

City of Leawood  
Planning Commission Agenda

February 24, 2004  
Meeting - 6:00 p.m.  
Leawood City Hall Council Chambers  
4800 Town Center Drive

**CALL TO ORDER/ROLL CALL:** Henderson, Rohlf, Carper, Conrad, Duffendack, Brain (tardy), Williams, 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 January 13, 2004 work session and the January 27, 2004 meeting.

Henderson would like to change the wording in the State Line Animal Hospital discussion to read, "asked for the reason of expansion", rather than "reviewed the reason for expansion".

**A motion to approve the minutes from the January 13, 2004 work session was made by Henderson with the change mentioned. Motion seconded by Rohlf. Motion approved unanimously.**

Munson made a correction to the 2nd paragraph of page 5 from the January 27th meeting. It reads, "deviation on the 50-ft. cul-de-sac length" and it should read "deviation on the 500-ft. cul-de-sac length".

Duffendack stated the wording during the public hearing on page 4 should be re-written so that it reads "he stated the City advised him", instead of "the City advised him".

**A motion to approve the minutes from the January 27, 2004 meeting was made by Carper with the change mentioned. Motion seconded by Henderson. Motion approved unanimously.**

*Pilcher arrived.*

**CONTINUED TO THE MARCH 23, 2004 MEETING:**

**CASE 79-03 SPORT COURT LIGHTING - BARTIMUS RESIDENCE** Request for approval of a special use permit to allow lighting of a sport court. Located at 11541 Cherokee Court. Public hearing

**CASE 14-04 VILLAS OF WHITEHORSE, 3RD PLAT** Request for approval of a final plat. Located north of 151st Street and east of Nall Avenue.

**CONSENT AGENDA:**

**CASE 18-04 TUSCANY RESERVE, 2ND PLAT** Request for approval of a final plat. Located southwest corner of 137th Street and Canterbury.

**CASE 21-04 IRONHORSE CENTRE, LOT 2 OF PHASE 1** Request for approval of a final site plan for revisions to the elevations. Located at the southeast corner of 151st Street and Nall Avenue.

**CASE 23-04a VILLAGE OF CAMDEN WOODS, 57TH PLAT** Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

**CASE 23-04b VILLAGE OF CAMDEN WOODS, 58TH PLAT** Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

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

**NEW BUSINESS:**

**CASE 02-04 LEAWOOD MARKET CENTER** Request for approval of a final plat and final site plan. Located at the southwest corner of 135th Street and Kenneth Road.

**Staff presentation:** Presentation by Mark Klein. The applicant is requesting approval of a final plat and final site plan for the construction of a 100,744 sq. ft. retail development on 14.20 acres for an FAR of 0.16. The Governing Body approved the preliminary application for this plan in November of 2001. The plan has had some changes since that time. The corner property at the northeast corner of the site was originally part of that application. That is no longer the case on this application. The applicant is proposing a retail development that has a central retail center along the south end of the site and three pad sites, two of which are along 135<sup>th</sup> Street, one of which is along Kenneth Parkway. (Klein showed a model of the development.) There is a memo on the dais requesting some amendments to some of the stipulations. These amendments were made after conversations with the applicant agreeing to modify some of the stipulations. A few issues are still outstanding. One issue is detention. The applicant is requesting that detention not be required as part of this site. Another is the use of Cherokee Brick. Another issue is the phasing of the development. The applicant should discuss the phasing as well as the traffic study. Staff is recommending approval of this case with the stipulations as amended in the memo placed on the dais.

Rohlf asked if staff feels the Commission is at a point to look this over tonight, since there are so many outstanding issues. Klein stated staff and the applicant have reached a point where they are agreeing to disagree. The applicant would like to make their case to the Commission to explain the reasons for the requests. Rohlf asked if the Commission should be considering the Lucas development with this case. Klein stated the Lucas development does not have the same types of issues and should be considered separately.

Munson asked about a traffic study and how they are planning on two access drives on 135<sup>th</sup> Street. Ley stated Bucher Willis reviewed the traffic study and Public Works would like to add the following four stipulations.

- 1) Kenneth Road access drive shall be constructed as a right-in, right-out. That is on the northwest corner of the site.
- 2) The applicant will construct right turn lanes for the access drives off of 135<sup>th</sup> Street.
- 3) To construct a right turn lane for southbound Kenneth Parkway at 136<sup>th</sup> Street and also at the right-in access drive at the south end of the site.
- 4) To construct the south access drive off of Kenneth Parkway as a right-in only.

Conrad asked if the curb cut onto 135<sup>th</sup> Street at the northeast corner would always remain as part of that traffic study. Ley stated the traffic study would be updated to include the access through the center, in the future. It would not have access directly to Kenneth Parkway or to 135<sup>th</sup> Street. Conrad asked about the retaining wall that separates that with a grade offset. Ley stated the north end of the parking lot is designed

to tie in at a 6% grade. Conrad asked if the access on Kenneth Parkway would be eliminated. Ley stated, yes. Conrad then asked if the current property owner has agreed to that. Binckley stated staff has had meetings and they have agreed to that. Munson asked if staff has that in writing. Binckley stated, no.

Pilcher asked if the right-in, right-out would be on Kenneth Parkway or Kenneth Road. Ley stated it is on Kenneth Road. The driveway is really close to 135<sup>th</sup> Street, so the concern from the traffic engineer is that the northbound traffic would block that access. Pilcher asked if there is a median. Ley stated they would need to build an island.

