

City of Leawood Planning Commission Minutes

March 28, 2006
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive

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

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

APPROVAL OF THE MINUTES: Approval of the minutes from the February 14, 2006 meeting.

Conrad stated he believes he voted in opposition to case 06-06.

A motion was made by Henderson to approve the minutes from the February 14, 2006 meeting, with the correction made by Conrad. Motion seconded by Azeltine. Motion approved unanimously.

CONTINUED TO THE APRIL 25, 2006 MEETING:

CASE 21-06 PINE LAKE Request for approval of rezoning from RP-2 (old zoning) and RP-3 (old zoning) to RP-3 (Planned Cluster Attached Residential District) and RP-4 (Planned Apartment Residential District), preliminary plat and preliminary site plan. Located south of proposed 137th Street and east of Mission Road. **Public hearing**

CONTINUED TO THE MAY 23, 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**

CONTINUED TO THE JUNE 27, 2006 MEETING:

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

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

CONSENT AGENDA:

CASE 22-06 PARKWAY PLAZA - RETAIL BUILDING #1 Request for approval of a final site plan. Located north of 135th Street and west of Roe Avenue within the Parkway Plaza development.

CASE 23-06 LORD OF LIFE PRE-SCHOOL CANOPY Request for approval of a final site plan. Located at 3105 W. 135th Street.

Rohlf stated there has been a request to remove case 23-06 from the consent agenda due to that fact that the presenter of that item would like to speak about that case. **A motion to remove case 23-06 was made by Azeltine and seconded by Henderson. Motion approved unanimously.**

A motion to approve case 22-06 on the consent agenda was made by Azeltine and seconded by Henderson. Motion approved unanimously.

CASE 23-06 LORD OF LIFE PRE-SCHOOL CANOPY Request for approval of a final site plan. Located at 3105 W. 135th Street.

Applicant presentation: Presentation by Grant Samms. The project he is proposing is to erect a canopy over the walkway to the entrance to the Lord of Life early education center/preschool. Currently, there is no protection for the sidewalk from the rain and then when it freezes it gets slippery and causes a safety hazard. This project is to build a canopy to prevent ice build up from occurring and to re-direct the water to the grass. There will be a workforce made of volunteers to erect the canopy above the entrance.

Henderson asked how long it will take to do this. Samms stated it would be done in a day. Henderson asked how they go about choosing the volunteers. Samms stated they will have a sign-up sheet at the Scout meetings and they will put out flyers asking people to volunteer to help. Henderson asked if Samms would be overseeing the project. Samms stated, yes, he would be overseeing the project to see that it is carried out correctly. Henderson asked if Samms has received support from the people in the school and church. Samms stated, yes.

Munson asked if this application meets all of the City's requirements. Klein stated the applicant has done an excellent job and it meets all of the City's requirements.

A motion to approve was made by Henderson and seconded by Jackson. Motion approved unanimously.

NEW BUSINESS:

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

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval for a revised final site plan. The applicant is proposing some changes to the design guidelines and also some changes to the building elevations, landscaping and the development monument sign. No changes are being proposed to building height, parking, or the general layout of the site. All of the previous approval's stipulations are carried forward to this application. The applicant received final plan approval for the mixed-use portion in December of 2003. The applicant has applied for a revised final site plan to revise the residential portion. As part of that change in the elevations, they removed some of the wood latticework from the residential portion, keeping just the latticework where the gables were. The applicant is now requesting some of the diagonal members located within those gables be removed, so there will only be the vertical members within the gables. The applicant has stated that request is due to maintenance reasons. The applicant is also asking that a stipulation of final site plan that stated downspouts could be external on the residential, but needed to be internalized on the commercial portion, be removed. If the Planning Commission agrees with that, then you would need to remove stipulation number 24, which reflects that the downspouts need to be internalized on the commercial portion. The applicant is also proposing a change to the monument sign. The previously proposed monument sign was constructed of a cut-out metal and reflected a horse jumping a fence. The applicant is now proposing a more three dimensional approach. There will be a stone wall and then a cut-out of metal of a horse jumping over the stone wall. There is another horse cut-out behind it, as if one is seeing the horse in motion as it is jumping the wall. The applicant is also proposing changes to the landscaping plan. These changes are in and around buildings A and B and further away from Leawood Estates. The applicant has provided an update to their design guidelines to include all of the materials and to make sure that everything is accurate. Staff would like to remove EIFS from the design guidelines and that is reflected in stipulation number 8.

Rohlf asked if stipulation number 8 is the only new stipulation for this plan. Klein stated, yes.

Henderson asked if staff thinks it will affect the flow of water to the disadvantage of the architecture if stipulation number 24 were removed. Klein stated he believes the downspouts are tied into the stormwater system. It would primarily affect the aesthetics of the building. Henderson asked if staff thinks the removal of the stipulation might mitigate against the enforcement of it as we typically do for all buildings in Leawood. Klein stated he does not believe it would create a precedent. It would be approval for this project only and it would be staff's intention to continue to use that stipulation.

Azeltine asked if the fire marshal's concerns regarding the internal drives have been satisfied. Klein stated that comment is from the previous final site plan in 2003. Since that time, the applicant has provided a plan showing that a fire truck can turn around.

Henderson stated he would like to discuss the reduction of interior space from 10 ft. to zero. Klein stated the applicant is just proposing the changes listed. They have a current approved plan. If this application were to get denied then they would still have that approved plan on the books.

