

GLADSTONE PLANNING COMMISSION
AMENDED MINUTES – OCTOBER 7, 2019

Council Chambers August 19, 2019

- 1. Meeting called to Order- Roll Call.** Chair McGee called the meeting to order at 7:00 p.m.

Commissioners present were: Chase Cookson
Mike Ebenroth
J.N. Hernandez
Alicia Hommon
Gary Markenson
Katie Middleton
Kim Murch
James New
Bill Turnage
Larry Whitton
Jennifer McGee, Chair

Also present: Jean Moore, Mayor Pro Tem
Scott Wingerson, City Manager
Bob Baer, Assistant City Manager
Alan Napoli, Building Official/Com Dev Administrator
Austin Greer, Assistant to the City Manager/Planning Administrator
Cheryl Lamb, Administrative Assistant

- 2. Pledge of Allegiance to the United States of America.**

- 3. Approval of Previous Meeting Minutes: August 5, 2019.** Chair McGee asked if there was a motion to approve the minutes from the August 5, 2019 meeting. Mr. Murch moved to approve the minutes; Ms. Hommon seconded. The minutes were approved, 12-0.

- 4. Other Business.** None.

- 5. Public Hearing: Site Plan Revision, 6221 N Chestnut Avenue, File #2019-008.**

"The minutes were taken by Cross Reporting for this meeting."

MOTION: By Mr. Markenson, seconded by Mr. Whitton, to approve the Site Plan Revision, 6221 N Chestnut Avenue, File #2019-008. The motion carried 8-3 (1-no, 2-abstain).

- 6. Communications from City Council.** None.

- 7. Communications from City Staff.** None.

- 8. Communications from Planning Commission Members.** None.

- 9. Adjournment.** Ms. Hommon motioned to adjourn; Mr. Murch seconded.

Chair McGee adjourned the meeting at 7:24 p.m.

PLANNING COMMISSION MEETING - August 19, 2019

CITY OF GLADSTONE, MISSOURI

CROSS REPORTING SERVICE
Certified Court Reporters

(816) 252-8883

306 S.E. 291 Highway - Suite 5

Lee's Summit, Missouri 64063

Fax (816) 252-7044

Toll Free (877) 252-8883

www.kansascity-courtreporter.com

crossreporting@sbcglobal.net

PLANNING COMMISSION MEETING - 08/19/2019

<p>1 GLADSTONE PLANNING COMMISSION HEARING</p> <p>2</p> <p>3 Monday, August 19, 2019</p> <p>4</p> <p>5</p> <p>6 Appearances:</p> <p>7 Mayor Pro Tem Moore</p> <p>8 Commissioner Cookson</p> <p>9 Commissioner Ebenroth</p> <p>10 Commissioner Hernandez</p> <p>11 Commissioner Honnon</p> <p>12 Commissioner Markenson</p> <p>13 Commissioner Middleton</p> <p>14 Commissioner Murch</p> <p>15 Commissioner New</p> <p>16 Commissioner Turnage</p> <p>17 Commissioner Whitton</p> <p>18 Chair McGee</p> <p>19 CD Administrator/Building Official Alan Napoli</p> <p>20 Assistant to the City Manager Austin Greer</p> <p>21 Recording Secretary Cheryl Lamb</p> <p>22</p> <p>23 NICOLE M. CALCARA, C.C.R.</p> <p>24 for</p> <p>25 CROSS REPORTING SERVICE, INC.</p>	<p>Page 3</p> <p>1 not a re-zoning of the property. The current zoning of this</p> <p>2 property is CP-3 and is zoned for this proposed use.</p> <p>3 The site plan shows additional trees and landscaping</p> <p>4 being planted on the eastern side of the property located</p> <p>5 directly behind the proposed convenience store and gas</p> <p>6 station creating the required 35 feet buffer zone between the</p> <p>7 subject commercial and residential properties. There is also</p> <p>8 proposed landscaping on the western side of the property near</p> <p>9 the planned monument sign and green space between the two</p> <p>10 egress and ingress access points on North Chestnut Avenue.</p> <p>11 City Staff recommends the trees and shrubs being planted on</p> <p>12 the property be native to Missouri by nature in an effort to</p> <p>13 aid in better streetscape and survival.</p> <p>14 In the BMP analysis conducted by Kaw Valley</p> <p>15 Engineering, runoff drains towards the southwest corner of</p> <p>16 the property and a bio-swale will be implemented to treat and</p> <p>17 capture runoff from the fueling area prior to runoff exiting</p> <p>18 the site.</p> <p>19 The large mechanical equipment for this project is</p> <p>20 being relocated from the roof of the building to the ground</p> <p>21 and will be adequately screened from public view with</p> <p>22 materials similar in design to the rest of the structure.</p> <p>23 All screening will be reviewed via the building permit</p> <p>24 process.</p> <p>25 Included in the Planning Commission packet is a</p>
<p>Page 2</p> <p>1 CHAIR MCGEE: I now call the Planning</p> <p>2 Commission of Monday, August 19th, meeting to order.</p> <p>3 (Roll called.)</p> <p>4 (Pledge of Allegiance.)</p> <p>5 CHAIR MCGEE: The next item on the agenda is</p> <p>6 the approval of the previous meeting minutes. Are there any</p> <p>7 corrections for the minutes or would someone like to make a</p> <p>8 motion to approve them as read?</p> <p>9 (Motion made, seconded and carried.)</p> <p>10 CHAIR MCGEE: The minutes stand as approved.</p> <p>11 The next item is any other business:</p> <p>12 MR. GREER: No other business tonight.</p> <p>13 CHAIR MCGEE: Okay. Item No. 5 is a public</p> <p>14 hearing for a site plan revision of 6221 North Chestnut</p> <p>15 Avenue, File 2019-008. We will now open the public hearing.</p> <p>16 City Staff, do you want to give the report?</p> <p>17 MR. GREER: Sure. Good evening, everyone. Thanks</p> <p>18 for being here tonight. The applicant is requesting site</p> <p>19 plan approval for the purpose of constructing a convenience</p> <p>20 store and gas station at 6221 North Chestnut Avenue, formerly</p> <p>21 known as Tanner's Restaurant. Their plan is to significantly</p> <p>22 remodel the building, bring the structure up to code and</p> <p>23 retrofit the property using a combination of EIFS stone,</p> <p>24 artificial stone, and a metal awning for the exterior.</p> <p>25 This project is a proposed site plan revision and</p>	<p>Page 4</p> <p>1 letter from World Fuel Services describing the experience of</p> <p>2 Amir Nadeem Mehdi, who will be the store operator for the</p> <p>3 proposed gas station and convenience store. Staff has also</p> <p>4 included a retail mystery shop for the proposed operator for</p> <p>5 their various other locations.</p> <p>6 There are residents located to the east of the</p> <p>7 subject property that are opposed to this particular project.</p> <p>8 The Community Development Department has received multiple</p> <p>9 phone calls and a signed letter from the Woodlands HOA Board</p> <p>10 in opposition to this project in 2018 and 2019.</p> <p>11 In 2018 Mr. Charles Cuda submitted a letter</p> <p>12 regarding issues and concerns of both the residents and the</p> <p>13 Planning Commission. This is included in the planning</p> <p>14 commission packet.</p> <p>15 On Monday, June 24th, 2019, the project team for the</p> <p>16 proposed project held a neighborhood meeting with the</p> <p>17 Woodlands community. It is City Staff's understanding that</p> <p>18 the Woodlands neighborhood is still in opposition to this</p> <p>19 project.</p> <p>20 During the Planning Commission and City Council</p> <p>21 hearings in 2018, there were concerns regarding decreased</p> <p>22 property values, potential crime, increased traffic and</p> <p>23 environmental impacts on the neighborhood.</p> <p>24 City Staff recommends that the following conditions</p> <p>25 be considered if the planning commission and City Council</p>

