

Regular Meeting**THE LEAWOOD CITY COUNCIL****January 3, 2022****Minutes**

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:00 PM on Monday, January 3, 2022. Mayor Peggy Dunn presided.

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

Councilmembers Present via Zoom: Andrew Osman and James Azeltine

Staff Present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief Dale Finger, Police Dept.	Chief Colin Fitzgerald, Fire Dept.
David Ley, Public Works Director	Mark Klein, Planning Services Director
Ricky Sanchez, City Planner	Travis Torrez, Bldg/Code Enforcement Dir.
Nic Sanders, HR Director	Chris Claxton, Parks & Rec Director
Ross Kurz, Info. Services Director	Mark Tepesch, Info. Services Specialist
Stacie Stromberg, Interim City Clerk	Brian Scovill, City Engineer

Others Present: Rick Oddo, Applicant; Fred Logan, Logan Logan and Watson Law Firm; Henry Klover, Klover Architects; Curtis Holland, Polsinelli PC; Jeff Wilke, TranSystems

The meeting was called to order at 6:04 p.m. by Mayor Peggy Dunn.

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn stated there was an added item under Item 7, Presentations. A new staff memo was placed on the dais for Item 9L, but it did not change language on the agenda. Item 9P was added to the Consent Agenda. She stated that the additional information from the Blue Valley School District and Planning Director, Mark Klein, should be added to Item 14.

A motion to approve the amended agenda was made by Councilmember Sipple and seconded by Councilmember Filla. Motion was approved with a unanimous vote of 8-0.

3. CITIZEN COMMENTS

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. A TOTAL OF 30 MINUTES WILL BE ALLOCATED PER MEETING FOR CITIZEN COMMENTS.**

Michael Schmidt, 12437 Westgate, Overland Park, Kansas, appeared and stood for questions regarding Item 9K (Canopy Sign for Leawood Middle School.) Mayor Dunn stated since the item is on the consent agenda it has not yet been discussed, but she asked the Council if anyone wished to pull the item for discussion. No Councilmember had any questions for Item 9K.

4. PROCLAMATION

Martin Luther King Day, January 17, 2022

Mayor Dunn read the proclamation into record.

5. OATHS OF OFFICE ADMINISTERED TO COUNCILMEMBERS-ELECT DEBRA FILLA, CHUCK SIPPLE, JULIE CAIN AND MARY LARSON

Interim City Clerk Stacie Stromberg presented the oaths. Councilmembers Filla, Sipple, Cain and Larson affirmed their Oaths of Office. Mayor Dunn offered congratulations and thanked the members' for their willingness to serve.

6. ROLL CALL OF MAYOR AND COUNCILMEMBERS

7. PRESENTATIONS/RECOGNITIONS

Introduction of new Accounting Manager,
Loretta Morgan

Nic Sanders, Human Resources Director, introduced Loretta Morgan as the Accounting Manager. Ms. Morgan addressed the Governing Body and thanked them for the opportunity. She stated that she is from Kansas, worked a short time in Texas, but is happy to return to Kansas. Ms. Morgan stated that she has worked in government for over 30 years and is excited to serve the citizens of Leawood.

Mayor Dunn and Councilmembers welcomed Ms. Morgan to the City of Leawood.

8. SPECIAL BUSINESS

- A. Schedule Governing Body meeting for Tuesday, January 18, 2022 at 7:00 p.m.

A motion to approve Item 8A was made by Councilmember Rawlings and seconded by Councilmember Cain. Motion was approved with a unanimous vote of 8-0.

- B. Schedule Governing Body Short, Near & Long-term Goals Work Session for Monday, January 31, 2022 at 6:00 p.m.

A motion to approve Item 8B was made by Councilmember Cain and seconded by Councilmember Larson. Motion was approved with a unanimous vote of 8-0.

9. 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 No. 2021-51
- B. Accept minutes of the September 23, 2021 Leawood Arts Council meeting
- C. Accept minutes of the October 14, 2021 Leawood Arts Council meeting
- D. Accept minutes of the November 18, 2021 75th Anniversary Art Selection Panel meeting
- E. Accept draft transcript of the December 6, 2021 Governing Body meeting

- F. Resolution approving and authorizing the Mayor to execute a service agreement in the amount of \$17,741.13 between the City and Lexipol, LLC pertaining to police policy software (PD)
- G. **Pulled by Councilmember Sipple.**
- H. Resolution accepting new GASB-34 Public Infrastructure in accordance with GASB-34 of Reporting Inventory of Assets for property located at 8728 Aberdeen Street (PW)
- I. Resolution accepting a Permanent Drainage Easement from Grantor Mack Colt Homes, Inc. for property located at 8728 Aberdeen Street (PW)
- J. Resolution accepting a Permanent Drainage Easement from Grantor Janet A. Schneider for property located at 8724 Aberdeen Street (PW)
- K. Resolution approving a final plan for Leawood Middle School – Canopy Sign, located north of 123rd Street and west of State Line Road (PC 162-21)
- L. Request to approve the 2nd and final payment to Phoenix Concrete, LLC in the amount of \$500.00 pertaining to the 143rd Street Pavement Improvements (PW)
- M. Request to approve the 2nd and final payment to G-B Construction, LLC in the amount of \$200.00 pertaining to the 2021 Storm Water Curb Inlet Replacement work in Verona Gardens (PW)
- N. Request to approve the 15th and final payment to McClure Engineering Company in the amount of \$5,800.65 pertaining to the Leawood South Stormwater Project [Project #80255] (PW)
- O. Approve purchase from Central Power Systems Services in the amount of \$23,841.63 for one (1) 185CFM Portable Air Compressor (PW)
- P. Approve appointment of Scott Lambers as Acting Finance Director and City Treasurer effective January 6, 2022

A motion to approve the remainder of the consent agenda was made by Councilmember Larson and seconded by Councilmember Filla. Motion was approved with a unanimous vote of 8-0.