**Applicant presentation:** Presentation by Larry Winn. The applicant has made an effort to reduce the number of issues. Unfortunately, those few issues are very important. The applicant just received the new traffic stipulations at this meeting. Based on a preliminary review, he believes the applicant agrees to those. He would like to clarify that they do not control the Madden McFarland property and they cannot agree to a stipulation that the Madden McFarland property would lose their access. The applicant has agreed to provide access to the Madden McFarland property through this property. The preliminary plan was approved in 2001 and the City generally says that as long as the final plan is in substantial compliance with the preliminary plan, then that should ensure consideration and approval. The applicant does not have the right to substantially change what they are going to do, nor does the City have the right to change the rules of engagement on the applicant. With the exception of a few items, he feels they are in substantial agreement with staff. The approved preliminary plan did not require storm water detention. The applicant is not sure what has occurred between the original approval and now. The applicant has had two different civil engineers give their professional opinions that not only would detention not be needed, it would be inappropriate. He believes one of the reasons that might have caused staff to suggest detention is that the Kansas City sent staff a letter indicating that they thought it would be a good idea to detain. The applicant has spoken with Kansas City and while they do not have it in writing, he was told that Kansas City believes that detention would not be of any benefit for the downstream properties on the Missouri side. He is not sure how to resolve this issue and then suggested maybe going to the Governing Body to be resolved. He would like to bring in the engineers to give their expert opinion. He is not prepared to give a detailed storm water discussion at this meeting. There is no room for detention on this site. The City Engineer suggested that the only way to detain would be a vault under the parking lot. This project cannot sustain that kind of cost. Another issue is the Cherokee block. The City has required more detail at preliminary plan discussion and the applicant brought a great deal of information to the Commission at preliminary including the color pallet and materials which included the Cherokee block. Since that time, a new ordinance has passed that will not allow Cherokee block. That ordinance was passed after the preliminary plan. Staff will indicate that aesthetics and materials are not looked at during preliminary plan review. His experience is just the opposite. The other issue is the phasing plan. The policy now is that the shopping center be built before the pad sites. That is not how it happens in the real world. The applicant is suggesting some compromise in that regard. The applicant is proposing to build Building 2 with any two of the pad sites. It would make the center more viable to the applicant. He believes the City is trying to avoid six or seven pad sites up front before the development occurs behind them. With this small of a center, it will be difficult to find someone to build some speculative retail space in the back without some activity in the front. This is a high-risk venture. There are very few small shops around the area. Their challenge will be to lease to the more in-line tenants at this location. That would be even more difficult if they cannot have some pad site activity in the front in addition to the construction behind.

Presentation by David Contag of the DLR Group. The applicant feels Cherokee brick has improved in recent years and is still proposing it, as indicated earlier. The applicant is proposing the building that was approved at preliminary stage, but has incorporated some different things. There are some interesting

effects with the canopy and additional amenities as requested by staff. The applicant feels the materials are a high quality and built for longevity.

Winn stated there is still the issue of burying the utilities. Depending on which statement KCP&L has quoted, it will either cost the applicant \$200,000 or \$400,000 to bury the utilities. The applicant is hoping to work with the City to create some kind of improvement district financing to allow for the burying of the utilities. That is a large amount of money for such a small shopping center. There is a quarter-mile of frontage on 135<sup>th</sup> Street. The power lines for Town Center Plaza were buried along 119<sup>th</sup> Street. They had a half-mile of frontage, but 800,000 sq. ft. of retail to help support the cost of burying the lines. The applicant is confident in talking with staff that they would be able to sustain that cost through some period of time with the City financing. He has spoken with the City Administrator about this.

Munson asked where the power lines run that would need to be buried. Binckley stated along 135<sup>th</sup> Street, then the east side of Kenneth Road and then directly south and across the street.

Duffendack asked to see a copy of the preliminary plan that was approved. Klein showed the preliminary plan on the overhead. Duffendack then asked what the preliminary plan said about the materials. Binckley stated the applicant discussed Cherokee brick and staff stated they were not supportive of the material. It was brought to the Commission and there was discussion during the preliminary review.

Rohlf asked for an explanation of the differences between Cherokee block and the material that staff is suggesting. Winn stated staff has provided examples at the dais of the two different materials. Rohlf then asked why the applicant is requesting the Cherokee brick. Winn stated the applicant feels it is a more substantial material. It has been used in shopping centers all over the Johnson County area. He does not believe that anyone driving by would be able to tell the difference. His understanding is that staff is concerned that if the brick is broken, some of the materials that go into making the brick are visible, whereas if actual brick was broken it would look the same all the way through. Duffendack stated the ordinance does not allow for modular concrete units. Winn reminded the Commission that the current ordinance was enacted after the preliminary approval of this case.

Klein stated stipulation number 2 of the original approval stated the intent that the final issues be reviewed at time of final site plan. It states that, "At the time of final site plan concept a sign concept, a full landscape plan, final architectural plans, final design guidelines, additional information about the plaza courtyard areas, pedestrian connections and covenant deed restrictions must be submitted. These will be reviewed to ensure compatibility with the Leawood Development Ordinance, special development overlay districts and the 135<sup>th</sup> Street corridor guidelines." It was at that time staff tried to make clear that the final issues would be reviewed at the final plan application.

Duffendack asked if a material board was submitted with the preliminary application. Klein stated, yes.

Conrad asked if the Cherokee block is a veneer. John Maheer with DLR stated it is a veneer. If actual brick were to be chipped, it would become absorbent. If the Cherokee block were to be chipped it has water repellent that is added during the mixture process that would keep it from being able to absorb any moisture through it. Conrad asked what would be behind the Cherokee block. Maheer stated it would be the same for either actual brick or the Cherokee block. Duffendack asked if the Cherokee block has been used for a load-bearing condition. Maheer stated the applicant is not proposing to use it for a load-bearing condition, except for the monument sign feature.

Rohlf asked if the remainder of the retaining wall material has been resolved. Contag stated the wall in the back goes from about 2-3 ft. up to about 20 ft. maximum which allows them to save the vegetation in the swale. The applicant is proposing a product that looks like natural stone from a distance. It is a product that can be engineered very easily to avoid failures. The applicant's concern on the high wall with natural stone is that it is very difficult to engineer. There is no system of engagement of each layer of the stone other than gravity and friction. The applicant is proposing modular stone to tie back into the slope to guarantee they will not have failures. In addition, a lot of the limestone found in this area varies in hardness. When exposed to weather or tipped up on edge the limestone allows water into them and will eventually disintegrate and fall off. If the applicant could proceed with units of three or four different colors mixed together they can create a look that is very close to native stone. The shorter walls are not as critical as far as native stone is involved. The applicant is proposing the same material because it would be visually integrated into the rest of the project.

