

# City of Leawood Planning Commission Minutes

April 12, 2005  
Meeting – 6:00 p.m.  
Leawood City Hall  
4800 Town Center Drive

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

**APPROVAL OF THE AGENDA:** Duffendack stated case 27-05 should be moved to the first order of new business. **A motion to approve the revised agenda was made by Henderson and seconded by Williams. Motion approved unanimously.**

## **COMMITTEE RECOMMENDATIONS:**

### **APPI:**

**A. Pastoral Dreamer - Approval of site for public art.**

Binckley stated this item is from the Art in Public Places Initiatives (APPI). They were formerly known as the Public Art sub-committee of the Arts Council. The Commission saw the Pastoral Dreamer a few months ago. The site was identified as north of 133rd Street approximately halfway between Mission and Roe. There were some questions from the Commission as to the exact location and if the artist had seen the site and was supportive of the location. Since that time, the artist, David Phelps, came into town on January 13<sup>th</sup> and walked the area. As he walked up and down the street area off of the trail, he chose a slightly different area, although in the same general location. Instead of the spot shown, he chose an area that is more depressed and where there are existing trees. That area is very similar to the area that he grew up in and what has driven him to do these sorts of designs. He felt very comfortable with this location and thought it was great having it near the school and also located near a trail. He also stated working with the City of Leawood was the best process he has gone through. Staff took some photos today of the proposed location. The City will leave the major trees in place, but will clear out some of the understory and fallen trees and clean the site up. Mr. Phelps requested the site be essentially large pea gravel, which is what the arts council plans to do. The area would be a more irregular-shaped area. Binckley showed an existing Pastoral Dreamer.

Henderson asked the height from the ground to the top of the cap. Binckley stated it is 4 ft. high, 17 ft. long and 9 ft. wide. Henderson asked if the circumference is large enough that it will not get lost in the woods. Binckley stated Phelps would like the sculpture to be set 20 ft. north of the trail. The easement being granted from the developer is 50 ft. deep. It will be within a right-of-way easement so the City will have access to it for maintenance.

**A motion to approve the Pastoral Dreamer site was made by Perkins and seconded by Azeltine. Motion approved unanimously.**

**B. Porch Lights - Approval of site for public art.**

Presentation by Dennis Reynolds, artist of Porch Lights. The site is the historic gateway into Leawood at Somerset and Lee Boulevard. The site has a triangular shaped island, a lot of visual clutter and an extra left lane that is striped off and not used. It is kind of a confusing area to enter the historic, northern edge of Leawood. There are several areas that come into play here. There is a stone marker on the east side of the intersection with a bronze marker on it. There is a sort of leftover strip of land on the southwest side between the commercial area, its parking lot and the street, and then the island. He met with some citizens and talked about the words to describe entering Leawood. Words that came up were: warm, welcoming, relating to the historic district and something that makes people happy. He showed some images of porches in Leawood,

and particularly in this area. He feels that it starts to speak towards the neighborhood. He also looked at pieces of environmental art and how they relate to the neighborhood. He showed different projects he has done in other places. He wanted it to be durable and appropriate to the scale of the space. He responded to the vehicular traffic so the public art would not block drivers' views. This is a plan of porch lights. There are four major areas that come into play to create a single environment, creating a different effect for this gateway. The artist is proposing a median at the area to the southeast with the stone wall and bronze plaque in order to slow down traffic and to create a greener, welcoming environment with a strip of land between Lee Boulevard and the parking lot to the southwest. The island area contains a stone wall about 3 ft. high and 43 ft. long. It tapers from the high point at the northeast corner down to about a foot high at the southwest corner. Pieces of molten glass are incorporated into the wall. There will also be a grove of trees to help create a line of sight for Lee Boulevard so one will clearly know the direction of the main street and also to help camouflage the light poles and traffic lights in the area. The stone wall is 43 ft. along the left edge and about 20 ft. along on the right edge. The colored pieces of glass will be backlit so they will glow at night. A copper roof floats above the stone wall that will have the green patina as it ages. An epoxy attaches the glass to the stone wall. There will be openings between the pieces of glass to allow areas of white light through. Glass pieces with round edges are planned around the base of the wall. Those will also be illuminated by the streaks of light coming through. The artist is looking for a very simple approach to the median, such as a low grow sumac that can handle the abuse it will get. Next to the commercial area, he is looking at ornamental grasses that will start behind the stone wall and continue along that strip between the parking lot and Lee Boulevard so that it extends the visual impact of the stone wall and creates a buffer between the street and the parking lot. He would like to have shrub rows just to the north end of where the crosswalk is coming across Lee Boulevard. He feels shrub rows speak to the historic part of Leawood. Some of the existing shrubs that currently hide the stone wall will be pruned. There will be some furniture for people to sit at while they wait to cross at the light. There will be brick pavers in the crosswalk of Lee Boulevard.

