

**City of Leawood  
Planning Commission Meeting  
January 12, 2021  
Meeting - 6:00 p.m.  
Leawood City Hall Council Chambers  
4800 Town Center Drive  
Leawood, KS 66211  
913.339.6700 x 160**

**CALL TO ORDER/ROLL CALL:** McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson, Elkins. Absent: None.

**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 8-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.**

**MEETING STATEMENT:**

Chairman Elkins: To reduce the likelihood of the spread of COVID-19 and to comply with social distancing recommendations, this meeting of the Leawood Planning Commission is being conducted using the Zoom media format, with some of the commissioners appearing remotely. The meeting is being livestreamed on YouTube and the public can access the livestream by going to [www.leawood.org](http://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](mailto: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 [pcpubliccomments@leawood.org](mailto:pcpubliccomments@leawood.org) on or before Friday, January 8<sup>th</sup>, 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](http://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.

Chairman Elkins: There is a quorum present. Does staff have any amendments to the agenda?

Mr. Sanchez: We do. Case 89-20 is continued to the February 23<sup>rd</sup> meeting, and Case 69-20 is continued to the March 23<sup>rd</sup> meeting.

Chairman Elkins: Thank you. Do I hear a motion to approve the modified agenda?

### **APPROVAL OF THE AGENDA**

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

**APPROVAL OF MINUTES:** Approval of minutes from the November 24, 2020 and December 8, 2020 Planning Commission meetings.

**A motion to approve the minutes from the November 24, 2020 Planning Commission meeting was made by Coleman; seconded by Block. Motion carried with a unanimous roll-call vote of 8-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.**

Comm. Coleman: I have one correction for the December 8<sup>th</sup> minutes on Page 17. Under my comments, the fourth section down should read “Galleria” instead of “Gallery.”

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

### **CONTINUED TO THE FEBRUARY 23, 2021 PLANNING COMMISSION MEETING:**

CASE 89-20 STATE LINE MXD – Request for approval of a Rezoning from SD-O (Planned Office) and R-1 (Planned Single Family Low Density (15,000 Sq. Ft. Per Dwelling)) To MXD (Mixed Use Development District), and Preliminary Plan, located south of W. 86th Terrace and west of State Line Road. **PUBLIC HEARING**

CASE 98-20 – LEAWOOD CITY PARK – AQUATIC CENTER – Request for approval of a Preliminary Plan and Final Plan, located south of I-435 and east of Lee Boulevard. **PUBLIC HEARING**

**CONTINUED TO MARCH 23, 2021 PLANNING COMMISSION MEETING:**  
CASE 69-20 – HILLS OF LEAWOOD VILLAS – Request for approval of a Final Plat and Final Plan, located north of 151st Street and east of Mission Road.

**NEW BUSINESS:**

CASE 109-20 – REGENTS PARK FINAL PLAT – Request for approval of a Final Plat, located south of 135th Street and west of Kenneth Road.

**Staff Presentation:**

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 109-20 – Regents Park – Request for approval of a Final Plat. The Planning Commission may note that all three cases tonight are related to the property south of 135<sup>th</sup> Street and west of Kenneth Road. This Final Plat will include the entirety of the Regents Park development, including the ONE35 development, with the exclusion of Tract H or the townhomes portion of the development, to be located north of 137<sup>th</sup> Street. The proposed application meets the requirements per the Leawood Development Ordinance, and staff recommends approval of Case 109-20 with the stipulations listed in the Staff Report. I'm happy to answer any questions.

Chairman Elkins: Thank you. Questions for staff? We would invite the applicant to step forward virtually.

**Applicant Presentation:**

John Petersen, Polsinelli Law Firm, appeared via Zoom before the Planning Commission and made the following comments:

Mr. Petersen: I am appearing tonight on behalf of Leawood ONE35, LLC. Also present is Rick Lashbrook with Leawood ONE35 and Tim Tucker with Phelps Engineering. It's a straightforward application. We've had the opportunity to review Stipulations 1-8. We have comments only with regard to one of them. The plat takes the step of subdividing the components of this project. Stipulation No. 7 is what we'd like to discuss. It refers to the Public Works memo, which has its own set of stipulations. In that memo, No. 2E(i) represents the ultimate agreement worked out between the applicant and the Governing Body with regard to the financing of two significant infrastructure components of the project: burying of power lines along 135<sup>th</sup> Street and the ultimate addition of a third through lane on 135<sup>th</sup> Street in the eastbound lane. We have referenced this in our discussions with the Planning Commission, and it is fair to say that it was recognized and understood that the conclusion of any accommodation or agreed-upon approach between the applicant and the city would be within the purview of the city. That is exactly what occurred. I'm asking the Planning Commission to look at No. 2E(ii). Immediate requirements include right turn lanes at High Drive and Kenneth Road. Our position is that the monetary arrangement worked out with the city of the \$600,000 cash payment at the time of the MXD development to be used toward the improvement of 135<sup>th</sup> included the right turn lane and was in lieu of the immediate right turn lane at 135<sup>th</sup> and Kenneth.

It is a significant amount of work to do a right turn lane. Traffic projections don't call for a need at this point in time. We request that the requirement of the right turn lane at 135<sup>th</sup> and Kenneth be removed. I am not asking the Planning Commission to vote on the deletion of that stipulation. This stipulation covers a subject that the Planning Commission deferred to the discretion of City Council. I would merely ask for an acknowledgement on the record as you approve these stipulations that the decision by the Governing Body to either delete or not delete the stipulation is within their purview and that the matter would be moved forward with your recommendation, deferring the decision on this stipulation to City Council. We accept all other stipulations. I'd be happy to answer questions.

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

Comm. Block: Tract A with the private street north of 137<sup>th</sup> is not included in here, and I was curious why.

Mr. Petersen: There are two components of the Mixed-Use part of the project. Tract A is to be retained by the current landowner. Mr. Lashbrook and his group are purchasing the ground in the other tracts.

Comm. Block: In the photo, it is the area in orange. Is that not included in this?

Mr. Petersen: There is no right-of-way designation involved with that particular tract. In typical development, when we come in for Final Plan approval, we'll include the Final Plat of that remaining tract. All supporting infrastructure: 135<sup>th</sup> Street, High Drive, right-of-way along 135<sup>th</sup> is being dedicated this evening.

Chairman Elkins: Other questions? Mr. Scovill, do you have comments relative to the Public Works stipulation?

Brian Scovill, City Engineer, appeared before the Planning Commission and made the following comments:

Mr. Scovill: Staff clarified with the Director of Public Works and the City Administrator that No. 2E(i) did not include the turn lanes and that No. 2E(ii) was intended to be a requirement. There could be additional discussion between staff and the applicant, but I haven't been contacted.

Chairman Elkins: It sounds like there's not a consensus between the applicant and staff with respect to that issue.

Mr. Scovill: That's correct.

Chairman Elkins: As Mr. Petersen notes, that is something that has been discussed with City Council in the past.

Mr. Scovill: Yes.

Chairman Elkins: Any other questions with respect to staff or Mr. Petersen? If not, we'll move on to discussion. Are there comments? If not, I would entertain a motion.

**A motion to recommend approval of CASE 109-20 – REGENTS PARK FINAL PLAT – Request for approval of a Final Plat, located south of 135th Street and west of Kenneth Road – including all stipulations in the staff report, with a dispute about No. 7 to be discussed by Governing Body - was made by Coleman; seconded by Hunter. Motion carried with a unanimous roll-call vote of 8-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.**

CASE 103-20 – REGENTS PARK MULTI-FAMILY SUBDIVISION AND PUBLIC IMPROVEMENTS – Request for approval of a Final Plan, located south of 135th Street and west of Kenneth Road.

### **Staff Presentation**

City Planner Ricky Sanchez made the following presentation:

Mr. Sanchez: This is Case 103-20 – Regents Park – Request for approval of a Final Plan. The residential subdivision is the first phase of the development at 135<sup>th</sup> and Kenneth and will encompass 81 residential units, including 35 duplexes and three triplexes, and three additional tracts on 18.2 acres for a density of 4.45 dwelling units per acre. The development will be accessed off High Drive coming from 135<sup>th</sup> Street and 137<sup>th</sup> Street, which will be connected with Chadwick Street with this application. The applicant will construct High Drive and 137<sup>th</sup> Street from Kenneth Road to its current terminus at Chadwick. The duplex and triplex buildings will be constructed of cementitious stucco, natural thin-set stone, and clay-fired thin brick. Much of the plan has stayed the same since the last time we saw this project. Along with a majority of the southern property line will be a 20' tree preservation easement, an 8' wide asphalt trail behind some of the homes, and a 5' trail around the perimeter of the retention basin in Tract D. The largest change with this portion of the project is the exclusion of the townhouse development on the north side of 137<sup>th</sup> Street. In the previous approval, the duplex units were part of the same phase. Now that the townhomes are proposed in a different phase, they would like to separate those two out. The proposed application meets the requirements per the Leawood Development Ordinance (LDO). Staff recommends approval with the stipulations listed in the Staff Report. I'd be happy to answer any questions.

Chairman Elkins: Thank you. Questions?

Comm. Block: The Fire Department memo may not apply to this portion of the project, but it was a fairly significant request regarding the shortening of a cul-de-sac. Did that apply to this, and if it does, is there a resolution? I assume they'll address the fire hydrant, but what about the large island?

Mr. Sanchez: That is something the Fire Department and applicant will need to work out. Usually, these are figured at the time of permitting. If it causes a large enough change in the plan, the applicant will have to come back for the changes.

Comm. Block: It seems that would be the case. If the Fire Department says it's too big, it seems that it's pretty significant.

Mr. Sanchez: I'm not aware of any conversations between the Fire Department and the applicant. That will probably need to be discussed.

Comm. Block: There was a reference in the stipulations that all streets must be public. Going back to previous discussions, are the private streets were north of 137<sup>th</sup> in that same orange area is was referencing earlier?

Mr. Sanchez: Yes, all streets within the entire development are public.

Chairman Elkins: Thank you. Other questions?

**Applicant Presentation:**

John Petersen, Polsinelli Law Firm, appeared via Zoom before the Planning Commission and made the following comments:

Mr. Petersen: I'm appearing again on behalf of Leawood ONE35, LLC. Once again, Mr. Lashbrook, principle with the developer, and Tim Tucker with Phelps Engineering are here. Jason Meyer, landscape architect, is available if needed. We're talking about the villa project south of 137<sup>th</sup> Street. We have had the opportunity to review the stipulations 1-33. The only comments we have mirror the comments with the previous application for plat approval regarding that right turn lane at Kenneth Road. For the record, I'll indicate that the stipulation is No. 24, which refers to Public Works Stipulation 1A(i), which sets the context of the arrangement entered into by the developer and the city with regard to a potential third lane on 135<sup>th</sup> Street and burying the power lines. We move to the next part of the stipulation, which is No. 1E(ii), referencing the immediate requirement to do the right turn lane at Kenneth Road. We'd make the same request for that. Other than that, I would merely respond quickly to Commissioner Block's comments. We are fully aware of the memorandum from the Fire Department and have had discussions with them in terms of the issues. We are confident we will work those out to the satisfaction of the Fire Inspector.

Chairman Elkins: Thank you. Questions for Mr. Petersen? We didn't raise this with the last case, but could you tell us more about the difference of opinion around this right turn lane for Kenneth Road?

Mr. Petersen: It is a difference of opinion. Maybe it was what was contemplated; maybe it was an oversight with cleaning up the record. I'm not blaming staff. I'm not suggesting that someone was trying to be less than clear on the record. As we contemplated the arraignment of stipulations, the right turn lane at Kenneth is part and parcel to the

expansion of 135<sup>th</sup> Street. We sized our financial commitment to take into account that we wouldn't be building a right turn lane that is not needed. If there is an expansion of 135<sup>th</sup>, that right turn lane would be replaced by a through lane, and another right turn lane would have to be built. The traffic report, we thought, was the context of the application, and showed minimal utilization until such time that there is a level of service, which triggers our \$600,000 contribution under the agreement reflected in the stipulation. We agree with this. We will take this matter to City Council. The City Administrator and Director of Public Works may say that it is exactly what they meant, and that's fine; we will discuss it with City Council to see if we can balance the financial impact and difference of opinion. My only point in bringing it up tonight is how the issue of those improvements is worked out speaks to whether the applicant does the work now or makes a financial contribution as part of an overall financial obligation with other developers. It was never within the purview of the Planning Commission to make that decision. I'd just like to keep this issue in that context.

