

**Minutes**

Audio Tape No. 607

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, at 7:30 P.M., on Monday, November 17, 2003. Mayor Peggy Dunn presided.

**Councilmembers present:** James E. Taylor, Sr., Jim Rawlings, Mike Gill, Gary Bussing, Patrick Dunn, Louis Rasmussen, Shelby Story and Scott E. Gullede.

**Councilmembers absent:** None

**Staff present:**

Scott Lambers, City Administrator  
Ben Florance, Fire Chief  
Sid Mitchell, Police Chief  
Jeff Cantrell, Neighborhood Serv. Admin.  
Diane Binckley, Planning & Develop. Dir.  
Deb Harper, City Clerk

Patricia A. Bennett, City Attorney  
Joe Johnson, Public Works Director  
Chris Claxton, Parks & Rec Director  
Karl Weinfurter, Info Systems Specialist  
Colleen Browne, HR Director  
Emily Gleasure, Deputy City Clerk

**1. PLEDGE OF ALLEGIANCE**

127 **2. APPROVAL OF AGENDA**

Councilmember Gullede made a motion to approve the Agenda. Councilmember Story seconded the motion, and it was approved 7-0-0.

Councilmember Bussing arrived at 7:40 P.M.

145 **3. CITIZEN COMMENTS**

Mayor Dunn called upon Jill Galbreath Smith, 4204 W. 124<sup>th</sup> Street, who had signed in to speak. Ms. Smith was not present in the Council Chambers.

Mark Drummond, 6017 W. 85<sup>th</sup> Street, Overland Park, stated he and several other students were observing the Governing Body Meeting tonight as part of a civics project for a Rockhurst High School government class.

Joe Calhoun, 11829 Oak Street, Kansas City, MO, stated he was also observing as part of the same Rockhurst class.

- 219 **4. PROCLAMATIONS**  
Mayor Dunn proclaimed the week of November 16-22, 2003 as **Hunger and Homelessness Awareness Week** and November 18, 2003 as **Johnson County Christmas Bureau Day** in the City of Leawood.
- 5. PRESENTATIONS/RECOGNITIONS – None**
- 6. SPECIAL BUSINESS – None**
- 237 **7. CONSENT AGENDA**  
Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.
- A. Approval of Appropriation Ordinance No. 987
  - B. Accept Minutes of the November 3, 2003, Governing Body meeting
  - C. Accept Minutes of the October 14, 2003, Historic Commission meeting
  - D. Accept Minutes of the September 25, 2003, IRONHORSE Advisory Board meeting
  - E. Renewal of Cereal Malt Beverage [CMB] license for Hy-Vee Foods, Inc., located at 12200 State Line
  - F. Approve Change Order No. 3, in the amount of \$5,651.51, to Walton Construction Company pertaining to the Cornerstone & Church of the Resurrection Public Improvement Projects [CIP # 190-194]
  - G. **Resolution No. 2127** approving and authorizing the Mayor to execute an Inter-local Agreement between the City and Johnson County Board of County Commissioners [BOCC] pertaining to the Roe Avenue Improvement Project [between Tomahawk Creek Parkway and 135th Street] [CIP # 110] [relating to 2004 CARS Program]
  - H. **Resolution No. 2128** approving and authorizing the Mayor to execute Amendment No. 1 to that certain Inter-local Federal AID Road Construction Agreement dated October 20, 2003, between the City and Bucher Willis Ratliff [BWR] pertaining to the Roe Avenue Improvement Project between 124<sup>th</sup> Street and 135<sup>th</sup> Street [CIP # 110]
  - I. **Resolution No. 2129** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$57,900.50 between the City and Miles Excavating, Inc., pertaining to the Storm Sewer Maintenance Project 03-601
  - J. Approve 4<sup>th</sup> and Final Pay Request in the amount of \$26,212.52, to Seal-O-Matic Paving Company, pertaining to the 2003 Residential Mill & Overlay Program
  - K. **Resolution No. 2130** designating holidays for the year 2004, in accordance with the Personnel Rules & Regulations of the City of Leawood, Kansas
  - L. **Resolution No. 2131** calling for a public hearing regarding amendments to the 2003 Fiscal Budget for the City of Leawood, Kansas

