

City of Leawood Planning Commission Minutes

May 28, 2002
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive

CALL TO ORDER/ROLL CALL: Henderson, Rohlf, Carper, Conrad, Brain, Duffendack, Breneman, Munson, Pilcher (tardy)

APPROVAL OF THE AGENDA: A motion to approve the agenda was made by Carper and seconded by Henderson. Motion approved unanimously.

APPROVAL OF THE MINUTES: Approval of the minutes from the April 23, 2002 and May 14, 2002 meetings. Henderson made a correction on the May 14th minutes to change the motion on the election of officers to Carper, not Conrad. Carper made a correction on the May 14th minutes to change the motion to go to executive session to Carper. **A motion to approve the April 23, 2002 and May 14, 2002 minutes with the changes stated above was made by Carper and seconded by Henderson. Motion approved unanimously.**

CONTINUED TO THE JUNE 25, 2002 MEETING:

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 135th Street and Nall Avenue.

CASE 34-02 LDO AMENDMENT – SECTION 3-15 – FLOOD OVERLAY DISTRICT Request for amendment to the Leawood Development Ordinance. **Public Hearing**

CONSENT AGENDA:

CASE 44a-02 VILLAGE OF CAMDEN WOODS – 32ND PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

CASE 44b-02 VILLAGE OF CAMDEN WOODS – 33RD PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

CASE 51-02 CACTUS GRILL Request for approval of a final site plan. Located at 11849 Roe Avenue.

NEW BUSINESS:

CASE 70-01 CHRIST COMMUNITY CHURCH Request for approval of a preliminary plat, preliminary plan and special use permit. Located at 142nd Street and Kenneth Road.

Staff Presentation: Presentation by Jeff Joseph. The applicant is requesting approval of a preliminary plat, preliminary plan and special use permit to allow construction of a 160,695 sq. ft. building addition. This project was continued from the November Planning Commission meeting to the work session in April due to some outstanding issues. At that time, the Planning Commission made several recommendations for changes to the plan. This plan does not address all of the issues discussed during the previous meetings. Staff is recommending a continuance of this project due to the lack of changes per Planning Commission recommendations and hereby requests further guidance from the Commission.

Henderson asked if this project was on Kenneth Parkway or Kenneth Road. Joseph responded it is on Kenneth Road.

Duffendack asked Staff on which issues they would like guidance. Joseph responded the issues discussed during the work session which are: to modify the elevations, to add more architectural features to the façade of the building, to show the elevations in relation to the second phase of this project, to provide a drawing showing the parking configuration for each phase of the development, to provide a prospective drawing showing what the development would look like at the end of each phase.

Breneman asked if there has been any explanation as to why the applicant has not provided the requested materials, and if the applicant has been made aware of the request for materials that they have not provided. Joseph responded the applicant has been made aware of the Commission's requests.

Applicant Presentation: Presentation by Dennis Strait, of Gould Evans Goodman Associates, the architect for the applicant. The applicant's understanding at the end of the work session was that the Commission felt it would be asking too much at this time to go into that much detail. Instead, providing illustrations of how the phasing would occur over the years, and how the phase 2 parking might look would help the Commission to understand how the project would be moving forward in the years ahead. It was the applicant's understanding that the Commission did not need the amount of detail that is being requested by Staff. The applicant responded to the letter from Staff with a letter asking if the applicant misunderstood the intent of the Commission. The applicant did not receive a response from Staff until they received the comments, which indicated Staff still wanted to have those items. The applicant was not avoiding those items; they just misunderstood what the Commission has asked. The applicant did submit some additional illustrations that show how the different phasing would occur in the years ahead.

Brain stated the applicant and Staff should be communicating better. The process is usually in three tiers: Staff reviewing the case, then Planning Commission, then Governing Body. Strait stated the applicant had responded to Staff by explaining the misunderstanding. Binckley stated she remembered Commissioner Duffendack stating during the work session the project had a great start, but it definitely needed improving. It was her understanding the plans submitted at this meeting are exactly the same as the ones looked at during the work session.

Duffendack stated he remembered asking for additional development in the elevations and wanting to have a better feel for what phase 1 would look like if phase 2 ended up not being there for 15 years. Strait responded he remembered the conversation but thought those illustrations would not be needed until final approval. Duffendack stated one of the Commission's tasks at the preliminary review is to look at the entire plan.

