

Minutes

DVD No. 430

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:30 P.M. on Monday, December 3, 2018. Mayor Peggy Dunn presided.

Councilmembers Present: Lisa Harrison, Chuck Sipple, Andrew Osman, Debra Filla, Julie Cain, James Azeltine, Jim Rawlings and Mary Larson

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Brian Anderson, Parks Superintendent	Chief Dave Williams, Fire Department
David Ley, Public Works Director	Ross Kurz, Info. Services Director
Mark Tepesch, Info. Services Specialist III	Chief Troy Rettig, Police Department
Nic Sanders, Human Resources Director	Dawn Long, Finance Director
Richard Coleman, Comm. Dev. Director	Mark Klein, Planning Official
Fire Captain Michael Knisely	Chris Cosgrove, Master III Firefighter
Jeff Anderson, Master III Firefighter	Cindy Jacobus, Assistant City Clerk
Debra Harper, City Clerk	

Others Present: Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

A motion to approve the agenda was made by Councilmember Harrison; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.

3. CITIZEN COMMENTS – None

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.**

4. PROCLAMATIONS – None

5. PRESENTATIONS/RECOGNITIONS Presentation of donation from the Cocherl Family Foundation to First Responders

Mr. Patrick Cocherl stated he and his wife Kathy had lived in Leawood for 40 years. He thanked Mayor Dunn, Council, City Staff and fellow citizens in attendance. The Cocherls have had the pleasure of using the services of the “Best Little City in Kansas” and perhaps the country. They have built three buildings at 142nd Street and Kenneth/State Line Road and are proud to pay taxes in Leawood. He recalled past experiences when the Police removed a penny from a child’s throat, returned his dog about 14 times prior to the City’s leash law, and on occasion seeing blue and red Police lights behind him. He had tickets issued within minutes of each other when he was traveling east on 143rd Street, the “money street”, between Nall and Mission. The first ticket was quickly followed by a second issued three minutes later in a school zone. On February 3, 2017, Mr. Cocherl had a heart attack and Leawood’s prompt 9-1-1 call first responders were crucial to his survival; his heart stopped more than a dozen times that night. Captain Michael Knisely, whose last day on the job is today, held Mr. Cocherl’s hand during the episode and asked him to focus just on him; Captain Knisely was not going to let go. Since that time, the Cocherls have hosted the Arrowhead Concert Series to benefit first responders and share with the less fortunate. At this time the Cocherl Foundation would like to make a donation to honor the Leawood Fire Department First Responders in the amount of \$50,000 to give away what God has given, for the Fire Department to use as they deem fit. It is hard job to give life to save life, and you do not always win. About 80% of the time, the mission of first responders is not accomplished.

Attendees offered an extended round of applause.

Fire Chief Williams thanked the Cocherls and the Cocherl Foundation, stating Leawood is a tremendous community, and the Governing Body and City Administrator provide support. First responders do not do the job for recognition, but because of who they are. The department has three goals every day, for every call; professional, immediate and compassionate response. Chief Williams introduced Captain Knisely, and Master III Firefighters Chris Cosgrove and Jeff Anderson, who had done an outstanding job that night. He presented a Certification of Appreciation to the Cocherl Family Foundation and a limited edition Hallmark Keepsake ornament of the 1949 Fire Truck.

Mayor Dunn thanked the Cocherls for sharing their story, and the Cocherl Foundation for their extraordinary generosity. She stated the donation would be restricted for use by first responders with oversight by Chief Williams.

6. SPECIAL BUSINESS

- A. **Ordinance No. 2915**, authorizing and providing for the acquisition of lands or interests therein by condemnation for the 143rd Street Improvement Project between Windsor Lane and Kenneth Road [Project # 80129] **[ROLL CALL VOTE] –CONTINUED FROM THE NOVEMBER 19, 2018 GOVERNING BODY MEETING**

Mr. Ley stated the Governing Body had approved a resolution in September for six needed easements. A few weeks ago, the number remaining dropped from two to three. The proposed ordinance is for the two remaining easements.

Councilmember Harrison questioned the six liens against the property at 14204 Canterbury. Ms. Bennett confirmed the number of liens stating the source of information is title reports, and that lienholders would be notified of the condemnation and could participate if they express interest. Any liens or mortgages would be listed in the petition filed with the District Court.

A motion to pass Agenda Item 6.A. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous roll call vote of 8-0.

B. **Public Hearing** Consider Budget Amendments to 2018 Fiscal Budget

Mayor Dunn opened the public hearing. No one was seen or heard to speak.

A motion to close the public hearing was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.

C. **Resolution No. 5093**, adopting amendments to the 2018 Fiscal Budget for the City of Leawood, Kansas

Mr. Lambers confirmed to Councilmember Azeltine the \$7 Million transfer to the Economic Development Fund is a rollover of an accumulation of sales tax money from five or six years. The transfer would move money from the General Fund to the Economic Development Fund, for anticipated, non-specified at this time, future use.

Councilmember Filla asked why the Transient Guest Tax Fund had increased by a considerable amount and for an explanation of the 1/8th Cent Sales Tax Fund rollover. Mr. Lambers stated the reason for the increase in the Guest Tax Fund was due to more hotel guests and financial obligations on Park Place having been met. Ms. Long stated the 1/8th Cent Sales Tax rollover is needed because when the original 2018 Budget was established, it was assumed 2017 projects would be complete. However, funds to complete two projects need to be rolled to 2018.

A motion to approve Agenda Item 6.C. was made by Councilmember Azeltine; seconded by Councilmember Harrison. The motion was approved with a unanimous vote of 8-0.

Mayor Dunn stated the proposed amendments were somewhat similar to those of the past. She expressed amazement that when financial assumptions are made 18 months in advance and budgets documents prepared in March and April a year prior, the final budget document is very close.

Ms. Harper passed an amended certificate required by the County for Governing Body signature.

D. **Ordinance No. 2916C**, granting to Southwestern Bell Telephone Company, d/b/a AT&T Kansas, a contract franchise for the provision of Telecommunications Services in the City of Leawood, Kansas and prescribing the terms of said contract franchise and repealing Ordinance No. 2806C [ROLL CALL VOTE]

Councilmember Sipple stated he had received a number of constituent complaints about the lack of upkeep of AT&T equipment boxes in back yards and along thoroughfares, and inquired if something could be done to ensure maintenance and that the boxes remain upright.

Mr. Chris Carroll, 5400 Foxridge Drive, Mission, AT&T Regional Director-External Affairs, stated their telephone hotline, 913-676-1801, or he should be contacted for complaints. The hotline number can be shared with constituents. As a condition of permitting, it is required the cabinets and their landscaping be maintained, and AT&T needs and wants to promptly address issues.

