

**City of Leawood
Planning Commission Meeting
August 25, 2020
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, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson, Elkins.

Chairman Elkins: I'd take a motion to suspend the rules of the Planning Commission as they relate to the presence of a quorum and to the participation of commissioners by teleconference as well as witness presentation of testimony by teleconference.

APPROVAL TO SUSPEND CERTAIN RULES OF PLANNING COMMISSION DUE TO PANDEMIC:

A motion to suspend certain rules of the Planning Commission due to the pandemic was made by Coleman; seconded by Stevens. Motion carried with a unanimous roll-call vote of 8-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

MEETING STATEMENT:

Chairman Elkins: To reduce the likelihood of the spread of COVID-19 and to comply with social distancing recommendations, this meeting of the Leawood Planning Commission is being conducted using the Zoom media format, with some of the commissioners appearing remotely. The meeting is being livestreamed on YouTube and the public can access the livestream by going to www.leawood.org for the live link. The public is strongly encouraged to access this meeting electronically; however, if you wish to comment on a public hearing item, please contact the Community Development Department to make arrangements. I have a list of those who have already indicated a desire to make statements tonight.

Electronic copies of tonight's agenda are available on the City's website at www.Leawood.org under Government / Planning Commission / Agendas & Minutes. Because this meeting is being live-streamed, all parties must state their name and title each time they speak. This will ensure an accurate record and make it clear for those listening only. This applies to all commissioners, staff, applicants and members of the public who may speak. All motions must be stated clearly. After each motion is made and seconded, a roll call vote will be taken. The Chair or staff will announce whether the motion carried and the count of the vote. Reminder, please mute all microphones when you are not speaking. Thank you.

APPROVAL OF THE AGENDA

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

Mr. Sanchez: We do not.

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

APPROVAL OF MINUTES: Approval of the minutes from the July 28, 2020 Planning Commission meeting and the August 11, 2020 Planning Commission work session.

Chairman Elkins: I believe there was some confusion, but staff has provided a complete set of minutes for the July 28th Planning Commission meeting. Are there corrections? Seeing none, I would entertain a motion.

A motion to approve the minutes from the July 28, 2020 Planning Commission meeting was made by Coleman; seconded by Stevens. Motion carried with a unanimous roll-call vote of 8-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

Chairman Elkins: Are there any revisions to the August 11, 2020 Planning Commission work session?

Comm. Hoyt: On Page 3, my comments 2/3 of the way down should read, “invisibly operating.”

A motion to approve the amended minutes from the August 11, 2020 Planning Commission work session was made by Coleman; seconded by Stevens. Motion carried with a unanimous roll-call vote of 8-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

CONTINUED TO THE SEPTEMBER 22, 2020 PLANNING COMMISSION MEETING:

CASE 69-20 – HILLS OF LEAWOOD VILLAS – Request for approval of a Final Plat and Final Plan, located north of 151st Street and east of Mission Road.

CONSENT AGENDA:

CASE 65-20 – TOWN CENTER PLAZA – AMENITY AREA – Request for approval of a Revised Final Plan, located south of Town Center Drive and West of Roe Avenue.

Comm. Coleman: I'd like to commend Town Center Plaza for taking an eyesore of a fountain that has not worked for many years and turning it into a very nice space that will be useful for the patrons of that area.

Chairman Elkins: Does anyone wish to hear a presentation from either staff or the applicant? If not, I would entertain a motion.

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

NEW BUSINESS:

CASE 04-20 – 135 STREET AND KENNETH – MIXED USE AND MEDIUM DENSITY RESIDENTIAL - Request for approval of a Revised Preliminary Plan, located south of 135th Street and west of Kenneth Road. **PUBLIC HEARING**

Chairman Elkins: Before staff's presentation, Commissioner Peterson, do you have a comment?

Comm. Peterson: My comment is related more so to Case 49-20, but it is related to this. I want to make sure staff and the members of the public are aware that I received in the mail an Interact Notice on June 8th, which was to be held on June 10th. Not having ever attended an Interact Meeting before in my life, I was very curious to listen in, but primarily, I was most interested to see how it was being conducted using Zoom. I listened to the entire presentation. I was connected the whole time, but unfortunately, half the time, my audio did not work, so I could not hear most of what was being said. I was surprised that it appears, out of all the attendees, the majority attended by technology. It impressed me that this probably will be much more useful going forward to increase the attendance of residents.

Chairman Elkins: Thank you, and for clarity for the sake of the record, do I understand that the Interact Meeting you observed was for Case 49-20 and not 4-20?

Comm. Peterson: Correct.

Staff Presentation:

City Planner Ricky Sanchez made the following presentation:

Chairman Elkins: I would ask that you provide clarity on exactly what it is that we're considering tonight. I felt there was some ambiguity on the information we received on the record from the Governing Body, and I think perhaps there were changes to the plan after Governing Body considered it.

Mr. Sanchez: This is Case 04-20 – 135th Street and Kenneth Road – request for approval of a Revised Preliminary Plan and Revised Preliminary Plat. Before we get to the case, staff would like to make some changes to the Staff Report. On Page 5, under the Site Plan comments, instead of 25% for the deviation given for the Floor Area Ratio (F.A.R.) for the development and should actually be 55%. Also, the 182 residential units should be

183 residential units. Finally, on Page 9, under Staff Recommendations, within the first stipulation, it should be 55%.

To give the Planning Commission a little background, this project was heard by the Planning Commission on January 28, 2020. It was denied that night and then moved on to Governing Body. The applicant worked with staff a little bit regarding the financing, which was the main point of the meeting for the burial of power lines and 135th Street work. They were heard by Governing Body on July 20, 2020. At that meeting, the applicant showed a revised plan to the Governing Body, which they deemed should go back to staff. It was remanded at that meeting to go to the Planning Commission for the townhouse portion. After review by staff, it was deemed that it was a substantial change to the development. Per the Leawood Development Ordinance (LDO), if there is a density increase of over 5%, it is a substantial change to the plan. That means the project must go through the planning process, including Interact Meeting and mailers. After telling the applicant that was the case, they then made additional changes to the mixed-use portion of the development, all on the west side of High Drive. That is what we are reviewing tonight. I'll go through all the changes, but we are reviewing the whole project again.

Chairman Elkins: So, technically speaking, under the LDO, this is not on remand from Governing Body; this is a new review of a modified proposed plan.

Mr. Sanchez: Correct. I would like to show some visuals. I'll highlight the areas that stayed the same. These include the residential areas on the south side of 137th Street, the mixed-use area east of High Drive, the square footage within the Mixed-Use Development (MX-D), the locations of the public streets, including the 137th Street connection to Chadwick, and the community area in Phase 2. The areas that changed include the northern portion of the RP-3 north of 137th Street, which went from 18 duplexes to 15 townhouses with a total of 59 units. It is a gated area with a centralized park and driveways that wrap around the townhouses to allow parking in the back. Other changes include the western portion of the proposed High Drive, changing from four to three buildings with a rearrangement of square footage. There is now a covered parking area with a pool deck on top. The tallest building increased in height from 71 feet to 75 feet. The site design changes, but the square footage stayed the same, as did the density in the mixed-use portion. Because the road changed from public to private, the plat was changed. The project is still proposing changes to the phasing, as they did before. Previously, the whole RP-3 area was the first phase. The second phase was the western portion of the mixed-use. The third phase was the eastern portion of the mixed-use. Again, they are proposing the same phasing with the first phase being the residential area south of 137th Street. The second phase would be the community area south of 137th Street. The third phase would be the duplex area north of 137th Street. The fourth phase would be the mixed-use area west of High Drive. The final phase would be the mixed-use area east of High Drive. Staff is not supportive of the gated entry to the townhomes on the north side of 137th Street. The Comprehensive Plan states, "To ensure residential growth patterns result in neighborhoods that have their own sense of place, yet are closely linked to the community as a whole," with a directive that states, "Additional gated communities will not be allowed within the City of Leawood in order to promote a

sense of community.” Although the application meets all the requirements per the LDO, staff recommends denial of Case 04-20 because the applicant does not comply with the 135th Street Community Plan. I am happy to answer any questions.

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

Comm. Hoyt: Just circling back, I want to make sure I’m 100% clear. On the last page of the City Council minutes, Ms. Bennett says that it will be clear when we read the minutes that we are not being asked to reconsider our decision based on stipulations for road construction and burying of power lines, but only the phasing and the townhomes. Is that correct?

Mr. Sanchez: Because the whole development ended up changing, we are looking at the townhomes and the mixed-use portion. With regard to funding, the Governing Body made it clear that it is done at the time of Final Plan consideration. Staff kept stipulations with regard to financing in the Staff Report, and it will come up at Final Plan.

Comm. Hoyt: So, basically, we should ignore that directive, then.

Mr. Sanchez: I believe so.

Chairman Elkins: I think the circumstances changed after the City Council meeting. This is as if we were looking at it for the first time. It’s not to say that we shouldn’t consider comments we made the last time, but from a procedural standpoint, we are effectively starting over from scratch.

Comm. Stevens: I do see another change. Under Staff Comments on Page 9, the first bullet was meant to stipulate about the gated communities not being allowed. It is actually Stipulation No. 9 instead of No. 8. I also have another comment from the history. In previous applications, there was also a Special Use Permit (SUP), and those were Stipulation Nos. 10 and 11. They dealt with the assisted living facility needing an SUP. None of that appears again in tonight’s application.

Mr. Sanchez: The application is only for a Revised Preliminary Plan and Revised Preliminary Plat. The SUP still carries forward as its own separate thing. It could have come in as a separate application without a plan or anything. The SUP is just for the use, so it is not a part of this.

Comm. Stevens: From the prior approvals.

Mr. Sanchez: Correct.

Comm. Stevens: Under Bulk Regulations, there is a comment about the minimum residential units, quantity, and percentages required. It is noted that it is not provided, and it is acknowledged by the applicant. Would this be required prior to Final Plan?

Mr. Sanchez: Normally, during the preliminary phases, the applicant may not know the exact square footage of things; they just use an estimate. They should know approximately so they can avoid the 5% change. Sometimes, they don't have the floor areas done. We want to make the applicant aware that these are the boundaries they have to fit in: 980 square feet for 80% and 700 square feet for everything else for the rest of the 20%. We want to make them aware as soon as we can so they're not coming in with a Preliminary Plan that will automatically not be met at the time of Final Plan consideration.

Comm. Stevens: I noticed that staff notes that the traffic study done in March, 2019 had been approved but is part of the Public Works review. I noticed there's a request that the recent changes of this development require the traffic report to be updated. Is that correct, or should that actually be a stipulation? Is that included by reference of Public Works?

Mr. Scovill: That is included by reference that they update the traffic study to accommodate additional density in Phase Three.

Comm. McGurren: Is it fair to say that staff is continuing to work with the applicant regarding places where they are not in compliance?

Mr. Sanchez: The applicant has submitted this, and they want to see where it will fall. This may be a better question for the applicant.

Comm. Coleman: Just to confirm, north of 137th Street is considered MX-D?

Mr. Sanchez: The way the zoning works for this development, everything north of the red line is MX-D. The small portion here (*refers to plan*) is RP-3.

Comm. Coleman: Which is medium density?

Mr. Sanchez: Correct.

Comm. Coleman: Can you point out the gated area?

Mr. Sanchez: There is only one entry into the northern part.

Comm. Block: Help me understand private streets and why a developer would want to do that.

Mr. Sanchez: Private streets are not maintained by the city; they are maintained by the HOA or whatever body is created to maintain it. There are things they can and cannot do within the LDO. They still have to meet city standards for road construction. They don't have to meet interior setbacks. There are some gives and takes to having a private street.

Comm. Block: We spent a lot of time the last time we considered this on new turn lanes and what would happen on 135th Street. I didn't see any of that in this.

