

**City of Leawood
Planning Commission Minutes**

**January 24, 2006
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive**

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

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

CONTINUED TO THE FEBRUARY 14, 2006 MEETING:

CASE 79-05 135TH & MISSION OFFICE RETAIL - PHASE II Request for approval of a special use permit, preliminary plat and preliminary plan. Located at the northwest corner of 135th Street and Mission Road. **Public hearing**

CASE 01-06 TUSCANY RESERVE VILLAGE Request for approval of a rezoning from SD-NCR (Planned Neighborhood Retail) and SD-O (Planned Office) to RP-3 (Planned Cluster Attached Residential District). Located north of 137th Street and west of Chadwick. **Public hearing**

CONSENT AGENDA:

CASE 10-06 THE WOODS - 2ND PLAT Request for approval of a final plat. Located south of 111th Terrace and west of Alhambra.

CASE 11-06 THE WOODS - 3RD PLAT Request for approval of a final plat. Located at 11212 and 11216 Delmar.

CASE 12-06 SIENA - 2ND PLAT Request for approval of a final plat. Located at the northwest corner of 140th Street and Mohawk Road.

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

NEW BUSINESS:

CASE 73-05 IRONHORSE CENTRE Request for approval of a preliminary site plan and preliminary plat. Located at the southeast corner of 151st Street and Nall Avenue.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a preliminary site plan and preliminary plat for lots 5 through 8 within the Ironhorse development. These lots comprise approximately the eastern half of the Ironhorse Centre development, which is proposed to have four buildings consisting of 67,000 sq. ft. on 6.48 acres for an FAR of 0.24. On Dec. 5 2005 the Governing Body, with the recommendation of the Planning Commission, approved the building on lot 6, which is located at the southeast corner of the development. That building had a little different architecture than the buildings that are currently on the site and the ones that are currently under construction or have been approved. The applicant does plan on revising the design guidelines for the overall development to include the architecture used on that building. That will be done at time of final site plan application, when building elevations and design guidelines are normally looked at. With regard to this plan, the applicant is requesting approval of four buildings consisting of 67,000 sq. ft. The number of buildings has remained the same as the previous plan. The heights have remained the same. The square footage has gone up by 882 sq. ft. Another difference would be the primary east-west internal drive that enters off of 151st Street. On the last plan the east-west primary internal drive ended with the eastern north-south internal driveway. Now the

applicant is providing a curb cut to access parking located on the western side of the building on lot 7. Another difference is a retaining wall proposed on the eastern portion of the property. Staff is recommending the wall to be tiered. The applicant has indicated on the plans that it is tiered, however, on the landscape plan it is still shown as a single wall. There is a stipulation in the staff report listing that it shall be tiered and it shall also be placed outside of the 25-ft. golf course easement. Staff is recommending approval of this case with the stipulations stated in the staff report.

Munson asked, in regard to stipulation number 5, where the zero lot-lines are applied. Klein stated it runs throughout the development. The lot lines go between the parking lots, so rather than having 10 ft. on each side of the parking lot, it allows parking lots to connect.

Henderson asked if Ley's comment regarding storm sewer is different than his comment for the originally approved plat for this project. Ley stated the previous plat did not go to the east property line, so this is additional.

Duffendack asked if the design guidelines have been submitted and approved for this development. Klein stated yes, in 2003. Staff is requesting a new set of design guidelines be submitted at the time of final to incorporate some of the features of the building on lot 6 with the lots that have not yet been built.

Rohlf asked if the Commission will receive another final plan approval for lots 5 through 8, even though lot 6 has already received final plan approval. Klein stated, yes.

Azeltine asked, in regard to stipulation number 16, how it will be decided which trees the developer is going to remove. Klein stated staff meets with the applicant on site to see the trees that are there. Within the golf course we try to save everything we can unless we can tell that a tree is dead or is a very low quality scrub tree. Staff tries to save any significant tree.

Henderson asked if stipulations 5, 7 and 8 would create a different impact on the susceptibility of these new buildings from errant golf balls. Klein stated the buildings are still pretty much in the same place as previously approved, other than lot 6. There is language that will run with this plat indicating there is a covenant that will run with the development that the City is not liable for errant golf balls.

Applicant presentation: Presentation by Dennis Markey with Rees Massilonis Architecture. They have made minor modifications to the previously approved site plan. Most of the modifications were generated by the tenant that will be on lot 6 and the location of the building they wanted. The applicant has tried to create better sight lines for some of the buildings and better circulation patterns for pedestrians and vehicles.

Munson asked what the future buildings will look like. Markey stated their goal would be to tie the new buildings with the buildings that are already built so that no one building stands out.

Rohlf asked if they have any plans right now for buildings on 5, 7 and 8. Markey stated, no, just lot 6. Rohlf asked if the new drive would be built when lot 6 is built. Markey stated, yes, and any parking and landscaping that goes along with it.

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

Henderson asked if the fire marshal had a chance to review the plan submitted by the applicant. Klein stated the fire marshal did not get the opportunity to view the plan, but he indicated that as long as it showed how a fire truck could turn then he is okay with it. Duffendack asked if there is still time before final to correct it if the fire marshal finds a problem with it. Klein stated, yes.

Munson stated it seems this application is a little backwards, to build the building, then change the design guidelines to reflect the building. He then asked if staff is comfortable with this. Klein stated, yes. The major thing that was different

about this case was having lot 6 come in for final before the rest. Duffendack stated he feels it is a good idea to adjust the guidelines.

Henderson asked if the storm water flow still has the same pattern as the approved plan from two years ago. Ley stated, yes. On the east side there are two storm sewers that go out to the creek on Ironhorse and they will be connecting into those existing storm sewer lines and they will verify their capacity with their final review plans.

A motion to approve was made by Williams and seconded by Rohlf. Motion approved unanimously.