<p style="text-align: right;">Page 5</p> <p>1 choose to approve this project.</p> <p>2 Request Number 1, any and all disturbed areas shall</p> <p>3 be sodded.</p> <p>4 Number 2, all manicured grass and landscaped areas</p> <p>5 shall be maintained in perpetuity.</p> <p>6 Number 3, all mechanical equipment located on the</p> <p>7 roof and the ground shall be screened from public view</p> <p>8 similar in design to the rest of the structure. All</p> <p>9 screening will be reviewed via the building permit process.</p> <p>10 Number 4, a compliant monument sign shall be used to</p> <p>11 serve the development. The monument sign will need a minimum</p> <p>12 of 240 square feet of area landscaping around the sign.</p> <p>13 Number 5, relocation of the trash dumpster to the</p> <p>14 northwest corner of the parking lot away from the residential</p> <p>15 area adjacent to the property.</p> <p>16 Number 6, all exterior lighting on the site shall be</p> <p>17 LED and designed to reduce adverse impact on adjoining</p> <p>18 residential properties.</p> <p>19 Number 7, outdoor lighting cannot be greater than</p> <p>20 0.25 foot candle with 10 feet beyond property line.</p> <p>21 Number 8, dumpster shall be enclosed with materials</p> <p>22 consistent with primary building. Specific colors shall be</p> <p>23 submitted and approved as part of the building permit.</p> <p>24 Number 9, Trash service, store deliveries, gasoline</p> <p>25 refilling, underground commercial gasoline tanks, shall occur</p>	<p style="text-align: right;">Page 7</p> <p>1 applicant like to make a presentation?</p> <p>2 MR. BOWERS: Yes.</p> <p>3 CHAIR MCGEE: State your name and address.</p> <p>4 MR. BOWERS: Madam chair, members of the commission,</p> <p>5 my name is Jim Bowers. I'm a lawyer with Rouse Frets White</p> <p>6 Goss. We have offices at 4510 Belleview, Kansas City,</p> <p>7 Missouri. Here today on behalf of Chuck Cuda and his</p> <p>8 company, Pauch, LLC, the developer of this project. As</p> <p>9 housekeeping matter I would like to confirm Staff's report</p> <p>10 that we have agreed to all 15 of the Staff's conditions.</p> <p>11 With me today in addition to Mr. Cuda are the project</p> <p>12 architect, Mr. Brian Ruoff, and to my left Melissa Van Trump,</p> <p>13 who is my associate. We'll be available to answer any</p> <p>14 questions you have at the conclusion of my presentation.</p> <p>15 Also during my presentation the architectural</p> <p>16 drawings prepared by Mr. Ruoff will be explained by him.</p> <p>17 This is a request to approve a site plan. As Staff told you</p> <p>18 the property is zoned CP-3. CP-3 permits a gasoline station</p> <p>19 and a convenience store. So it's permitted use in the zoning</p> <p>20 district in which we are located. The question is whether or</p> <p>21 not this site plan should be approved. And the zoning</p> <p>22 requirements are that in certain situations a site plan</p> <p>23 review is appropriate, and we'll get into those circumstances</p> <p>24 in just a moment. But this property was formerly occupied</p> <p>25 and operated by Tanner's Bar. That project closed a number</p>
<p style="text-align: right;">Page 6</p> <p>1 between hours of 7 and 10:00 p.m.</p> <p>2 Number 10, tractor/trailers, storage containers and</p> <p>3 other commercial vehicles including delivery trucks shall not</p> <p>4 be parked or stored overnight on the premises.</p> <p>5 Number 11, no more than 50 percent of the glazed</p> <p>6 area of the building shall have signage.</p> <p>7 Number 12, hours of operation are from 5:00 a.m.</p> <p>8 through 2:00 a.m, the store will be closed from 2:00 a.m</p> <p>9 through 5:00 a.m., Monday through Sunday.</p> <p>10 Number 13, signage compliant with the sign code</p> <p>11 shall be used. Signage shall be approved at the time of</p> <p>12 permitting.</p> <p>13 Number 14, construct and maintain in perpetuity a</p> <p>14 six foot PVC privacy fence, earth tone in color, along</p> <p>15 eastern property line.</p> <p>16 Number 15, maintain growth between the commercial</p> <p>17 privacy fence and the residential privacy fence in</p> <p>18 perpetuity.</p> <p>19 The developer has agreed to all recommended</p> <p>20 conditions. City Staff recommends that the request be</p> <p>21 approved contingent upon the conditions listed above. The</p> <p>22 date and time is scheduled Monday, September 9th, 2019, at</p> <p>23 7:30 p.m. at the regular City Council meeting. Thank you and</p> <p>24 that is all, Madam chairperson.</p> <p>25 CHAIR MCGEE: Thank you. Would the</p>	<p style="text-align: right;">Page 8</p> <p>1 of months ago and this is a re-use of that property, try to</p> <p>2 put it back into some commercial use consistent with the</p> <p>3 zoning. You will recall I believe that most of you, that a</p> <p>4 similar case was heard by you and by the City Council in 2018</p> <p>5 that was ultimately denied by the City Council. This is the</p> <p>6 same property, the same developer, same proposed use, but the</p> <p>7 site plan and the approach is different. And for that reason</p> <p>8 we believe this project is entitled to your recommendation</p> <p>9 and the City Council's approval. We'll get into those a</p> <p>10 little later.</p> <p>11 What I didn't mention is the neighboring uses to the</p> <p>12 north, south, and west of this site are commercial. The only</p> <p>13 residential use adjacent to our property is to the east. The</p> <p>14 Woodlands neighborhood. This is an aerial photograph of the</p> <p>15 site outlined in yellow. And you will see that to the north</p> <p>16 of us, to the south of us and to the west are commercial</p> <p>17 uses. The Woodlands neighborhood is located in this area to</p> <p>18 the east. This is the time line when you-all considered this</p> <p>19 project in 2018 leading up to your consideration tonight,</p> <p>20 August 19th, of the new proposed plan. Mr. Cuda is an</p> <p>21 experienced developer. This isn't his first endeavor. He</p> <p>22 has developed neighborhood retail shopping centers in the</p> <p>23 Kansas City metropolitan area including Country Club shops,</p> <p>24 Foxwood shops, Quality Plaza, all of these projects have</p> <p>25 tenants that are local retail tenants. This slide shows the</p>

Page 9

1 regulations that allow this use in a CP-3 district. And what
 2 it starts out with is an observation that shops and stores
 3 for the sale of food and beverage are first permitted in C-1.
 4 C-1 uses are accumulated into the C-2 category and in C-2 the
 5 dispensing of petroleum products is permitted for the first
 6 time. In C-3, which is the district we are in, it
 7 accumulates the uses allowed in C-1 and C-2, and that is how
 8 we get to the conclusion that this use is permitted in C-3.
 9 You will also see that the very last regulation mentioned on
 10 the site says that the uses that are permitted in C-3 shall
 11 be the same uses permitted in planned C-3. And we are a
 12 planned C-3 district. This slide shows the regulations that
 13 require a site plan in this case and what triggers the
 14 requirement, is any situation in which the square footage of
 15 the items for sale outside the premises is greater than the
 16 square footage of items for sale inside the premises. Or, in
 17 the alternative, if the proceeds from the sale of products
 18 outside exceeds 50 percent of the gross income of the entire
 19 project, this site plan review is required. Staff in this
 20 case considered we met those criteria. This is a copy of the
 21 zoning map. The star locates where this proposed project is.
 22 And you see the red with the hatch mark represents the CP-3
 23 zoning classification. The red area immediately to the north
 24 of us is C-3, without the plan requirement, and the property
 25 to the east obviously in yellow is residential, the Woodlands

Page 10

1 Neighborhood Association. This slide shows a photograph of
 2 the building, current building looking from the west side of
 3 the street directly east, and you see in the background the
 4 fence between the subject property and the Woodlands
 5 neighborhood. And the photograph at the bottom of the slide
 6 is a southeast orientation, so you are looking southeast at
 7 the building. This is coming from the other direction. This
 8 is southwest. And, finally, this is the back side of the
 9 building and the fence between the Woodlands neighborhood to
 10 the east and our property.

11 With that, I'm going to ask Mr. Ruoff to come up and
 12 go through the architectural drawings.

13 MR. RUOFF: Some changes have been made to the site.
 14 I'm going to go through those. Most of the people in this
 15 room are probably familiar with this project, but I'll back
 16 up for those who aren't. The proposed changes to the
 17 existing building, you can see the dashed line to the front
 18 of the building, we are proposing to remove 20 feet of the
 19 existing building. If you've been in the building it is the
 20 bar area. We are proposing to remove that part of the
 21 building and build a new facade to the existing buildings.
 22 Part of the discussions that occurred last year were rooftop
 23 screening and equipment on the roof that are existing now.
 24 And the issues of going back and screening that became
 25 impractical as far as the existing joists in the building.

Page 11

1 So we are proposing to take all the rooftop units off the
 2 building. The units that are now in the proposed units would
 3 all be removed from the roof. You can also see in this site
 4 plan because of all the landscaping we are adding to the east
 5 of the property, and I'll go through that when we get to the
 6 color version, we are proposing the fence to be 15 feet off
 7 the back of the existing fence to allow for practical
 8 implication of landscaping. These are similar elevations to
 9 what was proposed before. At that time we had a little bit
 10 higher parapet running around the building, because removing
 11 all of the equipment, and that is the existing parapet on the
 12 building, so this would be essentially a re-face of the
 13 building that would be there minus the front 20 feet. You
 14 can also see in this view that the lower part of the front of
 15 this would be a stone veneer. The process we've been through
 16 the last eight or nine months has been adding landscaping, so
 17 this depicts a fairly extensive -- it is a loaded east side.
 18 We've put in as many trees as we feel will physically be able
 19 to grow and exist long term. So we have a row of evergreen
 20 trees. I'll show you a -- I'll go straight to that. So we
 21 are proposing the trees in the picture in the lower left
 22 corner, very large tall evergreen trees, they would be along
 23 that entire back fence line. You can see the lower expanded
 24 version. And in front of those we would have eastern
 25 redbuds, which would be more of a broad -- those would be

Page 12

1 deciduous tree. And you can see where those line up in the
 2 front as space allows. And then we are using basically a
 3 skyrocket Juniper in the upper right corner. Those are
 4 smaller taller evergreen trees you normally find around trash
 5 enclosures, but we are going to use those to fill in
 6 landscaping gaps. You can see those long the equipment fence
 7 at the very bottom of the picture. So this is a color
 8 version of it. What you see in green is grass, the light
 9 green. And then the trees I just described are along that
 10 eastern edge. Then there is paving being removed
 11 extensively. That whole east side right now is paved and
 12 that is all being removed and landscaped. So there is a
 13 front view. This will be a spring version, that would be the
 14 eastern redbuds when they are in bloom. But that -- we put
 15 those in there that way to show the depth. Because if we had
 16 green on green it would be harder to depict the depth of the
 17 project. But there are two layers of trees going on in this.
 18 Then finally the photo metrics plan this is a slight tweak to
 19 the version we had a year ago, but, and it is hard to tell,
 20 but we have zero, zero foot candles at the eastern property
 21 line, at the actual property line all across the eastern
 22 edge. And it is actually that way all around the site except
 23 for the trash enclosure where we run into what Wendy's is
 24 doing. Probably there is going to be some overlap there.
 25 Because of the less than point one on the property line it

Page 13

1 will probably be a little more. But the eastern edge is
2 protected. And this is without the landscaping. The
3 landscaping would even filter that light even further. So
4 I'm not concerned about that being an issue at all, but I am
5 willing to answer any questions on that. Any questions for
6 me while I'm up here?