Carper asked Staff what attempts had been made to reach the applicant since the April work session. Joseph stated a letter was sent to the applicant to describe the issues. Staff received a response stating the applicant had a different interpretation of what the Commission had requested. Brain then asked if Staff knew the applicant would not be submitting the requested information based on the difference of opinions of what the Commission requested. Joseph stated, no.

Carper recommended the applicant ask for a continuance.

Binckley suggested the Commission give the applicant suggestions on what they need to work on. Brain asked Staff to go back and review the minutes and tape of the meeting and determine the correct intent of the Commission. He remembers the evolution of the architecture being an issue and wanting to look at an illustration of the entire development as a whole.

Public Hearing: With no one present to speak at the public hearing, a motion to close was made by Henderson and seconded by Carper. Motion to close approved unanimously.

Strait requested a continuance. A motion to accept the continuance was made by Carper and seconded by Henderson. Motion to continue approved unanimously.

CASE 13-02 LDO AMENDMENT – ROOFING Leawood Development Ordinance Sections 3-1 (RP-A), 3-2 (R-1), 3-3 (RP-1), 3-4 (RP-2), 3-13 (AG) AND 3-16 (RP-A5) – Request for an amendment to these sections of article 3 that pertain to roofing materials and colors.

Staff Presentation: Presentation by Mark Klein. The City is requesting an amendment to the sections of the LDO that pertain to roofing. The specific areas that would be affected are Sections 3-1 (RP-A), 3-2 (R-1), 3-3 (RP-1), 3-4 (RP-2), 3-13 (AG) and 3-16 (RP-A5). The main focus of this amendment is to allow newer roofing materials that are out on the market to be allowed in Leawood. There are many that try to emulate natural materials, such as slate and wood roofs. A memo was given to the Commission from the Fire Chief indicating his position in regard to wood roofs. This amendment would allow the City to look at new roofing materials that may be safer, but still have a nice aesthetic look to them and it would also allow for administrative approval of new roofing materials and colors.

Conrad asked if Staff feels the form the amendment is written in will help with roofing issues. Klein responded Staff has incorporated some of the legal department's comments and does feel comfortable with the changes.

Duffendack suggested the term "rubberized" is actually called "modified" in the industry. He also stated that he believes the requirement the City has made that roofing be placed on solid decking might nullify the warranty from the manufacturer, therefore Staff should look into that part of the amendment. Sam Maupin, the City Building Official, stated the ventilation refers to the laminate composite. If the attic space that the roofing is protecting is ventilated, then it meets the ventilation requirements. Duffendack suggested Staff look into the manufacturer's warranty requirements before the amendment is published.

Carper referred to the memo from the Fire Chief and stated the City does not have the ability to bind a homes' association to the property owner and then asked if the Fire Chief understands that. Binckley stated she assumed the Fire Chief does not understand the relationship between the City and the homes associations.

Henderson asked if the memo is considered as part of the stipulations for the case. Klein responded, no, it is just an opinion.

Public Hearing: Presentation by Jenevera Moore, vice-president of the Leawood Estates homes association. The homes association is concerned about maintaining the high quality and distinctive character of single-family residences in Leawood. The homes association is aware of their members' desire for using new roofing materials that have come onto the market and they are trying to work within the parameters of their deed restrictions to allow for that. They believe the City's proposed changes are good and practical improvements. They believe the approval procedure changes that have been proposed are a good first step in ensuring aesthetically pleasing materials. They think the language is confusing in regard to the right to appeal the City's approval of new roofing materials. They would like the process to allow the citizens of Leawood to provide input into the City's approval of new materials. Moore asked if the minimum thickness of 3/16" was required because of aesthetics or if it related to the grade or quality of the materials. She also asked if the City could create a listing of approved roofing materials to provide to the homes owners. Moore then suggested a couple of changes to the ordinance. (1) A requirement that the weight for laminated composition roofing shingles be a minimum of 350 lbs. per square. It is their understanding that this would restrict the use of materials to those with greater definition and a more shake-like quality. (2) Consider a specific requirement concerning color. The homes association dislikes composition roofs that are comprised of the very dark, charcoal gray color that allow for very little color gradation. For composition and asphalt shingles, they would suggest limiting to colors that mimic the weathered-wood shake look. For stone coated steel, they suggest limiting colors mimicking tile to those with a more subtle color range. The homes association encouraged the City to pursue a vigorous approval inspection and enforcement policy.