CASE 02-06 MISSION CORNER Request for approval of a rezoning from SD-NCR (Planned Neighborhood Retail) and SD-O (Planned Office) to MXD (Mixed Use Development), preliminary site plan and preliminary plat. Located at the southeast corner of 135th Street and Mission Road.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a rezoning from SD-NCR (Planned Neighborhood Retail) and SD-O (Planned Office) to MXD (Mixed Use Development), preliminary site plan and preliminary plat. The development will consist of a total of 330,400 sq. ft. of construction on 20.19 acres. The construction will be divided between 46,700 sq. ft. of retail, 100,100 sq. ft. of office/retail, 21,000 sq. ft. of office and 162,600 sq. ft. of residential. A previous preliminary plan was approved by the Governing Body on Oct. 17, 2005. At that time, the Governing Body indicated to the applicant they were looking for something that was more creative. Even at the Planning Commission level there were some comments made that, due to the property being so narrow, that it was kind of a tough site to make everything fit. At that approval by the Governing Body they indicated the applicant should make another application that would go through the entire process that would be more creative. As a result of that, the applicant met with the Governing Body at a work session to present some preliminary designs. At that meeting the Governing Body indicated they were supportive of some of the changes the applicant was providing and they would be willing to look at some deviations in order to get a more creative development. One of the major changes was to add a residential component. Previously, the property was zoned SD-NCR and SD-O. By adding the residential portion, the applicant needed to rezone the property to MXD, which is part of the application before you now. Along 135th Street the applicant is proposing three retail buildings and two buildings that are retail/office. The retail is on the bottom floor and office above. Those two buildings flank the main entrance coming in off of 135th Street and contain a drive-thru on each side of the main entrance. One is shown to be a bank and the other is shown to be a restaurant with a drive-thru. The applicant is also showing a primary east-west internal drive that connects Pawnee to Mission Road with parking along that drive to provide parking directly in front of those buildings. There are six buildings located along that drive. Three are multi-story office buildings. There are also three buildings centrally located that will have retail on the first floor and then residential above. The center one will be the tallest, with one story of retail below and four stories of residential above. The maximum height of the previously approved buildings was two-story. The applicant is showing a retail convenience-type store with a gas station at the northeast corner of the development. The gas station, in addition to the restaurant with a drive-thru would require special use permits before those could be approved. That would be done at the time the applicant actually brought in tenants for those. They would need to go through a preliminary plan and special use permit application approval. In regard to the deviations the applicant is asking for as part of this development, there is a 30-ft. exterior building setback. This is located along 137th Street and also the southern end along Pawnee. It is for buildings that are two-story residential buildings. These buildings will have parking garages on the first floor and then residential above. Another deviation requested is a zero interior building setback. This is done a lot of times when the development will run the property lines of the development through buildings. This project does not do that, but they do run it very close to the exterior walls of the building. Sometimes, within a single building, it allows the building to be owner-occupied as opposed to just rental tenants and it allows the development to appear more unified. The applicant is also requesting a zero interior parking setback. This allows a property line to run through a parking lot without having a 10-ft. open space on either side. They are requesting a 70-ft. residential setback. By ordinance, an MXD district requires 75 ft. The only buildings that would need this deviation are the residential condominium buildings along 137th Street, which do not contain any other use other than residential. The applicant is requesting a deviation to the requirement that no more than 40% of the frontage along a public street be something other than a building or green space. The applicant is requesting approximately 50% in parking or drives along 135th Street. The other frontages along 137th Street and Pawnee do meet this requirement. The applicant is also requesting a deviation of 49.26% office

within the commercial portion of the development. Within the Market Square development, there is a requirement that a minimum of 50% of a development be office. Staff is recommending that the applicant meet the 50% within the commercial portion of the development. Another deviation the applicant is requesting is an FAR of 0.28. The required FAR for MXD zoning is 0.25. The FAR is being calculated by taking half of the residential, since it will not have as much impact on traffic. As far as bonuses, they are providing underground parking and will have approximately 204 parking spaces underground.

Conrad asked if the 50% of the residential calculation has been used before. Klein stated this is the first time it has been used. The reason we are using it this way is because the Governing Body requested to see more of a residential component in the mixed use developments. The residential does not operate at the same time as the office; therefore the residential does not have the same impact.

Munson asked what kind of amenities there are for the residential component. Klein stated there are some plaza areas north of the water feature between the retail/residential buildings. Henderson asked if there would be a public corner feature at Roe Avenue and 135th Street. Klein stated, yes. It would be designed at the time of final site plan. Munson asked if there would be a corner feature by the gas station. Klein stated they could do a small corner feature at that corner, but the primary Market Square corner feature would be at 135th Street and Roe Avenue.

Perkins asked if there is a traffic signal at Pawnee and 135th Street. Ley stated, yes. Perkins asked if the traffic problem coming down Mission Road, turning into 137th Street, has been resolved in regard to congestion. Ley stated the issue was on southbound Mission at 135th Street. Staff has talked with the developer and they have agreed to look at that during final plan with the final traffic study.

Henderson asked if the applicant will provide a model. Klein stated a model is required at time of final site plan application.

Perkins asked if the underground parking is just for residential. Klein stated there is some underground parking located under the office buildings as well. There are 120 spaces required for the residential with only 111 spaces under those three buildings, so the applicant has indicated they would have some parking for the residential provided under buildings G or perhaps L. Perkins asked where the retail shoppers would park for Building F. Klein stated the applicant would be better able to answer that question. He would believe a lot of the office parking would be under the building and then the retail would be a lot of the surface parking, but they may intend a mixture of both.

Henderson asked if the five-story building is all above ground. Klein stated, looking from the north, it will be a full five stories. Looking from the south, the parking will be exposed and it would appear a little taller.

Conrad asked if special use permits are allowed in MXD zoning. Klein stated, yes. They would need to go through the entire process of applying for a special use permit.

Williams asked who would be receiving the public notice for the special use permit applications if the property to the south is undeveloped and the property to the east is under development. Klein stated Villaggio would receive notification, along with Chadwick Place. They would also notify the homes associations in the area.

Rohlf asked for details on the traffic study. Ley stated it was continued and then they submitted a more detailed traffic study on the preliminary that was approved for this property. The difference between this plan and the previously approved plan is the additional residential, which does not impact peak hours as much as commercial and office. We still want a traffic study at final with the residential included.

