

**CITY PLANNING COMMISSION**  
**Regular Meeting Minutes**  
**Ottawa, Kansas**

**City Hall – July 9, 2008**

The City Planning Commission met at 7:00 p.m. on this date with the following members present and participating: Members Colbern, Jones, Hatfield, Warren, Jackson, Wasko, and Chairperson York. All members were present.

Chairperson York asked the Planning Commission Members to make a declaration of any conflict of interest or of any Ex parte or outside communication that might influence their ability to hear all sides on any item on the agenda so they might come to a fair decision. There were none.

**Consent Agenda:**

Member Jackson made a motion to approve the May 28, 2008 study session meeting minutes as amended and the June 11, 2008 meeting minutes as amended, seconded by Member Wasko. All present voted yes. (7-0)

**Public Comments:**

Gene Hirt, 125 South Street, Williamsburg, stated the Franklin County Commissioners approved the proposal for the wind power generators. Mr. Hirt thinks it's pertinent for the City to look at this because of the importance of this to the residents in the city and the county. Mr. Hirt stated he would like to see one at the school district for the children to become interested in alternative energy sources.

**Public Hearing Items:**

**Held a public hearing on the proposed street vacation in the 600 block of Birch Street.**

Chairperson York opened the public hearing.

Tom Yahl reviewed the memo with the Planning Commission.

The memo is as follows:

The City of Ottawa has requested vacation of a portion of Birch Street right-of-way. The request involves the right-of-way platted as Sheldon's Addition blocks 1 and 2.

This request has been submitted to the Development Review Committee and Utility Advisory Committee for review. No comments have been received in objection to the vacation request although the property will be retained as utility easement.

The subdivision regulations require that, before making a recommendation to the City Commission, the Planning Commission determine

- (a) Due and legal notice has been given;  
Notification of the public hearing was made in accordance with the subdivision regulations.
- (b) No private rights will be injured or endangered; and  
The proposed vacation will have no affect on any private property owner. In the property will remain under public stewardship, shifting from right-of-way to real property.

- (c) The public will suffer no loss or inconvenience;  
The proposed vacation will have no affect on the public interests or welfare. The vacation will not affect the public at-large nor the City utility system.

Staff is recommending **approval** of the vacation request.

Member Hatfield asked if the city is retaining an easement. Tom Yahl stated yes.

Chairperson York asked if staff received any letters. Wynndee Lee stated no.

Chairperson York asked for public comments, there were none.

Chairperson York closed the public hearing.

Member Warren made a motion to approve the street vacation in the 600 block of Birch Street, seconded by Member Jackson. The motion was considered and Member Colbern, yes; Member Jones, yes; Member Jackson, yes; Member Hatfield, yes; Member Wasko, yes; Member Warren, yes; Chairperson York, yes. Motion passed by a 7-0 vote.

**Held a public hearing on the proposed rezoning of an area at 109 W. 9<sup>th</sup>, 834 S. Main, and \*40 S. Main from C-1 Office and Service business Zoning District to C-3 General Commercial Zoning District.**

Chairperson York opened the public hearing.

Tom Yahl reviewed the staff findings with the planning commission. Mr. Yahl stated staff is recommending denial of the rezoning requested based on the following reasons: The proposal is not in conformance with the Comprehensive Plan; There are vacant available properties in the vicinity that are currently zoned C-3; The change in classification is not consistent with the intent of the regulations; The change is not consistent with the character of the surrounding neighborhood; The uses permitted as reclassified are not consistent with the uses permitted in the surrounding area; The property has been developed with the existing uses since before implementation of zoning; and the protection of public interests outweighs the hardship imposed on the applicant by not allowing a reclassification.

Staff findings are as follows:

**Summary:** The subject property consists of 3 lots located at the northwest corner of Ninth and Main streets. The corner lot is developed with a former church building and zoned C-1, Office and Service Business District. The two Main Street lots have residential structures on them are zoned R-1, Low density Residential District.

It is the recommendation of staff that the rezoning request be denied.

### **Findings**

When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based, using the following guidelines. Note that all references to agriculture in this report also include associated residential uses.

- 1. Whether the change in classification would be consistent with the intent and purpose of these regulations;**

The intent of the C-3 District is to allow basic retail, service and office uses located at specific points on major streets outside the central and neighborhood business districts. This district is also intended to provide locations for commercial activities that do not require a central location downtown, but do require a location easily accessible to downtown shoppers, therefore it is particularly appropriate adjoining a major highway. Business uses needing large floor areas, particularly those of a service nature, not compatible with Central Business District uses, are included in this district.

**Staff Finding:**

Although the subject property is located along a major highway, US 59, the proposed change is not consistent with the intent of the C-3 district in that the district is intended for uses to be located “outside the central and neighborhood business districts.”

**2. The character and condition of the surrounding neighborhood and its effect on the proposed change;**

The neighborhood is a mix of long established commercial and residential uses. The subject property is a former church building and two residential structures. There are additional residential uses west and north of the subject property, as well as across Ninth Street and Main Street. The corner properties at the intersection are Ransom Hospitals’ Gollier Center (former Apple Market), Subway, and Briscoe Drug.