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

Brain asked for clarification of the issues raised by Moore. Klein responded the appeals within the approval process have changed. Currently, any administrative decision would be appealed to the Board of Zoning appeals. The 3/16" thickness issue is primarily an aesthetic issue. A list will be produced to the home owners that states the approved roofing shingles. Currently, the ordinance requires 330 lb. per square on the laminated composite. His understanding is that materials have improved, since technology has changed and the materials that are the more high quality are no longer 330 lb. per square. Maupin stated there are not very many manufacturers that make the 330 lb. per square roofing shingle. There are better warranted shingles that weigh less, provide the same features than our current ordinance requires, same colors, better products that weigh less. Changing the requirement to 350 lb. per square would further restrict the amount of suppliers for the laminate composite shingles.

Brain stated he is in favor of the enforcement of the approved shingles. Binckley responded after this amendment has been approved by the Governing Body, Staff will go back and look at that and revise our list to bring it up to this standard. Carper asked if the BZA has heard any roofing materials cases since the appeal process has changed. Binckley responded, no. When a case is seen before the BZA, a member of Staff will be there to present the case and ensure the Board knows what our ordinance requires. Carper stated concern that the offending roof would be completely installed before they go to the BZA. Binckley responded that the City's code enforcement officers are continuing to look for those violations.

Conrad asked if the second sentence in the first paragraph in the memo from the Fire Chief is requesting a response. Binckley responded she did not believe the Fire Chief was saying it was what should be done, he is just trying to go on the record as stating that is what is best for him. Wetzler responded the State recommends certain safety standards, but the City can follow whatever path they choose. Carper asked if there are any cases in other Cities in the state of Kansas that preclude the use of wood shake shingles on single-family residences. Binckley stated everyone shook their heads, no. Duffendack stated there are other combustible materials within a house, in spite of the wood roof. Breneman asked Staff's recommendation in regard to the wood shake roofs and the Fire Chief's recommendation. Klein stated the City is requiring a class B fire rating, which is a lot more than nothing. The City is trying to offer residents options that are safer, but still have the aesthetic look. Pilcher stated he understood the memo from the Fire Chief to say that the City should not encourage the use of roof shingles, not that they should be prohibited.

Henderson stated he liked the changes that have been made to this ordinance.

A motion to approve, subject to Staff taking into account the comments made by Duffendack in regard to doing more research, was made by Henderson and seconded by Pilcher. Motion approved unanimously.

CASE 41-02 PRAIRIE STAR ELEMENTARY – MOBILE CLASSROOM Request for a special use permit and a revised final site plan for temporary classrooms. Located at 143RD Street and Mission Road.

Staff Presentation: Presentation by Jeff Joseph. The applicant is John Dungan. The applicant is requesting approval of a two-year special use permit to allow a 1,540 sq. ft. temporary school building on the southeast corner of the existing elementary school. This property is located at the northeast corner of 143rd Street and Mission Road. The elevation of the building is single-story with pre-finished metal siding. The main entrance is located on the west side of the building. Staff is recommending approval of this case with the attached stipulations.

Henderson asked if this would be a prefabricated building. Joseph responded, yes. Henderson stated there have been numerous safety concerns with these types of buildings in the past. Joseph responded the Fire Chief has written a memo to the Commission in regard to the safety. Brain asked if it would have safety sprinklers. Joseph responded it will not. Breneman asked if safety sprinklers could be added. Binckley responded this is covered under the City's building codes. The Building Official and the Fire Chief have reviewed this building and it will have the fire alarms and fire extinguishers that are required. Henderson asked what material the walls would be made of. Brain suggested the applicant could answer that question.

Applicant Presentation: Presentation by John Dungan of Gresher Dungan Architects, representing the Blue Valley School District. The mobile units are steel structures with steel siding. There is non-combustible drywall in the walls. They are not sprinkled, but there is no need for sprinklers.