Azeltine asked if it was the applicant's choice to rezone to MXD. Klein stated in order to incorporate the residential that the Governing Body wanted included, it would require the rezoning. Azeltine asked how much of the items that were discussed during the work session were incorporated into this plan. Klein stated the applicant could better answer that question. Lambers stated it passed, with the Mayor casting the deciding vote, knowing that many of the members would not approve that plan if it came through for final. The applicant received the message that they should come back with a different plan to

incorporate some residential component and the Governing Body would be willing to look at approving some deviations to allow that to happen.

Henderson asked for a description of the detention pond. Ley stated it is a water feature, so it is detention. It will discharge to a box culvert under 137th Street.

Williams asked if the town homes on the south side would be one-story with parking below them. Klein stated there would be two-car garages below each of them. The applicant has indicated there would be residential above, but the applicant could answer if there would be any living space on the same level as the garage.

Applicant presentation: Presentation by Larry Winn. Winn introduced the development team in attendance. The original plan was approved unanimously by the Planning Commission and then approved by City Council. He feels Council was disappointed that the applicant could not be more creative. They wanted more pizzazz to the plan. The first plan was limited to office behind and retail in front with the setbacks. The challenge to the applicant was to come back to the Governing Body in a work session. It was a very productive work session and the applicant left with a good feeling that they had a sense of what the Council was asking them to do. He wishes there could have been an opportunity for the Commission to have been included. The applicant told the Council that there is no way to do everything they want to do without needing some deviations. There are few and they are minor. The Commission has dealt with new-urbanism before with Park Place, so this is not a new concept. There was an interact meeting. This is a preliminary plan that shows a potential gas station. At the time of final they would require a special use permit and a public hearing and notices. There was some concern about the building in the middle that is the four-story plus parking. Henry Klover will address why that building is somewhat higher than the others. There are 42 stipulations and the applicant concurs with all of them, except a couple questions regarding Public Works. One question is the 135th impact fee. Right now, this developer and all the others between Roe Avenue and State Line Road are in the process of petitioning the City for a transportation development district to bury the power lines and to put a new third lane on the south side of 135th Street and if that happens he believes that is in lieu of the impact fee. Ley stated they would not be required to pay the \$200 per linear foot for any improvements they make. Winn asked if Ley is talking about three lanes on the south side of 135th Street and not four lanes. Ley stated what has been required for the last four years is a third lane, with right-turn lanes at the entrances. Winn asked if that is what exists now. Ley stated it is actually three thru-lanes in addition to a right-turn lane. Winn asked for the right to come back in response, if the City feels it is necessary on a couple of those issues.

Klein stated staff is recommending a change to stipulation number 39. Staff would like to change the language at the end to read, "at the time of final site plan application", in place of, "prior to Governing Body approval".

Presentation by Henry Klover. The major complaint the applicant heard from the Council as well as the Commission was padding out. A lot of that was created by the ordinance. Council wanted interconnection between the buildings, new urbanism, and to tie buildings together. They tried to build a hierarchy by creating more of a central plaza area and creating a pedestrian way and connection between all of the buildings. The intent was to bring everything back in together. They created a corner element with a restaurant at that corner. Typically, in a plan, you go from the more dense to the less dense. They also looked at the plan to see how they could hide the things people don't want to see, which is the parking. The townhomes will have some living space on the same level as the garages. There are residential porches above. They wanted to engage the street. The whole intent was to bring everything down. The residential component flanks the street all along. The only area that isn't is the retention facility. There is around 230 ft. between the buildings and the setback. The two-story offices start out on the outside of the hierarchy and then step up to three. Then the center buildings are three stories of office above one story of retail and four stories of office above one story of retail. There are pedestrian areas between the buildings. The intent is for the pedestrians to come down the grand stairs to more of a plaza area. That area would be used to filter down from the parking area, which would be underneath and would be open for code reasons. The parking is required to be above the detention level. In regard to a drive-thru, the intent was to get a bank but internalize it to the center of the development. The second thought would be to have a coffee shop or some other drive-thru user that would hopefully have some outdoor seating areas. The intent was to hide those elements from the street. The openings were created by the desire to pull the building in together into that new-urbanism type of look. The parking garages are all accessed on the back sides, underneath.

Williams asked how one would get into the parking garage coming in from Mission Road. Klover described the two accesses on the site plan. Williams asked if the access to the parking garages would be the same access as the residential would have for their parking. Klover stated, yes.

Klover described the elevations. Munson asked what type of materials the applicant is proposing. Klover stated, at this point, it would be brick, stone and some stucco.

Conrad asked if there are any other cases of residential above retail in the Kansas City area. Klover stated it has been done in the Crossroads district downtown and also Zona Rosa. There is a lot of interest in it. Winn stated the northwest corner of 135th Street and Metcalf gave up some retail and office and inserted a residential component there.

Azeltine asked how long Winn has been doing this. Winn stated 37 years. Azeltine asked how often Winn has seen this type of situation, where the preliminary plan has been approved and then Council restarts the process. Winn stated he has seen a lot of different situations over the years. The Governing Body wanted something more creative and gave the message that the applicant would have a lot easier path if they are willing to try some new things. The problem is that we, collectively, got ourselves in a type of box with one part retail and one part office and then had to use those setbacks and they ended up with a plan that was more linear and was not generating the enthusiasm the City wanted to see. The applicant was fortunate to not have tenants in place and had the ability to go back to restart the dialogue. It was probably not procedurally perfect and he would have preferred the Commission had been involved in the work session. Azeltine asked if Winn has seen this type of situation in any other cities where a plan was not able to run its course. Winn stated, yes, there are zonings where the policy makers have something they either like and they don't like and they make it clear.

Conrad asked for a description of the private park area between the three and four-story buildings. Klover stated he could see it being used for outdoor seating or a variety of uses. It is more of a public gathering space for the intent, but it's not really defined at this point. Conrad stated his concern would be that it be as public as possible. Klover stated the only increase they are requesting is the underground parking.