Ms. Bennett confirmed the proposed contract franchise term had increased from the prior term of two years and automatic renewals for two successive terms of one year each. The term increase to six years and automatic renewals for two successive terms of two years each, was based on having no problems with extended terms. If problems are encountered, the City does have the opportunity to back out.

Mr. Carroll personally thanked City Administrator Mr. Lambers, Assistant City Attorney Andrew Hall and City Attorney Patty Bennett for their patience in the process, which took longer than anyone wanted. The prior contract franchise had expired and he apologized for the delay. Mayor Dunn thanked Mr. Carroll for acknowledging the situation and responsiveness to contacts she has made with complaints received.

Councilmember Filla asked for the status of overall fiber installation in the City. Mr. Carroll stated there had been a few problematic steps in the process. Regrettably, AT&T has sometimes not been as responsive in the construction process. City Staff has gotten his attention and steps have been taken to resolve disruptions. He is aware the company has funding for fiber installation and forward progress is being made, but perhaps not as fast as constituents would like.

A motion to pass Agenda Item 6.D. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 8-0.

- E. **Ordinance No. 2917C**, granting to Teleport Communications America, LLC, a contract franchise for the provision of telecommunications services in the City of Leawood, Kansas and prescribing the terms of said contract franchise [ROLL CALL VOTE]

Mr. Lambers confirmed to Councilmember Sipple the future level of expected fees was projected to decline from current level of franchise revenue, because of competition and service offerings.

Mr. Carroll confirmed he also represented Teleport Communications America, LLC, a wholly-owned subsidiary of AT&T. He stated the company is not piggy-backing on AT&T. The company uses the AT&T central office, but has their own high fiber network serving mostly businesses. Services are open to residential as well. In regard to revenue decline, the industry is seeing a customer trend of “cord-cutting.” Wire lines are being abandoned to use wireless, Facebook messaging, Magic Jack, Skype and other non-traditional services. Franchise fees are based on wire line services. From 2000 to 2014, AT&T Kansas lost nearly 80% of land lines. Video entertainment customers are cord-cutting as well to use other “over-the-top” services such as Hulu, Netflix and video-streaming. In 2016, AT&T had 3,519 U-Verse subscribers and today there are only 3,093, a loss of 14%.

A motion to pass Agenda Item 6.E. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous roll call vote of 8-0.

7. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon 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. Accept Appropriation Ordinance Nos. 2018-46 and 2018-47
- B. Accept minutes of the November 12, 2018 Special Call Governing Body Meeting
- C. Accept minutes of the November 19, 2018 Governing Body meeting
- D. Accept minutes of the September 11, 2018 Historic Commission meeting
- E. Accept minutes of the August 28, 2018 Leawood Arts Council meeting
- F. Approve Appointment of Presiding Officers for 2019
- G. Approve Mayoral Appointment of Truss Tyson to Sustainability Advisory Board for a 2-year term, expiring in 2021
- H. Approve Change Order No. 1, in the amount of \$43,400.00, to Bruner Contracting, pertaining to the Public Works Maintenance Facility Expansion Project, located at 14303 Overbrook Road [Project # 76050]
- I. **Resolution No. 5095**, approving a proposal from Travelers Insurance Company for the 2019 Property/Liability Insurance and additional coverages and authorizing the Mayor to execute an addendum to the Insurance Broker Agreement Between Arthur J. Gallagher Risk Management Services, Inc. and the City of Leawood, Kansas
- J. **Resolution No. 5096**, approving the recommended distribution of alcohol taxes by the Johnson County Drug and Alcoholism Council [DAC] for allocations of the 2019 alcohol tax fund for an amount not to exceed \$350,000.00
- K. **Resolution No. 5097**, approving and authorizing the Mayor to execute a Letter of Understanding in the amount of \$15,000.00, between the City and Johnson County Human Services pertaining to the 2019 Johnson County Human Service Fund
- L. **Resolution No. 5098**, approving and authorizing the Mayor to execute a Letter of Understanding in the amount of \$10,000.00, between the City and Johnson County Human Services pertaining to the 2019 Johnson County Utility Assistance Program
- M. Declaration of Surplus Property; [12] PD Units; [2] PW Units; [1] Fire Unit; and [2] Comm. Develop. Units

Councilmember Harrison requested Consent Agenda Item 7.E. be pulled.

Councilmember Osman requested Consent Agenda Item 7.G. be pulled.

Mayor Dunn requested Consent Agenda Item 7.J. be pulled.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Azeltine; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.

- 7.E. Accept minutes of the August 28, 2018 Leawood Arts Council meeting

Councilmember Harrison noted in the minutes that the “Walking Female” sculpture piece was to be installed in November and she inquired if this was in 2018 or 2019. Mr. Ley stated the City has contracted with Kissick Construction to have the piece installed by mid-January, weather permitting. The piece has one large footing. If the footing concrete can be poured, it could be blanketed to cure.

Mayor Dunn stated everyone is excited about the sculpture.

A motion to approve Consent Agenda Item 7.E. was made by Councilmember Harrison; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 8-0.

7.G. Approve Mayoral Appointment of Truss Tyson to Sustainability Advisory Board for a 2-year term, expiring in 2021

Councilmember Osman stated he had the opportunity to speak with Mr. Tyson, who has a very detailed resume. Mr. Tyson is very excited to start quickly and glad to be part of the Sustainability Advisory Board.

Mayor Dunn thanked Councilmember Osman for the great nomination.

A motion to approve Consent Agenda Item 7.G. was made by Councilmember Osman; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.

7.J. **Resolution No. 5096**, approving the recommended distribution of alcohol taxes by the Johnson County Drug and Alcoholism Council [DAC] for allocations of the 2019 alcohol tax fund for an amount not to exceed \$350,000.00

Mayor Dunn wished to recognize Ms. Marya Schott, United Community Services Director of Resource Allocation, and Ms. Cathy Lawless, Leawood's DAC Representative for the past six years. She stated Ms. Lawless is term-limited and her term would end this month; Ms. Stephanie Kelly would take over on January 1, 2019. Mayor Dunn stated the City is grateful for the prudent use of funds and is glad there are ever-increasing dollars for the organization to work with.

Ms. Schott thanked the City for its contribution to the fund. The total 2019 fund is about \$2 Million and she considers DAC a great steward of the money, which is used for prevention, treatment and recovery programs helping many community members. Ms. Lawless stated she was grateful to have served.

Mayor Dunn concurred and thanked Ms. Schott and Ms. Lawless for their great work.

Mr. Lambers pointed out that Page 14 of the report lists contributions by agencies and Leawood makes the second largest. For its size, restaurant impact on the alcohol tax fund is striking. This was a factor for Leawood's selection of the "Best Small City in the Country."

A motion to approve Consent Agenda Item 7.J. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.

