

City of Leawood Planning Commission Minutes

August 15, 2006
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive

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

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

CONTINUED TO THE AUGUST 22, 2006 MEETING:

CASE 46-06 TUSCANY RESERVE VILLAGE Request for approval of a final plat and final site plan. Located at the northwest corner of 137th Street and Pawnee.

CONTINUED TO THE SEPTEMBER 26, 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**

OLD 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.

Lammers stated at the previous meeting there were some questions raised as to the accuracy of the information concerning the power point presentation given by a resident. The City has contracted with a private consultant to prepare a presentation in that regard. Staff would like the private consultant to make the presentation and then the Commission can ask questions at that time. After that, the applicant will make a presentation of any changes made to the plan. There will be some discussion as to the placement of one of the buildings. The position of the building had been previously discussed at length by the Commission and the location shown is where it was indicated to be desired. At the last meeting there was some indication that the Commission would like that moved and the applicant is willing to do whatever the Commission wants but would like clarity on that issue. The applicant will focus on the changes to the plans from what was previously submitted and then at that point the Commission can ask any questions of the applicant. After that, the residents would be given the opportunity to speak. We ask that their comments be confined to issues that are newly presented tonight. Then the applicant is given 5 to 10 minutes to respond and then the Commission will have discussion on possible action.

Presentation by Jim Lammers of Trinity Animation Inc. He is an electrical engineering graduate from University of Missouri. His firm began in 1993 and they do computer graphics and animations of all types. He has written four books on the subject of computer graphic and animations. He has constructed a 3D model of the topography and terrain. *Lammers showed a calculated rendering of the view of the proposed condo from the park.* Munson asked the height of the trees along the east side of the parkway. Lammers stated about 40 to 45 ft. Munson then asked the height of the proposed condo. Lammers stated the building height would be 87.5 ft. without the rooftop screening. *Lammers showed a rendering of the calculated view in relation to the rendering given by a resident at the previous meeting.* The calculated rendering showed the proposed building to be below the tree line.

Lammers showed a rendering from the 12100 Catalina lot. Perkins asked the distance from the proposed building structure to southeast tree line. Lammers stated about 342 ft., or 100 yards.

Williams asked to go back to the view from the deck. He then asked if Lammers is saying that there would be no view of this building when the trees have full foliage. Lammers stated he does not believe so.

Rohlf asked if they looked at any of the other properties. Lammers stated just the park and the 12100 Catalina lot.

Reynolds stated it would be nice to get a view from the cul-de-sac to the ball field, which he believes is higher. *Lammers showed a view of what the building would look like from the cul-de-sac.* Reynolds asked if it is safe to say that in this view one could see half to two-thirds of the building. Lammers stated, presuming a 45-ft. tree line, that is the most coverage it would have. Williams asked if that is because the height of the terrain on the cul-de-sac is higher than the terrain at 12100 Catalina. Lammers stated that view is 898 ft. above sea level whereas the Catalina view is 888 ft. The cul-de-sac view is farther away from the far tree line, which reduces the affect.

Applicant presentation: Presentation by Phil Crissara of Nelsen Architects. Building D is the building that got pushed around a little bit through the process with staff and the Commission. This is a building that was up in the northeast corner, quite distant and independent on the site. As an issue of deviation, it was a notion from staff and the Commission that the building find its way off of the corner to try to connect with the shops that are building A. The building has moved south and west to get much closer to the long arch of retail. They spent a lot of time talking about pedestrian lengths and how we want people to comfortably get through the site. By moving the building it shortened a distance. There is still an enhanced paver connection from Building A to Building D. From a simple design standpoint, the strength of Crate and Barrel and unique building that it is, having another independent building at the opposite corner of the site did not make sense. When this linked and connected to the other building then it set the stage and drama for Crate and Barrel. They believe it is in the right place. That building location is tied back to the notion that they have greater than 40% of the 119th Street area paved rather than building edge. Building D is in that location due to reasons we have all come together. Another change is that they removed 11 parking spaces from the north portion of the site and have been relocated. The fire marshal requested a staging area for his fire truck and this looked like a very good spot to do that. They were able to get parking spaces out of one of the major landscaped areas. They have been able to maintain the car-count. Another issue would be the parking ratio. There is a parking ratio of 3.5 for mixed-use zoning. By moving those spaces they were able to achieve a 3.6 ratio north of Building A so that the basic appearance and perception of this entire project is very close to the range of numbers that this new zoning calls for. The remainder of the parking is below the retail and residential building as structured parking. Another concern raised at the last meeting was the connection between the residential units and the triangular plaza. They have provided an elevator access from the residential building to grade with a corridor connection that would go straight out the building to the plaza area. *Ken Boone showed an enhanced plan of the plaza area.* It would be very easy and an accessible route to enjoy one of the three landscaped areas they are providing. Another issue is the FAR. The base FAR allowed in mixed-use zoning is 0.25. With the allowances available through the ordinance, they feel very comfortable that they can get to where they need to be with the quality of the design. With the inclusion of structured parking it brings them up to a 0.29 and as currently designed they need to get to a 0.33. There are many different items within the ordinance they can use to get to that number. They are very confident that they will be able to reach that number. The retail project has not changed much at all. He thinks that some of the site plan issues have made it better. The concept of adding residential makes it very exciting to build some depth and energy into the project.

