

City of Leawood Planning Commission Minutes

November 25, 2003
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive

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

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

APPROVAL OF THE MINUTES: Approval of the minutes from the October 25, 2003 meeting and the October 28, 2003 meeting.

A motion to approve the minutes from the October 25, 2003 meeting was made by Rohlf and seconded by Williams. Motion approved unanimously.

Duffendack asked staff about the unanswered question of hours of delivery for case 59-03 from the October 28th meeting. Binckley stated that question would be answered with the final application for that case at tonight's meeting.

A motion to approve the minutes from the October 28, 2003 meeting was made by Rohlf and seconded by Williams. Motion approved unanimously.

CONSENT AGENDA:

CASE 76-03 ROOT DENTAL LAB - GENERATOR PAD Request for approval of a final site plan. Located at 5201 College Boulevard.

CASE 77-03 CLAIRE BRIDGE MONUMENT SIGN Request for approval of a final site plan. Located at 12724 State Line Road.

CASE 84-03 CULVER'S RESTAURANT Request for approval of a final site plan. Located at approximately 80th Street and east of State Line Road.

Munson asked if the red lettering proposed for the Claire Bridge monument sign is acceptable to staff. Binckley stated the proposed lettering matches the sign that is currently there.

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

OLD BUSINESS:

CASE 74-03 MISSION FARMS Request for approval of a final site plan and final plat. Located approximately at 105th Street and Mission Road.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a development that will be made up of 373,475 sq. ft. of construction on 27.26 acres for an FAR of 0.32. The construction will be divided between 88,800 sq. ft. of residential above retail, 52,800 sq. ft. of residential town homes, 115,000 sq. ft. of office and

116,875 sq. ft. of retail space. The first phase of this development will include construction of a total of 130,225 sq. ft., which will be divided between 88,800 sq. ft. of residential above retail and 41,425 sq. ft. of retail. The town home portion of the development will not be constructed with the first phase. The plan the applicant has submitted is substantially compliant with the preliminary plan that was approved this year. One exception is the setback. One of the requirements of the preliminary approval is that this development has a minimum building setback of 275 ft. from their east parking lot to Leawood Estates. The applicant is requesting a 243-ft. separation between the east parking lot and Leawood Estates. Staff has been working with the applicant on a number of issues and feels they are working in the right direction. Staff is recommending approval of this case with the stipulations stated in the staff report.

Rohlf asked when the town home phase would occur. Klein stated it would come in with another phase of the development. The applicant was originally proposing gates and was instructed to go back and look at using something other than gates to create an entrance. The applicant has indicated they will wait to bring that forward as the final phase occurs.

Carper asked for the total acreage of this tract and how it is broken up within the development. Klein stated there were originally single-family, low-density lots north of 105th Street. There were originally 19 lots, but the applicant is now proposing 20 lots. The lot where the pool was going to be is now a single-family lot. The mixed-use portion of the development is located south of 105th Street. The tract to the north is larger than the tract to the south. Carper asked the percentage of single-family, mixed-use and town homes. Binckley stated she believes the original acreage was about 60 acres and about 40 acres is the single-family portion. Carper asked if the rest of the acres include office/retail and town homes. Klein stated that is correct. Binckley stated there is residential up above, and it is mixed-use. Carper asked if the town homes were a form of buffering the office/retail from the single family. Binckley stated staff did not allow the town homes to be a buffer. It is part of the mixed-use and part of the same zoning.

Duffendack asked if staff has worked with the applicant regarding the deviation for the east setback. Klein stated when this project was first seen there was a 500-ft. setback between the project and Leawood Estates. There was not much of a parking lot on that side of the development. When it came back for preliminary there was a parking lot on the east side and it reduced the distance between the lot and Leawood Estates to about 234 ft. After that, another third preliminary came through and the parking lot came back a little and was about 275 ft. Staff is aware of the sensitivity as far as the buffer area between the subdivision and this development. When the applicant came back with the third plan at 275 ft., staff did not want to see an erosion of that buffer again therefore staff included the stipulation of 275 ft. That setback was approved by the City Council. Since Council approved it, staff does not feel they have the authority to remove that stipulation. Duffendack asked if staff normally revises the stipulations when new information is presented. Klein stated staff sometimes revises stipulations, but due to the sensitivity to the neighbors staff feels the decision makers should look at it and determine if that setback should be allowed to decrease. Duffendack asked staff's opinion in terms of planning. Klein stated he feels it depends on the type of buffer the applicant provides. Staff has talked with the applicant about putting the trees closer to the parking lot with a berm and landscaping instead of putting trees up along the common property line along the east side so the parking lot would be shielded from the residents' view.

Applicant presentation: Presentation by Doug Weltner. Weltner introduced the development team. The applicant is agreeable to stipulations one through 41, but would like the variance to stipulation number four to allow the 243-ft. setback line from Leawood Estates. The applicant will properly berm and screen the buffer and will maintain the ten, 30-ft. tall, Sycamore trees along I-435.

Rohlf asked to see a landscaping plan. Weltner stated the landscaping was discussed during the work session and the applicant has changed the plan to conform to the City's requirement. Rohlf asked if the applicant has just changed the first phase. Weltner stated a lot of the detail is going to come with future phases. There is some landscaping that will be required along Mission Road with this phase.

Klein stated stipulation number 11 states the applicant would need to submit a landscape plan that meets all of the requirements of the LDO, with the exception along I-435. Since there is such a steep incline there, staff is not going to require the applicant to put in such a heavy buffer, since no one would see it. The landscape plan that they would be required to submit would have the full detail of phase one as well as all of the berming that would be taking place during the current phase as well as future phases.

Duffendack stated he does not have a problem with the setback deviation request and that it makes sense to do that in order to save a substantial feature of the site.

Williams stated he agrees with Duffendack. As long as the applicant creates the berm as proposed, it would be saving the mature trees and would be a plus to the project.

A motion to approve was made by Carper with an amendment to stipulation number four to read "243 ft." Motion seconded by Rohlf. Motion approved unanimously.

NEW BUSINESS:

CASE 70-03 LEABROOKE Request for approval of rezoning from AG (Agriculture) to RP-1 (Planned Single Family Low-Density), RP-2 (Planned Cluster Detached Residential), RP-3 (Planned Cluster Attached Residential), and SD(NCR) (Planned Neighborhood Retail), preliminary plat and preliminary plan. Located at 145th Street and Kenneth Road.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a rezoning from AG (Agriculture) to RP-1 (Planned Single Family Low-Density), RP-2 (Planned Cluster Detached Residential), RP-3 (Planned Cluster Attached Residential), and SD-NCR (Planned Neighborhood Retail), preliminary plat and preliminary plan on 158.24 acres. The development will consist of 82 single-family lots on 58.06 acres zoned RP-1, 61 single-family villa style lots on 24.50 acres zoned RP-2, 226 duplex and triplex units on 67.99 acres zoned RP-3, and one lot containing 34,500 sq. ft. of neighborhood retail on 7.68 acres zoned SD-NCR for an FAR of 0.10. The residential portion will have an overall density of about 2.45 dwelling units per acre. This property is just beneath Camden Woods, south of 143rd Street and west of Kenneth Road. There is currently a farm on the property. There are a number of physical constraints on the property. A large portion of the property along the southern boundary and at the southeast corner is within the flood plain. A railroad crossing exists at the southeast corner of the property. There are overhead transmission power lines that run through the property at the northeast corner and then head due west. The easement for those power lines is about 160-ft. wide. The applicant is proposing three different zoning classifications for this property. The applicant is proposing RP-1 zoning along the northern boundary and then along the western side of the property, adjacent to Camden Woods and Steeplechase. The applicant is proposing RP-2 near the center of the project that extends from the northwest corner down into the heart of the subdivision in which they have about 61 single-family villa style lots. The applicant is proposing about 226 duplex and triplex units within the central portion and then to the southern portion of the site. The development contains two accesses off of Kenneth Road. This development also contains an access connection with Steeplechase to the west and Camden Woods to the north. Another access is also shown that connects this project with Ironwoods Park. That access is planned to be kept closed most of the time unless there is an event in the park and then it would be opened up as an additional exit from the park. Kenneth Road would be improved during the first phase of the development. The part to the north where Camden Woods enters onto Kenneth Road would all be re-graded all the way to the southern portion of their southern entrance. All of that would be graded out at final, which would eliminate that hill which has been a problem in the past. That would be done during the first phase. Staff is also recommending that the northern access be constructed during the second phase, which is where they show the RP-1 portion along the northern portion, connecting into Kenneth Road. Staff is recommending that connection be made to Kenneth Road at that time. Staff is recommending approval of this case with the stipulations stated in the staff report.