8. MAYOR'S REPORT

- A. On Friday, November 30, George H. W. Bush passed away at age 94. He was the 41st President of the United States and had served 40 years in public service. I request a moment of silence to honor him and his family.
- B. Thanks to Director of Public Works David Ley and his snow crews for providing excellent service in our most recent snow event.
- C. Thanks to Councilmember Lisa Harrison for representing the City of Leawood at the Blue Valley Educational Foundation Appreciation Reception where the City was recognized by a hand-painted sunflower plate.

- D. The Leawood employee 2019 United Way Campaign is winding up, pending receipt of a few outstanding paper forms. Due to great generosity from our Staff and Council, \$13,333.00 has been pledged. My thanks to Human Resources Director Nic Sanders and to all for participating.
- E. Happy Hanukkah to one and all!
- F. Happy Birthday to Councilmember Mary Larson!

9. COUNCILMEMBERS' REPORT – None

10. CITY ADMINISTRATOR REPORT – None

11. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

12. PLANNING COMMISSION

[from the October 23, 2018 Planning Commission meeting]

- A. **Ordinance No. 2918**, approving a Rezoning, Preliminary Plan, Preliminary Plat and Special Use Permit [SUP] for Ranch Mart North Shopping Center – Redevelopment, located north of 95th Street and east of Mission Road [PC Case # 115-18] [ROLL CALL VOTE]

Mr. Curt Petersen, Polsinelli Law Firm, 6201 College Boulevard, Overland Park, stated there have been struggles for nearly a decade to create a financial backing for rebirth of the entire shopping center. Not all projects are equal. The iconic and special center is 50 years old and it is hoped the center will continue for another 50 years. Tonight's discussion would be focus on planning items; a private-public partnership similar to Camelot Court would be in the future. He pointed out members of the project team in attendance including Trip Ross of Cadence Commercial Real Estate, Chris Hafner of Davidson Architecture+Engineering, and Bob Regnier of Regnier Family Partnership.

Mr. Chris Hafner, Davidson Architecture+Engineering, 4301 Indian Creek Parkway, Overland Park, presented various site plans, elevations and materials to be used. All existing uses would be kept and new uses added. The square footage of the existing center would remain the same, but the building in the northeast corner would be turned into a two-story structure with office on second floor. A large pedestrian plaza would be created in the location of the former Seasonal Concepts, on the east side of Price Chopper. The new building meets the 125 ft. setback from residential and the ability to have fire trucks move throughout the center has been addressed. The parking field would be cleaned up with distances from 95th Street and Mission Road, becoming consolidated and creating depth. Landscaped islands would be created in the parking lot to meet current Leawood Development Ordinance [LDO] requirements on the east edge and variances have been requested for the south and west sides. The plan proposes 934 parking spaces. O'Neill's and Foos would have 90 degree rather than slanted parking spaces. McDonalds would remain on the corner, but the parking field would be treated to improve. The parking lot would have 18 foot full shut-off LED lights. The goal was to achieve pedestrian connectivity especially from the south, through sidewalks on 95th Street and Mission Road and crosswalks to move throughout the site. A plaza would be created at the Hallmark Store, as well as the large plaza mentioned earlier. The project keeps the existing tenant building line and has clean lines and interesting building materials. Wood roof shakes would be removed, and the roof overhang would be replaced with something modern.

Mayor Dunn asked to know how the proposed drive-through pharmacy at the Price Chopper would work. Mr. Hafner stated the current under-utilized large delivery and grocery pickup canopy at the main entrance would remain, but be straightened out and the pharmacy would be relocated to that corner of the Price Chopper. The proposed plan includes the stacking for five vehicles to meet requirements.

Councilmember Filla expressed thanks for undergrounding of the utilities on the west side, the sidewalks to connect McDonalds to and around the corner, and the parking changes made to clean up the site. Mr. Hafner stated the team is working closely with Kansas City Power & Light on locations of their equipment. All overhead power for the site will be underground.

Councilmember Osman shared his childhood experiences visiting this and the Corinth shopping centers. He had feared being struck by a vehicle at this site. Children in the area now, even those just one block away and at Curé of Ars School, feel unsafe. He complimented the succinct areas of activity and ease of access in the proposed plan. He stated his opinion that although the design of Corinth was good, all their restaurants are stacked in one location creating very busy and dead ends of that center. He commended the proposed plan for its four dispersed focal points, which breaks up parking. He stated that finally for the neighborhood, a day of reconnecting has come and residents are excited. The tenants should anticipate a dip in sales and challenges in the next 18 to 24 months, but have hope that sales will be increased after the project.

Councilmember Harrison pointed out that McDonalds is zoned Agriculture and she has to believe this impacts sales and real estate taxes. She stated that although groceries might be ordered on-line, there are patrons that likely need help loading their purchases. She asked if a few more parking spaces could be considered for use or in a new way to accommodate. Mr. Hafner stated there will not be grocery pickup. Some parking stalls were left for on-line order pickup and are ADA [American Disabilities Act]. He could not speak to Price Chopper operation plans in this regard, but he would take her comments back to the project team and Price Chopper.

Councilmember Harrison stated the City had heard from some neighbors that do not like the modern materials, and she inquired if a traditional façade, less Crate & Barrel or Apple, had been considered. Mr. Hafner stated the team had looked at something closer to Ranch Mart South in Overland Park in early iterations. However, with the dramatic paradigm change in potential tenant mix and central plaza public space, a bold step was needed. The proposed materials would not necessarily be modern, but be quality materials having modern lines. The team meets every Thursday and continues to refine elevations and it is hoped to bring a Final Plan forward soon.

Councilmember Cain stated she is now a fan of drive-through and on-line grocery orders, and the plaza created would be energizing, providing the opportunity for programming. She pointed out the roof leaks and asked if an overall re-roof would be done, if Price Chopper and other tenants would be doing interior work, and if the traffic flow around McDonald's had been addressed as requested in Stipulation 31. Mr. Hafner stated Price Chopper has a fairly new roof which would remain. The roofs of Duck Donuts and The Foot Shop are in good shape, but part of the building would be torn out to create the plaza. The roof on the west side will be replaced. With some potential relocations of tenants in the east side, he has heard comment there may be some interior renovations by tenants. He cannot speak for tenants along the west, but would assume a likely fresh start for them as well. Mr. Hafner stated traffic flow around McDonald's would happen at Final Plan. He has been communicating with their corporate office about truck delivery and layout. The land is leased and operationally, the proposed plan has taken away a curb cut, which is felt to be a big accommodation by McDonald's. McDonald's Corporate has stated they cannot do a one-way traffic flow at this site,

which has slightly different approaches than those used at 119th Street and Roe. No changes would be expected as part of the Final Plan.

Councilmember Filla asked for an update on sewer lines. Mr. Hafner stated he had worked closely with Johnson County Wastewater. The sewer main runs from Ranch Mart South in Overland Park to Cure' of Ars under Ranch Mart North. The sanitary main will be relocated along the center's frontage and then proceed towards Ranch Mart South on the east. There will be some inconvenience, but this will be best in the long-term.