Conrad asked if the modular units would be allowed by our ordinance. Binckley stated the ordinance only allows it for residential. Staff is recommending natural materials, as allowed by ordinance.

Henderson stated he does not believe that the Commission has forfeited the right to look at the final materials just because they were discussed during the preliminary.

Munson asked the acreage of the project. Winn stated it is 14 acres. Munson asked the area of the drainage basin. Ley stated the watershed goes up to Leawood South Country Club, then to the west it goes to Leawood Market Square. Munson asked what the experience has been with heavy rainfall. Ley stated half of the water shed is undeveloped. At this time, the City has had no problems with the box culvert under Kenneth Parkway. There are a couple of issues that came up over the past couple of years. One issue is that the applicant never received an approved drainage study at preliminary. The County study indicates that the Kenneth Parkway culvert is undersized. A letter was sent to Ley from Kansas City, MO stating they have some concerns downstream with flooding and Ley believes that Kansas City is still requesting that detention be provided. Munson asked how that would be done. Ley stated if detention is required then the developer would need to put large pipes under the ground and then daylight them to the ditch on the west side. Henderson asked how high the water ducts would need to be. Ley stated the size could change, but either way all of the water is collected in the storm sewer pipes.

Duffendack asked how the swale on the southwest edge of the site figures into the drainage plan. Ley stated there would be no detention in that area. Duffendack stated they are proposing a fairly substantial retaining wall that would indicate some depth. Ley stated the water over tops Kenneth Parkway by about a foot and a half so that water would back up all the way through, even onto Kenneth Road so that open channel would be completely full of water. No one has gone through to calculate the capacity and if it reduces the downstream peak.

Henderson asked if the inclusion of the new 137<sup>th</sup> Street to Kenneth Road on the west would intensify the problem or relieve it. Ley stated it would not make a difference. The intersection would remain the same.

Duffendack asked when the final County study would be completed. Ley stated he believes it would be over a year.

Winn stated he does not believe anyone is prepared to resolve this issue tonight. There are conflicting views from Kansas City and he feels it would be best to segregate those issues and deal with them when staff and the applicant have consistent feedback from Kansas City to deal with it in a more professional

manner. He suggested that they agree to disagree or agree to set it aside and let it be an issue to work out with staff. Duffendack stated he does not feel comfortable acting on this case with that issue outstanding. Winn stated he has engineers available if the Commission would like to ask them any questions.

Carper stated the approved preliminary plan states that storm water detention is not required per an approved storm water study. The plan has the landscape buffer area and he recalls that the landscape area would be the detention. Binckley asked which document Carper is referring to. Carper stated he is looking at a plan that is identified as the preliminary site plan.

Winn stated this project was not directed to detain water. It is unfair to now suggest at this stage, with no departure and less development, that two years later they should now detain. Duffendack stated the Commission is trying to trace the history and ask questions. The Commission would like to hear from the applicant's engineers. Robert Gurton, the Drainage Guy, described the storm water study results performed by his firm. APWA 5601.6 states that the City Engineer may waive requirements for specific types of storm water elements. The second item is the detention facility. The detention facility would increase downstream peak flow of discharge by creating a delayed peak. He believes his study has shown this.

Duffendack asked if the peak flows and detention for Park Place are the same as for this project. Ley stated Park Place's concern was that if they detained they would be releasing the storm water at a longer interval and it would actually decrease the stability of the stream. It is stipulated that if there are no flooding problems from down the stream, then the peak runoff of this site shall not increase. That is what staff is going by. Duffendack asked for Ley to compare the two cases. Ley stated the location they are looking at is at Kenneth Parkway, but if you look at the areas that Kansas City is talking about, then you would take a much larger area into account. He is not sure if detaining or not detaining would help further downstream. That is why Kansas City wrote the letter requesting we provide detention. Pilcher asked how far it is from State Line Road to Kenneth Parkway. Ley stated it is not that far. He believes the problem that Kansas City is having is further downstream than State Line Road.

Henderson asked if the water flows on the east side of the apartments and east of Kenneth Parkway. Ley stated the water is flowing north of the apartments and flowing east to the SuperTarget.

Carper asked what has changed since the original submission, other than the letter from Kansas City. Ley stated the original storm water plan was not approved. Staff had comments to look at the entire watershed. What has changed since then is the CDM study, excluding the Kansas City letter. Carper asked if the Kansas City letter was based on a study that has been performed, or just a letter. Ley stated it was based on a letter that was presented to Ley stating that they have concerns with two of the box culverts downstream which they believe are undersized and there is one property owner that is concerned about flooding. Winn stated the applicant does not know whom Ley talked to on the phone a couple of hours ago, but Gurven stated he spoke with Kenny Shulee and was told that no detention is required. The storm drainage study for State Line Station states that no detention is required. He believes he has shown that by eliminating detention for this property they are reducing the peak flows going into their property.

Duffendack suggested creating a stipulation that would be binding enough for the Commission to act if the applicant can resolve the detention issue to the City Engineer's satisfaction, leaving it open for action.

Conrad asked if the stipulation regarding burying the utility lines is to be deferred to the Council level. Binckley stated she believes the applicant has agreed to the stipulations understanding that they will need to go before the Council.

Conrad agrees with Duffendack that the storm water detention issue is at an engineering level and that he is not comfortable making that decision. The statement that the Cherokee brick is a veneer material makes him a little more acceptable to it. He would like to know how applicable the ordinance is to this product. He then asked if the size shown is the size of the material. Binckley stated what has been shown is the size that is proposed. Conrad stated the phasing of the pad sites is something they have tried to do all along for the 135<sup>th</sup> Street corridor. It is one point that has been successful in the 135<sup>th</sup> development and he would like to preserve that policy. He is not sure about the retaining wall.