Williams asked the distance between the three and four-story buildings. Klover stated he believes it is around 30 to 35 ft. Williams asked if they were to be developed as outdoor cafes, how much space that would take up of that area. Klover stated 12 ft. or more. Williams stated he dined in a couple of restaurants in Wichita that are trying to do what this development is proposing. While the restaurants were busy, there was little to no pedestrian activity around the water feature or around the plazas and pedestrian walkways. He is concerned that the linear nature of the five buildings does not seem to be a good combination to achieve the pedestrian/mixed-use type of community. He then asked the approximate distance from Building K, which is the closest residential tower, to the proposed gas station. Klover stated he would estimate about 250 ft. or 180 ft. from the pumps. Klover stated the whole idea of having the residential component is to get the people there. Williams stated he does not see the space to make affective outdoor cafes for the other restaurant facilities in the center. He likes the change in the treatment to the corner of 135th Street and Mission. Instead of the block building that was in the earlier approved plan, it is nice to have something that begins to have more of a relationship with that corner. He does not like the big parking lots along 135th Street. It has always been his understanding of the market square concept and the 135th Street plan is to put Leawood's best foot forward. This plan, with as much parking to the street and a convenience store on the corner, does not strike him as Leawood's best foot forward. He would like to see less parking. He thinks the earlier plan gave an opportunity to make some reasonable architectural statements to the street instead of parking lot statements. He also likes the way they handled the central entrance. It gives more of a statement of place than the previous plan did. He likes the aspect of the central tall building to the back.

Rohlf asked what one would see of the retail when driving by on 135th Street. Klover stated they made the first level of retail fairly high. The residential and office are at normal heights, but the first level retail has a 20-ft. structure height in order to give it a lot of presence. They are trying to not expose the retail to the south side. They are stepping down in the zoning.

Munson asked how the trash receptacles would be handled, particularly with the commercial. Klover stated the trash would be attached for the retail and office, per ordinance. The trash would be integrated into the building for the residential.

Munson asked what the intent would be for the area north of the detention pond. Klover stated it is a boardwalk-type area. It could be a gathering area as well. It will be overlooking the water area.

Conrad asked about how many people they can fit into a 5,000 sq. ft. restaurant. Klover stated it depends on the type of restaurant it is. Conrad stated he knows the total parking space count seems to be right, but he wants to be sure there is enough parking for each individual building. Klover stated the market will determine how many spaces are required and the plan could change because of that. That would be discussed at the final plan application.

Winn asked the Commission to keep in mind they are at a preliminary plan process. This body will be the primary body that will help finalize this when the final plan comes in. Certain types of users do not require as much parking as others.

Perkins asked if the front of Building N faces south. Klover stated, yes. Perkins then asked what the back looks like. Klover stated there would probably be a patio above the garage. Perkins asked if they have a rendering of the north façade. Klover stated not at this time.

Williams asked what the surrounding situations were in the other "brown stone" developments Klover has seen. Klover stated there were a couple he looked at near Boulder, CO and there is also an example very similar to this in the Crossroads district. Williams stated he feels the Crossroads development is very different than this proposal. There were comments made that similar multi-use developments exist in Kansas City, such as Zona Rosa. He has toured that development and he sees a completely different type of development that is far more overall pedestrian-oriented with the public walkways, two-sided streets with retail and residential and their parking is all on the perimeter. It seems to be more of a full package. He likes aspects of this plan, but it seems to be a one-side of the street kind of pedestrian, new-urban development. He would like to see more public space, less parking lot, more amenities for people who want to come work, shop and live in this area instead of the asphalt paving.

Public hearing:

Rick Oddo, 2801 W. 112th Street, president of Oddo Development. Oddo Development owns the land directly south of this project. He is planning on developing an apartment community. It is scheduled to have two-story duplexes and two-story apartment buildings. Some of the apartment buildings will have walk-outs. The City keeps calling these three-story buildings, but to keep it fair, the buildings in the proposed development are being referred to as four and five stories, on the back side they have parking garages, which makes it appear five and six story from the southern view. He thinks these buildings need to be called what they are, which are five and six story buildings. He does not believe that there is another six-story building in Leawood. Klein stated there are a few on Tomahawk Creek Parkway and some approved for Park Place that are up to eight-story. Oddo stated it is his understanding that they are requesting a change in zoning to allow the taller buildings. Klein stated the MXD district allows for 90 ft. in height. Oddo stated these five and six-story buildings are abutting a residential subdivision. He feels that is way too tall from his point of view. He is not aware of the other tall buildings that Klein spoke about being this close to residential. He would prefer to go back to the original plan that was approved several months ago. He asked that these tall buildings not be allowed so close to his property. He owns the property, he is an investor that holds the property, maintains it, and does not sell it. He really does care about the long-term investment of these buildings. He does not believe the current developer will be there when he is there 20 to 30 years down the road. He does like the architectural style, but not the height.

Mary Watson, 13716 Fontana. We just went through the Villaggio with restrictions and when she sees this five-story retail/condo area going in, she wonders what else will happen with 137th Street. All of this is across from residential that has already been developed and people have invested their life savings in the homes. The height of the building has been changed to six-story. If a six-story building is allowed with this development, what is to stop other developments from having six story buildings along 137th Street? This has retail on the first floor and then four stories that will be condos. She can see this in Crown Center in downtown Kansas City, but Leawood should have special restrictions for residential areas. She cannot imagine that people would want to buy expensive condos above retail when there are a lot of vacancies in the retail in this area. The gas station is not desirable on either corner of 135th and Mission or 135th and Pawnee. There is a Zipz! gas station at 135th and Roe. Anyplace that would be desirable for a gas station would be on the north side of 135th because there is no residential area that you would be coming into. If she bought a home at Tuscany Reserve and the main

entrance were coming in by a gas station, she would be upset. She thinks the Commission should take into consideration the other developments that are already in the area.

Dorothy Cellitti, 4017 W. 138th Terrace in Leawood Meadows. She had the opportunity to buy a nice home in Overland Park, but decided Leawood would be a better investment for their money. She hopes the City does not make her regret living in Leawood. This proposal is for five and six-story buildings across from single-dwelling homes. She asked if any of the Commissioners would like to have this across from their homes. She does not think they would. She does not think it is necessary to have that kind of congestion either.

Harley Tennison, 3240 W. 138th Terrace in Tuscany Reserve. He is against the gas station. There is light pollution at night, tremendous traffic congestion, noise and trash. He does not like the looks of a Quick Trip at that location at all. Pawnee has a very beautiful tree-lined road coming into his development. The aesthetics of putting a station in there would not be good at all. He knows, based on conversations with others, there is strong feeling against the gas station.