Munson stated he has not seen any changes to the height or the appearance of the building. Crissara stated he believes the appearance of the building will be reviewed at final. Lammers agreed. Crissara then stated that the height has not changed. They are proposing less than the 90 ft. allowed within the zoning. Munson stated the street light fixtures that are currently on the sight are 40 ft. This building will be more than twice as high. He believes height continues to be an issue. Crissara stated the site has a fair amount of fall to it. Crate and Barrel is dramatically higher than where the residential will set.

Henderson asked if 740 parking spaces will be adequate for the retail shoppers. Crissara stated they feel that it is. There are some trophy retailers coming in. There are terrific national tenants like Crate and Barrel that will bring people and cars.

They feel the parking is adequate. Henderson asked if the parking is strategically placed without being too much of an asphalt paving center. Crissara stated they feel they have created more meaningful landscaped areas. Not just trees around cars, but places where people will actually walk and get to the shops. The parking count is fundamentally the same as we have talked about from a retail standpoint.

Rohlf asked if parking count is now 3.6 with the changes made to the parking. Crissara stated, yes. Klein stated we typically just use the surface parking spaces for the calculation because it has the greatest impact. Crissara stated 3.6 represents the parking that is in place north of Building A. They are 3.9 in total. They feel those cars are important for the quality of the retail that is coming. Rohlf asked if the applicant is in agreement with all of staff's stipulations. Crissara stated, yes.

Perkins asked if they have thought about what they might submit for final to achieve the bonus points. Crissara stated the elements they are looking at are: superior site planning, architectural significance and superior environmental design, pedestrian amenities and parking structures. A portion of or any one of those in total would give them the numbers to support the project. Perkins asked if they could estimate the distance from the Crate and Barrel building to the newly proposed condominium. Ken Boone stated about 800 ft. Perkins then asked the height difference between the two buildings. Crissara stated, due to the grade, it would be 17 ft.

Conrad asked if there is another curb cut along Tomahawk Creek Parkway into the garage. Ley stated, yes, that is new. Conrad asked if it would be a right-in, right-out. Ley stated they are proposing a full access. Conrad asked if there could be a line-of-sight issue with the curve. Ley stated staff has suggested they move that drive further to the west at least 100 ft. The stipulation from Public Works states they would need to move it further to the west an appropriate amount so that they would not be in the flood plain. The fear is that if it is located where it is right now, one could potentially be cut off, with the flood plain to the east and west. Skip Johnson with BHC Rhodes stated that is a fairly large curve and there would not be a sight distance problem. The problems with moving it to the west are the limits to the garage and how far it goes. To move it further to the west creates a couple of problems. They would still remain in the flood plain and it would increase the grade up into the garage to about a 10% grade. To move it further west to correct that problem would be outside the extent of the current garage. They need to work with staff to review that.

Conrad stated the residential is on level 2 but the façades of all of the retail buildings on the north show the top of the parapet for the retail façade extending all the way to level four. Crissara stated that is an issue that is being cleaned up if it has not been already. That retail is coming down. There has been a component where there is a screen wall for amenities for the residential. The parapet height for the second floor is coming down so the residential will be free and clear. Williams asked if there will be more of a view of the residential component at the north façade. Crissara stated, yes.

Munson asked if there was ever a consideration of have the residential across the entire top of the retail as opposed to the tall building. Crissara stated it was considered earlier, but based on that type of configuration and in terms of the quality of the units; they would have many different elevator cores in terms of travel distance. The building type lends itself to a more compact footprint, to have some level of efficiency of elevators up and reasonable distances to get to units.

Rohlf asked where building D sets elevation-wise in relation to Crate and Barrel. Crissara stated it is dramatically lower than the Crate and Barrel elevation. Rohlf asked if they ever considered having the condominiums completely separate from the retail. Crissara stated it has always been a component of the retail footprint.

Williams stated when they originally saw this project as a commercial venture it works for a retail/commercial development. Now it has come back with a residential component. Everything has stayed the same except they took a residential block and put it on top of a portion of the retail. Going to the mixed-use development says to him that there are other parameters for site development which he does not see with this proposal. He is concerned that the tower is forced onto this. He would like the applicant to expand a little more on the design philosophy to put this component where they have and how it fits to the overall project. When you look at the comprehensive plan and read the section about mixed-use districts, there is language about creating a village. He would like more information on the design approach and why they think this makes for a good mixed-use development. Crissara stated they are doing this type of work all over the country right now. They have

been very successful in the Phoenix/Scottsdale area and Florida. In terms of location they had to look at the site and understand the topography of the site and the fact that there is some height associated with this building type. It became clear they would need to find some height to work on this site. They also feel there is a great counterpoint with the quality and the drama of Crate and Barrel on the hard corner of the site. They feel these two buildings have every opportunity to play off each other and build some energy. When this was just a retail project they had a tower element at this location. They have always wanted some height in that area to speak to the Crate and Barrel building. There has been some great care in terms of understanding the site and looking at the dynamic of what the buildings are set up to do. This will be a high-quality residential component. It is still primarily a commercial site and the notion that they can take the residential component, lift them up off of the public grade and build some isolation, makes the vertical integration of this a very positive thing. It is hard to believe that someone would want to live at-grade with the retail.