Applicant presentation: Presentation by Rick Jones of Nearing Staats Preloger and Jones. The applicant agrees with all of the stipulations except for numbers 15 and 24. The building is two-thirds residential. It has a lot of residential characters. The gutters and downspouts are part of that whole look. In previous meetings with City staff, the applicant has agreed to do and has already contained and concealed the downspouts at the areas where the portico comes down. The only place one could see the downspouts is at the corners of the buildings. In the whole project, there are a total of nine downspouts that go to the ground on the commercial. Condominiums are now a law-suit target for the designers, architects and engineers. It is just one less thing they need to be concerned about. They feel that since it is two-thirds residential, it is appropriate for the downspouts to go all the way down instead of external and then internal.

Henderson asked if the downspouts dump water onto a hard surface or to the ground. Jones stated they connect directly to the storm water system. Henderson asked if they will be adequate to carry the water. Jones stated there are many more downspouts just the ones in the corners and they feel they are more than adequate.

Conrad stated he believes the reason for the requirement to internalize downspouts in commercial is the vulnerability of the downspout. He then asked the material of the downspouts the applicant is proposing. Jones stated it is a pre-finished sheet metal. It would not be in a place where it would get damaged. Conrad asked if there would be a lot of pedestrian traffic by those downspouts. Jones stated when the downspouts are anywhere near pedestrians it would be inside the columns.

Jones stated stipulation number 15 is a requirement that was added. He thinks the primary intent of the stipulation is to ensure that they did not build the townhouse projects immediately south of the clubhouse and then let the mixed-use project stand vacant. The applicant feels it is a moot point. They are already constructing 40% of the mixed-use project. They do not want to hinder the development of the townhouse portion of the project. They are under contract to start the drawings for that portion of the project. They are also under contract to start the second mixed-use building, which is immediately to the south of buildings A and B. It is their hope to eliminate stipulation 15.

Azeltine asked if there is a percentage that would be acceptable to the applicant. Jones stated 40% of the mixed-use is already under construction. It should be fairly obvious that they are going ahead with this project. The townhouses will be pretty much blocked from highway view by buildings A and B, which are currently under construction.

Munson asked how it adversely affects the project by keeping the stipulation. Jones stated it is possible they could break ground on the townhouse project before they would have 50% of the square footage of the mixed-use development complete. Munson asked if buildings A and B are already constructed. Jones stated they have begun construction. The stipulation states "are constructed". The condominium portion of them has already been sold to another developer. The impact would be that they would have to wait until that building is totally done before they could start the townhouse project. They would like to move from north to south. Lambers stated the stipulation uses the word, "constructed" and not "completion". That is to provide flexibility for the applicant. If they have 40% under construction, then leaving it as 40% would be fine. There will be future projects with a similar condition with a percentage amount and he would not want to set a precedent by deleting that stipulation for this case. The 40% under construction is sufficient to be a good faith effort to allow

the town homes to begin. Rohlf asked if they should revise the stipulation to read, "40% under construction". Lambers stated, yes. Jones stated "40% under construction" would be acceptable with the applicant.

Rohlf asked to see a rendering of the new monument sign. Jones showed the rendering of the monument sign. Rohlf asked if the size is consistent with what was previously approved. Klein stated the size is similar to what they previously proposed.

Henderson asked if the first word on stipulation number 24 was changed to "most", rather than "all", would that be acceptable to the applicant. Jones stated he would like it to be approved as submitted. They have concealed most of the downspouts. Lambers suggested removing the word "all" and then adding "downspouts on commercial buildings are to be enclosed as proposed". Staff feels this is a fair compromise for this type of mixed-use development.

Rohlf asked if there is anything that needs to be addressed with the design guidelines. Jones stated the applicant agrees with the EIFS stipulation. Klein stated at the time they came through with their final approval last time there were some things that were not detailed out in the design guidelines, so staff had them detail those things out. Rohlf asked if staff finds the changes satisfactory. Klein stated, yes. *Klein then showed the materials board.*

Henderson stated the fencing and railing seem to be similar to fencing around a golf course. He then asked if that is intentional. Jones stated there is not a lot of fencing on the project. The upper drawing on page 19 is the balcony rail for the units. Wrought iron is the look they are after, but when they rust it is a huge problem. That style is also around some transformers. There is not a lot of it. Henderson asked if the fencing they are proposing will weather well. Jones stated, yes.

A motion to approve was made by Munson, changing stipulation number 15 to read, "A minimum of 40% shall be under construction." and changing stipulation number 24 to remove the word "all" and add "Downspouts on commercial buildings are to be enclosed as proposed." Motion seconded by Azeltine. Motion approved unanimously.

CASE 16-06 IRONHORSE CENTRE - LOTS 5 THROUGH 8 Request for approval of a final plat and final site plan. Located at the southeast corner of 151st Street and Nall Avenue.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a final plat and final site plan for lots 5 through 8 within the Ironhorse Centre development. These lots comprise of approximately the eastern half of the development which is proposed to have four buildings consisting of 67,000 sq. ft. on 6.49 acres for an FAR of 0.24. The Commission has seen this case as a preliminary and has also seen a final for the building on lot 6. As part of this final site plan the applicant has provided an updated landscape plan, updated design guidelines and has updated elevations. The development has a number of one-story buildings that have been constructed. A two-story building has been approved on lot 6 at the southeast corner, which is actually part of this application. In regard to stipulation number 10, staff has some concerns with the two-story building and what it could look like with the amount of EIFS on it. Staff recommends the amount of EIFS be reduced to more of an accent material. The one-story buildings they are showing on the elevations look very similar to the one-story buildings that have already been constructed. Staff is recommending approval of this case with the stipulations outlined in the staff report.

