

City of Leawood Planning Commission Minutes

October 10, 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 (absent), Reynolds

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

CONTINUED TO THE OCTOBER 24, 2006 MEETING:

CASE 61-06 SIENA – 2ND PHASE Request for approval of a preliminary site plan. Located approximately at the southeast corner of future 137th Street and Mission. **Public hearing**

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**

NEW BUSINESS:

CASE 69-06 MISSION FARMS, PHASE II, BUILDING F Request for approval of a revised final site plan. Located at approximately 105th Street and Mission Road.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a final site plan to construct building F, a three-story 50,660 sq. ft. building with retail on the first floor and office above, within the Mission Farms development and a revised final site plan for the overall development. The total mixed-use development will consist of 340,294 sq. ft. of construction divided between 117,948 sq. ft. of retail located on the first floor of all buildings, 114,900 sq. ft. of office above retail and 107,446 sq. ft. of residential above retail. In addition, the development is proposing 22 town homes to the north totaling 52,800 sq. ft. for a total of 393,094 sq. ft. for the entire development. This development is located at the southeast corner of 105th Street and Mission Road. Buildings A and B are currently under construction. They have retail on the first floor with residential condominiums above. Building F is located directly to the south of Building A and it is proposed to have retail on the first floor with office above. It is a three-story office building. This building has more brick on it. It has incorporated some of the trim that goes along the top that was also incorporated in the residential units in Buildings A and B. In addition, there is a trash enclosure that has been separated out. It is located along the south property line between the two southernmost buildings. Staff is not supportive of a trash enclosure that is not attached to the building and recommends

that it be architecturally attached to the building. Staff is recommending approval of this case with the stipulations stated in the staff report.

Rohlf asked if this is the third building we have seen in final. Klein stated, yes. Rohlf asked if the stipulations from the preliminary plan and original final plan have been incorporated as well specific ones for Building F. Klein stated, yes. He then stated he placed a memo on the dais regarding stipulations number 9, 12 – item 3, and 19. These were done in discussion with the applicant. There was originally a stipulation put on the Mission Farms development that stated all common areas within the town home portion of the development shall be perpetually owned and maintained by the overall development, which includes the mixed-use portion of the development. He believes the applicant plans to sell that piece of property with the town homes, so a different developer would be doing that. They propose the mixed-use portion of the development have the option of taking over the common areas of the town home portion of the development if they were not maintained. The stipulation before the Commission now is a little different than that and would require that the mixed-use portion of the development maintain those common areas within the town home portion of the development if it is deemed necessary by the City of Leawood, so the City would make the determination. Part of the reasoning for that is there may be a little bit more money from the mixed-use portion of the development and therefore they might be better financially-able to maintain those common areas. Stipulation 12 item 3 states a maximum of two office signs per building shall be permitted. Staff is recommending an amendment to that to say, "office signage per building shall be limited to one entry door sign and two single-tenant office wall signs above retail". The Leawood Development Ordinance states no more than two wall signs per building. Staff wanted to ensure that there are not five wall signs if there are five tenants. This would limit it to two signs above the retail, which is what is allowed by the LDO. Staff also wanted to ensure that it would be understood that those are single-tenant monument signs. The applicant also wanted to have one entry door sign for the office and staff is supportive of that. Stipulation number 19 stipulates that a minimum of 50% of the mixed-use portion of the development shall be constructed prior to or concurrently with any part of the town home portion of the development. The intent behind that is to ensure that the mixed-use portion of the development starts construction prior to the town homes. Buildings A and B are constructed and consist of about 44% of the mixed-use portion of the development. The developer has stated they would like to get started with the town home portion of the development. Staff would like to recommend an amendment to read, "no more than 30% of the town homes shall be constructed prior to a minimum of 50% of the mixed-use portion of the development being constructed prior to or concurrently with the town homes." This will allow them to start but still have the requirement that they continue at least 50% of the mixed-use development. That would allow them to start construction on about 6 town homes prior to meeting the 30% threshold that was previously approved.

Rohlf asked if the applicant is aware of these stipulation changes. Klein stated, yes. It was discussed this afternoon with the applicant. Rohlf asked what landscaping has been approved for the first phase. Klein stated phase one includes the two buildings that are constructed and this would be phase two for building F. Each time they come in for a final for an individual building they are expected to have a much more detailed landscape plan yet still fitting in with the general overall landscape plan. Rohlf asked if what they are proposing is consistent with the overall landscape plan. Klein stated, yes.

Munson asked if the developer is planning on building the town homes in one phase or two. Klein stated the applicant would be better able to answer that question. Munson asked why there is a change in the stipulation regarding the percentage of buildings. Klein stated it is to make sure they continue with the mixed-use portion of the development to meet the original intent of completing 50% of the mixed-use portion prior to completing all of the town homes and having the mixed-use project lagging behind. The fact that they have building F before the Commission tonight should go above and beyond the 50%, so as long as they continue on with that it should not be a problem. Munson stated they have shown a good faith effort because they have two buildings already up. He then asked if buildings C and D are different than approved during the final for the overall. Klein stated the layout of the buildings is generally the same. The main difference is that there is some parking located in the drive aisle between E and F that was not there before.

Conrad asked if the signage is somewhat consistent with the signage concept for the two buildings to the north. Klein stated, yes. Conrad asked if there are guidelines for the entry door signage. Klein stated, yes, on page 46 of the design guidelines it states, "one sign at the entry door with a maximum letter size of 12 inches". A metal plaque would be allowed so long as its design materials are consistent with others in the project.

