

City of Leawood Planning Commission Minutes

March 29, 2005
Special Call 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, Munson, Williams, Azeltine, Pilcher

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

NEW BUSINESS:

CASE 12-05 ESTATES OF OLD LEAWOOD Request for approval of a final plat and final site plan. Located at 8901 Sagamore.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a final plat and final site plan for 27 single-family residential lots on 16.2 acres for a density of 1.67 units per acre. The applicant is requesting 27 single-family lots around three cul-de-sacs. Two tracts of land are proposed to remain recreational. One is tract A, which is to the west and the other is tract B, which is to the east and goes along Dyke's Branch. A memo was placed on the dais that lists some additional stipulations by staff. The first additional stipulation is in regard to a pedestrian bridge. There is currently a pedestrian bridge on the site that is located in the public right-of-way. One of the stipulations from the preliminary plan was to remove that pedestrian bridge and replace it with a pedestrian bridge that did not obstruct the water in order to help with the flooding situation. The stipulation that staff is proposing is that the pedestrian bridge be installed and maintained by the applicant/owner of the Estates of Old Leawood across Dyke's Branch shall be open to the public without any gates. Any restriction to the access of the pedestrian bridge in the future shall require the approval of the City of Leawood Governing Body. The second additional stipulation is also related to the pedestrian bridge. There are some trails that go along the east side of the bridge. A connection shall be provided between the pedestrian bridge and the pedestrian trails located within tract B. The next stipulation is to ensure that the common areas and amenities located within tracts A and B shall be constructed with the first phase of the development. In response to the trails that are located in tract B, there are few trails shown on the north of it. There were more trails shown in the preliminary plan and staff wants those trails added back in. The stipulation reads, "The trails as originally shown on the preliminary plan, north of the bridge, shall be provided." Staff is also recommending some additional amenities be placed in tract A. Staff is recommending, in addition to the pool and cabana, picnic tables and a playground be provided to add some additional amenities to that open space. The last additional stipulation is regarding two monument signs. These are 4-ft. monument signs that are actually like retaining walls that will actually be pushed into the grounds on both the north and south sides of tract A. Staff is recommending those signs be removed in an effort to fit in with the rest of north Leawood, which does not have a lot of monument signs to segregate out the different subdivisions within that area and in an effort to make the community feel more open and not so much calling attention to the fact that you are entering from one subdivision to another. Staff is recommending approval of this case with the stipulations stated in the staff report and the stipulations added in the memo.

Duffendack asked if these newly added stipulations have been discussed with the applicant. Klein stated, yes, staff had a phone conversation with the applicant this afternoon and they have been provided a copy of the memo.

Henderson asked about parking on a public street and having access to the amenities. In some parts of Leawood, the homes association's covenants restrict them from parking on the street. He then asked if this memo would violate that. Klein stated it is staff's understanding on-street parking be left open and allowed at this time. In most places in the City, on-street parking is allowed. If there is a problem, there can always be a request made to the City to restrict on-street parking. Henderson asked if deed restrictions to houses come prior to those restrictions by the City. Klein stated he believes it is usually the more restrictive rules. Covenants and restrictions are private agreements and are enforced privately.

Perkins asked about the memo from David Ley dated March 12th. Klein stated there is a stipulation in the staff report that includes all of Public Works stipulations. Perkins asked if all of those stipulations have been discussed with the applicant. Klein stated he knows the applicant has received a copy of the staff report with all comments.

Rohlf asked if the declarations included in the packet would become part of the plan. Klein stated the declarations would become part of the approval. The City has worked diligently with the applicant to resolve any issues that were contained within those stipulations.

Binckley clarified that the memo with the City Attorney's memo attached is the correct set. The other was an earlier version that was included in the staff report version. Duffendack asked how that is added. Klein stated he believes it is treated as part of the plan. Marcano stated it is a part of the application and the Commission's approval will improve those as well.