Rohlf asked if that is the only specific change that staff would like the Commission to look at and comment on. Klein stated that is the primary change. The applicant has provided a revised landscape plan which meets the ordinance. They have provided a revised plat. The two things that staff noted were the amount of EIFS on the two-story building and also one of the stipulations of the preliminary was that an additional crosswalk be provided from the northeast corner of the building on lot 5 over to the sidewalk that runs on the east side of the north-south internal drive. Rohlf asked if the stipulations listed in this report incorporate the stipulations that were approved from the preliminary approval for the overall plan. Klein stated, yes. Rohlf asked if the same stipulations would be included in the final site plans when each individual building came in. Klein stated, yes, they would be held to the stipulations listed with this case, including the design guidelines.

Henderson asked if stipulation numbers 33 and 34 are the same. Klein stated, yes, that was a typo. Number 34 should be removed and the others renumbered.

Henderson stated the golf committee minutes indicate that the east side of one of the greens could be encroached upon by grasses that are foreign to the greens. He then asked if there is any possibility of any adverse affect of these buildings on the golf course, such as shading of sun and promoting of growth that could change the patterns of upkeep of the greens. Klein stated staff does not believe so. There is a 25 ft. golf course easement and the buildings are set back 40 ft. from the property line. He would imagine there could be some shadows, but does not feel it would affect it. These buildings are pretty much in the same location as previously approved. Henderson then asked if staff is comfortable with what is being proposed in regard to drainage and siltation. Klein stated, yes. One of the requirements of the preliminary was that a retaining wall be built. It was initially a single retaining wall. The applicant has since agreed to a tiered retaining wall to reduce its impact and also to plant landscaping in between it. Staff wanted to make sure the golf course committee was aware of the look of the wall. Henderson asked if staff feels that there would be any long-standing adverse affect expected. Klein stated each one of the buildings is required to have an erosion control plan as they are built.

Jackson asked if staff's concerns about EIFS are covered in stipulation number 10. Klein stated, yes. Section 16-2-10.3 of the LDO also states that EIFS will be used only as an accent material. It is staff's interpretation that it is up to around 22%. Staff feels they could bring some of the stone up a little higher on the columns to keep the look of some of the other buildings that are there, but still reduce the amount of EIFS. Jackson asked if the stipulation needs to be more specific. Klein stated it would be appropriate at this application. It would be reviewed again during the final plan application to see if the EIFS is in the right amount. Lambers stated this stipulation puts the applicant on notice that they will need to provide more masonry at final.

Munson asked if EIFS should be struck from the design guidelines so there would be less of a chance for a future builder to be misled. Klein stated that could be done.

Applicant presentation: Presentation by Fred Merrill. The purpose of this submittal was to redesign the site plan for the overall development to accommodate a user that is going to build and occupy the building on lot number 6. There are two buildings that are occupied and two buildings under construction. It is their intent to follow that type of architecture and those types of design guidelines to achieve the same type of look that currently exists. Buildings 5 and 6 were always intended to be and were approved to be two-story buildings. The two-story buildings that are shown on this site plan are the same as previously approved. The user wanted to do his own type of design on building number 6, so the developer accommodated those types of designs because it is a user-occupied building. The materials that are on the exterior of that building are stone and EIFS with some wood trims. When building 5 comes in they will accommodate and design the architecture with similarities to the other two-story building. They feel that will work very well, since those are the only two-story buildings in the development. The future one-story buildings will be designed more similarly to the one-story buildings that are currently built. The applicant has worked very closely with the golf course committee and has their approval. They have worked very closely with trimming of trees and soil retention during construction, so he feels they have those things taken care of.

Rohlf asked if the applicant is in agreement with the stipulations. Merrill stated, yes. Rohlf asked if there is anything specific in the design guidelines that will help with the overall compatibility of the buildings. Merrill stated all of the pallets are the same. The colors are all earth tones. The stone can be increased so that the EIFS is an accent. The major difference in the two-story building is that it has more of a flat roof instead of a mansard roof. Blending was done by the use and pallet of the materials.

Azelline asked if the FAR has remained the same. Merrill stated, yes.

Henderson asked how close building 6 is to the golf course, in regard to getting hit by a golf ball. Merrill stated, depending on the proficiency of the golfer, they could hit the building. Henderson asked if they would ever be requesting a net in the future. Merrill stated, no. There is screening with landscaping and pine trees. The City would have no liability whatsoever.

Conrad stated he would like to see some elevations and some sketches looking from the golf course onto lots 5 and 6. It would be helpful when the buildings come in for final plan. Merrill stated they intend to do that.

Munson asked the difference in elevation from this development to the golf course. Merrill stated the development is about 12 to 13 ft. above the fairway of holes 14 or 16. There is a drainage creek that runs in between the east side of the development and the golf course.

Henderson asked if the two oak trees by the 14th fairway would be replaced if they die. Merrill stated throughout construction they have been monitoring the number of golf balls collected on the site. He believes that with the buildings somewhat framing that hole, it helps people to concentrate a little bit more, so it would now be not quite as bad as it was before the buildings were there.

Azeltine asked when the overall final was approved. Merrill stated 2003. Klein stated the reason it was not called out was because this application is specifically looking at the eastern portion of the development. Azeltine asked if this would restart the clock in regard to building permits. Klein stated it would on this one because they are getting a revised final site plan for the entire eastern section. There is a five-year sunset clause.

A motion to approve was made by Henderson with the removal of stipulation number 34, renumbering the remaining stipulations. Motion seconded by Munson. Motion approved unanimously.

CASE 24-06 2020 W. 89TH STREET Request for approval of a final site plan to expand the parking lot. Located at 2020 W. 89th Street.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a final site plan to expand the existing parking lot on the northeast side of the building. The building that currently exists on this lot is not part of this application. The applicant is proposing to increase the number of parking spaces by adding 143 parking spaces. The site currently has 225 surface parking spaces. This is still within the LDO requirement for parking ratio. It will have a parking ratio of 4.0. There is a stipulation requiring the applicant to provide a 60-ft. access easement for a pedestrian trail that would eventually connect the pedestrian bridge that spans Dyke's Branch that is being replaced with the Estates of Old Leawood project. That trail would then run up along the west property line and up to the north property line. This would allow for a future connection that may eventually go up State Line and possibly to some recreational. Staff is recommending approval of this case with the stipulations stated in the staff report.