Henderson asked for the history on the gating of the private drive for the town homes. Klein stated the applicant had shown gates across 105th Street and also between the parking lot of buildings A and B and the town home portion. It was discussed quite a bit at the original Planning Commission meeting about whether the gates would be allowed. There is a City policy that private drives that are gated are not allowed. At that time it was stated to the applicant that they would need to look at other alternatives if they wanted to control the access. They are still showing the gate on this plan. That is the reason for the stipulation stating they will not be gated. Henderson asked if the private drive would be the same width as a public street. Klein stated he believes it is 26 ft. Munson asked the width of a public street. Ley stated from back-to-curb to back-to-curb it is 26 ft. Henderson stated the reasoning for the City not liking private streets is that they come into disrepair and the City has to take them over as public streets and then they do not meet the width requirement. He then asked if the four enclosed parking spaces are dedicated for the town homes. Klein stated they are garages for the individual town homes. Henderson stated stipulation 18 indicates the applicant shall construct future parking decks if the City determines parking is insufficient. He then asked how that is determined. Klein stated a parking deck was originally shown on the plans but the applicant is no longer proposing to have the deck. They feel they will have enough parking the way it is. They are proposing a parking ratio of 2.9 per 1,000 sq. ft. The range for MXD is between 3.0 and 4.0 so they are just slightly under. Munson stated none of the uses should be that intense. They are all small shops or restaurants, so it would seem that parking ratio is appropriate for the intended uses. Klein stated, yes, and they also have underground parking for the condominium portion and that part has been separated out. The town homes will also have dedicated parking.

Henderson asked why staff is stipulating to whom they must go for a traffic model. Ley stated Bucher Willis has the City's traffic model.

Rohlf stated the numbers have increased for buildings A and B and then asked if the applicant will be bringing in some new numbers tonight. Klein stated the numbers have changed. They are still within the 5% as taken with the 6% discount allowed for the residential which can have up to a 50% discount. Rohlf asked if this is a situation where they are changing building size, which changes the other buildings' sizes. Klein stated there was a situation when this project first began where the owner was donating land to the City. At that point we did not have bonus ability within the LDO, so the applicant was asking for an additional density bonus to allow up to a 0.31 FAR on the site given the fact that they donated the 6.9 acres to the City. They are still at the 0.31 with this plan. Munson asked if that land was dedicated to the City. Ley stated, yes.

Applicant presentation: Presentation by Rick Jones, principal architect with Nearing Staats Preloger and Jones. Tim Homburg, the project architect, is also available. *Jones passed out some renderings and described them.* Staff's comment was that building F did not relate to buildings A and B. The applicant modified it by adding timberwork and kept some of the lighter trim work in the gabled ends. *Jones showed another rendering with more timberwork.* The applicant sent comments to staff in regard to the stipulations. The office sign was just a typo and the applicant is okay with the maintenance of the town homes areas. He would like stipulation 19 to be removed entirely, regarding 50% of the mixed-use portion of the development. They are currently 90% done with the construction drawings, but the townhouse project may develop faster than the office buildings and they would like to not be tied to that stipulation. The original intent was not to get the ground zoned and then build the townhouses. It also seems logical to develop the project in a southerly direction. The townhouse project is directly between buildings A and B and the rest of the project and it seems reasonable to let that proceed without that stipulation. Other than that, the applicant is in agreement with all of the other stipulations. In regard to the trash enclosure, they believe they have figured out how to attach the trash enclosure. *Jones showed a plan showing the attached trash enclosures.* There are two mini-compactors at angles. There would be 6-ft. masonry walls with iron fences. With the four-sided architecture it is sometimes difficult to locate electrical panels, so they would be within the enclosures as well. They would follow the design guidelines for the architecture of the trash enclosure.

Reynolds asked the applicant's preference for the trash enclosure. Reynolds stated he would prefer the detached, remote enclosure. Reynolds stated he is concerned with where the applicant has proposed to attach the enclosures because it would be putting the trash where people would walk.

Munson asked what type of material is proposed for the white trim work. Jones stated they would be a synthetic material. Munson asked if that is what was seen on the original submittal. Klein stated the elevations shown by the applicant vary

quite a bit from the original. Jones stated both A and B varied from the final. Klein stated there were three architects involved with this project over time. Munson asked the reason for change to the darker trim. Jones stated to have it a little more similar to buildings A and B.

Rohlf asked if they would be the architect for buildings C and D. Jones stated he hopes so.

Munson asked which rendering staff would prefer. Lambers stated it is still a departure from what was submitted. The applicant's position is that the office building needs to have less of a residential presentation. Henderson asked if it is more than a 5% departure. Lambers stated we do not have a measurement for façades. It is subjective.

