

# City of Leawood Planning Commission Minutes

March 12, 2002  
Work Session – 6:00 p.m.  
Meeting - 6:30 p.m.  
Leawood City Hall  
4800 Town Center Drive

**CALL TO ORDER/ROLL CALL:** Colloton, Henderson, Carper (absent), Conrad, Brain, Duffendack, Breneman (absent), Munson, Pilcher

**APPROVAL OF THE AGENDA:** Case 14-02 was moved to the first item under new business because it was originally a consent agenda item, then removed.

A motion was made by Henderson and seconded by Munson to approve the amended agenda. Motion approved unanimously.

**APPROVAL OF THE MINUTES:** Approval of the minutes from the February 12, 2002 and the February 26, 2002 meetings.

A motion was made by Henderson to approve the minutes with the corrections noted by Henderson, seconded by Colloton. Motion approved unanimously.

## **CONTINUED TO MARCH 26, 2002:**

**CASE 13-02 LDO AMENDMENT – ROOFING** Request for an amendment to the Leawood Development Ordinance Section 3-1, Section 3-2, Section 3-3, Section 3-4, Section 3-5, Section 3-6, Section 3-13 and Section 3-16. **Public Hearing**

**CASE 71-01 CORNERSTONE VILLAGE** Request for approval of rezoning from AG to SD (OH) and SD (CR), preliminary plat and preliminary plan. Located at the southeast corner of 135<sup>th</sup> Street and Nall Avenue. **Public Hearing**

**CASE 12-02 PRICE CHOPPER PARK** Request for approval of a preliminary plat and preliminary plan. Located south of 132<sup>nd</sup> Street and east of Mission. **Public Hearing**

**CASE 16-02 SOUTHWESTERN BELL – UTILITY BOX** Request for a Special Use Permit for a utility box. Located at approximately 129<sup>th</sup> Street and Roe Avenue. **Public Hearing**

**CASE 20-02 TOWN AND COUNTRY BANK** Request for a final site plan for signage. Located at 135<sup>th</sup> Street and Roe Avenue.

**CASE 21-02 TUSCANY RESERVE – RESIDENTIAL** Request for approval for a final plat and final site plan. Located at 137<sup>th</sup> Street and Chadwick.

**CASE 22-02 HEARTLAND BANK** Request for a final site plan. Located at 4741 Town Center Drive.

**CONSENT AGENDA:**

**CASE 15-02 REECE & NICHOLS – PLAZA POINTE** Request for final site plan to change the permitted signage. Located at 135<sup>th</sup> Street and Roe Avenue within the Plaza Pointe development.

**NEW BUSINESS:**

**CASE 14-02 REECE & NICHOLS – 115<sup>TH</sup> & ROE** Request for final site plan to change the permitted signage. Located at the southeast corner of Roe Avenue and 115<sup>th</sup> Street.

**STAFF PRESENTATION:** Presentation by Mark Klein. The applicant is requesting a change in their current signage. The applicant is requesting a change because JD Reece and JC Nichols have combined. The proposed signage is larger because there are more letters. There are currently three signs. The applicant is requesting to change those three. The signage is a little bit larger because they are using an ampersand between the names Reece and Nichols. The sign also appears larger than it is because of the ampersand. The sign is allowed to be less than 5% of the façade, and the applicant is still below that percentage. Staff is recommending approval with the attached stipulations.

**A motion to approve was made Colloton and seconded by Henderson. Motion approved unanimously.**

**CASE 65-01b PLAZA POINTE, LOT 8 – CARPET CORNER** Request for a preliminary plan. Located at 135<sup>th</sup> Street and Roe Avenue within the Plaza Pointe development.

**STAFF PRESENTATION:** Presentation by Jeff Joseph. The applicant is Jack Shank. This project is located at the southwest corner of Roe Avenue and 135<sup>th</sup> Street. This case was continued from the Feb. 26<sup>th</sup> meeting due to some issues regarding building orientation, additional plaza areas and the screening of roof structures. The applicant has tried to address all of these issues by adding a pergola on the south side of the building to break up the façade. Architectural features such as accent bricks have been added around windows and entrances. Staff is recommending approval with the attached stipulations.

