

**City of Leawood
Planning Commission Minutes**

**September 28, 2004
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive**

CALL TO ORDER/ROLL CALL: Henderson, Perkins, Rohlf, Conrad (tardy), Duffendack (tardy due to recusing from Pawnee Place), Munson, Williams, Azeltine, Pilcher (absent)

APPROVAL OF THE AGENDA: Binckley stated case 70-04 has been continued until the October 26th Planning Commission meeting. A motion to approve the agenda was made by Williams and seconded by Munson. Motion approved unanimously.

APPROVAL OF THE MINUTES: Approval of the minutes from the August 24, 2004 meeting. A motion to approve the August 24, 2004 minutes was made by Perkins and seconded by Williams. Motion approved unanimously.

CONTINUED TO OCTOBER 26, 2004:

CASE 63-04 MCDONALD'S Request for approval of a final site plan. Located at 4600 W. 119th Street.

CASE 71-04 VILLAGE OF SEVILLE Request for approval of a final site plan. Located at the northwest corner of 133rd Street and State Line Road.

CONSENT AGENDA:

CASE 23-04k VILLAGE OF CAMDEN WOODS - 67TH PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

CASE 23-04i VILLAGE OF CAMDEN WOODS - 68TH PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

CASE 23-04m VILLAGE OF CAMDEN WOODS - 69TH PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

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

CASE 67-04 CHERRY CREEK - MONUMENT SIGN Request for approval of a final site plan. Located at 129TH Street and Mission Road.

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

OLD BUSINESS:

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

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a final site plan for the construction of a 25,500 sq. ft. retail building within the main retail center of Cornerstone. This case came before the Planning Commission at the previous meeting. At that time it was continued to allow the applicant to show the elevations with the changes that were recommended and stipulated in that staff report. Among the changes that were made, some of the tower elements were accented more with a horizontal design, so they extended the eaves out to make them more horizontal to be more in keeping with the prairie style architecture. They also extended some of the cultured stone up on the

building further, especially on the columns. They also provided windows on the south elevation. This is a life style center, which means there is an interior corridor that goes down the center of the main center. There will be stores on the north and south sides and a pedestrian corridor where people can circulate through and access the stores from this internal corridor. Staff is recommending approval of this case with the stipulations stated in the staff report.

Applicant presentation: Presentation by Jason Reece with the Design Build Group. The applicant is in agreement with the stipulations but would like to address staff's comments in regard to stipulations 6, 7 and 8. In stipulation number 6, the applicant has added three more columns underneath the canopy. They would like to propose keeping those as brick. They feel it is a better scale material, since the columns are smaller. They feel the brick is a better design solution. In regard to stipulation number 7, they have windows on those elevations and they have discussed the landscaping with staff. They will have landscaping material that will be up to 8 ft. tall that will be a pruned hedge in front of those windows. They plan on keeping them low enough to not obstruct the view from those windows. In regard to stipulation number 8, they have carried that sidewalk around the perimeter along that side of the building and included crosswalks across both of those drive entrances to address that.

Henderson asked what percentage of the external space is devoted to EIFS. Reece stated approximately 10% in the top cap. The remainder of the building is cultured stone and brick. Henderson asked if the towers are included in the 10%. Reece stated, yes. He is just giving a general estimation based on the elevations proposed. Williams asked about the large wall areas that are proposed to be EIFS. Reece stated the predominant material for that elevation is glass. They do have EIFS that surrounds that and is wrapped with a brick wanes coating and a cast stone sill. Williams asked if that would be the only primary wall surface that would have EIFS on it. Reece stated EIFS is at the top of all of the elevations. It is a band that wraps around the buildings to maintain continuity. There are a couple of locations where it comes down between windows. Williams asked about the proposed west elevation. Reece stated the proposed west elevation would be a pre-cast product. It is not EIFS. That is the separation wall between them and the tenant who will eventually be adjacent to them. Henderson asked to see the colors of EIFS. Reece showed the Commission the materials board.

Perkins asked for clarification on the applicant's concerns with stipulation number 6. Reece stated the applicant would prefer a real brick product instead of cultured stone due to the smaller size of those columns. They have used cultured stone on the larger columns. Klein stated it is staff's recommendation to use cultured stone on the columns to carry it through the entire development. Williams asked if the other column elements within the development are the same size as these. Klein stated there have been column elements of various sizes. Williams asked if the walls behind those columns is cultured stone. Klein stated the element below the windows is cultured stone base. Perkins asked if the cultured stone is more expensive than brick. Reece stated, no.

Henderson asked if staff is satisfied with the estimate of 10 to 15% EIFS. Klein stated on the east and south elevations it is probably 10% or below. It appears to be a little higher on the north elevation. On the temporary wall on the west elevation, staff believes it will be primarily EIFS, but staff is comfortable with that as long as the building to the west of it came in fairly soon, because that wall would ultimately disappear. Williams stated he agrees with staff's comments on that wall. He would also concur with the applicant on the brick for the columns because of the contrast of the glass and stone behind it. The scale of the brick on these columns works well.

Williams then asked the applicant to describe how and when the deliveries would be made to the dock. Jim Cook described the delivery area. During the delivery, they would not be disrupting traffic. Perkins asked if they are single-axle trucks. Cook stated yes, among other types. Perkins asked if there is enough room for a semi-truck. Williams asked how often they would receive deliveries. Cook stated they receive deliveries from a small truck most of the time. Williams asked the number of potential deliveries that could take place. Cook stated very few.

Henderson asked if stipulation number 23 is a new requirement. Klein stated it has been a standard stipulation for about a year now. It provides a recorded copy of the plans at the County. Henderson stated he wants to make sure the percentage of EIFS is not exceeded.

