

**City of Leawood
Planning Commission Meeting Minutes
November 11, 2008
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive**

CALL TO ORDER/ROLL CALL: Shaw, Roberson, Jackson, Neff-Brain, Rohlf, Williams, Elkins, and Heiman. Absent: Munson.

APPROVAL OF THE AGENDA

Motion to approve the agenda was made by Elkins; seconded by Williams. Motion approved with a vote of 7-0 For: Shaw, Roberson, Jackson, Neff-Brain, Williams, Elkins and Heiman.

CONTINUED TO NOVEMBER 25, 2008 MEETING:

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 67-08 – ONE NINETEEN – DEAN AND DELUCA SIGN PLAN – Request for approval of a sign plan; located at the southwest corner of 119th Street and Roe Ave.

CASE 81-08 - LDO AMENDMENT – SECTION 16-4-9.3 FENCES AND WALLS - Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 85-08 – MISSION FARMS TRASH ENCLOSURE – Request for a revised final site plan; located at approximately 105th Street and Mission Road.

CASE 56-06 LDO AMENDMENT – SECTION 16-2-5.3 (R-1 DISTRICT) – HEIGHT; Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 57-06 LDO AMENDMENT – SECTION 16-2-5.4 (RP-1 DISTRICT) – HEIGHT; Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 77-08 LDO AMENDMENT – SECTION 16-2-5.1 (AG) – HEIGHT; Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 55-06 LDO AMENDMENT – SECTION 16-2-5.2 (RP-A5 DISTRICT) – HEIGHT; Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 58-06 LDO AMENDMENT – SECTION 16-2-5.5 (RP-2 DISTRICT) – HEIGHT;
Request for approval of an amendment to the Leawood Development Ordinance.
PUBLIC HEARING

CASE 53-06 LDO AMENDMENT – SECTION 16-2-5.7 (RP-4 DISTRICT) – HEIGHT;
Request for approval of an amendment to the Leawood Development Ordinance.
PUBLIC HEARING

OLD BUSINESS:

CASE 71-08 – VILLAGGIO – NEIGHBORHOODS AT SHARON LANE – Request for approval of a special use permit, revised preliminary site plan and final site plan; located at the southeast corner of 137th Street and Roe Avenue. **PUBLIC HEARING**

Chair Rohlf: It should be noted that Miss Jackson is recusing herself from this case.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 71-08 – Villaggio Neighborhoods at Sharon Lane. This application appeared before the Planning Commission at the October 28th meeting. At that time, there was some discussion on the elevations of the building with regard to the stone. Staff's stipulation required real stone, minimum of 3-4" and mechanically attached to the building. The Planning Commission continued the case to allow the Applicant to consider the stone and come back with their revisions. The Applicant has decided to go to a king-sized brick instead of stone. There's actually a sample here (*Refers to brick sample and passes it around*). Staff is not supportive of the change and is still recommending that the real stone of 3-4" and mechanically attached be used. I have also provided a number of exhibits, including the design guidelines from the Villaggio development, that show the approved architecture. On the tower elements and other areas, it shows stone. I just want to make sure the Planning Commission understands we have been working with the Applicant for some time. At one point, there was more stone shown on the building. That's shown in a graphic. It looks like this with the black and white and yellow (*Refers to graphic*). Staff wanted to see maybe a cast-stone base or a little more stone used on the lower portions. We allowed them to reduce the stone in other areas, shown in yellow. The plan you saw on October 28th had the reduced amount of stone. I'd be happy to answer any questions.

Chair Rohlf: So Mark, on this highlighted black and white, the yellow represents areas where stone was removed. Does it show where the brick is proposed?

Mr. Klein: The brick is proposed in the darker areas. The yellow areas are showing what is now proposed as stucco. I have a color rendition of that plan they provided earlier (*refers to plan on the easel*). This was an earlier version of the building. The Planning Commission never saw this elevation. This was at the time that Staff was trying to work with the Applicant to put stone, rather than the cultured stone they were proposing. The Applicant did work with Staff and agreed to do real stone veneer, and that's what they brought forward to the Planning Commission on October 28th. Staff was recommending that the real stone be 3-4" in thickness and mechanically attached to the building. At that point, the Applicant had concerns. It was continued, and we have had quite a few meetings with the developers.

Chair Rohlf: Mark, I think I asked you about this last time – what was the combination of materials used on the office building that’s already built there? I know you said there have been some problems with the building.

Mr. Klein: They actually introduced some new materials into the design guidelines for that, including marble in a variety of shades, stucco and cultured stone.

Chair Rohlf: What about the M&I Bank?

Mr. Klein: I believe it has cultured stone and stucco, and those are the only projects that have come through.

Chair Rohlf: Does anyone else have questions for Staff?

Comm. Heiman: It says, “King-size brick veneer.” Is it brick or brick veneer?

Mr. Klein: I believe it’s veneer, but the Applicant may be better able to answer that. It is larger than your standard brick.

Comm. Heiman: It’s cemented on to the building, correct?

Mr. Coleman: Just as a clarification, brick veneer is non-load bearing brick, but it is full-sized brick. I believe that’s what the Applicant is proposing.

Comm. Williams: Full-course brick is what would be in their wall section details in the drawings they submitted?

Mr. Coleman: Correct.

Comm. Williams: They even note the mechanical fastening.

Comm. Heiman: Thank you.

Comm. Williams: Mark, I seem to recall in reading the Staff Report reference to brick being allowed in the design guidelines, but not necessarily in these applications. Could you share with us again where the brick could be used?

Mr. Klein: I’ll pass around design guidelines so you can see the brick that was approved. Again, I showed on the colored elevations up there that the brick would be used more on the surface of the building and on the walls themselves lower down, but not necessarily on the tower elements.

Comm. Williams: It’s a little hard from the colored renderings that you passed to us today to see where it might be brick versus just colored stucco.

Mr. Klein: Right, but if you look at a lot of the tower elements, it has a rougher texture.

Comm. Williams: You’re right, thank you.

Chair Rohlf: Does anyone else have questions for Staff? Mark, before we move to the Applicant's presentation, could you let me know where we've left off with respect to some of the other issues in the Staff Report? I think there was still a concern about the lighting fixture and landscaping. Was this our only outstanding issue?

Mr. Klein: This is our only outstanding issue. There were some stipulations regarding landscaping, and the Applicant agreed to them and showed them in the plans

Chair Rohlf: And we already opened and closed the Public Hearing on this, didn't we?

Mr. Klein: I believe so. I don't think anybody was here to speak to it.

Applicant Presentation:

Estel Hipp, 12601 Cedar, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Hipp: I appreciate the opportunity to come back and share the result of our discussions with Staff and our attempt to arrive at a conclusion benefitting the community and working in the economics of this particular development. This building we have planned is a \$20 million project. As you can imagine, the investors are quite interested in having a project that will stand the test of time from both a materials and a design perspective. As has already been noted, the Villaggio at Leawood Design Guideline Handbook, which was approved by the City Council and the Planning Commission, has set forth very specific allowed materials in that particular project. Three of those materials, we presented in the last meeting. One would be stucco; second, a cast-stone base and third, cultured stone or (at the end of the meeting) thin-cut real stone as a compromise to Staff's request of 3-4" stone. Since the design guidelines were established, we tried hard to design a project that adhered to them and utilized approved materials. Candidly, once those design guidelines of materials are approved, I don't quite understand why - when we come in with a project utilizing those very materials and is an architecturally and aesthetically an attractive project - it is not sufficient. Staff raised concerns about water infiltration, wind deflection, color fastness and chipping issues. We believe that we can satisfy all of those with the stone veneer; however, we decided to choose brick because Staff also preferred a veneer that was mechanically attached to the building, and brick addresses that. Another issue they raised was one of potential water infiltration and the breeding of black mold and other problems created by water behind the stone. There will be a weeping system inside the brick façade, as well as an air space between the brick and the structure of the building, allowing any water that might infiltrate to escape out the bottom. There will be air circulation space to prevent any sort of build-up of mold. The third concern was the structural rigidity of the property. In this particular case, if stone veneer were used, the structural steel studs would require a gauge increase to make them rigid enough to support the system. In the case of the brick veneer product, that's not necessary because it is merely attached through the mechanical system. If you have more specific questions about that, I'll have to ask Tim Fisher, the architect, to talk to you about it because I've now exhausted my information about that.

Getting back to my surprise and concern about Staff's unwillingness to approve these materials that we've proposed, the M&I Bank, the SO Development and the 119th St. shopping center that just opened on the southeast corner of 119th and Roe all have cultured stone. I'm at a loss as to why that's an issue here, but we're not here to talk

about cultured stone. What I'm prepared to do is brick or stone veneer. The reality is we've priced the full-depth stone veneer, and it will add about \$350,000 to the cost of this project. This is a \$20 million project, but for skilled nursing, the preponderance of the residents will be on Medicare or Medicaid. Those daily rates for those two insurance plans are set by the state and federal government. We have to be very cautious about how much the project costs in order to make sure it's a reasonable investment.

Mark also mentioned we proposed king-sized brick. It actually is not king-sized brick, as neither the design guidelines nor the City allow it; it's regular-sized brick. I should also mention the design guideline renderings were done by a fellow named Jeff DeGasperi, who actually was responsible for authoring all the design guidelines for the Villaggio project and are meant as an example and guideline for how architectural styles should be introduced into the project and how materials should be used for hardscape and building materials, as opposed to a hard and fast rule. Jeff, by the way, expressed surprise and concern that the Planning Commission and Staff were unwilling to consider the use of cultured stone or stone veneer in this project since they were already approved materials. We have an e-mail that I could pass out that states his opinion that full-depth stone veneer is not viable in commercial buildings in this day and age.

As I mentioned, we tried to answer Staff's concerns about the 5-6 items they mentioned. (*Places Model Looking South diagram on the overhead*) That's the model from 137th St. (*Places Model Looking North diagram on the overhead*). That's south from Leawood Meadows looking north. (*Places Revised Elevation plan on the overhead*). This is the Revised Elevation. Mark put up the original elevation that showed cultured stone on the project. The exhibit he gave you with the highlighted areas, and I must differ with him as to the context in which that was put together. I checked with Tim Fisher, who's here from Ron Reid Architects and who was with me at that same meeting. That came about as a result of discussions with Richard Coleman and Mark about the percentage of stone that was typically shown on Tuscan architecture in Italy. The conclusion, generally speaking, was that there was more stone shown on that Elevation than is the case typically in the Tuscan environment. At no time during that meeting do I recall any discussions whatsoever about 3-4" thick stone veneer, but rather reducing the amount of stone on the exterior of the building, which is what we did and subsequently came back with. In that same conversation, Staff also suggested that we add a stone base around the base of the building. Previous to that, we'd either had stucco going to the grade level, cultured stone or stone veneer. We agreed that was a good solution because of the concerns about mowers perhaps damaging the stucco. That was added in the elevations that were ultimately presented to you when we last met. This Elevation is simply showing that we haven't changed anything about the building except that we've substituted brick for the stone veneer. (*Places Elevation slide on the overhead*) We have the same Elevation here for the south and west sides. The only change is that brick has been introduced in place of the stone veneer. (*Places East Elevation slide on the overhead*) This is the east elevation (*places Site Plan on the overhead*) and the Site Plan that you've already seen.

Comm. Williams: Could you go back to the East Elevation, please?

Mr. Hipp: Sure (*Places East Elevation slide on the overhead*).

Comm. Neff-Brain: Have you removed the base of stone? You said that because of mowers and that, that stone would go around the base of the building.

Mr. Hipp: Yes, cast stone.

Comm. Neff-Brain: And that's removed?

Mr. Hipp: No, ma'am.

Comm. Neff-Brain: And it's the full stone?

Mr. Hipp: It's cast stone, which is Staff's recommendation and an approved material.

Comm. Williams: Do you know what cast stone is? It's concrete.

Mr. Hipp: But it's pretty concrete.

Comm. Williams: Mark, you may want to explain cast stone versus cultured stone.

Mr. Klein: A lot of the cast stone I've seen tries to replicate limestone. In fact, we have cast stone on this building. I've seen different qualities, where some show more aggregate than others. A lot of it is buff colored. There may be some on the material board. (*Refers to material board*) This piece of stone right here is cast stone, and it is concrete; but it's made in a way that looks a little nicer than just your grey concrete. (*Shows sample to the Commissioners*).

