

MINUTES
CITY COUNCIL MEETING - COLUMBIA, MISSOURI
JANUARY 3, 2005

INTRODUCTORY

The City Council of the City of Columbia, Missouri met for a regular meeting at 7:00 p.m., on Monday, January 3, 2005, in the Council Chamber of the City of Columbia, Missouri. The roll was taken with the following results: Council Members HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, and JANKU were present. The City Manager, City Counselor, City Clerk and various Department Heads were also present.

APPROVAL OF MINUTES

The minutes of the regular meeting of December 20, 2004, were approved unanimously by voice vote on a motion by Mr. Ash and a second by Mr. Loveless.

APPROVAL AND ADJUSTMENT OF AGENDA INCLUDING CONSENT AGENDA

Mayor Hindman announced that B445-04 and B436-04 would be removed from the Consent Agenda and placed under Old Business.

The agenda, as amended, including the Consent Agenda, was approved unanimously by voice vote on a motion by Mr. John and a second by Mr. Ash.

Mayor Hindman noted that requests to table had been received on B427-04 and B404-04. Mr. Ash asked that B445-04, which was removed from the Consent Agenda and placed under Old Business, be tabled to the January 18, 2005 meeting. Because B427-04 or B404-04 were advertised public hearings, Mayor Hindman asked if anyone present wished to speak to either issue before a vote was taken to table the issues. No one came forward to speak.

Mr. Ash made the motion that B445-04, B427-04 and B404-04 be tabled to the January 18, 2005 meeting. The motion was seconded by Mr. John and approved unanimously by voice vote.

SPECIAL ITEMS

None.

SCHEDULED PUBLIC COMMENTS

None.

PUBLIC HEARINGS

B402-04A Rezoning property located on the north side of Broadway, south of West Ash Street, between Fairview Road and Park De Ville Drive from R-1 and C-1 to C-P.

The bill was read by the Clerk.

Mr. Beck commented that any correspondence that came in after the last meeting was made available to the Council. He also noted the issue had been tabled from the last meeting because it had been felt a substantial amendment had been made to the ordinance.

Mayor Hindman re-opened the public hearing.

Craig Van Matre, an attorney with offices at 1103 E. Broadway, passed around a packet of information to the Council and described it using the overhead. He restated their

intent to install all traffic improvements described at the December 20 meeting. Since the last meeting, he pointed out that they revised their landscaping plan, which was approved by the City Arborist and included in the information given to the Council. Mr. Van Matre stated the plan was now substantially greater in terms of the density of plantings and proceeded to list the types and numbers of the various plantings. They believed the planned street improvements would be a substantial compliment to the neighborhood and that the density of the project would be consistent with the density of the development immediately south. He submitted that the safety of all in this area would be vastly improved if the C-P approach was approved. Although the opponents had indicated that they would prefer the default plan, Mr. Van Matre stated there was no way that plan contributed to the safety of the area nearly to the extent the C-P plan. He noted that the default plan would not improve school traffic or safety, would not improve the safety or aesthetics of Broadway, would not improve Fairview Road where it intersected with Worley, would not improve West Ash, and would not make the intersection models, let alone safe from a pedestrian point of view. Mr. Van Matre pointed out there would be another major opportunity for input when the development plan itself came before the Council. He felt all of the minor details could be discussed at that time.

Al Price, 107 Bingham Road, pointed out that this rezoning would bring \$5 million to the City to improve surrounding transportation roadways, money the City would not have to spend. He noted that the City would have control if the property was rezoned to C-P. Regarding the argument that additional commercial zoning made it too big, Mr. Price commented that they were asking for 35,000 square feet of retail space, which they would rent out to various people to increase their cash flow. That 35,000 square feet was only one-third of a total city block in downtown Columbia. It was not very big, but would be the difference between having enough money from the backers and the lenders to do what these developers were planning to do. He asked the Council to vote in favor of the zoning request.

Don Stamper, 1304 Sedona Villas, spoke as the Executive Director of the Central Missouri Development Council and in favor of the request. He noted significant adjustments had been made through the process that resulted in a better plan, better coordination, more off-site improvements, and a truly significant contribution to the community. Regarding the Janku amendment, Mr. Stamper commented that they were gravely concerned about it being a precedent setting amendment that altered the City process in a significant way and actually had the potential to stifle the project. If it was to be the policy to require the level of approval proposed by the amendment on all projects in the future, they felt the City's policy should be adjusted, debated, and discussed in order to accomplish that. In reference to the square footage approach suggested at the last meeting, they thought that was another area where the City needed to be cautious. They felt the comparisons were inaccurate and that if the use of square footage and how much of the acreage was to be used was to be a policy, it should go through a policy adoption process with the opportunity for public comment. Mr. Stamper stated that his group felt the better result would come from this development in a planned environment.

David Evans, 205 Orleans Court, President of the Park De Ville Neighborhood Association, reiterated that they were not anti-Wal-Mart and that they were not opposed to regular Wal-Marts, Wal-Mart grocery stores, or Wal-Mart Supercenters, but were opposed to the building of a Wal-Mart Supercenter on this site because it overwhelmed the site. If approved, he noted this would be the third Wal-Mart Supercenter south of I-70. He was fairly certain that Wal-Mart did not need three supercenters in a population of 80,000. He pointed out correspondence by Mr. Skala and an article by Mr. Holden and commented that he hoped the Council had read them. Mr. Evans stated that he had never seen a rezoning application submitted with the major reason for voting in favor of it being that they would build something

no one would like if they voted against the requested zoning. He asked the Council to vote no on the request.

Terry Baker, 304 Vieux Carre Court, spoke as President of Community First, saying they recognized the plans had changed for this development over time and that the developer had made concessions in response to Staff, the Planning and Zoning Commission, the City Council, and community opposition. She stated that although they recognized and appreciated the amendments passed thus far, they still felt the size, scale, and density remained untenable given its location near neighborhoods and a school. She stated that the project was the wrong precedent to set for the City and asked the Council to vote no.

Sharon Madsen, 114 Park De Ville Drive, spoke in favor of the rezoning saying it was considerate of the developer to offer them a better choice. She noted that the Planning Department recommended the rezoned plan over the default plan, that the School District was in favor of the rezoning because it met all of their needs, and that the five property owners most affected supported the rezoning. Ms. Madsen felt that everyone signing the petition thought they were trying to keep Wal-Mart from building at the Broadway location, not realizing the debate was really which plan would be better for the community. She urged the Council to vote for the proposed rezoning.

Jerry Jones, 305 Wind River Court, spoke on behalf of the West Fair Condo Association, an association of 32 condos directly to the south of Hy-Vee. Their Board of Directors voted unanimously to oppose the rezoning because of safety concerns, traffic problems, and the property devaluation of the adjoining residential neighborhoods. He asked, if responsible development could be demonstrated on the larger side, why it could not be demonstrated on the smaller side as well. Being a Wal-Mart stockholder, Mr. Jones found it hard to believe and somewhat insulting for the developers to infer that Wal-Mart would accept any ugly building. Realizing approximately 17 acres were currently zoned C-1 and would accommodate a smaller version than that planned for the 30 acre plus site, he stated that if it must happen, they felt the smaller site was preferable. He commented that he had never seen a mass merchant located next to a school/daycare and asked that the Metro 2020 Plan be followed and that the Council vote no.

Michelle Pruitt, 2300 Walther Court, quoted from zoning statutes that C-1 districts were intended to provide commercial shopping and service facilities in or near a residential neighborhood and that the principal land use was a small shopping area with sales and services oriented to the needs of a local population. Ms. Pruitt pointed out that the landowners who purchased homes in this area relied upon those statutes to assure their property values and the future of that property. She felt there was simply no comparison that could be made that would categorize a supercenter as small. If other large retail outlets had been built on C-1 property in Columbia, they were smaller in square footage than the proposed development and they offered a smaller range of goods, not groceries in addition to general merchandise. She also noted they were not open 24/7. She urged the Council to oppose the request for rezoning.

Kristin Heitkamp, 4880 N. Rt. E, quoted dollar amounts spent or being spent on roads in Columbia and said the proposal suggesting that Fairview Road would allow an additional 6,000 or more vehicle trips per day and relieve gridlock on Stadium was nonsense. She felt the Council was within their rights and that it was their duty to deny a big box store at this site. Ms. Heitkamp listed cities that had been successful in denying supercenter proposals predicated on traffic and safety issues. She commented that the Council could do the same thing with the support of more than 5,000 citizens and one dozen neighborhood associations.

Bill Emmerson, 2804 Skye Wynd, explained that his backyard was on Fairview, less

than 200 feet from the intersection of Fairview and Broadway. He opposed any expansion of the area. He did not appreciate being threatened and was concerned about the traffic and crime associated with Wal-Mart locations. He asked that the crime statistics be investigated thoroughly before proceeding any further. He felt that Wal-Mart would not build on the smaller site because of economics. He urged the Council to reject the proposal.