- M. Affirmation of City Administrator's Approval of Certified Statement regarding the conditions to Article II of that certain Construction Agreement dated August 4, 2003, between the City and Walton Construction Company, L.L.C., pertaining to the construction of public improvements, including streets and stormwater, located in the vicinity of 135<sup>th</sup> Street and Nall Avenue – *[Continued from the November 3, 2003, Governing Body meeting]*
  - N. Fire Department Monthly Report
  - O. Municipal Court Monthly Report
- \*\*Due to a Police Department computer conversion- the Monthly Police Reports will not be available until January 2004.**

Councilmembers Gill and Taylor asked that Items "7F" and "7M" be pulled for separate votes, as they would both recuse from those votes due to conflicts in interest.

Councilmember Rasmussen made a motion to approve the remainder of the Consent Agenda. Councilmember Story seconded the motion, and the motion was approved unanimously 8-0-0.

Councilmember Rasmussen made a motion to approve Item "7F." Councilmember Gulledge seconded the motion, and the motion passed 6-0-2, with Councilmembers Gill and Taylor recusing.

Councilmember Rasmussen made a motion to approve Item "7M." Councilmember Gulledge seconded the motion, and the motion passed 6-0-2, with Councilmembers Gill and Taylor recusing.

295 **8. MAYOR'S REPORT**

- A. Attended the Council of Mayors Meeting with Johnson/Wyandotte County mayors and Johnson/Wyandotte County legislators. Items discussed were the streamlined sales tax, the future of demand transfers, revenue sharing, and K-12 education. Mayor Dunn announced the Social for City Councils and Mayors of Johnson/Wyandotte Counties to take place Wednesday, December 3<sup>rd</sup> for Councilmembers and their spouses.
- B. Attended a half-day retreat with the Leawood Chamber of Commerce Board of Directors
- C. Attended the kickoff for the WOW Program (Walkers on Watch), sponsored by the Police, Fire, Public Works, and Parks & Rec Departments, along with the Police Community Partnership. Chief Mitchell, Chief Florence and Councilmember Rawlings were also in attendance.
- D. Attended the Johnson County Economic Development Summit luncheon. Gary Foresee, Chairman and CEO of Sprint was the featured speaker.
- E. Announced the Holiday Lighting Ceremony at City Hall on Tuesday, December 2<sup>nd</sup>, at 6:00 P.M.
- F. Expressed gratitude to Mark Andrasik, Info Systems Director, and his Staff for the work on the Eden conversion.

489     **9.     COUNCILMEMBERS' REPORT**  
Councilmember Gill reported that he and Councilmember Gullede attended an event this past week to honor Mayor Dunn and her husband, Terry, for their civic involvement.

**10.    STAFF REPORT – None**

518     **COMMITTEE RECOMMENDATIONS**

**11.    PLANNING COMMISSION**

*[from the October 28, 2003, Planning Commission meeting]*

**\*\*A.    Ordinance No. 2032 approving a Special Use Permit for Eckerd's Drug Store located on the southwest corner of 135<sup>th</sup> Street and Briar, within Cornerstone Development [Roll Call Vote]**

Mike Boyd, 11 Norfolk, Wichita, Kansas, stated he would be the landlord for the proposed Eckerd Drug Store.

Councilmember Taylor advised that he would be recusing on Items "11A" and "11A1" due to a conflict of interest. He asked even though he was recusing himself, could he be permitted to ask the applicant questions. Patty Bennett advised him that in so recusing, he would need to refrain from questioning the applicants. Councilmember Taylor left the Council Chambers.