Williams asked if the applicant is required to submit design guidelines. Klein stated not within the residential portion. They are required to submit residential plans and with those you will see grading, landscaping, the layout of the streets and that kind of thing. The applicant has provided, and they have been pretty consistent with, the style of housing they are proposing. Williams stated the pool complex, parking lot and cabana drawings have conflicting information on them, like fencing. He then asked if those drawings are supposed to be for a final submittal. Typically, they are far more detailed. Klein stated the pool and cabanas are typically done in more detail. That is why staff asked the applicant list out the materials and that sort of thing. Williams asked if the applicant should be submitting the size of the pool. Klein stated staff has spoken with the applicant regarding the size of the pool. The pool shown on the preliminary plan was about 16 ft. on one side and 24 ft. on the other and approximately 46 ft. in length, which is about 920 sq. ft. The pool shown on the final plan increased in area to an estimated 2,050 sq. ft. That was in response to additional people anticipated being able to use that pool. Other families outside of this subdivision will be allowed to use this pool. Williams asked if staff is okay with the drawings submitted for the buildings. Klein stated as long as they detail out the materials and that kind of thing. Williams stated he noticed on one plan the fence is wrought iron but wood on another. Klein stated it is his understanding the fence will be wrought iron with stone pillars that will support the wrought iron.

Commissioner Conrad arrived.

Munson asked how people would access the new bridge. Klein stated staff included in the stipulations that the trails within tract B on the east side will make a connection with that bridge.

Duffendack asked Klein to describe on the site plan how that connection would be made. Klein described the site plan.

Azeltine stated the City Attorney's memo mentions the calculated assessment for the properties surrounding the proposed development. He then asked how that would compare with the residences inside the proposed development. Klein stated it would be the same. Binckley stated the applicant would need to answer how much it is and how that would be assessed. Azeltine then asked if the stipulation has been deleted regarding the on-street parking, as per the City Attorney's advice. Klein stated that would be up to the Commission on whether or not they want that taken from the covenants and restrictions. Azeltine asked if the tennis courts are considered part of the amenities. Klein stated it is considered to be part of the amenities, however, the pool, cabana and tennis courts would be restricted. The park area in tract B and the open areas in tract A would be open to anyone.

Williams stated the oak trees were originally proposed as 4-inch and are now proposed as 3-inch. He then asked why they are downsizing the trees. Klein stated they have found that in order to get a lot of the 4-inch caliper trees, the City has ended up with a lot of the maples, and not a lot of the oaks. They are recommending the 3-inch caliper in order to allow the developer to use the oak trees. Williams asked if the stipulation is regarding the oak trees along the street. Klein stated, yes, it is for the trees along Sagamore. Williams stated the restriction description do not seem to be consistent with the size and style described on the drawings. Klein stated the developer would be better able to answer that question. Williams then asked if there is a row of landscaping along the southeast side of the property to serve as a buffer. Klein stated they are showing some landscaping on the plan shown tonight. Williams asked if they are going to require that there be a landscape buffer at that point. Klein stated that is something the Commission could stipulate. Williams stated their plan shown tonight shows landscaping at the northwest side, but their landscaping plan does not show any landscaping there. Klein stated their landscaping plan would take precedence.

Duffendack stated it seems that the Commission is being asked to approve a final site plan, but one has not been presented to them. Klein stated the Commission was given the final site plan in their packets. The applicant is showing a plan tonight that looks more like the preliminary site plan, except tract A has been updated with all of the amenities. Duffendack asked if Klein has enough confidence that if the Commission approves a plan that is not complete that staff would be able to make sure that what they are approving is like the preliminary. Klein stated all of staff's comments and analysis was based on the plans that were given to the Commission. The plan shown tonight is different and maybe the applicant should take the Commission through the changes. Staff feels comfortable with the plans that were provided to the Commission.

Perkins asked if the memo placed on the dais would be added stipulations to the original stipulations. Klein stated, yes. Perkins then asked if staff is recommending another stipulation be added to require the landscaping along the southeast side. Klein stated, yes, if the Commission would like landscaping along the lots that are adjacent to an existing property, then that could be stipulated.