Mr. Hipp: In conclusion, I'd like to say this is a project we'd like to move ahead with, with a brick substitution for the stone. It's a project that's going to employ 140 people, including 100 full-time and 40 part-time. It's going to have an annual payroll of over \$3.8 million, and it's going to be buying supplies in the city worth over \$1 million a year, on which they'll be paying sales tax, in addition to property taxes estimated north of \$200,000 a year. We think it's a viable addition to the community in terms of the contribution it will make to the tax base. We think it's offering a service in the skilled care facility that doesn't exist in the city now. I ask your approval. I'd be glad to answer any questions.

Chair Rohlf: Thank you. Questions for Mr. Hipp?

Comm. Williams: This is maybe just a point of clarification. You said there's no king-sized brick on here. I think where Staff is coming from is the drawing shows that.

Mr. Klein: Actually there was a change. Initially when they showed the brick on the building and when the Staff Report was written, they were proposing a different style of king-sized brick. They came back and showed the current modular brick.

Comm. Williams: The note should be "modular brick" instead of "king-sized"?

Mr. Klein: Yes.

Comm. Williams: Very good. My other question is related to the brick and related construction. The elevations you're showing are of what's defined as a pre-cast stone sill on the top of windows where you've got the brick and also the top of some walls.

Yet, the wall sections that I see call out for an EIFS foam trim. I just need some help understanding exactly what we're going to have.

Mr. Hipp: And I need some help answering that question.

Tim Fisher, Architect with Ronald Reid and Associates, 8723 Aberdeen, appeared before the Planning Commission and made the following comments:

Mr. Fisher: Your question is on the foam. It varies, but on the brick will be the cast stone; and on the stucco, it will be the foam.

Comm. Williams: So even though you have a wall section that calls it out as the EIFS foam, it's actually going to be cut stone with the brick?

Mr. Fisher: You're looking at a wall section for brick?

Comm. Williams: Yes, Wall Section A4 on your sheet – 3.01, and it clearly calls it out as "EIFS foam trim in windows surround color per elevation". So what you're saying tonight is it's per the elevation, which calls it out as pre-cast stone still.

Mr. Fisher: Yes, the old wall sections had it as foam.

Comm. Williams: This is a little technical, but on your bases, one of the issues with cast stone versus the EIFS is cast stone is generally mechanically fastened to the wall and not glued on. That would be another consideration for the material.

Chair Rohlf: Any other questions for the Applicant?

Comm. Elkins: Mr. Hipp, if you can help me get a little bit centered on where we are tonight versus where we were the last time we were here. What I understand from both you and Staff is that you, as Applicant, are proposing brick in lieu of stone – be it real or whatever – that we talked about the last time. Is that right?

Mr. Hipp: Yes.

Comm. Elkins: And your point is that the brick is part of the approved design materials in the design guidelines for Villaggio, correct?

Mr. Hipp: Yes, just like the thin-stone veneer and cultured stone are approved.

Comm. Elkins: With respect to the brick that's being proposed, is the brick you're proposing exactly what was approved as a design material for the Villaggio?

Mr. Hipp: I think the answer is yes, but let me ask Mr. Fisher to make sure.

Mr. Fisher: This brick has been approved and was part of the design guidelines.

Comm. Elkins: The reason I ask that question is that I think we have a copy of the design guidelines that were circulated with some examples of the approved brick. The pictures look substantially different than what is on the materials board.

Mr. Hipp: The only way I can explain the difference is print versus real because I noticed exactly the same difference.

Comm. Elkins: You'll agree that the difference is pretty striking, is it not?

Mr. Hipp: Not only is it pretty striking, but I prefer the real material sample to the printed material you have in your hands there in terms of color and fit on the building.

Comm. Elkins: And as I understand it, the proposal for the brick is essentially a reaction to Staff's objection to the cultured stone at the last meeting and the comments you received from the Commission, correct?

Mr. Hipp: Yes, it was our attempt to satisfy those 5-6 objections that were raised in the course of that meeting.

Comm. Elkins: And I think you've alluded to this, but just to make the record very clear, if you had your druthers, you'd still prefer the materials you proposed at our last meeting, which included the thin-veneer real stone, correct?

Mr. Hipp: Yes.

Comm. Elkins: Thank you.

Chair Rohlf: Mark, did we have an overall materials board that went along with the design guidelines for the project?

Mr. Klein: I believe we have that, but it's at a storage facility right now.

Chair Rohlf: That's all right. I'm just wondering if that it is, in fact, the same brick that's in the design guidelines.

Mr. Klein: No, as Commissioner Elkins indicated, there's a striking difference between the brick shown and the one that they're proposing. It was my understanding that this did not match what was approved with the design guidelines.

Comm. Williams: Just in looking at the design guidelines, they're very specific about manufacturer and color in this. It's very different than what's on the sample board.

Mr. Hipp: If I may interject here, it was my understanding, coming into this meeting, that it was the same material. I have no interest in changing materials from what was approved. So if that's the wrong brick, we would then want to use the correct brick.

Comm. Williams: The guidelines call out for an Acme brick called Chicago, and what's on the sample board is Buff Colorado Tumbled, so they're very different bricks.

Mr. Hipp: I can assure you our intent was not to stray from the approved brick.

Comm. Williams: So Mark, your contention with the brick is that the brick was tended to be more for the body of walls versus tower elements. There are more featured forms on the building, whether towers or not, versus the body of the building.

Mr. Klein: Correct, and as a development comes in, you'll have a number of different approved materials for that development. To clarify how those materials will be used, they provide graphics such as the copies before you. You could actually have the same 10-15 different materials in a development; but if they're arranged in different ways, they'll come out with totally different looks. In Staff's opinion, the stone has a much different look than what the brick would have, which is why we support the stone.

Comm. Heiman: Regarding this highlighted drawing that was given to us, what you're proposing tonight is to eliminate the usage of stone in those highlighted areas.

Mr. Klein: No, that shows the current elevations they have. All the darker areas are where they are proposing brick. All the highlighted areas are taken from a previous version of that plan as we were negotiating with the developer to reduce the amount of stone. I know we're remembering the meetings differently, and quite honestly that shows how much we've met. The conversation I'm recalling was with Ron Reid, and we were talking about not only the stone veneer, but also about vertical elements to be scored into the stucco so it had more the appearance of stone, as opposed to just bands of stucco. I believe we may be remembering two different conversations.

Mr. Coleman: Since you brought up the issue of the stone, Mark has reiterated the conversation pretty well. The reduction of stone was in lieu of the artificial stone. There was a reduction of artificial stone on the façade in exchange for the cast-stone base and real stone. The renderings that Mr. DeGasperi did convey the overall intent of the design for the design guidelines. His renderings show stone on all these vertical elements as a primary material with brick only as an accent. In none of the renderings does it show brick as a primary material. Staff feels that putting the brick on the tower elements deviates from the design intent and also the general feel of the design guidelines for the Tuscan theme that was established in this development.

Comm. Williams: In addition to the renderings, the early written section of the design guidelines talks about style; and it talks about the character of the stone. They are putting heavy emphasis on the stone being part of the Tuscan architecture.

Mr. Hipp: I don't deny that. That would be our preference.

Chair Rohlf: Any other questions for the Applicant? Thank you. I do have a point of clarification, Mrs. Shearer. We do have a couple of people who perhaps wish to speak about this case. I know we opened and closed the Public Hearing last time.

Mrs. Shearer: I believe at the last meeting, we did hold a Public Hearing. I feel it would be permissible for you to allow them to speak at this meeting as well.

Chair Rohlf: Thank you. If you would still like to speak, would you raise your hand, please. It's Elaine and David Gangle. If they don't care to speak, that's fine, too.

**Motion to reopen the Public Hearing made by Heiman; seconded by Roberson.
Motion passed unanimously with a vote of 6-0. For: Shaw, Roberson, Neff-Brain,
Williams, Elkins and Heiman.**

Public Hearing:

Elaine Gangle, 4644 W. 137th Terrace, Leawood, KS, in the Leawood Meadows subdivision, appeared before the Planning Commission and made the following comments.

Mrs. Gangle: I would just like to say that I really appreciate Staff's diligence on this project. I know it's been a long time in the process, but I think there are many of us who are pleased to see the Staff and the City are implementing standards that serve the community well. I think that another important point is that this project will set a precedent. It's a new project, and those of us who live nearby who are just community members certainly appreciate Staff's keeping the community's interests in mind.

Chair Rohlf: Is there anyone else who would like to speak about this case?

As there was no one else to speak, motion to close the Public Hearing was made by Roberson; seconded by Williams. Motion passed unanimously with a vote of 6-0. For: Shaw, Roberson, Neff-Brain, Williams, Elkins and Heiman.

Chair Rohlf: That takes us up to our discussion.

Comm. Neff-Brain: I agree that Tuscan is stone and not brick. Was brick just put in as some kind of a small design element in the whole project?

Mr. Klein: As Richard was saying, there are certain areas it's being used more as an accent material; for instance, the wainscoting that goes along the base of the building under the windows.

Comm. Neff-Brain: For the whole development, though, and not just this?

Mr. Klein: For the whole development. When this development came through, the Applicant proposed this Tuscan-style development. At that point, it was made very clear by both the Planning Commission and the City Council that this overall development, of which this is the largest building that's going to be constructed so far, would have to maintain that Tuscan style and set a high standard. As Ms. Gangle indicated, this will set a tone for the development. Staff is supporting the Tuscan design that was shown not only in the words, but also in the pictures that were demonstrated with the tower and stone and how it all works together.

Comm. Neff-Brain: So throughout the entire development, brick would be an accent?

Mr. Klein: It would be used primarily as an accent. A lot of the walls were maybe stucco with a brick base, but again, the stone was a major component lower on the building, as well as on projections and tower elements.

Comm. Elkins: Madame Chair, I'm mildly disappointed I don't have the benefit of the minutes so I can see what I said. Based on my recollection, I spoke in favor and support of the Applicant the last time around, and I'll do so again tonight. My preference would be the stone. Most traditional thoughts of a non-architect like me would be that Tuscan is stone and not brick. Certainly, I concur with the brick idea. Just as Staff has suggested, we don't want a situation where a developer can set up guidelines and back away from them – bring us pretty pictures and all kinds of things and then back off. It seems that as a city and as a community, we've got the same obligation to the

developers. I understand there's this issue about the cast stone, and I know we had a long discussion about it last time. At the risk of reopening that discussion, I want to reiterate the idea that, in my mind, it's one of fairness. We sat down with the developer of this project, he worked through the process with Staff and the Commission, eventually going to the City Council. We ended up with an overall plan for development that had a series of approved design materials. Please correct me if I misunderstood, but we have two buildings that have either been constructed or are under construction with those materials. It seems that when a developer comes with a major project like Mr. Hipp has come with, he and his team should be entitled to rely upon the materials that have been approved in figuring out the economic justification for the potential success of their development. When they go through that entire effort and figure out that, in their view, the development has the potential to be successful, given the approved materials; for us in mid-course to change those rules seems to do a disservice to the developer and the community as well. I would remain in favor of the stone because I think that speaks of the Tuscan architecture, but I would also support the thinner stone. It's not like some of the things we've seen here on the Commission that were too thin. As I understand Mr. Hipp's comments, they would be happy to construct according to that material if they were given the opportunity to do so. Thank you.

Comm. Williams: Mark, with the stone proposal, did they have more stone than what they show for brick?

Mr. Klein: No, I believe they took those elevations and substituted brick for stone.

Comm. Williams: Explain to me what the yellow is on the drawings you gave us tonight.

Mr. Klein: The yellow is an effort to show that Staff and the Applicant were working together. The drawing is their current submission with the dark areas representing the brick. The highlighted portions are areas shown as stone on the previous version right there (*points to the right*) - a version that the Planning Commission never saw.

Comm. Roberson: So you're saying they took the pictures of the stone and removed it and replaced it with stucco.

Mr. Klein: Yes, basically they came forward with the colored elevation that's up there with cultured stone and stucco.

Comm. Neff-Brain: Didn't Richard say that initially they had proposed a thinner stone, and as a negotiating tool, it was recommended they take off everything that was yellow from the thin stone and have the thicker real stone in the places that are dark?

Mr. Klein: And also to have a cast-stone base that goes along the bottom of the building, which they did. They removed some of the stone they had there before; however, it was still shown as a stone veneer that was fastened on, as opposed to being structurally attached.

