

**City of Leawood
Planning Commission Minutes**

**June 22, 2004
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive**

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

APPROVAL OF THE AGENDA: Binckley stated the applicant for case 26-04, Town Center Plaza, has requested a continuance to the July 27th meeting. **A motion to approve the amended agenda was made by Rohlf and seconded by Perkins. Motion approved unanimously.**

APPROVAL OF THE MINUTES: Approval of the minutes from the May 25, 2004 meeting.

A motion to approve the minutes from the May 25, 2004 meeting was made by Azeltine and seconded by Perkins. Motion approved unanimously.

CONTINUED TO THE JULY 13, 2004 MEETING:

CASE 39-04 ESTATES OF OLD LEAWOOD Request for approval of a rezoning from REC (Planned Recreation) to RP-2 (Planned Cluster Detached Residential), preliminary plat and preliminary plan. Located at 8901 Sagamore. **Public hearing**

CONTINUED TO THE JULY 27, 2004 MEETING:

CASE 26-04 TOWN CENTER PLAZA Request for approval of a preliminary site plan. Located north of 119th Street, between Nall Avenue and Roe Avenue. **Public hearing**

CASE 38-04 SUNRISE SENIOR LIVING Request for approval of a special use permit, preliminary plat and preliminary plan. Located south of Granada and east of Roe Avenue. **Public hearing**

CASE 41-04 CORNERSTONE OF LEAWOOD - BUILDING 10 Request for approval of a final site plan. Located at the southeast corner of 135th Street and Nall Avenue.

CASE 41-04 CHURCH OF THE RESURRECTION – TEMPORARY OFFICES Request for special use permit to allow for the continued use of the temporary office building. Located at 13720 Roe Avenue. **Public Hearing**

CASE 46-04 BUILDERS PUBLISHING – SIGN Request for approval for final site plan. Located at approximately 112th Street and Roe Avenue.

CASE 49-04 PHILLIPS 66 Request for approval of a final site plan for signs. Located south of 119th Street and east of Roe Avenue.

CASE 51-04 LEABROOKE, 3rd PLAT Request for final site plan and final plat. Located at approximately 148th and Kenneth Road.

REMAND FROM CITY COUNCIL (TO BE HEARD AT THE JULY 27, 2004 MEETING):

CASE 29-04 LDO AMENDMENT, SECTION 16-2-10.3B, MATERIALS AND COLORS Request for approval of an amendment to the Leawood Development Ordinance to allow vinyl soffits and vinyl siding.

CONSENT AGENDA:

CASE 47-04 CHURCH OF THE RESURRECTION – DRIVE Request for a final site plan for an additional drive. Located south of 137th Street and east of Nall Avenue.

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

Duffendack recused himself from cases 33-04 and 34-04, Pawnee Place Development 1 and 2. With the chair being recused, the vice-chair, Commissioner Rohlf, acted as chair for this case.

NEW BUSINESS:

CASE 33-04 PAWNEE PLACE - DEVELOPMENT 1 Request for approval of a rezoning from AG (Agricultural) to SD-CR (Planned General Retail), SD-0 (Planned Office) and RP-4 (Planned Apartment Residential), preliminary plat and preliminary site plan. Located south of 135th Street and east of Roe Avenue.

CASE 34-04 PAWNEE PLACE - DEVELOPMENT 2 Request for approval of a rezoning from AG (Agricultural) to SD-CR (Planned General Retail) and RP-4 (Planned Apartment Residential), preliminary plat and preliminary site plan. Located south of 135th Street and west of Mission Road.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a rezoning from Agricultural to Planned General Retail, Planned Office and Planned Cluster Residential Attached, preliminary plat and preliminary site plan. The development will consist of 472,000 sq. ft. of construction within the planned general retail district, 205,000 within the planned office district and 100,000 sq. ft. within an institutional use planned for a 75,000 sq. ft. independent living facility and a 25,000 sq. ft. assisted living facility, along with seven 12-unit condominiums and 12 single-family villas. This development is divided into two sections. Pawnee Place 1 is the piece on the west side and Pawnee Place 2 is the piece on the east side. Both developments have 135th Street on the north and Leawood Meadows to the south. Pawnee Place 1 is divided between two zoning districts. The planned general retail portion is providing 170,000 sq. ft. of retail development and 205,000 sq. ft. of office development. The FAR for the retail portion is 0.22 and the FAR for the office portion is 0.41. On the western half, south of 137th Street, the applicant is proposing a 75,000 sq. ft. independent living facility and a 25,000 sq. ft. assisted living facility.

Commissioner Conrad arrived.

The east side of the development is case 34-04 and is referred to as Pawnee Place 2. Within it the applicant is proposing a zoning change to planned general retail. Within that portion, the applicant is proposing to construct 302,000 sq. ft. and then on the south side of 137th Street the applicant is proposing to have seven 12-unit condominiums as well as 12 residential villa-style homes.

Commissioner Henderson arrived.

Staff is recommending this case to be continued to the July 27th meeting but would like the public hearing to be opened and some direction given by the Commission regarding this case. Staff has a number of concerns with this development, with the density of the project being the biggest concern. Due to the increased density, staff has some concerns that the levels of service of the adjacent public streets would fall below level service "D", which is the lowest the City allows. Staff is also concerned about the large amount of parking spaces along the drives. Staff also feels the high density makes it harder to relate the buildings to each other because they still need to accommodate the parking relative to each of the buildings. Staff is concerned with some of the pedestrian connections. As soon as a pedestrian leaves a sidewalk they would need to go between cars to access the other sidewalk for the pedestrian connection. Staff is recommending the RP-4 zoning being requested with Pawnee Place 1 to be changed to RP-3. The applicant is proposing an independent and assisted living facility. Those uses are allowed within any zoning district with a special use permit. Rezoning to RP-4 would allow up to 12 units per building, which is basically the City's apartment zoning. RP-3 would allow a maximum of four units within a building. In regard to Pawnee Place 2, staff has concerns with a designation of the 135th Street Corridor study that designates the eastern portion of the

property as being in the market square district. The market square district is supposed to provide a pedestrian-scale project. Staff is concerned with the proposed density of 0.28, particularly in this area because it is part of the market square district. Staff is recommending the applicant to rezone to SD-NCR, which is planned neighborhood commercial retail as opposed to the planned general retail. The main difference between these two districts is that the planned general retail has an allowable maximum FAR of 0.25 without bonuses and the neighborhood commercial retail allows a maximum of 0.20, which would require the density to be scaled back and also match the zoning of neighborhood retail versus general retail. Staff also has some concerns with the layout of the RP-4 portion of the development. Staff is supportive of the residential uses they are proposing. The comprehensive plan shows an institutional use between Leawood Meadows and 137th Street. The applicant is proposing some institutional on the western half, but on the eastern half they are proposing condominiums and single-family homes. Staff feels it is an appropriate buffer to have residential versus a larger independent or assisted living facility in order to break the buildings up a bit. Staff, however, would recommend the buildings to be realigned a bit so as to not present such a solid wall to the residents to the south. Staff is recommending the pool and clubhouse be moved to the north, where it would be more centrally located within the residential area.

Rohlf asked if Binckley would like these cases to be discussed as one case or separate. Binckley suggested discussing them at the same time, but making motions separately.