Dave Ackerman, 3350 W. 138th Terrace in Tuscany Reserve. He feels the City is missing a real opportunity to leverage off of what has already been started with the tree-lined boulevard that Pawnee has become from 135th Street to 137th Street. A service station or convenience store would not add to the quality and look of that boulevard. He encouraged the Commission to keep in mind they are already seeing a significant amount of traffic through Tuscany Reserve. This development, particularly with a convenience store, would only add to what is already a dangerous situation.

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

Winn stated a gas station would require a special use permit and another public hearing. In regard to the height issue, they were asked to do something that was more unique. They have made a good faith effort to do that. Part of doing that is creating the height. One can't just look at the height from 137th Street looking north. Right now, the homes south of 137th Street are getting ready to have a six-lane thoroughfare. He likes the idea that they will have buildings there to help buffer the homes from the noise and light on 135th Street.

A motion to approve was made by Munson with stipulation number 39 changed to read, "prior to final site plan approval". Motion seconded by Perkins.

Williams stated, though it has been said that the gas station would require a special use permit at a later time, it is part of the plan that is before us. The corner it is proposed to be on is a critical corner. Having a gas station at that location on this property is a detrimental feature of this plan. He is not opposed of changing the zoning to Mixed Use, but he does have issues with the plan. A couple of those issues are the gas station and the amount of parking lot exposed along 135th Street. He does not see it as having a positive impact as he would like to see along 135th Street. He likes the entrance into the development. It gives an identity or statement of place, more so than the original plan. The original plan that was flanked by two retail spaces could have had the opportunity to do some similar things, but this one does a fair job. He is taken back by the buildings that provide the multi-use, all sitting along a single line at the back of the development. There are five buildings, along a line, much closer together and further enforcing the linear pattern. This seems to him as a large main building to a development.

Henderson stated he shares some of the concerns expressed about the gas station. He does not know of a single place where anyone wants to recommend a gas station. He thinks that the Commission can insist on a good approach, cleanliness and enforcement and have a gas station that might work. In respect to the height of the five-story building, the Commission approved a tower for the Church of the Resurrection of 75 ft. He is still not sure about the height.

Perkins stated he thinks this is a much better plan than what was originally shown. In regard to the gas station, he feels they would have a hard time getting a special use permit approved for that. He thinks it is a good project. He likes the mixed use more than just office.

Azeltine stated he is very concerned with the integrity of the process. Many of the same people in the audience tonight sat out here 6 months ago and now we have come back. The process is to have a preliminary come before the Planning Commission, a preliminary come before Council, a final appearance before the Planning Commission and then a final go before Council. Instead we had a preliminary go before the Commission and then to Council and at that point the Council had the opportunity to approve it or remand it. Neither of those two things happened. He believes it is unfair and disrespectful to this Commission. The fact that we are back to square one is a travesty. It is unfair to the applicant. The process has been circumvented once again. It is unfair to the neighboring residents. He is on the Commission and he has trouble understanding what just happened. He can't imagine how the residents in attendance look at the process. He wishes Leawood would stick to their process.

Conrad stated he feels the development has made great strides towards the concept of a mixed-use development. He is still concerned with the linearity. He struggles to see a lot of pedestrian connection with the residential units along 137th Street. Mission Road is seven lanes wide to the west and five lanes to the south. He is concerned about phasing. He thinks a phasing plan is very critical and should be strictly adhered to. He would hope the residents that would live there would enjoy walking around to the retail and not just pull into their garages and never use the rest of the development. He is not ready to approve the plan, but he is very supportive of the direction it is going. He would like to see additional work on the pedestrian layout. He is not sure why we excluded 80,000 sq. ft. in the calculation of the FAR. By definition of mixed-use and our bonus point system, if we are going to add more square footage, maybe the ordinance needs to be revisited. He does not feel comfortable enough with the plan to approve it.

Rohlf stated she feels the applicant has made a good faith effort to comply with the directives of Council. They have had to substantially change the plan to mixed-use. She is concerned with how realistic this plan is. It is a very innovative plan for Leawood for this corner. It is quite a change from the previous plan. The parking seems to be the overall feature of the 135th Street end. She is not sure how much demand there is for this type of development. Overall, she thinks the intent is a good one.

Williams asked if there is a stipulation regarding phasing and which building or buildings should be built first. Klein stated there is no stipulation regarding phasing as of right now. Williams stated he would like to see the buildings to the rear being built first.

Duffendack stated the project seems to be half-finished. He likes the half that is mixed-use, below the main internal entry. He thinks it would be better than what was proposed before for this site. Toward the upper part of the plan he thinks it falls apart. It seems there were two designers. He thinks there is a lot more that can be done to bring in some of the features of some of the successful urban examples that Klover gave to bring those two functions together of design and functionality. The expanse of parking does not bother him. It could be screened. It could almost disappear if the berming and screening were done properly. The use of the parcels closer to 135th needs to be looked at a little further. It is a promising site that could come together with more work.

Motion to approve failed. Henderson, Perkins and Munson were for approval. Rohlf, Conrad, Williams and Duffendack were against approval. Azeltine abstained from voting.

Lambers stated the Commission needs to make an affirmative vote for denial rather than having a motion to approve that did not pass.

Conrad asked if the applicant would be in agreement with a continuance. Winn stated the applicant would like to take this case to the Governing Body with the Commission's recommendation for denial.

Lambers stated all of the rights of the previous plan are still in affect. If the motion goes forward for a recommendation of denial and if for some reason this application is not approved by the Governing Body, then the next step would be for a final plan of the previous plan to come before the Commission. The idea was not to penalize the applicant for the resubmittal of this plan, so all of his rights were preserved of the original plan.

Conrad stated he would like to see a continuance, but it seems to him the Commission has no choice but to recommend denial.

A motion to deny was made by Conrad and seconded by Williams. Motion to deny approved. Rohlf, Williams, Conrad and Duffendack were in favor of denial. Munson, Henderson and Perkins were against denial. Azeltine abstained from voting.

CASE 04-06 SPRINT Request for approval of a special use permit for placement of wireless communications antennae on top of the CBIZ building at 114th Street and Tomahawk Creek Parkway.

