

**City of Leawood
Planning Commission Meeting
November 13, 2018
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: Hunter, Belzer, Elkins, Strauss, Coleman, and Stevens. Absent: Hoyt, Pateidl, and Block.

APPROVAL OF THE AGENDA

Chairman Elkins: Does staff have any revisions to the agenda?

Mr. Klein: No.

A motion to approve the agenda as presented was made by Coleman; seconded by Strauss. Motion carried with a unanimous vote of 5-0. For: Hunter, Belzer, Strauss, Coleman, and Stevens.

OLD BUSINESS:

CASE 71-18 – 135th STREET AND KENNETH ROAD – MIXED-USE AND MEDIUM-DENSITY RESIDENTIAL – Request for approval of a Rezoning from AG (Agricultural) to MXD (Mixed-Use Development District) and RP-3 (Planned Cluster Attached Residential District), Special Use Permit for an Assisted Living Facility, Preliminary Plan and Preliminary Plat, located south of 135th Street and west of Kenneth Road.

Chairman Elkins: The commission notes that this matter comes before us on the remand of the Governing Body on an 8-0 vote from their October 1, 2018 meeting after this commission recommended denial of the case with a 5-0 vote on September 11, 2018.

Staff Presentation:

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 71-18 – 135th Street and Kenneth Road – Mixed-Use and Medium-Density Residential development. As the chair stated, this application originally came before the Planning Commission on September 11, 2018. There was quite a bit of discussion on it, followed by a unanimous vote to deny the application. It went on to Governing Body on October 1, 2018. After hearing testimony, the Governing Body decided to remand it back to the Planning Commission to allow staff and the applicant to do some more work on it. The application before you has several changes from the plan

you saw previously. I want to take you through three plans to give you an evolution of the process.

(Refers to plan displays) The layout of the original plan showed 137th Street extending from the west over to the east. It also had a roundabout intersection where High Drive would come in. It proposed Mixed-Use development on the north side of 137th Street and RP-3 on the south side. It also had a portion of RP-3 on the north side. As was pointed out at the Planning Commission meeting, it is a change from what the Comprehensive Plan shows with the alignment of 137th Street. Since 1996, the alignment of 137th Street has been significantly to the south, which provides more area on the north side of 137th Street as well as more depth of the land between 135th Street and 137th Street as well. That became important with the Comprehensive Plan and the 135th Street Community Plan, with the goal of creating a grid network of streets to provide vehicular and pedestrian connectivity, which would create a sense of place. Additionally, this plan provided a roundabout at the intersection which created a 400' radius, which did not meet the city requirements of a 500' radius. That flattened out in the next plan, which is the reason for an exchange of land between RP-3 and MX-D. The applicant proposed residential apartment buildings for Buildings A and B. They had a Mixed-Use building on Building C. Buildings A and B were four stories and 50'8" in height; whereas, Building C was about 71' in height. They also had Building D, which was a 58' four-story residential building on the west side of High Drive. On the east side, they showed a retail building with office above. It had a vehicular via into the parking lot. They also showed two-story Building F with both office and retail located just south of 135th Street. Both of the buildings were about 40' in height. At the terminus, they showed a 67,200 sq. ft., two-story assisted living facility. This looked more residential with a sloped roof; whereas, the rest of the buildings are proposed to have flat roofs. On the south side of 137th Street, they proposed duplexes oriented around a series of cul-de-sacs. The density of those was about 3.06 dwelling units per acre. This is the plan that originally came before the Planning Commission and went on to Governing Body.

The next plan we received was on November 1st, and it is much closer to what you have before you tonight. The applicant didn't update all the plans that came in, so we had two revised sheets. Those will be the ones we will focus on for most of the discussion. They increased to a 500' radius in order to meet city standards, which flattened it out a little bit. In addition, they removed the roundabout located at High Drive and 137th Street. As part of that land swap, the MX-D increased in area by .8 acres, and the RP-3 portion reduced in size by that same amount. The buildings stayed the same but were rearranged. High Drive moved over about 200'. Buildings A and B are still four-story residential apartment buildings. The reduced the units in each from 42 to 40. On the previous plan, they showed two fewer parking spaces in the underground parking than there were units in the buildings. This plan shows the parking spaces matching the number of units. Building C remained as a five-story, 71' building, and Building D also increased in height from 50'8" to 71' in height. The mix of uses changed in this building as well. Building D was all residential and contains about 13,000 square feet of retail. Building C contained retail, office, and residential; now, it is just office and residential. On the east side, Building E is still a two-story building. They are still proposing retail on the bottom floor with office above and a bit more square footage. They still show the via running through. Building F went from a two-story retail building with office space

above to two stories of office. Building H is a new two-story office building. At the terminus is the 67,200 sq. ft. assisted living facility with 84 units and 100 underground parking spaces just like it did before. On the south side of 137th Street, they incorporate three triplexes. In this plan, they went from 60 duplexes with 120 units to 117 units. They made up part of that by adding three triplexes. The density stayed the same. The last plan before you had a couple tweaks. They moved the entry to the cul-de-sac off 137th Street a little bit to the west. They needed a little more separation between High Drive and the cul-de-sac. It lines up on the side of the parking lot; whereas, the previous plan goes to the parking lot with a drive aisle to the west.

Additionally, they did not meet the 25' parking setback between the parking line of the RP-3 and the MX-D. On this plan, they changed that and created the 25' parking setback. They did the same on the west parking lot as well. Those are the main changes as far as the plans before you. I can answer questions.

Chairman Elkins: My understanding of what I read from the meeting minutes is that City Council remanded it back to us with instructions to both the city and the applicant to work together in good faith to see if what appeared to be a broad impasse could be resolved. I take it, by virtue of staff's recommendation here, that we have not reached a consensus on that. Assuming I am correct in my reading of the case, can you highlight the significant areas of disagreement between staff and the applicant? I'll ask Mr. Petersen to do the same thing when he gets his opportunity to speak.

Mr. Klein: At the Governing Body meeting, Mr. Petersen indicated that the disparity between staff and the applicant was a matter of form. We have had a number of discussions with the applicant, who has been willing to meet the Leawood Development Ordinance (LDO); however, they are requesting two deviations. One is a 30' building setback that is typically 40' along High Drive and also along 137th Street. They would maintain the 40' setback along Kenneth Road and 135th Street. The other requested deviation is in the RP-3 section that would allow them to have the buildings located closer together. Rather than a 30' side yard setback, they are asking for a 15.5' setback for the structures and a minimum of 8' between the egress wells of the duplexes. They are willing to meet the current LDO and will make changes as necessary outside of those deviations; however, the city has a Comprehensive Plan and the 135th Street Community Plan. The city tried to create some standards for the area to encourage a different type of development than is typical along 135th Street, including a mix of uses with several different destination trips that would be accessible through pedestrian walkways. The 135th Street Community Plan requires a grid network of streets to provide connectivity throughout the corridor, both vehicular and pedestrian. The different street types in that network would be tailored to the types of uses in the area. The city didn't want one uniform layout that went across the development. Destination streets would have retail, office, and a little bit of residential. Neighborhood streets would have just a few services, and active pedestrian streets connected the two. Without the grid network, it is difficult to make such a development work. In addition, they city wanted development and land uses to be developed around activity nodes. These would be intersections with more activity, more people, more storefronts, more offices. The sidewalks would be wider. It might have pedestrian cafes. It encourages gathering spaces as well. The whole point of the

135th Street Community Plan was to create a sense of space, a unique area. Additionally, it provides for transect development, which is a transition from higher density on 135th Street to 137th Street as another buffer and ending with less density on the south side of 137th Street, which would provide another buffer to the existing residential to the south. Those are the things the applicant has not been able to meet in a plan. It takes space for the grid network, so shifting the road to the north where it is currently proposed reduces the amount of depth. This eliminates the possibility of a grid network. That is probably the biggest issue. The city is hoping for something high quality, diverse, and interconnected.

Chairman Elkins: Thank you. Are you prepared to stand for questions?