Conrad asked Klein to describe the development on the site plan. Klein described the plan. Conrad asked if there would be a realignment of 137th Street. Klein stated the realignment is shown on the Comprehensive Plan. The developer is proposing that the street come in at Mission as proposed, but then dip to the south at Fontana and then continue back up as it goes towards Roe. Fontana would not connect to the Leawood Meadows subdivision. There is a pedestrian connection proposed that would link Leawood Meadows from their Fontana to the hike/bike trail.

Azeltine asked which buildings would be located in the 0.41 density portion of the development. Klein stated they are mainly the office buildings and then he pointed them out on the site plan. Azeltine asked if staff looked at the elevation of this site as compared to Leawood Meadows. Klein stated this development sits higher than Leawood Meadows to the south.

Perkins asked how many feet the developer is proposing to dip 137th Street to the south. Klein stated about 250 ft.

Azeltine asked if it is normal for a developer to request a higher density than allowed. Klein stated the LDO allows the developers to apply for some bonuses. The Parkway Plaza development used bonuses as well as the Park Place development. With the allowed bonuses, they were able to go to a density of 0.84.

Applicant presentation: Presentation by Doug Patterson, representing the applicant. One of the market place committee's jobs was to take the traffic study prepared by Bucher Willis in conjunction with what is the "best of the best" and what they liked in the overall greater Kansas City area and decide how to make sure good development happens along 135th Street and particularly the market place. They created a plan that had more creativity and flexibility than they would have had at the time. They established a special district zoning with certain categories. They established certain floor area ratios, open space, and free space requirements. They also added bonus factors, so that if a developer comes in and enhances the development and spends more than needed on the development to give it a sense of place for Leawood, the return for that would be a higher density. They created the ability to add bonus features to the allowance of a density of 0.25 at the SD-CR zoning. Unfortunately, at the time the market place area was considered, those areas were not necessarily seen as areas that would be lower in density, but would have a particular focus and encourage the use of bonuses and those amenities to make the market place area special. That is what this plan has done. The applicant is okay with changing the zoning for the institutional areas to RP-3 because it does not affect the institutional use and probably sets a precedent on the values. In terms of rearranging some of the buildings on the east side, the applicant is willing to work with staff on moving the clubhouse farther north. There is a general conceptual issue here; a decision for the Commission to make on whether the City should encourage a developer to come in with bonus features to make a development more than "run of the mill", and whether the bonus factors should be considered within the market place setting. The second thing the Commission should consider is whether or not to allow the hotel. The applicant suggested moving the hotel from the

east side of Fontana to the west side of Fontana to make it fit in within the SD-CR, versus the SD-NCR. He was surprised to hear that Park Place has an FAR of 0.90, but for the bonuses and what they are going for, the Commission made a decision and that was allowed. The applicant believes the west side of this development should be seen in the aggregate. As seen in the aggregate, there is an FAR of 0.29, and with the bonuses they have in that area, they could go up to 0.31. There are some conceptual issues that need to be considered. He believes that after this hearing, the Commission will find that this plan meets the criteria of the market place study and the 135th Street study with some fine tunings. The applicant has learned from the interact meetings that while the neighbors are concerned about traffic, buildings and building uses, the focus of their concerns was how the density affects the neighbors. The density can affect the neighbors in two ways. One is particularly in terms of sight lines to make sure that people in higher locations cannot see into the homes of the residences to the south. The other is to not only stabilize the drainage situation, but to improve it. The focus of the applicant's attention was to make sure the development protects the neighbors to the south from visual intrusion and drainage and the applicant believes that has been done. The Commission has the ability to consider 80 acres, something they rarely have the ability to consider. Many times it is just 10 or 15 acres. It is an integration of a half-mile along 135th Street. This will be the first test of the market study since Price Chopper. The applicant thinks it is an easy challenge, given the changes that have been made since the plans were originally submitted.

Presentation by Estel Hipp. The applicant has worked diligently with staff and the architects trying to devise a development for this piece of ground that would be a boon to the City and also viewed as an asset to the residential developments to the south. The applicant has had two interact meetings with the residents and the applicant has made several changes to the plan as a result of those meetings and meetings with staff. The applicant has reoriented the independent living and assisted care from a north-south orientation to an east-west orientation to reduce the mass of buildings that would be facing the residents to the south. The applicant has moved 137th Street north from where it was originally contemplated in order to add some green area at the request of staff and in response to the concerns of the constituents who live to the south. The reason the applicant chose to dip the road south is to give them additional distance to impart a mixed-use development north of 137th Street in the portion that is allowed for commercial development in the construct of the overall 135th Street corridor plan and the Leawood master plan. The applicant has relocated the hotel site further north in response to the concerns from the citizens and in response to comments from staff. The large office buildings on the west side were oriented north-south and the applicant has now changed that to east-west to try to get them more centered into the site and further away from the homes to the south. There was a big box store on the east side that has been removed and changed to more of a neighborhood type of development. The applicant has tried to incorporate a variety of uses that would be advantageous to the southern part of Leawood, would be an asset to the community, would present a consistent, fine architectural presence along 137th Street and would serve the needs of the residents in that particular area.

Presentation by Jeff DeGasperi of DeGasperi and Associates Architecture. DeGasperi described the architectural and physical features of the development. In accordance with the 135th Street corridor plan, gateways are important elements for the development. The applicant has created those gateway elements at the major intersections of Mission Road and Roe Avenue with the terraces, fountains, benches and pause stations. There will also be a gateway at the new Fontana. Along the south edge the applicant is creating a gateway on the reverse frontage road of 137th Street and another main feature, which would be the green space and pause station along the hike-bike trail. They have grouped the buildings at the corner to create a sense of place and a grand element as a vista at the corner. The retail component is ordered in which there is flow across the front of the in-line shops that meanders across, near the north side of the site. Covered loges, hard loges, and porches will connect all of those walkways so that there is a covered environment for pedestrians to walk through. There is a central courtyard on the main intersection of the retail section with a large tower element as a focal point to the retail. The applicant has used these tower elements quite a bit throughout the entire development to create a feeling of orientation, break up the skyline and create the romantic feel of the Mediterranean style of architecture. The drive lanes are proposed to have on-street parking to try to break down the scale a little bit so there are no grand loop roads speeding through the site, to slow down the traffic and to provide parking that is more accessible to each of the smaller scale retail shops. The office district is oriented with some flow to the drives. The main bisecting drive is oriented towards the major tower and courtyard element in the middle that allows pedestrians to penetrate through the retail component. There is a mix of different sizes of offices in the office district. There are several smaller offices oriented around courtyards with