Staff presentation: Presentation by Jeff Joseph. The applicant is Maria Underwood, representing Sprint. The applicant is seeking approval of a special use permit to allow the placement and use of communication antennae on top of the CBIZ building. This building is located at 114th Street and Tomahawk Creek Parkway. The proposed antennae are proposed on top of the screen wall located on top of the building. This application does meet the requirements under the Leawood Development Ordinance as explained in the staff report under the performance standards section. Notices were sent to people within 1,000 ft. as part of the City's notice requirements. An Interact meeting was held on January 12th and a summary of the meeting is included with the staff report. The applicant has submitted some photo simulations of the antennae on top of the building. The applicant has indicated that a ground-mounted equipment is not necessary for this type of antennae, so he would like to remove stipulation number 4, regarding screening of a proposed 4 ft. tall cabinet.

Munson asked if the antennae would be located inside the parapet wall. Joseph stated it would be on the outside of the parapet wall. Munson asked if it would be visible from the street. Joseph showed the photo simulations.

Perkins asked how tall it would be. Joseph stated 26 inches.

Applicant presentation: Presentation by John Underwood, representing Sprint. They have spent the last 10 months looking for a place in this area where they would not have to build a tower. They wanted to co-locate on something that existed to maintain the aesthetic value of the area, which they feel they have done. This is a repeater site. It will be camouflaged to match the existing structure. The equipment will be within the building itself. The applicant agrees with all of the stipulations.

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

Munson stated he does not like the idea of hanging anything off of these buildings that the City has worked so hard to try to make sure they are attractive. Williams stated he does not feel it will be very visible. Munson stated he does not want it to become a trend. Williams stated by having this review process, we could ensure that it would not become a detrimental trend.

Azeltine asked if the picture shown is a sample of what it would actually look like. Underwood stated, yes. It would be very hard to see from a distance. It camouflages very well. One would almost have to have binoculars to see it. It could be changed to a box antennae if it was stipulated. Azeltine stated it seems to him that since no one showed up for the public hearing, then the neighboring residents do not have a problem with it. He then asked staff if any more of these would need to come before the Commission for approval. Joseph stated, yes. Lambers stated the City is seeing more repeater usage, versus cell towers, which is the alternative. He thinks it is reasonable to assume we will see the low-level repeater sites going in versus cell towers. Azeltine asked why this was not on the consent agenda. Lambers stated it could not be a consent agenda item since it is a special use permit and requires a public hearing.

Henderson asked if they have difficulty with birds or other type of maintenance. Underwood stated the equipment is maintained internally. Periodically they may have to change an antenna out, but it would be camouflaged the same.

A motion to approve was made by Conrad, removing stipulation number 4. Motion seconded by Rohlf. Motion approved 6-1. Munson opposed.

CASE 03-06 PARKWAY PLAZA Request for approval of a final site plan. Located at the northwest corner of 135th Street and Roe Avenue.

Commissioner Duffendack recused himself from the following two cases.

Staff presentation: Presentation by Jeff Joseph. The applicant is requesting approval of a final site plan to allow construction of 78,600 sq. ft. of office/retail space, 162,272 sq. ft. of retail space, 75,000 sq. ft. of office space and 363,750 sq. ft. of residential space on 60.69 acres. This project proposes a parking ratio of 3.9 spaces per 1,000 sq. ft. A deviation was approved at the time of preliminary plan. The final plan is in substantial compliance with the preliminary plan. The only change is the area of the Retail 15 building which increased from 1,800 sq. ft. to 1,850 sq. ft. for a difference of 50 sq. ft. The applicant is proposing to use a thin stone veneer instead of the thicker stone that was approved as part of the overall plan. The material is shown on the material board. Staff is supportive of this change. The applicant is requesting to use scored concrete within all of the plaza areas. Staff is recommending the use of brick pavers in all plaza areas in order to be consistent with the other projects that were approved within this development. Staff is not supportive of the architecture proposed for the corporate office buildings. Staff is recommending the use of materials that are consistent with the rest of the development. The applicant for the corporate office buildings has agreed to revise the architecture when it comes in for final plan. One of the concerns raised during the preliminary plan process was the screening of the office buildings from the residential development along 133rd Street. The applicant has added more landscaping on the north side of the property, but staff is recommending a berm and additional landscaping opposite of the driveway. Staff would like to change one stipulation. The total square feet of construction in stipulation number one should read 679,622. Staff is recommending approval of this case with the stipulations stated in the staff report.

Rohlf asked if the stipulations as written are consistent with the buildings that have already been approved. Joseph stated, yes. The buildings that have received final approval will not need to come back. Rohlf asked if the improvements discussed at preliminary have been reflected in the revised traffic study. Ley stated it was approved with the preliminary plan for a second east-bound left-turn lane. That is part of the stipulation and the applicant has since submitted a second detention pond on the west side and they will be making modifications to that pond.

Henderson asked if the trash enclosures will be attached for the corporate buildings. Joseph stated the applicant is working on that and will come back for a final plan for those two buildings. Lambers stated it would be incorporated.

Perkins asked about the architecture of the corporate buildings. Joseph stated it is a little different from the pallet of architecture of the rest of the development. Staff has talked to the applicant about adding more stone and blending it with the rest of the buildings. Each of the pad sites will need to come back for a final approval. This is a final for the overall site.

Conrad asked the level of service at some of the intersections. Ley stated he believes it is a level service of D or C at 133rd Street and Roe Avenue. In the previously approved plan it was a little worse than that. It was still a level D but it had a lot more delay per second. Conrad asked what the acceptable level of service is. Ley stated, D.

Applicant presentation: Presentation by David Suttle of Suttle Mindlin Architects. The applicant agrees with almost all of staff's stipulations. One issue is the use of spandrel glass. It would be better if they had the ability to use it carefully and wisely. There are times when a piece of glass can be good. The Commission would see it proposed on a building when it comes in for final approval, so that if it was a bad use then the Commission would have the ability to change it at that time. The applicant would like a little bit of freedom to use some spandrel glass. Another issue is the use of paving materials. The applicant tried to be very specific on all the types of paving that would be used in the development with brick aprons, brick trim around edges, brick courtyards, colored, scored concrete, and high-contrast concrete. The individual buildings have been presented and mainly approved with this concept. Now there is an idea that they should use brick in all areas that are not strict sidewalks. It was never a concept to have so much brick in the development. They would like to be able

to specify in each building that comes along the brick, colored, scored concrete and natural concrete and use them in various combinations.