Discussion of Item 9G: Resolution approving and authorizing the Mayor to execute Change Order No.1 between the City and Habitat Architects, LLC in the amount of \$11,600.00 pertaining to the Dykes Branch Creek Clean-up Project (PW). Councilmember Sipple expressed concern about the use of herbicides coming in contact with staff. David Ley, Public Works Director, stated that the Council had approved the use of Rodeo (similar to Round-Up) last spring and that it would not be a broadcast spray. He stated that staff use the spray directly on the stump.

A motion to approve Item 9G was made by Councilmember Sipple and seconded by Councilmember Harrison. Motion was approved with a unanimous vote of 8-0.

10. MAYOR’S REPORT

- A. We extend our heartfelt sympathies to the family and friends of Leawood resident Mary Anne Lusk who passed away on December 22nd. Mary Anne and her late husband, Charles, who passed away in 2020, were dedicated volunteers and supporters of our community. She was extremely active with the philanthropic work of the Leawood Woman’s Club, among numerous other organizations.
- B. Thank you to Director of Public Works David Ley and his team for orchestrating the street cleanup during our ice and snow event over the New Year’s holiday. We were all grateful to be able to get out and about, if necessary.
- C. Happy New Year to one and all. May we all have a great 2022!

11. COUNCILMEMBERS’ REPORT – None

12. CITY ADMINISTRATOR REPORT – None

13. STAFF REPORT – None

14. COMMITTEE RECOMMENDATIONS

[Continued from the December 6, 2021 Planning Commission meeting]

Ordinance approving a rezoning from AG (Agricultural) and SD-O (Planned Office) to MXD (Mixed Use Development District), Preliminary Plan and Preliminary Plat for Cameron’s Court, located south of 133rd Street and west of State Line Road (PC 49-20)

The City Administrator recommends the Governing Body approve the preliminary plan as stipulated.

Patty Bennett, City Attorney, stated that two residents, Tim Thiesen (via Zoom) and Bob Pollock, requested to be added to the list of speakers because they arrived late to the meeting. Mayor Dunn agreed to add both residents to the list.

Mayor Dunn requested non-duplicative remarks, if possible, from the applicant and a focus on the changes since December 6th.

Rick Oddo, 15200 W. 105th Terrace, Lenexa, KS, stated that he had met with staff, agreeing to all nine changes requested by them. There are also proposed changes to address the neighbors’ concerns. He introduced Fred Logan.

Mr. Logan, Attorney with Logan, Logan, and Watson, PC, represented Bob Regnier. He stated that this is a property that has remained vacant for many years and presents an opportunity for the city to work with a high-quality developer on a substantial piece of property. The plan has been significantly revised at least six times. It is compliant with the Leawood Development Ordinance (LDO) and comes with a recommendation for approval from staff, Planning Commission, and Mr. Lambers.

Henry Klover, Klover Architects, 8813 Primrose Lane, Lenexa, KS, clarified that the gross net area of the site is 116.15 acres, while staff used the net area of a little over 110 acres. There were originally 935 units with 766 apartments with 169 units for sale. Units per acre were 8.05 with these numbers as compared to staff’s calculations of 8.45 units per acre. This went down to 660 apartments and 183 units for sale, which resulted in 7.25 units per acre, compared to staff’s 7.62 units per acre. The current proposal is at 648 units with 185 for sale, which resulted in 7.17, compared to staff’s 7.53. That is a reduction in total unit counts from what the Planning Commission approved of 118 units. The area on the east is commercial and includes a relocation of Kenneth Road to 135th Street to line up with the center line of the right-of-way. A traffic circle will help circulation. High Drive was rerouted to discourage crossover traffic and also shift the brownstones. Twelve apartment units were removed as well. Central Chadwick Park was widened to two acres. Access to Chadwick Point has been removed, reducing access to 133rd Street. Building D was moved and rotated, which allowed for the addition of a cul-de-sac. This aligned the road between that and the shopping center to the west. Access along 135th Street was added to allow a right-in, right-out to put more traffic from internal to 135th Street. Currently, there is a double layer of single-family homes, which is unusual. It was done to meet City Council and residents’ requests. It has the option to add twelve duplexes, between the residents to the taller building on 135th Street and the next closest building is 456 feet.

Curt Holland, Polsinelli Law Firm, spoke to the stipulations, reiterating that the team agrees to them. He spoke about the choice between single-family homes, brownstones, or twin villas across from the existing single-family homes. He gave the clerk a petition in support of the project. He reiterated that the

plan has been recommended for approval. The land has been master-planned for higher density for approximately 50 years. Additionally, the street network supports the higher density. The site is ideally suited for MX-D. Project density is 7.17 dwelling units per acre, which is less than half of the 15 units per acre allowed by the LDO. Total residents are estimated at 1,200, which is much less than the 2,300 estimated by a Census number from 2018. Apartment units have been reduced by 118, which is a 15% reduction, addressing one of the residents' primary concerns. The density is less than is allowed in RP-2, RP-3, and RP-4. The market study done by Mr. Regnier referred to a recommended density of 10-12 units per acre and 25-35 units per acre for apartments. There are no deviations to increase density; the only deviations are related to bringing streets into conformance with the 135th Street Community Plan. Traffic counts have been adjusted to account for the Quik Trip, surrounding developments, and COVID-related reductions. This has all been reviewed and approved by Olsson and Associates. The school district should not be affected by increased population. Many housing variety options are being presented, meeting the needs of the City. The impact on the surrounding neighborhoods should not have a negative effect on home values, according to the Johnson County Appraiser.