Conrad asked Ley to explain his comment that the developer shall construct swales for the 100-year rainfall events at the low points of the cul-de-sac. Ley stated the developer is going to provide a pipe system to carry the 100-year rainfall but just in case the storm sewer were to become plugged, he wants to make sure that there is another route for the water to flow through the property so that it would not flood a house. Conrad asked how significant Ley sees that to be. Ley stated the areas are fairly small so he does not see

it as being a problem. Conrad asked if it would be right over the alignment of the pipe. Ley stated that is typically how they are done.

Williams asked if the 5-year period for construction is typical for residential projects. Klein stated, yes.

Applicant presentation: Presentation by Doug Patterson, representing Leawood Partners LLC. The applicant's job was to submit a final plan that was consistent to Leawood's development ordinance, which requires them to submit a final plan that contains little to no changes from the preliminary plan that was approved by the Commission and the Council. There are no substantial changes to this final plan that were not included in the preliminary plan. They do have some additions to deal with that the Council directed them to answer in terms of the homes association document. He is not sure why there were some trails omitted on the Commission's plans, but he can assure the Commission that every trail and connection to the bridge that was in the preliminary plan will be in the final plan. The only change in the plan is in the pool and cabana area. Those changes were in response to comments the applicant received in terms of the pool needing to be larger, parking needing to be provided and buffering needing to be provided. Those are the only changes in the plan. In regard to staff's additional stipulations, the first bullet relates to the pedestrian bridge. There were mixed comments on whether or not it should be there and Council decided they wanted it there. It will be rebuilt. There are serious security problems and issues that the owner and the neighbors have with the bridge. They have provided in the homes association document that the developer, and thereafter the association, has the right to monitor and secure that bridge if it becomes a security issue. What is in the homes association declaration is that the homes association could put a locking gate on that bridge so long as the people who are intended to use that bridge have the keypad combination to it. The goal is to keep a very open door as secure as they can. The applicant is not in agreement with the stipulation of keeping the bridge open to the public without any restrictions. That is not safe. This is coming from a three-story commercial parking garage and State Line Road so they submit that the better alternative is to provide that if the bridge becomes a security issue to their residents and the residents west of them then the people who have access to it have the padlock combination key if the homes association feels it needs to be secure. The second bullet point is regarding the trails. The trails the Commission sees on the plan tonight are the trails that will be on the final plan. In regard to the third bullet point, this is not a phased development. There will be some staging and development activities. They submit that the amenities will be complete at the time the first 5 or 10 homes are built. The fourth bullet point has already been answered. All of the trails that were shown during preliminary will be built. The fifth bullet point states, "A playground and picnic tables shall be provided as part of the amenities for public use." There was a suggestion those be located at the western end where the pool and the parking lot are. That is not appropriate here. Council told them that they want open space. They are providing 9-plus acres of open space and less than 7 acres of housing. It is made accessible to two homes associations and their residents for use on the trails. The pool, cabana and tennis courts are going to be made available to approximately 93 people. If the residents want playground equipment or picnic tables they can put them in their back yards. They cannot insure playground equipment. This is an open space. It is not a public park. They heard comments from neighbors saying that they needed open space to see the animals. The last bullet point is in regard to the monument signs. Those monument signs were in the preliminary plan that was approved by City Council. Those monument signs will only be visible from people entering the Estates of Old Leawood. They are low. They run east and west. They are used for retaining as well. They will have the name of the subdivision on them. It was on the preliminary plan. They do not believe it is an issue.