**APPLICANT PRESENTATION:** Presentation by Jack Shank. One issue that was brought up at the last meeting was the trash enclosure. The applicant had proposed a shared trash dumpster with the adjacent building, but the issue was that it was too close to the major pedestrian walkway. The applicant is now proposing to have a small, attached trash enclosure on the southwest corner of the building. This enclosure will also help screen the electrical equipment. This will be away from the major pedestrian walkway. The trash enclosure wall will be made of the same brick as the building, and will be six feet tall with metal brocade doors. Another issue that was brought up at the last meeting had to do with screening of the rooftop mechanical equipment from the adjacent two-story building. The mansard roof will stand approximately 19 feet above the store. If an individual is standing on the second story of the adjacent building, he will be lower than the top of the mansard roof, and will not see any of the rooftop mechanical equipment. Another issue that was raised was the architectural treatment of the building. The view of the front entryway has changed from the east and west elevations. The entryway expands over the first floor more than it did. The intent is to make it become more a part of the whole building, instead of looking like a canopy attached to the front. Another issue was the need for more architectural features on the south side to connect it with the plaza and to create more interest in the south elevation. The applicant is now proposing a pergola on the south side. The pergola will have a series of columns and beams to define the exterior space.

Duffendack asked how far the pergola would project from the façade. Shank responded, 10 ft.

Brain asked if a decision had been made in regard to the issue of the pavers in front of the building. Shank responded the rest of the development is using colored, stamped concrete. Carpet Corner is proposing to use the same type of material as the rest of the development.

Colloton asked if there would be landscaping around the pergola. Shank responded there would be a flowerbed, benches, and pots with ivy.

Duffendack asked if the south side had been opened up as a customer entrance. Shank responded there should be only one entrance, due to security reasons for the retail store. The south side will only be used as an employee entrance and an emergency exit. Duffendack stated that he feels it is an opportunity lost to not have the south side open to the public, especially since the applicant had gone to the trouble to make the south side more appealing.

Conrad stated he liked all of the changes, but agreed with Duffendack that it would be nice to have a public entrance on the south side.

Brain asked who would be responsible for finishing the courtyard area on the south side by the pergola. Shank responded it is the developers, not the individual property owner. Shank state he has had discussions with the developer to make sure that it happens.

**PUBLIC HEARING: With no one present to speak at the public hearing, a motion to close was made by Henderson and seconded by Pilcher. Motion to close approved unanimously.**

Munson stated he liked the changes that were made since the Commission last saw this case.

Conrad asked if signage would be an issue during the final plan. Brain stated, yes, during final application.

**A motion to approve was made by Munson and seconded by Pilcher. Motion approved unanimously.**

**CASE 04-02 VILLAS AT WHITEHORSE** Request for a final plat and final site plan. Located at 151<sup>st</sup> Street and Nall Avenue.

**STAFF PRESENTATION:** Presentation by Mark Klein. The applicant is requesting approval for a final plat and final plan for a 39-lot, single-family residential subdivision on 9.724 acres for a density of 4.0. The Commission has seen this case before at preliminary application. At that time it was a 61-lot development, which had a density of 3.96. This request is the eastern portion of that development. There is some common area in the heart of the development. The Commission worked with the developer to create some centrally located open space that residents could actually use. Included in that, there is a trail that connects this subdivision with the corner, which is currently a vacant property but is zoned CP-1 and is expected to ultimately develop as commercial, so there will be a pedestrian connection between this residential subdivision and the future commercial development. There is a large open area along the northern end that should act as a buffer between this development and Whitehorse, which is to the north. The main point of discussion at preliminary was the auto court furthest to the south. There is emergency access between this auto court and Rosewood. It will have two, four-foot sidewalks that will meet the requirements of the fire department. The applicant is proposing to have a great deal of landscaping. The street trees are proposed at 40 ft. on center, which is a City requirement along the street, but the applicant is also proposing landscaping with each unit. The housing units will be two-story units made primarily of stucco with brick and stone accents. Staff is recommending approval of this case with the attached stipulations.