Councilmember Sipple stated he was concerned about pedestrian and bicycle safety. He asked if there could be a marked bicycle route entering from the sidewalk and running west to east placed on the north of the shopping center, so bicycles do not have to navigate the south side of the center. Mr. Hafner stated this had been reviewed, but it is hoped the proposed number of pedestrian paths could serve either pedestrians or cyclists. The plan provides pedestrian connectivity on the northwest side of the site, crosswalk at the south end of the bank parking lot, pedestrian access from west of the new pharmacy and to the front door of the Price Chopper from signalized intersection, and one connection would lead to the Care Now Building. Bicycle racks located at strategic locations throughout the site. There is a lot amount of vegetation on the north side that should be maintained as a buffer. The south side will have defined traffic pathways and a road speed table located in front the Price Chopper and another will likely be located at the T-intersection/plaza area.

Councilmember Sipple requested consideration for Final Plan be given to placing an island for children to use who come down from the north to the drive going into the drive just north of McDonalds. The island would provide the opportunity for children to not have to clear both incoming and outgoing traffic. Mr. Hafner stated this was not previously considered and agreed. He stated he would review truck movements.

Councilmember Sipple stated he was satisfied with the dialogue thus far on the trash surrounds for the east side, but one of these is an island. He would look forward to specifics in the Final Plan.

Councilmember Sipple asked to see an elevation view of the elevated planter to be along Mission Road and for clarification as to whether the planter would be located near the road or towards the parking lot. Mr. Hafner stated he envisions a screening wall rather than a planter that would be placed nearest the parking lot. The screening wall would have some breaks for landscaping. A retaining wall would offer less opportunity for breaks. He pointed out a screening wall should not be assumed to be a vehicular barrier to protect or provide pedestrian safety. The original design had to be reconsidered to meet LDO screening. That design consisted of a 2 ft. curb buffer, then sidewalk, then green space. The south end of the west parking lot would be 11.5 ft. from sidewalk to curb and on the north end about 8 ft.

Councilmember Rawlings complimented Mr. Hafner and staff for the unique plan, which would look better than the pillars and stacked stone of Ranch Mart South and Corinth. This would set Ranch Mart North in Leawood far apart. He agreed with Councilmember Osman that the project would bring a lot of traffic to the center. It has been years and the City is glad to see the plan.

Mayor Dunn stated Mr. Petersen would now present Planning Commission stipulations, noting that some of the stipulations would be at Final Plan.

Mr. Petersen presented a table of stipulations, stating the applicant accepts Stipulations 1 through 33 as revised by the Planning Commission, with the following exceptions:

Revise Stipulation 9 – Trash Enclosures

The LDO requires screened, architectural design, attached enclosures. Planning Commission discussion focused on one trash enclosure proposed for the new restaurant in the southeast corner, in the former Seasonal Concept space. There is no suitable location for this enclosure to be attached to the building. The applicant proposes to add to the Staff’s suggested language on location found on Pages 12 and 13 of the Staff report. The stipulation would be revised to add “At Final Plan the applicant shall work with staff to either relocate the trash enclosure to an area where it is closer to the businesses that it serves and can be integrated into the surrounding architecture, or integrates the trash enclosure into the drive-thru of the bank.”

Mr. Coleman stated City Staff have two concerns. One is that trash being carried from one area to another often leaks. Restaurants typically have a large amount of waste which would need to be transported to the bank building. The bank building location was considered a last resort. Since the restaurant would be located in a new building, the City believes the applicant can design a place for the trash. New free-standing buildings built in the City are required to have attached or interior trash enclosures.

Mr. Coleman confirmed to Mayor Dunn his recommendation would be for continue work in this regard.

Mr. Petersen confirmed to Councilmember Filla that bulky trash is likely being separated at this time.

Mr. Petersen stated that if there was a better idea, the great design team had not come up with it. Mayor Dunn stated to continue work and this would be presented to the Planning Commission first. She stated the requirement is per the LDO, not City Staff’s whim.

Councilmember Osman stated he vehemently dislikes trash enclosures to be attached to buildings, especially for uses such as restaurants and grocery stores. Insects and pests are drawn to the trash and can intrude into the building. Also, the turning radius of a trash enclosure can be problematic for a 10-ton trash truck that wants the easiest access for quick service. If trash enclosures are ill-placed, the result can be wheel divots, curb jumping and trash picked up by wind, all of which are not good.

Mr. Lambers stated that trash enclosures should be attached for new buildings per LDO. By hauling restaurant trash to the bank, the bank could say the trash is not theirs and type of trash is worse than theirs. The trash enclosure needs to be part of the new building to avoid future problems. Since the application is at the preliminary stage, this can be further discussed at a later time. Mr. Petersen stated the building design is unique.

Stipulation 17

Mr. Petersen stated this stipulation was not on his list, but wanted to provide comment. For the street trees required along Mission Road per LDO in Stipulation 17, the design team is struggling with planting trees in a “beehive” area of underground of utilities. City Staff is convinced there will not be a problem. If a future problem arises, the applicant will come back and discuss.

Delete Stipulation 18 – Mission Road Screening and Sidewalk Placement

The ownership and design teams strongly feels the richest look for screening would be to not have a continuous masonry wall, but intermittent berming, wall and landscaping instead. After six weeks of review against what the City originally wanted, the applicant proposes there be 11 to 8.5 ft. of green space, then sidewalk, then a wall and wall/landscaping. If the wall is moved west away from Mission Road, it would become a retaining wall because of grade change. There should not be implication that a 3 ft. retaining wall would serve to protect children. A retaining wall may conflict with utilities and there will no longer be head-in parking facing Mission Road that would require screening.

Mr. Coleman stated the City wishes to receive details as Mr. Petersen described. Mayor Dunn stated this is difficult to visualize. She would prefer to not delete the stipulation at this time. The applicant should continue to work with Staff before going before the Planning Commission. The Planning Commission should make a recommendation working with City Staff. Mr. Petersen agreed, stating this was a good outcome.

Revise Stipulation 20 – McDonald’s Perimeter Screening

On the south side of McDonald’s, moving east on 95th Street towards the access drive, space becomes limited for screening required by the LDO and requests revision “except for the area along 95th Street frontage indicated on Drawing Sheet A1.2.” McDonald’s parking cannot be reduced to accommodate.

Councilmember Filla asked what is currently on the west side of McDonald’s. Mr. Petersen stated there is landscaping that is not planned to be reused. With the suggestion of intermittent landscaping, a revision in this area this might work.

Mr. Coleman stated the City wants to see the details at Final Plan. Mayor Dunn stated the “except for” language proposed by Mr. Petersen be revised to state to be reviewed by the Planning Commission at Final Plan. Mr. Petersen agreed.