Leon Schneider, 2400 Ridgemont, stated that he did not believe that progress meant more and bigger. He was trained to think progress meant perfectibility and refinement. He also felt the developer's design approach was not in the best interest of the community.

Jerry Antel, 105 Peppergrass, spoke in opposition to the proposed rezoning. He read a quote by Sam Walton's autobiography, "If some community, for whatever reason, doesn't want us there, we aren't interested in going in and creating a fuss. I encourage us to walk away from this kind of trouble. Wal-Mart wants to go where it is wanted." He felt that statement alone should be enough reason to have the development group rethink their plans. He also noted that if the developer had any pride, there would be no reason to erect an unattractive store on the 17 acres. Regardless of what size store was built, Mr. Antel felt that safety should not be an issue because it should be the same, regardless of whether it was a 17 acre development of a 23 acre development. Regarding the special filters to be installed in the parking lot if the rezoning was granted, he felt it appalling that they would only be put in for the C-P zoning, not the C-1.

Zoey Melcher, 4880 N. Rt. E, a West Junior student, explained that she had attended Smithton Middle School last year. She felt it was bad enough being stuck on a bus waiting for traffic and noted another obstacle, such as the Supercenter, would create more traffic holdups. She commented that there would be a lot of unhappy kids and parents and asked the Council to make sure that did not happen.

Barbara Geen, 4 Shad Bush Drive, pointed out that Community First could locate no other city in the USA, large or small, with a supercenter as close to an elementary school as the proposal before the Council. Heavy commercial development in the immediate vicinity of the two schools, she felt should not be permitted both for school traffic safety and the personal safety of the children. She also noted the Fairview site would be the first and only major commercial area in Columbia surrounded on three sides by well established residential neighborhoods. Ms. Geen felt the proposed square footage of this Wal-Mart development would approach that of the Conley Road Supercenter and turn West Broadway into a Conley Road traffic jam with semi trucks, delivery trucks, service vehicles, and regional consumers. She assured everyone that the people who signed the petition last spring recognized how dangerous and inappropriate this plan was. She urged the Council to vote against rezoning.

Ron Walkenbach, 407 Pyrenees, commented that Mr. Skala's letter had taken the words out of his mouth. He felt the letter was very factual and logical and was hopeful the Council had read it. He thanked Mr. Skala and the Planning Commission for the work they had done in studying this proposal. If the Council voted to approve the rezoning, he noted the TDD would help the immediate surrounding streets, but would probably only minimize any worsening of the school's traffic situation. He noted alternate routes that would be taken and felt more TDD's would be needed causing the City to jump ahead 15 years as far as traffic problems being created. He asked the Council to vote no.

Jay Dow, 2405 Ridgefield, spoke in opposition and said he thought to keep changing plans was a very bad way to do business. He asked the Council to remember the City's neighborhoods made Columbia the great town it was and to think about the impact this development would have on the Park De Ville neighborhood. He felt it would diminish the value of the area.

Ray Dawson, 1402 Pratt, asked why Columbia needed another supercenter in

Columbia now. He felt it might be needed in the future, but did not think we needed another one at this time.

Karen Roist, 208 Basin Drive, thanked the Council for responding to her e-mails and giving her some things to think about, but pointed out that she was still opposed to the rezoning. She felt the Janku amendment was worth about \$5 million and suggested that the City make sure they received all of the improvements they had been promised with the rezoning. If they did not, she felt the land would have been commercialized for nothing.

Susan Washington, 3009 W. Ash, a mother of two children, one attending Smithton and the other attending Paxton-Keely, commented that Mr. Skala said everything she wanted to say in his letter. She noted that the Conley Supercenter's parking lot was at one-quarter full when she drove by at 7:45 each morning on her way to work. She could not imagine that much traffic being in their residential neighborhood at that time of day and when kids were walking to school. She asked the Council to vote no.

Laurie Matthews, 4315 Sussex Drive, commented that whether or not we felt this was an appropriate spot for a supercenter, one was going to be built because there was already enough land for one. What the developers were willing to give in exchange for rezoning, she felt was tremendous. She stated that straightening Ash Street would not only help the traffic flow, but would buffer the neighborhood from the development. She felt the other road improvements to Broadway were also needed as the traffic flow was constantly increasing in the area. The most important factor in her mind were the improvements they were willing to make at Paxton-Keely, such as the security cameras, fenced in playground, and parking lot. These were things the school district was not be able to afford. If the land was not rezoned, Ms. Matthews pointed out that the loading docks would be on Park De Ville Drive along with the school buses. If the developers were not given any incentive to make the improvements, she asked why they should make them. She felt the vote was not about whether or not there would be a Wal-Mart, but about wanting the City to have a say over how it is developed. She asked that the Council vote in favor of the rezoning.

Mary Ratliff, 211 Park De Ville Drive, noted the residents had called upon the Council to fairly represent them. They realized a portion of the property was zoned for commercial use and they hoped the developer would be a good neighbor. Since that was not the case, Ms. Ratliff stated that she and her husband were joining their neighbors in asking the Council to have the courage to vote down any proposal for additional rezoning. She felt the increase in noise and traffic should be enough to discourage approval of the proposal.

Kay Allen, 1507 Richardson, explained that although she did not live in the area, she worked in the area and had family living in the area. Her biggest concern was traffic safety and pedestrian safety. She noted that she used to walk during her lunch hour, but has stopped due to safety concerns. She understood no one could stop Wal-Mart from coming in and made the choice to vote with her dollars by not shopping there. Being held hostage for extra amenities for this particular project, she felt was terribly unethical. She thought the Council should vote against the rezoning.

Roger Harding, 204 Paw-Paw Way, Secretary of the Smithton Ridge Neighborhood Association, commented that because of the threat made by the developer, everyone had seemingly shifted discussions from matters of zoning to matters of cosmetic refinement of the proposed Wal-Mart. He suggested returning to the original problem – whether a Super Wal-Mart could legally be built on land zoned C-1. He contended that it could not. He felt failure of the City Government to abide by Codes in the past did not give it the license to continue doing it in the future. If there was a bad law on the books, Mr. Harding suggested changing it, not ignoring it. He urged the Council to vote against the proposal.

Gary Reboring, 4400 Shorum Court, wondered if Columbia would continue to be

ranked one of the best towns to live in if this were to be approved. He noted there were no cars shown on the drawings presented. He commented that he, like others, would avoid this area and that funding would be needed for other roads as a result. He was also concerned about having another TDD pushed on the citizens.

Mary Ann Magsmen, a resident of the Off-Broadway Condominiums, explained that she lived at the edge of Fairview and had not heard any discussion about how they would be buffered and protected from the increased traffic. It was her understanding from MoDOT that they did not plan to put an overpass in for at least ten more years. She asked where the additional land would come from to make the third lane being talked about. She stated it could not come from the Condo Association because they did not have that much at the edge of their property. Ms. Magsmen was also concerned about the safety of the condo residents as well as the day care next door.

Steve Willy, 4 Mumford Drive, described what had been going on in their neighborhood in the last few years and how this would compound what was happening. Sitting vacant at this time, he commented, was the Tosini tract by Scott Boulevard and Smith Drive, which was 40 acres of commercial high density residential. At the west edge of the Columbia Mall, there was 100 acres of potential commercial zoning. He described more land and noted there was so much happening in that particular neighborhood right now that this addition would cause an onerous situation. He felt it would create too much havoc and asked that the commercial zoning not be expanded at that location.

Anna D'Agostino, 802 N. Seventh Street, spoke on behalf of her family to thank the Council for taking the time to look at this issue. She said they trusted the Council would make the best decision they could with what they had been given.

Ellen Wolf, 8000 E. Turner Farm Road, spoke in opposition of the rezoning because of traffic, safety, and environmental concerns. She felt the integrity of these neighborhoods would be affected by this development and wondered if they would survive.

Victoria Neal, 205 Park De Ville Drive, stated she lived immediately north of Paxton-Keely Elementary School and directly across the street from the proposed development. She asked the Council to vote against the proposal. She had traffic concerns and was worried about the school children as well as the day care children. Ms. Neal pointed out that a lot of the students rode their bikes to school.

Harold Ankeney, 112 Park De Ville Drive, stated that he was one of the five homeowners directly concerned with the proposed rezoning. As a member of Community United Methodist Church, he wished not to see the back side of a Wal-Mart every Sunday morning should the store be built on the front 17 acres. He also wondered why Wal-Mart would want to reduce their size to anything less than what they could build on the default plan. He stated that they had already made concessions by eliminating many of things normally found at a Super Wal-Mart. He did not see the default plan as a threat, but as a fact. It was going to be on Broadway, either facing south or facing east. Mr. Ankeney said it was true that they could probably make all of the same cosmetic improvements on the smaller acreage, but asked why they would. He felt the typical Wal-Mart shopper did not care if the building was red, blue, and gray or if it has a brick front. He felt they were interested in the price, not the outside appearance. He asked the Council to approve the proposal because the benefits for the community far outnumbered those of the default plan. He pointed out that a member of the Planning Commission had cautioned the opponents to be careful about what they were asking for because they just might get it.