Henderson asked what "substantial compliance" means. Klein stated the term "substantial compliance" is from the Leawood Development Ordinance, it means the plan has not changed so much to require the applicant to go back to a preliminary application. There are certain requirements that have to be met. One of those requirements would be

that they couldn't change the common area density to over 5%, if it were a commercial project; they couldn't change the floor-area ratio more than 10%. The substantial compliant requirement was made to ensure that the plan the Commission approved at preliminary is being substantially complied with at final plan application.

Colloton asked if the Commission normally sees a material board during final plan application. Klein responded that is normally only done during commercial projects.

Conrad asked how the fire department would know that the emergency access is there. Klein responded it is something that the fire department will work out. Conrad asked if a person could drive a car over the access. Klein responded, yes, but it wouldn't be used for anything other than emergency access. Conrad asked if there would be enough space for a fire truck to turn around in the cul-de-sac if there are cars parked in the street. Klein responded the cul-de-sac size meets the Fire Marshal's requirements. Another stipulation is that the auto courts be wide enough; they have been made 24 ft. wide as directed by Gene Hunter.

Pilcher asked if the homes association would own the auto courts. Klein responded, yes. Pilcher then asked if the streets would be public. Klein responded, yes.

Brain asked if there would be sidewalks on the auto courts. Klein responded, no. Brain asked if there would be sidewalks on just one side of the public streets. Klein responded the sidewalks would come up part of the way on the other side of the street. One of Public Works' comments is that there shall be sidewalks on both sides of 150<sup>th</sup> Terrace.

**APPLICANT PRESENTATION:** Presentation by Jim Riffe. Riffe stated he is proposing a great deal of landscaping. There will be a combination of 160 upright junipers and 300 trees, not counting the landscaping around the homes.

Henderson asked if the street would be divided. Riffe explained there would be an island at the entrance that will divide it, and it will be full of landscaping.

Conrad asked the width of the sidewalk on tract E. Klein responded it would be a pedestrian connection to Rosewood, not a safety access. Conrad expressed concern that people would be driving their vehicles across the safety connection. Riffe responded there would be small bush/tree landscaping to discourage people from driving across it.

Henderson asked the size requirement for sidewalks in residential areas. Klein responded the requirement is 4 ft. in residential, but 5 ft. in commercial property. Brain asked what types of sidewalks are in other gated communities in Leawood. Klein responded Staff usually tries to encourage sidewalks on both sides, but it is not a requirement.

Henderson asked the process of building permits in relation to the sidewalks being built. David Ley, City Engineer, stated the contractor cannot receive his building permit until the streets and sidewalks are built.

Pilcher asked what material the auto courts would be made of and how they would be designated as private streets. Ley responded there would be a rolled curb at the beginning of the private drive. Brain asked what standard the private drives would need to meet. Riffe responded they would be built to street standards, except for the width.

Conrad stated he did not like the solution to the issue of the safety concern on tract E. Brain reminded the commissioners that they are looking at a final plan application of a preliminary plan that the Commission already approved.

**A motion to approve was made by Munson and seconded by Henderson. Motion approved 4-2 (Colloton and Conrad against).**

**CASE 05-02 TOMAHAWK CREEK APARTMENTS** Request for approval to change the Tomahawk Creek renter-occupied apartments into owner-occupied condominiums. Located at 115<sup>th</sup> Street and Tomahawk Creek Parkway.

**STAFF PRESENTATION:** Presentation by Mark Klein. The applicant is proposing to change their rental units into owner-occupied units. The issues that were raised during the last meeting were building codes, fire codes, and the location of some of the additional covered parking. The applicant has stated that they intended to come back at final plan because they wanted to improve the landscaping. Staff recommended that it would be better to address the location of the auto courts at the same time the landscaping was addressed. At this time, the application has changed a little. It is a final plat to approve the units going from renter-occupied to condos. The Commission was given a memo from Sam Maupin and Gene Hunter who went out to visit the site. They came up with some recommendations after their inspection. The Commission was also given a memo from Patty Bennett regarding the Planning Commission's ability to look at building codes and fire codes. Staff is recommending approval with the attached stipulations.