Applicant presentation: David McIntyre introduced the development team.

Presentation by Phil Owen. This is a very unique project. There are hundreds of people wanting to live in Leawood. There are two pieces of land left. One is landlocked. This property is the old Parson's farm. There is one fairly new house and a few other homes on it. The developer's mission statement for this project is "to provide beautiful housing that will increase in value through the careful integration of planning, architectural design, landscape, amenities, craftsmanship and responsible conservation of the natural beauty of the site". McIntyre also had a Corps of Engineers water tributary study and survey completed on the site. Owen described the site plan in relation to the surrounding developments. The most prominent feature is the 160-ft. wide highline easement. There are US Tributary waters on the site. There is a 100 and 200-year flood plain, under the control of FEMA, on the south end of the site. There are gas line easements and sanitary sewer easements. KCP&L had a blanket easement over the northern end of the site. The applicant was able to remove the blanket easement from KCP&L on the northern portion. The southern portion has an existing creek, is wooded with views into the park. The northern portion has long views and distinctly different areas that offer absolute assets. One of the most important things to do is to obscure the KCP&L easement as much as possible. The most natural place to enter this project is at the southern entrance off of Kenneth Road. The applicant has followed the flood plain and created a 1,750-ft. entry drive without a single income-producing lot to bring a person from the natural entry point to the formal entrance. The property has been divided up into different zoning categories. The RP-3 triplexes become natural buffers to visually screen the high lines. The "park estates" are located at the southern center. There are a total of 18, very large, almost 3,000 sq. ft. footprint, one and a half and two story units that are set up in an internal courtyard with long views of the south area of the site. There are a total of six homes at the southwest corner of the site that will be called "the forest". The developer would build a bridge to extend across the 280-ft. flood plain. The tremendously large lots on the west side are the "conservatory" and have views to the south "forest" area and hide the high lines coming across the backyards. The northern and northwestern lots are "the highlands". They are RP-1, single-family lots. The developer has not just matched, but overmatched with Steeplechase, and has matched lots along Camden Woods until the Camden Woods RP-2 section, where the developer is proposing RP-1 lots against that section. There are US Tributary waters that have to be preserved with RP-1 lots surrounding. The RP-3 duplexes are hidden in a pocket in the northern center. Owen showed and described the drawings of the amenities and then described the elevations. The three eastern buildings will be neighborhood commercial retail and fully bermed on the backside to completely hide an exterior service corridor. The applicant has taken both an English Village and Old Leawood as design elements for the retail elevations. The materials will be stone, brick and stucco. The intent and directive is to make this development look like it has been there - not new. It will be a compliment to Leawood and the neighboring properties.

Williams asked the approximate square footage of the triplex units. Owens stated they would range 2,923 sq. ft., 2,370 sq. ft. and 2,410 sq. ft. Williams asked why the developer decided to place the RP-3 duplexes and the triplexes where there are and why the developer did not place additional single-family housing in those areas. Owens stated the developer chose RP-3 in order to pick up the density. There is a total of 46% open space for this project. The developer needed to pocket some increased density in order to work with everything that is on this property. One of the problems in Johnson County is that there is not enough distinction between the products. The applicant has tried to create an absolute distinction in products between the coach homes, town manors, the park estates, the preserve in the middle, the highlands, the conservatory and the forest. There are six different products. Williams stated that does not answer his question and that he understands the issue of density. He then asked the size and rough value of the homes in the areas on the west and the north single-family homes with larger lots. Owens stated those lots will be \$300,000 for the land and over a million for the homes. The area to the north will vary from \$175,000 to \$225,000 for the land and around \$750,000 for the homes. In the northern area the developer would be matching the market in Camden Woods, which is \$500,000. The developer has overmatched in price for the RP-2 portion of Camden Woods. The park estates will be in the \$750,000 range. Williams asked about the RP-1 portion along the streamline. Owens stated they are anticipating \$300,000 to \$400,000 homes. McIntyre stated the lots that border Camden Woods and Steeplechase would vary in price and there will be an average price of \$90,000 for the lots. The lots that back up to Steeplechase will be from \$90,000 to \$125,000 with an average of \$105,000. The RP-2 villa lots will range from \$69,000 to \$90,000 with an average of \$75,000.

Rohlf asked for an explanation of the flood plain. Owens described the flood plain on the site plan. Rohlf asked about one of the triplexes infringing on the flood plain. Owens stated the applicant has made some adjustments and there are no homes in the flood plain.

Duffendack asked for a description of how the applicant envisions the open space. Owens stated there are only a small number of trees on the site north of the flood plain. There is a large amount in the forest area on the southern end. The developer is bound by KCP&L on what they can place on the area running through the center of the site. The developer is proposing natural, low level grasses, items that fit into the requirements of the easement. The southern portion, along the flood plain, will be using different kinds of grasses and plantings. The applicant is limited by what they can introduce into the flood plain. Duffendack asked if there would be trails. Owens stated, yes, and then showed the proposed trails on the site plan. There will be a boardwalk around the pond. There is a very extensive trail system. Duffendack asked if that trail system would be open to the public. Owens stated that while it is intended for the residents, it would be open to the public, just like a public sidewalk.

Public hearing: Janice Barbosa, 2917 W. 144th Terrace, in Camden Woods. When she and her husband were first looking at homes they chose Leawood because of the higher standard that the City holds for the builder and developers. Leawood looks out for the people who live here. She called the City and spoke with the planning department and was told the area to the south was on the Comprehensive Plan as low density residential. She then asked what would be the chance that it might change and was told that it was not likely and that Leawood looks after it's homeowners. She has a real concern. Her concern is not the quality or integrity the developer is trying to bring to the development. She and her husband are concerned with the density. They understand the challenges of the land. The biggest issue is that there is an active rail line running through the property. It is a major noise issue. One concern is that the developer is going to be building high-density housing in a market that is not known for high density. She would like to know the likelihood that there will be people buying these duplexes and triplexes that are located within a quarter or an eighth of a mile of the rail line. If there are two cars for each of those homes, it would put over 700 cars with the one exit onto Kenneth and possibly another, but also through Steeplechase and Camden Woods. They are also concerned about what would happen in the long term if the duplexes and triplexes do not sell. She believes the duplexes and triplexes could be sold to property owners who would make them leased properties. If that were to happen, the development would have not only density that does not match the surrounding environment, but also rental property. The City has always had a standard of maintaining environments that are complimentary to the surrounding developments. Steeplechase and Camden Woods are very high-end, very low-density homes on oversized lots. It seems not in keeping with that spirit if the comprehensive plan has this planned as single family housing on this property. She and her husband feel the only reason the City is being asked to entertain the ideas of duplexes and triplexes is financial. She and her husband have talked to a couple of developers who have looked at this land and passed because the price tag was too high. One indicated that in order to maximize the investment on this land, they would have to go to high-density. She and her husband do not want to have to deal with the problems that could arise from the high density, as adjoining neighbors.

