

City of Leawood Planning Commission Minutes

November 8, 2005
Meeting – 6:00 p.m.
Leawood City Hall
4800 Town Center Drive

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

Commissioner Duffendack recused himself from the Villaggio cases therefore was not in attendance.

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

CONTINUED TO THE NOVEMBER 22, 2005 MEETING:

CASE 64-05 COLTON CREEK ESTATES Request for approval of a rezoning from AG (Agriculture) to RP-1 (Planned Single Family Residential District) and RP-2 (Planned Cluster Detached Residential District), preliminary plat and preliminary plan. Located at 5000 and 5100 West 143rd Street. **Public hearing**

CONSENT AGENDA:

CASE 08-05m VILLAGE OF CAMDEN WOODS - 86TH PLAT Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

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

NEW BUSINESS:

CASE 70-05 VILLAGGIO OF LEAWOOD - WEST Request for approval of a final site plan and final plat. Located at the southeast corner of 135th Street and Roe Avenue.

Commissioner Munson recused himself from the two Villaggio cases.

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, independent living and assisted living. The retail portion of the development consists of 168,800 sq.ft. of retail on 19.11 acres for an F.A.R. of 0.20. The office portion of the development proposes 125,000 sq.ft. of construction on 9.70 acres for an F.A.R. of 0.30. The independent and assisted living portion of the development proposes 107,000 sq.ft. construction on 8.15 acres. This development has been before the Planning Commission previously, both for a preliminary that was approved and then a final. That final was primarily done for the benefit district financing. It was stated at that time that the applicant would be required to come back for another final. The applicant has provided final information. They have included design guidelines and details for landscaping. The stipulations that were included with the last final approval are included with this. The applicant has addressed those stipulations. The applicant has made a few changes since the Commission last saw this case, but the square footage has remained the same. Some of the details for the bonuses will not be known until each phase comes in. Within the stipulations it states that the bonusing would be verified within each phase. They have provided us with some cost estimates as to what they are planning on spending. That is how the bonusing was looked at and addressed with this application. Staff is recommending approval of this case with the stipulations stated in the staff report.

Rohlf asked if staff has had a chance to review the letter from the applicant regarding the stipulations. Klein stated a memo from the applicant regarding stipulations has been placed on the dais. The applicant has discussed this with staff and staff is in agreement with those modifications as written. There is another addendum that shows the currently approved final site plan for the Villaggio West development. The total square footage has remained the same. The applicant has moved around some of the square footage within some of the buildings. There is also an addendum for amended Public Works comments. It will be included as part of the stipulations. Rohlf asked what the Commission will see come back for final. Klein stated each building within this development will come back to the Commission for a final site plan approval. Rohlf asked if the comments from the architect the City contracted are in regard to the most recent design guidelines. Klein stated the architect's comments have been incorporated into the most recent design guidelines, with the exception of not incorporating some of the roof slopes that were mentioned. There was a gazebo that the architect did not feel fit in with the development and the applicant removed that.

Azeltine asked if the memo from Public Works is incorporated in the stipulations. Ley stated there is a stipulation that references the Public Works comments and incorporates them as part of the stipulations.