Mr. Sanchez: All of that has stayed the same from what was previously shown.

Comm. Block: I understand the splitting of costs was talked about in the Governing Body discussion. Is there an agreement on any of that?

Mr. Sanchez: That may be a better question for the applicant.

Comm. Hoyt: As a point of clarification, on Page 9, it lists three primary objections that staff has to the plan. Is that a correct assumption that these are the three main sticking points, or are there other points that ought to be included?

Mr. Sanchez: The private drive into the new RP-3 portion of the development is a sticking point. One of the big changes that occurred between the previous proposal and this one was all talked about during Governing Body consideration. The previous application asked for changes to the stipulations and phasing. They still want changes to the phasing; however, they understand that the stipulations coincide with the financing at this point. Those remain in the Staff Report. Those were the main contentious points of the previous application; we just moved it along to this one. We are all in agreement that it will have to be discussed with Governing Body at the time of Final Plan consideration.

Comm. Hoyt: You're saying phasing and financing are along for general information, but we shouldn't necessarily be focusing on them tonight?

Mr. Sanchez: I believe so. Phasing is still a part of this application; however, the applicant may be able to tell you a bit more about the financing part of it and if they would like for the stipulations to be removed. Staff included them to keep the staff's position forward, as we would like for those to still be followed.

Comm. Hoyt: So, the gated entryway, improvements in public utilities, street construction, and private street issue are critical pieces that are disagreed upon; is that correct?

Mr. Sanchez: The private street is not as critical. We do allow private streets within the City of Leawood; we just want the applicant to be aware of the requirement to meet LDO's Section 16-8-3.2, which refers to all the regulations that go into a private street.

Comm. Hoyt: So, gated entry, improvements in public utilities, and street construction are the big points.

Mr. Sanchez: Correct.

Chairman Elkins: With fairness, the applicant may have a different view of things. That is staff's perspective.

Mr. Sanchez: Correct.

Comm. McGurren: Is the side setback deviation a concern, also?

Mr. Sanchez: That was an additional deviation completed with this application. Since this is a renewed Preliminary Plan, those deviations have to be approved again.

Chairman Elkins: For clarity, we are starting over again. Nothing has been approved.

Comm. McGurren: With the height of the building going from 71 to 75 feet, what are staff's thoughts?

Mr. Sanchez: Within the MX-D, 90 feet heights are allowed. They fall well below the requirement, so staff is fine with it.

Chairman Elkins: Has the phasing changed from the prior plan?

Mr. Sanchez: It has not changed. They are going from three to five phases. It is the same phasing plan we saw when this case came previously. The first phase was all of the RP-3 portion; the second was the MX-D on the western portion of High Drive; the third phase was the MX-D on the eastern portion of High Drive. When we heard this case in January, part of the application was to change the phasing. That is now carried over again. We heard the phasing changes in January, and we are now hearing them again.

Chairman Elkins: And there is no change from what the applicant proposed in January?

Mr. Sanchez: Correct.

Comm. Coleman: Going back to the gated communities, the 2019 update to the Comprehensive Plan states that additional gated communities will not be allowed within Leawood. Does anyone remember the last gated community that was approved?

Mr. Sanchez: I don't know that. Richard Coleman may be able to answer better.

Mr. Coleman: The last gated community was Milano, and that was due to a lawsuit filed that required the city to allow it. It was basically because they had a vested interest from a zoning many years prior.

Comm. Coleman: How many gated communities would you say there are in Leawood?

Mr. Coleman: There were probably three that had gates. Some of them now are permanently left open and are actually not gated. There's one right by City Hall and one in Hallbrook that is permanently left open.

Chairman Elkins: Are there any other questions for staff? If not, we'll hear from the applicant.

Applicant Presentation:

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

Mr. Petersen: I have the privilege of appearing on behalf of Leawood 135, LLC, who is the proposed developer for this project. Rick Lashbrook, principle with Leawood 135, is with us online and can answer questions. I'm going to take the lead and reset the conversation just a bit about this project. I will attempt to not sound like a lawyer but state for the record that I disagree a bit with the procedural position we're in. This is a remand, in my opinion, from Governing Body. I don't think it makes any difference in terms of the decisions we make this evening, but I will say that Commissioner Hoyt nailed it with message we left City Council with that evening. One other thing I want to say to clean the atmosphere in terms of compliance with the LDO is we are in 100% compliance for each phase of this project, save the issue of the gating of the driveway into our townhomes.

As you recall, we brought through the plan that is in front of you on the screen right now. It was ultimately approved on December 3, 2018. The city then modified the Master Plan in 2019, reflecting what you have before you. As we can see, it was the continuation and full completion of 137th Street of Kenneth Road to its current terminus the west, the construction of the public streets of High Drive, entering off 135th Street, the cul de sac supporting the villas south of 137th, and the pod of villa product to the northwest portion of the site. The frontage along 135th was bifurcated west and east of the High Drive entrance. The left piece is the piece that Mr. Lashbrook will ultimately develop; the right piece will be developed by the Regnier group. It was all approved at the same time. I want to draw a distinction because that plan spoke to phasing. Staff walked through it accurately. At that time, we had three phases. The first phase included the villas, 137th Street, supporting cul de sacs, the entrance off 135th and High Drive, and the deceleration lanes required on 135th Street to access the right turn down High Drive to the south. Our amenity area for the villa concept was Phase Two, and then the mixed-use portion was Phase Three. That's the phasing concept. We changed a little bit and now have five phases. Just because they're numbered differently, it doesn't mean that we're required by approval or by the LDO to start with the one that we call Phase One. It is merely just the game plan, but it is not restrictive. There's another concept of phasing that comes into play when we start talking about financing. For the most part, we're not going to talk a lot about the financing tonight. It was the financing of 135th Street with an additional through lane, burying of the power lines. Those significant costs were causing quite a bit of bumpiness in the road. There's a phasing element there, too, because right now, these stipulations say that before we can plat the first villa in the southeast corner of the project and before we can get an occupancy for one villa, we have to build 135th Street and bury all the power lines. That is financial phasing, and that is the part that is still unresolved. We're trying to work out those issues as we attempt to work out a financing plan for certain public improvements. I don't want to speak for staff, but I think there's a recognition that 135th Street wouldn't have to be widened if we're just doing the villa project. That really goes back to Commissioner Hoyt's position. This plan was approved. Rick and his development team started looking at how to implement this. We started bumping in to those extraordinary costs of \$1.8 million. We filed a Revised Plan

because we had to change proposed stipulations. That's what we brought to you last time on the back of this exact plan. It went to City Council saying that we had to pay \$1.8 million in accordance with what was originally proposed. As we worked with the financial staff, we tried to find common ground to address finances and financial phasing issues. While we did that, Rick kept trying to make the product better, interjecting a new living component to the community. That's when the townhome concept was brought in, and it brought in some more units. As we talked with staff about the financial issues, the team started to design and took a very good product and took it to a higher level. We showed City Council and discussed the financing issues. We diverted off because there was a work session that is somewhat related. In the meantime, they asked for this body to look at the townhome concept and the new reconfiguration of the MX-D because they wanted input in terms of land-planning issues. That is the reason we're back. Whether it's a new application or remand, I would have a conversation about it if it ever becomes important in terms of ramifications. For now, I don't think it matters.

Our new proposal is identical from 137th Street south. There was reference about moving 137th Street farther north, which I think was leftover from last time; we already moved it north. Everything is exactly as it was approved. What is changed is the townhome concept, and we really made the mixed-use multi-family over commercial area better. It went from four buildings to three. The multi-family is on the hard corner of 135th and High Drive, and it is really state-of-the-art with structured parking, the mixed-use element you're looking for, and increased amenities. They were back and forth on trying to get traction in the market by taking it to a lower price point, but it was decided to take it up. We are excited about the townhome villas. It is a sought-after option for those moving out of the big homes and want to move to a maintenance-provided community with a little less square footage. Maybe they're not quite yet ready to move into the multi-family for-rent product like in the MX-D. These are projected to be 2,000-2,400 square feet. They sell for about \$500,000 a unit. This is not necessarily trying to really push a price point out of what we have in the rest of the area. It brings a new living concept into the area as a go-between from the villa to the true for-rent multi-family living over some commercial activity. The heights went from a mixture of a four-story split concept to five stories with covered parking and a pool on the deck. We added another unit for a total of 183. When we get to Final Plan, we'll scale our floor plan to make sure we meet the minimum requirements of the LDO. That could change a little bit. As staff has indicated, the increase in density is not a relevant factor. In terms of the RP-3 plan north of 137th, there are 15 buildings with 59 units, which is a slight increase from 3.07 units per acre to 3.68. There's an architectural theme with a dense multi-family piece tied in with some of the same materials and different architectural vocabulary. This is the plan we'd like you to consider approving. We're in compliance with the LDO. We have one deviation in there, which was the side yard on the villa product. We had that before, so we're asking for that to be approved. What is not approved and what is not resolved is the 135th Street expansion today, burying of power lines today, breaking up the median today, signalization today, and responsibility of the property owner toward those costs.

I'm going to make a suggestion. We have Stipulation No. 1A in our package, and staff corrected it, so we don't need to talk about it. Stipulation No. 9 speaks to the gated community. We ask to delete this stipulation. It's not an LDO requirement; it's a Master

Plan element that speaks to not wanting a lot of gated communities because it goes against the feeling of openness. We understand that, and it makes sense with single-family neighborhoods. I would suggest in the application we're proposing here, which is really multi-family living, it is one gradation from the multi-family that will be directly to the north, which is a gated community as well. It is designed for individuals that want a sense of security, and that is the reason we think it makes sense and not totally violative of the concept of the Master Plan. We think this will make it a better, more attractive project.

I'd like to talk about the Public Works memo, which is in Stipulation No. 19. It has a number of conditions in and of itself. You are not going to make a decision to recommend to Governing Body to build 135th Street today or bury power lines today. City Council has clearly indicated that is their decision. I would merely ask that the stipulations that speak to that and the Public Works memo that speak to those issues, along with the phasing issues, merely be stipulations left in place, but I would be hopeful that if you like our new plan from a planning standpoint, you would support the project and recommend approval, deferring to Governing Body about the decisions related to burying power lines and the Public Works memo. The other option is to approve it, subject to the stipulations staff has offered. Stipulation No. 7 calls for burying the power lines on day one. No. 9 says that we can't have the gate. The rest, we accept. The Public Works stipulations call for building 135th Street in its entirety, burying power lines, and the phasing. With that, we would stand for questions.

Chairman Elkins: The parts that are now in orange on the plan are the townhomes, correct?

Mr. Petersen: Yes, sir.

Chairman Elkins: The multi-tenant units are above the MX-D section?

Mr. Petersen: Correct.

Chairman Elkins: Then, the buildings in the lower righthand corner are all the villas?

Mr. Petersen: Yes.

Chairman Elkins: Is the upper righthand corner the assisted living facility?

Mr. Petersen: The purple is the assisted living, and the blue buildings are a variety of different styles of commercial utilization. Those will be developed by Mr. Regnier. We haven't touched that component of the project.

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

Comm. Belzer: Can you talk me through the townhomes a bit more? How many are in each building? How many families would be in each?

Mr. Petersen: Four families and one with three.

Comm. Belzer: Is each entrance separate?

Mr. Petersen: Each unit has its own front door. The parking garage is in the rear. It's a bit of a Georgetown concept of row homes with a bit of a community out front. It is quite similar to the townhome concept on the lake at Mission Farms. Those are gated, by the way, and happen to be for rent. These will be for sale.

Comm. Belzer: I really like the improvements you made to the MX-D buildings in the front. I really like the improvements in the townhome concept that has been created.