Reynolds asked why they did not consider breaking up the buildings. Crissara stated they felt it stretched too far out and working within the base height limits they feel this is a much better solution.

Williams suggested taking the northeast corner where building D is and creating that as a combination retail/residential component. Crissara stated they are currently at a 10,000 sq. ft. footprint. Williams stated he is not suggesting staying with the same footprint, but designing it as a retail/residential component that potentially spreads out a little bit more and potentially has more opportunity for public space and more prominence on the corner. Crissara stated he does not think it would be a better idea to have residential along 119th Street, which is the busiest street around this development. He believes that the proposed location is a better location. There are also some grade issues with the internal drive that comes along Tomahawk Creek Parkway that would make it a little more challenging as that came to the south. Williams asked the overall acres of the site. Klein stated 15.64 acres.

Public hearing:

Kevin Jeffries, president and CEO of the Leawood Chamber of Commerce, read a letter stating the position of the business community. *(A copy of this letter is included at the end of the minutes.)* Jeffries, speaking for himself as a resident, 2919 W. 124th Terrace, has a Masters in urban planning and has been resident of the City for over 16 years. He has seen this area change a lot over the years. He feels this type of a project makes sense for Leawood. When he retires in 20 years, this project gives him a place to move within Leawood without the worries of upkeep and maintenance at a price in line with the value of his home. He thanked the City staff for providing accurate line-of-sight information so the adjoining residents can see a more accurate picture of the minimal impact this structure will have on nearby residences.

Joel Kesler, 4308 W. 125th Street. This project is a good project from a retail point of view, but when it becomes mixed-use he thinks the amenities are not such that anyone is going to want to do anything near the building that is going to be the residential. It will be a parking lot. He does not see any hope that this residential area will stay anything in the condo-line very long. He thinks it will turn into being nothing but rentals and that is not what we want.

Dan Smith, 12116 Catalina. He lives uphill from the house that they took the pictures from. His house is probably 60 to 70 ft. higher than his neighbor's deck. He believes a lot of his neighbors will have a view of this project. He took some pictures from the top of Crate and Barrel. *Smith showed pictures to the Commission.* He does not understand why the Commission is even considering this case because it does not seem the applicant has done the work the Commission asked them to do. The Commission asked them to change the elevation and make it more aesthetically pleasing to the eye. Probably 50% of the complaints heard last time were about the ugliness of the building. He does not know how they can change the high-rise so much because the Crate and Barrel is so contemporary. There is no way that they can change it to look like the ones off of I-435 or 135th Street. You are getting most of the people here complaining about the high-rise. They were not complaining about a retail center because they assumed it would be a shopping center more attractive like the one across the street and not so contemporary. They are not even using real brick on the façade. Another issue is flooding. May 15th, 1990 water was above the curb. The applicant has already dug the whole for the high-rise. It worries him that maybe they've been talking to Council because Leawood has a habit of turning things down and then Council always approves it. The applicant has said that the retailers will be unbelievable, but if that is so great why don't they name them? He does not know of any place in Leawood that has a 1,000 sq. ft. condominium for \$400,000. Nobody in their right mind would buy a condominium that is 1,000 sq. ft. for \$400,000. He asked when they would become rental properties. He then asked if they

would become section 8. Leawood has built fabulous things. Mission Farms is a beautiful building. If you approve this building your history will only be that people will remember that you did that building.

Charlene Gordon, 12301 Catalina. She has lived in various states and thinks that Leawood is the nicest place to call home. She asked the Commission to think about what decade that building would find a home. She thinks it would be comfortable in the 50's or 60's. The applicant spoke about the drama of Crate and Barrel and assured them that these types of projects are well received in places like Phoenix or Florida. She also thinks Vegas would like it. This is not Phoenix or Florida, this is Leawood, Kansas. She thinks Leawood has done a fantastic job of bringing beauty and elegance and quality of life to all of our families and children. Your residents trust the Commission and Council members but if this is allowed to take hold it will be Leawood's white elephant and will go down in history as the biggest folly that every befell our town.

Julie Green, 12109 Alhambra. Her husband is Trent Green and he sent the Commission some letters. They live in Berkshire and love Leawood. This high-rise would make Leawood a wannabe Country Club Plaza or downtown. The developers don't live here and don't see these high-rises every day. She will be able to see it out her back window in the winter time. Right now, in the winter time when all of the leaves are gone, she can see Town Center Plaza Christmas lights and if this gets built she will see a massive building. She would hate to leave Leawood because of this large building that will be blocking her view of Town Center Plaza. It is unfortunate that money is the bottom line to add a high-rise to this development. She is concerned about what the retail shops are going to look like. Crate and Barrel is an eyesore. It is a big massive block right on the street. What is Town Center going to look like if you add these shops and this high-rise, which would be what everyone's eyes would go to? What would stop other people from putting high-rises on other sites because they could make lots of money from making condos? It is such a nice place to call home and she would hate for them to ruin it.