Henderson asked if the art is more for vehicular sightseers or pedestrians. Reynolds stated it is meant for both. Henderson asked how pedestrians would get there safely. Reynolds stated there is currently a school crossing guard there in the mornings. It is not particularly an active part of the community in terms of pedestrians.

Pilcher stated the comprehensive plan shows this area as a historic site. He then asked if that is correct, or if it should be shown as a gateway. Binckley stated the Art in Public Places group combined with the historic group to review the applicants and they chose this piece. Their theme was "coming home" and they were trying to look for something that would announce coming into the historic part of Leawood. Reynolds stated they thought about eliminating one or two light poles and replacing them with a more historic light fixture and adding some sort of metal graphic that would say, "Historic Leawood". Right now there is too much visual clutter.

Henderson asked what they would do with the directional arrow sign. Reynolds stated he feels part of the problem right now is that there is nothing in that island to define it. He does not feel the sign will be needed once the wall and the planting are defining the island and the flow of traffic. They also feel the pavers will help define that traffic movement. Henderson asked if they are trying to camouflage the way it is, or if they are trying to complement the clutter that is there with a better assortment of colors and fixtures. Reynolds stated they are adding color with materials that are very permanent that speak to Old Leawood. They are adding a lot more interest and sense of history to what is now primarily a traffic sign and lights.

Williams asked the size of the pieces of glass that would be on the ground and how they would be fixed so that they would not be removed. Reynolds stated they would be about the size of one's fist up to a cobblestone size. They have looked into affixing them with a type of grout or mortared base. They feel it diminishes the appearance they are trying to get by having the glass pieces on the ground. They are recommending having them be placed on the ground, very much like mulch. They are not very expensive to replace if a child were to take one. Williams stated he is not so much concerned about children stealing the glass, but more so with the glass if it is broken by someone and thrown in the road. He then asked what material they are proposing for the median that is currently a turning lane. Reynolds stated they are looking for a grass ground cover in that area. Williams asked if the bluish tone on the drawings is ground cover. Reynolds stated, yes, a ground cover shrub. Williams asked about pavers for the other pedestrian walkways. Reynolds stated the most northern one is Prairie Village. There has been some discussion if they would like to put that in on their own. They did not show the other one. They were trying to manage their dollars. It is a less traveled area of the intersection, so they were just showing one for the primary movement across Lee Boulevard. Williams asked who it is less traveled by. Reynolds stated the vehicular traffic. Williams asked for a better description of the vertical pieces of stone. Reynolds stated they are reminiscent

of the stone fence posts in parts of Kansas. They are 24 inches high. They help create a rhythm as one drives by. Williams asked the cut of the stone on the wall on the triangular island piece and how it relates to the history of Leawood. Reynolds stated it is coming out of St. Mary's, Kansas. It is a solid stone block. They wanted that for durability. It also allows them to sculpt it into a specific geometric shape. They will be large enough so that they will not move on their own. Williams asked if the surface texture of the stone is uniform and smooth or rough. Reynolds stated they are still researching what they can get within the budget and what they want for appearance. He is assuming it will be geometric but with some ripples. It would not be a smooth stone, but would be more geometric than a natural cleft stone.

Duffendack asked what staff is asking of the Commission. Binckley stated staff is requesting the Commission look at and approve the location and any planning issues related to the location and the piece, but not necessarily critiquing the art.

Conrad stated the existing corner could definitely use something. He then asked if the removing of the signs would create any issues. Ley stated those signs are in Prairie Village, so the applicant would need to work with the Public Works department in Prairie Village for the removal of that sign. Binckley stated the northern 1/3 of the island is in Prairie Village. Binckley has spoken with the mayor of Prairie Village and they are in approval of it. Conrad stated he is concerned with the visual obstruction from the traffic. He then asked if Public Works has done a sight line study. Ley stated the planning department usually looks at sight triangles. Conrad asked if the roof would support someone standing on it. Reynolds stated they would anticipate that.