Regarding the memo from Patty Bennett on the road system, they have Sagamore that loops around the three cul-de-sacs and the pool. They would hope that the people who would be using the pool and cabana

would find enough space within the 11 parking spaces that are provided. It would be inconsistent with the theme of this development if the thousands of people within the two homes associations which are given an easement and a license to use the trail, used those trails, instead of using Leawood's City Park. If they wanted to drive there and park, it is possible they could have their cul-de-sacs congested. That is unacceptable and that was never the understanding they had with anyone. If the neighbors want to use their trails, they can. If they want to go in their car to a park, they get in their cars and go to a public park. This is an open area. This is something the Council mandated. Patterson explained the type of issue they could have here and why they addressed it. He showed a picture of parking at I-Lan Park, which is a 10-acre public park. There are cars parking on the grass. The City has decided not to expand that parking lot. They are keeping true to their commitment. This is an open area, beyond what the neighbors have now. They will build trails in this area, beyond what the neighbors have now. They will make it available beyond what the neighbors have now. But they should not, in addition to that, say that everyone can drive in their car and park in their cul-de-sacs and cause a problem. That is one of the items that the applicant has an issue with in staff's recommendations. The last staff recommendation talks about how it is assumed, in addition to the trails being available as open areas for the two homes associations, that the paths along the verandas would also be available for neighboring subdivision use. They were never intended for that. Those are essentially the back yards of those lots along the two northerly cul-de-sacs. Those paths that end up in the verandas are essentially an extension of the parking lot. It was never intended that some kid could take a skate board and scoot down that path and say, "Here's the declaration that says I have the right to use this." They have more than adequate access, ingress and egress, to the paths. The verandas and the paths are private. Those belong to the 27 homeowners within this property. The applicant is in support and they agree with staff recommendations as well as the attached memo and the memo dated today.

Perkins asked if there are two different styles of homes. Bill Whitaker stated the average home would be a 1 ½-story house, approximately 3,000 sq. ft. with a 2 ½ to 3-car garage. Some would be smaller and some would be larger.

Williams asked why the restrictions refer to the ranch and the split-levels and sizes that are much smaller than what he is talking about. Whitaker stated that is the minimum. They do not foresee any ranches.

Williams then asked how they would propose to control the pedestrian traffic along the verandas. Whitaker stated they would probably post a sign. Williams stated he would assume that his fellow Commissioners would agree that they would not want to see a fence with a gate there. Duffendack reminded Williams that the Commission is not very fond of signs either.

Perkins asked how many different styles of homes there would be. He then asked if a person could come in with their own plans. Whitaker stated there are architectural stipulations on the homes. There would probably be four different floor plans. There will be an architectural review board. Perkins asked who controls that. Whitaker stated the developer and the homes association. He then suggested Phil Owen give the architectural presentation. Duffendack stated the Commission has already heard an architectural presentation, but Owen could speak to answer Perkins' question. Owen stated there is an architectural review board, of which he is a member, and they are setting guidelines. There will be standards as to what can be reviewed. There will be real stone, not cultured stone, real copper, all real material. All of the retaining walls will be structural concrete but fully faced with full veneer stone. He knows that Commissioner Williams had questions on what the veranda is going to look like and it will look like it is shown on the drawings. That is not a CAD drawing. It is very much what it is going to look like. Williams stated when he raised the question it was not in criticism of the design, but more the relationship to this

stage of the presentation for final submittal. At this stage they normally see something that is more precise, more detailed and without the conflicts. On a couple of the elevations it says "wood fence" but then some of the written material says "metal". Owens apologized for the error. He said that using CAD sometimes things are there one day, but are not there the next time you go back to it.

Perkins asked if two people next door to each other could have the same floor plan. Owens stated, yes. Every one of the 27 lots has a different configuration and right now he is working on the possibility of what can go on each lot. The only reason there was an answer as to what a ranch floor could be is because that was one of the City's questions on the form. They do not intend to build it. He is anticipating 27 custom built homes. There will be four or five basic standards, but they will all be unique. Perkins asked if the elevations for FDP-5 is just a suggestion. Owens stated, yes, it is a style. Perkins asked if the building inspector would see that plan and look at the construction of it.