Comm. Hoyt: Just so I'm clear on what everybody's position is here, I seem to have understood you saying that even though you've had issues with the handful of stipulations you bracketed, including the prohibition on the gate, it would be a victory for us to approve the plan with the stipulations. Is that correct?

Mr. Petersen: That's a fair statement. I don't expect the Planning Commission to solve my funding issue. We're proud of the plan. I think City Council was interested in the Planning Commission seeing the plan.

Comm. Hoyt: Echoing Commissioner Belzer's comments, having the townhomes at that price point makes me think of a big work session we had with the Leawood Chamber of Commerce and City Council, where we looked at the need for this price point of housing. That piece seems to be something we've been trying to work on.

Comm. McGurren: I, too, am impressed that we have found something that is a possibility that fits within that price range. Is each individual unit two or three stories?

Mr. Petersen: I think they're two levels.

Comm. McGurren: It appears there are maybe sliding glass doors or maybe windows on a third level. They obviously go vertical and not horizontal.

Mr. Petersen: Yes.

Chairman Elkins: With respect to the Public Works stipulations and the others that do not relate to the gate, what is your ask of us? I'm hearing two different things. I thought I heard you say that you weren't looking to us to solve the financing problem, and City Council made it clear that it's their prerogative. On the other hand, in your presentation, you indicated you were looking for relief on those stipulations. Can you tell us more about what you're asking?

Mr. Petersen: I'm not asking for relief from the Planning Commission on those stipulations.

Chairman Elkins: That's good news. Any other questions? Seeing none, I believe this calls for a Public Hearing. I would note that the Public Hearing is being conducted via Zoom. Prior to the opening of tonight's meeting, a group of people identified a desire to testify. I have a sequence I'll use to call on individuals. We will keep a timer for four minutes per presentation.

Public Hearing

Chairman Elkins: Is there anyone who wishes to be heard on Case 04-20?

As not one was present to speak, a motion to close the Public Hearing was made by Coleman; seconded by Hoyt. Motion carried with a unanimous roll-call vote of 8-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

Chairman Elkins: That takes us to discussion of Case 04-20.

Comm. Coleman: I want to make three points. First, we are starting over with a new proposal and not a remand because of the changes from the duplexes to the townhomes and the percentages. Second, I am definitely in favor of removing the gate from the plan and keeping the stipulation. Third, after looking at staff comments in previous minutes, we have a 135th Street Corridor Plan. When we looked at this originally, we denied it because it didn't comply with it. City Council approved it after our initial denial, so I'm torn. On one hand, it is a new proposal. It still does not meet the 135th Street Corridor Plan. On the other hand, City Council has already approved this in nature. That's not really for or against; I just wanted to make it clear. In addition, since we have other proposals tonight, I think this plan, being one of the first on 135th Street, will set precedent with the other projects coming. Again, I'm just giving history with where we are.

Comm. Block: I have the same concerns. The 135th Street Community Plan had a lot of work going into it. While components of this plan are nice, it doesn't fit in that plan. For that reason, it does give me pause.

Comm. Stevens: I have similar concerns, but with respect to the changes in the plan, I think the townhome housing and RP-3 north of 137th Street is fine as being a denser topology, even with the increase in density from 36 to 59 units. The proposal for the gated community is a side piece from the rest of the development that was to be mixed-use, both separate in security of that neighborhood, turning its back on the rest further separates the plan from what it could be as being part of that northern development. I think it's too bad the row houses, which are a nice concept of density housing, don't have a transition section or an opening up to the north, facing the apartments and retail area. Instead, it's being closed in, in a separate area, which is not representative of what mixed-use should be. Despite the improvements and change to the townhome area, because of the current plan configuration, I would be voting for denial. The revised phasing was also part of what we are reviewing, and that has come together basically the same with the potential of what might be delayed or not realized in the development, which is a

concern. However, the proposed change in phasing is very similar to what was previously approved, and we're way down the road on that. I would be in support of that alteration, subject to the various stipulations that relate to the phasing. The phasing plan in the submittal describes the steps with descriptions that aren't consistent with the stipulations on what gets built and when.

Comm. Hoyt: Could I ask a question of the applicant, even though we're past that point?

Chairman Elkins: Sure.

Comm. Hoyt: This discussion about consistency with the 135th Street Corridor Plan reminded me of a point I had a question about. In our most recent examination of this report, we spent a fair amount of time talking about the degree to which this plan did or didn't address the objective of developing neighborhoods with a distinctive sense of place, and that was part of what was missing, in a sense. On Page 8 of the Staff Report, it comes up again. I would love to hear a statement from the applicant on their envisioned sense of place. What would tie the entire development together such that some commissioners who are currently thinking it doesn't seem as cohesive and integrated as the intent was for MX-D might change their view and think it is the kind of place they would want to live in.

Mr. Petersen: I understand the 135th Street Corridor Plan was the background, but the decision was made ultimately that this would fit with the Master Plan. The Corridor Plan is guidance. The Master Plan is the document within the milieu of zoning. The Master Plan was changed in 2019 to reflect this plan, even though the townhomes are different. Some could say that the 135th Street Corridor Plan was distinctive. There are other ways to be distinctive, and what might be so in one part of Leawood may not in another. We tried to play to a community that likes to be outside, walk, take advantage of the extensive bike/hike trails that we implemented in the first plan, tying into the 137th Street Corridor and tying into our neighborhoods, making sure the trails connected to commercial activity. We see it as a quality housing development with access to the trail system. In the same community with a common architectural feel and common landscaping, there is a place to rent. It is not interspersed like downtown Kansas City. It is not dense with tall office buildings and parking garages. Maybe there are places on the corridor that will support that. I don't think it will be supported everywhere. I think this is a great piece of the mosaic for the 135th Street Corridor that is distinctive to its quality, design, and the different opportunities it presents for the living public.

Chairman Elkins: Thank you. Other comments?

Comm. Coleman: Is what the City Council passed last year part of the Comprehensive Plan now? Are we splitting hairs with the intent of the 135th Street Corridor?

Mr. Sanchez: The first application was Case 71-18. Back in 2018 was the first time we saw this plan, and it was approved by Governing Body. Staff made updates to the Comprehensive Plan Map to show MX-D on the north side with RP-3 on the south side

for this property. That still stands. Staff's position is still that it does not meet the overall sense of what the Comprehensive Plan wants for MX-D. We are still opposed to the alignment of 137th Street and the RP-3 portion on the north side of 137th Street. Those are still concerns; however, because it was changed in the Comprehensive Plan Map, we didn't bring them up.

Chairman Elkins: Additional comments? If not, is there a motion?

A motion to recommend approval of CASE 04-20 – 135 STREET AND KENNETH – MIXED USE AND MEDIUM DENSITY RESIDENTIAL - Request for approval of a Revised Preliminary Plan, located south of 135th Street and west of Kenneth Road – with all staff and Public Works stipulations – was made by Hoyt; seconded by McGurren. Motion carried with a roll-call vote of 6-2. For: McGurren, Coleman, Hunter, Belzer, Hoyt, Peterson. Opposed: Block, Stevens

five-minute recess

CASE 49-20 – CAMERON'S COURT – Request for approval of a Rezoning from AG (Agricultural) and SD-O (Planned Office) to RP-2 (Planned Cluster Residential Detached) and MXD (Mixed Use District), Preliminary Plan, and Preliminary Plat, located south of 133rd Street and west of State Line Road. **PUBLIC HEARING**

Chairman Elkins: I would note for the record the comments Mr. Peterson made regarding the Interact Meeting in June had to do with this case.

Staff Presentation:

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 49-20 – Cameron's Court – Request for approval of Rezoning from AG and SD-O to RP-2 and MX-D, Preliminary Plan, and Preliminary Plat. This project is on a total of approximately 116 acres, reaching from Pawnee Lane to State Line Road and 133rd Street to 135th Street. In total, the development will include 66 single-family lots, 662 multi-family units, 444,864 square feet of retail/office space, and 66,472 square feet of a hotel. The project has been broken into different tracts and phases. Staff would like to show a visual (*projects on the monitor*). The first phase is the RP-2 portion, which is on 133rd Street and Pawnee. The second phase is Tract B, which is proposed to be mixed use. Tract A would be Phase Three, just south of the RP-2 portion, the majority of which is on 135th Street. Phase Four is Tract C and is on State Line Road.

This proposed project does not meet a number of regulations and standards set forth by the LDO, 135th Street Community Plan, and Comprehensive Plan. We'd like to talk about the parking study. Section 16-4-5.4a of the LDO allows for a parking study to be created and adopted by Governing Body. That then allows for changes in the parking ratio allowed. The study that was submitted to staff was for the development to the south. Staff is not supportive of this, as there are major differences in those developments. Staff would like to see a new parking study done for this development. They are also proposing 1.46 parking spaces per unit within the residential portions of the mixed-use part of the

development, which are in Phase Two and Phase Three. Normally, those would require two parking spaces per residential unit, one totally enclosed, and 3.0-3.5 parking spaces per 1,000 gross feet for nonresidential space. The two residential areas are also proposed to be gated, which does not allow for cross-access easements for parking. Staff does not support the reduction and required parking for the gated residential areas. The Planning Commission may also remember that we updated the LDO requirement for the parking not too long ago to have one totally enclosed and gross square footage. This proposed project also shows private streets within Tracts A and B. Section 16-8.3.2a of the LDO states that private streets within residential are only allowed within residential developments only. Because this is within the mixed-use development, it is not technically allowed. The streets will have to meet city standards if they are private. The applicant also does not meet corner lot street side setbacks within the RP-2 portion of the development. Corner lot street side setbacks are supposed to have a 20' setback, and the plan shows a 10' setback. The applicant is proposing covered parking areas. Per the LDO, they have to be connected to the primary structure and also has to be a maximum of 15 feet away from the primary structure. This is showing a covered parking area with a walkway that goes into an island, which is approximately 45 feet. The actual structure itself is 75 feet away from the primary structure. Since this is considered covered parking, the applicant is using them to meet the covered parking requirements. Removal of the structures would affect the parking numbers. Additionally, per the LDO, 6' retaining walls are allowed; however, they have to be stepped back for each foot in height. A 7' wall would require an addition 1' setback. One retaining wall is 6 feet high; however, it is within the parking setback. Another wall has a maximum height of 10 feet. Staff would prefer a maximum of 6 feet. It could be broken into two 5' walls that are terraced so there is not one massive wall. It would also have to be set back 5 feet. Those are all elements that don't meet LDO requirements.

Within the Comprehensive plan is another set of regulations it does not comply with. Per the map, the RP-2 portion should be MX-D. We discussed gated communities with the previous application. This development is proposing two gated communities. To create a sense of community, we do not allow gated communities per the Comprehensive Plan. Within the MX-D plan, unity and connection should be a part. Gated communities disconnect the overall sense, really creating four separate developments that the applicant chooses to apply as one. High Drive already separates RP-2 and one part of the apartments on the south facing 135th Street. All of the uses are already disconnected. All the commercial and office are along State Line Road. There is another development of apartments and a third development of apartments, and then single-family residential. Pedestrian activity is only shown within the separated areas, so they really don't connect to each other much. What does connect is across High Drive, and staff would like to see more connection between these items. Also, this project is so large that it would be hard to get from one end of the development all the way to the commercial portion by a pedestrian route. The site design alone does not meet the human scale, village style, and main street style for mixed-use developments that Leawood is looking for. It is staff's position that these are four separate developments that really don't speak to each other, and two being gated really does not help.