Alex Green, 3042 W. 144th Terrace. His home is about a block into Camden Woods, so he does not border this new neighborhood directly. He has lived there and has driven down Kenneth Road for five years. He is very familiar with how this property looks and what the traffic situation is. There are tons of obstacles, which the developer has already alluded to. He feels the developer glossed over the flaws of the property and the reality of the traffic situation surrounding the property. There is no infrastructure on the current roads to accommodate any more than a minor increase in traffic. Heading south on Kenneth just past 135th Street, there is almost an accident where the two lanes merge because it is hard to identify if that is a two-lane road. Another problem is the Church that is a mess and does not look like Leawood property, then as you continue to go south there is light commercial on the east side that is going to continue to be built up. Additionally, heading south to 143rd Street, that intersection is becoming more of a problem because the highway opened up and there is more traffic coming in from Missouri. There is major congestion at that intersection. There are constantly cars skipping over State Line Road heading east to west. As one is headed to Camden Woods at the top of the hill it is completely blind and he fears for his family's safety as he tries to pull onto Kenneth Road. One cannot see the approaching traffic coming from the south, heading north onto Kenneth Road. The developer has mentioned they would re-grade Kenneth Road to accommodate the traffic.

Unless this road is made into four lanes, he does not see how there would not be constant backups and accidents. The noise is unbelievable from the railways. He does not see how the developers anticipate selling these properties for \$500,000 to a million dollars. Camden Woods properties are not \$500,000; they are \$350,000 and more. Nor are the villas. The developers are planning on putting in properties that they claim are going to sell for more money than the homes in Camden Woods. He does not know why anyone would spend \$250,000 on a triplex when it is next to the train tracks. The noise from the trains is so great that you cannot hold a conversation standing next to the tracks. The developer failed to mention two critical places where the rail line runs throughout. The bottom southeastern corner is constantly flooded. The houses to the south of it are tiny, old houses on 151st Street. The second intersection of the rail line is at 151st Street, just past the intersection of Kenneth and 151st Street. There are numerous amounts of traffic there. The entire neighborhood ends of being between the two railway cutoffs. The school at 143rd Street and Mission has dozens of cars parked in the road waiting to pick up their children. He does not understand how this will work. He hopes that Kenneth Road would be expanded to four lanes. He does not see how the current road infrastructure would accommodate any significant amount of housing development on that property.

Jim Cannon, 1604 Mohawk in Steeplechase. He agrees with what the previous two residents have said. He has questions about the density and also the infrastructure on the roads, water and sewer. He is also concerned with the home prices. He asked if there is common ground going between the two subdivisions or will the lots directly back up to each other. If there were some common ground, he would like to know the depth. Binckley stated the lots will back up to each other and the depth would be the same as Camden Woods. Cannon stated the school could not handle the density. It is his understanding that the school is very populated with the density the way it is. He is concerned that if they can not sell those homes, those prices will drop.

Quinton Hammontree, 14546 Canterbury Street in Steeplechase. He asked what the arrow is on the left side of the site plan. Klein stated it is a connection between Steeplechase and LeaBrooke. Hammontree stated that would cause traffic to go right into Steeplechase. That would be a lot of traffic coming from the west. There could be 350 cars coming through there a day, every day, if they all sell.

Mike Huffer, 14450 Chadwick. If one looks at the math of 700 cars and maps out where the schools and churches are and takes a look at the direction that all of that traffic will flow, it is obvious that this will not meet the needs of this community or the adjacent communities.

Miles Franz, 14471 Chadwick, lot 84 of Camden Woods. He pointed out his lot on the site plan. When he is in his house with the television on he can feel the train rattle his house and hear the noise. He would like to know how that would affect the value of the homes adjacent to the train tracks. He believes there is no possible way that a person would pay the price they are suggesting for those homes next to the train track.

Mike Finnan, 14602 Canterbury Street in Steeplechase. He has lived there about 5 months. He moved to Leawood because of a lifestyle and the way that the City takes care of the people. He feels this development looks too much like Overland Park with multi-use together and the potential traffic problems.

Thomas Bax, 14500 Howe Drive in Steeplechase. His concern is that there are two entrances to Steeplechase and all of the traffic coming out of this development will make those major thoroughfares. There could be 700 cars a day, two times a day. He lives on the corner of 125th Street & Howe Drive. He is trying to sell a home in Kansas City, MO that was on a boulevard. When they widened his street in Kansas City his house value became about \$150,000 less because the boulevard is now a thoroughfare. He is concerned that the same thing could happen to his house in Leawood.

Keith Seymour, 3050 W. 144th Terrace in Camden Woods. His wife goes to work early because of the traffic. It takes her 10 to 15 minutes to get onto Kenneth Road from 143rd Street. When a train is crossing there is a stack of cars waiting to go across the track. There is one entrance there and he does not believe they can take a bunch of cars through Kenneth.

Jeff Hibschie, 14421 Norwood Street in Camden Woods. He lives next to the egress by the fairway. He believes most of the traffic will go through that egress because of the bad hill where the visibility is bad. The rest of the traffic will be going through Steeplechase. He feels it will be taking a real bad traffic situation and making it worse.

Alex Green, 3042 W. 144th Terrace spoke again. He believes the new City park will add to the attractiveness of Leawood and to the value of the properties around there and the whole community. However, he is concerned the developer will be benefiting from the park, but the developer would not be paying to police or clean the park. This park is basically being merchandised as part of his property. He is concerned about what would happen to the park if the homes do not sell and then they have to be sold off at much lower rates than the other homes in the area. He is concerned the park would be flooded with traffic from this neighborhood and he is concerned the park density would go up exponentially more than it would if this were a neighborhood full of single-family homes. He then asked who would be responsible for paying for the additional upkeep due to the additional foot traffic from this site and who would pay to police the park. If the duplexes and triplexes decrease in value over the years and becomes a lower level of living relative to the community around it and the people living in the duplexes and triplexes are flooding the park, he does not understand why the City is wasting the money on something that could end up being a dump. It will not have the charm it has now if it is flooded with the kind of people that would not normally be there, if these were \$500,000 to a million dollar homes.

Les Hinmon, 14401 Howe Drive in Steeplechase. The traffic flow is a major concern. The traffic will flow by the neighborhood pool in Steeplechase. He is also concerned with the involvement with Blue Valley School district and their demographic studies and whether that area of Leawood can support that kind of density. Prairie Star Elementary is already overcrowded; they are holding classes in trailers. There has been some discussion as a future alternative to move the student population that lives in Steeplechase away from Prairie Star. More student population coming from a development such as this would only make that worse. He would hope the Commission would discuss with Blue Valley Schools and their demographics team before making a decision.

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

Munson stated he likes the project, but there are some details that bother him. After the presentation and public hearing he still has some misgivings on the project and on whether it should be continued in order to satisfy his concerns. He is not in a position where he could support approval.

Carper stated the master plan should be directionally correct in terms of what the City intends to do with their developments. Camden Woods and Steeplechase were both master planned as low-density and in the case of Camden Woods the City has made some deviations. The master plan should be directionally correct, but it is not in concrete. This piece of property has a lot of difficulties because of the easements. He is concerned with the amount of density. He appreciates that the developer has made attempts to buffer the single family housing to the north and to the west, but it is still too much density. He would like to see more single-family housing and less duplexes and triplexes.

Williams stated he has concerns with the density. He is also concerned with the distribution of the different properties; the variation from what is presented as \$250,000 to the \$750,000 property range. There are properties that are across the street from each other where one home could be a third of the value of another. While he feels there is an opportunity to have this type of combination within the same property as large as this, he believes it is inappropriate to have it right across the street from each other. The idea of villas properties is generally a good one. He feels the way these villas are proposed creates a mammoth linear concept. He would like to see the street shortened or the density decreased.

Pilcher stated he has been impressed with this plan from the beginning, although he still has concerns with the density, knowing this has been planned as low density for some time.

