

**EDGERTON PLANNING COMMISSION
MEETING AGENDA
EDGERTON CITY HALL - 404 EAST NELSON STREET
March 14, 2023
7:00 P.M.**

The City of Edgerton encourages public participation in local governance issues. To facilitate an efficient and effective meeting, persons wishing to address the Planning Commission must sign-up before the meeting begins. During public hearings, comments must be limited to three (3) minutes per speaker. The maximum time limit for all speakers during each public hearing will be one (1) hour.

The chair may modify these provisions, as necessary. Speakers should state their name and address and then make comments that pertain to the public hearing item.

The chair may limit any unnecessary, off-topic, or redundant comments or presentations. Speakers should address their comments to Planning Commission members only and should not speak to fellow audience members. Commission members will not engage in a dialogue or debate with speakers. Speakers and audience members should conduct themselves in a civil and respectful manner. Disruptive conduct may result in removal from the meeting.

Call to Order

1. **Roll Call** ____ Daley ____ Draskovich ____ Crooks ____ Little ____ Mueller
2. **Welcome**
3. **Pledge of Allegiance**

Consent Agenda *(Consent Agenda items will be acted upon by one motion unless a Planning Commissioner requests an item be removed for discussion and separate action.)*

4. Approve Minutes from the February 14, 2023 Planning Commission Meeting.

Regular Agenda

5. **Declaration.** At this time Planning Commission members may declare any conflict or communication they have had that might influence their ability to impartially consider the agenda items.

Business Requiring Action

New Business

6. **UDCA2023-01: AMENDMENTS TO ARTICLES 8 (ADMINISTRATIVE AUTHORITIES, DUTIES AND PROCEDURES) AND 11 (PERMITTED CHANGES AND DOWNZONINGS) OF THE UNIFIED DEVELOPMENT CODE**
 - a. Public Hearing for UCDCA2013-01
 - b. Consideration of UDCA2023-01

7. Future Meeting Reminders

- April 11, 2023 at 7:00 PM – Regular Session
- May 9, 2023 at 7:00 – Regular Session
- June 13, 2023 at 7:00 PM – Regular Session

8. Adjourn

**PLANNING COMMISSION MEETING
February 14, 2023**

A regular session of the Edgerton Planning Commission (the Commission) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on February 14, 2023. The meeting convened when Vice Chair Jeremy Little called the meeting to order at 7:00 PM.

1. ROLL CALL

Jeremy Little	present
Charlie Crooks	present
Adam Draskovich	absent
John Daley	absent
Jordyn Mueller	present

With a quorum present, the meeting commenced.

Staff in attendance: Chris Clinton, Planning and Zoning Coordinator/Deputy City Clerk
Beth Linn, City Administrator
Zachary Moore, Development Services Director

2. WELCOME Vice Chair Little welcomed all in attendance to the meeting.

3. PLEDGE OF ALLEGIANCE All present participated in the Pledge of Allegiance.

CONSENT AGENDA

4. Approve Minutes from the December 13, 2022 Planning Commission Meeting.

Commissioner Crooks moved to approve the consent agenda. Commissioner Mueller seconded the motion. The consent agenda was approved, 3-0.

REGULAR AGENDA

5. DECLARATION

Vice Chair Little asked the Commissioners to declare any correspondence they have received or communication they have had regarding the matters on the agenda. If they have received correspondence or have had any communication, he asked if it may influence their ability to impartially consider the agenda items.

The Commissioners did not have anything to declare at this time.

BUSINESS REQUIRING ACTION

NEW BUSINESS

6. **FS2023-01: FINAL SITE PLAN FOR INLAND PORT IX LOCATED AT 30700 AND 30500 W 183RD STREET**

Vice Chair Little requested City Staff introduce the project.

Mr. Zachary Moore, Development Services Director, introduced himself and stated this is his first Planning Commission since joining the City of Edgerton in late December. He explained the Final Site Plan is for a 1,000,000 square foot warehouse on 79.8 acres. The subject property was annexed into the City on March 25, 2010 and was rezoned from A-G, Agriculture, to L-P, Logistics Park, on January 26, 2017. At that same meeting as the rezoning, the Commission approved a Preliminary Plat and a Final Plat. The Final Plat was then approved by the City Council on August 24, 2017. At the July 11, 2017 Commission meeting, a Preliminary Site Plan was approved. That Preliminary Site Plan showed two (2) buildings, one on each lot set by the Final Plat. A Final Site Plan for one (1) of the buildings was also approved during that meeting. However, no building permit was issued within 1 year, so the Final Site Plan expired. Mr. Moore requested the applicant make a presentation regarding the project.

Mr. Brody Sherar, NorthPoint Development, approached the Commission. He stated the property was rezoned in 2017 and a Final Site Plan was approved for 2 buildings. The buildings have been combined into 1 now. The expired Final Site Plan had the eastern building closer to the residences than the currently proposed building. The building is proposed to be at an angle, so it is shifted away from the residences to the east adding more of a buffer between them and the warehouse.

Vice Chair Little opened the public hearing.

Ms. LaDonna Gee, 461 W. Hawthorn Street, Gardner, KS 66030, spoke before the Commission. She stated she is the president of the Bluehawk Townhomes' Homeowners Association (HOA). She explained the townhomes are just east of the proposed warehouse. The HOA's biggest concern is regarding the berms. They want to know if there will be more berms than there currently is. She also requested a proposed construction timeline from when work will start to when it will be completed. Ms. Gee requested information as to who the tenant will be and if there are other buildings that the tenant could go into or if the warehouse will be constructed then marketed for a tenant. She explained that there is a natural drainage area with half of it being in the City of Gardner and the other half in the City of Edgerton. That area allows for natural drainage from the townhomes. She wanted to know who is going to maintain the drainage area. She stated that whoever is maintaining the berms now, only does it part of the time. She does not know who currently is doing it, but the grass needs to be kept low to keep varmints out. The HOA wants to know what will be done to keep that area maintained. Ms. Gee also asked what will be done on the property line. She asked if a fence or anything else will be erected on that property line. She explained ten (10) feet east from the current berms is the city limits of Edgerton. The Townhomes maintain from that point east. She requested clarification of where the HOA's jurisdiction is.