Perkins asked the width of the piece of glass that is on the ground. Reynolds stated they are about cobblestone sized. They are infill into the gaps in the stone. Perkins asked if there are any lights in the headstone-shaped items on the south parking lot of the shopping center. Reynolds stated, no. Perkins asked the budget. Binckley stated the budget is an ongoing thing. Some of the things we are looking at will not be part of the Public Art budget. The Public Works department will probably participate. That is under the Governing Body's area. Reynolds stated he believes the piece needs to simplify and that would help with the budget. Duffendack agreed with Reynolds.

Duffendack stated the traffic is not a problem. The problem is that if you are headed down Somerset, the very north portion of the intersection, there is a left-turn from Lee Boulevard onto Somerset, the yield sign for that merging of traffic is on Somerset, not on the left-turn lane where one would expect it to be. That is a dangerous intersection because people believe it to be the other way. Binckley stated there is now a signal on Somerset that holds the traffic. Ley stated there is no yield sign now. It was removed when the lights were modified last year. Duffendack asked if there is an issue of sight lines in terms of the trees and walls. Ley stated there may be for eastbound, going left. That would need to be looked at.

Henderson asked if there are any reports of traffic mishaps at this location. He then asked if this would cause further difficulty with people slowing down. Ley stated he did not remember any extra incidents.

Azeltine asked if staff reviews this type of thing as it relates to traffic. Binckley stated this is not like a standard planning case. It is just the Commission giving its stamp of approval. Azeltine stated he sees there is a sloping at the point. The cobbles are pretty small. He then asked if there is any way those could be displaced outside of this wedge. He would want some assurances that they would stay in place. Binckley stated there are no water issues in this area at all. Unless kids come into the area and start to throw them out to the street, there should not be any problems.

Pilcher stated he noticed on Lee Boulevard and Somerset there are two lights and only one lane. Ley stated there is always a need for a light for each direction just in case one of the lights goes out.

**A motion to approve was made by Williams and seconded by Azeltine.** Henderson asked how long this process will take. Binckley stated we are still trying to determine some things. There is not an exact date. Some of the things are being budgeted for 2006. The actual art pieces will happen this year, but the additional Public Works items will happen at a later time. Ley stated he would imagine they would have to close the intersection while the improvements are being made.

**Motion approved 6-1. Perkins opposed.**

## OLD BUSINESS:

**CASE 17-05 CORNERSTONE - PLAZA III** Request for approval of a preliminary site plan. Located at the southwest corner of 135th Street and Briar Avenue within the Cornerstone development.

*Commissioner Conrad recused himself from this case.*

**Staff presentation:** Presentation by Mark Klein. The applicant is requesting approval of a preliminary site plan for the construction of a 14,000 sq. ft. building to be located at the southeast end of the main center within the Cornerstone development. This case was continued from the March 22<sup>nd</sup> Planning Commission meeting. At that time the Commission indicated they had a couple of concerns regarding the application. One was that the main entrance to the building was oriented on the east side of the building, toward the parking lot, as opposed to being internally oriented towards the plaza area. The second concern was that the plaza area has reduced in size and changed shape since its original approval for the Cornerstone development which has an internal pedestrian corridor that runs through the main center and plaza area. The applicant has made a few modifications to the plan. To address the issue of the building having a primary entrance on the east side of the building, the applicant has agreed to a second main entrance located on the north side of the building. This will provide an entrance that people can use as they are utilizing that main pedestrian corridor. The applicant has indicated this will not be a secondary entrance, but a primary, fully functioning entrance. It would also be demarcated with a tower element. The elevations are more closely reviewed at final site plan. The applicant is working with Klover Architects on the architecture. The outdoor patio that was located at the northeast end of the building has been expanded to wrap around the north side of the building and around the west side. This will bring some outdoor seating areas onto the plaza area, which is one of the original intentions. In regard to the plaza area changing shape and size, the applicant has stated they have looked at some alternatives as far as pulling the building back, however in doing that it made the buildings not marketable at all. The applicant is here to explain their efforts in that. Staff is recommending approval of this case with the stipulations stated in the staff report.