Conrad asked where the parking deck would go if they needed to add it. Jones stated they were talking about a parking deck along I-435, but they do not feel they will need it. Within the mixed-use portion, for every condominium there are two covered spaces in a garage below. The rest of the development is office/retail. The intense uses for retail, such as restaurants, peak times are not the same as for office. The parking that is shown is quite adequate. He assumes that something would need to be done if people needed to park along Mission Road. Conrad then asked if the parking is the same extent to the east end, where it abuts the lake, as the last plan. Klein stated, yes. The parking stayed in pretty much the same location. As far as a pedestrian trail, he feels the applicant has focused that primarily along the pedestrian area of the building adjacent to the pond area. Conrad stated he agrees with Reynolds that he would like to see the area between buildings E and F have more of a pedestrian emphasis. He thinks he would support the trash enclosures being remote in this instance. Klein stated staff requires the trash enclosures to be attached for a couple of reasons. When they are attached to the buildings then they tend to be maintained better than when they are detached. When they are detached they are sometimes forgotten and come into disrepair. Just a simple rectangle around a trash enclosure is not very attractive. By attaching it they try to make it incorporate into the architecture of the building. Conrad stated he supports that, but the preliminary sketch shown shows virtually no pedestrian access through there. Staff has seen trash enclosures where they are incorporated into the building itself, where there would be a room that would be flat so that the pedestrian area would function the same. That is what staff was envisioning. Conrad stated he would like to see that as a pedestrian access with items such as benches and seats. Klein stated the applicant has indicated the area between E and F will be more of a service area. There would be no store fronts between those two buildings. Conrad asked if that is a lost opportunity. Jones stated he would prefer to have access, but with their newest proposal one would have to jog around the enclosure. Between A and B it is just an open sidewalk with meters on the wall. It connects the back parking lot to the front parking lot. It is the logical place for service. It would work better to not have the trash in that area. Conrad stated it needs more study.

Rohlf asked if the applicant would anticipate the same look for all of the buildings as seen in tonight's rendering. Jones stated E and F will be almost identical. A and B are almost identical. D and C would have a little different look. A and B was an evolution of the previous design. There is a very big danger of putting too much timber or stucco on large buildings. A and B have been very well received. Architecturally, he thinks they are much better than what was there before. E and F are a logical evolution. They feel, for an office building, it is much easier to lease a brick building than a stucco building. There is a danger in Tudor style on big buildings that are not very attractive. It is not the same architect. They are now designing the whole thing. They are keeping the proportion, scale and materials. They do not mirror A and B, but he would not want an office building to look like condominium units. The project should have developed from the highway to the north. It will be difficult for the condominiums to be successful until E and F are built to block the interstate noise. That is why the buildings are directly opposite each other. This is truly a mixed-use development. It will be a landmark development.

Rohlf stated when this project was first presented it was described as European equestrian. She then asked if that term means anything to Jones. Jones stated he has heard the term, but it doesn't mean anything to him. It is a slippery slope to try to make a condominium look like a horse barn, and they are trying to avoid it. They have the reputation of being architects that specialize in custom residential. They do more apartments and townhouses than anyone in the City. They bring that residential proportion and scale to their commercial projects. They feel the design of the building is a logical progression.

Reynolds asked if the applicant is intentionally not showing the contrasting materials in tonight's proposal. It looks dark and ominous. The City is not looking for horse barns, but we are looking for something with charm and European romance, which is what they saw originally. Jones stated he thinks having the gabled roof elements is a better idea. He is not sure he agrees with the timbering because it tends to darken. The gabled elements make it more distinctive than just an all-hip roof. Reynolds stated it might not make sense to use timbers with brick. It is usually seen more with stucco. Jones stated he has seen timbers with brick quite often and it can look good. He would not want to take that building and put a stucco gable with the timbers. Reynolds stated he does not really like any of the proposals shown by the applicant.

Henderson stated he does not like the hip roof. In regard to parking, staff has said there are two parking spaces dedicated per condominium. Jones stated, yes. Henderson stated Jones stated earlier that he feels there will be enough parking because not everyone will use two spaces. He then asked if that would mean that the developer would use those spaces in lieu of having cars park on Mission Road. Jones stated if he said that earlier, then he was wrong. Those spaces for the condominiums will only be used for the condominiums and there will be two spaces per condominium. He was referring to the office use versus the retail or restaurant use. Henderson asked if a resident could use one of their parking spaces for storage of items other than cars. Jones stated those spaces are enclosed in an underground garage. They would be limited by the building code to what people could store in there. People generally keep them open for their visitors. He has not seen a lot of storage in those parking garages and he would assume that is prohibited by building code.

Munson asked which proposal the Commission would be approving. Klein stated he believes the applicant is requesting approval of the 5th rendition. Jones stated they would prefer the 5th rendition. If they are allowed to eliminate the timber, then they could do the 4th rendition without timbers. They have some that have them and some that don't. They would prefer to take them out. Williams asked if the brick would run all the way up with no trim break or detail if they remove the timbers. Jones stated there is quite a bit of shadow line and relief in there. If those timbers came out, there would be some relief up in the gable area. It will probably be a vertical inset of brick.

Munson asked which rendering staff would prefer. Lambers stated he does not think this meshes well with what is across the street and what was originally presented. The applicant has stated their position is that they need to move away from the residential side. He does not think it is close to what was originally presented and would have difficulty supporting it.

Williams stated one of the things he found interesting in the original submittals is that there is some visual interest and something different in the community that we don't see elsewhere. He likes the relief and the coloring of the buildings that are there. He understands the difference of the residential versus office, but there could still be more visual interest. The color adds quite a bit to it and adds to the break up of the massing and he sees this as a dramatic departure from what had been described as the general theme for this development. There is no continuity. He believes the design guidelines have been revised to reflect the current projects. He is disappointed, particularly with this being a building having primary visibility from I-435. People are not going to see the condominium buildings. It is lacking the visual interest and pizzazz. When he looks at the rendering of the overall development and what is going on the west side, they do have some detail that presents a color contrast that is easier to visually pick up some of the subtleties and differences.

Munson stated he is struggling with the idea that it has to look like an office building and cannot look like a residential building. The architecture can certainly blend better than this. He feels the architecture team should go back and get serious about coming up with a design that reflects what we first started out with.

