

City of Leawood Planning Commission Minutes

September 14, 2004
Leawood City Hall
4800 Town Center Drive

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

APPROVAL OF THE AGENDA: A motion to approve the agenda was made by Rohlf and seconded by Munson. Motion approved 6-1. (Williams opposed, due to the fact that he would like to remove Seville Home from the consent agenda).

APPROVAL OF THE MINUTES: Approval of the minutes from the August 10, 2004 meeting.

Duffendack stated he would like to be listed as "recused" instead of "absent" in the minutes from the August 10th meeting. There is a sentence on page 16 that is attributed to him and he was not in attendance that night, so that needs to be corrected. Also, the minutes should be signed and approved by Commissioner Rohlf, since she presided that meeting. **A motion to approve the minutes with the changes listed by Duffendack was made by Perkins and seconded by Henderson. Motion approved unanimously.**

CONSENT AGENDA:

CASE 66-04 SEVILLE HOME Request for approval of a final site plan. Located at the southeast corner of 135th Street and Nall Avenue within the Cornerstone development.

Perkins stated he would like to have this case looked at again in regard to the rooflines and the canopies and some of the comments staff has made. Perkins requested removing it from the consent agenda. Binckley asked if Perkins is asking for this case to be continued to another date or if he is asking to discuss it tonight. Perkins stated he is requesting it be moved to a later date. Duffendack asked if staff and the applicant are prepared to answer questions tonight. Binckley stated staff has plans for what has been approved for the overall development, but the applicant is not prepared to show the amended elevations with the changes requested by staff. Duffendack suggested moving it to the next meeting. Binckley stated if this case were continued it would be heard at the September 28th meeting. **Perkins made a motion to continue this case to September 28th. Motion seconded by Williams. Motion approved unanimously.**

OLD BUSINESS:

REMAND FROM CITY COUNCIL:

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.

Staff presentation: Presentation by Diane Binckley. This case is a remand from the Governing Body regarding an LDO amendment to allow for vinyl soffits. The agenda states both soffits and siding and the Council supported the Commission to not allow vinyl siding in the City. They did, however, ask the Commission to review vinyl soffits and allow the product if the Commission sees fit. At the last meeting the Commission requested that staff review specific criteria for vinyl soffits. Staff identified that the standards between different vinyls and their thickness are minimal; therefore staff had difficulty coming up with criteria to set out. The Building Official will be better able to answer any questions. At this point, staff feels comfortable with ICC being the standard for the product to meet and their criteria for installation.

Sam Maupin, Building Official, stated the three basic functions a vinyl soffit serves are: aesthetics, exterior surface material and providing venting for the attic spaces. From the thickest vinyl siding to the thinnest, there is an 11,000th of an inch difference. That not being a good criterion to use, the most important criterion is that the International Code Council has

evaluated this product and deems it to be complying with the code if it is installed per the manufacturer's instructions in the evaluation report. Duffendack asked if there is any variation in the vent holes. Maupin stated it depends on the amount of ventilation required for the attic space. Normally, with soffit there would be some solid sheathing that the vinyl soffit be attached to and depending on the amount of square inches of ventilation needed for the attic, the solid sheathing would be cut out and there would be ventilation through the soffit for ventilation of the attic space. Duffendack asked if there are slot vents to allow the ventilation. Maupin stated there are generally little holes that run the length of the soffit to provide proper ventilation at any location.

Williams asked Maupin if it is a requirement that there be a backing sheathing for the vinyl soffits. Maupin stated he believes there would need to be some solid material for the vinyl soffit to be attached to. Williams stated he did some research and most of the manufacturer's products were not put up against a solid sub-strength. Most of the instructions talked about clipping at either end of the soffit. There were also some size limitations because the vinyl soffit could only span so far without eventually buckling because they did not have a solid backing. Maupin stated the evaluation report states that in order to qualify for the wind ratings in this area it would need to have at least a 16 or 8-inch spacing. In this area, they can get by with a 16-inch spacing of the vinyl material. As far as how to fasten it, it does not differentiate between the soffit and the siding material. It is his understanding that the vinyl siding and the soffit material need to be installed in the exact same fashion as the evaluation report and manufacturer's report requires. If it were required to be done at 16 inches on center, then there would need to be a solid material to attach it to. It could be that solid material is the ceiling joist or roof rafters, but there is a solid member that the vinyl soffit is attached to. Williams asked if it could be the roof rafters instead of a solid piece of sheathing. Maupin stated he meant that it should be some solid substrate of some type, being a ceiling joist or the soffit ceiling joists that they construct.

Pilcher asked if there is a reason that the City does not specify aluminum soffits in the ordinance. Binckley stated the ordinance is written so that if something is not listed then it is up to the discretion of the Director of Planning to interpret the intent of the ordinance. That could be brought back at a later date.

Perkins asked how this material would be inspected. Maupin stated it would start at the plan review process and the builder would need to specify they are using vinyl soffit and if so, they would need to provide the evaluation report number to tie to that material they are using. Once that is approved, it would be inspected during the final inspection.

Henderson asked if there are any vinyl soffits in the area, not necessarily in Leawood, and if so, have they been inspected to see how they stand up. Maupin stated prior to the LDO being rewritten there was no specific prohibition for vinyl soffits. Prior to that time, Codes Administration allowed vinyl soffits. He does not know where those are located. There is a resident who recently put vinyl soffits on his house and Maupin believes that is why this case came about. If vinyl soffits are installed properly, there will be less deterioration than one would find with wood-type soffits.

Duffendack asked if the ICC rating speaks to weathering. Maupin stated there is a weathering requirement within the code, but it does not go into the level of what type of weathering a person should have on the exterior of the home.

Munson asked if this amendment is to only allow vinyl soffits, and not vinyl siding. Binckley stated it is shown as it was originally seen on the agenda, but the Commission would be denying the vinyl siding.

Williams asked if all exterior materials used in Leawood need to comply with the ICC rating. Maupin stated they have to comply with code. If it is not specifically mentioned on how to apply a specific material, then the City relies on the International Code Council evaluation report process.

A motion to approve vinyl soffits was made by Pilcher and seconded by Rohlf. Motion approved unanimously.

NEW BUSINESS:

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

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a rezoning from Recreation to Planned Cluster Detached Residential, a preliminary plat and preliminary site plan for 27 single-family residential lots on 16.2 acres for a density of 1.66. The City is proposing tracts A and B remain zoned as recreation. These are the two tracts located to the east and to the west. The tract to the west is a smaller tract where the applicant is proposing to construct a pool along with a pool house. The tract to the east is a larger tract and will be located adjacent to Dyke's Branch and is located within the flood plain. With the exception of the lots around the northern cul-de-sac, a 100-ft. buffer has been provided between the retaining wall and Dyke's Branch to preserve as many trees as possible. The retaining wall around the lots on the northern cul-de-sac only extends as far as the existing parking lot, in order to maintain as many trees as possible. The development continues Sagamore and connects with 89th Street producing three cul-de-sacs. The longest of these cul-de-sacs is 250 ft. The maximum cul-de-sac length allowed by ordinance is 500 ft. A retaining wall is proposed along the east side of many of the lots that abut tract A. This retaining wall will be the limit of the 100-year flood plain and is being constructed to bring those lots out of the flood plain. The lots around the southern end of the southern cul-de-sac will not have a retaining wall. They will be at-grade. The Country Club was constructed in 1940 and is currently not platted. It is currently zoned recreational. In regard to what types of uses are allowed in the Recreational zoning, the ordinance states, "No building structure, land, or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following principal permitted or special uses: 1) public golf courses, and accessory driving ranges, but excluding pitch and putt and miniature golf courses; 2) City or private parks, including trails for jogging, walk, and bicycling, playgrounds and other customary park uses; 3) public and government uses; 4) private clubs; horseback riding academies, athletic fields, batting cages, skating rinks (roller and ice, indoor or outdoor); commercial or club facilities (for tennis, handball, racquetball, swimming and similar facilities). The current comprehensive plan shows this piece of property as being designated as open space, private. The 1996 comprehensive plan showed this property as low-density residential. The 1988 comprehensive plan showed it as private open space. Staff is recommending approval of this case with the stipulations stated in the staff report.

Williams asked if the calculations for density are based on the entire property or just the portion they are requesting to rezone to residential. Klein stated it is based on the entire property. Williams asked if that is appropriate. Klein stated on most of the residential products the City has seen that include area for flood plain, staff normally calculated the density to include those flood plain areas. It was staff's recommendation to keep those tracts zoned as recreation, as opposed to being rezoned as RP-2. In doing that, it is staff's intention to ensure they remain zoned recreation, but in the future if the developer ever wanted to expand the number of houses or increase the density within that development, then they would be forced to go through the rezoning process. If the density were based just on the RP-2, then it would be 3.96. The maximum allowed within that zoning is 7.26.