Henderson stated he hopes that the design they approved initially with respect to the integration of pedestrian plazas will be honored and we won't have 50-ft. corridors with tall buildings. He then asked if staff feels we can get back on target with the originally approved design. Klein stated staff has some concerns with the initial approval of this development. The three buildings sort of created a large central plaza area that provided a gathering place. Staff felt that was one of the major features of this development and really accented that pedestrian corridor. However, since that time, the development has undergone a few changes as the developer has tried to get different tenants into different spaces. It has gone through a couple of different approvals, one of which was an approval to change those three buildings into two buildings that are combined. The Bonafish Grill and Cheeseburger in Paradise are using the one combined building. With them facing the north side, then it became necessary as far as wrapping that one southern half of the building to provide some activity on that interior corridor so there wouldn't be a back to the building. Staff feels the width of the plaza area has increased in certain areas, primarily along the western end of the building. The corridors are still fairly wide. Staff wants to ensure the best product we can get to ensure there is enough space to provide those amenities that were originally intended with this development.

Rohlf asked if the plans have changed since the March 22 meeting. Klein stated the change that has occurred is pretty much the building and not the plaza area.

Perkins asked how far the design criteria are off of this. Klein stated staff has encouraged and required the applicant to work with Klover Architects. The architect is using cast stone, brick, concrete tile, which are all materials that have been approved for the development. Staff has some concerns with the scale, the low-pitched roof. Just like a lot of the other buildings that have gone through with Cornerstone. Staff has had them work with Klover on the architecture. Perkins asked if the elevations and architecture will be looked at when they come in for final plan. Klein stated materials are generally looked at during final plan application. Staff wanted to show that there are some concerns.

Duffendack stated stipulations 6 and 7 put the burden on this applicant to cause something to happen outside of the building they are responsible for. Klein stated this applicant is a part of that puzzle. Those buildings are all located around that east end and as each of those buildings come in that plaza area gets tightened down as far as what it is going to look like. There may be opportunity in the way they orient the building and the activity they provide. In this case, part of staff's concern was

that there wasn't going to be any activity at all along that pedestrian corridor, or very little except at the northeast corner of it. By pulling that outdoor seating around it would promote some of the aspects originally wanted. There will be other approvals that will also affect this, such as the multi-tenant buildings on the south side of Bonefish Grill and Cheeseburger in Paradise. There will still be opportunities to look at that site plan, but it will all impact this pedestrian area. Duffendack stated this one project cannot do what stipulation number 6 is requesting. Binckley stated the square footage of this site has increased. For this location, it was originally proposed as a 10,000 sq. ft. building and now it is 14,000 sq. ft. Because of that, they have now moved into the plaza area. Staff wants them to take partial responsibility for taking up some of that plaza area. There has to be compromise somewhere. Staff has told Cheeseburger and Bonefish the same thing. They need to continue working with the developer. Before it comes back to final, staff needs something the City feels comfortable with. Duffendack suggested replacing the words, "the original concept" with "as close to as possible to the original concept". Binckley stated the wording could be changed. Staff's intention was to make sure the plaza area is still usable and comfortable to the pedestrian. Duffendack stated he feels a great deal of trust is involved in this recommendation. Binckley stated the Commission could specify what they want to see for those three groups.

Pilcher stated it seems there is not much of a walkway through there. If he understands correctly, the scope of this project has no control as to what happens past the dotted line on the plan. He then asked for clarification on what this applicant would be responsible for. Binckley stated the applicant might better answer that question.

Williams stated the property lines go into the pedestrian plaza. He then asked who would ultimately be responsible for creating the plaza area. Binckley stated she would like the applicant to answer that question.

**Applicant presentation:** Presentation by Navil Haddad, owner of Plaza III. Haddad described the changes in the site plan since the last meeting. They added a second main entrance on the north side. The patio now goes along the entire north side of the building and around the west side. The northwest corner will be open. They have made the changes suggested by the Commission. Haddad showed some elevations. He has had a few more recommendations by Klover. Haddad asked the Commission for any suggestions.

Presentation by Henry Klover of Klover Architects. Since the original site plan approval, the orientation of the plaza area has changed due to the increase in size of some of the buildings. The original building at this location was approximately about 50-ft. across. The original design was a concept to get three restaurants down at the end. The developer now has real, very high quality tenants that occupy more office than intended. One of the suggestions that staff made was to clip a corner to open up the area. It comes down to the leasability of the building. He needs the Commission's guidance. Cheeseburger and Bonefish and this case will still need to come back for a final plan application. It would be impossible to come back to the original plan. In regard to the question about the stairs, they put the stairs in as part of the design. They could rework the grading to remove it. It came down to how they are going to design the intersection. Part of the problem is that they do want retail on the inside courtyard. It has a certain depth it wants to be in order for it to be leasable. That is 70 ft. and the other is 60 ft. A typical mall is required to be about 20 ft. In terms of phasing, it is already stipulated that the courtyard is required to be installed when those buildings are installed.