Floyd Schexnayder of Genesis Design, 421 W. Harwood, Hurst, Texas, gave the presentation of the site plan. He stated details had been worked out with Staff to establish cross access within the site. Elevations worked with the main Cornerstone Development on the rest of the site using concrete tile roofing, stone, brick and plaster combinations.

Councilmember Gill asked Mike Klover, Klover Architects, 10995 Lowell, Overland Park to furnish the original designs the Governing Body was shown when they approved the concept of this site. Diane Binckley left the Council Chambers to retrieve the documents. Councilmember Gill asked how the current plan's concept compared to what the Governing Body had been shown previously. Mr. Klover stated he felt the new concept was of better design with more character, using the same materials. The Prairie style of architecture was utilized, showcasing a linear, high-waisted building plan with more mass at the corners and shallow rooflines.

- 742 Councilmember Rasmussen, after reviewing the storm sewer, grading and final landscaping plans, questioned the ease of the traffic flow around the building. Mr. Boyd acknowledged there was a drive-thru facility on the west side for prescription pick-up, with a counter-clockwise traffic flow. Mr. Boyd stated that inside the entrance off Briar, a loading dock was placed with diagonal access to the building. Roger Cassidy, Phelps Engineering, stated the roadway around the building was a two-lane road. A 52' semi-truck could back into the loading dock at an angle. Ms. Binckley added that this configuration was discussed extensively at the Planning Commission meeting. By controlling the timeframe when trucks could access the loading dock for deliveries, it was thought there would not be a problem for cars to maneuver around the dock and enclosed trash dumpsters. Ms. Binckley stated the Planning Commission had decided to wait until the Final Site Plan to stipulate delivery and trash pick-up times.
- 947 Councilmember Bussing stated he was concerned about the number of deviations from the Leawood Development Ordinance (LDO), citing several examples. He said that at Final he would be looking for every one of the items listed on the Planning Commission recommendation to meet the 135<sup>th</sup> Street Corridor Guidelines and the LDO, with no deviations. He did not want this project to be developed in a similar fashion to Plaza Pointe, which ultimately developed differently than what the Governing Body had approved. Ms. Binckley advised that revised plans of tonight's documents had been submitted in preparation for Final, and many of the items have been modified to fit Staff's requests.
- 1032 Mayor Dunn asked about Eckerd's deliveries. Mr. Schexnayder stated a truck would deliver every two or three days, with an average unloading time of two hours. Ms. Binckley replied to Mayor Dunn's questions concerning the locations of the drive-thru, loading dock and dumpster site, by saying the Planning Commission had deemed the places as the most logical locations on the pad. She stated that it was still recommended to attach the dumpster site to the building and not request a deviation locating the dumpster away from the building.
- 1133 Councilmember Dunn questioned where the loading dock was located at the Eckerd Store at 80<sup>th</sup> Street and State Line Road. Ken Block, Block & Co., advised the drive-thru was on the west side of the building, with the docks being adjacent to that, but just south of the drive-thru. Councilmember Dunn stated the traffic flow was good at that location and wondered why the docks could not be moved to another location on the Leawood pad site. Mr. Schexnayder explained that by moving the dock, it would be visible from the street, and the desire had been to keep it internal to the project.

1202 Councilmember Bussing requested that Ms. Binckley receive in writing from Red Development a statement identifying the specific areas where any square foot exchange would take place. He referenced Stipulation 5 regarding square footage offsets ("A letter from Red Development, the developer of Cornerstone, shall be provided prior to Governing Body approval, that approved the additional 769 sq.ft. associated with this project and states that another portion of the project will be reduced by an equal amount to ensure that the development will not exceed the total building area approved by the Planning Commission and Governing Body at preliminary."). Mr. Schexnayder advised the final plan with the adjusted square footage had already been submitted. He stated that there was some deviation from the original plan as it applied to the open space; the same amount of open space was utilized, but distributed differently to accommodate a water feature on the corner of 135<sup>th</sup> Street.

