

City of Leawood  
Planning Commission Meeting  
July 23, 2013  
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, Roberson, Rohlf, Williams, Elkins and Strauss. Absent: Jackson and Ramsey.

**APPROVAL OF THE AGENDA:**

**A motion to approve the agenda was made by Elkins; seconded by Williams. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

**APPROVAL OF MINUTES:**

Approval of the minutes from the June 25, 2013 Planning Commission meeting.

**A motion to approve the minutes from the June 25, 2013 Planning Commission meeting was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

**CONTINUED TO August 27, 2013:**

CASE 60-13 – LEAWOOD PLAZA – Request for approval of a Rezoning from SD-NCR (Planned Neighborhood Retail) to SD-CR (Planned General Retail) and Revised Preliminary Plan, located north of 123rd Street and west of State Line Road. PUBLIC HEARING

CASE 77-13 – RANCH MART – MCDONALD'S DOUBLE DRIVE-THRU – Request for approval of a Revised Preliminary Plan and Special Use Permit, located north of 95th Street and east of Mission Road. PUBLIC HEARING

**CONSENT AGENDA:**

CASE 19-13 – PARKWAY PLAZA – 8TH PLAT – Request for approval of a Revised Final Plat, located north of 135th Street and west of Roe Avenue.

CASE 82-13 – LEABROOKE 3RD PLAT – AT&T UTILITY BOX – Request for approval of a Final Plan, located approximately at the southwest corner of 148th Street and Kenneth Road.

CASE 88-13 – PARK PLACE G-20 – Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

CASE 90-13 – PARK PLACE F-06 - Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

CASE 91-13 – PARK PLACE F-05 - Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

**A motion to approve the Consent Agenda was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

**NEW BUSINESS:**

CASE 61-13 – RANCH MART - Request for approval of a Revised Preliminary Plan, located north of 95<sup>th</sup> Street and east of Mission Road. PUBLIC HEARING

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 61-13 – Ranch Mart. The applicant is requesting approval of a Revised Preliminary Plan for the Ranch Mart center located on the north side of 95<sup>th</sup> Street. The former Leawood Post Office and also McDonald's is part of that site as well. The applicant is proposing a number of modifications to that site to upgrade the center, including reconfiguring the parking lot and also providing larger buffer areas adjacent to both 95<sup>th</sup> Street and Mission Road. They also increased the buffer area along the northern property line by approximately 2 feet to add more landscaping. They have also increased the amount of open space and have come more into compliance with a number of requirements of the Leawood Development Ordinance, including the amount of paved area adjacent to the public streets. They still are not meeting the requirements of the current Leawood Development Ordinance as an existing shopping center. In order to do that, they would probably have to tear down the buildings; however, they are proposing to come much more into compliance than what they currently are. In addition to parking lot improvements, they have provided additional pedestrian areas, sidewalk connections between the main center as well as to the perimeter sidewalks. They also are proposing some changes to the elevations; however, elevations are something reviewed and approved at the time of Final Plan. They have given us preliminary elevations of the main center. At this time, there are no changes to elevations proposed for McDonald's, for the former post office or for the bank. Staff is supportive of this application with the stipulations stated in the Staff Report, and I'll be happy to answer any questions.

Chair Rohlf: So most of this is then all legal, non-conforming changes, right?

Mr. Klein: That is correct. Many current requirements of the Leawood Development Ordinance, the center simply does not meet. It was constructed at a time well before this particular ordinance that we have, and many of the regulations we have now didn't exist at the time that it was actually constructed. Currently, along Mission Road, there is practically no buffer area between Mission Road and the parking. There is no sidewalk. The applicant is providing about an 8-ft buffer at its minimum width to provide a sidewalk and push the cars a little farther back. A parking setback with the current Leawood Development Ordinance is 25 feet. They aren't meeting this, but again, they are improving the center by providing a sidewalk, a buffer and an area where landscaping can help screen cars. That is something we want to talk to them more before Final Plan with the landscaping, the lighting and the elevations of the building. They have improved the non-conformities.

Chair Rohlf: With respect to this Preliminary Plan and the things we typically look at, is there anything significant that they haven't done that could be done? I know elevations, landscaping and lighting will come next time, but is there anything that stands out that we need to take a look at tonight?

Mr. Klein: Staff worked with the applicant on a number of occasions, and the applicant has been very good at doing most of what we wanted. For instance, there is a setback area along 95<sup>th</sup> Street directly in front of the cemetery that had a 2-ft. setback from the public right-of-way. They removed that entire parking area and provided green space, which helped the parking setback and additional green space in the development. We do have one stipulation with regard to the McDonald's drive-through on the north side.

Currently, it is shown at 10 feet, and the Leawood Development Ordinance has a minimum requirement of 12 feet. Stipulation No. 3 requires them to meet the minimum width; however, we did repeat that stipulation in No. 12. I just wanted to make note that No. 12 should be deleted because it is repetitive. In addition, we received a letter from a citizen with regard to this property who had concerns with regard to the lighting, screening and moving the sidewalk farther from the road. These are issues we can address at Final Plan when we get down to more detail.

Chair Rohlf: Is that the email?

Mr. Klein: Yes, it is on the dais.

**Applicant Presentation:**

John Petersen, Polsinelli Shughart Law Firm, 6201 College Blvd., Overland Park, KS, appeared before the Planning Commission and made the following comments:

Mr. Petersen: I am happy to appear on behalf of the Regniers tonight. Rob Regnier is here representing the ownership group out of Westerfield with Johnson County Management, who is the entity that operates and leases the Regnier Family real estate, and Henry Klover is here with Klover Architects. He has spent a lot of time working through a myriad of development issues. This is a 55-plus-year-old center that was great when it was built and has served its purpose through five, moving on six decades. We want to bring some new vitality and commit some capital to repositioning it in the market, and it takes work from the developer and the planners, both ours and the city's, to try to find the balance between an existing center and new design criteria that we are all interested in adhering to. We'll find that balance. While we don't meet the requirements of the current code, we definitely did a good job with it. We have spent a lot of time with staff on this. In terms of the level of Preliminary, we can speak specifically about the Site Plan itself. We had a daunting task. We had a center that was designed to fit the standards of the day with minimal street setback along 95<sup>th</sup> Street. As the road has expanded to take care of any traffic, it has exacerbated the squeezing in of the sidewalk. The corner where McDonald's is has no sidewalk. Turn the corner to go north, and it may have 6 inches of green along Mission Road with no sidewalk, and it crosses over to Prairie Village or to a parking lot to the north. From the perimeter into the center, as things have developed, to no one's fault, is a rather undisciplined parking lot in terms of aisle width, angles of parking and points of circulation. This created congestion and safety issues inside the center. That was definitely on the table in terms of taking a look at just moving in more to create parking blocks you like to see, number of parking spaces and green areas with pedestrian options in the parking lot. There are a number of items tonight. The Staff Report is very complete, really driving down into detail. We are implementing the 3-ft. screening. We will accommodate fencing, masonry wall systems and landscaping along 95<sup>th</sup> Street and Mission. We are taking out the angled parking on the west end of the center and are taking out a row of head-in parking along Mission Road. This is tough for a shopping center owner because that is an active side. We hated to give up parking, but we felt we could work with staff and work with it. This turns that area into green space with a 5-ft. sidewalk for pedestrians. We want to make sure we are taking care of the successful businesses on that side of the center. We have added landscaping and pedestrian walkways on the interior for people to come off 95<sup>th</sup> Street sidewalks and have a protected opportunity to access the inline space. We eliminated an access drive as a result of staff's recommendation. We brought more landscaping on the north side, which kept our drive aisles wider for truck traffic in terms of servicing the grocery store. We're happy that we earned the recommendation of approval. If approved tonight, we are far from done. A citizen asked about lighting we understand lighting standards, and we will bring those details forward with Final Plan.

I thought it might be worth a few minutes to give an idea of our architectural concepts. (*Shows photos*) These photos show our center today and how we are proposing to change it. The fencing and wall system moves along 95<sup>th</sup> Street. The corner of the former Seasonal Concept building, we view as a strong opportunity to bring great retailers there and maybe a sit-down restaurant. You may recall discussions about a barbecue restaurant in the former post office building, which ended up being a very bad idea. I think even

some of the neighbors at the time suggested this might be a good replacement area for an eating concept. Henry has brought interest to that corner with outside elements. Moving down to the anchor, both economically and architecturally, is the existing Price Chopper. We don't want to take off the front of what is a relatively new portion of the center but bring design elements used in other parts to tie Price Chopper in. We will continue to work with staff on this. Moving down to what I call the Hallmark corner, you can see the iconic architectural feature that brings more interest to the center, picking up a few elements to the center across the street without being identical. The fencing concept and streetscape are intended to create a bit of a Ranch Mart District in there without being exactly the same. We are using the O'Neill's corner to bring a vertical element to it. We are not asking for approval of this tonight; it is merely to give you an idea of what we will bring back at Final Plan. We will work with O'Neill's to bring their outdoor seating area out, as it is a point of interest. Turning the corner and moving back to the east, we get into the area of less strong retail utilization and more office. We are trying to bring the scale down as we interface with the school to the north. We are trying to create nice aesthetic impact for those driving by the center and also for those choosing to visit.

*(Referring to overhead performance standards)* This is our list, and the items we did not hit were physically impossible. We have worked with your planning staff, public works, fire department and all the other entities to earn that recommendation for approval. I only have one issue with the stipulations. We are good with all but two. The first is No. 2, referring to power and utility lines being buried. I talked to staff about it today; they said it is an ordinance. If we are required to bury the power lines, this project won't happen. We consulted with KCP&L. If power lines are to be buried, they move them and give you a bill. First, do we even have room, given the fact that we are working with these very narrow setbacks? Secondly, we are likely looking at \$1 million for this portion of the project, and the lines will still be up east of the post office and across 95<sup>th</sup> Street. Ultimately, we will make our case to Governing Body on this. Secondly is the stipulation referencing our minimum drive width on the McDonald's site. We are partnering with them on our CID application. We have worked together and they will have two drive aisles to alleviate congestion. We lost a few parking spaces to do that. At the drive-through window is the existing drive, and it is 10 ft., 2 inches and has to be a minimum of 12 feet. We brought in new barriers and an island, maintaining the drive width so it works well, and 1 foot, 8 inches becomes a big deal that affects other things. I don't think we have had complaints that the drive aisle is too narrow. We know it works. I would ask for some consideration to allow deviation for 1 foot, 8 inches. With that, we would be happy to answer questions.

Chair Rohlf: I know these are just preliminary. Are the materials reflected in the drawings similar to what you're thinking about? The biggest changes would be to the roof and the stone columns?

Mr. Petersen: We are bringing the brick element to wrap the support columns, changing the roof material from the shake roof to something that fits well and is more durable and probably more in-line with commercial standards today. We are bringing some wood into it to soften it down. You see wood is used on the south side. We are not trying to be identical but rather create a theme. We are open to discussion materials.

Chair Rohlf: I just like the look of it; I think it looks really nice.

Comm. Strauss: Are there any locations where the sidewalk is adjacent to the back of curb, or is there always a buffer between the sidewalk and the street along Mission and 95<sup>th</sup>?

Mr. Petersen: We have a minimum separation off back of curb, but it's not much. It is street, back of curb to pavement pretty much. We have been able to open up 8 feet, and we have a 5-ft. sidewalk, as is standard. We have 3 feet to work with and are probably off the back of curb 1 foot.

Comm. Strauss: The green space ranges from 1-3 feet?

Mr. Petersen: Yes, 3 feet of green and 5 feet for a total of 8 feet.

Comm. Strauss: People don't like to walk close to the roadway. Is there ever an opportunity to bring the sidewalk on the other side of a retaining wall that you've built or a fence?