Binckley asked if the Commission feels the entire main center should be developed or just the portion the applicant has proposed. Conrad asked if that was consistent with what has been done in the past. Klein stated the City usually requires 50% of the main center be developed.

*Brain arrived.*

Conrad asked if the applicant is proposing a modular retaining wall. Binckley stated, yes, but a concrete masonry unit is not allowed by the current ordinance, except in residential developments.

Duffendack stated the retaining on the east side would be much more prominent than the retaining on the southeast which would be covered by vegetation. He suggested the Commission could look at different kinds of materials for the retaining walls. The use of stone is a good question because of its fragility. He does not believe there would be any problems with limestone. The Commission should be looking at the retaining locations and if they would be a visible part of the architecture. We want to have the quality levels as set forth through the ordinance. He is not as concerned about the back areas since they would be primarily concealed. He suggested taking the issues one at a time and discussing them to everyone's satisfaction.

**Stormwater** – Munson stated he does not believe the applicant should be required to do more than they have done. There is an easement by the swale for drainage. He is concerned about water coming over Kenneth Parkway. Ley stated the City would be requiring detention on everything upstream of this culvert. Henderson stated the detention on this tract would be on the east side of Kenneth Parkway. Duffendack stated that while that might be true, the City has a professional engineer who has stated that it is not a concern and the Commission should take that into account. Rohlf asked what could be done tonight. Duffendack suggested adding a stipulation allowing for final approval of the detention by staff. Another option would be to continue the case until they had more information. Carper stated he remembers where the engineers convinced them that they would not need detention for Park Place. There was a conflict between different engineers. He feels this could be exacerbated by the future development around the area.

**Block on both building and retaining walls** – Rohlf stated she does not want to go against the ordinance and agrees with staff's recommendation. Pilcher stated this has been the City's procedure for years. Binckley stated the design guidelines and the materials boards are required at final, per the ordinance. Pilcher asked if the storm water and traffic are looked at during the preliminary. Binckley stated, yes. Munson stated he recalls that staff was concerned about the real brick versus the other, and concurs with staff because they look at these things all of the time and they are upholding the ordinance.

**Phasing** - Conrad asked if the drainage, retaining walls and plantings would be included with the first phase. Winn stated, yes. Williams asked what part of the project would be built first. Winn stated building number 2 would need to be under construction before they could get a building permit for a pad site. Duffendack asked if that would be 50% of the center. Binckley stated she calculated it would be about 20%. Duffendack stated he believes it is inconsequential for this size of a project.

Henderson asked how much of the existing foliage would be kept. Klein stated there are a number of substantial trees, but also a substantial amount of brush that needs to be looked at. That is why staff wrote the stipulation that they provide additional landscaping.

Munson stated concern with the issue of access off of 135<sup>th</sup> Street. He then asked at what point the new PW stipulations become included. Duffendack stated the stipulations would be added with the motion.

Henderson asked for a suggestion on how the comments made by the Commission would be fitted into the stipulations. Duffendack asked Binckley to review the traffic stipulations and other changes that have been suggested tonight.

Binckley stated the following would be added: A right-in, right-out only for the north access point to Kenneth Parkway, right turn lanes for both curb cuts along 135<sup>th</sup> Street, right turn lanes for both curb cuts along Kenneth Parkway, and the southeast driveway would need to be constructed as a right-in only. The memo from Klein at the dais identifies modifications that would be incorporated into the final stipulations, assuming the Commission is in approval of them. Stipulation number 43 would need to indicate building 2 as the main building. It should be changed to read, "until lot 2 of the principal shopping building has begun construction".

Munson asked if this would be the last time the Commission would see these buildings for approval. Klein stated they are the final elevations for the center, but the Commission would see the out lots.

Duffendack asked how the storm water detention would be stipulated. Binckley stated it is listed in the Public Works memo, but could be modified.

**A motion to approve was made by Munson subject to the stipulations in the staff report, the stipulations amended by Klein's memo, the change to stipulation number 43 as mentioned and the four stipulations concerning traffic and access points. Seconded by Henderson.**

*The amended stipulations are as follows:*

Stipulation 21 modified to read, "Each tenant shall be limited to one wall sign with the exception of corner tenants and free standing tenants that shall be allowed a maximum of two wall signs. No wall signs that face an area that is either currently residential or designated on the Comprehensive Plan as residential shall be illuminated."

Stipulation 28 modified to read, "All street trees along 135<sup>th</sup> Street and Kenneth Parkway shall be a minimum of 4" caliper and all remaining shade trees shall be a minimum of 3" in caliper. In addition, all evergreens shall be 7' in height when planted and all shrubs shall be a minimum 3 gallon with a minimum height of 36" when planted."

Stipulation 31 modified to read, "The parking ratio for the main center within the development shall be a maximum of 4.1 parking spaces per 1,000 sq. ft. of building area. The parking ratio provided for the pad sites shall be reviewed at the time of future applications for the individual pad sites."

Stipulation 24 modified to read, "A revised landscape plan shall be submitted that meets all the requirements of the 135th Street Corridor Urban Design and Development Plan and the following requirements of the Leawood Development Ordinance:

- Street trees shall be planted along all public rights-of-way at a rate of one tree per 35'.
- Buffering adjacent to building shall be a minimum of 10' in width. This shall be reviewed at the time of final site plan for each pad site.
- All planting areas that contain trees shall be a minimum of 60 sq. ft. in area and 8' in width.

Stipulation 43 modified to read, "No building permit for any construction on pad sites or out lot shall be issued until lot 2 of the principal shopping buildings has been approved and begun construction. All buildings on out parcels or pad sites will conform to the architectural style of the principal center buildings as set forth by the developer and recommended by the Planning Commission and approved by the Governing Body.

Pilcher asked if the motionmaker is applying all four of the modifications suggested by staff, which were: modification for storm water detention review, disallowing the Cherokee brick, disallowing the concrete masonry units for the retaining walls, and allowing the out lots to be constructed after the construction has started on lot 2. Duffendack asked the motionmaker's intent on the storm water study. Munson stated he would like to remove it at this time or some other wording to allow it to be continued to allow the City Engineer to look at it.