Berneice Malarkey, 504 Brewer, spoke against the rezoning request. She felt Columbia was a good place to live with the right balance of things. She wondered if we were yielding to the power of big business. At risk, she thought, were small, established

businesses and jobs. She asked the Council to vote no.

Barad Villiers, 1709 Garrison Place, a Rock Bridge High School Senior, did not think this was a good idea. He commented that he already cuts through Rollins to get to Stadium and was sure others were doing the same. He felt the Scott Boulevard/Broadway area was not designed for this kind of traffic because of the schools and businesses. He asked how many more white crosses it would take before we started regretting a wrong decision. He urged the Council to vote against the rezoning.

Glenna Kilfoil, 3012 W. Worley, stated her street was well traveled and it would become more so. As Manager of the Park De Ville Condominium Association and the Off-Broadway Condominium Association, she knew that all of her residents were very concerned about increased traffic. She asked the Council to think about the neighborhoods and help save them from this.

Susan Dickerson, 3302 W. Worley, stated she was concerned about the increased traffic and the quality of life in the neighborhood. She felt there were valid reasons for having zoning laws to include protecting the community and businesses for a healthy mix of appropriate building structures. She felt a business in the middle of a residential area and next to a school was inappropriate. She quoted statistics about motor vehicle crashes accounting for approximately 80% of all childhood pedestrian deaths, with children ages 5 to 9 at the highest risk. She believed the more businesses there were in the area, the higher the speeds would be. She asked the Council to keep the traffic flow at a minimum.

Kenneth Terry, 6250 Breezewood, commented that he had seen a lot of growth in the community since 1967. He thought they were trying to work on traffic problems. He also felt that when a homeowner purchased a piece of property next to a commercially zoned lot, which had been zoned that way for 30 years, they should expect that it would be developed.

There being no further comment, Mayor Hindman closed the public hearing.

Mr. Janku noted that Mr. Van Matre indicated that some of the fine details would be left until the planning process, but stated he thought some of the concerns should be addressed now. He had a concern he voiced at the last meeting about West Ash and whether or not a stop light should be there. He noted that it was already a bad turning area with bad site distance in regards to traffic coming from the south on Fairview. If there were a lot of heavy trucks added to the mix, he thought it would create some very difficult movements. As part of the development, it was his suggestion that there be a stop light at West Ash and Fairview. He noted the report indicated that was something that would come in the future anyway. He commented that they could have truck traffic come in the back side of the new West Ash proposed as part of the C-P Plan. This would give the trucks a straight shot coming in and also keep them somewhat away from the Off-Broadway Condos. He stated he would like to have that incorporated into the commitment the developer was making at this point.

Mr. Ash asked if there were other stop lights proposed as part of this. Mayor Hindman replied there would be traffic lights at Broadway and Fairview with major improvements made at the two intersections. Mr. Ash noted concern regarding whether it would meet standards and warrants.

Mr. Maly stated he would like to hear what other amendments were going to be suggested before they start saying yes or no. The Council felt that was a fair request.

Regarding the issue of the area to the north of the proposed new West Ash, Mr. Janku noted in the correspondence they were asking that it be permanently dedicated to greenspace, while leaving the issue of the parking lot that had been discussed for a later time. He wanted to make sure it would remain greenspace with the possible exception of the parking lot that had been proposed. He added that if the houses remained in place, he would

not have a problem. They would not need to be torn down. Mr. Janku also noted there was a request that the fencing on West Ash be wrought iron as opposed to chain link. He commented that the final amendment he was interested in making had to do with reducing the size of the development. He was thinking about eliminating the 17,000 square feet on the store fronts attached to the supercenter.

Mayor Hindman was concerned about the comments made with respect to the scale of this on the particular C-1 site. He was convinced that they were entitled to build this on the C-1 site, but noted the purpose of the C-1 was to have neighborhood services. He noted neighborhood service had been impacted by the automobile. If they could reduce the size of the Wal-Mart store by 10,000 to 173,000 and then put the same 10,000 feet into the retail rental area, he would see that as an improvement with respect to making it more compatible with the C-1 definitions and purposes. Mayor Hindman stated he planned to propose such an amendment. He commented that he agreed with some of the proposed amendments noted by Mr. Janku. In regards to the four acres of greenspace, Mayor Hindman indicated he wanted to make certain who would be maintaining it.

Ms. Crayton liked the C-P because the City would have input. She did not want to see long trailers sitting around and did not want people have to hear trucks idling in the morning. She also stated that she did not want any parking lot sales and wanted to ensure the traffic lights were installed. It was noted that those issues were included in the ordinance already.

Mr. Hutton felt they should consider the applicants version of the Janku amendment.

Mr. John reiterated his thoughts about traffic on Broadway in general. He noted that they were looking at sidewalks all the way from downtown, among other things, and wanted to see somewhere in the ordinance, if passed, that the TDD also have in it a bond for \$4 million to the City of Columbia for traffic and transportation improvements along the West Broadway corridor. He commented that it could be used for sidewalks, curb and gutter, or whatever was needed. He clarified that he was talking about anything that would need improvements along Garth to UU.

Mr. Janku commented that his amendment was designed to verify statements made in the ordinance. It stated that the development plan for this property should be consistent with the representations set forth in the December 14, 2004 amended and restated application. He assumed that meant any plan they would bring forward would have to set forth the transportation improvements that were the subject of the amendment. Mr. Boeckmann stated that was right. He pointed out that tonight they would be rezoning the property and adding conditions the Council wanted to see in the plan. He clarified that this would only be half of the rezoning, if a planned district was approved. The other half would be the plan coming before the Council. The ordinance before the Council presently, Mr. Boeckmann noted, included a plan that would contain all of the representations made in their applications and in zoning meetings, both before the Council and the Commission. Mr. Janku pointed out the question his amendment was intended to address was how to determine that the process could be allowed to move forward while still being certain things committed to could be accomplished. He was concerned about getting to the point where the building was basically built, but the infrastructure was not in place.

Mr. John replied that typically when there were holdups, such as sidewalks or landscaping not being put in because it had been too wet, applicants were allowed to bond such things. In this case, we were talking about a huge dollar value of a bond, but it would be consistent with our policy in general. If all the money was in place, he felt they could be assured everything would get done.

Mr. Janku noted that the amendment read, with respect to the occupancy permit, that it be substantially completed. It did not actually require it to be 100% complete. He was

concerned that they might not be able to get a permit for something they stated they would do. He did not doubt that the applicant had the necessary financial resources.

Mr. Loveless asked what it was he thought they would not be able to get a permit for. Mr. Janku explained that the letter from MoDOT indicated they would review the pedestrian crossings. He commented that they had not looked favorably on some of our requests for pedestrian crossings in the past. He added that, as Mr. Schwartz suggested, the City could take over the street and approve it. He thought that was partially the reason for Mr. John's amendment because we might end up having to pick up a lot of the cost for that stretch of Broadway. Another example he gave was the elimination of the jog, which involved a creek and was promised as a major improvement for this area because it would help with the increased traffic flow as a result of this development.

Mr. Hutton asked if Mr. Janku considered it a deal killer. Mr. Janku said the community had heard that as a promise to them. Mr. Hutton saw two ways to look at it. One was that it was a promised improvement as part of the rezoning request. The other side was that if they built the Wal-Mart store on the C-1 property, it was not going to get done anyway, which would mean a store there without the jog even being addressed. Mr. Janku understood that and replied that one of his ideas was to let them build only so much before the improvement was made. Mr. Ash reiterated that the Council was not unreasonable and if the applicant found they could not do something, they could come back with a request to change their plan. He noted they just wanted assurance that if they tried everything, they could move forward. He thought their version was pretty close to the Janku version.

Mr. Janku asked how a determination would be made as to the reasonableness of a request for a change because they could not get something done. He asked if it would be a Staff determination, like the Director of Public Works, or if the Council would make that call. As it was written, Mr. Boeckmann replied that was not addressed. He interpreted it as the person who granted the permits was the person making the determination. He suspected Mr. Patterson would appreciate an amendment saying that decision would be made by the City Council.

Mr. Loveless asked Mr. Janku if his concerns would be satisfied if they were to add a clause saying that occupancy permits would be granted if the infrastructure upgrades were in the process of permitting. Mr. Janku thought the question was whether it was important enough and would the whole thing break down if part of one street improvement could not be made. Mr. Loveless agreed it was a critically important street for easing traffic flows coming westbound on Worley.

