

**City of Leawood  
Planning Commission Minutes**

June 28, 2005  
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 (absent), Reynolds

**APPROVAL OF THE AGENDA:** Binckley stated the applicant for case 34-05 Parkway Plaza, Lot 10 has requested a continuance to the July 26th meeting. **A motion to approve the revised agenda was made by Perkins and seconded by Munson. Motion approved unanimously.**

**APPROVAL OF THE MINUTES:** Approval of the minutes from the April 12, 2005 and April 26, 2005 meetings.

Henderson stated the paragraph at the top of page 2 is somewhat long and unclear. He requested that paragraph be rewritten and suggested Reynolds be consulted in the rewrite. **Binckley suggested continuing the approval of the minutes until after that paragraph is rewritten.** Williams stated the last paragraph of page 8 reads, "Doug Patterson on behalf of Pawnee Place LLC". He then asked if that should be changed since they were discussing Villaggio of Leawood. Binckley stated that was what that development was originally named. Williams stated on page 9, sixth paragraph down, there is a reference made to Estel Hipp, "the architect/applicant". He then asked if Mr. Hipp is the architect. Binckley stated, no, that can be clarified.

*Commissioner Conrad arrived.*

Henderson stated he had some grammatical changes that he would give staff. **Henderson made a motion to approve the minutes from April 26, 2005 meeting. Williams seconded. Motion approved unanimously.**

**CONSENT AGENDA:**

**CASE 08-05g VILLAGE OF CAMDEN WOODS, 80TH PLAT** Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

**CASE 08-05h VILLAGE OF CAMDEN WOODS, 81ST PLAT** Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

**CASE 33-05 TOWN CENTER PLAZA - PANERA BREAD** Request for approval of a final site plan. Located east of Nall and south of 117th Street in the Town Center Plaza development.

**CASE 40-05 HIGHLANDS CREEK - 5TH PLAT** Request for approval of a final plat and final site plan. Located south of 143rd Street and east of Nall Avenue.

**A motion to approve the consent agenda was made by Munson and seconded by Williams. Motion approved unanimously.**

**NEW BUSINESS:**

**CASE 32-05 REVEDA OF LEAWOOD** Request for approval of a preliminary site plan and preliminary plat. Located north of 133rd Street and west of State Line Road.

**Staff presentation:** Presentation by Mark Klein. This project is also called Cottages of Lakeshyre. The applicant is requesting approval of a preliminary site plan and preliminary plat for the construction of 36 detached residential units on 7.64 acres for a density of 4.71 dwelling units per acre. This property is zoned RP-2. It was zoned RP-2 with the approval of Village of Seville, which is a commercial project adjacent to the east side of this project. The applicant is proposing 36 units. These are individual units. The majority of the units have a driveway that they share. Four units share a common driveway, with the exception of about four of the units at the southeast corner of the development. The applicant is also asking for several deviations. One deviation is to allow a 22 ½ ft. front yard setback to the street. The normal requirement is 30 ft. The applicant is requesting a street side yard setback of 15 ft. The standard is 20 ft. The applicant is requesting to be allowed to have 15 ft. between buildings. The standard is to have 10 ft. from the property line or 20 ft. between buildings. The ordinance states the applicants are only eligible for deviations if they provide additional open space. The minimum open space required within the RP-2 district is 30%. The applicant is providing between 57% and 61%. The reason for the range is that the applicant has indicated there are different units they could put there. If they put on all of the larger units, then it would be 57%. Chances are that there will be a mixture of units, so it will fall within that range. Part of the reason for the deviation request is to allow a greater interest along the street frontage. By allowing the units to come up closer to the street it allows the buildings to undulate a little bit back and forth. It also allows them to have more of a buffer along the west property line, pulling those units away from Greenbriar of Leawood. A retention pond is shown at the southwest corner of the development. This was shown the entire time with Village of Seville and was a retention pond that not only served this residential component of the development, but also served the commercial development to the east. As part of a stipulation of that development, that tract of land would be owned and maintained in perpetuity by Village of Seville. That is why the detention pond was not included in the calculation of the density for the residential portion of this development. Staff is recommending approval of this case with the stipulations stated in the staff report.

Conrad asked if this would be a public street. Klein stated, yes. Conrad asked when the cul-de-sac would be connected, coming from the east. Klein stated it is his understanding it would be connected at the time the northern end of the Village of Seville is constructed. Conrad asked if the length of the cul-de-sac will greatly exceed what the City tries to maintain. Klein stated a maximum of 500 ft. is allowed by ordinance. Conrad asked the length of this proposed cul-de-sac. Klein estimated that it would be about 900 ft. Conrad asked if staff feels it would be an issue. Klein stated it could become an issue. Duffendack stated the comments from the fire marshal do not list it as a concern. Klein stated that is probably due to the fact that when Village of Seville was approved, it was shown to be a concern. It was decided that the private drive that accesses the commercial along the north side would extend to provide a second way in and out. Conrad asked if there is some way to address that connection from a time standpoint. Klein stated the Commission could stipulate that connection to be constructed prior to any Certificate of Occupancy being issued for any of the units. Conrad stated it appears that the cul-de-sac is built off of the property of this application. Klein stated, that is correct. He believes there is a stipulation in the Public Works' comments that requires the applicant to deed over that portion of the land.

