CALL TO ORDER/ROLL CALL:
Hunter, Belzer, Hoyt, Pateidl, Elkins, Strauss, Coleman, Block, Stevens

APPROVAL OF THE AGENDA:

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

ADJOURN REGULAR MEETING:
Meetings will end at 9:00 p.m. unless the Commission votes to extend the meeting for a period of thirty (30) minutes. An additional thirty (30) minute extension, for a maximum of two (2) extensions, may be voted by the Commission members.
The Leawood Planning Commission is a nine member non-partisan body whose members are appointed by the Mayor and confirmed by the Governing Body.

The Planning Commission prepares the Comprehensive Plan that is used as a general guide for the development of the community. The Comprehensive Plan is reviewed and updated annually as part of the commission's ongoing process of evaluating trends and patterns. The Commission also reviews all zoning, special use permit, and site plan and plat applications prior to making recommendations to the governing body for final action.

The regular scheduled public meetings of the Planning Commission are held at 6:00 PM on the fourth Tuesday of each month in the City Council chambers, 4800 Town Center Drive. The Commission may also conduct a study session followed by a meeting on the second Tuesday of each month.

Anyone wishing to appear on the Planning Commission agenda or study session agenda should contact Planning Services at (913) 339-6700.

REZONING AND SPECIAL USE PERMIT PROCEDURES FOR LEAWOOD, KANSAS

Newspaper publications: The city will be responsible for publishing the notice of public hearing in the official City newspaper not less than 20 days prior to the end of the public hearing.

Posting of the sign: Upon submission of the application, the City will supply the applicant with a sign to be posted on the property. The sign must be posted not less than 20 days prior to the public hearing.

Letters of notification: The applicant will be responsible for mailing notices by certified mail, return receipt requested, of the proposed zoning change to all land owners located within 200 feet of the area proposed to be altered. These notices must be sent a minimum of 20 days prior to the Planning Commission hearing.

Public hearing: The Planning Commission hears all zoning requests, hearing from the applicant and anyone in the audience wishing to speak for or against the proposal. The Commission will then make a recommendation for approval or denial to the City Council or continue the application to another Planning Commission agenda. The following is an outline of the public hearing process.

1. Staff summarization of comments and recommendations.
2. Applicant presentation and response to staff comments and recommendations.
3. Public Hearing
   a. Anyone wishing to speak, either in favor or in opposition has an opportunity to speak.
   b. It is appreciated if the speakers keep repetition to a minimum.
4. The applicant will have an opportunity to respond to points raised during the hearing.
5. Planning Commission discussion.
6. Motion and second by the Planning Commission.
7. Planning Commission discussion of motion.
8. Planning Commission vote on the motion.

Protest period: Certain property owners may file a petition protesting the application within 14 days after the close of the Planning Commission public hearing. The petition must be signed by the owners of record of 20% or more of any real property proposed to be rezoned, or by the owners of record of 20% or more of the total real property within the area required to be notified in Article 16-5-4.1 of the proposed zoning of specific property, excluding streets and public ways and property excluded pursuant to 16-5-4.3.

City Council Action: After the protest period has concluded, the application will be placed on an agenda for a City Council meeting. The Council may then take action on the proposal. The Council may approve the Planning Commission’s recommendation, or it may amend and approve or remand the proposal to the Planning Commission for further consideration.
City of Leawood Planning Commission Staff Report

MEETING DATE:  November 13, 2018
REPORT WRITTEN:  November 9, 2018

135th STREET AND KENNETH ROAD – MIXED USE AND MEDIUM DENSITY RESIDENTIAL – REQUEST FOR APPROVAL OF A REZONING, PRELIMINARY PLAN, PRELIMINARY PLAT, AND SPECIAL USE PERMIT – Located south of 135th Street and west of Kenneth Road – Case 71-18

BACKGROUND:
- Planning Commission Meeting on September 11, 2018: This application was originally heard by the Planning Commission on September 11, 2018. At that meeting the Planning Commission recommended denial of the application with a unanimous vote of 5 to 0.
- Governing Body Meeting on October 1, 2018: The application was heard by the Governing Body on October 1, 2018. The Governing Body remanded the application back to Planning Commission with a unanimous vote of 8-0 to allow the applicant to further work with staff.

STAFF RECOMMENDATION:
Staff is not supportive of the application as submitted, as it does not meet the requirements of either the Comprehensive Plan, which formally incorporated the 135th Street Community Plan in 2014, or the Leawood Development Ordinance as outlined below. Staff recommends the Planning Commission deny Case 71-18 – 135th Street and Kenneth Road – Mixed Use and Medium Density Residential, request for approval of a Rezoning, Preliminary Plan, Preliminary Plat, and Special Use Permit.

APPLICANT:
- The applicant is John Petersen with Polsinelli PC.
- The property is owned by Vic Regnier Builders, Inc.
- The engineer is Tim Tucker, with Phelps Engineering.
- The architect is Henry Klover with Klover Architects.
- The landscape architect is Jason Meier with Meier Consulting.

REQUEST:
- The applicant is requesting approval of a Rezoning, Preliminary Plan, Preliminary Plat, and Special Use Permit.
- The site is located on the south side of 135th Street and west of Kenneth Road and consists of 56.34 acres of land currently zoned AG (Agricultural). The applicant is proposing to rezone 18.25 acres to MXD (Mixed Use Development District) and 38.28 acres to RP-3 (Planned Cluster Attached Residential). The MXD zoned land is proposed to be on the north side of future 137th Street, and the RP-3 zoned land is proposed to be both on the north and south sides of future 137th Street.
- The mixed use portion of the development proposes a total of 410,200 sq.ft. of construction on 18.25 acres for an FAR of 0.43, which includes a 25% discount on residential space per the Leawood Development Ordinance. The MXD part of the development consists of the following uses:
  - 41,000 sq.ft. of retail/restaurant space - (10.0%)
  - 82,000 sq.ft. of office space - (20.0%)
  - 287,200 sq.ft. of residential apartments (182 units for a density of 10.08 du/ac) – (70.0%)
• 67,200 sq.ft. for an assisted living facility (84 beds)
• The F.A.R. (Floor Area Ratio) of the development is 0.43, including the 25% residential discount provided by the Leawood Development Ordinance (LDO).
• The RP-3 portion of the development consists of 54 duplexes and 3 triplexes (117 units) on 38.28 acres for a residential density of 3.06 units/acre. Eighteen duplexes (36 units) are proposed on the north side of future 137th Street and 36 duplexes with 3 triplexes (81 units) are proposed on the south side.

ZONING:
• The property is currently zoned AG (Agriculture).

COMPREHENSIVE PLAN:
• The Comprehensive Plan designates the portion of property north of the future 137th Street as Mixed Use, and the area south of the future 137th Street as Medium Density Residential.

LOCATION:

SURROUNDING ZONING:
• North Directly to the north of the property is 135th Street, an arterial roadway, and undeveloped property zoned AG, on the north side of 135th Street.
• South Directly to the south of the property is the Leawood Falls Subdivision, zoned RP-4 (Planned Cluster Residential District under a previous version of the Leawood Development Ordinance), and the Villas of Highlands Ranch, zoned RP-2 (Planned Cluster Detached Residential District).
• East Directly to the east of the property is Kenneth Road and undeveloped land, zoned SD-CR (Planned General Retail).
• West West of the property is undeveloped land, zoned AG, followed by Chadwick Place, a commercial development zoned SD-NCR (Planned Neighborhood Retail) and SD-O
MODIFICATIONS FROM PREVIOUS PLAN:

- The applicant submitted revised plans to staff on November 1, 2018 with a plan with some further modifications on November 9, 2018. Below is a summary of the change from the previous plan.
- The applicant revised the alignment of 137th Street to provide the required 500 ft. radius. This resulted in the land area for the MXD portion of the project increasing by approximately 0.80 acres and the land area for the RP-3 portion of the development decreasing by the same amount.

MXD Portion of Project:

- The driveway off of 137th Street, directly west of High Drive, was reconfigured to align with the street providing access to the second cul-de-sac from the west off of 137th Street.
- High Drive (main access into the development off of 135th Street) was modified to provide turn lanes and tapers.
- The building area increased from 393,000 sq.ft. to 410,200 sq.ft. (16,900 sq.ft.). The F.A.R. decreased slightly from 0.44 to 0.43 due the increased land area added to the MXD zoned portion.
- The following table shows the changes to the percentage of uses:

<table>
<thead>
<tr>
<th>Use</th>
<th>Previous Sq.Ft.</th>
<th>Previous % Use</th>
<th>Revised Sq.Ft.</th>
<th>Revised % Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail</td>
<td>40,950</td>
<td>10.4%</td>
<td>41,000</td>
<td>10.0%</td>
</tr>
<tr>
<td>Office</td>
<td>79,150</td>
<td>20.1%</td>
<td>82,000</td>
<td>20.0%</td>
</tr>
<tr>
<td>Residential</td>
<td>206,000</td>
<td>52.4%</td>
<td>287,200</td>
<td>70%</td>
</tr>
</tbody>
</table>

- Many of the building remained in the same place, but were reconfigured with the changes to building area and uses contained within. Building H, a 2 story office building was added to the east side of the development. The following table summarizes some of the changes. The first line of each building is what was provided with the original plans, the second line are the proposed revisions.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A - (4 Stories – 50’-8&quot;)</td>
<td>0</td>
<td>0</td>
<td>52,000</td>
<td>44</td>
<td>40</td>
</tr>
<tr>
<td>A - (4 Stories – 50’-8&quot;)</td>
<td>0</td>
<td>0</td>
<td>52,000</td>
<td>42</td>
<td>42</td>
</tr>
<tr>
<td>B - (4 Stories – 50’-8&quot;)</td>
<td>0</td>
<td>0</td>
<td>52,000</td>
<td>44</td>
<td>40</td>
</tr>
<tr>
<td>B - (4 Stories – 50’-8&quot;)</td>
<td>0</td>
<td>0</td>
<td>52,000</td>
<td>42</td>
<td>42</td>
</tr>
<tr>
<td>C - (5 Stories – 71’)</td>
<td>15,200</td>
<td>48,900</td>
<td>42,000</td>
<td>34</td>
<td>64</td>
</tr>
<tr>
<td>C - (5 Stories – 71’)</td>
<td>15,200</td>
<td>48,900</td>
<td>42,000</td>
<td>34</td>
<td>64</td>
</tr>
<tr>
<td>D - (4 Stories – 50’-8&quot;)</td>
<td>0</td>
<td>13,000</td>
<td>60,000</td>
<td>50</td>
<td>46</td>
</tr>
<tr>
<td>D - (5 Stories – 71’)</td>
<td>0</td>
<td>13,000</td>
<td>50,000</td>
<td>42</td>
<td>42</td>
</tr>
<tr>
<td>E - (2 Stories – 40’)</td>
<td>17,500</td>
<td>22,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>E - (2 Stories – 40’)</td>
<td>17,500</td>
<td>22,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>F - (2 Stories – 40’)</td>
<td>8,250</td>
<td>8,250</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>F - (2 Stories – 40’)</td>
<td>8,250</td>
<td>8,250</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>G - (2 Stories – 26’-10&quot;)</td>
<td>0</td>
<td>67,200</td>
<td>84 Beds</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>G - (2 Stories – 26’-10&quot;)</td>
<td>0</td>
<td>67,200</td>
<td>84 Beds</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>H - Building Added (2 Stories – 40’)</td>
<td>0</td>
<td>21,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
• The surface parking generally remained in the same configuration, with some modifications. The large parking lot island within the parking lot on the west side of High Drive that had been proposed to contain an amenity area was removed.

• Plaza areas within the parking lots were generally moved to corners of buildings, many of which were at intersections of streets. Plaza areas were also added adjacent to Building C and G.

RP-3 Portion of the Project:

• The alignment of the access to the second cul-de-sac from the west was moved to the west to create more separation from the intersection of High Drive.

• The original plan proposed 60 duplex units (120), with 17 duplexes (34 units) on the north side of 137th Street, and 43 duplexes (86 units) on the south side of 137th Street.

• The revised plan is proposing a total of 54 duplexes and 3 triplexes (117 units), 18 duplexes (36 units) north of 137th Street adjacent to the mixed use portion of the development, and 36 duplexes and 3 triplexes (81 units) are proposed on the south side.

SITE PLAN COMMENTS:

Mixed Use Development (MXD)

• The mixed use part of the development is adjacent to 135th Street, and extends to the future 137th Street roadway alignment to the south.

• The MXD portion consists of 287,200 sq.ft. of apartments (182 units), a 67,200 sq.ft. assisted living facility (84 beds), 41,000 sq.ft. of retail/restaurant space, and 82,000 sq.ft. of office for a total of 410,200 sq.ft.

• The development is proposed to be accessed from High Drive (to be constructed with this project and extends to the south from 135th Street and connects to 137th Street). The mixed use buildings are generally oriented around interior surface parking lots.

• A 5 foot sidewalk is located on the north side of 137th Street, and a 10 foot hike/bike trail is proposed on the south side of 137th Street.

• Four foot bike lanes will be located in both directions on 137th Street.

• All of the buildings are located within one of two large common area tracts.

• Buildings A through D are located on the western half of the site and consist of two residential buildings, and one building containing retail/residential/and office use and another containing retail/residential.

• Buildings E through H are located on the eastern half of the site and consist of one building containing both retail and office, two office buildings and one assisted living facility.

• The table below summarizes the building area, number of stories and height of each building.

<table>
<thead>
<tr>
<th>Building</th>
<th>Use</th>
<th>Building Sq. Ft.</th>
<th># of Stories</th>
<th>Building Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Residential</td>
<td>52,000</td>
<td>4</td>
<td>50’ 8”</td>
</tr>
<tr>
<td>B</td>
<td>Residential</td>
<td>52,000</td>
<td>4</td>
<td>50’ 8”</td>
</tr>
<tr>
<td>C</td>
<td>Retail/Office/Res</td>
<td>78,000</td>
<td>5</td>
<td>71’</td>
</tr>
<tr>
<td>D</td>
<td>Retail/Res</td>
<td>63,000</td>
<td>5</td>
<td>71’</td>
</tr>
<tr>
<td>E</td>
<td>Retail/Office</td>
<td>54,500</td>
<td>2</td>
<td>40’</td>
</tr>
<tr>
<td>F</td>
<td>Office</td>
<td>22,500</td>
<td>2</td>
<td>40’</td>
</tr>
<tr>
<td>G</td>
<td>Assisted Living</td>
<td>67,200</td>
<td>2</td>
<td>26’ 10”</td>
</tr>
<tr>
<td>H</td>
<td>Office</td>
<td>21,000</td>
<td>2</td>
<td>40’</td>
</tr>
</tbody>
</table>
All four buildings on the west side of High Drive will provide one underground parking space for the residential units that they contain. The assisted living facility on the east side of High Drive proposes to have 100 underground parking spaces.

A 6 foot sidewalk is provided along 135<sup>th</sup> Street. Five foot sidewalks are proposed along both sides of High Drive off of 135<sup>th</sup> Street and along the north side of 137<sup>th</sup> Street. A 10’ asphalt hike/bike trail is located along the south side of 137<sup>th</sup> Street. Direct sidewalk connections between the perimeter sidewalks and the adjacent buildings are provided along 137<sup>th</sup> Street and High Drive, however, direct sidewalk connections to the adjacent buildings along 135<sup>th</sup> Street are not provided.

Perimeter sidewalks are proposed to have a 10 foot tree lawn between the sidewalk and the adjacent curb.

Pedestrian plaza spaces are generally provided at the corners of buildings adjacent to public right-of-way, within landscaped islands on the east side of Building E adjacent to the via, and within the courtyard on the west side of the assisted living.

Existing trees are proposed to be removed in the area where Building E is on the east side of High Drive, and at the northeast corner of the development in proximity to the assisted living facility.

**Duplex Residences (RP-3)**

- The applicant is proposing a total of 54 duplexes and 3 triplexes (117 units), 18 duplexes (36 units) north of 137<sup>th</sup> Street adjacent to the mixed use portion of the development, and 36 duplexes and 3 triplexes (81 units) are proposed on the south side.
- All of the duplexes and triplexes are organized around streets with cul-de-sacs and will be within Tract common area tracts, Tract A south of 137<sup>th</sup> Street and Tract C north of 137<sup>th</sup> Street.
- A single unit will be approximately 2,546 sq.ft.
- The duplex and triplex units have two car garages. Some of the garages will be accessed by a shared driveway.
- The applicant is requesting a deviation to the side yard setback between duplexes from the required 30 feet to 15 feet between buildings a minimum of 8 feet between the foundations of the building, including window wells. Staff is supportive of the deviation for setbacks between buildings of a minimum of 15 feet. Per the Leawood Development Ordinance at grade window wells may encroach a maximum of 3 feet into the required setbacks.
- Within the eastern half, existing trees extend south into the center of the development, along the south side of the proposed 137<sup>th</sup> Street alignment, along the southernmost property line, and along the common boundary with a triangular property to the east. The applicant is proposing to remove almost all of the native trees to allow room for the duplex residences and for drainage basins. Storm water detention and Bio-Retention are proposed in lieu of the existing native tree area.
- The applicant is proposing a 20 foot tree preservation easement along the south property line.
- Five foot sidewalks are located on both sides of all cul-de-sac streets.
- Ten foot tree lawns are provided between the back of curb and the sidewalk for adequate street tree placement per the Leawood Development Ordinance.
- A community swimming pool and pavilion is proposed in Tract D, on the south side of 137<sup>th</sup> Street at the intersection of High Drive into 137<sup>th</sup> Street.
- An 8 foot asphalt trail is located within Tract A, within the green space behind the residential units. This trail loops to the south from 137<sup>th</sup> Street in the western portion of the development and connects to the south side of the eastern most cul-de-sac street.
PHASING:

- The applicant is proposing to build the development in three phases. The portion of the development to be zoned RP-3 that contains 54 duplexes and 3 triplexes (117 units), with 18 duplexes (36 units) on the north side of 137th Street and 36 duplexes and 3 triplexes (81 units) on the south side of 137th Street, are proposed to be constructed within the first phase.

- The west side of the mixed use portion of the development that is north of 137th Street and includes two 52,000 sq.ft., 4 story apartment buildings (42 residential units each), a 5 story retail/office/apartments building consisting of 2,000 sq.ft. of retail, 10,000 sq.ft. of office, 66,000 sq.ft. of residential with 56 residential units, and a second 5 story building that is retail/apartments consists of 13,000 sq.ft. of retail and 50,000 sq.ft. of residential with 42 residential units. These buildings are proposed to be constructed in the second phase.

- The third phase is proposed to be the east side of the mixed use portion of the development that is north of 137th Street. This phase includes four 2 story buildings, a retail/office building that has 26,000 sq.ft. of retail on the first floor with 28,500 sq.ft. of office above, two office buildings (one that is 22,000 sq.ft. and the other that is 21,000 sq.ft.), and a two story 84 unit assisted living facility.

BULK REGULATIONS:

- The following table outlines the required and provided regulations for the 135th Leawood Development:

### Mixed Use Bulk Regulations

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Required</th>
<th>Provided</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exterior Structure Setback</td>
<td>40'</td>
<td>30' - 137th Street and High Drive 40' – 135th Street</td>
<td>Deviation Requested adjacent to 137th Street and High Drive only</td>
</tr>
<tr>
<td>Interior Structure Setback</td>
<td>10'</td>
<td>10'</td>
<td>Complies</td>
</tr>
<tr>
<td>Single Family Residential Structure Setback</td>
<td>75'</td>
<td>850’ approx..</td>
<td>Complies</td>
</tr>
<tr>
<td>Exterior Parking Setback</td>
<td>25'</td>
<td>25'</td>
<td>Complies</td>
</tr>
<tr>
<td>Interior Parking Setback</td>
<td>10'</td>
<td>10'</td>
<td>Complies</td>
</tr>
<tr>
<td>Minimum Open Space %</td>
<td>30%</td>
<td>44.6%</td>
<td>Complies</td>
</tr>
<tr>
<td>Minimum Interior Open Space %</td>
<td>10%</td>
<td>15%</td>
<td>Complies</td>
</tr>
<tr>
<td>Minimum Acres</td>
<td>10</td>
<td>18.25</td>
<td>Complies</td>
</tr>
<tr>
<td>Maximum Floor Area Ratio (F.A.R.)</td>
<td>0.25</td>
<td>0.43</td>
<td>F.A.R. Bonuses Requested</td>
</tr>
<tr>
<td>Required Use Ratios</td>
<td>≥ 20% - Residential</td>
<td>70.0%</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td>≥ 20% - Office</td>
<td>20.0%</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td>≥ 10% - Retail</td>
<td>10.0%</td>
<td>Complies</td>
</tr>
<tr>
<td>Residential Density</td>
<td>≤ 15 DU / acre</td>
<td>10.08 DU /acre</td>
<td>Complies</td>
</tr>
<tr>
<td>Minimum Residential Unit Size</td>
<td>80% - ≥900 sq.ft.</td>
<td>Not provided</td>
<td>Applicant acknowledged, but not provided</td>
</tr>
<tr>
<td></td>
<td>20% - ≥750 sq.ft.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Height Limit</td>
<td>90’</td>
<td>71’</td>
<td>Complies</td>
</tr>
</tbody>
</table>

### Planned Cluster Attached Residential District (RP-3)

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Required</th>
<th>Provided</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Setback</td>
<td>30’</td>
<td>30’</td>
<td>Complies</td>
</tr>
<tr>
<td>Side Setback</td>
<td>30”</td>
<td>15’</td>
<td>Deviation Requested</td>
</tr>
</tbody>
</table>
### Criteria

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Required</th>
<th>Provided</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Side Lot Corner Setback</td>
<td>30'</td>
<td>30'</td>
<td>Complies</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>30'</td>
<td>30'</td>
<td>Complies</td>
</tr>
<tr>
<td>Density</td>
<td>7.26 du/ac, 6,000 sq.ft./dwelling</td>
<td>3.06 du/ac,</td>
<td>Complies</td>
</tr>
<tr>
<td>Maximum No. of Attached Units</td>
<td>≤ 4 per building</td>
<td>3 per building</td>
<td>Complies</td>
</tr>
<tr>
<td>Open Space</td>
<td>30% of lot area</td>
<td>66.0%</td>
<td>Complies</td>
</tr>
</tbody>
</table>

* Measured from building lines and building clusters

### F.A.R. BONUS PROVISIONS FOR MXD PORTION OF DEVELOPMENT:

- Per Section 16-2-6.4, MXD (Mixed Use Development District), the maximum F.A.R. within the MXD district is 0.25. However, this section of the ordinance also provides for an automatic 25% discount on residential floor area, and states that staff can recommend and the Governing Body approve allows for up to a total 55% discount on residential floor area. The MXD portion of the development proposes application is proposing 410,200 sq.ft. for an F.A.R. of 0.43, with the automatic 25% on residential floor area. The applicant is requesting that the project be given a 55% discount on residential, which would be result in a 0.32 F.A.R. In staff’s opinion the project does not meet the requirements of the Comprehensive Plan, including 135th Street Community Plan, and therefore does not quality for a discount to residential space beyond the base 25% discount provided for in the Leawood Development Ordinance.

- Per Sections 16-2-6.4 MXD (Mixed Use Development District) and 16-3-9(A)(4) Deviations: Floor Area Ratio, deviations in F.A.R. may be granted by the Governing Body if the bonus criteria are met. The total number of bonuses to F.A.R. shall not exceed 0.45 without a ¾ majority of the Governing Body.

- Bonuses do not receive final approval until approval of the Final Development Plan to ensure that all criteria has been met.

- The following table lists the F.A.R. bonuses provided by the Leawood Development Ordinance.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Maximum Bonus</th>
<th>Ordinance Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increased Open Space</td>
<td>15%</td>
<td>16-2-6.4(G)(1)</td>
</tr>
<tr>
<td>Cultural Use</td>
<td>10%</td>
<td>16-2-6.4(G)(2)</td>
</tr>
<tr>
<td>Superior Site Planning</td>
<td>10%</td>
<td>16-3-9(A)(4)(b)</td>
</tr>
<tr>
<td>Architectural Significance and Superior Environmental Design</td>
<td>10%</td>
<td>16-3-9(A)(4)(c)</td>
</tr>
<tr>
<td>Pedestrian Amenities</td>
<td>10%</td>
<td>16-3-9(A)(4)(d)</td>
</tr>
<tr>
<td>Integrated Storm water Detention</td>
<td>10%</td>
<td>16-3-9(A)(4)(e)</td>
</tr>
<tr>
<td>Above Ground Parking Structures</td>
<td>10%</td>
<td>16-3-9(A)(4)(f)</td>
</tr>
<tr>
<td>Underground Parking Structures</td>
<td>15%</td>
<td>16-3-9(A)(4)(f)</td>
</tr>
</tbody>
</table>

- With the 25% automatic discount for residential development, the applicant is proposing the equivalent of 338,400 sq.ft. of construction. The maximum number of sq.ft. with the base F.A.R. of 0.25 within the MXD zoning district is 196,692 sq.ft. The applicant needs bonuses for 141,708 sq.ft., (338,400 – 196,692) the amount of building area proposed with 25% discount for residential over the base amount of sq.ft. allowed with a 0.25 F.A.R.

- The following table shows the bonuses that the applicant is requesting, along with the maximum percentage and maximum sq.ft., of building area available for each bonus. The determination of the
satisfaction of the bonus criteria, and the amount of any bonus to be awarded shall be at the sole discretion of the City, per the Leawood Development Ordinance Section 16-3-9:

<table>
<thead>
<tr>
<th>Requested Bonus Criteria</th>
<th>MAX Bonus (%)</th>
<th>MAX Bonus (Sq.Ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increased Open Space</td>
<td>15%</td>
<td>29,504</td>
</tr>
<tr>
<td>Parking Structures</td>
<td>15%</td>
<td>29,504</td>
</tr>
<tr>
<td>(Underground)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Maximum Bonus Possible: 59,008

With the maximum bonus amount possible for each of the categories requested the application still needs bonuses for an additional 82,700 sq.ft.

- The applicant is proposing 282 underground parking spaces. In staff’s opinion the application meets the bonus requirement for the provision of underground parking.
- Due to the following reasons, it is staff’s opinion that the application does not qualify for the F.A.R. bonuses for the increased open space for the reasons stated below.
  - Per Section 16-2-6.4(G), applications may receive a 15% bonus to F.A.R. provided that the additional F.A.R. is not based on less than a 1:1 ratio of increased floor area to open space. The additional open space must provide a benefit to the community as habitat area for native flora and fauna, storm water recharge/management potential, and/or passive recreational potential for the public. The development is required to provide 30% open space (194,925 sq.ft.). The project is providing 44.6% open space (289,866 sq.ft.), a difference of 94,941 sq.ft. The amount of additional open space is greater than that needed for the bonus, but in staff’s opinion the extra open space does not provide a benefit to the community. Much of the open space is dispersed around the perimeter of the site where it is unlikely that it will be utilized.

TRAFFIC:

- The applicant provided a traffic study to review the location of the proposed signal at 135th St & High Dr and determine the impacts to the adjacent/proposed roadways. The City hired Olsson to review the traffic study. We are in agreement with the developer that moving the signal 200 feet east of the ¼ mile section line as shown on the submitted plan has little if any impact to the delay and queues to existing and future traffic along 135th Street.

PARKING:

Mixed-use Portion of Development:

- The following table lists the surface and structured parking for the mixed use portion of the development. The minimum required parking was calculated as 3.0 – 4.0 spaces per 1,000 sq. ft. for commercial, two spaces per residential unit, and one space per assisted living unit.

<table>
<thead>
<tr>
<th></th>
<th>Required Parking</th>
<th>Parking Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail/Office Parking</td>
<td>369 - 492</td>
<td>369</td>
</tr>
<tr>
<td>(3.0 – 4.0/1,000 sq.ft.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential Apartment –</td>
<td>364</td>
<td>266 @ 1.46/bedroom</td>
</tr>
<tr>
<td>182 units – (2/unit – one of</td>
<td>(182 enclosed)</td>
<td>(182 underground)</td>
</tr>
<tr>
<td>which is totally enclosed)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assisted Living – 84 beds</td>
<td>42</td>
<td>100 underground parking spaces</td>
</tr>
<tr>
<td>– (1 space/2 beds)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Parking</td>
<td>775</td>
<td>735</td>
</tr>
<tr>
<td>Difference</td>
<td></td>
<td>(-40 spaces)</td>
</tr>
</tbody>
</table>
The applicant provided a parking study for the development.

**RP-3 Portion of Development:**
- The duplex units are proposed to have one two-car garage per unit, meeting the Leawood Development Ordinance requirement for the RP-3 district of two totally enclosed parking spaces per unit.

**ELEVATIONS:**

**Mixed Use Development**
- The residential apartment structures (Buildings A and B) are 4 stories (51'-7") in height. Buildings C, which contain retail/office/residential, and Building D, which contains retail/residential, are both 5 stories (71'-0") in height. The retail/office buildings (Buildings E) and office buildings (Buildings F and H) are 2 stories and 40’ in height. The assisted living facility (Building G) is 2 stories and just under 27’ in height.
- The mixed use residential apartments, retail and office buildings (Buildings A – F and H) will consist of brick, cast stone, and stucco materials and will have flat roofs.
- Building E adjacent to the east side of the main driveway entrance will have the second story portion of the building span above the driveway entrance, creating an underpass to the parking lot on the interior.
- The assisted living facility (Building G) is proposed to architecturally blend with the surrounding mixed-use structures, consisting primarily of stucco, brick, synthetic wood and cast stone façade materials. The assisted living facility is proposed to have a pitched roof covered in concrete tile.

**Duplex Residences**
- The duplex units are proposed to be constructed as single story homes with basements.
- The duplex units have pitched roofs and are proposed to have Presidential Shake asphalt shingles. Per the Leawood Development Ordinance, asphalt shingles are permitted on single family homes only. The applicant has stated that at the time of Final Plan the elevations will be revised to show a roofing material permitted by the Leawood Development Ordinance.
- A combination of stone, brick and siding will be used on the facades of the duplexes.
- A backyard patio is proposed with each unit.

**SIGNAGE:**
- Signage is reviewed and approved at the time of Final Plan. The applicant is not requesting signage with this application.
LANDSCAPING:

Mixed Use Development
- A preliminary landscape plan was provided with this application. Landscaping is reviewed and approved at the time of Final Plan.
- Per the Leawood Development Ordinance, street trees are proposed to be planted 35 feet on center along all public streets. The applicant is also proposing to plant street trees 35 feet along the private drive at the southwest corner of the mixed use portion of the development.
- With the exception of Kenneth Road, approximately the eastern 300’ along 135th Street and along the private drive at the southwest corner of the MXD portion of the development proposed ornamental trees along the perimeter. The Leawood Development Ordinance requires ornamental trees within the building setbacks along public right-of-way at a rate of one ornamental tree per 12 lineal feet. The number of ornamental trees does not appear to meet the minimum required in some areas.
- A variety of shrubs with some shade trees are located adjacent to the buildings. Shrubs are also provided within the setback along public streets. The Leawood Development Ordinance requires shrubs be planted within the building setback along all public right-of-way at a rate of one shrub per 5 lineal feet. The number of shrubs does not appear to meet the minimum required in some areas.
- Per the Leawood Development Ordinance, the applicant is proposing trees as the primary plant material in parking lot islands.

