

**City of Leawood
Planning Commission Meeting
September 9, 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, Belzer, Hoyt, Peterson, Elkins. Absent: Hunter

Chairman Elkins: The Chair would entertain a motion to suspend certain rules of the Planning Commission due to the pandemic.

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 Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

MEETING STATEMENT:

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.

Public comments will only be accepted during the public hearing portion of each agenda item where a public hearing is required. The City encourages the public to submit comments in writing prior to the public hearing by emailing comments to pcpubliccomments@leawood.org. Written public comments received at least 24 hours prior to the meeting will be distributed to members of the Planning Commission. Those wishing to appear remotely using the Zoom format media, should register at pcpubliccoments@leawood.org on or before Friday, July 24th at 5:00 pm Individuals who contacted the Planning Department in advance to provide public comments will be called upon by name.

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: Are there any changes to the agenda?

Mr. Sanchez: There are not.

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

CONTINUED TO THE SEPTEMBER 22, 2020 PLANNING COMMISSION MEETING:

CASE 64-20 – TOWN CENTER PLAZA – FIRST ASCENT – Request for approval of a Preliminary Plan, located north of 119th Street and west of Roe Avenue. **PUBLIC HEARING**

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.

CASE 67-20 – TOWN CENTER PLAZA – TENANT STOREFRONT DESIGN GUIDELINES – Request for approval of a Revised Final Plan, located north of 119th Street and west of Roe Avenue.

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.

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**

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**

OLD BUSINESS:

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: The chair notes that this is a recall of the continuance of Case 49-20 from our last meeting. As a matter of procedure, my plan is to inquire of staff as to whether they have any new developments. I’ll then ask the applicant for new developments or new matters they wish to place before the commission. I would caution both staff and the applicant that we had extended presentation last meeting, so we’re not looking for a replication of what was said at that time. If you care to provide a brief summary of where you believe we are, we’ll then move to the Public Hearing.

Staff Presentation:

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 49-20 – Cameron’s Court – Request for approval of a Rezoning from AG to SD-O and RP-2 to MX-D, Preliminary Plan, and Preliminary Plat. Staff wants to summarize what happened at the previous meeting and what has happened since. This case was heard by the Planning Commission on August 25, 2020. Staff gave a presentation; the applicant gave a presentation, and then we started the Public Hearing. Due to time constraints, the case was continued to tonight’s meeting after the Public Hearing had already begun. Since the last meeting, staff and the applicant have met to review the stipulations that are being disputed by the applicant. Those stipulations include No. 1, No. 3, No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, No. 17, No. 28, No. 30, and No. 32. We will ask that the applicant confirm these are the stipulations we’re going to talk about tonight. After the meeting with the applicant, staff made a few changes to the Staff Report. With Stipulation No. 6, instead of, “The applicant shall remove the RP-2 portion of the development,” it reads, “The applicant shall remove the RP-2 zoning.” This is to clear up any confusion that may have happened with the previous stipulation since it seemed like staff didn’t want the single-family homes to create the buffer between the neighbors on 133rd Street. That was not staff’s intention; it was to make it one, cohesive, MX-D-zoned area. Staff is fine with the proposed use. Stipulation No. 21c changed. This talks about the Street Fee and Impact Fee. It was on 135th Street, and staff corrected it to refer to State Line Road. Stipulation No. 25 was changed. It has to do with the completion and design and construction of all public streets approved with this application. It said it shall be under a single set of construction plans, and staff added, “with each phase of the development” so the applicant could phase in the public improvements and not have to do all at once. Stipulation No. 26 was changed to read, “At the time of Final Plat” rather than “At the time of Final Plan.” Staff also made a change on Staff Comments on Page 11. The first bullet point refers to the right-of-way to be provided for 135th Street. The plans currently show 72 feet of right-of way from the central line of the street. Per the Public Works memo, Stipulation 1a, a total of 85 feet shall be provided and shown on the plans. Staff wanted to make the Planning Commission aware of this new issue, as it may cause additional changes to the site because the property line will now need to move farther north, which then moves the

building line, which then could cause other changes. No changes have been made to the project with regard to the design of the project. The proposed applicant still does not meet multiple requirements within the LDO, 135th Street Community Plan, and Comprehensive Plan. Staff still recommends denial of Case 49-20.

Chairman Elkins: Thank you. Just to reiterate and clarify, the list of stipulations you gave us are the ones that are at issue between staff and the developer; is that correct?

Mr. Sanchez: That is correct.

Chairman Elkins: Other questions for Mr. Sanchez? Seeing none, Mr. Oddo, will you be presenting for the applicant?

Applicant Presentation:

Curtis Holland, Polsinelli Law Firm, appeared before the Planning Commission and made the following comments:

Mr. Holland: Based on your comments earlier in the evening as to whether or not we have additional information, I think the staff went over it. The only additional information submitted on our behalf was the detailed description of the stipulations and our issues with some of them. Some, we agree to; others, we still do not agree to. We're happy to go through those. I think staff is correct as to our position, and I hope you have had a chance to see what was written about the basis of our disagreement with staff on them. We're here to talk about any of those if you would like. We can wait until after the public speaks. We wanted to indicate that we don't have additional information, other than the written disagreements or detailed description of our concerns with respect to staff's stipulations. I would close unless you'd like to go through the stipulations.

Chairman Elkins: Thank you. Just to confirm, the applicant is in agreement at least as to the list of stipulations that are at issue.

Mr. Holland: That is correct.

Chairman Elkins: Do the issues that staff and the applicant have break down into a series of general areas, or are we going to need to take each of them one by one?

Mr. Holland: I think you can break them down into general areas because the whole discussion between ourselves, staff, and the residents come down to how we envision the development of the property versus how staff envisions it. I know they're trying to follow the Comprehensive Plan as well as the 135th Street Corridor Plan pretty strictly. We think, philosophically, there is a difference in the way the land can be developed from a marketability standpoint and what staff is trying to follow with respect to your planning guidelines. We're also trying to satisfy, as well as we can, some of the concerns of the area residents. Some of the stipulations we disagree about revolve around the approach to development of the property and whether we strictly follow the 135th Street Corridor Plan and try to make all of the corridor look like Park Place or whether there is an opportunity

to develop it within the spirit and intent of the MX-D zoning ordinance that is laid out in your code but also allow for what the residents in the area want to see developed in that area and what can be developed in a marketable manner in that area. Our view is we cannot make the development marketable following the 135th Street Corridor guidelines or the Comprehensive Plan, for that matter. It was laid out pretty well in the highest and best use analysis that we presented and submitted to you. I think there is a clear difference in philosophy on how this land can be developed appropriately to the point that it's marketable and that that the area residents can feel comfortable about it. There are clearly differences the residents find with respect to the requirements or guidelines set out in the 135th Street Corridor guidelines. I know you've read a lot of their letters and seen a lot of their emails. I think they're here to speak to that tonight. We tried to address some of those concerns. Back to your original question, the stipulations can be categorized as general disagreement with respect to how we can develop the land appropriately. There are specifics we can get into with respect to each of the stipulations, but I think basically, it really falls into the category of falling within the 135th Street Corridor Plan or an agreed-to set of stipulations that still allow the property to be developed, consistent with the desires of the developer and area residents. I think we have to, as best we can, try to bring development to that area that fits with what the area residents want to see there as well as what is marketable. That's what we're trying to do.

Chairman Elkins: Thank you, Mr. Holland. I think the commission understands that there is a fundamental difference between the city staff and the applicant as to whether the 135th Street Corridor Plan needs to be followed in detail. That's clearly an overarching issue here. I would like to see if we can clearly delineate some of the specific issues that you would have us take a position different from the staff. Could you group any of these together to help us with specifics? I think that would be helpful as we hear the public comments.

Mr. Holland: To start, we could look at Stipulation No. 3, which requires that we provide information required within the Public Works memo. It requires right-of-way dedication. Some of that, we can agree to; some of it, we can't. I've listed our issues with respect to some of the information being requested. You can see it in Applicant Response. Subsection 2a VI. In essence, the memo says that they want High Drive lined up across 133rd Street so they connect the same. Where our High Drive connection is at 133rd Street connects immediately across the street from the High Drive connection on the north side of 133rd Street. That is absolutely something that the Wilshire Place residents are opposed to, and you can see that in their letters and emails. They want to avoid cut-through traffic that might come into their neighborhoods. We decided to work with those neighborhood groups and offset those driveways. Our connection point at 133rd Street is offset to the west. We've gone around 300 feet for our connection point to 133rd Street, and that was necessary because you already have a left turn lane that would go north up into High Drive. We had to avoid any impact to our connection. We had this examined by Transystems, and they can speak to that if they need to. They determined it would be appropriate where we located it so it wouldn't have any interference or conflict with the other traffic on 133rd Street and still abide by the wishes of the Wilshire Place neighborhood.

Chairman Elkins: So, alignment of High Drive is one.

Mr. Holland: There is an alignment issue with respect to where our commercial area is. There is a driveway that the Public Works department wants lined up across from the entrance into The Enclave at Cedar Point. Their street that accesses 133rd Street is Overbrook Drive. They would like us to have our entrance into the commercial area right across the way and lined up with Overbrook Drive for the same reasons the folks in Wilshire Place didn't like it. They don't want an access to commercial area directly across the street from the main entrance of their subdivision. We agreed to remove that access point and moved our main access from 133rd Street, taking a left to get into the commercial area, down to Kenneth Road.

The Public Works memo also suggests that Kenneth Road and Chadwick Street both be through streets. Again, this was discussed with the area residents. No one that we spoke with wanted Kenneth or Chadwick connected. They were concerned about using Kenneth Road specifically for cut-through traffic from the heavy traffic at the intersection of 135th and State Line. They might avoid that intersection by using Kenneth Road and adding traffic to 133rd Street by connecting or completing Kenneth Road as a through street. Instead, we had connection points at 135th and 133rd. Instead of making Kenneth Road a complete through street, we rerouted through our commercial area. That way, it's not connected, slows down traffic, and keeps Kenneth from becoming a cut-through street. We had our traffic engineer look at that, and they thought it would work well. The situation on Chadwick is similar. One of the problems with making it a cut-through street is adding another access point on 133rd Street. There's also an issue with the trees on 135th Street. There is a beautiful grove that we are trying to preserve and incorporate into our plan. We think that it would be difficult if we make Chadwick a cut-through street. We don't want to lose the trees.

We disagree with providing three through lanes westbound along 135th Street. Our traffic report indicates that the traffic generated by our development would not require a third westbound lane. We don't see the connection between staff's requirement to construct the lane and the traffic from our development. It's a very expensive cost added to the project, which could be born by the developer because we don't believe the impact from our project causes the need to have that lane constructed. We feel it ought to be the responsibility of the city. It is a thoroughfare, and generally, those kinds of roads are constructed by cities. Developers have to be responsible for collector and local roads, but certainly not, in most cases, arterial roadways that serve more regional traffic.

Chairman Elkins: It strikes me that you've got a series of issues related to the alignment of the streets, and now you've raised the issue of the turn lane on 135th Street. I have those lumped together. What other categories of issues do we have, besides the basic mixed-use issue?