Mr. Klein: Yes.

Comm. Strauss: This is a follow-up question for your benefit and the commissioners' benefit. On Page 14, staff has outlined some of those Comprehensive Plan requirements. Mark, I feel like you hit on Nos. 6, 7, and 9. Can you talk about the issues on 1-5 and 8 as well so we understand what the plan is missing from that perspective?

Mr. Klein: Regarding No. 1 and access from 135th Street, staff and the applicant have been working together, and we have found a compromise on that. Originally, staff asked for High Drive to be located at the 1/4-mile section. The applicant has it located in the latest version 200' to the east. They have provided a traffic study. I think we have reached agreement on that. With the alignment of 137th Street, that is what I was discussing before as a critical component to the 135th Street Community Plan. If Roe goes too far to the north, not only does it reduce the amount of land area and depth as far as MX-D, but in this case, there is also a tree line as well. They have it on the north side of the tree line, but they are proposing detention basins within the trees. Therefore, most of that existing vegetation would be removed either due to the development or detention. Land-use designation is something the Comprehensive Plan has shown for a long time with Mixed-Use on the north side of 137th Street and Medium-Density Residential to the south. This plan has Medium-Density to the south. The portion that makes it a bit more difficult, especially for the MX-D, is that they have a portion of the RP-3 going on the north side of 137th Street, which significantly reduces the amount of area. Preservation of natural land areas has been listed in the Comprehensive Plan for some time as part of the goals and objectives. It was reiterated in the 135th Street Community Plan. This site is unique in the fact that many places in Leawood do not have this many trees and creeks. The applicant is proposing to remove most of the trees, except for a 20' tree preservation easement on the south property line. Staff is glad to see that. The only difference on this point is that we feel that a 35' line would be better. Regarding street and pedestrian connectivity, it gets down to the grid network. We are looking not only to have sidewalks along both sides of the street but also to have opportunities for multi-modal, including bicycle, transit, or others. The 135th Street Community Plan talked about a circulator route with a small trolley circulating throughout the corridor.

Comm. Strauss: I feel like you hit Nos. 6, 7, and 9.

Mr. Klein: No. 8 goes to connectivity. The 135th Street Community Plan calls for opportunities to integrate different modes of transportation. That can be bicycle, pedestrian, bus, or any variety of methods. Who knows what the future could bring?

Comm. Strauss: On the LDO, I heard you talk about a buffer adjacent to buildings, and then I heard an RP-3 side yard issue. Nos. 1 and 2, I did not hear. Are those still issues?

Mr. Klein: The Floor Area Ratio (F.A.R.) is still an issue. The F.A.R. proposed is .43. The base is .25. There are different ways to get there, and I'm sure the applicant will speak to this as well. We consider a 25% discount for residential. The applicant is requesting a 55% discount on the residential. The LDO allows a discount up to 55%. In this case, staff doesn't feel that it qualifies to that extent because of the disconnect between this plan and the Comprehensive and 135th Street Community Plan. Additionally, they are asking for two bonuses. Article III allows for several different F.A.R. bonuses, including underground parking for 15%. The way we calculate the bonus is to take the land area and multiply by .25 to get the base amount of developable square footage and then figure 15%. Staff agrees that they have provided quite a bit of underground parking in Structures A, B, C, D, and in the assisted living. They are also requesting a 15% F.A.R. bonus of 15% for increased open space. They do have a lot more open space. A minimum of 30% is required; they are around 44%. The LDO indicates that it should be usable open space. This has come before the Planning Commission in past spaces. It should be able to be utilized, not stuck in parking lots or in places where it won't get used. They have changed that from the previous plan. They had more open space within parking lot islands, and they have removed the parking lot island with the grill. They tried to push those amenity areas to the corners of the buildings and intersections in an effort to have them utilized by people walking by. Unfortunately, we have seen these in the past, and they are not used much. There are some at 135th Street and Mission Road, including a fountain and pergola with benches. Staff is looking for something a bit more integrated into the buildings. Part of the problem is these are still organized around parking lots as opposed to a grid network of streets, making it a little more difficult. The applicant did try to respond to that.

Comm. Strauss: The last one is roofing material.

Mr. Klein: The applicant intends to meet that requirement; they just prefer to wait until Final Plan to do that.

Chairman Elkins: Are there other questions? Mark, I realize we have nine items in three, but I'm hoping we might not have to work our way through each of the nine individually because it will probably take us past our 10:00 deadline. If you were to choose the most significant areas of disagreement, would you go back to Nos. 6, 7, and 9?

Mr. Klein: I would say there are a couple areas that are critical. One would be the grid network of streets. In order to have that, it needs room to provide the grid network, which would affect the alignment of 137th Street. It may be possible to have housing on the

north side of 137th Street if it had connectivity instead of being a standalone RP-3 development. The way it is currently proposed, the RP-3 area is a standalone duplex neighborhood that matches the one on the south. They will be nice duplexes; they just do not have connectivity or transitional buffers. It is like a web. We pull one thread, and it affects the others. The activity nodes would tie in with the grid network. The main point is to try to create something that is unique to Leawood that has a sense of place and is not typical development. We provided a Staff Report with updated numbers. They didn't change much. We added two stipulations that we communicated with the applicant. One is to have a development agreement that would detail how the development would move forward, including the phasing. The other referenced the 10' buffer around the buildings. The applicant agreed to this. Those are the major issues.

Chairman Elkins: Is it staff's view that the issues around the LDO are probably resolvable?

Mr. Klein: I think the applicant has worked very hard. Every time we point out something that doesn't meet the LDO, they have been very responsive. It will result in the same kind of development that we saw before the downturn. We had Cornerstone, Parkway Plaza, and Plaza Pointe. Those were based off the current LDO. If the city wants a development that is based on the concept of interconnectivity with the grid network, activity nodes, and transects, this plan is not that. The applicant can speak to that as well.

Chairman Elkins: When you have the grid of streets, conceptually, where is the parking? The city advocates ways of connectivity, but how does that reconcile against parking necessities?

Mr. Klein: We talked about structured parking, which is very expensive. In this case, they are providing a lot of underground parking, which is very expensive. They've done a great job with that. The 135th Street Community Plan also talks about surface parking. Maybe it's a little more centrally located where it's able to serve a larger area. Many developments in the country have a similar parking plan. Parking is difficult. It will probably be a mix of structured parking and surface parking.

Comm. Hunter: To clarify, did he ask for your top three on that list?

Mr. Klein: I can't remember the exact number. The hard part is to have the grid network, the street realignment is necessary. Then, activity nodes would be the third. The street types would then be fairly easy to do.

Chairman Elkins: For what it's worth, the way I identified it is the connectivity and the network is one; the activity nodes are two; the transect is three. We will quibble if there is a four, but those are what you've highlighted.

Comm. Strauss: I don't know if a lot of commissioners know, but there were two 135th Street Corridor plans. I sat at the Planning Commission representative on the second one. I was involved in the interviewing and scoping and went to every meeting. I have a good

understanding of what the plan was meant to be. One of the main things we were really interested in from the consultant was making sure they're out talking to the landowners and developers in the corridor, making sure they got good public feedback. I'm curious what kind of feedback have we gotten? This was an overlay district on top, and we asked people what they wanted out of the corridor. From those meetings is what we see in the report. I didn't hear a lot of pushback in the meetings. We also had a joint Planning Commission-City Council meeting that was open to the public. I saw a lot of interest in this plan. Do you know if there was pushback?

Mr. Klein: There were some comments the other way. I know the applicant attended some of those meetings as well. To give you a rundown, on the 135th Street Community Plan, we had three public participation meetings. With the 135th Street Implementation Plan, we had the same. The 135th Street Community Plan has some of the takeaways from those meetings. One was the most important economic development goals, the primary one being balancing mix of land uses along 135th Street. Another topic of discussion was whether this area was ideal for this kind of development. A lot of people mentioned restaurants, shopping, and retail. The 135th Street Corridor was always shown on the north side of 137th Street as being more of a commercial area. Around 2008, it changed to be primarily mixed-use. I think it was always envisioned that the area south of 135th Street would be residential, acting as a transition to the existing residential, and the area on the north side of 135th Street would be commercial. The 135th Street Community Plan attempted to broaden that vision to allow more residential within the area and to create more economic viability for some of the businesses while reducing the amount of traffic and congestion based on people making fewer trips because of the pedestrian connectivity. We did have mostly positive comments as well as some concerns.