Klein stated this is the site of the old Saddle and Sirloin Club, so they initially sold the equestrian look as a way to pay homage to that site and reflect the historical significance within Leawood. This is probably the third generation of design that has evolved over time, but the equestrian was the one that was finally approved.

Rohlf asked for the history of buildings A and B. Klein stated there were three preliminary plans with the Mission Farms project. *Klein showed an elevation of what was approved with the last preliminary.* They proposed more pitched elements, timbering, and some of the gables were different shapes. When they came through for final, nothing had changed. The applicant then came back later and expressed concern that it would be difficult to maintain with some of the timbering. The

applicant proposed a new plan that removed the diagonal timbers. Rohlf asked if staff has an idea as to what the town homes will look like. Klein stated the Commission will see those at the October 24th meeting.

Lambers showed what was originally proposed for building F versus what they are now proposing. Williams stated their evolution to get to the current A and B has been a positive one. Those buildings look nicer than this would potentially end up looking. He is sympathetic to their concerns of maintenance of the timber. What the applicant is proposing for this building is a substantial departure from what buildings A and B look like. Rohlf asked if there are some elements from A and B that Williams feels should be carried over to building F. Williams suggested some massing, color differentiation, maybe the integration of more stone elements to give more detail to the building.

Reynolds stated he thinks that without adding cost to the building, some simple color selections of brick to help contrast would make these feel friendlier to the development and neighborhood.

Henderson stated it seems that if we are uncomfortable with what we see in terms of what was originally approved, we should have something as specific as possible for the architect. Reynolds stated he would hope the architect understands his concerns. He is having a difficult time supporting this project given its strong deviation from what was approved originally.

Jones stated a brick building was previously approved. It had a much different roof line than this, but on the office side it was never a stucco building. *Jones showed a rendering of what was previously proposed as a two-story building.* It was primarily a brick building. Klein stated the rendering looks similar to what has been shown previously, but he has not seen this particular rendering. Jones stated he would like to keep the brick. They are looking for class A office space with expensive tenants. There is quite a bit of relief in the elements. The walls undulate in and out. Gabled roofs are fairly unique to this marketplace. You get more impact from the stone trim but it does not make sense to go from brick to stucco. You could have a different trim around the windows. People generally respond to brick much more favorably than they do to stucco. Reynolds stated he never stated he wanted stucco on the second and third floors. He would like some contrast in color. The traditional looking windows with the old divided sash above, some of the arches, pediments, gables and undulations of the walls is a very sophisticated design. Henderson asked if a different color of brick would be acceptable. His understanding is that the Commission wants to avoid the sameness. We don't want to presume to be an architectural board, but the architectural elements the applicant spoke about could be done with different colors and scheme and keep the brick and stone, but no stucco. Jones stated that is possible.

Conrad stated there is no question that the elevations are of concern. It doesn't necessarily need to have stucco. He then asked what can be done to move forward. The Commission could add a stipulation that gives staff enough direction to make a subjective approval or have a continuance with a new picture showing the direction given by the Commission. Jones stated he agrees that this is not the appropriate place to design the building.

Rohlf stated she believes it is best for the applicant to continue this case. Jones asked for specific direction from the Commission on what they would like the applicant to work on. Munson stated the applicant should continue working with staff to come up to a solution that is acceptable. Jones stated staff is recommending approval of this case. The applicant has worked with staff. Munson stated staff may have recommended approval, but they have their misgivings. Lambers stated in his conversations with the applicant Lambers made it clear that this is a continued departure from the theme and the applicant agreed. They came back with their last option to try to get it closer, but Lambers feels they are still continuing the departure. Since this is a final plan, what is before the Commission needs to represent what the Commission expects to get approved by the Governing Body. If this does not meet that criterion, then it should not go forward. A stipulation would not solve the issues. Having pictures of the work that has been done with the first two buildings would be beneficial to the Commission. The applicant was still departing from the original theme, but working with staff and the Commission, the applicant came up with something that works well. It would be more appropriate to have not a mirror image of it, but to try to break it up with materials that are consistent with what is out there. The question to the applicant is if they can do it in two weeks, then it could be put first on the agenda for the next meeting.

Jones stated they know it is a departure, but they feel they are going in the right direction. Conrad asked if the applicant would want to take a continuance to work on developing the elevations. He feels the first story is reflective of what is on A and B, so at the pedestrian level there is a very strong tie. The gabled roofs tied it together at the top. The window treatment for an office building is significantly different than what it is for residential. He concurs with his fellow Commissioners. Looking at the four elevation proposals, proposal number 4 without timbers is the one to start with and maybe some stone sills, brick contrast, and delineation of mullions. Jones stated the applicant would be happy to consider those things.

A motion to continue this case to the October 24th meeting was made by Conrad. He would like to see the trash enclosure studied between staff and the applicant. It is going to be an access point if it is successful in keeping people engaged in the streetscape, so he would not want to cut it off with a trash enclosure. Jones agreed. **Reynolds seconded the motion. Motion approved unanimously.**

Conrad stated he would like stipulation number 19 to remain as presented by staff. Lambers stated he thought the applicant had stated they would only be building the percentage in the near term. That was the first phase, and then by the time this building was built it would have triggered it so it wouldn't be an issue. Jones stated it would accommodate the schedule they are intending to build, but things don't always go as scheduled. The applicant has already met the spirit of that stipulation. They do not feel that it is necessary to tie the town houses to that. That is why the applicant is still recommending that stipulation to be removed. Lambers stated the stipulation is that it be built concurrently, so as soon as they pull a building permit then they meet that requirement.

