

# City of Leawood Planning Commission Minutes

February 14, 2006  
Meeting – 6:00 p.m.  
Leawood City Hall  
4800 Town Center Drive

**CALL TO ORDER/ROLL CALL:** Henderson, Perkins, Rohlf, Conrad, Munson, Williams, Azeltine, Reynolds

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

**APPROVAL OF THE MINUTES:** Approval of the minutes from the November 22, 2005, November 29, 2005 and January 10, 2006 meetings.

A motion to approve the November 22, 2005 minutes was made by Henderson and seconded by Perkins. Motion approved unanimously.

In regard to the November 29, 2005 minutes, Henderson stated that he noticed Commissioner Rohlf recused herself from a case and there was no note where she reappeared. A motion to approve the November 29, 2005 minutes was made by Williams and seconded by Azeltine. Motion approved unanimously.

A motion to approve the January 10, 2006 minutes was made Williams and seconded by Azeltine. Motion approved unanimously.

## **CONTINUED TO THE FEBRUARY 28, 2006 MEETING:**

**CASE 07-06 MISSION FARMS - MIXED USE** Request for approval of a final site plan and final plat. Located at approximately 105th Street and Mission Road.

**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:**

**14-06a VILLAGE OF CAMDEN WOODS - 87TH PLAT** Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

**14-06b VILLAGE OF CAMDEN WOODS - 88TH PLAT** Request for approval of a final plat. Located south of 143rd Street and west of Kenneth Road.

**14-06c VILLAGE OF CAMDEN WOODS - 89TH 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 Henderson and seconded by Williams. Motion approved unanimously.

## OLD BUSINESS:

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

**Staff presentation:** Presentation by Mark Klein. This case was last heard on January 10, 2006. One item that has been changed since the last submission is the drainage. On the previous submission they had some underground detention pipes and then a single wet detention basin that was centrally located within the development. The applicant has since changed that. They have now removed the underground detention pipe and are now proposing three detention basins. One will be dry and will be located along the west property line. The basin previously proposed will remain and an additional wet basin will be located along the east property line, where they removed a lot. The drainage study has been reviewed and approved by Olsson and Associates, which is the engineer the City has contracted with. The number of lots has changed. Previously, the applicant was proposing 32 lots. They have removed one lot that was located along the east property line, on the south side of the creek that bisects the property. The cul-de-sac length has remained the same. Staff is recommending approval of this case with the stipulations stated in the staff report.

Williams asked if the density of the project of 1.61 units per acre is based on the entire acreage of the property including the detention areas. Klein stated, yes, which is how residential density is normally calculated. Williams asked if there would be any similar open space in the surrounding developments. Klein stated he believes Highlands Creek has some areas where there are streams and flood plains that go through there. Williams asked if that would be public or private space. Klein stated it would be common space, owned and maintained by the homes association, very similar to this case. Williams stated the reason he brought it up is because of the comments at the last meeting in regard to density of the project and also the issue of rezoning and how it relates to the surrounding developments. Since this has a large section that is flood control, it looked like it would sway the unit count a little bit. Klein stated his calculation for average lot size is based on the actual individual lot sizes, and not including the common areas. Williams stated the density would come out to about a 1.9 if the detention areas were not included in the calculations. Klein stated the Villas of Chapel Green has a dry detention basin that was taken into account for their density ratio.

Henderson stated on the north side of 143rd Street between Nall and Mission, except for one housing development, all of those lots seem to be 5 and 10-acre lots with single-family residences on them. Klein stated there are five 10-acre lots that run along there and this application is for the two westernmost lots. Over the years, staff has received phone calls from the owners of the 10-acre lots expressing interest in selling off part of their back lots and providing some sort of subdivision of land. Those lots are zoned AG at this point and they are unplatted lots. Henderson asked for an explanation of the comment in the staff report that reads, "The applicant has revised the plan to request RP-1 zoning for the entire development." Klein stated when the development made the initial application they were proposing RP-1 zoning on the south side of the creek and RP-2 zoning for the north side of the creek. Henderson asked if that means they are proposing RP-1 for all of the 10-acre lots along 143rd Street. Klein stated, no, they are only proposing the rezoning for the subdivision that is before the Commission with this application.

Perkins asked for staff to explain why the requested deviations are needed. Klein stated there is typically a 30-ft. corner lot side setback in RP-1 zoning. The LDO allows a deviation for that down to 22.5 ft, which is what the applicant is requesting for three lots. The applicant could better explain why they are asking for that deviation. The other deviation is to the minimum lot width which is 100 ft. within the RP-1 zoning. Some of the lots they have actually extend off and are a little bit pie-shaped, so they are narrower at the front and then widen out towards the rear. The City normally measures lot width by taking the measurement at the building setback. They were not able to get 100 ft. on some of the lots at that point, however some of the lots are wider than that at the rear.

Munson asked what has happened in regard to the length of the cul-de-sac and any connection to the adjacent property owner. Klein stated staff had many meetings with the adjacent property owner and the applicant prior to the last Planning Commission meeting. Since that time, staff has talked with the neighboring property to the east and this applicant. At the time of writing this staff report, there was no understanding between the two. He thinks the property owner to the east wanted to work something out, but when he talked to both sides nothing had gone forward. Lambers stated that after Azeltine brought up the issue of what would trigger a denial at the last meeting, Lambers met with Fire Chief Florence and

he went back and researched the 500 ft. requirement and that standard is from 30 or 40 years ago and the basis for it is no longer relevant. Staff is in the process of preparing an amendment to the LDO to eliminate that standard so the 500 ft. will not be something that needs to be considered. In light of that, it is his opinion that the plan that is shown tonight without the connection is the best way to go. The applicant has worked with staff in both directions and staff is the one who had concerns showing a connection that would not be acceptable to the property owners to the east. When the property to the east of the Oltjen's is developed the Oltjen's will have the opportunity to have an extension from their east property line for development to occur. That will probably be preferable as opposed to having a thru-street because then they would have the residents of this property driving through the Oltjen's property to get to the development east of them to get over to Roe. This would provide the Oltjen's the ability to decide at a later date if they want development to the north and they would have some control over that in regard to the size of lots and size of homes when they choose to sell it to a developer. He feels comfortable that we are heading in the right direction with the plan that is before the Commission tonight.

Munson stated one of the concerns of having a long street like this is what would happen if the street gets blocked and emergency vehicles cannot get by. He thinks in the future that if we cannot get a connecting street then maybe there should be a section that is three lanes wide or some kind of turn off so that if there is an emergency then there would be a way for people to get out. Lambers stated he discussed that with the fire chief and there is not a lot of land left of large tracts where this might be an issue. Chief Florence suggested there are some situations where a median might be appropriate in an entry to a development.

Azeltine stated the Comprehensive Plan shows this land as low-density residential. He then asked how that is defined in the LDO. Klein stated the LDO calls out various zoning classifications. RP-1 is shown in both the low-density and medium-density classifications. Azeltine asked if the LDO calls out a specific density ratio. Klein stated, no. There is low-density residential within the Comprehensive Plan and it will say that fitting within that low-density residential classification is RP-A5, which is 5-acre residential lots, R-1, which is a minimum of 15,000 sq. ft. lots, RP-1, which is a minimum of 12,000 sq. ft. lots. Azeltine asked if the amendment to the LDO that is on the agenda tonight regarding the 10-acre requirement has anything to do with this case. Klein stated, no, this case has 19.26 acres.

Williams asked why the applicant is requesting RP-1 zoning when most of their lots are above the 12,000 sq. ft. requirement. Klein stated the main difference between R-1 and RP-1 zoning, other than the 3,000 sq. ft. difference, is the side setback. R-1 requires 15 ft., where RP-1 requires 10-ft. He believes the applicant is requesting RP-1 due to the side yards.