Perkins asked how they plan on keeping the pea gravel in place for the trail. Owens stated they will have metal edges of each side. The reason for that is because that is a floodable area and they cannot use bark. They've looked at asphalt and it seems to be the preference from people to have the colored pea gravel. Henderson asked if they could combine that with epoxy. Owens stated, possibly, and when there is a flood, some of it will come outside of the borders. It seemed to be the preference of the people who will walk and run to use the pea gravel. Perkins stated concrete would seem better to him. Owens believes the City has used it in some of their areas. It is not something that they made a decision on to save money, because he doubts that it is any cheaper than asphalt or concrete.

Rohlf asked who will be able to use what and when. Patterson stated the bridge facility is available for usage by the Estates of Old Leawood and the homes association members of Leawood and Leawood Estates. The internal trail and veranda system would be for the use of the Estates of Old Leawood only. The external trails would be available for usage by the Estates of Old Leawood and the homes association members of Leawood and Leawood Estates. The pool and the cabana and the tennis courts would be available to the Estates of Old Leawood home owners in addition to 66 other home owners. Exhibit B in the declaration explains how they would choose the other 66 homes.

Munson asked what the financial situation would be if no one from the adjacent homes association opts to participate in this endeavor. He also asked if their calculations were based on the other homes helping out financially for the upkeep. Patterson stated they had originally planned on just the 27 homes supporting the upkeep of the recreational facilities, but the Commission and Council had the desire to open it up. After that, the applicant determined this size pool could handle another 66 people. If there were only 25 in addition to the 27, the dues are set so that everyone pays the same amount. If no one other than the 27 members were to join, then they would pay the total equally.

Rohlf asked how they plan on posting who can go where. Patterson stated the deed restriction document will be filed with the Olathe (*meant Johnson County*) court house. They are not going to have the ID police down there.

Perkins asked if there will be any more tennis courts built later. Patterson stated, no.

Munson asked if the bridge is on a public right-of-way right now. Binckley stated, yes. There was a road that went through there. The City will maintain that right-of-way going across the bridge and there will be an easement.

Munson asked if the City can restrict parking on a public street. Binckley stated staff would prefer for that to not be in the deed restriction. Staff has suggested to the applicant that if they are having a problem with it, then they would need to bring it to the Governing Body and request for no-parking signs to be put up along the public street.

Munson suggested a restriction be added that no sport courts be allowed. Patterson stated he hopes that they have that covered. They have restrictions on basketball goals, other than those that are transparent. The deed restrictions do say, "no sport courts". In regard to the street parking, the applicant is granting an easement or license for the two homes associations to use this under certain terms and conditions and one of the conditions is no parking on the streets. This is an open area and they need to walk to it. Munson stated he feels there are issues that could come up because this is a quasi private public venture and he is not sure if the City has been through this type of thing before. Patterson stated the developer would never expect the City to enforce the parking issue. It is a matter of their internal dealing.

Pilcher asked, in relation to the concerns on the staff recommendation on the bridge, if the applicant is asking to be able to act without the approval of the Governing Body. Patterson stated, yes. They feel that is necessary for security. If there is some guy doing stuff on the trails, they want to be able to shut it down immediately. It would actually be the homes association who would be acting on this. Not everyone wanted the bridge. He believes the Leawood police department does not want the bridge and there are a number of home owners who do not want the bridge, but that was a condition of City Council. They thought of a way to address the issue if it becomes a security problem. Maybe if there is an emergency, then the homes association would secure it, and give everyone the keypad code. Pilcher asked Patterson if he thinks the police would be involved that if there is an emergency. It is almost like they want full control of the bridge and they do not want the Governing Body involved. Patterson stated the applicant does not want the authority that the City controls over their own parks. There are six pages worth of things that one cannot do at a City Park listed in the Leawood Development Ordinance. The Parks Director can close anything at any time if she deems fit. They included in their deed restrictions that they have the right to do that only if there is a security concern. The owners are the first line of responders who should have some say in the matter. Pilcher stated he does not see why this bridge is different than any other pedestrian walkway in Leawood.

Azeltine asked how many homes are in the adjacent homes associations. Binckley stated she believes one of them has 1,400 and the other has several hundred. They are very large.