Henderson questioned how the third stipulation on the Staff report is relevant, if the Commission doesn't have authority over the building and fire codes. Klein responded the intent of the stipulation is to require the applicant to work with the building official and the fire marshal to meet the Commission's recommendation. Brain asked if the approval would be revoked if the applicant does not comply with the stipulation. Klein responded it is his understanding the applicant does not have the right to refuse the fire department access. Wetzler stated she does not believe you can create a condominium homes association without having documents governing common areas. As far as the approval being revoked, she did not know if it would deem the approval revoked, especially since it's outside the jurisdiction.

Duffendack suggested removing stipulation number three. Brain stated he would like to leave the stipulation in and let the City attorney decide if it needs to be removed. Henderson agreed with Brain. Wetzler stated the applicant has agreed to stipulation number three.

**APPLICANT PRESENTATION:** Presentation by Jerald Johnson of Shafer Kline and Warren. Also in attendance is Doug Ferrar, who prepared the plat, Jim Clay, Margaret Gears and Cindy Young, who are employees of Pauls Equity, LLC, the owner of the property. The applicant has read the stipulations in the Staff report and will comply with all six of them. Item three is a part of the homeowners' association document, which has been presented to the City. Page 11, article 9, section A of the homeowners association document provides the right for access to the fire department for inspections. The applicant has accepted all of the stipulations of the building official, with the exception of number two, which requires access to attic space from individual dwelling units. The applicant feels, from a security standpoint, that the attic space should be under lock with access from the homeowners association.

Conrad asked what legal entity the homeowners' association would be within this property. Johnson responded the declaration states the Tomahawk Creek Condominiums' rights, duties and responsibilities to the homeowners. Conrad stated he would like the homes association to be an entity that the City could work with if needed. Wetzler stated she is assured the homes association gives them all of the powers and responsibilities necessary to maintain the facility, including the power to access each property individually and the power of collection.

Pilcher asked if condominiums require sprinklers. Binckley responded it is a requirement, whether it is owner occupied or renter occupied.

Henderson asked if the homeowners association exists through the developer until a certain percentage of the property is sold and occupied by the homeowners. Johnson responded it is his understanding that Pauls Equities will maintain ownership of the property until 75% of the units have been sold as owner-occupied units. At that time, the homeowners association will take force. Henderson asked how notice would be sent to the homeowners when that occurs. Johnson responded a document would be distributed to the homeowners in advance.

Duffendack asked if there have been any changes to the carports. Klein responded the carports are not part of the plat approval. Brain asked why the commission is only looking at the plat and not the plan also. Klein stated the applicant would like more time to make additions to the landscaping and the carports. Brain asked if Staff feels the applicant is close to addressing the previous concerns of the carports. Klein responded Staff has seen a plan where the carports have been moved further away from the front of the buildings, but still in the impervious areas so as to not reduce any of the green areas. Staff recommended they wait to propose the carport change at final plan.

**A motion to approve was made by Duffendack and seconded by Munson. Motion approved unanimously.**

Brain added he would like the Planning Commission and Staff to discuss some of the issues raised in this application when the City renews the development ordinance, to make sure the City is adequately addressing these concerns in advance. He listed his concerns as fire safety, community integration, size of units, and how the Commission might have approved this project as condominiums in the first place.

**CASE 06-02 MISSION RESERVE** Request for approval of a preliminary plat and preliminary plan. Located at 151<sup>st</sup> Street and Mission Road.

Staff requested a continuance of this case due to some issues with storm water drainage.

**A motion to continue was made by Colloton and seconded by Henderson. Motion to continue approved unanimously.**

**CASE 07-02 RESERVE AT ST. MICHAEL** Request for approval of a preliminary plat and preliminary plan. Located at 141<sup>st</sup> Street and Nall Avenue.

**STAFF PRESENTATION:** Presentation by Jeff Joseph. The applicant is Brick Owens with HNTB. The applicant is requesting approval of a preliminary plat and preliminary plan and rezoning from RP-1, planned single family residential to RP-4, planned cluster residential. The proposed subdivision consists of 23 lots on 9.36 acres for a density of 2.46 dwelling units per acre. This property is located north of 143<sup>rd</sup> Street and east of Nall Avenue. The applicant is requesting a deviation of a side yard setback of 15 ft. between buildings and 7.5 ft. from the property line. The required setbacks are 20 ft. between buildings and 10 ft. from the property line. Staff is recommending approval of this case with the attached stipulations.