Comm. Strauss: For the other commissioners, I was at all the meetings. I never heard anyone state that it was the wrong direction for Leawood. I can answer other questions about those meetings during discussion if necessary. I didn't hear any negative about the direction of this plan, either.

Comm. Stevens: Mark, there are a couple items that are tied to stipulations as well that were staff's concerns, including the extension of 137th Street to the west. The text mentions an extension to the east. Could you please further explain the issue there and the increased land area on the west? Is that what you were talking about flattening out?

Mr. Klein: It should be an extension to the west. This has to do with 137th Street running through the property from east to west, terminating at the end of the western boundary. The applicant has been great. In the last plan, 137th Street was moved a bit farther to the north. We heard from residents in Villas of Highlands Ranch with concerns about 137th Street being right along their back yard. The street slowly curves its way up to the north and sweeps away from the residents in Leawood Falls and the eastern part of Villas of Highlands Ranch. Staff would like to see it pushed farther to the north to try to provide as much of a buffer as possible. The last plan shows that street being pushed to the north. That stipulation refers to that. I think that is one of the items we are close to agreement on.

Comm. Stevens: The land to the south of that becomes part of a buffer?

Mr. Klein: Yes.

Comm. Stevens: Related to Stipulation No. 7, staff had concern with the connection of three cul-de-sacs in the RP-3 area. Could you explain the concern there?

Mr. Klein: Staff would like to see the three cul-de-sacs connected, creating a looped street going around each of those. It would provide a lot more connectivity. It is something some of the Governing Body members mentioned; however, another Governing Body member was fine with the cul-de-sacs.

Chairman Elkins: Are there any other questions for staff? If not, Mr. Petersen, welcome back.

Applicant Presentation:

John Petersen, Polsinelli PC, 6201 College Boulevard, Overland Park, appeared before the Planning Commission with a digital presentation and made the following comments:

Mr. Petersen: I have the pleasure of appearing on behalf of Leawood 135, LLC. Richard and Rick Lashbrook, principles of Leawood 135. The current property owner is Vic Regnier. We are contract purchasers. A lot of the work that was done to advance this plan was done with staff to try to work through issues. Henry Klover is the architect with the MX-D portion. Tim Tucker is with Phelps Engineering and has done all our civil design. Jason Meier is with Meier Consulting and worked hard on our landscaped areas. We also worked with Transystems on transportation issues.

When we initially started approaching this remand, I thought we would start talking about nuts and bolts. I will say I was a little disappointed because we are miles apart from staff. Mark did a good job of identifying the differences. It is not a differential on uses; it is a difference in form. There was a lot of work done. I'm going to disagree about the naysayers and contractors and those not supporting it. Those in opposition always show up; those in support never show up. Those who may have applications coming up with the city don't want to say they disagree with the city on an issue such as this. There is a fundamental rejection of the concept by the financiers, the developers, and the users in terms of a strict adherence to a grid street system and a transitional development concept. I say that with the utmost respect for the process. We have millions of dollars in capital ready to be invested. We have uses that can work. I'm also a bit surprised. City Council remanded but didn't say once that we needed to add a grid street system or a transitional development. They told us to get some common ground. I'm not trying to predict where the ultimate vote is, but I will say that half the meeting talked about where we would put High Drive and where the entrance to the project would be signalized. Not one comment was made about adhering to staff's recommendations based on the 135th Street Community Plan. There is a common goal that we took right out of the 135th Street Community Plan: create a successful and economically sustainable development. That's what we all want. Again, it is our premise not to be disrespectful.

After studying the market, talking to banks, and seeing what has happened in other areas in Johnson County, we have determined that staff's recommendation for the parameters or the form that we follow will not be successful or sustainable. It is all vertical development, which is essentially what the concept is contemplating. It is very dense and very expensive.

Staff did a great job of walking through the areas we have been working on since Governing Body. The concept is a good chunk of vertical mixed-use with some density and mass up along the major thoroughfare, structured parking, vertical buildings, combinations of office and retail, and a commercial but still residential type of utilization on the east side of the 18 acres along 135th Street being the senior living as a bit more intense use than other residential opportunities. As we cross over 137th Street and transition to the traditional single-family area, we go into a vertical mixed-use, which is a higher density residential than what is south of our property. Staff calls them duplexes; we like to refer to them as attached buildings. These are \$600,000 a door.

As we walk through this, you will see that this is not about adherence to the LDO; this is a question about the Comprehensive Plan and rolling up the 135th Street Community Plan. I don't comport to comply with the picture, the concept, and the densest version of that plan that evolved as we moved through the process. That plan talks about a grid street system. With grid streets comes the trade of parcel sizes, which affects how the building is going to land as well as a need for structured parking and uses that include remote parking. Retail is hard enough with structured parking. Transitional development is another component staff wants. There is not a person in the world that could finance, develop, or fill a six-story building on 135th Street at Kenneth Road. This is not on a thoroughfare; it is not on a major highway with an office utilization. There is not retail in this economy or the foreseeable economy that could fill that kind of vertical element. We go to 136th Street with three-five stories. Then we get close to our neighbors on the south where we have \$600,000 villas with higher density. The plan calls for two-to four-story buildings of a mixed-use nature.

These are people who came to the EDC meeting. Two of the developments in close proximity are City Center and City Place on major interstates with heavy office utilization and extremely public financing. I think we can all concede grid streets, structure parking, and transitional elements have not met market expectations. It has not worked in our own back yard. What has been tried in the corridor? Villaggio at 135th and Roe has only one vertical element: a fountain. Thirteen years ago, \$18 million was put in the ground to create a grid street system to try to create something a little different. After foreclosure, my client from Denver bought it. One of his best consultants is the group that did the study for you in Leawood. He has sat on it for close to three years. He can't try to do this at this site, given the demographics, given the market, and given what is happening in the corridor.

I thoroughly read all the reports that were put together in terms of the study itself. Design Workshop was asked where it has worked. The two areas they cited were Cherry Creek North in Denver, which is a current and long-time dense urban area that is in redevelopment mode and The Domain in Austin, which already had 1 million square feet of office in place with big box retail anchors, which are not allowed in Leawood. Design Workshop was not contracted to design the project but just to provide guidelines and ideas for consideration. It was suggested that mixed-use doesn't always have to be

vertical mixed-use. With that background, we looked at Tuscany and saw how the road moved around to create different opportunities and bring residential to the north side of 137th Street to interface with commercial development that could go farther north. Thus, we had our plan. That's how we got here.

We worked hard on the access point for High Drive and where the light would be signalized, given that Kenneth was already signalized. Our traffic consultant did a great job, and we were able to work that out. With the light there, the road can go from 135th north to 133rd and start to create some concept of a grid system.

Staff went through the changes. We pointed to the internal street system. Some didn't like the roundabout, so we took it out. We did a nice focal amenity that staff did not show on High Drive. We went to a triplex and reconfigured to create a significant recreation area for the neighborhood. As people drive in, they will see commercial, high-rise residential, and high-rise office, moving into a green area with a nice ambience. We worked with them on the road system on 135th and internally. We reconfigured commercial buildings at the request of staff. We were creating a streetscape and moved our building up along High Drive from north to south. We pushed the building up against the street to create the ambience people want today. The LDO requires a 40' setback. We thought it brought a better streetscape to bring them to 30'. It's a 10' deviation. I thought we had that worked out. We worked with staff to increase the buffer area in the south. This isn't an LDO issue. We had 15' and were comfortable we could protect that buffer area with a preserved tree line. We looked at it again and backed off another 5' to be sure. We feel comfortable that we can work that out in Final Plan. We'll bring our landscaping in to show where we can strategically place landscaping that will enhance that buffer to make the most impact for our neighbors. We have talked to them about that. We look forward to working with that during the time of Final Plan.