Rick Stanley, 12104 Catalina. Thanked the Commission for looking out for the interest of the citizens of Leawood. He thinks the consultant did an excellent job in illustrating the view and impact from Mission Road and the fact that two-thirds of the building will be visible from those homes on Mission Road. He finds it interesting that the consultant did not attempt to illustrate what the winter view might be. He has heard tonight that there may be concerns about the lack of parking for the retail. That might raise the question as to what might happen if these 75 units have guests. He would hope that we would not have a problem with people parking in the park. He does not understand what it is the Commission needs to do to deny this application. As a member of the public he does not understand the system. He does not have hired architects or consultants, so he uses common sense. If this building is built, would Leawood be a better place to live than it is now? He does not believe so. Leawood would be a better place if it did not have this building.

Scott Barksdale, 12020 Mission Road. *Handed out some paperwork to the Commission.* There were a lot of discussions at the last meeting about the Park Place development. He went to the planning department and got some numbers from them. Park Place has four towers that are being built. Two are five-story and two are eight-story. The total cubic volume of those four buildings is approximately 400,000 cubic feet less than the single building considered tonight. This one building is 400,000 cubic feet larger than the total of the four towers that have been approved for Park Place. That is massive. This building is 270 ft. long by 160 ft. wide. That is 900 sq. ft. larger than a football field. He does not want that. He lives in a house on Mission Road that will have a view of this building. There is a group of houses that will see two-thirds of the building. He does not agree with that number. He keeps hearing that this building is 88 ft. high, but don't forget the extra 14 ft. that go into the utilities on top. That is not a building that is appropriate for Leawood in any way. It is a monstrosity and would be inappropriate.

Jim Sheridan, 12100 Catalina. *Handed out some paperwork to the Commission.* It was his back yard they took the pictures from for the consultant. Those are approximately 14 to 16 ft. lower than those shown at the previous meeting. The consultant took the pictures from his deck and not out of the bedroom, where he took the photos. *Showed an actual sight line from RED development.* In those renderings they showed his house as being 20 ft. shorter than it actually is. He will be able to see the whole building from his home during the wintertime. This building is over 100 ft. tall, not 88 ft. tall, as you are constantly told. He took a picture of a hole located where the condos garage will be. It cost approximately \$100,000 to \$200,000 to dig that hole. *Showed a picture standing in the middle of the property showing the homes in the background.* They brought thousands of truckloads of dirt in to build it up. They brought in about 20 ft. of dirt at the corner. *Showed a*

picture of the natural barrier. There is a tree that is about 100 years old. The barrier is not thick, so when those trees are brought down it will reduce the coverage so they will be able to see more. When he received the letter he told BHC that he has no problem as long as he can't see it and can't hear it. They told him he will be able see it and possibly hear it. After the last meeting he called RED Development and said he would personally pay to have four balloons put up marking where the proposed building is going to be to determine what he is going to see and Jeff McMann, from RED, denied him the ability to do that. He understands how serious parking issues are and he thinks there will be parking issues with Crate and Barrel. His biggest objection has always been the use of telescopes and binoculars for people to look into his home. He asked the Commission to deny this project and allow him to protect his privacy and keep the value of his home.

Janet McLaughlin, 4500 W. 125th Street, in Berkshire. She does not live on a property that looks out onto this development, but she does drive by it every day. The people that are here tonight are voters and property owners. As far as she knows the staff of Leawood works for them. She questions why staff does not seem to be neutral on this project. They seem to have some very concrete opinions and do not seem to be very open to the public. They brought up the question of architecture at the last meeting and the architect stated that would be looked at more at the final plans. She thinks the architecture of this building is primary. The look of Town Center and the buildings along Tomahawk and City Hall are green areas. She thinks it has all been planned very well. She feels architecture should be talked about in the beginning. In regard to the 87.5 ft., drive by any large building and look at the air conditioning and heating and she considers this a 100-plus ft. building because that is what the height would be. The flood plain issue will not go away. The developer has stated they do not feel it is feasible to move as far west as the City suggested. She thinks there is a very important issue there. She would like to hear from staff about traffic on 119th Street and what this development is going to do to Tomahawk and the road going west from there, 123rd Street, which is a 25 and 30 MPH speed limit and there is a lot of traffic there now. She has seen the OP police doing speed checks through there and she has not heard anything about the traffic that this development will generate.

Mike Knepper, 3912 W. 121st Terrace. His back yard is green. It is barren in the winter. Looking at a 45 angle in the winter will give him a clear view of this 108-ft. tall building. The ordinance talks of a 90-ft. height. 110 ft. above grade is not 90 ft. That alone is a reason to require this to be lowered. There is no provision in the ordinance for the volume or width. It could be 200 yards long. The ordinance is clearing looking for a very balanced, symmetrical building or else a delegation of discretion to the members of this committee to limit that incredible visual impact that will come from something this massive. Something that big would be a taking of light and air from the neighbors around it. It is an unconstitutional taking without due process of law. He urged the Commission to look at it carefully. If they cannot restrict the height, then at least restrict the width and make it a reasonable volume. Make it look pretty for Leawood. He moved here for open spaces and trees and this is not it. He could have moved downtown if he wanted to look at a building.