It was inconceivable to Mayor Hindman that the street could not be put through. He felt there might be some permitting problems because it crossed a creek. He thought modifications might be needed or suspected there could be a timing issue with a third party involved, but thought it was possible to do, with delays.

Mr. Ash suggested focusing on the applicants version while tightening it up a bit. He noted one issue that could be cleared up was who would make the decision that they had tried as hard as they could. Mayor Hindman noted that Mr. Boeckmann suggested it be the Council. He suggested that be included.

Mr. Boeckmann noted they were dealing with Sections 5 and 6. He suggested changing Section 5 to read the ordinance approving the C-P Development Plan shall provide that no building permit shall be issued for any building on the property until the City Council has determined that..... He suggested that Section 6 read the ordinance approving the C-P Development Plan shall provide that no occupancy permit shall be issued for any building on the property until the City Council has determined either.....

Mr. Hutton made the motion that B402-04A be amended to include the above

language stated by Mr. Boeckmann. The motion was seconded by Mr. Loveless.

Mr. Hutton asked if the approval would be by ordinance or by resolution and how long the process would take. Mr. Boeckmann replied that it could be done by resolution or by motion so that it could be taken care of with one meeting. Mr. Janku suggested adding wording that it be done by resolution. After discussion, Mr. Hutton and Mr. Loveless agreed to add the wording that it be by resolution.

If this project went forward, Mr. Beck commented that we would want to get the permits and get the Fairview part done in the Harmony Branch area where we were getting ready to do a detention basin currently. He asked Mr. Patterson if that had been looked at since the last meeting and if we would be involved. Mr. Patterson replied that he felt we definitely would because we had recently entered into an agreement with a consultant to do the Harmony Branch basin study, which would obviously be impacted by any plans for the street relocation. He was sure it could be put into the study also. He commented that it would be in our interest to pursue permits and, if necessary, right-of-way also. He felt it could be a case where we would have to do some of that type of work. Mr. Beck stated the cost of the right-of-way and the improvement could be part of the project cost.

Mr. Janku asked what if, at the time the plan came forward, the applicant stated they had the financial resources and had applied for all of the permits. Mr. Loveless did not think the Corps would buy off on a plan that had not been approved.

Mayor Hindman asked for comments from the applicant regarding the amendments suggested.

Mr. Van Matre remarked, as they understood it, Staff would make recommendations and it would be incorporated as a part of the ordinary meeting, either in the Consent Agenda or in a resolution, and would not require a major public hearing if there was no objection by Staff. If they had done everything they could, within their power, to get the permits or to apply for them at that point in time and Staff agreed, he understood the Council would pass a resolution and they could continue to move forward with the project. He noted their fear was that the Corps or MoDOT would hold things up beyond their control while they studied something. He was agreeable to putting up a letter of credit or certificate of deposit and thought the resolution approach would work.

To be fair, Mr. Janku pointed out that they were not talking about this being on the Consent Agenda. He added that it could have public comment.

David Evans stated they liked the Janku amendment the way it was. He asked about the permits being held up because the applicant was not doing what they were supposed to be doing. Mayor Hindman felt that would be covered because of the wording that Staff would find that they had done everything they could do. Mr. Boeckmann pointed out that one of the requirements was that the applicant demonstrate that the completion thereof had been delayed due to circumstances reasonably beyond the control of the applicant. If they had taken no action, Mr. Boeckmann explained that would be within their control so they would not get the permit. Mr. Evans asked if that would be after the passage of the development plan ordinance. Mayor Hindman replied that was correct. Mr. Evans understood they would not get their permits, unless they could prove to Staff they had done everything they could to get the permits and that they could go forward, to an extent, with letters of credit or whatever and by resolution, not just a motion. Mr. Hutton replied that was right. Mr. Evans stated they could live with that.

The motion to amend, made by Mr. Hutton, added to by Mr. Janku, and seconded by Mr. Loveless, was approved unanimously by voice vote.

Mayor Hindman proposed reducing the size of the Wal-Mart building by 10,000 square feet, but allowing that same 10,000 feet to be added into the rental property. Mr. John noted

that amendment was in competition with what Mr. Janku had asked for, a reduction in the rental by 17,000 square feet. Mr. Janku stated he liked the idea of reducing the size of the supercenter. He noted that he was offering his amendment for a couple of reasons. When looking at the size of the main building and the 17,000 square feet extended across the scope of the property, it pushed against the Off-Broadway Condominiums. Although there were some trees in the revised plan, the tire center and etc. would still be on that side and there would be a lot of traffic and noise on that side. Looking at the schematic, he noted the 17,000 square feet was on the Park De Ville side. He felt that and the parking that went with it could be eliminated and the building could be moved away from the Condominiums and the Park De Ville neighborhood. He explained that was how he picked that number and area.

Mr. Van Matre hoped that Wal-Mart could be prevailed upon to reduce the store to the 173,500 from the 183,500 as the Mayor proposed, with the 10,000 square feet reduction going into the small rentals. He understood this would leave the total square footage allowed for them to develop at 219,500 square feet. Mr. Van Matre stated they would build the traffic light on Ash Street and would agree to the restrictions on the trucks that they could not deliver except between the hours of 6:00 a.m. and 11:00 p.m., that no truck could wait and idle before the 6:00 o'clock hour, and the other restrictions already discussed in that regard.

Mr. Van Matre asked for clarification on the \$4 million bond improvement that would be part of the TDD. He stated the TDD, technically, would have difficulty posting a bond legally. He stated that what he could agree to was that, as part of the TDD's financial structure, it would have the ability to come back and add improvements along Broadway, up to a finite amount. Mr. Van Matre commented that he would need to explore this with Bond Counsel because he doubted they could sell bonds in anticipation of that, but added that he did think they could have that obligation or they could list them as improvements to be funded at a later date by the TDD. He thought they could work around the problem, but did not think the TDD could actually post a security. He did think they could give the money to MoDOT in advance of them doing a series of projects out of the TDD bond funds and then trust them to make a series of improvements along that line. Mr. John clarified that he was looking for additional funds for unnamed projects over the life of the TDD that would be the equivalent of \$4 million. Mr. Maly asked if Mr. John was adding \$4 million to a \$5 million TDD. Mr. John replied that he was. Mr. Van Matre did not think they would have a problem with that because under the TDD statute the Board of Directors of the TDD would have to pay those bonds only out of revenues realized by the TDD. It had the ability to levy a tax of up to one additional cent on all retail sales within the district. He noted that if Mr. Beck could be talked into the additional tax that would be due as a result of that, he thought they could agree to it. He stated that conceptually, he did not have a problem with it. Mr. Beck interjected that the Council could say one cent if they wished. He added that they would all have to deal with it down the road. Mr. John said the other alternative would be that other TDD's under the control of the same general group of developers might be able to also put part of their money toward this. Mr. Van Matre said this was also something they were perfectly willing to negotiate, but that he had given his word to Mr. Watkins that when he formed his master TDD for Stadium, theirs would go away. He did not want to be put in the position of breaking a promise he had made to a City official. Mr. Van Matre thought this might need to be discussed at the planning stage. He reiterated that conceptually the idea of using the TDD in part for other Broadway improvements was something they were willing to agree to, but he was not sure it was possible to do \$4 million. He reiterated that they would work with them in good faith.

Mr. Van Matre agreed to the wrought iron fence behind the store on Ash Street. In terms of the parking lot or not or greenspace or not, he stated they would agree to however

the City wanted to work it out. He thought the school wanted the parking lot and the raised crosswalk. He stated that they would not reduce the 219,500 square feet by the 17,000 square feet requested by Mr. Janku. Mr. Maly said they would reduce the Wal-Mart by 10,000 square feet and put it into the rental, but the total square footage would remain the same. Mr. Van Matre stated if the City deemed the greenspace necessary instead of the parking lot, they would maintain it. If it was office, which the neighbors thought they might want at one time, he noted the office development would be responsible for maintenance.

Assuming 10,000 feet was taken off the supercenter, Mr. Janku asked if there was a problem with it being more of an out lot. Mr. Maly said they could make it an out lot. Mr. Janku asked about the other retail space proposed adjacent to the 17,000. Mr. Maly said he would like to leave the 17,000 as is. He said he would take the 10,000 out and put it on an out lot on the corner. Mr. Van Matre commented that this was a development plan issue.

Mr. Evans understood that most of the Council at the last meeting felt the project was too big. If they were saying they would not come off of the 219,000 square feet, he stated his group felt the Council should vote against it.

Mayor Hindman made the motion that B402-04A be further amended to remove 10,000 square feet from the Wal-Mart building, reducing it to 173,500 square feet and adding that 10,000 square feet to the retail shops. The motion was seconded by Mr. John.

Mr. Boeckmann suggested adding a new subsection 8 to section 3 reading the Wal-Mart Store shall be no larger than 173,500 square feet and that the additional 10,000 square feet may be added to the retail shops.