Councilmember Sipple asked for a printout of the slide that showed the summary of the facts. Mr. Holland gave a copy to the clerk.

Councilmember Harrison asked for a printout of the summary of the changes. Mr. Holland displayed it on the screen.

Citizen Comment

Mayor Dunn stated that she would call on six people who will defer their three minutes to Woody Bendel, Chad Summers, and Rachel Rubin.

Kim Schaefer, 3301 W. 132nd Street, deferred her speaking time.

Zack Miller, 3301 W. 132nd Street, deferred his speaking time.

Terri Doer, 2211 W. 132nd Street, deferred her speaking time.

Mark Casey, 2204 Condolea Terrace, deferred his speaking time.

Mike Perry, 3210 W. 138th Street, deferred his speaking time.

Mike Hargins, 3097 W. 132nd Place, deferred his speaking time (speaking for Martha Estrada-Robinson)

Chad Summers, 2608 W. 131st Street, spoke in opposition to the proposed plan. He referred to many disappointments after the December 6th meeting, the primary one being that the applicant's team mischaracterized the work that the residents had done as misinformation that should be dismissed, and members of the Governing Body held the same belief. Mr. Bendel will present a thorough review of relevant data that forms the economic foundation of the residents' concerns. Ms. Rubin will use the Golden Criteria to show a defensible pathway out. He spoke on behalf of the 1,800 people who signed the petition asking to deny the application.

Brad Bendel (Woody), 13012 Pawnee Lane, Leawood, Waterford Subdivision, spoke in opposition of the proposed plan. He pointed out that if the plan gets built the way it is proposed, there will be a 45% increase in the rental units and nearly 120% increase in one-bedroom units in Leawood. According to Census data for Leawood, the average number of residents in owner- and renter-occupied units would have over 1,900 people living in Cameron's Court. Because 25% of Leawood's residents are under the age of 18, it is unreasonable to assume only 10-20 kids will live in the complex. The average renter-occupied unit has 0.46 kids, and the average owner-occupied unit has 0.69 kids. Even if the one-bedroom units don't have kids, there is still the possibility of more than 200 youth under 18.

He spoke about traffic issues, including that several intersections, turns, and streetside movements that are rated unacceptable in terms of wait times, millions of improvements not currently in the budget, and a number of left turns and side-street movements will continue to be bad. He referred to items not analyzed, including traffic in and out of Price Chopper and other entrances into the development.

He spoke about the home value determination and the inadequate comparison to Salt Lake City because of significant differences between the two cities. He spoke about incremental expenses associated with additional people and an increase in services, which could lead to lower levels of service. To maintain the same level of service, it would be more than \$800,000 a year. Currently, the City has 8.9 employees per 1,000 citizens. Using that ratio, another 17-18 more people would be needed, which is nearly \$2 million per year. He encouraged consideration of all the points.

Rachel Rubin, 3105 W. 132nd Street, Leawood, spoke in opposition of the proposed plan, referring to the Kansas Supreme Court decision in *Golden vs. City of Overland Park*. There is ample information on the record to deny the zoning application. She reviewed Golden criteria and related them to show that the proposal should be denied, stating that the character of the neighborhood is primarily residential with single-family residential on the northern border, which favors a rezoning to Single-Family Residential or lower-density villas for the western tracts. Given that the developer is proposing commercial and office structures on Tract 5, the current zoning of SD-O is not unduly restrictive. The demand for professional and retail office space in the foreseeable future will be satisfied by other nearby developments. Rezoning for a project that is not feasible will subject nearby property owners to the blight of vacant office and retail space. The Johnson County appraised value of all five tracts is \$41,510 as of December, 2021. The actual taxes paid on the tracts is \$45,738 per year, including special assessment by Johnson County Wastewater. The landowner's right to use the property is undisputed, and the residents do not object to development with an appropriate use. The expert report concluded that the highest and best use was single-family detached, single-family attached villas, and relatively low-density residential land uses. Councilmember Cain noted that there has never been this level of community opposition to a proposed development. Ms. Rubin stated that not one adjacent Homeowners' Association is in favor. Anticipated population increases will impact Police, Fire, parks, libraries, schools, and wireless communication availability. Elementary schools are overpopulated. The *Golden* case states that a court may not substitute its judgment for the judgment of the Governing Body, and *Golden* factors support denial. Staff and Planning Commission recommending approval of the plan is not dispositive under *Golden*.

Dennis Palmer, 13100 Canterbury, Leawood, spoke in opposition of the proposed plan. He pointed out that the decision involves the largest undeveloped tract in Leawood. He stated that the proposal does not comply with the 135th Street Plan or the LDO. The modifications included very modest changes, including a small decrease in units. It is mostly apartments with all development cut off on the east end with no uniformity. He was concerned about traffic increases.

John Kelley, President, Waterford Homes Association, 12800 Howe Drive, Leawood, appeared via Zoom and spoke in opposition of the proposed plan. He pointed out that, although it is technically allowed by the LDO for mixed-use, the commercial and retail content would only have the capacity to serve the new population of the development and is planned in the later stages. The 2010 Comprehensive Plan's goal was to broaden the City's tax base away from residential property taxes and provide additional parks and trails. He spoke about the increased impact on traffic, parks, and schools, including City staff's projections that Cameron's Court will increase 135th Street traffic by 75%, and the 135th Street development in Leawood would further increase traffic on 135th Street by another 100% by 2040. He asked that the Governing Body reject the plan and start a planning effort for sustainable 135th Street growth.

