

City of Leawood  
Planning Commission Agenda

June 22, 2010

Meeting - 6:00 p.m.

Dinner Session – No Discussion of Items – 5:30 p.m.

Leawood City Hall Council Chambers

4800 Town Center Drive

Leawood, KS 66211

913.339.6700 x 160

**CALL TO ORDER/ROLL CALL:** Pateidl, Roberson, Jackson, Neff-Brain, Williams, Elkins, Heiman, and Rezac. Absent: Rohlf.

**APPROVAL OF THE AGENDA:**

Chairman Williams: We have some changes to tonight's agenda. We'll have staff address those.

Mr. Klein: The switches the first two cases under New Business. First on the agenda is Case 57-10, with 49-10 following. In addition to that, we have had one continuance requested for Case 47-10 – Ranchmart North – Façade and Signage.

**A motion to approve the agenda as amended was made by Elkins; seconded by Neff-Brain. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins, Heiman and Rezac.**

**CONTINUED TO JULY 27, 2010 MEETING:**

CASE 54-06 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-10 – ARCHITECTURAL STANDARDS – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 20-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-1 ACCESSORY USES (GENERATORS) – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 72-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 – R-1 DISTRICT FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 73-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 – RP-1 DISTRICT FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 40-10 – THE ESTATES OF OLD LEAWOOD – SALES TRAILER OFFICE – Request for approval of a Special Use Permit for a temporary sales trailer, located at 8901 Sagamore. **PUBLIC HEARING**

CASE 46-10 – MISSION FARMS – FIRST REPLAT – Request for approval of a Final Plat, Preliminary Site Plan and Final Site Plan for Lot 20 of Mission Farms, located at 10342 Mohawk Road. **PUBLIC HEARING**

CASE 47-10 – RANCHMART NORTH – FAÇADE AND SIGNAGE REMODEL – Request for approval of a Final Site Plan to establish design criteria, located at the northeast corner of 95<sup>th</sup> Street and Mission Road.

## **CONSENT AGENDA:**

CASE 51-10 – BUILDING 133 – CLINE WOOD – Request for approval of a Final Sign Plan, located at the southwest corner of Roe Avenue and 135<sup>th</sup> Street.

CASE 55-10 – BI-STATE CENTENNIAL PARK – SIGN CRITERIA – Request for approval of revised sign criteria, located at @. 141<sup>st</sup> Terrace and east of Kenneth Road.

CASE 56-10 – BI-STATE CENTENNIAL PARK – DENTAL EXPRESSIONS – Request for approval of a Final Sign Plan, located at 14109 Overbrook Road, #A.

CASE 59-10 – ONE NINETEEN – CHARMING CHARLIE – Request for approval of a Final Site Plan for a tenant finish, located at the southwest corner of 119<sup>th</sup> Street and Roe Avenue.

CASE 61-10 – ONE NINETEEN – NORTH RESTAURANT – Request for approval of a Final Site Plan for a tenant finish, located at the southeast corner of 119<sup>th</sup> Street and Roe Avenue.

CASE 62-10 – CAMELOT COURT – ROSE NAILS – Request for approval of a Final Sign Plan, located at 11833 Roe Avenue.

Comm. Rezac: I have one question on Case 55-10.

**A motion to approve the Consent Agenda, excluding Case 55-10, was made by Elkins; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins, Heiman and Rezac.**

CASE 55-10 – BI-STATE CENTENNIAL PARK – SIGN CRITERIA – Request for approval of revised sign criteria, located at W. 141<sup>st</sup> Terrace and east of Kenneth Road.

### **Staff Presentation**

City Planner Melissa DeBoer made the following presentation:

Mrs. DeBoer: Mr. Chairman and members of the Commission, this is Case 55-10 – Bi-State Centennial Park sign criteria. The applicant is requesting to revise the sign criteria for Bi-State Centennial Park to change the style of lettering from Roman Neo to Times Roman, to allow halo-illuminated signs, to add the requirement that letters must be stud-mounted letters spaced 2" off the wall, and to remove the portion in the criteria pertaining to signs as percent of the calculations for Building B. Most are minor changes, with the biggest change allowing for halo-illuminated signs for those office buildings within Bi-State.

Chairman Williams: Questions for staff?

Comm. Rezac: I really only have one question. Since they're changing the sign criteria now, are there other buildings in the park that already have the old signage criteria?

Mrs. DeBoer: This is just for Buildings A and B, I believe. I might have to have the applicant answer that.

Comm. Rezac: I understand it is for these particular buildings; what I didn't know is if there are other buildings within that park that already had signage based on the old signage criteria.

Mrs. DeBoer: There are signs in there, but I think they would meet this.

Mr. Klein: The changes they have made make the criteria more liberal than what they had before. Therefore, all the signage that has been approved will still meet the criteria that they're proposing with this. It wouldn't make anything non-conforming. There is approved signage within the development, but it will fit within the new criteria.

Comm. Rezac: So by doing this, we're saying two different signs will be allowed within this one park.

Mr. Klein: They went from non-illuminated to halo-illuminated with this. A lot of developments have the ability to do non-illuminated signs; this just expands the range of types of signs allowed.

**Applicant Presentation:**

Tom Scramm of Reaching Solutions appeared before the Planning Commission and made the following comments:

Mr. Scramm: As far as I know, the owner originally wanted illuminated letters in the criteria and didn't include it for some reason. New tenants coming in are requesting it, so he decided he wanted to change it. As far as I know, those buildings don't have any signs on them at all.

Mr. Klein: Part of the question was about existing signage in the Bi-State development with those signs. You said they would be allowed with these new criteria.

Chairman Williams: Any comments?

Comm. Rezac: If staff and the developer are fine with it, I have no problem with it.

**A motion to recommend approval of CASE 55-10 – BI-STATE CENTENNIAL PARK – SIGN CRITERIA – Request for approval of revised sign criteria, located at W. 141<sup>st</sup> Terrace and east of Kenneth Road – was made by Jackson; seconded by Elkins. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins, Heiman and Rezac.**

**NEW BUSINESS:**

CASE 57-10 – SIENA – PHASE TWO – Request for approval of a Rezoning Preliminary Plan, Preliminary Site Plan, Final Plat and Final Site Plan, located at the southeast corner of Mission Road and 137<sup>th</sup> Street.  
**PUBLIC HEARING**

**Staff Presentation**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Mr. Chairman and members of the Planning Commission, this is Case 57-10 – Siena – Phase Two. The applicant is proposing a development on 28.3 acres that would be split between two zoning districts: RP-3 planned residential, cluster-attached and RP-4, which is planned apartment district. The development within the RP-3 portion is proposed to consist of four buildings consisting of eight units on 2.19 acres for a density of 3.66 dwelling units per acre. The maximum density allowed within that zoning district is 7.26 dwelling units per acre. Within the RP-4 portion of the development, the applicant is proposing six duplexes located along the east property line and 23 apartment buildings that vary from 10-12 units apiece for a total of 282 units within the district on 26.12 acres for a density of 10.8 dwelling units per acre. The maximum density allowed in that zoning district is 10.89 acres. This property is located at the southeast corner of 137<sup>th</sup> St. and Mission Road and is divided between two zoning districts. The RP-3 portion is primarily in the southwestern portion of the site, with the remainder of the site being RP-4. They're also proposing a 7,114 sq. ft. clubhouse located in the northwest corner of the development. A pool will be at the corner of that. The development will be fenced around the entire perimeter with two full-access, gated entrances off 137<sup>th</sup> Street and a third entrance along Mission Road. This access will be for emergency purposes only in the initial phase. After improvements are done to Mission Road, the entrance will become a right-in, right-out. There is no date for those improvements to Mission Road at this point. The drives within the development are private drives with parking spaces along the drives. In addition, the applicant has provided some parking areas for each of the apartment buildings off the drives. They also have one enclosed parking space for the apartment buildings, as required by ordinance, as well as one parking space on the exterior for each development and additional spaces for guests. For the duplex units, they have two enclosed parking spaces, which is also required in the LDO. They are providing a buffer along the eastern property line adjacent to Tuscany Reserve, which is a single-family residential subdivision. The berm will vary from 3'-5' and will be landscaped with a number of trees, both evergreen and deciduous. They have three ponds. The first is located on the northern portion and will be used for detention. A second pond is on the southeast corner and will also be used for detention and drainage. They are adding a third pond to the development south of the first pond. This is a smaller water feature. They are also proposing a trail system throughout the development with benches and landscaping along the paved areas. A bike trail will go on the south side of 137<sup>th</sup> St. as part of the construction.

I would like to draw your attention to a memo on the dais with regard to Stipulation No. 4. It was to correct one of the calculations for the street fee. It is 201,528 and not the 412,386. In addition to that, there are some letters from the residents. I would also like to clarify Stipulation No. 8 on the Public Works comments. It refers to pavers that have to be constructed. Those are meant to be the pavers along the perimeter of the project along Mission Road and 137<sup>th</sup> Street and not within the interior of the development where the developer is proposing stamped concrete in beige. A Site Plan is also on the dais, and it shows where they feel the transformers will be located. The Staff Report includes a stipulation that requires these transformers be screened. They have provided a screening plan; however, the plan has to come in conformance with the LDO. Staff is recommending approval of the application and will be happy to answer any questions.

Comm. Pateidl: For purposes of clarification and public knowledge, I am a resident of Tuscany Reserve. I have attended the Interact Meeting. I have had meetings with the Public Works Department to discuss certain aspects of both the traffic control and storm water drainage proposal as has been prepared and presented to the Commission. Having said all that, I feel I can be fair and objective in my assessment of this proposal in meeting my obligations to the Commission.

Chairman Williams: Thank you. Mark, how does the number of units in this proposed plan compare to previous plans we've approved?

Mr. Klein: Initially when this development came through in 1989, they had a maximum of 220 units. In 2000, they had 292 units. In 2008, they had 242.

Chairman Williams: My next question is related to the material for standing-seam metal roof. If I'm reading the information correctly, it's painted.

Mr. Klein: I believe this is located on the twin villas. They have a portion of a dormer. The applicant may be better able to speak as far as how it works exactly with the building itself.

Chairman Williams: My understanding, based on my personal experience, is that standing-seam roofs are limited to smaller things like bay windows, and they couldn't be painted, but were to be copper. Looking at the LDO, I don't see that we've changed that. It doesn't say we can't have painted or standing-seam; the metal roof goes more to the stamped-shingle looking product. Are we saying the standing-seam painted material is acceptable by the LDO?

Mr. Klein: On the single-family, we've tried to keep it on the bay windows with the copper. This is on the multi-family portion of it.

Chairman Williams: Just for clarification, the perimeter fence is a 5' fence, and that is allowed by the LDO?

Mr. Klein: The LDO allows the Planning Commission to approve up to a 6' fence with projects.

Chairman Williams: The next question has to do with cultured stone. We've argued that too many times. In your recommendations, you're saying cultured stone is fine?

Mr. Klein: Cultured stone is part of the recommendation. The applicant has indicated consideration of a thin-set natural stone as well. (*Refers to materials boards*) As you can see with the cultured stone they're proposing, there is quite a bit of mortar between the cultured stone. Typically, we've had more problems when the stone has a dry-stack look. We've had it fall off the building in a number of cases like this. Staff is a little more comfortable with the mortar being set like this, and that's why we're supportive of it.

Chairman Williams: In the future, if we go with cultured stone on this project, are we going to be debating cultured stone versus natural stone on future projects?

Mr. Klein: Staff's recommendation is still for natural stone; that hasn't changed. This is more or less a compromise with this application to go forward in the fact that they are using it with the mortar.

Chairman Williams: Stipulation No. 35 refers to a 60-day filing deadline for the Final Plat. Is this normal? I don't remember seeing this on projects in the past.

Ms. Shearer: This is a recent change in Kansas Code, and the code section you're questioning is KSA 12-7-64. This is a recent change in the last year.

Chairman Williams: Thank you. Any other questions?

Comm. Neff-Brain: You said they may not be using the cultured, but may use the natural veneer. Are you comfortable with the natural veneer?

Mr. Klein: Yes, a number of years ago, Staff visited Sturgis, which sells much of the stone material around here. They educated us in the benefits of thin-set stone and how it was becoming much more popular and available. Staff has always been fairly comfortable with that.

Comm. Neff-Brain: In the requirement of dedication of utility easements on Mission Road, are those taken as utility easements to the city, and the utilities are allowed to go into that location?

Mr. Ley: That's correct.

Comm. Neff-Brain: If any relocation becomes necessary, the city does not pay for it.

Mr. Ley: That's correct.

Comm. Roberson: Going back to the cultured stone, Commissioner Williams pointed out something, and it kind of bothers me that we're setting a huge precedent here by going to cultured stone. We have argued about this and have agreed that natural stone is the only way to go. Now, we're changing our minds? I totally disagree with this and think it's wrong because there is no reason somebody else coming down here shouldn't be allowed to use cultured stone if we approve this. Talk to me about the construction of this project. It appears it is in three phases. Do all three phases have to be built?