A motion to approve was made by Perkins to include all of staff's stipulations. Motion seconded by Munson. Motion approved unanimously.

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

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

Commissioner Munson recused himself from this case.

Staff presentation: Presentation by Klein. This case has appeared before the Planning Commission at the August 10th meeting. The applicant has made some changes since that time. The applicant has moved 137th Street further to the north from 100 ft. to the right-of-way to 130 ft. to the right-of-way. As a result of that, the office portion on the west side of the development has decreased slightly and also the parcel on the east has decreased slightly on the north side of 137th Street and the area on the south side of 137th Street has increased a little bit. Within Villaggio West, the building area within the SD-CR area was decreased 19,000 sq. ft. This is due to the hotel being removed and replaced with a 20,000 one-story retail building. The applicant has added a small, 6,000 sq. ft. retail building along Roe Avenue, centrally located between 133rd Street and 135th Street. The parking setback from the common property line with Leawood Meadows and the assisted living center was increased from 48 ft. to 75 ft. and the building setback for the assisted living was increased from 50 ft. to 75 ft. The assisted living center was reduced from 38,000 sq. ft. and 120 beds to 32,000 sq. ft. and 90 beds. The wings on the south side of the assisted living center were reduced from two stories to one-story. On Villaggio East, the square footage is the same, the FAR increased slightly from .29 to .30 because they moved the road up to the north and that north side became smaller. On the south side of 137th Street there were seven 12-unit condos and then 12 single-family villas. The single-family villas were aligned with Leawood Meadows to the south. Those have been removed and an additional 12-unit condo has been added and the building setback has been increased from 30 ft. to 75 ft. An aboveground retention pond has been provided along the southern side of the condos. Staff is recommending approval of these cases with the stipulations stated in the staff reports.

Azeltine asked the distance from the most southern portion of 137th to the southern property line. Klein stated 130 ft.

Williams asked for an explanation of the justification for the bonus areas. Klein stated the applicant has created a plan to explain the bonuses and might be better able to answer that question. Williams asked about the above ground parking garages on the east side of the development. Klein pointed them out on the site plan.

Henderson asked how the four phases of the Villaggio East development relate to the Sunset Law. If phase one is begun in the appropriate time, are the other three phases automatically triggered in or do they operate on a different timetable? Klein stated the preliminary plan has a two-year sunset clause. If they start any portion of phase one, as long as they are showing that they are continuing, then they are fine. In addition, they have to come back for a final on each of the phases and each of those phases would have a five-year sunset clause. As long as they are showing some type of construction, then they are okay with the sunset clause. Henderson asked if the construction of phase one were halted but the developer wanted to start phase two or three, could they. Klein stated the applicant would need to come back for final and request any change in phasing. It would be the ability of the Commission to look at that. Henderson stated the reason he asked is because there seems to be some questions about financing and that could affect the phasing.

Commissioner Conrad arrived.

Henderson asked if the City Engineer is satisfied with the traffic impact analysis, and also how the roads need to be built prior to certain permits. Ley stated all of the roads would be constructed prior to issuing any Certificate of Occupancy. Henderson asked if the work being done on 135th Street is not tied to Fontana from 135th to 137th? Ley stated the work would need to be completed on 135th Street, Fontana, 137th Street and Roe Avenue. Henderson asked how long it would take to complete those roads. Ley stated they would be able to begin construction on the site as soon as they begin their public improvements. Henderson stated it appears that this project provides better storm water control than is there currently. Ley stated, yes, the peak flow would be less.

Williams asked for a description of how this project meets or exceeds the requirements of the 135th Street corridor plan. Klein stated the open space on the project exceeds the open space that is required. In some places they have grouped the open spaces into areas that staff felt are significant enough for the public to use. They are providing a number of amenities along the pedestrian walkways and plazas. They have indicated those areas on their plan. They have also provided a number of pedestrian connections throughout the entire development. Another criterion the guidelines call for is to have pedestrian connections with Roe, Mission, Fontana and 135th Street. Williams asked if other developments of this size would be required to have those types of sidewalks. Klein stated staff has taken some criteria out of the 135th Street guidelines and incorporated them into the LDO and now has been more broadly applied to the City as a whole. Another area where this development meets the 135th Street corridor guidelines is on the south side of 137th Street provided quite a bit of open space. On the south side of Fontana, that whole area has been left open. It is very pedestrian-oriented. There is the hike/bike trail that was called for in the comprehensive plan and also the 135th Street corridor guidelines on the south side of 137th Street. Williams asked if the development is getting bonus points for providing sidewalks, public spaces and green spaces that are required in the development ordinance. Klein stated the current LDO gives details as to bonus features allowed. This development is providing parking structures, which is one of the reasons they are receiving bonus criteria. They are also providing excess open space above the 30% they are required to provide. Then the question becomes is it open space that serves as natural and pedestrian areas. The applicant tried to identify open areas within the plan, more internalized, more grouped around a piece of art or certain feature.

Henderson asked what 137th Street looks like as it moves east of this development. Klein stated the intersections are pretty much set, so they have to tie in. A developer would need to come before the Commission and Council to get approval of a change to that. Henderson stated he would hope that it would not have such a terrible traffic snarl as what has happened with 133rd Street at State Line Road. Klein stated staff looks at that when these developments come in.

Rohlf asked for clarification on the deviation requested on the west portion for the parking setback. Klein stated within the SD-O district there is a minimum interior-parking setback of 10 ft. That was intended to ensure that there is green space in between two abutting properties. Staff has run into situations like this where it is an overall center and it doesn't make sense to have 20 ft. of green space out there along the entire perimeter of these two projects. Staff felt it was appropriate not to require the 20 ft. of green space in order to make it look more like a single development instead of two developments.