Mr. Ken Prettyman, 868 S. Poplar Street, Gardner, KS 66030, addressed the Commission. He stated this proposed development is in his backyard. He wants to know what he will be

looking at. He asked if it would be the building or the tractor trailers. He requested that the applicant and Commission picture themselves looking at tractor trailers out their back door. He wants that to be taken into consideration. When the proposal first came along, Mr. Prettyman stated he was told it would be an office building and now it is a warehouse. He is concerned that the property values will decrease because of what will be seen from the rear yard. He stated he understands the applicant can do what they want on their property, but requested they orientate the building to where the townhomes do not have to look at tractor trailers. When he walks through the logistics park, all he sees are the trailers. He also asked if the berm will be increased and how this proposed development will affect the drainage of the area. Mr. Prettyman also requested information as to what landscaping will be installed at the property lines and if it would be mature trees or not.

Ms. Paula Johnson, 844 S. Poplar Street, Gardner, KS 66030, spoke to the Commission. She stated the neighborhood is just now hearing about this proposed building and it is already at the Final Site Plan stage that is most likely to be approved. The location of being on the city limits is unfortunate. She inquired if the applicant, Commission, or City staff has talked to the City of Gardner about this project. She explained W. 183rd Street does not allow truck traffic. She read the proposed number of parking stalls and stated that is a lot of traffic. She stated the building is massive and asked what an inland port was. She requested the traffic counts that the project is expecting. Ms. Johnson claimed there will be hundreds of trucks daily. She wants to know if the proposed drive on the plan will be used by trucks or employees of the warehouse. She stated the road runs parallel with the property line and the neighbors are going to hear the trucks and smell the diesel fuel exhaust. She said the orientation of the building on the lot is why the access road is proposed. Ms. Johnson explained the berm height is inconsistent as it goes up in elevation and back down closer to grade along the property line. She inquired if the fence is going to be on the berm. She also inquired if a tax abatement is being offered and if the school district was getting their share of the taxes. She argued that the applicant should not receive any tax breaks for this project. Ms. Johnson stated the berm creates a wind tunnel between it and the townhomes, and the addition of the fence will increase the wind in that area.

Mr. Bret Astleford, 718 S. Poplar Street, Gardner, KS 66030, approached the Commission. He explained Poplar Street runs north and south and there are already issues with stormwater. He is concerned about the stormwater running towards his property if there is a taller berm. He stated that on 1 acre of land, 1 inch of rain is equivalent to over 27,000 gallons of water. Mr. Astleford is also worried about light pollution and noise from the property. He said he is concerned about the increase of traffic 183rd Street. The subject parcel is a nice spot to see different wildlife like coyotes, foxes and birds. This is also a good place for people to take their dogs and let them run. He also requested a timeline for construction of the proposed building.

Commissioner Crooks moved to close the public hearing. Commissioner Mueller seconded the motion. The public hearing was closed, 3-0.

Vice Chair Little requested Mr. Moore present City staff's finding.

Mr. Moore stated the Final Site Plan proposes a 1 million square foot warehouse on close to eighty (80) acres that was zoned L-P in 2017, which a warehouse is a permitted use by

right. The subject parcel was annexed into the City of Edgerton in 2010 and has adequate utilities nearby for the proposed development. He explained the Commission approved a Preliminary Plat and a Final Site Plan in 2017. That original Final Site Plan had a building orientated east to west and a building going north and south and the 2 buildings totaled 1.4 million square feet. There were no building permits pulled or applied for, so the Final Site Plan expired. The building that is proposed does go over previously platted property lines, so a replat of the site will be needed. The applicant is aware of that requirement and will apply for a replat at a later date.

Mr. Moore explained City staff reviewed the Final Site Plan under the guidelines set in the Unified Development Code (UDC). City staff did note a few revisions that are needed. A review of the photometric plan will be needed, and the requirements will need to be met prior to the Zoning Administrator signing the document into record. The applicant has requested deviations to the architecture requirements, specifically pertaining to the articulation of the building. These deviations are seen in previously approved Logistics Park Kansas City (LPKC) buildings and are consistent with existing architecture. All of the other architecture requirements have been met or exceeded. He stated that the spirit and intent of the Code has been met. Mr. Prettyman inquired as to what that met. Mr. Moore replied that the applicant has proposed a design that does not meet the exact requirements of the UDC, but the design meets the intent of the code by breaking up a large expanse of a façade.

Mr. Moore said the landscaping proposed is on the east side of the berm and City staff will require the applicant to plant it on top of the berm to provide better screening from the residences. This proposed landscaping is made up of evergreen trees and shrubs as well as deciduous trees and other shrubs and it extends the entire eastern property line. He explained the building is orientated to where it runs southwest to northeast. This makes for a part of the building being approximately 275 feet to the townhomes which increases to over 500 feet quickly. There are 2 access points off of 183rd Street and to the east of this property is a median on 183rd Street and is signed as no trucks. There are proposed 194 dock doors facing northwest and southeast. There is a proposed greenspace between a parking lot and the building that could be used for trailer parking in the future.

Mr. Moore stated regarding the stormwater, the applicant is required to collect all stormwater on their property, and it cannot dissipate from their property any faster than it is today. Detention to ensure that is met is proposed on the north side of the property. He showed the lines of sight drawings and explained these drawings show that the residents will not see headlights of passenger cars or other vehicles. He said the line-of-sight drawings show how far the buildings are setback from the residences. Mr. Prettyman asked where the line-of-sight was showing someone standing at. Mr. Moore answered they are shown from the point of view of someone standing in the back yard of a townhome.

Commissioner Crooks asked what the estimated timeframe is for construction. Mr. Sherar replied mass grading is planned for March with the construction of the building starting in April and be substantially completed by the end of 2023.

Mr. Moore showed the line-of-sight drawings that are close to Mr. Prettyman's townhome on the projector. Mr. Prettyman asked about the size of landscaping to be installed. Mr. Moore

replied that the UDC requires a caliper of tree to be a minimum of two and a half (2.5) inches and the shrubs will have to be at least 2 feet in height upon installation. The shrubs must achieve the minimum height of three (3) feet within 3 growing seasons and the trees will grow quickly as well. Mr. Astleford inquired if the height of the berm will be increased. Mr. Moore answered that the berm is not proposed to be raised. Commissioner Crooks asked if the building will be at a lower grade than the townhome. Mr. Moore stated that is correct. Mr. Moore added that the City Engineer is reviewing the stormwater management plans and they will need to meet or exceed City and State requirements. A member of the audience asked where the stormwater will be retained at. Mr. Moore replied the stormwater retention will have to be kept onsite. Mr. Sherar said they will retain the stormwater that is on their property and this development will not change how stormwater is drained now. Ms. Beth Linn, City Administrator, reminded the Commissioners that the public hearing has closed.