RP-3 Residential Development
- Landscape plans are reviewed and approved at the time of Final Plan.
- Per the Leawood Development Ordinance the applicant is proposing street trees at a rate of 35 feet on along all public right-of-way.
- The applicant is proposing to provide a 20 foot tree preservation easement along the south property line of the RP-3 portion of the development. The plan also shows additional trees being added along the north side of the existing tree line, outside of the proposed 20 foot tree preservation easement.

LIGHTING:
- Lighting is reviewed and approved at the time of Final Plan. Information on the type and style of lighting, along with a photometric study will be provided at the time of Final Plan.

PRELIMINARY PLAT:
- A preliminary plat was provided with this application.
- The mixed use portion of the development is adjacent to 135th Street, and extends to the future 137th Street roadway alignment to the south. A majority of the RP-3 portion (18.20 acres) of the site is located south of 137th Street, extending southward to the natural tree line adjacent to Leawood Falls and Villas of Highlands Ranch, however, a portion of the RP-3 zoning (7.58 acres) is proposed north of 137th Street.
- The plat consist of the following tracts of land:

<table>
<thead>
<tr>
<th>Tract</th>
<th>Zoning</th>
<th>Use</th>
<th>Location</th>
<th>Area (Acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>RP-3</td>
<td>Duplex Development</td>
<td>South of 137th Street</td>
<td>18.20</td>
</tr>
<tr>
<td>C</td>
<td>RP-3</td>
<td>Duplex Development</td>
<td>North of 137th Street</td>
<td>7.41</td>
</tr>
<tr>
<td>D</td>
<td>RP-3</td>
<td>Residential Amenity Area</td>
<td>Southwest corner of round-a-bout within</td>
<td>1.08</td>
</tr>
<tr>
<td>Tract</td>
<td>Zoning</td>
<td>Use</td>
<td>Location</td>
<td>Area (Acres)</td>
</tr>
<tr>
<td>-------</td>
<td>--------</td>
<td>------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>E</td>
<td>RP-3</td>
<td>Bio-retention</td>
<td>137th Street. Southwest corner of development, north side of 137th Street.</td>
<td>0.26</td>
</tr>
<tr>
<td>F</td>
<td>RP-3</td>
<td>Bio-retention/detention</td>
<td>Southwest corner of development, south side of 137th Street.</td>
<td>1.33</td>
</tr>
<tr>
<td>G</td>
<td>RP-3</td>
<td>Detention</td>
<td>Southwest corner of 137th Street and Kenneth Road.</td>
<td>3.10</td>
</tr>
<tr>
<td>H</td>
<td>MXD</td>
<td>Retail/Office/Assisted Living</td>
<td>Southwest corner 135th Street and Kenneth Road</td>
<td>9.49</td>
</tr>
<tr>
<td>I</td>
<td>MXD,</td>
<td>Residential Apartment/Retail/Office</td>
<td>Southwest corner of 135th Street and main entrance into development off of 135th Street.</td>
<td>5.59</td>
</tr>
</tbody>
</table>

**REQUESTED DEVIATIONS:**

- Section 16-3-9(A)(5) of the Leawood Development Ordinance provides for deviations to setbacks provided that they may only be granted when compensating common open spaces (not less than a 1:1 ratio) is provided elsewhere in the project and where there is ample evidence that the deviation will not adversely affect neighboring properties. The applicant is requesting the following two deviations to setbacks.
  - Deviation to allow a 30' building setback from 137th Street and High Drive within the MXD portion of the development. Per Section 16-3-9(A)(5)(a) of the Leawood Development Ordinance, setbacks of buildings from paved areas may be reduced to 75% of the standard requirement. The MXD portion of the project requires a minimum of 30% open space (197,226 sq.ft.). The MXD zoned property is providing 44% open space (295,106 sq.ft.).
  - Deviation to allow a minimum side yard setback of 15.5' from vertical wall to vertical wall, and 8' between egress wells of residential dwelling units. Per Section 16-3-9(A)(5)(d), interior line setbacks may be reduced to zero when adequate open space for the project and between buildings is provided. The RP-3 portion of the project requires a minimum of 30% open space (411,442 sq.ft.). The RP-3 zoned property is providing 65% open space (899,832 sq.ft.).

**IMPACT FEES:**

- **135th STREET CORRIDOR IMPACT FEE:** The applicant shall be responsible for the 135th Street Impact fee in the amount of $.58/square foot for office, $1.95/square foot for retail, and $389.40/per unit for residential for those areas north of 137th Street, which is due prior to issuance of a building permit. This amount is subject to change by Ordinance.
- **PUBLIC ART IMPACT FEE:** A public art impact fee or a piece of public art shall be required. Approval of the design and location of the art will need to go before the Arts Council, Planning Commission, and be approved by the Governing Body at a later date. In lieu of that, the applicant may pay a public art impact fee in the amount of $.15/square foot of finished floor area for nonresidential development prior to issuance of a building permit. This amount is subject to change by Ordinance.
- **PARK IMPACT FEE:** A park impact fee in the amount of $.15/square foot of finished floor area and $300 per residential unit is required prior to issuance of a building permit. This amount is subject to change by Ordinance.
• **SOUTH LEAWOOD TRANSPORTATION IMPACT FEE:** The applicant shall be responsible for a South Leawood Transportation Impact Fee prior to recording of the Final Plat.

**GOLDEN FACTORS:**

The character of the neighborhood:
The area is characterized by an arterial street (135th Street) and undeveloped land zoned AG (Agricultural) and shown on the Comprehensive Plan as Mixed Use to the north; the residential neighborhoods of Leawood Falls and Villas of Highlands Ranch on the south; a collector street (Kenneth Road) and vacant land zoned SD-CR (Planned General Retail) and designated as Mixed Use by the Comprehensive Plan to the east; and undeveloped land zoned AG and designated as Mixed Use on the Comprehensive Plan to the west.

The zoning and uses of properties nearby:
- **North** Directly to the north of the property is 135th Street, an arterial roadway, and undeveloped property zoned AG, on the north side of 135th Street.
- **South** Directly to the south of the property is the Leawood Falls Subdivision, zoned RP-4 (Planned Cluster Residential District under a previous version of the Leawood Development Ordinance), and the Villas of Highlands Ranch, zoned RP-2 (Planned Cluster Detached Residential District).
- **East** Directly to the east of the property is Kenneth Road and undeveloped land, zoned SD-CR (Planned General Retail).
- **West** West of the property is undeveloped land, zoned AG, followed by Chadwick Place, a commercial development zoned SD-NCR (Planned Neighborhood Retail) and SD-O (Planned Office).

The Suitability of the subject property for uses to which it has been restricted:
The site is suitable for mixed use development that is north of 137th Street with medium density residential south of 137th Street as shown on the City’s Comprehensive Plan, but the proposed plan with this application is not suitable for the subject property as it does not comply with the Comprehensive Plan. The higher density and taller buildings permitted by the MXD district, along with more direct access from 135th Street is more compatible closer to 135th Street than strictly residential development. With mixed use development north of 137th Street, 137th Street can be used as a buffer and further transition to medium density residential, which in turn provides a transitional buffer to the existing single family residential to the south. The application proposes an alignment of 137th Street that extends further to the north than has been shown on the City’s Comprehensive Plan since 1996. The proposed alignment of 137th Street significantly reduces the amount of land and depth of land for mixed use development north of 137th Street, which reduces the ability to provide a transition in density from 135th Street to 137th Street. It also makes it difficult to meet many of the City’s requirements for mixed use development. In addition, the application proposes to rezone a portion of the property north of 137th Street to RP-3, which further limits the land area available for mixed use development and the ability to gradually transition development density from 135th Street to 137th Street to the existing residential to the south. The application is also proposing to remove the majority of natural existing natural areas on the site, including a natural area that was to be preserved on the north side of the alignment of 137th Street as shown on the City’s adopted Comprehensive Plan. This existing natural area would provide an additional buffer/transition between higher-density mixed use development north of 137th Street and medium density residential development south of 137th Street.

The application is also proposing a higher F.A.R. than is permitted within the MXD zoning district. Due to the proposed road alignment being further to the north and not complying with the City’s Comprehensive Plan, the resulting area for MXD zoning is significantly reduced, making it more difficult to meet the density called for with
mixed use development. The applicant has proposed several F.A.R. bonuses for the additional F.A.R., however, the number of bonuses is insufficient to reach the requested F.A.R. and it is the opinion of staff that the application does not meet the criteria required to achieve the requested bonuses.

The time for which the property has been vacant:
The site is currently undeveloped, but is being used for farming. It has been zoned Agriculture (AG) since the property’s incorporation into the City of Leawood.

The extent to which removal of the restrictions will detrimentally affect nearby property:
The site is suitable to mixed use north of 137th Street and medium density residential south of 137th Street, with the alignment of 137th Street matching that shown on the Comprehensive Plan since 1996, along with the natural areas being preserved. The larger land area and depth between 135th Street and 137th Street will provide needed area to follow good planning principals for mixed development that includes: a grid network of streets, nodes of activity, vehicular and pedestrian connectivity to ensure access and walkability, transitions and buffers between higher and lower density development, and preservation and integration of existing natural areas. These principals are intended to create a more successful and economically sustainable development. Removal of the restrictions requiring these principals may result in a less economically sustainable development, which would have a detrimental effect on nearby property.

The relative gain to the public health, safety, and welfare due to the denial of the application as compared to the hardship imposed, if any, as a result of denial of the application:
The additional amount of land and depth of land for mixed use development north of 137th Street will allow good planning principals for mixed use development to be followed including: the provision of a grid street network, creation of activity nodes, vehicular and pedestrian connectivity providing access and walkability, provisions to allow for multiple modes of transportation including transit, transitions and buffering between higher and lower density development, and the preservation and integration of natural areas. These principals will provide greater flexibility and a greater chance for an economically viable and sustainable development. Meeting the separation requirements between full access intersections on 135th Street and matching the existing pattern of full access intersections will result in better traffic flow along 135th Street. The result will be a gain to the public health, safety, and welfare of the community if these standards are followed and the application denied.

The recommendation of the permanent staff:
Staff is recommending denial of the application for the reasons outlined in the staff report and Golden Factors.

Conformance of the requested change to the adopted master plan of the City:
The proposed application does not conform to the adopted master plan of the City of Leawood in the following ways:

- The application proposes that the alignment of 137th Street be moved further to the north, significantly reducing the amount of land north of 137th Street, which is designated by the Comprehensive Plan for mixed use development. The current alignment of 137th Street has been shown on the Comprehensive Plan since 1996.
- The application proposes to rezone land north of 137th Street as RP-3 (Planned Cluster Attached Residential), which is medium density residential. The Comprehensive Plan designates all land north of 137th Street for mixed use development and land south of 137th Street for medium density residential, thus using 137th Street and medium density as a transitional buffer between the mixed use along 135th Street and the existing residential homes to the south.
• The mixed use portion of the development does not provide the following outlined in the Comprehensive Plan/135th Street Community Plan:
  ➢ Development of mixed use activity nodes
  ➢ A grid street network to provide vehicular and pedestrian connections for access and walkability
  ➢ Use of a variety of street types tailored to land use and sense of place
  ➢ Provision of opportunities for multiple modes of transportation, including future transit
  ➢ Preservation and integration of existing natural areas.
  ➢ Transects to transition from higher density and taller buildings to lower density and shorter buildings between 135th Street and 137th Street.

• The Comprehensive Plan discourages the extensive use of cul-de-sacs. All of the 54 duplexes and 3 triplexes (117 units) within the medium density residential portion of the development are arranged around one of five cul-de-sacs.

STAFF COMMENTS:
Staff is not supportive of the application as submitted, as it does not meet the requirements of either the Comprehensive Plan, which formally incorporated the 135th Street Community Plan in 2014, or the Leawood Development Ordinance as outlined below. The following table gives an overview of the criteria that does not comply with the Comprehensive Plan or Leawood Development Ordinance. Additional detail is provided following the table.

<table>
<thead>
<tr>
<th>Comprehensive Plan Requirements</th>
<th>Criteria/Standard</th>
<th>Does Not Comply</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Access from 135th Street</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2 Alignment of 137th Street</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3 Land Use Designations</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4 Preservation of Natural Areas</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>5 Street and Pedestrian Connectivity</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>6 Mixed Use Activity Nodes</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>7 Variety of Street Types Tailored to Land Use and Sense of Place</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>8 Opportunities for Multiple Forms of Transportation</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>9 Transects to Ensure Transitions and Compatibility of Uses</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Leawood Development Ordinance Requirements</th>
<th>Criteria/Standard</th>
<th>Does Not Comply</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Floor Area Ratio (F.A.R.)</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2 Prohibited Roofing Material</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3 Buffer Adjacent to Buildings</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

COMPREHENSIVE PLAN REQUIREMENTS

1. **Access From 135th Street: Stipulation 2b**

<table>
<thead>
<tr>
<th>Comprehensive Plan: Summary</th>
<th>Standard</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access from 135th Street</td>
<td>Full access is limited to ¼ mile spacing along 135th Street to meet requirements for separation between</td>
<td>The applicant provided a traffic study to review the location of the proposed signal at 135th St &amp; High Dr and determine the impacts to the</td>
<td>The applicant is continuing to work with</td>
<td></td>
</tr>
</tbody>
</table>
Comprehensive Plan: Summary

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>intersections and ensure traffic flow.</td>
<td>adjacent/proposed roadways. The City hired Olsson to review the traffic study. We are in agreement with the developer that moving the signal 200 feet east of the ¼ mile section line as shown on the submitted plan has little if any impact to the delay and queues to existing and future traffic along 135th Street.</td>
<td>the City</td>
</tr>
</tbody>
</table>

**Comprehensive Plan Requirement:** The Comprehensive Plan and Public Work Standards limit full access points along 135th Street to every ¼ mile. A full access intersection is planned at the ¼ mile where existing High Drive on the north side of 135th Street is located to connect the undeveloped land on the north and south sides of the 135th Street. This is done to ensure that there is adequate separation between full access points and to ensure proper flow of traffic along 135th Street and to the development between 133rd Street and 137th Street.

**Proposed Plan (Applicant is continuing to work with the City):** The applicant provided a traffic study to review the location of the proposed signal at 135th St & High Dr and determine the impacts to the adjacent/proposed roadways. The City hired Olsson to review the traffic study. We are in agreement with the developer that moving the signal 200 feet east of the ¼ mile section line as shown on the submitted plan has little if any impact to the delay and queues to existing and future traffic along 135th Street.

2. **Alignment of 137th Street: Stipulation 2c**

**Comprehensive Plan: Summary**

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alignment of 137th Street</td>
<td>Connection to Kenneth Road on south side of existing natural area, with a larger amount of land area north of 137th Street for mixed use development.</td>
<td>Connection on north side of existing natural area, reducing amount of land area north of 137th Street for mixed use development</td>
<td>Does Not Comply</td>
</tr>
</tbody>
</table>

**Comprehensive Plan Requirement:** The City’s Comprehensive Plan has shown the alignment of 137th Street connecting to Kenneth Road on the south side of the existing natural area on the site since 1996. This alignment leaves a much larger portion of land north of 137th Street for mixed use development. The increased amount of land provides sufficient land area and depth to allow planning principals to be followed that are identified in the Comprehensive Plan and 135th Street Community Plan such as transitions of higher density to lower density, development centered around activity nodes, preservation of natural greenspace, and a grid network of streets.

**Proposed Plan (Does Not Comply):** The applicant is proposing an alignment of 137th Street that is on the north side of the existing natural area on the site, much further to the north than what has been shown on the Comprehensive Plan since 1996. The proposed alignment significantly reduces the land area north of...
137th Street that is designated by the Comprehensive Plan for mixed use development. The proposed alignment not only reduces the amount of land north of 137th Street for mixed use development, it also reduces the depth of the land between 135th Street and 137th Street. The reduction in depth prevents good planning principals identified in the Comprehensive Plan and the 135th Street Community Plan, such as transitions in density within the mixed use development, mixed use developed around activity nodes, and the provision of a street network that provides pedestrian and vehicular connectivity along with walkability.

3. **Land Use Designations: Stipulation 2d**

<table>
<thead>
<tr>
<th>Comprehensive Plan: Summary</th>
<th>Standard</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Designation</td>
<td>The Comprehensive Plan shows Mixed Use development north of 137th Street with Medium Density Residential south of 137th Street.</td>
<td>Applicant is proposing a reduction in the Mixed Use land use north of 137th Street. Applicant is proposing 7.6 acres of medium density (RP-3 zoning) on the north side of 137th Street.</td>
<td></td>
<td>Does Not Comply</td>
</tr>
</tbody>
</table>

**Comprehensive Plan Requirement:** The Comprehensive Plan designates the land north of 137th Street for Mixed Use development and the area south of 137th Street for Medium Density Residential development. As stated above, the Comprehensive Plan designates a much larger amount of land north of 137th Street for Mixed Use development than what the applicant is proposing. This larger amount of land area along with the increased depth of land between 135th Street and 137th Street, will allow for transitioning from higher density and taller building heights along 135th Street to lower density and lower building heights adjacent to 137th Street, within the mixed use development. It will also allow the mix of uses to be developed around centers of activity with gathering areas and a grid network of streets to allow for greater vehicular and pedestrian connectivity that will also promote walkability. This style of mixed use development provides for greater flexibility in planning and much more activity among the mix of uses than what can be accomplished with standard development constructed around parking lots, or strip center development, thus promoting greater economic sustainability.

The applicant is also proposing 7.6 acres of land north of 137th Street to be zoned RP-3 to contain 18 duplexes. This is contrary to the Comprehensive Plan, which shows a larger amount of land north of 137th Street for mixed use development, and the area south of 137th Street as medium density residential development. As mentioned above, the larger amount of land and depth of land for mixed use north of 137th Street allows for transects that reduce density and building height as development moves from 135th Street to 137th Street. This reduction of density from north to south within the mixed use portion of the development, along with 137th Street being used to divide the mixed use development from the medium density residential development on the south side of 137th Street, provides a transition with a buffer between the mixed use development and the medium density residential development. The medium density residential development along with 137th Street also acts as a transition between the mixed use development north of 137th Street and the existing lower density residential homes to the south.

**Proposed Plan (Does Not Comply):** As stated previously, the applicant is proposing to reduce the amount of land and the depth of land north of 137th Street that is designated by the Comprehensive Plan for
mixed use development by moving the alignment of 137th Street further to the north. In addition, the applicant is proposing that a portion of land north of 137th Street (7.6 acres) be zoned RP-3 to contain 18 duplexes. The reduction in the amount of land and depth of land for mixed use development does not allow for flexibility in planning, having a more integrated mix of uses around activity nodes, the provision of a grid network of streets to provide vehicular and pedestrian connectivity that allows for increased walkability. It also limits the ability to transition from higher density and taller buildings along 135th Street to lower density and shorter buildings along 137th Street to provide better transitions and buffering between uses. The proposed plan provides little transition or buffering between the duplexes on the north side of 137th Street from the higher density and taller buildings within the mixed use development along 135th Street.

4. **Preservation of Natural Areas: Stipulation 2e and 3b**

<table>
<thead>
<tr>
<th>Comprehensive Plan: Summary</th>
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<tbody>
<tr>
<td><strong>Standard</strong></td>
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<tr>
<td>Preservation of Natural Areas</td>
</tr>
</tbody>
</table>

**Comprehensive Plan Requirement:** The Comprehensive Plan calls for the preservation of natural areas and for the unique incorporation of natural features within living environments. The project site contains several large natural areas with a significant amount of existing trees within both the mixed use and medium density residential portions of the development. Some of the existing natural areas are as wide as 200 ft.

Per the Comprehensive Plan and 135th Street Plan, existing natural areas should be preserved as much as possible and integrated with the development. The trees could be used as a buffer. With the alignment of 137th Street as shown in the Comprehensive Plan, which has 137th Street running along the south side of a large natural area, the trees could be used as a substantial buffer between the mixed use development north of 137th Street and the medium density residential development on the south side of 137th Street. This in turn would provide a substantial buffer between the mixed use development along 135th Street and the existing residential homes that are further south.

The natural areas also provide opportunities to integrate natural areas into the development that can be used for shade, recreation, trails, buffered open space, and gathering areas. These natural areas may also provide opportunities for a more natural approach to storm water management.

**Proposed Plan (Does Not Comply):** The applicant proposes to eliminate the majority of the natural areas on site for either roads, storm water management in the form of bio-retention or detention, or the
construction of buildings. The proposed location of building construction adjacent to the east side of the main entrance into the development off 135th Street will require the removal of a substantial number of existing trees.

The majority of the remainder of the large natural areas that are centrally located within the site will be removed for the construction of duplexes and to construct bio-retention and detention for storm water.

5. Street and Pedestrian Connectivity: Stipulation 2f and 3a

<table>
<thead>
<tr>
<th>Comprehensive Plan: Summary</th>
<th>Standard</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grid Street Network/Street Connectivity</td>
<td>Promotes a grid network of streets to provide vehicular and pedestrian connectivity. Encourages multiple street and pedestrian connections that link the neighborhood to the community as a whole. Discourages the extensive use of cul-de-sacs and dead end streets.</td>
<td>The mixed use portion of the development is arranged around surface parking lots and does not provide a grid network of streets for vehicular and pedestrian connectivity. Buildings adjacent to 135th Street do not provide pedestrian connections to perimeter sidewalks. All duplexes are proposed to be constructed around one of five cul-de-sacs.</td>
<td>Does Not Comply</td>
<td></td>
</tr>
</tbody>
</table>

**Comprehensive Plan Requirement:** The Comprehensive Plan, which includes the 135th Street Community Plan, promotes a grid network of streets to provide vehicular and pedestrian connectivity, which also provides for greater walkability. A gridded network improves the flow of traffic, provides more marketable real estate at four-way intersections and improves connectivity between districts and destinations within the area. The ease of access to a wide variety of businesses within the mixed use development that is created by street and pedestrian connections creates a dynamic mixed use environment which contributes to the success of all the uses within the development, creating economic sustainability. The use of cul-de-sacs is discouraged as they discourage vehicular and pedestrian connectivity. Pedestrian connections to the surrounding community are encouraged. This is often done by ensuring that direct pedestrian connections are made between the main entrances of buildings to perimeter sidewalks along adjacent public right-of-way.

**Proposed Plan (Does Not Comply):** As previously stated the reduced amount of land and depth of land area between 135th Street and 137th Street makes the provision of a grid street network within the mixed use portion of the property impossible. As a result the mixed use portion of the development proposes buildings that are arranged around surface parking lots. Pedestrian connectivity is provided by pedestrian connections between parking lot islands within the parking lots, and along the fronts of buildings. All of the duplexes within the RP-3 portion of the development are arranged around one of five cul-de-sac streets.
6. Mixed Use Activity Nodes: Stipulation 2g

<table>
<thead>
<tr>
<th><strong>Comprehensive Plan: Summary</strong></th>
<th><strong>Proposed</strong></th>
<th><strong>Compliance</strong></th>
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<tbody>
<tr>
<td><strong>Standard</strong></td>
<td><strong>Requirement</strong></td>
<td></td>
</tr>
<tr>
<td>Mixed Use Activity Nodes</td>
<td>Mixed use development is to be developed around nodes of activity to create a vibrant mixed use environment. The extensive use of cul-de-sacs and dead end streets is discouraged.</td>
<td>The mixed use portion of the development has buildings organized around surface parking lots.</td>
</tr>
</tbody>
</table>

**Comprehensive Plan Requirement:** The 135th Street Community Plan within the Comprehensive Plan calls for mixed use development to be organized around nodes of activity to create a vibrant mixed use environment. These nodes are to be developed within a gridded street pattern and located near key intersections with many pedestrian and vehicular connections within the nodes and to surrounding areas. The nodes should contain some residential that is integrated, or nearby retail and office. Businesses within the nodes should include uses that offer services and experiences that attract pedestrian activity. The nodes should include gathering spaces or other key features that create a unique sense of place. The close proximity of the mix of uses and variety of times of activity, the ease of access, and connectivity with the nearby community will create vibrant environments that will contribute to the success of the development and the surrounding area.

**Proposed Plan (Does Not Comply):** Within the mixed use portion of the development, buildings containing residential, retail, and office are organized around surface parking lots. Much of the pedestrian connectivity is via pedestrian connections through a parking lot by connecting parking lot islands. The two story retail/office building along the east side of the main entrance off of 135th Street is isolated from all other buildings by the main entrance drive on the east and a parking lot on the west. The two, 2-story office buildings are also isolated at opposite ends of a parking lot. Some pedestrian connections through parking lots are provided to 137th Street, but no direct pedestrian connections are proposed between the buildings that line 135th Street and the perimeter sidewalk along 135th Street.

7. Variety of Street Types Tailored to Land Use and Sense of Place: Stipulation 2h

<table>
<thead>
<tr>
<th><strong>Comprehensive Plan: Summary</strong></th>
<th><strong>Proposed</strong></th>
<th><strong>Compliance</strong></th>
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<tbody>
<tr>
<td><strong>Standard</strong></td>
<td><strong>Requirement</strong></td>
<td></td>
</tr>
<tr>
<td>Variety of Street Types</td>
<td>Utilize a variety of street types to integrate the required uses within development.</td>
<td>The mixed use portion of the development is organized around surface parking and does not utilize street types based on land use. All of the duplex units within the RP-3 portion of the development are organized around one of 5 cul-de-sacs.</td>
</tr>
</tbody>
</table>
**Comprehensive Plan Requirement:** The 135th Street Community Plan states that mixed use development should utilize a variety of street types that are tailored to land use and provide a sense of place, within a grid network of streets providing many vehicular and pedestrian connections. Three street types are identified in the plan, including Destination Streets that are higher density and have a wide variety of commercial uses with residential that is integrated. They lay the foundation for activity centers within the development. Active Pedestrian Streets have a balanced mix of uses and are the base of the street grid and serve as thoroughfares for cars, bikes and people. Neighborhood Streets are primarily residential and have lower traffic and secondary passageways for community members traveling on foot or car. Each of these street types is to respond to the specific traffic needs and provide pedestrian and bicycle amenities while creating a specific atmosphere and sense of place for all street users.

**Proposed Plan (Does Not Comply):** The applicant is not proposing a variety of street types that are tailored to land use or to create a sense of place. The mixed use portion of the development is organized around surface parking lots accessed via arterial and collector roads. The duplex development within the RP-3 portion of the development is organized around five cul-de-sacs. Neither the mixed use development nor the duplex development utilize streets to provide both vehicular and pedestrian connectivity, or to create a unique sense of place.

8. **Opportunities for Multiple Forms of Transportation: Stipulation 2i**

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<tr>
<th>Comprehensive Plan: Summary</th>
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<tbody>
<tr>
<td><strong>Standard</strong></td>
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<tr>
<td>Provide Opportunities for Multiple Forms of Transportation</td>
</tr>
</tbody>
</table>

**Comprehensive Plan Requirement:** The Comprehensive Plan and the 135th Street Community Plan encourage multiple modes of transportation within the City of Leawood, including the provision of future opportunities for transit. Connecting developments to the rest of the community and the surrounding areas, including those outside of the City, is important to the economic success and overall longevity of developments. Areas should be made available that allow citizens and patrons to easily access different modes of transportation to fully reap the benefits of connectivity and walkability.

**Proposed Plan (Does Not Comply):** The proposed plan has few connections with perimeter public streets and does not provide areas along potential transportation routes to provide areas for future transit stops or areas that engage multiple modes of transportation.

9. ** Transects to Ensure Transitions and Compatibility of Uses: Stipulation 2j**

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<thead>
<tr>
<th>Comprehensive Plan: Summary</th>
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<tbody>
<tr>
<td><strong>Standard</strong></td>
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<tr>
<td>Transects to Ensure Transitions and</td>
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</tbody>
</table>
**Comprehensive Plan: Summary**

<table>
<thead>
<tr>
<th>Compatibility of Uses</th>
<th>Standard</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>to lower density and shorter buildings along 137&lt;sup&gt;th&lt;/sup&gt; Street.</td>
<td>Plan provides little buffer between the mixed use development and adjacent duplex units.</td>
<td></td>
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</table>

**Comprehensive Plan Requirement:** The 135<sup>th</sup> Street Community Plan recommends the use of transects, bands of varying density and building height that run east-west, to reduce the density and building height as the development moves north to south, from 135<sup>th</sup> Street to 137<sup>th</sup> Street. The Comprehensive Plan proposes that higher density with taller buildings be located closer to 135<sup>th</sup> Street and that development becomes less dense with shorter buildings as it moves toward 137<sup>th</sup> Street to provide a transition between the mixed use development and adjacent residential south of 137<sup>th</sup> Street. 137<sup>th</sup> Street is further utilized as a buffer between the lower density portions of the mixed use development and residential on the south side of 137<sup>th</sup> street.

**Proposed Plan (Does Not Comply):** The plan proposed with the application generally does not reduce the density of the mixed use development that is north of 137<sup>th</sup> Street. The movement of the 137<sup>th</sup> Street to the north significantly reduces the depth of land between 135<sup>th</sup> Street and 137<sup>th</sup> Street, thus making it more difficult to provide a gradual transition in density and building height from 135<sup>th</sup> Street to 137<sup>th</sup> Street. One of the two tallest building within the mixed use development is 5 stories (71’ in height) and is located along 135<sup>th</sup> Street, at the southwest corner of 135<sup>th</sup> Street and the main entrance into the development. A second building that is also 5 stories (71’ in height) is located along 137<sup>th</sup> Street adjacent to RP-3 development to the south and west. The plan proposes little transition in height and density between the mixed used development and the adjacent duplex development that is proposed.

**LEAWOOD DEVELOPMENT ORDINANCE REQUIREMENTS**

1. **Floor Area Ratio and Residential Discount: Stipulation 2a**

<table>
<thead>
<tr>
<th>Leawood Development Ordinance: Summary</th>
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<tbody>
<tr>
<td>Standard</td>
</tr>
<tr>
<td>F.A.R. (Floor Area Ratio)</td>
</tr>
</tbody>
</table>
Leawood Development Ordinance Requirement: Per Section 16-2-6.4, MXD (Mixed Use Development District), the maximum F.A.R. within the MXD district is 0.25. However, this section of the ordinance also provides for an automatic 25% discount on residential floor area, and states that staff may recommend and the Governing Body approve a discount up to 55% on residential floor area. The application is proposing an F.A.R. of 0.43, with the automatic 25% on residential floor area.

Per Section 16-3-9(A)(4) Deviations: Floor Area Ratio, deviations in F.A.R. may be granted by the Governing Body if the bonus criteria are met. The Leawood Development Ordinance allows bonus criteria for the following:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Maximum Bonus</th>
<th>Ordinance Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increased Open Space</td>
<td>15%</td>
<td>16-2-6.4(G)(1)</td>
</tr>
<tr>
<td>Cultural Use</td>
<td>10%</td>
<td>16-2-6.4(G)(2)</td>
</tr>
<tr>
<td>Superior Site Planning</td>
<td>10%</td>
<td>16-3-9(A)(4)(b)</td>
</tr>
<tr>
<td>Architectural Significance and Superior Environmental Design</td>
<td>10%</td>
<td>16-3-9(A)(4)(c)</td>
</tr>
<tr>
<td>Pedestrian Amenities</td>
<td>10%</td>
<td>16-3-9(A)(4)(d)</td>
</tr>
<tr>
<td>Integrated Strom water Detention</td>
<td>10%</td>
<td>16-3-9(A)(4)(e)</td>
</tr>
<tr>
<td>Above Ground Parking Structures</td>
<td>10%</td>
<td>16-3-9(A)(4)(f)</td>
</tr>
<tr>
<td>Underground Parking Structures</td>
<td>15%</td>
<td>16-3-9(A)(4)(f)</td>
</tr>
</tbody>
</table>

The total number of bonuses to F.A.R. shall not exceed 0.45 without a ¾ majority of the Governing Body.