Mr. Klein: Generally the ultimate goal is for all three phases. Obviously, I can't predict the future as far as something happening like Cornerstone.

Comm. Roberson: So if Phase One is built, will an Occupancy Permit be given?

Mr. Klein: Typically if it's phased, an Occupancy Permit would be given in that phase. The applicant has more or less indicated a preference to do it all in one phase because of economies of scale – once you have the equipment on-site, it makes it cheaper to construct the whole site. With that said, the applicant has also indicated a lot of it depends on financing as far as what they'd be able to do. I'll allow them to speak to that.

Comm. Roberson: Have they provided you a timeline as to when they plan on starting construction?

Mr. Klein: I do not have a timeline. At this point, that might be better for the applicant to answer.

Comm. Jackson: Mark, what is just to the north? Is it townhomes along the southern edge with retail and office on the north end against 135<sup>th</sup>?

Mr. Klein: (*Refers to overhead*) This is Mission Corner. It has current approval. Right now, it is directly to the north across 137<sup>th</sup> Street. It was zoned mixed-use and had retail office and residential units. They had some brownstone condominiums located directly adjacent to 137<sup>th</sup> Street. They had three towers right here with retail on the first floor and residential units above. They had offices on either end and then retail pad sites to the north.

Comm. Jackson: Is there any indication they're going to start work on that any time soon?

Mr. Klein: The last I heard, they were involved in a lawsuit between the two partners that were part of that project. I really don't know where that stands.

Comm. Jackson: How much time is left on that approval?

Mr. Klein: Mission Corner was approved on 12/18/2006 and would have a five-year sunset clause because it was a Final Plan.

Comm. Pateidl: Mark, as I understand it, this is a Final Plat approval, meaning that whatever our course of action this evening may be, it will go forward to Governing Body for consideration.

Mr. Klein: Correct.

Comm. Pateidl: With that thought in mind and candidly looking at some of the other proposals before us tonight, I've seen a number of clarifications in terms of specifics as it relates to the project and a little bit of housekeeping through some of the application that I read. For example, on the perimeter fencing, it says that the fence will be interspersed with columns. Is there a definition of "interspersed"?

Mr. Klein: On their plan detail, they show the columns spaced within the fence. They'll also have structural elements that will support the fence that are not stone columns.

Comm. Pateidl: We do have the architectural detail for that?

Mr. Klein: Yes, it's on Sheet 25.

Chairman Williams: Mr. Pateidl, some of what is shown there appears to be dimensions of 13' up to 22'. Then you get the masonry columns or some entry gate features on Sheet 25.

Comm. Pateidl: I found the entry gates, but I overlooked the columns. I was concerned with the ambiguity of "interspersed." The same is true of the issue of the retaining walls that will be either versa-lock or poured concrete. Have those walls been identified as to which will be which?

Mr. Klein: That might be better answered by the applicant. From my review of the plans, they indicated the walls shown between two buildings would be poured-in-place concrete. The ones that have a bend would be versa-lock.

Comm. Pateidl: Looking through your comments and stipulations, particularly the eastern border of this property adjacent to Tuscan Reserve, I noticed in the second bullet point, you make the statement, "Berm and landscaping adjacent to the eastern property line shall be installed with the first phase of the development." Stipulation No. 29 states that, "Berm and landscaping adjacent to eastern property line shall be installed prior to a Certificate of Occupancy of any building within the development." Do you feel that stipulation is in the spirit of your comment?

Mr. Klein: I do; I believe the intent was to ensure the berm gets constructed before anybody is allowed to move in to the developments. I wanted something I could tie it to a building permit or a Certificate of Occupancy. In this case, if they're constructing the site simultaneously with the first phase, it seemed that the Certificate of Occupancy would not be allowed to be issued until the berm was in place.

Comm. Pateidl: Keeping in mind that between the installation of the infrastructure, the construction of the clubhouse and the balance of this, the difference between the start of Phase One and the start of occupancy can be an extended period of time. I fully concur with your comment that the berm and landscaping, candidly including the fencing, be installed during the course of the first phase, but I have a problem with deferring that activity for the point of Certificate of Occupancy.

Mr. Klein: I thought about having it at the time of building permit; however, it seemed like if they were starting construction, they would basically need a building permit to start construction. It almost seemed like it would be too early to require that. The next step would be Certificate of Occupancy, where we have control. That's why I chose that.

Comm. Pateidl: I would like to change the wording of Stipulation No. 29 with something to the effect of, "Berm and landscaping, including the proposed perimeter fencing adjacent to the eastern property line, shall be installed with the first phase of development." I'm not certain if now is the appropriate time to have that

discussion or following the conversation with the applicant, but I would like that to be left open for discussion.

Chairman Williams: Your request is duly noted, and we'll discuss it later.

Comm. Pateidl: Mark you also discussed improvement of Mission Road and that no date has been established. Certainly, that is true. Looking at the long-term capital improvements program for the city that was released in the fall of last year, it's indicated that it would be sometime after the year 2017 and could be much later than that. I think in fairness to the attendees at this meeting, they should know there is no plan, financing or intent to improve Mission Road any time soon. It relates, to some extent, to the answer Mr. Oddo provides relative to when he anticipates starting this project.

Comm. Neff-Brain: I have one question about the storm drainage. If Phase One goes in and then there is a time delay before Phase Two or Phase Three, all three of the lakes are in Phase Two. Does the storm water system end at the end of Phase One, or is it going to have to be constructed concurrent –

Mr. Ley: We would require the detention pond that's north to be constructed, and then they would have to do some work on grading a channel down to the lower pond that's existing.

Comm. Neff-Brain: Is that an above-ground channel or underground storm drainage?

Mr. Ley: It could be an above-ground channel temporarily. They would also have to meet the post-construction ordinance for storm water treatment, which includes providing additional vegetation areas for treating of the storm water.

Comm. Neff-Brain: So you're going to have the storm water underground and a pipe at the end of Phase One, then a channel into the lake?

Mr. Ley: Yes, that's typical of what we've done on other projects; we have allowed open channels that would drain down to that southern lake. Then from that point on, there is a spillway that goes into Tuscany Reserve into an open channel.

Comm. Neff-Brain: So it would just have to get in to the northernmost existing lake?

Mr. Ley: The northern lake is the detention pond; the southern lake is where all this water currently drains.

Comm. Neff-Brain: What is the new water feature?

Mr. Ley: The new water feature in the middle of the development is not for detention; it is just a water feature.

Comm. Neff-Brain: So the storm drainage system will not flow in to that; it will just go from existing lake to existing lake, and ultimately it will be underground?

Mr. Ley: That's correct.

Comm. Pateidl: Mr. Ley, for our understanding, could you give us the definition of what the post-construction storm water ordinance is, its origin, its intent and how it is enacted?

Mr. Ley: It was established by the EPA. Mid-American Regional Council (MARC) developed a set of standards for the KC metro area to follow. That is to treat the one-year storm event. It collects the water,

stores the water and treats the water through evaporation, native plant material or storm sceptors which collect water and filter out the debris. MARC follows a rating chart that they follow through. Since this is an undeveloped site, it has a rating. From that rating, they can pick different methods to meet the rating that is required.

Comm. Pateidl: Is there not a provision in there with respect to the amount of water that can be discharged from the site post-construction versus prior to it?

Mr. Ley: That's with the APWA storm water standards. There are two different standards. One is the APWA storm water, which requires that the existing maximum release rate be matched for the ten-year storms, the 25, 50 and 100-year storms. That is what the detention pond is being sized upon.

Comm. Pateidl: The other ordinance deals with the water quality?

Mr. Ley: That's right, we have post-construction storm water ordinance for the storm water quality.

Comm. Pateidl: Is there a definition as to the clarity of the water?

Mr. Ley: MARC describes what the process is, and it's based upon a level of service rating from the existing site. Then they look at how it is going to be developed out and develop their storm water treatment from that.

Comm. Pateidl: As a matter of course, are we in practice getting a baseline of water quality from any development prior to construction for comparison to post-construction?

Mr. Ley: No, we do not have that.

Comm. Pateidl: And we don't have a baseline for this project, either.

Mr. Ley: We would not have a baseline, no. We could do some surveying downstream of the discharge point.

Comm. Pateidl: As to discharge point, how do you determine, at this point, what the rate of flow for discharge would be on that undeveloped land for your 100-year flood? As I understood your comment about the post-construction aspect of discharge of the AWPA is that the water discharge from the site following construction should be no greater than it was before, correct?

Mr. Ley: Right, the volume of water would not be any greater.

Comm. Pateidl: Are you referencing both weight and amount or simply amount?

Mr. Ley: I'm referring to the maximum amount discharged.

Comm. Pateidl: Per any particular given time?

Mr. Ley: Cubic feet per second. It looks at the existing site and then models it in the 100-year storm event, so they have a discharge rate. Then they run through the model again with it fully developed. The difference that they collect has to be detained on-site. The detention pond would actually be sized for the entire development; it would not be phased.

Comm. Pateidl: The detention pond on the north end is designed to contain the water essentially from the northern portion of the entire project and is done so through the use of an orifice to flow into it. That would restrain the flow of water as it exits the retention pond.

Mr. Ley: That's correct.

Comm. Pateidl: That would give us time for silt and other impurities in the water to settle in that retention basin.

Mr. Ley: That's correct.

Comm. Pateidl: When we get to the southeastern pond, which directly discharges into the open channel in Tuscany, that pond will essentially contain or handle half of this project through a collector system that discharges directly into that pond, correct?

Mr. Ley: Yes.

Comm. Pateidl: Plus, it will also carry the discharge from the northern pond as it's released through the orifice.

Mr. Ley: That's correct.

Comm. Pateidl: As we reviewed the plans as presented in this application, did you find a definitive position on the design of the southeastern pond for restriction of flow, given the difference of accumulation of water from impervious materials such as streets and roofs versus raw land?

Mr. Ley: That's the main detention pond we looked at. The calculations determined the preliminary sizes. It's just a preliminary overview to develop the volume that's needed for storage. The Storm Water Report is just an overview to make sure that the sizes they're showing on the plans can be captured. We agree with the Storm Water Report.

Comm. Pateidl: This is a Final Plat to be presented to the Governing Body. Do we have enough of a definition of the system for retention of water in the southeastern pond to match or improve on the rate of flow of water from the Oddo property to the Tuscany Channel?

Mr. Ley: Before they get their building permit, they have to submit their final engineering plans that have all the details on the storm sewer routing, the orifices, the slopes and pipes, the volumes and how long the discharge point is going to be for the energy dissipater. Once we have all that information, we go back in and verify that they're meeting our standards and the MARC standards. That's typical on all projects.

Comm. Rezac: My question is regarding Stipulation No. 29 and the landscaping that is going to be required on the east side of the property. I understand that is a priority item to create the buffer because of the residential area on the opposite side of that property line. My question is regarding the landscaping proposed for the north side of the property. I also think it is important to create a buffer zone along that public way into this new development. Is any of that landscaping required with Phase One, and if not, what was the thought behind that?

Mr. Klein: I was primarily concerned with the existing single-family subdivision that's located to the east. The reason I didn't propose it be constructed in the first phase along the north property line is 137<sup>th</sup> Street still has to be constructed. In addition, the property on the north side – Mission Corner – is a mixed-use development that also is not in existence at this point. I just didn't feel it was as big a concern as the

eastern side. With regard to the landscape plan, they do meet all the requirements as far as trees and shrubs along 137<sup>th</sup> Street.

Comm. Rezac: When Phase One goes in, will landscaping for just Phase One be required to be put in?

Mr. Klein: With the phases, typically the landscaping for that phase is put in. That's part of the reason I had that requirement with regard to the eastern property line. I wanted to ensure that the landscaping adjacent to the single-family subdivision that exists along there got established early on in the process so the berm could be constructed, the landscaping installed and the plant material could start growing. I wanted it to phase from west to east. There is a berm constructed along Mission Road with landscaping already on it. That was adjacent to Leawood Meadows and vacant property zoned RP-3 within what used to be Villaggio East. That plan has actually expired.

Comm. Rezac: I would prefer to see a similar requirement that, when Phase One goes in, not just Phase One landscaping goes in, but also a buffer zone created for 137<sup>th</sup> Street.

