

League of Women Voters of Lawrence/Douglas County
P.O. Box 1072, Lawrence, Kansas 66044-1072

May 12, 2015

Hon. Jeremy Farmer, Mayor
Lawrence City Commissioners
City Hall
Lawrence, Kansas

RE: *Consent Agenda Item No. 10, Special Use Permit, SUP-15-00065, for Lake View Villas @ Alvamar*

Dear Mayor Farmer and Lawrence City Commissioners:

At the April 20, 2015 Planning Commission (PC), this Item was approved unanimously, and consequently is on your Consent Agenda of May 12. We sent a letter urging the Planning Commission to deny this item. Our reasons were outlined in our letter. However, since that time we have been able to review the Covenant recorded for the original development. The recordation of this Covenant (March, 2006) occurred four months prior to the adoption of our current Land Development Code (July, 2006), and according to the Planning Staff, this development is occurring as a continuation of the original development. We assume, therefore, that this current development would be regulated under the provisions of the previous zoning Code, Ordinance 3500.


During the review of this item in April by the Planning Commission, this development was characterized as a "condominium" development, which would mean that the structures, including the single unit detached dwellings and all of the land, would be owned by the owner of the "apartment complex" and the interiors of the structures would be the portions sold. However, because the proposed new structures are detached single units (houses) and two-unit structures (duplexes), in April we were at a loss to see how these could be sold as "condominiums." On the other hand, based on the Covenant, these are "townhouses," and therefore if they are developed and sold under the previous Ordinance 3500 regulations, each unit would be sold intact including the ground under it, if not immediately, at least at some predictable time in the future.

Our request that this be developed as a Planned Unit Development is still valid because under Ordinance 3500,* as also is the case in our current Land Development Code (LDC), private streets are legal only under Planned Unit Developments or Planned Developments. There are two reasons for this: (1) the construction standards for private streets are the same as for public streets, and (2) in the case of PDs and PUDs the City can repair them when Home Owners' Associations fail, which has happened.

We are writing this letter to you to give you some background information which we did not have when we wrote to the Planning Commission. For example, we had not seen the original Covenant and therefore, our concern about selling the single family units as "condominiums" was unnecessary. However, we still must ask that you send this back to the Planning Commission and request that this be developed as a Planned Unit Development (PUD) so that the main access driveway can be converted to a private street and given the other standards of PUDs or PDs, thus allowing the development these necessary protections.

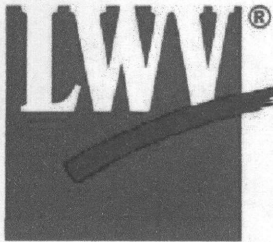
Thank you for listening to our concerns.

Sincerely,


Debra Duncan
President


Cille King, Member, Land Use Committee
Vice President

*Ordinance 3500, Definition of Street: 20-2002.17(19) Street. Any **public** right-of-way other than an alley." (emphasis added)



LEAGUE OF WOMEN VOTERS®
OF LAWRENCE/DOUGLAS COUNTY

RECEIVED
APR 20 2015
City County Planning Office
Lawrence, Kansas

April 19, 2015

To Mr. Bruce Liese, Chairman, and Planning Commission

RE: ITEM NO. 2 SPECIAL USE PERMIT FOR LAKE VIEW VILLAS @ ALVAMAR; 2250 LAKE POINTE DR (SLD)

Dear Chairman Liese and Planning Commissioners:

We urge the Planning Commission to deny this application as it is currently presented and to require that this development be rezoned as a Planned Development Overlay District with RM12 Zoning. Our reasons are many, not all of which have been included in this letter.

1. We could not find any State or local zoning law which would permit this development of what are presented as "detached" single family housing and duplexes. (Please see KSA Apartment Ownership Act Article 31 and LDC Subdivision Regulations 20-801(c) Applicability.) **As one large lot**, there are no legally individually owned separate tracts of land or lots. This one lot is characterized as a "condominium" development. In the detached single dwellings, as well as the duplexes, this means that the interiors of the structures (or should we say the combined rooms constituting residences within the structures) are condominiums, but as condominiums the structures themselves and the land underneath will be owned by the single entity, presumably the owner or association of owners acting as the owner of the project. These are also not townhouses (they do not conform to the townhouse laws) and they are not apartment buildings because they do not contain three or more units that have been divided into condominium units. As "condominiums," the land under the residential units is not owned by the individual occupants of the units.

2. The access to these new units is **not a private street**. Private streets are not permitted in any developments within the City of Lawrence except for PUDs or PD Overlay Districts. This accessway technically is a **driveway**. This means that in the event that the Homeowners Association (or whatever is acting on the residents' behalf) fails, the people living in the complex cannot seek relief from the City, as is available to a PUD or PD, for help in maintenance of their driveway or open space.

When a similar situation happened to Williamsburg Place and Normandy Court in 2007, the City Commission initially refused to allow a benefit district to repair their driveway because it was on private property and wasn't a public street. (Doing this for their private drive essentially would be allowing this for all homeowners). The City Commission ultimately waived their original denial and allowed benefit district financing for the Williamsburg Place accessway, but reluctantly, with the vow not to allow this again.

- President
Cille King
- Vice President &
President Elect
Debra Duncan
- Secretary
Caleb Morse
- Treasurer
Marjorie Cole
- Directors
Margaret Arnold
- Caroljean Brune
- James Dunn
- Midge Grinstead
- Carol Klintnett
- Marlene Merrill
- Austin Turney
- Melissa Wick

LEAGUE OF WOMEN VOTERS®
OF LAWRENCE/DOUGLAS COUNTY
Page 2

3. Presumably the Homeowners' Association agreements have a method for replacing the condominium units should they become damaged or demolished in the case of fire or severe weather. *However, in the event of the failure of the Association, how would these misfortunes be rectified?*

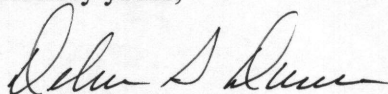
There are so many more questions and mishaps that could happen here when the ownership by the occupants isn't covered by local or State law.

The one way to make this (in a sense) "legal" would be to rezone the lot as a Planned Development Overlay District. The PD allows variations that conventional zoning does not. The Homeowners Association seems to be in place and the development seems to be designed as though it might conform to the Land Development Code, or can be modified so that it would conform.

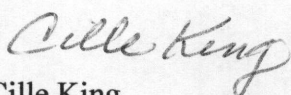
Otherwise, we appeal to the Planning Commission to deny this development as it has been presented, and to require the developers to replat it and rezone it according to the laws of our conventional zoning districts.

We hope that you will carefully consider our request, because approving this development as it has been presented to you would be very damaging to our land use planning system.

Sincerely yours,



Debra S. Duncan
President



Cille King
Vice President
Representing the Land Use Committee