Pedestrian connectivity is important to us as well. We heard a lot about intermodal transportation. I heard something about a trolley. I'm not trying to discount it; I'm just a little confused about what that is. I will say that we have vehicular movements covered. There are multiple ways to travel on foot or bicycle through the development. On 137th Street going east to west, we have 10' sidewalks on both sides. In addition, we are building an 80' right-of-way for 137th. There are bike lanes on both sides. We are building the streets at our cost. We are putting a new sidewalk on the west side of Kenneth. There are significant green areas. There is a nice 8' trail with a good diversion area. We have 6' sidewalks along 135th Street, and all internal sidewalks are 5'. There are a lot of pedestrian, bike, and hike trails fitting into the city's trail system. If transit areas need to be planned, we probably have areas we can talk about; we just don't know how to plan for something that is not in existence today. There are probably ways to have continuing dialogue.

Finally, you said we are bashing the plan. Commissioner Strauss, I want to emphasize we are not diminishing what went on. We thought we would try to lay something in. Remember, 137th Street is a bit farther north to make the project work, and they said it must be where it's been since it's been there since 1996. It's been a line on a piece of paper since 1996; it has never been built. To have somebody suggest that, because a line was put on a piece of paper in 1996, it can't be moved is wrong. It wouldn't work where it was put in 1996. We moved it not to be dismissive of a 25-year-old concept but to show you how it could work. We brought it back down and put in a

grid street system. We're at about 400,000' of commercial development. That approaches almost 1 million square feet of commercial development. Staff will say that we don't have to build it all that way. If we build garages, we need density. There are two interesting things I will tell you. We can't take dirt in the middle of Johnson County and just turn it into a park. Every tree that we're taking out will be taken out with this plan. We can't put in a grid street system and not take out the trees. Secondly, we are using a credit and bonus system, and the LDO is incapable of providing the opportunity to adhere to the Comprehensive Plan; there are not enough mechanisms. As a landowner, that is probably not a viable option.

The Golden Criteria were in here before. There are eight of them; you know what they are. I'll pick out one to discuss regarding removing restrictions that would detrimentally affect nearby property. All I will tell you is that at City Council, those votes were accompanied by a number of their neighbors. There have been 30 indications of support by our plan and maybe one negative. Other than that, there was no evidence from anybody that would be detrimentally affected. The one I would argue is the relative gain to public health, safety, and welfare due to the denial of the application, compared to the hardship as a result. What is the gain to the public if you deny it? It's a great plan. It can be built. It brings housing opportunities of various degrees. It brings the right balance of commercial and retail that can be built with some office utilization. How can the public be harmed?

We have four deviations before we get to the stipulations. I want to be clear on those. We have the 30' setback for the buildings along 137th and High Drive. The code requires 40' but allows a request up to a 10' deviation so the buildings can outline the street a little better. The second deviation is one about the side yards of the villas, which I thought we worked out with staff; I'll stand corrected. We then get to the issue of F.A.R. This alludes back to my point before. If you want density, even on the 18 acres, we have to utilize the tools that are in the LDO to allow us to get there. Mark went through it; it's pretty complicated. We are asking for the credit of 55% for our residential component, and we are asking for two bonuses: one for our structured parking and one for open space. We think we have made our case to earn the 55% credit. Not only do we have 10% more open space generally but also the 15% bonus for passive usable open space in enough of a concentration that people will use it. I agree with staff that there is a better way to do it than to put it on a corner. We concentrated our amenity area. Part of it is a part of stormwater and will be kept open. That's a big chunk of property with over two acres right on the corner. It will be left in its natural state. It helps us with water issues. Then, the area near the senior living is about 30,000 square feet. That is almost an acre. It is usable. What we have suggested and will continue to suggest is that it will have a lot of walkers and bicyclists. We would like to have a bit of artwork, places to sit, and fountains. That 30,000' equates to the exact square footage we get for the bonus.

We got the stipulations Friday night after 5:00, and we got revisions this morning. There are 42. I'm not up here beating on staff, but this is not an easy way to go through them. City Council told us to go back and work out the details, get some stipulations, and bring a plan. The first two stipulations require grid streets and transitional development. That's not approving the plan because we're not going to do grid streets and transitional development. The first stipulation we would change is No. 1A. We would revise it to be .43, which is the same F.A.R. but 55% discount, which we need. No. 3 is the one I talked

about with the strict compliance to the 135th Street Community Plan. We would ask that you delete items A, B, and C from No. 4 because it really goes to all the things in the 135th Street Plan, except for item C, which is the 35' setback instead of 20'. The 35' setback is somewhat pulled out of the air. We will check it at Final Plan. We would like to keep No. 4B, which basically says we will meet all the LDO requirements on materials. We would ask to delete No. 7. That is what allows us to have our cul-de-sacs. We would ask for No. 8 to be deleted, which is the whole issue about moving 137th Street back to the south, which is a fundamental component of our plan versus what they want to see. I would like a clarification on No. 9 and request that it refer to the portion of 137th Street on our property because there is a gap going west that is off our property. No. 18 states that there will be no deviations. I would like to delete that and add in the deviations I outlined for you. (*approaches the dais and hands out information*) This is a recap of what we would like deleted and revised. No. 34 says that we have to do everything in the Public Works memo. I thought we worked out a turn lanes and tapers in detail. We felt like we had a 250' taper at High Drive and Kenneth Road in terms of right turn lane and a 150' taper on the right-in, right-out. It could have been an oversight, but the Public Works memo indicates 300'. No. 29 refers to our retention facility northeast and southwest corners. In a retention facility, the water is held, cleaned, and released. Both of those are designed to be that way for a number of reasons, including functionality of the biotreatments of the water and also the size we had down where we connected with 135th Street in the southwest corner. We don't have the room for an amenity on the site here. We would like that to be removed from the Public Works memo and removed from Stipulation No. 29. The last one got reinserted today around 4:00. No. 2 says that prior to a building permit, we will enter into a development agreement with the city about phasing. I know it's in the 135th Street plan that we should do development agreements. I'm not sure what we're doing this about. We have planned zoning and stipulations. We will come back with a Final Plan with further detail. The thought of going through a development agreement does not seem necessary. With that, I'm sorry I took so long, but there were a lot of moving parts, and we were trying to catch up at the last minute on several of them. I would be happy to answer any questions.

Chairman Elkins: Thank you. Are there questions for Mr. Petersen?

Comm. Strauss: I think Mr. Petersen hit on it right at the end. My big question is about the community gathering spaces. That is a big part of mixed-use. Maybe put that up on the monitor. It sounded like you were claiming on Kenneth Road on the far east side by the senior center as the community gathering space for north of 137th Street, and then the other area is south.

Mr. Petersen: Yes, there is a visual impact for anybody in the area, but the utilization would be for the northern part of the area. We have other nodes around buildings and in the front, and we tried to add those up. There are green areas where people can go to be outside, even if they're shopping. With all the opportunities for biking and walking, the area we proposed is a natural buffer, providing 2/3 of an acre that we will be able to designate as a place for this development that will be a concentrated open space. Remember that the code speaks to passive open space

Chairman Elkins: Other questions for Mr. Petersen? I have a couple questions. Let's talk about phasing. You mentioned you had a challenge with respect to the late-added stipulation regarding phasing. You really didn't address phasing in your presentation. Could you put up your aerial plan and tell us about your client's current thoughts about sequencing?