Chairman Elkins: Thank you. It seems that it boils down to two issues: whether or not this development triggers a need for a right turn lane for Kenneth Road and who should pay for it. Does that sum it up?

Mr. Petersen: That's right. Again, We've had those discussions with Governing Body before. We're setting the table to revisit the discussion with Governing Body.

Chairman Elkins: Thank you. Other questions? I'd entertain a motion.

**A motion to recommend approval of CASE 103-20 – REGENTS PARK MULTI-FAMILY SUBDIVISION AND PUBLIC IMPROVEMENTS – Request for approval of a Final Plan, located south of 135th Street and west of Kenneth Road – with the stipulations in the Staff Report – was made by Stevens; seconded by Hunter. Motion carried with a unanimous roll-call vote of 8-0. For: McGurren, Coleman, Block, Stevens, Hunter, Belzer, Hoyt, Peterson.**

CASE 102-20 – ONE35 - MIXED USE (135TH STREET AND KENNETH ROAD WEST OF HIGH DRIVE) – Request for approval of a Final Plan, located south of 135th Street and west of Kenneth Road.

**Staff Presentation:**

City Planner Katherine Geist made the following presentation:

Ms. Geist: This is Case 102-20 – ONE35 – Mixed Use – Request for approval of a Final Plan. The project encompasses a total of 6.725 acres as part of the larger 135<sup>th</sup> Street and Kenneth Road project. It is one side of the total 18.25-acre Mixed Use portion. This case encompasses the MXD tract to the west of High Drive and north of 137<sup>th</sup> Street. The Preliminary Plat and Plan for the entirety of this project was approved by Governing Body on September 21<sup>st</sup> of last year. We would like to note as a matter for the record that Stipulation No. 29 is going to be deleted. It is a duplicate of No. 27, referencing the height of the light poles in the parking lot of this half of the development. The

development proposes a Floor Area Ratio (F.A.R.) of .42, which includes a 55% discount on residential space per the LDO. The Final Plan in front of you shows three buildings associated with this portion of the project. Building A is solely residential and contains 91 units. Building B to the east is 50% residential and 50% nonresidential and is connected to Building A by an enclosed pool deck with parking underneath. Building C to the south and east is 79% residential and 21% non-residential. In total, there are 184 residential units for an overall density of 14.68 dwelling units per acre. The two buildings that have non-residential uses are planned to have some type of retail and/or office. this plan meets the LDO requirements for percentages of use within MXD.

There are a few changes since this project was last before you. The first is a decrease in the overall building square footage. Originally, there was to be 245,000 square feet, and now it is 241,014 square feet, which is approximately a 1.6% decrease in the overall building square footage. The second is a change in the phasing, which we discussed earlier. This portion was originally slated as Phase 4, and now it is Phase 2, after the duplexes that were just approved. In addition to the plans in front of you, the applicant has submitted a set of Design Guidelines for approval. Signage Criteria will be submitted at a later date. The Design Guidelines approved with the submittal would be used for both portions of the development north of 137<sup>th</sup> Street. This application meets all requirements of the LDO, and staff recommends approval of Case 102-20 with the stipulations listed. I'd be happy to answer any questions.

Chairman Elkins: Thank you. Questions for staff?

Comm. Block: I have another question regarding the Fire Department memo. It looks pretty significant on Part 1(b) and then the moving of the buildings.

Mr. Klein: I talked to the Fire Marshall with regard to the stipulations, and there is enough room to widen the driveway widths to 26 feet. Some of the statements indicated possibly moving buildings closer to High Drive or closer to 137<sup>th</sup> Street. I let the Fire Marshall know that the LDO has a 40' setback requirement for the buildings. In this case, they got a deviation to go to 30 feet. I tried to clarify with him what they were looking for. He said he thought he could work with the applicant on it, as long as they have a good path of access. On the interior driveway, if they can get 26 feet and get the building closer. I think they have room between the building and the sidewalk. The sidewalk is wider than what it has to be as well. Also, the parking spaces are 18.5 feet and only need to be 18 feet. They could make up the area.

Comm. Block: Without moving the buildings?