CASE 71-06 MISSION CORNER Request for approval of a final plat and final site plan. Located at the southeast corner of 135th Street and Mission Road.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a final site plan and plat to allow the construction of the interior drives within Mission Corner, in addition to the construction of the adjacent streets of 135th Street, 137th Street, Pawnee and Mission. The site plan submitted is exactly the same as what was approved by the Governing Body. The development will consist of a total of 315,400 sq. ft. of construction on 20.19 acres. The construction will be divided between 91,300 sq. ft. of retail, 68,700 sq. ft. of office and 155,400 sq. ft. of residential containing 104 dwelling units. All of the stipulations of the previously approved preliminary plan are part of this application. Prior to the applicant constructing any of the buildings in this development, they would need to come back with an overall final site plan as well as a final site plan for that particular building. In addition to improvements to the streets, the applicant is also requesting to be allowed to plant the street trees along those streets. Staff is recommending approval of this case with the stipulations stated in the staff report.

Williams asked if they would need to provide design standards. Klein stated, yes.

Rohlf stated she is not sure the Commission has ever been asked to approve components of the plan. Lambers stated this was done for Villaggio. Rohlf stated this is a plan that the Commission denied at preliminary and the Governing Body overruled and approved. She then asked if the changes made at Council have been incorporated into this plan. Klein stated the site plan does include the changes made at Council. A brownstone along Pawnee was removed and there were some adjustments to the main buildings along the interior. There have also been some other changes. This is the plan that was approved by the Governing Body. Rohlf asked if the applicant would be able to go over the changes that were made subsequent to the Commission's denial and the Council's approval. Klover stated they are only asking for approval of the infrastructure and some retention. There is nothing before the Commission tonight that would change the preliminary plan. Rohlf asked why it is being called a final site plan. Klover stated in order for them to build it, it has to be a final site plan. On this final site plan are the infrastructure and improvements they intent to make; nothing more than grading, detention, some storm sewers and utility work. The confusion may stem from the fact that staff copied the same stipulations that were approved at preliminary and then added four more stipulations. Rohlf stated the Commission did not see this plan or these comments. Klover stated the preliminary plan has been approved. Rohlf stated it puts the Commission at a disadvantage because things have changed on this plan.

Conrad asked if the streets are private or public. Lambers stated the streets are public but there are some private improvements on the site. Conrad asked when the City would take the streets over. Lambers stated once they are built they become City property. The intent is simply to consider the infrastructure platting of the site. Villaggio was done this way also, but that was because they were under a time frame to get the special benefit district financing because of the City's time schedule for issuing debt. All of the public improvements were approved and then they came back with their final plan for the actual site plan. This case is not tied to a special benefit district financing. This is what the applicant has requested. The applicant is going through the process twice. The reason staff requested they include the preliminary plan was not to add confusion but to make it clear that there is nothing going on to suggest that there are changes trying to be passed through. The Commission is seeing the preliminary plan that was approved and when the applicant comes back for final plan the infrastructure part would have already been approved and the Commission would give their final approval to the final plan components of the buildings and materials. Conrad asked if all of the storm water lines shown are public. Ley stated the public storm sewer system would wrap around the site. There might be one trunk system that would go through the site, but for the most part there is storm water that is coming from the north side of 135th Street that would get funneled through this development. Conrad stated the preliminary plan between the two north-south streets, south of the east-west street all had subterranean parking. Lamber stated, yes. Conrad stated they will need to excavate 14 ft. adjacent to the street to put that parking in. He wonders if we are incurring significant cost to the developer. Lambers stated the applicant has made this request. Conrad stated there will also need to be a significant amount of utilities installed. Lambers stated most of the utilities are installed except for 137th Street. Internally, they would not be the City's responsibility. Conrad asked how they would get sanitary sewer, electric and gas. Klein stated the internal drives are private. Lambers stated improvements are being made to 135th Street, Mission and Pawnee and 137th Street needs to be constructed. Conrad stated he must have misunderstood. Lambers stated Conrad might have also been thinking about the fire marshal's concern about the central street, wanting to make it a public street because of all of the parking. If it were a public drive, then they would not be allowed to have that parking.

Williams asked if the internal drives would have curbs and gutters. Klein stated they would be the same as any other internal drive, such as within Town Center Plaza. Williams asked if the plan is to build the internal drive, put in the sewer cuts, sidewalk demarcations and have the heavy equipment drive over it during excavation, plus rip out all the curbs and the gutters to put in the angled parking and the curb cuts for the parking lots. If that is the case, then 75% will be ripped out. Klein stated he assumes the applicant has taken that into consideration. They would be better able to tell the Commission what would need to be ripped out. He would imagine that they would try not to spend as much money as possible and do it as efficiently as possible.

Applicant presentation: Presentation by Henry Klover of Klover Architects. This project has been going on for a very long time. There was a plan that was approved, then it went to Council and went through a long process to get it approved. They are currently working on a few buildings, so there will be some buildings coming before the Commission for final plan approval. There are other architects involved because of the condominiums, so there is work that will be progressing forward. There are a lot of things that need to get started. This is an effort to get the project going. The project will be back before the Commission shortly for approval of the buildings.