1290 Ms. Binckley presented the architectural renderings that the Governing Body had previously approved. Mr. Schexnayder discussed the changes that had been made to the designs from the original plans. In discussing the pedestrian cross- and path-ways, he stated the developer had agreed to provide those in the Final plan. In terms of the internal circulation and patterns that were initially designated, with the exception of a few minor changes, these had remained the same. Mr. Schexnayder indicated the changes that had been made to the loading dock area that Councilmember Rasmussen had asked about.

1474 Councilmember Gullede made a motion to pass the Ordinance. Councilmember Dunn seconded the motion. Mayor Dunn asked for the Roll Call vote. The Ordinance was passed 6-1-1, with the following vote: Yea: Councilmembers Gullede, Story, Dunn, Rawlings, Bussing, and Gill. Nay: Councilmember Rasmussen. Recuse: Councilmember Taylor. Councilmember Rasmussen stated he still had concerns about the traffic flow.

1523 **\*\*A1. Ordinance No. 2033 approving Preliminary Site Plan for Eckerd's Drug Store located on the southwest corner of 135<sup>th</sup> Street and Briar, within Cornerstone Development [Roll Call Vote]**

Councilmember Dunn made a motion to pass the Ordinance. Councilmember Rawlings seconded the motion. Mayor Dunn asked for the Roll Call vote. The Ordinance was passed 6-1-1, with the following vote: Yea: Councilmembers Gullede, Story, Dunn, Rawlings, Bussing, and Gill. Nay: Councilmember Rasmussen. Recuse: Councilmember Taylor. Councilmember Rasmussen opposed for reasons previously stated.

Councilmember Taylor returned to the Council Chambers at 8:25 P.M.

Councilmember Gill asked Ms. Binckley to keep color copies of the original plans available for the Governing Body for the Final Site Plan.

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**B. Ordinance No. 2034 rezoning from RP-1, Planned Single Family Residential to RP-2, Planned Cluster Detached Residential, preliminary Site Plan and Preliminary Plat for Highlands Creek, located south of 143<sup>rd</sup> Street and east of Nall Avenue [Roll Call Vote]**

Don Donahoo, 14130 Manor, represented Highlands Creek Group. He stated in the original preliminary plat for Highlands Creek had been approved for 222 lots. In the first plat, lot sizes were increased, and 71 lots had been developed where 82 lots had been approved. Tonight they were presenting the revised preliminary plat for the balance of the site with a total of 128 lots: 89 estate lots with RP-1 zoning and 39 villa lots with newly requested RP-2 zoning. This was an overall reduction of 12 lots from the original 140 lots on this plat. It was projected that the remainder of Highlands Creek would be completed in three more phases, with the villas on the plat abutting Nall being the last phase.

Mr. Donohoo asked that one modification in Section 3 No. 13 be allowed in the Ordinance. He asked that No. 13 read, "All power lines, utility lines, etc. (both existing and proposed) are required to be placed underground including existing utility and power lines abutting or within adjacent rights-of-way. This must be done *within the final plat*." He stated this was for clarification and was similar in language to that in Section 3 Nos. 2, 3, and 4.

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Ms. Binckley suggested that the Ordinance read "...*within the plat abutting Nall*," so that the final plat that included Nall in the dedication of right-of-way, and at that time they would be required to underground the lines. She stated that each plat goes through a final stage review, and this language would be more indicative of which plat's final stage the burying of utilities would be required.