Mr. Petersen: There are builders ready to go, but because of the ingress and egress, the road system has to be put in up to 135th Street. We have a lot of expense. When I go to the issue of cost and return, it isn't just that these guys just don't want to build something; it is a pile-on kind of element when added up to create a whole additional lane across 135th Street. I bet it's approaching seven figures. The power lines will be buried at the cost of the developer. It's probably over \$1 million to do that. Signalization is probably \$300,000-\$400,000. We'll talk to the city about when that light has to go in. Is there a set phasing? We know right here today if we're approved, we will build buildings according to market demand. The market will see that something can go in on 135th Street. My gut says that high-quality multi-family can probably get in quickly, and then there will be some service retail on the first floor of some of the buildings. When they see the concentration of Leawood residents who can walk, an office lease might get signed. There hasn't been a spec office building built in the city of Kansas City for 15 years. You don't start office buildings unless you have leases from people, but you can't go out and get leases until you know you have a plan. The senior living will probably have interest to move forward. The good thing for the city is most of the infrastructure all gets put in.

Chairman Elkins: Let's go back to your aerial. To your very point, you make a persuasive case for the fact that this meets the spirit of the desire for mixed-use because, clearly, you have at least four different uses in this space. But, if we rely strictly on the market, what do we do when the market never comes? Using your Villaggio example, what do we do when we have all these homes on the south but are left with a vision on the north that looks just like Villaggio now?

Mr. Petersen: That opportunity won't be presented until we get investment and actually start bringing people in, I can't say. You enhance the opportunity to get this going by letting some activity start. What you have now is 600 acres from Roe to State Line.

Chairman Elkins: I understand that, but I'm trying to plan the six acres, just like you are. In other instances with extended-period mixed uses, the value of the development agreement was that there were at least some commitments by the developer around phasing different parts of the mixed use coming at different times with variable for the market. This commission and City Council proved to be very amenable to modifying that plan as market conditions developed and the developer came to us with changes.

Mr. Petersen: Actually, Leawood is pretty unique in terms of the area. *Inaudible comments*

Chairman Elkins: You don't expect this to be built out in two years, do you?

Mr. Petersen: No.

Chairman Elkins: I'd be astonished if the southern part could be done in 18 months to two years. One thing that staff talked about and you addressed briefly in the stipulations is the challenges your client sees with respect to connecting the cul-de-sacs. Could you speak to that?

Mr. Petersen: I be you don't want streets connecting in your neighborhood, right? Now, we're talking about 137th and connecting the cul-de-sacs to it. Where are they going? What I think staff is suggesting is to connect the cul-de-sac to here.

Chairman Elkins: What I think Mark is saying was to connect the four on the south.

Mr. Petersen: I know some say they hate cul-de-sacs, but they allow us to keep nice, green areas, a lot of separation, a lot of good corridors from the neighbors to the south. We don't want to connect streets, eating up the pavement, instead of nice green open areas. Like it or not or if we disagree about the grids, cul-de-sac streets are a higher value and are considered a better place to live.

Chairman Elkins: Why is that? If we accept the premise for a moment that connectivity is an important element, it would seem that it is one of the things that is missing from your plan. You have three dead-end streets and four if you talk about the one on the north.

Mr. Petersen: It has great pedestrian connectivity. We meet the code.

Chairman Elkins: We're not talking code here; we're talking planning.

Mr. Petersen: There is very easy access to the houses out to one of your collector streets, which then goes immediately to the signalized intersection. If you live here, what is the advantage of connectivity? *Inaudible comments* It doesn't result in as high a quality of development as with the utilization of cul-de-sacs. It's not like we're blocking connectivity into the collector street system to the south because it's already shut off.

Chairman Elkins: Back to Commissioner Strauss's comments on the public area in the northeast, I think I recall seeing something in the case that a chunk of that is expected to relate to stormwater retention or something like that. Approximately what portion of that blank space that shows up green right now will be swamp or other stuff for stormwater retention?

Mr. Petersen: A little over two acres or 100,000 square feet of green space. We have to do 30,000 square feet. It reminds me of the area on 133rd Street near Nall with the statue. It is that kind of enclave but will be five times as big as that area. It's right along the bike trail. That's a passive green space. Your code describes how to earn the bonus.

Chairman Elkins: Maybe I'm mistaken, but in reading the plan that was put before us, my impression was that at least some portion of that nice big area you just described was going to be dedicated to stormwater retention.

Mr. Petersen: There are two acres total.

Chairman Elkins: How much of that two acres is going to be stormwater retention?

Mr. Petersen: The public would be able to access 30,000 square feet.

Chairman Elkins: So, the 2/3 acre would be usable space.

Mr. Petersen: Yes, sir.

Chairman Elkins: And the total is two acres?

Mr. Petersen: Yes. We're going to make sure 30,000 square feet is usable because it's 1:1 in your code. If I provide 30,000 square feet of open passive space, I can use 30,000 square feet of bonus against the building under the F.A.R. category.

Chairman Elkins: Moving on to the stipulations, you focused on the change to 55% in No. 1A. I was taken by the fact that you were striking the requirements to meet the requirements of the LDO.

Mr. Petersen: We're going to meet the LDO.

Chairman Elkins: I assumed you would, but again, usually there's a method to your madness. To help us in our analysis, of the stipulations that you take exception to, can you do a rundown of the ones you see that are essentially trying to claw back the 135th Street Plan?

Mr. Petersen: Nos. 3, 4, 8, and 18.

Chairman Elkins: What about Nos. 7 and 39? Why did you want to delete those?

Mr. Petersen: No. 7 is the issue of connecting the cul-de-sacs. No. 39 is the one about retention.

Chairman Elkins: That is not a "plan versus no plan" issue; it's a substantive issue.

Mr. Petersen: *Inaudible comments.*

Chairman Elkins: I understand the reason for No. 1A. Can you explain the reason for Nos. 9 and 34?

Mr. Petersen: I just wanted a modification to limit the responsibility to our property.

Chairman Elkins: No. 34 related to the issue of the length of the turn lanes?

Mr. Petersen: Yes.

Mr. Ley: Public Works updated our stipulations. It was changed to 250' for a signalized intersection plus taper and then 150' plus taper for the right-in, right-out.

Chairman Elkins: So, we can take that off the books. Does anyone else have additional questions?

Comm. Belzer: Are the villas single-story villas?

Mr. Petersen: Yes.

Comm. Belzer: I'm just thinking of the clientele you're seeking.

Mr. Petersen: A lot of them are reverse 1 ½-story. *Inaudible comments*

Chairman Elkins: You opened your presentation saying that, during the course of the Governing Body meeting, the council did not say that you had to come back and give us a plan that was consistent with the 135th Street Plan and the Comprehensive Plan. I've read the transcript, but I didn't see a place where they told you to come back to us with a plan that did not square with the plans. Did I miss something there?

Mr. Petersen: *Inaudible comments* I want to make it clear that I did not mean that they said not to worry about the Comprehensive Plan. When we left, there were conversations about not roundabouts and cul-de-sacs. We weren't told we had to get the grid system and the transitional element. Nobody said they would vote for doing it this way but that we should go back and try to find middle ground. I think we found a lot of middle ground, quite honestly. What we did not find middle ground on is that it's a basic conceptual difference. I'm sorry I took so long to tell you it's not just because we think it's a dumb idea or not a cool idea. I'm telling you as an industry, this will not work in the 135th Street Corridor. If you pick up the phone outside the context of making people come to a public hearing and ask them if it would work on 56 acres, the bankers, financiers, and developers would say it won't work. We came away knowing we had to work with staff on the turn lane, the building location, the separation, the buffer. We worked with staff to get the 137th connection on the west redesigned so we could pull it away from the homes on 137th. Where the city dropped it off right now, we were going right through the back yard. We are eating up part of our ground. We actually lost some units, which is a lot of money.

Chairman Elkins: Thank you. Before we take a break, I know there are a number of folks in the audience who have waited patiently. I will note for the record that there has been a fair amount of community interest expressed through emails and correspondence. Those have been presented to the commission and added to our record. It is a bit unusual

because we do not typically open a Public Hearing in this phase, but based on my own discretion tonight, I'm going to open this matter to Public Hearing because I suspect some people in the audience wish to be heard. Before we open the Public Hearing, I would ask that each speaker limit comments to four minutes. We would ask for your courtesy in not duplicating comments. If you just want to pile on, you certainly have a right to do so, but we do hear what you're saying. I'm deferring to legal counsel as to whether this is a formal Public Hearing because we didn't notice it out as such, but I do want to provide the opportunity for people in the audience to be heard. Any objections from counsel?