**Staff Finding:**

Despite the long established commercial uses, the neighborhood surrounding the subject property is primarily residential. The inclusion of commercial uses in the development pattern at this intersection was intended to serve merely as a neighborhood center, rather than a location for large scale commercial uses, such as those permitted in the C-3 district.

**3. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;**

The area around the subject property has remained stable for many years. The most recent change at this location was the development of the Gollier Center in 2001.

**Staff Finding:**

This factor is not applicable.

**4. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;**

The commercial uses (Gollier, Subway, China Palace and Briscoe) at the intersection of Ninth and Main are zoned C-1, Office and Service Business District. The residential uses adjacent to the subject property are R-1, Low Density Residential District, as are the lots south of Ninth Street. The subject property is also adjacent to the Prairie Spirit Rail Trail, which is zoned P, Public Use District. The residential uses on the east side of Main Street are zoned R-2, Medium Density Residential District.

**Staff Finding:**

The C-3 classification allows the most intense commercial uses, which is not compatible with the surrounding uses. There would likely be an adverse impact on the surrounding residential uses if additional commercial activity were to take place.

**5. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;**

The C-3 district allows a wide **variety** if commercial uses and all scales of development.

**Staff Finding:**

The uses permitted by the reclassification are not compatible with those permitted on adjacent property. Some of these include adult businesses, arcades, bowling alleys, building contractors, greenhouses or nurseries, hotels and retail sales of good at services at large scales. In essence, the change would permit the most intense commercial uses directly adjacent to the least intense residential district and, therefore, not be compatible.

**6. The suitability of the applicants property for the uses to which it has been restricted;**

Residential or neighborhood commercial uses are most compatible at this location at this time, and have been developed as such for a number of years.

**Staff Finding:**

While the corner property may be suitable for development of a neighborhood commercial use, the interior of the property is most suited residential use.

7. **The length of time the subject property has remained vacant or undeveloped as zoned;**  
The subject property has been developed with the existing structures since approximately 1910.

**Staff Finding:**

This factor is not applicable.

8. **Whether adequate sewer and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;**  
There are adequate utilities and public services at this site to accommodate development. Ninth Street at this location is a local street with a brick surface.

**Staff Finding:**

While utilities and public services are in place to accommodate redevelopment of the subject property, Ninth Street is a substandard street, particularly for more intense commercial development, due to the brick surface and width, which is only 22 feet. The current standard for a local street is 24 foot width. The street is not adequate to accommodate additional commercial traffic.

9. **The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;**  
There is a great amount of property in the City that is zoned C-3. Generally, there is vacant or available property zoned C-3 along Logan Street, North and South Main Street and Twenty-Third Street.

**Staff Finding:**

There are locations within the City that are zoned C-3 and available for development, such as the lots in Granger Addition at Twenty-third and Oak Street, new commercial areas on East Logan Street, and the commercial areas of both North and South Main Street.

10. **Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;**  
The Future Land Use portion of the Comprehensive Plan designates the corner property as commercial and the two Main Street properties as residential. The text outlining the commercial category prescribes that "the scale and character of Commercial development should be compatible with the surrounding uses." (Comp Plan page 4-6)

**Staff Finding:**

The proposed amendment is NOT in conformance with the City's Comprehensive Plan. The proposal is not in consistent with the Future Land Use Map. In addition, the diversity of scale and uses permitted in the C-3 district does not provide compatibility with the surrounding area.

11. **Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and,**  
This factor is addressed in the finding below.

**Staff Finding:**

The findings above illustrate that the proposed location is not suitable for additional or heavier commercial development, which is not compatible with the surrounding area and would result in an increase in traffic on a substandard street. These are public interests certainly worth protection. As one of the lots is currently zoned for commercial use, the hardship that results from not recommending the change is outweighed by the harm that would result by allowing such change.

12. **Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application**

13. **The recommendations of professional staff;**

It is the recommendation of staff that the request to change the zoning of the subject property be **denied**, based on the following findings:

- The proposal is not in conformance with the Comprehensive Plan.
- There are vacant available properties in the vicinity that are currently zoned C-3.
- The change in classification is not consistent with the intent of the regulations.
- The change is not consistent with the character of the surrounding neighborhood.
- The uses permitted as reclassified are not consistent with the uses permitted in the surrounding area.
- The property has been developed with the existing uses since before implementation of zoning.
- The protection of public interests outweighs the hardship imposed on the applicant by not allowing a reclassification.

Wynndee Lee read a letter from Blaine Finch, attorney representing David and Coleen Rector, of 119 W. 9<sup>th</sup> Street. The letter has been entered into the record.

Chairperson York asked if the applicant would like to make a presentation.