Perkins asked for an explanation of stipulation 11 regarding siltation. Klein stated it is his understanding that a fore-bay area is the area just before a detention pond that would slow down some of the water and allow some of the silt to fall out. The property to the east has spent a lot of money on a detention pond that is on their site. They have a fore-bay area to that detention pond as well. Stipulation 11 is there to ensure that the applicant perform a study, prior to any development taking place, to take a measurement of the siltation within the fore-bay and the detention pond on the property to the east to see what the base unit is at. After the subdivision has been constructed the applicant would go back and perform another siltation study to see how much siltation was contributed since the time the construction started. They would have an allowance for some natural siltation. The developer is supposed to take care of that amount of siltation in the fore-bay area and the detention pond. Perkins asked if the detention ponds would be built before the houses are built. Klein stated he would imagine that would be one of the first things built in the development. The detention pond referenced in stipulation number 11 is located on the property to the east. Perkins asked what a fore-bay looks like. Ley stated it is a smaller pond that is upstream from the main pond.

Reynolds asked if it is fair to say that the applicant has provided more information in terms of storm water management and appears to have addressed some of the Commission's concerns. Ley stated the applicant has added a third detention area. That increased the volume by a third. The City's engineers have reviewed it and found it does meet our standards. The peak flows coming off of this property will be less than the existing peak flows. Reynolds asked if any part of the cul-de-sac would be under water in an extreme storm. Ley stated we will not allow any water to overtop the roadway in a 100-year flood, so there will need to be box culvert there large enough to allow the water to pass underneath the roadway.

Conrad asked if the roads and cul-de-sac are all public. Ley stated, yes. Conrad asked the width, curb to curb. Ley stated 26 ft.

Azeltine asked if the "water quality best management practices" mentioned in the letter from the Oltjen's has been satisfied. Ley stated it is the policy that the State of Kansas and the City of Leawood has adopted and it is in our standards. It talks about the silt ponds and silt fences. That would be addressed during the final plan.

Rohlf asked for a description of the memo on the dais to Ley from Olsson and Associates. Ley stated the memo lists the review comments from Olsson and Associates and states that all of their issues have been resolved.

Williams asked if item 3B, regarding swales, means that some of the properties are in a flood plain. Ley stated, no. Currently the water is sheet flowing south and east and the way the property will be graded a little bit higher so the water will flow west and to the north so staff wanted to make sure that any water that flows onto these lots does not flow onto the adjacent properties. Williams then asked if there are any lots in this development that would be in the flood plain. Ley stated, no. The FEMA flood plain begins at 143rd Street and heads south.

**Applicant presentation:** Presentation by Brick Owens, Director of Land Planning for HNTB. HNTB has been commissioned by Fuller Homes. Reed Fuller is present in addition to Mitch Zeller with HNTB. Dave McClure with Apex Engineers is the project engineer. The storm drainage study has been completed to a level that has been reviewed and accepted by Olsson and City staff. The issues raised at the last meeting were the density, the cul-de-sac and the storm water. This has been about a nine month process to get to this point. The original proposal was for 32 lots with green space in the middle. The applicant worked with staff when it became apparent the connection was not going to happen. The applicant performed a more detailed storm water study to discover the need for a third detention basin. In order to be allowed the setback deviations, they created a central amenity to create value and be usable for the residents of the subdivision. The currently proposed plan has three changes. They decided to wiggle the cul-de-sac so that it is not so straight. They are trying to create value and a little bit of interest along that street. That also afforded them a little bit bigger lots, which got them to a larger lot number. They are proposing around 16,000 sq. ft., which is about 30% larger than RP-1 requirements. The applicant has eliminated a lot along the east side in response to some of the comments about storm water and comments from the Oltjen's about lot size adjacent to their property. The lot that was eliminated would have sat directly across from the Oltjen's front door. That allowed the applicant to add a detention pond, which then supported the storm drainage study. The applicant has maintained a detention basin just south of the creek on the west property line, which added the ability for them to hold their storm water. *Owens showed an aerial view of the area showing the lot that has been removed in relation to the Oltjen's house and detention pond. He then showed a colored rendering of the newly proposed plan.* In regard to the cul-de-sac length, the fire marshal has written a longer memo talking about the acceptable character of a cul-de-sac. The City requires trees 40 ft. on center. There was a comment about trees falling down on the street. If the Commission would allow the applicant to open up the street trees to 60 ft. on center, they would be happy to do that to eliminate the potential for falling trees. Hallbrook has 60 ft. on center street trees. In regard to the storm drainage, the drainage basin that essentially arrives at the Oltjen's western border is about 140 acres. Colton Creek's 20 acres is about 14.7% of that. The applicant is proposing silt fences and a hay bale system that will be in place before they move any dirt. It will isolate the stream corridor. The proposed detention basins will catch all of the water so that none of it will add to the stream. Per the City's requirements, they are not allowed to exceed the current flow off of the site. According to the storm water study, they will be detaining more than is required. In regard to the deviations, the applicant originally wanted RP-2 zoning to allow for the 10-ft. setback. Since then, the applicant has agreed with staff to zone the entire property as RP-1, which has a requirement of 12-ft. side setbacks. The side yard exceptions requested for the corner lots will allow for those homes to have side-entry garages. The lots for which they are requesting the exception to the 100-ft. lot width are all pie-shaped at the ends of cul-de-sacs and are extra long. They could get the 100-ft. width if they pushed the front yard setbacks back, but he does not think that gets the best product.

Rohlf asked if the applicant is in agreement with all of staff's stipulations. Owens stated, yes.

Reynolds asked for clarification on which ponds would be wet versus dry. Owens stated they are proposing wet ponds on each side of the road. Reynolds asked if the retaining walls around the ponds would have railings. Owens stated there is

about a 25 ft. buffer to the lot line, so there will be landscaping. The wall on the eastern basin is on the eastern side, so they do not expect traffic. Reynolds stated he appreciates the placement of the eastern detention basin and how it reduces the impact of density to the neighbors.

Henderson stated the applicant has done an imaginative job in addressing the storm water. He is still concerned about the water flow as it comes from another City. We are doing our best to squeeze it and force it the way we want it to go, but we do not have that assurance. He believes it will be difficult to contain the water flowing off of this property without it going farther eastward or southward, as it has been doing. He then asked Owens if he is confident this will work. Owens stated they have done the storm water study as to capture all of the water that is coming from their property in addition to some of it coming from the north. The calculations say it is possible.

**Public hearing:**

Joe Waeckerle, 4601 W. 143rd Street, which is south of the proposed development. As a 10-acre land owner, it is disappointing to him that we seem to be chopping up the City. If 143rd Street is no longer sacred, is Lee Boulevard no longer sacred and would it be chopped up too? He is an emergency medicine trauma doctor and a tactical physician for the US Government. He has been the medical director of the EMS system of Kansas City. He is the medical officer for the FBI and the senior advisor of the surgeon general, so he is pretty familiar with EMS systems and how to run them. He feels the Commission has been somewhat misled by the statement made by Chief Florence that he finds this acceptable. He happens to be the medical director for the EMS system for the City of Leawood and he and Chief Florence have had a long discussion on this because this is a 1,432 long cul-de-sac. They discussed why the regulation that was in place 30 or 40 years ago was pertinent to this and Chief Florence said it really is not, because the problem was the water pressure. The water pressure of Leawood is sufficient to go beyond 500 ft. In further discussion, and it has been his experience that a 1,432 cul-de-sac with a 26-ft. wide street is not in the best interest of the community, because if something happens an emergency vehicle cannot get in there. In regard to storms, he has seen numerous 100-year floods go over his bridge in the last 5 to 7 years from water drainage to the north. How can an EMS respond if there are cars parked on both sides of the street? He respectfully disagrees with those who say this is acceptable. He believes forewarned is forearmed. In his experience, this is not the best planning for the citizens of this community.