Perkins asked if there is an either/or in the staff comment, "Unit 17 be removed or the pond be reduced in size to provide additional capacity when the commercial property is built." Klein stated it is an either/or if the developer of Village of Seville is willing to do that. Tract A is retaining a lot of water from the commercial portion of the Village of Seville project. Staff feels it is reasonable to ask them to enlarge the retention basin and maybe get the surface water closer to the top to provide additional retention on their side. This applicant has indicated they have approached the developer of Village of Seville with that and they have not been willing to do that. It appears there might be a little bit of room at the northwest corner of building OP-5, but at this point there does not seem to be the willingness there. Another alternative would be to remove lot 17 and enlarge the retention basin into that area. The applicant has created some profiles. Part of staff's concern with the retention basin is that when Village of Seville was presented, they were touting that as an amenity to the site. Staff was looking at it as not only a retention basin, but also as an amenity. When Reveda/Cottages of Lakeshyre came in, the water level decreased quite a bit. There is about a 13 ft. difference between the top of the bank and the water level. Staff's concern about that is that a person driving by will not see any water; they will just see a hole. The applicant has tried to address that issue by putting a fountain in the detention pond. Staff still feels it would be more aesthetic if the surface of the water was

visible and then the fountain would help to create a much nicer look. Staff is recommending the retention pond to be larger and also raising the water surface closer to the bank. Perkins asked if they could do that without removing lot 17. Klein stated staff does not see room there without removing unit 17. Units 15 and 16 were extremely close to the retention pond and the applicant moved those farther away. The applicant has tried to work with staff, but they do not want to lose lot 17 and staff still has that concern.

Henderson asked if it is likely that with more construction the detention pond could drop further. Klein stated he is not an engineer. It was staff's hope that it would come up, but an engineer would need to address that issue.

Perkins asked if there is any way to reduce the size of lot 17 and still get a compromise situation for staff. Klein stated staff's main concern is the water level, so if the applicant has another option to address that concern, he feels staff is willing to look at whatever they come up with. Staff has been working with the applicant on this situation for a little while and so far nothing different has been proposed.

**Applicant presentation:** Presentation by Larry Winn for the applicant. The project developer, Richard Eisner, is present tonight as are the architect and project civil engineer. The applicant will agree with all of the stipulations with the exception of stipulation number 5. They are not willing to give up unit 17 and would hope after the project architect's presentation regarding the water level the Commission will understand what it is the applicant feels they have accomplished. There is only one other issue. The fire marshal mentioned a "safe room" since the units are slab on grade. The applicant has talked to the Building Officials of other cities and none of them are requiring safe rooms at this point. The applicant is proposing a design for a safe room and then as the units are marketed, the applicant will advise persons that if they would like to pay extra for that option, then it would be available.

Presentation by Wolfgang Trost. There are good possibilities for a very aesthetic pond environment on this site. Trost showed three cross sections of the pond. This particular shape and form of retention pond has a gentle rolling lawn that goes down to a landing that is at water level. Trost has suggested to the developer that when he builds the retention basin he needs to use subtle undulations in the bank wall structure and that it should have a little bit of shape and form to look more natural. From a ground level, pedestrian standpoint, one will see the gentle rolling. At street level in the development looking towards the pond and fountain one will see an extensive body of water. 133<sup>rd</sup> Street visibility would be somewhat limited unless one is at the eastern end of the approach. One might have the opportunity to see water as one looks to the north and northwest.

Duffendack asked what is holding them back from keeping the water at a higher level. Damian Greble with Construction Engineering Services stated they designed the basin to slow down the water for the two year flood, the ten year flood and the hundred year storm so there is no increase from the developed discharges. In order to do that, it is a balance between the water surface elevations up to the top of the basin. They can only go so high before they run out of grade at that corner of the project site. It is deeper and allows them to take the water surface a little bit lower.

Henderson asked if the sides would be grass or dirt. Greble stated it would be grass around the edge of the basin.

Duffendack asked the method of outflow. Greble stated there is a slow discharge out of a pipe or another structure to slow the release of the water.

Reynolds asked how steep the slopes are going down to the pond. Greble stated the street-side slope is a 5 to 1 slope. The remaining slopes around the basin are a 3 to 1 slope. Winn stated at one time all of the slopes were 3 to 1, which is the common level sought for both safety and maintenance. Staff suggested the one side should be 5 to 1. One thing they could do to make it be deeper would be to go back to a 3 to 1 slope on all sides of the pond. He is not sure how to quantify what would be gained. Reynolds asked the difference in elevation from 133<sup>rd</sup> Street to the pond. Greble stated it would vary from about 6 to 7 ft.

Rohlf asked how far it is from the side and back yards of lots 15 and 16 up to the pond. Greble stated that is an area where they lost some volume. At first they had the top of the slope a little closer to the units, but they tried to provide 20 ft. to the

top of the 3 to 1 slope at those units. That is another area where volume could be gained. Rolf asked why there is a retaining wall along lot 17. Greble stated with the topography of the ground they would need to make up the grade with a small wall structure to meet the minimum 3 to 1 slope. Reynolds asked if they considered using retaining walls elsewhere. Greble stated it was considered at one time around the retention pond, but the applicant worked with staff to remove those also.

Henderson asked how well this unit would retain water. Greble stated it is designed for the two, ten and 100-year floods. Henderson asked if there would be clay at the bottom. Greble stated that would be determined during the construction process. Ley stated a geo-technical report is required at final plan application.

Conrad asked if it is a requirement to have a fountain or some type of agitation due to the height of the pond. Ley stated staff spoke with the developer about a month about providing the aeration. Conrad asked what would be used for the edge treatment at the normal pool level. Ley stated staff has stipulated a stacked stone wall at the water level and below.

Perkins asked if the size of unit 17 is larger than units 13 or 14. Eisner stated it is the largest footprint, but that unit is 2,300 sq. ft. versus their smallest home which is 1,600 sq. ft. Perkins suggested if lot 17 were moved over and made smaller they could get a larger retention pond. Perkins asked if that could be a compromise. Eisner stated it is a possibility. It is a complicated issue. He is not sure what the effect would be. Winn stated the applicant is not convinced that there is a problem to begin with. If the Commission is convinced that there is a problem, then there needs to be discussion on what to do about it. This is an all-maintenance provided, fully sprinkled area and there would be a lot of lawn watering that would be going on even during the dry system.

Rolf asked if tract A would be maintained by the Village of Seville. Klein stated, yes. Rolf asked who is responsible for building it if they are not in agreement. Klein stated there is no discrepancy on this retention basin. The discrepancy is that staff asked this applicant to meet with the Village of Seville to place some additional storage capacity on the Village of Seville site.