fountain features or outdoor art. The applicant has driven the pedestrian connections through quite a long line to create a long vista down tree-lined sidewalks with fountains and art to direct the pedestrians and towers in the background to help orient the site. The institutional component on the south would consist of an independent living and assisted living building and residential style two-story buildings. On the east component, the applicant has oriented the pad sites for the retail around the 135th Street side, trying to line them up towards the setback to create an edge along 135th Street, as required by the 135th Street corridor plan. There are two-story buildings at the Mission Road and 135th Street corner to create a little more scale on that side. The drive lanes wrap in front of the retail buildings to create a boulevard effect. The retail component on the eastern portion of the east side has a playground and courtyard area. There is an office component along 137th Street and Fontana that will have a mixture of one, two and three-story buildings with internally oriented front doors. The condominium and villas neighborhood orients around a pond feature in the center of the site. The villas create a transition to the south portion. The applicant has tried to align the drive lanes through straight-through intersections as much as possible to allow flow through the on-street parking lanes throughout the site. DeGasperi described the elevations. The Leawood Meadows houses are fairly close to the property line on the west portion, with about 50 ft. to the property line. The setback is around 90 ft. to the buildings themselves. There will be a 7-ft. berm with 12-ft. white pines or staggered pines in which to create a very dense evergreen screen. Overall, the screen will be about 20-ft. high. The applicant has studied the sight lines both in and out of the property, which clearly shows that views would not be obtained into the neighbors from the second story of the assisted living facility. The berm would hide headlights intruding into the neighborhood as well. The applicant has proposed a higher berm, about 8-ft., at the green belt at Fontana. There is a distance of about 95 to 100 ft. from the curb to the property line, which gives a fairly wide green belt and allows for a fairly large berm. The applicant would augment that with 12 ft. of starter Evergreens to cut off sight lines to the second story of the office buildings. The bottom section is through the condominium and villa area. The closest house is about 180 ft. to the property line. There would be another 30 ft. setback to the one-story villas. The applicant is proposing to augment the existing vegetation with smaller berms and staggered evergreens to create a solid screen through that area. The two-story condos are sufficiently far enough away from that line that there will not be any sight line issues either into or out of the facility. The applicant believes those solutions will be adequate to solve those issues. The architecture is inspired by a Tuscan or Mediterranean style which will give the development a grand style and a quality of materials which will be timeless and set the tone for a very upscale development that transitions well from office to retail to residential, all within the same style. Low-sloped, barrel clay tile roofs are predominant in the style. There are tower elements to break up the façade. There would also be stucco and natural stone base as well as some wood and stucco trim elements. On the more formal buildings, there would be a cut stone or pre-cast face for bases. This will transition well throughout the entire development.

Presentation by Phil Gibbs of Continental Consulting Engineers. The neighboring residents were concerned about the drainage problem to the south. Gibbs described the drainage plan. By researching the situation, the applicant found that there were some areas in the neighborhood to the south that are currently problems. Currently, if there were a 100-year event in this area, there would be 100 CFS (cubic feet per second). The applicant is proposing to reduce that to 33 CFS because of the curb and pipe capacity. There will be a buried stormwater detention system, which is a series of very large pipes, to store the water and then release it so that it will not release any higher than the predicted amounts. The applicant is following the current standards for APWA that Leawood has adopted. The applicant believes this project will actually help the Leawood Meadows subdivision from a drainage standpoint.

Patterson stated the applicant is in agreement with a continuance to the July 27th meeting.

Williams asked how much of the current vegetation would remain on the south side of the development. DeGasperi stated the goal would be to maintain as much of the existing vegetation as possible and supplement that with additional evergreens and low cover to create additional screening where necessary and to berm in areas where it is applicable. The applicant would not want to take out existing dense vegetation; they would need to balance that concept to make the most of what is there and add onto that. Williams stated it would be a shame to lose a lot of the current vegetation in order to put in a berm. He then stated he finds it disturbing that a motorist would need to drive a substantial distance with parking on both sides of a drive aisle. Having lived in areas that have had similar parkways, he feels that it appears to be problematic. While he understands that it might be needed in some areas, it is the length of some of these aisles that he is concerned with and that they seem to be the only ways into the development

and to some of the retail. He then asked the applicant why they chose to do the parking that way. DeGasperi stated the applicant believes the concept is such that on-street parking, which lends an old urban feel, is appropriate to the scale of the property, rather than fields of parking. The applicant agrees with staff that perhaps a combination of angled parking with sufficiently wide lanes and perhaps removing cars along some predominant linkage roads would be necessary to create some flow that works a little better, and to allow more of the on-street parking to occur directly in front of the office or retail portion. There could be more refinement to the plan. Williams stated he appreciates the effort to break up parking to avoid the sea of parking that is normally seen. He then asked for a description of the pedestrian amenities and why a pedestrian would want to walk through some of those areas. DeGasperi pointed out the pedestrian amenities on the site plan. The developer is trying to get the sidewalk pathways to align and connect the entire site. Staff has mentioned the applicant needs to consider the safety of the pedestrians and the applicant will need to go through the intersections with patterned crosswalks and at corners where cars will not block the view. Williams stated quite a few of the sidewalks run along the parking aisles and there are cars right next to the curb, which is next to the sidewalk. He then asked what width the applicant is proposing for the sidewalks to provide ample distance. DeGasperi stated he believes the applicant is requesting 8 ft. and the City's requirement is 6 ft.

Azeltine stated he would expect the applicant to have a clearer description of what vegetation would be kept before the next meeting. DeGasperi stated the applicant would be commissioning a tree study. The applicant could provide the Commission with that at this preliminary stage, but it would certainly be finalized before the final application. Azeltine asked if the survey would be done before the next meeting. DeGasperi stated he is not sure.

Perkins asked the setback of the corner of the parking lot for the easternmost building of the assisted living building. DeGasperi stated he believes it is at the 30-ft. setback line. Perkins stated he believes the parking lot is too close to the property line. He then asked the setback of the condos on the west portion of the development. DeGasperi stated the closest building would have a 30-ft. setback, which is the minimum setback for an RP-4 district.

Williams asked how many units would be proposed in the independent living and the assisted living. DeGasperi stated the applicant is proposing 100 units in the independent living and there are 120 beds in the assisted living. Williams asked for a description of the assisted living units. DeGasperi stated the assisted living is more of a bedroom, rather than an entire living space. Williams asked how the applicant chose the general shape of the assisted living building. DeGasperi stated it is based on square footage per bed to get the shape and space; it will need to be redefined to make sure the shape of the building works. Williams stated he believes that the applicant would need to request a variance for encroachments on the setbacks in order to get the building size that is proposed for that lot. He then asked if the parking is larger on the independent living building in order to accommodate the residents' vehicles. DeGasperi stated it is based off of code; the parking regulations require allowances for the visitors on the weekends.

Conrad asked if there is a phasing plan. Hipp stated the applicant is planning to begin the development on the west side, which should take three years and then begin on the east side, which would take from three to five years. Conrad asked if there would be any sub-phasing. Hipp stated it has only been discussed as the two phases.

Williams asked why the deadline dates for the phasing on the second development have such different dates. Hipp stated the 2008 deadline date is based off of his anticipated need for large office space, given the current state of the market for southern Johnson County. Williams then asked if the independent and assisted living facilities could possibly be constructed prior to the fourth phase of the second development. Hipp stated, yes, quite possibly.

Conrad asked for a description of the sub-phasing. Binckley stated the applicant is showing the retail section being built first, the small office second, the independent and assisted living would be third and then the office would be fourth. Conrad stated one of the Commission's concerns on large developments with mixed-use zoning is the phasing - the compliance with the proportion of retail and office. He then asked if this development would be out of line with relative percentages of construction between retail and office if the pad sites were completed prior to the office. Binckley stated there is not an issue of percentages, since the applicant is not requesting mixed zoning. The only concern would be to ensure that a portion of the main center be constructed prior to or at the same time as the

pad sites. Conrad asked if phase two and phase one would actually be completed in one phase. Binckley stated, they would be close, but phase one would include the main center for the retail.