No Action Former Stipulation 23 –Deletion of Two Parking Stalls

Mr. Petersen stated there was no action, but wanted to point out this stipulation in regard to the two parking stalls on the westernmost parking lot near Mission Road. City Staff had suggested and the Planning Commission deleted this stipulation at the request of the applicant. Five feet of green space has been added to allow for reverse vehicle movement, and having these two parking stalls is important.

Mayor Dunn confirmed with Mr. Coleman and Mr. Klein that Staff had no disagreement.

Delete Stipulation 31 – McDonald’s Vehicular Circulation

All have acknowledged the area is a roller derby free-for-all. In dialogue between McDonald’s and the applicant, McDonald’s has said “no” to anything further beyond the consolidation of the two entries on the south side. Mr. Petersen stated he was positive there is nothing more to do here. He asked for acknowledgment they have no further action.

Mayor Dunn pointed out Stipulation 31 uses the words “shall reconsider” and the point has been made to the Governing Body. She stated her belief the Planning Commission would still want to hear about the applicant’s dialogue with McDonald’s. Mr. Coleman stated Public Works would be interested as well.

New Stipulation

Mr. Petersen proposed a new stipulation for a Kansas City Area Transit Authority [KCATA] Bus Stop on 95th Street. The ownership and design teams feel this is a great idea. The language of the proposed new stipulation would be “The applicant agrees to provide land, if necessary, a new KCATA Bus Stop along 95th Street, as set forth on Ex. 1 – KCATA Site Exhibit dated 11/20/2018.” Mr. Petersen noted the stop would be in front of the cemetery, and the City or KCATA, not the applicant, would be responsible for the design, construction and maintenance of the bus stop.

Mr. Coleman stated KCATA would build and maintain. The right-of-way would need to be worked out and there may be easements needed for construction and maintenance from the property owner.

Mr. Hafner confirmed to Councilmember Sipple there is currently a “sign only” KCATA stop at the location, but no place to stand. Councilmember Sipple stated this would be a great for shoppers and workers.

Councilmember Azeltine inquired if a separate application would be needed from KCATA. Mr. Coleman stated this would be included in the Final Plan and KCATA would need to come forward with a Final Plan for design of the stop.

Mayor Dunn pointed out the new stipulation would be numbered Stipulation 32, and stipulations following renumbered accordingly.

Mayor Dunn pointed out the property owner might consider new branding for marketing the center as Ranch Mart North, since the proposed plan design is different from Ranch Mart South. Councilmember Filla suggested the name “Leawood Ranch Mart.” Mr. Petersen said signage would eventually be brought forth.

Mayor Dunn pointed out this was an ordinance, needing a super-majority of votes for the modifications recommended and agreed to.

A motion to pass Agenda Item 12.A. Preliminary Plan as presented with stipulations and modifications agreed to was made by Councilmember Filla; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 8-0.

Mayor Dunn thanked the presenters and stated the City looked forward to the Final Plan.

[from the November 13, 2018 Planning Commission meeting]

- B. **Ordinance No. 2919**, approving the Planning Commission’s recommendation to deny a request for a Rezoning, Preliminary Plan, Preliminary Plat, and Special Use Permit [SUP] for 135th Street and Kenneth Road – Mixed Use and Medium Density Residential, located south of 135th and west of Kenneth Road [PC Case # 71-18] [ROLL CALL VOTE]

Mayor Dunn noted that color copies of an email [with six attachments: “Overall Aerial Site Plan - Update”, “Enlarged Aerial Site Plan”, “Initial Staff Recommendations”, “Stipulations Applicant Proposes be Deleted”, “Stipulations Applicant Proposes to Modify” and “Post-Planning Commission Developer Proposed Stipulations”] from Mr. John Petersen sent Friday, November 30, at 4:28 P.M. to the Governing Body, Mr. Lambers, Ms. Bennett and Mr. Coleman, had been provided for convenience.

Mr. Coleman stated City Staff had been working with the applicant as late as 5:30 P.M. this evening, so additional modifications would be presented.

APPLICANT PRESENTATION

Mr. John Petersen, Polsinelli PC, stated that developers Richard and Rick Lashbrook, Vic Regnier and other property owners, as well as landscape, architect and traffic team members were present.

Mr. Petersen stated the team had been directed to work with City to find a compromise on 56 acres that speaks to mixed use, horizontal and maybe some vertical. The plan has significant changes, based on Governing Body and Planning Commission comments, and some changes made thereafter in dialogue with City Staff. He displayed an aerial layout of the site.

Mr. Petersen stated a “headliner” was where to break 135th Street, which has synchronized intersections, to service the development. Mr. Petersen stated he was pleased to report after a traffic impact study, the applicant and City are in total agreement that High Drive will work for the project and overall street network. The roundabout at High Drive and 137th Street has been removed and the mixed use buildings on the west of High Drive have been reconfigured. An amenity area for the villas has been expanded and made a focal point on 137th Street. On the east side, reconfigured buildings create streetscape on High Drive similar to that on the east side, and provide continued pedestrian connectivity and more green space to get off sidewalks and bicycle paths to congregate. There is now a band of over one acre of green space created from High Drive to the eastern part of the project. At the connection of 137th Street in the left corner of the site, we are required to construct 137th Street from Kenneth Road to the west property line of the development. Staff had wanted the proposed cul-de-sacs there to remain awaiting further development and connection to Chadwick Drive. The development team reached out to Ms. Kelly Sherman to attempt an agreement that works for all-the developer, the City and Ms. Sherman in regard to 137th Street connection. This is another example of connectivity. Some discussion has occurred with Mr. Lambers and further discussion on assessments would be needed.

Mr. Petersen referenced the enlarged section of the aerial map. The Final Plan would have a lot of detail about the green area along 137th Street. This area is a good opportunity for people on the east side of High Drive and from office and retail to utilize, but since this is pushed far enough to the west it will be near multi-family and retail visitors on the west side of High Drive. The area is concentrated useable green space.

Mr. Petersen displayed the 137th Street Connection to Chadwick map. He stated Ms. Sherman has 10 acres the street must cross, with the City also having some property further west and some money in escrow, but not enough to do the job. He presented a “Memorandum of Intent” dated November 30, 2018 between 26 Bar Farm LLC and Leawood 135 LLC, and stated if Ms. Sherman would donate the right-of-way to the City over her 10 acres, we would build the road, then the developer would build over the City portion and make up the difference for connectivity.

Mr. Petersen presented a Connectivity Diagram, pointing out sidewalks, 28,000 sq. ft. of trails, completion of bicycle paths on both sides of 137th Street and the additional through lane added on 135th Street to ensure reverse frontage system works.