Colloton asked why the deviations are necessary. Joseph responded this plan has three more lots than previously approved and the size of the buildings has increased. Staff is supporting the additional lots because the applicant is adding more open space with a park. Colloton asked if there will be sidewalks on both sides of the street. Joseph responded, yes. Colloton asked if the setback requirements could be met if one lot were removed. Brain suggested the applicant answer that question later. Munson asked what is planned for tract B. Joseph stated it is the detention area that is owned by the church. Munson asked the detention area's depth. Ley stated it would be about 14 ft. deep.

**APPLICANT PRESENTATION:** Leon Roberts, consultant for real estate and construction with the Archdiocese of Kansas City, the owner of the property. Brick Owens, with HNTB, made the formal presentation of the plan. Owens stated the property is east of Nall Avenue, and lies between Timbers Edge and St. Michael the Archangel church and school. The original design had 20 lots, but was laid out in the traditional cul-de-sac format and did not provide the unique character to create and add a neighborhood of 23 homes in a maintenance provided community. When the developer looked at the property, they looked at it with a skewed perspective to see how they could get the most out of the ground, because they are trying to add high quality architecture to Leawood. The solution that they came up with was to create internal value, which is the park. The park accommodates two of the lots consisting of 24,000

square feet. The developer chose to meander the streets and put the value at the street front to create a special place, not just 23 lots at the end of a cul-de-sac. The other reason for the configuration of the road is to create a varied lot size and presentation to the street. One of the reasons the applicant is asking for the setback deviation is because the amount of green space provided in the middle of the property, which is useable landscape space. Another reason for the setback deviations is to provide architecture that is different. The lot configuration shows that the lots face inward, all of the lots are extra deep, or face the green space in the middle, or back onto tract B. Tract B is a detention area that will jointly serve St. Michael's and this property. The landscaping is what makes this development special. The applicant is proposing some internal sidewalks. The access to the central median area will have pedestrian ramps. The detention area is intended to be dry, and with extensive landscaping around the basin for safety reasons. The homes will be constructed of stucco and stone, with class A roofs. It will be a maintenance-provided community. The Villas at Whitehorse and Summertree Villas are two developments the Commission has approved and are very similar to what is being proposed.

Colloton asked if some of the more narrow lots back onto one piece of property. Owens responded lot 9 backs onto a joining lot that has a corner; therefore they will have more open space.

Munson asked if the lots are larger than Timbers Edge. Owens responded the proposed lots are about 5 feet wider and 10-15 feet longer than Timbers Edge. Munson asked how the edge where tract A abuts lots 13-18 would be handled. Owens stated Wendell Uben from Phelps Engineering would discuss the detention area. Munson expressed concern with safety around the detention area. Owens responded the developer had originally wanted to make that area a pond, but the Archdiocese placed the stipulation that there be no water in the area. It will detain water for a short amount of time, and only during large storms. Uben stated the basin is a dry basin. It will only get to the top once every 20-25 years, and it's set to drain out in 2 hours.

Colloton asked if the development could accommodate the required setbacks if lots 11, 12 and 13 were removed. Owens stated the developer could not get rid of those buildings, because the development is designed to be the villas of the same caliber of Villas at Whitehorse and the dimensions could not be reduced. Colloton asked if lots 7, 8, 9 and 10 have the smaller side yard setbacks. Brain asked what the setbacks would be if the courtyards were removed on lots 8, 9 and 10. Owens stated the setbacks would be close to the requirements, by about 2 to 3 ft.

Henderson suggested the 3 ft. berm be increased to 4 ft. to shield the headlights from the larger vehicles. Owens responded it would be within a range of 3 to 5 ft. tall, but would be decided before the final application.

Henderson questioned the length of the cul-de-sac. It is written in the Staff report as 731 ft., which is 231 ft. longer than the ordinance provides. Is the 231 ft. cut from the median? Owens responded the length is only 231 ft. from the entrance to the end of the median; the length from the median to the end of the cul-de-sac is 500 ft.