Mark Henke, 12408 Catalina. There is some discrepancy with the height issue. Mr. Lammers said tonight that the altitude at the top of the building is 976 ft. The altitude at Tomahawk Creek Parkway is 859 ft. That difference is 117 ft. He does not know if that is the top of the HVAC system on top of the building, or just the top of building. How does 117 ft. compare to the massive buildings on the Sprint campus or other buildings in Leawood? He would like to help Mr. Sheridan fund a relatively inexpensive experiment to put four balloons up 117 ft. above Tomahawk Creek Parkway to see what it would look like.

Bob Kroft, 12409 Delmar. This building looks out of place in Leawood. The architectural firms have tried to make something out of two entirely different ideas. They have tried hard. The row of retail cannot fit below a condominium tower. These are two totally different types of ideas. It doesn't look good. It is big. He has heard them say that this type of development works in Scottsdale or Las Vegas. This is Leawood, KS. If we wanted to be there, we would be there. We are in Leawood because we want to be here. It is not anything like what has been approved in the past. The design is not pleasing to people. He asked for the Commission to deny this.

Bart Cohen, 12617 Briar, in the Villas of Patrician Woods. He turned to the Commissioners and staff to take care of the details. As a resident for over 15 years, the time is coming when he and his wife will be looking for a different type of place to live. A place where they would have security 24/7 and he thinks that a high-rise condominium would be the alternative

they would be turning to when it comes time for a different type of living accommodation. He believes this location to be a good location for a high-rise residential condominium.

With no one else present to speak at the public hearing, a motion to close the public hearing was made by Henderson. Motion seconded by Elkins. Motion approved unanimously.

Crissara stated there have been plenty of comments in regard to what the architecture looks like. It was the applicant's understanding that tonight was not the time or the venue to address architectural issues. They are working with staff and working internally with modifying the design of the tower and the integration of the tower and the retail so that there is a grand effort in place dealing with the aesthetic of this building. They hear the comments and efforts are under way. It is his understanding that there will be another opportunity to come back with a different architectural aesthetic soon. There were a couple of comments about a lack of parking. The project, as designed, has plenty of parking. It goes back to the original numbers for the retail portion of the site that were originally submitted and approved. Those numbers have not changed and they have augmented for code-compliant parking with the residential. The City hired the 3D images that were shown tonight. It was not RED development or the architects. In regard to height, the height has been established with staff using the specific criteria that the City has defined. They are not trying to play games with elevations and numbers. They are doing all they can to be clear with staff about the true height. The actual residential portion is 80 ft. wide, and not 160 ft. He can see how one could accidentally take the base footprint of the retail, which tends to spread out a little deeper than 80 ft. with the service areas.

Munson asked if the consideration of the architecture would include lowering the height. Crissara stated, no.

At 8:00 p.m. Rohlif stated the Commission would take a 10-minute recess. Rohlif reconvened the meeting at 8:12 p.m. She reminded the Commission that this is a request for approval of a rezoning and preliminary site plan, therefore items such as the elevations will be looked at during final.

Reynolds asked if it would be appropriate to make brief comments on items that may come back during final site plan. He would like to make the applicant, as well as the City Council, aware that there are some potential concerns. Lambers stated that would be appropriate. The decision tonight should be for the rezoning and preliminary plan. If the Commission could provide direction to the applicant that would also benefit City Council. Reynolds stated contemporary architecture can be appropriate if done properly. Mixed-use is a very positive thing. The price range and size of units is an indication of the market place and not a concern. He feels parking, traffic and storm water have been addressed with the information provided. He is concerned about the architectural lighting on the south façade as it faces the residents. In regard to the width of the pedestrian crossing between Building D and the main building A, it seems there should be a way to clear up the vehicular movement so that there is a much clearer route for the pedestrians rather than making them cross the street at an unsafe place. The isolated water feature at the drop-off for the condos is somewhat disappointing. It would be nice to see a water feature that people can touch and interact with and not so isolated on the far side of the drop off. The outdoor space seems awfully formal and does not seem to relate to the architecture of the buildings. The more concern is about the mass of the building. He was and is still comfortable with the height of the building, and it complies with our 90-ft. height restriction, but the mass remains very daunting. At the previous meeting the applicant was asked to address the mass of the building. Tonight we have heard opportunities to take it from one building to two buildings, which would have a mass similar to Park Place. The applicant does not seem to be interested in that. There are other things that can be done to reduce the mass of the building. Portions of the building can have a change in material or color, or the building plane can stepped in and out to reduce the appearance of the mass of the building. The 270 ft. length of building is very severe in his opinion. The views during the winter months are an asset that the entire community reserves to enjoy and he is concerned that this 270 ft. long wall of building that is approaching 90 ft. in height would severely impact the quality of those views.