Levi Dinkla, representing Family Video, realizes there are concerns with the C-3 zoning and the intense uses allowed, however they would be willing to have a C-2 zoning. Mr. Dinkla understands the concerns of the Rectors about the closeness of the building to their property. Mr. Dinkla stated there is a need in the community for a video store and stated the building would strictly be a video store. Mr. Dinkla stated this is similar to the Walgreens case on South Main Street. Mr. Dinkla stated he does not feel this would create an adverse impact to the community as the houses are rentals and the church is vacant. Mr. Dinkla indicated they are interested in this parcel as it represents a value to them and aren't interested in other areas. He stated they felt the former video store location on South main Street is too small and does not have adequate parking. Dinkla also noted that his company focuses on real estate development, and uses the video rental as a supplemental activity.

Chairperson York asked the commissioners if they had any questions of the applicant.

Chairperson York stated Mr. Dinkla reference to the Walgreens is not comparable to this situation as 9<sup>th</sup> Street is not wide enough. Chairperson York asked if they would be willing to widen the street. Mr. Dinkla stated he did not have the authority to answer that question.

Member Warren asked what the size of the building would be. Mr. Dinkla stated 6,000 square feet.

Chairperson York asked Mr. Dinkla even though want a C-3 Zoning they would settle for a C-2 Zoning. Mr. Dinkla stated yes.

Member Hatfield asked where they would gain entrance to the property on Main Street or 9<sup>th</sup> Street. Mr. Dinkla stated both, however the entrance on Main Street would likely be a right in and a right out and they would access the rear from the alley off of 9<sup>th</sup> Street. He was aware that a new drive off main would require KDOT approval.

Member Jones asked if they were still planning on leasing space. Mr. Dinkla stated no as the building would not be large enough.

Levi Dinkla stated that this area is currently zoned commercial and feels this fits in with the master plan for this area.

Wynndee Lee indicated that should the planning commission want to consider a down zoning to C-2, they would need to give staff time to prepare findings for the C-2 zoning.

Blain Finch, attorney for the Rectors, stated his client is opposed to the C-3 and the C-2 zoning. Mr. Finch also stated there is no alley behind this property it is his client's driveway and the building would only be 30 feet from their house.

Lisa Turner, 2002 Pauline, Overbrook, stated she is the owner of the two single-family structures. Ms. Turner stated she has not taken the decision to sell lightly for commercial development, however, the structures are in poor condition and need lots of work and she has tried selling them as residential properties with no avail. Ms. Turner stated this was her best option as she is unable to fix the structures. Ms. Turner stated she is in full support as she feels this is a good option for the town and obviously for her.

Parsram (Sammy) Venkatsammy, 159912 W. 154<sup>th</sup> St., Olathe, pastor for the church, stated the church needs a lot of repairs. Their desire is to sell the property, but to make sure it is going to be an advantage to the community and the youth. Pastor Venkatsammy also stated the sale of the church would also help them build their new church.

Joe McFadden, 1017 S. Main, stated he is a member of the church and is in favor of selling the church, as there is a cost factor for someone to just take over the building.

David Rector, 119 W. 9<sup>th</sup> St., stated the building would be right against the driveway, the lights would be a factor, traffic is a concern, and is against the rezone.

Bill Brown, 920 S. Main, feels this would be a big improvement to the corner.

Don Morgan, 730 S. Main, stated he appreciates the improvement to the community, but with all the vacant buildings downtown feels that space downtown should be utilized. Mr. Morgan stated he does not want the video store at 9<sup>th</sup> and Main, but does not oppose the development just feels there is a better fit somewhere else in the community.

Chairperson York stated the planning commission has to look at whether the zoning is a good fit not what the use is going to be.

Levi Dinkla stated he would like to see the planning commission continue the public hearing and have staff prepare findings for C-2 Zoning District.

Chairperson York asked if there was a motion to continue this item to the August meeting. There was no motion.

Member Jackson stated he does not feel this is a good fit and can not be compared to 15<sup>th</sup> and S. Main Street as this was mainly a commercial area before Walgreens came in.

The Commissioners discussed allowing C-2, as a lesser zoning. The group was not supportive.

Chairperson York closed the public hearing.

Member Jackson made a motion to accept the findings as their own, seconded by Member Wasko. The motion was considered and Member Jones, yes; Member Jackson, yes; Member Hatfield, yes; Member Wasko, yes; Member Warren, yes; Member Colbern, yes; Chairperson York, yes. Motion passed by a 7-0 vote.

Member Jackson made a motion to recommend to the City Commission to deny the proposed rezoning of an area at 109 W. 9<sup>th</sup>, 834 S. Main, and 840 S. Main from C-1 Office and Service Business Zoning District to C-3 General Commercial Zoning District, seconded by Member Colbern. The motion was considered and Member Jackson, yes; Member Hatfield, yes; Member Wasko, yes; Member Warren, yes; Member Colbern, yes; Member Jones, yes; Chairperson York, yes. Motion passed by a 7-0 vote.

**Held a public hearing on the proposed rezoning of an area at 501 E. 23<sup>rd</sup> St. from C-3 General Commercial Zoning District to MU/CR Mixed Use Commercial/Residential Zoning District.**

Chairperson York opened the public hearing.