Henderson suggested the City could be seeing more of this type of private-public development in the future.

Conrad stated there seems to be significant grading changes to the northwest side of the plan. Mike Shirk, of Genesis Surveying, stated the grade currently falls towards the creek. The berm to the creek will not be graded and then the other side will be graded towards the creek. As the site goes further to the south, then the berm goes away so that the water will drain. Duffendack asked if that drainage plan is on the final plan application. Shirk stated if it was on the preliminary plan then it should be on the final plan as well. Conrad stated he does not see it. On the final plan there appears to be a diversion dike, about 6 ft. tall and 300 ft. long. Shirk stated that is to cover the sanitary sewer pipe that is going through there. Conrad asked how that would affect that flood plain. Shirk stated it is a mound of dirt over the pipe. The volume of storage of water would not change significantly. It may raise the water level an inch over the entire basin. Conrad asked if they have done those calculations. Shirk stated a flood plain analysis was done before that was added, but not since. Ley stated it is required as part of his comments that they provide it with the

final plan. They have to match the volume of storage pre-development and post-development. Conrad stated at one time there was an issue about water going under State Line that it is a restriction point and the water backs up. Ley stated, correct. Conrad asked if they are filling some of that flood plain. Shirk stated, not below the backs of the lot. The existing 100-year flood plain cuts through the lots. As they are filling the areas for the lots they will be excavating behind to offset the amount of volume they are filling. Duffendack asked if the coverage for the sewer line they are maintaining with the berm reflects the area that is not being excavated over that sewer line and everything around it is lower. Shirk stated he did not understand the question. Duffendack asked where the sewer line is. Shirk stated there is an existing sewer line, but they are also installing another sewer line, which is the one that would be covered by that berm. Duffendack asked if they could not bury it deeper because the flows do not work. Shirk stated, that is correct, they have to match into the existing sewer line. Conrad asked if the berm is 6 ft. tall at the south end. Shirk stated, yes. Conrad asked if there needs to be 6 ft. of cover over a sewer line. Shirk stated the size of the pipe is 15 or 18-inches and then there would be a 4 ft. cover over that. Conrad asked if the wastewater district has reviewed that. Shirk stated the applicant has talked with them on the preliminary drawings and once the final are approved they will talk with them on final detail design. Conrad stated it appears it could also have a significant effect on the flow velocities between that dike and the east wall channel now that there is not a dispersion of the water at the point to the north. Ley stated the creek on the east side of the sanitary sewer can handle the water. When it starts backing up from State Line it doesn't overflow the banks, it just backs up from the south and backs into that area. It will not overtop that sanitary sewer levee. Conrad stated he is just trying to understand why it is there. He then asked if that changes the channel profile until you get to the south end of the dike. Shirk stated, no. The berm is not in the creek channel. The creek channel is further to the east. The creek channel has plenty capacity to carry the water that is coming down the creek. What causes it to flood is the box culvert under State Line. When that box culvert cannot handle all of the water that comes down the creek, water starts backing up into the creek. Duffendack asked if the 100-year flood plain is based on water that is backing up or water that is flowing down. Ley stated it is the water that is backing up. It is flood storage.

Conrad asked if they are rehabbing one of the existing tennis courts. Whitaker stated they are going to tear down the existing courts and rebuild this particular court.

