

**City of Leawood  
Planning Commission Meeting  
August 27, 2019  
Dinner Session – 5:30 p.m. – No Discussion of Items  
Leawood City Hall – Main Conference Room  
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:** McGurren, Hunter, Belzer, Hoyt, Elkins, Coleman, Block, Stevens, Peterson. Absent: Elkins

**APPROVAL OF THE AGENDA**

Chairman Coleman: Chair will entertain a motion to approve the agenda.

**A motion to approve the agenda was made by Hoyt; seconded by Block. Motion carried with a unanimous vote of 7-0. For: McGurren, Hunter, Belzer, Hoyt, Block, Stevens, and Peterson.**

**APPROVAL OF MINUTES:** Approval of the minutes from the July 23, 2019 Planning Commission meeting.

Chairman Coleman: Are there any additions or comments?

*Chairman Elkins joined the meeting*

Chairman Elkins: My apologies for being late. Are there any revisions or amendments to the minutes?

**A motion to approve the minutes from the July 23, 2019 Planning Commission meeting was made by Coleman; seconded by Hoyt. Motion carried with a unanimous vote of 8-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

**CONSENT AGENDA:**

CASE 75-19 – STONE LEDGE LOTS 1-3 REPLAT – Request for approval of a Revised Final Plat, located north of 154th Street and east of Nall Avenue.

CASE 84-19 – HALLBROOK EAST VILLAGE – FENCES AND WALLS – Request for approval of a Revised Final Plan, located south of 112th Terrace and west of State Line Road.

CASE 90-19 – EDGEWOOD SUBDIVISION – PRIVATE ART – Request for approval of a Final Plan – located north of Town Center Drive and west of Roe Avenue.

Chairman Elkins: Does anyone wish to pull any of these cases for consideration? Seeing none, is there a motion?

**A motion to approve the Consent Agenda was made by Hoyt; seconded by Belzer. Motion carried with a unanimous vote of 8-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

**NEW BUSINESS:**

CASE 74-19 – THE HILLS OF LEAWOOD VILLAS – Request for approval of a Rezoning from R-1 (Planned Single Family Low Density Residential) to RP-2 (Planned Cluster Residential Detached), Preliminary Plan and Preliminary Plat – Located north of 151st Street and east of Mission Road. **PUBLIC HEARING**

**Staff Presentation:**

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 74-19 – The Hills of Leawood Villas – Request for approval of a Rezoning from R-1 to RP-2, Preliminary Plan, and Preliminary Plat. The property is located north of 151<sup>st</sup> Street and east of Mission Road. The application before you tonight proposes 25 single-family residential lots and five tracts on 13.5 acres for an average lot size of 13,642 square feet per lot. Fourteen of the lots would be located north of the proposed 150<sup>th</sup> Street with the remaining eleven single-family units located south of the proposed 150<sup>th</sup> Street. Along with this development, the applicant is proposing to construct the remainder of 151<sup>st</sup> Street from the terminus at its west side of the approved Hills of Leawood development over to Mission Road. The applicant is also proposing a 10’ tree preservation easement along the northern common property line of the development to help continue the buffer between the development and the park to the north. Staff is recommending denial of the application due to a number of outstanding concerns with the project design. The City of Leawood Comprehensive Plan has shown this area to be Low Density Residential since at least the 1980s when the initial plan for this property was approved. The development being proposed tonight proposes a change in zoning from R-1 to RP-2, skipping over the RP-1 zoning district. R-1 and RP-1 are low Density; RP-2 jumps to Medium Density Residential. The developments surrounding the perimeter of the proposed development are also Low Density Residential with average lot sizes larger than what is being proposed. Since the zoning runs with the land, any future developments would be able to use the minimum requirements of the zoning if they were to redevelop the area, including a minimum of 6,000 square feet for the average size of the lot. The developments surrounding the proposed development have lots larger than what is being proposed. Mission Heights has an average lot size close to 45, 500 square feet, and The Hills of Leawood subdivision has an average lot size of close to 19,500 square feet. This subdivision had to get approval from the Board of Zoning Appeals, where they were approved for an average lot size of 19,000 square feet. This development is below both of those developments with an average of 13,500 square feet

per lot. The applicant is requesting deviations from the Leawood Development Ordinance (LDO) regarding setbacks from the already reduced setbacks within an RP-2 area compared to Low Density Residential. Staff would like to clarify something in your packet. Within the Fire Department memo, it states that the Fire Department has an objection to the plan. It should be revised to say that the Fire Department has no objection. The Final Plat and Final Plan meet the regulations of the LDO if it is granted recommendation to rezone to RP-2 zoning district. If the project is not granted the rezoning, the current plan would not be in conformance with the Leawood Development Ordinance with any Low Density Residential use. Staff recommends denial of Case 74-19 with the stipulations listed in the Staff Report. We're happy to answer any questions.

Chairman Elkins: Thank you. Are there questions for staff?

Comm. Hoyt: In the packet, we have a statement from a group identified as the Mission Road Residents. Who are the actual signatories to that? I noticed there were names attached to the other materials submitted, but I couldn't tell how many and who were part of this. Maybe someone will be present to night to make a comment.

Mr. Klein: I think there are a number here to speak to this application. I think it is a number of residents from Mission Heights, but it also could include some other residents as well, including Reserve at Ironhorse.

Comm. Hoyt: I'm curious who sent this to you.

Mr. Sanchez: Many of the letters are sent through email. The actual person who sent it may not have an email that corresponds with the name. Often times, they will have a signature.

Comm. Hoyt: The one I'm looking at says, "Mission Road Residents Objections."

Mr. Klein: Many of those residents are the ones in Mission Heights, the larger lots around the periphery.

Comm. Hoyt: I figured that; I was just curious if there was a name attached. If there isn't, we can go on. I also wonder if you would want to react to a statement that was made during the Interact Meeting in Point No. 4. Resident Robert McClain asked where the amenity package would be and why the property could not be developed as R-1. The developer responded, "Due to unusual shape of land and restrictions, the R-1 land plan was not feasible." I would like to hear your reaction to that argument.

Mr. Klein: This developer also developed The Hills of Leawood to the east and a subdivision in Overland Park to the east of The Hills of Leawood, which is smaller lots. The Hills of Leawood took up that smaller portion that was pretty much up to the easement for the power lines, leaving a small area of land sandwiched between the Mission Heights subdivision along Mission Road and also 151<sup>st</sup> Street. The developer is making the argument that with R-1, it would not have enough lots to make a profit. The

applicant could probably speak to that more. R-1 and RP-1 have a requirement to meet the minimum lot size of 15,000 square feet per lot in R-1 and 12,000 square feet in RP-1 and also a requirement to meet the average lot size of all the lots within 300 feet up to a maximum of an acre. The Hills of Leawood also had R-1 zoning. They went to the Board of Zoning Appeals and received a variance; however, they wanted to make sure the lots were larger than the 15,000 square feet. They raised it to an average of 19,000 square feet for the lots in The Hills of Leawood. They do have some lots that are 15,000 square feet. They did not have to meet the lot average of the surrounding lots. That development is also adjacent to the subdivision located in Overland Park that has smaller lots.

Comm. Hoyt: I understand this proposal would have 25 dwellings. What is your assessment of how many dwellings would be part of this if it were not rezoned?

Mr. Klein: I think it definitely would end up with fewer lots with larger lot sizes and larger setbacks. I couldn't tell you the exact number.

Chairman Elkins: Thank you. Additional questions for staff?

Comm. Block: I thought one of the renderings we saw with the earlier plans for the development on the east side of this area did show houses with larger lots west of the power lines. I understand that wasn't part of the application, but I thought they were at least overlaid on the maps we saw.

Mr. Klein: I don't recall any within this area. I think they did show them developed in the Mission Heights subdivision along Mission Road.

Comm. Block: What is the map in color with the circles? What do the circles represent around this development?

Mr. Klein: Often times, we'll get plans with the 200' boundary and the 500' boundary. The 200' boundary is the area of required notification under state statute. The 500' boundary is from the City of Leawood to indicate who receives an invitation to an interact meeting.

Comm. Block: You think the 200' boundary is one of these smaller circles, and it goes to Mission maybe, and then the 500' boundary would go to the larger one that goes into The Pavilions.

Mr. Klein: Yes, and they may have included another one that was 1,000 feet. They have them labeled. The inner one is 200, and the next one out is 500 feet. That is who they send the interact notification to.

Comm. Block: The people who would have gotten this notice are in that first circle, and the second circle is the ones who were invited to the interact?

Mr. Klein: Correct.

Comm. Block: What is the third circle?

Mr. Sanchez: Staff usually likes to ask the applicant to send out mailings to HOA representatives up to 1,000 feet. That way, the entire HOAs surrounding the development will know about it, and they can reach out to their neighbors.

Mr. Klein: Staff also sends out to the HOAs as well.

Comm. Block: There is a letter here from The Pavilions. It just seems that the board member spoke on behalf of all the residents of The Pavilions and not having an objection to the project, and maybe only board members and no residents got a letter. Is that possible?

Mr. Klein: I think the letter I saw was from the HOA president. It could be that they had an HOA meeting and got input that way.

Comm. Block: If they're here, I'd like to understand how they spoke to their neighborhood. Thank you.

Chairman Elkins: Thank you. Additional questions for staff? I'd invited the applicant to come forward.

**Applicant Presentation:**

Greg Musil, Rouse Frets Law Firm, 5250 W. 116<sup>th</sup> Place, Suite 400, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Musil: Thank you for allowing us to present tonight. If you read the Staff Report, you might think we're putting high rise garden apartments next to some of these single-family homes, and I hope to disabuse you of that notion and demonstrate that these are high quality, single-family homes on relatively large lots that will be a benefit and an asset to the City of Leawood.

*(Begins slide show)* Those of you who were here when The Hills of Leawood was finally rezoned in 2018 would recall the view here. Dr. Ishwa Reddy has owned this property since the 1990s. Staff said it has been Low Density Residential since the 1980s and thinks we should keep it that way. The point I want to make tonight is that it's been Low Density since the 1980s. Dr. Reddy has owned it since the 1990s. It has been vacant for the history of the City of Leawood. That's part of the reason we're here tonight: to find something that fits and not just with respect to the RP-2 zoning district but with respect to the plan that is in front of you. I'll speak to that later, but it's not just RP-2 zoning; it's a development plan that you have a chance to approve. If the Governing Body approves it, we're bound by it. We can't just go in and reduce everything to the RP-2 minimums without coming back to you and City Council. Mark Simpson and Saul Ellis are the developers of this. They are developing The Hills of Leawood to the east. That subdivision is going well with Phase 1. Tim Tucker is here with civil engineering if you have stormwater or site plan questions beyond the capability of a lawyer. Jason Meyer

did our landscape plans. We want to review the Preliminary Plat and Plan, the stipulations, request your approval, and then answer any questions you have. You know about Mr. Simpson and Mr. Ellis. They have developed a number of successful subdivisions, including The Hills of Leawood to the east. It's important to look at the site and ask how it looks different from other sites that are developed. It is an interior site. It is bounded on the east by a 100' KCP&L high power transmission line. On the west, we have a little bit of jaggedness that makes it a bit more difficult, and 150<sup>th</sup> Street comes off Mission. The City of Leawood acquired that right-of-way decades ago. It's been there a long time as part of the Mission Heights Plat back in the '70s or '80s. To give you context of The Hills of Leawood, it only had development on the east side of the power lines. This site is different. It's narrower and jagged. The Hills of Leawood site is about 50+ acres on the east side, which gives a chance to design something that is a little easier to do and stay within the R-1 zoning category.