Winn stated the option that Klein has just indicated is not an option. The applicant for this case does not have permission to go back onto the neighbor's site and do retention. That would be more of a trash-gathering mechanism. Aesthetically, he is not sure that is the option the City would want to pursue. Greble stated they looked at providing a detention basin in that corner, but due to their proposed topography and the topography of this site, it was near impossible to get a basin that would work in that corner of their site. That detention basin was not feasible.

**Public hearing: With no present to speak at the public hearing, a motion to close the public hearing was made by Henderson and seconded by Williams. Motion approved unanimously.**

Henderson stated concern with the close setbacks and setting a precedent. They have had a lot of discussion early on about getting 20 ft. between houses. Duffendack stated this is more or less a cluster development where houses are closer. Klein has stated there is more than the required amount of open space. Henderson asked if they are moving more from cluster-type houses to having a different measuring rod. Munson stated he agrees with Duffendack that it is a cluster development, as opposed to single-family. The deviations are acceptable to him as long as the overall development is a little more in touch with what staff has recommended in terms of the retention pond and a couple of other issues.

Perkins asked where the safe room was mentioned in staff comments. Binckley stated stipulation number 20 includes the fire marshal's comments as a stipulation. Perkins asked if that means that it would not be approved unless it had a safe room. Binckley stated she feels the fire marshal is saying that it would be best for the community. Perkins stated he thinks the stipulations are very clear. The setbacks are okay, but there needs to be something worked out so staff is comfortable with the retaining situation. He then suggested a continuance to bring in another plan if that cannot be done at this meeting.

Munson stated he does not see the architecture as something dramatic that he would normally see in something Trost has done in the past. Trost stated it is intended to have a Normandy cottage feel. The specific locations of the downspouts and the shutters are all not clearly evident in those drawings. He will make sure there is magic there.

Reynolds asked at what distance do the smaller setbacks become a fire safety concern. Klein stated he believes that anything closer than 20 ft. requires class A roofing, which is a standard stipulation. The ordinance currently requires a setback of 10 ft. from the property line in an RP-2 zoning. The old ordinance was written to require 20 ft. between structures. The property line did not matter for setback as long as there was 20 ft. between the structures. The City has had a number of developments where the buildings have gotten to about 15 ft. between them. The fire marshal's main concern is that the class A roofing is required. Duffendack asked if the access for the fire equipment has been addressed by the fire marshal. Klein stated the fire marshal has reviewed the case and did not express anything about that.

Henderson asked the width of a fire truck. Klein stated he would guess about 8-ft. wide. Henderson stated he noticed that they need at least 14 ft. of roadway. Klein stated it is similar with what was discussed with the Park Place development.

Reynolds stated he remains concerned about the visibility of the pond, especially its prominent location as it is at a main entrance into Leawood.

Conrad stated he still has a slight concern with the overall layout and cul-de-sac nature of the project. The second entrance will be through a commercial property and, at best, its back door. He understands the difficulty of the site, but that is part of planning and laying it out. He feels there needs to be a stipulation about the connection of this along the back side or something addressed as far as access is concerned.

Duffendack asked if the applicant would be willing to agree to a continuance. Winn stated this is not the place to redesign unit 17. It may be possible to salvage a smaller unit there with some additional retaining walls. In regard to Mr. Conrad's concerns, that is a lot to do on such a small piece as far as ingress and egress. That is not intended to be a primary entrance. It is more of a back-door out of the development.

Munson stated there is an opportunity for a retention basin that does not thrill anybody. There is an opportunity to do something with lot 17. Munson then suggested maybe an entrance to the development that could upgrade it so that any loss of that unit is gained by the attractiveness of the development itself. Winn stated there are only 36 units on a relatively small project. Perkins asked if the applicant would consider a clubhouse or a pool. Winn stated they looked at an amenities package and there is no scale of economy on this small of a project. Munson asked the target market for this type of unit. Winn stated this style is generally directed towards empty-nesters.

**A motion was made by Conrad to continue until the July 26th meeting with the primary issues being layout, look of the detention basin, the cul-de-sac and entrance to the project. Motion seconded by Rohlf. Motion approved unanimously.**

*Duffendack recused himself from cases 39-05 and 37-05, therefore, vice-chair Rohlf presided.*

**CASE 39-05 LEAWOOD MARKET PLACE** Request for approval of a final site plan. Located at the southwest corner of 135th Street and State Line Road.

**Staff presentation:** Presentation by Mark Klein. The applicant is requesting approval of a final site plan to revise the stipulation regarding the phasing of Leawood Market Center that was approved with the development's overall final site plan. That application was approved in April of 2004. The stipulation was written so that the development would need to construct a portion of the main center prior to any of the pad sites being constructed. The phasing for the overall development was originally approved so that building number 2 would need to be approved and begin construction prior to the construction of any of the pad sites. That was done to ensure there are not pad sites up without a main center. It has been a stipulation that has been on almost all projects that the Commission has seen. It has always been the policy of the City to require construction of the main center prior to any of the pad sites being constructed. The applicant is proposing that lot 1 begin construction prior to the main center. The applicant has indicated they would like to have lot 1 as phase one, the lot to the

south of lot 1 as phase two, lot 2 as phase three, lot 3 as phase four, and then the larger portion of the development would be phase five. Staff is willing to work with the applicant to allow lot 1 as phase one, but having the larger portion of the center as phase two, lot 2 as phase three, the completion of the main center as phase four, and then lot 3 for the completion of the pad sites.

Perkins asked for clarification of what staff is recommending. Klein stated staff is recommending lot 1, then lot 4, then lot 2, then back to lot 4, but building number 2 in lot 4, and then the final would be lot 3. Perkins asked why staff chose the phasing in that order. Klein stated staff was trying to ensure that the major portion of the main center was constructed fairly early on as opposed to all of the pad sites not being there and then there may not be as much of an incentive to finish building the main center.