Elkins stated he has a series of concerns. He is concerned about rezoning this particular space for mixed-use. He thinks mixed-use has its place and is an important part of what Leewood needs, but he is not sure that it is appropriate at this spot. A couple of reasons to rezone to mixed-use is to create a sense of a village or community, but also, his sense is that mixed-use is an appropriate transition from a commercial area to a residential area. In this particular area he believes there are other tools or other natural attributes, such as the park and green space, which accomplish those same things. It seems

those already exist. He recognizes that this plan contemplates that this area could effectively be a mixed-use area, but he has reservations about this particular spot being appropriate for mixed-use. He is also concerned about whether this particular project really satisfies what is contemplated by mixed-use in this master plan. He sees this plan as being a re-accommodation of commercial/retail with residential set on top of it. There is more to life than retail and a place to sleep and cook your meals. It seems to him that those are the only two uses that are being mixed. Other uses, such as recreational, social and educational uses should come into this concept of a mixed-use village community. We are not getting the old Norman Rockwell thought of a basic main street that has the church, city hall, museum, library, general store and houses all in the same place. When looking at mixed-use, we should set our expectations higher than simply accommodation of stacking a residential place on top of a commercial retail space. He shares Reynolds' concerns about the mass of the building. There are caveats about building mass in the mixed-use section of the ordinance. A lot of that goes towards the architecture, but that is not what we are approving tonight. There is an overriding theme of a sense of place in which the character is consistent with the character of Leawood. That has been expressed in many different ways by the public. He struggles to see how this particular form of mixed-use at this particular site is consistent with the character of Leawood.

Williams stated he agrees with the comments made by Elkins and Reynolds. There are key things in the comprehensive plan and ordinance that he does not see in this plan. One is the idea of blending a variety of uses into a village-style development. He does not see that happening. The ordinance talks about clustering and orienting the structures and uses so they have a connection and access to one another with a safe and pleasant pedestrian development. The site plan developed for the retail development does have some nice sidewalks and more green space in the final plan than when it first came to the Commission, but when you add the residential component it seems there would need to be more of those amenities to make it a successful mixed-use project instead of a place to cook and eat and hang your hat. Defining mixed-use as neighborhood mixed-use district was developed to prevent strip commercial land use. Yet looking at the plan that was approved as a retail project they had basically a strip development, with a couple of pad sites. He thinks the Commission approved the commercial project because it seemed to be overall well-designed and had some interesting things happening with the architecture. He thinks contemporary can be appropriate when done right. Now there is a strip commercial development with a massive residential tower placed on top of a piece of it. He hears the architect's description as to why they did what they did and he understands some of it, but he doesn't believe all of that. If it didn't really work, then maybe it shouldn't be here. Looking at the elevations, there is a complete disconnect between the tower and the strip development, as well as the rest of the development. He sees a building that is out of scale with the rest of the development. It is not pulling together what he thinks the City was wanting in a mixed-use development.

Munson asked the current zoning. Klein stated it is SD-CR, which is planned general retail. Munson asked if that permits residential use. Klein stated, no. Munson agreed with the comments made by Williams, Elkins and Reynolds.

Conrad stated he would abstain from any motion for either approval or denial. One of his requests at the last meeting was that the applicant and the residents come to a consensus over some of these views to the site and he has not seen that demonstrated. He thinks that is critical along with all of the other issues. He thinks that needs to be universally resolved so that it is not one of those things that come up continuously. He struggles with the definition of mixed-use developments. We hear 24/7 vibrancy and liveliness. His question is if mixed-use is predominantly residential or predominantly commercial. He thinks the 24/7 is predominantly residential to a degree. There does need to be a commercial component and he wonders how that all works together to build this space. We have discounted the residential 55% to the maximum on the project. He is not clear as to why we picked that number. The staff did outline the bonus calculation portion, but when he looks at it and what our expectations are for mixed-use, if the below-ground structured parking is 25,000 then we have to come up with an extra 31,000. The applicant has requested 17,000 for increased open space. To be critical in this, this is the same plan as they had before. He does not see where the increased open space is over the previously approved plan. In regard to superior site planning and architectural significance, there are five deviations that allow them to have reduced setbacks, which is a reflection that we are trying to put a lot on the site. He questions that 17,000. In regard to the design of the building, he thinks contemporary can be done well, but he is not sure about the proportion or the massing. One issue is the parapet height in front of the residential portion. He thinks that makes a significant difference on how the building is perceived in mass. A 15-ft. parapet versus a 3-ft. parapet would make a big difference. In regard to pedestrian amenities, he thinks Reynolds spoke well about those. He is supportive of mixed-use and thinks it can work on this site. He is

supportive of the concept of what they are trying to do but feels they have a long way to go. He feels continuing to work on this plan would be a good direction to go.

Perkins stated he is a proponent of mixed-use. He agrees with Reynolds' comments. He is not too concerned about putting this building in this retail environment, but he does not understand why the developer cannot go back and reduce the height since there has been so much talk about the height of the building and the design of the building. It is not a bad project. He is concerned about the safety of the driveway and the FAR.

Henderson stated he supports the concept of mixed-use development. The definition of what he understands does not refer back to Sturbridge, Massachusetts and Norman Rockwell, but to villages here in mid-America. He thinks mixed-use can work on this site, but we should not be looking at New England or 95 year-old images that New England had for a concept of a village. He has concerns about the entryway. It needs some adjustments because it could cause problems going either east or west. He is not as concerned about the height as he is about the mass. There is a way to redesign the building and to abbreviate the height of the building so that the design looks much better and fits better on that location. He is not sure about the traffic. Since the convenience store was removed, we are not sure about how the traffic patterns might work. Parking is still a question for him. He is not sure they have enough parking or design in the right places. The concept the applicant is working towards is one that he could support a continuance to try to keep working on some of those problems.