Mr. Klein: Possibly.

Comm. Block: Section 2 speaks to connectivity. I don't understand what that's requesting and if it's possible with this current plan.

Mr. Klein: I talked with him a bit about it, and it's something they can do. It basically all comes down to access. They want to be able to get the fire truck adjacent to the buildings

over 30 feet in height. They want to make sure those are 26 feet in width, and they also want to make sure they have adequate space to get their apparatus up to the building.

Comm. Block: What is it connecting? Is it adding an extra road?

Mr. Klein: He was talking about using High Drive, 137<sup>th</sup>, or go into the site itself.

Chairman Elkins: Other questions? If not, I would welcome the applicant.

**Applicant Presentation:**

John Petersen, Polsinelli Law Firm, appeared via Zoom before the Planning Commission and made the following comments:

Mr. Petersen: Rick Lashbrook is with us once again. Henry Klover, architect, is with us as well. Brett Cox, engineer with Renaissance Infrastructure, is also supporting us this evening. I'll take on the fire issue that was raised. We have been in consultation with the Fire Chief. I think Mark has accurately outlined issues we are looking at together. We can work with the Fire Department without revising plans. We are comfortable with the situation. Our architect and engineers are all on the same page.

We're excited to bring buzz to Regency Park. It begins to speak to not just horizontal Mixed Use but vertical Mixed Use. The mantra of this project was to provide residential with commercial support and to bring different styles and types of residential living opportunities. We are glad to accept staff's amendment to the stipulations. We only have comments with regard to two stipulations. The first is No. 10 and refers to the Public Works memo that speaks to the arrangement between the city and the developer regarding two improvements on the 135<sup>th</sup> Street Corridor, additional through lane eastbound, and the burying of the power lines. This refers us to the Public Works memo Stipulation No. 1E(i), which sets the parameters of the financial arrangement that was worked out between the developer and the city to address its share of the infrastructure costs. It goes on to refer to the immediate requirements of two right turn lanes at High Drive, which we accept and acknowledge, and the other at Kenneth Road. I would ask that the record reflect that I incorporate my comments from the previous applications with regard to this issue. I ask that you move this on with the understanding that we'll be asking for accommodation and further agreement from Governing Body on that issue.

We would also like to address Stipulation No. 31. This caught us a little by surprise. It refers to lighting of signs on the south elevation of the building facing residential development being turned off from 11:00 p.m. to 6:00 a.m. It is a bit counterintuitive and surprising to all of us on the developer's side of the equation in that the mantra of this from day one was to create density, mixtures of uses, alternative to the classic single-family lots with cul-de-sacs, to have a mixture of activity and a whiff of an urban feel to the corridor. This is a different place with more activity and more buzz. Then we get a stipulation with four of five floors that have lighted apartment buildings, a floor with a business, and a requirement that the lights need to be off. We are questioning enforceability and practicality. It really doesn't make sense. We have many residential communities that interface visually in Leawood, Overland Park, and throughout Johnson County with buildings that have signs on. Obviously, there are no signs in the City of

Leawood that are attention-grabbing. They are all done with great class and style. With that, we would ask that the stipulation be deleted since it is out of character with the area we're creating and impractical in terms of its application. We accept all other stipulations and would be happy to answer any questions.

Chairman Elkins: Thank you. Questions? I know staff mentioned a change in the phasing. Could you walk us through the plan for the phasing throughout the development?

Mr. Petersen: The most important part is that Phase 1 will be the backbone of the infrastructure, including 137<sup>th</sup> Street connected from its current terminus at the west. High Drive will be built in the first phase with a right turn lane as required. The first phase will include the development of the villa product south of 137<sup>th</sup> Street. Shortly behind that in phasing is setting in the components. Phasing doesn't necessarily mean sequential phasing; it could happen all at the same time if the market is there. Mr. Lashbrook is diligently working to get the MXD portion starting. It could start as the roads are being put in. It could happen simultaneously. Probably as roads are being built, we'll start looking at the villa product as the market starts speaking to it. The east MXD project will be developed by a separate development team. I don't really know their thoughts in terms of timing, but would suggest that the market will affect that. It is doubtful anything will be built on a speculative basis.

Chairman Elkins: Thank you. Does staff have comments about Mr. Petersen's concerns about No. 31?