Rohlf stated the original plan looked more like a circular pedestrian area. She then asked what it will look like now. Klover stated the circular pattern will still be there. The patterns will be in the concrete, steps, benches and walls. The intent is for it to be an architectural fountain area. Rohlf asked the distance between the buildings. Klover stated it is 70 ft. from Bonefish Grill, it is 50 ft. from the corner to building J, it is 60 ft. between buildings A and H and the secondary concourse is approximately 30 to 35 ft.

Williams asked the approximate height of the buildings around the pedestrian concourse. Klover stated Plaza III is designed with an eave that is only at 10 ft. and then goes up from there. The main portion of the building is 32 ft. The building to the west of that has a retail height of about 30 to 35 ft. Bonefish is about 20 to 24 ft. That is also one of the reasons Klover is talking to the applicant about the architecture to try to relate with the other buildings. Williams stated he asked the question to put the width of the pedestrian mall into proportional relationship to the buildings around it. He then stated concern that we are going to see tenants that will orient their building more towards the parking lot as the Commission has seen every other building in this development. Klover stated the development is designed so that every one of these tenants will be

internally oriented with the exception of a service area at the back of one of the buildings. There are some elevations that have been approved. There are no storefronts on that side.

Perkins asked the width of the half-circle plaza area in front of building J. Klover stated it is approximately 70 to 80-ft. across. Perkins asked if the retail building will have storefronts that open to the pedestrian area. Klover stated, yes, that would be the only way to get to the storefronts.

Williams stated in the previous presentation of Plaza III they presented a portion of the restaurant which opens to the pedestrian plaza were meeting rooms or banquet rooms. Haddad stated, that is correct. Williams asked if the plaza or patio areas would be open for dining. Haddad stated the rooms have French doors open to the patio. Williams asked if there would be dining outside. Haddad stated that is not the intent. It is intended for people to be able to mingle outside. Klover stated it will need to be enclosed if it were to be changed to allow liquor to be served. It has been discussed. Haddad stated once it is decided to allow people to dine on the west patio, then he would be happy to change to allow that. Williams stated to get more activity on the plaza area, it might be more advantageous for the restaurant to have more service outside, instead of just a few tables and seating that does not have any purpose. He would like to see them try to go that direction.

Henderson asked about the value of the space dedicated to patios on the west side. There are no apparent awnings or overhangs. He then asked if it is open to the sky. If food or beverage is brought out, it may cause supply lines to be lengthened. Will that encumber problems with pedestrian traffic wandering around, or is there some kind of landscaping or small barriers to keep the patios intact to the building and not to the passageway? Duffendack stated Klover has mentioned that liquor laws require the area to be fenced off. Henderson asked if it is Leawood law and how it is carried out. Marcano stated the State would regulate the liquor laws. They require the area to be segregated or fenced off.

Williams stated he likes what the applicant has done to the design of the building on that side. It is a softer transition into the pedestrian area. If it were to be used for dining, they could add more in that area. Duffendack stated originally the patio areas were quite large. There is more room for it there, than would be on the west side. Maybe that is the best place for outdoor dining.

**A motion to approve was made by Pilcher and seconded by Azeltine. Duffendack asked if he is pleased with the wording on stipulation number 6. Pilcher agreed to change the wording to "as much as possible". Seconder agreed to the modification. Motion approved unanimously. (6-0)**

*Commissioner Conrad returned to the meeting.*

#### **NEW BUSINESS:**

**CASE 27-05 MISSION RESERVE** Request for approval of a final site plan. Located at the southwest corner of 151st Street and Mission Road.

**Staff presentation:** Presentation by Jeff Joseph. The applicant is Bob Morrissey. The applicant is requesting approval of street light fixtures, a pedestrian bridge and an extension to the walking path. This property is located at the southwest corner of 151st Street and Mission Road. At the time of final approval for Mission Reserve the street lights approved were black in color. The applicant is proposing a different colored light fixture. The proposed light fixture is vintage copper, which is lighter than the originally approved color. The applicant is also proposing a pedestrian bridge located between lots 24 and 25 and also an asphalt trail connection along the south side of the subdivision. Staff is recommending approval of this case with the original stipulations stated for case 47-02, which is the final plan for Mission Reserve.