Proposed Plan (Staff’s Opinion: The Project Does Meet the Required Bonus Criteria): With the 25% automatic discount for residential development the applicant is proposing the equivalent of 338,400 sq.ft. of construction. It is staff’s position that as the development does not meet many of the requirements of the Comprehensive Plan, including 135th Street Community Plan, therefore the development should not receive a discount to residential building area beyond the base discount of 25% provided by the Leawood Development Ordinance.

The maximum number of sq.ft. with the base F.A.R. of 0.25 within the MXD zoning district is 196,692 sq.ft. The applicant needs bonuses for 141,708 sq.ft., (338,400 – 196,692) the amount of building area proposed with 25% discount for residential over the base amount of sq.ft. allowed with a 0.25 F.A.R. The applicant is proposing F.A.R. bonuses for increased open space (15%) and underground parking structures (15%). The maximum amount of bonus floor area available with the two requested bonuses is 59,008 sq.ft., which still leaves 82,700 sq.ft. that will require an F.A.R. bonus. In staff’s opinion the application meets the bonus requirement for the provision of underground parking. However it is staff’s position that the application does not meet the F.A.R. bonus criteria for increased open space for the following reasons:

- In staff’s opinion the application does not meet the criteria for a 15% F.A.R. bonus for additional open space, because the criteria states that the additional open space must provide a benefit to the community. However, the plan shows much of the additional open space being dispersed primarily around the perimeter of the site where it is unlikely to be used by the public.

With a 25% discount for residential development and an F.A.R. bonus of 29,504 sq.ft. for underground parking, the application would require additional F.A.R. bonuses for 112,204 sq.ft.
2. **Prohibited Roofing Material: Stipulation 3d**

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<tr>
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<tbody>
<tr>
<td>Prohibited Roofing Material</td>
<td>Per Section 16-2-10.3, laminated composition (asphalt) shingles are not permitted except in single family residential districts.</td>
<td>The applicant is proposing to use laminated composition (asphalt) shingles on the duplexes and triplexes within the RP-3 (Planned Cluster Attached) zoning district of the development.</td>
<td>Does Not Comply However, applicant has stated that they will comply with Leawood Development Ordinance requirement.</td>
</tr>
</tbody>
</table>

**Leawood Development Ordinance Requirement:** Per Section 16-2-10.3, laminated composition (asphalt) shingles are not permitted except in single family residential districts. Permitted roofing materials within the RP-3 zoning district includes: slate, clay tile, concrete tile, synthetic slate, synthetic shingles, stone coated steel roofing, metal roofing.

**Proposed Plan (Does Not Comply):** The plans show laminated composition (asphalt) shingles which are not permitted, however, the applicant has stated that at the time of Final Plan they will comply with this requirement.

3. **Buffer Adjacent to Buildings:**

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<tbody>
<tr>
<td>Buffering Adjacent to Buildings</td>
<td>Per Section 16-4-7.3(D)(2) of the Leawood Development Ordinance, buffering adjacent to buildings is required to be a minimum of 10’ deep.</td>
<td>It appears that some of the buildings within the MXD portion of the development do not meet this requirement.</td>
<td>Does Not Comply However, the applicant has stated that at the time of Final Plan, they will meet this requirement.</td>
</tr>
</tbody>
</table>

**Leawood Development Ordinance Requirement:** Per Section 16-4-7.3(D)(2) of the Leawood Development Ordinance, buffering adjacent to buildings is required to be a minimum of 10’ deep.

**Proposed Plan (Does Not Comply):** It appears that some of the buildings within the MXD portion of the development do not meet this requirement. However, the applicant has stated that at the time of Final Plan, they will meet this requirement.

**OTHER COMMENTS:**

1. **Tree Preservation Easement: Stipulation 3c**
   
   The applicant is proposing a 20 ft. tree preservation easement along the south property line of the RP-3 portion of the development that is in common with the Villas of Highlands Ranch and Leawood Falls.
This existing tree line varies in width between approximately 25 ft. and 40 ft. The plan shows the footprints of a couple of the duplexes encroaching into the existing tree line, with a couple more being in close proximity. Some trees will have to be removed from the tree line for the construction of some of these units. The applicant is proposing to plant some additional trees on the north side of the tree line as a supplement. Staff recommends that the tree preservation easement be extended to 35 ft. to better protect the trees along the south side of the property.

2. **Extension of 137th Street to the West; Stipulation 6**
   As 137th Street is extended to the east beyond the current dedicated public right-of-way, Staff is supportive of realigning 137th Street further to the north, as feasible, to provide a tract of land between the south side of 137th Street and the adjacent southern property line to protect the existing trees and to provide a buffer to the existing residential homes to the south.

3. **Width of Sidewalks with Parking Overhang:**
   Where head-in parking overhangs sidewalks, sidewalks must provide for a minimum of 2’ of additional width. It appears that the sidewalks in front of some buildings may not meet this standards. The applicant has stated that at the time of Final Plan, they will meet this requirement.

4. **Requested Deviations:**
   Section 16-3-9(A)(5) of the Leawood Development Ordinance provides for deviations to setbacks provided that they may only be granted when compensating common open spaces (not less than a 1:1 ratio) is provided elsewhere in the project and where there is ample evidence that the deviation will not adversely affect neighboring properties. The applicant is requesting the following two deviations to setbacks.
   - Deviation to allow a 30’ building setback from 137th Street and High Drive within the MXD portion of the development. Per Section 16-3-9(A)(5)(a) of the Leawood Development Ordinance, setbacks of buildings from paved areas may be reduced to 75% of the standard requirement. The MXD portion of the project requires a minimum of 30% open space (197,226 sq.ft.). The MXD zoned property is providing 44% open space (295,106 sq.ft.).
   - Deviation to allow a minimum side yard setback of 15.5’ from vertical wall to vertical wall, and 8’ between egress wells of residential dwelling units. Per Section 16-3-9(A)(5)(d), interior line setbacks may be reduced to zero when adequate open space for the project and between buildings is provided. The RP-3 portion of the project requires a minimum of 30% open space (411,442 sq.ft.). The RP-3 zoned property is providing 65% open space (899,832 sq.ft.).

Staff is not supportive of the requested deviations as the plan does not meet the requirements of the City of Leawood Comprehensive Plan, including the 135th Street Community Plan, which would provide for an integrated mix of uses within an interconnected grid system that creates for a sense of place and promotes walkability.

**STAFF RECOMMENDATION:**
Staff is not supportive of the application as submitted, as it does not meet the requirements of either the Comprehensive Plan, which formally incorporated the 135th Street Community Plan in 2014, or the Leawood Development Ordinance as outlined below. Staff recommends the Planning Commission deny Case 71-18 – 135th Street and Kenneth Road – Mixed Use and Medium Density Residential, request for approval of a Rezoning, Preliminary Plan, Preliminary Plat, and Special Use Permit. However, if the Planning Commission were to approve the application staff offers the following stipulations.
1. The project is limited to the following:
   a) 410,200 sq.ft. construction on 18.25 acres for an F.A.R. of 0.43, with a 25% discount for residential within the MXD zoned portion of the development that shall meet all requirements of the Leawood Development Ordinance and the City Comprehensive Plan.
   b) 54 duplexes and 3 triplexes on 38.28 acres for a density of 3.06.

2. Prior to Final Plan submittal the applicant shall work with City staff to make the following revisions to the MXD portion of the plan to bring it into conformance with the Leawood Development Ordinance and City of Leawood’s Comprehensive Plan.
   a) Provide amenities that meet Leawood Development Ordinance requirements for requested deviations to F.A.R.
   b) The alignment of 137th Street shall be moved to the south in closer proximity to the alignment shown on the Comprehensive Plan and to provide additional land area for the MXD portion of the development to allow critical aspects of 135th Street Community Plan to be implemented including: a grid network of streets, land uses centered around activity nodes, vehicular and pedestrian connectivity, walkability and preservation of native areas.
   c) Modify the land use/zoning designations to match the Comprehensive Plan with mixed use north of 137th Street and medium density residential south of 137th Street to provide adequate space within the MXD portion of the development to allow integration and connectivity of the residential uses and to provide opportunities for transitioning from higher density to lower density.
   d) Preserve existing natural areas to incorporate them as an amenity within the development.
   e) Align streets to provide a grid network to allow greater vehicular and pedestrian connectivity to create a more cohesive development providing connectivity and opportunities for walkability.
   f) Provide nodes of activity in which a mix of uses are organized around to create a sense of place with concentrations of activity.
   g) Incorporate a variety of street types tailored to land uses within a grid network of streets to provide a sense of place within the mixed use development.
   h) Provide opportunities within the development for multiple forms to transportation to provide connectivity and walkability throughout the development and the surrounding community.
   i) Utilize transects to transition from higher density and taller buildings along 135th Street to lower density shorter buildings along 137th Street to ensure compatibility of uses.
   j) Provide amenities that meet Leawood Development Ordinance requirements for deviations to F.A.R.

3. Prior to Final Plan submittal the applicant shall work with City staff to make the following revisions to the RP-3 portion of the plan to bring it into conformance with the Leawood Development Ordinance and City of Leawood’s Comprehensive Plan.
   a) Provide additional opportunities for vehicular and pedestrian connectivity.
   b) Preserve existing natural areas to incorporate them as an amenity within the development.
   c) Increase the Tree Preservation along the south property line from 20’ to 35’ to better preserve the existing trees that act as a buffer to the existing residential development to the south.
   d) Provide revised elevation drawings for the duplex and triplex units that meet the material requirements of the Leawood Development Ordinance, including roofing material.

4. The applicant shall be responsible for the following impact fees:
   a) A park impact fee in the amount of $.15/square foot of finished floor area for non-residential construction and $300 per residential unit is required prior to issuance of a building permit. This amount is subject to change by Ordinance.
   b) A public art impact fee or a piece of public art shall be required for all non-residential construction. Approval of the design and location of the art will need to go before the Arts Council, Planning
Commission, and be approved by the Governing Body at a later date. In lieu of that, the applicant may pay a public art impact fee in the amount of $.15/square foot of finished floor area for nonresidential development prior to issuance of a building permit. This amount is subject to change by Ordinance.

c) The applicant shall be responsible for a South Leawood Transportation Impact Fee prior to recording of the Final Plat.

d) Street Fee?

5. The applicant/owner shall be responsible for the construction of an additional lane and other improvements on 135th Street prior to issuance of a Certificate of Occupancy for any building within either the MXD or RP-3 zoned portions of the development, per Public Works Department.

6. At the time of Final Plan the RP-3 portion of the development shall provide a revised plan connecting the three western cul-de-sacs to provide increased connectivity.

7. The right-of-way for 137th Street shall be shifted to the north, to provide a tract of open space to act as a buffer between the street and the existing residential development to the south, as it is extended to the west beyond the current dedicated right-of-way.

8. The applicant/owner shall be responsible for the construction of 137th Street.

9. The completion of the design and construction of all public streets for the full width of the property shall be under a single set of construction plans.

10. All power lines, utility lines, etc. (both existing and proposed, including utilities and power lines adjacent to and within abutting right-of-way) are required to be placed underground. This must be done prior to final occupancy of any building within the project.

11. Within the RP-3 portion of the development, all above ground facilities shall be placed in the rear yard wherever practical. If locating these facilities in the rear yard is not practical or appropriate, as determined by the City Engineer, then such facilities shall be at least 25' behind the right-of-way.

12. The term of the Special Use for the assisted living facility shall be limited to twenty years from the date of Governing Body approval.

13. A Special Use for an assisted living facility shall be issued to Vick Regnier Builders, Inc.

14. All utility boxes, not otherwise approved with the final development plan, with a height of less than 55 inches, a footprint of 15 sq.ft. in area or less, or a pad footprint of 15 sq.ft. in area or less, shall be installed only with the prior approval of the Director of Community Development as being in compliance with the Leawood Development Ordinance.

15. Within the MXD portion of the development, all utility boxes, not otherwise approved with the final development plan, with a height of 55 inches or greater, a footprint greater than 15 sq.ft. in area, or a pad footprint greater than 15 sq.ft. in area, shall be installed only with the prior recommendation of the Planning Commission as being in compliance with the Leawood Development Ordinance based on review of a site plan containing such final development plan information as may be required by the City, and approved by the Governing Body. The City may impose conditions on approval, including but not limited to duration or renewal requirements, where the circumstances are sufficiently unusual to warrant the conditions.

16. Within the RP-3 portion of the development, all new utility boxes with a height of 55 inches or greater, a footprint greater than 15 square feet in area, or a pad footprint greater than 15 square feet in area, shall be authorized only by approval of a special use permit prior to construction.

17. No deviations from the Leawood Development Ordinance are approved with this application.

18. Along all public streets, a minimum of a 10’ tree lawn shall be provided between back of curb and adjacent sidewalks.
19. Sidewalks shall be 6' in width along 135th Street, both sides of High Drive, and on the north side of 137th Street. A 10’ asphalt hike/bike trail shall be required along the south side of 137th Street and west side of Kenneth Road. All other sidewalks shall be a minimum of 5’ in width.

20. Within the MXD portion of the development and per the Leawood Development Ordinance, where pedestrian routes intersect vehicular access routes, the material of the pedestrian route shall be enhanced and differentiated from the vehicular paving material.

21. All buildings within this development shall conform to the architectural type, style, and scale of the buildings approved by the Governing Body at Final Plan.

22. All downspouts shall be enclosed.

23. In accordance with the Leawood Development Ordinance, all trash enclosures shall be screened from public view with a 6 foot solid masonry structure to match the materials used in the buildings and shall be architecturally attached to the individual buildings and accented with appropriate landscaping. The gates of the trash enclosures shall be painted, sight obscuring, decorative steel.

24. All rooftop equipment shall be screened from the public view with an architectural treatment, which is compatible with the building architecture. The height of the screen must be at least as tall as the utilities being screened.

25. Per the Leawood Development Ordinance, all parking lot light fixtures associated with this project shall be a maximum of 18’ in height.

26. Lighting fixtures along 137th Street, High Drive, and Kenneth Road between 135th Street and 137th Street shall be of a special design that matches the existing light fixtures on 137th Street.

27. At the time of Final Plan a landscape plan shall be submitted that meets all requirements of the Leawood Development Ordinance.

28. Lighting plans, photometric studies that meet the Leawood Development Ordinance, along with specific light fixtures, shall be required at the time of Final Plan.

29. Materials boards shall be submitted at the time of Final Plan application.

30. A model shall be submitted at the time of final plan application.

31. Sign design and calculations shall be required at Final Plan.

32. The applicant shall obtain all approvals and permits from the Public Works Department, per the public works memo dated November 9, 2018, on file with the City of Leawood Planning and Development Department, prior to recording the final plat.

33. The applicant shall obtain all approvals from the City of Leawood Fire Department, per the Fire Marshal’s memo dated November 7, 2018, on file with the City of Leawood Planning and Development Department, prior to issuance of a building permit.

34. A statement shall be included on the final plat for the RP-3 portion of the development that states that there shall be no ingress or egress within the rear yard, or street side side yard to 137th Street for those lots that are adjacent to 137th Street.

35. All streets within the RP-3 portion of the development shall be public. The developer or Homes Association will maintain any planting or statuary within the street right-of-way. The developer shall execute a right-of-way maintenance agreement with the Public Works Department for any planting or statuary improvements within the public right-of-way.

36. For the MXD portion of the development, a cross access/parking easement for the entire development shall be recorded with the final plat at the Johnson County Registrar of Deeds prior to issuance of a building permit.

37. At the time of Final Plan application, the development shall revise the plans to show all storm water detention areas to be storm water retention to serve as an amenity to the development.

38. The Owner/Applicant must establish a funding mechanism to maintain, repair and/or replace all common areas and common area improvements including, but not limited to, streets, walls, and storm
water system improvements. The mechanism will include a deed restriction running with each lot in the development that will mandate that each owner must contribute to the funding for such maintenance, repair and/or replacement and that each lot owner is jointly and severally liable for such maintenance, repair and/or replacement, and that the failure to maintain, repair or replace such common areas or common area improvements may result in the City of Leawood maintaining, repairing and replacing said common areas and/or improvements, and the cost incurred by the City of Leawood will be jointly and severally assessed against each lot, and will be the responsibility of the owner(s) of such lot.

39. This preliminary plan approval shall lapse in two years, if construction on the project has not begun or if such construction is not being diligently pursued; provided, however, that the developer may request a hearing before the City Council to request an extension of this time period. The City Council may grant one such extension for a maximum of 12 months for good cause shown by the developer.

40. In addition to the stipulations listed in this report, the developer/property owner agrees to abide by all ordinances of the City of Leawood including the Leawood Development Ordinance, unless a deviation has been granted, and to execute a statement acknowledging in writing that they agree to stipulations one through forty.
MEMORANDUM

Date: November 9, 2018

To: Richard Coleman, Director of Community Development

From: David Ley, P.E., Director of Public Works

Re: 135th & Kenneth
Case Number: 71-18

The Department of Public Works has reviewed the aforementioned project and would like to make the following stipulations as part of the Planning Commission Approval:

1) Plat:
   a) Along 135th Street the developer shall provide eighty-five (85) feet of Right-of-Way from the section line and provide a ten (10) foot Utility Easement abutting the Right-of-Way.

   b) Along 137th Street provide eighty (80) feet of Right-of-Way, provide a five (5) foot Sidewalk Easement abutting the south Right-of-Way line and provide a ten (10) foot Utility Easement abutting both sides of the Right-of-Way.

   c) Along High Drive provide ninety (90) feet of Right-of-Way and provide a ten (10) foot Utility and Sidewalk Easement abutting both sides of the Right-of-Way.

2) Traffic Impact Analysis:
   a) The submitted Traffic Study was reviewed by Olsson. The developer modified their original plan and relocated the full access intersection at 135th St & High Dr approximately 170 feet west. This proposed location is 200 feet east of the ¼ mile spacing that staff had requested. After review of the developer’s traffic study it was determined that the proposed location 200 feet east of the section line does not increase queue lengths and/or delays along the 135th St corridor.

   b) The Developer shall provide fifty (50) foot curb return radius at the intersections along 135th Street and at 137th Street and Kenneth Road. All other intersections and drive entrances shall have a thirty (30) foot curb return radius.
c) The Developer shall construct the following public improvements prior to issuance of Certificate of Occupancy:

i) Construct an additional lane for eastbound 135th Street along the frontage of this development. This section of roadway shall be constructed in accordance with the 135th Street construction plans dated 1995 AND the lane widening must be as smooth as the existing pavement section. This shall be determined by a Profilograph machine. If the new pavement section is not as smooth as the existing lanes, the developer shall grind the new pavement to meet the smoothness of the existing lanes.

ii) The Developer shall construct eastbound right turn lanes at each access to 135th Street and at Kenneth Road. The length of the right turn lane shall be three hundred (300) feet long plus taper.

iii) The Developer shall install the traffic signal at 135th St & High Dr and the left turn lanes for eastbound and westbound.

iv) The pavement at the intersection of 136th St and High Dr between the crosswalks and within the Right-of-Way shall be concrete.

v) If 137th Street is not constructed to Chadwick with the first phase of this project the developer shall construct a temporary cul-de-sac on the west end of their project and provide escrow for future removal of the cul-de-sac and construction of the permanent 137th Street through their property. The temporary cul-de-sac can be constructed within the 80 feet of Right-of-Way.

3) Storm Water Study:

a) The Storm Water Study has been submitted and the developer will be required to detain their storm water runoff in accordance with current APWA Standards.

i) There are two bio-retention ponds and a detention pond on the southwest corner of the development, a bio-retention pond and detention pond on the east side of the development south of 137th Street and an infiltration trench on the east side of the Assisted Living to maintain the existing peak flow from this site and to meet the stormwater treatment requirement.

ii) On the final plan submittal the developer shall update the stormwater study to construct the bio-retention and detention ponds as amenities to the development.

iii) The developer is providing a 100 foot stream buffer on the existing creek at the northeast corner of the development.

b) The location, size, plant material list, etc of the BMP's will be verified on the engineering plan submittal.

4) The 10 foot wide shared use path shall be constructed on the south side of 137th Street and along the west side of Kenneth Road.

5) All driveway crossings constructed with pavers shall be in accordance with Public Works Department and Planning Department standards.
6) Developments shall have all utilities relocated underground. This includes private property and utilities in the Right-of-Way between the curb and property line.

7) Developments on or between 133rd Street to 137th Street shall have six (6) foot sidewalks within the Right-of-Way, except where the ten (10) foot bike/hike trail is located. The sidewalks and bike/hike trail shall be located within the Right of Way or a Sidewalk Easement.

8) Developments on or between 133rd Street to 137th Street shall use the City of Leawood’s Special Street Light for all public roadway lighting.

9) All public improvements shall be designed and constructed in accordance with the City of Leawood Public Improvement Construction Standards as developed by the Department of Public Works (latest revision).

10) The developer shall obtain and submit to the Department of Public Works and the Building Official a copy of the NPDES Land Disturbance Permit issued by the Kansas Department of Health and Environment prior to any grading work at the site.

11) The permit fee for plan review and construction observation shall be five (5) percent of the construction cost for all improvements within the Right-of-Way or Public Easement(s) granted to the City of Leawood. The fee will be charged and collected from the Contractor prior to issuance of the permit from the Department of Public Works. The plan review and construction observation fee for the Nall Avenue improvements shall be waived if the developer constructs the future improvements with this development.

12) The plat will not be released for recording until all the permits for the Department of Public Works have been obtained by the Contractor(s) and all other requirements have been met.

13) Certificates of Occupancy shall not be issued for any building until all public improvements, including payments to escrow accounts, have been completed.

If you have any questions, please call me at (913) 663-9131.

Copy: Project File
      PW Book
This plan as reviewed provides adequate access for fire apparatus.

*Gene Hunter, Leawood Fire Marshal*
A
B
D
POOL
CLUB
3,200
SF
T.
T.
42 UNITS, 52,000 SF
RESIDENTIAL
BELOW GRADE PARKING
42 STALLS
C
T.
RETAIL/ OFFICE 1ST FLR.
12,000 SF
56 UNITS, 66,000 SF
4 STORY ABOVE RETAIL
BELOW GRADE PARKING
56 STALLS
D
T.
ASSISTED LIVING
BELOW GRADE PARKING
100 STALLS
E
OFFICE
11,250 SF/ 11,250 SF
RETAIL
13,500 SF
F
OFFICE
10,500 SF/ 10,500 SF
PEDESTRIAN PLAZA
2,680 SF
G
PEDESTRIAN PLAZA & PATIO
162 SURFACE STALLS
182 SUB-SURFACE STALLS
T.
T.
T.
T.
COMMUNITY GARDEN
TWO LEVEL OFFICE
BLDG
TWO LEVEL OFFICE
BLDG
TWO LEVEL OFFICE
BLDG
TWO STORY
67,200 SF
PEDESTRIAN PLAZA
680 SF
T.
T.
T.
T.
T.
T.
30' BUILDING SETBACK
30' BUILDING SETBACK
30' BUILDING SETBACK
30' BUILDING SETBACK
30' BUILDING SETBACK
1. Location of all existing utilities needs to be done before commencing work.

2. The planting plan graphically illustrates overall plant massings. Each plant species massing shall be placed in the field to utilize the greatest coverage of ground plane. The following applies for individual plantings:
   a. All trees shall be a minimum of 3' from paving edge.
   b. All shrubs shall be a minimum of 2' from paved edge.

3. Mulch all planting bed areas to a minimum depth of 3". Mulch individual trees to a minimum depth of 4".

4. Note: If plants are not labeled - they are existing and shall remain.

5. All landscaped areas in ROW shall be sodded and irrigated unless otherwise specified.

6. All dead or damaged plant material shall be replaced at Landscape Contractor’s expense.

7. A minimum of one 4-inch caliper tree shall be planted for every ten (10) parking spaces. 302 parking spaces provided. 30 Trees required. 30 Trees provided

8. Additional trees shall be required at a ratio of one tree for every 3,000 sq.ft. of landscaped open space. 45 Additional trees required. 45 Additional trees provided. (25 existing trees)

9. One ornamental tree per 12 lineal feet (1 shade tree = 2 Ornamental trees) and one shrub per 5 lineal feet are required: 638 L.F. frontage on 135th Street (excludes areas of dense existing vegetation)
   53 Ornamental trees required  128 shrubs required. 53 Ornamental trees provided  128 shrubs provided

10. Total Area of the site (excluding setbacks) = 193,127 sf.

11. 10% of site shall be landscaped (19,313sf) 24% of site is landscaped.  (47,141 sf total)

12. Additional trees are required at a ratio of one tree per 300 sf of landscaped open space. 47,141 Sf of landscaped open space. 45 Additional trees required. 45 Additional trees provided. (25 existing trees)

13. Landscape Calculations - East Mixed-Use Area
   - One ornamental tree per 12 lineal feet (1 shade tree = 2 Ornamental trees) and one shrub per 5 lineal feet are required: 240 L.F. frontage on 137th Street (excludes areas of dense existing vegetation)
   - 263 L.F. frontage on Kenneth Road (Dense Existing Vegetation Preserved)
   - 30 Ornamental trees required  72 shrubs required. 30 Ornamental trees provided  72 shrubs provided

14. One ornamental tree per 12 lineal feet (1 shade tree = 2 Ornamental trees) and one shrub per 5 lineal feet are required: 200 L.F. frontage on Kenneth Road (Dense Existing Vegetation Preserved)
   - 1/2 DIA. OF BALL
   - 3) STAKES SHALL BE 2"x 2" HARDWOOD OR EQUAL
   - 4) PROVIDE NEW TOPSOIL
   - 5) COMPARATE TOPSOIL, TYP
   - 6) BACKFILL w/ SUITABLE BACKFILL MIXTURE
   - 7) PLACE ALL ROOT BALLS ON UN-EXCAVATED OR TAMPED SOIL, TYP

15. Landscape Calculations - West Mixed-Use Area
   - One ornamental tree per 12 lineal feet (1 shade tree = 2 Ornamental trees) and one shrub per 5 lineal feet are required: 378 L.F. frontage on Entry Boulevard (excludes driveways)
   - 2,680  SF MATCHLINE ABOVE
   - 13,500 SF PEDESTRIAN PLAZA & PATIO - 1 STORY
   - 820 sf PEDESTRIAN PLAZA & PATIO - 2 STORY
   - 32 Ornamental trees required  76 shrubs required. 32 Ornamental trees provided  76 shrubs provided

16. Requirements Met.

17. Interior Landscaping:
   - A minimum of one 4-inch caliper tree shall be planted for every 100 sf of landscaped open space. 908 L.F. frontage on 137th Street (excludes driveways)
   - 30 Trees required. 30 Trees provided

18. Exterior Parking Lot Landscaping:
   - 16 Additional trees required. 16 Additional trees provided.

19. Architectural Vegetation:
   - DENSE EXISTING VEGETATION TO BE PRESERVED

20. Tree Planting Notes:

   1) APPLY 2"THK BED OF MULCH
   2) THOROUGHLY MIX PEAT IN TREE IN THE NURSERY, AND ROTATE
   3) STAKES SHALL BE 2"x 2" HARDWOOD OR EQUAL
   4) PROVIDE NEW TOPSOIL
   5) COMPARATE TOPSOIL, TYP
   6) BACKFILL w/ SUITABLE BACKFILL MIXTURE
   7) PLACE ALL ROOT BALLS ON UN-EXCAVATED OR TAMPED SOIL, TYP

21. SPECIFIED BACKFILL MIXTURE

22. INITIAL WATERING: COMPLETE, WATER MORE IS ABSORBED

23. Scale: 1"=80'

24. Project:

   SRE PLAN
   135th and Kenneth Rd.
   Leawood, KS

25. Final Submittal Date: 6.13.2018
   Revisions:
   Revision 1: 6.13.2018
   Revision 2: 7.20.2018
   Revision 3: 8.15.2018
   Revision 4: 11.1.2018

26. Landscape Plan

27. Richardson Landscape Architecture

28. Rick and Richard Lashbrook

29. Landscape Schedule

30. Telephone: 913.787.2817

31. Email: info@richardsonlandscape.com

32. 15245 Metcalf Ave.
   Overland Park, KS 66223

33. Ground Cover/ Shrub Details

34. Cultivated Edge Details

35. Planting Installation Details

36. Cover/Hub Detail

37. Street and Ornamental Tree Plan

38. Landscape Plan

39. Landscape Calculations - East Mixed-Use Area

40. Landscape Calculations - West Mixed-Use Area

41. Landscape Schedule

42. Landscape Plan
October 31, 2018

Jessica Schuller
City of Leawood Department of Community Development
4800 Town Center Drive
Leawood, KS 66221

Re: 135th and Kenneth Road – Preliminary Plan
Deviation Requested

The following deviations are being requested for Case 71-18 135th Street and Kenneth Road – Preliminary Plan, Preliminary Plat, Special Use Permit and Rezoning:

1. We are requesting a deviation to allow for a minimum separation of 8-feet between buildings from the RP-3 Bulk requirements of 30-feet separation between buildings. The 8-feet separation is the distance measure between window wells, while a minimum of 15.5-feet separation is being provided between the outside vertical walls of the units.

The request is being made in accordance with the Leawood Development Ordinance, Article 3 Planned Development Procedures, Section 16-3-9 A.5.c. which states:

   c. Side yards between buildings may be reduced to zero when the city approves adequate open space for the project and between buildings.

   The required open space in the RP-3 Bulk requirements is 30% of the lot. We have 31.55 acres of RP-3 lot area; therefore requiring 9.46 acres of open space. The proposed open space being provided with this plan is 20.82 acres of open space, therefore an additional 11.36 acres of open space.

   We are requesting this building separation deviation on 41 side yards with this plan. Exhibit “A” attached illustrated the worst-case scenario on this plan by using the adjacent units with the greatest building depths at the minimum requested separation. In our worst-case scenario we are encroaching 890.5 square feet in the side yard from the RP-3 bulk requirement of 30 -feet. If we multiple the worst-case encroachment of 890.5 square feet by 42 side yards we come up with a maximum of 36,511 square feet (0.84 acres) encroachment. We have provided 11.36 acres additional opens space to provide better than 1:1 ratio compensation.

Sincerely,

Phelps Engineering, Inc.

Tim Tucker, P.E.