Williams asked if the second phase would include all of the parking shown northeast of the main building. Klein stated, yes, and the access to the main center. Williams asked if the road used for access to the loading docks would also be built with the second phase. Klein stated it is designed so the trucks would back in, therefore it would need to be constructed. The applicant has indicated that drive is primarily a service drive for the trucks to get in and out.

Perkins asked if they would be putting in the private drive all the way to State Line Road. Klein stated, yes, and it is shown as part of the construction of lot 1.

Rohlf asked if this request would change anything as far as amenities. Klein stated this would keep all of the same stipulations that were approved for the overall development, other than the phasing. Rohlf stated on staff's recommendations, page 3, it should be building 2 on the remaining portion of lot 4. Klein stated, that is correct.

**Applicant presentation:** Presentation by Henry Klover of Klover Architects. The applicant is not asking for any change other than the phasing. This project was approved in February of 2004. Klover has done numerous site plans on the property primarily only dealing with the main lot and the main buildings. It is a fairly difficult site and they have not managed to get any of the bigger tenants to go. Changing the stipulation as staff has requested puts them in a bit of an interesting position because they are asking for the phasing and it is all dependent on tenants signing deals. The building that staff has asked to go is the one that the developer has put the most effort to, which happens to be the main building and they have not had any takers. The applicant is before the Commission tonight because there is an interested party, Intrust Bank, that wants to open and operate. The applicant has put together tentative phasing. They can commit to the 12,000 sq. ft. building, because it could be a speculative building. But they would not be able to commit to the 53,000 sq. ft. building. It will be tenant-driven. It cannot be speculative in nature. The applicant is requesting lot 1 to be allowed to be constructed and then the second building to be constructed would be the 12,000 sq. ft. building on lot 4.

Henderson asked if the City is assured Klover will be the architect on all of the phased development. Klover stated, yes.

Perkins asked if the applicant is requesting to only build part of lot 4 as phase two. Klover stated it is not possible due to the grading on that site. It is a very custom site. It cannot be built speculative. The only one that could be speculative is building 2. They have tried to get people to go into the bigger building, but have had no takers. The applicant is requesting building 2 of lot 4 as the second phase. Perkins asked what the applicant is proposing for the third phase. Klover stated the applicant has shown lot 2 as the third phase.

Williams stated it might be helpful for the Commissioners to hear why it is not working, other than the grading. Klover stated they have tenant footprints on the site and they have dealt with the grading. The plans have gone to the tenants. They just have not signed on the dotted line yet.

Conrad suggested building lot 1, then the smaller building on lot 4 and then the remaining portion of lot 4 before going back up to 135th Street with another pad site to try to preserve the intent of the 135<sup>th</sup> Street corridor. Klover stated he would need to talk to the owner about that, but he believes they are flexible in terms of the phasing. Binckley stated it is staff's intent to not line up 135th Street with the pad sites. This would at least relate to the phase they are asking for. Conrad asked if the applicant would be willing to build lot 1, then the smaller building on lot 4, then the larger building on lot 4, then lot 2 and lot

3. Klover stated it still puts the developer in the position that if they cannot get someone to go for that larger building then it ends up sitting for a very long time. Klover has asked the applicant and the answer is no. It would not help and it actually put s them in a worse situation than what was previously approved. The previous plan was that if they got the 12,000 sq. ft. building, then they could construct the pad sites. Klein stated the previous stipulation stated building 2 on lot 4 would be constructed first, and then they would be allowed to start the pad sites. Conrad asked how the building on lot 4 would fit in on the previous plan. Klein stated in the previous plan they could have built building 2 of lot 4, then constructed all three pad sites and then come back for building 4. Staff is concerned because they are asking to construct one of the pad sites first. Staff is trying to ensure that the main center gets built and is taken seriously. Conrad asked if the City approved a plan that was not in compliance with the 135<sup>th</sup> Street corridor guidelines. Binckley stated staff had the standard stipulation that the main center be built first with the pad sites to follow and the applicant came in and negotiated down to allowing the 12,000 sq. ft. building to be considered enough of the main center, and then to allow the pad sites to follow.

Williams asked what harm staff would see in developing the properties surrounding lot 4 in order to create a start of the development along 135<sup>th</sup> Street, given the size of this development, the location, and the topography. Binckley stated staff's concern is that the City's policy is to have the main center built first. It is the core of the project. If we start allowing all of the developments to put in pad sites first, then we have gone against the 10-acre rule. If the Commission and Council is comfortable with it then that is fine. Staff is bringing it up so that we make sure it is thought through and that the pedestrian amenities are still installed at an appropriate time and that there is activity, versus just pad sites lining 135<sup>th</sup> Street. Williams asked when the primary roadways would be built with the phasing proposed by the applicant. Binckley stated the east-west drive and the one adjacent to lot 1 would be constructed with this phase. Williams asked what pedestrian amenities would be included in the short term if the main center was built first or second. Binckley stated if building 2 is the second phase, then those two buildings relate. It comes down to whether or not the Commission is comfortable with having the corner built out first with a pad site prior to doing the 12,000 sq. ft. on lot 4. She does not feel it is the preferred direction, but we have gone that route.

Munson stated something needs to happen to get this development off of the ground financially.

Rohlf stated there is less of a gap if they build lot 1 and then building 1 of lot 4. She feels that it is not economically feasible to do that, though. She thinks their phasing makes the most sense for their development, even if it is not the best from a planning standpoint.

Henderson asked if the streets surrounding lot 1 are both private streets. Binckley stated they are private drives.

Perkins asked for clarification of what the developer wants to do. Rohlf stated the bottom of the second page of the staff report shows what the applicant is requesting for phasing.

Conrad asked for the currently approved phasing. Klein stated as it stands right now, the applicant would need to build the smaller building on lot 4 and then they could construct any of the other buildings they wanted, including all of the pad sites along 135<sup>th</sup> Street. Conrad asked if he voted for that last time. He wants to be consistent. He wants to support the 135<sup>th</sup> Street guidelines plan.