Perkins asked if the issue has been resolved about a storm sewer running underneath this property and there being County-owned property. Klein stated it is his understanding that has been resolved. The applicant might be better able to answer that question.

Conrad asked what process they went through for the 500-year flood plain. Ley stated Larkin and Associates has remapped the flood plain. If the City were to go to FEMA, they would include this grading plan in that model. Conrad asked if there is an authority or jurisdiction that could deny the reconfiguration of the 100-year flood plain. Ley stated, no. FEMA usually makes three reviews before they approve it, but the County normally handles that for the City. Conrad asked if the applicant has submitted calculations which staff feels comfortable with. Ley stated, yes, the City had Larkin and Associates review the applicant's study to make sure they were not increasing the 100-year flood plain. They are actually decreasing the 100-year flood plain upstream of the footbridge. Duffendack asked if the improvements proposed for Dyke's Branch were factored into the study. Ley stated the only improvement that was factored into the study is the one between 86th Street and 83rd Street. There is nothing else on the 5-year CIP for improvements to Dyke's Branch.

Rohlf asked for clarification on stipulation 20 about the funding mechanism for storm water improvements. Klein stated it is meant to ensure that the applicant has devised a financial mechanism to ensure the money would be there to maintain the common areas including the pool and the clubhouse as well as the tract by Dyke's Branch and the trails. Perkins asked how that funding mechanism would work. Klein stated the applicant could better answer that question.

Williams stated stipulation number 14 talks about no construction between 10:00 a.m. and 7:00 p.m. and stipulation number 24 talks about 9:00 p.m. and 8:00 a.m. Binckley stated they are essentially the same thing. One is stating construction can be done between certain hours and the other is stating construction cannot be done between certain hours. Eliminating one of those stipulations can clear that up.

Pilcher asked if the lots shown on page PDP-2 have the 10-ft. side setbacks or the 7.5-ft. setbacks. Klein stated that plan shows the 7.5-ft. setbacks. Staff has included a stipulation to make them 10 ft. Pilcher asked if there are any concerns about lots 9 and 20. Klein stated the applicant could better answer that question.

Munson left the meeting.

Applicant presentation: Presentation by Philip C. Owen of Studio Owen, representing the owner. Owen introduced the development team and then described the areas surrounding the property on the site plan. This project is truly a vest-pocket project. A person would have to know where it is to get to it. A person could drive by on State Line and not know that it is there. The project is buffered with open space. There is only one point where the property actually touches R-1 property. The applicant started off with the idea of community. Most Americans share the idea that freedom and security are best achieved by gaining control of the largest piece of property they can and keeping everyone else as far away as possible. That is a pretty dull idea. People perform best and enjoy life more when we work together with other people that we know, like and respect. Some of us need to be closer to nature. This contradicts community in the traditional matter. By concentrating buildings in a small area, they preserve a greater opportunity to have nature around us. Living alone in an isolated setting creates a risk of burglary and other crimes. A community with particularly tightly grouped dwelling is far safer. Many of our cities are a visual nightmare. Communities should be clean, simple, deriving their beauty from a careful and consistent design vocabulary. The complexity of simple objects combined in an organic pattern with superb landscaping, minimizing the impact and keeping it internal of the automobile will also be beneficial. The nature of modern life is for many of us to be compartmentalized and isolated, frankly, rather of dull. He wants to do more, think more, know more and be a more useful and productive person and that is reflected in this design. There are 16.2 acres. The Leawood Country Club began in 1940. That property is now defunct. One of the form-givers that the owners proposed to him is that they wanted a functioning vest-pocket community with as much open space as possible. Each one of these 27 lots will own 1/27th of all of the open space. The density is calculated based on 1/27th of the property. In regard to the recreational zoning, the applicant originally requested for those tracts to be open space, zoned RP-2, with covenants and restrictions that it could never be used for anything other than open space. It was staff's recommendation that the applicant split it and make it recreational zoning. The intention is for it to be open green space forever, whichever zoning does not matter to the applicant. In terms of arriving at this design, the applicant has spent the last nine months working with staff, Public Works, FEMA and Johnson County Wastewater. The highest form-giver is FEMA in that they have changed it from the 100-year flood plain to the ultimate flood plain. Since they have reduced the amount used for RP-2, they have increased the amount of open space from about 6 acres in the lower park to 8.17 acres. That has given them enough additional foot-acres of water that they do not need to make it detention. It is purely retention and runoff. Everything within the lower park and the upper park drains to the two creeks. It will be the last thing to flood and the first thing to drain off. In terms of how they approached this, they have almost a flower pedal type of design. They have continued on Sagamore so that it loops around to 89th Street and then brought three lobe cul-de-sacs off of that. When the property is viewed from the lower park area, there are no automobiles. There is no interface there at all. This is 8.17 acres of private open space that is open to the adjacent homeowners for their use. A huge portion of the project has a 5-ft. retaining wall, then a two-tiered 10-ft. landscaped retaining wall. Only in the very middle does it have a 15-ft. retaining wall. There are walking paths. There is a 10-ft. wide handicapped access to the park, not only for the 27 homeowners, but also for the surrounding neighbors. The upper park is the buffer between the RP-1 homes. It will have a swimming pool with a cabana. Other than lot 27, there is no point at which recreation does not touch the adjacent R-1 property. In RP-2, the minimum lot size is 6,000 sq. ft. The smallest lot is 6,300 sq. ft. The average lot is 8,034 sq. ft. Some of the lots are quite larger than that. They are trying to set up a mix of types of lots. They have worked long and hard with staff and other agencies to come up with this plan. The developer would be building all of the homes. They will be very classic, with high-end materials and real stone. All of the retaining walls are proposed to be concrete reinforced walls faced with hand-laid limestone. All of the materials within the buildings will be slate and tile and of top quality. They are looking at these homes selling from \$600,000 to \$800,000 each.

The applicant agrees with all of staff's stipulations with the exception of stipulation number six. The applicant would prefer to have the 7.5 ft. as opposed to the 10 ft. It is fully allowed within the ordinance.

Rohlf asked for a definition of "vest pocket". Owens stated a vest pocket is a pocket that is inside and hidden. This property is completely hidden.

Perkins asked which plan shows stipulation number six. Owens stated it would be on page PDP-2. Every front yard is drawn with a 30-ft. setback. It is 30 ft. from the City right-of-way line to the front setback line. There is a minimum of a 42-ft. driveway. Perkins asked him to use lot 17 as an example to describe the setbacks. Owens stated the rear yard setback is 20 ft. The side yard setbacks were drawn on this drawing as 7.5 ft. The front setback is 30 ft. Staff is requesting the side setbacks to be 10 ft. The net result of that is that the homes would be 5 ft. narrower. Binckley stated 7.5 ft. is a deviation. They have provided enough green space for it to be granted. Staff's reasoning for not supporting it is because the old ordinance, even for R-1, had a 10-ft. side yard. The minimum in most instances is a 10-ft. side yard. Staff felt in order for it to have a similar appearance to the neighborhood, that they should have a 10-ft side yard; totaling 20 ft. between homes. Owens stated the applicant has given up 58% of this property to open space. They would like to have the additional 5 ft. per home if it can be had.

Conrad asked if all of the streets are public. Owens stated, yes, they would all be built to City standards and then given to the City as dedicated streets. Conrad asked about the accessibility of tract A. Owens stated tracts A and B would be owned by this development, but will be open to full use by the surrounding neighbors. Staff has worked with the applicant to create a definition of who are the adjacent neighbors to this property that would have use of the pool and tennis court. The pool and tennis court will have a membership and a small annual fee to use and maintain it. Conrad asked if the homeowners association would maintain tract A. Owens stated the homeowners association would maintain both tracts. Conrad stated in the survey it talks about the maintenance of tract A as being maintained and used only by the owners of the lots and tracts of parcels within this tract. Owens stated that is a mistake. The neighbors are getting 58% of this property as open, recreational space for their use.

Duffendack asked if the general public would have access to tract A. Owens stated it would just be open to the surrounding homeowners association. Duffendack asked how that would be policed. Owens stated other people would end up using it and it would not be a big deal.

Henderson asked what "close proximity" means. Bill Whitaker, one of the partners, stated the only real perimeters set out would be who would be allowed to use the pool and tennis courts, which would be the people along High Drive, along 89th Street, to Lee Boulevard. There will be a chance to join these facilities, which will run with the home. The fee will be regulated by the 27 homeowners who will be responsible for the rest of the landscaping and common areas. This will be itemized similar to other managed communities where the homeowners police it by sending out audited statements that will go to each of the people in the geographic area who have joined the pool or tennis club. As far as the green space, this is private property. It will be handicapped accessible and insured. It will be policed and landscaped, but it is not a public park. They do have the specifics on who can use the pool and tennis courts. There will be an escrow account set up. Henderson asked if there would be a different classification for the homeowners versus the adjacent homes associations. Whitaker stated the 27 homeowners would not have to pay as much for the membership. Henderson asked if the membership would be transferable from homeowner to homeowner for the homes adjacent to the property. Whitaker stated if a person joins, it would run with the land. If a person does not join, then moves, the new owner would then have the opportunity to join.