Mayor Hindman changed his motion per Mr. Boeckmann's suggestion. Mr. John agreed to the change. The motion, seconded by Mr. John, was approved unanimously by voice vote.

Mr. Hutton asked if tonight's representations by the applicant were covered under subsection 4. Mr. Boeckmann replied that they were. It read that the development plan for the property shall be consistent with the representations set forth in their application for rezoning and with the representations made by the owners representatives at the public hearings before Planning and Zoning and the City Council. He stated that would include tonight's hearing.

Mr. Janku made the motion to amend B402-04A by reducing the total project square footage by 17,000. Mayor Hindman noted the motion died for lack of a second.

Mr. Janku commented that when looking at the way this neighborhood developed, he thought it developed in an adequate and fine way. A way that kind of mirrored how the Council wanted to see neighborhoods develop under some of the current policies where it encouraged a mix of commercial, dense, single family, office and other institutional development. He noted the land was known to both the residents and the developer who bought the property with a certain zoning mix. He thought the mix was fine and that it could work, but felt it was unfortunate that this was not the type of 17 acre development the City had at Nifong and Forum. One that was more neighborhood oriented. He noted the developer put forth various improvements to the infrastructure, which his development would impact. He felt that was a good thing, but that it could have happened anyway and might have happened just out of self interest. He commented that there were many times TDD's were formed in areas where they were not required, but they realized they needed to improve the traffic circulation around their development to increase their business. It was possible that could happen here. For a variety of reasons, he stated, he was going to oppose it. He thought it preferable for the R-1 to develop as R-1 because it was adjacent to a school. He reiterated a comment by someone that this was a great plan in the wrong place.

Mayor Hindman commented that it was their job to decide the right thing to do from the

point of view of the community. He noted that when this first started, it got off to a bad start and a lot of hard feelings developed because people felt that threats were being made. He felt at first the equities were all in favor of the homeowners, but as time went by, he felt those equities had been addressed. He pointed out there were two sets of homeowners, the Park De Ville Subdivision residents who felt this was going to be detrimental to their subdivision and the five residences that would be next to the Wal-Mart under the 17 acre scenario. There was a split with respect to equities in that situation and that there were not very good equities for the five homeowners, if the 17 acre plan went into affect.

Mayor Hindman stated he was convinced that the law provided that the developer, this developer or the next, could come in and make an application for a building permit for a 183,000 square foot Wal-Mart and that the City must issue the permit. If the City did not issue the permit, a writ of mandamus would be issued ordering the City to issue the permit. He felt there was no question about a Wal-Mart being here and stated he was convinced there would be. The issues about traffic and many of the other things were going to be there regardless of how the Council voted on this and it boiled down to which was the better plan. He noted that he overheard Mr. Hutton making the comment that no one said that the 17 acre plan was the better plan. Mayor Hindman felt that was right. He noted the proposal was now down to 173,500 square feet for the Wal-Mart store and 45,000 square feet for shops. The Wal-Mart was big with 100,000 square feet of general merchandise and probably about 70,000 square feet of grocery. Across the street there was Hy-Vee, which was about 75,000 square feet of grocery store and they were talking about building out. In the long run, he stated they would have about 200,000 square feet. He noted it would be on more acreage, but roughly the same size development with the Wal-Mart development being slightly larger. He believed the difference in traffic between the 17 acre Wal-Mart and the 23 acre Wal-Mart was based on the 35,000 extra feet of retail shops. He did not believe that would mean that much of an increase in traffic over what would be built on the 17 acres. When it came to the improvements, they had provided that they would have a TDD on the 17 acre project and would meet the necessary requirements, but if they got the 23 acre project, he believed in looking over what the TDD would do, it would improve the safety over what it was right now. He also believed it would clearly improve the safety over what we would have if the required improvements were built under the 17 acre project. The architectural and landscaping improvements he found to be significant. He thought it was also significant that there would be public input when the plan was presented and that there would be Staff review and Council approval. All they would have to do to build the 17 acre project was to apply for a building permit. The infrastructure improvements that would come with the C-P plan, he felt were much needed. He felt the larger plan, which was not that much larger, was a better plan and said he intended to support it for that reason.

Mr. Hutton believed this to be the hardest Council issue he has had to deal with to date and thought that was because of its closeness to a residential area. He noted the citizen input had been beneficial and not ignored. He felt the plan was a better plan than what was first proposed because of it. He commented that a very good case could be made for this not being a good place for a Wal-Mart because the road infrastructure was not as suitable as it could be in other areas, but reminded everyone that this was not the question before them. He agreed with the Mayor in that there would be a Wal-Mart on that site. He felt people were telling the Council to take a chance because they were bluffing and would not build it on the C-1 site. Mr. Hutton did not think they could take that chance. He noted that no one in opposition compared the two plans point by point and showed how the default plan would be better than the C-P plan. He felt they did not do that because it was not better. Regarding the FAR, a lot of people commented on it and how the City should set standards

for a FAR. He noted that we did not have them and he was not sure we could legally do it in a rezoning request. Comparing the numbers, the 17 acres with the 183,500 square foot Wal-Mart on it had FAR of .25. He asked how that would be better. With the 23 acres, the FAR would be around .22, which was less than the .25. He thought the case could be made to use all 30 acres in the FAR because they essentially, rather than dedicating it as greenspace, could make it part of the plan. He noted it could still be greenspace, but included as part of the plan. The FAR would be .165. He felt that met the argument. Hy-Vee, when fully developed, would have a FAR of .18, a greater FAR than this site. If everyone wanted to use the FAR, he felt we would be better off with the C-P plan. The biggest concern he heard voiced that bothered him the most was safety. He stated no one could say the C-P plan was less safe than the default plan. He felt the C-P plan was safer because of all the infrastructure improvements that would be put in place and everything they would do at the school. If safety was a concern, he thought everyone should be for the C-P plan. He did not like the fact that this was happening, but noted it was before them and the decision they had to make was the default plan versus the C-P plan. If he had to make a decision between the two, he would support the C-P plan.

Mr. Loveless agreed this was a poor place for a regional draw store. Faced with the choice between the two, a default plan or one that came with the improvements that had been put forth, he stated he would choose the latter. He commented that they had all heard how they would be ignoring the wishes of the citizens if they voted for the rezoning. He pointed out that in regards to all the mail and personal encounters, the default plan versus the C-P plan had been running about 50/50. Mr. Loveless thanked Community First and stated he had looked at every page containing the 5,000 signature petition. He read what the citizens signed - we the undersigned hereby voice our strong opposition to the proposed location of another Columbia Wal-Mart Supercenter at the intersections of Fairview, Park De Ville and Broadway. He noted that it stated nothing about one plan versus the other. It stated that they did not want a supercenter at this location and commented that if provided to him, he probably would have signed it also. He pointed out that was not their choice to make. He also pointed out that the petition was not to the City Council. The last sentence read - we ask the Wal-Mart Corporation to exercise civic responsibility in this choice and not develop a Wal-Mart Supercenter at the proposed location. For those that would say the City Council was ignoring their constituency if they voted in favor of the rezoning, he suggested they go back and look at what they signed and to recall that their voices were not the only ones in the community.

Regarding the floor area ratio debate, Mr. John stated that when you add 6,000 square feet and 35,000 square feet of building and six acres, 14% of the ground was being covered. No matter which decision they made tonight, there was 183,500 square feet of Wal-Mart going on the corner. He commented that the Council was not there to play poker with people and call their bluff. They had to make decisions based on the facts presented to them. Hy-Vee was on a C-1 and they built to C-1 standards and when it was being built the Council got complaints. Now everyone thinks it was great, but the Wal-Mart would be bad. He noted that they had to compare the additional 35,000 square feet with the additional six acres and the fact that it was planned with a better landscaping plan. He stated it was not a threat. There was a C-1 plan based on what the laws stated they could do and just like Hy-Vee they would be putting up a building that was their standard. Because the Council had asked them to do something different, they needed something in return for that. The question was whether the 45,000 square feet of other retail space with a smaller Wal-Mart, the landscaping, the design, the environmental impacts, the TDD to do all of the other things, the off sets, and the rebuilding of Ash and Fairview was all worth it. He said they added all kinds of controls and

restraints on things that could not be on a C-1 zoned piece of property. He said all of the things people were concerned about were the same concerns on either development. The other retail stores would have 250 to 300 cars maximum now that it had been changed slightly. Twenty or thirty houses would add more cars than that in this neighborhood.