Mr. Holland: Just to clarify, it's not just a turn lane; it's a through, full-width lane from State Line to Pawnee. I appreciate what you're asking, but I want to point out that Public Works is also asking us to put in an eastbound through lane on 135th Street between State Line and Pawnee. I believe, however, that same eastbound lane is also being required by

the developer to the south. We need to get clarification as to who is to be building what. Back to your question, we have the traffic issues that we're concerned about. I think most of the other stipulations are concerned with the philosophical differences we have with respect to if it should be developed strictly in accordance with the 135th Street Corridor Plan or in accordance with the plan we presented to the residents as an alternative.

I know there were a couple stipulations concerning the height of the retaining wall, and we will work with those. There is a stipulation with respect to a setback, and we acknowledge that we probably have to tweak our plan to accommodate that.

Chairman Elkins: I recall that there was an issue around the gated aspect of the community. Have you and staff resolved that?

Mr. Holland: We have not. We still would like to have gates in order to provide a more secure development. We think it will be upper-age folks living in the multi-family units. It is designed to be attractive to those kinds of users. We'd like to have the gates there.

Chairman Elkins: You lost me a bit on the setbacks. Is that an issue we need to discuss today, or do you think it is resolvable with staff?

Mr. Holland: It's resolvable; we'll make it work. I think those are the main areas of contention. Staff mentioned they tweaked a couple stipulations. Hearing what they said, we can work with them on those, working out the set of declarations with the Final Plat.

Chairman Elkins: Here's how I framed the issues: mixed-use development under the 135th Street Corridor Plan versus what Mr. Oddo has referred to as horizontal mixed-use, street alignments, through lanes on 135th Street, and the gated community issue.

Mr. Holland: I think that's a fair overall description. There might be some minor details, but you've characterized it well.

Chairman Elkins: Mr. Sanchez, do you have anything beyond those categories?

Mr. Sanchez: Staff would like to note the LDO issues because that is a big reason why staff is recommending denial.

Chairman Elkins: Can you provide the list?

Mr. Sanchez: It's listed out in Stipulation No. 10. It talks about accessory structures, retaining walls (which the applicant has expressed a willingness to fix) and the private drives.

Chairman Elkins: Mr. Holland, are you okay with me adding those to the list?

Mr. Holland: Yes, thank you.

Chairman Elkins: I didn't want to cut anyone off; I just wanted to frame the discussion. Mr. Holland or Mr. Oddo, do you have anything else to add before we open the Public Hearing?

Mr. Holland: I don't think we have anything to add. I know earlier today, Mr. Regnier's attorney submitted a statement to staff that was merely a few statements pulled from the highest and best use analysis.

Chairman Elkins: We received that and are grateful for that additional highlighting of the provisions in the land use study. Even though I don't see Mr. Regnier or Mr. Logan on the list to testify at the Public Hearing, I would certainly grant them that opportunity. Maybe the best thing is to ask if they'd like to speak now in the Public Hearing. Does staff have any questions for the applicant? Our ground rules are four minutes for public comment.

Public Hearing

Bob Regnier, 3400 W. 119th Street, Leawood, appeared before the Planning Commission and made the following comments:

Mr. Regnier: I am the representative of the owner of the property, which is Vic Regnier Builders and Regnier Family Limited Partnership, II. I have submitted three different excerpts from the highest and best use analysis. I'd like to put some context behind that. Our family has owned this property for well over 20 years, and there have been a number of occasions when we have attempted to come to the city and have run into issues with suitability of what was being proposed virtually on every occasion. I remember the comment on public record that the request was going to be turned down by the Planning Commission because it was not in compliance with the 135th Street Plan, which was acknowledged as a plan and not an ordinance. That caused me to engage this firm to do the study. You guys give up a lot of hours and nights and reading to consider proposals. If you are following a plan that is not feasible or realistic, you're wasting your time. You're not being fair to the applicant, either. The study stated that in the next 10-20 years, there will be limited opportunity for commercial, office, retail, or hospitality development. It also suggested that single family or twin villas with low density represent the highest and best real estate use for this property. This report was done 6-9 months prior to my contract with Mr. Oddo. He basically came in with a plan that represented exactly what they suggested. They also stated that there is insufficient depth of market for any significant amount of commercial/retail space in the marketplace given the oversupply of existing retail and immediate synergy of the subject property. What we have tonight is a realistic solution, and it's high quality. I don't know that anyone could argue that Villa Milano, developed by Mr. Oddo, isn't high quality. I think this would be a great addition to the City of Leawood. I don't have anything other than to give you the rationale behind why this report was actually commissioned and why it is important for you to consider as you're looking at applications all up and down 135th Street. Thank you.

Chairman Elkins: We'll note for the record that the excerpt that you and your attorney submitted has been added as part of the record. Is Amy Brown present? I'll call her again at the end. Brian Johnston?

Comm. Peterson: I can see that Mr. Johnston appears to be connected but is muted with the video off.

Brian Johnston, 2545 W. 136th Terrace, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Johnston: There was a statement made in the last session about an approval from the homeowners' associations in the area and that two were voting for the plan and one was split. It appears in subsequent conversations with people in our development that Wilshire Place is 80% against the plan. I just want to make sure that's noted.

Dan Goldberg, 3089 W. 132nd Place, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Goldberg: I live here with my wife and two children. We live within 200 feet of the proposed development, and so do many of my neighbors. I want to first thank everyone at the City of Leawood, including staff, the Mayor, City Council, and the Planning Commission for everything you do for our city to make it an amazing place to live and work. Thank you. Turning to the merits of the Cameron's Place proposal, I think the vote is an easy one. You should all vote no to this proposal. That is for a number of reasons. The first is that staff's recommendation is clear. They are staunchly opposed. I think Mr. Holland, with all due respect, tried to make it seem like it was philosophical differences. I think this is not seeing the forest for the trees. I may not be technically dialed into these issues, but I think they are much bigger than one or a few issues. Staff are the experts, so I think we should divert to them. I think there are bigger issues than what has been outlined tonight. My neighborhood of Wilshire Place has informally voted and has overwhelmingly voted in opposition to the development. It wasn't even close with less than 10% in favor. It's not just Wilshire Place. The packet on the internet has an overwhelming number of letters from people opposed to this development. Waterford Homes Association has a letter in opposition, so it's not just Wilshire Place, and it's not just for one or a couple reasons. If we were all in my back yard right now, it would not take much imagination to see how these four-story apartment towers would be towering over our neighborhood, congesting our streets, overwhelming our local schools. I think these issues have been addressed in detail by the letters. I do think those are concerns we should think about here. Obviously, we're in the midst of a pandemic unlike anything we've seen in 100 years. Successfully completing massive developments like this is difficult, even in the best economic times. Look at Mission Mall, for example. They've been trying to redevelop that for over 15 years, failing time and time again. We don't want to transform this area, which I see being utilized every morning, to something that can't be transformed into a viable development. What I haven't heard is Plan B if something happens to the developer during the development. I know Oddo Development can declare bankruptcy and move on, but the rest of us that live here will still be here.

The city is still going to be stuck with whatever they think might be viable. I don't think that's the standard that the City of Leawood puts itself to. That's the reason the City of Leawood has been so successful at attracting businesses and residents. We want to responsibly develop this property. I know the city wants to, and so we all have the same goal. We want to wait for the right developer with the right plan to do it properly so it thrives in our neighborhoods, attracts future residents, and increases our standard of living. This proposal doesn't do those things. We shouldn't settle for something that is just economically viable. The stakeholders who want to develop the property are not putting the City of Leawood first; they're putting their own economic interests first. I respectfully request that you vote no, and thank you for your time.

Jeff Logan, 13220 High Drive, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Logan: I also live in Wilshire Place. I've been following this thing along, and I'll admit that this is a better plan than what we've seen historically. I've been in this house since 2006 and have seen this area grow and develop. I don't think being a better plan than we've seen is a reason to settle for it. It's too dense. You've heard it. I've written a letter and sent it in. My neighborhood is overwhelmingly against this plan, and I would argue that we are the most impacted by it. The neighborhood to the east already backs to commercial buildings. I realize they are maybe more in favor of it. I don't know how many homes are in it, but my neighborhood is going to span nearly this entire development on the apartment side, and 80% of the neighborhood is strongly against it. To me, the plan is better than what we've seen before, but it is too dense. As it stands, I think it is not good for us for reasons that have been laid out already. It will impact our schools. The estimate around the school additions are laughable. To say that you're going to build for 600-800 people and that we'll only get a handful of students in the school is just unrealistic. My street becomes a freeway at that point, even if it's offset. We did ask the developer to offset it at a minimum. People already come through here too much. I also wanted to state that Mr. Johnston mentioned in the prior meeting, the applicant mentioned two of the three neighborhoods were in favor and the other was split. I don't know who the other neighborhoods are, but I just want to state for the record that my neighborhood and I absolutely oppose this. I would ask that you vote it down in its current state. Thank you.

Bill Johanson, 13294 Fairway Street, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Johanson: I'm a board member of the Wilshire Place Homes Association. Our neighborhood is along a great portion of the north side of the proposed development and is, presumably, the most impacted by it. I'm speaking to relay the concerns of our homeowners. We did an all-neighborhood meeting in June that involved a survey. About 115 of our 172 homes replied. In this, 80% of homeowners voted in opposition; we were not split. That survey and the way we conducted it has all been shared with the Planning Commission and City Council. Our primary concerns are focused on three issues: traffic, property values, and community amenities. These were the focuses of the survey. For

traffic, we have concerns about 133rd Street, but a really great concern is traffic on High Drive through 132nd Street. This goes through Wilshire Place as High Drive and around the border with Greenbriar and Waterford, then turns into 132nd Street. This road is a cut-through and is where many of our neighbors live and which their driveways enter. It is a very busy street during non-pandemic rush hours and regular school days. Even without any additional development, residents along High Drive/132nd Street need some traffic cessation measures. We've got to do something for these residents of Wilshire Place. Property values are a concern. Going back to our first point on traffic, we're concerned about High Drive and 132nd becoming busier, which creates a greater market discount to the value of those homes. This, in turn, hurts nearby comparable home values and the subdivision as a whole. We believe traffic cessation measures need to be addressed. The last thing is community amenities and green space. Wilshire Place homeowners also expressed concerns in the survey that the development would add hundreds or thousands of residential units in the area without proportionate expansion of parks, trails, and green areas. These are important. We also have concerns about MX-D Tract B, Phase 2, with the buildings along the northeast corner of the development near High Drive and 133rd Street that will potentially tower over some single-family homes on the east side of Wilshire Place. These are our concerns. We consider what has been proposed relative to any developer mitigations that have been offered, but at this point, we're opposed to it.