**Binckley suggested changing stipulation 33 to read, "A storm water study would continue to be reviewed by the City staff to meet the City Engineer's approval." Munson and Henderson approved the suggested stipulation amendment to number 33.**

Rohlf asked for clarification that it is building 2, lot 4, and not lot 2. Binckley stated that is correct.

**Motion approved unanimously.**

**CASE 19-04 LUKE PROFESSIONAL PARK** Request for approval of a final plat and final plan. Located at the southwest corner of Kenneth Road and Kenneth Parkway.

**Staff presentation:** Presentation by Mark Klein. The applicant is requesting approval of a final plat and final site plan for an 11,109 sq. ft. office building on 1.56 acres for an FAR of 0.16. The preliminary for this case was reviewed at the January meeting. This is a triangular shaped building. Staff is recommending approval of this case with the stipulations as listed in the staff report.

Munson asked if the applicant would be allowed to escrow money for the burying of the power lines. Klein stated that is correct, stipulation number five would need to be modified.

**Applicant presentation:** Presentation by Jay Lucas of Lucas Development. This is a one-story medical office building. The applicant agrees to all of staff's stipulations and agrees to Council's recommendation to have all of the HVAC equipment screened by a masonry wall. The applicant has added the trees recommended by staff. He would like to re-visit the issue of storm water detention. The development team is available for any questions.

Bill Woodhouse, of ACI Boland Architects, stated the plan has not changed much since it was presented last and he would be available for any questions.

Duffendack asked if Ley has any additional thoughts on detention on this site, beyond what has already been discussed. Ley suggested adding a stipulation to state staff will review the storm drainage after it is reviewed for Leawood Market Center.

Henderson asked what the approximate schedules of this development and the new 137<sup>th</sup> Street. Ley stated the property owner to the west would build 137<sup>th</sup> Street, therefore he does not know the schedule of construction. Lucas stated the applicant is ready to go, with tenants. He requested that they not be delayed because of Leawood Market Center. Duffendack stated that the decision made on the detention of Leawood Market Center would directly affect what happens on this site. Terry Uhl, of Uhl Engineering, stated there are many watersheds in Leawood and in most cases Leawood is at the bottom of those watersheds and experiences a great deal of flooding due to what happened upstream, especially in the northern part. He believes that Ley is stating that Leawood is trying to be a good neighbor to the City of Kansas City because they have flooding problems. The information given to him was a little vague. The letter from Kansas City asks that Leawood detain on sites within this watershed. He has been told that when this watershed develops there could be a foot and half of water flowing over Kenneth Parkway. This is a site that is at the bottom of the watershed. The detention issue came along rather late in the design stage. It would be difficult to detain and still meet the landscaping requirement. He asked that the applicant be waived from the detention requirement.

Henderson asked if stipulation number 16 is the omnibus reference to the storm water detention. Duffendack stated that is where the Commission made the modification on the last case. Carper stated it would be incorporated by reference. Stipulation 3a says the developers will provide an underground detention system. It seems to him that if the applicant wants to move forward with this, then the applicant will have to go with a detention plan. The Leawood Market Center development could take longer to reach a decision on the detention.

Winn stated there is a detention system design on site. The applicant is requesting not to be required to detain if, as they move through the process, it is decided that detention is not needed. But at the point in time that they decide to build and it is not decided, the applicant would provide the detention. Duffendack stated he believes that is what the Commission is suggesting.

**A motion to approve was made by Carper, amending stipulation number 16 the same as it was for the previous case and stipulation number 5 to be amended to read, "All power lines, all utility lines, etc. (both existing and proposed, including utilities and power lines adjacent to and within abutting right-of-way) are required to be placed underground. In lieu of placing the power lines underground, the applicant may put an agreed upon amount in escrow to allow for the undergrounding at a later date. This must be done prior to final occupancy of any building within the project." Motion seconded by Henderson.**

Pilcher asked for clarification on the wording, "an agreed upon amount". He feels that it makes it sound like a negotiable amount. He offered an amendment to the motion to change the wording to, "an amount specified by KCP&L". Amendment died due to lack of second.

**Carper offered an amendment to stipulation number 5 to read "as agreed to and specified by City Staff". Secunder approved the amendment.**

**The amended motion was approved unanimously.**

**CASE 15-04 PRAIRIE STAR ELEMENTARY** Request for approval of a special use permit to allow the use of mobile classrooms. Located at 14201 Mission Road.

**Staff presentation:** Presentation by Jeff Joseph. The applicant is Kevin Greischar with Greischar Architects. The applicant is requesting approval of a two-year special use permit to allow a 1,512 sq. ft. temporary school building on the southeast corner of the existing elementary school building. The applicant is also requesting a two-year extension on their existing temporary classroom. Prairie Star Elementary School is located at the northeast corner of 143<sup>rd</sup> Street and Mission Road. The temporary building is proposed on the southeast corner of the existing school. The elevation of the building is single-story with prefinished metal siding. The main entrance is on the west side of the building. Staff is recommending approval of this case with the stipulations stated in the staff report.

Henderson asked what kind of concerns deal with safety and security. Joseph stated the Fire Marshal has reviewed the application and is recommending a manual fire alarm for the building. Duffendack asked if there would be an alarm only, and no sprinklers. Joseph stated, yes. Henderson asked if the door would be the type that is pushed out so that people would need to knock or ring a bell to get into the building. Joseph stated the applicant would be able to answer that question.

**Applicant presentation:** Presentation by Kevin Greischer of Greischer Architects. There is a fire alarm system that is connected to the school's system. There will also be an intercom, telephone and pull station. The doors have panics on the inside and they also have key locks that can be locked on the inside. The school district agrees to all of staff's stipulations.