Williams asked if staff is in favor of changing the color. Joseph stated the color is lighter than the originally approved color and staff would like the Commission to review the color and comment on it. Williams asked if the Commission would see a sample of the color. Joseph stated he only has a colored photo of the light fixture. Williams asked if the color in the photograph is an accurate representation of what is there. Binckley stated the light fixtures are currently up, and this is a photo of one of them. Joseph stated it is the same style and type.

Conrad asked who is responsible for the maintenance of the access easement. Binckley stated this subdivision is common maintenance and they will be maintaining it. Conrad asked if the pedestrian bridge is in a tract or an easement. Ley stated it is in a tract.

Henderson asked why they changed color on the light fixture. Joseph stated the applicant would be able to answer that question.

**Applicant presentation:** Presentation by Nikki Morrissey of Julian Morrissey Horn Development. Originally, there was a set of plans that was approved by the Commission from Kaw Valley where the color was noted as being bronze. When they decided to change the streetlights that note did not get carried over on that page. She is not aware how the black was given as the color, when it should have said bronze in color.

Rohlf asked how many lights there are. Joseph stated close to 25.

**A motion to approve was made by Conrad and seconded by Azeltine.** Williams asked if the motionmaker is in approval of the new color and the bridge. Conrad stated, yes. **Motion approved unanimously.**

**CASE 18-05 VILLAGGIO OF LEAWOOD - WEST** Request for approval of a final site plan. Located at the southeast corner of 135th Street and Roe Avenue.

*Commissioner Duffendack recused himself from this case. Commissioner Rohlf presided.*

**Staff presentation:** Presentation by Mark Klein. The applicant is requesting approval of a final plat and final site plan for a development that consists of retail, office and independent and assisted living. The retail portion of the development will consist of 168,800 sq. ft. of retail on 19.08 acres for an FAR of 0.20. The office portion of the development proposes 125,000 sq. ft. of construction on 9.73 acres for an FAR of 0.30. The independent and assisted living portion of the development proposes 107,000 sq. ft. of construction on 8.15 acres. The Commission earlier heard the preliminary site plan for this application. The applicant is requesting this final site plan in relation to trying to get approval in order to get benefit district financing in line. The applicant has agreed that a second final site plan will be submitted which will look at the entire final site plan details of the overall development. That is included as stipulation number two in this staff report. Staff is recommending approval of this case with the stipulations included in the staff report. Staff tried to stipulate a great number of the items to ensure that all of the future detail issues would be covered. They will be required to come back for a second final site plan prior to doing any construction.

Rohlf asked if this has ever been done before. Klein stated it is the first time he has seen this done. Rohlf asked if the Commission should be looking at any planning issues, since this will come back for another final. Klein stated some of the things that have not been included in this application are the alignment of pedestrian connections, curb cuts along the pad sites along the north side of the property, final landscaping as far as the interior of the site. A lot of the things the Commission would normally approve at this point have not been, however, staff is comfortable recommending this case given the stipulations included, primarily the fact that all of those issues are going to have to be addressed at the time that they come back for the final site plan and they cannot go forward with any kind of construction until that final site plan comes before the Commission and City Council.

Henderson asked when is the "later date". If the Commission were to approve what is before them, would they be able to reconsider anything when it comes back. Klein stated the Commission would have the chance to look over the entire development and address any issues.

Perkins asked, in regard to stipulation number 16 and dead-end parking, is there a lot of that, or just a few. Klein stated one of the initial designs had quite a few dead-end parking areas. Staff did not want to get into the situation where a car would head down into an aisle to park and then get to a dead-end and have to turn around. On retail building F, there is one on the south side. Perkins asked how tall the berms are by the Price Chopper. Klein stated they are about 10 to 12 ft. in height. The preliminary plan showed 12 to 13 ft. in height. These berms are a little bit smaller in some areas. Staff asked

the applicant if they could look at increasing those and the response was that in order to do that, since they need a 3 to 1 slope, the taller the berm goes, the wider it gets and it starts getting into the existing treeline. Staff felt the trees were just as important as the berm. With this proposal, there is still a substantial berm, but the existing trees get to remain, some of which are 30 to 50 ft. in height.

Conrad asked what would be constructed with the benefit district. Binckley stated all public improvements, public streets, public storm water and the main corner features. Conrad asked how that typically works on other projects. Binckley stated typically the applicant is ready to apply for everything at the same time. In this situation, the applicant is asking for the public improvement portions to be approved in the first phase of the final site plan, then be followed with another final site plan. Conrad asked if the benefit district would build all of the public improvements for the entire development. Binckley stated it would include all of 137th Street, the Roe improvements, 135th Street to Fontana, all of Fontana and the public stormwater, which she believes includes the pond area south of 132nd Street.