Brain asked if this unit would only be used for two years. Dungan responded it is just to help out with growth while waiting for another elementary school to be built. Binckley stated another reason the school believes they will only need it for two years is because a Catholic school is planned to be built in that area, and the public school is anticipating some of their students transferring to the Catholic school.

Henderson asked if the building would be air conditioned. Dungan stated, yes. Henderson then asked if there would be other exits other than the one door for each classroom. Dungan stated the windows could be pushed out, more easily than the windows in the school building.

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.

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

CASE 45-02 GIBSON SPORT COURT Request approval for a special use permit to allow a sport court at 3613 W. 129th Street.

Staff Presentation: Presentation by Mark Klein. The applicant is requesting approval of a special use permit to allow the existing sport court located on the west side of his lot within the Waterford subdivision and adjacent to Howe Drive. There were two letters faxed to Staff, which were in opposition, they are on the dais for each Commissioner. The Staff report states there has been no drainage report supplied; since then, Mr. Gibson has supplied Staff with a drainage report that states there will be no adverse drainage to the other properties. There is also a memo to modify stipulation number four, if the Commission does approve this, instead of "for approval by Staff", it should read, "for Planning Commission approval". The sport court dimensions are approximately 25 ft x 30 ft. The primary issue with this sport court is that it does not meet the setback requirements. The ordinance requires a setback of 10 ft. from the rear or side yard property line. This sport court encroaches the public right of way by one foot. In order to come into compliance with those setbacks, approximately 11 ft. would have to be removed from the street side. The way it is set now, there is no additional room for landscaping. Staff is recommending denial of this case.

Applicant Presentation: Presentation by Dana Gibson. Gibson has lived at this residence for three years and seven months. He has two sons. It is a corner house and the driveway is sloped. The backyard abuts our neighbors on either side. They both have patios immediately out their back yards. The Gibsons decided not to put it in their backyard, because it would be inappropriate for their adjoining neighbors. Gibson contacted Crulu construction and asked them to come out to discuss an expansion of his driveway, on the south side. When the contractor came out, he stated it would be inappropriate because of the slope. He recommended the location where it was eventually built. Gibson asked the contractor if a permit would be needed and he said no. After the concrete was poured, the Gibsons were notified by the City that a permit was required. The Gibsons are prepared to make the changes that Staff has recommended, but would like to move the goal closer to the residence to help shade the goal from sight, since that was a comment made by more than one neighbor.

Henderson asked if the homes association formally met on this issue. Gibson stated, not to his knowledge. Henderson asked if it occurred to Gibson to check with the City in regard to a permit. Gibson stated he believed the contractor when he stated there was no need for a permit. Henderson asked who did the measurements. Gibson stated it was he and the contractor.

Public Hearing: Richard Thornhill, 12904 Howe Drive, lives directly across the street from the sport court. He believes the court is too large and is opposed to it.

Kathy Kelley, 12800 Howe Drive. She and her husband are opposed. They feel it is inappropriately located and will most likely have a negative effect on the property value of the surrounding homes. They are also concerned about approval being sought after-the-fact. They are afraid other people might follow the same lead and that would undermine the zoning laws.

Sarah Browning, 3801 W. 129th Street. Browning stated the court is in the front yard for the homes on Howe Street. She is concerned about where it is located, and about how it was built, since the proper inspections were not done.

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

Duffendack asked if the Commission has the ability to approve an application that encroaches on the public right-of-way. Wetzler responded that it's not a clear-cut decision; it would need to be looked into further. The City doesn't own the right-of-way; we just have an easement right to use it for specific road and utility purposes. The residents have the right to use that area for their driveway or sidewalk. Because this is comparable to a driveway, she's not sure where this lies.

Brain asked what the slope of the applicant's driveway is. Gibson responded it is about a 3 to 4 ft. drop from the end of the garage to the street.

Conrad stated he does not think the location is acceptable. He then asked if a patio would be allowed in the front yard. Klein responded the house was placed with the front door facing what should have been the side yard. Conrad asked how much would need to be cut off in order to meet setback requirements. Klein responded, at least 11 ft.

Breneman stated she believes it is an eyesore and is not compatible to the neighborhood and believes it would lower property value. Duffendack stated this was done without input from the public sector and is in opposition of this case. Breneman stated she does not believe the safety of having a basketball goal on the driveway should even be a consideration.