Applicant presentation: Presentation by Estel Hipp. Tried to listen to the comments from the Planning Commission at the last meeting as well as comments received from the home owners association and various home owners from Leawood Meadows and incorporate them in this plan, which they believe is representative of good planning of a large scale project. Asked Jeff DeGasperi to talk about the various changes made in the plan.

Presentation by Jeff DeGasperi. Went through the design changes on a power point presentation. In regard to Villaggio West, the 137th Street alignment is one of the major changes. That green space is now about a 3-acre parcel dedicated to the use of a berm and pauses with benches. The hotel has been removed and replaced with a retail center on the Roe Avenue side, along 137th Street. The square footage was about 19,000 sq. ft. less, but there will be no additional traffic generated. The reduced FAR in the retail portion is down to about 0.20 from the previous 0.22. The office district will stay the same. The bonuses are requested for the office district only. There is now a 75-ft. dedicated green belt along the south side of the property. That also includes a 13-ft. tall berm. There is a retaining wall along both parking lots that is approximately 5 or 6 ft. tall to help additionally screen the noise and lights, and the berm will rise about that as well. The eastern part of the independent living is a one-story wing, but it will still remain two-story up by 137th Street and along Roe Avenue. The southern wings of the assisted living will be one-story as well. There were 20 units removed from the independent living and 30 units removed from the assisted living. Showed the five different plan changes for the area south of 137th Street. Along 133rd Street at Roe Avenue there is a 75 ft. right-of-way and a 55 ft. right-of-way between the condos and Parkway Plaza. On the east side of Roe, north side of 135th Street, there is a 75 ft. dedicated greenbelt. At 133rd Street and Pawnee it goes down to a 25 ft. curb. Bonus Summary. In the office district they are requesting a 0.40. They utilized the spreadsheet that is in your report identifying the amount of green space that needs to be identified above and beyond the 30% green as an area. The building area that requires the bonuses is 19,000-plus. Described the different open space areas within the office portion. Showed a site plan of the existing trees and what will remain. They will decide at final plan with staff, specifically which trees will remain. The buffer that occurs at the independent living will be a 13-ft.-tall berm planted with evergreens on top. There is a retaining wall along the parking lot that will hinder any lights or noise. There is 75 ft. between the property line and the retaining wall. Showed the large greenbelt area at the end of Fontana. It is 150 ft. wide with a 13-ft. berm with a flat area to occur on the north side to allow recreational activity to occur within that

portion. Showed comparisons of the changes in the west area from the first submittal to the current submittal. Villaggio East - 137th Street realignment increased the amount of area south of it and decreased the area to the north, although they have not changed the square footage in the office and retail area. The southern area of condos has been reduced in square footage. The number of units is the same, although the units per acre are down to 7.31, from 7.41 at the last submittal. The villas have been totally removed. They took the villa units and included them in a condo building to increase the setback on the south to 75 ft. from any building or drive. The clubhouse is now internalized to the north of the condo development. There is now a wet basin for retention to provide a nice amenity and an additional buffer to the south. Berms will be added to the south as well. This helps give a basin wall for the retention but also provides about a 4 ft. berm between Leawood Meadows and the wet basin. The bonuses are requested only for the office area. Identified the courtyards in the east portion. Those areas total 43,500 sq. ft. It was identified that 42,800 sq. ft. would be necessary to meet the bonuses. None of the areas within the setbacks of the public roads are included in that calculation. The good trees along that south property line will be tagged and saved. The parking garage is one of the areas required and the additional open space above and beyond that. Showed a comparison of the east area from the first submittal to the current submittal. Described the architecture.

Williams asked where the loggias would be located. DeGasperi described the loggia area on one of the elevations. They are trying to mix up the different types of canopies. There will almost always be the opportunity for a pedestrian to walk under cover for the majority of their journey. The in-line shops are mostly where that would be designated for loggias.

Azeltine asked how close the assisted living facility is to the south property line, versus where it was the last time it was seen by the Commission. DeGasperi stated it was 48 ft. last time and 75 ft. from the property line currently.

Perkins asked for clarification on the different heights of the berms. DeGasperi stated the 13-ft. berm would go from Roe Avenue east until the waterscape, and then it will taper down to a four ft. berm along the waterscape. Perkins asked why it is 4-ft. at that point, instead of the 13 ft. DeGasperi stated the applicant believes the water feature will provide enough buffering, as well as, the evergreens that will be planted on top of the berm. Perkins asked if the trees that are shown would be kept. DeGasperi stated the trees would be marked to remain. Perkins asked if there are currently more trees on the property than shown on the plan. DeGasperi stated, probably not. There is a fairly solid screen through that area and it will be supplemented by the evergreens on the berm. Perkins asked for the previously proposed square footage of the assisted living facility. DeGasperi stated about 37,000 sq. ft. They removed about 20 units by lowering one wing.