Ms. Geist: I believe the purpose of that would be to avoid glare when the townhomes and other residences to the south come in. We have been trying to add this to MXD developments.

Mr. Klein: This is something we have tried to do when commercial developments are adjacent to residential developments. The first time it was used was in Mission Farms for the portion that faces toward Leawood Estates. We've used it on a couple other developments as well, just to ensure signs aren't brightly lit after 11:00. Now, we don't know what the signs will look like. I understand Mr. Petersen's point about creating a Mixed-Use development that is different, but there is a lot of residential directly adjacent. We aren't asking that the individual residents turn off lights.

Chairman Elkins: The question is that if the whole idea of Mixed-Use is to have something other than residential use in the area, which presumably would be retail or entertainment that could extend past 11:00 at night, it seems that it has a tendency to limit the uses that could be in that part of the development.

Mr. Klein: If the businesses were going past 11:00, it is a valid point. Again, in the middle of the night, I don't know if there is a need for the lighted signs. I know the townhomes will be tucked up right next to those as well as duplexes and triplexes on the right side. Additionally, existing subdivisions are beyond the tree line to the south. I don't

know if they'll be visible in the wintertime. I think there is a bit of a slope to the south. We're not worried about 135<sup>th</sup> Street; it is more to try to protect the future residents and possibly the existing residents to the south.

Chairman Elkins: I know we don't know what signs are being proposed. In the LDO, we have questions about lumens at the property line. Do we have a sense for the typical signs on a business and how bright it really is?

Mr. Klein: We have .5-foot candles at the property line, which is citywide. I doubt very much that a sign is going to create light that is going to generate more than .5-foot candles; it is more of a visual thing for the residents.

Chairman Elkins: You're not concerned about the lights exceeding the lumens requirement?

Mr. Klein: I don't think I'm as concerned about lights glaring into someone's windows. The largest potential affect could be on the townhomes in close proximity. They are in the Mixed-Use area even though they are zoned RP-3. I was thinking a bit more to the south as well.

Comm. Coleman: You mentioned there are developments in the city with this stipulation, including Mission Farms.

Mr. Klein: That's the one that sticks out in my mind. That was a concern of the neighborhood to the east. I know we have tried to stipulate it on others as well. We just had the Ranch Mart development come through, and we added it in there.

Comm. Coleman: Have we had enforcement issues or any feedback from neighbors?

Mr. Klein: I honestly have not heard any complaints with regard to signage. Occasionally, the taller buildings next to residential will trigger complaints. We've had complaints in the past from existing residential, but it is more related to the porch lights. Even though it is not more than that .5-foot candle at the property line, it is still visible, and it can glare.

Chairman Elkins: At Mission Farms, is the limitation only to the east, or is it to the north as well?

Mr. Klein: I believe it was only to the east. To the north, they had the single family. Then there is single-family to the north of 105<sup>th</sup> Street. The one I specifically remember is the one to the east because I remember Leawood Estates was very concerned about that.

Comm. Hunter: So, the distinction between the two is that Mission Farms was an existing development, and in this one, people would presumably be purchasing their

townhome and would know that it is zoned MXD. There is an existing development behind a tree line?

Mr. Klein: Yes, farther to the south beyond a 20' tree preservation easement. It is a decent distance back. Some of the complaints we received about lights glaring that I mentioned were for the fairways at Ironhorse. I'm not sure if you're familiar with that project. It was the four-story 55+ residential development located by the golf course. There was a significant amount of space, but there were still complaints about glare.

Chairman Elkins: In that instance, the residential area was preexisting.

Mr. Klein: Yes, and in this case, Phase 1 will be the duplexes and triplexes. You're right that they should know that they are in a new environment, but it seems that often times, it will go in and the MXD doesn't develop right away. Then, people who have moved into the area are a little surprised.

Comm. Block: Do you happen to know what the applicant is contemplating as far as signs on this southern elevation? It just doesn't seem like it would make sense to put a sign at the top of this building. It would make sense on the other side to face 135<sup>th</sup> Street.

Mr. Klein: The stipulation refers to the side facing the residential area.