Pilcher asked if there was any consideration given to lowering the terrain. DeGasperi stated the applicant would be trying to keep it as low as possible. There is a natural plateau. They believe the landscaping and berm will screen it. The applicant has tried to address it by grading the entire site down close to the level of the neighbors to the south.

Azeltine asked if there was any discussion of the angling of 137th Street during the interact meeting. Hipp stated the applicant held a meeting with staff before they held the interact meeting and at that point the applicant agreed to move the lowest point farther north. When that was mentioned at the interact meeting some of the residents stated it was still not far enough north. Klein stated the applicant is showing a green area on the south side of that intersection. Staff is concerned if that road were moved farther north, buildings would be shifted into that green area and the residents would lose some of that buffer. Azeltine stated he is less concerned about the economics of the project as he is about the residents to the south. Hipp asked the distance of the closest house to the south. DeGasperi stated the homes on either side of Fontana are about 35 ft. from their property lines. Hipp stated an original suggestion was to have a connection with Fontana and staff and the neighbors to the south were not in favor of that. Williams asked if there would be a pedestrian connection on Fontana. Hipp stated, yes.

Henderson stated the 135th Street corridor committee's effort was to design a series of developments that would illustrate the commercial, office and residential opportunities well. At no point did that study suggest that the City wanted each of these sectors of these quadrants to come in with a full-fledged development that would argue for bonus points. Bonus points were a very small point of the discussion. Only a few other developments have requested those bonuses and whether or not they received those bonuses has nothing to do with future developments. It is not precedent setting. When looking at the 135th Street corridor study, one needs to think about the intensity or FAR of this proposed application. Henderson then asked if the City has records of flooding by geographical area for the past 15 years. Ley stated the City has met with the residents of Leawood Meadows to discuss their drainage concerns and has received letters from some of them outlining their drainage concerns. Most of the residents' concerns will be addressed with this development. The berm along the south side of the development will collect the water and direct it into the storm sewers. That, in conjunction with the detention pond, will reduce the peak rate by about 50%. Henderson stated if there is a history it seems to him the way to address that issue is very important not only for what the project looks like, but also what the residents anticipate.

Public hearing: Presentation by Ernie Ballweg, an attorney representing the homes association of Leawood Meadows. He has been practicing law for 35 years in this county and has done a lot of zoning and planning work and has been involved in development, but never in Leawood. He is very impressed with the City staff. The applicant has put together an excellent team and made a fine presentation. The applicant's charge of bringing a quality development is somewhat hampered by the client that ultimately holds the strings and the attempt to maximize every opportunity for profit out of this piece of ground. The density of this plan affects many of the issues that his clients are concerned about. In that regard, there is a big concern about the drainage situation. The Commission should have received a copy of the letter from Robert Gurton, who is an engineer that has been employed on behalf of Leawood Meadows and he has expressed his concerns about the design of the proposed drainage system. He has concerns that the proposed drainage system will result in a problem farther downstream in the Worthington subdivision. That would ultimately cause a backup that would affect the residents of Leawood Meadows from the standpoint of the ability to service the flow of water. The residents have concerns about it, and have put the City and the developer on notice about the concerns. It is his understanding that the greater the density and the more concrete, the greater the ultimate impact on the drainage and the ability of the storm water system to control. His clients believe there should be more green space in this proposal, particularly as it relates to the area east of Fontana. The master plan and 135th Street corridor plan shows the area east of Fontana, closer to Mission Road, was contemplated to be more of a neighborhood center. Clearly a three-story hotel does not comply with what was anticipated. Another issue is if the residents can rely upon the City's master plan and what they understand the development to be. They understand that this land will be developed and to some extent commercially. They believed 137th Street would be a straight shot and they would be buffered from that. He believes the applicant has changed 137th Street to what is being proposed now in order to maximize the ability to develop that commercially and

maximize the return. He agrees with staff to some extent that at least in the middle there is nothing that is constructed. He believes the street comes down to 75 ft. from the property line at its closest point. He feels that another 25 ft. or so would be helpful. It gets into a critical issue because the villas on the eastern portion that border Leawood Meadows are 30 ft. from the property line. He has walked that and seen the existing tree lines and he believes there is no way to salvage those trees if they construct within 30 ft. of the tree line. Even if the roots are not damaged when digging the foundations, they would end up with piles of dirt and there would be heavy traffic. Those trees are very important to the people who live in Leawood Meadows. The screening and buffering are very important. The timing of the screening and buffering is also important. He then suggested requiring the applicant to construct the screening and buffering first. The berms need to be sufficiently far back to allow for the good health of the existing trees. If the screening and buffering could be done first, it would satisfy many of the concerns of the people that he represents. That should not be too large of a concession to ask upon the developer. His clients are concerned about the quality of the development and in many respects he would say that it looks like a quality-designed development. But the quality and the density go hand in hand. He believes the developer is proposing parking on the sidewalk not to make a small town effect but to satisfy the parking requirements because they have so many square feet of space that they need to use up all of the available space of the property to allow for the parking. If it were less dense with more green space, then it would be a higher quality development than what they are proposing. The more green space, the less impact it would have on potential drainage problems. The less density, the less impact it would have on other available infrastructure. It is his understanding that Leawood has no present plans for the widening of Mission Road. It carries quite a bit of traffic already. The greater the density of the development, the more impact will be put on the infrastructure. He believes that staff has expressed those same concerns. The residents are also concerned about setting precedence. The Price Chopper development had to give its neighbors to the north a 300-ft. buffer. It seems like a remarkable disparity. Ballweg requested this plan to be reviewed by Price Banks, who is an attorney as well as a planner. Banks then issued his opinion in the letter dated June 17th that was provided to the Commission. His letter states, "The development proposed in the Market Square area of the site does not distinguish itself as having appropriate neighborhood scale or as being a highly pedestrian-style environment". The letter then states, "The overall development is too dense, lacks sufficient green space and does nothing to separate automobiles from the pedestrians." Banks recommends that the villas and condominiums be set back a minimum of 75 ft. from the rear property line, that the storm water detention facilities be redesigned or at least reviewed to ensure that it is adequate and if there is to be a hotel, it should be moved considerably west of Fontana. The residents are asking that the landscaping and buffering take into account the existing trees and not just try to save as many as they can. The residents want to save all of the existing trees. If the development is moved back a sufficient distance, then it can be accomplished. Ballweg's clients think it is a reasonable request to have the landscaping completed as one of the initial parts for this development. His clients endorse the recommendation of staff in regard to density and ask the Commission to take staff's comments and his comments into strong consideration.

Rick Oddo, 2801 W. 112th Street, owns the property directly east of this development. He believes this development is too dense and compact. It has more density than the project at 135th Street and State Line Road. This property cannot handle this amount of density. As a fellow developer, he is never against development, but if this is overdone, it could really hurt the entire neighborhood. It needs to be cut back. His biggest concern is who the owner is of this property, who is the financial backing behind this and who would be accountable for what is going to happen. He would like to know if they have the financial backing to make sure this is done properly and that it is not going to get started and then fail.