Herb Sizemore, 5302 W. 141st Terrace, Villas of Chapel Green. He has a swale in his back yard to take care of the 100-year flood water and get it off onto the creek. He wants to make sure that whatever is built to the east does not pour back onto his property.

Rick Moffitt, 14034 Ash, in Overland Park. He spoke at the last meeting in regard to the concerns he had about the long cul-de-sac, especially in regard to the flooding of the creek and inability to gain access to the homes north of the creek. Since his home backs up to this, it is very important to him. At the last meeting there was a multitude of comments from staff and the Planning Commission in regard to the 500 ft. cul-de-sac length limit and the more than three times variance that is requested. He has researched that topic. *Moffitt handed out some paperwork to the Commissioners.* The paperwork lists four credible references in regard to the reason for cul-de-sac length limitations. This is not out-dated material. All of the resources confirm that cul-de-sac length should not exceed 1,000 ft. 500 ft. seems to be the recommended maximum length. An article published by the American Planning Association seems to put all of the concepts together. He spoke to the Fire Chief last week and the Fire Chief told him that they recently had a fire call in a subdivision adjacent to Roe. Roe has been under construction, so the fire truck had to go around to get to the emergency which delayed it by a few minutes. That was delayed because there was an alternate route. With this proposal there would be no other route. The Fire Chief stated the best solution would be to have secondary access. He also agreed a divided median may be a solution, but the better solution would be to have secondary access. *Moffitt showed a plan that he drew where Colton Creek could join the two cul-de-sacs together.* That would reduce the density and make a loop, giving the possibility for a second access route. In the staff report they stated the two north lots were irregular. Changing the plan by his suggestion would allow those lots to have a more natural feel. If the creek were flooding, he feels the west side of the property is at a higher elevation and his proposal would give them better access on the west side, so it would be less likely to have the road blocked. Most of these lots are larger than 15,000 sq. ft., which is the standard for R-1. He feels these lots fit better within the R-1 zoning. That would reduce some of the density concerns. Although they did eliminate a lot, they eliminated it to the south, not to the

north where there is more density. He thinks Leawood is a superior City and does not need to stretch the limits here. He believes it excels because it strives to better than the norm.

Christopher Arth, parish administrator at St. Michael the Archangel. He is concerned about the traffic exiting the development. When the Villas of Chapel Green was built they had nice access out to Nall Avenue at either direction, but with the new Nall Avenue improvements and the way the cuts were laid in, they can go north, but if they want to go south they need to go down to Timber's Edge and make a U-turn. His concern is that if 143rd is re-built in the same manner, then the residents coming out of Colton Creek would need to go through the church's property and make a U-turn to go east.

Ley stated 143rd Street will be four lanes, undivided, so there will be full access in the future for this development. Henderson asked if that would be after the 2012 improvements. Ley stated, yes.

Jay Oltjen, 4900 W. 143rd Street, the 10 acres immediately east of the proposed development. Andy Schlagel, a planning consultant, and Rod Richardson, a real estate attorney who is well-versed in water agreements, are both available to help articulate some of the Oltjens' remaining issues with the Colton Creek plan. The last four weeks have been somewhat productive. The Oltjens are now supportive of the applicant's storm water study and plan. There are still a few inaccuracies, but the Oltjens believe those can be dealt with during the final plan. When the storm water study was done completely, it led to a change in the plan. It led to the loss of one lot and the addition of a new detention basin at the low point of the property. Unfortunately, the Oltjens were not able to make any progress with the applicant in regard to plan density and design. In addition, they cannot come to any agreement on how the siltation study would be done. Something that was not explained during the last meeting is that the Oltjens do want to develop the north three and a half to four acres of their property at some point in the future. It is their plan to tie into the east 20 acres when they eventually develop. *Oltjen showed an aerial photo of the area with a five-lot cul-de-sac drawn over the top portion of his 10 acres, tying into the property to the east.* City staff and the fire marshal do not seem to have a strong aversion to long cul-de-sacs. The Oltjens would propose that in the future, so that there is not a main thoroughfare going through their property, so that they can still keep their residence. It has become clear, through this process, allowing access across their property is the right thing to do. He had personal conversations with fire marshal Gene Hunter and fire chief Florence and they both reaffirmed that their preference is to always have two points of access in and out of a subdivision. The follow-up e-mail fire marshal Hunter sent him stated, "As you know, the fire department is generally in favor of having through streets such that our access is not limited to one path." Due to the degree of concern expressed at the last Planning Commission meeting, Oltjen did not get a feeling that he would be well-received by the Commission if he were to come in with this plan at a later time. He did not want any retaliation for that. When considering the access and safety concerns with the long cul-de-sac of Colton Creek and the Planning Commission's and City staff's desire for a connection for prudent planning, the Oltjens' request is now that a connection be made to their property from Colton Creek. Otherwise, they risk being possibly land-locked by Colton Creek. They are stepping forward to participate in a solution to the access problem and would hope that the Commission would provide direction to the applicant to do the same. The Oltjens hope to recommend approval of the Colton Creek plan tonight with a few conditions as part of the Planning Commission's approval. Those conditions are listed on the first page of the summary binder that Mr. Klein just handed out. The conditions are as follows: 1. A road is stubbed as stipulated in stipulation one. 2. A lot is removed as stipulated in stipulation two. 3. A silt study is recommended as set forth in stipulation number three. 4. He requests that, should the Commission elect to approve a plan that no road be stubbed from Colton Creek, separate action be made by the Commission to make a statement of official policy that the Oltjens' property can develop, from the east, recognizing that at the time of development it may be exceeding whatever cul-de-sac distance may be existing at the time, otherwise they run the risk of being land-locked. The final items for consideration are on the second page of the summary binder. The Oltjens have made some concessions with their property to help solve the applicant's access problems. They provided the applicant with a list of conditions that they felt were fair and reasonable to help achieve the best overall traffic plan as proposed by City staff at the last meeting. The applicant has rejected the conditions for connection across the Oltjens' property as itemized in the January 20th letter sent to Scott Lambers. The Oltjens hope the Commission reads these carefully and review them for consideration. Item A is a request to have the applicant participate in the cost of solving the access problem. Should this be stipulated, Oltjen will deed the land necessary for the road construction to the City. Items B, C and D deal with storm water considerations, given the fact that his development acreage is very small and he wants to make sure it is looked at now so that he does not have problems in the future. Item E is in regard to the Oltjens' ability to develop in the future. Item F deals with the loss of privacy with the road. Item G is a timing

issue. *Oltjen showed an aerial photo with a six-lot street drawn over it showing what it would look like if there were a connection made from Colton Creek through his property over to the property to his east.* His lots would be on a thoroughfare.

Azeltine asked if any of those three items are not encompassed in staff's stipulations. Oltjen stated none of them are included in the staff stipulations.

Presentation by Andy Schlagel, consultant on behalf of the Oltjens. Some of the neighboring cities have transition policies that relate to how you deal with developing an infill project such as this where it abuts a larger lot project. The Oltjens own a 10-acre parcel. Colton Creek is proposing lots that vary from 12,000 to 18,000 sq. ft. Some of the surrounding cities' policies indicate certain ratios, maxing out at one-acre lots. Schlagel submitted a plan during the last meeting showing Colton Creek with 28 lots, when the developer was proposing 32 lots. Schlagel was suggesting that the lots all along the common eastern border be no less than a half-acre in size. The applicant has reduced the number of lots, but that change in lot count is brought about not by any attempt to help with density. It is simply a result of adding the detention. *Schlagel showed the plan that he showed during the last meeting.* He believes it is still important to address some transition. The Oltjens want to support the development scheme. They would like the applicant to modify the five lots proposed north of the stream to be only four lots. They are okay with leaving the lots that are proposed south of the creek along the east property line. They feel it is appropriate and in keeping with the neighborhood. The density that occurs in Highlands Creek is much lower density than what is now proposed. Their plan shows a density of 1.61 and Schlagel's modification would bring the density to 1.56, still above by a quarter of a point what exists in Highlands Creek, which is probably the most comparable new subdivision out there.

