

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

**ITEM NUMBER:** 27

**DATE:** February 16, 1999

**STAFF:** Wanda Krajicek

### SUBJECT:

Items Relating to a Citizen Initiated Ordinance Relating to the Mulberry-Lemay Crossing Preliminary P.U.D. (Project #36-96B, Wal-Mart).

### RECOMMENDATION:

Staff recommends that Council decide whether to adopt the Citizen Initiated Ordinance or to submit it to a vote at the next Regular Municipal Election on April 6, 1999.

### EXECUTIVE SUMMARY:

- A. First Reading of Ordinance No. 26, 1999, Approving the Mulberry-Lemay Crossing Preliminary P.U.D. (Project #36-96B), Overturning and Reversing Previous Decisions Denying the Project and Making Certain Findings in Connection with Such Project;

-OR-

- B. Resolution 99-21 Submitting a Citizen Initiated Ordinance to a Vote of the Registered Electors of the City at the Regular Municipal Election of April 6, 1999.

On January 29, 1999, the City Clerk received a petition requesting that Council submit to the electors a Citizen Initiated Ordinance relating to the Mulberry-Lemay Crossing Preliminary PUD (Project #36-96B - Wal-Mart).

The City Clerk verified that the petition contained sufficient signatures for presentation of the petition to Council and to require submission of the measure to a vote of the people at a Regular Municipal Election. The petition contains the signatures of at least 1,783 registered city electors, which is 10% of the total number of ballots cast at the 1997 Regular Municipal Election.

Article X of the City Charter requires that the Council either adopt the Citizen Initiated Ordinance without change within 30 days of the date of the presentation of the City Clerk's certification of a valid petition to the Council, or submit it to a vote at the next Regular Municipal Election.

STATE OF COLORADO )  
 )  
COUNTY OF LARIMER ) SS.  
 )  
CITY OF FORT COLLINS )

## PETITION CERTIFICATION

I, the undersigned, duly appointed and authorized City Clerk of the City of Fort Collins, Colorado do hereby certify that an initiative petition received from Janelle Kechter on Friday, January 29, 1999, relating to the approval of the Mulberry-Lemay Crossing Preliminary P.U.D., has been determined to contain the signatures of at least 1,783 registered voters who live within the Fort Collins city limits, and the petition is determined to be sufficient for certification to the City Council on February 16, 1999.

Dated at Fort Collins, Colorado this 9th day of February, A.D. 1999.

  
\_\_\_\_\_  
Wanda Krajicek, City Clerk

(SEAL)

ORDINANCE NO. 26, 1999  
OF THE CITY OF FORT COLLINS  
APPROVING THE MULBERRY-LEMAY CROSSING  
PRELIMINARY PUD (PROJECT #36-96B),  
OVERTURNING AND REVERSING PREVIOUS DECISIONS  
DENYING THE PROJECT AND MAKING CERTAIN FINDINGS  
IN CONNECTION WITH SUCH PROJECT

WHEREAS, the Mulberry-Lemay Crossing Preliminary PUD, #36-96B, a community regional shopping center in north Fort Collins, which includes a proposed Wal-Mart store (the "Project"), was presented on November 5, 1998 to the Planning and Zoning Board of the City (the "Board") with a recommendation of conditional approval from all reviewing departments of the City; and

WHEREAS, on November 5, 1998, the Board, on a 4-3 vote, denied the Project; and

WHEREAS, on November 13, 1998, a Notice of Appeal (the "Appeal") of the Board's decision was filed with the City Clerk on the grounds that the Board failed to properly interpret and apply relevant provisions of the City's Code and Charter; and

WHEREAS, on December 15, 1998, the City Council heard the Appeal and, on a 4-3 vote, upheld the Board's denial of the Project; and

WHEREAS, on January 5, 1999, the City Council adopted Resolution 99-6 in support of its decision on the Appeal; and

WHEREAS, a petition for initiative signed by registered electors of the City has been filed with the City which requires, under Article X, Section 1(e) of the Charter, that the City Council either adopt this Ordinance or submit it to the registered electors of the City at the next regular election.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the Project, as presented to the Board on November 5, 1998, is hereby approved with the six conditions recommended by City staff as set forth in the November 5, 1998 Staff Report for the Project.

Section 2. That the Project is approved on the basis that it complies with all relevant provisions of the Code and Charter of the City.

Section 3. That the November 5, 1998 decision of the Board to deny the Project is overturned on the grounds that the Board failed to properly interpret and apply relevant provisions of the Code and Charter of the City in denying the Project.

Section 4. That the grounds for the Appeal, as stated in the Notice of Appeal, conformed to the requirements of Section 2-48 of the City Code

Section 5. That Resolution 99-6 of the City Council upholding the Board's denial of the Project and making certain findings of fact related thereto is hereby reversed and superseded in its entirety by the provisions of this Ordinance.

Introduced, considered favorably on first reading and ordered published this 16th day of February, A.D. 1999, and to be presented for final passage on the 2nd day of March, A.D. 1999.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading this 2nd day of March, A.D. 1999.