Mr. Hipp: If I could respond to that. My recollection was the discussion at the time was that buildings in Tuscany actually don't have that much stone on them. The notion was to reduce the amount of stone and increase the amount of stucco. At the same time, there was discussion about adding a stone base, which we agreed to do, because of Staff concerns that mowers might damage the stucco. I may not have been at a meeting

where the reduction in stone was a trade-off for full-thickness stone veneer, but I would be surprised if I hadn't heard about a meeting like that, which I haven't. It is very possible that Ron Reid met with Staff.

Mr. Coleman: Since this is referring to something I'm charged with saying, I never agreed or said anything of the like about reducing the amount of stone because it wasn't in keeping with the architecture of Tuscany. There would be no reason for reducing the amount of stone.

Mr. Hipp: Then you and I have a completely different understanding of our discussion.

Mr. Coleman: We apparently do.

Chair Rohlf: How many buildings are there potentially in Villaggio?

Mr. Klein: There are probably about 40. We are at 5-10% of that. Commissioner Elkins talked about the design guidelines when they were approved. I think the developer came in good faith and was proposing the product. I indicated at the last meeting that at the time this was going through, we had just started seeing some problems with the cultured stone, so we really pushed them to add real stone as one of the key elements as opposed to just having cultured stone with no real stone at all. If you start a project, notice a problem and then allow the problem to continue, you end up with potential problems all through the development. Since this development is really in its inception and decisions like this can really make a difference, Staff would like to correct that problem and have a better project, thus the reason Staff is pushing for the real stone.

Comm. Elkins: Hasn't the Applicant actually gone past the cultured stone? The issue is thin veneer stone versus big hunks of rock.

Mr. Hipp: I'd like to respond to Mark's comment. Not only would we prefer to do thin-cut stone veneer on the building and the accent places identified now on the plan in front of you as brick, but we would engage a third-party inspector to make sure the product is installed properly, as I stated at the last meeting. It could be somebody we recommend with City Staff approval or that City Staff selects and we use and pay the cost. We have no interest in building a \$20 million and having problems with any of the materials on the building. We are dedicated to do the best job we can, given the economic terms and conditions under which we have to operate in a way that the community can be proud of and that will be a lasting facility.

Chair Rohlf: Len, as we move through these buildings, is this a significant change if we see more of the brick and less of the veneer stone?

Comm. Williams: I think clearly it's where it gets used. If we see more towers in the brick versus the stone in the design guidelines, then certainly. I do see where, in Tuscan architecture, use of brick would be appropriate. When you look at the amount of stucco they have here and the design guidelines, stone is a major characteristic here. I think also this particular building does have a lot of stucco; however, I think it will be a nice building. We've had numerous discussions in this body when Staff recommended we do more stone or brick or whatever that material might be to reduce the stucco. I'd really like to see the material areas highlighted to the highest extent possible. I don't think the brick does this, but I think the stone would. I have one question for the Applicant, if I

could. It goes to the type of stone veneer that you were proposing. We saw a sample last time, and the sample appeared to be fairly modular and not quite like a brick, but still roughly that high (*demonstrates with his hands*). Is that the type of stone you're proposing if you were to go to that veneer stone? Would it be fairly uniform, then, versus a more rustic look?

Mr. Fisher: The stone will vary in height and width. The minimum is more like 6" and not 3". The sample last time was 6" x 12".

Comm. Williams: So it will be a variety of sizes in the brick and not uniform?

Mr. Fisher: Correct.

Comm. Heiman: I just have some comments here. Like Commissioner Elkins, I prefer stone over brick or stucco. I think the idea of more stone is certainly an advantageous thing for this development. It appears that the real and thin-stone veneer is approved by Villaggio in their design guidelines. If applied correctly, I would be in approval of the previous plan using real stone veneer. I think that eliminates the chipping issues. It appears to me the brick that they're proposing is probably installed in a similar manner to the stone veneer.

Comm. Williams: No, it sits on its own weight.

Mr. Klein: It's mechanically fastened the same as real stone with the full thickness.

Comm. Heiman: I was mistaken on that. Regardless, this design appears to be a better application for the stone. I would be in favor of the real stone veneer over the brick.

Comm. Neff-Brain: I likewise am not in favor of the brick, but from what I see of this highlighted page, a significant amount of the original plan for stone was eliminated. I would only be in favor of using the real, thicker stone in the area that remains.

Chair Rohlf: You're talking about Staff's recommendation of the 3-4" veneer limestone?

Comm. Neff-Brain: Yes.

Comm. Roberson: I'd like to address the design guidelines. I'm going to have to agree with Mark. When you find that the design guidelines don't work - and in this case the adhesion to the building does not appear to be working - then they need to be changed or at least acknowledged that it's not working and a different material substituted for that. I guess it's a contrarian view, but just because the design guidelines were written 2-3 years ago, we've now found out they were wrong and that this material does not work. At least it's not been working like it should here in Leawood. I would agree that I think we need to move toward the real 3-4" stone.

Chair Rohlf: So you're in favor of Staff's recommendation of the stone veneer that the applicant proposed last time.

Comm. Roberson: I am indeed.

Comm. Elkins: I understood that we have run into an issue with the cultured stone. Have we seen the issue of the relatively thin real stone falling off buildings?

Mr. Klein: Staff is realizing the application process for cultured or real stone is the same as far as adhering to the building. With real stone, you don't have the chipping, and Staff supports that. Real stone is also heavier than cultured stone, and you're adhering it to the building itself. Staff is concerned you're going to have the same issues with the real stone veneer as opposed to having the 3-4" mechanically fastened to the building.

Comm. Elkins: Have we seen that application in Leawood?

Mr. Klein: We have not seen enough real stone thin veneer to be able to make a judgment one way or the other.

Comm. Elkins: Thanks, Mark.

Mr. Fisher: I don't disagree with Mr. Roberson's comment. The fact is that if it's applied correctly, there shouldn't be a problem. I agree that you don't just continue to use something, apply it in a certain way and not change it as you see problems. That's why we're proposing changing the way it's applied, getting a third-party inspector, adding additional drainage mat and stiffening up the structure as needed in order to eliminate these possible problems.

Comm. Roberson: I understand what you're saying and don't disagree, but you have not convinced Staff that you've got an alternative method by which to adhere this product to the building. Quite frankly, I have to depend on their expertise and knowledge of this product as well as what we've seen in other buildings with this adhered stone falling off. I don't know why your system is going to be any different, and quite frankly, I don't know what a third-party inspector is going to do except say, "Yeah, it's stuck on the building" and then disappear. Then a year later, it starts to fall off.

Mr. Fisher: I think the third-party inspector would be on-site during the actual application. If you look at some of the buildings where you've had this problem, you'll see that there isn't any mortar on the back of the stone; and if there is some, it's in splotches and not applied to the entire back of the stone. That's what the problem is.

Comm. Roberson: I don't think you've convinced Staff that you have solved this problem, and it's incumbent upon you to do just that. That's all I'm trying to say.

Chair Rohlf: Mark, in looking at these design guidelines, we've basically eliminated the three approved materials – our preference. The brick, you're not comfortable with the application here on this building.

Chair Rohlf: Staff is supportive of the brick used in the way it's initially proposed. Regarding the cultured stone, you're right that Staff is pushing to replace it with real stone. Even at the time the design guidelines were written, Staff was pushing. We didn't have nearly as much evidence as we do now, so it was allowed as a compromise. We allowed cultured stone in there, but we wanted to make sure real stone was a part of the design guidelines. Sure enough, here we are in that position, where we are pushing for the real stone because of the problems with cultured stone. It's not just falling off, but also chipping with grey concrete exposed. I remember a specific example of this where

it chipped and then looked fake. They eventually repaired it, but it sticks in your mind. With real stone, it's real stone.

Chair Rohlf: But in the guideline, it says, "real stone veneer and/or cultured stone." You're not satisfied with either one of those, correct?

Mr. Coleman: I just want to make a point of clarification. Real stone veneer could be interpreted as the thin-set or the 3-4" stacked stone veneer.

Chair Rohlf: We would need to qualify that, based on what the Staff Report reflects. I don't think, in their design guidelines, they're talking about the 3-4" application, or they wouldn't have concerns with the recommendation now.

Mr. Coleman: If someone said "real stone veneer" to me, I would think it was the 3-4" stacked stone. If they said, "thin-set stone veneer" I would think it's the 1" stone.

Chair Rohlf: Isn't that their preference this evening?

Mr. Coleman: They're talking about the thin-set stone.

Chair Rohlf: So this is open-ended. There's no real clarification in the guidelines of what type of veneer they're propping.

Mr. Coleman: The design guidelines are open to interpretation.

Chair Rohlf: Right, so I do think we need to get this issue resolved because we have a number of buildings yet to go. If it means we need to go in and revise these guidelines, then we need to do that so we don't run into this on every building. If nothing else, we need to get qualified in here what their interpretation is of the real stone veneer. If it's a 3-4" one, we're fine. I'm taking it, since they're representing this to be their preference, that's not the way they're interpreting real stone veneer in the guidelines.

Mr. Klein: Again, the reason Staff is interpreting it that way is we're concerned about the application process. Thin-set stone veneer solves the problems as far as chipping, but it might not solve the adhering problems. Staff is trying to look out for the long run.

Chair Rohlf: Mr. Hipp, are you familiar enough with any other buildings that we haven't seen but are out there? Have you looked at this development from an overall perspective, including the buildings that might come in to the Villaggio as a whole?

Mr. Hipp: To my knowledge, there are no other buildings in the planning stage at this point.

Chair Rohlf: I'm just curious about what's being proposed material-wise as these come in and if we're going to have this interpretation of the design guidelines every time.

Mr. Hipp: My interpretation as a non-architect and non-engineer is that if someone tells me "stone veneer" I'm going to think of thin-set stone veneer as opposed to full-thickness stone veneer. As a layman, I'm not used to thinking of that as a veneer.

Chair Rohlf: There's a difference of opinion on these veneers, as well as the cultured stone.

Mr. Hipp: Cultured stone, I get. The stone thin-set versus full-thickness veneer is not something I was that familiar with.

Comm. Shaw: There are times when I think we get into too much detail with the architect and the engineer. They have a responsibility to design these buildings according to the building codes, and I would like to have a definition of the thin stone veneer where you start laying it and go upward with it versus the real, heavy stone. The real stone has a foundation underneath it, does it not?

Mr. Klein: That's my understanding, yes.

Comm. Shaw: Tell us, how did they build the thin-set stone?

Mr. Klein: Actually I'm going to defer to Mr. Coleman, who is an architect.

Mr. Coleman: The reason the thin-set stone is lighter is that it's only about 1" thick. It would have a mortar bed attached to a galvanized screed like stucco is. It's in a mud bed that's basically adhered to the wall. The stone is held in place by the mortar adhering to this metal screen that's attached to the structure. The 3-4" veneer has a foundation on it because the weight of the stone is such that it needs that. Every certain height – 10' or so – there's a relief angle put in that because of the weight of the stone. Then it's flashed, and any water penetration is carried out in the cavity wall between the stone and the structural back-up. That would be the 3-4" type, which is essentially built the same way as a full-size brick veneer wall. It's set on a foundation. It's set in mortar beds. It's mechanically attached to the structure and has a cavity wall drainage system with air between the exterior and the structural wall.

Comm. Shaw: You're saying the thin-set stone is how many inches thick?

Mr. Coleman: I believe 1-1 ½" thick; it's fairly thin. Then it's cut into the shape that looks like the full thickness of the stone. It may be 6" x 12".

Comm. Shaw: I think our problem is that we have it in our guidelines, and if it is that thin, I would be concerned about that if I were the developer. I didn't realize it was that thin. I don't know why we, as a city, would even let them put it into the guidelines.

Mr. Fisher: The thin stone is more like 1 ¾" – 2" thick, just for clarification.

Comm. Shaw: Thank you.

Comm. Williams: Putting cultured stone aside and getting back to the real stone product for a thin-set veneer application, the issue is the installation. In the same vein, the success of the building itself is based on the quality of installation. The same is true with stucco – you can get water penetrating it, get mold, etc. You can screw up a brick veneer job just as easily. I think we sometimes don't see those get as messed up because of the quality of the masons doing the work. What I hear in my trade is that a lot of the masons doing the cultured stone work are not as well trained and skilled as the masons who would be doing the stacked or laid stone because it takes more skill to do

that right. It comes back to installers. As the Applicant and architect were talking about, supervision and inspection are just a few aspects of the building process. The City even requires special inspections to make sure things are done properly. Maybe the City needs to look at amending requirements to include a special inspection if we move forward with the idea of allowing an application to do a thin-set application of real stone. I don't think any of us have any qualm or issue with the fact that this building would look better with stone than brick. It's just finding the best way to get it to meet the purpose of the Applicant, the City and the long-term viability of the building. We're relying on Staff to give us guidance here. In essence, we're all laypeople in this regard. I think there's a greater chance of getting a better installation with the real stone, but I would support the Applicant if we move with a veneer stone and an additional layer of inspections. It's not a guarantee, but it gets us a lot further there. I think any architect will admit that once an inspector walks away or turns his back, things happen. I like the stone, and I'd like to work with the Applicant to get it on the building.