Councilmember Taylor asked what would happen concerning the dedication of the right-of-way if the developer's timetable did not coincide with the timetable for the improvements on Nall. Scott Lambers stated that the City would make a request for the right-of-way to be dedicated and the improvement to go forward. Policy stated that should the City have to acquire rights-of-way that the abutting property owner could be charged. Mr. Donohoo stated he was not aware of that possible scenario, but that they would agree to it. Councilmember Taylor questioned Mr. Donohoo as to whether it was advantageous to him to improve the utilities at the time of the Nall improvements. Mr. Donohoo stated it was their intention to work with the City and/or KCPL in a timely fashion. Councilmember Taylor asked if he would be willing to provide the right-of-way and abide to the undergrounding of utilities should Mr. Donohoo's final plat not be filed at the time of the Nall improvements. Mr. Donohoo replied they would grant the right-of-way, but they might have to forego the credit for the lines if they were not ready to place them underground at the time KCPL was improving Nall.

- 1844 Councilmember Taylor confirmed with Mr. Lambers that should Mr. Donohoo not be ready to financially commit at the time of the Nall improvements, the lines would be relocated, and then would be placed underground during the Highland Creek final plat that would abutt Nall. The cost savings that would be accrued from the right-of-way would be with KCPL. A representative from KCPL could be brought in to meet with Mr. Donohoo so that those savings would not be lost. The issue would only be when the power lines were buried, and with the committing of the right-of-way, it would be left as an individual financial decision on Mr. Donohoo's part as to when that would take place.
- 1908 Councilmember Bussing questioned Mr. Donohoo concerning the streets from Highlands Creek subdivision into Whitehorse subdivision. No public access to Nall would be put in until the final phase. Ms. Binckley added there would be no gates within the Highland Creek subdivision.
- 2015 Councilmember Gill asked when the widening of Nall occurred, if the power lines would be buried at the same time. He felt that burying the lines earlier in the Nall improvement project would be more aesthetically appealing. Mr. Donohoo stated that funding could be a problem. The phases could not be developed until the market was cooperative. He felt the phases could be completed within the next 2-3 years. Mr. Lambers stated that in order for the lines to be buried earlier, some incentive from the City would need to be in place to encourage developers to incur expense before they were ready. He suggested a Benefit District be created for all of the property owners, with the City financing it over a ten-year period at 4%.
- 2147 Councilmember Rawlings confirmed with Mr. Lambers that the Nall construction would be completed in 2005-06. Mr. Donohoo stated that would be aggressive for his development, as it had been his understanding the construction would not be anticipated until 2007.
- 2175 Councilmember Taylor made a motion to pass the Ordinance with the change in language in Section 3 No. 13. Councilmember Dunn seconded the motion.
- 2192 Councilmember Bussing confirmed with Ms. Binckley that the development would progress from Phase IV to Phase V moving east. His concern was there would be an area of homes completed without an access to Nall in case of an emergency. Ms. Binckley stated emergency vehicles would come through Pavilions through Whitehorse, and into Highlands Creek from the north.
- 2227 Mayor Dunn called for the Roll Call vote. The ordinance passed unanimously 8-0-0.

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**C. Ordinance No. 2035 amending § 16-2-10.3, of the Leawood Development Ordinance [LDO] Materials and Colors, specifically colors for Asphalt Composition Roofing [Roll Call Vote]**

Mayor Dunn pointed out that on Ms. Binckley's memo to the Governing Body it was stated towards the end of the first paragraph that the City desired to continue to discourage black as a roofing color option. If the Governing Body concurred with that, it was requested that it be stated as such to be incorporated into the Ordinance.

Ms. Binckley stated that since the passing of the substantial changes to the roofing ordinance, several residents had come forward with requests for other colors which had been approved in the past, but were not now as they did not meet the criteria of appearing like weathered wood as called for in the current Ordinance. Because of this, Staff agreed to bring forward a request for an amendment to the Ordinance which would allow for a slate appearance to be included as an alternative in the composition roofing. The roofing material that was being requested to be accepted was gray-colored, two-ply with a shadow line. The appearance would be limited to a blue-gray color or a mosaic effect as long as the predominant color of each shingle would be gray with a portion of each shingle in other permitted colors.