Pilcher stated he is not sure that 27 homes could effectively support a swimming pool and tennis court. He then stated he feels that they would more than likely need to expand their customer base. Henderson stated it would depend on the amount of the membership fee.

Henderson asked for a description of the configuration of the retaining walls and how they will function. Mike Shirk, of Genesis Design Group, stated the walls will be on the east side of the development. They will be there to hold back the land to allow the homes to be built out of the 100-year flood plain, and ultimately the 500-year flood plain. They have laid out preliminary drainage of the streets. Water will come down the streets and hit the curb inlets and then flow through pipes and

underground storm sewers. They have laid out a preliminary route where the water can go out the ends of the development or take it through a pipe and daylight it out to the creek. That is something that could be decided at final plan. The creek will not be dammed with these walls. The water will continue to flow. They are not constricting any of the water from the creek. Tract A is graded towards the creek. It will be grassed area. It will drain to the creek. As the water in the creek rises, it would get backed up at the box culvert on State Line Road. It would be subject to flooding, just as it is now. But as the water goes down at State Line Road, the water would go right off of this site as well. Henderson asked if the earthen part on which the concrete walls are based would erode when the water backs up from the boxed culvert. Shirk stated erosion occurs with the velocity of water around it. At this point, the water would just be standing. It would be a structure that would withstand water and erosion. Henderson asked about the box culvert and the part that it plays in this project. Ley stated the box culvert downstream is in Kansas City, Missouri and controls the flood elevation on this property. The water backing up from that box culvert is flooding this land. It is not rushing water through the property. Henderson asked if the Army Corp of Engineers is content with it the way it is. Ley stated he believes so. He does not believe there is any way to increase the box culvert downstream. It is about a half-mile long.

Williams asked what Shirk would foresee as the effect of flooding in this area. Shirk stated similar to flooding at any spot. There would be sedimentation. The water draining down picks up soil from the land and streets. When this water gets to State Line Road and hits the box culvert, the water backs up and gets still. When the water stands still the dirt and deposits come out of the water. That would be dependent on how frequently they get a storm of that magnitude. He agrees with Ley, that he does not see any way the box culvert would ever be corrected. What may be done in the future is upstream of this site. They could put in detention basins to reduce the amount of water that comes down to the site, which would ultimately reduce the sedimentation on this site.

Owens stated the consensus from the closest neighbors is that it seems to be when this property has backed up in the past, it will be backed up for about six hours maximum. It's not the entire property that floods, just the lower part. Williams asked whose financial responsibility it would be to maintain that area from any change due to flood waters. Owens stated the homeowners association who would maintain all 16.2 acres.

Conrad asked if the plantings behind the retaining walls would be irrigated. Owens stated, yes. Conrad then asked if there would be a railing at the top of the retaining wall. Owens stated it would depend on building code. If railings were not required, the applicant would prefer to use vegetation at the top of the retaining walls instead. Conrad asked if there would be easements for access to tracts A and B. Owens described the different access points on the site plan. Conrad asked if the two walkways should be an extension of tract A. Owens stated that it could work either way, but it seems staff is okay with it as proposed. Binckley stated staff had asked a similar question upon review and it appears since everything will be common maintenance, just providing an access easement through those lots at the time of platting will be appropriate because the lots will not be fenced. Conrad asked about the ADA access. Owens stated they are recommending removable bollards so that a person in a wheelchair could easily get around them and then if an emergency vehicle needed access, they could remove the bollards. Conrad asked for an explanation of the design process and how the applicant ended up with 27 lots. Owens stated the existing 100-year flood plain was originally closer to the property line. Right after the current owners purchased the property, Larkin started a new ultimate flood plain study. The flood plain is now farther back. One of the starting form givers is the unbuildable flood plain. There were many requests for a buffer from the R-1 residential. It made the most sense to go to a looping street where Sagamore continues around to 89th Street. They then looked at the 100-ft. setback from the stream bank. They looked at several different designs and ended up with what is currently being proposed, trying to make it as smooth and organic as possible. Nothing fronts on the organizational street. Everything is clustered around the petal. They had to take one lot out because of the new APA stream standards. There is open access around the edges of the project.

Shirk stated typical homes are required to be above the 100-year flood plain or they have to pay the higher insurance rating. They are building these out of the 500-year flood plain. Duffendack asked how much of this development would be built on fill material. Shirk stated probably all of the residential houses will be on fill material, varying from one ft. to probably 12 ft. The houses themselves will probably be at a maximum depth of a 10 ft. The maximum depth of the fill of 15 ft. would be at the wall. If there were a basement, then the basement would probably be closer to existing grade and then fill around the house. Further to the west, the footings themselves will be sitting on undisturbed ground. The areas around the house

would be fill. Owens stated the construction engineer just told him that all of the foundations will be on bedrock and then filled around the foundation. Duffendack asked if the normal footings are above the rock sub-base how they would get down to it. Owens stated they would pier down.

Henderson asked whether or not a deed restriction for the maintenance of 1/27th of the property could pose financial or legal problems for the homes association or a homeowner in the future. Doug Patterson stated not each owner is responsible for 100% of the obligation. Every owner is responsible for their proportionate share, much as some homes associations are responsible for the maintenance of right-of-way. That person's share is assessed and is a lien on their property and they could foreclose on it. Henderson asked if those who administer the agreement would be legally insured and bonded. Patterson stated, yes, the officers of the association.

Perkins asked if an agreement should be made that if the construction traffic tears up the asphalt on 89th Street, the developer would be required to replace it. Binckley stated it is a public street so she is not sure if the City could legally require them to pay to replace it. The City can require that they keep the mud off the road, but that is up to the building inspectors and code enforcement officers. Owens stated the applicant would be required to put up the normal construction mud bonds and damage bonds that normally go on in any other project.

Rohlf asked if there would be fencing around the pool and tennis court. Owens stated they are required by City ordinance to provide a 6 ft. fence around the pool. It would be a decorative wrought iron fence. They would have at least a 6 ft. fence around the tennis court.

Williams asked how the stepped terraces are used as a public use. Owens stated those areas were looked at as landscaped architecture devices. The property would slope down, just to give character to what is going on up there. Williams asked if they are planning for it to be just a green space and not an activity area. Owens stated it is not a retaining wall, but more of a restive area, not quite as active as the lower area would be. Williams asked what would be a typical curbside dimension from property line to property line and also how the driveways fit into that. Owens described the setbacks on the site plan. The front property lines would be about 35 to 40 ft. The driveway can go all the way to the property line. Williams asked if they would anticipate any of the homes to have driveways that would be side by side. Owens stated he would prefer if they were not and he thinks staff would agree.

Conrad asked if the applicant ever laid this out in an R-1 configuration. Owens stated, yes, and they got about 15 or 16 units. That would not support the 58% open space. Conrad stated the 58% open space is dictated by the flood plain. Owens stated it is dictated by the flood plain and the gift of the 1.29 acres up at the top as a buffer. There were originally 28 lots until the City Council adopted the APWA stream drainage standards. That took another lot. Conrad asked Owen to describe the plan architecturally and environmentally. Owens stated it has a street front and then the backside of a park. There will be a three-tiered wall and a metal veranda. There is complete and existing vegetation all around the perimeter.

Pilcher stated he would not like to see garage door after garage door when driving down the cul-de-sacs. Owens stated they are planned to be side-entry garages. Pilcher asked if that would require larger side setbacks. Owens stated they are better able to do that on the larger lots, because they can pull them back. That is another reason they would like the extra 5 ft. on the setbacks.

Duffendack asked the size of the pool. Owens stated the pool is planned to be about 20 to 24 ft. wide and 36 ft. long. Duffendack stated it seems to him that they would want to remove the pool and tennis court area from the adjacent residents, but the applicant has chosen to put it right next to that. In addition, the views from that area do not take advantage of the natural site. He asked why it ended up there instead of closer to the perimeter. Owens described the site of the pool and tennis court. It is designed to trap any noise and focus it away from the residents. They talked with the neighbors and some were of the opinion that if it were to be made accessible to them, they would like it closer to their homes, within walking distance. Whitaker stated the pool and the tennis courts would not be lighted and the pool would only be open about two and a half to three months of the year. Duffendack asked if the only thing happening in that area would be pool activities. Whitaker stated there will be benches and walking trails, but there would be a pool and tennis court component. The pool will be maintained and secure. Duffendack asked if he agrees with Owen that it was a decision based

on input from the neighbors. Whitaker stated he believes the input was to get recreational components on the site and the applicant felt it was a good place to put the pool so it would have good access and people could secure the pool better.