Munson asked if this request is a result of growth in the school. Greischer stated it is partially due to growth and also how the school district is handling that growth with the funding that is in place now and how they are redistricting the boundaries of the school districts. Munson asked how the Commission would be assured that the building would be removed by the time the two-year permit expires. Greischer stated he would not be the best person to answer that question. There is an elementary school south that should be open next year and should start to take some of the students. Munson asked about how much this building would cost to be installed. Greischer stated around \$40,000 to \$50,000. Henderson stated he would like to see some of these buildings established rather than voting on a bond issue to put it in concrete and then do something else with that an x-number of years later. Greischer stated these temporary buildings are two of eleven total the school district will be using. Munson asked what it would cost to build this size of an addition. Greischer stated about \$120,000 to \$150,000 and it would not be as flexible for the district. Henderson asked if there should be limits on how long these types of buildings would be used. Duffendack stated the limit on this project is two years. Brain stated the City should not bind the applicant not to apply and should not bind the future Commission not to approve. Carper suggested that, with the approval of this case, they could make it clear that the Commission's view is that they do not want to see temporary buildings becoming a permanent feature.

**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 Carper and seconded by Brain. Motion approved 7-1. Munson against.**

**CASE 16-04 NALL VALLEY** Request for approval of rezoning of a portion of the property from SD-NCR (Planned Neighborhood Commercial Retail) to SD-CR (Planned General Retail), preliminary plat and preliminary plan. Located at the northeast corner of 151st Street and Nall Avenue.

**Staff presentation:** Presentation by Jeff Joseph. The applicant is Otto Westerfield with Nall Valley, LLC. This project is located at the northeast corner of 151<sup>st</sup> Street and Nall Avenue. The applicant is requesting approval of a rezoning for a portion of the property from SD-NCR to SD-CR, preliminary plat and preliminary plan to allow construction of a development consisting of office and retail, to contain 49,932 sq.ft. of retail, 12,536 sq.ft. of office space, a 5,000 sq.ft. bank facility and an 8,500 sq.ft. restaurant. The development will be made up of 76,968 sq.ft. of construction on 9.27 acres for an FAR of 0.19. Three pad sites are shown along 151<sup>st</sup> Street, one pad site along Nall Avenue and three buildings along the north side of the development. The buildings along 151<sup>st</sup> Street are shown as potential sites for a bank, a restaurant and a drug store with drive through. This project proposes a parking ratio of 4.0 spaces per 1,000 sq.ft. of lease area. Per the Leawood Development Ordinance, the maximum allowable parking ratio within this zoning is 4.5 spaces per 1,000 sq. ft. of lease area. This site has a preliminary plan previously approved in 1988. Compared to that plan, this plan has less density. The SD-CR portion has a building setback of 125 ft. from the residential development to the east and the SD-NCR portion has a building setback of 75 ft. from the residential area. Staff is not supportive of the wooden fence proposed along the adjoining residential property lines. Staff is recommending a fence made of decorative metal or a masonry wall. Staff is recommending approval of this case with the stipulations stated in the staff report.

Rohlf asked if the house that is being built to the north is the southernmost house. Joseph stated the residential development to the north of this site is The Villas of Whitehorse and it is not being built yet. Conrad asked if there is an ordinance that requires the fence or if the developer is requesting it. Joseph stated the applicant has requested the fence.

**Applicant presentation:** Otto Westerfield introduced the development team.

Presentation by Henry Klover of Klover Architects. The applicant agrees with the staff report. They do not believe there is anything they cannot work out with staff. The applicant would like to add a stipulation stating the reason for their request of rezoning is to allow a drive-through for the drug store facility. Klover described the site plan and elevations.

Munson asked what other materials the applicant is proposing, since the project will be reducing the amount of EIFS. Klover stated they would be adding stone and brick. Munson asked if the masonry between the lower part and upper part on building B's south and east elevations would be stone masonry or veneer. Klover stated it is veneer. There is a new product that the applicant is hoping to use that takes real stone. Munson asked if that is acceptable to Leawood standards. Binckley stated the materials are not looked at until final plan application; therefore staff has not reviewed the materials.

Duffendack asked for a description of how the buildings would be serviced. Klover described the service areas. Duffendack asked if the service areas along the north side of the property about the residential. Klover stated, yes. Duffendack then asked what would be done for screening and noise pollution. Klover stated the applicant is planning on lowering the development. It is presently about six feet lower but they are planning on lowering it even more. Duffendack then asked about a landscape screening. Klover stated there would be a 30-ft. buffer for landscaping and would be heavily screened. In regard to the fence, the

residents requested an open metal fence. It was his understanding from the neighboring residents that they wanted some kind of opaque screening, but the applicant is willing to work with staff on that issue.

Henderson asked if the developer feels their architecture is compatible with the development to the south. Klover stated the applicant would like to have something that has more intimacy. The intent was to create some plaza areas and places for people to sit. He feels that it will be compatible.

Pilcher stated this is the southwestern most retail area of Leawood, so this is the first impression of Leawood for anyone coming from that area. He likes the eclectic approach. It shows a lot of personality and hopefully it is well executed.

Brain stated he feels it is appropriate to get the urban feel at the southern end of Leawood. He then asked if the developer would have a problem with changing the fence to wrought iron. Klover stated the developer would have no issues with a wrought iron fence.

Pilcher stated he would not want to see a 6-ft. masonry wall there, either.

**Public hearing:** Robert Reed, 15070 Nall Avenue. He was very pleasantly surprised at the information received at the interact meeting and he is in general approval of this plan. The developer and architect seem to listen. The area is currently zoned for neighborhood retail and he would like to see a stipulation that the applicant would agree to tonight that the zoning change is requested only for the drug store. He would like to see this be a neighborhood friendly business park that fits into the neighborhood. He has concerns about the traffic, hours of the businesses, and any excessive noise and lights at night.

Jim Riffe, 450 Winnebago Drive, developer of the residential area to the east of this project. There are 16 homes that will be within 20 ft. of the property. He is not speaking for or against this project; he would just like to express his concerns of good screening. He understands there will be a commercial center there. He needs a fairly aggressive approach to protect the privacy of the people whose back yards are within 20 ft. of this area. He has planted some pine trees, but is looking to this center to have something that is visually impervious. Unless the landscaping is completely tight, he would prefer an impervious fence. Lights could become an issue. He likes the idea of lowering the grade and keeping the buildings low. He does not have a problem with a drive through for a drug store, but would not want a gas station. He described the site plan of his development to show how close the homes are to the center.