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

Rohlf suggested the applicant request a continuance to allow the applicant and staff to further work through some of the issues that have been discussed and some of the comments from the public. Before the Commission makes a motion, she would like the Commission to give direction on what their concerns and recommendations would be. Rohlf suggested the applicant could prepare a dimensional model to better illustrate the elevations of this development and maybe color coding the buildings to show the phasing. She would also like to see what the applicant is planning to do on the buffering on the south side and what it will look like when they start construction.

Azeltine stated he feels very strongly about how close the structures are to the homes in Leawood Meadows. There needs to be some movement. He would also like more specific news about the retention of vegetation. Azeltine asked Ballweg what his clients would want to see in regard to the placement of 137th Street. Ballweg stated the more buffering they could get, the better it would be. However, if it were moved so far that there ended up being buildings built, the residents certainly would not gain anything. 75 ft. is pretty close for whoever lives directly south of that, particularly with headlights coming south on Fontana. Azeltine asked if Ballweg is suggesting that his clients would like it to be moved farther north, but not so far that buildings would end up being placed there. Ballweg stated that is correct. Part of that would be the ability to berm and screen that. Screening and berming are very important to his clients.

Pilcher stated the southern property line seems to be one of the most important issues and he does not feel that a small berm and a line of trees solve the problem. He feels there should at least be a percentage, but not 30 ft. up against 80 ft. His biggest concern is the property line. It appears one of these houses must be 20 ft. to a parking lot. Parking is another problem. When there is a long line of parking like that, the only thing the developer can do is put in speed bumps to stop people from driving 30 MPH and taking out someone who isn't looking in their blind spot, backing into a spot. He does not think that works at all.

Perkins stated he believes 137th Street needs to be moved north. There cannot be any more residential or institutional development in between the southern property line and about 250 ft. north. There needs to be more green space in that area. He has done excavation work before and knows that a berm that close to the tree line would damage those trees. He feels it is too dense. He believes if there is to be a hotel it should be as far north as possible.

Azeltine asked when Mission Road is scheduled to be widened. Ley stated it is at least 10 years off right now. The developer would do some temporary improvements to Mission Road between 135th Street and 137th Street to provide for the traffic between now and when it is widened.

Henderson stated most of the remarks have centered on density. He feels that the issues of density, the issues about parking, the placement of 137th Street and the berm could resolve themselves when the issue of density is resolved. He has confidence in what the City Engineer has said about the storm water. That issue about water drainage needs to be considered and he would like to find out if Leawood Meadows already has a drainage problem. He is also concerned about how the parking can be broken up.

Conrad asked if there have been items identified for bonus points. Klein stated the applicant has provided indication of the bonus points they are seeking and it was included in the Commission's packet. A couple of the areas are underground detention and a parking structure. Those are both areas where they are allowed to have bonus points. In addition to that, any excess green space that is over and above the 30% required could be eligible for bonus. When the Commission looks at these requests for bonuses they should not just look for what has been provided, but also how it is provided; whether or not it complements the site and raises it to another level. Conrad stated he would like an analysis provided by staff in respect to the submitted bonus points. Binckley stated an analysis could be provided. Staff did not provide one at this point because staff was concerned with the density and was not sure they were at a point to support the bonuses if they were not comfortable with the maximum density allowed. Conrad stated he feels the general consensus is that the density is high. He also feels the two developments look like two distinctively different approaches to space or land development.

Azeltine stated he would like staff to address the concern that there could be some drainage issues south of Leawood Meadows.

Williams commended staff on the review and analysis of this project. He concurs with all of staff's comments. Mr. Patterson had made some comments about the opportunity this presents to Leawood. There are numerous references about pedestrian amenities and vistas and plazas, et cetera, and how it is a special place. Williams feels there are two very different developments proposed on either side of Fontana. He feels the development does not hit

the mark, either separately or combined. The plan is not much different than what the Commission has seen before with other developments. If they are trying to sell a development that will be very pedestrian oriented it needs to be more pedestrian attractive. By that, he does not mean a person parking up next to a building, getting out, walking through a store and walking through a plaza to get there. A pedestrian place means that they spend some time and that they walk, instead of parking directly in front of where they are going to shop and then leaving. The applicant needs to make more out of it, particularly if they are going to try to get bonus credit for FAR.

Ballweg asked if the public hearing would be reopened when the case is heard again at the next meeting. Binckley stated the City of Leawood typically closes the public hearing at this point in the meeting. The public hearing will be reopened during the next meeting. Typically, the City asks the public to limit their information to only new information. At this point, it would not be the time to file a protest petition.

Patterson stated the applicant is in agreement with the staff recommendation of a continuance to the July meeting.

Pilcher asked if there should be a clear understanding that the applicant understands the issues raised by the Commission. Binckley stated staff has a clear understanding and staff can discuss that with the applicant.

Williams asked the applicant if they feel they can change their plan sufficiently by July 27th, given the timing. Patterson stated the applicant cannot know at this time, but can decide soon. Binckley stated if it were continued to a date later than July 27th, then staff would contact those residents who spoke tonight. It would also show on the next agenda if it was continued and it would be posted on the City's web site.

A motion to continue case 33-04 to the July 27, 2004 meeting was made by Williams and seconded by Perkins. Motion to continue approved unanimously.

A motion to continue case 34-04 to the July 27, 2004 meeting was made by Williams and seconded by Azeltine. Motion to continue approved unanimously.

CASE 35-04 VILLAGE OF SEVILLE Request for approval for a rezoning of a portion of the property from SD-CR (Planned General Retail) to RP-2 (Planned Cluster Detached Residential), preliminary plat and preliminary plan. Located at the northwest corner of 133rd Street and State Line Road.

Commissioner Duffendack recused himself from case 35-04 Village of Seville and Commissioner Rohlf continued as chair.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a rezoning for the western portion of the site from SD-CR (Planned General Retail) to RP-2 (Planned Cluster Detached Residential), preliminary site plan and preliminary plat. The development will consist of 105,069 sq. ft. of retail space on the eastern 12.02 acres for an FAR of 0.20. A 58,000 sq. ft. assisted living building and 17 single-family RP-2 units are proposed on the western 8.34 acres. The 17 single-family RP-2 lots will be constructed on 5.10 acres for a density of 3.33 dwelling units per acre. The development is located north of 133rd Street and the west side of State Line Road. Staff is recommending approval of this case with the stipulations as stated in the staff report.

Perkins asked for a description of the height of the assisted living building. Klein stated staff is recommending the assisted living building to be lowered to one-story for the portion that is next to the existing residential lots and then stairstepped up to a two-story level 75 ft. back to transition the height. Perkins asked how much parking the assisted living building provides. Klein stated 64 parking spaces. Perkins asked how many living units there would be. Klein stated they have not provided staff with a number for the units. Perkins asked how the applicant came up with the number of parking spaces without knowing the number of units. Klein stated it is based on square footage of the building. Perkins asked how the assisted living building would be accessed. Klein stated the main access would be a private drive from State Line Road. Perkins asked if staff is recommending the commercial space be cut down considerably because of the density of the retail space. Klein stated staff recommended that it would be

advantageous to remove one of the pad sites proposed along State Line Road in order to provide more of a view of the main center as opposed to a strip center with pad sites lined up along State Line Road.