Chris Vukas, 13252 Falmouth Street, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Vukas: I live in Wilshire Place. First and foremost, I want the city to understand that our neighborhood knows something will be built on that property. I know you've received our HOA letter in strong opposition to the development, as you heard tonight. The applicant indicated two out of three neighborhoods supported the development, and one was split. I ask the applicant to produce letters of support as is customary with these projects to evidence his comments and that support. Personally, as a property owner, I'm in strong opposition to the plan as proposed because I don't feel the plan improves our neighborhood or provides any value whatsoever to my property values or provides neighborhood amenities. I don't believe this plan is mixed use in its current form and is essentially just a high-density, non-mixed-use project. I attended the applicant's Interact Meeting, and what stood out to me was the comment from the applicant that I'll paraphrase here. He didn't intend or even want to do mixed use and has no real plan, hotel flag, or desire to do that phase. I'd ask the council to review that recording if they haven't already. The applicant team admitted tonight that the applicant just doesn't agree with the city and what the residents envisioned for our area during the residential planning process. I think the current plan suffers from lack of experience and/or imagination by the applicant and high-quality, modern mixed-use development that works in a quality residential area. I think the applicant has a lot of residential experience but doesn't have experience with mixed-use development, especially of this scale. I admit that COVID has greatly impacted today's retail and commercial environment; however, that won't last forever. I know my neighbors want, in the first phase, mixed use, including walkability and access to high-quality commercial, retail, and restaurant space. I think the current plan is the high-density residential plan with mixed use as an

afterthought. I know the concerns of our neighborhood are density. The mixed-use designation allows for greater density in the LDO; however, that density effect is also offset with community amenities and benefits to our community. It means additional restaurants, shopping, places we can walk to and actually benefit from even though we will have higher traffic counts. We understand that in certain aspects, and we want those to be mitigated. I can't imagine anyone doing a traffic study today during COVID and it being accurately reflected with the large percentage of the workforce working from home, especially in our area, and kids' activities canceled. That being said, anyone who lives on High Drive understands the current traffic issues we all have and the significant impact on the street if density is greatly increased. We also would support any mitigation efforts currently on High Drive to mitigate that traffic, regardless of this development. Again, the project as proposed only diminishes our neighborhood and adds no tangible benefit. We look forward to responsible development, and I ask the council to vote against the project as currently proposed. Thank you.

John Denny, 2203 W. 132nd Street, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Denny: Thank you for the opportunity to speak on behalf of my neighbors and friends at The Enclave at Cedar Point. Specifically, I've been asked to speak to the impact of traffic that these developments will more than likely bring. Just like the members of the commission, I spent some time over the last couple of weeks reading through the letters that were submitted by residents who are going to be impacted by this proposal. Obviously, there were consistent themes between the letters and comments tonight specific to the inevitable increase in the traffic volume. There were four areas specifically that people highlighted. The first is concern for the safety of the children involved in pedestrian accidents. Second is the elimination of designated bike lanes. Third is the impact of pedestrian friendly, multi-use paths and, for those of us who live at The Enclave at Cedar Point, a lack of safe and secure walkways from the north to the south side of the street as it currently exists. When reviewing the Cameron's Court traffic study, the concerns around safety and quality of life we have come to appreciate here in Leawood are put at risk. In the report, it notes that a full buildout of the proposed development will result in a significant increase in traffic to the surrounding street network. The study goes on to state that the buildout would create an additional 21,000 new trips daily. This number, while difficult to get our minds around, is considered an understatement by staff, which notes that this number may actually be closer to 50,000 trips a day. Whether it is 21,000 or 50,000 or somewhere between, the necessary amendments to 133rd Street will have a detrimental impact on the multi-use paths for exercise and kids recreation as well as the desired stated plan of connecting our park networks for family gatherings and social networking. Of further concern to the residents is the impact to bicycle safety. We would reference the 135th Street Plan or the Community Plan specifically, where it says that the City of Leawood has designated much 133rd Street between Mission Road and State Line Road as a shared roadway for bicycles and vehicles. That can be found on Page 70 of the 135th Street Plan. It says the designation was made consistent with the low traffic count and restricted speeds that allow for safer access for bicycle and pedestrians along 133rd Street. The plan goes on to

describe measurements for success on Page 98, which includes increase in bike facilities, a reduction in pedestrian-motor collisions, and that providing an excellent pedestrian environment is a top priority for development. In contrast to the guidance provided by the 135th Street Plan, the proposed development will substantially increase the vehicle traffic along 133rd Street, impacting bike lanes and multi-use paths while making no apparent improvement for pedestrians. Finally, we'd like to bring to the attention of the commission a most immediate need. For the residents in The Enclave at Cedar Point, there is a lack of safe and adequate crossing from the north to south side of 133rd, connecting us to the walking path. Currently, the only access to any pedestrian or bicycle facilities for our residents is via Overbrook Road south to 133rd Street. Although a sidewalk does exist on the north side of 133rd Street between State Line and Overbrook, that sidewalk ends approximately 260 feet west of Overbrook. Residents of The Enclave at Cedar Point must then cross 133rd Street to access the sidewalk on the south side of 133rd Street in order to continue walking west. In doing so, they must cross a heavy stream of traffic without any protections via crosswalk or any signage noting that cars are traveling at a higher rate of speed. Our request is that the Planning Commission not wait until the zoning and development issue is worked out and assist us in addressing the safety concerns now with the construction of a crosswalk. I'm going to close up my comments by thanking the commission for taking time to hear public comments and also ask that these three areas of concerns noted be a cornerstone of consideration as future development and expansion impact the residents along 133rd Street because clearly, we've come to know things like bike lanes, multi-use paths as a way of life for us here in Leawood. It's one of the reasons we moved here, one of the reasons we stay here, and one of the reasons we love living here. We would ask, as the developments are considered, that traffic also be a cornerstone of understanding how this impacts our way of life and make some decisions as it relates to how those impacts will impact not only our way of life but the property values, etc. Thank you so much for the time.

Chad Summers, 2608 W. 131st Street, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Summers: I live in the Greenbriar of Leawood. Fortunately, I seem to have a lot of similar concerns to several of the speakers who have already gone, which will allow me to pare down my comments and focus on some additional areas of concern. I did send in written comments on August 25th. I believe those are all included in the packet and you've had the opportunity to review those. Tonight, I will focus my comments on a handful of key areas. With regard to the traffic concerns expressed by Mr. Johanson, Mr. Vukas, and Mr. Denny, I echo all of their concerns about the volume of traffic, about the cut-through traffic problem that already exists, which I have spoken to city staff about. I'm interested to understand how the engineers from Transystems came to the conclusion that this was not going to be a significant impact on the area when, by the counts of units in the plan that's proposed and when those are multiplied by the information available from the Institute of Traffic Engineers, this project would produce 26,754 trip ends per day. That is a significant impact on the surrounding area. Specifically, some of the area roads concerned are some of the worst traffic flow areas in the city. This project would produce potentially nine points of ingress and egress and emergency access, of which

eight would be considered major: three on 133rd Street four on 135th Street, and one at State Line and Kenneth. Of the eight major intersections, State Line and Kenneth may very well be the most impacted. When you couple that with the fact that the Lashbrook proposal has been approved and will occur, the traffic impact is going to be significant. Additionally, the cut-through traffic is already an issue, as several of our other neighbors have pointed out. Secondly, I'd like to talk about the zoning considerations. Specifically, there appears to be an insufficient buffer area between Cameron's Court and the neighborhoods of Greenbriar, The Enclave, and Wilshire Place and, to some degree, Waterford and Leawood South. It would be beneficial for those neighborhood residents if the applicant would redesign Tract B to provide an extension of Phase 1 to the easterly limits of the project near the Cornerstone Church. Provisions could still be made for extensions of the other roads, but this might provide a sufficient buffer layer. Alternatively, perhaps a medium-density option exists. I have some serious concerns about the applicant's demeanor in this process. Aside from the assertions that have already been called out on the part of our other neighborhoods, there does not appear to be support from two of three neighborhoods at all in this area. Additionally, I'm concerned about the applicant's accusations in the last Planning Commission meeting, where he accused the City of Leawood in our plan of redlining, which is tantamount to calling the city racist in 2020, and also when you're proposing a Class A market rate apartment development, how exactly does that do anything to alleviate the concerns of redlining? When we couple that with the fact that, as I'm aware, this applicant has not yet successfully completed and filled a mixed-use development, in the last time that they had a disagreement with the City of Leawood about how a project should go, it was to litigate not once but twice at the expense of Leawood and its residents. I just wonder if this is a sensible partner for us to develop that land. Of the four dozen folks I've spoken to over the course of the last few months, everyone understands that this land is going to be developed and should be developed. What we want is responsible development. I wonder, with three projects already underway along the 135th Street Corridor, of which every aspect of the applicant's proposal is being met in some way in these other proposals with the exception of single-family residences, in a week when KPMG issued a report that said that more than 2/3 of CEOs expect that they will be downsizing office space in 2020 and 2021, I wonder if it makes sense for us to approve a project based on what the applicant thinks the result might be. I appreciate the opportunity to speak. I'd like to thank Mr. Sanchez and Mr. Scovill during this process. I would ask you to vote no on the proposal.

Ryan Brunton, 3144 W. 132nd Street, appeared before the Planning Commission and made the following comments:

Mr. Brunton: I live in Wilshire Place, which is the subdivision immediately north of the apartment complex component of this proposed development. I want to thank you for the opportunity to share my thoughts. I recognize there are a number of other Leawood residents who would like the same opportunity, so I will keep my comments brief. Quite simply, it is my belief that the Cameron's Court plan is incompatible with the surrounding areas and neighborhoods. This development will cause a significant increase in traffic on 133rd Street and roads leading into the Wilshire Place neighborhood,

including High Drive and Canterbury. This causes safety concerns for pedestrians, including young children and park-goers in our area. I am also concerned about the potential for more than 1,000 residents and what it will cause as far as overcrowding for our amenities and green space. I believe that is inconsistent with the city's long-term vision for this area. At the August 25th Planning Commission meeting, the development team indicated two of three HOAs in the area adjacent to this property support this plan, with the other HOA split. I think you are hearing tonight and will continue to hear that is not the case. As noted tonight and in a significant number of letters provided to the Planning Commission and City Council, the Wilshire Place neighborhood is overwhelmingly against this proposal. As you've already heard, 80% of the participants in our neighborhood either oppose or strongly oppose the development plans for this property as the plans exist today. We feel very strongly that any new development should add to the property values of the existing homes and enhance our overall community. While there are some good elements of this project, any plan which places 650 units of multi-family housing on our doorstep is not a plan we can support or feel comfortable with. While I recognize the developer and its consultants may believe this to be the case, this project is not the highest and best use of one of the last undeveloped pieces of land in the 135th Street Corridor. I agree with Mr. Holland that this land should be developed in a manner that is beneficial to the city and its residents, especially those residents in surrounding neighborhoods. We do not believe this is truly the type of mixed-use development envisioned by our city and its residents. As Leawood residents, we deserve a better plan for this land and apartment complex. For these reasons, I respectfully ask the Planning Commission to reject this plan. Thank you very much.

Bryce Henke, 2701 W. 132nd Street, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Henke: Everything everyone has said, I agree with. The fact that this is too high a density will have such an impact on traffic. Just to give you perspective, when I roll back, I can see cars on 133rd Street from where I live. Where High Drive intersects 133rd Street, there will be four-story apartment buildings. I cannot live in Leawood with a project like that, especially with the density of everything else. I work in an industry that provides finished products for construction for new homes. I totally get the fact that we want to develop, but I cannot live next to a 650-unit apartment complex. If I wanted to do that, I'd move to Overland Park. I respectfully ask that the commission vote no on this plan as it currently proposed. Thank you for your time.