Williams asked if staff is supportive of all of the recommendations for stipulation changes listed in the memo provided by the applicant. Klein stated, yes, staff is supportive of those amendments. The first change has to do with the timing of the berms and landscaping adjacent to Leawood Meadows. The reason for the rewording of the stipulation is to make it very clear on when that landscaping and berming would be done. The previous stipulation was not clear enough that the berms should go in with the construction of the buildings. Perkins asked if the berms have been reduced in size. Klein stated the berms are still pretty substantial. They are a lot shallower on the developer's part of the property because the land slopes north to south. They are approximately 10 to 15 ft. in height on the Leawood Meadows side. They are the same height as the last final that was approved. Williams asked if there was an issue about the berms and trees along that side. Klein stated one of the requirements is to keep the existing trees. The applicant has provided a 20-ft. no-cut buffer zone that goes along that south property line. The berms will be created in such a way as to not destroy those trees. The applicant has some illustrations to clarify what this would look like. Williams asked for details on the pertinent plan changes. Klein stated the square footage has stayed the same as what was approved previously. The funeral home was located on the east side, adjacent to Fontana and was within the office district. The applicant has moved the funeral home adjacent to Roe on the west side and replaced that building with an office building. The two buildings located at the southeast corner of 135th Street and Roe Avenue have increased in square footage. They used to be 5,300 sq. ft. and 5,500 sq. ft. They are both now 7,000 sq. ft. The applicant has also increased the size of Retail E. It used to be 6,000 sq. ft. and is now 14,500 sq. ft. Building RTF has also changed in size. It was shown as 15,000 sq. ft. and is now down to 9,000 sq. ft. The building at the northeast corner of 137th Street and Roe has decreased in size from 20,000 sq. ft. to 11,800 sq. ft. The applicant has also changed the two-story portion of the main center. It is currently 24,000 sq. ft. and it was previously shown as 42,000 sq. ft. Williams asked if staff feels the plan is better than what was previously proposed. Klein stated with the improvements they have made in regard to pedestrian connections, he feels they have made it a lot better than it was before. Williams stated he likes the circulation through the property better than it was before. Williams asked why there was an increase in parking spaces. Klein stated a lot of the parking spaces have been located within a parking structure or underneath a building. There has been an increase in above-ground parking, but it is not substantial. Williams asked for a description of the bonuses. Klein stated the SD-NCR portion of the development only has 0.20 FAR, so no bonuses are required. Within the SD-O portion of the development the maximum FAR is 0.25 without bonuses. The applicant is requesting 0.30 FAR. The applicant has provided a number of bonuses they were approved for during preliminary and again with the final. Within the design guidelines they have a plan where they call out those different bonuses.

Henderson asked if the monument sign will just say Villaggio or if it would have East or West on it. Klein stated it would just be Villaggio. They have a couple of major corner features that will not have the name of the development.

Henderson asked if the traffic would increase with this development in addition to the Church of the Resurrection traffic. Ley stated the impact study was approved with the preliminary plan. The church traffic would not impact this development because most of its traffic would be on Sunday, whereas this development would have more Monday through Friday traffic.

Azeltine asked if there are certain criteria that dictate whether a tree will remain or be removed. Klein stated this has been done in many other cases. Staff goes out to the site and reviews the trees that the applicant has marked to be removed and then discuss if there are any ways to save some of them. If the tree is almost dead, staff recommends it to be removed. The applicant will also be adding landscaping to the area. While some will need to be removed, they will also provide opportunities for other trees. Azeltine stated it seems to him that it is up to staff's discretion and he would like to voice concern that, especially on a development this big, he believes there is a tendency to bulldoze and when the development is finished there is just really young vegetation and it would take years to provide any kind of benefit. He would hope staff errs on the side of keeping trees. Lambers stated there have been instances where a tree has accidentally gotten bulldozed and the City has made the contractor put in as large a caliper tree as possible.

Applicant presentation: Presentation by Jeff DeGasperi. This application is to approve the overall plan and guidelines. Each of the buildings will come before the Commission again for final approval. The development team has been working with staff over the last few months. Some of the refinements that have been made include the curb cuts and the loop road. They tried to simplify and streamline the looproad activity. They aligned some of the sidewalks and vistas specifically in the retail area. They are working on refining the setbacks along Roe and 135th Street to ensure that there are adequate setbacks and the property lines and easements shown correctly. They took the funeral home from the Fontana side and moved it into the SD-NCR district. A lot of the dead-end parking has been worked on so that there are not any dead-end parking lanes and there is a nice flow through all of the parking areas. They have revised some of the elevations at staff's request. The landscaping plans have been refined including the landscaping on the berms and along the roadways and with plant materials with are specifically allowable within the district. A median has been added to Fontana at the 135th Street location. The backs of the retail buildings have been cleaned up for service courtyards and the parking has been reallocated. Within the SD-NCR district, fine tuning that loop road has allowed another row of parking to be in there, which gained a few more cars in the SD-NCR district and helps make it more realistic in the way the cars are oriented towards the masses of the buildings appropriately by the front doors. In the office district cars have been added in the lower level of parking. In regard to the comments from the City's architect regarding style, the applicant has fine-tuned some of the materials at their request. The issue of the roof slope is subjective and well taken. The design guidelines allow for interpretation for each building within the styles they are looking for. Lower slopes are generally the prevalent slope on most roofs of the Tuscan style. Perhaps some of the higher roofs could be appropriate in some of the office district but the developer would prefer to leave that up to each individual architect as they bring a plan in and evaluate it on its own merit. There may be variations of slope and he thinks the diversity would be nice to see.