Duffendack asked the status of the traffic studies that have occurred in this general area and asked for more information on Kenneth Road. Ley stated the developer submitted a traffic study and that is why they went from one to two intersections along Kenneth Road. Kenneth Road is not within the next 5 years' CIP for the City. Public Works is looking at the intersection of 143rd Street and Kenneth for signals. Duffendack asked Ley to comment on the statements made during the public hearings regarding traffic. He then asked if the traffic study was comprehensive in terms of looking at the entire traffic flow patterns around the development. Ley stated the traffic study did not take into account the traffic flow through the surrounding subdivisions. The City needs to speak with the railroad to have them review the plan for the space in between the tracks and their intersection. Duffendack asked what the plan would be for the reconstruction of Kenneth Road. Ley stated it would be at least five years out, but it would be four lanes, undivided. Duffendack asked if there would be any additional signals. Ley stated just at 143rd Street, most likely.

Binckley stated the Public Works memo identifies the requirement to lower the hill on Kenneth Road, just south of the entrance into Camden Woods. It also identifies the improvement of southbound Kenneth Road to the southern entrance of this subdivision.

Duffendack asked if there has been any kind of population study for the Blue Valley School District. Klein stated staff is in communication with the school district's planning department. Duffendack asked what their intent is with the development on this site. Klein stated he does not know. He normally gives the school district the numbers and types of homes so that they can judge the needs of the areas.

Carper stated he does not feel that it is in the Planning Commission's purview to decide the needs of the school district.

Duffendack asked if there are other areas in Leawood that have this type of density. Binckley stated Camden Woods to the north is 1.95 dwelling units per acre and Steeplechase is 1.96. To the north, Leawood Falls has a mixed density of RP-1 and the former RP-2 at 2.94 units per acre. The Villas of Leawood is a 5.29 and in the south is Villas of Whitehorse at 151st Street and Nall Avenue at a 3.89. This development is at a 2.45 overall with the RP-1 section being the lowest at 1.41 and RP-3 being the highest at 3.42. Staff prepared this comparison in order to get a general feel of the other areas and their density.

Carper stated the majority of the 46% open space is on the southern end and it is flood plain. Based on the calculation of 3.42 units, it looks like the flood plain area has been included in the RP-3 portion. Binckley stated some of it was in the RP-3 portion, some of it was related to the RP-1 as it splits on the north-south. On the RP-1 and RP-2 portion, staff looked at the tributary and the power line area. Carper stated that the bulk of it is associated with the duplexes and triplexes, which makes the 3.42 artificially low. Binckley stated staff looked at total area for the other subdivisions, also. Carper stated his point still stands that the majority of open space is at the southern end of the property, which gives the impression of very high density north of that.

Duffendack asked why staff is not in favor of the setback deviations for the commercial portion of the project. Klein stated staff is not in favor of the setback deviations because staff feels the applicant could make the required 40-ft. setback. The applicant has stated they will revise their plan to show the 40-ft. setback for the commercial-retail. In addition, the applicant has stated they would meet the 25-ft. parking setback that is required for that zoning.

Carper left the room.

McIntyre asked to speak in response to some of the public's comments. Duffendack stated he would be allowed. McIntyre stated the noise has been a concern and that is part of the reason for the two-story retail area and the steeped roof, to deflect some of the noise up. There will be a 300-ft. waterfall at the entry. There will be fountains in both of the ponds and the north entry will have a waterfall. The developer is trying to mask as much of the railroad noise with what they call "white noise". He would think that the residents of Camden Woods who are complaining

about the railroad noise would appreciate a denser housing with an extreme amount of landscaping that would absorb some of the noise. He has two traffic studies that indicate there will be a considerable amount of traffic generated by this project. Almost all of it will go to Kenneth Road. The studies also show that a considerable amount of Steeplechase and Camden Woods traffic will come through this development to Kenneth Road. This development will contribute \$400,000 to the improvement of Kenneth Road. It is his understanding that it will be used to lower Kenneth Road immediately starting with the entrance at Camden Woods. There are traffic and noise problems from Kenneth Road, which is why the least expensive units are encased in a traffic circle with landscaping all around them. The applicant had a marketing study commissioned that shows there is a large number of empty-nesters and the duplexes will predominately be occupied by people whose children are grown. Some of the villas in the grassland area by the flood plain is a concept that is used in coastal areas where there are units connected with courtyard with views.

The applicant requested a continuance.

A motion to continue this case to the fourth Tuesday in January was made by Munson and seconded by Pilcher. Motion to continue approved unanimously. (5-0)

CASE 75-03 MISSION RESERVE ANNEX Request for approval of a rezoning from R-1 (Planned Single-Family Low Density Residential) to RP-2 (Planned Cluster Residential), preliminary plat and preliminary plan. Located south of 151st Street and east of Mission Road.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a rezoning from R-1 to RP-2, preliminary plat, preliminary plan, final plat and final plan. This is a piece of property between Leawood Mission Valley and Mission Reserve that was never platted. It is adjacent to the golf course. The property is owned by Don Bell who has had discussions with the owner of lot 15 of Leawood Mission Valley to sell the southern piece of property to incorporate it into that lot. That portion of the property would remain R-1. The applicant is requesting to rezone the northern piece of property to RP-2 to match the zoning with the property to its east property line. This piece of property is requesting the same deviations that Mission Reserve received, which are a 22.5-ft. front setback and a 7.5-ft. side yard setback. The reason for these deviation requests is because the lot is an odd shape and it would make it possible for a house similar to the ones to the east to be placed on the lot. Staff is recommending approval of this case with the stipulations stated, but would like to recommend one modification. Stipulation number two states the applicant is responsible for a park impact fee. Since that time the developer has produced a signed document that is an agreement with the City that in exchange for land that was dedicated to the City for the Ironhorse golf course, Mr. Bell would not be required to pay any future park impact fees related to those properties adjacent to the golf course. Staff has verified the document is valid and would like to remove that stipulation.

Munson asked the maximum footprint of a house that could be put on the pie-shaped lot. Klein stated staff took a footprint of one that Mission Reserve had done before of over 3,000 sq. ft. and it would require a setback deviation in order to be placed on the lot. Staff is supportive of the deviations because the lot would have the same setback as the homes on that side of the street and because if the deviations were not granted, the Commission would be requiring a smaller house. Munson stated he would prefer to match the homes across the street. Klein stated the shape of the house would be more of the issue, rather than the size.

Duffendack asked what the setback would be on the east side of the lot. Klein stated it would be a 7.5-ft. side yard setback. The required setback is 10 ft. The Mission Reserve subdivision also has that same deviation. The setback deviations are required in order to put the same size home on this lot as the adjacent homes. Munson asked if there is any difference in required roofing materials when homes are that close to each other. Klein stated any homes that are 20 ft. or closer require class A roofing, which is fire resistant.

Carper returned to the meeting.

Applicant presentation: Presentation by Jerry Pruitt with Campbell, Barber and Lambeth Engineering. Pruitt stated he tried the footprints of the homes across the street and they fit nicely on this lot with the requested deviations. The subdivision to the east has a buffer of trees along their west line that would create an area 20 ft. or more wide, which would increase the distance between this house and those. There will really be no house close to this one.

Public hearing: Daryl Marmon, 4390 W. 152nd Court. Marmon is also representing two other homeowners who could not attend due to the holiday. It is his understanding that the property to the south will remain R-1 and he has no problems with that. He is concerned with the parcel to the north. When Mr. Bell purchased that land and developed Guilford Downs and the Leawood subdivision there were two small lots left that could not be built on, from his understanding. The developer is saying that he could put a home on that lot that is comparable to the Leawood addition. If they can do that, then he does not understand why they are asking for RP-2 zoning. When the Mission Reserve subdivision was trying to be put in, he and the homeowners he is representing were opposed to the 3rd plat because the lots were very small. Marmon and the people he is representing had asked the City if the south side of Fontana could be RP-2, then the north side of Fontana could be RP-1. They were told the Commission does not like to have two different zone ratings across the street from each other. The reason the developer wants to make this an RP-2 is so that it could be the same as Mission Reserve. If that is the case, then he does not understand why the developer did not continue the R-1 zoning. He and his neighbors reached an agreement with the developer of Mission Reserve to put in screening along the entire side of his development and the Mission Reserve development. If these homes are supposed to look similar to Mission Reserve it will be large lots across the street from an RP-2 home, closer to the street. There are only six places that he noticed where there is RP-1 next to RP-2 and in all of those cases none of those homes look directly at RP-2 and the two that are next to each other are side by side. They are all separated by a major street or cluster, not a residential street. His main concern is the deviations for even shorter setbacks.