Rohlf asked Lambers what options the Commission has for motions at this point. Lambers stated he feels tonight has been the first opportunity for the Commission to express any kind of detail and concerns to the applicant that would need to be addressed as part of a preliminary plan. Some of them are very dramatic, such as the issue of the massing of the building. If the Commission wants to see a reduction in the building, then the issue came up about a second building with residential on top. There may be a way to connect them somehow. That may be something for the applicant to consider. To say it is too tall, but not give indication of what is acceptable is not fair to the applicant. If the Commission agrees that mixed-use is an appropriate use for this site, then the assumption should be made that there will be a residential component and it will probably be on top of something. The Commission could have a motion to approve the project with a height limitation of 60 ft., for example. The floors are 11 ft., so you would need to give them a full floor if you wanted to see a reduction in one of the floors. The Commission could recommend denial because it is too tall, but should indicate that if the applicant were to consider a height the Commission feels is acceptable, then it would be up to the applicant. The difference between the two is that the recommendation for approval goes to Council with a one-vote requirement. A recommendation for denial in terms of an override then has another. The issues that were raised in the first meeting regarding the landscaping, the parapet and the elevator, were addressed by the applicant. The height is still there. In regard to the architecture, with Crate and Barrel being contemporary, it is going to be contemporary architecture of some sort. He believes there is an acknowledgment on the Commission's part, but you just don't like what is on the table now. The third option is a continuance. One issue that was raised, and maybe the applicant may want to consider, was the request to tether some balloons on site to be able to demonstrate the height. The fire truck was out there to show what the height would be. When the fire truck got up to 100 ft., it was visible above the tree line, but below that 100 ft. it was not visible. He does not disagree that the items on top of the building need to be taken into account. The City will be amending the development ordinance to put a limitation on that and maybe as part of that discussion the Council might say that the rooftop equipment should be taken into the overall height consideration. We have the right to say what the height is. If the Commission is looking at the massing, which was not discussed last time, and a design change, the applicant may or may not be willing to do it. If not, the Commission could make that note and let it go to the Council and if they agree, then it will come back to the Commission. The process is such that it is very common for a project with this much controversy to get remanded from Council and then back to Commission. He would prefer to not have a continuance tonight, giving the Council much information as possible.

Perkins asked if the Commission could put in a stipulation that the building height could be 72 ft., or whatever is agreeable, and the mass would not be 270 ft. by 80 ft. wide, and the applicant would have to abide by that stipulation and come back at final with a plan that has that stipulation taken care of. Lambers stated the Commission could put anything in as a stipulation that they want. Between now and City Council the applicant could do their analysis to see if it would work for the development.

Henderson stated that would make the Commission begin to act like architects and he is not sure that is their prerogative. Perkins stated there are a lot of people that do not want it that high. The developer has not brought it down at all. The people are up in arms about it. He likes the project, but he feels they should listen to people.

Elkins asked if they could consider the rezoning separate from the preliminary plan. Lambers stated, no. If the motion is to deny, then you would need to give the reason as being the plan and not the zoning.

Rohlf suggested someone make a motion to approve with the stipulations in the staff report. Then summarize the positive parts of the plan and then the specifics that need to be changed or looked at prior to final so the applicant could choose to comply or not and then take that to Council.

Reynolds stated his greatest concern is the 270 ft. length of the mass of the building. A stipulation to address that would be that the residential tower be no longer than 160 ft. in length and no higher than its current height. Munson stated he would not be able to support that without a restriction on the height. The height that he would be comfortable with would be something that does not protrude above the existing tree line, whatever that measurement is. Conrad asked if Munson means a measurement from sea level. Munson stated 45 ft. above grade as measure at the foundation of the building. Perkins asked the height of the retail now. Lambers stated the applicant has said the retail is approximately 30 ft. Perkins stated Munson's suggestion of 45 ft. would only allow the residential to be one level. He doubts the applicant would go for that. Lambers reminded the Commission that the residential is 11 ft. per story but the penthouse is 13 ft. Munson changed his suggestion to 46 ft. above the retail. Lambers stated Munson's proposal would have a total of four stories for the residential. Reynolds stated another way to state Munson's dimensions would be to remove two floors from the residential tower. Lambers stated the massing would be reduced by the lowering of the height as well. It would be better if they were stipulated separately. It might be best to favorably have a consideration of that, because that would reduce the mass, and see if you believe the massing needs to be reduced further beyond that. Reynolds stated he is comfortable reducing it one floor, but taking two floors out and limiting the length of the building seems severe.

A motion to extend the meeting until 9:30 p.m. was made by Elkins and seconded by Munson. Motion to extend the meeting approved unanimously.