10/31/18
*NOTE: MULTIPLE ELEVATION DESIGNS TO BE CONSIDERED*
MATERIALS PALETTE AND COLOR OPTIONS

Main Body:
LP® SmartSide® Lap Siding
Double 8" Bold Profile Lap

Color Option 1: SW 7648 Big Chill

Color Option 2: SW 7019 Gauntlet Grey

Color Option 3: SW 7642 Pavestone

Trim Pieces:
LP - SmartSide Lap Siding
76 Series Smooth Finish Lap

Color Option 1: SW 7006 Extra White

Color Option 2: SW 7006 Extra White

Color Option 3: SW 7006 Extra White

Doors + Shutters:
LP - SmartSide Lap Siding
76 Series Cedar Texture

Color Option 1: Black Stain

Color Option 2: Black Stain

Color Option 3: Coffee Stain

Accent:
Canyon Stone - Canyon
Ledge Manufactured Stone Veneer

Color Option 1: Midnight Slate

Color Option 2: Morning Mist

Color Option 3: Morning Mist

Roof:
CertainTeed - Presidential
Shake Shingles

Color Option 1: Charcoal Black

Color Option 2: Autumn Blend

Color Option 3: Autumn Blend
MATERIALS PALETTE AND COLOR OPTIONS

Main Body + Trim Pieces:
- LP® SmartSide® Lap Siding
  - Double 8” Bold Profile Lap
  - SW 7006 Extra White

Doors + Shutters:
- LP - SmartSide Lap Siding
  - 76 Series Smooth Finish Lap
  - SW 7069 Iron Ore

Accent:
- Canyon Stone - Canyon
  - Ledge Manufactured Stone
  - Morning Mist

Roof:
- CertainTeed - Presidential
  - Shake Shingles
  - Autumn Blend

Main Body:
- LP® SmartSide® Lap Siding
  - Double 8” Bold Profile Lap
  - SW 7006 Extra White

Trim + Doors + Shutters:
- LP - SmartSide Lap Siding
  - 76 Series Smooth Finish Lap
  - SW 7006 Extra White

Accent:
- Canyon Stone - Canyon
  - Ledge Manufactured Stone
  - Morning Mist

Roof:
- CertainTeed - Presidential
  - Shake Shingles
  - Charcoal Grey
Preliminary Stormwater Study

135th & Kenneth
Mixed Use Development

135th Street and Kenneth Road
Leawood, Kansas

Prepared by:

PHELPS ENGINEERING, INC
1270 N. Winchester
Olathe, KS 66061
(913)393-1155

PEI #180350
July 24, 2018
July 24, 2018

Mr. David Ley, P.E.
City of Leawood, Kansas
4800 Town Center Drive
Leawood, KS 66211

Re: 135th and Kenneth Road – Mixed Use Development
Preliminary Stormwater Study
PEI #180350

Dear Mr. Ley:

Phelps Engineering, Inc. is pleased to submit this Preliminary Stormwater Management Study for the above referenced project. The Mixed Use project is located at the southwest of the intersection of 135th Street and Kenneth Road. The site is 56.33 net acres and is currently zoned as Agricultural (AG). The proposed plan will rezone the property to Mixed-Use (MXD). The Mix-Use will consist of 38.91 acres of Twin Villas and 17.43 acres of Neighborhood Business consisting of Apartments/Office/Retail.

Preliminary Onsite Drainage System
The existing site is contained in two watersheds draining to the southwest and northeast. The proposed storm sewer system will maintain the approximate existing drainage paths.

Stormwater runoff will be conveyed in an enclosed public storm sewer system sized to convey the 10-year storm in accordance with APWA Section 5600 and City of Leawood requirements.

The 100-year overflow will be conveyed in the street system in conjunction with engineered overflow swales. The lowest openings of any building adjacent to a 100-year overflow will be set a minimum of one-foot above the 100-year water surface elevation.

Existing Conditions
Soils data for the site watershed was determined using the NRCS Web Soil Survey for Johnson County. The site consists of 0.88 acres HSG “B” (Kennebec Soil), 25.19 acres HSG “C/D” (Grundy Soils), and 30.25 acres HSG “D” soils (Oska-Martin, and Chillicothe). Based on aerial imagery from previous years, the existing site is considered to be a combination of grass in good condition and
woods poor condition. See Appendix “F” of this report for aerial imagery exhibits and the NRCS Web Soil Survey.

**Drainage Computations**
The existing site is contained in three watersheds draining to the southwest, northeast, and to the south. Proposed conditions will maintain the same drainage paths. See the enclosed Existing Drainage Map and Proposed Drainage Map in Appendix “B & C”.

Using HydroCAD V10 storm modeling software with SCS Type II 24-hr storm duration, the existing 1-year, 10-year and 100-year site peak discharges were determined for the site watersheds that will require detention. The calculated allowable release rates can be found in Table 1 below. See Appendix “D” of this report for the existing HydroCAD modeling results.

<table>
<thead>
<tr>
<th>Drainage Area</th>
<th>1-Year Peak Flow (cfs)</th>
<th>10-Year Peak Flow (cfs)</th>
<th>100-Year Peak Flow (cfs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southwest</td>
<td>15.01</td>
<td>42.52</td>
<td>73.34</td>
</tr>
<tr>
<td>Northeast</td>
<td>69.93</td>
<td>193.75</td>
<td>331.33</td>
</tr>
<tr>
<td>South</td>
<td>0.85</td>
<td>2.24</td>
<td>3.76</td>
</tr>
</tbody>
</table>

**Downstream Analysis**

**Southwest Watershed**
The City of Leawood has been requiring detention in this watershed with past projects, due to downstream overtopping of 141st Street and flooding of a house at 14009 Canterbury Street. Detention will be provided in this watershed.

**Northeast Watershed**
The onsite drainage area contributing to the northeast watershed is 46.86 acres. The drainage system in this watershed was studied downstream to a point at which the onsite drainage area is less than 10% of the total contributing drainage area, or 46.86 acres. The northeast watershed discharged directly into the FEMA floodplain. The total drainage area to this point is 530 acres. No buildings or street flooding was identified within the drainage to the FEMA floodplain, but immediately downstream of the study area Kenneth Road over tops in the 100-year storm per the FEMA maps. Detention is required in this watershed.

**South Watershed**
The south watershed is 0.4 acres and the downstream drainage system was not analyzed, since the project is proposing to divert the south drainage into the northeast watershed where it can be detained. No discharge to the south is proposed.
Detention
A total of two detention basins are proposed for the 135th Street and Kenneth Road development, one located in the southwest watershed and one in the northeast watershed. All detention analyses were completed using HydroCAD V10 storm modeling software, using SCS Unit Hydrograph detention modeling with SCS Type II 24-hr storm duration. See Appendix “E” for the proposed HydroCAD modeling results.

Southwest Watershed
The southwest detention basin is a dry detention basin that will contain two bio-retention basins in the bottom of the detention basin. The outlet structure used in the routing analysis is multi-stage structure to treat the water quality volume event to the basin and control peak runoff rates in the 1, 10 and 100-year storm event. The first stage is a 1.2 inch diameter orifice on the bio-retention outlet at an elevations of 969.0. The second stage is a 60 inch wide by 10 inch tall orifice with a flowline elevation of 972.24. The 100-year WSE in the basin is 974.45 with a storage volume of 1.114 ac-ft. The emergency spillway is 20 feet wide and set at an elevation of 977. The emergency spillway conveys the peak 100-year inflow of 60.13cfs at an elevation of 978. The lowest top of berm elevation is set at 979.0 providing a minimum freeboard of one foot over the 100-year WSE. See Table 2 below for the southwest watershed proposed conditions.

<table>
<thead>
<tr>
<th>Storm</th>
<th>Discharge Pt.</th>
<th>Existing Condition</th>
<th>Proposed Condition</th>
<th>Allowable</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Release Rate, cfs</td>
<td>Inflow Rate, cfs</td>
<td>Outflow Rate, cfs</td>
</tr>
<tr>
<td>1-year</td>
<td>Pond</td>
<td>NA</td>
<td>15.83</td>
<td>3.72</td>
</tr>
<tr>
<td></td>
<td>Southwest Total Outfall</td>
<td>15.01</td>
<td>NA</td>
<td>10.83</td>
</tr>
<tr>
<td>10-year</td>
<td>Pond</td>
<td>NA</td>
<td>37.4</td>
<td>19.02</td>
</tr>
<tr>
<td></td>
<td>Southwest Total Outfall</td>
<td>42.52</td>
<td>NA</td>
<td>40.27</td>
</tr>
<tr>
<td>100-year</td>
<td>Pond</td>
<td>NA</td>
<td>60.13</td>
<td>26.87</td>
</tr>
<tr>
<td></td>
<td>Southwest Total Outfall</td>
<td>73.34</td>
<td>NA</td>
<td>62.03</td>
</tr>
</tbody>
</table>

Northeast Watershed
The northeast detention pond is a dry detention basin located adjacent to Kenneth Road near the mid-point of the east property line. The outlet structure used in the routing analysis is a multi-stage structure consisting of a 9” orifice set at an elevation of 918.00, a 8’ x 5’ riser box with a top elevation of 926.50, and a 48” wide x 16” tall weir orifice on a horizontal plan elevation of 923.4. The 100-
year WSE in the basin is 928.67 with a storage volume of 4.0 ac-ft. The emergency spillway is 200 feet wide and set at an elevation of 929.2. The emergency spillway conveys the peak 100-year inflow of 245.7 cfs at an elevation of 929.78. The lowest top of berm elevation is set at 930.8 providing a minimum freeboard of one foot over the 100-year WSE. See Table 3 below for the northeast watershed proposed conditions.

<table>
<thead>
<tr>
<th>Storm</th>
<th>Discharge Pt.</th>
<th>Existing Condition</th>
<th>Proposed Condition</th>
<th>Allowable</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Release Rate, cfs</td>
<td>Inflow Rate, cfs</td>
<td>Outflow Rate, cfs</td>
</tr>
<tr>
<td>1-year</td>
<td>Pond</td>
<td>NA</td>
<td>42.28</td>
<td>4.55</td>
</tr>
<tr>
<td></td>
<td>NE Total Outfall</td>
<td>69.93</td>
<td>NA</td>
<td>66.47</td>
</tr>
<tr>
<td>10-year</td>
<td>Pond</td>
<td>NA</td>
<td>154.34</td>
<td>49.13</td>
</tr>
<tr>
<td></td>
<td>NE Total Outfall</td>
<td>193.75</td>
<td>NA</td>
<td>161.48</td>
</tr>
<tr>
<td>100-year</td>
<td>Pond</td>
<td>NA</td>
<td>245.7</td>
<td>144.04</td>
</tr>
<tr>
<td></td>
<td>NE Total Outfall</td>
<td>331.33</td>
<td>NA</td>
<td>308.19</td>
</tr>
</tbody>
</table>

Stream Buffers
Two stream channels are located on the project and both are located in the Northeast Watershed.

Blue River Tributary "A" enters the site at the northeast corner of the property from a culvert under 135th street and exits the property at the northeast corner of the site under Kenneth Road. The contributing drainage entering the site is approximately 530 acres and the drainage area exiting the site is approximately 550 acres. Blue River Tributary A will be contained in a 100-feet stream buffer measured from the ordinary highwater mark on each side of the stream channel.

An unnamed tributary of Blue River Tributary "A" is located onsite at the east edge of the property and exits the property at the east under Kenneth Road. The contributing drainage exiting the site is approximately 21 acres. This drainage will be improved into stormwater treatment facilities and a stormwater detention basin. No stream buffer setback is require for this drainage in accordance with APWA, since the drainage will not be remain undeveloped and be improved into ponds/basins.

FEMA
Blue River Tributary "A" located at the northeast corner of the site is a FEMA regulated floodplain and has been designated as Zone AE. The Zone AE
regulatory flood plain is contained entirely within a 100-feet stream buffer will not be disturbed. No permit is required by FEMA.

All other parts of the property have been designated as Zone X, per Map Panel 20091C0085G of the Flood Insurance Rate Map dated August 3, 2009. Zone X is defines areas outside the 0.2% annual chance flood plain. No permit is required since zone X properties are located outside the regulatory floodplain.

**Department of Water Resources (DWR)**
The DWR has jurisdiction over drainages with a contributing drainage area in excess of 640-acres. All drainages are less than 640-acres; therefore are not jurisdictional drainages of the DWR.

**Corps of Engineers**
Two stream channels are located on the property and no wetlands are anticipated based on aerial photography and topographic mapping. It is anticipated that a Corps of Engineers nationwide permit will be required for stream channel impacts to the small drainage that is tributary to Blue River Tributary “A”. A Corps of Engineers Permit will be provided prior construction plan approval.

**Water Quality BMP Requirements**
The site is 56.33 net acres and is being zoned as 38.91 acres of Twin Villa Residential Development (R-3) and 17.43 acres of Mix Use of Apartments/Office/Retail. The proposed twin villa plan has 120 units for a density of 3.08 units per acre.

**Pre-development CN**
The pre-developed CN was calculated by evaluating the site based on existing ground cover and soil type. The existing site consists of a combination of the majority as pasture in good condition and a small amount of woods in poor condition. The site consists of HSG Type “C/D” and “D” soils. See enclosed NRCS soil survey printouts in Appendix “F”. The predevelopment CN is calculated at 78.

The proposed CN was calculated by using a land type of ¼ acre residential lots for the Twin Villas and Neighborhood Business for the mixed use area. The proposed plan contains 1.67 acres of open tract green space, 38.51 ¼ acres residential lots, and the remaining 16.15 acres was analyzed as neighborhood business. The post development CN is calculated at 89.

The proposed development has increased the existing CN by 11, therefore requiring a level of service of 6.44 in accordance with APWA Best Management Practices for Water Quality and City of Leawood’s revised scale system for LOS, allowing use of tenths of points instead of whole numbers. See Level of Service Worksheets 1 & 2 in Appendix “H” for more details.
The proposed development BMP mitigation required to provide a minimum water quality level of service of 6.44 is provided by a combination of seven bio-retention basins, native vegetation, and three infiltration practices via Stormtech MC-4500 infiltration chambers. Areas being treated by infiltration trenches will be limited to a maximum of 5.00 acres per system per the MARC BMP Manual requirements.

The Level of Service provided is 6.46, meeting the requirements set forth in APWA. See Level of Service Worksheet 2 and the Post Development Mitigation Exhibit in Appendix "H" for more details.

The lowest openings of any building adjacent to a 100-year overflow will be set a minimum of one-foot above the 100-year EGL in accordance with APWA and City of Leawood requirements.

All maintenance of BMP's will be the sole responsibility of the Homes Association.

All BMP's are contained in a Stormwater Treatment Tract in accordance with City of Leawood requirements, providing access and the required setbacks.

**Conclusion**

This stormwater management plan and attached exhibits complete Phelps Engineering's submittal of the Preliminary Stormwater Study for the 135th Street and Kenneth Mixed Use Project. Please feel free to contact PEI at (913) 393-1155 if you require additional information.

Sincerely,

Phelps Engineering, Inc.

Tim Tucker, P.E.

Enclosures
Subject: 135th & Kenneth Shared Parking Analysis

In accordance with your request, TranSystems has completed a shared parking analysis for the proposed mixed-use development at the southwest corner of 135th Street and Kenneth Road in Leawood, Kansas. The study included an analysis of parking demand for the proposed land uses. The concept of shared parking is described in a publication titled *Shared Parking*, published by the Urban Land Institute (ULI). Shared parking is defined as the use of a parking space to serve two or more individual land uses without conflict or encroachment. The key goal of a shared parking analysis is to find the balance between providing adequate parking, land area, and resources dedicated to parking.

Proposed Development

The proposed development includes a mixture of residential, office and retail land uses. The southern portion of the site, generally south of 137th Street, includes 120 twin villas. The northern portion of the site includes the mixture of land uses. Several buildings are proposed with apartments, commercial, and assisted living facilities. The main access driveway for the development will run north/south, bisecting the northern portion of the site. The main driveway creates two separate mixed-use areas, referred to in this analysis as the northeastern and northwestern portions of the site.

The parking areas for the two northern portions of the site were designed independently, to provide ample parking for each area. The northeastern portion includes a 100-space parking garage below the assisted living facility to be used by residents, employees, and visitors to the facility. The northeastern portion also includes a 169 surface parking spaces. The northwestern portion of the site includes 190 garage parking spaces for apartment residents. There will also be 231 surface parking spaces to be shared by the office and retail uses, as well as some apartment residents and visitors.

The proposed development is currently in the planning stages and the specific tenants of the commercial areas are not known at this time. Based on input from the developer’s design team, several assumptions were made about the types uses anticipated. The team anticipates the retail uses as being specialty retail and service needs with some small café, local coffee shop, deli, and small restaurants included for the needs of the residential. The sizes of these businesses would be 1,500 to 4,000 square feet. Based on this input, the table on the following page indicates the land uses and sizes assumed for the shared parking analysis.
Shared Parking Analysis

In general, methodologies outlined in Shared Parking were used to perform the analysis. The parking demand was estimated for each land use in the proposed development based on weekday base parking ratios from Shared Parking, average weekday peak parking demand from Parking Generation published by the Institute of Transportation Engineers (ITE), or from local data for similar land uses. These ratios indicate the peak accumulation of vehicles at the peak hour for a single land use.

Next the ratios for each land use were multiplied by a percentage for each hour of the day to indicate hourly variations in the demand for parking. Similarly, seasonal variations are accounted for by applying a different percentage for each month of the year. The ratios and variations used in the analysis were obtained from Shared Parking, and are included with the analysis files in the Appendix at the end of this memorandum. The percentages used for the hourly and seasonal variations in this analysis are a weighted average of the visitor/guest and employee percentages.

Retail Rates

According to Shared Parking, the Community Shopping Center is the smallest retail category available to estimate parking demand, with a base parking ratio of 3.6 spaces per 1,000 sf of leasable space. This category includes all retail that is less than 400,000 square feet. The retail portion of the proposed development is much smaller than this (roughly 79,000 sf), and is anticipated to be smaller specialty type stores. These types of specialty stores typically do not generate as much traffic as a drug store or grocery store, which is categorized in the same land use.

Given that the Community Shopping Center land use does not accurately describe the retail component of the proposed development, another source was used to determine an appropriate base ratio for parking demand. Parking Generation provides an average peak parking demand for a Shopping Center land use on a weekday of 2.55 spaces per 1,000 sf. This average ratio is likely higher than the demand for parking in the proposed development, however it provides for a conservative analysis of shared parking conditions.
Office Rates
The office land use would not be expected to be used as densely as other general office buildings. The types of offices anticipated are professional offices such as law firms or stock brokers. They would generally have small staff sizes, individual office work areas, and conference rooms. Due to these factors, the generic base parking ratio of 3.6 spaces per 1,000 sf from Shared Parking of was not utilized for the analysis. Instead the average peak parking demand for a suburban Office Building land use from Parking Generation was used. This ratio is 2.84 spaces per 1,000 sf of leasable space.

Apartment Rates
The base parking rate of 1.65 in Shared Parking does not differentiate between one bedroom and two bedroom units, which can have different parking demands. The base parking ratio used for apartment residents in this analysis is 1.3 spaces per unit. This rate indicates one space per unit for one bedroom units, and two spaces per unit for two bedroom units. This rate was provided by the development team based on data from several recent local projects. Data was collected by EPC Real Estate Group from their developments at 51 Main in Kansas City, Missouri, and from the Village at Mission Farms in Overland Park, Kansas. At 51 Main, a 1.3 spaces per unit ratio was provided and found to have a surplus of 10 percent at peak times. The Village at Mission Farms provided a 1.6 ratio, equating to one space per unit for one bedroom units and two spaces per unit for two bedroom units. This development was found to have a parking surplus of roughly 20 percent during peak times. The actual demand is closer to a 1.35 ratio, with more than half of the units having two bedrooms.

For this shared parking analysis, the base parking ratio was reduced from 1.3 to 0.2 spaces per unit, as 85 percent of the base parking ratio, or nearly all of the residents, will be accommodated in the 190 garage parking spaces, which will not be shared. A few residents and the residential visitors will share the surface parking spaces.

Captive Demand
Shared Parking states that some reduction of customer parking needs occurs in a mixed-use development due to patronage of multiple land uses. These patrons are referred to as “captive” since they are already present at the site for another land use. Residents of the proposed development who visit the restaurants or shops would be considered captive, as they do not add to the demand for parking. This is the same for office workers at who shop or go to restaurants in the development. There is also potential for nearby residents, especially in the twin villas to walk to the restaurants or shops. Given these considerations, a reduction of 12 percent was applied to the base ratios for the restaurant and retail land uses to account for captive demand. The 12 percent reduction matches the percentage of internally captured trips indicated in the traffic impact study for the proposed development.

Assumptions
Several factors in the analysis should be noted. First, the northeastern and northwestern portions of the site were analyzed separately as to not share parking across the main access drive. Second, the parking garage spaces are not included in the supply for the shared parking analysis as they will not be shared spaces. The Assisted
living land use is assume to be fully parked in the garage. Since this land use will not require any shared parking it was not included in the analysis.

**Results**

The results of the analysis indicate that the parking supplies for the northeastern and northwestern portions are projected to be sufficient for all times of the year. The most critical time periods are projected to be during the middle of the day in December. During those time periods, the parking will be close to 99 percent occupied. This analysis correlates with the fact that December is the peak month for most retail business because of holiday shopping.
July 24, 2018

Mr. Rick Lashbrook
Leawood 135, LLC
P.O. Box 26170
Overland Park, KS  66225

RE:  135th Street and Kenneth Road Traffic Impact Study
    Leawood, Kansas

Dear Mr. Lashbrook:

In response to your request and authorization, TranSystems has completed a traffic impact study for the proposed mixed-use development to be located generally in the southwest corner of the 135th Street and Kenneth Road intersection in Leawood, Kansas. The purpose of this study was to assess the impact of the proposed development on the surrounding transportation system.

Included in this study is a discussion of the anticipated impacts of the proposed development on the adjacent street network for the following analysis scenarios:
  › Existing Conditions
  › Existing Development Conditions
  › Future (Year 2040) Conditions

We trust that the enclosed information proves beneficial to you and the City of Leawood in this phase of the development process. We appreciate the opportunity to be of service to you and will be available to review this study at your convenience.

Sincerely,

TRANSYSTEMS

By:  Jeffrey J. Wilke, PE, PTOE

JJW/jw:P101180207
Enclosure
Introduction
TranSystems has completed this traffic impact study for the proposed mixed-use development to be located generally in the southwest corner of the 135th Street and Kenneth Road intersection in Leawood, Kansas. The purpose of this study was to assess the impact of the proposed development on the surrounding transportation system. The location of the project relative to the major streets in the area is shown on Figure A-1 in Appendix A.

In addition to a description of the proposed development and the surrounding transportation infrastructure, this study includes trip generation estimates, trip distribution estimates, capacity analyses, and a summary of findings.

Proposed Development Plan
The proposed development includes a variety of residential, office and retail land uses. The southern portion of the site, generally south of 137th Street, includes 120 attached single-family residences called twin villas. The mixed-use component of the proposed development is north of 137th Street. Several buildings are proposed in the northern portion with apartments, offices, retail, and an assisted living facility. A copy of the proposed site plan for the development is included on Figure A-2 for reference.

There are two access points to the proposed development site. The main driveway to the site will be a new intersection that will extend south from 135th Street. The main driveway is located roughly 1,700 feet east of the signalized intersection of 135th Street and Pawnee Street, and 900 feet west of the signalized intersection of 135th Street and Kenneth Road. The other access point to the site will be 137th Street, which will be constructed west of Kenneth Road as a part of the proposed development plan. In the future, two more access points may become available on the west side of the site to Chadwick Street as future development occurs on adjacent parcels.

Study Area
To assess the impacts of the proposed development, the intersections listed below were identified for study during the A.M. and P.M. peak hours of a typical weekday.
- 135th Street and Kenneth Road
- Site Driveways

Surrounding Street Network and Land Uses
The major road system in Johnson County is primarily a grid pattern with one-mile spacings on section lines. One Hundred Thirty-Fifth (135th) Street is a four lane divided east/west thoroughfare that is part of the grid network. Adjacent to the development site, 135th Street has a posted speed limit of 45 m.p.h. Kenneth Road is a two-lane collector street with a posted speed limit of 35 m.p.h. Kenneth Road extends a short distance from 135th Street south to intersect Kenneth Parkway. North of 135th Street, the alignment of Kenneth Road becomes a long private driveway to a church. Currently, 137th Street does not extend to the development site. West of Chadwick Street, 137th Street is a two-lane collector street that parallels 135th Street.
The development site currently consists of undeveloped land with agricultural land uses. The land to the north of the site across 135th Street is also undeveloped with some agricultural uses. It is anticipated to develop in the future with land uses similar to the proposed development. South of the site are single-family villa type residences. To the west of the site there is a bank, a church, more villa type residences, and some undeveloped commercial lots. To the east of the site across Kenneth Road is undeveloped land that is anticipated to be commercial type development in the future.

### Traffic Counts

Turning-movement traffic volume counts were collected at the study intersection on Tuesday, July 10, 2018, from 7:00 to 9:00 A.M. and from 4:00 to 6:00 P.M. Based on the data, the peak hours occur between 7:15 and 8:15 A.M., and between 4:45 and 5:45 P.M. The existing lane configurations, traffic control devices, and peak hour traffic volumes have been illustrated on Figure A-3.

### Analysis

The scope of analysis for the assessment of the proposed development’s impact on the surrounding transportation system is based in large part on the recommended practices of the Institute of Transportation Engineers (ITE), as outlined in their Traffic Engineering Handbook. ITE is a nationally-recognized organization of transportation professionals with members from both private and public sectors. The analysis of the proposed development’s impact included development of trip generation and trip distribution estimates as well as a traffic operations assessment for each study scenario. Each of the analysis methodologies and findings are described in the subsequent sections.

### Trip Generation

Trip generation estimates were prepared using the Institute of Transportation Engineer’s Trip Generation, 10th Edition. Table 1 on the next page shows the expected trips to be generated by the proposed development. Additional information related to trip generation is included in Appendix B.

The proposed development includes office, retail, and residential land uses. Therefore, it can be assumed that when the development is fully built out, some of the customers of the retail businesses in the development will also live in the residential portion or work in the office portion of the development. These trips are said to be internal trips, because the origin and destination of the trips are within the development site. The ITE internal capture methodology was used to determine the number of trips internal to the site. The internal trips were not applied to the external street system.
### Table 1
**Proposed Development Trip Generation**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Intensity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ITE Code</td>
</tr>
<tr>
<td>Single-Family Residential</td>
<td>120 du</td>
</tr>
<tr>
<td>Multifamily Housing (Low-Rise)</td>
<td>172 du</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>84 du</td>
</tr>
<tr>
<td>General Office Building</td>
<td>79,150 sf</td>
</tr>
<tr>
<td>Shopping Center</td>
<td>40,950 sf</td>
</tr>
<tr>
<td><strong>Subtotal Full Development Trips</strong></td>
<td>6,832</td>
</tr>
<tr>
<td><strong>Internal Development Trips</strong></td>
<td>--</td>
</tr>
<tr>
<td><strong>Total External Development Trips</strong></td>
<td>6,832</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Average</th>
<th>A.M. Peak Hour</th>
<th>P.M. Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Weekday</td>
<td>Total In</td>
<td>Out</td>
</tr>
<tr>
<td>Single-Family Residential</td>
<td>1,230</td>
<td>90      23</td>
<td>68</td>
</tr>
<tr>
<td>Multifamily Housing (Low-Rise)</td>
<td>1,260</td>
<td>80      18</td>
<td>62</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>219</td>
<td>16      10</td>
<td>6</td>
</tr>
<tr>
<td>General Office Building</td>
<td>846</td>
<td>88      76</td>
<td>12</td>
</tr>
<tr>
<td>Shopping Center</td>
<td>3,277</td>
<td>173     107</td>
<td>66</td>
</tr>
</tbody>
</table>

**Trip Distribution**

The estimated trips generated by the proposed development were distributed onto the street system based on the trip distributions summarized in **Table 2**. These distributions are based on existing travel patterns in the area and engineering judgment. The detailed distribution patterns through the study intersections are shown in **Appendix B**.

### Table 2
**Trip Distribution**

<table>
<thead>
<tr>
<th>Direction To/From</th>
<th>Residential Percentage</th>
<th>Commercial Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>East on 135th Street</td>
<td>50%</td>
<td>45%</td>
</tr>
<tr>
<td>West on 135th Street</td>
<td>45%</td>
<td>45%</td>
</tr>
<tr>
<td>South on Kenneth Road</td>
<td>5%</td>
<td>10%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100%</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

**Traffic Operation Assessment**

An assessment of traffic operations was made for the scenarios listed below.

- Existing Conditions
- Existing Development Conditions
- Future (Year 2040) Conditions
The study intersections were evaluated using the Synchro traffic analysis software package. Calculations were performed based on the methodologies outlined in the Highway Capacity Manual (HCM), 2000 Edition, which is published by the Transportation Research Board. The operating conditions at an intersection are graded by the “level of service” experienced by drivers. Level of service (LOS) describes the quality of traffic operating conditions and is rated from “A” to “F”. LOS A represents the least congested condition with free-flow movement of traffic and minimal delays. LOS F generally indicates severely congested conditions with excessive delays to motorists. Intermediate grades of B, C, D, and E reflect incremental increases in the average delay per stopped vehicle. Delay is measured in seconds per vehicle. Table 3 shows the upper limit of delay associated with each level of service for signalized and unsignalized intersections.

<table>
<thead>
<tr>
<th>Level of Service (LOS)</th>
<th>Signalized</th>
<th>Unsignalized</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>( \leq 10 \text{ Seconds} )</td>
<td>( \leq 10 \text{ Seconds} )</td>
</tr>
<tr>
<td>B</td>
<td>( \leq 20 \text{ Seconds} )</td>
<td>( \leq 15 \text{ Seconds} )</td>
</tr>
<tr>
<td>C</td>
<td>( \leq 35 \text{ Seconds} )</td>
<td>( \leq 25 \text{ Seconds} )</td>
</tr>
<tr>
<td>D</td>
<td>( \leq 55 \text{ Seconds} )</td>
<td>( \leq 35 \text{ Seconds} )</td>
</tr>
<tr>
<td>E</td>
<td>( \leq 80 \text{ Seconds} )</td>
<td>( \leq 50 \text{ Seconds} )</td>
</tr>
<tr>
<td>F</td>
<td>&gt; 80 \text{ Seconds}</td>
<td>&gt; 50 \text{ Seconds}</td>
</tr>
</tbody>
</table>

While LOS measurements apply to both signalized and unsignalized intersections, there are significant differences between how these intersections operate and how they are evaluated. LOS for signalized intersections reflects the operation of the intersection as a whole.

Unsignalized intersections, in contrast, are evaluated based on the movement groupings which are required to yield to other traffic. Typically, these are the left turns off of the major street and the side-street approaches for two-way stop-controlled intersections. At unsignalized intersections lower LOS ratings (D, E and F) do not, in themselves, indicate the need for additional improvements. Many times there are convenient alternative routes to avoid the longer delays. Other times the volumes on the unsignalized approaches are relatively minor when compared to the major street traffic, and improvements such as traffic signal installation may increase the average delay to all users of the intersection.