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

Munson asked what could happen to this lot if it does not get rezoned. Klein stated the size of the northern lot is actually greater than 15,000 sq. ft., which is the minimum within the R-1 zoning. Even though many of the lots in Leawood Mission Valley are much larger than the 15,000 sq. ft. minimum, there are a few that are about this size. The main reason for rezoning is for the setback deviation. R-1 requires a 35-ft. setback and the Commission is allowed to deviate from that by 80%, but that would not get them to the 22.5-ft. Staff is also trying to avoid one house being set back further than the rest of the homes on that side of the street. Staff is still requiring street trees to be planted at a rate of 35 ft. on center, the same as any other street tree. Staff is trying to make it look like what it is, which is a single-family neighborhood. Staff is not suggesting any berms or fences because it would not fit in with the streetscape.

Pilcher asked if it would be called "Mission Reserve Annex". Klein stated the owner of Mission Reserve has indicated to staff that they are objectionable to the name because the owner of Mission Reserve does not own the lots. Munson asked if it would be a two-lot subdivision. Klein stated, yes. Pilcher asked if there has been any request for a sign. Klein stated, no.

Munson stated he agreed with staff's recommendation.

A motion to approve was made by Munson with an amendment to remove stipulation number two. Motion seconded by Pilcher. Motion approved unanimously. (5-0)

Brain arrived.

CASE 78-03 CORNERSTONE - BUILDINGS 4 AND 5 Request for approval of a final site plan. Located at the southeast corner of 135th Street and Nall Avenue.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a final site plan for the Cornerstone development in which building number three would be eliminated and buildings four and five would be reconfigured. The proposed area of buildings four and five is 42,821 sq. ft. In addition, the applicant is requesting to make modifications to the following items that were approved for the Cornerstone development: the parking lot light fixture, the pavers used to demark the pedestrian crosswalks and some of the development monumentation. At the eastern end of the main center there were three individual buildings that created a cap to that eastern end. The applicant is requesting to remove one of the buildings and that the buildings be spaced out a little bit to allow for larger plaza areas. In addition, they are proposing to move some of that square footage into building number four. In addition, the applicant is requesting to replace some of the monumentation. They still want to keep the major monument signs that were previously approved along both sides of Briar, however, they have submitted a new design for a monument sign within the median that will be placed off of 135th Street, off of Nall Avenue, and on the west side of the eastern access from 137th Street. This new monumentation is a little bit smaller. It consists of stack stone with a metal ornamentation on the top and then the name projects outward from that. The applicant is requesting the model of the light fixture to be changed. The currently approved fixture is almost the same as the ones used at City Hall. The major difference between the two is that the newly proposed fixture is a little boxier and has a square pole, as opposed to a round pole. Staff is recommending the originally approved fixture. The applicant is also requesting that the interior crosswalks be changed. The crosswalks that are along the perimeter of the development, adjacent to Briar, 135th Street and 137th Street would remain as originally proposed, which is brick pavers with concrete on either side of the pavers. Within the development, the applicant is proposing to narrow the stamped concrete crosswalks. The applicant would like to replace the large stamped concrete areas with asphalt. Staff is not supportive of changing the lighting fixture to the one they are now proposing and staff is not recommending approval of changing the larger areas of stamped concrete to asphalt. Staff is recommending approval of the other items the applicant is requesting with the stipulations stated in the staff report.

Munson asked for a description of the swinging gates. Klein stated there is an area that provides access to the trash enclosures and service areas. These doors will swing out, rather than roll open. Staff has asked the applicant to make these a little more attractive. The developer stated they felt they could add some depth into the gates. They would be able to make the bars thicker around the frame, then a little smaller for the slats in the middle. Munson stated the gate would really detract from the building if it is not done right.

Applicant presentation: Presentation by Henry Klover of Klover Architects. Klover described the proposed site plan. The applicant has added about 10,000 sq. ft. of space to the first phase. Klover described the three-dimensional rendering. The applicant has added marquees and a tower element. Klover described the elevations. There was not enough room to do the horizontal sliding gates. Klover has done the swing-out gates in other developments and they work very well. The applicant agrees to work with staff on the material of the buildings before going to Governing Body. The signage was a series of big elements at the corner features. The applicant has decided that there were too many of them, along with the problems with the utilities. Staff seems supportive of the applicant's request. Briar has not changed; it is still flanked by signs. There are smaller signs at the median islands. Klover showed a rendering of the current light fixtures at City Hall then showed a computer rendering of what it would look like with the newly proposed fixtures. He has been visiting City Hall for many years and has never noticed the light fixtures out front. The cost difference in the light fixtures is \$100,000 total. He would rather not incur that extra expense just because they are the same lights that City Hall has in its parking lot. He would rather put that money into the planting and other places. The applicant has looked at other projects and worked with staff in regard to the location of the pavings. Colored concrete has been approved and the applicant is now asking to do a colored concrete in a lesser quantity than what was previously approved. Staff is requesting brick pavers but the applicant is asking for the Commission's approval to allow the colored concrete.

Duffendack asked Klover to point out the areas where the applicant is requesting to change the pavers. Klover pointed out the areas on the site plan. Duffendack asked how many areas the applicant is requesting to change to asphalt. Klover stated, three. Duffendack asked how much of a cost savings it would be to the applicant. Klover stated it would save about \$5,000.

Carper asked why the stipulation regarding the amount of EIFS on the south elevation is being considered before the case goes to the Governing Body. Klein stated the applicant's original submittal had the south elevation as predominately stucco. Staff commented to the applicant that they would like to see a proportion of materials similar to the center. The applicant came back with a larger proportion of cast stone, stacked stone and also EIFS. The previously approved plans had about the top fourth of the elevations made of EIFS. The new submittal shows about the top third of those elevations made of EIFS. Staff feels it would look nicer if the applicant brought the brick back in and just used the EIFS as an accent material. Staff feels the applicant will continue to work with them on that feature and that is why the stipulation is included. Carper stated he would like to know what he is approving, rather than leaving one elevation for staff and the applicant to decide what constitutes less and more. He also stated that monetary issues are not the Commission's concern. Regarding the lighting, if there were not a difference between the two fixtures from a quality and aesthetic standpoint, then he would be in approval of allowing the change. However, there is a difference between brick pavers and painted concrete. He would like a better understanding of what the south elevation would actually look like.

Brain stated he agrees with Carper, that the Commission should not be making monetary judgments. He then asked the applicant if there are \$150,000 worth of landscaping improvements or if it is interior space or if they are trying to reduce lease rates. He also asked what items are different from the original approval. Klover stated nothing noticeable has changed and that anything done for this project is done to get the "best bang for the buck". Brain stated he agrees with Carper on the pavers but is undecided about the lighting fixture. He then asked if staff and the Commission are comfortable that this is in keeping with the prairie style architecture. He feels it does not look much different than a typical center with a few elements on it and would like to stay true to the prairie style.

Duffendack stated the typical definition of prairie style is not what is seen with this development, other than some of the decoration on the façade and a manipulation of some of the elements. He does not find the architecture objectionable, but does find it troublesome to take away from the architect the ability to design the development as a whole by focusing on parts of the façade that have changed. He does not feel the Commission and staff should deny the applicant the ability to make certain changes as the architect sees fit, just because that is the way it was approved at the preliminary application. It may be monetary or it may not be, the Commission should not care. The role of the Commission is to approve the general architecture and leave the details to the architects.