Mr. Hall: No, that sounds fine.

Chairman Elkins: Is there anyone in the audience who wishes to be heard?

Public Hearing

Bill John, 2649 W. 137th Terrace, appeared before the Planning Commission and made the following comments:

Mr. John: I just have a quick question. How does this proposal and the decision the Planning Commission and City Council are going to make impact the property that is adjacent to the west of the proposed development?

Chairman Elkins: I'll hold that question and give Mr. Petersen an opportunity to respond because he's the best one to do so.

Leanne Gorsuch, 13715 Pembroke Circle, appeared before the Planning Commission and made the following comments:

Ms. Gorsuch: I'm on the Board of Directors for Leawood Falls HOA. This evening, I am representing myself. I have been very interested in this entire process because my particular property is about that far from the line that is the south boundary of the project. I have studied all the documentation, all of the various maps. I'm very impressed with what they are proposing because it is very similar to what we have in Leawood Falls and also Highland Ranch, which immediately to the west. The thing that concerns me this evening and the reason I am before you is you are talking about trying to add connectivity between the various cul-de-sacs. There are probably 30 emails that you just alluded to that people from Leawood Falls and Highland Ranch have given you. If you decide to propose and go forward with that particular change to connect the cul-de-sacs, there will be 30 people giving even stronger emails that they would no longer be in favor. We have talked about this in the HOA meetings. The reason we are so in favor is the way they are respectful of where our villas, townhomes, and single-family homes are with respect to the development. If you make any changes, please give us the opportunity to come before you and speak again.

Chairman Elkins: Thank you. Are there other members of the public who wish to be heard? If not, I would entertain a motion to close the Public Hearing.

As no one else was present to speak, a motion to close the Public Hearing was made by Strauss; seconded by Stevens. Motion carried with a unanimous vote of 5-0. For: Hunter, Belzer, Strauss, Coleman, and Stevens.

Chairman Elkins: Mr. Petersen, would you care to step forward and speak to Mr. John's question and what you think the impact on the property to the west would be?

Mr. Petersen: Probably one of the most articulate letters put into the record referred to this. *Inaudible comments* We are in discussion about the extension of 137th over to Chadwick so we can pick that up. It's not a condition of the zoning. We are looking for ways to make that happen. I think it is going to be compatible to the use.

Chairman Elkins: Thank you. With that, I would ask everybody's indulgence for a five-minute break.

Five-minute recess

Chairman Elkins: We'll call the commission back to order, please. Mr. Petersen, you wish to be heard.

Mr. Petersen: *Inaudible comments.*

Chairman Elkins: So, the stormwater retention will actually be underground in a vault. Thank you. We've come to that portion of the process when the commissioners have an opportunity to comment on the plan.

Mr. Klein: I was wondering if I could make a couple of clarifications. There were a few comments that I want to be sure everyone understands.

Chairman Elkins: With the understanding that Mr. Petersen will have the opportunity to respond.

Mr. Klein: Yes, and what I'm going to show is all on plan, so hopefully, it won't be controversial. I want to be sure that people understand there is flexibility to the 135th Street Community Plan because it seems as if a lot of the emails indicate that people think they all have to be high-rise buildings and super dense. (*Refers to plan*) We talked about transects. It gets denser along 135th Street and less dense along 137th Street. I want to call out that it has been represented that it must have vertical mixed-use. That is not the plan requires. The plan suggests a range of heights. One goes from 124' to 115'. Currently, the LDO allows a maximum of 90' within the MX-D district. Just to give some reference, 35' is the height limitation in an R-1 district, which is the most prominent district in the City of Leawood. I wanted to make sure people understood that in T5, it is 24'-72', and in T4, it is 24'-42'. The plan they are proposing has a building that would be within that T4 range at 71'. To reiterate what the development looks like, the destination street shows the wider sidewalks. It does have taller buildings in the

denser area. The active pedestrian street is a mixture and is shown to be 2-3 stories in height with a mixture of residential and retail. I just want to be sure that everyone understands that it has some flexibility.

The Villaggio have been mentioned as an example of a grid network of streets. I promise when this went through, it had nothing to do with a grid network of streets. When the plan was initially submitted to the city, it was a whole bunch of buildings and a big parking lot. There was no internal circulation whatsoever. I remember writing letters to them, trying to get them to put in some sort of circulation within the development itself. That is really what these roads are meant to do. We lined them up with the driveways across, but it wasn't intended to be a grid network. In addition, this is one of the developments that failed during the downturn in the economy. It was being developed under the current LDO.

Chairman Elkins: Notwithstanding the intent, effectively, that is a grid network street organization. It certainly looks a lot like the pictures you've been showing us from the plan.

Mr. Klein: I don't have the plan with me. I know that Mr. Petersen does. Really, a grid network is more just having a grid of streets.

Mr. Coleman: It didn't have anything to do with the success or failure of that project.

Chairman Elkins: I'm not saying it did; I'm just saying that this looks very much like a grid network of streets.

Mr. Coleman: It is close.

Mr. Klein: It was actually split zoning; it wasn't mixed-use. They basically had a commercial development on the north and west side, and then they had the piece of office development. Only two buildings have developed: Gardens of Villaggio and Intrust Bank. I just wanted to clarify. Also, there is one other thing. I know John was concerned about Stipulation No. 8. The intent was not to shift 137th Street to the north; that was more to try to provide a buffer between 137th Street and the properties to the south. I think the applicant agrees with that and has already started that process. The one that had to do with the alignment of 137th Street, you already hit upon. The intent was to provide the people in Villas of Highlands Ranch and Leawood Falls a little more of a buffer.

Chairman Elkins: I think it was probably from John's presentation, but could you put up the aerial view of the plan as the applicant is proposing? (*Plan is displayed*) Show us what you intended with No. 8.

Mr. Klein: We would like to move the alignment as far away from the properties as possible to provide them a buffer, especially as it continues to the west. The applicant started that process to move that up. It is limited because 135th Street is constructed and ends at a certain point. The hope is that we can actually start moving that up a little farther to the north to provide them some relief as far as a buffer.

Chairman Elkins: Mr. Petersen, do you have any responses to Mr. Klein's comments?

Mr. Petersen: With that explanation, Stipulation No. 8 is fine, and I withdraw my request to delete it. I made my case on Villaggio.

Chairman Elkins: Thank you. This brings us to the discussion portion of our consideration. Usually, I toss it out to the commissioners to discuss it first, but this time, I'm going to at least try to frame the discussion a little bit. As an adjudicatory body and as a commission that is always helpful is when the issues are clearly stated. Often times, there is a lot of detail in what we have to deal with, and we get down into the details and work with the city and developers to see how those details can be reconciled. In this case, I'm grateful to both the applicant and staff. We have a very clear policy decision to make. That relates to Mr. Petersen's clients, and he makes no apologies for the fact that they're seeking to diverge away from the 135th Street Corridor plan as well as to the extent that it is grafted upon our Comprehensive Plan. Certainly, it is within our purview to make a recommendation to Governing Body. On the contrary side, the city staff and volunteers such as Commissioner Strauss have spent a great deal of time over the last 3-4 years in developing that plan. We're called upon to provide our input to Governing Body on just that. We need to discuss whether we think this is an appropriate deviation from that plan or whether our recommendation is to stick with the Comprehensive Plan and the 135th Street Community Plan. It behooves us to have that discussion before we get to the discussion of particular stipulations. With that, I would open the floor to any commissioner who wishes to be heard on this very fundamental policy issue about whether we should recommend a deviation away from the plan that so much work has gone into.