Williams asked how many neighbors would qualify for the pool and tennis court membership. Whitaker stated he believes there would be about 55 to 60 homes in addition to the 27 lots within this property. There will be a small initiation fee in addition to the annual membership. Some people may not elect to join, but will still be able to use the open green space. Owens stated the size of the pool could change. The size set is arbitrary based on the amount of users. Originally, they did not have a pool or tennis court. This is something that the neighbors requested and wanted. It was very important to those the applicant worked with.

Public hearing: Duffendack asked the public to keep their comments at or under 5 minutes.

Gordon Henke, 8901 High Drive. He has never heard any of his neighbors being asked to plan the pool or anything else. In May, he sent a paper to the Commission called "The Link". Originally, the developer wanted to get rid of the footbridge on 89th Street that continues over the creek and takes them into Missouri. As a neighbor, over the last 36 years he has seen all of the different uses that footbridge has. It came back on their second plan and then a City document stated they would need to take it out and replace it. He would like to know the status of that footbridge because it is an amenity they have had in Old Leawood. Duffendack stated it is listed on stipulation number 12. Henke asked if the developers agreed to that. Duffendack stated that remains to be seen. Henke then stated he would like to maintain open space and park space. There is a great example of open space at 83rd and State Line, the space surrounding Alexander Majors home. What motivates him are the young people that are being born. His is concerned about recreational space for the future citizens of Leawood.

James Kirkland, 8940 Sagamore Road. He is not sure if he is involved in the pool or not. His presentation focuses on what guides the Commission's decision, which are the Golden Factors. It is what the courts of Kansas have described as what should govern the Commission's decision. The character of the neighborhood: there is no RP-2 zoning anywhere around this place. It does not look anything like the surrounding neighborhood. They are proposing an average lot size of 8,034 sq. ft. The surrounding properties average lot size is 28,000 sq. ft. The character of the neighborhood would be changed dramatically. Mr. Owens stated it is a vest pocket community and how it is hidden. It is only hidden if you do not live there. He chose to live in this area because there are mature trees with large lots in Old Leawood. The time period for which this property has been sitting empty is by total control of the property owners and should be irrelevant. It has been a process of the property owners trying to see how much they could get out of it. The important thing to realize is that it does not have any relationship to the character of the neighborhood. The extent to which the rezoning would detrimentally affect the nearby property: it may be easy for the developer to say that putting 27 houses with an expected \$600,000 to \$800,000 homes would benefit the nearby property owners, but what it does is prevent them from the recreational space. He lives three houses away from the property. The developers have talked a lot about how much space they are giving up, but they were not going to be able to build on that part of the property. They are giving the scraps that are left over. They are providing a park that is subject to flooding and will not really be usable. What are the assets north of I-435? What is the recreational space if this goes away? It would be 2.6 sq. ft. of accessible parkland per person in north Leawood. This is changing the character of the neighborhood and taking away an asset of the neighborhood.

Dr. William Evans, 8741 High Drive. He thanked the Commission for taking their time away from their families and homes to protect their homes and way of life. It is unbelievable they have people coming in from the outside and telling them how to live and what kind of homes they should have around them. The Commission is here to protect the residents and they appreciate it very much. He passed out pictures of his home. There are some people that do not have much of an opinion and some that have opinions totally opposite of each other. People should be able to appreciate each other's opinion and try to protect each other's way of life. His wife has Alzheimer's disease. The only joy she has is sitting in their sunroom and looking out into their backyard. There are three marmots and foxes that live in the area behind their home that they enjoy watching play. They moved out to Leawood because they love the area. They were in Kansas City, MO until World War II and after that those neighborhoods went downhill. Other communities have not gone downhill because other Commission's have kept those communities the way they were. They are comfortable living areas. He does not want to lose his way of life. He does not want to have a postage stamp tenement housing in his back yard. He does not want them to tear down the trees so that he has to look at Wornall or State Line. He does not want to lose what he and his wife have.

Martha Weber Conrads, 8625 Overhill Road. She is not certain if she is a surrounding or adjacent homeowner or "none of the above". She is one of the 250 people in her neighborhood who have displayed "keep it zoned recreational" signs in their yards. She is in favor of keeping the entire Leawood Country Club property zoned recreational. She showed a map of Leawood and its parks to illustrate the absence of recreational space in north Leawood. Looking at the northern part of Leawood towards I-435 there is almost no parkland. Brooke Beatty Park is only half an acre. On a recent trip to Iowa she and her sons were going to go on a walk to a nearby park. Her youngest son went to the car. When she explained to him that they were walking to the park, he did not understand because he has only gone to the park in a car in his 2-½ years. She hopes that the Commission realizes that this is an issue in the neighborhood and that the zoning does not change. At 16.2 acres, the Leawood Club site is much larger than Brooke Beatty Park, but thanks to these developers, it is quickly deteriorating and covered with weeds. These developers have made no effort to develop this plan in a fully recreational manner. She does not see how the plan, as proposed, offers usable recreational space to her neighborhood. The plan also compromises the pristine, natural environment that has existed at this site. Her family would love to walk to a neighborhood park or club at the Leawood site. It is great exercise and a park offers an excellent opportunity to meet neighbors and build community. There is not even a public school ground they could walk to in north Leawood. As they made their buying decision of their home, they considered the Leawood Club as an alternative to a park. When you look at an annual park and recreation budget of \$7.4 million, it becomes apparent that the residents of north Leawood are not getting their money's worth for their tax dollars. It appears that the park planning for the south part is adequate, but Ironwoods Park is 8 miles from her house and I-Lan Park is 5.5 miles from her house. Swope Park and downtown are as accessible to her as Ironwoods Park. Please keep this zoned recreational.

Angela Hagen, 2544 W. 91st Street. She lives about two or three blocks from the Country Club. She is a former member of the club and would still be a member if there were a club there to join. In regard to neighborhood demographics, there is more than just a bunch of retired people in Old Leawood. There are 28 children within a block either way of her home. There are a lot of kids that can utilize a park. On High Drive there are 35 kids of elementary age or younger between Somerset and 83rd Street, they would like to keep it zoned recreational within walking distance of the area. Corinth Gade School had 40 kids above and beyond the kids from Somerset, which were unexpected. If it cannot be a country club, it would be nice to have a portion of the property as a Leawood City Park.

Cheri LeBlond, 8728 Norwood Drive. She lives a few blocks away from this site. She has lived in Leawood for about 8 years. It has been the most accessible City she has lived in. Any time she has gone to staff they have always bent over backwards to help. That is why she is confused with this process and why we are here today. This plan has gone through so many stages and it has been voted down or passed on. There have been e-mail and letter writing campaigns and if that does not speak any louder than the developers, then she is confused. Government should be "of the people and for the people". She would love this to be representative of the residents' feelings and not the developers who are not residents of this City. She is also a mother of a 4-½ year old. She has been a resident of Leawood for 8 years but used to live closer to the City Park. Since she has moved to Norwood, at least 5 young families have moved into her area in the last year. She understands that there was a rumor that the City of Leawood staff felt the north part of Leawood was filled with empty nesters. There are a lot of young families, but empty nesters love green space too. The Country Club offered tennis services and a pool for a fee. It did not work out. She is not sure if it would work for these developers either. She loves green space and would like to avoid isolation from her neighbors; she believes those are good reasons to keep it as a park.

Gary McKillip, 2007 W. 85th Terrace. Have lived in Leawood for 35 years. He was on the Recreation Commission for three years and the Chairman of the Recreation Commission when they wrote the open space and greenway plan. The principle they developed around was that all of the undeveloped land south of I-435 was to maintain open space in order to maintain the characteristics of all of the open space up north. They realized there was only about 8 or 10 parcels up north. They gave them back to the homeowners because they were not accessible to the public. We are not enhancing the north. We are destroying it. He gave three years to the City. He asked the Commission to go with the principle of the open space plan to maintain the north as we did for the south.

Mary Franklin, 8425 Meadow Lane. She is the president of the Leawood Homes Association, speaking on behalf of the homes association. The Leawood Homes Association consists of about 1,500 homes. Shortly after this came up, the board

of directors did not know which stand to take, so they mailed out a survey to the residents. They received 17% of the surveys back. It is not just the people next to the land, the whole area is concerned. Out of the 17% who responded, 69% of those wanted to keep the area recreational. 26% said R-1 would be acceptable. 5% said they did not care either way. Please keep in mind that almost 70% of the 17% who responded want the land to remain recreational. She believes it is a realistic sampling of what the 1,500 homes want.