Within the 135th Street Community Plan are regulations that this plan does not meet as well. The applicant has submitted a plan that shows a variety of road types

distinguished in the 135th Street Community Plan, including neighborhood streets. In the Comprehensive Plan is a broad guide, including widths, sidewalks, and rain gardens. The applicant has proposed this within the gated communities and some in the commercial area. Staff does not think these are great uses or that they are the intent behind the 135th Street Community Plan, which is to create pedestrian connections that can be traversed with ease. They also use a destination street that does not meet the intent of a destination street. It is supposed to have 16' sidewalks with enough room for multiple groups to walk next to each other, bike racks, seating, active businesses on the street, and on-street parking. This plan does not meet any of that. The applicant is also proposing to not construct Kenneth Road and Chadwick Road. Staff sees this as something that could potentially really hurt the development, as these are huge north-south connectors that could help the development and hurt the ability to create grid streets, which staff sees as more efficient and more sustainable. Grid streets also create walkability. The future street network approved by Governing Body shows Chadwick going through the development. It also shows a 10' hike-bike trail on the west side of Kenneth Road. They are not proposing Kenneth Road or Chadwick. The 135th Street Community Plan talks about transects. This provides a sort of transect with low-density residential, moving to high-density residential, another high density residential, and then the commercial. That was not the intent of a transect; it is to be able to easily transition from one use to another use with different densities and to be able to connect all those things seamlessly. This has separated all those parts of the development, and we do not see it as a true use of transects. In the 135th Street Community Plan, the low-density residential is supposed to be on 133rd Street. To the north is the lower density. It transitions further to the south, and then it would be the grid street network. Then, there is another sense of density closer to 135th Street.

Stipulation Nos. 2-13 are necessary for staff to do a full review of the proposed project. Staff believes if Nos. 2-13 are applied in any way, it could cause a substantial change to the plan, which could cause the plan to come back. Additional changes may be created with other issues that need to be reviewed by multiple city departments. We have been in contact with the Fire Department and Public Works. As you can see, we see a lot of issues with this project, and we need time to review them. We need to work with other departments to gauge their concerns to be able to give a full review of the project. Thank you.

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

Comm. Coleman: From what you just proposed, there seems to be a big disconnect between you and what the applicant is proposing. Can you go into a bit more detail about your work with the applicant and how we got to this point?

Mr. Sanchez: With every application that comes in to the City of Leawood, we do a pre-application meeting. At that time, the plan is in early stages. That is normally where all the design-type work happens with staff and the applicant. From that point to this point, not a lot has changed. There have been minor changes due to not meeting LDO requirements. We have reiterated often that it does not meet the 135th Street Community Plan and the Comprehensive Plan. The applicant could talk more about their process.

Comm. Hoyt: It's basically what Commissioner Coleman just said, except I can't really remember a plan of this scope coming through with so many nonconforming elements, even with just the LDO, which is a preliminary benchmark of acceptability. Then, we get into the Comprehensive Plan issues, which is another pretty firm guideline that we try to follow. The 135th Street Corridor Plan is maybe a bit more subjective at times, but it just seems to me that it would be very difficult to approve this plan, even with the stipulations, and know what we were approving.

Mr. Sanchez: I forgot to end our presentation. The proposed application does not meet multiple requirements within the LDO, 135th Street Community Plan, and Comprehensive Plan. Therefore, staff recommends denial of Case 49-20. We just wanted that on the record.

Chairman Elkins: Thank you. Did you have a response to Commissioner Hoyt's question?

Mr. Sanchez: That is where staff is, also. They wanted to move forward with the application. We tried to work with them, and this is where we are.

Chairman Elkins: Is it accurate for us to conclude that, at least for conflicts with the LDO, we don't really have the discretion to approve a plan that conflicts with the LDO itself; correct?

Mr. Sanchez: That is correct. The Planning Commission cannot approve a plan that does not meet the LDO.

Chairman Elkins: In contrast, we may have some discretion relative to the Comprehensive Plan or the 135th Street Community Plan.

Mr. Sanchez: Correct.

Comm. Hunter: My understanding was that, even if the applicant agreed to all the stipulations, the city still wouldn't recommend approving this. If we can't approve it because it doesn't meet the LDO, how did we get here?

Mr. Sanchez: You are correct. If the retaining wall has to move within the setback, we don't know what that will do to the entire site. Units may have to move to another area. We would like for the applicant to meet the LDO, 135th Street Community Plan, and the Comprehensive Plan and then resubmit the plan. We are unaware of what may happen.

Chairman Elkins: When you say that, even with the stipulations, it would require additional review by the staff and various departments. Can you explain that in a bit more detail?

Mr. Sanchez: Planning staff works closely with all the other departments in the city. If they were to add Kenneth Road, it affects the planning side, Fire, Police, and Public Works potentially. Any change could affect all departments, and all would need to consider the changes.

Comm. Stevens: This is a little off subject, but for clarity, regarding the planned heights shown, the apartments in Tract B are all to be five-story apartment buildings. Maybe it's a better question for the applicant, but it appears there is confusion in even the heights of the density being shown.

Mr. Sanchez: Building heights have to meet LDO requirements of 90 feet in MX-D. All of the buildings are in that range, so that is fine. We do a preliminary check on the building elevations, but it is not a requirement until Final Plan consideration.

Chairman Elkins: What is the total distance from the western side of Tract A to the eastern side of Tract B? Do you have a ballpark estimate? One of the concerns of staff is the distance between the various tracts.

Mr. Sanchez: I don't know off the top of my head.

Chairman Elkins: Are there further questions? If not, I would invite the applicant to speak. Mr. Holland, will you be presenting?

Mr. Holland: No, it will be Rick Oddo. We'll also have Henry Klover as the architect. I'll probably follow him and get into some of the stipulations.

Applicant Presentation:

Rick Oddo, appeared before the Planning Commission and made the following comments:

Mr. Oddo: I've lived in Leawood for 42 years, and whatever I build will be something that will add value to the neighborhood and not detract from it. I'm happy to present a viable MX-D plan that is market driven and ready to start now. Over a year ago, I saw a plan come before this commission, and it had very large buildings, multi-story structures, and criss-cross streets. The neighborhood hated it. They didn't want the streets, the parking garages, the attached parking, and big buildings. They kept saying they wanted a Villa Milano community, like we have done just a half mile to the south. I'm giving you Villa Milano-type housing, plus, I'm giving an extra two rows of single-family homes along 133rd as an additional buffer. Cameron's Court starts on State Line and goes to Pawnee. It's almost 4,800 lineal feet. You could put five Park Places in this thing. It's going to be hard to make everything all interconnected. This is why we've broken it up into four chunks. However, I do want to bring up that this is the MX-D zoning in Leawood. It was proposed 18 years ago. Since that time, only three communities got started, all of which failed because of all the interconnecting streets to make it impossible to build something or to make the setbacks work. They basically failed because retail doesn't work if it's not concentrated. It needs to be easy to get to, in high-traffic areas,

and without parking garages. Retail must have easy-access parking. Unfortunately, MX-D calls for way too many streets. It hides the retail and makes it too difficult to find. Criss-crossing streets make it impossible for it to work. No national tenant will go in a mixed-use development with these requirements. Therefore, you can't get financing, and that's why what little has started has stopped. Nothing is going to be built if the exact LDO is followed. I'm asking for just a slight modification on the MX-D plan like you did across the street at 135th Street, where you've got a little bit of commercial and retail in one area and the residential component in another area. This is what works in suburban Leawood. In Johnson County, they don't want to be in 10-story buildings; they want to have elbow room. They want to have a lot of green space. If you notice, we have lots of green space, far more than any that has ever been proposed before. We placed a high-density retail/commercial aspect on the east side by State Line, and we already have the high-density retail center where Price Chopper is. Between, we have residential communities. This is the ideal way to do an MX-D community. We have low-density apartments going into RP-2, which is single-family homes into more single-family homes. The other items I'm asking for are some practical design standards that are more in line with what the market wants so we can build a viable community. Oddo Development has designed a unique plan that we believe not only meets the intent of the city's Master Plan for the 135th Street Corridor, but will also bring much-needed housing options to the neighborhood and much-needed additional property taxes to the schools and the city with very little impact to either. The site layout proposes a graduated density from apartments to RP-2 as a buffer, placing commercial and retail at the highest-traffic intersection, which is at State Line and 135th Street where it should be. We're also trying to dedicate as many natural zones as possible on both sides of the church. We have all the green space and natural trees staying in that area. We're even trying to save the natural trees in the Chadwick area. That's why we have our entrance opening up on both sides of the big large lot of trees. This development will create millions in property taxes for the city and nearby schools with minimum impact to student population. After 20 years of the 135th Street Corridor remaining undeveloped, the proposed plan is viable, and we can begin development immediately. This plan meets the spirit of MX-D without requesting deviations or density increases and places commercial and retail development where it's appropriate along State Line. It's also market driven. I've had a lot of Interact Meetings, probably more than any other developer. I've met with dozens of individuals. I've met with three HOAs multiple times, and I've tried to incorporate their suggestions into our plans. The number one thing was to offset High Drive, which we did. The neighbors didn't want High Drive to line straight up so cars could fly from one end right into Wilshire. They also wanted to limit the entrances on commercial sites off State Line. Instead, we made only one turn-in at Kenneth. They also didn't want Kenneth to be a straight-through street, as staff is proposing. They wanted it for the same reason they wanted High Drive offset; they didn't want cars running straight through. Kenneth just goes a few feet on the other side, so to have it carry through doesn't do much. It also will end up killing all the trees on both sides of the church, or at least on the east side. The neighbors also want us to direct as much traffic away from 133rd Street as possible, which we have done. None of our apartments open up onto 133rd. As long as I can gate it, the only exit will be an emergency exit. We've really tried to help them with that. We also wanted to minimize the density as much as possible. Along 133rd, those are not five-story

buildings. The five-story buildings are on 135th Street across the street from six-story buildings you were just reviewing. We have three-story buildings along 133rd. It is in conformance. The other thing people ask is to keep the commercial area away from the residential area and keep it at State Line. They wanted 133rd walkable and to be able to ride bikes, and that's what we've done. After meeting with all of the people, we tried to incorporate their wants into our plan. That's why we do have a couple HOAs approving it, and the third is unfortunately split. I wish I could have all, but two out of three isn't bad.

Before we get into the highlights of our community, I do know you received some letters and will hear people speak later that are worried about things or have some misconceptions. One thing I can't overcome is those who just want single-family homes. That's not fair and reasonable. This ground needs to be highest and best use, but it needs to be something that's not going to destroy the integrity of the neighborhood. That's what my plan does. It works with the neighborhood. The other thing that is not reasonable is to have all single-family homes. It just can't be done. We need a community with multiple housing options, and we also need to bring in some tax dollars. My product is needed, and the tax dollars this will bring in are greatly needed by they city. One of the problems we're having is most of the people don't understand who our residents are. These are the highest-end apartments. I've won several awards for apartments I've built. We build a gated community, stucco, stone, high finishes. Because of that, we attract high-end homeowners. The average income is over \$124,000 a year. Our average age is 52 years old. As a matter of fact, 1/3 of them are over 65. Of the other residents, 1/3 are divorcees who live in the neighborhood and want to live within two miles of their families, and the other 1/3 executives who travel a lot who like the gated community so they can have the "lock and leave" feel. The other issue we hear as a worry is there will be too many kids, and the schools will be overwhelmed. Typically, because they're so high-end, we only have 3-5 kids per apartment community. That's because we normally have 20% with three bedrooms, and the other portion is split 50/50 between one and two bedrooms. Because of their concerns, I removed all three bedrooms from this community, which are the biggest driver of kids. We've gone from 50/50 to 65% one bedroom and 35% two bedrooms. Therefore, we'll have very few kids. If we have 3-5 kids per development, I would be surprised. The other issue we hear about is traffic. This plan will add traffic to 133rd and 135th. Everything will add traffic. However, this plan is a fraction of what the LDO allows. You saw the plan for eight- and ten-story buildings. Those areas allow up to 96 units per acre. We are at 11.17 units per acre, so we're very low density. Across the street, just the residential component is at 26.9 units per acre. I can't build something lower density than this. This is what people in Johnson County and the suburbs want: lots of elbow space, lots of green walkable space, and beautiful, wide-open spaces. This is how you build a beautiful, sustainable property, and it does not produce much traffic. These streets were designed to handle 6-10 times more traffic than what we're proposing, so we know they will handle it. I hear about home values. We know that high-end apartments don't hurt the values of homes. We saw that when I built Villa Milano. Home values continue to skyrocket. They've built million-dollar homes right next door. I'm so sure of it that I'm going to be building \$750,000-\$800,000 homes as a buffer. I will have more expensive homes than the homes to the north. What brings prices down is the uncertainty of what could be built, like high rises, parking garages, what has been