Reynolds asked if lot 1 would be going through additional review processes as that site will be changing. Klein stated the next application is for lot 1, which will be Intrust Bank and a multi-tenant retail building. Reynolds stated it would be important to have that building relate to building 2 of lot 4 in order to keep these from being isolated outparcels. Klein agreed.

Munson stated on item 23 it reads, "All monument signs shall be maintained by the homes association" and he believes there should be some other wording there since it is not a homes association. Klein stated it could be changed to "development association". He carried over the same text as the stipulations in the original approval. Rohlf stated the only stipulation that needs to be addressed with this application is stipulation number 43. Klein agreed.

A motion to approve was made by Henderson, replacing the word "homes" in stipulation number 23 with the word "appropriate" and keeping stipulation number 43 as written except for the fourth entry to read "building 2" rather than "building 1". Motion seconded by Perkins.

Binckley asked for clarification of the motion. Rohlf stated she believes that Henderson has recommended approving stipulation number 43 as written except for the change that the remaining portion of lot four should read "building 2". Williams asked if Henderson is moving that the large building on lot 4 be built second, before anything else. Henderson stated, yes, that was his motion. Munson stated it is his understanding that the pad site on the northwest corner of lot 1 would be built first, then lot 4, building 2 would be second. Henderson stated that is what he understood Williams to say. Binckley clarified that lot 1 would be first, then building 2 of lot 4 would be the second phase, then the remaining phases are as they happen or as proposed by the development. **Perkins removed his second to the motion.**

Williams asked if the previous submittal was approved so that building 2 would be built first, then any pad site or building. That seems less restrictive than what the current motion is proposing. The developer is asking for a change for the first phase being on 135th Street and then to follow with the plan as previously proposed.

**Rohlf stated the motion died for a lack of a second.**

A motion to approve was made by Williams with a change to stipulation 23 to delete "homes association" and add "development or appropriate association", a change to stipulation 43 to have phase 1 be lot 1, the pad site at the northwest corner of the site, phase 2 be a portion of lot 4, building 2, and phases 3 through 5 being any other lot or pad site as per the originally approved phasing of the project. Perkins seconded. Henderson asked if that is what Klover was wanting. Klover stated, yes. **Motion approved 5-1. Conrad abstained.**

**CASE 37-05 - INTRUST BANK AND RETAIL CENTER** Request for approval of a preliminary site plan. Located at the southeast corner of 135th Street and Kenneth Road.

**Staff presentation:** Presentation by Mark Klein. The applicant is requesting approval of a preliminary site plan for the construction of two buildings totaling 12,200 sq. ft. of construction on 75,630 sq. ft. for an FAR of 0.16. The two buildings will consist of a 5,000 sq. ft. branch bank with drive-thru and a 7,200 sq. ft. multi-tenant retail building. This application is the subject of lot 1, which was just discussed extensively with the last case. There were originally two joined buildings approved for lot 1 and there was a bank building proposed on lot 2. In this case, Intrust Bank is proposing a bank on lot 1 with a drive-thru on the west side of the building with four lanes. They are proposing to separate the buildings with a drive that goes down between the two buildings. The multi-tenant retail building will be to the east of the bank with parking on the north and south sides. They are showing entrances on both sides of the buildings; however it is a possibility that due to the depth of the building, it could just be one tenant that would extend through. The entrance of the bank is on the north side. Staff has concerns with the drive that extends between the two buildings. Staff is concerned the bank with the drive-thru may be driving the overall layout for the site to ensure cars can access it as easily as possible. Staff is recommending a plaza area be provided between those two buildings, to the north of the trash enclosure. Right now, the applicant is proposing 30% open space, which is the minimum required within the development, but it really does not provide anything additional. They are proposing a plaza area on the north side of the project between the row of parking that goes along 135th Street. According to the development ordinance, they would need to provide a minimum of 1,000 sq. ft. for a plaza area. Closing off that north half and putting in a plaza in that area would meet that requirement. Staff is recommending approval of this project with the stipulations stated in the staff report.

Rohlf stated it seems as if there are a lot of comments and stipulations on this plan. She then asked if staff has had an opportunity to hear from the applicant in response to staff's comments. Klein stated there has been a dialogue the entire time between the applicant and staff. It comes down to the fact that there are certain things staff would like to see with this project. At the time Leawood Market Center was approved, there was a lot of talk about it being one of the gateways into Leawood. Staff looked extensively at the 135<sup>th</sup> Street design guidelines which was meant to ensure that this corridor be developed in a quality manner. In reviewing this application, staff wanted to ensure the open space is still there instead of

getting typical prototype pad sites out front. Rohlf asked if the approved set of design guidelines for this project have changed since the Commission saw them last. Klein stated, no, they are the same as approved.

Perkins asked what the developer had to say about staff's suggestion on the plaza area between the two buildings and not have it as a driveway. Klein stated he believes the developer's concern was that if it is closed off, it would limit the access to the drive-thru.

**Applicant presentation:** Presentation by Ron Shaffer with Bucher Willis Ratliff. Doug Winkley with Intrust Bank is in attendance. The applicant has worked with staff on all of these issues and will continue to work with staff to move forward with lot 1 and address all of the issues that are presented in the stipulations. The applicant has some concern with stipulation numbers 6, 12 and 22. The bank would like the driveway to be allowed between the two buildings to allow access for the front of the bank for the walk-in customers but also for drive-up access on the west side of the building. They feel that driving up on 136th Street off of Kenneth Road would be the best use for their customers. It would prevent them from having to drive in front of the existing retail center. The access from the south through the driveway is very important to them. The typical footprint for a 5,000 sq. ft. bank is one additional drive-thru lane and the applicant has abided by staff's request to remove one lane. In order to be competitive with the other banks in the area, the applicant is requesting to retain the three drive-up lanes in addition to the ATM lane. When designing a bank they always consider the safety and security features. There is an abundant amount of landscaping to the west of the drive-up facility. There have been instances where their customers have been robbed at the drive-up window after they received their cash. To further hinder the view from the drive-up lanes would be prohibitive to the safety features they like to provide their customers. The applicant will continue to work with staff and the project architect and the site developer to present to the City a project everyone can be proud of. The applicant intends to work on this project as soon as the final plans are approved.