7 MR. MARKENSON: You said it clearly, but I want to
8 see if I understood it, the 20 feet that is coming off that
9 is the front of the building?

10 MR. RUOFF: Correct. There is actually a beam line
11 inside and we are going to that beam line where structurally
12 it makes sense.

13 CHAIR MCGEE: Can we hold the rest of the
14 Commission questions until the end? Thank you.

15 MR. BOWERS: Thank you, Brian. Next issue is storm
16 water. There have been certain comments made to us by the
17 neighbors about their understanding that storm water runs off
18 from our property onto their property to the east. And our
19 professional civil engineer, Kaw Valley Engineering went out
20 and took a look at this and they have a conclusion based upon
21 solid scientific analysis that water does not run uphill.
22 And uphill is the property to the east. We are downhill from
23 the eastern neighborhood. Our proposed project will actually
24 decrease the impervious surface and reduce overall site
25 runoff. There are parts of the property that are covered

Page 14

1 with asphalt that will not be when we are done with this
2 project. No on-site detention is required based on the
3 engineer's analysis. We are building bio-swales to capture
4 water that runs off the property that will filter, act as a
5 bio-filter of the property to the extent there are any
6 residual petroleum distillates in the run-off from the
7 asphalt parking lot. They will be filtered by the bio-swale
8 on the west side of the property before entering the general
9 storm water system. So we believe that will more than
10 adequately protect the environment.

11 Traffic, the traffic report that was part of the
12 19 -- 2018 application dealt with the analysis of this use
13 versus the prior historic uses and concluded that there will
14 be no traffic impact with this use that exceeds the traffic
15 impact that had occurred previously. As we indicated, there
16 was a neighborhood meeting June 24th at the Mid-Continent
17 Public Library. There were nine Woodland homeowners present.
18 And their homes were as close as Mr. and Mrs. Clymore's
19 property, which is about 75 feet to the east, and as far away
20 as Mrs. Vandever's property, which is 1500 feet away. Those
21 homes are shown on this map with yellow dots. Those yellow
22 dots indicate where those nine property owners live. And
23 again, our property is the star right there. The issues they
24 raised were security, lighting, noise, health and
25 environment. With respect to security, the operating hours

Page 15

1 as Staff pointed out will be limited to 5:00 a.m. to 2:00
2 a.m. The store will be closed between those hours of 2:00
3 a.m. in the morning and 5 a.m. Looking at the literature
4 concerning crime related to convenience stores, the Number 1
5 factor in determining the likelihood of crime, including
6 robbery, occurring in a convenience store is hours of
7 operation. And the likelihood of a 24-hour facility that is
8 open all night into the next morning is much greater than a
9 similar crime occurring at a facility that doesn't stay open
10 all night. The other interesting thing about the literature
11 is that a convenience store that sells gas is less likely to
12 be the focus of a criminal endeavor. That is what the
13 statistics show. So having gas pumps at a convenience store
14 lessens the likelihood of crime. In addition to the
15 operating hours, the layout of the store is very important.
16 And so the layout of the store will allow persons outside the
17 store to see in the store. The shelving in the store will
18 allow people outside the store to see the cash register.
19 Those things, according to the literature, very important in
20 minimizing the likelihood that this convenience store would
21 be the subject of a criminal attempt.

22 In addition to that, finally we are going to have
23 security cameras placed at strategic locations throughout the
24 facility and on the property which will be operating 24/7
25 with back-up tapes to allow us to observe anything that is

Page 16

1 going on and cooperate with local law enforcement officials
2 to the extent such cooperation is appropriate, because of the
3 activity. So we think the security issue has been addressed
4 by this. Lighting, as our architect Mr. Ruoff just told you,
5 the lighting plan shows zero foot candles at the property
6 boundary line. In addition to that, we will be using LED
7 lighting, which generally speaking is a less intrusive type
8 of lighting that doesn't have fugitive light running off the
9 property. And the Staff has suggested -- not suggested, but
10 required as conditions 6 and 7 that the lighting issue be
11 addressed. And we, of course, are complying with Staff's
12 request.

13 Noise, the concerns were traffic, deliveries, hours
14 of operation, dumpsters. Those were the issues raised at the
15 neighborhood meeting. First of all, we will comply with the
16 City's noise ordinance, Chapter 120 of the local code as a
17 provision which prevents commercial properties adjacent to
18 residential properties from conducting any unreasonably loud
19 and raucous noise from the premises, including any outdoor
20 area. And that is particularly true between the hours of
21 10:00 p.m. and 7:00 a.m. We, of course, will comply with the
22 local ordinance. In addition to that, Staff conditions 5, 8,
23 9, 10, 12, 14, and 15 address the noise issue.

24 Finally, health and environment, air pollution was
25 brought up. And I see in the packet that was handed to me

Page 17

1 this evening that a brief in opposition on our application
 2 has been submitted to you that contains photostatic copies of
 3 articles that have been published concerning the vent pipe
 4 emissions from storage tanks. Let me tell you a little bit
 5 about some of that research. I thought that might come up.
 6 But before I do, I would like to just address, if I could, a
 7 house keeping issue. As I understand your rules,
 8 cross-examination of witnesses is not permitted. Am I
 9 correct?
 10 CHAIR MCGEE: That's correct.
 11 MR. BOWERS: What is important about that is whether
 12 a case is considered contested or uncontested, and I believe
 13 this is an uncontested case because cross-examination is not
 14 permitted. There was a recent Supreme Court case on that
 15 issue. I just wanted the record to be clear. So I won't try
 16 to cross-examine anyone and I won't make a formal objection
 17 which I otherwise would to the admission of those articles,
 18 they are hearsay and should not be part of the record. But
 19 with that said, the study -- there is only one study that --
 20 that I am aware of that appears in the literature, and that
 21 was done last year of two gas stations. One in the Northwest
 22 and one in the Midwest. And both of them were large gasoline
 23 service stations that operated. Large means a station
 24 capable of pumping 3.6 six million gallons per year. And
 25 what the study did was analyze the venting of the underground

Page 18

1 storage tanks that have gasoline in them. At the time that
 2 the tanker trucks are unloading the gas into the underground
 3 tanks, there is a certain emission that occurs that is vented
 4 through a pipe. That is how these facilities are
 5 constructed. There are techniques to capture that air,
 6 that -- the fumes, the petroleum aerosol, and those
 7 techniques include what is called a stage one vapor recovery
 8 system to collect those vapors. We will be employing that
 9 system. Does that collect all of the vapors? No, the answer
 10 is, they don't. But it minimizes vapors. And we are doing
 11 everything in this operation we can to minimize the vapors.
 12 What the study of these two stations that was produced last
 13 year was analyzing was whether or not California's Air
 14 Resources Board, their recommendation in the year 2005, that
 15 a distance of 300 feet should be maintained between schools
 16 and daycare centers and gasoline service stations that pro --
 17 that pump 3.6 million gallons of gas a year, should be
 18 enlarged. And that is just a recommendation. It is not a
 19 rule. The California AIR Resources Board has a
 20 recommendation adopted in 2005 that says you shouldn't put a
 21 daycare facility or a school within 300 feet of a large
 22 volume gasoline service station. Now, that is not the law
 23 anywhere. It is just a recommendation. And this article
 24 that we are talking about was a study as to whether or not
 25 the 300 foot rule was adequate or not. And it -- all of the

Page 19

1 analysis is based on two gasoline service stations of this
 2 large size. I would submit to you nothing in that report,
 3 nothing in that recommendation is applicable to our service
 4 station in this location.
 5 Brian went through the revisions that had been made
 6 to our site plan since 2018, and he mentioned that we have
 7 significantly enhanced the rear landscape screening between
 8 commercial and residences. We've added additional trees,
 9 evergreens, eastern redbud, pear trees, both on the east side
 10 and we've also added trees on the west side. We have added a
 11 six foot fence proposed in the middle of the rear
 12 landscaping. There is going to be landscaping on both sides
 13 of this fence. And there is already a fence, the fence you
 14 saw in the photographs, residents' fences. Ours will be in
 15 addition to that. We discussed whether or not there should
 16 be one fence at our June 24th meeting, and our feedback we
 17 got at the time was they wanted both fences, so that is why
 18 we have two fences.
 19 There was concern last time about the trash
 20 enclosures. And so we've relocated the trash enclosures to
 21 the northwest to be away from the residences. There was a
 22 concern about light being adjacent to the residences, meaning
 23 zero foot candles at the property line, and we've done that.
 24 The building height will remain the same. There was comments
 25 before about the rooftop equipment that we had to -- the