Comm. Roberson: I'm not sure we should be taking a chance with a \$20 million building with a thin-set veneer real stone, cultured stone or brick. I think we ought to move back toward the original design guidelines using stone and stucco. You say there is no guarantee, and I agree; so why should we risk this on an ongoing basis with another 39 buildings? We know the stone works well and looks good.

Comm. Williams: It's not our \$20 million.

Comm. Roberson: No, it's our city, and we need to make sure we maintain our standards. That's our job.

Mr. Hipp: I couldn't agree more with the need to have quality standards. I can assure you that all the investors in this building have absolutely no interest in investing in a product that's not properly built. Believe me, we have asked plenty of questions to make sure we were comfortable that a stone veneer building will give us what we want in terms of durability and quality from the first day to 40-50 years from now. The goal here is not to build and sell this building; the goal here is to build and hold the building for an extended period of time.

Comm. Shaw: Has the City had problems with the stone veneer?

Mr. Klein: I don't think we've seen enough of the thin-set veneer real stone to be able to say one way or the other.

Comm. Shaw: Has the stone veneer been around for a long time?

Mr. Klein: I don't know that it's been around for a really long time. Looking for education on cultured stone, especially when we started noticing difficulties, Staff visited Sturgis, which is a company in the Kansas City area that sells both real stone and cultured stone. They indicated that there is now this thin-set veneer that makes using real stone more economical. It's adhered to the building the same way the cultured stone is. That's about all I can tell you as far as what we learned from that.

Mr. Lambers: At our last meeting, we talked extensively about cultured stone. Given the failures of it and the fact that it is fake concrete, I'm going to the Council and saying, "We are not going to allow cultured stone." This veneer versus the 3-4" is a new spin on

things. Really, the Council needs to make that decision. It's before you tonight, and it would be good to have your positions on it. It really comes down to the application. The thin veneer is the same as the cultured stone in terms of application, but when you scratch it, it's still stone. City Council is who really needs to make the policy decisions because there are significant cost differentials. They would like to have the benefit of your opinions on it as to what's in the best interest for the city. I think as far as Staff is concerned, we know what works, and that's why we have the position we have. Maybe Council will want an opportunity for veneer to be allowed, and they may not. They may say it's the same because of the application.

Mr. Hipp: I'd like to make one more comment about the application process that gets back to what Mark was talking about earlier. It's my understanding there are two ways to apply these materials to the building. One is to adhere it to the building with mortar as Tim or Richard said. The second is to do that but also have a weep system that is installed in addition to alleviate any water causing a problem if it got behind. This would effectively create a cavity of 1/8" – ¼", which should be sufficient to take care of what might infiltrate to get through it. We are planning to use that latter system because, while it costs more, that's not the sort of thing we want to risk.

Chair Rohlf: Does anyone else have any other comments, or perhaps we're ready for a motion? I think we would need to revise Stipulation No. 17 if we would want to allow the Applicant's proposed real stone veneer or the brick.

Motion to recommend approval of Case 71-08 – Villaggio Neighborhoods at Sharon Lane – Request for approval of a special use permit, revised preliminary site plan, final site plan; located at the southeast corner of 137th and Roe Ave. with all 51 Staff Stipulations and modifying Stipulation No. 17 to read, "Stone, as indicated on plans submitted at the October 28, 2008 Planning Commission meeting may be a thin-set, natural limestone veneer. The application of this veneer shall be monitored by a special inspector as employed by the Applicant." Made by Williams; seconded by Elkins. Motion passed with a vote of 4-2. For: Shaw, Williams, Elkins and Heiman. Opposed: Roberson, Neff-Brain.

NEW BUSINESS:

73-08 – CVS PHARMACY – Request for approval of rezoning, special use permit, preliminary site plan, and preliminary plat; located on the southeast corner of 151st Street and Mission Road. **PUBLIC HEARING**

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 73-08. The Applicant is requesting approval for a rezoning from SD-NCR [Planned Neighborhood Commercial Retail] to SD-CR [Planned General Retail], special use permit for a pharmacy with a drive-thru, preliminary site plan and preliminary plat for the construction of a 1-story, 13,225 sq. ft. pharmacy with drive-thru and a future 2,400 sq. ft. retail building for a total of 15,625 sq. ft. of construction on 5.6 acres for an F.A.R. of .06. The Applicant is requesting the rezoning because of the pharmacy with a drive-thru, which is not permitted within the SD-NCR district, but is within the SD-CR district. This application is located at the southeast corner of 151st St. and Mission Rd. This area is surrounded by residential development, including Ironhorse Reserve on the south and

east and Mission Heights Subdivision, which is developed along the perimeter but not within the interior. At the northwest corner is The Pavilions, which is also a single-family residential subdivision, and directly to the west across Mission Rd. is Mission Reserve, which is also a single-family residential development. Staff is recommending denial of this application and is not supportive for the reasons stated in the Staff Report. Some of these include the rezoning of the property to SD-CR, as opposed to the SD-NCR. The idea is that this is a residential area.

Staff is also not supportive of this application due to the large number of trees that would have to be removed. Granted, any kind of development there is going to take out a portion of the trees. It really depends on how the applications come in to develop. Staff wouldn't be able to tell you if one were better than the other because it would be the design of that development. The Applicant is proposing a parking ratio of 4.61, which exceeds the 3.5-4.5 allowed with both the SD-NCR and the SD-CR zoning districts. They're also proposing 11 land-banked spaces, which would create 5.31 parking spaces per 1,000 gross sq. ft. In addition, it doesn't meet the 60/40 rule, which is that no more than 40% of the area adjacent to a public right-of-way being paved to a depth of 90'. Along 151st St. it currently is showing 62% paved as opposed to 40%. Along Mission Road is 64% paved as opposed to 40% paved. The sidewalks along the drugstore are shown to be 5' wide. The LDO requires they be a minimum of 8'. This was also discussed on the Walgreens over here at the northeast corner of 117th St. and Roe.

Staff also has concerns regarding the trash compactor located on the east side of the building and the noise it could potentially create. Right now, it is screened; however, it is not enclosed. Staff also has concerns about the current architecture, which is reviewed at the final site plan; but Staff wants to bring to light concerns we have about it. We would expect for neighborhood retail that it would incorporate some of the more residential architecture. Staff is also concerned with headlights as they transverse the site. This site slopes down as it heads south and a little to the east, and the building will be sitting higher. As a result, as the cars come in off 151st St. or even off Mission Rd. and go through the drive-thru, there's a chance the headlights could shine into the second floor of adjacent homes. Staff is also not supportive of the concrete block retaining walls and would be more supportive if they were natural limestone that is currently in the Ironhorse Reserve in large beautiful blocks. The ordinance also requires that the parcel has to be a minimum of 10 acres. Prior to the right-of-way being taken out, it is about 5.6 acres. This is a situation where they really have no other land around them that they could consolidate because 151st St. is on the north; Mission Rd. is on the west, and another public road wraps around the south and east and runs through Ironhorse Reserve. A deviation allowed within the Leawood Development Ordinance was approved by City Council and also recommended by the Planning Commission a few weeks ago, so they would need that deviation. Staff is recommending denial for the reasons stated in the Staff Report, and I'll be happy to answer any questions.

Chair Rohlf: Questions for Staff?

Comm. Jackson rejoined the meeting

Comm. Jackson: Mark, what's the standard for deviation on the 10 acre rule?

Mr. Klein: The standard is that they have to make a diligent effort to consolidate some land and work with adjacent properties to produce a plan that is cohesive and makes

sense. This rule is so you don't get small, individual pieces of property doing their own thing with multiple exits to the street. The idea is you'll consolidate a large enough piece of land to allow for interior connections, limit the number of accesses to the street and have more design guidelines to tie the entire development together. The Villaggio Development is an example of that. Let me show you a couple pictures that will give you a little familiarity with the area (*Places aerial photograph on the overhead*) The property we're talking about is here. This is 151st St. and Mission Rd. This is Ironhorse Reserve in this section here. Here are the houses I was talking about in Mission Heights and then also some un-platted properties. Again, there are single-family houses around here. The golf course is on the south side of Ironhorse Reserve and continues on along to the west across Mission Rd. This is The Pavilions, which is a single-family residential development at the northwest corner. Just to the south across 151st St. is Mission Reserve, which is also a single-family development being constructed right now. To the south is more residential, and then even within Overland Park, there is more residential.

(*Places close-up map of area*) This is to show you the different single-family subdivisions in the area. You have the Hills of Ironhorse, Ironhorse Reserve, Mission Heights, Mission Reserve, Guilford Downs and Pavilions of Leawood all in that area. This is the zoning of the general area (*Places zoning map on the overhead*). Basically you have the Neighborhood Retail zoning for the property in question. You have the Reserve at Ironhorse zoned as Residential, RP-1. Mission Heights is zoned R-1 over here as well as some of the un-platted single-family. The Pavilions of Leawood is zoned RP-1. Then you have Mission Reserve here at RP-4, but single-family homes. The green is the golf course, which is Recreational. The Hills of Ironhorse is zoned R-1.

Comm. Jackson: Mark, do you have any idea how close the closest house is to that property?

Mr. Klein: I can't answer that question in terms of feet, but I can show you with the pictures (*places aerial photograph on the overhead*). Basically it's 125' from the building, which is a required residential setback from the building to the center line of the street. In this case, Ironhorse Court wraps around both the south and the east. The building will be sitting up here. As you can see, this is the property here, and there are houses that are just across Ironhorse Court; so they're adjacent.

Comm. Jackson: Thank you.

Chair Rohlf: Questions for Staff? All right, we'll hear from the Applicant.

Applicant Presentation:

John Petersen of Polsinelli Law Firm appeared on behalf of Cedarwood Development before the Planning Commission and made the following presentation:

Mr. Petersen: Also appearing as part of the development team is Mr. Aaron Hill and Lamar Oaks, who are with Cedarwood Development and leading the development effort here. Jeff Martin, the Director of Operations and Andrew Buchwitz, a landscape architect for Land Plan, have led our design land use effort in terms of addressing the site constraints of the property, the appropriate orientation of the building and most importantly, the landscaping, buffering and transitional features that are very significant to this plan, particularly when you compare the plan under consideration this evening with the plans that are currently approved for the site. (*Places site plan on overhead*) On

the easel, Madame Chair, is the plan we're proposing. Very quickly, I'd like to walk you through the plan as proposed. We're dealing with a piece of property totaling approximately 5.6 acres. We're proposing a CVS pharmacy totaling 13,225 sq. ft. and a separate retail building with a user yet to be determined. Here's the CVS pharmacy in this location here and a building here of approximately 2,400 sq. ft. that some have suggested they'd like to see. I think it might be a coffee shop or something along that line. We have a total of approximately 15,600 sq. ft. When we talk about intensity, density, traffic generation, site coverage and paved areas, I would respectfully ask that everyone in the room remember that number of 15,600 sq. ft.

Working with Staff, we have a point of ingress and egress off Mission Rd. in this location here. We'd be restricted off 151st to a right-in, right-out and relocated from our original application to the east as requested by Staff. The opportunity to access the site off 151st includes a full-movement intersection here. The traffic will circle the site, park and enter here. The rather small percentage of the patrons who utilize the pick-up facility will enter here, pick up their pharmacy purchase here and circulate back to Mission Rd. or to a right-out on 151st. The challenge of this site is a severe topography change as you move from the north at 151st St. to the south toward the residential neighborhoods. It's heavily vegetated with some specimen trees and some not, but all typical of a prairie setting of an undisturbed site. The challenge is working with the grades. We think Jeff and his team figured it out in a way that will balance the site and, depending on which version is the preference of the City of Leawood and maybe those living in the area, will also be able to incorporate a significant amount of transitional buffer areas and enhanced landscaping. This site can be balanced for the plan approved in 1996 or an alternative plan in terms of layout, but similar in size and density, or for this evening's plan. I think it's important to discuss within what context this application is being proposed to clear up any confusion. It is not the Applicant claiming that is zoned Retail. *(Places a copy of the ordinance on the overhead)* There is the ordinance of the City of Leawood passed in 1996, which approves this site for CP-1 zoning, allowing the current owner to develop a retail shopping center of up to 45,000 sq. ft. *(Hands a copy to the Commissioners)* That zoning ordinance was accompanied with an approved site plan and architecture to the extent that is expected in a preliminary plan stage *(Places site plan on the overhead)*. This came right out of city records, and as you can see, that is a building containing 45,000 sq. ft. with the proposed elevations referenced below. In terms of this site plan compared to our plan, you would have a linear shopping center. We've seen CP-1 shopping centers all over the city. Every 1,400' or 1,200' has a back door, trash dumpsters and activity behind the stores. That is the approved plan today.