Tom Yahl reviewed the staff findings with the Planning Commission. Mr. Yahl indicated staff is recommending approval based on the following conclusions. The change would be consistent with the intent and purpose of the zoning regulations; The character of the surrounding neighborhood will have no effect on the proposed change; Uses permitted as reclassified are compatible with uses permitted on property in the vicinity; Public services and utilities are available to serve uses permitted by the reclassification; The proposed zoning change is consistent with the Future Land Use map; The relative gain to the convenience of the public is not outweighed by the hardship imposed by rejecting the request.

The findings are as follows:

**Summary:** The subject property consists of a single lot located on the north side of Twenty-third Street. It is only 1.8 acres in size and is developed with a residence and small shop. The east side of the property is designated as floodplain for Rock Creek. The City annexed the properties in 2005 and it was rezoned to C-3 in 2007.

It is the recommendation of staff that the rezoning request be approved.

**Findings**

When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based, using the following guidelines. Note that all references to agriculture in this report also include associated residential uses.

**1. Whether the change in classification would be consistent with the intent and purpose of these regulations;**

The intent of the Mixed Use Districts is to accommodate compatible mixed-use development. The intent of the Mixed Use/Residential-Commercial (MU/RC) District is to encourage compatible mixed use residential and commercial uses of low to moderate intensity, complementing neighborhood residential areas with high quality development and urban design standards.

**Staff Finding:**

The proposed zoning amendment meets with each of these intentions, and does not contradict any of the stated purposes of the regulations.

**2. The character and condition of the surrounding neighborhood and its effect on the proposed change;**

Generally, the surrounding area is agricultural and commercial. The tract surrounding the subject property is undeveloped and contains a large area of floodplain. West of the site is the Wal-mart Supercenter. East, north and south of the subject property is agricultural use. Loma Vista Nursery is directly east and north while a residence / agriculture is south. Further south is Interstate 35.

**Staff Finding:**

The surrounding area will have no effect on the proposed change. While much of the property is the under agriculture use, the surrounding area is in transitional area between commercial uses and undeveloped land.

**3. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;**

This area has remained stable and unchanged for a number of years. It is expected that the area south of I-35 will soon begin to develop with new commercial projects.

**Staff Finding:**

Although the area has seen little change over the past 10 years, the recent annexation of the property, development of Loma Vista Nursery and growth of the Ottawa area in general has changed the area into an area holding for urban development.

**4. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;**

The tract surrounding the subject property is zoned C-3. The area east and north of this is zoned and used for agriculture. Immediately south is zoned commercial but is merely a residential use along with some agricultural use. The property west is zoned for commercial use. The Wal-mart Supercenter and other commercial uses along 23<sup>rd</sup> Street are west of the subject property.

**Staff Finding:**

The proposed change in classification will have no effect on the existing land uses in the surrounding area. The area proposed for MU/RC zoning will be consistent with the existing uses and zoning of property in the immediate vicinity, west and south of the subject property. Although there are agricultural activities nearby, there will be limited effect from the change.

**5. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;**

The MU/RC district allows the uses permitted in the R-2, R-3, C-1 and C-2 districts, along with those uses permitted by conditional use.

**Staff Finding:**

Generally, the uses permitted by the proposed zoning are compatible with the surrounding area.

**6. The suitability of the applicants property for the uses to which it has been restricted;**

The subject property has been restricted to commercial use under it's existing zoning.

**Staff Finding:**

The developable area of the property is suitable for any sort of urban development, although the development pattern and proximity of floodplain would likely limit residential development on the site.

**7. The length of time the subject property has remained vacant or undeveloped as zoned;**

The subject property is developed with a residence and small retail shop. The retail shop is located in an accessory building on the property.

**Staff Finding:**

This factor is not applicable.

**8. Whether adequate sewer and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;**

There are no municipal utility services to the site. The property receives electric service from Kansas City Power and Light. The site is served by City of Ottawa police and fire protection, along with other municipal services.

**Staff Finding:**

Although there are no utility services to the site, water and sewer are both in close proximity, serving the commercial uses to the west. Extensions of water and sewer could be requested and development accommodated if necessary.

9. **The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;**  
There is a fair amount of land in the City zoned for the commercial and residential mixed use, some of which is vacant. These areas include West Twenty-third Street and two areas along North Main Street.

**Staff Finding:**

While there are lands, some of which is undeveloped, that are zoned for mixed use, the subject property provides a unique opportunity to provide transition between the commercial uses and the agricultural use further east on Labette Road.

10. **Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;**

The future land use portion of the Comprehensive Plan identifies the property as "commercial/residential".

**Staff Finding:**

The proposed zoning change is consistent with the Future Land Use map. The commercial/residential (mixed use) category is "primarily for residential housing of mixed densities, with limited non-residential uses of neighborhood scale developed through compatible site planning. Commercial uses shall be limited to compact, pedestrian oriented, shopping, services, offices and limited entertainment uses."

11. **Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and,**

The elements of this item are addressed below in the staff finding.

**Staff Finding:**

There will not be any gain to the public interests by not allowing a change in classification, as the property could be developed for commercial activity under the current ordinance. Conversely, there could be a hardship on the applicant by not allowing the proposed change. In this case, the hardship imposed on the applicant by not allowing the change outweighs any gain to the public interest.