Page 20

1 mechanical equipment on the roof that we were proposing and
 2 whether or not it would be an eye sore to the neighborhood to
 3 the east. We've removed it from the rooftop so there will be
 4 no equipment on the roof. The equipment will be on the
 5 ground and it will be screened from view so that the
 6 neighbors to the east won't know it's there. So that's our
 7 presentation. We are here to answer any questions you have
 8 and I'm sure the opposition wants an opportunity to speak.
 9 CHAIR MCGEE: Thank you. Does anyone from
 10 the audience want to speak in favor of the project? Does
 11 anyone in the audience want to speak in opposition to the
 12 project? Please approach the podium and state your name and
 13 our address.
 14 MR. MEYER: Good evening, ladies and gentlemen of
 15 the Commission. My name is Jonathan Meyer. I live at 145
 16 Woodlands Drive. I live in the Woodlands community. As a
 17 community, we've met a number of times and discussed concerns
 18 and whatnot. The memo that we provided kind of summarizes
 19 some of the highlights of those concerns. And I just want to
 20 touch briefly on those five areas of concern. Counsel for
 21 Mr. Cuda mentioned the environmental concern, the articles
 22 that were submitted were gathered by some of the members of
 23 the community just from independent research that they had
 24 done. Consistent throughout those and any just simple Google
 25 search shows that primary concerns for the environmental

Page 21

1 impact involving gas stations is benzene gasses, toluene,
 2 VOC's or volatile organic compounds, carbon monoxide and
 3 particulate matters. There are a number of ways that those
 4 concerns are remediated. And I think that was discussed in
 5 the presentation that some of those methods would be used,
 6 but there is not any single method or combination of methods
 7 that completely eliminates those concerns. The nearest
 8 property owner's property line is 35 feet from the existing
 9 building. Okay? It's 75 feet to the corner of his house,
 10 but it's 35 feet to his property line. And of utmost concern
 11 to members in the neighborhood and as an association is that
 12 we work together and look out for each other. So the fact
 13 that this affects two or three of our property owners most
 14 severely right on the edge, all of the association is
 15 supporting their objection to the gas station and potential
 16 soil contamination and dramatic decrease in property value
 17 for those properties. We have concerns about noise and light
 18 pollution. And I understand there was a traffic study that
 19 suggested traffic might not be greater. But common sense is
 20 just hard for us to get our head around the fact that when
 21 previous use was a restaurant where average tickets might be
 22 60, 80, \$100 and people came in and sat down for 45 minutes
 23 to an hour and now we are changing to a convenience store, I
 24 think you would be hard pressed to assume anybody is going to
 25 stay in that store for longer than 10 or 15 minutes and most

Page 22

1 likely they are only there two or three minutes, there has
 2 got to be a dramatic increase in the number of vehicles and
 3 patrons at this location. And during the neighborhood
 4 meeting that was mentioned in June we asked how many times
 5 this 10,000 gallon tanker would be coming and making a
 6 delivery. And we were told that would happen every three to
 7 five days. And so some of us went and looked online and saw
 8 that there are a number of different experts in the field and
 9 one of them is (INAUDIBLE) Hussein that runs
 10 gasstationbusiness.com and his sites talk to potential gas
 11 station operators and owners about how they should be
 12 profitable and what they should look for, and he sites that
 13 an average fill-up at a convenience store is about 10
 14 gallons. It ranges in variety. So if a 10,000 gallon tanker
 15 is coming every three to five days, that tells us that they
 16 are anticipating somewhere between 60 and 100,000 gallons of
 17 gas being sold on a monthly basis. If there is an average of
 18 10 gallons per fill-up, they are anticipating traffic of six
 19 to 10,000 vehicles at that location on a monthly basis just
 20 for gas sales. And that doesn't take into consideration
 21 people that would be coming just for convenience store
 22 purchases not necessarily for gas station. So we just are
 23 having a hard time getting our head around how there is not
 24 going to be a dramatic increase in traffic and folks coming
 25 to and from this particular location.

Page 23

1 Another area of concern for us is the economic
 2 impact. And when we had the community meeting in June, we
 3 asked if there had been any economic impact studies done, how
 4 this might affect neighboring businesses, and didn't get real
 5 direct answers, but came away from the meeting feeling like
 6 the developer felt like the gas station they were
 7 implementing would be better suited to meet the needs of
 8 folks than some of the other facilities. And we are making
 9 some assumptions, but couched in those terms is an
 10 expectation at least one or more of the other businesses that
 11 provide similar services in the neighborhood are going to
 12 close.

13 The final area that caused us some concern as we sat
 14 down and evaluated this as a group was the unintended
 15 consequence of one of the requirements of the City in terms
 16 of building this second fence. And at the June meeting I
 17 think one of the neighboring owners in expressing concern
 18 about the noise and light pollution said, hey, as many fences
 19 as are possible, that would be great for him. But by putting
 20 two six-foot privacy fences, at the public meeting in June
 21 they were going to be 10 feet apart, now they are 15 feet
 22 apart, I think in the proposal, so this is an area where
 23 there is going to be a six-foot privacy fence on two sides
 24 with trees, in trying to address the concerns of lights
 25 coming into the neighborhood, this will be a dark area. We

Page 24

1 are creating an attractive nuisance for vagrants and homeless
 2 folks to set up and camp and whatnot. We are already
 3 fighting that. Every time we have a homes association
 4 meeting we have at least one property owner if not two or
 5 three coming and talking about the fact that on a nearly
 6 daily basis local law enforcement is having to be called
 7 because folks will set up tents in those wooded areas on the
 8 south and east side of the Woodlands neighborhood. And one
 9 property owner during the last three months has had repeated
 10 instances where people are jumping her fence and coming
 11 through her yard. So those are primary concerns.

12 I know some of my other neighborhood, fellow
 13 neighborhood owners, property owners had a few things they
 14 wanted to bring up. I appreciate you taking the time to
 15 listen to our concerns.

16 CHAIR MCGEE: Thank you. Did anyone else
 17 from the audience want to speak in opposition to the project?
 18 Please approach the podium, state your name and your
 19 address.

20 MR. CLYMORE: Yeah, my name is Joe Clymore and I
 21 live in the house directly behind the building, so I'm
 22 probably a little more concerned than some people. We lived
 23 there about 16 years and we probably wouldn't have bought the
 24 house if there had been a gas station. There was a
 25 restaurant there. It really didn't bother us. But it would

Page 25

1 have really bothered us at the time if we were buying a house
 2 next door to a gas station. We are pretty concerned about
 3 the health risk for all the kids in the neighborhood. We
 4 have six grandkids that come over and play at our house, we
 5 have a couple that moved in, just moved in next door that
 6 have, I think there are a two- and three-year-old. They are
 7 next door. They are directly behind the proposed station
 8 location. So that is a real concern. And I've heard some
 9 discussion about 300 feet. You know, there is a lot of our
 10 houses that are well within the 300 feet number. So I don't
 11 know where that 300 feet number came from. But we are a lot
 12 closer than that. And then I'm -- I still -- I struggle with
 13 the fact that we just did this. I mean, we just went through
 14 the whole thing. It's basically. It's basically the same
 15 proposal that we had last fall. So I'm just kind of
 16 discouraged that it looked like the whole thing was down and
 17 now it's back up again. So how far do you go? How far can
 18 that go? So, anyway, that's all I have to say. Thank you.

19 CHAIR MCGEE: Is there anyone else in the
 20 audience that wishes to speak in opposition to the project?
 21 Please approach the podium and state your name and address.

22 MR. CHAPMAN: My name is John Chapman. I live at
 23 118 the Woodlands. I was present last year at the Planning
 24 Commission and City Council and I just want to say that I
 25 think the City Council decided the decision properly at that

Page 26

1 time. And I don't want to talk too long, but I do want to
 2 say that a gas station is not a restaurant. I think all of
 3 us can understand the differences and what our concerns are.
 4 I've lived in this neighborhood since 1965. I used to live
 5 in old Meadowbrook which is right adjacent to ours. This
 6 building was originally a Red Lobster. It has been some form
 7 of restaurant for 40 years. Our neighborhood has never been
 8 opposed to any of the changes from restaurant to restaurant
 9 to restaurant. But, again, a gas station is not a
 10 restaurant. And I would like to have you consider voting on
 11 this issue as if this were your neighborhood. Thank you.