Meg Gilmore, 9010 High Drive. She and her husband live at the end of the cul-de-sac that looks over the old country club property. Approximately 300 ft. of the north part of their property abuts the old country club land. They live in one of the homes that are mostly affected by the dilapidated facility. After carefully examining the proposed plans for the Estates of Old Leawood, they would like to see the City take a leadership role and approve this development. They feel that 9 acres of accessible, recreationally zoned green space, at no cost to the City, is an extremely satisfactory compromise. Additionally, the potential for over \$200,000 of annually tax revenue from homeowners in the development will create a positive impact in our City. In regard to the proposed density of the project, as recently as June 9th of this year, the City Council voted to approve two other similar developments: the Villas of Whitehorse with 21 single-family lots on almost 6 acres and the LeaBrooke development with 24 single-family lots on 7 acres. If the developers of the Estates of Old Leawood meet the requirements of section 16-2-5.5 of the Leawood Development Ordinance and they agree with all of staff's stipulations, they should receive Planning Commission approval of their plan. The Gilmore's see the development of this land as the only viable option at this time. After two years, there have been no serious negotiations that would indicate any other possibility. Meanwhile, the old country club property continues its steep decline with no end in sight. It's time to move on.

Pam Zanders, 2012 W. 98th Street. She lives in north Leawood and would like to keep it park if that is possible. She is not sure how that is possible. She does not understand how the people who want to keep it recreational plan to overcome the financial obligations to that part of the City. She thinks this looks like a beautiful project. She thinks it is a wonderful compromise for having a large amount of green space in addition to a beautiful residential development.

Steve Johnston, 2032 W. 96th Street. He has lived in Leawood since before they could call it Old Leawood. He is opposed to the proposed development. The applicant contends that swim, tennis and social clubs are not viable in general and that the Leawood Club is particularly not viable. He has done some research and believes that contention does not prove true based on the statistics of five other clubs located in northeast Johnson County and the Country Club Plaza-Madison Gallery area. Specifically, the Rockhill Tennis Club, the Woodside Tennis and Health Club, the Carriage Club, the Homestead Country Club and Overland Park Racquet Club. Those five clubs have operated continuously for an average of 40 years. They average 698 members per club. The average initiation fee is \$4,840.00 and the average dues are \$191.00 per month. Each one of these clubs is viable and operates. He was a member of the Leawood Country Club back in the 1970's when his kids were very young, now they have grandchildren of the same age. He moved to Green Hills because he likes to play golf. The only problem that he ever had with the Leawood Country Club was some miscues in management. Later on, that got exacerbated because the banks loaned them more money than they should have. We need to keep the only zoning for recreational opportunities for residents north of I-435. Without it, they are the only community that does not have a club for people to gather, swim, play tennis in or the homes association to have a meeting in. A lot of people have asked him what would happen. He believes that if the City does not allow the rezoning, the club would go back on the marketplace; it would be purchased for what it's worth as a country club property, reorganized, and rebuilt as a viable club.

Bill Lowe, 9107 Lee Boulevard. There was a question on what type of debris would be left when there is a flood in the flood plain. He showed some pictures of the area during the last heavy rain. The area is already flooding without an additional 27 homes putting a load on that sewer. It seems like a bad idea to try to increase what is going into there. The developer has said they could bolt down the manhole covers or build towers. That just forces the problem upstream onto someone else. There were questions about the eventual owners of the 27 lots and who would be responsible for what and how much. The language that is used in stipulation number 20 says that each lot owner is jointly and severally liable for such maintenance. He believes that means that if there were only one owner at a particular time, then they would be responsible for the maintenance of the entire site. If this rezoning were to be approved, all of the people on Lee Boulevard that have sizable properties would want the same consideration. He could make a lot more money if his lot were zoned RP-2. He could fit seven houses on his one lot if it were rezoned as RP-2. He encouraged the Commission to not allow this property be rezoned to RP-2.

J.W. Hildreth, 8943 Sagamore Road. He has lived in Leawood since 1951. When he first came to Leawood the country club was a dump. There has been a lot of improvement. The small houses with a small area between the houses needs to be expanded to 15 ft., the same as it is for the rest of the surrounding homes. The air down in that gulley is not going to come through there and clean them up without space. He showed a picture of himself standing on one of the tennis courts on the club property after a heavy rain.

Maureen Emme Griffith, 8930 Sagamore Road. She is within 200 ft. of this property. She has been actively involved in this matter since April of 2002. She has attended every Interact, Planning Commission and City Council meeting. She has also attended almost bi-monthly meetings with neighbors and concerned citizens. A development of 27 villas with RP-2 zoning is not compatible with her home. The dwellings they are proposing do not look anything like the surrounding homes. The land their villas sit on are three times smaller than most of the lots surrounding it. The surrounding homes sit on an acre and some are an acre and a half. She does not live in a vest pocket and there are no vest pockets around them. The RP-2 zoning is unprecedented in the area. There are no villas in Old Leawood. There is no zoning even comparable to this in Old Leawood. In every meeting with these land speculators, the residents have told them their plans are too dense. In response, they have upped the number of dwellings and put them on less land. Mr. Patterson has spoken the phrase, "apples to apples" for the past two years. She asked the Commission if these tiny villas are comparable to the homes on large lots. Are these "apples to apples"? Approval of this plan would destroy the integrity and character of the entire mature Leawood community. She showed a picture of the view from her driveway. There is an orange construction fence there, when construction has not even begun. The weeds are never mowed until she calls the City. Because the developers are suing the City, the City is not quick to respond to this deterioration. This is self-imposed blight. If they cannot take care of the land now, how can they take care of it in the future? The land speculators have said they have kept some of the green space. The bulk of the land they are now keeping as recreational could not be developed anyway because it is the flood plain. They have not given up much at all. The surrounding residents would be gaining 27 villas. What they would gain is nothing like the green space they would lose. She has lived here since 1993 and utilized and walked that land more than three times per week. She and her family has used that land in a recreational function at no cost to Leawood and no cost to themselves. This space functioned for years as a gathering space. They were paid members of the Country Club, but this space also served as a community gathering space. The comradery and community feeling is priceless. Instead, the neighbors are asked to pay for and use the pool in a neighborhood full of villas. They are asked to maneuver around a detention basin with retaining walls with a sterile trail with two-story villas surrounding them. This is not "apples to apples" at all. They will lose precious green space and a natural setting. Green spaces like this shape and bring value to our communities. This recreational land has meaning to the entire community, not just her family. This would destroy the value of the community. Communities need these gathering spaces. For the last two and a half years, these land speculators have not shown a single way to use all 16 acres in a recreational manner. This land is irreplaceable. Once it is gone, the recreational zoning is lost forever. A community center, a country club, a park or other recreational use is much better suited for this property than detached villas or other dense proposals sitting on bedrock, a Kroh Brothers dump site and fill dirt. The Commission will hear from others tonight who want the owners to put it up for sale. There is no other recreational space in Old Leawood. Let these land speculators put it back on the free market. She asked the Commission to think about the long term for the community.

Connie Cardell, 8915 High Drive. Her home backs up to the proposed development. An appraiser whom spoke before the Commission at an earlier meeting stated he would consider property next to open space as valuable property. If this open space is rezoned, the adjacent property owners run the risk of devaluation of their property. A quote from an earlier meeting is, "Although the City of Leawood has parkland that meets acceptable planning standards, the problem with the area north of I-435 is that it has little or no public space. That is not acceptable." Another quote: "The desire and need by the residents to have the open space or opportunity for recreational space is as strong today as it ever has been. If we lose this, there is not a chance to get it back." Another quote: "For the City of Leawood, the big picture should be to try to maintain recreational space of value for the residents north of I-435." Another quote: "The density per lot is disproportionate to the surrounding area. The developer could fix the density issue, but that is not fixing the problem of viable recreational space." Another quote: "Even though this recreational space is private, it is there, it is visible. It is open. It is green. You may not be able to walk on it, but you can see it, smell it, hear it and feel it. This is the essence. It is there and it has a presence." Another quote: "The plan as proposed creates a very different area within this part of Leawood. It is not in keeping with the

surrounding areas as some of our criteria for zoning require." She just quoted five of the Commissioner's from a meeting a year ago. She would like to know what has changed since August of last year and September of this year. The land is the same as it was. The issues are the same. There are about 8,600 people in North Leawood and only about 100 people would be able to use this property. It does not solve the problem of not having enough recreational space. By the developer's own admission, the reason the recreational zoning was not considered is because there wasn't enough money in it. This supposed green space does not benefit the citizens of Old Leawood. The citizens and the City are not obligated to ensure a profit. The community has shown that they are opposed to this. She asked the Commission to consider their words from a year ago and make their decision the same.

Tom Mayer, 8935 Sagamore. He lives about 200 ft. from the property. He is opposed to the rezoning for many reasons previously stated. The Golden Factors give us the principles from which these decisions should be made.