12. **Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application**

13. **The recommendations of professional staff;**

It is the recommendation of staff to **approve** the requested rezoning from C-3, General Commercial District, to MU/RC, Mixed Use Residential Commercial District, based on the following conclusions:

- The change would be consistent with the intent and purpose of the zoning regulations.
- The character of the surrounding neighborhood will have no effect on the proposed change.
- Uses permitted as reclassified are compatible with uses permitted on property in the vicinity.
- Public services and utilities are available to serve uses permitted by the reclassification.
- The proposed zoning change is consistent with the Future Land Use map.
- The relative gain to the convenience of the public is not outweighed by the hardship imposed by rejecting the request.

Wynndee Lee indicated the next item on the agenda will be the conditional use for the same property.

Chairperson York asked if the applicant would like to make a presentation.

Mark Clear, Wellsville, owner of LOMA Vista, stated he is in need of housing for seasonal works. There are not too many people who want to rent to someone for just eight months out of the year. Mr. Clear stated the outside of the residential structure would stay the same they would remodel the inside for sleeping rooms only. The other buildings will be made into a mess hall and a recreation area for the workers. Mr. Clear stated the Department of Labor would inspect the structure and tell him how many he could house in the structure. Mr. Clear stated parking would not be an issue as they have no cars. Mr. Clear stated they are bused to and from work and anywhere else they need to go.

Wynndee Lee indicated this rezone would be to a lesser use and classification.

Member Warren asked the dates they would be occupying the structure. Mr. Clear stated from approximately March 1<sup>st</sup> to December 1<sup>st</sup>. Mr. Clear indicated they already have workers living in town.

Member Hatfield asked how many were living in town already. Mr. Clear stated twelve.

Chairperson York asked if staff had received any letters. Wynndee Lee indicated no.

Chairperson York asked for public comments. There were none.

Chairperson York closed the public hearing.

Chairperson York stated rezoning this down in intensity seems favorable for the area.

Member Warren stated he considers this area the major gateway to the city and this property is a component to the gateway. He feels downgrading the zoning would alter the potential for commercial development at the gateway. Chairperson York stated yes the rezoning could have an affect on the area, however they could come in and ask for a rezoning.

Member Jones asked what the master plan had the area zoned. Wynndee Lee indicated commercial. Mrs. Lee also noted that this property and two others in this area do not have water or sewer and the applicant would have to extend those city services to this property.

Chairperson York stated this property already had been used as residential. Wynndee Lee indicated this property already had a mixed use as there was a furniture store along with the residence.

Chairperson York closed the public hearing.

Member Warren made a motion to deny the findings as there own. There was no second so the motion died.

Member Jackson made a motion to accept staff findings as their own, seconded by Member Wasko. The motion was considered, and Member Hatfield, yes; Member Wasko, yes; Member Warren, no, Member Colbern, yes; Member Jones, yes; Member Jackson, yes; Chairperson York, yes. Motion passed by a 6-1 vote.

Member Jackson made a motion to recommend to the City Commission to approve the proposed rezoning of an area at 501 E. 23<sup>rd</sup> St. from C-3 General Commercial Zoning District to MU/CR Mixed Use Commercial/Residential Zoning District, seconded by Member Colbern. The motion was considered and Member Wasko, yes; Member Warren, no; Member Colbern, yes; Member Jones, yes; Member Jackson, yes; Member Hatfield, yes; Chairperson York, yes. Motion passed by a 6-1 vote.

**Held a public hearing to consider a conditional use for the construction of a rooming house at 501 E. 23<sup>rd</sup> St. in a MU/CR Mixed Use Commercial/Residential Zoning District.**

Chairperson York opened the public hearing.

Tom Yahl reviewed the findings with the Planning Commission. Mr. Yahl stated staff is recommending approval of the conditional use.

The findings are as follows:

Mark Clear, Loma Vista Nursery, is seeking approval of a conditional use permit to allow a lodging house. The subject property is located at 501 E. Twenty-third Street. The subject property is approximately 1.8 acres in size, and is developed for a residential structure and outbuilding that has been used for retail uses. The applicant proposes to remodel these buildings in order to accommodate temporary housing for agricultural workers.

A rezoning of the property is also under consideration.

It is the recommendation of staff that the conditional use permit for a lodging house be **approved**.