12 CHAIR MCGEE: Is there anyone else in the
 13 audience that wishes to speak in opposition to the project?

14 MR. McINTOSH: Good evening.

15 CHAIR MCGEE: Can you state your name and
 16 address?

17 MR. McINTOSH: John McIntosh, I live at 135 the
 18 Woodlands. I addressed this Commission a year ago regarding
 19 this same issue with the same developer but with a slightly
 20 different site plan. As I did then, I thank the Commission
 21 for the opportunity to express my concerns for this project.
 22 Our community respects Mr. Cuda and Pauch, LLC's, right to
 23 build and develop properties. We understand they are in that
 24 business. However, we strongly disagree with their choice of
 25 site. They want to develop a gas station and convenience

Page 27

1 store on the site, but the question I ask is, and Mr. Cuda,
 2 this Commission is why? Now, his representative attorney
 3 asked this question at the beginning of this presentation, he
 4 says we want to answer the question, should this property be
 5 approved. Well, let's look at that question, should this
 6 property be approved. One day I drove my vehicle from the
 7 intersection of the Phillips 66 station at the corner of
 8 Antioch and I-35. That's Phillips station Number 1. Second
 9 gas station is within three eighths of a mile north at
 10 Antioch and Vivion Road. That is gas station Number 2, which
 11 is the QuikTrip. The third gas station is one mile north,
 12 which is Conoco at the corner of Antioch and Kendallwood
 13 Parkway. That is Number 3 gas station. And finally, there
 14 was two gas stations one and seven tenths of a mile north on
 15 Highway One and Northeast 72nd Street, which includes the
 16 Hy-Vee gas station on the northeast corner and the QuikTrip
 17 on the northwest corner. That is a total of five gas
 18 stations all with convenience stores. And the total distance
 19 from gas station Number 1 to gas station Number 5 is three
 20 and seven tenths of a mile. Mr. Cuda's position with this
 21 project is unclear to us as a community because we don't see
 22 a supply and demand for it. We have five gas stations. Why
 23 put a sixth one in a community that is already mature in
 24 terms of its businesses and residences? So five gas stations
 25 is truly enough. I respect and ask the Commission on behalf

Page 28

1 of the residents of this community to reject this bid for
 2 this site. I respectfully suggest to Mr. Cuda, if he is
 3 serious about establishing a gas station, and his
 4 representative said that he is an experienced developer,
 5 well, I noticed that on the corner of the I -- Highway One
 6 and 152, they are doing some new construction there. There
 7 is no gas stations there. He can have the pick of the litter
 8 in terms of where he could develop. So my question is, why
 9 would he come and enforce and crowd up and bring in crime --
 10 and they spoke of crime. We are not talking about the store
 11 being robbed. We are talking about homeless people. We are
 12 talking about people coming in there that are coming in and
 13 breaking into our homes, that are sneaking in and building
 14 camps into those green areas behind of those homes. And this
 15 is just bringing in added vagrancy into our community. So I
 16 would ask Mr. Cuda, if he is really a developer and he is
 17 really an experienced developer, he will go where he can have
 18 the pick of the litter and he would have no competition in
 19 terms of his service. So I would respectfully ask you as a
 20 commission to look at the way we look at it as a community
 21 and as a family that love our community. And we respect his
 22 right to build and develop. That is not the issue here. But
 23 he should do it where there is a need for it. Because there
 24 is certainly not a need in our community where we have five
 25 gas stations within three miles. Thank you so very much.

Page 29

1 CHAIR MCGEE: Does anyone else from the
 2 audience wish to speak in opposition to the project?
 3 MR. GEISINGER: I do. Thank you, Madam Chairman.
 4 My name is Steve Geisinger. I'm in 102. I appreciate John,
 5 John, and John getting up here because I reiterate all they
 6 said. We've got a nice neighborhood and I think we want to
 7 keep it that way. I'm going to -- I would like to read
 8 something to you that was stated at the last meeting on
 9 December 10th. And it was from Carol Suter on the City
 10 Council, she says, I think the measure of the success of the
 11 committee or community is often the measure of the trust
 12 between citizens and elected officials. When people make
 13 investments in their homes where they are going to live and
 14 have their families live and be raised, that is based on the
 15 trust that the community is going to respect those
 16 investments and how we preserve them. As I listen to them, I
 17 don't want to continue to just reiterate the things that they
 18 said. When we met at the library as counsel, opposing
 19 counsel stated, we had asked, have you gone back and visited
 20 the site planning? We thought maybe there would be some
 21 changes made. And at that time Mr. Cuda just kind of
 22 laughingly said, I don't even think I've gone back and looked
 23 at it in the last eight months. We asked if there had been
 24 an impact study, because Carol did ask and the rest of the
 25 City Council asked was there something that was done, we do

Page 30

1 not want to lose the CVS and some of the other facilities
 2 that are there, so we have concern there as well. A lot of
 3 elderly people in the area. We would like to have the
 4 pharmacy and the CVS stay there. So we are concerned about
 5 the economic impact about being in a convenience store for
 6 those things. The safety issue, I think I want to reiterate
 7 we have homeless that are staying there in the area, in the
 8 facility, but also in the wooded areas, as John mentioned.
 9 And so we do have to have them out of there. I think this is
 10 creating another one of those areas where people could,
 11 vagrants can -- homeless could stay. And the other issue, as
 12 John pointed out, when you start looking at what is the
 13 viability of a gas station being there, you do have to have
 14 traffic. The Conoco station up there, they've had issues
 15 trying to stay open. They've not been able to grow. But if
 16 we do have traffic that all the sudden people are going down
 17 the side streets, we are going to have more accidents. And
 18 even tonight as we were coming to this meeting there was
 19 another accident out in front of the Woodlands area. We have
 20 one route in and one route out. People get frustrated coming
 21 off Antioch and they go around much faster than 25 miles per
 22 hour which is a stated area there. So I appreciate Mr. --
 23 counsel, opposing counsel talking about some of the studies
 24 regarding crime and whatnot, but I would also say some of
 25 those things are hearsay, because we can Google those things.

Page 31

1 In fact, the Conoco station up on the corner at Kendallwood
 2 and Antioch, there has been several times where the attendant
 3 in there will close the doors, it has got bullet proof glass
 4 on it, and he says, you don't want to be here after a certain
 5 time after it's dark. And so we are very concerned from
 6 those standpoints. We think that a restaurant, anything else
 7 would be good. We are just not in favor of this. I also
 8 would ask that you vote no on this particular project. Thank
 9 you.
 10 CHAIR MCGEE: Thank you. Does anyone else
 11 from the audience wish to speak?
 12 MS. GEISINGER: Thank you for letting me be here.
 13 I'm Donna Geisinger, I live at 102 Woodlands. Just to
 14 reiterate a couple of really important points, John McIntosh
 15 talked about how many gas stations there were. All those gas
 16 stations are on corners. Corners. So you can come in from
 17 one direction and go out the other direction. They never
 18 have like a roundabout where this proposed gas station would
 19 be. It's sort of like in a small development right next to
 20 the bank. UMB Bank. Also, no one actually talked about how
 21 many liquor stores there are on our street, on Antioch per
 22 se. I counted, there is nine. CVS pharmacy, the liquor
 23 store behind US Bank, across the street, the bar at Tanner's,
 24 Applebee's across the street, the liquor store at Englewood
 25 and Antioch, that is another shopping development, across the

Page 32

1 street is another liquor store on the either west side or
 2 east side, Wal-Mart at the Market has liquor. You can buy
 3 it. You can't buy it by the glass, but they have beer. And
 4 Hy-Vee sells liquor at 72nd and Antioch. And also they have
 5 the Market Grill where you actually could go in and eat and
 6 have a glass of wine or whatever. So there are plenty of
 7 places to buy your favorite beverage. But I don't think we
 8 need to have it right next to our homes. That is all I need
 9 to say. Thank you so much.
 10 CHAIR MCGEE: Does anyone else from the
 11 audience wish to speak?
 12 MS. THIESON: Evening. Elisha Thieson from 123 the
 13 Woodlands. I would just like to kind of clarify that it was
 14 stated earlier when they were talking about the Kaw Valley
 15 engineering site that they had done, they had said the
 16 run-off would go towards the southwest. I think that is
 17 great. I appreciate that study. I would like it known our
 18 houses on the east side are actually downhill, so any run-off
 19 that could come from the back side of the property or from
 20 the southern part of the property, it does flow, that water
 21 will flow at a southeasterly area and that does flow right
 22 into my back yard because I'm three houses down. So I would
 23 like that known, that water is a concern from our area when
 24 you have a lot of pavement and things, the water does come
 25 down in there into our yards and causes erosion things like

Page 33

1 that. I would like it known as well that when we attended
 2 the meeting with Mr. Chuck Cuda a few months ago, I did ask
 3 him if there were any other options for that site that had
 4 been explored since he came to that last meeting and he said
 5 that he had tried, he had looked into things, he even talked
 6 to the people that were building the Wendy's right next door
 7 and they were not interested because the site wasn't really
 8 built for those things. He said that the restaurant is very
 9 large, it's hard to get someone who wants to put in a new
 10 restaurant because, you know, the changing culture and you've
 11 got things like Grubhub and all that. And that is fine. But
 12 it makes me wonder, is this really a good option, or is this
 13 the only option and that is why they are putting the gas
 14 station in there? We have opposed it numerous times and that
 15 is what he is saying is maybe the only option, so I question
 16 as a community should we put something in that is a good
 17 option for everyone or the only option and therefore we are
 18 just going to deal with what we have to. And we think that
 19 is unfair for our neighborhood. Also a concern of mine is
 20 the fact that the store operator is not present at this
 21 meeting, at least that I'm aware of. He wasn't named. So
 22 that is also a concern of mine, that the person who is
 23 actually going to be operating this store isn't here. It
 24 makes me wonder how invested he will be in our community or
 25 is this a shop that is going to get closed within a couple

Page 34

1 years and he'll just move on to his next place and what are
 2 we going to be left with? Will someone come in? Will we
 3 have an empty gas station? Will we have another situation
 4 like we have now with an empty property? And then lastly as
 5 you all noticed today it is very hot outside. They tell you
 6 on ozone alert days to not fuel your vehicles. I can't give
 7 you exact reasons why. But it concerns me if they tell you
 8 when it's really hot out not to fuel your vehicles because of
 9 the vapors and things that go into the air and they
 10 contribute to ozone pollution. Do I really want to live 189
 11 feet from this gas station with those types of issues? And
 12 you have hot days, it makes me very concerned. Thank you.