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

Henderson asked if there would be some merit for the Commission to think about creating an easement for x-number of feet on each lot when issues like light and sound are considered in the future. It seems like both parties should be concerned about screening out the other side, not just the new one that is coming in. Duffendack suggested the Commission discuss that at the next work session.

Brain stated he would like staff and the developer to create a way to additionally screen the development. He suggested a combination of a retaining wall and a wrought iron fence. There could be ways to additionally screen lighting and sound pollution. Duffendack stated that if the site were lowered too far then the rooftops would become more prominent to the two-story homes and could require rooftop screening. Binckley suggested staff could do a detail of that area at final application.

Rohlf asked if the phasing is the same as listed on the front page of the site plan. Klover stated it is the applicant's intent to build the main center first, but they do not have a phasing plan at this time.

**A motion to approve was made by Brain with a modification to add a new stipulation that indicates the developer's sole intent for seeking the zoning change from NCR to CR was for adding a drive through to the drug store, upon approval of a special use permit. Motion seconded by Pilcher. Motion approved unanimously.**

**CASE 17-04 NATIONAL BANK OF KANSAS CITY - MONUMENT SIGN** Request for approval of a final site plan. Located at 3510 W. 95th Street.

**Staff presentation:** Presentation by Jeff Joseph. The applicant is David Murphy. The applicant is requesting approval of a final site plan to replace their existing monument sign. This project is located at 3510 W. 95<sup>th</sup> Street, which is adjacent to Ranchmart. The applicant is proposing a monument sign that reads, "National Bank of Kansas City". Staff is not supportive of the design and materials used for the proposed monument sign. Staff is also not supportive of the oval as proposed. Staff is recommending approval of this case with the stipulations stated in the staff report.

Duffendack asked Joseph to explain what staff is recommending the applicant to change in order for approval. Joseph stated the applicant is proposing a box-type sign. Staff is recommending they change the shape, design and materials of the sign. Also, staff is not supportive of the logo. Duffendack asked how the Commission would understand what they are approving. Joseph stated staff is recommending the materials be changed to look more natural. The applicant is currently proposing a textured sign. Binckley stated staff is going towards the direction of what the Commission has indicated they would support. That would be something more along the lines of the Longhorn Steakhouse or Bristol signs, which are a stone-type material and pin-mounted, with halo-lit letters. The applicant is requesting a metal box-style sign, which is not allowed by ordinance. Duffendack stated he is having a problem with the fact that the Commission can see what staff is not wanting, but cannot see what they are recommending. Binckley stated the applicant is not interested in providing something different without the Commission's suggestions.

Henderson asked what is considered a natural material. Binckley stated natural materials are stone and brick. Henderson asked if monument signs are typically this size. Binckley stated this size would be allowed by ordinance and she believes other recently approved signs have been about this size.

Brain asked if this is on the Ranch Mart property. Binckley stated this was allowed because the bank sits far off of 95<sup>th</sup> Street and she believes it would be considered a pad site of the property.

**Applicant presentation:** Presentation by David Murphy, National Bank of Kansas City, formerly Horizon National Bank. Murphy passed out pictures of other monument signs and showed a newly revised rendering of what the applicant is now proposing. It is his understanding that the applicant is matching the material of the building with the stucco-like material and metal letters and includes their logo. The applicant considers the logo as identification of the bank. They feel it is essential that they include their full logo. The applicant is proposing a style similar to the Longhorn monument sign. The applicant feels the logo identifies them.

Henderson suggested allowing the applicant to have the logo in place of the name.

Carper asked for clarification of what the applicant is proposing. Murphy stated the sign would be aluminum with a covering to match the front of the building, which is stucco. The letters and logo would be aluminum with a polyurethane finish. Binckley asked if the letters would be pin-mounted. Jerry Kleveter, of Luminous Neon Sign Systems, stated the letters would be pin-mounted to get the effect. The letters are quite small which makes it impossible to reverse illuminate them. Binckley asked if it would be ground lighted. Kleveter stated it would be ground lighted, just as it currently is. Carper asked if the sides would be of the same material. Kleveter stated the sides would be the same material as the faces and top.

Brain stated he believes the only difference between what the applicant is now proposing and the Longhorn sign is the logo. He then asked how the logo would be applied to the sign. Kleveter stated it would be pin-mounted, the same as the letters.

Brain stated he is having a hard time understanding what it is that staff is not in approval of, other than the logo. Binckley stated the original proposal by the applicant was different than what they have shown tonight. Based on what has been provided today, staff is comfortable with the sign, the final question would be the logo.

**A motion to approve was made by Brain subject to the presentation tonight and an amendment to remove stipulation number 2. Motion seconded by Munson.**

Carper asked if the Commission should be expecting to see another application for the sign on the building. Binckley stated the building sign has already been administratively approved.

Henderson stated concern with receiving more requests for logos. Brain approves of the logo because the sign they are replacing already has a logo, the particular location of this site and there are other logos in Leawood.

Pilcher stated concern with how the logo would be pin-mounted. Binckley stated they would have pins at key areas and it should not be a problem.

**Motion approved 7-1. Conrad against.**

**CASE 20-04 VILLAGE AT IRONHORSE** Request for approval of a final site plan regarding golf course fence. Located at 151st Street and Linden.

**Staff presentation:** Presentation by Diane Binckley. This development was before the Commission several years ago and most of the homes have already been built, if not all. The fence was installed without a permit. It is of a different design than others along the golf course. Unfortunately, since the fence was installed without a permit, the City did not have the opportunity to review it to determine if it met the stipulations of approval. Staff has concerns with the two gates. One is a large equipment gate, which is comprised of two gates that swing open. There is a pipeline that is along this property that would need to be maintained. The other is a pedestrian-style gate. The applicant provided staff with a letter from Tanya Cape, a right-of-way agent with Magellan, who identifies that both of those gates are required. Staff is asking the Commission to approve this case with stipulations identifying that the finials be provided, the band on the top would need to be removed, the man-gate be removed and that a fence permit be obtained.