Comm. Hunter: I think I said this at the last meeting. There is a need to be flexible with that plan. We can go through whether this is the right plan, but I do see some need to be flexible. I welcome the applicant's comments. I appreciate the fact that you did work together. It looks like we did make some steps forward from the last meeting to now. I do welcome the idea of looking outside the box of the 135th Street Plan.

Comm. Strauss: I'll start by saying I think the applicant and Mr. Petersen did themselves a disservice by choosing not to speak up at the 135th Street Implementation Plan meetings. Mr. Petersen said they had reasons not to speak up, but the purpose of those meetings was to determine the right development. That is why we talked to landowners, developers, and adjacent neighborhoods. We wanted to know what they wanted. If they so chose to not speak up, it puts us in a quandary here. I disagree with Mr. Petersen when he started his presentation saying we are miles apart. I think we are much closer to what we envisioned for the 135th Street Corridor, but we are missing some key elements. We talked about flexibility when we put this plan together. Not every development along the corridor will look just like this one, but they have to have certain elements that this development is missing. During our Public Hearing, I heard a comment that said they like this development because it is similar to Leawood Falls. The whole point of the 135th Street Corridor is we don't want it to be similar to the rest of Leawood. We love the way

Leawood has developed over the years. We love cul-de-sacs. We love the green space, but the community designated this area as a different area. We don't want it to look just like Leawood Falls. That means cul-de-sacs are just like Leawood, and they are appropriate in those areas but not this one because they are not mixed-use. They don't facilitate the definition of mixed-use, which you'll find in the Urban Land Institute, which staff is well versed on. I think we're close because I see the key elements, but we're missing two things. I think we have the commercial space that transitions to the residential area as a buffer. I'm fine with the 55% development upgrade. We laid out a grid system for the circulation of pedestrians and people around because that's what a mixed-use development is centered around by definition. I see that we could get a grid system, but we would lose about six duplexes. I think you could relocate those somewhere else. I think there is no net loss of project. The other key element is a sense of place with your green space. Traditional suburban development says to put it in the corner in order to account for it in some way. I've got a green space in my subdivision that is near the entry, and there are more trees. It's beautiful, but no one uses it. Mixed-use is a usable space for people to gather, just like the ice-skating rink at Park Place that is green space in summer. It has to be a gathering space not behind the senior center, which will look beautiful to people driving down the road. The point is to get people interacting. If the green space were more integrated into the commercial area into the center and maybe push the senior center farther east, I think you would have that important element of mixed-use. I am pro-development. In my eight years on the commission, I've only voted against a project once, and that was for the Slab & Pickle. I am pro-development, but I am just not comfortable with this development because it's just additional Leawood suburban development. It's a great development. I really want this to work out, but it's not the intent of the 135th Street Plan. I would vote in denial, but what I would vote for is either reconfiguration of the plan, which I think can be done, or if, as Mr. Petersen states, it just won't work in this space, we need to revisit the 135th Street Community Plan. I hate to head down the path of putting in the wrong kind of development from what the community already said is desirable.

Comm. Coleman: To give you some background, in the initial meeting on September 11th, it was Commissioner Hunter, Commissioner Stevens, and me. From that meeting, I got the minutes. I also asked for the DVD of the meeting so I could see what happened. There was a lot of talk about the cul-de-sacs and the High Street intersection, but the main premise of the meeting was to send it back to us and have staff work with the developer to come up with a good plan. It wasn't anything about 135th Street Plan not working. When I got my packet, I was excited. I saw everyone wanting this to work. I looked at the materials, and I didn't see anything greatly different. The roundabout was gone; High Street was moved. I was disappointed and frustrated because this is not what City Council intended. It was a lot of work on the 135th Street Community Plan. It's what the community wants, and I think we have to adhere to that unless something drastically changes. I remember that first meeting on September 11th, and I said that maybe the plan was the problem as opposed to the proposed development. I'm with Commissioner Strauss; if there is a problem with the 135th Street Corridor and it is a fundamental rejection of the 135th Street Community Plan, that's what we need to address. We do want development, but we don't want haphazard development. We want a plan the

community has been involved with. If the plan we have out there is not viable, not feasible, then we need to alter that plan so we have the proper development in that corridor.

Comm. Belzer: Thank you for speaking and letting me defer to you. I'm very conflicted. I was not at the September 11th meeting, but I spent a lot of time reading every word and trying to figure out everything that had taken place. I have to agree with Commissioner Coleman; I feel like we came back to the same exact place. I, too, felt frustrated, but then it made me start to wonder what is the flexibility for us regarding the 135th Street Community Plan? What is the right direction? Is this the right direction? I'm not 100% sure what that means, but I think we're much closer than what Mr. Petersen stated in the beginning of his presentation. I think we can come to some agreements with some flexibility. I'm not sure if it's the wisest decision to let the property sit again. We have viable suggestions here in front of us. Development will be good for Leawood. To sit on it and start a whole process again is a very lengthy and daunting task. I'm conflicted. I'm not exactly sure what I think the right decision is at this point.

Comm. Stevens: I was here previously, but I guess I was disappointed to see that the revised plan is very similar to what was presented before. As you mentioned, there were some adjustments, some for the better. I'm concerned that it proposes development that is not comprehensive in its full scope. The conditions of not being in compliance with all of the 135th Street Community Plan and the Comprehensive Plan is really concerning, especially the mixed-use district areas being constricted in size and not creating the spaces that make those areas special. The conditions of planning, the goals within the 135th Street Community Plan are based on fundamental goals of highly successful planning and planning principles for connectivity, for creating this sense of place and special areas. Again, it almost feels like it's been compromised further. There is a row of four- to five-story buildings on the northwestern side of the block, a group of two-story buildings that almost feel like pad sites within a parking lot in the center. It's not a connected neighborhood. It's not the planned district that was the goal of the 135th Street Community Plan and the Comprehensive Plan. For all those reasons, I can't get past all of the nine deviations and the other areas of non-compliance.

Chairman Elkins: Thank you. For my part, I see a lot of positive in the plan. I see the plan achieves a number of the policy goals that are incorporated into the 135th Street Community Plan. We do have a plan that contains mixed-use here in my mind. There are different uses, including everything from the assisted living, which is something needed in Leawood, retail, office, and attached homes. Those are all things we seek to achieve with a mixed-use plan. The other thing I think this achieves, using my terms, is it creates a gradient. One of the things many homeowners are concerned about is what buffer they will have between what happens on 135th Street back to their homes north of 137th Street. This really accomplishes that. The folks who spoke today are not going to have a car dealership across the street from them or a big box. It accomplishes a great deal of what we hope to achieve through mixed-use. I think the point Mr. Petersen and his clients made, which was actually made by the consultant at the meeting, is that mixed-use does not necessarily mean vertical. Horizontal mixed-use is within the concept. This strikes me

as an interesting and creative way to achieve the horizontal mixed-use. I share some of the concerns that other commissioners have raised around the sense of place. I understand, from a practical standpoint, what the applicant is trying to achieve, but while it is great for the people using the bike lanes, in terms of creating a sense of community and a gathering place, it seems like the planning of the collection point is challenging to have it achieve what we hope to achieve. Again, I compliment the applicant because a lot of the connectivity addresses what we have talked about again and again over the years: pedestrian and bicycle connectivity. This plan does seem to achieve that with some of the planning with respect to bike trails and pedestrian connectivity. I agree with Commissioner Belzer that it is a mixed bag, but it does bring us back to the fundamental question of whether we want to accept a plan in front of us that appears to have financing and is willing to move forward but is still a deviation from the plan for the area or not. Are there other comments that any commissioner would like to make?

Comm. Strauss: I'll say again that I think there are a lot of great elements with this plan. I don't know the right way to go, but I don't feel like this meets the intent of the 135th Street Community Plan, so I can't endorse it. I also feel like the developer could go back and work with the city and make some small, key changes to have a plan that meets the outlined goals of city staff and the 135th Street Community Plan. That is where I am. I don't think we're far from it. I don't feel like connecting streets and putting in a gathering space is far off, but those are key elements of what we said this corridor would be.