Commissioner Crooks asked if there is an overview of the ditch and asked if the rocks were shown. Mr. Moore stated the ditch will be shown on the grading plan as a change in the elevation.

Commissioner Crooks inquired to the height of the lights. Mr. Moore replied that the applicant will have to meet the requirement of twenty-five (25) feet tall. Ms. Linn added there is a difference between light spilling onto a neighboring property versus seeing the luminaire itself. There will be lights on the building that might be seen, but the UDC limits how much light can spill onto neighboring properties. She stated there was another question was about who the tenant will be and as of right now, to the City's knowledge, it will be a speculative build as there is no tenant planned at this moment in time. Commissioner Crooks asked to who is taking care of a rocky area nearby. Ms. Linn answered that if it is on NorthPoint property then they are maintaining it. Mr. Moore showed the grading plan and stated the berms are on NorthPoint's property.

Commissioner Crooks moved to approve Final Site Plan FS2023-01 with the stipulations outlined in the Staff Report. Commissioner Mueller seconded the motion. Final Site Plan FS2023-01 was approved with the stipulations, 3-0.

Mr. Prettyman requested written responses to their concerns. Mr. Sherar replied he would like to hold a meeting between the residences to discuss and address their concerns. Mayor Roberts recommended they use the Learning and Career Center at LPKC. There were discussions regarding the previous Final Site Plan that was approved and where to further discussions can take place between Mr. Sherar and the audience. Ms. Linn explained the previously approved building was a lot closer and this new proposed one is. Mr. Prettyman stated that there is no view showing the distance between the building and the townhomes and he believes NorthPoint is hiding something. Ms. Gee stated it does show the location of the building related to the property line and town homes. Vice Chair Little said that is shown on Sheet C13 of the plans and it was displayed on the projector. Ms. Gee explained some of the challenges of the different floorplans of the townhomes. Discussions between the applicant and the audience continued on how to make the development work for both parties.

Mayor Roberts stated the stormwater that exits the site cannot be greater than what it is today, and it will not enter the wetlands to the north. He explained that the railroad is between the proposed development and the wetlands.

7. **ZA2023-01: REZONING FOR EDGERTON GREENSPACE LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NELSON STREET AND 3RD STREET**

Mr. Moore stated this request is to rezone 1.46 acres to C-D, Commercial Downtown. Some of the parcels of the subject property are zoned R-1, Single Family Residential, and some are already zoned C-D.

Ms. Linn addressed the Commission as the applicant for this application and the other applications regarding this project. She stated the City is proposing a community gathering space that will be known as the Greenspace. Along Nelson Street, there are parcels zoned C-D and the parcels to the south along Martin Street will be used for parking, which is scarce in Downtown Edgerton. She said Mr. Josh Conrad, incite Design Studio (iDS) and Mr. Lee Ryherd, Civil Engineer with SMH Consultants, are available for questions as well.

Vice Chair Little opened the public hearing.

Mayor Roberts stated very few cities actually follow this process of development. He and City staff that it felt necessary to lead by example for other development and developers.

Commissioner Crooks moved to close the public hearing. Commissioner Mueller seconded the motion. The public hearing was closed, 3-0.

Mr. Moore explained the subject property was a part of the original City plat recorded in 1870. The parcels along Nelson Street currently have a house constructed in 1900 and an accessory building built in 1902 on them. Both uses are permitted by right in the R-1 and C-D zoning districts. The rezoning request is for more design guideline flexibility and allow the use of the parking area along Martin Street. He stated there are more applications to be presented during the same Planning Commission meeting.

Mr. Moore stated the zoning of the parcels across Nelson Street to the north is C-D, the parcels to the west and south are currently zoned R-1. City staff finds the proposed zoning is compatible with the current area and the Future Land Use Map. Mr. Moore said City staff reviewed the rezoning request under the Golden Criteria as required by Kansas State Statute. He stated the request meets the City's planning documents, such as the Downtown Plan approved in 2018 and the Comprehensive Plan. He explained the proposed use is allowed in R-1, but the C-D zoning designation has more design guidelines and does not have as restrictive development standards for this type of use. Nelson Street is fully constructed and can handle the traffic the proposed building would generate.

Commissioner Crooks moved to recommend approval of the rezoning request. The motion was seconded by Commissioner Mueller. Rezoning Application ZA2023-01 was recommended for approval, 3-0.

Mr. Moore stated the rezoning request will be presented to the Governing Body on March 9, 2023.

8. **PP2023-01: PRELIMINARY PLAT FOR EDGERTON GREENSPACE LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NELSON STREET AND 3RD STREET**

Mr. Moore explained this Preliminary Plat request is for the Greenspace project that is the same subject property of 1.46 acres as the rezoning request. He stated the Preliminary Plat identifies the property lines and possible future infrastructure and is required prior to a Final Plat, which is to be presented later during the same meeting.

Vice Chair Little opened the public hearing. There were no public comments made at this time. Commissioner Crooks moved to close the public hearing. Commissioner Mueller seconded the motion. The public hearing was closed, 3-0.

Mr. Moore stated there are minor labeling errors that need to be corrected prior to the Preliminary Plat being filed. He said there are eleven (11) lots being combined into 2 lots with a rededicated alley right-of-way between the lots to make it a contiguous plat.

Commissioner Crooks moved to approved Preliminary Plat PP2023-01 with the stipulations outlined in the Staff Report. The motion was seconded by Commissioner Mueller. Preliminary Plat PP2023-01 was approved with the stipulations, 3-0.

9. **FP2023-01: FINAL PLAT FOR EDGERTON GREENSPACE LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NELSON STREET AND 3RD STREET**

Mr. Moore explained this is the Final Plat for the Greenspace, which is the same subject property as Preliminary Plat PP2023-01 and Rezoning ZA2023-01. The Final Plat is needed prior to any building permits being issued. The Final Plat will set the property lines and dedicate public easements or rights-of-way.

Ms. Linn stated this will confirm the lots. There is to be 1 lot to the north and 1 to the south with ten (10) feet of right-of-way between them.

Mr. Moore said the subject property of 1.46 acres that was a part of the original City plat recorded in 1870. The applicant is proposing of consolidating 11 lots into 2 with an alleyway between the lots. This application was filed in connection with Final Site Plan Application FS2023-02. There are minor clerical errors that need to be addressed on the plat. All other UDC requirements have been met or exceeded. Mr. Moore showed the plat document on the projector.