Conrad asked if R-1 zoning would be to the west and the north. Klein stated the west side would be R-1, but the north would be RP-4, which is planned cluster residential. Conrad asked if the City has used any type of transition between office and assisted living facility in the past. Klein stated Sun Bridge, along State Line Road, has houses to the east of it.

Perkins asked how deep the green space is between the residential and the commercial. Klein stated the applicant is showing 125 ft. Staff has commented that the 125 ft. would need to be from any structure, including the trash enclosure. Perkins asked if there is a retention basin. Klein stated there would be a retention basin for the commercial development as well. Staff has stipulated that the retention basin would be owned and maintained by the commercial portion of the development. There would be more money from the commercial portion as opposed to 17 single-family homes. Williams asked how the water would be sent to the basin. Ley stated it would be piped in.

Perkins asked if the air conditioning units would be on the roofs of the commercial buildings. Klein stated that is typically discussed at final plan application, but by ordinance, screening is required for the rooftop units to not be seen by someone standing at the street. Perkins asked if the air conditioning units would be located on the roofs of the assisted living facility. Klein stated the applicant would be better able to answer that question.

Applicant presentation: Presentation by Danny Potts with Klover Architects. The applicant has had three different interact meetings. They have tried to comply with as many standards as set forth by the local residents and staff as they possibly could. There are a few items that have come up with the staff report that were a surprise to the applicant. One item that came as a surprise was the removal of one of the pad sites and the other item was the 75 ft. requirement on the second floor of the assisted living facility. The applicant is taking 8 acres and downzoning it. The reason behind the downzoning is that the market is not out there for anything else right now. The front 12 acres has been geared towards a small, upscale retail center. The applicant has discussed with staff the many options of what to downzone to and have settled to RP-2 per recommendation of staff. The applicant is proposing 17 villa-type homes, which will have a public street and good access to the trafficway. The applicant cannot give the Commission an actual room count at this point in time. There are two or three different potential tenants at this time. The applicant wants to keep the architecture in with the retail but also addresses the neighborhood. The building is being proposed as two-story with a roof that would screen the rooftop units. There would be a courtyard facing the adjacent residential and the ends of the building that face the adjacent residential will mimic those houses. The neighbors have expressed concern with removing some of the trees. The applicant would like to remove some of the trees and clean that area up and add to it when the time comes. Stipulation number 20 on the no-cut tree preservation easement was something that was talked about previously when the screen was denser. The project was allowed 0.25 on the density and it is at 0.20 with no bonuses. There are significant barriers around both. The applicant is following the requirements of all of the ordinances and has exceeded the requirements in some instances. The applicant has been sympathetic to the adjacent residents and their needs. They have complied with the 30-ft. setback for the RP-2 zoning. Staff is requiring a 40-ft. setback on the assisted living. That was new to the applicant when the staff report was sent out. There is a 125-ft. barrier between the developments. That is in addition to the other property owners adjacent to this property. The applicant would like the Commission to consider that the applicant has tried to do a quality project but there were some surprise items that the applicant has great difficulty with and would like to discuss further. The applicant has issues with removing the second story of the assisted living building. The applicant has tried to be sympathetic with the neighbors by putting the smaller ends of the building towards their property in order to mimic the residential feel. The applicant has issues with removing one of the pad sites. This has been discussed previously and what was discussed was to screen the drive through portion of the center two buildings to make those buildings look as one. The applicant was quite surprised that staff is requesting one to be removed. The applicant would like clarification on stipulation number 6, in regard to when the fees associated with this project are due all at the same time or is it as per project that is submitted for building permit. On item number 20, the no-cut preservation, the applicant volunteered at the first interact meeting to save as many trees as possible, but there will need to be some clean up on it. On item number 28, the applicant would like to proceed upon the entire front portion as soon as approved, but the larger building and the retail portion is going to lag behind

what is already ready for the front portions. The applicant would like some leniency in that regard. On stipulation number 35, "the owner agrees to all stipulations", the applicant has to disagree with that because of some of the items that came up new to them.

Conrad asked how the detention basin would be maintained. Potts stated the retail portion would maintain it.

Presentation by Roger Cassity of Phelps Engineering. The storm water runoff for the project drains mostly to the southwest corner of the development where they are proposing a wet basin. The basin will retain water and act as a pond but then in the high level storms it would fill up with water and then be released over the required amounts of time. That would take care of the storm water retention for the retail portion of the site.

Perkins asked how the applicant could not know how many rooms there will be in the assisted living facility. Potts stated they would have an approximate amount, but it is not final at this time. Perkins then asked what the guideline would be for a 58,000 sq. ft. building. Potts stated a lot depends on the function of that particular operation. It would depend on if some of them would have a kitchen in their room and the level of nurses. There are a variety of program requirements that would be instituted into that particular style. Right now, the applicant is setting forth a standard to be approved for 58,000 sq. ft. for a facility to allow them to have discussions with potential tenants. It would still need to go through final plan to get approved. Binckley stated another thing for the Commission to keep in mind is that in order to have an assisted living facility the applicant would need a Special Use Permit, so the Commission's review at this meeting is to approve it in concept.

Henderson asked what would happen if someone cut down one of the trees that was included in the no-cut tree preservation easement. Klein stated the City has run into numerous occasions where a new development is adjacent to an existing residential development. The City tries to protect the existing trees. Henderson asked if there is a tree inventory. Klein stated there is a tree inventory done at the time of final approval and each of the trees is marked as to whether or not it is to remain.

Perkins asked if staff has worked with the applicant on when the impact fees would be paid. Klein stated the impact fees for the commercial portion would be required at the time of building permit and the impact fees for the residential portion would be required at time of filing the final plat.

Azeltine asked for an explanation of the rationale behind not approving any of the building permits for the pad sites without the principal shopping center being built. Binckley stated the City has never been interested in having a ring of pad sites and no main building. The thought being that the City looks for destination spots and an overall community and would like the whole piece to fit together. The City has allowed for a portion of the main building to be built, maybe 50%, but it is up to the Commission to decide what they think is reasonable.

Henderson stated that policy has worked in Leawood in the past.

Public hearing: JoAnn Farris, 12894 Cambridge Court, secretary of the Cambridge Town House Association, which is north of the proposed project. She hopes the two-story building will not be 25 ft. from her bedroom window. That is too close. The residents were promised that there would not be a drive from State Line through the property. The developer was talking about maybe having gates for the fire department to get through, but now she understands that the way to the nursing home is a through street from State Line Road to the nursing home. She is concerned about the nursing home because it abuts a number of homes in her area. She lives at the very north end of the old State Line airport and there is a hedge row of trees. There has been a lot of storm damage to the tree line. There are some good trees, but not a lot. She is hoping when they begin building the area, that they would consider the berms and the plantings for the whole area. Their planting needs to be very strong for considering this a whole area. She is okay with building the shopping center first, but would like to know a little more about the area that would be near her home.

Ken Barker, 13012 Pembroke in Greebrier. He is concerned about the sincere effort to do the residential as much as the applicant is concerned about the retail. He would like a stipulation that states that a certain amount of residential

lots are put in at the same time as the retail. That would be one way to make sure there is a sincere effort on the residential. He feels the developer has been more focused on the retail and not so much on the residential.