The decision to install a traffic signal, which is often considered when lower LOS ratings are projected, should be based on engineering studies and the warrants for traffic signal installation as outlined in the Federal Highway Administration’s Manual on Uniform Traffic Control Devices (MUTCD). Signals are typically not recommended in locations where there are convenient alternative paths, or if the installation of a traffic signal would have negative impacts on the surrounding transportation system.
The LOS rating deemed acceptable varies by community, facility type and traffic control device. Most communities in the region have identified LOS D as the minimum desirable goal for signalized intersections. However, at unsignalized intersections LOS D, E, or even F are often considered acceptable for low to moderate traffic volumes where the installation of a traffic signal is not warranted by the conditions at the intersection, or the location has been deemed undesirable for signalization.

Traffic queues were also evaluated as part of the analyses. Long traffic queues which extend beyond the amount of storage available, either between intersections or within turn lanes, can have significant impacts on operations. The projected vehicular queues were analyzed to ensure the analyses are reflective of the physical constraints of the study intersections and to identify if additional storage is needed for turn lanes.

**Existing Conditions**

The results of the Existing Conditions intersection analyses are summarized in Table 4. The study intersections were evaluated with the lane configurations, traffic volumes, and traffic control devices shown on Figure A-3. The current signal timing and coordination plans for the study intersection was used for the analysis of the traffic signals in this scenario. The Synchro output files are included in Appendix C.

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Movement</th>
<th>A.M. Peak Hour</th>
<th>P.M. Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>135th Street and Kenneth Road</td>
<td>Traffic Signal</td>
<td>A 10.0</td>
<td>A 8.5</td>
</tr>
</tbody>
</table>

1 = Level of Service  
2 = Delay in seconds per vehicle

The results of the analysis indicates that the existing signalized intersection operates at acceptable levels of service during the A.M. and P.M. peak hour with minimal queuing. This is due to the very low volume of traffic on Kenneth Road, which allows the signal to provide green indications for eastbound and westbound traffic on 135th Street for more than 75 percent of the cycle length.

Given the low volume of side street traffic, the traffic counts were compared to the minimum thresholds of the Peak Hour traffic signal warrant from the MUTCD. The graph of the warrant analysis is included in Appendix C. The results of the warrant analysis indicate that the existing volumes do not satisfy the minimum traffic volume threshold for traffic signal installation. Therefore it is likely that the existing traffic signal at 135th Street and Kenneth Road is not warranted.

It is worth noting that during the traffic counts long queues of eastbound traffic were observed during the P.M. peak hour. These queues extended back from the signalized intersection of 135th Street and State Line Road, which is roughly 1,100 feet to the east of Kenneth Road. This is due to the high volume
of eastbound through traffic at that intersection. These long queues frequently extended through the intersection with Kenneth Road from approximately 4:50 P.M. to 5:20 P.M. The long queues did clear out of the intersection during each cycle of the signal at 135th Street and State Line Road.

There is little that can be done in the short-term to address the long eastbound queues that were observed. Widening 135th Street in Leawood for a third eastbound through lane will not reduce the eastbound queues. A third eastbound lane would need to be constructed east through the State Line Road intersection, and possibly through other intersections to the east, to serve the heavy eastbound through volume. Such an improvement will require coordination with the Missouri Department of Transportation, as 135th Street becomes M-150 Highway to the east of State Line Road.

City of Leawood staff desires traffic signals to be installed at a minimum spacing of one-quarter mile apart along the 135th Street corridor. This allows ample distance for queuing and for coordinating traffic signals to provide progression for through traffic. The location of the signalized 135th Street and Kenneth Road intersection is less than the desired spacing from State Line Road.

**Existing plus Proposed Development Conditions**

The location of the proposed development’s main driveway intersection along 135th Street is 900 feet from Kenneth Road, which is less than one-quarter mile. Therefore, the intersection would not be considered a candidate for signalization. Without a signal at the main driveway all development traffic to and from westbound 135th Street to make left-turn maneuvers at the 135th Street and Kenneth Road intersection. This would add side street traffic to the intersection which is currently blocked by queues at times during the P.M. peak hour. Given that the existing traffic signal is likely unwarranted, it is appropriate to consider removal of the existing traffic signal at 135th Street and Kenneth Road, and installation of a traffic signal at the main driveway intersection instead.

The decision to remove the existing traffic signal at 135th Street and Kenneth Road must be evaluated in terms of the overall street network. The existing signal at Kenneth Road would provide full access to future developments on the undeveloped properties to the east of Kenneth Road. However, these properties are surrounded by a network of other arterial and collector streets that can also provide full access to these properties. The east side of these properties have access to existing traffic signals along State Line Road. A well planned internal street network through these properties can take advantage of the existing signalized access points.

With the signal at Kenneth Road is removed, the main driveway intersection would be an appropriate location for a traffic signal installation. The projected traffic volumes from full build out of the development do satisfy the peak hour signal warrant. The main driveway intersection is spaced nearly one-half mile along 135th Street from the signalized State Line Road intersection. The main driveway intersection is also spaced slightly more than one-quarter mile east of Chadwick Street, which will likely be signalized in the future as development occurs. The result is that the main driveway would be the only signalized intersection along 135th Street between Chadwick Street and State Line Road. These spacings exceed the City’s desired minimum spacing between signals.
As a stop controlled intersection, the 135th Street and Kenneth Road intersection, drivers would experience lengthy delays making left-turn and crossing maneuvers from the side street approaches. Therefore these movements should be restricted by a raised island within the intersection area. The island would continue to allow eastbound and westbound left-turn movements, but restrict the side street approaches to right-turns only. For the island configuration to be effective in restricting these movements, an eastbound left-turn lane will be needed at the intersection.

Changing access at the 135th Street and Kenneth Road intersection will alter the existing traffic volumes. The northbound left-turn movement will no longer be permitted. These northbound drivers on Kenneth Road will have to turn left onto 137th Street, travel through the development site, and then turn left onto the Main Driveway to access westbound 135th Street. The existing traffic volumes were redistributed in this manner for the Existing plus Proposed Development Conditions intersections analyses.

To accommodate development traffic and the aforementioned traffic control modifications, the following improvements are identified.

**135th Street and Kenneth Road**
- Remove the existing traffic signal. Install Stop signs for northbound and southbound traffic.
- Construct a raised island along 135th Street within the intersection area to restrict northbound and southbound left-turn and crossing maneuvers. The median should allow eastbound and westbound left-turn maneuvers.
- Construct an eastbound left-turn lane with 250 feet of storage plus appropriate taper.

**135th Street and Main Driveway**
- Install a traffic signal.
- Construct a westbound left-turn lane with a minimum length of 300 feet plus appropriate taper.
- Construct an eastbound right-turn lane with a minimum length of 250 feet plus appropriate taper.
- Construct three northbound lanes on the Main Driveway exiting the site, to be used as a right-turn lane and dual left-turn lanes. The right-turn lane and one left-turn lane should have minimum lengths of 200 feet plus appropriate tapers.

The results of the Existing plus Proposed Development Conditions intersection analyses are summarized on the following page in Table 5. This study scenario considered the addition of traffic from the proposed development plan. The study intersections were evaluated with the lane configurations, traffic volumes, and traffic control devices shown on Figure A-4. The new traffic signal was evaluated in this scenario with the same cycle lengths as the current coordination plans for the corridor. The Synchro output files are included in Appendix C.
As shown in Table 5, each study intersection is projected to operate within acceptable levels of service during the A.M. and P.M. peak hours. All queues are projected to be contained within their respective turn lanes.

### Future (Year 2040) Conditions

To estimate future conditions in year 2040 background traffic growth was assumed. An annual growth rate of two percent was applied to the existing traffic volumes on 135th Street. It is assumed that when the property to the north of the development site across 135th Street develops, an access point will align with the signalized Main Driveway intersection. To analyze future conditions at the signalized intersection, the same development trips and distribution projected on the south leg of the intersection are assumed for the north leg. This is a fair approximation since a similar type of development is expected in this area. Similar future development trips are also assumed on Kenneth Road for when the property to the east is developed, except these volumes were scaled to 25 percent, since the property to the east is only 25 percent of the size of the proposed development site.

The additional background growth results in a very heavy volume of through traffic on 135th Street. To support the increased volume, 135th Street will need to be widened to provide three through lanes in each direction. Also, the traffic signal at 135th Street and Main Driveway will need to be split phased for northbound and southbound traffic to allow one of the dual left-turn lanes to function as a shared through lane. These additional lanes and signal modifications are included in the Future Conditions intersection analyses.

The results of the Future Conditions intersection analyses are summarized on the next page in Table 6. The study intersections were evaluated with the lane configurations, traffic volumes, and traffic control devices shown on Figure A-5. The traffic signal timings for the 135th Street corridor were optimized for this scenario. The Synchro output files are included in Appendix C.
### Table 6
Intersection Operational Analysis
Existing plus Development Conditions

<table>
<thead>
<tr>
<th>Intersection</th>
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<th>A.M. Peak Hour</th>
<th>P.M. Peak Hour</th>
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<td>LOS¹ Delay²</td>
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<td>D 50.0</td>
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<td>Eastbound Left-Turn</td>
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<td></td>
<td>Northbound Shared Left-Turn/Through</td>
<td>A 6.4</td>
<td>A 6.1</td>
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</table>

1 – Level of Service
2 – Delay in seconds per vehicle

The results shown in the table indicate that all study intersections are projected to operate at an acceptable level of service in the future conditions scenario. Some lengthy queues of eastbound and westbound through traffic are projected during the A.M. and P.M. peak hours. All other queues are projected to be contained within their respective turn lanes.

When 137th Street is continuous from the development site west to Chadwick Street, there will be another access point to the development site. This additional connection has the potential to reduce the northbound left-turn volume and the eastbound right-turn volume at the 135th Street and Main Driveway intersection by 10 to 30 percent. These reductions are not enough to have a significant impact on the results of the analysis for the study intersections.

**Summary**

TranSystems has completed this traffic impact study for the proposed mixed-use development to be located generally in the southwest corner of the 135th Street and Kenneth Road intersection in Leawood, Kansas. The purpose of this study was to assess the impact of the proposed development on the surrounding transportation system.

The Existing Conditions analyses found that the traffic signal at the 135th Street and Kenneth Road intersection does not meet the minimum vehicular volumes for a traffic signal installation, and it is not likely that the signal is warranted. Additionally, the signal is located roughly 1,100 feet west of the signalized intersection with State Line Road. This spacing is less than the City’s minimum spacing of one-quarter mile between signals along the 135th Street corridor. During the P.M. peak hour, long queues of eastbound through traffic on 135th Street extend through the Kenneth Road intersection.

In light of these findings, the Kenneth Road intersection is not an ideal location for a signalized intersection and signal removal should be considered. A traffic signal could then be installed at the
development’s main driveway intersection along 135th Street. This location would provide greater separation between signals, meeting the City’s desired spacing for signals along the corridor.

The following improvements have been identified for the Existing plus Development Conditions scenario.

**135th Street and Kenneth Road**
- Remove the existing traffic signal. Install Stop signs for northbound and southbound traffic.
- Construct a raised median along 135th Street within the intersection area to restrict northbound and southbound left-turn and crossing maneuvers. The median should allow eastbound and westbound left-turn maneuvers.
- Construct an eastbound left-turn lane with 250 feet of storage plus appropriate taper.

**135th Street and Main Driveway**
- Install a traffic signal.
- Construct a westbound left-turn lane with a minimum length of 300 feet plus appropriate taper.
- Construct an eastbound right-turn lane with a minimum length of 250 feet plus appropriate taper.
- Construct three northbound lanes on the Main Driveway exiting the site, to be used as a right-turn lane and dual left-turn lanes. The right-turn lane and one left-turn lane should have minimum lengths of 200 feet plus appropriate tapers.

In the Future Conditions scenario, 135th Street will need to be widened to provide three through lanes in each direction.
Attendance:
Richard Lashbrook, Developer
Tim Tucker, Engineer / Phelps Engineering
Jason Meier/Meier Consulting
Len Corsi/Vic Regnier Builders
John Petersen, Polsinelli PC
Amy Grant, Polsinelli PC
Jenn Sears, Polsinelli PC

See sign-in sheet for residents: approximately 44 people in attendance.

The meeting began at 6:00 p.m. John Petersen introduced the development team and provided some information regarding Richard Lashbrook’s experience with mixed-use development projects. Mr. Petersen generally walked through the site plans and explained the contrast between the City’s plans for the site and the Developer’s plan for the site. Mr. Petersen explained that the project would be developed in phases, the first of which would provide luxury “attached villas” along the south property line of 137th Street as a buffer and transition to the north lots which will contain luxury apartments with underground parking, a senior living facility, some office buildings, and some retail. Mr. Petersen explained the process of obtaining approval from the City to proceed with construction and explained that once the plans are approved, the Developer is not allowed to deviate from the final plans. A resident asked about the level of care that would be provided at the assisted living facility. Mr. Petersen stated that the specifics of how the facility have not yet been determined.

The following is a summary of the question and answer portion of the meeting.

**TRAFFIC/ACCESS TO SITE**

Residents asked about details of the development of 137th Street. Mr. Petersen explained how the cost of road development works and that the Developer is responsible for road construction over his property. Mr. Petersen further discusses future access to 135th Street, 137th Street and Renner Road from the development.

A resident asked if 137th would be a 2-lane road and if there are plans to widen 135th Street. Mr. Petersen confirms that 137th will be a 2 lane road and that the City has no current plans to widen 135th Street.

Residents expressed a significant concern regarding the City’s plan to construct 137th Street as a straight road between the proposed development and the existing neighborhood. The main concern was the loss of the existing vegetation and the possibility of drag racing on the road.
The residents expressed their extreme support of a curved 137th Street heading up into the new attached Villas subdivision.

**STORM WATER**

Residents asked whether there will be additional storm water drainage into their yards. Mr. Petersen explains the City’s requirement that no additional storm water is allowed to flow off of the site and how current storm water drainage will likely improve because of City requirements for the developer to install storm water drainage facilities. He explains how there are storm water studies that are completed during City approval process and confirms that there will be no standing water issues.

**SETBACKS/LANDSCAPING/SCREENING**

Residents asked about the plans to remove the tree line along 137th Street. Most of the residents requested that the tree line be kept as a buffer. Mr. Petersen discussed the current landscape plans and that we intend to keep the tree line.

A resident asked who is responsible for tree maintenance. Mr. Petersen says that is a matter that is typically discussed with the Planning Commission.

Residents asked about the walking path and whether we plan to add any landscaping around the path. Mr. Petersen confirms that the landscaping plans will clean up the landscaping along the path and that there will be some additional landscaping along the path.

Again, the residents expressed extreme concern about losing the existing tree line along 137th street and Mr. Petersen assured that the landscape plans specify the tree line will stay.

A resident asked if there will be green space in the Villas for dogs and children. Mr. Petersen pointed out the areas that are designated as green space on the plans.

Residents expressed concern with the setback from the tree line to the Villas. Mr. Petersen said he would get a drill down for the residents that show the amount of space from the tree line to the villas.

**PROPERTY VALUES**

Residents asked whether the new construction will bring down property values. Mr. Petersen explained that these attached Villas and the apartment complex will be built as luxury homes and the development will likely increase property values. Mr. Petersen sited the Mission Farms project as an example of how property values increased as a result of the new development.

**DENSITY**
Residents asked if the Villas will be rental homes or if they will be sold to homeowners. Mr. Petersen explained that these are attached Villas roughly around 2,000 square feet that will be sold in the range of $600,000 to a homeowner.

The residents expressed an extreme amount of concern for the City’s existing plan for the site, which include high density retail and commercial buildings. Mr. Petersen explained the proposed Villas are a good transition leading away from the existing residential lots into the mixed use lots proposed for Phases 2 and 3. Some of the residents are not excited about the mixed use lots and the idea of an apartment complex, but they much prefer this plan over the City’s plan.

**ACQUISITION OF PROPERTY/CONSTRUCTION**

A resident asked if Mr. Lashbrook will be the only developer or if there will be multiple developers working on the project. Mr. Lashbrook stated that there will “more than likely just be one.”

Another resident asked who the current ownership of the site is and the undeveloped land to the west. Mr. Petersen explained the current ownership of the property and that the ownership of the surrounding area was undetermined. A resident jokingly asked Mr. Lashbrook if he could buy the property to the West and include it in our plans.

A resident asked how long construction would take. Mr. Petersen explained that construction cannot begin until we have obtained all City Approvals and does not suspect that construction will be able to begin until Spring 2019 and will last for about a year.

A woman asked about the timeline to begin construction on Phase 2 – the Apartments. John explained that construction would be driven by the market.

Another resident asks if the Villas will have basements. Mr. Lashbrook confirmed they would.

Residents asked if they would be notified when construction starts and what time during the days construction will be going on. Mr. Petersen assured they would not be working through the night and construction would be during working hours.

**GENERAL COMMENTS**

A resident asked if the Villas would be ran by a HomeOwner’s Association. Mr. Petersen confirmed they would.

A gentleman asked if the plans would be online. Mr. Petersen said they aren’t, but we can provide copies.
Mr. Petersen explained to the residents that the Planning Commission is currently scheduled for June 26th. He explained to the residents that the City does not love our plans and it would be beneficial to have community support at the meeting. He also stated that the residents can send letters to the City expressing their support of the project. Many residents asked for an email detailing where letters should be sent and copies of the plans.

The meeting concluded at 7:30 p.m.
### MEETING SIGN-IN SHEET

**Project:** 135<sup>th</sup> & Kenneth Project  
**Meet Date:** Thursday, June 14, 2018  
**Facilitator:** Polsinelli PC  
**Place/Room:** Leawood Community Center, Maple Room  
**Application #:** NC #71-18

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Email Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mike Lang</td>
<td>2950 W. 137&lt;sup&gt;th&lt;/sup&gt; St</td>
<td><a href="mailto:michael.lang31@gmail.com">michael.lang31@gmail.com</a></td>
</tr>
<tr>
<td>K Thin Shaw</td>
<td>13737 Pembroke Cir</td>
<td><a href="mailto:jsnow2007@gmail.com">jsnow2007@gmail.com</a></td>
</tr>
<tr>
<td>Pat Croker</td>
<td>13320 Penn Ct. KCM</td>
<td><a href="mailto:jsatcoker@gmail.com">jsatcoker@gmail.com</a></td>
</tr>
<tr>
<td>Irene Blend</td>
<td>13769 Pembroke Cir</td>
<td><a href="mailto:ibblend@sbcglobal.net">ibblend@sbcglobal.net</a></td>
</tr>
<tr>
<td>Steve Elliott</td>
<td>2854 W. 137&lt;sup&gt;th&lt;/sup&gt; Ter</td>
<td><a href="mailto:rsetti10@gmail.com">rsetti10@gmail.com</a></td>
</tr>
<tr>
<td>Kelly Sherman</td>
<td>12930 El Monte, Mission</td>
<td><a href="mailto:kellyworks2@gmail.com">kellyworks2@gmail.com</a></td>
</tr>
<tr>
<td>Sharon Smith</td>
<td>13640 Manor, 66224</td>
<td><a href="mailto:ssmith8257@gmail.com">ssmith8257@gmail.com</a></td>
</tr>
<tr>
<td>Jeffrey Schlachter</td>
<td>2442 W. 137&lt;sup&gt;th&lt;/sup&gt; Terrace</td>
<td><a href="mailto:gastro77@aol.com">gastro77@aol.com</a></td>
</tr>
<tr>
<td>Steve Tanner</td>
<td>2758 W. 137&lt;sup&gt;th&lt;/sup&gt; Terrace</td>
<td><a href="mailto:smtanner7@yahoo.com">smtanner7@yahoo.com</a></td>
</tr>
<tr>
<td>Ann Tanner</td>
<td></td>
<td><a href="mailto:a-tanner@kc.rr.com">a-tanner@kc.rr.com</a></td>
</tr>
<tr>
<td>Judy Buchman</td>
<td>13737 Pembroke Cir, 66224</td>
<td><a href="mailto:judybuchman64@gmail.com">judybuchman64@gmail.com</a></td>
</tr>
<tr>
<td>Bill John &amp; Maxi</td>
<td>2649 W. 137 Terr</td>
<td><a href="mailto:billjohnmaxi@yahoo.com">billjohnmaxi@yahoo.com</a></td>
</tr>
<tr>
<td>Jeanne Gooshe</td>
<td>13715 Pembroke Cir</td>
<td><a href="mailto:jeanneGooshe@gmail.com">jeanneGooshe@gmail.com</a></td>
</tr>
<tr>
<td>Carl &amp; Judy Comstock</td>
<td>2645 W. 137 Terr 66224</td>
<td><a href="mailto:carlcomstock@gmail.com">carlcomstock@gmail.com</a></td>
</tr>
<tr>
<td>Jim Kleikamp</td>
<td>3110 W. 137&lt;sup&gt;th&lt;/sup&gt; St</td>
<td><a href="mailto:jmkkleikamp@gmail.com">jmkkleikamp@gmail.com</a></td>
</tr>
<tr>
<td>Clark Thompson</td>
<td>13812 Meadow Ln</td>
<td><a href="mailto:clark.thompson202@gmail.com">clark.thompson202@gmail.com</a></td>
</tr>
<tr>
<td>Robert Fetsche</td>
<td>13717 Pembroke Cir</td>
<td><a href="mailto:RFEETSCH@KC.rr.com">RFEETSCH@KC.rr.com</a></td>
</tr>
<tr>
<td>Ruth Snyder</td>
<td>13635 Manor Rd</td>
<td><a href="mailto:rsgsnyder57@yahoo.com">rsgsnyder57@yahoo.com</a></td>
</tr>
<tr>
<td>Suzie Hampton</td>
<td>13653 Manor Rd</td>
<td><a href="mailto:jshampton18@gmail.com">jshampton18@gmail.com</a></td>
</tr>
<tr>
<td>Pam &amp; Carla Richardson</td>
<td>13717 Pembroke Cir</td>
<td>cjdj@<a href="mailto:col123@aol.com">col123@aol.com</a></td>
</tr>
<tr>
<td>Colleen Killian</td>
<td>13733 Pembroke Cir</td>
<td><a href="mailto:lindalady3@gmail.com">lindalady3@gmail.com</a></td>
</tr>
<tr>
<td>Karen Stephens</td>
<td>1348 Belinder Rd</td>
<td></td>
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<td>Email Address</td>
</tr>
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<td>------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td>Carol Busch</td>
<td>2428 W. 13th Place</td>
<td><a href="mailto:mollyca6297@gmail.com">mollyca6297@gmail.com</a></td>
</tr>
<tr>
<td>Leslie Bob Moreland</td>
<td>13701 Belinder</td>
<td><a href="mailto:lesliemoreland2@hotmail.com">lesliemoreland2@hotmail.com</a></td>
</tr>
<tr>
<td>Steve Breslaver</td>
<td>13706 Manor</td>
<td><a href="mailto:sbreslaver@kc.ri.gov">sbreslaver@kc.ri.gov</a></td>
</tr>
<tr>
<td>Quentin Cole</td>
<td>3888 W 132nd Pl</td>
<td><a href="mailto:quentinrcole@gmail.com">quentinrcole@gmail.com</a></td>
</tr>
<tr>
<td>Mark Phillips</td>
<td>13729 Pembroke Cir</td>
<td><a href="mailto:marphy98@gmail.com">marphy98@gmail.com</a></td>
</tr>
<tr>
<td>Jim Tate D.C.</td>
<td>13925 Canterbury Cir</td>
<td><a href="mailto:jmtate123@kc.ri.gov">jmtate123@kc.ri.gov</a></td>
</tr>
<tr>
<td>Jesse Hwang</td>
<td>13225 Woodson St</td>
<td><a href="mailto:jwhwang9011@yahoo.co.kr">jwhwang9011@yahoo.co.kr</a></td>
</tr>
<tr>
<td>Reynolds Middleton</td>
<td>13641 Belinder</td>
<td><a href="mailto:reynolds.middleton@gmail.com">reynolds.middleton@gmail.com</a></td>
</tr>
<tr>
<td>John &amp; Erna Hess</td>
<td>19649 Belinder St</td>
<td><a href="mailto:bessifopks@hotmail.com">bessifopks@hotmail.com</a></td>
</tr>
<tr>
<td>Paul DeWitt</td>
<td>2430 W 137th Pl</td>
<td><a href="mailto:pauldewit1@gmail.com">pauldewit1@gmail.com</a></td>
</tr>
<tr>
<td>Will Henrichson</td>
<td>2130 11137th Pl</td>
<td><a href="mailto:heneichson@msn.com">heneichson@msn.com</a></td>
</tr>
<tr>
<td>Ron Cott</td>
<td>13644 Manor Rd</td>
<td><a href="mailto:roncotts44@gmail.com">roncotts44@gmail.com</a></td>
</tr>
<tr>
<td>Mary Vassell Herring</td>
<td>13641 Manor Rd</td>
<td><a href="mailto:mvherringlma@gmail.com">mvherringlma@gmail.com</a></td>
</tr>
<tr>
<td>Barbara Summers</td>
<td>2432 W 137th Pl</td>
<td><a href="mailto:bngash100@aol.com">bngash100@aol.com</a></td>
</tr>
<tr>
<td>Marilyn Fesh</td>
<td>2498 W 137th Place</td>
<td><a href="mailto:fesh319@yahoo.com">fesh319@yahoo.com</a></td>
</tr>
<tr>
<td>Anna Li</td>
<td>1320 Pembroke Cir</td>
<td><a href="mailto:ansonlaq@gmail.com">ansonlaq@gmail.com</a></td>
</tr>
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June 16, 2018

Dear Mr. Richard Coleman,

Bruce and I attended the June 14th Interactive Meeting concerning the Leawood 135 Project. Being an owner of a Townhouse located at 2428 W. 137th Place since 1999, Bruce and I were impressed with the presentation of the projected improvement of this project.

Several items stand out as being very positive:

- Having 137th. Street curve away from the southern border
- Maintaining the tree line
- Adequate space beyond the tree line
- Description provided of the planned Villas which maintain the atmosphere of the Highland Ranch homes and Leawood Falls

We encourage you to support this development proposal.

Sincerely,

Carol Busch

Professor Bruce Levine

Washburn Law School Emeritus Professor
Date August 7th, 2018
To: City of Leawood Planning Commission
    City of Leawood Council Persons
From: Residents of Villas of Highlands Ranch
Re: Leawood 135 Project

We represent the residents of the Villas of Highlands Ranch located in the 2700–3100 block of 137th Terr. Our subdivision will back up to the property adjacent to the proposed Leawood 135 development. As such, we will be directly impacted by the development and proposed Right-Of-Way (137th Street) servicing the development. Therefore, we would like to address our concerns with this project.

1. We have no issues with the planned development itself. As long as all local ordinances and zoning requirements are met, we see this development as fitting within the overall master plan of Leawood. We appreciate the Planning Dept and City Council’s oversight.

2. We do take issue with the planned extension of 137th St between Chadwick and the new development. While we acknowledge that this has been a designated ROW on the city plans, we would respectfully request the City planners and council persons to review the planned location of this street.

3. As you can see from the plan, 137th St is currently slated to be placed approximately 10’ north of our property lines. In our particular subdivision, the setbacks from the homes were minimal, making berming on these subdivision homes virtually impossible. While we recognize that this condition was not created by the City of Leawood, we nonetheless are in a position where we have no other recourse but to request for the City’s help in a solution.

4. Currently the homes along this ROW have property tax valuations that average $750,000. Should the ROW be installed as planned, these values will undoubtedly be reduced due to the proximity of the new 137th St.

5. Please note that the proposed developer of the Leawood Project recognizes the impact of this ROW on the development properties and as a result has proposed shifting 137th St north within this proposed development. (Actually, the street planning from years ago showed 137th St moving north away from Leawood Falls subdivision and I don’t know why. It could be that the development was there since the mid 1990s and was moved due to their objection at public presentation?)

We would respectfully request the City to consider increasing the 137th St ROW from 37’ to 50’ in order to push the roadway north approximately 12’. Doing this would allow for landscape fencing and berming to be installed south of the roadway. This would also help maintain the property values for the Leawood homeowners within the impacted area.

Note: 137th St is already not a straight line—see road west of Chadwick all the way to Metcalf, or as planned within the new development. Therefore, continuing the bend slightly east of Chadwick should not compromise the traffic flow.

Respectfully Yours,

Ed Hellman
Steve Tanner
Steve Elliott
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RE: Case 71-18  135th and Kenneth Road

Mixed use and Medium Density Residential request for approval of Rezoning, Preliminary Plan, Preliminary Plat and Special Use Permit

Dear Councilwoman Julie Cain and Councilman James Azeltine:

I am a resident in your Ward in Leawood, Kansas. I am writing to express my concern regarding the Leawood Planning Commission’s recommendation to the City Council to DENY this case. I am an adjacent landowner and will be expressing this point of view publicly at the upcoming meeting. However, I am sending this to you in advance as you consider your vote on this issue at the October 1st council meeting.

This case was denied based solely on the City Staff/Planning Commission’s interpretation of the “Comprehensive Plan/135th Street Community Plan”. All of the other requirements under the Leawood Development Ordinance have been met by the development team. In addition, the City Staff offered the developer no stipulations to comply because of the subjective nature of the Comprehensive Plan. Even the Planning Commission members were confused about how to handle the Staff’s rigid interpretation of the Plan while reviewing an actual, realistic development proposal with solid financial backing. The Staff’s use of the Comprehensive Plan in reviewing developments needs to be evaluated and directed by the City Council.

As a landowner along this 135th Street corridor, I can’t help but see the value of our property decreasing with each attempt of another landowner to rezone, desiring to move forward in realizing the potential of their investment. My understanding was that the City of Leawood spent literally years and substantial taxpayer money to get a “general guideline” of “what might be” a “good use” of land in an effort to encourage, shepherd and coordinate a VARIETY of development for both the benefit of its landowners and the citizens of the city. A comprehensive plan that could offer guidance while moving forward with real world real estate parameters.

What I saw at the Planning Commission meeting on September 11, 2018 is a City orchestrating the entire development process from start to finish down to the last blade of grass, brick, parking space and community social events. It is my hope that after serious consideration of what has transpired here, you will take a step back from DENY to see a solid, well thought out development plan. I hope that you can step back and see this group of real world, knowledgeable real estate experts, the huge investment of time they have spent working honestly to accommodate the city staff concerns, the large monetary investment and the passion to get something profitable and practical developed to benefit everybody. But they don’t have a magic wand to wave to make an urban city center with “activity nodes” out of
suburban bean fields. And they can’t conjure up retail stores and office users to make an ideal “mixed use” – it has to be market driven.

The Comprehensive Plan should be a guideline for development, which can take many innovative and exciting routes not previously imagined by the plan. All real estate development is done at the great expense and risk by the landowners. They must gauge what the market wants, as well as all city development rules. They cannot afford to build something that they know will not be successful.

The land we own is 10 acres that has 330 linear feet along 135th street. We are adjacent to the Kenneth Road development plan on our eastern border. Our land goes all the way South to the proposed 137th street road and the residential neighborhood. To the west of our land is an unfinished office/bank development.

We are not developers. This land has been in our family since the 1980’s and we would like to sell it. We have had it listed for sale off and on since 2012. Several prospective buyers that we talked to from time to time went elsewhere (in Johnson County) when the “comprehensive plan” was underway because of the uncertainty. Since the plan was completed, the real estate community is watching as re-zoning requests are considered. Since I have had the property for sale by owner, I have personally talked to several prospective buyers who say they do not have the “lawyers and the money to take a development plan to Leawood”. The hesitation to take on a development in this corridor is real. And the recent city planning commission meeting on September 11th just reinforces both big and small developers’ apprehensions about trying to build in this city. This directly effects the value of our property and our ability to sell it.