Commissioner Crooks moved to recommend approval with the stipulations outlined in the Staff Report. The motion was seconded by Commissioner Mueller. Final Plat FP2023-01 was recommended for approval with the stipulations, 3-0.

10. FS2023-02: FINAL SITE PLAN FOR EDGERTON GREENSPACE LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NELSON STREET AND 3RD STREET

Vice Chair Little opened the public hearing.

Mr. Donald Roberts, 201 E. 5th Street, Edgerton, KS 66021, addressed the Commission. He stated this is a significant investment by the City. He stated this will be the first new construction in downtown in fifty (50) years and the first new public building in 125 years. Due to the work done by previous City Councils and Planning Commissions, this is the first building to enforce the new regulations of the C-D district. He stated this is historic for Edgerton. He explained the first Frontier Days event was hosted in the greenspace area, and this building will honor that by being dubbed the Greenspace. The City is putting the concept to work in this historic and exciting opportunity for the community.

Ms. Linn spoke before the Commission. She stated that the building is just over 13,000 square feet. She explained how the site will be laid out. There is a proposed lawn area that is the current greenspace between the library and the buildings City staff uses for storage and office space. A splash pad with fountains that has an activate button is proposed outside of the building. A sidewalk will surround the lot to allow for safe walking. Ms. Linn said a one-way entrance from E. 4th Street can be accessed into enter the parking lot to the south of the building. The existing structures at E. 3rd Street and Nelson Street will be removed to make way for the building. Nelson Street will be widened to allow for parallel parking on the south with a bid alternate to do the same on the north side of Nelson Street. She explained three (3) mature trees in lawn area will remain and the western most tree will be removed. Additional trees will be planted along E. 3rd Street and the parking area. Ms. Linn said a lot of landscaping is proposed along the lawn area and the driveway and parking area to make a clear line showing the public that they are leaving the lawn and entering a traffic area. Commissioner Crooks asked if there will be berming of the site. Ms. Linn answer there is no berming proposed.

Ms. Linn explained the floor plan to the Commission. She stated there would be a community room that is a little smaller than the current community room. That community room will share a wall with a warming or catering kitchen. There will be a window that allows services from the kitchen into the community room. Restroom access will be provided during community events, even at night, so the City will no longer need to rent portable restrooms during small events. She stated there will be a storm shelter included that will automatically unlock when the outdoor warning sirens sound. This storm shelter should hold between forty (40) and fifty (50) people. While the shelter will not be rated by the International Code Council, it will still meet all the requirements. It is possible that the storm shelter will house fitness equipment for the public to use. Ms. Linn explained the gym will be two stories tall and has an elementary school sized basketball court with a 2-lane walking track. The court can also be used for pickleball. She stated there will be staff offices and another small community room inside.

Ms. Linn showed renderings of the exterior of the building. She explained the exterior of the proposed building will match the existing downtown areas with a brick façade and the

windows are modeled after the Bank of Knowledge. Ms. Linn stated City staff is excited for the flexibility of the space and the fact it allows for everyone to gather in the space.

Commissioner Crooks inquired to what will happen to the building on the northwest corner of E. 4th Street and Martin Street. Ms. Linn replied it will house City staff that will be vacating the structures along Nelson Street.

Commissioner Crooks asked what will happen to the Community Hall. Ms. Linn responded that recreational activities will be moved to the Greenspace, and the City will do a space assessment to reevaluate what can be done in that building. She explained the Grange Hall, the formal name of the Community Hall, is on the Register of Historic Buildings in Kansas so it will be difficult to make big changes to the building. Mayor Roberts said it is possible the public meetings will still be held in the same space. Commissioner Crooks said he does not want to see the Community Hall to become run down. Mayor Roberts stated there will most likely be renovations to the building and historic preservation will be the biggest concern of the City when doing those renovations. Those renovations will be expensive due to being on the historic building registration. Ms. Linn explained the library had a lot of brick restoration done and the company the City hired to do that work did a wonderful job. Mayor Roberts added it is expensive, but it benefits the community in having well preserved historic buildings.

Commissioner Crooks inquired as to the construction timeline. Ms. Linn answered that City staff will be relocating in the next thirty (30) to sixty (60) days and demolition is slated for April or May of this year. City staff aims to have a contract for construction of the building to City Council by June and starting construction shortly after Frontier Days and be completed by the end of 2024. She explained that is all depending on any supply chain issues that might come up. Mayor Roberts stated he has considered of having the community involvement in some way with the demolition of the old buildings or construction of the new one. Commissioner Crooks said it would be beneficial to do so. Ms. Linn stated there are still lots of decisions to be made by the City Council about the operations of the building.

Commissioner Crooks moved to close the public hearing. Commissioner Mueller seconded the motion. The public hearing was closed, 3-0.

Mr. Moore stated the proposed use of community gathering space is an approved use by right in both R-1 and C-D. He stated there are adequate utilities currently serving the property. The buildings erected in the early 1900s will be demolished to make way for the proposed building. The properties that are vacant on Martin Street were demolished in between 2009 and 2016. He said there is proposed parking south of the building and along Nelson Street. City staff noted that a photometric plan is needed and minor updates are needed to the Final Site Plan. The City Engineer is currently reviewing the stormwater plans. Mr. Moore explained the building is proposed to be on the north and west property lines, which is allowed in C-D but not R-1. Earlier in this meeting, the Commission did recommend approval of the rezoning to C-D to the City Council. He said sidewalks are proposed on the border of the property. Proper accessibility is provided through the site and to the south parking lot. A parking lot with 19 stalls can be accessed through the alley or from Martin Street. He stated all Final Site Plan requirements have been met or exceeded except those

that are noted in the Staff Report. The design does meet architecture requirements in C-D district and the stone and brick is compatible with the surrounding area.

Commissioner Crooks inquired if there would be a flagpole at the building. Ms. Linn answered the flagpole by the Community Hall will remain.

Commissioner Crooks moved to approve Final Site Plan FS2023-02 with the stipulations noted in the Staff Report. The motion was seconded by Commissioner Mueller. Final Site Plan FS2023-02 was approved with the stipulations, 3-0.

11. FUTURE MEETING REMINDERS

Vice Chair Little stated the next Planning Commission meetings is scheduled for March 14, 2023.

Mayor Roberts invited the Commission to the State of the City address on February 23, 2023 at 6 PM. Vice Chair Little asked if it would be streamed. Mayor Roberts replied it wouldn't be, but a packet that covers more than what he addresses will be available.

12. ADJOURN

Commissioner Crooks moved to adjourn the meeting. Commissioner Mueller seconded the motion. The meeting was adjourned at 8:49 PM, 3-0.