Vincent Morris, 2300 W. 131st Street. His property abuts this development. He went to one of the interact meetings and what he heard at the meeting and what was proposed tonight are completely different. The road system is completely different. The promise to put up a berm between the current residents and any type of commercial development prior to being built seems to be completely ignored. He feels the zoning issue is just a ploy to allow them to go forward with their commercial development. His walkout-type basement is about 9 ft. lower than the proposed parking lot. He has some serious concerns if the water would act as the developer intends it to. He would like to see a little more of the trees. Other developers have suggested there was a tree survey and he would like to see that. There is currently a pile of trees that were cut up previously and he feels that has killed part of the hedge row that is there currently.

Jan Jones, 13013 Pembroke Lane. Her home abuts the western edge of the proposed development and would be looking at the retirement home. She is in favor of the concept of nursing homes, but for those people to be so close that they can see the time on the clock on her bedroom wall is very distasteful. She has a few questions that have not been answered tonight. One is that she has serious concerns that the residential needs to be developed prior to or concurrent with the retail. It is her understanding that the developer has no one in mind to take on the residential portion and that they plan on proceeding with the commercial first thing and there would be up to two years without a buffer between her home and the commercial portion. Her other concern is that she heard that there was some personal contractual agreement that if no one builds on the residential within a certain number of years, that it goes back to commercial zoning. In keeping with Leawood, the buffering should go concurrent or prior to the commercial portion being built.

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

Binckley stated there is no sunset clause on rezoning and it would need to go before the Commission in order to change the zoning again. The plan can sunset, though. That is one of the reasons staff is supporting the RP-2 zoning, so that if the plan is not developed as seen, it would still be a single-family residential type zoning. Conrad asked the zoning for the assisted living. Binckley stated it would be RP-2.

Pilcher asked the distance of the existing residential buildings to this projects' property line. Klein stated the minimum setback within an R-1 zoning is 30 ft. Within the RP-4, at the time they were constructed, the setback would have been 20 ft. from the property line. Henderson asked if that means that the current policy of 20 ft. setbacks would also relate to two-story buildings. Klein stated that is correct. Binckley asked Pilcher if he is looking at the Cambridge town homes or the Greenbrier homes. Pilcher stated he is looking at the town homes and how close they are to the property line. Binckley stated it looks like the structures are about 25 ft. Williams stated he agrees that it appears to be 25 ft. using the scale that is on the drawing. The assisted living facility appears to be about 50 ft. from the property line to the north. Binckley stated she would agree with that. The setback from the west property line is identified in the staff report as being 30 ft. and staff is requesting 40 ft.

A motion to extend the meeting until 9:30 was made by Williams and seconded by Perkins. Motion approved unanimously.

Williams asked if the buffer shown on the rear of the retail development to buffer the retail from the proposed nursing home and residential would be part of the retail development, regardless if nothing goes in to the west of it. Klein stated, that is correct. Williams asked if it is anticipated that the pad site lots would be sold or if the same developer would own them. Potts stated the out parcels could potentially be sold, depending on what type of structure deal they work out. Williams stated, in regard to the roadway from State Line Road to the nursing home, clear direction to a facility that would be getting daily activity would seem to be very important to the success of the assisted living facility.

Perkins asked staff if they were asking to reduce the amount of retail space. Klein stated staff is requesting one of the pad sites to be removed, but the applicant would be allowed to add that square footage to other buildings.

Potts stated the applicant is trying to do many different things on a small piece of property, which caused great difficulty in regard to traffic. The area that is zoned commercial could potentially be office. He pointed out that the applicant is requesting a downzoning. In doing so, there is a huge amount of interest in the assisted living facility. There are privacy and security issues with that. The applicant is trying to create an area that is private for the residents of the assisted living facility, as well as secure. There are public streets that run back to the residential. There is only one access allowed along State Line Road. The retail portion has two main entrances. The residential portion and assisted living facility share one entry off of Blue Ridge and one off of 133rd Street. The traffic counts show that there will be no undue stress at any location. In trying to foresee the functions of how this property would work, the northwest corner became the most private and secure area for the assisted living facility.

Conrad asked if the streets on the residential portion would be public. Potts stated it would be a public street.

Perkins asked how many feet there would be between Mrs. Farris' home and the assisted living facility. Binckley pointed out Mrs. Farris' town home on the site plan and stated there is approximately 25 ft. to the property line and then there would be 50 ft. to the building, so there would be 75 ft. separation between the buildings.

Potts apologized to Mrs. Farris about the gate; he did not realize that the City is generally not in favor of gates. The applicant will be extending the streets up into the property areas and people can still go through there. In regard to the trees, the applicant does not want to tear down any more trees than necessary, but at the same time they feel that some of the hedge row and some of the storm damage needs to be cleaned up. The applicant would like to continue on with that idea as well.

Henderson asked if the applicant would be subject to the requirement of 35 ft. separation of trees. Klein stated the trees in question are not adjacent to a public right-of-way so the applicant would submit a landscape plan that the City would review and approve.

Williams asked if there would be a berm on the north and the west side to begin to provide some sort of separation to the neighbors. Klein stated the applicant has proposed berming and landscaping along the north and west sides. Williams asked how many feet of berming they are suggesting. Binckley stated that Cassity said they could get up to 6 ft. in that area. Williams stated bringing in a berm gets into the potential damage of the current trees and he is not sure they are getting anywhere with that.

Conrad asked if the 58,000 sq. ft. reflects the stipulation of stair-stepping the assisted living building. Klein stated, no, staff listed the square feet as the applicant proposed. Conrad stated he wants to make sure that the stipulations are clear and the applicant is in agreement with them if this project is approved. He then suggested that continuing the case would make sense. In regard to the plan and the assisted living building, he is concerned where the deliveries would occur. He also has questions about site planning and access for the assisted living location. He then asked if the 58,000 sq. ft. meets the FAR for that lot. Klein stated the density is not looked at for special use permit facilities and the FAR is not required within an RP-2 zoning.

Pilcher asked if there is a church to the south of this property. Binckley stated there is a church to the southwest of the proposed detention area. Pilcher asked if the homes to the west of the residential portion would have a larger setback. Binckley stated they would have a 30-ft. setback, which is standard for R-1 zoning. Pembroke actually pulls away at the corner of the assisted living and then a cul-de-sac comes in from the west. That is one of the reasons staff worked with the applicant to do some redesign because the assisted living facility was originally shown where the villas are now and the villas were more to the north and staff felt that by providing the villas to the south end and putting in the cul-de-sac, there would only be two homes backing up to the single family and the rest pulled away from it. Staff felt it was the better alternative and then the remainder of the single family backs up to the detention area. Pilcher asked if staff considered placing the assisted living facility in the southwest corner. Binckley stated

staff considered it, but felt there was more of an impact to the single family. Staff feels the attached homes are more compatible.