Munson asked what type of landscaping would be planted in the median. Owens responded it would have shade trees, shrubs, evergreens, flowering trees and mostly grass. Munson asked who would be responsible for maintaining the center area. Owens responded the homes association would provide the maintenance for the median park area.

**PUBLIC HEARING:** Jennifer Gesley, 14023 Birch, in Timbers Edge. Gesley was representing Timbers Edge subdivision in Overland Park. She was concerned with the request of rezoning; afraid that what is proposed will not be what is built. The Timbers Edge back lots are very shallow, and Gesley was concerned the back lots of Reserve at St. Michael will be small also, and the two subdivisions' homes would end up being back to back. Gesley also had concerns about the drainage issues.

Mike O'Connell, 14031 Birch, in Timbers Edge, presented a letter to each of the commissioners. O'Connell's property backs up to approximately lots 5 and 6. He was concerned with drainage and the water that runs west to east in this current property. Over the past 7 years, he has been able to observe a 50 ft. wide, approximately 2 ft.

deep, runoff on an annual basis. O'Connell stated a few of these lots are being built on the 100-year flood plain. He was in support of what the developers are proposing to do, but would like to be assured that the drainage concerns are addressed.

**A motion to close the public hearing was made by Henderson and seconded by Pilcher. Motion to close approved unanimously.**

Ley stated the developer is required to carry the 10-year storm water through the development and storm sewer pipes, and also to carry the 100-year. The runoff will flow along the roadway at a maximum depth of 7 inches. One of the stipulations is to create swales between the lots to carry the 100-year to the cul-de-sac and will be collected in the storm system and piped out. This is not in the FEMA 100-year flood plain.

Binckley stated the cause of the rezoning is because 9 of the lots do not meet RP-1 standards. In the future, if this plan were not the one developed, all of the residents within a 200 ft. radius would be notified.

Colloton asked if part of lot 9 is in the 100-year flood plain and how the drainage would be handled. Ley responded the development would connect into the storm sewer pipe that is coming from Timbers Edge. Within a 10-year storm, the water will stay in that piping system. The way it currently flows, the 100-year would be along the rear of lots 9, 10 and 11. It is graded to flow so the water will take the path of least resistance, which is east. Mr. O'Connell's concerns will be addressed with the engineered plans. The 100-year water will run along the street to a maximum of 7 inches. If the drainage becomes larger than 7 inches, the development will be required to increase the pipe size.

**A motion to approve was made by Colloton and seconded by Munson. Motion approved unanimously.**

**CASE 10-02 SPORT COURT – LEAWOOD ESTATES – TEAHAN** Request for a Special Use Permit for a sport court. Located at 10111 Wenonga.

**STAFF PRESENTATION:** Staff presentation by Jeff Joseph. The applicant is Mark Teahan. The applicant is requesting approval of a special use permit to allow continued use of a sport court in his backyard. This sport court is 31 ft. wide by 48 ft. long, on the southeast corner of the lot, located within the Leawood Estates subdivision. Staff had conversations with several residents who stated concerns with noise, traffic and screening. Staff has tried to satisfy these concerns with the stipulations within the Staff report. Mr. Teahan has provided a letter stating he will come into compliance with the Leawood Development Ordinance. Staff is recommending approval with the attached stipulations.

**APPLICANT PRESENTATION:** Presentation by Mark Teahan. Teahan stated he called the planning department in the spring and was told that he did not need a permit, but believes there was some miscommunication about the basketball goal. After he brought a crew in to pour the concrete, the City informed him that he needed a special use permit. He stated he was not trying to get around the city code. He will be cutting away the areas of the court that are not in compliance with the 10-ft. setbacks.

**PUBLIC HEARING:** Lynn Bowman, 10105 Wenonga, stated the sport court has proved to be a nuisance to some of the neighbors. Mr. Boman and his wife consider it a nuisance because of noise and increased traffic. They are concerned it will diminish the value of their property.

Jay Selanders, 9927 Cherokee Lane, lives east of the Teahans. He believed the idea of having a place for the children to play is appealing and does not consider it a nuisance.