**MEMORANDUM**

Date: March 7, 2022

To: City of Edgerton Planning Commission

From: Zachary Moore, Development Services Director

Re: Public Hearing for UDCA2023-01 For Amendments to Articles 8 (Administrative Authorities, Duties and Procedures) & 11 (Permitted Changes and Downzonings) of the Edgerton Unified Development Code

While reviewing public hearing processes for applications, staff identified two Sections of the Unified Development Code (UDC) that should be updated. The first of which is **Article 8, Section 8.1.F.2**, which pertains to **'The Conduct of Hearings'** at Planning Commission and currently prescribes a set order in which different parties must speak at a public hearing for a development application or Code amendment. While no changes are proposed to the current procedures that the City has established, removing them from the UDC will allow the City greater flexibility should the process be updated in the future. This will also bring the City of Edgerton closer in alignment with other communities in Johnson County, as other communities do not list the specific order of speakers at public hearings within their Codes. The current Section of the UDC is attached, and staff's proposal is to eliminate the list identifying the order of speakers at a public hearing.

The second section of the UDC that staff is proposing to update is **Article 11 – Permitted Changes and Downzonings**. This Article currently allows a number of changes to be made to a zoning request by the Planning Commission for a more restrictive district than the zoning district requested. For instance, if an applicant requests to rezone a parcel of land to the R-2 District, the Planning Commission may currently amend the application to the R-1 District, which is more restrictive than the R-2 District. The table provided below shows the following changes that the UDC currently permits the Planning Commission to make to the rezoning request, without renotification to the public. This Article of the UDC is attached, and staff's proposal is to eliminate this Article in its entirety.

Applicant's Requested District	Planning Commission May Change To This District
R-2	R-1
R-3	R-2
C-1	C-D
C-2	C-1
I-H	I-G

Staff requests that the Commissioners provide any additional feedback regarding **Article 8, Section 8.1.F.2** as it relates to the order of speakers at a public hearing and **Article 11**. Staff will collect final comments or feedback and incorporate them into a final version of these Articles, which would be presented to the Planning Commission at the April 2023 meeting. Following review and recommendation by the Planning Commission, the final form Articles will be presented to the City Council for review, approval, and adoption. Prior to presentation to the Governing Body, staff will provide a revised copy of the UDC to the City Attorney for review.

Article 8
Administrative
Authorities, Duties and Procedures

Section 8.1	Creation of the Planning Commission
Section 8.2	Creation of the Board of Zoning Appeals
Section 8.3	Powers and Responsibilities
Section 8.4	Requirements for Applicants
Section 8.5	Right of Appeal
Section 8.6	Representatives and Agents
Section 8.7	Zoning Administrator

8.1 Creation of the Planning Commission

A. Membership. A Planning Commission is hereby created and appointed by the Governing Body. There shall be five regular voting members of the Planning Commission. (Ord. 1074, 2018; Res. PC2018-01, 2018)

B. Terms and Qualifications.

1. All regular Commissioners shall be appointed for terms of three years, and each may serve for five (5) consecutive full terms (a temporary, alternate, or replacement terms shall not be considered to be a full term). Commissioners may be appointed again following a one-year waiting period after five (5) regular terms of service.
2. Planning Commissioners shall be at least 18 years of age. At least three members of the Planning Commission shall reside within the city limits of the City of Edgerton, with the remaining members being residents of the City of Edgerton Planning Area.
3. Planning Commissioners may be removed by a vote of the Governing Body for cause, including, but not limited to, failure to attend meetings, abuse of office, serious conflict of interest and abusive conduct. Any Planning Commissioner removed from office shall have the right to file an appeal, within fourteen (14) days of removal, for a full hearing on the matter before the Governing Body or a committee composed of the Mayor, not more than two councilmembers and any other parties the Governing body should appoint to such committee.
4. Appointments to fill vacancies of unexpired terms shall be made by the Governing Body.
5. Members shall serve without pay or other compensation except that all members shall be reimbursed for traveling or phone expenses. (Ord. 1074, 2018; Res. PC2018-01)

C. Duties of the Planning Commission.

1. To make or cause to be made a Comprehensive Plan for the City of Edgerton for submission and final decision to the Governing Body. To propose and recommend all revisions and amendments to the Comprehensive Plan to the Governing Body.
2. To conduct all required public hearings, and to decide if hearings should be adjourned from time to time, or conducted at a place, after official notice, more appropriate to the occasion.

3. To recommend all actions, after hearing, concerning zoning text and map amendments, conditional uses, and preliminary/final plats for consideration to the Governing Body.
4. To review for final approval or disapproval all required site plans.
5. To add conditions to subdivision plats and zoning map amendments when, in the opinion of a majority of Planning Commissioners, such conditions are essential to the preservation of property values, the public health, safety and welfare, and the peaceful and quiet enjoyment of property.
6. To grant area variances on preliminary subdivision plats when, in the opinion of a majority of the Planning Commissioners, such variations are essential to preserve natural resources, overcome practical difficulty, and serve the public interest.
7. To hold an annual meeting in June of each year for the purpose of electing a Planning Commission Chair, a Vice Chair and a Secretary. Elections shall be conducted in accord with Roberts Rules of Order by written ballot or voice vote.
8. To hold an annual meeting for the purpose of reviewing the comprehensive plan and to update or amend the plan as necessary.

D. Meetings.

1. All meetings shall be conducted by the Chair of the Planning Commission, or in his/her absence, by the Vice Chair or Secretary, and then by the most senior member. The Chair, and other officers, shall be elected by a simple majority of the Planning Commissioners on an annual basis. All officers shall serve for one year, or until their successors are elected, and may succeed themselves for each year during their terms.
2. All meetings {other than special meetings} of the Planning Commission shall be held on the 2nd Tuesday of each month at 7:00 PM in the Edgerton Community Building at Edgerton, Kansas. When there is no official agenda, a meeting may be canceled at the discretion of the Chair. The Chair, or the Vice Chair in his/her absence, shall have the power to call any special meetings, or to change a meeting time or place following public notification. Meetings shall generally be conducted in accord with Roberts Rules of Order.