As shown in view looking south, we have pulled linear buildings down along High Drive. At the end of the street you can see villa green space at 137th Street and High Drive. This provides a good urban feel and pedestrian access as you walk through mixed use. The view looking east down 137th Street runs down to the senior living facility has a bit of height.

Mr. Petersen stated that initial Staff Stipulations were Nos. 1 through 42, and applicant agrees to 34 of the 42. Mayor Dunn pointed out the Staff Report, printed and distributed in advance of the meeting before the applicant and City that concluded at 5:30 P.M. today stated there are 43 stipulations. Mr. Klein stated the applicant had been advised about Stipulation 20 in regard to head-in parking. Mr. Petersen was provided a copy of Stipulation 20.

Mr. Petersen distributed an update of “Stipulations Applicant Proposes be Revised” printed in black and white [earlier version was color]. The applicant proposes to delete Stipulations 2, 3, 7 and 39, and revise Stipulations 1a, 4, 9, 18. He reviewed documentation, as follows:

DELETIONS

Delete Stipulation 2

This stipulation basically states the property owner/developer and City should enter into a Developer Agreement. Mr. Petersen stated he was unclear what this was about, but was not necessarily in conflict. The plan includes a project phasing plan and the applicant is not asking for a CID [Community Improvement District].

Delete Stipulation 3

There has been hard work by applicant and City Staff to find compromise, but it is clear that Staff wants to turn down the plan because the plan does not adhere to the 135th Street Community Plan. Mr. Petersen stated he had previously made the case that the City’s own consultant said mixed use does not have to all be vertical. The applicant wants to build what is feasible and spawn further development on the corridor, and this stipulation pulls in items from the 135th Community plan so applicant’s plan cannot be built.

Delete Stipulation 7

This stipulation states that cul-de-sacs cannot be built, so similar to Stipulation 3, the plan cannot be built.

Delete Stipulation 39

The plan provides for storm water control by detention per City Code. The City wants the applicant to build a water amenity, taking up a lot of space on the site.

Mr. Petersen stated the applicant, City Staff and City Attorney, were not agreement on these four stipulations.

REVISIONS [LATEST VERSION SUPPLIED BY APPLICANT]

Revise/Delete Stipulation 1a

The applicant is asking for 55% discount on residential mixed use F.A.R. [floor area ratio], and their entire plan is based on this. City Staff supports a 25% baseline discount.

Revise/Delete Stipulation 4

Applicant agrees to 4d in regard to roofing materials, but not to 4a, 4b and 4c which would mean the plan could not be built because the applicant would be bootstrapped in the position that we should have a grid transect system.

Revise/Clarify Stipulation 9

Mr. Petersen asked the record reflect we have agreement that as part of zoning, applicant must build 137th Street within the proposed development. The applicant is now proposing to go beyond.

Revise Stipulation 18

Mr. Petersen stated there are four deviations requested. Regarding setbacks that separate buildings, in work done today the City Staff is supportive as long as fire code requirements are met. The second deviation requested is for a 30 ft. building setback instead of a 40 ft. building setback along High Drive and 137th Street. The deviation of 10 ft. is allowed by City Code as long as the green space eliminated is made up on a 1 to 1 basis, which has been done. The applicant is asking for 55% discount on residential mixed use and two deviations for 15% bonuses. One of these is for increased additional open space to benefit community and for underground parking. Staff agrees with 15% bonus for underground parking. Site-wise, the plan is over the required open space, and a concentrated one-acre space that can be used by seniors, bicyclists, hikers and office workers has been created.

Mr. Petersen stated it is challenging to pull off mixed use in Leawood today due to counter-dealing forces. If the development was built to the 135th Community Plan, it would not meet Leawood Development Ordinance [LDO] density requirements. An attempt has been made to find balance, work within context, bring some urban dense elements and create some buzz on the south side of 137th Street for the 56 acres. Mr. Lambers would need to continue work with Ms. Sherman in regard to 137th Street.

Mr. Petersen stated applicant would agree to original stipulations, and proposed applicant revisions and deletions to stipulations. After review of Stipulation 20, Mr. Petersen stated he would accept.

STAFF REVIEW/APPLICANT COMMENTS/DISCUSSION

PROPOSED DELETIONS

Delete Stipulation 2

Mr. Coleman stated that because of three different kind of areas and different ownerships at the site, a Development Agreement would address project phasing. The Preliminary Plan expires in two years. In discussion with the applicant, the duplex/villas would be constructed first. The City would like to something tied to a timeframe along with joint deed restrictions and maintenance. Mayor Dunn commented the rationale was logical.

Mr. Petersen presented a Phasing Plan. He stated villas in Phase 1 are anticipated to go in first. Phase 2 would be the west and Phase 3 the east. Once the first villa is started, to obtain an Occupancy Permit every street would be built, infrastructure in place, and power lines buried. Phases 2 and 3 would follow. He stated nothing in this day and age will be built speculative; phasing will be market sequence. He pointed out that once a large expenditure has been made on infrastructure, developers will be motivated.

Mayor Dunn noted Mr. Petersen was not supplying conjecture on timeline, just phasing.

Mr. Petersen stated he did not know what would be put into the Development Agreement. There could be no commercial commitment to build all in two years; the Final Plan is for five years. Villas and roads would be built, and work would be done with the City, the Leawood Chamber of Commerce and Economic Development Council to market the area.

Mr. Klein stated it is typical for commercial developments to develop joint deed restrictions, which the City reviews at Final Plan to ensure common areas are maintained. Stipulation 41 covers the funding for this.

Mr. Petersen stated he could not see how this would help. The plan and stipulations state what can and cannot be done, and each component will come back at Final Plan and will have further stipulations.

Ms. Bennett confirmed to Councilmember Cain there had not been a Development Agreement for Park Place, but the City can have a stipulation for phasing and she thought this stipulation had been used before in the City. Councilmember Cain pointed out there is a developer and financing for the villas, but only a developer and no financing for Phases 2 and 3. Mayor Dunn stated multiple ownership is the concern. Mr. Petersen stated the Lashbrooks would own the villas and west of High Drive, and Regnier entity east of High Drive. There will be agreements between parties and there could be the occasion for a party to want to own their building. He stated that Staff can opine on Stipulation 41 at Final Plan.

Delete Stipulation 3

Mr. Coleman stated the applicant refers to Stipulation 3 as important aspects of the 135th Community Plan. This plan lacks what the Ranch Mart designers are creating. Ranch Mart had one existing building with a flat façade and their plan utilizes a teardown to create space and walkable area for a new building/restaurant and amenities. The plan presented by Mr. Petersen starts from scratch and does not create the spatial place that Ranch Mart is trying to create. The place in this applicant's plan created between the buildings is parking lots.

Mr. Petersen stated this has been argued before. The plan is not a grocery store anchored development, so comparison is "apple to eggs." Mission Road and 95th Street are more residential than the proposed plans site bounded on all sides by four major roads.

