

**City of Leawood Planning Commission Agenda
November 27, 2012
Dinner Session – 5:30 p.m. No Discussion of Items
Meeting - 6:00 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive
Leawood, KS 66211
913.339.6700 x 160**

CALL TO ORDER/ROLL CALL: Levitan, Pateidl, Rohlf, Williams, Elkins and Strauss. Absent: Roberson, Jackson and Ramsey.

APPROVAL OF THE AGENDA:

A motion to approve the revised agenda was made by Elkins; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Levitan, Pateidl, Williams, Elkins and Strauss.

APPROVAL OF MINUTES:

Approval of the minutes from the October 23, 2012 Planning Commission meeting and the November 13, 2012 Planning Commission work session.

A motion to approve the minutes from the October 23, 2012 Planning Commission meeting and the November 13, 2012 Planning Commission work session was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Levitan, Pateidl, Williams, Elkins and Strauss.

CONTINUED TO DECEMBER 11, 2012:

CASE 151-12 – CAMELOT COURT – Request for approval of a Rezoning and Preliminary Plan, located south of Town Center Drive and east of Roe Avenue. **(PUBLIC HEARING)**

CASE 152-12 – CAMELOT COURT – DRY CLEANER WITH DRIVE-THRU – Request for approval of a Special Use Permit, located south of Town Center Drive and east of Roe Avenue. **(PUBLIC HEARING)**

CASE 153-12 – CAMELOT COURT – DRUG STORE WITH DRIVE-THRU – Request for approval of a Special Use Permit, located south of Town Center Drive and east of Roe Avenue. **(PUBLIC HEARING)**

CONTINUED TO JANUARY 23, 2013:

CASE 77-12 – PARKWAY PLAZA – SPRINT ANTENNAE AND ASSOCIATED EQUIPMENT – Request for approval of Special Use Permit, located north of 135th Street and west of Roe Avenue. **(PUBLIC HEARING)**

CASE 122-12 - LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-6, SIGN REGULATIONS, - Request for approval of an amendment to the Leawood Development Ordinance. **(PUBLIC HEARING)**

CONSENT AGENDA:

CASE 145-12 – IRONHORSE CENTRE – MIDWEST DERMATOLOGY – Request for approval of a Final Sign Plan, located south of 151st Street and east of Nall Avenue.

CASE 146-12 – LEAWOOD PRESBYTERIAN CHURCH – MONUMENT SIGN – Request for approval of a Final Sign Plan, located at 2715 W. 83rd Street.

CASE 147-12 – MARKET SQUARE – SUNRISE ADVISORS – Request for approval of a Final Plan for a Tenant Finish, located at the northwest corner of 135th Street and Pawnee Street.

CASE 148-12 – LEABROOKE 8TH PLAT – Request for approval of a Revised Final Plat, located south of W. 146th Street and west of Manor Road.

CASE 154-12 – CAMELOT COURT – RED DOOR GRILL – Request for approval of a Final Sign Plan, located at the northeast corner of 119th Street and Roe Avenue.

CASE 156-12 – TOMAHAWK CREEK OFFICE PARK – MURPHY HOLFMAN CO. (MHC) – Request for approval of a Final Sign Plan, located at 11120 Tomahawk Creek Parkway.

CASE 157-12 – TOWN CENTER PLAZA – BROOKS BROTHERS – Request for approval of a Final Sign Plan, located north of 119th Street and east of Nall Avenue.

CASE 158-12 – LEAWOOD CORPORATE MANOR SIGN CRITERIA – Request for approval of a Final Sign Plan, located at the southwest corner of College Boulevard and Roe Avenue.

CASE 155-12 – LEAWOOD CORPORATE MANOR – CITIZENS BANK & TRUST – Request for approval of a Final Sign Plan, located at the southwest corner of College Boulevard and Roe Avenue.

Comm. Williams: I have a question on procedure. It is regarding two cases in which one is contingent upon the passage of the other. I don't recall we have done this through a Consent Agenda in the past.

Mr. Klein: We have. If one gets pulled, the other has to be pulled as well.

Comm. Williams: I don't have a problem with it; I was just checking procedure.

A motion to approve the Consent Agenda was made by Elkins; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Levitan, Pateidl, Williams, Elkins and Strauss.

OLD BUSINESS:

CASE 121-12 – MISSION FARMS – PHASES 3 AND 4 – Request for approval of a Revised Preliminary Plan, located south of 105th Street and east of Mission Road. **(PUBLIC HEARING)**

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the commission, this is Case 121-12 – Request for approval of a Preliminary Plan for Mission Farms, Phases 3 and 4. Phase 3 is proposed to consist of a 3-story, 52,525 sq. ft. retail and office building known as Building E. The floor area of this building has been increased from the 45,000 sq. ft. presented on the original proposal on October 9th. Phase 4 is proposed to consist of two buildings: one 15,765 sq. ft., 2-story, 7-unit townhome building identified as Building D on the plans and one 196,000 sq. ft., 4-story residential and office building containing 160 residential units, which is identified as Building C on the plans. The floor area of Building C has been decreased from 225,300 sq. ft. in the original plan, and the number of units has been decreased from 167 to 160. On the existing approved plans, an extraordinary setback of 490-500 feet is provided between the east side of Building C and D in the residential property line to the east. In the proposed plan, both Buildings C and D are larger and extend farther eastward than the previous plans in a manner such that they cover the area that would have been surface parking behind Buildings C and D on previous plans. The new setback is proposed to be 250 feet instead of between 490 and 500 feet. This case was originally heard by the Planning Commission on October 9th and was continued to today's meeting in order to permit the applicant time to make revisions to address some of the concerns expressed by staff and the Planning Commission at that meeting, including minimum commercial floor area requirement, access to the site, onsite circulation and the location of Building E's setback from the main drive. The ordinance requires a minimum of 30% of the floor area to be commercial uses. The original plan provided 25.5% of the floor area for commercial. The plan has been revised by increasing the commercial floor area proposed for Building E and reducing the residential floor area in Building C and reducing the residential floor area in Building C and decreasing the residential floor area of The Manors at Mission Farms, which is the single-family villa portion of the development, from 80,000 to 70,000 square feet. As a result, the commercial floor area proposed now complies with the ordinance by providing 30% commercial floor area.

Regarding the circulation concerns, the original plans required traffic generated by the development to use the main drive, which is an already congested area. The revised plan provides an alternate access point, a right-in,

right-out from Mission Road on the south side of the development immediately north of Interstate 435, which allows motorists to bypass that main drive.

Regarding the location of Building E, the original plan showed it set back from the main drive with a parking lot between the main drive and the building. The revised plans have moved this building up such that it is consistent with the other four buildings that frame the main drive. All concerns expressed at the October 9th meeting have been addressed except for three, which are reflected in Stipulation Nos. 5, 6 and 7. No. 5 pertains to the design of the circular drive area immediately west of the apartment building and the possible lack of visibility drivers may have as they back out of spaces in the circle drive. Staff would like the applicant to demonstrate the adequate visibility that will be provided with this design, but we believe that can be done between now and Final Plan. No. 7 requires the applicant to provide more information on the Landscape Plan when submitted as part of the Final Plan package. No. 6 is the unresolved concern from the original plans that staff believes should be resolved at this time, and it has to do with the length of the driveways for the townhomes. The plan proposes 12 feet, and staff believes that is a little too short for good visibility of drivers backing out of the garage. This matter is up to the Planning Commission entirely because the ordinance does not regulate driveway length. Since October 9th, the applicant has met with neighbors and made other revisions to the plan in response, including the addition of a berm with landscaping along the east side of the development between Buildings C and D and the residential property line to the east. The applicant has also reduced the height of a portion of the east elevation of Building C from four stories to three. Building elevations and materials are approved as part of the Final Plan; however, staff does have some concerns with the proposed design and architecture of Building C. We believe that the building should more closely resemble the rest of the buildings within the Mission Farms Development. Additional communications from the public have been received from the public since October 9th, and they are included in the packet or on the dais. Given the modifications pertaining to access and circulation and the commercial floor area and location of Building E, staff is now recommending approval of the proposed plan, subject to the stipulations in the report. I'd be happy to answer any questions you may have.

Comm. Williams: I wasn't at the October meeting to hear some of the questions and comments, so I apologize if I am repeating. This development was originally approved in 2002, correct?

Mr. Klein: Yes, and it has gone through a number of changes.

Comm. Williams: The plan being approved was for a smaller development than what we are now seeing. The setbacks required much discussion with the city and neighbors at that time to get to an approval. In terms of precedent, I don't recall seeing an approved plan that has increased in size as much as this has. I have a little problem with that at this point in time, seeing this much of an increase on something in process. Have we had one comparable in percentage of growth?

Mr. Klein: I can't think of any off the top of my head. We had Market Square Development that added a number of pad sites along 135th Street after the original plan, but it was even contemplated early on. This is probably the most that has come back looking for an addition. That being said, they have the ability to come back for the Preliminary Plan that includes all the public notifications and hearings. The setback was talked about at length at the time this project, and it has gone through a number of changes. Originally, there was no parking lot behind the buildings. The setback is much larger than what is required by the ordinance at 75 feet.

Comm. Williams: With that setback requirement in the LDO, does that approve a 4-story or 3-story building to be adjacent to a single-family residential neighborhood?

Mr. Klein: It doesn't address the number of stories; it just gives a 75-foot setback from a building in MX-D to where the zoning changes to residential.

Comm. Williams: We would need to use judgment on what is appropriate, then. We are talking about an apartment building approximately the same size as the building developed on the west side of Mission Road and recently opened. How far is that building from the public right-of-way?

Mr. Coleman: It is actually right up on the public right-of-way. With regard to the multi-story buildings, The Residences of Park Place are four stories, and they are actually closer.

Comm. Williams: I'm not sure we are talking the same thing. The apartment building to the west of Mission Road is how far approximately from Mission Road?

Mr. Rexwinkle: The development on the west side is The Village at Mission Farms and is 240 feet from the right-of-way on Mission Road and 255 feet from the back of curb.

Comm. Williams: So that would be the kind of view the neighbors on the east side of Mission Farms would have with the exception of the first floor of this building being elevated above the average single-family property.

Mr. Rexwinkle: That is correct.

Comm. Williams: You have a comment on landscaping that will consist of 1-3 inch caliber trees at the time of planting, and yet, their plans are showing fully developed screening. From reading the comments from residents, I understand that screening is a major consideration. It may be 15-20 years before we begin to see the kind of screening illustrated. Is it within our abilities to ask for larger caliber trees to establish better screening early on?