Conrad asked to see an elevation of these two buildings next to each other. Shaffer stated they have been designed to complement the architecture that was previously approved for the remainder of the center. He then showed the two elevations and laid them next to each other on the overhead projector.

Reynolds asked if the retail piece is intended to have a single tenant. Shaffer stated it could be up to three tenants, or it could be just one. Reynolds asked if it would be to the north or the south if it were just one tenant. Shaffer stated there would be doors on both the north and south sides, but the primary entrance would be on the north. Reynolds stated it appears the drive-thru for the bank is lower than Kenneth Road to the west. Shaffer stated Kenneth Road is lower than the drive-thru lanes.

Henderson asked if the drive-thru would be going from the north to the south. Shaffer stated, yes, one would drive towards the west and then turn south. Henderson then stated they would be facing the sun in the afternoon in the wintertime. Henderson asked for a description of how one gets into the lot and then drives through the drive-thru, in terms of the queue and the roads being chosen. Shaffer stated the applicant feels the preferable way would be off of 135th towards the south on Kenneth Road then one would turn east down 136th Street and then turn north towards the curb cut through the two buildings, then turn west and south to get to the drive-thru windows. Ley stated it is a right-in, right-out off of Kenneth Road, so there would be no left-turn access. Henderson stated it is not a very large tract of land and sometimes there is a need to keep the cars from running counter to each other.

Shaffer stated the applicant has included a plaza on the north side of the lot in response to previous staff comments. It is shown at 600 sq. ft. but can be enlarged to 1,000 sq. ft.

Perkins asked what is at the top of the cornice where the sign is located. Shaffer stated the horizontal band directly below the roof line will be stucco in accordance with the design with the remainder of the center. Perkins asked if it would be a tile roof. Shaffer stated, yes.

Reynolds asked if the applicant has considered something other than the large hip roof for the bank alongside the retail center. Shaffer stated the guidelines approved for the overall development include hip and sloped roofs and it fits into the

style of the bank architecture. Reynolds encouraged the applicant to take stipulation number 8 very seriously to work with staff on the compatibility.

Conrad asked if there would be signage as one comes in off of Kenneth to direct them that they would need to go straight through the two buildings. Shaffer stated there would be interior signage to direct people to their building. Conrad asked if these elevations reflect the reduction in the number of drive-thru lanes. Shaffer stated there are three drive-ups and one ATM lane. The drawings reflect what the applicant would like to have. Conrad asked if staff is recommending eliminating one of the lanes. Klein stated, yes. He then suggested putting an ATM along the wall of the building. Part of staff's concern is that this development, and especially the 135th Street corridor, was supposed to be designed to be for the pedestrian as well as the vehicle. By stipulating the plaza areas and the connections and increasing the open space, staff is trying to blend it together so that the pedestrian may also enjoy the site. With Kenneth Road being a right-in, right-out, most of the access would be off of 135th Street. Most of the traffic would be along 135th Street and State Line Road. There is mainly residential and most of the streets are not improved to the south of this.

Henderson asked how many employees there could possibly be and how many parking spaces they would use. Shaffer stated they could have maybe one to three employees at once for up to three retail spaces. The bank would have maybe nine employees at peak times. Henderson asked if 31 parking spaces would be adequate for customers. Shaffer stated he believes so, and it fits within the City's standards. There is a cross-easement agreement, so if for some reason all of the spaces are full in front of the retail building, then they could park in front of the bank and utilize the pedestrian connections. Henderson asked if there are too many parking spaces. Klein stated he believes the applicant is providing 4.2 parking spaces per 1,000 sq. ft. of building space. There was a stipulation placed on the overall development that it not exceed 4.1. Staff does not feel it is excessive. It is within the range of what they can do.

Reynolds stated Klein provided him with the previously approved architecture for the development and there are no large hip roofs shown in the approved guidelines.

Williams asked what purpose the courtyard development would serve and who would use it. Shaffer stated the previous comments from staff indicated the need to put a courtyard in the front of the buildings. Klein stated staff recommended a courtyard between the two buildings, not in the area shown on the plans. The applicant did not want to provide it between the two buildings, so this is what they provided. Williams asked what interference the applicant sees trash pick-up having on the circulation for customers coming up on the drive-thru. Shaffer stated trash pick-up will be after hours. On the bank side, it will be a small container that is picked up. Williams asked if there are minimum wall heights for walls around trash enclosures. Binckley stated 6 ft. is the minimum height. Shaffer stated they have always had short screening walls and they thought it would be a better look to have a low wall as opposed to a tall one. If staff determines that a 6-ft. wall is required, then the applicant will agree. Williams asked, if the screen wall were 6 ft., if that would interfere with the windows on the east side. Shaffer stated it would visually block that one window on the east side of the bank. Williams stated the requirement for trash enclosures is that they be blocked from public view so some adjustments might be necessary.

Conrad asked if the mechanical equipment would be screened behind the wall. Shaffer stated they always enclose mechanical equipment within that low wall as well. Williams asked if that is for the bank only, and not for the retail. Shaffer stated the mechanical equipment for the retail would be on top of the roof. Williams asked if they will have the rooftop equipment screened. Shaffer stated, yes.