Williams stated he does not understand the logic of putting in the streets with the curbs and gutters when it appears 75% or more will be ripped out in order to put in the parking lots, driveways and parallel parking. Also, the amount of work and excavation to put in the underground parking. He then asked the applicant if this is going to complicate the effort of putting those items in. Klover stated there is quite a bit of work going on with those areas right now. The approval process will not happen overnight. It is a final plan to allow for the process to happen. There will be quite a bit coming in behind this, to include a parking garage. It is part of the phasing. The roadways don't happen overnight. Williams stated the normal process is for it to go from preliminary site plan to final site plan for the development with design guidelines. Klover stated that has very little to do with the storm water, dirt, gravel, concrete and asphalt. Rohlf asked why the staff report is written as if it approval for the overall final plan, and not just for the infrastructure. Klein stated he wanted to ensure that all of the stipulations from the preliminary plan were included. He did not want to leave out anything that was approved previously. He tried to make it clear in the report of what the applicant is requesting. He wanted to make sure it was understood that everything that was approved before would be attached to this case. We have not seen enough final detail at this point to not include those stipulations yet. The applicant has indicated they plan on submitting shortly, but we do not know exactly

how soon. They are asking for approval of the internal drives. We have done this with Villaggio to allow them to get under construction with the street improvements. Henderson stated he would expect this type of proposal to be in Overland Park, who tends to do streets and then projects come up. We should not use the Villaggio case as an example to allow more projects to keep doing it. If the Commission approves this the way it is entitled then it would be approved as it is entitled, which is a final site plan and plat, despite staff's best verbal comments that is not really what they are approving. He feels it is entitled improperly.

Klover stated they are asking for a final plan of the road improvements. There are other things such as detention, which are all engineering-based. Everything they are talking about is an engineering-based decision. It will be a set of construction documents by the engineer and not the architecture. They will be compliance issues. He does not see any concern for the City in regard to approving this. Time is an issue. They are asking for the ability to start infrastructure improvements. He is not sure what risk it is to the City. Conrad asked if it would be a risk for the developer. He does not believe it is something that should be grounds for denial of the case. Klover stated every single development is a risk to the developer. Conrad then stated if all of the internal streets were public, then that would have given him great reason for concern. Klover stated this is simpler than the Commission is making it. This is a request to be able to do the improvements that are in-line and consistent with the approved preliminary plan. Henderson stated if the staff report had said that, then he would be okay with it. Conrad stated the road that goes east-west does not show any of the parking. Klover stated that would need to relate to the buildings behind it, so it could not be shown until those buildings are approved.

Roberson asked if the applicant does what they are saying, what benefit, or lack of benefit, is it to the City. Lambers stated there is no impact to the City one way or the other. We are not conceding anything through this process. The approval process for this project has been lengthier than most. There is no downside to the City with regard to what is being proposed. We are not giving any type of impression that we approving anything that is yet to be approved. Roberson stated he does not have a problem with the fact that they are willing to spend their money to fix anything problems that may arise. It is not up to the City to play "mother hen" to the developer. If they are willing to spend the money, then he does not see a reason to allow them. We would still have control over the project.

Jackson asked if staff has any issues with this being approved as a final plat and final site plan. Lambers stated, no. The Commission would just be approving the infrastructure.

Henderson stated on page 6 of the staff report regarding the deviations granted by the Governing Body, one of the deviations says a maximum FAR of 0.27 to be verified at the time of final site plan application. He then asked what the difference is between that and what he reads as the title of this staff report. Klover stated there are multiple final site plans for a project of this size. There will be a final site plan for each of the buildings. That is the City's terminology. They are consistent with the preliminary plan.

Williams stated the Commission saw a final site plan for Ironhorse Centre and three buildings where built, then they came back for two other final site plans for the overall. The difference is that we initially saw a final site plan with the buildings and design guidelines. This plan is different than what the Commission saw and rejected. If the roads are in where they need to be per the preliminary plan the Governing Body approved and the applicant is willing to spend their money, then that is fine.

Rohlf asked why the Commission is being asked to look at this, since it is not a plan the Commission approved or had any input on. Lambers stated it has to go through the Commission before it goes to Council. The Commission could recommend denial of or take the position that Council has approved it and look at it from the perspective of it meets the City's requirements and guidelines for a final development plan. Rohlf stated she believes what they are asking for is fine, but the Commission could have some additional problems with this plan when it comes back in the future for other final site plans. The Commission doesn't know what it will look like when it comes back for final. Lambers stated there were very few changes from the plan that the Commission recommended denial of and what the Council approved. The request for tonight is just for the infrastructure.

Jackson asked if this application falls under section 16-3-12, final plan applications, of the LDO. Lambers stated this request is a final plan for the infrastructure to be installed. It needs to conform to all of the engineering requirements of the City and

it will. Jackson asked if there is something in the LDO to allow the Commission to just approve the infrastructure. Lambers stated if the Commission approves this case, it will only be allowing them to put in the infrastructure. Maybe with the definition of a final plan there is some connotation that this is the end of the process, which is not the case. The Commission will see building plans as they come in for final plans. Jackson asked what portion of the LDO allows the Commission to do approve a final development plan that does not have everything included. Klover stated Jackson is looking at a checklist and checklists do not always apply to everything. Klein stated section 16-3-12 A also states, "except as may be required by the Director". It is his understanding that it is up to the Director of Planning to require what is necessary for a final application. A final application has to meet the rule of substantial compliance. He tried to clarify in stipulation number 40 that this is approval just for the infrastructure. Typically, we have used section 16-3-12 A to give the Director the ability to ask for more than listed on the checklist, but in this case it allows the Director to allow less. Lambers asked if the Commission would have rather just seen a site plan without the buildings and only the infrastructure and a statement saying all of the stipulations from the previous plan are carried forward. He feels confident that the applicant clearly understands that there is not approval for anything other than the infrastructure. Henderson asked if a vote could be taken just on the request paragraph of the staff report and not the stipulations. He is afraid that if this gets approved with the stipulations then the Commission will not see those stipulations again. Klein asked if Henderson is concerned that staff carried forward all of the stipulations from preliminary. Henderson stated he keeps hearing that a lot of final things will be coming back, but he would like to know what is "sufficient width" of a sidewalk, for example. Klein stated there is a minimum requirement of 5 ft. within the LDO. If he did not carry the records forward from preliminary, then he would have no record when it comes back for final. With this application, the site plan stayed exactly the same, therefore he carried over all of the stipulations.