proposed before, or what the LDO actually asks for. What keeps prices low is good buffers, low density, and high quality, which is what I plan to do. We also know that high-end apartments don't have any crime. You know that. I know that, especially if it's gated. The outside people can't come in. They can't do the quick smash-and-grab. All that is eliminated if the apartments are gated. The last issue that we had dealt with color, texture, and design. Everybody has an opinion. Unfortunately, we'll never please everybody, but I do have three different styles of homes from single-family homes to traditional and then more modern. I can't please everybody, but I'm sure trying to. Overall, most people like the plan. Even those who are against it like 80% of the plan. Overall, most of the neighbors know that something needs to be built on this site, or something will be built sometime. It was stated by several neighbors that this plan is far better than anyone ever suggested or thought was possible because of the single-family buffers. Plus, they like the traditional look of the two-story apartment buildings that we have, and they understand the other is a modern look. Both apartment units are very low density with 11.17 units per acre. Remember, across the street, it was 26.9 units per acre, and it was just approved. The minute we designed office and retail, not what we think is needed there, but the absolutely minimal that is allowed in MX-D. We are asking for the minimum required by your ordinance. This is a little bit of everything for everybody, which is what MX-D is. This happens to be a horizontal MX-D that works instead of one that is on top of each other that is having problems with financing and finding tenants.

Let's look at what this community will bring in tax benefits. Just for the single-family homes, the starting prices are \$750,000 and will probably go closer to \$800,000. This will bring in about \$546,000 a year in property taxes. Of that, 52% goes to the school district. They're going to get \$284,000 a year in taxes. City of Leawood will get an additional \$65,000 a year. The west apartment community is going to be valued around \$76 million. With its assessments, it will pay almost \$1 million in property taxes, which is pretty close to what I'm paying at Villa Milano based on units. The school would get \$517,000 a year. The city would get \$119,000. By the time we get this built, it will probably be well over \$120,000 in property taxes. The east phase is \$72 million and has fewer units. Property tax there will be a little over \$940,000. Once again, the school gets almost \$.5 million per year, and the city will get \$113,000 a year. The tax benefits of the residential side alone is over \$248,000 a year. School districts will get \$1.2 million, all for 6-8 kids. The city will get 12%, which is almost \$300,000 a year. The apartments and commercial will take care of their own streets. It is relatively no additional expense to the city from the apartments and commercial parts. The commercial, we believe, has a lot of moving parts, but it's going to be around \$150 million. Once again, that should be a higher assessment, but it's the right number of \$1.9 million in property taxes. School district will get a little over \$1 million a year, and the city will get \$234,000 a year. In 10-20 years, the total property tax generated by this community is over \$18 million. For the last 20 years, it's been sitting vacant, and it's what you would walk away from. Taxes for the schools are \$46 million over 20 years with \$2.3 million a year for 6-8 kids. Let's say we double the number of kids. That's still a pretty good rate. The city will get over \$.5 million a year with relatively no additional expense. Plus, there are over \$2 million in impact fees, park fees, and fees I have to pay before I even get building permits.

Let me work through some of the major benefits that we've got. We have a variety of living styles with single-family homes and two different styles of apartments.

We are going to do the big-home look, similar to Villa Milano and Sonoma Hill. We're going to have two rows of single-family homes between \$750,000 and \$850,000, which proves that these do not hurt the values of homes. As a matter of fact, I've already got 8-10 people who have told me to call them because they want to be first in line to pick their lots. It's hard to find homes in the city that are under \$1 million. As you saw across the street, townhomes at \$.5 million and duplexes at \$600,000. It's really hard this day and age to build a single-family house for less than \$750,000. The west apartments are the big-home look. They're made of stucco, stone, and wood trim. Some of the roofs have metal roofs to add extra texture and other elements. The main entrance is off Chadwick, and we tried to conserve the trees. Yes, we want it gated. I think it adds so much to a community. That's one of the reasons we were considered the highest and best in our community with Villa Milano. I want to keep that going. The other two entrances are off High Drive and Pawnee. We're trying to keep all our apartment traffic off 133rd. If Chadwick were to go through, it would destroy the single-family community, and it eats up all the trees. It destroys the look. Everybody wants green space. They want elbow room. I'm giving them tons of walking space, bike paths, and everything around here. The eastern apartments are the five-story buildings. The four buildings on the north end are all three-story buildings, and there is a one-story clubhouse. The eastern development has only two buildings adjacent to 133rd. The two buildings have been designed to have limited cross-section, so it's just the ends of the buildings to reduce the profile along 133rd. The eastern development acts as a transitional phase between the big houses and the commercial. There is a large draw running through, and the design of the buildings helps transition due to changes in elevations throughout that area. It's a different high-end style of living. These are called tuck-unders. The problem we're having is the tuck-under design is the most predominant new design of high-end apartments, and it's really hard to build under the LDO because you want parking garages, and we're trying to avoid parking garages because it makes the building too big. I want to stress that both communities are very low density, and you just approved a horizontal MX-D across the street with residential in one area and commercial/retail in another. I want to do the same kind of thing. I'll also remind you that the area with the apartment ended up being zoned at 26.9, which is 2 ½ times denser than what we have. We're at 11.1. All the commercial and retail is concentrated on the east end of the community, where the concentration will help strengthen the retail and keep the traffic away from residential areas, which was asked for at every single meeting. I'm sure some will talk about it. They don't want retail/commercial brought in west of Kenneth Road. Please keep in mind that residents will drive the retail and commercial. Without the residential, there is no need for commercial and retail. I think you have a plan that said that there really isn't a need for more commercial buildings; residential is what we need.

You saw a lot of differences from staff on what they say doesn't meet the LDO. I'm going to go over some of the differences. Basically, the LDO wants dense buildings and taller buildings with parking garages. It makes these buildings much bigger. The scale gets too big. They're not needed or wanted. Johnson County wants low-profile buildings that are smaller with lots of green space and walking trails. That's what I did. If you cut it up with streets, it doesn't come out as nice. We're going to have private drive. We need them. We want to gate the community. As John Petersen just said, parking garages have gates to keep people out. We're doing it at the street before people come in.

I don't spend \$700,000 if it's not needed. I do it because it's a major asset and benefit to the community and the residents. It reduces crime from outsiders. People don't come cruise the street, looking for opportunities for "smash and grab." With all the seniors and traveling executives that we have, they like the added security the fencing and gated community bring. Our residents like the "lock and leave." A lot of our seniors have places in other cities. Now, they're not traveling, but normally they do, and they love the extra security of the gate. Another odd reason we like the gated community is it keeps our grounds much cleaner. We DNA test all our dogs, so if we find feces in the ground, we test it, and we find the tenant who didn't pick up after their dogs. If it's not gated, we'll get too many dogs coming through, and we won't be able to monitor it. Therefore, for our clean grounds, we want to be able to monitor it. It doesn't hurt the communities. These communities are so large that 30 acres and 25 acres have plenty of room. On the east community, the only entrance we have and the reason we want gates is it will allow us to have the one exit onto 133rd Street to be controlled access to only emergency services in and out. We will have no access to 133rd if I'm allowed to be gated. This is why some of the neighbors want us to have a gated community, just like we did at Milan. Gates, to me, add prestige. Villa Milano has been a great asset to Leawood, and we want to do the same thing here. On the big homes, staff has suggested that we remove the gutters. I don't think they cause a problem to the looks of the building. They're on the corners of the buildings. This is supposed to look like a house, and it's residential-style construction. It's not a good idea to have no gutters. On the east community, we have a flat roof and commercial-style construction, so it will have internal gutters. These are residential-style construction and should not have water introduced to the walls; it will just bring mold. We could eliminate the gutters completely, but that would cause erosion, and we don't want that, either. Please don't ask us to do something that goes against common sense, even if it's in the LDO. Another difference that is required in the LDO is tile roofs. It becomes cost prohibitive. It is over \$2 million to add tile roofs to the west community and adds no value to the residents. As a matter of fact, staff asked early on if the homes were for sale or rent. I asked why they wanted to know. They said there are different standards for rent or for sale. For sale doesn't need tile roofs, but if it is for rent, it does. I would be very careful with stuff like that because it could be interpreted as redlining, discriminating, adding extra costs to keep renters out. I'd be very careful of that. As a Leawood resident, I don't want to bring that upon us. None of the homes in our area have tile roofs; they're all asphalt shingles, so we should have the same. We designed it like we did Villa Milano, which didn't have tile roofs. I think it's an unreasonable expense or just a misunderstanding. The next difference is really important, and it goes back to what they said about 75 feet, which goes to the middle of the hallway. We have one garage for every unit. We have to have separation so that people can back out. It is called a tuck-under because the garage is tucked underneath. Unfortunately, we can only get about 1/3 of the garages in the building. With the detached garages, every unit has one, which is nice asset that is needed and wanted. To have them attached would require some type of structure connecting the two. That's silly. It doesn't make sense. It has to be tall enough that fire trucks and moving trucks can get under. It's not smart. The LDO just needs to be updated to handle something that is being built in the last 20 years. This is the only city whose LDO doesn't allow this. This is the most sought-after product. Staff also wants us to have trash compactors attached to the buildings. This goes back to the same thing.

Trash compactors should never be attached to a residential building. They stink, and they're a fire hazard. As we know, sometimes, fires can start inside. Therefore, we want the trash compactors by High Drive. It is detached from the buildings and provides easy access. We drive by twice a week to pick up trash. We also want it inside the gates because if we don't have gates, neighbors drop off tires, batteries, and couches. We like to keep it clean, and the gated community helps us with that. Staff wants more streets, but if you look at the occupancy level of those that are all chopped up, you'll see they're not as high as what we get. We're getting higher values for our communities than anyplace else in the city because we build it best. Staff wants Chadwick to go through. I think it would destroy it and serve no purpose. We've got traffic studies that show that Chadwick does not need to go through. We also show that the street over in Kenneth could loop around to commercial, which is not needed. These wants destroy the green space and what we discussed to be successful. I want to stress that the church has also asked that Kenneth Road gets looped around and not go through. They want to preserve those trees. They don't want the noise of the traffic going by their school and church. Kenneth will destroy that seclusion. Everybody wants to save those trees. We're talking about 1,100 feet of trees about 80 feet wide that we'll save by looping Kenneth around. Once again, the traffic report supports all of this.

In short, staff is pushing for a design with lots of streets that go from 135th to 133rd, which the neighbors do not want. The design requirements are so costly that we can't afford to build them, or if we do, we end up having to put parking garages that the neighbors don't want, and both height and density increase. I'm trying to keep the cost reasonable and keep a low profile with lots of green space. The MX-D plan as designed in the LDO doesn't have a market, especially three miles of it. I can't imagine how many Park Places that is, and you know that Park Place isn't really knocking them dead with residential or retail. Other projects built as MX-D got started and have just stalled. If the current LDO is enforced, nothing will ever be built here. The neighbors don't want streets doing through like Chadwick. The developer doesn't want it, and the traffic study shows that it's not needed. Why destroy the trees and green space? People move to the suburbs for elbow space, and they don't want a College Boulevard on steroids. Plus, we need a design that can get tenants and keep residents here. Plus, I can get financing with this; whereas, the other products really can't get financing.