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Ms. Binckley displayed sample boards of roofing materials to the Governing Body. She stated Staff had recommended to the Planning Commission to allow for a wider range of colors.

Councilmember Dunn confirmed with Ms. Binckley that single-ply shingles in the weathered-wood look were already approved, and that tonight the Governing Body was being asked to approve a double-ply shingle in a slate look.

Councilmember Taylor confirmed with Ms. Binckley that the LDO currently did not regulate colors in natural roofing materials. He questioned the reasoning behind regulating colors of asphalt materials. Ms. Binckley stated that originally the asphalt shingles were to be an alternative to wood roofing, and the asphalt shingles were to have a weathered-wood look. Councilmember Taylor suggested that the field of color be more specific in the Ordinance, and allow percentages of colors, instead of leaving the color choices up to the individual roofers.

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Councilmember Rasmussen suggested changing the wording under Item "h.vi." to read, "Shingles imitating slate must be cold gray, bluish tinge in color," and leave out the rest of the stipulation ("or have a traditional mosaic pattern with the mix of colors being dominantly gray and a maximum of three colors within the mix"). In addition he suggested leaving Items "h. vii." and "h. viii." just as they were.

2612 Mayor Dunn asked Ms. Binckley if an additional Item “h. xiii.” should be added to read, “No black color will be allowed for slate shingles.” Ms. Binckley stated that it was not necessary as Staff could advise a resident that the Governing Body was against such usage should it be brought up. Mr. Lambers interjected that it would be more straightforward to have that stipulation in the Ordinance rather than simply pointing out to a resident that such conversation had occurred in the Governing Body minutes.

2653 Jill Galbreath Smith, 4204 W. 124<sup>th</sup> Street, spoke in support of Staff’s recommendation to amend the Ordinance to allow a slate-like look in composition shingles.

2833 Mayor Dunn questioned Ms. Binckley concerning whether the colors Ms. Smith spoke about were allowed. Ms. Binckley stated that currently they were not as the entire product line was not approved. However, when the product line regains approval, the colors will be reviewed at that time.

Councilmember Rawlings asked if there was enough flexibility in Councilman Rasmussen’s change in wording to allow homeowners to have some say in their choices. Ms. Binckley stated cold gray was a bluish-gray color, whereas a warm gray would be more of a brown taupe color. To provide more a color range that Ms. Smith requested was the reason Staff included the option for mosaic and allowing for other colors to be blended in with the gray color. Mr. Lambers stated that it was obvious that regardless of where the line was drawn, there would be a request for a color just a bit different than approved. He felt this amendment allowed for a broadening of the availability of materials and colors that Staff could approve. When new series of colors become popular, Staff would then go back through the approval process again.

2930 Mayor Dunn complimented Staff in being proactive in ways to expand material and color choices for roofs.

2941 Councilmember Rasmussen made a motion to change Staff recommendation and word the Ordinance as he had previously stated. Councilmember Gullede seconded the motion.

2993 Councilmember Taylor stated he could not support the motion because “slate” was not a gray, but comes in reds, greens, purples and other colors. He also queried Ms. Binckley as to whether manufacturers of roofing materials allowed a percentage or provided a percentage of different shingles to get a blend. Ms. Binckley replied that some manufacturers offered only one color and other provided a blend. Councilmember Taylor stated he felt the Ordinance should be compatible to all roofing materials, by defining color percentages of the various approved materials.

3071 G. Gordon Thomas, 10516 Mohawk Lane, spoke on the health and safety factors of asphalt.

3188 Mayor Dunn clarified with Councilmember Rasmussen that he was including the remark of not allowing black coloration in roofing materials in his motion, making that Item "h.xiii." Councilmember Gullede also agreed to that inclusion.

Councilmember Dunn confirmed with Ms. Binckley that for ease of review, Staff would prefer to have the amended Ordinance remain as originally written. However, if it was the will of the Governing Body to open up the variety of slate colors for usage, the only drawback would be it being more difficult to review. Mayor Dunn added that Staff's recommendation was based on numerous conversations with residents.