Mr. Ash felt this was different from the Grindstone Wal-Mart because that project could not go forward without the rezoning. In this case, it was a question of voting for which form it would take. The Grindstone Wal-Mart included the developer paying for an extension of Green Meadows Road. In this instance, most of the street improvements were mainly to mitigate the traffic issues resulting from the development. He had not seen as much gain for the overall City's traffic patterns in this instance than he could see when they approved Green Meadows. A big factor for him in approving it was that they were able to cross off something on their list of roads that needed to be built. As had been stated many times, the TDD could be implemented with either the C-P or the C-1 version. Being a businessman himself, he understood there had to be economic reasons for making amenities. From a purely strategic standpoint, only offering to do nice things to get your rezoning, he felt was a bad strategy. In favor of the rezoning, if they went with the C-P version, they would know what they were going to get. With the C-1, he noted they might be bluffing and might actually do a lot of the things they said they would do in the C-P version. The problem was that they just did not know and that was why he agreed planned zoning was better as a general rule than open zoning. He had heard a lot of people say that the opponents had not thought things through all of the way, that they were just anti-Wal-Mart, or that they really had not considered both options. He felt there was some truth to that and even thought some of the proponents had not considered everything on both sides. He thought there were people who believed they could only get the street improvements with the C-P version. He felt that was not true and pointed out that they just filed a TDD to put the turn lane in at Famous Barr. That was not planned zoning. They did it because it would make their store work better. Having spelled out the differences to people, Mr. Ash commented that he still had people tell him they would rather have the C-1 version. The point about being careful what you ask for because you might get it, he felt was a very good point. The biggest sticking point to him was that this was a big box store and the amount of square footage under one roof. He was appreciative that they dropped the square footage down 10,000 feet, but commented that it was still hard to believe that was a C-1 use, next to a school. If this were out west of Stadium and they were going to build an Interchange and maybe do some Scott Boulevard improvements, they still would have had tons of opposition, but it would have been easy for him to see the greater good and how it would benefit the entire City. In this case, it seemed that it would mostly improve the immediate neighborhood, correcting most of the problems they would create by going in. The people living there, those most affected by the improvements, were not willing to make that exchange. Regarding the whole discussion about whether zoning was the highest and best land use or a promise to the existing neighborhood, he leaned toward the latter. Mr. Ash agreed in this instance that the C-P version was better than the C-1 version, but he did not think it was so overwhelmingly better to go against such an overwhelming majority of the people around it that have stated that they do not want it. He noted that was why he would vote against it.

Ms. Crayton stated she would prefer the C-P so she could hold their feet to the fire. She liked the decreased size of the Wal-Mart store itself and the increased size of the retail stores. She noted it was coming whether anyone wanted it or not and she wanted the City to have control of it and get all of the promised improvements. She liked the fact that the plan would be coming back so the neighbors could have more input.

B402-04A, as amended, was read with the vote recorded as follows: VOTING YES:

HUTTON, LOVELESS, JOHN, HINDMAN, CRAYTON. VOTING NO: ASH, JANKU. Bill declared enacted, reading as follows:

B424-04 Voluntary annexation of property located on the south side of Thompson Road, east of the City limits; establishing permanent R-1 zoning.

The bill was given second reading by the Clerk.

Mr. Beck noted the request for annexation on this 20 acre tract had been reviewed by the appropriate agencies. Both the Staff and Commission recommended approval.

Mayor Hindman opened the public hearing.

Dan Brush, an engineer with Brush and Associates, 506 Nichols Street, offered to answer any questions regarding the issue.

There being no further comment, Mayor Hindman closed the public hearing.

B424-04 was given third reading with the vote recorded as follows: VOTING YES: HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, JANKU. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B425-04 Rezoning property located on the south side of I-70 Drive Southeast, west of Eastland Hills Subdivision from A-1 to R-1.

The bill was given second reading by the Clerk.

Mr. Beck described this as a 36 acre tract of ground with City sewer and electric utilities available. The site was served by Water District No. 9. Approval was recommended by Staff and the Planning and Zoning Commission.

Mr. Janku noted a comment made in the report regarding park land needs. The remark was that there was no identified need for neighborhood park land as the 2002 Parks and Recreation Master Plan did not identify it as a potential neighborhood park service area. The closest park land he was aware of was the property that was donated on the other side of St. Charles Road. He asked what had been meant by the remark because he saw this as a substantial expansion of an existing neighborhood. He felt this might have been an omission from the plan and asked that it be looked into.

Mayor Hindman opened the public hearing.

Brian Harrington, an engineer with Allstate Consultants, 3312 LeMone Industrial, offered to answer questions.

There being no further comment, Mayor Hindman closed the public hearing.

B425-04 was given third reading with the vote recorded as follows: HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, JANKU. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B426-04 Approving the lighting and sign plans for the C-P Development Plan of Bass Pro at CenterState Crossings.

The bill was given second reading by the Clerk.

Mr. Beck noted that the required plans had been reviewed by Staff and the Commission with both recommending approval.

Mayor Hindman opened the public hearing.

There being no comments, Mayor Hindman closed the public hearing.

B426-04 was given third reading with the vote recorded as follows: VOTING YES: HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, JANKU. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B435-04 Authorizing an agreement with Robert M. LeMone relating to the construction of a sanitary sewer line serving Concorde Office and Industrial Plaza; appropriating funds.

The bill was given second reading by the Clerk.

Mr. Beck explained this would provide for a partnership between the developer and the City. He pointed out that when this industrial park was established a number of years ago, there was one line running under U.S. 63. In addition, a pump station had been placed in the other drainage area so they could pump to a treatment facility which had since been removed. This was a second line under 63 and more capacity was needed due to the expansion. The construction plans and specifications would be done by the developer, who would also provide the casing in which the sewer line could be installed by the City. The developer's cost would be about \$70,000 and the City's cost would be about \$75,000. The City's share would come out of sewer utility funds.

Mayor Hindman opened the public hearing.

There being no comments, Mayor Hindman closed the public hearing.

B435-04 was given third reading with the vote recorded as follows: VOTING YES: HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, JANKU. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

(A) Voluntary annexation of property located on the east side of U.S. Highway 63 and southwest of Starke Avenue.

Item A was read by the Clerk.

Mr. Beck commented that all City utilities were available to the site and that it would be protected by the Boone County Fire District.

Mayor Hindman opened the public hearing.

Otto Trachsel, 3702 Wayside, explained the property to be located adjacent to the Fairgrounds. The property was partially in the floodplain and was filled with City surplus rock and dirt before he bought it. He was requesting C-P with C-3 uses. He noted that Planning and Zoning did not have a problem with it.

Mr. Janku pointed out the ordinance being introduced tonight would be voted on at the next meeting. Mr. Trachsel stated he understood he would have to come back.

There being no further comment, Mayor Hindman closed the public hearing.

(B) Voluntary annexation of property owned by the City of Columbia located on the southwest side of Strawn Road (State Route ZZ), south of I-70 Drive Southwest.

Item B was read by the Clerk.

Mr. Beck described this as an approximate 102 acre tract of land the City purchased from the Schwabe family for an interim treatment facility along Perche Creek. Part of the property was in the floodplain of the Perche and Hominy Creeks. Because the property had become contiguous, Staff recommended annexation per policy.

Mayor Hindman opened the public hearing.

There being no comments, Mayor Hindman closed the public hearing.

OLD BUSINESS

B355-04 Vacating unbuilt street right of way for First Street.

The bill was read by the Clerk.

Mr. Beck noted this issue had been tabled on several occasions because of a concern about the two entrances onto Broadway from the south side of Broadway.

Mr. Patterson explained that the issue had been first tabled because the Council requested more information about possible uses of the right-of-way. At that time a staff report was prepared with a recommendation that if the right-of-way were vacated, access to the property should be restricted to one location. The recommended location was directly across from First Street on the north side of Broadway. Staff met with representatives of the property owner and a potential developer, who requested an exit point be allowed. A graphic was provided showing the layout. Mr. Patterson noted that Staff did not object to it since it would not be a full access location with a full entrance and exit. He also stated that they did not have a problem with the request to vacate it, but still did not have a recordable conveyance instrument. He felt they might want that before the ordinance could be passed.

Mr. Ash assumed that if one could exit, a left turn could still be made. If the idea was to truly make it safe for people pulling out onto Broadway, or limiting that, he asked if making it an exit was the answer or if it should be more of a right in right out.

Dan Brush, an engineer with Brush and Associates, 506 Nichols, explained that the potential building for a financial institution was to go on the western lot, the one that would have the exit only, and the owners were requiring it be an exit. He noted that it would be much narrower than the existing driveway, around 24 feet. There would be a right turn exit and a left turn exit, so stacking would not be a problem.

Mr. Ash asked, with this being an exit, if there would be a sign. Mr. Brush replied it would be a signed exit only with two striped lanes coming out. Mr. John asked if they were ATM type drive up windows. Mr. Brush stated that was correct. Mr. Ash felt that would make it very obvious.