13 CHAIR MCGEE: Does anyone else from the
 14 audience wish to speak in opposition to this project? Seeing
 15 no one, we will allow Planning Commission members to begin
 16 discussion. Or, if you have questions, I can start a
 17 speaker's list. Does anyone want to go first?

18 MR. MARKENSON: Mr. Bowers, there have been three
 19 major issues raised. One is kind of a leaky gas tank. We
 20 all know that old gas tanks leak and cause problems. What
 21 has been done in recent years on the quality of gas tanks and
 22 monitoring systems and so on?

23 MR. BOWERS: As additional background, there are
 24 about 130,000 convenience stores operating currently in the
 25 United States. And those stores serve about 80 million

Page 35

1 people annually. 80 percent of the people who have needs for
 2 food and beverage that can be serviced at a convenience store
 3 go to a convenience store rather than a grocery store. So
 4 that is background. To your question about what has changed
 5 in the industry since the leaky case -- leaky tank problem
 6 arose out of tanks that were installed in the '30s, '40s and
 7 '50s, which is a significant problem, the State of Missouri
 8 has adopted a program to remove those tanks and has done so
 9 very efficiently. Modern technology, modern engineering has
 10 examined this question very carefully. And by the way, I
 11 represent QuikTrip in addition to other developers in Kansas
 12 City, so I run into this question frequently. And the answer
 13 is that almost everything associated with the delivery of
 14 fuel and the dispensing of fuel is double lined. What I mean
 15 by that is, there is a liner inside of the liner on these
 16 tanks. The tanks are -- the underground tanks are connected
 17 to monitoring sensors, electronic monitoring sensors that
 18 report to a, for lack of a better term, a computer in the
 19 owner's control facility that tells you if there is any sort
 20 of a leak or seepage in an underground tank. The lines that
 21 connect the underground tank to the fueling points that
 22 dispense fuel to the retail customer are double lined. And,
 23 again, sensors are installed on those pumps that report to
 24 the central control of the owner, that there is a leak, if a
 25 leak occurs. And if a significant leak occurs, the

Page 36

1 electronics are designed to shut off the delivery of fuel so
 2 that a spill does not occur. So the technology that you see
 3 every day in your iPhones and your iPads and your laptops has
 4 been adopted and directed towards making these fuel
 5 situations safe. So the modern underground tank, the modern
 6 fuel dispensing points and the lines that connect all of that
 7 are incredibly safe by modern standards. So I have no
 8 concerns that -- in addition to that. By the way, we've got
 9 significant Federal and State regulations concerning the
 10 installation of these facilities that we have to comply with.

11 ~~There are not only State laws but there is also code of state~~
 12 regulations has significant regulations on these
 13 installations and how they are operated and maintained. So I
 14 feel very comfortable that the leaky tanks of the past are
 15 not something that we'll see in the future.

16 MR. MARKENSON: Water run-off storm water run-off,
 17 it seems to me there is going to be less storm water run-off,
 18 because you are taking concrete areas and turning them into
 19 grassy areas and trees, so there should be less water
 20 run-off.

21 MR. BOWERS: That's correct. If I could in
 22 connection with that, I have a letter from Kaw Valley
 23 Engineering dated July 18th of this year addressed to Mr.
 24 Cuda concerning the storm water run-off on Lot 3 of
 25 Kendallwood Center which is what the property owners to the

Page 37

1 east were concerned about. I don't know how the last witness
2 who testified that water runs from our property onto their
3 property could occur, because physics tells me, and I am not
4 a physicist, but the law of physics is that water doesn't run
5 up hill. That is what this letter -- if I could, I would
6 offer copies of this to each of you through your Staff.

7 MR. MARKENSON: Thank you much.

8 MR. TURNAGE: Mr. Bowers, at your June 24th
9 neighborhood meeting that you had, was the issue of declining
10 property values being next to a convenience store gas
11 station, was that addressed? And if so, how so?

12 MR. BOWERS: It was raised and it was not addressed
13 by us other than to say, we, the experience we have -- and,
14 again, I represent QuikTrip so I have represented that
15 company in connection with multiple locations adjacent to
16 residential areas, what we find is, after the store is
17 established, that because of the convenience of having a very
18 good operator located very near that, it's a positive impact
19 on adjacent residential property values, not a negative.
20 Many of these things that -- and I understand the fear of the
21 unknown. The fear of the unknown is what drives most of
22 these concerns. We don't like change. We like to know
23 exactly what is next door and if next door is vacant we want
24 to keep it that way. And whenever development comes to that
25 property next door, it's threatening to us. I understand

Page 38

1 that. But in many of these situations the feared improvement
2 has the exact opposite impact on many occasions. We haven't
3 done a study of this area and typically don't do studies of
4 that type in connection with applications of this type
5 because they are relatively expensive. And another eight to
6 \$10,000 study in an application of this sort isn't in my view
7 warranted or appropriate. So we -- it is our shared
8 experience, is all we have.

9 MR. TURNAGE: Thank you.

10 MR. EBENROTH: Just a couple questions. It was
11 brought up that the back of the property to the closest edge
12 of property is 35 feet. Can you tell me what the distance is
13 to the pumps or to the underground storage tanks?

14 MR. BOWERS: I was thinking that as the statement
15 was made and --

16 MR. RUOFF: It is 197 feet from the island to the
17 first house. I show a dimension on one of the slides. Can
18 you read that? I think it was 197 or 87. I can't read it.
19 But that is from the island to the corner house.

20 MR. EBENROTH: What about the underground tanks?

21 MR. RUOFF: Are you asking about the vent or the
22 tanks?

23 MR. EBENROTH: Are they in the same spot?

24 MR. RUOFF: No. The vents will be in the canopy.
25 They will be as far as we can get them into the canopy and

Page 39

1 they'll go six or seven feet above the canopy. So on the
2 ground it's almost 200 feet. And then they are above -- by
3 code, they have to be above the roof of the canopy by -- I
4 think it is five or six feet.

5 MR. EBENROTH: And the second question I have is
6 basically the distance between the fences was brought up,
7 that could be vagrants in there and everything. How are you
8 addressing that issue as well as the maintenance of that
9 property between? Because there is a lot of trees in there.

10 MR. RUOFF: I think by record we don't care what
11 that fence is. We are just trying to get it in because it
12 was requested. We can put it up against the other fence, but
13 we were worried about maintenance and weeds between fences
14 and trying to maintain back sides of those fences if we are
15 too close, so we moved it out so we could get to it.

16 MR. BOWERS: To maintain that area between fences.

17 MR. RUOFF: We'll put that fence where everybody
18 desires that fence. But I'm trying to get all that
19 landscaping and the fence, so we are trying to make it
20 function long term. Because eventually the trees we showed
21 between the fence are going to be pretty good size. They
22 get 20 some feet in diameter.

23 MR. BOWERS: What would make most sense to me, but
24 something that the neighbors weren't interested in, would be
25 to remove the existing fence and to put in a new fence that

Page 40

1 we would maintain and the landscaping that we are proposing
2 would still be there. But there would be no "no man's land"
3 between fences.

4 MR. EBENROTH: I understand their fence goes a long
5 way past your property, though, I believe.

6 MR. BOWERS: Yes, I understand that. We are just
7 trying to offer solutions that make sense.

8 MR. EBENROTH: But is there a way to address the
9 vagrancy issue at all? I know it's common around different
10 areas. Plus there is no lighting back there, either.

11 MR. RUOFF: I was going to say the two solutions I
12 have are people and lighting. If you have a lot of people
13 and a lot of lighting, you don't have those type of problems.
14 So but we are -- we've taken the lighting to zero.

15 MR. BOWERS: At the property boundary line.

16 MR. RUOFF: It is going to be when it gets to the
17 landscaping, yeah.

18 MR. EBENROTH: Thank you.

19 MR. WHITTON: I want to address the fumes, if we
20 can. I owned a gas station for 30 some years, pumped gas
21 since I was 14, and checked tankers in, checked them out,
22 hundreds and hundreds of times. Fourth degree burns from my
23 gasoline, drank a little bit when I was trying to siphon
24 some, and it never killed me. And I'm fine, I'm still here.
25 I do like the idea that the fumes won't bother them. I

Page 41

1 swear. And I know that the reason I quit pumping gas is
2 because of all the safety things you had to install on your
3 tanks. Average guy can't afford it. And they wouldn't sell
4 it to you for the right price, anyway. But the evergreen
5 trees I like. That's a good buffer. That is a good solid,
6 keep the light in. And the piece of property is zoned for
7 the use that you are trying to do. It is CP-3. And that is
8 strong, very strong and always has been, I get that. So I
9 was opposed to it the first time because of the hours, but I
10 don't think the evergreen trees were in there then. That
11 would kill the noise and all of that. So -- and you've tried
12 to do everything you can to -- we appreciate that. The
13 fumes, I'm telling you they won't kill you. Okay? Thank
14 you.