Rohlf asked if staff believes stipulation number 5 is critical to approval of this plan. Klein stated, yes.

Conrad asked, given the amount of additional impervious surface, if there needs to be a storm water study update. Ley stated the applicant provided a storm water study. They looked at the overall water shed model developed by Larkin and Associates, but they did not look at this site with this increased impervious area. Their site is so far downstream that by adding this impervious area the water will actually be through the area that is being detained, which is just west of State Line Road, so it should not increase the overall queues.

Conrad asked why the applicant is requesting this significant increase. Klein stated the applicant has a new tenant for the building and they would require that number of parking spaces. When the LDO was updated we included both a minimum and maximum parking ratio and the applicant worked hard to stay within that range.

Applicant presentation: Presentation by Larry Winn, speaking for Curtis Holland. The building was under-parked. It has been vacant for two years and there is now an opportunity to lease it to a single user. The only issue is the stipulation requiring the trail up the west side. There is a decision made by the Supreme Court called Noland versus the City of Tigard that has been the law of the land since 1994. In that case the City Planning Commission conditioned approval of petitioners of Mrs. Noland's application to expand her store and pave her parking lot with a dedication of land for a public greenway and a bike-hike path. That case has become famous for the concept that there has to be a nexus between the requirement for

that kind of dedication and the project being proposed. Winn does not see any nexus. They are simply expanding the parking lot. They have grave reservations whether it is possible or safe to even consider the path. *Winn showed a picture of the west curb of the existing side.* That drive will remain the same. There is three to four feet of dirt and then the tree line. The tree line falls down into the creek on a one-to-one grade. The applicant is more than willing to meet with staff to see if there is any way to thread a walking trail through there. If it is possible and can be engineered, the applicant will provide the necessary easement to allow that trail to exist and provide a maintenance easement because that trail will need to be maintained off of their parking lot. They have talked about running the trail along the west part of the driveway by marking the trail on the surface, like some bike trails on roads. Both the City and the developer need to talk with their liability people to see if that is feasible. There would need to be some kind of guard rail on the west side of the hike/bike trail. It could be a very dangerous situation if it is not engineered properly. The applicant is not suggesting that the stipulation be precluded, but does not want it as a condition precedent to getting a simple final development plan to enlarge the parking lot to get this new company into Leawood.

Conrad asked if there is still a right-of-way for 89th Street. Ley stated, yes. There is right-of-way that goes to the pedestrian bridge. It extends all the way to Lee Boulevard and that will change when the Estates of Old Leawood gets platted. The right-of-way does go to where this parking lot starts. Winn stated if a pedestrian bridge is extended over the creek, east of the Leawood Country Club property, one could walk across there and take this trail and go to the north of the building on this plan and then connect to the overload parking lot for Ward Parkway shopping center. Once there, one could walk across that parking lot and make their way under the tunnel that goes to Ward Parkway parking lot. He thinks there needs to be public safety input as to whether or not this is the best location for a trail.

Rohlf asked for comment from staff in regard to the trail. Lambers stated he believes the stipulation should remain as is. If it is not feasible or cost-prohibitive, then the City would not be unreasonable in that regard. Being a final document, having the statement such as, "will work with staff", is really not appropriate. It is more appropriate during preliminary plan approval. He then suggested that if the stipulation should remain then maybe between now and the Council meeting some language could be added in regard to the reasonableness about this. We are looking at the future of this. The owners of the parking lot that currently serves the shopping center are trying to get Kansas City, Missouri to agree that it is no longer needed for overflow. That has been demonstrated over the last 10 years. It will be a tough site to develop, but development will occur there. This trail will continue on around. The Planning Commission and Council do not want to preclude an opportunity for continued trail development within the City. Within reason, he believes the stipulation should remain in affect. He would then work something out with the applicant before it gets to City Council.

Henderson asked if the trail on Tomahawk Creek Parkway was constructed at the same time as the road. Lambers stated he was not here at the time, so he does not know. Winn stated his experience with Overland Park is that most of those trails are in the flood plain and are fairly easy for the City to obtain because they are not usable property anyway. They have been put in over a period of 20 years.

Henderson asked if stipulation number five has an intention that it will happen in the future. Rohlf stated Lambers has stated he is comfortable with leaving the language as is for this approval, then revising some of the language before it goes to Council. Henderson stated it is directed towards the applicant as if it will occur.

Azeltine asked if staff is confident this can be done safely. Lambers stated it is not in the City's interest to have things move forward in an unsafe fashion. Azeltine stated he is not sure if it is fair to ask the applicant to do this if we are not sure that it can be done in a reasonable manner. Lambers stated they are just talking about a section of the trail, not the trail in its entirety, so it is just a question of the small section. Azeltine stated his concern is that staff is recommending the access to the easement for a pedestrian trail without doing the appropriate amount of due diligence. Lambers stated staff's concern right now is that there is a pedestrian bridge that goes to nowhere. If there is no easement or access provided then anyone who walks on it is trespassing. Azeltine stated he is trying to understand how that is the applicant's problem. Lambers stated this process gives the City the opportunity to have this requirement for the easement to be provided for this amenity. It is the process that is before you that provides the opportunity. Azeltine asked what other route the City could follow if this stipulation does not get approved. Lambers stated if the City chose to acquire an easement in the future and the property owner did not want to provide it, the City would have to pay 200% of the appraised value for the acquisition of the property.