### **Findings**

The Planning Commission may recommend approval of a conditional use that is expressly authorized to be permitted in a particular zoning district, and the Governing Body may approve such conditional use, using the following factors as guidelines:

- 1. Whether approval of the conditional use would be consistent with the intent and purpose of these regulations;**  
The intent of the Mixed Use Districts is to accommodate compatible mixed-use development. The intent of the Mixed Use/Residential-Commercial (MU/RC) District is to encourage compatible mixed use residential and commercial uses of low to moderate intensity, complementing neighborhood residential areas with high quality development and urban design standards. Provided the property is rezoned to the appropriate district, the proposed use would be consistent the intent of the regulations.
- 2. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;**  
The proposed use has both residential and commercial characteristics. It will serve as the residence for temporary workers, so there will be traffic generation at a level greater than a typical residential use. Considering that the site is near the hotels located along Twenty-Third Street, and is adjacent to the applicant's primary agricultural use, Loma Vista Nursery.
- 3. Whether the proposed use places an undue burden on the existing transportation, utility and service facilities in the area affected and, if so, whether such additional facilities can be provided;**  
The subject property is not served by City water or sewer service. The proposed use will create additional burden on the existing water source and septic system. However, if approved, the applicant intends to connect to the City utilities, which are located just west of the site.
- 4. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;**  
The proposed use will serve the existing nursery, which was established in 2004 and continues to thrive. Otherwise, the area has remained stable over the past 10 years.
- 5. The length of time the subject property has remained vacant or undeveloped as zoned;**  
The subject property has been developed with the existing structures since 1900.
- 6. Whether the applicants property is suitable for the proposed conditional use;**  
The subject property is suitable for the proposed use. The location, isolated from residential neighborhoods yet close to commercial services make it an ideal choice for a transient use, such as is proposed. In addition, it a use accessory to the agricultural use and is required by federal law.
- 7. Whether the proposed conditional use would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;**  
The future land use portion of the Comprehensive Plan identifies the property as "commercial/residential". The proposed zoning change is consistent with the Future Land Use map. The commercial/residential (mixed use) category is "primarily for residential housing of mixed densities, with limited non-residential uses of neighborhood scale developed through compatible site planning. Commercial uses shall be limited to compact, pedestrian oriented, shopping, services, offices and limited entertainment uses."

8. **Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected;**  
Again, while the property is generally isolated, it is also somewhat proximate to the hotels located at Twenty-Third Street and Oak Street. Therefore, it is not likely to adversely impact other properties.
9. **Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.**
10. **The recommendations of professional staff;**  
It is the recommendation of staff that the conditional use application be **approved**.

Chairperson York asked the applicant if he would like to make a presentation.

Mark Clear, stated this parcel has approximately 1.8 acres of non useable area because of the flood plain. Mr. Clear stated that each one of the workers have to go through a background check and he personally goes down to interview them. Mr. Clear also noted that the Department of Labor determines how many workers he can house in the unit. Mr. Clear stated they will be extending city sewer and water to the property.

Chairperson York asked if they will have laundry facilities. Mr. Clear stated they will be providing a laundry facility for them.

Member Hatfield asked if there will be any families. Mr. Clear stated this will be all men.

Member Wasko wanted to clarify that the Department of Labor determines the number housed. Mr. Clear stated yes.

Chairperson York asked if any letters had been received. Wynndee Lee indicated no.

Chairperson York asked for public comments.

Ken Davidson, 2059 Sandcreek Road, stated he was in favor of this, as a landlord he does not like to rent his properties out for just eight months out of twelve. Mr. Davidson stated LOMA Vista has been good for the community.

Kathy Pemberton, 3304 Tennessee Road, stated she has worked many jobs that only last nine months. Ms. Pemberton stated she was not in favor of bringing in workers and taking jobs from US citizens.

Mark Clear stated he has been doing this since 1982 and has a hard time finding seasonal workers. Mr. Clear also stated these jobs are listed with employment agency and any interested US citizen has priority to these jobs.

Chairperson York closed the public hearing and discuss the conditions staff would like to add to the conditional use.

Wynndee Lee, indicated the following: The Department of Labor sets the maximum amount of occupants; Remodel the structure to code; Connect to public water/sewer utilities; Provide a copy of the Department of Labor inspection reports.

Chairperson York asked if the facility is inspected on a regular basis. Wynndee Lee indicated yes, annually. Mark Clear indicated he thought that they changed it to semi-annually.

Member Hatfield asked if there was going to be a sidewalk put in, so the workers did not have to walk in the street. Wynndee Lee indicated there is a TIF project in the works which includes this area and sidewalks and street improvements are one item to this TIF project. Mark Clear stated the employees would not be walking as they bus them to work. Member Hatfield also expressed concern over the number of residents proposed.

Member Warren stated he is still concerned about this area since it is a gateway to the city and would urge the other commissioners to take this into consideration.

Chairperson York stated he is one of the biggest advocate for Ottawa's image but would not consider a flood area a gateway to the city. This area is close to work and close to a retail area.

Chairperson York asked for a motion.

Member Jackson made a motion to accept the findings as their own with the conditions, Chairperson York asked Wynndee Lee to read the conditions. They are as follows: 1. The maximum number of residents be set by the Department of Labor standards; 2. The applicant provide to the city the semi-annual inspection report; 3. Remodel the structure to code requirements; 4. The utilities sanitary sewer and water be extended per the discussion, seconded by Member Colbern. The motion was considered and Member Warren, no; Member Colbern, yes; Member Jones, yes; Member Jackson, yes; Member Hatfield, yes; Member Wasko, yes; Chairperson York, yes. Motion passed by a 6-1 vote.