Presentation by Phil Gibbs of Continental Consulting Engineers. He showed an aerial with the ridgeline of the project. Currently, some of the project flows under 135th Street in three locations. There are some existing pipes there. Those pipes are not totally adequate for drainage to the north. There are some pipes in the Leawood Meadows area that are not large enough, even for the cultivated area currently. There are actually 12 places that water enters Leawood Meadows. The largest of which is east of Fontana. They will be building a manifold pipe system. To the west, it will be an open system, as opposed to the other manifold pipe systems. Showed a diagram and described a typical underground storage system. Williams asked what the process is to release the water. Gibbs stated it will only release at the capability of the pipe it is leaving through. Showed another example of an underground water system. There is one similar at 137th Street and Fontana. The open water detention area has about an acre worth of surface water. The lake itself will be about 18 inches deep for about 12 ft. or so and then taper down to 3 or 4 ft. deep for the permanent pool. It will have the capability to go up 2 to 3 feet during a storm and then go back to the permanent level. Showed a typical retention basin with a rock edge and landscaping. They are also proposing an aeration system for the open basin to improve the quality of the water. In summer conditions it would need some air movement. The fountains would go about up to a 15 ft. Henderson asked if they are fountains or aerators. Gibbs stated they are aerators.

Williams asked for an explanation on how these pipes work with vegetation, sculptures or parking that would be above them. Gibbs stated the pipes would typically have about 3-ft. of soil over them. The larger trees would not be built directly over them, but shrubbery would not be a problem. Williams stated that it appears as those one of the entry drives into an office with a large row of trees is above one of the proposed underground pipes. Gibbs stated between the pipes would have 4 to 6 ft. of material that plants and things could be put upon.

Perkins asked if there would be any chemicals put in the lake to control algae. Gibbs stated he does not anticipate any chemicals to be needed because of the aeration of the water. Perkins asked if the water would ever be tested. Gibbs stated if it were to show plumes of algae, then it could be. But he does not anticipate it to ever need to be tested. It would be part

of the responsibility of the homes owners association to maintain it just like any other. Perkins asked if there would be a fence on top of the stone edge. Gibbs stated they are not anticipating a fence. There is a 12-ft. shoulder out from the stone. That would be up to the property managers of that project.

Henderson asked if they could detect the area that is leaking if one of the pipes leaks. Gibbs stated they are all of the size that a person could go inside to inspect them. One would be able to see which area they were losing water in and then go in to inspect.

Conrad asked if the discharge from the 60-in. pipe would hook up to a current pipe. Gibbs stated, yes, there is currently a 60-inch pipe. There is no daylight to this system except where it goes into the swale. Conrad asked if there was underground detention originally proposed where the water basin is now. Gibbs stated, yes. Conrad suggested if there were underground detention, they could get a more usable space, which could be a better amenity. Gibbs stated the amount of acre-feet of storage will still be provided, only it will be a retention system with a lake. Conrad stated concern that if they kept the area with underground storage, then it would be more accessible to walking trails. He is curious why the basin was chosen. Gibbs stated, from an engineering perspective, the same amount of storage needs to happen regardless of whether it is open or underground. Conrad asked if there is enough fall around the corner to be able to enter into the garage at the lower level. DeGasperi stated, yes, there might need to be a step retaining to make that occur. Conrad asked about the maintenance of the underground detention system and pond. DeGasperi stated the above ground detention would be the responsibility of the homes association. The underground detention would be the responsibility of each district that it is in.

Hipp stated he envisions an owners association, which will function like a homes association, but on a commercial basis. Their intent is to have some fairly restrictive covenants dealing with architectural style of the buildings as well as exterior maintenance requirements for the buildings and the grounds, which would include the storm water detention system, all of which would be a part of the overall cost to operate and maintain the overall project. Each section of the development will be responsible for its allocated share of what those costs are.

Henderson asked if there is a formula that relates the width of the base and the height of the berm. DeGasperi stated berms get wider as they get taller, that is why they are hesitant to recommend that tall of a berm, but it seems to have been predicated by the concerns of separating the developments. The typical slope is a three-to-one, with a two-to-one at most. Henderson asked if they are planning on planting trees on top of the berm. DeGasperi stated, yes, evergreens. They will be planted in a random, not tight, pattern. Henderson asked how much they would infringe on the existing trees. DeGasperi stated they would maintain the buffer of an undisturbed area at the south property line.

Hipp stated the applicant has tried to listen to comments from the Commissioners and the homeowners to the south. What they heard were concerns about the density. They have lowered the density. They heard there were concerns about 137th Street. They have relocated it as far north as they could, without having an impact with the intersections at Fontana. They heard there were concerns about the two-story massing of the assisted care and independent care facilities. They reduced the overall density for those particular parts of the project, in addition to which they reduced the two-story elements to one-story for those areas that are closest to Leawood Meadows. They also increased the setback to as much as 75 ft. and increased the depth of the retaining wall and increased the berm height. Heard many concerns about the hotel. They omitted the hotel and added an additional retail portion to the project. The sidewalk connection was something the Leawood Meadows residents did not want. They have eliminated that from their plan. There was some concern about the bonus points used. They have reduced the number of bonus points to only be restricted to the office areas both on the east and west sides of the project and they believe they have demonstrated they have exceeded the requirements necessary to justify the bonuses they have asked for in the spirit of creating a comprehensive project that everyone can be proud of. The south property line separation has been a very big issue. They increased the setback to 75 ft., they increased the berm heights, added the water retention system, which they believe is a good and aesthetic way to further separate the condominium portion from the residential homes on the south side. They eliminated the villas for the same purpose, which allowed them to increase the setback on that portion of the project. They moved the clubhouse and pool further north in response to the concerns of the constituents south of the project. There were concerns about the use of the villas, which they eliminated. There was a question at one point if this was the same group as Cornerstone. The answer is no. There were concerns about the ability to finance and pull off this project. The OPUS group who has agreed to buy a little over 16 acres of the western portion of the project. They would like to gain the Commission's approval tonight and get Council's approval in October and then begin the infrastructure in rough grading in February or March of 2005 with the opening of the

stores in October of 2005. There were concerns about the storm water detention and he hopes that Phil's explanation of the underground system helped relieve any concerns. That, with the lake, will solve a great deal of the flooding problems that have occurred south of this project. He believes they have addressed all of the concerns and ask for the Commission to approve the plan.