Mayor Hindman asked if they could use it, if it was not abandoned, as their exit. Mr. Brush explained that he could not build a parking lot across City right-of-way. At the vacation of it, he understood the entire right-of-way would be a dedicated easement and that a building could not physically be built over it. He also noted that they were in the process of preparing the plat that would restrict the access as Staff had discussed. He thought it would be ready for Staff to review within the next few days. He understood this to be the document Staff was referring to. Mr. Patterson stated that was correct. They would be replatting the property to show the allowed access points. Mr. Patterson felt the question was whether or not there would be a need to have the actual ordinance vacating it or if could it be approved at the same time the plat was approved. Mr. Brush replied that it did not matter to them one way or the other, it was just another blank that needed to be filled in on the plat before it was recorded.

Mayor Hindman made the motion that B355-04 be tabled to the February 7, 2005 meeting. The motion was seconded by Mr. Ash and approved unanimously by voice vote.

B408-04 Approving the Final Plat of Park De Ville Subdivision - Plat 6; authorizing a performance contract.

Mayor Hindman announced that Mr. Van Matre requested withdrawal of this plat as he was leaving earlier.

B428-04 Granting a variance to the Subdivision Regulations relating to sidewalk construction along the south side of East Walnut Street, adjacent to Stephens Lake Park.

The bill was given second reading by the Clerk.

Mr. Hood explained that Staff was requesting a variance to the subdivision regulations, which required a five foot sidewalk be built along East Walnut as part of the Stephens Lake Park development. Instead, he explained, they were proposing a 10-foot wide perimeter trail as a viable alternative. The proposed trail would be a concrete pedway, which would meet all slope requirements for ADA accessibility and include numerous connections leading over to East Walnut. Using the overhead, he showed the northeast corner of the park where the trail would connect to East Walnut. He noted a line of trees, which would serve as a buffer along East Walnut between the road and the park and pointed out that the proposed trail would not impact the trees, unlike the traditional sidewalk directly adjacent to the road, which would require the removal of a substantial number of trees.

Mr. Hutton noted that they discussed this at their pre-Council dinner and stated the trail had been on the Master Plan for the development of the park since its inception several years ago. He commented that East Walnut did not have a sidewalk on either side, had ditches, and, on the south side, had a substantial tree row. He thought the trail was a good alternative with the downside being, in some instances, that it was a fair piece away from East Walnut Street. He felt it would not be as handy as it could be, but that there would be several points where the street would have access points going to the trail.

Mr. Janku reminded everyone of the variance issue they approved along Proctor Drive where Staff demonstrated how the tree line would have to be removed. In that case, he noted there was no alternative pedway.

Mr. Ash felt they were setting a precedent where, if someone else met similar problems, but was willing to build a non-traditional pedestrian/bicycle method to let people walk along their land, the Council would be receptive to the idea.

B428-04 was given third reading with the vote recorded as follows: VOTING YES: HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, JANKU. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B429-04 Granting a variance to the Subdivision Regulations relating to sidewalk construction along the east side of Wyatt Lane, adjacent to Lot 8 of Deer Ridge Subdivision Plat 1.

The bill was given second reading by the Clerk.

Using the overhead, Mr. Watkins showed photos looking north along the east side of Wyatt Lane and at the west terminus of Mule Deer Drive, Lot 8. He noted the recommendation of both Staff and the Planning and Zoning Commission was for denial.

Mr. Janku agreed with the recommendation saying he had looked at it and it did not appear that it would be a difficult area in which to construct a sidewalk. He noted this was a developing area and that, potentially, there would be connections further to the north. He pointed out that a lot of houses had been built in the area just recently, but apparently before the policy was in affect. He said there was a whole string of houses where we would have had a nice, continuous sidewalk further south, if the current policy had been in place.

Mr. Ash felt the Council was open to other non-traditional ideas and added that he did not think they would be in favor of just granting a variance.

B429-04 was given third reading with the vote recorded as follows: VOTING YES: NO ONE. VOTING NO: HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, JANKU. Bill defeated.

B436-04 Authorizing an agreement with Trabue, Hansen & Hinshaw for engineering services for the F-1 Relief Sewer Phase 2 - UMC South Campus Relief Sewer Phase 2; appropriating funds.

The bill was given second reading by the Clerk.

Mr. Ash asked if Staff had considered splitting this up so the pieces would have been under the \$20,000 threshold and if it was time to re-examine the \$20,000 threshold for preferred consultants. Mr. Patterson replied that they felt the figure was appropriate for having something put on the Council agenda. He added that they normally placed something like this on the Consent Agenda, so there would be a record of it, but would not take up Council time. He explained that they had a \$50,000 threshold at which point they were required by ordinance to go through the process of selecting consultants through proposals for qualifications. This, he felt, was simply a gap between the \$20,000 and \$50,000.

B436-04 was given third reading with the vote recorded as follows: VOTING YES: HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, JANKU. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

CONSENT AGENDA

The following bills were given second reading and the resolutions were read by the Clerk.

- B430-04** Approving te Final Plat of CenterState Plat 5; authorizing a performance contract.
- B431-04** Approving the Final Plat of CenterState Plat 6; authorizing a performance contract.
- B432-04** Approving the Final Plat of Auburn Hills Plat 10; authorizing a performance contract.
- B433-04** Approving the Final Plat of Hanover Plaza Plat 6; authorizing a performance contract.
- B434-04** Approving the Final Plat of Thessalia Subdivision - Plat 7; authorizing a performance contract.
- B437-04** Approving the Engineer's Final Report relating to the MC-6 Sewer Extension Project.
- B438-04** Approving the Engineer's Final Report relating to the H-21 Outfall Extension and H-21D Trunk Sewer Project.
- B439-04** Authorizing Change Order No. 1; approving the Engineer's Final Report relating to the Hardin-Donnelly Phase 2 Storm Drainage Project.
- B440-04** Authorizing acquisition of easements for the construction of Sewer District No. 141 (Green Valley Drive).
- B441-04** Appropriating funds to the Fleet Operations FY '04 operating budget to offset expenditures for items for resale.
- B442-04** Appropriating funds for fuel and wholesale power purchases.
- B443-04** Authorizing conveyance of a water line easement to Consolidated Public Water Supply District No. 1.
- B444-04** Accepting conveyances for utility purposes.
- R1-05** Setting a public hearing: voluntary annexation of property located on both sides

of State Route WW, east of the present City limits.

R2-05 Setting a public hearing: construction of improvements to Nifong Park, Cosmo Park, Twin Lakes Recreation Area and American Legion Park.

R3-05 Setting a public hearing: construction of Southampton Drive from State Route 163 to Grindstone Parkway.

The bills were given third reading and the resolutions were read with the vote recorded as follows: VOTING YES: HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, JANKU. VOTING NO: NO ONE. Bills declared enacted and resolutions declared adopted, reading as follows:

NEW BUSINESS

R4-05 Approving the Preliminary Plat of Quail Creek West.

The resolution was read by the Clerk.

Mr. Beck described this tract to be located on the south side of Smith Drive along both sides of Louisville Drive, extended. The plat would create 138 R-1 lots. Approval was recommended by Staff and the Commission, subject to changing one street name.

Mr. Loveless asked if the name change had been taken care of. Mr. Watkins replied that they had agreed to make the change.

Bruce Beckett, an attorney speaking on behalf of the subdivision developer, offered to answer any questions.

Mr. Janku noted a reference in the minutes to a future PUD that might come forward. Mr. Beckett referred to the plat and pointed out the lots in Georgetown Subdivision, an R-2 subdivision, ran all along the southern boundary of the two acre Lot 301, which was marked reserved for future development. It was his belief that they might come back at some point in the future to rezone it to either a PUD or a R-2 to match up with the Georgetown properties and transition them into the R-1 within this subdivision, which laid to the north of the lot. He pointed out this was on a collector street and stated they felt it would be a better match. Mr. Janku indicated that he did not have a problem with that, but reminded him that once a neighborhood filled in, there might be some opposition. Mr. Beckett replied that they understood there was a risk involved.

The vote on R4-05 was recorded as follows: VOTING YES: HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, JANKU. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

R5-05 Approving the Preliminary Plat of Jenne Hill Subdivision; granting a variance to the Subdivision Regulations relating to cul-de-sac length.

The resolution was read by the Clerk.

Mr. Beck described this 13.8 acre plat as being located on the east side of Brown Station Road in north Columbia. It contained 45 R-2 zoned lots. Both Staff and the Commission recommended approval of the plat and the variance for one of the cul-de-sac lengths.

Mr. Ash noted they had not received minutes from each of the Planning and Zoning meetings where this issue had been discussed. In the future, he stated, he would like to receive all of them.

Tony Stewart, 23600 N. Evercar Road, Clark, Missouri, explained that he was the owner and developer of this property along with his partner, Jimmy Pounds. He offered to

answer any questions.