Comm. Block: Going back to Mr. Petersen's point, the commercial phase is parallel to High Drive and perpendicular to the longer buildings. I think it would make sense at the first level if there were restaurants or something similar, but that's not going to be objectionable.

Mr. Klein: I was thinking about some of the signage that would up a little bit higher.

Comm. Block: It might go back to the applicant to determine what they really want at the top of the building as far as signage.

Mr. Petersen: We're not fighting for anything specific, other than to not have a stipulation that sounds like it might make sense but is not practical. If you go back to the building elevation, you'll see that people are not going to miss the building. On the east and south sides, hundreds of people will be living there with lights on in the building. It will be clearly architecturally lit like most good, solid design is. Then, the parking lot between the villas and townhomes on the south side, which is the only parking area for the structure, will be lit as long as it's dark. This is not a glow or visual impact on property. It is somewhere between lights of buildings, lights of people living in the buildings, parking lot lights, and maybe a situation where retailers and office people want their brand at their street-level entrance lit and not have to worry about being in violation of zoning ordinances if it doesn't automatically click off at 11:00 at night or if there's a business that wants to be branded after 11:00 at night. Again, the other examples included redevelopment or new development with existing residential. This is a new project coming in together. It's not like we have a secret to put a big, glaring sign on one side of

the building. Why are we being restricted for something that isn't going to cause any more impact than the safety lighting and the building lighting that is going to be there anyway? The fact that you can see a light with Ma's Bakery on the back side or something similar is not going to have a huge negative impact on someone living in the villas or the townhomes. I would just say it's overregulation, given the circumstances, and we would ask that it be eliminated. I would say as we bring sign packages in, if there is something about a particular sign that seems overly impactful, let's look at it then.

Comm. Block: You're talking only about street-level signs and not signs on the 4<sup>th</sup> or 5<sup>th</sup> floor, correct?

Mr. Petersen: I suppose there could be a branding sign on the multi-family building on 137<sup>th</sup> Street on the endcap. The buildings haven't been developed yet. It refers to lighting on the south elevation. The south elevation is on the endcap, and along 137<sup>th</sup> Street is south. I'm not trying to walk myself into more problems, but there is a west elevation on potential office and retail, too. It seems that it is something that should be considered when a sign is proposed. The existing residential to the south of our project is something like four football fields away, if not more.

Chairman Elkins: Other questions? If not, we'll move to a discussion of the case. The issue seems to be the lighting issue.

Mr. Klein: Mr. Petersen makes an excellent point with them bringing in a sign package. It could contain language with regard to this. At that point, we'll know more about the buildings and signs. It could read, "At the time of Final Sign Criteria consideration for the development, lighting and signs facing residential development will be considered" or something to that effect.

Chairman Elkins: Thank you. Comments? Is there a motion?

**A motion to recommend approval of CASE 102-20 – ONE35 - MIXED USE (135TH STREET AND KENNETH ROAD WEST OF HIGH DRIVE) – Request for approval of a Final Plan, located south of 135th Street and west of Kenneth Road – with the removal of Stipulation Nos. 29 and 31 – was made by Hunter; seconded by Stevens.**

Chairman Elkins: Comments?

Comm. Hoyt: I thought I understood Mr. Klein to say that he was suggesting a revision of the language of Stipulation No. 31. Maybe I misunderstood him, but I thought he was suggesting that we say something to the effect that, as Sign Criteria are reviewed by the Planning Commission, lighting of the signs on the south elevation of the building facing residential development shall be reviewed. I don't know that it's necessary, but I'm looking for clarification.

Chairman Elkins: I think that is what Mr. Klein suggested. It is not in the pending motion.

Comm. Hoyt: Personally, I think what he suggested is a good plan so that there is some record that we are concerned about reviewing the lighting of the signage, particularly as it relates to its positioning, relative to residential.

Comm. McGurren: I agree.

Chairman Elkins: Other discussion. If there is no further discussion, we'll move to a roll-call vote.

Comm. Block: Before we take the vote, could we ask Mr. Klein if he feels it is necessary. I would potentially vote this down just to get to the next one, but if he doesn't think it's necessary, maybe we don't need to go to it.

Mr. Klein: By having the stipulation at least mention the Sign Criteria review it would be a way to let Governing Body know it is something to discuss.