Williams stated he shares Brain's concerns with the new piece that has been added. It does not have the same quality as the rest of the center. The renderings are not too bad, and it does not come off as a typical center and does begin to blend with what has been approved for the entire center. He agrees with what Duffendack said about giving the design professional a little more leeway and using their professional judgment on the overall design and not getting caught up with 25% stucco or EIFS and that sort of thing. He thinks what they are proposing is reasonably good. He shares Carper's concern that if the elevations change the Commission should see and discuss it before it goes to Council.

Binckley stated it is her understanding that the applicant feels the final is what has been shown at tonight's meeting. Staff has tried to point out what has changed. The substantial change difference was that the two buildings are joined and that the materials have substantially changed. If the Commission were comfortable with what the applicant has supplied for materials and design, then that should be the direction; there would not be a modification.

Duffendack asked if the wording should be changed on the stipulations. Binckley stated it would be up to the Commission to decide. Brain asked if staff's recommendation is to go back to the originally approved materials with more brick. Binckley stated, yes. Brain stated he feels some of the architectural integrity has been lost. He is concerned about this corner because it is a corner into the City. He would like to keep this at a very high level both because it is a major project for the City and an entrance into the City.

Klover stated he was incorrect when he stated the \$100,000 would not benefit the project. One of the unique features of the project is that it has an internal courtyard that is very well landscaped. Klover was directed by one of the construction managers that the budget would suffer on the internal landscaping, which would exceed the

requirements. Another clarification is that the elevation staff is referring to is on the internal walkway, not the outside public street. Part of the burden in doing this type of center is that the internal walkway becomes a corridor. Town Center Plaza has their internal area as concrete block. In this particular case it is decorated and architecturally treated. The one wall in question is an interior wall. It is not facing the outside public street.

Williams stated in the original presentation there was a strong horizontal character to the development. He is not seeing that with this new submittal and feels it is much more choppy. The verticality of this elevation does not seem to relate to the other aspects in this project. Klover stated the applicant has continuous lines going through and have accentuated the corners the same. A lot of what Williams pointed out has to do with the buildings they are dealing with and their size. Williams stated even with the building and the size he still feels the south elevations have more vertical elements with a darker color and he assumes it would read stronger. Klover stated they are actual stone pilasters. The horizontal line continues through the façade. Williams stated he likes the marquee portion of it, but the pilasters and the stucco throw the visual off. Klover stated the applicant did that because there was some desire to have some rhythm going along there. It was too much of a flat wall before. Duffendack stated the Unity Temple in Chicago has that same sort of pilaster treatment of horizontal lines. Williams stated he is not seeing the same type of design or relationship as the other buildings that have been approved.

A motion to approve was made by Brain to support the three staff comments on changing the south wall fascia to the brick in stipulation six, and to retain the colored concrete that was originally approved and retain staff's recommendation to keep the originally approved light fixtures. Motion seconded by Williams.

Carper asked why the newly recommended light fixture is not acceptable by staff. Klein stated staff feels the light fixture the applicant is now proposing is too boxy. Carper stated he has trouble making a distinction from that far of a distance whether a fixture is boxy or rounded.

Williams asked if the Commission is voting on the elevations as presented tonight. Binckley stated, based on the motion, there would be additional stone or brick added to the elevations. Williams asked if the case would come back to the Commission. Binckley stated it would go on to City Council.

Motion approved 4-3. Duffendack, Rohlf, Brain and Pilcher for. Carper, Williams and Munson against.

CASE 80-03 PINNACLE CORPORATE CENTRE IV Request for approval of a final plat and final site plan. Located approximately at 115th Street and Tomahawk Creek Parkway.

Staff presentation: Presentation by Jeff Joseph. The applicant is Kevin Berman with Hoefer Wysocki Architects. The applicant is requesting approval of a three-story, 69,300 sq. ft. office building. This property is located near 115th Street and Tomahawk Creek Parkway. The proposed building will be constructed of brick, glass and cast stone. The building elevation is similar to the Pinnacle II and III buildings that are to the east of this project. The applicant is proposing a medical office building that includes a mobile medical unit. Staff is recommending a connection to the existing trail system within the Woods Villas, located on the northeast corner of this project. The applicant is proposing an 8-ft. diameter fountain within the plaza area. This fountain is part of the bonus criteria that was approved during the preliminary plan process for the additional FAR. Staff is asking the Planning Commission to decide on the size and type of the fountain. Staff is recommending the trash enclosure be moved to the north side of the building and be architecturally attached to the trellis structure that is used for the mobile medical unit. Staff is recommending approval of this case with the stipulations stated in the staff report.

Duffendack asked for clarification of the location of the trash enclosure. Joseph stated staff is recommending the trash enclosure to be located at the north side of the building, architecturally attached to the trellis structure used for the mobile medical unit.

Applicant presentation: Presentation by Kevin Berman of Hoefer Wysocki Architects. This project was recently given preliminary approval by the Governing Body. The applicant has read all of the stipulations and comments made by staff. Brick Owens is available to address most of the stipulations.

Brain suggested the applicant only speak about items that have changed since the preliminary. Berman stated the trash enclosure is the only change, but there are some stipulations the applicant would like to speak to.

Presentation by Brick Owens of HNTB. Owens described the site plan. The applicant is requesting to change stipulation number eight. The applicant would like to place the ornamental trees in bunches along the building. Mr. Block has agreed to place the trees within the 25-ft. landscape area, but Owens feels that is not the best thing to do. It might diminish some of the movement they are trying to create with the landscape. The changes that have occurred are mainly along 115th Street. The applicant is going to include berming as well as the landscaping. The 3-ft. barrier will still be there. The applicant is proposing a detached trash enclosure on the north end of the building. The applicant has agreed to move it where staff is suggesting, but would prefer the enclosure to be detached in the area to the north. The applicant agrees with the connection of the trail at the north end. Owens requested to change the wording of stipulation number 21 to read, "from the plaza to 114th Street."

Munson asked about the trail the neighbors did not want and if it has been excluded. Owens stated there would be screening between this development and the Woods. Binckley stated staff is not requiring or requesting any connection to the trail on this site. There is a connection north of this site, off of Pinnacle III, where it is already constructed. It would just take a small strip of a trail to attach the two trails, instead of going through the Woods. She has talked with Jeff Alpert from the Woods and he is okay with that. Duffendack stated it is hard to decide where trails should be placed when he does not know the entire trail system. He would trust staff's judgment on the placement of the trail.

Berman stated the applicant is interested in having the monument sign read, "Pinnacle Corporate Centre IV" and below that the address of the property. Binckley stated staff is okay with that.

Berman stated the applicant views the fountain as an element of the design intent. The applicant is requesting to allow the developer and the architect to decide on the design of the fountain. Binckley stated typically what would happen is that staff would follow through with the applicant and if staff felt the design did not meet up to the bonus criteria, then it would come back to the Commission for approval.

Duffendack requested to extend the meeting until completion of all of the cases on the agenda.

A motion to extend the meeting until 10:00 p.m. was made by Brain and seconded by Williams. Motion approved unanimously.

Carper asked for clarification on stipulation number 12. Binckley stated it is a precautionary measure. If there were a complaint, then the applicant is agreeing they will add additional landscaping or whatever the site might need. Staff does not anticipate any problems.

Binckley stated staff is recommending locating the trash enclosure just north of the trellis. One reason that staff is recommending that location is that the way the property sits, they can drop a substantial amount of the trash enclosure into the ground to help hide it and yet still attach it. The trash would also be closer to the facility and also easier for the employees to use. The gates would face towards the neighboring residences, but so will the mobile medical unit and the trellis and it should not be an issue as long as the applicant continues to buffer the north end.

Carper asked about the signs being allowed to display a postal number on the building. Binckley stated it would be their address; all buildings have their address on them. Carper asked if the address would be large. Binckley stated, no, it would not be like the 8700 State Line office building. Staff is saying that the tenants would be allowed to have their business name on a sign in addition to having a sign for the address.

Duffendack stated he agrees with Owens on the distribution of the trees and the ornamental impact. That would alter stipulation number eight. Binckley asked if he is suggesting the required number would still be provided, just at a different location. Duffendack stated, yes.