### **Applicant Presentation**

Jim Bowers of White Goss Bowers, 4510 Belleview, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Bowers: I'm here today on behalf of Oddo Development, Inc. Also with me today are Mr. Frank Oddo and Mr. Rick Oddo. Our professionals are here to answer questions, including Mr. Bill Prelogar, the architect. He will describe the elements of the plan. Mr. Jeff Skidmore with Schlagel & Associates is also here as the project civil engineer. Mr. Tom Fulton with Olson and Associates is the traffic engineer on the project. This case actually dates back to November 2006/January 2007 when a Final Plan and Final Plat application was filed by Oddo to follow up the Preliminary Plan approved in 2001, which allowed for 292 dwelling units on this property. This is Phase Two of the Siena project. This phase is divided into three phases. That Final Plan and Plat applied for was approved by Planning Commission and denied by City Council. That was April of 2007. Following that denial, a lawsuit was filed by the Oddos. That case is currently pending before the Kansas Court of Appeals and is being held to allow us to proceed with this hearing tonight. After that first case was filed, a settlement plan was prepared by the applicant pursuant to mediation in front of the State Court. That settlement plan was before this Commission February 19, 2008 for consideration. You recommended approval of that plan, which City Council denied on March 27, 2008. That led to the second lawsuit, which the city removed to Federal Court. Once it was there, the city moved to dismiss the so-called federal claims, and the District Federal Court dismissed those claims. Oddo repealed that matter to the Tenth Circuit Court of Appeals, and that case is currently on hold. The State Court claims were remanded back to State Court. That case is on hold, and that's the third pending matter. Another application was filed by the city on this property over the Oddos' objection, which was approved by the City Council in October of 2008. That led to a claim filed by the Oddos against the planning firm which had been hired by the city challenging that application. That case is also on hold. There are four lawsuits pending, in anticipation of this compromised plan – not a settlement plan – because the Oddos, the planning firm and the city of Leawood entered into a settlement agreement. The agreement was to stay all of those cases to allow this compromised plan to be considered by the Planning Commission and City Council under the normal state statutory review procedures, as well as the LDO procedures. That agreement provided that the plan that you would consider would have certain elements in it. The first element in the settlement agreement says that basements or storm safety rooms shall be in every building. Second, a suitable access road from Mission Road shall be provided. It is contemplated that the access will be a right-in, right-out only with emergency access only until Mission Road is widened. The third element is a fence around the entire development constructed of black aluminum with the appearance of rod iron. Gates with emergency access components approved by the city's fire and police departments would be an element of the plan. A total of not more than 290 units with no fewer than 20 of those units being twin villas would be part of the plan.

Buffering of apartment units by twin villas on the west, south and east would also be part of the plan. Slate or tile roofs on the villa units and clubhouse with Class A composition roofing approved as to type and color by the city for the apartment units. There is a companion case on your agenda tonight that will consider a change in the code to provide for that element. Next, this plan was to provide setbacks to meet the requirements of the LDO. Cultured stone will be used on the buildings with at least 40% coverage on the twin villas and clubhouse and 40% on the front elevation of apartments with 25% coverage on each apartment building. Next, suitable parking for all units and guests such that overflow parking will not cause a safety hazard within the property or along neighboring streets. The plan that we prepared and submitted to staff as an application, which is before you this evening, contains 41 stipulations results from that agreement that we entered into. It's not to say that you're bound to make any decision with regard to this matter; you're free to exercise your obligations as Commissioners fairly and completely. Nor is the City Council bound by this agreement to make a decision, but those were the discussions that were had between the parties that led up to this application and why it is in the form it is in and why the cultured stone is being handled the way it is being handled. With respect to those 41 stipulations, the applicant agrees to all of them. The Commission is considering amending No. 29 include fencing along the east property boundary line before the Certificate of Occupancy would be issued. We have no objection to that amendment. With respect to the plan itself, Mr. Prelogar will now make a presentation to review it, as he designed it. We'll all be here to answer questions as the hearing progresses. Thank you.

Bill Prelogar, architect with Nearing, Staats, Prelogar and Jones, 3515 W. 75<sup>th</sup> St., Ste. 201, Prairie Village, KS, appeared before the Planning Commission and made the following comments:

Mr. Prelogar: I'm the architect and land planner for this project. We have the plan that I've shown mounted on the easel. I'd like to go over it quickly. (*Refers to plan display*) In each of the buildings in the twin villa units, we have a basement under every one of these buildings to serve as a storm shelter. In addition to that, we've located safe rooms in every apartment building, generally in the front and handicap accessible. We've submitted detailed drawings for the construction of these that indicate their compliance with FEMA design guidelines for safe rooms. We have added an access road from Mission Road coming off the southwest corner. We understand it will be emergency access only until such time as Mission Road is widened, at which point we anticipate the widening of Mission Road will place a median between southbound/northbound traffic lanes. At that point, the entrance will become a right-in, right-out only. The entire property will be fenced with aluminum fencing, which will have the appearance of rod iron. That fence will run all the way around the property. We would be happy to install that in the first phase of the development. There will be entry gates. This one will be emergency access only. The other gates are at this point and this point. Those would be part of the first phase and would control vehicular access into this street and into this internal street. In later phases, an entry gate will be placed at this eastern entrance to provide access into the development. Each entrance will have controlled access. There will be uncontrolled access into the clubhouse and leasing center. That will allow people who may be resident candidates to get in the development without having to go through an access gate. The plan has been amended to limit the apartment development to 270 units. These are generally located in the mocha brown buildings. Generally, they are interior to the development. Two twin villa buildings are located along Mission road, two in the southwestern sector of the site and six along the eastern boundary of the site. We agree these will make a good buffer and transition from the villa units immediately to the east.

The twin villa buildings and the clubhouse will be roofed with concrete tile. The sample is with staff. The apartment buildings will be roofed in a timberline-like architectural laminated composition shingle. I believe that sample is in front of you. We've chosen colors for both that and the concrete tile so that they're very compatible and will have very similar appearance on the buildings. Around the perimeter of the site, the roofs will all be the concrete tile. All the setbacks around the project meet the 30' ordinance requirements for setbacks. In some instances, the setbacks are actually a little bit greater. In addition to that, we have a zoning line that runs through the development, and all the buildings have been positioned so that within each of the zoning districts, that 30' setback is also respected from those interior zoning lines.

The apartment buildings are shown with an array of stucco and stone that we've been talking about on the buildings. 40% of the wall surface area is covered in this manufactured stone material. 25% of the total wall surface of the exterior of the buildings will be this manufactured stone product. We have two variations in the apartment buildings. One is a twelve-unit building, slab on grade. For some variety, we have a slightly different configuration as well. This building is primarily a two-story building with a walkout basement. This is to accommodate the parts of the site with considerable slope. The rear would therefore be three stories high while the front will be two stories high. Generally speaking, as you drive around the site, your impression from the road will be of a 1 1/2 or two-story construction.

On the twin villas, these buildings will be 40% stone on all four sides, just like the clubhouse. I have a view of the front and rear of the twin villa. Again, the exterior elevation has something like 44% stone. The clubhouse will also have 40% manufactured stone veneer. Staff asked us to produce a computer model of the part of the site that shows how each of these four building types might appear in model form. This is a view of the northwest quadrant of the site. It has also been modeled to show the landscaping as it is shown on the landscaping plan. I chose this corner because it's also our proposed first phase.

The last thing I want to talk about is parking. We have added substantial additional head-in parking to serve as guest or resident parking, and we have carefully arranged it around the site so that every apartment building has convenient and immediately proximate additional parking to meet the two-car requirement. Every apartment building has at least one car per dwelling unit in an attached garage. The twin villas have a two-car garage attached for each twin villa unit. The ordinance requires parking for two cars per unit, so we've provided surface parking around the site on the private drives so that the second car in the apartments can easily be accommodated without the need to park on the street at any location. In addition, there are a number of places where we have spaces in front of garages for the apartments and for the twin villas on driveways where additional car parking is available as well. Staff has done a good job in their comments of bringing this up, but I'd like to summarize it in a slightly different fashion. The required parking by ordinance is 580 cars. We have a total of 761 spaces for cars. Of that, 159 are what I would call overflow parking on driveways in front of garage doors. We expect that not to be called into need, except in very rare instances. With the 751 spots we have provided, there are 181 cars over what the ordinance requires. I believe staff is satisfied this will maintain the development.

I would also like to reiterate that the ordinance requires in both RP-3 and RP-4 that 30% of the site, as a minimum, be set aside as landscaped open space. On this site combined, we have a little over 56% of the site as green space. Other than that, staff comments did an excellent job of detailing the salient points of the project. I won't take any more time.

Chairman Williams: I'll start with the green space. Could you briefly go through some of the amenities that are planned for the green space?

Mr. Prelogar: The primary amenity in the green space is our internal trail system, which we have used to provide pedestrian circulation throughout the development. That system encircles every one of our water features. In addition to that, we have concrete rest areas with benches and additional ornamental landscaping. They will become focal points of the buildings surrounding them.

Chairman Williams: These are items on our plans marked "Community Amenities"?

Mr. Prelogar: That is correct.

Chairman Williams: Thank you. I would like to talk about what you anticipate the retaining walls to be and why you've chosen the materials you have for those locations.

Mr. Prelogar: We have some locations where the site slopes from a higher elevation at the street to a lower elevation in the rear yard. Where that occurs, we will have some retaining walls between buildings that are

in relatively close proximity to each other that will hold that grade up at street level at the front of the building and then allow the grade to drop 7'-8' behind that retaining wall. We expect those retaining walls will be reinforced poured concrete and poured as a part of the foundations for the buildings themselves to ensure structural integrity. Staff has asked us to face them with stone veneer, and we have agreed. In other places, we have retaining walls that will come off the end of the building and move in a more serpentine fashion, dropping in grade as they move along. The grade will be fairly steep at the building and gradually taper to no grade change. We would expect to do those walls in versa-lock in a product called weathered mosaic. It's a nice tumbled-stone product, emulating stone veneer.

Chairman Williams: Dealing with the fencing, you have stone-clad piers on your drawings. Would you confirm where those stone piers might occur?

Mr. Prelogar: The stone piers on the drawings pertain to the entry monument and entry gate designs. We would expect the lengths of fence otherwise will probably not have stone piers. Every once in a while will be a larger post serving as a structural support for the fence.

Chairman Williams: You've presented the design of the buildings tonight, and many of us have seen these before. Have you made substantial changes to the design of the buildings, or are they what we have seen before?

Mr. Prelogar: They're pretty much what you've seen before. We've introduced a different building type. This building identified on the plans is Type 2. It is designed to be primarily a slab-on-grade building to be placed on the areas that are flat in nature. It is a design with the parking on the ends and no parking or garages in the front. That gives us a chance to have a streetscape with fewer garage doors, which we feel is a significant improvement.

Chairman Williams: That seems to be a nice touch.

Mr. Prelogar: The interesting thing about that unit is every garage space is discreet and separated off; there is no mass parking garage anywhere on the site. In all the buildings, we have direct access from each resident's garage directly into his apartment unit, so there are no common entries as well.

Comm. Neff-Brain: I understood staff to say the applicant might consider natural versus cultured stone veneer.

Mr. Prelogar: That is correct.

Comm. Neff-Brain: Would you be willing to commit to that tonight?

Mr. Prelogar: The reason we say it is a possibility is there is a natural stone product available that is being manufactured as thin stone. Currently, it has been on the market a short time. I have some questions in my mind as to how well it is going to hold up. We've been using the cultured stone for over 25 years, and we've had a great deal of success with it. The price on that thin-sliced natural stone is somewhat less than a full 5" or 6" veneer stone. We think that price may come down over time in comparison to the price of the manufactured stone. If that occurs, then we would most likely choose to use that thin-set stone. If the price does not close, I believe the cultured stone is a good and adequate product. The stone we use has manufactured corners so you literally cannot distinguish it from a natural stone veneer.

Comm. Neff-Brain: Is it colored all the way through?

Mr. Prelogar: Some of it is colored all the way through, but most of it is colored on the surface.

Comm. Neff-Brain: So if it gets chipped, we'll see concrete.

Mr. Prelogar: If it gets chipped, yes, but that has not been our experience in using it for over two decades. We have a lot of it on these garages. If, for some reason, it gets damaged when the residents are driving into their garages, it is very easy for us to repair. That is not the case with natural stone; it is very difficult to repair.

Chairman Williams: The product you're talking about is a thin stone. Does it have the same exterior appearance and characteristic as the cultured stone, or is it going to be smoother?

Mr. Prelogar: It's pretty much indistinguishable.

Comm. Williams: What is the distance between the eastern side of the duplex and the villas at Tuscany?

Mr. Prelogar: (*Refers to Site Plan*) Our closest buildings are 30' away from the property line. Our plan very accurately reflects where these are located. This is actually 25' away at its closest corner. 55' may be the least distance between a Tuscany villa and their western property line and probably something like 31' or 32' at this location on the plan. As we turn the corner, this villa pulls away from that 30' setback line, as does this one. We have four buildings that come to the 30' line, similar to what we've done along the Mission Road frontage.

Comm. Jackson: What is contemplated to go in south of this property?

Mr. Prelogar: The property south of this is Mr. and Mrs. Oddo's homestead. They've lived there since 1978, and they expect to continue to live there. We have prepared a plan to show how that tract might be developed into large lots if, at some time, Mr. and Mrs. Oddo choose to move and want to develop that property as well.

Comm. Jackson: When you said this was three phases with Siena being the first phase, was that property the third phase?

Mr. Prelogar: In a global sense, yes; as far as the entire 80 acres that we have planned, the first phase was the single-family development that is now nearly complete. The second phase is the apartment and twin villa development we're proposing tonight. The third phase, at some totally unknown time in the future, might be this large lot development between the single-family and the apartments.