The 1970s plan shows what people thought might develop. There is no high-voltage transmission line shown on this plan. Obviously, that never developed as initially anticipated. The actual development occurred along the section line roads: Mission Road and 151<sup>st</sup>. We talked about it during The Hills of Leawood. Those don't require any infrastructure. That is why we have these legacy lots that are larger and that you'll hear from later. These folks are concerned about what is going to develop next to them, as they should be and as we want our neighbors to be. This is what happens when the interior of the piece is left to carry all the burden of development, including all of the interior roads, all of the sewer, and all of the electrical. That plays into this particular plan. In 2016, a gentleman said he could develop the entire area in R-1, and he had 51 total lots over the entire area, eight of which were located west of the power line. That plan could never be financed and was never undertaken. The western boundary of The Hills of Leawood honored the right-of-way of the power line. I want to talk about the Preliminary Plat and the development challenges. On the east boundary is 161,000-volt power line. This is not a distribution line like you see in your house; this is a high-power transmission line going cross-country. KCP&L bought these and took the rights to put up a transmission line in there. It wasn't limited to 161 kilovolts or H poles. It can be increased for whatever the needs of the power company are. That's important when looking at what lots could go next to these lines. Seven of the 25 lots will abut the power line with this plan of a total of 25. On the west boundary are the legacy homes that were developed since 1965, some as late as in the 2000s. You've seen the narrow and irregular shape. All of the infrastructure of this subdivision has to be born by these houses. All the roads and storm sewers have to be born by these homes. As you recall, there are two pinch points on this: one north of 150<sup>th</sup> Street and one south of 150<sup>th</sup> Street. They are 237 feet wide on the south and 246 feet on the north. We can't put a street in there and put houses on both sides because we don't have lot depth. That's a constraint on this. As I mentioned, it has been vacant and undeveloped for the entire history of the City of Leawood.

On the western side, the first house is from 1965; the most recent is 2000. The Staff Report can be boiled down to three issues. One is the density is too great. The second is that it's not compatible to put RP-2 next to R-1 in this situation, and it requires some deviations. I want to address all of those as quickly as I can. Is this application too dense? R-1 allows 2.9 units per acre; RP-1 allows 3.63; RP-2 allows 7.26. It sounds

pretty dramatic. The plan you have in front of you is 1.85 units per acre. It is only 63% of the minimum of R-1, which is lower than R-1. It is 50% of the density allowed in RP-1. If you think RP-1 ought to go there, you would be allowing more density. It is 25% of the density allowed in RP-2. I submit the proposal is not too dense. It is consistent with or better than R-1 or RP-1 zoning. The Pavilions is across Mission Road to the west, and it is at 2.67 units per acre. Mission Reserve to the southwest across the corner diagonally is also an RP-2 subdivision and is 2.5 per acre. The Reserve at Ironhorse is south across 151<sup>st</sup> and is 1.26 per acre. The Villas of Ironwood to the east, admittedly an Overland Park subdivision, is 2.4 units per acre. The Hills of Leawood just across the power line is 1.7 units per acre. Are we out of line with those at 1.85 units per acre? I submit that 1.85 units per acre is not too dense generally and certainly on an irregular tract like this that is hard to develop and has to bear all the costs of the infrastructure.

Staff also talked about compatibility. We have R-1 neighbors to our west along Mission Road. I'm going to go through the Comprehensive Plan because we have had and have today RP-2 next to R-1, and we have RP-2 next to RP-1. We're not breaking some new ground to put this subdivision in. There are similarly situated RP-2 developments next to RP-1 and R-1. What is frustrating about the Staff Report is it never really addresses why this site is vacant 50 years as it was designated as Low-Density Residential as well as the restrictions that make this difficult to develop. Staff has said over and over again that this is suitable for its current zoning. No one has come in and made any serious attempt or been able to develop a plan that could be financed or sold to develop this for anything, which is why Dr. Reddy is ready to try to get something built. The buffering and the distances offered to our neighbors to the west exceed R-1 and RP-1. The 2018 Comprehensive Plan shows three subdivisions that are RP-2 next to R-1 and RP-1. The zoning map shows them. The subdivisions are The Villas at Whitehorse, Mission Reserve, and The Villas of Leawood. They all abut either R-1 or RP-1. We're not doing something weird. We're not trying to jam in something that hasn't been used elsewhere. There are other compatibility concerns, including lot size. R-1 is 15,000 feet; RP-1 is 12,000 feet; RP-2 drops all the way down to 6,000 square feet. It sounds dramatic to go to RP-2. Staff talks several times about us skipping a zoning category. That would be important if the plan didn't tell you that 13,500 square feet is our average lot size. Our average lot size is 91% of R-1. It's bigger than RP-1's minimum. It's almost twice as big as RP-2's minimum. Our lot size is consistent with single-family homes in R-1 or RP-1 developments. Our smallest lot is 9,500 square feet, which is almost 60% bigger than the minimum of RP-2. I touched on height restrictions because people don't want somebody to look down from a second story into their back yard. The height restrictions are the same in all three zoning districts at 35 feet. What is interesting is that in this development, these will be villas with a main floor and a lower level. RP-1 and R-1 will result, most likely, in two-story homes. This affects privacy, perception, and maybe reality differently than a one-story next door. Is RP-1 and R-1 a better neighbor than an RP-2 with villas?

Another compatibility issue was the distance between houses. North of 150<sup>th</sup> street, the closest home is 75 feet from the build line of the new villa to the back of the house just north of 150<sup>th</sup> Street. The one to the north is 131 feet. South of 150<sup>th</sup> Street are distances of 141 feet, 139, 153, 212, and 220. What does that mean in terms of our impact on these legacy neighbors? Look at your LDO and what you think is an acceptable

distance between houses. In R-1 and RP-1, houses can be 60 feet apart, and both need a 30' rear setback. In RP-2, it could go down to 40 feet. What does the plan require of us? We looked at some other subdivisions. The Pavilions subdivision has 70-85 feet between houses. Steeplechase has 55-65 feet. Hallbrook has 75-90 feet. The Hills of Leawood Villas are 131-220 feet between houses except for the one that is only 75 feet. This would put us a greater distance than Steeplechase, in the middle of The Pavilions, and at the bottom of Hallbrook. Are those distances so incompatible that you can't have a single-family neighbor back to you if you are in an R-1 subdivision?

Staff has expressed concerns in the report that if you zone it RP-2, it will run with the land. As I'm confident you're aware, in the LDO, you treat Preliminary Development Plans as Rezoning. If we get a development plan approved, we can't come back and go to 6,000 square feet per lot. We can't go back to seven units per acre unless we have a meeting, file an application, have an interact meeting, send notice to everybody within 200 feet as well as the HOAs, post a sign, come before the Planning Commission, go to City Council subject to protest petition options, just like a Rezoning. I listed your LDO requirements for the record so we have those. The Governing Body and Planning Commission shall give the same consideration to a Preliminary Development Plan that you do to a Rezoning. I know there is always a boogeyman out there that thinks if we rezone it to RP-2, someone will come in and want seven units per acre. We can't do seven units per acre here because we have a minimum frontage on our lots, and we still have a minimum lot size and a minimum setback. If you look at the development plan and plat we had earlier, you will see that it simply cannot be done. The fear that somehow going to RP-2 is going to open this site up for something dramatically different is simply not founded in fact or law.

When I saw the deviations, I thought we were screwed. Nobody likes to come in and ask for deviations. There are 25 lots, and five of them require deviations. A total of six deviations are requested out of hundreds when you consider rear, front, side and all the setbacks. These deviations affect about 2,000 square feet of land about the size of this chamber. They're all internal to the project. They're not cutting down distances to our neighbors; they're cutting down side yards and distances within this development. Lot 16 has a slight deviation along the street on the side of the house. Whoever buys those two houses will know where their property line is. On the righthand side, Lot 6 has a slightly smaller front setback. Then, Lots 12 and 13 have similar reductions. We're reducing in Lot 6 from 30 to 22.5 feet, and that's permitted by the LDO. On Lots 12, 13, and 16, we're reducing from 20 to 15 feet on the sides, and that's also permitted by the LDO. On Lots 16 and 17, there is a reduced side yard between the two houses from 10 feet to 8.5 feet. All those are permitted by the LDO, and we have to provide additional compensating open space of .05 acres, and we provided about .72. The percentage doesn't sound very impressive, but we meet what the LDO requires. We tried to find some consensus because our neighbors behind us are going to talk to you about their perceptions of this project. We had an interact meeting, and you have the minutes. The developer had additional meetings with the neighbors. We proposed additional tree planting and a buffer on the west side that I'll show you in a minute. We proposed additional easements for landscaping along 150<sup>th</sup> Street entrance so that the two houses on the south and north side would have more buffering, far more than a normal city street would have. On the western property line, we proposed a 10' utility easement, storm

drainage utilities on the back property line, then a 10' tree planting easement that would be planted and maintained by the HOA to create a buffer. On the entrance to the subdivision, as a benefit to the developer as well, we propose additional landscape easement on these two homeowners' properties that would be used solely for the plantings shown. The neighbors have not agreed to those, but we were willing to do those in an effort to meet the perception that we're too close or too dense.

You have in your packets support of surrounding neighborhoods. The Pavilions, as I understand it, circulated the plans to its homeowners, and the president of the HOA sent you a letter. The Reserve at Ironhorse immediately south across 151<sup>st</sup> sent a letter. David Swartz, who owns two lots adjacent to this sent a letter, and The Villas of Ironwoods to the east sent a letter. I also have an email from Carl Lavender in support of the project. He lives at 3400 W. 151<sup>st</sup> Street.

You know the criteria. What's in your LDO in Section 16-5-1.4 is what everyone refers to as The Golden Criteria because of the Golden vs. City of Overland Park case. I want to address those quickly because in the Staff Report, each of those elements was addressed in terms of density compatibility and that we don't want any deviations. The character of this neighborhood is, at best, mixed in terms of what kind of housing we have. What we do have everywhere is single-family homes. That's what we're going to build. The character of the neighborhood isn't necessarily 2/3-3-acre lots along Mission Road that developed because they could do septic tanks and had no infrastructure costs. The character of the neighborhood is more than just the abutting landowners. The character here is single family homes, which this meets. The second criterion is zoning and uses of property nearby, and we have the same argument. They're all zoned Residential. Within ½ mile, they're either zoned R-1, RP-1, or R-2, ironically – what we're asking for tonight. Regarding suitability of the property for the use restricted, I'll go back to the fact that it sits vacant today and has been vacant forever. It is not feasible to do R-1 with the lot restrictions and sizes and carry all the infrastructure costs that are necessary. Regarding the extent to which there is removal of the restrictions would detrimentally affect the neighbors weighed against the denial to the applicant, nearby doesn't just mean abutting. If you look at abutting properties, we have offered more buffering, more distance, less density than some of the nicest subdivisions in Leawood that might be R-1 or RP-1. If that is going to detrimentally affect the neighbors, then it affects every neighborhood in the City of Leawood. I don't think that's the case. Regarding relative gain to public health and safety, I don't know what the gain to overall general welfare, health, and safety is if this is denied. I do know that what it does to Dr. Reddy is tell him he's going to own this property for a while longer with nobody coming in to develop it. I will concede that the last two factors are recommendation of professional staff – which I've told you why we disagree with that – and compliance with the Master Plan. It doesn't comply with the 2018 Master Plan; however, you have three examples within a mile of RP-2 versus RP-1 and R-1 that do meet your Master Plan and demonstrate that it can work.