Mr. Petersen: We've been able to push it back in one portion because we have more room to work with, but in another, we are tight. If we move the sidewalk system and landscaping system in with the wall concept, we lose more parking and more circulation. We are a touch below minimum parking right now. We all think it will work. We just can't lose more spaces or we push ourselves into non-compliance. It is not perfect in terms of the setback off Mission Road. Some people don't like walking next to the road; right now, they're walking in the road. We think we're making good strides there.

Comm. Williams: Mark, going to the 12-ft. drive aisle, what can we do as a commission to address that tonight, or can we?

Mr. Klein: That is a regulation with no deviation allowed; however, like most of what is involved with this particular development, as long as they are not increasing the non-conformity, you have the flexibility. They would not be allowed to reduce it; however, if they stay where they are, it can be approved.

Comm. Williams: So we can take some action but not make a bad situation worse.

**Public Hearing:**

Jane York, 9219 Wenonga, Leawood, KS, appeared before the Planning Commission and made the following comments:

Ms. York: I walk through the area at least twice a day, and I didn't hear anything about them making the intersection at 95<sup>th</sup> and Mission handicap-accessible. I heard them say they would put in wider sidewalks. There are a lot of telephone poles there. There is a cutout in the curb, but at the McDonald's area, there is a pile of rocks. Is that going to be included in this sidewalk? Will the sidewalk extend to that area, making it handicap-accessible, because right now it is not?

Chair Rohlf: We'll let the applicant address that when we are finished.

Carla McCormley, National Bank of Kansas City, 3510 W. 95<sup>th</sup> Street, appeared before the Planning Commission and made the following comments:

Ms. McCormley: If I understand right, we are losing an exit by the cemetery. We have an entrance that comes in by the post office building, and then we have lost an exit in front. If you go to Price Chopper to exit through the parking center, you kind of take your life into your own hands. I'd like for someone to look at that again and see if there is any way possible to have an exit there instead of removing the exit. I know it's a big thing, but for us for access for our customers, it is important. I also have a question in regard to the cemetery with upkeep and if there are standards going forward. It has not been taken care of, and I don't know if that's the age. I just wondered about that also. Thank you very much.

Mr. Klein: (*Referring to a plan*) Currently, there is an egress that has been shifted. The one by the cemetery still exists.

**As no one else was present to speak, a motion to close the Public Hearing was made by Williams; seconded by Roberson. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

Mr. Petersen: Right now, we have a sidewalk system that will interface with the public street at 95<sup>th</sup> and Mission Road, and we will be required to make it compliant with ADA access.

Chair Rohlf: How about the cemetery?

Mr. Petersen: I am not up-to-speed on this, but we will come back at Final Plan with a process for maintaining that.

Comm. Strauss: I'd like to talk a bit about the McDonald's driveway on the northwest corner. I think it's great that the Ranch Mart area has been provided with the medians to give some order to the way cars are coming in and out, but I'm concerned about the exit for the McDonald's. There is not much distance for turning left. I see how the north side has been provided distance, but it seems like it is not there for the south side. I'm not worried about cars coming in because I think they're making that right turn in, but it's the cars coming out and how they will turn left with a queue of vehicles that concerns me. If they could come out a different exit and work their way to the back of the queue and then exit the development, it seems it would be a safer maneuver.

Mr. Klein: We can take a look at this at the time of Final Plan and work with the applicant to see if there is a way to do that.

Comm. Strauss: The McDonald's on 119<sup>th</sup>; is that just the entry location that's right next to Roe, and then the exit is farther down? I think that's the layout I was thinking about with an entry close to the arterial street but not the exit.

Chair Rohlf: Is there anything else before our final discussion? I think with respect to No. 2 with the power lines, it is an ordinance issue and nothing we can really do anything about. It would be a Governing Body decision.

Mr. Klein: Yes, per the Leawood Development Ordinance, the Governing Body is the only one that has the ability to relieve that condition.

Comm. Williams: On items 12 and 3 with the aisle width, the applicant has made a pretty good case on trying to work with what they have, given their constraints. I would be willing to go on record as saying they can keep what they have and not make it worse. It has worked for a long time. I would be in favor of eliminating those two stipulations. I don't know that we need verbiage otherwise because they have addressed it on the plan.

Comm. Pateidl: I certainly agree with that observation with respect to the efforts of the applicant in meeting a lot of challenges. As it relates to No. 12, rather than just eliminating it, noting that we have a grandfathered driveway as far as McDonald's is concerned, I would suggest verbiage to the extent that, "No existing drives or aisles shall be reduced in width with all new or modified aisles meeting the minimum width required by the Leawood Development Ordinance," meaning that if something is grandfathered, it is fine, but if drives are changed or added, they meet the minimum requirements.

Comm. Williams: I concur.

Mr. Klein: There are a number of places within the development and other locations where drive aisles were much wider than we require, and they have been reduced to provide green space.

Comm. Pateidl: As long as they meet the minimum, it takes care of it. I agree those areas are good.

Comm. Williams: Do we want to be more specific and reference the McDonald's site so there is no confusion?

Comm. Pateidl: I don't know if there are other locations in the site, which is why I looked at the generality of the comment.

Comm. Williams: I agreed until Mark comments.

Comm. Pateidl: Are there no other drives in this situation?

Mr. Klein: That was the main one this was focused on.

Comm. Pateidl: If that is the case, we could just eliminate it because it leaves McDonald's where it needs to be, and we don't have any other problems within the development. I agree with eliminating Nos. 3 and 12.

**A motion to recommend approval of CASE 61-13 – RANCH MART - Request for approval of a Revised Preliminary Plan, located north of 95th Street and east of Mission Road – eliminating Stipulation Nos. 3 and 12.**

Mr. Coleman: Instead of eliminating it, can you just say, "Except for the McDonald's drive aisle"? This would modify one of the stipulations.

Comm. Pateidl: Could we eliminate No. 3 and modify No. 12 to say, "With the exception of the McDonald's driveway"?

**Motion modified to eliminate No. 3 and modify No. 12 to add, "With the exception of the McDonald's driveway" for a total of 15 staff stipulations; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

CASE 66-13 – MISSION FARMS – PHASE 3 – Request for approval of a Revised Final Plat and Revised Final Plan, located south of W. 105th Street and east of Mission Road.

*Commissioner Roberson recused himself from this case.*

**Staff Presentation:**

City Planner Justin Peterson made the following comments:

Mr. Peterson: This is Case 66-13 – Request for approval of a Revised Final Plat and Revised Final Plan. The applicant is seeking approval to permit the construction of Mission Farms, Phase 3, which is proposed to consist of Building C, a 195,899 sq. ft., 4-story residential office building with attached parking garage. The residential component of this building will contain 132 units, decreased from the 160 units approved at Preliminary Plan. A commercial portion will be located on the first floor of the north wing and consist of just over 15,000 square feet. Also included with Phase 3 is Building D, a 15,863 sq. ft., 2-story townhome with seven residential units, which will be located directly north of Building C. Phase 3 will be located in the eastern portion of the Mission Farms development. The plan proposes the extension of the main drive eastward from its current location in order to provide additional on-street parking, access to the proposed townhomes and emergency access to the courtyard on the east side of building C. Access to the courtyard will be blocked by a gate and restricted for emergency access only. The plans are proposing to retain all the existing trees adjacent to I-435. Additionally, a dense section of landscaping is proposed along the east side of the spillway between Buildings C and the residential subdivision to the east. The plans propose numerous trees, evergreens and shrubs to create a dense screen between the two uses. Additionally, all existing

landscaping along that property line will remain. The Mission Farms Development has a required parking ratio of two spaces per residential unit, plus 3-3 ½ spaces per 1,000 square feet of lease space. In accordance with the two spaces per residential unit, one must be covered. In order to meet this requirement, staff is recommending designated parking stalls to be established for residents. As calculated, the total number parking spaces required for existing and proposed residential units is 426; the total number of spaces required for commercial floor area ranges from 481 to 561 for a grand total range of 907-987 parking spaces. The Mission Farms Development is proposing a total of 996 parking spaces, which is nine over the maximum permitted. Prior to Governing Body, staff is recommending that a parking study be provided to better evaluate the parking demands. Building C is proposed to be primarily multi-family residential with a total of 132 units. The applicant is proposing a mixture of materials, including brick veneer, tile, stucco and stone veneer. The north end across the drive is proposed to contain a commercial element on the first floor. The first floor of the north wing will consist primarily of stone framing and glass. The main drive will extend under Building C and wrap around the back of the courtyard. The courtyard of Building C will feature many amenities for residents, including a pool, barbecue areas and fire pits. In reference to the elevations, a memo is on your dais which includes a stipulation that staff recommends to add, which is that where large portions of brick are used, decorative patterns be integrated into the façade. The applicant is willing to do this. The parking garage attached to the southwest corner of Building C will be constructed of similar materials. Also in that memo is a stipulation staff would like to include, recommending that additional architectural elements be included to further enhance the garage appearance, specifically to the open areas of the garage. Staff does have a few concerns with this case, as referenced in the comments in the report. To ensure the parking requirements of the LDO are satisfied, staff recommends reserved parking stalls be created for residents and that prior to Governing Body, the applicant will provide a parking study to utilize the ULI parking model. Also as a note, a letter and plan detail were provided from a member of the public and was included in your packet expressing support for the path to be constructed on the east side of the pond. Just to be clear, that is not something they are proposing with this application and will not be approved with this application unless the Planning Commission decides to include it. Staff is recommending approval of this application, following the stipulations outlined in the Staff Report, and I'd be happy to answer any questions.

Comm. Elkins: Does staff have a position on the path or the trail?

Mr. Klein: We don't think it's a bad idea, but we don't think it is absolutely necessary. We talked about this during Preliminary. A number of the residents along the east property line were opposed to it. We have some other residents who would like to see it happen. It's something staff would not be opposed to, but it is not something we are stipulating.

Comm. Williams: In that same regard on the trail, if some residents expressed a preference for and some against, to try to add that trail back in to the plan at this point in time when all of those parties don't have an opportunity to voice their opinions, it would not be appropriate, correct?

Mr. Klein: It does make it harder. This is not a Public Hearing, so the public does not have the opportunity to voice opinions. At Governing Body, everyone is allowed to speak. You are correct; this is not the time for a Public Hearing to get on record.

Comm. Williams: Really, the time to address that trail would be at City Council.

Mr. Klein: Yes, City Council will have the same request from that particular resident.

Comm. Pateid: Mark, I'd like to take a moment and look at Stipulation No. 23. There are a number of obligations with respect to maintenance in that stipulation. It identifies that the liability for the continuance of

maintenance would be joint and several of each lot owner. Would you define for me who a lot owner is in the Mission Farms development?

Mr. Klein: The applicant may be more familiar with the ownership. In this case, I believe it is one property owner. Part of the reason that stipulation is there is that we don't know if they might sell off pieces of the development in the future. They may decide the apartments that are being approved tonight could be sold to someone who wants to own and operate those. This stipulation would be carried forward with plan approval. It is very similar to what we have at Ranch Mart as well.

Comm. Pateidl: Are there individual lot owners at Ranch Mart, such as the post office, McDonald's or the bank? Do they own the lots or lease the lots?

Mr. Klein: At Ranch Mart, it is my understanding that all lots are owned by one entity as far as the land; however, McDonald's has a land lease and owns the building.

Comm. Pateidl: My concern is Mission Farms consists of a great deal of homes as well as the commercial development and the proposed apartments. Are we putting a broad brush where we're saying that a homeowner in Mission Farms can be jointly liable for the maintenance of the common grounds throughout the whole subdivision?

Mr. Klein: Yes, that is the way the stipulation reads. I think you're probably talking about the townhomes to the north.

Comm. Pateidl: Yes.

Mr. Klein: The applicant might be better able to answer this. I talked with them earlier today about this, and they set this up on one of their other approvals. It is a standard stipulation.

Comm. Pateidl: Certainly, the homeowners' association or association of merchants to maintain the maintenance is appropriate, but my concern here is with this stipulation more than anything else is, as worded, are we trying to go back and insert a deed restriction on a homeowner? If that, in essence, is what is being accomplished with this stipulation, I really would have to take a hard look at that in terms of if it is really what we want to do and if we could even do it.

Mr. Coleman: It gives the city an avenue, should a home that is, perhaps, abandoned or the homeowner allows it to fall in disrepair and won't do the maintenance required, to do the repair and charge it back. We do have some maintenance codes set up that way, but this puts the whole development together in that respect.

Comm. Pateidl: I understand the city has that right anyway, but what you're saying with this stipulation is it gives the city the right to come in and do that and give the bill to the next door neighbor. That's what joint and several does.

Mr. Coleman: It gives the bill to the development association, which is everyone. It is all the other property owners, yes.

Comm. Pateidl: And if the association doesn't pay, then the city has the right to go against any individual lot owner in the subdivision to recover the funds.

Mr. Coleman: Yes, and if it came to that, it would probably be against all of them and not just one.

Comm. Pateidl: I have a real problem with that, but thank you for clarifying it.

Comm. Strauss: This is to go on record. I understand the applicant would be paying a fee for traffic signal on Mission Road. I drive by this development every day, and people are darting across from one side of Mission to the other. I've seen pedestrians cross. It says that the city will be working with Overland Park to look at a future traffic signal, and I'd like to encourage that to be looked at and be in place by the time this development opens up. I see a need now, and I think with this development coming in with all the people living and working in the area, we are starting to see the beginning of a safety problem. I also was curious about No. 17, which says, "All rooftop equipment shall be screened from the public view." I-435 is pretty high on this development. Would that be a total screening from passersby on I-435? It seems like rooftops are visible from the highway.

Mr. Klein: Staff requires that the screening be at least as tall as the utility that it is screening. I imagine it could be visible from a point above, but we verified that the screening was at least as tall as the utilities.

**Applicant Presentation:**

Doug Weltner, 4520 Main, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Weltner: I am the owner's representative for Saddle Properties, master developer of Mission Farms. I have Nicole Anderson and Bill Prelogar with me from NSPJ Architects. I also have Steve Coon, who will co-develop with me and Terry O'Leary. We were the development team that master-planned The Village at Mission Farms. Steve and Terry have gone on to develop several apartment projects with the Van Trust Company here in town. Judd Claussen with Phelps Engineering is also here.

We started this in October, 2012. We're really looking forward to moving this project along. We've worked hard with staff and have probably had 3-4 meetings, mostly dealing with façade elements on the garage especially. What you see on that garage today is not something they saw two months ago. If all goes well, we would like to see construction on this in early January. It just takes that long to get through the process and takes that long to do construction documents, and obviously, there is a permitting process we have to go through with the city. I want to address this question brought up with No. 23. We have a master declaration in place. I'm not sure I love the "joint and several" language; I'm not sure what the intent is. In our declaration, it is pretty strong language that each lot owner is responsible if a property fell in disrepair. We have a self-help provision in our master declarations to deal with that. When we did this in 2005, it was more that they wanted us as the commercial to do repairs on what was zoned the townhomes; I don't think they ever thought of it going back the other way. In our master declaration, those townhomes are encumbered, but then we create a subset so that they take care of their properties and we take care of ours separately. If something in our district fell in disrepair and it was something the city started giving notice about, it would be a responsibility of just the commercial properties, and then this apartment building would be the responsible party to deal with that.

*(Refers to computer presentation)* I know you are familiar with this site. We think this site could be as strong a site as there may be in Johnson County. Our project and our brand have been excellent. We have delivered, and our tenants have delivered. We really like the mix in the project. One of the things to take note of is one of the great things about this site for residential use is the noise wall, which extends all the way across the entire site of the subject apartment site. The noise wall ends at the sign on the highway, and it is a very dense tree-lined barrier that is maybe 100 feet deep. Even in the winter, it is a nice barrier. We don't have any balconies on the highway. We are able to do everything in the courtyards, everything with north and east views. We had 160 units and have dropped to 139. I think that has really improved the project and has given it more of a boutique feel. We've been able to do larger units. We are ending up almost 125-130 square feet larger unit average size than across the street.

From what you saw at Revised Preliminary, our courtyard pool is much wider in a much larger area, and that's because we took half the units out on one side of that, so we are only single-loaded units

along the highway, and we really picked up some nice space that is much improved and a much better situation. We like the way we've tucked the garage in there. We think it makes a lot of sense. The garage is facing the highway, not Mission Road. From the interior of the project, it is possible to be unaware that it even exists. It is exclusively for residents to park. We have a few details to address; we are a work in progress and would like to get your input. We feel like we've designed something that is probably as detailed and attractive a garage as I've seen. We've got actual rubble stone mixed in with the brick. We're not a subsidized project. We don't have a TDD. We haven't asked for a CID. I know the Plaza has some fabulous ornate garage grilles and things like that, but you also pay 10.5% sales tax on the Plaza to pay for them. I still think we've gone way beyond on this, and we're proud of how every aspect of this project will appear.

Bill Prelogar, NSPJ Architects, appeared before the Planning Commission and made the following comments, referring to a slide show throughout:

Mr. Prelogar: When we went through the Preliminary Plan, our neighbors to the east were very concerned about adequate screening. I put up a slide that shows the landscape buffer that is now part of the Landscape Plan. It is similar to what we've done before. We now have all the plants called out. The view window shows the view from our neighbors to the east as they look back toward our proposed development and the buffer that we're proposing. As you might have seen in the Preliminary Plan submitted and approved, we have seven row houses that edge up to the lake. The primary change has been in reaction to staff comments and also from meeting with neighbors, and that is that we have added roofs to some of the 1-story elements that are closest to the lake that would be the same concrete tile roofing we are using throughout the rest of the development. We have also modified the architecture and roofs on what I call the north wing so that the roof forms and massing tie in more closely with the existing buildings. We are trying to bring this in closer conformity to the architectural themes, materials, forms and colors that already exist. The half-circle drive currently exists. We want to finish that up, curb it and add a tiny bit more parking. It then leads underneath a part of our development that bridges across the drive, going farther east. This gives a sense of what we're doing with the parking garages. The corner towers are now stone veneer. We have added a substantial amount of brick. The forms we have used on the building evoke the forms that we've used on the other buildings throughout the development at this point in time. It has been very important to maintain a consistent approach as far as materials, forms and colors that will keep us staying within the palette that we've developed for the three buildings already built.

I'd like to talk a bit about staff's concern about the parking garage. We have met with them to discuss that and the south elevation of the building. We have made extensive additions and embellishments to what we originally proposed. We added substantially more brick and extended the stone, while still trying to stay in the context of what we're doing with the other buildings with brick and cut stone and our gabled roof elements. I thought we agreed that we would add some decorative brick panels to some of the larger brick areas to make those a little more interesting so that they were not just large planes of brick. Staff talked about adding some grilles. We think that would be introducing an architectural element that does not appear anywhere else in the development, and we are opposed to that, frankly. We are asking that the stipulation be modified to require only that we would add decorative brick panels and not grilles. I know grilles have been used on other parking garages in Park Place, and I think they look fine there. They go well with the architectural palette of materials and forms used in Park Place, but we personally don't think it's appropriate to try to take a Park Place element and apply it to a parking garage in our development that's meant to reflect architectural character of what we're trying to do.

We have a fly-around rendering that includes a fourth freestanding building that would be offices over retail. This building is essentially the same as what we presented at Preliminary Plan with the exception that we have a single loaded corridor along the south side of the building. I'll go through some of the rendered elevations we have submitted to the city. The first image shows the west façade, the central drive-under component and the south component of the west side that is our entry into our management and leasing offices and resident amenity center. The next image shows the parking garage with the stone

vener on the corners and the brick that covers most of the horizontal and vertical elements. We would apply a stucco finish to the concrete panels designed to screen the ramp within the parking garage itself. You can see how we have modified the roof of the north wing to tie it into what we've done on the buildings already built. The forms and materials of the larger apartment block are very similar to what we were using before. We have added a great deal more detail to it. Our concept here is to break the building into what would normally be considered a multi-story row house like you might see in an East Coast city. We are trying to avoid any kind of monotony. At the Preliminary Plan, we decided that on the east façade, we would drop a substantial part of that building down to three stories instead of four to bring it in to something a little closer to scale to the single-family homes to the east of us. The portion of the building that faces the highway and the south façade of the parking garage at the southwest corner of the development is an area we have worked on extensively with staff. The elevation shows a 4-story corridor wall, but we have added architectural character, forms and shapes to this so that it emulates the character of the forms we're using on the other parts of the building, including extensive windows, balconies, brick veneer, stone veneer, stucco, roof treatments, etc., so it will be virtually indistinguishable from the other sides of the building. The elevations that surround our interior courtyards have the same kinds of architectural treatments, materials, character, balconies and roofs as elsewhere. Someone asked earlier about the rooftop equipment. You can see our roofs all extend well above the fourth floor. Beyond the roofs all the way around the building is a recessed area that goes back to a flat roof. These sloping parapet roofs that surround the building are all substantially higher than the individual air conditioning units that serve the apartments.

We would like to modify Stipulation No. 11 that states, "All downspouts shall be enclosed." This is something we've discussed with staff. We understand the city's desire to not have downspouts on commercial buildings, and we understand the city has been pretty consistent with that. At the same time, the city has been pretty consistent allowing downspouts and gutters on residential buildings. What we would like to do is modify this so the components of our building that are residential over either office or over the resident amenity center and leasing, which would be commercial components, would be integral gutters and downspouts built into the building. On the rest of the building, which is all residential from ground to roof, we would prefer to be able to use gutters and downspouts, as we have done on the other buildings that have already been built. We have gutters and downspouts on the residential portion of the two north buildings. When they come down and encounter the first floor, which is retail space, they become internalized downspouts so we are not bringing them down to the ground. On the residential portions of this building where we come clear to the ground, we would like to bring those downspouts down. We use them as an architectural element to help define the forms on the building, and we think that is fairly important. We also use the gutters as a way to embellish the interest of the eaves of the building as well. We'd like to keep them. I'd be happy to answer any questions.

Mr. Weltner: I'd like to go over the stipulations we'd like to have you consider tonight for modification. Bill just described the downspouts. The other modification is concerning the memo taken out. We are agreeable to work with staff on some brick pattern on the garage brick areas; we would like to avoid the screening as we don't think it fits out architectural elements and what we've been doing at Mission Farms. The third stipulation of concern is No. 4. In the last sentence, it says, "Parking for residential shall be reserved exclusively for that use." As you know, your ordinance is two parking spaces for every unit. Obviously, Terry O'Leary and Steve Coon have had a lot of experience working with residential. The maximum need for the apartments themselves is one parking space per bedroom, and that still allows plenty of spaces for guests, even for those one-bedrooms that have two occupants. We have done two per unit in the garage. We think we can park the entire project in the garage, but we also have some exterior parking in the courtyards and along the frontage of the project. I'm not sure I want to exclusively make those residential use only because I really only see them being used by guests of the apartments. It kind of tears at the whole fabric of this MX-D and what we're trying to do with the shared parking. I really try to avoid signs all over parking lots saying, "This is for this tenant," especially in a Mixed-Use environment. This is not a huge deal, but I don't want to go down that road. I think it's more of a management issue for us. We have the parking, but I'm not sure we want to dedicate the exterior spaces.

Chair Rohlf: Mark, does that last sentence refer to the garage, or does it refer to the overall?

Mr. Klein: It refers to the overall because the ordinance requires two spaces per unit, one of which has to be enclosed; the other one can actually be out in the open for multi-family. Part of staff's concern is a situation with residents getting home from work when many restaurants are busy and some of that parking that was supposed to be available for residential is not available. We wanted to designate surface and garage parking.

Chair Rohlf: Mr. Weltner, didn't you just say there's enough in the garage to handle all the needs?

Mr. Weltner: Our experience is we feel there will be enough spaces to handle all occupants of the apartments in the garage. It is one per bedroom in the garage. I think we will never use a lot of those exterior spaces. Again, we want them to go back and forth. We are only talking about a two-hour period when those spaces might be used with the restaurant.

Chair Rohlf: I'm not sure this is something we can do.

Mr. Klein: Part of what we asked for, too, was a parking study based on ULI model. If the applicant is going to share the parking, the parking study would show if it was meeting that need or not. What the applicant is referring to is that it has been their experience that basing parking off the number of bedrooms is sufficient; however, we have to go by what the LDO states, which is two parking spaces per unit.

Mr. Weltner: We have met the LDO; the LDO just says that you don't have to mark every space as reserved. That is the modification we are requesting.

Chair Rohlf: On the entire site overall, or are you talking in the garage?

Mr. Weltner: We can reserve every space in the garage if you want. That is more of a management issue, but we can.

Chair Rohlf: Isn't the garage secure?

Mr. Weltner: Yes, and we assign spaces.

Chair Rohlf: So, we are talking about the spaces not within the garage.

Mr. Weltner: Yes, we have several spaces in the courtyard for guests. We have some parallel spaces on the east side also for guests. Most of the spaces in this area (*referring to display board*) are really for our 6,000 square feet of office, so we really don't want to take those out. That's the whole Mixed-Use concept: 5:00; they go home and we use those for additional restaurant parking spaces. Then we also would have some spaces along the garage on the outside that would be included in the two spaces per unit. I really don't ever see those being attractive spaces to the residents, but I think they'll go both ways. Maybe a guest would go after those spaces. The spaces we might want to keep to the project might be the interior spaces by the townhomes.

Chair Rohlf: Where do the townhome owners park?

Mr. Weltner: They have two-car garages. That is intended for their guest parking as well. We will do the parking study. Apparently, there are some ULI models, and we will verify that we've done the right parking ratios for the project.

Comm. Williams: Just to clarify, we are talking about No. 4, and we are strictly talking about the language of the last sentence about parking being reserved for residential?

Mr. Weltner: My suggestion would be to remove the last sentence because we are going to assign the garage spaces.

Comm. Williams: Mark, is this a provision of the LDO?

Mr. Klein: The LDO states that each unit should have two spaces: one enclosed, one not. Then the rest of the commercial development should have 3-4 parking spaces per 1,000 square feet. Staff's interpretation of that is in order to meet the parking requirements, we want to ensure that the portion for the residential is actually for the residential since that's the way the code calls it out. If you just lump the parking together, they would have the same number of parking spaces, but then the residents would just be at the mercy as far as what parking spaces happen to be available. I know that the applicant doesn't intend on doing that and wants to rent the apartments and probably is providing some designated parking, but for staff, we would like to see where that parking is to ensure that they have taken into account the residential requirement of that parking requirement.

Mr. Weltner: We actually require every tenant to park in the garage.

Mr. Coleman: The two parking spaces essentially include any guests and any other need. The applicant is proposing to have a shared parking plan that includes the residential units, and the LDO doesn't really provide for that at this time. That is why it is stated this way in our stipulation. Later, if they have their study that shows the shared parking with commercial and residential is supportable and will work, that is something the Governing Body could approve.

Mr. Weltner: Again, on this site, we are building two spaces per unit. These spaces are not needed to meet the LDO of the office building next door. We have our own parking on that lot that will be built. We are just saying we don't want to mark them and reserve them. We are not saying we are not going to build two per unit; we are going to build them on this site. We just don't want to exclusively identify them, just like I don't want to exclusively identify the office parking.

Comm. Williams: If I understand the LDO requirements and staff trying to enforce the LDO, maybe we don't have the latitude to take out the requirement, and maybe we push that up to Governing Body. Again, it goes along with the parking study. You said you've got the two, and that's fine.

Mr. Coleman: The LDO allows a deviation for shared parking in Mixed-Use if the Governing Body finds that they are agreeable to the parking study.

Comm. Williams: Again, that is a result of the parking study and Governing Body making that decision and not this body. We can move on to another issue for discussion and not change that.

Mr. Coleman: You can; your actions are recommendations to Governing Body, so you can recommend what you wish.

Comm. Strauss: What is our precedent with other Mixed-Use developments? In Park Place, are we going to designate residential spots and have them all identified?

Mr. Coleman: Park Place has its own residential parking that is exclusive for the units in the structures being built. It's not mixed with commercial or office. There is no commercial or office sharing the parking with the residential.

Mr. Klein: I asked Park Place to do the same thing. This way, we know the residential component has been met, not based on numbers but just based on what is reserved for residential.

Comm. Strauss: You don't mean showing on a plan sheet; you mean on the ground with signage.

Mr. Klein: That is correct. With a parking garage, I'm not going to ask them to mark each individual space, but if they can tell me the structured parking is reserved for residential, it is showing it on the plan. Any spaces on the surface parking, I would want them to indicate where the surface parking is reserved for residential.

Mr. Weltner: We are not Park Place, though. Every project they build is very dependent upon parking garage parking. They have different transportation district taxes to pay for that. We have surface parking more than they do.

Comm. Strauss: I was just trying to get an idea about other Mixed-Use developments. I do wonder about the idea of the intentions of the Mixed-Use and if we start segregating out where office and residential should park, are we getting away from the intentions of the Mixed-Use concept?

Mr. Klein: We understand that as well that a lot of the Mixed-Use is sharing parking. The way we looked at it is that the residents should really have a parking space they can count on whenever they come home. The office and restaurants work out great because of peak usage times alternating. I realize residential could have the same concept; we are merely trying to protect the residents' ability to park when they need to.

Mr. Prelogar: We are really losing sight of what Mixed-Use is all about. The concept behind Mixed-Use and behind the parking is you have substantially different peak hour demands for parking. The offices are full in the daytime; the apartments are empty. When the restaurants are busy in the evening, the office buildings are empty because everybody has gone home or walked to a restaurant. When everybody is coming home, basically, the parking garage has parking for every resident, and it is secure. If someone wants to go to the restaurant, he can't drive into the parking garage. That parking is reserved for the residents. It is the same with the two-car garages attached to the row houses. One of the reasons we designed the project the way we did is we have provided most of the apartment guest parking for people who would know to drive under the bridge and back into the street along the north side of our apartment block. There, we have provided parking for guests of the apartment dwellers and perhaps for someone who wants to run in quickly and leave. At the same time, it is likely that when we bring 139 new residents or more into this development, some of them will eat in the restaurants. Some will work in the office buildings. Some will shop in the retail shops. Some may own or work in the shops. That is one of the reasons we have the ordinance we do for parking for Mixed-Use. It is different than what we would have for commercial development where, if it's all retail development, the peak hour usage will use up all the parking spaces during the holidays for retail uses. It is the same way with office buildings: you provide parking for office buildings to meet the demands of the office users that are going to be there during the day. When they leave at night, it is completely vacant; nobody is parked there except janitors. We have tried to design this in such a way that resident parking is readily identifiable as available for the residents, and it's unlikely that someone who wants to go to the tavern is going to drive underneath our little bridge and steal one of those parking spaces back to the east of that. I think we've done the job. The other thing that is Doug's and my concern is this creates an internal policing problem that is really untenable. If we identify a space in front of the parking garage as a resident's space and it is empty and someone wants to go the restaurant, are we going to hire private policemen to come out and ask if they actually live there? I don't think that's a reasonable approach, and it's

certainly not needed here. Parking is available when the restaurants are busy besides the stuff that we have provided for our resident guests. I'd really like to see this last sentence go away. It's completely contrary to the whole concept of Mixed-Use.

Chair Rohlf: I think we understand your position. We'll see what happens here. Is there anything else you want to discuss?

Mr. Weltner: No, just the brick panels on the garage, modifying the downspouts and the exterior surface spaces not being marked for reserve parking.

Comm. Elkins: I would be interested in your comments about the idea of a walking path around the property to connect to the existing walking path.

Mr. Weltner: I'll be honest; I didn't know you had that tonight. In response to that, I have made a commitment to those neighbors that I was not going to put that on the plan, and that's what I did. I had 5-6 neighbors opposed to it, and I supported that. I don't think it's a horrible idea. We could probably benefit from a path coming in to our project, but I understand why they don't want it just like how I understand why Stuart Stein doesn't want that path because it is going through the townhome development.

Comm. Williams: This goes to the non-garage parking in the back to the east of the building. You're raising the grade for the apartment building in that driveway above grade. Does the wall only go up to the pavement level/curb level, or are you actually creating a screen above so that headlights of cars coming through that driveway don't end up shining on the property to the west? That was a comment Mr. Pateidl brought up on existing parking with headlights shining on eastern neighbors.

Mr. Weltner: You're talking about the wall along the creek drainage on the apartment side.

Mr. Prelogar: The wall on the west side of the drainage channel is there to deal with the grade that we need for the apartment element. On the east side where we've put that large landscape buffer, we're planning to build a berm there to then plant also so that it will be the effective mechanism for blocking headlights from shining into our neighbors' back yards to the east of us. The top of the wall is essentially at the grade level of the pavement.

Comm. Williams: Again, you're addressing the headlight question with dense foliage on the east side?

Mr. Prelogar: That is correct.

Comm. Williams: The rendering is showing what would be a mix of evergreen and deciduous, so you will lose deciduous in the winter, which would allow light to pass through it.

Mr. Prelogar: However, at the base, we have a wide variety of shrubs, almost all of which are evergreen shrubs that will not lose their leaves. Car headlights are 3 feet off the ground at the most, even for a truck.

Comm. Williams: How high is the wall?

Mr. Weltner: It is curb high at the wall.

Comm. Williams: The berm is actually built up to the curb height and then you get the evergreen shrubs on top of that berm?

Mr. Prelogar: That is correct, and it is on the east side of that drainage ditch.

Comm. Williams: All right, and just for confirmation on your plan that shows the light levels from all of your poles, you have a zero level of illumination basically just to the east of the tree line, and then along with that, any lighting that is on the east side of the buildings is of a nature that it doesn't shine out?

Mr. Prelogar: The only lighting that we would expect to be along that east side would come from apartments with balconies, and that would be low wattage decorative light at each one of those. We have a passage underneath to provide fire truck access to the courtyard. The only lighting in there will be some down lights in the soffit of that driveway.

Comm. Williams: On your east elevation, you are showing what seemed to be a long mass of building, but if I'm correct, part of that elevation is actually showing that bridge structure that sits more to the west of the apartment building, so the building overall doesn't look as long as it does? On the drawing I'm looking at, it is the center one you have faded out. That would be the entire length as you look at the elevation, and in reality, a chunk is out front and then the passageway is farther to the west.

Mr. Prelogar: Yes, the uncolored drawing in the middle has the element that is the colored element on the bottom of the sheet over on the right-hand side. We made that a little less intense as far as line weight to indicate that it's a couple hundred feet.

Comm. Williams: I asked largely for the benefit of anyone in the audience who may be looking at this and have concerns. Thank you.

Chair Rohlf: If there is nothing else for the applicant, this takes us up to discussion. We have to decide if we want anything on the record about No. 4 and No. 11. We have the staff addition on the brick, which is a separate memo. I believe that's all.

Comm. Elkins: Before we get to specifics, I would like to comment briefly on this idea of a path. I am disappointed to see that it is outside the purview of what we can do today, as under our LDO, it would probably constitute a major change, which we're not permitted to consider. For purposes of the Governing Body when they look at this, I would strongly encourage them to reconsider this idea of a path. I understand the concerns that the neighbors have expressed in the past, but as a city both as a matter of policy and as amendments to our ordinance, we have embraced and adopted this idea of pedestrian traffic within our city. It seems that we are just missing a great opportunity right now to support that matter of public policy that we have established in a number of other instances. I think this is an excellent development. I enjoy it personally, and I think it's a great addition to our community, but if there was one criticism I would have generally to it, it is that I don't think it is as pedestrian friendly as it might be. To get from one part of the development to another as a pedestrian or cyclist is difficult. While the developer has made efforts as he puts together the residential part of the plan to address that, as I look at the plan from a high level, I am concerned about the extent to which it has embraced the idea of pedestrian traffic from surrounding neighborhoods, which will be critical in the long run to the lifeblood of this development. I would encourage the Governing Body to look seriously at this as to whether it's appropriate under the public policy principles that we have adopted to embrace this idea of bicycle traffic and pedestrian traffic.

Chair Rohlf: Sir, I see your hand, but there is no Public Hearing on a Final Plan.

Unidentified Speaker: I understand you're saying there is no Public Hearing, but we have four families here from Mohawk Lane tonight, and you're saying this is going to be part of the record. Yes, Mr. Stein's document is in the packet; you just discussed it. You've asked for discussion on it, and I think to exclude use

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Chair Rohlf: It can be discussed at Final Plan with City Council.

Unidentified Speaker: We have four families here tonight who oppose the walkway.

Chair Rohlf: There is nothing I can do; is that correct, Mr. Coleman?

Unidentified Speaker: Then why did you discuss it?

Chair Rohlf: I think an email was inadvertently included in our packet.

Unidentified Speaker: That is our concern because now that opens it up. I agree with you about having additional walkways, but there is a clear path. That's not the only path to the park. You go down Mission Road; that's closer. It's a great idea, but don't change the rules.

Mr. Coleman: They can make their opposition known at Governing Body.

Chair Rohlf: There will be a notice at the meeting. Is there anything else?

Comm. Levitan: On the reserve parking issue, I tend to agree with Mr. Weltner. It's a management issue and a market issue. If the commercial parking is overtaking the residential parking, you will hear from the residents on it, and they will have to manage it. It is definitely difficult to police. I would tend to be in support of Mr. Weltner's position on that. Going back to an issue in previous hearings on blind spots and parking, was that addressed to staff's satisfaction?

Mr. Klein: We didn't really have any issues with regard to the sight triangles.

Comm. Pateidl: For the same purpose of being on the record about the parking, I fully agree with the fact that the market pressures will mandate or dictate how this parking is used. The developer has met the obligation of types, numbers and nature of parking that's available for the overall development. Further, in Stipulation No. 5, prior to the Governing Body seeing this, there will be another parking study that is provided that will address this question even further. I would concur with the request that we strike, "Parking for residential shall be reserved" from Stipulation No. 4. I will defer to my fellow commissioners with respect to the downspouts being enclosed; however, if we have already allowed residential downspouts in unenclosed areas within the same development, I can defer to the professionalism of the architect with respect to the appearance on the building. I could support the removal of No. 11 to that end. I'm reluctant to pass on No. 23 without further comment. My concern is for the citizens who aren't here and who don't have a say tonight by our rules, and that is just the way it is. The fact is what we're suggesting is that we are going to incorporate a statement into the deed restrictions that will be presented to any potential buyer when anyone wants to buy the home that says they have a deep-pocket exposure in the subdivision or development. That's not what they bought into to begin with, and I don't think it serves the purpose and doesn't serve the intent. As Mr. Coleman pointed out, if there was a problem, we wouldn't go after one; we would go after them all. That could easily be rectified in this stipulation by simply removing the "and severally" terms from the verbiage of the stipulation. That allows for joint responsibility, for shared assessments, for the city to take action against any and all individuals but fairly and equitably and not severally. I would highly encourage my fellow commissioners to concur with me that we strike "severally" from the verbiage of the stipulation.

Chair Rohlf: Mr. Coleman, is that something we could do?

Mr. Coleman: I would just say that this stipulation has been in every development that I can remember, prior to me even working for the City of Leawood. It is a standard stipulation on all developments.

Comm. Pateidl: In response, this is the first time I've seen "several" incorporated into the requirements for the maintenance. I fully agree that the funding mechanism is and should be there, and that's for the benefit of the city, but it has to be there equitably. If it's been that way in the past, I would say we've made a mistake for a long time.

Comm. Elkins: I would voice my concurrence with Mr. Pateidl. If it has been done in the past, it doesn't make it right this time. If I'm a homeowner there and I happen to be the last man standing and suddenly it's my responsibility to fix the entire residential development, I don't think that's a very fair outcome. I don't think it's what's intended by staff; I don't think it's intended by putting this in here, but it's certainly what it says to me. I concur with Commissioner Pateidl on this and on the other stipulations as well.

Mr. Klein: That stipulation has been part of our Staff Reports and was given to us by the legal department quite some time ago. My only concern is changing something when maybe they know something that we don't.

Chair Rohlf: It is noted in the record, so perhaps someone should take a look at that.

Ms. Shearer: What is the main objection to the stipulation? Is it the "joint and several liability" as it pertains to the residences?

Comm. Williams: I think so.

Comm. Pateidl: Joint liability means that all parties involved in the community have a shared responsibility to cover an expense and that whoever has incurred that expense, be it the city or the developer or a contractor, has a right against each of those individuals for their share. When you go to several liability you open up a deep-pocket theory, and any homeowner or any individual involved in the community, whether under this verbiage they are commercial or residential, could have the sole responsibility if action were taken. I'm stating this for the record because I'm sure you understand that. I see that primarily as a problem for marketability of real estate within our community if we have that. If somebody is going to go look at a couple-million-dollar house and reads the deed restrictions and says, "Wait a minute," if it's not under deed restrictions now, I don't know that we, as a community, could force them to do that at this point in time. I think there is a structural flaw in that stipulation. I would encourage you to review it, and I simply believe it's an inappropriate extension of liability.

Ms. Shearer: Mr. Klein is correct. It is a standard stipulation we have with most developments. That is why I directed my question toward determining if the concern is directed toward applying to the residents and the homes rather than just the commercial entities there at the development.

Comm. Pateidl: Mr. Weltner indicated they have split the responsibilities for the residential and commercial part as far as their funding mechanism is concerned. This stipulation says that there will be a funding mechanism suitable to the planning department or Governing Body to meet this obligation and that if the maintenance isn't performed, the city can and will do it and then recoup their funds from either that funding mechanism or, as Mr. Coleman indicated, from the individual property owners responsible, whether it be residential for the residential common area or commercial for the commercial common areas. It all depends on whether or not that deed restriction or homeowners' association agreement is sufficient to meet the needs as identified by the planning department. If it is, that's fine. Obviously I don't want to get into the specifics and the individual aspects of every homeowners' association; that is certainly not our intent. Our obligation and fairness to the homeowners, I believe, is to inform them that, "Yes, you have a shared responsibility," but to take it to an individual responsibility is overreaching, I think.

Comm. Elkins: To piggyback on that, the concern for me is that a single homeowner could be financially responsible for the entire cost of rehabilitation of the common areas. That is the fairness concern I have at a very basic level.

Ms. Shearer: And that is why my question was, "Is the concern because of the residences?" If there were no residential component to this development and it was only a commercial development, would you have the same concern? This is a standard stipulation, so I'm trying to figure out what the concern is so we can address it.

Comm. Elkins: Personally, yes, it is a concern of a residential homeowner. I guess I would view a business owner or commercial owner in a different light. My main concern is an individual homeowner might be financially responsible for the entire rehab project if it's necessary.

Comm. Pateidl: And I would disagree. I would use Ranch Mart as a very good example. If McDonald's, the bank and the post office were each individual, separate lot owners within that development, I would not think that several liability should be applied to those individual pieces of property. Joint, yes; responsible, yes; funding, yes. If you don't, you can lien their property or do whatever, but several liability for this type of obligation, I think, is inappropriate.

Ms. Shearer: Thank you for clearing that up. I wanted to make sure I understood the concerns so we can discuss this going forward. To reiterate what Mr. Klein said, we have included this stipulation many, many times. If that is a concern, we will need to review that.

Chair Rohlf: Anything else? I would entertain a motion.

**A motion to recommend approval for CASE 66-13 – MISSION FARMS – PHASE 3 – Request for approval of a Revised Final Plat and Revised Final Plan, located south of W. 105th Street and east of Mission Road – with the following changes to Staff Recommendations:**

- **No. 4: Delete the last sentence, "Parking for residential shall be reserved exclusively for that use."**
- **No. 11: Instead of a blanket statement that all downspouts shall be enclosed, "All gutters and downspouts shall be enclosed except on residential portions of the buildings and all total residential buildings."**
- **No. 26: Add this stipulation, referencing the memo provided by staff relative to the use of brick patterns or panels on the parking garage, eliminating the requirement for grilles.**

**For a total of 27 Staff Stipulations – was made by Williams; seconded by Strauss. Motion approved with a vote of 4-1. For: Levitan, Pateidl, Williams and Strauss. Opposed: Elkins.**

CASE 71-13 – CAMELOT COURT – CORNER BAKERY – Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Roe Avenue.

**Staff Presentation:**

City Planner Justin Peterson made the following presentation:

Mr. Peterson: This is Case 71-13 – Request for approval of a Final Plan for a Tenant Finish. The applicant is seeking approval to locate Corner Bakery within Building M of the Camelot Court development. Building M is an existing 10,312 sq. ft. building at the southeast corner of Roe and Town Center Drive. Corner Bakery is proposed to take up 4,268 square feet of the western portion of this building. The building is constructed primarily of brick with large storefront windows along the south and west elevations. The brick on the facades of the building will generally remain unchanged. On the south elevation will remain the entrance with new awnings proposed that will stretch the length of the storefront. The awning will have black and

white alternating pattern with gooseneck lights dispensing light below on the awning. The west elevation, which faces toward Roe, is the location of the proposed concrete patio, which will measure 31 feet by 14 feet for a total area of approximately 607 square feet. An awning similar to that on the south elevation is proposed along the west elevation as well. Shutters will be installed below the awning to cover the existing windows on the west elevation. The north elevation, which faces Town Center Drive, is the location of the existing trash enclosure. This enclosure currently extends 10 feet, seven inches from the building and is 7 feet, 10 inches in height and encroaches into the rear setback of the building, making it a legal, non-conforming use. This enclosure is proposed to be replaced. The proposed trash enclosure it will replace will not further encroach into this setback, thus not increasing the non-conformity. Staff recommends approval of Case 71-13, following the stipulations outlined in the Staff Report, and I'd be happy to answer any questions.

Comm. Williams: We've seen this before, and the objection to the patio was because it had built structures and was into the setback area. All they're doing now is just paving the area for the patio and using temporary umbrellas on tables, and that is fine?

Mr. Peterson: Correct.

Comm. Strauss: I noticed there is no signage proposed with this Final Plan. Isn't that when signage is normally presented?

Mr. Peterson: Signage can be approved administratively now.

**Applicant Presentation:**

John Petersen, Polsinelli Shughart Law Firm, 6201 College Boulevard, appeared before the Planning Commission and made the following comments:

Mr. Petersen: I am appearing on behalf of 95 West, the owner of the Camelot Court shopping center. Jim Harpool, director of MP Management is also here representing the ownership. Frank and John Westermajer are here with Corner Bakery, along with John Miller. Henry Klover is here with Klover Architects. We've worked through this for a Final Plan so we can get Corner Bakery's TI started. We'll come back and make changes that will comport up more with the shopping center when we bring that Final Plan back. We are waiting for Hen House to sign off on our improvements and reconfigure their internal space to comport with our outside façade. We see that a few months down the road, but Corner Bakery is going to be such a strong tenant that staff saw fit to enable them to move forward. We've had an opportunity to review Stipulations 1-12 and find them acceptable. I'd be happy to answer any questions.

Chair Rohlf: If there are no questions, would someone like to make a motion?

**A motion to recommend approval of CASE 71-13 – CAMELOT COURT – CORNER BAKERY – Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Roe Avenue – with 12 Staff Stipulations - was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

CASE 78-13 - KANSAS CITY ORTHOPEDIC INSTITUTE – GENERATOR ENCLOSURE – Request for approval of a Final Plan, located south of College Boulevard and west of Tomahawk Creek Parkway.

**Staff Presentation:**

City Planner Justin Peterson made the following presentation:

Mr. Peterson: This is Case 78-13 – Request for approval of a Final Plan for a generator enclosure. The applicant is requesting approval to install an enclosure around an existing backup generator on the west side of the Kansas City Orthopedic Institute building. The proposed enclosure will measure 23 feet at its longest dimension as measured from east to west, with the width of the generator adjacent to the building at 13 feet. As it extends westward away from the building, the width decreases to 6 ½ feet. The existing generator is approximately 40 feet from the nearest property. The applicant is stating that sound or noise emanating from testing or other operation of this emergency generator shall be no greater than 70 decibels measured at 23 feet from the enclosure. This is in compliance with the LDO regarding hospital generators that have been installed on or before January 1, 2003, which allows a maximum of 70 decibels measured at 25 feet from the generator. The enclosure will measure just over 15 feet in height and will be constructed of prefinished sheet metal panels in the color of sable bronze. The applicant went before the Board of Zoning Appeals on June 26, 2013 and was granted a variance to the 40-ft. building setback to place the enclosure 28 feet from the rear of the property line, resulting in a 12-ft. encroachment. On your dais is a memo modifying the language of Stipulation No. 2 to include additional language from the LDO. Staff recommends approval of Case 78-13, following the stipulations outlined in the Staff Report, and I'd be happy to answer any questions.

Chair Rohlf: The reason the stipulation is modified is so it is consistent with what we approve for the revision to the LDO?

Mr. Klein: That is correct. It mirrors what is in the LDO.

Comm. Williams: That would be for No. 2?

Mr. Klein: Correct.

**Applicant Presentation:**

Greg Musil, Polsinelli Law Firm, 6201 College Boulevard, appeared before the Planning Commission and made the following presentation:

Mr. Musil: About a month ago, you approved the LDO amendment to handle emergency generators required at hospitals of this type. We took the step to go to the BZA because the enclosure was going to encroach into the 40-ft. setback. Now, we are here to get the Preliminary Plan approved so we can purchase and install the enclosure. In the packets, you will see the additional landscaping being put in as part of the plan and the upgrade. I appreciate the clarification on No. 2. On No. 1, we are also proposing to install a small deflector on the condenser for the MRI unit in addition to the enclosure on the generator. I just want to be sure everyone understands that and that it is included. That is another effort to work with the homeowners on our west on trying to protect them from the noise levels from this monthly testing.

Chair Rohlf: What is that unit called? We will need to add it to the stipulation.

Mr. Musil: It is called a heat metal deflector or hood. It is just to the north of the generator enclosure between that and the wall of the building. We would be happy to answer any questions.

*Unidentified speaker with inaudible comments*

Comm. Williams: Do we need to modify No. 1? Staff is indicating it is included in the plan.

Chair Rohlf: I think it is good.

**A motion to recommend CASE 78-13 - KANSAS CITY ORTHOPEDIC INSTITUTE – GENERATOR ENCLOSURE – Request for approval of a Final Plan, located south of College Boulevard and west of Tomahawk Creek Parkway – with all four staff stipulations, modifying No. 2 to reflect the comments of the staff memo dated July 23, 2013 – was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

CASE 84-13 – PRELIMINARY PLAN FOR TOWN CENTER PLAZA – PEDESTRIAN PLAZA – Request for approval of a Revised Preliminary Plan, located north of 119th Street and east of Nall Avenue. PUBLIC HEARING

**Staff Presentation:**

City Planner Michelle Kriks made the following presentation:

Ms Kriks : May I present Case 84-13 – Request for approval of a Revised Preliminary Plan for a pedestrian plaza at Town Center Plaza, located north of 119<sup>th</sup> Street and east of Nall Avenue. The applicant is seeking approval to transform the eastern vehicular access point at Town Center into a pedestrian walking and shopping plaza. Each end of the plaza is proposed to have large circular intersections and covered valet buildings surrounded by updated landscaping. Within the plaza, the applicant is proposing a water feature that will be approximately 31 feet in diameter, arbors to provide shading, decorative hardscaping, landscaping and seeding. Additional retail, relocated mall office, public restrooms and second-level office space are also included, equaling approximately 8,750 square feet of new space. Staff would like to modify Stipulation No. 1 to change the square footage from 12,028 to 8,750. Staff recommends approval of Case 84-13 with the stipulations outlined in the Staff Report, and I'm happy to answer any questions.

Comm. Elkins: I'm trying to get an overall understanding of this. If this modification goes through as proposed, does there still remain what I would call a vehicular cut-through from one side of Town Center Plaza to the other side?

Ms. Kriks: That is correct. At this time, the western vehicular access point will remain accessible, and they will close off the eastern side to make it a pedestrian connection.

Comm. Elkins: That will leave only one cut-through.

Ms. Kriks: That is correct.

Chair Rohlf: With respect to the comment about extending the pedestrian connections, they are not currently shown on the drawings.

Ms. Kriks: The applicant has included pedestrian connections north to the pad sites where Hereford House and the Sprint retail space is. Staff is working with the applicant to extend pedestrian connections down to 119<sup>th</sup> Street. It can go in conjunction with the goals of the City of Leawood.

Chair Rohlf: Will it extend along Lots 2 and 3?

Ms. Kriks: Yes, up to the end of Lot 12. They do not own the lots where Hereford House and Sprint are, so they will take the pedestrian connection to the end of that drive.

Comm. Pateidl: Just so I understand what the staff comment is about, on Page 5, there is a discussion: "The details of the water feature centrally located within the plaza shall be required to ensure public health and keep with the alethic quality. . ."

Ms. Kriks: That is a typo; it should be “aesthetic.”

Comm. Pateidl: In general, would we describe much of the improvements that are going to be made, with the exception of that additional space, common areas to Town Center? Then I find an absence of requirements for maintenance and responsibility in funding, and I’m intrigued by the absence. Is there a reason for that?

Mr. Klein: We can add it. We have had the stipulation on this project before.

Comm. Pateidl: Having done a cursory drive-through, there are many, many stumps that are very, very old that have never been replaced. I would definitely include that stipulation in this particular request. Thank you.

### **Applicant Presentation**

John Peterson, Polsinelli Law Firm, 6201 College Boulevard, appeared before the Planning Commission and made the following comments:

Mr. Peterson: I am here on behalf of Glimcher, which is a very well respected retail development and management operation company across the US and is now a significant landholder in the City of Leawood. Brian Suiter is the manager of development for Glimcher, and he will close. George Melara with Nelsen Partners and Bill Fowler with Hicks Fowler are here as the design team that came up with the concept. Brent Lauritsen with Olsson Associates is here. I want to be respectful of time, but I don’t want to overshadow what I know Brian and all the design team see as a great addition to Town Center. It creates a common open space that has been periodically used for events, attractions and community gatherings. The thought is to take one of the two cut-throughs and make it more permanent, raising the bar on what the space could be as an amenity for the center. Staff asked us to do a traffic study to find out not only what will happen in terms of internal circulation but also to volume to external streets. Olsson did a full traffic study; we reviewed it with city staff, and it really is no impact at all. We all think it’s used a lot. It’s not used as much as you think once you count the numbers.

You can see that it is the east side and is running as a drop-off on the north side of the center, creating the pedestrian space as it moves to the south. Staff has reviewed the architectural features. Regarding the issue about extension of the public sidewalk systems beyond our first ring circulation roads out to the public streets, we are land-locked, so to speak, to the north with the Sprint building and the Hereford House building. To the south, we own that main drive that goes between 810 Zone and Houlihan’s. We will look at it. We take that stipulation. I can’t remember exactly, but I think we are at an 8 ½ % grade coming up the hill, so the issue is to get a sidewalk up that hill, hit ADA requirements and all those things. We talked to staff and indicated we accept the stipulations. Staff offered to modify the stipulation if it’s feasible. At Final Plan, we’ll roll up our sleeves and do the best we can. There are a lot of great design people that came up with the shade areas and fountain. We’re so excited about it that we’re going to propose to City Council that it’s our art contribution. We understand we have to come back and drill down about materials on the architectural elements. With the two modifications to the stipulations, reducing what is in fact new square footage on that internal area and adding to No. 8, we find them acceptable. I’m happy to answer questions.

Brian Suiter, Glimcher Realty Trust, 180 E. Broad Street, Columbus, Ohio, appeared before the Planning Commission and made the following comments:

Mr. Suiter: Glimcher is a company that owns 27 malls across the country. Two of our newest ones are here: Town Center Crossing, formerly One Nineteen, and Town Center Plaza. We are trying to make more opportunities for experiential retail. The entire retail industry is getting hit pretty hard by online shopping, so

we are trying to find more ways people can gather at our sites. With Town Center Plaza, unfortunately, the moniker isn't exactly right; there isn't a place to gather as a true Town Center. Taking that into consideration with the idea of trying to have more experiential retail, places people can eat, hang out and play, we looked at this and thought it was a good first step to try to create that sense of place. With that in mind, we had the idea of closing it off to really create this beautiful fountain area, bring in some new restaurants, new seating areas, new softscape, new hardscape, a couple easy access points to drop people off just so we can start to redevelop the center and make it a good focal point for our portfolio as well as for Leawood. Generally, we think it's a really good thing and a good starting point for us to start to redevelop and upgrade the rest of the shopping center. We have had a good time working with staff to be able to come up with a plan that we feel we are comfortable with and that is really an attribute to the center. I'm happy to answer any questions.

Comm. Strauss: What is the traffic during the PM peak that uses that cut-through?

Mr. Petersen: It is about 180-190 trips. When you disperse those, you take those trips and distribute those around the center. It really is a very slight impact to any particular intersection. Staff can correct me if I misstate, but they did not feel that it would cause congestion internally or externally.

Comm. Strauss: I was curious why it is the east side and not the west side. Would you ever consider doing the same thing on the west side?

Mr. Suiter: We chose the east side only because on the west side, one whole side is Macy's, so there's not really a feeling of place there with having more opportunity for new restaurants and new retail within the corridor. The one on the east side was just a better opportunity for the immediate need we have. There is a possibility for doing it on the west side in the future, but at the end of the day, there is a need to get from south to north on the property. Keeping that thoroughfare open is a good idea for the short term at least.

Chair Rohlf: To create new retail, is that modifying what is already there? Is this the management office where you go get gift cards?

Mr. Petersen: (*shows overhead*) This will give you an idea. The management office will move. It has 2-story capability. This is in the additional 8,000 square feet.

Chair Rohlf: That is new retail.

Mr. Petersen: The new retail will be reformatted. This is a new retail opportunity with coffee shops as an example. The area around the fountain will work with the curb. The rest of it exists currently. It is a total of about 13,000 feet, but 5,000-6,000 is already being used by a shoe repair and tailor, the management office and then another retail spot there that I don't think is being utilized right now.

Mr. Suiter: There is a second story to the space right now that is being used as storage that could turn into office space.

## **Public Hearing**

**As no one 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 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

Chair Rohlf: That takes us up to any discussion.

Comm. Williams: I'd like to say I'm very impressed with what they're trying to do here. I think it's a nice addition to Town Center Plaza, and it will certainly be a great improvement. It's got my vote.

Chair Rohlf: Me, too; I think it's great. Are we ready for a motion? Are we good on the modification to No. 8 after hearing from the applicant?

Mr. Klein: No. 1 should also be modified with regard to the square footage.

Comm. Pateidl: I would like to add the stipulation with respect to maintenance and responsibility.

Chair Rohlf: That would be No. 16 with a total of 17.

**A motion to recommend approval of CASE 84-13 – PRELIMINARY PLAN FOR TOWN CENTER PLAZA – PEDESTRIAN PLAZA – Request for approval of a Revised Preliminary Plan, located north of 119th Street and east of Nall Avenue – with the following modifications:**

- **No. 1: Change from to 12,028 to 8,750 square feet.**
- **No. 8: Add, “. . . if feasible” at the end of the sentence.**
- **No. 16: Add this stipulation with respect to maintenance and responsibility with standard language.**

**For a total of 17 Staff Stipulations – was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

**A motion to extend the meeting to 9:30 was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

CASE 87-13 – PARK PLACE G-30 – Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

**Staff Presentation:**

City Planner Justin Peterson made the following presentation:

Mr. Peterson: This is Case 87-13 – Space G-30. The applicant is requesting approval of a Final Plan for a Tenant Finish within Building G of Park Place. The plans propose a storefront consisting of primarily clear glass. An 8-in. steel channel along the bottom of the storefront will be painted to match the aluminum storefront finish. Entrance to the tenant space will be provided from double doors toward the eastern end of the storefront. A prefinished metal canopy is proposed above the entrance and will be purple in color. A band consisting of orange metal panels will stretch the length of the storefront, and another band of matching color materials stretches vertically from grade to the top of the storefront. Staff recommends approval of Case 87-13, following the stipulations, and I would be happy to answer any questions.

Comm. Williams: We've approved several Tenant Finish projects in Consent Agenda, yet you put this one in our packet. Is there a particular reason?

Mr. Klein: The main reason is that it is a bit different than the other ones. They provide elevations that let you see what these individual storefronts look like in context. We felt the others looked congruent. We just wanted to make sure you were aware it looked different.

Comm. Williams: You are recommending approval, though, so you don't have a problem with it.

Mr. Klein: That is correct.

Comm. Pateidl: In the last case, we discussed the water feature being appropriate in the aesthetics of the project, which introduces a concept of aesthetics in our considerations. When I drive down the street where this Tenant Finish is proposed, on both sides of the street, I see very traditional stone, tile, stucco and a proposed orange metal panel with a purple metal canopy, which certainly would not be compatible in my mind with the aesthetics of that building or, for that matter, the building on either side of the street. I don't see any material samples here for us to have any consideration with respect to this proposal, but I would ask just for clarification, if we are considering aesthetics, how does this meet the test of compatibility with the surrounding finish?

Mr. Klein: Again, part of the reason staff didn't have this on the Consent Agenda is that we knew it was different enough to raise some questions. We did initially talk to the applicant with concerns about it fitting in with adjacent storefronts. They have some other storefronts that have more or less the same materials; however, they are not these bright colors. Staff did raise that concern initially.

Comm. Pateidl: If you drive by the Pig & Finch and you see big purple stuff above the awnings sitting next to an eclectic hotel and on a corner, to me, that's appropriate. When you go down a block-long street of traditional 50's-style construction and the whole feel of what we're talking about, without having a little better feel for the appearance of this in conjunction with the rest of its surroundings, I have problems with the aesthetics as it is proposed.

Mr. Klein: The applicant might be able to address some of your questions as well.

**Applicant Presentation:**

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

Mr. Alpert: (*Referring to display boards throughout*) The proposed streetscape on what would be the south side of the street is shown here. To address Mr. Pateidl's comment, all the storefronts are designed to stand individually. They are not necessarily designed to be compatible with their neighbors. Each one expresses an individual idea, and as you can see from the overhead, the color is a very small percentage of the overall storefront. Secondly, as you pointed out, Mr. Pateidl, we do have storefronts throughout Park Place that have some pretty bright colors: bright blue and green for Learning Tree, bright blue at La Reve Nail Salon, purple at Pig & Finch. We're trying to be bright and cheerful. We are not trying to necessarily have a storefront blend in with its neighbors. That's really been our philosophy from the beginning on storefront design, and we see this as being very consistent with that. Are there any other questions?

Chair Rohlf: I assume these materials are part of your Design Guidelines.

Mr. Alpert: Absolutely.

Chair Rohlf: I don't know if we have any other points to discuss on this or not.

Comm. Strauss: I hadn't thought of the finish being a little different before Commissioner Pateidl brought it up, but it did get me thinking a little bit. I'm sensitive to his comments, but when I hear the applicant talking about some other storefronts that are different than other parts of the facades, I think that is part of the overall development look with variety and color. I think that is why I would just move forward with a motion for approval.

**A motion to recommend approval of CASE 87-13 – PARK PLACE G-30 – Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue – with**

**four Staff Stipulations - was made by Strauss; seconded by Williams. Motion approved with a vote of 4-2. For: Roberson, Jackson, Williams and Strauss. Opposed: Pateidl and Elkins.**

CASE 89-13 – PARK PLACE F-07 - Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue.

**Staff Presentation:**

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: This is Case 89-13 – Request for approval of a Final Plan for a Tenant Finish, located in Park Place. The applicant is seeking approval to finish a general retail space in Building F. The proposed façade will be a combination of aluminum storefront system in grey and clear glass with a single door on the eastern end of the space. Over the storefront is an awning in an aqua color that shall extend 2 feet, 2 inches over the sidewalk at ground level and extending 2 feet, 6 inches off the storefront. The applicant is proposing to install a stone veneer wall panel in a mixture of brown, grays and blues. Staff has concerns regarding the durability of the stone proposed. Per the manufacturer's literature, this product should not be used around salt or other deicing chemicals and does not recommend snow to be piled up against the stone surface. Because of concerns over the durability of the stone, staff recommends a continuance of Case 89-13, allowing the applicant to work with staff to select an alternative material; however, if Planning Commission were to approve this application, please consider the recommended stipulations outlined in the Staff Report. I'm happy to answer any questions.

Comm. Williams: What is this stuff?

Mr. Coleman: It's a mixture of sandstone and slate.

Comm. Williams: Is it real material?

Mr. Coleman: It's real material that has been put together with epoxy.

Comm. Williams: The concern is that the salt and deicing materials can erode this?

Mr. Coleman: We have a concern that it is being used at the base of the storefront, and that's where most of the abuse of salt and water occurs. The manufacturer's literature has precautions about that, so we thought there might be a better material.

Comm. Williams: I agree.

Comm. Levitan: Have you seen this before? Has this been used?

Mr. Coleman: I'm not familiar with it. I've never seen it used before. Probably some of the concern is that it is made up of some sandstone, which is a softer sedimentary stone that is more subjected to erosion and flaking. It's not quite as strong as granite or even limestone. We just had a concern about it. I suppose if it did show a problem, they could replace it later.

Comm. Pateidl: In the little research I've done on this by going to the website for that product, it says that the measurements will go anywhere from ½ inch to 2 ½ inches in thickness, and essentially, these stones are glued on to a panel, and these panels are then used as advertised to "fit seamlessly together and allow installers to cover a large surface area in a short amount of time. Real Stone System uses only natural stones in its natural stone veneers to offer the beauty and durability of real stone," but in essence, it is real stone glued to a board to be screwed on to a wall. It's the process of installation that really concerns me for

the durability for the long term. It's going to be at the low end of the storefront where it will get bumped by this, that and the other thing in the process of pedestrian traffic. My question to staff would be does this really adhere to our materials requirements under the LDO?

Mr. Klein: We have other materials, such as thin-set stone and things like that, that also are adhered to, for instance, a wall that is located there. We actually prefer to have greater thickness freestanding with brackets that actually attach to the wall, but it's not uncommon, especially on storefronts, to see something that is adhered. We do have concerns about this product just because the product literature indicates it has the problems we mentioned, and it would be used on a lower portion of the building where it be subject to those issues.

Comm. Pateidl: Does it meet the letter of the LDO as far as approved materials for installation?

Mr. Klein: It's a natural material, so it is not on the list of prohibited materials. Yes, it meets the requirements of a material that can be used in the City of Leawood.

### **Applicant Presentation:**

Jeffrey Alpert, Park Place Village, LLC, 11515 Ash Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Alpert: This is a situation where our architect, Dave Anderson, spec'd the product. It is a natural stone. The observation is correct that the manufacturer's literature says that they do not want it used near salt and ice treatments; however, that is the same disclaimer that you will probably find with 95% of the products that are used in exterior situations. No product: concrete, limestone, brick, no matter what you put down there is not susceptible to salt and ice treatments; that's just the way it is. We did have a conversation with the manufacturer's representative, who indicated that this is a standard disclaimer, and they recommend a sealer be put on top of the material once it is installed. We intend to seal the material, which should give it adequate protection from stray ice treatment materials. In addition, we actually talked to Rosehill Gardens, who does all our snow removal and ice treatment, and they do take care in not letting their chemical treatments get too close to our storefronts. We've had other problems with storefronts from time to time where salt can be a problem. We have some polished stainless steel trim in one of our storefronts that was having some problems. This is not an unusual situation. We do feel confident that we can seal it appropriately. As far as the comments about how the material is adhered, it is really no different than granite, which is typically a 1/4-in. tile or ceramic tile which is usually around 1/4 - 1/2 inch. It's glued with some kind of an adhesive to a wood or fiberboard panel behind it. We use that technique regularly, and we install with a great deal of success. We don't have materials falling off the wall. We don't have major problems with deterioration due to ice melt. We feel confident that it will be a fine material. It is an interesting material. It is natural, and we would respectfully request that you allow us to use it.

Comm. Williams: I would agree with Mr. Alpert about ice melt chemicals on other finishes. We do often see disclaimers like this. I think at the end of the day, if this is a product that they want to use and it does meet the LDO, the responsibility is theirs for the maintenance and upkeep, and if it fails, then they replace it with like or a new product that they bring back to the planning department. I would be supportive of keeping it as it is.

Comm. Strauss: I might offer a counter to that. I was reading in that same paragraph that they recommend snow not to be piled up against that surface. To me, that is saying it is not just the chemicals; maybe it is the wet snow that's just sitting next to the stone for prolonged time. This is an area where I always say I'd rather go with the recommendations of people that know a lot more than I know. I just feel like staff is raising their

hands with concerns that they want to talk over further with the applicant and see if there is something that might look similar but be a little bit more durable. I would support their recommendation for a continuance.

Comm. Williams: When you talk about many products on exterior cladding, particularly for a storefront, the issue of snow piling up on the face of it is a problem, whether it is wood paneling, brick or this. You have the opportunity for the snow to melt or create ice that gets in the cracks. In many cases, they're all problems. The fact that the manufacturer makes the disclaimer here doesn't disqualify this as an appropriate material. That said, I think there is probably a greater opportunity for some failure to be had because of the small pieces that we see here. If it's installed in the manner that this sample was, I would be a bit concerned about water getting behind that thin piece and potentially popping it off as ice would freeze. That is the same problem we have with the faux stones that we debate constantly here as well as the thin-cut natural stones that get applied in a very similar process. Again, it comes down to maintenance and application, and if they apply it correctly and maintain it correctly, it may be just a fine product. I don't know what more staff is looking for in a different product.

Comm. Levitan: I haven't met too many surfaces that get along well with salt, so it's pretty destructive, and the weather around here is pretty challenging, but to me, it's such a small segment of the finish that if it does fail, it could easily be replaced. It's not like they're siding an entire building with this. It is pretty attractive, and they recommend the sealant. If it's applied appropriately, it should hold up as long as it's continually sealed per manufacturer's specs.

Chair Rohlf: The gist I'm getting is we should let them go ahead and see what happens, and if there is a problem, they can replace it.

**A motion to recommend approval of CASE 89-13 – PARK PLACE F-07 - Request for approval of a Final Plan for a Tenant Finish, located south of Town Center Drive and east of Nall Avenue – with five Staff Stipulations – was made by Williams; seconded by Elkins. Motion approved with a vote of 4-2. For: Levitan, Roberson, Williams and Elkins. Opposed: Pateidl and Strauss.**

CASE 102-13 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION TO SECTION 16-4-6, SIGN REGULATIONS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to directory signs within the SD-NCR (Planned Neighborhood Retail), SD-CR (Planned General Retail), and the MXD (Mixed Use) zoning districts.

**Staff Presentation:**

Planning Supervisor Mark Klein made the following presentation:

Mr. Klein: This is Case 102-13 – Leawood Development Ordinance Amendment to Section 16-4-6.13, Sign Regulations, pertaining to directory signs within the SD-NCR (Planned Neighborhood Retail), SD-CR (Planned General Retail) and MX-D (Mixed-Use) districts. Currently, the directory signs are an allowed sign type; however, they are limited to public and semi-public campuses. Several months ago, we took an amendment to the Leawood Development Ordinance that allowed that particular sign type within the LDO. Prior to that, we also added post and panel as allowed in the City of Leawood as well. This ordinance is permitting directory signs as an allowed sign in those retail districts listed. We placed a number of limitations on it. Since developments tend to be larger, we have a requirement that it can only be used on developments that have at least 25 acres. In addition to that, we also had a lot of the sign limitations such as maximum of 6 feet in height, a maximum of 18 feet in area. They can be double-sided. They may be post and panel, a wall sign or a monument sign. They can be externally illuminated or non-illuminated; they cannot be internally illuminated. The signs have to be located in an area that is outside a site triangle or a structure setback. That means one of these could not be located in front of a building that is already at the

setback line or at the street. This is meant for pedestrians in the development, similar to Park Place. Staff is recommending approval of this application, and I'll be happy to answer any questions.

Comm. Pateidl: I note the limitation of this modification to 25 acres, where previously, it was public or semi-public campuses over 10 acres. What is the reasoning behind the increase in size?

Mr. Klein: We started looking at some of the developments around Leawood. On the public and semi-public campuses, we were dealing with schools, churches and the Justice Center, which is located on a much smaller piece. It seemed appropriate to have some sort of directory signs available to them as well. Park Place would be eligible for this. Town Center Plaza would be eligible. Town Center Crossing would not be eligible. Parkway Plaza would be eligible; however, Village of Seville would not. We tried to look at developments where we thought these made sense and then tried to create a dividing line.

Comm. Pateidl: But you feel that 10 acres is insufficient to support this type of treatment for a monument?

Mr. Klein: Some of the developments we were seeing on 10 acres usually consisted of just one or two buildings. We didn't think a directory sign would be needed. Park Place is a prime example where it might be helpful, considering a number of internal drives.

Comm. Pateidl: I agree, and certainly, they are in excess of 10 acres, so they would certainly qualify for it, but as we look toward the 135<sup>th</sup> Street Corridor without really knowing what's going to be in there, 25 acres is a pretty big chunk of ground in Leawood. Are we harming ourselves if we retain a 10-acre minimum in any fashion? You're not going to eliminate a 25-acre; they're going to qualify. The number of signs is predicated on their acreage size, so the controls are here. I simply wonder about creating that limitation and if it is good or bad.

Mr. Klein: I understand.

Chair Rohlf: Are there other questions for Mark?

### **Public Hearing**

Jeffrey Alpert, 2912 W. 113<sup>th</sup> Street, Leawood, KS, appeared before the Planning Commission and made the following comments:

Mr. Alpert: I think Mr. Pateidl makes an extremely valid point in this regard. You may know that I was also the developer of Hawthorne Plaza and owned it for many, many years. I can tell you that in what is actually a strip center where people drive to one point in that center and get out, you find that they don't typically walk all the way to the other end without somehow knowing what's at that other end. We had directories at Hawthorne Plaza, and I assume they still do, but they were extremely helpful and, I think, a real service to the patrons of Hawthorne that they could look at a directory and see what was all the way down at the other end. That is well below a 25-acre property. I believe it's a 13-acre property. Quite frankly, I think not having directories in a retail development of that size would be a real detriment. I would encourage you to consider lowering that acreage minimum for directories.

**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 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

Comm. Williams: I concur with Mr. Pateidl and Mr. Alpert. Even looking at the change in the ordinance, we're allowing multiple directories based on 5-acre increments, so if we're thinking that 5 acre-increments

are good for a directory sign, that would begin to tell me that 10 acres for a development certainly would be suitable for allowing directory signs. I concur with Mr. Pateidl to change the 25 down to 10.

Comm. Elkins: I also would concur with Commissioners Pateidl and Williams. Again, it may be a forlorn hope, but the other thought I have with this is it might reduce the number of temporary signs if people could get themselves together on a directory sign. That's an additional reason I will support a reduction from 25 to 10.

Comm. Williams: Also, we are trying to encourage more pedestrian activity within developments, and if we can help the patrons better know what's down the strip or around the corner, maybe they'll walk. In developments where we're pushing every day for more pedestrian amenities and to make it a more pleasant walk, I think it could be a win-win for everybody. With that in mind, I'll make a motion.

**A motion to recommend approval of CASE 102-13 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION TO SECTION 16-4-6, SIGN REGULATIONS – Request for approval of an amendment to the Leewood Development Ordinance, pertaining to directory signs within the SD-NCR (Planned Neighborhood Retail), SD-CR (Planned General Retail), and the MXD (Mixed Use) zoning districts – with a change of minimum acreage of 25 to 10 - was made by Williams; seconded by Strauss. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

**A motion to extend the meeting to 10:00 was made by Williams; seconded by Elkins. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

CASE 101-13 – PARK PLACE – REVISED SIGN CRITERIA – Request for approval of a Final Sign Plan, located south of Town Center Drive and east of Nall Avenue.

**Staff Presentation:**

City Planner Michelle Kriks made the following presentation:

Ms. Kriks: May I present Case 101-13 – Request for approval of a Final Sign Plan for Park Place development Park Place is requesting to revise a previously approved development Sign Criteria to include signage on architectural structures and allow directory signs within the development. The applicant is proposing to include on the Park Place development three architectural structures. One structure now exists on the northeast corner of 117<sup>th</sup> Street and Nall Avenue. Note, an identical architectural structure stands on the opposite corner of Park Place on the AMC lot at Town Center Plaza. Two more are proposed on the southwest corner of 117<sup>th</sup> Street and Town Center Drive and on the southeast corner of Town Center Drive and Nall Avenue. The structures are proposed to be an overall approximate height of 28 feet and will stand on a 6-ft. by 4-in. square base. Per the Leewood Development Ordinance, signage shall not be permitted on more than two sides of the structure, and a maximum of two signs per side shall be permitted, including any logos. The text and logo proposed conform to the size requirements on architectural structures as permitted in the LDO by meeting the maximum of 15% of structure façade or 36 total square feet, whichever is less. Additionally, the applicant is also proposing post and panel directory signs to be located within Park Place. Currently, directory signs are not allowed within the Mixed-Use development. Planning Commission Case 102-13 was required to be approved prior to the approval of the Revised Park Place Sign Development Standards to allow directory signs within a Mixed-Use district. The directory signs will be approximately 6 feet in height and 2 ½ feet in width with an approximate area of 13 square feet. Per the LDO amendment, the applicant will be allowed a maximum of five signs within the development. Each sign is proposed to have a unique art design, and each shall be reviewed by the community development department prior to

installation. Staff recommends approval of Case 101-13 with the stipulations outlined in the Staff Report, and I'm happy to answer any questions you may have.

**Applicant Presentation:**

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

Mr. Alpert: (*Refers to examples*) I pulled up the example of the monuments. These show the monument design with various options for signage. Per the ordinance, we obviously will only have two signs on each of two sides. Unfortunately, we'll probably be pulling the City of Leawood sign off in order to have the Park Place and the logo, and that won't be on the others. These are the monuments, and we would request your approval. We have three directories that are post-mounted and two that are actually inside the garages that are mounted on the walls. I would just reiterate that it's kind of a shame it's taken this long to get the ordinance in place to allow these things because they are a very important part of the development. There is a reason you see these directories at almost every mall and lifestyle center you go to. They do serve a very important purpose. We look forward to having them installed at Park Place.

Comm. Pateidl: I'm struck by a comment made in the report on Page 2 under Architectural Structures. "The applicant is proposing to include in the Sign Development Standards the option to include signage on the development architectural structures." The limitation of either the name or the logo and that type of thing, I believe, is presumed to be in place. Is that correct?

Mr. Klein: Correct; we had an LDO amendment last month for that.

Comm. Pateidl: Just to be clear, we don't anticipate any directional or advertising signs of any nature coming on to the architectural structures because we've had so many discussions on that subject.

Mr. Klein: No, the amendment prohibited it.

Chair Rohlf: I guess to be consistent with what we just did, we would need to change the acreage requirement to 10.

Ms. Kriks: Yes, and that can be changed; that's not a problem.

**A motion to recommend approval of CASE 101-13 – PARK PLACE – REVISED SIGN CRITERIA – Request for approval of a Final Sign Plan, located south of Town Center Drive and east of Nall Avenue – with the two stipulations, including the reduction of 25 to 15 in minimum acreage was made by Strauss; seconded by Williams. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

CASE 131-11 – PARK PLACE – ARCHITECTURAL STRUCTURES – Request of a Revised Final Plan, located north of 117th Street and east of Nall Avenue.

**Staff Presentation:**

Planning Supervisor Mark Klein made the following presentation:

Mr. Klein: This is Case 131-11. The applicant is requesting approval of a Revised Final Plan for two architectural structures within the Park Place development. These match the ones that are currently located at the intersection of Nall Avenue and 117<sup>th</sup> Street on either side. The structures stand 27 feet, 10 inches in height and sit on a 6 x 4 square base. The applicant is proposing signage on these structures and will adhere to the Leawood Development Ordinance that not more than two signs are on a façade and on no

more than two facades of that particular structure. The applicant is proposing that these be located within the building structure setback, so they would not be set out adjacent to a street. They would have to meet the same setbacks as the building. The applicant is also proposing to have some low-level landscaping around them so the signage could be located on the base and still be visible. As the development continues to develop out, probably taller landscaping will act as a taller backdrop as the one they are proposing at the intersection of Nall Avenue and Town Center Drive currently will have a backdrop of some evergreen trees that were approved with the AMC building. Staff is recommending approval of this application, and I'll be happy to answer any questions.

**Applicant Presentation:**

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

Mr. Alpert: I don't think I have much to add to that. Again, the monuments are on the screen, and we would respectfully request your approval.

Chair Rohlf: Are these the only locations you will add them?

Mr. Alpert: The site is basically a triangle, and we would have one on each of the three corners plus the one opposite on the south side of 117<sup>th</sup> Street.

**A motion to recommend approval of CASE 131-11 – PARK PLACE – ARCHITECTUAL STRUCTURES – Request of a Revised Final Plan, located north of 117th Street and east of Nall Avenue – with four Staff Stipulations - was made by Strauss; seconded by Levitan. Motion approved with a unanimous vote of 6-0. For: Levitan, Pateidl, Roberson, Williams, Elkins and Strauss.**

*MEETING ADJOURNED*