If anything, he would want the easement to be provided, and then include some sort of maintenance easement. Azeltine stated he is concerned if due diligence has been completed. He then asked if this should be continued. Lambers stated the applicant needs to go forward because of their client.

Conrad asked if the stipulation regarding the easement should read "west" property line instead of "east". Winn stated, yes, it was a typo.

Azeltine asked the timeline for moving the tenant into the building. Winn stated as soon as the parking lot is built.

A motion to approve was made by Munson with the change on stipulation number five to read "west" property line. Motion seconded by Azeltine. Motion approved unanimously.

OLD BUSINESS:

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 and SD-O to MXD, 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. The Planning Commission originally heard this case on January 24th. At that time the Planning Commission recommended the case to be continued. The applicant chose to go forward to the Governing Body at that time due to time constraints and since that time has decided they would like to be heard by the Planning Commission again. They went to the Governing Body and requested a remand back to the Planning Commission in order to get more comments. The site plan has remained the same since the previous meeting. The applicant is here to get the Planning Commission's comments and concerns so they can address those concerns and then come back to the April 11th meeting. At that point they would incorporate the comments from the Commission and show revisions to the site plan. There is a public hearing at this meeting and there will be also be one at the April 11th meeting, therefore residents can make comments at that time as well. Staff is recommending this case to be continued to the April 11th meeting in order for the applicant to gain feedback from the Commission.

Conrad asked if there has been any dialogue between the applicant and staff in regard to modifications. Klein stated, yes. The applicant wants to hear the Commission's concerns. They have talked with staff indicating they would like to address those concerns, but there are some areas that needed clarification in order to do that.

Lambers stated this was intended to be a work session with the applicant. He then suggested opening up the public hearing so that the Commission can address those issues raised by the public with the applicant. The public hearing would then be continued until the April 11th meeting with the understanding that upon that continuance the public portion would be closed, even though the public hearing is not, and then the dialogue would be between the applicant, the Planning Commission and staff.

Larry Winn stated they have an objection to the process that Lambers is suggesting. They were here in January. This Board voted 3 to 4 to recommend denial to the City Council. The public hearing that was convened in January was closed. The applicant then went to the Council and decided to go back to the Commission to better understand what some of the members were talking about in terms of specific design issues. The plan was to go to a work session on March 14th which was canceled due to lack of attendance by the Commission members. He believes this meeting should have been a continuation of the work session that did not occur on March 14th. It prejudices the applicant to have a continuing series of public hearings when they've already had one and now Lambers is saying there will be another one on the 11th in addition to one tonight. He would respectfully request that if they are going to take public comment tonight, it should be restricted to new issues that were not raised at the previous public hearing. At the previous hearing one person was concerned about a service station and another was concerned about the height of the condominiums. He would like to only hear comments on

things other than those two items. Rohlf stated she intended to open the public hearing only to hear additional comments in regard to the plan. She believes those in the audience are now mindful of what is going to occur and will probably wait until the April 11th meeting to have any new comments after seeing the revised plan that will hopefully take into account some of the things that will be discussed tonight. She believes that it is staff's preference to have the public hearing, for anything new that might have come up in regard to this plan. Lambers stated it is not uncommon to consider this. This is a second public hearing. Everyone is aware of the issues that Winn raised and to request for the public to restrict their comments to new concerns that were not brought forward is appropriate.

Henderson stated in similar past experiences the public has not kept their comments to only new information. To hold two other hearings, since there has already been one, is a bit superfluous. Azeltine stated he, too, believes it is superfluous, but his greater concern is that it is disrespectful to the public, some of whom are here for a third time for a public hearing. He then asked for staff to define what the process is and follow it. It is unfair to the people in the gallery, it is unfair to the developer and it is unfair to the people at the dais. Lambers stated the application came to the Commission and the Commission recommended denial. It went to City Council. They heard the item and the applicant requested to be remanded back to the Commission. It is now before the Commission at the request of the applicant. The next step would be for a recommendation from the Commission at the April 11th meeting to go to the Governing Body. Azeltine stated Lambers left out a couple of steps. When the Commission approved the preliminary last August it went to the Council as a preliminary and the Council passed it 5 to 3 to 1. Instead of that final coming back to the Commission it was a different final, which the Commission recommended denial. Azeltine then asked if we are back to the original plan. Lambers stated this is the plan that the Commission recommended for denial that the Council has remanded back to the Commission. Azeltine stated he is not sure if everyone in the room is clear on the process. Lambers stated a preliminary plan was recommended for approval by the Commission and then approved by the Governing Body by a close vote. As part of the deliberations the applicant stated there were some things that they would like to do to the plan that they thought would make it better but it would require significant deviations from the City's ordinances. City Council stated they would like to see what that would be. City Council and the applicant had a work session and the Council expressed... Azeltine interrupted by saying that none of what Lambers just stated is in the minutes of that City Council meeting. Lambers stated, yes it is. At that meeting Mr. Klover stood up and said that he had some things that were very creative that he could not do because they would require deviations and the City Council said they would like to see what those deviations would be before they pass judgment. Azeltine suggested tightening up the process so we are not going in a circular motion. Lambers stated the applicant was the one who saw that it might be difficult to get the original preliminary plan approved at final by the Governing Body because of the close vote and they are the ones who took the initiative to change it. It was at their request that we had the work session, then the final that came back to the Commission was different than the preliminary, so the process is still intact, with the exception that the applicant has chosen to go a different tract from the preliminary to the final process.

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

Public hearing: Tony Ross, 4004 W. 137th Terrace. This is ridiculous. The City is limiting what we can say when the applicant has had an unannounced meeting with the Council that the public was not able to speak at. The plan has changed from a three-story building to a six-story building. He is against the six stories. It is a fire hazard. There should not be a gas station next to buildings that high. It will block his view. It will make it claustrophobic. It is generally a bad plan. He believes the public should be allowed to speak at this meeting and again at the April 11th meeting.