Rod Richardson of the Wallace Saunders law firm, representing the Oltjens. The recommendation has been from staff that it be approved with staff's stipulations. The staff comments are dated February 8th. There is a separate memo dated February 9th from David Ley suggesting a number of different stipulations. Richardson asked if Ley's comments are included in the staff stipulations for approval. Klein stated one of the staff stipulations incorporates the Public Works stipulations listed in Ley's memo. Richardson stated he has looked at the Leawood comprehensive plan and it is a good one. Between pages 76 and 86 on residential master planning there are various goals and directives. He counted eight particular statements all of which support promoting the importance of connections between residential and avoiding long cul-de-sacs and cul-de-sacs in general where there can be connectivity. In regard to the silt study, there is a provision in Ley's comments that requires the construction of silt settling detention ponds on the applicant's property and that is fine. Stipulation number 11 says the silt study needs to be done, and that is fine, but it also says that if there is a problem, then they need to clean it up. The Oltjens would like a performance bond stipulated as part of this because they have no way of assuring that this company will be around to carry out those obligations. If it has been designed as accurately and as well as they suggest, then there should be no difficulty in getting a performance bond to back up that performance. The stipulation says that the applicant will do a silt study at the beginning of the project and at the end of the installation of the infrastructure, but it does not require that the study be done beyond that point. As the individual builders come in and move the dirt, there is no telling what will happen with that dirt. He does not want a big gap between the time that they get the streets, sewers and lights put in and the time the builders come in and move the dirt. They would like the silt study to be extended to the end of the point when the housing is built. He thinks the connection has to be there. To not allow the connection would be contrary to the comprehensive plan. In regard to cul-de-sac length, he talked with Overland Park and they limit theirs to 1,000 ft. The City of Leawood has adopted the 2003 International Fire Code and it says you really should not have more than 30 homes on a cul-de-sac. This would solve that problem. Section D107 states single-family residential developments, where the number of dwelling units exceeds 30, have to provide separate access roads for fire engines, but then it goes on to say the number of dwelling units on single fire apparatus access roads shall not be increased unless fire apparatus access roads will connect with future development as determined by the code official. The connection proposed by Oltjen and Schlagel is a perfect way to meet the City's codes, meet the Comprehensive Plan and solve the Oltjens' problems.

Tim O'Brian, lives on the 20-acres east of the Oltjens. He thinks it is important to note that he does not have any immediate plans to develop, however, he realizes it will happen at some point. To his west line from where Roe will continue to his east property line is about 662 ft. That means that if the Oltjens continued with their first proposal of a cul-de-sac, it would be

less than 1,000 ft., less than what is being proposed by the development tonight. He thinks it is important to recognize what will happen to the property east of this property and what would happen to his property. He does not see anything happening with his property for the next 5 years.

Scott Glasrud, 5006 W. 143rd Terrace, in Highlands Creek. His home backs up to 143rd Street and he knew very little about the proposed development until recently, partly because there has not been any direct communication from the developer. He recently became aware that the proposed cul-de-sac entrance will be backing up to his lot line. If it is the only entrance to the development, he is concerned about a lot of traffic coming in and going out of there, particularly in the evening when headlights would be coming directly into his home. He asked the Commission for their consideration regarding a second entrance into the development.

Pat Kenan, 14038 Ash. *Kenan showed a picture of his back yard.* The developer for Colton Creek has cleared out some brush on the property and in the process has cut down one of his trees. There was no attention given to property line. He wants to make the Commission aware of the lack of detail that is already happening with the project. There is a lot of sitting water back there and he wants to make sure that if this goes forward there is no additional water back there.

Rick Moffitt stated on January 24th his wife noticed that the developer cleared some trees that were on his fence line. *Moffitt showed some photos.* When he contacted the developer he stated that they had surveyed, but they had not marked anything and they thought it was brush. It was about 8 or 9 ft. high. They came and marked the next day and some were on his property, but some were on Moffitt's property. He would think the Commission would be cautious with any project going forward if this is how they begin the project.

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

Owens stated the developer marked the property to see where it is and it is two feet beyond the barbed wire fence, so he has taken out the barbed wire fence and some saplings were removed with the fence. In regard to Oltjens' comments, they are glad he is more comfortable with the storm water study. In regard to the access and density, they had a plan that showed a stub. They tried to negotiate it with the Oltjens and were told that was not what they wanted, so the plan proposed tonight is what they thought was negotiated. If the connection is made to the east he thinks it would be fair that they remove the idea of the transition to the half-acre lots. If the street is extended to the east, his property is only 330 ft. wide. His plan shows six lots. That would be 110 ft.-wide lots, which is what Colton Creek is proposing to his west property line. He would hope that a little bit of fairness is given to the proposal that is before the Commission now. The applicant is okay with the extension if that is what this Body decides. He has an exhibit to show how that could happen. In regard to the cul-de-sac length, they have provided a median at their entry. The technique that planners use is to provide as many turnarounds for fire trucks. There is a cul-de-sac and an eyebrow and common area where a truck could drive if there is a blockage. The fire chief is okay with this plan. The largest lots happen on the east boundary, in respect to comments from the neighbor to the east.

Rohlf asked Lambers to give the Commission some clarification on what they should be considering in regard to the access to the east, since the current plan does not show access to the east. Lambers stated the Oltjens were taken by surprise when the City contacted them to explain the stub-out that was shown to their property. Because they have a 10-acre tract, if they could not give Lambers an unqualified "yes" that they wanted the stub, then the default position from staff would be that the stub would not be going anyway, so the developer should plan on not having the stub. After a lengthy amount of time the Oltjens came back and stated they could not agree that the stub was the way to go for them. With that, the developer presented this plan to staff and we proceeded. Now that the Oltjens have come back and recognized that it may be appropriate for them to go forward with the connection as proposed, which is what we envisioned would occur, then that is probably not unreasonable to consider. As part of Mr. Oltjen's terms and conditions, he has a stipulation that the City is paying for the street on his property and that is a non-starter. Given the testimony tonight that the Oltjens prefer to have the connection be made, then he would think it would be appropriate to consider that and move forward in that regard. Azeltine asked if the Commission could approve this proposed plan as a preliminary and then look at the connection at a later time. Lambers stated, yes. We will present this plan with the anticipated final plan to the Governing Body that shows the

connection and then when it comes back to the Commission, assuming the Governing Body approves it, then you will see the plan modified accordingly. The issue with the performance bond is something that the City does not require for stipulations. The City has the power to control that the stipulations approved are met. If the applicant were to agree to provide a performance bond, it would be for the time period during the home construction part of the project only. Once the public improvements are accepted a study would be done as proposed and then from that time forward until the issuance of the final certificate of occupancy. It is not something the City typically does. He is hesitant to have the Commission make a recommendation because it is not something that the City is authorized to consider. He thinks it would be best to have that forwarded to the Governing Body for them to consider.

Owens stated Reed Fuller has been developing for 25 years and has a track record of permanence in the neighborhood and Johnson County. The applicant knows this will be a very successful project. He feels comfortable with the value of the lots. The applicant would like to not be weighed down by a performance bond. The applicant is in agreement with doing the analysis of the fore-bay, even if it needs to be done three times instead of the two times recommended by staff. Reed is a good developer and will stand by his word. *Owens showed a site plan with the connection shown.* There would still be five lots on the east property line, north of the stream.