John Kelly, 12800 Howe Drive, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Kelly: I live in the Waterford subdivision. Thank you for the opportunity to speak. My comments are not meant to diminish the commission or the planning staff's efforts in this process. First of all, I think this is a very rushed process. There is a lot of information to process. You issued the packet just a few days before the meetings. We had the first meeting, which the developer had over two hours to speak, and then we had an actual holiday weekend, and then all of a sudden, two days later with another 300-400 pages of

a packet to read. It's pretty quick. Secondly, Waterford subdivision did not get the notice for the Interact Meeting, and we're within 500 feet of the proposed development. I polled our HOA board and manager, and nobody got a notice. We request a meeting with the developer. Secondly, as pointed out by the staff, this process of entirely trying to change the LDO, 135th Street Plan, and Comprehensive Plan while trying to approve a specific plan is not the proper place. There are some political issues here. There are some overall things here and a massive zoning and planning change here. This is not the right process. There should be other studies done, other Public Hearings, and then look at a specific plan. One of the major variances of this plan is the gated communities. That would be a major change in direction that the city has decided to go to that there would be no gated communities, so I don't think it's appropriate for this process to approve gated communities. Also, the developer has talked about phased development. He doesn't want to do all the improvements on his street grid and stormwater and everything else; he just wants to do it in phases. I disagree with that because, as other people have stated, if he doesn't complete the entire project, he hasn't completed all the streets, all the stormwater, and all the utilities, and we can see that when that happens, it's not the intent of the approval of the plan. In the developer's presentation, he talked about the tax benefits as if he's going to build the whole thing at once. There might be \$40 million worth of benefits to the city, but this plan may take 10-12 years to complete, and those tax benefits are going to get stretched out well over decades. The stormwater plan only covers the 100-year storm, and I don't think that's appropriate. I think that would be a minimum plan, and there should be more stormwater capacity for something exceeding 100-year storm. We've had 100-year storms in Waterford. We've had flooding. We know the city stormwater capability running from south to north through Leawood South is somewhat deficient right now. As far as 133rd Street goes, I believe looking at the traffic counts and all traffic impacts, there needs to be at least a couple stoplights put in. In the stipulations, there is no 133rd Street Impact Fee. You've got several hundred thousand dollars for 135th Street. There is nothing for 133rd, and we all know we need some traffic counting issues. There will be traffic counting needed. No matter how the streets wind up getting laid out, there will need to be stoplights, and there will be several hundred thousand dollars needed to put all that in. Regarding Mr. Regnier's market study, markets change. Over 10-15 years, what they think is sellable now may not be. Even the study itself says the hotel is a very high-risk proposition. Secondly, the first phase with the straight-line street, all the straight property lines is a very bland design and not very imaginative. There is very little of that in Leawood at all. I would suggest that is not even a marketable plan as they presented. Thank you very much. I appreciate your time.

Chairman Elkins: Is there anyone else who would like to be heard on this case?

Jack Kenny, 2709 W. 131st Street, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Kenny: I'm from the Greenbriar subdivision, and I certainly appreciate the opportunity to speak. I don't have much to contribute. I think a lot has been covered. I would agree about the concerns about the volume of traffic and all those other things. There is nothing that would impact the quality of life for all of us in this area than seeing

the green zones, traffic increases, and all of those things negatively impacting. I want to make sure we're sensitive to all of that. I also want to set aside a moment to encourage the developers to just continue to work with us to develop a project that everybody could at least come to agreement with. I think it's important that we express that it's great to have local developers, people that are local, that live in the area, that live amongst us, that have an interest in providing what's best for the overall community. I know a lot of the feedback has been very negative. The land is going to be developed, and it should be developed. Certainly, it's a right of Mr. Regnier to have that developed over time. I encourage you to work with the neighborhoods as you have already to continue to get that accomplished. I want to make sure that those of us who want to be in the area a long time are rewarded as those who are invested and live in the area. Thank you.

Chairman Elkins: Is there anyone else on the line who would like to be heard?

As no one else was present to speak, a motion to close the Public Hearing was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

Chairman Elkins: Given the length of time spent already tonight, I would call for a recess for five minutes.

Five-minute recess

Chairman Elkins: This takes us back to the applicant for an opportunity to respond to the comments both of staff and the public.

Mr. Oddo: I want to thank you for letting me respond to some of the neighbors' concerns. I know every time this development was brought before, people seem to be against whatever is built. Before MX-D, no one liked it. They said they wanted something more like Villa Milano and what we're proposing. Now, we're proposing what they asked for last time, and they want MX-D. I'm not so sure they understand that MX-D like Park Place is 4 ½ times more dense than what we are proposing. I could actually put five Park Places on this same acreage. I don't really think that's what they want, but that's what a few people said. It concerns me. Most of the things we heard were people worried about traffic, school, home valuations. Simply, the facts don't support their fears. It will bring more traffic. If I build single-family homes, it will bring more traffic. With the current level of service that 133rd has, it will be the exact same level of service from a traffic engineering point of view as it is now. It won't change. It will be above the minimum requirements allowed by Leawood. If I did make this MX-D with 4 ½ times more density, it would take it to a level D or even lower. I would be afraid to actually put MX-D here. It would really hurt the area, due to the traffic. One of the things said by Mr. Denny, I think was misquoted. He said staff's concern was that it would bring up to 50,000 traffic a day. The quote refers to when the entire corridor is built out, so all the way to Nall. Someday, it will be built out, but the traffic report shows that the level of services now and later won't change. They'll be the same as it is. There is also mention of four-story buildings. I just want to remind people that we're putting in a three-story

building along 133rd. It's the side of two of them, and they're only 38 feet tall. It's about the same height as a home, so it's not going to tower over anybody. It will be the same height as the homes across the street. There are only two. We've really limited the cross-section of what it's going to be. We're happy to put lots of berms and trees to help with that. As you know, crime is not an issue. We don't have any crime in the apartments. If we put gates, we won't even have smash-and grabs that parts of Leawood are experiencing. I talked with the school district and the Chamber, who talked a lot with the school district. They assured me that if this was built out with single-family homes, they could handle the kids who would go to the schools. We heard the original concerns about schools, so we removed all of our three-bedroom apartments. We've gone from 50% one-bedrooms to 65% one-bedrooms and 35% two-bedrooms in both communities. When we do that, we virtually eliminate all kids. Even though we're saying 3-5 kids, we're bringing over half a million dollars per complex for the schools, I don't even think it will be 3-5. That's just my opinion. We'll really be a profit center for the schools. Regarding home valuations, eight plus properties don't hurt home values. Three-story parking garages hurt the home values. If you actually put in MX-D, it will bring in 4 ½ times more traffic to the area. That would hurt home values. I'm going to put my money where my mouth is. That's why I'm building \$700,000-\$800,000 homes as the buffer along 133rd. I know it does not cause problems when we we're able to do what we did at Sienna. We built multi-million-dollar homes near apartments. When Milano was built, Tuscany next door had property values that continued to go up just like the rest of them. Home values are not an issue, and I'm speaking with my own money here. Instead of stopping another development, I'm going to bring a valuable asset that's needed to our community, generate millions of tax dollars that are desperately needed. We'll bring both single-family and multi-family homes. The multi-family that we have will have mostly seniors moving in. When you think of community: family, moms, dads, grandparents, aunts, uncles, and we need to have a place for them to live in Leawood when they want to downsize. Our apartments are a part of that community. Another third are divorcees. Most people want to keep the families fairly close together. They want to live within two miles of the family. We give them a place to live. They're already residents who live here. Divorce can be tough. We've got to have a place for them so we don't split the families too much. The rest are young professionals who make great money and will bring needed money to retail stores and will most likely buy a home in a few years in Leawood. We want to have a place for these people. I am a local developer. I have the experience. I have done mixed-use. I'm building one now. I have the expertise. I've got the ability to finance it and get it done, and I've got the experience. I don't understand why that was even questioned. We have a good professional company that can carry on with or without me. Feasibility show what is necessary. I believe the city had one done in 2013 that said the same thing. I hope you kept that. The Community Plan that the city did in 2013 said almost the same thing that mixed-use as it is currently zoned isn't viable, but what I'm showing here as a horizontal mixed-use, going back to old-fashioned design, would work. It's pushing all the retail away from the residential to State Line and keeping it on Mission and between the residential. It has a proven success record. There's a need for both. Mr. Regnier is going to be developing the retail side. It's not that I don't want to or won't. I said before it's that Mr. Regnier is going to. We're working as a team. I also want to stress that we're giving people what consumers want. Villa Milano is currently

occupied at 97%. Some of the other similar communities are at 70%, and that's mainly because of the parking garages. I just can't stress that enough. I really don't think people want parking garages overlooking. We have been trying to work with staff. We've eliminated a lot of the stipulations or agreed to them, and we have a lot to work through. I want to give you a very updated plan that will help the growth of the city and that the communities will use. I strongly believe this is the best plan that's ever been presented for the 135th Street Corridor, but more importantly, a viable plan that supports growth and attracts sustainable business for the residents and our community.

Mr. Holland: I don't really have anything to add to what Mr. Oddo just mentioned. He covered most of the issues and concerns raised by the neighbors. I agree with Mr. Oddo. A lot of the residents spoke to traffic and density. I'm not sure they fully appreciate what the alternative would be if we did follow a pure mixed-use in the strictest sense as provided in the 135th Street Corridor Plan. It would be 4 ½ - 5 times denser than what we are proposing here. In fact, what we are proposing is the absolute minimum density allowed under the MX-D plan. We're doing the minimum amount here that is permitted, and it sounded like some of the residents thought mixed-use might be a good idea, but I'm not sure they appreciate the amount of traffic and so-called density that they have concerns with if we, in fact followed the 135th Street Corridor guidelines in the strictest sense. We're trying to work with the city. If we try to do the street network that's in the plan, it would cause 22 access points along both streets. It's not something that the residents have fully thought through. With that said, we do believe that what we're providing is an appropriate use and development for the land. It's something that can be done. I don't think the mixed-use, developed in the strictest sense, is marketable. If you're going to only allow for that kind of development on the property, it won't be developed. I'm not sure if that's what some of the neighbors want. I know some of them said they weren't against development, but I guess it's the type of development that we want to have here. I didn't really hear from the residents what the alternative would be, other than they just didn't want this plan. It would be nice to have heard some of that. We think we've presented a valid plan to you, an appropriate plan to you, that is something that can be built and developed here and has the least impact on the area residents than what would be otherwise done under the 135th Street Corridor plan. With that, we appreciate your time. We've spent a lot of hours on it talking. I know you have a lot to talk through. If you have any questions, we're happy to answer them. We've got our traffic engineer here. Our civil engineer can speak to the stormwater issues if there are any.

Chairman Elkins: Thank you. Questions for the applicant? Is there a response from staff?

Mr. Sanchez: I don't think so.

Chairman Elkins: Questions for Mr. Oddo or Mr. Holland?

Comm. Peterson: I just have a couple questions for Mr. Oddo. First of all, with respect to the multi-family dwelling units, you mentioned 65% will be one-bedroom and 35% will be two-bedroom. I will say regarding the concerns regarding the initial burden placed

upon the school system, I can't see where this would create any possible issues. I agree with Mr. Oddo completely. Yet, when you look at the tax structure with the way real estate tax in Johnson County works, the most recent chart shows almost 50% of the total real estate taxes paid go to support the school district. These people are not going to have children with a one-bedroom. I can't see the burden, but I can definitely see the benefit. I do see where there is significant concern regarding additional traffic. As I understand from the revised plans, with respect to The Enclave at Cedar Point, Kenneth Road is planned to divert through the mixed-use retail so that there is no cut-through street. That should allay a lot of the traffic, to a certain extent. On the residential side, do you anticipate the majority of the people seeking those homes to be, for lack of a better term, primarily retirees?