Dwayne Ofer, Vice President of Wilshire Place Homes Association, 13205 Canterbury Road, spoke in opposition of the plan. He shared that the density is the primary concern. While the plan shows a reduction in density, it is still 115 more units than the original plan that was denied and determined too dense on October 5, 2020. The neighborhood Board of Directors agreed to relocating the four-story apartments and shortening them, neither of which happened. He spoke about green space. There will be a significant demand on Gezer Park due to inaccessibility issues with the other green space created by the development. He pointed out that similar plans in the metro area are being built by highways and that building in this location will create a significant strain on resources and amenities. Additionally, it is still not guaranteed to be mixed use, and even if it does get developed as such, it will not create a significant draw to other Leawood residents. He echoed comments of Mr. Summers and expressed concern with discussions that led the Governing Body to believe that the residents were misinformed. He shared that the residents are not misinformed but rather are passionate about the community. He asked for the members to act in the best interest of the 1,800 people opposed to the plan. The majority of Wilshire Place stands in opposition to the plan. He encouraged working together to develop a plan that works for the surrounding residents.

Dan Goldberg, 3089 132nd Place, Leawood, appeared via Zoom and spoke in opposition to the plan. He echoed concerns previously expressed. He pointed out that the Governing Body has expressed concerns that the developer has not addressed, and if the body does not deny the proposal, it sets a dangerous precedent. He expressed frustration that the plan is being applauded as having improved when he feels that it hasn't, especially based on the number of apartments. He requested a vote of denial.

Kathleen Kelly, 12800 Howe Drive, Leawood, appeared via Zoom and spoke in opposition of the plan. She shared that the current citizens' goal is to maintain property values and safety of all in the area. She asked that the members represent the citizens and asked for denial of the proposal, citing that the plan doesn't meet the promised intent or goals for the 135th Street Corridor, including other home types with higher viability than the high-density, four-story residential apartments. She cited available property of the same kind, financing difficulties, and holding property for future appreciation as contributing to the landowner's length of ownership. She pointed out traffic issues that currently exist and that would only get worse with the development, especially with limited carpool lanes. She expressed concern with children's safety with the increased traffic. She asked for a vote of denial.

Michael McQueeney, 14723 Norwood Street, Leawood, spoke in favor of the plan. He was pleased that the developer is local and invested in the community. He pointed out that the apartment building is high quality. He hoped that the development would continue. He encouraged a vote of approval.

Rob Groves, 2757 W. 131st Terrace, Leawood, spoke in opposition of the plan. He spoke about the Blue Valley School District, knowing that some of the issues go beyond the jurisdiction of the City Council. He stated that the issue has four perspectives: City of Leawood, Blue Valley School District, Mr. Oddo and his team, and the residents. He pointed out that the Blue Valley School District would be opposed to his presentation that included utilization data on schools that are at or near capacity and are utilizing portable units. The district is expecting to grow as well, which will present further issues.

Brett Vaughn, 2544 W. 132nd Terrace, Leawood, spoke in opposition of the plan. He referred to the discussion of the *Golden* factors and pointed out why it is not applicable. He stated that the *Golden* case dealt with an area that was blighted and unusable; the current land could continue to be used in the manner in which it is currently used. Every reason given by the Leawood citizens is reasonable for denying the application. If the case is denied, he urged the Governing Body to give a list of reasons for the trial court to use to potentially defend the denial.

Garreth Mathews, 13241 High Drive, Leawood, spoke in opposition to the plan. He disputed Mr. Oddo's claims that he has done everything he could to please the citizens. He stated that Mr. Oddo provided misinformation regarding opposition by the residents. He pointed out that more than 1,800 people throughout Leawood have expressed opposition to a bad plan and questionable behavior on the part of the developer. He emphasized that the plan affects more than just the nearby residents, but rather that it affects the entire city.

Matthew Winston, 3289 W. 132nd Place, Leawood, spoke in favor of the plan. He asked for consideration of Mr. Oddo's efforts to open a healthy dialogue, which were blocked by a group of homeowners, some of whom now run the Wilshire Place Board of Directors. He disputed statements referring to the percentage of Wilshire residents in opposition because many did not take the survey. He pointed out that in the second survey, the trend was that fewer were opposed. He pointed out that adjustments have been made as a result of productive communication, including less density, walking paths, green space, and a sense of place. He did not discount the number of signatures on the petition; however, he felt the tactics used to collect signatures included the spread of false information, including the school district not being able to support more capacity. He pointed out that the developer has mitigated traffic concerns with major changes to the plan. He stated that citizens in support of the project have been subjected to what he perceives as bullying. He encouraged a vote of approval.

Tim Theissen, 4012 W. 124th Street, Leawood, spoke in favor of the plan. He believes the additional housing and expansion of the tax base will be a benefit to the community.

Bob Pollock, 12300 Mohawk Lane, Leawood, spoke in favor of the plan. He reiterated comments previously stated in emails to the members. Staff and City Manager have recommended the plan for approval twice, and Planning Commission recommended approval of a plan that has since been improved. He pointed out that the plan meets requirements of the LDO, that respected professionals endorse the plan, that the school district will in fact benefit, and that traffic will not become an issue. He stated that there is significant support by residents for the plan. He pointed out that the proposal addresses the need for diversified housing and does not create health, safety, or welfare concerns. He encouraged approval of the plan in order to avoid waiting another ten years for a good plan.

Mayor Dunn asked the applicant to briefly address the public comments.

Mr. Holland spoke to the economic data presented and acknowledged a difference of opinion as to the number of future residents of Cameron's Court and the level of increased need for services. He pointed out that tax revenue should offset those costs, especially since higher-density areas generate more relative tax revenue. He addressed cut-through traffic concerns and pointed out that traffic calming measures were not pursued but still could be. He addressed comments about *Golden*, which is only referenced because Leawood uses the criteria to evaluate the application; they are not threats of litigation. He reminded the Governing Body that the staff has indicated that the plan complies with both the 135th Street Community Plan and the LDO. He pointed out the contradiction between the public's desire for more retail and less traffic and also that the density is not to the level of what is allowed.