Rohlf asked DeGasperi to go over the phasing and also explain which portions of the open space and corner features will come in at phase one. DeGasperi stated 137th Street would be constructed. The improvements will be constructed. Extra lanes will be constructed on Roe. The storm water management systems will be in place. The berms will be created at that time. Hipp stated their expectation is to provide the storm water system as designed for the west portion of the project in conjunction with all of the initial construction of the infrastructure. They will be placing the underground storm water system for the south side of 137th Street with the first phase, even though they are planning on the east side to be done after the west side, to alleviate the flooding that already occurs. The lake, however, would not be put into place until the condominiums begin to be built.

Public hearing:

Ernest Ballweg, the attorney for the Leawood Meadows Homes Association. He is authorized to inform the Commission that, subject to the conditions that are set out in the letter to Mr. Klein on September 23rd, assuming the Commission were to approve this plan and include the conditions upon which they would withdraw their objections, includes the Board of Leawood Meadows not filing a protest petition in this matter, then they would be prepared to accept this plan. One of the homes association's stipulations is that all setbacks being at least 75 ft. from the property line. An issue with the detention pond has arisen this evening. It was their understanding that the detention pond would be built similarly to the one at Tomahawk Park and it would be natural looking with grassy banks. They were told that was one of the reasons the landscaping would be expedited, to avoid and minimize silt from filling into the lake. His clients reached their decision to not assert an objection based on the fact that the lake would appear natural looking. The limestone that was shown tonight is not what they were told and is not what they are agreeing to. They have been told and relied upon what they were told by the developer that the landscaping and the berming initially on the western phase that one of the initial things to be done would be the landscaping. It is their understanding that the lake would be constructed with the initial phase of the eastern portion of the property. One of the reasons why the berm along the lake would need to be much smaller is because a larger berm would damage the existing tree lines. It is very important to keep all of the existing trees along the property line. Maintaining of the retention pond is important to his clients. They are asking that the lighting of any buildings immediately north of Leawood Meadows, including the condominiums, just be security lights and unobtrusive. The parking lot lights should be angled downward, not creating something that would be obtrusive to the residents of Leawood Meadows. There was some talk about the hotel. That has been a significant factor to his clients. They are asking that not having a hotel be a condition to this application if granted. There is an issue he would like to address about the connecting sidewalk between the proposed development and Leawood Meadows. There has been a separate type of protest petition of about 25 or 30 people. As a possible compromise, he suggested the plan could give an easement to the City so that if the residents change their mind, the ground would be available for the construction of the sidewalk.

Perkins stated on Ballweg's fourth condition, the hotel could never be put into this plan. Patterson has stated they would prefer to not be held to that condition. Ballweg stated the developer has stated they would remove the hotel, but they do not want to agree to the condition of never having a hotel. The developer has stated they believed the neighbors concerns were more about the placement of the hotel and that is not true. The residents of Leawood Meadows have never wanted a hotel, no matter how far away it is. Perkins asked, if this gets approved, how Ballweg believes the developer could add a hotel when there is no hotel proposed in this plan. Ballweg stated he does not think they probably will, but he is going to do everything he can, as far as creating a record that they are opposed to it now and will be in the future and make it on the record that they have always been opposed to it. Perkins stated that as long as he is on the Commission, there would not be a hotel.

Binckley stated the Commission should keep in mind that, while it is appropriate for Mr. Ballweg to make his comments, if the developers wish to enter into a private agreement with the homes association regarding whether a hotel will ever be here or not, that is fine, but this board does not have the right to tie down future actions of the City. In the future if another application is made it would be reviewed on a separate basis. Azeltine stated that in other words, it is a moot point. Binckley stated that is correct. The Commission is reviewing the plan and the zoning that is before them tonight.

Williams stated that during high rain times, there would be a substantial change to where the water is on the edge and the condition of that edge. It could be muddy or dry, versus the stone edge that would help define the lake area. He then asked the residents if they would rather have the mud and not pristine edge or the stone edge. Ballweg stated they were told the level of the water would be kept pretty much at an even keel. It would have fountains to aerate it. It was his understanding that this is the way it would be constructed and it could be landscaped and that silting would not be a problem. He would suppose that a rock-lined pond or grass-lined pond could have mud visible either way. His clients want it to be as natural looking as it could be constructed.

Henderson stated he assumes that provision number eight about the lighting would be handled by the City. One always hopes security is protected in the first instance. Ballweg believes that staff's stipulations cover their concern.

Azeltine asked if the conditions in Ballweg's letter, with the exception of number four, were included in staff's stipulations. Klein stated, no. Some are more or less addressed. The stipulation regarding "no hotel in the future" would not be in there. Azeltine asked if there is some type of system to ensure those stipulations get added into the approval. Klein stated the Commission would need to add them in with the motion. There is another stipulation in there about "the closest point of the curb line being no closer than 150 ft. of 137th Street". The City will always maintain its right to widen the road within its own right-of-way. That is not something you could bind the City to.

Williams asked if there is anything different in this letter than what is in Ballweg's letter, other than the fourth and fifth conditions. Klein stated, yes, most of his comments are reflected in the plan. Klein stated that Ballweg just pointed out that the timing for the landscaping is not currently reflected in stipulations or the plan itself. Williams stated the applicant addressed it in the presentation. Klein stated, yes, but that is something the Commission would need to add as a stipulation, if that is what they wanted to do.