Rohlf asked if the phasing has stayed the same. DeGasperi stated they have not changed the anticipated phasing. Rohlf asked when the public improvements would be installed. Klein stated it is their intention to construct 137th Street. The plat they show includes all of the property of Villaggio West and also includes the right-of-way for 137th Street all the way over to Mission. Rohlf asked if the applicant has any other comments on the additional stipulations from Ley. DeGasperi stated the applicant is in agreement with the new Public Works comments.

Henderson stated he is concerned about the maintenance of tall, large berms. He then asked how easy it would be to cut the grass and keep it looking nice on both sides. DeGasperi stated that has been the applicant's concern on the south side of the berms, since they are fairly high. The landscape architect has been working with staff in establishing the landscaping for the berms. The landscaping will be plant material that will be well suited for a sloped surface. Henderson asked if they are looking at fescue. DeGasperi stated he is not sure, he knows they are looking for something that is somewhat manicured yet does not have to be mowed daily. Klein stated it is his understanding that it would be a type of lawn as opposed to ivy. Henderson asked about stipulation number 48 in regard to the home owner's association management. He worries about the enforcement of that. He then asked what would happen to Villaggio's aesthetic quality if the association decides not to do this and does not take care of things as it is supposed to be done. Homes associations, nationally, are beginning to find out that the original deeds and intent of developers and approving bodies do not need to last forever. There are some lawsuits that have won. Henderson then asked how it is handled when a group votes to change the agreement. Lambers stated since it is a requirement of a planning stipulation, if it is not met the City has the ability, after proper notice, to take whatever action necessary and assess the cost back to that. Whether there is a homes association or not, the City has the mechanism in place to ensure that the maintenance does take place either voluntarily or involuntarily. Henderson stated when a bank loans money for the building of a house they have leverage to make sure it happens. He

then asked what types of measures the City has. Lambers stated the City would place a lien against the property if they were unwilling to pay. Looking at the more minimal aspects of these requirements, he does not see it financially being a big deal. The larger the bite of the assessment, the more reluctance there is to pay it. He does not foresee it to be an issue. The City has the ability to make sure the grounds are maintained and the costs would be assessed back to the property owners. Henderson stated it seems important to him that the various aspects of a development like this be tied together in such a way that individual home owners cannot pick and choose what amenities they are paying for. As long as it is tied together and the concept is for this development then he thinks it will work.

Rohlf asked if the materials shown on the material board are the same as listed in the design guideline book. DeGasperi stated, yes, they are representative of the materials listed in the guidelines book. Rohlf asked if the clay tile is still included as a material. DeGasperi stated the applicant decided it was more prudent to remove the clay tile from the pallet rather than the concrete. There is good looking barrel tile and mission tile available in concrete tile in the colors they are looking for that will achieve the look of the mission style. Rohlf asked for a description as to which materials would go where on the buildings. DeGasperi described the materials board and where each of the materials would be located. Rohlf stated she likes the elevations shown and she feels they have improved. She then asked how the applicant plans on dealing with tenants that have a certain signature style. DeGasperi stated most of the tenants understand the way in which they need to slightly fine tune their image to fit with certain neighborhood styles. It is a challenge, but he does not believe that most tenants are averse to fitting within an overall palette of a neighborhood. They understand it is necessary to work with the different styles. Rohlf asked if DeGasperi or his firm would be involved. DeGasperi stated he believes it would be up to each individual architect. They would need to be able to fit within the guidelines that are being established. Williams asked if DeGasperi would be doing a design overview on behalf of the overall development. DeGasperi stated he would be involved with the developer to ensure that each pad site adheres to the guidelines. The City would also be watching the same thing as each of the lots comes through for final. Lambers stated Rohlf brought up a good point. These plans have a lot of integrity to them and if they are going to be maintained we may see some perspective clients that we will not allow if they feel they cannot change from their signature style.