3246 Councilmember Story questioned Ms. Binckley as to whether the motion proposed by Councilmember Rasmussen would include the shingles as requested by Ms. Smith. Ms. Binckley replied that the shingle "Grand Manor" was not approved as it had other color tones in it. Councilmember Rasmussen stated he had not supported the use of "Grand Manor." He said the question was if a shingle was a dominant gray with a maximum of three colors within a mix. He felt that "Grand Manor" looked greenish. He added that Councilmember Taylor was right that the color slate could be pink, red or any other color; the original intent was that the word slate would be interpreted to mean gray. Councilmember Rasmussen stated that if a maximum of three colors were added into the mix, then Councilmember Taylor was correct in that each color should be limited to a percentage of the total roof coverage.

3315 Councilmember Dunn reminded the Governing Body that Mr. Lambers had stated that the amendment was the best compromise Staff could generate to give the City the best administrative ability to resolve roofing issues. Mr. Lambers added that requests that fell outside the Ordinance would only be remanded to the Governing Body if several residents requested the same materials.

3333 Councilmember Gill made a motion to call the question, seconded by Councilmember Bussing. The motion was approved 8-0-0.

Mayor Dunn asked for the Roll Call vote on the motion for the modification of the language as requested by Councilmember Rasmussen. The motion failed 2-6-0, with the following vote: Yea: Councilmembers Rasmussen and Gullede. Nay: Councilmembers Taylor, Gill, Bussing, Dunn, Rawlings and Story.

Councilmember Bussing made a motion to accept the recommendation by Staff for the amendment of the Ordinance, with the inclusion of the specific statement to exclude the color black. Councilmember Dunn seconded the motion.

Councilmember Story stated that while he did not support Councilmember Rasmussen's motion, he was supportive of his effort to limit the scope of multiple colors. He was supportive of the new motion with the understanding the word "dominant" to mean a strong domination of the color gray.

3422 Mayor Dunn asked for the Roll Call vote. The motion passed 6-2-0, with the following vote: Yea: Councilmembers Gullede, Gill, Bussing, Dunn, Rawlings and Story. Nay: Councilmembers Rasmussen and Taylor.

Councilmember Gill left the Council Chambers at 9:35 P.M.

*[from the November 11, 2003, Planning Commission meeting]*

3454 **D. Ordinance No. 2036 approving a Preliminary Site Plan and Preliminary Plat for Pinnacle IV Office Building located north of 115<sup>th</sup> Street and West of Tomahawk Creek Parkway [Roll Call Vote]**

Ken Block, Block & Co., Inc., 605 W. 47<sup>th</sup> Street, Kansas City, MO, presented the Pinnacle Corporate Center IV project, which was designed to continue some of the planning done on previous projects, including Pinnacle I and CBIZ buildings. Pinnacle IV would be a smaller version, nearly half the size, of CBIZ, using the same types of materials. The building would be at the corner of 114<sup>th</sup> Street and Tomahawk Creek Parkway, using both roadways as setbacks. An interact meeting was held with citizens who have homes near the site. Two items were discussed: 1) the pine tree barrier landscaping on the north side; and 2) the hiking trail, which the citizens did not want and was not built.

3679 Mr. Block brought up several comments by Staff. He indicated he was in agreement with all of them but Items Nos. 8, 10 and 15. In discussing Item No. 8 (The use of all outdoor equipment shall be restricted between the hours of 7:00 A.M. to 9:00 P.M.), he stated he understood that to mean equipment could be used between those hours, and not be used outside those hours. Item No. 10 he had already discussed concerning the hiking trail. Item No. 15 (The applicant shall work with Staff on the design and location of the trash enclosure prior to final plan), because of the design of the building, careful consideration would need to be given as to an appropriate location for the trash enclosure. He was sure that a compromise would be worked out with Staff. Mr. Block also stated he felt that they met the qualifications for the square footage that they had requested.