Jane Ross, 4004 W. 137th Terrace. She believed that this was a public hearing for a rezoning to mixed-use. She has spoken with residents of Steeplechase, Merry Lea Farms, Tuscany Reserve, Leawood Meadows and Mission Prairie and no one likes the mixed-use concept. Leawood has always been known as stylish, spacious and residential. She believes that mixed-use is turning stylish into hodge-podge, changing spacious into clutter and changing residential into inner-city. She does not feel that the suburbs need to be the inner-city and that is how these mixed-use plans feel. It is not a neighborhood-like feel. No matter how many people attend these public hearings and no matter how attentive the Planning Commission may be, the City Council may circumvent the process. Regardless of the intention of the City Council, it seems to her that these private meetings between the City Council and the developer, without the presence of the Planning Commission and without allowing public comment, are not in the best interest of the residents of Leawood. The result of the work session

and subsequent meetings is a denser plan with a more inner-city feel. It is not going to be of lasting quality. The buildings proposed are too high.

David Thomas, 3443 W. 138th Terrace. He and his wife have lived in Leawood over 17 years. They just completed building their new home in Tuscany Reserve. They love the Leawood area and one of the things they have always found endearing is the residential feel. They are objective to the height of the buildings and they are against a service station. They feel the safety, traffic, noise and environmental impact will be detrimental to the value of their home. He hopes the Commission will make the appropriate adjustments.

Tim Curry, 6704 W. 146th Place, in Overland Park. He is building a house in the Siena subdivision. There is no need to have the Mission Corner project as mixed-use. They are building an apartment complex right behind it and there is no need for additional residences at that area. He believes there are apartments or condominiums going in the Villaggio development, but he believes there is not a large apartment complex behind it. In this case there is going to be the future development of condos just south of it. There is no need to make the Mission Corner project higher or used as residential.

Kevin Staley, 13704 Fontana Lane. He moved to Leawood from the Waldo area to get away and build a family. He feels the Leawood of old is what he was moving to when he moved out south. Unfortunately, he sees many empty buildings in the developments that have been approved. He has talked to several of the owners of the buildings where they built larger than they needed in order to lease out space and they are having a hard time renting those spaces. He sees the City staff and the Commission continue to promote development of other strip malls and other type of entities such as the area around the Country Club Bank and Town and Country Bank. He has some concern, as a business owner, that there is a ton of space out there. He is planning on relocating his business in about 10 months to roughly 10,000 sq. ft. and there is an large amount of space available in Overland Park and Leawood. He thinks it should be a huge concern for Council and the Commission. Those spaces will create what we see in other parts of Leawood where there is development that has been overdeveloped and 5 to 10 years from now will create a negative impact for the community.

A motion to close the public hearing was made by Henderson and seconded by Jackson. Lambers stated the motion should be to continue the public hearing to the April 11th meeting; otherwise we would need to re-notify the public. By continuing it tonight we are putting the public on record that there will be a public hearing on the 11th. **Henderson withdrew his motion.**

A motion to continue the public hearing to the April 11th meeting was made by Azeltine and seconded by Munson. Motion approved 4-1. Henderson against.

Henderson suggested making a motion to end the formal meeting and open a work session. Rohlf stated Lambers has stated the meeting should continue as it has been. Lambers stated this item is on the agenda. The idea was that this be an informal discussion by direction of the applicant.

Applicant presentation: Presentation by Larry Winn. He stated he strongly agrees in terms of the future of the City and what they are trying to accomplish. One of the reasons of this discussion is to avoid strip malls along 135th Street. Land in Leawood is of short supply. Life is changing with the aging population and the types of homes and residences are different than your typical R-1 subdivision. When this was heard by the Commission in January there were a number of favorable comments. There were some other comments that were not critical, but were not particularly helpful in what the Commission would like them to do to change the plan. Someone made the comment that the back part of it looked really good, but maybe something else could happen in the front part of the project. That does not help their architect place a building, a tree or a berm. They are more than willing to spend the time between now and the 11th to try to incorporate any specific suggestions by the Commission. They do not expect the Commission to design the project, but they need something more specific. That was the whole purpose of meeting on the 14th, which was canceled, and that is the same purpose for meeting tonight.

Rohlf asked if the applicant had a chance to read staff's description of the Commission's recommendations from the last meeting. Winn stated he read the minutes. Klein stated he listed the Commission's recommendations in the staff report

based on the minutes. Winn stated that someone had suggested that the applicant had not met with staff. That is not true. The applicant has met with staff since the last meeting. Staff has some fairly specific considerations that the applicant is taking into consideration but they did not incorporate them into the plan tonight in case that would become a problem.

Rohlf suggested looking at the staff report starting with the first page that lists the reasons for initial denial. Three of the Commissioners are absent tonight and two of those absent are planners or architects. Some of the comments that came up at the last meeting may be their comments and so when this is heard again the applicant may hear those comments again. Winn stated they want to hear those comments. He is hoping that those individuals could pass that information over to staff sooner than April 11th, otherwise they will have another continuance or they will have a vote and be sent to the City Council and will never have had the opportunity to incorporate their suggestions if they do not route them through the staff sooner rather than later. Lambers stated staff would make the tape available for review and staff will be available to discuss anything to be passed on to the applicant. Prior to the April 11th meeting the Commissioners not in attendance tonight will have the benefit of tonight's discussion and then the applicant will have the benefit of everyone's input. Staff is willing to go that extra step in order to get this moving along.

Henry Klover, Klover Architects, stated part of the confusion is that there were a lot of contradictions. One person said there was not enough parking on one half and another said there was too much parking on the other half. It would be difficult to address both issues.

Conrad stated he raised the question of adequate parking. He would like to know if there is an adequate amount of parking to support those two facilities. Also, as one drives by on 135th Street there seems to be a large expanse of parking. He feels mixed-use is very pedestrian-oriented with retail, residential and office where people could literally work and live 24 hours a day. It is difficult to visualize the success of the space. When he looks at this plan he sees three separated areas of development. He sees pad site development along 135th Street and then he sees some interesting use of retail with residential over development, and then a very single-family, without a yard, on the south part of the site. He does not see a strong interconnection between the two. The north part of the site is actually three separate nodes with very congested vehicular traffic and not much ability for pedestrians to go from the restaurants. He then asked if there is another drive-thru proposed directly across from bank. Klover stated it is a pass through, but it could potentially be a coffee shop with a drive-thru. Conrad stated he does not see the integration to have this mixed-use project be successful. The success is the pedestrian aspect and interaction of people. He then suggested seeing a three-dimension presentation of these spaces.

Klover stated they have tried to integrate the uses for the parking. The intent of having the restaurants there is to take advantage of the valet parking and having the parking available at night and using them as a multi-use. There is the possibility for several hundred cars to park, in addition to the surface parking. It adds an amenity that is greatly used in places like Chicago, but not so much in the Midwest. Part of the reason it is not used in the Midwest is because there is always a great expanse of parking lot and no one wants to spend the money on it. They have that advantage with this project. In regard to pad sites, the reason this plan came about was because of the discussion they were brought into of the 60/40 rule. By following the 60/40 guidelines, you created a series of pad sites along 135th Street. Everyone looked at all of the plans that had been approved and Council decided they wanted to do something different. By ignoring the 60/40 rule, they were able to create a center access and an activity space so that everyone is connected. The intent was to group everything together to create some focus and some hierarchy of the buildings and create pods of parking that are in between, but broken up. There was some intent and design put into it. The linear look is partly due to the design of it but it is also the desire to create a brownstone type affect as a buffer. Planning usually goes from the most intense use to the least intense use. They have done that in one piece of property. They do comply with the zoning ordinance in regard to height. They are requesting a deviation for the 30-ft. setback along 137th Street in addition to the deviation from the 60/40 rule.

Conrad stated he feels the plan is progressing well. Some form of three-dimensional presentation would help him to understand the space. Winn stated he agrees the plan is progressing well. We sometimes lose track of the fact that this is a preliminary plan. They do not have a tenant, store or name on the entire site. As they determine what the marketplace is all about they will have to come back for a final plan. We tend to get a little ahead of ourselves in the process. This is a concept preliminary plan. He is very hopeful the development next door will be successful. There is not a bunch of new

urbanism in the area in order to make a judgment on whether it will be successful or not. The consensus from the Governing Body was that they wanted something more exciting than the previously approved plan.

Conrad stated even though they do not have tenants for each space, he feels that if they are going to plan a mixed development; that needs to be defined conceptually. He feels it all needs to integrate together. To come back later and decide you want two service stations or four restaurants may not be appropriate for the overall integration that he feels needs to be part of a mixed-use development. Klover stated they tucked the bank into the building in order to integrate it rather than sticking out. There is a need for a gas station. It is on the plan because the City requested there be one. There are very few places in the City where there can be a gas station. The City just lost one at 119th Street and Roe Avenue. Munson asked if they have a tenant for the gas station. Klover stated there is not a specific tenant. Munson asked if the applicant has to have it in the development. Klover stated it was at the request of the City to show a gas station. Munson asked how flexible the applicant is willing to be on redesigning the plan. Klover stated they are flexible, but they need specifics as to what the Commission wants. Munson and Rohlf stated they do not want a gas station. Winn stated they can change that.

Munson stated he recalls Duffendack stating there is little relationship among the elements. He sees the middle part looking like they did some planning and it fits together. One of the issues raised in the public hearing was that people felt very strongly about three and four story buildings. He then asked Winn's opinion on that. Winn stated those buildings are as high as six stories, tapering down to five, four and three-story. Klover stated they are legally five stories. Munson stated that seems to be an issue for some people. Klover stated the ordinance allows for more than that. Munson asked how the row houses on the south end of the project relate to what is around them. There does not seem to be that many amenities. There is a water feature, but that seems to be off to one side. He feels there needs to be more thought to how they handle the west and east side away from the part in the middle. The middle works. He does not want a gas station. Klover stated the remark made by Duffendack was that it was half a plan. That does not mean anything to Klover. Munson stated he sees where they need to work on placing some of the elements so that it does not read as linear.

Azeltine stated Klover has stated the LDO allows for taller buildings. He thinks the proximity to residential property needs to be considered. Klover stated there are apartments planned behind this development. Winn stated they are proposed to be three stories. Azeltine stated he likes the general concept, but he is not willing to grant deviations in terms of density, given that the mixed-use concept is in its infancy in Leawood. He is very suspicious of the bonuses. Winn stated when you go vertical in a project and rely on the underground parking there is a significant expense associated with that. He is working in a number of cities that are providing incentives for the parking garages in the form of tax increment financing. They know that this type of development can not work without garages and they want the new urban concept. There needs to be sufficient density to justify this concept. Azeltine stated he understands that and he understands that if the density is not there then the developer will walk away. Leawood has a long history of being a bedroom community. Any development like this and especially any new type of development that is mixed-use needs to be unobtrusive to the surrounding residential communities. He does not believe this is unobtrusive. He does not like the idea of someone standing on their deck and having to look at a five-story building. There is a specific FAR for each of the different districts, but he is having trouble understanding how much density should be allowed with mixed-use. Winn asked if Azeltine is saying that he would be comfortable with the original plan. Azeltine stated he is not comfortable with the height of the buildings and the overall density. He feels that since Council approved it then that plan should be considered.