CP-1 and CP-2 categories were changed to SD-NCR and SD-CR, but the approvals flowed with the area. There is an alternative *(places alternate site plan on the overhead)* which would fully adhere to the zoning approval in terms of uses and allowed sq. footage of 45,000 sq. ft and would address the 60/40 rule with the buildings up on the street. Staff wants it, and we could do that. As you can see, here's 151st St. and Mission Rd. It's the same point of access that I referenced before. You have a 35,000 sq. ft. shop here with the back to the streets, 8,800' here with the parking shielded from the street directly at the front door of our residential neighbors to the east. This is not what we're looking to do.

The good news is that as a property owner, we have two or three different plans that can work on the site. Some adhere with the square footage, the site plan, density and all those issues and could fit with the way the approved site plan has been in place for over

ten years. The bad news, which is significant and why we've been working with Staff and a portion of the neighbors we interface with, is that's not good for the neighbors. (*Places site plan from 1996 on the overhead*) Meeting your design guidelines of pushing the buildings up on the street is not a good transition. It puts parking and activity as close to the neighborhood as possible. That's not what we want to do. We want to take the right to develop a site of 5.6 acres, up to 45,000 sq. ft of retail and modify it. We want to develop the site for only 15,000 sq. ft. of retail, which is only 1/3 the density, traffic and parking lot required. This plan might just work for the owner and developer and bring a service to the city.

That grading and bringing the site up requires taking out trees obviously. We're only talking about 15,000 sq. ft. of footprint, so we don't have to remove as many trees. Our pedestal doesn't have to be nearly as big as 45,000' (*Refers to current site plan*). When Jeff designed it, the pedestal only came up so far, and it still kept our parking lot and finished floor area essentially 12' below 151st St., creating a reverse berm. Once the top is landscaped, it shields the parking area. We're able to keep the spirit and intent of the 60/40 rule by keeping that finished floor area down and coming around the corner with landscaping. Then as Mission starts dropping, you've got a berm that starts coming up. We're able to do that because we don't have to grade to get a whole 45,000' in there.

There are good neighbors to the west and north, but I will tell you that we paid a particular amount of attention to those in the Reserves because they are the closest. I know we'll hear that it's supposed to be an open nature area. This was approved at the very time the subdivisions and golf course were approved. Many larger developments have residential, recreational and shopping components to support the residential. The fact that we're just now getting to the retail part doesn't mean it's not part of exactly what these folks are enjoying right now. Did they know that when they bought their houses? I don't know. We are able to work with the existing grades because of lower square footage. Just to put it in some perspective, the elevation of Ironhorse Ct. is at 911' (*places an elevation diagram on the overhead*). Our finished floor is at 926'. We're sitting significantly higher and are then able to gently work up this hill to the finished floor area through a series of tiered retaining walls, each about 5-6' at the top. Then we'll start bringing in tiered landscaping. When you're looking from the south to the north at the south side of the building, you can see how this tiered effect with significant landscaping at appropriate locations starts building an aesthetic buffer to the area. (*Places a landscape diagram on the overhead*) This is along the sidewalk that's there. This is the first level right here of the retaining wall. I'm going to go through these quickly again to give you a perspective of the concept along the public sidewalk system here walking back toward Mission Rd. (*Places View #2 landscape diagram on the overhead*). This uses evergreen and deciduous trees and takes into account what different trees do in different seasons. We walked the site with neighbors and talked about type and location of trees so that we could put together a package beyond just saying, "I meet the landscape ordinance requirements for Leawood." We're way beyond that. We think we've enhanced the view along there. (*Places site plan on the overhead*) Under this plan, the existing vegetation would remain as is, which creates a significant buffer from the south, the southeast and significant portions of the neighborhood. When this is all done, I will submit that the building will not be invisible, but you would not be able to instantly recognize that it's a parking lot with cars. We would even bring more proof of that at final plan.

I can't say we spent time with every neighbor here. We engaged with the president of the Reserves Homes Association. We had a neighborhood meeting and followed up with Mr. Bill McKean, the president. He sent us a list of issues they would like to have addressed, and we responded to those issues. They included the type of parking lot light, and we committed to them in a response memo that I'd be happy to make a part of the record if I haven't already copied City Staff on. They looked at our plan and wanted the dumpster moved, and they wanted the doors on the dumpster changed. They wanted our screen wall raised and our compactor more internalized. We made those changes as requested. Construction parking was a big issue. They were concerned that you might have parking down on Court, and we agreed we would take a stipulation restricting any off-site parking during construction. Mr. McKean didn't want pallets behind the building at this location, and we agreed to a stipulation that would prohibit any type of outside storage of any materials in any part of the store. The neighborhood is having issues because of the monument and the vegetation around their monument. I will tell you right now that the Homes Association is using the site for their monument. *(Places photograph on the overhead)* As you can see, there are a number of issues. One, you've got dying trees. We committed to replace every one of those trees even though you can't even see them from our development because they're down those stepped retaining walls. They're experiencing some serious water issues right now because of natural run-off. Part of that will be cured once we pick up our water and put it in a storm water system, which satisfies Public Works. Since we're leaving a significant portion of the site in its natural state, there will be some standing water, causing the current vegetation trouble. We have two proposals including replanting the area with species that take advantage of the water. We'll also work with some grading systems even though we're not required to do so. The monument is on our property without an easement. Those things fall through the cracks over the years. We've done the legal description and are going to work out that easement so the neighbors have the right to come in and maintain the monument. Finally, the president of the Association requested that we join the Homes Association and be a dues-paying member. CVS wants to be a neighbor, but it doesn't work from a legal standpoint. We decided we would make a contribution to the Association for a certain period of years of dues that could be used to help maintain the landscaping of that area or whatever they wanted to do with it. We think it's a decent compromise.

Madame Chair and members of the Commission, I stand in front of you with a Staff recommendation for denial with ten distinct reasons for it. I'm going to go through them. The first one: "Staff has concerns regarding the large amount of fill that will be placed on the site and the loss of trees." *(Puts Reason No. 1 on the overhead)*. I will simply suggest with all due respect to Staff that our site plan of 15,000 sq. ft. will impact 1/3 less than the approved site plan with 45,000 sq. ft. would. Stipulation Nos. 7 and 8 would require us to identify good species of trees and work with Staff before we take any trees out. We wholeheartedly agree with this. *(Places Reason No. 2 on the overhead)* Staff indicates our application should be denied because we're less than 10 acres. That would require a deviation of Section 16-2-9.2. I would simply state that part of the code requiring a minimum of 10 acres does not apply to this site. This was zoned and approved for retail as part of hundreds of acres, including the golf course and residential. The reason for not having little pockets of retail, but having comprehensive uses is right. The rule was applied here. This was to be support retail for the residential area. It is not applicable here. I would merely state for the record, the last meeting we had with Staff, we raised this issue and talked about this. "This is not an issue." *(Places reason No. 3 on the overhead)* "Staff is not supportive of the proposed architecture and recommends

architectural elements not to include asphalt shingles to reflect the architecture of the homes in the area.” We acknowledge that. Staff told us it was a final plan issue. In fact, Stipulation No. 14 says that very thing. We agree with it and will bring it back at final plan. (*Places reason No. 4 on the overhead*) Staff says we’re using concrete blocks on that series of retaining walls as opposed to stone. Our plans have been modified and clearly reflect we are using the natural stone on the retaining walls. Stipulation No. 27 addresses this, and we agree to it. (*Places reason No. 5 on the overhead*) The next reason: “Staff has concerns regarding the headlights of cars shining into the adjacent single-family homes due to the circulation of the drive-thru.” (*Places site plan on the overhead*) The issue here that Staff identified is when someone would enter here as they are about to turn into the drive window here, that lights could shoot that way. Remember, the houses are down here. The parking lot is up here. It could maybe hit the top of the second-story windows if the beam of light would travel over 150’ through the proposed landscaping. After they made that comment, we revised and re-submitted a plan. This landscaping element here is a solid and 36” high. It’s not the tertiary level, but maybe the fourth level. It would clearly conceal the headlight beams. That was a legitimate issue that has been addressed. Stipulation No. 15 refers to the final site plan application addressing this. We agree with it. If this doesn’t work, we’ll come up with more impermeable ways to prevent this. (*Places Reason No. 6 on the overhead*). It’s our sidewalk issue. We’ve got a total of 15’ with 10’ of landscaped area from the building out to the sidewalk, but we only have 5’ of the sidewalks. We had 8’ (*Places site plan on the overhead*), but as originally proposed, the building measured from the center line of Ironhorse Ct. to the tip of the overhang of the pick-up window at 120’. You had to be 125’, even though it was just the tip of the overhang. We told Staff we could do it if we pulled the building back, and because of the setback requirements, we lost 3’ off that sidewalk. I think any design expert would suggest 5’ of sidewalk is adequate and safe. It was done to respect every setback we could as we got closer to the neighbors. (*Places reason No. 7 on the overhead*) “Staff has concerns regarding the noise of the trash compactor located at the southeast corner of the building. Staff recommends the trash compactor be totally enclosed within a portion of the building, including having a roof structure, and the portion of the building shall be designed to suppress sound.” (*Places a site plan on the overhead*) It’s a legitimate concern, particularly when you’re close to residents. This area right here is where the trash compactor is. It sits at the back of the area and is integrated into the building. It runs once a day or maybe even twice a week. We pushed it farther back into this enclosure behind an 8’ high brick wall with landscaping on the side. Staff’s only concern was the lack of a roof, which operationally causes problems because you use a truck to empty it periodically. We absolutely think you won’t be able to hear the trash compactor from Ironhorse Ct. or to the east. You have an ordinance that applies to this situation – 16-2-9.1(A): “No use shall create noise in excess of that of normal daily traffic measured at the lot line of the premises. In no case shall the noise level exceed 60 decibels at repeated intervals for sustained length of time at any point along the property line.” If anybody gets a decibel reading louder than that because of a trash compactor, we’re out of business. We’re very confident that the design we have will take care of that issue. (*Places Reason No. 8 on the overhead*) They’ve recommended denial because we’ve exceeded the parking ratios of your code, which state you can have 3.5 spaces per 1,000 up to 4.5. We’re at 4.6. Equating it to real numbers, at 4.5 we’d have 70 parking spaces; we have 72. It’s a CVS requirement to have 72 spaces, and it’s important to them. We’d like to keep those two spaces. Is that a reason to deny a plan that provides some benefits that an approved plan doesn’t? I would hope not. The 11 banked spaces Staff referenced means that we’ve shown a site where we could put 11 additional spaces if needed, not

that they're in there now. If this would become a sandwich shop or a coffee shop, we'd have a different parking ratio that depended on how many tables it had. (*Places Reason No. 9 on the overhead*) This is a big one, and I acknowledge that. This is the 60/40 rule. This is important to the community to prevent that sea of parking having a visual impact off the public street system. I don't take it lightly. We did everything we could in terms of how we situated and dropped our site, the berm and buffering on the public streets; but we don't hit it. We're 20% off in terms of having 90' of landscaped area along the street frontage or a building. I would merely ask for a deviation here. With the balance of that 20% with this plan (*Places site plan on the overhead*), which is better with the real-life implications? If we put this building on a hard corner and take the negativity that the 60/40 rule is attempting to screen and buffer, we put it in the front door of the neighbors. I don't think that's what the purpose of the 60/40 was, and I feel it's a legitimate deviation. (*Places Reason No. 10 on the overhead*) This one is the hardest one, actually. It basically says, "the proposed use is a more intense use than is permitted within the SD-NCR district (for which we're zoned with 45,000') and requires a special use permit within the higher intensity SD-CR district. A neighborhood center without a drive-thru that includes lower intensity uses is more suitable for this site." Is that true? Given the circumstances of what we know is approved, whether we put the building at the back of the 45,000 sq ft. up against the neighbors or do what Staff would like to have us do and push the buildings up against the street and have the parking lot against the neighbors, is it true that the window makes it a more intense use than what it's currently approved for? (*Places site plan on the overhead*) I would ask anybody in this room to point to a real-life implication, including traffic, storm water, noise or lights of that analysis that would support that this is a more intense use. (*Writes on the site plan on the overhead*) At the risk of being dramatic, I crossed out the window. It's an allowed use in the current zoning category. To say that this request for zoning and SUP automatically is a more intense use and is more detrimental to the neighborhood and community is unfounded in terms of the real-life implication of what this all means when something gets built. Thank you. I appreciate Staff working with us, and I appreciate your time. We'd be happy to answer questions. As always, I would appreciate the opportunity to briefly respond after the Public Hearing.