Duffendack asked if staff had comments on the requirement of easements from Magellan. Binckley stated staff is comfortable with it as long as Magellan is the only one with access. Duffendack asked how the gates would be secured. Binckley stated they currently have padlocks. She also added that staff would like a letter indicating Magellan would be the only ones who have access.

Henderson asked if staff has any information on other golf courses and how they worked through this type of situation. Binckley stated staff has not looked into that.

**Applicant presentation:** Presentation by Mark Simpson of Village Development, LLC. This fence was put up at the pleasure of Williams Pipeline. Williams Pipeline and the City's maintenance supervisor for the golf course had a half-dozen meetings and said the easement that Mayor Dunn signed in Sept. of 1998 included anything built on the easement. Williams Pipeline stated they would allow an exception if the fence has two gates. If the two gates were not allowed, they would remove the entire fence. They are not negotiable on this matter. The only key belongs to Williams. The applicant's contract with D-fence called for them to get a permit and the applicant did not find out until a year after the fence was built that they did not obtain a permit. D-fence has said they believed they did not need to get a fence permit because it was on the golf course and the City was involved. It would cost \$6,000 to \$10,000 to change the finials. The nearest wrought iron fence is over 800 ft. away, so it would be difficult for someone to realize that this does not have square finials. It occurred this way because of a problem with the contractor. The applicant had stated they would like to stair-step the fence as it went down the hillside. The fence the City has along Mission Road and the fence the City erected around the clubhouse are virtually identical to the fence in question. The applicant spent \$50,000 to put the fence up and is not very anxious about having to spend \$6,000 to \$10,000 to make a trivial change to the fence in order to satisfy the whims of one Councilman. The applicant has been a good neighbor. They have developed  $\frac{3}{4}$  of the area around the golf course and have spent at least \$150,000 improving the golf course for the City. The fence was built to protect the golf course. The only fence the City has provided is a barbed wire fence along 151<sup>st</sup> Street.

Henderson asked if the golf course committee has looked at this request. Binckley stated, no.

Brain asked if staff is sure that the golf course committee is not aware of the design of this fence, since the applicant has stated there were a number of meetings at the golf course. Binckley stated there was nothing provided to the City in regard to the type of fence they would provide. There was discussion of the gates and where the fence would be located. Simpson stated the chairman of the golf course committee was present at a couple of the meetings.

Carper asked why this case is not before the Board of Zoning Appeals instead of the Commission. Binckley stated it is a stipulation of the original approval and the reason it is before the Commission is because there is a question of whether they meet the originally approved stipulations. Duffendack stated it seems odd to him also. This is a compliance issue. Binckley stated staff is looking to the Commission for an interpretation to support the City's position on the stipulations. Brain asked if the concern is if this fence is similar to other golf course fences. Binckley stated if the Commission believes it is similar, they could approve it as installed, but still require a permit to be obtained. Brain stated he feels it is more a legal issue than a design issue.

Henderson asked if this issue could be referred to the golf course committee. Binckley stated they do not have the ability to approve this.

**A motion to approve was made by Carper with the removal of stipulation number one, unless staff reaches an agreement with Magellan. Motion seconded by Brain.**

Carper stated he believes the fence in question meets the spirit of the stipulation the Commission previously approved.

**Motion approved unanimously.**

**A motion to extend the meeting to 9:15 was made by Carper and seconded by Brain. Motion to extend the meeting approved unanimously.**

**CASE 22-04 CAPITAL IMPROVEMENTS PROGRAM 2005-2009** Request for approval of the 2005-2009 Capital Improvements Program.

**Staff presentation:** Presentation by Diane Binckley. The program has not been distributed to the Commission. It will be available next month. This is to open the public hearing for the Commission to take the public's comments into account when it is looked at again. The Commission would have the ability to open another public hearing if need be.

Carper asked how the public would be in a position to comment if they have not seen the document. Binckley stated hopefully the public is anticipating improvements that they would like to see come forth. Brain stated he has never understood the need to have two public hearings before the Planning Commission. The Commission is not the Body that can approve or change the Capital Improvements Program; it is a Council issue. Carper asked if there is a public hearing before the Council also. Binckley stated, yes.

Henderson stated he would be more comfortable with hearing the public after the document has been distributed.

**Public hearing:** Ted Steinmeyer, 15301 Rosewood Street. He is representing the homeowners of the Woods of Ironhorse, particularly those who live along Negro Creek. His purpose at this hearing is to make sure the improvement of Negro Creek, the project that has been discussed by the golf course committee, would be included in the Capital budget of the 2005-2010 time period. He was going to ask the Commission as to whether or not it is included, but since the Commission has not seen it, they probably cannot answer that. He wants to make sure it has been planned. It is about a \$1.5 million project. The County would fund most of it with SMAC funds. He is concerned about the timing, since this project has been talked about since 2001 and it continues to be delayed.

Joe Gearon, 15305 Rosewood Street. The creek is accepting water because of the way the creek is designed and the additional development. In the 2 years he has lived at this property he has lost 12 ft. of real estate as the creek is encroaching upon his property. His fence is beginning to break in. It is becoming dangerous to his children. The bluff has now encroached upon his land. There are other homes this has happened to. 15000 Rosewood Street is about to lose a wall and is beginning to have erosion below the pool. He is asking to have this done with the next CIP. He is worried that if it does not happen in 2005 and 2006, then he will lose his swimming pool. The water rises from bone-dry to now over 14 ft. last Labor Day. That flux of water is eroding his back yard. The plans in place will alleviate that problem.

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

Duffendack stated the public comments will be on record and will be put in with any other comments received on the CIP. Brain urged these people to address these same comments to the Governing Body, since Capital Improvements funding is their prerogative.

**Meeting adjourned.**

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J. Paul Duffendack, Chair