Jeff Wilke, Kinley Horn, 805 Pennsylvania, Kansas City, MO, traffic engineer on record, spoke about the traffic questions. He clarified that the scope of the study performed was approved by the City, and it was performed by a third party. The peak hours are what are typically studied. He stated that the claims that traffic would double were not substantiated. He addressed the issue with unacceptable movement through intersections, and he pointed out that everything reviewed was operating successfully. He talked

about additional intersections, which have either been removed from the plan or offset at the request of neighbors.

Mayor Dunn asked if the closing of Chadwick and the right-in, right-out on 135th had been evaluated. Mr. Wilke affirmed that it was not because the change was recent. He didn't feel that either would add volume to 133rd Street.

Councilmember Sipple asked if Mr. Wilke perceived the need for an additional traffic signal along 133rd Street. Mr. Wilke did not.

Councilmember Osman asked for the land size of the area from Pawnee to the retention pond on the church.

Mr. Klover replied that it was a total of 75 acres, or approximately 70 with the removal of the right-of-way for High Drive. He spoke about density, and that in the four states he is currently working in, he does not have clients asking for more than 25% and two bedrooms. Most are not doing three bedrooms. These units typically have 1.25-1.35 cars per unit, which includes extra cars; therefore, there is not a need for added parking.

Councilmember Osman asked if the luxury four-story apartment homes were for sale or lease and what acreage they sit on. Mr. Klover replied that they are for lease. Mr. Oddo added that everything west of the church is 10.2 units per acre and that Tract 1 is 14.38 acres. Councilmember Osman asked about the average lease rate or average cost per square foot. Mr. Oddo replied that it equates to \$1.85-\$2.00 per foot, and the penthouse would be \$3.00 per foot. Councilmember Osman asked out of the 324 units how many would have three bedrooms. Mr. Klover stated that none would have three bedrooms. Councilmember Osman asked about the acreage on the mansion-style homes.

Councilmember Filla shared that west of the church would be 779 R-4 units.

Mr. Klover added that Tracts 3 and 4 are 38 acres. Mr. Oddo pointed out that Phase 2 will have twin villas. Councilmember Osman asked about the average square footage of the apartments. Mr. Oddo replied that it averages 950 square feet per unit.

Councilmember Filla clarified that the rental units in Milano multiplied by 4 plus, it would be 116 acres, which would be a little under 1,200 units. The current plan is 8 plus and fewer than 850 units. She wanted to discuss what could be built if it were not mixed use. Mr. Klein replied that Milano had 290 units on 28.31 acres. With High Drive removed, it is 111 net acres. Councilmember Filla stated it would be a lot more than what is being considered. She pointed out that Milano is a gated community with all rental units and appreciated the purchase opportunities in the proposed plan as well as the neighborhood feel.

Councilmember Harrison asked about traffic and Mission Road, wondering if the improvements planned for Mission Road would improve traffic flow around Mission Trail. Mr. Ley replied that Mission Road from 127th to 133rd would be widened to allow for southbound right-turn queuing. It will also add a southbound lane to handle additional capacity. Westbound 133rd Street will be restriped for a right turn lane. Councilmember Harrison stated that the traffic around Mission Trail for 30 minutes before school starts and 30 minutes after is a direct result of people driving their kids to school instead of letting them walk. She pointed out that the City's goal was to encourage more walking, and unless it increases, traffic around schools will always create backups.

Councilmember Rawlings asked about the proposed alternatives. Mr. Klover replied that the basic proposal is single family on either side of the street with a cul-de-sac. On the other side, there are two different proposals. One is more for-sale product with the twin villas, adding twelve duplexes versus the single family. The other would be to go from 24 to 9 brownstones with a street-front walkability area and a front porch and parking in back. Those are for-sale products.

Councilmember Filla understood that the twin villas would range from 2,000-2,300 square feet, the brownstones would be 1,800-2,000 square feet, and the single-family homes would be 3,000 plus. Mr. Klover affirmed the numbers and stated that the team feels they form a solid buffer and they include the walkways.

Councilmember Rawlings stated that many of the similar developments he's seen have a sense of place with front porches. That and more residences available for purchase give a sense of neighborhood buying into the location.

Mayor Dunn added that brownstones are shown in many areas. She felt the symmetry of more single family across the street from single family is an attractive scenario.

Mr. Oddo stated that his team would go with the suggestion, but the homes would be at least \$800,000 versus \$400,000-\$500,000 for the brownstones.

Councilmember Cain stated that the decision made would set the tone for the rest of 135th Street and that it shouldn't and hasn't been taken lightly. The comparison to Milano didn't work for her as well as it did for others. She pointed out that there is no development in Leawood with these numbers. She believes the 135th Street Community Plan has served well and was thoughtful and comprehensive but that everything has changed. She felt it was time to reconsider the 135th Street Community Plan. While the plan meets the LDO, she asked if it truly meets the highest and best use of the land. She felt it did not. She feels the proposal is not mixed use and that it is too dense and that nothing on the west side of the development would draw visitors. She felt the highest and densest portion should be along State Line Road and 135th Street rather than the apartment buildings. She asked who the plan was walkable for and if the amenities would draw people outside the immediate residents. She remained concerned about traffic and information presented by the residents. She respects those who disagree but remains against the plan.