DeGasperi stated a cultured stone has been added into the guidelines. They also have sliced real stone as a material recommended for use as well. Rohlf asked if staff is in approval of that change. Klein stated when the applicant was before the Commission for the previous final the guideline book showed all cultured stone. Staff is now a little concerned about the durability of cultured stone, especially in areas of high contact. Staff then recommended the applicant to use real stone. The newest design guideline book shows all natural stone. Since then, the applicant has contacted staff and said that is not their intention. They want to keep the cultured stone in addition to the real stone. Williams asked if that is a stipulation the Commission needs to change in the motion. Klein stated the Commission could add that as a stipulation if they want to allow the use of the cultured stone. Rohlf asked if staff is in approval of the cultured stone. Klein stated he believes staff is okay with the cultured stone, as long as they have the ability to use the real stone in certain areas. Williams asked what areas staff would like to see the real stone used instead of the cultured stone. Klein stated lower down on the building where there is more contact. Staff has noticed some of the cultured stone coming off along the bottom of the CVS Pharmacy in Cornerstone. They have indicated that it was more of an installation problem than the product. Staff has also spoken with masons and a vendor who sales both the real and the cultured stone to get their opinions. Staff has also noticed other buildings in other cities where cultured stone has been used to wrap around a column, people are leaning against it and some of the color is coming off. The vendor staff spoke with also indicated the same thing. Staff does not want to eliminate the cultured stone altogether because there are definitely areas they could use it where it would look nice. Staff would prefer to see real stone in the areas where it would not wear well. Williams asked if the Commission should add a stipulation that would allow cultured stone as long as it was three feet above grade or not around pedestrian traffic areas. Klein suggested an added stipulation should read, "Cultured stone will not be used in areas of high pedestrian contact". He then stated it would be more appropriate to look at it as each building came in.

Williams asked if the elevations submitted are representative on any particular buildings that are going to be built on the site. DeGasperi stated it is the applicant's intent that the buildings shown are the ones that will be built, but time will tell with tenants. Williams asked if the Commission could see something substantially different even though there are building footprints on the plans. DeGasperi stated the check on that is that if they are substantially different they would need to come back for preliminary plan. Williams stated most of the newer developments at least have some anchor buildings put in by

the developer so that what is shown in the presentation is pretty much what will be put in. DeGasperi stated we do not have that in this development. Williams asked if vinyl windows would be allowed within the design guidelines. DeGasperi stated he believes the vinyl clad would be intended for the institutional use versus the retail. Williams stated he would like to see a change in the guidelines to eliminate the vinyl clad windows. DeGasperi stated he believes that would be acceptable. He thinks there might have been some confusion in that regard.

Azeltine asked which buildings are considered the principal buildings that would need to be built before the pad sites. DeGasperi stated the four buildings in the center of the site. Rohlf stated that is one of the stipulations that have been changed within staff's memo. Lambers stated previously the applicant would be required to have a certificate of occupancy for the building, but instead, realizing market conditions, when 30% is under construction is sufficient. Williams asked if this would prevent the type of situation that has happened at Cornerstone. Lambers stated it is intended to deter that type of situation. Azeltine stated there was a percentage on floor area and then asked if there should be a percentage on completion before issuing outlying pad sites. Lambers stated the intent is that the main buildings would be under construction. To what extent would be a staff call. Azeltine stated he would hope that there would not be games played where the developer would just break ground on the main buildings so that they could begin construction on the pad sites.

Williams asked if this stipulation is saying that if one primary building is 60,000 sq. ft., then 20,000 sq. ft. needs to be constructed before any occupancy would be issued for any pad site. Lambers stated, yes, but they would be building the entire building. The entire building would be built at once and then once it reaches 30% they could apply for a permit. Azeltine stated the memo says that construction just needs to have begun. Lambers stated, because they are attached, they may only build one building, but he feels it is unlikely. He suspects that when they come back in we will have a more specific definition. They cannot come in with a pad site application until this is going forward. This is a way to work a compromise where the City believes that they have a good faith effort to get the main building built to allow the pad sites to begin. Williams asked if they have to start construction on the main building before they can start construction on a pad site. The way he reads it, they could start construction on a pad site, they just could not occupy and use the building until 30% of the main building is constructed. Lambers stated that is correct, he misread it. Cornerstone was an unusual circumstance where we had the steel girders go up on a very small portion of it. Their building permit expired and they had to pay a \$17,000 fee to come back in. Azeltine stated he feels that situation is probably why this is such a lengthy discussion. He would hope that the City can avoid that type of situation in the future. He would like to know what other cities require in terms of requirements of an anchor building in terms of a percentage of it being completed before any pad site permits are issued. Lambers stated most cities do not tie developments to this. Leawood is unique in that area. The basis for this concern is that if only the pad sites get development and the main center does not get developed then the developer is going to come back in and ask for the main center to be filled with pad sites. The idea behind the stipulation was to try to have a trigger that would preclude this so that the developer was on the hook for the main site and still provide the flexibility to go forward with the pad sites, which are the easiest and most attractive part of the development to go forward. Azeltine asked if that happens, and the pad sites are built but the construction on the main center stops, what type of mechanism does the City have to remedy that situation. Lambers stated after a year of no construction the City would consider the project as abandoned and the developer would need to go back through the building process, pay a renewal fee, and the outlying pad sites would be on hold. He thinks the idea was to allow the pad sites to go forward without the occupancy permit. Henderson suggested the stipulation to read, "An occupancy permit on a pad site shall be issued after the approval and construction of 30% of the floor area of the principal shopping buildings." Lambers stated it is typically tied to the occupancy permit so the developer gets on the hook and has the expense associated with the project. Lambers stated the idea is that they can get a building permit, but they cannot occupy the structure. Without being able to occupy the pad sites, they will not be able to meet the contractual obligation to the pad site tenants. Henderson stated that if there is a timeline that one follows the other, then it seems to solve the problem. Lambers stated there is a time limit of a year for building permit. Henderson suggested the stipulation to read, "An occupancy permit for a pad site shall be issued only after the approval and construction of 30% of the floor area of the principal shopping center." Lambers stated he believes the question that has arisen is that the construction of floor area is unspecified. If that is causing some concern, the Commission could put in an "at least" number. Williams stated he believes the issue is of an occupancy permit, and not the construction permit, as our language usually reads. Since we are talking about three separate buildings, he is assuming they could have three different ownerships. He then asked if the 30% would be off of the entire main center or just 30% of