Member Jackson made a motion to recommend to the City Commission to approve the proposed conditional use for the construction of a rooming house at 501 E. 23<sup>rd</sup> Street in an MU/CR Mixed Use Commercial/Residential Zoning District with the following conditions: 1. The number of residents be set by the Department of Labor standards; 2. The applicant provide to the city the semi-annual inspection report; 3. Remodel the structure to code requirements; 4. The utilities sanitary sewer and water be extended per the discussion, seconded by Member Wasko. The motion was considered and Member Colbern, yes; Member Jones, yes; Member Jackson, yes; Member Hatfield, yes; Member Wasko, yes; Member York, yes; Chairperson York, yes. Motion passed by a 6-1 vote.

**Held a public hearing to consider a conditional use for the construction of a four (4) unit dwelling structure at 832 S. Oak in an R-2 Medium Density Residential Zoning District.**

Chairperson York opened the public hearing.

Tom Yahl reviewed the findings with the planning commission. Mr. Yahl stated staff is recommending approval with the condition that a site plan for the proposed building be submitted, reviewed by staff and approved by the Planning Commission.

The findings are as follows:

Andrew Suber is seeking approval of a conditional use permit to allow a multi-family residential use in a residential zoning district. The subject property is located at 832 S. Oak Street, which is in a R-2, Medium Density Residential, Zoning District. The property is currently developed with a single family structure. The lot is 104' x 150' in size.

The zoning regulations now allow multi-family, four units and above, dwelling units in the Medium Density Zoning District provided that the existing development of surrounding area has minimum lot area per dwelling unit of 4,500 square feet. In this case, there are 45 existing units on 262,225 square feet of ground. This equates to 5,830 per dwelling unit. In addition, the criteria requires a minimum lot area of 3,500 square feet per dwelling unit for four or more family dwellings, which in this case would require a lot area of 14,000 square feet. The subject property contains 15,600 square feet.

It is the recommendation of staff that the Planning Commission recommends approval of the application with the condition that a site plan for the project be approved.

### **Findings**

The Planning Commission may recommend approval of a conditional use that is expressly authorized to be permitted in a particular zoning district, and the Governing Body may approve such conditional use, using the following factors as guidelines:

- 1. Whether approval of the conditional use would be consistent with the intent and purpose of these regulations;**  
The zoning regulations were designed to allow a mixture of uses and densities in established residential areas. The proposed four family building would meet with this intent of the zoning regulations.
- 2. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;**  
The area surrounding the subject property is primarily residential at varying density. Most of the structures in this area are single family. However, there is a 9 unit building at Eighth and Oak, and a 5 unit building at Ninth Street, along with a development pattern of densely concentrated single family homes. In addition, Ottawa University is south of the subject property, across Ninth Street. The proposed use would be compatible with the surrounding area.
- 3. Whether the proposed use places an undue burden on the existing transportation, utility and service facilities in the area affected and, if so, whether such additional facilities can be provided;**  
The proposed use will not place any undue burden on the existing utility or transportation systems.
- 4. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;**  
Since the 1990's, there has been a greater need for multi-family buildings in the City. The proposed conditional use could be seen as a result to this on-going demand for affordable housing.
- 5. The length of time the subject property has remained vacant or undeveloped as zoned;**  
The subject property has been developed with the existing structure since 1900.
- 6. Whether the applicants property is suitable for the proposed conditional use;**  
The subject property is suitable for residential use. The location near the university, along with the pattern of dense residential uses make it suitable for the proposed use.
- 7. Whether the proposed conditional use would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;**  
The City of Ottawa Comprehensive Plan projects based on continuation of growth over the past decade, that an additional 100 housing units per year will be needed. The proposed conditional use acts towards implementation of this area of the plan, without increasing the development of a greenfield area.
- 8. Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected;**  
As the surrounding area is developed with a mix of densities, it is unlikely that the proposed use would adversely affect other properties in the area.
- 9. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.**
- 10. The recommendations of professional staff;**  
It is the recommendation of staff that the conditional use application be **approved** with the following conditions:  
A site plan for the proposed building be submitted, reviewed by staff and approved by Planning Commission.

Chairperson York asked if the applicant was here to make a presentation. Tom Yahl noted he was not.

Chairperson York asked if the commissioners if they had any comments or questions. Member Hatfield stated the way this is proposed it looks like they are encouraging on street parking even though they have parking in the back and have two sidewalks to the street. Wynndee Lee indicated staff encourages developers to put in sidewalks for visitors and the public.

Member Wasko asked if these units were going to be one or two bedroom units. Tom Yahl indicated staff did not know.

Chairperson York asked if staff had received any letters. Wynndee Lee indicated no.

Chairperson York asked for public comments.

Tommy Wood, 825 S. Oak, stated he had concerns about the parking, the street is very narrow and does not want this built. Mr. Wood made reference to the condition of the current structure and stated it should be condemned.

Wynndee Lee indicated the current owner who just acquired the property, has applied for a permit to demolish the house and garage structure.

Wynndee Lee indicated the applicant could build a three unit building without a conditional use permit.