Henderson asked if the benefit district provides for the utilities to be underground. Binckley stated the benefit district does not include burying of power lines. The benefit does not include, but staff is requiring the installation of the berm areas and landscaping, because that was a requirement of the first phase.

Conrad asked if the temporary basins were part of the preliminary. Ley stated the temporary basins are east of Fontana. The original plan came through with the east half and west half, so they did not show those in the original plans. Since they are coming in for the west half of the development, they are proposing to construct those detention ponds. Conrad asked what will replace the temporary basins. Ley stated there would be permanent underground pipes. Conrad asked why they aren't building those now. Ley stated he would like the applicant to answer that question.

Williams asked what changes have been made to this plan since it was preliminarily approved by the Commission. Klein stated the overall site plan has remained the same. The applicant has done a lot of substantial work such as design guidelines and the type of architecture, the type of materials. Williams asked what assurance the Commission has that the applicant will do that when coming back to the Commission for the second final. Klein stated he feels it is clearly stated with this staff report and would be reemphasized by the Commission if they so wish to do so, that those details will be expected. Traditionally, we don't approve final approvals until all of these details are ironed out. Staff is trying to make a strong statement at this point that we understand this is a final. Staff is comfortable with that because it has been stipulated that they will be back and as part of that final they will submit all of that information.

Perkins asked if they are asking for approval for only the western portion of this plan. Klein stated the applicant is asking for approval of the western portion, which is a major part of it, but they are also asking for approval of the berms and those kinds of things that are included as part of the benefit district. Perkins asked if the stipulations list what the final approval is granting. Klein stated the stipulations do not specially say what is being granted, they just list that the applicant will need to come back.

Azeltine asked the purpose for segregating the approval for plans that will be tied to benefit district financing and the overall development. Klein stated staff has had a great deal of discussion with the applicant and it is staff's understanding that the applicant could not provide that at this time. They needed to get the benefit district financing in order so they would know what would be financed and then they would be prepared to come back with the final issues. The applicant might be better able to answer that question. Azeltine stated he would not want two final applications to become a regular practice. Pilcher agreed. He would wonder what that would do to the work load if the Commission were to see a project twice for final application.

**Applicant presentation:** Presentation by Doug Patterson on behalf of Pawnee Place. The applicant agrees with all of staff's stipulations. The assessment guideline and policies established by Council state that before the Council can approve a benefit district resolution, a final plan must have already been approved for the project. That is not a problem for some projects. In this case, there are a number of opportunities on this property being the retail, office and institutional. This application is to establish on record many of the infrastructure statements, the easements, the structures that the Commission approved preliminarily. The City is going to temporary notes by the end of May, therefore they took this opportunity to catch that financing opportunity this year so that Villaggio can start this year. At that point, they know where

they are and they can describe them in the benefit district. Their sole goal is to comply with Council procedures on benefit district financing by having a final plan on the basic infrastructure that would be the subject matter on the benefit district financing petitions.

Rohlf asked for a listing of what would be included. Patterson stated Roe, 135<sup>th</sup> Street, Fontana and 137<sup>th</sup> Street, storm sewer through the project, the underground opportunities that would allow more green space and drainage. They are not going to do KCP&L at this point.

Azeltine stated it seems that the Commission is approving the moving forward of the benefit district financing and the site plan in general. Patterson stated what you see is what you get. It is a commitment on the applicant's part to come in with those structures in those locations consistent with the preliminary plan. Those items will not vary, subject to any variations or revisiting of the issues that are involved in the OPUS application.

Williams asked if this is the final application for the overall development plan and that all of the planned stipulations from preliminary would be reflected on the individual developments as they come in for finals. Patterson stated that is correct. Williams asked if this would be the last time the Commission would see this project as a whole. Binckley stated the applicant would come back with a final set of documents with the design guidelines and all of those changes made and a final set of plans. Patterson stated he agrees with Binckley.

Henderson asked if that means the Commission would be able to consider anything during the final site plan. Binckley stated, yes. Henderson stated he wanted to hear that from the applicant. Patterson stated, yes.