I'd like to highlight a couple stipulations. No. 2 is unacceptable because it says that we don't get any deviations. If we take out the six deviations for a total of .05 acres of setback changes, all of which are permitted by the LDO, we will lose lots because we can't meet the 10' setback on the two side yards; we can only meet 8 1/2 because of the narrowness of that portion of the property. No. 17 says that we have to build sidewalks

compatible with the city standards. We just want to make it clear that the city's right-of-way is 50 feet there. When we build a street and sidewalks, they may need to be within the 50' right-of-way unless we can obtain additional land from the neighbors, and we don't have that. No. 27 is acceptable, but we did want to make notice because there is a 10'x10' square on 150<sup>th</sup> Street off Mission where we were going to have a directional sign for the subdivision. It's a 10'x10' square. We have to have a 5' setback. That would mean a really skinny sign, so we intend to change that at Final Plan to 13'x13' so there is enough room to meet all the setbacks. Other than that, the rest of the stipulations, we accept.

My conclusion is the same points I've made: density is not a problem; compatibility is not a problem; deviations are exceedingly minor and all within the LDO. Thank you. We'd be happy to answer any questions.

Chairman Elkins: Thank you. Questions for Mr. Musil?

Comm. Block: For the record, you indicated that the letter from The Pavilions said that the letter had been sent out and they're all supportive, but that's not what his letter says. "Many notices have been sent to our residents. As of yet, we have not heard any concerns." That's not the same as sending a letter and getting 360 homeowners to approve it.

Mr. Musil: I overstated, and I apologize. We know how easy it is to have one out of those object. I was overconfident.

Comm. Block: On the same theme here, The Reserve at Ironhorse had numerous flyers. There was only one notice of this project, right? There were others in the past for different versions.

Mr. Musil: From the applicant, there is just the one notice.

Comm. Block: And Dave Swartz owns which lots?

Mr. Musil: They're at the northeast corner of 151<sup>st</sup> and Mission. They do abut the southern portion of the property.

Comm. Block: He lives in those homes or rents it?

Mr. Musil: I think they're both vacant.

Comm. Block: Does he intend to sell them to a developer?

Mr. Musil: Yes.

Chairman Elkins: Thank you. Other questions?

Comm. Hoyt: Could you tell us the minimum number of dwellings that would make this financially feasible? You were saying you can't accept Stipulation No. 2 because you'd have to lose lots and then the whole thing would fall apart. What is the magic number of lots needed in the opinions of the professionals who have looked at this?

Mr. Musil: In the opinion of the professionals who put their money into it, it is 25. Different people might have different abilities to finance and different willingness to take a risk, but 25 fits on here with .05 acres of deviation. To take 1-2 lots out, particularly those that would be affected by that, that would be interior, doesn't seem to benefit anybody with respect to public health and safety, and it doesn't affect the neighbors to the west because they would be internal.

Comm. Hoyt: The argument that the staff makes that this goes from R-1 to RP-2 and bypasses RP-1, so how many fewer lots would there be if you went with the RP-1 plan?

Mr. Musil: We haven't drawn that out, but it would probably be about 15. We would have to have a single-loaded road along the power line easement and only have houses on the west. R-1 would be about 15; RP-1 would be about 18. I should make it clear that's what could fit on a plan; that's not necessarily what could be financed or built. That's the example of the 2016 plan that had a beautiful plan drawn that didn't work.

Comm. Hoyt: To clarify, if you were forced to go with Stipulation No. 2 and proceed with the plan, you feel that would involve the loss of two lots, so then we're to 23 more or less.

Mr. Musil: Right.

Chairman Elkins: Other questions for Mr. Musil?

Mr. Musil: Mr. Simpson would like to make a comment, but I'll take your question first.

Chairman Elkins: I'll let Mr. Simpson go first.

Mark Simpson, 15145 Windsor Circle, appeared before the Planning Commission and made the following comments:

Mr. Simpson: I have to say we've done 4,000 housing lots in Overland Park and Leawood. We've done probably 800 in Leawood. This is the most difficult tract we've ever attempted. At 25 lots, it takes 22 of them to get money back. That's selling the lots for \$160,000 apiece and selling the villas starting at \$800,000. That's the cheapest one here. The bargain basement price is \$800,000 for an empty-nester villa. It's caused by the fact that you have high tension power lines on one side, and one out of three basically has to live with a little buzz next door, which is not highly desirable. There is a road the city never built but has a right-of-way off Mission that cost about \$80,000 to build. That \$80,000 has to be born by 25 houses. That's going to add \$3,000-\$4,000 to every house. We have offered the neighbors \$50,000 worth of landscaping if they'll give us 20 feet

each from their side of the landscaping easement to build berms, landscaping, flowers, trees, and hedges to isolate their homes from that entry. It's not because we're generous but because we know that their privacy is important, and we think the entry into our community starting at \$800,000 would be better coming off Mission Road if it had a pretty boulevard-type entry with berms, landscaping, and trees on both sides. It does end up costing about \$50,000-\$60,000 to create that feeling of arrival. One of the neighbors to the north has a driveway that comes into future 150<sup>th</sup> Street. We offered that neighbor to build a new driveway for him so he didn't have to have a break in that boulevard appearance. That's \$10,000 for a new driveway. He built a pool 4 feet from the property line. We said, "This is going to be a problem, so we'll give you free 10 feet of land behind the pool that we are paying \$2-something a square foot to buy, and we'll give it to you for a penny so you can put trees on it." There would be a 10' city-required easement for utilities, and then a 10' row of evergreens behind that. All these costs all have to go against these 25 little lots. If we end up with 22-23 lots absorbing all these extraordinary costs, it's a lot. It really takes 25 lots to make it economically feasible. If everything goes right, the last two lots will generate a profit of maybe \$260,000 for an investment of \$4.5 million worth of risk. It doesn't seem that unreasonable to get that kind of return for three years of effort. After doing 4,000 lots over 25 years, we've studied this thing to death. It is just a very difficult piece. If we don't get this, we'll just walk away. We can't do 15 R-1 lots on it because it makes no sense. To come out, the lots would have to be \$400,000 apiece. No one is going to pay \$400,000 to live next to a power line and then build a house. The house would have to be \$3 million. Nobody is going to do that. We just have to understand the market realities here. I don't want to step on Greg's toes here. He's a great zoning lawyer, but I just want everybody here to appreciate that this is a very challenging tract of land. There's a reason that every developer in town has looked at this since 1995. We made offers to buy it in 1999. We offered multiple times since 1999 since we developed Ironhorse Golf Course. Finally, inflation has made it come around. We figured out how to do the east side because it has more flexibility, and things are going well with The Hills of Leawood. We'd like to do this, but we look at ourselves and see that it's a lot of risk to sell 23 lots to break even and hope the last two bring enough. I just wanted to lay out the realities of it. I appreciate the time, and I'm happy to answer any questions.

Chairman Elkins: Questions for Mr. Simpson? You mentioned a series of concessions and offers you've made to various neighbors. Have those offers been accepted?

Mr. Simpson: No; we took them over easements that said they would not lose their property and that it would strictly be a landscape easement. We said we would be happy to make any changes. We offered a drawing and said they could pick out the species of trees, flowers and bushes. We offered the decision of where the driveway would go. We offered to help find someone to transplant trees. I went by 2-3 times, and they wanted to hear at the Planning Commission what else we might give them.

Chairman Elkins: They haven't accepted, but they haven't declined, either.

Mr. Simpson: No, they want to see what else they can get here.

Comm. Peterson: What struck me from your presentation is I really appreciate the comparisons you did, especially with the difference between RP-1 and RP-2. In looking at the layout, I see you're correct. The square footage of each lot is significantly higher than the minimum for RP-2. After hearing Mr. Simpson, from an economic standpoint, the property needs 25 homes to support the development. At first, I had a feeling you were correct. If it isn't developed, it will sit there vacant forever. You're correct; who would spend \$3 million for a home next to a power line? I am curious that there's only going to be 25 homes, and they're going to start at approximately \$800,000 to \$1 million. That's quite a bit. I find it interesting that a lot of the neighboring HOAs – not the entire HOA because we don't know who those letters represent – are in full support of it. I just wanted to mention that.

Mr. Musil: I'm up here sometimes with HOAs saying no to what I want. It seldom matters if the vote was 51% to 49%; if the HOA says no, it means no. To the extent I was overconfident, with an official officer of the HOA saying they support the application, I think it is important. I will tell you the economics don't drive me up here; they drive reality, but it's planning issues that I looked at. My presentation was about planning issues: density, distances, buffering, and deviation. I think that plays into the reality of whether you want this land vacant for another x number of years or something developed on it that is a benefit to the City of Leawood without being a detriment to the neighbors to the west.

Chairman Elkins: You've attempted to make the case that the plan will prime whatever the minimums are in the zoning, correct?

Mr. Musil: Correct.

Chairman Elkins: And you've attempted to make the case that the average lot sizes within the plan are beyond the RP-2 and are relatively close to RP-1. The reconciliation I'm having trouble making in my own mind is, given that, can you go into detail about why RP-1 is not feasible or practical. You've made the case that your case is pretty close to RP-1. I'm trying to figure out where the delta is and why RP-1 isn't feasible.

Mr. Musil: To go into detail, I'd probably call Mr. Tucker up here, but when you look at distances and lot depth, frontages, and layout, you see that you can't simply fit those in there as well in RP-1 as in RP-2. I understand what you're saying. We have bigger lots than RP-1 requires and lower density than RP-1 allows. The layout doesn't work in RP-1 because of the screwiness of the site. There are two pinch points north and south, and other elements that make it hard to get RP-1 lots of those sizes on the lots. I think it's doable, but we can't do it with the same number of units supporting the infrastructure.

Chairman Elkins: The RP-1 is doable?

Mr. Musil: We could design it to have that on there, but we can't fit the same number of lots.

Chairman Elkins: RP-1 would not accommodate 25 lots, and I believe Mr. Simpson said it would accommodate 18 lots.

Mr. Musil: That's what I understand.

Chairman Elkins: What I find interesting is that the difference, even though the average lot size is the same, ends up reducing the number of lots by 1/3, which is obviously pretty dramatic. You also attempted to make the case that the distance between houses is going to be maybe even greater than the minimum required by RP-2, but yet, you're also talking about the deviations that make the side yard setbacks 8.5 feet versus 10 feet. I'm trying to reconcile this concept of the statement that the houses are farther apart than necessary, but yet you need a deviation to make them 8.5 feet. I think that means 17 feet total difference in the distance between the houses.

Mr. Musil: My effort in showing distances was to respect our western neighbors. Within the subdivision, everybody is going to buy a lot that is staked out and defined. Between Lots 16 and 17, instead of a 20' side yard separation of buildings, they will have 17 feet. They're going to know that when they buy their house. The folks on Mission Road knew someday, something would develop to the east of them, but they didn't know what. My distances were to demonstrate from the build line on the western lots to the existing houses. It was to demonstrate that they were not, in my opinion, too small; in fact, they are larger than what we have in some of the most successful modern developments in the City of Leawood. Within the subdivision, we'll have one house that is 5 feet closer to the front of street than it should be. We'll have two houses that are 3 feet closer to each other than they would be without a deviation. Those are buyers' choices. We offered the landscape easement along the western boundary to recognize that whatever goes in new will somehow be detrimental. We're trying to recognize that perception. That's where we are.