Comm. Jackson: Finally, you have a lot of internal trails that look nice. How would those connect into the bike trail that will be going along 137<sup>th</sup> Street?

Mr. Prelogar: At each of our gates, we bring sidewalks out that connect to the trail through our fencing gate system.

Comm. Jackson: Is there a lock on those gates across the walkways?

Mr. Prelogar: Where they are contiguous with the gates, those pedestrian gates would be access-controlled. At the main entrance, that would not be the case because there is not a gate at that connection point.

Comm. Jackson: If you come in the main entrance, you have two gates on either side controlling the roads. They only control the roads, and you could easily walk around them, correct?

Mr. Prelogar: That's correct.

Comm. Pateidl: You indicated there is roughly 55% of the area in green space post-construction on this. There are 28.3 acres in this total site, correct?

Mr. Prelogar: Yes.

Comm. Pateidl: How many acres do you have of green space?

Mr. Prelogar: Whatever .55 is times that number. If you want it in square feet, I probably have it.

Comm. Pateidl: I'd prefer to have it in acres, and I think it's somewhere in the area of 14-15 acres. If it's a 28-acre site, let's give it the benefit of the doubt and call it 14 acres. Of that, we'll have 3.5 acres in the north pond, 2.8 acres in the south pond and 1.7 acres in the middle pond. The 15 acres of green space includes somewhere in the area of eight acres as water space, correct?

Mr. Prelogar: I think that's accurate, yes.

Comm. Pateidl: The balance is going to be heavily in berms around the perimeter. Again, I do have a concern with the storm water discharge from this project and simply want to point out that the indication of green space being 55% is true, but in terms of grass, it's much different than that; and I think it's important for us to recognize that in terms of the engineering for the storm water drainage control.

Mr. Prelogar: Yes, I agree, and one of the reasons we have the BNPs and other requirements that are now a part of storm water management is to, in fact, put in place methodologies that allow more natural methodologies for cleaning storm water before it enters the drainage system.

Comm. Elkins: I'd like to ask about roofing materials. The clubhouse, conference center and twin villas call for concrete tile shingles, but you are proposing a composite shingle.

Mr. Prelogar: Yes.

Comm. Elkins: Why the difference? Why not have the concrete tile shingles on the apartment units? Is it a structural issue or a cost issue?

Mr. Prelogar: I'd say the answer is both; it would require a heavier structure on the buildings, and it does add considerably to the cost without, I think, a concomitant increase in the aesthetic quality.

Comm. Rezac: I'm still concerned with the cultured stone. When it is used on these buildings, does it wrap the building, or do you ever see the edge of the cultured stone?

Mr. Prelogar: At no point will you see the edge of the cultured stone. We've carefully chosen locations to place it so that any change that occurs between the manufactured stone and stucco will occur at an inside corner so that you don't see the edge. When you see it on an outside corner, it will turn the corner.

Comm. Heiman: On the buildings that are three stories, what is on the lower level?

Mr. Prelogar: Living units. The back of the unit is three stories high, and those units have the same window, door and patio array as the other units.

Mr. Heiman: On page 13, there is a section that says, "Unexcavated," and I wondered what that was.

Mr. Prelogar: That is probably under a garage.

Chairman Williams: If there are no other questions, thank you very much.

Mr. Bowers: Mr. Chairman, I believe that closes our presentation. We're here to answer questions if any opposition testifies.

## **PUBLIC HEARING**

Greg Pickert, 3313 W. 138<sup>th</sup> Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Pickert: I'm glad they left the Site Plan up because I have a couple questions regarding it. The first relates to the density of the twin villas on the eastern border. They have located six units along that border, but on the south border adjacent to the property that will be developed in the larger lots for the developer, they don't seem to have but two villas along that side. On the Mission Road side, there are only two twin villas. There certainly is room to spread the density of the villas along the Tuscan single-family home border to make it less dense. My second point has to do with the right-in, right-out only turning lane on Mission Road. I really question that from the standpoint of that versus a full access. I think everybody agrees that one of the primary problems we're going to have with traffic is the fact that we want to take the congestion away from the corner of 137<sup>th</sup> and Mission. If we could make that a full access, that would allow traffic to exit the development on the southbound route, as opposed to having to go out on 137<sup>th</sup>, over to Mission and then south. We also really need to consider that it isn't just this development; it's what is going to be developed down the road. If the Mission Corners project is developed the way it is planned, there are going to be two entrances into their entire underground parking that will be immediately across the street from the exits on 137<sup>th</sup> for the Oddo property. You can imagine the traffic that is going to create. One of the things I've heard is we can't do a full access off the southwest corner of the property because of the stoplight going in at the corner of 137<sup>th</sup> and Mission. We just drove up State Line Road, and there is one stoplight on top of another stoplight. As a result of that, State Line is more heavily traveled than Mission. I think we would be able to accommodate that very easily. Thank you.

Chairman Williams: Mr. Ley, could you take a moment and address the traffic questions that were just raised?

Mr. Ley: The developer's traffic engineer might be able to answer that better. He did look at the site with the right-in, right-out on Mission and considered just eliminating it. I do think most of the traffic on the site does head to the north. As far as 137<sup>th</sup> Street, the volume of traffic on 137<sup>th</sup> Street is actually from the other developments abutting it, so I don't think the volume of traffic heading south would be that critical.

Chairman Williams: We'll have him address that after the Public Hearing.

Barbara Pickert, 3313 W. 138<sup>th</sup> Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mrs. Pickert: One of the major concerns we all have is the water runoff. I know you've discussed it, but we receive water into our area from several different regions. It comes from the north; it will be coming from the Mission Corner area and also from the apartments. It would have to seem that this is going to create more problems for us in Tuscan Reserve. Last fall, we did have work done on our spillway, and we are all very concerned about the volume of water, the velocity the water will have as it comes into our area and also the

silt that will be brought into our pond and what this will mean for overtaxing the system that we have in our development. I want to make it known this is a great concern for those of us who live in Tuscany.

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

Chairman Williams: Could we get a representative from the development team to address the questions raised?

Mr. Bowers: One question was about the layout of the buildings, and I'll ask Mr. Prelogar to address that. The second question deals with the right-in, right-out only, and I'll ask Mr. Fulton, the traffic engineer to address that.

Mr. Prelogar: The question had to do with the location of the twin villas and why they are where they are. Quite frankly, they are where they are because that is what came out of the various conditions that were established in the negotiations leading up to the stay of the legal activity. We have spaced those out so that there is considerable green space between each one and turned the end ones so that they are away from the existing single-family villas on the other side of the east property line. We've prepared a lot of different plans in the past, and we have included plans that show substantial green space along that east side. We showed them to the Tuscany neighbors and asked for their support, and they didn't feel inclined to provide it for us. That has nothing to do with why we have the villas there; the villas are there as a result of negotiation.

Chairman Williams: What is the spacing between the villas on the east side?

Mr. Klein: 48'.

Chairman Williams: Then you have 30' to the property line.

Mr. Prelogar: Four of the villas would be as close as 30'; two of the villas are probably 35'-36' away.

Chairman Williams: Thank you, I think that addresses the question. Could we hear about the access to Mission Road and the traffic on 137<sup>th</sup> Street, please?

Tom Fulton, Senior Engineer with Olsen, Associates, 7301 W. 133<sup>rd</sup> Street, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Fulton: The question was regarding the reasoning behind the right-in, right-out onto Mission Road in lieu of full access. Quite frankly, our intent from a traffic viewpoint was not to allow any access on Mission. The city requested us to add that in addition to the two access sites that we did for the development originally. Typically, my job over the last 20 years has been to persuade the developers to minimize their access points and not increase, but in general, you want to protect the integrity of the arterial street system. Mission Road is an arterial roadway. It makes sense that every time you introduce a conflict point, you introduce the potential for accidents. In this case, a right-in, right-out sometimes is a compromise to full access. It's less intrusive to the vehicles. When you turn left in or left out to a development, you start seeing motorists take more chance, which creates more accident potential. In this case, Mission Road is designed to have a median down it, like all arterials. It also follows the 135<sup>th</sup> Street master plan where 133<sup>rd</sup> and 137<sup>th</sup> Street are intended as collector streets. That's what this development is following.

Comm. Neff-Brain: Is it not true that it would be the city and not the developer that would make a decision on the median?

Mr. Fulton: Absolutely, I do the traffic, and it's between the entities to make the decisions on what they really want to do.

Comm. Pateidl: This is unrelated to the right-in, right-out but very related to the property. One of the attractions of this project is going to be the schools located down 143<sup>rd</sup> and Mission. Access to take the children to those schools is off 137<sup>th</sup> Street presumably, turning south on Mission Road. Having lived in that area for a number of years and finding myself in a traffic pattern that is amplified by the school hours, the four-way stop sign at Mission Road and 143<sup>rd</sup> Street, the timing of cars coming down Mission Road during the early morning hours and late evening hours turning south on Mission Road with the influence of traffic coming out and going to work is nearly impossible and very dangerous. From the point of public safety, what would you recommend? How do we solve that problem?

Mr. Fulton: For this development, it is exactly as planned. I know there is a need for emergency access. As far as a right-in, right-out, they've agreed to it; I wouldn't recommend it. 137<sup>th</sup> Street is designed as an east-west collector street to minimize impact on 135<sup>th</sup> Street. It is slated for a signal once the traffic projections become a reality. The way it stands is a very good plan.

Comm. Pateidl: Would you clarify what that means that the traffic becomes a reality? Is that after the completion of improvements on Mission Road? Is that at the point of beginning of occupancy?

Mr. Fulton: First off, this development here is negligible as compared to traffic generators. It's actually really conducive for 137<sup>th</sup> Street if you're concerned about traffic because it's not a generator. As far as warranting a signal, there are several developments all the way up and down 135<sup>th</sup> Street, some of which have been approved. We've done our best to project the traffic volumes. It's a good engineering approach. Until it becomes a reality, you don't want to go putting up signals everywhere as you see in some of the neighboring communities. We look at the future and plan for it, but we make sure we have the funding or right-of-way or those restraints prepared for when a need comes. At some point, 137<sup>th</sup> Street will warrant a signal.

Comm. Pateidl: When families start occupying these apartments and have children enrolled in those schools, does it become a reality when their presence is there or after we have the first accident or a child is injured? When is the reality?

Mr. Fulton: Are you referring to whether you want another entrance?

Comm. Pateidl: No, actually what I'm referring to is a stoplight at 137<sup>th</sup> Street and the right time to do that.

Mr. Fulton: From my perspective as an engineer, it has to meet minimum criteria for putting in the light. This is a national standard with volume on a main area as compared to side-street traffic. There are school projections for signals, as well as many other types of warrants. We need to meet those. We've analyzed not only this project, but several others as well that pertain to it. I've identified that it will meet it at some point, but not with this development.

Comm. Pateidl: As a parent and a grandparent, I would tend to disagree with your engineering conclusion.

Mr. Fulton: I can appreciate that.

Comm. Neff-Brain: From a legal standpoint, until the warrants are met, you don't want to put a light up.

Mr. Bowers: This is a decision that will be made by the city. We're obligated to pay ¼ the cost of that signal when the warrants are met and the signal is installed.

Chairman Williams: Could we hear about the water flow and control?

Jeff Skidmore with Schlagel and Associates, 14920 W. 107<sup>th</sup> St., Lenexa, KS, appeared before the Planning Commission and made the following comments:

Mr. Skidmore: I'll try to quantify a little bit of our storm water analysis that we've done. We did analyze the current site in its existing condition. What you have to realize is upstream north and northwest of this site are approximately 57 acres that drain through our property, through both existing ponds and down through the open drainage channel occurring behind the Tuscany subdivision. I'll give you numbers, and I'll be generic with them. In our initial analysis, that offsite and onsite drainage produced a runoff of 378 CFS or roughly 380 cubic feet per second. This is in a 100-year storm event, which is very rare, but a worst-case scenario, nonetheless. We then analyzed our site under different conditions, maintaining existing conditions that anybody that develops upstream of us will produce the same amount of runoff that they're producing right now, similar to what's required of us. The north-central area with the pond is a large open space. It gave us the affordability to expand the existing pond, which is roughly a 1 ½-2-acre pond in water surface area. With this proposed development, it's roughly three acres in surface area. We were able to over-detain the water that is coming to us and help reduce that. Once we model that, the net result of that is a reduction in approximately 40 CFS. Once the site is developed, we've reduced the rate of runoff to about 347 from around 380. The overall development is a net reduction in the runoff of the water. Again, in a 100-year event, it will be similar. In a ten-year event, it's a difference of 215 to 206. That was our concern. We understand there are some drainage channel issues downstream, so that was our conservative approach to that. Velocity is directly related to the rate of discharge, and you're not going to see a significant amount of reduction in velocities in those channels downstream; but with the reduction in runoff, we don't have velocities that will adversely affect those existing channels different than today.

Chairman Williams: Does all the water on this property drain into your lakes and then into the channel in Tuscany, or are we going to see any runoff to the east side?