E. Rules of Voting and Conflict of Interest.

1. The Chair may vote in all official elections and to break a tie vote on any motion. The Chair shall lead all discussions, and call for all votes, but generally, shall not enter into the substance of discussions except to form questions, give direction, focus purpose, and bring issues to closure.
2. All official votes shall be by simple majority of a quorum. A quorum is three Planning Commissioners present at any meeting, unless specified otherwise by state law. (Ord. 1074, 2018)
3. All votes shall be "yes" or "no" by "voice" of the members; written votes are not allowed. The Chair may require reasons for the vote from each Commissioner when the magnitude of the change requested for the plan or zone change is extensive. Abstentions from voting, as distinguished from disqualifications, shall not be allowed. Official votes shall also be written by the secretary or designee in the form of minutes; minutes shall be approved at each meeting.

4. Any Commissioner, including the Chair may disqualify him or herself, without stating reasons, by announcing the disqualification for the record, and leaving the table at the beginning of a public hearing. In the case of a challenge by an applicant or member of the public, the Chair shall rule on disqualifications. Reasons for disqualification shall be, but are not limited to, the following:
 - a). To avoid the appearance of an impropriety.
 - b). If the planning commissioner is a property owner within the statutory distance for notification of hearing.
 - c). If the planning commissioner is a relative, employer or employee or business partner of an applicant.
 - d). If the planning commissioner is an agent for an applicant {in a business or legal capacity}.
 - e). If the planning commissioner serves on an appointed board with an applicant.
 - f). If a planning commissioner is a constant, long term, and close social acquaintance of an applicant.
 - g). If the planning commissioner feels that he/she cannot render a fair and impartial judgment due to past association, hearsay, or actions of an applicant or member of a public hearing.
 - h). If the planning commissioner is a party to ex parte contact on a particular item of business that is subject to a public hearing.

F. The Conduct of Hearings.

1. An Applicant, or an Agent for the Applicant, must be present to introduce a proposal for change, except that this rule may be waived by a 2/3 majority vote of the Planning Commission. If an applicant or agent is not present, and the rule is not waived, then the Applicant shall automatically be granted an extension until the next regularly scheduled meeting of the Planning Commission. If the Applicant fails to appear at the following meeting, the matter shall be deemed void and the Applicant must reapply. If the Applicant fails to attend the first regularly scheduled hearing, they shall be assessed the full cost of public notification, including postage, abstractor search {if necessary} and a \$20.00 Zoning Administrator surcharge for reprocessing.
2. All members {or their agents} attending a public hearing shall have the right to speak to the business at hand. The Planning Commission shall not hold a "closed meeting" or executive session unless it pertains to pending litigation, a matter of personnel, or debate and discussion on the rezoning of a specific parcel of land. The Chair may set reasonable time limits for the duration of all discussions. At a public hearing, parties shall speak in the following order:
 - a). The Planning Commission Chair opens the hearing by explaining the nature of the request, its location, and the action or votes required of the Planning Commission. Next, the Applicant or Agent introduces the proposal.
 - b). The Planning Commission/Staff may ask questions to clarify any points made by the Applicant. Following this, any member of the public hearing may request points of clarification.
 - c). The members of the public may speak to the proposal.
 - d). A period of rebuttal shall be allowed for the applicant and those in favor or opposition.
 - e). Final rebuttal for the applicant shall be allowed.

- f). The Chair shall officially close the public hearing phase of the particular business at hand.
 - g). The Planning Commission shall debate the facts presented at the hearing.
- 3. Following debate, the Planning Commission shall vote on a motion or table the item for further consideration. Decisions of the Commission shall be based upon facts entered into the record at the public hearing phase of the meeting, the recommendations of the staff, the adopted plan, and the preservation of health, public safety, and the general welfare.
- 4. In order to recommend approval or disapproval of a proposed zoning district amendment, the Planning Commission and Governing Body shall determine whether the amendment is found to be generally compatible with surrounding development and is in the best interest of the City. In making such determination, the Planning Commission and Governing Body may consider all factors they deem relevant to the questions of compatibility and the best interest of the City, including the following :
 - a). The extent to which there is a need in the community for the uses allowed in the proposed zoning.
 - b). The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space.
 - c). Compatibility of the proposed zoning and uses permitted therein with the zoning and uses of nearby properties.
 - d). Suitability of the uses to which the property has been restricted under its existing zoning.
 - e). Length of time the subject property has remained vacant under the current zoning designation.
 - f). The extent to which the zoning amendment may detrimentally affect nearby property.
 - g). Consideration of rezoning applications requesting Planned Development Districts for multifamily and non-residential uses should include architectural style, building materials, height, structural mass, siting, and lot coverage.
 - h). The availability and adequacy of required utilities and services to serve the uses allowed in the proposed zoning. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services.
 - i). The extent to which the uses allowed in the proposed zoning would adversely affect the capacity or safety of that portion of the road network influenced by the uses, or present parking problems in the vicinity of the property.
 - j). The environmental impacts that the uses allowed in the proposed zoning would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm.
 - k). The economic impact on the community from the uses allowed in the proposed zoning.
 - l). The relative gain (if any) to the public health, safety, and welfare from a denial of the rezoning application as compared to the hardship imposed upon the rezoning applicant from such denial.
 - m). Consistency with the Comprehensive Plan, Capital Improvement Plan, ordinances, policies, and applicable City Code of the City of Edgerton.

n). The recommendation of professional staff. (Ord. 799, 2005)

G. The Effect of Voting.

1. Votes shall either be cast of "yes" or "no" on an issue. A majority vote "yes" shall be deemed to mean a positive recommendation to the Governing Body. A majority vote "no" shall mean a negative recommendation; a tie vote presented to the Governing Body shall have the same meaning as "no recommendation."
2. In the case of a final plat, the vote of endorsement by the Planning Commission is not advisory, and does not require approval by the Governing Body. However, the final plat shall be sent to the Governing Body for approval of all dedications of land for public purposes. If the Governing Body does not accept the dedications within 60 days after plat endorsement, the Register of Deeds shall not file the plat instrument, and all action shall be void.
3. In the case of a proposed zoning amendment to the land use map or the ordinance text, the vote of the Planning Commission is advisory. Upon receiving an advisory vote, the Governing Body may: (1) approve by resolution such recommendation, (2) override the recommendation by a 2/3 majority vote, (3) return the recommendation for study and/or a new hearing, together with a statement which specifies the Governing Body's reasons for refusal to approve or disapprove. If the Governing Body returns a recommendation, the Planning Commission may resubmit the original recommendation or submit new or amended recommendations without reconvening the Public Hearing. Upon receiving the returned recommendations from the Planning Commission, the Governing Body may, by a simple majority vote, adopt, revise or amend such recommendations. Failure to return a recommendation on the part of the Planning Commission shall be considered a re-submission of the original recommendation.
4. If, however, a protest against such amendment, supplement or change be filed in the office of the City Clerk within fourteen (14) days after the conclusion of the hearing pursuant to said publication notice, duly signed and acknowledged by twenty percent (20%) of the total area, excepting public streets or ways, located within or without the corporate limits of the city and located within two hundred (200) feet of the boundaries of the property proposed to be rezoned, such amendment shall not be passed except by at least three-fourths (3/4) vote of all the members of the Governing Body. (Ord. 799; 2005)

8.2 Creation of the Board of Zoning Appeals

A. Creation. A Board of Zoning Appeal (BZA) is hereby created to administer all zoning, floodplain, subdivision appeals, variances, and other matters of land regulation as enumerated in the Edgerton Unified Development Code.