15 MS. MIDDLETON: I don't have any questions or
16 anything. I guess it does seem like there is an awful lot of
17 competition, so if we are going to allow another one in are
18 we causing some place else to close down someplace else that
19 we are going to have, you know, to deal with this issue
20 again? I got involved with this group because I wanted to be
21 able to do something for my community. I can't do anything
22 about the Amazon rain forest or the icebergs melting or
23 whatever. When we did the shaping our future a couple years
24 ago there was, yes, there was commercial, but there was also
25 environment. And from my point of view, yes, it is zoned for

Page 42

1 this use. But when we pave over everything we are kind of
2 shooting ourselves in the foot for surviving on the planet,
3 shall I say. So I guess I do have a question for City Staff.
4 Was this zoned -- when it came up last time, was there an
5 issue with the zoning?

6 MR. GREER: No, ma'am. It has been CP-3 for decades

7 MS. MIDDLETON: Okay. Thank you.

8 MR. WHITTON: You know, we have a limit on liquor
9 stores, I believe still, don't we? Or liquor establishments?

10 MR. GREER: Yes.

11 MR. WHITTON: But you can't do that for gas station.
12 I was here when there was a gas station on every corner in
13 the '60s. If you drove down North Oak there was a -- I swear
14 to you every corner on North Oak had a gas station. And they
15 all survived. I don't think CVS is going to move out because
16 they are putting a gas station there.

17 MR. MARKENSON: Can I ask a question of Staff?

18 CHAIR MCGEE: Mr. Markenson.

19 MR. MARKENSON: It seems to me we have an ordinance
20 on tobacco sales, on zoning, and you can only have tobacco
21 sales so many -- it has to be at least so many feet from
22 other tobacco sales. Does this convenience store fall into
23 that category? Does the CVS sell tobacco? Does anyone else
24 within the range sell tobacco?

25 MR. GREER: Off the top of my head, I can't

Page 43

1 determine that. I would have to go back and take a look. I
2 do believe CVS had gotten out of the tobacco business. It
3 was CVS and I can't remember -- I eventually think both of
4 them did. I would honestly have to go back and take a look.
5 Off the top of my head.

6 MR. MARKENSON: And there is no individual business
7 that sells tobacco products other than the possibility of CVS
8 there? Or is that a Walgreens there or --

9 MR. GREER: I believe it is a CVS. I'll have to
10 take a look to be honest with you. I can't determine off the
11 top of my head off all the stores.

12 MR. NEW: Yeah, a question for the attorney, you
13 mentioned the volume of the assets disbursed in your study
14 which was, what was that number again, the volume of gas that
15 was disbursed for a yearly basis in the study?

16 MR. BOWERS: A large gas station is 3.6 million
17 gallons.

18 MR. NEW: What is the estimated volume?

19 MR. BOWERS: Less than half of that.

20 MR. NEW: Less than half. Okay. That is the only
21 question I had. Just wanted to know the volume. Okay.

22 MS. HOMMON: Before I ask my questions, because I
23 might rule out some of them based on the answer, I have a
24 question for City Staff. Can you just clarify for me
25 according to the purview of the Planning Commission what are

Page 44

1 the things that we need to consider? Because I don't want to
2 ask questions that are irrelevant to what we should be
3 considering.

4 MR. GREER: Sure. I'm not going to promise I'm
5 going to hit them all, but I'm probably going to get fairly
6 close. All of the categories that you'll see that the
7 Planning Commission typically considers is within the
8 recommended conditions, so the one through 15. I'm just
9 going to give you a couple examples. I probably won't be
10 able to get them all. But manicured and landscaped areas,

11 mechanical equipment, monument signage in general, the
12 location, and what the trash dumpsters -- are used to enclose
13 it, lighting, the exterior of the project, trash service,
14 store deliveries, and the hours that those would necessarily
15 operate. And then sometimes fencing, of course. And then
16 maintaining the growth in between those fencing. Those are
17 the types of things that planning Commission Typically
18 considers, especially since it is a site plan and the zoning
19 is correct for this. Does that answer your question?

20 MS. HOMMON: Yes, thank you. So I have a couple of
21 questions for Mr. Bowers, please. The first question I have
22 is, just for point of information, Kaw Valley Engineering,
23 they get paid regardless of whether this job goes through or
24 not, correct?

25 MR. BOWERS: That's correct.

Page 45

1 MS. HOMMON: So they don't have any vested interest
 2 in this being a yes?
 3 MR. BOWERS: That's correct.
 4 MS. HOMMON: Thank you. So safety in the rear of
 5 the building, how it's presented to us is there will be zero
 6 foot candles. I am afraid I don't fully understand what that
 7 is. So I may need to ask you to describe that to me. But I
 8 have a concern that is typically a darker area, the back side
 9 of the buildings, closing late at night. I suspect that you
 10 would have employees going to trash receptacles late at
 11 night. And we've made it so it's not very bright back there.
 12 Is that a safety concern? And what does that look like for
 13 you?
 14 MR. BOWERS: Well, maybe Brian can answer this
 15 better than I, but zero foot candles means fugitive light
 16 from the property boundary onto adjacent residential will not
 17 occur. Foot candle is a measurement of luminosity. Again,
 18 I'm not a lighting engineer. There are other ways of
 19 measuring the intensity of light including lumens. Another
 20 way of measuring is so many lumens. In this case it would be
 21 zero lumens. Zero foot -- in other words, there would be no
 22 light from the property boundary to the residents adjacent.
 23 That doesn't mean that you would, with modern lighting you
 24 can't light your site so that it's safe and that you can
 25 operate. And our lighting, LED lighting will do that. I

Page 46

1 don't know if Brian wants to add to that or not.
 2 MR. RUOFF: So with the current layout right now we
 3 have two proposed rear doors. One would be for deliveries.
 4 One would be a potential exit only egress door in case there
 5 is a fire, there would be no hardware on it. With all the
 6 landscaping we are proposing at the back of this building it
 7 would be fairly simple to put some wall packs light the
 8 perimeter of the building up just at the edge of the building
 9 so it would be just isolated to the building. But the trash
 10 enclosure has been moved to where the new Wendy's is going in
 11 and it is out in the parking lot. So there would be no
 12 reason for anybody to be back there legitimately at night.
 13 MS. HOMMON: They will not be going out the back
 14 door with trash late at night?
 15 MR. RUOFF: No, they would -- the way convenience
 16 stores work, they -- frequently they don't have restaurant
 17 trash. They usually take the trash out during the day. But
 18 that one -- the service door is on the north end of that back
 19 where it currently is. It is about eight feet I think from
 20 the corner, and there is a sidewalk there. I would suggest
 21 that stays lit. There would be cameras on that, too. At
 22 least two probably.
 23 MS. HOMMON: The other question I have is I've
 24 actually -- I know more about bio-swales than I wish to, but
 25 just for the sake of this conversation, can you explain a

Page 47

1 little bit about how they operate and what that means
 2 regarding run-off, et cetera?
 3 MR. RUOFF: Bio-swales are common in most
 4 convenience stores that are being constructed today. It
 5 comes from what they call the BMPs, best manageable practice,
 6 that is put out by Mark which is an area different cities
 7 handle that adopt that, enforce that differently. But
 8 Gladstone enforces that to pretty much the full extent. So
 9 what that does is rain water that hits in and around the
 10 fueling sites would run into a curb inlet and it would be
 11 routed into the bio-swale where we have grass, we would have
 12 wild grass, some kind of grass system that is out there in
 13 the front that would be designed, have special soil, it is
 14 completely designed by an engineer. And that it would go
 15 through that process, aerate out, and recondition itself
 16 before it goes into the storm water. I might add while I'm
 17 up here, the storm water on the site currently, we are waived
 18 all the way up to the existing fence except for maybe three,
 19 four feet which slopes down to our site all the water on this
 20 site right now runs to the west, there is two drives there,
 21 that water goes out into the street and goes down the street
 22 to the storm water culvert. So all the water right now that
 23 is on the site is going across the asphalt out into the city
 24 street and into the existing culvert. We are proposing to
 25 take off the back paving area and put in landscaping which

Page 48

1 reduces the storm water run-off so the City has other
 2 benefits as far as landscaping plants, fresh air from the
 3 plants and that sort of thing, and that water would go into
 4 the ground.
 5 MS. MIDDLETON: But that is not where the swale is.
 6 MR. RUOFF: The swale is out in front. The swale is
 7 going to be designed around the fueling area of the site. So
 8 the trick is going to be there is five islands and there will
 9 be a trench drain that runs along the west side and that will
 10 catch all the water and control it so it is organized and
 11 goes to one spot.
 12 MS. HOMMON: I have two more questions. The first
 13 one is, I understand what you are saying regarding the slope
 14 that goes back into -- so are you aware as a developer where
 15 the water is coming from that is running down into that
 16 property on the south side?
 17 MR. BOWERS: The only thing I can think of is it is
 18 coming from the bank because we have a curb. So all the
 19 water is controlled on our side and goes in the street and
 20 goes to the storm inlet so everything on the side right now
 21 is going to that storm inlet. I've actually been out there
 22 during a rain storm and watched it physically do that. It is
 23 backed up by the engineering.
 24 MS. HOMMON: The last question I have is for Austin,
 25 for City Staff. One of the issues that has been addressed