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Mayor

ATTEST:

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City Clerk

RESOLUTION 99-21  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
SUBMITTING A CITIZEN INITIATED ORDINANCE  
TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY  
AT THE REGULAR CITY ELECTION OF APRIL 6, 1999

WHEREAS, under Article X, Section 1 of the Charter of the City of Fort Collins, the registered electors of the city have the power to propose a measure to the Council, and, if the Council fails to adopt a measure so proposed, to adopt or reject such ordinance or resolution at the polls; and

WHEREAS, an initiative petition proposing an ordinance approving the Mulberry-Lemay Crossing Preliminary PUD has been submitted to the City, and the City Clerk has certified said petition as sufficient for submission of the initiated ordinance to a vote of the people at a regular municipal election; and

WHEREAS, the City Clerk has presented said petition to the City Council as provided in Article X, Section 5(f)(4) of the City Charter; and

WHEREAS, under Article X, Section 1(e) of the City Charter, upon presentation of an initiative petition certified as to sufficiency by the City Clerk, the Council shall either adopt the citizen-initiated ordinance without alteration within thirty (30) days or refer said citizen-initiated ordinance in the form petitioned for, to the registered electors of the city at the next regular municipal election; and

WHEREAS, the City Council desires to submit said citizen-initiated ordinance to a vote of the registered electors of the City at the next regular election; and

WHEREAS, a regular municipal election is scheduled to be held on Tuesday, April 6, 1999.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That there is hereby submitted to the registered electors of the City of Fort Collins at the Regular Municipal Election to be held on Tuesday, April 6, 1999, the following proposed citizen-initiated ordinance:

ORDINANCE NO. \_\_\_\_, 1999  
OF THE CITY OF FORT COLLINS  
APPROVING THE MULBERRY-LEMAY CROSSING  
PRELIMINARY PUD (PROJECT #36-96B),  
OVERTURNING AND REVERSING PREVIOUS DECISIONS  
DENYING THE PROJECT AND MAKING CERTAIN FINDINGS  
IN CONNECTION WITH SUCH PROJECT

WHEREAS, the Mulberry-Lemay Crossing Preliminary PUD, #36-96B, a community regional shopping center in north Fort Collins, which includes a proposed Wal-Mart store (the "Project"), was presented on November 5, 1998 to the Planning and Zoning Board of the City (the "Board") with a recommendation of conditional approval from all reviewing departments of the City; and

WHEREAS, on November 5, 1998, the Board, on a 4-3 vote, denied the Project; and

WHEREAS, on November 13, 1998, a Notice of Appeal (the "Appeal") of the Board's decision was filed with the City Clerk on the grounds that the Board failed to properly interpret and apply relevant provisions of the City's Code and Charter; and

WHEREAS, on December 15, 1998, the City Council heard the Appeal and, on a 4-3 vote, upheld the Board's denial of the Project; and

WHEREAS, on January 5, 1999, the City Council adopted Resolution 99-6 in support of its decision on the Appeal; and

WHEREAS, a petition for initiative signed by registered electors of the City has been filed with the City which requires, under Article X, Section 1(e) of the Charter, that the City Council either adopt this Ordinance or submit it to the registered electors of the City at the next regular election.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1. That the Project, as presented to the Board on November 5, 1998, is hereby approved with the six conditions recommended by City staff as set forth in the November 5, 1998 Staff Report for the Project.

Section 2. That the Project is approved on the basis that it complies with all relevant provisions of the Code and Charter of the City.

Section 3. That the November 5, 1998 decision of the Board to deny the Project is overturned on the grounds that the Board failed to properly interpret and apply relevant provisions of the Code and Charter of the City in denying the Project.

Section 4. That the grounds for the Appeal, as stated in the Notice of Appeal, conformed to the requirements of Section 2-48 of the City Code

Section 5. That Resolution 99-6 of the City Council upholding the Board's denial of the Project and making certain findings of fact related thereto is hereby reversed and superseded in its entirety by the provisions of this Ordinance.

Section 2. That the foregoing proposed citizen-initiated ordinance is hereby submitted to the registered electors of the City of Fort Collins at said regular municipal election in substantially the following form:

**PROPOSED CITIZEN-INITIATED ORDINANCE -- MULBERRY-LEMAY  
CROSSING PRELIMINARY P.U.D.**

AN ORDINANCE APPROVING, WITH SIX CONDITIONS PREVIOUSLY RECOMMENDED BY CITY STAFF, THE PRELIMINARY P.U.D. FOR A COMMUNITY REGIONAL SHOPPING CENTER PROJECT IN NORTH FORT COLLINS, WHICH INCLUDES A PROPOSED WAL-MART STORE, KNOWN AS THE MULBERRY-LEMAY CROSSING PRELIMINARY P.U.D., WHICH ORDINANCE WOULD ALSO OVERTURN AND REVERSE PREVIOUS DECISIONS OF THE CITY'S PLANNING AND ZONING BOARD AND CITY COUNCIL DENYING THE PROJECT, AND MAKE A FINDING THAT THE PROJECT COMPLIES WITH ALL RELEVANT PROVISIONS OF THE CODE AND CHARTER OF THE CITY.

\_\_\_\_ FOR THE ORDINANCE

\_\_\_\_ AGAINST THE ORDINANCE

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 16th day of February, A.D. 1999.

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Mayor

ATTEST:

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City Clerk