Rohlf stated it seems the applicant's concerns with stipulation numbers two and three would significantly change their plan. Potts stated the applicant is particularly not in agreement with stipulation number three. That is very drastic. The applicant has already tried to group two buildings together to appear as one. They have met all of the density requirements and meet the open space requirements along State Line Road and the landscape requirements. He is confused as to where the requirement comes from for the number of buildings when the applicant is proposing the City's urban idea of putting the buildings up on the street. Binckley stated it was a late stipulation. Staff has reviewed the plans on several occasions and sometimes decisions are made at a late time. Staff feels that lining up pad sites along a street is not a direction that the City wants to go. There is a different effect of having pad sites, versus having a short setback for a longer façade. Although staff thinks that if there is going to be a drive through in this area, it's not a bad idea to conceal it between two buildings, maybe it is how those buildings work together, or maybe looking at other pad sites. The assisted living and the villas was a plan in progress and staff did not have an opportunity to recommend anything prior to this time because the plans continued to evolve.

Potts stated stipulation number two would be an object for discussion at a later time because of the special use permit. He requested that stipulation number two be forwarded to such time that a special use permit is considered. The applicant is just requesting the rezoning to RP-2 for that section at this time.

Henderson asked the approximate distance between the northern and southern boundary of this lot along State Line Road. Binckley stated there is 900 ft. of State Line Road frontage including the centerline of 133rd Street. Henderson stated when he thinks of other developments that have three or four pad sites, they typically have windows of no parking and no building between pad sites on major roads. The proposed plan presents a screen of the central shopping district. While this may have been late, it is not A-typical for Leewood. Potts stated the applicant is confused on which rules should apply. They are being told to put the buildings on the building line. The pad sites were not pad sites to begin with; they were actually portions of retail buildings. In the initial stages of planning, building number five was an extension of the retail. The applicant then tried to combine the center two pad sites to appear as three pads sites and he thought the issue had been resolved.

Rohlf stated it seems there are a number of stipulations that need to be met in order for this plan to be approved and she is not sure if they can be modified enough to meet the Commission's and the applicant's concerns. She then suggested continuing this case to give the applicant time to work with staff.

Azeltine asked if staff is requesting a specific pad site to be removed, or just one in general. Binckley stated staff was looking primarily at the buildings shown as OP2 A and B. Azeltine asked if staff is requesting that one of them be removed. Binckley stated that is correct, but there needs to be further review of the design of the buildings. Azeltine asked why staff is requesting a building to be removed. Binckley stated it is providing more mass and keeping the views from the street to the main center. Staff is also concerned with the green space along State Line Road and the lack thereof.

Pilcher stated he is generally against drive throughs because of the architectural limitations, but this seems like an appropriate way to do it to make it look like one building instead of two. He would like to see some concept drawings to see what it would actually look like. Williams agreed with Pilcher. If staff's comments earlier are that the square footage could be moved anywhere, then, in essence, making this look like one building, the square footage stays the same, but they have not achieved anything. Binckley stated the Commission could approve this case as submitted if they are supportive of what the applicant has submitted. Staff was just making the recommendation. Potts stated the applicant feels confident in terms of the quality of control that they need to maintain for the criteria of the pad sites. The developers will need to follow some strict guidelines, besides going before this board.

Williams asked how the applicant would provide acceptable screening around the assisted living building. He then also asked if a wall would be acceptable. Binckley stated it is staff's position that assisted living is residential and therefore would not need screening, other than some landscaping. The concern would be the mass of the building

and staff is trying to peel back some of the height through a portion of it, yet still allow the height elsewhere if needed. Williams asked if the town homes are single story. Binckley stated some are two-story, but some are single story. Williams stated that while he understands the massing of several of these town houses and they may have a similar footprint, it is different if they are single-story. He then asked where the assisted living facility was originally proposed to be located. Binckley stated it was originally considered just north of the retention pond. Williams asked if there was ever an attempt to push it all the way down to 133rd Street. Binckley stated she does not believe there is enough distance between the required commercial setback and the retention pond. The problem was that the only access for the residential portion needs to come from 133rd Street and there was no way to get that drive in with the separation required.

Perkins asked for clarification on what staff is recommending on the pad site and the frontage along State Line Road. Binckley stated the other Commissioners have identified they are not opposed to having the drive through between the two buildings if there is some kind of connection between them. So, essentially, instead of there being four separate buildings, there would be three buildings, because OP2 A and B would be combined with a roof-type structure and some kind of connection.

Rohlf asked the Commission to decide if the last case on the agenda would need to be continued because of the time. Binckley stated the applicant for 48-04 has done everything staff has requested and she would urge the Commission to hear the case tonight because the July meeting is extremely full.

A motion to extend the meeting until 9:45 p.m. was made by Henderson and seconded by Pilcher. Motion to extend the meeting approved unanimously.

Williams made a motion to approve with the following modifications. On stipulation number three, rather than delete a pad site he would like it to read, "Join the architecture for OP 2A and 2B so that it appears as one building." On stipulation number 28, modify the language appropriately to allow pad site construction upon the building permit for at least section R-1 and R-2 or R-2 and R-3, which should be about 60% of that building under construction when the pad sites go up for construction. Motion seconded by Azeltine.

Henderson asked if the R-1 and R-2 would be construction completed or just construction started before the pad sites are started. Binckley stated it is written as construction started. Williams stated he believes that is with keeping of the intent of stipulation number 28.

Motion approved 5-1. Conrad opposed.

Commissioner Duffendack returned to the meeting.

CASE 48-04 TOWN CENTER BUSINESS PARK – COSMETIC DENTISTRY Request for a preliminary site plan and preliminary plat. Located south of 115th Street and east of Roe Avenue.

Staff presentation: Presentation by Jeff Joseph. The applicant is Chuck Peters with Peters and Associates. The applicant is requesting approval of a preliminary plat and preliminary plan to construct an 8,950 sq. ft. dental office building. This property is located south of 115th Street and east of Granada Street, directly east of the Dermatology and Skin Cancer Center. The parking for this building is located to the south. The applicant is requesting a deviation to allow for a 22-ft. building setback along the north property line. Staff is recommending approval of this case with the stipulations stated in the staff report.

Applicant presentation: Presentation by Chuck Peters. The applicant is requesting approval of a two-story building just across from the Dermatology and Skin Cancer Center. Peters showed a rendering of the site plan. This is in keeping with the building they have just completed at the southwest portion of 115th Street and Granada.

Henderson asked if the applicant is in agreement with all of staff's stipulations. Peters stated, yes.

Conrad asked why the deviations are being requested. Peters stated it is very unusual on a side yard condition to have a 40-ft. setback. These lots are very tight. He had discussed this with Binckley when they met for the first building. There were 40 ft. setbacks for the next few lots and the applicant has asked for some consideration to be given to the amount of green area provided. The applicant has enhanced the building with landscaping and patio areas and based on that, requested the deviation. There are 37 ft. between the parking on the north to the building face, so it is still very close to a green space of 40 ft. These are uniquely small sites.

Duffendack asked if there has been any comment from the public. Peters stated the applicant sent out notices of the meeting and received no comments from the public. Binckley stated staff has not received any comments from the public.

Perkins asked to see the south elevation. Peters showed the elevation.

Henderson asked if the fire marshal's comments were incorporated into staff's stipulations. Joseph stated, yes.

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 case 48-04 was made by Azeltine and seconded by Perkins. Motion approved unanimously.

Meeting adjourned.

J. Paul Duffendack, Chair