Williams stated he understands Patterson's concern for the access to the bridge. He thinks they address the access issue in their declarations very well, but he thinks the potential stipulation stated by staff gives them that option. Since this is an issue to be addressed by the Governing Body, he feels it would be appropriate to leave the stipulation as it is and if the Governing Body wants to remove it, then they could. In regard to the playground and picnic tables, he does not recall picnic tables or playground equipment in the preliminary plan. He understands Patterson's concern, the liability issue. There are not very many playground equipment in City parks. They are a liability and safety issue and if they are not maintained then they could be an even greater problem. He would support Patterson in this regard and support removal of that stipulation from the memo. Pilcher asked if the picnic tables are a liability as well as the playground equipment. Williams stated he feels the playground equipment is the biggest liability. Pilcher suggested just removing the playground equipment from the stipulation. Williams stated it has always been discussed as open space. If a person wanted to picnic, they could bring a blanket. They do not need a picnic table. He would be in favor of taking those two items out. In regard to monument signs, they are not readily visible to people in the other neighborhoods. He feels the real purpose of having a monument sign is to say that they are a different area than the surrounding neighbors and as staff has pointed out, that is not characteristic of north Leawood. In that regard, he would support staff in saying, "no monument signs". In regard to restricting access to the verandas, that would bring up the issue of additional signage. There would be some limited needs for signs. Signage for the trail verandas is probably not appropriate, but

some signage in the open space might be appropriate to allow people to know that the area is prone to high water. Therefore, he would like to add a stipulation that would address no signage, except for addressing safety issues, however that might get defined. Another issue he has is that in the preliminary presentations there was a lot of discussion about blasting. There were statements made by the developer that no blasting would be taking place in this development, and yet there is no stipulation addressing the blasting issue. He would like to see a stipulation that prohibits blasting.

Munson asked if monument signs are not normally done in the northern part of Leawood. Binckley stated she believes there are two subdivisions north of I-435 that have monument signs. One of them is Chartwell West, which is a new one, and the other is Saddlebrook, which is a newer one. Neither Leawood subdivision nor Leawood Estates has monument signs. Munson stated he feels it would be appropriate in terms of being able to market their subdivision in order to give it some identity. Otherwise, he would support commissioner Williams on the playground equipment. He does not think it is needed. The issue of the streets and right-of-ways should be left to the Governing Body to resolve.

Azeltine stated it is not fair to allow a development in southern Leawood to have monument signs and not allow a developer in northern Leawood to have them. He is not prepared to regulate the authority to the City as it relates to access to public streets or right-of-way. As it relates to the bridge or security issue, or the public streets and the parking thereon; that is why we have a police department, to determine if there is a security issue.

Duffendack asked if staff is aware of any security issues that have arisen from the existing bridge. Binckley stated she has not been made aware of any.

Conrad stated as he looks at sheet PDP-2, he still struggles with the character of the neighborhood and the appropriateness of the configuration. The amount of topographic changes to accommodate this development he does not feel it reflects the character of the neighborhood. He is still not understanding the berm and the sanitary sewer. On one of the earlier plans showed an extensive amount of grading in the lower portion that was explained to accept the water as it backed up by not being able to go under State Line Road. In the preliminary plan there was no such berming or containment and now there is a dike element that he is not sure about. He is still concerned with the overall planning of the development and its character to its location.

Williams stated he agrees with commissioner Conrad on the overall planning and appropriateness of this plan for this particular site and neighborhood. He feels that was the primary reason the Commission denied the 27 lots on this property to begin with. That issue was approved by others. He would like to consider a stipulation to add a landscape buffer along lots 26 and 27, primarily because of their close proximity to the adjoining property.

Duffendack stated he would like to reiterate what he has heard in terms of alternative stipulations and the motionmaker could add or subtract any of these. The first one is the first bullet on the memo as being number 27, 28 would be the trail connection, 29 would be the phasing. Binckley suggested, since the applicant has stated that the whole thing is in one phase, then maybe we could say "no more than x-number of building permits shall be issued prior to the common areas and amenities within the Estates of Old Leawood located within tracts A and B being constructed." Duffendack stated stipulation 30 would be trails as originally shown, 31 would be playground and picnic tables, 32 would be monument signs removed, 33 would be no signage at all except safety signage, 34 would be to remove article 5, section 6

which restricts the parking, 35 would be to add landscape buffers on lots 26 and 27 and the final stipulation would be 36, which is to agree with the 36 stipulations.