Azeltine stated he appreciates the details given by the fire marshal regarding the safety of the cul-de-sac length, but what some of the public has stated tonight conflicts with what the fire marshal has stated. He would like some assurance from Lambers that our own people are interpreting these things correctly. Lambers stated these are intended to be guidelines and they are not concrete. The mistake we made was when the development to the west was allowed to develop without a connection going through. He believes that if this plan were to be considered as it is tonight he would be comfortable recommending approval of it, although it goes beyond what those guidelines state. We are now back to having the connection. Clearly the property owner to the east of the Oltjens is planning on having his tract developed, so Lambers is comfortable what is being proposed will happen eventually. Azeltine asked if Lambers is confident that we are within our own fire code. Lambers stated one of the things that could happen if this were to go forward, there might be a little road widening between lots 3 and 11 and 10 and 16 to allow for additional access bypass and then the cul-de-sac would start between lots 10 and 16 and they would be within the 1,000 ft. limitation. Azeltine asked if Lambers thinks that this new plan is in keeping with the comprehensive plan. Lambers stated the City does not want to see any more gates on streets that connect.

Reynolds asked for the reason for the statement in stipulation number 11 that states, "not the construction of homes within the subdivision". Klein stated, typically, the construction of the houses requires a drainage plan and siltation measures done at that time. Ley stated another issue is that the stormwater from the homes is going to go through their own lakes first, so that will help to get the silt out before it ever leaves the site. They are going to want to make sure that those retention ponds stay clean. Lambers stated another mechanism is that if they fail to maintain it then the building permit is suspended until they comply.

Williams asked if this is a situation where the Oltjens would need to apply for development of their roughly four acres in conjunction with another development, since it is less than 10 acres. Lambers stated they would be allowed to do it independently. Although we have a minimum 10-acre requirement for development, clearly something like this would be allowed to go through as an exception.

Munson stated he is very glad to see the applicant and the Oltjens propose the connection to the east. By doing so, it eliminates a lot of the concerns due to the length of the cul-de-sac and connectivity.

Henderson stated this is one of the last pieces of ground in southern Leawood and once the development happens to the east, then it solves the problem of the cul-de-sac. He asked the Commission if this opens the door to potential violations of the Golden rule by allowing other developers to purchase large lots and combine them into one property and develop 28 single-family lots on them.

Perkins asked for a suggestion on the language the Commission should include in the motion proposing the new stub-out. Lambers stated he thinks it would be best to proceed to the Governing Body. The issues raised tonight can be handled

during final development plan, once we know which plan is going to be coming back. It has been part of the record to take it under advisement.

Conrad stated he feels very strongly about the connectivity and in order to support that he would like to have a stipulation that this connection be part of the plan. Lambers stated any recommendation that would go forward would tell the Governing Body what you prefer to see when it comes back. The connection should be made part of the motion, because that would determine which plan should go to the Governing Body for approval.

Reynolds stated he does not have a problem as submitted, but if the other Commissioners wish to have a stub-out, then he would support that. He feels it is not an area of black or white and there have been many comments on mitigating factors to allow it to go forward as submitted. He commended the developer for preserving the streamway and its vegetation. That does wonderful things not only for the stormwater but also the quality of the life for the community. The headlight impact raised by a resident might be a final phase type of detail.

Williams asked how many acres the villas to the west are comprised of and the property to the south of 143rd Street. He wants to know if the process of dividing up these 10-acre lots has already started and if this would be a precedent. Klein stated Highlands Creek was agriculture land. Klein described the surrounding parcels on a site plan. Williams asked if this would be a somewhat odd condition for development due to the five 10-acre lots adjacent to it. Klein stated he does not think so. There are a number of places within the City that this type of development could occur. Currently, there is a subdivision that was platted in the 60's that showed some streets going through that never got built and then some houses got built along the arterial streets. That will probably be a situation in the future where someone will collect that land and there will be a more-dense development. Lambers stated the opportunity for the City to request a minimum lot size of 10 acres was lost when the lots to the south were zoned RP-5. The Oltjens would be the only opportunity for an island and it would be a six-acre island with what they are proposing.

Williams asked if the stormwater study and the plan to control that stormwater is addressing only the floodwater generated by the property itself, and not addressing any inadequacies of water that is already flowing into the area. Klein stated he believes it addresses all of the water upstream as well, but the City Engineer could better answer that question. Lambers stated it is just the site. The argument was made that they are capturing some of the water that is entering the site, but as it relates to the size of the watershed it is a bucket of water. It will have no affect downstream at all. Williams stated, in regard to the golden criteria, there is no change in the public safety. Henderson stated the number of people affected by the stormwater would change, so the safety factor would diminish. Williams asked if 143rd Street getting developed will alleviate any flooding on 143rd Street. Lambers stated it will alleviate the flooding north of 143rd Street so that there will be less of a backup of water during certain storm events. There would be a greater opening, so there would be a greater intensity of water for a shorter duration downstream of 143rd Street. They will see an alleviation of it backing up upstream.

**A motion to approve was made by Munson with an additional stipulation to read, "The subdivision plan at final shall include a public street connection from the northern eyebrow cul-de-sac eastward to the east property line with the northern right-of-way of the stub street access at least 150 ft. south of the north property line." Motion seconded by Henderson. Motion approved 6-1. Conrad against.**

**CASE 77-05 PARKWAY PLAZA - STARBUCKS** Request for approval of a special use permit, preliminary plan, final 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 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. This case was continued from the January 24th Planning Commission meeting due to some outstanding issues. The applicant has submitted revised plans resolving all of the issues. The applicant has revised the elevation of the building to include stone as the major building material. Additional features, such as stone pillars, have been added to the drive-thru screen wall. The plaza area located at the southwest corner of the building has been revised to include brick pavers as the major paving material. Additional amenities, such as benches and planters, have been added within this plaza area. The width of the

drive-thru lane has been increased from 12 ft. to 15 ft., per staff recommendation. The applicant is requesting a revision to the final plat due to a change to the internal lot lines. A memo has been placed on the dais that explains the reason for that. This request was made after the staff report had been sent out. Staff is recommending approval of this case with the stipulations stated in the staff report.

Rohlf asked if the staff stipulations would need to be revised to incorporate the memo on the dais. Joseph stated it would not affect the stipulations. The only thing it would affect is the number of parking spaces within that lot. It decreases from 11 to 4 spaces, but it does not affect the overall plan. Perkins asked if those parking spaces were at the front and across the street. Joseph stated the spaces across the street are what changed and now they do not have that, but it is shared parking, so they can access the parking. Perkins asked how much of that asphalt will be put in before the Starbucks is built. Joseph stated he believes it will all be built.

Munson stated there are times when there is a five-minute wait through the drive-thru at a Starbucks. He then asked what that back-up would do to traffic. Bradley Vince stated the six-car stack meets Starbucks internal requirements, so that will not be an issue. The majority of the traffic for Starbucks will be exceptionally early in the morning and with the location of this building it should not be an issue. Munson asked if there were any back-up, if it would happen on the internal streets. Vince stated, yes.

Reynolds asked if the parking lot configuration is staying the same. Joseph stated, yes, it is just the internal lot lines that would be changing.

**Applicant presentation:** Presentation by Bradley Vince. He thanked the City staff for their help in meeting with him after the last meeting. They have replaced all of the brick that was on the building to stone to meet staff's requirement. They also now meet the 80% stone vs. stucco ratio. In response to comments made by the Commission, they have taken out the illuminated drive-thru sign as well as the height bar.

Conrad asked if there will still be entrance and exit signs. Vince stated, yes, but those will not be illuminated. Joseph stated they will be directional signs. The plans currently show them as illuminated, but the applicant has since changed to non-illuminated directional signs.