Darline Gates, 10115 Wenonga Lane, lives directly south of the Teahans. She has a sun porch in the back of her house, and with all of the windows closed, can still hear the pounding of the ball the entire time they are out there. She believes it is a nuisance.

John Dods, 9928 Cherokee Lane, lives directly behind the Teahans. His home is approximately 75 ft. from the sport court, and screened only by shrubbery and bushes. He finds the sound of a bouncing ball enjoyable. The Teahans are very considerate and do not play late at night. He does not feel that this will diminish the value of his home. Does not believe there will be any noise or traffic issues.

Mike Grier, 3200 W. 101<sup>st</sup> Street, lives two doors north of the Teahans. Greer is a lifetime Leawood resident, has lived in a home with a pool, and has lived in a home with a tennis court. The Teahans are proposing to allow their children to do in the backyard what they are allowed to do in front. The idea of having a court in the back is great. Supports the activities with children in the neighborhood and is in favor of the sport court.

Ron Pitts, 10120 Wenonga Lane, lives across the street from the Teahans. He can hear the noise of the basketball from his bedroom and considers the sport court a nuisance.

Richard Bell, 10114 Wenonga Lane, lives directly across the street from the Teahans. The difference between the people who are for this and those who are against is that the people who are against it live on Wenonga. The people who are for this do not live on Wenonga. The traffic will be on Wenonga. He believes there will be team sports. This house is half a block north of Brookwood School, where there are plenty of play areas. There will be too much noise and traffic. The difference between having a court in the front driveway, versus in the back, is the use by organized teams. Bell does not believe it should not be allowed.

**A motion to close the public hearing made by Pilcher and seconded by Henderson. Motion to close approved unanimously.**

Brain asked what the approved hours of use were for the last sport court that was approved. Joseph responded the approved hours were 7 a.m. to 10 p.m. Henderson stated the proposal for the use of the Teahan sport court is from 9 a.m. to 10 p.m.

Colloton asked if the people who are against it all live on Wenonga, and the others do not. Joseph responded Staff has heard from others that are not present. Colloton asked how far the sport court is from the neighbors' houses. Binckley responded about 30 ft. from the house to the south.

Duffendack asked for an interpretation of the memo that was written from the City Attorney regarding sport courts. Wetzler stated the intent of the memo was to explain that sport courts are allowed in the City of Leawood.

Brain asked the applicant if there would be organized games on the sport court. Teahan responded the size of the court was made to accommodate the 3-point shot. The court will be 28 ft. by 41 ft. It is not intended for the use of organized sports, only for use of the family and close friends. Teahan reminded the Commission that stipulation number 10 states, "the court will not be used for organized team practice".

Colloton recommended the hours of use to change from 9 a.m. to 9 p.m. Teahan stated there are two floodlights that will illuminate the south side of his property that would allow his family to play until 10 p.m. in the summertime.

Duffendack asked why Teahan did not want to use the driveway for sports. Teahan responded the driveway is covered with epoxy rock, which is not a good surface for sports, and the ball would roll down the hill into a neighbors yard.

Pilcher asked Teahan what type of procedures he will use to prevent the balls from going into his neighbors' yard. Teahan responded he would have trees planted to prevent it.

Conrad expressed concern about the landscaping on the east side of the court. Binckley responded once they remove the court to the 10 ft. distance, they would be able to put up several upright evergreens. Pilcher asked if that would be within the easement. Binckley stated, yes, but that is acceptable as long as the utilities are checked.

Conrad asked if the arched area would be removed. Teahan responded it would stay the same. Conrad asked if that is in compliance with the stipulation that it will be a rectangle. Joseph stated there is no requirement that it must be a rectangle. Staff would like to change the stipulation to read the correct dimensions.

Colloton asked if Staff has any information that property value changes in regards to sport courts. Binckley responded there is no proof one way or the other. The only studies that are ever done are in regards to public space and trails. They have shown there is no decrease in property values and sometimes there is an increase. Henderson stated it was looked at during a previous application and found property values do not go down.

Pilcher stated he feels we should have requirements that require the distance from the adjacent residents.

**A motion to approve was made by Henderson and seconded by Munson. Motion approved, 5-1 (Pilcher against).**

## **ADJOURN**

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Don Brain, Jr.                      Chairman