Henderson asked how many drive-thru lanes the other banks have on the Missouri side. Shaffer stated there are 4 and 5 on the two other banks. Henderson then asked what makes this bank distinctive in comparison with the other two that already exist. Shaffer stated the architectural features, use of materials and use of the domed entry areas are designed in accordance with the plan. Shaffer stated Intrust prides themselves on doing architecture that is positive for their clients; not contemporary, not over the edge, very peaceful. This project in this area with this shape goes very well with a look they are used to in all of their branches. Henderson stated he is looking for something that shows serious quality and that they have thought it through. Shaffer stated he believes it is comfortable. The pedestrian access they have provided from 135th Street across the face of the two buildings and connecting between the two buildings is highly pedestrian-friendly. Henderson asked if a person could ride their bicycle to the bank without being afraid getting hit by a vehicle. Shaffer stated

there will be handicapped ramps at each of the intersections. A bicyclist would be very comfortable coming to the bank from any location. The sidewalks are all in place to allow a bicyclist to have easy access to the bank and the retail center. He feels the architecture of the bank is conducive to the use and it looks like a bank one would want to deposit their money in. Doug Winkley stated they purposely do not put ATMs through a wall of a bank because it takes up room inside to service it with a vault. They would rather have the night deposit dump into the vault, and not the ATM. If someone uses the ATM during the day then they are blocking the drive-thru lane that has a live teller. They do not do cookie-cutter branches. They try to fit in with the community and with the community's wishes. This will never be a typical pad site because the City standards have made it anything but typical. In regard to access, people bank where it is convenient. It does no good to have a hard corner where people can see the bank, but not get to it. That access between the buildings is important to them. The number of drive-thru lanes is a necessity to be competitive. They want to be very careful about the lighting they do. They want maximum lighting without be obnoxious to their neighbors. They do not want hiding places for bad people.

**Public hearing: With no one present to speak at the public hearing, a motion to close was made by Williams and seconded by Henderson. Motion to close approved unanimously.**

Perkins stated he feels it is an adequate plan for the property. He suggested they stay within the bounds of the 1,000 sq. ft. pedestrian space requirement. The drive between the buildings is a convenient way to get into the turn-around. He has seen banks recently extend drive-thrus because there were not enough lanes, so he feels that is needed. The convenience of the customer not having to wait very long in a line is an asset to the bank.

Munson stated he senses the Commission is not comfortable with the design of the building and would like the applicant to work with staff to come up with something more interesting than what has been shown.

Reynolds stated he feels the comments made by the applicant about how one approaches this building and uses it were very insightful and that the primary movement will be off of 135th Street, making a right-turn in. He thinks the driveway between the two buildings does not really serve any purpose. It is a very small parcel and there are private driveways on those two sides that allow one to make that same movement. That driveway creates some potential conflicts with vehicles and pedestrians. People leaving the drive-thru lane, possibly passing through west to east, could have a conflict with someone turning left and trying to make the short-cut between the two buildings. He thinks that driveway is not well-conceived and is not to the interest of the development of this parcel. Using that land for pedestrians and allowing these buildings to have pedestrian space is a very good idea.

Henderson stated he would be supportive of item number 6 but not item number 12. The landscaping will get worked out with staff and the bank as it needs to be.

Conrad stated he is a little concerned about the drive. He then stated that if there was still vehicular passage between the two buildings but the configuration of the east building was different, then maybe there could be more line of sight between vehicles and pedestrians. The way it is proposed now it feels like an alley with two trash enclosures. He suggested a reconfiguration of one or both of the buildings could accommodate a bigger area. The project could also get in larger sidewalks and maybe take that pedestrian amenity from the outside and move it in. It is problematic for vehicles and pedestrians. Reynolds stated he does not feel it is needed. There are private driveways that do the same thing. This is a chance to provide space for pedestrians where they really use it.

Henderson stated he would support stipulation number 8 to look at the architectural design that has been discussed.

Williams asked how much traffic is being generated by these two buildings to justify the large plaza. He likes plazas, but the reality is that there is not the pedestrian usage to have courtyards that are worth anything. Our biggest opportunity at what could have been a very successful pedestrian mall or plaza was at Cornerstone and we've seen that whittle away. There were larger buildings with the idea that the buildings fronted that courtyard and movement between the two. With this development, there is a bank on one end that is roughly 5,000 sq. ft. He has had the opportunity to walk through other 5,000 sq. ft. bank buildings and the busiest part of the day is Saturday morning. There are a dozen customers in there. During the weekday there are two or three. Bank customers do not generally use plaza areas. If we look at the circulation

to the site, every development that has a cross in a driveway is a danger and yet the Commission sees them every two weeks and they are approved. The key to pedestrian safety is visibility for the pedestrian to see the vehicles and more importantly for the vehicles to see the pedestrian. The currently proposed landscaping has reasonable visibility.

Shaffer stated there is about 55 ft. between the two buildings and a 24 ft.-wide drive width between the two buildings. If it would please the Commission, the applicant would agree to reduce the size of the 7,200 sq. ft. building down to 7,000 sq. ft. and move the west face of the retail building further towards the east. He then suggested truncating the corners to allow a better view for the drivers as they come up between those two buildings. Williams suggested that there could be some opportunities for some pedestrian amenities at those truncated corners. Shaffer stated they could accommodate that on either side to allow smaller courtyards on either of the two corners but still maintain the courtyard on the opposite side of the exit drive.

Reynolds stated he feels 1,000 sq. ft. is a big plaza for such a small development. He does not understand what the hardship would be to have people use the private drives along the south and east portions of the site to make the identical approach to their bank without adding traffic lanes that create conflicts and unnecessarily use up green space. Williams stated the vehicles would be driving through parking lots and not streets to get there by Reynolds' suggestion. There are more opportunities for accidents and injuries when driving through parking lots. He would prefer to see the drive line. It helps to shorten and circumvent the hazard.

Henderson stated he likes the applicant's suggestion of moving the building a little farther east. It gives the opportunity for some architectural distinctiveness for the buildings and some play on pedestrians and bikes. Shaffer stated there is a change of materials at the crosswalks to help people realize it is a crosswalk. Williams stated the locations of the crosswalks are very clear, and may provide a safer crossing point provided pedestrians choose to use them. They will, however, have a lot more pedestrians crossing through the parking lots because of the placement of the parking spaces. He likes the suggestion of pulling the buildings farther away from each other and possibly truncating the corners. There is an opportunity for some real pedestrian amenities at that point as well as some architectural features.