Munson asked what the Commission approved for the crosswalks. Lambers stated the stipulation for the plaza area stated there shall be brick pavers as part of the preliminary and final plan approval. Staff does not rely on the plans that are submitted. It is the stipulations that drive our position in regard to final materials that are to be constructed. Suttle stated, resolution number 2346 states, "pavers, or a combination of pavers and scored concrete shall be used in all plaza areas as approved by staff." That is consistent with the drawing. Joseph stated one of the projects was approved with a combination of brick pavers and scored concrete, but staff never received a plan that showed the majority of brick pavers. It was also a strip of brick pavers and the majority was scored concrete. At that point, staff decided to change the stipulation to all brick pavers. Suttle stated it is hard to tell what is a plaza and what is a sidewalk.

Perkins asked how much spandrel glass the applicant is proposing. Suttle stated very little.

Lambers stated there was another case where spandrel glass came up and the Governing Body directed staff to look at a limited application. In certain aspects, spandrel glass is appropriate in a limited application. Staff would not object to spandrel glass at staff's discretion. It would not be a prominent feature of the structure. Williams stated spandrel glass does have an appropriate application, but to use it where one might expect to see a clear window on a retail façade would not be an appropriate use. To use it as a horizontal band of glass to continue the horizontal look where there is a column that needs to be covered up or to get verticality, then it is an appropriate material. To use it as a false window would not be appropriate. Perkins stated he is okay with spandrel glass.

Rohlf asked if there are any renderings for the corporate building. Suttle stated that applicant is still working on it. Rohlf asked if Suttle feels comfortable that the building will match the style of the development. Suttle stated he feels confident they are moving towards something that will be attractive and similar to the vocabulary. Rohlf asked for a description of the phasing plan. Suttle stated nothing has changed. It is driven by commitments and market demands.

Perkins asked if they were going to build half of Retail 1 and then build the other half when they got a tenant. Suttle stated, yes. It has to be broken into two phases.

Azeltine asked if stipulation number 15, regarding the brick pavers, reads the same as what was written in the Council resolution. Lambers stated the stipulation for the overall final plan stated brick pavers. The applicant came in with a final site plan for an individual lot and asked for a combination of scored concrete and brick pavers. That plan ended up showing a significant amount of scored concrete and very little brick paver. Staff is not objecting to perhaps having a mixture, but he feels the stipulation should be clear that the intent was to have a predominance presence of the brick pavers, co-mingled with the scored concrete. If the applicant is willing to agree to that, then that would be acceptable to staff. It would be acceptable to staff to change the stipulation to read, "no more than 50% be scored concrete".

Henderson suggested the stipulation be changed to read, "Clay fired brick pavers shall be used predominately with scored concrete within the plaza areas and all pedestrian crosswalks." Azeltine suggested adding, "subject to staff approval". Lambers stated the crosswalks were not part of the discussion, it was just the plaza areas.

Perkins asked if that would change stipulation number 9 to allow spandrel glass on a limited basis. Lambers suggested the stipulation could be rewritten to read, "on a limited basis, as approved by staff".

A motion to approve was made by Henderson with a change to stipulation number 1 to be corrected to read, "679,622 sq. ft. of construction", a change to stipulation number 9 to read, "spandrel glass panels may be allowed on a limited basis due to its opaque nature", a change to stipulation number 15 to read, "brick pavers, clay fired, shall be used predominately with scored concrete within the plaza areas and all pedestrian crosswalks, subject to staff approval". Motion seconded by Perkins.

Motion approved 5-1. Conrad opposed.

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

CASE 77-05 PARKWAY PLAZA - STARBUCK'S Request for approval of a special use permit, preliminary site plan, final site plan and final plat. Located at the northwest corner of 135th Street and Roe Avenue.

Staff presentation: Presentation by Jeff Joseph. The applicant is requesting approval of a special use permit, preliminary plan, final plan and final plat to allow construction of a one-story, 1,850 sq.ft. retail building with a drive-thru facility. The applicant is Bradley Vince. This project is located within the Parkway Plaza development. The proposed building is located towards the south side of the lot, adjacent to the corner feature located at the northwest corner of 135th Street and Briar. Parking is proposed on the west side of the building. There are 11 parking spaces proposed for this development. Staff is recommending the Planning Commission to deny this case based on the reasons stated in the staff report. Staff is not supportive of the materials proposed for the building. Staff is recommending stone as the major building material. In staff's opinion, the entrance off of Briar is a major entryway into the Parkway Plaza Development. Country Club Bank is located on the east side of Briar Street and this project is proposed on the west side. The bank is composed of primarily stone and there are several other decorative stone features proposed for the bank site. Staff is recommending that the same quality of architecture be provided on this project also. The material pallet proposed for the Starbuck's building does not match the elevations shown in the design guidelines. The tower elements in the design guidelines are shown as constructed of stone and not stucco, as proposed by the Starbuck's building. Staff is also not supportive of the design of the plaza areas proposed within this development. Staff is recommending a substantial quantity of amenities be provided in order to be consistent with the Country Club Bank site. Staff is also not supportive of the proposed scored concrete for the plaza areas. Staff is recommending brick be used in all of the plaza areas or a combination of brick and scored concrete.

Perkins asked for a description of the parking spaces. Joseph stated they are providing 11 parking spaces, but it is also shared parking with the development.

Azeltine asked why this is a preliminary plan in addition to a final plan. Joseph stated this building is exactly the same footprint as was approved for the preliminary. Azeltine asked when the preliminary was approved. Joseph stated a couple of months ago. Azeltine stated he is amazed there are this many problems. Joseph stated the architecture was not looked at during that time, just the site.