Rohlf asked for an executive session. Lambers asked for the reason. Rohlf stated the Commission needs some clarification on the process. The Commission has some concerns with the report and the way it was written. It is clear that we have some problems with the process and what we are being asked to approve. The Commission is being asked to approve some stipulations that the Commission has not had the opportunity to ask the developer about. There are deviations that the Commission did not approve. Conrad stated he would like a clarification of the process. He has been on the Commission for about 10 years and this is a totally new approach to the process by which the plans have been approved. If this is a final plan, he feels there is a substantial change. This is such a diversion from the typical submittals we have had. He understands the developer will be at risk. He is not comfortable with the stipulations and how it will be interpreted. Lambers stated the reason staff chose to go this route is that there needs to be a connection between the preliminary plan that was approved and the final plan. He does not think that what Commissioner Henderson wants to achieve would work because then it would be a final plan with no preliminary plan to back it up. Rohlf stated this is not typically done. Even with Villaggio the Commission saw the final plan with the buildings and landscape plan. Lambers stated, no, the Commission saw the approved preliminary plan with the application for the final infrastructure. The applicant has made the request for a final plan for the infrastructure. He then suggested the Commission vote on this and send this to the Council to decide. This is a straightforward request. The Commission could make a motion for approval, with reservations, and those reservations being noted in the record that the Commission has reservations for this type of application going forward without the balance of the final site plan included.

Jackson asked if there needs to be an executive session in order to get clarification from the City Attorney as to whether the Commission has the authority to do this. Lambers stated the Commission can ask for an executive session to request legal opinion. **Jackson made a motion to go into executive session to discuss matters covered by the attorney-client privilege for 10 minutes, starting at 8:30 p.m. and ending roughly at 8:40 p.m. Williams seconded the motion. Motion approved unanimously.**

Meeting reconvened at 8:44 p.m.

Rohlf stated a motion needs to be made on this case. She believes the Commission would have some comments attached to that as far as what they are approving.

Conrad stated there has been a lot of discussion to explain that this application is in compliance with ordinances. In article 16- 3-12 there are checklist items that can be directed by the Director. Given that, this plan then does fall under paragraph D, which is definition of minor changes to the preliminary plan. He believes the Commission is a little concerned about the

possible process this is creating for total evaluation of commercial developments in the City. When the Commission receives a final submittal it is their hope that it shows all of the buildings that are anticipated to be in the development with a development guideline for architecture, street lights, amenity pieces as we have historically tried to coordinate for quality developments. With that final application then they would be able to make approval and the developer would understand the intent is to follow those guidelines that are decided upon and any modifications to this plan may be required to be modified with the evaluation of the final plan.

A motion to approve was made by Conrad. Reynolds seconded the motion. Williams asked if Conrad's motion includes all 44 staff stipulations. Conrad stated, yes. Jackson stated with mixed-use, part of the problem with bringing in piece-meal approval of final plats and why this Commission would like to see the next final plan to come in with the structures and open space in place, is because the objective of mixed-use is to make it pedestrian friendly and ensure open spaces. It is impossible to do that with just one building at a time. This Commission has not seen in its entirety what was approved by Council. **Motion approved unanimously.**

OLD BUSINESS:

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 continued from the September 26th meeting due to some outstanding issues. The applicant has revised the plans since then. The entire building will be sprinkled for safety purposes. Brick veneer has been extended along the perimeter of the building in an effort to obtain a finished look on all sides. The porch has been added back to the east side of the building. A landscape easement has been provided for future development of the corner feature. The applicant is proposing a synthetic slate roofing material on this building. Three additional parking spaces have been added along the west property line. In the staff report there was an error where it reads, "five parking spaces". That should actually read, "three parking spaces", that have been added. Staff still has the same concerns in regard to this project as stated in previous meetings. Staff is not supportive of the deviations requested by the applicant regarding setbacks. In staff's opinion, the building still looks more like a residential building than a commercial building. Staff would like to add another stipulation regarding the corner feature. It would read, "The applicant shall be responsible for the installation of a corner feature at the northeast corner of the site. The applicant will be notified of the cost associated with such corner feature at a later date." Staff is recommending approval of this case with the stipulations stated in the staff report and the one stipulation added tonight.

Rohlf asked for clarification on what discussion occurred on the corner feature and the landscape easement. Lambers stated staff met with the applicant and identified a very easy area as a line for demarcation to be more than adequate to cover it including the construction. Once the monument feature has been constructed then we would reduce the easement to a lesser point.