Mr. Oddo: Thank you for your question. Yes, that's our target market. That's why we're asking for smaller lot sizes. The intention is be ranch or reverse story and a half with maintenance provided. We're really going to be pushing for people wanting to downsize in Leawood. I wouldn't think there would be many children, but I'm sure there will be a few. Once again, the schools have assured me, as has Kevin Jeffries with the Chamber that the schools can handle it. They're not concerned. They're not at capacity. We did some things to help slow traffic to avoid people wanting to cut through. With all of our designs, we've really pushed the traffic toward 135th Street. If we can get the one community, we only have an emergency exit. This would further limit the amount of traffic going toward that. As brought up, COVID versus pre-COVID, we asked the same thing, and he said some of the traffic counts were down, so he used the higher number that he had previously. We want to make sure we give you the same level service on 133rd Street.

Comm. Hoyt: I have a couple related questions. I'm looking at Staff Comments, "Staff is not supportive of the separation of uses within the MX-D-zoned portion of the development, as there is no interaction between each of the tracts, essentially creating four separate developments: three residential, one commercial/office. The applicant shall work with the staff to better follow the intent of mixed-use and stay within the City of Leawood Comprehensive Plan." This relates to Stipulation No. 5. As I understand it, this is one of the ones the applicant objects to. It seems like, whether MX-D is defined vertically or horizontally, there is a sense in which the entire development needs to be coherent and, as staff says, interacts with each other. It also relates to one of the guiding principles of the 135th Street Corridor, which, again, is not really dependent on whether you're going vertical or horizontal. That is, that it ought to convey a sense of place, that the development as a whole ought to hold together. It ought to be unified, and it ought to offer some identity that is very clear, which I think is somewhat reflected in some of the comments of the residents. The objection is not so much to a development, but what I heard was they wanted a development that they could see a clear value added to their neighborhoods. These are a lot of converging themes. Perhaps you might, first of all, address the staff comment that there is no interaction between each of the tracts and that, essentially, it creates the appearance of four separate developments instead of a singular whole.

Mr. Oddo: I understand what you're saying on that. If we had five Park Places, there would be five independent senses of identity. I've got four, and you might be right that each one is independent and has its own identity, but it's hard to bring in, on the retail side, on State Line, that we probably will have a convenience store and have a community with the residential side. We're deliberately trying to push the retail to its own independent area and have the other three work as a nice community. There will be crossing streets. There are a lot of new residential areas going up. Hallbrook is now building a fence around it. Fencing is allowed. Your ordinances are not in favor of gates; I understand it, but we can fence it. If we fence, especially along 135th Street, I can't imagine a community along there not needing a fence. It will have its own identity. Each of the apartment complexes has its own dog park. Each has lakes and ponds and walking trails. Each has a community garden. We haven't talked about those because that usually happens at Final Plan. When we have a community of 30 acres, which is the size bigger than Park Place and each has a dog park, a walking trail, and lots of large lakes that are half mile to walk around, it creates nice walks. One of the trails is a mile long. It's hard to have the east end and the west end be completely tied together. I do believe that we're adding value to the neighborhood by giving them needed housing, a buffer, streets that are properly sized to handle things, pushing traffic to 135th Street, keeping it low density, and keeping the four- and five-story buildings on 135th Street and the three-story building on 133rd so we have a neighborhood feel. That's what a residential community does. It's a neighborhood feel. No doubt, if you've driven by Villa Milano or any of my other communities, they have a very wonderful neighborhood feel. You see lots of people out walking.

Comm. Hoyt: I had not heard of the community garden. I don't know if I was dismissing that or if it hadn't been mentioned. Who is the community garden going to be used by?

Mr. Oddo: Our residents in that community. They ask for the plot. We've had some that are so popular that we've had to increase the size of our gardens so everyone can have a little bit more. Some grow beautiful flowers; other grow vegetables. We're happy to let them do what they want with it. It's a nice area for people to congregate. Same thing with the dog parks. We'll keep that fenced in so the dogs can run off their leash. You're right; I may be selfish, but I'm not building the dog parks and community gardens for other people. I'm building them for my residents.

Comm. Hoyt: I understand your point. As an example, something that gives a mixed-use development a cohesive sense of place that also spills out to the surrounding community would be something like at Park Place, where they have the common area that becomes a skating rink for people throughout the community. Thank you very much.

Chairman Elkins: Thank you. Other questions? I have a few. Mr. Holland, on the question of the gating, what is your understanding of the LDO and how it addresses the question of gated communities?

Mr. Holland: My understanding is that they're not prohibited under the LDO. Staff can confirm that.

Chairman Elkins: What is your perspective of the city's position on gated communities?

Mr. Holland: I think they feel like gates are contrary to the mixed-use development and the aspect of a cohesive development, as just mentioned by Commissioner Hoyt, and somehow, that detracts from people being able to gather, pass through, or walk to the different areas of the development. I think they feel that the gates themselves provide an obstacle. They're not prohibited under the LDO.

Chairman Elkins: Is that right, Mr. Sanchez?

Mr. Sanchez: I believe the applicant is correct. There is no formal ordinance stating that they are not allowed; however, they are frowned upon, and based on the 135th Street Community Plan, we have a directive and an objective stating that we want communities to connect with each other. Gates directly prohibit that from happening. They are made to separate different areas from each other.

Chairman Elkins: Thank you. Mr. Holland, you'll recall when we started tonight, one of the major areas of conflict between staff and your client relates to stipulations that enforce the LDO. There are several. I'm curious to get your thoughts on how it is that, even if we were inclined to agree with you, it is possible for this commission to ignore the LDO and strike those stipulations.

Mr. Holland: I think there may be only one stipulation that is contrary to the LDO, which is the one that requires that the accessory buildings be connected to the primary buildings. All the other ones fall into the category of whether we align with the 135th Street Corridor Plan or not.

Chairman Elkins: What would you say about how I go about giving you what you want with respect to the accessory buildings?

Mr. Holland: I might ask Henry Klover to speak to that issue.

Mr. Klover: The issue at hand is an interpretation because the LDO does not say that parking has to be attached for a building. By inference or by it not saying that it isn't, there has been an interpretation that parking garages are a requirement with one covered per unit and enclosed. The problem is that there's a whole range of product out there that specifically exclude that you have the ability to build. It basically makes it so the only product available to be built for what you might refer to as the big homes or the projects out there that have to have underground or parking garages, which are incredibly expensive. There's a whole range of products that, just by that one interpretation, have been negated or not allowed in the city based on a negative of a specific statement of, "You shall attach garages at one per unit to the building." There are product types that are desired and wanted, exceptionally attractive that, because of that one inference by a negative and not a positive, is not permitted. Again, it's an interpretation issue. I tried hard to get similar-type products that Mr. Oddo wants to have happen on Cornerstone,

and we could never come up with a way to design it that anybody was willing to build that didn't include having to build a parking garage. Again, it's not a specific statement in the LDO that says it shall be done; it is a negative. It doesn't say it.

Chairman Elkins: You're asking us to do something we've not done before.

Mr. Klover: It's only based on the interpretation of that provision. You have to know to hunt for it. Not many professionals can go out there and read your LDO and immediately infer that the product is not permitted. You have to do it by negative.

Chairman Elkins: I understand that. That wasn't my question. You're asking us to do something we've not done before, correct?

Mr. Klover: Yes, we're asking you to open up the market to a product that is desired and wanted in the community.

Chairman Elkins: What section of the LDO specifically addresses accessory buildings?

Mr. Klover: We could find it for you, but I don't remember the exact section.

Chairman Elkins: I'd be curious to hear the language you're saying is being misinterpreted.

Ms. Knight: I believe it's Section 16-4-1.4. Page 9 of the Staff Report lists the LDO sections the applicant doesn't meet. "All accessory structures shall be attached to the primary structure," and then there is a list of exceptions. Parking structures are not an exception.

Chairman Elkins: So, I'm struggling to understand that if it says that accessory buildings shall be attached and sets a list of exceptions, I'm not sure where the inference is.

Mr. Klover: My point is that it is not a specific exclusion, and any professional out there looking and trying to understand how to build a similar type product in the community would not figure that out very easily. We've had to have it explained to us, even where to find it.

Chairman Elkins: I understand that it's difficult to build, but there doesn't seem to be much ambiguous about the statement.

Mr. Klover: It also depends on if you count the garage as its own building.

Chairman Elkins: Thank you. If you look at Phase 1, do I correctly understand that it's the single-family residential segment of the project?

Mr. Oddo: It is, but I think we had to reduce it to 56 single-family lots.

Chairman Elkins: What's the approximate linear distance from one end of that double cul de sac to the other?

Mr. Oddo: 1,800 feet.

Chairman Elkins: That really works out to 28 units on each side of that double cul de sac, right?

Mr. Oddo: Yes, sir, plus the end pieces.

Chairman Elkins: Are there other places in Leawood where we have that long of a single street with almost row housing?

Mr. Oddo: I'm sure there is. I'd be happy to bend it and turn it, but then I get into issues with setbacks required by the apartments in the RP-2. There are lots of Old Leawood areas that are like that all over. They're all over.

Chairman Elkins: I don't know that there's any part of Lee Boulevard that is that long without any sort of undulation or curve, though, is there?

Mr. Oddo: I'm sure there are. I haven't really looked at it.

Chairman Elkins: It's one of the things that struck me as unusual about this development. At least in my experience in Leawood, we have lots of cul de sacs and winding roads. Frankly, sometimes, that's a frustration when trying to find your way around, but it strikes me as a very long row of houses. Mr. Oddo, what is your anticipated timing on the phasing of the commercial/office/hotel area on the east end?

Mr. Oddo: That's a great question. We want to go back to the street. We have the street to act as a buffer. We're pulling up lots of streets in Leawood South that are longer than that, that are dead-straight. We're seeing it all over Leawood South. Besides that, we're going to get started immediately on the single-family homes. Upon getting that mostly developed and sold out, we'll start on Phase 1 or 2 of the apartment complexes. In the meantime, we will work hard to market the retail/commercial/hotel side of State Line. It's really hard to put something out like that until I have zoning because people don't want to commit too much until there is at least a Preliminary Plan approved. Once we get it approved, we'll seek out tenants. I've got some interest over there in a lot of the retail. We will start marketing it as soon as I get approval.

Chairman Elkins: I will tell you that other developers along the corridor have told us, and even Mr. Regnier's land use study suggests, that it's problematic whether or not commercial space can be successfully developed at that east end. I'm interested in your thoughts on the risk that you and we are running that, years from now, we'll have a residential area, a set of townhomes, and an apartment complex but no hotel or any of the commercial or office space.

Mr. Oddo: For one, I don't think the city is taking any risk if that isn't built right off the bat. I want to stress that Mr. Regnier is going to develop that corner, but we're working together. I really see no risk whatsoever if the residential side is developed first. The retail side, as big as it is, will probably be phased down the road, just depending on how fast we can absorb the market. This is why we definitely don't want to have too much retail between Pawnee and the church because it would never get filled. That's why we're limiting it. We put on here the minimum amount allowed by your ordinance on commercial to comply with MX-D. I agree that it might be hard to find that much office space. If we put a one-story instead of a three-story building, the city is not hurt; you just have less parking and more green space.

Chairman Elkins: I know, in other instances, the city, in order to incent and encourage the commercial development, has tied phasing of the residential development to the commercial development. It's obvious that you would resist that, but could you comment on that idea?

Mr. Holland: How would you envision that? What are you suggesting? Is it that part of the commercial be done at the same time as residential? If that's what you're suggesting, you're trying to force the market. We're in a market-responsive industry, and I don't see how that works very well if that's what you're suggesting.