Chairman Elkins: Let me take a small deviation from normal procedures. Mr. Petersen, I do not want to put words in your mouth, but it is my belief that your clients would prefer to move forward or not move forward with this plan rather than taking another tour through the city staff, given the comments we've made here, to try to reach a consensus at this stage in the process.

Mr. Petersen: That is correct. I say that because it sounds like it's small steps and we're not willing to consider small steps, but connecting the cul-de-sacs is not small steps; it's a lot of loss of the whole concept. What I'd rather have is a recommendation for approval with direction to City Council. When you see it, I'd like to at least talk about that again. To say that we'll just connect all the streets, we've just spent too much time and would rather have you vote. I say this with the utmost respect: I'd love to have a recommendation for approval, even with conditions.

Chairman Elkins: I understand. Additional comments from the commissioners?

Comm. Hunter: If people are looking for direction, connecting cul-de-sacs is a fairly large undertaking with this plan. What is it that we would like to see? Are there a couple things we can recommend that they could go back to do? I don't think it's fair to say that it's going to be a moratorium on development on 135th Street, so we have to go back and start over. What would you like to see?

Comm. Strauss: I guess I said that because we have the blueprint in front of us with the 135th Street Plan. We have to deny it because staff says this does not meet the 135th Street

Plan. I guess I threw out that maybe we should rethink the plan because, if it will never be built, as Mr. Petersen says, how can we approve their plan? We either have to deny the plan or go back and rethink the corridor.

Chairman Elkins: I guess I would make the comment, though, that my understanding is the distinction between the LDO and the plan is that the plan is not a binding document. We are not obligated to approve or deny a project based on the plan. We make deviations from the Comprehensive Plan all the time. I understand what you're saying philosophically, but just as a matter of process and procedure, I want to make it clear that the commission is not bound to either approve or disapprove a plan based on whether it meets the Comprehensive Plan.

Comm. Strauss: I agree, but we had four+ years of staff thinking about it, asking the public, landowners, and developers, and this is what we came with. It would be hard to go against that when so much has been invested in that. We know that City Council was interested in that direction. I agree that we're not bound by it, but it sure seems like a pretty good search light.

Chairman Elkins: At the risk of putting words in your mouth, the key things I heard you say that you thought were missing were the connectivity and the location of the gathering place to create this sense of space. Is that fair?

Comm. Strauss: For me, those were the big ones that missed the mark.

Chairman Elkins: Commissioner Stevens, you had a pretty good list as well. Would you add to that?

Comm. Stevens: Those were the key elements. With added space in the mixed-use area, the applicant would be able to better create versions of mixed-use arrangements that would be much more in keeping with the planning goals of the plan. The tight space allocation for that portion of the development is what is really creating a lot of the issues. I think building form, development form, and organization would help reinforce a sense of place within the mixed-use areas as well as what you mentioned, making those areas much different than a traditional commercial strip. To me, that seems important. It's about the configuration of the available area that's allocated for mixed-use that is making it difficult for the applicant to achieve some of the goals.

Chairman Elkins: I'll rise to a point of order at this point. Under the rules of the commission, we are limited to the 9:00 pm hour; although, we have the option to extend for 30 minutes.

A motion to extend the meeting to 9:30 pm was made by Belzer; seconded by Strauss. Motion carried with a unanimous vote of 5-0. For: Belzer, Hunter, Strauss, Coleman, and Stevens.

Comm. Strauss: Some of the working sessions we had on the 135th Street Community Plan as far as gathering spaces were pocket parks that development surrounded, not that they were put off to the sides. People could have a place in the middle of the development. They go out of their office, and they're in this green space. It doesn't have to be a green space, but it's an open space and not a parking lot. If we could only put that green space in the center, it's a gathering space in the middle rather than the parking lot, which is very typical of what we see in suburban Kansas City.

Comm. Belzer: While I can appreciate the extensive number of hours and amount of work that went into the Community Plan four years ago, I really think we have to think in a flexible way. I do see the point about the green space. I think the applicant did a great job of saying they have the big green space, but the truth is that it's very far from the common areas; it's kind of tucked into the corner. I think it's a great idea to do that. It would be great to incorporate that more into the more common areas. I know it's in the plan, and I understand that. I'm not as hung up on the connectivity of the cul-de-sacs. I see 137th Street as the connector and the street where the connectivity takes place. Personally, I liked the roundabout and think that added an element of green space and area of interest, but I apparently should have addressed that at the September 11th meeting. From a pedestrian standpoint, the connectivity is there with the trails. If you're living in one of these villas and you're driving, you're not going to come back out and around anywhere; you're going to go straight out to 137th Street. I see that as the big connector. I do agree that it would be ideal if there were some community gathering spaces that were closer to the retail and office spaces. I would be really happy with that, but when I look at this, I see a lot of elements of mixed-use. I see a lot of elements of the intent of the Community Plan, maybe not to the letter, but I see the spirit of what was coming forth in the Community Plan in the plan set before us.

Chairman Elkins: Before we move to a motion and a vote, I think we owe it to Mr. Petersen to talk just a moment about the stipulations. For purposes of this discussion, let's take the stipulations that effectively put back in the 135th Street Community Plan and go to the stipulations that were left after we went through them. Do any of the commissioners have strong feelings one way or the other about the stipulations that we reviewed? I think we eliminated a fair number as being essentially part of this same issue as far as whether this plan should be in the confines of the 135th Street Community Plan. I heard one commissioner express general agreement about the idea of the 55% bonus. Do any commissioners wish to be heard on that? Seeing none, I'll move on to the business about retention versus detention. Do any commissioners have a better understanding than I do and wish to be heard on it? On the revisions, No. 1A refers to the 55%. What about No. 9? I think all they were asking for was within the proposed development, and I presume there is no dispute or concern about that.

Comm. Strauss: We're so focused on this development, but I think there was a stipulation that said to not bring the road down to the property line for the development to the west. It is to the benefit of the property owners south of this project but to the detriment to the property owners to the west.

Mr. Petersen: It is No. 8. I asked for it to be deleted, but I'm fine with it being back in with the explanation that it's only the portion on our property.

Comm. Strauss: If I could just say one more think about 137th Street, I had no problem with moving the street a little farther north. That is part of the flexibility. The line put on in 1996 was a best guess, and when things are laid out, things change.

Chairman Elkins: Thank you. Are there any other comments about the stipulations we discussed? I appreciate the comments from the commission. I think they're thoughtful. I think we've had good deliberations tonight. I think, regardless of how the motion moves forward and how this project moves forward, we have certainly provided some insight for the Governing Body as they make whatever decision they need to make. With that, I would entertain a motion.

A motion to deny CASE 71-18 – 135th STREET AND KENNETH ROAD – MIXED-USE AND MEDIUM-DENSITY RESIDENTIAL – Request for approval of a Rezoning from AG (Agricultural) to MXD (Mixed-Use Development District) and RP-3 (Planned Cluster Attached Residential District), Special Use Permit for an Assisted Living Facility, Preliminary Plan and Preliminary Plat, located south of 135th Street and west of Kenneth Road – was made by Strauss in conjunction with staff's comments; seconded by Coleman.

Chairman Elkins: Is there discussion on the motion?

Comm. Strauss: Obviously, this goes on to Governing Body. I would like to see this development come back with some changes. Hopefully, Governing Body can add some insight to what we talked about. I hope we're consistent because if we are in two different corners, that is not good, either. I hope this development comes back with revisions because I would like to see it completed.

Chairman Elkins: Additional discussion of the pending motion? We will move to a hand vote.

Motion passed with a vote of 3-2. For: Stevens, Coleman, and Strauss. Opposed: Belzer and Hunter.

Mr. Petersen: Does the chair vote?

Chairman Elkins: The chair only votes in the case of a tie. I'm not inclined to create a tie. Any further business to come before the commission? Thank you to Mr. Petersen and your clients. It will be interesting to see how the Governing Body moves forward.

Mr. Petersen: We always thank you for your time. Sorry it takes so long, but it's an important issue.

MEETING ADJOURNED