I have attached a map of our property. Please take the time to look at my 10 acres and see how in the world anyone will be able to achieve the exact mix and all the bells and whistles you are requiring of my neighbor to the east. I am asking you to please consider interpretation of your Comprehensive Plan based on the wide variety of configurations of the land, the true demands of real estate uses today (not in the past or in the future), and the rights of landowners to measure the market and create uses that make sense. Our land is a great opportunity, but not if it’s use is micromanaged and overly restricted.

Finally, I am a Leawood resident. The city is beautiful because of the hard work of many, the investment of the private sector working with the City, and the communication of the public about our priorities. I personally don’t believe that fancy pavement, “natural” areas, “a sense of place”, a specific rigid road configurations, transects and activity nodes, and subjective restrictions make happy citizens. Common sense, flexibility, and working together makes well thought out real estate developments become assets to our community. I was at the neighborhood meeting that the developer had and there was a very large turnout of people very interested in what is proposed. The development team did a great job presenting the project and answered questions for two hours. The neighbors liked the new road configuration, the residential use being close to them, and the care taken to preserve the tree line. That is why they did not bother to come to the Planning Commission meeting to object, and not one citizen stood to oppose it.

Thank you so much for your willingness to review all of the information about this exciting new development on 135th street. I know it can work for everyone if you want to find a way forward.

Respectfully submitted, Kelly Sherman
Chairman Pateidl: I’d like to take a moment to pause and remember and honor the victims of 9/11 - 17 years ago.

*Moment of silence*

**CALL TO ORDER/ROLL CALL:** Hunter, Hoyt, Pateidl, Coleman, Block, and Stevens. Absent: Belzer, Elkins, and Strauss.

*In Chairman Elkin’s absence, Vice-Chairman Pateidl served as Chairman.*

**APPROVAL OF THE AGENDA**

Chairman Pateidl: It is noteworthy that there is one item on the agenda.

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

Chairman Pateidl: I see a number of people in the chamber tonight, you’re all welcome, and we’re very happy to see the support of the citizenry for these kinds of activities. Many of you, perhaps, like me, before I became a part of this commission, had no idea what these meetings were really about or who these players were. I’d like to take just a minute to explain and introduce some of the participants, their responsibilities, and their activities. What is our Planning Department? They are employees of the city. They are officials and experts educated and trained in planning. Their primary responsibility is to be in charge of the construct of our community in accordance with the laws that we have ordained inside the City of Leawood and the direction of the Governing Body or City Council. Remember, City Council are officials that were elected by each of you and all of us that are sitting here. We are the Planning Commission. Basically, we are citizens just like you. We’ve been appointed by the mayor to serve in this body. After we’re suggested to be appointed by the mayor, we’re vetted by our individual councilmen, the people you have elected to be your representatives. Then, we are privileged to have the opportunity to serve the community as volunteers. Our job in this whole process is to make a recommendation to the Governing Body with respect to any given application. We’re filtering the activity that is coming through to make a recommendation as to whether or
not a proposal is good for the city or acceptable to the city, as deemed by our body in conjunction with the Planning Department. Last, the applicant is a person wishing to develop a project and make an investment in the City of Leawood and probably the most important part of this whole process. Without them, we don’t have any growth. In the process, the applicant brings a project to the Planning Department, who then reviews it. They’re reviewing it in the construct of the ordinances, which the Governing Body has passed as law. This is known as the Leawood Development Ordinance [LDO]. They are also directed by the Governing Body as to the desires and intent of development inside of Leawood for the community we want to have. They are, for lack of another description, quality control. We, the Planning Commission, are filtering these proposals. At the end of the meeting, when we take a vote, we vote on whether to recommend a proposal to the Governing Body for their consideration and approval, deny it, or continue it. Those are the three options we have. With every recommendation for approval, you will hear a comment regarding stipulations, which are items that the Planning Department and applicant have codified in the agreement that it is how the application will go forward. It is important to have the stipulations because they are the pathway for the approval. There could be as few as a handful or as many as 25-30; it depends on the application. If a continuation becomes a decision, it is simply an opportunity for the applicant and the Planning Department to have more time to work toward an understanding if there is a problem or discrepancy as far as the application or design. The last option that the Planning Commission has is to deny the application or state in the denial that we don’t believe it is ready to be recommended to the City Council. At this point, the applicant has the right to go to City Council and seek a hearing with them as far as their proposal is concerned. However, if the denial takes place and the applicant moves forward, the City Council would then have to approve the application with a super majority, meaning 2/3 of the members. That brings us to where we are this evening. To begin with, it is noteworthy that there are no stipulations associated with this application. There are any number of stipulations that are common to an application that would deal with compliance with certain elements of the LDO. Some stipulations should be there. It also has a position for the Planning Department that they do not believe this application should be approved and moved to City Council. With that comes a question that I want to raise to my fellow commissioners in the sense of the conduct of this meeting. We don’t have a pathway to approval. We don’t have stipulations. We don’t know how to judge this. It is sort of like having a swing set and not having any instructions. How are we going to get this done? Therefore, if we don’t have a pathway to an approval, are we left with a decision of either a continuance of the application or a denial? I’m open and asking for your thoughts and your feeling toward how, after having studied this application, you would like to proceed.

Comm. Hoyt: I guess I anticipated we would follow the same basic protocol that we typically do; however, I don’t know at what point it is appropriate to enter into various issues, but clearly, from my perspective after reading through the materials, there does seem to be a rather huge gulf between what the applicant is proposing and the issues the city has that make it difficult and, as they speculate, impossible to pass on as a recommendation even with extensive stipulations. One of my biggest questions is the process that has been followed up to this point and why and how we’ve gotten here.
Mr. Hall: If I could interrupt, your best course of procedure would be, as Commissioner Hoyt indicates, to follow your normal procedure: hear from the staff, the applicant, and the public, and then hold discussions. I think if you proceed in that fashion, all of your questions should be able to be answered.

Chairman Pateidi: Based on legal counsel, that is the city’s position. Are there any other commissioners wanting to make any comment?

Comm. Block: I think we should follow that path.

Chairman Pateidi: All right; following the path of the normal procedures and noting that there are myriad of issues contained in this as the gap that Commissioner Hoyt pointed out, I’m going to suggest that we ask for an overview from the city and an overview from the applicant. Then, we will take the points of contention, for lack of another description, one-by-one, and we will discuss those points so we can maintain focus. If we’ve got 16 wheels going this way and 16 going that way, we’ll never get this truck out of the parking lot. If that is agreeable to the city, the applicant, and to counsel, we will proceed on that basis.

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

Staff Presentation:
Assistant Director Mark Klein made the following presentation:

Mr. Klein: Mr. Vice Chair and members of the Planning Commission, this is Case 71-18 – 135th Street and Kenneth Road – Mixed-Use and Medium Density Residential project. The applicant is requesting approval of a Rezoning from AG to MXD and RP-3, Special Use Permit for an Assisted Living Facility, a Preliminary Plan and Preliminary Plat. The project itself is located south of 135th Street and east of Kenneth Road. I have a presentation with pictures that might make it easier to understand.

(Refers to presentation throughout) The aerial photo shows the general area. The subject property is about 56 acres. It is currently being used for agricultural purposes and also some natural area as well. There is now alignment and extension of 137th Street to the east. A vacant property is located west of the subject property. There is a subdivision that has been platted and approved as well.

This application proposes to extend 137th Street from the western terminus. It will proceed northeast and then tie into the property on Kenneth Road. We will talk fairly extensively about the alignment of 137th Street. The applicant is proposing the alignment to be much farther to the north than what the city has shown since 1996 on the
Chairman Pateidl: I think we’ll get into those issues there, and it will be easier for us to focus if we do it that way.

Mr. Klein: The area that is located on the south side of 137th Street and on the north side of 137th street on the western portion of the property, the applicant is proposing to rezone to RP-3 [Planned Cluster Residential Attached]. They are proposing 60 duplexes in 120 units. Nearly 43 of them will be located on the southern part of 137th Street; 17 will be located on the northern side of 137th Street. The maximum density within the RP-3 is 7.26, and they are well below that at three dwelling units per acre.

That was an overview. The items we would like to discuss are outlined in the Staff Report. We’d be happy to discuss those further.

Chairman Pateidl: Are there questions for the city?

Comm. Coleman: I have a question in terms of how we got to this point. Obviously, we have had multiple continuances to get to this point. Usually, when those occur, things are being worked out between the developer and the staff. It doesn’t seem to be the case here. Is there an impasse at this point between staff and the developer?

Mr. Klein: As Commissioner Pateidl indicated, staff is charged to consider ordinances and the Comprehensive Plan, which is a guide for the future development of the city. It gets reviewed on an annual basis. It is more of a vision for where the city would like to go in the future. Unlike the LDO with a specific standard for density or F.A.R on a particular site, the Comprehensive Plan looks at land that is available and tries to project the best future use of the land. In this case, the city hired a consultant and adopted the 135th Street Community Plan in 2014. This looked at the area located between State Line Road, Nall Avenue, 133rd Street, and 137th Street. That is part of the Comprehensive Plan. As part of that process, Mixed-Use was considered as one of the primary directions the city wants to go. We go to planning conferences, pay attention to peers, read the
research, and look across the country. There are certain things that more successful Mixed-Use Development projects have. Those were incorporated into the 135th Street Community Plan. The city looks at projects in that area and applies the principles to those and to any Mixed-Use projects. We’d like to talk tonight about what we’re looking for, what was outlined in the 135th Street Community Plan, and what their application is bringing forward.

Mr. Coleman: We explained the 135th Street Community Plan and the Comprehensive Plan to the applicant and the points they can comply with. They acknowledged that and wanted to go a different direction, so the discussion ended.

Comm. Block: I’m looking at the map with the phases. Phase 2 and 3 are the Mixed-Use portions. Do those comply with the requirements for Mixed-Use, aside from the street alignment?

Mr. Klein: They don’t contain many of the components we are looking for in Mixed-Use.

Comm. Block: That was with the streets and the nodes, but do the ratios comply?

Mr. Klein: The uses comply.

Comm. Block: You showed the alignment. Where 137th Street should be per the Comprehensive Plan is on the other side of the bio-detention area. Where should the alignment of Kenneth Road have been?

Mr. Klein: It lines up with High Drive to the north, so we would expect full access there.

Comm. Block: The radius of the street on the southwest corner where 137th Street intersects the existing street is too tight?

Mr. Klein: There has been dialogue between staff and the applicant, even today. The applicant has indicated compliance with certain standards, such as this radius. The city has a standard of a 500’ radius along a collector street. They are showing a 400’ radius but have indicated they would change it to 500’. Additionally, they will comply with the requirement for the roofing material within the RP-3 portion of the development. Also, staff has had conversations with them with regard to the spacing of the side yards of the RP-3, and I think that we have reached a resolution to that as well: they will maintain a minimum of 15’ between the side walls of those structures.

Comm. Block: I thought I saw something talking about 137th Street not being so close to the existing homes to the south.

Mr. Klein: Staff would be interested in that. There are some constraints, but we would like to move the street away to preserve the tree line. The rectangle to the east is right-of-way that the city has already obtained. The street will need to go within that right-of-way;
however, from that point on, we would like to start move the street up a bit to the north while maintaining the 500’ radius. It would be gradual and not a steep turn.

Comm. Block: Can you do that by acquiring a right-of-way from that property owner?

Mr. Klein: Typically, the developer comes in with a piece of property and then we get the right-of-way for 137th Street. At that point, we would look for the right-of-way to shift to the north.

Chairman Pateidl: Any other questions? I have one. We have 137th Street stubbed at Chadwick, and then there is a piece of undeveloped land and then this property. Is 137th going to be completed at that point?

Mr. Klein: There would be a time when there would be no connection. Basically, 137th Street would stub out. They don’t own the property adjacent to the west, so they can’t extend the street through that. We don’t have the right-of-way for it at this point, and we won’t until that property develops. The city requires a temporary cul-de-sac, and the applicant does not want to construct it; they prefer to stub it out. We also require signage at the end of the cul-de-sac just so everybody is aware that the street will go through.

Chairman Pateidl: That stub will remain there until somebody develops that little piece of ground on the bottom?

Mr. Klein: Yes; we typically get the right-of-way as each individual piece of property comes in. The hope is that, as development occurs within 135th Street in that area, more development pressure will occur. Then, other properties would want to develop.

Chairman Pateidl: Thank you. Mr. Petersen?

Mr. Klein: We have a lot of other items, too.

Chairman Pateidl: In terms of an overview, that is pretty much what I wanted to hear. We’ll go into each of these objections one-by-one and hear them out from each perspective. To hear all of that in one presentation and then all in another presentation is going to be too difficult to focus on. The city has done an outstanding job of delineating the difficulties that we face, and I think that each of those should be aired but not collectively; it’s just too complicated.

Applicant Presentation:
John Petersen, Polsinelli Law Firm, 6201 College Blvd., Overland Park, appeared before the Planning Commission and made the following comments:

Mr. Petersen: I’m appearing on behalf of Leawood 135 LLC, the proposed developer, in conjunction with another entity, of the entire project. I’d like to quickly introduce the members of our team. Two gentlemen will commit millions of dollars to bring actual development to the 135th Street Corridor are Richard and Rick Lashbrook. They are
proposed to be the sole developers of the attached villa concept south of 137th. The Lashbrook Group will take the lead in developing the west side; the Regnier Group will take responsibility for the eastern side with the assisted living and other elements. Henry Klover is the architect for the MXD portion. Jeff Wilkey has provided expertise in terms of traffic management. Tim Tucker with Phelps Engineering has done our civil work, helping us lay out Site Plans and ensuring we have adhered to every single element of the LDO. Jason Myer is our landscape architect, playing an important role with our existing neighbors to the south as we’ve moved our project along that southern property line. Len Corsi with Vic Regnier Builders is also here this evening.

I am going to have to try to break ranks in terms of how I do it because I hear your message about not getting into too many details. I have to say that I found the initial dialogue interesting because I understand it. Regarding stipulations, I asked for them. I wish we had some. It’s pretty hard to actually get a project that can come to fruition if we don’t have those typical stipulations. There is a reason for that, and it gets to the point of the gap. The gap can be perceived as a reluctant, dismissive developer. The city put the rules out with the LDO, a Master Plan, and the Community Plan. They say the developer ignored it. I want you to know that we are at a gap, but it wasn’t because we were dismissive, because we were being hypercritical, because we don’t respect the expertise of your professional planning staff, nor the deliberations that took place to come up with the 135th Street Community Plan. Our problem is that we can’t build the project in strict accordance with the 135th Street Community Plan. We can’t finance it. The market is not there to support it. It is not just us. Nobody can. I would respectfully suggest that it is the exact reason this corridor shows up as plowed ground while billions in investment has taken place to the west and millions of dollars of development has taken place directly to the east. Maybe you’re good with the reason, but there is a reason. The development community in Kansas City and beyond has been waiting for this day since 2014. Somebody has to bring an application in. It’s going to have a gap, and we have to see what we can do to work it through and find common ground. We can get into the details of the differential, but the bright line is not the LDO. We’ve met every setback, every landscaping requirement. We have density issues we can deal with through the process that’s embedded in the LDO. Then we move to the Comprehensive Plan. Pre-135th Street Community Plan, we had issues to deal with. The Comprehensive Plan has been in place and showed 137th with a certain configuration. Somebody drew that line in 1996. It’s been sitting on a piece of paper for 22 years. I don’t think anybody said that they would draw the line and it should be exactly where the road should be built without thought for circumstances for where the road should go when the development goes in. Staff alludes to the fact that it shows it very close to the neighbors in the southwest corner of the project. We’d like to move it. That issues is not based on the LDO; it is based on a vision from 26 years ago.

Chairman Pateidl: I think we’re getting into specifics.

Mr. Petersen: This gets to where the rubber meets the road.

Chairman Pateidl: The rubber will meet the road shortly.
Mr. Petersen: It is the concept of a Mixed-Use project. What we tried to do in the overview of our efforts was to say that we understand the LDO; we understand the Comprehensive Plan and the vision. We want Mixed-Use in this corridor. We tried to buffer those headwinds of a market that won’t respond, banks that won’t finance and developers’ inability to bring forward a certain type of plan that staff has staked their position on. We tried to find a middle ground. This is a Mixed-Use project. It is partially vertically Mixed-Use and partially horizontally Mixed-Use. The whole 52 acres is a mixture of Residential of different classes and different types, Retail, Office, and even some assisted living opportunities. Portions on 135th Street with that presence are vertical with structured parking. The allows for more open space. As we move south, our compromise was to move to a more horizontal Mixed-Use and bring buffering techniques that blend better with the neighbors to the south. Staff’s position, standing firm on the 135th Street Community Plan is that they want all vertical Mixed-Use with all the parking underground. They want three-story to nine-story buildings up against 137th Street. They want mass and verticality. That is the gap. That is our plan, and staff walked you through it. We have details we can talk about. We have buffering to the south, elevations that we can discuss, LDO requirements, and Comprehensive Plan elements. I can make the case for why we moved 137th Street. It is an additional seven acres out of 52. It is not a significant move, but it makes for a better mixture of vertical and horizontal planning. I can walk through our bike lanes and trails. The grid street system is in the 135th Street Community Plan, and that is why staff is recommending denial. We can’t build that. It just can’t be built. I don’t need to talk to you about Park Place. It can’t be replicated in the kind of size and density it is. I would suggest that this actually has been tried in the 135th Street Corridor itself: verticality, internal streets, cool urban stuff. It hasn’t worked anywhere in Johnson County. The Villaggio said they could do it. What stands vertical in Villaggio are two buildings and weeds. The street system on the left side is in. Because it’s in and the market didn’t respond, that property went through foreclosure and is now owned by another client of mine. He bought it for the cost to put the streets in. He won’t bring a plan forward. He’s one of the most prolific Mixed-Use developers based out of Denver. That is the dilemma. I need to speak to the golden criteria sometime tonight to close out our Public Hearing. I am ready with a plethora of details. I have design team members who can come up and speak to any issue. That is the reason there is a gap. The other dilemma is if this developer chooses to do the grid street system, the transects, and the buildings to 8-9 stories, it couldn’t be done in Leawood because the LDO doesn’t allow it. I’d be happy to answer questions now, or I’ll follow your lead.

Chairman Pateidl: I would offer an opportunity of the commissioners to ask questions of Mr. Petersen.

Comm. Hoyt: To clarify, in your opinion, the main sticking point that creates this huge gap is the fundamental concept of a Mixed-Use development and that the city is defining it in vertical terms, and you and the applicant think that horizontal is the way to go. Is that correct?

Mr. Petersen: That’s close. Mixed-Use is very specifically dialed out. It is Residential, Office, and Retail. In this case, it is primarily vertical. We have Residential over Retail
and Office over Retail. We designed to the code of what Mixed-Use means in that section. The idea of verticality is alive and well and in full compliance with the LDO. Where we break is we want to move down for the overall project and build horizontal Mixed-Use where we take another type of living opportunity and do it in a more horizontal fashion as we move to the south. We think it is a more compatible transition for our neighbors to the south. It is more economically viable. It is a market that is there today, but it still brings vibrancy to the area. It supports the amount of Retail and Office and other uses along the street. That is the difference. It is a difference of opinion, and we have some flexibility to take pieces of what the Community Plan spoke to, which is mass and height, utilizing structured parking. Can we speak to part of that up along the street but not have to do the entire program? Again, it’s a matter of opinion, proved by the fact that nobody has tried it yet, that we can’t do it. We’re not going to say we can do something we can’t produce. I’m always careful to use an analogy out of another city, but it is so relevant in this case. It is the concept of Vision Metcalf in Overland Park. There was a study commissioned and paid for by a highly regarded consultant. It had 25-story buildings at 435 and Metcalf, 15-story buildings at 103rd and Metcalf. It was this thing. What happened is people said they couldn’t do it but they could take pieces of it. In certain specific nodes, we will build some height and mass. We could be at a gap forever. We want to move it through the process.

Comm. Coleman: You’ve referenced that, on this whole tract of land between Roe and State Line, the plan is not feasible. Why not redo the plan? I haven’t heard any negativity about that until you mentioned that. Why aren’t the developers asking us to change the plan instead of altering it piece-by-piece?

Mr. Petersen: They did. I was at some of the workshops. People said it was a lot. Maybe in these 600 acres, there is one node that could support something like this, but it can’t be 600 acres. Atlanta couldn’t support something like that. Whether it’s the brokerage community, the landowner community, professionals, or lawyers, we all sat there. Your own consultant came back after the plan was adopted and said that retail has totally changed, and we have to rethink this. That’s typical. That is what Master Plans are. We are putting in as little as we can. Nobody knows what retail is doing. Nobody knows what Class A Office will do this far from an interchange. What we do know is that, very early on, Leawood didn’t want large-format Retail here. That left it plowed ground. There was probably an opportunity that not all 52 acres had to be planned at the same time, so Multi-Family could come in. Now, we’re trying to find a balance with the concept and do what we know we can do. We can connect 137th. We can bring some great residential in that will feed in. We have the walkability. We will put this higher-density stuff in, and it’s trying to get that one started. Maybe if another one starts, one can merge as a Park Place-kind of node. When a developer looks at what you want and goes to the bank, it creates the gap. I guess we can just wait, but we have landowners who want to use the land and put in some vitality. I think it’s important to drill through the issues. Let’s go to the LDO. Did we adhere to the LDO? I will tell you, when it comes to transects, grid streets, and nine-story buildings, we don’t comply by intention.
Chairman Pateidl: Thank you. Mr. Petersen alluded to the Golden Rule and the factors involved. They will be discussed. I believe, perhaps, right before or right after the Public Hearing would be an appropriate time to address that subject. Passing from roughly Page 9 to Page 12 and getting to some specifics, we’ve got alignment on 137th Street. If I understood Mr. Petersen correctly, you’ve stated you’re simply not in compliance with that particular aspect of it.

Mr. Petersen: I can give you an exhibit that will give you the parameters of the so-called noncompliance. (Shows graphic) The street as depicted takes 137th from our western property line intersecting with Kenneth Road. We solved the radius problem. We have proposed to curve the street. We took the same kind of curve in the road that interfaces with the single-family homes at Tuscany. It is bent around it with the exact same configuration. We incorporated that into our plan and popped a little bit of our Residential on the north side of 137th just like they did at Tuscany. We are just trying to follow a pattern that was approved.

Chairman Pateidl: I think we’re getting a bit away from the point. We have the position that the applicant is stating noncompliance. Mr. Klein, what is the importance of this from the city’s point of view.

Mr. Klein: I’d like to clarify a few things with regard to the LDO. I understand Mr. Petersen’s position. With regard to the Mixed-Use Development, the LDO originally came about in December 2002. To a large extent, it was developed in response to Park Place. The city wanted to allow Mixed-Use, but the LDO wasn’t the best at doing that. They already had a bit of that pressure at Mission Farms, who wanted to be a bit more Mixed-Use. The city got a consultant and developed the current LDO. I want to read one section with regard to MXD. Mr. Petersen is right that it specifically calls out number of uses. Again, this was written in 2002, so well before the current 135th Street Community Plan. “The MXD District allows for traditional town center marketplace development and other coordinated pedestrian-oriented Mixed-Use Development by authorizing interrelated uses and structures. This specific additional regulation of design, architecture, lighting, green space, and other site requirements appropriate to ensure the location of the appointment and retail centers in proximity to higher density housing.” The argument is that the application before you actually does have higher-density Residential; it has Office; it has Retail. Where we are differing is how that is interrelated to each other. For the city, Mixed-Use means a lot more than just a mix of uses within a particular site. It goes into how those uses fit together and what kind of environment they produce. There is a big difference between developments like Park Place, Mission Farms, City Center, and Prairie Fire. It’s a different feel than a lot of what we typically have along 135th Street. The majority of what is on 135th Street is the strip-style development. Before 2008, we were having three regular Planning Commission meetings a month. We did away with work sessions because we had so much development pressure. A lot of that was strip-style development with a lot of Retail and Office. I want to make sure everyone understands that Villaggio wasn’t really Mixed-Use. It had split zoning. When they originally brought in the project, it was a lot of individual buildings within a massive parking lot. There was no internal network of streets at all. Staff worked very hard to get
the looped street so vehicles could circulate through there without having to go through a parking lot to get to each of the buildings. It was zoned SD-CR [Planned General Retail] and SD-O [Planned Office]. Mixed-Use was available at that time. That is some of the background.

Chairman Pateidl: Thank you. I’m not clear on the city’s position as to the importance of this relocation of 137th Street.

Mr. Klein: Pictures might be able to make it easier to understand the city’s position (places pictures on the overhead). We tried to show alignment as well as Mr. Petersen’s display. This does not include the change that Commissioner Block brought out with regard to moving 137th Street to the north for that section to preserve the trees. The exhibit Mr. Petersen used showed it diving down more in another area and coming up the other way. The city would like to respond to that. The alignment is the crux of the whole dilemma. In order for Mixed-Use to be developed and incorporate the elements that the city is looking for, we need enough depth of land and/or area to do that. We still want to buffer the existing homes. The land needs enough depth for a grid network. Currently, this has 720’ from 135th Street down to the area where the street would be. That is significantly more than 440’, which is more or less where they have the alignment. There is also a difference with how they lined it up. There is an area in the middle that is approximately 23 acres. That is a lot of land that is shifting from MXD to Medium-Density Residential. I do understand that it makes a great transition from the existing homes to the south to MXD, which is a little bit higher density; however, the plan does take into account 137th Street being used as a buffer, the Medium-Density as a transition, and also transects, which vary the density, which gets higher from south to north within the area between 137th and 135th Street. Part of why this is so important is that if this alignment is moved, the depth becomes much more difficult to get a grid network of streets. Without the grid network, it will be difficult to get activity nodes designed around that. It will make it difficult to incorporate the green areas. It has a huge effect on what we will be able to do if that street alignment moves to the north. You’re seeing the style of development they have for the Mixed-Use with the buildings organized more around the parking lot as opposed to interior streets. Some of the pictures Mr. Petersen showed with regard to the 135th Street Community Plan is a totally different environment. If you walk into the development they’re proposing, you will pull into a parking area. They did try to incorporate a larger green space, but it is located within a parking area. Visitors would have to walk through the parking lot to get to the green area. We have tried a little bit of that at Town Center Crossing with the large median between the main center and Crate & Barrel. It’s a beautiful green area, but we’ve found that it’s not really used.

Chairman Pateidl: Are there questions?

Comm. Hunter: What is your reason for not deviating from the grid network that’s in the plan?

Mr. Klein: We would like to create more of a village-style or town center-style development. The grid network is important for that. It is not that it can’t have other
things, but it actually does create an environment with nodes of activity with uses that attract more pedestrian but also other areas to gather or a community element. It is not supposed to be this big, high-density thing throughout the entire corridor.

Mr. Coleman: They help create walkability, which is one of the key components of the plan. The plan they presented does not really have walkability in it. It is really focused around the parking lots.

Mr. Klein: (Refers to overhead) This is the 135th Street Community Plan. It shows the overall 135th Street Corridor. It shows the nodes of activity. It will have mini downtown-type areas with a little more density, a little more activity, a little more interest. Then they bleed out into different street types. This is something we’ll talk about a little later as well. It will still have businesses along there but also a little bit more Residential. Finally, they disperse out into more Residential. The grid network is a way to incorporate all those different pieces, trying to create a unique sense of place for each one. Even in the LDO, it does not call for vertical Mixed-Use. Park Place is horizontal. The city is supportive of both. The difference between Park Place is that the horizontal element is integrated into the development as a whole with the nice park area between some of the buildings. That bleeds into Berkley Square with the ice-skating rink and more of the Office and Retail.

Chairman Pateidl: Mark, interpreting what you were saying with the example you gave, as I recall, Mixed-Use requires a minimum of ten acres. Of the area that is being proposed, does that meet that minimum requirement?

Mr. Klein: The ten acres is for all development to ensure the piece is unified. They have about 17.43 acres on that parcel that is proposed to be Mixed-Use.

Chairman Pateidl: What you are proposing is that the element of property to be used in the Mixed-Use concept be expanded to 33 acres?

Mr. Klein: Yes, we are looking for something that would increase that area and still maintain Medium-Density Residential on the south. It would increase in density from 137th Street to 135th Street, starting out with lower building heights and less density. As it moves toward 135th Street, that height and density would build, creating a transition between that area that is Mixed-Use. Then, 137th Street would be 80’ of right-of-way that also acts as a buffer, and the Medium-Density Residential would create a buffer to the south.

Chairman Pateidl: Are you envisioning additional retail, apartment, office space, etc., in that 23 acres?

Mr. Klein: As you mentioned, there are certain usage minimums. A larger area would allow for more in there. It could also have more features within there as well. It doesn’t mean it needs to have more buildings. It could have gathering areas, a town square, and a lot of different things.
Chairman Pateidl: Are there other questions?

Mr. Petersen: May I respond to that point?

Chairman Pateidl: Mr. Petersen, you conceded that you’re not in compliance with that, and we’ve heard a lot from you to begin with.

Mr. Petersen: I’m not in compliance with what?

Chairman Pateidl: At the very beginning, you said you admit that you’re not in compliance with the desires of the city and the Comprehensive Plan as it relates to 137th Street. Did I misunderstand you?

Mr. Petersen: No, as long as we keep it to the Community Plan. There is no LDO requirement for where 137th Street goes. There is no Master Plan requirement. Quite honestly, if you look at the transect that Mark put up there, you’ll see that 137th Street is in a totally different configuration than what’s in the Master Plan today that they’re asking us to adhere to. It’s a floating, conceptual document. Bottom line is the reason they want us to push 137th Street down south is so we have a bigger area to do the transect grid system Mixed-Use Development. It’s not a safety issue. By pushing the street south, we’re forced to do more commercial north of 137th.

Mr. Coleman: They’re not forced to do more commercial to the north; it is basically the overall layout and plan of the project that doesn’t meet many criteria.

Mr. Petersen: You keep making statements like that for the public record. This record will stick all the way through until we find out who’s right or wrong. We can’t keep saying that we don’t adhere to a lot of the requirements. It needs specificity.

Mr. Coleman: Outlined in our report.

Chairman Pateidl: Gentlemen, I would appreciate brevity. My second question is about access from 135th Street and its location in relationship to the intersection of Kenneth Road and 135th.

Mr. Petersen: I’ll be brief. We understood, as rules of engagement, that the Master Plan concept of the city for the 135th Street Corridor should not have any signalized intersections any closer than ¼ mile from each other. Let’s be cognizant of where we’re placing signalized intersections. First, it’s been violated because from State Line to Kenneth Road is less than ¼ mile. So, why do we have a signal at Kenneth Road? We studied it. There is no reason to have a light from a traffic management standpoint. It’s a loop road that goes right back to a street that has controlled interactions. Maybe to the north, but is that the best place to serve the property to the north? The proposal was to decommission Kenneth Road. We observed during our traffic counts that State Line backs up through the light at Kenneth Road. We proposed to move it farther than ¼ mile,
and then we’ll take the next one to Chadwick, which has always been contemplated as a signalized intersection. I know the property owner that owns the property this development is proposing to be developed on owns the property on the north side of 135th, which would welcome the idea of a public street back to 133rd Street.