Conrad stated they were presented with a pretty powerful presentation from the consultant at the beginning of the meeting and now there is discussion about lowering the height of the building to 75 ft. He is not sure that would help create the massing and the building we want. According to the presentation, the building as proposed would not be seen from the location where the picture was taken. You could not see the buildings. He is confused as to why we are taking two floors off of the building when he does not see where there would be a vantage point of if it would or would not solve the problem we are talking about. We certainly need to respect the views and the character of the City as these things are built. He will maintain his position of abstaining from the motion to approve or deny. Rohlf asked if Conrad would support a continuance. Conrad stated if the building is lowered to 72 ft. it could still be an issue for the residents. Munson stated they are trying to give the applicant some specificity. Conrad stated he is not convinced that the mass is going to be acceptable from the retail side at whatever height we pick. Rohlf stated that may go back to Henderson's comment earlier; that we are putting ourselves into the position of what the architects should be doing. Perkins stated he does not see another way to do this other than a continuance, if the developer is willing to take the Commission's comments and do something about it. Williams stated he feels the residential is just placed on top of a strip development. It does not create the kind of mixed-use neighborhood that he thinks any of our ordinances or comprehensive plan describe. It is not to say this property can't be a mixed-use development. With it being 15 acres, maybe there is the fundamental question of whether or not you can create a successful mixed-use project on 15 acres. From a location perspective, there is some merit to mixed-use being in the vicinity of the other commercial developments along 119th and Roe, as well as its proximity to the park and walking trails. He sees that as being more positive than other mixed-use projects the Commission has seen, short of Park Place. To take a residential component of whatever height and whatever length, does not work. Conrad asked if that suggests a continuance to try to make it work. Williams stated it suggests a redesign. Conrad stated he is not suggesting that it be approved at 90 ft. He is not suggesting it be two towers. He thinks there is an opportunity. We are trying to do mixed development and if that is not something the applicant is interested in doing, then we need to look at the ordinance and recommend against mixed-use development. He thinks the plan is a long way from being approved or denied. A lot of

questions have been raised. They approved a retail development that has now come back with residential on top of it. He is supportive of continuing the process to see if we can make a mixed-use development work in the highest quality we can have. His goal is to not have as many deviations for a mixed-use development. Mixed-use should maximize green space, open space, pedestrian areas and interface between people. He does not believe we have done a mixed-use development in Leawood that comes close to what we think it should be and he is not sure that we all agree on what it should be.

Williams stated he believes Park Place gets to be the closest as any, though the residential units are in separate residential towers, but those towers have a connection of space where people can have activities. Even the retail portion has offices that are an integral part of those buildings and provides some of that daily traffic that makes a mixed-use development work. Conrad stated what we have is a plot of ground that is asking to be rezoned for mixed-use and those are the elements we would want to see incorporated into it and he does not believe we see those elements incorporated into this plan yet. He does not believe the solution would be to just lower the height. There are a lot of fundamental questions about how we want to see the overall development built. The access to the public space is an elevator that goes down and a service corridor that goes out to that space.

Rohlf stated a lot of the comments tonight are the same comments given last time and we did not see a significant change in these plans. The developer has indicated they are not interested in changing the look of the residential component. She thinks they are willing to look at the architecture, but she is not sure they are interested in significantly changing this to better comply with the mixed-use. Lambers stated tonight was the first time that massing came up. The height was on the table from the beginning. Williams stated he believes he made the same comments at the last meeting about the residential component being put on top of the old plan. Lambers stated there is not a lot of flexibility on this site. Because it is small, because a building is already being constructed, given the topography and everything else; where the proposed condos are on the building to the northeast is where it is going to occur. If the Commission were to ask the applicant to make it more integrated and try to achieve what you spoke of, the applicant has already made it clear they cannot extend to the west because of cost. He does not want to build up an expectation that if there is a continuance you will see a major re-design, but maybe something different could happen on that northeast corner and that is about all you can see because it is so tight. Williams stated he does not approve of the idea of putting the tower as they have on the strip center. This could set a precedent of people putting towers on top of strip centers. They could put a tower on top of Hen House. That is not what we want to see from the developers.

Rohlf asked for the approximate acreage of Mission Farms. Klein stated approximately 20 acres, but he is not sure. Rohlf stated that is the closest we have come to putting something this large over retail. Klein stated it is kind of a horseshoed development that faces Mission Road. The two buildings on the north are proposed to have two stories of residential above retail and the two buildings on the south are proposed to have office above retail of about the same height. Williams stated the retail in an integral component with the upper floors. The site plan on that has a relationship between three major buildings that create that sense of connection or village. He does not want to set a precedent of approving a building that is disconnected.

Reynolds stated he believes that he did state that mass was his biggest concern at the previous meeting. He was disappointed that the applicant chose not to address that. Almost all of the Commissioners mentioned height and that was not addressed either. He agrees with Henderson's comment that it is not the Commission's task to play architect. He feels this project should be denied with the understanding of where the issues lie so the Council can have the benefit of the Commission's comments.

A motion to deny the request for rezoning and preliminary plan was made by Elkins and seconded by Munson. One of the reasons for recommending denial is that he does not believe it achieves the purposes of mixed-use as set forth in the ordinance, specifically with respect to the degree of open space. He feels the applicant has set residential on top of commercial without any connection between the two. Reynolds stated another concern is the excessive mass at a length of 270 ft. Munson stated another reason for denial is the height of the proposed residential.

Motion to deny, as amended, approved 5-1. Henderson against. Conrad abstaining.

Meeting adjourned.

Lisa K. Rohlf, Chair