Tony Ross, 4004 W. 137th Terrace. He was at the meeting with the agents of the developer and at that time they described the lake as a soft swale effect, as is on Tomahawk Creek. He understands Williams has said that might be muddy and such, but the problem they are running into is that the one over at Cornerstone they have built a rock-lined containment lake. The engineer has said that it will need to be able to rise at least 3 ft., so they end up with a pit. Their objection is to have a pit that will be three or four feet below the service. Even with the potential for mud, it should not affect it. That is what they would like to see and that is what has been sold to everyone here. It was a surprise to see that photograph.

Jeannine Praderio, 13700 Fontana St., just west of Fontana, at the dead end. She just noticed that the retention center at the center of the border is right up against the property line. She would like to know how they could maintain the current tree line and still have this major construction right up against the border.

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

Rohlf asked if there is anyone from the applicant's team that could address that concern. Gibbs stated they would be approximately 25 ft. from the property line with the pipe system. He met with the neighbors and talked about the system and he did talk to them about a soft looking lake. The lake he showed tonight is just a lake that his company has done. That lake is 12 years old. They would propose to have a system that would monitor the water level, but with evaporation and wave action, there would be at least three inches difference in elevation. His experience has shown that in those three inches there is a possibility of grass not living. There are some plants that possibly meet that. Planting can be done instead of a rock edge, but with the wave action, the stone edge may eventually be necessary.

Henderson stated one of the concerns in Leawood is to establish connections for pedestrians and vehicles between homes associations and other locations. According to staff's recommendations, the objectionable sidewalk has been muted. It seems to him that part of the concern for some of the resident's isolationism. They want to be sure this will not intrude on them. It will be very difficult to maintain that posture after things get built. The recommendation by staff is that we proceed with what is before them. He is hopeful the posture of the residents in Leawood Meadows will be friendly to that which is north of them. Binckley stated that in stipulation number 17, the connection is required.

Perkins stated with the only exception of condition number four of no hotel and Mr. Patterson being strong about not having that in there, he thinks that if he is on this Commission, then that hotel would never be there. If the residents want that in

writing, then they should make sure to get it in writing. He thinks the applicant has come so far in this project that he supports the recommendation by staff.

Conrad asked if it makes sense that this preliminary plat reflect those areas as a tract of land that is tied to an owner's agreement for development or maintenance. Binckley stated it would be reasonable to direct something along that line for when it comes back final plat. They could do that via easement, particularly on those cross-access areas for the underground detention in the northern portions. The southern portion being in a tract would be appropriate. She believes that, at final, they need to clarify who will maintain that larger green space. In the commercial portion, they all have cross access, and that is fine. Conrad stated he just wanted to be sure staff believes it can be properly executed. Klein stated he feels there is a good chance that in the future there will be additional lot lines dividing it by the time of final. Conrad stated he feels if the common areas were separate it would be easier to manage. Binckley stated she would make sure that the Commission's comments are taken into account at final.

A motion to approve cases 33-04 and 34-04 was made by Azeltine, including the memo from Ballweg, but removing conditions four and five. Motion seconded by Perkins. Henderson stated he is not sure if it is wise for the Commission to incorporate a last-minute dictum from either the developer or the neighbors in reference to the project, if in fact they have been handled in staff's recommendations. Rohlf stated she believes Azeltine was ensuring there is a stipulation about the phasing of the landscaping. Azeltine stated he asked Klein if he felt staff would have a problem with that to which he responded, yes, without the two conditions. Henderson stated since the staff report does not speak about a hotel, he is not sure why Azeltine would want to incorporate Ballweg's letter into the motion for approval. Azeltine stated to make sure the homes association's needs are being met, so they won't file a protest petition. To ensure those conditions are incorporated into staff's recommendations.

Case 33-04, Villaggio West, approved 4-1. (Henderson opposed.)

Case 34-04, Villaggio East, approved unanimously.

CASE 59-04 PARKWAY PLAZA - PHASE ONE Request for approval of a final site plan to approve the design guidelines, final landscape plans and corner features for the Parkway Plaza development. Located at the northwest corner of 135th Street and Roe Avenue.

Duffendack entered the meeting. Munson returned to the meeting.

Staff presentation: Presentation by Jeff Joseph. The applicant is Richard Sailors of Sailors and Company. The applicant is requesting approval of design guidelines, final landscape plans and corner features. This case was continued from the August 24th Planning Commission meeting due to some outstanding issues. One issue was the use and design of some of the roof signs. The applicant has removed all roof signs. Another issue was regarding the massiveness of the roof structures. The applicant has revised the roof designs and they are shown on pages 8 through 11 of the design guidelines. The overall sizes of the roofs have been reduced, however the applicant would like to revise page number 8. He placed that on the dais. They have added one more elevation. Staff has not had a chance to review that. The applicant is proposing corner features at the intersections of Briar Street and 135th Street and also at Roe Avenue and 135th Street. Staff would like the Planning Commission to give further direction on the design of the corner features. Staff is recommending approval of this case with the stipulations stated in the staff report.

Henderson stated it seems to him that they are ill prepared to make good decisions if late pieces of information come in that the Commission has not had time to study. Duffendack stated that has happened in the past. Duffendack asked Joseph if there is anything in the submittal that concerns him immediately. Joseph stated it looks like the applicant has added an additional elevation with a different type of roof with some massing to it. Duffendack suggested going through the applicant's presentation to see if there is anything more substantial to the change.

Williams stated in the elevations provided tonight, the one elevation at the top is very similar to what was in their previous submittals. The general roof configuration is the same. It would appear they have a two-material roof; with tile on the main body of the roof and then tile on the lower portion, which is what was discussed at the last presentation.