**A motion to approve was made by Conrad with a revision to stipulation number 6 to read, "The applicant will work with staff to develop a drive and relationship between the two buildings to enhance the safety and pedestrian flow and incorporate pedestrian amenities in this reconfigured space".** Rohlf asked if Conrad is comfortable with the drive lanes. **Conrad added to his motion to delete stipulation number 12.** Williams asked if Conrad would like to change stipulation 22. **Conrad added to his motion to change stipulation 22 to read "The applicant will work with staff to incorporate the aspects of aesthetics and safety".** Perkins seconded the motion. **Motion approved 5-1. (Reynolds opposed.)**

*Duffendack returned to the meeting and presided.*

**CASE 41-05 BUKATY COMPANIES** Request for approval of a final site plan for signage. Located at 11221 Roe Avenue.

**Staff presentation:** Presentation by Jeff Joseph. The applicant is Mike Bukaty with Bukaty companies. The applicant is requesting of a final plan to allow two wall signs on the west elevation of the building and to keep the existing monument sign with a few changes. This building is located at 11221 Roe Avenue. The applicant has worked with staff on the wall signs and the two wall signs are in compliance with the current Leawood Development Ordinance. Per the ordinance, the maximum number of signs allowed within the SD-O district is two, including the monument sign. Staff is recommending that if the applicant chooses to have two wall signs, then the monument sign would need to be removed. If the applicant chooses to have one wall sign and the monument sign, then the existing monument sign will need to be modified to be in compliance with the current development ordinance. Staff is recommending approval of this case with the stipulations stated in the staff report.

**Applicant presentation:** Presentation by Mike Bukaty. He is requesting the signs shown in the packets. They are proposing the Nueterra sign to use their logo in the "N". The reason they want the third sign is because they have had a lot

of people going past the building, up to the entrance to the neighborhood and then turning around and coming back. With the peak over the hill on Roe Avenue, it seems to cause a problem. The applicant is willing to work with anything the Commission is suggesting in order to meet the standards of Leawood. They are requesting the monument sign not for advertisement, but for safety of the community.

Williams asked if the applicant would be satisfied with the two wall signs. Bukaty stated they would like to have all three signs. Williams asked what would be the benefit of having the monument sign, when such a large wall sign is proposed. Bukaty stated it would be beneficial for people to find the building by its address.

Kevin Stuckey with Nueterra stated they feel it is important to use the block "N" as a corporate logo versus a stylized "N".

Munson asked how the wall signs are applied to the building. Stuckey stated they are bolted. Munson asked what the building would look like behind the existing sign. Stuckey stated if the sign were removed, then the building would be filled in where the bolts are removed. Henderson asked if the bolts are power driven into the wall. Stuckey stated, yes, and there is power that comes through the back side to light the sign.

Williams asked if there is currently an address on the building. Stuckey stated there is approximately an 8-in. number on the glass entry doors. Williams asked if they are proposing an address only for the monument sign. Stuckey stated, yes.

**A motion to approve was made by Conrad with the stipulations stated by staff in order to preserve the intent of the development ordinance and signage requirements. Motion seconded by Munson.**

Williams stated he understands the applicant's concern with having a clear address designation. He feels it is important that a building's address be clear to people that are trying to find a particular location. If the signage for the address is not clear from the street, then he thinks that somehow, either through the development ordinance or discussions tonight, accommodations need to be made so a building's address is clear or identifiable. A monument sign with an address only, at the street, that passing traffic can clearly see would be reasonable if not in some ways desirable for this particular building. He does not see that as a detrimental. The only other option is to allow a third sign on the building with a larger set of letters, so that the address on the building could be read. Binckley stated the City does not regulate the size of the numbers they put on the building, so the applicant could use a larger set of letters than the 8 in. that are already there. Typically, we have not allowed a monument sign because what happens long term is that everyone assumes that it was not allowed just for addressing and then 10 years from now everyone thinks it was okay to have three signs. Williams asked if they could put those numbers anywhere they want to on the building. Binckley stated, yes.

**Motion approved unanimously.**

*Binckley suggested continuing cases 43-05 and 46-05 to the July 12<sup>th</sup> meeting.*

**CASE 42-05 HIGHLANDS CREEK - 6TH PLAT** Request for approval of a rezoning from RP-2 to RP-1, preliminary site plan, preliminary plat, final plan and final plat. Located south of 143rd Street and east of Nall Avenue.

**Staff presentation:** Presentation by Jeff Joseph. The applicant is requesting a rezoning from RP-2 to RP-1, a preliminary site plan, a preliminary plat, a final plan and a final plat. This project had preliminary approval for 39 lots. Due to Water One condemning a portion of this property, the applicant had to redesign the subdivision by reducing the number of lots to ten. The applicant is proposing ten lots on 9.54 acres for a density of 1.05 units per acre. Staff is recommending approval of this case with the stipulations stated in the staff report.

Munson asked what would be located on tract H. Joseph stated that is where the monument sign is going and it will be filled with landscaping.

Don Donahoo, the applicant, asked for any questions from the Commission.

Perkins asked what happened to the 39 lots that got reduced. Donahoo stated Water One condemned 9.67 acres of his ground, leaving a small remainder tract. They researched that small tract and could only get 17 or 18 villa-size lots. That was too small of a number of lots to sustain a legitimate villa community in that area. Donahoo has now decided to develop 10 large estate lots, more along the lines of what they are finishing Highlands Creek with. Perkins asked what the water district is going to do with the land. Donahoo stated he has been told they will be putting an underground water storage facility there, but he has seen plans that make it appear to be above ground.

Henderson stated he commends Donahoo on the direction in which he is going in terms of planning.

Reynolds asked if tract H would have direct access to Nall Avenue. Joseph stated, no.

**Public hearing: With no one present to speak at the public hearing a motion to close was made by Williams and seconded by Henderson. Motion to close approved unanimously.**

**A motion to approve was made by Perkins and seconded by Williams.**

Henderson asked, if this were approved, when the applicant proposes to start building. Donahoo stated immediately. Also approved tonight on the consent agenda was the 5th plat for Highlands Creek. These are the last two plats of the development.

**Motion approved unanimously.**

**Meeting adjourned.**

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J. Paul Duffendack, Chair