Chairman Elkins: Staff could raise it at Governing Body. We usually put the burden on the applicant, but we could put the burden on staff.

Mr. Klein: Yes, we could. Staff would normally address it at that time.

Mr. Petersen: Why does it need to be a stipulation if you normally address it? That's my point.

Chairman Elkins: I know we changed the rules on Sign Criteria. Is that strictly administrative now so that neither we nor City Council would see it?

Mr. Klein: Sign Criteria would come before Planning Commission and City Council. Once Sign Criteria are approved, it would become an administrative review potential.

Chairman Elkins: How does that work if we have a Final Plan? Why is Sign Criteria not coming in with Final Plan?

Mr. Klein: Sign Criteria can be pretty complicated. This allows them to get the Final Plan done and get on to other issues with construction. Signage typically isn't going to become an issue until after buildings are erected. It is not unusual to have Sign Criteria come in later.

Chairman Elkins: Mr. Petersen, do you have any question as to whether this issue could be addressed at the time your client brings Sign Criteria to the Planning Commission?

Mr. Petersen: It would be a legitimate issue. It always is with signs. I just don't think it needs to be in this approval. It's a sign issue. We don't know what kind of signs we'll

have. Mark was absolutely correct when he said that we know what signs we'll have when we bring in a sign package. We'll have the exact design and location. That is the time to do a full evaluation. Hanging stipulations on the Final Plan approval is why we look back years later and things are confused. I strongly encourage you to delete it. We have a record that will be looked at when signage comes in. It's a logical, clean approach in my humble opinion.

Chairman Elkins: I agree and appreciate the comment about the record. I am just concerned that, when the Sign Criteria comes in, we may be faced with the contention that it was before us tonight and we chose not to deal with it and that we're somehow bound by that.

Mr. Petersen: I'm asking for it not to be dealt with tonight, so I'll underscore that in the record.

Chairman Elkins: Thank you.

Comm. Hoyt: I don't know that it's worth going through the revision process, although the current proposal could be amended to include this. Instead of that stipulation, eliminate No. 31, and in current No. 32, where it says, "Sign Criteria for the development shall be recommended by the Planning Commission . . ." we could add, "including lighting." There is certainly an implication that if there is a sign that is lit, we will consider the lighting.

Chairman Elkins: Other comments or discussion? We'll move to a vote. The pending motion is to recommend Case 102-20 to the Governing Body for approval, including 38 stipulations with the removal of Nos. 29 and 31.

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

Chairman Elkins: Is there any additional business to be brought forth?

Comm. Coleman: I would like to recognize Mark Klein, whom City Council approved as the new Director of Planning. This is his first meeting under that official title.

Chairman Elkins: Congratulations, Mr. Klein.

Comm. Coleman: I brought up several meetings ago that City Council wanted to do a work session on the 135<sup>th</sup> Street Community Plan. Originally, Councilwoman Cain was talking about February and we would maybe see it in March or April. I didn't see any work sessions planned by City Council. I was wondering if Mr. Klein had any information about it.

Mr. Klein: I don't at this time, but I can ask about it.

Comm. Coleman: Do we have to wait for City Council? Can we ask for our own work session?

Mr. Klein: It probably is important that City Council drives this. We have a Comprehensive Plan update as well that we normally try to get done at the end of the year, but with everything that was going on at the end of the year, we still have that as well.

Chairman Elkins: What is your planned schedule with respect to the Comprehensive Plan?

Mr. Klein: The Comprehensive Plan has been updated. I would like to talk with the City Administrator a bit with regard to the 135<sup>th</sup> Street Community Plan and see how it affects it.

Chairman Elkins: The thought that I had and the request I'll make on the record tonight is when we do get to the right place in the schedule to review the Comprehensive Plan, I would very much like for the Planning Department to issue individual invitations to participate in that process to the developers we know that are active on the 135<sup>th</sup> Street Corridor. We've had lots of discussions the past year and a half or so around disagreements with the plan. As I've noted on the record before, there is a statutory requirement that we review it. It is my expectation and anticipation that those developers who have expressed concern about it in the past will participate in the process. I want to make sure that invitation is out there to the developers and obviously anyone else in the public who is interested. I would ask that we send out special invitations this time. Thank you.

*MEETING ADJOURNED*