Rohlf asked if the applicant is in agreement with staff's stipulations. Vince stated, yes. There is one issue with landscaping that is being addressed. Joseph stated additional trees are required along Briar Street. That would be handled prior to building permit.

Henderson asked who takes care of the trees once they get so large as to get in the way with people's sight lines. Vince stated it would be handled under the common area's maintenance agreement. Henderson asked if the owners/franchisers will talk with the group that takes care of the landscaping. Joseph stated the developer for Parkway Plaza will be responsible for taking care of the street trees. It is in the stipulations. Henderson stated he feels that the developer's performance with that stipulation has been very poor. Vince stated he thinks this should have been addressed with the first building that went into this development, which is Country Club Bank. Lambers stated the City has the ability to enforce compliance with the stipulations. Starbucks will not be responsible. It will be the developer for the overall development. Henderson asked why a special use permit is being used for this project. Joseph stated it is due to the drive-thru facility. Henderson asked if the rationale behind that is that if the drive-thru is not working well then the special use permit could be revoked. Joseph stated he believes that it is due to the fact that there will be a lot of traffic going through, which could be a hardship to the neighboring residents. Lambers stated it would be more of an issue around residential development. This would not be much of an issue as far as traffic generated, due to its location.

Perkins asked what assurances they have that this developer will put the parking lot in when the other retail buildings have not been approved yet. Vince stated the entire parking lot would not be put in for this development. It will be put in to allocate the number of cars. Joseph stated the developer is required to construct the drive aisles and the parking. Perkins asked if the 11 spaces and the drive to get there will be built. Joseph stated, yes. Perkins then asked if the drive going out will be next to those parking spaces. Joseph stated, that is correct. Perkins asked if that could pose a problem for cars to

only have one entrance and one exit. Vince stated the curbs are already in for the other road off of Briar. When the other buildings get built, there will be construction entrances for the other traffic. The customers at Starbucks will not have any other impairment from construction traffic. Perkins stated he thinks they will have a traffic jam with 15 parking spaces and only one entrance/exit. Vince stated he has some other buildings in that development under contract that he is planning on building in that one area. The Starbucks is the first building to go in. He is monitoring those other projects closely. The parking meets the City's requirements. Joseph stated the developer is required to build the number of parking spaces, which is 11 spaces for this building, even though it is not within the lot lines. Perkins stated he feels there could be a traffic jam.

Henderson stated he feels that with the pedestrian friendly changes made to this building it will be very appealing. Vince stated this will be the most expensive and nicest Starbucks in the entire four-state area.

**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 Reynolds. Motion to close the public hearing approved unanimously.**

**A motion to approve was made by Williams and seconded by Azeltine. Motion approved 6-1. Perkins against.**

#### **NEW BUSINESS:**

**CASE 05-06 REALTY EXECUTIVES** Request for approval of a final site plan. Located at 11401 Ash Street.

**Staff presentation:** Presentation by Jeff Joseph. The applicant is Aaron Beckstead with Acme Sign Company. The applicant is requesting approval of a final site plan to allow two wall signs on the south and west elevations of the existing building. This building is located within the Leawood Commons development. The proposed wall side on the west elevation is in compliance with the current Leawood Development Ordinance and also with the design guidelines for Leawood Commons. The proposed sign on the south elevation is not in compliance with the design guidelines. Per the guidelines, all signs shall be either non-illuminated or halo-lit. The proposed sign on the south elevation is internally illuminated. Staff is also not supportive of the proposed location for this sign. In staff's opinion, the location of the sign is inappropriate and the sign is not integrated within the building architecture. Staff is recommending that the size of the signage be reduced to fit within the brick pillars or moved to a different location. Staff is recommending approval of this case with the stipulations stated in the staff report.

Munson asked what business is in the building now. Joseph stated he believes it is vacant right now.

Williams asked if staff is only taking exception with the sign that is on the tower. Joseph stated, that is correct.

**Applicant presentation:** Presentation by Steve Summers. He is the applicant and the building owner of the property at 11401 Ash. The building is currently occupied. They just did a major renovation of the building. It was the Institute for Women's Health, where a group of five physicians operated for the last five years. Realty Executives is now the sole tenant, occupying the entire building. Summers is requesting two modifications to staff's stipulations number two and number three. In regard to the tower, those are not columns. It is a brick veneer that has a depth of one and a half inches. The company name is comprised of six characters for the "Realty" and ten characters for "Executives". Previous to that, the signage that was there for the Institute for Women's Health was a large circular emblem that sat on that brick veneer. "Realty" fits within the veneer section and he has two letters on each end that would not for the "Executives". It is an internationally trademarked name. Summers has had three conversations with the manager for Leawood Commons, Jim Farnum. After the conversations and submission that did not meet Farnum's approval, Summers went back to his sign company and made some modifications and resubmitted it to Jim and he then said the signs looked great. He feels the signs aesthetically fit within the development and compliment the building and the development. His primary request is to allow the signs on the one and a half inch recess. The secondary request is to have that particular signage be illuminated. As noted by staff, back-lit lettering is what is customary. Out of the nine buildings in the development, four of the buildings have illuminated channel lettering on them. Those are Gold Bank, Commerce Bank, Club La Femme and the dental building. He is requesting the illuminated channel lettering because it is easier and more visible.

Perkins asked how they could fit the sign on the tower. Summers said that it would fit, per the simulation. Staff is suggesting that we shrink the ten characters to fit within the one and a half inch recess. In Summers' opinion, it would not fit aesthetically and it would detract from the development. The management for the development has already approved the sign as proposed. Perkins asked why the applicant could not just reduce the size of the sign to fit within the area that staff is recommending. Summers stated he wants to put it in with pen letters and no raceways. They will go to the extra expense to make it look professional.

Reynolds asked if Summers is requesting illuminated channel cut letters. Summers stated he is requesting that as a secondary request. He does not want to make one request dependent on the other. Reynolds asked if the south side overlooks the parking lot. Summers stated, yes.

Munson asked if the applicant has calculated what the size of the letters would be if they reduced the sign to fit within the chase area. Summers stated they would be seven inches.

Munson asked why staff is recommending the applicant to put the sign within the chase area. Joseph stated the ordinance states signage needs to be integrated with the architecture and in staff's opinion it is not integrated within the architecture.

Azeltine stated he feels it is against the sign ordinance the way the applicant has proposed it. It is a matter of taste. The letter from the Farnum Company says that it's fine. He would be in favor of approving it as proposed by the applicant.

Reynolds stated he agrees with staff. He does not feel it would be a burden to require the applicant to reduce the size of the letters to fit within the pillars. It is facing a parking lot, not a public street, so it does not need to be extremely large to be seen by passing motorists. It should not be self-illuminated.

Williams stated he does not see the signage to be objectionable. He does not think it hurts the architecture. Compared to what was there before, which was a very large logo and four lines of text, this is far less obtrusive on the architecture. The lighting is in keeping with what is out there right now. The signs on the two banks do not look objectionable. He has no objection with what the applicant has proposed.

**A motion to approve was made by Conrad, deleting staff stipulation number two, but keeping all other stipulations. Motion seconded by Reynolds. Motion approved 5-2. Williams and Munson against.**

**CASE 06-06 ESTATES OF OLD LEAWOOD** Request for approval of a final site plan and final plat. Located at 89th Street and Sagamore.

Rohlf pointed out additional memos that were placed on the dais regarding this case.