Mr. Skidmore: No, it will all drain internally. We're not completely sure if we will drain the upper lake through the lower lake or whether that will be a completely separate system outside of that right now. The lower lake will function more in the water quality. The upper lake will handle quantity, and that is our net reduction. We've got some plans for an extended wet detention, so adjacent to that lower lake, you'll see a shallow wetland-type area that will treat the water quality. Again, that will help with some of the sediment runoff from the site. Of course, during construction, we'll have erosion-control facilities. I think David even recommended Four Bays, and those are very important as far as where the pipes discharge into a Four Bay or into a sediment basin. During construction, that lower basin will function as a sediment basin; there is no other way around it.

Chairman Williams: After construction is completed, what might be the maintenance to that lower pond or even the upper pond?

Mr. Skidmore: The whole part the quality measures of the storm water control is ongoing maintenance. There are rain gardens throughout the site. There are native grass areas planted in the site and vegetative swales that are incorporated in. There are maintenance responsibilities and typical maintenance guidelines we file as part of the covenants with the homes associations.

Chairman Williams: One of the issues is dealing with silt. Will there be silt flowing into neighboring properties?

Mr. Skidmore: Again, that's part of the quality of what the native grasses and wetlands will do. They will filter out that silt, and that's part of the ongoing maintenance on his behalf.

Comm. Jackson: What happens if they're wrong and there is more silt or runoff than expected?

Mr. Ley: They would have to go in and correct those areas. If they didn't do it, the city would have the right to go in and do that type of work and go against the homes association's taxes.

Comm. Pateidl: This deals with the different standards in the ordinances as it relates to post-construction. What, if any, provisions do we have in the Leawood code for enforcement in the event that we find mistakes have been made with their system?

Mr. Coleman: You're saying if the storm water plan didn't work and they had greater runoff than anticipated?

Comm. Pateidl: Since we don't have a baseline, it's an awfully nebulous thing. If we don't have any codes for enforcement in the event that they're blatantly short in that it's either good faith on the part of the person who made the mistake, or is the city going to take action on behalf of the residents to enforce those codes? Or, is it going to be the residents' responsibility to file a suit to get something done?

Mr. Coleman: If the runoff was creating some kind of code violation, we would issue a citation on that violation. It's a little bit hard to tell exactly what the results of what you're talking about would be. How we ascertain whether they're meeting that requirement or not meeting that requirement is something that is a little nebulous. We'd have to have some concrete example of what is actually happening that would be a code violation.

Mr. Pateidl: Some concrete example to establish a nebulous requirement?

Mr. Coleman: This is a theoretical question that you're posing. I don't know what the result of what you're asking is. If it becomes a code violation, we would issue a citation and take them to court.

Chairman Williams: Would a code violation be excessive silt running down through the channel in the Tuscany Reserve property or a higher rate of water that causes damage?

Mr. Coleman: If they had a lot of silt and the lower basin silted up and wasn't functioning properly, then we would issue a citation. They would have to clean out the basin and restore it to its correct function.

Comm. Pateidl: If there was excessive runoff creating damage to the channel to the point where there are very large, very old trees along that channel and they began to cave in, I don't know if that's a code violation; but it's certainly an indication of a mistake regarding rate of water flow. Would you agree with that?

Mr. Ley: They're following our APWA standards, so they're following our guidelines. I don't know if we'd have any recourse to go back against them if they follow them. As far as the siltation, they are required to do an inspection every two years and provide those reports to us to make sure everything is working.

Comm. Pateidl: If there is one thing to make from this, the reality is that our codes, voluntary standards, guesstimates and science of storm water drainage are probably less than precise. As we review the

responsibilities of water retention on these projects and since we haven't gotten final drafting on plans, I would strongly encourage our Public Works Department and the developers to err to the point of conservatism when it comes to retention and not to try to ride a fine line. The gentleman from Schlagel just commented that there are 56 acres of property running through this site and into Tuscan Reserve. To put it in perspective, it's going to be Mission Corners. It's the northwest and southwest corners of 135<sup>th</sup> and Mission Road. It's Price Chopper. It's going to be the Tuscan Reserve commercial area. It's the Lutheran Church. There is a ton of water coming this way. All along the 135<sup>th</sup> Street corridor is going to be a massive amount of development. If we're going to rely on the post-construction storm water ordinance principles for quality and the AWPA or whatever it is for discharge, then I think Mr. Oddo should be equally concerned as to what Mission Corners does as we are concerned as to what Mr. Oddo does. If, in fact, everybody retains the water as they are supposed to but not legally compelled to, we have, in theory, the opportunity to control the problems of storm water drainage that have plagued the city of Leawood for years. If we disregard those responsibilities now or if we ride too close to the edge, then we'll face the problems later. Thank you.

Chairman Williams: Thank you. Are there any comments from the Commission?

Comm. Roberson: When this application first came up, I was against it. The more I thought about it, I think Leawood needs this type of housing. We have no apartment complex except the one off State Line. I consider this transitional or temporary housing for residents. We focus a lot on the negative issues. I think the project itself is good. I do have my concerns about some of the quality of materials being used, but I'm not making those decisions. From that standpoint, I think the Oddos have done a reasonable job in constructing this project.

Comm. Jackson: As I've said every time this has come before us, Leawood does need more economic diversity. I'm in total agreement with Mr. Roberson. This adds to Leawood and benefits Leawood in bringing more diversity to the area. It brings density with the businesses. Unfortunately, several businesses have come in and folded. We need more people to support the businesses. This helps bring more people to the area. I know people that bought in Tuscan and didn't realize this has been planned for many years are in an unfortunate situation in not being told that it is coming in. Most people don't know they can ask those things of the city. I do believe this does a reasonable job of providing a buffer with Tuscan. We should have some mixed development coming in at the north end. It's a nice transition area, and I am for this proposal.

Comm. Rezac: My comments are similar. I have not seen any of the previous plans for this particular development, so I can only base my comments on what I see here now. Looking at the areas around the exterior and what they have done with landscaping and setbacks, consciously thinking about the materials on the buildings that are around the exterior part of this development, I do believe this will fit in to the area nicely. I still have issues with us, as a Commission, approving cultured stone because of all the issues we've had in the past with other projects. That seems to be more of a contractual issue between the city and the developer, so I can just go on the record and say it would not be my preference. I think we should still have the ability to discuss that in future projects. Thank you.

Comm. Neff-Brain: I, too, am concerned about the cultured stone, but I understand the situation on this development. I did want to say that, as far as the traffic is concerned, years ago, there was the 135<sup>th</sup> Street Corridor project. At that time, 133<sup>rd</sup> and 137<sup>th</sup> were to be the reverse frontage, and they were designed to take the traffic from the development between 133<sup>rd</sup> and 137<sup>th</sup> north and south. This really is their function and has been since the 1980's and maybe even before.

Comm. Pateidl: One of the things I think we should all recognize is part of the permitting and part of this entire consideration from Oddo is that they will make a contribution for the street improvements on Mission Road that will be held in escrow. The problem we have is that we've asked a couple of times this evening

and I haven't heard when we will start this project. I think there will be some lag of time between the start and completion and the existence of problems. In the interim, I would encourage the city and the Governing Body to give some strong consideration to accelerating the improvements on Mission Road or seek some alternatives to the basic plan as it is now to address the potential safety hazards that is there when it comes to traffic on Mission Road, particularly going south during school hours.

Chairman Williams: If there are no further comments, I would ask for a motion.

**A motion to recommend approval of CASE 57-10 – SIENA PHASE TWO – Request for approval of rezoning, Preliminary Site Plan, Preliminary Plat, Final Site Plan and Final Plat – was made by Elkins; seconded by Neff-Brain.**

Chairman Williams: We discussed addressing Stipulation No. 29, which would change when that berm goes in. Does the motion-maker wish to change No. 29?

Comm. Elkins: I will modify my motion to include the 41 stipulations staff has placed in, and I would entertain a friendly amendment because I did not follow the issue referenced early.

Comm. Pateidl: There are two points to Stipulation No. 29. During the discussion, we agreed that the developer would include the fencing, along with the berm and the landscaping at the time. The only revision that I would like to make is that it be included in the construction of Phase One.

Comm. Elkins: I'll accept that as a friendly amendment so we won't have to vote on it.

Mr. Klein: Sometimes in the past, it has gotten confusing as far as when Phase One happens. I understand what Commissioner Pateidl is trying to achieve. Perhaps, "Prior to building permit of any building within the development or at the time of grading permit, the berm will be constructed." It's just that I don't want to get in a situation where one person says, "Phase One is as soon as we move some dirt," and someone else says, "Phase One is as soon as we complete the last building within the development." It's much cleaner if we have a definite permit tied to it.

Chairman Williams: I would think the timing would be a permit for a building. If the concern is to screen the Tuscany property from the buildings, that would be appropriate. If you want to screen it from any of the earth work taking place, certainly it would be the permit for that phase of excavation.

Comm. Pateidl: There are two important parts to that. One is the screening from buildings over the course of time. Mr. Klein made a good comment about getting the berm in, getting the plants growing and doing it early. Second to that, because of what that provides in screening, there is also construction debris. If we had the construction of this berm and landscaping as suggested, at the point of the grading permit would be the earliest point of activity on the project which would give it the most time to mature and also provide the buffer against blowing construction materials.

Chairman Williams: So the berm would be constructed as part of the site excavation process.

Mr. Klein: Maybe prior to the building permit of any building so that you have a definite time frame.

Comm. Elkins: As a condition of the building permit, the berm will be completed.

Mr. Klein: Maybe "The berm, fencing and landscaping adjacent to the eastern property line shall be constructed at the time of grading to be completed prior to building permit of any building within the development."

Mr. Oddo: In principle, I'm in favor of what you're trying to do. My intent is to build the grading and use excess dirt to build my berms. At the same time, after I get it landscaped or as soon as possible, I'll build the fence along there. My problem is the wording that you're using, "prior to building permits." Typically, I'm getting my grading and building permits all at the same time. It's usually one process.

Mr. Klein: That does occur simultaneously quite often.

Mr. Oddo: We would like to have some type of wording that refers to length of time because our intent is to do what you're asking; I'm just concerned about the phrasing.

Chairman Williams: I think that's a good point. It would be difficult to get the permits at the same time. I think another issue that we haven't talked about regarding this, if you're talking about putting in landscaping at that time and this is possibly Phase Three, is maintaining that landscaping. Assuming there are sprinkler systems going in to maintain the landscaping per the LDO, it wouldn't necessarily have sprinklers going in that early in the development if this doesn't get done as one project, but rather as three separate phases which could be phased out over a couple years or more. The berm could go in, but would you do the landscaping at that time?

Comm. Neff-Brain: You can't maintain landscaping until you put in a sprinkler. You don't want to put it in too early.

Mr. Klein: I tried to ask the applicant when I was considering that stipulation if that would be possible because part of what you think about with construction of the villas there is if it will tear up the landscaping. I believe they intended to build the berm early on. Really, they tried to do that along Mission Road as well. They put the berm and landscaping in early so that it would mature when a lot of the buildings went in.

Mr. Oddo: I should probably state that I intend to do the whole thing at once, but I can't promise that, due to certain economic conditions and financing. As far as planting the trees, I'd like to plant those trees along that easterly border at the same time I plant the rest of my trees. I'll have the equipment there to water it and maintain it then. I will not be able to sod or irrigate it for obvious reasons, but I will seed it as we have now. The grass along Mission Road looks good. We watered the trees for the first year or two. If we can get the wording down, I'm willing to do it.

Chairman Williams: We need to make an adjustment to the wording on the timing. Mark, I think you said to complete the berm in six months?

Mr. Klein: The applicant suggested that. It would be up to you as a Commission to decide if that is reasonable.

Mr. Elkins: Six months of what?

Chairman Williams: Six months of starting excavation.

Mr. Oddo: The trees will go in when the rest of my trees go in.

Comm. Roberson: Can you define that?

Mr. Oddo: I don't want to put shrubs in because they'll get torn out with the grading. The major trees on the grading plan, we'll try to get them in like we did along Mission and our southern border – same thing.

Comm. Roberson: So about the same time you put the berm in is when you'll put the trees in?

Mr. Oddo: No, I'll fill my berms. Landscaping is the last thing we have going in because it gets damaged. When I'm ready to put my landscaping in with the rest of that first phase, I'll put my trees in along there.

Comm. Roberson: How long do you think it will take you to do Phase One?

Mr. Oddo: If I just do Phase One only, we're probably looking at 14-16 months. If I do the entire complex at one time, we're looking at 20-24 months. Then we always have landscaping as seasonal.

Comm. Roberson: So we're looking at a berm for 14 months.

Mr. Coleman: I think we need to go over what we're talking about. The original stipulations from staff were that the landscaping and berm on the east side between the twin villas and Tuscan Reserve was to go in immediately with the first phase. Then the idea came up that maybe it should be extended to the landscaping on 137<sup>th</sup> St. Then there was discussion about when this should occur, and Mark suggested it should occur at the time of the first building permit. If that's the intent of the Commission, I think that's how it should stand because we need a definitive trigger point for when the berm and the landscaping should go in, including the trees. I've got a situation right now with another development that is very similar. It concerns a berm and landscaping, and there was not a definitive time that it was to take place, and it has become an irritant to the residents and has become difficult for us. Either the stipulation should stand as it is or be modified to include additional landscaping on 137<sup>th</sup> Street.