Chair Rohlf: Questions for the Applicant?

Comm. Neff-Brain: Mr. Petersen, is this a 24-hour pharmacy?

Mr. Petersen: No, it's not.

Comm. Neff-Brain: What will be the operating hours of the drive-up?

Mr. Petersen: Typically these operate 8:00 a.m. – 10:00 p.m.

Unknown speaker: It's stipulated in the original application.

Comm. Neff-Brain: So it couldn't change, thank you.

Chair Rohlf: Other questions?

Comm. Williams: To clarify, it's just one drive-thru lane?

Mr. Petersen: I'm sorry, there are two.

Unknown speaker: Drop-off and pick-up.

Comm. Williams: Have you or CVS done any traffic analysis as to how many drive-thru customers there might be?

Mr. Petersen: We did do a traffic study.

Comm. Williams: Specifically for the drive-thru traffic.

Mr. Petersen: I don't know if they broke it down by the drive-up. I'd be happy to consult while the neighbors speak. Point being, we operate at acceptable levels of service.

Comm. Williams: I remember when we had a different pharmacy that has since become a CVS at 131st St. that one of the issues that became a stipulation was the hours of delivery and trash pick-up. What are the typical delivery and trash pick-up hours?

Mr. Petersen: There is a set time. Usually they want to have those done in the non-business peak, which is usually the going home time. We'd be willing to work out something with Staff to get an agreed-upon time.

Comm. Williams: Thank you.

Chair Rohlf: Anything else?

Comm. Jackson: Mr. Petersen, are you asserting that tomorrow they could start digging a 40,000 sq. ft. retail there – that the plans are in-place and up-to-date and ready to go?

Mr. Petersen: No, ma'am (*Places preliminary plan from 1996 on the overhead*), what I'm suggesting is that if an applicant came in with a final plan that had a building situated like this with architecture reflecting that, I would have a legal right to have that plan approved and receive a building permit to build it.

Comm. Jackson: Has there been a preliminary plan?

Mr. Petersen: That's it right there.

Comm. Jackson: When was that approved?

Mr. Petersen: 1996, pursuant to the ordinance that I handed to Comm. Neff-Brain.

Comm. Jackson: What were the time stipulations at this point as to how soon you had to start digging for it to still be valid?

Mr. Petersen: There were no time stipulations as part of that approval.

Comm. Jackson: And there wasn't an ordinance at that time?

Mr. Petersen: No, and there was no time limit as a condition to that zoning approval.

Comm. Jackson: That's all I have.

Mr. Klein: Basically what Mr. Petersen indicated as far as this being approved in 1996 is absolutely correct. The plans he gave you are all the plans I've seen as far as that approval. It shows the level of detail taken into consideration there. You have a piece of property that's falling 49' and a flat elevation of a building. I'm sure Mr. Petersen would make the argument that legally he has the right to come in with a final plan and build that. It's my understanding that since that time, in December 2002, we approved a new Leawood Development Ordinance that requires substantial compliance with the preliminary plan in order to move on to a final plan. You also have to meet the current Leawood Development ordinances. I don't know that it would be possible to do all of that without having to start the whole process over. My understanding is that it might not just be a slam dunk. They are providing dramatically less than the .20 allowed F.A.R. without a doubt. Somebody could come in here and have a use that's allowed within the SD-NCR Neighborhood Retail District and build much more square footage. However, they're comparing different plans to the one that they're proposing, and Staff isn't really doing that. We're analyzing the plan they submitted. It doesn't meet the zoning, and they're asking for rezoning. That does allow different uses than are currently allowed in SD-NCR. If they got the property rezoned to General Retail and went away, somebody else could come in with this rezoned property and propose a different use allowed in the Commercial Retail Property, in which are many uses. The Applicant is comparing this plan to a plan in 1996. He also took a plan on which he said he could fit the F.A.R. and create a different plan and meet the 60/40 rule. This rule also applies to all public street frontages and not just to 151st St. and Mission Rd; there's also Ironhorse Ct. that wraps around the other side that they would have to meet. If a different plan were submitted, it might be something proposing 15,000 – 20,000 sq. ft. that would have different uses allowed in the neighborhood retail. That's something Staff would review at that time.

Mr. Petersen: We had a lot of additional Staff testimony. Could I respond?

Chair Rohlf: Yes.

Mr. Petersen: First of all, back to the Commissioner's question, maybe it's subject to debate, but I would agree with what Staff said about the approved plan and the current design guidelines not being in compliance. That doesn't mean that when you received this that you don't have some vested legal rights in your zoning in your approved plan. You can't change the rules without going through due process, including notifying the owner. That's subject to debate. (*Places 1996 preliminary plan on the overhead*) What I hear - and I would like for the record to be crystal clear on this, with absolutely no disagreement of my statement – is that there is a legal right to build up to 45,000 sq. ft. of retail on this site. That's exactly why we took 45,000 sq. ft. and met every design guideline you had – 60/40 rule, landscaping setbacks, BMPs, parking lot and parking ratios – everything on this plan here. You see what it does? It puts the parking in front of the neighbors, but it could be done. "Staff is not supportive of the rezoning to the SD-CR or the special use permit for a drive-thru due to the residential uses surrounding the site. The site is currently zoned SD-NCR, which better fits with the residential character of the surrounding area. The proposed use is a more intense use than is permitted within the SD-NCR." I go back to my comparison. Yes, he can scare people and say, "What if CVS goes dark?" We can deal with that. If there are any uses in that zoning category that would concern any of our neighbors, Commissioners or City Council, we'll agree to a stipulation tomorrow that says the zoning doesn't include that. I've done it in Leawood. But to say that 45,000 sq. ft. of retail uses with the traffic, the size of the

buildings, the noise, etc. is less intense than this building because it has a pick-up window is the point to be evaluated. I'd be happy to answer questions.

Chair Rohlf: Questions for the Applicant?

Comm. Williams: Mr. Petersen, you talked about the grade level of your floor slab of 925. Do you happen to know approximately how much fill would be required at that point to bring the floor slab of the building to 925?

Mr. Petersen: We haven't gotten to the finals. After Q & A, I'd be happy to come back.

Comm. Williams: Thank you.

Mr. Petersen: Thank you.

Chair Rohlf: If there's nothing else, we're ready to move on to the Public Hearing. I'd like to get an idea of how many people here wish to speak this evening. Could I get a show of hands of how many people are really planning to speak? We might as well go ahead and move to continue this if we're going to get started on the Public Hearing.

A motion to continue the meeting to 9:30 in order to continue the Public Hearing made by Williams; seconded by Roberson. Motion passed with a vote of 7-0. For: Shaw, Roberson, Jackson, Neff-Brain, Williams, Elkins and Heiman.

Chair Rohlf: The meeting is extended until 9:30. Just a few comments about the Public Hearing: I will be taking you in the order you signed up, call your name and ask that you come up and repeat your name and address for the record. We are going to have a timer this evening on the podium set for three minutes. If someone speaks on behalf of a Homes Association, I need to know that ahead of time, and we can allocate some extra time if other people within that Homes Association have passed on their right to speak. If someone has already said what you planned on saying, please pass to the next person who may have something new to add. We did receive a number of e-mails in a packet, and we've all had a chance to read those; so they are a part of the record.

Public Hearing:

Spencer Kerley, appeared before the Planning Commission and made the following comments.

Mr. Kerley: Thank you, Madame Chair, ladies and gentlemen. We've lived in Leawood since 1991 and moved to Ironhorse reserve in 2002, particularly because of the beautiful neighborhoods that adjoin the 151st and Mission area. I know this area is zoned for commercial development. The area in question is only 5 acres and quite small for such a development. It would appear some of the issues associated with site development would stem from trying to wedge quite a significant development into a very small area. The areas that my family and I are most concerned about revolve around the safety for pedestrian and auto traffic - particularly with a drive-thru and with the traffic load during rush hour - given the current and future traffic patterns. We're also concerned about the light pollution at that end of the neighborhood with both the fixed florescent lighting and the headlights. We're concerned about noise pollution at that end of the neighborhood, including the trash compactor, the deliveries, the trash pick-up and idling vehicles in the

drive-thru. We're also concerned about the potential reduction of property values associated with this. Also, in light of the high vacancy and business failure rate at 151st and Nall, this could likely fall into the same situation. We're also very concerned about the plans to eliminate the trees. Likely, there's also been a significant storm water drainage issue along the golf course, and we're concerned that the significant amount of asphalt here would likely contribute to that as well. We'd like very much for you to consider not approving this change, particularly as Staff has indicated that it would have a significant impact on the surrounding single-family homes. Thank you.

Chair Rohlf: Anne Bryant? Michelle Burns?

Michelle Burns, 15410 W. 154th Terr., Olathe, KS, attorney with a property law firm, representing many of the homeowners at the Reserve at Ironhorse, appeared before the Planning Commission and made the following comments:

Ms. Burns: First, I would like to state that Mr. Petersen stated he had met several times with the president of the Homes Association. It is the position of my client, who represents approximately 22 of the 31 homes in that subdivision, that the president was not representing on behalf of the homeowners. They have all signed a petition opposing this development, which you're welcome to see (*Hands petition to Julie*). The first matter I'd like to take up is discussing the current zoning. It is for commercial, but neighborhood zoning. The purpose for that is to provide for select retail businesses on a more local neighborhood level and to promote compatibility with the surrounding neighborhood. This proposed development does not do that. The purpose in the LDO is to provide "general retail businesses to the motoring public serving vehicular traffic on major street systems." They're intended to be developed in areas that are larger and more intense in operations. That is what this proposed development does.

There's no need in this area for another pharmacy with a drive-thru. There's a Walgreens at 151st and Nall 1 mile away. There's a pharmacy at Price Chopper. There's a CVS at 135th at Briar, I believe. There are also pharmacies at Target and Wal-Mart on State Line and another CVS on State Line and Blue Ridge. It doesn't serve a purpose in this area. The area surrounding this area is all recreational or residential. There's already been discussion about the subdivisions. There's a golf course and a park. This area is not subject to general commercial development with drive-thrus and vehicular traffic coming and going. The additional building that is proposed could end up being a Subway shop with a drive-thru there. All of these uses would be permitted, and they do not fit with the area.

The homeowners also have concerns with the water run-off. There have already been water problems. The creek that runs behind the Reserve at Ironhorse had flooding problems and erosion issues. Several of the neighbors have had to deal with that. 151st St. floods often just east of Mission Rd. and is shut down often at Mission Rd. The impervious surfaces that will be in place here will only increase that.

Anyone who's driven down 151st and Mission in the morning or evening knows that the traffic congestion, as it stands today, is bad. With increased vehicular traffic and people going in and out of a more regular place with a drive-thru, congestion will increase. I know there is proposed future expansion of 151st and Mission Rd. and maybe putting in a traffic signal, but as far as I've been able to determine, there are no plans for those in place. At this point, we've got to look at it as it stands now and the near future and how

it will affect these properties surrounding it. In addition on the traffic matter, there are delivery trucks. This is a small lot that's going to have to handle large delivery trucks going in and out, making turns and also turning in and out of that small, four-lane stop. We've all been behind or around a large truck that cannot properly make the turn. It will only increase the congestion.

There's already been a lot of discussion regarding the noise and the lights, and Leawood does a very good job of trying to keep commercial lighting down on the buildings and control that; but there are the vehicular headlights. A lot of people drive SUVs that will be shooting lights out there. In the packet we provided you, I took several pictures from Mission Rd. straight on the south, directly to the east at the Reserve of Ironhorse and to the southeast. You can look straight at the homes. These pictures were taken from the road, not from the site; and a lot of the trees still have foliage on them.