Delete Stipulations 7 and 39; Stipulation 39 renumbers to Stipulation 40

Mr. Coleman stated Stipulation 7 goes back to the overall plan for connectivity. The trails going around the cul-de-sacs should actually connect to the cul-de-sacs for walkability. Stipulation 39/40 is the opportunity to create wet basins, rather than dry basins, for better aesthetics and amenities. Dry basins often collect trash. Villa Milano has three ponds instead of just having dry basins.

Mr. Petersen stated aesthetically pleasing swales and dry basins would be shown at Final Plan and would be green and a landscape feature when not used in a utilitarian fashion.

Councilmember Filla asked Mr. Ley to comment. Mr. Ley stated BMPs have become challenge to make into an amenity, but this can typically be achieved through design. Stormwater code requirements prohibit direct discharge into a dry basin, so a change needs to be made. The detention ponds shown in the plan will need to be reworked. Stormwater can be discharged into a retention pond only. A wet basin without enough water can be a problem and there are three basins. The footprint of retention can be reduced by digging deeper and having a wall on one side. For example, Tuscany Reserve has a retention facility and the water sits 8 ft. to 10 ft. down below the waterway.

Mr. Petersen stated there needs to be enough water so it does not stagnate. Detention is usually dry and used to move water through. An amenity to retain water would be broader at the top level and configuration does not work for the applicant who will not build a lake. Mr. Ley agreed to review to see if there would be enough water. Mr. Petersen stated this will be brought back at Final Plan for stormwater as approved by Public Works and the Council. Mayor Dunn stated she prefers retention, would not delete Stipulation 40 and a detailed plan should be brought forth at Final Plan.

Mr. Lambers asked if the City currently has dry basins of the proposed magnitude. Mr. Ley stated to his knowledge the largest dry basin located at St. Michaels the Archangel at 143rd Street and Nall. The City receives complaints from residents on the north side of this basin because of weeds and maintenance. Mr. Lambers stated that most developments retain water and provide amenities. He stated there is an example of an unappealing and not nearly as visible as proposed dry basin in Lee's Summit, Missouri. He strongly recommended the Governing Body to support Staff's position.

Mr. Petersen stated he could show well-designed detention. A pond of just stormwater cannot be built. This late-in-the-game change would mean the elimination of five or six villas. With due respect, the plan does not have a stormwater problem, the room or the finances.

Councilmember Filla noted disconnect on where the water is coming from and asked about the amount of water. Mr. Klein stated water on the site runs southeast. The main area of focus for proposed detention is south along 137th Street on east side of the site, and the City is asking for retention which might have trails and a gazebo of benefit to the community. The site also three other areas; two in the southwest corner and one in the northeast corner. Councilmember Sipple stated the creek on the east side of Kenneth Road would pick up the water. Mr. Coleman stated the detention would always contain water, similar to the private ponds in north Leawood. The 55-acres of ground drains from west to east. Councilmember Filla stated the ponds in north Leawood are never empty and the City does receive numerous complaints about the ponds.

Mr. Petersen stated if the water was not put there by God, then pumped water from Johnson County would be required. He stated we are trying to retain existing vegetation. The City wants the applicant to dig a big hole and fill.

Mr. Ley stated the retention pond at Cedar Point, for water in the area of Cedar Point and Village of Seville. The retention pond with 10 ft. deep and although these are small subdivisions, the pond has water year round. There is quite a bit of irrigation in the area; residents tend to irrigate every other day. The developments have stipulation that if the pond becomes low, for example in August, they may have to open spigot and add water, but they have not had to do so in five years.

Mr. Petersen stated there is no room to build a lake. Mr. Ley stated deepen the floor.

Mayor Dunn stated this was not going to be revised tonight, and language should say at time of Final Plan applicant show detention and/or retention. The applicant should continue to work with Public Works and the Planning Commission.

REVISIONS

Review/Delete Stipulation 1a

Mr. Klein stated this is a critical component. Applicant has requested 55% discount for residential. LDO mixed use residential provides a 25% discount that reduces F.A.R. Staff may recommend and Governing Body approve a 55% discount without a three-fourths majority affirmative vote, but that is only for a F.A.R. of 0.45 or greater. The F.A.R. in the applicant's plan is 0.43 with 25% base. Staff is not supportive of 55% discount over the 25% base for a number of reasons. Mr. Klein referenced the applicant's request for two 15% F.A.R. deviations in their Stipulation 18, one for 15% bonus requested for underground parking which Staff agrees and one 15% bonus requested for providing some areas in the northeast such as trails and for providing the plaza area from High Drive to Building H.

Mr. Klein displayed a comparison chart for 25% and 55% residential discount. The top section of the chart "F.A.R. WITHOUT RESIDENTIAL DISCOUNT" is the same for both percentages because this section is not related to discount. The "Proposed Building Area" is 211,482 sq. ft. The lower section of chart relates to discounts. A 25% discount results in 338,400 sq. ft. needing a bonus of 139,682 sq. ft. to achieve. A 55% discount results in 252,240 sq. ft. needing a bonus of 53,522 sq. ft. to achieve. Mr. Klein stated in the higher percentage the amount of square footage need is reduced and the F.A.R. is not as high.

Mr. Petersen stated this requires a major in math. Staff has been opposed to the plan from the get-go, saying it was not dense enough, does not have five-six-seven story buildings, transects or grid street system. That cannot be built. The City requires 30% mixed use and the plan is at 46%. At 30% open space, Staff is trying to hold us down to standard Ranch Mart shopping center F.A.R. because they did not like our plan. We have a good mix and setbacks well within City purview. All Planning Commission members agreed to 55% given to what is being attempted to be done. Mr. Petersen requested the 55% credit discount and the two 15% bonuses be allowed. He stated the plan still provides 16% more open space than City Code requires.

Councilmember Filla pointed out that a large amount of time had been expended on stipulations. She pointed to a plan drawing and asked if the plan could contain a bicycle lane on a residential street[s] indicated. She asked that benches and playground equipment to the one-acre green space, add pocket parks and save as many trees as possible. Mr. Petersen said these could be looked at Final Plan.

Councilmember Filla inquired if the green space in the east near Kenneth Road might be utilized for something for children. Mr. Klein stated that area is where Staff had asked the applicant to make an asset for the development, but applicant wanted detention. In response, Staff requested the detention be turned into a retention pond. The area is losing trees. Mr. Petersen stated agreement to detention/retention review.

Mayor Dunn discontinued review of revisions, asking for Governing Body questions.

Councilmember Azeltine expressed amazement and found fascinating Mr. Petersen's comment about being unable to comply with the LDO if built in strict accordance with the City's Comprehensive Plan or 135th Community Plan. Councilmember Azeltine stated the Comprehensive and 135th Street Community plans provide vision and guidelines; these plans were accepted, not approved, by the Governing Body. The LDO is law.

