

City of Leawood Planning Commission Minutes

July 18, 2006
Meeting – 6:00 p.m.
Leawood City Hall
4800 Town Center Drive

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

Rohlf explained the Planning Commission meeting process to all attendees.

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

CONTINUED TO THE JULY 25, 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**

CASE 41-06 CORNERSTONE – CLADDAGH IRISH PUB Request for approval of a final site plan. Located at the southeast corner of 135th Street and Nall Avenue within the Cornerstone of Leawood development.

NEW BUSINESS:

CASE 30-06 ONE NINETEEN Request for approval of a rezoning from SD-CR (Planned General Retail) to MXD (Mixed-Use Development District) and preliminary site plan. Located south of 119th Street and east of Roe Avenue.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a rezoning from SD-CR to MXD and preliminary site plan. The development will be made up of a total of 290,150 sq. ft. This will be divided between 175,150 sq. ft. of retail and 115,000 sq. ft. of residential condominiums, which will contain 75 units. The proposed condominiums will consist of five levels of condominiums above one level of retail, located at the eastern end of the main center. The overall site contains the Crate and Barrel building, but as this building has received final site plan approval and is under construction, the stipulations and deviations regarding this building are not part of this application. The general site layout has remained the same. The primary differences are the condos over the eastern end with two levels of underground structured parking, the retail portion of the main center has increased from 112,077 sq. ft. to 121,850 sq. ft., retail building D has increased in size from 8,400 sq. ft. to 10,000 sq. ft. and the east end of the main center has been modified to provide a pedestrian drop-off. Staff included a number of height comparisons in the staff report. The tallest building that has been approved at this point is the future sanctuary at Church of the Resurrection at 105 ft. Staff is recommending approval of this case with the stipulations stated in the staff report.

Rohlf asked which deviations were not previously approved. Klein stated the applicant is requesting a deviation to the FAR. The maximum within this district is 0.25 and this project is proposing an FAR of 0.33. Rohlf asked if the Commission should be considering any of the other deviations that were approved with the last plan. Klein stated, since this is a preliminary, those deviations would need to be part of this approval. Rohlf asked who prepared the FAR calculation and deviations narrative that was included in the packet. Klein stated that document was prepared by the applicant.

Williams asked the difference in square footage from the previous plan to the proposed plan, minus the residential. Klein stated the total was 163,777 sq. ft. and the new total is 175,150 sq. ft., minus the retail. Williams asked if staff had reviewed the FAR calculations provided by the applicant. Klein stated he did his own FAR calculations based on the square footage given by the applicant and he came out with the same FAR that they did. Williams asked how the current deviation request to section 16-4-5.3 (A)(4), regarding percentage of the site boundary and parking areas, compared to the previously approved deviation request. Klein stated it is almost identical.

Reynolds asked the reason the storm water study would not change since the previous plan that was approved. Ley stated this is a vertical addition; also, the previous development already took the 100-year flood plain into account. Reynolds asked if this addition would not generate the amount of traffic that would require another traffic study. Ley stated he had them look at the 2020 traffic counts at 119th Street and Tomahawk Creek Parkway. Without residential it would be 4,900 vehicles and with residential it would be 4,950, so about a 1% increase at that intersection.

Commissioner Conrad arrived.

Munson asked where the 100-year flood plain is located on this site. Ley stated they are re-grading the property and making other improvements and the FEMA flood plain will be in the right-of-way, so it would be just adjacent to their property.

Jackson asked why staff discounted the full 55% on this project. Klein stated an ordinance was just changed to allow the residential to be discounted. Residential tends to have less traffic impact and less impact as far as lights and signage. Those are the primary reasons as to why it would be discounted. Jackson asked what type of development would not get the full 55%. Klein stated the ordinance is fairly new, so this is the first application this has been applied towards. The reason this one was given a full 55% is because of the buffer area along Tomahawk Creek Parkway. They did not see much of an impact on the traffic with the addition of the residential. In talking with the City Engineer, the traffic will only increase 1% by adding the residential. Jackson asked if staff is just considering the traffic. Klein stated there are a number of impacts. Staff does look at signage, but signage is generally not associated with residential and also not as much lighting. Jackson asked for a description of the increased open space. Klein stated there is a minimum of 30% open space required by ordinance. The Planning Commission has indicated that it is not good enough to just have open space; it needs to be usable open space that can be enjoyed by the public. This project is providing a pedestrian plaza at the eastern end of the development. They have also provided a very large landscaped item that provides connection between the retail shops and the pad sites. Staff is viewing it as open space that can be used. They also have open space that can be enjoyed at the major intersection of 119th and Roe Avenue. Jackson asked how staff determines if the applicant has superior site planning. Klein stated that would be verified more at final site plan application. Jackson asked if that can be used for the addition of FAR if we do not know what they are planning for superior site planning. Klein stated the stipulation is written so that they would be allowed the 0.30 FAR if it checks out at time of final site plan. We will not know some of the details at this point. That is the reason the stipulation is written that way. It is not unlike other stipulations we have had with other projects. Jackson asked what superior

environmental design would encompass. Klein stated that is listed as something they could use, but he is not sure if they are using that in this case. They are at a 0.29 FAR with the underground parking. They are allowed a 15% increase in FAR just based on the underground parking. They have to go from a 0.29 to a 0.33. They can do that based on a one-to-one ratio as far as open space. They could also do amenities as far as superior site planning. They would be able to know more at final site plan as far as if they meet those thresholds.

Munson asked what the wall along Tomahawk Creek Parkway would be made of and what it would look like. Klein stated the currently approved plan has been approved for concrete masonry unit called Versalock. It is the same unit used at Ironhorse golf course. Munson asked if there was any discussion of using natural stone. Klein stated he is not sure as far as stacking actual stone structurally but another option may be poured-in-place concrete with a natural stone face.

Henderson asked Ley to describe the storm water study in regard to the movement of the flood waters. Ley stated with the last final plan approval the City stipulated that the developer do flood benching through City Park. It is about a 30 ft. wide section where they are going to widen the creek out and will alleviate any rise in the flood waters. Henderson asked if that should address the concerns of some of the residents of flooding of the creek into their properties. Ley stated the flood elevation will be the same as it is currently when this is developed. Henderson asked when the perimeter sidewalks would be completed. Klein stated that would be looked at during final. They would not want to replace the sidewalk with each phase. It may be a question for the developer.

Rohlf asked staff to list the criteria looked at when a developer proposes MXD zoning and how this plan meets those criteria. Klein stated the site is currently zoned SD-CR, which is planned general retail. SD-CR allows a 0.25 FAR maximum. The applicant is now requesting an MXD zoning, which is mixed use. The MXD zoning also has a 0.25 FAR, but it does allow for bonuses. Those bonuses are outlined in the development ordinance. At the time the ordinance was revised in 2002, we looked at a mixed-use district in order to encourage the mixing of uses. There are a number of advantages for mixed uses. You can reduce the number of trips because people who live on the site do not necessarily have to drive somewhere else to do something. There are some safety advantages because with people living on-site there are more people to see things and it has been shown as a deterrent to crime. It also encourages more pedestrian amenities and more of a pedestrian feel. Another thing staff looks at when considering a rezoning request is what the comprehensive plan designates on the site. The comprehensive plan designated a mixed-use office/residential use on this site. There is currently a commercial component approved for this site. Rohlf asked if it appears the applicant has met the criteria for MXD zoning. Klein stated the City does not have the ability to turn people away from making an application. The applicant made an application on this property, they proposed an MXD zoning district, the comprehensive plan is one of the primary things that staff looks at because it was determined that it would be a good use for the property. Lambers stated the applicant let the City staff know many months ago that they were interested in pursuing the MXD zoning, however, because of their contractual obligation with Crate and Barrel to get that up and running within a certain time period they were obligated to proceed with the project that was approved because they had not finished their market analysis. They were looking at either high-rise condominiums or a high-rise hotel, or a combination of both. Park Place went through a similar analysis and they came back with a combination high-rise condominium hotel for their project. Staff was aware that this was coming forward, but we also do not object to them proceeding because of the deadlines that had to be met in order for Crate and Barrel to be a reality.

Williams asked for a description of how the applicant increased the space of the buildings. Klein stated the applicant would be better able to answer that. Williams stated the Golden Criteria should apply to this. He then asked Klein to go through the Golden Criteria. Klein stated the Golden Criteria is listed at the end of the staff report. The first criterion is the character of the neighborhood. This is an area that is characterized by retail uses to the north and west. It has a major arterial road along its north side. Tomahawk Creek Parkway, which is

another arterial collector, runs along the east and south side. Adjacent to the south and east there is also park land. Further to the east and to the south is residential property. That property is about 700 ft. away at the closest point. There are some apartment buildings within Overland Park to the south and also some condominiums further to the north of Camelot Court. The uses closest to the property are retail with the exception of the recreational that wraps around the south and east sides of the property. The next criterion is the suitability of the subject property for which the uses it has been restricted. The property currently has an approved plan for a retail development with a main center that wraps around Tomahawk Creek Parkway and three pad sites by 119th Street. The comprehensive plan shows this area is also suitable for mixed-use with a residential component. There is park land along the south and east sides of this site that can be readily accessed for the residential component. The City has always been very supportive of people from the office buildings using the trails. Staff feels it is suitable for the uses for which it is being proposed. The third criterion is the time for which the subject property has been vacant. The currently approved plan was approved on Dec. 5, 2005. Before that there was a Kicks 66 gas station at the corner of this site for quite some time. With the approval of the new plan, that gas station has been removed. The fourth criterion is the extent to which the removal of the restrictions will detrimentally affect nearby properties. Staff looks at the impact of the property. There are regulations within the LDO. Leawood has a lot of ordinances that require the developers to do quite a bit as far as having site amenities and landscaping. This adds to the high quality of life within the City of Leawood and City staff is interested in maintaining those stipulations. Those stipulations include meeting the landscape ordinance, which includes one street tree per 35 linear feet of 4-in. caliper, ornamental trees to be planted at a rate of one tree per 12 linear feet, shrubs are to be planted one per 5 linear feet as well as requiring additional landscaping inside the development. The City requires pedestrian connections, a differentiation of those areas with pavers. We are very strict as far as signage and lighting to ensure that it is not shining in people's eyes, but is very appropriate. Staff feels the restrictions that have been and will be placed on this project, if this gets approved, are very important to keep in place. Williams asked what would be considered as nearby property. Klein stated it is fairly vague. He considers it as not only the ones that are adjacent but also those around that. This is a property that is bordered primarily by retail uses. There is park land on the south and east sides. There is a collector arterial street that separates it from the other uses in the area, including the residential uses. The fifth criterion is the relative gain to the safety and welfare due to the denial of the application as compared to the hardship imposed, if any, as a result of the application. The primary impact with this application is the height of the building. There is a limitation of 90 ft. in the MXD zoning; however, the LDO took it into account that there may be times when building could go higher. That is the reason there is a deviation to that to allow the Governing Body to approve, with a supermajority, a height greater than 90 ft. The current application is proposing about 90 ft., so they are not requesting that deviation. As far as the impact of the additional residential to traffic, in talking with the City Engineer it seems to impact a fairly low percentage. As far as park land, it has always been the City's intent to have the parks enjoyed by its citizenry. Staff feels it meets the burden of proof as far as being appropriate for the site.

Williams asked how the height is measured. Klein stated it is to the top of the roof, not including any kind of parapet wall that would hide the utilities. That is the way the LDO requires it to be measured. Williams asked if there is anything in the LDO that restricts the height above the roof for mechanical equipment. Klein stated, no. Lambers stated he is going to be proposing an amendment that would provide such a limitation. It would be somewhere between 15 and 20 ft., but it would not be applied to tonight's application.

Klein stated the sixth criterion is the recommendation of permanent staff. Staff is recommending approval of this case with the stipulations stated in the staff report. The seventh criterion is the conformance of the requested change to the adopted master plan adopted by the City of Leawood. The comprehensive plan shows this site as being appropriate for mixed-use with office and residential.

Marcano reminded the Commission that the Golden factors come from case law and case law also states that they are not intended to be a checklist. They are just guidelines for commissioners to give them some things to look at. They may not be appropriate in every case, but to give you some guidelines to look at as you go through the process.

Reynolds asked the maximum height allowed in the planned general retail district. Klein stated 50 ft.

Applicant presentation: Presentation by Jeff McMann, a partner in RED Development. The development team has worked closely with staff and has made several changes in order to receive staff's approval. The entire design and development team is in attendance tonight. *McMann introduced the development team.* Last year when they brought this for the City's approval, they knew they could develop an outstanding retail center and they feel they can still do that. At that time Crate and Barrel was looking at several locations in the KC area and this location was their first choice. In order to make it happen, RED had to move on with the plan at that time and phase them into it in order to get them open by 2006, which was a requirement to get them into this project and into Leawood. RED was also having discussions internally and with staff that there may be a better and higher use of the property by adding a mixed-use component that would make the project even better and unique. They think it is a great project and adding a mixed-used concept will only make it better. To do that, it would take additional time, more market research and additional design work, which they have now completed. They still intend to open the Crate and Barrel store this fall. They are still on schedule to open the first phase of the retail stores by the fall of 2007, which is also a requirement of their contract with Crate and Barrel. The goal is to open the residential component in the fall of 2008. The project is a few weeks ahead of schedule. In regard to Commissioner Williams' question about the amount of square footage, the footprint has not changed. They have been approached by many tenants about the possibility of adding back-of-house mezzanine space, so they felt this would be a good opportunity, since they are requesting an increase in FAR. That represents the increase to the square footage. There is some minor movement of walls down at the residential end, but not at the retail portion.

Presentation by Ken Boone, Senior Project Manager at Oschner Hare and Hare. The preliminary plan approved the retail center. The final plan approved the Crate and Barrel building and the perimeter of the project, including the retaining wall. Some of the stipulations were that they had to define what it would look like on the outside, knowing that they were going to work on the inside. Those areas have not changed. The perimeter has not changed. The open space and landscaped areas on the interior have not changed. The grouping of the large area with the walking connector has not changed. The other connector between Crate and Barrel has not changed. The large triangular public plaza area in front of Building A has grown about 10 ft. along that frontage. The parking lots have not changed. The building in the far northwest corner has changed, as shown by staff. The major change is the addition of the residential component into the project. They feel it adds the 24/7 feel to the project. It adds excitement, built-in customers, walk ability and life that the center can now have. The only thing that has changed is the corner around the northeast corner of Building A. The architectural façades for Building A have not changed.

Rohlf asked if the model shows what has been approved. Boone stated the model has the residential component added to the plan that has been approved. In regard to the retaining wall material, they had many discussions with this Commission, Council and staff on the material of the retaining wall. What was reinforced to the applicant and what he believes is in the ordinance is that it is a split-faced block that has a flat profile with a random height component and a mixed material color component so that it reflects better what a traditional masonry wall might look like, but they can still have the ability to build it as a component wall system. They chose that material because of the service drives and they wanted to layer-in the landscaping. They are now working on that specific material and the specification of it and the material they are going to use. They will go through all of the correct

channels for approval of it as they come in for final plan approval. In regard to height, they worked very hard to reduce the height of the wall. Originally, the wall had the appearance of being 4 ft. higher than shown on the plans. They worked with staff to grade up from the back of the sidewalk and lost 4 ft. of the wall. The affected piece is the one that people are engaged in. In regard to the question raised about the perimeter sidewalks, they would not want to damage the existing sidewalk systems. They will certainly work with staff to keep the perimeter sidewalks as active as possible during construction.

Rohlf asked for a description of the phasing, particularly with public amenities. *Boone described the phasing plan on the three dimensional model.* Boone then stated it is very important to the Commission and Council that they control the borders, since it is a phased project. They wanted the project to come in very early to establish the edge with trees and sidewalks.

Williams asked why adding the residential would not change the traffic impact. Boone stated he would like Chris Shears to address that question. They can now activate all of these large spaces that they have dedicated longer as park spaces for the people that live there. These spaces are pretty generous for a retail center. They see that as being their front door park space where they can get a cup of coffee and sit. Williams asked the size of that space. Boone stated he does not know off-hand. They have provided a covered drop-off for the condominiums. The parking and access for the condominiums is in the back. They are trying to avoid any kind of conflicts between the residents and the shoppers. That is why it is pulled out of the circulation mix. Williams asked for further elaboration of the entrance to the condominiums. *Boone described the entrance to the condominiums on the site plan.* Williams asked how people would get from the lobby of the residential to the retail shops. Boone stated they would come out from the covered area and travel through the retail façade and there is a staired terrace and a handicapped accessible route around the edge, and then they are quickly to the public plaza area. Williams asked the width of the sidewalk. Boone stated 12 ft. Williams asked the amount of usable space. Boone stated the triangular space is about 180 ft. across the north portion, about 120 ft. along the west portion. Williams stated it would seem to be about 10,000 sq. ft. of space. Boone stated he believes that is probably accurate. For an urban space, at the foot of a condominium, that is a generous space so people can start to feel it is theirs. Some of the condominium re-dos downtown have spaces that are maybe half that size. Williams stated they have heard the comparison made in Leawood to others in downtown areas and this is not a downtown area. Having a reasonable amount of space is necessary to get the bonus points for FAR but also to add to the quality of life is very important. 10,000 sq. ft. can get used up fairly quickly with plantings and leave little space for people to feel it is their space.

Reynolds asked if the retaining wall along Ward Parkway uses the same materials. Boone stated, yes. Reynolds then asked if the driveway entrance and the lobby are a floor below the retail. Boone stated, yes. That offers some interesting possibilities from a retail standpoint. If that wall were to move in to allow for a split terrace, there is some opportunity there. There is enough room to get ADA accessibility around the corner. Reynolds asked if the corner at the residential level is the parking garage. If that is the case, then he would be concerned about slopes and the driveway and the pedestrian connections. Boone stated Chris Shears could better answer that question. Reynolds then asked about the ratio of number of condos to the number of parking spaces in the garage. Boone stated Chris Shears could better answer that question also.

Chris Shears stated his company has not yet completed any projects in Leawood, but have done three in Kansas City, Missouri and two additional projects in design. For the last two months they worked with RED Development and Down Town Developers Inc., the designated party to develop the residential portion of this development. He would like to discuss what is changing. There were a few things that were important as they began this design effort. The building needed to be on the east end of the retail. There had to be a phased construction that would begin on the west in order to get that part of the project completed in a timely way. The length of the residential

had to be controlled. In a multi-family project like this, there is a limit to how long a corridor can be. They needed to handle the parking so that it was convenient for those residences. It had to be compatible with the character of the existing retail and also had to stand up to the character of Crate and Barrel. Crate and Barrel has a history for well-designed buildings. His company has another of his projects in Denver that has Crate and Barrel as an anchor. The concept that evolved as a solution to solving this problem was a building that was long and low and linear and a mid-rise building that floats about the existing retail and then wraps over the eastern end of the retail to create it's own identity and it own entry. That is particularly important with this project because it is important for the residential piece to have its own identity that is in some ways separate from the retail because it is in fact a home for those who will live there. In any mixed-use project it is important to segregate the entry experience to the residential from the entry experience of the other uses. In this case, they are providing the entry to the east with a generous lobby. It is private and segregated in some ways. There are five levels of residences above the retail roof level. There are a total of 75 residential units and a total of 150 parking spaces. That ratio is what is required by City ordinance. It is his experience that with this type of location that number is more than adequate. The recreation facility, which is the pool, fitness center and common facilities, is now wrapping around on the south. The feel it is a great situation for handing the base of the building and it replaces the back side of the retail. That creates an interesting and active edge to the south side. There was a question about where these people would congregate or what kind of open space they would use. He would use Tomahawk Creek trail. It is one of the reasons that residential use is appropriate at this site. The materials are consistent with the retail and with the materials used for Crate and Barrel. Masonry is the primary material and is consistent with a lot of the other buildings in the City center. Most of them are masonry. They are generally more of an earth tone and so they proposed two brick types with a subtle difference to break up the elevation. There is some glass, some stucco, some exposed architectural concrete at the base of the building on the south side. They are also using the same stone that has been approved for the retail portion of the building. They will continue to work with Phil Crissara and Nelson Architects to ensure consistency between the two projects. Regarding height, they started with a building that was 123 ft. tall. They worked with staff and attended an interact meeting. They heard what the neighbors said, listened to them and discussed the issue with staff. They reduced the building to 107 ft. and then to 99 ft. They are now proposing a building that is slightly under 90 ft. They are requesting to be allowed to continue the design of the building with that height limit in mind. In his experience, there are a lot of wonderful things about mixed-use. Every site is different and every mixed-use program is different, but generally it is safe to say that in emerging downtowns and City centers such as Leawood this will only be seen as a benefit to the community. He is seeing more of these types of projects. All of the communities his company is working in are recognizing that introducing residential projects is important and advantageous to the vitality of the development. It is providing a housing alternative for those of us who do not want to mow lawns anymore.

Henderson asked for a description of the handicapped access into the residential portion of the development. Sheers described the handicapped access on the site plan. Henderson stated his reason for asking is to find out if it will be done after the fact or thought of beforehand. Sheers stated there are requirements for that. Boone stated they take great pride in providing accessibility in the retail projects they do with RED. From the retail standpoint it is not only people who are challenged from an handicapped standpoint but also people with strollers. This design and every design address those needs. They integrate ramping and slopes so to be part of the experience and does not look like it is just added from an ADA standpoint.

Rohlf stated she feels that each of the different pieces of a mixed-use development should be interrelated. She then asked if someone is looking at the compatibility of the retail with the residential component. What type of retail would be under the residential. She then asked if that is one large user or if it would be broken up to smaller retail units. Sheers stated it would be broken down for multiple tenants. McMann stated they see the residential component as more of a 24/7. It does not change the demographics. Most of these retailers have to deal with general incomes of up to 10 miles away from the project, and not just what is upstairs. They feel it is a better use

and creates the 24/7 energy throughout the project. There may be a coffee shop or doughnut shop that may benefit from the residential but it does not greatly change the marketing effort for the retail. This will be a very high-end lifestyle shopping center. Crate and Barrel is the one that brings the leasing energy to it. They could lease it out tomorrow and it would be just another center and they are not doing that. They are committed to high-end tenants. They are getting tenants that are hard to get because they want to be a part of it. Leasing is going very well. They are committed to it and a great project. They continue to be excited by it. Rohlf asked if the retail tenants see the residential as a plus. McMann stated, yes. It is definitely a plus for the restaurants but it would not make or break the development whether or not they have the residential component.

Reynolds asked how many people they would predict to be living there. Sheers stated a guess would be two people per unit. Reynolds asked about the north side of the first level of the residential. Sheers stated when they reduced the building in height they also eliminated one level of parking. They were initially concerned that those roof-level units might be compromised because of the parapet. There will be a landscaped area against the parapet. There will be a raised platform terrace with privacy walls between those spaces between each unit. They decided to make those double-height residences. They feel that compensates for any disruption of view. They could make that parapet a bit more transparent as it evolves, so that one can see through it, and design it so that the back side of it is not a problem. There is a section there that needs to be developed to get to where your concerns area. They have done this on many other projects. Conrad stated on the north elevation the parapets for the retail appear to extend all the way up to level four and then on the section on the right it appears the parapet only goes to level three. Sheers stated they have recognized that since the submittal was made and they are now trying to reduce the parapet height. They are trying to find out what the appropriate height is. The elevation in the packet is not entirely accurate. Reynolds stated he is trying to establish how much outdoor space the residences have that is their own, versus public outdoor space. He then asked if each of the residences has a balcony. Sheers stated he believes every residence has a fairly large balcony. Some are indented and some are open. There are terraces for the penthouse units. Conrad stated that would be a significant change to the north elevation. Sheers stated if they could make it a bit more transparent that would help too. That is extremely important to this team because those residences have to sell. Conrad stated the proportion of the one-story of retail visually could be significantly different. Reynolds stated he feels the connectivity to the retail is important and maybe a lower retail makes a better connection as well as a better terrace connection.

Williams asked for the applicant to go through how this residential component fits into the 119th Street streetscape and the community that is around this project. Sheers stated it is important that the east elevation of the building creates the identity of the building. That is also the entrance to the building. It is an urban building. It relates substantially to some of the buildings that are farther to the north, along Tomahawk Creek. It is glass, brick and stone. In many ways it is like Crate and Barrel on the other corner. The Crate and Barrel building has a cantilevered masonry wall that faces Roe Avenue. He thinks it is a modern building with substance. They are trying to give the residential piece its own substance and identity. As far as relating to its surroundings, he cannot say that it relates to Tomahawk Creek. It is not meant to. He thinks the important thing is that it relates more to the City center in its material and form and character. Williams stated he feels he did not get answers to his questions, but he would let it slide.

Conrad asked if the parking that extends farther west of the residential structure would be built in phase 2. Sheers stated that would be built approximately phase 2. McMann stated there is some parking extending to the west. The parking to the west is dedicated to be valet parking for the restaurants, which will be separate than the parking for the residential. The residential will be secure and private. They feel, if they get the national retailers and restaurants that they plan to get, they will need that valet parking. It is a good opportunity to tuck it down underneath, using the topography. He feels phase one is the Crate and Barrel, the retail as phase two and residential as phase three. Conrad asked if the valet parking would share the same entrance as the

condominiums. McMann stated there is a shared entrance at the condominiums. There would be a control point to separate the residential from the valet parking. One way that they got the building height down was to eliminate a level of parking. Conrad stated that section of parking will require some type of ventilation. He then asked if any consideration has been given to intake or exhaust. Sheers stated they know they will need it, but they have not located the intake and the exhaust. Conrad stated the storefront and pedestrian experience along those areas could get ugly. Sheers stated they will be careful to locate all of the exhaust and most of the ventilation on the south portion of the site hidden from view. Conrad asked why they chose 11 ft. heights for the residential. It appears to him that the market study ceiling heights are 9-ft. Sheers stated it will depend on the type of structural system they select. They feel the 11-ft. floor-to-floor is more than adequate to accommodate either a post-tension slab or a steel building. It is quite possible the ceiling could be a painted concrete ceiling or soffit. They have not taken it that far to know yet. 11 ft. is adequate. Conrad asked what they envision for the rooftop equipment. Sheers stated they are showing an enclosure that they feel will be sufficient to enclose all of the equipment that will be necessary. They are not sure if they are going to use individual units. They are showing an enclosure that is 14 ft. tall. That is probably the worst case. The elevator overrun would be the highest portion of that, which would be directly over the elevator. They are required to hide all mechanical equipment and that is something they will do before the Commission sees this project for final.

Henderson asked how it would change the project if some parking spaces are removed in order for a fire lane. McMann stated he believes the fire marshal was speaking about the handful of stalls along the triangle and if that were the case it would be a minimal amount of spaces.

Jackson asked if there was any attempt to determine if this would affect adjoining property values. McMann stated they have not done a market analysis of property values other than what they have experienced themselves. In all of RED's projects property values have increased with this type of shopping center. It has been his experience that residential only raises property values.

Rohlf opened the public hearing.

Public hearing: Steve Garver, 12108 Catalina, in Brookshire Estates. He has a joint presentation with the first three presenters. His comments represent himself, his wife, Lisa Garver, Jim and Stephanie Sheridan and Rick and Pam Stanley. *Showed a Power Point presentation.* They attended the October 2005 open house planning meeting where they saw plans for a very large Crate and Barrel project, which was the biggest concern everyone had. As they looked at that, they saw it was still planned as part of general retail, it was under the 50-ft. structure. The approval for retail shops was not contested by the neighborhood. They thought a retail center was going in that was still zoned commercial. As time went on and they saw the new plans they were very alarmed. A group of the residents got together to discuss the 9-story building. A number of them were alarmed because they thought the plans had already been approved. In talking to people on whether or not they were in favor or opposed to the change to mixed-use all 8 members of the Brookshire homes association were opposed to the mixed-use. They have 190 petitions that were collected in a manner of hours from people who either came through the park, live in Brookshire, Hawthorne, Mission Road and other park users. A large number of people and the vast majority of people they talked to were very opposed. The high-rise is inconsistent with Town Center and Hawthorne and the other commercial construction in the area. This is way above the tree line. This will invade the privacy of the park and the neighborhoods. Today we are seeing the leaves at their all-time height. 6 months of the year those trees will have no leaves and the condos will stick out in what is a small office and retail zone. He does not believe it will be a signature building, unique to the area. There are no oceans or mountains. The beauty of Leawood, in this suburban environment, is the parks, trees and suburban setting. *Showed an aerial view of the buildings in the area with their height labeled.* There are mainly one and two-story buildings with a few three-story. This height of close to 100 ft. They have built the property up. If you put huge landfill and then build a

basement, then he is not sure if that is really a basement. You have to add another 20 ft. on top of 90 ft. and the land is already built up. The mixed use will add hundreds of residents, autos, lights, trash, noise and congestion to a very small patch of land. The project will increase the 119th and Roe high traffic/accident zone. That is the second highest traffic accident zone in Leawood in 2005. There are going to be wastewater improvements to the park that are required. Those will kill a lot of those large trees. The landscaping and berms are not going to cover up a 9-story building that is 100-plus ft. tall. Mixed-use is not adding a 5-story condo on top of a fully developed retail center. *Showed a view from the southeast to the northwest taken from the park.* He then showed that same picture with the condo building super-imposed behind the tree-line. This building is hundreds of feet wide and deep.

Rick Stanley, 12104 Catalina, stated his comments will deal directly with the impact it will have on the bordering properties in the area. When these homeowners purchased their homes that land was zoned retail and they counted on the retail zoning being maintained because any retail development that would come behind those trees would be hidden. The master plan has historically been retail. The comprehensive plan was changed somewhere between 2000 and 2002 to mixed-use. That did not include notification to the bordering property owners as to the change in the master plan concept. That is only published in the legal paper. The condos are inconsistent with the architecture in the immediate area. The architect even stated this is really an urban building. The height of the condos will invade privacy of the neighborhood. These lots sold for a premium because of the trees and the scenic views they were given. There are at least 13 homes that will have a view of the condominium. Since the fire truck was put up this evening he realized that some of the homes on the east side of Mission will also have a view. The developer provided line-of-sight from the back decks of three homes. According to the developer they will have a very limited view in the summer. They did not show a winter scenario. He then drew a line of what it is that they can see from their front yards. All three of those homes are below-grade on Catalina Street. From the street there will be a very visible building above the tree line from their properties. They are not just concerned about their view, but also the impact that they will lose as far as privacy. People would be looking into their back yards and they paid a premium for those homes to not have that. *Showed a table listing the value of each of the 13 homes.* The total value of the 13 homes is \$11,585,100. The values of these homes will be decreased because they are making a swing from a treed scenic view to a high-rise condo. In order to evaluate how the neighboring properties would be negatively impacted by the presence of the condos one would look at different areas. His background is in this type of evaluation. Industry articles stated the property values would go down 5-13%, paired sales lot analysis would go down 10-50%, paired sales home analysis would go down 7-20%. Paired sales analysis shows the sales of homes with a commercial view versus the sales of a comparable lot that backs up to a treed lot. There is a 30-47% premium for treed locations. Based on the data he believes there would be a 5% to 20% impact to the residential communities that border this development. That's an average negative impact to each individual owner of about \$44,558 to \$178,232. The homeowners that border this property will be financially damaged. *Showed a current view from one of his neighbors' deck.* *Showed the same view with the condos super-imposed behind the tree line.* He asked the Commission to vote "no" on mixed-use zoning, vote "no" to any consideration to a height variance and allow the developer to put in the retail center that they did not oppose.

Dan Smith, 12116 Catalina, a home builder in Leawood for 30 years. He has lived in his house for 25 years. He overlooks the apartments and the proposed high-rise. There was a flood about 18 years ago and it was so bad that it went out over Roe Avenue, took out the park, and went over 119th Street and wiped out the ponds, all the swing sets and soccer fields. He is opposed to the high-rise. He is not opposed to the retail shops. The Commission really needs to think about basement garages below the flood zone. They will need to build lockers to keep the water out or they will have their cars floating. That is why they built those apartments on slab because they are just barely out of the flood zone. Another concern is that it seems to him that it will not be a residential community. They are going to be rental property. He owns duplexes that are 1,400 ft. and they are very small. If

they build a unit for 1,000 ft. they will not find anyone in Leawood to purchase them. He is opposed to this project. The Commission has made Leawood wonderful. He picked Leawood because it is a residential area, not an area like downtown Denver or downtown Kansas City. This project should be in downtown Denver or downtown Kansas City; not in his backyard.

Bob Kroft, 12409 Del Mar. He heard a lot about technical qualifications of builders and feels very confident that Planning staff and the Commission will solve all of the technical problems. Planning staff finds it suitable. The City has made a nice quality of life available in Leawood. He has lived in Leawood for 11 years and he likes it. It has been made possible through care and planning. The add-on of a condominium project to what was a nice-looking row of village-type shop fronts, which has kind of changed now, it does not flow over and wrap around. The shop fronts have changed and the condominium sits and sulks on top. It is not aesthetically pleasing. It is a large building that does not have the setback of the other buildings on Tomahawk Creek Parkway. It sits right on the parkway and backs up to parks and residential properties. It will decrease values and not just the value of the 13 homes nearby. When one value goes down, the others go down. The homes are the single-largest asset. He does not want what the developer wants. He was in a similar situation when he lived in the suburbs in Canton. Their study showed that property values went down. He then asked the Commission to keep the quality of life that they have given Leawood alive.

Cheryl Micinski, 3912 W. 121st Terrace, her home backs up to the unnamed tributary to Tomahawk Creek. They have seen increased flooding due to the development over the last 13 years. The water rises more quickly. The storm water runoff has to go somewhere and it is being directed into her creek and into Tomahawk Creek. When Tomahawk Creek backs up, the creek in her back yard backs up and the water creeps up closer to her house. She is concerned that it will increase the flooding in her area. She has heard the assurances that the City is going to deepen the channel of the creek. She wonders if the Corps of Engineers has given approval to do that dredging in the creek. She is concerned that will not account for the backup of the creek. There are also impediments to the creek flow such as the bridge at 119th Street and the footbridge just north of 119th Street. She has the same concerns as the other people that spoke about property values but is also concerned about flooding.

Mike Knepper, 3912 W. 121st Terrace. Dredging it only destroys the quality of that creek. He then asked if there is a plan to build or construct anything across Tomahawk Creek Parkway as part of this presentation. He bought his house and moved to the end of 121st Terrace because of the back yard. The back yard is there with trees and with this project they have a monolith. He does not feel it is appropriate or within what was every contemplated at the time of purchase and is contrary to the quality of life that is supposed to be part of what we are all here for. There are numerous other affected properties other than the 13 listed due to a decrease of property value and putting this lump of concrete in the sky line is not increasing the quality of life in Leawood. He believes the Commission is charged to do so.

Scott Barksdale, 12020 Mission Road, in many communities when a variance is granted, it has to be done on the basis of hardship. He then asked if there is a hardship component. Klein stated the applicant is requesting a rezoning, but they are not requesting a variance.

Ed Waldon yielded his time to allow Dan Smith to speak again. Smith asked that the Commission would not give the developer the right to change the meeting dates at such a short notice. He would like to give the public at least three days notice. He hopes the City is not getting into a position. He thinks Council is approving this because in less than 10 years 25% of all of the tax dollars the City collects would be paid on the interest on the loans they have. Hope they are not trying to get more money at the residents' loss to pay the debts they have for spending too much money.

Thomas Summers, 4016 W. 124th Street, as a citizen, taxpayer and voter, he expressed concern that the developer and architect are allowed to speak with no time limit, but the taxpayers and voters are restricted. His other concern is that the architect and developer do not understand Leawood. This is not Denver or downtown Kansas City. His view of this development is that it is a college dorm stuck on top of a strip mall. Another concern is that widening or dredging the creek would probably destroy it. There is so much bulldozing in this community right now. A beautiful stand of trees across the street is now gone. It seems that developers seem to feel they can bulldoze at will and change plans at will. He strongly objects to that and to their lack of understanding of our community. He is concerned that the Corps of Engineers has the tendency to dredge a creek, line it with concrete, and plant a few buggy whips and yews and call it landscaping. It will destroy the innate value of nature. The developer and architect fail to understand that. He then asked what is the worst that could happen if the developers leave well-enough alone and leave green space just as it is. He shares the concern of everyone that has spoken. It does not fit into the community or the overall scheme of Leawood. He asked for the Commission to recommend denial.

Daniel Keleti, 12216 Alhambra Street, when his family moved here in 1999 they were amazed there were so many homes in Deer Creek. A few years later you see a lot of buildings going up and then saw a mass movement about people out of those homes because they were worried about what would happen with the site behind their property. He agrees with the comment that these are rental properties. These are a small size. He has a wife and three children. His wife uses the Tomahawk Creek trail. He would like to know how much traffic this would add. He did not move here for something that is 24/7. That does not add anything to his quality of life. He pays increased taxes to live here. He does not want his largest investment going down for something that does not fit. When he moved here he was really impressed on how the planning is done here. His wife's family is from Austin, TX and that is probably one of the nicest zoned areas in Texas and they have strip malls next to condos, next to homes. There is a disregard for the investment people put into a neighborhood. He asked the Commission to preserve his neighborhood and not let their values decrease and leave it as previously approved for commercial.

Janet McLaughlin, in Berkshire. She has lived in this area for greater than 50 years. This development is not reflective of Leawood. She cannot understand how the planning group could ever consider a development of this type for this location. Town Center and Hawthorne are attractive. The condos along Tomahawk Creek are attractive and low-rise. The apartments across Tomahawk are two stories at most. She agrees with previous comments and hopes this building will not be built in Leawood.

Pam Stanley, 12124 Catalina, saw some plans about a month ago that showed the widening of the creek. She would like to know how many trees would be lost around that creek once that is widened. Ley stated there is not a count on the trees. There is about a 15-ft. width along about a 500-ft. section where there is a vertical bank. We are not dredging the creek, we are doing a flood benching, which is the widening of the creek and the City does have a permit from the Corps of Engineers to do that work and they have also been working with the Parks department. The reason Public Works staff did not require an updated storm water study is because that has already been approved as part of the previously approved plan. That has to be completed as part of the original stipulation.

Tom Samuelson, 12101 Catalina, was not clear as to where the 90 ft. started from. Rohlf stated the applicant will be given 15 minutes at the end of the public hearing to answer any questions that are raised.

Manuel Kirklin, 8915 Ensley Lane, it bothers him to see these people to have to fight for improvement in their land and homestead for their second most valuable asset. Their first is their life itself. He wanted to move to the

southern part of Leawood and he has not been able to do that yet. He would like the Commission to maintain the level of comfort and hospitality that he has received since he has been in Leawood.

Thomas Summers, 4016 W. 124th Street, asked if widening the creek will entail bulldozing all of the native trees and stripping out all of the vegetation to widen the creek. Ley stated it would be about a 10 to 15 ft. width of trees on the east side of the creek that will be removed. They will be re-landscaping with about 50 trees. The trees on the west side of the creek, which ranges from 40 to over 100 ft., those trees will remain.

Bob Kroft, 12409 Delmar, asked what the impact would be with the zone X flood fill that has already been added on the land that is planned to be developed for the Leawood Police Department. When you put land in, water goes somewhere else. He then asked if the traffic study took into account the additional traffic that will be generated by the relocation of the police department to this nearby area.

Lambers stated the City will manage the storm water off the site as would any private development. There will be no increase. As for the additional traffic, that is not part of this application and therefore not a consideration. There will be an increase to that site, because there is nothing on it now.

Jim Sheridan, 12100 Catalina, he asked at the open house for the developers to tell them how much of the building he would see. They did not feel it was important to tell them. When he asked how much it would affect the property values, they did not feel it was important enough to tell them. He does not want people looking into his house. If this gets approved people in the condos can use telescopes or binoculars to look into his home.

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

Sheers stated the height is measured from the lowest elevation of the building to the roof level. That is the way the Leawood ordinance measures height. He really admires some of the oppositions' analysis with the elevations in an attempt to illustrate the impact this building would impact their views. He has never seen that done before by opposition. There are a couple of problems with that though. He does not believe it is accurate as a perspective. He does not believe that it takes into consideration the distance from their back porches and the effect that distance has on height, which is basic perspective. Also, the elevations they used are 35 ft. higher than the ones presented tonight. Those elevations represent the older scheme that was presented at the interact meeting. There is absolutely no question that these are inaccurate.

McMann stated he understands these are sensitive issues. There were a lot of issues brought up, but also a lot of general themes. There was a question about traffic and the density of the cars. The traffic load stays the same or is within 1% of what is currently approved for the commercial development. The addition of the condo units does not add any or a negligible amount of traffic. The creek benching issue has been addressed by staff. They like trees too and like the view to the trees from residential and retail. It is unfortunate that some of them will come down, but those are just the rules they are living by as well. The issue was brought up that this is nothing more than a rental property. The condominium partner has stated that these will be equal to or greater than cost per square foot than the neighboring homes. These units will range from 800 to 1,200 sq. ft. in size and could go for \$350 to \$400 per sq. ft. These are not rental properties. These are purchase properties. They hit a specific market. The market is not there for young rental users. In regard to the view to the homes, he challenges the accuracy of the rendering by the residents. The 90-ft. tall building is sunk down into a hole 35 ft. That leaves the top of the residential building just slightly above the current Crate and Barrel building. They are showing 30 ft. trees, which is very conservative and at the most there may be a handful of homes that might be able to see one floor above the trees. Those same homes would have a view of all of the properties listed in the staff report. The

top of this building will be 17 ft. from the top of the Crate and Barrel building. He does not know any other community that would consider a 90-ft. building that is 35-ft. into a hole, a high-rise. There has been policy in the City of Leawood with buildings taller than this that would affect many more homes than what they are arguably affecting has been passed. Park Place affected 53 homes, when there are only six homes within 1,000 ft. of this property. In regard to the issue of the sky line, if this building is 17 ft. taller than Crate and Barrel, of which this property is actually lower than Town Center Plaza, he would argue that this building would be no taller than any building in Town Center Plaza. It does not greatly affect the sky line. It is minimal at best. In regard to the decrease in property value, the residents presentation showed the commercial affect on residential properties, but it did not differentiate between commercial and condo affect. They are approved to do a commercial shopping center. The views to it will be close to the same as what is proposed today. He does not see how the proposed addition of residential condos at the lowest end can negatively affect the values of the properties that are 1,000 to 1,200 ft. away. This is a very high-end commercial development and all they have done is added a residential component to it. They have had projects in the past where neighbors have asked them to put a gate in the dividing wall between their back yards and this development so that they could get to it easier. These developments become an amenity.

Rohlf suggested taking a recess for five minutes. The Commission reconvened at 8:57 p.m.

Motion to extend the meeting for 30 minutes by Munson and seconded by Elkins. Motion to extend the meeting approved unanimously.

Lambers stated it needs to be understood that by the Commission's by-laws you are only allowed an additional 30-minute extension and the meeting will end at 10 o'clock. Hopefully a decision can be made tonight, but if not, then it will need to be continued to a future meeting.

Conrad asked if this rezoning has no effect on the order of magnitude or timing for the creek improvements. Ley stated, that is correct. It will start in about four weeks and will take about four weeks to complete. Conrad then asked if staff has actually done FAR calculations of if it has been more of a narrative process. Klein stated he has done the numbers for the calculation. In regard to Commissioner Jackson's question about bonus features, they are providing an underground parking structure which allows for 15% bonus, which allows them up to a 0.29 FAR. In addition, they are asking for additional open space. That is up to the Commission to decide if they have met the burden of proof. 10% what they would be eligible for, which would allow them another 17,535 sq.ft. to be added to the FAR. They are providing 21,437 sq. ft. above the minimum required, which would get them to a 0.32. They are asking for a 0.33 so they would need a little more bonus. That could be done through any number of those items listed in the LDO as far as superior site planning, drainage, site amenities and pedestrian amenities. Conrad stated he would like to see those numbers. He is concerned about where those extra bonus points or increases are coming from. He would like more information to make a decision. The accuracy of the perspectives is an issue. He would like that the applicant and the residents present perspectives of which they have already agreed are accurate. He would like to see the elevations corrected to reflect some of the massing and height question. He would like for it to represent the extent and size of the roof screens. Some of the deviations are a carryover from an SD-CR proposal. He thinks in that zoning there is some appropriateness for it but he is not sure if, in MXD, some of those issues they agreed upon are still applicable. The amount of paving along the development is a residential element. The parking setbacks have more residential elements behind why they are developed. He is concerned some of the deviations going from SD-CR to MXS, he is not sure that he supports them in this zoning. Klein stated there is only one area where the parking setback deviation exists. It is at the deceleration lane off of 119th Street. The parking goes to 13.75 ft. at one point and the required setback is 20 ft. back from the curb. The development meets the parking setback everywhere else and the requested deviation only came from the requirement for the deceleration lane. In regard to distance from other projects, the

property line of this project to the nearest residential lot within Leawood is 500 ft. To give a perspective, from the front of City Hall to Heartland Bank it is 560 ft. To the nearest home this project is approximately 800 ft., which is to their back door instead of the property line. From City Hall to the main center of Town Center Plaza is about 935 ft. There is a requirement within the MXD district of a residential setback of a minimum of 75 ft. from the commercial building structure to where the zoning changes for the residential. They have about 500 ft., the MXD requires 75 ft., the current zoning of SD-CR has a residential setback of 125 ft. Staff looks that what is requested see if they meet the LDO requirements. Conrad asked why they should let the car count go to 3.9. Klein stated in regard to the fire marshal's concern with the parking along that triangular area at the east end, that would only reduce the parking count toward what is allowed within the MXD district. Conrad stated he would like to consider some of these deviations if they were made regarding MXD, but he feels they are carried over from the SD-CR.

Henderson stated when the Price Chopper came before the Commission a real estate developer stated that the surrounding home values would go down and it did not happen. They found out they were not suffering. He would like to find a way to test out all of the fears about their property values being adversely affected. In regard to the flooding of the creek, that is an issue that we can get information on, even though it is probably not related to this application.

Jackson stated she is concerned with the deviation on the FAR. She believes they are receiving different bonus points for the same items on a couple of them. Some of the pedestrian areas were already there for the retail portion and to consider them for the residential, she is not sure if that is appropriate. There are bonus points allowed for architectural significance but the bonus criteria list "architectural significance and superior environmental design". She has not seen anything on superior environmental design. She is not sure the numbers are there to allow for the FAR deviation. Most of these things were there with the initial development. Klein stated if you added up all of the bonuses in the list, then it would total up to much more than what they are requesting. They are only requesting some of them. As far as what was given with the approved plan and should they go above and beyond that, which is one of the things that the Commission and Governing Body should determine if they have met those criteria. A lot of the things like pedestrian amenities are based on cost of what they are providing. Applicants typically do not have those details until final plan, therefore staff does not have the ability to compare that at this point, which is why it is stipulated that it would have to be checked against the FAR bonuses at the time of final site plan. Jackson stated she does not feel the stipulation is specific enough to ensure that these bonus points are met. Lambers stated it is up to the applicant to achieve that through the final plan and if they do not then they will have to reduce the square footage to get to an FAR that is acceptable. The height is certainly an issue that the Commission should make a decision on as far as a height limitation. The issues that Jackson raised are more for final site plan.

Munson stated he envisioned something more like Mission Farms; this is quite a departure from that. It reads as a big box residential and Leawood Planning Commission and Council have pretty much closed the door on big box commercial. He likes some things about the architecture, but there are some things he does not like. He does not like the materials he has looked at. It looks more like a hospital, office or dorm as opposed to residential. It is very stark. He would like to see the height lowered. It is still a project in the works.

Reynolds stated he feels mixed-use is a very good thing for the community. Those benefits come from thoughtful design. He shares some of the concerns raised. In regard to the height, Park Place has a 90 ft. building with a similar relationship to residential. The top of the residential on this project would be 962 ft. above sea level. The Crate and Barrel would be 945 ft. above sea level. Dicks Sporting Goods is 993 ft. above sea level. He would suspect Barnes and Noble would be higher than that. He is not as concerned about the height as much as the mass. The notion that as this goes to a mixed-use category need think about the benefits of shared parking that goes along with that because it frees up open space. A triangular piece of land the size of a typical single-family

lot does not qualify as a high-quality open space for a residential tower of this quality and the quality we want to see in Leawood. He is very concerned with the connections between the residential tower and the retail portion of this site. They really need to work together to get the greatest benefit for all concerned. The FAR bonus points might not equate with the quality of the open space and the massing of the architecture.

Elkins stated he shares Conrad's concerns about the elevations shown. It is difficult to make a decision when we cannot seem to come to a consensus as to what the facts are. There is so much of a discrepancy between what the applicant views as the sight lines and aesthetic impact of the building versus what was shown by the residents. It becomes difficult to know how to cast a vote. He applauded the applicant on the work they have done to reduce the height in response to resident's comments. It concerns him that this structure is going to be taller than Crate and Barrel. In thinking about the taller buildings in Leawood and particularly those in the north end of Tomahawk Creek Parkway area, what makes that development attractive and consistent with the feel of Leawood is the open space around it. His concern with this development is that it does not give enough open space to give scale to the development. He is also concerned about the impact this has on the Tomahawk Creek Parkway.

Williams stated he agrees with all of the previous comments made by the other Commissioners. It appears the resident's presentation was made with the 9-story building and not the one the applicant is proposing. That would get it down to about tree top on the presentation. There is no question that some of the residents will see it. It will be a change. Almost any projects that are brought in on an undeveloped piece of land there are a lot of comments about people who do not want the change. He is sympathetic to a lot of the comments. He is not sure he would want to look about 800 ft. and see a high-rise building. He does not think having a high-rise condominium in Leawood is inappropriate. Some have already been approved. When this project was first talked about he thought it was a natural fit due to the park land on the south and east sides. This project has the benefit of the proximity to the park and that park does give a substantial buffer to other residential areas.

A motion to extend the meeting to 10:00 p.m. was made by Williams. Elkins seconded. Motion to extend the meeting approved unanimously.

Williams stated the Church of the Nativity is a sizable building. It changed the views of the residential buildings around it. He then asked if that has affected the property values of the surrounding properties. It is a different building than the one proposed, but it is a large building, large parking lots, and increased traffic at peak times. This project struck him as taking a big box residential and sticking it on there and nothing else has changed. It is now a project with a residential component that has a dramatic change on a piece of property and yet it is the same thing. He does not see where it works in that regard. It has been one of his concerns with other projects that they do not have the additional open space to give that quality of life to the residential part of the project. With this being a new preliminary design and looking at deviations, we have taken a very hard stance about percentage of paved area along major roadways. They have 60% paving along the 119th Street side and that bothers him. He has been opposed to giving much leeway on that with other projects and he will hold his ground on this one as well.

Lambers stated there is dissension as to the accuracy of the rendering that has been provided to the Commission. Given this project, the Commission is entitled to assurance that it is accurate. It would be best if City Staff could create what the residents did so there would be no question as to our integrity trying to present to the Commission an accurate portrayal. If that is indeed the case, he would think a continuance would be in order. There are two issues tonight. He believes there is a general consensus that, given the comprehensive plan, the MXD zoning request is not inappropriate. The issues are with the details of the plans. By having a continuance the

Commission can voice those concerns tonight and then come back at a subsequent meeting. Given the interest in this project, it is his suggestion to have another special meeting so as to not bog down a regular agenda.

Rohlf stated the Commission would like to see if any reason that any of the deviations should be reconsidered and if not, then why not. It would be helpful for staff calculations on FAR, specifically a narrative on the bonuses. She would like the applicant to look to correct the elevation problem and perhaps even the architectural design, looking at the overall height. Perhaps when the elevations are redone we can see how critical the overall height issue would be. Hopefully there is a willingness of the applicant to reduce it by one or two more stories.

Williams stated the open space as it relates to the residential component, adding to the open space available and the connection of the residential to the open space.

Rohlf asked if the applicant is willing to ask for a continuance. McMann stated the applicant is willing to ask for the continuance. Lambers stated the applicant is limited to the number of continuances he can request. Since there is a question of accuracy on some information, he would like this to be a staff-requested continuance. He would like to suggest August 15th for the next meeting. The residents have requested that the applicant give as much notice as possible if the date were to change.

Dan Smith (resident) asked if the Commission wants the continuance or if the City Administrator is requesting it. He would like the Commission to make a vote on it. Rohlf stated she believes that the Commission has a lot of issues that are outstanding that need to be resolved. Lambers stated this meeting cannot go beyond 10:00 p.m. The theory behind that is that after 4 hours of meeting the decision-making process could be deteriorated. The idea is to keep this process as fair for the applicant as for the residents.

A motion to continue this case to August 15, 2006 was made by Williams. Elkins seconded. Motion to continue approved unanimously.

Meeting adjourned.

Lisa K. Rohlf, Chair