Duffendack stated it was 9:00 and there would need to be a motion to extend the meeting. **A motion to extend the meeting until 9:30 p.m. was made by Pilcher and seconded by Williams.** Henderson suggested continuing the meeting to finish the case in process, instead of making a motion to extend the meeting every 30 minutes. Duffendack stated, traditionally, the meeting is extended until a certain time frame. Henderson stated he is not opposed to the motion, he is just saying that they will be interrupted again in 30 minutes. Pilcher asked for a show of hands of who would still like to speak at the public hearing. Duffendack stated that it looks like it will be more than an hour before the public hearing has ended. Pilcher stated that he would like to keep his motion to extend the meeting 30 minutes. **Motion to extend the meeting approved unanimously.**

Sara Revard Armer, 2304 W. 103rd Terrace. She is here as a resident and a realtor working the Leawood Community. She likes their plan, it would be an appropriate development south of I-435 or maybe Overland Park, but not north Leawood. There is a reason there was a master plan developed for Leawood and one of the things that attract us to Leawood is the essence of what they started out with years ago. It would be terribly irresponsible to alter that to allow this to happen at 89th Street.

Steve Stechschulte, 9026 High Drive. He has attended almost all of the meetings since April of 2002. He is a 30-year resident of Leawood and lives within proximity of the club. In regard to the viability of recreational space, a point the developers have made is that the land is not viable or valuable as all recreational space. He believes that a more accurate statement would be that the land is not valuable as recreational space because they paid too much for it and have put too much money into it. Whether or not a certain amount of money has been invested into a property should have no bearing on whether or not a property should be rezoned. Whether or not a property remains vacant because someone chooses to keep it as vacant should have no bearing on whether or not it should be rezoned. There are several homes in Leawood that are essentially vacant because people live elsewhere but they maintain their homes and pay their taxes. That is no argument to rezone their home as RP-2 or commercial or anything else. This property has been zoned as recreational for 50 years. The master plan, this body and citizens have repeatedly said to keep this land zoned as recreational. There have been no attempts to use the land as recreational, but there are great, viable plans. He showed an aerial photo of the current property, and then overlaid the proposed plan on top of it. It is completely out of character. It would be blight upon north Leawood. It is also a real problem, functionally. They have put the only recreational space behind a 15 ft. high wall. Several people who have been working hard to keep this zoned recreational have come up with a proposal for a viable functioning club. There is over \$2 million in private money, not City money, that has been committed to reopening the club. Indoor Courts of America has written commitments to make this a viable recreational option, at no cost to the City, open to anyone. The only thing to prevent that is the hope from the developers that if this land is left vacant, and if they threaten the City with a lawsuit, that somehow they will get a rezoning. His goal is to help the City and the developers to create a good alternative, recoup their investment, and create a great recreational alternative for this City and help them move forward to something else. This project would be unopposed if it were on undeveloped land in south Leawood, but that is not the case. This would be unprecedented rezoning when it does not have to be.

Helen Stechschulte, 9026 High Drive. She has lived in this area for 31 years. She would like to keep the land recreational.

Bill Moran, 8927 Sagamore Road. He has only been a resident of Leawood for about 4 months. His home would back up to the three lots that have no buffer. Old Leawood is a treasure for the City. It's like Ward Parkway is to Kansas City. A lot of it has to do with density. Old Leawood has no parkland. This is the last green space. He asked the Commission if, 50 years from now, their successors would be ashamed of the decision made tonight. The question is if there is there a viable alternative. The Club has acted as a quasi community center. They have a legitimate buyer for the club. The buyer has stated that he doesn't care about the surrounding property; it could be parkland. Mike Meadows of Johnson County Parks and Recreation Department has said that there are dollars available to help subsidize purchase of parks in north Johnson County, up to \$300,000. He believes that there are also fundraising opportunities. He believes there is a viable alternative.

Douglas Carter, 2512 W. 88th Street. The green space is precious. Calling the green area in this proposed project green space does not make it usable or acceptable green space. The alternative is for the developers to use it as recreational themselves or selling it to the viable buyer who has been mentioned. The viable buyer is a former resident of Leawood who grew up here. He is the number one king pin in indoor court development in the United States and arguably in the world today, Mr. Lex Kessler. He asked for his letter to the developers dated February 14, 2004 to be placed in the record. Mr. Kessler commits \$2.2 million to the development of this property, keeping the important part of it recreational as a club that can continue in the spirit of how it used to work. That 16 acres cannot be carved up and still serve the irreplaceable purpose that it has served for decades in our community. The developer believes that if they let the grass grow up long enough, someone will cave in. The economics are there. It was based upon hypothetical. The club failed because there was an over \$4 million bank loan taken out at the beginning of the member ownership commencing on the basis of an appraisal from someone who was from outer space. It created an encumbrance on the property and was doomed from the outset. Mr. Kessler offered, in his letter, \$1.5 million. The developers offered \$1.75 million, which the bank took. Mr. Kessler is working together another plan to put another \$700,000 on the table, and \$400,000 more than they paid. He submitted some pages he printed off of the internet that explains what Mr. Kessler has done. It is not a hard decision, do the right thing.

Steve Corey, 9718 Belinder Road. About 60 years ago, the Kroh brothers created probably one of the first planned communities in this country and it has been amazingly successful. These people are here today because of what Old Leawood is: a wonderful community with high value and attraction to people who want the lifestyle. They want to shoehorn this development into Old Leawood, change the ambiance, the culture and the psychology. Leawood North has created Leawood South. Leawood is an attractive and desirable community because of what the Kroh Brothers developed 60 years ago. The map hinges around that recreational space. Please do not change Old Leawood.

David Gilmore, 9010 High Drive. He asked if he could read some letters from some residents whose properties are contiguous to the site, but could not attend tonight. The first letter is from Marsha and Bill Marshall who reside at 9014 High Drive. "We are not able to attend the meeting but have reviewed the latest plans for the development of the old Leawood Country Club property. Being a neighbor that abuts the property, we feel the proposal meets its obligations to us and would be a nice addition to the neighborhood. We support this proposal and would like to see it proceed." The second letter is from Janice and Steve Touge, 9022 High Drive. "We have lived at 9022 High Drive, which backs up to the Country Club, for 26 years. We were former members of the club and watched it deteriorate for 5-10 years before it closed. In the past 10 years, the property has become a jungle and an eyesore and we are appalled that the City of Leawood has allowed it to become a hazard for residents and their children. The City should proceed in developing the land so that it is consistent with the surrounding neighborhood, but will provide a new tax base for the City." With regard to the mysterious buyer, he has read the letter that was presented and about four paragraphs into the letter there is a very serious stipulation that the offer is effective based on the fact that the clubhouse, pool and facilities are in good condition. The pools are falling apart, the clubhouse and the butler buildings that house the tennis courts flood every time the creek gets up. He cannot imagine the developers would sell this property for less than \$3 million at this point. Looking at the cost to renovate the club, he feels Mr. Kessler would back out. If there is a serious potential buyer, then he is also very surprised he would not attend tonight's meeting and put forward his sincere offers.

Patricia Shaff, 8927 High Drive. Her property is immediately adjacent to the Leawood Country Club property. She appreciates the task the Commission has before them and their interest. The gentlemen who own the property mentioned they worked for 9 months on this plan, but they failed to get to know the community in which they are now owners. The plan they have presented looks nothing like the surrounding neighborhood. Her neighborhood has large yards, friendly people,

beautiful homes and beautiful trees. That is why she invested in a home here. The proposed plan is an albatross. It does not fit. She is concerned about the conflicting stories. She would like to know if they are building on fill or bedrock. The large trees that are removed in this plan are irreplaceable. That is what buffers her neighborhood from Ward Parkway and the lights and also allows them to enjoy the wildlife. Who is responsible for the current dilapidation? If the buildings are declining and the property is falling into disrepair, the codes need to be followed. There is no reason for the property to decline and the grass to be out of control. She is clearly opposed to the rezoning. A neighbor of hers stated that she is in approval of this plan because she feels there is no financial backing. That is not the case. Recognizing public park and recreation areas must increase goes beyond the concerned community. This was recognized back in 1999 through the Master Action Plan 2020 which confirmed the "densely populated northeast portion of Johnson County does not have enough recreational space to support the current or future population." She showed the area on the map. This area was identified as a top priority for the district to increase park and recreational opportunities. Mature Leawood falls into this high target area. Please note on this map, Brooke Beatty Park does not even appear. In 2003 the district went one step further and made \$2.1 million available for the northeast sector. Its purpose is to assist interested Cities in purchasing land. Five cities opted to use these funds to serve their communities. They were Prairie Village, Fairway, Lenexa, Overland Park, and Merriam. Leawood did not submit a proposal. The significance of this \$2.1 million is that in the 50-year history of the district, this is the first time this type of opportunity is available. It is an unprecedented opportunity for densely populated areas, exactly like ours, to act now. District funds are still available, but time is critical as they are currently being distributed. Some of these funds could assist with the acquisition of the five acres mentioned earlier. A long-term agreement could spell out who would be responsible for the upkeep and maintenance of the park. The Johnson County parks and recreation department feels so strongly that the northeast portion of the County needs more, not less, park space that they made historic funds available. Some of these funds are still available but it is critical to step forward and use them now for Leawood's current and future residents. Recreational space is more than a map; it is about neighborhoods, walkability, young families, retirees and the fabric of the community. It is essential to the health and welfare of this community.