B. Membership Requirements.

1. The Board of Zoning Appeals must be age 18 years or older at the time of their initial appointment.

C. Composition of the Board.

1. The Board of Zoning Appeals shall be composed of all five current members of the Edgerton Planning Commission.
2. Members shall be appointed by the Governing Body for terms of three (3) years and may be re-appointed for subsequent terms. (Ord. 1074, 2018)

D. Service of Members.

1. All members of the Board of Zoning Appeals shall serve without pay or other compensation, except that all members shall be reimbursed for traveling or phone expenses.
2. Members may be removed for just cause, including conflict of interest, bias, and failure to attend scheduled meetings.
3. Appointments to fill unexpired terms shall be made by the Governing Body by using Alternates, or by selecting new members from the Edgerton Planning Commission.

E. Duties of Chairperson.

1. The Chair of the Board of Zoning Appeals shall call all meetings (and designate the location of the hearing) on request of the Zoning Administrator and/or Governing Body. The Chair shall also conduct all meetings according to (Rev.) Robert's Rule of Order. The Chair shall insure that all final orders or decisions of the Board of Zoning Appeals are rendered within 60 days of the original hearing date: all such orders or decisions must be in writing.
2. In the absence of the chairperson, the vice-chair or secretary of the Planning Commission shall serve as the chair.

F. Meetings and Votes of the Board.

1. The Chair shall conduct all meetings and take all votes. Meetings shall be held at a time and place designated by the Chair of the Board of Zoning Appeals.
2. All votes shall be "yes" or "no" by voice, with a taped record and written minutes kept of each session. Abstentions shall not be allowed, but members, may disqualify themselves, for cause, in accordance with the Guidelines for Conflict of Interest listed above in Section 8.1 E-4 of this Article. Records of all official actions of the board shall be filed in the office of the City Clerk.
3. All hearings before the Board of Zoning Appeals shall be open to the public. The Board may, however, adjourn a hearing from time to time, and may meet in closed session to debate the record created at the public hearing. The Board shall issue its findings to applicants in writing within 60 days after the first hearing, unless the applicant requests an extension of time.
4. The Chair of the Board of Zoning Appeals may establish, from time to time, reasonable limitations on the length of testimony, and shall have the power to rule on objections and other points of order raised by a board member, an applicant, or member of the public hearing. The Chair shall have the authority to Rule Out Of Order testimony that is not factual, based upon supposition or hearsay.

8.3 Powers and Responsibilities

A. Appeals.

1. The Board of Zoning Appeals (BZA) is hereby authorized to hear appeals from any person or official affected by any decision of the Zoning Administrator. In exercising the power of appeals, the BZA may reverse, amend, modify or affirm any discretionary act, requirement, decision or determination of the Zoning Administrator. To this end, the BZA shall have all of the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

B. Procedures for Appeals.

1. The appeal must be brought within 30 days of the final decision or action of the Zoning Administrator.
2. The appellant must file the proper forms provided by the Zoning Administrator.
3. An Appeal Fee, established by the Fee Schedule for the Unified Development Code, shall be submitted with each appeal application.
4. Notice of the appeal must be published once in the official city newspaper, at least 20 days prior to the hearing.
5. The applicant shall mail a copy of said publication notice by U.S. Mail, certified, return receipt requested and prepaid, to each owner of record of land within a distance of two hundred (200) feet of the perimeter of such proposed change, at least ten (10) days prior to said hearing; sufficient copies of said notice for such purpose to be provided by the City Clerk. Proof of compliance herewith shall be filed under oath by the appellant with the City Clerk prior to such hearing. At least ten (10) days prior to the date set for hearing, the appellant shall file with the City Clerk a (Johnson County AIMS property ownership map) of the land in question, drawn to scale, showing all tracts within a distance of two hundred (200) feet of the perimeter and the ownerships of each such tract; also, the location of all present buildings and proposed development. Such plans or drawings shall be verified by the Building Official or applicable City Staff member for accuracy, and their signature shall be affixed to same.
6. The appellant or agent must appear before the Board of Zoning Appeals on the appointed time and day for the hearing. Failure to appear, unless waived by the Board of Zoning Appeals for cause, shall result in a dismissal of the appeal, and shall require re-application.
7. When an appeal is filed, the action of the zoning administrator shall be stayed pending a final decision of the Board of Zoning Appeals.
8. Actions of the Board of Zoning Appeals are final orders and are not sent to the Governing Body for review or approval.

C. Variances.

1. The Board of Zoning Appeals is hereby authorized to issue variances from the specific terms of these regulations. A variance shall not permit any use not permitted by this chapter in such district. The variance shall not be contrary to the public interest, and where, due to special conditions, a literal enforcement of the provisions of the regulations, in an individual case, and shall not result in an unnecessary hardship, and provided that:
 - a). The variance arises from a condition unique to the property in question, and is not a general condition found in the neighborhood.

- b). That granting the variance will not adversely affect the rights of adjacent property owners or residents.
 - c). That strict adherence to the regulations in the specific case will constitute unnecessary hardship upon the property owner requesting the variance. The board must determine that the hardship is greater than an economic disadvantage, and in fact extends to a means of livelihood, a matter of protecting title to property, or if left uncorrected, would result in a severe and irrevocable change in the applicant's ability to transfer property. A hardship may also be construed to be "honest error" imposed upon a property owner by a ministerial official, or licensed professional, or through eminent domain or zoning resulting in a substantial {a near taking} loss of property rights.
 - d). The variance desired will not adversely affect the public health, safety, morals or welfare, convenience, prosperity or general order.
 - e). That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Zoning Ordinance provisions that are in question.
2. Notice of a hearing for a variance shall be published once, at least 20 days in advance of the hearing, in the official city newspaper. The applicant shall mail a copy of said publication notice by U.S. Mail, certified, return receipt requested and prepaid, to each owner of record of land within a distance of two hundred (200) feet of the perimeter of such proposed change, at least ten (10) days prior to said hearing; sufficient copies of said notice for such purpose to be provided by the City Clerk. Proof of compliance herewith shall be filed under oath by the appellant with the City Clerk prior to such hearing. At least ten (10) days prior to the date set for hearing, the appellant shall file with the City Clerk a (Johnson County AIMS property ownership map) of the land in question, drawn to scale, showing all tracts within a distance of two hundred (200) feet of the perimeter and the ownerships of each such tract; also, the location of all present buildings and proposed development. Such plans or drawings shall be verified by the Building Official or applicable City Staff member for accuracy, and their signature shall be affixed to same.