A motion to approve was made by Brain with a modification to stipulation number eight to indicate the appropriate number of ornamental trees required would be provided as shown at this meeting and that the trash enclosure would be attached to the building. Motion seconded by Munson. Motion approved unanimously.

CASE 81-03 STATE LINE ANIMAL HOSPITAL Request for approval of a preliminary site plan. Located at 2009 W. 104th Street.

Staff presentation: Presentation by Jeff Joseph. The applicant is Dr. Vern Otte. The applicant is requesting approval of a preliminary site plan for the construction of a one-story, 2,077 sq. ft. addition to their existing building located on 0.42 acres for a total F.A.R. of 0.24. The existing building is 2,338 sq. ft. This project is located at 2009 W. 104th Street. The parking for this building is located towards the west and east sides. The main entrance to the building is located on the east side. Per the Leawood Development Ordinance, the required front building setback is 40 ft. The applicant received a variance from the Board of Zoning Appeals (BZA) to allow a front setback of 10 ft. The applicant also received a variance from the BZA to allow them to build within the 100-year flood plain. The applicant is requesting a deviation for a 21.5-ft. rear yard setback. Per the LDO, the setback may be reduced to 85% of the required 25 ft. The minimum required open space for this project is 30%. The applicant is requesting a deviation to allow 18% open space. Staff has concerns with the number of parking spaces proposed for this project. The applicant is proposing eight parking spaces. The standard requirement for this type of use is a minimum of 3 parking spaces per 1,000 sq. ft. of lease space. The trash enclosure is proposed to be away from the building and within the building setback. Staff is recommending the trash enclosure to be located inside the setback and attached to the building. Staff is recommending approval of this case with the stipulations stated in the staff report.

Duffendack asked the number of required parking spaces. Joseph stated it would be 13 spaces. Duffendack asked if there is a way to do that on this site. Joseph stated he does not believe there would be enough space.

Munson asked how the BZA grants a permit to allow someone to build something in the flood plain. Marcano stated there is a specific flood plain variance. There are factors listed in the LDO that the BZA evaluated and granted based on their findings. Carper asked what the liability is to the City to allow a building that is already in the 100-year flood plain to expand their property. Marcano stated she would have to check her notes, but she recalls from the discussion that it was not a concern of the City. Ley stated in the ultimate 100-year flood plain the water would be 4 inches deep in the building. Carper stated he is not worried about the 100-year flood; he is worried about the 200-year flood plain that has occurred before in Leawood.

Pilcher asked for clarification on why the BZA approved the flood plain variance. Ley stated he does not believe a variance would have been granted for a new building, but since this is an addition to an existing building they are allowing them to expand it.

Pilcher asked if there is a stipulation regarding the number of parking spaces. Joseph stated there is no stipulation regarding the number of parking spaces, but staff has concerns on that matter.

Applicant presentation: Presentation by Dr. Vern Otte, owner of State Line Animal Hospital. He is the owner and operator of State Line Animal Hospital and has been there over 26 years. The business has grown and needs to expand. Otte described the site plan. Last year the tree line was removed and a brick wall was put in. Aside from building a parking garage, there is nothing he can do to add more parking spaces without removing some of the green space. The only person who attended the interact meeting was concerned about the screening. When Otte

showed the neighbor the plan with the trees removed and parking in its place, neither was happy with that. Otte feels that when staff refers to open space they are only referring to green space. He feels his property has a lot more than 18% as open space if the parking lot is counted as open space. He has no problem with the trash enclosure being where staff is recommending. He cannot change the parking spaces. There are 14 employees, but no more than six people are there at one time. The business has gotten along well over the years with the number of parking spaces. He does not understand why the utility lines would need to be buried, why the downspouts need to be enclosed or why there needs to be photometric studies. This area is in an industrial park. The light is not going to change at all. It is now zoned as business park, but it is not a business park, it is an industrial park. It is a dead end street, and not a heavy traffic area. He is not sure why he needs to irrigate since there is not much grass. Another issue is the type of building material. He would like to use concrete masonry units. It would be an improvement from what is in that area currently. Most of the buildings in the area are concrete block. There are a few slab concrete buildings. The City's facility and US Toy are both metal buildings. He is not sure why he should meet the same types of requirements as Pinnacle. He feels he is being asked to go beyond what this area requires. The landscaping is too much for the area. He is trying to do something better, and it does not appear that is enough.

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

Brain stated he feels the Commission and the applicant are too far away from making a decision at this meeting. He is sympathetic with the applicant's frustration, but cannot see the Commission getting to and through all of the issues raised tonight. He then offered a motion to continue this case and have the owner work with staff to determine the requirements, keeping in mind the applicant's comments. While the City is trying to improve that district, we are not trying to make it the centerpiece business park for the City.

A motion to continue was made by Brain until the second Tuesday in January if staff and the applicant can resolve the existing open items. Motion seconded by Munson.

Duffendack asked the applicant if he would be willing to work with staff to work out some of the applicant's questions. Otte stated he is willing to work with staff, but his dialogue with staff has been that staff cannot change the rules, only the Commission can. Duffendack stated the Commission's message to staff is that we are willing to look at these issues and are willing to deviate from them, just as the setbacks and so on have been on this case. Otte stated he feels staff is not able to change.

Carper stated the ordinance is written to try to improve this area. The Commission is not going to let it continue the way it has the last 40 years. It is not in concurrence with the rest of Leawood and that is why we have the ordinances we have. Brain stated he agrees with Carper. Each of the applicants who have come forward from that area has stated that they want to make changes, but do not want to make improvements. He wants to make it clear to the applicant that they will have to make substantial improvements in order to make the changes. That will mean some compromises on the applicant's part and could increase expenses but will add to that area. Otte stated there have been no changes to the buildings in those areas in recent years. Brain stated he recalls the O'Reilly, the Jiffy Lube and the cleaners having changes.

Duffendack stated the Commission's message is that they are willing to work with the applicant and would like to continue this case to the first meeting in January.

Pilcher suggested the Commission give some direction to staff and the applicant. He then asked if the next meeting would be a discussion at the work session or holding a meeting and making a vote. Duffendack stated he would rely on staff to interpret any compromises possible and come back with a solution, rather than a work session. He does not see how a work session would be necessary. Pilcher asked if that is the intention of the motion maker. Brain stated his intention is to hold a small formal meeting at the first meeting in January, and then continue the case to the second meeting if a decision cannot be made.

Brain revised his motion to continue to state, "to the earliest practical time to vote". Revised motion seconded by Munson. Motion to continue approved unanimously.

CASE 82-03 CORNERSTONE OF LEAWOOD, LOT 7 - ECKERD'S DRUG STORE Request for approval of a final site plan. Located at the southwest corner of 135th Street and Briar.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a final site plan for a 15,051 sq. ft. drug store with a drive-through. A couple of changes have been made since this was last seen at the preliminary application. As part of the stipulations at preliminary, RED development was required to present two letters to the City; one letter to address the square footage of the building and that the additional square footage would be taken from someplace else. That has been done and is included with the Commissioners' packets. The applicant has presented the plan of buildings 4 and 5 and has shown that they have taken the square footage from someplace else. The applicant has provided a letter stating the open space that would not be provided on this particular lot would be provided generally along 135th Street. There is a monument sign for the development located at the northeast corner. Stipulation number 13 states that the sign shall be located on a separate tract. The applicant has stated they are somewhat in disagreement with that. Staff is requesting that it be in a common area that would be maintained by an owners association. The applicant has stated they would prefer to do that with some sort of easement in which the monument sign would be maintained. In regard to stipulation number 14, the applicant has requested some directional signs with regard to the drive-through and exits. The directional signs they are proposing are box signs, which are not permitted by the LDO. Staff feels the direction into the drive-through is evident enough and there is really no need for directional signs. Staff is recommending no directional signs. In addition, staff is recommending some planters on the west side be added to provide a little more landscaping. Another change the applicant made is part of the 135th Street guidelines. A sidewalk has been added to connect the perimeter sidewalk along 135th Street with the entrance to the store. Staff is recommending approval of this case with the stipulations stated in the staff report.