Perkins asked if staff feels this does not meet the guidelines of the other buildings that have been approved. Joseph stated, that is correct. Azeltine asked if there were discussions between the applicant and staff. Lambers stated, yes. There were several issues and most have been resolved. The landscaping was resolved. We knew we were going to discuss the issue of the scored concrete and pavers tonight. The building is predominantly stucco. The design guidelines call for stucco to be used only an accent material, which in his interpretation should mean 20% or so, not predominant. Council recently affirmed that with an application. Another issue that will probably come up is that the applicant desires to build a wall to help screen the drive-thru and extend the building. It is not required, but in talking with the developer he has stated he cannot afford to do that unless they get some relief from the masonry requirement of the City. Lambers told the applicant to bring the building into compliance with the guidelines and if they would go a little bit further with the wall by breaking it up with some masonry then staff would probably not object. He thinks that Council and the Commission would probably look at it more favorably because they would be doing more than what is typically expected. However, since the building does not comply staff is recommending it be denied. Azeltine asked if there are compliance problems with the guidelines for the development. Lambers stated there are compliance issues with the 135th Street design guidelines. Azeltine asked if there are any LDO violations. Lambers stated the issue regarding the paving material has been handled with the stipulation, it goes back to the applicant's desire to have a predominately stucco building and the design guidelines say that stucco is to only be used as an accent feature.

Applicant presentation: Presentation by Brad Vince. They were trying to hit all of the timelines while trying to follow the guidelines. Unfortunately they ran into some issues at the very end. He hired David Suttle and made some changes with

him. He believes his comment to Mr. Lambers might have been taken out of context. It was more in a joking matter that he had said this would probably be the most expensive Starbucks constructed in the community by looking at the building. He apologized to Mr. Lambers if his comment was taken out of context with the cost of the wall. They did make the required suggestions from staff. There was a miscommunication, partially on the applicant's side and partially staff's side, that they could go back and make these changes. The applicant went back at the last minute, and with David Suttle they extended the brick up and added brick to the façade to tie it together. He feels it is not a substantial use of stucco. It is a very elegant and appropriate building. The wall tapers down to carry the height of the building. The one issue that he would like to bring up is that the applicant made these changes and had them rushed to City Hall, unfortunately they were late and the packets had already been sent out. He asked the Commission take these changes into consideration. They have addressed the brick pavers and any other outstanding issues.

Suttle stated the applicant missed the deadline to submit the newest elevations. He then showed the newly proposed elevations compared to what was given in the packet. In wanting to respond to more masonry, the tower has been redesigned with a base level of brick with the stucco being an accent at the top. That is the major element, along with the half-way that ties as a breezeway. With the new proposal, this building will have more masonry, non-stucco, than the Country Club Bank across the street. He thinks it looks good. The owner has approved that. In regard to the idea of brick versus stone, there is a combination of materials for a reason; they don't want it to be a monolithic development. At the corner of 135th and Briar, there are two symmetrical areas. The round parks are symmetrical and the low brick walls are symmetrical. His dream has always been to let the four buildings that face that intersection express a cross section nature and not cookie-cutter. The first two on one side are stone and he felt it was very important to develop this building with its colonnades and the covered patio area in front as a brick building. It would look good in stone, but he felt the overall master planning idea of introducing a variety of materials that are approved in the pallet would be a stronger move, but not so much so that a brick building would be an oddity, because they plan on having brick buildings throughout the development. There is nothing they could do to make it seem to match the Country Club two-story building. He wants it to look the best it can and complement the overall development and not be thought of as gateway buildings. They widened the drive to 15 ft. at staff's request.

Perkins stated he is in support of what has been done so far in the development, with the exception of the office buildings. He thinks this case should be continued to allow the Commission to see the new proposal.

Conrad asked what the purpose is of the height detection bar. Vince stated they do not want any large vehicles going through there. Conrad stated he has an issue as far as aesthetics. He then asked what type of vehicle would be too large to go through there. Vince stated he is not sure, but he feels that is something that can be worked out with staff. Lambers stated he believes it is there to protect the height of the overhang above the drive-thru. It will be looked at to be made aesthetically compatible with the building. Conrad stated the drive is shown differently on the landscape architect's plan. Suttle stated that is left over from an earlier idea. It has nothing to do with this building. There will not be a turn. Conrad asked how the trash would be collected. Vince stated they are able to accommodate that during the early afternoon and the trash truck will be able to back up. In regard to not asking for a continuance, there were internal comments made to the applicant by staff that they were supportive of the cause and the comment was that the applicant could replace those drawings. Unfortunately, when the drawings were delivered to the City the packets had already been sent out.

Munson asked what percentage is now masonry and what percentage is now stucco with the new proposal. Suttle stated they are now proposing approximately 80 to 85% masonry. Munson asked why the tower is a combination of masonry and stucco. Suttle stated that combination has been in virtually every design in every tower for the development. It is consistent throughout the development.

Conrad asked if there would be a half-round window. Suttle stated it would be full round window that bisects. It is a very traditional architectural datum point.

Azelline asked how long ago the applicant started speaking with staff regarding this site. Suttle stated it has been going on for months. Azelline stated it is unusual for staff to recommend denial. That means that there is either a disagreement on the materials or there is a misunderstanding. He then asked for the applicant to describe why there are issues. Suttle

stated he could only guess that someone looking at this building would think it would look good in stone, but it is not the master plan concept. He is trying to get texture of the overall place. Azeltine stated he is amazed that this is Suttle's development and he is not even complying with his own master plan. Suttle stated he is complying with the design guidelines. Azeltine stated the staff report indicates that the translucent glass material is not an approved material for this development. Suttle stated it came up with the last set of notes and the applicant has agreed to change the plan according to staff's comments.

Henderson stated he has heard the applicant say more than one time that the intersection is very important. If it is that important, he would think that it would be unwise for the Commission to just imagine how this would look. He would like to have something be presented. With the exceptions and adjustments, he would urge the Commission to consider a continuation.

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 Munson. Motion to close the public hearing approved unanimously.

A motion to continue the case until the February 14th meeting was made by Azeltine and seconded by Williams. Motion approved unanimously.

Conrad stated it was announced that Duffendack will no longer be on the Commission and he would like to thank him for his chairmanship and service. Azeltine stated he would hope the Council recognizes Duffendack's services as well.

Meeting adjourned.

J. Paul Duffendack, Chair