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

Williams stated the design of this feature is out of the control of the applicant and yet we are asking them to accept the full cost of the corner feature. Joseph stated it will be a partial cost and we don't know that amount yet. That is why it is a vague stipulation. Lambers stated at this time all that we know is that a corner feature needs to be installed there. The cost of it may be a reasonable cost that we are seeing other developers put in. The reason for this is the City wants to have a connection with this feature and the one that will be in the median and the one north of it. The City is in the process of designing it. This is a situation where we are making it clear to the applicant that they are responsible for a corner feature and the cost of that is to be determined. Staff's intent is to be very reasonable in working with this applicant. They have been on record that if there is a hardship cost, then the City would look to partner in on it and we do have money budgeted for that purpose. Williams stated he feels the stipulation is open-ended and puts the entire burden onto the applicant. Lambers stated the City has requirements for corner features. The City does not normally tell them what to put in or how much to spend. In this case, the applicant is not in control because we are coordinating it. Williams stated he feels

this situation is different because than other corner feature conditions, where a developer is spending millions of dollars in development costs and a corner feature can cost \$50,000 to \$100,000. This is just one lot and not an entire development. Lambers stated the numbers Williams suggested are much higher than what they are looking at. We are working this corner feature in between the large trees that are there and the street. The land is not there for a large expensive corner feature. He does not believe it will cost \$50,000 or \$100,000, maybe \$25,000.

Rohlf asked if staff feels this revised plan incorporates what Council was looking for. Joseph stated it still looks like a residential building. Rohlf stated when this was approved by the Commission it was a split vote.

Williams asked what staff would like to see to make it look less residential. Joseph stated the applicant wants to keep it looking like a residential building. The applicant would need to completely redo it to make it look like a commercial building. Williams asked what their new building looked like that was approved on another site. Joseph stated on that application staff asked them to blend in with the residential buildings along that side, so it was more of a residential building. Henderson stated it was a two-story Colonial. Williams asked if we want it to look like the Wal-Mart Super Center across the street or the Commerce Bank. He then asked what the applicant is supposed to design to. Joseph stated staff was looking more towards Leawood Market Square; the commercial development that was approved two years ago. Initially when Leawood Market Center came in, they also had this site, then it changed and this portion was cut off from the Leawood Market Center.

Applicant presentation: Presentation by Ron Stallbaumer of Wendlandt Stallbaumer Architects. There are a couple different issues. The applicant is requesting approval of a preliminary site plan and preliminary plat. This is an existing property. It has been there for a long time. The options are that this project gets approved then we will modify the parking will all of the other improvements and if this project is not approved, the owner plans on staying there. He sees this as a real opportunity for the City. *Stallbaumer showed the plans of how the site currently exists versus what is proposed.* They are showing roughly 7 ft. with the portico and 7 ft. at the showroom. Once it is replatted they lose some of the parking encroachment. They have reduced the parking encroachment in square footage, they have pulled it back and gotten it away from the street. The southern side has a 70-ft. buffer between the parking and the access to the property. On the west side they have extended the parking. They added 5 spaces. They are attached at the same location and parallel with the property line. The north parking requires a deviation because the property owner donated 4,400 sq.ft. of right-of-way. They are widening the drives. The parking required for this project is 39 to 50 spaces. They are showing 33 standard spaces, two accessible spaces and 4 land banked spaces for a total of 39 spaces. They are adding sidewalks, a fence and numerous trees, shrubs and plantings. This is not an existing residential structure that they are trying to add onto. That happened many years ago to the southwest corner of the building. There was an outbuilding that was brought up to and attached to the building long ago. That part will be demolished. What they are trying to do is provide a project that unifies things and ties things together. It is a first-class project. They are proposing a synthetic slate roof. The siding will be a very durable cement siding. There will be a brick band around the perimeter of the building with metal clad windows. All first-class, new materials. It will be a very crisp project when this is done. The applicant agrees to all of the stipulations including the one about the future corner feature. Madden McFarland has been at this corner for 31 years. It is both a tradition and a regional destination and will continue to be a distinct landmark. Aesthetically, this will be a distinctive building, much more than if it was a continuation of Leawood Market Center spilling its way onto the corner. If one walks out of the south drive of this property and down the sidewalk, according to the Leawood Market Center plan, one would be looking down 10 to 12 ft. from the sidewalk down onto the project. There is a retaining wall between the street and Leawood Market Center where the elevation changes. The building adjacent to that would have a change in elevation of 24 ft. from that building and this building. The fact that this building sets on a hill will be a gem and the business is a class act. The owners agree to many requests made by the City including donating the 4,400 sq. ft. of right-of-way, 15-ft. utility easement and landscape easement. The owner is aware that he will have to pay for the corner feature. All of the utilities will be placed underground.

Reynolds asked what has been done since the last time this was seen. Stallbaumer stated since that time they added the landscape easement. Reynolds asked if the applicant is in agreement with staff's stipulations. Stallbaumer stated, yes. The deviations requested are related to existing conditions. They are trying to approach the whole project in a sensitive manner. 51% open space is provided when 30% is required. They meet the maximum floor area. They have provided the required parking spaces.

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

Reynolds stated we have seen this repeatedly. We have discussed the merits of the project. He is supportive of it. The last time the applicant was here the Commission asked them to address the issue of the entry feature and they have done that. He would be in approval of this project. Henderson asked if Reynolds approves the additional stipulation as added by staff. Reynolds stated, yes. Henderson stated he would vote against it for the reasons stated in previous minutes.

A motion to approve was made by Reynolds including the stipulation added by staff tonight. Motion seconded by Jackson. Williams asked that it be stressed that this is a preliminary plan and not final plan. Motion approved 4-3. Roberson, Jackson, Williams and Reynolds for. Conrad, Henderson and Munson against.

Meeting adjourned.

Lisa K. Rohlf, Chair