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

Justin Apprill, 2200 W. 85th Terrace. He and his wife have lived there for a few years. His home is about four blocks north of the proposed project, which would be excluded from the use of the pool and tennis court. They moved to the neighborhood a few years ago. They wanted an established neighborhood with character. They chose Old Leawood after comparing it with many neighborhoods in the Kansas City metro area. The then operational Leawood Country Club played a role in their decision. Though the club closed before they could become members, the fact that this recreational space existed added value to their property and was important to healthy living. The developers plan does not allow for usable recreational space for all of Old Leawood and if rezoned the usable recreational space will likely be lost forever. The foresight of the master plan creators recognized the need for all of the land to be used as recreational space. The fact that the developers have made no attempt to use the entire 16 acres for recreational purposes does not mean the entire 16 acres cannot be successfully utilized. If this land rezoned and we lose the only usable recreation space in Old Leawood, a major amenity will be lost. If the rezoning comes to fruition, he may look in a different community, a community that understands the importance of usable recreational space. The presence of usable, viable, recreational space by all of north Leawood is important not only to his family, but also to many people in the north Leawood community. The developer's plan does not satisfy the recreational needs of the community.

Bill Jennings, 9015 High Drive. He has lived there for 15 years. The recreational space and the club were the primary reasons he moved to the area. It is an invaluable resource. He asked to keep it zoned recreational. He believes that now is the time for negotiation. This has been going on for over two years with a tremendous amount of citizen input and desire to maintain this recreational. He would hope the developers would entertain the thought of negotiation. He believes what Mr. Stechschulte suggested in terms of alternatives to this is real and we need to talk seriously about it.

Susan Ronnekamp, 8720 Meadow Lane. Showed a listing of the amenities for preschool children or K through 12 child. There are no swimming pools, tennis courts, picnic areas, community gathering places, school playgrounds north of 103rd or public playgrounds. Johnson County is known as one of the top 10 counties in the United States. Her son is preschool age and they often walk along Lee Boulevard around the green space at 89th Street and Lee Boulevard. It is little more than an

easement between a creek and a busy street. It is not a place that a child would feel safe to stop and play catch. It is a nice bench without coverage. She tried to get her son to come over and sit on the bench and he told her, "It is not a park, it is a bench." The preschool children, if they could, they would gather and say, "not my park". Elected and appointed officials represent the children too. They should do the right thing and move onto other business with taxpayers' dollars. A bench is not a park. Month after month and year after year, the community has said they do not want the rezoning from recreational. The children would say they want safe and attractive equipment to play on. People of all ages need places to gather. They deserve better.

Sarah Protzmann, 8801 Norwood Drive. She has been a resident of Leawood for the past five years. She has grown to love it and appreciate the great City services. She talked her mother into moving into 8840 Norwood Drive. Being one block west of Lee Boulevard, she has found out she is not close enough to be included in their proposed benefits, but definitely close enough to be exposed to the noise, construction traffic, and upheaval that will happen. A lot of the things she was planning on saying tonight have already been said. With three young children, she already pays for some of the benefits she could have with a community center, which is what she would love to see in that space. She has paid to use Roeland Park and Mission's community centers. That is something she has always found lacking in this community: a place to meet your neighbors, a place for family fitness and recreation and a playground for the children.

Ron Reussner, 2516 W. 88th Street. He has lived at that location for over 40 years. The National Recreation and Park Association has set recreational standards for Cities. Cities should have the following park types: many parks which serve residents within 1/4 mile of the park, neighborhood parks which serve residents within 1/2 mile of a park, community parks which serve residents within 3 miles of the park. North Leawood parks are as follows. Brooke Beatty Park is a mini park that serves a few residents of North Leawood. Its primary facility is a park bench. This park does not meet the standards for accessibility set by NRAPA for most of north Leawood because only a few residents are within the 1/4-mile service area for a mini park. There are no neighborhood parks in north Leawood. Some of the facilities of the Leawood City Park are appropriate for a neighborhood park, but no residents north of I-435 live within the 1/2-mile limit for these facilities to meet NARPA standards. Neighborhood parks are the main locations for children play areas. North Leawood has no accessible children play areas. Leawood City Park is a community park. The Leawood residents that live north of 83rd Street are more than three miles from the park. This park does not meet the standards for accessibility for residents north of 83rd Street. Also, a community park should provide indoor meeting facilities for group activities. Leawood City Park does not meet this standard. No other Leawood parks are within the standards for accessibility that are within the standard for NARPA. The residents in north Leawood live closer to Loose Park and Swope Park than they do Ironwoods Park. It is essentially unusable to them. The NARPA standards call for a minimum of one acre of parkland for each one thousand people. Approximately 8,600 residents live north of I-435. Leawood City Park is 66 acres and Brooke Beatty Park is one-half acre. If all of the Leawood City Park were allocated to only serve the residents north of I-435, that would give 7.75 acres for each 1,000 residents. 20 additional acres of parkland is needed to meet the NARPA standards. The proposed development does not make up for this shortfall. The swimming facility and tennis court are only available to residents of the development and immediate landowners. The walking path would only be accessible to people within walking distance. No parking is provided. The location of the club was very good and within 3 miles of all of the residents north of I-435. The club was open for all Leawood residents and over 500 families belonged to it when it was closed. The Leawood Country Club contributed to the recreational welfare as well as the social fabric of north Leawood. He is thankful that Leawood considers recreation and parks to be important and has zoned this land as recreational and has shown it so on the comprehensive plan. He is hopeful this land will once again be a community gathering place for residents north of Leawood.

Elaine Reussner, 2516 W. 88th Street. Why have so many citizens consistently over a two-year period spent literally thousands of hours to attend stressful meetings? This effort has involved hundreds of citizens, not just a few. Why have so many people focused their physical energy to obtain over 2,500 signatures on three community petitions so the City decision makers would understand the importance of keeping this land zoned recreational? Why have area residents written so many letters to City officials and newspapers? Why have they written booklets and fliers and the like? Why have the people in northern Leawood used their own resources for printing flyers, legal fees and such? The people in mature Leawood recognize the value of this space to the people who reside here. Major development of either new homes or villas do not fit into their area of individualized, smaller, older homes on large lots with big trees. The new recreational opportunities created by this development serve the people who do not even live in Leawood, not people like her who lives three blocks away and

does not qualify. Without question, recreational areas within a City provide an environment that enhances physical well-being. Rather than pounding the pavement by collecting signatures, they long to get their physical workouts on the tennis courts or the exercise room in their own part of town. The recreational space is important to their mental well being as well. Instead of stressful meetings, we want to coax our children as they learn to swim, in their own neighborhood. Instead of spending their time writing and distributing fliers, they want a place to meet nearby with old friends. They also want to be able to meet new friends while pushing their children on a swing. When community residents get to know one another, that community becomes a healthier and safer place to live. Wouldn't it be nice to spend their resources not on such things as legal fees, but at a neighborhood recreational site, like other parts of Leawood do? Would a community without any recreational space available to all be a desirable one? If that were true the City would not have designated 423 acres of parkland in the central and southern parts of the City. There are a huge number of acres in those areas that are privately zoned recreational as well. Recreational areas add vitality to communities. They increase home values. They enhance the quality of lives. It is fortunate that what the citizens want and what is good for the City as a whole is one and the same. However there are four other people involved in this, none of which live in Leawood. These men purchased recreational land without a contingency. That land has been used as recreational ever since the City's beginnings and is so zoned in the City's most recent comprehensive plan. Why did they do it? No effort has been made by them to use the 16 acres in a recreational way. Mr. Patterson stated in 2002 that rezoning is a "slam dunk" and with rezoning comes money. The residents have had to spend their own money to try to save this special piece of recreational land. If the developers do not want to work within the guidelines of the City zoning, they should sell it to others who will. Are the resident's desires concerning recreational opportunities any different from the people in the rest of Leawood? The taxpayers contributed heavily to the 18% of the City yearly budget that is used for recreation south of them. They are asking that their only recreational acreage, a mere 16 acres, remain zoned recreational. Residents of Old Leawood worked hard over the years molding this City of Distinction when there were no residents south of 103rd Street. Now it is time for the officials to support us as we have supported them. If Leawood is to remain a City of Distinction, the whole City needs to be a desirable place to live.