Chairman Elkins: I'm sure there are challenges, but Park Place is the perfect example. It was phased so part of the residential could not be expanded until a certain percentage of the commercial was done. As a result, there certainly was a delay in some of the residential, but it incented the developers to find imaginative ways to get the commercial in place. That is the one lever the city has to make sure we don't have apartments, townhomes, houses, and just an empty lot on the east end.

Mr. Holland: I have great concerns with the city trying to dictate to the developer how they can build out their project. It just makes it exceedingly difficult to force the development of, let's say the hotel, before there's a market there to support the use. I think through the highest and best use analysis, it's clear that the main area that is appropriate for commercial and retail or office uses would be along State Line and 135th Street. I think the residents there that we talked to also agreed that's where it would be located. I think in time, that's where it's going to be built. If the market supports the commercial/retail use there, it will go there, regardless of whether the city tries to force it or not. I think forcing something before it's ready to develop is frankly going to negatively impact the development of the other portions of the project that could and should go first.

Chairman Elkins: I don't disagree that it shouldn't go first, but I do take issue with the idea that there is no risk to the city. I'm trying to figure out a way to mitigate that risk. You're asking us to abandon a plan that has been in place for a number of years. I'm looking for some assurances. I understand that it may be a challenge. The last question relates to the business about the three- or four-story buildings. Mr. Oddo, can you let us know which will be how many stories and where they are in the development? You

mentioned 38 feet. It wasn't clear if that was the height of the three-story or the four-story building.

Mr. Oddo: (*Shared screen*) Right now, we have four buildings around the pond that are three stories on the front and are walkouts. They are 39 feet tall.

Chairman Elkins: From ground level to the roof?

Mr. Oddo: Yes, and RP-1 is 35 feet, so it's not really towering. You'll notice the detached garages so that we can have one garage for every community. This is very typical. The difference between our community and most is that most are doing this at 25-30 units per acre, and we're doing it with under 12 units per acre. We'll have lots of green space to build a sense of community.

Chairman Elkins: Thank you. Do others have questions for the applicant?

Comm. Coleman: I just want to confirm that you have several bullet points on Page 9, continuing to Page 10, of items that do not meet the LDO, the Comprehensive Plan, or the 135th Street Plan. Are those still correct?

Mr. Sanchez: I believe so; however, when we talked to the applicant, the wall issue was resolved because they're going to work on it. The first bullet point talks about the parking study. They said they would provide us a new study, so we're okay with that. The second one talks about private streets. The part of the LDO that staff really wants to emphasize is that private streets shall be allowed only in residential developments. This being zoned MX-D makes it not follow the ordinance. The corner lots in the RP-2 portion do not meet the setback of 20 feet. That is something the applicant probably can do. The fourth bullet point talks about accessory structures. Within the LDO, in MX-D, the parking requirements call out two units per residential unit. One is to be totally enclosed, plus, 3.0-3.5 per 1,000 gross square feet of nonresidential space. The parking area that they are proposing as being enclosed are these accessory structures, which then have to meet the requirements for accessory structures. They need to be architecturally connected to the building, which could be done with a breezeway or a number of other ways. It needs to be 10 feet wide and connected no longer than 15 feet. The fifth bullet talks about the retaining walls, which they are changing.

Chairman Elkins: Thank you. Other questions? If not, Mr. Holland, Mr. Oddo, and Mr. Klover, we appreciate your answers to our questions. This takes us to a discussion. We went through an exercise to identify a set of issues earlier, and we'll need to address those. The significant issue we need to talk about that I'm sure Governing Body will be interested in is our thoughts about this theory of horizontal mixed-use and, depending on who you listen to, perhaps a modification or abandonment of the 135th Street Corridor Plan. I'll open the floor to thoughts.

Comm. Hoyt: As a launching-off point for the question you posed about consideration of how this crystalizes the issue of the 135th Street Corridor Plan and how we can or can't or

should or shouldn't proceed to take action that would fairly significantly deviate from that, I believe it was the public comment of John Kelly, who crystalized what I was thinking. He said that this is not the time or place to make a major change in city direction. I have a lot of questions myself about how we should take another look at the 135th Street Corridor Plan, but I'm not sure that approving a specific case before we do that, that would set a precedent for a very dramatically different interpretation of that plan, is the correct order. It seems like we've got this situation where we can see that market conditions have changed. Of course, they've changed extremely dramatically in the last six months, which hopefully will not be projected indefinitely into the future. Even without that, as I read the RCL Company Real Estate Advisor's report that was referred to many times, I thought there were some excellent points. I also thought a few of the assumptions would need to be reconsidered for their validity. Overall, it certainly speaks to the need to reconsider what that 135th Street Corridor Plan is. I would think it's reverse order for us to approve a specific case and then go back and consider it. I know that's very frustrating from an applicant's standpoint, but it almost takes a case like this to bring the question to a head.

Comm. McGurren: I'd like to start by thanking Bob Regnier and his company, Johnson County Management, for providing the analysis. I thought that was helpful. I certainly hope that we, as a city, and applicants in the future, have a strong desire to build what is desirable and has a strong likelihood of success over time. We all met a year ago and had a huge work session that talked about providing communities within the remaining land of Leawood that would enable people who wanted to downsize to remain in the city. I'd love to see single-family detached homes, maintenance-free homes, row homes, whatever options the market would favor, be built on that corridor. To Commissioner Hoyt's point, that will require changes in the 135th Street Community Plan, and I would assume that, with decades of no development and frustration by people like Mr. Regnier, who attempt, over periods of time to get appropriate funding and support for these kinds of developments that don't happen time after time, we need a point in time where we reassess what should be built there and what should be viable so that we're not looking at the same dirt 20 years from now. I think this particular application, based on the LDO noncompliance and the Planning Commission's inability to vote in the affirmative because of that, seems like a nonstarter. I would vote for denial, but I would also hope the Cameron's Court team and staff could resolve these issues and hopefully meet the 135th Street Corridor Plan.

Chairman Elkins: I would note, as a possibility, that we could certainly recommend for approval a plan that put in stipulations to bring the plan into compliance with the LDO. I think that's what staff attempted to provide to us.

Comm. McGurren: Agreed, but hasn't it become very clear in this meeting that the applicant is unwilling to recognize that there are noncompliance issues and that the stipulations that would enable a plan to be approved are not something they would want to move forward with?

Chairman Elkins: That may remain to be seen. Other comments about this idea of horizontal mixed-use?

Comm. Belzer: I agree with Commissioners Hoyt and McGurren. This is not the first time that we've heard that the 135th Street Corridor Plan has some pretty significant issues that are barriers to development. I think we do need to take the time to reevaluate. I think there are a lot of great things about this proposal. I appreciate all the time and effort that has gone into bringing it before us, but I feel if we were to move forward with it that we're putting the cart before the horse. I think we need to rethink. After listening to more conversation from the developer, I'm not opposed to horizontal mixed-use. I think I feel that the retail and other options that are less residential make more sense toward State Line where there is more traffic and more accessibility, but I feel very strongly that gated communities do not provide that sense of community. Having the gated piece of this proposal and private streets doesn't provide the connectivity and sense of community and sense of place. I think there's a lot of good things here with the community gardens, dog parks, ponds and green space. All that is great, and I think that's what we're really looking for, but there has to be accessibility and this piece of connectivity that makes sense. I think if that were addressed and worked through, some of the surrounding neighborhoods may feel a little bit better, and this may be more attractive to them with some modifications, and also knowing that the building are three stories and not four stories makes a big difference. I think there's a lot of good here. I think that we, as a commission and as a city, really need to take time to reevaluate. We're living in a completely different world than we were six months ago, let alone when the 135th Street Corridor Plan was enacted. I think we owe it to ourselves and to our residents to reflect and consider a horizontal mixed-use situation as well as other options.

Comm. Block: I think since the real estate exists, it still would be in compliance with 135th Street Community Plan to spread it out more horizontally. My biggest concern is the lack of adherence to the LDO, to the Comprehensive Plan, to the 135th Street Community Plan. It's not like it's just missing one. I don't think that anyone is looking for four or five Park Places. I don't think that was the vision, at least how I read it. At this point, it's pretty clear to me that I would vote to deny the application.

Comm. Coleman: I'd like to start out by thanking the participants. During our first meeting back in August, Mr. Regnier put together a nice history of the proposed development of the property. I found that very helpful to see what he went through and what has been proposed over the last 20 or so years. I also appreciate Mr. Oddo and the team bringing the whole team. It's rare that we get an opportunity to get all seven members to come to a meeting. I'd also like to thank the public for their input. A lot of you are my neighbors and my friends, and our children go to school together. That gives me great insight into what goes on in those neighborhoods, even though I'm very familiar with the neighborhoods surrounding the property. I appreciate all the input. With that, it's been a while since I've seen a packet with so much disconnect. Normally, with something like this, if there is so much disconnect, the staff will ask for a continuance. Obviously, that was not put forth, probably because they couldn't get to that point. Something like this with a stalemate between developer and staff is something I would advocate

continuance to try to keep working things out, but we're not at that point. The land in question will be developed. I know a couple speakers did mention it. Everyone knows this will not be vacant land for the rest of eternity. However, when we develop the land, we are subject to the LDO, to the Comprehensive Plan, and to the 135th Street Community Plan. The Comprehensive Plan, which includes the 135th Street Community Plan, is reviewed annually. We've mentioned it numerous times to applicants to provide feedback. We never get feedback in writing or in person. We have heard the 135th Street Corridor is not workable. I remember Commissioner Levitan always said mixed-use doesn't work in Leawood. We've heard that from the applicants. I have advocated to put something else together to come up with an improved 135th Street Corridor Plan. I don't think now is the time. I think we have to wait until the pandemic is over. We get through that and see what kind of structure we have in our retail and work lives. I know that transition to working from home has been very successful in my company, and I see a lot of changing in the marketplace for office space and retail once we get through the pandemic. It's something I think we and City Council need to consider. When we're considering an applicant, we have to go through all these things: the LDO, Comprehensive Plan, 135th Street Community Plan. I agree that what we're seeing is not a viable plan in its current state. I hope that in the future, the developer and staff can come together and get something that is agreeable to both parties, but I just don't see it moving forward.

Comm. Stevens: Like has been noted, it's hard for me to get past the submission lacking in the specifics mentioned in the Staff Report, including the Golden Criteria, the nonconforming elements of the LDO and the Comprehensive Plan, and the guidance of the 135th Street Corridor Plan. Some of the standouts that are really concerning are that the submission proposes the individual sites for the uses that have been described, including physical separations between the uses versus a plan that's thoughtfully designed together, which misses the opportunities to create this integrated, multi-use development and one that has the important sense of place that Commissioner Hoyt talked about. Again, for me, additional standouts for denial really include the proposed gated housing areas surrounded by fences for security in Tracts A and B, and then Tract C commercial area design with its separate location not related to the rest of the site, its components, size, and the unfortunate loss of all the natural green areas that are associated with that, and finally, the arrangement of the density within the full property, which has been discussed. I'm not in favor of the submission and will vote for denial.