**Staff presentation:** Presentation by Mark Klein. The applicant is requesting approval of a revised final plat and final site plan. This case was approved for a final plat and final site plan by the Governing Body on May 2, 2005. The applicant is now requesting several changes to this development. There were a couple of memos placed on the dais. One is an e-mail sent to staff outlining some concerns from Martha and Joe Conrad in regard the stipulations. It has always been staff's intention to include all of the stipulations that were part of the original approval. Therefore, staff has placed a memo on the dais to include all of the stipulations from the May 2, 2005 approval. David Ley has also handed out a memo from Public Works in which they would like to modify stipulation number five of the Public Works stipulations. The original stipulation stated that the applicant shall remove the existing pedestrian bridge and widen the channel to match the width of the channel upstream. The developer shall install a 10-ft. wide pedestrian bridge to span the creek from top of bank to top of bank. The new stipulation shall read, "The developer shall remove the interior piers of the pedestrian bridge and install a pedestrian bridge that spans from abutment to abutment. The proposed bridge opening shall have the same or greater cross-sectional area of flow as the cross-section of the channel upstream and an engineering report shall be submitted on the structural capacity of the existing abutments. The pedestrian bridge shall be 10-ft. in width, subject to staff's approval."

The applicant is coming back for a revised final for the following three items. They would like to adjust the lots within the subdivision. There would still be 27 lots; however, they would like to move some of the lot lines to make the lots more uniform. They included comparisons in the packet to show how they are changing the lots. The cul-de-sacs are shifting slightly, also. The applicant is proposing to change some of the grades. A lot of that is centered around raising the elevation of the bulbs of the cul-de-sacs by about 5 to 6 ft. The height of the retaining walls will remain the same. The applicant is proposing this change to allow for walk-out basements. The applicant is requesting to change the material from which the retaining wall on the east side of the property is constructed. It is approved to be a poured-in-place concrete wall with natural stone facing. The applicant would like to substitute that with a concrete masonry unit (CMU) called Versi-lock, which has a tumbled appearance to give it the appearance of rough stone. Staff is recommending approval of this case with the stipulations stated in the memo on the dais, in addition to the change to the Public Works stipulations as place on the dais.

**A motion to extend the meeting to no longer than 9:30 p.m. in order to hear the case in progress was made by Williams. Motion seconded by Azeltine. Motion approved unanimously.**

Williams asked if this is the same material as approved for Shops at 119th. Klein stated, yes, and also for Ironhorse Centre. Williams asked if that is the same material used for the walls at Ward Parkway shopping center. Klein stated the applicant has stated that it is.

Williams asked if the applicant would be doing any blasting, since that was a topic of discussion at the last final approval. Lambers stated the applicant has indicated they would not need to blast. They will use a chemical agent if it becomes necessary. Williams asked if that should be included in the stipulations. Lambers stated it is well-documented. The applicant has said there would be no blasting.

Munson asked if the Versi-lock is in lieu of the poured concrete backing. Klein stated, yes. The applicant could explain the process better.

*Commissioner Munson left the meeting.*

Conrad stated there was much conversation when this case was last heard about the lot sizes and making it conform more with the R-1 lots that surround it. He then asked if that was taken into consideration when the applicant changed the lot lines for this application. Klein stated the lot sizes are generally the same. He believes the changes are just to make the lots more uniform and to help set the houses more easily on them.

Reynolds asked if the Versi-lock would be used in an area where there would be stormwater forces and if it would be an issue with this system. Ley stated the stormwater would be collected at the ends of the cul-de-sacs and piped underneath the wall.

Conrad asked if there is a 100-year flood plain that would come against that wall at the lowest level. Ley stated the 100-year flood plain would be against the wall. Reynolds asked if staff is comfortable with that. Ley stated the applicant would need to take that into consideration with their design of that fabric. Reynolds asked if staff will get a chance to review that. Ley stated the applicant will be required to submit their calculations and the City's structural engineer will review that.

Henderson asked if the embankment wall will be stable enough for the insertion of these stones. Ley stated he has not seen the geo-technical report, but the applicant will have to excavate to solid ground.

Perkins asked if the applicant was not going to run the piers down. Ley stated he was going to require the applicant to remove the piers and the abutments but the applicant has stated that the abutments are in good condition and they would like to be able to reuse those. Perkins asked if Ley agrees with that. Ley stated, yes, as long as they provide an engineering report stating that and also that the cross-sectional area flow through the bridge matches the cross-channel flow upstream.

Henderson asked how the stormwater will be collected from the specific lots that Ley has stated in his memo that stormwater shall not be allowed to flow from. Ley stated the grading indicates that the water will not flow onto those properties. After properties are graded that sometimes changes the water flow and staff is wanting to ensure that the applicant construct swales to prevent water from flowing onto those lots.

**Applicant presentation:** Presentation by Bill Preloger, an architect with Nearing Staats Preloger and Jones. The site offered a wonderful opportunity to allow for a majority of these homes to have walk-out basements. That also provided the opportunity to allow these homes to not be two-story. The homes that generally surround this area are ranch-style homes and this will allow them to keep the profile of the home, as seen from the street, and the roofs of those homes to be much more compatible with the existing neighborhood. In regard to reconfiguring the lot lines, they have made relatively modest changes and those were made primarily to create lots that would have parallel side lots lines and lot lines that would be perpendicular to the street. This will allow them to build homes that will let them use the lots in a more efficient fashion and get a better house design on those lots. They are very modest changes. They made a slight change to the location of the intersection for the center cul-de-sac and the south cul-de-sac where they intersect with Sagamore/89th Street. This was done to allow them to slightly enlarge lots 1, 8, 9 and 14. The building setback requirements of the City would have restricted them to a very small house. By making this slight adjustment it will allow them to have houses that will be comparable to houses in the surrounding areas. In regard to the change in the retaining wall materials, they are not proposing a change to the design or the characteristics of the wall at all. It will still be a one, two or three-tiered wall based on how deep it needs to be as determined by the site grading. If it is a multi-tiered wall, each segment will be no more than 5 ft. high, separated by planting beds. These retaining walls are very long and the detailed soils report indicated that these walls might be subject to a differential settlement of up to 4 1/2 inches and with a poured concrete wall that is pretty excessive. They were concerned that type of wall would not be in the best long-term interest of the City or the community because that much differential change in a wall that long could result in some cracking and deterioration of the veneer. The stone wall they are now proposing is designed to move with the earth and is very capable of coping with those differential changes while still maintaining the structural integrity of the wall. The applicant will be submitted engineered reports for those walls to the City for building permit.

Azeltine asked if the applicant is in agreement with all of staff's stipulations. Preloger stated, yes.

Henderson asked how many of the 27 houses would have side-entry garages as opposed to street-entry. Preloger stated there is a possibility that five or more of them would have side-entry garages. The side-entry garages would take the form of a motor court approach. Rather than entering from the side lot, one would enter from the front yard into the side yard. It is their hope to get a number of those on the site. The reconfiguration has helped them with that.

Reynolds asked if raising the cul-de-sacs five feet would impact the preservation of the existing trees on the site. Preloger stated, no. The trees that are going to be preserved on the site are primarily in the green space and the retaining walls. The grading to be done is pretty much going to negatively affect any trees above that site. They will attempt to preserve any trees in and around the pool and cabana area as possible. Reynolds asked if they would be bringing in dirt for the fill and not carving out of other parts of the site. Preloger stated it would be imported fill.

Perkins stated it has come to his attention by two neighbors on High Drive that the work trucks for this development are using High Drive. He then asked why that is happening. Preloger asked the developer to answer that question. Bill Whitaker stated the applicant has stipulated as of May 2nd that they would not have construction trucks drive down High Drive. They are to use 89th Street. When they hire the contractors they will make sure they understand that. Perkins asked Ley if those trucks could have been in conjunction with the creek improvements along Lee Boulevard. Ley stated they did use this area for storage of materials, so it could have been that they used High Drive instead of Lee Boulevard to get the materials there, since the trucks can only go 20 miles per hour. Perkins stated the residents have told him that the asphalt has been damaged due to the trucks. Ley stated he will look into that.