A motion to deny was made by Munson and seconded by Breneman. Motion to deny approved unanimously.

Carper stated the City needs to do a better job in communicating the need for a permit for these types of cases. Also believes the contractor needs to be reprimanded and not allowed to do business in Leawood for giving this home owner the wrong information. He suggested putting something in an ordinance that states the ramifications if someone is caught doing work without a permit. Wetzler responded that only workers that are licensed with Johnson County are allowed to work within Leawood. Brain suggested having the Mayor write a letter to the homes association regarding the recent ordinance changes and the issues that they need to be aware of.

CASE 46-02 BANK OF BLUE VALLEY Request approval for a preliminary site plan. Located at 135th and Mission Road within the Market Square Center Development.

Staff Presentation: Presentation by Jeff Joseph. The applicant is Mike Galloway. The applicant is requesting approval of a preliminary site plan for the construction of a two-story building, which is 27,000 sq. ft. This property is located at the northeast corner of 135th Street and Mission Road. The settlement agreement limited the building on lot four to 20,000 sq. ft. The applicant is requesting approval of a 27,000 sq. ft. building. The additional 7,000 sq. ft. would be used for storage only. The Governing Body approved the modification to this agreement on May 6, 2002. The trash enclosure is located on the east side, away from the building. The 135th Street corridor guidelines require the trash enclosure to be attached to the building. Staff is recommending 100 parking spaces. There are 110 spaces proposed. Staff is recommending approval of this case with the attached stipulations.

Applicant Presentation: Presentation by Stewart Stein of the law firm Stinson Morris and Hecker, representing the Bank of Blue Valley. Also present are Bob Regnier, president of the bank, representatives of Gould Evans Goodman, and Shafer Kline and Warren. The applicant is in agreement with all but two of Staff's stipulations. One disagreement would be the trash enclosure; the other is the number of parking spaces. This lot is separated in design from the other buildings in the shopping area. There is no cross-easement agreement between any of the lots. When the applicant purchased the lot from the developer they sought a joint easement for parking and were not able to obtain that. Within the City guidelines, the applicant is only allowed 100 parking spaces. The applicant does not think it is sufficient. They would like more than 110, but are only asking for 110 so that they can have the landscaping they think is needed. There are times that the bank will have activities and the applicant feels there would be inadequate parking with only 100 spaces. The applicant is requesting to have 110 spaces, because they do not know who the neighbor will be on the adjoining lot to the east.

Presentation by Cary Goodman. The original plan was to have everyone who exited the drive-thru lanes circle the entire building, then exit out through the parking lot. There are obvious problems with that plan. The applicant does not want the orientation of the building to allow the drive-thru lanes to be the most prominent feature when looking from 135th Street and Mission Road. The applicant is trying to maximize the quality and functional aspect of the building to use the interior spaces in an effective way. They decided to flip the building around and utilize more of the backside of the site. This is a much better way to be oriented in terms of the site plan. There are evergreens and maple trees for the landscaping; the parkway is all pre-planned and is already a part of what is on the site. The second floor will have a vaulted roof with ambient lighting. There will be a cut-through that will bring the upper light down to the center of the building. The applicant has looked at the materials that are already at the site in order to choose their colors. The building is expressed in natural and light colored materials.

Conrad asked if the building would have a full basement. Stein responded the basement is under the main floor of the building, which is approximately 7,000 sq. ft. It will be a low-ceiling basement that will be used just for storage and the use of the equipment. The basement is not designed to be used as work areas by individuals. It is not located under the drive-thru lanes; it is under the rest of the first floor of the building. Conrad asked for clarification on the number of employees and the area of common space in the building in regard to the number of parking spaces requested. Goodman responded by describing the floor plan, which has two large areas of common space. Goodman also noted that by changing where the drive-thru lanes are, it allowed the site to have less asphalt and more parking spaces.

Commissioner Conrad left the meeting.

Henderson asked if the monument feature on the southwest corner would be of the same type of feature on all four corners. Binckley responded the Commission has already approved the monument feature that will be on the corner. Henderson questioned if the building would be aesthetically pleasing in regards to the buildings around the area.