There are also questions about additional lights coming from the signs, and not only the approved signs that will be handled at final plan. There are some photographs that I took of holiday lights and displays in windows that show it is just not compatible with the area. (*Shows photographs*) I drove by the CVS at 135th and Briar today, and their enclosed trash structures were open with trash outside them. This is similar to what is being proposed here, and it's going to be on the side of the building with homes.

I'm sorry for going over my time. The location is zoned for neighborhood retail surrounded by all residential. The compatibility would be for small, more neighborhood-generated areas like a coffee shop, spa or salon. When my clients purchased their homes Mark Simpson, who is a member involved with this application and development sold them their home with advertising materials claiming a forest-like community with all the natural beauty that comes with it. That's what the people who purchased their homes at Ironhorse thought they were getting. The rezoning requested opens this for unthinkable possible uses. If CVS fails, they could put an Auto Zone there or all sorts of other uses that are not compatible with an area. This is not within the planned use. It's going to increase the already congested intersection, there's no community need for this and it's not at all harmonious with the surrounding neighborhood. Therefore, on behalf of the overwhelming majority of the property owners at the Reserve at Ironhorse, we respectfully request you deny this application. Thank you.

Chair Rohlf: If you've been represented by Ms. Burns, please let me know. Karmin DeBey? Debbie Henderson? Diane Teal? Maureen Taylor? Amir Minofar? Carol Smith? Robert Large? John Burgess? David and Dorothy Morgan?

David Morgan, 15263 Sherwood, Leawood KS, appeared before the Planning Commission and made the following comments:

Mr. Morgan: I live in Leawood Mission Valley, which is just to the west of Reserve at Ironhorse. I circulated a petition among the homes in our neighborhood yesterday. I'm not sure if we're close to having standing for a petition, but we all object to the rezoning. We feel that our neighborhood is extremely well served by pharmacies with a Walgreens .85 miles from the proposed site and three CVSs within three miles. We also have been fairly dismayed by the high failure and vacancy rates at our neighborhood development at 151st and Nall, where we've seen about 5-6 business fail there already, despite the fact that the development is barely two years old. We'd like to see business focused in the existing vacant spaces rather than just building another development. After the

developers finish the structure and move on, we are stuck to live with the blight that comes when businesses fail. Thank you.

Chair Rohlf: Alan South?

Alan South, 3709 Ironhorse Ct., Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. South: I'm the Secretary/Treasurer of the Reserves at Ironhorse Homes Association. Mr. Bill McKean, the President of the Association, cannot be here this evening. I'm here to speak on behalf of the Homes Association. We do not take a position either in favor or against this particular development; however, I would like to reiterate what Mr. Petersen said. We had several meetings with him. We expressed several concerns, and they met them. We don't approve or disapprove of the development. As an individual, I live right next to Green No. 8. My house is flooded on a regular basis by the City of Leawood's storm drainage into Negro Creek. You spent a year and a half doing modifications to Ironhorse and have done some creek-bank stabilization. My yard still floods. I am concerned that the accumulation of storm drainage in this development is not going to be handled and that my lot will flood again. When I bought my lot in 2002 was not in the Federal Flood Plain. In 2004, I had 6' of water in my yard, and it's been that way ever since. I think this will exacerbate a problem the City has not addressed; therefore, I personally am not in favor of it.

Chair Rohlf: Theresa and Cory Intrican? Mari Lynn Garcia? Joseph and Joanne Varriano?

Joanne Varriano, 3609 Ironhorse Ct., Leawood, KS, appeared before the Planning Commission and made the following comments:

Mrs. Varriano: I'm directly affected, as I live right across the street from this. Mr. Petersen said I had a choice. My choice is in my front yard I get a parking lot or a back of a building. The second floor of our house is our teenagers' bedroom. I'm not so concerned about them seeing this pharmacy. I'm concerned about people with or without lights, looking into the upstairs bedrooms of our home. He also talked about his project taking only 1/3 the space; they never spoke about the other building and how much it's going to take. He also asked if we'd rather have a bank. The bank is at least closed on Sundays and evenings and feels a little more secure. The last thing I'd like to say is regarding the sound of the trash compactor, which is one sound with an echoing effect. You have a wall on one side and a home on the other. When the yard maintenance people come with their trucks and are cleaning up the neighborhood, there's an echoing effect in front of my home. The rock wall they propose provides an echo tunnel. Thank you.

Chair Rohlf: James Rochel?

James Rochel, 15422 Ironhorse Circle, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Rochel: I live in the Estates of Ironhorse and have been asked to represent our Homeowners Association. I appreciated John Petersen's eloquent presentation. It was the most fun since I've listened to Dave Letterman's Top Ten List. Some of the

concerns expressed by our Association were the heavy traffic with no traffic light at this point in time. Headlights are one thing, but we also know there will be ambient lighting associated with this building. Three corners are basically very residential, and this would destroy our neighborhood in the opinion of our Homeowners Association and of me also. No one has addressed that Mission Rd. is a very steep hill and that one of the entrances would be right in the middle of that steep hill. It's my opinion that's an accident waiting to happen. What we're looking at here is a Walgreens vs. CVS nationwide war. There's no fear of failure on CVS's part because their concern is really just in defeating a retail competitor. I think we should keep that in mind. We talked about the zoning being passed 12 years ago. I want to remind everybody 12 years ago, most of these fields were sunflowers. There was some concern about the golf course and homes, but 12 years later, this is a substantially different area. I think if we want to talk about rezoning, we should seriously consider rezoning back to residential. Thank you.

Chair Rohlf: Max Bruce? Dewey Woodall?

Dewey Woodall, resident of The Pavilions, Leawood, KS, appeared before the Planning Commission and made the following comments.

Mr. Woodall: I believe most of the points have been covered, but I just wanted someone from The Pavilions to speak in opposition to the rezoning. That's all I have. Thank you.

Chair Rohlf: Cleo Brager?

Cleo Brager, 15214 Catalina, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Brager: I live in Mission Reserve, and this is a new development. I just moved here from Lee's Summit and moved for a similar reason – I was near a shopping area where there was lots of traffic. Coming out of Mission Reserve onto 151st St. is dangerous now, and I think any additional traffic will make it just that much more so. Also, I have a concern with the tractor-trailers delivering supplies to the CVS. I think they could be traveling up and down Mission Rd. and over 151st St., and I don't think that would be a very nice sight to see. I have a petition going in Mission Reserve, and we are against it.

Chair Rohlf: Eddie Seasholtz? Sherry Blue? Kathy Sherman?

Kathy Sherman, 3409 Ironhorse Ct., Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. Sherman: I wanted to point out that Mission Rd. is a major bicycle route and is already dangerous now. There are no sidewalks, no shoulders on these roads. I'm scared for their safety in addition to being opposed to this project. I think it's important to point out these roads are not set up for major traffic and should be widened before any commercial construction goes on. Thank you.

Chair Rohlf: Mark Simpson? E.J. Hanson?

E.J. Hanson, 154438 Ironhorse Circle, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Hanson: I live in The Estates, and I'm rising in opposition to this proposed zoning change. I've lived in my home for eight years, during which time a shopping center was developed at 151st and Nall. Now I have the opportunity to hear live band music in the evening my back yard coming from the reception center or the restaurant on 151st. There's considerable light pollution in my back yard, and I don't believe we need to continue this trend of further commercialization along 151st St. The area was presented as a residential area when it was developed and when we bought our home. It has changed considerably in character, and I would oppose further change along those lines. I looked at The Reserves before I purchased my home, and I was told the proposed site was probably going to be a church and not a commercial center. Thank you.

Chair Rohlf: Ron Bothwell? Joe Varriano? That's all of the names on the sign-up sheets. Is there anyone else who would like to speak this evening? All right.

As no one else was present to speak, a motion to close the Public Hearing was made by Williams; seconded by Roberson. Motion passed with a vote of 7-0. For: Shaw, Roberson, Jackson, Neff-Brain, Williams, Elkins and Heiman.

Chair Rohlf: Mr. Petersen?

Mr. Petersen: I think the points that were made are very legitimate and heartfelt points that really come into two primary categories. Counselor Burns and Mr. Rochel, I think, summed it up. More storm water than is currently generated, more traffic, more delivery trucks, more noise and more signs would be generated by the site. What they're speaking to is that you should deny any application of development on this site. The site has a right to be developed. I respectfully submit to you that we're zoned with a binding ordinance of 45,000 sq. ft. Would we have to bring a plan in to show how it's configured? Sure, but if we meet all the requirements, there is no one who could say we do not have a right to use the property. I simply submit to you 45,000 sq. ft, compared to 15,000 sq. ft. Even under my current zoning, everything that goes on in the four walls is an allowed use. I could have that pharmacy there today under the current zoning. The only difference is the drive-thru. I'm sorry - we don't have a statistic of how many times a day that will get used. I think people are not going to come to this from the far reaches through the road network just because it has a drive-thru facility. Maybe the ones with a disability would choose to pick up their purchases through a drive-thru window. Does that compare to the size of this building, how much would be impervious surface and all that and really result in a more intense and sinister use? Yes, I heard it should be a neighborhood center with a spa, a salon or a coffee shop. Each of these would have a sign, a dumpster, a back door and back room operation. I would simply state for the record, since we got into the comparison of the potential Auto Zone that under current zoning, it could be a health club, a kennel, a veterinary clinic or a post office. These are fairly intense uses. We're asking for an SUP that only allows for a drive-up facility for a CVS pharmacy. If CVS goes away, the drive-up goes away because the SUP goes with the applicant. Going into that higher zoning category restricts us from any intense use that people would foresee causing a problem in the event CVS goes dark. I'll close with a legal point. Whether CVS is smart or dumb to want to build a store here has absolutely no relevance in the consideration of the Planning Commission or the Governing Body in the City of Leawood in terms of making a land-use decision. The Supreme Court of the State of Kansas has spoken to that issue. I don't think they're dumb. I think they know that the citizens of Leawood want to be served. We've done an exceptional job of putting it on the site and paying due respect to the neighbors that will

surround it. To answer the other question, about 20,000 cubic yards or on average, about 9' of fill. Thank you.

Chair Rohlf: Does anyone have any questions for Mr. Petersen with respect to anything raised in the Public Hearing or anything else?

Comm. Williams: One of the speakers made reference to tractor-trailer traffic in the area. Any thoughts as to how much of this there will be?

Mr. Petersen: We have about 1-2 deliveries a week. In the CVS operation, the truck comes on-site and everything's unloaded right into the store. They have an unpacking room built into the store, so everything's inside as opposed to some operations where they leave stuff outside and take it in. They are CVS delivery trucks. They have 100% control over when they show up. We would agree to a stipulation with the City that says we're not going to have 6:00 a.m. or 12:00 a.m. deliveries. I would submit that if we have 45,000 sq. ft with 16 tenants all getting deliveries, those trucks show up whenever they want to show up. Sometimes it's at midnight, and the store doesn't open until 8:00, so they park and sleep. There's no control over a multi-use center. This is a better deal.

Comm. Williams: In response to some of the concerns expressed on the traffic, you've done a traffic study. How much additional traffic is being generated by this store versus the traffic that's going up and down Mission Rd. and 151st St. already?

Mr. Petersen: You've really got two areas of focus. You've got your average daily trips, and that really is not as relevant as your P.M. peak. You're A.M. peak for this use would be miniscule because the store doesn't open until commuter time is over. I would anticipate 181 trips during the P.M. peak, which typically is about 90 cars in an hour and a half. If you look into the traffic report, that's what enters the site. Traffic reports are done based on the ITE manual, and it's very conservative. They see what a typical pharmacy would produce at that time. If you had a grocery store next to the pharmacy, you have foot traffic that would be recorded as vehicular traffic, according to the ITE manual. There's no pass-by element. When you think about it, most of these trips are people that are already using these streets and will use it because it's convenient. The bottom line is with the road improvements we're required to make pursuant to the Public Works memo and the traffic study that's been conducted and reviewed by your Public Works Director and your outside consultant, Olsson Engineering, we operate safely and at acceptable levels of service. We're going to ask for some relief on a portion of this of the City Council, but we're putting a significant contribution toward the future improvements not tied to our traffic.

Comm. Williams: Thank you.

A motion to extend the meeting until 10:00 was made by Williams; seconded by Roberson. The motion passed with a vote of 7-0. For: Shaw, Roberson, Jackson, Neff-Brain, Williams, Elkins and Heiman.