Applicant presentation: Presentation by David Suttle of Suttle Mindlin Architects. The applicant is comfortable with all of staff's stipulations. There were very high roofs on all of the retail buildings, and then there was discussion that the roofs were too high and they looked at the lower roof portion. With the interest in the two-story bank that is already in the development, if those two options for the one-story; of a slightly higher roof with a porch roof or the other lower roof with a sort of flat porch with a sign band. They wanted to include that because they felt they would get a more natural variation and avoid having all of the roofs being the same height on the one-story buildings.

Duffendack asked if the difference between the two options is the height of the peak of the taller roof and the treatment of the portico. Suttle stated, yes. They have the same pitches and same character.

Henderson stated he is a little startled that this comes belatedly as an inspiration.

Williams stated he has questions on some of the meaning on certain language in the design guidelines and he feels some of it should be changed to tie down things more specifically for the benefit of those who come after this Commission. He asked Suttle to elaborate on the statement on page 6 of the design guidelines that reads, "Building concepts should avoid the conventional commercial approach to design, even those that are in good taste." Suttle stated it was a reminder to them to try to share the reason behind. It is a little broad statement of attitude. In terms of all of the buildings, they are trying to be a step away from what is currently being done in the industry in general. There will be Individual buildings with garden settings, with character and towers. Williams stated there are a wide variety of things being done. Suttle stated if that were cause for concern, they could remove it. Williams stated that rather than leaving it out, they could just expand on it to include what Suttle just said to give future tenants more directions.

Conrad stated the design guidelines have come a long way. On page 44 on the submittal process, he is not sure about the last sentence "at that time refinements to the master plan will be discussed to ensure a full and complete understanding". They need to comply with the design guideline. Suttle asked if Conrad had any type of suggestion on how to reword that. Duffendack asked if these guidelines are in keeping with the guidelines Suttle has done for other projects. Suttle stated these are more detailed. Suttle will be working with each of the tenants to ensure they comply. Duffendack asked if he has had any interpretation problems in the past. Suttle stated, no.

Perkins stated he couldn't see where they have cut down the height of the roof on page 8. Suttle stated the roof on the top of option one is about 1/3 or 1/4 from the top of the tower. The second option is about 1/3 or 1/4 from the bottom of the tower. Perkins stated he believes that on the previous page 8 the roofline was lower. Suttle stated he believes the tower was a little bit higher at that point. Perkins stated that it seems to him that every one of his colleagues were concerned with the massiveness of the roofs at the last meeting and he doesn't see where it has changed. Joseph showed the different proposed elevations on the overhead projector. Joseph stated they have reduced the pitch of the roof on option one.

Henderson stated the text has not changed on the guidelines. He then asked if it would be helpful to write under the first option what Suttle has said tonight. Suttle stated that could be done. He then stated the people who would be using this are he and the other architects. Henderson stated the design guidelines should be clear for all readers. Perkins stated that he still couldn't see where the massiveness has been reduced from what was previously submitted. Williams stated the peak of the roof in option one is higher than what was in the original proposal. The mass of that is broken up with the introduction of a lower slope roof piece, which would presumably be a metal roof. The peak of the roof in option two is just slightly lower than the initial presentation. The tower elements appear to be the same. The detail is different in the elevation. These buildings in the drawings tonight are longer than what was shown before, so now it is a large roof on a large building, versus a large, high roof on a shorter building.

Henderson stated the differences that he sees between the two drawings and then asked if it is intentional or not that there is no top of porch reference in the second option. Suttle stated there is no roof on the porch of option two. It is a stucco band. It is a flat roof.

Williams asked if the roof signs have been removed. Suttle stated, yes, they have been removed.

Rohlf asked if staff would like comments on anything other than the corner features. Joseph stated just the corner features. Rohlf asked if the applicant has taken care of any other of staff's concerns. Joseph stated the concerns listed by staff have stipulations addressing all of them. Binckley stated there were some concerns about the other corner features along 135th

Street. Staff wanted to make sure the Commission was aware of what is provided and that you are comfortable based on what is on the southwest corner of 135th and Roe. Conrad stated his only concern was where the streetlights and signals will go. Binckley stated they would be in the standard locations. Munson asked if the streetlights would impose on the design. Ley stated all four-signal poles will be in the islands at Briar.

Williams asked how much of the corner feature at 135th and Roe would a passing motorist see. Binckley stated a passing motorist would mainly see the pergolas/trellis type structures and the landscaping at the intersection. Everything further into the site will start to drop off a little. Williams asked if that corner feature is appropriate or enough for what the City is trying to achieve at 135th Street, given that so much of it passes out of view of the passing motorist. Binckley stated on the south side of the southwest corner, there are two sets of pergola structures, then the fountain in the middle with landscaping. On this side, they have provided the trellis features. Staff did not intend for all of the corners to have fountains, but that some similarity between the corner features be present. Staff feels it has been met. There were comments made later, after others were installed, that the Planning Commission wasn't pleased with them. Staff wanted to make sure the Commission understood that what you see here is significant enough and that you feel comfortable with it. Williams asked if there is a fountain with this corner feature. Binckley stated, no.

A motion to approve was made by Rohlf and seconded by Azeltine. Motion approved unanimously. 7-0

Duffendack stated the Commission will start case 72-04, but that will be the last case heard this evening. Binckley stated she has notified the applicants that cases 64-04 and 68-04 would be continued to the October 12th meeting and cases 69-04 would be continued to the October 26th meeting. She then asked if Duffendack is stating that he would like to continue case 57-04 as well. Duffendack stated it is the Commission's policy to finish any case that is begun before 9:00, which means they would not be getting to case 57-04. Binckley stated that case would be continued to the October 26th meeting.