Duffendack stated he liked the building; the changes and design are good. He wants to make sure the building will be compatible with the surrounding buildings. If there is any connectivity between the bank and other buildings, he believes the proposed trash enclosure would be in the way. He then suggested putting the trash enclosure inside the building. Stein responded it would not be possible to place it inside the building because it would need to be truck accessible. The applicant is not sure when the truck would come to this neighborhood, and there would be no way for a truck to back up to the bank facility and not be offensive to the bank customers. The applicant is hoping the building that will be to their east will want their trash enclosure backed up to the banks. Brain stated the way the trash enclosure is proposed, he believes that when the trash truck comes to dump the trash, it will be blocking the drive way. Goodman responded that while he doesn't believe they can pick an exact time for the trash to be picked up, he believes they can pick an area of time so that it won't interfere with the customers. Goodman added there is also a safety concern if the trash enclosure is located too far away from the bank building. Duffendack stated the 135th Street guidelines require the trash enclosure to be attached and would like to stay with the plan. He suggested the applicant look at more solutions to attach the trash enclosure. Goodman feels to move the trash inside the building would lessen the quality of the façade by having to put in double doors. Stein stated he would like to work with Staff on this issue and finalize it at the final application.

Carper stated he would like to put the trash inside the building and make it work so as to not diminish the beauty of the building. He does not want to set a precedent for the rest of the development.

Brain asked what is in the signage tower. Goodman responded it would be stairs and an elevator. Brain asked if it would be open to the second floor. Goodman responded there would be an after hours gate that would close off the first floor.

Brain stated he believes there was supposed to be a cross-easement on parking. Binckley responded it was not required of this development. Stein stated he had proposed a cross-easement with Price Chopper, but they refused. The applicant purchased this lot knowing they would not be able to use the Price Chopper spaces. That is why the applicant is asking for 110 spaces.

Breneman stated concern with another building coming and designing something that would aesthetically compliment this building. She doesn't believe the building design is consistent with what the City is trying to accomplish with the 135th Street corridor.

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

Brain stated the two unresolved issues are the concerns with the design integrity with the rest of the buildings, and the trash enclosure.

A motion to approve, with an amendment to change stipulation number 8 to read "the applicant will work with staff regarding the location and design of the trash enclosure to be reviewed and approved by the Planning Commission at final plan" and stipulation number 10 to read "parking shall be limited to 110 spaces", was made by Carper and

seconded by Henderson. Duffendack suggested removing stipulation number 15 if the trash enclosure is located inside the building. **Motion approved unanimously.**

Brain recommended opening Cases 47-02, 49-02 and 50-02 as one presentation.

CASE 47-02 MISSION RESERVE – FINAL PLAN Request for approval of final site plan. Located at the southwest corner of 151st Street and Mission Road.

CASE 49-02 MISSION RESERVE – 1ST PLAT Request for approval of a final plat. Located at the southwest corner of 151st Street and Mission Road.

CASE 50-02 MISSION RESERVE – 2ND PLAT Request for approval of a final plat. Located at the southwest corner of 151st Street and Mission Road.

Staff Presentation: Presentation by Mark Klein. Located at the southwest corner of 151st Street and Mission Road. This project was originally seen as Summertree Villas and received final approval, but that project did not work out. This project is very similar, except the applicant removed some of the troublesome features such as auto courts and they also reduced the number of lots by approximately three. This project has received preliminary approval. The applicant is asking for approval of two of the plats today because there are some issues with the Army Corp of Engineers related to some of the drainage. If the issue were resolved quickly, then the applicant would like to plat it all as one plat, but if the process takes some time, they can at least finalize the first plat. The drainage issues are with the second plat. This project has a total of 40 lots. There are no auto courts. The applicant received numerous deviations of the setbacks during the preliminary approval. The applicant received approval of a 22 ½ ft. front yard setback and 15 ft. between buildings. Two water features located in the heart of the subdivision will have flowing water re-circulating through them. They also have a footpath that runs along the southern boundary and then curves. There are footbridges that cross these water features. To the south is the Ironhorse Golf Course. The golf course encroaches onto the first plat. Staff has made a stipulation where the applicant would reach an agreement for a land exchange so the golf course would no longer encroach on their property. The applicant has decided to dedicate that land to the City. Another issue is drainage. The applicant has agreed to work out the issues with the golf course committee. The City Engineer has recommended a change to the stipulation on the first plat regarding the flood plain. Staff is recommending approval with the attached stipulations and is supportive of the Public Works modification to their stipulation.