Chairman Elkins: I've gotten a little lost in all the HOAs that are around. Clearly, you and your client have made great efforts to converse with the neighboring HOAs, if not individual homeowners. What I'm curious about is we have an unusually large number of supporting letters from HOAs, and as you mentioned, they are often here to argue against the development. Are there HOAs that did not object but opted not to write letters in support? If so, who are they?

Mr. Musil: The ones who would have been noticed are The Pavilions to the west, which is 350+ houses and you have their letter. Mission Reserve on the southwest corner of 151<sup>st</sup> and Mission would have received notice to their HOA. We haven't heard from them. I believe we heard support from The Hills of Leawood from Mission Reserve, although they didn't voice anything on this. The Reserves at Ironhorse are just to the south across 151<sup>st</sup>. They bound this entire southern boundary of us. Villas of Ironwoods to the east is the Overland Park subdivision. I don't think there's anyone else in the boundary of this that would have received actual notice. Nobody has come to us and said

they wanted to know more about it. We reached out to everybody within the immediate vicinity on the other side of the section line roads.

Chairman Elkins: Again, setting aside the question of whether the HOA actually represents all or the majority, are you telling us that there's essentially a consensus of approval among the HOAs that surround this property.

Mr. Musil: I'm nervous about how confident I get. I'm not aware of objections from any HOA. They act through their officers, and the officers that have acted have all indicated that the reason they supported The Hills of Leawood is they thought that would help their neighborhood and their home values as well as their connection to the park on the southern side. I think this subdivision does the same thing. It assists in filling out this area, giving more connections, more walking trails to benefit all of them. This interior one is not going to affect anybody west of Mission. I wouldn't expect them to object to it. The fact that they support it indicates that they think it's beneficial to their neighborhood in some fashion. I suspect it's because it brings more people, more activity, more houses, more market.

Chairman Elkins: Thank you.

Mr. Musil: I'd appreciate the opportunity to answer questions after the Public Hearing.

Chairman Elkins: Thank you. As Mr. Musil noted, this case requires a Public Hearing. There are a number of people in the audience. I suspect some of which are interested in speaking. Before we get to that, just a few ground rules. We'll have a maximum of four minutes per comment. You'll see a blinking light when you have about 30 seconds left. We would ask that you respect that. In addition, we would ask that the comments not be cumulative. We're interested in all aspects, but having a large number of people repeating the same comments is not terribly helpful to the deliberations. We would ask that you give your name and residential address, identifying the HOA you represent if you are doing so.

### **Public Hearing**

Luanne Reeves, 15001 S. Quivira Rd, appeared before the Planning Commission and made the following comments:

Ms. Reeves: I own a lot east of Mission Road and north of 151<sup>st</sup> and just west of 3700 W. 151<sup>st</sup> Street. I have never stood up at a zoning meeting and been in favor of a development. I've often argued against them, but I really think in this case, this is a beautiful development that I think will increase the property values of the surrounding area. For that reason, I would be in favor of the development.

Michael Lynch, 3305 Ironhorse Court, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Lynch: I'm the HOA President for The Reserve at Ironhorse. Our neighborhood runs along 151<sup>st</sup> Street. We have 31 homes in our HOA. I have sent newsletters. Most of the people in our HOA got notification for the interact meeting. I can assure you that everyone in my HOA is very supportive of this development and eager to see it go in. That's all I'm going to say about that; I can give you my word, and that's it. The other thing I would like to add is that The Villas of Ironhorse developers had a bit of a problem when they got to connecting the water and electric. They had to come into our berm, and they tore up a lot of dirt in the berm. They've done a magnificent job of fixing it. It's more beautiful than it was before we started.

Chairman Elkins: Thank you. Is there anyone on the left side of the audience who wishes to be heard?

Theresa Entriken, 15009 Mission, appeared before the Planning Commission and made the following comments:

Ms. Entriken: My property sits directly west of the proposed development. Our house sits directly downhill from this proposed development, as do the houses at 15019, 15015, 15007, and 15005 with the proposed residences to be built just a few feet behind our property line. In the interact meeting, the developer claimed that rezoning from R-1 to RP-2 increases the number of proposed dwellings by only six. Tonight, I think he says it increases it by seven. My concern relates to some of the stormwater and drainage issues, with us being directly downhill from the proposed development. Every additional impervious surface that we add in the form of a driveway, foundation, roof, sidewalk will replace that luscious, absorptive soil and vegetation behind us. It will adversely impact not only the rainwater drainage but air quality, noise level, and the night sky. We do already experience some adverse stormwater drainage issues, and these will compound with every new surface constructed uphill from our properties. Additional dwellings will also adversely affect our health and the health of our future new neighbors as a result of additional air, noise, and light pollution. Leawood's motto is Growing with Distinction. I think the property is zoned as R-1. There has been a lot of talk about deviations and how the property isn't really appropriate. It's very difficult to develop. There are many constraints. I suggest that the biggest deviation would be for the Planning Commission to change the zoning from R-1. We've lived in this area since 1995. It was zoned as R-1 when we moved in. We knew it probably would be developed at some point. I think the property being zoned as R-1 would probably be developed. It's not distinctive to rezone in order to crowd even more dwellings into a Leawood residential development. The truly distinctive move would be to retain this land as the invaluable green space that it is. I realize a lot of people certainly feel that it's important to develop this property and put additional residences there for many reasons. Again, I feel it would be nice if the city would consider buying the land from Dr. Reddy and Mr. Swartz if at all possible to retain it as green space. Thank you.

Chairman Elkins: Thank you for your comments.

Cory Entriken, 15009 Mission Road, appeared before the Planning Commission and made the following comments:

Mr. Entriken: One thing I wanted to bring up is when we purchased the home in Leawood, we purchased it for the large yards, the spacious area, the green space. While we expected development at some point behind us, I think we expected a house on a property like ours. We live at the southwest end of this proposal, and instead of having one single residential home behind us, we'll have three of them behind our property, which is not what any of us expected when that property was going to be developed. I think we expected like homes, like properties in size at least. That's all.

Chairman Elkins: Thank you.

Bob McClain, 14901 Mission Road, appeared before the Planning Commission and made the following comments:

Mr. McClain: My property is in the northwest quadrant of the proposed plan. In the beginning, I'm very opposed to this plan. It's simply spot zoning to provide this development and the developer what he believes is appropriate. We relied on the Comprehensive Master Plan of this city when I purchased the home. I built my home on that lot, and shortly thereafter, Dr. Reddy bought the remaining property that constituted Mission Heights. He told me he was doing that for his retirement planning. All this time that has passed may not have been because it wasn't developable; it was the plan of Dr. Reddy for his retirement. In a situation of spot zoning, that's an anomaly of planning as I understand it. I rely on your Master Plan. Spot zoning says your Master Plan is incorrect. Throughout this, I began to question why a developer would come forth and try to tell this city that their master plan isn't correct and why we, as residents, were mistaken in our reliance on it. I finally got that answer at the interact meeting. Mr. Simpson calls this project and his plan the highest and best use of this piece of property. In the real estate industry, I know exactly what that means. It means the highest price and the best profit model. It has nothing to do with proper zoning. I heard him tonight say that he would expect to make maybe \$250,000 on this project. If that's the case, he shouldn't be building it. It's not enough profit for this kind of a project. Maybe that's because the price that Mr. Reddy is willing to sell him this ground. If you're going to develop property, I expect you to make a profit, but if you're making a profit that makes me lose faith in your Maser Plan, then it shouldn't go forward. It's absolutely correct in their presentation that every development has to carry the burden of development. It's common sense. If it's five lots, ten lots or 150 lots, they have to carry the burden. If you can't make a profit, you walk away and leave the property the way it is. I want to also talk about density. The residents that live along Mission Road have nine houses on nine acres. It's pretty easy math with an average of an acre per house. The proposal and presentation today says that the density of this project is 1.85 houses per acre. I challenge that. The total footprint of their property is 13 ½ acres, 4 ½ acres of which can't be developed because it's the easement for the power lines that travel through it. That leaves them with nine acres on which they can put a lot. Now, it's 25 lots on nine acres. The power line easement property goes undisturbed. I don't have my map in front of me, but if you would look at

their proposed plan, Lots 21-24 are in a straight stretch that I call Rowhouse Lane. It's four houses, each with a lot size of less than 10,000 feet. That's four houses per acre. I don't accept unless the technical provisions of planning meant that I have to count the acreage that can't be used. I don't accept that it's 1.85; it's actually three. There is an example on Rowhouse Lane of four houses per acre. Again, as a layperson, transitional zoning that should really be called transitional development needs to be relatively transparent. The best way I can explain what I mean is to give an example.

Chairman Elkins: Mr. McClain, your time has expired. If you want to finish this thought, that would be great.

Mr. McClain: When you travel from subdivision from subdivision, you shouldn't recognize the border. If you get on 150<sup>th</sup> Street when they build this proposed plan, you're smooth sailing until you get to their pothole and you look up and see a massive density of houses. You pass through it and get into The Hills of Leawood, and it's recognizable, single-family dwellings. My final point is what do they bring to us in terms of enhancing our neighborhood? Nothing. They use our spacious lots as their buffer. They offer plantings on our property to create a buffer. Their plan is merely consumption of all the space. That's development by contrast. Thank you.

Chairman Elkins: Thank you.

Connie Kripco, 15005 Mission Road, appeared before the Planning Commission and made the following comments:

Ms. Kripco: My house is west of the development. I'm also one of the houses that will be affected by 150<sup>th</sup> Street being developed. My biggest concern and what I will put to Mr. Simpson as to why I would not agree to landscape easement right now is I'm very concerned about the value of my property. We bought an estate-sized lot in 1985 and built a house we're still in right now. I've never worried about the value of this in all these years. I've always felt like it's been a good investment. If he develops what he wants to develop, there will be almost 2 ½ houses that we'll be looking onto. I honestly question if anyone would want to buy our property that we're marketing as an estate-sized lot and they see what they would look at. I feel like that is totally devaluing what we have in an estate-sized lot. I also would like to offer a rebuttal to Mr. Musil's comparison on the zoning abutting up. I am familiar because I walk the Mission Reserves subdivision. I know where it does go into the R-1 zoning. I thought Mission Reserves was R-1, too, but maybe it's not. It is nothing like where the back of the houses are up against the villas. It is one villa next to one R-1 house because it all just goes down the street and then goes into another neighborhood. It's really not the same comparison at all in my opinion. The other two, I'm not familiar with and would not be able to speak on those. Those are my concerns. I appreciate you listening.

Chairman Elkins: Thank you.

Shannon Mays, 14913 Mission, appeared before the Planning Commission and made the following comments:

Ms. Mays: I live just north of the street with the pool. I have one concern, which is traffic. I don't think anyone has discussed the traffic pattern that will come down Mission. We have 70 houses going in right now with the other subdivision, and when this street connects to that one with 25 more houses, that's 100 homes with 2-4 cars each that will now go through 150<sup>th</sup> Street. Not only do you have the four-way stop, which now backs up since it's been fixed, but you also have 300 more cars going down there. I think it's unsafe. We don't allow our kids to ride their bikes because they can't cross the street safely. My son's been almost hit by a car getting off the bus. My daughter has been on a bus hit by a car at the four-way stop. I think a traffic plan needs to be developed or at least looked at before this is approved. I think it's going to be dangerous. The other comment I have is on the landscaping plan. Mark Simpson has stopped by our house probably six times and discussed with my husband verbally some offers with giving us some property behind us, which I don't know if that's even legal to transfer 10 feet of property to somebody. I believe he said 10 feet is what he wanted from us. He did give us the document that stated he would like to use 20 feet of our property for the berms. When he stopped by and asked if we looked at the document, I did say we wanted to see what happened at this meeting. He said if we didn't agree then that he couldn't offer it in the future. We're kind of at a standstill because the document had four blank exhibits, and it didn't talk about anything with the easements and the trees we could plant behind us legally, so we're not going to read a document that's not complete. I feel like that was falsified. Verbally, we have had some offers, and we do have a document about landscaping, but I don't believe that plan is true or that he can even hold to it in a mediocre document. Thank you.