Mary McKillip, 2007 W. 85th Terrace, wife of Gary McKillip who was part of the committee designating the green space in the 70's. The values and makeup of the communities south to 147th Street are different. It feels commercial and sterile. We love big trees, love to maintain, love to renovate, love new people coming in with young people. 85th Terrace has gone all these years without a sidewalk, assuming the need for money was somewhere else. It seems the City has not represented her area in any way, as though all of the vision has been out south. Every community has a gathering place, but north Leawood does not. There are adjoining suburbs that have neighborhood community centers in DeSoto, Gardner, Lenexa, Merriam, Olathe, Prairie Village, Overland Park, Roeland Park, and Spring Neighbors Place. There are no sidewalks on many of the streets. Within the past year, two young families have moved because it is too dangerous. There was an article in the paper that describes how Leawood is working with the Arts Council on a plan to add art in public places. The proposed structure is one of a series planned for art in public places. The residents of north Leawood would just like to have a public place. The cost of this sculpture is \$85,000. She was under the assumption that the City could not talk to the residents about funding and purchasing this land. The proposed plan is wonderfully crafted development, but it is not like the surrounding area. All developments want what we already have and everyone in Leawood is happy with what they have and they just want to maintain and preserve it. They live close to the north gateway to Old Leawood. Some of the land is a very historically important.

A motion to extend the meeting until 10:30 p.m. was made by Williams and seconded by Perkins. Motion to extend the meeting approved unanimously.

Kevin Walker, 10308 Wenonga Lane. He supports all of the comments that have been made previously about keeping the land recreational. He is a former Leawood Country Club member and has since joined Homestead Country Club. Within a year he became a member of the board of directors. He did so to better understand the viability of a swim and tennis club. He has learned that swim and tennis clubs can be viable in the Johnson County area. What it takes for them to viable are committed and passionate members and residents. He is afraid that if they lose that chance now on the Leawood Country Club site, it will never happen again. He has witnessed what it takes and what they have been able to accomplish at the Homestead Country Club and have not seen anything similar to that with the current ownership of this land. A country club

is not the only option for recreational zoning. There is still time to use the community resources to use this land in a recreational manner.

Mark Curfman, 2812 W. 90th Street. A year and a half ago we were all in the same room discussing the same problems. What has changed since then? The developers have hired an architect and have submitted prettier pictures and have a better presentation. Any of the developers will tell you what a great design it is and how great neighbors they will be. That is what they get paid to do. Not much has changed. They still have an unbuildable flood plain. The walls are still there. They have a park of some sort that may or may not be open to the public. They have 27 units instead of the latest 20 units proposed. Nothing has changed to make this application more acceptable. Article 8 of the Leawood Development Ordinance clearly delineates 10 specific criteria, which are to be used by the Planning Commission for the approval of subdivision applications. Of these 10, four are basic development stipulations that apply to any development. The remaining 6 criteria are used to judge the appropriateness of the plan. This plan, like the previous submittal, does not meet any of these criteria. This plan does not comply with the Leawood Comprehensive Plan. This plan does not harmoniously relate to the tracts of land in the existing community. The high percentage of irregular shaped lots, the narrow frontage of the lots is not found anywhere else in Old Leawood. This plan does not promote neighborhood conservation. This plan proposes the demolition of a neighborhood asset and the only viable recreational land in old Leawood. This plan does not provide the best possible design of the land parcels including similar lot sizes and shapes of adjacent lots. The lots are on average over three times as small as the surrounding lots and most are irregularly shaped lots with a fraction of the frontage normally found in Old Leawood. The proposed side yard setback is half of that on most of the adjacent lots. This plan does not provide for adequate vehicular circulation. The Leawood Development Ordinance requires parking for recreational uses. If this is going to be a recreational used piece of property, there should be some off-street parking associated with it. Without off-street parking you create a traffic hazard. This plan does not discourage the creation of individual lots of less than the average size of adjacent lots. Clearly the criteria emphasize the harmonious relationship of a new subdivision placed next to an existing subdivision. This plan makes no attempt to relate to the oldest existing neighborhood in Leawood. Not meeting any one of the criteria may be grounds for denial of an application by this Commission. This plan does not meet any of the 6 significant subdivision criteria. Not much has changed. The Commission's rejection of this application should be no different than it was 18 months ago.

Owens asked to make a brief rebuttal. Duffendack stated he was out of order.

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

Duffendack thanked the public for taking their time to speak either for or against this case.

Henderson stated he feels as if he sat through two different meetings tonight. The first half was spoken about the proposed plan and legitimate concerns. The second part of the meeting was hearing from the public. Most of their comments were directed towards park-like and asking the City as if we own the property to make a judgment about something that was private, recreational zoned as if the Commission has the right or opportunity to make a comment about that. There is a rezoning issue before the Commission. He has not heard any serious discussion the last hour and a half about the proposal, like he did the first half of the meeting.

Perkins stated he was not on the Commission when this was previously seen. With what he has seen up to now and with all of staff's stipulations, he would support this application.

Pilcher stated he feels there was a lot of emotion wrapped around the recreational use issue. Most of us are aware that this is not public land and would likely never be a city park. He asked himself what would be happening if this land had never been developed and this plan were brought before them. While he does not think the answer is that it should be homogenous, he feels he would not have any choice but to accept the plan if it were a proposal for RP-1 and the lot sizes were comparable. Is this a valid compromise between what would be ideal, which would be a city park, or RP-1, with similar lots sizes, which we're not even close to? He does not feel this is the right answer.

Williams stated the Commission has heard a lot of comments from people about how this should be a park. It is not a question of whether or not this should be a park. The comprehensive plan shows this as recreational use. It has been used as recreational for over 50 years. There is an obvious desire by the community to keep this as recreational use, the park issue aside. The recreational use that has been proposed with this plan is very small for the community. They are proposing a potential recreational use for 80 to 85 residents versus a community made up of 8,600 property owners. The club has served that community for over 50 years. Maybe not everyone has used the club, but it has been available to people who chose to do that. They will not have that opportunity in the plan that has been proposed tonight. Some of the City's own criteria talks about fitting in with the neighborhood. He does not see a plan that is consistent with the surrounding neighborhood with cul-de-sacs, narrow street frontage, the driveways and how they would fit in. There are a lot of driveways and no green space in front of the homes. There are no opportunities for some of the mature trees. He commends the design team for an overall stellar job for the property they are dealing with and trying to address a lot the issues of buffering against the neighborhoods, trying to make the flood area potentially a usable space, though for a small number of people, but he does not see the plan as being compatible, suitable or consistent with the surrounding neighborhood. Due to that, he cannot support the plan that is presented tonight.

Conrad stated they have a plan before them that is for a piece of property that is currently zoned as recreational. The City and the Commission has supported maintaining that. An applicant has come before them with a request to rezone that land. He asked the question as to how they ended up with the plan now proposed and there were some site issues. He still does not fully understand how they ended up with 27 units. He thinks there is very much a character of north Leawood that he does not believe this plan reflects. The applicant said they did a study of an R-1 plan to try to meet some of the requirements of the character of the neighborhood and see if they can improve upon the relationship with the existing neighborhood. For the reason of not blending into the neighborhood, he is very hesitant to support the plan as presented.

Rohlf stated she thinks the rezoning is a reasonable request and use of this land. This plan is significantly improved from what was seen a year ago. Some of the improvements that come with this plan are better than what they have had before with flooding and safety. She thinks the trade-off of getting the 58% open space is a good one for the surrounding community. She does not think it can stay as it is. Her concern is that this land continues to remain vacant. She feels it is a very good compromise.

Duffendack stated he believes density and compatibility are major issues with this proposal. He has some strong concerns about basic land planning and the adjacencies of certain activities to other surrounding uses.

Henderson asked if there is any possibility of looking at the earlier plan with RP-1 houses that is more like the community. Then the issue of rezoning would be a mute issue. Duffendack stated that is not the issue before the Commission tonight.

Williams stated he finds this project does not meet all of the Golden criteria of the character of the neighborhood and the preservation of the neighborhood. It is a drastic change. There are a lot of issues that this does improve upon, but it also creates some other problems for the homeowners who would be saddled with the maintenance of it. He does not see where the project actually meets the criteria.

Pilcher made a motion to deny because it does not meet the Golden Criteria, primarily the character of the neighborhood. Motion seconded by Williams.

Conrad asked if there is any justification for discussing a possible continuance with a revised plan reflecting a closer compatibility with the surrounding neighborhood. Duffendack stated a motion has been offered and that would need to be an amendment to the motion. Binckley stated Conrad could make an amendment to the motion. Conrad suggested an amendment that the applicant be given the opportunity to continue the case. Henderson seconded the amendment because he intends to vote against the motion for that reason. There could be a better way to express the Golden criteria. Binckley stated the applicant has requested the Commission make a decision on this tonight. They prefer not to have a continuance. Conrad withdrew his amendment.

The motion to deny resulted in a 3-3 tie. The chairman voted to break the tie. The motion to deny was approved 4-3. (In favor to deny: Williams, Conrad, Pilcher and Duffendack. In favor to approve: Henderson, Perkins, and Rohlf.)

Meeting adjourned.

J. Paul Duffendack, Chairman