Amber Wood, 825 S. Oak, stated with all the rentals in the area the turnover is high, concerned about the amount of people living in the structures, sex offenders in the area and does not want it approved.

Wynndee Lee indicated a site plan would have to be approved by the planning commission for the four unit structure as well as a three unit structure.

Chairperson York asked for any other public comments, there were none.

Chairperson York closed the public hearing and asked for any comments from the commissioners.

Member Jones asked if the conditional use could have a condition that off-street parking would be required. Wynndee Lee indicated this can be done at site plan review.

Tom Yahl indicated the lot is big enough for the structure.

Member Jackson made a motion to accept the findings as their own, seconded by Member Jones. The motion was considered and Member Jones, yes; Member Jackson, yes; Member Hatfield, yes; Member Wasko, yes; Member Warren, yes; Member Colbern, yes; Chairperson York, yes. Motion passed by a 7-0 vote.

Member Jackson made a motion to recommend to the City Commission to approve the conditional use for the construction of a four (4) unit dwelling structure at 832 S. Oak in an R-2 Medium Density Residential Zoning District, seconded by Member Colbern. Member Jackson, yes; Member Hatfield, yes; Member Wasko, yes; Member Warren, yes; Member Colbern, yes; Member Jones, yes; Chairperson York, yes. Motion passed by a 7-0 vote.

**Hold a public hearing on the proposed amendment to Article 24, Section 24-7, location of fences in Agricultural Districts.**

Chairperson York opened the public hearing.

Tom Yahl reviewed the memo with the planning commission. Mr. Yahl stated staff is recommending approval of the amendment.

The memo is as follows:

Staff proposes the following text amendments to Article 24 of the zoning regulations, related to fences in the Agricultural District. The intent is to provide for the type of fencing commonly utilized for agricultural purposes.

**24-702. Location and Height.**

a. **Front yard.**

4. **Agricultural and P District**, Schools (public or private) and City parks: A chain link fence greater than four (4) feet but no higher than six (6) feet may be constructed in the required front yard setback where safety is an issue.

**24-703. Certain Fences Prohibited.**

- a. No electric fences, except **in the A District** and for pets as permitted in subsection c. below.
- b. No barbed wire or razor wire fences shall be allowed. However, up to three (3) strands of barbed wire may be placed at the top of a fence for security purposes, provided such strands are a minimum height above ground of six (6) feet and overall height not to exceed nine (9) feet in the **A**, C-2, C-3, I-1, and I-2 Zoning Districts.
- c. No above ground electric pet fences. However, underground pet fences (restraining devices), where the animal has to wear a collar in order for the fence to be activated are allowed.

Chairperson York asked for public comment, there was none.

Chairperson York closed the public hearing.

Member Warren made a motion to recommend to the City Commission to approve the proposed amendment to Article 24, Section 24-7, location of fences in Agricultural Districts, seconded by Member Jackson. The motion was considered and Member Hatfield, yes; Member Wasko, yes; Member Warren, yes; Member Colbern, yes; Member Jones, yes; Member Jackson, yes; Chairperson York, yes. Motion passed by a 7-0 vote.

**A resolution placing a moratorium for a period of 120 days on the issuance of sign permits for moving or flashing signs described in Section 27-4, Letter D, General Standards, of the City of Ottawa Zoning Regulations.**

Wynndee Lee reviewed with the planning commissioners the reason for the moratorium.

Member Hatfield stated he was not against the sign at 9<sup>th</sup> and S. Main Street, but suggested location could be a factor.

Member Wasko made a motion to place a moratorium for a period of 120 days on the issuance of sign permits in section 2704, Letter D, General Standards, of the City of Ottawa Zoning Regulations, seconded by Member Jackson. The motion was considered and Member Wasko, yes; Member Warren, yes; Member Colbern, yes; Member Jones, yes; Member Jackson, yes; Member Hatfield, yes; Chairperson York, yes. Motion passed by a 7-0 vote.

**Other Items:**

Chairperson York announced the Study Session / Retreat will be held on July 23, 2008 at Noon.

Wynndee Lee stated the commission needed appoint a planning commissioner to the Board of Zoning Appeals. Mrs. Lee indicated at the last study session Member Wasko was temporarily appointed in order for there to be enough members on the Board of Zoning Appeals, which was holding a meeting that day. Mrs. Lee indicated that Members Jones and Hatfield were not eligible due to them living outside of the city limits.

Member Jackson made a motion to appoint Member Wasko to the Board of Zoning Appeals, seconded by Member Jones. The motion was considered and Member Jones, yes; Member Colbern, yes; Member Warren, yes; Member Jackson, yes; Member Hatfield, yes; Member Wasko, abstained, Chairperson York, yes; Motion passed by a 6-0-1 vote.

**Announcements:**

Chairperson York stated the next regularly scheduled Planning Commission meeting is Wednesday, August 13, 2008 at 7 p.m.

**Adjournment:**

Chairperson York adjourned the meeting at 9 p.m.  
(A recorded tape will remain on file for a period of six months)  
Respectfully submitted, Wynndee S. Lee  
Director of Planning & Codes Administration