<p style="text-align: right;">Page 49</p> <p>1 again is the decrease in property value. Do you have any --</p> <p>2 I don't know what the word is, but any anecdotal evidence per</p> <p>3 se about what improved areas, how that affects property</p> <p>4 values as opposed to derelict or unoccupied properties?</p> <p>5 MR. GREER: I will be the first to admit I am not a</p> <p>6 real estate professional. I wouldn't be able to make that</p> <p>7 determination. I wouldn't want to mislead anybody one way or</p> <p>8 the other.</p> <p>9 MS. HOMMON: Thank you.</p> <p>10 MR. NEW: This question is for City Council, I do</p> <p>11 remember this coming up before, and the question is, doesn't</p> <p>12 seem like they have addressed everything from the last --</p> <p>13 because it was denied, how is it coming to us again basically</p> <p>14 the same approach?</p> <p>15 MR. GREER: I'm not sure I understood your question.</p> <p>16 MR. NEW: How are they back here again asking for</p> <p>17 the same thing if it was already denied by the City?</p> <p>18 MR. GREER: Sure. They have the right to reapply.</p> <p>19 They have the right to reapply and re-adjust their site plan</p> <p>20 and their project and reapply.</p> <p>21 MR. NEW: Okay.</p> <p>22 MX. HERNANDEZ: How long has that property been</p> <p>23 vacant?</p> <p>24 MR. GREER: Probably closer to two years. And if</p> <p>25 I'm mistaken, I'm sure Mr. Cuda could answer that.</p>	<p style="text-align: right;">Page 51</p> <p>1 individual person will vote on this subject. But the</p> <p>2 Planning Commission does have a certain criteria that they</p> <p>3 look at, and the recommended conditions are those criteria.</p> <p>4 MS. MURCH: Okay.</p> <p>5 MS. MIDDLETON: I'm finding myself personally</p> <p>6 opposed to this plan, but as a member of the Planning</p> <p>7 Commission, I'm finding it difficult to find a Planning</p> <p>8 Commission reason to not vote for it. That's all.</p> <p>9 MR. WHITTON: We are talking about a piece of</p> <p>10 commercial property on a four-lane state highway. It may set</p> <p>11 back a little bit, but that is commercial. And in the</p> <p>12 past -- as a matter of fact, now there is a lot of businesses</p> <p>13 even in those little houses down there. At one time we had</p> <p>14 thought about going back 300 feet and running all that land</p> <p>15 and make that all commercial down south of there where all</p> <p>16 the little houses are businesses to improve that. So I mean,</p> <p>17 it is -- it has been zoned for that forever. It is on a</p> <p>18 four-lane state highway. Where else would you put a</p> <p>19 business? You know, we are not really going into the</p> <p>20 residential area. We are just adding more commercial on a</p> <p>21 four-lane highway. And I still like the idea that they put</p> <p>22 those great big evergreens, because you won't be able to see</p> <p>23 anything. And they've kept the light on the property.</p> <p>24 They've taken care of that. And they've tried. They really</p> <p>25 have. I'll be voting for it.</p>
<p style="text-align: right;">Page 50</p> <p>1 MR. CUDÁ: Over 18 months.</p> <p>2 MS. MURCH: I would like to ask a redundant question</p> <p>3 of City Staff, does this site plan meet all the requirements</p> <p>4 of the current zoning?</p> <p>5 MR. GREER: Yes, sir.</p> <p>6 MS. MURCH: Does it meet all the requirements of the</p> <p>7 current plan?</p> <p>8 MR. GREER: Yes.</p> <p>9 MS. MURCH: As a Commission is there anything else</p> <p>10 we are supposed to consider other than master plan or the</p> <p>11 fact that you've approved it and it meets the current zoning?</p> <p>12 MR. GREER: Currently the project addresses all of</p> <p>13 the conditions City Staff has at this time.</p> <p>14 MS. MURCH: So there is no other -- our personal</p> <p>15 emotions about bio-swales or vagrancy or --</p> <p>16 MR. GREER: When coming up with the conditions for</p> <p>17 this project, we did our research and we went through</p> <p>18 historically what other projects have done and what could</p> <p>19 apply to this one. We combined all of those with these 15</p> <p>20 conditions and they were agreeable to all of them.</p> <p>21 MS. MURCH: So at the end of the day, if it meets</p> <p>22 all of the requirements legally and it meets the requirements</p> <p>23 mainly of the master plan, how could we do anything other</p> <p>24 than vote yes?</p> <p>25 MR. GREER: I don't think we can dictate how each</p>	<p style="text-align: right;">Page 52</p> <p>1 CHAIR MCGEE: Are there any other questions</p> <p>2 or comments for the planning commissioners? Mr. Markenson?</p> <p>3 MR. MARKENSON: Are we going to have comments after</p> <p>4 the close of the meeting or is this my time to make a</p> <p>5 comment?</p> <p>6 CHAIR MCGEE: This is your time.</p> <p>7 MR. MARKENSON: I'm going to do it then. I think I</p> <p>8 would rather see a lot of things on this property other than</p> <p>9 a convenience store. It's properly zoned for a convenience</p> <p>10 store and the site plan resolves any sorts of problems and</p> <p>11 conflicts. I don't see any way to vote against this measure.</p> <p>12 That is how I felt really on the first time around. I think</p> <p>13 I made the motion to approve it. I don't -- I wish it were</p> <p>14 something else, but it's not, so that is the way it goes.</p> <p>15 Thank you.</p> <p>16 MS. MIDDLETON: Does anybody have an issue about the</p> <p>17 double fence and the safety issue?</p> <p>18 MR. COOKSON: I don't. Currently I'm noting that</p> <p>19 the developer has stated they are flexible on where that</p> <p>20 fence goes. So I don't have a specific concern at this time.</p> <p>21 CHAIR MCGEE: Are there any additional</p> <p>22 comments from Planning Commission members before we close the</p> <p>23 public hearing? Do I have a motion to close the public</p> <p>24 hearing?</p> <p>25 (Motion made, seconded, and carried.)</p>

<p style="text-align: right;">Page 53</p> <p>1 CHAIR MCGEE: I will entertain a motion on 2 this topic. 3 MR. MARKENSON: I move the planning commission 4 approve the site plan review of the 6221 North Chestnut 5 Avenue, File No. 2019-008. 6 (Motion Seconded.) 7 CHAIR MCGEE: Call the roll. 8 (Roll called.) 9 MR. COOKSON: Yes. 10 MR. EBENROTH: Yes. 11 MX. HERNANDEZ: Abstained. 12 MS. HOMMON: Yes. 13 MR. MARKENSON: Yes. 14 MS. MIDDLETON: I like the abstain option. 15 MS. MURCH: Yes. 16 MR. NEW: No. 17 MR. TURNAGE: Yes. 18 Mr. WHITTON: Yes. 19 CHAIR MCGEE: Yes. 20 CHAIR MCGEE: The motion carries. Are there 21 any communications from City Council? Are there any 22 communications from City Staff? 23 MR. GREER: No, Madam Chairperson. Thank you. 24 CHAIR MCGEE: Any communications from 25 Planning Commission members?</p>	<p style="text-align: right;">Page 55</p> <p>1 CERTIFICATE 2 3 I, Nicole M. Calcara, Certified Court Reporter, do 4 hereby certify that on August 19, 2019, I was present and 5 reported all of the proceedings in the Gladstone City Council 6 Hearing; I further certify that the foregoing 54 pages 7 contain a complete and accurate transcription of the 8 proceedings. 9 10 11 12 13 14 15 /s/ Nicole M. Calcara, CCR 16 Nicole M. Calcara, CCR 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 54</p> <p>1 MX. HERNANDEZ: Sure. I'm going to recommend that 2 folks show up at the City Council meeting to express concerns 3 if you have any in order to address it whenever it goes 4 before the City Council. 5 MR. MARKENSON: I would like to invite everyone to 6 participate in the Restoration Run Saturday morning at the 7 Atkins-Johnson farm. This is a 5 K walk-run fund raiser that 8 benefits 50 percent for the Atkins-Johnson farm and 50 9 percent for Synergy. Our own Bill Turnage will be 10 participating in that race and is the odds on favorite of 11 coming in first place. I will be parking cars. 12 MS. HOMMON: I would like to say thank you for 13 coming to everybody for coming and being heard. There was 14 absolutely nothing easy about this. And I'm really glad that 15 the community made it a difficult thing to vote, because you 16 forced us to consider everything that we had to legally 17 consider, and I appreciate that. That is the way it should 18 be. And it's always hard when it doesn't turn out the way 19 you wish it to be, but thank you so much for coming and being 20 heard. 21 CHAIR MCGEE: I'll entertain a motion to 22 adjourn the meeting. 23 (Motion made, seconded, and carried.) 24 (Adjournment.) 25</p>	

Respectfully submitted:



Cheryl Lamb, Recording Secretary

Approved as amended X



Jennifer McGee, Chair

Approved as submitted _____