NEW BUSINESS:

CASE 72-04 PARKWAY PLAZA - CONDOMINIUMS Request for approval of a final site plan. Located at 135th Street and Briar.

Staff presentation: Presentation by Jeff Joseph. The applicant is requesting approval of a final plat and a final plan to allow the construction of eight condominium buildings, consisting of a total of 98 units, and a 3,750 sq. ft. clubhouse. The applicant is proposing two buildings, consisting of 26-units and the clubhouse as part of the first phase. The applicant is Tom Dunn with Parkway Plaza Condominiums LLC. This property is located at the northwest corner of 135th and Roe. The proposed condominiums are accessed off of 133rd Street and the clubhouse is accessed off of the east-west private street. Within the first phase, the applicant is proposing 13 units per building. The final plan approved previously for Parkway Plaza showed only 12 units per building. Staff is in approval of this request for an additional unit due to the fact that the overall area of the building is not changing. The plan is substantially compliant with the previously approved plan. The maximum number of units per acre allowed within the MXD district is 15 units per acre, and with this addition, the applicant is only proposing 8.6 units per acre. Per the LDO, 26 parking spaces are required per building. That is two per unit. The applicant is only proposing 25 spaces per building. One additional parking space needs to be provided to meet the requirements of the development ordinance. A stipulation was approved as part of the overall Parkway Plaza final plan stating that natural materials such as stone shall be used as the building's primary building material and stucco be used as the accent material. Staff would like the Planning Commission to comment on this issue and give further direction as it relates to the new elevations. Staff is recommending approval of this case with the stipulations stated in the staff report.

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

Conrad asked for clarification of the parking spaces. Joseph stated it is listed in stipulation number 10 that they need to add one additional parking space.

Applicant presentation: Presentation by David Suttle. The applicant has found a way to get the 26 parking spaces in, so everything is okay. The current plans now show two for every unit. That is a commitment on their part and is solved. The only stipulation he would like to discuss is the one about the exterior materials. During the last meeting, he believes the idea was open to receive a better idea of the materials. Started out with stone at 16% of the exterior wall and now have 35% of the exterior wall. Showed colored elevations. There will be stone on all four sides of the columns. In addition, the three-

story tower as the entry is stone in the segmented tower portion, all the way up. They are good looking buildings and attractive. He does not believe that more is better. It becomes very heavy and institutionalized. Showed and described the corner elements. All of the stucco walls have stone elements. The stone is the impressing material, but it is not a predominantly stone building. Their intent was to make the stone significant, but not necessarily in a mathematical way.

Williams asked about the base stone that is around some of the buildings. Suttle stated there are courtyard walls on either side of the entry. They don't appear on the drawing. Williams stated given elevation changes on different areas, would they always have the same look, or would it change from one area to another. Suttle stated there would be a philosophical constant. Duffendack asked if there would ever be a grade above that without a porch. Suttle stated, no.

Duffendack stated he likes the elevations up to the roofline. It seems strange to express stone at a pedestrian level and then not carry it above the roof on the chimney elements, which are a pretty strong part of the elevation. It seems strange to express those in stucco and not stone. Suttle stated his research on traditional buildings that are rather authentic have a stucco fireplace on a painted brick traditional building. The applicant feels that it helps to give it a lighter look. The roof is very heavy. The stone is massive where they have it. They thought the contrast was more appropriate in this case, rather than putting a heavy block of stone on the top of the building.

Rohlf asked for clarification on the number of buildings. Suttle explained that this application is for the condominiums east of Briar.

Henderson stated he is not sure how this will look with trees behind it, but none in front of it yet. Suttle stated the whole idea is to break the scale so that even when they are new, they will have a softer look. They do not want a fortress type quality. He thinks this design will help to avoid some of that.

Perkins asked which two buildings consist of the first phase. Suttle pointed out the two buildings and the clubhouse on the site plan. Perkins asked if there is any entry off of 133rd or if it is all off of a private drive. They will be the only two buildings that have drives off of 133rd. Perkins asked if they are putting in the water feature at this time. Suttle stated, yes, it would be part of the benefit district. Perkins asked what the second phase would look like. Suttle stated the second phase has not been determined yet. Perkins asked if the developer sells them out before they go to the next phase. Suttle stated, yes.

Williams stated he does not have a problem with the use of the stone. He would concur with Suttle on his description. He then asked if gates were approved with this development. Binckley stated the original approval has gates, but they will never be locked and anyone could pull up to the gate and they would automatically open. The project is not fenced.

Conrad asked if the fire department approved the gates. Binckley stated, yes, they have reviewed them and are in approval. Conrad asked if it was electric. Binckley stated, yes, and there is typically a knox box in case the electricity goes out.

Munson asked if staff is recommending more or less stone than what the applicant is proposing. Joseph stated it is staff's belief that substantial means the majority of the building needs to be stone or the primary building needs to be stone. Binckley stated it was a stipulation that was carried forward from the preliminary. Staff brought it forward to the Commission to get your opinion. If the Commission is comfortable with the elevations provided, that is fine, but staff wanted to make sure the Commission understood that it was a stipulation at preliminary and that you are consciously removing it from the stipulations. Duffendack stated it is a pretty unclear stipulation, based on mathematical equations and by approving the case as presented; the Commission is approving the presented materials. Binckley stated if the Commission is fine with the elevations proposed, then she would suggest removing stipulation number 8.

A motion to approve was made by Williams with the removal of stipulation number 8. Motion seconded by Perkins. Motion approved unanimously.

Meeting adjourned.

J. Paul Duffendack, Chairman