Azeltine asked how late in the day the construction would occur. Klein stated stipulations 9 through 12 address the limitation on street construction. Stipulation number 10 stipulates the construction to be limited to Monday through Saturday, 8 a.m. to

9 p.m. Azeltine asked if that is a deviation from the ordinance. Klein stated there is a noise ordinance, but he believes this falls within the ordinance. Lambers stated he believes the noise ordinance goes from 7 a.m. to 10 p.m.

Williams asked if the concerns raised by the residents in regard to the construction have been addressed. Klein stated they have been addressed in the stipulations listed in the memo on the dais.

**A motion to approve was made by Henderson, including the stipulations made by Planning staff and Public Works staff as placed on the dais. Motion seconded by Perkins. Motion approved unanimously.**

Rolf suggested the two LDO amendments be heard as one case. Marcano reminded the Commission that they would need to have separate votes.

**CASE 08-06 LDO AMENDMENT - SECTION 16-2-9.2 NON-RESIDENTIAL USES** Request for approval of an amendment to the Leawood Development Ordinance.

**CASE 09-06 LDO AMENDMENT - SECTION 16-3-9 DEVIATIONS** Request for approval of an amendment to the Leawood Development Ordinance.

**Staff presentation:** Presentation by Mark Klein. Staff is recommending amendments to these sections of the Leawood Development Ordinance. They relate to a regulation that requires that all developments have a minimum of 10 acres. Both of these sections of the LDO refer to that requirement. The first amendment to the non-residential uses requires lot sizes to be a minimum of 10 acres to be developed. The proposed amendment will provide for a specific deviation to allow for commercial projects on lots that are less than 10 acres where the owner/developer has made diligent efforts to work with neighboring properties to no avail. This happens at times when a lot was originally 10 acres, but due to the dedication of right-of-way it became less than 10 acres. This occurred with the Chadwick Place development. Another situation where this could occur is a lot that is less than 10 acres, but there is a vacant lot next to. The City always encourages them to work with the adjacent property owners so we can get a more unified development with the proper connections, however, in an effort not to penalize them if they made diligent efforts to work with the adjacent property owners to create a more unified development, this would allow them to go forward. Section 16-3-9 is located in the deviation part of the ordinance. This amendment would put a deviation to that 10-acre rule within the deviation section of the ordinance. It has a requirement that they provide future access and street connections, so that in the future when they are trying to work with an adjacent property, it requires they provide connection to the future development to create a more unified development.

Conrad stated he understands the issue when the City reduces the land due to acquisition of land for right-of-way, but he feels this needs to be discussed more. He feels that it could be subjective on whether or not the owner has diligent efforts. He feels this ordinance, as it is currently written, has served the City well in the past. The City has been able to deal with these situations on an individual basis so far. He is afraid this would open the door too much so that an owner could come in with too small of a piece of property. Lambers stated the limitation that you have in place is unique to the City of Leawood in that if you were to preclude someone from developing a tract of land, then the turnaround option is that the City would have to buy it. We are trying to create the flexibility so that we can still maintain the 10-acre minimum but also show that we have the flexibility to deal with lots that don't meet it. It is to protect the integrity of maintaining the limitation and recognize that it is not absolute. Marcano stated this gives the City the specific mechanism in order to do that. Conrad stated he would like the property owner to come in and show staff and the Commission that they have a great plan for a 5-acre piece of land. Lambers stated that if that were to come in right now, then it would not get approved because it is less than 10 acres. It could not get developed unless it merged with another piece of land to create 10 acres. This amendment would give us the ability to do that. Klein stated they would still need to request the deviation and it would be up to the Commission to recommend approval and the Governing Body to approve that deviation. Lambers stated most cities do not have a 10-acre limitation. He believes five acres would be more typical to see. Conrad stated he does not know how urgent it is to have action taken on this. He would like to review the Comprehensive Plan to see the different parcels within the city. Lambers stated timing is not critical. The March meeting is pretty full, but this could be continued to April. Conrad asked when the Commission would be reviewing the Comprehensive Plan. Klein stated it is usually reviewed once a year, around

May. Reynolds stated he has no problem delaying it, but he does feel it is important to look at. Lambers suggested continuing it to the June Planning Commission meeting.

**A motion to continue the two LDO amendment cases to the June 27th meeting was made by Azeltine in order to hear the Comprehensive Plan first. Motion seconded by Reynolds. Motion approved 5-1. Conrad opposed.**

**CASE 13-06 CAPITAL IMPROVEMENTS PROGRAM 2007-2011** Request for approval of the 2007-2011 Capital Improvements Program.

**Staff presentation:** Presentation by Scott Lambers. This is before the Commission in order to ensure that the public infrastructure is being considered to be either constructed or improved. The politicians tend to look at the CIP with a much more conservative approach to the dollars associated with it and the Commission is to look at it in a much more macro perspective of what the needs are and what is being met. The Commission is in the position to recommend it to be adopted by the Governing Body. If there is anything that the Commission feels is not being properly addressed, then this would be the time to accept public comment.

Conrad asked when the most recent traffic study was done for the City. Ley stated the City is currently under contract with Trans Systems, and the overall traffic study should be completed by September. A representative from Trans Systems can meet with the Commission at a work session to discuss that. Conrad asked if Ley feels this CIP addresses the needs of the streets. Ley stated Public Works has worked with the County and tried to get Federal funds for 143rd Street. They had a study done for 143rd Street and 151st Street to see which needs to be done first and that study indicated that it did not really matter. They both had about the same amount of traffic in the 2020 scenario.

Reynolds asked how the CIP addresses erosion and stormwater management systems in that part of the City. Ley stated it does not address the erosion problems, only flooding of habitable structures. Johnson County has a program that allows for 75% funding of stormwater projects as long as it gets approved through their Board.

Henderson stated he was impressed with the finance areas. He believes it was well-thought through.

Perkins stated page four says the Planning Commission is responsible for reviewing and recommending project priority from a professional planning perspective. He does not recommend we redo the bathrooms at the golf course or that we get new golf carts. He then asked how he would go about saying what he approves and what he does not approve. Lambers stated the Planning Commission should be looking at whether or not the City is providing, over the next five years, the infrastructure to address planning issues that the Commission is much more familiar with than the general public in terms of growth areas of the City and things like that. For example, if 151st Street was clearly a high demand, but the costs were twice that of 143rd Street therefore the accountants wanted to do 143rd, then the Commission would be responsible for stating that 151st needs to be worked on first. Azeltine asked if this is something that needs to be addressed tonight, due to the time expiring. Lambers stated there needs to be a public hearing tonight, and if there are any issues of concern, this goes to the Council in March, between now and the next meeting the Commission could let Lambers know and he would let Council know. Azeltine asked if Lambers does not feel that should be made part of public record if there are any concerns. Lambers stated, no, it is really just the opportunity to open the public hearing. Even after the Commission recommends approval of the document, it could still change according to comments by the Commission made after the fact. It is a working document.

**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 the public hearing approved unanimously.**

**A motion to approve the 2007-2011 CIP was made by Williams and seconded by Azeltine. Motion approved unanimously.**

Rohlf stated the Commission needs to appoint a vice-chair. Lambers stated that person would hold the position until the Mayor makes her appointments in May. **Reynolds made a motion to appoint Ken Conrad as vice-chair. Perkins made a motion to appoint Bud Munson as vice-chair. Williams seconded Perkins' motion.** Rohlf asked Klein to make sure that Munson will be at the next meeting, since she will not be able to be there. **Williams suggested an amendment to the motion that if Munson cannot be at the next meeting, then Conrad would assume the role of vice-chair. Motion to appoint Munson as vice-chair, with Conrad as a back-up, approved unanimously.**

Meeting adjourned.

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Lisa R. Rohlf, Chair