The vote on R5-05 was recorded as follows: VOTING YES: HUTTON, LOVELESS, JOHN, ASH, HINDMAN, CRAYTON, JANKU. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

The following bills were introduced by the Mayor unless otherwise indicated, and all were given first reading:

- B1-05 Voluntary annexation of property located on the east side of U.S. Highway 63, southwest of Starke Avenue; establishing permanent C-P zoning.**
- B2-05 Voluntary annexation of property located on the southwest side of Strawn Road (State Route ZZ), south of I-70 Drive Southwest; establishing permanent A-1 zoning.**
- B3-05 Rezoning property located on the south side of Northland Drive, across from Haden Drive from A-1 to PUD-8 and C-P.**
- B4-05 Authorizing an annexation agreement with Questec Properties, LLC for property located on the south side of Boone Industrial Boulevard, east of State Route 763.**
- B5-05 Approving the Final Plat of Keene Estates Plat 2-A; authorizing a performance contract.**
- B6-05 Approving the Final Plat of Eastport Centre Plat 1; authorizing a performance contract.**
- B7-05 Accepting conveyances for drainage, sidewalk, public roadway, sewer and utility purposes.**
- B8-04 Authorizing construction of improvements to Nifong Park, Cosmo Park, Twin lakes Recreation Area and American Legion Park; calling for bids through the Purchasing Division.**
- B9-04 Calling a municipal election to elect Council Members for Wards 1 and 5.**
- B10-04 Accepting a donation from the Wal-Mart Foundation for the purchase of digital cameras and equipment for the Police Department; appropriating funds.**
- B11-05 Authorizing an agreement with the Missouri Safety Center to conduct enforcement activities to promote seat belt usage; appropriating funds.**

REPORTS AND PETITIONS

(A) Intra-departmental Transfer of Funds.

Report accepted.

(B) Addition of streets to Section 25-53(4) of the Subdivision Regulations.

Mr. Beck noted a substantial list of streets being added to the list of limited access roads. The next step would be to refer it to the Planning and Zoning Commission.

When the issue came back to the Council, Mr. Ash asked that they receive maps highlighting the roads suggested for limited access. He also asked how existing properties along these roadways were handled. Mr. Beck assumed, if the property was platted, it would be grandfathered.

Mr. Janku was interested in knowing if there were some streets they looked at, but had eliminated for one reason or another. Regarding Blue Ridge, he noted it did not mention the area west of 763. Since Northland Drive to Parker was not completely developed, he asked if they should go all of the way to the west as well. He suggested adding Blue Ridge west to 763. Mr. Loveless asked if it was designated as a collector all of the way out. Mr. Janku replied that it was.

Mr. Beck commented that in the past, when classifications of streets were looked at, on a collector street it was anticipated that about half of the traffic was local and the rest thru-traffic in neighborhoods. Arterials were about 75% thru-traffic and 25% local traffic. It made a lot of difference in the number of roadways built and in developing the ground. He pointed out that it had an impact.

Mr. John agreed that it had a substantial impact. He assumed this was a comprehensive list of all of the ones they wanted to consider because it was going to go through Planning and Zoning and City Council review. He thought this was their broad list and they expected more streets to be actually taken off than to be added.

Mr. Hindman noted that a lot of the streets were the main streets into subdivisions. He also noted that in many cases you would see the back of houses, which some might think was unattractive. He asked about a policy that would allow alleys. Mr. Janku pointed out that was what was going to happen on Green Meadows. Mr. Beck felt there was a difference between a neighborhood collector street and an arterial street, from the standpoint of safety. Mayor Hindman felt they had an unintended consequence and was looking for a way they could kill two birds with one stone. He thought alleys might be something they should encourage, but understood Staff had not been too receptive of the idea. He asked if, perhaps, they should go back to allowing driveways to the houses to face the street.

Mr. John thought the idea of the alleys was a good one, but added that it did take up a lot of room because basically you were adding another street to every subdivision, which had to be maintained by the City. In regards to collectors that had no one fronting on them, people did not want to pay for the sidewalk or street improvements because it was not adding any value to their house.

Mr. Janku remarked that there were now major and minor collectors and suggested that, in residential subdivisions, the minor collectors not be subject to this. He stated this list did not mean they were all automatically being added to the list.

As part of the report back to the Council, if there were some things that would help eliminate the unintended consequences as part of their review of the streets, Mr. John suggested that be included.

Mr. Janku made the motion that Blue Ridge west to 763 be added to the list. The motion was seconded by Mayor Hindman and approved unanimously by voice vote.

Mr. John made the motion that the issue be referred to the Planning and Zoning Commission for a report back to the Council, which would include any suggestions for eliminating the unintended consequences, including thoughts on alleys. The motion was seconded by Mayor Hindman and approved unanimously by voice vote.

(C) Adult financial assistance - proposed Parks & Recreation policy.

Mr. Beck noted that this issue too had been discussed during the pre-Council dinner meeting. The next step would be to have a resolution prepared in accordance with the report and any suggested changes.

Mr. Loveless noted that he had asked Mr. Hood to insert some specificity to the denial of a permit.

Mayor Hindman made the motion that Staff be directed to prepare the proper legislation for Council consideration. The motion was seconded by Mr. Loveless and approved unanimously by voice vote.

(D) Required amendments to Section 29-22: Floodplain Overlay.

Mr. Patterson explained that these were mostly housekeeping type changes that were discovered during a recent inventory of their program. He noted it would not result in any changes in the actual implementation and enforcement of the program, but would change

dates of reference materials, clear up some definitions, and give more accurate descriptions of areas or those properties that would meet historic qualifications under State Regulations. Mr. Beck clarified that because it would be a zoning regulation change, the matter would need to be referred to the Planning and Zoning Commission.

Mr. Ash made the motion that the issue be referred to the Planning and Zoning Commission. The motion was seconded by Mr. Loveless and approved unanimously by voice vote.

BOARDS AND COMMISSIONS

None.

COMMENTS BY PUBLIC, COUNCIL AND STAFF

Ms. Crayton commented that she had received a letter from the owner of the building that houses Tony's Pizza. He was questioning when his sidewalks would be repaired and said he had been making payments to the Special Business District. She gave Mr. Beck a copy of the letter and he stated he would check into the issue.

Ms. Crayton mentioned the tragedy overseas last week and asked that we, as a City, find out what we could do to help. Mayor Hindman noted that he had been asked to send letters and that they were currently being drafted. He stated that was one step being taken right now.

Regarding B432-04, a plat on Brown School Road, Mr. Janku understood there was money set aside for sidewalk improvements and that the issue had been referred to the Bicycle/Pedestrian Commission and they had reported back. He wanted to make sure that we moved forward during this construction season.

Mr. Janku made the motion that Staff be directed to report back on the status of the Brown School Road sidewalks. The motion was seconded by Mayor Hindman and approved unanimously by voice vote.

Mr. Janku noted a gap in the sidewalk system on Richmond Avenue. After the sewer project went in, he thought it might be a good time to fill in the gap. Mr. Patterson noted the Council might be hearing from constituents in the next few weeks because approximately 75 letters were sent out this week regarding sidewalk gaps.

Mr. Ash asked if they could get a zoning map when B4-05, pre-annexation agreement for Boone Industrial, came back to them. He was interested in seeing the surrounding zoning before making a decision.

Regarding big box stores, Mr. Ash saw the biggest issue as being where they were deemed appropriate. He felt a majority of the Council felt they were appropriate in C-1 and that there was nothing that could be done about it because that was the way the ordinance was written. He thought it was time to revisit the issue because he felt that when the zoning ordinances were written, nobody considered giant stores. Mr. Ash stated he was not trying to do something to prevent big box stores, but wanted the Council to look at creating guidelines to discuss where they might be more appropriate.

Mr. Ash made the motion that Staff investigate what other communities had done and come back with a report on some possible ideas to clarify where we want to have them in the future. The motion was seconded by Mr. Janku.

Mayor Hindman commented that he had been given a "big box" ordinance a while back, but he felt there were parts of it that would not be appropriate for Columbia. He said it was designed, in many ways, to prevent big box stores from occurring. On the other hand, he felt the big box was such a large investment and had such an impact on the town, that when you reached a certain level, you ought to be able to have certain expectations, even when it was to be built on unplanned property. He felt this could have changed the whole dynamics of the Wal-Mart situation had they had such an instrument. He stated that it could include such things as meeting certain architectural and landscaping standards and such things as getting a variance for being over a certain size. That would not prevent them, but would allow the Council to step in and have some say. He asked if he could amend the motion proposed by Mr. Ash to direct Staff to look at big box ordinances and come up with a range of ideas for the Council to consider. Mr. Ash and Mr. Janku were agreeable.

Mr. Janku pointed out that when they had the work session with the group that was considering the planned districts, there had been discussion as to whether or not open zoning should be allowed. He noted that Mr. Land had suggested the Council might wish to look at some type of big box ordinance, if we were going to have open zoning.

The motion made by Mr. Ash, added to by Mayor Hindman, seconded by Mr. Janku, was passed unanimously by voice vote.

The meeting adjourned at 11:53 p.m.

Respectfully submitted,

Sheela Amin
City Clerk