one of the spaces. Lambers stated it would be 30% of the total main center. He would assume the construction would be done in one form even if they are under different ownership.

Henderson asked if the egress on Fontana is adequate for a funeral procession, since that is the only egress. Ley stated the funeral home has been moved to Roe and the access would be out to Roe and then up to 135th Street.

Henderson asked if the Commission has agreed to add something in respect to the cultured stone. Stipulation number 27 handles that in a general sense. He then asked if they would rather change the guidelines rather than a stipulation. Klein stated he believes it would be fine to change stipulation number 27 to incorporate cultured stone. It is staff's recommendation that real stone will be used in areas of high wear. Henderson asked if stipulation number 27 would need to be modified. Klein suggested adding, "including the addition of cultured stone outside the exposure of heavy traffic, to be review with staff." Staff would be looking at that as well. There will be some architects that will be hired that are not a part of this development team and that would let them know that would be the expectation. Williams stated he would be concerned that if they do not give some kind of specifications then we wouldn't be able to say they can't use the cultured stone. Henderson stated he was not sure whether to place it as a stipulation or incorporate it into the design guidelines. Williams stated stucco near shopping carts could get the same damage. Klein stated part of staff's concern is that stucco could be painted to pretty much match whereas the color cannot be reapplied to cultured stone. Williams stated maybe that is what the developer would need to do. He then asked what type of mechanism the City has to regulate that. Klein stated the City has code enforcement officers that issue notices to buildings that fall into disrepair and they are required to bring them back into compliance. Azeltine asked if the way the design guidelines and stipulations read now the applicant could not use cultured stone. Klein stated the applicant is requesting to have the cultured stone added back into the guidelines. Staff does not want to drive all of the future applications to brick or stucco just because we are giving them such a hard time about the cultured stone. Staff just wants to prevent a problem that may occur. By using the stone in areas with higher wear then hopefully we could avoid those situations down the road. A stipulation would allow them to be added to the design guidelines. Rohlf suggested including cultured stone should be sufficient and then the Commission could take care of each building as it comes in. Henderson asked about changing stipulation number 50. Williams stated his largest concern was the confusion on the applicant's requested language. The last three words seem a little redundant, but his questions have been cleared up. Lambers stated the term "buildings" suggests that the main buildings are considered as one. He agrees that if the Commission would like something more specific than "begun" and instead use a percentage, then that could be changed. He would suggest 20 or 25% to suggest a good faith effort on their part. Williams stated to give them the flexibility to start with a pad site, even have the construction on the pad site start before the principal buildings, is not a detrimental point. It is still up to the developer to get the main building 30% complete. Lambers stated there will be no confusion on the pad site issue. He believes the language as it is now is sufficient. Williams stated he would prefer to see the pad sites along 135th Street than to see an unfinished building in the center of the development. Henderson stated they are shifting from a building permit to an occupancy permit. Lambers stated, that is correct. Henderson asked if Williams wants to delete the last three words. Williams stated he would like to change stipulation number 50 to read as per the applicant's memo, dated November 8th, item number 2, striking the last three words.