Comm. Peterson: I do want to agree strongly with Commissioner Belzer. There are some really interesting things in this plan, especially with the green space where people can use something for gardening. I like the idea of residential and mixed use. I like the 135th Street plan very much, but it was developed years ago, and it probably does need to be reevaluated at this point. What stands out to me the most is there are too many things that are not in compliance with the LDO. For that reason, I would have to recommend denying this. The other thing I am personally opposed to is gated communities. From a practical standpoint, I would never want to live in a gated community. Why someone would want to advocate a community with private streets doesn't make sense to me. It detracts. At the last meeting, we were talking about the reasons south of this proposed

project. One of the things that stood out was the townhomes. The design was wonderful, I thought, but they then converted to a gated community, which was not in the other proposal. For those reasons, I just have a problem approving this, but I do think that the 135th Street Corridor Plan really does need to be reevaluated, probably sooner rather than later.

Chairman Elkins: Thank you. I note we're at 8:55, and under the rules of the commission, our meetings are to end at 9:00 p.m. unless we vote to extend the meeting.

A motion to extend the meeting for 30 minutes was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

Chairman Elkins: I understand and agree with most of what the commissioners have said. I think we have to walk a fine line between being absolutely wed to the 135th Street Community Plan or the Comprehensive Plan, as the case may be, and yet follow in its spirit. We've shown a willingness, regularly, that if the right project comes along that varies from either plan, we move forward with it. I'm taking a bit of variance, and I would say if we thought this was the right plan for this space, it would certainly be within our authority and perhaps our duty to go ahead and approve it. As a number of the commissioners have said, there are a number of positives to this plan. There is a lot of practicality that both Mr. Regnier and Mr. Oddo brought to our attention. It's not necessarily the case that we need to modify the plan before we proceed with a project that is at variance with the plan; although, there is certainly nothing wrong with going that route as well. My sense is that the sense of the commission feels that is appropriate. I agree with Commissioner Coleman's frustration. We do review the plan annually. The public, to date, has not shown an interest in that. Obviously, for instance, these plans have been at play for a considerable period of time. I would have encouraged the applicant to be aware of the review of the Comprehensive Plan and raise any issues at that time, rather than in the context of a particular application. Maybe it speaks to us and staff as to whether we should do something more aggressive in terms of communicating to the community and to the development community in particular that the Comprehensive Plan is under review. I struggle and don't see a way clear to vote for a plan that includes provisions that are clearly contrary to the LDO. I understand Mr. Klover's view that it makes it very difficult to develop and that it has been a frustration for year. Again, the way to solve that is to push for an amendment to the LDO and not to put us in position to ask us to violate the LDO because the LDO is certainly different than the plan in that the plan is a recommendation; the LDO is the law. I don't know that we have any option, other than the one that I suggested that we could approve a plan with stipulations that mandate that the applicant bring those revisions that are at variance with the LDO into compliance. The applicant made it pretty clear, particularly with the accessory buildings, that it was not part of their plan. Perhaps there are places with a long street with houses next to each other, but I have concerns about that. From an aesthetic or even good planning standpoint, I don't know that it's good to have one long street with 28 houses on either side and one on the end. One issue that we really haven't talked about that we would like to get a sense from the commission has to do with the street alignment. It

seems to be at least one place where the applicant and public seem to be somewhat in agreement. They were not interested in having the through streets for High Drive and others. It takes us back to the 135th Street Corridor Plan because street organization and alignment are addressed there, suggesting that they should be aligned. Does the commission have a thought about the street alignment issue?

Comm. McGurren: It seems to me that there should be reassessment, given the plan being proposed. I don't have a significant problem if we decided, as an organization, to change the realignment on one or two streets in a development as large as this and maybe keep a couple the applicant didn't want but the city required. I wouldn't have a problem having some flexibility. At the same time, it needs to be done in a way that, from a traffic pattern and walking standpoint, it makes all the sense in the world.

Comm. Hoyt: I was going to more or less say the same thing. I think it would have to be reviewed within the context of the specific plan. Then, I think it could be modified, or we might decide that we really don't need to modify it with the new plan, but I think that would go with the specific plan.

Chairman Elkins: Thank you. Other comments?

Comm. Hoyt: One comment I wanted to make is that I agree with at least 2/3 of the commissioners, if not more, that there are some really attractive elements of this plan. I know your observation that we could stipulate within the plan that it all has to be brought up to LDO conformance, but one problem I see with doing that, even if we were inclined to do it, which I don't sense the commission is, is that it would make some material changes to the plan. We would have to see what that does when they change the parking structure and what that does to the number of parking spaces and access points. I think with this many issues on the table and with all of the existing stipulations, it would be very hard to know what we were voting for.

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

A motion to recommend denial of 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 – was made by Coleman; seconded by McGurren. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

NEW BUSINESS:

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

Staff Presentation:

City Planner Grant Lang made the following presentation:

Mr. Lang: This is 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 in the SD-R zoning district. The applicant’s requested plan will allow for the addition of two playgrounds and equipment with the removal of eight parking spaces. Parking on the site will meet the LDO with 28 spaces, allowing for 1.5 spaces per employee on a maximum shift for daycare centers. Parking ratios for the entire development will be maintained. The LDO requires 3.5-4.5 per 1,000 square feet of lease space. This project will reduce parking by a total of eight spaces, leaving the entire development with a ratio of 4.1 spaces per 1,000 square feet of lease space. The landscaping provided will meet the LDO, as all removed plantings will be replaced within the project site. The application does meet all requirements per the LDO, and staff recommends approval of Case 68-20 with the stipulations listed in the Staff Report. I’ll stand by for questions.

Chairman Elkins: Thank you. Questions for staff?

Comm. Hoyt: Maybe this will be something more for the applicant to discuss, but I’ve read through the letters and petition notices we received that were forwarded by the asset management group, Matt Mitchell, Property Manager. There were some fairly significant concerns raised. I’m curious to get staff’s reaction to those concerns.

Mr. Lang: I believe most of those concerns are through a private agreement with the cross-access parking. It is in conformance with the LDO, so the property owners would have to agree to their own stipulations on that.

Comm. Hoyt: How does this relate to when we’ve had, for instance, a new tenant in Town Center, and the suggested façade may deviate from the original plan with the shopping center? We’ve told some of those people to go back and get it changed through the internal regulations before we could sign off on it. Is this the same kind of situation?

Mr. Lang: The design regulations will not be changing; it is only the parking ratios.

Comm. Hoyt: Under Bulk Regulations, it says, “Deviation approved with Plaza Pointe Development.” Is that different than the asset management group?

Mr. Lang: I believe the setback was determined when the development first came in.

Comm. Hoyt: You’re saying that’s an existing deviation.

Mr. Lang: Correct.

Comm. Stevens: To clarify, the parking that is associated with the original Lot 8 site with the building of this application must have had something more than 28 spaces unless

I'm misunderstanding. As a result, you mentioned that part of the application shows eliminating eight spaces to account for the playground expansion. Then, there are a few additional spaces added on to the west to parallel park. The net result of the parking is 28 spaces, which then meets the LDO. Is that correct that there were more than required?

Mr. Lang: Yes, they are reducing the parking for the existing structure. It was Carpet Corner, and the requirements would have been different than the daycare center.

Comm. Stevens: Maybe as a side, the application and civil drawings show 27 spaces. I don't know if one has a miscount.

Mr. Lang: That might be a question for the applicant. I know they are rearranging their parking on the north and then adding two spaces on the west. They end up with 28.

Comm. Stevens: Then, related to some of the Public Works adjustments or civil comments, Stipulation No. 4 does include the requirement for a curb-height extension that surrounds the playground expansion to help with safety for the drive lane. I guess I'm concerned that the drawings show the playground at the fence line right at the top edge of the curb. Is there any setback needed or requirement for the fence to be off the curb, even if there is an added barrier?

Brian Scovill, City Engineer, made the following comments:

Mr. Scovill: Stipulation No. 4 was provided by planning.

Mr. Lang: We added that in after some concerns from the residents about automobile accidents. The applicant is on board with that as well. That was intended to be raised higher than required in order to improve safety so they didn't have to create an additional setback.

Comm. Stevens: Maybe also related to their civil drawings, on the east side along where the playground is but the southeast area of the building, the new curb, fencing and playground don't currently show that it aligns with the drive lane of the south parking and actually projects into the drive lane. It seems like there should be an effort made to either angle that curb connection approach so the drive lanes align and not reduce the opening.

Mr. Lang: That is a good point. There is a curb inlet that they will have to match, so they may have to do adjustments. We would normally do that level of detailed review with their construction plan submittal. If it's clear at this stage that it won't work, we would want to point that out. We could look at that prior to the next submittal. This is for Preliminary and Final.

Comm. Hoyt: This is a really tight squeeze. Will it still allow for two-lane traffic going by all these different storefronts?

Mr. Lang: I believe the applicant would be able to answer that.

Comm. Hoyt: I'm assuming the reason you thought of putting up the higher curb instead of a setback is because there really is no room for more setbacks. Is that your impression?

Mr. Lang: I'm not sure there was intent to provide additional setbacks. This was the design from the beginning.

Chairman Elkins: To Commissioner Hoyt's point, staff does not have a concern about two-way traffic in that spot?

Mr. Lang: I don't believe it's been brought up at this point by the Director of Community Development.

Mr. Scovill: Public Works staff has not reviewed the internal circulation plan. We don't usually do that unless we are asked for assistance. Based on my preliminary review, it does look tight, especially on the playground site. Having the fence close creates a sense to drivers to want to push over. The biggest concern would be during the drop-off and pick-up time.

Comm. Coleman: Does the development go as far west as Briar Street or farther to include Bonfish Grill and CVS?

Mr. Lang: It extends to Briar with the exception of Winstead's. There are two different zoning districts that are separated by that cross street.

Comm. Coleman: So, it's 135th on the north, 137th on the south, Roe on the east, and Briar on the west, with the exception of the Winstead's property?

Mr. Lang: Correct.

Comm. Coleman: Plaza Pointe is owned by Matthews Real Estate, or is each building independently owned?

Mr. Lang: I believe they have a management group, but each building would be independently owned.

Comm. Coleman: On the Site Plan in the Staff Report, there is a parking lot to the southwest of the applicant's proposed site. I assume that's a shared parking lot for the three buildings in that area.

Mr. Lang: Yes, the entire development has a cross-access parking agreement, and that is required in the LDO.

Comm. Coleman: I'm trying to determine if there is any loss of parking in front of the building. There is plenty of parking to the southwest.

Mr. Lang: Yes.

Comm. Block: Going back to the east side, by taking away the parking on the west side of that drive, it looks like there are bushes to the far east side. The front of the building is on the north, so is there any concern that there is nowhere for a pedestrian to walk to get to the front of the building? They're going to walk in that tight lane of traffic. The only way to get to the front door is to go around the building to the west or go north through the traffic lane.

Mr. Lang: Yes, they could go north or west behind the building where there is a connective plaza.

Comm. Block: Is that not a concern of staff?

Mr. Lang: I don't believe so.

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

Applicant Presentation:

Chris Horney, Murphy Real Estate Services, 227 W. Monroe Street, Chicago, IL, appeared before the Planning Commission via Zoom and made the following comments:

Mr. Horney: I'm representing Higher Ground Education, who would be the tenant here for Guidepost Montessori, a daycare that would serve primarily children 12 weeks old to six years across seven classrooms. The property is under contract, and we've been working through our due diligence process to do this Special Use Permit. We're working with Guideposts across the country. They are a national operator with just under 60 schools. We work with them in multiple different locations to either try to build new or convert existing retail where it is accessible. Obviously, a lot of the questions are about the parking. To be clear, in order for us to do daycare in this space, there is a formula required by the state on the amount of square feet per student. We tried to do our best to be as creative as possible to get that square footage. We're just over that by a couple square feet, which is why we have some interesting curbs and are taking up space to the west of the building. The drive lane is still 22 feet, which is a two-way lane. It is tight, but it still meets code. I acknowledge that we need to cut off the corner in the southeast.

