Discussion on Point C. 3):**

- 3) "Item 2.J does not allow any parking or paved areas between a building and a street. Yet, our approved plan has this. The current document on the City's website does not mention anything about where parking or drives can be located. We believe this stipulation should be eliminated".

Mr. Hendershot clarified that he believes this was an error; this recommendation is for multi-family not commercial.

**There was no discussion on Point D.**

**Final Comments/Discussion:**

The members reviewed the definition of floor area that is listed in the zoning regulations. They also discussed how to measure the garage.

At 9:25p.m., Chair Bitner opened the public hearing and requested any comments from the public.

With no comments from the public, Chair Bitner closed the public hearing at 9:26p.m.

**Motion by** Janet Harms that the Planning Commission recommend to the Governing Body that the recommendation of the city staff be approved as set forth in items 1-9 with the addition that item 1 include a

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definition of the method of measurement for determining the garage width which would be as follows: that width be defined by measuring from the outside wall to the outside of the garage on projecting garage structure and from the outside wall of the structure to the edge of the garage door furthest from the exterior wall on garages that are flush or recessed.

1. Amend Ordinance 2005-38 Section One.2.B to read: *On lots less than 70 feet in width, garages oriented toward the street shall not exceed 50% of the width of the residential structure facing the street. On lots 70 feet in width and greater in width, garages oriented toward the street shall not exceed 60% of the width of the residential structure facing the street. Three car garages meeting these requirements shall be allowed.*

*Definition for Method of Measurement for Determining the Garage Width – That width be defined by measuring from the outside wall to the outside of the garage on projecting garage structure and from the outside wall of the structure to the edge of the garage door furthest from the exterior wall on garages that are flush or recessed.*

2. Amend Ordinance 2005-38 Section One.2.D: *Eliminate this section entirely.*
3. Amend Ordinance 2005-39 Section One.4.A.6: *Reduce the 50% requirement for decorative masonry material to 40%.*
4. Amend Ordinance 2005-39 Section One.4.B.4: *Reduce the 50% requirement for decorative masonry material to 40%.*
5. Amend Ordinance 2005-39 Section One.4.A.7: *Reduce the 50-year requirement for roof cover materials to 40-year.*
6. Amend Ordinance 2005-39 Section One.4.B.6: *Reduce the 50-year requirement for roof cover materials to 40-year.*
7. Amend Ordinance 2005-40 Section One.2.D to the following: *Exterior building materials should consist of those that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to, natural or synthetic stone; brick; stucco; integrally-colored, textured, or glazed concrete masonry units; high-quality prestressed concrete systems; or glass. Water-managed Exterior Installation Finish Systems (EIFS) may also be incorporated as a decorative accent material.*
8. Amend Ordinance 2005-40 Section One.2.E: *Add the phrase “when adjacent to or directly across the street from residential uses”.*
9. Amend Ordinance 2005-40 Section One.2.J: *Eliminate this section entirely.*

**Seconded by** Steve Sebasto. Motion passed 5 yes, 1 no (Haupt), 0 abstention.

Following the vote, some Commissioners stated their reason for the record:

Harms –voted in favor of the request because of what the City is getting

Haupt – voted against and believes that we are deviating from previous practice and setting a dangerous precedent. We should amend the Comprehensive Plan if we are going to do this.

Pittman – believes that Residential Planned Development that there is room for trade-offs and it would be from the original comprehensive plan.

## DISCUSSION

### 4. Private Parking Lot Specifications

As a follow-up to a request at a previous Planning Commission meeting, City staff reviewed the existing specifications on constructing private parking lots. Currently, City staff does not inspect the actual construction of parking lots, but ensures that the size and configuration complies with the approved site plan, and only mandates repairs when the parking lot area in disrepair is a fire lane or fire apparatus access. John Brann, City Engineer, stated that the City specifications are adequate and that problems will occur with parking lots if the sub-grade isn't properly laid.

Chair Bitner added that the Phillips 66 parking lot is becoming a hindrance to the traffic flow due to vehicles avoiding the pot holes. Mr. Haupt would like a mechanism in place to stop this from happening.

Mr. Hendershot stated that many communities address maintenance of parking lots through their property maintenance code; therefore, suggested that he review the provisions of the City's property maintenance code. He also stated that this code is not part of the zoning code but would report back to the Planning Commission with his recommendations. The Planning Commission was in favor of his suggestion.

### 5. Aquatic center location compliant with Comprehensive Plan

Kansas State Statues require all public improvements such as city facilities to be reviewed by the Planning Commission and noted as being in compliance with the Comprehensive Plan. The proposed site for the new aquatic center is on the west side of South Webster at the intersection of Sycamore Drive and Webster. This area is zoned R-1 (single family dwelling) and identified on the Future Land Use Map as Residential. Section 17.310.B.3. lists "parks and recreation" as an allowed use. By definition, "parks and recreation" means a park, playground or community facility that is owned by or under the control of a public agency or homeowners association and which provides opportunities for active or passive recreational activities. Therefore, when considering zoning regulations, the definition of parks and recreation and future land use map, it is staff's opinion the site is in compliance with the Comprehensive Plan. Mr. Hendershot provided excerpts from the zoning code and various maps supporting the zoning and future land use issues. If this site is approved, a site plan and plat will be submitted to the Planning Commission at a future meeting.

**Motion by** Michael Newton recommended that the site selected by the City Council for location of the Aquatic Center on S. Webster Street is in compliance with the Spring Hill Comprehensive Plan be approved.

**Second by** Brian Haupt. Motion passed 6 yes, 0 no, 0 abstention.

Chair Bitner requested that sidewalks be provided to this site.

### 6. Park Fees payment in lieu of dedication

Current code allowances concerning payment of park fees in lieu of dedication of land are of concern to staff, particularly with respect to Planned Developments. Planned Residential Developments require 15% open space as in contrast to 4% in conventional residential districts. This increased open space requirement is a vital element in considering applications for planned developments. To simply allow the payment of a fee seems to be counterproductive to the intent of the Planned Residential Development objective. Staff believes that the Park Fee Ordinance needs to be amended to reflect that Planned Developments are not eligible for the payment in lieu of dedication to the City. Staff also believes that the element of requiring park fees for commercial and industrial development either be reduced or eliminated.

Chair Bitner stated that from her experience on the Green Board, they were displeased with the park land they were acquiring since they were located in an unfavorable area of the development. Mr. Hendershot commented that his predecessor changed the regulations to where the parks could be located within the subdivision to prevent problems from happening in the future.

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Mr. Haupt suggested that the 15% be distributed throughout the planned development and believes that it is appropriate to request park fees from the commercial and industrial developments.

The members were in favor of Mr. Hendershot's suggestion that he review the entire ordinance and place this item on the agenda for the Joint City Council/Planning Commission meeting on February 19, 2009 at 7:00pm.

**OTHER BUSINESS**

There was no other business.

**ADJOURN**

**Motion by** Michael Newton to adjourn.

**Second by** Janet Harms. Motion passed unanimously.

Meeting adjourned at 9:54P.M.

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Glenda Gerrity, Acting Planning Secretary