Mr. Klein: The LDO actually has a buffering requirement between commercial and residential; however, I believe the Planning Commission can make a recommendation with regard to that. Landscaping is approved at the time of Final Plan, so it could be directed at this point for that time.

Comm. Williams: In the paragraph about traffic, the applicant provided a traffic study that indicates the proposed development will reduce the volume of traffic, and yet, we are increasing the number of living units and number of offices.

Mr. Coleman: They are decreasing the amount of office space by 80,000 square feet, so it has a large impact on traffic.

Comm. Williams: From their previous plan, they are reducing traffic, but from the currently approved plan, they are not reducing traffic?

Mr. Coleman: No, they are reducing traffic from the currently approved plan.

Mr. Klein: Reducing the office has an impact on traffic more so than the residential does. Staff talked with them at length about this issue because we had the same kind of questions early on. They provided this study showing the reduction. Staff had concerns with regard to the hours when residential would be arriving and leaving. We were concerned that funneling through the main parking lot at 5:00 p.m. when the restaurants are really getting going, it could cause traffic conflicts. That was the reason for us wanting the right-in, right-out located a bit farther south to provide more direct access for the residents.

Comm. Strauss: It seems that staff still has issues with the sight distance on the driveways. Is it motorists going around the curve and heading back west that won't have time to see someone backing up out of a short driveway, or is it the motorist backing up out of the garage?

Mr. Rexwinkle: It is mostly the folks on the north side of the circular drive backing out of spaces. The building comes down to the ground, so we would like to have further discussions with the applicant to ensure it provides adequate visibility for those backing out so they can see cars or pedestrians coming from the east.

Comm. Strauss: Are you talking about the angled parking?

Mr. Rexwinkle: Yes.

Comm. Strauss: Traffic would not be coming from the east because it is one-way, eastbound.

Mr. Rexwinkle: If you look at where Building C goes north of the drive and curves around the north side of that circular drive, you see that the building comes down between the sidewalk and the curb. When the cars are backing out, we are not sure if they will see the cars coming from the east.

Comm. Strauss: So it is only four or five spaces. I remember they had at least a buffer of that many spaces. One alternative could be to eliminate those parking spaces, and that would satisfy the city with the safety concern. Thank you.

Applicant Presentation:

Doug Weltner, managing member of Saddle Properties, 4520 Main, Ste. 1000, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Weltner: I would like to first respond to a few questions raised this evening. We took 90,000 square feet of office off the map and replaced it with the 160 units of multi-family and seven townhomes and 6,500-7,000 square feet of office. We really look at this as a less intense use of this same land. We have a tight site with only one way in and out. We have some right-ins and right-outs but only one left-hand turn in and out. We wanted less traffic going in and out of the site, and this was one way of accomplishing that. This is not making this land more valuable. We are trying to make it somewhat equal as compare to our office land. We also did it for the strength it would add to our restaurant and retail business. The square footage got larger, but it is a floor area issue. We didn't increase height. We felt it was a good move for our development, especially as it relates to the reduction of traffic. The trip count in and out of the site at peak hours is reduced almost 50% just on those two by swapping the commercial uses we had on the approved plan with our plan we are proposing tonight on the Phase 3 site. On the overall site, traffic is reduced about 22%. You also had a comment about a 3-story building next to a single-family residential. The Woods is 84 feet from an assisted living project on 117th street, and I think it is a 3-story building. Park Place has 6-story buildings with the gated community, and they are 160 feet away. We can continue to work on this Landscape Plan and will work with the staff on that. I don't think it will take 15-20 years for the trees to mature. In 5-8 years, the screening can be dense. We don't want to go in and plant 25-ft. trees because they don't survive, so we want to find a balance. We will probably be thinning it out in 3-5 years if we plant the trees as proposed. We appreciate staff working with us. We think we have come up with some great solutions to some issues brought up in October. You will notice we took off the fourth floor. We need to work on the roof a bit to make that transition correctly. There are three homeowners affected by this most directly in the sense of this being right out their backyard. One never really participated in our neighborhood meetings, but we really worked with the other two. I am hopeful that both are satisfied.

We agree to Stipulations 1-22. I won't go through any more about the project, but we do have two issues we would like to make some clarifications on. The first issue is with the traffic. We don't want to fund the \$140,000 for the streetlight until it is warranted. It really is not fair for us to put up the money for that at Final Plan approval. We do have another issue. You are familiar with all the calculations of finished square footage and all that goes on. In our project, we have single-family villas. Originally in 2008, which was the last time the plan went through for us, we had 52,800 square feet for single-family villas. We had no definition of them. In 2010, The Manors at Mission Farms, which is owned by a bank, came in and turned into fourteen lots, which we loved. What we didn't catch at the time was that they took the property and went to 80,000 square feet of finished floor area. They just measured the allowable building footprint on each site. It wasn't even the second story or basement. We had to go back to the bank, and it became a problem because in the MX-D District, there is a rule that you can't have less than 20% of the floor area for residential and 30% for commercial. When that was put into place, I think they were all worried about the residential because they didn't want token residential with more commercial square footage. We are the opposite. We are scrimping and trying to make the 30%. I checked a couple other cities, and they don't have that number. It really hurt us because with the 80,000 in the single-family villas and what we designed in our project, we were 60,000 square feet too big in our residential project. To solve this, we put in 70,000 for the single-family villas and added 15,000 square feet of commercial to buildings that I was originally fine with the size. Building E was 45,000 and is now 52,000. I may not want to build 52,000 square feet; I may want to build 45,000, but I can't do it with these percentages. I have gone back to the bank and have gotten the bank to agree that if it has to include the basement and not the garage, they are fine with 63,000 square feet. If you agree with the definition by the staff, we would want that inserted and then take that 7,000 square feet back to the multi-family project. We are not asking for more units. I want more square footage because I want to make the units bigger. We think that is the target market. That is where the success is on Mission Road. I don't want to be restricted by this somewhat subjective and arbitrary percentage. I need to get the 70,000 reduced to 63,000. The bank has also agreed to another option. We would like the definition of our single-family villas to be livable areas, not including basements and garages. There is no definition in MX-D of how to determine square footage of single family. In the RP-1 district, square footage is the livable area of the dwelling, excluding any basement areas. That is what we like. It would take me to 49,000 square feet and would give me some flexibility on my office. I wouldn't have to build 50,000 square feet. If I wanted a bigger unit, I could. I would like to get my average square

footage per unit to 1,100. I'm a bit restricted by the ordinance. The basements don't add density to a single-family villa. When you do floor area ratio calculations, you do discounting on the square footage. It seems like a pretty good precedent to not do it. We would ask this body to give us a recommendation on which definition you think makes the most sense. Again, it will probably set precedent for other projects. That is all I have, and I'm available for questions.

Chair Rohlf: Mr. Weltner, do you have anything available that shows the changes from moving Building E and the parking garage? We were conflicted with moving Building E up even with the other buildings.

Mr. Weltner: The C2 Site Plan would probably best depict that. As you know, we move Phase 3 back to the north in alignment with Building F, which was preferred by staff. It was one of those things that would have been better from an operational standpoint for parking for our restaurants to have it set back, but it wasn't something we felt that strongly about. The right-in, right-out on Mission Road is a really nice thing for the project, and it makes sense about the traffic flow going straight across to the garage. There is better alignment now with one entrance to the garage on the south end of that. We think a lot of the traffic coming home will come from College Boulevard. When they use the left turn lane leaving the project, we don't have any traffic in the project. We really like the way the traffic has been improved with this plan.

Chair Rohlf: Is the parking garage where it was before?

Mr. Weltner: It is the same location. We used to have two entrances, and now we just have the south entrance.

Chair Rohlf: Didn't we have a visual of this development?

Mr. Weltner: Yes, we have the 3-D renderings (*Shows renderings on the overhead*). We like the way it screens the garage. It will be a brick face garage. We didn't make any changes to the rendering.

Chair Rohlf: So the parking garage becomes more visible. With respect to the stipulations, I know you spoke about No. 4. What do you think about No. 5?

Mr. Weltner: The traffic guys can sit down and work on this. I'd hate to lose parking spaces. I have 12-foot parking spaces all over this project that people have to pull out of into lanes people are driving by. I don't know that there is much difference between that and a 12-foot driveway on a townhouse. To me, I'm not sure it is really that big of an issue. We are willing to look at it. We are fine with Stipulations 1-22. We would like you to somehow adopt either option we discussed on the definition. There doesn't seem to be a lot of harm in taking the basements out of a defined square footage of a single-family villa in an MX-D District.

Chair Rohlf: What do you think the impact of making that decision would be, Mr. Klein?

Mr. Klein: He brought up a number of things. I thought I would go through a bit of the history of why the ordinance exists. The other important factor for staff is there is really no deviation available for that particular split. The reason for it was to ensure a development was not too much residential or too much commercial. They wanted flexibility, so they required a minimum of 20%. Doug is right that they didn't want a token amount of residential; however, the opposite is also true in that they wanted to ensure an apartment complex didn't have a token amount of commercial. In the past, we probably would have leaned the other way; however, now, residential has been very hot. I have received calls from people asking if MX-D properties could be 100% residential. The whole purpose of the MX-D District is to have a mix. With regard to the residential calculation, Doug is referring to R-1 and RP-1. Some of you remember that we went through a multi-year process in which we looked at height and massing of single family, especially in existing residential districts, to try to determine how to deal with what was often referred to as the McMansion. Part of the solution was to provide a floor area ratio on residential. As we went through those discussions with regard to massing, we agreed that we didn't want to penalize the people in the single-family home for the massing of the house by counting the basement that was below the ground and didn't add anything to the massing. It is not even in the RP-3 or RP-4 Districts. It is true that we have a discount in residential districts with regard to the overall floor area ratio, and that is to recognize that the residential development, often times, does not have quite the impact on traffic and other things that may happen with commercial. However, that is included in the calculation of the overall floor area ratio and is not meant to be included in the split of the 30% versus the 20%. Again, the intent was to have a Mixed-Use Development that had a substantial amount of both of those uses while providing some flexibility for them. This was a

major issue and was part of why the case was continued until tonight. The problem with changing the numbers now is we have to go back and calculate those numbers, and I think they would not work out with the 20% and 30% with how we interpret it. We have been consistent with all the MX-D Districts with this calculation.

Chair Rohlf: We really don't have recourse with the ordinance stated the way it is.

Mr. Klein: That is correct; you cannot change the ratio without a change to the LDO. Doug is looking for us to change the interpretation of whether basements are included or not, and that was intended strictly for the height and massing for single family.

Chair Rohlf: You would have to go back and recalculate the whole plan.

Mr. Klein: We would because Stipulation No. 1 states the square footage that is currently in the plan. If it still doesn't meet after the recalculation, there is a chance we would not be able to recommend approval.

Mr. Weltner: Let me clear that up. Obviously, we have 7,000 in there for the single-family villas on the plan now. The bank is totally on board with 63,000. It took a while for us to get the bank on the same page on this. If you put in the 63,000 in, the 7,000 goes to Building C and it all calculates. Or, you can put it in Building C if you choose the 49,000 and choose that definition. Then it wouldn't affect the calculations because they are all done between residential and commercial. I probably am going to come back and reduce Building E by 7,000 square feet back to 45,000.

Chair Rohlf: I'm not sure we can deviate.

Comm. Pateid: Joe, you said the plan as proposed meets the percentages.

Mr. Rexwinkle: That is correct.

Comm. Pateid: Quite honestly, I am not sure where you are going with a lot of your presentation, but it strikes me as saying it isn't the way you want to build it but that you want to do something different. Is that what you are presenting at this point?

Mr. Weltner: I can live with the 70.

Comm. Pateid: I don't want to get involved in all these calculations. You have plans presented, and they work. Do you want to build that plan or don't you?

Mr. Weltner: We can build that plan.

Comm. Pateid: I'm not saying you can't tweak the plan, but you can't expect us to evaluate volumes of calculations and references to the ordinance that are simply beyond the scope of what this hearing is about. That is my interpretation.

Chair Rohlf: And we don't have the authority to deviate from the percentages.

Mr. Weltner: No, and I am not asking that.

Chair Rohlf: I am actually surprised it came out this well.

Mr. Weltner: We can do it this way.

Chair Rohlf: I guess I don't want this to be a stop-gap plan in which we approve this Preliminary Plan and it isn't it, either.

Mr. Weltner: We are talking about something small.

Chair Rohlf: You're probably more concerned about your situation with the villas. Do you want to go ahead and proceed with this as it is?

Mr. Weltner: Definitely; I just wanted to explain the situation that has risen. We would have thrown our hands up in the air if we had known about this in 2010. We had to go to the bank to change the square footage, and it was the right thing for them to make us do.

Chair Rohlf: Before we have more questions, does anyone else have questions on this particular part of the presentation?

Comm. Williams: You commented on your presentation relative to the landscaping and the rendering that you presented that the east side of Building C would be reduced to a 3-story building with a couple of exceptions on the corners. If all the other drawings submitted and calculations are based on that being a 4-story building, where does it fit in the calculations? Are you losing that square footage?

Mr. Weltner: Yes, we lost it. We had to take out 37,000 square feet.

Comm. Williams: Is that actually reflected in the numbers in the packet?

Mr. Rexwinkle: Yes.

Comm. Williams: Even though the plans call for it to be a 4-story building, all the elevations in the packet show it as a 4-story building on the east end.

Mr. Rexwinkle: No, the correct plans show it as a 3-story building on the east end except for the north and south corners. For the most part, it is a 4-story building except for that portion of the east end. That is where other areas of the residential floor plan were reduced. (*Shows example on the plan*)

Comm. Williams: So roughly 50% of that east façade is down to a 3-story building.

Mr. Rexwinkle: That is correct.

Comm. Williams: So you are saying the area calculations in the packet reflect that section being a 3-story building.

Mr. Rexwinkle: Yes.

Comm. Levitan: Mr. Weltner, on the landscaping elevation, is there any height to the berm, or is it just the landscaping that is different heights?

Mr. Weltner: There is already a berm in place building up to the top of the drainage swale. I believe it is a 5-6 foot rise, so we are planting from the bottom of that to the top and taking advantage of the height. That was more effective than going closer to their homes for screening, and it gives a more aesthetic parkland space between.

Comm. Levitan: What is the trigger for the future traffic light?

Mr. Ley: That would be based on the warrants, which would be the traffic out there. Overland Park will do a study next summer to determine if it is warranted. The \$140,000 would be required at Temporary Certificate of Occupancy, so he would be able to construct the first building and then pay the \$140,000 prior to occupying. If he builds out and the signal is not warranted and we have to build it afterwards, we have to chase the developer to get the money.

Comm. Williams: In terms of screening material, what height do we anticipate or expect an effective screen to be?

Mr. Klein: It has to be a minimum of a 6-foot screen per the ordinance between residential and commercial. Obviously, it makes a difference in the plan and the building heights involved. That is why it goes through the building process to determine what is appropriate. I believe the applicant has provided a mixture of various deciduous and evergreen trees. Currently, when we require a shade tree, we require a 4-inch caliper with no height requirement. It seems they

are at least 10-12 feet in height at that point. That isn't to say that the Planning Commission couldn't direct larger screening at the time of planning. The argument is that if it is too large, it may not survive. Park Place planted 6-inch caliper trees around the perimeter of their project, and those will be fairly substantial after a couple years.

Comm. Williams: So for this development, the most we would expect by ordinance would be 6 feet in height. It would cover roughly the first two levels of project. An average tree grows about 1 foot a year if it's well cared for. If we have a 3-inch caliper tree, it would be ten years or more before it gets to 25 feet high.

Mr. Klein: It seems like it also depends on where the landscaping is placed.

PUBLIC HEARING

Dale Johnson, 105112 Mohawk Lane, Leawood, KS, appeared before the Planning Commission with a PowerPoint presentation and made the following comments:

Mr. Johnson: I am speaking on behalf of Ernie and Blanche Porter, who are located at 10508 Mohawk Lane. Ernie has done some extensive research in regard to potential valuation change in the property. He is unfortunately unable to attend tonight, but he asked me to bring the following letter to your attention:

"On Wednesday, November 21, 2012, I talked to a property appraiser (who is not a realtor), who explained some basic points concerning the construction project. Some of her comments were:

- Any time an apartment complex is built anywhere near a residential property, values are usually lowered, depending on the size of the complex, number of people that may increase traffic flow, etc.
- Most likely, the homes farther south would be affected most, homes closer to the new construction, obviously. You need to consider the number of yards from the homes to the apartments, visibility, lighting issues, size of the new construction, etc. Home buyers do not want apartments towering over their homes. I cannot give a detailed comment, etc.; I have not seen the plans.
- Of course, selling during construction may create some concerns to property buyers. I hope this works out for you and the new developers. All of this may affect yearly taxes on your home as well.

This goes quite well with what Brian Rooney had reported back in the October 5th meeting when his father presented for him. He refinanced his house in September, 2012, and he talked to the bank appraiser and asked if the construction would have affected the value for the second mortgage in terms of what he got in a positive or negative way. He was told it would have been negative."

Those are the comments from Mr. Porter and Mr. Rooney: it does not appear to two different appraisers working for mortgage companies that having a 4-story apartment building 250 feet away would be a big value for them. Are there any questions about those? Then I will bring my PowerPoint up here.

I will step away from the podium a few feet and ask if I look bigger or smaller. Currently, the 714 feet is the distance from my property fence line to the nearest constructed building on the property of Mission Farms. When I move to the podium, the 500 feet, which was 499.4 feet, is what the 2002 proposal for the build out of Mission Farms with the extra buildings was. If I move up to 250, it is what we are talking about for the new building. Moving up, this is what the ordinance requires as a minimum of 75 feet. Would you all feel comfortable if I made my presentation from here, or would it be a bit disconcerting? That is the comment I would like to make in regard to the change that most of our members on the east side of Mission Farms are dealing with. Of the six houses with residents, five of them are opposed to moving this large apartment building so close. During the Interact Meetings with Mr. Weltner, he informed us that the landscaping from that original 2002 plan had already been planted. (*Shows a photo*) This is a picture from my fence looking southwest into the open space where the apartment complex will be constructed. You can see evergreen trees and a row of shrubs as well. All the trees you see in the background are actually along the south edge of 435. From my second-floor room, I can see that the evergreens over there are what were put in to block the parking lot from the residents on the east side of the development. When we originally approved it at that time, we were assured some screening. You can see the berm that is currently there for the drainage ditch. It is on top, but it doesn't seem to be much of a screen for the proposed parking lot. Now, we see what is proposed with the construction of that building. I asked Mr. Weltner if he could give me a copy with only the evergreens that would still block buildings in the winter. He could basically just lighten the other trees, and you can see that the building is still pretty big. The appearance of the building is markedly different than that of the other Mission Farms buildings, which has been a contention for the residents as well. We would like to see if it actually is built, that it more closely resembles the other buildings. We think this vegetative screening is the minimum that we would accept, but we would really like to see the actual building back at the 500-foot range. We don't know if that is feasible, but that is what we would like to see. You also see the listing of the plants and shrubs. The house in the corner is the one that is not currently occupied and may

have been vacant for as many as ten years. Another gentleman here is in the second building, and Brian Rooney is the next house up. I am the third one up. Mr. Porter is the one above that.

What is also important is that you are aware that five out of seven homeowners on the east side of Mission Farms are not happy with these changes, but yet, you've not really heard anything from Mission Farms residents to the north of the property. Part of that is by design. You will note a filing from April 13, 2000 that, in the Mission Farms Declaration of Easement, Covenants, Conditions and Restrictions for Mission Farms, those residents are restricted from voicing any concerns or objecting to any of the developer's plan as long as it does not require rezoning. One particular individual was referenced in the October 5th presentation by Mr. Weltner – Stuart Stein – as being supportive of it. That is in the townhome condominium section that has not been built out yet. The four large homes, which are in the neighborhood of \$750,000 or more for the land, are restricted from voicing any objections to that. These are the four on the north side of 105th going across the north boundary. Since they are restricted from being able to voice their concern or wish to object to the project, I would ask that they be considered to have objected since they are not here supporting it. That concludes my presentation. Thank you very much.

Stuart Stein, 3749 W. 105th Terrace, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Stein: We live on Lot 12. Although I am speaking on my wife's behalf, I am also speaking on behalf of all the residents of The Villas at Mission Farms because we don't have any neighbors. I think that is significant. This subdivision went in about five years ago. My wife and I built a very nice home. We have 4,500 square feet finished. It is not a small home. I agree with Mr. Weltner. I don't think anybody could build or would want to build a home larger than ours. The bank that took back the unsold lots around us came up with a plan that we supported and you supported in going from 19 residential lots down to a lesser number. As a result of that, my wife and I purchased ground next to our home, increasing our lot by about 50%. As part of the approval process, you required landscaping to go in, but the landscaping has never happened. The road improvements went through, but the landscaping still hasn't been built. I want to talk to you about phasing and give an example. Across the street is a large, beautiful apartment complex designed by the same architect that is designing the one before you now. You can't get from that apartment complex to the wonderful restaurants in Mission Farms on the Leawood side of the street; there is no sidewalk. When the City of Overland Park agreed to allow the development of that apartment complex, they agreed that there should be a sidewalk that connects it to Mission Road. That sidewalk was never built because the Overland Park approval process, just like the one you are being asked to participate in tonight, allows for phasing. In front of that very nice apartment complex are some large lots that will probably be restaurants someday. When those are built, whether next year or in ten years, the sidewalk will be built. If you want to get from the apartment complex to the restaurant across the street, they will get killed. It is very difficult. They have to walk in the street. As my wife and I left to come here tonight, we came out of our subdivision and got to the corner of 105th and Mission at 5:30. It is a very busy street. Although we are supportive of the plan before you tonight, I do question the wisdom of the traffic study. It is a very busy street right now. There are no crosswalks. To suggest that we don't need a stoplight is wrong because those of us that have to make a left turn going south from 105th Street onto Mission Road wait for a long period of time. It is a little bit easier to take a right turn to go north. We are adding a lot of people. It is appropriate to finish the development of Mission Farms. I think that my home will have neighbors sooner if the uncertainty is taken out of the equation. The reason my wife and I are supportive, generally, of the development is that we think it needs to be finished. The uncertainty is why we have 10-11 empty lots next to us. We have a very nice home, but we don't have neighbors.

The other thing that is very important that I want to point out to you is pedestrian amenities. I said that Overland Park didn't require a sidewalk. When you approved the development of The Manors at Mission Farms, you said that the sidewalks didn't have to be built until the homes are built. I have all these nice lots across the street from me, and we have no sidewalk. All of the people in the estate homes at Mission Farms and all of the very nice people in Leawood Estates walk in front of our house all the time. It is a very nice pedestrian street. We don't have much traffic, but there are no sidewalks for people to walk on. I believe if you are going to add to the equation another 300-400 people that are going to be living in this new development, you have to provide a walkway for them to get to Leawood Park. The only way they can do it under this current plan is to walk in the street in front of my house. That is not right. We need a pedestrian walkway on the east side of the pond so the people who are living in the current condos at Mission Farms can get to Leawood Park. The gentleman that just spoke to you was very effective. He is one of five owners that live on the east side, but he is not as close to it as I am. I think it is in his best interest, if he and his neighbors want to come to Mission Farms, to be able to walk behind their house on the east side of the lake on a walkway that would connect. On the north side of the pond is a walkway, and it needs a connection point. It shouldn't

empty out on a street in front of my home. I implore you to require, as part of this plan, a pedestrian walkway from this population Mission Farms along the east side of the lake so they don't have to walk in front of our home.

The gentleman that just spoke to you talked about the fact that it appears that what is going to be built is not consistent with the existing construction. I join with him that it needs to be more consistent. In The Manors, we were required to have green tiled roof homes, which is an expense. All of the homes that will be built on the adjoining lots have to have a similar roof by deed restriction. It is identical to the roof that appears on the larger buildings at Mission Farms. I think a flat roof on these townhomes directly across from us is totally wrong. We need to have some consistency. We need to have a gabled roof like all of the other roofs in the entire neighborhood and in the Mixed-Use Development that you previously passed. I can appreciate the fact that is an issue for the Final Plan approval, but I want to be on record suggesting that the design needs to be consistent. A flat roof would be wrong.

Lastly, I want to talk about the location of the seven townhomes and how it has an effect. I am not sure how the landscaping is going to work. You will see that Lot 13 and 14 are vacant. They are very close to this. It would appear that the seven townhomes planned not only will have a flat roof, which I think is wrong, but will also cantilever over. They appear to be right up to the pond with no walkway whatsoever. That is probably part of the final design, but it is something we need to work with. I point it out to you now because staff has talked about the fact that they don't like the driveway being 12 feet in length. If it is going to become longer, it will necessitate that these seven townhomes will actually hang over the water. I think as part of the landscape plan, there needs to be a retaining wall along the lake. Instead of the water seasonally flowing under and up to these townhomes, there need to be some aesthetic improvements that need to be dealt with at the time of Final Plan. I have certain concerns. When Mr. Weltner was talking to you about these ratios, what he was saying, I believe, is he would like his commercial development to be a bit less. Let's not misunderstand what he is saying. He is saying that he would like to have a little less commercial next to my subdivision. That is not bad, folks. These ratios that he is talking about might be the ordinance, and it might be something that City Council has to deal with and not this body, but it is not wrong for him to say that he does not want to have as much commercial. It is a good point of his development that he is cognizant of the fact that the commercial building he is being forced to increase the size of is directly next to these unsold lots that are directly next to my house. They are beautiful lots that look over the water. Those of you who eat at the restaurants at Mission Farms know that we have been through some transition, but it has a beautiful patio area that is an attraction. A good restaurateur is going to open a restaurant there, and we don't want to make it too intensely commercial that it will inhibit his ability to use that patio for the purpose that was intended. I appreciate your efforts. Please consider a walkway so that all these people aren't channeled in front of our home.

Joe Nickel, 10500 Mohawk Lane, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Nickel: Thank you for allowing us to address you tonight. I just wanted to offer my take, as I've been working with the other neighbors on Mohawk. We've been meeting as a neighborhood and have been meeting with Doug and the architects. I want to say that I have been appreciative of his willingness to engage us. Several of the changes you see here are a direct result of these conversations, including the enhanced screening. We appreciate the attention he has given; at least I do. As a resident, I still would say that I have my reservations about this development the way it is presented, but I do appreciate Doug's working with us and don't want it to be lost. My viewpoint of the development has changed over the months as I've become aware of it in that I originally was concerned about the change, but I do see the benefit and like the added residential aspect. We were looking at the possibility of a medical complex or hotel, which would have been permitted. I understand having a parking lot supporting that really wasn't a good transition and something I wanted backing up to us. There are still different opinions about how far out it comes. I guess we will look to staff and the committee to resolve whether that is changed. I do appreciate what he has shown with the rendering of the vegetation; I think it is really close. As residents, we feel the more evergreens, the better. Also, in the plan that was submitted for the day, the area on the northern part of the fence is blocked out by a detail, and we'd like to see some other landscaping continue along the north part of that east boundary. The detail is all focused right at the area south of the pond. We would ask that you would encourage further landscaping and plantings in the rest of the development. The last thing I want to say is appreciate the Steins' fervor about the walkway. I appreciate that a certain number of residents make the traversal by foot. I have two comments about that. In general, this area doesn't have a lot of sidewalk, and I totally agree about the access. I bike and walk to the post office a lot. Many times, Mission is hard to cross. I don't know how you address that. I think it is a very valid concern. I think long-term it will have an impact on how well this development to the west can communicate commercial interest to the restaurants. His comment is that he would like to see a walkway to get access to the restaurants. If you put a path in, which I have opposed for ten years, it just takes the traffic and puts it through here (*referring to plan*) This probably represents the same population density

as the rest of Leawood Estates. I don't see the logic of saying the population density has an obvious access point to get to the park, which is four blocks down the road and two blocks south across the highway when this is a logical traversal route for the residents when they could walk under the bridge and be at Leawood Park. I appreciate Mr. Stein's comments and concerns. We would like to see more sidewalks, but I don't think putting a pathway here that routes people through the apartments and townhouses is a great pedestrian route. Thank you.

John Rosenbaum, 10520 Mohawk Lane, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Rosenbaum: I am the second house from the end of the cul-de-sac on Mohawk Lane. I have three really quick points because everyone has pretty much covered most of what I would say. First, I would say that I have never been excited about the idea of an apartment complex right behind my house, but with the changes that have been made, and the screening that Doug has offered, the idea is growing more acceptable to me. I think the screen will do a lot. I do share some of the concerns about how long it will take for the screen to be substantial, so if there is room for larger trees, it would maybe help the screen to be more effective more quickly. The only other thing I would say is I tend to agree with Joe that routing all the residents on the east side of the lake would probably just move the problem and not really help it get any better. It wouldn't affect me personally, but for Joe, Dale and some of the other residents, it would put a sidewalk basically in their back yard. If there is a way to direct the traffic some other way, it would probably be better. Those are my comments; thank you.

As no one else was present to speak, a motion to close the Public Hearing was made by Elkins; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Levitan, Pateidl, Williams, Elkins and Strauss.

Chair Rohlf: Mr. Weltner, I know we have talked about the pond before and what will happen around it. At this point, where do you see that pond?

Mr. Weltner: In reaction to a couple comments, I understand the residents not wanting the trail in their back yards. I like the trail and think it would be a nice amenity. If the city would like to see it, we would make it a part of the project. We also plan to do some significant addressing of the patio and courtyard area next to the lake. We will be building a wall on the south side of the lake. The lake has always been a mystery to us in the sense that we changed the first part of the project because we felt it was turning its back on the lake. We feel like this engages the lake a lot more. We have a good working relationship with the Leawood Estate neighbors. Certain members didn't want any landscaping between them and the lake. It's a subjective personal opinion. We live in the neighborhood. We don't have a fence around our yard. We love walking out the back yard and down to the project. Maybe, as this thing develops, they may get even more engaged with the project than they are today. Right now, they are in the back where it is not finished. And we are finishing the sidewalks in Overland Park.

Chair Rohlf: Thank you. This takes us up to our final discussion. I think our stipulations are good and don't need revision based on comments thus far. If there are no comments, I would ask for a motion.

Comm. Williams: It isn't on the plan, but a trail on the east side of the lake was brought up for discussion. I can understand Mr. Stein's concern about residential area traffic walking from the north of his place down through his street to the commercial development. I would ask if a trail along the lake is really convenient to the neighbors to the north. Likewise, unless you like that trail, this time of year, it's not going to get used because it will be dark and dangerous, to some extent. So he will get the traffic anyway. The neighbors on the east side of this property are already less inclined to have the trail, and if you put light on the trail, it will be even less attractive to them. The east side trail may be okay, but it is more of a recreational use. A lot of that foot traffic is going to go through the Manor Development unless you break that connection between Manor and Mission Farms. I don't think that is something that most of us would advocate, certainly the planning staff. It is a nice amenity to be able to connect the neighborhoods, which is one of the things we are trying to achieve. I wouldn't see that trail as replacing that connection.

Comm. Elkins: I have a question for staff because I tend to get lost in our process a bit. Do I correctly understand that the issue of the flat roofs is something we will have the opportunity to address at the time Final Plan is brought to us?

Mr. Klein: That is correct; however, it is actually very good to get direction at this point in time because we have the direction going into the Final Plan application.

Comm. Elkins: For my part, I have the same concerns that Mr. Stein expressed. I understand Mr. Weltner's desire for diversity, but there still seems to be a need for something that architecturally ties all this together, and the rooflines are the most obvious examples of that. I have that same concern about this idea of a flat roofline. Secondly, will this question of walkways and trails be available for us to discuss at the time of Final Plan, or should we be addressing that at this point?

Mr. Klein: It is often done at this point; however, it could be added at the time of Final Plan. We have had a little discussion with regard to the walkway on the east side of the pond. Originally, Doug decided he wanted to try to have it. It is my understanding he ran into quite a bit of opposition with regard to that, and I think he took it off the table at the last meeting.

Comm. Elkins: I agree largely with Commissioner Williams, but it seems like an issue that we regularly revisit, and I think it is incumbent upon us in our planning capacity to consider and address this issue of connecting the communities. Again, Mr. Stein makes a good point that the park is not that far away. From a planning perspective, I would be interested to hear staff's or the developer's thoughts on how this, which will be a fairly concentrated part of our Leawood population, will be connected to the amenity of the city park. I don't know if it is by sidewalk down Mission under 435 or by trail by the lake and through the subdivision. I think we all ought to make a conscious decision about this in our collective wisdom as far as the best way to connect the Leawood side of Mission Farms to the Overland Park side, which we have limited ability to do, but also how we affect the connection of this community that is going to be Leawood Farms to the park, which is one of the great assets of our community. It has always been a bit of a mystery because it is such a wonderful facility, but it has always been difficult to figure out how to get to it. I think that is an important part of our planning process.

Comm. Williams: I want to talk a little bit about the fact that we are changing the setbacks and the impact of what this plan has on what has been defined in the comments of five or six property owners as the benefit of renters. When I drove by Mission Farms earlier today, I was taken back a bit by the mass in relation of the apartment building on the west side to Mission Road, which is fine because Mission Road is a public thoroughfare with lots of traffic. Think about having that mass next to a single-family residential development. I don't think anybody on this panel would want to buy one of those homes and have it out the back door. I am very sensitive to the concerns of the property owners, many of whom have lived there for some time. I don't think this has to go all the way back to the 500-foot point, but it doesn't get the developer the number of units in the development if you split the difference. It is one thing to have the parking on the east side as the original plan proposed, and they could begin to screen the parking at ground level with the kind of landscaping that has been talked about here tonight. To get effective screening on the building, it could be ten or more years to get an effective screen. The landscape rendering is very attractive, and I give credit for it, but it will be a long time before it gets to the point to get the kind of screening that the neighbors on the east side are looking for. Breaking the pledge or promise that was made roughly ten years ago with the previous development plan to now encroach on the property is a wrong step to take. I think with some of the other projects that this body has rejected, in large part, due to public opposition, they were far less impacted than what the property owners on the east side would be. A case in point is One Nineteen when they talked about the condo building on the southeast end of the development. The people complaining were far more than 500 feet, and they were concerned about that intrusion into their neighborhood. As a result, this body denied the development. I think many of us thought that was a fairly good concept for a Mixed-Use Development at that location because the residential properties were about as protected as they could get, and yet, that project was denied. I think encroaching on these neighbors is a mistake.

Comm. Elkins: I think Commissioner Williams has probably hit the major issue here on the head. It is a concern because there was a compact made between the developer and the neighbors ten years ago when the last plan was approved. I am not sure that I agree that the One Nineteen situation is analogous, as it was an 11-story high rise, which is dramatically different than a 3-story building, but the point is still well made.

Comm. Williams: The issue there was the distance to affected neighbors.

Comm. Elkins: I understand; although, you need to do the measurement of height versus distance there. I just want to point out it was a much more massive structure in mass and height.

Comm. Williams: But not in footprint.

Comm. Elkins: Again, it is my perspective. But having said that, I struggle here because I'm not exactly sure what we expect the developer to do. I like the idea of increasing residential versus commercial. We have plenty of office and retail space, and I like the alternative of residential space here. Quite frankly, I still won't decide how I will vote until I raise my hand. The other issues are all appropriate issues for consideration, but the seminal issue of whether or not to approve this plan is how we, as a commission, feel about so dramatically reducing this setback.

Comm. Pateidl: I certainly appreciate what both Commissioner Williams and Elkins said, particularly about the commitment of the community to the residents as it relates to our approvals and the setbacks, etc. However, if I understand the previous plans correctly, while the building may have been set back 500 feet, the parking lot would not have been. I understand, from written testimony in our packet and the comments from the residents behind, there may be a preference to have the existence of an apartment building versus a lighted parking lot in their back yard as well. I defer to the residents at this point, who at least have substantially come forward in support of this project, albeit with some concerns and certainly, with the opportunity of the planning department and this commission to satisfy some of those concerns with the Final Plan. I don't feel as though the city has breached its promise to the citizens on the setback, recognizing what the true scope of the parking lot, etc. would be on that piece of ground, and given that we have had sufficient public comments, essentially, they have come back in support of the proposal.

Comm. Elkins: I have one point of clarification because I have gotten lost in the emails and letters we have received. By my count, I thought five of seven of those residents were opposed. I just want to make sure I understand what I have seen and heard. Clearly, residents tonight were at least mildly supportive, if not completely supportive with some reservations. I just want to make sure I understand what we have in front of us from the neighbors.

Comm. Pateidl: We do have an email in our packet this evening from Mr. Brian Rooney, who made a presentation in the previous meeting. He says that he supports the proposed landscaping. I appreciate this gentleman and his neighbor. That is two that I know of. I interpreted the other comments this evening to be relatively in favor of this project, including Mr. Rooney at this point.

Comm. Elkins: I just wanted to make sure I understood correctly because I think your points are good in that issue.

Comm. William: In that regard, isn't Mr. Rooney the one who, at the October meeting, has all the pictures and maps that were very much in opposition?

Chair Rohlif: I think that was before they had the opportunity to meet with Mr. Weltner.

Comm. Strauss: I think the residents have enjoyed this vacant land for a long time, and it has been an amenity. When the city made the decision to rezone this as Mixed-Use, it was really the point when the type of use of the land was going to change. I think the residents knew that at the time. I think putting the residential component closer to the single-family houses is better than the office or commercial. I agree with Commissioner Pateidl that I would rather have apartments than the lighting of the parking lot with the potential for headlights. I can appreciate the comment that the building should have the same look and design of the other ones, and we can address that at the time of Final Plan. I am in favor of this plan. At 250 feet, it is much greater than what the ordinance requires. The applicant has shown he is willing to work with the neighbors and develop a screen. That is a good compromise. It seems that most of the residents have resolved their issues and are working with the applicant to all live together.

Chair Rohlif: If there is nothing else, I would ask for a motion.

A motion to recommend approval of CASE 121-12 – MISSION FARMS – PHASES 3 AND 4 – Request for approval of a Revised Preliminary Plan, located south of 105th Street and east of Mission Road – subject to the staff stipulations 1-22 – was made by Pateidl; seconded by Strauss. Motion approved with a vote of 4-1. For: Levitan, Pateidl, Elkins and Strauss. Opposed: Williams.

NEW BUSINESS:

CASE 123-12 – 3105 IRONHORSE COURT – VACATION OF GOLF COURSE EASEMENT – Request for approval of a Revised Final Plat, located south of W. 151st Street and east of Mission Road.

Staff Presentation:

City Planner Justin Peterson made the following presentation:

Mr. Peterson: Madame Chair and members of the Planning Commission, this is Case 123-12 – Request for approval of a Revised Final Plat, located at 3105 Ironhorse Court. The applicant is requesting approval of a revised Final Plat to remove the 25-foot golf course setback on the property in order to install a pool. The easement was approved on April 1, 1996 and prohibits the placement of patios, driveways, decks, play equipment, etc. The Ironhorse Golf Course Advisory Board met and discussed this request during the July 26, 2012 meeting. Although the committee did not believe the construction of a pool on this lot would have any effect on the play of golf, they made a motion to decline approval of a violation to the 25-foot setback. Staff is recommending approval of Case 123-12, subject to the stipulations outlined in the Staff Report. I'd be happy to answer any questions.

Chair Rohlf: The Ironhorse Advisory Board and the Golf Course Committee are two distinct bodies, correct? Are these people from the managers of Ironhorse?

Mr. Klein: That is a committee specifically for the Ironhorse Golf Course. The chairman is Dick Fuller. A number of other people are also on the board, but it is specifically for the golf course as opposed to the subdivision.

Chair Rohlf: I don't understand why this is before us exactly.

Mr. Klein: A lot of the subdivisions are along the golf course include a 25-foot golf course easement to protect from errant golf course. This particular lot also has the easement. The applicant would like to construct a pool. With their relationship to the golf course, there is really no fear of errant golf balls, so they are asking to revise the plat to remove the easement from that particular lot.

Chair Rohlf: Is the advisory board not in favor of it because of the precedent it might set?

Mr. Klein: The argument was that the easement was put in place for all the lot, and they did not want to discuss individual lots; however, they also made note that they didn't feel this particular property would be affected and basically stated they would like the Planning Commission to look at it.

Chair Rohlf: And staff is recommending approval.

Mr. Klein: Yes.

Comm. Elkins: In the comments on the report, the first sentence refers to the Golf Course Advisory Board; the second sentence refers to the Golf Course Committee. Are those one in the same?

Mr. Klein: They should be the same.

Comm. Elkins: The second sentence indicates the board declined approval of a violation of the setback, which refers to putting the pool in here. What we are proposing here is an alternative that would remove the easement completely; therefore, the pool would not constitute a violation.

Mr. Klein: The motion made by Tommy Davidson said, "The committee is willing to accept it but declines approval of the elimination of the 25-foot setback. It has no adverse impact on the golf course. The committee is referring this to the Planning Commission." It was approved unanimously.

Comm. Elkins: The committee wants a different approach to achieve the same result. Rather than permitting a violation, they want to vacate the easement altogether.

Mr. Klein: It was a little hard to interpret that. Some of them had concerns with regard to getting into a case-by-case basis.

Comm. Elkins: We are vacating the easement only with respect to this particular lot.

Mr. Klein: Correct.

Comm. Strauss: I can't tell from looking at the aerial picture on the front of our report or from Google Earth, but are the golf course fairway and greens along the north, east and south sides of the lake, or is the golf play just west and south?

Mr. Klein: I believe it is just west and south.

Comm. Strauss: That's what it looked like. It is pretty wooded, and the house is pretty far from the golf course.

Applicant Presentation:

Ed Butler, 3105 Ironhorse Court, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Butler: I am here with Roger Banks from Banks Pool and Spas. My wife and I purchased this home approximately six months ago with the intention of building a pool. There was no indicator on the title search and nothing disclosed by the homeowner or the plot plan for the home itself that there was a prohibition for a pool or the 25-foot setback that would impede our ability to build a pool. We applied for our pool permit originally on June 2nd, and from that time until now, we have been trying to work through the process that would give us an affirmation or denial of our request. I have some exhibits I can show that can help explain our case. (*Goes through overheads*) My home is the 31st home on the lot of The Reserves of Ironhorse. It is the most eastern and southern lot on the property in the subdivision, and it is right behind the sixth hole on the golf course. We have illustrated where a traditional ball flight might go. You can see where my proposed pool would be, which is really, in no estimation, impeding the golfers. It is unmaintained by the golf course. As you can also see, there are other pools in the subdivision in the 25-foot setback. As a matter of fact, my neighbor has a pool 14 feet from what is considered the golf course. There is not a community pool, so it is fairly common for individual pools. I am just seeking a request for the vacation of the requirement on this particular lot so we can build the pool and hopefully take advantage of it next season.

Chair Rohlf: If no one has comments, I would ask for a motion.

A motion to recommend approval of CASE 123-12 – 3105 IRONHORSE COURT – VACATION OF GOLF COURSE EASEMENT – Request for approval of a Revised Final Plat, located south of W. 151st Street and east of Mission Road – was made by Elkins; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Levitan, Pateidl, Williams, Elkins and Strauss.

CASE 126-12 – 10314 STATE LINE ROAD – Request for approval of a Preliminary Plan and Special Use Permit for a restaurant, located at 10314 State Line Road. **(PUBLIC HEARING)**

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the commission, this is Case 126-12 – Request for approval of approval of a Preliminary Plan and Special Use Permit for a restaurant use at 10314 State Line Road in the building that was formerly Pride Cleaners. The subject property is zone BP [Business Park], and recently, the city approved an amendment to the Leawood Development Ordinance that permits restaurants in this zoning district by Special Use Permit only. The Preliminary Plan proposes the renovation of the exterior of the building and site modifications to accommodate this new tenant. The plan proposes improvements to the existing parking lot east of the building, including a new landscape island in this parking lot which will help define entrance and exit points to the property. Currently, the parking lot is just paved all the way to the access street with no entrance and exit definition. The plan also proposes a new driveway on the north, west and south sides of the building to provide counterclockwise circulation around the building and cross access with the property to the north so that folks on the west side of that building can come down through the west side of this building. In addition to the proposed parking east of the building, there is a new lot proposed for the west side of the building for a total of 14 spaces, which matches the minimum number required by ordinance. New landscaped areas are proposed adjacent to the north, west and south sides of the building as a result of the improvements being made for the parking lot and the drive. The building exterior is proposed to be modified by removing the existing canopy and adding a new stucco parapet as well as a new storefront across

the east elevation and decorative light fixtures. Two directional signs are also shown at the site's entrance and exit points. The landscaping elevations and signage as well as lighting are all approved as part of the Final Plan, which will come at a later point. Staff has received some communications from the public regarding this case which are included in the packet and on the dais. Staff is recommending approval of this case, subject to the stipulations in the Staff Report. We are happy to answer any questions.

Chair Rohlf: Can you explain how the whole process with fair market value works with respect to the flood plain? Who makes that determination, and how is it presented?

Mr. Rexwinkle: At the time of building permit, I believe the value of the project has to be provided. At that time is when the stipulation would be enforced.

Chair Rohlf: What is being measured as far as property value and improvements?

Mr. Rexwinkle: They would be applying for improvements to the existing building, so the value of that cannot exceed 50% of the fair market value of the building prior to those improvements at the time they are applying.

Chair Rohlf: Who makes the determination on the value of the improvements?

Mr. Coleman: They have submitted an appraisal.

Comm. Levitan: I think the appraisal has to do with FEMA, and if they over-improve the building, basically, they have to tear it down and lift the building up out of the flood plain, correct?

Mr. Rexwinkle: That is true.

Comm. Strauss: Mr. Ley, I assume because it wasn't brought up that the city is comfortable with the number of parking spaces. I know some of the comments have been in regard to parking being a problem in the area. At first blush, 14 spaces with employees and peak hour conditions seem inadequate.

Mr. Ley: They met our ordinance for the number of seats, so we did not require a parking study. If you look at Transystems on one of the smaller buildings of a similar size, they had 14 stalls as well.

Applicant Presentation:

Ryan White, Evans and Mullen, appeared before the Planning Commission and made the following comments:

Mr. White: It is our hope that you will also accept the report recommending adoption of this proposed usage, as we believe the sandwich delivery services provided by this Jimmy John's restaurant would strike a reasonable balance between the competing interests of the community in light of the specific limitations of the site in question, specifically regarding parking. The nature of this business is they specialize in sandwich delivery with a tagline of "Freaky Fast Sandwich Deliveries." They are also referred to as "America's Favorite Sandwich Delivery Guys." It is with that concept that we believe it will result in less traffic and less need to some of the additional parking spaces a traditional sit-down restaurant might require. As you know, this site has been vacant for quite some time. I believe the last stable tenant, Pride Cleaners, was in the late '90s with some intermittent ones in the meantime. Redevelopment of the site has been difficult for a variety of reasons. The Business Park zoning creates significant hardships for a site of this small size in terms of the setback, hence the variances we sought and were granted by the Board of Zoning Appeals. BP zoning also limits approved uses of the building, hence the Special Use Permit we are requesting here today. FEMA flood plain requirements restrict the amount of money that can be spent on the building, which makes a delivery-style business more cost-feasible than a traditional restaurant that would require more indoor renovation. Mr. Hinz has been successful in finding a use for both this site and the building that other developers have been unable to do in the past. Mr. Hinz has developed, owned and operated numerous Jimmy John's restaurants throughout the metropolitan area, and he'll be able to speak more at length about his experience and understanding of the nature of this business and how it would fit in this particular site as proposed. As I mentioned, there have been neighbor concerns raised, and significant steps have been taken to address those concerns to strike the balance and harmony we would like to achieve. The residential neighbor to the west, Mr. Paul Brion, has submitted his support regarding this proposal and has testified to the length Mr. Hinz has gone to in order to address landscaping concerns. There have also been

concerns regarding traffic flow to the north of the building in question. We have presented three different options to planning staff, and they have directed us to the current one before you tonight. Mr. Hinz is spending additional money for signage and pavement markings to address the neighbors' concerns and is also willing to grant an easement that will be drafted and recorded at his expense to provide for better traffic flow. All of these adjustments have been done to preserve the extra parking on the south side of the building to the north of the building in question here tonight. As has already been mentioned, 14 parking spots are planned, which is the amount required based on one spot for every two seats in the restaurant. As the primary nature of the business is delivery, the typical employee is of high school age and is dropped off, while the delivery drivers are traveling about rather than staying parked in one spot throughout the duration of the shift. Before we take any other questions, I would like to give the architect and owner the opportunity to present anything I might have neglected.

Scott Hinz, 20102 W. 89th Street, Lenexa, KS, 66220, appeared before the Planning Commission and made the following comments:

Mr. Hinz: We feel comfortable with our experience in the business. We have 11 other locations open now and one other one under construction. We feel the 14 parking spaces are appropriate. If you look at the parking study someone else did, it confirms that. This is a location most similar to the Metcalf location. It is also a busy street with a mix of car dealers and residential. It will work in this type of building. Do you have any questions for me?

Comm. Strauss: Mr. Hinz, did you say a parking study had been done for one of your other restaurants?

Mr. Hinz: No, I think one of the neighbors had a parking study done, and it is in your packet. We were not required to do one. We had our managers of all the other stores keep track as well as they could for a day, and we came up with a general average of 4-8 parking spaces. Typically, a manager gets there about 6:00 in the morning and doesn't open until 10:30. When the store opens, one driver and one chopper come in. For 23 hours of the day, we either have zero parking or 2-3. From 11:45-1:00 p.m. during the week is the big business, so that is when you get to maybe 10-12 at peak. Most locations have 4-5 delivery drivers at maximum, but they are mostly in and out and not parked there during the peak time. 60% of the business is delivery, and 70%-80% is lunch during the week. Even at that, we never hit the parking required at most locations.

Public Hearing

Curtis Holland, Polsinelli Shughart Law Firm, 6201 College Blvd., Ste. 500, Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Holland: I would like to introduce my client, Seth Freiden, CEO of US Toy and adjoining property owner. US Toy is a long-term business that has been in this corridor for about 30 years. Mr. Tom Swinson with Transystems is here as well, representing a well-regarded traffic engineering consulting firm here in the Kansas City metropolitan area and has consulted on many projects in the City of Leawood. For reference, I will show you where our client's property is. (*Refers to map*) This building has been here for over 30 years and is really an institution in the City of Leawood. The other property my client owns is O'Reilly Auto Parts, which is immediately south of the proposed Jimmy John's project. I've been in front of this body many times. In nearly every case, I represent developers who want to bring business into the city. I find myself in an unusual position against a project. I don't do that lightly. In this particular case, US Toy is a good client of our firm and has run its business for many years. We are not opposed to Jimmy John's restaurant, but we are concerned about its impact in this particular location in this corridor. I believe you all have familiarity with the area. We are generally talking about a corridor made up of many different businesses that have been there a long time. Most of it is in the flood plain. One of the biggest issues for businesses in the area has been the success of some of the restaurants in the area, in particular, Gates and Fritz's. At lunchtime, it is very difficult to find parking in that area. You can see nearly every space around Gates is taken. Customers will park on other business's properties, including US Toy and O'Reilly Auto Parts. It interferes with their operation of their business, taking parking spaces away from their customers. It happens that Jimmy John's picked a spot with an existing parking problem. We feel strongly that it will exacerbate the existing problem. Lunchtime is probably their busiest time, and it is also our busiest time. We have conflicts when we have fewer parking spaces available for our customers. That has always been a problem for us. We met with the representatives of Mr. Hinz's project during the Interact Meetings, and we conveyed our concerns about these parking issues we had. I wasn't there, but they admitted during the meeting that the parking may not be adequate at all times during lunch. What we have is a situation in which we will have an operator of a type of business that will generate a lot more traffic than is represented by Mr. Hinz's comments here tonight. We have an existing

neighborhood, and you really shouldn't have a negative impact when you come in. Your Special Use Permit ordinance speaks to this very issue. I will read a couple sentences from the LDO that talk about the statement of intent for special uses. It says, "Some uses of land are not appropriate in all locations within a district or under circumstances where the use imposes an inappropriate impact on the public or neighboring properties and are therefore designated as special uses." That is why they come to you as a separate application. You can look at the proposed uses and see how they are compatible with the neighboring properties. The standards for approval say, "The proposed use will not be detrimental to the public health, safety or general welfare of the city." Another says, "The proposed use will be operated in a manner that will be compatible with the surrounding areas." We are talking about the compatibility of this restaurant at this location, given what is already there and the current parking issues. Because we don't believe the parking is adequate, we don't think the application meets its burden. I would point out that the code is flawed. As indicated in the Staff Report, it says, "We determine what the parking requirements are by determining how many seats are in the restaurant." In this case, there will be 28 seats. The code would then allow for 14 parking spaces. Mr. Ley says that is adequate. I suggest to you that it is not the sole determination of whether it is appropriate. Even though it might technically meet the code, is it appropriate? In the Mission Farms project, you talked about whether it was appropriate even if it didn't meet it. What we would suggest is that the code may not meet that particular section. I think the parking standards are a bit odd, and there is a later section that says they need to provide for employee parking. I don't know why it is not required here. That is the serious flaw we find in the code: there is no provision in the code to require parking for employees. We are talking about spaces available for people eating in the restaurant. We thought the city might require a parking study because we registered our issues with staff, but no study was required. At our own cost, we engaged Transystems to look at some Jimmy John's operations and see how they are operating during these peak hours. I will have Mr. Swinson speak to that. I did email this report to you, and hopefully, you have a copy. I would note there are inconsistencies with Mr. Hinz's statement about his estimate about numbers of employees during these shifts. During the peak hour, there may be six employees. Our main objection is the lack of parking and inability to provide for parking to serve not just customers but also his employees. It appears to us that the number of parking spaces is not really dictated by seating but rather more its location and the businesses that surround the location. I agree this is highly concentrated in delivery, but there is a lot of pick-up and take-out service here with a lot of cars coming in and out. When there is not a space available, the easy solution for a customer is to just park in spots for surrounding businesses.

Tom Swinson, Transystems, 2400 Pershing Road, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Swinson: We were hired to offer an opinion of whether we believed the 14 spaces at this particular Jimmy John's restaurant would be sufficient. The amount of published data we have available to us for restaurants - particularly fast food restaurants - is very limited and quite dated. We measured parking demands at some existing Jimmy John's restaurants. We picked some that did not have drive-thru's but also had parking areas we could readily capture the customers and employees of those Jimmy John's restaurants. We looked at 4300 Roanoke, which is the corner of Westport Road and Roanoke, just west of the Plaza; 119th and Roe and 82nd and Metcalf. We went between the hours of 11:00 and 1:00 the full week prior to Thanksgiving. We documented the parking spaces available and did a parking turnover and uses study. The goal of that is to figure out what the highest demand is at any time during those two hours. We monitor activity and record license plates every five minutes. From that, we were able to identify customers as well as delivery drivers. What we could not do with certainty was determine the employee parking for those who worked inside the restaurant at those times. We talked to each manager to determine how many employees they had. The Roanoke and 119th and Roe stores had 16 employees, half of which served as delivery drivers. The Metcalf store had considerably fewer at roughly half. We made an estimate of what those employees would generate in terms of parking demand. We came up with ranges from as low as 12-14 vehicles at the Metcalf store to a high of 25-29 at any time during lunch at the 119th and Roe store. We have this information and the proposed site at State Line south of 103rd Street. How do we look at both? What was interesting in perceiving the business model here is very high emphasis on take-out and delivery. We did observe that at those other stores, and the high number of delivery drivers reinforced that. What seems to be a key factor in what the demand at this store might be is what that daytime employment population surrounding the store will be. When we look at the higher-generating stores, they have very significant daytime populations around them with the medical centers and College Boulevard corridors. When I transposed that and looked at State Line Road, I saw significant employment in close proximity of that store in any direction. The store has very good access and visibility. If this particular Jimmy John's operator were to incorporate the business model employed at the Roanoke and 119th and Roe stores where the potential seems to be the same, I think you will see a similar demand here. There is one other huge factor that is very different at this store, and that is I-435.

None of the other stores have significant highway access right there. A highway that carries nearly 150 cars a day would seem to even increase that take-out potential for this particular store. From their perspective, it appears to be a great location for their business model. If they do that same thing here that we see at 119th and Roe, I think the parking demands here will exceed the 14 on a rather regular basis during lunchtime peaks on weekdays.

A motion to extend the meeting to 9:30 was made by Elkins; seconded by Williams. Motion approved with a unanimous vote of 5-0. For: Levitan, Pateidl, Williams, Elkins and Strauss.

Seth Freiden, 2008 W. 103rd Terrace, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Freiden: I am the owner of US Toy. It is my family business, and we have been in business for 60 years. We have been in that location for over 30 years. My grandparents always had a problem with parking, so one of the solutions was to buy the O'Reilly property, which we bought to alleviate some of our parking concerns. In the lease with O'Reilly, we state that we have access to those spots behind the building. Our peak demand of customers is the same time period they are proposing for this restaurant of 12:00 -2:00. We already have significant problems with another restaurateur. Our concern is adding to that problem will hinder our business. I hope you strongly consider the impact of this business on this property. I am for business development in this spot, just appropriate business development that won't negatively impact the neighbors. Thank you.

James E. Mallow, 6597 SW Cotta Road, St. Joseph, MO, 64504, appeared before the Planning Commission and made the following comments:

Mr. Mallow: I was a Leawood resident for 25 years. In 2004, we moved to our farm in northwest Missouri. Concerning the Jimmy John's proposal, I have owned the building to the north of Jimmy John's since 1983. I have personally managed that building. I had a business in that building, so I am familiar with that area. Parking has been a problem for 30 years. I don't want to say much more about parking except instead of adding to the parking problems, I think it is time we address the issue and start subtracting from the parking problems. Adding a high-volume restaurant isn't going to improve it. The size of the property and the flood plain issues make it difficult to redevelop it. My parking lot is in the flood plain, but I still had to deal with the FEMA 50% rule when I improved my building. I appreciate their attention to detail and all they have done to get this approved. I will only say about parking that if you go to Fritz's at Thanksgiving, cars are all the way down to Jiffy Lube. People come in off State Line Road to go to Jiffy Lube, coming through my parking lot and jump the curb or go around the parking lot at a high speed because they are upset. Traffic has flowed counterclockwise around the building since I have owned it. The proposal presented at the last Interact Meeting was that traffic flow would be counterclockwise around Jimmy John's, also. I said that if you come up the narrow alley that is 18 feet wide, on the back of the building is a landing with a blind spot. I'm not sure why we want to create a blind spot. If the rotation were clockwise, the cars would see each other and have a better chance of not hitting the blind spot. It may work to have the cars go out the north side. Tonight is the first time I have heard an offer to give me permanent access for egress from my building. I couldn't do it without that. If that is how it will be and the proposed site is for clockwise rotation, I have no legal document that says I can do it. I would like to thank you for your time. I oppose this project. I think it is just too high a volume and too intense for this area. I cannot see how approval of this plan will mitigate the parking problem; I think it will just make it worse.

Paul Brion, 10328 Overbrook Road, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Brion: I am the property directly to the west of the Jimmy John's. I am the only residential property that actually borders this property. I am in favor of the project. I was not thrilled about having a restaurant in my back yard when I first heard about it. The fact it is a Jimmy John's and not a full, sit-down restaurant with not a lot of cooking, is a big plus for me. I've worked with the owner, and my concern was my loss of privacy. We came to an agreement to create a green screen and landscaping. This property has been vacant since I have lived in my house for four years. It seems like a good thing for privacy to have a vacant lot, but as the building deteriorates, it becomes more and more of an eyesore. Last year, we were robbed, and I am just thankful nobody was home at the time, but I think if we had a thriving business in there, this robbery might not have taken place. It took place between the hours of 2:00 and 4:00 during the day. They gained access to my property through the vacant lot. It definitely doesn't make me feel secure. I think having a business of any kind on that property is a positive just for the security of the area. There have been a

couple instances where we have seen things go on in the back of the property that are not of a pleasant nature. I would like to see something go in there. Scott was very accommodating in taking care of my concerns, and I also brought this up to the neighborhood on my cul-de-sac. Everyone seemed more than thrilled about getting some new trees, especially trees away from the power lines that the power company comes in and destroys every four years. Also on that note, Scott also agreed to pay for the removal of old trees that have been hacked at for 40 years that are on the other side of my fence but still on my property. Those old trees are unsightly, and that business district there is really kind of an armpit of Leawood. It would be nice to have somebody do a renovation on one of the buildings. I think it's great that he is putting up his own money to help shield the neighbors from that as well as putting in new trees and trying to clean up the area. That being said, I agree with the project and support it. I guess parking has been a problem for 50 years and probably will go on being a problem. I do know from his site plan, he is adding about nine new spots. I would say that is nine spots they don't have now. That's all I have.

As no one else was present to speak, a motion to close the Public Hearing was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Levitan, Pateidl, Williams, Elkins and Strauss.

Mr. Hinz: There were a couple different comments on the traffic report. Obviously, Gates BBQ is a whole different animal than a Jimmy John's or Subway. The traffic guy said that two of those locations they studied were ours; it is not correct: 43rd and Roanoke and 119th and Roe are not ours. I know 4300 Roanoke is the highest volume store in town; 119th and Roe is right behind it. It is interesting that they picked two of the highest volume stores in town. We feel that Metcalf is definitely the most similar. They mentioned 435 traffic, and I just don't buy that. We have a store at 151st and I-35 in Olathe. Jimmy John's doesn't draw off interstate traffic; it just doesn't happen. We primarily are serving businesses and residents in that area. People don't drive very far for a sandwich. We won't have signage off 435; they're not going to be able to see it. One thing to note that is in your packet is that US Toy tried to buy this building for several years. I think part of this is sour grapes on their part. I don't think the parking issue is quite what they're claiming. I was there this past Saturday right after Thanksgiving, which is what you would think would be one of the busiest shopping days of the year. I took pictures at 12:45 p.m., and there were all kinds of parking places at O'Reilly and US Toy. There were a lot of people at Gates BBQ. Fritz's was fine. I think there are times they have problems, but that is being a bit overstated, I think. Another thing with US Toy that shows the sour grapes is the Board of Zoning opposed us on a couple waivers that would have allowed us more parking spots because US Toy fought and caused four spots to be cut. Why are you arguing against parking spots if it is a real issue? We have tried to work with the neighbor to the north as well as we could; we didn't get a lot of response. If you go buy the building now with no one there, you will see they use it for parking during the day during the week. If we go in there, they lose that parking. That's really all I have. Jared Ross is our realtor and can speak to our dispute that Roanoke and 119th and Roe being similar areas.

Jared Frost, Point Commercial, appeared before the Planning Commission and made the following comments:

Mr. Frost: I've been involved in about 35 different Jimmy John's restaurants in Kansas City and Missouri. As one little note, probably this location would be similar to what might happen at the store off Metcalf and 83rd Street and definitely not like the store off the Plaza or 119th and Roe. Again, 435 traffic doesn't always necessarily equate to business to a location. This location would probably have decent delivery, similar to what 83rd and Metcalf would have. Thank you.

Mike MacAdam, 1510 Walnut, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. MacAdam: I am the architect for the applicant. I wanted to touch on a few issues that were mentioned. I was the person that was in attendance at the Interact Meetings, and I can assure you I did not state I thought parking was inadequate. I would have not stated it, even if I thought it were true, as I am hired and paid as an advocate for my client. I wanted to touch on the Transystems report because I think it offers up some good information. If you look at what they actually recommended as peak parking demand at each of those restaurants, you will see that the ratios they are recommending are between 2 and 3.1 seats per car, all of which are lower parking ratios than what we are proposing here, where we are 1 for every 2 seats. The 8215 Metcalf store has the same number of seats and is demographically similar to this location, and their peak parking recommendation was 12-14 cars. I think we are right in the range that Transystems has recommended. We don't doubt that there are parking issues in this park. We think they are park-wide. I think they actually start on the US Toy site. Mr. Freiden owns a 40,000 sq. ft. retail business that has 56 parking spaces, which is 1.4 per 1,000. I don't doubt that he has parking issues. Certainly, we would argue that our

business is not going to make those any worse. We actually benefit from the fact that this is the only building in the park that has gone through a thoughtful planning process and addressed parking in a way that conforms to the ordinances that you are charged with enforcing. Touching on Mr. Mallow's point, we are starting to address these in a positive way. Lastly, I want to talk about the conversation that Mr. Mallow had about traffic circulation on his site. We presented three options to the city for consideration, all of which helped address his concerns about traffic flow. One was an option to reverse the traffic flow on our site. We are still happy to consider that. Planning staff felt that the plan you have before you was the safest and most efficient option. Thank you.

Chair Rohlf: That takes us up to our discussion. Does anyone have any comments?

Comm. Strauss: I have a question for Mr. MacAdam. Have you maximized the number of spaces on this site? Could you get more parking spaces?

Mr. MacAdam: We presented several plans to the Board of Zoning Appeals that would have placed more parking on this site. We were granted several of those, and the plan you see is a result of the variances that were granted. Both Mr. Mallow and Mr. Freiden argued loudly against every one of them that would have allowed us more parking on the site. Obviously, we would have liked to have had more parking, too. The restaurant is smaller than we would like it to be, but we have to work within the number of parking spaces allowed. My client is perfectly willing to size the restaurant to be appropriate to the amount of parking we have.

Comm. Strauss: The Board of Zoning Appeals is not allowing more parking?

Mr. Coleman: You have to look at the entire site. You can't just say you can get more parking on the site. If you put more parking on the site, you remove more green space, which means you don't meet another portion of the LDO. This is a balance for this site. It is a very difficult site to develop. It doesn't meet a lot of our requirements, which is why it has been vacant for nearly ten years. The balance was between improving the site and the green space, parking and circulation. We have worked with the applicant for a long time on this particular project.

Mr. MacAdam: This is the third attempt to develop the site that we have been involved with. Both of the previous attempts were abandoned due to the constraints on the site that we have talked about: the BP zoning requirements on a site that is less than 4/10 of an acre, the flood zone requirements and a number of other things. We would be excited to actually build something finally.

Comm. Elkins: I would note that this Transystems study actually supports the application. The empirical evidence suggests the applicant is well within the recommendations of 25%-35%. I think the Transystems study has helped clarify my thoughts on it.

A motion to recommend approval of CASE 126-12 – 10314 STATE LINE ROAD – Request for approval of a Special Use Permit and Preliminary Plan for a restaurant, located at 10314 State Line Road – was made by Elkins; seconded by Williams. Motion approved with a vote of 4-1. For: Levitan, Pateidl, Williams and Elkins. Opposed: Strauss.

CASE 150-12 – PARK PLACE – THE RESIDENCES POOL AND CABANA – Request for approval of a Revised Final Plan, located at the northeast corner of 117th Street and Nall Avenue.

A motion to extend the meeting to 10:00 was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Levitan, Pateidl, Williams, Elkins and Strauss.

Staff Presentation:

City Planner Justin Peterson made the following comments:

Mr. Peterson: Madame Chair and members of the commission, this is Case 150-12 – Request for approval of a Revised Final Plan for The Residences to install a pool and cabana in the green space between both residential buildings. The plans propose to install a pool and cabana at the southern end of the open space area. The area will consist of a cabana with restrooms, equipment storage, covered deck and a grill. The pool area with a hot tub at its north end is located directly adjacent to the north side of the cabana. Chaise lounges and dining sets will surround the

pool with the 6-foot fence and brick columns surrounding the perimeter of this area. Additional landscaping will be provided around the pool area. New light fixtures are also proposed around the pool area. The pool and cabana area will be a private area and not open to the public; therefore, this fenced-in area can no longer be included in the open space requirement of 30%. With this area removed, the open space is reduced to 29.4%; however, upon completion of the future un-platted area to the east, the development will meet this 30% minimum open space requirement. Staff is recommending approval of Case 150-12, subject to the stipulations outlined in the Staff Report. I'd be happy to answer any questions.

Comm. Williams: Does the pool area become a private area mostly because it is fenced?

Mr. Klein: It is limited to the use of the people within the residential portions of the property of Park Place, including Axis Lofts and The Residences. It will not be open to the public; therefore, it will not be part of the open space. The MX-D District is a little bit different from the rest that allow plaza areas available to everybody in the development.

Applicant Presentation:

Jeffery Alpert, Park Place Village, LLC, 11551 Ash Street, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Alpert: First of all, thank you for extending the meeting to allow us to be heard tonight. I have my partner, Melanie Mann with me this evening. From NSPJ Architects, the architect of record for Park Place apartments, are Bill Prelogar and Nichole Anderson. Judd Claussen with Phelps Engineering is also here. Before they give a quick presentation on the pool, I will give a little background. When we originally brought the apartment buildings in for approval, our intent was to put roof decks on each building. Each one had a slightly different use: one was hot tubs; another was just a social deck area. When we took the buildings in for building permit approval, we ran into some significant detrimental issues with regard to those roof decks, egress issues and structural issues. It became pretty clear that the cost of mitigating those and making those decks available to the project really threw the economics upside down. We made the decision to remove those decks from the project and replace them with a more conventional swimming pool deck and cabana amenity, which sits centrally located between the three buildings and will be accessible to all 177 units.

Bill Prelogar, NSPJ Architects, 3515 W. 75th Street, Prairie Village, KS, appeared before the Planning Commission and made the following comments:

Mr. Prelogar: *(Refers to slide presentation throughout)* The currently approved Site Plan shows the landscaping in an elliptical park space, defined by the sidewalk surrounding the open space. You can tell that we have placed the pool and cabana at the south end of the park so that we can preserve the largest amount of green space along Town Center Drive so the appearance of the park is largely undisturbed by the insertion of the pool and its deck. There is a small cabana that has a total roof area of about 600 square feet; 300 of which is enclosed for restrooms and a small kitchen space. As you can tell, we have maintained the elliptical shape of the pool with the layout of the sidewalk, which has largely unchanged. Landscaping will be along the northern boundary of the pool fence enclosure to provide a living screen barrier and a little bit of privacy and separation from the open park space to the pool and pool deck. The open space that has been subsumed for the purpose of accommodating the pool and the cabana is somewhat smaller than the total amount of rooftop space we have given up. The total enclosed space is substantially smaller than the space we have removed from the building for the penthouses and roof terraces. We have actually reduced the amount of square footage that is being developed for this site. The pool is fairly modest in size and formal with a small hot tub built into it. The building itself is essentially a rectangle at 13 feet tall, 30 feet long and 20 feet wide, including the open but enclosed area at the northern end of it. The materials are the same that we have used in the buildings, so it will be compatible architecturally as well. Unless someone has questions, this concludes the remarks I have to make. We have been very pleased with how we have been able to work with staff on this.

Chair Rohlf: Will the residents have some kind of card?

Mr. Prelogar: Yes, all three of the buildings will have electronic access control, and the same card will provide access to the gates that enclose the pool. The fencing is a 6-foot wrought iron fence with brick pilasters and ornamental lights atop the fixtures.

Chair Rohlf: Mr. Alpert, these are the apartments, correct?

Mr. Alpert: Yes; and there are three buildings that, weather permitting, we should be under construction in the next two weeks. This includes the original Axis Loft building and then the R1 and R2.

Chair Rohlf: How many units are in the buildings together?

Mr. Alpert: R1 has 76, and R2 has 74. They each have 60 apartment units on top of the garage decks. R1 has 16 townhomes that line the east and west sides of the garage, and R2 has 14 townhomes that line the east and west sides.

Chair Rohlf: Are these primarily two bedrooms?

Mr. Alpert: It is a mix of one bedroom, one with dens, two bedrooms, two with dens and a few three bedrooms.

Chair Rohlf: Thank you. Does anyone have anything else?

Comm. Strauss: I'm a little disappointed because I always liked the open space. I know that it was a small fraction of the total site, but it's really about roughly 20% or so of this oval area. I was a little disappointed to see it is taken up. I'm not sure what the view will be like from the street or The Residents. There will probably be landscaping. I can appreciate the need. I hope when we are transferring open space to the undeveloped areas, it is in a way that is similar to the intent here of having the green space in a meaningful way.

A motion to recommend approval of CASE 150-12 – PARK PLACE – THE RESIDENCES POOL AND CABANA – Request for approval of a Revised Final Plan, located at the northeast corner of 117th Street and Nall Avenue – with all three staff stipulations - was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 5-0. For: Levitan, Pateidl, Williams, Elkins and Strauss.

MEETING ADJOURNED