Applicant presentation: Presentation by Mike Boyd. The applicant is in agreement with all of staff's recommendations, but has a few clarifications. The applicant has agreed to add the potted plants on the landscape plan as mentioned in stipulation number five. In regard to stipulation number 14, the applicant agrees the directional signs should not be lighted, but would like to work with staff and Eckerd's to possibly have some non-lighted signs. One concern is that cars would go the wrong way as they exit the drive-through. The monument sign is not a sign for Eckerd's, but a sign for Cornerstone. It just happens to be on Eckerd's lot. The applicant feels that it is more of a situation between the City and the developer.

Mike Hans with RED development. The property has already been platted and the area of the monument sign is not platted as a separate parcel. Rather than going through a replatting process, it would be the developer's strong preference to leave the property platted the way it is and to provide an easement to allow the developer to get to that sign to maintain it and also to enter into a maintenance agreement to ensure the sign will be maintained. The developer has discussed this with staff and it is their understanding that staff is agreeable to that as a solution. Binckley stated that conversation has happened and staff is supportive of that.

Duffendack suggested adding a stipulation to restrict the hours of deliveries to only when the store is closed. Boyd stated Eckerd's prefers to keep their customers able to come into their store. The biggest concern when this was originally discussed was that a delivery truck would block the main drive. Eckerd's preference would be to trust them to conduct deliveries so as to not interfere with traffic and their customers. Boyd offered to show a diagram of how a truck could sit in the delivery area and not interfere with the traffic. Duffendack stated his concern is not after the truck is parked, his concern is how it gets in there and what it does to the traffic flow during that time. The best idea he has is not to conduct deliveries when there is customer traffic. Brain stated he would be okay with no restriction of the hours if Eckerd's were to put up retractable bollards that would restrict the entrance just during the time of the deliveries. Boyd asked if the Commission would be agreeable to doing either the bollards or the restriction of the

hours. Brain stated he feels the bollards are a better solution than the restriction of hours because he is not sure who would enforce the compliance with the restriction of hours.

Duffendack asked for a description of how an 18-wheeler would pull into the delivery area. Roger Cassity of Phelps Engineering passed out a plan. Hans stated it is important to Eckerd's that if a truck were parked in the loading dock, there would be adequate room for a car to come off of the ring road to go through the drive-through. Cassity stated there would be room for a car to do a U-turn movement to get into the drive through with a truck sitting in there.

Munson asked if Eckerd's owns their fleet of trucks. Cassity stated, yes. Munson stated his company's union drivers would not unload with that kind of situation. Brain stated another question would be if Eckerd's would receive deliveries from other companies. Floyd Schexnayder, with Genesis Design Group, stated Eckerd's only receives deliveries from their distribution centers, so they control how their deliveries come in. That is why Eckerd's prefers not to have constraints put on delivery times because they will be controlling that to a certain extent. They are not going to want to interrupt business. Even though it is designed so that a car can get around it, they try to work the deliveries around their slow times, or times they are not open for business to prevent any problems.

Carper stated the distance between the trailer's front left fender and the curb is 20 ft. He is concerned about the traffic on the opposite side if a car was coming in from the street and wanting to go into the store. This is too big a footprint for this size of pad. This situation is just reinforcing this. There is less than 20 ft. for two cars to pass. There is some rationale for deliveries to only be after hours. Duffendack agreed with Carper.

Williams asked the anticipated number of drive-through customers. Schexnayder stated it varies. Without knowing the volume this store will do, he does not know. Williams asked the anticipated number of deliveries. Schexnayder stated he does not know.

Brain stated while he would prefer to have deliveries restricted to after hours times, he is not sure how this would work with Eckerd's since they have their own fleet. The Commission should have some latitude with staff to either restrict the hours or add some mechanism that would restrict the car traffic from that entrance during deliveries.

Munson stated Eckerd's would suffer if they disrupt their drive-through traffic and he feels the Commission should leave it up to Eckerd's to decide.

Carper stated the only way he would vote for this is if there is a stipulation added to allow the City to put some limitation on the times of the deliveries if it becomes a problem in the future. This is not a good idea from a planning perspective. Brain asked if there is any more to be gained by staff working with the applicant on this particular issue. Klein stated the bollards or time limitation are his only suggestions. Carper stated he is not in approval of deliveries during business hours.

Pilcher stated that while he agrees with Munson, that it seems like a problem that should take of itself, he also feels that it is a problem that the Commission needs to address. He then suggested staff could be directed to resolve this with Eckerd's. Binckley suggested "either/or" wording to take care of the traffic issues. Williams asked if the Commission could put something into the stipulations to require the applicant to come back after the store has been open for 12 months to look at the situation and see how much of a problem it has been. Binckley stated the Commission could add a stipulation for staff to write a report on how it has been working after 12 months and if there have been complaints, the applicant would agree to come back to work on that. Williams stated it is in Eckerd's best interest to not alienate their clients. He is not sure the bollards would work because it seems they would restrict traffic to the drive-through. He would support the idea of reexamining the situation after a set period of time.

A motion to approve was made by Williams with an addition of a stipulation to read, "Staff evaluates at the end of a 12 month period of time, the delivery and drive-through traffic and whether or not any complaints have been established. If a problem does exist, then the Commission will reevaluate with Eckerd's an equitable solution to the problem." Motion seconded by Pilcher. Binckley asked the motionmaker if they would

like to allow Eckerd's to have the one directional sign that is not lit. Williams stated he would be okay with that. **Pilcher removed his second on the motion because he feels the applicant should stripe the pavement for directions and not be allowed any directional signs.**

Brain asked if the motion has any restriction on the hours of delivery. Williams stated not at this time.

Carper stated he does not agree with the "equitable solution" part of the motion.

Duffendack asked if there is a second to Williams' motion. There was none. **Williams' motion was removed.**

A motion to approve was made by Brain with an addition of a stipulation to require the developer, at the City's request, to limit deliveries before 7:00 a.m. and after 7:00 p.m. and instruct staff to provide the Commission a report after 12 months as to traffic activities and complaints at this site. This requires the developer to restrict the deliveries if the City so requests. Motion seconded by Munson.

Pilcher asked if the Commission's only solution would be to restrict deliveries. Brain stated the applicant could always come back with other alternatives; the restriction of deliveries is just one suggested solution. Williams asked why the hours would be restricted from 7:00 a.m. to 7:00 p.m. since Eckerd's does not open until 9:00 a.m. He then suggested restricting the hours from 8 a.m. to 10 p.m. **Brain modified his motion to read, "before 8:00 a.m. and after 10:00 p.m."**

Williams asked if Eckerd's delivery drivers ever make deliveries before 8:00 a.m. at any of their stores. Schexnayder stated deliveries are normally taken during open hours, because that is when the staff is there.

A motion to extend the meeting for 10 minutes, until 10:12 p.m., was made by Brain and seconded by Carper. Motion to extend the meeting approved unanimously.

Binckley asked to remove stipulation number 13 regarding the easement versus having the applicant replat the tract for the monument sign. **The motionmaker and seconder approved the removal of stipulation number 13.**

Motion approved 5-1. Rohlf, Carper, Brain, Munson and Pilcher for. Williams against.

CASE 83-03 LDO AMENDMENT - SECTION 16-1-4, PUBLIC UTILITIES AND SAFETY USES Request for approval of an amendment to section 16-1-4 of the Leawood Development Ordinance regarding public utilities and safety uses.

Staff presentation: Presentation by Diane Binckley. This application is a request to the Leawood Development Ordinance to add in the ordinance a statement that is included in all of staff's stipulations regarding the undergrounding of utilities. There has been some confusion with some of the applicants in regard to whether "all" means "all" for utility undergrounding and staff would like to clarify that intent by putting it in the ordinance.

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

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

Meeting adjourned.

J. Paul Duffendack, Chair