Councilmember Filla asked what height office buildings were allowed for the 135th Street Community Plan. Mr. Klein replied that buildings could step up to 90 feet and that the 135th Street Community Plan allows density that is much higher than what is being proposed. Councilmember Filla asked how tall the offices could have been on 135th Street. Mr. Klein replied that SD-O zoning allows six stories. Councilmember Filla asked if the density of what has already been approved on the south side of 135th Street was 20 acres with 9.52 units per acre. Mr. Klein confirmed that One 35 was three five-story buildings on 18.25 acres for 10.89 units per acre. Regents Park was almost 29 acres with a density of 9.52.

Councilmember Filla asked if it would be three years before schools would be affected. Mr. Oddo replied that it would take eight years minimum to build it out with three years being the soonest kids would move in. Councilmember Filla hoped for future planning with the school population. She asked staff if they felt comfortable supporting the traffic study, taking into consideration the recent changes to the plan. Mr. Ley felt the changes would reduce the issue of people using 132nd or High Drive as a cut-through. The right-in, right-out should pull traffic to the south. Additionally, another traffic study would need to be performed by the applicant before the next step. Councilmember Filla asked if the peak traffic

didn't meet the qualifications for traffic calming which led the residents not to pursue it. Mr. Ley replied that the Public Works Committee recommended that the residents submit an application for the traffic calming. New data shows increased traffic but not enough to require traffic calming. The developer has to put up a letter of credit for \$200,000 to cover the costs. If the residents move forward with the request and the City completes them within five years, the City would cash the letter of credit and utilize the funds to pay for the traffic calming.

Councilmember Larson asked if Mr. Ley had seen the communication from Kathy Kelly, who made reference to 132nd Street residences experiencing 165 hourly or 2.65 cars per minute at peak hours with 65% exceeding the 25 MPH speed limit. Mr. Ley had shared the information with Ms. Kelly. He added that the cut-through volume had twelve vehicles per hour, so the traffic is internal to the subdivision. Councilmember Larson asked about Steve and Terri Durr's reference to the Deer Creek Apartment proposal, which had a traffic study that took into account pre-pandemic levels that were adjusted 15% and have yet to recover. She asked if pre-pandemic adjustments were made. Mr. Ley confirmed that they had.

Councilmember Sipple asked Mr. Ley if the three cars per minute were during peak time and how it coincided with pickup and drop-off at Mission Trail School. Mr. Ley didn't have all the traffic information, but the counts took place over a 24-hour period with the highest hour considered. There was a morning and an afternoon peak.

Councilmember Rawlings didn't feel that a vote of approval would set a precedent for the 135th Street Corridor. He asked if it would be precedent or tone. Mr. Klein replied that staff compares proposed plans against the Comprehensive Plan and LDO rather than other developments. He stated that he didn't feel it sets a precedent other than having to meet the LDO. In the past, developers weren't willing to meet some of the requirements.

Councilmember Cain stated that it may not set a precedent, but there is not another contiguous 116 acres owned by one landowner along 135th Street. She pointed out that the area is from 133rd to 135th, and Regents Park from 137th to the subdivision behind Leawood Falls was cul-de-sacs of twin villas. Across 135th Street was townhomes. The buffer between the single-family homes and the buildings approved was much different and was much more adequate. The biggest buildings are in the middle of it. She pointed out that there is not another four-story building for miles.

Councilmember Larson agreed with Councilmember Cain's comments that, while it may not set a precedent, it sets the tone for comparisons. The 135th Street Plan was decided with a different composition of City Council, and now there are three new members, both of whom are from Ward 3. The plan is supposed to be based on the Leawood Community vision and goals. She stated that citizens who were part of the 135th Street Community Plan creation stood in opposition to the current proposal. She feels that the Governing Body needs to be responsive to the residents. She feels that the study Mr. Regnier's team performed would be a good place to start to evaluate the 135th Street Community Plan.

Councilmember Harrison brought up that it was mentioned that nobody would want single-family homes up to 135th, which was why nobody had proposed this. She has received many emails that referenced a plan with just that, demonstrating that some developers believe it is feasible. The plan has responded to the request to add single-family homes, but not enough in her mind. She agreed with Councilmember Cain that the high density needs to be along State Line and 135th Street entirely. She hoped to see more commercial use throughout the development. She believes the plan has improved every time it has come back, but she still hopes for more single-family homes for sale along 133rd Street.

Mayor Dunn asked Mr. Klover about the two brownstones that flank Chadwick Park. Mr. Klover replied that they will be retail with a gazebo event space in the center with the intent that the area would be available for activities. Mayor Dunn referred to Meadowbrook and asked if the area would give something like The Market. Mr. Oddo replied that the three combined areas are equal to the size of The Market at Meadowbrook, and there is additional retail/office along Pawnee with residents above. Mr. Klover pointed out that it is a Preliminary Plan, so if someone wants a bigger space, it will be accommodated. Mayor Dunn shared that there was a desire to see it indicated on the Preliminary Plan. She asked what would prevent more retail at the base of the brownstones. She felt it would improve the plan to have more activity and could please some of the neighbors opposed to the plan. Mr. Oddo shared that several corners and all along Pawnee are designated for retail businesses. He is willing to add more if it will get the plan approved. Mr. Klover explained that the retail needs to go where it will be useful. There is activity along State Line and Pawnee, and many brokers said they would not even put a sign on High Drive for retail, which would indicate no market for retailers. He stated that the plan has to be approved before they can take it to market, and while retail is appealing to the developer, it needs to go where it will be successful. Mayor Dunn replied that something servicing the people in the apartments could be an improvement.

Councilmember Rawlings asked if the plan is approved, what could be an attractive use for State Line and 135th Street, such as First Watch. Mr. Klover replied that, as stated in the 135th Street Community Plan, the area needs residents to generate more activity. Also, a plan is needed before talking to businesses like First Watch.