Rohlf asked Binckley if the Commission should discuss any issues they have with what they have been presented. Binckley stated anything that the Commission could provide for guidance until the applicant comes back for their final would be helpful. Azeltine stated it seems that anything discussed tonight would be redundant because it would be spoken about again at the next final application. Binckley stated if the Commission has any concerns with anything presented, they should state them now so that the applicant can take those into consideration. Perkins stated the stipulations Patterson has agreed to state that any issues will be addressed before they come in for the next final. Estel Hipp, the architect/applicant, stated they are doing this plan to allow them to move ahead with the benefit district application. It has only to do with the public improvement portions of this site. It has nothing to do with the individual building sites, landscaping, interior drives. They have agreed with staff that all of the stipulations they have set forth are acceptable. They have asked this happen to get the public improvements started this year and also to solve the water runoff problem that is affecting the Leawood Meadows residents. They understand that they will not be allowed to get a building permit or do any construction, including public improvements, until the final plan is approved by the Commission and City Council.

Azeltine suggested the Commission to just vote on the approval of the benefit district. Binckley stated the benefit district financing is under the Governing Body's purview. Azeltine asked why it is before the Commission. Binckley stated part of the stipulations set forth by the Governing Body is that there has to be a final site plan approved prior to them approving special benefit district. Williams asked if the final application will be for the entire development. Hipp stated, yes. Perkins suggested adding a stipulation stating that this approval is only for the purpose of getting the special benefit financing. Binckley stated she feels stipulation number two addresses that. It is saying that prior to any construction, grading, or removal of any vegetation a final site plan for the overall development has to come before the Commission.

Williams asked if Council could look at this as the actual final plat and final site plan. Binckley stated they will be informed as to what process they are attempted to get approved and will see that stipulation as well. Williams asked if the Council could remove stipulation number two. Binckley stated staff would advise against it. Council would not want to let go of the ability to review all of the details and make sure that the stipulations are met. Williams stated that Council could assume that each of the details would be looked at when the individual lots come in for final. Binckley stated Council could always overrule anything the Commission recommends. Williams stated if that were the case and the Commission did not take the time to go through their concerns, then the Commission could lose their opportunity to address them.

Conrad asked if the sanitary sewers would be included in the benefit district. Hipp stated, no. Binckley stated it will be installed, it is just not part of the benefit district financing, but it is required as part of the phasing for putting in the public improvements. The Commission will review the final site plan before any construction begins.

Conrad asked why they are proposing temporary basins. Phil Gibbs stated the storm water detention facilities are in the same location as shown on the preliminary plan. The developer feels that he knows where the parking lot is going to be on the west side, but they don't know where it will be on the east side. Because of that, they are proposing a temporary pond of equal size on the east side, but they will build a permanent one at the locations that they know. Once they know what will be on that side, they would take out the temporary and put in a permanent one. There is a situation to the south and it needs to be addressed now. That water coming out of the row-crop field is already a problem to the people to the south. This plat will include the easements for the permanent storm water areas so that they could be qualified for a benefit district. Conrad asked when the permanent basin would be built. Gibbs stated that will happen once they know what is exactly going to happen on the east side.

Azeltine asked legal counsel if the Commission passes this case tonight, does the Council have the power to pass it in such a way that it would not be revisited by the Commission. Marcano stated they probably do, but she does not believe that is something that would happen. There is really no benefit to the City for them to do that. Azeltine stated he would like it on the record that if that were to happen then the Council would need to consider what kind of message that sends to the volunteers on the Commission.

Perkins asked if the large detention pond at the south end of the east portion would be built. Gibbs stated, yes. Perkins then asked if the temporary basin would be an open basin. Gibbs stated, yes.

Conrad asked the location of the outflow of the wet basin. Gibbs stated it would go over to Mission Road and down a swale along the Mission Road on the west side. Conrad asked about the alignment of 137<sup>th</sup> Street. Gibbs stated that is already part of the plat. Henderson asked if the alignment of 137<sup>th</sup> would help or hurt the water flow. Gibbs stated it would help to detain, but the detention system needs to go in when the streets are built.

Pilcher asked if staff feels this could happen again with other benefit districts. Binckley stated this is the first time this has happened. A lot of things have changed as far as requirements to be able to apply for a benefit district and timing is another change. She does not believe there will be too many more of these, but there could be some. She can bring that up with the City Administrator to review it.

**A motion to approve was made by Azeltine, with the understanding that a second final site plan for the overall development will be submitted at a later date to address all of the final detail issues associated with the development as a whole. Motion seconded by Perkins. Motion approved unanimously. (6-0)**

Meeting adjourned.

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J. Paul Duffendack, Chair