3792 Mayor Dunn confirmed with Mr. Block that originally there was a plan to build a hiking trail in the Woods adjacent to the building which was never put in. Mr. Lambers added that since the trail had not been built, there was no trail for Mr. Block to connect to. Staff would convey to the developer of the Woods that the trail that was approved needed to be constructed. By final plan, there would be language in the stipulations that say the trail would be constructed and connection would be made. Mr. Block stated they would agree to connect to a trail that was there, but not construct something that would go nowhere.

3885 Councilmember Rasmussen asked Mr. Block to discuss the mobile medical facility. Mr. Block explained it was a trailer-like vehicle that sat at the enclosed north location. A patient could enter the vehicle for certain types of outpatient procedures. Occasionally, the vehicle would be moved to other locations for several days at a time. Mr. Rasmussen stated he was pleased with Mr. Block's development, but was not pleased with the construction superintendent, and his communication to the sub-contractors concerning the stipulations. Mr. Block stated communication has been made to insure a no-cut zone for the trees, so that this situation would not be repeated.

4054 Councilmember Bussing asked Ms. Binckley if there were any outstanding issues with Pinnacle I, II, or III. She replied II had not been built, but that there were no problems with I or III, and both were built according to plan.

Councilmember Taylor asked Mr. Block to elaborate on Item No. 12 ("All retaining walls shall be constructed with natural materials."). Mr. Block stated Staff wanted to see larger stones to create the retaining wall. Ms. Binckley added that the stone used would be the large limestone blocks.

Councilmember Bussing left the Council Chambers at 9:45 P.M.

4145 Councilmember Taylor discussed how the improvement bonuses discussed in Jeff Joseph's memo of November 5, 2003 were arrived at with Ms. Binckley, in particular the evaluation based on value of structure. Ms. Binckley stated the higher the cost to build per square foot the lower the number of bonus points a developer could earn. Kevin Berman, 801 Walnut Street, gave the formula for the percentage in dollars for amenities that must be met per square foot to the project in order to receive bonus points. Mr. Block commented that the CBIZ building had a F.A.R. of .38. Pinnacle IV has a F.A.R. of .31. Pinnacle IV has more green area and open space than CBIZ, and building prices are higher per square foot. The Leawood Development Ordinance allows a F.A.R. of .25, that Mr. Block advised was too low for a normal suburban office building, but a builder could get more F.A.R. by adding more amenities. Councilmember Taylor stated he had not realized the evaluation was based on the value of the structure, which has a trigger point that dictates the rest of the improvement amenities.

Councilmember Bussing returned to the Council Chambers at 9:47 P.M.

4433 Mayor Dunn commented that Councilmember Gill had advised her before he left that he was in favor of the preliminary site plan, but would like an explanation of Stipulation No. 9 (“If the City receives any complaint from the neighbors regarding the mobile medical facility, the applicant shall provide additional measures to rectify the problem.”). Ms. Binckley stated Staff had thought additional landscaping along the north buffer or restricting hours of operation could be applied if there were complaints, but that the mobile unit was quiet and no complaints were expected. Mr. Berman advised Mayor Dunn that the mobile unit would not be visible from Tomahawk Creek Parkway.

4516 Councilmember Dunn made a motion to approve of the preliminary site plan and preliminary site plat of Pinnacle Corporate Center IV. Councilmember Rasmussen seconded the motion. Mayor Dunn asked for the Roll Call vote. The motion passed unanimously, 7-0-0.

4545 **12. OLD BUSINESS - None**

4547 **13. NEW BUSINESS - None**

4549 **14. OTHER BUSINESS - None**

4552 **15. ADJOURN**

There being no further business, the meeting was adjourned at 9:55 P.M.

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Debra Harper, City Clerk

Emily Gleasure  
Recording Deputy City Clerk