In conclusion, I have a viable MX-D plan that is market-drive, that the community can support, and so will the market. The development team has worked very hard to design a plan that differs significantly from what others have tried to bring to the area with a lot less density and smaller scale. We may not have done what staff wanted, but we did what the neighbors wanted. We maintained the integrity of the neighborhood and dispersed the traffic away from the existing single-family homes, moving it to 135th and to State Line. The proposed High Drive connection at 133rd has been offset to the south, so it doesn't line up correctly with the north side to disperse traffic from High Drive going straight through to Wilshire Place. Once again, it was requested by the neighbors. We moved commercial and retail away from the existing residential communities toward the high-density State Line Road. We also have different residential products that are needed and will make the retail more viable. We'll produce millions of dollars in taxes that are needed, and we're ready to start now. With that, I'm going to turn this over to Henry Klover, who worked hard with us and the community to try to get a

plan together. We'll let him go through some of the notes and things that staff brought up as well.

Henry Klover, Klover Architects, 8813 Pembroke Lane, Lenexa, appeared before the Planning Commission and made the following comments (*Chairman Elkins tried to interject throughout, but Mr. Klover could not hear him*):

Mr. Klover: The first thing we wanted to talk about was the design. Rick went through a lot, so I'll be brief. The big homes are designed to have individual garages that have internal access to each unit. They have direct access from the outside. There are no hallways or corridors. It is a very secure environment. The second type is what we call the tuck-unders. They are very popular, and it is not currently allowed by the LDO because of the garage issue and the attachment, which we view as an interpretation issue. We would like to ask to do that as well. The commercial is designed as all of those around the 135th Street Corridor are because of the rules. We are asking for a hotel, we can't have limited parking. We are asking for a gas station. We have tried to encompass all the parking. We have a lot of trees at the request of the neighborhood. They did not want direct access to Overbrook. The design is in relationship to the ordinances. I'll get into comments from staff briefly to deal with those as well. We do intend to comply with the LDO. The only differences are things that popped up fairly recently. For example, we planned on using the same basic analysis for this side of the street as was used on the other side of the street, but that is not actually what we're asking for. The actual average is around 1.66. The 1.46 was a number that came from a study that we did. I told them it was something we had from before, but I actually gathered the information, did the research, worked with EPC on the units that had been stabilized, came up with the square footage. I could have just as easily taken the information I gave to Jeff that he put in the report and did it myself. All the information is accurate. The only reason it was put on there was because it was a very last-minute request on his part. He wanted documentation, and we gave it to him. Other than that, we would have been able to provide it. All three developers have come to the same basic conclusion in how they want to operate. I don't think staff will have any objection because they don't want parking spaces that will sit empty. The reality is we can put the deferred parking today; it is not really an issue. We can get more parking. We can put deferred parking that we don't need, but we've all looked at it. We can provide a study again, which I actually did and wrote myself. This wasn't really designed for a shared use because of the fact that residential in shared use stands on its own and doesn't share parking. We're more than happy to provide a parking study. We didn't see an issue; it was a last-minute request. With regard to private streets and the number that they want, I'll get into that in a bit. I kind of got ahead of myself because I'm trying to deal with comments from staff. What you see is my 18 years of working in Leawood. I started with Cornerstone in 2002. We did a proposal to staff in 2003 to put big box retail that is now existing on the other side of the street in Missouri. It wasn't accepted in Leawood. In 2005-2006, we did Mission Corner, which did get approved. One of the buildings got designed, but it fell apart and failed. We worked on Blue Valley Promenade in 2006, which was a very grandiose plan that would have been a game-changer for the community, but the market didn't accept it. Westside Mission was a project we went through the process and did not get approved.

The Village of Seville was built in 2007, and the neighbors have all brought up that it's partly empty. We worked on Villagio in 2014, which was to try to get the grocery store moved into that area. We did Leawood Market also in 2014. We worked on 135th and Kenneth, which you just approved across the street, and now Cameron's Court. We have nine projects over 18 years. You might notice that none of them have anything built with the exception of Cornerstone. Cornerstone had an office building with structural steel, and it failed. It's partly to point out that we've been working on this for a very long time. The Regniers have owned a lot of this property, and Bob will talk in the future. Obviously, this is MX-D, but one of the principles of design is what we call the dog bone, which is usually putting the highest and best use of commercial on the corners. It has been noted in appraisals that the properties on the corner of 135th and State Line are going to sell a lot more than the property in the middle of Kenneth or High Drive. The dog bone means retail at each end, and lesser uses go between. One of staff's comments was about the streets. Putting intersections in just to put in a grid section is an urban environment, and it is not what we consider to be appropriate in this type of area because of sheer mass. You can see the densities they ask for. Inside of that block, there are 40 corners inside. There are 20 corners on 135th Street and 20 on 133rd Street. The nodes they call for are supposed to be activated by retail and restaurants. There is no way we can create anywhere close to 40-80 corner retail/entertainment environments. The intent is to have something like Park Place. It would be 6 million square feet if you multiply Park Place by 4 or 5. It's not a feasible plan. It is more important to understand what can happen. This property has sat for a very long time. Obviously, this is straight out of your guidelines, and none of the residents have wanted it. They don't want high rises; they don't want density; they don't want a 150' building next to them.

I do want to go into staff comments. As I stated, the first was on the LDO. We do intend to comply with the LDO. We can provide the parking study. The private streets and the grid are not in the ordinance; they are in the 135th Street Community Plan. It does have sizes and connections, but the issue is that there is no way those can happen under your LDO. For example, the three types of streets that were mentioned all would have to be twice as wide as what they suggest, per the LDO. With all that is asked for: sidewalk, parking, median in the middle, the tightest is around 90 feet. By ordinance, it can't be more than 116 feet or 140 feet with a setback reduction. If you know anything about urban design or these types of projects, the tightness and ability to connect is what's important. There is a disconnect. I don't remember who the councilmember was, but on the last project, he said it was like playing Whack-a-Mole. The minute we meet one, we get another one we can't meet because they're not compatible. We would request you review that. The accessory structure is the only thing we would ask for relief on because we do have a product we'd like to get built. We do intend to comply with the retaining walls. We thought we'd answered the question, but obviously, we didn't answer it to their request. The comments from Public Works showed up a few days ago, and we'll deal with those issues. The Fire Department comments came in only a few days ago, which is basically asking for circulations, patterns, and changes in radius. We're able to do all those things. At this point, I'm going to turn it over to my colleague.

Curtis Holland, attorney with Polsinelli Law Firm, Kansas City, MO, appeared before the Planning Commission and made the following comments:

Unidentified Speaker: We need to take a small break and fix some technical issues.

Chairman Elkins: While the technical issues are getting resolved, we need to address the time. Do I hear a motion to extend the meeting?

A motion to extend the meeting for 30 minutes was made by Coleman; seconded by Stevens. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Coleman, Stevens, Hunter, Block, Hoyt, Belzer. Not present due to technical issues: Peterson.

Chairman Elkins: Our meeting is continued until 9:30. Mr. Holland, are you with us?

Mr. Holland: I am.

Chairman Elkins: We heard all of Mr. Klover's presentation, despite my efforts to interrupt, and it is part of our record. We would be grateful.

Mr. Holland: I'm going to try to speak briefly on the issues concerning what you've always called the Golden Criteria and talk briefly on some of the stipulations. There's a lot that I'm not sure I can go through in detail on every one, but I do want to talk about a couple of the ones that are more important. With respect to the Golden Criteria, staff prepared their comments. I'm not going to go through every one, but there are few I want to touch on. I'd like to speak to the one that says, "Suitability of the subject property for the uses to which it has been restricted." I don't know how long we've been talking about what the 135th Street Corridor Plan, Comprehensive Plan, and LDO all speak to. Of course, the LDO is an ordinance. The Comprehensive Plan and Corridor Plan are not ordinances, but I know staff likes to talk about the 135th Street Corridor as it relates to MX-D as well as the Comprehensive Plan. We've talked quite a bit about why it doesn't work. I will just mention that I know Bob Regnier is here and wants to speak a little about the highest and best uses of the property. From our side, you've all heard that we don't think MX-D as presented in the 135th Street Corridor Plan is a viable, workable, marketable development that can be done in this area. As Rick Oddo mentioned earlier, in all of our conversations with the area residents, none of them want to see that. Frankly, we don't think that development of this area in accordance with the 135th Street Corridor Plan is suitable. We like the term Horizontal Mixed Use. We think that works well here. I also want to talk about the extent to which the removal of the restrictions will detrimentally affect nearby property. All I would say is we think we meet the spirit and intent of MX-D in that it's horizontal and may not be the vertical that you want. It doesn't seem appropriate here, and the neighbors don't want to see that. Regarding the relative gain to the public health, safety, and welfare due to the denial of the application as compared to the hardship imposed as a result of denial of the application, I guess we would say that there's really no gain to the public to deny the application as it was presented. I think some of the residents have issues with particular parts of our plan, but overall, the comments we got were pretty positive. We have a couple HOAs that submitted letters, and they may speak tonight. There is no real gain for denial. I would

also say that Henry Klover has been involved with the 135th Street Corridor for 18-19 years, and there's no true MX-D that has been built out there. Frankly, denial to build something in conformance with the 135th Street Corridor is something that seems like you are restricting development of the property and making it almost unusable. For the Regnier family, I feel real sympathy for them because they've had to hold on to this property for so long without a plan being allowed to develop that makes sense and fits within the Leawood development patterns that we've seen and that made Leawood successful.

I'd like to move to the stipulations. There are a lot, and I know you've spent a lot of time listening to us, and I don't want to delay it longer than I have to. Relative to the stipulations, I think we're probably going to need to keep working with staff on some of this, but there are 31 stipulations that are written by staff, and I don't know how many more that are listed in the Public Works memo. I want to speak to a couple of them. We are agreeable to at least half of these, which are toward the end. We can address how we're handling trash and the memos in Nos. 3 and 4. Some, we simply can't agree to. For example, No. 6 requires removal of RP-2, and it is directly against what the neighbors want. We can't really do it. It's easy for staff to say to follow the Comprehensive Plan and do everything in the stipulations, but if we do, we're not going to have a marketable product, and frankly, no one in the neighborhood is going to like it. We disagree on a lot of the stipulations; we can agree on some. Overall, I think we need to keep working on them. We talked about them a lot throughout our presentation. For example, No. 9 requires a street grid network. It's really not feasible. Connecting Kenneth Road and Chadwick is not wanted by anybody, and they are streets to nowhere that serve no purpose. Attaching our accessory structures to the primary buildings in No. 10 is one we talked about. No. 13 talks about an updated Tree Inventory Plan. We've already provided that, so we're okay with that. No. 14 requires a Special Use Permit for gas station and hotel, and we can do that. There is one that talked about building all the streets in a single phase, which is not appropriate. No one would do that, and we're not going to get a bank to finance something like that. We're going to build the project in phases, and I think that's what everybody else will do. We'll meet and build the infrastructure as needed for each of the phases, and that's No. 25. I'm trying to speed this up because I want Mr. Regnier to have time to talk after me. One of the comments that is really going to be challenging for us is to build a third lane on 135th Street. For us, that is a big legal issue. Maybe that is something you can't necessarily deal with. Our traffic report doesn't indicate a need for widening 135th Street, and frankly, it's against the law because 135th Street is an arterial street. That is a city street, and there is case law in Kansas to support that it's the city's responsibility. We build collectors and local roads; instead, we have the privilege of paying fees that the city will collect to ultimately build arterial streets. That is, in fact, what is happening with the collection of the 135th Street Corridor Traffic Impact Fee. There are other fees in here as well. We don't agree that we should be financially responsible for constructing 135th Street to widen it. The Public Works memo talks about the right-of-way, and I think maybe we can work with the city on the right-of-way dedication, but at least for construction of 135th Street, that is not our responsibility; that is the city's. The only other thing I want to emphasize is that this is going to be a phased development. We'll build the infrastructure as it's need, bury the power lines as

they're needed in an appropriate phase. With that, I will close and yield the rest of my time to Bob Regnier.