**Chairman Pateidl:** Mr. Ley would respond to that, I believe.

**Mr. Ley:** The Kenneth Road intersection with 135th Street is about 1,100’ from State Line Road. That intersection has existed since 1941. That’s not something that was recently built. Back in the ‘90s, the city worked on trying to develop an access plan for 135th Street to try to maximize access for the developers. It was determined not only to maximize access for the developers but also try to get the east-west traffic through 135th Street. That’s when it was determined to maintain the ¼ mile max close spacing. It is not a minimum of ¼ mile; it’s supposed to be in ¼ mile intervals. We’re trying to coordinate the signals between Metcalf and all the way over to old M150. It’s 3 ½ miles. Every signal, except for Kenneth Road, is at a ¼ mile interval. Our concern with this is they’re not coming anywhere close to being ½ mile from State Line Road. They’re 600’ short of that. It’s a fairly large difference. The other issue is we would never recommend removing this traffic signal. It’s been there for over 20 years. It’s access for the development on the southeast of this property, and the engineer never provided future traffic counts at this intersection to determine if the signal would actually be warranted in the future. They would be permitted a signal, but it would be approximately 400’-600’ west of where they’re currently showing it on their plan. He also mentioned traffic flowing through the PM peak, and that is true; it does happen for about ½ hour per day. We have that at many signals in Leawood, but it doesn’t mean we’re going to start removing traffic signals to account for that. This street is coordinated for 13 hours of the day, so for 12 ½ hours of the day, it’s being coordinated where there is no traffic backing up through that intersection. By not installing the signals at the ¼ mile interval, it would really impede traffic flow. Their traffic engineer never provided any time-space diagrams to show us how that would actually flow, either currently or in the future along 135th.

**Chairman Pateidl:** To simplify your comments, basically, the importance of the ¼ mile interval is the overall timing and traffic flow through the busy periods of time on 135th Street.

**Mr. Ley:** The ¼ mile is for the 13 hours of the day we are coordinating signals along 135th Street and not just the PM peak. The PM peak is critical, but the timing to get the traffic flow with the fewest stops possible is to maintain that ¼ mile access.

**Chairman Pateidl:** For the benefit of the general public that’s here, I understand we go to great lengths with Mid-America Regional Council or others to consult, coordinate, and establish this timing.

**Mr. Ley:** That is correct. Operation Green Light is through Mid-America Regional Council, and they provide the traffic signal timings along the 135th Street Corridor. They
work with Overland Park. They share timings back and forth so we can try to keep the traffic moving.

Chairman Pateidl: Even out to Olathe, don’t they?

Mr. Ley: It’s metropolitan-wide into Missouri.

Chairman Pateidl: I guess the point is that it is an important factor as far as the community is concerned.

Mr. Ley: That’s correct.

Chairman Pateidl: Mr. Petersen, do you have any further comments you would like to make?

Mr. Petersen: No, sir; we were just trying to adhere to the stated plan with the ¼ and ½ mile sections. It doesn’t comply today, so we were trying to suggest what would be a good alternative.

Chairman Pateidl: Where is the noncompliance?

Mr. Petersen: Kenneth Road is too close to State Line. It violates your principle that you have at least a ¼ mile separation between signalized intersections.

Chairman Pateidl: It is roughly 1,368’ for a ¼ mile.

Mr. Petersen: It’s 900’.

Mr. Ley: It’s 1,100’, so it’s a couple hundred feet off, but like I stated, this intersection existed in 1941. The signal has been there for 20 years. The city adopted these standards back in the ‘90s to try to maintain this ¼ mile. We are stuck with this one intersection, but going forward, we still need to try to maintain those ¼ mile distances. They could be ¼ mile from this intersection, and we would be perfectly fine with that.

Chairman Pateidl: Let’s go to land use designation. Mr. Klein, would you like to present what this means to the city?

Mr. Klein: We’ve been talking about this regarding the rest of the plan. Really, it’s kind of that with the alignment of 137th Street. What it comes down to is the city’s Comprehensive Plan. It shows alignment of 137th Street in that location. It’s been shown that way for a while. The intention was to have Mixed-Use to the north. We’ve already talked about the amount of land and depth of land that’s available to the north to do the type of Mixed-Use development that the city would like while still maintaining that area to the south of 137th Street as the buffer to the existing residential neighborhood. The street itself is considered a transition and buffer. It has 80’ of right-of-way. I believe back of curb to back of curb is 45’-49’. It is a critical component for the Mixed-Use.
Chairman Pateidl: Are there questions? I have one. It deals with the last sentence on Page 15 of your comments. It states that the proposed plan provides little transition or buffering between the duplexes on the north side of 137th Street from the higher density and taller buildings within the Mixed-Use Development along 135th Street. What bothers me about that statement is that we, in the City of Leawood, or on the Planning Commission have received frequent complaints from residents of The Woods as to the light pollution that goes into their residences. We went to great lengths talking about that issue for the apartments down in Mission Farms as it related to the homes to the east of the apartment complex and the buffering that was required. I’m bothered that taller buildings will be constructed in Phase 3. By the time we get around to constructing those buildings, there’s a strong likelihood that we will have residents that would be directly impacted by that. I know we haven’t gotten to the illumination study, and I know that it’s all part and parcel of the Final Plan, but it concerns me that we’re looking at creating the exact problem that we are living with. How does the city feel about that particular issue?

Mr. Klein: The city is always concerned about the buffer and transition between Residential and something that is denser. Mixed-Use is a little bit different animal in that it also has Residential as a part of that. The Woods definitely had some issues. When that subdivision was constructed, the houses maximized the size of the lot. They removed many of the trees that were providing the buffer. Suddenly, there is a lot of exposure to the office buildings that were already constructed. As new office buildings came in, there was a bit of conflict. Regarding this one, the units have a 30’ rear yard setback. There will be street trees, but then there is a private street on the north side of that, which typically isn’t as wide as a public street. The LDO has a requirement for a residential setback. It is measured from the building to where the zoning changes. The applicant complies with that at 75’. Staff has concerns because it is still in close proximity of the RP-3 and apartment buildings with not much buffer. If they had 137th Street creating the transition from the Mixed-Use to the RP-3, it would have the 80’ of right-of-way adding to the buffer.

Mr. Petersen: I think there was a first question about land use. I think we’ve already covered it. I’ll just reiterate that it goes to the issue of the placement of the road. We followed the rules. For the most part, we’ve got a line with Mixed-Use north. We’ve put another higher density Residential to the south. Just like they did at Tuscany, we had one piece that was just being discussed, which interfaces more closely. That’s not uncommon. Tuscany will have some commercial uses interfacing them to the north. At Prairie Fire, where Jim Lambie built those townhomes on the south side of the golf course directly across the street from Multi-Family and Commercial, it was appealing to some buyers. The villa concept that the City of Leawood approved at 133rd and State Line right behind the shopping center has lots that are the back door to retail establishments. Some like to be closer to activity than others. When we come back with Final Plan, we’ll show the screening that the Lashbrooks always do in these types of situations. One difference is that you’ve got people buying with the understanding that commercial development will
be there. We’re not concerned that we can adequately buffer it, and it will actually just be another choice for those who want to buy a home in Leawood.

**Chairman Pateidl:** On to Question No. 4: preservation of natural areas. Mr. Klein?

**Mr. Klein:** Part of the Comprehensive Plan for the City of Leawood as a whole is the preservation of natural areas. Part of that is the city recognizing that there are not a whole lot of areas that are left with native trees or drainage areas. Natural areas can be viewed as an obstacle to development, in which case a developer would deal with drainage and create other drainage structures underground and provide more buildings and density. That sacrifices aesthetics. I realize some of these aren’t native trees and are not grand oaks lining beautiful streets, but they do have a natural ambiance to them, and once that ambiance is gone, it is gone. It also creates some opportunities for buffering. For instance, with the road alignment located on this side of the development is the RP-3, and then there are fairly tall trees creating a full buffer. There are opportunities within the MXD to try to take advantage of some of those natural features and turn them into an asset. There may be a gathering area located within a shaded area, providing seating or passive recreation. It would offer not only a buffer to the existing residential area but also an asset as far as a gathering space. It could be an amenity that can’t be found throughout the city. Their development has access of 135th Street through the stand of trees adjacent to 135th Street. If the road shifts, the access shifts to the west. Those trees could actually be saved and comply with the city’s ¼ mile regulation. Farther down with the roundabout, more trees would be taken out. They are creating an amenity area located at the southwest corner of that roundabout where there is a large stand of trees. They would take out the trees to provide the pool and cabana. Farther south, they have the street network going in that would take out some more. Some is understandable, but this pretty much wipes out a lot, and then duplexes are located on either side, which takes out a lot more. The bioretention basin will take out that large stand of trees. Again, this is one of the areas with a significant number of trees. I think the city has thought that would provide some opportunities to do something. This particular development is proposing to remove most of those. They are proposing to keep a 20’ tree preservation easement, which staff supports. The only area of contention is we would like a 35’ easement.

**Chairman Pateidl:** Are there questions? Mark, the very first picture you showed in your presentation was an overhead of the property. Can you bring that back up?

**Mr. Klein:** *(Shows picture)*

**Chairman Pateidl:** Can you indicate what trees will be left after this proposal?

**Mr. Klein:** The developer might be able to further talk about this. Not all these trees will remain because I think the assisted living facility is located in there, and that will take out a portion of those. The area in the northeast corner will stay. I believe there is an area running down along the east property line on the southern portion that would stay as well and most of the trees on the southern boundary.
Chairman Pateidl: The bulk of the trees on the center piece of property would be gone. All right; Mr. Petersen?

Mr. Petersen: First of all, I think Mark pretty well described it. Let’s just drive down with a bit more detail on the hard corner at 135th and Kenneth. That’s right at an area of about 31,000 square feet. It will remain. We’ll minimally impact it with the assisted living. That’s moving toward an acre of vegetation. We consider that a passive open space amenity for the project. One that really has been the focus of our efforts is our southern border. We have done a tree survey. On our property, we have identified 108 specimen trees of 8” caliper or more that we are going to design around. Then, on top of that, we are planting thousands of additional trees so we not only have a good buffer but a good strategic buffer, taking into account what we are trying to buffer. The piece in the middle will go away whatever goes on this site. If we bring 137th Street down to where staff wants it, it is in the middle of it; it’s gone. It’s a bio detention facility. It is where we’re treating our stormwater. We are putting some streets in there. There is grading that has to go on. At Final Plan, we’ll look to see if we can’t save this and this in here, but please don’t think if you say no to our plan and wait for the city’s plan to come in that the t-shape of trees will remain; they’re not. If this site is developed, those trees are not going to remain if it is developed for a use other than Agriculture.

Chairman Pateidl: Any other questions? I think we’ve touched on this, but the next section is pedestrian connectivity. This gets into the issue of the grids that both have discussed. I think more the issue of importance is what I would like to hear from the city and the applicant.

Mr. Klein: I believe the issue with the grid is at the heart of the Mixed-Use, including the feel, the connectivity, and the walkability. Basically, Mixed-Use is trying to create an environment that doesn’t encourage parking at one location and needing to get back in the car to get to another location in the same development or navigate a large sea of parking surface. The plan that is proposed provides a good contrast between the two as far as the feel. This feels much more vehicular oriented. It has the surface parking lot. The buildings are organized around the lot. To be fair, they have done a great job and have provided underground parking. Another applicant could come in with structured parking to meet the enclosed parking requirement. That would take up another footprint, so it will get even tighter and, depending on how it’s developed, push the buildings even further apart. The current concept lends itself to a visitor driving from one side to the other. The whole concept of Mixed-Use is to have these connections so that there is a network of streets. They’re like blocks similar to what would you would see downtown. The blocks are short enough to walk a short way to find another street that goes in the opposite direction. It is intended to be a fabric with a lot of opportunities to disperse traffic. The development they are proposing with certain points has certain points of building exits and certain access points on the private drive on 137th Street. It is more of a multifaceted fabric with a lot of different routes. There might be mid-block crossings interspersed. There might be a gathering area.
Mr. Coleman: In the psychology of walking, if there is a lot of visual impact, people will walk farther. People won’t walk far through a big parking lot. That is what we see on this. Also, the roundabout between the north-south street and 137th Street is a pedestrian barrier. Roundabouts are terrible for pedestrian connections, so it is essentially blocking off all the people that are in the duplexes from the commercial area to the north. No cars stop for pedestrians.

Mr. Klein: Really, what it comes down to on a lot of these is creating a sense of place. There are a lot more opportunities and flexibility to create a sense of place with each of these. Park Place, Mission Farms, City Center, and Prairie Fire are all a bit different. The city doesn’t want to replicate Park Place down the corridor; that is not the intent. Some of them will be horizontally integrated; some will be vertically integrated; some will have both. The idea is they would create more of a destination that gives visitors a sense that they know they are located in that particular development as opposed to just most of the strip center development that goes along the corridor.

Chairman Pateidi: Are there questions? The Mixed-Use component consists of north of 137th Street as it is configured. Realistically, is there any potential for integrated streets?

Mr. Klein: I can’t say never because I’m not a land planner or developer. I do know that the blocks have to be a certain width. There must be distance for a deceleration lane to turn in. That block width is going to have to vary probably 300’-600’. There is flexibility as far as design, but it can’t just have one intersection next to another. I think that is part of the reason their development has less land depth between 135th Street and 137th Street. They don’t really have that ability to create that separation from the intersection coming off 135th Street to create a grid network. That is one reason staff is concerned with regard to the alignment.

Mr. Petersen: We did not design to replicate downtown Kansas City. We did not factor in the psychology of walking. I’m not being demeaning when I say that. What we tried to do was get back to the balance. The grid system is part of the reason for the gap. You’ll note in all the descriptions of the street network, the psychology of walking, and the high buildings, something is missing: parking. There is street parallel parking. Every bit of parking is underground or structured. This is millions and millions of dollars. No project in this county has been developed without literally millions of dollars of incentives given by the community that those things are built in. I don’t think this city is in the mindset to do that. It can’t be done. Again, we go to a balance. Half of our parking is underground. Not one dime in incentives is being requested. Half is surface parking. Let’s go to pedestrian. I’d like to go to our Site Plan (refers to overhead plan). We paid a lot of attention to pedestrian utilization of the corridor. We have 10’ sidewalks on both sides of 137th Street. There is going to be ample opportunity for walking along 137th Street, interaction between pedestrians, bikes, and kids. As you can see, we have designed a trail system that will traverse through the site and be open to the public. It’s an 8’ trail that will move through from those living in the multi-family units. It will have plenty of sidewalks they can come down, use the trail system, the city’s trail system, and a diversionary 8’ trail that comes through our residential community. There are 5’
sidewalks on all the internal streets on both sides and 6’ sidewalks on 135th Street as required. Additionally, we are designing 137th Street to not only have those sidewalks and trails but also dedicated bike lanes within the curb-to-curb area of the street on both sides. We don’t have a short place for people to walk so they’ll walk farther, but we’ve got a denser community living, working, and playing. There are protected pedestrian ways through any of the exposed parking lots. They can access classic utilitarian sidewalk systems, recreational sidewalk systems, and systems dedicated solely to bikes very easily. Really, this is honoring what is going on east in the city and west in connecting with the overall trail system throughout Johnson County. We paid a lot of attention to the pedestrian and leisure component of the project.

Chairman Pateid: The next issue is Mixed-Use activity nodes. I think we’ve had a lot of discussion on this already. At least we know from the previous discussion that the bulk of the commercial activity is either going to be apartments or offices with a minimal amount of retail if I’m accurately recounting what Mr. Petersen told us earlier.

Mr. Klein: You are correct. We have talked a lot about activity nodes and how important that is. The activity nodes are integrated into the rest of the development. They don’t have to be fixed locations as suggested, but the one thing that would stay the same is that there would be more activity to create an interest in walking. These are intended to have a little bit more glass storefronts with a little more visual interest, more seating areas, and more weather protection over the building fronts. Additionally, parking was brought up as well. It does not all need to be structured parking. We understand that there is going to be surface parking. It does propose on-street parking along the private streets, creating the internal grid. The 135th Street Community Plan looks at surface parking as well. It doesn’t want large parking fields out by the street; they just feel like the streetscape has a much more viable use to it as far as showing off the activity with the buildings. They gave us a number of different examples of things that could be done. They could be enclosed or behind the buildings, as is the case in Lawrence on Mass Street. The parking isn’t overly visible but easy for people to get through. Teaser parking could be utilized as well with parking located directly in front of the building or along the storefronts. Lawrence would be an example again with diagonal parking that goes along Mass Street. It shows activity and creates a buffer between the pedestrians on the sidewalk and the street; yet, it creates an inviting atmosphere. The activity nodes would be clustered around, and then moving into more residential-style development. It is all based on street types, which we can talk about a little bit later. That would be an example down in the activity node itself. There is much more visual interest with the planters, storefronts, awnings, and a mixture of Retail, Office, and Residential. The idea is to create an environment that attracts people. Moving away from that, it goes into areas that have a bit more Residential but still some businesses. This is trying to create a sense of place.

Chairman Pateid: Any questions? Mr. Petersen?

Mr. Petersen: I think we’ve drawn the stark difference between what the Community Plan would be and what we are proposing to do to find that middle ground. I think I would just be repeating myself.
Chairman Pateidl: Very good. The next question deals with the variety of street types tailored to the land use and sense of place. I sense that we’ve discussed that.

Mr. Klein: That’s what I just showed. It is an important part of the activity nodes.

Chairman Pateidl: Frankly, I note that a number of our citizens have left the chambers, and I apologize to those who remain. Quite candidly, these are the conversations that should take place between the planning department and the applicant before this matter comes to the Planning Commission. Had they taken place and dealt with stipulations, I believe this process would go much quicker. These are the problems, and these are the issues that need to be faced and questioned. They’re done in the interest of our community. I do apologize. We will try to expedite this and move it along because we are getting to some important issues as they relate to the Golden Rule. I think we’re okay on transects to ensure transitions and compatibility of uses. Do you want to address opportunities for multiple forms of transportation?

Mr. Klein: The one point that has been stated tonight from pretty much all parties is that things change. The city is a much different place than it was in 2000 and 2008. The concept of future planning regarding Mixed-Use is to accommodate a variety of modes of transportation. This includes vehicles, walkers, bikers, and some transit. This would provide more access to the region itself. Walkability and small street connections are very much for the internal areas. What makes the city accessible is the ability to have transit and other means of transportation to traverse much larger areas. In addition to the regional bus system coming through, it also considers a commuter bus system. That would circulate within the area between 133rd Street, 137th Street, Nall, State Line, and Prairie Fire and actually connect some of these developments to where it would easy to move from development to development without having to get in a car. Part of what is called for in the 135th Street Community Plan is to provide nodes to allow for the interfaces. It may not be a demand now, but we want to make sure we preserve certain areas along that street front so that something could be developed in the future to allow that interface between bus, bicycles, and walkers.

Chairman Pateidl: Mr. Petersen?

Mr. Petersen: Those are nice thoughts: a reserve area set aside that there may be transit. The gap is that we have land today. We have development that could be activated today. We have investments today. The city says we have to reserve places for bus systems that aren’t in place. We do the best we can to have vehicular pedestrian interaction. We could talk about some areas for a transit system, but for the whole system to be set up for that, we don’t have the luxury to wait and see how it works out. Maybe that’s the defining moment of the gap, and it’s not important to the city that we’re making people who own property in the city to just wait and see how it plays out, then the gap that’s going to remain, and the project ought to be denied. These guys can’t wait for this.
Comm. Hoyt: You’re saying you not only can’t wait but you’re not prepared to put in the money it would take to do what the city’s plan calls for. Is that correct?

Mr. Petersen: The Community Plan as presented by the city with the grid system and high densities all the way through the project and reserving areas for transit stops that may be used in the future? No, we’re not willing to do that.

Chairman Pateidl: We now go into the elements of the LDO requirements. We start with the Floor Area Ratio [F.A.R.]. Mr. Klein, you might explain a little bit for the general public as to what that really means and then your conclusions regarding the proposal that is before us.

Mr. Klein: It can be a little bit confusing, but basically, there are two measures as far as density or the intensity of a development. Generally, for residential development, we measure dwelling units per acre. People have probably heard that term more than they’ve heard Floor Area Ratio. Dwelling units per acre is the number of household units divided by the number of acres. The higher the number, the more houses I have in a smaller area and the denser it is. The lower the number, the more spread out they are. Vertical development tends to make the densities go up a lot more. Floor Area Ratio is typically used on commercial projects. That is another measure of how much density and intensity is located on a site. Since commercial development doesn’t typically have dwelling units, it tries to consider the amount of floor area, which is the amount of horizontal surface that is walked on. This would include all the stories of a building. This takes all the floor area proposed on the site and divides by the amount of square footage on the lot. The LDO has a maximum allowable F.A.R. for most zoning districts; however, it also allows bonusing to increase it. Within MXD, it allows .25 F.A.R. This takes the area of the site in square feet, which is approximately 740,000, multiplies it by .25. The result tells how much square footage is allowed on the site. In this instance, the result is 186,600 square feet of floor area. It could be one-story buildings that would fill up the entire site; it could be five-story building that take up a smaller footprint but go up vertically. They proposed a four-story residential apartment building on Buildings A, B, and D, and then Building C is a five-story building. On the other side, Buildings E and F are two-story buildings, and Building G is an assisted living facility. All of the square footage determines the F.A.R. In this case, the F.A.R. is more than .25. They are proposing 393,300 square feet, and 186,600 is allowed by the .25 F.A.R. The LDO does two things to get them to have a bit more density. The first one is an offer that 25% of the residential floor space can be removed. Additionally, there are bonuses. Most are limited to 10%-15%. In this case, the applicant has proposed two bonuses. They originally had three. The first had to do with underground parking. They are allowed .15 F.A.R. bonus for that. The way that is calculated is by multiplying the site area by .25 to get 186,600 square feet as the base. Then, that is multiplied by .15 to give me an increment above that, which they are allowed to add on to the 186,600 square feet. It gets them a little bit above. It has maximums on it. They can’t just provide a lot more open space and then get all the bonus or provide a lot of structured parking and get all the bonus. It does cap it at .15 or .1. In this case, they are asking for underground parking. The theory is that if parking is provided underground, it is not provided on the surface. If parking is not on the surface,
green space is preserved, so there is credit for that in a 1-1 ratio. For every square foot of area they are putting underground parking in, they get an extra square foot of building area that they can actually have on their floor area. Staff agrees completely with the request for the underground parking. They have provided 190 parking spaces underground, and we don’t dispute that they’ve earned that F.A.R. bonus. The other one they are proposing is a bonus of .15 based on additional open space. In MXD, 30% of the site has to be green or pervious surface. For the additional open space they provide over and above that, provided that it provides a community asset, they can also get a 1-1 ratio. Over the 30% open space, they are providing 37%. For the extra, if it provides a community amenity, they can get an extra square foot of building area for each extra square foot of open space. The open space must add value to the community and can’t be stuck out in the parking lot island or along the perimeter where nobody will go. This is the one that the applicant has applied for and staff does not support. They want additional F.A.R. because of the area created in a fairly large parking lot area. It has a grill. Staff has had requests like this in the past, and past Planning Commissions told staff that they didn’t feel that something in a parking lot met the requirements for the open space bonus because most people aren’t going to traverse out to the middle of a parking lot to enjoy the area. If it was between two buildings and creates something of a courtyard, it would be different. They also have one along the private drive. It’s a private drive, so we don’t see a whole lot of circulation that would go along that area to go to other parts of the community. It is along the periphery and is not easy to get to. Those are some of the reasons we didn’t feel this met the requirement that it provide a community asset.

Mr. Petersen: I was good all the way down to the open space. We were working through the code and did our calculations. We worked with staff. There were numerous meetings with staff to work through this plan. We just knew we were at the gap. We worked through all of these issues. Even as recently as today, we were exchanging information to make sure we all had our numbers set. As Mark indicated, we have about 1.3 acres of open space in excess of what is required by code. A big chunk of that is the open area at the corner that is just short of an acre. Remember, the definition of increased open space per the code is such permanent natural open space valued by preserving natural habitat, areas for native flora, fauna, stormwater recharge, management potential. That is that area and some other areas we’re using with our discharge. It also includes passive recreation potential for the public. In an urban setting, we call that a compromised urban setting with people living upstairs with retail establishments below. The streetscape that staff put up and said would be great had people dining with a car parked right next to their table. It is no different. There are going to be places to sit, recreate, and talk. It is just a different modification of passive open space. We hit the calculation. We are confident that we have earned that bonus. If we don’t earn that last piece of the bonus, maybe we will ultimately shave a building on one side or the other. Interestingly enough, if I did their project the way they want to do it, I’d have to put parking garages somewhere. There is no way I could meet the open space requirement or the F.A.R. requirement. There is no mechanism in your LDO that allows for it. We’re just supposed to wait until it all gets worked out. That is the dilemma that creates the gap.

Chairman Pateid: Any questions? Moving on to prohibited roofing materials.
Mr. Klein: The applicant contacted staff today and indicated they could meet the required roofing material criterion. Currently, they are showing asphalt shingles on the duplexes, and they are only allowed in single-family districts.

Chairman Pateidl: Moving on to residential side yard setbacks. Did I understand we can scratch that off the list as well?

Mr. Klein: Yes, we clarified with the Fire Marshal and Building Department.

Chairman Pateidl: Mr. Petersen just disappeared, and I think I know where he went. I would ask if any of my fellow commissioners need a break.

Comm. Coleman: I think a break is necessary.

*Five-minute break*

Chairman Pateidl: I would like to address the issue of the Golden Rule. Mark, would you like to address that issue from the city’s perspective, please?

Mr. Klein: Do you want me to address each one individually? Some of them are the character of the area. It is staff’s position that, with regard to the Golden Rule, if the alignment the application proposes of 137th Street going to the north, just like we talked about tonight, it really limits the ability to do the types of characteristics the city is looking for and what most developments that are doing Mixed-Use around the country are looking for as well. There are a lot of Mixed-Use developments that have some very nice one. Scottsdale has Carolyn Commons. It is much larger and very nice. I don’t want to give everyone the impression that it is all very mechanical and they have to meet this requirement, this requirement, and this requirement. We don’t want to have the same development replicate itself over and over again. The idea is that there would be flexibility. Some will have more Residential; some will have more Office. Retail is hurting right now, and we understand that. Some will have more passive areas with opportunities for gathering; some will have more active recreational opportunities. We also understand that this is a complicated process. We understand phasing. We understand one developer with a component here, and a different one will come in with another component that they have more experience implementing. We’re asking that it be part of an overall plan. That plan can change over time. We understand that. It happened at Park Place 20-30 times. Staff’s position on the Golden Rule is if something is approved that has that alignment, it limits the opportunities to add the types of characteristics that would develop that sense of place. That could be detrimental to the community. It really is missing out on an opportunity. Before 2008, we had so many applications, and it would have been easy to develop out the entire corridor within a short amount of time. I think it looked a lot like the rest of the corridor. I think Leawood is looking for something that has a little bit different sense of place. We understand it will bleed out into Residential. The whole thing is not going to be this massive, dense piece of development that is going along 135th Street. We are, in fact, hoping for variation.
Chairman Pateidl: Thank you. Mr. Petersen?

Mr. Petersen: When you’re a real estate lawyer, you talk about the Supreme Court. I’m not going to do that. I’m going to try to cut to the chase. We all know I don’t usually start off talking about Golden Criteria because the implied message is there’s going to be a lawsuit here. That’s why we’re talking about the Golden Criteria. This is the legal context. The Supreme Court said that you, Governing Body, and ultimately the city should stay within the rails to say, “We don’t own the property, but we’re going to restrict how you use the property that you own.” That is the bottom line. Character of the neighborhood, zoning of the property are facts. Suitability of subject property for use to which it’s been restricted could be argued both ways. I want to really focus on Nos. 4 and 5: the extent to which removal of restrictions will detrimentally affect nearby property. That speaks to the potential detriments to any surrounding property. Staff commentary is that the surrounding properties wouldn’t have the benefit of building the plan in accordance with the Community Plan. Mark said that it could be detrimental if we don’t get to do this. It would be detrimental. If this gentleman can’t use his property because he can’t afford, can’t finance, and can’t do something, it creates the gap. The most important of all is No. 5. The Supreme Court has said that. It is a balance, just like we’re trying to achieve here today. It says, “The relative gain to the public health, safety, welfare, due to the denial of the application. . .” which is one side of the scale. What is the public gain if you deny? I guess you wait, and you have vacant ground. I guess there is some modicum of value to the public to wait and hope we get the coolest thing. We can wait. That’s our gain. The counterbalance is that owners of property in Leawood don’t get to use their property. We know what happens when somebody tries to put in infrastructure and grid systems. We know what happens when people do the main street that looks so cool. It’s happening at Prairie Fire. It’s happening at Villaggio. If I try to invest that kind of money to do it, it’s going to be a financial disaster. My only alternative is I don’t get to do anything with my property. They don’t get to develop. People that own the property don’t get to sell it. I would respectfully suggest the weight of the evidence of where we are today, particularly with the compromise, shows we’re meeting the LDO and almost all provisions of the Master Plan. We have tweaks of roads. The balance is in favor of the applicant. We should be allowed to move on. As Mark said, not every site has to be the same. Let’s get something going. Let’s get a piece of the road built, and maybe the next guy will come in and want to be the node guy. It can interface with what we’re doing along 135th Street. We think these neighbors will be happy with the transition to their property, and they’ll have a good, single-family neighborhood developed as part of this property. I really appreciate your patience. With that, we would ask for you to override the staff’s recommendation and move us on to City Council.

Chairman Pateidl: Before there’s any discussion of the meeting, this application requires a Public Hearing. If there are members in the chamber who would like to make a comment, you are certainly welcome to come to the podium.

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

Chairman Pateidl: I think we’ve come to a point where we have certainly heard a lot about the proposals. We’ve tried to address this in the normal fashion, hearing from both the applicant and the city. Although it’s been a little different than normal, it’s been because this application is a little different than normal. Certainly, the opinions of each of the commissioners is important, and I would open the meeting for comments.

Comm. Block: Unfortunately, I think the plan, as presented, offers little regard for the Comprehensive Plan or the 135th Street Plan as it is today. There have been numerous opportunities. A lot of time and effort went into creating both of those plans. The Comprehensive Plan is reviewed annually. We just looked at the 135th Street Plan in the recent past this summer. I don’t feel comfortable moving this proposal as written. I think Governing Body is willing to wait. The folks who helped put those plans together were. That’s why I will support staff’s recommendation.

Comm. Coleman: When I look at this plan, I think that “gap” is such a small word. It is more of a chasm between what the applicant wants and what staff is recommending. I agree with Commissioner Block that this does not meet a lot of the criteria of the Comprehensive Plan and doesn’t meet one part of the LDO. I think Mr. Petersen touched on something early on that maybe we do need to reexamine our 135th Street Corridor. If it’s not a good plan, maybe it’s time we take a look at it and maybe tweak it. What we have in front of us just doesn’t meet a lot of our criteria. I don’t see how we can pass it in good conscience.