Chairman Elkins: Thank you.

Diane Teal, 15015 Mission Road, appeared before the Planning Commission and made the following comments:

Ms. Teal: I've lived here for almost 30 years, and I've watched the development in South Leawood as far as The Pavilions, Ironhorse, and Steeplechase. I'm glad that Shannon brought up traffic; that was one of our concerns. I live close to the intersection of Mission and 151<sup>st</sup> Street, and the accidents even with the four-way stop are unbelievable. We do need that. Theresa is my neighbor, and she mentioned drainage. I just wanted to mention I've experienced much development over the years. Your Comprehensive Plan mentions three different types of soil in Leawood. All of them state certain development limitations, including groundwater problems, must be taken into account with this type of soil. That's the Kennebec Chase soil. The limitations of this soil include the bedrock depth of 20-48 inches and shrink-sell potential, which I experienced with just The Pavilions when they went in that year. Sharpsburg Osaka soil has a development limitation with the permeability. Depth problems are also possible with this soil type. Basically, what I'm saying is I object to changing the zoning from R-1 to RP-2 because I think it's really going to have an impact since we're downhill. I have seen what happened

with other subdivisions. You just have to drive up Mission Road after a lot of rain. Water just sits on the side of Mission Road by Steeplechase, and that was never there 30 years ago. That's all I really wanted to say. I didn't want to be redundant, but we do need a wastewater report or something that will do that and the traffic report. Thank you.

Chairman Elkins: Thank you.

Lori Hall, 15007 Mission Road, appeared before the Planning Commission and made the following comments:

Ms. Hall: My husband David and I bought our home in 1986. We've lived there for 33 years, and I'm extremely concerned, as my neighbors have stated. I'm here to concur that I support all their comments, and I'm very concerned about the issues they've brought up tonight. I have been to previous meetings before, and at one time, this development was proposed in three phases, with the third being this piece behind us between the power lines. At that time, the whole project was denied out of the spirit of fairness. Then, Mr. Simpson came back and got approval for the first two phases but left the third phase out. Now, I'm back here today with the Phase 3 being presented again. I ask that you please consider this out of the spirit of fairness, as this was denied previously. Thank you.

Chairman Elkins: Thank you.

Kenneth Murdoch, 15015 Mission Road, appeared before the Planning Commission and made the following comments:

Mr. Murdoch: I wholeheartedly concur with my neighbors and all the issues they brought up. I would admonish you to please not change the zoning from R-1 to RP-2. I think you should keep it as it was stated in the Master Plan. That's all I have to say.

Chairman Elkins: Thank you. Other members who wish to be heard on this application?

**A motion to close the Public Hearing was made by Coleman; seconded by Belzer. Motion carried with a unanimous vote of 8-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

Chairman Elkins: Mr. Musil, do you care to respond?

Mr. Musil: Briefly, please. I didn't hear anything new. I think with respect to traffic, your staff knows when a traffic study is needed. This is 25 homes, and the traffic that will be occurring during AM and PM peaks will be negligible. Staff did not require it. We have presented a preliminary stormwater plan. I think it's in your packet. There will be a final plan as well. All of our water is going south along the western boundary. It will be designed so it does not go west. With respect to more impervious surface, RP-1 or R-1 will have the same amount of impervious surface. We have to take care of stormwater; your LDO requires that. The density and distance issues, I covered in my initial presentation. We hear the term "spot zoning" a lot. This is not spot zoning. Kansas

Supreme Court has defined spot zoning as incompatible, different uses on small pieces of property. This is a residential use in a residential area. This is not spot zoning. I'd be happy to discuss that further with Ms. Knight if I needed to. Regarding burden on infrastructure, every development has to carry that burden. I'm not going to criticize those developments that came down Mission and went on 151<sup>st</sup>, but they didn't bear any infrastructure costs because they didn't need sewers or roads; they just had a driveway onto Mission or 151<sup>st</sup>. Now, we are facing the issue of developing internally when none of that infrastructure was put in before, and we have that issue. The difficulty in these situations is that we have committed, passionate, interested neighbors, which is what every city wants, but we have a piece here that's a legacy problem. It's been a problem for years, and the development pattern has left it as a problem, and KCP&L didn't do us any favors when they put a diagonal power line across there. What will work and what works from a planning perspective is the plan that's in front of you. We'd ask for your support of that and your consideration of the changes to the stipulations I discussed earlier. I thank you for your time.

Chairman Elkins: Questions for Mr. Musil in his rebuttal? I'd be interested in hearing your thoughts on in greater depth is the request that you are making for us to move away from the Comprehensive Plan that was reviewed and approved just a year ago. Talk to us about your views on the justification for us going away from that. You've commented about the fact that it's been there for years, but the point is that it was reviewed and approved just a year ago.

Mr. Musil: The Master Plan has not focused on this parcel before. I don't remember any study area or other indication that the city considered what to do with this screwy piece of land. It's been carried forward as Low Density Residential since the 1960s. We're now forced to look at it and consider what we can actually do from a planning perspective. We are looking to rezone it to Medium Density Residential, but what is the impact? It's still 1.85 units per acre. Whether that includes the easement or not, we're following the calculations that the LDO requires. Although it will be a different color on the map, it will be developed as a Low Density, 1.85-unit-per-acre development with 13,500 sq. ft lots that is consistent with what is around. Substantively, it will be a Low Density Residential development. Procedurally, it will look like Mission Reserve on the map with the funny green. It will look like the villas to the north and west that are on your map now as RP-2 next to R-1 and RP-1. If your Comprehensive Plan had never contemplated or had any experience with this development, I would suggest that you ought to be concerned with it. I'm not suggesting you shouldn't be concerned about changing the Master Plan now, but you have experience in three places within a mile of this where it has worked. I always feel incumbent to say that the Master Plan conformance is one of the Golden Factors. We give it a lot of weight, and I don't think that's wrong, but it is still only one of the 16 factors. Those are the reasons I would say this is a time to reconsider what is proper under the Master Plan with respect to this Preliminary Plan.

Chairman Elkins: Thank you. Other questions for Mr. Musil? Thank you. I have a couple questions for staff. On the issue of the stormwater and drainage as a result of the additional impervious surfaces that will come as a result of this plan if it should be

approved by Governing Body, could you speak to what the LDO requirements are and your views as to whether this plan, as proposed, satisfies those requirements?

Mr. Scovill: The plan that's proposed does include a swale on the west side of the development within the development on the back of the existing properties along Mission. That will direct the water south of 150<sup>th</sup> to 151<sup>st</sup> Street. They are required to provide detention due to the additional impervious area. They also have a dry detention basin proposed at 151<sup>st</sup>. They have addressed the requirements of the LDO with respect to detention and impervious area. The stormwater study indicated those are required, and they show them in the plan. With respect to north of 150<sup>th</sup>, they also have a swale along the back of the property, on the west side of the property along the properties that front Mission. That directs water to the north, but with this area, the stormwater drainage area has actually been reduced by approximately 52%, not by area but by the 100-year storm event or the 1% event. They've reduced the amount of water for a 100-year event by 52% by directing the water with the road and the inlets and directing the water to another detention basin on the north end of the property that is actually being built with Phase 2 of Hills of Leawood. If we divide this project into two zones – the southern zone south of 150<sup>th</sup> and the northern zone north of 150<sup>th</sup> – both have adequately addressed the stormwater requirements within the LDO. They have provided a stormwater study and an amendment to the study recently to address my concerns with respect to drainage in the existing roadside ditches because some of this water will enter those ditches. Obviously, the roads on 151<sup>st</sup> and Mission haven't been approved yet, and we want to make sure those can handle the additional drainage.

Chairman Elkins: So, in your judgment, this plan, given its stormwater plan, should not adversely impact the surrounding homeowners. Is that correct?

Mr. Scovill: It does meet the requirements of the LDO as far as we have reviewed. As far as adversely impacting the adjacent property owners, that may be a matter of perspective. From staff's professional perspective, it doesn't adversely impact the properties, considering the requirements of the LDO.

Chairman Elkins: Thank you. Could you enlighten us a little bit on the circumstances under which a traffic study is required and when it is not required.

Mr. Scovill: In this case, we did not require a traffic study at the intersection of 150<sup>th</sup> and Mission Road. This road has always been planned for the future. The right-of-way is existing there now at Mission. Mission Road is planned to be improved in 2024, so we know improvements are coming down the line. The additional 25 homes will have a negligible impact to the arterial road that is there now in terms of average daily vehicles along that corridor.

Chairman Elkins: Arterial road being Mission or 150<sup>th</sup>?

Mr. Scovill: Actually both. The intersection does require an analysis of the sight triangles and safe stopping distance because we're introducing that turning movement for

cars leaving and entering Mission Road. That's usually done with the design phase as they present their construction plans. We already know that the sight triangles are adequate, but we still need to evaluate the safe stopping distance. If they don't meet the current standards that the city has adopted, the recourse is essentially to sign for the intersection. That is standard protocol and is in line with the Manual on Uniform Traffic Control, which is an industry standard. Often times, that looks like a reduced speed sign that is often yellow or some other advisory or warning sign. It is not a regulatory sign that is black and white.

Chairman Elkins: Thank you. Are there other questions for staff regarding the application, given what we've heard in the Public Hearing as well as from Mr. Musil and his client?

Comm. Hoyt: I come back to staff's concern that, "All future developments will be able to use the minimum requirements for the underlying zoning, which will run with the land, with a potential for an even denser development." Even though this plan calls for a considerably less-dense development than the typical guidelines for RP-2, what is your concern? Could you elaborate on that?

Mr. Klein: Mr. Musil is absolutely right about it going through rezoning with a plan that goes with it. However, the property may not develop for some reason. Mr. Simpson has an excellent record as far as developing property; we don't argue that at all. Staff has to consider the future and not count on certain things happening. If we had lots either developed or undeveloped and somebody wanted to come back and replat lots into more lots, they could with the proposed zoning. I want to make sure the Planning Commission understands that there is a big difference between R-1, RP-1, and RP-2. RP-1 and R-1 require a lot more as far as bulk regulations. It was called out with the rear yard setback as 30 feet. It is true that a basic R-1 lot has a rear yard setback of 30 feet, but if the lot is longer than 150 feet, it has a formula that comes into play that takes the depth of the lot minus 150, times .7, plus 30. It creates a much larger rear yard. Many of the lots that are adjacent to Mission Road are actually much longer than 150 feet and therefore have a requirement that the back yards are more. I don't know that it was called out as much. The other big consideration that wasn't discussed too much had to do with R-1 and RP-1 having a requirement that new lots must meet the average lot size within 300 feet. The applicant indicated 1.85 dwelling units per acre, which is lower than 2.94 that is allowed in R-1, but the R-1 also has that other component. If an R-1 moved into this and it was much lower than the 2.94, they wouldn't be able to go to the minimum requirements of R-1. They wouldn't be able to do a 2.94-density development next to this one because they have to meet the average lot size within 300 feet. The intent of that whole part of the ordinance was to ensure that anything that goes into an existing neighborhood matches the development within as closely as possible. If an R-1 development was .5 acres per lot and a new development comes in, it will be a lot more like the surrounding area than coming in with 15,000 sq. ft. lots. They could go to the Board of Zoning Appeals and get a variance for that. The applicant did that with Hills of Leawood. That's always a possibility. Even the Board of Zoning Appeals recognized that this shouldn't just go to the minimum and raise the standard. Some of the smaller lots are actually adjacent to the

larger lots along Mission Road, which creates more fence lines splitting the back lots along there. When they say that only six lots are asking for the deviation, we have to keep in mind that there are only 25 lots total. That means 32% of the lots are less than the RP-1 standard, and 68% are less than the R-1 standard. I also know there was discussion with regard to the HOAs. For transparency's sake, Hills of Leawood was mentioned, and I don't believe they have any houses in it at this point, so it is just the developer representing the HOA. I don't think the roads are even finished within that development. The zoning has also been discussed. The Comprehensive Plan gets updated every year, and we look at these things. I don't know that it's completely fair to say that we didn't look at this property. It's true that it hasn't developed for a long time, but actually, we've had more interest in the last five years than we have in the previous time before that. There are other lots that have power lines. Leabrooke has power lines that run through the entire property. They actually put some amenities under the power lines. It is true that the power lines and easement lower the density of that piece of property because they count the gross area of the lot, and then the dwelling units are the numerator divided by the denominator, so it comes out lower. Regarding planning, we look not only at the Comprehensive Plan but also using the density of the lots and the transition intensity of the lots to create transitions.

Chairman Elkins: That's a fairly long-winded answer to a short question. I'm going to have to give Mr. Musil an opportunity to rebut that, but go ahead.

Mr. Klein: (*Refers to Comprehensive Plan*) This shows highest to lowest intensity. I wanted to show it because a lot was discussed about Comprehensive Plan and different uses. Typically, we try to use a more intense use located at an intersection, and then it fades into a lower intensity. At the intersection of 151<sup>st</sup> Street, the Comprehensive Plan shows the Higher Density and Medium Density that goes into a Low Density to the east. That repeats in a number of areas. Commercial goes into Medium Density Residential, which goes into Low Density Residential. That is what we try to do generally.

Chairman Elkins: Thank you. Mr. Musil?

Mr. Musil: I appreciate the opportunity because we get a Staff Report, which is very long and detailed, and then we get a verbal report, and none of the stuff I just heard was discussed in either one of those. If we are going to require this to be at an intersection - anything other than R-1 or RP-1 - then nothing will develop here because we can't get to the intersection because we have seven houses on the west and houses on the south that developed as legacy homes. Again, we're an infill, screwy site. We can't do on vacant ground what other ones did that might have had a house or two on the intersection. Let's look at where the RP-2 is on the Master Plan: 151<sup>st</sup> and Nall, where RP-2 is not the intersection; it buffers between Commercial, then RP-2, then R-1. It is a transitional use. At 151<sup>st</sup> and Mission on the southwest corner, RP-2 is on the corner, but it extends all the way ¼ mile to the west and farther south. At 143<sup>rd</sup> and Kenneth Road, it is not an intersection at all; it is in the middle of the section line between 143<sup>rd</sup> and 151<sup>st</sup>. I don't think you can say there's a pattern that the City of Leawood has shown that RP-2 has to be at an intersection. We don't touch the intersection, but we touch ownership on 151<sup>st</sup>,

and we will be connected to Mission on existing public right-of-way. The reality is you have legacy homes here that keep us away from Mission Road. In a perfect world, we would take this all the way to Mission and 151<sup>st</sup>. There's no doubt that if we could plan from the start, the developer would do it. We can't transition this like we would on vacant land that doesn't have the seven houses.

Chairman Elkins: Thank you. We'll now go to discussion of the application. This is an interesting and challenging piece of property and application. I'll open the floor for comments.

Comm. Coleman: First of all, thanks to the public for coming out tonight. Thanks to the developer and his team. We've given a lot of feedback from all parties, and it's good for us to hear all the viewpoints. I appreciate them all. The Comprehensive Plan is a guideline for the city. It's reviewed annually; it has public input; we have public hearings on it. Based on that, I'm very hesitant to change the Comprehensive Plan when so much effort and detail and thought went into it. I agree that the property in question is difficult, but it is a residential area surrounded by R-1. With that, I am very hesitant to change the zoning from R-1 to anything else. I'm very interested to hear what my fellow commissioners have to say as well.

Comm. Hoyt: I feel similarly, I think, it's safe to say. It's a very thorny issue; that's for sure. I think historically, how we have arrived at this point is somewhat relevant. There were choices made of adjoining property to develop before this, so this is just what we're left with. There are good reasons why it wasn't developed previously because of the challenges. I'm very sympathetic to the landowner who wants to monetize his property, but by the same token, I have a hard time leaping from R-1 to RP-2. I could probably more sign on for RP-1. Of course, I'm not guaranteeing that would fly, either, but it does seem like it's more than just a formality that we're leaping over another density, and also, as Mark said, there are other regulations that go along with that, too. It's not even just strictly the lot size and density but other requirements that it conform more similarly to what surrounds it. I have a really hard time leaping to RP-2 with additional deviations. That's where I come down.

Comm. McGurren: I would agree with the commissioners and the statements made. I think it is an incredibly challenging tract of land. As I said before, I appreciate the input from everyone and the concerns that have been addressed. I would agree with both of the statements the commissioners have made.

Comm. Block: It's a difficult situation. I think most of the abutting homeowners have come to the realization that it's not realistic to leave this land unused or for the city to buy. I do think that the distance between the houses to the west is sufficient. I think there are developments that are probably higher value than either the homes to the west or the ones proposed in this development that have probably shorter distances between them. I don't see that as an issue here, especially with the easement and the trees. I think it's probably the best solution for this tract of land because of the quality of the project. Again, it's a difficult situation.

Comm. Peterson: This is definitely difficult. I agree with Commissioner Block. I personally see not many other options for the development of the property unless we change to RP-2. The visibility is negligible from Mission Road or from 151<sup>st</sup> Street. You'd have to actually enter the subdivision to see that the lots might be smaller and the houses closer together. I was impressed with the comments from various HOAs; though, we don't know how many people those represent. I personally think the project should move forward.

Chairman Elkins: Other comments or thoughts? Seeing none, I would entertain a motion.

**A motion to deny CASE 74-19 – THE HILLS OF LEAWOOD VILLAS – Request for approval of a Rezoning from R-1 (Planned Single Family Low Density Residential) to RP-2 (Planned Cluster Residential Detached), Preliminary Plan and Preliminary Plat – Located north of 151st Street and east of Mission Road – was made by Coleman; seconded by Hoyt.**

Chairman Elkins: Any further discussion on the pending motion? We'll move to a vote with a show of hands.

**Motion did not carry with a vote of 5-4, including a negative vote from Chairman Elkins. For: Stevens, Coleman, Hoyt, and McGurren; Opposed: Peterson, Block, Belzer, Hunter, and Elkins.**

Chairman Elkins: Given that, is there another motion?

**A motion to recommend approval of Case 74-19 – THE HILLS OF LEAWOOD VILLAS – Request for approval of a Rezoning from R-1 (Planned Single Family Low Density Residential) to RP-2 (Planned Cluster Residential Detached), Preliminary Plan, and Preliminary Plat – Located north of 151<sup>st</sup> Street and east of Mission Road – with the stipulations included in the Staff Report, removing No. 2 – was made by Block; seconded by Belzer. Motion carried with a vote of 5-4, including an affirmative vote from Chairman Elkins. For: Peterson, Block, Belzer, Hunter, and Elkins. Opposed: Stevens, Coleman, Hoyt, and McGurren.**

Chairman Elkins: Thank you to the public, to staff, and to the developer for the great attention that was given to this. For those in the audience, this matter will now go to City Council, and there will be additional opportunities there.

Comm. Coleman: I would request a five-minute recess

*Commission recessed for five minutes*

Chairman Elkins: We are resuming at 8:18.

CASE 76-19 – RANCH MART SHOPPING CENTER – REVISED SIGN CRITERIA – Request for approval of a Revised Final Sign Plan, located north of 95th Street and east of Mission Road.

**Staff Presentation:**

City Planner Jessica Schuller made the following presentation:

Ms. Schuller: This is Case 76-19 – Ranch Mart Shopping Center – Revised Sign Criteria. It is a request for approval of a Revised Final Sign Plan, located north of 95<sup>th</sup> Street and east of Mission Road. The applicant is requesting approval of a Final Sign Plan to revise their existing Sign Criteria for the Ranch Mart shopping center. The applicant wishes to better match the new aesthetics approved with the overall façade renovations, which were approved in April of this year. The application offers three different wall sign types, halo-lit letters, individual letters, and push-through letters. In lieu of a wall sign, the tenant may instead have a canopy sign or an awning sign. The criteria offer the tenants flexibility to use their corporate logos in colors. In addition to the primary sign, a tenant may also have a blade sign mounted above the storefront walkways as well as a limited amount of window signage. The Sign Criteria also proposes monument signs. These signs will have the Ranch Mart name on them and are proposed to be located at each of the main entrances, so both entrances on Mission Road and at the stoplight entrance along 95<sup>th</sup> Street. Outparcel tenants are allowed a tenant monument sign. These are proposed at the current McDonald’s site and at the southeast corner along 95<sup>th</sup> Street. In addition, directory signage is proposed at three different locations internal to the development in order to direct patients to the new Mixed-Use building, which is at the northeast corner of the site and is labeled as Building 4. In the future, the shopping center may try to incorporate features such as artwork, benches, fountains, and gardens. The applicant has incorporated small plaque signs to display the names of the art pieces, the artist, or the contributor. Staff has included some stipulations to ensure that the residential areas are not negatively impacted by illuminated signage. Staff is recommending that signage on the north side of the development be non-illuminated and that no signage be located on the north side of the second-story building. Staff also recommends that signs located on the eastern side of the second-story building not be illuminated between the hours of 9:00 p.m. and 10:00 a.m. In order to create a uniform appearance, staff recommends that all of the signage facing 95<sup>th</sup> Street and facing Mission Road be illuminated, including awning signage with external illumination. The proposed criteria is in compliance with the LDO, and staff recommends approval with the stipulations outlined in the Staff Report. I’d be happy to answer any questions.

Chairman Elkins: Thank you. Questions for Ms. Schuller?

Comm. Hoyt: Just a point of clarification: your stipulations now include a new No. 10, so it’s a total of 12 stipulations.

Ms. Schuller: That is correct. You have a memo on the dais adding a stipulation, making it a total of 12.

Chairman Elkins: What was the reason behind the new stipulation?

Ms. Schuller: It is just noting that this new amended criteria will take effect following completion of the façade renovations for the Ranch Mart North shopping center, which were approved with Case 04-19 and Resolution 5173.

Chairman Elkins: Thank you. Other questions?

Comm. Block: Was there any contemplation of open signs? We see them around town. I think there has been discussion of signs that can't flash, but just signs that don't look great but say, "Open."

Ms. Schuller: The ordinance does not allow neon signage. That is reflected in the LDO as well as the proposed Sign Criteria.

Comm. Block: Even if it's not neon but just a sign that's lit from the back that says, "Open," are those signs allowed?

Ms. Schuller: We would consider anything on the window or 3 feet from the window to be window signage, so it would be limited to no more than 20% of the continuous window area. Even if they had an Open sign plus something else on the window, all of that together cannot be more than 20%, and the source of that illumination cannot be visible as well.

Comm. Block: What about the brightness of any and all of these signs?

Mr. Klein: Actually, we don't have an ordinance reflecting number of foot candles. To tell you the truth, it's never really come up before. I think the main one I have heard of before is the Apple sign in Town Center Crossing. Otherwise, we haven't heard many complaints.

Chairman Elkins: Does the plan address the brightness of the lighting at all?

Mr. Klein: As far as the foot candles, it does not have anything. Typically, anytime signs face toward residential neighborhoods, staff will put restrictions on them. For instance, Mission Farms wanted signage on the east elevation, and it had to be either non-illuminated or restricted on the hours it could be illuminated. That's what we've done with this one as well.

Comm. Block: If you're seeking uniformity, I think there's an opportunity for some to have different interpretations of what looks good or what is bright enough.

Mr. Klein: Sure.

Chairman Elkins: Ms. Schuller, I've got a vague recollection that we experience controversy in our many conversations about blade signs. I thought it was in the context of Park Place, but I'm not sure. Are there any issues around blade signs?

Mr. Klein: Park Place has larger blade signs than we typically see. I think theirs is a maximum of 12 square feet, which were fairly large. Town Center Plaza has 4 square feet. This particular development is proposing 3 square feet.

Chairman Elkins: So, the controversy here is around size.

Mr. Klein: Right.

Chairman Elkins: Thank you. Any other questions for staff? I'd invite the applicant to step forward.

**Applicant Presentation:**

Chris Hafner, Davidson Architecture and Engineering, 4301 Indian Creek Parkway, Overland Park, appeared before the Planning Commission and made the following comments:

Mr. Hafner: Thank you for having me this evening. Also, thank you for the hard work on Ranch Mart overall and getting to this point with the sign package. I'm happy to answer any questions about the package we've put together. We're in agreement with staff stipulations, save for one. There's always got to be something to talk about. We heard back from staff on non-illuminated signs and time frames. We are completely in agreement. What we would ask for is what we consider the West Mall, the north face of that building where O'Neill's is located. Then we've got some north-facing tenants as well. We would respectfully ask, with the Cure of Ars field and no residences in the area that it be able to remain illuminated in that area, essentially at the line of Price Chopper, and then go forward with the rest of the stipulation being non-illuminated for the rest of that part. We completely understand on the portion with residences directly north. We feel that the West Mall is close enough to Mission that there is still some viability for some signage on that side to be able to have illumination and still have an impact for use of the shopping center. With that, I'm happy to answer any questions or explain our position further.

Chairman Elkins: Mr. Coleman?

Mr. Coleman: I was wondering if they would agree to restricting it being on overnight.

Mr. Hafner: We would agree with that.

Chairman Elkins: Thank you. Questions for Mr. Hafner?

Comm. Hoyt: If we were to go with your concept on that stipulation, how would you describe that in such a way that we know what section can and cannot be illuminated?

Mr. Hafner: I would revise Stipulation No. 2 to recommend, like the east façade, a time limitation to match Price Chopper’s west edge.

Mr. Coleman: West of the demising wall of Price Chopper.

Comm. Hoyt: West of Price Chopper.

Mr. Coleman: I just used the demising wall because it’s the lease line for the building.

Comm. Hoyt: And the illumination that is allowed on that would follow the same time limitations as Stipulation No. 4.

Mr. Coleman: No. 2 could just read, “. . . except for the businesses west of the demising line of Price Chopper.”

Chairman Elkins: So, do it by exception.

Comm. Hoyt: And then not between 9:00 p.m. and 10:00 a.m. because that’s what No. 4 says.

Chairman Elkins: Mr. Hafner, does that work for you?

Mr. Hafner: That’s great for me. I appreciate the consideration.

Chairman Elkins: Other questions for Mr. Hafner? Thank you for your presentation. That takes us to a discussion. Any comments? If not, we’ll move to a motion.

**A motion to recommend approval of CASE 76-19 – RANCH MART SHOPPING CENTER – REVISED SIGN CRITERIA – Request for approval of a Revised Final Sign Plan, located north of 95th Street and east of Mission Road – with 12 Staff Stipulations, modifying No. 2 to read, “. . . except for the businesses west of the demising line of Price Chopper between the times of 9:00 p.m. and 10:00 a.m. ” – was made by Stevens; seconded by Hoyt. Motion carried with a unanimous vote of 8-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

CASE 85-19 - WATER ONE PUMP STATION AND RESERVOIR – PHASE 2 – Request for approval of a Final Plan, located north of 147th Street and east of Nall Avenue.

**Staff Presentation:**

City Planner Jessica Schuller made the following presentation:

Ms. Schuller: This is Case 85-19 – Water One Pump Station and Reservoir – Phase 2. It’s a request for approval of a Final Plan, located north of 147<sup>th</sup> Street and east of Nall Avenue. I have one change to the Staff Report. The applicant is currently listed as Sarah

Tuitt with Burns & McDonnell. This name should change to Michelle Werth with Water District No. 1. The project is located north of 147<sup>th</sup> Street and east of Nall Avenue. A Final Plan for this site was approved in March, 2010 and included the existing pump station and the eastern underground water reservoir. The western reservoir was shown as Phase 2 of the project at that time. The applicant is now requesting approval to construct the western reservoir to be located directly adjacent to the eastern reservoir. Construction will require a temporary gravel road, which is accessed from Nall Avenue and runs parallel with Nall Avenue on the site. A 6' tall temporary construction fence will surround the site. The existing sidewalk on Nall Avenue is to remain open during construction. The applicant proposes that flaggers be located at the entrances to the site for one hour in the morning and one hour in the afternoon, Monday-Friday while school is in session. The applicant proposes to remove some of the trees onsite during construction. These will be replaced at the end of the project. At the completion of the project, the site will look very much the same as it does today. Although a formal public notification process is not required, the neighboring residents will receive a flyer from Water One to notify them of the project and the project timeline. An example of that flyer was included in your packet. The proposed application is in compliance with the LDO, and staff recommends approval with the stipulations in the Staff Report.

Chairman Elkins: Thank you. Are there questions for staff? I would invite the applicant to step forward.

**Applicant Presentation:**

Michelle Werth, Director of Production, Water One, 10747 Renner Boulevard, Lenexa, appeared before the Planning Commission and made the following comments:

Ms. Werth: I'd like to introduce my team behind me. I have Eric Arner, General Counsel, as well as additional Water One staff Hailey Barker and Robert Beeson. I also have Burns & McDonnell here to answer any technical questions you may have this evening. That is Sarah Tuitt and Bill Nash as well as Mike O'Connell.

I'd like to introduce you to the project and also give information about Water One as well. Water One is a quasi-municipal corporation or an independent public water utility. We serve 272 square miles in 17 cities. Every day, nearly 440,000 customers rely on Water One to provide fresh, clean water on demand. It is a responsibility that we deliver on, and at Water One, we believe in the meaningful work of producing clean water because we're actually making it for you. Our customers are your citizens.

As far as this project goes, we have a Master Plan, similar to your Comprehensive Plan. It is a comprehensive road map for expansion and sustainability. It identified this as a two-phase project. We make continual improvements in infrastructure at the right time so we have plentiful water supply of the delicious water that is available to our customers and to your citizens. This is really to meet growing demands. Over 50% of the storage that will be added is actually for fire flow, which is increasing that storage for emergency response and for the firefighters that are out there.

This is the Nall Avenue Pump Station. It is on 9.7 acres located on the east side of Nall between 143<sup>rd</sup> and 147<sup>th</sup>. The storage locations and how we locate these particular facilities are based on the proximity and connectivity to the area that it actually serves. It

is very important that these facilities are in the areas that have the demands each and every day and that we can serve that on-demand to our customers. The new reservoir is 350 feet by 140 feet by 20 feet deep. Originally, as part of the design plans, this was contemplated; this is just a Final Plan review. It is roughly the size of a football field. The total will be 12 million gallons of reservoir storage on the site. To put that in perspective, think of 12 million gallons of milk being stored on this particular site. We are adding six million gallons of additional storage.

The pump station is fenced. Today, the reservoir and construction are not visible. We are creating this additional six million gallons of storage. We have some temporary construction accesses. I can have Burns & McDonnell talk to you about the traffic flow if you have questions or concerns. There will be some temporary construction parking, but after the construction, this will look exactly how it looks today. We are digging the hole, putting in the concrete reservoir, covering it, capping it, and then leaving green space as it is today. We also have the additional 12-million gallon a day pump that is associated and the electrical with it. That is inside the existing building and won't be visible from the outside. It won't cause any additional noise or anything from the pump station itself. The grading will be similar to what we have. The stormwater has been addressed within staff comments, and the landscaping has been addressed, too. We are in agreement with staff comments.

The current project schedule has us bidding this project in October, so it will be constructed from spring of 2020 through spring of 2021 and put into service in summer of 2021. We talked about making sure we're good neighbors. We want people to "excuse our dust," so to speak as we are out there. We will make sure that there is dust control, and we want to make sure they are familiar with the project. What we have found is best when communicating with residents, citizens, and customers, is to give them a website where we post regular updates on the actual construction. We do videos of the construction. If they have questions or concerns, the contacts and information is right there. That would be updated regularly. We put that on a high-end postcard. We've given you a sample of that, and they will have all that contact information as well as the construction schedule in front of them. If they have any questions or concerns, we want to make sure that information is available to them so they can contact us readily and we can answer those questions quickly and make sure we take care of any concerns they may have. With that, I ask what questions you have.

Chairman Elkins: Thank you. Does the water district have any objections to the 23 stipulations included in the report?

Ms. Werth: We do not.

Comm. Coleman: Thank you very much. I had no idea that was an underground reservoir. That was very informative. What is the difference between an open-air reservoir and the underground reservoir besides the obvious?

Ms. Werth: The Environmental Protection Agency has stated that all reservoirs need to be covered. All of our reservoirs are covered storage, so they are typically buried or above-ground towers. The difference between elevated storage and buried storage is the

buried storage has a pumping facility with it. Also, we can create larger storage with the pumping facility such as this, and especially with the growth and development we're seeing, this is appropriate for this particular location.

Comm. Coleman: How many reservoirs do we have within the Water One district?

Ms. Werth: We have over ten different storage facilities that cross the area, and we have over 75 million gallons of storage throughout the district.

Comm. McGurren: I watched the pumping station being built. I was a little surprised when I got this packet because I would have said there was already a reservoir where the new proposed one would be because it is already elevated and flattened. Was dirt put there to compact it?

Ms. Werth: Yes, the dirt was there and will actually move it on top. Some of the cover is going to get moved on top of the existing reservoir for storage during the construction, and then it will just be moved right back on top of where the new reservoir will be. We did go ahead and blast ahead of time, so there's no blasting during this. It's all being dug. We're just ready to dig it out and create a new reservoir.

Comm. McGurren: I also remember when the pumping station was finished and operational, additional above-ground power lines had to be placed along 151<sup>st</sup> Street and Mission Road to bring additional power to the station. Is anything like that going to be required?

Ms. Werth: No, it all was installed during the first phase. We have a redundant feed into the site, so we have two different substations that can feed into that, so should we have any issues with power or across the area, we do have two feeds into it so we can continue to maintain water for our customers.

Comm McGurren: Will the water pressure in the area be improved?

Ms. Werth: The water pressure will remain the same; this is just additional storage.

Chairman Elkins: Other questions? That takes us to discussion. Comments from the commissioners?

Comm. Belzer: I really appreciate this outreach to the community around and the surrounding areas. I think this is excellent communication, and also with the website, it can keep people up-to-date and allow them to feel a part of it.

Chairman Elkins: Thank you. Other comments? If not, is there a motion?

**A motion to recommend approval of CASE 85-19 - WATER ONE PUMP STATION AND RESERVOIR – PHASE 2 – Request for approval of a Final Plan, located north of 147th Street and east of Nall Avenue – with Staff Stipulations – was made**

**by Coleman; seconded by Belzer. Motion carried with a unanimous vote of 8-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

CASE 86-19 – PARKWAY PLAZA – KIDDI KOLLEGE OFFICE/DAYCARE ADDITION – Request for approval of a Final Plan, located south of 134<sup>th</sup> Street and east of Briar Street.

Comm. Hunter: I’m going to recuse myself from this discussion.

**Staff Presentation:**

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 86-19 – Parkway Plaza – Kiddi Kollege Office/Daycare Addition – Request for approval of a Final Plan, located south of 134<sup>th</sup> Street and east of Briar Street. The Planning Commission may remember this project from earlier this year when they came in for a Revised Preliminary Plan and Special Use Permit for the daycare. The project will consist of an additional 5,450 sq. ft. building to be constructed on the same lot as the existing Kiddi Kollege within Parkway Plaza. The building will now house the Kiddi Kollege office space as well as additional room for their daycare. About 1/3 of the building will be dedicated to the additional daycare area and the rest of the office. A sidewalk is still proposed between the new office/daycare and the existing Kiddi Kollege building. The applicant still plans on removing five on-street parking spaces from the east of the proposed daycare/office building to help provide additional open space on the lot. A cross-access parking agreement was established within the development, and the number of parking spaced still meets the requirements of the LDO. No changes are being proposed to the existing parking lot to the south of the proposed building or existing buildings. The applicant has provided elevations and is proposing to closely match the existing Kiddi Kollege with natural stone, cementitious stucco, and the exterior of the building in a precast concrete roof. The applicant has also provided staff with a photometric study that did not quite comply with the LDO. Stipulation 18 speaks to that, stating that, “Prior to Governing Body, the applicant shall provide staff with a photometric study that will meet all regulations of the LDO.” Staff has been working with the applicant on this. They do plan on submitting a new photometric study prior to Governing Body. The Final Plan meets the regulations of the LDO with the agreement that a new photometric study will be provided to staff. Staff recommends approval of Case 86-19 with the stipulations listed in the Staff Report, and I’d be happy to answer any questions.

Chairman Elkins: Questions for Mr. Sanchez?

Comm. Hoyt: On Exhibit B, which is Gene Hunter’s fire memo, it says, “New building is required to have storm shelter room.” Is that included someplace in the plan, or will they be required if we approve the case and it enters into the comments?

Mr. Sanchez: I believe that a lot of that is done during the time of building permit; however, the applicant has noted to planning staff that it has been done with the plans they submitted.

Comm. Hoyt: What is the standard it has to meet?

Mr. Coleman: It's a FEMA standard.

Comm. Belzer: We talked about that before.

Comm. Hoyt: Right. Is this the new FEMA standard or the old FEMA standard? Wasn't there a new set of requirements that were about to kick in?

Mr. Coleman: It's the current FEMA standard that we have in our ordinance. Next year, it will probably be a new standard.

Comm. Coleman: I think I saw in the plans that there is a safe room. I assume that's the same thing.

Mr. Sanchez: That is what the applicant has noted to planning staff, and I believe the applicant would be able to talk further about that.

Comm. Block: Were there any other changes from the Preliminary Plan?

Mr. Sanchez: Not really; a lot of the same things have carried over from Preliminary to Final. They still are planning to provide bicycle parking at the southeast corner of the building. A lot of the façade has stayed the same. This is just moving on to the Final Plan, so there was a lot more detail on the choosing of the materials, the landscaping, and things of that nature.

Chairman Elkins: If there are no other questions for Mr. Sanchez, I would invite the applicant to step forward.

**Applicant Presentation:**

Jeff Schroeder, Sharhaig Architects, 6247 Brookside Boulevard, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Mr. Schroeder: I'll try to keep this short since it's gone later tonight. As Mr. Sanchez said, there are really no changes from the Preliminary Plan to this plan; it's just amplifications and more detail, as required for the Final Plan. We were here a couple months ago. This will become Kiddi Kollege's corporate office in the front of the building. They currently have offices split up between different facilities around town. They've gotten to the point they need to consolidate and get everything together. This will bring a group of new people here for their corporate office. We are in agreement with all staff stipulations, and we ask for your approval. I'd be glad to answer any questions.

Chairman Elkins: Thank you. Are there questions?

Comm. Belzer: Is any part of the sidewalks that will connect the two buildings covered? Will children be back and forth between the two buildings?

Mr. Schroeder: They are not completely covered. There is a porch with an overhang at the northwest corner of this new proposed building for the first few feet, but the entire sidewalk between the two will not be covered.

Comm. Belzer: Will children walk between the buildings?

Mr. Schroeder: Yes, to the playground area from this building.

Chairman Elkins: Other questions? Thank you. That takes us to discussion. Any comments? Is there a motion?

**A motion to recommend approval of CASE 86-19 – PARKWAY PLAZA – KIDDI KOLLEGE OFFICE/DAYCARE ADDITION – Request for approval of a Final Plan, located south of 134th Street and east of Briar Street – with 29 Staff Stipulations – was made by Hoyt; seconded by Belzer. Motion carried with a unanimous vote of 7-0. For: McGurren, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

*Commissioner Hunter rejoined the meeting*

CASE 16-19 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-9, FENCES AND WALLS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to fence location and fences within RP-A5 (Planned Rural Density Single Family Residential District). **PUBLIC HEARING**

Chairman Elkins: Before I ask for staff's presentation, I'd like to be optimistic and think we can get through these in six minutes, but just in case, I will entertain a motion to extend the meeting.

**A motion to extend the meeting by 30 minutes was made by Coleman; seconded by Peterson. Motion carried with a unanimous vote of 8-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 16-19 – Leawood Development Ordinance Amendment to Section 16-4-9, Fences and Walls – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to fence location and fences within RP-A5 (Planned Rural Density Single Family Residential District). This takes care of two issues

that the planning department has been running into on fences. Sometimes, we get platted building lines on plats. Typically, when a subdivision comes in, they'll plat the front build line from the public right-of-way, but they generally won't plat the side or rear build line. There are some that have done that in the past. Usually, it's older subdivisions. We'll get fence permits that come in, and we haven't really allowed those fences to go beyond the platted build line because there was nothing in the LDO that expressly allowed us to do that. For interior lot lines (not adjacent to the public right-of-way or street) for the side and rear, it would allow for those fences to go over to the side and rear property lines like they typically are allowed in every other subdivision where they don't actually show side and rear on the plat unless it specifically states there is a reason why it shouldn't. There could be reasons, such as a landscape easement and they don't want the fence to go on the other side of it. This would solve a lot of issues because sometimes, we have a 30' rear yard build line and we're telling them they have to have the fence 30 feet away from the rear build line, which really doesn't make a lot of sense oftentimes.

The second issue this addresses is within the RP-A zoning district, which include lots as a minimum of 5 acres, we've had a lot of applications go through the Board of Zoning Appeals for fencing within the front yard. You probably notice a number on Mission Road that have a gate at their front yard with fences going around. The Board of Zoning Appeals will typically approve these. Per Planning, if we have a number of applications going to the Board of Zoning Appeals that are getting approved, we consider changing the ordinance as opposed to continuing to require an application to the Board of Zoning Appeals. This would allow those fences to extend within the front line of the building. Currently, the only fence allowed in the front of the building has to be shorter than 3 feet in height and no more than 24 feet in length. This would allow for just RP-A5 to have fences in the front. It would require them to be 2 feet away from the front build line. The reason for that is if they have a dog or something like that so it can't bite through the fence or other safety reasons. It also limits the fencing that is allowed on that front build line to either split rail, wrought iron, or aluminum that looks like wrought iron. Staff is recommending approval, and I'd be happy to answer any questions.

Chairman Elkins: Questions for Mr. Klein? Seeing none, this case requires a Public Hearing.

### **Public Hearing**

**As no one was present to speak, a motion to close the Public Hearing was made by Hoyt; seconded by McGurren. Motion carried with a unanimous vote of 8-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

Chairman Elkins: Any comments on the proposed amendment? If not, is there a motion?

**A motion to recommend approval of CASE 16-19 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-9, FENCES AND WALLS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to fence location and fences within RP-A5 (Planned Rural Density Single Family Residential District) – was made by Belzer; seconded by Stevens. Motion**

**carried with a unanimous vote of 8-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

CASE 82-19 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-1.3, PERMITTED ACCESSORY USES, BUILDINGS AND STRUCTURES – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to solar collectors within non-residential districts. **PUBLIC HEARING**

**Staff Presentation:**

Assistant Director Mark Klein made the following presentation:

Mr. Klein: This is Case 82-19 – Leawood Development Ordinance Amendment to Section 16-4-1.3, Permitted Accessory Uses, Buildings and Structure. This is related to solar panels. Currently, there is only one section in the LDO that speaks to solar panels. It is located in the Residential section of the ordinance under Accessory Uses. It basically requires any exposed metal within the solar panel to be earth tone or black, and everything else needs to be concealed so that only the solar panels are visible. This is before you because we have a lot of commercial buildings with flat roofs, and they would like to add solar panels. They are behind parapets, so they are not visible. Rather than having them require the metal to be earth tone and black, this amendment adds solar panels to the Commercial portion, allowing them to not have to conceal it as long as it is completely screened by the parapet. Then we still have the same solar ordinance that would be part of the Residential section that would stay the same. This would only affect the Commercial section. Staff is recommending approval of this application, and I'd be happy to answer any questions.

Chairman Elkins: Thank you. Questions?

Comm. Peterson: I had the pleasure about a year ago when our HOA received a request from a resident to put in solar panels. We had no clue where to find this. I fortunately contacted the city, and I was very surprised to find out about the requirements of color. This makes a lot of sense. I actually appreciate you doing this.

Chairman Elkins: Thank you. Other comments? This case requires a Public Hearing.

**Public Hearing**

**As no one was present to speak, a motion to close the Public Hearing was made by Peterson; seconded by Hoyt. Motion carried with a unanimous vote of 8-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

Chairman Elkins: That takes us to discussion and a motion.

**A motion to recommend approval of CASE 82-19 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-4-1.3, PERMITTED**

**ACCESSORY USES, BUILDINGS AND STRUCTURES – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to solar collectors within non-residential districts – was made by Belzer; seconded by Hoyt. Motion carried with a unanimous vote of 8-0. For: McGurren, Hunter, Belzer, Hoyt, Coleman, Block, Stevens, and Peterson.**

Chairman Elkins: I would take this opportunity to commend the commission for its very careful consideration of the issues we faced tonight. The first case was indeed a difficult case, and I appreciate the time and effort that went into our discussion.

*MEETING ADJOURNED*