Councilmember Azeltine stated there were no stipulations made after initial plan review. The Staff Report is interspersed with comments that referenced the Comprehensive and 135th Community Plans, which should not be given the same weight as the LDO. Citizen emails received have been helpful to him and out of 26 received, 24 expressed great thanks for moving 137th Street so it was not against their subdivision, one was in opposition and one from a Home Owners Association in regard to stipulations. Positive citizen support is usually not the case. He stated at the Governing Body's last review he suggested that a lot of the applicant's green space was located along the edges, and layout does not seem to have changed. Page 12 of the Staff Report talks about F.A.R. additional open green space must provide public benefit and Page 18 lists the nodes and grid streets that do not meet the LDO. LDO compliant roofing material is going to be worked out. F.A.R. is the only issue. The City wants something special. He requested the applicant take another look and be creative.

Mr. Petersen stated F.A.R. is not an issue, as the plan is below density. The development is mixed use and the villas are critical and will start the movement. Then the focus will be on 18 acres of mixed use. The LDO requires minimal percentages for office, residential and retail in mixed use. This is all density and cost, and there must be a place to park it all. A two or three acre green space cannot be made. He asked to be able to come back at Final Plan with detail.

Councilmember Azeltine stated he would not want to drive into the development and say "where is the green space." Mr. Petersen stated there will extensive places to sit, landscaping, a 2.7-acre green space near the senior living facility and 28,000 sq. ft. used for an active trail system.

Councilmember Azeltine quoted from Ms. Sherman's letter sent to him and Councilmember Cain, and called the letter very eloquent. The letter stated that approving the application would be a good step in the right direction.

Councilmember Filla inquired if there was diversity offered in residential price points. Mr. Petersen stated what he considers diversity is attached villas priced at \$600,000 per side, multi-family units on the west side of High Drive similar to Mission Farm rent and the senior living component.

A motion to extend the meeting for an additional 30 minutes was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.

Councilmember Harrison commended the Planning Commission for their meetings, where thoughtful questions were asked. She pointed out Planning Commission Chair Marc Elkins was in attendance and the numerous volunteer hours of the Commission members. She stated frustration that the detention/retention pond had not been before the Planning Commission. She loved the idea of cul-de-sacs and connectivity of neighborhood as long as 6 ft. tall fences did not surround the villas. "Sense of place" was stated 30 times in the Staff Report; this phrase seems to be the top citation in an internet search, but rarely is defined. If the City desires ponds every three miles, this needs to be stated. If walkability is desired, then this should be stated as "sense of place." "Sense of place" is sometimes developed afterwards. She stated belief the mixed use plan was dense enough, and expressed hope work can continue on stipulations at another meeting, another day.

Councilmember Sipple stated he had three issues with the plan being use of empty triangle pieces of land in the southwest for pocket parks as another amenity; lack of good tie-in of 137th Street and Kenneth to Target and bank on the other side of State Line Road; and possibility of eliminating some of the green space in the middle of the site to add some to the northeast corner by relocating the senior facility slightly south, and re-arranging buildings [depicted in purple and blue] in the east for some green space for commercial on 137th Street. Mr. Petersen stated there was not much flexibility in the plan, but would review use of the empty triangle pieces of land. He stated buildings could not be pulled further east due to drainage issues. Mr. Ley stated the original layout of 137th Street did not go past Kenneth Road.

Councilmember Cain complimented the Planning Commission for their many hours and due diligence. She thanked the applicant for their effort and progress made in regard to movement of High Drive and deletion of roundabouts. She stated she would watch with interest the one hundred \$600,000 attached villas which is above-average and may not currently exist in the City, based on her 17 years of real estate experience. She stated she understands the concepts of grid network, transects and activity nodes which are at issue; this is the City's first application for 135th Street Corridor. She noted in minutes that one Planning Commissioner did not see difference in retail/residential proposed by the plan as compared to elsewhere in the City. The City wants something more unique and interesting. The City cannot have 600 acres of Park Place. The plan should follow the LDO and where the plan does not should be clear. Other City plans are open to interpretation.

Mr. Petersen stated the plan adheres to every component of the LDO, and the LDO allows the applicant to seek four deviations which the Governing Body can approve. Mr. Klein stated the applicant is requesting 55% discount on F.A.R. and the applicant has always said the plan meets the LDO on roofing and RP-3 zoning. These would be examples of LDO compliance.

Mayor Dunn stated to approve the plan would require only a majority, not a super-majority vote, since this was a remand to the Planning Commission. She stated the Governing Body would be approving the deviations requested.

Councilmember Rawlings inquired if the Governing Body would be approving deviations. Ms. Bennett confirmed "yes" if the Governing Body accepts Mr. Petersen's documentation.

Mayor Dunn pointed out the Planning Commission had expressed hope for more than one acre amenity, which would not have come forth in the plan without the Comprehensive Plan or 135th Street Plan. Mr. Petersen confirmed to Mayor Dunn the one acre area south of 137th Street is part of Phase 1.

Councilmember Larson thanked the Planning Commission and Staff, who do a good job protecting the City's interest. She likes the plan and wants work to continue, with give and take on a compromise. Her approval would not be a vote against Staff.

Mayor Dunn expressed the belief she had heard the Governing Body would like to see more green spaces, maybe ponds and more bicycle trails, as these are valued. Leawood is special because of deliberation and attention to detail. She thanked residents for their input.

A motion to pass Agenda Item 12.B. including Stipulations 1 through 43, less those agreed for deletion presented by applicant, and with modifications presented in the current applicant discussion materials was made by Councilmember Azeltine; seconded by Councilmember Sipple.

Councilmember Filla asked for clarification for the record if the approval would be for discussion of deleted and revised stipulations. Mayor Dunn stated Stipulations 2, 3 and 7 at Final Plan. Ms. Bennett stated as per applicant, deleting three stipulations, revising Stipulation 40, and including Stipulation 20 in regard to head-in parking. She would work with Mr. Petersen.

Councilmember Cain questioned how to ensure discussion would happen when there is such a wide disagreement between Staff and the applicant. She stated she was uncomfortable supporting the plan at this time; the plan could be improved. Mr. Petersen stated the City and applicant disagree on grids and transects. Staff is professional and we know we have a plan to continue to work on for detention/retention, continued connectivity and green space as it approaches Kenneth Road.

Mayor Dunn pointed out the Planning Commission had wished to see additional work on the plan as well.

The motion was approved with a roll call vote of 7-1; Nay from Councilmember Cain for reasons stated.

13. OLD BUSINESS – None

14. OTHER BUSINESS – None

15. NEW BUSINESS – None

ADJOURN

There being no further business, the meeting was adjourned at 11:30 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk