

City of Leawood Planning Commission Minutes

September 26, 2006
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive

CALL TO ORDER/ROLL CALL: Henderson, Roberson, Jackson, Conrad, Rohlf, Munson, Williams, Elkins, Reynolds

Rohlf reflected her appreciation for all of Cy Perkins' hard work and efforts as a former Planning Commission. He has stepped down. She then welcomed Ken Roberson to the Commission.

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

APPROVAL OF THE MINUTES: Approval of the minutes from the July 25, 2006, August 8, 2006, August 15, 2006 and August 22, 2006 meetings.

Munson stated on the second page of the July 25th minutes it states, "Golden Heights", and it should be the "Golan Heights". A motion to approve the amended minutes from the July 25, 2006 meeting was made by Elkins and seconded by Williams. Motion approved 7-0. Roberson abstained.

A motion to approve the minutes from the August 8, 2006 meeting was made by Henderson and seconded by Munson. Motion approved 7-0. Roberson abstained.

In regard to the August 15th minutes, Henderson stated on the fourth page, last paragraph, one of the members of the public was quoted as saying, "Leawood has a habit of turning things down, and then Council always approves it." Henderson hopes it is clear that this is an opinion. It was also stated in such a way that it is ambiguous. It is also an untrue remark. Rohlf stated there are probably other comments made during public hearings that are not true, but we will note Henderson's comments for the record. A motion to approve the minutes from the August 15, 2006 meeting was made by Henderson and seconded by Williams. Motion approved 7-0. Roberson abstained.

A motion to approve the minutes from the August 22, 2006 meeting was made by Elkins and seconded by Williams. Motion approved 7-0. Roberson abstained.

CONTINUED TO THE OCTOBER 24, 2006 MEETING:

CASE 72-06 MARKET SQUARE Request for approval of a preliminary plat and preliminary plan. Located east of Mission Road and north of 135th Street. **Public hearing**

CONTINUED TO THE NOVEMBER 28, 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 54-06 LDO AMENDMENT - SECTION 16-2-10 ARCHITECTURAL STANDARDS Request for approval of an amendment to the Leawood Development Ordinance. **Public hearing**

CASE 73-06 LDO AMENDMENT – SECTION 16-4-10.1 HOME OCCUPATIONS Request for approval of an amendment to the Leawood Development Ordinance. **Public hearing**

CONSENT AGENDA:

CASE 64-06 LEABROOKE 6TH PLAT Request for approval of a final plat and plan. Located at approximately 145th Street and Kenneth Road.

Munson stated the letter from fire marshal stated emergency access cannot be evaluated. He then asked if that will be a problem. Joseph stated the fire marshal did not get a chance to review the revised plans, but he will review it at time of building permit.

A motion to approve case 64-06 was made by Williams and seconded by Munson. Motion approved unanimously.

CASE 65-06 LEABROOKE 7TH PLAT Request for approval of a final plat and plan. Located at approximately 145th Street and Kenneth Road.

A motion to approve case 65-06 was made by Williams and seconded by Jackson. Motion approved unanimously.

REMAND FROM COUNCIL:

CASE 39-06 MADDEN MCFARLAND INTERIORS Request for approval of a preliminary plat and preliminary plan. Located south of 135th Street and west of State Line Road.

Staff presentation: Presentation by Jeff Joseph. The applicant is Bernie Madden. This case was heard by the Planning Commission on June 27, 2006. The Planning Commission recommended approval of this application at that time. The case was heard by the Governing Body on July 17, 2006. At that meeting the Governing Body remanded this case back to the Planning Commission to address some of the concerns and recommendations. Some of the concerns were: the entire building should be sprinkled for safety purposes, emphasis should be given to all four sides of the building instead of just the front elevation, the building should be designed in such a way that it blends with the adjacent commercial developments that were approved, the porch should be added back to the east side of the building as previously shown in an effort to enhance the visual quality of the building, in an effort to coordinate with other developments along the 135th Street Corridor corner features, fountains or artwork should be included within this site, and the applicant should also use slate or tile as the building roof material to match the commercial buildings along the corridor. Staff would like the Planning Commission to address any additional requirements to be taken into account at this time by the applicant and staff recommends this case to be continued to the October 24th Planning Commission meeting so that the applicant will have the opportunity to address all of the concerns and recommendations.

Rohlf asked if the staff report has been revised. Joseph stated the plans are exactly the same as seen before by the Commission. Rohlf asked if some stipulations would need to be changed in order to go forward. Joseph stated, yes.

Jackson asked what is meant by emphasizing the four sides of the building. Joseph stated it is one of the requirements within the commercial zoning districts. The four sides need to have some kind of enhancements or architectural features, instead of looking like a back side of a building. Jackson stated she believes the building looks like a house on all four sides. She then asked if the Council wants it to look more like a commercial building. Joseph stated, yes. Jackson stated she thought from the notes that the Council liked that it looks like a house but they wanted it to be a transition into the commercial buildings around it. Joseph stated some of the Council members had concerns about it looking like a residential building. They want to add more architectural features to blend it in with the commercial projects in that area. Jackson asked if staff has any ideas as to what those features might be. Joseph stated the architecture would be looked at when the applicant finishes any changes.

Williams asked if Council is saying that they should blend this with the development that is going in to the west side, which isn't built yet. Joseph stated, yes, Leawood Market Center. Williams then asked how they can make it blend with the adjacent development, which has a completely different architectural style. The City does not ask other developers to blend with adjacent commercial developments. Joseph stated the applicant could use some of the materials that Leawood Market Center is using. That could change the look of the building. Williams asked what types of materials. Joseph stated they could use a brick façade or a tile roof. Williams asked what problems Council had in terms of four-sided architecture, because he feels they have already achieved four-sided architecture in this plan. Joseph stated he believes the primary intent is to use similar materials to the other projects, such as brick and stone. Williams stated he believes this building already has some brick on it. Joseph stated he believes it is painted brick. Williams asked if sprinkling is a planning issue or a building code issue. Lambers stated it is a building code issue that Council wanted to make the Commission aware of. It is not under the jurisdiction of the Planning Commission.

Applicant presentation: Presentation by Ron Stallbaumer of Wendlandt and Stallbaumer Architects. It is not the applicant's request that this be continued to the October 24th Planning Commission meeting, unless directed by the Commission tonight. In response to Council's comments, the applicant offers the following comments. The entire building will be sprinkled. It was never their intention for the building to not be sprinkled. Emphasis has been given to all elevations. Council requested the project blend with the adjacent developments. The applicant has a difficult time with that. Some of Council's comments ask for it to blend, but Councilman Gill also stated that he is not bothered by the deviation request and likes the distinctiveness of the current property. The portico has been put back on the east elevation. That was something the Commission did not see, but was shown in the proposal to Council. To clarify, somehow Council was given copies of earlier plans. They did not get a copy of the submittal that the Commission reviewed. The applicant agrees to provide an easement for future fountains or artwork that will provide a place for elements of the gateway of Leawood. Mr. Madden has agreed to dedicate 4,000 sq. ft. of the north end of the property for right-of-way as required by Public Works. The applicant agrees to use synthetic slate roofing materials. DaVinci Roofscapes Castle Grey blend was approved by the City within the last couple of weeks. *Stallbaumer passed out half-size sets showing some updated elevations and with the portico.*

Rohlf asked if the plans given to the Commission in their packets are the ones that Council received. Stallbaumer stated, no. The applicant's initial thought was to submit revised drawings tonight for the Commission's review. Staff then directed the applicant to only submit the originally proposed plans. Rohlf asked if one of the reasons for staff's recommendation of a continuance is because the Commission has not had the opportunity to review the revised plans. Lambers stated, in Council's remand, they stated they wanted this building to lose some of its residential presentation and staff felt the applicant would need time to do that. The corner feature needs to be a corner feature, and not just an easement. The applicant will need to work with staff on that. The idea was to bring this to the Commission tonight and then let the applicant evaluate what those stipulations would mean for the project and then come back on October 24th. Rohlf asked if the Commission should not look at the revised plans this evening. Lambers stated the applicant can show them tonight. He wants the applicant to be aware of the corner feature. In this case, because we will be coordinating it with the property to the north, the City will have a strong participation in this process so that there is a clear connection between the three features that will be constructed. Rohlf stated the reasons for remand do not relate to what she believes are the most important parts of the plan, such as the deviations in the parking. Lambers stated Council did share the concerns about the deviations. A Council member did show support for the project, but the majority of them felt the residential building was not consistent. The idea was to allow the applicant to try to provide a transition to the development to the west through some façade improvements. Given the Council's position of wanting to see changes to the façade as it relates to having a more commercial presentation, we would like to know if there is anything else the Commission feels would be appropriate for the applicant to include for those changes. The idea was for the applicant to have all of that information tonight so that the Commission could take action on the 24th. If the applicant feels they can make the Oct. 10th meeting, then that would be okay.

Stallbaumer stated the applicant has updated the elevations. It is a bit of a challenge with this project. Mr. Madden wants it to have a residential feel to it. That is his business and trademark. They have updated the elevations in response to the Council's comments. They put brick all the way around the first floor. They have added different balconies and different features to the building. They have essentially agreed to all of the issues that Council highlighted. *Stallbaumer described the different pages in the new plans.* He thinks they are making a good effort to make it four-sided. He thinks it has more of a commercial flare to it, while trying to keep it residential to match with Mr. Madden's business. In regard to the corner

feature, he spoke with staff about that and no one has any idea what is planned for it. There is no one across the street. He was told that if they were willing to provide an easement there, then that is all they could do at this point. In regard to the deviations, he thinks Council was more opposed to the non-commerciality of it and it being at the gateway into Leawood. Without any gateway feature designed or any type of standard requirements as to what should go on with this type of feature, it is hard to address what is going on with the corner.

Munson asked what Stallbaumer's understanding is of the corner feature. Stallbaumer stated it is his understanding that there will be an element on each side of the street and something in the median. Mr. Madden would agree to allow something like that to be built there. He is also going to have to pay for it. By agreeing to provide the easement, he is agreeing to pay for something, but they have no idea what that is. At this point it is hard to address when there is nothing across the street at this time.

Henderson stated he believes the 135th Street Guidelines state that at all major intersections, all four quadrants were listed as having a corner feature, even though we knew there would be nothing present on three of them when the first one was erected. It has been in print for 10 years and is being carried out. When the development was built on Mission Road, nothing else was around it, but they put up a corner feature. Stallbaumer stated the applicant is trying to agree with it.

Reynolds asked how the size of the trees in the front of the property was measured. Stallbaumer stated the measurement is the size of the trunk, 2 ft. off of the ground. Reynolds asked where the fence would be located. Stallbaumer stated it runs along the west property line up to the right-of-way. Reynolds asked if the applicant is okay with the synthetic slate. Stallbaumer stated, yes.

Jackson asked for clarification on the corner feature and what the applicant is agreeing to do. Stallbaumer stated the applicant is agreeing to provide an easement for it. It was his understanding from staff that it would be appropriate for the applicant to provide the easement. It was the recommendation of staff that the applicant indicate they are willing to work with what is required on that piece. Jackson asked if it would be a problem for the applicant if they are required to put in the corner feature. Stallbaumer stated it depends. Staff has been very vague on what it is or what it is going to cost. Lambers stated we need to evaluate if the easement is sufficient. The City has entered into negotiations with a firm to design these three features. There is an issue of scale. We have a very small piece of property to work on with Mr. Madden's site and we have the undeveloped property to the north. The reasonable easement dedication will dictate the scale of the entire project. The one in the median is going to be back from the intersection so as to not create any sight-distance problems. We would need to look at the easement area they are talking about and bring it to the consultant. We are envisioning three different water features that would have common materials and presentations to connect the three, with the City of Leawood being identified in the island. Staff is requesting this to be continued to October 10th. If the City decides to create a larger or more expensive entryway, then we would try to determine what would be a reasonable project and we would pay the difference to not burden the applicant. This project going forward is triggering everything because it needs to be done now, as part of this.

Rohlf stated she feels a continuance is in the best interest of everyone.

Munson stated the elevations look like they have improved quite a bit from what they have now. The fenestration is a lot better. Rohlf asked if he feels that accomplishes the four-sided emphasis Council was looking at. Munson stated, yes. Williams stated he feels what they provided before satisfied the four-sided architecture, as good as or better than half of the commercial projects that get presented to the Commission. He thinks the changes they have proposed on the elevations have improved. It still has that residential character and we may agree to disagree on whether it is appropriate or not on that corner. It is appropriate as identification for the type of business. The City has approved water towers for that same street. This is much nicer than a water tower.

Stallbaumer stated the applicant is trying to work with staff. He then asked if the corner feature would be the reason for the continuance. Lambers stated the size of the easement needs to be looked at for the continuance. Stallbaumer stated Mr. Madden has already dedicated over 4,000 sq. ft. of right-of-way at the north side. His conversation with staff is that the applicant agrees to provide a future easement for this feature. Munson asked if the applicant is agreeing to provide an

easement only and not the corner feature. Stallbaumer stated that is what staff told him. Munson asked who would pay for the feature. Stallbaumer stated in his meetings with Lambers there is a certain amount of it that the owners of the property are responsible for, but at the same time there was no dollar amount put with that. Lambers stated we need to have the project on a public easement because the City will be providing financing through our special benefit district authority. The idea is to help mitigate that and provide the financing for it at the City's best rate. Jackson asked if 4,000 sq. ft. is not enough. Lambers stated it may not be enough and it may not be in the best position. If the City requests too much of an easement, then we would release the balance of it once the project is completed. We need enough of an easement for the structure and the area around it for maintenance. Williams asked the size of other corner features along 135th Street. Lambers stated this would be nowhere near the magnitude of the corner feature at Cornerstone. The space is so small at the Madden property that the feature will be atypical compared to what you will see along that corridor. Williams asked the size of the one at Cornerstone. Lambers stated it will be at least a quarter-acre. Williams asked if there would be anything more as a person goes east into Leawood from Nall. Lambers stated the plan is to put in the corner feature at State Line first, then put in upgraded features throughout all of the medians and coordinate that with the water features that are there so that they are evenly spaced. Other things would be significant upgrades of landscaping and masonry. In regard to the corner feature on the Madden property, there is \$120,000 of City money to go into that project. Rohlf asked if the easement could be taken up at final. Lambers stated he would like to have it done. He would like to continue this case to the October 10th meeting and then they would go to the October 16th Council meeting. Stallbaumer asked if the reason for the continuance is to find out the size of the easement, and that Lambers will tell him what that is. Rohlf stated, yes.

Bernie Madden stated if this is not going to happen, he would like to know. He does not have a quarter-acre to build a fountain. He has already donated 4,000 sq. ft. for an easement, which is worth about \$65,000 based on what Leawood paid him for the 17,000 sq. ft. that they condemned in 1995. The building is tweaked enough. It looks beautiful. They have four beautiful sides to the building. If the Commission likes what they have done, then the applicant will agree to a continuance. It will never look like the other buildings on 135th Street. It is not intended to. It will look as good as any other building on 135th Street. Their brand is residential. They want it to look beautiful for Leawood and for themselves and primarily for their clients. They want it to be an entrance into Leawood.

Lambers stated they would not need a quarter of an acre. The question is if the size is enough and if it is positioned where they need it to be. This corner will dictate the entire three features in terms of its scale. The City will be reasonable in what we require for this easement. Munson asked if staff is going to work with the property owner. Lambers stated, yes, we want to be able to work through this. This is our one chance to have an entryway to let people know they are coming into Kansas, Johnson County, and Leawood. Munson asked what would happen if the applicant decides not to participate in the corner feature. Lambers stated the applicant is entitled to stay there in his current condition as long as he wants to.

Henderson stated the current building and proposed addition does not fit on the current lot. We approved a Madden McFarland proposal of a two-story building with basement that was an elegant commercial building. It fit the lot. It was not oversized for the space surrounding it. It met all of the ordinances for parking, traffic egress and ingress. That was a new building. This building is almost 50 years old. A wooden residential building will not look like it does now in 10 years. They have made it look as great as it can look. The sharpness of what we are now talking about is not just how well Madden McFarland has done in this City, but to try to change that without changing it is to invite the Commission to try to superimpose some things on a building that might not be able to take it in the long run, either aesthetically or structurally.

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

Conrad stated he has some concerns about the increase in the square footage and the deviations and feels that if we move forward we should do everything possible to comply with the 135th Street Corridor recommendations. If someone wants to put in a more retail-type facility and the parking is inadequate, then we have locked ourselves into existing conditions for entering and exiting. He is supportive of the facility staying as it is now, but he is hesitant if there is a continuance that those issues would not be addressed. We are making too many concessions on deviations for the square footage and the parking issues.

Reynolds stated he feels it is very attractive building. He is very supportive of its look including the non-commercial look. The roof change and the addition of the east porch are very nice additions. He was glad to hear that the cost of the corner feature would be proportionate to the property size. He would not want to kill two of the nicest trees in the community, which have the ability to be terrific gateway features without spending a lot of money on other elements. He would hope that the City keeps that in mind and is very careful of that. It is also the outbound corner. In his opinion, not all corners need to be treated equally. Sometimes understated corners can speak just as loudly of quality as a big extraverted feature. This might be a very appropriate place for that understated approach. He is very supportive of the application and where it is headed.

Williams stated he is supportive of the project. He has concerns about the size of the development and how it seems to be too big for the lot. The staff report states the applicant has 20% more open space than required. They have 0.03 less than required for FAR and they are 18 ft. under the maximum allowed height. They are not providing more cars than they need. We often get in situations where developers want more parking than is allowed, not less. It is a nice looking building. It does not look commercial, but he does not see that as a problem on 135th Street. It looks as good as or better than other projects they have seen along 135th Street.

Reynolds stated it is fairly limited in the access. That is encouraging to him. That will limit future heavy uses. He does not see a safety issue as much as an accessibility issue. Ley stated Public Works does not have any safety concerns on the right-in, right-out as long as traffic is not that great.

Elkins stated the applicant has indicated that the only issue left is the easement issue. He is not sure that he would want to leave the applicant with the suggestion that the issues are that limited at this point. He feels this is the first time staff has seen these elevations and he would like staff's view of the newly proposed changes. In regard to the overall aesthetics of the project, he agrees with Williams' and Reynolds' comments.

Rohlf asked if the applicant would like to request a continuance. Elkins asked if it is within the purview of staff to request a continuance. Lambers stated the applicant can only request three continuances. Staff can request a continuance, so it would not count against the applicant's three available. This would be staff making the request for a continuance to October 10th, and then it could move to Council on October 16th. The applicant can agree or disagree.

Stallbaumer stated the application has been approved once. His understanding is that they were trying to address all of the issues brought up by Council. By bringing the plans tonight he was trying to save time. This is preliminary and Council was very hung up on elevations, which should be looked at during final. His hope tonight was that if these drawings reflected what the Commission felt is acceptable at this preliminary level, then you could send it back to Council. In regard to the easement, it was his understanding that if they added to the stipulations of agreeing to sprinkle the building and changing the roof to slate and agreed to provide the future easement needed, then the Commission would send this forward. He has been in discussions with staff since March. If a continuance is the only option, then yes, they are agreeable. Rohlf stated typically staff needs an opportunity to review any revised plans. The Planning Commission was not aware of the easement for the corner feature until this staff report. She believes a final decision can be made at the October 10th meeting. Stallbaumer stated this is an existing property that they are trying to do everything they can with and trying to be reasonable.

Williams asked if two weeks would be enough time for staff to review the situation. Lambers stated, yes. Williams asked if the applicant feels they would need more than two weeks to address any other concerns. Stallbaumer stated, no.

A motion to continue this case to the October 10th meeting was made by Elkins and seconded by Williams. Motion to continue approved unanimously.

Lambers stated it would be scheduled first on the agenda.

NEW BUSINESS:

CASE 66-06 SIENA – LOT 32 – CABANA Request for approval of a final site plan. Located at 3716 W. 140th Street.

Staff presentation: Presentation by Jeff Joseph. The applicant is Rex Michael. The applicant is requesting a final site plan to allow the construction of a pool house/cabana on a single-family lot. This property is located within the Siena subdivision, located approximately at 140th Street and Mission Road. The house shown on the site plan is under construction right now. The applicant is proposing a pool house/cabana on the north side of the house. The proposed cabana is approximately 528 sq. ft. The cabana consists of a living room, bar area, full bathroom and a furnace room. An outdoor kitchen area is also shown on the west side of the cabana. Per the Leawood Development Ordinance, a pool house/cabana is a shelter located near a swimming pool used as a bath house accessory to the swimming pool. It is staff's opinion that the proposed building is considered as a dwelling unit. Per the Leawood Development Ordinance, two separate dwelling units on any single lot are not permitted within the R-1 single-family district. Also, per the LDO, no accessory building may be used as residential dwelling purposes at any time. Staff is recommending denial of this application.

Williams asked what makes staff feel that this is potentially a dwelling unit. Joseph stated they are showing a living room/cabana area. In the initial submittal it was labeled as living room, and then it was changed to cabana. There is also a bar area, a full bathroom and a TV room. Williams asked if the definition of a cabana would not allow a full bathroom or bar. Joseph stated it should be like a bath house. Williams stated one could probably use this as a place for people to stay overnight.

Munson asked what the LDO says about detached structures. Joseph stated a bath house is an allowed accessory use.

Reynolds asked if we have provisions for nanny flats or granny lofts, which are dwelling units that are detached. Joseph stated, no. Reynolds stated it is a trend across the Country and may be a topic for discussion in the future. Lambers stated we are seeing a series of these types of applications. They are extremely elaborate, and while the intentions are probably solely for bath house purposes, when you look at it, it would make a nice apartment and once they are approved we would have no way to regulate them. He then suggested that these be required to go through a special use permit process so we can specifically limit the use for them so that if it turns into a living unit then we would have the ability to revoke the certificate of occupancy until they come into compliance. We do not want to preclude someone from having a very nice pool cabana but we need to make it clear that we do not allow external buildings to be single-family apartments.

Henderson asked about the recent applications for outdoor fireplaces. Klein stated they do not need to be attached. If they have a roof structure, then they need to meet building setbacks, but they do not need to be attached. Henderson stated his point is that these things are getting more elaborate.

Conrad asked if this structure would meet all of the setback requirements if it were attached. Joseph stated, yes.

Applicant presentation: Presentation by Scott Bickford, architect for this project. The difficulty has been in what defines a cabana. There are not any definitions. They have talked with staff and have stayed within the setback and height limitations. For some reason staff believes this could be a dwelling unit next to a 10,000 sq. ft. house and the applicant is not sure why. It is not the intention to make it a dwelling unit. It is next to the pool.

Roberson asked if the neighbors have been asked for their thoughts about the cabana. Bickford stated it is next to vacant lots right now. He does not think the developer has a problem with it.

Roberson stated there are neighborhoods that have pools that have multi-purpose pool rooms that are climate controlled and have bathrooms. He then asked how that differs from what this applicant is proposing. Joseph stated this looks like a living unit. It has a living room, a bar area and a TV room. Two dwelling units are not allowed on one lot. Klein stated these are not uncommon. What we normally saw was a room to wash off in and a room for the pool equipment to be stored. Then we started seeing them getting a little larger and more elaborate. In addition to the bathroom and a store room they would add a grill connected to it. First it would start with a pergola-type structure and now some of them are much larger and enclosed on one side. Some are coming in with no place for pool equipment, even though they are supposed to be a pool house/cabana. They are coming in with a full bathroom and not just a bathroom to wash off in. We have had one with a

Murphy bed in it along with a living area. Staff is looking for direction from the Commission on where to draw the line. They are starting to look like something else other than pool cabanas.

Rohlf asked if pool houses/cabanas were ever viewed as sheds or detached structures. Klein stated the City does not allow detached sheds to store lawn equipment. The reason pool houses/cabanas were allowed was due to the realization that there is a need to have a place to store the pool equipment and it would be nice to have a place to rinse off. It is now starting to feel like the cabana provision is a way to get a detached unit. Some are even getting further away from the pool.

Bickford stated he agrees that more people are asking for larger cabanas. These subdivisions have bigger lots and bigger homes and his clients' needs or desires are more elaborate. In this case, his client wanted a place for the kids to go to fix food or a place for the parents to sit and watch the kids in the pool.

Rohlf asked what the area is off the back of the house that might be a fireplace. Bickford stated it is a covered porch with a fireplace.

Williams stated this is obviously a gray area. He has been in a similar situation, but without the controversy. The owner wants a place where people can gather and enjoy the pool and get indoors away from the mosquitoes or away from the heat. They start sizing these to accommodate eight people and it does look like a studio apartment. He then asked if it would turn it into an apartment if someone puts in a sleeper sofa. Henderson stated maybe we should look at another term for in-home living. Williams stated if we are going to use the cabana definition, then maybe we should better define what that means. Rohlf asked the sizes of the approved pool house/cabanas. Klein stated planning typically does not see cabanas when they come in for building permit unless the plans reviewer brings it to planning's attention. The ones Klein has seen have been smaller, but he could not say the exact square footage. In response to Roberson's question of what would separate this from a community pool house, typically, planning does not see single-family residences. Accessory structures can be up to 2% of the lot and 15 ft. in height, so if there is a fairly large lot, then there can be a pretty large accessory structure. If a subdivision provides a pool house, typically that would get approved by the Planning Commission as a site plan. Staff is looking for guidance from the Commission on these types of structures.

Jackson asked if there is something in the ordinance to not allow another family to move into this building. Klein stated there is an ordinance that only allows one dwelling unit per single-family lot. It would be hard to find out what the structure is being used for, unless someone called it in. Lambers stated if this gets changed to a special use permit process then we would have the ability to remove the occupancy of the building if we found that it was being used as a residence. We probably need to more severely restrict the definition of a true pool cabana with the open-air aspect to it. Certainly an enclosed full bathroom is not a problem. Given the size of the lot and the size of the home, the world won't end if the Commission approves this. But we probably need to have a work session discussion to say what truly constitutes a cabana. For those items that fit the description, those could be approved administratively. Those that go beyond the description would need to come back for a special use permit. We do not want to hold this one up, but want to have this dialogue with the Commission. Staff has a serious concern that it could potentially violate the ordinance.

Williams asked if the Commission can approve this tonight, with stipulations added. Lambers stated if this were approved then he would like a stipulation stating that it not be used as a living area.

Elkins asked how they would get to the process to make this a special use permit. Lambers stated during a work session the Commission could work to create a very narrowly defined definition of cabana. Some of the items to look at are: storage of pool equipment, open air, an enclosed bathroom, proximity to the pool and perhaps even a limited square footage amount for it. If it went outside the definition, then it would need to come back to the Commission for a special use permit.

Henderson suggested including a stipulation in the approval of this case that talks about a revision to the definition of pool house/cabana. Lambers stated he would not want that. He thinks this application should stand on its own with a stipulation stating that it is not to be used as a living area. Staff would then bring it to the Commission at a work session in the future if that is what Council feels is appropriate.

Munson asked what would constitute permanent living quarters. Lambers stated that review process would be in place. The LDO is a living document and as we apply reality to it, we need to make adjustments for reality.

Jackson stated she does not see any reason to deny this with what the current LDO requires.

A motion to approve was made by Reynolds with the stipulation that the cabana not be used as a permanent residential living unit. Munson seconded. Motion approved unanimously.

CASE 67-06 IRONHORSE CENTRE LOTS 5-8 Request for approval of a rezoning from SD-NCR (Planned Neighborhood Retail) to SD-CR (Planned General Retail) on lot 8, special use permit, revised preliminary site plan and revised final site plan. Located at the southeast corner of 151st Street and Nall Ave.

Conrad asked the applicant if his firm, Walter P. Moore, has been involved with this application. The applicant stated, no.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a rezoning from SD-NCR (Planned Neighborhood Retail) to SD-CR (Planned General Retail) and a special use permit on lot 8 to allow construction of a restaurant with a drive-thru. A restaurant with a drive-thru is not permitted within the SD-NCR zoning but is allowed within the proposed SD-CR zoning with a special use permit. The applicant is also requesting a revised preliminary site plan for lots 5 through 8. These lots comprise of approximately the eastern half of the Ironhorse Centre development, which is proposed to have four buildings consisting of 65,495 sq. ft. on 6.49 acres for an FAR of 0.23. The applicant is also requesting approval of a revised final site plan for the elevations of a monument sign at the corner of 151st Street and Nall Avenue and buildings 3 and 4 within the development. Both buildings 3 and 4 and the monument sign have been constructed, but there are some variations from the final plans that were approved by the Governing Body for these structures. There is a currently approved site plan along with the original overall development as approved on the dais. Currently, the entire development is zoned SD-NCR. The applicant is requesting a rezoning of just lot 8 because they would like to have a coffee shop on that lot that will have a drive-thru on the western end of that facility. In order to do that, they would need to have SD-CR zoning in addition to a special use permit. Building 8 has been reduced from 9,000 sq. ft. to 6,120 sq. ft. There is a trash enclosure on the west side of the building that is separated from the building with the drive-thru and is connected with the rest of the building with a roof. Staff has some concerns regarding that because the City requires all trash enclosures be attached to the building. Building 7 has moved slightly to the north. As a result, the parking lot between building 7 and 8 has been reduced in size. However, a parking lot has been added between buildings 6 and 7. When this development initially came through buildings 6 and 7 were closer together. There was a plaza area between them, then building 6 slid down to the corner and there became a driveway to access some parking spaces along the east side of buildings 6 and 7. With this application, now there is a parking lot there. The applicant has provided a large parking lot median within that parking lot and there is a walking trail through that to try to relate those two buildings. There is a stipulation as part of final that they would need to give details to what they are providing within that parking lot island. Staff expects to see some amenities, such as statuary, water features or benches. Building 6 changed shape slightly. It does meet the required setbacks. The total building area has decreased from 67,000 sq. ft. to 65,495 sq. ft. Building 7 has increased from 10,000 sq. ft. to 11,375 sq. ft. Building 8 has been reduced from 9,000 sq. ft. to 6,120 sq. ft. Buildings 3 and 4 are located at the corner of 151st Street and Nall Avenue and to the east of that. Both of those buildings have been constructed. Staff noticed the stone appears to be a shade darker. Also, the accent stone appears to be darker. In addition, the light features are different than shown on the final site plan. The remaining issue is the monument sign at 151st Street and Nall Avenue. The two off of 151st Street were built as approved, but the one on the corner was not built with the approved materials. Staff is looking to the Planning Commission for guidance.

Rohlf asked if any of those buildings have been approved as a final. Klein stated building 6 has been approved as a final. Rohlf asked if the stipulations relate to only lots 5 through 8. Klein stated they are specific to lots 5 through 8, but some of them are for the entire development. Buildings 1 through 4 have already been constructed. For example, there is a parking setback deviation that was carried through on all of the development.

Henderson stated this is the third time they have looked at the architectural styles and/or buildings since it first came to the Commission. He then asked if staff thinks this is the last revision and if there was a theme to this development of something like prairie style. Klein stated the buildings they are proposing with this application do fit with that theme. The applicant is requesting a revised elevation of building 7 in which they have added a portico. It makes it look more like the buildings that have already been built. Henderson asked if we are likely to be at the end of the pre-shaping of the individual buildings. Klein stated that would be better for the applicant to answer.

Munson asked the direction of the traffic in the drive-thru. Klein stated he believes the driver would get their order from the left, which is the driver's side. The applicant could better answer that question. Munson asked if that could cause some congestion. Klein stated potentially. Munson suggested that it be discussed with the applicant before final of potentially removing two spaces.

Williams asked if building 8 is the one with the drive-thru. Klein stated, yes. Williams then asked if the structure to the left side of that building is the trash enclosure. Klein stated, yes. Williams asked the height of the retaining wall. Klein stated it varies in height. The applicant can better answer that question to show where that occurs. Williams asked for the applicant to also address if it would be fence and landscaping that would be screening the cars or if it would be the retaining wall. He then stated it seems odd to just rezone one portion of a development to allow a specific use. He then asked if this is something that is typically done in the City. Klein stated Nall Valley Shops is mainly zoned SD-NCR, however, the Walgreen's has the similar situation.

Applicant presentation: Presentation by Curtis Holland, attorney with Polsinelli law firm. *Holland introduced the development team.* The applicant is requesting a rezoning for the drive-thru with a special use permit, revised final plan for lots 3 and 4 and a revised final plan for lots 3 and 4. When this project was approved in 2003 Holland represented Merrill companies for that project. The land had previously been zoned CP-1 and was owned by Don Bell, who also owns the bank that is on the project right now. When it was presented it was considered by the City and the developer to be a showcase project. It was a 15-acre tract nestled up against Ironhorse golf course. There was a lot of input on this project from the beginning. Mr. Merrill was particularly sensitive to being next to the golf course. Since then they have built several buildings out there. In regard to the revised final plan for lots 3 and 4, the applicant is confused or dismayed that we are here discussing the items raised by staff. When this project was initially approved there was an approved set of preliminary plans and design guidelines approved for the development. As the plans came through for each additional building they were consistent and approved. That includes buildings 3 and 4. Staff is saying the color of the stone is a little darker in shade than the ones on buildings 1 and 2. What we have is stone in the same type and same hues; however, what can happen is that there is a little different hue to the building once it gets out to the field. He cannot tell the difference. There may be one other factor contributing to a different color. The first two buildings were built with a dry-stack stone and they ran into some watering issues, so they put some grout between the stones on the other buildings and it is a colored grout, so there could be some coloring. It could perhaps be slightly different, but it is not out of character with the design guidelines. Each of these buildings has approved construction drawings from the City of Leawood.

In regard to the monument sign on the corner, the design may be slightly different than what was approved. The color might be different as well, but just like the monument signs that are in front of buildings 1 and 2, the materials that were used were picked to match the stone color of the banding on building 4. It might be slightly different than what was approved but it is consistent with the plan. It is consistent with the design guidelines as well. The lettering will be a copper metal color. There are some new sculptures for the center. *Holland showed a picture of the sculpture they are intending to place next to the monument sign.* It is a statue of a girl standing on a horse on the south west side of the monument sign. Another reason the color of the stone was chosen is because it will have a nice contrast against the sculpture. They have had the sculpture looked at by the arts commission and they are supportive of it.

In regard to the lights, they are a little different on buildings 3 and 4, but they are not something that is not approved for the project. They are part of the design guidelines. The bell-style lamp is part of the design guidelines and was approved by the Commission. The change in the light fixtures in the back is in response to a neighbor that lives south of the golf course. She complained that she could see the white light. Staff noted the changes that have been made and it is their position that

there is a requirement for a revised final site plan approval. The applicant is asking for the Planning Commission's approval for those changes that have already occurred.

In regard to the drive-thru on building 8, it is a Latte Land. Under the current zoning regulations it requires a special use permit in the SD-CR district. The application for the rezoning is specifically for building 8. The site plan as it relates to building 8 and all of the other changes are just tweaks to what has already been approved. As you build out a project that has preliminary plan approval it is not uncommon for you to have some minor changes to those plans. All of the changes are consistent with the shopping center itself in terms of the overall design, building layout, the buildings materials, and the architecture and landscaping. There are some slight changes but the applicant feels they enhance the project.

Staff is recommending approval of this project and the applicant is appreciative. The applicant has a couple of issues with several of the stipulations. Stipulation number 2 talks about paying a park impact fee. When this project was first approved, the original owner was Don Bell. Mr. Bell is the person who donated all of the land for the golf course and as part of that the City has agreed to waive the park impact fee for the remaining properties he owns. Stipulation number 9 requires them to build a berm on top of the retaining wall off of lot 8. There are a couple of tiered retaining walls. There is not a lot of room to build a berm on top of the retaining wall. Where this happened elsewhere on the site it was approved to just have shrubs on top of the retaining wall, in lieu of building the berm. Berms are typically required to shield headlights and there will be no headlights shining onto the golf course. What little lighting there might be can definitely be hidden by shrubs. Stipulation 12, third bullet, requires there to be a pedestrian connection between buildings 7 and 8. There is a plaza area on the north side of building 8. There are some outdoor plaza areas on the east side of building 7. Building 8 is an office building, but those plaza areas on the back side of building 7 are intended to be private gathering areas for the tenants that are in those office buildings. The applicant does not want to encourage pedestrian traffic from the coffee shop or retail area to the north down to the office. There is already a pedestrian connection from building 7 and 8 on the west side of those two buildings. The tenants in building 7 can easily walk up to building 8. The applicant is asking the Commission's consideration to have that removed. In regard to bullet number four, he is not sure what staff is suggesting. The applicant is okay with deferring it to final plan but would like a better understanding of what is intended by that stipulation. Stipulation number 29 talks about constructing a model. They constructed a model when this was originally approved. It just adds unnecessary cost. The applicant is asking for that requirement to be waived. Stipulation number 18 deals with the trash enclosure for building 8. It is being handled uniquely and in the best appropriate manner. In terms of it being pushed further to the north and further to the east on the property lines, they are limited in terms of the trash enclosure. They believe it is the best way to handle the drive-thru and the trash enclosure. There would be a continuous route for the coffee shop and then the trash enclosure attached at the ground level. It also allows them to hide the utility meters inside the trash enclosure. It affords the drive-thru customers the convenience to pick up their coffee and be protected from inclement weather. In terms of the trash enclosure being removed from the buildings, the applicant disagrees with staff in terms of what is required within the City of Leawood and what is required specifically for this project. There is no ordinance in the City of Leawood that requires the trash enclosure to be directly attached to the building. When the preliminary plan was approved, that was not a requirement and when the design guidelines were approved that was not a requirement. The other trash enclosures on the site are not directly attached. They are connected to the building with a wing wall. Staff has subtly changed the wording in the stipulation from what had been the previous requirement. Staff states the trash enclosure needs to be architecturally attached directly to the individual building and accented with appropriate landscaping and it would include sharing a wall with the main building. The approved stipulations from the preliminary plan state the trash enclosures must be screened from public view with a 6-ft. solid masonry structure to match the materials used in the buildings and shall be architecturally attached to the building. The applicant believes they comply with the architecturally attaching stipulation. Again, several of the other trash enclosures are not directly attached in this development. There is really no other way to handle the trash enclosure. The applicant is asking for the Commission's consideration that the trash enclosure remain as shown on the plan.

Rohlf asked if staff would like to clarify any of the concerns raised by the applicant. Klein stated this was one of the first projects that he worked on when he came to work for the City almost seven years ago. It was a different developer at that time. It was something that was discussed through multiple meetings. There was a lot discussed on the relationship of the buildings. Staff and the developer worked hard to try to relate the buildings together and to create pedestrian connections, view corridors, and plaza areas between buildings. The initial architecture was different. In regard to the final inspections, it

is a lot of hard work for staff to compare the building permit plans to what was approved. After a project is approved for final with the Governing Body, they then come in for building permit. Planning staff looks over those plans to compare what they have submitted against what was approved. The next step is for staff to go out to the site to make sure it is constructed as it was approved. From what we have from the approved plan by the Governing Body, there seems to be some color variations, the light fixtures are different and the monument sign is different. He would hope that the applicant would not be shocked to know that they would need to come back for revised final plans because it is staff's job to ensure that these buildings are built the way the Planning Commission and Governing Body intended. This type of thing happens quite often. For example, parking garage A in Park Place, the developer made significant changes between the time of approval and the building permit application. In regard to the park impact fee for this project, there was a question about Don Bell donating the land for the golf course and therefore not required to pay any park impact fees for any of his future projects. At some point it was decided that they needed to produce a letter stating that was the agreement between the City and Don Bell. It is his understanding that letter was never produced. That stipulation has been on this project from the beginning. In regard to the trash enclosures, the stipulation came into being when the LDO was changed. It is not in the ordinance, but it has been listed on almost every project. While it is not specifically listed, the idea behind architecturally attaching these is to force the developer to put a little bit of thought into the way the trash enclosure is designed. Having it next to the building requires that it look nice and also requires them to maintain it a little better. Hereford House was one of the first buildings to have a trash enclosure architecturally attached on the front of the building and they made it look nice and made it look like the building. Staff is a little sensitive about this being attached partly due to the building at the corner of 151st Street and Nall. The applicant came back and asked to have it detached with a sidewalk running between it. They proposed a gate that goes between the trash enclosure and the building, so the trash enclosure is attached, but only with a gate. That connection is lost as far as what it was initially intended to do. Now with this application, it is completely separated from the building. Staff is trying to enforce that, so that is why the stipulation was modified with this application. It is not something that is listed in the LDO, but it is something that has always been stipulated. In regard to the pedestrian connections, when this project was initially proposed there was much thought put into pedestrian connections, view corridors, the relationship of the buildings and a lot was discussed about this project being located next to the golf course and taking advantage of that with promenades and those kinds of things. These buildings have changed a little bit. They are closer together and have larger plaza areas. As building 6 slid down we agreed that it made sense, but suddenly they wanted to put a parking lot in between and staff recommended against that, but the applicant said they needed a drive on the east side to provide access to those parking spaces that they wanted along there. Staff agreed with that and they provided a plaza island area. Staff is willing to work with the applicant, but it is up to the Commission to determine if it is enough of a connection between those buildings. The question is if they can produce something more than just a parking lot island.

Conrad asked about the berm. Klein stated that is something that staff feels is very important. It first came up as being adjacent to the golf course. On the east property line there are parking spaces on the east side of building 6 and then a little at building 7. That raised some concerns with staff. The City requires that they have landscaping and berms to screen parking and headlights from adjacent properties as well as along the public rights-of-way. That stipulation was included on that plan with the realization that there would be parking located there. He does not believe they had any opposition to it from the applicant at that time. Now they have, more or less, a full-fledged parking lot in that area, so that is why staff felt it was appropriate to buffer that a little bit. Conrad asked if there is a way to accomplish that with bushes. Klein stated it depends on the landscape plan. It is a little bit more difficult without a berm. A lot of times the problems we have with landscaping is that they show us bushes on a landscaping plan that look fairly large, but then after they put them in on the site they are rather small. The requirement is that they have to be 3-ft. in height at time of planting, but if there is a single row and they are planted at 2-ft. centers, there is a lot of space between them. If they are staggered, then it tends to screen a little bit better. Conrad asked about the model. Klein stated they have provided a model, but the plan has changed a couple of time since then. It is up to the Commission to decide at what point you would like to see a new model of this development. In regard to the trash enclosure on the west side of building 8, initially this was approved as SD-NCR. The reason the trash enclosure is becoming such an issue is because they want a drive-thru. The applicant feels they need it that way for the drive-thru, but it is a change from the plan they have currently approved.

Klein showed pictures of the buildings and monument signs that are currently built along with the elevations that were approved.

Williams stated the two signs that have been built do reflect the buildings they relate to. The monument sign in question appears to try to match the wall on the building behind it, in terms of the ledge. He then asked if the stone on the monument sign in question is the same as the stone on the building. Klein stated they are generally the same. It appears to be the same stone as the accent stone on the building behind it.

Reynolds asked if there are sidewalks parallel to 151st Street. Ley stated there are sidewalks going into their first drive entrance and then when the City widens 151st Street those sidewalks will be extended east. Reynolds asked if there are provisions for a crosswalk to the neighborhood to the north. Ley stated there will be a traffic signal at their middle entrance that will have a crosswalk.

Williams asked if all of the stone is cultured stone. Klein stated, yes. The first two buildings match exactly. It seems to him that the third building is not the same, but that could have been for a number of reasons. They could have discontinued that style of stone so the builder found the next thing closest to it. The lights are not bad, but it is not what was on the approved plan. Normally the applicant would come to staff and request the change and then it could get approved through staff or if it was a significant change then it would come back before the Commission for approval.

Elkins asked if the color on the proposed lettering on the monument sign is accurate. Klein stated the applicant has indicated the lettering would match the bronze statue that will be adjacent to the sign. Elkins asked if that would be different than what is currently out there on the other two monument signs. Klein stated, yes. Williams asked if the lettering style would be different. Klein stated, yes. In regard to pedestrian connections, the applicant is providing a patio area on the north side near the coffee shop and there are some plaza areas on the east side. Staff felt it would be a good idea to provide some connection between those two areas. The original idea was that people working in the offices could visit the retail and have that type of interaction throughout.

Henderson stated this is the second or third rendition. He then asked if the applicant anticipates any other changes. Fred Merrill stated it is hard to say. The only other major change to the site plan was when building 6 was changed. The locations and shapes of buildings 7 and 8 are pretty similar. They have reduced the size of building 8 and added the lane for the coffee shop. They only have two buildings left after buildings 7 and 8 are built next year. They are certainly not motivated to come in with changes unless they feel it is absolutely necessary for the success or beauty of the development. Henderson asked if these changes are more than 5%, which is a substantial change. Klein stated they are still in conformance. Henderson asked why the applicant would not have a retaining wall, berm or screen from the golf course. Merrill stated the retaining walls have always been in there. They have always planned on screening with landscaping. They did the same thing when they built building 4. There was no room to put a berm along building 4 and it was approved with just the landscaping. There is a similar situation along building 3 where there is parking that faces towards the golf course and the homes on the other side of the golf course and what was approved was to do significant landscaping along there. In regard to building 8 and the end of the parking lot, there are no cars that face the golf course. They have always intended for that to be a landscaped area to buffer the edge of the retaining wall and the edge of the parking. There is no place to put a berm. They were following in the same manner done for buildings 3 and 4. Henderson stated it is the intention to have private access to the patio on building 7 from building 8. He would assume that privacy would be enhanced if it was properly landscaped and screened from golfers peering in. Merrill stated there is a difference between visual interaction and actual interaction. The tenants in building 8 would not want someone from the coffee shop to have access to their patio. That is why the applicant is concerned about that pedestrian connection up against the golf course. They do not have that anywhere else along the golf course. That was never planned. A series of pedestrian connections and walkways is planned throughout the complex. They have tried to stay as close as possible to what was preliminarily approved.

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

Williams asked if the proposed 5-ft. retaining wall at the drive-thru lane is measured from the driveway. Merrill stated the drive lane itself is about 5 ft. below the grade of 151st Street. The wall would screen the majority of the cars in addition to the landscaping on top of the wall. Williams asked about the drive pattern in and through. He has some concerns on traffic

congestion out of the drive-thru. Merrill stated when one enters the drive-thru one would be nestled along the west side of the parking lot. It is not a constant flow of traffic coming out. They each stop to pay and get their coffee or food. It almost serves as a stop sign for other cars coming in. Williams stated he feels there is a concern that the cars leaving the drive-thru would turn to the right and need to maneuver through the 24-ft. space with the oncoming drive-thru traffic and other traffic. He then suggested that it would be more prudent to allow that traffic to go straight to the south and exit to the west. Merrill stated that is a good point. Lambers stated they could take out the three parking spaces on the north side so there is no conflict of cars backing up when people are exiting the drive-thru. Williams stated, relative to the trash enclosure, 22 ft. deep is fairly sizable. The design fits architecturally and could be addressed at final. But with the gates, since it is the one thing people see coming into the establishment, the gates should be architecturally substantial or significant. He would not be supportive of just wood gates there. Merrill stated dumpster location and gates have been an issue with each of the buildings in this development, due to their prominent locations. They have always tried to have some heavy metal architectural style of gates. Williams stated there was a comment made that Hereford House has done a good job with their trash enclosure and the maintenance of those. All too often we see the opposite with trash at food service areas. There could be a problem. It is a prominent spot. Merrill stated Coco Bolos, in building 2, has been using one of the trash enclosures on the southeast corner of the building and using proper practices helps a lot in mitigating those situations. They have shown that it can be done properly.

Reynolds asked where the sculpture would be located next to the monument sign. Merrill stated the sculpture would be to the right of the monument sign, just adjacent. The intent is to have the letters match the color of the sculpture, which will be the same color as the other structures that are already in the development. They ended up using more of the gray stone rather than the brown because they felt the sculpture would be offset standing next to the gray background because it could get lost when next to the brown colors. Reynolds asked if the sculpture would be illuminated. Merrill stated, yes. They had to change the drainage area so it would fit how the civil plans were drawn, which made them move the monument sign a little bit. When they moved the monument sign it made them shorten the ends, so they don't have the wing walls that were originally shown. They were afraid that moisture and runoff would be caught behind the monument sign. The sign is about half a foot shorter on either end than originally shown. When the stone is done on the buildings there is usually a blend of three different colors of stone. The stone mason takes those stones and blends them throughout the building. The developer checks that every time a section is done. The type of stone that is on the buildings is exactly the same as what is shown on the construction drawings. The construction drawings may have been different than what was approved through the Commission, but it was on the construction drawings and pursuant to the guidelines. Just like the light fixtures. They are part of the guidelines and are on the construction drawings. The reason it was changed was due to the complaint from a resident on the other side of the golf course.

Henderson asked why there are four different sizes of lettering on the monument sign. Merrill stated that is the graphic design. There would be no problem with changing it to be the same style of lettering that is on the other monument signs.

Rohlf stated it seems one of the biggest differences is that there is something between the stones on the monument sign. Merrill stated they had some trouble with the stacked stone with moisture getting behind it. You have to be very careful on how cast stone is applied and what kind of membrane is behind it. They have put a thin layer of grout between the newest stone. It will allow the buildings to last longer. Rohlf stated it loses some of the airiness of the design. Merrill stated these buildings were never meant to look identical. Part of the original plan was to use the same materials so that there would be some architectural integrity with each building.

Merrill stated the applicant has the letter regarding to the park fee and can get it to staff later.

Klein stated it is a quality development. He is not saying the changes are bad. In regard to the connectivity along the golf course, the original final site plan that was approved shows a trail along the golf course going up north along the east side and then connecting up north. It was something that was thought of at the time that this development came through. In regard to the berming next to the golf course, there is a difference in grade. There is a retaining wall that raises the site up above the golf course at the west end, but then it kind of levels out as it goes east. There might not be room for a berm at some locations, but maybe they could raise the retaining wall. The stipulation states a combination of retaining wall and/or berm. If the Commission feels landscaping would adequately screen, there are ways to do that. There was a stipulation

with the original approval stating the applicant would provide a berm/wall accented with landscaping adjacent to the golf course. That was a big issue. Initially, this development had to go through the golf course committee and they have been through a number of times. The applicant has always been willing to do the retaining wall and to make sure they are good neighbors with the golf course. Rohlf asked if they could come back with a significant change at final in respect to the landscaping plan. Klein stated, yes.

Public hearing: With no one present to speak in regard to this case, a motion to close the public hearing was made by Williams and seconded by Jackson. Motion to close the public hearing approved unanimously.

Jackson asked what should be done with the stipulation regarding the park impact fee. Lambers stated if the letter is produced then the City would waive the fee. If the applicant pays the fee before the letter is produced, then the fee would be reimbursed once the letter is produced. The Commission could note that in the stipulation.

Munson stated stipulation number 22 states the monument signs will be maintained by the homes association. He then asked if staff meant the developers association. Klein stated, yes, it should read the development's association.

Conrad suggested making a motion that would allow the trash enclosure on building 8 as an extension of building mass as properly detailed. Williams stated as it is designed right now it appears to be off to a good start in regard to proportion and elevation of the building itself. Conrad agreed.

A motion to approve was made by Conrad with amendments to stipulations 2, 9 and 18 and without amendments to stipulations 12 and 29. Stipulation number 2 should add language that the applicant has stated they found the letter and when that issue is resolved with staff then it would be removed with no objection to the Planning Commission. Stipulation number 9, berming and/or wall heights should be first consideration with an acceptance of significant landscaping if adequately documented at final plan. Stipulation number 18 amended to say that the trash enclosure on building 8 is acceptable in its concept. No revision to stipulation number 12 because at one time there was a walking path all the way around the development. No revision to stipulation number 29 regarding the revision of the model. He thinks the sight lines and grade elevations have a big impact as the buildings are moved around. He would like to see that as recommended by staff.

Elkins suggested an amendment to stipulation number 18, striking the second to last sentence that attempts to define what directly attached means. Conrad asked staff if that would still apply with the other buildings as a definition within our ordinance. Klein stated there are a couple of other buildings they are showing that have trash enclosures that are almost completely separated. **Elkins withdrew the amendment.**

Henderson seconded the motion to approve.

Williams asked if the Commission wants every monument sign to be different. Rohlf stated the applicant has stated they are agreeable to changing the lettering to match the other two monument signs. **Williams made an amendment to the motion to add a new stipulation that all monument signs shall be the same in letter styles and colors. Munson seconded the amendment.** Klein stated the monument is a pretty dark gray and he is not sure if the black lettering would show up well. Williams thinks it would be readable. Merrill stated the lettering on the other two monuments are black and they stand out against the tan, but the whole reason that the monument sign on the corner is gray is to use the bronze-type letter to match the bronze sculpture that would be next to it. Rohlf asked to see a rendering of the bronze sculpture again. *Merrill showed a picture.* Reynolds stated he was going to vote against the amendment. **Williams withdrew his amendment.** He then stated there is a lot of debate about monument signs in every project that comes through and it has always been an issue that we have some consistency with the signs and if they are going to change the color of stone, the style and color of the lettering then we are setting a precedent.

Reynolds proposed an amendment to the motion to add a new stipulation that this monument sign has a lettering style that is consistent with the other two monument signs and a color consistent with the proposed bronze sculpture. Williams stated there is a monument sign in place, it is a different color than what was approved, and because

they did it we are saying that it can stay. That raises an entirely different issue. He understands some of the changes due to the elevations. The color was not approved and went against the process. **Elkins seconded Reynolds' amendment.**

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

Rohlf stated staff has requested a continuance for case 61-06 to the October 24th meeting. She does not believe there will be time to get to case 69-06 in the time allotted. There is a slim chance that they will hear the next two cases. Lambers asked for a motion to continue case 61-06, since it is a public hearing.

A motion to continue case 61-06, Siena 2nd Phase, to the October 24th meeting was made by Elkins and seconded by Williams. Motion to continue case 61-06 approved unanimously.

Jackson asked if the stone used on the monument sign is on the approved materials list. Williams stated it is his understanding that the monument signs were approved for the lighter color. Klein stated the monument signs were approved with the lighter color with a cap and then the darker stone used as an accent. Lambers stated the preliminary plan stated the monument sign would match the building. The first signs had the major stone of the building and this monument sign is the same color as the trim color on the buildings. Lambers asked for the Commission to make it clear to the applicant that the monument sign would need to be looked at during final plan application. He feels that would be sufficient to get this moving tonight.

Reynolds' amendment to the motion approved 5-2. Williams and Henderson against.

Amended motion to approve approved unanimously.

CASE 68-06 WATERWAY GAS AND WASH Request for approval of a final site plan. Located at the northwest corner of 119th Street and Tomahawk Creek Parkway.

Staff presentation: Presentation by Jeff Joseph. The applicant is Jerry Johnson with Shafer Kline and Warren. The applicant is requesting approval of a final site plan to allow the placement of vacuum equipment and some other modifications to the existing site. This property is located at the southeast corner of the Camelot Court shopping center. There are 10 vacuum stations proposed on the south side of the existing building. These stations will be placed 15.5 ft. apart. A 15 ft. by 6 ft. vacuum equipment space is proposed at the west side of the vacuum bay. Initially, the applicant had stated the vacuum pump equipment was only 4-ft. tall, but has since stated it is 8 ft. Staff is recommending a concrete wall with brick façade and to enclose it with a gate. A portion of existing curb and pavement will be removed and replaced. A concrete patio is proposed at the southeast corner of the building. A 5-ft. easement has been provided along the east side of the property. No additional modifications to the building are proposed at this time. Staff is recommending approval of this case with the stipulations stated in the staff report.

Rohlf asked for a clarification of the pictures included in the packet. Joseph stated the only one that is of the existing site is the one showing the retaining wall. The others show examples of what they are proposing. Rohlf asked for clarification of the height of the vacuum equipment. Joseph stated this equipment will be located on the west side of the vacuum bay. It sets 4-ft. below the ground on the west side.

Reynolds asked if there is a proposed retaining wall. Joseph stated, yes, on the west side of the bay.

Conrad asked if this equipment would be subject to the noise ordinance at the property line. Joseph stated it will be 60 decibels at the property line, which is part of the noise ordinance.

Applicant presentation: Presentation by Marvin Renney, representing Waterway Gas and Wash. He has represented Waterway on all of their projects in this area. This is a revised final plan. There are no additions made to the building or

modifications made to the exterior of the building. They have a very quality operation in terms of design of the building and landscaping. They have found they can improve their operation better by having the vacuuming at the exit of the tunnel rather than the entrance. The grade changes to the west. There is about a 15-ft. grade change between the car wash and the parking lot to the west for Camelot Court. Because of that change in grade, the vacuum equipment will be hidden. The applicant is going to this substantial expense because it will improve their operation. The applicant has worked with staff on the stipulations. He encouraged the Commission to stop by to see the quality of the maintenance of the facility and the landscaping.

Rohlf asked if the applicant is in agreement with the stipulations stated by staff. Renney stated, yes.

Munson asked if the vacuum units would be used by the employees of the Waterway. Renney stated, yes.

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

CASE 70-06 TOWN VILLAGE LEAWOOD Request for approval of a special use permit. Located north of 115th Street and east of Roe Avenue.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval to add the following stipulation to the special use permit for an independent living facility known as Town Village Leawood located at 4400 W. 115th Street. "This special use permit shall be transferable, shall run with the land, and shall inure to the benefits of the current owner and its successors, assigns and transferees." The applicant is not requesting any kind of changes to the site plan. There is currently an application before the Governing Body that was recommended by the Commission modifying the special use permit language to allow it to run with the land. Staff is supportive of this application and is recommending approval.

Henderson asked if there should be a stipulation added that this would be determinate on the approval of the LDO amendment. Lambers stated, no. This should be stand on its own.

Applicant presentation: Greg Musil stated the applicant accepts all of staff's stipulations.

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

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

A motion to continue case 69-06 to the October 10th meeting was made by Williams and seconded by Munson. Motion approved unanimously.

Meeting adjourned.

Lisa K. Rohlf, Chair