Henderson asked about the blasting and if it should be a stipulation. Binckley stated the ordinance has requirements for blasting and they are pretty substantial as far as inspections of adjacent properties. The City does allow for it, but there are many requirements. Azeltine stated he feels the Commission needs to be very careful about delving into an area that the Governing Body has already gone into detail in laying out requirements for. Duffendack asked if the Commission has any purview over this matter. Binckley stated she believes that the Commission could add "no blasting" as a stipulation, but the City has researched and there has been a lot of blasting. Williams asked if the blasting has been adjacent to existing neighborhoods. Binckley stated, yes. A lot of the new subdivisions out south have had blasting. She does not believe the City has had any issues with any homes having damage from the blasting. Perkins stated he believes that they should add it as a stipulation. Duffendack stated it would be up to the motionmaker to add that as stipulation number 36 and then 37 would be to agree with all 37 stipulations.

Rohlf asked what stipulation number 34 was. Duffendack stated it would be the item that is on Patty Bennett's memo removing article 5, section 6 from the deed restrictions.

Henderson asked if Duffendack was suggesting stipulation number 31 was to have or not have the playground equipment and picnic tables. Duffendack stated it would be up to the motionmaker.

Munson stated asked where sport courts were covered in the deed restrictions, since he never got an answer from Patterson earlier. Patterson stated it would be in section 5 - prohibited uses.

A motion to approve was made by Williams with the 26 original staff stipulations and the stipulations added this evening including stipulation 27: pertaining to the pedestrian bridge, per staff memo, 28: the connection the pedestrian bridge, per staff memo, 29: no more than five building permits shall be issued prior to the common areas and amenities within the Estates of Old Leawood located within tracts A & B being constructed. 30: trails shown as per the preliminary plan, 31 to be excluded as discussed, which is the addition of playground and picnic tables, 31 would now be for the monument signs to be removed, 32 would be no other signs on the property except for safety related signs, 33: to remove Article 5, Section 6 per Patty Bennett's memo, 34: add additional landscape buffer along lots 26 and 27, 35: no blasting for construction at any time, 36: applicant's agreement to the stipulations. Pilcher seconded the motion.

Munson made an amendment to remove the new stipulation number 31, regarding the monument signs, and renumber the stipulations accordingly. Perkins seconded the amendment.

Perkins stated he feels the monument signs should be used, if it is discreetly done in a retaining wall, he feels it is a good amenity. Williams stated he is not in favor of the monument signs. The signs for a residential area in north Leawood is out of keeping with this neighborhood. The plan is already out of keeping with the rest of the neighborhood. He does not see that we need to further that point with monument signs. Pilcher agreed with Williams. Perkins stated this entire development is out of character with north Leawood. He thinks they should be allowed to do a sign that is tastefully done.

Amendment denied 5-4. Azeltine, Perkins, Munson and Rohlf for. Henderson, Williams, Pilcher, Conrad and Duffendack opposed.

Rohlf asked how the Commission can stipulate "no blasting" if the ordinance allows it. Binckley passed out copies of the ordinance relating to blasting to the Commission. Duffendack stated the Commission has been advised that they can add this restriction. Henderson asked if stipulation number 35 refers to the ordinance or is opposed to it. Duffendack stated it means that the Commission would not allow any blasting. Conrad asked if blasting is a planning issue. Williams stated he brought it up because there was quite a bit of conversation at the preliminary about how there would be no blasting. Pilcher stated he seconded the motion because he thought it was clear that they were just defining it. Henderson stated he recalls there was discussion that there is a lot of rock or sediment in that area and that there could possibly be the need for blasting. Rohlf asked if staff could help clarify what was discussed at preliminary. Binckley stated the applicant represented they had other means of taking care of the rock instead of blasting.

Motion to approve was approved 7-1. Conrad opposed.

Pilcher stated he has a concern about process. He would like the Commission to discuss this in a future work session. It seems to him that when the Commission denied the preliminary site plan, they lost all influence on and control over that preliminary plan. In the future, when they deny a plan maybe they should also create some stipulations to be included if Council were to approve the plan that the Commission were recommending denial for.

Meeting adjourned.

J. Paul Duffendack, Chair