Councilmember Filla stated confusion about conflicting requests by residents for less traffic and more retail, wanting to draw people in versus more single family, for example. She pointed out that the plan is a unique opportunity to develop extensive trails and other walkability. She spoke about the process, which gives the property owner rights granted by the State of Kansas, the Governing Body rights to use ordinances, zoning, and regulations to ensure quality products, and the residents the right to weigh in on the process. She appreciates the extensive participation in order to develop a quality product and also feels that the scale of the project allows for a quality development with connectivity and the ability to draw in people.

Mayor Dunn asked Mr. Klein if an approval would still allow for more modifications, including more mixed use. Mr. Klein replied that staff is evaluating the options, including the non-residential. If the non-residential areas increase beyond 5% (18,900 square feet), the plan needs to go back to a Preliminary Plan. Mayor Dunn acknowledged that there is opportunity for the brownstones to include some non-residential to draw people in and to add places for the residents in order to capitalize on the synergy of mixed use.

Councilmember Azeltine reiterated that the plan has had several versions and that in the process, misinformation has been presented. He expressed confidence in the staff's recommendation based on the plan meeting all requirements in the midst of other intelligent people presenting information. Additionally, the Blue Valley School District and Johnson County Appraiser have not expressed concern. He pointed out that the current plan is half the density that is allowed in the LDO, and a development approved recently was more than twice the proposed density of this project. He emphasized the need for apartments to diversify the housing stock in Leawood. He encouraged a holistic view of the potential benefits to the City. He feels the project is good for Leawood, and it will change as potential tenants express interest. He pointed out that it is a quasi-judicial process and reiterated the rights of various participants.

Councilmember Larson expressed a different view of the project, and while the project has improved and developing the property is inevitable, she recognized that it still needs improvement. She was struck by the vision statement, “As the City of Leawood looks to the future, it will continue to maintain residential property values, promote neighborhood-oriented commercial developments, offer a variety of high-quality residential neighborhoods, sustain environmental sensitivity, retain natural landscapes, and provide public open space.” She can’t support the proposal despite the single-family homes, the twin villas, the diversity in housing, the green space, ownership opportunities, and walking/biking trails. She feels that Leawood does not need more rental opportunities and is not in favor of the bifurcation of the project. Mr. Regnier pointed out that the property is difficult to develop. True mixed use is a mixture of uses with a coordinated theme throughout the development. She doesn’t see the integration of the east and west sides and has concerns that the east side, which is driving the mixed-use designation, isn’t financially viable because there is lessened demand for retail. She is uncomfortable with the increased density without accompanying green space. She agrees with the market study’s recommendation that higher-density, for-sale units should be concentrated on the eastern portion with lower-density, for-sale units on the western portion. She supports Ms. Rubin’s discussion of the *Golden* criteria, including relative gain of the public health, safety, and welfare versus the hardship. She expressed concern about density, especially on the narrow, higher ground, and reduced ownership opportunities. She also disagrees with using Salt Lake City as a comparison for property value impact. While being a proud parent, she is concerned about the direction of the Blue Valley School District with the extension of the mobile units without a plan for a permanent addition until 2025. She questioned if the proposed units can be good neighbors to the existing development and if it is the highest and best use of the property. She pointed out that the well-documented resident opposition needs to be carefully considered. She expressed a desire to have more scrutiny on the potential negative effects on City services.

Councilmember Sipple expressed a recent concern about the 135th Street Community Plan and the Comprehensive Plan, which was confirmed by the RCLCO study, which raised the thought that the plan may not be the best for the area. He commended Mr. Oddo for working within the guidelines of the 135th Street Community Plan to create something that makes economic sense. He did not want to be critical of the constituents in Ward 3 but pointed out that many were surprised by the proposed density despite it being in the City’s plan for years. He encouraged an education process to help the constituents understand. He agrees with pieces of many arguments and encouraged a pause on the plan in order to revisit the 135th Street Community Plan, potentially utilizing a consultant, in the face of an ever-changing economic climate. While he would like to see the development eventually, he is not in favor of it in its current state.

Councilmember Osman talked about being the dissenting vote for a project the previous month, which was for the Blue Valley School District to add temporary trailers. He didn’t want the trailers, but he was supportive of the school district. He expressed how discouraged he was in a similar process that occurred previously in the Shawnee Mission District. Residents of Shawnee Mission recently passed a bond to add six new elementary schools and even more recently passed another bond to add more. He pointed out that the Blue Valley needs to consider long-term plans as well. Blue Valley schools are dealing with overcrowding. He emphasized that there is a broken relationship between the residents and the developer but that he also trusts staff’s recommendations. Additionally, his personal research demonstrated that the lower the price point, the more opportunity for people to feed into schools. The luxury apartments and mansion-style homes for lease are at a price point in line with Park Place, which has very few students in the school district. He feels that single-family homes would attract more children and would put more pressure on the school district. He also stated that he is not in favor of the bifurcation of the mixed use. He pointed out that minor tweaks by the developer have made a large impact on the development, including curving High Drive to decrease cut-through traffic and cutting off the access point in the middle of the project to ensure multiple entries and exits. He also was in favor of the increased green

space. While the project is not 100% favorable, he is considering the long-term plans of the City and sees the project as an opportunity and feels comfortable moving forward with the project.

Councilmember Rawlings stated that City Council has two main priorities: support the needs of the City to run efficiently, including Fire, Police, Public Works, Staff and attracting good people and take into consideration the long-term goals of the community. He makes a determination based on recommendations from the Planning Commission and staff as well as input from the citizens. He does his best to remove emotion from the decision-making process. The project is of a magnitude that has not been seen in Leawood and is being proposed by a quality developer. He feels the project will work well on the tract of land and is in favor of the proposal.

Mayor Dunn stated that she has heard both positive and negative comments but still has not heard what those in favor of the plan would like to see south of the row of single-family homes.