Comm. Jackson: I would suggest that we say that the berms adjacent to the eastern property line shall be installed within six months of the building permit and then leave the landscaping as it currently reads for the entire property, including 137<sup>th</sup> Street. Then all landscaping shall be installed prior to a Certificate of Occupancy of any building within the development.

Mr. Oddo: That's fine.

Comm. Jackson: Currently, they've agreed to it to be along the eastern side at that point because that's what the original stipulation was.

Chairman Williams: Are you talking about all landscaping on the site or the perimeter?

Comm. Jackson: On the berms.

Mr. Oddo: I'm happy with that on the berms.

Mr. Klein: Yes, tying it within six months of the building permit and then the landscaping would stay tied to Certificate of Occupancy of any building within the development.

Comm. Jackson: The landscaping along the perimeter only.

Mr. Klein: That makes sense for me.

Chairman Williams: Let's go over the wording again.

Mr. Klein: "The berm and fence for the perimeter of the project shall be installed within six months of the building permit being issued, and all perimeter landscaping shall be installed prior to any Certificate of Occupancy being issued for any building within the development."

Mr. Oddo: The fence, I may not be able to do within six months of building permit, but I will do it with trees as soon as possible. I will shoot for six months, but I'd be afraid to be tied to it, especially if I get my building and grading permits at the same time. I know I could do nine months.

Comm. Roberson: Which portion of the fence?

Mr. Klein: The entire perimeter.

Comm. Roberson: I thought we were talking about the eastern portion. Is that practical from a construction standpoint?

Mr. Oddo: I'm trying to work with you.

Comm. Roberson: That doesn't make any sense to me from a construction standpoint to fence the perimeter.

Mr. Klein: When I talked to the applicant early on, I asked if he would have any problem installing the fencing with the berm on the eastern side of the property. He indicated he was trying to provide a gated community, and it didn't make sense to phase the fence and not have it completely enclosed. That was my understanding. The fence will be on the outside perimeter of the berm.

Chairman Williams: I understand from Mr. Oddo that six months for the fence is the issue, more than doing the fence itself.

Mr. Klein: Right, and you could either extend the time for the fence from six to nine months or tie the fence to the Certificate of Occupancy.

Chairman Williams: I was going to suggest tying the fence to the Certificate of Occupancy.

Comm. Pateidl: I'd tie it to nine months. One of my concerns as far as the eastern border is concerned is winds come from the northwest, and so do cups and wrappers. Hopefully, that can defer some of that construction debris from coming in to Tuscany.

Comm. Elkins: If we go down this path, is there a need for the last sentence in Stipulation No. 29? Do we still need the reference to the phasing?

Mr. Klein: Actually, no because they would be constructing it around the perimeter, and we would address it with the landscaping.

Chairman Williams: So the berm goes in within six months, and the trees and fencing would go in prior to Certificate of Occupancy of any building in the project.

Comm. Elkins: I will withdraw my prior motion and begin again.

Comm. Neff-Brain: I will withdraw my second.

**A motion to recommend approval of CASE 57-10 – SIENA PHASE TWO – Request for approval of a Rezoning, Preliminary Site Plan, Preliminary Plat, Final Site Plan and Final Plat with 41 staff stipulations in the Staff Report with the following revision to Stipulation No. 29: "The berms for the perimeter of the property shall be installed within six months of the issuance of a construction**

permit, and the landscaping and fencing shall be installed prior to the issuance of a Certificate of Occupancy of any building within the development” – was made by Elkins; seconded by Heiman. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins, Heiman and Rezac.

CASE 49-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-10.3 – MATERIALS AND COLORS (ROOFING) – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

### **Staff Presentation**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: Mr. Chairman and members of the Planning Commission, this is Case 49-10 – Leawood Development Ordinance Amendment – Section 16-2-10.3 – Materials and colors for roofing. There are two components to this amendment. The first has to do with the previous case, which would allow asphalt shingles within the RP-4 zoning district. Currently, they are only allowed in the single-family districts of R-1, RP-1 and RPA-5. It does have a limitation of needing to be approved as part of a Final Development Plan before September 1, 2010. In addition, applicants would have to meet all the requirements listed below, which are the same requirements we currently have for the single-family developments. The applicant has provided a composition shingle, which would fit within these criteria. The second part is meant to clarify the LDO regarding allowing more than one roofing material on a single building. We have had requests in the past for two types of roofing materials. Some want a wood shake on one part and composition on another part. We have also had some wanting part standing-seam metal and part asphalt. Part of the intent of the roofing ordinance is to address aesthetics. This amendment would require only one roofing material on a single-family home. It does allow exceptions to be made on a case-by-case basis for minor architectural elements on a house. Staff is supportive of the amendment as proposed, and I am happy to answer any questions.

Chairman Williams: I'd like to address them multiple roofing materials. I understand the concern about having wood shake and composition, as it would be rather strange. In terms of allowing metal roofing on dormers and such, are you saying they would allow standing-seam metal roofing?

Mr. Klein: I double-checked that in the last case, and standing-seam is not listed as a prohibited material. That would be able to be reviewed by the Director to see if it was appropriate on a particular single-family house.

Chairman Williams: What about any colored metal roofing, which is almost a standard in the industry today? Would this potentially allow for a colored, high-grade industrial coating on a standing-seam metal roof versus all copper?

Mr. Klein: The way this is currently written, it would allow a second material to be used with architectural details, including, but not limited to, windows. It doesn't really state that it would have to be copper. It basically allows the Director of Community Development to make a determination as to whether it is appropriate. It is intended to be limited to minor architectural details.

Chairman Williams: If someone wants to do a screened porch, for example, on the back of the house and it ends up being a shed roof, it would potentially be a consideration?

Mr. Klein: The Director could review that.

Chairman Williams: I only bring up the painted metal because so many copper roofs actually cause problems for homeowners because you get residue when it rains. Back on the laminated composition shingles, though the underlined addresses specifically the RP-4, the rest of this would then also apply to single-family residential properties, correct?

Mr. Klein: Yes.

Chairman Williams: Didn't we have a list of colors based on a manufacturer, not to tie the homeowner to a particular manufacturer?

Mr. Klein: Currently, there is an application process. We have a list of approved roofing materials for residential housing. We do list manufacturer, materials and color. If someone comes in and picks off the list, they can get a building permit and put it on. If it's not listed, there is an application process. It has to meet certain criteria and is reviewed on an individual basis to ensure it meets the criteria.

Chairman Williams: Going back to the color, it refers to weathered cedar shingles. I have seen a lot of asphalt shingles throughout the city that are more of a slate-looking product instead of a cedar shingle-looking product. Is that still allowed, even though it is more of a blue-grey than a warm grey wood tone?

Mr. Klein: There is a section of the ordinance that allows laminated composition shingles if they have a shadow line of certain thicknesses. A typical example would be your grand manor shingle that is a tri-laminate with a shadow line going around with another layer and a third layer on that. There is also Berkshire that tries to do the same thing with a darker shadow line across. Since those are trying to emulate a slate look as opposed to a shingle, those are allowed to have a bit more color range.

Chairman Williams: Thank you. I appreciate the comments. Any other questions?

## **PUBLIC HEARING**

**As no one was present to speak, a motion to close the Public Hearing was made by Roberson; seconded by Rezac. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins, Heiman and Rezac.**

Chairman Williams: I'll open the meeting up to discussion by Commissioners.

Comm. Elkins: I would just like to express one reservation with respect to the proposed amendments to this section of the ordinance. That has to do with the changes to Subsection H, in particular H1 that sets a condition that this change would only apply to development plans that are approved on or before September 1, 2010. That seems like an arbitrary date to me. Beyond just the concern about that, it seems to me that if the laminated composite shingles in an RP-4 planned residential district are okay before September 1, 2010, I'm not sure why they're not okay if a similar situation comes up after then. I'm also willing to defer to the wisdom of the rest of my colleagues, but I would express my concern and make the point about that date.

Comm. Neff-Brain: Do we have other properties in the pipeline?

Mr. Klein: The only one in the pipeline right now is Siena, Phase Two, which is the case you just heard. There are a couple condominium/apartment complexes in the city. The one that is located down along Kenneth Road just recently re-roofed theirs in laminate composition shingles. They initially were constructed in the '70's, and at that time, there were no limitations. The city's intent was anything beyond a single-family should go with a different type of roofing material, perhaps something more substantial. Then

we had the situation with the office buildings up north with a similar amendment, and now we have the Oddo. The intent was to get back to anything beyond a single-family be required to use something other than asphalt shingles.

Comm. Elkins: Are there other RP-4 districts in Leawood not developed yet?

Mr. Klein: I believe there is an RP-4 section within the Villaggio development. Their plan for condominiums there has expired.

Chairman Williams: So this provision would apply to new construction or existing construction as well?

Mr. Klein: It would apply to anything prior to that September 1<sup>st</sup> date as long as it was approved as a Final Plan by the Planning Commission and City Council.

Comm. Neff-Brain: When they re-roof, they can use the composition?

Mr. Klein: If they make it by that deadline.

Comm. Neff-Brain: If a 20-year-old building comes in for re-roofing, what if they structurally can't go with a heavier roof?

Mr. Klein: They would have to reinforce it structurally in order to be able to do that. Synthetic slates are a lot lighter now, so it's not as much of an issue as it used to be.

Comm. Neff-Brain: That would be an issue for me if a building couldn't be reinforced, and the slate was cost-prohibitive.

Chairman Williams: Again, I think he's talking about the synthetic slate. I'm not up on the current pricing, but I understand it is fairly competitive with composition. In the scheme of things, it probably would be more than composite, but less than reinforcing a structure for slate.

Comm. Neff-Brain: Some structures can't be reinforced.

Chairman Williams: I haven't done one in 36 years. I have looked at some single-family projects, and while it was difficult, it was doable. The commercial projects could be another story. Any other comments?

**A motion to recommend approval of CASE 49-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-10.3 – MATERIALS AND COLORS (ROOFING) – Request for approval of an amendment to the Leawood Development Ordinance – was made by Rezac; seconded by Heiman.**

Comm. Jackson: I would like to make one comment. I think we're making it too expensive to put apartments in Leawood, and I don't think I can support this amendment. It's too expensive to maintain the old apartments we have if you have to reinforce them to put on new materials or to add any new apartments in the area.

Chairman Williams: Any other comments? Then we'll call for a vote.

**Motion approved with a vote of 4-3. For: Pateidl, Roberson, Heiman and Rezac. Opposed: Jackson, Neff-Brain and Elkins.**

A motion to extend the meeting for 30 minutes was made by Elkins; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins, Heiman and Rezac.

CASE 60-10 – CITY OF LEAWOOD – JUSTICE CENTER – Request for approval of a Preliminary Site Plan and Preliminary Plat, located at the southwest corner of 117<sup>th</sup> Street and Tomahawk Creek Parkway.  
**PUBLIC HEARING**

### **Staff Presentation**

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Mr. Chairman and members of the Planning Commission, this is Case 60-10. It's a request for approval of a Site Plan and Preliminary Plat for the City of Leawood Justice Center. The landowner is the City of Leawood. The plan proposes a three-phase municipal project at the southwest corner of 117<sup>th</sup> and Tomahawk Creek Parkway. Phase One includes a proposed Municipal Justice Center located near the northeast corner of the property, nearest the intersection of 117<sup>th</sup> and Tomahawk Creek Parkway and a parking lot located near the center of the property. Phase Two would be located toward the northwest corner of the site and is the proposed location for a future fire station. Phase Three is identified on the south end of the site, adjacent to the Waterway gas station and the east/west wing of Camelot Court Shopping Center. This phase is proposed for future municipal uses; however, no specific uses have been identified at this point for that phase. Access to the site is proposed to be provided from 117<sup>th</sup> Street and Tomahawk Creek Parkway. The applicant has also submitted a preliminary plat which identifies three tracts. Each tract is aligned with the three phases of the project. The property was originally planned as part of the Camelot Court Shopping Center, so it is platted into several lots. This would be a re-plat of the property. Staff is supportive of the concept, including the location of the building and the parking lot shown in Phase One; however, some improvements would be necessary prior to the Final Site Plan submittal. Those improvements would include such site features as clearly defining the pedestrian and vehicular circulation patterns on the site, as well as site features such as sidewalks, parking lots and drive aisles, defining them and making those connections. Information regarding the proposed uses for Phase Three should also be provided at that time. Staff recommends approval of this plan and plat, subject to the stipulations in the Staff Report and those just mentioned.

Chairman Williams: On all the other cases in our dockets tonight, typical procedure is that staff comments are often reflected into stipulations that are in the recommendations. I don't see staff comments in the stipulations. You've got a lot of good comments that, I think, should be in there. Is there a reason they're not? A lot of what you have is typical information.