8.4 Requirements for Applicants

- A.** Obtain an Accurate Legal Description of the Property.
- B.** Make a scale drawing of your property; usually you may use the recorded subdivision plat or your survey for this purpose.
- C.** Complete the necessary applications on forms provided by the Zoning Administrator.
- D.** A Variance Fee, established by the Fee Schedule for the Unified Development Code, shall be submitted with each variance application.
- E.** Obtain a certified list of names and addresses of property owners within 200 feet. The Zoning Administrator will supply a sketch of the distance requirement.
- F.** Make an appointment with the Zoning Administrator to review your scale drawing. If possible, bring photos that clarify the need for your variance or exception.
- G.** Write a Statement of Purpose that explains the need for your variance or exception. Explain or clarify any extenuating circumstances that would help the Board of Zoning Appeals to understand the request.

8.5 Right of Appeal

- A.** Any person, official or governmental agency dissatisfied with any order, determination or action of the Board of Zoning Appeals may bring an action in the district court of the county to determine the reasonableness of any action or order. Such appeals shall be filed within 30 days of the final decision of the Board.

8.6 Representatives and Agents

- A.** Nothing contained in this ordinance shall be construed as prohibiting the right of any applicant or a member of a public hearing to retain an agent to represent them before the Planning Commission, BZA, or Governing Body. Likewise, legal counsel may be used to represent any person having business pertaining to this ordinance. All persons, and their agents or counsels, have a right to speak at the designated time, submit written comments for the record, make objections, note exceptions, or request points of clarification {for the record} during public hearings.

8.7 The Zoning Administrator

A. Appointment.

1. The Governing Board shall appoint an official known as the "Zoning Administrator" to administer the terms of this Edgerton Unified Development Code. The Zoning Administrator may appoint city employees as deputies to assist in administration of the UDC.

B. Powers and Duties of the Zoning Administrator.

1. **Building permit.** To issue or deny a building permit for the erection, construction, reconstruction, moving, adding to, or alteration of any structure, or the establishment of any land use. The Administrator shall also have the authority to revoke any zoning permit if violations of the provisions of this ordinance occur.
2. **Certificate of zoning compliance.** To issue or deny a certificate of zoning compliance, which indicates that the use and physical development of the site is in conformity with this ordinance.
3. **Collect fees.** To collect any fees required or set forth in this ordinance.
4. **Making and keeping records.** To make and keep all records required by state law or necessary and appropriate for the administration of this ordinance.
5. **Inspection of buildings or land.** To inspect any building or land to determine if violations of this chapter have been committed or exist.
6. **Enforcement.** To enforce this ordinance and take all necessary steps to remedy any condition found in violation of the provisions of this ordinance.
7. **Interpretation.** To interpret the official zoning map and provisions of this ordinance, and offer written opinions on their meaning and applicability, and to make findings of fact, and, with the concurrence of the City Attorney, conclusions of law regarding determinations of vested rights.
8. No written decision of the Administrator shall be subject to change, modification, or reversal after sixty days have elapsed, where the person aggrieved has materially changed his position in good faith reliance on the decision.

C. Processing Violations.

1. The Zoning Administrator upon finding a violation of these regulations {or if a proposed action would constitute a violation}, shall have the power to:
 - a). Issue a **Notice of Violation**, which shall specify the offense, the name of the property owner or agent and/or occupant, the legal description of the property, and the remedy. A reasonable and prudent time shall be set to correct the violation, or to file an appeal.
 - b). Issue a **Stop Work Order** which shall command any person to immediately cease and desist from any unlawful construction, use or alteration of any building or land.
2. Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a complaint with the Zoning Administrator stating fully the facts or grounds upon which the complaint is based. The Zoning Administrator shall promptly record and investigate such complaint and take appropriate action as provided in this ordinance.
3. Whenever the Zoning Administrator finds that any provision of this ordinance is being violated, he/she shall promptly notify in writing the person(s) responsible for violations. The notification shall contain the nature of the violation and any corrective orders.
4. The Zoning Administrator shall have the following remedies without limitations:
 - a). **No Action.** After careful consideration a "No Conflict" opinion may be issued by the Zoning Administrator.
 - b). **Informal Contact.** The Zoning Administrator shall have the authority to effectuate the abatement of zoning violations through informal meetings or conversations.
 - c). **Agreement to Abate.** The Zoning Administrator may enter into an agreement with a violator to abate or remedy a violation within a period not to exceed six (6) months.
 - d). **Notice and Order.** See above Section 8.7 C-1 a and b.
 - e). **Court Action.** The Zoning Administrator may issue a summons to a violator requiring appearance in the City Court.
5. The Zoning Administrator may issue an administrative waiver to any required setback or yard listed in this ordinance to adjust for practical difficulty or grade changes. The waiver shall be no greater than 10 percent of the required distance.
6. The Zoning Administrator may use an averaging method to establish any yard or setback in established areas to prevent excessive offsets between new and old structures.

Article 11

Permitted Changes and Downzonings

Section 11.1 Permitted Downzonings

11.1 Permitted Downzonings

- A. Purpose.** The purpose of this section is to permit a schedule of permitted changes by either the applicant for a zoning change or by the Planning Commission when, in their opinion, a particular change requires more restrictions than requested on an application.
- B. Prohibited Changes.** Changes to requests for a zoning amendment may be more restrictive in nature but under no circumstances shall the Planning Commission amend an application by applying a less restrictive zoning district.
- C. Permitted Changes.** The following changes are permitted:
1. A R-2 zoning district may be changed to a R-1 district.
 2. A R-3 zoning district may be changed to a R-2 district.
 3. A C-1 zoning district may be changed to a C-D district.
 4. A C-2 zoning district may be changed to a C-1 district.
 5. An I-H zoning district may be changed to an I-G district.