Bob Regnier,

Mr. Regnier: Thank you for the opportunity to speak. I'm going to talk about feasibility and a little bit of history. All of this property, except for State Line Airport, was purchased by my father. He died in 2000, so we've owned most of this property for somewhere between 30 and 40 years. Since 2000, I've been the person responsible for the management of the property and have talked to numerous people about development of this property, none of which has come to fruition except for the Lashbrook proposal, which has been in process for over two years. Along this process, after having talked to so many people and reviewing the 135th Street Corridor Plan, there was a disconnect. There were a lot of plans, but to my knowledge, there has never been a feasibility study done on what the highest and best use for this property is. I commissioned one from RLCO, which is The Robert Charles Lesser Company. It has been around for 55 years and is very well regarded. It touches over 5 billion square feet of real estate projects annually. They provide strategic and tactical advice. It's an excellent company with sterling reputation. We engaged them to give a study of our property for highest and best use analysis. It was done June 19, 2019. I would suggest that it would be a little harsher today, given the COVID issues and impacts on commercial/retail development. The survey has 205 pages, and I would ask you to take a hard look at the Executive Summary on page 5 and the Key Findings on pages 60-63. I'm going to read a couple sentences in each of those sections. It indicates that there is no near or medium-term market support employment-oriented land uses. They're saying that office is not a possibility here. Office tends to come together in a sector, like 135th Street or Corporate Woods. There is just no core of office in this area, so the possibility is very limited, if not impossible. I don't have it actually set out in a separate slide, but I'll read for you. "Conceptual zoning plans like those contemplated in the 135th Street Community Plan that call for vertical mixed-use development and/or higher density residential and/or commercial uses are not supportable in the overall Leawood marketplace, nor at the subject property in the near, mid or even long term." Read the top two paragraphs, and it will give you RLCO's opinion of vertical mixed-use in this corridor, which they feel is really not supportable. The report was done in July, 2019. My contract with Mr. Oddo is dated November, 2019. He had not seen this report when we first started talking. What he is proposing is exactly what this report says is feasible: low-medium-density residential and then medium-density residential and retail on the State Line property. This reflects the fact that what they said in '19 is feasible for this property. Page 61 talks about a very strong opportunity for rental apartments in this subject site, which reiterates what Rick already said. It recommends to phase the property in 260 units every two years, which is exactly what Rick is proposing. I will finish by saying that to my knowledge, there has never been a feasibility study. I'm more than happy to have this fellow come back and talk to the Planning Commission or City Council. I have been approached by the members of City Council on numerous occasions over the last 20 years saying, "Why aren't you doing anything on 135th Street? We want you to develop that property." My answer is the same: the city can't dictate what goes on this property. I can't dictate what goes on the property. The market will tell

us what is feasible. We've got a well-regarded developer that has the financial capacity to do this and move it forward, and that is the market today and probably for years into the future. The one comment that wasn't brought up had to do with potential benefits for the City of Leawood by way of tax revenue. For Agricultural zoning, we pay about \$1,000 a year in taxes on this property. That is really all I have. We would like to develop this and create something that is additive to the City of Leawood. We'd like to do it in the current time frame. For that, I will turn it back to Mr. Oddo in case he has further comments. If not, we'll turn it back to you for questions.

Chairman Elkins: Thank you. We appreciate your comments.

Mr. Oddo: That's all from our side. We have a team of engineers here as well to answer questions. We appreciate the time you've given us. We look forward to the discussion.

Chairman Elkins: Thank you. I'm going to depart from my normal practice to let the rest of the commission ask questions first and take the first question. This is primarily for Mr. Holland. A lot of our discussion tonight has been around the Comprehensive Plan and 135th Street Corridor Plan, but I note in staff's presentation, there are a series of attributes that either violate or are inconsistent with the LDO. How would you advise us to even contemplate moving forward, varying from either the Comprehensive Plan or 135th Street Plan, in light of it?

Mr. Holland: I wrote down the various alleged issues where we were out of compliance. I'd like to just go through several of them. I think we're frankly not terribly inconsistent; it's just the way staff interpreted the LDO. We did address whether or not there was a parking study. Henry Klover did one specific to this project. We certainly feel we complied with that even though staff says it is not specific to this project. All of the information relative to the amount of parking that would be necessary has been met. The other issue is with respect to gates, which are not in violation of the LDO. They talk about regulations, and they used that word freely when talking about the 135th Street Corridor. Those aren't really regulations; they're guides. We talked about gates and why we want them, and I don't think that's a violation of the LDO. We also talked about private streets, which are permitted in the city and are not a violation of the LDO. They may not be consistent with the Comprehensive Plan or the 135th Street Corridor, but there are private streets in Leawood, and that's what we're asking for. They talked about retaining walls and encroaching. We don't think that's an issue. In this 114-acre development and all the units and square feet that we're talking about, the retaining walls are the least problem we might have. I know Henry Klover said it was a late comment from staff. We had three rounds of submittals, and that was never mentioned. We think we addressed it, but we will address it and will be compliant with the LDO. The only real one that is potentially an issue is accessory structures not being attached to the primary buildings. We talked about how it's impossible with the multi-family components we were seeking to get approved. Maybe we need to work on that one a little bit. With respect to the other ones, we meet the LDO or can meet it.

Chairman Elkins: I believe one of the other stipulations was the corner setbacks in the middle of the single-family residential elements.

Mr. Holland: Thank you; I forgot to mention that one. It is in the Staff Report, and I don't know if we had it in the comments. We will meet it. That's not an issue for us.

Chairman Elkins: Thank you. I'll now defer to the rest of the commission. My concern was there are some good issues raised by this plan relate to our Comprehensive Plan as well as the 135th Street Plan. Mr. Regnier, as well as Mr. Oddo made some fairly strong policy comments. I still was concerned about how to get to that discussion. With that, I think it's fair game to ask about the plan.

Comm. Coleman: Mr. Oddo, I asked the same question of staff. Can you give me some background of working with staff? I know we've talked about a big disconnect between the Staff Report and your comments, but I wanted some more background from your viewpoint.

Mr. Oddo: We went in and talked to several people upfront. They said, "If you do this and this, it's really a good plan. We'd like to see that. Why don't you submit it?" We went back and forth with a couple people. They were pretty receptive of it but wanted to see everything in one big plan, so we did that. Then, we got further in the meeting with staff, and basically, it was, "This won't work because you have to have all the streets in, all the parking garages, etc." Well, those don't work. We already discussed the problems. We did the Interact Meetings, and those wanted one thing, which is what we designed. Staff was insistent on following some of these guidelines. We knew we couldn't meet them. There really was no discussion. We tried to meet everything we could. I gave a lot with the residents, and we presented to staff, and they basically want to follow the LDO. I understand the position because their hands are kind of tied with that. I think the LDO is outdated and doesn't keep up with the market that we're dealing with now or the products that have come out. We're trying to meet what the market needs and what the neighborhood wants and needs.

Chairman Elkins: Thank you. Other questions? Mr. Oddo, you mentioned a couple times that you had multiple Interact Meetings with different HOAs. I believe there were minutes from only a single meeting. Do you have the minutes from the other meetings you mentioned?

Mr. Oddo: Maybe I should clarify: I had meetings. The legal Interact Meeting was once, and from there, it broke off into meeting with the different subdivision HOAs and people they said were professionals. We had lots of different meetings. We went to the site to look at things with them. We had lots of meetings. Some were over the phone; some were in person. We kept modifying things so we could get approval from the church, a couple of the HOAs, and individuals. We met with representatives from various HOAs.

Chairman Elkins: Thank you. Do I hear a motion to extend the meeting for an additional 30 minutes? Under our rules, this will be the last extension tonight

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

Chairman Elkins: Mr. Oddo, you talked at some length about the density of this project as opposed to the one we spoke to earlier. Can you tell me what the density is in the Villa Milano complex?

Mr. Oddo: I'm going from memory, but I think it's 13-14 units per acre with 15 at the max.

Chairman Elkins: You said it's 11.7 for this development?

Mr. Oddo: 11.17; we really like our green space.

Chairman Elkins: That's good. The city does as well. You also mentioned the tile roofs. Can you talk a bit more about what you understand to be staff's view of the requirement for tile roofs?

Mr. Oddo: In the first couple meetings, they asked about that, and they want tile roofs. There is a possibility for a ½" shingle, but it doesn't exist in the market. What they've asked for doesn't really exist. They have Class A products, which would include the TPO roof on the flat roofs in the commercial space, tile, the metal roof we have in some areas, and a 50-year impact-resistant asphalt shingle that is 3/16", which is the same as we have at Villa Milano. Nothing is perfect, but it is designed to handle the majority of what we get here in the Midwest. It's a Class A product, so it's technically allowed by ordinance, just not in MX-D.

Mr. Klover: It's an aggregate, so it doesn't have a thickness requirement. It doesn't say it's not permitted.

Mr. Oddo: It says you have to have ½", but that doesn't exist, so I don't know if that's a typo or what. We're still doing a first-class product, and it's the same as or better than what is on the neighbors' houses all around us.

Chairman Elkins: My last question relates to Mr. Klover's presentation. He went through quite a history of projects along 135th Street Corridor over the last 18 years that have been less than successful. What is it about this project that gives you confidence that it will succeed where the others have not?

Mr. Oddo: That is a great question. First, we don't have parking garages. Parking garages in suburban markets don't work for lots of reasons. It makes the mass and scale of the buildings a massive box. People don't want them. Second, we did a more traditional layout on the retail that has parking front of retail so you can go right to it. Parking garages destroy retail. Look at Park Place. We all know how the retail is going

there. For that matter, the residential isn't doing much better. They're in the 70s for occupancy; we're at 98%. Our product is one that's proven successful. I don't know if I answered that well. People don't want parking garages and the multitude of streets going through. They want retail right upfront where it's easily seen. You look at the three successful retail communities in Leawood built in the last 30 years are at 119th and Roe: Town Center, where the Apple Store is, and across the street where Hen House is. That is traditional suburban design, and it works. When you try to put a downtown in a cornfield where we want elbow space and green space, it doesn't work.

Mr. Klover: I was involved with a lot of them. A lot didn't get approved by the city or got rejected for various reasons, but the ones that did, including Cornerstone and Mission Corner, all died on the vine because there were too many upfront restrictions, too much cost. It couldn't phase in. The problem is that projects need to develop organically. When there are so many upfront costs, it takes very few hiccups to make the project fail. In the case of Cornerstone, a tenant disappeared, and the next thing you know, things crumbled.

Mr. Oddo: I'm going to go a step further. Businesses go where businesses want. Also, I don't think the design standards in Overland Park are low, but they're more reasonable and more in the marketplace. The development stops at Leawood. I'm not trying to pick on anything; I'm trying to be positive, but I live in Leawood. I want this to be developed. I want the tax dollars brought in. We need it. If you look at what has been successful in the suburban market, it's not MX-D. Even Prairie Fire, with the millions of dollars they got in special financing, they still can't make it work, let alone trying to do it without \$20 million in special financing. We are not asking for that for this project. Without extra help, it's hard to make anything work, especially when the design standards make construction costs more expensive than any other city, and your property taxes are higher. Those all factor in to a product that is difficult to make work.

Chairman Elkins: Thank you. Other questions?

Comm. Hoyt: It's really not a big point, but I'm trying to make sure I understood Mr. Oddo correctly. When you predicted only 6-8 children living in this entire development, is that what you said?