Mr. Rexwinkle: The only reason those weren't included is that the plan was intended to be preliminary in nature, and I don't want to specify at this point where the sidewalk should connect or where they should be because that will all depend on what use is identified in Phase Three and where the building entrances are on the Justice Center.

Comm. Neff-Brain: Tract Two is identified as the possible fire station, and I have a potential problem with putting it there right across the street from the condominiums with the sirens going off at all hours. Perhaps it could be located in Tract Three where it would be potentially less bothersome to the neighbors. Is this the point we would talk about that?

Mr. Rexwinkle: From my understanding, this is preferred by the Fire Department. The comments you just provided can be relayed to them and included as a stipulation that it be discussed at a later date.

Mr. Klein: My understanding is the Fire Department preferred to come off 117<sup>th</sup> due to response times. This is shown in Phase Two.

Comm. Neff-Brain: But you don't want to get Phase One set and then not be able to move a building around if you could cap the corner more with the Justice Center. I just think it would be much less offensive to the residents right across the street if they didn't have their emergency sirens going off during the night, particularly.

Comm. Roberson: Station One is located in a residential area. Fire Station Two is located in a residential area. Fire Station Three is located in a residential area. Why is this different?

Comm. Neff-Brain: If you have the choice –

Comm. Roberson: But Fire Station Three was brand new, and it's in a residential area.

Comm. Neff-Brain: I understand that, but if I had my choice of putting it there or right around the corner, I think it's less offensive to those folks to put it around the corner. When you've got a big tract of land you can put it on, it doesn't make any difference where the other stations are.

Comm. Roberson: I understand, but you're taking up a large plot of land to put a small fire station on.

Comm. Elkins: Mr. Rexwinkle, as you may recall, one of my ongoing concerns is the electrical boxes and where they sit on lots and how they are apparent from the street. Looking at your recommendations, which are not actually stipulations, will we have an opportunity to comment and make recommendations on where those electrical utility boxes might go when we see this as a Final Plan, or should I be making my stand right now about where I want to not see boxes?

Mr. Rexwinkle: It sometimes depends on the specific utilities as to whether or not the applicant will know for sure the locations at the time of Final Site Plan, but I do feel that's the more appropriate venue than now. You will have more of an idea of where the buildings are, and I think the applicant will have a better idea of where the locations might be.

Comm. Elkins: I'm making my record now that the applicant should be sensitive of where those are located. Thank you.

Chairman Williams: If there are no other questions, we'll open it to the applicant.

### **Applicant Presentation**

Jim Galle, Hoefer Wysocki Architects, 612 W. 47<sup>th</sup> Street, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Galle: We're here to address the issues regarding this design and approval. I have some diagrams I can put up if it's easier. (*Refers to diagrams on the overhead*) This may be familiar to you. Scott Lambers generated this along with the assistance of staff to analyze how the property and other assets in this area could be potentially developed by the city over a period of time. For familiarity's sake, it is 119<sup>th</sup> Street and Roe and to the right side of the drawing, Tomahawk Creek Parkway and 117<sup>th</sup> Street. Our portion of the property is this piece here. City Hall and the Library are at the other end of this corridor established by Town Center Drive, which becomes 117<sup>th</sup> Street and moves east of Roe. This indicates the property in question. This is the Camelot Court Shopping Center, and the bottom is the Waterway gas station. The pond that is part of the apartment complex is here. This diagram comes from county information, so it's certified. The red line indicates the total property in question. It's on this larger portion that we did our

analysis and worked with city staff and department representatives what would be the appropriate amount of property to relegate or allocate for a future Justice Center, which would involve new police headquarters and a municipal court facility. The building and parking indicated here are somewhat representational. The building design has not been conducted, but we had to do enough analysis so we would understand a building of this size is going to take approximately this much area on the site. It's representational to some degree, but it is also based on the programmatic requirements and expectations of the city.

Chairman Williams: Did you also have programmatic requirements for a possible fire station?

Mr. Galle: Yes.

Chairman William: So what you show would address the size of the fire station and related parking? Is the access for fire trucks in through the back and out the other side?

Mr. Galle: Yes, it is intended to be a drive-thru type of arrangement for the apparatus bay.

Chairman Williams: Are they sharing a driveway with the proposed Justice Center?

Mr. Galle: Yes, at this time, the design contemplates that the inbound portion of the fire station would be shared with the drive access to 117<sup>th</sup> Street. The outbound emergency drive would be the one that is not shared.

Comm. Neff-Brain: It looks on the Flood Plain Map that a portion of this tract is within the Flood Plain. Is that correct?

Mr. Galle: There are a couple of small parts that are identified as areas subject to flooding in 100-year and 500-year flood events.

Comm. Neff-Brain: So flood insurance would be necessary for this tract?

Mr. Galle: Honestly, I don't know that information from a legal perspective. I can tell you the portions that are 100-year and 500-year puddles, so to speak, should be eliminated by grading. The whole site will be brought up out of any danger.

Chairman Williams: Isn't that corner that you pointed to in a hole right now?

Mr. Galle: Yes, there is a large depression there that has an area drain that receives water. The storm water system comes together here, and it comes across. The new storm water system will have to accommodate the routing of the storm water. The eventual designer will have to take into account the same BMP issues that were discussed earlier this evening on another project. This project will be subject to the same storm water controls and other utility issues as any other project. They're not resolved now because we don't have a design.

Chairman Williams: Going back to driveways, you've got two access points to the site. Is the one off Tomahawk going to be the primary one for the public?

Mr. Galle: Yes, both access points are public in nature, but I believe this would be considered the front door. Tomahawk Creek Parkway is a major boulevard, and divided traffic adds that prominence. In this design, the access point is where the existing crossover is on the drive. The same curb cut is being used. The curb cut to the north would be a new curb cut, but I believe it's within the range of adequate difference from our other access points for the typical public use.

Mr. Ley: That is correct.

Chairman Williams: The Staff Report indicated approximately 87,000 square feet in the new building. How does that compare to City Hall?

Mr. Rexwinkle: I don't know the size of City Hall.

Chairman Williams: I only ask that to get a general idea of scale comparison between the two. On the site, there is quite a grade change from that corner. The Staff Report references a potential garage which is marked as possibly being at the south end of the building. How would the site conditions potentially be addressed to get the main floor up to grade?

Mr. Galle: The desire of the Police Department at this time is that some sort of covered or secured parking is provided for the marked vehicles. This particular concept, which is not necessarily the one that is going to be done, shows parking under this portion of the building. This dashed-in line is a possible future parking structure that could be added to the site, should the property grown and we need more room. The intent is to make sure we're providing adequate area for design flexibility when we move to the design process. Because of the nature of the site, it falls across this way. Then there's kind of a shelf, if you will, that flattens out again. Basically, we're trying to take advantage of the site topography as much as possible. The basement or garage level goes down closer to the sidewalk or curb level of the street. The main/entrance level would be more what I would call the plaza level, if you will, which is kind of the entrance point from the parking lot. The parking lot will be tiered and sloped to follow the existing grade in this concept. We would level out here and be entering at the first floor, which there would be an entrance to the Municipal Court and then a second entrance to the Police Headquarters. Patrol cars and the like would come down off this point, get under the building here. Everything else would be higher as we climb up the grade here to get to the first tier of parking and kind of step up the hill. This is all in this design.

Comm. Elkins: From what you know of the operational needs and requirements of the fire station, is there any restriction that would make it impossible to site the fire station down someplace in the northern part?

Mr. Galle: I don't know of any technical reason why one could not do that. In the consideration of the design, there were two basic goals. One was to try to leave as much site in reasonable shape for future unknown uses. The other aspect was about the circulation. Response time, of course, is critical. As you've seen with the rain events, we've had quite a bit of water on the street. Accessing and taking off from 117<sup>th</sup> Street is a lot safer in terms of no weather-related obstructions. Also, it's not as busy as Tomahawk Creek, and it also is not divided with potential visual issues. That was why it started moving this direction. Finally, there is a tremendous amount of development going on in Town Center and Park Place. It's going to get taller and taller and denser. That direct line is probably an issue in their consideration.

Comm. Jackson: It seems like that parking lot is quite a distance from the building. Is there handicapped parking closer somewhere?

Mr. Galle: Yes, absolutely. When this actually gets designed, of course it will have to be in compliance with the American Disabilities Act, so accessible parking will be as close to the building as possible. This is a representational layout to show that it's going to be this big. The parking lot is larger than required by code, but it's necessary for the functions that happen periodically in Municipal Court where you get these large groups of people at one time.

Comm. Jackson: In light of your comments about overage of parking, it would be nice to see the city try to do some double-story parking instead and leave some land open for the drainage issues that will occur.

Mr. Galle: The drainage issues potentially could be addressed in the parking lot design itself. For instance, if this is tiered in the fashion, the landscaped portions in here will actually serve as part of the storm water management system in the BMP process. There are also issues of impervious concrete that could potentially be addressed. The issue about parking structure and that sort of thing can be addressed later on. It's an economic issue more than anything because it's much more expensive to build structured parking. Mr. Coleman can probably address this better than I, but the fact that you're addressing whether to approve the Preliminary Plat for the overall property is the issue. We've got these internal tract boundaries that are somewhat more flexible, so in the final design process, different parking arrangements are possible. One would have to go through the approval process to do that. This is the worst-case scenario, so to speak. In all likelihood, this building will shrink some possibly. The final configuration is yet to be determined, as is the parking.

Comm. Jackson: I guess I'm confused. Normally when we receive Preliminary Plans, are they this unspecific? It seems like there are a lot of issues up in the air right now.

Mr. Klein: This is a concept as far as what's going to happen. They know the location for the Justice Center and the courts. It's more or less the initial step to try to start pinning down exactly where things are going to happen and where parking will be. It's not quite as detailed, but this is the first step.

Comm. Jackson: Do they just want our input at this point, then?

Mr. Klein: I think it's looking to see if the Commission is supportive of the idea and design as far as where they're located the Justice Center at the corner. You also have the courtyard at the corner itself as opposed to being located somewhere else. The applicant did a number of different versions of this plan and participated in a work session with the City Council. They had different layouts of the parking lot, different layouts where the buildings are located to try to get some input as far as the direction the city wanted to go. Then as the process goes forward, the next plans will be much more detailed. This is to see if the Planning Commission and City Council are supportive of what they're proposing right here.

Comm. Jackson: From what he put up in the initial plotting, there a lot of other buildings that you're hoping to put in this area and then also west of it. I think we'd have to have a better understanding of all the buildings you're going to put in this area as to whether we like the layout of the Justice Center.

Mr. Klein: I think a lot of that is possible as far as potential future development. I don't think the rest of it is really tied in. They're looking specifically more at the Justice Center at this point as the part the city wants to go forward with.

Comm. Neff-Brain: Since this is going to be municipal-oriented activity, I'd like to see some kind of schematic of what this whole area will be so that it can be nicely tied together. I am concerned about the location of the fire station. If we go ahead and approve this facility for the courts and police, then we've pretty much tied that tract down because it's not that big a tract. I know this Tract Three is hopefully to be a Community Center someday. It seems to me that we're setting the corner and limiting our options.

Mr. Coleman: The primary purpose of the plan that Hofer Wysocki was charged with was to locate the Justice Center on the site. That was the precedent. Through their planning process, the corner of Tomahawk Creek Parkway and 117<sup>th</sup> was chosen as the site. The potential fire station in the future was secondary in the process. In the planning process, it was determined to be best served on 117<sup>th</sup> Street. The rest of the site is essentially what is left over for future development, which has not been determined at this time. I don't think the City Council has given any direction on what that might be in the future. They

basically just carved out a tract of area for the Justice Center with these two other tracts. The plan is the Justice Center would go in the corner of 117<sup>th</sup> and Tomahawk Creek Parkway.

**A motion to extend the meeting 30 minutes to 10:00 was made by Elkins; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins, Heiman and Rezac.**

Comm. Roberson: This may not come out right, but I'm going to say it anyway. I find it interesting that the City Council is doing planning, and we're sitting here trying to react to a City Council plan. It would have been nice if they had involved the Planning Commission in the plan to begin with so some of these questions could have been answered and we would have known about it, as opposed to sitting here speculating about what happened at some meeting. I think I'm getting tired of reacting up here without having some input on the plan.

Mr. Coleman: Actually, the City Council didn't do the planning; the staff and consultant did the planning, and it was simply presented at a works session to the Council.

Comm. Roberson: I find it interesting that we're not involved in any of the input in this plan until tonight. Again, we're reacting to something we haven't seen. We're supposed to make a decision, and I find it difficult to do that.

John Meier, Police Chief of Leawood, appeared before the Planning Commission and made the following comments:

Mr. Meier: I have sat through the meetings, and I think it ended up in that spot because the only building we know is going to be built for sure is the Justice Center. From the Police Department's standpoint, we are in a very small building now and greatly in need of space. We didn't want to have a situation where people talk about wanting a building here maybe fifteen years down the road or another building there 20 years down the road and just pushing us back and back. We actually asked if we could just go forward and determine where to put the Justice Center. After it is decided, wherever they put anything else in the near future or the long-term future is fine, but we need a spot for this facility as soon as possible.