Rohlf asked if there is anything they can do to help break up the parking more. Klover stated it was suggested at the last meeting to add a small building in the northwest parking area. The problem is that they would have difficulty selling the three-story building because we live in a world where people still want to be seen. There is also the problem of where to put the parking for the additional building. A lot of it is underground, taking advantage of the slopes. We live in a world where there are cars, but we still want to acknowledge the pedestrians. Winn stated the greater concern is what one will see when driving by on 135th Street. They are trying to avoid the sea of asphalt concept. They could spend some effort to do a better job within that parking area to make it not to appear to have as much massing quantity. They understood that from the previous meeting.

Henderson stated he made a comment at the previous meeting about the "not in my back yard" feeling. Most of the people who will live in this development will have cars. More and more in Leawood there are bigger cars that take more gas. He thinks that they should look at that. We should not need to drive out of Leawood to get gas for our cars. No one wants it near us, but he thinks a service station is going to be necessary in every community. No one gets really excited about moving the buildings and parking around because we want it to be our color, our location, and our style. The task that the applicant has to make is which one will the Commission and residents accept. He is not sure the applicant can do what we want to do. People want variety, openness, buildings where we can buy things, places they can walk and cut grass, people to talk with, but want to get in their cars quickly to get places. He is still supportive of what they are working on. He wants the applicant to tell them what the best set of options is for Leawood. Winn stated this is a pretty new concept. All they can do is try to be good listeners, go back and make any changes that they feel they can make and still have the project be viable. They will then bring it back to the Commission and have you forward it to Council with whatever the Commission's recommendation is. If any of the Commissioners has any additional comments after tonight, please pass those through staff onto us. The more general the statement, the more frustrated the applicant gets.

Rohlf stated she believes Williams stated he would like to see the phasing of the project. Klover stated it was discussed during the first meeting and the request from the applicant was that there would not be a phasing with the preliminary, but instead at final. He thought the Commission was okay with that, but then saw it again in the comments for this case. Klein stated the phasing was part of the denial. There was a concern on how this would be phased. Lambers stated another concern was a traffic study. The applicant has already done a number of traffic studies. There is really not a significant difference in traffic generation because the additional square footage is through residential. The idea was to get through the preliminary process and then at the time of final they will submit a revised traffic plan, with the assumption that the project is going forward.

Jackson stated the people living in the brownstones may work in one of these buildings and may be visiting the restaurants and the retail. She does not understand where the walkways are from one place to the next. Winn stated they are all tied in. Klover described the pedestrian paths on the site plan. Jackson stated she would like to see a more three-dimensional, street-level view of that. It seems that they are all separate buildings with no interaction. Klover stated any downtown is a series of separate buildings, you just don't notice it.

Rohlf asked if there is anything staff is aware of that the Commission should address based on the conversations staff has had with the developers. Lambers stated Klover had suggested adding a building along 135th Street, but that got back to the pad site issue. Lambers had suggested a building closer to the center of the west half of the development. There were comments that it was like a downtown, but it is only one side. That tract is also not large enough. The only opportunity that Lambers sees for trying to create an additional building is in the northeast corner, if the service station does not go in. They could have something that would create more of a dual streetscape, at least on that part of the project. This is preliminary plan, so phasing is not part of it. Having a pad site on the west side of the project would not be feasible.

Rohlf asked if the applicant will have enough time to create a computer generated site plan incorporating some of the Commission's comments. Winn stated they would have enough time to get a three-dimensional perspective before the next meeting. Klover stated it might be hand-drawn instead of computer generated.

Conrad stated he would like to know the reason or be convinced of why they could not eliminate the private park area between the residential buildings. He would like to know how private that is. In regard to the land banked parking spaces, he does not think it looks like a very good place to add those spaces. The bank would feed potentially four lanes of traffic into the entrance for most of the people. He does not know if that would be good for traffic flow or not. We typically try to queue up for drive-thru banks. He thinks that is an issue. He asked why they are proposing angled parking on the one drive. Klover stated it is a soft convenience when parking along a street. Conrad stated, in regard to the parking distribution, 300 sq. ft. per person would be 40 people. If they all drive a car then they will take up the first island. The parking lot between there and the gas station appears to have a lot more spots than need to be in that proximity. That leaves maybe 75 parking spaces to service the three-story retail to the south. Klover stated the office users will park underground and the visitors to the retail would be above-ground. Conrad stated the three-story building to the far east has 3,700 sq. ft. so it would take 120 spots for that. They will not get 120 spots under the footprint, so most of those people are

going to need to park in the area between the retail and the office. He then asked how the pedestrians would move around the site. Klover described how he parked and walked into City Hall. Conrad stated at the Crate and Barrel site we did an extensive amount of pedestrian corridor as one went north out of the long retail portion of it and then to the west. It was an extra wide, landscaped, pedestrian walkway to interconnect those different nodes. Klover stated it is a fairly tight corner. It is not that big. Conrad stated it is difficult to visualize those things in two dimensions. He would like to know the experience of a person that is walking from a parking space to a store or office. He feels mixed-use is supposed to improve upon the pedestrian experience as one goes through the space. Klover stated most of what they are worrying about is not the parking lot as much as when they get people to the activity and pedestrian environment. They are trying to get them to focus along that area of the retail shops. Winn stated he feels they are ahead of where they were prior to tonight's meeting. One of their goals is not to tie with the Price Chopper in terms of the number of meetings with the City. Their process took a year. The applicant will look at the notes taken tonight and at previous meetings and get back with the Commission with some of the requests. They will provide some of the exhibits the Commissioner's feel might help you understand what you are looking at.

Meeting adjourned.

Lisa Rohlf, Chair