Councilmember Sipple responded that the lowest rental price would be the brownstones with more diversity of housing.

Councilmember Filla also liked the lower price point because Leawood does not have many options for people to downsize. She liked the idea of porch-to-porch rather than garage-to-front.

Mayor Dunn pointed out that porch-to-porch would occur with the single-family homes with a villa across from another villa as one of the three options.

Mr. Oddo added that the front porch would look onto a single-family garage, similar to Park Place. They would be around \$450,000 with about 1,800-2,000 square feet. The third bedroom would typically serve as a study.

Councilmember Cain stated that the residents should be involved in the decision. Mayor Dunn agreed and felt the Preliminary Plan would need to be approved first.

Councilmember Larson agreed because she felt the residents might prefer the single-family homes as a buffer.

Councilmember Harrison expressed that her preference would be the nine single-family homes. Mayor Dunn agreed but liked the idea of the residents weighing in.

Councilmember Cain pointed out that an overwhelming number of residents don't want the four-story buildings, either. She strongly feels that they should be moved farther east, closer to Kenneth and into Tract 4.

Mayor Dunn asked Mr. Ley about the claim that the four-story units being on the highest topography of the entire development. Councilmember Cain asked that same question and learned that there is a berm, so it doesn't look like it is the highest point. Mayor Dunn asked if the berm is meant to camouflage the four-story apartments. Mr. Klein added that it is higher on the northwest corner and then drops off to one of the four-story apartment buildings by 135th Street. It continues to drop off to the east. There are some higher areas.

Mayor Dunn asked for a display of what the residents would see.

Mr. Oddo showed visuals and talked about the proposed heights. Mr. Klover explained that the four-story buildings aren't visible from the second level. Another reason they liked the brownstone idea is that they are solid. Councilmember Cain respectfully disagreed and stated that people would see the four-story buildings. Mr. Klover responded that it is a sight line based on a mathematical formula. Councilmember Filla added that there is not enough distance. Mr. Klover agreed that it is all about perspective.

Councilmember Sipple asked if the sight line represented the neighbor most exposed. Mr. Klover replied that it would be someone more in the middle. Mr. Klein added that it is higher in other areas.

Mayor Dunn emphasized that Mr. Klover's statement was important about the brownstones being solid, which would block more of the development.

Councilmember Sipple asked about the retail locations. He wondered if a cluster or node effect of several retail shops would be more attractive to merchants. Mr. Klover replied that it would be and that it is what the plan proposes. He added that retail at Meadowbrook is at 6,500 square feet, which is fairly similar. Mayor Dunn added that it draws people from all over. Councilmember Sipple asked if Mr. Klover was fine with the diffused locations rather than something at the intersection of High Drive and 135th Street in a cluster. Mr. Klover replied that he had already spoken with brokers and made decisions based on that. He also spoke about the opportunity with the park and potential events. Mr. Oddo added that High Drive is not a good location for retail, but Chadwick is because of the park, and Pawnee is good as well. Some would work in the interior, but it can be difficult. The rest of the retail belongs on the eastern side.

Councilmember Rawlings asked how much flexibility staff has to allow more retail. Mayor Dunn pointed out that 5% is the maximum before it is considered a substantial change, requiring the proposal to start over.

Mr. Lambers encouraged councilmembers to not get tied up on the three options. If one option is selected and it changes to another, starting over will not be required.

Mayor Dunn pointed out that it would be good to have resident input. Mr. Lambers replied that a Final Plan would come back with single family, but it could be changed that night without being a substantial change.

Mayor Dunn stated that Mr. Oddo had agreed to consider retail to the south of Chadwick if it would work. Mr. Oddo affirmed that he would do that if the demand is there.

Mayor Dunn appreciated that Chadwick Park was doubled, that 133rd Street was closed to autos, and that a right-in, right-out was added on 135th. Mr. Oddo responded that the plan includes 21 acres of park space.

Councilmember Azeltine referred back to the idea that once the plan is approved, it could be marketed. He felt that the plan could be revised once excitement is generated.

Mayor Dunn thought that might be welcomed by the residents, though it would also bring more traffic. She added that the residents who were present tonight were dismissing the improvements made, but if it were not for the residents' involvement, many improvements probably would not have been made. She thanked the residents for their continued input. She has heard people wanting the single-family homes, brownstones, and twin villas and that the 324 apartments are the source of the objection. When it is viewed as 324 apartments and not 833 units, it is a different scenario.

A motion to approve Item 14, including the opportunity to add more retail, was made by Councilmember Filla Ms. Bennett added that the motion is to include the staff stipulations, including Scenario A (single family) and seconded by Councilmember Rawlings.

Councilmember Sipple asked Mr. Klover whether there is any possibility of moving any of the four-story buildings toward High Drive and 135th Street, stating it would satisfy the anxiety of the neighbors substantially. Mr. Klover replied that it has to do with clustering and keeping things together. Moving them down would not work as well. They should not be stretched out the whole length because they would interfere with the mansion-style homes.

A motion to extend the meeting by 30 minutes was made by Councilmember Cain and seconded by Councilmember Sipple. Motion was approved with a unanimous vote of 8-0.

Motion was approved with a roll-call vote of 5-4. Mayor Dunn, Councilmembers Rawlings, Filla, Azeltine and Osman voted in favor; Councilmembers Cain, Harrison, Sipple and Larson voted nay.

Mayor Dunn stated that she looks forward to what she is counting on to be the highest quality of project that will be more pleasing to the residents who are adamantly opposed.

Mr. Oddo promised that he is willing to talk openly to anyone.

15. OLD BUSINESS – None

16. NEW BUSINESS – None

ADJOURN

The meeting was adjourned at 11:03 p.m.