Mr. Oddo: We said 3-5 school-age children per apartment community, and that's based on other communities in the area. I believe this will have even fewer because we have even fewer three-bedroom apartments.

Comm. Hoyt: I guess I was referring to the slide where you were showing all the money that was coming in versus the number of children in reference to the school children. I just assumed that the 56 single-family homes will be producing a lot of children going into the schools.

Mr. Oddo: I didn't pick up on that part because single-family is single-family. Like Mr. Regnier said before, I independently came up with the same conclusion that RCLO did, and that is that my market is more mature. We are trying to get empty nesters. We are

going to build predominantly single-story or reverse ranches, which don't typically lead to families. It's not that they can't live there; I was just pointing out that the apartment communities aren't going to flood the schools. There may be some families, and I'm not opposed to that.

Comm. Hoyt: I wouldn't think that would be a problem; I was just trying to make sure that I understood. I'm doing this remotely, so I don't know what is in Council Chambers right now in the way of additional documentation. Does the city have copies of this RCLO report?

Mr. Oddo: I submitted it to staff months ago. I resubmitted weeks ago. It's also on our website for anyone to look at.

Mr. Klover: It was formally submitted with the package.

Comm. Hoyt: For my own sake of getting a handle on it, where specifically could I find that then?

Mr. Oddo: We can email it again. Staff has it, and I can send it after the meeting tomorrow?

Chairman Elkins: I think it would be appropriate for staff to send a copy out to the commissioners and have it as part of the record.

Comm. Hoyt: Any maybe this is more for when we ever get to the discussion phase as a Planning Commission, this plan has a number of LDO nonconformance issues. Then, we get into the Comprehensive Plan and 135th Street Corridor and fundamental differences, but also philosophy, sense of the marketplace, and best use, which is clearly going to take a lot more discussion. It seems like whatever resources we can get to fuel that additional discussion is going to be really helpful. As far as I'm concerned, it's hard for me to see exactly what the next step will be, other than simply looking again at a lot of the plans that the city has set in place.

Chairman Elkins: Thank you. Additional questions for the Cameron's Court team? Just a couple comments as we wind down. The next step in our process would be to open the Public Hearing, and I do propose to do that because I think a number of people have sat very patiently. I think that I will limit the Public Hearing tonight to about 15 minutes because we have administrative details we have to take care of. The process is that, once the Public Hearing is over, the Cameron's Court group will have an opportunity to respond. The Planning Commission will have a chance to ask questions. Then, we'll move on to a discussion, and obviously, that's all not going to get done tonight. We will be continuing, with Planning Commission's approval, to September 9th, which is a Wednesday because of conflicts with the Governing Body's schedule. Then, we'll also be looking at continuing the additional cases that were on our docket for tonight to September 9th as well. With that, before I open the Public Hearing, I'll go over the ground rules. Because we're doing this via Zoom, I'm going to go off the list I received from

staff. We ask that your comments be limited to four minutes. I would also note that we are very appreciative of the interest the public has in this case. I think we received more written input than we have in almost any case I've been involved with. Please rest assured that we have read all those written comments, and they become part of the record for our deliberations.

Public Hearing

Mr. Holland: I just wanted to mention that the first two names are on our team. They are in favor of it, and they don't need to speak.

Julie Kincaid, appeared before the Planning Commission and made the following comments:

Ms. Kincaid: I'm a resident at The Enclave at Cedar Point, and I'm also the current President of the HOA. I've built two homes in Leawood and have had a third primary residence in Leawood. The value of the quality of living here for the last 21 years has been something we have really appreciated. We also appreciate the time that the Planning Commission is putting in. We've also spent two months as a group, working on this project with members of the staff and also Public Works. We've worked with the developer, and we appreciate everybody's time in listening to our concerns. After the Interact Meeting that was held by Oddo on June 8th, we met with our Enclave neighbors and assembled a team to meet with the developer, architects, and representatives of the landowner to address our neighborhood's three areas of concern. Our concern was mostly with the commercial side of the development. I don't know if you know where Enclave is, but it's located just behind Village of Seville, directly across where they are proposing the commercial development. We're right on Overbrook. We have a community of 24 homes. Once we attended the Interact Meeting, we put together a group of volunteers from our neighborhood and some members from the board. We met with the developer to discuss our three objectives. These conversations occurred over a two-month period with the final revisions being made to the Site Plan submitted to us on August 11th. The original plan called for three entry-exit points east of the church to State Line, which was directly in front of our development. Our objective with the developer was to limit the number entry points from the commercial development onto 133rd, so all the ingresses and egresses to State Line. Through the revisions, the current plan reduces the number of entry-exit points to one entry at Kenneth and one right-only across from Village of Seville. It eliminates the Overbrook entry-exit, which was a big safety concern to our neighbors. There's no outlet in our neighborhood. Having a commercial entry directly across from Overbrook would cause people to come into our neighborhood. There was also concern about headlights in parking lots and exit across from Overbrook shining down into homes. We also have the revision that shows that the elimination of the Kenneth Road cut-through from 135th north to 133rd. I work and live in the same area, and there is a lot of traffic on 135th and State Line, especially at rush hour, and it backs all the way up to Pawnee. The traffic study pointed that out. If Kenneth Road cuts through from 135th to 133rd, I guarantee that traffic will come straight down Kenneth to 133rd to bypass the congestion at 135th and State Line. We have serious concerns about that

because right where Kenneth hits 133rd is the end of our community sidewalk. We have to cross 133rd at Kenneth to get to the sidewalk. It ends on the north side and picks up on the south side at Kenneth. That's another concern for our walkers, runners, and cyclists. We also appreciate the bike and hike trail that was mentioned by Mr. Sanchez that goes along the 135th Street Plan for Kenneth. Even if you eliminate Kenneth where you just come in and do a U shape through the commercial development and back out to 133rd, perhaps you could retain that hike-bike trail along that tree preservation that the current plan reflects. I hope you're following me there. Diffusing traffic through the commercial development reduces the traffic to 133rd. Information from the traffic study will be addressed by another neighbor of ours later on. Those are concerns we've had with the traffic that the developer has addressed in his revised plan. Our second objective was to retain the tree line along 133rd, which preserves our residential quality, green space, walkability, privacy. Those are very dense trees with a lot of natural habitat along 133rd. This plan, between Kenneth and Village of Seville along 133rd is loaded with trees. We appreciate the retention of that. Our third objective in working with the developer was to move the high-density multi-story commercial, like the hotel and some of the taller buildings, more toward 135th, away from 133rd. We wanted the commercial portion on the commercial end of State Line Road and 135th and keep 133rd residential. The 135th Street Community Plan supports the development of a high-density infrastructure with retention of green space and walkability. We also think the Revised Site Plan by the developer addresses our original concerns and also appears to uphold the standards that the city has. I realize that, for you, this is very procedural, and it sounds like I'm hearing it's a two-year process sometimes. For us, any kind of change is an emotional process and not so procedural because it affects the enjoyment of our homes and the safety of our families or the perceived safety of our families. We feel that when the developer came across the table and worked through these three objectives, there is a sincere interest in doing what's best for the community. If I have another quick second, I'd like to make a couple comments on a personal note. I read through all the concerns. I own a property management company and have been in property management for ten years. I rarely see children in multi units. School-age children live in single-family homes. I think the trend in housing right now, with the aging population, is a downsizing luxury lifestyle with maintenance provided. That's why a lot of us live here in The Enclave with maintenance provided. I personally believe the combination of high-end single-family maintenance-provided communities with nice amenities like what was just approved across 135th is a big improvement to the cornfields that we currently have. We also have a transient homeless population that we've dealt with in our neighborhood. We have people coming in and out of those woods. I just saw a transient person coming out of the woods last night. For me personally, I think that this kind of development is a good development for our community, and I really appreciate the time to let us voice those opinions.

Chairman Elkins: Thank you. We appreciate your comments. We're coming up to the end of our hour. For those in the public who are still online, we would invite you to rejoin us on September 9th. The continuation of this case will be the first thing on our docket, and we'll move through to the conclusion of those who wish to be heard. If any of your friends or neighbors couldn't join us tonight and can on the 9th, they are certainly invited

to join us. As time winds down, I would entertain a motion to continue Case 49-20 to the September 9th Planning Commission Meeting.

A motion to continue CASE 49-20 – CAMERON’S COURT – Request for approval of a Rezoning from AG (Agricultural) and SD-O (Planned Office) to RP-2 (Planned Cluster Residential Detached) and MXD (Mixed Use District), Preliminary Plan, and Preliminary Plat, located south of 133rd Street and west of State Line Road – to the September 9, 2020 Planning Commission meeting was made by Coleman; seconded by McGurren. Motion carried with a unanimous roll-call vote of 8-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

Chairman Elkins: I would now entertain a motion to continue the following cases: Case 74-20, Case 75-20, Case 66-20, Case 67-20, Case 64-20, Case 68-20, and Case 70-20.

A motion to continue Cases 74-20, 75-20, 66-20 64-20, 68-20, and 70-20 to the September 9, 2020 Planning Commission meeting was made by Coleman; seconded by Stevens. Motion carried with a unanimous roll-call vote of 8-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.

CASE 74-20 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-3-3, ADMINISTRATIVE APPROVALS – Request for approval of an amendment to the Leawood Development Ordinance, pertaining to Tenant Finishes. **PUBLIC HEARING – CONTINUED TO SEPTEMBER 9, 2020**

CASE 75-20 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT TO SECTION 16-2-6.3, SD-CR (Planned General Retail) - Request for approval of an amendment to the Leawood Development Ordinance, pertaining to building heights within SD-CR. **PUBLIC HEARING - CONTINUED TO SEPTEMBER 9, 2020**

CASE 66-20 – TOWN CENTER CROSSING – TENANT STOREFRONT DESIGN GUIDELINES – Request for approval of a Revised Final Plan, located south of 119th Street and east of Roe Avenue. - **CONTINUED TO SEPTEMBER 9, 2020**

CASE 67-20 – TOWN CENTER PLAZA – TENANT STOREFRONT DESIGN GUIDELINES – Request for approval of a Revised Final Plan, located south of Town Center Drive and west of Roe Avenue. - **CONTINUED TO SEPTEMBER 9, 2020**

CASE 64-20 – TOWN CENTER PLAZA – FIRST ASCENT – Request for approval of a Preliminary Plan, located south of Town Center Drive and west of Roe Avenue. **PUBLIC HEARING - CONTINUED TO SEPTEMBER 9, 2020**

CASE 68-20 – PLAZA POINTE – GUIDEPOST MONTESSORI – Request for approval of a Revised Preliminary Plan, Revised Final Plan, and Special Use Permit for a

Daycare/Montessori, located south of 136th Street and west of Roe Avenue. **PUBLIC HEARING - CONTINUED TO SEPTEMBER 9, 2020**

CASE 70-20 – VILLA DE FONTANA – Request for approval of a Preliminary Plan, Preliminary Plat, and Rezoning from SD-CR (Planned General Retail), SD-O (Planned Office), and RP-3 ((Planned Cluster Attached Residential District)(6,000 Sq. Ft. Per Dwelling)) to RP-2 ((Planned Cluster Detached Residential District)(6,000 Sq. Ft. Per Dwelling)), located south of 135th Street and east of Roe Avenue. **PUBLIC HEARING - CONTINUED TO SEPTEMBER 9, 2020**

Chairman Elkins: I want to extend my thanks to staff and the Cameron’s Court team for their great presentations tonight and to the commission for deliberation and consideration on this important issue. I look forward to picking it up again on September 9th. Is there any other business that needs to come before the commission?

Mr. Sanchez: Staff would like to introduce Katherine Geist, our new planner.

Chairman Elkins: Welcome to the team. You got to go through one of our marathon meetings.

MEETING ADJOURNED