Comm. Stevens: I’m also very concerned with the proposed plan for this property not being thought of as more of a comprehensive or complete development, which is really the division of this area along 135th. It creates a Mixed-Use District, even though that’s being partially provided within the Comprehensive Plan that’s being reduced in this proposal. I think it’s been talked about here tonight that some of those missing elements that are important in making that a successful future Mixed-Use Development, including a unique sense of place, amenities, neighboring connections both north-south and east-west, so the reconfiguration of this Mixed-Use area, I think, is limiting on how that can work in a successful way and in a future way for the neighboring properties. Finally, too, it is proposed in phasing, which is very concerning. It pushes the Mixed-Use portions of this into later phases and really is losing the benefit of initiating an area or a first phase of this plan that would be a catalyst for not only this property but for the surrounding areas’ success. For the many deviations that are requested on Rezoning and all the provisions and the nine items that staff has commented on, as well as the noncompliance items in the LDO, I guess my recommendation would also be denial of the proposed plans.

Comm. Hoyt: First of all, I really appreciate the immense volume of work that has gone into this on both sides of the issue, and once again, Mr. Klein has shown his uncanny command of detailed provisions of the LDO and all manner of Leawood regulations. Mr.
Petersen, you are an excellent advocate for your position. I have appreciated both sides’ commentary tonight. One thing I keep coming back to that we really got into more in the latter phases of the discussion is this issue of sense of place. Many of the provisions of the Comprehensive Plan as it relates to Mixed-Use Development has to do with creating a unique sense of place. I think there definitely are opportunities to do that within the plan that is before us, but I didn’t see anything specific in the plan that spoke to that unique sense of place. The other item that I’d like to see more detail on would be the contention that Mr. Petersen made late in his argument that it is categorically impossible to meet our LDO codes if we followed our Mixed-Use Development plan. That is an interesting argument, but I would like to see the calculations and the detail and exactly how we couldn’t do that. I also feel like, because of all the deviations from the Comprehensive Plan, this is something that, if we’re going to move forward – and I appreciate using this as a test case – there has to be some further discussion by the City Council itself on what the future of this Comprehensive Plan and the 135th Street Corridor Plan is. I would not be able to recommend approval of this plan, but I would be very interested to see the conversation continued.

Comm. Hunter: I agree. I’ll throw in my two cents. I understand the need and desire to develop 135th Street, and I appreciate the work the applicant has done and the plan you put forth. I thought there were a lot of interesting elements. I do have some concerns over what the city has brought to light with the discrepancies. Toward the end of your discussion with the comments about the Golden Rule, I would have liked to have seen more of that legal standard and hardships. I would also have liked to hear from some neighbors to see how this would impact the surrounding area. I think it is up to probably the City Council to sit down and determine if the plan is viable right now. I appreciate that Mr. Klein said it was fluid and doesn’t have to be set in stone, but right now, it’s just too early to approve it.

Chairman Pateidl: Thank you. In the interest of objectivity, I’m going to refrain from making comments. Also, in the interest of following the traditions, if there were to be a recommendation for approval, traditionally, that is followed with a set of stipulations. I would ask the city if you could even offer a set of stipulations at this point in time.

Mr. Coleman: If you moved it forward, it would be up to City Council to look at any stipulations and refer it to staff for stipulations.

Chairman Pateidl: I’m not sure I understand your comments.

Mr. Coleman: We can’t offer any stipulations now. If you approve it and it moves forward, it would be up to City Council to determine to ask staff for that.

Chairman Pateidl: I see that as the crux of the problem. If we are to find a pathway to approval, it needs to be a qualified pathway where there is some agreement, even if it is an agreement to disagree between the applicant and the city that we can meet our responsibilities as a commission to the Governing Body when we make this recommendation. I would offer this to a vote and will ask for a vote, subject first to
offering to Mr. Petersen and the applicant a continuation of this to meet the deficiencies
we have in this application to reach that agreement, even if it is an agreement to disagree
before we take a vote on recommendation or denial.

Mr. Petersen: I never give up in terms of being able to sit down and work through issues.
In this case, there are no stipulations. Quite honestly, I asked for stipulations. I don’t
know how you do it because they don’t have any specificity about what they want to see;
they just don’t like what they see here. That’s a way of saying with the utmost respect
that I’d like a vote. We’ll move on to City Council. Part of it is Governing Body has to
weigh in on this and decide if we’re going to stick with this piece of paper called the
Community Plan. It’s really going to be a gradation of what that tool is supposed to be,
moving forward. Not that this isn’t a very important process, and I actually think the
approach that we took tonight was the right way to do it here because were able to make
it clearer, but I think it’s time to get it up to City Council for a more global discussion
about the Master Plan.

Chairman Pateidl: I will remind you that if there is a denial, it will move this to a super
majority for consideration from the Governing Body.

Mr. Petersen: I understand.

Chairman Pateidl: I would call for a motion.

A motion to deny CASE 71-18 – 135th STREET AND KENNETH ROAD – MIXED-
USE AND MEDIUM DENSITY RESIDENTIAL – Request for approval of a
Rezoning from AG (Agricultural) to MXD) (Mixed-Used Development) and RP-3
(Planned Cluster Attached Residential District), Special Use Permit for an Assisted
Living Facility, Preliminary Plan, and Preliminary Plat, located south of 135th Street
and west of Kenneth Road – was made by Coleman; seconded by Stevens. Motion
carried with a unanimous vote of 5-0. For: Hunter, Hoyt, Coleman, Block, and
Stevens.

Mr. Petersen: I would like to say on behalf of the entire development team, we very
much appreciate the special session and three hours of grueling give and take. Our hope
is to be back before you again, talking about this piece of property. Thank you for your
time.

Chairman Pateidl: Thank you, Mr. Petersen, and thank you to the general public who has
borne with us.

MEETING ADJOURNED

Leawood Planning Commission - 28 - September 11, 2018
Minutes

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:30 P.M. on Monday, October 1, 2018. Mayor Peggy Dunn presided.

Councilmembers Present: Chuck Sipple, Andrew Osman, Debra Filla, Julie Cain, James Azeltine, Jim Rawlings, Lisa Harrison and Mary Larson

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator  Patty Bennett, City Attorney
         Chris Claxton, Parks & Recreation Director  Chief Dave Williams, Fire Dept.
         David Ley, Public Works Director  Ross Kurz, Info. Services Director
         Marcia Knight, Assistant City Attorney  Mark Klein, Planning Official
         Mark Tepesch, Info. Services Specialist III  Chief Troy Rettig, Police Dept.
         Richard Coleman, Comm. Dev. Director  Dawn Long, Finance Director
         Nic Sanders, Human Resources Director  Cindy Jacobus, Assistant City Clerk
         Debra Harper, City Clerk

Others Present: Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.

Mayor Dunn stated the four citizens who had signed in to speak on Agenda Item 13. would be recognized when the item was discussed.
Councilmember Sipple asked if one or two potential permanent installation sites had been identified and timetable for move. Ms. Claxton stated the first choice site is just inside Ironwoods Park, on an outcropping on the south side of the driveway. The location may require a minor amount of excavation and it was hoped the piece would be moved in 2019. Identification of an art-on-loan piece was planned for the next 60 to 90 days, so the temporary installation site near City Hall would not remain empty as long as before.

A motion to approve Agenda Item 12. was made by Councilmember Filla; seconded by Councilmember Osman. The motion was approved with a unanimous vote of 8-0.

13. PLANNING COMMISSION
[From the September 11, 2018 Planning Commission Meeting]
Ordinance approving the Planning Commission’s recommendation to deny a request for a Rezoning, Preliminary Plan, Preliminary Plat, and Special Use Permit for 135th Street and Kenneth Road – Mixed Use and Medium Density Residential, located south of 135th Street and west of Kenneth Road. (PC Case 71-18) [ROLL CALL VOTE]

City Administrator’s Comment: The City Administrator strongly supports the City’s Planning Commission and Planning Staff’s recommendation for denial.

Mayor Dunn stated the Governing Body had received a number of electronic communications about the topic, which had been read and shared with Mr. Coleman, Mr. Klein and the Planning Staff.

Mr. John Petersen, Polsinelli PC, presented on behalf of Leawood 135 LLC, whose principals are Richard Lashbrook and Rick Lashbrook, and other entities for the project. The Lashbrooks would be the proposed majority purchaser and developer for the 56-acre site. Others present include architect Henry Klover with Klover Architects, civil engineer Tim Tucker with Phelps Engineering, and Len Corsi on behalf of Vic Regnier Builders, Inc., the property owner and one of the proposed developers for a piece of property for mixed-use.

Mr. Petersen stated the City had spent numerous hours in planning and evaluation, and a large amount of money for experts for the 135th Street Corridor Study, which has manifested into the 135th Street Community Plan for 600 acres, running 2.5 miles east to west from Nall to State Line Road. This is the first significant rezoning application to come against the City’s 135th Street Study. A number of purchasers and developers have approached the City over the years and some decided not to pursue because an entire tract, rather than a portion, must be developed. The Lashbrook development team and Regnier ownership has gone head-to-head with the concept to bring forth an application and is at impasse, with a strong, not particularly detailed, recommendation for denial from the Planning Commission and City Staff.

He stated the impasse is not about required usage-type percentages for office, retail and residential, or mixture of uses, walkways, bikeways or interaction or interaction with single and multi-family homes and pedestrians. The impasse is about form. Mr. Petersen questioned if the City’s Plan is a mandate or a guideline so applications can be formulated within guidelines.
Mr. Petersen stated for the record there is fundamental disagreement with the good work done in good faith by the City and the property owners who are ready to commit significant capital to move the corridor forward. As spokesperson, he would be direct and candid to articulate differences of opinion. He asked his comments be accepted with no disrespect from him or who he represents. There is agreement on one thing, a common theme found in City Plans: “Create a successful and economically sustainable development.” He suggested revision of “sustainable” with “feasible and reasonable”. “Reasonable” is a standard of review for land use and applicable to the City of Leawood. If held to the constraints in the Staff Report and testimony at the Planning Commission meeting, the project might be able to obtain financing, but would not be sustainable as the 135th Plan is articulated by Staff.

Mr. Petersen displayed a slide titled “City has three standards of review”, the Leawood Development Ordinance, Comprehensive Plan (independent of the 135th Street Community Plan) and the 135th Street Community Plan. As he stated at the Planning Commission meeting, he wanted stipulations. Mr. Petersen stated Staff had said the application could not be approved because the application is far from compliant with the 135th Plan. Staff did not prepare stipulations.

Mr. Lambers clarified that Staff provides opinions and comments on an application at a preliminary meeting, but applicants are not told they cannot apply because it is their right to do so and applicant’s decide to submit or not.

Mr. Petersen stated the City’s very specific street network grid was just changed one week ago, and 137th Street was moved without applicant’s knowledge. The grid is a footprint that drives where roads are placed to be compliant, and this creates parcels, form and design.

Mr. Petersen stated the City is familiar with its plans for transects, street grids and street character. Transects are transitional development, with office, retail/residential building height decreasing from four to eight-stories as you move south from 135th Street. Buildings on 136th Street should be two to four-stories, followed by two-story buildings or less, transitioning further south. This would provide for high density and value, but not if buildings could not be filled. Density can be expensive, requiring parking structures, and may not work everywhere. Mr. Petersen stated the minutes of Governing Body’s March 5, 2018 Work Session, when consultant Jim MacRae, Principal with Design Workshop, there were questions indicating it was unclear if transects and grid street systems would work at 135th Street and Kenneth Road.

Mr. Petersen presented displays of the mixed-use development Cherry Creek North in Denver, Colorado, and The Domain in Austin, Texas. He stated he worked with Mr. MacRae on Cherry Creek North and other mixed-use developments. Cherry Creek North is a highly-incentivized project located in the urban core involving redevelopment of existing streets, offices and retail, which is quite different from a “green field” site. There are some pieces of that project that might work on 135th Street. The Domain started as a very dense Class A office development having over 1 Million sq. ft. of office in place and operating, located on a major thoroughfare. Tenants such as Macy’s, Nordstrom and Dick’s were all brought to create synergy for the successful mixed-use development.

Mr. Petersen displayed a list of successful Johnson County mixed-use projects whose developers had spoken at the Leawood Chamber of Commerce Economic Development Meeting on August 10, 2018, to which he added Fred Merrill. He stated involvement with many of these projects and took the need to state judicial notice. Mr. Petersen made the following comments regarding each:
Keith Copaken – City Center, Lenexa
Buildings and structured parking just impressively popped up, seemingly from nowhere. Points of distinction that make this work are location at I-435 and 87th Street, distressed property was purchased by the City of Lenexa and the city became the master developer. A massive amount of city general fund money precipitated development and hundreds of millions of dollars in incentives for further development.

Rich Muller/Van Trust – Park Place, Leawood
Mr. Petersen stated for the record his belief that Van Trust would not build Park Place again in regard to return on investment, retail, retail streets and structured parking.

Hunter Johnson/Block – City Place, Overland Park
Located near the interstate right next to Corporate Woods, highway-orientated, low retail, mostly high-density multi-family with some senior living, significant incentives by the city, streets built, tax exemptions and CIDs [Community Improvement Districts].

Fred Merrill – Prairie Fire, Overland Park
As close as can come to “out of the ground” mixed-use with structured parking. The development is half-built.

Mr. Petersen presented photograph, aerial map and lot plan for The Villagio at Leawood, an under-utilized property. He stated the property had grid streets and power lines installed two years before the 2008 economic downturn. The $18 Million investment ended in foreclosure. He stated he and a bank had come to the City with an application that did not go forward. The owner sold to Don Provost, a prolific developer involved in Cherry Creek North, for the cost of assessments left on the ground. Mr. Provost brought in a plan to the City for a grocery store and the wish to tear out the street grid. Mr. Petersen stated Mr. Provost indicated this was the only way he could develop.

Mr. Petersen displayed two quotes he attributed to Jim MacRae at the Joint Governing Body/Planning Commission March 5, 2018 Work Session:

“Design Workshop was not contracted to design the project, but just to provide guidelines and ideas for consideration.”

“He suggested the City to find a balance and that mixed-use does not always need to be vertical mixed use.”

Mr. Petersen displayed an overlay map of Tuscany Reserve Villas, located slightly to the east of the proposed development. He stated the development team looked at the features of this subdivision. Tuscany has residential to the south and slightly higher density residential north of 137th Street. They did not find 137th Street to be any kind of “Berlin Wall” to having mixed-use development.
Mr. Petersen displayed aerial and elevation plans of the proposed application. He stated the desire to bring in a high quality attached villa product that would begin at 137th Street with a little “bleed over” that would move into 17 acres of mixed-use on 135th Street. The development would bring elements of the 135th Plan, building height, street presence, rear parking and structured parking. The 8.43 acre area in the west presented in red would contain three multi-family buildings, one mixed-use office/residential building, total 173 units, 15,000 sq. ft. of retail and 50,000 sq. ft. of office that can be built and actually leased. The buildings would be podium-style, stick-built. The area to the east of the presented in blue would contain three commercial buildings. To the east of the commercial buildings the area presented in purple would contain 84 senior living units. Buildings would be four to eight stories in height, not eight stories, but what can actually be built for market. Both sides of the development would have structured parking, 100 spaces on the east and 190 on the west, balanced with some surface parking. The project includes a street roundabout and some art features in the middle. Every street has double sidewalks. There would be 4 ft. bike lanes on 137th Street per City Code, internal sidewalks would be 5 ft. wide, sidewalks on 135th Street would be 6 ft. wide, and there would be an 8 ft. wide trail south of the villas coming off 137th Street. Respect is given to those on foot and on bicycles. There is probably more work to do on pedestrian connectivity, such as rest stops and bicycle pumps, but no stipulations were provided and this is typically addressed in the Final Plan. The application has some vertical and some horizontal mixed-use. He stated a successful and economically feasible sustainable development cannot be done with a strict 135th Plan.

Mr. Petersen displayed a graphic generated by his design team, not part of the application, which depicted elements of the application placed over the latest street grid plan, showing mid-density and buildings of varying heights. He stated 135th Street stoplight access points are worthy of further future discussion to find common ground.

Mr. Petersen displayed the eight “Golden Criteria” of the Supreme Court of Kansas. He stated the City is familiar with these, and wanted to focus on Criteria 5. “Relative gain to the public health, safety and welfare due to the denial of the application compared to the hardship imposed, if any, as a result of denial of the application.” He stated he has not found a single person that says their property values will come down, and questioned the hardship to the application if the application is denied. He stated this is really a land use argument.

Mayor Dunn thanked Mr. Petersen and pointed out to meeting attendees that applicants present first at Council meetings, followed by Staff. At Planning Commission meetings, the order is reversed.

Mayor Dunn stated she was not aware of 137th Street move. Mr. Coleman stated there were two different plans with 137th Street, the 135th Community Plan and also the Implementation Plan. The Implementation Plan now aligns with the Comprehensive Plan, which shows the street swinging north then east to medium-density residential and to a small tract of land that borders Kenneth Road. The applicant’s plan removes a large tract of trees and has 137th Street rising about one block north, basically becoming 136th Street located one block south of 135th Street. In the Comprehensive Plan, 137th Street would be on the south side of these trees; the land slopes to the east. Another key Staff issue involves 135th Street. In 1982, Olathe, Overland Park and Leawood agreed to a conduct a planning study for K-150. K-150 was turned over to the cities, all three cities contributed to the plan, and each city adopted the plan. In 1996 Leawood adopted the plan and traffic engineering agreement for 135th Street. The street would carry a large volume of traffic and have intersections located at 0.50 and 0.25 miles. The distance between Kenneth Road and State Line Road is slightly different.
Mr. Coleman stated the applicant’s plan moves an intersection on 135th Street, High Drive, to the east and this does not adhere to the intersection location agreement and Comprehensive Plan. The entrance to the development should be located over 400 ft. to the west.

Mr. Coleman stated Planning Staff has no disagreement on land uses or building height, but does have one issue with density criteria. Conformance to the road network and City Plan to meet criteria is desired, to create a sense of place for development. The street network is the foundation of the development plan. In the application, their 135th Street intersection needs to be relocated. 137th Street needs to be moved to the south; the applicant can move their duplexes to accomplish this. The applicant’s plan has three buildings that face parking lots with nothing on the other side. There is a smaller issue with the proposed vehicular roundabout. Roundabouts do not create walkability as traffic continues through the roundabout. Pedestrians, including those with limited mobility or using wheelchairs, would be at risk when attempting to navigate the roundabout. Trees need to be preserved rather than removed. It is desired that Tract G be extended all the way across the site’s southern property line for a landscape/tree preservation area. Because the developer does not own the tract of land to the west, the City needs a cul-de-sac constructed rather than a dead-end street. Dead-end streets tend to become trash dumping grounds.

Mr. Coleman confirmed to Mayor Dunn that if revisions were made and duplexes relocated north of 137th Street that has moved south, the same amount of land would be available for mixed-use.

Mr. Ley stated with the exception of distance of Kenneth Road which is off 200 ft., the 12 coordinated traffic signals along the 3.5 miles of 135th Street from Metcalf to Old K-150 have even spacing, plus or minus 20 ft. Traffic along 135th Street is coordinated 13 hours a day, seven days a week by the Mid-America Regional Council’s “Operation Green Light”. The applicant has provided a traffic study and proposed to remove the traffic signal at Kenneth Road, but the applicant did not supply any other information as part of their traffic study. The applicant proposes entrance 400 ft. from where a 0.25 mile interval would be, which would worsen traffic flow.

Mr. Ley confirmed to Councilmember Azeltine that removal of the traffic signal at Kenneth Road would result right-in/right-out turn at the location. He stated the signal is used to access the development at the southeast corner of the intersection and the church located to the north on Kenneth Road.

Councilmember Cain inquired if all traffic signal lights in the cities were in place and if the traffic flow system could be slightly adjusted to accommodate. Mr. Ley stated the only traffic signal not constructed on 135th Street between Nall and State Line Road is High Drive. System adjustments might be possible for a one-way street, but 135th Street has two-way traffic and is traffic timing is coordinated 13 hours a day, seven days a week, not just during high peak hours. He stated that cities may have their own traffic coordinators that are not part of “Operation Green Light”, but all work within the overall flow system. Councilmember Cain stated stop-and-go traffic flow on 135th Street happens further to the west, and is not the way to go especially with future growth in the area.

Councilmember Rawlings inquired if the developer had been advised about High Drive and had been asked to move the entrance. Mr. Coleman stated the issue was brought up with the applicant, who had stated no interest in putting an intersection at High Drive. This was the end of the conversation. He would defer to Mr. Ley on whether there is any flexibility on intersection distance to accommodate the development, but this cannot be off by the 400 ft. proposed in the application.
Mr. Ley confirmed to Councilmember Sipple that intersection locations on 135th Street have been known since 1997 and the City was upfront in this regard at the first meeting with the applicant.

Councilmember Sipple stated if 137th Street is shifted south from the roundabout, he desired the current property owners to have a tree buffer from the duplexes. He inquired about the possibility to build duplexes on the south and north side of 137th Street, or build duplexes on the south and quadplexes on the north side of 137th Street for economic feasibility. He suggested it may be sensible to have duplexes all along the north side of 137th Street to preserve the wildlife area. Mr. Coleman stated the plan could increase to townhomes on the north side to off-set changes and keep some duplexes on the north side as well.

Councilmember Azeltine asked if there was any latitude on High Drive intersection. Mr. Ley stated the applicant would need to provide a traffic study for the future coordination plan for 40,000 vehicles a day.

Councilmember Larson stated Highland Ranch Villas residents are concerned about the closeness of 137th Street and property devaluation. She asked if 137th Street could be moved farther north to provide a buffer. Mr. Coleman stated there are two 10-acre tracts to the west of the applicant’s tract. Chadwick Road, the furthest from the applicant’s tract, already has a dedicated right-of-way in place so minimal could be done. The other tract has not been platted or zoned, so the City could work with a future developer to swing 137th Street north from dedicated right-of-way so by the time the street reached the applicant’s tract the street would be well-away from the property lines of the residents. The City has reviewed the number of houses involved. The right-of-way is fixed for about three or four houses in Highland Ranch. Residents might work in conjunction with adjacent property owners to revise their plans. Councilmember Larson stated that residents would favor this; Mr. Coleman agreed. Councilmember Larson stated Leawood Falls residents are glad to have the street away from their properties.

Councilmember Larson stated support of the roundabout, sharing that she frequently walks through an area containing a roundabout and does not encounter any difficulty. She expressed the hope to find a win-win development plan containing many great items.

Councilmember Osman asked how many times City Staff had met with the applicant before the proposed plan was presented to the Planning Commission. Mr. Klein stated the process involves a pre-application meeting where the Staff provides guidance, the applicant submits and then Staff reviews and provides comments. In this case, the application was placed on a Planning Commission meeting agenda, but review of the application was continued to another Planning Commission meeting. Staff provided two sets of comments, so there had been good discussion. At the Planning Commission review, the applicant felt they needed to move forward per their proposal.

Councilmember Osman expressed concern that at the Planning Commission meeting, conducted with a quorum of members present, the developer did not receive guidance, direction or stipulations. To avoid stalemate, communication is needed. Mayor Dunn stated the Planning Commission, comprised of hard-working volunteers, had spent three hours on the topic. She had read the meeting minutes and listened to the recording of the meeting. The Planning Commission had been frustrated by the lack of stipulations. Vice-Chair James Pateidl presided as Chair at the meeting and asked Mr. Petersen for time to work on stipulations which are developed by the Planning Department. The Planning Commission earnestly wanted to continue to work with the applicant. Mr. Petersen stated if denied, he just wanted to go before the Council.
Councilmember Osman pointed out his position for several years is that he does not approve of the City’s 135th Street Plan, but accepts the position of the Council and City Staff. Minutes from the Governing Body meeting on September 17, 2018, document his and Councilmember Harrison’s concerns about the 135th Street Future Street Network Plan. They were told flexibility would possibly exist, but flexibility has not been demonstrated by the developer or City. Planning Commission guidance was lacking. He suggested consideration of the proposed application was not at a point for citizen comment. This is a catalyst and the City needs to step back and take time. As Chair of the Public Works Committee he understands a traffic signal cannot be moved 400 ft., but perhaps 50 ft. to 100 ft. might be possible. He pointed out focal-point roundabouts are successful in Hallbrook. He stated the application should be remanded to the Planning Commission for continued work and direction to City Staff, expending another few weeks to ensure this is done right.

Councilmember Cain agreed that more dialogue is needed between the developer and the City, pointing out this is the first application that complies with the 20-20-10 percentage use ratio. The stated size and price of the attached villas are rare in the City or surrounding areas, and are an indication of quality. She was curious about amenities. The Staff Report lists nine non-compliant parts of the application which have now been reduced to just two, and the Planning Commission should be alerted to this. She stated the Governing Body could not move the application forward tonight without majority vote.

Councilmember Harrison stated she had been surprised by the number of citizens who support the proposed application for a project in her Ward and applauded citizen interest and effort to attend the meeting. Only three out of 34 resident communications did not favor the project at this particular time.

Councilmember Harrison stated she hates to demand a land owner keep the large tract of trees and construct a huge street network grid. She thanked Councilmember Osman for pointing out her specific questions and concerns expressed at the September 17, 2018 Governing Body meeting in regard to the number of grids required, their intricacy and inconsistencies. The City has received an application that does not work with that system. She would support the proposed cul-de-sacs and roundabout. Retaining the tree line on the south would be desirable. The location of a major intersection on 135th Street is less flexible, and it is likely the traffic signal at Kenneth Road cannot be removed.

Councilmember Harrison stated she would like to make a motion to remand to the Planning Commission. Mayor Dunn stated comments from several Councilmembers still need to be heard.

Councilmember Azeltine pointed out the application does not meet the density requirement. He suggested the developer consider having a gathering space “mini-park” instead of four units to the south of the swimming pool near the roundabout. He supports the connectivity of the 135th Street Plan. The trails in the application go around structures. The cul-de-sacs should be connected. Green space requirement has been fulfilled by bio-retention [water treatment/rain gardens] and detention, but he would like to see increased creativity in regard to green space to promote a sense of place, along with more connectivity to promote community. These ideas may help the application meet the required density Floor Area Ratio [FAR] calculation. He agreed with Councilmember Cain’s comments about anticipated demand for the proposed type of housing.
Councilmember Azeltine stated agreement with Councilmember Osman in regard to providing guidance. He stated a preliminary plan should not have been presented to the Planning Commission without any stipulations, something he has not observed in 15 years. Property owners have the right to develop their property. The property owner and Staff should work together to develop the stipulations. The item should be continued so this could happen.

Councilmember Rawlings stated he wanted to see compromise by City and developer; the application has much merit.

Mr. Petersen confirmed to Councilmember Sipple the developer heard Councilmember Azeltine’s comments about connectivity between cul-de-sacs and commercial, and having a focal gathering point in the development.

Councilmember Filla noted each side of the attached units, referred to as duplexes, would be 2,000 sq. ft. and priced about $600,000. She inquired if any consideration had been given to having “green roofs” on any flat roofs in the development, and to backyards and parking abutting old-fashioned alleys. Mr. Coleman stated a bonus might be given to the applicant if these were used on commercial building flat roofs.

Councilmember Filla stated office-retail-residential use percentages are not an issue. She does not favor cul-de-sacs, as they do not create a sense of space, or double-sidewalks on cul-de-sacs that create “mini highways”. The roundabout should be removed as this would be difficult for vehicles and pedestrians to navigate, and the duplexes should be moved. She expressed appreciation for the underground parking. She asked if Staff was given the task to reconfigure, could an acceptable win-win compromise be reached. She suggested using scaled paper pieces to represent development structures to explore layout options.

Mr. Lambers stated Staff could reconfigure, but probably should not. If a Staff reconfiguration plan was developed, then there would be two plans to review, requiring more time. He stated the key issues are alignment of 136th Street/137th Street. He suggested continuance to the next Council meeting to have Staff discuss 136th Street and 137th Street and what might be done. However, if the applicant is adamant on the alignment of High Drive there would be an impasse because the City does not support. The intersection must be confirmed as planned for 30 years. Mr. Lambers stated tonight the Council could accept the Planning Commission’s denial or remand to the Planning Commission for stipulations.

Mr. Petersen stated the team with him tonight agrees to meet to work on a compromise plan that makes sense. He suggested remand to a full Planning Commission on October 23 and back to Council in November. Mayor Dunn stated the Planning Commission agenda docket is unknown. Mr. Lambers recommended remand to the Planning Commission meeting scheduled for the second Tuesday in November and return to the Council at their first meeting in December. Mr. Petersen agreed with Mr. Lambers’ recommendation.

Mr. Petersen stated he would continue to work with the City and would look at the street already present on the west side. He stated the team would live up to their commitments.
Ms. Carol Busch, 2724 West 137th Place [2428 West 137th Place per Sign-In], Leawood Falls, stated in June there had been a Community Meeting between the Leawood Falls home owners and the developer. The many home owners at the meeting totally support the development which curves and flows, and is not “cookie cutter” for blocks and blocks. They were assured the tree line at the south of proposed development would be maintained as a buffer, whether it was left wild or a different type of tree line. Also, as 137th Street curves slightly north this would provide more of a buffer. The roundabout would be acceptable as traffic would move slowly through residential, similar to the beautiful roundabout in Tuscany Reserve.

Mr. Will Henrichson, 2430 West 137th Place, was no longer present.

Ms. Kelly Sherman, 12920 El Monte, stated she was a resident of Leawood and the Managing Partner for 26Par Farm, property located directly west of the proposed development. She was encouraged to see the Council step back from denial, noting issues with the application had decreased from nine to two. The denial had become too much for the developer to deal with, lacking stipulations. The uncertainty created is what is detrimental to property values. Interested parties are watching to see how the Comprehensive Plan will be interpreted for real-life and market-drive. She is supportive of the fantastic development, with the developer having spent a large amount of money, passion and commitment. Her property is on the market for sale. A purchaser may want to divide the parcel. The Comprehensive Plan would need to be modified to consider great ideas on small 5-acre tracts. She expressed appreciation for all of the City’s work. She requested to submit the letter she had written for the record. Mayor Dunn confirmed the letter had been received.

Mr. Bob Regnier, 3400 West 119th Street, owner of the property, stated most of the comments he wanted to make had already been made. He expressed appreciation for discussion, reflective of the willingness to be flexible. Without some flexibility on zoning, the property would be zoned Agricultural forever. Under the current City plan, the property could not be developed and the application is a great compromise. Four-story buildings cannot be forced upon residential located behind. There is a huge demand for the proposed housing units. He hoped the Lashbrooks can continue work with the City to bring back a proposal to Council.

Mayor Dunn inquired if Mr. Lambers, Mr. Coleman or Mr. Klein needed further direction from the Governing Body. Mr. Lambers stated understanding of the Council’s desires, but two parties are fixed on one issue. If an impasse is reached on the one issue, the City will do what can be done. Mayor Dunn stated her belief the Planning Commission would welcome the opportunity to review with stipulations, and her understanding of why stipulations were not developed. She looks forward to positive discussion.

A motion to remand Agenda Item 13. to the Planning Commission, November 13, 2018 meeting was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

14. OLD BUSINESS – None

15. OTHER BUSINESS – None