Chair Rohlf: Does anyone else have any questions for the Applicant? Then to Staff?

Mr. Roberson: I do have a question for our Assistant City Attorney. We've heard a lot tonight that, if this is not approved, they can come in here and build a 45,000 square foot

facility, basically steamrolling the Planning Commission and City Council because they have the legal authority to do that. Is that a correct statement?

Mrs. Shearer: I concur with the statement that Mr. Klein made earlier in that they had approval for a preliminary plan that was given in 1996. As Mr. Klein said, I don't know that they could bring forth a plan at this time that is substantially different from the preliminary plan that was approved. In either instance, the plan that would be brought forward at this time would be examined and weighed against our current LDO, which was passed in 2002.

Mr. Roberson: So it would still, in essence, have to pass through the Planning Commission, which we could reject at that point. Is that correct?

Mrs. Shearer: Yes.

Mr. Roberson: Thank you.

Comm. Williams: Mark made reference to setbacks and other requirements to the new LDO. Have you all looked at or do you have an idea as to what size of neighborhood retail facility could meet the current LDO if you're saying 45,000 square feet isn't going to cut it; and with that, how many cars of parking would then be allowed?

Mr. Klein: It really comes to the design of it; and that's what Staff has been trying to say. There have been a lot of plans thrown out, and really all we can do is analyze the plans at the time. Basically if you look strictly at the FAR, they're allowed 48,000 feet under the current zoning. Would they be able to build that? I don't know; this is a very tough site. It's surrounded on all sides by roads. It has 125-foot residential setback it has to have from residential property. It has to have a 40-foot building setback from the other ones. It has to have 25-foot parking setback. There are a lot of constraints on this site as well as transition lines that go through it, so it's almost impossible to take a look at this site and whittle it down; it has too many constraints to it.

Really, I think the issue here is the rezoning. I think Mr. Peterson is trying to give you a thing that says, "We have this great project, and we can address every single one of these concerns that Staff has," but the fact is they still have to rezone the property. It is a legitimate concern of the Planning Commission as to whether they want to rezone the property or not. It does allow a number of uses that are allowed in the SD-CR General Retail, as opposed to Neighborhood Retail. The zoning does not sunset it; it's not going to go out. Now, Mr. Peterson indicated that he'd be willing to put a covenant on the property indicating they could never use it for a different purpose. I really don't know if that's possible or not. It seems like it would be very difficult, if CVS went out of business, to have a restriction running with the land saying that it could never be used for any other type of purpose. I'm not a lawyer, and I really don't have that answer.

I also wanted to remind everybody that this was planned in 1996 with Neighborhood Retail in a residential area and was looked at as far as that zoning. I'm not going to get up here and say this will never develop. I think it probably will develop. I don't want to give an unrealistic expectation to people that nothing is ever going to happen there; it probably will. It's just whether it fits into Neighborhood Retail or General Retail. Actually the LDO is already called out as far as what's allowed in General Retail and what's allowed in Neighborhood Retail.

Comm. Williams: For all of us, including the audience, would you go through some examples of what would be accepted in the Neighborhood Retail? Mr. Peterson made reference to a few of them.

Mr. Klein: Right, let me get to those uses. They include delivery services – not to include freight transfer or semi tractor trailer - medical outpatient care facility and indoor recreation and entertainment, which excludes uses in retail sales.

Mr. Roberson: Mark, I'm not sure you got the question. You want to know what's currently allowed?

Comm. Williams: Yes, what is currently allowed.

Mr. Klein: I see what you're saying. There are a large number of uses that would be allowed. I'll give you the ones that are allowed with a Special Use Permit.

Comm. Roberson: Leave out the Special Use Permit ones, please.

Mr. Klein: The following would be allowed in Neighborhood Retail: an art studio or gallery, a bank or financial services with or without drive-thru, a cultural service.

Comm. Williams: What would be a cultural service?

Mr. Klein: Let me get to the definition.

Comm. Williams: Never mind, let's go on. I'm not trying to extend the meeting; I'm just trying to get to what kind of uses and what kind of traffic is allowed.

Mr. Klein: Medical/dental service, general office, medical office, personal service, public uses, governmental uses, appliance and electronic sales, bakery, barber or beauty shop, bicycle shop, books, stationery or gift shop.

Comm. Williams: I'm sure restaurants.

Comm. Roberson: With special use for a bar.

Mr. Klein: Department store, flower/garden, food specialty store, furniture.

Comm. Williams: That's enough. I guess what I'm trying to get with this is that there is a vast array of uses that could potentially be in what could be up to a 45,000 square foot retail center. In that same vein, is there anything that limits the size of any of those operations within, say, a 45,000 square foot center?

Mr. Klein: I'm sorry, that would limit the use of them?

Comm. Williams: Yes, for example, Mr. Peterson used the example of a veterinary clinic. I assume that's on the list.

Mr. Klein: Yes, and Mr. Peterson has come forward and has indicated all these uses. This is a planned district, so every one of these uses has to come before the Planning

Commission and has to go through the same analysis and the same Staff Report that this use is. Stipulations will be attached to each new application that came through. I don't want to leave the impression that, just because these are permitted uses, all they have to do is pick up a building permit and start construction. They still have to come before the Planning Commission and get approved by the City Council.

Comm. Williams: Right, and that's fine. You took it another direction; but to come back to the uses that could be there and to go back to my question, if a 45,000 square foot building were allowed and met the current criteria, is there anything in the LDO that would restrict the size of any of those permitted uses within that 45,000 square feet; for example, a pharmacy that would be 15,000 square feet, but without the drive-thru?

Mr. Klein: There are a lot of factors that could affect the size, including setbacks, variations and topography of the. One of the differences as far as the rezoning is that it's not 45,000 square feet; it's 48,787 square feet as far as what's currently allowed in the Neighborhood Retail, just looking at FAR solely and not looking at any of those other factors. If it were rezoned to Dental Retail, it would allow 60,984 square feet because it has a higher FAR within the General Retail.

Comm. Williams: Right. I'm not getting my question answered, so I'm going to stop with my question.

Mr. Lambers: I can answer your question. The answer is that you could have a single 45,000 sq. ft. user there or something less, and the decision to have it go in would be subject to the Planning Commission and City Council.

Comm. Williams: You could have 3,000 to 4,000 sq. ft. for a beauty shop; but again you could have a pharmacy come in within an already built 45,000 square foot facility and say, "I want to release the space, and I need 15,000 square feet for the pharmacy." Or like One Nineteen, where you've got a number of retail operations close and so forth; these aren't small shops.

Mr. Lambers: No, as Mr. Peterson indicated correctly, the issue comes down to the drive-thru. The City Council, in adopting the LDO, said that it is a more intense use and therefore needs to be in a more intense zoning category with a Special Use Permit. So it's supposed to be more critically evaluated as to whether or not it's appropriate. That's why, in reference to the banks, the City Council can see that every bank going to have a drive-thru. They're permitted in here, but everything else requires an SUP [Special Use Permit], and Leawood is unique in how it evaluates drive-thrus because it thinks that they need to be critically evaluated. This whole process is to trigger the neighbors to be notified and everything else. This is a deliberate policy decision of the Governing Body.

Comm. Roberson: I have another question then. If they eliminated the drive-thru, then they would be permitted to go ahead without the Special Permit?

Mr. Klein: Without the rezoning.

Comm. Roberson: Yes, without the rezoning.

Comm. Williams: I do have one more question; I'm sorry. I haven't heard anybody who has showed up in favor of this CVS operation by the local neighbors, who would be the

ones using this shop. I'm just curious; did you find anybody that was in favor of this? We had one person. Thank you. Did you have anybody sign a petition saying, "Yes"?

Mr. Petersen: We did not attempt to go out and get petitions signed. I've seen people do that in my position. You can get people to sign a petition if you want to do that. What we did instead was attempt to work with the president of the Homes Association and address concerns and real impact. I will tell you, Commissioner, with all due respect, I don't care if I brought a 25,000 square foot building that met every single design element that anybody could find in the code, this room would be full of opposition because they don't want traffic, noise, storm water. It's got nothing to do with CVS. They don't want anything. And I would suggest to you in further testimony from Staff is that a drive-up, yes, was said to give it higher consideration. I can't have 48,000; he refuses to recognize I have a zoning ordinance that caps me at 45,000. It's the law that restricts me. It also restricts him. 45,000 could be built. That center I showed you meets every design criteria. With regard to the drive-up that the City Manager indicated and Council asked you to look at with 15,000 feet and a pick-up window, I ask you to weigh that against 45,000 feet with multi-tenant use.

Comm. Roberson: With all due respect, you would have difficulty getting a 45,000 square foot building built there.

(applause)

Chair Rohlf: All right, does anyone else have any questions? If not, I think we should move on to our final discussion and motion.

Comm. Roberson: I'd say there's no more discussion.

Comm. Williams: If no one else wants to say anything, I will. We're looking at a situation where we have a piece of property that does have retail zoning. It may or may not be what the surrounding residents want, but the fact is that it is a retail zoning. It has been in place for a long time current with the zoning and development that has already occurred, and some of it is still in the process of development. I do give credit to the Applicant and their design team and spokesperson. I think for a retail development for this site, that they have done a fairly good job trying to make it work on this site to address the neighborhood. I certainly see this particular retail as being less intrusive on the neighborhood than what has been already approved for that site. Granted, it would have trouble coming back and getting approval for that square footage, but it could theoretically be more than the 15,000 square feet that we're looking at here today.

When this first came before us, I did the drive-through and walked the site as all of us do from time to time. I was - and still am - taken by the great change and affect it has on the neighborhood; but I think the applicant has done a good job, and in final, has done a better job of addressing some of the concerns, such as the headlights from the cars using the drive-thru or using that particular drive lane if they're going to transfer through the development. I am sympathetic with the neighbors on their concerns; but on the same token, as Mr. Petersen pointed out, there's already traffic that's there. Until I see some numbers otherwise, I don't see that this particular development increases those numbers significantly - any more so than adding more residential development at either end of 151st Street or Mission Road - that's going to have to go through this intersection at some point in time. In terms of the drive-thru and the scrutiny that's required for the

SUP, yes, there will be some use there; but I think as indicated by discussion here tonight, it's not that intensive. It's not the drive-thru that you would have with McDonald's or with a drive-thru restaurant or maybe even for that matter, a Starbucks if a coffee shop went in there. Probably, in all likelihood, it's less traffic than if we had a bank go in there with three or four drive-thru lanes. In that respect, then, I'm supportive of the rezoning. I base it on the fact that it already has a zoning that would permit more of the development than what's been presented to us tonight.

Comm. Jackson: I would be opposed to the rezoning specifically because once you change it to the General Retail, you are going to be allowed an even greater F.A.R. on that property. If they decide not to build a CVS, they could come back and build something bigger, better, greater, larger. Further, whereas I can't base my decision on the economic viability I believe CVS has in that location, I can base it on the economic diversity I want for Leawood. I think the zoning for the Planned Neighborhood Commercial Retail allows a little more economic diversity to be attempted by the city and give the neighborhood a little more local color in that area and not such a large, more national entity that tries to draw from a greater area and bring more activity in there. Mission Road does have the bicycles; it does attract more non-vehicular traffic in that area. I think that's a good thing, and I think it's a good thing to be promoted by this city.

Comm. Neff-Bran: Madam Chair, for years as a City Attorney, I always said to residents, "If you're going to build a home near vacant property - particularly vacant property that's located at the intersection of two thoroughfares - you need to be wary that you're going to get retail development." Having said that, if these folks had checked the zoning of this property, they would have learned that it's Neighborhood Retail. I think that's what they purchased and what they expected; therefore, I couldn't support the rezoning.

Chair Rohlf: Thank you. Any comment?

A motion to recommend denial of 73-08 – CVS PHARMACY – Request for approval of rezoning, special use permit, preliminary site plan, and preliminary plat; located on the southeast corner of 151st Street and Mission Road, was made by Roberson; seconded by Jackson.

Chair Rohlf: Any further discussion?

Mr. Klein: Is it possible to have reasons stated for when we go on to City Council?

Comm. Roberson: I think we've been stating those reasons frequently.

Chair Rohlf: The consensus would be the rezoning.

Mr. Klein: And the F.A.R.

The motion to deny carried following a vote of 6-2. For: Roberson, Jackson, Neff-Brain, Munson, Heiman. Against: Williams and Elkins.

MEETING ADJOURNED