David Ley, City Engineer, stated part of the stipulation on the preliminary plan was that none of the lots could have the FEMA flood boundary on it. By not getting their letter of map amendment through FEMA, they can't do any grading on lot 12. Then on lot 13 and 14, if they construct them to the grades shown on the plan, they would have to fill in beyond their property line, which would encroach on the FEMA flood boundary.

Carper asked if Ley is comfortable that this would not interfere with the golf course as far as drainage. Ley stated the release rate would remain the same. The water features will also help to keep the silt from the channel that's on the golf course.

Carper then asked for a clarification on stipulation number 15. Klein stated there is a letter from an engineer on behalf of the golf course that states certain criteria that will need to be done. Carper suggested the stipulation be more defined, instead of general. Binckley stated there was a letter given to the Commission during the preliminary process from the golf course committee, which outlines four items.

Since Conrad had to leave early, he gave Brain some comments he had on this case. Conrad believes the storm water drainage easements on the second plat should be on the first plat. Binckley responded by asking if Conrad wanted the storm water drainage area to be included in the first plat as opposed to waiting to plat it in the second. Ley responded it could be included in the first plat.

Applicant Presentation: Martin Arling of Kaw Valley Engineering explained the reason it was split up was because of the issue with the Corp of Engineers and the wetlands issues and impacting the waters of the U.S. It is the applicant's hope to plat it all at once, but it's a timing issue right now as to when the drainage issue can be resolved. Brain stated that Conrad was

recommending the water features should be part of the first plat and not the second plat. Duffendack asked if there would be any temporary measures caused by the construction of the first plat without doing the drainage on the second plat. Arling responded by stating there are no ordinances requiring detention on this property, yet the applicant is going to provide it with the second plat. There will also be erosion control protection and maybe a temporary settling basin to take of that problem. The applicant is also obligated to clean out the siltation before, during construction and after the project is completed.

Ley stated he would like to add a stipulation that tract E and tract F be added to the first plat. Arling responded that would not be a problem, because they will not be doing any construction on those tracts.

Duffendack asked if the wider house plans shown with case 47-02 would be a problem with the lot widths. Arling responded the homes could not be tied down, since they are single-family homes. The applicant will obviously work with the setbacks required. Duffendack stated he does not believe most of the homes presented in the plans will actually fit on the lots. Arling stated the homes might have to be scaled down a bit.

Henderson asked if there are any special efforts being made in the housing to contain the erosion. Arling stated the series of ponds would level out to slow the water down. In between, there will be a rock waterfall. After the development is sold to the homeowners, it will be the homes association's responsibility. Henderson was concerned that the homes association would not keep the silt from forming in the water features. Arling responded it would be a maintenance issue and there is no other way to address this. Ley stated Public Works has a new annual program where a representative from each homes association signs a form stating they will have a registered surveyor look at their water features to assess there is no siltation.

Arling requested just the one lot designated as being in the FEMA flood plain be removed, versus all three that the city engineer has requested the applicant remove. Ley stated he is agreeable to that as long as tract E and tract F are added to the first plat, and the City will not issue building permits until they receive the letter of map amendment on those three lots. Brain asked what the maximum number of lots would be. Ley responded 20 on each plat, but three they could not build on until FEMA approves.

Arling clarified the 25 ft. buffer is referred to in the Staff report as a buffer/easement, but he is not planning on it being used as an easement where the golf course or the City would have access to that area. Binckley responded it is meant to identify the golf course easement as a no-build, no-cut area.

Brain summed up the changes as: moving tract E and tract F to the first plat, the replacement in case 49-02 of the Public Works stipulation number one, the applicant would require the FEMA approval letter in order to build on lots 13, 14 and 15.

A motion to approve cases 47-02, 49-02 and 50-02, with the changes outlined by Brain, was made by Duffendack and seconded by Breneman. Motion approved unanimously.

ADJOURN

Don Brain, Jr. Chairman