Chairman Elkins: I'm sorry to interrupt, but we need to address the time. Do I hear a motion to extend the meeting for another 30 minutes, which is the last extension we are permitted?

A motion to extend the meeting 30 minutes was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

Mr. Horney: Based on the square footage, that is why we added the two spots on the west side of the building as well as a spot on the north side of the building. It was a plus and minus. It is a net deduct in parking, but I'd like to address the concern about the easement agreement between the entities. In Section 5.1, the document says that we must maintain a sufficient number of car spaces that are required by governmental authority. That effectively says if we change our use, we have to comply with the LDO. Our parking usage has gone down; therefore, we are still in compliance with the easement agreement. I can understand the concern about the loss in parking, but effectively each site has to have their own parking internal to their own site, and then there are cross easements. Other than that, I'm happy to address more questions. Effectively, it's a simple conversion on the inside. We're not doing anything to the building structure itself other than the site work suggested inside. We're going to convert what is effectively a wide-open space in two separate classrooms and a small gross motor area, kitchen, and a couple offices. The exterior appearance will be the same except for changing the sign itself from Carpet Corner to Guidepost Montessori.

Chairman Elkins: Do you have any objections to the 19 stipulations?

Mr. Horney: My understanding is we've addressed the bulk of them, and we've talked through the rest, so I don't believe we do unless something has changed. We should be in good shape.

Mr. Lang: I don't think anything has gone through since we last spoke.

Mr. Horney: Then I don't have any objections.

Chairman Elkins: Questions for Mr. Horney?

Comm. Coleman: I have several questions with regard to the pick-up and drop-off area. I'm a father of three kids. I've done Montessori, nursery school, Pre-K, high school, middle school, elementary, summer camps. The constant challenge is pick-up and drop-off for every kind of child-related activity. Do you have a set start time and set end time?

Mr. Horney: There is a beginning of the day that starts at 7:00, and children can be dropped off between 7:00 and 8:40. There is a roughly two-hour period in the evening as well. Unlike an elementary school with a set start and end time, it is a period of time.

Comm. Coleman: What is the afternoon time?

Elon Walsh, Higher Ground Education, Lake Forest, California, made the following comments:

Mr. Walsh: The afternoon range is 3:00-6:00.

Comm. Coleman: What do you propose for traffic flow? Every child-related activity I've been through has some kind of traffic flow for pick-up and drop-off.

Mr. Walsh: I just got a request for video, but my phone doesn't want to do that. Do you mean the direction of cars?

Comm. Coleman: What is going to be your standard procedure? Let me back up. What are the ages of the children?

Mr. Horney: The children are from 6 weeks to 6 years. This is not a queuing stop and letting children out. This is parking and walking to the front door and dropping off during COVID. Pre-COVID, parents could walk children to the classroom.

Comm. Coleman: So, the parents are going to have to find one of the open parking spaces, and there is nothing reserved for your facility because it's joint parking.

Mr. Horney: Correct.

Comm. Coleman: What is the plan for staff parking?

Mr. Horney: To be clear, the 27 spaces we are required is a calculation of 1 ½ per employee at max shift. That is effectively during lunchtime. In the morning, there will be 3-7 employees and 3-7 in the evening. During the daytime when the bulk of the staff is on is when the parents aren't there. As they roll off, it goes down. The number works quite well for us. I know that sounds strange, given that we have roughly 100 students. People don't pick up and drop off all at the same time, so we don't anticipate, based on the other buildings, having an issue.

Comm. Coleman: Are you going to ask staff to leave the spaces in front of the building?

Mr. Horney: To your point about it being a bit more inconvenient in the southeast corner of the site, we would direct the staff to park from there, up so the bulk of the pick-up and drop-off will happen on the north side where they're closest to the sidewalk.

Comm. McGurren: From a safety standpoint, is there any scenario where angling those parking spaces on the east side would make more sense and cause a particular flow of traffic?

Mr. Horney: The difficulty with that is the minute we attempt to create a one-way drive within our parcel, it becomes difficult because the parcel to the southeast of us didn't necessarily sign up for a one-way drive going south. They need and would like the ability to drive north, rightly so. This is why we maintained the drive aisle. If we had a choice and didn't have the parcel to the south, we would have made the playground the entire width and closed the drive aisle. We recognize that we are part of a larger development.

Comm. Hoyt: I'm still stuck on these communications we got from other people who have businesses in the center. Have you worked with those people to try to resolve some of those differences?

Mr. Horney: I believe those two folks showed up at the Interact Meeting, and we discussed their concern. Some of the concerns, I'm not sure what I can do since we're meeting the easement agreement. There were some comments about us removing sidewalks within our site. There is a common easement, but that doesn't mean we're not allowed to remove a sidewalk within our own property to the extent that we have a sidewalk. The shared easement says other people can use our sidewalk, but it doesn't mean I have to have a sidewalk there forever. I think there was some comment about them not believing the employees' parking per shift. I'm happy to provide the language specific to the guidelines of the state. It is very specific to the type of classroom, driven by a formula, no different than the green space. I think a little bit of this is perhaps not understanding the specifics of the business. There was also concern about us removing landscaping, and that's not the case. We are removing landscaping but replacing it with more green space. We're adding a different kind of green space because there will be a playground. In our eyes, it is an add.

Comm. Hoyt: Maybe you didn't get the same things that we got because we were given eight different signed statements from eight businesses today.

Mr. Horney: We did not if that's the case.

Comm. Hoyt: I'm just thinking, from a neighborly standpoint, it would be nice if there could be some meeting of the minds. Maybe people don't understand exactly how this is going to be. Have these been entered into public record?

Mr. Lang: We received those after the submission deadline for applicants, so they have been provided to the commission but have not been inserted into the packets yet.

Chairman Elkins: They will be part of the public record.

Comm. Hoyt: There seems to be unease, to say the least, among eight different businesses, and so to the extent to which the applicant and those businesses could maybe get together and collaborate in some ways and work through some of these issues, it might go a long way toward facilitating a good relationship over the years where everybody is going to be in close quarters.

Mr. Horney: For the benefit of my knowledge, do you mind giving me a heads up? Within this development are two other daycares. I guess I'm not sure what the concern would be.

Comm. Hoyt: Parking, shared easements, fencing, landscape, safety, and the proposed sidewalk with stairs connecting to Roe. It includes Cross First Bank, J. Brad Tally Dental Office, M3 Development, Executive Suites and Services, Retirement Planning Group, Mid America Orthopedics, Royal LC, and Primrose School of Leawood.

Mr. Horney: I want to be respectful of your time, so I'll try to go through these quickly. Parking, I'm not sure what to say other than we're meeting the LDO, which is the requirement of the easement agreement. We are removing parking spots, but our use is changing; therefore, that is permitted. I addressed the shared easement. We're following the LDO for fencing.

Mr. Lang: That is correct. The comments we are receiving refer to a portion of the LDO that talks about screening for utilities. This is an incorrect interpretation of the LDO, as it is for utility screening and not pertinent to this application.

Mr. Horney: I addressed landscaping. We're adding more green space than we're taking away. I don't know how to address that concern. Regarding the safety of the fence against the parking lot, we have told Richard and Grant we'll raise the curb to 2 feet tall so there is not an issue of people being concerned they could back into the playground. The proposed sidewalk with stairs was a request by the city. If there is major pushback, we're happy to take that out if the city is fine with it.

Comm. Hoyt: I think my point is it seems like a nice meeting with the businesses in the petition would be in order.

Mr. Horney: We hosted an Interact Meeting, and only two of those businesses showed up. I guess I'm not sure what I'm supposed to do, other than follow what we were told to do with hosting the Interact Meeting.

Comm. Coleman: Is there a separate staff entrance, or will it be the main entrance?

Mr. Horney: There is a rear entrance, but staff will likely enter in the main entrance.

Chairman Elkins: Other questions? If not, because this is a Special Use Permit application, a Public Hearing is in order. The rules will be the same with four minutes.

Public Hearing

Arjen Ameron, 4820 W. 137th Street, appeared via Zoom and made the following comments:

Mr. Ameron: First of all, to address the concern about the Interact Meeting, I was in the meeting as well as Brad Tally, and we only got the letter the day before the meeting. A lot of the members in our association did not get the letter for the meeting. I just want to make sure that's clear. Moving on, the main concern for the businesses surrounding this proposal is the parking. Also, they are moving the sidewalk, which is also cross-access use. One commissioner mentioned that if any parent parks on the east side, there is no safe way to get on a sidewalk to get to the front of the building. That's a big issue. There will be a lot of traffic coming in and out, more than normal. I also think a lot of these things could have been mitigated if we had more members of the businesses in a meeting. Additionally, they are mentioning parking for 1.5 employees at max shift. One of the images in the packet that was shown in the Interact Meeting was the interior of the

building, showing a number of rooms and square footage. I counted seven rooms that would require two teachers each minimum. Then, there's an infant room that requires three teachers. There is a kitchen, which will require a cook, which takes the number to 18. Then, there is an office that requires an assistant director and director by the State of Kansas. Those are the rules for licensing. That is a minimum staff of 27 at max shift. They need a minimum of 30 parking spots if they go by the rules they're going by. Keep in mind, there is a cross-access parking agreement, and if they're going to reduce the number of parking spots, it will take away from the neighbors surrounding them. The neighbors have all signed the petition you receive. They're all concerned about the fact that it's not more about them trying to use the spots on the school's parking lot; it is more the Montessori parents using spots on their parking lot. Having 132 children being dropped off and picked up is a lot of children, which will cause a lot of problems as far as parking spaces go. I know there is not a lot of time, but there is a lot of setback between Primrose School of Leawood and Kiddie Kollege. It was required of those buildings when they were built, and that is not shown on any of these plans here. Lastly, I know we talked about this, but it is a big safety concern for anybody in the community that a fence could go right up to where cars drive by. There was a big issue in Texas, and a car plowed into the fence and injured five children. One child had serious head injuries. I really hope you consider having a setback in this development. Those are the main concerns. I just hope we can have a meeting to discuss these concerns and come up with some agreements on how to change some of these things so that it would work out better for the businesses surrounding this business.

Chairman Elkins: It is now 9:55, and under the LDO, we are prohibited by law from proceeding after that. I think we will need to continue this case as well as the case that follows. I'll need a motion to continue the Public Hearing and the cases.

A motion to continue the Public Hearing to the September 22, 2020 Planning Commission meeting was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

Chairman Elkins: Do I hear a motion to continue Cases 68-20 and 70-20 to the September 22, 2020 Planning Commission meeting?

A motion to continue 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 and 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 Custer 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 – to the September 22, 2020 Planning Commission meeting was made by Coleman; seconded by Block.

Motion carried with a unanimous roll-call vote of 7-0. For: McGurren, Coleman, Block, Stevens, Belzer, Hoyt, Peterson.

Chairman Elkins: Our apologies, Mr. Horney, and your client that we ran out of time. Apologies to Mr. Petersen as well. I would suggest, if possible, to please review the concerns of the neighboring businesses after they are forwarded to you.

Mr. Horney: We're happy to work with them.

Chairman Elkins: We very much appreciate your patience. Is there any additional business to come before the commission? We stand in adjournment.

MEETING ADJOURNED