Williams stated he thinks the applicant has made some nice improvements to the plan. He likes the circulation around the development. He likes the reorientation of several of the buildings, particularly around the northwest corner. He feels it gives more accents to the view corridor. He hopes that whoever develops those buildings hold onto, maintain and further enhance that anticipated design feature. Overall, it appears to be an improvement. He generally likes their design guidelines. He hopes that they produce the quality that is being presented in the guidelines. He would not want the corporate image-type buildings.

A motion to approve was made by Williams with changes to stipulation number 27 to add, "materials shall include cultured stone for locations to be reviewed by staff" and stipulation number 50 changed to read, "No occupancy permit for any construction on the pad sites shall be issued until construction of 30% of the floor area of the principal shopping center buildings has been approved and construction begun." Motion seconded by Azeltine. Motion approved unanimously.

CASE 71-05 VILLAGGIO OF LEAWOOD - EAST Request for approval of a preliminary site plan. Located at the southwest corner of 135th Street and Mission Road.

Staff presentation: Presentation by Mark Klein. This application is for a preliminary site plan for the eastern portion of Villaggio that goes from Fontana over to Mission Road, in between 135th Street and down to the southern border which it shares with Leawood Meadows. It also includes the portion south of proposed 137th Street. The plan that is before the Commission tonight is exactly the same as the last preliminary approval. The applicant is before the Commission tonight for approval of some modifications to the stipulations. Initially, the stipulations that were to be modified were within the Public Works memo and referred to a westbound third lane along 135th Street. That is on the north side of 135th Street and was part of this preliminary approval. The reason for that was the traffic added by this showed that the improvement needed to be made, however, in the meantime of that approval, another development has been approved on the north side and it would make more sense if that applicant were responsible for that construction. With the approval of that project the same requirement was made of them, so this requirement is on both currently. This applicant is asking for it to be removed from their stipulations, since the other application has come forward and that requirement has been put on them. Staff is in agreement with that request. The applicant did a modified traffic study and in that study it was found that another improvement needs to be done for this project. A second eastbound turning lane is required on 135th Street turning north onto Mission Road. The applicant has agreed to do that. The applicant has also stated they would like to make some modifications that were included in the memo referred to in the earlier case. On Villaggio East they would also like to refer to the Public Works memo as stated and also wish to add the same stipulation on this development in regard to the principal shopping center being constructed. They also want to modify stipulation number 42 which is back to the developer providing screening and berming and when it would be done. They want to make this modification to make it clearer. Staff is recommending approval of this case with the stipulations stated in the staff report in addition to the stipulations added by the applicant's memo.

Rohlf asked if the Commission should just speak in regard to the modifications requested by the applicant and not re-review the entire case. Klein stated the plan has already been reviewed and the plan has not changed at all. The Public Works' memo is incorporated into the approval of Planning Commission case and therefore any changes to those would need approval of the Planning Commission and City Council.

Henderson asked how stipulation number 39 would be handled. Rohlf stated the applicant has requested the same modification as in the previous case. It would be the same re-write as stipulation number 50 on the previous case.

Rohlf asked staff what types of comments need to be made on this case. Klein stated the Commission should recommend approval if you want to modify those stipulations. The stipulations have been modified within the Public Works memo that is currently before you. That would be incorporated into this approval. The Commission would need to change the other modifications the applicant is requesting in the approval.

Perkins stated he has a problem with future traffic counts. He does not know how anyone can estimate how much traffic would be along 135th Street in the year 2020. He then asked how that is determined. Ley stated there was a traffic model done about 10 years ago that looked at a full build-out in 2020. Perkins asked if the turn lanes across 135th Street are based on this study. Ley stated it is based on the 2020 and then they look at the individual movements to determine whether they need one lane or two lanes for left turns. Perkins asked if they have ever put in a turn lane and never used it. Ley stated, no.

Rohlf asked if the Public Works comment on Villaggio East incorporates what the applicant is asking. Ley stated, yes.

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

A motion to approve was made by Williams with modifications to stipulation number 39 to reflect the language in the applicant's memo dated November 8, 2005 and a modification to stipulation number 42, striking the first

paragraph starting with "the" and ending with "process". Motion seconded by Perkins. Motion approved unanimously.

Lambers asked the Commissioners would be able to attend the November 22, 2005 meeting. It was determined that there would not be a quorum on the 22nd.

A motion to hold a special meeting on November 29, 2005 was made by Henderson and seconded by Williams. Motion approved unanimously.

Meeting adjourned.

Lisa Rohlf, Vice-Chair