Chairman Williams: I think we probably all our sympathetic to your needs in that regard. That's not the issue at all. Some of what we typically see for a site tract development, we're looking at a lot of missing information. I'd like to comment that in relation to what has been provided and the placement of the Justice Center, I, for one, with this being a prominent municipal building, like the placement. I think it is appropriate placement on this site. Visually, it has connection to City Hall. I think it would have been nice if we had the opportunity to put the Justice Center next to City Hall; it just hasn't worked out. With it being on the corner like that, its prominence speaks well. It hides the parking. We've debated many times in a lot of development plans of the parking being out in front and hiding it with a berm. This takes care of that. I do share my colleagues' concerns about the lack of indication of how the rest of the site might be developed. If all we're going to look at tonight is the Justice Center, duly noted, but I might add that whatever is proposed for the south tract be something of similar caliber as the Justice Center. I have a little problem thinking about a water park on this site versus a Community Center or other structure that can have a good relationship to the Justice Center and the rest of the site's development. Any other questions of the architect?

Comm. Rezac: I have a couple comments. I concur with some of the other comments that have been made because I'm hearing conflicting information. We are supposed to look at this, and it sounds like we are supposed to approve it based on the way these tracts are laid out. At the same time, when speaking about the design, it sounds like that is still in flux. With that conflicting information, I don't know how we

could even respond to this plan. My second comments are a little more design-related. The fact that it ended up on the corner, I don't know what that means. Is that after there were ten options or two options? I'd be curious to know what the options were because of this building being a high-profile civic building. I think we want to make sure we went through all the steps to make sure it is located correctly. It is on Tomahawk Creek Parkway is a very public thoroughfare, but it looks like the building is addressing both 117<sup>th</sup> and Tomahawk Creek. That's really not an important intersection. I'm not going to comment on the design aspect because I know it's possibly in a different phase, but I think we need to see what the other options were.

Mr. Klein: The focus of this really was on the Justice Center and the placement. We did take a look at the various LDO requirements, one of which is the 60/40 rule. That's part of the reason the building was pushed up toward that intersection. We looked at the grading of the site to see if there were opportunities for hiding the parking lot. This particular layout seemed to have that advantage of doing that. We looked to make sure we maintained the residential buffer from across the street because of the condominiums located there. We looked at the setbacks around the site to make sure those were met. It was determined that this is the ideal site for the Justice Center. A lot of the other things, admittedly, are still in a bit of a state of flux. They are trying to include the Planning Commission to get feedback with what's happening tonight. Typically, when the Planning Commission is looking at a plan, you're reviewing a plan being presented. I think that's what is happening tonight. We're looking just to get feedback, but a lot of the requirements of the LDO dictated placement.

Chairman Williams: Any other questions or comments?

## **PUBLIC HEARING**

Gerald Klammers, 11623A Tomahawk Creek Parkway, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Klammers: I live adjacent to the proposed site. I just have a few points. First, I'd like to thank the members of the Commission who are concerned about the residents of the condominium site and the noise level. I would ask the Commission and the city to give serious thought to the placement of the fire station. With that said, I do not want to impede the Fire Department, nor compromise their duty. It's understandable if the fire station cannot be moved, but it would be greatly appreciated if it could be. Secondly, I would request that the Commission give thorough analysis to the traffic patterns of 117<sup>th</sup> and Tomahawk Creek Parkway. I believe that intersection is becoming dangerous. I think a traffic light needs to be placed at that intersection. I'm sure this is preemptive on my part, but I just want to make sure it's in the record. Thank you.

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

Chairman Williams: This opens it up for discussion. Any further comments?

Comm. Neff-Brain: We had the Golden Criteria attached. Was there a reason for that?

Mr. Rexwinkle: It's just standard that we include it with the Preliminary Site Plan applications.

**A motion to recommend approval of CASE 60-10 – CITY OF LEAWOOD – JUSTICE CENTER-Request for approval of a Preliminary Site Plan and Preliminary Plat located at the southwest corner of Tomahawk Creek Parkway and 117<sup>th</sup> Street – was made by Elkins.**

Chairman Williams: As there is no second, do I hear a motion to deny?

**A motion to recommend disapproval of CASE 60-10 – CITY OF LEAWOOD – JUSTICE CENTER – Request for approval of a Preliminary Site Plan and Preliminary Plat located at the southwest corner of Tomahawk Creek Parkway and 117<sup>th</sup> Street – was made by Jackson; seconded by Neff-Brain.**

Chairman Williams: Could we give some direction to the staff and the city as to why?

Comm. Jackson: My disapproval is based on the layout. I think if you put the Justice Center there, you can't then look at moving the fire station. It probably won't make sense for any other building to go into that small of a section. Also, you have such a large parking area, so the city does need to look into doing some structured parking so it's not such a huge expanse of parking. I understand the need for it. If they are going to put more buildings in here, it might make sense if they look at it with structured parking so that they can fit more buildings into the area with less space going to the parking.

Comm. Neff-Brain: My second is because I just don't see that we have enough here to approve except placing of some potential building somewhere without knowing what else is going to be there.

**The motion to recommend disapproval passes with a vote of 6-1. For: Pateidl, Roberson, Jackson, Neff-Brain, Rezac and Heiman. Opposed: Elkins.**

**CASE 50-10 – PARKWAY PLAZA – EMILY HART BRIDAL – Request for approval of a Final Sign Plan, located at 4800 W. 135<sup>th</sup> Street.**

#### **Staff Presentation**

City Planner Melissa DeBoer made the following presentation:

Mrs. DeBoer: Mr. Chairman and members of the Planning Commission, this is Case 50-10 – Parkway Plaza – Emily Hart Bridal. The applicant is Timothy Jones with See-More Signs and is requesting approval of a final sign plan. The proposed project is located at 4800 W. 135<sup>th</sup> Street within Parkway Plaza Development. The applicant is proposing one wall sign on the south elevation. The sign is proposed to be mounted on the protruding architectural band located on the tenant's façade on the main entrance. Per the LDO, the maximum area the sign can be of the façade is 5%. This sign exceeds the allowable signage area by 4.37%. Per the Parkway Plaza design guidelines, the maximum letter height allowed for this tenant is 18". This sign exceed the letter height by 19". Staff is not supportive of the sign being mounted on the protruding architectural band because the sign band area is considered to be the area above that element. Staff recommends approval of this application with the stipulations stated in the Staff Report and would be happy to answer any questions.

Chairman Williams: The difference in sign area stems from a difference in the way the city measures the sign area, which is the top of the sign to the bottom of the sign, regardless of how it is shaped.

Mrs. DeBoer: That is correct.

Chairman Williams: Are there any other signs that are mounted over the architectural band?

Mrs. DeBoer: This is the first one in that area.

Comm. Roberson: This is located next to what store?

Mrs. DeBoer: It is to the east of Pizza Fusion.

Comm. Neff-Brain: The architectural band seems to make putting a decent-sized sign in there pretty difficult. Would you have to mount it above the band? You couldn't get it below?

Mrs. DeBoer: It would be above the band and below the next architectural element.

Chairman Williams: Are there other signs out there mounted in the same location?

Mrs. DeBoer: No, this is the first sign that has that architectural band across it.

Chairman Williams: Any other questions for staff?

### **Applicant Presentation**

Christopher Sailors, 2045 W. 141<sup>st</sup> Terrace, appeared before the Planning Commission and made the following comments:

Mr. Sailors: I'd like to answer some of your questions and show you what we're working on here. (*Refers to overhead*) This is similar to the last sign. We are so happy that Emily Hart Bridal has come into the center. She has a very elegant logo name for her sign, which we think fits well with the architecture of the building. This is another case of the logo portion of this going beyond the 18", similar to what we had in Blue Fin. In order to allow her to have this elegant sign and create her identity there and make the letters large enough that you can read them and have some visibility, we have to extend the letters above and beyond the 18" limit. The "A" and the "R" are actually about 16" tall, so they're smaller. The actual presence of the sign you see on the building is less than the 5% by my calculations. I brought this drawing to show you the other thing that is happening here (*refers to overhead drawing*). On this particular feature, we're only using about half the façade of the building to measure. Really, the sign can get small when you look at the overall architectural feature. I want you to see that it is appropriately-sized for the building and for the center. This will let her have her identity and give her good visibility while fitting architecturally with what we're doing.

Comm. Roberson: Is it truly flush-mounted? It doesn't appear to fit.

Mr. Sailors: It will be bumped out about 1 ½" because of that element, and then we'll extend the mounting at the top of it to make it solid.

Chairman Williams: So the lettering will be flush on that trim and stepped out from the surface?

Mr. Sailors: Yes, a little bit.

Comm. Williams: The sun that is behind the tree looks like it's smaller in height. Is that correct?

Mr. Sailors: Pizza Fusion has 18" block letters. From that perspective, it makes the sign look smaller than it actually is.

Comm. Neff-Brain: But it's on a larger façade.

Mr. Sailors: Yes.

Comm. Elkins: In the picture that was just up, what is the size of those letters? Are those the same size as what you're proposing?

Mr. Sailors: No, that is smaller.

Comm. Elkins: I think staff would have an issue with even that because it is on that architectural band, notwithstanding that the size might be appropriate. I'm just trying to get a visual of what the "emily hart" might look like without the "coming soon" piece.

Mrs. DeBoer: The Pizza Fusion sign is 18". I think if they make it meet the requirement of the guidelines for that development, it probably would fit in there. I'm not sure what that size is.

Mr. Sailors: We could certainly shrink that size to fit in the band, but the main letters would be much smaller than the 18" in order to get the logo in. The purpose was to have the "emily" part of it to be 18" so it can be read and then let some of those other elements of her letters extend past since they're part of her logo, as opposed to strictly heavy block letters across, which will not have the same presentation on the building.

Comm. Neff-Brain: I think it looks odd being placed on that band and being proportionately so much larger. It just doesn't look right to me to be sticking out like that and to be so much bigger in proportion to the Pizza Fusion sign.

Mr. Sailors: I understand. I want it to be visible, successful and look nice as well. We're trying to maximize that signage, and we're doing that for a reason.

Comm. Pateidl: I just wonder if we can sum up the issues here. From the recommendations of the staff, it would appear as though the whole deal here centers on the height of the letters and the volume of the sign. Is that a fair statement?

Mr. Klein: Yes, and the LDO doesn't really have a deviation to the 5% criteria. We are using the LDO's direction on how to calculate that.

Comm. Pateidl: We're planning on putting the sign in the same place, but it's not going to be quite as high.

Mr. Klein: Exactly, I think if they made it fit the design criteria for the development, it would actually fit within that band.

Comm. Pateidl: When this development was originally approved, everybody agreed to the sign provisions. You're telling us that it is part of a logo and not part of a sign.

Mr. Sailors: Yes.

Comm. Pateidl: I'm having a hard time with that. I think the staff has done their job in addressing the issues as have been agreed upon and envisioned for this development in the first place. I think we're splitting hairs that we really don't have to.

Mr. Sailors: If we have to go to the sign criteria without allowing any logo, which has been done in the past, we'll be back to the 18" block letters for her, which is disappointing. She's got a beautiful store and an excellent idea and logo that need to be part of that. I've got to get it big enough to be seen and read.

Chairman Williams: I'm not sure it has to go back to the block letters. Yes, the "emily" and such might be less than 18", but when you take into consideration the entire size of the sign and its position, it's still going to be a very dominant element. I happened to drive through the development earlier today to look at the signage situations, and quite frankly, from the south side of the development, I could read the banner just

fine. You could make that bigger, still meet the design criteria and the LDO and still have a prominent, elegant-looking sign. Do you have anything else to add?

Mr. Sailors: No.

Chairman Williams: If there are no comments, I would ask for a motion.

**A motion to recommend approval Case 50-10 – PARKWAY PLAZA – EMILY HART BRIDAL – Request for approval of a Final Sign Plan located at 4800 W. 135<sup>th</sup> Street, Suite 240 with the Stipulations 1-6 included in the Staff Report – was made by Elkins; seconded by Heiman. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins, Heiman and Rezac.**

Chairman Williams: According the clock, we are 2-3 minutes until 10:00. Unless we break our rules, I don't think we'll have time for the next case.

Mr. Klein: According to the by-laws, the Commission has to end at 10:00. Rather than continuing it for a full month to the July 27<sup>th</sup> meeting, we'd like to continue it to the second Tuesday in July, which is July 13<sup>th</sup>.

Chairman Williams: So that is 52-10, 54-10 and 58-10 since Ranchmart was continued anyway.

Mr. Klein: Correct.

**A motion to continue Case Nos. 52-10, 54-10 and 58-10 to the July 13<sup>th</sup> Planning Commission meeting – was made by Elkins; seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Elkins, Heiman and Rezac.**

*MEETING ADJOURNED.*